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# Senate

State of Minnesota

## **S.F. No. 927 - Regulating False and Deceptive Commercial Electronic Mail Messages (First Engrossment)**

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**Date:** April 5, 2005

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The bill provides criminal and civil remedies against senders of spam e-mail messages.

**Section 1** defines terms for the purposes of the bill.

**Section 2** prohibits the following actions involving an e-mail message sent from or to a computer in this state:

- relaying or retransmitting multiple commercial e-mails, with the intent to hide the origin of the messages;
- falsifying header information in multiple commercial e-mail messages and then sending them;
- registering five or more e-mail accounts or online user accounts, or two or more domain names, in a way that falsifies the identity of the registrant, and then sending commercial e-mails from them; and
- falsely representing the right to use five or more Internet protocol addresses and sending commercial e-mails from those addresses.

**Section 3** creates a misdemeanor crime of illegally transmitting multiple commercial electronic mail messages for violating any of the provisions of section 2.

Creates a gross misdemeanor crime of illegally transmitting multiple commercial electronic mail messages if the perpetrator does any of the following:

- uses 20 or more e-mail or online accounts or ten or more domain names;
- sends more than 250 such messages within 24 hours, 2,500 within 30 days, or 25,000 within a year;
- causes aggregate loss of \$500 or more to victims, or obtains that value of property, within a one-year period;
- commits the violation with three or more other persons, with the perpetrator as the leader;
- provides or selects e-mail addresses obtained illegally by automated means; or
- provides or selects e-mail addresses through an automated means that generates permutation of names, letters, or numbers.

**Section 4** prohibits accessing a computer without authorization and using it to send illegal e-mail messages. Creates a gross misdemeanor crime of unauthorized access of a computer for persons violating this section. Creates a felony crime of unauthorized access of a computer for second or subsequent offenses, or if the crime was committed in the furtherance of a felony.

**Section 5, paragraph (a)**, grants the attorney general or an e-mail service provider the right to sue any person who violates this act. Provides that the suit must be started within one year after the offense.

**Paragraph (b)** permits a suit brought by the Attorney General to seek injunctive relief and a civil monetary penalty described in the bill.

**Paragraph (c)** permits a suit brought by an e-mail service provider to seek injunctive relief and damages described in the bill.

**Paragraph (d)** permits the court, in determining damages, to consider the blameworthiness of the defendant.

**Paragraph (e)** provides for the right of the government to seize equipment used to commit this crime.

**Paragraph (f)** permits the Attorney General to bring a civil action to enforce the federal CAN-SPAM act or an action under this section, but not under both. If a federal court dismisses a civil action brought under this section for reasons other than upon the merits, a civil action may be filed in the appropriate state district court.

**Paragraph (g)** provides that this bill does not prohibit or require certain actions by e-mail service providers.

**Section 6** provides an August 1, 2005, effective date, applicable to crimes committed on or after that date.

CT:dv





1 includes, but is not limited to, all input, output, processing,  
2 storage, computer program, or communication facilities that are  
3 connected or related in a computer system or network to an  
4 electronic device of that nature.

5 Subd. 4. [COMPUTER NETWORK.] "Computer network" means a  
6 set of related and remotely connected computers and  
7 communication facilities that includes more than one computer  
8 system that has the capability to transmit among the connected  
9 computers and communication facilities through the use of  
10 computer facilities.

11 Subd. 5. [COMPUTER SYSTEM.] "Computer system" means a  
12 computer and related devices, whether connected or unconnected,  
13 including, but not limited to, data input, output, and storage  
14 devices, data communication links, and computer programs and  
15 data that make the system capable of performing specified  
16 special purpose data processing tasks.

17 Subd. 6. [DOMAIN NAME.] "Domain name" means any  
18 alphanumeric designation that is registered with or assigned by  
19 any domain name registrar, domain name registry, or other domain  
20 name registration authority as part of an electronic address on  
21 the Internet.

22 Subd. 7. [ELECTRONIC MAIL.] "Electronic mail" means an  
23 electronic message that is transmitted between two or more  
24 telecommunications devices or electronic devices capable of  
25 receiving electronic messages, whether or not the message is  
26 converted to hard copy format after receipt, and whether or not  
27 the message is viewed upon the transmission or stored for later  
28 retrieval. "Electronic mail" includes electronic messages that  
29 are transmitted through a local, regional, or global computer  
30 network.

31 Subd. 8. [ORIGINATING ADDRESS.] "Originating address"  
32 means the string of characters used to specify the source of any  
33 electronic mail message.

34 Subd. 9. [RECEIVING ADDRESS.] "Receiving address" means  
35 the string of characters used to specify a recipient with each  
36 receiving address creating a unique and separate recipient.

1        Subd. 10. [ELECTRONIC MAIL MESSAGE.] "Electronic mail  
2 message" means each electronic mail addressed to a discrete  
3 addressee.

4        Subd. 11. [ELECTRONIC MAIL SERVICE PROVIDER.] "Electronic  
5 mail service provider" means any person, including an Internet  
6 service provider, that is an intermediary in sending and  
7 receiving electronic mail and that provides to the public  
8 electronic mail accounts or online user accounts from which  
9 electronic mail may be sent.

10       Subd. 12. [HEADER INFORMATION.] "Header information" means  
11 the source, destination, and routing information attached to an  
12 electronic mail message, including the originating domain name,  
13 originating address, and technical information that  
14 authenticates the sender of an electronic mail message for  
15 computer network security or computer network management  
16 purposes.

17       Subd. 13. [INITIATE THE TRANSMISSION;  
18 INITIATED.] "Initiate the transmission" or "initiated" means to  
19 originate or transmit a commercial electronic mail message or to  
20 procure the origination or transmission of that message,  
21 regardless of whether the message reaches its intended  
22 recipients, but does not include actions that constitute routine  
23 conveyance of the message.

24       Subd. 14. [INTERNET.] "Internet" means collectively the  
25 myriad of computer and telecommunications facilities, including  
26 equipment and operating software, which comprise the  
27 interconnected worldwide network of networks that employ the  
28 Transmission Control Protocol/Internet Protocol, or any  
29 predecessor or successor protocols to this protocol, to  
30 communication information of all kinds by wire or radio.

31       Subd. 15. [INTERNET PROTOCOL ADDRESS.] "Internet protocol  
32 address" means the string of numbers by which locations on the  
33 Internet are identified by routers or other computers connected  
34 to the Internet.

35       Subd. 16. [MATERIALLY FALSIFY.] "Materially falsify" means  
36 to alter or conceal in a manner that would impair the ability of

1 a recipient of an electronic mail message, an electronic mail  
2 service provider processing an electronic mail message on behalf  
3 of a recipient, a person alleging a violation of section  
4 325F.697, or a law enforcement agency to identify, locate, or  
5 respond to the person that initiated the electronic mail message  
6 or to investigate an alleged violation of this section.

7 Subd. 17. [MULTIPLE.] "Multiple" means more than ten  
8 commercial electronic mail messages during a 24-hour period,  
9 more than 100 commercial electronic mail messages during a  
10 30-day period, or more than 1,000 commercial electronic mail  
11 messages during a one-year period.

12 Subd. 18. [RECIPIENT.] "Recipient" means a person who  
13 receives a commercial electronic mail message at any one of the  
14 following receiving addresses:

15 (1) a receiving address furnished by an electronic mail  
16 service provider that bills for furnishing and maintaining that  
17 receiving address to a mailing address within this state;

18 (2) a receiving address ordinarily accessed from a computer  
19 located within this state or by a person domiciled within this  
20 state; or

21 (3) any other receiving address with respect to which this  
22 section can be imposed consistent with the United States  
23 Constitution.

24 Subd. 19. [ROUTINE CONVEYANCE.] "Routine conveyance" means  
25 the transmission, routing, relaying, handling, or storing,  
26 through an automated technical process, of an electronic mail  
27 message for which another person has identified the recipients  
28 or provided the recipient addresses.

29 Subd. 20. [TRANSACTIONAL OR RELATIONSHIP  
30 MESSAGE.] "Transactional or relationship message" means an  
31 electronic mail message the primary purpose of which is to do  
32 any of the following:

33 (1) facilitate, complete, or confirm a commercial  
34 transaction that the recipient has previously agreed to enter  
35 into with the sender;

36 (2) provide warranty information, product recall

1 information, or safety or security information with respect to a  
2 commercial product or service used or purchased by the  
3 recipient;

4 (3) provide notification concerning a change in the terms  
5 or features of; a change in the recipient's standing or status  
6 with respect to; or, at regular periodic intervals, account  
7 balance information or other type of account statement with  
8 respect to a subscription, membership, account, loan, or  
9 comparable ongoing commercial relationship involving the ongoing  
10 purchase or use by the recipient of products or services offered  
11 by the sender;

12 (4) provide information directly related to an employment  
13 relationship or related benefit plan in which the recipient is  
14 currently involved, participating, or enrolled; or

15 (5) deliver goods or services, including product updates or  
16 upgrades, that the recipient is entitled to receive under the  
17 terms of a transaction that the recipient has previously agreed  
18 to enter into with the sender.

19 Sec. 2. [325F.697] [FALSE, MISLEADING, OR DECEPTIVE  
20 COMMERCIAL ELECTRONIC MAIL MESSAGES PROHIBITED.]

21 No person, with regard to commercial electronic mail  
22 messages sent from or to a computer in this state, shall do any  
23 of the following:

24 (1) knowingly use a computer to relay or retransmit  
25 multiple commercial electronic mail messages, with the intent to  
26 deceive or mislead recipients or any electronic mail service  
27 provider, as to the origin of those messages;

28 (2) knowingly and materially falsify header information in  
29 multiple commercial electronic mail messages and purposely  
30 initiate the transmission of those messages;

31 (3) knowingly register, using information that materially  
32 falsifies the identity of the actual registrant, for five or  
33 more electronic mail accounts or online user accounts or two or  
34 more domain names and purposely initiate the transmission of  
35 multiple commercial electronic mail messages from one, or any  
36 combination, of those accounts or domain names;

1       (4) knowingly falsely represent the right to use five or  
2 more Internet protocol addresses and purposely initiate the  
3 transmission of multiple commercial electronic mail messages  
4 from those addresses.

5       Sec. 3. [325F.698] [ILLEGAL TRANSMISSION OF MULTIPLE  
6 MESSAGES; CRIMINAL PENALTIES.]

7       (a) Whoever violates section 325F.697 is guilty of  
8 illegally transmitting multiple commercial electronic mail  
9 messages. Except as otherwise provided in paragraph (b) or  
10 section 325F.699, subdivision 3, illegally transmitting multiple  
11 commercial electronic mail messages is a misdemeanor.

12       (b) Illegally transmitting multiple commercial electronic  
13 mail messages is a gross misdemeanor if any of the following  
14 apply:

15       (1) regarding a violation of section 325F.697, clause (3),  
16 the offender, using information that materially falsifies the  
17 identity of the actual registrant, knowingly registers for 20 or  
18 more electronic mail accounts or online user accounts or ten or  
19 more domain names, and purposely initiates, or conspires to  
20 initiate, the transmission of multiple commercial electronic  
21 mail messages from the accounts or domain names;

22       (2) regarding any violation of section 325F.697, the volume  
23 of commercial electronic mail messages the offender transmitted  
24 in committing the violation exceeds 250 during any 24-hour  
25 period, 2,500 during any 30-day period, or 25,000 during any  
26 one-year period;

27       (3) regarding any violation of section 325F.697, during any  
28 one-year period the aggregate loss to the victim or victims of  
29 the violation is \$500 or more, or during any one-year period the  
30 aggregate value of the property or services obtained by any  
31 offender as a result of the violation is \$500 or more;

32       (4) regarding any violation of section 325F.697, the  
33 offender committed the violation with three or more other  
34 persons with respect to whom the offender was the organizer or  
35 leader of the activity that resulted in the violation;

36       (5) regarding any violation of section 325F.697, the

1 offender knowingly assisted in the violation through the  
2 provision or selection of electronic mail addresses to which the  
3 commercial electronic mail message was transmitted, if that  
4 offender knew that the electronic mail addresses of the  
5 recipients were obtained using an automated means from an  
6 Internet Web site or proprietary online service operated by  
7 another person, and that Web site or online service included, at  
8 the time the electronic mail addresses were obtained, a notice  
9 stating that the operator of that Web site or online service  
10 will not transfer addresses maintained by that Web site or  
11 online service to any other party for the purposes of initiating  
12 the transmission of, or enabling others to initiate the  
3 transmission of, electronic mail messages; or

14 (6) regarding any violation of section 325F.697, the  
15 offender knowingly assisted in the violation through the  
16 provision or selection of electronic mail addresses of the  
17 recipients obtained using an automated means that generates  
18 possible electronic mail addresses by combining names, letters,  
19 or numbers into numerous permutations.

20 Sec. 4. [325F.699] [UNAUTHORIZED ACCESS TO A COMPUTER;  
21 CRIMINAL PENALTIES.]

22 Subdivision 1. [PROHIBITION.] No person, with regard to  
23 commercial electronic mail messages sent from or to a computer  
24 in this state, shall knowingly access a computer without  
25 authorization and purposely initiate the transmission of  
26 multiple commercial electronic mail messages from or through the  
27 computer.

28 Subd. 2. [GROSS MISDEMEANOR.] Except as otherwise provided  
29 in subdivision 3, whoever violates subdivision 1 is guilty of  
30 unauthorized access of a computer, a gross misdemeanor.

31 Subd. 3. [FELONY.] Illegally transmitting multiple  
32 commercial electronic mail messages and unauthorized access of a  
33 computer in violation of this section are felonies if the  
34 offender previously has been convicted of a violation of this  
35 section, or a violation of a law of another state or the United  
36 States regarding the transmission of electronic mail messages or

1 unauthorized access to a computer, or if the offender committed  
2 the violation of this section in the furtherance of a felony.

3 Sec. 5. [325F.6991] [CIVIL ACTIONS.]

4 (a) The attorney general or an electronic mail service  
5 provider that is injured by a violation of section 325F.697 may  
6 bring a civil action in district court seeking relief from any  
7 person whose conduct violated section 325F.697. The civil  
8 action may be commenced at any time within one year of the date  
9 after the act that is the basis of the civil action.

10 (b) In a civil action brought by the attorney general for a  
11 violation of section 325F.697, the court may award temporary,  
12 preliminary, or permanent injunctive relief. The court also may  
13 impose a civil penalty against the offender, as the court  
14 considers just, in an amount that is the lesser of: (1) \$25,000  
15 for each day a violation occurs; or (2) not less than \$2 but not  
16 more than \$8 for each commercial electronic mail message  
17 initiated in violation of this section.

18 (c) In a civil action brought by an electronic mail service  
19 provider for a violation of section 325F.697, the court may  
20 award temporary, preliminary, or permanent injunctive relief,  
21 and also may award damages in an amount equal to the greater of  
22 the following:

23 (1) the sum of the actual damages incurred by the  
24 electronic mail service provider as a result of a violation of  
25 section 325F.697, plus any receipts of the offender that are  
26 attributable to a violation of this section and that were not  
27 taken into account in computing actual damages;

28 (2) statutory damages, as the court considers just, in an  
29 amount that is the lesser of: (i) \$25,000 for each day a  
30 violation occurs; or (ii) not less than \$2 but not more than \$8  
31 for each commercial electronic mail message initiated in  
32 violation of section 325F.697.

33 (d) In assessing damages, the court may consider whether  
34 the offender has established and implemented, with due care,  
35 commercially reasonable practices and procedures designed to  
36 effectively prevent the violation, or the violation occurred

1 despite commercially reasonable efforts to maintain the  
2 practices and procedures established.

3 (e) Equipment, software, or other technology of a person  
4 who violates this section that is used or intended to be used in  
5 the commission of a violation of section 325F.697, and any real  
6 or personal property that constitutes or is traceable to the  
7 gross proceeds obtained from the commission of a violation of  
8 section 325F.697, is contraband and is subject to seizure and  
9 forfeiture pursuant to section 609.531.

10 (f) The attorney general may bring a civil action, pursuant  
11 to the "CAN-SPAM Act of 2003," Public Law 108-187, 117 Stat.  
12 2699, United States Code, title 15, section 7701 et seq., on  
13 behalf of the residents of the state in a district court of the  
14 United States that has jurisdiction for a violation of the  
15 CAN-SPAM Act of 2003, but the attorney general shall not bring a  
16 civil action under both this paragraph and paragraph (a). If a  
17 federal court dismisses a civil action brought under this  
18 section for reasons other than upon the merits, a civil action  
19 may be brought under this section in the appropriate district  
20 court of this state.

21 (g) Nothing in sections 325F.696 to 325F.6991:

22 (1) requires an electronic mail service provider to block,  
23 transmit, route, relay, handle, or store certain types of  
24 electronic mail messages;

25 (2) prevents or limits, in any way, an electronic mail  
26 service provider from adopting a policy regarding electronic  
27 mail, including a policy of declining to transmit certain types  
28 of electronic mail messages or from enforcing such policy  
29 through technical means, through contract, or pursuant to any  
30 remedy available under any other federal, state, or local  
31 criminal or civil law; and

32 (3) renders lawful any policy adopted under clause (2) that  
33 is unlawful under any other law.

34 Sec. 6. [EFFECTIVE DATE; APPLICATION.]

35 This act is effective August 1, 2005. Sections 3 and 4  
36 apply to crimes committed on or after that date.



1 Senator ..... moves to amend S.F. No. 927 as follows:  
2 Page 1, line 9, delete "325F.6991" and insert "325F.699"  
3 Pages 8 and 9, delete section 5  
4 Renumber the sections in sequence and correct the internal  
5 references  
6 Amend the title as follows:  
7 Page 1, line 4, delete "providing remedies;"

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# Senate

State of Minnesota

## **S.F. No. 944 - Unemployment Insurance, Criminal Provision (First Engrossment)**

**Author:** Senator Ellen R. Anderson

**Prepared by:** Chris Turner, Senate Research (651/296-4350) *CT*

**Date:** April 5, 2005

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Current law contains criminal penalties for employers, their agents, or any individuals who knowingly provide false information to avoid or reduce unemployment insurance contributions or unemployment benefits. Such action resulting in an underpayment of \$500 or less is a gross misdemeanor. If it results in an underpayment of over \$500, it is a felony.

**Article 1, section 13**, of the bill expands the crime to include failure to comply with the experience rating transfer notification requirements of Minnesota Statutes, section 268.051, subdivision 4, which is amended in article 1, section 7, of the bill. Section 13 also makes it a crime for any individual to advise or assist an employer in the provision of false information, with the same penalty thresholds.

CT:vs

1 A bill for an act

2 relating to unemployment insurance; conforming various  
3 provisions to federal requirements; making technical  
4 and housekeeping changes; modifying appeal procedures;  
5 amending Minnesota Statutes 2004, sections 268.03,  
6 subdivision 1; 268.035, subdivisions 9, 13, 14, 20,  
7 21, 26; 268.042, subdivision 1; 268.043; 268.044,  
8 subdivisions 1, 2, 3; 268.045, subdivision 1; 268.051,  
9 subdivisions 1, 4, 6, 7, by adding a subdivision;  
10 268.052, subdivision 2; 268.053, subdivision 1;  
11 268.057, subdivision 7; 268.065, subdivision 2;  
12 268.069, subdivision 1; 268.07, subdivision 3b;  
13 268.085, subdivisions 1, 2, 3, 5, 12; 268.086,  
14 subdivisions 2, 3; 268.095, subdivisions 1, 4, 7, 8,  
15 10, 11; 268.101, subdivisions 1, 3a; 268.103,  
16 subdivision 2; 268.105; 268.145, subdivision 1;  
17 268.18, subdivisions 1, 2, 2b; 268.182, subdivision 2;  
18 268.184, subdivisions 1, 2, by adding a subdivision;  
19 proposing coding for new law in Minnesota Statutes,  
20 chapter 268; repealing Minnesota Statutes 2004,  
21 sections 268.045, subdivisions 2, 3, 4; 268.086,  
22 subdivision 4; Laws 1997, chapter 66, section 64,  
23 subdivision 1; Minnesota Rules, parts 3310.2926;  
24 3310.5000; 3315.0910, subpart 9; 3315.1020; 3315.1301;  
25 3315.1315, subparts 1, 2, 3; 3315.1650; 3315.2210;  
26 3315.3210; 3315.3220.

27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

28 ARTICLE 1

29 FEDERAL CONFORMITY PROVISIONS

30 Section 1. [268.0435] [SINGLE MEMBER LIMITED LIABILITY  
31 COMPANIES.]

32 If the only member of a limited liability company is a  
33 corporation, and the limited liability company is disregarded  
34 for purposes of filing federal corporate income tax, all the  
35 workers performing services for the limited liability company  
36 must be reported on the corporation's wage detail report under

1 section 268.044. A corporation that violates this section shall  
2 be subject to the penalties under section 268.184, subdivision  
3 1a. Penalties shall be credited to the administration account  
4 to be used to ensure integrity in the unemployment insurance  
5 program.

6 [EFFECTIVE DATE.] This section is effective for wage detail  
7 reports for the calendar quarter starting January 1, 2006.

8 Sec. 2. Minnesota Statutes 2004, section 268.044,  
9 subdivision 1, is amended to read:

10 Subdivision 1. [WAGE DETAIL REPORT.] (a) Each employer  
11 that has employees in covered employment shall submit, under the  
12 account provided for in section 268.045 or 268.046, a quarterly  
13 wage detail report by electronic transmission, in a format  
14 prescribed by the commissioner. The report shall include for  
15 each employee in covered employment, the employee's name, Social  
16 Security number, the total wages paid to the employee, and total  
17 number of paid hours worked. For employees exempt from the  
18 definition of employee in section 177.23, subdivision 7, clause  
19 (6), the employer shall report 40 hours worked for each week any  
20 duties were performed by a full-time employee and shall report a  
21 reasonable estimate of the hours worked for each week duties  
22 were performed by a part-time employee. In addition, the wage  
23 detail report shall include the number of employees employed on  
24 the 12th day of each calendar month and, if required by the  
25 commissioner, the report shall be broken down by business  
26 location and type-of-employment, if section 268.046, subdivision  
27 1, paragraph (b), or subdivision 2, paragraph (b), applies, by  
28 separate unit. If the information required is not submitted in  
29 a manner and format prescribed by the commissioner, it shall not  
30 be considered a wage detail report. The report is due and must  
31 be received by the commissioner on or before the last day of the  
32 month following the end of the calendar quarter. The  
33 commissioner may delay the due date on a specific calendar  
34 quarter in the event the department is unable to accept wage  
35 detail reports electronically.

36 (b) The employer may report the wages paid to the next

1 lower whole dollar amount.

2 (c) An employer need not include the name of the employee  
3 or other required information on the wage detail report if  
4 disclosure is specifically exempted from being reported by  
5 federal law.

6 (d) A wage detail report must be submitted for each  
7 calendar quarter even though no wages were paid, unless the  
8 employer has notified the commissioner, under section 268.042,  
9 subdivision 1, paragraph (c), of termination of business.

10 Sec. 3. Minnesota Statutes 2004, section 268.044,  
11 subdivision 3, is amended to read:

12 Subd. 3. [MISSING OR ERRONEOUS INFORMATION.] (a) Any  
13 employer ~~who~~ that submits the wage detail report, but fails to  
14 include ~~any~~ all employee information or enters erroneous  
15 information, shall be subject to an administrative service fee  
16 of \$25 for each employee for whom the information is partially  
17 missing or erroneous.

18 (b) Any employer that submits the wage detail report, but  
19 fails to include an employee, shall be subject to an  
20 administrative service penalty equal to two percent of the total  
21 wages for each employee for whom the information is completely  
22 missing.

23 (c) An administrative service fee may-be-compromised-under  
24 section-268-067 or penalty under this subdivision shall be  
25  canceled if the commissioner determines that the failure or  
26 error by the employer was-inadvertent occurred because of  
27 ignorance or inadvertence.

28 Sec. 4. Minnesota Statutes 2004, section 268.045,  
29 subdivision 1, is amended to read:

30 Subdivision 1. [ACCOUNT FOR EACH EMPLOYER.] The  
31 commissioner shall maintain (1) a tax account for each taxpaying  
32 employer and (2) a reimbursable account for each nonprofit or  
33 government employer that has elected under section 268.052 or  
34 268.053 to be liable for reimbursements ~~if-that-employer-has~~  
35 ~~employees-in-covered-employment-in-the-current-or-the-prior~~  
36 ~~calendar-year~~, except as provided in this section 268.046. The

1 commissioner shall assess the tax account ~~of-a-taxpaying~~  
2 ~~employer~~ for all the taxes due under section 268.051 and credit  
3 the tax account with all taxes paid. The commissioner shall  
4 charge the reimbursable account ~~of-a-nonprofit-or-government~~  
5 ~~employer-that-elects-to-make-reimbursements~~ for any unemployment  
6 benefits determined chargeable ~~to-the-employer~~ under section  
7 268.047 and shall credit the reimbursable account with the  
8 payments made.

9 Sec. 5. [268.046] [TAX AND REIMBURSABLE ACCOUNTS ASSIGNED  
10 TO EMPLOYEE LEASING COMPANIES, PROFESSIONAL EMPLOYER  
11 ORGANIZATIONS, OR SIMILAR PERSON.]

12 Subdivision 1. [TAX ACCOUNTS ASSIGNED.] (a) Any person  
13 that contracts with a taxpaying employer to have that person  
14 obtain the taxpaying employer's workforce and provide workers to  
15 the taxpaying employer for a fee shall, as of the effective date  
16 of the contract, be assigned for the duration of the contract  
17 the taxpaying employer's account under section 268.045. That  
18 tax account must be maintained by the person separate and  
19 distinct from every other tax account held by the person and  
20 identified in a manner prescribed by the commissioner. The tax  
21 account shall, for the duration of the contract, be considered  
22 that person's account for all purposes of this chapter. The  
23 workers obtained from the taxpaying employer and any other  
24 workers provided by that person to the taxpaying employer must,  
25 under section 268.044, be reported on the wage detail report  
26 under that tax account, and that person shall pay any taxes due  
27 at the tax rate computed for that account under section 268.051,  
28 subdivision 2.

29 (b) Any workers of the taxpaying employer who are not  
30 covered by the contract under paragraph (a) must be reported by  
31 the taxpaying employer as a separate unit on the wage detail  
32 report under the tax account assigned under paragraph (a).  
33 Taxes and any other amounts due on the wages reported by the  
34 taxpaying employer under this paragraph may be paid directly by  
35 the taxpaying employer.

36 (c) If the taxpaying employer that contracts with a person

1 under paragraph (a) does not have a tax account at the time of  
2 the execution of the contract, an account must be registered for  
3 the taxpaying employer under section 268.042, and the new  
4 employer tax rate under section 268.051, subdivision 5, must be  
5 assigned. The tax account shall then be assigned to the person  
6 as provided for in paragraph (a).

7 (d) A person that contracts with a taxpaying employer under  
8 paragraph (a) must, within 30 calendar days of the execution or  
9 termination of a contract, notify the commissioner by electronic  
10 transmission, in a format prescribed by the commissioner, of  
11 that execution or termination. The taxpaying employer's name,  
12 the account number assigned, and any other information required  
13 by the commissioner must be provided by that person.

14 (e) Any contract subject to paragraph (a) must specifically  
15 inform the taxpaying employer of the assignment of the tax  
16 account under this section and the taxpaying employer's  
17 obligation under paragraph (b). If there is a termination of  
18 the contract, the tax account shall, as of the date of  
19 termination, immediately be assigned to the taxpaying employer.

20 Subd. 2. [NONPROFIT AND GOVERNMENT REIMBURSABLE ACCOUNTS  
21 ASSIGNED.] (a) Any person that contracts with a nonprofit or  
22 government employer that is a reimbursing employer to have that  
23 person obtain the nonprofit or government employer's workforce  
24 and provide workers to the nonprofit or government employer for  
25 a fee, shall, as of the effective date of the contract, be  
26 assigned for the duration of the contract the nonprofit or  
27 government employer's account under section 268.045. That  
28 reimbursable account must be maintained by the person separate  
29 and distinct from every other account held by the person and  
30 identified in a manner prescribed by the commissioner. That  
31 reimbursable account shall, for the duration of the contract, be  
32 considered that person's account for all purposes of this  
33 chapter. The workers obtained from the nonprofit or government  
34 employer and any other workers provided by that person to the  
35 nonprofit or government employer must, under section 268.044, be  
36 reported on the wage detail report under that reimbursable

1 account, and that person shall pay any reimbursements due.

2 (b) Any workers of the nonprofit or government employer who  
3 are not covered by the contract under paragraph (a) must be  
4 reported by the nonprofit or government employer as a separate  
5 unit on the wage detail report under the reimbursable account  
6 assigned under paragraph (a). Reimbursements and any other  
7 amounts due on the wages reported by the nonprofit or government  
8 employer under this paragraph may be paid directly by the  
9 nonprofit or government employer.

10 (c) If the nonprofit or government employer that contracts  
11 with a person under paragraph (a) does not have an account at  
12 the time of the execution of the contract, an account must be  
13 registered for the nonprofit or government employer under  
14 section 268.042. The reimbursable account shall then be  
15 assigned to the person as provided for in paragraph (a).

16 (d) A person that contracts with a nonprofit or government  
17 employer under paragraph (a) must, within 30 calendar days of  
18 the execution or termination of a contract, notify the  
19 commissioner of that execution or termination by electronic  
20 transmission, in a format prescribed by the commissioner. The  
21 nonprofit or government employer's name, the account number  
22 assigned, and any other information required by the commissioner  
23 must be provided by that person.

24 (e) Any contract subject to paragraph (a) must specifically  
25 inform the nonprofit or government employer of the assignment of  
26 the reimbursable account under this section and the nonprofit or  
27 government employer's obligation under paragraph (b). If there  
28 is a termination of the contract, the reimbursable account  
29 shall, as of the date of termination, immediately be assigned to  
30 the nonprofit or government employer.

31 Subd. 3. [PENALTIES; APPLICATION.] (a) Any person that  
32 violates the requirements of this section and any taxpaying  
33 employer that violates subdivision 1, paragraph (b), or any  
34 nonprofit or government employer that violates subdivision 2,  
35 paragraph (b), shall be subject to the penalties under section  
36 268.184, subdivision 1a. Penalties shall be credited to the



1 administration account to be used to ensure integrity in the  
2 unemployment insurance program.

3 (b) Section 268.051, subdivision 4, does not apply to  
4 contracts under this section. This section shall not limit or  
5 prevent the application of section 268.051, subdivision 4, to  
6 any other transactions or acquisitions involving the taxpaying  
7 employer. This section shall not limit or prevent the  
8 application of section 268.051, subdivision 4a.

9 (c) An assignment of an account upon the execution of a  
10 contract under this section and a termination of a contract with  
11 the corresponding assignment of the account shall not be  
12 considered a separation from employment of any worker covered by  
13 the contract. Nothing under this subdivision shall cause the  
14 person to be liable for any amounts past due under this chapter  
15 from the taxpaying employer or the nonprofit or government  
16 employer.

17 (d) This section applies to, but is not limited to, persons  
18 registered under section 79.255, but does not apply to persons  
19 that obtain an exemption from registration under section 79.255,  
20 subdivision 9.

21 [EFFECTIVE DATE.] This section applies to all contracts  
22 executed on and after January 1, 2006.

23 Sec. 6. Minnesota Statutes 2004, section 268.051,  
24 subdivision 1, is amended to read:

25 Subdivision 1. [PAYMENTS.] (a) Unemployment insurance  
26 taxes and any additional assessments, fees, or surcharges shall  
27 accrue and become payable by each employer for each calendar  
28 year on the taxable wages that the employer paid to employees in  
29 covered employment, except for:

30 (1) nonprofit organizations that elect to make  
31 reimbursements as provided in section 268.053; and

32 (2) the state of Minnesota and political subdivisions that  
33 make reimbursements, unless they elect to pay taxes as provided  
34 in section 268.052.

35 Except as allowed under section 268.0511, each employer  
36 shall pay taxes quarterly, at the employer's assigned tax

1 rate under subdivision 6, on the taxable wages paid to each  
2 employee. The commissioner shall compute the tax due from the  
3 wage detail report required under section 268.044 and notify the  
4 employer of the tax due. The taxes and any additional  
5 assessments, fees, or surcharges shall be paid to the trust fund  
6 and must be received by the department on or before the last day  
7 of the month following the end of the calendar quarter.

8 (b) The tax amount computed, if not a whole dollar, shall  
9 be rounded down to the next lower whole dollar.

10 (c) If for any reason the wages on the wage detail report  
11 under section 268.044 are adjusted for any quarter, the  
12 commissioner shall recompute the taxes due for that quarter and  
13 assess the employer for any amount due or credit the employer as  
14 appropriate.

15 Sec. 7. Minnesota Statutes 2004, section 268.051,  
16 subdivision 4, is amended to read:

17 Subd. 4. [EXPERIENCE RATING HISTORY TRANSFER.] (a) When:

18 (1) a taxpaying employer acquires all of the organization,  
19 trade or business, or substantially-all-the-assets workforce of  
20 another taxpaying employer; and

21 (2) there is 25 percent or more common ownership, ~~directly~~  
22 ~~or indirectly,~~ or there is substantially common management or  
23 control between the predecessor and successor, the experience  
24 rating history of the predecessor employer shall be transferred  
25 as of the date of acquisition to the successor employer ~~for the~~  
26 ~~purpose of computing a tax rate.~~

27 (b) ~~When a taxpaying employer acquires a distinct severable~~  
28 ~~portion of the organization, trade, business, or assets that is~~  
29 ~~less than substantially all of the employing enterprises of~~  
30 ~~another employer, and there is 25 percent or more common~~  
31 ~~ownership, directly or indirectly, between the predecessor and~~  
32 ~~successor, the successor employer shall acquire that percentage~~  
33 ~~of a predecessor's experience rating equal to that percentage of~~  
34 ~~the predecessor's employment positions it has obtained, and the~~  
35 ~~predecessor employer shall retain that percentage of the~~  
36 ~~experience rating equal to that percentage of the employment~~

1 ~~positions-that-it-has-retained, if the successor files an~~  
2 ~~application by electronic transmission, in a format prescribed~~  
3 ~~by the commissioner, for the transfer of a percentage of the~~  
4 ~~experience rating of the predecessor within 180 calendar days~~  
5 ~~from the date of acquisition, that furnishes sufficient~~  
6 ~~information to substantiate the acquisition and to assign the~~  
7 ~~appropriate percentage of the experience rating. When:~~

8 (1) a taxpaying employer acquires a portion, but less than  
9 all, of the organization, trade or business, or workforce of  
10 another taxpaying employer; and

11 (2) there is 25 percent or more common ownership or there  
12 is substantially common management or control between the  
13 predecessor and successor, the successor employer shall acquire,  
14 as of the date of acquisition, the experience rating history  
15 attributable to the portion it acquired, and the predecessor  
16 employer shall retain the experience rating history attributable  
17 to the portion that it has retained. If the commissioner  
18 determines that sufficient information is not available to  
19 substantiate that a distinct severable portion was acquired and  
20 to assign the appropriate distinct severable portion of the  
21 experience rating history, the commissioner shall assign the  
22 successor employer that percentage of the predecessor employer's  
23 experience rating history equal to that percentage of the  
24 employment positions it has obtained, and the predecessor  
25 employer shall retain that percentage of the experience rating  
26 history equal to the percentage of the employment positions it  
27 has retained.

28 (c) The term "common ownership" for purposes of this  
29 subdivision includes ownership by a spouse, parent, grandparent,  
30 child, grandchild, brother, sister, aunt, uncle, niece, nephew,  
31 or first cousin, by birth or by marriage.

32 (d) Each successor employer that is subject to paragraph  
33 (a) or (b) must notify the commissioner of the acquisition by  
34 electronic transmission, in a format prescribed by the  
35 commissioner, within 30 calendar days of the date of  
36 acquisition. Any successor employer that fails to notify the

1 commissioner is subject to the penalties under section 268.184,  
2 subdivision 1a, if the successor's experience rating was lower  
3 than the predecessor's experience rating at the time of the  
4 acquisition. Penalties shall be credited to the administration  
5 account to be used to ensure integrity in the unemployment  
6 insurance program.

7       ~~(d)~~ (e) If the successor employer under paragraphs (a) and  
8 (b) had an experience rating at the time of the acquisition, the  
9 transferred experience rating history of the predecessor shall  
10 be combined with the successor's experience rating history, as  
11 of the date of acquisition, for purposes of  
12 ~~computing~~ recomputing a tax rate.

13       ~~(e)~~ (f) If there has been a transfer of an experience  
14 rating history under paragraph (a) or (b), employment with a  
15 predecessor employer shall not be considered to have been  
16 terminated if similar employment is offered by the successor  
17 employer and accepted by the employee.

18       ~~(f)~~ (g) The commissioner, ~~upon-the-commissioner's-own~~  
19 ~~motion-or~~ upon application notification of an employer, or upon  
20 the commissioner's own motion if the employer fails to provide  
21 the required notification, shall determine if an employer is a  
22 successor within the meaning of this subdivision ~~and-shall-send~~  
23 ~~the-determination-to-the-employer-by-mail-or-electronic~~  
24 ~~transmission. The-determination-shall-be-final-unless-a-protest~~  
25 ~~is-filed-by-the-employer-within-30-calendar-days-after-sending~~  
26 ~~the-determination.---Upon-receipt-of-a-protest, the-commissioner~~  
27 ~~shall-review-all-available-evidence-and-determine-whether-an~~  
28 ~~error-has-been-made.---The-commissioner-shall-either-affirm-or~~  
29 ~~make-a-redetermination-on-whether-the-employer-is-a-successor~~  
30 ~~within-the-meaning-of-this-subdivision-and-send-the-employer, by~~  
31 ~~mail-or-electronic-transmission, the-affirmation-or~~  
32 ~~redetermination.---The-affirmation-or-redetermination-shall-be~~  
33 ~~final-unless-an-appeal-is-filed-by-the-employer-within-30~~  
34 ~~calendar-days-after-the-sending-of-the-affirmation-or~~  
35 ~~redetermination.---Proceedings-on-the-appeal-shall-be-conducted~~  
36 ~~in-accordance-with-section-268.105.~~

1       ~~(g) The commissioner may, as the result of any~~  
2 ~~determination or decision regarding~~ shall, after determining the  
3 issue of succession or nonsuccession, recompute the tax  
4 rate under subdivision 6 of all employers affected by the  
5 ~~determination or decision for any year, including the year of~~  
6 ~~the acquisition and subsequent years, that is affected by the~~  
7 ~~transfer or nontransfer of part or all of the experience~~  
8 ~~rating.---This paragraph does not apply to rates that have become~~  
9 ~~final before the filing of an application for the transfer of a~~  
10 ~~severable portion of the experience rating under paragraph (b).~~  
11 The commissioner shall send the recomputed tax rate to all  
12 affected employers by mail or electronic transmission. Any  
13 affected employer may protest the recomputed tax rate in  
14 accordance with the procedures in subdivision 6, paragraph (c).

15       ~~(h) Should an employer not have been in operation long~~  
16 ~~enough to qualify for an experience rating under subdivision 3,~~  
17 ~~paragraph (a),~~ The "experience rating history" for purposes of  
18 this subdivision ~~shall consist of~~ and subdivision 4a means those  
19 factors set out in subdivision 3, paragraph (b), that normally  
20 make up an experience rating, ~~without the 12-month minimum.~~

21       For purposes of this chapter, an "acquisition" means  
22 anything that results in the obtaining by the successor  
23 employer, in any way or manner, of the organization, trade or  
24 business, or workforce of the predecessor employer.

25       A "distinct severable portion" in paragraph (b) means a  
26 location or unit separately identifiable within the employer's  
27 wage detail report under section 268.044.

28       ~~(i) If the commissioner finds that a transaction was done,~~  
29 ~~in whole or in part, to avoid an experience rating or the~~  
30 ~~transfer of an experience rating, the commissioner may transfer~~  
31 ~~all or part of the experience rating regardless of the~~  
32 ~~requirements or limitations of paragraphs (a) and (b).---This~~  
33 ~~shall include the transferring of employees from the payroll of~~  
34 ~~an employer with a higher experience rating to the payroll of an~~  
35 ~~employer with a lower experience rating.~~

36       ~~(j) Regardless of~~ the ownership, management, or control

1 requirements of paragraph (a), if there is an acquisition or  
2 merger of a publicly held corporation by or with another  
3 publicly held corporation the experience ~~ratings~~ rating  
4 histories of the corporations shall be combined as of the date  
5 of acquisition or merger for the purpose of ~~computing~~  
6 recomputing a tax rate.

7 Sec. 8. Minnesota Statutes 2004, section 268.051, is  
8 amended by adding a subdivision to read:

9 Subd. 4a. [ACTIONS THAT AVOID TAXES.] (a) If the  
10 commissioner determines that any action was done, in whole or in  
11 part, to avoid:

12 (1) an experience rating history;

13 (2) the transfer of an experience rating history; or

14 (3) the assignment of a tax rate for new employers under

15 subdivision 5, paragraph (a) or (b), the commissioner, to insure  
16 that the trust fund receives all the taxes that would have been  
17 received had the action not occurred, may, effective the date of  
18 the action, transfer all or part of an experience rating history  
19 and recompute the tax rate, or assign the appropriate new  
20 employer tax rate.

21 (b) This subdivision shall apply to any action between  
22 persons regardless of whether there is any commonality of  
23 ownership, management, or control between the persons. The  
24 authority granted to the commissioner under this subdivision is  
25 in addition to any other authority granted to the commissioner.

26 Sec. 9. Minnesota Statutes 2004, section 268.051,  
27 subdivision 6, is amended to read:

28 Subd. 6. [NOTICE OF TAX RATE.] (a) On or before each  
29 December 15, the commissioner shall notify each employer by mail  
30 or electronic transmission of the employer's tax rate, along  
31 with any additional assessments, fees, or surcharges, for the  
32 following calendar year. The notice shall contain the base tax  
33 rate and the factors used in determining the employer's  
34 experience rating. Unless a protest of the tax rate is made,  
35 the computed tax rate shall be final, except for fraud or  
36 recomputation required under subdivision 4 or 4a, and shall be

1 the rate at which taxes shall be paid. A recomputed tax rate  
2 under subdivision 4 or 4a shall be the rate applicable for the  
3 quarter that includes the date of acquisition and any quarter  
4 thereafter during the calendar year in which the acquisition  
5 occurred. The tax rate shall not be subject to collateral  
6 attack by way of claim for a credit adjustment or refund, or  
7 otherwise.

8 (b) If the legislature, subsequent to the sending of the  
9 tax rate, changes any of the factors used to determine the rate,  
10 ~~the earlier notice shall be void.~~ A new tax rate based on the  
11 new factors shall be computed and sent to the employer.

12 (c) A review of an employer's tax rate may be obtained by  
13 the employer filing a protest within 30 calendar days from the  
14 date the tax rate notice was sent to the employer. Upon receipt  
15 of the protest, the commissioner shall review the tax rate to  
16 determine whether or not there has been any error in computation  
17 or assignment of the tax rate. The commissioner shall either  
18 affirm or make a redetermination of the rate and a notice of the  
19 affirmation or redetermination shall be sent to the employer by  
20 mail or electronic transmission. The affirmation or  
21 redetermination shall be final unless the employer files an  
22 appeal within 30 calendar days after the date the affirmation or  
23 redetermination was sent. Proceedings on the appeal shall be  
24 conducted in accordance with section 268.105.

25 (d) The commissioner may at any time upon the  
26 commissioner's own motion correct any error in the computation  
27 or the assignment of an employer's tax rate.

28 Sec. 10. Minnesota Statutes 2004, section 268.065,  
29 subdivision 2, is amended to read:

30 Subd. 2. [EMPLOYEE LEASING FIRMS COMPANY, PROFESSIONAL  
31 EMPLOYER ORGANIZATION, OR SIMILAR PERSON.] (a) A person whose  
32 work force consists of 50 percent or more of workers provided  
33 originally recruited and hired by employee leasing firms  
34 company, professional employer organization, or similar person  
35 and then provided to the person for a fee, is jointly and  
36 severally liable for the unpaid amounts that are due under this

1 chapter or section 116L.20 on the wages paid on the contract  
2 with the employee leasing firm company, professional employer  
3 organization, or similar person. ~~"Employee-leasing-firm"~~ means  
4 ~~an employer that provides its employees to other persons without~~  
5 ~~severing its employer-employee relationship with the worker for~~  
6 ~~the services performed for the lessee.~~

7 (b) This subdivision applies to, but is not limited to,  
8 persons registered under section 79.255, but does not apply to  
9 agreements with persons that obtain an exemption from  
10 registration under section 79.255, subdivision 9.

11 Sec. 11. Minnesota Statutes 2004, section 268.184,  
12 subdivision 1, is amended to read:

13 Subdivision 1. [ADMINISTRATIVE PENALTIES.] (a) If the  
14 commissioner finds that any employer or any employee, officer,  
15 or agent of any employer, is in collusion with any applicant for  
16 the purpose of assisting the applicant to receive unemployment  
17 benefits fraudulently, the employer shall be penalized \$500 or  
18 the amount of unemployment benefits determined to be overpaid,  
19 whichever is greater.

20 (b) If the commissioner finds that any employer or any  
21 employee, officer, or agent of an employer has made (1) a false  
22 statement or representation knowing it to be false, including  
23 reporting employees on a wage detail report under section  
24 268.044 knowing the employees actually are employed by a  
25 different employer, or (2) has made a false statement or  
26 representation without a good faith belief as to correctness of  
27 the statement or representation, or (3) who knowingly fails to  
28 disclose a material fact, to prevent or reduce the payment of  
29 unemployment benefits to any applicant or to reduce or avoid any  
30 payment required from an employer under this chapter or section  
31 116L.20, the employer shall be penalized \$500, or 50 percent of  
32 the reduced unemployment benefits or payment required, whichever  
33 is greater.

34 (c) If the commissioner finds that an employer failed or  
35 refused to honor a subpoena issued under section 268.105,  
36 subdivision 4, or section 268.188, the employer shall be



1 penalized \$500 and any costs of enforcing the subpoena,  
2 including attorney fees.

3 (d) Penalties under this ~~section~~ subdivision shall be in  
4 addition to any other penalties and subject to the same  
5 collection procedures that apply to past due taxes. Penalties  
6 shall be paid to the department within 30 calendar days of  
7 assessment and credited to the contingent account.

8 (e) The assessment of the penalty shall be final unless the  
9 employer files an appeal within 30 calendar days after the  
10 sending of notice of the penalty to the employer by mail or  
11 electronic transmission. Proceedings on the appeal shall be  
12 conducted in accordance with section 268.105.

13 Sec. 12. Minnesota Statutes 2004, section 268.184, is  
14 amended by adding a subdivision to read:

15 Subd. 1a. [NOTIFICATION AND MISREPORTING PENALTIES.] (a)  
16 If the commissioner finds that any employer or agent of an  
17 employer failed to meet the notification requirements of section  
18 268.051, subdivision 4, the employer shall be assessed a penalty  
19 of \$5,000 or two percent of the first full quarterly payroll  
20 acquired, whichever is higher. Payroll is wages paid as defined  
21 in section 268.035, subdivision 30. The penalty under this  
22 paragraph shall be canceled if the commissioner determines that  
23 the failure occurred because of ignorance or inadvertence.

24 (b) If the commissioner finds that any individual advised  
25 an employer to violate the employer's notification requirements  
26 under section 268.051, subdivision 4, the individual, and that  
27 individual's employer, shall each be assessed the penalty in  
28 paragraph (a).

29 (c) If the commissioner finds that any person or agent of a  
30 person violated the reporting requirements of section 268.0435  
31 or 268.046, the person shall be assessed a penalty of \$5,000 or  
32 two percent of the quarterly payroll reported in violation of  
33 section 268.0435 or 268.046, whichever is higher. Payroll is  
34 wages paid as defined in section 268.035, subdivision 30.

35 (d) Penalties under this subdivision shall be in addition  
36 to any other penalties and subject to the same collection

1 procedures that apply to past due amounts from an employer.  
2 Penalties must be paid within 30 calendar days after sending of  
3 the notice of penalty.

4 (e) The assessment of a penalty shall be final unless the  
5 person assessed files an appeal within 30 calendar days after  
6 sending of the notice of the penalty by mail or electronic  
7 transmission. Proceedings on the appeal shall be conducted in  
8 accordance with section 268.105.

9 Sec. 13. Minnesota Statutes 2004, section 268.184,  
10 subdivision 2, is amended to read:

11 Subd. 2. [CRIMINAL PENALTIES.] Any employer or any officer  
12 or agent of an employer or any other individual who:

13 (1) makes a false statement or representation knowing it to  
14 be false, ~~or who;~~

15 (2) knowingly fails to disclose a material fact, including  
16 notification required under section 268.051, subdivision 4; or

17 (3) knowingly advises or assists an employer in violating  
18 clause (1) or (2), to avoid or reduce any payment required from  
19 an employer under this chapter or section 116L.20, or to prevent  
20 or reduce the payment of unemployment benefits to any applicant,  
21 is guilty of a gross misdemeanor unless the underpayment exceeds  
22 \$500, in that case the individual is guilty of a felony.

23 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
24 and applies to crimes committed on or after that date.

25 Sec. 14. [MANDATORY FEDERAL IMPLEMENTATION REQUIREMENT.]

26 The commissioner must implement systems and processes to  
27 detect, investigate, and enforce section 268.051, subdivisions 4  
28 and 4a.

29 Sec. 15. [RELATION TO FEDERAL LAW.]

30 This article is enacted to meet the requirements of the  
31 Federal SUTA Dumping Prevention Act of 2004, Public Law 108-295,  
32 amending United States Code, title 42, section 503, and shall be  
33 construed, interpreted, and applied consistent with the  
34 requirements of that federal law, including its definitions.

35 Sec. 16. [REPEALER.]

36 (a) Minnesota Rules, parts 3315.1020, 3315.3210, and

1 3315.3220, are repealed.

2 (b) Minnesota Statutes 2004, section 268.045, subdivisions  
3 2, 3, and 4, are repealed.

4 Sec. 17. [EFFECTIVE DATE.]

5 Except for the sections that include a separate effective  
6 date, this article is effective July 1, 2005.

7 ARTICLE 2

8 HOUSEKEEPING PROVISIONS

9 Section 1. Minnesota Statutes 2004, section 268.03,  
10 subdivision 1, is amended to read:

11 Subdivision 1. [STATEMENT.] The public purpose of ~~sections~~  
12 ~~268-029-to-268-23~~ this chapter is: Economic insecurity due to  
13 involuntary unemployment of workers in Minnesota is a subject of  
14 general concern that requires appropriate action by the  
15 legislature. The public good will be promoted by providing  
16 workers who are unemployed through no fault of their own a  
17 temporary partial wage replacement to assist the unemployed  
18 worker to become reemployed. This program will be known as the  
19 "Minnesota unemployment insurance program."

20 Sec. 2. Minnesota Statutes 2004, section 268.035,  
21 subdivision 9, is amended to read:

22 Subd. 9. [CONSTRUCTION/INDEPENDENT CONTRACTOR.] A worker  
23 doing commercial or residential building construction or  
24 improvement, in the public or private sector, performing  
25 services in the course of the trade, business, profession, or  
26 occupation of the employer, shall be considered an employee and  
27 not an "independent contractor" unless the worker meets all the  
28 following conditions:

29 (1) maintains a separate business with the independent  
30 contractor's own office, equipment, materials, and other  
31 facilities;

32 (2) holds or has applied for a federal employer  
33 identification number or has filed business or self-employment  
34 income tax returns with the federal Internal Revenue Service  
35 based on that work or service in the previous year;

36 (3) operates under contracts to perform specific services

1 or work for specific amounts of money under which the  
2 independent contractor controls the means of performing the  
3 services or work;

4 (4) incurs the main expenses related to the service or work  
5 that the independent contractor performs under contract;

6 (5) is responsible for the satisfactory completion of work  
7 or services that the independent contractor contracts to perform  
8 and is liable for a failure to complete the work or service;

9 (6) receives compensation for work or service performed  
10 under a contract on a commission or per job or competitive bid  
11 basis and not on any other basis;

12 (7) may realize a profit or suffer a loss under contracts  
13 to perform work or service;

14 (8) has continuing or recurring business liabilities or  
15 obligations; and

16 (9) the success or failure of the independent contractor's  
17 business depends on the relationship of business receipts to  
18 expenditures.

19 Sec. 3. Minnesota Statutes 2004, section 268.035,  
20 subdivision 13, is amended to read:

21 Subd. 13. [EMPLOYEE.] "Employee" means:

22 (1) every individual, who is performing, or has performed  
23 services for an employer in employment; or

24 (2) each individual employed to perform or assist in  
25 performing the work of any agent or employee of the employer  
26 shall be considered to be an employee of that employer whether  
27 the individual was hired or paid directly by that employer or by  
28 the agent or employee, provided the employer had actual or  
29 constructive knowledge of the work.

30 Sec. 4. Minnesota Statutes 2004, section 268.035,  
31 subdivision 14, is amended to read:

32 Subd. 14. [EMPLOYER.] "Employer" means any of the  
33 following person which has had one or more employees during the  
34 current or the prior calendar year:

35 ~~(1) any individual or type of organization, resident or~~  
36 ~~nonresident, for-profit or non-profit, religious, charitable, or~~

1 educational, including any partnership, limited liability  
2 company, trust, estate, or corporation, domestic or foreign, or  
3 the receiver, trustee in bankruptcy, trustee or successor of any  
4 of the foregoing, or the legal representative of a deceased  
5 person;

6 (2) any government entity, state or federal, foreign or  
7 domestic, Indian tribe, including any subdivision thereof and  
8 any instrumentality thereof owned wholly or in part;

9 (3) including any organization or person that has elected,  
10 under section 268.042, to be subject to the Minnesota  
11 Unemployment Insurance Law; and

12 (4) a joint venture composed of one or more employers; .

13 (5) any nonprofit organization or government agency  
14 providing or authorizing the hiring of homeworkers, personal  
15 care attendants, or other individuals performing similar  
16 services in a private home is the employer of the homemaker,  
17 attendant, or similar worker whether the organization or agency  
18 pays the employee directly or provides funds to the recipient of  
19 the services to pay for the services. -- This clause does not  
20 apply to the state of Minnesota or any county that provides  
21 federal, state, or local funds to a child care provider either  
22 directly or indirectly through a parent who is a child care  
23 assistance recipient; or

24 (6) each individual employed to perform or assist in  
25 performing the work of any agent or employee shall be considered  
26 to be employed by that employer whether the individual was hired  
27 or paid directly by that employer or by the agent or employee,  
28 provided the employer had actual or constructive knowledge of  
29 the work.

30 An employee leasing company, professional employer  
31 organization, or similar person, that has been assigned a tax or  
32 reimbursable account under section 268.046 is an employer for  
33 purposes of this chapter.

34 Sec. 5. Minnesota Statutes 2004, section 268.035,  
35 subdivision 20, is amended to read:

36 Subd. 20. [NONCOVERED EMPLOYMENT.] "Noncovered employment"

1 means:

2 (1) employment for the United States government or an  
3 instrumentality thereof, including military service;

4 (2) employment for a state, other than Minnesota, or a  
5 political subdivision or instrumentality thereof;

6 (3) employment for a foreign government;

7 (4) employment for an instrumentality wholly owned by a  
8 foreign government, if the employment is of a character similar  
9 to that performed in foreign countries by employees of the  
10 United States government or an instrumentality thereof and the  
11 United States Secretary of State has certified that the foreign  
12 government grants an equivalent exemption to similar employment  
13 performed in the foreign country by employees of the United  
14 States government and instrumentalities thereof;

15 (5) employment covered under United States Code, title 45,  
16 section 351, the Railroad Unemployment Insurance Act;

17 (6) employment covered by a reciprocal arrangement between  
18 the commissioner and another state or the federal government  
19 which provides that all employment performed by an individual  
20 for an employer during the period covered by the reciprocal  
21 arrangement is considered performed entirely within another  
22 state;

23 (7) employment for a church or convention or association of  
24 churches, or an organization operated primarily for religious  
25 purposes that is operated, supervised, controlled, or  
26 principally supported by a church or convention or association  
27 of churches described in United States Code, title 26, section  
28 501(c)(3) of the federal Internal Revenue Code and exempt from  
29 income tax under section 501(a);

30 (8) employment of a duly ordained or licensed minister of a  
31 church in the exercise of a ministry or by a member of a  
32 religious order in the exercise of duties required by the order,  
33 for Minnesota or a political subdivision or an organization  
34 described in United States Code, title 26, section 501(c)(3) of  
35 the federal Internal Revenue Code and exempt from income tax  
36 under section 501(a);

1 (9) employment of an individual receiving rehabilitation of  
2 "sheltered" work in a facility conducted for the purpose of  
3 carrying out a program of rehabilitation for individuals whose  
4 earning capacity is impaired by age or physical or mental  
5 deficiency or injury or a program providing "sheltered" work for  
6 individuals who because of an impaired physical or mental  
7 capacity cannot be readily absorbed in the competitive labor  
8 market. This clause applies only to services performed for  
9 Minnesota or a political subdivision or an organization  
10 described in United States Code, title 26, section 501(c)(3) of  
11 the federal Internal Revenue Code and exempt from income tax  
12 under section 501(a) in a facility certified by the  
13 Rehabilitation Services Branch of the department or in a day  
14 training or habilitation program licensed by the Department of  
15 Human Services;

16 (10) employment of an individual receiving work relief or  
17 work training as part of an unemployment work relief or work  
18 training program assisted or financed in whole or in part by any  
19 federal agency or an agency of a state or political subdivision  
20 thereof. This clause applies only to employment for Minnesota  
21 or a political subdivision or an organization described in  
22 United States Code, title 26, section 501(c)(3) of the federal  
23 Internal Revenue Code and exempt from income tax under section  
24 501(a). This clause shall not apply to programs that require  
25 unemployment benefit coverage for the participants;

26 (11) employment for Minnesota or a political subdivision as  
27 an elected official, a member of a legislative body, or a member  
28 of the judiciary;

29 (12) employment as a member of the Minnesota National Guard  
30 or Air National Guard;

31 (13) employment for Minnesota, a political subdivision, or  
32 instrumentality thereof, as an employee serving only on a  
33 temporary basis in case of fire, flood, tornado, or similar  
34 emergency;

35 (14) employment as an election official or election worker  
36 for Minnesota or a political subdivision, but only if the

1 compensation for that employment was less than \$1,000 in a  
2 calendar year;

3 (15) employment for Minnesota that is a major policy making  
4 or advisory position in the unclassified service, including  
5 those positions established pursuant to section 43A.08,  
6 subdivision 1a;

7 (16) employment for a political subdivision of Minnesota  
8 that is a nontenured major policy making or advisory position;

9 (17) domestic employment in a private household, local  
10 college club, or local chapter of a college fraternity or  
11 sorority performed for a person, only if the wages paid in any  
12 calendar quarter in either the current or preceding calendar  
13 year to all individuals in domestic employment totaled less than  
14 \$1,000.

