

Bill Summary

Senate Counsel & Research

Senate

State of Minnesota

S.F. No. 336 -Prohibiting the Electronic Use of a False Pretense to Obtain the Identity of Another (First Engrossment)

Author: Senator Steve Kelley
Prepared by: Chris Turner, Senate Research (651/296-4350)
Date: April 1, 2005

Section 1 defines, for the purposes of the bill, "false pretense" as any false, fictitious, misleading, or fraudulent information depicting or including or deceptively similar to the name, logo, Web site address, e-mail address, postal address, or telephone number of a for-profit or not-for-profit business or organization or of a government agency, to which the user has not legitimate claim of right.

Section 2 expands the crime of identity theft (Minnesota Statutes, section 609.527) by creating a five-year felony for using a false pretense in an electronic communication with the intent to obtain the identity of another. Failure to obtain, use, or gain from the identity is not a defense.

Section 3 provides that the venue for prosecuting such crimes includes the county or place of residence of the person whose identity was obtained or sought.

Section 4 provides an August 1, 2005 effective date and applies to crimes committed on or after that date.

CT:vs

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Consolidated Fiscal Note – 2005-06 Session

Bill #: S0336-0 (R) **Complete Date:** 04/04/05

Chief Author: KELLEY, STEVE

Title: FALSE PRETENSE TO OBTAIN IDENTITY

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings		X
Tax Revenue		X

Agencies: Corrections Dept (04/04/05)
Public Defense Board (03/02/05)

Supreme Court (03/07/05)
Sentencing Guidelines Comm (03/03/05)

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Net Expenditures					
General Fund	0	32	52	53	53
Corrections Dept	0	32	52	53	53
Revenues					
-- No Impact --					
Net Cost <Savings>					
General Fund	0	32	52	53	53
Corrections Dept	0	32	52	53	53
Total Cost <Savings> to the State	0	32	52	53	53

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
General Fund	0.00	0.50	0.80	0.80	0.90
Corrections Dept	0.00	0.50	0.80	0.80	0.90
Total FTE	0.00	0.50	0.80	0.80	0.90

Consolidated EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: JIM KING
Date: 04/04/05 Phone: 296-7964

Fiscal Note – 2005-06 Session

Bill #: S0336-0 (R) **Complete Date:** 04/04/05

Chief Author: KELLEY, STEVE

Title: FALSE PRETENSE TO OBTAIN IDENTITY

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Corrections Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
General Fund	0	32	52	53	53
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
General Fund	0	32	52	53	53
Revenues					
-- No Impact --					
Net Cost <Savings>					
General Fund	0	32	52	53	53
Total Cost <Savings> to the State	0	32	52	53	53

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
General Fund	0.00	0.50	0.80	0.80	0.90
Total FTE	0.00	0.50	0.80	0.80	0.90

SF 336 Identity Theft

Bill Description

This bill expands the crime of Identity Theft to include attempts to obtain the identity of another through electronic communications using a false pretense. A person can be convicted of this offense regardless of whether they obtained the identity of another, used the identity, or whether the crime resulted in any financial or other losses. This crime is a felony with a five-year statutory maximum.

Assumptions

- According to the Minnesota Sentencing Guidelines Commission this bill will have a minimal impact on future need for prison beds. The impact of this bill will add two prison beds per year.
- Prison bed costs are based on a marginal cost per diem for each fiscal year. The annual per diems are as follows: FY06 \$69.85, FY07 \$70.91, FY08 \$71.99, and FY09 \$73.10. This includes marginal costs for all facility, private and public bed rental, health care, and support costs.
- In order to estimate the annual cost the number of prison beds needed is phased in on a quarterly basis. Then multiplying the number of beds for each quarter by the subsequent annual per diem determines the estimate for the annual costs of prison beds.
- Prison bed FTE impact for the increase in the inmate population assumes 80 percent of the ongoing bed impact is personnel-related and the average salary is \$50,000 per year including benefits.
- The revision of this bill creates a new category to existing penalties.
- According to Sentencing Guidelines this bill will have a minimal impact on supervision caseloads statewide. However, with each new crime and penalty enhancement enacted this legislative session the accumulative effect of supervision caseloads could be significant.
- This bill will be effective August 1, 2005.

Expenditure and/or Revenue Formula

Fiscal Year	2005	2006	2007	2008	2009
Number of Prison Beds	0	2	2	2	2
Costs of Prison Beds (1=1,000)	\$0	\$32	\$52	\$53	\$53
Total DOC Cost (1=1,000)	\$0	\$32	\$52	\$53	\$53
FTE	0	.5	.8	.8	.9

Long-Term Fiscal Considerations

The prison bed costs will be recognized in subsequent years.

Local Government Costs

The impact on local jurisdictions is estimated to be minimal.

References/Sources

Minnesota Sentencing Guidelines staff.
Minnesota Department of Corrections staff.

