

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

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**Senate**  

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**State of Minnesota**

**S.F. No. 1223 - Crime of False Reporting to Law Enforcement**

**Author:** Senator Wes Skoglund

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

**Date:** April 7, 2005

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Under current law, knowingly providing false information to a peace officer with the intention that the officer act on the information is a misdemeanor for the first offense and a gross misdemeanor for a second or subsequent offense.

The bill provides that persons who knowingly provide false information to a peace officer with the intention that the officer act on the information, and the intention to obstruct justice, are guilty of a gross misdemeanor for a first violation and guilt of a felony for second and subsequent violations. It is not necessary to show that the person engaged in any type of physical act or used threatening language to prove the obstruction of justice.

CT:vs

**Senator Skoglund introduced--****S.F. No. 1223: Referred to the Committee on Crime Prevention and Public Safety.**

1

A bill for an act

2

relating to public safety; establishing the crime of

3

providing false information to law enforcement;

4

amending Minnesota Statutes 2004, section 609.505.

5

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

6

Section 1. Minnesota Statutes 2004, section 609.505, is

7

amended to read:

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609.505 [FALSELY REPORTING CRIME; PROVIDING FALSE

9

INFORMATION.]

10

Subdivision 1. [FALSE REPORTING.] Whoever informs a law

11

enforcement officer that a crime has been committed, knowing

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that it is false and intending that the officer shall act in

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reliance upon it, is guilty of a misdemeanor. A person who is

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convicted a second or subsequent time under this section is

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guilty of a gross misdemeanor.

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Subd. 2. [FALSE INFORMATION.] (a) Except as provided in

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subdivision 1 and unless a more severe penalty is imposed

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elsewhere in law, whoever provides false information about

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another person to a law enforcement officer knowing that it is

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false, intending that the officer shall act in reliance upon it,

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and intending to obstruct justice, is guilty of a gross

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misdemeanor. A person who is convicted a second or subsequent

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time under this section is guilty of a felony and may be

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sentenced to imprisonment for not more than two years or to

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payment of a fine of not more than \$4,000, or both.

1        (b) To prove that a person intended to obstruct justice  
2 under paragraph (a), it is not necessary to show that the person  
3 engaged in any type of physical act or used threatening language.

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

1 Senator ..... moves to amend S.F. No. 1223 as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. Minnesota Statutes 2004, section 609.505, is  
4 amended to read:

5 609.505 [FALSELY REPORTING CRIME.]

6 Subdivision 1. [FALSE REPORTING.] Whoever informs a law  
7 enforcement officer that a crime has been committed or otherwise  
8 provides information to an on-duty peace officer regarding the  
9 conduct of others, knowing that it is false and intending that  
10 the officer shall act in reliance upon it, is guilty of a  
11 misdemeanor. A person who is convicted a second or subsequent  
12 time under this section is guilty of a gross misdemeanor.

13 Subd. 2. [REPORTING POLICE MISCONDUCT.] (a) Whoever  
14 informs, or causes information to be communicated to, a public  
15 officer, as defined in section 609.415, subdivision 1, or an  
16 employee thereof, whose responsibilities include investigating  
17 or reporting police misconduct, that a peace officer, as defined  
18 in section 626.84, subdivision 1, paragraph (c), has committed  
19 an act of police misconduct, knowing that the information is  
20 false, is guilty of a crime and may be sentenced as follows:

21 (1) up to the maximum provided for a misdemeanor if the  
22 false information does not allege a criminal act; or

23 (2) up to the maximum provided for a gross misdemeanor if  
24 the false information alleges a criminal act.

25 (b) The court shall order any person convicted of a  
26 violation of this subdivision to make full restitution of all  
27 reasonable expenses incurred in the investigation of the false  
28 allegation unless the court makes a specific written finding  
29 that restitution would be inappropriate under the  
30 circumstances. A restitution award may not exceed \$3,000.

31 Sec. 2. [EFFECTIVE DATE.]

32 Section 1 is effective August 1, 2005, and applies to  
33 crimes committed on or after that date."

4 Amend the title accordingly

Senators McGinn, Kleis, Knutson, Foley and Wiger introduced--  
 S.F. No. 1726: Referred to the Committee on Crime Prevention and Public Safety.

1 A bill for an act  
 2 relating to crimes; prohibiting falsely reporting  
 3 police misconduct; providing penalties; amending  
 4 Minnesota Statutes 2002, section 609.505.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:  
 6 Section 1. Minnesota Statutes 2002, section 609.505, is  
 7 amended to read:

8 609.505 [FALSELY REPORTING CRIME.]

9 Subdivision 1. [FALSE REPORTING.] Whoever informs a law  
 10 enforcement officer that a crime has been committed or otherwise  
 11 provides false information to the officer, knowing that it is  
 12 false and intending that the officer shall act in reliance upon  
 13 it, is guilty of a misdemeanor. A person who is convicted a  
 14 second or subsequent time under this section is guilty of a  
 15 gross misdemeanor.

16 Subd. 2. [REPORTING POLICE MISCONDUCT.] (a) Whoever  
 17 informs, or causes information to be communicated to, a public  
 18 official, as defined in section 609.415, subdivision 1, or an  
 19 employee thereof, whose responsibilities include investigating  
 20 or reporting police misconduct, that a peace officer, as defined  
 21 in section 626.84, subdivision 1, paragraph (c), has committed  
 22 an act of police misconduct, knowing that the information is  
 23 false, is guilty of a crime and may be sentenced as follows:

24 (1) up to the maximum provided for a misdemeanor if the  
 25 false information does not allege a criminal act; or

1       (2) up to the maximum provided for a gross misdemeanor if  
2 the false information alleges a criminal act.

3       (b) The court shall order any person convicted of a  
4 violation of this subdivision to make full restitution of all  
5 reasonable expenses incurred in the investigation of the false  
6 allegation unless the court makes a specific written finding  
7 that restitution would be inappropriate under the circumstances.

8       Sec. 2. [EFFECTIVE DATE.]

9       Section 1 is effective August 1, 2004, and applies to  
10 crimes committed on or after that date.

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**Senate**

**State of Minnesota**

**S.F. No. 1139 - Gang Crime Against Children**

**Author:** Senator Ellen R. Anderson

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

**Date:** April 7, 2005

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**Sections 1 and 2** provide that gang members who commit a crime against a child under the age of 18 may be sentenced for the underlying crime under the enhanced penalty provisions in Minnesota Statutes, section 609.229, subdivision 3 (Crime Committed for the Benefit of a Gang). These provisions enhance misdemeanors to gross misdemeanors, gross misdemeanors to three-year felonies, and add five years to the statutory maximum sentence of all felonies.

**Section 3** provides an August 1, 2005 effective date applicable to crimes committed on or after that date.

CT:vs

Senator Anderson introduced--

S.F. No. 1139: Referred to the Committee on Crime Prevention and Public Safety.

1 A bill for an act

2 relating to crimes; making it a crime for a gang  
3 member to commit a crime against a child; imposing  
4 criminal penalties; amending Minnesota Statutes 2004,  
5 section 609.229, subdivision 3, and by adding a  
6 subdivision.

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

8 Section 1. Minnesota Statutes 2004, section 609.229,  
9 subdivision 3, is amended to read:

10 Subd. 3. [PENALTY.] (a) If the crime committed in  
11 violation of subdivision 2 or 5 is a felony, the statutory  
12 maximum for the crime is five years longer than the statutory  
13 maximum for the underlying crime.

14 (b) If the crime committed in violation of subdivision 2 or  
15 5 is a misdemeanor, the person is guilty of a gross misdemeanor.

16 (c) If the crime committed in violation of subdivision 2 or  
17 5 is a gross misdemeanor, the person is guilty of a felony and  
18 may be sentenced to imprisonment for not more than three years  
19 or to payment of a fine of not more than \$15,000, or both.

20 Sec. 2. Minnesota Statutes 2004, section 609.229, is  
21 amended by adding a subdivision to read:

22 Subd. 5. [GANG MEMBER; CRIME AGAINST A CHILD.] (a) For  
23 purposes of this subdivision, "child" means an individual under  
24 18 years of age.

25 (b) A person who is a member of a gang who commits a crime  
26 against a child is guilty of a crime and may be sentenced as



1 provided in subdivision 3.

2       Sec. 3. [EFFECTIVE DATE.]

3       Sections 1 and 2 are effective August 1, 2005, and apply to

4 crimes committed on or after that date.

1 Senator ..... moves to amend S.F. No. 1139 as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. Minnesota Statutes 2004, section 609.229, is  
4 amended by adding a subdivision to read:

5 Subd. 5. [NO GOOD TIME OR REDUCTION IN  
6 INCARCERATION.] Notwithstanding sections 244.01, 244.04, 244.05,  
7 643.29, or any other contrary provision of law, a person  
8 convicted of violating subdivision 2 where the underlying crime  
9 is committed against a child under the age of 18 is not entitled  
10 to good time, supervised release, work release, or any other  
11 reduction in sentence, and may not participate in the challenge  
12 incarceration program.

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

15 Delete the title and insert:

16 "A bill for an act relating to public safety; providing  
17 that offenders who commit gang crimes against children are not  
18 entitled to good time while incarcerated; amending Minnesota  
19 Statutes 2004, section 609.229, by adding a subdivision."

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

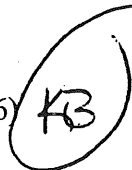
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# Senate

State of Minnesota

## S.F. No. 1201 - DNA Testing of Criminal Offenders

**Author:** Senator Leo T. Foley

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

**Date:** April 7, 2005

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**Section 1** expands the authority of the superintendent of the Bureau of Criminal Apprehension (BCA) to make rules to include **section 3**.

**Section 2** makes a conforming change related to **section 3**.

**Section 3** requires law enforcement to take biological specimens for the purposes of DNA analysis from persons arrested for, appearing in court on a charge of, or convicted or adjudicated delinquent for (including attempts) any listed offense. The list includes the same crimes where current law requires DNA analysis upon conviction/adjudication. Requires that the biological specimen be forwarded to the BCA within 72 hours of collection. Requires prosecutors, courts, and probation officers to attempt to ensure that biological specimens are taken from these persons. Requires that persons who collect the biological specimens must be trained to BCA-established standards in the proper method of collecting and transmitting biological specimens. Requires the BCA to perform DNA analysis on the specimens and enter the results in the DNA index system within 30 days after receipt.

**Section 4** requires that beginning on July 1, 2009, law enforcement officials must take biological specimens for the purposes of DNA analysis from all persons arrested for, appearing in court on a charge of, or convicted or adjudicated delinquent for (including attempts) a felony. Contains the same requirements as **section 3** relating to timelines, training, etc.

**Section 5** provides that if all pending criminal actions or proceedings were determined in favor of an arrested person and the person sought and received an expungement under Minnesota Statutes, chapter 609A, the BCA must remove the person's information from the BCA's DNA index system and seal all DNA evidence relating to the person. This applies only to persons who have not been convicted of a felony within the preceding ten years.

**Section 6** classifies information contained in the BCA's DNA system and related records as private data on individuals and authorizes access only by authorized law enforcement personnel for law enforcement purposes.

**Section 7** makes a conforming change relating to **section 3**.

**Section 8** amends the current law requiring the postconviction/adjudication collection of biological specimens for DNA analysis for certain listed offenses. Strikes language relating to these offenses and replaces this with references to all felony convictions or adjudications.

**Section 9** makes a conforming change.

**Section 10** amends the expungement law by striking language prohibiting the sealing or returning of DNA samples and DNA records for charges supported by probable cause.

**Section 11** appropriates an unspecified sum to the Commissioner of Public Safety to fund this bill.

**Section 12** contains a Revisor's instruction.

**Section 13** repeals the current law requiring collection of biological specimens for DNA analysis for persons convicted/adjudicated for felonies.

KPB:ph

**Senators Foley, Kleis and Skoglund introduced--**

**S.F. No. 1201:** Referred to the Committee on Crime Prevention and Public Safety.

1                   A bill for an act  
2           relating to crime prevention; requiring all persons  
3           arrested for or convicted of committing a felony to  
4           submit a DNA sample to law enforcement at the time of  
5           booking; appropriating money; amending Minnesota  
6           Statutes 2004, sections 299C.03; 299C.08; 299C.11;  
7           299C.155; 299C.21; 609.117; 609A.02, subdivision 3;  
8           609A.03, subdivision 7; proposing coding for new law  
9           in Minnesota Statutes, chapter 299C; repealing  
10          Minnesota Statutes 2004, section 609.119.

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

12           Section 1. Minnesota Statutes 2004, section 299C.03, is  
13 amended to read:

14           299C.03 [SUPERINTENDENT; RULES.]

15           The superintendent, with the approval of the commissioner  
16 of public safety, from time to time, shall make such rules and  
17 adopt such measures as the superintendent deems necessary,  
18 within the provisions and limitations of sections 299C.03 to  
19 299C.08, 299C.10, 299C.105, 299C.11, 299C.17, 299C.18, and  
20 299C.21, to secure the efficient operation of the bureau. The  
21 bureau shall cooperate with the respective sheriffs, constables,  
22 marshals, police, and other peace officers of the state in the  
23 detection of crime and the apprehension of criminals throughout  
24 the state, and shall have the power to conduct such  
25 investigations as the superintendent, with the approval of the  
26 commissioner of public safety, may deem necessary to secure  
27 evidence which may be essential to the apprehension and  
28 conviction of alleged violators of the criminal laws of the

1 state. The various members of the bureau shall have and may  
 2 exercise throughout the state the same powers of arrest  
 3 possessed by a sheriff, but they shall not be employed to render  
 4 police service in connection with strikes and other industrial  
 5 disputes.

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

7 Sec. 2. Minnesota Statutes 2004, section 299C.08, is  
 8 amended to read:

9 299C.08 [OATH OF SUPERINTENDENT AND EMPLOYEES.]

10 The superintendent and each employee in the bureau whom the  
 11 superintendent shall designate, before entering upon the  
 12 performance of duties under sections 299C.03 to 299C.08,  
 13 299C.10, 299C.105, 299C.11, 299C.17, 299C.18, and 299C.21, shall  
 14 take the usual oath.

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

16 Sec. 3. [299C.105] [DNA DATA REQUIRED.]

17 Subdivision 1. [REQUIRED COLLECTION OF BIOLOGICAL SPECIMEN  
 18 FOR DNA TESTING.] (a) Sheriffs, peace officers, and community  
 19 corrections agencies operating secure juvenile detention  
 20 facilities shall take or cause to be taken immediately  
 21 biological specimens for the purpose of DNA analysis as defined  
 22 in section 299C.155, of the following:

23 (1) persons arrested for, appearing in court on a charge  
 24 of, or convicted of or attempting to commit any of the following:

25 (i) murder under section 609.185, 609.19, or 609.195;

26 (ii) manslaughter under section 609.20 or 609.205;

27 (iii) assault under section 609.221, 609.222, or 609.223;

28 (iv) robbery under section 609.24 or aggravated robbery  
 29 under section 609.245;

30 (v) kidnapping under section 609.25;

31 (vi) false imprisonment under section 609.255;

32 (vii) criminal sexual conduct under section 609.342,  
 33 609.343, 609.344, 609.345, or 609.3451, subdivision 3;

34 (viii) incest under section 609.365;

35 (ix) burglary under section 609.582, subdivision 1; or

36 (x) indecent exposure under section 617.23, subdivision 3;

1 (2) persons sentenced as patterned sex offenders under  
2 section 609.108; or

3 (3) juveniles arrested for, appearing in court on a charge  
4 of, adjudicated delinquent for, or alleged to have committed or  
5 attempted to commit any of the following:

6 (i) murder under section 609.185, 609.19, or 609.195;

7 (ii) manslaughter under section 609.20 or 609.205;

8 (iii) assault under section 609.221, 609.222, or 609.223;

9 (iv) robbery under section 609.24 or aggravated robbery  
10 under section 609.245;

11 (v) kidnapping under section 609.25;

12 (vi) false imprisonment under section 609.255;

13 (vii) criminal sexual conduct under section 609.342,  
14 609.343, 609.344, 609.345, or 609.3451, subdivision 3;

15 (viii) incest under section 609.365;

16 (ix) burglary under section 609.582, subdivision 1; or

17 (x) indecent exposure under section 617.23, subdivision 3.

18 (b) Unless the superintendent of the bureau requires a  
19 shorter period, within 72 hours the biological specimen required  
20 under paragraph (a) must be forwarded to the bureau in such a  
21 manner as may be prescribed by the superintendent.

22 (c) Prosecutors, courts, and probation officers shall  
23 attempt to ensure that the biological specimen is taken on a  
24 person described in paragraph (a).

25 Subd. 2. [LAW ENFORCEMENT TRAINING.] The persons who  
26 collect the biological specimens required under subdivision 1  
27 must be trained to bureau-established standards in the proper  
28 method of collecting and transmitting biological specimens.

29 Subd. 3. [BUREAU DUTY.] The bureau must perform DNA  
30 analysis on biological specimens and enter the results of its  
31 analysis in the combined DNA index system within 30 days after  
32 specimens are received under this section.

33 [EFFECTIVE DATE.] This section is effective July 1, 2005,  
34 and applies to persons arrested on or after that date.

35 Sec. 4. [299C.106] [ADDITIONAL DNA DATA REQUIRED.]

36 Subdivision 1. [REQUIRED COLLECTION OF BIOLOGICAL SPECIMEN

1 FOR DNA TESTING.] (a) As of July 1, 2009, sheriffs, peace  
2 officers, and community corrections agencies operating secure  
3 juvenile detention facilities shall take or cause to be taken  
4 immediately biological specimens for the purpose of DNA analysis  
5 as defined in section 299C.155, of the following:

6 (1) persons arrested for, appearing in court on a charge  
7 of, or convicted of or attempting to commit any felony that is  
8 not described in section 299C.105, subdivision 1, paragraph (a),  
9 clause (1); and

10 (2) juveniles arrested for, appearing in court on a charge  
11 of, adjudicated delinquent for, or alleged to have committed or  
12 attempted to commit any offense not described in section  
13 299C.105, subdivision 1, paragraph (a), clause (3).

14 (b) Unless the superintendent of the bureau requires a  
15 shorter period, within 72 hours the biological specimen required  
16 under paragraph (a) must be forwarded to the bureau in such a  
17 manner as may be prescribed by the superintendent.

18 (c) Prosecutors, courts, and probation officers shall  
19 attempt to ensure that the biological specimen is taken on a  
20 person described in paragraph (a).

21 Subd. 2. [LAW ENFORCEMENT TRAINING.] The persons who  
22 collect the biological specimens required under subdivision 1  
23 must be trained to bureau-established standards in the proper  
24 method of collecting and transmitting biological specimens.

25 Subd. 3. [BUREAU DUTY.] The bureau must perform DNA  
26 analysis on biological specimens and enter the results of its  
27 analysis in the combined DNA index system within 30 days after  
28 specimens are received under this section.

29 [EFFECTIVE DATE.] This section is effective July 1, 2010,  
30 and applies to persons arrested on or after that date.

31 Sec. 5. Minnesota Statutes 2004, section 299C.11, is  
32 amended to read:

33 299C.11 [IDENTIFICATION DATA FURNISHED TO BUREAU.]

34 Subdivision 1. [FINGERPRINTS IDENTIFICATION DATA OTHER  
35 THAN DNA.] (a) Each sheriff and chief of police shall furnish  
36 the bureau, upon such form as the superintendent shall



1 prescribe, with such finger and thumb prints, photographs,  
2 distinctive physical mark identification data, information on  
3 known aliases and street names, and other identification data as  
4 may be requested or required by the superintendent of the  
5 bureau, which must be taken under the provisions of section  
6 299C.10. In addition, sheriffs and chiefs of police shall  
7 furnish this identification data to the bureau for individuals  
8 found to have been convicted of a felony, gross misdemeanor, or  
9 targeted misdemeanor, within the ten years immediately preceding  
10 their arrest.