15 "Domestic employment" includes all service in the operation  
16 and maintenance of a private household, for a local college  
17 club, or local chapter of a college fraternity or sorority as  
18 distinguished from service as an employee in the pursuit of an  
19 employer's trade or business;

20 (18) employment of an individual by a son, daughter, or  
21 spouse, and employment of a child under the age of 18 by the  
22 child's father or mother;

23 (19) employment of an inmate of a custodial or penal  
24 institution;

25 (20) employment for a school, college, or university by a  
26 student who is enrolled and is regularly attending classes at  
27 the school, college, or university;

28 (21) employment of an individual who is enrolled as a  
29 student in a full-time program at a nonprofit or public  
30 educational institution that maintains a regular faculty and  
31 curriculum and has a regularly organized body of students in  
32 attendance at the place where its educational activities are  
33 carried on, taken for credit at the institution, that combines  
34 academic instruction with work experience, if the employment is  
35 an integral part of the program, and the institution has so  
36 certified to the employer, except that this clause shall not



1 apply to employment in a program established for or on behalf of  
2 an employer or group of employers;

3 (22) employment of university, college, or professional  
4 school students in an internship or other training program with  
5 the city of St. Paul or the city of Minneapolis pursuant to Laws  
6 1990, chapter 570, article 6, section 3;

7 (23) employment for a hospital by a patient of the  
8 hospital. "Hospital" means an institution that has been  
9 licensed by the Department of Health as a hospital;

10 (24) employment as a student nurse for a hospital or a  
11 nurses' training school by an individual who is enrolled and is  
12 regularly attending classes in an accredited nurses' training  
13 school;

14 (25) employment as an intern for a hospital by an  
15 individual who has completed a four-year course in an accredited  
16 medical school;

17 (26) employment as an insurance salesperson, by other than  
18 a corporate officer, if all the ~~compensation-for~~ wages from the  
19 employment is solely by way of commission. The word "insurance"  
20 shall include an annuity and an optional annuity;

21 (27) employment as an officer of a township mutual  
22 insurance company or farmer's mutual insurance company operating  
23 pursuant to chapter 67A;

24 (28) employment of a corporate officer, if the officer owns  
25 25 percent or more of the employer corporation, and employment  
26 of a member of a limited liability company, if the member owns  
27 25 percent or more of the employer limited liability company;

28 (29) employment as a real estate salesperson, by other than  
29 a corporate officer, if all the ~~compensation-for~~ wages from the  
30 employment is solely by way of commission;

31 (30) employment as a direct seller as defined in United  
32 States Code, title 26, section 3508;

33 (31) employment of an individual under the age of 18 in the  
34 delivery or distribution of newspapers or shopping news, not  
35 including delivery or distribution to any point for subsequent  
36 delivery or distribution;

1 (32) casual employment performed for an individual, other  
 2 than domestic employment under clause (17), that does not  
 3 promote or advance that employer's trade or business;

4 (33) employment in "agricultural employment" unless  
 5 considered "covered agricultural employment" under subdivision  
 6 11; or

7 (34) if employment during one-half or more of any pay  
 8 period was covered employment, all the employment for the pay  
 9 period shall be considered covered employment; but if during  
 10 more than one-half of any pay period the employment was  
 11 noncovered employment, then all of the employment for the pay  
 12 period shall be considered noncovered employment. "Pay period"  
 13 means a period of not more than a calendar month for which a  
 14 payment or compensation is ordinarily made to the employee by  
 15 the employer.

16 Sec. 6. Minnesota Statutes 2004, section 268.035,  
 17 subdivision 21, is amended to read:

18 Subd. 21. [PERSON.] "Person" means:

19 (1) an individual, trust-or-estate,-a-partnership-or-a  
 20 corporation or any type of organization or entity, resident or  
 21 nonresident, for profit or nonprofit, religious, charitable or  
 22 educational, including any receiver or trustee in a bankruptcy,  
 23 successor of any of the foregoing, or legal representative of a  
 24 deceased individual; and

25 (2) any government entity, state or federal, foreign or  
 26 domestic, or Indian tribe, including any subdivision or  
 27 instrumentality thereof owned wholly or in part.

28 Sec. 7. Minnesota Statutes 2004, section 268.035,  
 29 subdivision 26, is amended to read:

30 Subd. 26. [UNEMPLOYED.] An applicant shall be considered  
 31 "unemployed": (1) in any week that the applicant performs no  
 32 ~~service-in-employment,-covered-employment,-noncovered~~  
 33 ~~employment,-self-employment,-or-volunteer-work,-and-with-respect~~  
 34 ~~to-which-the-applicant-has-no-earnings,-or-(2)-in-any-week-of~~  
 35 less than 32 hours of service in employment, covered employment,  
 36 noncovered employment, self-employment, or volunteer work ~~if-the~~

1 ; and (2) any earnings with respect to that week are less than  
2 the applicant's weekly unemployment benefit amount.

3 Sec. 8. Minnesota Statutes 2004, section 268.042,  
4 subdivision 1, is amended to read:

5 Subdivision 1. [EMPLOYER REGISTRATION.] (a) Each employer  
6 shall, upon or before the submission of its first wage detail  
7 report under section 268.044, register with the commissioner for  
8 a tax account or a reimbursable account, by electronic  
9 transmission in a format prescribed by the commissioner. The  
10 employer must provide all required information for registration.

11 (b) Except as provided in subdivision 3, any ~~organization~~  
12 ~~or person~~ that is or becomes an employer subject to the  
13 Minnesota Unemployment Insurance Law within any calendar year  
14 shall be considered to be subject to this chapter the entire  
15 calendar year.

16 (c) Upon the termination of business, an employer that has  
17 been assigned a tax account or reimbursable account shall notify  
18 the commissioner by electronic transmission, in a format  
19 prescribed by the commissioner, that the employer no longer has  
20 employees and does not intend or expect to pay wages to any  
21 employees in the next calendar year and into the foreseeable  
22 future. Upon such notification, the commissioner shall not  
23 require the employer to file wage detail reports under section  
24 268.044, subdivision 1, paragraph (d), ~~commencing the calendar~~  
25 ~~quarter after the notice of termination was received by the~~  
26 ~~commissioner.~~

27 Sec. 9. Minnesota Statutes 2004, section 268.043, is  
28 amended to read:

29 268.043 [DETERMINATIONS OF COVERAGE.]

30 (a) The commissioner, upon the commissioner's own motion or  
31 upon application of ~~an organization or a~~ a person, shall determine  
32 if that organization or person is an employer or whether  
33 services performed for it constitute employment and covered  
34 employment, or whether the compensation for services constitutes  
35 wages, and shall notify the ~~organization or person~~ of the  
36 determination. The determination shall be final unless the

1 organization or person, within 30 calendar days after sending of  
2 the determination by mail or electronic transmission, files a  
3 protest. Upon receipt of a protest, the commissioner shall  
4 review all available evidence and determine whether an error has  
5 been made. The commissioner shall send to the ~~organization-or~~  
6 person, by mail or electronic transmission, an affirmation or  
7 redetermination. The affirmation or redetermination shall be  
8 final unless, within 30 calendar days after sending of the  
9 affirmation or redetermination to the ~~organization-or~~ person by  
10 mail or electronic transmission, an appeal is filed.  
11 Proceedings on the appeal shall be conducted in accordance with  
12 section 268.105.

13 (b) No ~~organization-or~~ person shall be initially determined  
14 an employer, or that services performed for it were in  
15 employment or covered employment, for periods more than four  
16 years prior to the year in which the determination is made,  
17 unless the commissioner finds that there was fraudulent action  
18 to avoid liability under this chapter.

19 Sec. 10. Minnesota Statutes 2004, section 268.044,  
20 subdivision 2, is amended to read:

21 Subd. 2. [FAILURE TO TIMELY FILE REPORT; LATE FEES.] (a)  
22 Any employer that fails to submit the quarterly wage detail  
23 report when due shall pay a late fee of \$10 per employee,  
24 computed based upon the highest of:

25 (1) the number of employees reported on the last wage  
26 detail report submitted;

27 (2) the number of employees reported in the corresponding  
28 quarter of the prior calendar year; or

29 (3) if no wage detail report has ever been submitted, the  
30 number of employees listed at the time of employer registration.

31 The late fee shall be waived if the wage detail report is  
32 received within 30 calendar days after a demand for the report  
33 is sent to the employer by mail or electronic transmission. A  
34 late fee assessed an employer may not be waived more than ~~once~~  
35 twice each 12 months. The amount of the late fee assessed shall  
36 not be less than \$50 \$250.

1 (b) If the wage detail report is not received in a manner  
2 and format prescribed by the commissioner within 30 calendar  
3 days after demand is sent under paragraph (a), the late fee  
4 assessed under paragraph (a) shall double and a renewed demand  
5 notice and notice of the increased late fee shall be sent to the  
6 employer by mail or electronic transmission.

7 (c) Late fees due under this subdivision may be compromised  
8 under section 268.067 where good cause for late submission is  
9 found by the commissioner.

10 Sec. 11. Minnesota Statutes 2004, section 268.051,  
11 subdivision 7, is amended to read:

12 Subd. 7. [TAX RATE BUYDOWN.] (a) Any taxpaying employer  
13 who has been assigned a tax rate based upon an experience  
14 rating, and has no amounts past due under this chapter, may,  
15 upon the voluntary payment of an amount equivalent to any  
16 portion or all of the unemployment benefits used in computing  
17 the experience rating plus a surcharge of 25 percent, obtain a  
18 cancellation of unemployment benefits used equal to the payment  
19 made, less the surcharge. Upon the payment, the commissioner  
20 shall compute a new experience rating for the employer, and  
21 compute a new tax rate.

22 (b) Voluntary payments may be made only by electronic  
23 payment and must be received within 120 calendar days from the  
24 beginning of the calendar year for which the tax rate is  
25 effective.

26 Sec. 12. Minnesota Statutes 2004, section 268.052,  
27 subdivision 2, is amended to read:

28 Subd. 2. [ELECTION BY STATE OR POLITICAL SUBDIVISION TO BE  
29 A TAXPAYING EMPLOYER.] (a) The state or political  
30 subdivision ~~excluding-a-school-district~~ may elect to be a  
31 taxpaying employer for any calendar year if a notice of election  
32 is filed within 30 calendar days following January 1 of that  
33 calendar year. Upon election, the state or political  
34 subdivision shall be assigned the new employer tax rate under  
35 section 268.051, subdivision 5, for the calendar year of the  
36 election and until it qualifies for an experience rating under

1 section 268.051, subdivision 3.

2 (b) An election shall be for a minimum period of two  
3 calendar years following the effective date of the election and  
4 continue unless a notice terminating the election is filed not  
5 later than 30 calendar days before the beginning of the calendar  
6 year. The termination shall be effective at the beginning of  
7 the next calendar year. Upon election, the commissioner shall  
8 establish a reimbursable account for the state or political  
9 subdivision. A termination of election shall be allowed only if  
10 the state or political subdivision has, since the beginning of  
11 the experience rating period under section 268.051, subdivision  
12 3, paid taxes and made voluntary payments under section 268.051,  
13 subdivision 7, equal to or more than 125 percent of the  
14 unemployment benefits used in computing the experience rating.  
15 In addition, any unemployment benefits paid after the experience  
16 rating period shall be transferred to the new reimbursable  
17 account of the state or political subdivision. If the amount of  
18 taxes and voluntary payments paid since the beginning of the  
19 experience rating period exceeds 125 percent of the amount of  
20 unemployment benefits paid during the experience rating period,  
21 that amount in excess shall be applied against any unemployment  
22 benefits paid after the experience rating period.

23 (c) The method of payments to the trust fund under  
24 subdivisions 3 and 4 shall apply to all taxes paid by or due  
25 from the state or political subdivision that elects to be  
26 taxpaying employers under this subdivision.

27 (d) A notice of election or a notice terminating election  
28 shall be filed by electronic transmission in a format prescribed  
29 by the commissioner.

30 Sec. 13. Minnesota Statutes 2004, section 268.053,  
31 subdivision 1, is amended to read:

32 Subdivision 1. [ELECTION.] (a) Any nonprofit organization  
33 that has employees in covered employment shall pay taxes on a  
34 quarterly basis pursuant to section 268.051 unless it elects to  
35 make reimbursements to the trust fund the amount of unemployment  
36 benefits charged to its reimbursable account under section

1 268.047.

2 The organization may elect to make reimbursements for a  
3 period of not less than two calendar years beginning with the  
4 date that the organization was determined to be an employer with  
5 covered employment by filing a notice of election not later than  
6 30 calendar days after the date of the determination.

7 (b) Any nonprofit organization that makes an election will  
8 continue to be liable for reimbursements until it files a notice  
9 terminating its election not later than 30 calendar days before  
10 the beginning of the calendar year the termination is to be  
11 effective.

12 (c) A nonprofit organization that has been making  
13 reimbursements that files a notice of termination of election  
14 shall be assigned the new employer tax rate under section  
15 268.051, subdivision 5, for the calendar year of the termination  
16 of election and until it qualifies for an experience rating  
17 under section 268.051, subdivision 3.

18 (d) Any nonprofit organization that has been paying taxes  
19 may elect to make reimbursements by filing no less than 30  
20 calendar days before January 1 of any calendar year a notice of  
21 election. Upon election, the commissioner shall establish a  
22 reimbursable account for the nonprofit organization. An  
23 election shall be allowed only if the nonprofit organization  
24 has, since the beginning of the experience rating period under  
25 section 268.051, subdivision 3, paid taxes ~~and-made-voluntary~~  
26 ~~payments-under-section-268-051, subdivision-7,~~ equal to or more  
27 than 125 percent of the unemployment benefits used in computing  
28 the experience rating. In addition, any unemployment benefits  
29 paid after the experience rating period shall be transferred to  
30 the new reimbursable account of the nonprofit organization. If  
31 the amount of taxes ~~and-voluntary-payments~~ paid since the  
32 beginning of the experience rating period exceeds 125 percent of  
33 the amount of unemployment benefits paid during the experience  
34 rating period, that amount in excess shall be applied against  
35 any unemployment benefits paid after the experience rating  
36 period. The election shall not be terminable by the

1 organization for that and the next calendar year.

2 (e) The commissioner may for good cause extend the period  
3 that a notice of election, or a notice of termination, must be  
4 filed and may permit an election to be retroactive.

5 (f) A notice of election or notice terminating election  
6 shall be filed by electronic transmission in a format prescribed  
7 by the commissioner.

8 Sec. 14. Minnesota Statutes 2004, section 268.057,  
9 subdivision 7, is amended to read:

10 Subd. 7. [CREDIT ADJUSTMENTS, REFUNDS.] (a) If an employer  
11 makes an application for a credit adjustment of any amount paid  
12 under this chapter or section 116L.20 within four years of  
13 the year date that the payment was made due, in a manner and  
14 format prescribed by the commissioner, and the commissioner  
15 determines that the payment or any portion was erroneous, the  
16 commissioner shall make an adjustment and issue a credit without  
17 interest. If a credit cannot be used, the commissioner shall  
18 refund, without interest, the amount erroneously paid. The  
19 commissioner, on the commissioner's own motion, may make a  
20 credit adjustment or refund under this subdivision.

21 Any refund returned to the commissioner shall be considered  
22 unclaimed property under chapter 345.

23 (b) If a credit adjustment or refund is denied in whole or  
24 in part, a notice of denial shall be sent to the employer by  
25 mail or electronic transmission. Within 30 calendar days after  
26 sending of the notice of denial, the employer may protest.

27 Upon receipt of a timely protest, the commissioner shall  
28 review the denial and either affirm the denial or redetermine  
29 the credit adjustment or refund. The affirmation of denial or  
30 redetermination of the credit adjustment or refund, sent by mail  
31 or electronic transmission, shall be final unless an employer  
32 files an appeal within 30 calendar days after sending.

33 Proceedings on the appeal shall be conducted in accordance with  
34 section 268.105.

35 Sec. 15. Minnesota Statutes 2004, section 268.069,  
36 subdivision 1, is amended to read:



1 Subdivision 1. [REQUIREMENTS.] The commissioner shall pay  
2 unemployment benefits from the trust fund to an applicant who  
3 has met each of the following requirements:

4 (1) the applicant has filed an application for unemployment  
5 benefits and established a benefit account in accordance with  
6 section 268.07;

7 (2) the applicant is not subject to a disqualification from  
8 unemployment benefits under section 268.095 because of a quit or  
9 discharge;

10 (3) the applicant has met all of the ongoing weekly  
11 eligibility requirements under sections 268.085 and 268.086;

12 (4) the applicant does not have an outstanding overpayment  
13 of unemployment benefits, including any penalties or interest,  
14 ~~under section 268.18;~~ and

15 (5) the applicant is not ~~subject to a denial of~~ ineligible  
16 for unemployment benefits under section 268.182 because of a  
17 false representation or concealment of facts.

18 Sec. 16. Minnesota Statutes 2004, section 268.07,  
19 subdivision 3b, is amended to read:

20 Subd. 3b. [LIMITATIONS.] (a) A benefit account shall be  
21 established effective the Sunday of the calendar week that the  
22 application for unemployment benefits was filed. Upon specific  
23 request of an applicant, an application for unemployment  
24 benefits may be backdated one calendar week prior to the Sunday  
25 of the week the application was actually filed. An application  
26 shall be backdated only if the applicant was unemployed  
27 throughout the period of the backdating. If an individual  
28 attempted to file an application for unemployment benefits, but  
29 was prevented from filing an application by the department, the  
30 benefit account shall be effective the Sunday of the calendar  
31 week the individual first attempted to file an application.

32 (b) A benefit account, once established, may later be  
33 withdrawn only if:

34 (1) a new application for unemployment benefits is filed  
35 and a new benefit account is established at the time of the  
36 withdrawal; and

1 (2) the applicant has not served a waiting week under  
2 section 268.085, subdivision 1, clause ~~(3)~~ (5).

3 A determination or amended determination pursuant to  
4 section 268.101, that was issued before the withdrawal of the  
5 benefit account, shall remain in effect and shall not be voided  
6 by the withdrawal of the benefit account. A determination of  
7 disqualification requiring subsequent earnings to satisfy the  
8 disqualification under section 268.095, subdivision 10, shall  
9 apply to the weekly unemployment benefit amount on the new  
10 benefit account.

11 (c) An application for unemployment benefits shall not be  
12 allowed prior to the Sunday following the expiration of the  
13 benefit year on a prior benefit account. Except as allowed  
14 under paragraph (b), a applicant may establish only one benefit  
15 account each 52 calendar weeks.

16 ~~(d)-All-unemployment-benefits-shall-be-available-from-the~~  
17 ~~trust-fund-only-for-weeks-occurring-during-the-applicant's~~  
18 ~~benefit-year-~~

19 Sec. 17. Minnesota Statutes 2004, section 268.085,  
20 subdivision 1, is amended to read:

21 Subdivision 1. [ELIGIBILITY CONDITIONS.] An applicant  
22 shall be eligible to receive unemployment benefits for any week  
23 if:

24 (1) the applicant has an active benefit account and has  
25 filed a continued biweekly request for unemployment benefits for  
26 that week pursuant to section 268.086;

27 (2) the week for which unemployment benefits are requested  
28 is in the applicant's benefit year;

29 (3) the applicant was unemployed as defined in section  
30 268.035, subdivision 26;

31 ~~(2)~~ (4) the applicant was able to work and was available  
32 for suitable employment, and was actively seeking suitable  
33 employment. The applicant's weekly unemployment benefit amount  
34 shall be reduced one-fifth for each day the applicant is unable  
35 to work or is unavailable for suitable employment. If the  
36 computation of the reduced unemployment benefits is not a whole

1 dollar, it shall be rounded down to the next lower whole dollar.

2 This clause shall not apply to an applicant who is in  
3 reemployment assistance training, or each day the applicant is  
4 on jury duty or serving as an election judge;

5 ~~(3)~~ (5) the applicant has served a waiting period of one  
6 week that the applicant is otherwise entitled to some amount of  
7 unemployment benefits. This clause shall not apply if the  
8 applicant would have been entitled to federal disaster  
9 unemployment assistance because of a disaster in Minnesota, but  
10 for the applicant's establishment of a benefit account under  
11 section 268.07; and.

12 ~~(4)~~ (6) the applicant has been participating in  
13 reemployment assistance services, such as job search and resume  
14 writing classes, if the applicant has been determined in need of  
15 reemployment assistance services by the commissioner, unless  
16 there is good cause for the applicant's failure to participate.

17 Sec. 18. Minnesota Statutes 2004, section 268.085,  
18 subdivision 2, is amended to read:

19 Subd. 2. [NOT ELIGIBLE.] An applicant shall not be  
20 eligible to receive unemployment benefits for any week:

21 (1) that occurs before the effective date of a benefit  
22 account;

23 (2) that occurs in a period when the applicant is a student  
24 in attendance at, or on vacation from a secondary school  
25 including the period between academic years or terms;

26 (3) that the applicant is incarcerated or performing court  
27 ordered community service. The applicant's weekly unemployment  
28 benefit amount shall be reduced by one-fifth for each day the  
29 applicant is incarcerated or performing court ordered community  
30 service. If the computation of the reduced unemployment  
31 benefits is not a whole dollar, it shall be rounded down to the  
32 next lower whole dollar;

33 (4) that the applicant fails or refuses to provide  
34 information on an issue of eligibility required under section  
35 268.101, subdivision 1, paragraph (a), or an issue of  
36 disqualification required under section 268.101, subdivision 1,

1 paragraph (d);

2 (5) that the applicant is performing services 32 hours or  
3 more, in employment, covered employment, noncovered employment,  
4 volunteer work, or self-employment regardless of the amount of  
5 any earnings; or

6 (6) with respect to which the applicant is receiving, has  
7 received, or has filed an application for unemployment benefits  
8 under any federal law or the law of any other state. If the  
9 appropriate agency finally determines that the applicant is not  
10 entitled to the unemployment benefits, this clause shall not  
11 apply.

12 Sec. 19. Minnesota Statutes 2004, section 268.085,  
13 subdivision 3, is amended to read:

14 Subd. 3. [PAYMENTS THAT DELAY UNEMPLOYMENT BENEFITS.] (a)  
15 An applicant shall not be eligible to receive unemployment  
16 benefits for any week with respect to which the applicant is  
17 receiving, has received, or has filed for payment, equal to or  
18 in excess of the applicant's weekly unemployment benefit amount,  
19 in the form of:

20 (1) vacation pay paid upon temporary, indefinite, or  
21 seasonal separation. This clause shall not apply to vacation  
22 pay paid upon a permanent separation from employment;

23 (2) severance pay, bonus pay, vacation-pay, sick pay, and  
24 any other money payments, except earnings under subdivision 5,  
25 and back pay under subdivision 6, paid by an employer because  
26 of, upon, or after separation from employment, but only if the  
27 money payment is considered wages at the time of payment under  
28 section 268.035, subdivision 29, or United States Code, title  
29 26, section 3121, clause (2), of the Federal Insurance  
30 Contribution Act;--This clause shall apply to all the weeks of  
31 payment and shall be applied to the period immediately following  
32 the last day of employment;--The number of weeks of payment  
33 shall be determined as follows:;

34 (i) if the payments are made periodically, the total of the  
35 payments to be received shall be divided by the applicant's last  
36 level of regular weekly pay from the employer; or

~~(ii) if the payment is made in a lump sum, that sum shall be divided by the applicant's last level of regular weekly pay from the employer. This clause shall not apply to vacation pay paid by an employer upon permanent separation from employment;~~

~~(2)~~ (3) pension, retirement, or annuity payments from any plan contributed to by a base period employer including the United States government, except Social Security benefits which are provided for in subdivision 4. The base period employer contributed to the plan if the contribution is excluded from the definition of wages under section 268.035, subdivision 29, clause (1), or United States Code, title 26, section 3121, clause (2), of the Federal Insurance Contribution Act.

~~If the applicant receives a lump sum pension payment, that sum shall be divided by the applicant's last level of regular weekly pay to determine the number of weeks of payment. The number of weeks of payment shall be applied to the period immediately following the last day of employment. An applicant shall not be considered to have received the lump sum payment if the applicant immediately deposits that payment in a qualified pension plan or account; or~~

~~(3)~~ (4) holiday pay.

(b) This subdivision shall apply to all the weeks of payment and shall be applied to the period immediately following the last day of employment. The number of weeks of payment shall be determined as follows:

(1) if the payments are made periodically, the total of the payments to be received shall be divided by the applicant's last level of regular weekly pay from the employer; or

(2) if the payment is made in a lump sum, that sum shall be divided by the applicant's last level of regular weekly pay from the employer.

~~(b)~~ (c) If the payment is less than the applicant's weekly unemployment benefit amount, unemployment benefits shall be reduced by the amount of the payment. If the computation of reduced unemployment benefits is not a whole dollar, it shall be rounded down to the next lower whole dollar.

1           Sec. 20. Minnesota Statutes 2004, section 268.085,  
2 subdivision 5, is amended to read:

3           Subd. 5. [DEDUCTIBLE EARNINGS.] (a) If the applicant has  
4 earnings with respect to any week, from employment, covered  
5 employment, noncovered employment, self-employment, or volunteer  
6 work, equal to or in excess of the applicant's weekly  
7 unemployment benefit amount, the applicant shall be ineligible  
8 for unemployment benefits for that week.

9           (b) If the applicant has earnings, with respect to any  
10 week, that is less than the applicant's weekly unemployment  
11 benefit amount, from employment, covered employment, noncovered  
12 employment, self-employment, or volunteer work, that amount over  
13 the following shall be deducted from the weekly unemployment  
14 benefit amount:

15           (1) 25 percent of earnings or \$50, whichever is higher; and

16           (2) \$200 for earnings from service in the National Guard or  
17 a United States military reserve unit.

18           The resulting unemployment benefit, if not a whole dollar,  
19 shall be rounded down to the next lower whole dollar.

20           (c) No deduction shall be made from an applicant's weekly  
21 unemployment benefit amount for earnings from direct service as  
22 a volunteer firefighter or volunteer ambulance service  
23 personnel. This exception to paragraphs (a) and (b) does not  
24 apply to on-call or standby pay provided to a volunteer  
25 firefighter or volunteer ambulance service personnel. No  
26 deduction shall be made for jury duty pay or for pay as an  
27 election judge.

28           (d) The applicant may report deductible earnings on  
29 continued biweekly requests for unemployment benefits at the  
30 next lower whole dollar amount.

31           (e) Deductible earnings shall not include any money  
32 considered a deductible payment under subdivision 3, but shall  
33 include all other money considered wages and any other money  
34 considered earned income under state and federal law for income  
35 tax purposes.

36           Sec. 21. Minnesota Statutes 2004, section 268.085,

1 subdivision 12, is amended to read:

2 Subd. 12. [ALIENS.] (a) An alien shall be ineligible for  
3 unemployment benefits for any week the alien is not authorized  
4 to work in the United States under federal law. Information  
5 from the Bureau of Citizenship and Immigration and  
6 Naturalization-Service Services shall be considered conclusive,  
7 absent specific evidence that the information was erroneous.  
8 Pursuant to the existing agreement between the United States and  
9 Canada, this paragraph shall not apply to an applicant who is a  
10 Canadian citizen and has returned to and is living in Canada  
11 each week unemployment benefits are requested.

12 (b) Unemployment benefits shall not be paid on the basis of  
13 wage credits earned by an alien unless the alien (1) was  
14 lawfully admitted for permanent residence at the time of the  
15 employment, (2) was lawfully present for the purposes of the  
16 employment, or (3) was permanently residing in the United States  
17 under color of law at the time of the employment.

18 (c) Any information required of applicants applying for  
19 unemployment benefits to determine eligibility because of their  
20 alien status shall be required from all applicants.

21 Sec. 22. Minnesota Statutes 2004, section 268.086,  
22 subdivision 2, is amended to read:

23 Subd. 2. [CONTINUED BIWEEKLY REQUEST FOR UNEMPLOYMENT  
24 BENEFITS DEFINED.] A continued biweekly request for unemployment  
25 benefits is a certification by an applicant, done on a biweekly  
26 basis, that the applicant is unemployed and meets the ongoing  
27 eligibility requirements for unemployment benefits under section  
28 268.085 for a specific week or two-week period. A continued  
29 biweekly request shall include information on possible issues of  
30 eligibility and disqualification in accordance with section  
31 268.101, subdivision 1, paragraph (c).

32 Sec. 23. Minnesota Statutes 2004, section 268.086,  
33 subdivision 3, is amended to read:

34 Subd. 3. [METHODS FOR FILING CONTINUED BIWEEKLY REQUESTS  
35 FOR UNEMPLOYMENT BENEFITS.] (a) The commissioner shall designate  
36 to each applicant one of the following methods for filing a

1 continued biweekly request:

2 (1) ~~by telephone under subdivision 4;~~

3 ~~(2)~~ by electronic transmission under subdivision 5;

4 ~~(3)~~ (2) by mail under subdivision 6; or

5 ~~(4)~~ (3) by in-person interview under subdivision 7.

6 (b) The method designated by the commissioner shall be the  
7 only method allowed for filing a continued biweekly request by  
8 that applicant. An applicant may ask that one of the other  
9 allowed methods be designated and the commissioner shall  
10 consider inconvenience to the applicant as well as  
11 administrative capacity in determining whether to allow an  
12 applicant to change the designated method for filing a continued  
13 biweekly request for unemployment benefits.

14 Sec. 24. Minnesota Statutes 2004, section 268.095,  
15 subdivision 1, is amended to read:

16 Subdivision 1. [QUIT.] An applicant who quit employment  
17 shall be disqualified from all unemployment benefits according  
18 to subdivision 10 except when:

19 (1) the applicant quit the employment because of a good  
20 reason caused by the employer as defined in subdivision 3;

21 (2) the applicant quit the employment to accept other  
22 covered employment that provided substantially better terms and  
23 conditions of employment, but the applicant did not work long  
24 enough at the second employment to have sufficient subsequent  
25 earnings to satisfy the disqualification that would otherwise be  
26 imposed under subdivision 10 for quitting the first employment;

27 (3) the applicant quit the employment within 30 calendar  
28 days of beginning the employment because the employment was  
29 unsuitable for the applicant;

30 (4) the employment was unsuitable for the applicant and the  
31 applicant quit to enter reemployment assistance training;

32 (5) the employment was part time and the applicant also had  
33 full-time employment in the base period, from which full-time  
34 employment the applicant separated because of nondisqualifying  
35 reasons, and the wage credits from the full-time employment are  
36 sufficient to meet the minimum requirements to establish a



1 benefit account under section 268.07;

2 (6) the applicant quit because the employer notified the  
3 applicant that the applicant was going to be laid off due to  
4 lack of work within 30 calendar days. An applicant who quit  
5 employment within 30 calendar days of a notified date of layoff  
6 due to lack of work shall be disqualified from unemployment  
7 benefits through the end of the week that includes the scheduled  
8 date of layoff;

9 (7) the applicant quit the employment because the  
10 applicant's serious illness or injury made it medically  
11 necessary that the applicant quit, provided that the applicant  
12 inform the employer of the serious illness or injury and request  
13 accommodation and no reasonable accommodation is made available.

14 If the applicant's serious illness is chemical dependency,  
15 this exception shall not apply if the applicant was previously  
16 diagnosed as chemically dependent or had treatment for chemical  
17 dependency, and since that diagnosis or treatment has failed to  
18 make consistent efforts to control the chemical dependency; or

19 (8) domestic abuse of the applicant or the applicant's  
20 minor child, necessitated the applicant's quitting the  
21 employment. Domestic abuse shall be shown by one or more of the  
22 following:

23 (i) a court order for protection or other documentation of  
24 equitable relief issued by a court;

25 (ii) a police record documenting the domestic abuse;

26 (iii) documentation that the perpetrator of the domestic  
27 abuse has been convicted of the offense of domestic abuse;

28 (iv) medical documentation of domestic abuse; or

29 (v) written statement that the applicant or the applicant's  
30 minor child is a victim of domestic abuse, provided by a social  
31 worker, member of the clergy, shelter worker, attorney at law,  
32 or other professional who has assisted the applicant in dealing  
33 with the domestic abuse.

34 Domestic abuse for purposes of this clause shall be defined  
35 under section 518B.01.

36 Sec. 25. Minnesota Statutes 2004, section 268.095,

1 subdivision 4, is amended to read:

2 Subd. 4. [DISCHARGE.] An applicant who was discharged from  
3 employment by an employer shall ~~not~~ be disqualified from any all  
4 unemployment benefits ~~except-when~~ according to subdivision 10  
5 only if:

6 (1) the applicant was discharged because of employment  
7 misconduct as defined in subdivision 6; or

8 (2) the applicant was discharged because of aggravated  
9 employment misconduct as defined in subdivision 6a.

10 Sec. 26. Minnesota Statutes 2004, section 268.095,  
11 subdivision 7, is amended to read:

12 Subd. 7. [ACT OR OMISSIONS AFTER SEPARATION.] ~~Except-as~~  
13 ~~provided-for-under-subdivision-8,~~ An applicant shall not be  
14 disqualified from unemployment benefits under this section for  
15 any acts or omissions occurring after the applicant's separation  
16 from employment with the employer. A layoff due to lack of work  
17 is considered a separation from employment.

18 Sec. 27. Minnesota Statutes 2004, section 268.095,  
19 subdivision 8, is amended to read:

20 Subd. 8. [OFFERS OF SUITABLE EMPLOYMENT.] (a) An applicant  
21 shall be ~~disqualified-from~~ ineligible for all unemployment  
22 benefits for eight calendar weeks if the applicant, without good  
23 cause:

24 (1) failed to apply for available, suitable employment of  
25 which the applicant was advised by the commissioner or an  
26 employer;

27 (2) failed to accept suitable employment when offered; or

28 (3) avoided an offer of suitable employment.

29 (b) "Good cause" is a reason that would cause a reasonable  
30 individual who wants suitable employment to fail to apply for,  
31 accept, or avoid suitable employment. Good cause includes:

32 (1) the applicant is employed in other suitable employment;

33 (2) the applicant is in reemployment assistance training;

34 (3) the applicant formerly worked for the employer and the  
35 loss of employment occurred prior to the commencement of a labor  
36 dispute, was permanent or for an indefinite period, and the

1 applicant failed to apply for or accept the employment because a  
2 labor dispute was in progress at the establishment; or

3 (4) the applicant formerly worked for the employer and quit  
4 that employment because of a good reason caused by the employer.

5 (c) This subdivision only applies to offers of suitable  
6 employment with a new or a former employer and does not apply to  
7 any type of job transfers, position reassignments, or changes in  
8 job duties or responsibilities during the course of employment  
9 with an employer.

10 (d) The period of ineligibility under this section shall  
11 begin the Sunday of the week the applicant failed to apply for,  
12 accept, or avoided suitable employment without good cause.

13 (e) This section shall apply to offers of suitable  
14 employment that occur prior to the effective date of the benefit  
15 account and that occur during the benefit year.

16 (f) This section shall only apply to offers of suitable  
17 employment that are considered covered employment under section  
18 268.035, subdivision 12.

19 Sec. 28. Minnesota Statutes 2004, section 268.095,  
20 subdivision 10, is amended to read:

21 Subd. 10. [DISQUALIFICATION DURATION.] (a) A  
22 disqualification from the payment of all unemployment benefits  
23 under subdivisions 1, ~~and 4, and 8~~ shall be for the duration of  
24 the applicant's unemployment and until the end of the calendar  
25 week that the applicant had total earnings in subsequent covered  
26 employment of eight times the applicant's weekly unemployment  
27 benefit amount.

28 (b) Any disqualification imposed under subdivisions 1 and 4  
29 shall begin on the Sunday of the week that the applicant became  
30 separated from employment. ~~Any disqualification imposed under~~  
31 ~~subdivision 8 shall begin on the Sunday of the week the~~  
32 ~~applicant failed to apply for, accept, or avoided employment.~~

33 (c) In addition to paragraph (a), if the applicant was  
34 discharged from employment because of aggravated employment  
35 misconduct, wage credits from that employment shall be canceled.

36 Sec. 29. Minnesota Statutes 2004, section 268.095,

1 subdivision 11, is amended to read:

2 Subd. 11. [APPLICATION.] (a) This section shall apply to  
3 all covered employment, full time or part time, temporary or of  
4 limited duration, permanent or of indefinite duration, that  
5 occurred in Minnesota during the base period, the period between  
6 the end of the base period and the effective date of the benefit  
7 account, or the benefit year, except as provided for in  
8 subdivision 1, clause (5). ~~Subdivision 8 shall only apply to~~  
9 ~~offers of suitable employment made during the applicant's~~  
10 ~~benefit year.~~

11 (b) Paragraph (a) shall also apply to employment covered  
12 under an unemployment insurance program of any other state or  
13 established by an act of Congress.

14 Sec. 30. Minnesota Statutes 2004, section 268.101,  
15 subdivision 1, is amended to read:

16 Subdivision 1. [NOTIFICATION.] (a) In an application for  
17 unemployment benefits, each applicant shall report the name and  
18 the reason for no longer working for the applicant's most recent  
19 employer, as well as the names of all employers and the reasons  
20 for no longer working for all employers during the six calendar  
21 months prior to the date of the application. If the reason  
22 reported for no longer working for any of those employers is  
23 other than a layoff due to lack of work, that shall raise an  
24 issue of disqualification that the department shall  
25 determine. An applicant shall report any offers of employment  
26 refused during the eight calendar weeks prior to the date of the  
27 application for unemployment benefits and the name of the  
28 employer that made the offer. An applicant's failure to report  
29 the name of an employer, or giving an incorrect reason for no  
30 longer working for an employer, or failing to disclose an offer  
31 of employment that was refused, shall be considered a violation  
32 of section 268.182, ~~paragraph-(b)~~ subdivision 2.

33 In an application, the applicant shall also provide all  
34 information necessary to determine the applicant's eligibility  
35 for unemployment benefits under section 268.085. If the  
36 applicant fails or refuses to provide information necessary to

1 determine the applicant's eligibility for unemployment benefits  
2 under section 268.085, the applicant shall be ineligible for  
3 unemployment benefits under section 268.085, subdivision 2,  
4 until the applicant provides this required information.

5 (b) Upon establishment of a benefit account, the  
6 commissioner shall notify, by mail or electronic transmission,  
7 all employers the applicant was required to report on the  
8 application and all base period employers and determined  
9 successors to those employers under section 268.051, subdivision  
10 4 in order to provide the employer an opportunity to raise, in a  
11 manner prescribed by the commissioner, any issue of  
12 disqualification or any issue of eligibility. An employer shall  
13 be informed of the effect that failure to raise an issue of  
14 disqualification within ten calendar days after sending of the  
15 notice, as provided for under subdivision 2, paragraph (b), may  
16 have on the employer under section 268.047.

17 (c) Each applicant shall report any employment, loss of  
18 employment, and offers of employment received refused, during  
19 those weeks the applicant filed continued biweekly requests for  
20 unemployment benefits pursuant to section 268.086. Each  
21 applicant who stops filing continued biweekly requests during  
22 the benefit year and later begins filing continued biweekly  
23 requests during that same benefit year shall report the name of  
24 any employer the applicant worked for during the period between  
25 the filing of continued biweekly requests and the reason the  
26 applicant stopped working for the employer. The applicant shall  
27 report any offers of employment refused during the period  
28 between the filing of continued biweekly requests for  
29 unemployment benefits. Those employers from which the applicant  
30 has reported a loss of employment ~~or-an-offer-of-employment~~  
31 pursuant to this paragraph shall be notified by mail or  
32 electronic transmission and provided an opportunity to raise, in  
33 a manner prescribed by the commissioner, any issue of  
34 disqualification or any issue of eligibility. An employer shall  
35 be informed of the effect that failure to raise an issue may  
36 have on the employer under section 268.047.

1 (d) The purpose for requiring the applicant to report the  
2 name of employers and the reason for no longer working for those  
3 employers, or offers of employment refused, under paragraphs (a)  
4 and (c) is for the commissioner to obtain information from an  
5 applicant raising all issues that may have the potential of  
6 disqualifying the applicant from unemployment benefits under  
7 section 268.095, or the applicant being ineligible for  
8 unemployment benefits under section 268.085, subdivision 13c.  
9 If the reason given by the applicant for no longer working for  
10 an employer is other than a layoff due to lack of work, that  
11 shall raise an issue of disqualification and the applicant shall  
12 be required, as part of the determination process under  
13 subdivision 2, paragraph (a), to state all the facts about the  
14 cause for no longer working for the employer, if known. If the  
15 applicant fails or refuses to provide this any required  
16 information, the applicant shall be ineligible for unemployment  
17 benefits under section 268.085, subdivision 2, until the  
18 applicant provides this required information.

19 Sec. 31. Minnesota Statutes 2004, section 268.101,  
20 subdivision 3a, is amended to read:

21 Subd. 3a. [DIRECT HEARING.] Regardless of any provision of  
22 the Minnesota Unemployment Insurance Law, the commissioner or an  
23 unemployment law judge ~~or a senior unemployment review judge~~  
24 may, prior to a determination being made under this chapter,  
25 refer any issue of disqualification, any issue of eligibility,  
26 or any other issue under this chapter, directly for hearing in  
27 accordance with section 268.105, subdivision 1. The status of  
28 the issue shall be the same as if a determination had been made  
29 and an appeal filed.

30 Sec. 32. Minnesota Statutes 2004, section 268.103,  
31 subdivision 2, is amended to read:

32 Subd. 2. [APPLICANT'S APPEAL BY MAIL.] (a) The  
33 commissioner must allow an applicant to file an appeal to-be  
34 ~~filed~~ by mail even if an appeal by electronic transmission is  
35 allowed.

36 (b) A written statement delivered or mailed to the

1 department that could reasonably be interpreted to mean that an  
2 involved applicant ~~or-employer~~ is in disagreement with a  
3 specific determination or decision shall be considered an  
4 appeal. No specific words need be used for the written  
5 statement to be considered an appeal.

6 Sec. 33. Minnesota Statutes 2004, section 268.105, is  
7 amended to read:

8 268.105 [APPEALS.]

9 Subdivision 1. [EVIDENTIARY HEARING BY AN UNEMPLOYMENT LAW  
10 JUDGE.] (a) Upon a timely appeal having been filed, the  
11 department shall send, by mail or electronic transmission, a  
12 notice of appeal to all involved parties that an appeal has been  
13 filed, that a de novo due process evidentiary hearing will be  
14 scheduled, and that the parties have certain rights and  
15 responsibilities regarding the hearing. The department shall  
16 set a time and place for a de novo due process evidentiary  
17 hearing and send notice to any involved applicant and any  
18 involved employer, by mail or electronic transmission, not less  
19 than ten calendar days prior to the date of the hearing.

20 (b) The evidentiary hearing shall be conducted by an  
21 unemployment law judge without regard to any common law burden  
22 of proof as an evidence gathering inquiry and not an adversarial  
23 proceeding. The unemployment law judge shall ensure that all  
24 relevant facts are clearly and fully developed. The department  
25 shall adopt rules on evidentiary hearings. The rules need not  
26 conform to common law or statutory rules of evidence and other  
27 technical rules of procedure. The department shall have  
28 discretion regarding the method by which the evidentiary hearing  
29 is conducted. A report of any employee of the department,  
30 except a determination, made in the regular course of the  
31 employee's duties, shall be competent evidence of the facts  
32 contained in it.

33 (c) After the conclusion of the hearing, upon the evidence  
34 obtained, the unemployment law judge shall make findings of fact  
35 and decision and send those, by mail or electronic transmission,  
36 to all involved parties. When the credibility of an involved

1 party or witness testifying in an evidentiary hearing has a  
2 significant effect on the outcome of a decision, the  
3 unemployment law judge must set out the reason for crediting or  
4 discrediting that testimony. The unemployment law judge's  
5 decision is the final department-decision unless a further  
6 appeal request for reconsideration is filed pursuant to  
7 subdivision 2.

8 (d) Only employees of the department who are attorneys  
9 shall serve as unemployment law judges. ~~A senior-unemployment~~  
10 ~~review-judge~~ The commissioner may personally hear or transfer to  
11 another unemployment law judge any proceedings pending before an  
12 unemployment law judge. ~~Any proceedings removed to a senior~~  
13 ~~unemployment-review-judge shall be heard in accordance with this~~  
14 ~~subdivision.~~

15 Subd. 2. ~~{DE-NOVO-REVIEW-BY-A-SENIOR-UNEMPLOYMENT-REVIEW~~  
16 ~~JUDGE.}-~~ ~~(a)-~~ Except as provided under subdivision 2a, any  
17 involved applicant or involved employer may appeal a decision of  
18 an unemployment law judge and obtain a de novo review by a  
19 senior unemployment review judge by filing with a senior  
20 unemployment review judge an appeal within 30 calendar days  
21 after the sending of the unemployment law judge's decision. --A  
22 senior unemployment review judge within the same period of time  
23 may, on a senior unemployment review judge's own motion, order a  
24 de novo review of any decision of an unemployment law judge.

25 ~~(b)-~~ A senior unemployment review judge shall be an attorney  
26 who is an employee of the department.

27 ~~(c)-~~ Upon de novo review, a senior unemployment review judge  
28 shall, on the basis of that evidence submitted at the  
29 evidentiary hearing under subdivision 1, make findings of fact  
30 and decision, or remand the matter back to an unemployment law  
31 judge for the taking of additional evidence and the making of  
32 new findings and decision based on all the evidence. --A senior  
33 unemployment review judge shall, independent of the findings of  
34 fact and decision of the unemployment law judge, examine the  
35 evidence and make those findings of fact as the evidence, in the  
36 judgment of the senior unemployment review judge require, and



1 ~~make-that-decision-as-the-facts-found-by-the-senior-unemployment~~  
2 ~~review-judge-require.~~

3 ~~(d)-A-senior-unemployment-review-judge-may-conduct-a-de~~  
4 ~~novo-review-without-argument-by-any-involved-party,or-a-senior~~  
5 ~~unemployment-review-judge-may-allow-written-argument.--A-senior~~  
6 ~~unemployment-review-judge-shall-not,except-for-purposes-of~~  
7 ~~deciding-whether-to-remand-a-matter-to-an-unemployment-law-judge~~  
8 ~~for-a-further-evidentiary-hearing,consider-any-evidence-that~~  
9 ~~was-not-submitted-at-the-hearing-before-the-unemployment-law~~  
10 ~~judge.~~

11 ~~(e)-The-senior-unemployment-review-judge-shall-send,by~~  
12 ~~mail-or-electronic-transmission,to-any-involved-party-the~~  
13 ~~senior-unemployment-review-judge's-findings-of-fact-and~~  
14 ~~decision.--The-decision-of-the-senior-unemployment-review-judge~~  
15 ~~is-the-final-decision-of-the-department.--Unless-judicial-review~~  
16 ~~is-sought-under-subdivision-7,the-decision-of-the-senior~~  
17 ~~unemployment-review-judge-shall-become-final-30-calendar-days~~  
18 ~~after-sending.~~

19 ~~Subd.-2a.--{ORDERS-BY-A-SENIOR-UNEMPLOYMENT-REVIEW-JUDGE.}~~  
20 ~~(a)-If-an-applicant-or-employer-files-an-appeal-in-a-matter~~  
21 ~~where-an-unemployment-law-judge-affirmed-a-determination-issued~~  
22 ~~under-section-268.101,7-and-there-is-no-dispute-regarding-the~~  
23 ~~determinative-facts,7-a-senior-unemployment-review-judge-shall~~  
24 ~~have-the-discretion-to-decline-to-conduct-a-de-novo-review.--If~~  
25 ~~de-novo-review-is-declined,7-the-senior-unemployment-review-judge~~  
26 ~~shall-issue-an-order-adopting-the-unemployment-law-judge's~~  
27 ~~findings-of-fact-and-decision.~~

28 ~~(b)-If-an-involved-party-fails,7-without-good-cause,7-to~~  
29 ~~appear-and-participate-at-the-evidentiary-hearing-conducted-by~~  
30 ~~an-unemployment-law-judge-under-subdivision-1,7-and-that-party~~  
31 ~~files-an-appeal,7-a-senior-unemployment-review-judge-shall-have~~  
32 ~~the-discretion-to-decline-to-conduct-a-de-novo-review.--If-de~~  
33 ~~novo-review-is-declined,7-the-senior-unemployment-review-judge~~  
34 ~~shall-issue-an-order-dismissing-the-appeal.~~

35 ~~Submission-of-a-written-statement-shall-not-constitute-an~~  
36 ~~appearance-and-participation-at-an-evidentiary-hearing-for~~

1 ~~purposes-of-this-paragraph-~~

2 ~~All-involved-parties-must-be-notified-of-this-paragraph~~  
3 ~~with-the-notice-of-appeal-and-notice-of-hearing-provided-for~~  
4 ~~under-subdivision-1.--The-senior-unemployment-review-judge-shall~~  
5 ~~allow-for-the-submission-of-a-written-argument-on-the-issue-of~~  
6 ~~good-cause-before-dismissing-an-appeal-under-this-paragraph-~~

7 ~~"Good-cause"-for-purposes-of-this-paragraph-is-a-compelling~~  
8 ~~reason-that-would-have-prevented-a-reasonable-person-acting-with~~  
9 ~~due-diligence-from-appearing-and-participating-at-the~~  
10 ~~evidentiary-hearing-~~

11 ~~(c)-The-senior-unemployment-review-judge-shall-send-to-any~~  
12 ~~involved-party-the-order-issued-under-this-subdivision.--The~~  
13 ~~order-may-be-sent-by-mail-or-electronic-transmission.--Unless~~  
14 ~~judicial-review-is-sought-under-subdivision-7, the-order-of-a~~  
15 ~~senior-unemployment-review-judge-becomes-final-30-calendar-days~~  
16 ~~after-sending. [REQUEST FOR RECONSIDERATION.] (a) Any involved~~  
17 ~~applicant, involved employer, or the commissioner may, within 30~~  
18 ~~calendar days of the sending of the unemployment law judge's~~  
19 ~~decision under subdivision 1, file a request for reconsideration~~  
20 ~~asking the unemployment law judge to reconsider that decision.~~  
21 ~~Section 268.103 shall apply to a request for reconsideration.~~  
22 ~~If a request for reconsideration is timely filed, the~~  
23 ~~unemployment law judge shall issue an order:~~

24 ~~(1) modifying the findings of fact and decision issued~~  
25 ~~under subdivision 1;~~

26 ~~(2) setting aside the findings of fact and decision issued~~  
27 ~~under subdivision 1 and directing that an additional evidentiary~~  
28 ~~hearing be conducted under subdivision 1; or~~

29 ~~(3) affirming the findings of fact and decision issued~~  
30 ~~under subdivision 1.~~

31 ~~(b) Upon a timely request for reconsideration having been~~  
32 ~~filed, the department shall send a notice, by mail or electronic~~  
33 ~~transmission, to all involved parties that a request for~~  
34 ~~reconsideration has been filed. The notice shall inform the~~  
35 ~~involved parties:~~

36 ~~(1) of the opportunity to provide comment on the request~~

1 for reconsideration, and the right under subdivision 5 to obtain  
2 a copy of any recorded testimony and exhibits offered or  
3 received into evidence at the evidentiary hearing;

4 (2) that providing specific comments as to a perceived  
5 factual or legal error in the decision, or a perceived error in  
6 procedure during the evidentiary hearing, will assist the  
7 unemployment law judge in deciding the request for  
8 reconsideration;

9 (3) of the right to obtain any comments and submissions  
10 provided by the other involved party regarding the request for  
11 reconsideration; and

12 (4) of the provisions of paragraph (c) regarding additional  
13 evidence.

14 This paragraph shall not apply if paragraph (d) is applicable.

15 (c) In deciding a request for reconsideration, the  
16 unemployment law judge shall not, except for purposes of  
17 determining whether to order an additional evidentiary hearing,  
18 consider any evidence that was not submitted at the evidentiary  
19 hearing conducted under subdivision 1.

20 The unemployment law judge must order an additional  
21 evidentiary hearing if an involved party shows that evidence  
22 which was not submitted at the evidentiary hearing: (1) would  
23 likely change the outcome of the decision and there was good  
24 cause for not having previously submitted that evidence; or (2)  
25 would show that the evidence that was submitted at the  
26 evidentiary hearing was likely false and that the likely false  
27 evidence had an effect on the outcome of the decision.

28 (d) If the involved applicant or involved employer who  
29 filed the request for reconsideration failed to participate in  
30 the evidentiary hearing conducted under subdivision 1, an order  
31 setting aside the findings of fact and decision and directing  
32 that an additional evidentiary hearing be conducted must be  
33 issued if the party who failed to participate had good cause for  
34 failing to do so. In the notice of the request for  
35 reconsideration, the party who failed to participate shall be  
36 informed of the requirement, and provided the opportunity, to

1 show good cause for failing to participate. If the unemployment  
2 law judge determines that good cause for failure to participate  
3 has not been shown, the unemployment law judge must state that  
4 in the order issued under paragraph (a).

5 Submission of a written statement at the evidentiary  
6 hearing under subdivision 1 shall not constitute participation  
7 for purposes of this paragraph.

8 All involved parties must be informed of this paragraph  
9 with the notice of appeal and notice of hearing provided for in  
10 subdivision 1.

11 "Good cause" for purposes of this paragraph is a reason  
12 that would have prevented a reasonable person acting with due  
13 diligence from participating at the evidentiary hearing.

14 (e) A request for reconsideration shall be decided by the  
15 unemployment law judge who issued the findings of fact and  
16 decision under subdivision 1 unless that unemployment law  
17 judge: (1) is no longer employed by the department; (2) is on  
18 an extended or indefinite leave; (3) has been disqualified from  
19 the proceedings on the judge's own motion; or (4) has been  
20 removed from the proceedings as provided for under subdivision 1  
21 or applicable rule.

22 (f) The unemployment law judge shall send to any involved  
23 applicant or involved employer, by mail or electronic  
24 transmission, the order issued under this subdivision. An order  
25 modifying the previously issued findings of fact and decision or  
26 an order affirming the previously issued findings of fact and  
27 decision shall be the final department decision on the matter  
28 and shall be final and binding on the involved applicant and  
29 involved employer unless judicial review is sought under  
30 subdivision 7.

31 Subd. 3. [WITHDRAWAL OF APPEAL.] (a) Any appeal that is  
32 pending before an unemployment law judge ~~or a senior~~  
33 ~~unemployment-review-judge~~ may be withdrawn by the appealing  
34 person, or an authorized representative of that person, upon  
35 filing of a notice of withdrawal.

36 (b) The appeal shall, by order, be dismissed if a notice of

1 withdrawal is filed, unless an unemployment law judge or-a  
2 ~~senior-unemployment-review-judge-by-order~~, directs that further  
3 adjudication is required for a proper result.

4 (c) A notice of withdrawal may be filed by mail or by  
5 electronic transmission.

6 Subd. 3a. [DECISIONS.] (a) If an unemployment law judge's  
7 decision ~~or-a-senior-unemployment-review-judge's-decision~~ or  
8 order allows unemployment benefits to an applicant, the  
9 unemployment benefits shall be paid regardless of any appeal  
10 period request for reconsideration or any appeal to the  
11 Minnesota Court of Appeals having been filed.

12 (b) If an unemployment law judge's decision or order  
13 modifies or reverses a determination, or prior decision of the  
14 unemployment law judge, allowing unemployment benefits to an  
15 applicant, any benefits paid pursuant to the determination, or  
16 prior decision of the unemployment law judge, is considered an  
17 overpayment of those unemployment benefits under section 268.18,  
18 subdivision 1.

19 ~~(c) If-a-senior-unemployment-review-judge's-decision~~  
20 ~~modifies-or-reverses-an-unemployment-law-judge's-decision~~  
21 ~~allowing-unemployment-benefits-to-an-applicant, any-unemployment~~  
22 ~~benefits-paid-pursuant-to-the-unemployment-law-judge's-decision~~  
23 ~~is-considered-an-overpayment-of-those-unemployment-benefits~~  
24 ~~under-section-268-18, subdivision 1.~~

25 ~~(d) If a-senior-unemployment-review-judge-affirms an~~  
26 ~~unemployment law judge's decision-on-an-issue-of~~  
27 ~~disqualification-that~~ order under subdivision 2 allows  
28 unemployment benefits to an applicant under section 268.095  
29 because of a quit or discharge and the senior unemployment  
30 review law judge's decision ~~or-order~~ is reversed by the  
31 Minnesota Court of Appeals or the Supreme Court of  
32 Minnesota, any unemployment benefits paid the applicant shall  
33 not be ~~disqualified-from~~ considered an overpayment of those  
34 unemployment benefits under section ~~268-095~~ 268.18,  
35 subdivision ~~10~~ 1.

36 ~~(e)~~ (d) If a-senior an unemployment review law judge,

1 pursuant to subdivision 2, ~~remands-a-matter-to-an-unemployment~~  
2 ~~law-judge-for~~ orders the taking of additional evidence,  
3 the ~~prior~~ unemployment law judge's prior decision shall continue  
4 to be enforced until new findings of fact and decision are made  
5 by ~~an~~ the unemployment law judge.

6 Subd. 4. [TESTIMONIAL POWERS.] An unemployment law  
7 judge ~~and-a-senior-unemployment-review-judge~~ may administer  
8 oaths and affirmations, take depositions, and issue subpoenas to  
9 compel the attendance of witnesses and the production of  
10 documents and other personal property considered necessary as  
11 evidence in connection with the subject matter of an evidentiary  
12 hearing. The subpoenas shall be enforceable through the  
13 district court in the district that the subpoena is issued.  
14 Witnesses subpoenaed, other than an involved applicant or  
15 involved employer or officers and employees of an involved  
16 employer, shall be paid by the department the same witness fees  
17 as in a civil action in district court.

18 Subd. 5. [USE OF EVIDENCE; DATA PRIVACY.] (a) All  
19 testimony at any evidentiary hearing conducted pursuant to  
20 subdivision 1 shall be recorded. A copy of any recorded  
21 testimony and exhibits offered or received into evidence at the  
22 hearing shall, upon request, ~~or-upon-directive-of-a-senior~~  
23 ~~unemployment-review-judge,~~ be furnished to a party at no cost  
24 during the time period for filing ~~an-appeal-to-a-senior~~  
25 ~~unemployment-review-judge~~ a request for reconsideration or while  
26 ~~such-an-appeal~~ a request for reconsideration is pending. ~~If~~  
27 ~~requested,~~ ~~the-department-shall-make-available-a-device-for~~  
28 ~~listening-to-the-recording-if-an-appeal-is-pending-before-a~~  
29 ~~senior-unemployment-review-judge-under-subdivision-2-~~

30 (b) Regardless of any provision of law to the contrary, if  
31 recorded testimony and exhibits received into evidence at the  
32 evidentiary hearing are not requested during the time period for  
33 filing ~~an-appeal-to-a-senior-unemployment-review-judge~~ a request  
34 for reconsideration, or while ~~such-an-appeal~~ a request for  
35 reconsideration is pending, that testimony and other evidence  
36 shall later be made available ~~to-an-involved-party~~ only pursuant

1 to a district court order. A subpoena shall not be considered a  
2 district court order.

3 (c) Testimony obtained under subdivision 1, may not be used  
4 or considered for any purpose, including impeachment, in any  
5 civil, administrative, or contractual proceeding, except by a  
6 local, state, or federal human rights agency with enforcement  
7 powers, unless the proceeding is initiated by the department.

8 Subd. 5a. [NO COLLATERAL ESTOPPEL.] No findings of fact or  
9 decision or order issued by an unemployment law judge ~~or a~~  
10 ~~senior-unemployment-review-judge~~ may be held conclusive or  
11 binding or used as evidence in any separate or subsequent action  
12 in any other forum, be it contractual, administrative, or  
13 judicial, except proceedings provided for under this chapter,  
14 regardless of whether the action involves the same or related  
15 parties or involves the same facts.

16 Subd. 6. [REPRESENTATION; FEES.] (a) In any proceeding  
17 under subdivision 1~~7~~ or 2~~7~~-~~or-2a~~, an applicant or involved  
18 employer may be represented by any agent.

19 (b) Except for services provided by an attorney-at-law, an  
20 applicant shall not be charged fees, costs, or disbursements of  
21 any kind in a proceeding before an unemployment law judge, a  
22 ~~senior-unemployment-review-judge~~, the Minnesota Court of  
23 Appeals, or the Supreme Court of Minnesota.