FN Coord Signature: DENNY FONSECA
Date: 04/04/05 Phone: 642-0220

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: JIM KING
Date: 04/04/05 Phone: 296-7964

Fiscal Note – 2005-06 Session

Bill #: S0336-0 (R) **Complete Date:** 03/07/05

Chief Author: KELLEY, STEVE

Title: FALSE PRETENSE TO OBTAIN IDENTITY

Fiscal Impact	Yes	No
State		X
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Supreme Court

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalent					
-- No Impact --					
Total FTE					

This bill version has no fiscal effect on our agency.

FN Coord Signature: JUDY REHAK

Date: 03/07/05 Phone: 297-7800

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: JIM KING

Date: 03/07/05 Phone: 296-7964

Fiscal Note – 2005-06 Session

Bill #: S0336-0 (R) **Complete Date:** 03/03/05

Chief Author: KELLEY, STEVE

Title: FALSE PRETENSE TO OBTAIN IDENTITY

Fiscal Impact	Yes	No
State	X	
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Sentencing Guidelines Comm

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalent					
-- No Impact --					
Total FTE					

Bill Description

This bill expands the crime of Identity Theft to include attempts to obtain the identity of another through electronic communications using a false pretense. A person can be convicted of this offense regardless of whether they obtained the identity of another, used the identity, or whether the crime resulted in any financial or other losses. This crime is a felony with a five year statutory maximum.

The effective date is August 1, 2005 and it applies to offenses committed on or after that date..

Assumptions

It is assumed that this new Identity Theft crime will be ranked the same as the other Identity Theft crimes with a five year statutory maximum. These offenses are ranked at severity level 2. At that severity level, only offenders with a criminal history score of six or more are recommended executed prison sentences.

According to MSGC monitoring data, for the years 2001-2003, 27 total offenders were sentenced for the existing severity level 2 Identity Theft offense and five (19%) received executed prison sentences with an average duration of 18 months.

Given the small number of offenders observed so far that have been sentenced for the existing severity level 2 offense, it is assumed that this expansion of the crime will, at most, result in a similar number of additional offenders being sentenced each year at this penalty level. It is assumed that nine additional offenders a year will be sentenced for Identity Theft, and only one or two a year will receive executed prison sentences. .

Impact on State and Local Correctional Resources

Because the number of offenders that will be sentenced for this new offense is assumed to be no larger than the number currently being sentenced, and it is anticipated that most offenders will receive probation sentences, the projected impact on state prison resources is estimated to be small. If two more offenders a year receive executed prison sentences of 18 months, the impact will be 2 prison beds a year. Two beds would be needed in FY2006 and every year after.

Because the number of expected new offenders is small, the impact on local correctional resources is projected to be minimal.

FN Coord Signature: ANNE WALL
Date: 03/03/05 Phone: 296-0144

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: JIM KING
Date: 03/03/05 Phone: 296-7964

Fiscal Note – 2005-06 Session

Bill #: S0336-0 (R) **Complete Date:** 03/02/05

Chief Author: KELLEY, STEVE

Title: FALSE PRETENSE TO OBTAIN IDENTITY

Fiscal Impact	Yes	No
State		X
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Public Defense Board

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

Bill Description

Assumptions

While the provisions of this bill do not have a major impact on the public defense system, it does present the already overburdened criminal justice and public defender systems with additional cases and time commitments. Any time there is an increase in penalties or expansion of criminal law the result will be more cases, more contested cases, and more appeals.

Expenditure and/or Revenue Formula

Long-Term Fiscal Considerations

Local Government Costs

References/Sources

FN Coord Signature: KEVIN KAJER
Date: 03/02/05 Phone: 349-2565

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: JIM KING
Date: 03/02/05 Phone: 296-7964

1 A bill for an act

2 relating to crimes; prohibiting using a false pretense
3 in an e-mail to obtain the identity of another;
4 imposing penalties; amending Minnesota Statutes 2004,
5 section 609.527, subdivisions 1, 6, by adding a
6 subdivision.

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

8 Section 1. Minnesota Statutes 2004, section 609.527,
9 subdivision 1, is amended to read:

10 Subdivision 1. [DEFINITIONS.] (a) As used in this section,
11 the following terms have the meanings given them in this
12 subdivision.

13 (b) "Direct victim" means any person or entity described in
14 section 611A.01, paragraph (b), whose identity has been
15 transferred, used, or possessed in violation of this section.

16 (c) "False pretense" means any false, fictitious,
17 misleading, or fraudulent information or pretense or pretext
18 depicting or including or deceptively similar to the name, logo,
19 Web site address, e-mail address, postal address, telephone
20 number, or any other identifying information of a for-profit or
21 not-for-profit business or organization or of a government
22 agency, to which the user has no legitimate claim of right.

23 (d) "Identity" means any name, number, or data transmission
24 that may be used, alone or in conjunction with any other
25 information, to identify a specific individual or entity,
26 including any of the following:

1 (1) a name, Social Security number, date of birth, official
2 government-issued driver's license or identification number,
3 government passport number, or employer or taxpayer
4 identification number;

5 (2) unique electronic identification number, address,
6 account number, or routing code; or

7 (3) telecommunication identification information or access
8 device.

9 ~~(d)~~ (e) "Indirect victim" means any person or entity
10 described in section 611A.01, paragraph (b), other than a direct
11 victim.