11 (b) No petition under chapter 609A is required if the  
12 person has not been convicted of any felony or gross  
13 misdemeanor, either within or without the state, within the  
14 period of ten years immediately preceding the determination of  
15 all pending criminal actions or proceedings in favor of the  
16 arrested person, and either of the following occurred:

17 (1) all charges were dismissed prior to a determination of  
18 probable cause; or

19 (2) the prosecuting authority declined to file any charges  
20 and a grand jury did not return an indictment.

21 Where these conditions are met, the bureau or agency shall, upon  
22 demand, return to the arrested person finger and thumb prints,  
23 photographs, distinctive physical mark identification data,  
24 information on known aliases and street names, and other  
25 identification data, and all copies and duplicates of them.

26 (c) Except as otherwise provided in paragraph (b), upon the  
27 determination of all pending criminal actions or proceedings in  
28 favor of the arrested person, and the granting of the petition  
29 of the arrested person under chapter 609A, the bureau shall seal  
30 finger and thumb prints, photographs, distinctive physical mark  
31 identification data, information on known aliases and street  
32 names, and other identification data, and all copies and  
33 duplicates of them if the arrested person has not been convicted  
34 of any felony or gross misdemeanor, either within or without the  
35 state, within the period of ten years immediately preceding such  
36 determination.

~~(d) DNA samples and DNA records of the arrested person shall not be returned, sealed, or destroyed as to a charge supported by probable cause.~~

~~(e) For purposes of this section:~~

~~(1) "determination of all pending criminal actions or proceedings in favor of the arrested person" does not include:~~

~~(i) the sealing of a criminal record pursuant to section 152.18, subdivision 1, 242.31, or chapter 609A;~~

~~(ii) the arrested person's successful completion of a diversion program;~~

~~(iii) an order of discharge under section 609.165; or~~

~~(iv) a pardon granted under section 638.02; and~~

~~(2) "targeted misdemeanor" has the meaning given in section 299C.10, subdivision 1.~~

Subd. 2. [DNA SAMPLES AND RECORDS.] (a) Each sheriff and chief of police shall furnish the bureau, in such form as the superintendent shall prescribe, with the biological specimens required to be taken under section 299C.105.

(b) Upon the determination of all pending criminal actions or proceedings in favor of the arrested person, and the granting of the petition of the arrested person under chapter 609A, the bureau and agency shall remove the person's information from the bureau's combined DNA index system and seal all DNA evidence identifying the arrested person, all related records, and all copies and duplicates of the records, if the arrested person has not been convicted of any felony, either within or without the state, within the period of ten years immediately preceding such determination.

Subd. 3. [DEFINITIONS.] As used in this section, the following terms have the definitions provided:

(1) "determination of all pending criminal actions or proceedings in favor of the arrested person" does not include:

(i) the sealing of a criminal record pursuant to sections 152.18, subdivision 1; and 242.31; or chapter 609A;

(ii) the arrested person's successful completion of a diversion program;

1       (iii) an order of discharge under section 609.165; or  
2       (iv) a pardon granted under section 638.02; and  
3       (2) "targeted misdemeanor" has the meaning given in section  
4       299C.10, subdivision 1.

5       [EFFECTIVE DATE.] This section is effective July 1, 2005,  
6       and applies to offenders arrested on or after that date.

7       Sec. 6. Minnesota Statutes 2004, section 299C.155, is  
8 amended to read:

9       299C.155 [STANDARDIZED EVIDENCE COLLECTION; DNA ANALYSIS.]

10       Subdivision 1. [DEFINITION.] As used in this section, "DNA  
11 analysis" means the process through which deoxyribonucleic acid  
12 (DNA) in a human biological specimen is analyzed and compared  
13 with DNA from another human biological specimen for  
14 identification purposes.

15       Subd. 2. [UNIFORM EVIDENCE COLLECTION.] The bureau shall  
16 develop uniform procedures and protocols for collecting evidence  
17 in cases of alleged or suspected criminal sexual conduct,  
18 including procedures and protocols for the collection and  
19 preservation of human biological specimens for DNA analysis. Law  
20 enforcement agencies and medical personnel who conduct  
21 evidentiary exams shall use the uniform procedures and protocols  
22 in their investigation of criminal sexual conduct offenses. The  
23 uniform procedures and protocols developed under this  
24 subdivision are not subject to the rulemaking provisions of  
25 chapter 14.

26       Subd. 3. [DNA ANALYSIS AND DATA BANK.] The bureau shall  
27 adopt uniform procedures and protocols to maintain, preserve,  
28 and analyze human biological specimens for DNA. The bureau  
29 shall establish a centralized system to cross-reference data  
30 obtained from DNA analysis. Information contained on the  
31 bureau's centralized system is considered private data on  
32 individuals, as that term is defined in section 13.02. The  
33 bureau's centralized system may only be accessed by authorized  
34 law enforcement personnel and used solely for law enforcement  
35 purposes. The uniform procedures and protocols developed under  
36 this subdivision are not subject to the rulemaking provisions of

1 chapter 14.

2 Subd. 4. [RECORD.] The bureau shall perform DNA analysis  
3 and make data obtained available to law enforcement officials in  
4 connection with criminal investigations in which human  
5 biological specimens have been recovered. Upon request, the  
6 bureau shall also make the data available to the prosecutor and  
7 the subject of the data in any subsequent criminal prosecution  
8 of the subject. The results of the bureau's DNA analysis and  
9 related records shall be considered private data on individuals,  
10 as that term is defined in section 13.02, and may only be used  
11 for law enforcement purposes.

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

13 Sec. 7. Minnesota Statutes 2004, section 299C.21, is  
14 amended to read:

15 299C.21 [PENALTY ON LOCAL OFFICER REFUSING INFORMATION.]

16 If any public official charged with the duty of furnishing  
17 to the bureau fingerprint records, biological specimens,  
18 reports, or other information required by sections 299C.06,  
19 299C.10, 299C.105, 299C.11, 299C.17, shall neglect or refuse to  
20 comply with such requirement, the bureau, in writing, shall  
21 notify the state, county, or city officer charged with the  
22 issuance of a warrant for the payment of the salary of such  
23 official. Upon the receipt of the notice the state, county, or  
24 city official shall withhold the issuance of a warrant for the  
25 payment of the salary or other compensation accruing to such  
26 officer for the period of 30 days thereafter until notified by  
27 the bureau that such suspension has been released by the  
28 performance of the required duty.

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

30 Sec. 8. Minnesota Statutes 2004, section 609.117, is  
31 amended to read:

32 609.117 [DNA ANALYSIS OF CERTAIN OFFENDERS REQUIRED.]

33 Subdivision 1. [UPON SENTENCING.] If an offender has not  
34 already done so, the court shall order an offender to provide a  
35 biological specimen for the purpose of DNA analysis as defined  
36 in section 299C.155 when:

1 (1) the court sentences a person charged with ~~violating or~~  
 2 ~~attempting to violate any of the following,~~ committing or  
 3 attempting to commit a felony offense and the person is  
 4 convicted of that offense or of any offense arising out of the  
 5 same set of circumstances:

6 ~~(i) murder under section 609.185, 609.19, or 609.195;~~

7 ~~(ii) manslaughter under section 609.20 or 609.205;~~

8 ~~(iii) assault under section 609.221, 609.222, or 609.223;~~

9 ~~(iv) robbery under section 609.24 or aggravated robbery~~

10 ~~under section 609.245;~~

11 ~~(v) kidnapping under section 609.25;~~

12 ~~(vi) false imprisonment under section 609.255;~~

13 ~~(vii) criminal sexual conduct under section 609.342,~~

14 ~~609.343, 609.344, 609.345, or 609.3451, subdivision 3;~~

15 ~~(viii) incest under section 609.365;~~

16 ~~(ix) burglary under section 609.582, subdivision 1, or~~

17 ~~(x) indecent exposure under section 617.23, subdivision 3;~~

18 ~~(2) the court sentences a person as a patterned sex~~

19 ~~offender under section 609.108; or~~

20 ~~(3) (2) the juvenile court adjudicates a person a~~

21 ~~delinquent child who is the subject of a delinquency petition~~

22 ~~for violating or attempting to violate any of the following, and~~

23 ~~the delinquency adjudication is based on a violation of one of~~

24 ~~those sections or of any offense arising out of the same set of~~

25 ~~circumstances:~~

26 ~~(i) murder under section 609.185, 609.19, or 609.195;~~

27 ~~(ii) manslaughter under section 609.20 or 609.205;~~

28 ~~(iii) assault under section 609.221, 609.222, or 609.223;~~

29 ~~(iv) robbery under section 609.24 or aggravated robbery~~

30 ~~under section 609.245;~~

31 ~~(v) kidnapping under section 609.25;~~

32 ~~(vi) false imprisonment under section 609.255;~~

33 ~~(vii) criminal sexual conduct under section 609.342,~~

34 ~~609.343, 609.344, 609.345, or 609.3451, subdivision 3;~~

35 ~~(viii) incest under section 609.365;~~

36 ~~(ix) burglary under section 609.582, subdivision 1, or~~

1 ~~{x}-indecent-exposure-under-section-617.23,-subdivision~~  
 2 3 petitioned for committing or attempting to commit a felony  
 3 offense and is adjudicated delinquent for that offense or any  
 4 offense arising out of the same set of circumstances.

5 The biological specimen or the results of the analysis shall be  
 6 maintained by the Bureau of Criminal Apprehension as provided in  
 7 section 299C.155.

8 Subd. 2. [BEFORE RELEASE.] The commissioner of corrections  
 9 or local corrections authority shall order a person to provide a  
 10 biological specimen for the purpose of DNA analysis before  
 11 completion of the person's term of imprisonment when the person  
 12 has not provided a biological specimen for the purpose of DNA  
 13 analysis and the person:

14 (1) ~~is-currently-serving-a-term-of-imprisonment-for-or-has~~  
 15 ~~a-past-conviction-for-violating-or-attempting-to-violate-any-of~~  
 16 ~~the-following-or-a-similar-law-of-another-state-or-the-United~~  
 17 ~~States-or~~ was initially charged with ~~violating-one-of-the~~  
 18 ~~following-sections-or-a-similar-law-of-another-state-or-the~~  
 19 ~~United-States-and~~ committing or attempting to commit a felony  
 20 offense and was convicted of ~~another~~ that offense or of any  
 21 offense arising out of the same set of circumstances, or the  
 22 person has a past felony conviction:

23 ~~{i}-murder-under-section-609.185,-609.19,-or-609.195,-~~

24 ~~{ii}-manslaughter-under-section-609.20-or-609.205,-~~

25 ~~{iii}-assault-under-section-609.221,-609.222,-or-609.223,-~~

26 ~~{iv}-robbery-under-section-609.24-or-aggravated-robbery~~  
 27 ~~under-section-609.245,-~~

28 ~~{v}-kidnapping-under-section-609.25,-~~

29 ~~{vi}-false-imprisonment-under-section-609.255,-~~

30 ~~{vii}-criminal-sexual-conduct-under-section-609.342,-~~

31 ~~609.343,-609.344,-609.345,-or-609.3451,-subdivision-3,-~~

32 ~~{viii}-incest-under-section-609.365,-~~

33 ~~{ix}-burglary-under-section-609.582,-subdivision-1,-or~~

34 ~~{x}-indecent-exposure-under-section-617.23,-subdivision-3,-~~

35 or

36 ~~{2}-was-sentenced-as-a-patterned-sex-offender-under-section~~

1 ~~609.108, and committed to the custody of the commissioner of~~  
 2 ~~corrections; or~~

3       ~~(3) (2)~~ is serving a term of imprisonment in this state  
 4 under a reciprocal agreement although convicted in another state  
 5 of ~~an offense described in this subdivision or a similar law of~~  
 6 ~~the United States or any other state~~ committing or attempting to  
 7 commit a felony offense or of any offense arising out of the  
 8 same set of circumstances if the person was initially charged  
 9 with committing or attempting to commit a felony offense. The  
 10 commissioner of corrections or local corrections authority shall  
 11 forward the sample to the Bureau of Criminal Apprehension.

12       Subd. 3. [OFFENDERS FROM OTHER STATES.] When the state  
 13 accepts an offender from another state under the interstate  
 14 compact authorized by section 243.16, the acceptance is  
 15 conditional on the offender providing a biological specimen for  
 16 the purposes of DNA analysis as defined in section 299C.155, if  
 17 the offender was ~~convicted of an offense described in~~  
 18 ~~subdivision 1 or a similar law of the United States or any other~~  
 19 ~~state~~ initially charged with committing or attempting to commit  
 20 a felony offense and was convicted of that offense or of any  
 21 offense arising out of the same set of circumstances. The  
 22 specimen must be provided under supervision of staff from the  
 23 Department of Corrections or a Community Corrections Act county  
 24 within 15 business days after the offender reports to the  
 25 supervising agent. The cost of obtaining the biological  
 26 specimen is the responsibility of the agency providing  
 27 supervision.

28       [EFFECTIVE DATE.] This section is effective July 1, 2005,  
 29 and applies to offenders sentenced, released from incarceration,  
 30 or accepted for supervision on or after that date.

31       Sec. 9. Minnesota Statutes 2004, section 609A.02,  
 32 subdivision 3, is amended to read:

33       Subd. 3. [CERTAIN CRIMINAL PROCEEDINGS NOT RESULTING IN A  
 34 CONVICTION.] A petition may be filed under section 609A.03 to  
 35 seal all records relating to an arrest, indictment or  
 36 information, trial, or verdict if the records are not subject to

1 section 299C.11, subdivision 1, paragraph (b), and if all  
2 pending actions or proceedings were resolved in favor of the  
3 petitioner. For purposes of this chapter, a verdict of not  
4 guilty by reason of mental illness is not a resolution in favor  
5 of the petitioner.

6 Sec. 10. Minnesota Statutes 2004, section 609A.03,  
7 subdivision 7, is amended to read:

8 Subd. 7. [LIMITATIONS OF ORDER.] ~~{a} Upon issuance of an  
9 expungement order related to a charge supported by probable  
10 cause, the DNA samples and DNA records held by the Bureau of  
11 Criminal Apprehension shall not be sealed, returned to the  
12 subject of the record, or destroyed.~~

13 {b} Notwithstanding the issuance of an expungement order:

14 (1) an expunged record may be opened for purposes of a  
15 criminal investigation, prosecution, or sentencing, upon an ex  
16 parte court order; and

17 (2) an expunged record of a conviction may be opened for  
18 purposes of evaluating a prospective employee in a criminal  
19 justice agency without a court order.

20 Upon request by law enforcement, prosecution, or  
21 corrections authorities, an agency or jurisdiction subject to an  
22 expungement order shall inform the requester of the existence of  
23 a sealed record and of the right to obtain access to it as  
24 provided by this paragraph. For purposes of this section, a  
25 "criminal justice agency" means courts or a government agency  
26 that performs the administration of criminal justice under  
27 statutory authority.

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

29 Sec. 11. [APPROPRIATION.]

30 \$. . . . . is appropriated from the general fund to the  
31 commissioner of public safety to fund the DNA collection and  
32 testing required by this act. The appropriation is available  
33 for the biennium ending June 30, 2007.

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

35 Sec. 12. [REVISOR'S INSTRUCTION.]

36 In each section of Minnesota Statutes where section



1 299C.105 is cross-referenced, the revisor of statutes shall  
2 insert a cross-reference to section 299C.106.

3 [EFFECTIVE DATE.] This section is effective July 1, 2010.

4 Sec. 13. [REPEALER.]

5 Minnesota Statutes 2004, section 609.119, is repealed.

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

APPENDIX  
Repealed Minnesota Statutes for 05-2836

**609.119 ADDITIONAL COLLECTION OF BIOLOGICAL SPECIMENS  
FOR DNA TESTING.**

(a) From July 1, 2003, to June 30, 2005, the court shall order an offender to provide a biological specimen for the purpose of future DNA analysis as described in section 299C.155 when:

(1) the court sentences a person charged with committing or attempting to commit a felony offense not described in section 609.117, subdivision 1, and the person is convicted of that offense or of any felony offense arising out of the same set of circumstances; or

(2) the juvenile court adjudicates a person a delinquent child who is petitioned for committing or attempting to commit a felony offense not described in section 609.117, subdivision 1, and is adjudicated delinquent for that offense or any felony-level offense arising out of the same set of circumstances.

The biological specimen shall be maintained by the Bureau of Criminal Apprehension as provided in section 299C.155.

(b) From July 1, 2003, to June 30, 2005, the commissioner of corrections or local corrections authority shall order a person to provide a biological specimen for the purpose of future DNA analysis as described in section 299C.155 before completion of the person's term of imprisonment when the person has not provided a biological specimen for the purpose of DNA analysis, and the person:

(1) was initially charged with committing or attempting to commit a felony offense not described in section 609.117, subdivision 1, and was convicted of that offense or of any felony offense arising out of the same set of circumstances; or

(2) is serving a term of imprisonment in this state under a reciprocal agreement although convicted in another state of committing or attempting to commit a felony offense not described in section 609.117, subdivision 1, or of any felony offense arising out of the same set of circumstances if the person was initially charged with committing or attempting to commit a felony offense not described in section 609.117, subdivision 1.

The commissioner of corrections or local corrections authority shall forward the sample to the Bureau of Criminal Apprehension.

(c) From July 1, 2003, to June 30, 2005, when the state accepts an offender from another state under the interstate compact authorized by section 243.16 or 243.1605, the acceptance is conditional on the offender providing a biological specimen for the purposes of future DNA analysis as described in section 299C.155, if the offender was initially charged with committing or attempting to commit a felony offense not described in section 609.117, subdivision 1, and was convicted of that offense or of any felony offense arising out of the same set of circumstances. The specimen must be provided under supervision of staff from the Department of Corrections or a Community Corrections Act county within 15 business days after the offender reports to the supervising agent. The cost of obtaining the biological specimen is the responsibility of the agency providing supervision.

1 Senator ..... moves to amend S.F. No. 1201 as follows:

2 Page 1, after line 11, insert:

3 "Section 1. Minnesota Statutes 2004, section 13.6905,  
4 subdivision 17, is amended to read:

5 Subd. 17. [DNA EVIDENCE.] DNA identification data  
6 maintained by the Bureau of Criminal Apprehension are governed  
7 by ~~section~~ sections 299C.11 and 299C.155."

8 Page 4, line 1, delete "2009" and insert "2010"

9 Page 6, delete lines 19 to 28 and insert:

10 "(b) No petition under chapter 609A is required if the  
11 person has not been convicted of any felony, either within or  
12 without the state, within the period of ten years immediately  
13 preceding the determination of all pending criminal actions or  
14 proceedings in favor of the arrested person, and either of the  
15 following occurred:

16 (1) all charges were dismissed prior to a determination of  
17 probable cause; or

18 (2) the prosecuting authority declined to file any charges  
19 and a grand jury did not return an indictment. Where these  
20 conditions are met, the bureau or agency shall, upon demand,  
21 remove the person's information from the bureau's combined DNA  
22 index system and return to the arrested person the biological  
23 specimen, all related records, and all copies and duplicates of  
24 them.

25 (c) Except as otherwise provided in paragraph (b), upon the  
26 determination of all pending criminal actions or proceedings in  
27 favor of the arrested person, and the granting of the petition  
28 of the arrested person under chapter 609A, the bureau shall  
29 remove the person's information from the bureau's combined DNA  
30 index system and seal the biological specimen, all related  
31 records, and all copies and duplicates of them, if the arrested  
32 person has not been convicted of any felony, either within or  
33 without the state, within the period of ten years immediately  
34 preceding such determination. The remedies in section 13.08  
35 apply to a violation of this subdivision."