24 Subd. 7. [JUDICIAL REVIEW.] (a) The Minnesota Court of  
25 Appeals shall, by writ of certiorari to the department, review  
26 the ~~senior~~ unemployment review law judge's decision under  
27 ~~subdivision-2-or-order-under-subdivision-2a~~, provided a petition  
28 for the writ is filed with the court and a copy is served upon  
29 the ~~senior~~ unemployment review law judge or the commissioner and  
30 any other involved party within 30 calendar days of the sending  
31 of the ~~senior~~ unemployment review law judge's decision-under  
32 ~~subdivision-2-or~~ order under subdivision 2a 2.

33 (b) Any employer petitioning for a writ of certiorari shall  
34 pay to the court the required filing fee and upon the service of  
35 the writ shall furnish a cost bond to the department in  
36 accordance with the Rules of Civil Appellate Procedure. If the

1 employer requests a written transcript of the testimony received  
2 at the evidentiary hearing conducted pursuant to subdivision 1,  
3 the employer shall pay to the department the cost of preparing  
4 the transcript. That money shall be credited to the  
5 administration account.

6 (c) Upon issuance by the Minnesota Court of Appeals of a  
7 writ of certiorari as a result of an applicant's petition, the  
8 department shall furnish to the applicant at no cost a written  
9 transcript of any testimony received at the evidentiary hearing  
10 conducted pursuant to subdivision 1, and, if requested, a copy  
11 of all exhibits entered into evidence. No filing fee or cost  
12 bond shall be required of an applicant petitioning the Minnesota  
13 Court of Appeals for a writ of certiorari.

14 (d) The Minnesota Court of Appeals may affirm the decision  
15 of the unemployment law judge or remand the case for further  
16 proceedings; or it may reverse or modify the decision if the  
17 substantial rights of the petitioner may have been prejudiced  
18 because the findings, inferences, conclusion, or decision are:

19 (1) in violation of constitutional provisions;

20 (2) in excess of the statutory authority or jurisdiction of  
21 the department;

22 (3) made upon unlawful procedure;

23 (4) affected by other error of law;

24 (5) unsupported by substantial evidence in view of the  
25 entire record as submitted; or

26 (6) arbitrary or capricious.

27 (e) The department shall be considered the primary  
28 responding party to any judicial action involving a ~~senior~~ an  
29 unemployment review law judge's decision ~~or order~~. The  
30 department may be represented by an attorney who is an employee  
31 of the department.

32 [EFFECTIVE DATE.] This section applies to unemployment law  
33 judge decisions issued on or after 30 days following final  
34 enactment of this act.

35 Sec. 34. Minnesota Statutes 2004, section 268.145,  
36 subdivision 1, is amended to read:



1 Subdivision 1. [NOTIFICATION.] (a) Upon filing an  
2 application for unemployment benefits, the applicant shall be  
3 informed that:

4 (1) unemployment benefits are subject to federal and state  
5 income tax;

6 (2) there are requirements for filing estimated tax  
7 payments;

8 (3) the applicant may elect to have federal income tax  
9 withheld from unemployment benefits;

10 (4) if the applicant elects to have federal income tax  
11 withheld, the applicant may, in addition, elect to have  
12 Minnesota state income tax withheld; and

13 (5) at any time during the benefit year the applicant may  
14 change a prior election.

15 (b) If an applicant elects to have federal income tax  
16 withheld, the commissioner shall deduct ten percent for federal  
17 income tax, rounded down to the next lower whole dollar. If an  
18 applicant also elects to have Minnesota state income tax  
19 withheld, the commissioner shall make an additional five percent  
20 deduction for state income tax, rounded down to the next lower  
21 whole dollar. Any amounts deducted or offset pursuant to  
22 sections 268.155, ~~268.156~~, 268.18, and 268.184 have priority  
23 over any amounts deducted under this section. Federal income  
24 tax withholding has priority over state income tax withholding.

25 (c) An election to have income tax withheld shall not be  
26 retroactive and shall only apply to unemployment benefits paid  
27 after the election.

28 Sec. 35. Minnesota Statutes 2004, section 268.18,  
29 subdivision 1, is amended to read:

30 Subdivision 1. [NONFRAUD OVERPAYMENT.] (a) Any applicant  
31 who (1) by reason of the applicant's own mistake, or (2) because  
32 of an error by any employee of the department, or (3) because of  
33 a determination or amended determination issued pursuant to  
34 section 268.07 or 268.101, or (4) because of an appeal decision  
35 under section 268.105, has received any unemployment benefits  
36 that the applicant was not entitled to, shall promptly repay the

1 unemployment benefits to the trust fund. The commissioner shall,  
2 as soon as the overpayment is discovered, determine the amount  
3 due and notify the applicant to repay the unemployment benefits.

4 (b) Unless the applicant files an appeal within 30 calendar  
5 days after the sending of the determination of overpayment to  
6 the applicant by mail or electronic transmission, the  
7 determination shall become final. Proceedings on the appeal  
8 shall be conducted in accordance with section 268.105. An  
9 applicant may not collaterally attack, by way of an appeal to an  
10 overpayment determination, any prior determination issued  
11 pursuant to section 268.07 or 268.101, or decision issued  
12 pursuant to section 268.105, that has become final.

13 (c) If the applicant fails to repay the unemployment  
14 benefits determined overpaid under this subdivision, the  
15 commissioner may offset from any future unemployment benefits  
16 otherwise payable the amount of the overpayment. Except when  
17 the overpayment resulted because the applicant failed to report  
18 deductible earnings or deductible or benefit delaying payments,  
19 no single offset shall exceed 50 percent of the amount of the  
20 payment from which the offset is made. The overpayment may also  
21 be collected by the same methods as delinquent payments from an  
22 employer. A determination of overpayment shall state the  
23 methods of collection the commissioner may use to recover the  
24 overpayment.

25 (d) If an applicant has been overpaid unemployment benefits  
26 under the law of another state, due to a reason other than  
27 fraud, and that state certifies that the applicant is liable  
28 under its law to repay the unemployment benefits and requests  
29 the commissioner to recover the overpayment, the commissioner  
30 may offset from future unemployment benefits otherwise payable  
31 the amount of overpayment, except that no single offset shall  
32 exceed 50 percent of the amount of the payment from which the  
33 offset is made.

34 (e) If under paragraph (c) or (d) the reduced unemployment  
35 benefits as a result of a 50 percent offset is not a whole  
36 dollar amount, it shall be rounded down to the next lower whole

1 dollar.

2 (f) Unemployment benefits paid for weeks more than three  
3 years prior to the discovery date of a determination of  
4 overpayment issued under this subdivision ~~are~~ shall not be  
5 considered overpaid unemployment benefits.

6 Sec. 36. Minnesota Statutes 2004, section 268.18,  
7 subdivision 2, is amended to read:

8 Subd. 2. [OVERPAYMENT DUE TO FRAUD.] (a) Any applicant who  
9 receives unemployment benefits by knowingly misrepresenting,  
10 misstating, or failing to disclose any material fact, or who  
11 makes a false statement or representation without a good faith  
12 belief as to the correctness of the statement or representation,  
13 has committed fraud. After the discovery of facts indicating  
14 fraud, the commissioner shall make a determination that the  
15 applicant obtained unemployment benefits by fraud and that the  
16 applicant must promptly repay the unemployment benefits to the  
17 trust fund. In addition, the commissioner shall assess a  
18 penalty equal to 25 percent of the amount fraudulently  
19 obtained. If the applicant had a prior overpayment due to  
20 fraud, the commissioner shall, on the present overpayment,  
21 assess a penalty equal to 50 percent of the amount fraudulently  
22 obtained. This penalty is in addition to penalties under  
23 section 268.182.

24 (b) Unless the applicant files an appeal within 30 calendar  
25 days after the sending of the determination of overpayment by  
26 fraud to the applicant by mail or electronic transmission, the  
27 determination shall become final. Proceedings on the appeal  
28 shall be conducted in accordance with section 268.105.

29 (c) If the applicant fails to repay the unemployment  
30 benefits, penalty, and interest assessed, the commissioner shall  
31 offset from future unemployment benefits otherwise payable the  
32 total amount due. The total due may also be collected by the  
33 same methods as delinquent payments from an employer. A  
34 determination of overpayment by fraud shall state the methods of  
35 collection the commissioner may use to recover the overpayment.  
36 Money received in repayment of fraudulently obtained

1 unemployment benefits, penalties, and interest shall first be  
2 applied to the unemployment benefits overpaid, then to the  
3 penalty amount due, then to any interest due. Payments made  
4 toward the penalty ~~and-interest~~ shall be credited to the  
5 contingent account.

6 (d) If an applicant has been overpaid unemployment benefits  
7 under the law of another state because of fraud and that state  
8 certifies that the applicant is liable to repay the unemployment  
9 benefits and requests the commissioner to recover the  
10 overpayment, the commissioner may offset from future  
11 unemployment benefits otherwise payable the amount of  
12 overpayment.

13 (e) Unemployment benefits paid for weeks more than four  
14 years prior to the date of a determination of overpayment by  
15 fraud may-only-be-made-within-four-years-of-the-effective-date  
16 of-the-benefit-account-from-which-the issued under this  
17 subdivision shall not be considered overpaid unemployment  
18 benefits were-fraudulently-obtained.

19 Sec. 37. Minnesota Statutes 2004, section 268.18,  
20 subdivision 2b, is amended to read:

21 Subd. 2b. [INTEREST.] (a) On any unemployment benefits  
22 fraudulently obtained, and any penalty amounts assessed under  
23 subdivision 2, the commissioner may assess interest at the rate  
24 of 1-1/2 percent per month on any amount that remains unpaid 30  
25 calendar days after the date of the determination of overpayment  
26 by fraud. A determination of overpayment by fraud shall state  
27 that interest shall be assessed.

28 (b) If this subdivision became effective after the date of  
29 the determination, or the determination did not state that  
30 interest shall be assessed, interest shall be assessed beginning  
31 30 calendar days after notification, by mail or electronic  
32 transmission, to the applicant.

33 (c) Interest payments under this section shall be credited  
34 to the administration account.

35 Sec. 38. Minnesota Statutes 2004, section 268.182,  
36 subdivision 2, is amended to read:

1 Subd. 2. [ADMINISTRATIVE PENALTIES.] Any ~~individual~~  
2 applicant who knowingly makes a false statement or  
3 representation, who knowingly fails to disclose a material fact,  
4 or who makes a false statement or representation without a good  
5 faith belief as to the correctness of the statement or  
6 representation, in order to obtain or in an attempt to obtain  
7 unemployment benefits may be assessed, in addition to any other  
8 penalties, an administrative penalty of ~~denial-of~~ being  
9 ineligible for unemployment benefits for one-to-52 13 to 104  
10 ~~weeks that the individual would otherwise be entitled to~~  
11 ~~unemployment benefits.--A denial shall not apply to any week~~  
12 ~~more than two years after the week that the penalty was~~  
13 ~~determined.~~ A determination of ~~denial~~ ineligibility setting out  
14 the weeks the applicant shall be ineligible shall be sent to the  
15 ~~individual~~ applicant by mail or electronic transmission. Unless  
16 an appeal is filed within 30 calendar days of sending, the  
17 determination shall be final. Proceeding on the appeal shall be  
18 conducted in accordance with section 268.105.

19 Sec. 39. [TAX RATE COMPUTATION.]

20 Notwithstanding any provision of Minnesota Statutes,  
21 chapter 268, to the contrary, the commissioner may compute, to  
22 the nearest 1/100 of a percent, any unemployment tax rate  
23 assigned on or after July 1, 2005, regardless of the year or  
24 portion of any year for which the tax rate is applicable.

25 Sec. 40. [REVISOR'S INSTRUCTION.]

26 (a) The revisor of statutes shall change the name of the  
27 Department of Economic Security to the Department of Employment  
28 and Economic Development in Minnesota Statutes and Minnesota  
29 Rules.

30 (b) The revisor of statutes shall change the headnote for  
31 Minnesota Statutes, section 268.095 from "DISQUALIFICATION  
32 PROVISIONS" to "DISQUALIFICATION BECAUSE OF A QUIT OR DISCHARGE."

33 (c) The revisor of statutes shall change the headnote for  
34 Minnesota Statutes, section 268.101 from "DETERMINATIONS ON  
35 DISQUALIFICATION AND ELIGIBILITY" to "DETERMINATIONS ON ISSUES  
36 OF DISQUALIFICATION AND ELIGIBILITY."

1 (d) The revisor of statutes shall renumber Minnesota  
2 Statutes, section 268.095, subdivision 8, as section 268.085,  
3 subdivision 13c, and correct cross-references accordingly.

4 (e) The revisor of statutes shall change the term "court  
5 order" to "district court order" wherever the term appears in  
6 Minnesota Statutes, sections 268.01 to 268.83.

7 Sec. 41. [REPEALER.]

8 (a) Minnesota Rules, parts 3310.2926; 3310.5000; 3315.0910,  
9 subpart 9; 3315.1301; 3315.1315, subparts 1, 2, and 3;  
10 3315.1650; and 3315.2210, are repealed.

11 (b) Minnesota Statutes 2004, section 268.086, subdivision  
12 4, is repealed.

13 (c) Laws 1997, chapter 66, section 64, subdivision 1, is  
14 repealed.

15 Sec. 42. [EFFECTIVE DATE.]

16 Sections 1 to 31, 33 to 38, and 40 are effective July 1,  
17 2005. Section 39 is effective the day following final enactment.

Article 1 FEDERAL CONFORMITY PROVISIONS..... page 1

Article 2 HOUSEKEEPING PROVISIONS..... page 17

APPENDIX  
Repealed Minnesota Statutes for S0944-1

**268.045 EMPLOYER TAX OR REIMBURSABLE ACCOUNTS.**

Subd. 2. **Common paymaster tax account.** Two or more related taxpaying corporations concurrently employing the same employees and compensating those employees through a common paymaster that is one of the corporations may apply, by electronic transmission, in a format prescribed by the commissioner, to establish a common paymaster tax account that shall be the tax account of the common paymaster corporation. The commissioner shall have discretion on approval of a common paymaster tax account. If approved, the separate tax accounts shall be maintained, but the employees compensated through the common paymaster shall be reported under section 268.044 as employees of the common paymaster corporation. The corporations using the common paymaster tax account shall be jointly and severally liable for any unpaid amounts due under this chapter and section 116L.20 from the common paymaster tax account.

Subd. 3. **Joint tax account.** Two or more taxpaying employers having 50 percent or more common ownership and compensating employees through a single payer that is one of the employers may apply by electronic transmission in a format prescribed by the commissioner for a combining of the experience ratings of the employers into a single experience rating and joint tax account. The commissioner shall have discretion on approval of a joint tax account.

If approved, the joint tax account shall be effective on that date assigned by the commissioner and shall remain in effect for not less than two calendar years, and continuing unless notice terminating the joint tax account is filed with the commissioner by electronic transmission, in a format prescribed by the commissioner. The termination shall be effective on January 1 next following the filing of the notice of termination.

The employers in the joint tax account shall be jointly and severally liable for any unpaid amounts due under this chapter and section 116L.20 from the joint tax account.

Subd. 4. **Group reimbursable account.** Two or more nonprofit or government employers that have elected to be liable for reimbursements may apply to the commissioner for the establishment of a group reimbursable account for the purpose of sharing the cost of unemployment benefits charged based upon wage credits from all employers in the group. The application, filed by electronic transmission in a format prescribed by the commissioner, shall identify and authorize a group representative to act as the group's agent for the purposes of the reimbursable account. The commissioner shall have discretion on approval of a group reimbursable account. If approved, the commissioner shall establish a group reimbursable account for the employers effective as of the beginning of the calendar year that the application is received. The reimbursable account shall remain in effect for not less than two calendar years and thereafter until terminated at the discretion of the commissioner or upon application by the group, filed by electronic transmission in a format prescribed by the commissioner, at least 30 calendar days prior to the end of the two year period or 30 calendar days prior to January 1 of any following calendar year. Each nonprofit or government employer in the group shall be jointly and severally liable for reimbursements for all unemployment benefits paid based upon wage credits from all employers in the group during the period



APPENDIX  
Repealed Minnesota Statutes for S0944-1

the group reimbursable account was in effect.

**268.086 CONTINUED BIWEEKLY REQUEST FOR UNEMPLOYMENT  
BENEFITS ON AN ACTIVE BENEFIT ACCOUNT.**

Subd. 4. Continued biweekly request for unemployment benefits by telephone. (a) A continued biweekly request by telephone shall be made to a telephone number required by the commissioner for that applicant. In order to constitute a continued biweekly request, all information asked for, including information authenticating that the caller is the applicant, must be provided. If all of the information asked for is not provided, the communication shall not constitute a continued biweekly request for unemployment benefits.

The telephone communication must be made on the date required for the applicant for filing a continued biweekly request for unemployment benefits by telephone.

(b) If the telephone continued biweekly request for unemployment benefits is not filed on the date required, a continued biweekly request by telephone shall be accepted if the applicant files the continued biweekly request by telephone within 14 days following the week in which the date required occurred. If the continued biweekly request by telephone is not filed within 14 days following the week in which the date required occurred, the telephone continued biweekly request shall not be accepted and the applicant shall be ineligible for unemployment benefits for the period covered by the continued biweekly request and the benefit account shall be considered inactive, unless the applicant shows good cause for failing to file the continued biweekly request by telephone within the time period requested.

1 Senator ..... moves to amend S.F. No. 944 as follows:  
2 Page 13, line 9, reinstate the stricken comma  
3 Page 13, line 10, strike the period  
4 Page 13, line 32, reinstate "provided"  
5 Page 13, line 33, delete "originally recruited and hired"  
6 and after "by" insert "an"  
7 Page 13, line 35, delete "and then provided to the person"  
8 Page 28, line 12, strike everything after "taxes"  
9 Page 28, line 13, strike "subdivision 7,"  
10 Page 28, line 18, strike "and voluntary payments"  
11 Page 33, line 35, strike ", subdivision 1, paragraph (a),"  
12 Page 33, line 36, strike ", subdivision 1,"  
13 Page 34, line 1, strike "paragraph (d)"  
14 Page 44, after line 18, insert:  
15 "Sec. 31. Minnesota Statutes 2004, section 268.101,  
16 subdivision 2, is amended to read:  
17 Subd. 2. [DISQUALIFICATION DETERMINATION.] (a) The  
18 commissioner shall determine any issue of disqualification  
19 raised by information required from an applicant under  
20 subdivision 1, paragraph (a) or (c), and send to the applicant  
21 and employer, by mail or electronic transmission, a  
22 determination of disqualification or a determination of  
23 nondisqualification, as is appropriate. The determination shall  
24 state the effect on the employer under section 268.047. A  
25 determination shall be made pursuant to this paragraph even if a  
26 notified employer has not raised the issue of disqualification.  
27 (b) The commissioner shall determine any issue of  
28 disqualification raised by an employer and send to the applicant  
29 and that employer, by mail or electronic transmission, a  
30 determination of disqualification or a determination of  
31 nondisqualification as is appropriate. The determination shall  
32 state the effect on the employer under section 268.047.  
33 If a base period employer:  
34 (1) was not the applicant's most recent employer prior to  
35 the application for unemployment benefits;  
36 (2) did not employ the applicant during the six calendar

1 months prior to the application for unemployment benefits; and

2 (3) did not raise an issue of disqualification within ten  
3 calendar days of notification under subdivision 1, paragraph  
4 (b);

5 then any exception under section 268.047, subdivisions 2 and 3,  
6 shall begin the Sunday two weeks following the week that the  
7 issue of disqualification was raised by the employer.

8 (c) If any time within 24 months from the establishment of  
9 a benefit account the commissioner finds that an applicant  
10 failed to report any employment, or loss of employment, ~~er~~  
11 ~~offers-of-employment~~ that were was required to be provided by  
12 the applicant under this section, the commissioner shall  
13 determine any issue of disqualification on that loss of  
14 employment ~~er-offer-of-employment~~ and send to the applicant and  
15 involved employer, by mail or electronic transmission, a  
16 determination of disqualification or a determination of  
17 nondisqualification, as is appropriate. The determination shall  
18 state the effect on the employer under section 268.047.

19 This paragraph shall not prevent the imposition of any  
20 penalty under section 268.18, subdivision 2, or 268.182.

21 (d) An issue of disqualification shall be determined based  
22 upon that information required of an applicant, any information  
23 that may be obtained from an applicant or employer, and  
24 information from any other source, without regard to any common  
25 law burden of proof.

26 (e) A determination of disqualification or a determination  
27 of nondisqualification shall be final unless an appeal is filed  
28 by the applicant or notified employer within 30 calendar days  
29 after sending. The determination shall contain a prominent  
30 statement indicating the consequences of not appealing.  
31 Proceedings on the appeal shall be conducted in accordance with  
32 section 268.105.

33 (f) An issue of disqualification for purposes of this  
34 section shall include any reason for no longer working for an  
35 employer other than a layoff due to lack of work, any question  
36 of a disqualification from unemployment benefits under section

1 268.095, any question of an exception to disqualification under  
2 section 268.095, any question of effect on an employer under  
3 section 268.047, and any question of an otherwise imposed  
4 disqualification that an applicant has satisfied under section  
5 268.095, subdivision 10.

6 (g) Regardless of the requirements of this subdivision, the  
7 commissioner is not required to send to an applicant a  
8 determination where the applicant has satisfied any otherwise  
9 potential disqualification under section 268.095, subdivision  
10 10."

11 Renumber the sections in sequence and correct the internal  
12 references

13 Amend the title accordingly

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# Senate

State of Minnesota

## **S.F. No. 1943 - Creating Disciplinary Procedures for Local Corrections Officers**

**Author:** Senator Ellen R. Anderson

**Prepared by:** Chris Turner, Senate Research (651/296-4350) *CT*

**Date:** April 5, 2005

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The bill provides policies and procedures for correctional officer disciplinary actions at local correctional facilities.

**Section 1, subdivisions 1 and 2,** define terms for the purposes of the bill and apply the provisions of the bill to all local correctional facilities.

**Subdivisions 3 and 4** provide that formal statements from a correctional officer must comply with the provisions of the bill and stipulate where formal statements may be made.

**Subdivision 5** requires the filing of a written complaint before the taking of a formal statement from a correctional officer under investigation. Requires the receipt of a signed copy of the complaint by the officer before an administrative hearing may be held.

**Subdivision 6** requires that the officer under investigation be given a list of witnesses and the substance of witness testimony before an administrative hearing.

**Subdivision 7** provides for the conditions of the session at which a formal statement may be taken from an officer under investigation, including that sessions be of a reasonable duration, and that the officer be compensated if the session is not held during the officer's regularly held work shift.

**Subdivision 8** requires a complete record of the sessions at which formal statements are taken, including transcripts without charge on request of the officer.

**Subdivision 9** grants an officer under investigation the right to the presence of an attorney and a union officer at the session in which a formal statement is taken.

**Subdivision 10** requires that an officer under investigation be advised that any statement he makes in the course of a formal statement may be used as evidence against him.

**Subdivision 11** prohibits the disclosure of an officer's financial records without a valid search warrant or subpoena.

**Subdivision 12** prohibits the public release of a photograph of an officer under investigation without the officer's consent.

**Subdivision 13** requires that officers receive a copy of any formal disciplinary letters to be included in their personnel files.

**Subdivision 14** prohibits retaliatory action for the exercise of the rights provided in this section.

**Subdivision 15** provides that all rights under this section are in addition to all rights provided under applicable collective bargaining agreements.

**Subdivision 16** grants an officer the right to file a civil action for actual damages, plus costs and attorney fees, against a political subdivision that violates this section.

CT:vs

**Senators Anderson and Limmer introduced--****S.F. No. 1943: Referred to the Committee on Crime Prevention and Public Safety.**

1                                   A bill for an act  
2           relating to corrections; creating discipline  
3           procedures for local correctional officers; proposing  
4           coding for new law in Minnesota Statutes, chapter 241.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

6           Section 1. [241.026] [LOCAL CORRECTIONAL OFFICERS  
7 DISCIPLINE PROCEDURES ACT.]

8           Subdivision 1. [DEFINITIONS.] For purposes of this  
9 section, the terms defined in this subdivision have the meanings  
10 given them.

11           (a) "Administrative hearing" means a nonjudicial hearing or  
12 arbitration authorized to recommend, approve, or order  
13 discipline.

14           (b) "Correctional officer" and "officer" means a person  
15 employed by a local correctional or detention facility in a  
16 security capacity.

17           (c) "Formal statement" means the questioning of an officer  
18 in the course of obtaining a recorded, stenographic, or signed  
19 statement to be used as evidence in a disciplinary proceeding  
20 against the officer.

21           Subd. 2. [APPLICABILITY.] The procedures and provisions of  
22 this section apply to local correctional authorities.

23           Subd. 3. [GOVERNING FORMAL STATEMENT PROCEDURES.] The  
24 formal statement of an officer must be taken according to  
25 subdivisions 4 to 10.

1        Subd. 4. [PLACE OF FORMAL STATEMENT.] The formal statement  
2 must be taken at a facility of the employing or investigating  
3 agency or at a place agreed to by the investigating individual  
4 and the investigated officer.

5        Subd. 5. [COMPLAINT.] An officer's formal statement may  
6 not be taken unless there is filed with the employing or  
7 investigating agency a written complaint signed by the  
8 complainant stating the complainant's knowledge, and the officer  
9 has been given a summary of the allegations. Complaints stating  
10 the signor's knowledge also may be filed by members of the  
11 correctional agency. Before an administrative hearing is begun,  
12 the officer must be given a copy of the signed complaint.

13        Subd. 6. [WITNESSES; INVESTIGATIVE REPORTS.] Upon request,  
14 the investigating agency or the officer's representative shall  
15 provide the other party with a list of witnesses that the agency  
16 or representative expects to testify at the administrative  
17 hearing and the substance of the testimony. A party, including  
18 the union, is entitled to copies of any witness statements in  
19 the possession of the other party and an officer is entitled to  
20 a copy of the investigating agency's investigative report,  
21 provided that any references in a witness statement or  
22 investigative report that would reveal the identity of  
23 confidential informants need not be disclosed except upon order  
24 of the person presiding over the administrative hearing for good  
25 cause shown.

26        Subd. 7. [SESSIONS.] Sessions at which a formal statement  
27 is taken must be of reasonable duration and must give the  
28 officer reasonable periods for rest and personal necessities.  
29 When practicable, sessions must be held during the officer's  
30 regularly scheduled work shift. If the session is not held  
31 during the officer's regularly scheduled work shift, the officer  
32 must be paid by the employing facility at the officer's current  
33 compensation rate for time spent attending the session.

34        Subd. 8. [RECORD.] A complete record of sessions at which  
35 a formal statement is taken must be made by electronic recording  
36 or otherwise. Upon written request, a complete copy or



1 transcript must be made available to the officer or officer's  
2 representative without charge or undue delay. The session may  
3 be tape recorded by the investigating officer and by the officer  
4 under investigation.

5 Subd. 9. [PRESENCE OF ATTORNEY OR UNION  
6 REPRESENTATIVE.] The officer whose formal statement is taken has  
7 the right to have an attorney of the officer's choosing and a  
8 union representative present during the session. The officer  
9 may request the presence of an attorney and a union  
10 representative at any time before or during the session. When a  
11 request under this subdivision is made, no formal statement may  
12 be taken until a reasonable opportunity is provided for the  
13 officer to obtain the presence of the attorney and a union  
14 representative.

15 Subd. 10. [ADMISSIONS.] Before an officer's formal  
16 statement is taken, the officer shall be advised in writing or  
17 on the record that admissions made in the course of the formal  
18 statement may be used as evidence of misconduct or as a basis  
19 for discipline.

20 Subd. 11. [DISCLOSURE OF FINANCIAL RECORDS.] No employer  
21 may require an officer to produce or disclose the officer's  
22 personal financial records except pursuant to a valid search  
23 warrant or subpoena.

24 Subd. 12. [RELEASE OF PHOTOGRAPHS.] No local correctional  
25 facility or governmental unit may publicly release photographs  
26 of an officer without the written permission of the officer,  
27 except that the facility or unit may display a photograph of an  
28 officer to a prospective witness as part of an agency or unit  
29 investigation.

30 Subd. 13. [DISCIPLINARY LETTER.] No disciplinary letter or  
31 reprimand may be included in an officer's personnel record  
32 unless the officer has been given a copy of the letter or  
33 reprimand.

34 Subd. 14. [RETALIATORY ACTION PROHIBITED.] No officer may  
35 be discharged, disciplined, or threatened with discharge or  
36 discipline as retaliation for or solely by reason of the

1 officer's exercise of the rights provided by this section.

2 Subd. 15. [RIGHTS NOT REDUCED.] The rights of officers  
3 provided by this section are in addition to and do not diminish  
4 the rights and privileges of officers that are provided under an  
5 applicable collective bargaining agreement or any other  
6 applicable law.

7 Subd. 16. [ACTION FOR DAMAGES.] Notwithstanding section  
8 3.736 or 466.03, a political subdivision that violates this  
9 section is liable to the officer for actual damages resulting  
10 from the violation, plus costs and reasonable attorney fees.  
11 The political subdivision is deemed to have waived any immunity  
12 to a cause of action brought under this subdivision, except that  
13 the monetary limits on liability under section 3.736,  
14 subdivision 4, or 466.04 apply.

15 [EFFECTIVE DATE.] This section is effective July 1, 2005.

1 Senator ..... moves to amend S.F. No. 1943 as follows:  
2 Page 1, line 6, delete "LOCAL"  
3 Page 1, line 7, delete "ACT"  
4 Page 1, line 8, before "For" insert "(a)"  
5 Page 1, delete lines 11 to 16 and insert:  
6 "(b) "Correctional officer" and "officer" means a person  
7 employed by the state, a state correctional facility, or a local  
8 correctional or detention facility in a security capacity."  
9 Page 1, line 22, before "local" insert "state and"  
10 Page 1, delete line 25, and insert "subdivision 4."  
11 Page 2, delete lines 5 to 36  
12 Page 3, delete lines 1 to 14  
13 Page 3, line 15, delete "10" and insert "5"  
14 Page 3, line 20, delete "11" and insert "6"  
15 Page 3, line 24, delete "12" and insert "7" and before  
16 "local" insert "state or"  
17 Page 3, line 30, delete "13" and insert "8"  
18 Page 3, line 34, delete "14" and insert "9"  
19 Page 4, line 2, delete "15" and insert "10"  
20 Page 4, delete lines 7 to 14  
21 Amend the title as follows:  
22 Page 1, line 3, delete "local"

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# Senate

State of Minnesota

## S.F. No. 69 - Stem Cell Research

**Author:** Senator Richard Cohen

**Prepared by:** Katie Cavanor, Senate Counsel (651/296-3801) *KTC*

**Date:** March 30, 2005

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**S.F. No. 69** establishes state policy for stem cell research.

**Section 1 [137.45]** authorizes the University of Minnesota to spend state appropriated funds on stem cell research.

**Section 2 [145.426]** states the findings and declarations of the Legislature.

**Section 3 [145.427]** establishes state policy for stem cell research.

**Subdivision 1** states that the policy of the state is that research involving the derivation and use of human embryonic stem cells, human embryonic germ cells, and human adult stem cells from any source shall be permitted and that full consideration of the ethical and medical implications of this research are given. States that such research shall be reviewed by an approved institutional review board.

**Subdivision 2** requires a health care provider who is treating a patient for infertility to provide the patient with timely, relevant, and appropriate information sufficient to allow the patient to make an informed and voluntary choice regarding the disposition of any human embryos remaining after fertility treatment. Requires the patient to be presented with the option of storing any unused embryos, donating them to another individual, discarding the embryos, or donating the remaining embryos for research. Requires a patient who elects to donate embryos for research to provide a written consent for that donation.

**Subdivision 3** states that a person may not knowingly for valuable consideration purchase, sell, or otherwise transfer or obtain, or promote the sale or transfer of embryonic or cadaveric fetal tissue for research purposes. States that embryonic or cadaveric fetal tissue may be donated for research purposes. Defines "valuable consideration." States that a violation of this subdivision is a gross misdemeanor.

**Section 5** establishes an effective date of August 1, 2005.

KC:ph

Senator Cohen introduced--

S.F. No. 69: Referred to the Committee on Health and Family Security.

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A bill for an act

relating to health; establishing state policy for stem cell research; providing criminal penalties; proposing coding for new law in Minnesota Statutes, chapters 137; 145.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. [137.45] [STEM CELL RESEARCH.]

The University of Minnesota may spend state-appropriated funds on stem cell research.

Sec. 2. [145.426] [LEGISLATIVE FINDINGS.]

The legislature finds and declares all of the following:

(a) An estimated 128,000,000 Americans suffer from the crippling economic and psychological burden of chronic, degenerative, and acute diseases, including diabetes, Parkinson's disease, cancer, and Alzheimer's disease.

(b) The costs of treatment and lost productivity of chronic, degenerative, and acute diseases in the United States constitute hundreds of billions of dollars every year.

Estimates of the economic costs of these diseases do not account for the extreme human loss and suffering associated with these conditions.

(c) Stem cell research offers immense promise for developing new medical therapies for these debilitating diseases and a critical means to explore fundamental questions of biology. Stem cell research could lead to unprecedented treatments and

1 potential cures for diabetes, Alzheimer's disease, cancer, and  
2 other diseases.

3 (d) The United States and Minnesota have historically been  
4 a haven for open scientific inquiry and technological innovation  
5 and this environment, coupled with the commitment of public and  
6 private resources, has made the United States the preeminent  
7 world leader in biomedicine and biotechnology.

8 (e) The biomedical industry is a critical and growing  
9 component of Minnesota's economy and would be significantly  
10 diminished by limitations imposed on stem cell research.

11 (f) Open scientific inquiry and publicly funded research  
12 will be essential to realizing the promise of stem cell research  
13 and to maintain Minnesota's leadership in biomedicine and  
14 biotechnology. Publicly funded stem cell research, conducted  
15 under established standards of open scientific exchange, peer  
16 review, and public oversight, offers the most efficient and  
17 responsible means of fulfilling the promise of stem cells to  
18 provide regenerative medical therapies.

19 (g) Stem cell research, including the use of embryonic stem  
20 cells for medical research, raises significant ethical and  
21 policy concerns and, while not unique, the ethical and policy  
22 concerns associated with stem cell research must be carefully  
23 considered.

24 (h) Public policy on stem cell research must balance  
25 ethical and medical considerations. The policy must be based on  
26 an understanding of the science associated with stem cell  
27 research and grounded in a thorough consideration of the ethical  
28 concerns regarding this research. Public policy on stem cell  
29 research must be carefully crafted to ensure that researchers  
30 have the tools necessary to fulfill the promise of stem cell  
31 research.

32 Sec. 3. [145.427] [STATE POLICY FOR STEM CELL RESEARCH.]

33 Subdivision 1. [RESEARCH USE PERMITTED.] The policy of the  
34 state of Minnesota is that research involving the derivation and  
35 use of human embryonic stem cells, human embryonic germ cells,  
36 and human adult stem cells from any source, including somatic

1 cell nuclear transplantation, shall be permitted and that full  
2 consideration of the ethical and medical implications of this  
3 research be given. Research involving the derivation and use of  
4 human embryonic stem cells, human embryonic germ cells, and  
5 human adult stem cells, including somatic cell nuclear  
6 transplantation, shall be reviewed by an approved institutional  
7 review board.

8 Subd. 2. [INFORMED CONSENT.] A physician, surgeon, or  
9 other health care provider who is treating a patient for  
10 infertility shall provide the patient with timely, relevant, and  
11 appropriate information sufficient to allow the patient to make  
12 an informed and voluntary choice regarding the disposition of  
13 any human embryos remaining following the fertility treatment.  
14 Any patient to whom information is provided under this  
15 subdivision shall be presented with the options of storing any  
16 unused embryos, donating the embryos to another individual,  
17 discarding the embryos, or donating the remaining embryos for  
18 research. Any patient who elects to donate embryos remaining  
19 after fertility treatments for research shall provide written  
20 consent to that donation.

21 Subd. 3. [PROHIBITING SALE OF FETAL TISSUE.] (a) A person  
22 may not knowingly, for valuable consideration, purchase, sell,  
23 or otherwise transfer or obtain, or promote the sale or transfer  
24 of, embryonic or cadaveric fetal tissue for research purposes.  
25 However, embryonic or cadaveric fetal tissue may be donated for  
26 research purposes under this section. For purposes of this  
27 subdivision, "valuable consideration" means financial gain or  
28 advantage, but does not include reasonable payment for the  
29 removal, processing, disposal, preservation, quality control,  
30 storage, transplantation, or implantation of embryonic or  
31 cadaveric fetal tissue.

32 (b) Violation of this subdivision is a gross misdemeanor.

33 Sec. 4. [EFFECTIVE DATE.]

34 Sections 1 to 3 are effective August 1, 2005.

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**Senate**

**State of Minnesota**

**S.F. No. 1260 - Regulating Internet Tobacco Product Sales,  
Criminal Provision (First Engrossment)**

**Author:** Senator Yvonne Prettner Solon

**Prepared by:** Chris Turner, Senate Research (651/296-4350) *CT*

**Date:** April 5, 2005

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**S.F. No. 1260** regulates the sale and delivery of certain tobacco products sold over the Internet.

**Section 2, subdivision 8**, establishes requirements for shipping an Internet tobacco sale order. The retailer must clearly mark the package "tobacco products – adult signature required." The retailer must use a delivery service that: (1) requires an adult to sign for the deliver; and (2) requires the person signing for the delivery to produce a valid government-issued identification indicating the person is of legal age to purchase tobacco products and resides at the delivery address. This subdivision authorizes the Commissioner of Revenue to enforce this section by issuing cease-and-desist orders for initial noncompliance. The penalty for a second violation within two years is a misdemeanor, and for a third violation, a gross misdemeanor.

CT:vs



1 A bill for an act

2 relating to health; regulating certain sales and  
3 deliveries of tobacco products; imposing criminal and  
4 civil penalties; providing remedies; amending  
5 Minnesota Statutes 2004, section 297F.21, subdivision  
6 1; proposing coding for new law in Minnesota Statutes,  
7 chapter 325F.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

9 Section 1. Minnesota Statutes 2004, section 297F.21,  
10 subdivision 1, is amended to read:

11 Subdivision 1. [CONTRABAND DEFINED.] The following are  
12 declared to be contraband and therefore subject to civil and  
13 criminal penalties under this chapter:

14 (a) Cigarette packages which do not have stamps affixed to  
15 them as provided in this chapter, including but not limited to  
16 (i) packages with illegible stamps and packages with stamps that  
17 are not complete or whole even if the stamps are legible, and  
18 (ii) all devices for the vending of cigarettes in which packages  
19 as defined in item (i) are found, including all contents  
20 contained within the devices.

21 (b) A device for the vending of cigarettes and all packages  
22 of cigarettes, where the device does not afford at least partial  
23 visibility of contents. Where any package exposed to view does  
24 not carry the stamp required by this chapter, it shall be  
25 presumed that all packages contained in the device are unstamped  
26 and contraband.

1 (c) A device for the vending of cigarettes to which the  
2 commissioner or authorized agents have been denied access for  
3 the inspection of contents. In lieu of seizure, the  
4 commissioner or an agent may seal the device to prevent its use  
5 until inspection of contents is permitted.

6 (d) A device for the vending of cigarettes which does not  
7 carry the name and address of the owner, plainly marked and  
8 visible from the front of the machine.

9 (e) A device including, but not limited to, motor vehicles,  
10 trailers, snowmobiles, airplanes, and boats used with the  
11 knowledge of the owner or of a person operating with the consent  
12 of the owner for the storage or transportation of more than  
13 5,000 cigarettes which are contraband under this subdivision.  
14 When cigarettes are being transported in the course of  
15 interstate commerce, or are in movement from either a public  
16 warehouse to a distributor upon orders from a manufacturer or  
17 distributor, or from one distributor to another, the cigarettes  
18 are not contraband, notwithstanding the provisions of clause (a).

19 (f) A device including, but not limited to, motor vehicles,  
20 trailers, snowmobiles, airplanes, and boats used with the  
21 knowledge of the owner, or of a person operating with the  
22 consent of the owner, for the storage or transportation of  
23 untaxed tobacco products intended for sale in Minnesota other  
24 than those in the possession of a licensed distributor on or  
25 before the due date for payment of the tax under section  
26 297F.09, subdivision 2.

27 (g) Cigarette packages or tobacco products obtained from an  
28 unlicensed seller.

29 (h) Cigarette packages offered for sale or held as  
30 inventory in violation of section 297F.20, subdivision 7.

31 (i) Tobacco products on which the tax has not been paid by  
32 a licensed distributor.

33 (j) Any cigarette packages or tobacco products offered for  
34 sale or held as inventory for which there is not an invoice from  
35 a licensed seller as required under section 297F.13, subdivision  
36 4.

1 (k) Cigarette packages which have been imported into the  
2 United States in violation of United States Code, title 26,  
3 section 5754. All cigarettes held in violation of that section  
4 shall be presumed to have entered the United States after  
5 December 31, 1999, in the absence of proof to the contrary.

6 (l) Cigarettes and tobacco products sold or attempted to be  
7 sold in violation of section 325F.781.

8 Sec. 2. [325F.781] [REQUIREMENTS OF TOBACCO PRODUCT  
9 DELIVERY SALES.]

10 Subdivision 1. [SCOPE OF DEFINITIONS.] The terms in this  
11 section have the meanings given unless the context clearly  
12 indicates otherwise.

13 Subd. 2. [CONSUMER.] "Consumer" means an individual who  
14 purchases, receives, or possesses tobacco products for personal  
15 consumption and not for resale.

16 Subd. 3. [DELIVERY SALE.] "Delivery sale" means a sale of  
17 tobacco products to a consumer in this state when:

18 (1) the purchaser submits the order for the sale by means  
19 of a telephonic or other method of voice transmission, the mail  
20 or any other delivery service, or the Internet or other online  
21 service, regardless of whether the seller is located inside or  
22 outside of the state; or

23 (2) the tobacco products are delivered by use of the mail  
24 or other delivery service.

25 For purposes of this subdivision, a sale of tobacco  
26 products to an individual in this state must be treated as a  
27 sale to a consumer, unless the individual is licensed as a  
28 distributor or retailer of tobacco products.

29 Subd. 4. [DISTRIBUTOR.] "Distributor" means a person,  
30 whether located inside or outside of this state, other than a  
31 retailer, who sells or distributes tobacco products in the  
32 state. Distributor does not include a tobacco products  
33 manufacturer, export warehouse proprietor, or importer with a  
34 valid permit under United States Code, title 26, section 5712,  
35 if the person sells or distributes tobacco products in this  
36 state only to distributors who hold valid and current licenses

1 under the laws of a state, or to an export warehouse proprietor  
2 or another manufacturer. Distributor does not include a common  
3 or contract carrier that is transporting tobacco products under  
4 a proper bill of lading or freight bill that states the  
5 quantity, source, and destination of tobacco products, or a  
6 person who ships tobacco products through this state by common  
7 or contract carrier under a bill of lading or freight bill.

8 Subd. 5. [RETAILER.] "Retailer" means a person, whether  
9 located inside or outside of Minnesota, who sells or distributes  
10 tobacco products to a consumer in Minnesota.

11 Subd. 6. [TOBACCO PRODUCTS.] "Tobacco products" means:  
12 (1) cigarettes, as defined in section 297F.01, subdivision  
13 3; and

14 (2) smokeless tobacco as defined in section 325F.76.

15 Subd. 7. [REQUIREMENTS FOR ACCEPTING ORDER FOR DELIVERY  
16 SALE.] (a) This subdivision applies to acceptance of an order  
17 for a delivery sale of tobacco products.

18 (b) When accepting the first order from a consumer for a  
19 delivery sale, the retailer shall obtain the following  
20 information from the person placing the order:

21 (1) a copy of a valid government-issued document that  
22 provides the person's name, current address, photograph, and  
23 date of birth; and

24 (2) an original written statement signed by the person  
25 documenting that the person:

26 (i) is of legal age to purchase tobacco products in the  
27 state;

28 (ii) has made a choice whether to receive mailings from a  
29 tobacco retailer;

30 (iii) understands that providing false information may be a  
31 violation of law; and

32 (iv) understands that it is a violation of law to purchase  
33 tobacco products for subsequent resale or for delivery to  
34 persons who are under the legal age to purchase tobacco products.

35 (c) If an order is made as a result of advertisement over  
36 the Internet, the retailer shall request the e-mail address of

1 the purchaser and shall receive payment by credit card or check  
2 prior to shipping.

3 (d) Before shipping the tobacco products, the retailer  
4 shall verify the information provided under paragraph (b)  
5 against a commercially available database. Any such database or  
6 databases may also include age and identity information from  
7 other government or validated commercial sources, if that  
8 additional information is regularly used by government and  
9 businesses for the purpose of identity verification and  
10 authentication, and if the additional information is used only  
11 to supplement and not to replace the government-issued  
12 identification data in the age and identity verification process.

13 Subd. 8. [REQUIREMENTS FOR SHIPPING A DELIVERY SALE.] (a)  
14 This subdivision applies to a retailer shipping tobacco products  
15 as the result of a delivery sale.

16 (b) The retailer shall clearly mark the outside of the  
17 package of tobacco products to be shipped "tobacco products -  
18 adult signature required" and show the name of the retailer.

19 (c) The retailer shall use a delivery service that imposes  
20 the following requirements:

21 (1) an adult must sign for the delivery; and

22 (2) the person signing for the delivery must show valid  
23 government-issued identification that contains a photograph of  
24 the person and indicates that the person is of legal age to  
25 purchase tobacco products and resides at the delivery address.

26 (d) The retailer must provide delivery instructions that  
27 clearly indicate the requirements of this subdivision and that  
28 Minnesota law requires compliance.

29 (e) No criminal penalty may be imposed on a person for a  
30 violation of this section other than a violation described in  
31 paragraph (f) or (g). If it appears to the commissioner of  
32 revenue that any person has engaged in any act or practice  
33 constituting a violation of this section, and the violation is  
34 not within two years of any previous violation of this section,  
35 the commissioner shall issue and cause to be served upon the  
36 person an order requiring the person to cease and desist from

1 violating this section. The order must give reasonable notice  
2 of the rights of the person to request a hearing and must state  
3 the reason for the entry of the order. Unless otherwise agreed  
4 between the parties, a hearing must be held not later than seven  
5 days after the request for the hearing is received by the  
6 commissioner, after which and within 20 days after the receipt  
7 of the administrative law judge's report and subsequent  
8 exceptions and argument the commissioner shall issue an order  
9 vacating the cease and desist order, modifying it, or making it  
10 permanent as the facts require. If no hearing is requested  
11 within 30 days of the service of the order, the order becomes  
12 final and remains in effect until modified or vacated by the  
13 commissioner. All hearings must be conducted according to  
14 chapter 14. If the person to whom a cease and desist order is  
15 issued fails to appear at the hearing after being duly notified,  
16 the person shall be deemed in default and the proceeding may be  
17 determined against the person upon consideration of the cease  
18 and desist order, the allegations of which may be deemed to be  
19 true.

20 (f) Any person who violates this section within two years  
21 of a violation for which a cease and desist order was issued  
22 under paragraph (e) is guilty of a misdemeanor.

23 (g) Any person who commits a third or subsequent violation  
24 of this section, including a violation for which a cease and  
25 desist order was issued under paragraph (c), within any  
26 subsequent two-year period is guilty of a gross misdemeanor.

27 Subd. 9. [COMMON CARRIERS.] This section does not impose  
28 liability upon any common carrier, or officers or employees of  
29 the common carrier, when acting within the scope of business of  
30 the common carrier.

31 Subd. 10. [REGISTRATION REQUIREMENT.] Before making  
32 delivery sales or shipping tobacco products in connection with  
33 any sales, a distributor shall file with the Department of  
34 Revenue a statement setting forth the distributor's name, trade  
35 name, and the address of the distributor's principal place of  
36 business and any other place of business.

1        Subd. 11. [COLLECTION OF TAXES.] (a) Before shipping any  
2 tobacco products to a purchaser in Minnesota, a retailer shall  
3 comply with chapter 297F and shall ensure that all state excise  
4 taxes that apply are collected and paid to the state and that  
5 all related state excise tax stamps or other indicators of state  
6 excise tax payment are properly affixed to those tobacco  
7 products.

8        (b) In addition to any penalties under chapter 297F, a  
9 retailer who fails to pay any tax due according to paragraph (a)  
10 shall pay, in addition to any other penalty, a penalty of 50  
11 percent of the tax due but unpaid.

12        Subd. 12. [APPLICATION OF STATE LAWS.] All state laws that  
13 apply to in-state tobacco product retailers shall apply to  
14 delivery sellers that sell in Minnesota.

15        Subd. 13. [FORFEITURE.] Any tobacco products sold or  
16 attempted to be sold in a delivery sale that does not meet the  
17 requirements of this section are deemed to be contraband and are  
18 subject to forfeiture under section 297F.21.

19        Subd. 14. [ENFORCEMENT.] The remedies of section 8.31  
20 apply to violations of this section.

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# Senate

State of Minnesota

## **S.F. No. 1771 - Food Regulation and Meat and Poultry Inspection Violation Penalty Enhancements**

**Author:** Senator Sean Nienow

**Prepared by:** Chris Turner, Senate Research (651/296-4350) CT

**Date:** April 5, 2005

---

All current violations of the Minnesota Statutes, section 31.02 (Basic Regulatory Laws Relating to Food) are misdemeanors. Section 1 of the bill would enhance the violations of the following paragraphs to a gross misdemeanor:

- (a) the manufacture, sale, or delivery, holding, or offering for sale of any food that is adulterated or misbranded;
- (b) the adulteration or misbranding of any food;
- (c) the receipt in commerce of any food that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise;
- (i) the removal or disposal of a detained or embargoed article in violation of section 31.05;
- (j) the adulteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a food if such act is done while such article is held for sale and results in such article being adulterated or misbranded;
- (k) forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp, tag, label, or other identification device authorized or required by rules promulgated under the provisions of section 31.01 or of the federal act; and
- (l) the identification or sale as food for human consumption of any product which has previously been labeled or otherwise identified as animal food or seed which has received a seed treatment.

**Section 2** provides that any violation of Minnesota Statutes, section 31A.10 (Meat and Poultry Inspection Prohibitions) is a gross misdemeanor.

CT:vs



Senators Nienow, Wergin and Dille introduced--

S.F. No. 1771: Referred to the Committee on Agriculture, Veterans and Gaming.

1

A bill for an act

2

relating to agriculture; changing certain penalties;

3

amending Minnesota Statutes 2004, sections 31.032,

4

subdivision 1; 31A.10.

5

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

6

Section 1. Minnesota Statutes 2004, section 31.032,

7

subdivision 1, is amended to read:

8

Subdivision 1. [~~MISDEMEANOR PENALTY.~~] Any A person who

9

violates ~~any-of-the-provisions~~ a provision of section 31.02,

10

paragraph (d), (e), (f), (g), (h), or (l), is guilty of a

11

misdemeanor. A person who violates any other provision of

12

section 31.02 is guilty of a gross misdemeanor.

13

Sec. 2. Minnesota Statutes 2004, section 31A.10, is

14

amended to read:

15

31A.10 [~~PROHIBITIONS; PENALTY.~~]

16

(a) No person may, with respect to an animal, carcass, part

17

of a carcass, poultry, poultry food product, meat, or meat food

18

product:

19

(1) slaughter an animal or prepare an article that is

20

usable as human food, at any establishment preparing articles

21

solely for intrastate commerce, except in compliance with this

22

chapter;

23

(2) sell, transport, offer for sale or transportation, or

24

receive for transportation, in intrastate commerce (i) articles

25

which are usable as human food and are adulterated or misbranded

1 at the time of sale, transportation, offer for sale or  
2 transportation, or receipt for transportation; or (ii) articles  
3 required to be inspected under sections 31A.01 to 31A.16 that  
4 have not been inspected and passed;

5 (3) do something to an article that is usable as human food  
6 while the article is being transported in intrastate commerce or  
7 held for sale after transportation, which is intended to cause  
8 or has the effect of causing the article to be adulterated or  
9 misbranded; or

10 (4) sell, offer for sale, or possess with intent to sell  
11 meat derived from custom processing.

12 (b) A violation of this section is a gross misdemeanor.



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**Minnesota Statutes 2004, 31.02**

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[Minnesota Statutes 2004, Table of Chapters](#)

[Table of contents for Chapter 31](#)

**31.02 Prohibited acts.**

The following acts set out in this section and the causing of such acts within this state are prohibited.

(a) The manufacture, sale, or delivery, holding or offering for sale of any food that is adulterated or misbranded;

(b) The adulteration or misbranding of any food;

(c) The receipt in commerce of any food that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise;

(d) The distribution in commerce of a consumer commodity, as defined in section [31.01](#), subdivision 20, if such commodity is contained in a package, or if there is affixed to that commodity a label, which does not conform to the provisions of law and of rules promulgated pursuant to section [31.101](#); provided, however, that this prohibition shall not apply to persons engaged in business as wholesale or retail distributors of consumer commodities except to the extent that such persons are engaged in the packaging or labeling of such commodities, or prescribe or specify by any means the manner in which such commodities are packaged or labeled;

(e) The sale, delivery for sale, holding for sale, or offering for sale of any article in violation of section [31.131](#);

(f) The dissemination of any false advertisement;

(g) The refusal to permit entry or inspection, or to permit the taking of a sample, or to permit access to or copying of any record as authorized by section [31.04](#);

(h) The giving of a guaranty or undertaking which guaranty or undertaking is false, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of the person residing in the state of Minnesota from whom the relying person received in good faith the food;

(i) The removal or disposal of a detained or embargoed article in violation of section [31.05](#);

(j) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a food if such act is done while such article is held for sale and results in such article being adulterated or misbranded;

(k) Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp, tag, label, or other identification device authorized or required by rules promulgated under the provisions of section 31.101 or of the federal act;

(l) The using by any person to the person's own advantage, or revealing, other than to the commissioner or the commissioner's authorized representative or to the courts when relevant in any judicial proceeding of any information acquired under authority of the Minnesota Food Law concerning any method or process which as a trade secret is entitled to protection; and

(m) The identification or sale as food for human consumption of any product which has previously been labeled or otherwise identified as animal food or seed which has received a seed treatment.

HIST: (3789) 1921 c 495 s 2; 1961 c 144 art 2 s 1; 1974 c 84 s 19; 1980 c 442 s 1; 1985 c 248 s 70; 1986 c 444

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# Senate

State of Minnesota

## **S.F. No. 1804 - "Public Place" Definition Expansion for the Crime of Prostitution**

**Author:** Senator Wes Skoglund

**Prepared by:** Chris Turner, Senate Research (651/296-4350) *CT*

**Date:** April 5, 2005

---

The bill expands, for the purposes of Minnesota Statutes, sections 609.321 to 609.324 (Prostitution Crimes), the definition of "public place" to include a motor vehicle on a public street, alley, or parking lot available to the public.

CT:vs

**Senators Skoglund, Berglin, Higgins, Ranum and Dibble introduced--**

**S.F. No. 1804: Referred to the Committee on Crime Prevention and Public Safety.**

1                                    A bill for an act

2            relating to crimes; defining "public place" for  
3            purposes of the prostitution law; amending Minnesota  
4            Statutes 2004, section 609.321, subdivision 12.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

6            Section 1. Minnesota Statutes 2004, section 609.321,  
7            subdivision 12, is amended to read:

8            Subd. 12. [PUBLIC PLACE.] A "public place" means a public  
9            street or sidewalk, a pedestrian skyway system as defined in  
10           section 469.125, subdivision 4, a hotel, motel, or other place  
11           of public accommodation, ~~or~~ a place licensed to sell  
12           intoxicating liquor, wine, nonintoxicating malt beverages, or  
13           food, or a motor vehicle located on a public street, alley, or  
14           parking lot ordinarily used by or available to the public though  
15           not used as a matter of right and a driveway connecting such a  
16           parking lot with a street or highway.

17            [EFFECTIVE DATE.] This section is effective August 1, 2005,  
18            and applies to crimes committed on or after that date.

**Senate Counsel, Research,  
and Fiscal Analysis**

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**Senate**

**State of Minnesota**

**S.F. No. 2068 - Sentencing Guidelines Modifications**

**Author:** Senator Leo T. Foley

**Prepared by:** Kenneth P. Backhus, Senate Counsel (651/296-4396)

(KB)

**Date:** April 5, 2005

---

**Section 1** specifically adopts certain modifications proposed by the Minnesota Sentencing Guidelines Commission in its 2005 report to the Legislature.

The most significant of the adopted modifications relate to the Commission's response to the U.S. Supreme Court's 2004 decision in Washington v. Blakely. They expand individual cells within the sentencing guidelines' grid to the full 15 percent range authorized by law, adopt a list of offenses for which permissive consecutive sentencing is authorized, and make changes to the guidelines text related to the Blakely decision.

In addition, specifically adopts the proposed modification relating to ranking the anhydrous ammonia tampering/theft crime as a severity level III offense.

Finally, the bill specifically rejects the Commission's proposed modifications relating to sex offenses (i.e., creating a separate grid for sex offenses, making changes to the way in which criminal history is calculated for sex offenders, etc.).

Minnesota Statutes, section 244.09, subdivision 11, requires the Sentencing Guidelines Commission to submit to the Legislature proposed changes to the guidelines by January 1 of the year in which the Commission wishes to make the change. These modifications go into effect automatically on the following August 1 unless the Legislature by law provides otherwise. The report in which these modifications were proposed was not submitted to the Legislature in a timely fashion. Therefore, the Legislature has to specifically adopt these modifications if they are to go into effect on August 1, 2005.

KPB:ph

**Senator Foley introduced--****S.F. No. 2068: Referred to the Committee on Crime Prevention and Public Safety.**

1                                   A bill for an act  
2           relating to public safety; adopting certain  
3           recommendations of the Minnesota Sentencing Guidelines  
4           Commission and rejecting others.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

6           Section 1. [CERTAIN MINNESOTA SENTENCING GUIDELINES  
7           COMMISSION RECOMMENDATIONS ADOPTED; OTHERS REJECTED.]

8           The following modifications proposed by the Minnesota  
9           Sentencing Guidelines Commission in its January 2005 report to  
10           the legislature are adopted and take effect on August 1, 2005:

11           (1) those described as "I. Modifications Related to  
12           Blakely Decision" on pages 11 to 18 of the report; and

13           (2) those described as "II. Other Adopted Modifications"  
14           on page 19 of the report.

15           The modifications described as "III. Adopted Modifications  
16           Related to Sex Offenses" on pages 20 to 42 of the report are  
17           rejected and do not go into effect.

18           [EFFECTIVE DATE.] This section is effective the day  
19           following final enactment.



1 Senator ..... moves to amend S.F. No. 2068 as follows:

2 Page 1, after line 5, insert:

3 "Section 1. Minnesota Statutes 2004, section 244.09,  
4 subdivision 11, is amended to read:

5 Subd. 11. [MODIFICATION.] The commission shall meet as  
6 necessary for the purpose of modifying and improving the  
7 guidelines. Any modification which amends the Sentencing  
8 Guidelines grid, including severity levels and criminal history  
9 scores, or which would result in the reduction of any sentence  
10 or in the early release of any inmate, with the exception of a  
11 modification mandated or authorized by the legislature or  
12 relating to a crime created or amended by the legislature in the  
13 preceding session, shall be submitted to the legislature by  
14 January ± 15 of any year in which the commission wishes to make  
15 the change and shall be effective on August 1 of that year,  
16 unless the legislature by law provides otherwise. All other  
17 modifications shall take effect according to the procedural  
18 rules of the commission. On or before January ± 15 of each  
19 year, the commission shall submit a written report to the  
20 committees of the senate and the house of representatives with  
21 jurisdiction over criminal justice policy that identifies and  
22 explains all modifications made during the preceding 12 months  
23 and all proposed modifications that are being submitted to the  
24 legislature that year.