12 ~~(e)~~ (f) "Loss" means value obtained, as defined in section
13 609.52, subdivision 1, clause (3), and expenses incurred by a
14 direct or indirect victim as a result of a violation of this
15 section.

16 ~~(f)~~ (g) "Unlawful activity" means:

17 (1) any felony violation of the laws of this state or any
18 felony violation of a similar law of another state or the United
19 States; and

20 (2) any nonfelony violation of the laws of this state
21 involving theft, theft by swindle, forgery, fraud, or giving
22 false information to a public official, or any nonfelony
23 violation of a similar law of another state or the United States.

24 Sec. 2. Minnesota Statutes 2004, section 609.527, is
25 amended by adding a subdivision to read:

26 Subd. 5a. [CRIME OF ELECTRONIC USE OF FALSE PRETENSE TO
27 OBTAIN IDENTITY.] (a) A person who, with intent to obtain the
28 identity of another, uses a false pretense in an e-mail to
29 another person or in a Web page, electronic communication,
30 advertisement, or any other communication on the Internet, is
31 guilty of a crime.

32 (b) Whoever commits such offense may be sentenced to
33 imprisonment for not more than five years or to payment of a
34 fine of not more than \$10,000, or both.

35 (c) In a prosecution under this subdivision, it is not a
36 defense that:

1 (1) the person committing the offense did not obtain the
2 identity of another;

3 (2) the person committing the offense did not use the
4 identity; or

5 (3) the offense did not result in financial loss or any
6 other loss to any person.

7 Sec. 3. Minnesota Statutes 2004, section 609.527,
8 subdivision 6, is amended to read:

9 Subd. 6. [VENUE.] Notwithstanding anything to the contrary
10 in section 627.01, an offense committed under subdivision 2 or
11 5a may be prosecuted in:

12 (1) the county where the offense occurred; or

13 (2) the county of residence or place of business of the
14 direct victim or indirect victim; or

15 (3) in the case of a violation of subdivision 5a, the
16 county or place of residence of the person whose identity was
17 obtained or sought.

18 Sec. 4. [EFFECTIVE DATE.]

19 Sections 1 to 3 are effective August 1, 2005, and apply to
20 crimes committed on or after that date.

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

G-17 STATE CAPITOL
75 REV. DR. MARTIN LUTHER KING, JR. BLVD.
ST. PAUL, MN 55155-1606
(651) 296-4791
FAX: (651) 296-7747
JO ANNE ZOFF SELLNER
DIRECTOR

Senate

State of Minnesota

S.F. No. 1400 -Internet Crimes Against Children Task Force

Author: Senator Mady Reiter

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

Date: April 5, 2005

Section 1, subdivision 1, defines the following terms for the purposes of the bill:

- "ICAC" means Internet Crimes Against Children; and
- "OJJDP" means the federal Office of Juvenile Justice and Delinquency Prevention.

Subdivision 2 expands the existing St. Paul Police Department's ICAC Task Force, funded by the OJJDP, to a statewide, multiagency, multijurisdictional task force to respond to technology-facilitated crimes against children.

Subdivision 3 provides that the task force shall investigate individuals who commit crimes involving the possession or distribution of child pornography and child prostitution.

Subdivision 4 requires participating local units of government to sign a memorandum of understanding that addresses task force membership, command, policies, procedures, funding, and dispute resolution.

Subdivision 5 requires the commander of the Ttsk force to be provided by the agency receiving ICAC Task Force funding from OJJDP. The commander shall report annually to the Bureau of Criminal Apprehension as required in subdivision 11.

Subdivision 6 provides that the task force may include state and federal law enforcement officers, investigators, and prosecutors. Members remain employees of the same entity that employed them before joining the task force.

Subdivision 7 provides that task force officers have statewide investigation jurisdiction and power of arrest.

Subdivision 8 requires, to the greatest extent possible, task force cooperation and collaboration with existing prosecutorial offices and law enforcement agencies.

Subdivision 9 authorizes grants for reimbursement of up to 75 percent of local prosecutorial costs for task force related duties.

Subdivision 10 allows judicial forfeiture of property seized by the task force under Minnesota Statutes, sections 609.531, 609.5312, and 609.5313, and federal guidelines established by the ICAC program.

Subdivision 11 requires the commander to submit an annual report to the Commissioner of Public Safety outlining task force activities and the use of state grants under subdivision 9. The commander shall also provide copies to the Commissioner of all reports provided to the Department of Justice relating to the ICAC grant. The Commissioner shall report to the Legislature by January 15, 2007 on the activities of the task force and the use of state grants.

Subdivision 12 exempts the task force from the mandatory expiration provisions in Minnesota Statutes, section 15.059, relating to advisory councils and task forces.

Section 2 appropriates \$250,000 from the general fund to the Commissioner of Public Safety to fund the task force.