36 Page 7, line 30, delete "Information" and insert "Data"

- 1 Page 7, line 31, delete "considered"
- 2 Page 7, line 35, before "purposes" insert "identification"
- 3 and after the period, insert "The remedies in section 13.08
- 4 apply to a violation of this subdivision."
- 5 Page 8, line 9, delete "shall be considered" and insert
- 6 "are"
- 7 Page 8, line 11, before "purposes" insert "identification"
- 8 and after the period, insert "The remedies in section 13.08
- 9 apply to a violation of this subdivision."
- 10 Renumber the sections in sequence and correct the internal
- 11 references
- 12 Amend the title as follows:
- 13 Page 1, line 6, after "sections" insert "13.6905,
- 14 subdivision 17;"

[previous](#) | [next](#)

§ 19.2-310.2:1. Saliva or tissue sample required for DNA analysis after arrest for a violent felony.

Every person arrested for the commission or attempted commission of a violent felony as defined in § [19.2-297.1](#) or a violation or attempt to commit a violation of §§ [18.2-89](#), [18.2-90](#), [18.2-91](#), or § [18.2-92](#), shall have a sample of his saliva or tissue taken for DNA (deoxyribonucleic acid) analysis to determine identification characteristics specific to the person. After a determination by a magistrate or a grand jury that probable cause exists for the arrest, a sample shall be taken prior to the person's release from custody. The analysis shall be performed by the Division of Forensic Science or other entity designated by the Division. The identification characteristics of the profile resulting from the DNA analysis shall be stored and maintained by the Division in a DNA data bank and shall be made available as provided in § [19.2-310.5](#).

The clerk of the court shall notify the Division of final disposition of the criminal proceedings. If the charge for which the sample was taken is dismissed or the defendant is acquitted at trial, the Division shall destroy the sample and all records thereof, provided there is no other pending qualifying warrant or capias for an arrest or felony conviction that would otherwise require that the sample remain in the data bank.

(2002, cc. 753, 773; 2003, c. 150; 2004, c. 445.)

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§ 19.2-310.2:1. Saliva or tissue sample required for DNA analysis after arrest for a violent felony.

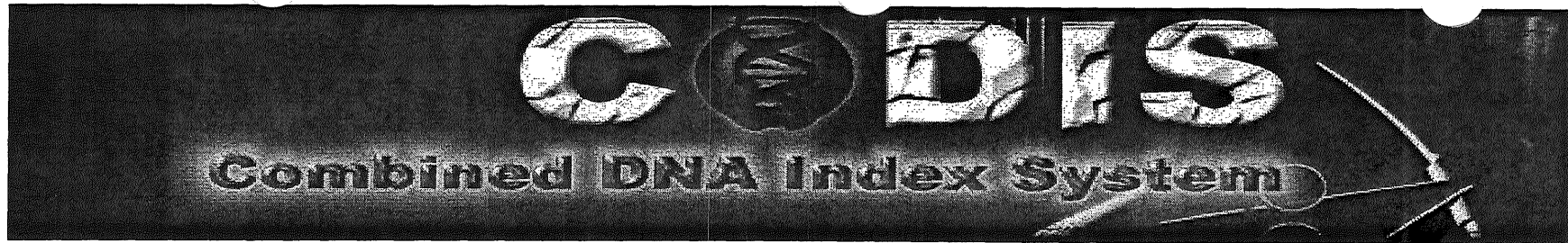
Every person arrested for the commission or attempted commission of a violent felony as defined in § [19.2-297.1](#) or a violation or attempt to commit a violation of §§ [18.2-89](#), [18.2-90](#), [18.2-91](#), or § [18.2-92](#), shall have a sample of his saliva or tissue taken for DNA (deoxyribonucleic acid) analysis to determine identification characteristics specific to the person. After a determination by a magistrate or a grand jury that probable cause exists for the arrest, a sample shall be taken prior to the person's release from custody. The analysis shall be performed by the Division of Forensic Science or other entity designated by the Division. The identification characteristics of the profile resulting from the DNA analysis shall be stored and maintained by the Division in a DNA data bank and shall be made available as provided in § [19.2-310.5](#).

The clerk of the court shall notify the Division of final disposition of the criminal proceedings. If the charge for which the sample was taken is dismissed or the defendant is acquitted at trial, the Division shall destroy the sample and all records thereof, provided there is no other pending qualifying warrant or capias for an arrest or felony conviction that would otherwise require that the sample remain in the data bank.

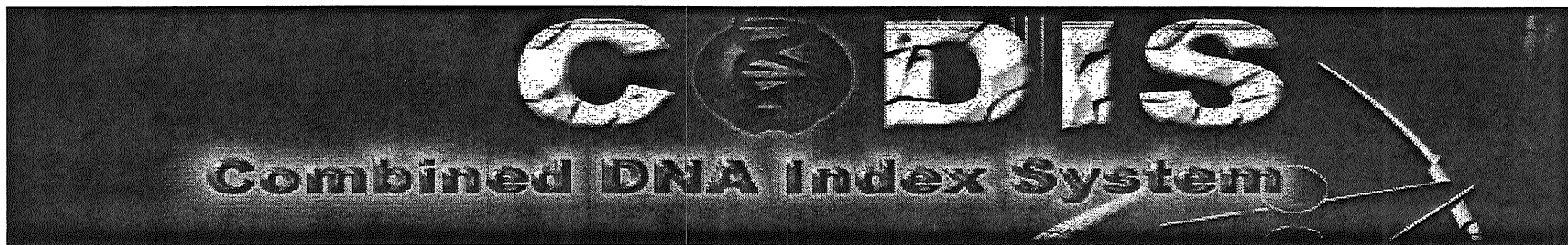
(2002, cc. 753, 773; 2003, c. 150; 2004, c. 445.)

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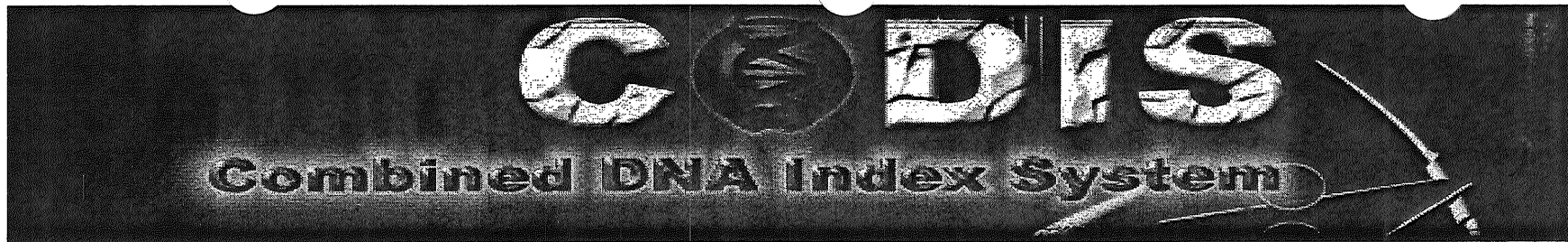
- **CODIS Program**
  - **Minnesota History**
  - **Status of DNA Offender Database**
- **National DNA Index System**
  - **Participating States**
  - **Statistics**
- **Measuring Success**
  - **Investigations Aided**
  - **Success Stories**



- **Minnesota History**

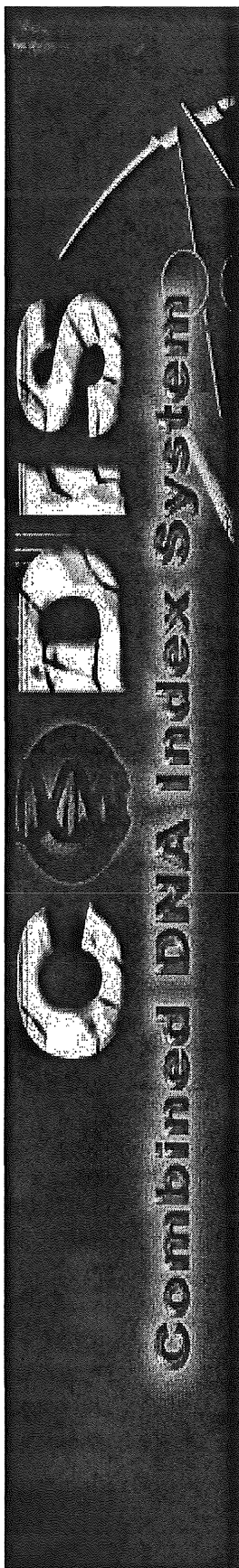
- **1989 : DNA Sex Offender Database**
- **1991 : 1<sup>st</sup> MN. “Cold Hit”**
- **1993 : 1<sup>st</sup> National “Cold Hit”**
- **1999 : new DNA Technology – “STR”**
- **2000 : Expanded, Predatory Offenses**
- **2002 : Expanded, All Felons (unfunded)**



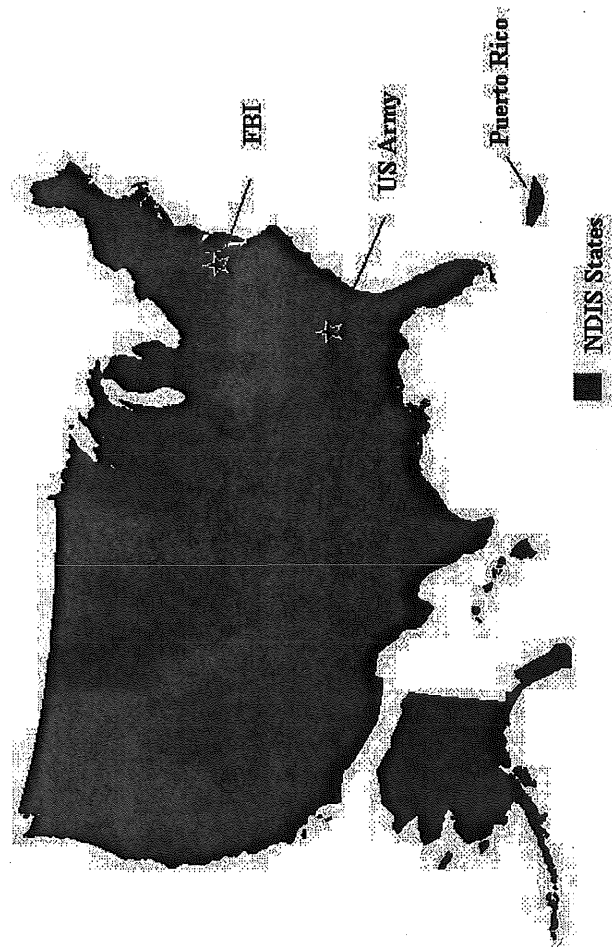


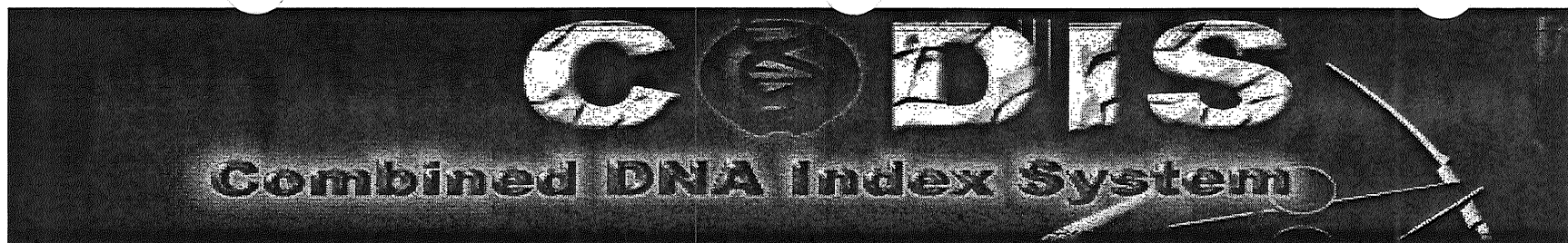
- **Status of MN CODIS**
  - **30,919 Offender Profiles in CODIS**
  - **Backlog : 19,700 samples**
    - 7,000 samples waiting to be sent to NIJ Labs**
    - 4,000 samples at NIJ Labs**
    - 3,000 samples returned awaiting data review**
    - 5,700 samples waiting to be processed at BCA**

**As of 1/27/05**



- National DNA Index System





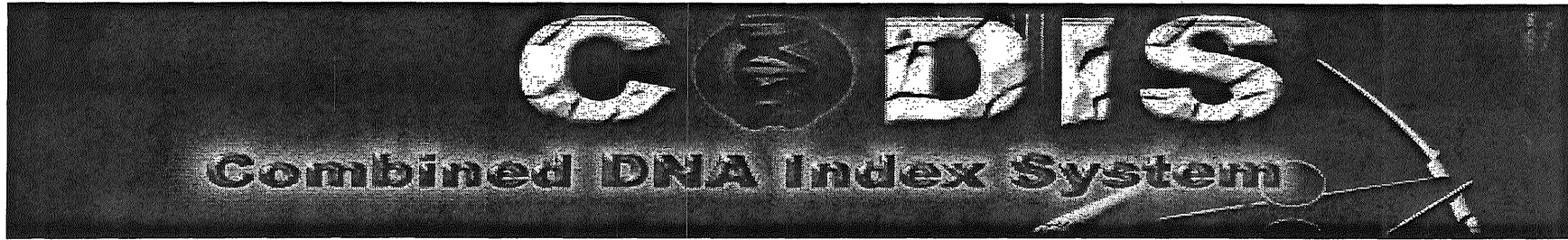
- **NDIS Statistics (National DNA Index System)**

**As of 12/04, the profile composition is:**

**Total number of profiles: 2,132,470**

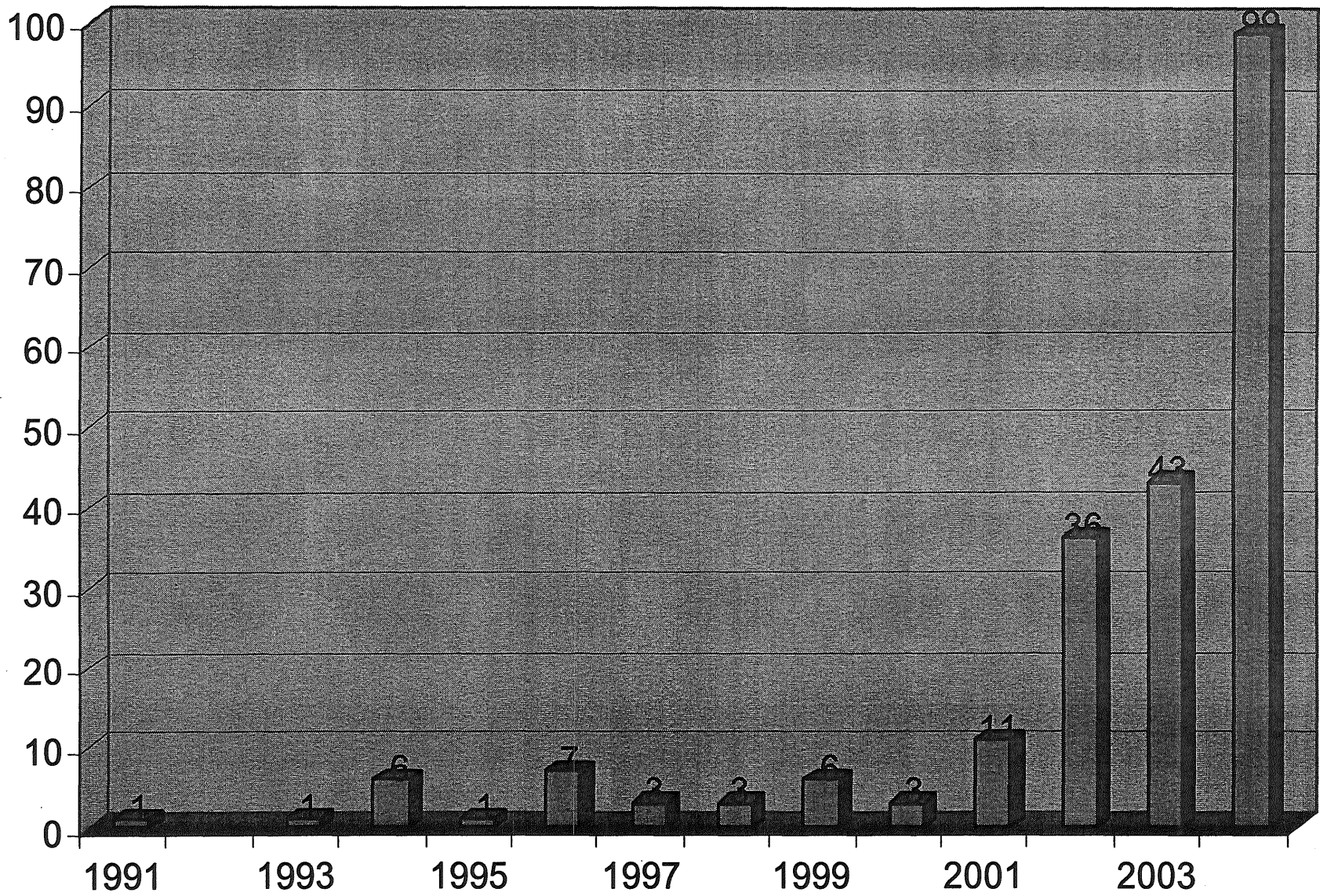
**Total Forensic profiles: 93,956**

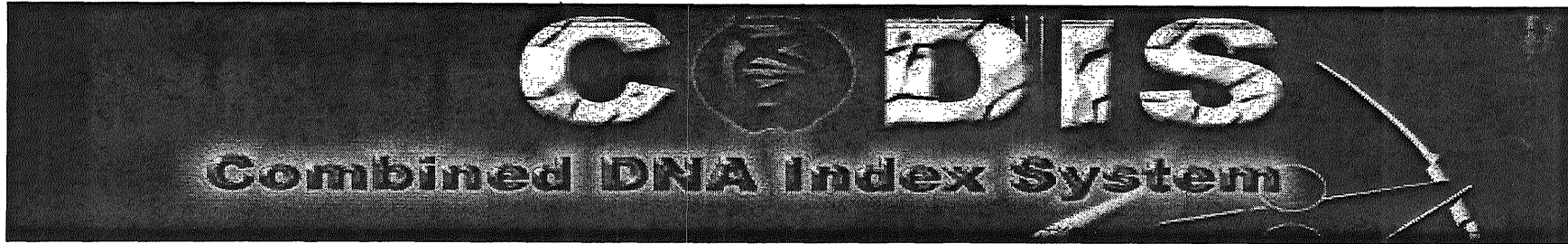
**Total Convicted Offender Profiles: 2,038,470**



- **Minnesota Statistical Information**
  - **Total Offender Profiles : 23,613**
  - **Forensic Samples : 1,619**
  - **Number of CODIS Labs : 3**
  - **NDIS Participating Labs : 3**
  - **Investigations Aided : 218**

# Investigation Aided





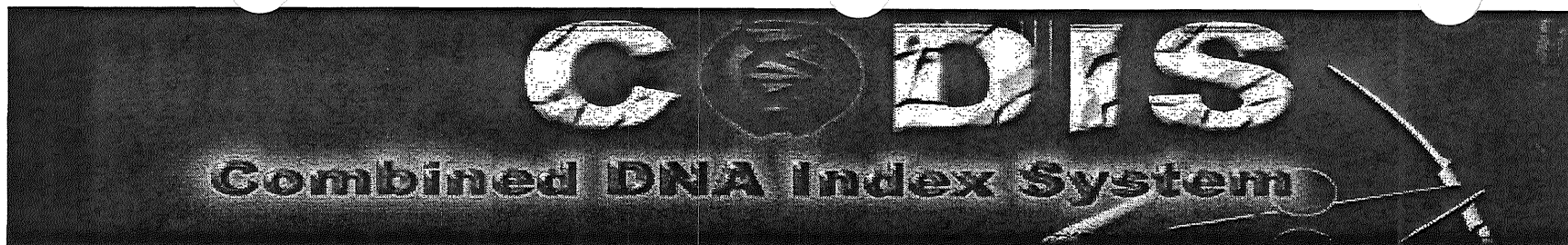
- Success Stories

**TEEN GUILTY IN DORMITORY RAPE FORMER HIGHLAND  
QUARTERBACK ADMITS CONCORDIA ATTACK**

**Source: PHILLIP PINA, Pioneer Press**

**A 17-year-old former high school star athlete, labeled by prosecutors as a predator, pleaded guilty Wednesday to the rape of a St. Paul college student in her dorm room last year. West St. Paul resident Rashade D. Coleman, who turned 16 just five days before the Concordia University attack, is the former quarterback of the Highland Park High School football team in St. Paul. Prosecutors will now ask that he spend the next 16 years in prison, officials said.**