25 **[EFFECTIVE DATE.]** This section is effective August 1, 2005."

26 Renumber the sections in sequence and correct the internal  
27 references

28 Amend the title accordingly

1 Senator ..... moves to amend S.F. No. 2068 as follows:

2 Page 1, after line 5, insert:

3 "Section 1. Minnesota Statutes 2004, section 244.10, is  
4 amended by adding a subdivision to read:

5 Subd. 4. [PROOF OF AGGRAVATING FACTORS.] The court shall  
6 allow a prosecutor seeking to prove the existence of an  
7 aggravating factor justifying an upward departure under the  
8 Sentencing Guidelines the opportunity to prove this to the fact  
9 finder. The prosecutor shall provide reasonable notice to the  
10 defendant and the court of the prosecutor's intent to seek an  
11 upward departure and the aggravating factor on which the  
12 prosecutor intends to rely. Upon reasonable notice, the court  
13 shall allow the prosecutor the opportunity to prove the  
14 aggravating factor either in a unitary or bifurcated trial.  
15 [EFFECTIVE DATE.] This section is effective the day  
16 following final enactment and applies to sentencing departures  
17 sought on or after that date."

18 Renumber the sections in sequence and correct the internal  
19 references

20 Amend the title accordingly

**Senate Counsel, Research,  
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**Senate**  

---

**State of Minnesota**

**S.F. No. 1323 - Governor's Public Safety Appropriations Bill**

**Author:** Senator Thomas Neuville

**Prepared by:** Chris Turner, Senate Research (651/296-4350) *CT*

**Date:** April 5, 2005

---

**Article 1** provides fiscal year 2006-07 appropriations for the criminal justice system. All riders are either agency operational riders or descriptive of the new initiatives the Governor recommends funding, with the exception of page 3, lines 14 to 28, which allow nonprofit and faith-based organizations to apply for and receive any funds or grants, whether federal or state, made available for antiterrorism efforts that are not distributed or encumbered within one year of receipt by the Department of Public Safety.

**Article 2** contains public safety law changes.

**Section 1** strikes the August 1, 2005, sunset for the \$5 fee for access to public criminal history data. Fees collected are deposited in the Special Revenue Fund to cover costs of providing the service.

**Sections 2 and 3** extend the non-DWI driver's license reinstatement fee of \$20 to driver's licenses suspended for failure to appear and for unpaid fines. The receipts are deposited into the Special Revenue Fund and dedicated to the POST Board for reimbursement of local units of government for continuing education of peace officers.

**Section 4, subdivision 1**, creates a Gang and Drug Oversight Council to provide guidance related to the investigation and prosecution of gang and drug crime.

**Subdivision 2** provides membership of the Oversight Council.

**Subdivision 3** provides that it is the duty of the Oversight Council to develop an overall strategy to ameliorate the harm caused to the public by gang and drug crime. Allows the Council to develop protocols and procedures to investigate gang and drug crimes, and

develop a structure for best addressing these issues in a multijurisdictional manner. Other duties of the Council include:

- identify and recommend a candidate for statewide coordinator to Commissioner of Public Safety;
- establish multijurisdictional task forces and strike forces to combat gang and drug crime;
- assist the Department of Public Safety in developing a grant review process;
- make funding recommendations to the Commissioner;
- assist in developing a process to collect and share investigation and prosecution information;
- develop and approve an operational budget for the office of the statewide coordinator and the Council; and
- adopt criteria for use in determining whether individuals are members of gangs involved in criminal activity.

**Subdivision 4** provides that the current Gang Strike Force Commander shall serve as a transition coordinator until July 1, 2006, at which time a new coordinator shall be appointed.

**Subdivision 5** provides that all participating police officers remain the employees of the entity that employed them prior to joining any multijurisdictional entity established under this section.

**Subdivision 6** provides that officers participating in a multijurisdictional entity under this section have statewide investigative jurisdiction and power of arrest.

**Subdivision 7** authorizes the Commissioner, upon recommendation of the Council, to make grants to state and local governments.

**Subdivision 8** makes the Oversight Council permanent.

**Subdivision 9** allows state and local governments to accept lawful grants from any federal source or legal business.

**Subdivision 10** provides that Attorney General shall advise the Council on any matters the Council deems appropriate.

**Subdivision 11** appoints the Attorney General the liaison between the Oversight Council and the Indian Affairs Council, the Council on Affairs of Chicano/Latino People, the Council on Black Minnesotans and the Council on Asian-Pacific Minnesotans.

**Sections 5 and 6** require inspection of additional lodging facilities such as resorts, dormitories, bed and breakfasts, lodging houses, youth and family camps, juvenile group homes, and migrant worker camps.

**Section 7** establishes a fee for inspection of these facilities, and removes the fee exemption provided for hotels with fewer than 35 rooms and resorts classified as 1c.

**Sections 8 and 9** increase the criminal/traffic surcharge from \$60 to \$70 and deposit the increase in the General Fund.

**Sections 10 to 18** contain the Governor's 9-1-1 Emergency Services/Armer recommendations. Under the Governor's plan, the 9-1-1 fee is increased 25 cents in fiscal year 2006, with the fee increase dropping to ten cents in fiscal year 2007. Under current law the fee is 40 cents. Revenue increases will pay off prior year obligations to telephone utility companies and pay for the state's cost in building the statewide public safety radio system.

**Section 19** strikes the July 1, 2005 sunset for the collection and storage of DNA samples from all felony offenders.

**Section 20** transfers the responsibility for the Youth Intervention Program from the Department of Employment and Economic Development to the Department of Public Safety.

**Section 21** contains instructions to the Revisor of Statutes.

**Section 22** repeals the following sections of Minnesota Statutes:

- 299A.64 (Criminal Gang Council and Strike Force);
- 299A.65 (Criminal Gang Strike Force Jurisdiction and Liability);
- 299A.66 (Criminal Gang Strike Force Grant Programs); and
- 403.30, subdivision 2 (Metropolitan Radio Board Budget).

**Section 23** provides effective dates.

**Article 3** of the bill contains the Governor's methamphetamine provisions, which have already been under the consideration of the Crime Prevention Committee in the forms of S.F. No. 51 (Berglin), S.F. No. 423 (Rosen), and S.F. No. 901 (Skoglund).

CT:vs

**Senator Neuville introduced--****S.F. No. 1323: Referred to the Committee on Finance.**

1

A bill for an act

2 relating to public safety; appropriating money for  
3 public safety, corrections, various boards, and the  
4 courts; making the fee to access public criminal  
5 history data on the Internet Web site of the Bureau of  
6 Criminal Apprehension permanent; establishing a Gang  
7 and Drug Oversight Council; specifying the council's  
8 duties and membership; providing for grants; requiring  
9 fire safety inspections of various lodging facilities;  
10 modifying emergency telecommunications service fee;  
11 authorizing revenue bonds; transferring responsibility  
12 for youth intervention program; scheduling ephedrine  
13 and pseudoephedrine products as Schedule V controlled  
14 substances; regulating the sale of methamphetamine  
15 precursor drugs; authorizing reporting of suspicious  
16 transactions involving these drugs and providing civil  
17 immunity for so doing; further regulating while  
18 recodifying activities involving anhydrous ammonia;  
19 requiring courts to order restitution in certain  
20 situations involving controlled substances; imposing  
21 property restrictions in certain situations involving  
22 controlled substances; increasing the criminal  
23 penalties for possessing certain substances with the  
24 intent to manufacture methamphetamine and recodifying  
25 this crime; establishing new methamphetamine-related  
26 crimes; clarifying the definition of "narcotic drug";  
27 expanding the definition of "violent crime" for  
28 mandatory sentencing purposes; requiring that vehicles  
29 and other property used to manufacture methamphetamine  
30 indicate this in the title or by an affidavit;  
31 imposing criminal penalties; amending Minnesota  
32 Statutes 2004, sections 13.87, subdivision 3; 152.01,  
33 subdivision 10; 152.02, subdivision 6; 152.021,  
34 subdivisions 2a, 3; 152.027, subdivisions 1, 2;  
35 152.135, subdivision 2; 171.20, subdivision 4; 171.26;  
36 299F.391, subdivision 1; 299F.46, subdivisions 1, 3;  
37 357.021, subdivisions 6, 7; 403.11, subdivision 1;  
38 403.27, subdivisions 3, 4, by adding subdivisions;  
39 403.30, subdivisions 1, 3, by adding subdivisions;  
40 609.1095, subdivision 1; 609.119; proposing coding for  
41 new law in Minnesota Statutes, chapters 152; 299A;  
42 repealing Minnesota Statutes 2004, sections 299A.64;  
43 299A.65; 299A.66; 403.30, subdivision 2.

44 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

ARTICLE 1

APPROPRIATIONS

Section 1. [PUBLIC SAFETY APPROPRIATIONS.]

The sums shown in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or another named fund, to the agencies and for the purposes specified in this act, to be available for the fiscal years indicated for each purpose. The figures "2006" and "2007," where used in this act, mean that the appropriation or appropriations listed under them are available for the year ending June 30, 2006, or June 30, 2007, respectively. The term "first year" means the fiscal year ending June 30, 2006, and the term "second year" means the fiscal year ending June 30, 2007.

SUMMARY BY FUND

	2006	2007	TOTAL
General	\$ 822,484,000	\$ 845,589,000	\$1,668,073,000
State Government			
Special Revenue	44,745,000	35,432,000	80,177,000
Environmental Fund	49,000	49,000	98,000
Special Revenue			
Fund	5,423,000	5,422,000	10,845,000
Trunk Highway	361,000	361,000	722,000
TOTAL	\$ 873,062,000	\$ 886,853,000	\$1,759,915,000

APPROPRIATIONS  
 Available for the Year  
 Ending June 30  
 2006                      2007

Sec. 2. SUPREME COURT		37,218,000	37,218,000
Sec. 3. COURT OF APPEALS		8,189,000	8,189,000
Sec. 4. TRIAL COURTS		230,712,000	234,342,000
Sec. 5. TAX COURT		726,000	726,000
Sec. 6. UNIFORM LAWS COMMISSION		39,000	39,000
Sec. 7. BOARD ON JUDICIAL STANDARDS		252,000	252,000
Sec. 8. BOARD OF PUBLIC DEFENSE		59,403,000	63,251,000
Sec. 9. PUBLIC SAFETY			
Subdivision 1. Total			
Appropriation		\$ 123,356,000	\$ 114,030,000

Summary by Fund

General	77,611,000	77,599,000
---------	------------	------------

1	Special Revenue	590,000	589,000
2	State Government		
3	Special Revenue	44,745,000	35,432,000
4	Environmental	49,000	49,000
5	Trunk Highway	361,000	361,000

6 [APPROPRIATIONS FOR PROGRAMS.] The  
7 amounts that may be spent from this  
8 appropriation for each program are  
9 specified in the following subdivisions.

10	Subd. 2. Emergency		
11	Management	2,594,000	2,594,000

12	Summary by Fund		
13	General	2,545,000	2,545,000
14	Environmental	49,000	49,000

15 [NONPROFIT AND FAITH-BASED  
16 ORGANIZATIONS; ANTITERRORISM GRANTS.]  
17 Notwithstanding any law to the  
18 contrary, nonprofit and faith-based  
19 organizations may apply for and receive  
20 any funds or grants, whether federal or  
21 state, made available for antiterrorism  
22 efforts that are not distributed or  
23 encumbered for distribution to public  
24 safety entities within a year of  
25 receipt by the Department of Public  
26 Safety. These organizations must be  
27 considered under the same criteria  
28 applicable to any other eligible entity  
29 and must be given equal consideration.

30	Subd. 3. Criminal		
31	Apprehension	40,455,000	40,460,000

32	Summary by Fund		
33	General	39,647,000	39,653,000
34	Special Revenue	440,000	439,000
35	State Government		
36	Special Revenue	7,000	7,000
37	Trunk Highway	361,000	361,000

38 [COOPERATIVE INVESTIGATION OF  
39 CROSS-JURISDICTIONAL CRIMINAL  
40 ACTIVITY.] \$94,000 the first year and  
41 \$93,000 the second year are  
42 appropriated from the Bureau of  
43 Criminal Apprehension account in the  
44 special revenue fund for grants to  
45 local officials for the cooperative  
46 investigation of cross-jurisdictional  
47 criminal activity. Any unencumbered  
48 balance remaining in the first year  
49 does not cancel but is available for  
50 the second year.

51 [LABORATORY ACTIVITIES.] \$346,000 the  
52 first year and \$346,000 the second year  
53 are appropriated from the Bureau of  
54 Criminal Apprehension account in the



1 special revenue fund for laboratory  
2 activities.

3 [DWI LAB ANALYSIS; TRUNK HIGHWAY FUND.]  
4 Notwithstanding Minnesota Statutes,  
5 section 161.20, subdivision 3, \$361,000  
6 the first year and \$361,000 the second  
7 year are appropriated from the trunk  
8 highway fund for laboratory analysis  
9 related to driving-while-impaired cases.

10 [AUTOMATED FINGERPRINT IDENTIFICATION  
11 SYSTEM.] \$1,533,000 the first year and  
12 \$2,318,000 the second year are to  
13 replace the automated fingerprint  
14 identification system (AFIS).

15 [PREDATORY OFFENDER REGISTRATION  
16 SYSTEM.] \$1,146,000 the first year and  
17 \$564,000 the second year are to upgrade  
18 the predatory offender registration  
19 (POR) system and to increase the  
20 monitoring and tracking of registered  
21 offenders who become noncompliant with  
22 the law.

23 [CRIMINAL JUSTICE INFORMATION SYSTEMS  
24 (CJIS) AUDIT TRAIL.] \$374,000 the first  
25 year and \$203,000 the second year are  
26 for the Criminal Justice Information  
27 Systems (CJIS) audit trail.

28 [DNA ANALYSIS OF FELON OFFENDERS.]  
29 \$659,000 the first year and \$670,000  
30 the second year are to fund the  
31 analyses of biological samples from  
32 felon offenders.

33 [LIVESCAN.] \$66,000 the first year and  
34 \$69,000 the second year are to fund the  
35 ongoing costs of Livescan.

36 [METHAMPHETAMINE.] \$1,000,000 the first  
37 year and \$1,000,000 the second year are  
38 to fund ten new special agent positions  
39 for methamphetamine drug enforcement  
40 activities. \$40,000 the first year is  
41 onetime funding for a methamphetamine  
42 awareness program.

43 Subd. 4. Fire Marshal 2,445,000 2,432,000

44 Subd. 5. Alcohol and  
45 Gambling Enforcement 1,772,000 1,772,000

46 Summary by Fund

47 General 1,622,000 1,622,000

48 Special Revenue 150,000 150,000

49 Subd. 6. Office of  
50 Justice Programs 31,352,000 31,347,000

51 [GANG STRIKE FORCE.] \$2,650,000 the  
52 first year and \$2,650,000 the second  
53 year are for grants to the Criminal  
54 Gang Strike Force.

55 [CRIME VICTIM ASSISTANCE GRANTS  
56 INCREASE.] \$532,000 each year is to

1 increase the amount of funding for  
 2 crime victim assistance grants. This  
 3 funding is to ensure that no one  
 4 judicial district receives greater than  
 5 a 12 percent overall reduction in state  
 6 general funding to serve crime victims  
 7 in fiscal years 2006 and 2007 versus  
 8 the 2004 allocation.

9 [ADMINISTRATION COSTS.] Up to 2.5  
 10 percent of the grant funds appropriated  
 11 in this subdivision may be used to  
 12 administer the grant program.

13	Subd. 7. 911 Emergency		
14	Services/ARMER	44,738,000	35,425,000

15 This appropriation is from the state  
 16 government special revenue fund for 911  
 17 emergency telecommunications services.

18 Of the receipts from the emergency  
 19 telecommunications service fee under  
 20 Minnesota Statutes, section 403.11,  
 21 above 50 cents per month in fiscal year  
 22 2006, up to \$6,505,000 of the  
 23 appropriation in the first year is for  
 24 prior year obligations to telephone  
 25 utility companies. The remainder of  
 26 the receipts from the emergency  
 27 telecommunications service fee under  
 28 Minnesota Statutes, section 403.11,  
 29 above 50 cents per month in the first  
 30 year are for costs associated with the  
 31 Shared Public Safety Radio System and  
 32 are available until June 30, 2007.

33	Sec. 10. PEACE OFFICER		
34	STANDARDS AND TRAINING BOARD (POST)	3,943,000	3,943,000

35 This appropriation is from the peace  
 36 officer training account in the special  
 37 revenue fund. Any new receipts  
 38 credited to that account in the first  
 39 year in excess of \$3,943,000 must be  
 40 transferred and credited to the general  
 41 fund. Any new receipts credited to  
 42 that account in the second year in  
 43 excess of \$3,943,000 must be  
 44 transferred and credited to the general  
 45 fund.

46 \$2,909,000 the first year and  
 47 \$2,909,000 the second year are for  
 48 reimbursements to local governments for  
 49 peace officer training costs.

50	Sec. 11. PRIVATE DETECTIVE BOARD	126,000	126,000
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51	Sec. 12. HUMAN RIGHTS	3,490,000	3,490,000
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52 Sec. 13. DEPARTMENT OF CORRECTIONS

53	Subdivision 1. Total		
54	Appropriation	405,172,000	420,811,000

55 Summary by Fund

56	General Fund	404,282,000	419,921,000
57	Special Revenue	890,000	890,000

1 The amounts that may be spent from this  
2 appropriation for each program are  
3 specified in the following subdivisions.

4 Subd. 2. Correctional  
5 Institutions 289,090,000 304,578,000

6 Summary by Fund

7 General Fund 288,510,000 303,998,000

8 Special Revenue 580,000 580,000

9 [CONTRACTS FOR BEDS AT RUSH CITY.] If  
10 the commissioner contracts with other  
11 states, local units of government, or  
12 the federal government to rent beds in  
13 the Rush City Correctional Facility,  
14 the commissioner shall charge a per  
15 diem under the contract, to the extent  
16 possible, that is equal to or greater  
17 than the per diem cost of housing  
18 Minnesota inmates in the facility.

19 Subd. 3. Operations Support 15,558,000 15,558,000

20 Summary by Fund

21 General Fund 15,348,000 15,348,000

22 Special Revenue 210,000 210,000

23 Subd. 4. Community Services 100,524,000 100,675,000

24 Summary by Fund

25 General Fund 100,424,000 100,575,000

26 Special Revenue 100,000 100,000

27 Sec. 14. SENTENCING GUIDELINES 436,000 436,000

28 ARTICLE 2

29 PUBLIC SAFETY LAW CHANGES

30 Section 1. Minnesota Statutes 2004, section 13.87,  
31 subdivision 3, is amended to read:

32 Subd. 3. [INTERNET ACCESS.] (a) The Bureau of Criminal  
33 Apprehension shall establish and maintain an Internet Web site  
34 containing public criminal history data by July 1, 2004.

35 (b) Notwithstanding section 13.03, subdivision 3, paragraph  
36 (a), the bureau may charge a fee for Internet access to public  
37 criminal history data ~~provided through August 17, 2005. The fee~~  
38 ~~may not exceed of \$5 per inquiry or the amount needed to recoup~~  
39 ~~the actual cost of implementing and providing internet access,~~  
40 ~~whichever is less. Fees collected must be deposited in the~~  
41 ~~general fund as a nondedicated receipt~~ name searched. The  
42 superintendent of the Bureau of Criminal Apprehension shall

1 collect the fee and the receipts shall be directed to the  
 2 noncriminal background account in the special revenue fund.

3 (c) The Web site must include a notice to the subject of  
 4 data of the right to contest the accuracy or completeness of  
 5 data, as provided under section 13.04, subdivision 4, and  
 6 provide a telephone number and address that the subject may  
 7 contact for further information on this process.

8 (d) The Web site must include the effective date of data  
 9 that is posted.

10 (e) The Web site must include a description of the types of  
 11 criminal history data not available on the site, including  
 12 arrest data, juvenile data, criminal history data from other  
 13 states, federal data, data on convictions where 15 years have  
 14 elapsed since discharge of the sentence, and other data that are  
 15 not accessible to the public.

16 (f) A person who intends to access the Web site to obtain  
 17 information regarding an applicant for employment, housing, or  
 18 credit must disclose to the applicant the intention to do so.  
 19 The Web site must include a notice that a person obtaining such  
 20 access must notify the applicant when a background check using  
 21 this Web site has been conducted.

22 (g) This subdivision does not create a civil cause of  
 23 action on behalf of the data subject.

24 ~~{h}-This-subdivision-expires-July-31-2007-~~

25 Sec. 2. Minnesota Statutes 2004, section 171.20,  
 26 subdivision 4, is amended to read:

27 Subd. 4. [REINSTATEMENT FEE.] (a) Before the license is  
 28 reinstated, (1) a person whose driver's license has been  
 29 suspended under section 171.16, subdivision subdivisions 2 and  
 30 3; ~~171.187-except-subdivision-17-clause-(10)~~; or 171.182, or who  
 31 has been disqualified from holding a commercial driver's license  
 32 under section 171.165, and (2) a person whose driver's license  
 33 has been suspended under section 171.186 and who is not exempt  
 34 from such a fee, must pay a fee of \$20.

35 (b) Before the license is reinstated, a person whose  
 36 license has been suspended under sections 169.791 to 169.798

1 must pay a \$20 reinstatement fee.

2 (c) When fees are collected by a licensing agent appointed  
3 under section 171.061, a handling charge is imposed in the  
4 amount specified under section 171.061, subdivision 4. The  
5 reinstatement fee and surcharge must be deposited in an approved  
6 state depository as directed under section 171.061, subdivision  
7 4.

8 (d) Reinstatement fees collected under paragraph (a) for  
9 suspensions under sections 171.16, subdivision 3, and 171.18,  
10 subdivision 1, clause (10), shall be deposited in the special  
11 revenue fund and are appropriated to the Peace Officer Standards  
12 and Training Board for peace officer training reimbursement to  
13 local units of government.

14 (e) A suspension may be rescinded without fee for good  
15 cause.

16 Sec. 3. Minnesota Statutes 2004, section 171.26, is  
17 amended to read:

18 171.26 [MONEY CREDITED TO FUNDS.]

19 All money received under this chapter must be paid into the  
20 state treasury and credited to the trunk highway fund, except as  
21 provided in sections 171.06, subdivision 2a; 171.07, subdivision  
22 11, paragraph (g); 171.12, subdivision 8; 171.20, subdivision 4,  
23 paragraph (d); and 171.29, subdivision 2, paragraph (b).

24 Sec. 4. [299A.641] [GANG AND DRUG OVERSIGHT COUNCIL.]

25 Subdivision 1. [OVERSIGHT COUNCIL ESTABLISHED.] The Gang  
26 and Drug Oversight Council is established to provide guidance  
27 related to the investigation and prosecution of gang and drug  
28 crime.

29 Subd. 2. [MEMBERSHIP.] The oversight council shall consist  
30 of the following individuals or their designees:

31 (1) the director of the office of special investigations,  
32 as the representative of the commissioner of corrections;

33 (2) the superintendent of the Bureau of Criminal  
34 Apprehension as the representative of the commissioner of public  
35 safety;

36 (3) the attorney general;

1 (4) eight chiefs of police, selected by the Minnesota  
2 Chiefs of Police Association, two of which must be selected from  
3 cities with populations greater than 200,000;

4 (5) eight sheriffs, selected by the Minnesota Sheriffs  
5 Association to represent each district, two sheriffs from  
6 counties with populations greater than 500,000;

7 (6) the United States attorney for the district of  
8 Minnesota;

9 (7) two county attorneys, selected by the Minnesota County  
10 Attorneys Association;

11 (8) a command-level representative of a gang strike force;

12 (9) a representative from a drug task force, selected by  
13 the Minnesota State Association of Narcotics Investigators;

14 (10) a representative from the United States Drug  
15 Enforcement Administration;

16 (11) a representative from the United States Bureau of  
17 Alcohol, Tobacco, and Firearms;

18 (12) a representative from the Federal Bureau of  
19 Investigation; and

20 (13) two additional members who may be selected by the  
21 oversight council.

22 The oversight council may adopt procedures to govern its conduct  
23 as necessary and may select a chair from among its members.

24 Subd. 3. [OVERSIGHT COUNCIL'S DUTIES.] The oversight  
25 council shall develop an overall strategy to ameliorate the harm  
26 caused to the public by gang and drug crime within the state of  
27 Minnesota. This strategy may include the development of  
28 protocols and procedures to investigate gang and drug crime and  
29 a structure for best addressing these issues in a  
30 multijurisdictional manner. Additionally, the oversight council  
31 shall:

32 (1) identify and recommend a candidate or candidates for  
33 statewide coordinator to the commissioner of public safety;

4 (2) establish multijurisdictional task forces and strike  
35 forces to combat gang and drug crime, to include a metro gang  
36 strike force;

1 (3) assist the Department of Public Safety in developing an  
2 objective grant review application process that is free from  
3 conflicts of interests;

4 (4) make funding recommendations to the commissioner of  
5 public safety on grants to support efforts to combat gang and  
6 drug crime;

7 (5) assist in developing a process to collect and share  
8 information to improve the investigation and prosecution of drug  
9 offenses;

10 (6) develop and approve an operational budget for the  
11 office of the statewide coordinator and the oversight council;  
12 and

13 (7) adopt the criteria specified in section 299C.091 for  
14 use in determining whether individuals are or may be members of  
15 gangs involved in criminal activity.

16 Subd. 4. [STATEWIDE COORDINATOR.] The current gang strike  
17 force commander shall serve as a transition coordinator until  
18 July 1, 2006, at which time the commissioner of public safety  
19 shall appoint a statewide coordinator as recommended by the  
20 oversight council. The coordinator serving in the unclassified  
21 service shall:

22 (1) coordinate and monitor all multijurisdictional gang and  
23 drug enforcement activities;

24 (2) facilitate local efforts and ensure statewide  
25 coordination with efforts to combat gang and drug crime;

26 (3) facilitate training for personnel;

27 (4) monitor compliance with investigative protocols; and

28 (5) implement an outcome evaluation and data quality  
29 control process.

30 Subd. 5. [PARTICIPATING OFFICERS; EMPLOYMENT STATUS.] All  
31 participating law enforcement officers must be licensed peace  
32 officers as defined by section 626.84, subdivision 1, or  
33 qualified federal law enforcement officers as defined in section  
34 626.8453. Participating officers remain employees of the same  
35 entity that employed them before joining any multijurisdictional  
36 entity established under this section. Participating officers

1 are not employees of the state.

2 Subd. 6. [JURISDICTION AND POWERS.] Law enforcement  
3 officers participating in any multijurisdictional entity  
4 established under this section have statewide jurisdiction to  
5 conduct criminal investigations and have the same powers of  
6 arrest as those possessed by a sheriff.

7 Subd. 7. [GRANTS AUTHORIZED.] The commissioner of public  
8 safety, upon recommendation of the council, may make grants to  
9 state and local units of government to combat gang and drug  
10 crime.

11 Subd. 8. [OVERSIGHT COUNCIL IS PERMANENT.] Notwithstanding  
12 section 15.059, this section does not expire.

13 Subd. 9. [FUNDING.] Participating agencies may accept  
14 lawful grants or contributions from any federal source or legal  
15 business or entity.

16 Subd. 10. [ROLE OF THE ATTORNEY GENERAL.] The attorney  
17 general or a designee shall generally advise on any matters that  
18 the oversight council deems appropriate.

19 Subd. 11. [ATTORNEY GENERAL; COMMUNITY LIAISON.] (a) The  
20 attorney general or a designee shall serve as a liaison between  
21 the oversight council and the councils created in sections  
22 3.922, 3.9223, 3.9225, and 3.9226. The attorney general or  
23 designee will be responsible for:

24 (1) informing the councils of the plans, activities, and  
25 decisions and hearing their reactions to those plans,  
26 activities, and decisions; and

27 (2) providing the oversight council with the council's  
28 position on the oversight council's plan, activities, and  
29 decisions.

30 (b) In no event is the oversight council required to  
31 disclose the names of individuals identified by it to the  
32 councils referenced in this subdivision.

33 (c) Nothing in this subdivision changes the data  
34 classification of any data held by the oversight council.

35 Sec. 5. Minnesota Statutes 2004, section 299F.391,  
36 subdivision 1, is amended to read:



1 Subdivision 1. [DEFINITIONS.] For purposes of this section  
2 the following definitions shall apply:

3 (a) ~~"Lodging-house"-means-any-building-or-portion-thereof~~  
4 ~~containing-not-more-than-five-guest-rooms-which-are-used-or~~  
5 ~~intended-to-be-used-for-sleeping-purposes-by-guests-and-where~~  
6 ~~rent-is-paid-in-money, goods, labor-or-otherwise~~ "Dormitory"  
7 means all or a portion of a building containing one or more  
8 rooms for group sleeping or closely associated rooms used for  
9 sleeping.

10 (b) "Hospital" has the meaning given it in section 144.50.

11 (c) "Hotel" means ~~any-building-or-portion-thereof~~  
12 ~~containing-six-or-more-guest-rooms-intended-or-designed-to-be~~  
13 ~~used, or-which-are~~ a hotel, motel, resort, boarding house, bed  
14 and breakfast, furnished apartment house, or other building that  
15 is kept, used, rented, hired-out-to-be-occupied, or-which-are  
16 occupied-for advertised, or held out to the public as a place  
17 where sleeping purposes-by or housekeeping accommodations are  
18 supplied for pay to guests, and-which-is-required-to-be-licensed  
19 pursuant-to-chapter-157 for transient occupancy.

20 (d) "Nursing home" has the meaning given it in section  
21 144A.01.

22 (e) ~~"School"-means-any-public-or-private-school-or~~  
23 ~~educational-institution.~~

24 Sec. 6. Minnesota Statutes 2004, section 299F.46,  
25 subdivision 1, is amended to read:

26 Subdivision 1. [~~HOTEL INSPECTION~~ HOTEL INSPECTION OF HOTELS AND OTHER  
27 LODGING FACILITIES.] (a) ~~It-shall-be-the-duty-of~~ The  
28 commissioner of public safety to shall inspect, or cause to  
29 be have inspected, at least once every three years, every hotel  
30 in-this-state, and, other lodging facility with five or more  
31 guest rooms; dormitories; youth or family camps; and juvenile  
32 group home buildings. For that purpose, the commissioner, or  
33 ~~the-commissioner's-deputies-or-designated-alternates-or-agents,~~  
34 ~~shall-have-the-right-to~~ may enter or have access thereto  
35 lodging facility buildings at any reasonable hour, and, when,  
36 ~~upon-such-inspection, it-shall-be-found-that-the-hotel-so~~

1 ~~inspected-does-not-conform-to-or-is-not-being-operated-in~~  
 2 ~~accordance-with-the-provisions-of-sections-157.011-and-157.15-to~~  
 3 ~~157.227-in-so-far-as-the-same-relate-to-fire-prevention-or-fire~~  
 4 ~~protection-of-hotels7-or-the-rules-promulgated-thereunder7-or-is~~  
 5 ~~being.~~ These buildings must be maintained or operated in such  
 6 ~~manner-as-to-violate-the-Minnesota~~ accordance with the State  
 7 Fire Code promulgated pursuant to section 299F.011 or any other  
 8 law of this state relating to fire prevention and fire  
 9 ~~protection of-hotels7-the-commissioner-and-the-deputies-or~~  
 10 ~~designated-alternates-or-agents-shall-report-such-a-situation-to~~  
 11 ~~the-hotel-inspector-who-shall-proceed-as-provided-for-in-chapter~~  
 12 ~~157.~~

13 (b) The word words "hotel"7 and "dormitory," as used in  
 14 this subdivision7-has section, have the meaning meanings given  
 15 in section 299F.391.

16 Sec. 7. Minnesota Statutes 2004, section 299F.46,  
 17 subdivision 3, is amended to read:

18 Subd. 3. [INSPECTION FEES; HOTELS AND DORMITORIES.] (a)  
 19 For each hotel or dormitory with 35 or more rooms and required  
 20 to have a fire inspection according to subdivision 1, the  
 21 commissioner of public safety may charge each-hotel a triennial  
 22 inspection fee of \$435 and a per-room charge of \$5 for one to 18  
 23 units, \$6 for 19 to 35 units, \$7 for 36 to 100 units, and \$8 for  
 24 100 or more units, or a per bed charge of 50 cents for beds in a  
 25 group sleeping area. The-fee-includes-one-follow-up  
 26 inspection. The commissioner shall charge each resort not  
 27 classified as class 1c property under section 273.13 a triennial  
 28 inspection fee of \$435 and a per-room charge of \$5 for one to  
 29 ten units, \$6 for 11 to 25 units, and \$7 for 26 or more  
 30 units. These fees include one follow-up inspection.  
 31 The commissioner shall charge a fee of \$225 for each additional  
 32 follow-up inspection for hotels-and-resorts these buildings,  
 33 conducted in each three-year cycle that is necessary to bring  
 34 the hotel-or-resort building into compliance with the State Fire  
 35 Code.

36 (b) For each hotel or dormitory with fewer than 35 rooms

1 and each resort classified as class 1c property under section  
 2 273.13 and required to have a fire inspection according to  
 3 subdivision 1, the commissioner of public safety may charge a  
 4 triennial inspection fee of \$217.50 and a per-room charge of \$3  
 5 for a hotel or dormitory, and a per-cabin charge of \$2.50, or a  
 6 per-bed charge of fifty cents per bed in group sleeping areas.  
 7 These fees include one follow-up inspection. The commissioner  
 8 shall charge a fee of \$112.50 for each additional follow-up  
 9 inspection for these buildings, conducted in each three-year  
 10 cycle that is necessary to bring the building into compliance  
 11 with the State Fire Code.

12 (c) Nothing in this subdivision prevents the  
 13 designated local government agent, as defined in subdivision 2,  
 14 from continuing to charge an established inspection fee or from  
 15 establishing a new inspection fee.

16 ~~(c)-Hotels-and-motels-with-fewer-than-35-rooms-and-resorts~~  
 17 ~~classified-as-1c-under-section-273.13-are-exempt-from-the-fee~~  
 18 ~~requirements-of-this-subdivision.~~

19 Sec. 8. Minnesota Statutes 2004, section 357.021,  
 20 subdivision 6, is amended to read:

21 Subd. 6. [SURCHARGES ON CRIMINAL AND TRAFFIC OFFENDERS.]

22 (a) The court shall impose and the court administrator shall  
 23 collect a ~~\$60~~ \$70 surcharge on every person convicted of any  
 24 felony, gross misdemeanor, misdemeanor, or petty misdemeanor  
 25 offense, other than a violation of a law or ordinance relating  
 26 to vehicle parking, for which there shall be a \$3 surcharge. In  
 27 the Second Judicial District, the court shall impose, and the  
 28 court administrator shall collect, an additional \$1 surcharge on  
 29 every person convicted of any felony, gross misdemeanor, or  
 30 petty misdemeanor offense, other than a violation of a law or  
 31 ordinance relating to vehicle parking, if the Ramsey County  
 32 Board of Commissioners authorizes the \$1 surcharge. The  
 33 surcharge shall be imposed whether or not the person is  
 34 sentenced to imprisonment or the sentence is stayed.

35 (b) If the court fails to impose a surcharge as required by  
 36 this subdivision, the court administrator shall show the

1 imposition of the surcharge, collect the surcharge and correct  
2 the record.

3 (c) The court may not waive payment of the surcharge  
4 required under this subdivision. Upon a showing of indigency or  
5 undue hardship upon the convicted person or the convicted  
6 person's immediate family, the sentencing court may authorize  
7 payment of the surcharge in installments.

8 (d) The court administrator or other entity collecting a  
9 surcharge shall forward it to the commissioner of finance.

10 (e) If the convicted person is sentenced to imprisonment  
11 and has not paid the surcharge before the term of imprisonment  
12 begins, the chief executive officer of the correctional facility  
13 in which the convicted person is incarcerated shall collect the  
14 surcharge from any earnings the inmate accrues from work  
15 performed in the facility or while on conditional release. The  
16 chief executive officer shall forward the amount collected to  
17 the commissioner of finance.

18 Sec. 9. Minnesota Statutes 2004, section 357.021,  
19 subdivision 7, is amended to read:

20 Subd. 7. [DISBURSEMENT OF SURCHARGES BY COMMISSIONER OF  
21 FINANCE.] (a) Except as provided in paragraphs (b), (c), and  
22 (d), the commissioner of finance shall disburse surcharges  
23 received under subdivision 6 and section 97A.065, subdivision 2,  
24 as follows:

25 (1) one percent shall be credited to the game and fish fund  
26 to provide peace officer training for employees of the  
27 Department of Natural Resources who are licensed under sections  
28 626.84 to 626.863, and who possess peace officer authority for  
29 the purpose of enforcing game and fish laws;

30 (2) 39 percent shall be credited to the peace officers  
31 training account in the special revenue fund; and

32 (3) 60 percent shall be credited to the general fund.

33 (b) The commissioner of finance shall credit \$3 of each  
34 surcharge received under subdivision 6 and section 97A.065,  
35 subdivision 2, to the general fund.

36 (c) In addition to any amounts credited under paragraph

1 (a), the commissioner of finance shall credit ~~\$32~~ \$42 of each  
2 surcharge received under subdivision 6 and section 97A.065,  
3 subdivision 2, and the \$3 parking surcharge, to the general fund.

4 (d) If the Ramsey County Board of Commissioners authorizes  
5 imposition of the additional \$1 surcharge provided for in  
6 subdivision 6, paragraph (a), the court administrator in the  
7 Second Judicial District shall withhold \$1 from each surcharge  
8 collected under subdivision 6. The court administrator must use  
9 the withheld funds solely to fund the petty misdemeanor  
10 diversion program administered by the Ramsey County Violations  
11 Bureau. The court administrator must transfer any unencumbered  
12 portion of the funds received under this subdivision to the  
13 commissioner of finance for distribution according to paragraphs  
14 (a) to (c).

15 Sec. 10. Minnesota Statutes 2004, section 403.11,  
16 subdivision 1, is amended to read:

17 Subdivision 1. [EMERGENCY TELECOMMUNICATIONS SERVICE FEE.]

18 (a) Each customer of a wireless or wire-line telecommunications  
19 service provider that furnishes service capable of originating a  
20 911 emergency telephone call is assessed a fee to cover the  
21 costs of ongoing maintenance and related improvements for  
22 trunking and central office switching equipment for 911  
23 emergency telecommunications service, plus administrative and  
24 staffing costs of the commissioner related to managing the 911  
25 emergency telecommunications service program. Recurring charges  
26 by a wire-line telecommunications service provider for updating  
27 the information required by section 403.07, subdivision 3, must  
28 be paid by the commissioner if the wire-line telecommunications  
29 service provider is included in an approved 911 plan and the  
30 charges are made pursuant to tariff, price list, or contract.  
31 The fee assessed under this section must also be used for the  
32 purpose of offsetting the costs, including administrative and  
33 staffing costs, incurred by the State Patrol Division of the  
34 Department of Public Safety in handling 911 emergency calls made  
35 from wireless phones.

36 (b) Money remaining in the 911 emergency telecommunications

1 service account after all other obligations are paid must not  
2 cancel and is carried forward to subsequent years and may be  
3 appropriated from time to time to the commissioner to provide  
4 financial assistance to counties for the improvement of local  
5 emergency telecommunications services. The improvements may  
6 include providing access to 911 service for telecommunications  
7 service subscribers currently without access and upgrading  
8 existing 911 service to include automatic number identification,  
9 local location identification, automatic location  
10 identification, and other improvements specified in revised  
11 county 911 plans approved by the commissioner.

12 (c) Until June 30, 2006, the fee may not be less than eight  
13 cents nor more than ~~40~~ 65 cents a month for each customer access  
14 line or other basic access service, including trunk equivalents  
15 as designated by the Public Utilities Commission for access  
16 charge purposes and including wireless telecommunications  
17 services. Effective July 1, 2006, the fee may not be less than  
18 eight cents nor more than 50 cents a month for each customer  
19 access line or other basic access service, including trunk  
20 equivalents as designated by the commission for access charge  
21 purposes and including wireless telecommunications services.

22 With the approval of the commissioner of finance, the  
23 commissioner of public safety shall establish the amount of the  
24 fee within the limits specified and inform the companies and  
25 carriers of the amount to be collected. When the revenue bonds  
26 authorized under section 403.27, subdivision 1, have been fully  
27 paid or defeased, the commissioner shall reduce the fee to  
28 reflect that debt service on the bonds is no longer needed. The  
29 commissioner shall provide companies and carriers a minimum of  
30 45 days' notice of each fee change. The fee must be the same  
31 for all customers.

32 (d) The fee must be collected by each wireless or wire-line  
33 telecommunications service provider subject to the fee. Fees  
34 are payable to and must be submitted to the commissioner monthly  
35 before the 25th of each month following the month of collection,  
36 except that fees may be submitted quarterly if less than \$250 a

1 month is due, or annually if less than \$25 a month is due.  
 2 Receipts must be deposited in the state treasury and credited to  
 3 a 911 emergency telecommunications service account in the  
 4 special revenue fund. The money in the account may only be used  
 5 for 911 telecommunications services.

6 (e) This subdivision does not apply to customers of  
 7 interexchange carriers.

8 (f) The installation and recurring charges for integrating  
 9 wireless 911 calls into enhanced 911 systems must be paid by the  
 10 commissioner if the 911 service provider is included in the  
 11 statewide design plan and the charges are made pursuant to  
 12 tariff, price list, or contract.

13 Sec. 11. Minnesota Statutes 2004, section 403.27, is  
 14 amended by adding a subdivision to read:

15 Subd. 1a. [AUTHORIZATION; THIRD PHASE.] The commissioner  
 16 of finance, if requested by a vote of at least two-thirds of all  
 17 of the members of the Statewide Radio Board, may authorize the  
 18 issuance of revenue bonds or other debt instrument for any of  
 19 the following purposes to:

20 (1) provide funds for the elements of the third phase of  
 21 the statewide public safety radio communication system that the  
 22 board determines are of regional or statewide benefit and  
 23 support mutual aid and emergency medical services communication  
 24 including, but not limited to, costs of master controllers of  
 25 the backbone;

26 (2) provide funds for the third phase of the public safety  
 27 radio communication system; and

28 (3) refund bonds issued under this section.

29 Sec. 12. Minnesota Statutes 2004, section 403.27,  
 30 subdivision 3, is amended to read:

31 Subd. 3. [LIMITATIONS.] (a) The principal amount of the  
 32 bonds issued pursuant to subdivision 1, exclusive of any  
 33 original issue discount, shall not exceed the amount of  
 34 \$10,000,000 plus the amount the council determines necessary to  
 35 pay the costs of issuance, fund reserves, debt service, and pay  
 36 for any bond insurance or other credit enhancement.

1 (b) In addition to the amount authorized under paragraph  
 2 (a), the council may issue bonds under subdivision 1 in a  
 3 principal amount of \$3,306,300, plus the amount the council  
 4 determines necessary to pay the cost of issuance, fund reserves,  
 5 debt service, and any bond insurance or other credit  
 6 enhancement. The proceeds of bonds issued under this paragraph  
 7 may not be used to finance portable or subscriber radio sets.

8 ~~(c) In addition to the amount authorized under paragraphs~~  
 9 ~~(a) and (b), the council may issue bonds under subdivision 1 in~~  
 10 ~~a principal amount of \$18,000,000, plus the amount the council~~  
 11 ~~determines necessary to pay the costs of issuance, fund~~  
 12 ~~reserves, debt service, and any bond insurance or other credit~~  
 13 ~~enhancement. The proceeds of bonds issued under this paragraph~~  
 14 ~~must be used to pay up to 50 percent of the cost to a local~~  
 15 ~~government unit of building a subsystem and may not be used to~~  
 16 ~~finance portable or subscriber radio sets. The bond proceeds~~  
 17 ~~may be used to make improvements to an existing 800-MHz radio~~  
 18 ~~system that will interoperate with the regionwide public safety~~  
 19 ~~radio communication system, provided that the improvements~~  
 20 ~~conform to the board's plan and technical standards. The~~  
 21 ~~council must time the sale and issuance of the bonds so that the~~  
 22 ~~debt service on the bonds can be covered by the additional~~  
 23 ~~revenue that will become available in the fiscal year ending~~  
 24 ~~June 30, 2005, generated under section 403.11 and appropriated~~  
 25 ~~under section 403.30.~~

26 ~~(d) In addition to the amount authorized under paragraphs~~  
 27 ~~(a) to (c),~~ The council commissioner of finance may issue bonds  
 28 or other debt instrument under subdivision 1 la in a principal  
 29 amount of up to \$27,000,000 \$45,000,000, plus the amount the  
 30 council commissioner of finance determines necessary to pay the  
 31 costs of issuance, fund reserves, debt service, and any bond  
 32 insurance or other credit enhancement. The proceeds of bonds  
 33 issued under this paragraph are appropriated to the commissioner  
 34 of public safety for phase three of the public safety radio  
 35 communication system. ~~In anticipation of the receipt by the~~  
 36 ~~commissioner of public safety of the bond proceeds, the~~



~~1 Metropolitan-Radio-Board-may-advance-money-from-its-operating  
2 appropriation-to-the-commissioner-of-public-safety-to-pay-for  
3 design-and-preliminary-engineering-for-phase-three---The  
4 commissioner-of-public-safety-must-return-these-amounts-to-the  
5 Metropolitan-Radio-Board-when-the-bond-proceeds-are-received.~~

6 Sec. 13. Minnesota Statutes 2004, section 403.27,  
7 subdivision 4, is amended to read:

8 Subd. 4. [SECURITY.] The bonds issued under subdivision 1  
9 may be secured by a bond resolution or a trust indenture entered  
10 into by the council with a corporate trustee within or outside  
11 the state which shall define the fee pledged for the payment and  
12 security of the bonds and for payment of all necessary and  
13 reasonable debt service expenses until all the bonds referred to  
14 in subdivision 1 are fully paid or discharged in accordance with  
15 law. The pledge shall be a valid charge on the emergency  
16 telephone service fee provided in chapter 403. No mortgage of  
17 or security interest in any tangible real or personal property  
18 shall be granted to the bondholders or the trustee, but they  
19 shall have a valid security interest in the revenues and bond  
20 proceeds received by the council and pledged to the payment of  
21 the bonds as against the claims of all persons in tort,  
22 contract, or otherwise, irrespective of whether the parties have  
23 notice and without possession or filing as provided in the  
24 Uniform Commercial Code, or any other law, subject however to  
25 the rights of the holders of any general obligation bonds issued  
26 under section 403.32. In the bond resolution or trust  
27 indenture, the council may make covenants as it determines to be  
28 reasonable for the protection of the bondholders.

29 Neither the council, nor any council member, officer,  
30 employee, or agent of the council, nor any person executing the  
31 bonds shall be liable personally on the bonds by reason of their  
32 issuance. The bonds are not payable from, and are not a charge  
33 upon, any funds other than the revenues and bond proceeds  
34 pledged to their payment. The council is not subject to any  
35 liability on the bonds and has no power to obligate itself to  
36 pay or to pay the bonds from funds other than the revenues and

1 bond proceeds pledged. No holder of bonds has the right to  
2 compel any exercise of the taxing power of the council, except  
3 any deficiency tax levy the council covenants to certify under  
4 section 403.31, or any other public body, to the payment of  
5 principal of or interest on the bonds. No holder of bonds has  
6 the right to enforce payment of principal or interest against  
7 any property of the council or other public body other than that  
8 expressly pledged for the payment of the bonds.

9 Sec. 14. Minnesota Statutes 2004, section 403.27, is  
10 amended by adding a subdivision to read:

11 Subd. 5. [SECURITY.] The bonds or other debt instrument  
12 issued under subdivision 1a may be secured by a bond resolution  
13 or a trust indenture entered into by the commissioner of finance  
14 with a corporate trustee within or outside the state which shall  
15 define the fee pledged for the payment and security of the bonds  
16 or other debt instrument and for payment of all necessary and  
17 reasonable debt service expenses until all the bonds or other  
18 debt instruments referred to in subdivision 1a are fully paid or  
19 discharged in accordance with law. The pledge shall be a valid  
20 charge on the emergency telephone service fee provided in this  
21 chapter. The bonds or other debt instrument shall have a valid  
22 security interest in the revenues and proceeds received by the  
23 commissioner of finance and pledged to the payment of the bonds  
24 or other debt instrument as against the claims of all persons in  
25 tort, contract, or otherwise, irrespective of whether the  
26 parties have notice and without possession or filing as provided  
27 in the Uniform Commercial Code, or any other law. In the bond  
28 resolution or trust indenture, the commissioner of finance may  
29 make covenants as may be reasonable for the protection of the  
30 bondholders or other creditor.

31 The bonds or other debt instrument are not payable from,  
32 and are not a charge upon, any funds other than the revenues and  
33 bond or other debt instrument proceeds pledged to their  
34 payment. The state of Minnesota is not subject to any liability  
35 on the bonds and the commissioner of finance has no power to  
36 obligate the state of Minnesota to pay or to pay the bonds or

1 other debt instruments from funds other than the revenues and  
 2 debt instrument proceeds pledged. No holder of bonds has the  
 3 right to compel any exercise of the taxing power of the state of  
 4 Minnesota, except any deficiency tax levy the commissioner is  
 5 authorized to certify under section 403.31, or any other public  
 6 body, to the payment of principal of or interest on the bonds or  
 7 other debt instrument. No holder of bonds has the right to  
 8 enforce payment of principal or interest against any property of  
 9 the state of Minnesota or other public body other than that  
 10 expressly pledged for the payment of the bonds or other debt  
 11 instrument.

12       Sec. 15. Minnesota Statutes 2004, section 403.30,  
 13 subdivision 1, is amended to read:

14       Subdivision 1. [STANDING APPROPRIATION; COSTS COVERED.]  
 15 For each fiscal year beginning with the fiscal year commencing  
 16 July 1, 1997, the amount necessary to pay the following costs is  
 17 appropriated to the commissioner of public safety from the 911  
 18 emergency telecommunications service account established under  
 19 section 403.11:

20       (1) debt service costs and reserves for bonds issued  
 21 pursuant to section 403.27, subdivision 1; and

22       (2) ~~repayment-of-the-right-of-way-acquisition-loans;~~

23       ~~(3)-costs-of-design, construction, maintenance-of, and~~  
 24 ~~improvements-to-those-elements-of-the-first, second, and third~~  
 25 ~~phases-that-support-mutual-aid-communications-and-emergency~~  
 26 ~~medical-services;~~

27       ~~(4)-recurring-charges-for-leased-sites-and-equipment-for~~  
 28 ~~those-elements-of-the-first, second, and third-phases-that~~  
 29 ~~support-mutual-aid-and-emergency-medical-communication-services;~~  
 30 or

31       ~~(5)-aid-to-local-units-of-government-for-sites-and~~  
 32 ~~equipment-in-support-of-mutual-aid-and-emergency-medical~~  
 33 ~~communications-services~~ cost authorized under subdivision 1a.

34       This appropriation shall be used to pay annual debt service  
 35 costs and reserves for bonds issued pursuant to section 403.27,  
 36 subdivision 1, prior to use of fee money to pay other costs

1 eligible under this subdivision. In no event shall the  
2 appropriation for each fiscal year exceed an amount equal to  
3 four cents a month for each customer access line or other basic  
4 access service, including trunk equivalents as designated by the  
5 Public Utilities Commission for access charge purposes and  
6 including cellular and other nonwire access services, in the  
7 fiscal year. ~~Beginning July 17, 2004, this amount will increase~~  
8 ~~to 13 cents a month.~~

9 Sec. 16. Minnesota Statutes 2004, section 403.30, is  
10 amended by adding a subdivision to read:

11 Subd. 1a. [STANDING APPROPRIATION; COSTS COVERED.] (a) For  
12 each fiscal year beginning with the fiscal year commencing July  
13 1, 2005, the amount necessary to pay the following costs is  
14 appropriated to the commissioner of public safety from the 911  
15 emergency telecommunications service account established under  
16 section 403.11:

17 (1) debt service costs and reserves for bonds or other debt  
18 instrument issued pursuant to section 403.27, subdivision 1a;

19 (2) repayment of the right-of-way acquisition loans;

20 (3) costs of design, construction, maintenance of, and

21 improvements to those elements of the system backbone that

22 support mutual aid communications and emergency medical

23 services; and

24 (4) recurring charges for leased sites and equipment for

25 those elements of the system backbone that support mutual aid

26 and emergency medical communication services.

27 (b) The appropriation in paragraph (a) shall be used to pay

28 annual debt service costs and reserves for bonds issued pursuant

29 to section 403.27, subdivision 1a, prior to use of fee money to

30 pay other costs eligible under this subdivision. In no event

31 shall the appropriation for each fiscal year exceed an amount

32 equal to nine cents a month for each customer access line or

33 other basic access service, including trunk equivalents as

34 designated by the Public Utilities Commission for access charge

35 purposes and cellular and other nonwire access services in the

36 fiscal year, plus any excess amounts made available to the

1 commissioner under subdivision 1, clause (2).

2 Sec. 17. Minnesota Statutes 2004, section 403.30,  
3 subdivision 3, is amended to read:

4 Subd. 3. [~~MONTHLY~~ APPROPRIATION TRANSFERS.] ~~Each-month,~~  
5 ~~before-the-25th-day-of-the-month,~~ The commissioner shall  
6 transmit to the Metropolitan Council ~~1/12-of-its-total~~ from the  
7 approved appropriation for-the-regionwide-public-safety  
8 communication-system of funds provided for in section 403.30,  
9 subdivision 1, the amount necessary to meet debt service costs  
10 and reserves for bonds issued by the Metropolitan Council  
11 pursuant to section 403.27, subdivision 1.

12 Sec. 18. Minnesota Statutes 2004, section 403.30, is  
13 amended by adding a subdivision to read:

14 Subd. 3a. [APPROPRIATION TRANSFERS.] The commissioner  
15 shall transmit to the commissioner of finance from the approved  
16 appropriation of funds provided for in section 403.30,  
17 subdivision 1a, the amount necessary to meet debt service costs  
18 and reserves for bonds or other debt instrument issued by the  
19 commissioner of finance pursuant to section 403.27, subdivision  
20 1a.

21 Sec. 19. Minnesota Statutes 2004, section 609.119, is  
22 amended to read:

23 609.119 [ADDITIONAL COLLECTION OF BIOLOGICAL SPECIMENS FOR  
24 DNA TESTING.]

25 (a) ~~From-July-17-2003,-to-June-30-2005,~~ The court shall  
26 order an offender to provide a biological specimen for the  
27 purpose of future DNA analysis as described in section 299C.155  
28 when:

29 (1) the court sentences a person charged with committing or  
30 attempting to commit a felony offense not described in section  
31 609.117, subdivision 1, and the person is convicted of that  
32 offense or of any felony offense arising out of the same set of  
33 circumstances; or

34 (2) the juvenile court adjudicates a person a delinquent  
35 child who is petitioned for committing or attempting to commit a  
36 felony offense not described in section 609.117, subdivision 1,

1 and is adjudicated delinquent for that offense or any  
2 felony-level offense arising out of the same set of  
3 circumstances.

4 The biological specimen shall be maintained by the Bureau of  
5 Criminal Apprehension as provided in section 299C.155.

6 (b) ~~From July 17, 2003, to June 30, 2005,~~ The commissioner  
7 of corrections or local corrections authority shall order a  
8 person to provide a biological specimen for the purpose of  
9 future DNA analysis as described in section 299C.155 before  
10 completion of the person's term of imprisonment when the person  
11 has not provided a biological specimen for the purpose of DNA  
12 analysis, and the person:

13 (1) was initially charged with committing or attempting to  
14 commit a felony offense not described in section 609.117,  
15 subdivision 1, and was convicted of that offense or of any  
16 felony offense arising out of the same set of circumstances; or

17 (2) is serving a term of imprisonment in this state under a  
18 reciprocal agreement although convicted in another state of  
19 committing or attempting to commit a felony offense not  
20 described in section 609.117, subdivision 1, or of any felony  
21 offense arising out of the same set of circumstances if the  
22 person was initially charged with committing or attempting to  
23 commit a felony offense not described in section 609.117,  
24 subdivision 1.

25 The commissioner of corrections or local corrections authority  
26 shall forward the sample to the Bureau of Criminal Apprehension.

27 (c) ~~From July 17, 2003, to June 30, 2005,~~ When the state  
28 accepts an offender from another state under the interstate  
29 compact authorized by section 243.16 or 243.1605, the acceptance  
30 is conditional on the offender providing a biological specimen  
31 for the purposes of future DNA analysis as described in section  
32 299C.155, if the offender was initially charged with committing  
33 or attempting to commit a felony offense not described in  
34 section 609.117, subdivision 1, and was convicted of that  
35 offense or of any felony offense arising out of the same set of  
36 circumstances. The specimen must be provided under supervision

1 of staff from the Department of Corrections or a Community  
2 Corrections Act county within 15 business days after the  
3 offender reports to the supervising agent. The cost of  
4 obtaining the biological specimen is the responsibility of the  
5 agency providing supervision.

6 Sec. 20. [TRANSFER OF RESPONSIBILITIES.]

7 The responsibility of the Department of Employment and  
8 Economic Development for the youth intervention program is  
9 transferred to the Department of Public Safety.

10 Sec. 21. [REVISOR INSTRUCTION.]

11 The revisor of statutes shall renumber Minnesota Statutes,  
12 section 116L.30 as section 299A.73. The revisor shall also make  
13 necessary cross-reference changes consistent with the  
14 renumbering.

15 Sec. 22. [REPEALER.]

16 Minnesota Statutes 2004, sections 299A.64; 299A.65;  
17 299A.66; and 403.30, subdivision 2, are repealed.

18 Sec. 23. [EFFECTIVE DATE.]

19 Sections 1 to 22 are effective July 1, 2005.

### 20 ARTICLE 3

#### 21 METHAMPHETAMINE PROVISIONS

22 Section 1. Minnesota Statutes 2004, section 152.01,  
23 subdivision 10, is amended to read:

24 Subd. 10. [NARCOTIC DRUG.] "Narcotic drug" means any of  
25 the following, whether produced directly or indirectly by  
26 extraction from substances of vegetable origin, or independently  
27 by means of chemical synthesis, or by a combination of  
28 extraction and chemical synthesis:

29 (1) Opium, coca leaves, and opiates, and methamphetamine;

30 (2) A compound, manufacture, salt, derivative, or  
31 preparation of opium, coca leaves, or opiates, or  
32 methamphetamine;

33 (3) A substance, and any compound, manufacture, salt,  
34 derivative, or preparation thereof, which is chemically  
35 identical with any of the substances referred to in clauses (1)  
36 and (2), except that the words "narcotic drug" as used in this

1 chapter shall not include decocainized coca leaves or extracts  
2 of coca leaves, which extracts do not contain cocaine or  
3 ecgonine.

4 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
5 and applies to crimes committed on or after that date.

6 Sec. 2. Minnesota Statutes 2004, section 152.02,  
7 subdivision 6, is amended to read:

8 Subd. 6. [SCHEDULE V; RESTRICTIONS ON METHAMPHETAMINE  
9 PRECURSOR DRUGS.] (a) As used in this subdivision, the following  
10 terms have the meanings given:

11 (1) "methamphetamine precursor drug" means any compound,  
12 mixture, or preparation containing ephedrine or pseudoephedrine  
13 as its sole active ingredient or as one of its active  
14 ingredients;

15 (2) "over-the-counter sale" means a retail sale of a drug  
16 or product but does not include the sale of a drug or product  
17 pursuant to the terms of a valid prescription or by a licensed  
18 veterinarian; and

19 (3) "suspicious transaction" means the sale, distribution,  
20 delivery, or other transfer of a substance under circumstances  
21 that would lead a reasonable person to believe that the  
22 substance is likely to be used to illegally manufacture a  
23 controlled substance based on factors such as the amount of the  
24 substance involved in the transaction, the method of payment,  
25 the method of delivery, and any past dealings with any  
26 participant in the transaction.