CT:vs



OJJDP's Internet Crimes Against Children Task Forces



Minnesota
Internet Crimes Against Children
Task Force



Internet Crimes Against Children Task Force (ICAC)

The St Paul Police Department received a grant from the Department of Justice, Office of Juvenile Justice for Delinquency Prevention in 2000 to create a task force that investigates crimes against children via the Internet. The national ICAC program consists of 45 other task forces scattered around the United States, all targeting these types of crimes. The national ICAC program began in 1998.

The purpose of the task force is to encourage states and local law enforcement agencies to develop and implement multi-jurisdictional, multi-agency task forces to prevent, interdict, investigate and prosecute Internet crimes against children. Our ICAC task force supports all law enforcement agencies in the state of Minnesota with any ICAC related cases whether they are members of the unit or not. Our task force consists of members from the following agencies in Minnesota:

Anoka County Sheriffs Department
Burnsville Police Department
Crow Wing County Sheriffs Department
Fergus Falls Police Department
Hennepin County Sheriffs Department
Hutchinson Police Department
Mankato Department of Public Safety
Minneapolis Police Department
Moorhead Police Department
Polk County Sheriffs Department
White Bear Lake Police Department*
Woodbury Police Department

We also have the Department of Criminal Investigation for the state of South Dakota overseen by our task force.

Further information on the national ICAC task force program can be found at this link:

http://www.ojp.usdoj.gov/ovc/publications/bulletins/internet_2_2001/welcome.html

ICAC National Program Statistics 2003/2004

	<u>2003</u>	<u>2004</u>
Arrests	564	984
Referrals	1205	4718
Travelers	581	835
Child Pornography Distribution	768	9724
Child Pornography Manufacture	116	3933

In 2001 Operation Avalanche, an ICAC, FBI, Postal Inspectors joint operation identified 490 people in Minnesota that had subscribed to web sites with child pornography. In 2002 Operation SiteKey, an ICAC and FBI joint operation identified over 700 people in Minnesota that had subscribed to child pornography sites.

In February of 2004 the Wyoming ICAC, which has been working the Peer 2 Peer networks, Gnutella, Kazaa, etc. identified 1108 Internet Protocol (IP) addresses, or computers, in Minnesota offering access, for download, known child pornography images. We currently have an investigator attending training on how to perform similar investigations so we can identify these Minnesota suspects.

A study of America's youth done by the University of New Hampshire in 2000 revealed that one in five received a sexual solicitation or approach over the Internet in the last year. One in four had an unwanted exposure to pictures of naked people or people having sex in the last year. Source: Online Victimization: A Report on the Nation's Youth, Crimes Against Children Research Center, and the National Center for Missing and Exploited Children (NCMEC).

The ICAC task force in Minnesota opened 440 investigations from June of 2000 through December of 2003. In 2004 the task force opened 315 investigations.

In 2002 congress passed a law requiring Internet Service Providers (ISP's) to report those using their service to trade child pornography to NCMEC. Title 42 Sec 13032 USC. The case numbers above reflect the increase in compliance with federal law.

An example of a case reported to us through NCMEC is as follows:

We were given a cybertip that a person in the metro area was downloading/trading child pornography from a business computer in the metro area. Through our investigation we were able to identify the suspect and contacted the business. The business was very cooperative and a plan worked out to execute the search warrant with minimal impact on their office. Three computers were seized and the suspect interviewed. He admitted to downloading the images and confirmed what computers they would be on. He was the IT person for the business. The suspect lost his job as a result of the incident and that combined with the pending charges created a great deal of stress for him. He ended up striking one of his teenage children at home. The child reported the incident and subsequent interviews of the child revealed that the her father had sexually molested her. Child protection interviewed the other two children and they reported being sexually assaulted also. This case illustrates that child pornography isn't just pictures, they are images of children being sexually assaulted and they are used by those they prey on children to facilitate their abuse.

The judicial system is starting to recognize the impact of child pornography. In Ohio (2004 WL 413273 (Ohio App. 4 Dist)) a defendants conviction and sentence were upheld and the court acknowledged that "...the defendant indirectly contributed to harm to children in pornographic materials and further encouraged destruction of additional children by his participation in viewing materials...although the defendant did not directly cause pain and mental injury to

children involved in production of pictures, the people that did harm children did so because they knew an audience, whom defendant was part, existed to watch sexual exploitation of children.”

Currently the BCA only has one computer forensic analyst. To our knowledge the BCA is referring all ICAC related cases they come across to the ICAC task force. We have had very little assistance with ICAC cases by BCA agents.

Computer forensic capability is becoming an issue for law enforcement in Minnesota. There are few law enforcement agencies in the state that have a computer forensic lab. Fewer still who are offering the service to anyone outside of their jurisdiction. The few that do are quickly learning that the ongoing funding costs to keep current on the hardware, software, and training are quite expensive.

The ICAC task force in Minnesota has one full time forensic analyst. There are 6 other members of the task force that are trained to do forensic work but they are part time participants with the task force and their time limited on working these cases. Our current backlog on work relating to getting a computer analyzed continues to grow. It currently The task force is about 5 months behind in our forensic work.

The current Department of Justice ICAC grant is for 400,000.00 on an eighteen month funding cycle, these funds expire in June of 2006. The national ICAC program is funded through 2006 with ongoing funding expected.