**Published on December 16, 2004, Page B1, St. Paul Pioneer Press  
(MN)**



- **Success Stories**

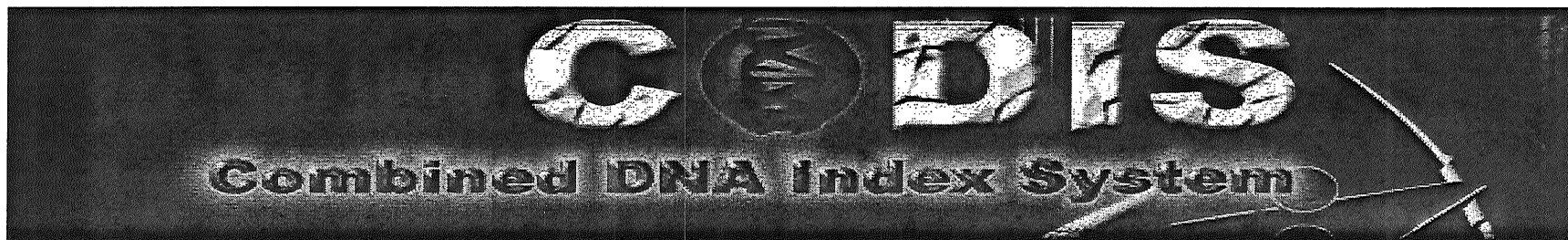
**RAPE SUSPECT FOUND VIA DNA MATCH MAN CURRENTLY IN SOUTH DAKOTA PRISON**

**Source: ALLEN POWELL II**

**Pioneer Press**

**Thanks to a national criminal DNA database, the Ramsey County Sheriff's Department recently tracked down a suspect in a 4-year-old rape case in White Bear Township. In June, sheriff's deputies learned that the suspect, Eugene Brian Campbell, 37, was serving time in the South Dakota State Penitentiary on a 2003 conviction for damage to property. He was charged Wednesday with third-degree criminal sexual conduct and kidnapping in the rape of a 49-year-old White**

**Published on September 2, 2004, Page B3, St. Paul Pioneer Press (MN)**



- **Success Stories**

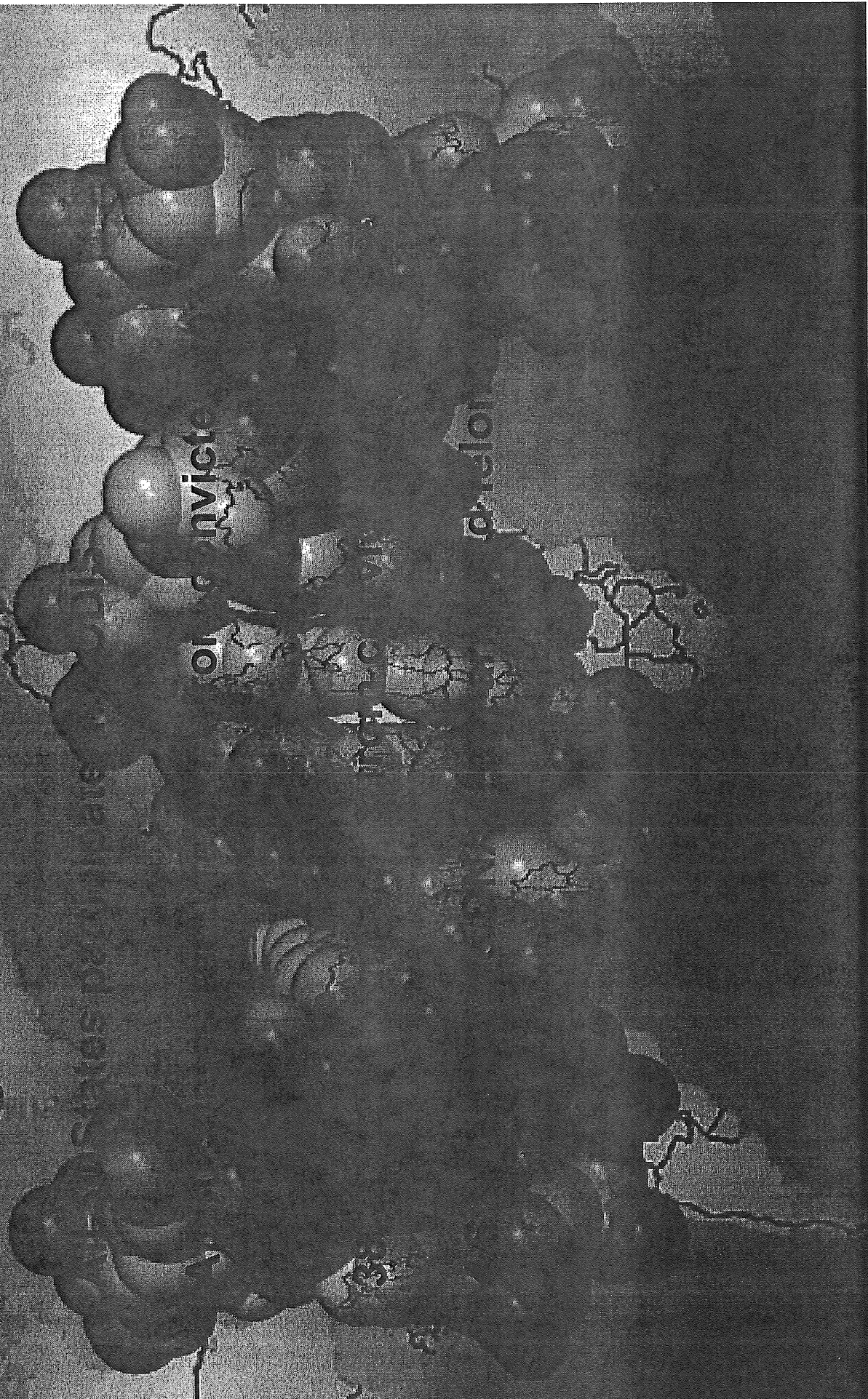
### **DNA TEST LINKS MAN TO 3 SEX ASSAULTS**

**Source: DAVID HAWLEY, Pioneer Press**  
DNA testing has linked a man to an unsolved rape in Hopkins and two sexual assaults in Menomonie, Wis., authorities announced Tuesday. The announcement came after Thomas Lynn Russell Jr., 41, was charged with first-degree criminal sexual conduct in a home-invasion rape that occurred in December 2002. Authorities said he is a suspect in two other sexual assaults in Hopkins and that DNA testing has linked him with two sexual assaults that took place in Menomonie in 2003.

**Published on September 15, 2004, Page B18, St. Paul Pioneer Press (MN)**



Summary :





Lawrence J. Field  
*President*

Charles E. Samuelson  
*Executive Director*

Teresa J. Nelson  
*Legal Counsel*

April 7, 2005

Statement of Charles Samuelson on Senate File 1201

The ACLU of Minnesota is the statewide affiliate of the ACLU with more than 7000 members in the state of Minnesota. The ACLU-MN believes that Senate File 1201 represents an unwarranted intrusion into the privacy rights of individuals who have not been convicted of a crime.

The original purpose of requiring biological samples from certain individuals convicted of enumerated crimes was to assist in the investigation and prosecution of criminal sexual conduct. Minnesota's law has become incrementally broader to include other violent felonies, presumably because the legislature believed that certain violent offenders are likely to go on to commit – or have already committed - crimes in which DNA analysis will assist in identifying the offender. Senate File 1201 would do two things. First it would make permanent the collection of biological samples from all individuals who are convicted of any felony. Second, it would expand the collection of samples to include individuals arrested for a certain number of crimes. This incremental expansion is likely to continue in future years unless the legislature acts now to draw the line at felony convictions for specified crimes for which DNA identification will likely be useful.

The ACLU-MN is deeply concerned about the prospect of the government collecting and retaining permanent DNA samples and profiles on people in this state. While the statute states that the purpose of the DNA sample is for identification, the history in our country is that information compiled for one purpose will be used for another. For example, Social Security numbers were initially intended to be used as a means of tracking social security payments. They are now a universal identifier. Census records created for general statistical purposes were used to round up innocent Japanese Americans and place them in internment camps during World War II. Make no mistake about it. DNA is fundamentally different than a fingerprint. The fact that current law and this bill treat them differently than fingerprints is illustrative. The amount of personal and private data contained in a DNA specimen provides insights into the most personal family relationships and the most intimate workings of the human body, including the likelihood of the occurrence of over 4,000 types of genetic conditions and diseases. Because genetic information pertains not only to the individual whose DNA is sampled, but also to everyone who shares in that person's bloodline, potential threats to genetic privacy posed by their collection extend well beyond the people whose samples will be collected. Moreover, there is no requirement that the DNA sample from which genetic information is taken be destroyed. Nor is there a requirement that the sample be used solely for

identification purposes by law enforcement. This allows for the future possibility that samples may be used in other ways that we cannot even anticipate including determining a propensity to commit crime. Finally, we have been unable to identify any legal barrier to sharing the actual blood sample with outside entities. While the DNA profile that is created by the BCA is private, the statute is silent as to who may have access to the actual blood sample that is kept indefinitely. With private companies already compiling vast amounts of data on individuals, it is only a matter of time before DNA profiles become a commodity just as valuable as social security numbers and credit reports.

Expanding DNA samples to arrestees is even more problematic. The constitutional presumption of innocence requires us to treat all arrestees as innocent until proven guilty. Senate File 1201 will result in the state collecting and maintaining DNA samples and profiles of individuals who are innocent. This bill would make them permanent suspects merely based on the fact that they were arrested for an enumerated crime. There is no initial judicial oversight to determine whether an arrest is even valid before the DNA sample can be taken. When there is probable cause to believe that an individual has committed a certain crime, and there is DNA evidence for which the individual's DNA can be compared, the state is free to obtain a warrant for that individual's DNA. But when an individual is arrested for a crime in which there is no DNA evidence involved, it is unreasonable to take a biological sample from them. Courts have held that taking a biological sample is a search and seizure for purposes of the Fourth Amendment. The question of its constitutionality turns on whether it is reasonable. In the context of people who have been convicted, courts have found that it is reasonable; however, the rights of arrestees are different from the rights of those who have already been convicted. The U.S. Supreme Court held in Schmerber v. State of California that in limited circumstances, police may take a blood sample without first obtaining a warrant. However, there must first be some level of individualized suspicion that the blood sample will actually yield evidence. The Court opined that:

“The interests in human dignity and privacy which the Fourth Amendment protects forbid any such intrusions on the mere chance that desired evidence might be obtained. In the absence of a clear indication that in fact such evidence will be found, these fundamental human interests require law officers to suffer the risk that such evidence may disappear unless there is an immediate search.”

In Schmerber, the officers arrested the defendant based on probable cause that he was driving drunk. The Court found that the facts that established probable cause for the arrest also established the likelihood that the blood sample would yield a positive result for blood alcohol content. In contrast, Senate File 1201 authorizes blood samples on the “mere chance that desired evidence might be obtained.”

Senate File 1201's expansion of DNA sample collection and retention to arrestees without any individualized suspicion is not reasonable.

This legislation does not adequately address the rights of innocent individuals to have

their DNA profile and sample returned to them. If we are not interested in keeping samples of innocent people, then we need to do better than Senate File 1201. At a bare minimum, samples and profiles taken from innocent people must be returned to them automatically. Under Senate File 1201, the sample and profile will only be returned upon demand from the innocent person if the charges are dismissed prior to a finding of probable cause or the prosecuting authority declined to file any charges and a grand jury did not return an indictment. Furthermore, this demand is only available to those innocent people who have not been convicted of any felony in the previous ten years. If an innocent person does not meet these requirements, the most that one can hope for is to have the sample and profile expunged after going through the full legal process of getting the record expunged. Even if one is able to obtain an order for expungement, this only means that the sample and profile will be kept under seal and may be re-opened for future criminal investigations. But the ability of an innocent person to obtain an expungement is not guaranteed. First they must either hire an attorney or know something about the legal system in order to go through the process of filing the petition. The affected agency has the right to oppose the petition and the court will deny the expungement if it finds that the "agency or jurisdiction whose records would be affected establishes by clear and convincing evidence that the interests of the public and public safety outweigh the disadvantages to the petitioner of not sealing the record." Notwithstanding the expungement order, the DNA sample and profile will still not be sealed if the individual has had any other felony conviction within the preceding ten years.

Notwithstanding the ability to have one's sample returned or expunged, Senate File 1201 contains no protections against the use – prior to expungement or the return of the sample – of DNA samples obtained from innocent people. If, for example, law enforcement officers suspect that an individual may have committed a crime but have no basis to arrest that individual for the crime, the availability of a DNA sample upon arrest may give an unscrupulous officer the incentive to arrest the individual on other, baseless, charges for the sole purpose of obtaining a DNA sample for comparison. There is no limitation on the use of that sample until those baseless charges are dismissed and the individual requests the return of the sample. This presents an end-run on traditional constitutional requirement of probable cause.

Expanding DNA samples to all individuals convicted of felonies is unreasonable and a waste of resources. DNA has some utility in solving certain violent crimes; however, most felons do not commit such crimes and there's no reasonable likelihood that they will. Thus, it is unlikely that the DNA sample from an individual convicted of embezzlement or aggravated forgery will ever be of any utility, making the collection and analysis of such samples a waste of time and resources. Moreover, the courts have upheld Minnesota's law on the grounds that the search and seizure that occurred by taking the individual's blood was reasonable under the Fourth Amendment because the need to search outweighed the intrusion on the individual. The further the state gets from actually needing a particular sample, the less likely that the search and seizure can be justified as being reasonable.

Supporters of taking DNA samples from arrestees cite Virginia as an example to aspire to. Virginia's experiences with its Arrestee DNA Databank are overstated and distinguishable in respect to Senate File 1201. First, Virginia takes biological samples only after an indictment. Senate File 1201, on the other hand, provides for samples to be taken even before a determination of probable cause. In addition, the effectiveness of Virginia's Arrestee Databank has been exaggerated. Since its establishment in on January 1, 2003, the Arrestee Databank has returned just 147 total hits (as of February 28, 2005) – not the “hundreds” or “thousands” of hits often cited by supporters.

The law and this bill require certain protections for data security. The profiles are classified as private and the BCA is required to establish procedures and protocols to follow. But no system can guarantee entire security. Simple human error and the possibility for government misconduct will always be present. The bottom line is that these biological samples and the DNA profiles created from them can never be guaranteed to be 100% secure. The fact that the blood samples are retained indefinitely and that there does not appear to be any legal barrier to the use of the sample for other purposes compounds the danger.

Senate File 1201 will have a disproportionate impact on minorities. As you can see from the charts that I have provided to you from the Council on Crime and Justice, there are significant racial disparities in adults who are arrested for violent crimes. There are also racial disparities among prison incarceration rates. A study on low-level offenses done by the Council on Crime and Justice found that in Minneapolis, minorities are more likely to be arrested but less likely to be convicted. If this is also true of violent offenses, it is likely that Senate File 1201 will result in significant racial disparities in the collection of DNA samples from innocent people.

For all of these reasons, I respectfully urge you to vote against Senate File 1201.

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

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State of Minnesota

**S.F. No. 1483 - Modifying Provisions in the Emergency Health  
Powers Act (Second Engrossment)**

**Author:** Senator Becky Lourey

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**Date:** April 7, 2005

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**S.F. No. 1483** modifies the Minnesota Emergency Health Powers Act of 2002.

**Section 1 (12.03, subdivision 1e)** adds a definition in chapter 12 (the Minnesota Emergency Management Chapter) for “declared emergency.”

**Section 2 (12.03, subdivision 4d)** states that the definition of “facility” includes a licensed health care facility but only when other alternatives are not feasible.

**Section 3 (12.22, subdivision 2a)** provides that individuals who volunteer to assist the state during an emergency or disaster, who register with a state agency, and who are under the direction or control of the agency are considered an employee of the state.

**Section 4 (12.22, subdivision 4)** states that nothing in chapter 12 is to be construed to remove any immunity from, defense to, or limitation on liability provided in law.

**Section 5 (12.31, subdivision 1)** strikes the reference to a public health emergency from the list of emergencies that may trigger the Governor to declare a national security emergency.

**Section 6 (12.31, subdivision 2)** amends the law regarding the declaration of a peacetime emergency. Strikes language relating to a public health emergency. Requires that if the Governor declares a peacetime emergency, the Governor must notify legislative leaders. Authorizes the Legislature to terminate a peacetime emergency extending beyond 30 days by a majority vote.

Provides that if the Governor determines a need exists to extend a peacetime emergency beyond 30 days while the Legislature is not in session, the Governor must call a special session.

**Section 7 (12.32)** extends the powers given to the Governor's orders and rules promulgated during an emergency to include those orders and rules promulgated during the declaration of a peacetime emergency. (Currently, this only extends to a national security emergency, a peacetime emergency declared due to a public health emergency, or an energy supply emergency.)

**Section 8 (12.34)** extends the provisions relating to the taking of property during an emergency to apply when a peacetime emergency is declared. (Currently, these provisions only apply during a national security emergency or during a peacetime emergency declared due to a public health emergency.)

**Section 9 (12.381)** extends the provisions for the safe disposition of dead human bodies to deaths related to a declared emergency. (Currently, these provisions only apply to a national security emergency declared due to a public health emergency or a peacetime emergency declared due to a public health emergency).

**Section 10 (12.39)** strikes the reference to a "public health emergency." This section also strikes "where feasible" thereby requiring a health care provider to notify the individual of the right to refuse the examination, testing, treatment, or vaccination before performing an examination, test, treatment, or vaccination during the declaration of an emergency.

**Section 11 (12.42)** permits an individual who is licensed in the District of Columbia or a province of Canada to render aid during a declared emergency when such aid is requested by the Governor.

**Section 12 (12.61)** authorizes the Governor to issue an emergency executive order when the hospital and medical transport capacities are exceeded.

**Subdivision 1** defines "emergency plan," "regional hospital system," and "responder."

**Subdivision 2** states that during a declared national security or peacetime emergency the Governor may issue an emergency executive order when the number of seriously ill or injured persons exceeds the emergency hospital or medical transport capacity of one or more regional hospital systems requiring care to be given in temporary care facilities. During this period, a responder who is acting consistent with the emergency plans is not liable for any civil damages or administrative sanctions as a result of good-faith acts or omissions in rendering care, advice, or assistance, but does not apply in the case of malfeasance in office or willful or wanton actions.

**Section 13 (13.3806, subdivision 1a)** extends the death investigation data classification to data gathered to identify bodies believed to have died due to a declared emergency. (Currently, this only applies during a public health emergency.)

**Section 14** allows **sections 2, 5, 10, and 11** from the Emergency Health Powers Act passed in 2002 to sunset on August 1, 2005. Expends the sunset on the other provisions of the act until August 1, 2007. The provisions allowed to sunset on August 1, 2005, are as follows:

**Section 2** – strikes the definition of “bioterrorism” from chapter 12

**Section 5** – strikes the definition of “public health emergency” from chapter 12.

**Section 10** – repeals section 12.311 (authorizes the Governor to declare a national security emergency or a peacetime emergency due to a public health emergency).