27 (b) The following items are listed in Schedule V:

28 (1) any compound, mixture, or preparation containing any of  
29 the following limited quantities of narcotic drugs, which shall  
30 include one or more nonnarcotic active medicinal ingredients in  
31 sufficient proportion to confer upon the compound, mixture or  
32 preparation valuable medicinal qualities other than those  
33 possessed by the narcotic drug alone;

34 ~~{1}~~ (i) not more than 100 milligrams of dihydrocodeine per  
35 100 milliliters or per 100 grams;

36 ~~{2}~~ (ii) not more than 100 milligrams of ethylmorphine per



1 100 milliliters or per 100 grams;

2 ~~(3)~~ (iii) not more than 2.5 milligrams of diphenoxylate and  
3 not less than 25 micrograms of atropine sulfate per dosage  
4 unit; or

5 ~~(4)~~ (iv) not more than 15 milligrams of anhydrous morphine  
6 per 100 milliliters or per 100 grams; and

7 (2) any compound, mixture, or preparation containing  
8 ephedrine or pseudoephedrine as its sole active ingredient or as  
9 one of its active ingredients.

10 (c) No person may sell in a single over-the-counter sale  
11 more than two packages of a methamphetamine precursor drug or a  
12 combination of methamphetamine precursor drugs or any  
13 combination of packages exceeding a total weight of six grams.

14 (d) Over-the-counter sales of methamphetamine precursor  
15 drugs are limited to:

16 (1) packages containing not more than a total of three  
17 grams of one or more methamphetamine precursor drugs, calculated  
18 in terms of ephedrine base or pseudoephedrine base; or

19 (2) for nonliquid products, sales in blister packs, where  
20 each blister contains not more than two dosage units, or, if the  
21 use of blister packs is not technically feasible, sales in unit  
22 dose packets or pouches.

23 (e) A business establishment that offers for sale  
24 methamphetamine precursor drugs in an over-the-counter sale  
25 shall ensure that all packages of the drugs are displayed behind  
26 a checkout counter where the public is not permitted and are  
27 offered for sale only by a licensed pharmacist or a licensed  
28 pharmacy technician. The establishment shall ensure that the  
29 person making the sale requires the buyer:

30 (1) to provide photographic identification showing the  
31 buyer's date of birth; and

32 (2) to sign a written document detailing the date of the  
33 sale, the name of the buyer, and the amount of the drug sold.

34 Nothing in this paragraph requires the buyer to obtain a  
35 prescription for the drug's purchase.

36 (f) No person may acquire through over-the-counter sales

1 more than six grams of methamphetamine precursor drugs within a  
2 30-day period.

3 (g) No person may sell in an over-the-counter sale a  
4 methamphetamine precursor drug to a person under the age of 18  
5 years. It is an affirmative defense to a charge under this  
6 paragraph if the defendant proves by a preponderance of the  
7 evidence that the defendant reasonably and in good faith relied  
8 on proof of age as described in section 340A.503, subdivision 6.

9 (h) A person who knowingly violates paragraph (c), (d),  
10 (e), (f), or (g) is guilty of a misdemeanor and may be sentenced  
11 to imprisonment for not more than 90 days, or to payment of a  
12 fine of not more than \$1,000, or both.

13 (i) An owner, operator, supervisor, or manager of a  
14 business establishment that offers for sale methamphetamine  
15 precursor drugs whose employee or agent is convicted of or  
16 charged with violating paragraph (c), (d), (e), (f), or (g) is  
17 not subject to the criminal penalties for violating any of those  
18 paragraphs if the person:

19 (1) did not have prior knowledge of, participate in, or  
20 direct the employee or agent to commit the violation; and

21 (2) documents that an employee training program was in  
22 place to provide the employee or agent with information on the  
23 state and federal laws and regulations regarding methamphetamine  
24 precursor drugs.

25 (j) Any person employed by a business establishment that  
26 offers for sale methamphetamine precursor drugs who sells such a  
27 drug to any person in a suspicious transaction shall report the  
28 transaction to the owner, supervisor, or manager of the  
29 establishment. The owner, supervisor, or manager may report the  
30 transaction to local law enforcement. A person who reports  
31 information under this subdivision in good faith is immune from  
32 civil liability relating to the report.

33 (k) Paragraphs (c) to (j) do not apply to:

34 (1) pediatric products labeled pursuant to federal  
35 regulation primarily intended for administration to children  
36 under 12 years of age according to label instructions;

1       (2) methamphetamine precursor drugs that are certified by  
 2 the Board of Pharmacy as being manufactured in a manner that  
 3 prevents the drug from being used to manufacture  
 4 methamphetamine; or

5       (3) methamphetamine precursor drugs in gel capsule or  
 6 liquid form.

7       (1) The Board of Pharmacy shall certify methamphetamine  
 8 precursor drugs that meet the requirements of paragraph (k),  
 9 clause (2), and publish an annual listing of these drugs.

10       [EFFECTIVE DATE.] This section is effective August 1, 2005,  
 11 and applies to crimes committed on or after that date.

12       Sec. 3. Minnesota Statutes 2004, section 152.021,  
 13 subdivision 2a, is amended to read:

14       Subd. 2a. [METHAMPHETAMINE MANUFACTURE CRIMES CRIME;  
 15 POSSESSION OF SUBSTANCES WITH INTENT TO MANUFACTURE  
 16 METHAMPHETAMINE CRIME.] (a) Notwithstanding subdivision 1,  
 17 sections 152.022, subdivision 1, 152.023, subdivision 1, and  
 18 152.024, subdivision 1, a person is guilty of controlled  
 19 substance crime in the first degree if the person manufactures  
 20 any amount of methamphetamine.

21       ~~(b) Notwithstanding paragraph (a) and section 609.177 A~~  
 22 ~~person is guilty of attempted manufacture of methamphetamine a~~  
 23 ~~crime if the person possesses any chemical reagents or~~  
 24 ~~precursors with the intent to manufacture methamphetamine. As~~  
 25 ~~used in this section, "chemical reagents or precursors" refers~~  
 26 ~~to one or more include, but are not limited to, any of the~~  
 27 ~~following substances, or their salts, isomers, and salts of~~  
 28 ~~isomers:~~

29       (1) ephedrine;

30       (2) pseudoephedrine;

31       (3) phenyl-2-propanone;

32       (4) phenylacetone;

33       (5) anhydrous ammonia, ~~as defined in section 18C.005,~~  
 34 ~~subdivision 1a;~~

35       (6) organic solvents;

36       (7) hydrochloric acid;

- 1 (8) lithium metal;
- 2 (9) sodium metal;
- 3 (10) ether;
- 4 (11) sulfuric acid;
- 5 (12) red phosphorus;
- 6 (13) iodine;
- 7 (14) sodium hydroxide;
- 8 (15) benzaldehyde;
- 9 (16) benzyl methyl ketone;
- 10 (17) benzyl cyanide;
- 11 (18) nitroethane;
- 12 (19) methylamine;
- 13 (20) phenylacetic acid;
- 14 (21) hydriodic acid; or
- 15 (22) hydriotic acid.

16 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
17 and applies to crimes committed on or after that date.

18 Sec. 4. Minnesota Statutes 2004, section 152.021,  
19 subdivision 3, is amended to read:

20 Subd. 3. [PENALTY.] (a) A person convicted under  
21 subdivisions 1 to 2a, paragraph (a), may be sentenced to  
22 imprisonment for not more than 30 years or to payment of a fine  
23 of not more than \$1,000,000, or both; a person convicted under  
24 subdivision 2a, paragraph (b), may be sentenced to imprisonment  
25 for not more than ~~three~~ ten years or to payment of a fine of not  
26 more than ~~\$57,000~~ \$20,000, or both.

27 (b) If the conviction is a subsequent controlled substance  
28 conviction, a person convicted under subdivisions 1 to 2a,  
29 paragraph (a), shall be committed to the commissioner of  
30 corrections for not less than four years nor more than 40 years  
31 and, in addition, may be sentenced to payment of a fine of not  
32 more than \$1,000,000; a person convicted under subdivision 2a,  
33 paragraph (b), may be sentenced to imprisonment for not more  
34 than ~~four~~ 15 years or to payment of a fine of not more than  
35 ~~\$57,000~~ \$30,000, or both.

36 (c) In a prosecution under subdivision 1 involving sales by

1 the same person in two or more counties within a 90-day period,  
2 the person may be prosecuted for all of the sales in any county  
3 in which one of the sales occurred.

4 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
5 and applies to crimes committed on or after that date.

6 Sec. 5. Minnesota Statutes 2004, section 152.027,  
7 subdivision 1, is amended to read:

8 Subdivision 1. [SALE OF SCHEDULE V CONTROLLED SUBSTANCE.]  
9 Except as provided in section 152.02, subdivision 6, a person  
10 who unlawfully sells one or more mixtures containing a  
11 controlled substance classified in schedule V may be sentenced  
12 to imprisonment for not more than one year or to payment of a  
13 fine of not more than \$3,000, or both.

14 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
15 and applies to crimes committed on or after that date.

16 Sec. 6. Minnesota Statutes 2004, section 152.027,  
17 subdivision 2, is amended to read:

18 Subd. 2. [POSSESSION OF SCHEDULE V CONTROLLED SUBSTANCE.]  
19 Except as provided in section 152.02, subdivision 6, a person  
20 who unlawfully possesses one or more mixtures containing a  
21 controlled substance classified in schedule V may be sentenced  
22 to imprisonment for not more than one year or to payment of a  
23 fine of not more than \$3,000, or both. The court may order that  
24 a person who is convicted under this subdivision and placed on  
25 probation be required to take part in a drug education program  
26 as specified by the court.

27 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
28 and applies to crimes committed on or after that date.

29 Sec. 7. [152.0275] [CERTAIN CONTROLLED SUBSTANCE OFFENSES;  
30 RESTITUTION; PROHIBITIONS ON PROPERTY USE; NOTICE PROVISIONS.]

31 Subdivision 1. [RESTITUTION.] (a) As used in this  
32 subdivision:

33 (1) "clandestine lab site" means any structure or  
34 conveyance or outdoor location occupied or affected by  
35 conditions or chemicals typically associated with the  
36 manufacturing of methamphetamine;

1       (2) "emergency response" includes, but is not limited to,  
2 removing and collecting evidence, securing the site, removal,  
3 remediation, and hazardous chemical assessment or inspection of  
4 the site where the relevant offense or offenses took place,  
5 regardless of whether these actions are performed by the public  
6 entities themselves or by private contractors paid by the public  
7 entities, or the property owner;

8       (3) "remediation" means proper cleanup, treatment, or  
9 containment of hazardous substances or methamphetamine at or in  
10 a clandestine lab site, and may include demolition or disposal  
11 of structures or other property when an assessment so indicates;  
12 and

13       (4) "removal" means the removal from the clandestine lab  
14 site of precursor or waste chemicals, chemical containers, or  
15 equipment associated with the manufacture, packaging, or storage  
16 of illegal drugs.

17       (b) A court shall require a person convicted of  
18 manufacturing or attempting to manufacture a controlled  
19 substance or of an illegal activity involving a precursor  
20 substance, where the response to the crime involved an emergency  
21 response, to pay restitution to all public entities that  
22 participated in the response. The restitution ordered must  
23 cover the reasonable costs of their participation in the  
24 response.

25       (c) In addition to the restitution required in paragraph  
26 (b), a court shall require a person convicted of manufacturing  
27 or attempting to manufacture a controlled substance or of  
28 illegal activity involving a precursor substance to pay  
29 restitution to a property owner who incurred removal or  
30 remediation costs because of the crime.

31       (d) Notwithstanding paragraphs (b) and (c), if the court  
32 finds that the convicted person is indigent or that payment of  
33 the restitution would create undue hardship for the convicted  
34 person's immediate family, the court may reduce the amount of  
35 restitution to an appropriate level.

36       Subd. 2. [PROPERTY-RELATED PROHIBITIONS; NOTICE; WEB

1 SITE.] (a) As used in this subdivision:

2 (1) "clandestine lab site" has the meaning given in  
3 subdivision 1, paragraph (a);

4 (2) "property" includes buildings and other structures, and  
5 motor vehicles as defined in section 609.487, subdivision 2a.  
6 Property also includes real property whether publicly or  
7 privately owned and public waters and rights-of-way;

8 (3) "remediation" has the meaning given in subdivision 1,  
9 paragraph (a); and

10 (4) "removal" has the meaning given in subdivision 1,  
11 paragraph (a).

12 (b) A peace officer who arrests a person at a clandestine  
13 lab site shall notify the appropriate county or local health  
14 department, state duty officer, and child protection services of  
15 the arrest and the location of the site.

16 (c) A county or local health department or sheriff shall  
17 order that all property that has been found to be a clandestine  
18 lab site and contaminated by substances, chemicals, or items of  
19 any kind used in the manufacture of methamphetamine or any part  
20 of the manufacturing process, or the by-products or degradates  
21 of manufacturing methamphetamine be prohibited from being  
22 occupied, rented, sold, or used until it has been assessed and  
23 remediated as provided in the Department of Health's clandestine  
24 drug labs general cleanup guidelines.

25 (d) Unless clearly inapplicable, the procedures specified  
26 in chapter 145A and any related rules adopted under that chapter  
27 addressing the enforcement of public health laws, the removal  
28 and abatement of public health nuisances, and the remedies  
29 available to property owners or occupants apply to this  
30 subdivision.

31 (e) Upon the proper removal and remediation of any property  
32 used as a clandestine lab site, the contractor shall verify to  
33 the applicable authority that issued the order under paragraph  
34 (c) that the work was completed according to the Department of  
35 Health's clandestine drug labs general cleanup guidelines and  
36 best practices and that levels of contamination have been

1 reduced to levels set forth in the guidelines. Following this,  
2 the applicable authority shall vacate its order.

3 (f) If the applicable authority determines under paragraph  
4 (c) that a motor vehicle has been contaminated by substances,  
5 chemicals, or items of any kind used in the manufacture of  
6 methamphetamine or any part of the manufacturing process, or the  
7 by-products or degradates of manufacturing methamphetamine and  
8 if the authority is able to obtain the certificate of title for  
9 the motor vehicle, the authority shall notify the registrar of  
10 motor vehicles of this fact and in addition, forward the  
11 certificate of title to the registrar. The authority shall also  
12 notify the registrar when it vacates its order under paragraph  
13 (e).

14 (g) The applicable authority issuing an order under  
15 paragraph (c) shall record with the county recorder or registrar  
16 of titles of the county where the clandestine lab is located an  
17 affidavit containing a legal description of the property where  
18 the clandestine lab was located that discloses to any potential  
19 transferee:

20 (1) that the land was the site of a clandestine lab;

21 (2) the location, condition, and circumstances of the  
22 clandestine lab, to the full extent known or reasonably  
23 ascertainable; and

24 (3) that the use of the property or some portion of it may  
25 be restricted as provided by paragraph (c).

26 If the authority vacates its order under paragraph (e), the  
27 authority shall record an affidavit noting this fact.

28 (h) Unless an affidavit has already been filed under  
29 paragraph (g), before any transfer of ownership of any property  
30 that the owner knew or should have known had been used as a  
31 clandestine lab site and contaminated by substances, chemicals,  
32 or items of any kind used in the manufacture of methamphetamine  
33 or any part of the manufacturing process, or the by-products or  
34 degradates of manufacturing methamphetamine, regardless of when  
35 this occurred or whether an order under paragraph (c) had been  
36 issued, the owner shall record with the county recorder or



1 registrar of titles of the county in which the property is  
2 located an affidavit containing the information required under  
3 paragraph (g), clauses (1) and (2). Any person who violates  
4 this paragraph is guilty of a petty misdemeanor.

5 (i) If proper removal and remediation has occurred on the  
6 property, an interested party may record an affidavit indicating  
7 that this has occurred. Failure to record such an affidavit  
8 does not affect or prevent any transfer of ownership of the  
9 property.

10 (j) The county recorder or registrar of titles must record  
11 all affidavits presented under paragraph (g), (h), or (i) in a  
12 manner that assures their disclosure in the ordinary course of a  
13 title search of the subject property.

14 (k) The commissioner of health shall post on the Internet  
15 contact information for each local community health services  
16 administrator.

17 (l) Each local community health services administrator  
18 shall maintain information related to property within the  
19 administrator's jurisdiction that is currently or was previously  
20 subject to an order issued under paragraph (c). The information  
21 maintained must include the location of the property, the extent  
22 of the contamination, the status of the removal and remediation  
23 work on the property, and whether the order has been vacated.  
24 The administrator shall make this information available to the  
25 public either upon request or by other means.

26 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
27 and applies to crimes committed on or after that date.

28 Sec. 8. Minnesota Statutes 2004, section 152.135,  
29 subdivision 2, is amended to read:

30 Subd. 2. [EXCEPTIONS.] (a) A drug product containing  
31 ephedrine, its salts, optical isomers, and salts of optical  
32 isomers is exempt from subdivision 1 if the drug product:

33 (1) may be lawfully sold over the counter without a  
34 prescription under the federal Food, Drug, and Cosmetic Act,  
35 United States Code, title 21, section 321, et seq.;

36 (2) is labeled and marketed in a manner consistent with the

1 pertinent OTC Tentative Final or Final Monograph;

2 (3) is manufactured and distributed for legitimate  
3 medicinal use in a manner that reduces or eliminates the  
4 likelihood of abuse;

5 (4) is not marketed, advertised, or labeled for the  
6 indication of stimulation, mental alertness, weight loss, muscle  
7 enhancement, appetite control, or energy; and

8 (5) is in solid oral dosage forms, including soft gelatin  
9 caplets, that combine 400 milligrams of guaifenesin and 25  
10 milligrams of ephedrine per dose, according to label  
11 instructions; or is an anorectal preparation containing not more  
12 than five percent ephedrine; and

13 (6) is sold in a manner that does not conflict with section  
14 152.02, subdivision 6.

15 (b) Subdivisions 1 and 3 shall not apply to products  
16 containing ephedra or ma huang and lawfully marketed as dietary  
17 supplements under federal law.

18 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
19 and applies to crimes committed on or after that date.

20 Sec. 9. [152.136] [ANHYDROUS AMMONIA; PROHIBITED CONDUCT;  
21 CRIMINAL PENALTIES; CIVIL LIABILITY.]

22 Subdivision 1. [DEFINITIONS.] As used in this section,  
23 "tamper" means action taken by a person not authorized to take  
24 that action by law or by the owner or authorized custodian of an  
25 anhydrous ammonia container or of equipment where anhydrous  
26 ammonia is used, stored, distributed, or transported.

27 Subd. 2. [PROHIBITED CONDUCT.] (a) A person may not:

28 (1) steal or unlawfully take or carry away any amount of  
29 anhydrous ammonia;

30 (2) purchase, possess, transfer, or distribute any amount  
31 of anhydrous ammonia, knowing, or having reason to know, that it  
32 will be used to unlawfully manufacture a controlled substance;

33 (3) place, have placed, or possess anhydrous ammonia in a  
34 container that is not designed, constructed, maintained, and  
35 authorized to contain or transport anhydrous ammonia;

36 (4) transport anhydrous ammonia in a container that is not

1 designed, constructed, maintained, and authorized to transport  
2 anhydrous ammonia;

3 (5) use, deliver, receive, sell, or transport a container  
4 designed and constructed to contain anhydrous ammonia without  
5 the express consent of the owner or authorized custodian of the  
6 container; or

7 (6) tamper with any equipment or facility used to contain,  
8 store, or transport anhydrous ammonia.

9 (b) For the purposes of this subdivision, containers  
10 designed and constructed for the storage and transport of  
11 anhydrous ammonia are described in rules adopted under section  
12 18C.121, subdivision 1, or in Code of Federal Regulations, title  
13 49.

14 Subd. 3. [NO CAUSE OF ACTION.] (a) Except as provided in  
15 paragraph (b), a person tampering with anhydrous ammonia  
16 containers or equipment under subdivision 2 shall have no cause  
17 of action for damages arising out of the tampering against:

18 (1) the owner or lawful custodian of the container or  
19 equipment;

20 (2) a person responsible for the installation or  
21 maintenance of the container or equipment; or

22 (3) a person lawfully selling or offering for sale the  
23 anhydrous ammonia.

24 (b) Paragraph (a) does not apply to a cause of action  
25 against a person who unlawfully obtained the anhydrous ammonia  
26 or anhydrous ammonia container or who possesses the anhydrous  
27 ammonia or anhydrous ammonia container for any unlawful purpose.

28 Subd. 4. [CRIMINAL PENALTY.] A person who knowingly  
29 violates subdivision 2 is guilty of a felony and may be  
30 sentenced to imprisonment for not more than five years or to  
31 payment of a fine of not more than \$50,000, or both.

32 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
33 and applies to crimes committed on or after that date.

34 Sec. 10. [152.137] [METHAMPHETAMINE-RELATED CRIMES  
35 INVOLVING CHILDREN AND VULNERABLE ADULTS.]

36 Subdivision 1. [DEFINITIONS.] (a) As used in this section,

1 the following terms have the meanings given.

2 (b) "Chemical substance" means a substance intended to be  
3 used as a precursor in the manufacture of methamphetamine or any  
4 other chemical intended to be used in the manufacture of  
5 methamphetamine.

6 (c) "Child" means any person under the age of 18 years.

7 (d) "Methamphetamine paraphernalia" means all equipment,  
8 products, and materials of any kind that are used, intended for  
9 use, or designed for use in manufacturing, injecting, ingesting,  
10 inhaling, or otherwise introducing methamphetamine into the  
11 human body.

12 (e) "Methamphetamine waste products" means substances,  
13 chemicals, or items of any kind used in the manufacture of  
14 methamphetamine or any part of the manufacturing process, or the  
15 by-products or degradates of manufacturing methamphetamine.

16 (f) "Vulnerable adult" has the meaning given in section  
17 609.232, subdivision 11.

18 Subd. 2. [PROHIBITED CONDUCT.] (a) No person may knowingly  
19 engage in any of the following activities in the presence of a  
20 child or vulnerable adult; in the residence of a child or a  
21 vulnerable adult; in a building, structure, conveyance, or  
22 outdoor location where a child or vulnerable adult might  
23 reasonably be expected to be present; in a room offered to the  
24 public for overnight accommodation; or in any multiple unit  
25 residential building:

26 (1) manufacturing or attempting to manufacture  
27 methamphetamine;

28 (2) storing any chemical substance;

29 (3) storing any methamphetamine waste products; or

30 (4) storing any methamphetamine paraphernalia.

31 (b) No person may knowingly cause or permit a child or  
32 vulnerable adult to inhale, be exposed to, have contact with, or  
33 ingest methamphetamine, a chemical substance, or methamphetamine  
4 paraphernalia.

35 Subd. 3. [CRIMINAL PENALTY.] A person who violates  
36 subdivision 2 is guilty of a felony and may be sentenced to

1 imprisonment for not more than five years or to payment of a  
2 fine of not more than \$10,000, or both.

3 Subd. 4. [MULTIPLE SENTENCES.] Notwithstanding sections  
4 609.035 and 609.04, a prosecution for or conviction under this  
5 section is not a bar to conviction of or punishment for any  
6 other crime committed by the defendant as part of the same  
7 conduct.

8 Subd. 5. [PROTECTIVE CUSTODY.] A peace officer may take  
9 any child present in an area where any of the activities  
10 described in subdivision 2, paragraph (a), clauses (1) to (4),  
11 are taking place into protective custody in accordance with  
12 section 260C.175, subdivision 1, paragraph (b), clause (2). A  
13 child taken into protective custody under this subdivision shall  
14 be provided health screening to assess potential health concerns  
15 related to methamphetamine as provided in section 260C.188. A  
16 child not taken into protective custody under this subdivision  
17 but who is known to have been exposed to methamphetamine shall  
18 be offered health screening for potential health concerns  
19 related to methamphetamine as provided in section 260C.188.

20 Subd. 6. [REPORTING MALTREATMENT OF VULNERABLE ADULT.] (a)  
21 A peace officer shall make a report of suspected maltreatment of  
22 a vulnerable adult if the vulnerable adult is present in an area  
23 where any of the activities described in subdivision 2,  
24 paragraph (a), clauses (1) to (4), are taking place, and the  
25 peace officer has reason to believe the vulnerable adult  
26 inhaled, was exposed to, had contact with, or ingested  
27 methamphetamine, a chemical substance, or methamphetamine  
28 paraphernalia. The peace officer shall immediately report to  
29 the county common entry point as described in section 626.557,  
30 subdivision 9b.

31 (b) As required in section 626.557, subdivision 9b, law  
32 enforcement is the primary agency to conduct investigations of  
33 any incident when there is reason to believe a crime has been  
34 committed. Law enforcement shall initiate a response  
35 immediately. If the common entry point notified a county agency  
36 for adult protective services, law enforcement shall cooperate

1 with that county agency when both agencies are involved and  
 2 shall exchange data to the extent authorized in section 626.557,  
 3 subdivision 12b, paragraph (g). County adult protection shall  
 4 initiate a response immediately.

5 (c) The county social services agency shall immediately  
 6 respond as required in section 626.557, subdivision 10, upon  
 7 receipt of a report from the common entry point staff.

8 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
 9 and applies to crimes committed on or after that date.

10 Sec. 11. Minnesota Statutes 2004, section 609.1095,  
 11 subdivision 1, is amended to read:

12 Subdivision 1. [DEFINITIONS.] (a) As used in this section,  
 13 the following terms have the meanings given.

14 (b) "Conviction" means any of the following accepted and  
 15 recorded by the court: a plea of guilty, a verdict of guilty by  
 16 a jury, or a finding of guilty by the court. The term includes  
 17 a conviction by any court in Minnesota or another jurisdiction.

18 (c) "Prior conviction" means a conviction that occurred  
 19 before the offender committed the next felony resulting in a  
 20 conviction and before the offense for which the offender is  
 21 being sentenced under this section.

22 (d) "Violent crime" means a violation of or an attempt or  
 23 conspiracy to violate any of the following laws of this state or  
 24 any similar laws of the United States or any other state:

25 section sections 152.137; 609.165; 609.185; 609.19; 609.195;  
 26 609.20; 609.205; 609.21; 609.221; 609.222; 609.223; 609.228;  
 27 609.235; 609.24; 609.245; 609.25; 609.255; 609.2661; 609.2662;  
 28 609.2663; 609.2664; 609.2665; 609.267; 609.2671; 609.268;  
 29 609.342; 609.343; 609.344; 609.345; 609.498, subdivision 1;  
 30 609.561; 609.562; 609.582, subdivision 1; 609.66, subdivision  
 31 le; 609.687; and 609.855, subdivision 5; any provision of  
 32 sections 609.229; 609.377; 609.378; 609.749; and 624.713 that is  
 33 punishable by a felony penalty; or any provision of chapter 152  
 34 that is punishable by a maximum sentence of 15 years or more.

35 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
 36 and applies to crimes committed on or after that date.

Article 1 APPROPRIATIONS..... page 2  
Article 2 PUBLIC SAFETY LAW CHANGES..... page 6  
Article 3 METHAMPHETAMINE PROVISIONS..... page 26

APPENDIX  
Repealed Minnesota Statutes for 05-2302

**299A.64 CRIMINAL GANG COUNCIL AND STRIKE FORCE.**

Subdivision 1. **Membership of council.** The Criminal Gang Oversight Council consists of the following individuals or their designees: the commissioner of public safety; the commissioner of corrections; the superintendent of the Bureau of Criminal Apprehension; the attorney general; the chief law enforcement officers for Minneapolis, St. Paul, St. Cloud, and Duluth; a chief of police selected by the president of the Minnesota Chiefs of Police Association; two sheriffs, one from a county in the seven-county metropolitan area other than Hennepin or Ramsey County and the other from a county outside the metropolitan area, both selected by the president of the Minnesota Sheriffs Association; and the Hennepin, Ramsey, St. Louis, and Olmsted County sheriffs. The council may select a chair from among its members.

Subd. 2. **Statewide gang strategy.** (a) The council shall develop an overall strategy to eliminate the harm caused to the public by criminal gangs and their illegal activities within the state of Minnesota. In developing the strategy, the council shall consult with representatives from the Community Services Division of the Minnesota Department of Corrections and federal probation officers employed by the United States District Court of Minnesota. As far as practicable, the strategy must address all criminal gangs operating in the state regardless of location or the motivation or ethnicity of the gangs' members. The strategy must address criminal gangs in both the metropolitan area and greater Minnesota. The council shall consult with and take into account the needs of law enforcement agencies and prosecutorial offices in greater Minnesota in developing the strategy. The strategy must target individuals or groups based on their criminal behavior, not their physical appearance. The strategy must take into account the rights of groups and individuals that the strike force may target and protect against abuses of these rights.

(b) In addition to developing the strategy described in paragraph (a), the council shall develop criteria and identifying characteristics for use in determining whether individuals are or may be members of gangs involved in criminal activity. The council shall also develop procedures and criteria for the investigation of criminal gangs and crimes committed by those gangs throughout the state.

Subd. 3. **Criminal Gang Strike Force.** The council shall oversee the organization and deployment of a statewide Criminal Gang Strike Force. The strike force must consist of law enforcement officers, Bureau of Criminal Apprehension agents, an assistant attorney general, and a communications and intelligence network. The council shall select the members of the strike force who shall serve at the pleasure of the council. The council shall ensure that all law enforcement officers selected to join the strike force are licensed peace officers or federal law enforcement agents found by the Minnesota Board of Peace Officer Standards and Training to have equivalent qualifications. In selecting members of the strike force, the council shall consult with chiefs of local law enforcement agencies, sheriffs, and other interested parties. The council shall request these individuals to recommend willing and experienced persons under their jurisdiction who would help the strike force and to permit those persons to join it. To the greatest extent possible, entities contributing members to the



APPENDIX  
Repealed Minnesota Statutes for 05-2302

strike force are encouraged to also contribute equipment and other support. The council shall attempt to ensure that these entities do so.

Subd. 4. **Strike force duties.** The strike force shall implement the strategy developed by the council and is responsible for tactical decisions regarding implementation of the strategy. In addition and upon request, the strike force shall assist and train local governmental units, law enforcement agencies, and prosecutors' offices in methods to identify criminal gangs and gang members. To the greatest extent possible, the strike force shall operate as a cohesive unit exclusively for the purposes listed in this section. If regional units are established under subdivision 7, the council shall ensure that the existence and operation of these units do not impair the overall goal of a uniform statewide strategy to combat crimes committed by gangs.

Subd. 5. **Service; transfer.** To the greatest extent possible, members of the strike force shall serve on the force for the entirety of its existence. Members continue to be employed by the same entity by which they were employed before joining the strike force. While serving on the strike force, however, members are under the exclusive command of the strike force. A member who desires to be transferred back to the position the member held before joining the strike force may request a transfer from the council. The council shall approve and arrange for the requested transfer as soon as is practicable. The person in charge of the organization from which the member came also may request that a member be transferred back. In these instances, the council shall approve and arrange for the requested transfer immediately or as soon as is practicable. If a member is transferred from the strike force, the person in charge of the organization from which the member came shall arrange for an experienced individual, acceptable to the council, to replace the transferred person on the strike force. If this arrangement cannot be made, any grant received under section 299A.66, subdivision 1, must be repaid on a prorated basis.

Subd. 6. **Commanders.** The council shall designate a member of the strike force to be its commander and may appoint an individual assigned to a regional unit established under subdivision 7 to be the commander of the regional unit.

Subd. 7. **Regional units.** If the council at any time determines that it would be more effective and efficient to have distinct units within the strike force concentrating on specific areas, it may establish regional units within the strike force and select their members. If the council chooses to do so, the other provisions of this section still apply to the individual units, and the council still has the duty and authority to develop necessary procedures and criteria for and to oversee the operation of each individual unit. The council may continue to alter the structure of the strike force and any units composing it in any way designed to further its effectiveness and to carry out the intent of this section.

Subd. 8. **Role of assistant attorney general.** The assistant attorney general assigned to the strike force shall generally advise the council on any matters that the council deems appropriate. The council may seek advice from other attorneys and, if the council decides it would be appropriate, may retain outside counsel. The assistant attorney general

APPENDIX  
Repealed Minnesota Statutes for 05-2302

shall train local prosecutors in prosecuting cases involving criminal gangs and in interviewing witnesses and victims and shall cooperate with other strike force members in developing and building strong cases.

**Subd. 9. Attorney general; community liaison. (a)**

The attorney general or a designee shall serve as a liaison between the Criminal Gang Oversight Council and the councils created in sections 3.922, 3.9223, 3.9225, and 3.9226. The attorney general or the designee will be responsible for:

- (1) informing the councils of the Criminal Gang Oversight Council's plans, activities, and decisions and hearing their reactions to those plans, activities, and decisions; and
- (2) providing the Criminal Gang Oversight Council with information about the councils' position on the oversight council's plans, activities, and decisions.

(b) In no event is the Criminal Gang Oversight Council required to disclose the names of individuals identified by it to the councils referenced in this subdivision.

(c) Nothing in this subdivision changes the data classification of any data held by the oversight council.

**Subd. 10. Required report.** By February 1 of each year, the council shall report to the chairs of the senate and house of representatives committees and divisions having jurisdiction over criminal justice policy and funding on the activities of the council and strike force. This annual report shall include:

- (1) a description of the council's goals for the previous year and for the coming year;
- (2) a description of the outcomes the council achieved or did not achieve during the preceding year and a description of the outcomes the council will seek to achieve during the coming year; and
- (3) any legislative recommendations the council has including, where necessary, a description of the specific legislation needed to implement the recommendations.

**299A.65 JURISDICTION AND LIABILITY.**

**Subdivision 1. Statewide jurisdiction.** Law enforcement officers who are members of the Criminal Gang Strike Force have statewide jurisdiction to conduct criminal investigations and possess the same powers of arrest as those possessed by a sheriff.

**Subd. 2. Liability and workers' compensation.** While operating under the scope of this section, members of the strike force are "employees of the state" as defined in section 3.736 and are considered employees of the Department of Public Safety for purposes of chapter 176.

**299A.66 GRANT PROGRAMS.**

**Subdivision 1. Reimbursement grant authorized.** The commissioner of public safety, upon recommendation of the council, may award grants to local law enforcement agencies, sheriff's offices, and other organizations that have contributed members to the Criminal Gang Strike Force to hire new persons to replace those who have joined the force. A grant may cover a two-year period and reimburse the recipient for a maximum of 100 percent of the salary of the person contributed to the strike force. A recipient of a grant under this subdivision must use the money to hire a new person to replace the person who has joined the strike force, thus keeping its complement of employees at the same level. The money may not be used to pay

APPENDIX  
Repealed Minnesota Statutes for 05-2302

for equipment or uniforms.

Subd. 2. **Grant to expand local capacity to combat criminal gangs.** (a) The commissioner of public safety, upon recommendation of the council, may award grants to local law enforcement agencies and city and county attorneys' offices to expand the agency's or office's capacity to successfully investigate and prosecute crimes committed by criminal gangs.

(b) Grant applicants under this subdivision shall submit to the commissioner and the council a detailed plan describing the uses for which the money will be put. The commissioner and the council shall evaluate grant applications and award grants in a manner that will best ensure positive results. The commissioner may award grants to purchase necessary equipment and to develop or upgrade computer systems if the commissioner determines that those uses would best aid the recipient's attempts to combat criminal gangs. The commissioner shall require recipients of grants to provide follow-up reports to the council detailing the success of the recipient in combating criminal gangs.

(c) The commissioner shall condition grants made under this subdivision to require that recipients agree to cooperate with the council and the Bureau of Criminal Apprehension in establishing and expanding the criminal gang investigative data system described in section 299C.091 and in implementing the strategy developed by the council to combat criminal gangs. Grant recipients must agree to provide the council and bureau with any requested information regarding the activities and characteristics of criminal gangs and gang members operating within their jurisdictions.

**403.30 APPROPRIATION; TRANSFERS; BUDGET.**

Subd. 2. **Radio board budget.** The Metropolitan Council shall transmit the annual budget of the radio board to the commissioner of public safety no later than December 15 of each year. The commissioner shall include all eligible costs approved by the radio board for the regionwide public safety communication system in the commissioner's request for legislative appropriations from the 911 emergency telecommunications service fee account.

1 Senator ..... moves to amend S.F. No. 1323 as  
2 follows:

3 Pages 13 and 14, delete section 7 and insert:

4 "Sec. 7. Minnesota Statutes 2004, section 299F.46,  
5 subdivision 3, is amended to read:

6 Subd. 3. [INSPECTION FEES; HOTELS AND DORMITORIES.] (a)

7 For each hotel or dormitory with 35 or more rooms and required  
8 to have a fire inspection according to subdivision 1, the  
9 commissioner of public safety may charge each-hotel a triennial  
10 inspection fee of \$435 and a per-room charge of \$5-fer-one-to-18  
11 units, \$6-fer-19-to-35-units, \$7-fer-36-to-100-units, \$7 for 35  
12 to 99 units and \$8 for 100 or more units, or a per bed charge of  
13 50 cents for beds in a group sleeping area. The-fee-includes  
14 one-follow-up-inspection.--The-commissioner-shall-charge-each  
15 resort-a-triennial-inspection-fee-of-\$435-and-a-per-room-charge  
16 of-\$5-fer-one-to-ten-units, \$6-fer-11-to-25-units, and-\$7-fer-26  
17 or-more-units. These fees include one follow-up inspection.  
18 The commissioner shall charge a fee of \$225 for each additional  
19 follow-up inspection for ~~hotels-and-resorts~~ these buildings,  
20 conducted in each three-year cycle that is necessary to bring  
21 the ~~hotel-or-resort~~ building into compliance with the State Fire  
22 Code.

23 (b) For each hotel or dormitory with fewer than 35 rooms  
24 and required to have a fire inspection according to subdivision  
25 1, the commissioner of public safety may charge a triennial  
26 inspection fee of \$217.50 and a per-room charge of \$3 for a  
27 hotel or dormitory, and a per-cabin charge of \$2.50, or a  
28 per-bed charge of 50 cents per bed in group sleeping areas.  
29 These fees include one follow-up inspection. The commissioner  
30 shall charge a fee of \$112.50 for each additional follow-up  
31 inspection for these buildings, conducted in each three-year  
32 cycle that is necessary to bring the building into compliance  
33 with the State Fire Code.

34 (c) Nothing in this subdivision prevents the  
35 designated local government agent, as defined in subdivision 2,  
36 from continuing to charge an established inspection fee or from

1 establishing a new inspection fee.

2 ~~(c) Hotels and motels with fewer than 35 rooms and resorts~~  
3 ~~classified as 1c under section 273.13 are exempt from the fee~~  
4 ~~requirements of this subdivision."~~

1 Senator ..... moves to amend S.F. No. 1323 as follows:

2 Page 9, line 18, after the semicolon, insert:

3 "(13) a tribal peace officer, selected by the Tribal Law  
4 Enforcement Association;"

5 Page 9, line 19, delete "(13)" and insert "(14)"

**Senate Counsel, Research,  
and Fiscal Analysis**

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# Senate

State of Minnesota

## **S.F. No. 1551 -Voting Rights Modifications (First Engrossment)**

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**Date:** April 5, 2005

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**S.F. No. 1551** includes a number of provisions that make it easier to register to vote and to vote. Section 16 of the bill amends the Voter's Bill of Rights to allow felons who have completed their probation or parole to vote. The bill has four provisions that are under the jurisdiction of the Crime Prevention Committee.

**Section 20** requires the Commissioner of Corrections to inform each person finally discharged from a sentence for a felony that their civil rights have been restored and to give them a voter registration application and a cover letter to be sent with the application to the county auditor informing the auditor that the ex-felon's rights have been restored.

**Section 21** requires the court, when finally discharging a felon from probation, to inform them that their civil rights have been restored and to give them a voter registration application and a cover letter to be sent with the application to the county auditor informing the auditor that the ex-felon's rights have been restored.

**Section 23** requires the county sheriff or jailer in each county to provide absentee ballots to prisoners who are eligible and who desire to vote.

**Section 24** requires the chief of police or marshal in each city to provide absentee ballots to prisoners who are eligible and who desire to vote.

CT:vs

## 1 A bill for an act

2 relating to elections; facilitating registering to  
3 vote and voting; facilitating voter registration by  
4 college students; clarifying voting rights of persons  
5 under guardianship; extending the deadline for  
6 submitting voter registration applications; clarifying  
7 documents acceptable to prove residence; specifying  
8 form of voter registration application; authorizing  
9 registered voters to withhold their name from the  
10 public information list; requiring polling place  
11 officials to wear identification badges; requiring  
12 translation of voting materials; regulating conduct  
13 and requiring training of polling place challengers;  
14 adding to the Voter's Bill of Rights; allowing  
15 ex-felons to leave a polling place and return;  
16 requiring notice to ex-felons that their civil rights  
17 have been restored; providing voting assistance to  
18 prisoners; amending Minnesota Statutes 2004, sections  
19 135A.17, subdivision 2; 201.014, subdivision 2;  
20 201.061, subdivisions 1, 3, by adding a subdivision;  
21 201.071, subdivision 1; 201.091, subdivision 4;  
22 201.15; 203B.16, by adding a subdivision; 204B.10,  
23 subdivision 6; 204B.24; 204B.27, subdivision 11;  
24 204C.06, subdivision 2; 204C.07, subdivision 4, by  
25 adding a subdivision; 204C.08, subdivision 1a;  
26 204C.10; 204C.12, subdivisions 2, 4; 243.05,  
27 subdivision 3; 524.5-310; proposing coding for new law  
28 in Minnesota Statutes, chapters 244; 641; 642.

29 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

30 Section 1. Minnesota Statutes 2004, section 135A.17,  
31 subdivision 2, is amended to read:

32 Subd. 2. [RESIDENTIAL HOUSING LIST.] All postsecondary  
33 institutions that enroll students accepting state or federal  
34 financial aid may shall prepare a current list of students the  
35 name and address of each student enrolled in the institution and  
36 residing in the institution's housing or in other housing within  
37 ten-miles-of the county, or a county contiguous to the county,



1 where the institution's campus is located. Institutions that do  
2 not consider student addresses to be public information under  
3 applicable federal and state privacy laws shall make release  
4 forms available to all students authorizing the institution to  
5 provide the addresses to the county auditor. The list  
6 ~~shall include each student's current~~ be based on the most recent  
7 residence address the student has provided to the institution.  
8 If the student gives the institution, before the list is sent to  
9 the county auditor or auditors, a written request that the  
10 student's name and residence address be omitted from the list,  
11 the institution must honor the request. The list shall be  
12 certified and sent to the appropriate county auditor or auditors  
13 for use in election day registration as provided under section  
14 201.061, subdivision 3.

15 Sec. 2. Minnesota Statutes 2004, section 201.014,  
16 subdivision 2, is amended to read:

17 Subd. 2. [NOT ELIGIBLE.] The following individuals are not  
18 eligible to vote. Any individual:

19 (a) Convicted of treason or any felony whose civil rights  
20 have not been restored;

21 (b) Under a guardianship ~~of the person~~ in which the court  
22 order ~~provides that the ward does not retain~~ revokes the ward's  
23 right to vote; or

24 (c) Found by a court of law to be legally incompetent.

25 Sec. 3. Minnesota Statutes 2004, section 201.061,  
26 subdivision 1, is amended to read:

27 Subdivision 1. [PRIOR TO ELECTION DAY.] At any time except  
28 during the 20 days immediately preceding any election, an  
29 eligible voter or any individual who will be an eligible voter  
30 at the time of the next election may register to vote in the  
31 precinct in which the voter maintains residence by completing a  
32 voter registration application as described in section 201.071,  
33 subdivision 1, and submitting it in person or by mail to the  
34 county auditor of that county or to the Secretary of State's  
35 Office. A registration that is received no later than 5:00 p.m.  
36 on the 21st day preceding any election shall be accepted. An

1 improperly addressed or delivered registration application shall  
2 be forwarded within two working days after receipt to the county  
3 auditor of the county where the voter maintains residence. A  
4 state or local agency or an individual that accepts from anyone  
5 a completed voter registration applications-from application  
6 signed and dated by a voter must submit the completed  
7 applications application to the secretary of state or the  
8 appropriate county auditor within ~~ten~~ 15 business days after the  
9 ~~applications-are~~ application was dated by the voter.

10 For purposes of this section, mail registration is defined  
11 as a voter registration application delivered to the secretary  
12 of state, county auditor, or municipal clerk by the United  
13 States Postal Service or a commercial carrier.

14 Sec. 4. Minnesota Statutes 2004, section 201.061,  
15 subdivision 3, is amended to read:

16 Subd. 3. [ELECTION DAY REGISTRATION.] (a) An individual  
17 who is eligible to vote may register on election day by  
18 appearing in person at the polling place for the precinct in  
19 which the individual maintains residence, by completing a  
20 registration application, making an oath in the form prescribed  
21 by the secretary of state and providing proof of residence. An  
22 individual may prove residence for purposes of registering by:

23 (1) presenting a driver's license or Minnesota  
24 identification card issued pursuant to section 171.07;

25 (2) presenting a current and valid photo identification  
26 that shows the name and valid residential address of the voter;

27 (3) presenting a copy of a current utility bill, signed  
28 residential lease, bank statement, government check, paycheck,  
29 or other government document that shows the name and valid  
30 residential address of the voter;

31 (4) presenting any document approved by the secretary of  
32 state as proper identification;

33 ~~(3)~~ (5) presenting one of the following:

34 (i) a current valid student identification card from a  
5 postsecondary educational institution in Minnesota, if a list of  
36 students from that institution has been prepared under section

1 135A.17 and certified to the county auditor in the manner  
2 provided in rules of the secretary of state; or

3 (ii) a current student fee statement that contains the  
4 student's valid residential address in the precinct together  
5 ~~with-a-picture-identification-card;~~

6 (iii) a copy of a current student registration card that  
7 contains the student's valid residential address in the  
8 precinct; or

9 (iv) a current student monthly rental statement that  
10 contains the student's valid residential address in the  
11 precinct; or

12 ~~(4)~~ (6) having a voter who is registered to vote in the  
13 precinct, or who is an employee employed by and working in a  
14 residential facility in the precinct, sign an oath in the  
15 presence of the election judge vouching that the voter or  
16 employee personally knows that the individual is a resident of  
17 the precinct. A voter who has been vouched for on election day  
18 may not sign a proof of residence oath vouching for any other  
19 individual on that election day.

20 (b) The operator of a residential facility shall prepare a  
21 list of the names of its employees currently working in the  
22 residential facility and the address of the residential  
23 facility. The operator shall certify the list and provide it to  
24 the appropriate county auditor no less than 20 days before each  
25 election for use in election day registration.

26 (c) For tribal band members living-on-an-Indian  
27 reservation, an individual may prove residence for purposes of  
28 registering by presenting an identification card issued by the  
29 tribal government of a tribe recognized by the Bureau of Indian  
30 Affairs, United States Department of the Interior, that contains  
31 the name, street address, signature, and picture of the  
32 individual. The-county-auditor-of-each-county-having-territory  
33 within-the-reservation-shall-maintain-a-record-of-the-number-of  
34 election-day-registrations-accepted-under-this-section.

35 (d) A county, school district, or municipality may require  
36 that an election judge responsible for election day registration

1 initial each completed registration application.

2 Sec. 5. Minnesota Statutes 2004, section 201.061, is  
3 amended by adding a subdivision to read:

4 Subd. 3a. [DEFINITIONS.] (a) The definitions in this  
5 subdivision apply to subdivision 3.

6 (b) "Bank statement" includes a bank statement, investment  
7 account statement, brokerage statement, pension fund statement,  
8 dividend check, or any other notice or letter from a financial  
9 institution relating to an account or investment held by the  
10 voter at the financial institution.

11 (c) "Government check" includes a Social Security  
12 Administration check statement or a check stub or electronic  
13 deposit receipt from a public assistance payment or tax refund  
14 or credit.

15 (d) "Other government document" includes military  
16 identification; a document issued by a governmental entity that  
17 qualifies for use as identification for purposes of acquiring a  
18 driver's license in this state; a Metro Mobility card; a  
19 property tax statement; a public housing lease or rent statement  
20 or agreement, or a rent statement or agreement provided under a  
21 subsidized housing program; a document or statement provided to  
22 a voter as evidence of income or eligibility for a tax deduction  
23 or tax credit; a periodic notice from a federal, state, or local  
24 agency for a public assistance program, such as the Minnesota  
25 family investment program, food stamps, general assistance,  
26 medical assistance, general assistance medical care,  
27 MinnesotaCare, unemployment benefits, or Social Security; an  
28 insurance card for a government administered or subsidized  
29 health insurance program; or a discharge certificate, pardon, or  
30 other official document issued to the voter in connection with  
31 the resolution of a criminal case, indictment, sentence, or  
32 other matter, in accordance with state law.

33 (e) "Paycheck" includes a check stub or electronic deposit  
34 receipt.

5 (f) "Residential facility" means transitional housing as  
36 defined in section 119A.43, subdivision 1; a supervised living

1 facility licensed by the commissioner of health under section  
2 144.50, subdivision 6; a nursing home as defined in section  
3 144A.01, subdivision 5; a residence registered with the  
4 commissioner of health as a housing with services establishment  
5 as defined in section 144D.01, subdivision 4; a veterans home  
6 operated by the board of directors of the Minnesota Veterans  
7 Homes under chapter 198; a residence licensed by the  
8 commissioner of human services to provide a residential program  
9 as defined in section 245A.02, subdivision 14; a residential  
10 facility for persons with a developmental disability licensed by  
11 the commissioner of human services under section 252.28; group  
12 residential housing as defined in section 256I.03, subdivision  
13 3; a shelter for battered women as defined in section 611A.37,  
14 subdivision 4; or a supervised publicly or privately operated  
15 shelter or dwelling designed to provide temporary living  
16 accommodations for the homeless.

17 (g) "Utility bill" includes a bill for gas, electricity,  
18 telephone, wireless telephone, cable television, solid waste,  
19 water, or sewer services.

20 Sec. 6. Minnesota Statutes 2004, section 201.071,  
21 subdivision 1, is amended to read:

22 Subdivision 1. [FORM.] A voter registration application  
23 must be of suitable size and weight for mailing and contain  
24 spaces for the following required information: voter's first  
25 name, middle name, and last name; voter's previous name, if any;  
26 voter's current address; voter's previous address, if any;  
27 voter's date of birth; voter's municipality and county of  
28 residence; voter's telephone number, if provided by the voter;  
29 date of registration; current and valid Minnesota driver's  
30 license number or Minnesota state identification number, or if  
31 the voter has no current and valid Minnesota driver's license or  
32 Minnesota state identification, the last four digits of the  
33 voter's Social Security number; and voter's signature. The  
34 registration application may include the voter's e-mail address,  
35 if provided by the voter, and the voter's interest in serving as  
36 an election judge, if indicated by the voter. The application

1 must also contain the following certification of voter  
2 eligibility:

3 "I certify that I:

4 (1) will be at least 18 years old on election day;

5 (2) am a citizen of the United States;

6 (3) will have resided in Minnesota for 20 days immediately  
7 preceding election day;

8 (4) maintain residence at the address given on the  
9 registration form;

10 (5) am not under court-ordered guardianship of-the-person  
11 ~~where-I-have-not-retained-the~~ in which the court order revokes  
12 my right to vote;

13 (6) have not been found by a court to be legally  
14 incompetent to vote;

15 (7) have ~~not~~ the right to vote because, if I have been  
16 convicted of a felony without-having-my-civil-rights-restored, I  
17 have completed my probation or parole; and

18 (8) have read and understand the following statement: that  
19 giving false information is a felony punishable by not more than  
20 five years imprisonment or a fine of not more than \$10,000, or  
21 both."

22 The certification must include boxes for the voter to  
23 respond to the following questions:

24 "(1) Are you a citizen of the United States?" and

25 "(2) Will you be 18 years old on or before election day?"

26 And the instruction:

27 "If you checked 'no' to either of these questions, do not  
28 complete this form."

29 The voter registration application must set forth the  
30 deadline under section 201.061, subdivision 1, for returning a  
31 voter registration application after it is dated by the voter.

32 Text on the voter registration application must be printed  
33 in black ink.

34 The form of the voter registration application and the  
35 certification of voter eligibility must be as provided in this  
36 subdivision ~~and-approved-by-the-secretary-of-state.~~ Voter

1 registration forms authorized by the National Voter Registration  
2 Act may also be accepted as valid.

3 An individual may use a voter registration application to  
4 apply to register to vote in Minnesota or to change information  
5 on an existing registration.

6 Sec. 7. Minnesota Statutes 2004, section 201.091,  
7 subdivision 4, is amended to read:

8 Subd. 4. [PUBLIC INFORMATION LISTS.] The county auditor  
9 shall make available for inspection a public information list  
10 which must contain the name, address, year of birth, and voting  
11 history of each registered voter in the county. The telephone  
12 number must be included on the list if provided by the voter.  
13 The public information list may also include information on  
14 voting districts. The county auditor may adopt reasonable rules  
15 governing access to the list. No individual inspecting the  
16 public information list shall tamper with or alter it in any  
17 manner. No individual who inspects the public information list  
18 or who acquires a list of registered voters prepared from the  
19 public information list may use any information contained in the  
20 list for purposes unrelated to elections, political activities,  
21 or law enforcement. The secretary of state may provide copies  
22 of the public information lists and other information from the  
23 statewide registration system for uses related to elections,  
24 political activities, or in response to a law enforcement  
25 inquiry from a public official concerning a failure to comply  
26 with any criminal statute or any state or local tax statute.

27 Before inspecting the public information list or obtaining  
28 a list of voters or other information from the list, the  
29 individual shall provide identification to the public official  
30 having custody of the public information list and shall state in  
31 writing that any information obtained from the list will not be  
32 used for purposes unrelated to elections, political activities,  
33 or law enforcement. Requests to examine or obtain information  
34 from the public information lists or the statewide registration  
35 system must be made and processed in the manner provided in the  
36 rules of the secretary of state.

1        Upon receipt of a ~~written request and a copy of the court~~  
2 ~~order statement signed by the voter that withholding the voter's~~  
3 ~~name from the public information list is required for the safety~~  
4 ~~of the voter or the voter's family~~, the secretary of state and  
5 ~~county auditor~~ must withhold from the public information list  
6 the name of any a registered voter ~~placed under court ordered~~  
7 ~~protection~~.

8        Sec. 8. Minnesota Statutes 2004, section 201.15, is  
9 amended to read:

10        201.15 [DISTRICT JUDGE, REPORT GUARDIANSHIPS AND  
11 COMMITMENTS.]

12        Subdivision 1. [GUARDIANSHIPS AND INCOMPETENTS.] Pursuant  
13 to the Help America Vote Act of 2002, Public Law 107-252, the  
14 state court administrator shall report monthly by electronic  
15 means to the secretary of state the name, address, and date of  
16 birth of each individual 18 years of age or over, who during the  
17 month preceding the date of the report:

18        (a) was placed under a guardianship ~~of the person~~ in which  
19 the court order ~~provides that the ward does not retain~~ revokes  
20 the ward's right to vote; or

21        (b) was adjudged legally incompetent.

22        The court administrator shall also report the same  
23 information for each individual transferred to the jurisdiction  
24 of the court who meets a condition specified in clause (a) or  
25 (b). The secretary of state shall determine if any of the  
26 persons in the report is registered to vote and shall prepare a  
27 list of those registrants for the county auditor. The county  
28 auditor shall change the status on the record in the statewide  
29 registration system of any individual named in the report to  
30 indicate that the individual is not eligible to reregister or  
31 vote.

32        Subd. 2. [~~RESTORATION TO CAPACITY~~ GUARDIANSHIP TERMINATION  
33 OR MODIFICATION.] Pursuant to the Help America Vote Act of 2002,  
34 Public Law 107-252, the state court administrator shall report  
35 monthly by electronic means to the secretary of state the name,  
36 address, and date of birth of each individual ~~transferred from~~



1 ~~whose guardianship to-conservatorship-or-who-is-restored-to~~  
2 ~~capacity-by-the-court~~ was modified to restore the ward's right  
3 to vote or whose guardianship was terminated by order of the  
4 court under section 524.5-317 after being ineligible to vote for  
5 any of the reasons specified in subdivision 1. The secretary of  
6 state shall determine if any of the persons in the report is  
7 registered to vote and shall prepare a list of those registrants  
8 for the county auditor. The county auditor shall change the  
9 status on the voter's record in the statewide registration  
10 system to "active."

11 Sec. 9. Minnesota Statutes 2004, section 203B.16, is  
12 amended by adding a subdivision to read:

13 Subd. 5. [DUTIES OF COUNTY AUDITOR.] Each county auditor  
14 shall mail absentee ballot applications to the study-abroad  
15 office of each college or university whose principal  
16 administrative offices are located within the county.

17 Sec. 10. Minnesota Statutes 2004, section 204B.10,  
18 subdivision 6, is amended to read:

19 Subd. 6. [INELIGIBLE VOTER.] Upon receipt of a certified  
20 copy of a final judgment or order of a court of competent  
21 jurisdiction that a person who has filed an affidavit of  
22 candidacy or who has been nominated by petition:

23 (1) has been convicted of treason or a felony and the  
24 person's civil rights have not been restored;

25 (2) is under guardianship ~~of-the-person~~ in which the court  
26 order revokes the ward's right to vote; or

27 (3) has been found by a court of law to be legally  
28 incompetent;

29 the filing officer shall notify the person by certified mail at  
30 the address shown on the affidavit or petition, and shall not  
31 certify the person's name to be placed on the ballot. The  
32 actions of a filing officer under this subdivision are subject  
33 to judicial review under section 204B.44.

34 Sec. 11. Minnesota Statutes 2004, section 204B.24, is  
35 amended to read:

36 204B.24 [ELECTION JUDGES; OATH.]

1 Each election judge shall sign the following oath before  
2 assuming the duties of the office:

3 "I ..... solemnly swear that I will perform the duties  
4 of election judge according to law and the best of my ability  
5 and will diligently endeavor to prevent fraud, deceit and abuse  
6 in conducting this election. I will perform my duties in a fair  
7 and impartial manner and not attempt to create an advantage for  
8 my party or for any candidate."

9 The oath shall be attached to the summary statement of the  
10 election returns of that precinct. If there is no individual  
11 present who is authorized to administer oaths, the election  
12 judges may administer the oath to each other.

13 Sec. 12. Minnesota Statutes 2004, section 204B.27,  
14 subdivision 11, is amended to read:

15 Subd. 11. [TRANSLATION OF VOTING INSTRUCTIONS MATERIALS.]

16 The secretary of state ~~may~~ shall develop voter registration  
17 applications, absentee ballot applications, ballots, absentee  
18 ballots, and voting instructions in languages other than  
19 English, ~~to be posted and made available in polling places~~  
20 during elections. The state demographer shall determine and  
21 report to the secretary of state the languages that are so  
22 common in this state that there is a need for translated  
23 voting instructions materials. The secretary of state shall  
24 develop the materials for those languages recommended by the  
25 state demographer. The secretary of state shall publish the  
26 materials and provide paper copies on request of any voter at no  
27 charge to the voter. The voting instructions must be posted and  
28 made available in polling places during elections. The posted  
29 voting instructions must include a pictorial representation of a  
30 voter completing the voting process. In those precincts where  
31 the state demographer has determined it is likely that at least  
32 five percent of the eligible voters speak one of the languages  
33 other than English for which translated voting materials have  
34 been published by the secretary of state, the translated  
35 materials for that language must be posted or otherwise made  
36 available in the polling place.