Since established in June of 2000 the ICAC task force has assisted the following law enforcement agencies in Minnesota with ICAC related cases.

Albany Police Department	Owatonna Police Department
Anoka City Police	Pine County Sheriffs Department
Beltrami County Sheriffs Department	Robbinsdale Police Department
Blaine Police Department	Rochester Police Department
Bloomington Police Department	Roseville Police Department
Bloomington Police Department	Saint Cloud Police Department
Brooklyn Center Police Department	Saint Louis County Sheriffs Department
Brooklyn Park Police Department	Saint Peter Police Department
Buffalo Police Department	Scott County Sheriffs Department
Cambridge Police Department	South Saint Paul Police Department
Cass County Sheriffs Department	State of Minnesota
Champlin Police Department	Stillwater Police Department
Chaska Police Department	Two Harbors Police Department
Chaska Police Department	Wabasha County Sheriffs Department
Columbia Heights Police Department	Washington County Sheriffs Department
Cottage Grove Police Department	Wayzata Police Department
Department of Corrections	Willmar County Sheriffs Department
Edina Police Department	Wyoming Police Department
Elk River Police Department	
Farmington Police Department	
Golden Valley Police Department	
Hackensack Police Department	
Hermantown Police Department	
Hibbing Police Department	
Janesville Police Department	
Kanabec County Sheriffs Department	
Kasson Police Department	
Marshall Police Department	
Morrison County Sheriffs Department	
Mound Police Department	
Mounds View Police Department	
Murry County Sheriffs Department	
New Hope Police Department	
New Ulm Police Department	
Nobles County Sheriffs Department	
North Branch Police Department	
North Mankato Police Department	
North Saint Paul Police Department	
Olmsted County Sheriffs Department	

Senators Reiter, McGinn and Bachmann introduced--

S.F. No. 1400: Referred to the Committee on Crime Prevention and Public Safety.

1 A bill for an act

2 relating to public safety; establishing an Internet
3 Crimes Against Children (ICAC) Task Force; specifying
4 the task force's duties and membership; providing for
5 grants; appropriating money; proposing coding for new
6 law in Minnesota Statutes, chapter 299A.

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

8 Section 1. [299A.78] [INTERNET CRIMES AGAINST CHILDREN
9 TASK FORCE; MEMBERSHIP; DUTIES; GRANTS; REPORTS.]

10 Subdivision 1. [DEFINITIONS] (a) For purposes of this
11 section, the following terms have the meanings given them.

12 (b) "ICAC" means Internet Crimes Against Children.

13 (c) "OJJDP" means the federal Office of Juvenile Justice
14 and Delinquency Prevention.

15 Subd. 2. [ICAC ESTABLISHED.] The existing ICAC Task Force
16 established by the St. Paul Police Department through funding
17 provided by the federal Office of Juvenile Justice and
18 Delinquency Prevention (OJJDP) is established as a statewide
19 task force. The ICAC Task Force is a multijurisdictional,
20 multiagency task force that is constituted to respond to
21 technology-facilitated crimes against children. The ICAC Task
22 Force may enter into agreements with local governments to
23 continue and expand the ICAC Task Force through the effective
24 participation of local law enforcement agencies.

25 Subd. 3. [ICAC TASK FORCE DUTIES.] The ICAC Task Force
26 shall serve as a statewide source of prevention, education, and

1 investigative expertise to provide assistance to parents,
2 teachers, law enforcement, and other professionals working on
3 child victimization issues. In particular, the task force shall
4 investigate individuals, based on their criminal activity, who:

5 (1) commit crimes involving the possession or distribution
6 of child pornography as defined in section 617.246, through the
7 use of computers or the Internet; or

8 (2) commit crimes involving the exploitation or
9 solicitation of a minor for sexual purposes.

10 Subd. 4. [ROLE OF PARTICIPATING LOCAL GOVERNMENTAL UNITS.]

11 The local governmental units that agree to participate in the
12 ICAC program established by grant funds awarded by the OJJDP
13 will become a single, centralized task force investigating
14 crimes against children involving the Internet. The agreement
15 must be addressed in a memorandum of understanding and signed by
16 the person in charge of each participating local unit of
17 government. The memorandum of understanding shall address the
18 following:

19 (1) the command structure of the ICAC Task Force;

20 (2) acceptance of the ICAC standards as outlined by the
21 ICAC program overseen by OJJDP and the ICAC program board of
22 directors;

23 (3) acquisition and liquidation of equipment, office space,
24 and transportation;

25 (4) procedures for contracting necessary administrative
26 support;

27 (5) selection and assignment of members;

28 (6) transfers of ICAC Task Force members;

29 (7) resolution of disputes between participating local
30 governmental units;

31 (8) requirements and procedures for all workers'
32 compensation and other liability to remain the responsibility of
33 each member's employing agency; and

34 (9) all other issues deemed pertinent by the participating
35 local governmental units.