**Section 11** – repeals section 12.312 (describes the termination of a public health emergency).

KC:KPB:ph



1 A bill for an act

2 relating to health; modifying the Minnesota Emergency  
3 Health Powers Act; modifying authority of out-of-state  
4 license holders; providing legislative emergency  
5 authority; amending Minnesota Statutes 2004, sections  
6 12.03, subdivision 4d, by adding a subdivision; 12.22,  
7 subdivision 2a, by adding a subdivision; 12.31,  
8 subdivisions 1, 2; 12.32; 12.34, subdivision 1;  
9 12.381; 12.39; 12.42; 13.3806, subdivision 1a; Laws  
10 2002, chapter 402, section 21, as amended; proposing  
11 coding for new law in Minnesota Statutes, chapter 12.

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

13 Section 1. Minnesota Statutes 2004, section 12.03, is  
14 amended by adding a subdivision to read:

15 Subd. 1e. [DECLARED EMERGENCY.] "Declared emergency" means  
16 a national security or peacetime emergency declared by the  
17 governor under section 12.31.

18 Sec. 2. Minnesota Statutes 2004, section 12.03,  
19 subdivision 4d, is amended to read:

20 Subd. 4d. [FACILITY.] "Facility" means any real property,  
21 building, structure, or other improvement to real property or  
22 any motor vehicle, rolling stock, aircraft, watercraft, or other  
23 means of transportation. Facility does not include a private  
24 residence but may include a licensed health care facility only  
25 when other alternatives are not feasible.

26 Sec. 3. Minnesota Statutes 2004, section 12.22,  
27 subdivision 2a, is amended to read:

28 Subd. 2a. [VOLUNTEER ASSISTANCE PROTECTIONS.] (a)

1 Individuals who volunteer to assist a local political  
2 subdivision during an emergency or disaster, who register with  
3 that subdivision, and who are under the direction and control of  
4 that subdivision, are considered an employee of that subdivision.

5 (b) Individuals who volunteer to assist the state during an  
6 emergency or disaster, who register with a state agency, and who  
7 are under the direction and control of the state agency are  
8 considered an employee of the state.

9 Sec. 4. Minnesota Statutes 2004, section 12.22, is amended  
10 by adding a subdivision to read:

11 Subd. 4. [OTHER LAW PRESERVED.] Nothing in this chapter  
12 shall be construed to remove any immunity from, defense to, or  
13 limitation on liability provided by the Minnesota Tort Claims  
14 Act, the Municipal Tort Claims Act, or other law.

15 Sec. 5. Minnesota Statutes 2004, section 12.31,  
16 subdivision 1, is amended to read:

17 Subdivision 1. [DECLARATION OF NATIONAL SECURITY  
18 EMERGENCY.] When information from the President of the United  
19 States, the Federal Emergency Management Agency, the Department  
20 of Defense, or the National Warning System indicates the  
21 imminence of a national security emergency within the United  
22 States, which means the several states, the District of  
23 Columbia, and the Commonwealth of Puerto Rico, or the occurrence  
24 within the state of Minnesota of a major disaster ~~or public~~  
25 ~~health-emergency~~ from enemy sabotage or other hostile action,  
26 the governor may, by proclamation, declare that a national  
27 security emergency exists in all or any part of the state. If  
28 the legislature is then in regular session or, if it is not, if  
29 the governor concurrently with the proclamation declaring the  
30 emergency issues a call convening immediately both houses of the  
31 legislature, the governor may exercise for a period not to  
32 exceed 30 days the powers and duties conferred and imposed by  
33 sections 12.31 to 12.37 and 12.381. The lapse of these  
34 emergency powers does not, as regards any act occurring or  
35 committed within the 30-day period, deprive any person,  
36 political subdivision, municipal corporation, or body politic of

1 any right to compensation or reimbursement that it may have  
2 under this chapter.

3 Sec. 6. Minnesota Statutes 2004, section 12.31,  
4 subdivision 2, is amended to read:

5 Subd. 2. [DECLARATION OF PEACETIME EMERGENCY.] (a) The  
6 governor may declare a peacetime emergency. A peacetime  
7 declaration of emergency may be declared only when an act of  
8 nature, a technological failure or malfunction, a terrorist  
9 incident, ~~a public health emergency~~, an industrial accident, a  
10 hazardous materials accident, or a civil disturbance endangers  
11 life and property and local government resources are inadequate  
12 to handle the situation. When the governor declares a peacetime  
13 emergency, the governor must immediately notify the majority and  
14 minority leaders of the senate and the speaker and majority and  
15 minority leaders of the house of representatives. A peacetime  
16 emergency must not be continued for more than five days unless  
17 extended by resolution of the Executive Council up to 30 days.  
18 An order, or proclamation declaring, continuing, or terminating  
19 an emergency must be given prompt and general publicity and  
20 filed with the secretary of state.

21 ~~(b) This paragraph applies to a peacetime emergency~~  
22 ~~declared as a result of a public health emergency. If the~~  
23 ~~legislature is sitting in session at the time of the emergency~~  
24 ~~declaration, the governor may exercise the powers and duties~~  
25 ~~conferred by this chapter for the period allowed under paragraph~~  
26 ~~(a). If the legislature is not sitting in session when a~~  
27 ~~peacetime emergency is declared or renewed, the governor may~~  
28 ~~exercise the powers and duties conferred by this chapter for the~~  
29 ~~period allowed under paragraph (a) only if the governor issues a~~  
30 ~~call convening both houses of the legislature at the same time~~  
31 ~~the governor declares or renews the peacetime emergency. By~~  
32 majority vote of each house of the legislature, the legislature  
33 may terminate a peacetime emergency extending beyond 30 days.  
34 If the governor determines a need to extend the peacetime  
35 emergency declaration beyond 30 days and the legislature is not  
36 sitting in session, the governor must issue a call immediately

1 shall be classified as nonpublic data according to section  
2 13.02, subdivision 9, or as private data on decedents according  
3 to section 13.10, subdivision 1. Death investigation data are  
4 not medical examiner data as defined in section 13.83. Data  
5 gathered under this subdivision shall be promptly forwarded to  
6 the commissioner of health. The commissioner may only disclose  
7 death investigation data to the extent necessary to assist  
8 relatives in identifying decedents or for public health or  
9 public safety investigations.

10 Sec. 10. Minnesota Statutes 2004, section 12.39, is  
11 amended to read:

12 12.39 [INDIVIDUAL TESTING OR TREATMENT; NOTICE, REFUSAL,  
13 CONSEQUENCE.]

14 Subdivision 1. [REFUSAL OF TREATMENT.] Notwithstanding  
15 laws, rules, or orders made or promulgated in response to a  
16 national security emergency, or peacetime emergency, ~~or-public~~  
17 ~~health-emergency~~, individuals have a fundamental right to refuse  
18 medical treatment, testing, physical or mental examination,  
19 vaccination, participation in experimental procedures and  
20 protocols, collection of specimens, and preventive treatment  
21 programs. An individual who has been directed by the  
22 commissioner of health to submit to medical procedures and  
23 protocols because the individual is infected with or reasonably  
24 believed by the commissioner of health to be infected with or  
25 exposed to a toxic agent that can be transferred to another  
26 individual or a communicable disease, and the agent or  
27 communicable disease is the basis for which the national  
28 security emergency, or peacetime emergency, ~~or-public-health~~  
29 ~~emergency~~ was declared, and who refuses to submit to them may be  
30 ordered by the commissioner to be placed in isolation or  
31 quarantine according to parameters set forth in sections 144.419  
32 and 144.4195.

33 Subd. 2. [INFORMATION GIVEN.] ~~Where-feasible~~, Before  
34 performing examinations, testing, treatment, or vaccination of  
35 an individual under subdivision 1, a health care provider shall  
36 notify the individual of the right to refuse the examination,

1 testing, treatment, or vaccination, and the consequences,  
2 including isolation or quarantine, upon refusal.

3 Sec. 11. Minnesota Statutes 2004, section 12.42, is  
4 amended to read:

5 12.42 [OUT-OF-STATE LICENSE HOLDERS; POWERS, DUTIES.]

6 During an a declared emergency ~~or-disaster~~, a person who  
7 holds a license, certificate, or other permit issued by a state  
8 of the United States, the District of Columbia, or a province of  
9 Canada evidencing the meeting of qualifications for  
10 professional, mechanical, or other skills, may render aid  
11 involving those skills in this state when such aid is requested  
12 by the governor to meet the needs of the emergency. The  
13 license, certificate, or other permit of the person, while  
14 rendering aid, has the same force and effect as if issued in  
15 this state, subject to such limitations and conditions as the  
16 governor may prescribe.

17 Sec. 12. [12.61] [HOSPITAL OR MEDICAL TRANSPORT CAPACITIES  
18 EXCEEDED; RESPONDER LIABILITY LIMITATION.]

19 Subdivision 1. [DEFINITIONS.] For purposes of this section:

20 (1) "emergency plan" includes:

21 (i) any plan for managing an emergency threatening public  
22 health developed by the commissioner of health or a local public  
23 health agency;

4 (ii) any plan for managing an emergency threatening public  
25 health developed by one or more hospitals, clinics, nursing  
26 homes, or other health care facilities or providers and approved  
27 by the commissioner of health or local public health agency in  
28 consultation with emergency management officials; or

29 (iii) any provision for assistance by out-of-state  
30 responders under interstate or international compacts, including  
31 but not limited to the Emergency Management Assistance Compact.

32 Emergency plans shall, so far as practicable, include  
33 provisions for protecting children, the elderly, persons with  
34 disabilities, and persons with limited English proficiency;

35 (2) "regional hospital system" means all hospitals in one  
36 of the hospital bioterrorism preparedness program geographic

1 regions of the state set forth in the most recent hospital  
2 preparedness plan available on the Department of Health Web site  
3 at [www.health.state.mn.us/oep](http://www.health.state.mn.us/oep); and

4 (3) "responder" means any person or organization whether  
5 paid or volunteer that provides health care or other  
6 health-related services in an emergency including, but not  
7 limited to, physicians, physician assistants, registered and  
8 other nurses, certified nursing assistants, or other staff  
9 within a health care provider organization, pharmacists,  
10 chiropractors, dentists, emergency medical technicians, members  
11 of a specialized medical response unit, laboratory technicians,  
12 morticians, registered first responders, mental health  
13 professionals, hospitals, nursing and boarding care facilities,  
14 home health care agencies, other long-term care providers,  
15 medical and dental clinics, and medical laboratories and  
16 including, but not limited to, ambulance service personnel and  
17 dispatch services and persons not registered as first responders  
18 but affiliated with a medical response unit and dispatched to  
19 the scene of an emergency by a public safety answering point or  
20 licensed ambulance service.

21 Subd. 2. [EMERGENCY EXECUTIVE ORDER.] (a) During a  
22 national security emergency or a peacetime emergency declared  
23 under section 12.31, the governor may issue an emergency  
24 executive order upon finding that the number of seriously ill or  
25 injured persons exceeds the emergency hospital or medical  
26 transport capacity of one or more regional hospital systems and  
27 that care for those persons has to be given in temporary care  
28 facilities.

29 (b) During the effective period of the emergency executive  
30 order, a responder in any impacted region acting consistent with  
31 emergency plans is not liable for any civil damages or  
32 administrative sanctions as a result of good-faith acts or  
33 omissions by that responder in rendering emergency care, advice,  
34 or assistance. This section does not apply in case of  
35 malfeasance in office or willful or wanton actions.

36 Sec. 13. Minnesota Statutes 2004, section 13.3806,

1 subdivision 1a, is amended to read:

2 Subd. 1a. [DEATH INVESTIGATION DATA.] Data gathered by the  
3 commissioner of health to identify the body of a person believed  
4 to have died due to a ~~public-health~~ declared emergency as  
5 defined in section 12.03, subdivision 9a 1e, the circumstances  
6 of death, and disposition of the body are classified in and may  
7 be released according to section 12.381, subdivision 2.

8 Sec. 14. Laws 2002, chapter 402, section 21, as amended by  
9 Laws 2004, chapter 279, article 11, section 7, is amended to  
10 read:

11 Sec. 21. [SUNSET.]

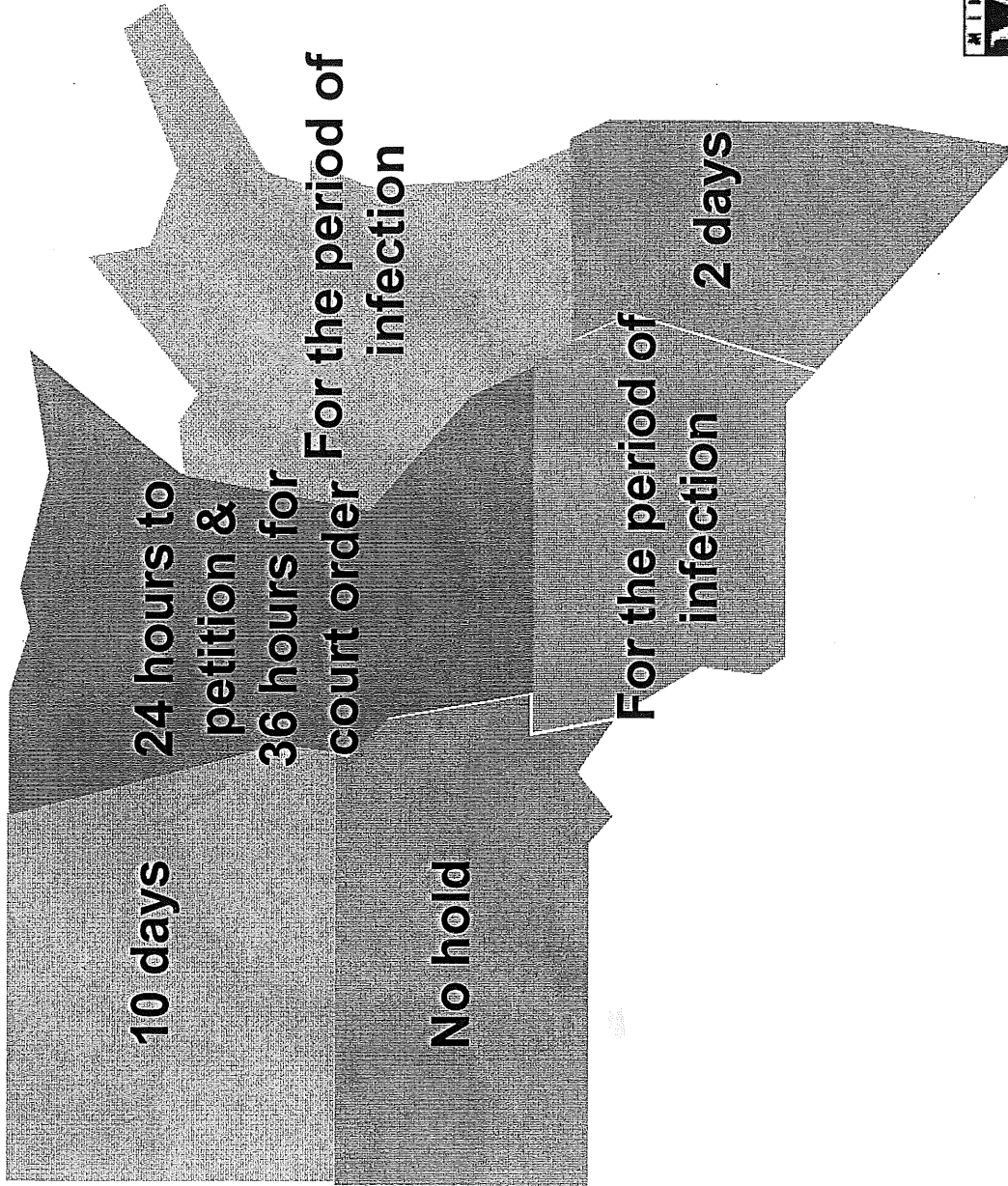
12 Sections ~~1 to 19~~, 2, 5, 10, and 11 expire August 1, 2005.

13 The other sections expire August 1, 2007.

4 Sec. 15. [EFFECTIVE DATE.]

15 Section 14 is effective the day following final enactment.

# Isolation or Quarantine Temporary Holds by State or Local Public Health





# Isolation and Quarantine Procedures

SF 1482 HF 1507

## Isolation and Quarantine Procedures

In 2002, the Minnesota Legislature approved protections for people infected with or exposed to a communicable disease who may require isolation or quarantine. These included provisions for expedited court hearings and health and safety protection. The 2004 legislature voted to retain those provisions, **which are now scheduled to expire in August 2005.**

Recent events at the global level demonstrate the need to continue these provisions. These events include the 2003 SARS outbreak, current reports of avian influenza (bird flu) in Asia, and the continuing risk of bioterrorism. SARS caused 8,098 cases of illness and 774 deaths worldwide in 2003. **In Minnesota, 11 people were evaluated as potential SARS cases.** The experience of Toronto – with hundreds of cases, 44 deaths, and 27,000 persons in quarantine – illustrates how quickly government must be ready to act to protect public health. The 27 administrative orders for quarantine in Toronto show that health protection requires the use of limited – but significant – legal powers.

Exercises conducted in Minnesota at the state and local level – involving public health, emergency responders, and the court system – have highlighted the need for an effective legal framework governing isolation and quarantine procedures. Appropriate statutory provisions will ensure the consistent application of authority, and lay out the procedures to be followed in advance of an actual event.

## Provisions to be Retained

1. **Right to refuse testing and treatment.**
2. **Expedited court hearings and administrative action.**
3. **Health and safety requirements for persons in isolation or quarantine.**
4. **A court administered process for intervening if an individual's health and safety needs are not met.**

## New Provisions

1. Clarification of peace officer authority for **enforcing isolation or quarantine** under a commissioner's temporary hold or a court order.
2. Modification of commissioner's temporary hold to **start court process immediately and make hold as short as possible.**
3. Establishment of a process for **appointment and payment of defense counsel.**
4. Dissemination of **information about personal protection to peace officers and defense counsel.**
5. Authorization to hold court hearings regarding isolation or quarantine through **electronic means.**
6. Provision for the commissioner of health to authorize persons who can assist in providing **vaccinations or medications in an emergency.**

## Who is affected?

**All Minnesotans** are potentially affected by a communicable disease outbreak. Experience in Toronto and other areas has shown clarity of public health roles and responsibilities to be critical in protecting lives and property, and sustaining the economy.

**Sick or exposed individuals** will have the right to expedited court hearings, rapid access to defense counsel, job protection, and isolation or quarantine in the least restrictive setting possible.



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(OVER)

Local and state government personnel, and health care providers, will have a clear understanding of their roles and responsibilities during a communicable disease outbreak.

Minnesota Chamber of Commerce  
Minnesota Board of Nursing  
Minnesota Ambulance Association  
Minnesota Nurses Association

**What are the consequences if this legislation does not pass?**

1. The commissioner of health will have to rely on general laws written over 100 years ago in managing a communicable disease outbreak.
2. Modernized and expedited procedures to assure due process will not be available for individuals who are recommended for – or ordered to be placed in – isolation or quarantine.
3. Individuals may have difficulty complying with isolation or quarantine recommendations because they have no guarantees that their health and safety will be protected, and they have not been afforded employment protection.
4. The public's risk of exposure to individuals who are sick or may have been infected with a communicable disease will be much greater, and the potential for additional disease transmission will be increased.