1 Sec. 13. Minnesota Statutes 2004, section 204C.06,  
2 subdivision 2, is amended to read:

3 Subd. 2. [INDIVIDUALS ALLOWED IN POLLING PLACE;  
4 IDENTIFICATION.] (a) Representatives of the secretary of state's  
5 office, the county auditor's office, and the municipal or school  
6 district clerk's office may be present at the polling place to  
7 observe election procedures. Except for these representatives,  
8 election judges, sergeants-at-arms, and challengers, an  
9 individual may remain inside the polling place during voting  
10 hours only while voting or registering to vote, providing proof  
11 of residence for an individual who is registering to vote, or  
12 assisting a handicapped voter or a voter who is unable to read  
13 English. During voting hours no one except individuals  
14 receiving, marking, or depositing ballots shall approach within  
15 six feet of a voting booth, unless lawfully authorized to do so  
16 by an election judge.

17 (b) Teachers and elementary or secondary school students  
18 participating in an educational activity authorized by section  
19 204B.27, subdivision 7, may be present at the polling place  
20 during voting hours.

21 (c) Each official on duty in the polling place must wear an  
22 identification badge that shows their role in the election  
23 process. The badge must not show their party affiliation.

24 Sec. 14. Minnesota Statutes 2004, section 204C.07,  
25 subdivision 4, is amended to read:

26 Subd. 4. [RESTRICTIONS ON CONDUCT.] An election judge may  
27 not be appointed as a challenger. The election judges shall  
28 permit challengers appointed pursuant to this section to be  
29 present in the polling place during the hours of voting and to  
30 remain there until the votes are counted and the results  
31 declared. No challenger shall handle or inspect registration  
32 cards, files, or lists. Challengers shall not prepare in any  
33 manner any list of individuals who have or have not voted. They  
34 shall not attempt to influence voting in any manner. They shall  
35 not converse with a voter except to determine, in the presence  
36 of an election judge, whether the voter is eligible to vote in

1 the precinct.

2 Sec. 15. Minnesota Statutes 2004, section 204C.07, is  
3 amended by adding a subdivision to read:

4 Subd. 5. [CHALLENGER TRAINING.] (a) The secretary of state  
5 shall adopt rules for training challengers as required by this  
6 subdivision.

7 (b) At least once every two years, the secretary of state  
8 shall provide training in accordance with the rules of the  
9 secretary of state for all challengers who are appointed to  
10 serve at any election to be held in this state. The secretary  
11 of state shall also provide a procedure for emergency training  
12 of challengers appointed to fill vacancies. The secretary of  
13 state may delegate to a county or municipal election official  
14 the duty to provide training of challengers in that county,  
15 municipality, or school district.

16 (c) No individual may serve as a challenger who is not a  
17 registered voter in this state and who has not received at least  
18 two hours of training within the last two years as required by  
19 this subdivision.

20 (d) Each major political party must reimburse the secretary  
21 of state, county auditor, or municipal clerk for the cost of  
22 training challengers appointed by that major political party.

23 Sec. 16. Minnesota Statutes 2004, section 204C.08,  
24 subdivision 1a, is amended to read:

25 Subd. 1a. [VOTER'S BILL OF RIGHTS.] The county auditor  
26 shall prepare and provide to each polling place sufficient  
27 copies of a poster setting forth the Voter's Bill of Rights as  
28 set forth in this section. Before the hours of voting are  
29 scheduled to begin, the election judges shall post it in a  
30 conspicuous location or locations in the polling place. The  
31 Voter's Bill of Rights is as follows:

32 "VOTER'S BILL OF RIGHTS

33 For all persons residing in this state who meet federal  
34 voting eligibility requirements:

35 (1) You have the right to be absent from work for the  
36 purpose of voting during the morning of election day.

1 (2) If you are in line at your polling place any time  
2 between 7:00 a.m. and 8:00 p.m., you have the right to vote.

3 (3) If you can provide the required proof of residence, you  
4 have the right to register to vote and to vote on election day.

5 (4) If you are unable to sign your name, you have the right  
6 to orally confirm your identity with an election judge and to  
7 direct another person to sign your name for you.

8 (5) You have the right to request special assistance when  
9 voting.

10 (6) If you need assistance, you may be accompanied into the  
11 voting booth by a person of your choice, except by an agent of  
12 your employer or union or a candidate.

13 (7) You have the right to bring your minor children into  
14 the polling place and into the voting booth with you.

15 (8) If you have been convicted of a felony but ~~your-civil~~  
16 ~~rights-have-been-restored~~ have completed your probation or  
17 parole, you have the right to vote.

18 (9) If you are under a guardianship, you have the right to  
19 vote, unless the court order revokes your right to vote.

20 (10) You have the right to vote without anyone in the  
21 polling place trying to influence your vote.

22 ~~(10)~~ (11) If you make a mistake or spoil your ballot before  
23 it is submitted, you have the right to receive a replacement  
24 ballot and vote.

25 ~~(11)~~ (12) You have the right to file a written complaint at  
26 your polling place if you are dissatisfied with the way an  
27 election is being run.

28 ~~(12)~~ (13) You have the right to take a sample ballot into  
29 the voting booth with you.

30 ~~(13)~~ (14) You have the right to take a copy of this Voter's  
31 Bill of Rights into the voting booth with you."

32 Sec. 17. Minnesota Statutes 2004, section 204C.10, is  
33 amended to read:

34 204C.10 [PERMANENT REGISTRATION; VERIFICATION OF  
35 REGISTRATION.]

36 (a) An individual seeking to vote shall sign a polling

1 place roster which states that the individual is at least 18  
2 years of age, a citizen of the United States, has resided in  
3 Minnesota for 20 days immediately preceding the election,  
4 maintains residence at the address shown, is not under a  
5 guardianship in which the ~~individual-has-not-retained~~ court  
6 order revokes the individual's right to vote, has not been found  
7 by a court of law to be legally incompetent to vote or convicted  
8 of a felony without having civil rights restored, is registered  
9 and has not already voted in the election. The roster must also  
10 state: "I understand that deliberately providing false  
11 information is a felony punishable by not more than five years  
12 imprisonment and a fine of not more than \$10,000, or both."

13 (b) A judge may, before the applicant signs the roster,  
14 confirm the applicant's name, address, and date of birth.

15 (c) After the applicant signs the roster, the judge shall  
16 give the applicant a voter's receipt. The voter shall deliver  
17 the voter's receipt to the judge in charge of ballots as proof  
18 of the voter's right to vote, and thereupon the judge shall hand  
19 to the voter the ballot. The voters' receipts must be  
20 maintained during the time for notice of filing an election  
21 contest.

22 Sec. 18. Minnesota Statutes 2004, section 204C.12,  
23 subdivision 2, is amended to read:

24 Subd. 2. [STATEMENT OF GROUNDS; OATH.] The challenger  
25 shall state the ground for the challenge, ~~and~~ in writing, under  
26 oath, and based on the challenger's personal knowledge. An  
27 election judge shall administer to the challenged individual the  
28 following oath:

29 "Do you solemnly swear that you will fully and truly answer  
30 all questions put to you concerning your eligibility to vote at  
31 this election?"

32 The election judge shall then ask the challenged individual  
33 sufficient questions to test that individual's residence and  
34 right to vote.

35 Sec. 19. Minnesota Statutes 2004, section 204C.12,  
36 subdivision 4, is amended to read:

1 Subd. 4. [REFUSAL TO ANSWER QUESTIONS OR SIGN A POLLING  
2 PLACE ROSTER.] A challenged individual who refuses to answer  
3 questions or sign a polling place roster as required by this  
4 section must not be allowed to vote. A challenged individual  
5 who leaves the polling place and returns later willing to answer  
6 questions or sign a polling place roster must not be allowed to  
7 vote, except an individual challenged because of a prior  
8 conviction of a felony.

9 Sec. 20. Minnesota Statutes 2004, section 243.05,  
10 subdivision 3, is amended to read:

11 Subd. 3. [DUTY OF COMMISSIONER; FINAL DISCHARGE.] It is  
12 the duty of the commissioner of corrections to keep in  
13 communication, as far as possible, with all persons who are on  
14 parole and with their employers. The commissioner may grant a  
15 person on parole a final discharge from any sentence when:

16 (a) the person on parole has complied with the conditions  
17 of parole for a period of time sufficient to satisfy the  
18 commissioner that the parolee is reliable and trustworthy;

19 (b) the commissioner is satisfied the person on parole will  
20 remain at liberty without violating the law; and

21 (c) final discharge is not incompatible with the welfare of  
22 society.

23 Upon the granting of a final discharge, the commissioner  
24 shall issue a certificate of final discharge to the person  
25 discharged and also cause a record of the acts of the inmate to  
26 be made. The record shall show the date of the inmate's  
27 confinement, the inmate's record while in prison, the date of  
28 parole, the inmate's record while on parole, reasons underlying  
29 the decision for final discharge, and other facts which the  
30 commissioner regards as appropriate. Nothing in this section or  
31 section 244.05 shall be construed as impairing the power of the  
32 board of pardons to grant a pardon or commutation in any case.

33 The commissioner shall inform the person finally discharged  
34 that their civil rights have been restored and give them a voter  
35 registration application and a letter to be sent with the voter  
36 registration application informing the county auditor that the

1 ex-felon's civil rights have been restored.

2 Sec. 21. [244.30] [NOTICE OF RESTORATION OF CIVIL RIGHTS.]

3 Upon final discharge from probation, the court shall inform  
4 the person finally discharged that their civil rights have been  
5 restored and give them a voter registration application and a  
6 letter to be sent with the voter registration application  
7 informing the county auditor that the ex-felon's civil rights  
8 have been restored.

9 Sec. 22. Minnesota Statutes 2004, section 524.5-310, is  
10 amended to read:

11 524.5-310 [FINDINGS; ORDER OF APPOINTMENT.]

12 (a) The court may appoint a limited or unlimited guardian  
13 for a respondent only if it finds by clear and convincing  
14 evidence that:

15 (1) the respondent is an incapacitated person; and

16 (2) the respondent's identified needs cannot be met by less  
17 restrictive means, including use of appropriate technological  
18 assistance.

19 (b) Alternatively, the court, with appropriate findings,  
20 may treat the petition as one for a protective order under  
21 section 524.5-401, enter any other appropriate order, or dismiss  
22 the proceeding.

23 (c) The court shall grant to a guardian only those powers  
24 necessitated by the ward's limitations and demonstrated needs  
25 and, whenever feasible, make appointive and other orders that  
26 will encourage the development of the ward's maximum  
27 self-reliance and independence. Any power not specifically  
28 granted to the guardian, following a written finding by the  
29 court of a demonstrated need for that power, is retained by the  
30 ward.

31 (d) Within 14 days after an appointment, a guardian shall  
32 send or deliver to the ward, and counsel if represented at the  
33 hearing, a copy of the order of appointment accompanied by a  
34 notice which advises the ward of the right to appeal the  
35 guardianship appointment in the time and manner provided by the  
36 Rules of Appellate Procedure.



1 (e) Each year, within 30 days after the anniversary date of  
2 an appointment, a guardian shall send or deliver to the ward a  
3 notice of the right to request termination or modification of  
4 the guardianship and notice of the status of the ward's right to  
5 vote.

6 Sec. 23. [641.45] [VOTING ASSISTANCE TO PRISONERS.]

7 The county sheriff or jailer in each county in consultation  
8 with the county auditor shall determine the number of prisoners  
9 incarcerated in the county jail, workhouse, or other  
10 correctional facility under the control of the county who are  
11 eligible to vote and who desire to vote at a municipal, county,  
12 state, or federal election but will be unable to vote in the  
13 precinct where the prisoner maintains residence because of their  
14 incarceration. The county sheriff or jailer shall obtain from  
15 the appropriate county auditor the corresponding number of  
16 absentee ballot applications and provide them to the prisoners  
17 requesting them.

18 Sec. 24. [642.15] [VOTING ASSISTANCE TO PRISONERS.]

19 The chief of police or marshal in each city in consultation  
20 with the county auditor shall determine the number of prisoners  
21 incarcerated in the city lockup, jail, workhouse, or other  
22 correctional facility under the control of the city who are  
23 eligible to vote and who desire to vote at a municipal, county,  
24 state, or federal election but will be unable to vote in the  
25 precinct where the prisoner maintains residence because of their  
26 incarceration. The chief of police or marshal shall obtain from  
27 the appropriate county auditor the corresponding number of  
28 absentee ballot applications and provide them to the prisoners  
29 requesting them.

- 1 Senator ..... moves to amend S.F. No. 1551 as follows:
- 2 Pages 16 and 17, delete sections 20 and 21
- 3 Renumber the sections in sequence and correct the internal
- 4 references
- 5 Amend the title accordingly

1 Senator ..... moves to amend S.F. No. 1551 as follows:

2 Page 18, line 6, delete "PRISONERS" and insert "INMATES"

3 Page 18, line 7, before "The" insert "(a) Upon an inmate's  
4 admission to a county jail, workhouse, or other correctional  
5 facility under the control of the county, in addition to other  
6 information required to be provided by law or rule, the county  
7 sheriff or jailer shall provide to the inmate information on how  
8 to vote.

9 (b) When requested by an inmate incarcerated in a county  
10 jail, workhouse, or other correctional facility under the  
11 control of the county,"

12 Page 18, line 8, delete "number of prisoners" and insert  
13 "inmate's eligibility"

14 Page 18, delete lines 9 and 10

15 Page 18, line 11, delete "eligible to vote and who desire"

16 Page 18, line 12, delete everything after "election"

17 Page 18, delete line 13

18 Page 18, line 14, delete "incarceration" and after the  
19 period, insert "When requested by an inmate incarcerated in a  
20 county jail, workhouse, or other correctional facility under the  
21 control of the county,"

22 Page 18, line 16, delete "prisoners" and insert "inmates"

23 Page 18, delete section 24

24 Amend the title accordingly

1 Senator ..... moves to amend S.F. No. 1551 as follows:

2 Page 7, line 16, delete "I" and insert "either my sentence  
3 has expired or been discharged"

4 Page 7, line 17, delete the new language

5 Page 14, lines 16 and 17, delete the new language and  
6 insert "your sentence has expired or been discharged"

**Senate Counsel, Research,  
and Fiscal Analysis**

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# Senate

State of Minnesota

## S.F. No. 317 - Legalization of Texas Hold'em

**Author:** Senator Dave Kleis

**Prepared by:** Chris Turner, Senate Research (651/296-4350) CT

**Date:** April 5, 2005

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Minnesota Statutes, sections 609.755 and 609.76, prohibit certain acts of gambling. Section 609.761 exempts social skill games played in tournaments or contests that satisfy certain statutory requirements.

**Section 1** adds Texas hold'em to the list of social skill games allowed under certain conditions, provided all players are 18 or older. It also authorizes a statutory or home rule city or, where applicable, a county to adopt contest regulations more stringent than the state, including the imposition of a tournament or contest fee for Texas hold'em not to exceed \$200, and the prohibition of any state sanctioned social skill game.

CT:vs

1                                   A bill for an act

2           relating to crime prevention and public safety;

3           gambling; legalizing the game of Texas hold'em under

4           certain conditions; amending Minnesota Statutes 2004,

5           section 609.761, subdivision 3.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

7           Section 1. Minnesota Statutes 2004, section 609.761,

8           subdivision 3, is amended to read:

9           Subd. 3. [SOCIAL SKILL GAME.] Sections 609.755 and 609.76

10          do not prohibit tournaments or contests that satisfy all of the

11          following requirements:

12           (1) the tournament or contest consists of the card games of

13          } chance commonly known as cribbage, skat, sheephead, bridge,

14          euchre, pinochle, gin, 500, smear, Texas hold'em, or whist;

15           (2) the tournament or contest does not provide any direct

16          financial benefit to the promoter or organizer; and

17           (3) the sum of all prizes awarded for each tournament or

18          contest does not exceed \$200. No person under 18 years of age

19          may participate in a Texas hold'em tournament or contest.

20           A statutory or home rule city or county has the authority

21          to adopt more stringent regulations of a tournament or contest

22          of social skill games within its jurisdiction, including the

23          prohibition of a tournament or contest of a social skill game,

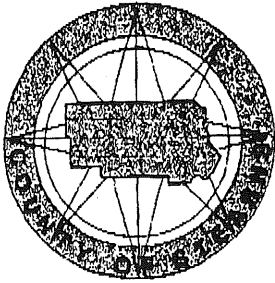
24          and may require a permit for the conduct of a tournament or

25          contest of Texas hold'em. The fee for a permit issued under

1 this subdivision must be reasonably related to the cost incurred  
2 by the city or county in administering and enforcing the permit  
3 and may not exceed \$200. A county may only regulate tournaments  
4 or contests of Texas hold'em that occur outside the boundaries  
5 of a statutory or home rule charter city.

6 Sec. 2. [EFFECTIVE DATE.]

7 Section 1 is effective the day following final enactment  
8 and applies to acts committed on or after the enactment date.



# COUNTY OF STEARNS

*Office of the County Attorney*

*Janelle P. Kendall, Stearns County Attorney*

October 27, 2004

Mr. Frank Ball  
Minnesota Department of Public Safety  
Alcohol and Gambling Enforcement Division  
1800 NCL Tower  
445 Minnesota Street  
St. Paul, MN 55101

RE: Case Number 04-224  
Granite Bowl Texas Hold'em Investigation

Dear Mr. Ball:

Over the past couple of years, the Stearns County Attorney's Office has successfully prosecuted several gambling violation cases, obtaining convictions for crimes involving maintaining or operating a gambling place, unlawful gambling fraud and possession of gambling devices including unlicensed tip boards. This office will continue to prosecute gambling violation cases within the confines of existing law.

However, as we have discussed with members of your division, the prohibitions currently found in Minnesota law regulating gambling, when applied to the specific manner in which the Granite Bowl conducted Texas Hold'em Poker Tournaments, do not reveal a clear violation of the gambling laws that could be proven by proof beyond a reasonable doubt. Due to legal issues revealed by this situation as well as the underlying reason for this enforcement action by the Minnesota Department of Public Safety's Alcohol and Gambling Enforcement Division, a statutory explanation is in order.

## Statutory Definitions

Minn. Stat. §609.76, Subd. 1(1) makes it a gross misdemeanor to maintain or operate a **gambling place**, defined in Minn. Stat. 609.75, Subd. 5 as "a location or structure, stationary or moveable, or any part thereof, wherein, as one of its uses, betting is permitted or promoted...".

Minn. Stat. §609.75, Subd. 2 defines a **bet** as "a bargain whereby the parties mutually agree to a gain or loss by one to the other of specified money, profit or benefit, dependent upon chance although the chance is accompanied by some element of skill."



### Investigation

The original investigation into the Granite Bowl tournament by the Department of Public Safety's Alcohol and Gambling Enforcement Division (hereafter, "the GED") was based on a complaint that the Granite Bowl poker tournament included entry fees and the exchange of money. The GED brought this complaint to the bar owner's attention, but investigation revealed that the tournaments continued. This legitimate complaint of illegal activity was followed by a full investigation employing proper legal means, including a search warrant. The investigation was conducted independently by the GED until the search warrant was executed with the stand-by assistance of the St. Cloud Police Department, upon which reports were submitted to this office.

When the search was conducted, no evidence of monetary exchange was found. The investigation revealed, however, that poker chips, tables, cards, employees acting as dealers, and a centralized location were provided at no cost by the Granite Bowl to players in the tournament, and that the player with the most chips at the end of each tournament received a nominal prize from the Granite Bowl. To the Granite Bowl's credit, specific instructions provided by the Granite Bowl included prohibitions against any money changing hands. Only the free chips were exchanged between the people playing cards.

### Legal Issue

The legal issue arises over whether playing poker in this specific context constitutes making an illegal "bet" under Minn. Stat. §609.75, Subd. 2, defined above. The legal definition of a "bet" requires proof beyond a reasonable doubt that there was a gain or loss by one player to another. The chips themselves were provided by the Granite Bowl, then gained or lost by one player to another. The potentially illegal "benefit" gained or lost (the prize at the end of the tournament), came not "by one to the other" between the players in the card game, but came from a third party, the Granite Bowl, the sponsor of the tournament. Because the specific facts of this case show that the "gain" by the player who had the most poker chips at the end of the tournament came from the Granite Bowl, and not the other player, it is not clear by proof beyond a reasonable doubt that this exchange of chips alone, from which the benefit came from a 3<sup>rd</sup> party, is an illegal "bet". Although it could be argued that the gain or loss of the chips themselves is a "bet", whether this chip exchange resulting in a benefit from a third party is what the Legislature intended to make criminal is an ambiguous legal issue.

Therefore, the issue of whether or not the activities promoted and sponsored by the Granite Bowl constitute "betting", and thus make the Granite Bowl a "gambling place", is ambiguous based on the current Minnesota law defining exactly what constitutes a "bet". Thus, the game itself as conducted in the context of this investigation is not clearly, beyond a reasonable doubt, criminal under existing Minnesota law.

### Organized gambling context

With that being said, the context of the organized, commercialized and systematic nature of the Granite Bowl's tournament, with the initial allegation of monetary exchange, was legitimately the subject of a detailed investigation. The formal nature and promotion of the tournament along with the specific complaint properly attracted law enforcement attention. If even private social bets, involving small amounts of money between friends as allowed by Minn. Stat. §609.75, Subd. 3(5), occurred in this organized and systematic context, the outcome might well be different. Because the gain/loss was not

clearly between the players, and because there is no proof that money changed hands, the facts of this specific case do not support a criminal prosecution.

As you know, prosecutors can only evaluate specific investigative information submitted by law enforcement, and cannot provide legal advice beyond this to individual citizens or businesses. Please note, therefore, that this decision is based only on the specific facts of the investigation currently submitted by the Minnesota Department of Public Safety's Alcohol and Gambling Enforcement Division, and is not intended to provide legal advice to any person or business. Persons or businesses seeking advice on whether certain conduct is prohibited by law should contact the Alcohol and Gambling Enforcement Division at (651) 215-6229 or refer generally to Minnesota statutes §609.75 through §609.763 and consult their own attorney.

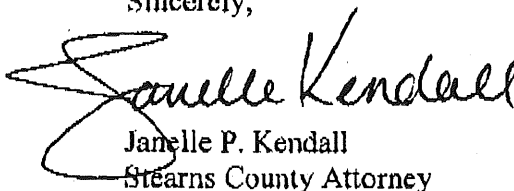
### Other Games Not Illegal

Finally, many questions have been raised in the context of this investigation regarding what is and is not illegal gambling in Minnesota. Currently, Texas Hold'Em poker is subject to criminal consideration if illegal "bets" are taking place. Within specific restrictions, Minnesota law specifically allows certain tournaments or contests involving the playing of cribbage, bridge, pinochle, gin, or even pool, darts, golf and similar games without criminal penalty, and the Legislature only recently allowed social dice games in bars and restaurants. (See Minn. Stat. § 609.761). Due to the current popularity of Texas Hold'em style poker and the potential criminal activity which could result, persons interested are encouraged to contact their local legislators for clarification of the Legislature's intent as to these issues.

### Conclusion

Based on the application of these facts to existing law, no criminal charges will be filed based on this investigation. We look forward to continuing to work with you and your division on the difficult enforcement issues raised by existing ambiguities in the law.

Sincerely,



Janelle P. Kendall  
Stearns County Attorney

cc: William White, Alcohol and Gambling Enforcement  
William Syverson, Gray Plant & Mooty

**Senate Counsel, Research,  
and Fiscal Analysis**

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**Senate**

**State of Minnesota**

## **S.F. No. 400 - Criminal Bail Bond Forfeitures and Procedures**

**Author:** Senator Gary Kubly

**Prepared by:** Chris Turner, Senate Research (651/296-4350) *CT*

**Date:** April 5, 2005

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**Section 1** requires defendants released on bail to provide either: (1) an appearance bond in the amount set by the court with sufficient sureties; or (2) a cash bond of no less than 20 percent of the bond's face value. Under no circumstances can a judge or judicial officer act as surety for the release of a defendant. Requires that, upon release, cash bail be returned to the depositing party, rather than the defendant.

**Section 2** provides bail forfeiture procedures.

**Subdivision 1** provides that bail may only be forfeited when a defendant fails to appear.

**Subdivision 2** provides procedures for the court notification of sureties of bail forfeiture.

**Subdivision 3** provides that if the defendant appears in court within 180 days after notification, the forfeiture is vacated and the bond exonerated. If the defendant is arrested and in custody outside the court's jurisdiction within 180-days after notification, the court must vacate the forfeiture upon the affidavit of the surety.

**Subdivision 4** provides that if the defendant is in custody outside the court's jurisdiction and the prosecuting attorney elects not to extradite the defendant, the court must vacate the forfeiture.

**Subdivision 5** requires the court to vacate forfeiture in cases where the defendant is not in custody and beyond the jurisdiction of the court but is temporarily detained by the bail agent in the presence of local law enforcement, is positively identified by local law enforcement

as the defendant, and the prosecuting attorney elects not to seek extradition after being informed of the location of the defendant.

**Section 3** strikes language requiring payment of sheriff's fees by a surety before arrest of a defendant. Adds language requiring the court to order reimbursement of local law enforcement for costs incurred in transporting a defendant to the jurisdiction of the warrant for arrest. Caps cost reimbursement at \$750.

CT:vs

as the defendant, and the prosecuting attorney elects not to seek extradition after being informed of the location of the defendant.

**Section 3** strikes language requiring payment of sheriff's fees by a surety before arrest of a defendant. Adds language requiring the court to order reimbursement of local law enforcement for costs incurred in transporting a defendant to the jurisdiction of the warrant for arrest. Caps cost reimbursement at \$750.

CT:vs

Senators Kubly and LeClair introduced--

S.F. No. 400: Referred to the Committee on Crime Prevention and Public Safety.

1                                   A bill for an act  
2           relating to criminal procedure; providing for criminal  
3           bail bond forfeitures and procedures; amending  
4           Minnesota Statutes 2004, sections 629.53; 629.63;  
5           proposing coding for new law in Minnesota Statutes,  
6           chapter 629.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

8           Section 1. Minnesota Statutes 2004, section 629.53, is  
9           amended to read:

10           629.53 [PROVIDING RELEASE ON BAIL; COMMITMENT.]

11           Subdivision 1. [BAIL; RELEASE.] A person charged with a  
12           criminal offense may be released with or without bail in  
13           accordance with rule 6.02 of the Rules of Criminal Procedure.

14           Subd. 2. [REQUIRING CASH BONDS OF NO LESS THAN 20  
15           PERCENT.] Notwithstanding any other law or rule, when the judge  
16           sets monetary conditions for release of a person charged with an  
17           offense, the requirements must include:

18           (1) execution of an appearance bond in an amount set by the  
19           court with sufficient sureties; or

20           (2) execution of an unsecured bond accompanied by the  
21           deposit of cash equal to no less than 20 percent of the bond's  
22           face amount.

23           Subd. 3. [PROHIBITING JUDICIAL SURETIES.] Absolutely no  
24           judge, court, or judicial officer may act as surety for the  
25           release of a person charged with an offense.

26           Subd. 4. [MONEY BAIL.] Money bail is the property of the

1 accused, whether deposited by that person or by a third person  
2 on the accused's behalf. When money bail is accepted by a  
3 judge, that judge shall order it to be deposited with the court  
4 administrator. The court administrator shall retain it until  
5 the final disposition of the case and the final order of the  
6 court disposing of the case. Upon release, the amount released  
7 must be paid to the ~~accused-personally~~ depositing party or upon  
8 that person's written order. In case of conviction, the judge  
9 may order the money bail deposit to be applied to any fine or  
10 restitution imposed on the defendant by the court and, if the  
11 fine or restitution is less than the deposit, order the balance  
12 to be paid to the ~~defendant~~ depositing party. Money bail  
13 deposited with the court or any officer of it is exempt from  
14 garnishment or levy under attachment or execution.

15 Sec. 2. [629.581] [FORFEITURE.]

16 Subdivision 1. [OPEN COURT DECLARATION.] A judge shall in  
17 open court declare forfeited the undertaking of bail or the  
18 money deposited as bail, only when a defendant fails to appear.

19 Subd. 2. [NOTICE.] (a) The court administrator shall  
20 immediately notify the surety, and its writing agent, who  
21 appears on the 702 appearance form of the forfeiture, by  
22 certified mail. The administrator shall also execute a  
23 certificate in the court's file. If the notice of forfeiture is  
24 required to be mailed pursuant to this section, the 180-day  
25 period provided for in this section shall be extended by a  
26 period of five days to allow for the mailing.

27 (b) If the surety is an authorized corporate surety, and if  
28 the bond plainly displays the mailing address of the corporate  
29 surety and the bail agent, then notice of the forfeiture shall  
30 be mailed to the surety at the address and to the bail agent,  
31 and mailing alone to the surety or the bail agent does not  
32 constitute compliance with this section.

33 (c) The surety and its agent shall be released of all  
34 obligations under the appearance bond if any of the following  
35 conditions apply:

36 (1) the court administrator fails to send by certified mail

1 the notice of forfeiture in accordance with this section  
2 immediately within the entry of the forfeiture and not exceeding  
3 24 hours;

4 (2) the administrator fails to send by certified mail the  
5 notice of the forfeiture to the surety and agent at the address  
6 printed on the bond; or

7 (3) the administrator fails to mail a copy of the notice of  
8 the forfeiture to the bail agent at the address shown on the  
9 bond.

10 Subd. 3. [180-DAY PERIOD.] (a) If the defendant appears  
11 either voluntarily or in custody in the court within 180 days of  
12 the date of forfeiture or within 180 days of the date of mailing  
13 of the notice if the notice is required under subdivision 2,  
14 paragraph (b), the court shall direct the order of forfeiture to  
15 be vacated and the bond exonerated. If the court fails to act,  
16 then the surety's obligations under the bond shall be  
17 immediately vacated and the bond, without motion to the court  
18 and penalty, shall be exonerated and immediately discharged.

19 (b) If the defendant is outside the jurisdiction where the  
20 case is located and is surrendered or in custody or is arrested  
21 in the underlying case or for additional charges and within the  
22 180-day period, the court shall vacate the forfeiture and  
23 exonerate the bail upon the affidavit of the surety or its  
24 agents as it may appear on the 702 form.

25 Subd. 4. [VACATE FORFEITURE WHEN IN CUSTODY BEYOND COURT  
26 JURISDICTION.] In all cases where a defendant is in custody  
27 beyond the jurisdiction of the court that ordered the bail  
28 forfeited, and the prosecuting agency elects not to seek  
29 extradition after being informed of the location of the  
30 defendant, the court shall vacate the forfeiture and exonerate  
31 the bond.

32 Subd. 5. [VACATE FORFEITURE UNDER CERTAIN  
33 CIRCUMSTANCES.] The court shall vacate the forfeiture and  
34 exonerate the bond in all cases of forfeiture where a defendant  
35 is not in custody and is beyond the jurisdiction of court if the  
36 defendant:



1 (1) is temporarily detained by the bail agent or its  
2 assigned representatives in the presence of a local law  
3 enforcement officer of the jurisdiction in which the defendant  
4 is located and in custody;

5 (2) is positively identified by the law enforcement officer  
6 as the defendant in an affidavit signed under penalty or  
7 perjury; and

8 (3) the prosecuting attorney elects not to seek extradition  
9 after being informed of the location of the defendant.

10 Sec. 3. Minnesota Statutes 2004, section 629.63, is  
11 amended to read:

12 629.63 [CONDITIONS UNDER WHICH SURETY MAY ARREST  
13 DEFENDANT.]

14 ~~If (a) A surety believes-that-a~~ can revoke and discharge a  
15 bond upon that defendant for whom the surety is acting as  
16 bonding agent if the surety believes the defendant is (1) about  
17 to flee, (2) will not appear as required by the defendant's  
18 recognizance, or (3) will otherwise not perform the conditions  
19 of the recognizance. The surety may arrest upon affidavit to  
20 the sheriff and without a warrant from the court or have another  
21 person or-the-sheriff-arrest-the-defendant, at the surety's  
22 direction, arrest and surrender the defendant to the sheriff.

23 If the surety or another person at the surety's direction  
24 arrests the defendant, the surety or the other person shall take  
25 the defendant before the judge before whom the defendant was  
26 required to appear and surrender the defendant to that judge.

27 If the surety wants the sheriff to arrest the defendant,  
28 the surety shall deliver a certified copy of the recognizance  
29 under which the defendant is held to the sheriff, with a  
30 direction endorsed on the recognizance requiring the sheriff to  
31 arrest the defendant ~~and-bring-the-defendant-before-the~~  
32 ~~appropriate-judge.~~

33 ~~Upon-receiving-a-certified-copy-of-the-recognizance-and~~  
34 ~~payment-of-the-sheriff's-fees,-the-sheriff-shall-arrest-the~~  
35 ~~defendant-and-bring-the-defendant-before-the-judge.~~

36 Before (b) A surety who has arrested a defendant who has

1 violated the conditions of release may personally without court  
2 order surrender the defendant to the ~~appropriate judge,~~ the  
3 ~~surety shall notify the~~ sheriff. If the defendant at the  
4 hearing before the judge is unable to post increased bail or  
5 meet alternative conditions of release in accordance with Rule  
6 6.03 of the Rules of Criminal Procedure, the sheriff or a deputy  
7 shall take the defendant into custody.

8 (c) The court shall order the surety or defendant, or both,  
9 to reimburse a law enforcement agency that has incurred costs in  
10 transporting a defendant to the jurisdiction of the warrant for  
11 arrest. Reimbursable costs include mileage, officers' wages,  
12 meals, lodging, and any other documented transportation-related  
13 costs. The law enforcement agency shall file with the court a  
14 reimbursement request for these expenses. Reimbursement under  
15 this paragraph may not exceed the lesser of ten percent of the  
16 face amount of the bail bond, or \$750.

1 Senator ..... moves to amend S.F. No. 400 as follows:

2 Page 1, lines 14 and 15, delete "OF NO LESS THAN 20 PERCENT"

3 Page 1, line 21, after "to" insert "and" and delete "20  
4 percent of"

5 Page 1, line 22, before the period, insert "demanded by the  
6 court"

7 Page 3, line 6, delete "or"

8 Page 3, line 9, before the period, insert "; or

9 (4) the defendant is incarcerated or hospitalized, and the  
10 court orders a fail to appear, a motion shall be filed by the  
11 surety or its agent to reinstate, revoke, and discharge the bond  
12 with a fee of \$100, to the court administrator's office, where  
13 the defendant's forfeiture and warrant originated, the bond  
14 shall be discharged by the court and to the surety or its agent"

**MINNESOTA STATE COURT SYSTEM Administrative Policy No. 14**

**SUBJECT: STATEWIDE SUSPENSION OF DELINQUENT BOND AGENTS OR BAIL BOND COMPANIES**

The Conference of Chief Judges met on October 15, 1993 and on November 30, 2004, and considered issues raised with respect to the statewide suspension of delinquent bond agents or bail bond companies.

With respect to that subject and questions raised, and with the consent and approval of the Conference of Chief Judges, the State Court Administrator hereby issues the following administrative policy:

Effective upon the date of implementation of changes to Rule 702 of the Minnesota General Rules of Practice, any individual bail bond agent or any bail bond company who has been or will be approved to write case or surety bonds within the state of Minnesota, pursuant to the Minnesota General Rules of Practice for District Courts, Rule 702, and who violates the provisions of this rule, shall be subject to statewide suspension. The following procedures shall be taken:

1. A court administrator who has received a district court order requiring forfeiture of a bond shall collect payment from the bail bond company or individual bond agent within ninety (90) days of the date of said order.
2. A court administrator who has not received forfeiture payment on any bond within ninety (90) days shall immediately notify the State Court Administrator's Office.
3. The State Court Administrator's Office shall review each reported incident to determine delinquency pursuant to Rule 702. When delinquency is determined, the State Court Administrator's Office shall notify the bond agent or bail bond company of such delinquency and suspend the company's or individual's privilege to write bonds. Such notice and suspension shall be via certified mail.
4. Once a bail bond company or bail bond agent has been notified as provided above, the State Court Administrator's Office shall

also notify all court administrators, judicial district administrators, and sheriffs' departments that the bond agent or bail bond company has been suspended from the privilege of posting bonds in the state of Minnesota.

5. Reinstatement of the privilege to write bonds shall occur after the original judicial district responsible for suspending the agent has notified the State Court Administrator's Office of the reinstatement. When notified of a reinstatement the State Court Administrator's Office shall notify all court administrators, judicial district administrators, and sheriffs' departments.

6. For purposes of notice in sections #4 and #5 above, fax transmission, electronic mail or postal service delivery shall be allowed.

**STATE OF MINNESOTA  
STATE COURT ADMINISTRATOR'S OFFICE (SCAO)**

**Instructions for Bail Bond Agent Application**

In compliance with Rule 702 of the Minnesota General Rules of Practice, prior to posting bail bonds in the State of Minnesota, agents must complete an application and approval process. Questions about the application process should be directed to the State Court Administrator's Office (SCAO) at 651-297-7588. The agent must complete and notarize Part I of the application. The following information must be attached to the application:

- Copy of applicant's driver's license or Minnesota ID card.
- Copy of applicant's current Minnesota insurance license.
- Copy of Surety Power of Attorney.
- Copy of Surety's current Minnesota Department of Commerce Certificate.
- **Passport-quality photograph of applicant.**

The Bonding Company that employs the agent must complete and notarize Part II of the application. NOTE: the Bonding Company must immediately notify SCAO when an agent is no longer authorized to write bonds on its behalf.

Part III of the application requires the applicant to complete the Bureau of Criminal Apprehension (BCA) form and send it directly to the BCA at the address provided. **Do not send this form to SCAO; this will result in the entire packet being returned to you and will delay the application process.**

Applications will not be processed until the entire application is complete and all required documentation is received. When an application is approved, notification of approval will be sent to the approved agent, the bonding company the agent works for, and all court administration offices and sheriff's departments.

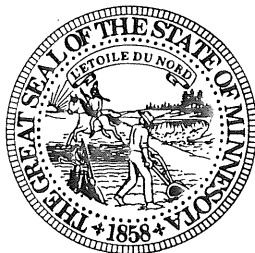
An application may be denied for the following reasons: the applicant is not currently authorized by the Minnesota Department of Commerce to provide bail bonds; the applicant's surety is not currently authorized to do business in Minnesota by the Minnesota Department of Commerce; the applicant, his or her general agents or surety company has any outstanding/unpaid bonds in any county, state or federal court in Minnesota; or a review of the BCA background check or court records shows that the applicant is currently charged with or convicted of: (1) a felony; (2) a crime involving fraud, misrepresentation, false reporting, or misappropriation or conversion of funds; or (3) any other crimes at the gross misdemeanor or misdemeanor level that call into question the applicant's ability, capacity and fitness required to perform the duties and to discharge the responsibilities of a bail bond agent. **If an application is denied, the applicant has thirty (30) days from the date of denial within which to submit the denied application to a final review panel consisting of three judges.**

**Instructions For Renewal of Bail Bond Agent Approval**

If you are renewing your approved status, only Parts I and II of this application must be completed and sent to SCAO.

**Completed applications and required documentation should be returned to:**

Bail Bond Agent Applications  
State Court Administrator's Office  
Court Services Division  
25 Rev. Dr. Martin Luther King Jr. Blvd., Suite 105  
St. Paul, MN 55155



**STATE OF MINNESOTA  
STATE COURT ADMINISTRATOR'S OFFICE  
BAIL BOND AGENT APPLICATION  
PART I**

Agent Name:
<div style="display: flex; justify-content: space-between; width: 80%; margin: 0 auto;"> <span><b>(Last)</b></span> <span><b>(First)</b></span> <span><b>(Middle)</b></span> </div>
Home Address:
<small>(Include street, city &amp; zip)</small>
Home Telephone: (    )
Email Address:
Date of Birth: month/day/year     /     /
Bonding Company:
<small>(Include name, full address, telephone and email address)</small>
Surety:
<small>(Include name, full address, telephone, and email address. Surety must be licensed to do business in the State of Minnesota. Attach copy of the power of attorney and surety's current Department of Commerce certificate.)</small>
Second Surety:
<small>(Include name, full address, telephone, and email address. Surety must be licensed to do business in the State of Minnesota. Attach copy of the power of attorney and surety's current Department of Commerce certificate.)</small>
Do you, your general agents, or surety company have any outstanding or unpaid bonds in any county, state, or federal court in the State of Minnesota?
<input type="radio"/> Yes <input type="radio"/> No
If yes, please provide details:
Have you ever been charged with or convicted of an offense other than a traffic charge?
<input type="radio"/> Yes <input type="radio"/> No
If yes, please provide details:
Have you ever been a defendant in any lawsuit, arbitration, or other proceeding involving allegations of fraud, misappropriation, conversion, mismanagement of funds, or breach of fiduciary duty?
<input type="radio"/> Yes <input type="radio"/> No
If yes, please provide details:

**BAIL BOND AGENT APPLICATION  
PART I CONTINUED**

I hereby certify that the above information is true and correct to the best of my knowledge. If the above information changes, I agree to notify immediately the State Court Administrator's Office.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

\_\_\_\_\_ (Signature of Applicant)

\_\_\_\_\_ (Name of Applicant)

Subscribed and sworn to before me this  
\_\_\_\_ Day of \_\_\_\_\_, 2\_\_\_\_.

\_\_\_\_\_  
Notary Public  
My commission expires:

**STATE OF MINNESOTA  
STATE COURT ADMINISTRATOR'S OFFICE  
BAIL BOND AGENT APPLICATION  
PART II**

**Company Support of Application**

We, \_\_\_\_\_ (name of bonding company), hereby certify that the above named individual is employed by and is authorized to post bonds on behalf of our company. This agent is backed by the above named surety(-ies), which is (are) authorized to do business in the State of Minnesota. The company assumes full responsibility for the actions of this agent. It is the responsibility of our company to notify the State Court Administrator's Office of any change in this agent's employment or liability status.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

\_\_\_\_\_ (Signature of company representative)

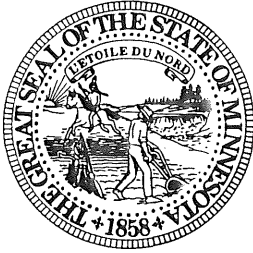
\_\_\_\_\_ (Name of company representative)

\_\_\_\_\_ (Title of company representative)

Subscribed and sworn to before me this  
\_\_\_\_ Day of \_\_\_\_\_, 2\_\_\_\_.

\_\_\_\_\_  
Notary Public  
My commission expires:





**STATE OF MINNESOTA  
STATE COURT ADMINISTRATOR'S OFFICE  
BAIL BOND AGENT APPLICATION  
PART III**

**Bureau of Criminal Apprehension**  
1430 Maryland Avenue East  
St. Paul, MN 55106

**RE: Background Check**

Dear Sir or Madam:

I hereby authorize the Minnesota Bureau of Criminal Apprehension to provide to the Minnesota State Court Administrator's Office any criminal history information about me for the purpose of obtaining approval as a bail bond agent in the State of Minnesota.

I have enclosed a money order or certified check made payable to the Bureau of Criminal Apprehension (in the amount of \$15.00) as well as a stamped manila envelope addressed to the State Court Administrator's Office.

This authorization expires one year from the date of my signature.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

\_\_\_\_\_  
Signature of Data Subject  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_

\_\_\_\_\_  
Subscribed and sworn before me  
this \_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

\_\_\_\_\_  
Telephone: \_\_\_\_\_  
Date of Birth: \_\_\_\_\_

\_\_\_\_\_  
Notary Public  
My commission expires:

---

To: State Court Administrator's Office  
Bail Bond Applications  
Court Services Division  
25 Rev. Dr. Martin Luther King Jr. Blvd., Suite 105  
St. Paul, MN 55155

RE: Applicant Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Date of Birth: \_\_\_\_\_

Criminal History:

Individual Supplying Information: \_\_\_\_\_  
Date: \_\_\_\_\_ Signature

## MEMORANDUM

---

TO: Kevin Mc Henry

FROM: Janet Marshall  
State Court Administration

DATE: April 2, 2005

RE: BAIL BOND SYSTEM

I am writing to provide background materials on the current bail bond system. The bail bond system is established in the General Rules of District Court (attached) and is administered, on a statewide basis, by the State Court Administrator's Office. Information on and applications for the bail bond system are included on the Judicial Branch public Web site. (Information is attached.) The Conference of Chief Judges is responsible for development of a statewide uniform policy on the suspension of delinquent bond agents or bond companies.

Although the Judicial Branch has no position on this bill the following comments were received by people who reviewed the bill:

1. The issue of bail bond is addressed in court rules and Conference of Chief Judge Administrative policy. Neither the General Rules of Practice Advisory Committee or the Conference of Chief Judges has been approached with the request to amend current rule and policy
2. This bill should be re-referred to the funding division:
  - a. Requiring ct administrators to send notices via certified mail will be very expensive.
  - b. Requiring ct administrators to send notices via certified mail will be labor intensive and it will not be possible to do this in 24 hours.
3. This legislation appears to take away any risk the company has when it posts bond for a defendant. Six months is a very long time to be on the lam and yet the bonding company is released from their obligation if the defendant is arrested, without any assistance on the company's part, within those 6 months. I see this as a win/win for the bonding company and a lose/lose for the system. Defendant pays the % to get the bond, the company really has no incentive to make sure the defendant shows up for court and can, in fact, do an affidavit seeking the release of the bond but they keep the % payment. If the defendant doesn't show and court and fails to comply with the certified notice requirement, the company is off the hook.

4. The notice to the bonding agent and surety must be given by certified mail within 24 hours of the courtroom revocation or the agent and surety are off the hook.
5. These changes encourage a system by which defendants just appear whenever they want to as long as it is within 180 days. We already have a significant number of our participants to conduct themselves in this manner and forfeiting bail is about the only way to get their attention. Bonding companies do a much better job at finding people than Sheriff's Offices do in executing warrants.

Please do not hesitate to contact me if you have any questions or are in need of additional information.



## MINNESOTA JUDICIAL BRANCH

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Page URL: </page/Default.aspx?pageID=187&subSite=BailBondAgents>

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[Home](#)   [For Court Users](#)

# BAIL BOND AGENTS

Effective February 1, 2005, all bail bond applications, suspensions, and renewals will be processed through the Minnesota State Court Administrator's Office (SCAO) in accordance with Rule 702 of the General Rules of Practice for the District Courts. The purpose of centralizing the bail bond process is to simplify and standardize the approval process. In practical terms, this means that applicants will no longer have to apply for bonding privileges in each judicial district in the state in which they wish to issue bail bonds.

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If you have questions, comments or suggestions regarding this web site, please [contact the webmaster](#).



[Home](#)   [For Court Users](#)   [Bail Bond Agents](#)

# APPLICATION PROCESS

## Application Process

In accordance with Rule 702 of the Minnesota General Rules of Practice, before posting bail bonds in the State of Minnesota, agents must complete an application and approval process. Questions about the application process should be directed to SCAO at 651-297-7588 or by email the [Bail Bonds Project](#).

If you wish to apply to become an approved bail bond agent, please complete the Bail Bond Application form:

- [Bail Bond Application Instructions and Form \(Word DOC\)](#)
- [Bail Bond Application Instructions and Form \(Adobe PDF\)](#)

and submit to SCAO at:

Bail Bond Agent Applications  
State Court Administrator's Office  
Court Services Division  
25 Rev. Dr. Martin Luther King Jr. Blvd., Suite 105  
St. Paul, MN 55155

Instructions can be found on the first page of the application form. Applications will not be processed until the entire application is complete and all required documentation is received. When an application is approved, notification of approval will be sent to the approved agent, the bonding company (or companies) the agent works for, and a court administration offices and sheriffs' departments.

An application may be denied for the following reasons:

1. the applicant is not currently authorized by the Minnesota Department of

- Commerce to provide bail bonds;
2. the applicant's surety is not currently authorized to do business in Minnesota by the Minnesota Department of Commerce;
  3. the applicant, his or her general agents or surety company has any outstanding/unpaid bonds in any county, state or federal court in Minnesota; or
  4. a review of the BCA criminal background check or court records shows that the applicant is currently charged with or convicted of: (1) a felony; (2) a crime involving fraud, misrepresentation, false reporting, or misappropriation or conversion of funds; or (3) any other crimes at the gross misdemeanor or misdemeanor level that call into question the applicant's ability, capacity and fitness required to perform the duties and to discharge the responsibilities of a bail bond agent.

**If an application is denied, the applicant has thirty (30) days from the date of denial within which to submit the denied application to a final review panel consisting of three judges.**

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If you have questions, comments or suggestions regarding this web site, please contact the webmaster.



## MINNESOTA JUDICIAL BRANCH

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Page URL: </page/Default.aspx?pageID=191&subSite=BailBondAgents>

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[Home](#)   [For Court Users](#)   [Bail Bond Agents](#)

# RENEWAL PROCESS

## Renewal Process

Rule 702 (a), as amended effective February 1, 2005, states: "Approved applicants are required to apply for renewal of approval within a time period (not less than one year) established by the State Court Administrator's Office." The renewal process currently is being developed. Once it is established it will be posted at this location and you will be contacted by mail concerning your next renewal date.

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If you have questions, comments or suggestions regarding this web site, please [contact the webmaster](#).



## MINNESOTA JUDICIAL BRANCH

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Page URL: </page/Default.aspx?pageID=190&subSite=BailBondAgents>

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[Home](#)   [For Court Users](#)   [Bail Bond Agents](#)

# NOTIFICATION REQUIREMENTS

Bail Bond Agents must:

1. immediately notify SCAO, in writing, of changes in name, home address, phone number, email address, bonding company, or surety;
2. immediately notify SCAO and every court in which it has issued a bond, in writing, whenever a corporate surety becomes insolvent, and file with a court administrator a security bond to cover outstanding obligations of the insolvent surety within fourteen (14) days after such notice to the court;
3. immediately notify SCAO, in writing, when charged with and if convicted of a crime.

Bonding Companies must:

1. immediately notify SCAO, in writing, when an agent is no longer authorized to write bonds on its behalf.

Written notification to SCAO may be sent by U.S. mail to:

Bail Bond Process  
State Court Administrator's Office  
Court Services Division  
25 Rev. Dr. Martin Luther King Jr. Blvd., Suite 105  
St. Paul, MN 55155



If you have questions, comments or suggestions regarding this web site, please contact the webmaster.

**Senate Counsel, Research,  
and Fiscal Analysis**

G-17 STATE CAPITOL  
75 REV. DR. MARTIN LUTHER KING, JR. BLVD.  
ST. PAUL, MN 55155-1606  
(651) 296-4791  
FAX: (651) 296-7747  
JO ANNE ZOFF SELLNER  
DIRECTOR

**Senate**

State of Minnesota

**S.F. No. 1438 - Crime Victim Employer Retaliation Protection**

**Author:** Senator Jane Ranum

**Prepared by:** Chris Turner, Senate Research (651/296-4350) **CT**

**Date:** April 5, 2005

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**Section 1, paragraph (a)**, prohibits employer retaliation against a victim of domestic abuse who takes a reasonable time off from work to obtain relief under Minnesota Statutes, chapter 518B (Domestic Abuse Act). An employee who is absent from work must give advance notice, except in cases of imminent danger to the health or safety of the employee or the employee's child. An employer may ask for verification as to the employee's whereabouts, but any information provided must be kept confidential.

**Paragraph (b)** provides that an employer who violates this section is guilty of a misdemeanor. If the employee was discharged, the employer is liable for back pay and must offer to reinstate the employee's job.

**Paragraph (c)** establishes a civil cause of action for an aggrieved employee for the recovery of damages plus costs and attorney's fees. Limits damages to six weeks' lost wages.

**Section 2** prohibits employer retaliation against a victim of harassment who takes a reasonable time off from work to obtain a restraining order by replicating the provisions of section 1 in Minnesota Statutes, section 609.748 (Harassment; Restraining Order).

**Section 3** expands the current provisions in law that prohibits employer retaliation against a victim or witness who takes a reasonable time off from work to answer a subpoena or answer the request of a prosecutor.

**Subdivision 1** allows a victim or witness to take reasonable time off from work to answer a subpoena or the request of a prosecutor.

**Subdivision 2** allows the victim of a heinous crime, as well as the victim's spouse or next of kin, to take reasonable time off from work to attend proceedings involving prosecution of the crime.

**Subdivision 3** prohibits employer retaliation against an employee who takes time off under the provisions of this section.

**Subdivision 4** provides that an employee who is absent must give advance notice, unless an emergency prevents it. An employer may ask for verification as to the employees whereabouts, but any information provided must be kept confidential.

**Subdivision 5** provides the same criminal penalties as found in section 1.

**Subdivision 6** provides the same civil remedies as found in section 1.

**Subdivision 7** defines "heinous crime" to include acts of homicide, first-degree assault, and criminal sexual conduct committed with force or involving a minor.

CT:vs

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Safety

## More States Give Abuse Victims Right to Time Off

Run Date: 01/16/05

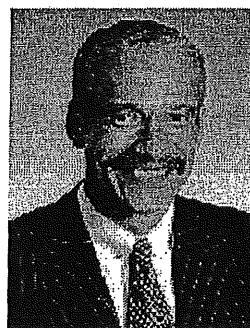
By Marie Tessier  
WeNews correspondent

*Maine and California were the first states to give victims of domestic violence the right to take time off from work to put their lives on a better track. A growing number of states are following their lead.*

(WOMENSENEWS)--Sophia Apossos was a newspaper reporter in Plymouth, Mass., when her husband assaulted her one weekend in July 2000.

At first, the legal and justice system seemed to work.

She phoned the police, he was arrested and charged. Apossos obtained a temporary protection order requiring her husband to have no contact. Over the weekend, he violated the court order by phoning her from jail.



Meanwhile, as she looked ahead, she knew that it would be hard to get to work on Monday. That day she was required to appear at her husband's arraignment, to testify his initial assault, about his violation of the protection order, and seek an extension of the temporary protection order. She also needed to have police photos taken of her injuries for evidence. In between, she needed to get the locks changed on her home, as the police suggested.

Robert J. Grey Jr

So over the weekend, Apossos phoned her supervisor at work. She left a message saying she would not be in on Monday morning because she had been assaulted and needed to attend proceedings in civil and criminal court. On Monday, she phoned again to say that the procedures were going to take all day.

### Nasty and Common Surprise

When she came to work Tuesday, Apossos was in for a nasty, but remarkably common, surprise. The human resources director called her into her office and fired her, according to court filings.

Like about 1-in-3 victims of domestic violence, Apossos lost her job because of

the violence and harassment of an abuser and because she took the steps necessary to make it stop.

Later, Apessos filed a lawsuit for wrongful termination that was backed by the NOW Legal Defense and Education Fund, a New York-based group now known as Legal Momentum. Contacted through Legal Momentum, Apessos declined comment. Information on her case was gathered from Legal Momentum and public court records.

Versions of Apessos' story are played out on domestic-violence hotlines around the nation, day in and day out, by many of the one-in-four women who will experience abuse in her lifetime. To stay safe, a woman may need to appear at a hearing during regular office hours. Another might need to meet with prosecutors or detectives. Another might need to meet a landlord to sign a lease on a new apartment so she and her children can start a new life.

And yet many women may not be allowed to take time off work. Many fear reprisal if they even ask, advocates say.

State-by-state, however, that has begun to change as a growing number of legislatures are giving victims of domestic violence the right to take time off from work in order to address the violence in their lives.

### **First Domestic-Violence Leave Law in 1999**

Maine and California passed the first domestic violence leave laws in 1999. Colorado, Hawaii, Illinois, and New York followed, along with some municipalities, such as Miami-Dade County, Fla. The latest is North Carolina's law, which took effect in October 2004, according to Legal Momentum. In recent years, seven other states have considered proposed legislation focused on domestic and sexual violence. Others considered protections for crime victims in general.

Many more states have specific protections for victims who need time off work to attend or testify at criminal proceedings, but these do not extend to civil matters such as seeking a protection order.

Domestic violence-leave laws are a critical piece of protection for battered women, making it possible for them to make use of the court system, lawyers and other advocates for battered women say.

"A lot of people lose their jobs because of domestic violence, and we need to make sure that the full array of legal options is available to victims," says Robert J. Grey Jr., president of the American Bar Association, which has promoted employment rights for victims of domestic and sexual violence in recent years.

Being able to hold on to jobs is also fundamental to helping women change their violent circumstances, advocates say.

### **Help Separating From Abuser**

"Economic security is one of the most important factors in determining

whether a victim of domestic violence will be able to separate effectively from her abuser," says Deborah Widiss, a staff attorney who specializes in domestic-violence law at Legal Momentum. "There's still a lot of stigma around domestic violence and sexual violence, so it's a difficult conversation to have with your employer. Having the legal right to take the time helps victims take the necessary steps to be safe."

For Sophia Apossos, taking steps to stay safe cost her a job, and several years' involvement with a lawsuit against her employer, Memorial Press Group, an independent newspaper group based in Plymouth, Mass. The group did not return a call seeking comment.

Along the way to a settlement in the Apossos case, the Massachusetts Superior Court had to decide whether to allow the suit to proceed--in essence whether she had a legitimate claim under the law. Its decision in Apossos' favor was succinct: "[A] victim should not have to seek physical safety at the cost of her employment," the court wrote.

That decision was the first such case to establish an employer's obligation to accommodate victims of domestic violence, Widiss says.

Filing a lawsuit is a step that is theoretically available to everyone, but is highly impractical--not to say far-fetched--given how strapped victims are for time, money, emotion or energy, advocates say.

### **Trend in Employment Law, Business Practice**

Guaranteeing the legal right to take domestic-violence leave is part of a broader trend in employment law and business practices that assist victims in solving problems, rather than making them worse, attorneys and advocates say.

Leave laws are one approach, but other pieces help, too. Many states offer unemployment compensation for victims whose jobs are affected. Written personnel policies build a climate of support rather than workplace punishment for a victim and they are good for business, too, Widiss says.

"Workplace policies are a good way for an employer to indicate that they want to help correct a problem by providing time off or by making simple changes to keep someone safe," Widiss says. "Things as easy as changing someone's phone extension, adjusting work hours, or transferring to another work site can make a big difference and many are very low cost."

Educating employers on the signs of abuse and on the cost to their businesses is an important step in improving the climate for victims, the Bar Association's Grey and others say.

"Domestic violence is an issue that's difficult for employers to get their arms around, because it's rarely obvious what's going on," Grey says. "A measured response can help victims get to the solution while keeping their personal dignity and their workplace productivity intact."

### **Pervasive Impact on Women at Work**

During training sessions, employers often express surprise at the extent to which abusers' behavior targeted at one of their employees makes its way into their workplace, says Robin Runge, the Washington, D.C., based director of the American Bar Association's Commission on Domestic Violence.

As many as 19 out of every 20 victims say that they experience problems at work related to domestic violence, Runge says. Among the most common forms of workplace disruption are repeated phone calls from batterers who are monitoring or threatening a woman or just harassing her.

Batterers sabotage women's careers in other ways. They might make them late for work, wreck child care arrangements, try to damage their professional reputations or interfere with their jobs to make them look unproductive, advocates say.

The result is that someone who is being victimized can look as if she is the problem, instead of the abuser, Runge says. That ends up endangering a woman's job and makes it even more difficult for her to seek remedies. Often, the employer doesn't even know what is going on. In turn, victims may be compelled to face a Hobson's choice between their jobs and their safety.

"Too often, victims are being forced to choose between staying safe and keeping their jobs secure," Runge says. "The services available in the courts and in our communities won't work unless victims can access them, and that means time off."