36 Subd. 5. [COMMANDER.] The commander of the statewide task

1 force will be provided by the agency receiving the ICAC Task
2 Force funding from OJJDP. The commander shall make tactical
3 decisions regarding the commencement, continuation, and
4 conclusion of investigations of crimes within the task force's
5 jurisdiction. The commander shall also report annually to the
6 Bureau of Criminal Apprehension as required in subdivision 11.

7 Subd. 6. [MEMBERS; EMPLOYMENT STATUS.] (a) The
8 investigation task force may include law enforcement officers,
9 investigators, prosecutors, federal law enforcement officers,
10 and investigators from local governmental units who are selected
11 by their supervisors to participate in the ICAC Task Force.

12 (b) All law enforcement officers selected to join the ICAC
13 Task Force must be licensed peace officers under section 626.84,
14 subdivision 1, or qualified federal law enforcement officers as
15 defined in section 626.8453.

16 (c) Members shall remain employees of the same entity that
17 employed them before joining the ICAC Task Force.

18 (d) Compensation, personnel evaluations, grievances, merit
19 increases, and liability insurance coverage, such as general,
20 personal, vehicle, and professional liability insurance, shall
21 be covered by each member's employing agency. Members of the
22 ICAC Task Force are not employees of the state.

23 Subd. 7. [JURISDICTION AND POWERS.] (a) Law enforcement
24 officers who are members of the ICAC Task Force shall have
25 statewide jurisdiction to conduct criminal investigations into
26 Internet crimes against children as described in subdivision 3,
27 and possess the same powers of arrest as those of a sheriff.

28 (b) Officers assigned to the ICAC Task Force shall follow
29 their county arrest procedures, booking processes, reporting
30 processes, county attorney charging requirements, and
31 appropriate notification protocols to local and county sheriff
32 agencies where arrests are made and search warrants executed.

33 (c) The commander of the ICAC Task Force is responsible for
34 ensuring compliance with applicable local practices and
35 procedures.

36 Subd. 8. [COLLABORATION WITH OTHER PROSECUTORIAL AND LAW

1 ENFORCEMENT OFFICES.] To the greatest degree possible, the ICAC
2 Task Force shall cooperate and collaborate with existing
3 prosecutorial offices and law enforcement agencies.

4 Subd. 9. [PROSECUTOR.] A participating local governmental
5 unit may seek a grant for reimbursement for the time and
6 resources that a prosecutor and prosecutor's staff dedicate to
7 the ICAC Task Force. In order to receive a grant under this
8 subdivision, a participating local governmental unit must
9 provide a 25 percent match in nonstate funds or in-kind
10 contributions either directly from its budget or from businesses
11 directly donating support. A participating prosecutor shall
12 remain an employee of the contributing county.

13 Subd. 10. [FORFEITURE.] Property seized by the ICAC Task
14 Force is subject to forfeiture pursuant to guidelines
15 established by the Department of Justice ICAC program and
16 sections 609.531, 609.5312, and 609.5313, if ownership cannot be
17 established. The ICAC Task Force shall receive the proceeds
18 from the sale of all property that it properly seizes and that
19 is forfeited.

20 Subd. 11. [REQUIRED REPORTS.] (a) The commander shall
21 provide copies of all reports provided to the Department of
22 Justice relating to the ICAC grant to the commissioner of public
23 safety, in addition to an annual report that outlines the
24 activities of the ICAC Task Force and use of state grant funds
25 awarded under subdivision 9.

26 (b) By January 15, 2007, the commissioner of public safety
27 shall report to the chairs and ranking minority members of the
28 house of representatives and senate committees and divisions
29 having jurisdiction over criminal justice policy and funding on
30 the activities of the ICAC Task Force and use of grants under
31 subdivision 9.

32 Subd. 12. [EXPIRATION.] Notwithstanding section 15.059,
33 this section does not expire.

34 Sec. 2. [APPROPRIATION.]

35 \$250,000 is appropriated from the general fund to the
36 commissioner of public safety to fund the Internet Crimes

- 1 Against Children (ICAC) Task Force. The appropriation is
- 2 available for the biennium ending June 30, 2007.

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

G-17 STATE CAPITOL
75 REV. DR. MARTIN LUTHER KING, JR. BLVD.
ST. PAUL, MN 55155-1606
(651) 296-4791
FAX (651) 296-7747
JO ANNE ZOFF SELLNER
DIRECTOR

Senate

State of Minnesota

S.F. No. 349 -Expanding the Definition of First-Degree Murder

Author: Senator Leo T. Foley

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

Date: February 22, 2005

Section 1 expands the crime of first-degree murder for child abusers. Currently, the crime applies to offenders who cause the death of a child while committing child abuse where the offender has engaged in a past pattern of child abuse upon the child and the death occurs under circumstances manifesting an extreme indifference to human life. Expands the applicability of the provision to include situations where the past pattern of child abuse was upon any child, not just the victim.

Section 2 provides an immediate effective date.