**Individuals and groups providing input to date:**

Task Force on Terrorism and Health  
Homeland Security Advisory Committee  
State Com. Health Services Adv. Committee  
Minnesota Local Public Health Association  
Minnesota Hospital Association  
Minnesota Medical Association  
Minnesota Board of Medical Practice  
Minnesota Dental Association  
County Attorney's Association  
Minnesota Council of Health Plans  
Minnesota Public Health Association  
Association of Minnesota Counties  
Department of Public Safety  
Ramsey County Court Administrator  
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## 2002 Emergency Health Powers Act with proposed changes

(note: based on bill introductions of HF1507/SF1482 and HF1555/SF1483)

~~(1) Sections 1 to 21 may be cited as the "Minnesota Emergency Health Powers Act" (delete)~~

~~(2) Section 12.03 Subd. 1c. [BIOTERRORISM.] "Bioterrorism" means the intentional use of any microorganism, virus, infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product, to cause death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism in order to influence the conduct of government or to intimidate or coerce a civilian population. (delete)~~

(3) Section 12.03 Subd. 4d. [FACILITY.] "Facility" means any real property, building, structure, or other improvement to real property or any motor vehicle, rolling stock, aircraft, watercraft, or other means of transportation. Facility does not include a private residence, but may include a licensed health care facility only when other alternatives are not feasible. (modify)

(4) Section 12.03 Subd. 6a. [MEDICAL SUPPLIES.] "Medical supplies" means any medication, durable medical equipment, instruments, linens, or any other material that a health care provider deems not essential for the continued operation of the provider's practice or facility. The term medical supplies does not apply to medication, durable medical equipment, or other material that is personal property being used by individuals or that has been borrowed, leased, or rented by individuals for the purpose of treatment or care. (retain)

~~(5) Section 12.03 Subd. 9a. [PUBLIC HEALTH EMERGENCY.] "Public health emergency" means an occurrence or imminent threat of an illness or health condition in Minnesota:~~

~~—— (1) where there is evidence to believe the illness or health condition is caused by any of the following:~~

~~—— (i) bioterrorism; or~~

~~—— (ii) the appearance of a new or novel or previously controlled or eradicated airborne infectious agent or airborne biological toxin; and~~

~~—— (2) the illness or health condition poses a high probability of any of the following harms:~~

~~—— (i) a large number of deaths in the affected population;~~

~~—— (ii) a large number of serious or long term disabilities in the affected population; or~~

~~—— (iii) widespread exposure to an airborne infectious or airborne toxic agent that poses a significant risk of substantial future harm to a large number of people in the affected population. (delete)~~

(6) Section 12.21 Subd. 3. [SPECIFIC AUTHORITY.] In performing duties under this chapter and to effect its policy and purpose, the governor may:

(1) make, amend, and rescind the necessary orders and rules to carry out the provisions of this chapter and section 216C.15 within the limits of the authority conferred by this section, with due consideration of the plans of the federal government and without complying with sections 14.001 to 14.69, but no order or rule has the effect of law except as provided by section 12.32;

(2) ensure that a comprehensive emergency operations plan and emergency management program for this state are developed and maintained, and are integrated into and coordinated with the emergency plans of the federal government and of other states to the fullest possible extent;

(3) in accordance with the emergency operations plan and the emergency management program of this state, procure supplies, equipment, and facilities, institute training programs and public information programs, and take all other preparatory steps, including the partial or full activation of emergency

1 management organizations in advance of actual disaster to ensure the furnishing of adequately trained and  
2 equipped forces of emergency management personnel in time of need;

3 (4) make studies and surveys of the industries, resources, and facilities in this state as may be  
4 necessary to ascertain the capabilities of the state for emergency management and to plan for the most  
5 efficient emergency use of those industries, resources, and facilities;

6 (5) on behalf of this state, enter into mutual aid arrangements or cooperative agreements with other  
7 states, tribal authorities, and Canadian provinces, and coordinate mutual aid plans between political  
8 subdivisions of this state;

9 (6) delegate administrative authority vested in the governor under this chapter, except the power to  
10 make rules, and provide for the subdelegation of that authority;

11 (7) cooperate with the president and the heads of the armed forces, the emergency management  
12 agency of the United States and other appropriate federal officers and agencies, and with the officers and  
13 agencies of other states in matters pertaining to the emergency management of the state and nation,  
14 including the direction or control of:

15 (i) emergency preparedness drills and exercises;

16 (ii) warnings and signals for drills or actual emergencies and the mechanical devices to be used in  
17 connection with them;

18 (iii) shutting off water mains, gas mains, electric power connections and the suspension of all other  
19 utility services;

20 (iv) the conduct of persons in the state, including entrance or exit from any stricken or threatened  
21 public place, occupancy of facilities, and the movement and cessation of movement of pedestrians and,  
22 vehicular traffic, and all forms of private and public transportation during, prior, and subsequent to drills  
23 or actual emergencies;

24 (v) public meetings or gatherings; and

25 (vi) the evacuation, reception, and sheltering of persons;

26 (8) contribute to a political subdivision, within the limits of the appropriation for that purpose, not  
27 more than 25 percent of the cost of acquiring organizational equipment that meets standards established  
28 by the governor;

29 (9) formulate and execute, with the approval of the executive council, plans and rules for the  
30 control of traffic in order to provide for the rapid and safe movement over public highways and streets of  
31 troops, vehicles of a military nature, and materials for national defense and war or for use in any war  
32 industry, for the conservation of critical materials, or for emergency management purposes; coordinate  
33 the activities of the departments or agencies of the state and its political subdivisions concerned directly  
34 or indirectly with public highways and streets, in a manner that will best effectuate those plans;

35 (10) alter or adjust by executive order, without complying with sections 14.01 to 14.69, the  
36 working hours, work days and work week of, and annual and sick leave provisions and payroll laws  
37 regarding all state employees in the executive branch as the governor deems necessary to minimize the  
38 impact of the disaster or emergency, conforming the alterations or adjustments to existing state laws,  
39 rules, and collective bargaining agreements to the extent practicable;

40 (11) authorize the commissioner of children, families, and learning to alter school schedules,  
41 curtail school activities, or order schools closed without affecting state aid to schools, as defined in  
42 section 120A.05, subdivisions 9, 11, 13, and 17, and including charter schools under section 124D.10, and  
43 elementary schools enrolling prekindergarten pupils in district programs; and

44 (12) transfer the direction, personnel, or functions of state agencies to perform or facilitate  
45 response and recovery programs. **(retain)**

46  
47 (7) Section 12.31, Subdivision 1. [DECLARATION OF NATIONAL SECURITY EMERGENCY.]  
48 When information from the President of the United States, the Federal Emergency Management Agency,  
49 the Department of Defense, or the National Warning System indicates the imminence of a national  
50 security emergency within the United States, which means the several states, the District of Columbia,  
51 and the Commonwealth of Puerto Rico, or the occurrence within the state of Minnesota of a major

1 disaster or public health emergency from enemy sabotage or other hostile action, the governor may, by  
2 proclamation, declare that a national security emergency exists in all or any part of the state. If the  
3 legislature is then in regular session or, if it is not, if the governor concurrently with the proclamation  
4 declaring the emergency issues a call convening immediately both houses of the legislature, the governor  
5 may exercise for a period not to exceed 30 days the powers and duties conferred and imposed by sections  
6 12.31 to 12.37 and 12.381. The lapse of these emergency powers does not, as regards any act occurring  
7 or committed within the 30-day period, deprive any person, political subdivision, municipal corporation,  
8 or body politic of any right to compensation or reimbursement that it may have under this chapter.

9 **(modify)**

10  
11 ~~(8) Section 12.31 Subd. 2. [DECLARATION OF PEACETIME EMERGENCY.]~~

12 ~~(b) This paragraph applies to a peacetime emergency declared as a result of a public health emergency.  
13 If the legislature is sitting in session at the time of the emergency declaration, the governor may exercise  
14 the powers and duties conferred by this chapter for the period allowed under paragraph (a). If the  
15 legislature is not sitting in session when a peacetime emergency is declared or renewed, the governor may  
16 exercise the powers and duties conferred by this chapter for the period allowed under paragraph (a) only  
17 if the governor issues a call convening both houses of the legislature at the same time the governor  
18 declares or renews the peacetime emergency. (delete)~~

19  
20 (9) Section 12.31 Subd. 3. [EFFECT OF DECLARATION OF PEACETIME EMERGENCY.] A  
21 declaration of a peacetime emergency in accordance with this section authorizes the governor to exercise  
22 for a period not to exceed the time specified in this section the powers and duties conferred and imposed  
23 by this chapter for a peacetime emergency and invokes the necessary portions of the state emergency  
24 operations plan developed pursuant to section 12.21, subdivision 3, relating to response and recovery  
25 aspects and may authorize aid and assistance under the plan. **(retain)**

26  
27 ~~(10) Section 12.311 [DECLARATION DUE TO A PUBLIC HEALTH EMERGENCY.]~~

28 ~~— (a) Before the governor declares a national security emergency due to a public health emergency or  
29 peacetime emergency due to a public health emergency, the governor or state director of emergency  
30 management shall consult with the commissioner of public safety, the state director of homeland security,  
31 the commissioner of health, and additional public health experts and other experts. If the public health  
32 emergency occurs on Indian lands, the governor or state director of emergency management shall consult  
33 with tribal authorities before the governor makes such a declaration. Nothing in this section shall be  
34 construed to limit the governor's authority to act without such consultation when the situation calls for  
35 prompt and timely action.~~

36 ~~— (b) Upon the declaration of an emergency due to a public health emergency, the governor and the  
37 commissioner of health must immediately report to the leadership in the house of representatives and  
38 senate, as well as the chairs and ranking minority members of the judiciary and health committees,  
39 regarding the imposition of the public health emergency and how it may affect the public. (delete)~~

40  
41  
42 ~~(11) Section 12.312 [TERMINATION OF DECLARATION; PUBLIC HEALTH EMERGENCY.]~~

43 ~~— Subdivision 1. [AUTOMATIC TERMINATION; RENEWAL.] Notwithstanding any other provision  
44 of this chapter, a national security emergency declared due to a public health emergency or peacetime  
45 emergency declared due to a public health emergency is — terminated automatically 30 days after its  
46 original declaration unless the emergency is renewed by the governor using the procedure specified in  
47 section 12.31, subdivision 2, paragraph (b). Any renewal is terminated automatically after 30 days unless  
48 again renewed by the governor.~~

49 ~~Subd. 2. [TERMINATION BY LEGISLATURE.] By a majority vote of each house of the legislature,  
50 the legislature may terminate a national security emergency declared due to a public health emergency or  
51 peacetime emergency declared due to a public health — emergency at any time from the date of original~~

1 declaration. A termination by the legislature under this subdivision overrides any renewal by the  
2 governor under subdivision 1. (delete)

3  
4 (12) Section 12.32 [GOVERNOR'S ORDERS AND RULES, EFFECT.]

5 Orders and rules promulgated by the governor under authority of section 12.21, subdivision 3,  
6 clause (1), when approved by the executive council and filed in the office of the secretary of state, have,  
7 during a national security emergency, peacetime emergency ~~declared due to a public health emergency~~, or  
8 energy supply emergency, the full force and effect of law. Rules and ordinances of any agency or  
9 political subdivision of the state inconsistent with the provisions of this chapter or with any order or rule  
10 having the force and effect of law issued under the authority of this chapter, is suspended during the  
11 period of time and to the extent that the emergency exists. (modify)

12  
13 (13) Section 12.34 Subdivision 1. [EMERGENCY POWERS.] When necessary to save life, property, or  
14 the environment during a national security emergency or during a peacetime emergency ~~declared due to a~~  
15 ~~public health emergency~~, the governor, the state director, or a member of a class of members of a state or  
16 local emergency management organization designated by the governor, may:

17 (1) require any person, except members of the federal or state military forces and officers of the  
18 state or a political subdivision, to perform services for emergency management purposes as directed by  
19 any of the persons described above;; and

20 (2) commandeer, for emergency management purposes as directed by any of the persons described  
21 above, any motor vehicle, tools, appliances, medical supplies, or other personal property and any  
22 facilities. (modify)

23  
24 (14) Section 12.381 [SAFE DISPOSITION OF DEAD HUMAN BODIES.]

25 Subdivision 1. [POWERS FOR SAFE DISPOSITION.]

26 Notwithstanding chapter 149A and Minnesota Rules, chapter 4610, in connection with deaths related  
27 to a ~~public health declared~~ emergency and ~~during a national security emergency declared due to a public~~  
28 ~~health emergency or peacetime emergency declared due to a public health emergency~~, the governor may:

29 (1) direct measures to provide for the safe disposition of dead human bodies as may be reasonable  
30 and necessary for emergency response. Measures may include, but are not limited to, transportation,  
31 preparation, temporary mass burial and other interment, disinterment, and cremation of dead human  
32 bodies. Insofar as the emergency circumstances allow, the governor shall respect the religious rites,  
33 cultural customs, family wishes, and predeath directives of a decedent concerning final disposition. The  
34 governor may limit visitations or funeral ceremonies based on public health risks;

35 (2) consult with coroners and medical examiners, take possession or control of any dead human  
36 body, and order an autopsy of the body; and

37 (3) request any business or facility authorized to embalm, bury, cremate, inter, disinter, transport,  
38 or otherwise provide for disposition of a dead human body under the laws of this state to accept any dead  
39 human body or provide the use of its business or facility if the actions are reasonable and necessary for  
40 emergency management purposes and are within the safety precaution capabilities of the business or  
41 facility.

42 Subd. 2. [IDENTIFICATION OF BODIES.] A person in charge of the body of a person believed  
43 to have died due to a ~~public health declared~~ emergency shall maintain a written record of the body and all  
44 available information to identify the decedent, the circumstances of death, and disposition of the body.  
45 If a body cannot be identified, a qualified person shall, prior to disposition and to the extent possible, take  
46 fingerprints and one or more photographs of the remains and collect a DNA specimen from the body. All  
47 information gathered under this subdivision, other than data required for a death certificate under  
48 Minnesota Rules, part 4601.2550, shall be death investigation data and shall be classified as nonpublic  
49 data according to section 13.02, subdivision 9, or as private data on decedents according to section 13.10,  
50 subdivision 1. Death investigation data are not medical examiner data as defined in section 13.83. Data  
51 gathered under this subdivision shall be promptly forwarded to the commissioner of health. The

1 commissioner may only disclose death investigation data to the extent necessary to assist relatives in  
2 identifying decedents or for public health or public safety investigations. **(modify)**

3  
4 (15) Section 12.39 [TESTING AND TREATMENTS.] Subdivision 1. [REFUSAL OF TREATMENT.]  
5 Notwithstanding laws, rules, or orders made or promulgated in response to a national security emergency,  
6 peacetime emergency, ~~or public health emergency~~, individuals have a fundamental right to refuse medical  
7 treatment, testing, physical or mental examination, vaccination, participation in experimental procedures  
8 and protocols, collection of specimens, and preventive treatment programs. An individual who has been  
9 directed by the commissioner of health to submit to medical procedures and protocols because the  
10 individual is infected with or reasonably believed by the commissioner of health to be infected with or  
11 exposed to a toxic agent that can be transferred to another individual or a communicable disease, and the  
12 agent or communicable disease is the basis for which the national security emergency, peacetime  
13 emergency, ~~or public health emergency~~ was declared, and who refuses to submit to them may be ordered  
14 by the commissioner to be placed in isolation or quarantine according to parameters set forth in sections  
15 144.419 and 144.4195.

16 Subd. 2. [INFORMATION GIVEN.] ~~Where feasible~~, Before performing examinations, testing,  
17 treatment, or vaccination of an individual under subdivision 1, a health care provider shall notify the  
18 individual of the right to refuse the examination, testing, treatment, or vaccination, and the consequences,  
19 including isolation or quarantine, upon refusal. **(modify)**

20  
21 (16) Section 13.3806 Subd. 1a. [DEATH INVESTIGATION DATA.] Data gathered by the  
22 commissioner of health to identify the body of a person believed to have died due to a public health  
23 declared emergency as defined in section 12.03, subdivision 9a 1e, the circumstances of death, and  
24 disposition of the body are classified in and may be released according to section 12.381, subdivision 2.  
25 **(modify)**

26  
27  
28 \*\*\*\*\*  
29 (17) Section 13.3806 Subd. 10a. [ISOLATION OR QUARANTINE DIRECTIVE.] Data in a directive  
30 issued by the commissioner of health under section 144.4195, subdivision 2, to isolate or quarantine a  
31 person or group of persons are classified in section 144.4195, subdivision 6. **(retain)**

32  
33 (18) Section 144.419 [ISOLATION AND QUARANTINE OF PERSONS.] Subdivision 1.  
34 [DEFINITIONS.] For purposes of ~~this section and section 144.4195~~ sections 144.419 to 144.4196, the  
35 following definitions apply:

36 (1) "bioterrorism" means the intentional use of any microorganism, virus, infectious substance, or  
37 biological product that may be engineered as a result of biotechnology, or any naturally occurring or  
38 bioengineered component of any such microorganism, virus, infectious substance, or biological product,  
39 to cause death, disease, or other biological malfunction in a human, an animal, a plant, or another living  
40 organism in order to influence the conduct of government or to intimidate or coerce a civilian population;

41 (2) "communicable disease" means a disease caused by a living organism or virus and believed to  
42 be caused by bioterrorism or a new or novel or previously controlled or eradicated infectious agent  
43 or biological toxin that can be transmitted person to person and for which isolation or quarantine is an  
44 effective control strategy, excluding a disease that is directly transmitted as defined under section  
45 144.4172, subdivision 5;

46 (3) "isolation" means separation, during the period of communicability, of a person infected with a  
47 communicable disease, in a place and under conditions so as to prevent direct or indirect transmission of  
48 an infectious agent to others; and

49 (4) "quarantine" means restriction, during a period of communicability, of activities or travel of an  
50 otherwise healthy person who likely has been exposed to a communicable disease to prevent disease  
51 transmission during the period of communicability in the event the person is infected. **(modify)**

1  
2 Subd. 2. [GENERAL REQUIREMENTS.] (a) The commissioner of health or any person acting  
3 under the commissioner's authority shall comply with paragraphs (b) to (h) when isolating or quarantining  
4 individuals or groups of individuals.

5 (b) Isolation and quarantine must be by the least restrictive means necessary to prevent the spread  
6 of a communicable or potentially communicable disease to others and may include, but are not limited to,  
7 confinement to private homes or other private or public premises.

8 (c) Isolated individuals must be confined separately from quarantined individuals.

9 (d) The health status of isolated and quarantined individuals must be monitored regularly to  
10 determine if they require continued isolation or quarantine. To adequately address emergency health  
11 situations, isolated and quarantined individuals shall be given a reliable means to communicate 24 hours a  
12 day with health officials and to summon emergency health services.

13 (e) If a quarantined individual subsequently becomes infectious or is reasonably believed to have  
14 become infectious with a communicable or potentially communicable disease, the individual must be  
15 isolated according to section 144.4195.

16 (f) Isolated and quarantined individuals must be immediately released when they pose no known  
17 risk of transmitting a communicable or potentially communicable disease to others.

18 (g) The needs of persons isolated and quarantined shall be addressed in a systematic and competent  
19 fashion, including, but not limited to, providing adequate food, clothing, shelter, means of communication  
20 between those in isolation or quarantine and those outside these settings, medication, and competent  
21 medical care.

22 (h) Premises used for isolation and quarantine shall be maintained in a safe and hygienic manner  
23 and be designed to minimize the likelihood of further transmission of infection or other harms to persons  
24 isolated and quarantined. **(retain)**

25  
26 Subd. 3. [TERMINATION.] The isolation or quarantine of a person must terminate automatically  
27 on the expiration date of a court order authorizing isolation or quarantine that is issued according to  
28 section 144.4195, or before the expiration date if the commissioner of health determines that isolation or  
29 quarantine of the person is no longer necessary to protect the public. **(retain)**

30  
31 Subd. 4. [RIGHT TO REFUSE TREATMENT.] Any person who is isolated or quarantined  
32 according to this section and section 144.4195 has a fundamental right to refuse medical treatment,  
33 testing, physical or mental examination, vaccination, participation in experimental procedures and  
34 protocols, collection of specimens, and preventive treatment programs. A person who has been directed  
35 by the commissioner of health or any person acting under the commissioner's authority to submit to  
36 medical procedures and protocols because the person is infected with or reasonably believed by the  
37 commissioner or by the person acting under the commissioner's authority to be infected with or exposed  
38 to a communicable disease and who refuses to submit to them may be subject to continued isolation or  
39 quarantine according to the parameters set forth in section 144.4195. **(retain)**

40  
41 Subd. 5. [CITIZEN RIGHT TO ENTRY.] (a) No person, other than a person authorized by the  
42 commissioner of health or authorized by any person acting under the commissioner's authority, shall enter  
43 an isolation or quarantine area. If, by reason of an unauthorized entry into an isolation or quarantine area,  
44 a person poses a danger to public health, the person may be subject to isolation or quarantine according to  
45 this section and section 144.4195.