*Marie Tessier is a frequent contributor to Women's eNews who writes about violence against women and other national affairs.*

---

**For more information:**

Legal Momentum:

<http://www.legalmomentum.org/issues/vio/laws-leave.shtml>

American Bar Association Commission on Domestic Violence:

<http://www.abanet.org/domviol/home.html>

National Domestic Violence Hotline:

1-800-799-SAFE 1-800-787-3224 (TTY)

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Women's eNews is a nonprofit independent news service covering issues of concern to women and children.

**Senate Counsel, Research,  
and Fiscal Analysis**

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JO ANNE ZOFF SELLNER  
DIRECTOR

# Senate

State of Minnesota

## **S.F. No. 1877 - Prostitution; Homeless Pilot Project; Vagrancy**

**Author:** Senator Jane Ranum

**Prepared by:** Chris Turner, Senate Research (651/296-4350) *CT*

**Date:** April 5, 2005

---

The bill creates the crime of loitering with the intent to participate in prostitution, abolishes the crime of vagrancy, and establishes a homeless outreach pilot grant program.

**Section 1** is a conforming amendment.

**Section 2** creates a misdemeanor crime for loitering in a public place with the intent to participate in prostitution.

**Section 3, subdivision 1**, authorizes the Commissioner of Public Safety to award two-year grants for homeless outreach programs in Hennepin County, Ramsey County and one county outside the 13-county metropolitan area.

**Subdivision 2** provides criteria for grant awards.

**Subdivision 3** requires grant recipients to report annually, by June 30, on the services provided, expenditures of grant money and effectiveness of the programs. The commissioner must submit the reports to Legislature by November 1 of each year.

**Section 4** appropriates \$600,000 to the Commissioner of Public Safety for the purposes of the homeless outreach grant program.

**Section 5** repeals Minnesota Statutes, section 609.725 (Vagrancy). This statute provides a misdemeanor penalty for the following acts of vagrancy:



- a person, with ability to work, who is without lawful means of support, does not seek employment, and is not under 18 year of age;
- a person found in or loitering near any structure, vehicle, or private grounds who is there without the consent of the owner and is unable to account for being there;
- a prostitute who loiters on the streets or in a public place or in a place open to the public with intent to solicit for immoral purposes; or
- a person who derives support in whole or in part from begging or as a fortune teller or similar imposter.

CT:vs

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- a prostitute who loiters on the streets or in a public place or in a place open to the public with intent to solicit for immoral purposes; or
- a person who derives support in whole or in part from begging or as a fortune teller or similar imposter.

CT:vs

Senators Ranum, Foley, Skoglund, Cohen and Chaudhary introduced--  
S.F. No. 1438: Referred to the Committee on Crime Prevention and Public Safety.

1                                   A bill for an act  
2           relating to public safety; expanding the protection  
3           against employer retaliation for crime victims;  
4           amending Minnesota Statutes 2004, sections 518B.01, by  
5           adding a subdivision; 609.748, by adding a  
6           subdivision; 611A.036.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

8           Section 1. Minnesota Statutes 2004, section 518B.01, is  
9 amended by adding a subdivision to read:

10           Subd. 23. [PROHIBITION AGAINST EMPLOYER RETALIATION.] (a)  
11 An employer shall not discharge, discipline, threaten, otherwise  
12 discriminate against, or penalize an employee regarding the  
13 employee's compensation, terms, conditions, location, or  
14 privileges of employment, because the employee took reasonable  
15 time off from work to obtain or attempt to obtain relief under  
16 this chapter. Except in cases of imminent danger to the health  
17 or safety of the employee or his or her child, an employee who  
18 is absent from the workplace shall give reasonable advance  
19 notice to the employer. Upon request of the employer, the  
20 employee shall provide verification that supports the employee's  
21 reason for being absent from the workplace. All information  
22 related to the employee's leave pursuant to this section shall  
23 be kept confidential by the employer.

24           (b) An employer who violates paragraph (a) is guilty of a  
25 misdemeanor and may be punished for contempt of court. In  
26 addition, the court shall order the employer to pay back wages

1 and offer job reinstatement to any employee discharged from  
2 employment in violation of paragraph (a).

3 (c) In addition to any remedies otherwise provided by law,  
4 an employee injured by a violation of paragraph (a) may bring a  
5 civil action for recovery of damages, together with costs and  
6 disbursements, including reasonable attorney's fees, and may  
7 receive such injunctive and other equitable relief, including  
8 reinstatement, as determined by the court. Total damages  
9 recoverable under this subdivision shall not exceed lost wages  
10 for six weeks.

11 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
12 and applies to crimes committed on or after that date.

13 Sec. 2. Minnesota Statutes 2004, section 609.748, is  
14 amended by adding a subdivision to read:

15 Subd. 10. [PROHIBITION AGAINST EMPLOYER RETALIATION.] (a)  
16 An employer shall not discharge, discipline, threaten, otherwise  
17 discriminate against, or penalize an employee regarding the  
18 employee's compensation, terms, conditions, location, or  
19 privileges of employment, because the employee took reasonable  
20 time off from work to obtain or attempt to obtain relief under  
21 this section. Except in cases of imminent danger to the health  
22 or safety of the employee or his or her child, an employee who  
23 is absent from the workplace shall give reasonable advance  
24 notice to the employer. Upon request of the employer, the  
25 employee shall provide verification that supports the employee's  
26 reason for being absent from the workplace. All information  
27 related to the employee's leave pursuant to this section shall  
28 be kept confidential by the employer.

29 (b) An employer who violates paragraph (a) is guilty of a  
30 misdemeanor and may be punished for contempt of court. In  
31 addition, the court shall order the employer to pay back wages  
32 and offer job reinstatement to any employee discharged from  
33 employment in violation of paragraph (a).

34 (c) In addition to any remedies otherwise provided by law,  
35 an employee injured by a violation of paragraph (a) may bring a  
36 civil action for recovery of damages, together with costs and

1 disbursements, including reasonable attorney's fees, and may  
2 receive such injunctive and other equitable relief, including  
3 reinstatement, as determined by the court. Total damages  
4 recoverable under this subdivision shall not exceed lost wages  
5 for six weeks.

6 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
7 and applies to crimes committed on or after that date.

8 Sec. 3. Minnesota Statutes 2004, section 611A.036, is  
9 amended to read:

10 611A.036 [PROHIBITION AGAINST EMPLOYER RETALIATION.]

11 Subdivision 1. [VICTIM OR WITNESS.] An employer or  
12 employer's-agent-who-threatens-to-discharge-or-discipline must  
13 allow a victim or witness, or-who-discharges,-disciplines,-or  
14 causes-a-victim-or-witness-to-be-discharged-from-employment-or  
15 disciplined-because-the-victim-or-the-witness who is subpoenaed  
16 or requested by the prosecutor to attend court for the purpose  
17 of giving testimony, is-guilty-of-a-misdemeanor-and-may-be  
18 punished-for-contempt-of-court.--In-addition,-the-court-shall  
19 order-the-employer-to-offer-job-reinstatement-to-any-victim-or  
20 witness-discharged-from-employment-in-violation-of-this-section,  
21 and-to-pay-the-victim-or-witness-back-wages-as  
22 appropriate reasonable time off from work to attend criminal  
23 proceedings related to the victim's case.

24 Subd. 2. [VICTIM'S SPOUSE OR NEXT OF KIN.] An employer  
25 must allow a victim of a heinous crime, as well as his or her  
26 spouse or next of kin, reasonable time off from work to attend  
27 criminal proceedings related to the victim's case.

28 Subd. 3. [PROHIBITED ACTS.] An employer shall not  
29 discharge, discipline, threaten, otherwise discriminate against,  
30 or penalize an employee regarding the employee's compensation,  
31 terms, conditions, location, or privileges of employment,  
32 because the employee took reasonable time off from work to  
33 attend a criminal proceeding pursuant to this section.

34 Subd. 4. [VERIFICATION; CONFIDENTIALITY.] An employee who  
35 is absent from the workplace shall give reasonable advance  
36 notice to the employer, unless an emergency prevents the

1 employee from doing so. Upon request of the employer, the  
2 employee shall provide verification that supports the employee's  
3 reason for being absent from the workplace. All information  
4 related to the employee's leave pursuant to this section shall  
5 be kept confidential by the employer.

6 Subd. 5. [PENALTY.] An employer who violates this section  
7 is guilty of a misdemeanor and may be punished for contempt of  
8 court. In addition, the court shall order the employer to offer  
9 job reinstatement to any employee discharged from employment in  
10 violation of this section, and to pay the employee back wages as  
11 appropriate.

12 Subd. 6. [CIVIL ACTION.] In addition to any remedies  
13 otherwise provided by law, an employee injured by a violation of  
14 this section may bring a civil action for recovery for damages,  
15 together with costs and disbursements, including reasonable  
16 attorney's fees, and may receive such injunctive and other  
17 equitable relief, including reinstatement, as determined by the  
18 court. Total damages recoverable under this section shall not  
19 exceed lost wages for six weeks.

20 Subd. 7. [DEFINITION.] As used in this section, "heinous  
21 crime" means:

22 (1) a violation or attempted violation of section 609.185  
23 or 609.19;

24 (2) a violation of section 609.195 or 609.221; or

25 (3) a violation of section 609.342, 609.343, or 609.344, if  
26 the offense was committed with force or violence or if the  
27 complainant was a minor at the time of the offense.

28 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
29 and applies to crimes committed on or after that date.

1 Senator ..... moves to amend S.F. No. 1438 as follows:

2 Page 1, line 17, delete "his or her" and insert "the  
3 employee's"

4 Page 2, line 22, delete "his or her" and insert "the  
5 employee's"

6 Page 3, line 25, delete "his or her" and insert "the  
7 victim's"



Senator Ranum introduced--

S.F. No. 1877: Referred to the Committee on Crime Prevention and Public Safety.

1 A bill for an act

2 relating to public safety; making it a crime to loiter  
3 with intent to participate in prostitution;  
4 appropriating money for pilot projects to reduce  
5 homelessness; repealing the vagrancy crime; amending  
6 Minnesota Statutes 2004, section 609.321, subdivision  
7 1; proposing coding for new law in Minnesota Statutes,  
8 chapter 609; repealing Minnesota Statutes 2004,  
9 section 609.725.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

11 Section 1. Minnesota Statutes 2004, section 609.321,  
12 subdivision 1, is amended to read:

13 Subdivision 1. [SCOPE.] For the purposes of sections  
14 609.321 to ~~609.324~~ 609.325, the following terms have the  
15 meanings given.

16 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
17 and applies to crimes committed on or after that date.

18 Sec. 2. [609.3243] [LOITERING WITH INTENT TO PARTICIPATE  
19 IN PROSTITUTION.]

20 A person who loiters in a public place with intent to  
21 participate in prostitution is guilty of a misdemeanor.

22 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
23 and applies to crimes committed on or after that date.

24 Sec. 3. [HOMELESSNESS PILOT PROJECTS; GRANTS.]

25 Subdivision 1. [GRANTS.] The commissioner of public  
26 safety, in consultation with the director of ending long-term  
27 homelessness, the Ending Long-Term Homelessness Advisory

1 Council, and the Department of Human Services Office of Economic  
2 Opportunity, shall award grants for homeless outreach and to  
3 provide a bridge to stable housing and services. The  
4 commissioner shall award grants to qualified applicants in  
5 Hennepin County, Ramsey County, and one county outside the  
6 13-county metropolitan area. Grants must be used for  
7 homelessness pilot projects of a two-year duration that reduce  
8 recidivism and promote stronger communities through street and  
9 shelter outreach to connect people experiencing homelessness to  
10 housing and services.

11 Subd. 2. [APPLICATIONS.] An applicant for a grant under  
12 subdivision 1 must establish that:

13 (1) the applicant is experienced in homeless outreach  
14 services and will have staff trained and qualified to work with  
15 people with mental illness, chemical dependency, and other  
16 factors contributing to homelessness;

17 (2) the applicant employs outreach staff who are trained  
18 and qualified to work with racially and culturally diverse  
19 populations;

20 (3) outreach services will be targeted to, but not limited  
21 to, people experiencing long-term homelessness, and people who  
22 have had repeated interactions with law enforcement;

23 (4) outreach services will provide intervention strategies  
24 linking people to housing and services as an alternative to  
25 arrest;

26 (5) the applicant has a plan to connect people experiencing  
27 homelessness to services for which they may be eligible such as  
28 supplemental security income, veterans benefits, health care,  
29 and housing assistance;

30 (6) the applicant's project will promote community  
31 collaboration with local law enforcement, local and county  
32 governments, social services providers, and other community  
33 organizations to address homelessness;

34 (7) the applicant has a plan to leverage resources from the  
35 entities listed in clause (6) and other private sources to  
36 accomplish the goal of moving people into housing and services;

1 and

2 (8) the applicant has a plan for evaluation of the  
3 applicant's pilot project that is designed to measure the  
4 program's effectiveness in connecting people experiencing  
5 homelessness to housing and services and reducing the use of  
6 public safety and corrections resources.

7 Subd. 3. [ANNUAL REPORT.] Grant recipients shall report to  
8 the commissioner by June 30, 2006, and June 30, 2007, on the  
9 services provided, expenditures of grant money, and an  
10 evaluation of the program's success in: (1) connecting  
11 individuals experiencing homelessness to housing and services;  
12 and (2) reducing the use of public safety and corrections  
13 resources. The commissioner shall submit reports to the chairs  
14 and ranking minority members of the house of representatives and  
15 senate committees having jurisdiction over public safety and  
16 health and human services by November 1, 2006, and November 1,  
17 2007. The commissioner's reports must explain how the grant  
18 proceeds were used and evaluate the effectiveness of the pilot  
19 projects funded by the grants.

20 Sec. 4. [APPROPRIATION.]

21 \$600,000 is appropriated to the commissioner of public  
22 safety from the general fund for the fiscal year ending June 30,  
23 2006, to fund the grant program established in section 3.

4 Sec. 5. [REPEALER.]

25 Minnesota Statutes 2004, section 609.725, is repealed.

26 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
27 and applies to crimes committed on or after that date.

APPENDIX  
Repealed Minnesota Statutes for 05-3624

**609.725 VAGRANCY.**

Any of the following are vagrants and are guilty of a misdemeanor:

(1) a person, with ability to work, who is without lawful means of support, does not seek employment, and is not under 18 years of age; or

(2) a person found in or loitering near any structure, vehicle, or private grounds who is there without the consent of the owner and is unable to account for being there; or

(3) a prostitute who loiters on the streets or in a public place or in a place open to the public with intent to solicit for immoral purposes; or

(4) a person who derives support in whole or in part from begging or as a fortune teller or similar impostor.

1 Senator ..... moves to amend S.F. No. 1877 as follows:  
2 Page 2, line 14, delete "trained and"  
3 Page 2, line 15, after "with" insert "serious"  
4 Page 2, line 29, delete "and" and before the semicolon,  
5 insert ", and long-term support programs for those with serious  
6 mental illness"  
7 Page 2, line 32, before "and" insert "mental health crisis  
8 providers,"

**April 4, 2005**

**Dear Member of the Senate Crime Prevention and Public Safety committee.**

**I urge you to support passage of SF 1877**

**This bill serves as an important step towards proactive and compassionate efforts to address, not criminalize homelessness in our state.**

**This bill combines a proven approach that has worked in other large cities: a Homeless Outreach Pilot Project along with repeal of the archaic State Vagrancy Statute.**

**It truly is time for a shift in our treatment of persons experiencing homelessness. It is time to do away with this largely unconstitutional statute.**

**Sincerely,**

**Margaret Hastings**

**Member of the Decriminalization Task Force of the Community Advisory Board on Homelessness**

**Director/Producer of "Illegal to be Homeless"**

To the Senate Crime Prevention and Public Safety Committee  
From: David Jansen  
Re: Support for SF 1877  
Date: April 1, 2005

To Whom It May Concern:

I am writing this letter in support of Senate File 1877 in reference to the vagrancy and Homeless Outreach Pilot Project. I will first make comments and reference to the Policy Brief from the Minnesota Coalition for the Homeless. The facts that I want to address here are:

1. **Lack of affordable housing** – I was looking at a rent 411 publication on March 31, 2005 and noticed in my brief looking at the brochure that the average rent is approximately \$500.00 for a 1 bedroom and \$650.00 for a 2 bedroom. For the first month the new renter(s) are required to put down first and last month rent as for a security deposit, a credit check fee, electricity and phone. This could add up to \$1200.00 for the first month for a 1 bedroom apartment.
2. **Mental Health and Chemical Dependency** – 47% are diagnosed with a mental health issue and 25% are diagnosed with Chemical Dependency issues. I was personally part of the 47% of the mental health diagnosis. 2 ½ years ago, I moved 7 times in 7 months, these moves included shelters and board and lodges. Due to the fact that I moved so much in a short time, I became depressed. Good news is that I am slowly getting back on my feet and weaning myself off my medication.'

I encourage your support of this bill for the reasons stated above.



# Minnesota Coalition for the Homeless

*Working to ensure everyone has a safe, decent, affordable place to call home*

## Policy Brief: Better Solutions to Homelessness Promote Public Safety HF 2032/SF 1877

### Facts about Homelessness in Minnesota

Wilder Research Center's **Homeless in Minnesota 2003** estimates that on October 23<sup>rd</sup>, 2003, the total number of homeless and precariously housed persons in Minnesota numbered 20,347. The homeless persons estimate is 8,800 to 8,900, including nearly 2,000 individuals who are forced to "live on the streets."

- 59% are homeless for the **first time in their life**.
- **Long-term homelessness is a growing problem.** 43% of homeless adults were homeless over one year; up from 37% in 2000.
- 30% of homeless adults **are working**; 13% are working full-time.
- 26% of homeless men are **veterans**.
- **Mental health and chemical dependency issues** are also barriers to housing stability. 47% of homeless adults have a mental health diagnosis. 25% of homeless adults have a substance abuse diagnosis.
- **30% of homeless adults have a criminal background** making it difficult to find housing and putting them at risk for being arrested again.

### Homeless Outreach Pilot Project

Homeless outreach is a **proven strategy** to addressing homelessness in other major U.S. cities such as Philadelphia and New York. A first step in bridging people into stable housing is an effective outreach system that works in coordination with local communities, and law enforcement to connect people experiencing homelessness with the housing and services they need.

The Homeless Outreach Pilot Project will provide as many as **12 new street outreach workers** in Hennepin County, Ramsey County, and one county outside of the Twin Cities metro area. The outreach workers will **coordinate closely with law enforcement**, local government, and service providers to ensure that people who are experiencing homelessness are connected with the services and resources they need.

Law enforcement officers frequently become the de facto street outreach workers for the homeless and act as social services go-betweens. This initiative will **save valuable police time** that can be better spent fighting more serious crimes.

### Time for a Paradigm Shift—Repeal an Archaic State Law that Equates Homelessness with Being a Criminal

Governor Pawlenty, in his Business Plan to End Long-Term Homelessness, has boldly taken leadership towards a paradigm shift that proactively addresses the challenge of ending homelessness. That plan explicitly recognizes that street outreach is a key component to the Plan's success. Another paradigm shift is needed—it is time to repeal a state law that equates homelessness with criminality. Minnesota's state vagrancy statute (Minn. Stat. Sec. 609.725) is both archaic and portions are unconstitutional. HF2032/SF1877 would repeal the unconstitutional portions of the statute and would create a new section for the portion pertaining to loitering with intent to commit prostitution.

#### **Minn. Stat. §609.725 Vagrancy.**

Any of the following are vagrants and are guilty of a misdemeanor:

- (1) a person, with ability to work, who is without lawful means of support, does not seek employment, and is not under 18 years of age; or
- (2) a person found in or loitering near any structure, vehicle, or private grounds who is there without the consent of the owner and is unable to account for being there; or
- (3) a prostitute who loiters on the streets or in a public place or in a place open to the public with intent to solicit for immoral purposes; or
- (4) a person who derives support in whole or in part from begging or as a fortune teller or similar impostor.

The statute is rarely used. In a survey of almost 200 law enforcement agencies across the state, only 11 of the 100 responses reported more than 5 arrests for vagrancy in the period between 1998-2005. (State reporting data for 2003 shows 528 arrests under a broad reporting category titled "vagrancy" that includes "failing to give good account of himself, begging, loitering, etc." The survey was conducted to verify the number of arrests that were truly due to violations of the state statute for vagrancy. We found that the term "vagrancy" has become a catch-all category and does not accurately reflect the actual numbers of arrests made under the vagrancy statute.)



# Churches United for the Homeless

203 6<sup>th</sup> Street South Moorhead, MN 56560

*Shelter and support in a spiritual setting.*

Phone (218) 236-0372 Fax (218) 236-5891

Senate Crime Prevention and Public Safety Committee  
Minnesota Senate  
St. Paul, MN

Dear Committee Members:

I am writing in support of Senate Bill SF 1877 which I believe is a major step toward reaching the governors goal of ending Long-Term Homelessness in Minnesota

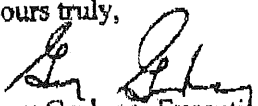
As Executive Director for the Churches United for the Homeless Shelter and Transitional Housing program in Moorhead, I have seen an unsettling increase in the number of homeless individuals and families in our area. For example, last year our shelter provided beds to 440 men seeking shelter. More disturbing, we turned away requests for those same beds 961 times. That number is triple the number of turnaways we saw in 2003.

The outreach and anti-vagrancy portions of this bill would provide excellent resources for helping our community reduce and, hopefully, eventually eliminate people living on the street or ending up in jail for lack of contact with the proper services.

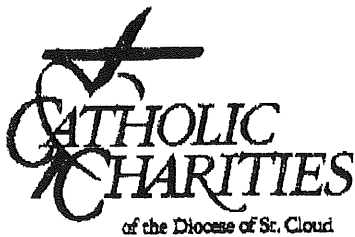
Having seen the excellent work for People, Inc. and their outreach expert, Mr. Patrick Wood, I would certainly be willing to apply to be the sponsoring agency for this pilot program in Greater Minnesota.

On behalf of the 50 member churches that own and operate Churches United for the Homeless, I encourage you to support Bill SF 1877

Yours truly,

  
Gary Groberg, Executive Director





## DOMUS TRANSITIONAL HOUSING



Division of Housing Services

April 1, 2005

Senate Crime Prevention and Public Safety Committee  
St. Paul, MN

Dear Committee Members:

I am writing in support of Senate Bill SF 1877.

As program manager of transitional housing programs for families and veterans and an active participant in St Cloud area homelessness initiatives and advocacy efforts, I am representing the stated core values and principles of the St Cloud Area Homeless Concerns Coalition when I express support for this Bill.

There is an increasing street presence and awareness of homelessness in St Cloud and an increasing realization by local policy makers including the Mayor, City Council, County Commissioners that more needs to be done to humanely interact with the population in need of services so that the cycle can be broken for the benefit of all.

I am please that the bill is twofold. The proposed decriminalization of homelessness is a basic humane step that seems to make "common" sense as a starting point. The creation of funding for street outreach represents the necessary second step which would essentially offer some vision of hope to those in need and a real sense of community optimism that this is a problem that we can solve together if our political will allows us the resources to do so.

I understand that others around the state may also be interested in this proposed resource and assure you that the local housing advocacy community would gladly welcome the opportunity to compete for any funding created by SF 1877.

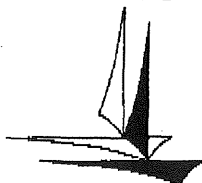
Thank you for your service.

Sincerely,

Rick Podvin  
Program Manager



17 - 19 1/2 Avenue South • St. Cloud, MN 56301  
(320) 259-9270 Fax: (320) 259-4967



**Minneapolis**  
*City of Lakes*

**City Council**

**Scott Benson**

Council Member, Eleventh Ward  
350 South 5th Street - Room 307  
Minneapolis MN 55415-1383

Office 612 673-2211  
Fax 612 673-3940  
TTY 612 673-2157

April 4, 2005

To Whom It May Concern:

I am writing to notify you that the Minneapolis City Council recently voted to express support for the Homelessness Pilot Project Grants. The City agrees with this mission and wishes to use any means possible to insure that everyone has adequate housing. The City is supportive, not only of the grants as an attempt to reduce homelessness, but also the provisions dealing with loitering as presented in the bill.

The Minneapolis City Council took official action on April 1, 2005 to endorse current versions of SF 1872 and HF 2032.

Sincerely,

Scott Benson  
Council Member  
Ward 11



# Saint Louis County

Second Commissioner District • 100 N 5th Ave W, Rm 206, Duluth, Minnesota 55802-1287  
(218) 726-2359 • Fax (218) 726-2469 • e-mail: [oneils@co.st-louis.mn.us](mailto:oneils@co.st-louis.mn.us)

**Steve O'Neil**  
County Commissioner

April 4, 2005

Senator Jane Ranum  
75 Rev. Dr. Martin Luther King Jr. Blvd.  
120 Capitol  
St. Paul MN 55155-1206

Dear Senator Ranum:

I'm writing in support of bill SF 1877/HF 2032. We in Duluth are well aware of the need to address the increasing problem of homelessness and the need to fund efforts that deal with this problem. \$600,000 will not be enough to solve this problem in Minnesota or even in the Metro area but this pilot project has the potential to positively affect many people's lives.

An important element of this bill is that it acknowledges that homelessness is not a criminal activity to be prosecuted, but a problem to be solved. Nearly half of those homeless in Minnesota are suffering from mental illness, a quarter have problems with addiction and 30% are working but not able to afford rent. It's time we sought real solutions.

In Duluth we have, with the support of our mayor, undertaken to end long term homelessness in ten years. Currently, a Citizen's Task Force, which I Co-Chair, is working simultaneously to draft a ten-year plan and find the funding necessary to achieve our goal. We understand the magnitude of this endeavor.

Bills like this one are a boost to the morale of all those who know that we can end this recent epidemic of homelessness. Of particular interest to us will be the data collected from this pilot project regarding the cost reductions to public safety and corrections as we move toward permanent housing.

Thank you for your work on this important issue!

Sincerely,

  
Steve O'Neil  
St. Louis County Commissioner

cc: Representative Tom Huntley  
Representative Mike Jaros  
Representative Mary Murphy  
Senator Thomas Bakke  
Senator Prettner-Solon

To the Senate Crime Prevention and Public Safety Committee  
From: David Jansen  
Re: Support for SF 1877  
Date: April 1, 2005

To Whom It May Concern:

I am writing this letter in support of Senate File 1877 in reference to the vagrancy and Homeless Outreach Pilot Project. I will first make comments and reference to the Policy Brief from the Minnesota Coalition for the Homeless. The facts that I want to address here are:

1. **Lack of affordable housing** – I was looking at a rent 411 publication on March 31, 2005 and noticed in my brief looking at the brochure that the average rent is approximately \$500.00 for a 1 bedroom and \$650.00 for a 2 bedroom. For the first month the new renter(s) are required to put down first and last month rent as for a security deposit, a credit check fee, electricity and phone. This could add up to \$1200.00 for the first month for a 1 bedroom apartment.
2. **Mental Health and Chemical Dependency** – 47% are diagnosed with a mental health issue and 25% are diagnosed with Chemical Dependency issues. I was personally part of the 47% of the mental health diagnosis. 2 ½ years ago, I moved 7 times in 7 months, these moves included shelters and board and lodges. Due to the fact that I moved so much in a short time, I became depressed. Good news is that I am slowly getting back on my feet and weaning myself off my medication.'

I encourage your support of this bill for the reasons stated above.

## ILLEGAL TO BE HOMELESS 2004 REPORT



### VI. Conclusions and Recommendations

#### (A) Education and Communication

Monitoring and documenting arrests, citations, fines and harassment of homeless people allow advocates to present evidence of violations of civil rights, costs of incarceration to the public, and loss of opportunities for employment and housing for homeless people.

After being told by police officers, government officials, and business owners that they are public nuisances, homeless people can only recognize their personal and collective power when they see the impact of their efforts as a part of a national movement. Thus, the participation of people experiencing homelessness in national and local struggles is vital.

In addition, local groups who have been tirelessly fighting the effects of criminalization must communicate their struggles and victories with other groups, so all organizations can share information with each other and with the public. Public information campaigns must be geared toward:

- 1) alerting homeless and poor people that a new civil rights movement is building along with informing them of new and subtle dangers that currently exist,
- 2) alerting service providers to the serious effects of these laws, especially before the process of drafting law is in motion, and
- 3) alerting the general public that rights lost to any segment of our society are rights lost to all members of our society.

#### (B) Organizing for Change

Those most affected by injustice must play a leading role in local monitoring projects and collection of data, as well as collection of anecdotal evidence of activities to challenge local abuses.

Organizing homeless people to take action begins with extensive outreach, in which the input gathered directly from homeless people drives the working agenda. This outreach has four main purposes:

- 1) to provide information to poor and homeless people about their rights;
- 2) to record civil rights abuses, including police interaction with homeless people, through written and video documentation;
- 3) to provide information about opportunities for participation in the work force to affect change; and
- 4) to gather ideas, insights and opinions about solutions to poverty and homelessness.

Combining outreach, advocacy, direct action, and litigation with policy and program design produces permanent solutions to poverty and homelessness.

### **(C) Legal remedies**

Homeless people and advocacy groups continue using the legal system to fight unconstitutional ordinances that criminalize life-sustaining activities performed, necessarily, in public. It is important to compile and share documentation of legal victories to strengthen our efforts.

The national maintenance of a database of ordinances and a cataloging of experiences is necessary for sharing efforts and resources.

Broadening the campaign to request the U.S. Department of Justice investigate patterns and practices of the civil rights violations of people experiencing homelessness, and including homelessness as a protected class or status when monitoring violence, are imperative.

### **(D) Security Guards**

1. Cities should make it illegal for their police officers to wear official police uniforms while they are not on duty.
2. All security guards should be licensed by the local municipality with added scrutiny to those carrying a firearm. Homeless people should be easily able to file a complaint with the municipal government concerning the actions of guards. A guard or official system should be required to address these complaints in order to renew the license.
3. All security guards should wear identifying information including their city issued license number.
4. All complaints delivered to the City should be forwarded to the management or the entity hiring that guard.
5. Security guards in places that come into frequent contact with homeless people should be required to receive awareness training, as well training on the laws that apply to homeless people. Crisis intervention training for dealing nonviolently with mental illness conflicts is also recommended.

### **(E) Policy Remedies**

1. Support the Bringing America Home Act, H.R. 2897-108th Congress, sponsored by U.S. Representatives Julia Carson and John Conyers. This bill includes provisions and funding that will end homelessness through additional housing, universal health coverage, universal livable income, treatment on demand, and civil rights assurances.

The Civil Rights Provisions of the Bringing America Home Act include:

- A. A requirement under the selection criteria for HUD McKinney-Vento that

communities receiving homeless assistance dollars must guarantee through formal certification they are not criminalizing homelessness through laws, ordinances or policies.

**B. A requirement that cities receiving Community Development Block Grants (CDBG) and HOME Investment Partnership Program (HOME) funds shall not pass ordinances that have a disparate impact on homeless people or that punish homeless persons for carrying out life-sustaining activities in public spaces when no alternative public spaces are available; or relating to curfews for adolescents and that result in homeless youths being adjudicated as delinquent.**

**C. A requirement that cities receiving CDBG and HOME funds shall not pass zoning ordinances and/or make zoning decisions have the effect of preventing the siting of facilities designed to serve people in homeless situations or low-income people.**

**2. All people should be assured access to affordable housing, health care, with treatment on demand, livable income, education and access to public and private accommodations, spaces, and services, regardless of race, ethnicity, national origin, immigration status, age, gender, religion, familial status, sexual orientation or gender identity or expression, health status, socioeconomic status, or housing status.**

**To assure those rights, we recommend acceptance and reiteration of the following values and principles:**

- a. Protected class designation for socioeconomic status;**
- b. The right to register and vote for homeless people;**
- c. Passage of "hate crimes" legislation using protected class status;**
- d. Immediate relief from harassment and arrest in every American city;**
- e. Immediate access to treatment on demand outside the criminal justice system;**
- f. Immediate access to treatment without first being incarcerated;**
- g. Immediate access to housing for all homeless people.**

[Full report in .pdf form](#) | [Introduction](#) | [Background](#) | [Methodology](#) | [Problem Statement/Consequences of Criminalization](#) | [Model Programs](#) | [Conclusions & Recommendations](#) | [The Cities Included in this Report](#) | [Meanest Cities](#) | [Narratives of the Meanest Cities](#) | [Narratives of the Other Cities](#) | [Prohibited Conduct Chart](#) | [Survey Questions](#) | [Incident Report Form: English](#) & [Incident Report Form: Spanish](#) | [Sources](#)

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Sunday, June 13, 2004

**San Francisco Chronicle**

**Success in the City of Brotherly Love  
The city that knows how - Philly Philadelphia  
Effort stems tide of homelessness – can S.F. learn from it?**

Kevin Fagan, Chronicle Staff Writer

**Philadelphia** -- Like San Francisco, Philadelphia has a Market Street leading to City Hall with wide traffic lanes, brick sidewalks and a robust business district -- in fact, when surveyor Jasper O'Farrell designed San Francisco's main drag in 1847, he patterned it after Philly's. Both streets have lots of shopping, and they draw crowds of strollers and tourists.

But there's one big difference that O'Farrell probably never counted on.

In San Francisco, those strollers and tourists step over, around and alongside thousands of homeless people panhandling, shooting dope, pushing shopping carts or sleeping on the cement. In Philadelphia, you have to look long and hard to find a single panhandler, or homeless person of any kind, anywhere along Market Street.

Or in its downtown, for that matter. Or in its famous Independence National Historical Park, where the Liberty Bell sits among other icons of the foundations of American history.

That's because the City of Brotherly Love, perhaps more than any other in the United States, has solved its problem with chronic homelessness. In stark contrast, that other city known for love -- the Summer of Love -- has the most visible crisis of chronic homelessness in the nation.

"A few years ago, it didn't look anything like this," said Josette Adams, 36, as she pushed her toddler son in a stroller along Philadelphia's Market Street.

"You'd be walking like this, and people were sleeping everywhere, doing their business in the street, panhandling, yelling at you, getting in your face." She paused under the balmy sun, smiling slightly as she looked at the slowly moving mass of tourists and shoppers all around.

"Now?" she said. "I can come down, get a nice lunch, walk around with my son. You can have a nice day."

The secret to this success is not that the homeless were carted off to other cities in police vans. Or thrown in jail. Or so denied welfare or housing that they had to leave town. They weren't.

Philadelphia simply figured out how to truly help its chronically homeless people -- how to give them more than just a blanket and a sandwich and an emergency cot. It got them into permanent housing with counseling services to help them handle their personal demons, particularly mental illness; it got them into drug rehabilitation; it got them into decent, clean shelters that are open 24 hours a day and have teams of doctors and social workers in offices a few feet away.

And, most important of all, the city sent squads of outreach workers into the streets, day and night, to persuade -- not force -- the homeless to make use of all these services. When the outreach workers made the offer, they had services and housing to offer right there on the spot, with no waiting. That hasn't been the case in most of San Francisco's programs -- and that's a crucial difference, because most homeless people don't or can't wait or keep schedules.

Slowly, but surely, Philadelphia reached a point that homelessness experts from San Francisco to the Eastern Seaboard long for -- "The Tipping Point," a term coined by author Malcolm Gladwell in his book of the same name. It's the moment at which all the hard, seemingly impossible work at the beginning takes on so much momentum that it turns a corner, takes on a power of its own and effects sweeping change.

How did this turnaround happen?

Most folks point to Sister Mary Scullion, a nun who owns no home and lives with homeless people she rescues from the sidewalk -- but who can pick up the phone and get a quick return call from everyone from the mayor on up to President Bush's homelessness czar.

She spent the past two decades walking every Philadelphia park, alleyway and street corner where the down-and-out held out their hands or hid in a haze of mental illness, and she asked them again and again if they wanted to come inside. She built or badgered local leaders to build hundreds of supportive- housing units and launched outreach teams to emulate her street skills -- and she did these things in such a famously relentless but caring way that she was called "Mother Teresa of the Homeless."

Today, the city's homeless programs director, Rob Hess, uses her techniques as his guideline and has spent several years expanding them. Along with Scullion's ever-forceful assistance, Hess has launched cutting-edge programs that team up police with outreach counselors; created "Safe Haven" housing where the drug-addicted and mentally troubled can move in before they are stabilized; and coordinated all city services through a central office so counselors can keep track of which homeless person needs what and how much.

Hess says there is much more work to be done. The modest Scullion, a member of the Sisters of Mercy Catholic order and someone who loathes being called a saint, agrees.

But the chronic homelessness crisis is now so tamed in this city that Scullion and other homeless advocates who used to fight City Hall have now turned the bulk of their attention to their next cause: creating more affordable housing to prevent the poor from tumbling into homelessness and refilling the street.

"To me it was just so simple," Scullion said, standing outside the headquarters of Project HOME, the homeless housing and counseling center she co-founded in 1989 with Joan Dawson-McConnon. "What enables a person to get off the street? They see that it's possible. All we did was make it possible."

The headquarters are in an economically ravaged stretch of North Philadelphia that contains both lawns trimmed with pride and crowds of young men on stoops downing 40-ounce beers. As she talked, everyone who passed -- street toughs, chronically homeless people in her housing program, elderly neighbors -- called out a hello or stopped to chat.

"Sister Mary, Sister Mary!" stuttered one mentally slow woman, a Project HOME resident. "I went to church, I went to church!"

Scullion is a lanky woman whose brown eyes have an uncanny ability to look unthreatening and sharply searching at the same time, and she focused them laserlike on the woman's face a moment before hugging her.

"That's a good idea," Scullion said, hands on the woman's shoulders, peering into her face again. "You're doing so well, getting out and around so well."

The woman grinned, eyes struggling to focus on the sidewalk before her, and she moved slowly past.

"We are all each other's mirrors," Scullion said. "How we see each other affects how we help each other. If you're on the street and people show you respect, you feel respect."

That philosophy started everything that changed the face of Philadelphia in 1997 when City Council President -- now Mayor -- John Street proposed a rigid anti-loitering law aimed at clearing the streets of panhandlers. In the mid-1990s, city officials estimated that 4,500 homeless people lived in the city, and half of those were on the street at any given time; the downtown was considered overrun and inhospitable to tourists.

By then, Scullion already had become a street hero because of her campaign in the mid-1980s to take mentally ill "shopping-bag ladies" off the sidewalks and house them, and because she founded Project HOME despite neighborhood opposition. She packed City Council hearings with supporters to plead for a more sensitive approach than pure police action -- and she won.

What resulted was a law making loitering a civil offense, not criminal, and mandating that police first call one of Scullion's outreach workers when they encountered a homeless person blocking the sidewalk. The city earmarked nearly \$6 million for new services to help the down-and-out, giving the outreach teams more housing and counseling to offer on the spot.

The result? Street counselors responded within 20 minutes to every call. The homeless started moving into improved shelters and other housing that provided counseling services. And the streets started to clear.

By 1998, there were 850 chronically homeless people on the streets.

Today there are 130.

The Greater Philadelphia Tourism Marketing Corp. reported last month that since homelessness efforts began in 1997, overnight visits by tourists have jumped 40 percent -- while the same figure nationwide rose just 8.8 percent. Part of that is due to a big push by the city to promote tourism and the addition of two dozen hotels and more than 100 restaurants in the central city -- but the virtual elimination of panhandlers and shopping carts heaped with their belongings made a key difference.

"Ten years ago this was a sort of hellhole without any tourists," Dr. Marcella Maguire, director of the city's chronic homelessness initiatives, said of Center City, the main shopping and financial district, which sits apart from the historic district that houses Independence Hall. "We had abandoned buildings, few restaurants, people didn't want to come. Not attractive.

"Now -- it's night and day."

Today, the city puts 20 outreach workers on the street day and night, ranging from general social workers to police officers assigned to outreach and mental health specialists. And Hess, the city's homelessness "czar," makes a priority of pounding home the concept, day in and day out, that the homeless must be engaged and immediately brought into shelters or housing with counseling services upon demand.

"For anyone to say 'I can't help this guy on the street' is not acceptable, whether it's our cops or our outreach workers," said Hess, who is regularly tapped by homeless officials in cities across the country -- including San Francisco -- for advice. "I've waked the managing director

(Philadelphia's city manager) up before to get him to open up a service so we can bring someone inside right away. You need the field guys to know that they are empowered to call us, me, anyone, at any time.

"You do this long enough, hard enough, and you get a paradigm shift," he said. "We're still a work in progress, but I think we reached that shift."

So does San Francisco Mayor Gavin Newsom, who dispatched a team of homeless advisers last winter to check out Philadelphia's system. They took particular note of the outreach system and incorporated the same philosophy into the 10-person Homeless Outreach Team begun in May to try to persuade chronically homeless people to move into shelters, housing or counseling programs.

"What Philadelphia tells me is that there is no excuse not to take care of this problem," Newsom said on a recent stroll through U.N. Plaza, past lines and groups of homeless people sleeping, carousing and furtively smoking crack beneath blankets. "It tells me that it is possible to make a difference and make an impact with incremental change -- and the pieces we are missing most are more outreach, centralizing our system and more supportive housing."

He stared at a cluster of shopping carts, and several homeless men recognized him, waving and shouting at him happily: "Hey, Mayor! Good to see you!" He smiled back and said quietly behind his hand, "We can solve this. I know we can."

To be sure, there are differences between Philadelphia and San Francisco.

Philadelphia has a population of 1.5 million, and San Francisco's is about 760,000. Philadelphia's total homeless count on the street and in shelters and temporary housing is about 6,000, while San Francisco's is anywhere from 8,600 to 15,000. Philadelphia has 130 chronically homeless people on its streets; San Francisco has 3,000.

Philly's subzero winters and hot, humid summers make it miserable, and even deadly, for street people at the height of both seasons. In San Francisco, people can sleep on the sidewalks year-round with no fear of freezing or heat exhaustion.

San Francisco spends \$104 million each year directly on homelessness programs and another \$96 million indirectly on hospital, jail and other costs. Philadelphia spends \$60 million directly on homeless programs and doesn't have an estimate of its indirect costs -- but they would be less, proportionately, because the hard core typically use about 60 percent of any city's resources spent on homelessness, and Philly has so many fewer hard-core homeless.

As for its permanent supportive housing stock, meaning housing with counseling on site to help the hard core get over crippling substance abuse and mental troubles: San Francisco has about 2,900 units overall, and Philadelphia has 6,500.

San Francisco has 1,800 shelter beds for families and singles, while Philadelphia has 2,700. And more significantly, San Francisco has 10 -- soon to be 15 -- city outreach workers for its 3,000 hard core, while Philadelphia has 20 outreach workers for its hard core of 130.

"Philadelphia has done a great job -- probably the best in the country, for its size -- and what San Francisco could learn from this is three things," said Dennis Culhane, a University of Pennsylvania professor who has conducted definitive studies of chronic homelessness in New York, Chicago and Philadelphia and other cities around the country over the past decade.

"You need to have one central, coordinated intake authority for placing chronically homeless people in housing, you need one coordinated, central street outreach program, and you need enough real housing to handle all the people you are taking off the street," he said. "And these programs have to be 'anti-creaming' -- taking the most difficult, chronically homeless, not just the easiest ones to get at."

Do these things, he said, and San Francisco could see significant changes within four or five years, which is about how long it took for Philadelphia and New York.

"People have to realize a problem like this doesn't go away in 12 months, and it won't go away at all unless you have a real commitment by the city and the public," Culhane said. "You have to keep your eye on the prize."

"It's not a bad idea to have a law against panhandling (like Philadelphia's, or the similar one enacted this spring in San Francisco), but unless you have programs to put people into immediately, the law is useless," he added. "It's all about the permanent housing. Just moving people around from jail to street has been proven not to work."

That credo is put into action every day by the civilian and police outreach teams who drive and walk Philadelphia's streets to gently persuade the hard core to go inside. Ask who puts in the most shoe-leather time, and most on the teams point to Sam Santiago.

He is a 42-year-old former cop who starts out every day before dawn with a list of open programs and a little black book that contains the names and conditions of more than 1,000 homeless people he's personally contacted in the past couple of years. One recent morning, Santiago patrolled most of downtown, the railroad tracks along Schuylkill River and the popular Logan Square circular park before he got his first nibble.

"Hey, what's with this New Keys (supportive housing) program I've been hearing about?" growled John Dilliplane, striding up with a Hefty bag of clothes in one hand and a scowl beneath his gray mustache. "Don't give me no crap about shelters, because I hate 'em."

Santiago stopped and regarded the 46-year-old man with a slight smile. "You serious?" he said. "I mean, don't pull my chain -- you serious?"

"Yeah, sure, I guess, maybe," said Dilliplane.

"New Keys is for people who've tried programs before, have plenty of problems, but are willing to give a bed another try," Santiago said. "You in?"

"Sure, but I gotta go there myself," Dilliplane said. "I don't like company."

"Fine," responded Santiago, writing on a business card. "Walk to this address right now, a few blocks away, and they'll talk to you right now. And you have any trouble, here's my phone number, and I'll be back out here tomorrow."

As Dilliplane walked away, Santiago shook his head. "This one might stick," he said under his breath.

"Sometimes it will take months, or even years, before someone is ready to go inside after you've been talking to them day after day, but that's OK if that's what it takes," he said later. "You force them in too early and, boom, they'll be back on the streets before you know it."

"But you've got to make sure of one thing: If you offer them something, you'd better be able to deliver, right then and for real, or it doesn't mean s --," he added. "You can't B.S. these people. They can smell a con a mile away."

At 47, Patty Baltimore had heard an earful of what she considered false promises and failed opportunities before she was finally ready to listen. She bounced from shelter to street to rehab to mental health services in the city until Maguire finally hooked her up with a full-time case worker this past year -- and now, after she'd all but given up on getting lasting help, Baltimore has her own apartment for the first time in seven years.

"You could illuminate this city and see my tears all over it," Baltimore said a few weeks ago as she moved into her east-side Philadelphia digs, a one-bedroom Victorian unit with white kitchen cabinets she had scrubbed so hard they sparkled. "The only thing that was missing was that I needed to learn how to trust." She teared up and pointed to Maguire and the other two social workers who helped her move in.

"Y'all are angels," she said. "It just took me awhile to see it."

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Coming Monday: What San Francisco can learn from a New York homeless program.

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E-mail Kevin Fagan at [kfagan@sfchronicle.com](mailto:kfagan@sfchronicle.com).



# ELIM TRANSITIONAL HOUSING, INC.



“Making a Place to Call Home a Reality”

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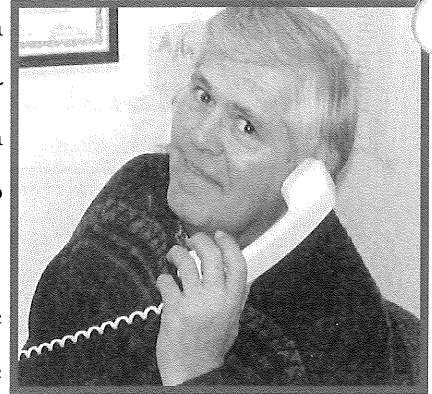
**Sue Watlov Phillips**



*Elim's mission is  
to end  
homelessness by  
providing  
affordable housing  
opportunities to  
individuals,  
couples, youth, and  
families and to  
foster self-reliance  
and stability in the  
community.*

**A Word From the Board President**

November 2003 marked twenty years since Elim opened its doors as a transitional housing program. Today, Elim serves primarily families with children that are experiencing barriers to enjoying safe and affordable housing.



Tom Meade, Board President

In 2004 the need continues to grow. In these uncertain economic times it has been more difficult than ever to continue our mission.

And although Elim served over 3000 people in 2003, the agency turned away an average of 300 people a month. I would like to express my deepest thanks and appreciation to all of the individual, foundations, companies, government agencies, and organizations for your continued support. It is because of you that we are able to continue to provide a place to call home.

**Hello From Executive Director Sue Watlov Phillips**

God continues to bless our program in helping thousands of people to have a Place to Call Home. We greatly appreciate all of your support over the last year!

Board members, staff, former residents, and volunteers joined hundreds of others from across the county last fall in Washington D.C. to support the Bringing America Home Campaign. This will provide affordable housing, livable incomes, universal health care, and access to education. The campaign will also ensure that the

civil rights of people experiencing homelessness will be respected.

Together, we can succeed in bringing America home.





## Elim Transitional Housing's History and Services and Community Partners

Elim Transitional Housing, Inc. is the outgrowth of an overnight winter shelter (1982-1983) and transitional housing program at Elim Baptist Church, located in Northeast Minneapolis that opened on November 15, 1983. In the initial design of the program, people staying at the shelter were asked in what way they could best be assisted in securing housing. Individuals experiencing homelessness described longer-term transitional settings, which would provide independent housing in the community and assistance in accessing jobs, education, and other support services to help stabilize their lives. Their vision became the basis for the design of Elim Transitional Housing, Inc., the state's first transitional housing program. The program was also the model for the creation of the Minnesota Temporary Housing Bill in 1984 and was one of the models utilized in shaping federal homeless legislation now known as the McKinney Vento Act.

In 1985, Elim Transitional Housing, Inc. separated from the church and was incorporated as a 501(c)3 organization.

The program provides affordable housing opportunities and support services to youth, singles, couples without children, and families who are currently experiencing homelessness, doubled up, living in substandard housing, or living in abusive conditions. Housing is provided primarily in North, Northeast, and South Minneapolis, as well as in suburban Hennepin, Anoka, and Ramsey counties. All

program residents live independently and pursue self-chosen goals leading to self-reliance.

Elim has several different programs that assist people experiencing homelessness to stabilize their housing. They include the following:

**Prevention Services** one time damage deposit, rental or mortgage assistance in order to preserve housing stability for families and people without dependent children on the verge of homelessness. Two hundred and fourteen (214) families and forty-six (46) singles were assisted in 2003 with this program.

**Rapid Exit** aided families and singles in finding housing and leaving the Hennepin County shelter system through case management assistance and apartment search guidance. Four hundred and twenty (420) families were assisted through the SHP/HUD program. Forty-six (46) singles were assisted in the FHPAP program in 2003.

**Transitional Housing and Supportive Services** were provided in shared housing, Elim rented housing, or regular apartment rentals partially subsidized by Elim. All housing was accompanied with case management and in some instances, In-Home Therapy. Housing was provided for up to 24 months. Elim operated, on average, fifty units (50) of transitional housing serving up to one hundred ninety-four (194) people at any given time.

**In-Home Therapy** was provided to approximately 14 families at any given time. A Therapist on staff at Elim met

residents in their own homes to discuss issues such as mental health needs, parenting skills, and assist in developing a support network in the community.

**Moving Assistance** was available through referrals to Hope Movers, a low cost moving service, (which originated as part of Elim) for those who are unable to afford the services of other moving companies.

### **Follow Up Services**

The SAFAH program provided up to six months of additional support services necessary to maintain housing stability to families with dependent children who have completed our transitional housing program, this included home ownership opportunities.

### **Tenant Based Rental Assistance**

In 2003, Elim provided three tenant based rent subsidy programs for families and individuals. The HOME program provided fourteen (14) units in Anoka County. The Rental Assistance for Family Stability (RAFS), provided seventy-one (71) units of rental assistance for up to 5 years for people experiencing homelessness or families at risk of homelessness on MFIP who have approved employment training plans. The Housing Trust Fund program provided fifty-six (56) units of rental assistance for people leaving the shelter system.

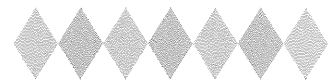
**Permanent Supportive Housing** We provided permanent supportive housing through the Group Residential Housing Program (GRH) and HUD Supportive Housing Program (SHP), Elim provided sixty-three (63) units of housing in

2003 to people that were experiencing homelessness and who were long term users of the shelter and had Mental Health, Chemical Health issues, and/or HIV/AIDS. This is permanent housing in the community with ongoing supportive services.

Elim Transitional Housing maintains partnerships with local, state, and national organizations to end homelessness. Our community partners include: The National and Minnesota Coalitions for The Homeless, The Minnesota Housing Partnership, Anoka County Affordable Housing Coalition, Housing Minnesota, Metropolitan Interfaith Council on Affordable Housing (MICAH), MESH, Hennepin County Family Homeless Prevention and Assistance Programs, the Continuum of Care Planning Processes for Anoka, Hennepin, and Ramsey Counties.

We also work in conjunction with other homeless service providers in the metro area providing referrals to those who are unable to get into our program due to a lack of space.

We believe Elim Transitional Housing can best fulfill its mission by working in partnership with all housing and mainstream resources in the community so that people experiencing homelessness may utilize those resources to stabilize their housing and help them to become self-reliant.



## Elim Transitional Housing 2003 Statistics

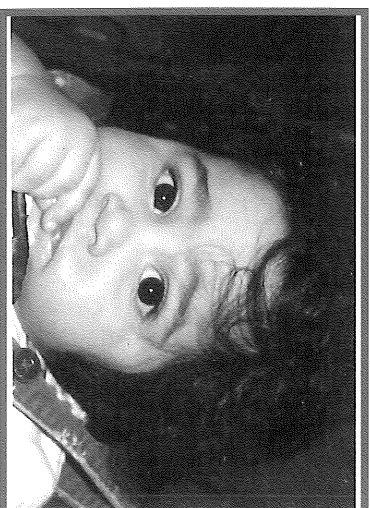
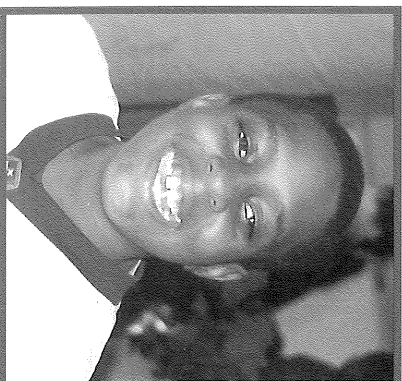
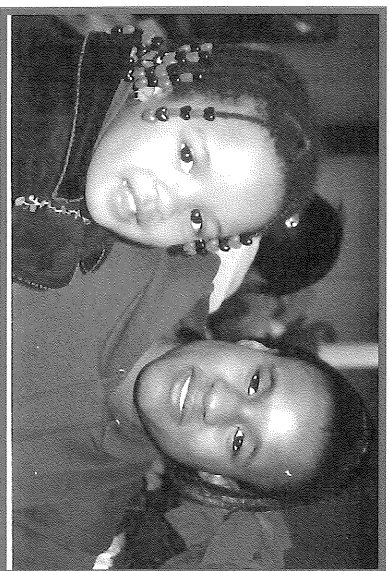
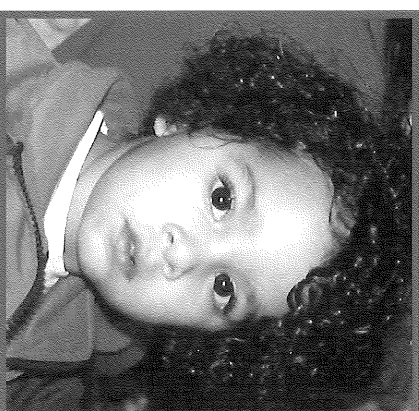
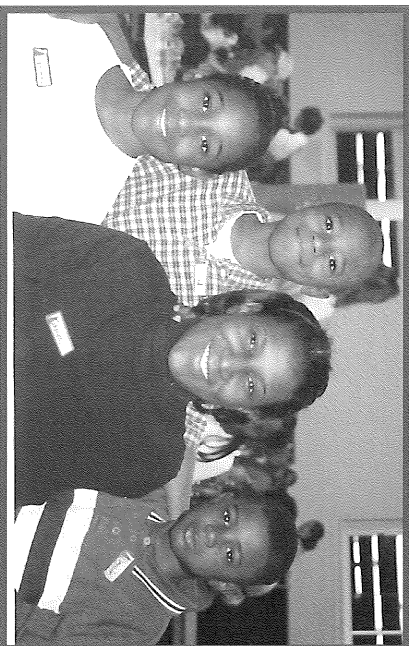
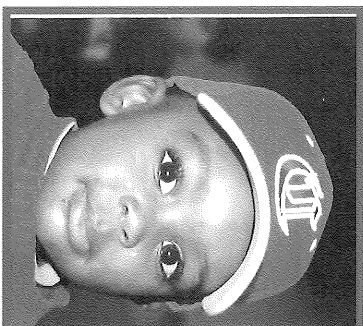
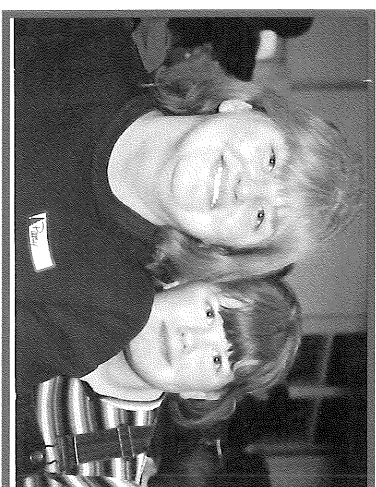
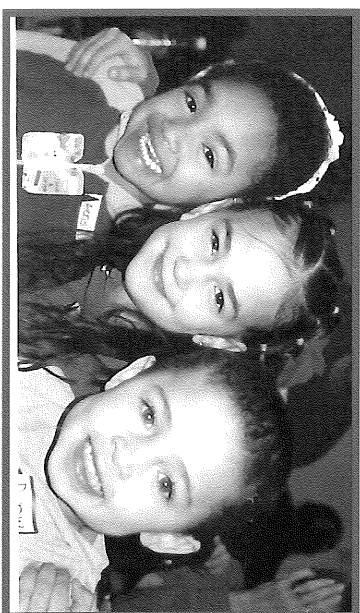
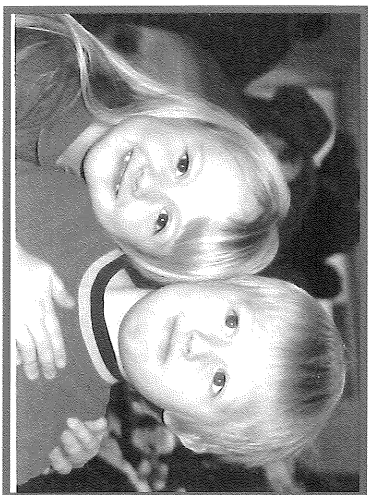
Program	Number of Family Units Served
Transitional Housing-FHPAP	40 Families (47 adults & 70 children)
Permanent Supportive Housing	51 Families (59 adults & 103 children)
Group Residential Housing	12 Families ( 18 adults & 35 children)
PRIDE	6 Families (6 adults & 2 children)
RAFS	71 Families ( 78 adults & 163 children)
SHP/HUD Rapid Exit	420 Families (521 adults & 918 children)
Prevention-Families-FHPAP	214 Families (266 adults & 545 children)
RAFS	114 Families (123 adults & 258 children)
Rapid Exit-Adults-FHPAP	19 Adults
Prevention-Adults-FHPAP	55 Adults
Housing Trust Fund	56 Families (69 adults & 150 children)
SAFAH	17 Families (19 Adults & 34 Children)
Minor Parent	7 Families (7 Adults & 12 Children)
HOME	14 Families (18 Adults &24 Children)

### 1200 ADULTS & 2096 CHILDREN SERVED IN 2003

### Statement of Financial Position-December 31, 2003

	2003	2002
Revenues an support:		
Government grants	\$ 2,027,354	\$ 1,973,858
Contributions	293,258	311,386
Contributions-in kind rent	123,396	136,286
Rental income	116,166	111,358
Interest income	3	30
Miscellaneous income	<u>93</u>	<u>—</u>
Total revenues and support	<u>2,560,270</u>	<u>2,532,918</u>
Expenses:		
Program services-housing support	2,537,472	2,377,252
Management and general	95,450	132,920
Fundraising	30,652	31,372
Total expenses	<u>2,663,574</u>	<u>2,541,544</u>

# Elim Transitional Housing, Inc.



*Thank-you for making a place to call home a reality for us !*

**Senate Counsel, Research,  
and Fiscal Analysis**

G-17 STATE CAPITOL  
75 REV. DR. MARTIN LUTHER KING, JR. BLVD.  
ST. PAUL, MN 55155-1606  
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JO ANNE ZOFF SELLNER  
DIRECTOR

# Senate

State of Minnesota

## **S.F. No. 2000 - Criminal and Juvenile Justice Information Policy Group Modifications**

**Author:** Senator Leo T. Foley

**Prepared by:** Chris Turner, Senate Research (651/296-4350) *CT*

**Date:** April 5, 2005

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The bill reorganizes the membership and duties of the Criminal and Juvenile Justice Information Policy Group and the Criminal and Juvenile Justice Information Task Force.