CT:vs

Consolidated Fiscal Note – 2005-06 Session

Bill #: S0349-0 **Complete Date:** 03/07/05

Chief Author: FOLEY, LEO

Title: EXPAND CRIME OF FIRST DEGREE MURDER

Fiscal Impact	Yes	No
State		X
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agencies: Corrections Dept (03/01/05)
Public Defense Board (03/02/05)

Supreme Court (03/07/05)
Sentencing Guidelines Comm (03/01/05)

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

Consolidated EBO Comments

The affected agencies estimate no fiscal impact through FY 09, because offenders who might be sentenced under the bill's provisions would already be receiving executed prison sentences under current law. The Sentencing Guidelines Commission notes that few sentences imposed from 2001 to 2003 would appear to have been affected by the changes in this bill. For the small number offenders who might be affected, additional state costs would not be incurred until after the completion of executed sentences under current law, minimally about eight year for Unintentional Second Degree Murder and 17 years for Intentional Second Degree Murder. Future costs are expected to be minimal.

EBO Signature: JIM KING
Date: 03/07/05 Phone: 296-7964

Fiscal Note – 2005-06 Session

Bill #: S0349-0 **Complete Date:** 03/07/05

Chief Author: FOLEY, LEO

Title: EXPAND CRIME OF FIRST DEGREE MURDER

Fiscal Impact	Yes	No
State		X
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Supreme Court

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

This bill version has no fiscal effect on our agency.

FN Coord Signature: JUDY REHAK
Date: 03/05/05 Phone: 297-7800

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: JIM KING
Date: 03/07/05 Phone: 296-7964

Fiscal Note – 2005-06 Session

Bill #: S0349-0 **Complete Date:** 03/01/05

Chief Author: FOLEY, LEO

Title: EXPAND CRIME OF FIRST DEGREE MURDER

Fiscal Impact	Yes	No
State		X
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Sentencing Guidelines Comm

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

Bill Description

This bill modifies clause 5 of 609.185-Murder in the First Degree. That clause states that a First Degree Murder is committed if it takes place while the perpetrator is committing child abuse, if that person has engaged in a past pattern of child abuse against that child. This bill amends that clause to provide that the murder of a child while committing child abuse is First Degree Murder if the perpetrator has engaged in a past pattern of child abuse against any child.

The effective date for this bill is the day following final enactment.

Assumptions

It is assumed that offenders who currently commit such crimes are convicted of some other type of murder or manslaughter and receive executed prison sentences. While no information is available on the number of offenses that occur each year that, under this amended provision could be charged as First Degree Murder, it is assumed that the number will be small. Information from the Department of Corrections shows that 18 offenders were admitted in 2001, 10 offenders admitted in 2002, and 16 admitted in 2003 with Life sentences for First Degree Murder. Two of those offenders were convicted under the existing clause, which covers murders of minors while committing child abuse. Minnesota Offense Code data from the MSGC monitoring system shows that of the 70 Second Degree Murder cases sentenced in 2001, the victims were minors in 5 cases. These codes also show that 4 of those 5 offenses involved deaths committed in the course of a burglary and one involved a death while committing Criminal Sexual conduct and thus, would not be covered by the provisions of this bill. In 2002, 6 of the 46 second-degree murders sentenced involved child victims. The nature of the offense was not further specified, so any of these 6 offenses could have involved child abuse. It cannot be determined how many of these offenders had a past pattern of child abuse. In 2003, of the 74 offenders sentenced for second-degree murder, the victims were minors in 14 cases. In all of these cases the offense codes indicated that the murder was committed during the course of a burglary.

Impact on State and Local Correctional Resources

Since offenders who commit this offense are likely to already be receiving executed prison sentences, there is no impact on local correctional resources.

If, in the future, some offenders currently being convicted of Second Degree Murder or some type of manslaughter instead are convicted of First Degree Murder, there is the potential for some impact on state correctional resources. Since the number of such offenders is expected to be small, the impact is estimated to be minimal. An offender sentenced for Intentional Second Degree Murder who has no prior record, and receives the recommended Guidelines sentence, would serve a minimum of 204 months (2/3 of 306 months) before release. If, in the future, that offender receives a Life sentenced for First Degree Murder, they would serve a minimum of 360 months (30 years) before being eligible to be considered for release, a difference of 156 months. Each such offender would serve at least an additional 13 years over the period of their incarceration. An offender sentenced for Unintentional Second Degree Murder who has no prior record, and receives the recommended Guidelines sentence, would serve a minimum of 100 months (2/3 of 150 months) before release. The difference from a Life sentence in minimal time served is 260 months. Each such offender would serve an additional 21.5 years over the course of their incarceration.

FN Coord Signature: ANNE WALL
Date: 02/25/05 Phone: 296-0144

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: JIM KING
Date: 03/01/05 Phone: 296-7964

Fiscal Note – 2005-06 Session

Bill #: S0349-0 **Complete Date:** 03/02/05

Chief Author: FOLEY, LEO

Title: EXPAND CRIME OF FIRST DEGREE MURDER

Fiscal Impact	Yes	No
State		X
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Public Defense Board

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

Bill Description

Assumptions

While the provisions of this bill do not have a major impact on the public defense system, it does present the already overburdened criminal justice and public defender systems with additional cases and time commitments. Any time there is an increase in penalties or expansion of criminal law the result will be more cases, more contested cases, and more appeals.