46 (b) A family member of a person isolated or quarantined has a right to choose to enter into an isolation  
47 or quarantine area. The commissioner of health must permit the family member entry into the isolation or  
48 quarantine area if the family member signs a consent form stating that the family member has been  
49 informed of the potential health risks, isolation and quarantine guidelines, and the consequences of  
50 entering the area. The family member may not hold the department of health, the commissioner of health,  
51 or the state responsible for any consequences of entering the isolation or quarantine area. If, by reason of



1 entry into an isolation or quarantine area under this paragraph, a person poses a danger to public health,  
2 the person may be subject to isolation or quarantine according to this section and section 144.4195.  
3 **(retain)**

4  
5 (19) Section 144.4195 [DUE PROCESS FOR ISOLATION OR QUARANTINE OF PERSONS.]

6 Subdivision 1. [EX PARTE ORDER FOR ISOLATION OR QUARANTINE.] (a) Before  
7 isolating or quarantining a person or group of persons, the commissioner of health shall obtain a written,  
8 ex parte order authorizing the isolation or quarantine from the district court of Ramsey county, the county  
9 where the person or group of persons is located, or a county adjoining the county where the person or  
10 group of persons is located. The evidence or testimony in support of an application may be made or taken  
11 by telephone, facsimile transmission, video equipment, or other electronic communication. The court  
12 shall grant the order upon a finding that probable cause exists to believe isolation or quarantine is  
13 warranted to protect the public health.

14 (b) The order must state the specific facts justifying isolation or quarantine, must state that the  
15 person being isolated or quarantined has a right to a court hearing under this section and a right to be  
16 represented by counsel during any proceeding under this section, and must be provided immediately to  
17 each person isolated or quarantined. The commissioner of health shall provide a copy of the authorizing  
18 order to the commissioner of public safety and other peace officers known to the commissioner to have  
19 jurisdiction over the site of the isolation or quarantine. If feasible, the commissioner of health shall give  
20 each person being isolated or quarantined an estimate of the expected period of the person's isolation or  
21 quarantine.

22 (c) If it is impracticable to provide individual orders to a group of persons isolated or quarantined,  
23 one order shall suffice to isolate or quarantine a group of persons believed to have been commonly  
24 infected with or exposed to a communicable disease. A copy of the order and notice shall be posted in a  
25 conspicuous place:

26 (1) in the isolation or quarantine premises, but only if the persons to be isolated or quarantined are  
27 already at the isolation or quarantine premises and have adequate access to the order posted there; or

28 (2) in another location where the group of persons to be isolated or quarantined is located, such  
29 that the persons have adequate access to the order posted there. If the court determines that posting the  
30 order according to clause (1) or (2) is impractical due to the number of persons to be isolated or  
31 quarantined or the geographical area affected, the court must use the best means available to ensure that  
32 the affected persons are fully informed of the order and notice.

33 (d) Any peace officer, as defined in section 144.4803, subdivision 16, shall enforce an order under  
34 this section and may use all necessary and lawful means to apprehend, hold, transport, quarantine, or  
35 isolate a person subject to the order. "Necessary and lawful means" include reasonable force but not  
36 deadly force as defined in section 609.066, subdivision 1. the commissioner or an agent of a local board  
37 of health authorized under section 145A.04 shall advise the peace officer on request of protective  
38 measures recommended to protect the officer from possible transmission of the communicable disease.  
39 The peace officer may act upon telephone, facsimile, or other electronic notification of the order from the  
40 court, commissioner of health, agent of a local board of health, or commissioner of public safety.

41 (e) No person may be isolated or quarantined pursuant to an order issued under this subdivision  
42 for longer than 21 days without a court hearing under subdivision 3 to determine whether isolation or  
43 quarantine should continue. A person who is isolated or quarantined may request a court hearing under  
44 subdivision 3 at any time before the expiration of the order. **(modify)**

45  
46 Subd. 2. [TEMPORARY HOLD UPON COMMISSIONER'S DIRECTIVE.]

47 (a) Notwithstanding subdivision 1, the commissioner of health may by directive isolate or quarantine a  
48 person or group of persons without first obtaining a written, ex parte order from the court if a delay in  
49 isolating or quarantining the person or group of persons would significantly jeopardize the commissioner  
50 of health's ability to prevent or limit the transmission of a communicable or potentially communicable  
51 disease to others. The directive shall specify the known period of incubation or communicability or the

1 estimated period under the commissioner's best medical judgment when the disease is unknown. The  
2 directive remains in effect for the period specified unless amended by the commissioner or superseded by  
3 a court order. The commissioner must provide the person or group of persons subject to the temporary  
4 hold with notice that the person has a right to request a court hearing under this section and a right to be  
5 represented by counsel during a proceeding under this section. If it is impracticable to provide individual  
6 notice to each person subject to the temporary hold, notice of these rights may be posted in the same  
7 manner as the posting of orders under subdivision 1, paragraph (c). ~~Following the imposition of isolation~~  
8 ~~or quarantine under this subdivision,~~ As soon as the commissioner has executed the directive and initiated  
9 notice of the parties subject to it, the commissioner of health shall ~~within 24 hours~~ initiate the process to  
10 apply for a written, ex parte order pursuant to subdivision 1 authorizing the isolation or quarantine. The  
11 court must rule within 24 hours of receipt of the application. If the person is under a temporary hold, the  
12 person may not be held in isolation or quarantine after the temporary hold expires unless the court issues  
13 an ex parte order under subdivision 1.

14 (b) Any peace officer, as defined in section 144.4803, subdivision 16, shall enforce an order  
15 under this section and may use all necessary and lawful means to apprehend, hold, transport, quarantine,  
16 or isolate a person subject to the order. "Necessary and lawful means" include reasonable force but not  
17 deadly force as defined in section 609.066, subdivision 1. the commissioner or an agent of a local board  
18 of health authorized under section 145A.04 shall advise the peace officer on request of protective  
19 measures recommended to protect the officer from possible transmission of the communicable disease.  
20 The peace officer may act upon telephone, facsimile, or other electronic notification of the order from the  
21 court, commissioner of health, agent of a local board of health, or commissioner of public safety.

22 (c) If a person subject to a commissioner's directive under paragraph (a) is already  
23 institutionalized in an appropriate health care facility, the commissioner of health may direct the facility  
24 to continue to hold the person. The facility shall take all reasonable measures to prevent the person from  
25 exposing others to the communicable disease. (modify)

26  
27 Subd. 3. [COURT HEARING.] (a) A person isolated or quarantined under an order issued  
28 pursuant to subdivision 1 or a temporary hold under subdivision 2 or the person's representative may  
29 petition the court to contest the court order or temporary hold at any time prior to the expiration of the  
30 order or temporary hold. If a petition is filed, the court must hold a hearing within 72 hours from the date  
31 of the filing. A petition for a hearing does not stay the order of isolation or quarantine. At the hearing,  
32 the commissioner of health must show by clear and convincing evidence that the isolation or quarantine is  
33 warranted to protect the public health.

34 (b) If the commissioner of health wishes to extend the order for isolation or quarantine past the  
35 period of time stated in subdivision 1, paragraph (d), the commissioner must petition the court to do so.  
36 Notice of the hearing must be served upon the person or persons who are being isolated or quarantined at  
37 least three days before the hearing. If it is impracticable to provide individual notice to large groups who  
38 are isolated or quarantined, a copy of the notice may be posted in the same manner as described under  
39 subdivision 1, paragraph (c).

40 (c) The notice must contain the following information:  
41 (1) the time, date, and place of the hearing;  
42 (2) the grounds and underlying facts upon which continued isolation or quarantine is sought;  
43 (3) the person's right to appear at the hearing; and  
44 (4) the person's right to counsel, including the right, if indigent, to be represented by counsel  
45 designated by the court or county of venue.

46 (d) The court may order the continued isolation or quarantine of the person or group of persons if it  
47 finds by clear and convincing evidence that the person or persons would pose an imminent health threat to  
48 others if isolation or quarantine was lifted. In no case may the isolation or quarantine continue longer  
49 than 30 days from the date of the court order issued under this subdivision unless the commissioner  
50 petitions the court for an extension. Any hearing to extend an order is governed by this subdivision.

51 **(retain)**

1  
2 Subd. 4. [HEARING ON CONDITIONS OF ISOLATION OR QUARANTINE.] A person  
3 isolated or quarantined may request a hearing in district court for remedies regarding the treatment during  
4 and the terms and conditions of isolation or quarantine. Upon receiving a request for a hearing under this  
5 subdivision, the court shall fix a date for a hearing that is within seven days of the receipt of the request  
6 by the court. The request for a hearing does not alter the order for isolation or quarantine. If the court  
7 finds that the isolation or quarantine of the individual is not in compliance with section 144.419, the court  
8 may fashion remedies appropriate to the circumstances of the emergency and in keeping with this chapter.  
9 **(retain)**

10  
11 Subd. 5. [JUDICIAL PROCEDURES AND DECISIONS.] (a) Court orders issued pursuant to  
12 subdivision 3 or 4 shall be based upon clear and convincing evidence and a written record of the  
13 disposition of the case shall be made and retained.

14 (b) Any person subject to isolation or quarantine has the right to be represented by counsel or  
15 ~~other lawful representative.~~ Persons not otherwise represented may request the court to appoint counsel at  
16 the expense of the Department of health or of a local public health board that has entered into a written  
17 delegation agreement with the commissioner under subdivision 7. The court shall appoint counsel when  
18 so requested and may have one counsel represent a group of persons similarly situated. The appointments  
19 shall be only for representation under subdivisions 3 and 4 and for appeals of orders under subdivisions 3  
20 and 4. On counsel's request, the commissioner or an agent of a local board of health authorized under  
21 section 145A.04 shall advise counsel of protective measures recommended to protect counsel from  
22 possible transmission of the communicable disease. Appointments shall be made and counsel  
23 compensated according to procedures developed by the Supreme Court. Counsel appointed for a  
24 respondent is not required to pursue an appeal if, in the opinion of counsel, there is insufficient basis for  
25 proceeding.

26 (c) The court may choose to conduct a hearing under subdivision 3 or 4 by telephonic,  
27 interactive video, or other electronic means to maintain isolation or quarantine precautions and reduce the  
28 risk of spread of a communicable disease. Otherwise, the manner in which the request for a hearing is  
29 filed and acted upon shall be in accordance with the existing laws and rules of the courts of this state or, if  
30 the isolation or quarantine occurs during a national security or peacetime emergency, any rules that are  
31 developed by the courts for use during a national security or peacetime emergency. (modify)

32  
33 Subd. 6. [DATA PRIVACY.] Data on individuals contained in the commissioner's directive under  
34 subdivision 2 are health data under section 13.3805, subdivision 1. **(retain)**

35  
36 Subd. 7. [DELEGATION.] The commissioner may delegate any authority prescribed in  
37 subdivision 1 or 3 to the local public health board, according to chapter 145A. **(retain)**

38  
39 Sec. 21. [SUNSET.]

40 Sections ~~1-19~~ 1, 2, 5, 8, 10, 11 expire August 1, 2005. **(modify)**

41  
42  
43  
44 Prepared by the Minnesota Department of Health  
45 3-29-05

**From:** "Alex Bates" <axelbates@sherbtl.net>  
**To:** <kevin.mchenry@senate.mn>  
**Date:** 4/6/2005 8:11:47 PM  
**Subject:** Fw: Health Powers - Dead or Alive - What ever works

CORRECTION: health powers

----- Original Message -----

From: John Bergin

To: aclu r2k ; APOSTOLIC EDUCATION ; AXEL BATES ; BILL KRISTOL ; bill oreilly ; BOB HOSTETLER ; BOB WE THE PEOPLE ; BRIGITTE GABRIEL ; bush country ; CRISS WAGNER ; curtis sliwa ; DORTHY ; DOUG HILGENDORF ; DR. CHARLES STANLEY ; DUANE GALLERFINE ; FOX NEWS DESK ; george w. bush ; GERRY HANSON ; GLEN HELG ; GREG WOLF ; HANS ANDERSON {D} ; HILLARY CLINTON ; HOWARD KATZ ; JACK VAN IMPE ; JAMES NJUS ; JASON MC MAHON ; jerusalem post ; Jessica ; JOHN D SHOTZBARGER ; JOHN PENDERGAST ; JOSHUA BARTLE ; KIM KIMMEL ; LAUREL LINDBERG ; <mailto:Brenda.M.Thomson@asu.edu> ; <mailto:Michael.Bossone@asu.edu> ; <mailto:Jennifer.Barnes@asu.edu> ; <mailto:Mary.Wynne@asu.edu> ; <mailto:Christopher.Baier@asu.edu> ; <mailto:Michael.Berch@asu.edu> ; <mailto:Victoria.Trotta@asu.edu> ; <mailto:Patricia.White@asu.edu> ; <mailto:Jonathan.Swartz@asu.edu> ; LEVI ; LindadeeNY@aol.com ; MELVIN SICKLER ; MICHAEL MOORE ; MORRIE C LONGBALLA ; MR JIM TRAFICANT ; national gop ; NEW YORK TIMES ; NICK B ; NOAH HUTCHINGS ; SWEETI7203@aol.com ; DANA+CONNIE WIDBOOM ; NRA ; PAT BUCHANAN ; PAUL RUFFIN ; PETER LONG ; PHIL ; PHIL SINGH ; philratte@webtv.net ; POWER LINE ; PRISON PLANET ; PROU ; RABBI Z ; RALPH ; RAY KEABLE ; RELEVANT RADIO ; RICK MARTIN ; RIEK MACHAR TENY ; RON THIELEN ; SALVATION 20 ; SANDY ; SENIOR FEDERATION ; Sherokee Ilse ; SKOLNICK ; STEPHEN ; STEVE ANDERSON ; STEVEN ; [temalloy@metro.lakes.com](mailto:temalloy@metro.lakes.com)

Sent: Wednesday, April 06, 2005 6:45 PM

Subject: Fw: Health Powers - Dead or Alive - What ever works

Sent: Wednesday, April 06, 2005 12:07 PM

Subject: Fw: Health Powers - Dead or Alive - What ever works

----- Original Message -----

From: Twila Brase CCHC

To: Recipient List Suppressed:

Sent: Wednesday, April 06, 2005 12:35 PM

Subject: CORRECTION: health powers

I was given the wrong name and email address of the Committee Administrator:

So here it is again, with the right email address (see below):

---

The Senate Health Powers Act will be heard in the Crime Prevention and Public Safety Committee tomorrow afternoon (Thursday). Sen. Mike McGinn, the author of the "shoot to kill" amendment, is a committee member so he may try to add the amendment, making it legal to shoot and kill a law-abiding

person merely suspected of exposure to illness.

Please send the following form letter (or your own version) TO THE COMMITTEE ADMINISTRATOR as testimony.

CARBON COPY (cc) the authors of the legislation and the committee members (email addresses below)

-----  
Dear Sen. Foley,

Please include this email as public testimony on Senate Files 1482 and 1483

On Thursday afternoon, April 7, Sen. Lourey's Health Powers bills, SF1482 and SF1483, will be heard in the Crime Prevention and Public Safety Committee.

Both bills make permanent the state's authority to detain law-abiding citizens on the mere possibility that they have been exposed to a communicable disease. No disaster or emergency must be declared by the Governor. The authority to detain citizens is ongoing 365 days a year. Furthermore, the bill allows any force short of "deadly force" to be used by the police to "apprehend, hold, transport, quarantine, or isolate" law-abiding citizens - and now an amendment allowing police to shoot to kill if the person resists arrest or tries to flee may also be attempted.

This legislation would allow health officials to detain a single citizen or restrict the movement of hundreds of people at a time. No judge need be contacted. No court order is required - until 36 hours later. The people need not even be sick. This is unsupervised use of government power. Furthermore, health officials can use the threat of detention to force citizens to submit to vaccination, testing, and treatment and, if the person complies, never report the activity to a judge or anyone.

These bills gives the executive branch of government authority to deny civil liberties and restrict freedom - not just in disasters but also in non-emergency situations all year long. Please do not allow citizens to be stripped of their constitutional and due process rights.

Sincerely,

Name  
Address

cc: Authors and Committee Members: Senators Lourey, Higgins, Kiscaden, McGinn, Rest, Tomassoni, Dille, Kleis, Betzold, Skoglund, Berglin, Neuville, Ranum, Ruud

=====  
SEND EMAIL to the Committee Administrator (CA):

kevin.mchenry@senate.mn

CARBON COPY (put in the cc of the email) the following list of email addresses:

sen.becky.lourey@senate.mn, sen.linda.higgins@senate.mn, sen.sheila.kiscaden@senate.mn,  
sen.mike.mcginn@senate.mn, ryan.nagle@senate.mn, sen.david.tomassoni@senate.mn,  
sen.steve.dille@senate.mn, sen.leo.foley@senate.mn, sen.dave.kleis@senate.mn,  
sen.don.betzold@senate.mn, sen.wes.skoglund@senate.mn, sen.linda.berglin@senate.mn,  
sen.tom.neuville@senate.mn, sen.jane.ranum@senate.mn, sen.carrie.ruud@senate.mn

\* Call CA if possible and tell her to find and include your email: #651-296-4842  
=====

Thank you!

Twila Brase RN  
President, CCHC  
651-646-8935

--  
Citizens' Council on Health Care  
1954 University Ave. W, Ste. 8  
St. Paul, MN 55104  
651-646-8935 ph  
651-646-0100 fx  
<http://www.cchconline.org>

List of People who sent similar e-mails to be included for public testimony in opposition  
to SF 1482 and SF 1483

- 1) Tim Lovestrand, 5533 Blaisdell Ave., Mpls
- 2) Stephen J. Carter, 7688 Somerset Alcove, Woodbury
- 3) John Stevens, 110 Winifred St. W., St. Paul
- 4) Heather Holbrook, 969 Edgewater Ave., Stillwater
- 5) M.C. Hendrick, 4430 W. 36<sup>th</sup> Ave., Denver, CO 80212
- 6) Mr. and Mrs. Thomas Crider, 321 Third Ave. So, So. Saint Paul
- 7) Bryn and Roderick Collins, 329 Riverwoods Lane, Burnsville
- 8) Donald Michael, 53073 Bajer Lane, Sound Bend, IN 46635
- 9) Michael Nelson, 10351 Devonshire Rd., #206, Bloomington
- 10) David Bonello, 36644 Hastings St. NE, Stanchfield
- 11) Gregory Sheehan, 1215 Rice St., St. Paul
- 12) Dawn Frandup, 6201 6<sup>th</sup> St., Fridley
- 13) Susan Severson, Jordan
- 14) CR Heagle, Waconia
- 15) Carolyn Goodell, 1512 Woodbine Lane, Brooklyn Center
- 16) Robert Lamkin, P.O. Box 527, Waconia
- 17) Rebecca Biesanz, 1628 Valley View Dr., Winona
- 18) Carol Heitzman, 38 Morningside Dr., St. Paul
- 19) Barbara Creswell
- 20) M. Puzak, 3940 Wisonsin Ave. N., New Hope
- 21) Jon Folkdahl, Wilmar
- 22) Elizabeth T. Cantrell, 12817 Welcome Lane, Burnsville
- 23) Ron Moldenhauer, 7227 Taffy Way, Eden Prarie
- 24) John and Kathleen Tyler
- 25) John Adams, RR 1 Box 192, Mazeppa

1 Senator ..... moves to amend S.F. No. 1483 as follows:

2 Page 3, line 12, after the period, insert "If the peacetime  
3 emergency occurs on Indian lands, the governor or state director  
4 of emergency management shall consult with tribal authorities  
5 before the governor makes such a declaration. Nothing in this  
6 section shall be construed to limit the governor's authority to  
7 act without such consultation when the situation calls for  
8 prompt and timely action."