**Section 1** adds the Chair and first Vice Chair of the Criminal and Juvenile Justice Information Task Force to the Criminal and Juvenile Justice Information Policy Group. Authorizes the Policy Group to hire an executive director in the unclassified service.

**Sections 2 and 3** change the reporting requirement of the Policy Group from December 1 to January 15 of each year. Amends the membership of the Criminal and Juvenile Justice Information Task Force (formed to assist the Policy Group with its duties) by removing the Policy Group members, the Director of the Office of Long Range and Strategic Planning and the Commissioner of Administration and adding the following members:

- the Director of the Sentencing Guidelines Commission;
- one member appointed by the Commissioner of Public Safety;
- one member appointed by the Commissioner of Corrections;
- one member appointed by the Commissioner of Administration; and
- one member appointed by the Chief Justice of the Supreme Court.

The report must provide the status of current integration efforts, recommendations concerning legislative changes or appropriations and a summary of the work of the Policy Group and the Task Force.

**Section 4** transfers authority to determine system integration priorities from the Policy Group to the CrimNet program office, in consultation with the Task Force and the approval of the Policy Group.

Authorizes the Task Force to review funding requests and make recommendations to the Policy Group. Reserves authority to make final grant recommendations to the Policy Group. Provides a grant applicant matching fund requirement of up to 50 percent, to be constant across all applicants.

**Section 5** repeals Minnesota Statutes 2004, section 299C.65, subdivisions 3, 4, 6, 7, 8, 8a, and 9, relating to the Criminal and Juvenile Justice Information Policy Group:

- Subdivision 3 (Continuing Education Program);
- Subdivision 4 (Criminal Code Numbering Scheme);
- Subdivision 6 (Development of Integration Plan);
- Subdivision 7 (Implementation of Integration Plan);
- Subdivision 8 (Local Match);
- Subdivision 8a (Criminal Justice Technology Infrastructure Improvements);
- Subdivision 9 (Documentation and Reporting Requirements).

CT:vs



1 executive director shall serve at the pleasure of the policy  
2 group in unclassified service. The policy group must ensure  
3 that generally accepted project management techniques are  
4 utilized for each CrimNet project, including:

- 5 (1) clear sponsorship;
- 6 (2) scope management;
- 7 (3) project planning, control, and execution;
- 8 (4) continuous risk assessment and mitigation;
- 9 (5) cost management;
- 10 (6) quality management reviews;
- 11 (7) communications management; ~~and~~
- 12 (8) proven methodology; and
- 13 (9) education and training.

14 (c) Products and services for CrimNet project management,  
15 system design, implementation, and application hosting must be  
16 acquired using an appropriate procurement process, which  
17 includes:

- 18 (1) a determination of required products and services;
- 19 (2) a request for proposal development and identification  
20 of potential sources;
- 21 (3) competitive bid solicitation, evaluation, and  
22 selection; and
- 23 (4) contract administration and close-out.
- 24 (d) The policy group shall study and make recommendations  
25 to the governor, the Supreme Court, and the legislature on:
  - 26 (1) a framework for integrated criminal justice information  
27 systems, including the development and maintenance of a  
28 community data model for state, county, and local criminal  
29 justice information;
  - 30 (2) the responsibilities of each entity within the criminal  
31 and juvenile justice systems concerning the collection,  
32 maintenance, dissemination, and sharing of criminal justice  
33 information with one another;
  - 34 (3) actions necessary to ensure that information maintained  
35 in the criminal justice information systems is accurate and  
36 up-to-date;

1 (4) the development of an information system containing  
2 criminal justice information on gross misdemeanor-level and  
3 felony-level juvenile offenders that is part of the integrated  
4 criminal justice information system framework;

5 (5) the development of an information system containing  
6 criminal justice information on misdemeanor arrests,  
7 prosecutions, and convictions that is part of the integrated  
8 criminal justice information system framework;

9 (6) comprehensive training programs and requirements for  
10 all individuals in criminal justice agencies to ensure the  
11 quality and accuracy of information in those systems;

12 (7) continuing education requirements for individuals in  
13 criminal justice agencies who are responsible for the  
14 collection, maintenance, dissemination, and sharing of criminal  
15 justice data;

16 (8) a periodic audit process to ensure the quality and  
17 accuracy of information contained in the criminal justice  
18 information systems;

19 (9) the equipment, training, and funding needs of the state  
20 and local agencies that participate in the criminal justice  
21 information systems;

22 (10) the impact of integrated criminal justice information  
23 systems on individual privacy rights;

24 (11) the impact of proposed legislation on the criminal  
25 justice system, including any fiscal impact, need for training,  
26 changes in information systems, and changes in processes;

27 (12) the collection of data on race and ethnicity in  
28 criminal justice information systems;

29 (13) the development of a tracking system for domestic  
30 abuse orders for protection;

31 (14) processes for expungement, correction of inaccurate  
32 records, destruction of records, and other matters relating to  
33 the privacy interests of individuals; and

34 (15) the development of a database for extended  
35 jurisdiction juvenile records and whether the records should be  
36 public or private and how long they should be retained.



1 Sec. 2. Minnesota Statutes 2004, section 299C.65,  
2 subdivision 2, is amended to read:

3 Subd. 2. ~~[REPORT, TASK FORCE.] (a)-The-policy-group-shall~~  
4 ~~file-an-annual-report-with-the-governor,-Supreme-Court,-and~~  
5 ~~chairs-and-ranking-minority-members-of-the-senate-and-house~~  
6 ~~committees-and-divisions-with-jurisdiction-over-criminal-justice~~  
7 ~~funding-and-policy-by-December-1-of-each-year.~~

8 ~~(b)-The-report-must-make-recommendations-concerning-any~~  
9 ~~legislative-changes-or-appropriations-that-are-needed-to-ensure~~  
10 ~~that-the-criminal-justice-information-systems-operate-accurately~~  
11 ~~and-efficiently.--To-assist-them-in-developing-their~~  
12 ~~recommendations,~~ The policy group shall appoint a task force  
13 consisting to assist them in their duties. The task force shall  
14 monitor, review, and report to the policy group on  
15 CrimNet-related projects and provide oversight to ongoing  
16 operations as directed by the policy group. The task force  
17 shall consist of its-members-or-their-designees-and the  
18 following additional members:

19 (1) ~~the-director-of-the-Office-of-Strategic-and-Long-Range~~  
20 ~~Planning;~~

21 ~~(2) two sheriffs recommended by the Minnesota Sheriffs~~  
22 ~~Association;~~

23 ~~(3) (2) two police chiefs recommended by the Minnesota~~  
24 ~~Chiefs of Police Association;~~

25 ~~(4) (3) two county attorneys recommended by the Minnesota~~  
26 ~~County Attorneys Association;~~

27 ~~(5) (4) two city attorneys recommended by the Minnesota~~  
28 ~~League of Cities;~~

29 ~~(6) (5) two public defenders appointed by the Board of~~  
30 ~~Public Defense;~~

31 ~~(7) (6) two district judges appointed by the Conference of~~  
32 ~~Chief Judges, one of whom is currently assigned to the juvenile~~  
33 ~~court;~~

34 ~~(8) (7) two community corrections administrators~~  
35 ~~recommended by the Minnesota Association of Counties, one of~~  
36 ~~whom represents a community corrections act county;~~

1       ~~(9)~~ (8) two probation officers;

2       ~~(10)~~ (9) four public members, one of whom has been a victim

3 of crime, and two who are representatives of the private

4 business community who have expertise in integrated information

5 systems;

6       ~~(11)~~ (10) two court administrators;

7       ~~(12)~~ (11) one member of the house of representatives

8 appointed by the speaker of the house;

9       ~~(13)~~ (12) one member of the senate appointed by the

10 majority leader;

11       ~~(14)~~ (13) the attorney general or a designee;

12       ~~(15)-the-commissioner-of-administration-or-a-designee;~~

13       ~~(16)~~ (14) an individual recommended by the Minnesota League

14 of Cities; and

15       ~~(17)~~ (15) an individual recommended by the Minnesota

16 Association of Counties;

17       (16) the director of the Sentencing Guidelines Commission;

18       (17) one member appointed by the commissioner of public

19 safety;

20       (18) one member appointed by the commissioner of

21 corrections;

22       (19) one member appointed by the commissioner of

23 administration; and

24       (20) one member appointed by the chief justice of the

25 Supreme Court.

26 In making these appointments, the appointing authority shall

27 select members with expertise in integrated data systems or best

28 practices.

29       ~~(e)~~ The commissioner of public safety may appoint

30 additional, nonvoting members to the task force as necessary

31 from time to time.

32       Sec. 3. Minnesota Statutes 2004, section 299C.65, is

33 amended by adding a subdivision to read:

34       Subd. 3a. [REPORT.] The policy group, with the assistance

35 of the task force, shall file an annual report with the

36 governor, Supreme Court, and chairs and ranking minority members

1 of the senate and house committees and divisions with  
2 jurisdiction over criminal justice funding and policy by January  
3 15 of each year. The report must provide the following:

4 (a) status and review of current integration efforts and  
5 projects;

6 (b) recommendations concerning any legislative changes or  
7 appropriations that are needed to ensure that the criminal  
8 justice information systems operate accurately and efficiently;  
9 and

10 (c) summary of the activities of the policy group and task  
11 force.

12 Sec. 4. Minnesota Statutes 2004, section 299C.65,  
13 subdivision 5, is amended to read:

14 Subd. 5. [REVIEW OF FUNDING AND GRANT REQUESTS.] (a) The  
15 Criminal and Juvenile Justice Information Policy Group shall  
16 review the funding requests for criminal justice information  
17 systems from state, county, and municipal government agencies.  
18 The policy group shall review the requests for compatibility to  
19 statewide criminal justice information system standards. The  
20 review shall be forwarded to the chairs and ranking minority  
21 members of the house and senate committees and divisions with  
22 jurisdiction over criminal justice funding and policy.

23 ~~(b) The policy group shall also review funding requests for~~  
24 ~~criminal justice information systems grants to be made by the~~  
25 ~~commissioner of public safety as provided in this section.~~  
26 ~~Within the limits of available appropriations, the commissioner~~  
27 ~~of public safety shall make grants for projects that have been~~  
28 ~~approved by the policy group. CrimNet program office, in~~  
29 consultation with the Criminal and Juvenile Justice Information  
30 Task Force and with the approval of the policy group, shall  
31 create the requirements for any grant request and determine the  
32 integration priorities for the grant period. The CrimNet  
33 program office shall also review the requests submitted for  
34 compatibility to statewide criminal justice information systems  
35 standards.

36 (c) ~~if a funding request is for development of a~~

~~comprehensive-criminal-justice-information-integration-plan, the  
policy-group-shall-ensure-that-the-request-contains-the  
components-specified-in-subdivision-6.---If-a-funding-request-is  
for-implementation-of-a-plan-or-other-criminal-justice  
information-systems-project, the-policy-group-shall-ensure-that:~~

~~(1)-the-government-agency-has-adopted-a-comprehensive-plan  
that-complies-with-subdivision-6,~~

~~(2)-the-request-contains-the-components-specified-in  
subdivision-7,-and~~

~~(3)-the-request-demonstrates-that-it-is-consistent-with-the  
government-agency's-comprehensive-plan. The task force shall  
review funding requests for criminal justice information systems  
grants and make recommendations to the policy group. The policy  
group shall review the recommendations of the task force and  
shall make a final recommendation for criminal justice  
information systems grants to be made by the commissioner of  
public safety. Within the limits of available state  
appropriations and federal grants, the commissioner of public  
safety shall make grants for projects that have been recommended  
by the policy group.~~

~~(d) The policy group may approve grants only if the  
applicant provides an appropriate share of matching funds as  
determined by the policy group to help pay up to one-half of the  
costs of the grant request. The matching requirement must be  
constant for all counties. The policy group shall adopt  
policies concerning the use of in-kind resources to satisfy the  
match requirement and the sources from which matching funds may  
be obtained. Local operational or technology staffing costs may  
be considered as meeting this match requirement. Each grant  
recipient shall certify to the policy group that it has not  
reduced funds from local, county, federal, or other sources  
which, in the absence of the grant, would have been made  
available to the grant recipient to improve or integrate  
criminal justice technology.~~

~~(e) All grant recipients shall submit to the CrimNet  
program office all requested documentation including grant~~

1 status, financial reports, and a final report evaluating how the  
2 grant funds improved the agency's criminal justice integration  
3 priorities. The CrimNet program office shall establish the  
4 recipient's reporting dates at the time funds are awarded.

5 Sec. 5. [REPEALER.]

6 Minnesota Statutes 2004, section 299C.65, subdivisions 3,  
7 4, 6, 7, 8, 8a, and 9, are repealed.

APPENDIX  
Repealed Minnesota Statutes for 05-0453

**299C.65 CRIMINAL AND JUVENILE JUSTICE INFORMATION POLICY GROUP.**

Subd. 3. **Continuing education program.** The Criminal and Juvenile Justice Information Policy Group shall explore the feasibility of developing and implementing a continuing education program for state, county, and local criminal justice information agencies. The policy group shall consult with representatives of public and private postsecondary institutions in determining the most effective manner in which the training shall be provided. The policy group shall include recommendations in the 1994 report to the legislature.

Subd. 4. **Criminal Code numbering scheme.** The policy group shall study and make recommendations on a structured numbering scheme for the Criminal Code to facilitate identification of the offense and the elements of the crime and shall include recommendations in the 1994 report to the legislature.

Subd. 6. **Development of integration plan.** (a) If a funding request is for funds to develop a comprehensive criminal justice information integration plan to integrate all systems within a jurisdiction, the requesting agency must submit to the policy group a request that contains the following components:

(1) the vision, mission, goals, objectives, and scope of the integration plan;

(2) a statement of need identifying problems, inefficiencies, gaps, overlaps, and barriers within the requesting agency's jurisdiction, including those related to current systems and interfaces, business practices, policies, laws, and rules;

(3) a list of agency heads and staff who will direct the effort and a statement demonstrating collaboration among all of the agencies involved;

(4) a statement that the integration plan would integrate all systems within the six major business functions of the criminal justice community, including incident reporting, investigation, arrest, detention, adjudication, and disposition, including postsentence supervision and treatment, and related civil, family, and human services proceedings, processes, and services, to the extent it was cost beneficial;

(5) a statement demonstrating that the requesting agency has consulted with individuals involved in day-to-day business practices, use, and operation of current criminal justice information systems so as to identify barriers and gaps;

(6) a planning methodology that will result in at least the following deliverables:

(i) an identification of problems in the state's criminal justice data model, where applicable, including data policy problems and proposed changes;

(ii) a function and process model that includes business process improvement and redesign opportunities, prioritized business change objectives, and short-term opportunities for improvement that can be pursued immediately while developing and implementing the long-range integration plan;

(iii) a technology model that includes network, communication, and security standards and guidelines;

(iv) an application architecture;

(v) a complete gap analysis that includes identification of gaps, omissions, and redundancies in the collection and dissemination of criminal justice information in the requesting

APPENDIX  
Repealed Minnesota Statutes for 05-0453

agency's jurisdiction;

(vi) an assessment of current and alternative directions for business practices, applications, and technology, ranging from simple modifications to complete redesign;

(vii) a business process redesign model, showing existing and redesigned process and process vision, future performance targets, design principles, new process flow, and benefits; and

(viii) a long-range integration plan that includes time frames for the retirement, renewal, or redevelopment of systems and applications identified in clauses (i) to (vii) along with justification based on age, business processes not supported, and data deficiencies;

(7) projected timelines for developing and executing the plan;

(8) an estimate of the resources needed to develop, execute, operate, and maintain the integration plan;

(9) a statement that the final integration plan will contain all the components in this subdivision in final form;

(10) an identification of how the applicant will satisfy the match requirements of subdivision 8; and

(11) any other matters the policy group deems necessary for successful development or implementation of the integration plan and resulting systems.

(b) An agency may submit an interim integration plan to the policy group if it identifies high priority integration tasks during the development of the integration plan. The interim plan shall identify the tasks and the business case for completing these tasks in advance of completing the entire plan.

**Subd. 7. Implementation of integration plan.** If the request is for funds to implement an integration plan, the requesting agency must submit the following to the policy group:

(1) an integration plan containing the components described in subdivision 6;

(2) a description of how implementation of the integration plan will improve operation of the criminal justice system in the requesting agency's jurisdiction;

(3) an identification of how the applicant will satisfy the match requirement in subdivision 8; and

(4) a means for evaluating outcomes of the plan's implementation.

**Subd. 8. Local match.** (a) The policy group may approve grants only if the applicant provides an appropriate share of matching funds as determined by the policy group to help pay up to one-half of the costs of developing or implementing the integration plan. The matching requirement must be a constant for all counties. The policy group shall adopt policies concerning the use of in-kind resources to satisfy the match requirement and the sources from which matching funds may be obtained. Local operational or technology staffing costs may be considered as meeting this match requirement.

(b) The policy group shall consult with the task force when carrying out its powers and duties under paragraph (a).

(c) Each grant recipient shall certify to the policy group that it has not reduced funds from local, county, federal, or other sources which, in the absence of the grant, would have been made available to the grant recipient to improve or integrate criminal justice technology.

**Subd. 8a. Criminal justice technology infrastructure**

**APPENDIX**  
**Repealed Minnesota Statutes for 05-0453**

**improvements.** (a) Within 30 days of the submission of the Hennepin County integration plan funded by a grant under Laws 1999, chapter 216, article 1, section 7, subdivision 6, or September 1, 2000, whichever is earlier, the policy group shall:

(1) assess the needs of state, county, and municipal government agencies for electronic fingerprint capture technology, electronic photographic identification technology, and additional bandwidth to transfer and access the data from electronic fingerprint capture technology and electronic photographic identification technology to the state's central database; and

(2) choose locations and agencies to receive this technology.

(b) Within the limits of available appropriations, the commissioner of public safety shall purchase and distribute the technology infrastructure improvements as directed by the policy group. The commissioner shall begin the purchasing process within 30 days of receiving notice of the policy group's decisions. The commissioner shall distribute the improvements as soon as practicable after beginning the purchasing process.

(c) If feasible, the policy group shall direct the commissioner to distribute the technology infrastructure improvements described in this subdivision in 100 locations. However, no more than 30 percent of the improvements may be distributed in one county.

**Subd. 9. Documentation and reporting requirements.**

Every recipient of matching funds to develop or implement an integration plan shall submit to the policy group all requested documentation, including final plans and a report evaluating whether and how the development or implementation of the integration plan improved the operation of the criminal justice system in the requesting agency's jurisdiction. The policy group shall establish the recipient's reporting dates at the time funds are awarded.

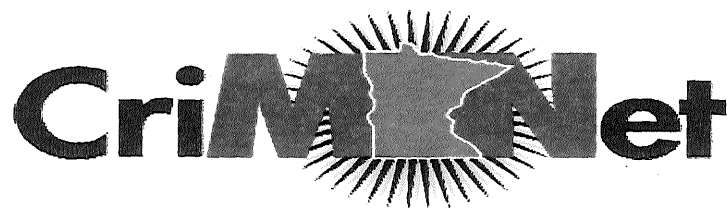


## Criminal & Juvenile Justice Information TASK FORCE

### Article 5 Criminal Justice Information Technology and Integration Provisions

**Section 1. Minnesota Statutes, section 299C.65, subdivision 2:** *To assist them (the policy group) in developing their recommendations, the policy group shall appoint a task force consisting of its members or their designees and the following additional members:*

<p>(1) Director of the office of strategic and long-range planning*</p> <p>* Note: effective April 23, 2003 the Office of Strategic and Long-Range Planning (Minnesota Planning) has been merged with the Department of Administration</p>	<p>Vacant</p>	
<p>(2) Two sheriffs recommended by the Minnesota sheriffs association</p>	<p>Sheriff Bob Fletcher (Proxy: Dave Fenner)          Ramsey County Sheriff's Office          14 West Kellogg Boulevard, #315          St. Paul, MN 55102          Phone: (651) 266-9330          Fax: (651) 266-9328          E-mail: <a href="mailto:bob.fletcher@co.ramsey.mn.us">bob.fletcher@co.ramsey.mn.us</a></p>	<p>Sheriff Bud Olson          Carver County Sheriff's Office          606 East Fourth Street          Chaska, MN 55318          Phone: (952) 361-1212          Fax: (952) 361-1100          E-mail: <a href="mailto:bolson@co.carver.mn.us">bolson@co.carver.mn.us</a></p>
<p>(3) Two police chiefs recommended by the Minnesota chiefs of police association</p>	<p>Chief Scott Knight (Proxy: Peggy Hatfield)          Chaska Police Department          Two City Hall Plaza          Chaska, MN 55318          Phone: 952-448-4200          Fax: 952-448-2307          E-mail: <a href="mailto:sknight@chaska.net">sknight@chaska.net</a></p>	<p>Chief Gary Smith          Northfield Police Department          300 West 5th Street          Northfield, MN 55057          Phone: 507-645-4475          Fax: 507-663-9323          E-mail: <a href="mailto:gary.smith@ci.northfield.mn.us">gary.smith@ci.northfield.mn.us</a></p>



<p>(4) Two county attorneys recommended by the Minnesota county attorneys association</p>	<p>Mr. Doug Johnson Washington County Attorney 14949 62nd Street North PO Box 6 Stillwater, MN 55082 Phone: (651) 430-6124 Fax: (651) 430-6799 E-mail: <a href="mailto:Doug.Johnson@Co.Washington.mn.us">Doug.Johnson@Co.Washington.mn.us</a></p>	<p>Mr. Ray Schmitz Olmsted County Attorney's Office 151 Fourth Street SE Rochester, MN 55902 Phone: (507) 285-8138 Fax: (507) 281-6054 E-mail: <a href="mailto:schmitz.ray@co.olmsted.mn.us">schmitz.ray@co.olmsted.mn.us</a></p>
<p>(5) Two city attorneys recommended by the Minnesota league of cities</p>	<p>Mr. Elliott Knetsch Campbell Knutson 1380 Corporate Center Curve, #317 Eagan, MN 55121 Phone: (651) 452-5000 Fax: (651) 234-6237 E-mail: <a href="mailto:eknetsch@ck-law.com">eknetsch@ck-law.com</a></p>	<p>Ms. Eileen Wells 10 Civic Center Plaza Mankato, MN. 56001 Phone: (507) 387-8600 Fax: (507) 388-7530 E-Mail: <a href="mailto:ewells@city.mankato.mn.us">ewells@city.mankato.mn.us</a></p>
<p>(6) Two public defenders appointed by the board of public defense</p>	<p>Mr. Steve Holmgren Chief Public Defender 1st Judicial District 7500 West 147<sup>th</sup> Street #400 Apple Valley, MN 55124 Phone: (952) 953-6082 Fax: (952) 953-6073 E-mail: <a href="mailto:steve.holmgren@state.mn.us">steve.holmgren@state.mn.us</a></p>	<p>Mr. Robert Sykora Attorney at Law Chief Information Officer MN Defender Information Systems 331 Second Avenue South, #900 Minneapolis, MN 55401 Phone: (612) 373-2805 Fax: (612) 349-2568 E-mail: <a href="mailto:robert.sykora@state.mn.us">robert.sykora@state.mn.us</a></p>
<p>(7) Two district judges appointed by the conference of chief judges, one of whom is currently assigned to the juvenile court</p>	<p>Randall J Slieter Renville County 8th Judicial District Court 500 E DePue Avenue Oliva, MN 56277 Phone: (320) 523-3680 Fax: (320) 523-3689 E-mail: <a href="mailto:randy.slieter@courts.state.mn.us">randy.slieter@courts.state.mn.us</a></p>	<p>Kathryn Quaintance 4<sup>th</sup> Judicial District Court Juvenile Justice Center 626 S 6<sup>th</sup> Street Minneapolis, MN 55415 Phone: (612) 348-5434 Fax: (612) 348-2067 E-mail: <a href="mailto:kathryn.quaintance@courts.state.mn.us">kathryn.quaintance@courts.state.mn.us</a></p>

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<p>(9) Two probation officers</p>	<p>Mr. J. Hancuch Isanti County Court Services Government Center 555 18<sup>th</sup> Avenue SW Cambridge, MN 55008 Phone: (763) 689-8329 Fax: (763) 689-8325 E-mail: <a href="mailto:j.hancuch@co.isanti.mn.us">j.hancuch@co.isanti.mn.us</a></p>	<p>Mr. Dave Gerjets Anoka County Corrections 325 E Main Street Anoka, MN. 55303 Phone: (763) 323-5856 Fax: (763) 323-5870 E-mail: <a href="mailto:dave.gerjets@co.anoka.mn.us">dave.gerjets@co.anoka.mn.us</a></p>
<p>(10) Four public members, one of whom has been a victim of crime, and two who are representatives of the private business community who have expertise in integrated information systems</p>	<p>Mr. Richard Neumeister 345 Wabasha Avenue, #508 St. Paul, MN 55102 Phone: (651) 290-2675 Fax: N/A E-mail: N/A</p>	<p>Ms. Lucy Banks MN General Crime Victim Coalition 8213 West 93<sup>rd</sup> Street Circle Bloomington, MN 55438 Phone: (952) 941-2515 Fax: (952)941-4682 E-mail: <a href="mailto:lob8213@aol.com">lob8213@aol.com</a></p>
	<p>Mr. Mark Kleinerman Target Corporation Information Security 1000 Nicollet Mall Minneapolis, MN 55403 Phone: (612) 304-5066 Fax: (612) 304-5066 E-mail: <a href="mailto:Mark.Kleinerman@target.com">Mark.Kleinerman@target.com</a></p>	<p>Vacant</p>

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# Senate

State of Minnesota

## **S.F. No. 2087 -Exception for Bullet-Proof Vest Reimbursement for Vests Made from Zylon-Based Materials**

**Author:** Senator Leo T. Foley

**Prepared by:** Chris Turner, Senate Research (651/296-4350) *CT*

**Date:** April 5, 2005

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The bill exempts zylon-based bullet-proof vests from the reimbursement eligibility requirements listed in Minnesota Statutes, section 299A.38, subdivision 3, paragraph (b), which are:

- the officer did not own a vest meeting National Institute of Justice standards prior to the purchase; or
- the officer was replacing a vest that was at least six years old.

Under the bill, officers are eligible for reimbursement for zylon-based vests purchased or possessed prior to July 1, 2005.

CT:vs

**Senator Foley introduced--****S.F. No. 2087:** Referred to the Committee on Crime Prevention and Public Safety.

1                                   A bill for an act

2           relating to public safety; providing an exception for  
3           bullet-resistant vest reimbursements for vests made  
4           from zylon-based materials; amending Minnesota  
5           Statutes 2004, section 299A.38, subdivision 3.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

7           Section 1. Minnesota Statutes 2004, section 299A.38,  
8           subdivision 3, is amended to read:

9           Subd. 3. [ELIGIBILITY REQUIREMENTS.] (a) Only vests that  
10          either meet or exceed the requirements of standard 0101.03 of  
11          the National Institute of Justice or that meet or exceed the  
12          requirements of that standard, except wet armor conditioning,  
13          are eligible for reimbursement.

14          (b) Eligibility for reimbursement is limited to vests  
15          bought after December 31, 1986, by or for peace officers (1) who  
16          did not own a vest meeting the requirements of paragraph (a)  
17          before the purchase, or (2) who owned a vest that was at least  
18          six years old.

19          (c) The requirement set forth in paragraph (b), clauses (1)  
20          and (2), shall not apply to any peace officer who purchases a  
21          vest constructed from a zylon-based material, provided that the  
22          peace officer provides proof of purchase or possession of the  
23          vest prior to July 1, 2005.

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# Senate

State of Minnesota

## **S.F. No. 903 - (SCS0903CE1 Committee Engrossment) Conditional Release for Certain Controlled Substance Offenders; Expungements Authorized**

**Author:** Senator Thomas Neuville

**Prepared by:** Chris Turner, Senate Research (651/296-4350) KO  
Kenneth P. Backhus, Senate Counsel (651/296-4396) CT

**Date:** April 5, 2005

---

**Section 1, subdivision 1,** creates a Conditional Release Board, having the authority to grant conditional early release to nonviolent drug offenders who have met the criteria outlined in subdivision 3.

**Subdivision 2** provides board membership criteria. The board shall consist of the Commissioners of Corrections and Public Safety and three public members appointed by the Governor with the advice and consent of the Senate.

**Subdivision 3** provides the following offender criteria for consideration for conditional early release:

- the crime of conviction must be a first- to fifth-degree controlled substance crime (Minnesota Statutes, sections 152.021 to 152.025);
- the sentencing court must determine at the time of sentencing that the offender committed the crime as a result of drug addiction and not primarily for profit;
- the offender has served at least 36 months or one-half of the offender's term of imprisonment;
- the offender has successfully completed a chemical dependency treatment program while in prison; and
- the offender has not previously been conditionally released under this section.

**Subdivision 4** requires the Commissioner of Corrections to offer chemical dependency treatment to the offenders described in subdivision 3 within 120 days after their term of imprisonment begins.

**Subdivision 5** requires the board to make a determination that an offender does not pose a threat to public safety before it grants a conditional release. In making its determination, the board must follow the release procedures established in Minnesota Statutes, section 244.05, subdivision 2, and its applicable rules.

**Subdivision 6** provides that the board may rescind a conditional release without hearing if it determines that continuation of the release poses a danger to the public or to an individual.

**Subdivision 7** prohibits the conditional release of an offender serving concurrent sentences for an offense eligible for conditional release and an offense ineligible for release under this section until the offender has served the entire term of imprisonment for the ineligible offense.

**Section 2** permits, five years after discharge from release or expiration of sentence, the filing of a petition for expungement of criminal records for offenders who are conditionally released under section 1, provided the petitioner has not been convicted of any new offense.

CT/KPB:vs

## 1 A bill for an act

2 relating to public safety; creating a Conditional  
3 Release Board with the authority to order the  
4 conditional release from prison of certain nonviolent  
5 controlled substance offenders, if the release of  
6 these offenders does not pose a danger to the public  
7 or any individual; authorizing expungements of  
8 conviction records for these offenders; requiring the  
9 Department of Corrections to offer chemical dependency  
10 treatment to certain offenders; authorizing an RFP for  
11 the construction and operation of correctional  
12 facilities to house and treat controlled substance  
13 offenders; amending Minnesota Statutes 2004, section  
14 609A.02, by adding a subdivision; proposing coding for  
15 new law in Minnesota Statutes, chapter 244.

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

17 Section 1. [244.055] [CONDITIONAL RELEASE OF NONVIOLENT  
18 CONTROLLED SUBSTANCE OFFENDERS; OPPORTUNITY FOR DRUG TREATMENT.]

19 Subdivision 1. [CONDITIONAL RELEASE BOARD.] The  
20 Conditional Release Board has the authority to release offenders  
21 committed to the custody of the commissioner of corrections who  
22 meet the requirements of this section and of any rules adopted  
23 by the board.

24 Subd. 2. [MEMBERSHIP.] (a) The board consists of the  
25 following five members:

26 (1) the commissioner of corrections or a designee;  
27 (2) the commissioner of public safety or a designee; and  
28 (3) three public members appointed by the governor with the  
19 advice and consent of the senate.

30 (b) Members of the board appointed by the governor under

1 paragraph (a), clause (3), are not required to have specific  
2 academic or professional qualifications but must have knowledge  
3 of or experience in corrections or related fields and must be  
4 selected based on their sound judgment and ability to consider  
5 the needs of persons over whom the board has jurisdiction and  
6 the safety of the public. At least one of the public members  
7 must be male, at least one must be female, and at least one must  
8 be a member of a racial minority group.

9 (c) Members of the board shall serve for a term of six  
10 years and are eligible for reappointment.

11 (d) The removal of members appointed by the governor under  
12 paragraph (a), clause (3), and the filling of their vacant  
13 positions is governed by section 15.0575.

14 Subd. 3. [CONDITIONAL RELEASE OF CERTAIN NONVIOLENT  
15 CONTROLLED SUBSTANCE OFFENDERS.] An offender who has been  
16 committed to the commissioner's custody may petition the board  
17 for conditional release from prison before the offender's  
18 scheduled supervised release date or target release date if:

19 (1) the offender is serving a sentence for violating  
20 section 152.021, 152.022, 152.023, 152.024, or 152.025;

21 (2) the sentencing court determined at the time of  
22 sentencing that the offender committed the crime as a result of  
23 a controlled substance addiction, and not primarily for profit;

24 (3) the offender has served at least 36 months or one-half  
25 of the offender's term of imprisonment, whichever is less;

26 (4) the offender successfully completed a chemical  
27 dependency treatment program while in prison; and

28 (5) the offender has not previously been conditionally  
29 released under this section.

30 Subd. 4. [OFFER OF CHEMICAL DEPENDENCY TREATMENT.] The  
31 commissioner shall offer all offenders meeting the criteria  
32 described in subdivision 3, clauses (1) and (2), the opportunity  
33 to begin a suitable chemical dependency treatment program within  
34 120 days after the offender's term of imprisonment begins.

35 Subd. 5. [RELEASE PROCEDURES.] The board may not grant  
36 conditional release to an offender under this section unless the

1 board determines that the offender's release will not pose a  
2 danger to the public or an individual. In making its  
3 determination, the board shall follow the procedures contained  
4 in section 244.05, subdivision 5, and the rules adopted by the  
5 commissioner of corrections under that subdivision. The board  
6 shall also consider the offender's custody classification and  
7 level of risk of violence and the availability of appropriate  
8 community supervision for the offender. Conditional release  
9 granted under this section continues until the offender's  
10 sentence expires, unless release is rescinded under subdivision  
11 6.

12 Subd. 6. [CONDITIONAL RELEASE.] The conditions of release  
13 granted under this section are governed by the statutes and  
14 rules governing supervised release under this chapter, except  
15 that release may be rescinded without hearing by the Conditional  
16 Release Board if the board determines that continuation of the  
17 conditional release poses a danger to the public or to an  
18 individual. If the board rescinds an offender's conditional  
19 release, the offender shall be returned to prison and shall  
20 serve the remaining portion of the offender's sentence.

21 Subd. 7. [OFFENDERS SERVING OTHER SENTENCES.] An offender  
22 who is serving both a sentence for an offense described in  
23 subdivision 3 and an offense not described in subdivision 3, is  
24 not eligible for release under this section unless the offender  
25 has completed the offender's full term of imprisonment for the  
26 other offense.

27 [EFFECTIVE DATE.] This section is effective January 1,  
28 2006, and applies to offenders serving terms of imprisonment and  
29 to offenders sentenced on or after that date.

30 Sec. 2. Minnesota Statutes 2004, section 609A.02, is  
31 amended by adding a subdivision to read:

32 Subd. 1a. [OTHER CONTROLLED SUBSTANCE OFFENSES;  
33 CONVICTIONS.] A petition may be filed under section 609A.03 to  
34 seal all records relating to an arrest, indictment or  
35 information, trial, or verdict for a violation of section  
36 152.022, 152.023, 152.024, or 152.025 if the actions or

1 proceedings were not resolved in favor of the petitioner, and if:

2 (1) the petitioner was conditionally released under section

3 244.055;

4 (2) at least five years have elapsed since the petitioner

5 has been discharged from conditional release or since the

6 petitioner's sentence has expired; and

7 (3) the petitioner has not been convicted of any new

8 offense.

9 [EFFECTIVE DATE.] This section is effective August 1, 2005.



1 Senator ..... moves to amend the committee engrossment  
2 (SCS0903CE1) of S.F. No. 903 as follows:

3 Page 2, line 9, delete "a term of six"

4 Page 2, line 10, delete "years" and insert "staggered terms"  
5 and after the period, insert "Of the initial appointments for  
6 the public members, one must be for a two-year term, one must be  
7 for a four-year term, and one must be for a six-year term. The  
8 term for reappointments is six years."

1 Senator ..... moves to amend the committee engrossment  
2 (SCS0903CE1) of S.F. No. 903 as follows:

3 Page 4, after line 9, insert:

4 "Sec. 3. [CONTROLLED SUBSTANCE OFFENDERS CURRENTLY IN  
5 PRISON; CONDITIONAL RELEASE.]

6 An offender meeting the criteria described in Minnesota  
7 Statutes, section 244.055, subdivision 3, clauses (1), (3), (4),  
8 and (5), and subdivision 7, may petition the Conditional Release  
9 Board under Minnesota Statutes, section 244.055, for conditional  
10 release. The provisions of Minnesota Statutes, section 244.055,  
11 apply to the petition, release decision, and conditional release  
12 of offenders under this section. However, the board shall  
13 ensure that the prosecutorial authority responsible for the  
14 offender's conviction receives reasonable advance notice of the  
15 offender's petition for conditional release. In addition to the  
16 other criteria for release, the board may not conditionally  
17 release an offender unless it determines that the offender  
18 committed the crime as a result of a controlled substance  
19 addiction, and not primarily for profit.

20 [EFFECTIVE DATE.] This section is effective January 1,  
21 2006, and applies to offenders who committed controlled  
22 substance crimes before that date."

23 Amend the title accordingly

1 Senator ..... moves to amend the committee engrossment  
2 (SCS0903CE1) of S.F. No. 903 as follows:

3 Page 1, after line 16, insert:

4 "Section 1. [152.0255] [STAYED SENTENCES FOR CERTAIN  
5 FIRST-TIME CONTROLLED SUBSTANCE POSSESSORS.]

6 Subdivision 1. [STAYED SENTENCES AUTHORIZED; FIRST-TIME  
7 SECOND-, THIRD-, FOURTH-, AND FIFTH-DEGREE CONTROLLED SUBSTANCE  
8 POSSESSORS.] (a) Notwithstanding any contrary provision of the  
9 sentencing guidelines, the court may stay the execution of  
10 sentence for an offender convicted of violating section 152.022,  
11 subdivision 2; 152.023, subdivision 2; 152.024, subdivision 2;  
12 or 152.025, subdivision 2, if the offender has not previously  
13 been convicted or adjudicated delinquent for a violation of this  
14 chapter, or an offense from another jurisdiction similar to an  
15 offense under this chapter. The court may impose appropriate  
16 terms and conditions on the offender.

17 (b) If the court stays an offender's sentence under  
18 paragraph (a), it shall order the offender to successfully  
19 complete a chemical dependency treatment program designated by  
20 the court. The court shall select a program that is appropriate  
21 given the offender's chemical dependency needs. When possible,  
22 the program must be tailored specifically to the offender's  
23 specific addiction, have an inpatient and outpatient component,  
24 including aftercare, and be of a sufficient duration to  
25 adequately address the offender's chemical dependency issues.

26 (c) A sentence under this subdivision is not a departure  
27 under the sentencing guidelines.

28 Subd. 2. [COSTS.] When a court sentences an offender under  
29 this section, it may require the offender to pay the costs of  
30 the treatment program as well as other costs authorized by law.

31 Subd. 3. [PRESENTENCE INVESTIGATION.] The court shall  
32 consider the results of the presentence investigation under  
33 section 609.115, including the chemical use assessment, and any  
34 other relevant information before sentencing an offender  
35 described in this section. The court may sentence the offender  
36 under this section only if the sentence is appropriate based on

1 the results of the assessment.

2 Subd. 4. [EXCEPTION; PRIOR VIOLENT CRIMES OR POSSESSION OF  
3 DANGEROUS WEAPON.] Except as otherwise provided in this section,  
4 this section does not apply to an offender who has previously  
5 been convicted or adjudicated delinquent for a violent crime as  
6 defined in section 609.1095 or who possessed a dangerous weapon  
7 at the time of arrest.

8 **[EFFECTIVE DATE.]** This section is effective August 1, 2005,  
9 and applies to offenders sentenced on or after that date."

10 Page 3, line 33, after "CONVICTIONS" insert "  
11 CONDITIONALLY RELEASED OFFENDERS"

12 Page 3, line 34, after "arrest" insert ", citation,  
13 complaint"

14 Page 3, line 35, after the first comma, insert "guilty  
15 plea,"

16 Page 4, after line 9, insert:

17 "Sec. 3. Minnesota Statutes 2004, section 609A.02, is  
18 amended by adding a subdivision to read:

19 Subd. 1b. [OTHER CONTROLLED SUBSTANCE OFFENSES; STAYED  
20 SENTENCES CONVICTIONS.] A petition may be filed under section  
21 609A.03 to seal all records relating to an arrest, citation,  
22 complaint, indictment or information, guilty plea, trial, or  
23 verdict for a violation of section 152.022, subdivision 2;  
24 152.023, subdivision 2; 152.024, subdivision 2; or 152.025,  
25 subdivision 2, if the actions or proceedings were not resolved  
26 in favor of the petitioner, and:

27 (1) the petitioner received a stayed sentence under section  
28 152.0255;

29 (2) the petitioner successfully completed and fully paid  
30 for a chemical dependency treatment program as described in  
31 section 152.0255, subdivision 1, paragraph (b), and has not  
32 violated any other terms or conditions imposed by the sentencing  
33 court;

34 (3) at least two years have elapsed since the petitioner  
35 completed the chemical dependency treatment program and during  
36 that time the petitioner has not illegally used or possessed a

1 controlled substance or violated any law; and

2 (4) the petitioner has fully paid all of the prosecution  
3 and other costs imposed on the petitioner by the sentencing  
4 court.

5 If the court determines that the petitioner is indigent, the  
6 court may allow the petitioner to perform an amount of community  
7 service having a monetary value from 25 to 100 percent of the  
8 costs described in clauses (2) and (4). The petitioner is  
9 responsible for paying the remaining costs owed before obtaining  
10 an expungement.

11 [EFFECTIVE DATE.] This section is effective August 1, 2005.

12 Sec. 4. Minnesota Statutes 2004, section 609A.03,  
13 subdivision 5, is amended to read:

14 Subd. 5. [NATURE OF REMEDY; STANDARD; FIREARMS  
15 RESTRICTION.] (a) Except as otherwise provided by  
16 ~~paragraph~~ paragraphs (b) and (c), expungement of a criminal  
17 record is an extraordinary remedy to be granted only upon clear  
18 and convincing evidence that it would yield a benefit to the  
19 petitioner commensurate with the disadvantages to the public and  
20 public safety of:

21 (1) sealing the record; and

22 (2) burdening the court and public authorities to issue,  
23 enforce, and monitor an expungement order.

24 (b) Except as otherwise provided by this paragraph, if the  
25 petitioner is petitioning for the sealing of a criminal record  
26 under section 609A.02, subdivision 3, the court shall grant the  
27 petition to seal the record unless the agency or jurisdiction  
28 whose records would be affected establishes by clear and  
29 convincing evidence that the interests of the public and public  
30 safety outweigh the disadvantages to the petitioner of not  
31 sealing the record.

32 (c) If the petitioner is petitioning for the sealing of a  
33 criminal record under section 609A.02, subdivision 1b, the court  
34 may grant the petition if the petitioner establishes by a  
35 preponderance of the evidence that:

36 (1) the petitioner meets the criteria described in section

1 609A.02, subdivision 1b; and

2 (2) it would yield a benefit to the petitioner commensurate  
3 with the disadvantages to the public and public safety of:

4 (i) sealing the record; and

5 (ii) burdening the court and public authorities to issue,  
6 enforce, and monitor an expungement order.

7 (d) If the court issues an expungement order it may require  
8 that the criminal record be sealed, the existence of the record  
9 not be revealed, and the record not be opened except as required  
10 under subdivision 7. Records must not be destroyed or returned  
11 to the subject of the record.

12 [EFFECTIVE DATE.] This section is effective August 1, 2005.

13 Sec. 5. Minnesota Statutes 2004, section 609A.03, is  
14 amended by adding a subdivision to read:

15 Subd. 6a. [CERTAIN CONTROLLED SUBSTANCE OFFENDERS;  
16 DISCHARGE FROM PROBATION.] If the court orders the sealing of  
17 the criminal record of a petitioner under subdivision 5,  
18 paragraph (c), it shall discharge the petitioner from probation  
19 for the offense.

20 [EFFECTIVE DATE.] This section is effective August 1, 2005."

21 Renumber the sections in sequence and correct the internal  
22 references

23 Amend the title accordingly

**Senate Counsel, Research,  
and Fiscal Analysis**

G-17 STATE CAPITOL  
75 REV. DR. MARTIN LUTHER KING, JR. BLVD.  
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DIRECTOR

# Senate

State of Minnesota

## **S.F. No. 903 - (SCS0903CE1 Committee Engrossment) Conditional Release for Certain Controlled Substance Offenders; Expungements Authorized**

**Author:** Senator Thomas Neuville

**Prepared by:** Chris Turner, Senate Research (651/296-4350) KO  
Kenneth P. Backhus, Senate Counsel (651/296-4396) CT

**Date:** April 5, 2005

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**Section 1, subdivision 1,** creates a Conditional Release Board, having the authority to grant conditional early release to nonviolent drug offenders who have met the criteria outlined in subdivision 3.

**Subdivision 2** provides board membership criteria. The board shall consist of the Commissioners of Corrections and Public Safety and three public members appointed by the Governor with the advice and consent of the Senate.

**Subdivision 3** provides the following offender criteria for consideration for conditional early release:

- the crime of conviction must be a first- to fifth-degree controlled substance crime (Minnesota Statutes, sections 152.021 to 152.025);
- the sentencing court must determine at the time of sentencing that the offender committed the crime as a result of drug addiction and not primarily for profit;
- the offender has served at least 36 months or one-half of the offender's term of imprisonment;
- the offender has successfully completed a chemical dependency treatment program while in prison; and
- the offender has not previously been conditionally released under this section.

**Subdivision 4** requires the Commissioner of Corrections to offer chemical dependency treatment to the offenders described in subdivision 3 within 120 days after their term of imprisonment begins.

**Subdivision 5** requires the board to make a determination that an offender does not pose a threat to public safety before it grants a conditional release. In making its determination, the board must follow the release procedures established in Minnesota Statutes, section 244.05, subdivision 2, and its applicable rules.

**Subdivision 6** provides that the board may rescind a conditional release without hearing if it determines that continuation of the release poses a danger to the public or to an individual.

**Subdivision 7** prohibits the conditional release of an offender serving concurrent sentences for an offense eligible for conditional release and an offense ineligible for release under this section until the offender has served the entire term of imprisonment for the ineligible offense.

**Section 2** permits, five years after discharge from release or expiration of sentence, the filing of a petition for expungement of criminal records for offenders who are conditionally released under section 1, provided the petitioner has not been convicted of any new offense.

CT/KPB:vs



**Bill Summary**

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**Senate**

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Senate Counsel & Research

State of Minnesota

**S.F. No. 1143 - Domestic Abuse No Contact Order**

**Author:** Senator Jane B. Ranum  
**Prepared by:** Harry Walsh, Senate Counsel (651/296-6200)  
**Date:** March 8, 2005

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**S.F. No. 1143** amends the domestic abuse law by enlarging the definition of a "domestic abuse no contact order" to include orders in criminal proceedings relating to violations of protection orders, violations of domestic abuse no contact orders, and harassment/stalking.

HW:cs

[Check on the status of this bill](#)

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*Last review or update: 03/11/2005*

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## A bill for an act

2 relating to domestic abuse; expanding the  
3 applicability of the domestic abuse no contact order;  
4 amending Minnesota Statutes 2004, section 518B.01,  
5 subdivision 22.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

7 Section 1. Minnesota Statutes 2004, section 518B.01,  
8 subdivision 22, is amended to read:

9 Subd. 22. [~~VIOLATION-OF-A~~ DOMESTIC ABUSE NO CONTACT  
10 ORDER.] (a) A domestic abuse no contact order is an order issued  
11 by a court against a defendant in a criminal proceeding for:

12 (1) domestic abuse;

(2) harassment or stalking charged under section 609.749  
14 and committed against a family or household member;

15 (3) violation of an order for protection charged under  
16 subdivision 14; or

17 (4) violation of a prior domestic abuse no contact order  
18 charged under this subdivision.

19 It includes pretrial orders before final disposition of the case  
20 and probationary orders after sentencing.

21 (b) A person who knows of the existence of a domestic abuse  
22 no contact order issued against the person and violates the  
23 order is guilty of a misdemeanor.

(c) A peace officer shall arrest without a warrant and take  
25 into custody a person whom the peace officer has probable cause

1 to believe has violated a domestic abuse no contact order, even  
2 if the violation of the order did not take place in the presence  
3 of the peace officer, if the existence of the order can be  
4 verified by the officer. The person shall be held in custody  
5 for at least 36 hours, excluding the day of arrest, Sundays, and  
6 holidays, unless the person is released earlier by a judge or  
7 judicial officer. A peace officer acting in good faith and  
8 exercising due care in making an arrest pursuant to this  
9 paragraph is immune from civil liability that might result from  
10 the officer's actions.



**Safe Haven Shelter**  
for Battered Women

P.O. Box 3558, Duluth, MN 55803 • Phone: (218)728-6481 - Fax: (218)728-5084  
email: sh@safehavenshelter.org • website: www.safehavenshelter.org

Lonna Stevens  
MCBW

*Shelter for  
Women and  
Children*

Dear Lonna,

*Legal  
Advocacy*

In Southern St. Louis County there are 7 judges and one judicial officer. They all hear criminal domestic assault related cases and rotate arraignment court weekly. They do not routinely order a No Contact Order from the bench in criminal cases. It varies from judge to judge and it seems to depend on the charge and also on whether or not there is a current Order for Protection. If there is a current OFP, I think they believe that is sufficient. The statute currently, however, has stronger enforcement of No Contact Orders.

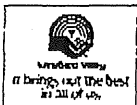
*Support  
Groups*

*Community  
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*Volunteer  
Program*

Cathryn Curley  
Legal Advocacy Supervisor  
218-730-2460

*Cathryn Curley 3/22/05*



**Andrea Sternberg - Amending the language to 518B.01, Subd. 22**

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**From:** "Richards, Timothy A" <Timothy.Richards@ci.minneapolis.mn.us>  
**To:** <andrea.sternberg@senate.mn>  
**Date:** 3/21/2005 9:59:08 AM  
**Subject:** Amending the language to 518B.01, Subd. 22

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The Minneapolis City Attorney's Office was asked to submit a written statement to be read or distributed to the committee on this issue. Attached please find that statement. If you have trouble accessing it, please contact me at (612) 673-2883. Thanks.

The Minneapolis City Attorney's Office charges and prosecutes more than 4,000 domestic abuse-related offenses each year. A large percentage of these cases includes violations of court orders for protection, violations of domestic abuse no contact orders, and harassment. Successfully prosecuting and supervising domestic abusers can be extremely difficult for a number of reasons. An ongoing obstacle we face is protecting our victims and witnesses from intimidation or further violence. Important tools for overcoming this hurdle include the court's ability to issue no contact orders and our ability to prosecute those abusers who choose to violate these orders.

The language of Minn. Stat. § 518B.01, Subd. 22, is of concern to our office, because it currently allows us to prosecute violations of no contact orders only when the underlying offense is one defined by statute as "domestic abuse." If the court's no contact order is issued in connection with a charge of violation of an order for protection, harassment, or even violation of a domestic abuse no contact order, we cannot prosecute an offender for violating that no contact order. Currently, our only remedy in those cases is to attempt to revoke the conditions of release or probation attached to the underlying offense. Revocations serve as an inadequate form of protection for victims and witnesses, because they preclude judges from holding defendants in custody beyond the times that their cases are resolved or their stayed sentences are exhausted.

Expanding the language in Minn. Stat. § 518B.01, Subd. 22 to include violations of orders for protection, harassment offenses, and violations of no contact orders issued pursuant to this subdivision would dramatically enhance the effectiveness of a judge's no contact order. We respectfully request that this committee consider such an amendment to this subdivision.

INFORMATION SHEET FOR  
PROPOSED CHANGE TO Minn. Stat. 518B.01, SUBD. 22

- This proposed change to Minn.Stat. § 518B.01, subd. 22 is meant to close an inadvertent loophole that currently exists.
- Because the domestic abuse no contact order is tied to the definition of "domestic abuse" in subd. 2(a) of this same statute, it can be issued only when the prosecution is for one of those crimes enumerated in that definition (assault, criminal sexual conduct, terroristic threats, interference with an emergency call). The proposed amendment expands the applicability of this no contact order (and also prosecutions for violations of this order) to include three additional offenses which frequently arise in domestic situations: Violation of an Order for Protection, Harrassment/ stalking, and Violation of a Domestic Abuse No Contact Order. When these crimes are committed against a family or household member, the court would be able to impose a Domestic abuse no contact order.

"Domestic abuse" means the following, if committed against a family or household member:

- (1) physical harm, bodily injury, or assault;
- (2) the infliction of fear of imminent physical harm, bodily injury, or assault; or
- (3) terroristic threats, within the meaning of section 609.713, subdivision 1; ciminal sexual conduct, within the meaning of section 609.342, 609.343, 609.344, 609.345, or 609.3451; or interference with an emergency call within the meaning of section 609.78, subdivision 2.

- Currently, No Contact Orders are issued in 99% of domestic violence cases in Ramsey County. Their purpose is simple. To keep victims of domestic violence safe while their case is being prosecuted. Often abusers will blame victims for their arrest and subsequent issuance of charges. A pending criminal case increases the stress in an already difficult situation. These orders prohibit a party charged with committing a crime of domestic violence from having contact with the victim of that crime until a resolution of the case or until a judge lifts the order, whichever comes first.

Before the Domestic abuse no contact order statute was enacted, persons who violated criminal court no contact orders could only be charged with the general crime of Contempt of Court. Contempt of Court can apply to a variety of circumstances far less serious than domestic abuse. The new crime of Violation of a domestic abuse no contact order readily identifies the offense as domestic-abuse related and increases the liklihood that these court order violations will be treated with the seriousness they deserve. This offense (but not Contempt of Court) also counts as a qualified misdemeanor for purposes of subsequent felony sentences under the Minnesota Sentencing Guidelines.

- In 2004, St. Paul prosecuted approximately 400 Violation of Order for Protection cases and Violation of domestic abuse no contact order case, and approximately 30 Harassment/Stalking cases. In each of these cases, violations of the No Contact Orders resulted in Contempt of Court charges instead of Violation of DA NCO charges. As a result, these 500 victims were exposed to a greater risk of harm without the added protection of the statute.



CONSEQUENCES FOR VIOLATION OF

Standard No Contact Order

1. Resulting charge is Contempt of Court  
Minn. Stat. §588.20
2. Arrest is not mandated by statute.
3. Once arrested, suspect can immediately post bail of \$300  
(The lowest bail in Ramsey County).
4. Conviction is NOT a qualified misdemeanor that would impact a felony sentencing.
5. Conviction is for a general crime that can apply to a variety of circumstances.

Domestic Abuse No Contact Order

1. Resulting charge is Violation of a Domestic Abuse No Contact Order  
Minn. Stat. §518B.01 subd. 22
2. Mandated arrest
3. Once arrested, suspect must remain in custody until either charged with a crime or the 36 or 48 hour rule expires, whichever comes first.
4. Conviction counts as a qualified misdemeanor for purposes of subsequent felony sentencings under Minnesota Sentencing Guidelines.
5. Conviction is identified as domestic-related which increases the likelihood that these violations will be treated with the seriousness they deserve.

Evidence that the definition of "domestic abuse" does NOT include the offenses of Violation or and Order for Protection, Harassment/Stalking, or Violation of a DA NCO can be found in Minn. Stat. § 634.20. In 1998, the language was amended to include Violation of an Order for Protection and Harassment because neither were included in the definition of domestic abuse.

**634.20. Evidence of conduct**

Evidence of similar conduct by the accused against the victim of domestic abuse, or against other family or household members, is admissible unless the probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issue, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence. "Similar conduct" includes, but is not limited to, evidence of domestic abuse, violation of an order for protection under section 518B.01; violation of a harassment restraining order under section 609.748; or violation of section 609.749 or 609.79, subdivision 1. "Domestic abuse" and "family or household members" have the meanings given under section 518B.01, subdivision 2.

Laws 1985, c. 159, § 3, eff. Aug. 1, 1985. Amended by Laws 1998, c. 367, art. 5, § 10; Laws 2000, c. 437, § 19, eff. Aug. 1, 2000; Laws 2002, c. 314, § 9.

*corner*STONE

March 22, 2005

1000 East 80th Street  
Bloomington, MN 55420  
Business 952.884.0376  
Fax 952.884.2135  
www.cornerstonemn.org

Dear Judiciary Committee Members:

My name is Deirdre Keys. I work for Cornerstone Advocacy Services, Inc., as a Legal Advocate in the Criminal Justice Intervention Program. I provide victim support where there has been a domestic assault in southern Hennepin County. In addition to direct service, I am involved in systems advocacy as a voting member of the Hennepin County Family Violence Coordinating Council as well as serving as Chair of the Advocate Sub-Committee of the Council. My daily work finds me primarily in the criminal court system.

I have been asked to provide testimony of my experience with regard to Criminal Court No Contact Orders; and more specifically whether judges in my county are issuing No Contact Orders in conjunction to cases such as OFP Violations and Harassment / Stalking Cases.

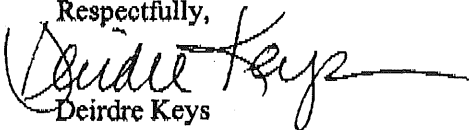
I do believe that there are some varied responses from the bench in ordering No Contact Orders. I have experienced judges choosing not to order a No Contact Order in connection with these types of cases. It may be helpful to clarify the language in 518B.01 Subd. 22. Any clarification of law will be helpful to all victims no matter the county in which they reside. I would like to propose, though, that the language be inclusive of the definition of a "Qualified domestic violence-related offense" as stated in Statute 609.02 Subd. 16.

In addition to whether or not judges are ordering No Contact Orders, there is the issue of enforcement of these orders. I have had cases in criminal court where the presiding judge of an Arraignment orders the defendant to have no contact with the victim, but it was a verbal order only. Many judges will hand-write the Conditions of Release including No Contact, but there are some judges who do not. Law enforcement requires proof of a No Contact Order before they will even consider helping the caller who is experiencing a violation of that order. Adding to the Statute a provision that judges SHALL put in writing the Conditions of Release where there is a No Contact Order could help law enforcement to enforce orders of No Contact.

If the judge signs the order in an Arraignment, and the defendant has been served, a copy of this order will be filed with the court and be given to the victim; prosecutors will be better equipped to charge this offense. It is my understanding, however, that violations of No Contact Orders are NOT enhanceable offenses. An example of an enhanceable offense would be that upon conviction of an OFP Violation as a Misdemeanor the next one may be charged as a Gross Misdemeanor. Adding a conviction of Violation of a No Contact Order to the list of enhanceable offenses would give prosecutors the choice to charge subsequent violations of No Contact Orders as Gross Misdemeanors.

My experience of defendants' responses to these orders is that they just do not matter and nothing will happen to them if they violate the order. For the most part, at this point in time, they are correct. I believe the intent of 518B.01 Subd. 22 is to provide for victim protection. If we want to fully realize the intention of this law, we should tie it to qualified domestic violence-related offenses, require judges to write and serve Conditions of Release with No Contact, and fine-tune the enhanceability of this order.

Respectfully,



Deirdre Keys

*Rebuilding lives, restoring hope*