1 Senator ..... moves to amend S.F. No. 1483 as  
2 follows:

3 Page 9, line 13, delete "2007" and insert "2009"

4 Page 9, after line 13, insert:

5 "Sec. 15. [SUNSET.]

6 (a) The amendments to Minnesota Statutes, chapter 12, made  
7 by sections 1 to 11, expire August 1, 2009.

8 (b) Section 12 is repealed August 1, 2009.

9 (c) The amendment to Minnesota Statutes, chapter 13, made  
10 by section 13, expires August 1, 2009."

11 Page 9, line 14, delete "15" and insert "16"

**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  
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JO ANNE ZOFF SELLNER  
DIRECTOR

# Senate

State of Minnesota

## **S.F. No. 1482 - Isolation and Quarantine Provision Modifications (Second Engrossment)**

**Author:** Senator Becky Lourey

**Prepared by:** Katie Cavanor, Senate Counsel (651/296-3801)  
Chris Turner, Senate Research (651/296-4350) *CT*

**Date:** April 7, 2005

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**S.F. No. 1482** modifies the isolation and quarantine provisions in Minnesota Statutes, chapter 144.

**Section 1 (144.419, subdivision 1)** is a conforming technical change.

**Section 2 (144.4195, subdivision 1)** requires any peace officer to enforce an ex parte order for isolation or quarantine obtained by the Commissioner of Health and permits the officer to use all necessary and lawful means to transport, quarantine, or isolate the subject of the order. "Necessary and lawful" is defined to include reasonable force but not deadly force. The commissioner or the local board of health must, upon request, advise the officer on protective measures to protect the officer from possible transmission of the communicable disease. The officer may act upon a telephone, facsimile, or other electronic notification of the order from the court, Commissioner of Health, local board of health, or Commissioner of Public Safety.

**Section 3 (144.4195, subdivision 2), paragraph (a)**, states that when the commissioner issues a directive to isolate or quarantine a person or group of persons without a court order, the directive must specify the known period of incubation or communicability of the communicable disease or the estimated period of incubation under the commissioner's best medical judgment when the disease is unknown. The directive shall remain in place for the period specified on the directive unless amended by the commissioner or superceded by a court order. Immediately upon executing a directive and initiating notice to the parties subject to it, the commissioner must apply for a written ex parte order authorizing the isolation or quarantine. (Currently, this must be done within 24 hours of the imposition of the directive; however, this section removes this time limit.) The court must

rule on the ex parte order filed by the commissioner within 24 hours or as soon as practicable. (Currently, the court must rule within 24 hours.) If the court does not rule within 36 hours after the execution of the directive, the directive expires.

**Paragraph (b)** requires the commissioner, upon applying for a written, ex parte order under paragraph (a), to notify the governor and the Legislature that a directive for a temporary hold has been issued.

**Paragraph (c)** requires a peace officer to enforce the commissioner's directive and may use all necessary and lawful means to apprehend, hold, transport, quarantine, or isolate a person subject to the directive. Necessary and lawful includes reasonable but not deadly force. The commissioner or local board of health must, upon request, advise the officer on protective measures to protect the officer from possible transmission of the communicable disease. The officer may act upon a telephone, facsimile, or other electronic notification of the order from the court, Commissioner of Health, local board of health, or Commissioner of Public Safety.

**Paragraph (d)** states that if the subject of the directive is already institutionalized in an appropriate health care facility, the commissioner may direct the facility to continue to hold the person. The facility must take all reasonable measures to prevent the person from exposing others to the communicable disease.

**Section 4 (144.4195, subdivision 5), paragraph (b)**, states that any person subject to isolation or quarantine who is not represented by counsel at the court hearing may request the court to appoint counsel at the expense of the Department of Health or local board of health if the commissioner has delegated its authority to the local board. Appointments and counsel compensation shall be made according to procedures developed by the Supreme Court. Procedures must provide standards for determining indigency for purposes of appeal. A person seeking appeal who does not meet these standards must reimburse the Department of Health for attorney fees and costs incurred by the appeal. Upon counsel's request, the commissioner must advise on protective measures to protect counsel from possible transmission of the communicable disease. The appointed counsel is not required to pursue an appeal if in the opinion of counsel there is insufficient basis for the appeal.

**Paragraph (c)** authorizes the court to conduct the hearing by telephonic, interactive video, or other electronic means to maintain isolation or quarantine precautions and reduce the spread of a communicable disease.

**Section 5 (144.4197)** states that when a local emergency is declared under section 12.29 or the Governor declares an emergency under section 12.31 (national security or peacetime emergency), the commissioner may authorize any person licensed or credentialed under chapters 144E, 147 to 148, 150A, 151, 153, or 156 to administer vaccinations or dispense prescription drugs if it is determined that such an action is necessary to protect the health and safety of the public. The authorization must be in writing and shall contain the categories of persons included in the authorization, any additional training required, any supervision required, and the duration of the authorization. The commissioner may extend the scope and duration of the authorization. Any

person authorized under this section shall not be subject to criminal liability, administrative penalty, professional discipline, or other administrative sanction for good-faith performance of these duties.

**Section 6** extends the sunset for sections 1 to 19 of the Emergency Health Powers Act to August 1, 2007.

**Section 7** provides an effective date of the day following final enactment.

KC:CT:vs

person authorized under this section shall not be subject to criminal liability, administrative penalty, professional discipline, or other administrative sanction for good-faith performance of these duties.

**Section 6** extends the sunset for sections 1 to 19 of the Emergency Health Powers Act to August 1, 2007.

**Section 7** provides an effective date of the day following final enactment.

KC:CT:vs

1 A bill for an act

2 relating to health; modifying provisions for isolation  
3 and quarantine of persons exposed to or infected with  
4 a communicable disease; amending Minnesota Statutes  
5 2004, sections 144.419, subdivision 1; 144.4195,  
6 subdivisions 1, 2, 5; Laws 2002, chapter 402, section  
7 21, as amended; proposing coding for new law in  
8 Minnesota Statutes, chapter 144.

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

10 Section 1. Minnesota Statutes 2004, section 144.419,  
11 subdivision 1, is amended to read:

12 Subdivision 1. [DEFINITIONS.] For purposes of ~~this-section~~  
13 ~~and-section-144-4195~~ sections 144.419 to 144.4195, the following  
14 definitions apply:

15 (1) "bioterrorism" means the intentional use of any  
16 microorganism, virus, infectious substance, or biological  
17 product that may be engineered as a result of biotechnology, or  
18 any naturally occurring or bioengineered component of any such  
19 microorganism, virus, infectious substance, or biological  
20 product, to cause death, disease, or other biological  
21 malfunction in a human, an animal, a plant, or another living  
22 organism in order to influence the conduct of government or to  
23 intimidate or coerce a civilian population;

24 (2) "communicable disease" means a disease caused by a  
5 living organism or virus and believed to be caused by  
26 bioterrorism or a new or novel or previously controlled or  
27 eradicated infectious agent or biological toxin that can be

1 transmitted person to person and for which isolation or  
2 quarantine is an effective control strategy, excluding a disease  
3 that is directly transmitted as defined under section 144.4172,  
4 subdivision 5;

5 (3) "isolation" means separation, during the period of  
6 communicability, of a person infected with a communicable  
7 disease, in a place and under conditions so as to prevent direct  
8 or indirect transmission of an infectious agent to others; and

9 (4) "quarantine" means restriction, during a period of  
10 communicability, of activities or travel of an otherwise healthy  
11 person who likely has been exposed to a communicable disease to  
12 prevent disease transmission during the period of  
13 communicability in the event the person is infected.

14 Sec. 2. Minnesota Statutes 2004, section 144.4195,  
15 subdivision 1, is amended to read:

16 Subdivision 1. [EX PARTE ORDER FOR ISOLATION OR  
17 QUARANTINE.] (a) Before isolating or quarantining a person or  
18 group of persons, the commissioner of health shall obtain a  
19 written, ex parte order authorizing the isolation or quarantine  
20 from the District Court of Ramsey County, the county where the  
21 person or group of persons is located, or a county adjoining the  
22 county where the person or group of persons is located. The  
23 evidence or testimony in support of an application may be made  
24 or taken by telephone, facsimile transmission, video equipment,  
25 or other electronic communication. The court shall grant the  
26 order upon a finding that probable cause exists to believe  
27 isolation or quarantine is warranted to protect the public  
28 health.

29 (b) The order must state the specific facts justifying  
30 isolation or quarantine, must state that the person being  
31 isolated or quarantined has a right to a court hearing under  
32 this section and a right to be represented by counsel during any  
33 proceeding under this section, and must be provided immediately  
34 to each person isolated or quarantined. The commissioner of  
35 health shall provide a copy of the authorizing order to the  
36 commissioner of public safety and other peace officers known to

1 the commissioner to have jurisdiction over the site of the  
2 isolation or quarantine. If feasible, the commissioner of  
3 health shall give each person being isolated or quarantined an  
4 estimate of the expected period of the person's isolation or  
5 quarantine.

6 (c) If it is impracticable to provide individual orders to  
7 a group of persons isolated or quarantined, one order shall  
8 suffice to isolate or quarantine a group of persons believed to  
9 have been commonly infected with or exposed to a communicable  
10 disease. A copy of the order and notice shall be posted in a  
11 conspicuous place:

12 (1) in the isolation or quarantine premises, but only if  
13 the persons to be isolated or quarantined are already at the  
14 isolation or quarantine premises and have adequate access to the  
15 order posted there; or

16 (2) in another location where the group of persons to be  
17 isolated or quarantined is located, such that the persons have  
18 adequate access to the order posted there.

19 If the court determines that posting the order according to  
20 clause (1) or (2) is impractical due to the number of persons to  
21 be isolated or quarantined or the geographical area affected,  
22 the court must use the best means available to ensure that the  
23 affected persons are fully informed of the order and notice.

24 (d) Any peace officer, as defined in section 144.4803,  
25 subdivision 16, shall enforce an order under this section and  
26 may use all necessary and lawful means to apprehend, hold,  
27 transport, quarantine, or isolate a person subject to the  
28 order. "Necessary and lawful means" include reasonable force  
29 but not deadly force as defined in section 609.066, subdivision  
30 1. The commissioner or an agent of a local board of health  
31 authorized under section 145A.04 shall advise the peace officer  
32 on request of protective measures recommended to protect the  
33 officer from possible transmission of the communicable disease.  
34 The peace officer may act upon telephone, facsimile, or other  
35 electronic notification of the order from the court,  
36 commissioner of health, agent of a local board of health, or



1 commissioner of public safety.

2 (e) No person may be isolated or quarantined pursuant to an  
3 order issued under this subdivision for longer than 21 days  
4 without a court hearing under subdivision 3 to determine whether  
5 isolation or quarantine should continue. A person who is  
6 isolated or quarantined may request a court hearing under  
7 subdivision 3 at any time before the expiration of the order.

8 Sec. 3. Minnesota Statutes 2004, section 144.4195,  
9 subdivision 2, is amended to read:

10 Subd. 2. [TEMPORARY HOLD UPON COMMISSIONER'S DIRECTIVE.]

11 (a) Notwithstanding subdivision 1, the commissioner of health  
12 may by directive isolate or quarantine a person or group of  
13 persons without first obtaining a written, ex parte order from  
14 the court if a delay in isolating or quarantining the person or  
15 group of persons would significantly jeopardize the commissioner  
16 of health's ability to prevent or limit the transmission of a  
17 communicable or potentially communicable life-threatening  
18 disease to others. The directive shall specify the known period  
19 of incubation or communicability or the estimated period under  
20 the commissioner's best medical judgment when the disease is  
21 unknown. The directive remains in effect for the period  
22 specified unless amended by the commissioner or superseded by a  
23 court order. The commissioner must provide the person or group  
24 of persons subject to the temporary hold with notice that the  
25 person has a right to request a court hearing under this section  
26 and a right to be represented by counsel during a proceeding  
27 under this section. If it is impracticable to provide  
28 individual notice to each person subject to the temporary hold,  
29 notice of these rights may be posted in the same manner as the  
30 posting of orders under subdivision 1, paragraph (c). ~~Following~~  
31 ~~the-imposition-of-isolation-or-quarantine-under-this-subdivision~~  
32 Immediately upon executing the directive and initiating notice  
33 of the parties subject to it, the commissioner of-health shall  
34 within-24-hours initiate the process to apply for a written, ex  
35 parte order pursuant to subdivision 1 authorizing the isolation  
36 or quarantine. The court must rule within 24 hours of receipt

1 of the application or as soon as practicable thereafter. If the  
2 person is under a temporary hold, the person may not be held in  
3 isolation or quarantine after the temporary hold expires unless  
4 the court issues an ex parte order under subdivision 1. If the  
5 court does not rule within 36 hours after the execution of the  
6 directive, the directive shall expire.

7 (b) At the same time the commissioner initiates the process  
8 to apply for a written, ex parte order under paragraph (a), the  
9 commissioner shall notify the governor, the majority and  
10 minority leaders of the senate, the speaker and majority and  
11 minority leaders of the house, and the chairs and the ranking  
12 minority members of the senate and house committees having  
13 jurisdiction over health policy that a directive for a temporary  
14 hold has been issued under this subdivision. Notice under this  
15 paragraph is governed by the data privacy provisions of section  
16 144.4195, subdivision 6.

17 (c) Any peace officer, as defined in section 144.4803,  
18 subdivision 16, shall enforce a commissioner's directive under  
19 paragraph (a), and may use all necessary and lawful means to  
20 apprehend, hold, transport, quarantine, or isolate a person  
21 subject to the order. "Necessary and lawful means" include  
22 reasonable force but not deadly force as defined in section  
23 609.066, subdivision 1. The commissioner or an agent of a local  
24 board of health authorized under section 145A.04 shall advise  
25 the peace officer on request of protective measures recommended  
26 to protect the officer from possible transmission of the  
27 communicable disease. The peace officer may act upon telephone,  
28 facsimile, or other electronic notification of the order from  
29 the court, commissioner of health, agent of a local board of  
30 health, or commissioner of public safety.

31 (d) If a person subject to a commissioner's directive under  
32 paragraph (a) is already institutionalized in an appropriate  
33 health care facility, the commissioner of health may direct the  
34 facility to continue to hold the person. The facility shall  
35 take all reasonable measures to prevent the person from exposing  
36 others to the communicable disease.

1       Sec. 4. Minnesota Statutes 2004, section 144.4195,  
2 subdivision 5, is amended to read:

3       Subd. 5. [JUDICIAL PROCEDURES AND DECISIONS.] (a) Court  
4 orders issued pursuant to subdivision 3 or 4 shall be based upon  
5 clear and convincing evidence and a written record of the  
6 disposition of the case shall be made and retained.

7       (b) Any person subject to isolation or quarantine has the  
8 right to be represented by counsel ~~or other lawful~~  
9 representative. Persons not otherwise represented may request  
10 the court to appoint counsel at the expense of the Department of  
11 Health or of a local public health board that has entered into a  
12 written delegation agreement with the commissioner under  
13 subdivision 7. The court shall appoint counsel when so  
14 requested and may have one counsel represent a group of persons  
15 similarly situated. The appointments shall be only for  
16 representation under subdivisions 3 and 4 and for appeals of  
17 orders under subdivisions 3 and 4. On counsel's request, the  
18 commissioner or an agent of a local board of health authorized  
19 under section 145A.04 shall advise counsel of protective  
20 measures recommended to protect counsel from possible  
21 transmission of the communicable disease. Appointments shall be  
22 made and counsel compensated according to procedures developed  
23 by the Supreme Court. The procedures shall provide standards  
24 for determining indigency for purposes of appeal. A person  
25 seeking an appeal who does not meet the indigency standard must  
26 reimburse the Department of Health or local public health board  
27 for the attorney fees and costs incurred in the person's appeal.  
28 Counsel appointed for a respondent is not required to pursue an  
29 appeal if, in the opinion of counsel, there is insufficient  
30 basis for proceeding.

31       (c) The court may choose to conduct a hearing under  
32 subdivision 3 or 4 by telephonic, interactive video, or other  
33 electronic means to maintain isolation or quarantine precautions  
34 and reduce the risk of spread of a communicable disease.  
35 Otherwise, the manner in which the request for a hearing is  
36 filed and acted upon shall be in accordance with the existing

1 laws and rules of the courts of this state or, if the isolation  
2 or quarantine occurs during a national security or peacetime  
3 emergency, any rules that are developed by the courts for use  
4 during a national security or peacetime emergency.

5 Sec. 5. [144.4197] [EMERGENCY VACCINE ADMINISTRATION AND  
6 LEGEND DRUG DISPENSING.]

7 When a mayor, county board chair, or legal successor to  
8 such official has declared a local emergency under section 12.29  
9 or the governor has declared an emergency under section 12.31,  
10 subdivision 1 or 2, the commissioner of health may authorize any  
11 person, including, but not limited to, any person licensed or  
12 otherwise credentialed under chapters 144E, 147 to 148, 150A,  
13 151, 153, or 156, to administer vaccinations or dispense legend  
14 drugs if the commissioner determines that such action is  
15 necessary to protect the health and safety of the public. The  
16 authorization shall be in writing and shall contain the  
17 categories of persons included in the authorization, any  
18 additional training required before performance of the  
19 vaccination or drug dispensing by such persons, any supervision  
20 required for performance of the vaccination or drug dispensing,  
21 and the duration of the authorization. The commissioner may, in  
22 writing, extend the scope and duration of the authorization as  
23 the emergency warrants. Any person authorized by the  
24 commissioner under this section shall not be subject to criminal  
25 liability, administrative penalty, professional discipline, or  
26 other administrative sanction for good faith performance of the  
27 vaccination or drug dispensing duties assigned according to this  
28 section.

29 Sec. 6. Laws 2002, chapter 402, section 21, as amended by  
30 Laws 2004, chapter 279, article 11, section 7, is amended to  
31 read:

32 Sec. 21. [SUNSET.]

33 Sections 1 to 19 expire August 1, ~~2005~~ 2007.

4 Sec. 7. [EFFECTIVE DATE.]

35 Section 6 is effective the day following final enactment.

1 Senator ..... moves to amend S.F. No. 1482 as  
2 follows:

3 Page 7, line 33, delete "2007" and insert "2009"

4 Page 7, after line 33, insert:

5 "Sec. 7. [SUNSET.]

6 (a) The amendments to Minnesota Statutes, chapter 144, made  
7 by sections 1 to 4, expire August 1, 2009.

8 (b) Section 5 is repealed August 1, 2009."

9 Page 7, line 34, delete "7" and insert "8"

1 Senator ..... moves to amend S.F. No. 1482 as follows:

2 Page 3, delete lines 24 to 29 and insert:

3 "(d) Any peace officer, as defined in section 144.4803,  
4 subdivision 16, may use all necessary and lawful means to  
5 apprehend, hold, transport, quarantine, or isolate a person  
6 subject to the order if the person flees or forcibly resists the  
7 officer. This subdivision is authority to carry out enforcement  
8 duties under this section."

9 Page 3, line 30, delete "1."

10 Page 5, delete lines 17 to 22 and insert:

11 "(c) Any peace officer, as defined in section 144.4803,  
12 subdivision 16, may use all necessary and lawful means to  
13 apprehend, hold, transport, quarantine, or isolate a person  
14 subject to the commissioner's directive if the person flees or  
15 forcibly resists the officer. This subdivision is authority to  
16 carry out enforcement duties under this section."

17 Page 5, line 23, delete "609.066, subdivision 1."