Expenditure and/or Revenue Formula

Long-Term Fiscal Considerations

Local Government Costs

References/Sources

FN Coord Signature: KEVIN KAJER
Date: 03/02/05 Phone: 349-2565

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: JIM KING
Date: 03/02/05 Phone: 296-7964

Senators Foley, Kleis, Ranum, Skoglund and Limmer introduced--

S.F. No. 349: Referred to the Committee on Crime Prevention and Public Safety.

1 A bill for an act

2 relating to crime prevention and public safety;
3 modifying the crime of murder in the first degree;
4 amending Minnesota Statutes 2004, section 609.185.

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

6 Section 1. Minnesota Statutes 2004, section 609.185, is
7 amended to read:

8 609.185 [MURDER IN THE FIRST DEGREE.]

9 (a) Whoever does any of the following is guilty of murder
10 in the first degree and shall be sentenced to imprisonment for
11 life:

12 (1) causes the death of a human being with premeditation
13 and with intent to effect the death of the person or of another;

14 (2) causes the death of a human being while committing or
15 attempting to commit criminal sexual conduct in the first or
16 second degree with force or violence, either upon or affecting
17 the person or another;

18 (3) causes the death of a human being with intent to effect
19 the death of the person or another, while committing or
20 attempting to commit burglary, aggravated robbery, kidnapping,
21 arson in the first or second degree, a drive-by shooting,
22 tampering with a witness in the first degree, escape from
23 custody, or any felony violation of chapter 152 involving the
24 unlawful sale of a controlled substance;

25 (4) causes the death of a peace officer or a guard employed

1 at a Minnesota state or local correctional facility, with intent
2 to effect the death of that person or another, while the peace
3 officer or guard is engaged in the performance of official
4 duties;

5 (5) causes the death of a minor while committing child
6 abuse, when the perpetrator has engaged in a past pattern of
7 child abuse upon the a child and the death occurs under
8 circumstances manifesting an extreme indifference to human life;

9 (6) causes the death of a human being while committing
10 domestic abuse, when the perpetrator has engaged in a past
11 pattern of domestic abuse upon the victim or upon another family
12 or household member and the death occurs under circumstances
13 manifesting an extreme indifference to human life; or

14 (7) causes the death of a human being while committing,
15 conspiring to commit, or attempting to commit a felony crime to
16 further terrorism and the death occurs under circumstances
17 manifesting an extreme indifference to human life.

18 (b) For purposes of paragraph (a), clause (5), "child abuse"
19 means an act committed against a minor victim that constitutes a
20 violation of the following laws of this state or any similar
21 laws of the United States or any other state: section 609.221;
22 609.222; 609.223; 609.224; 609.2242; 609.342; 609.343; 609.344;
23 609.345; 609.377; 609.378; or 609.713.

24 (c) For purposes of paragraph (a), clause (6), "domestic
25 abuse" means an act that:

26 (1) constitutes a violation of section 609.221, 609.222,
27 609.223, 609.224, 609.2242, 609.342, 609.343, 609.344, 609.345,
28 609.713, or any similar laws of the United States or any other
29 state; and

30 (2) is committed against the victim who is a family or
31 household member as defined in section 518B.01, subdivision 2,
32 paragraph (b).

33 (d) For purposes of paragraph (a), clause (7), "further
34 terrorism" has the meaning given in section 609.714, subdivision
35 1.

36 [EFFECTIVE DATE.] This section is effective the day

1 following final enactment and applies to crimes committed on or
2 after that date.

Bill Summary

Senate Counsel & Research

Senate

State of Minnesota

S.F. No. 934 -Crime of Domestic Assault by Strangulation

Author: Senator Jane Ranum
Prepared by: Chris Turner, Senate Research (651/296-4350)
Date: March 7, 2005

Section 1, subdivision 1, defines "strangulation" as intentionally impeding normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of another person.

Subdivision 2 creates a five-year felony for assaulting a family or household member by strangulation.

Section 2 provides an August 1, 2005 effective date, applicable to crimes committed on or after that date.

CT:vs

[Check on the status of this bill](#)

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Last review or update: 03/11/2005

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1 A bill for an act
2 relating to crimes; expanding the third degree assault
3 crime to include assault by strangulation or
4 asphyxiation; amending Minnesota Statutes 2004,
5 section 609.223, by adding a subdivision.

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

7 Section 1. Minnesota Statutes 2004, section 609.223, is
8 amended by adding a subdivision to read:

9 Subd. 4. [ASSAULT BY STRANGULATION OR ASPHYXIATION.] (a)

10 As used in this subdivision, "strangulation" means intentionally
11 impeding normal breathing or circulation of the blood by
12 applying pressure on the throat or neck or by blocking the nose
13 or mouth of another person.

14 (b) Unless a greater penalty is provided elsewhere, whoever
15 assaults another by strangulation or asphyxiation is guilty of a
16 felony and may be sentenced to imprisonment for not more than
17 five years or to payment of a fine of not more than \$10,000, or
18 both.

19 Sec. 2. [EFFECTIVE DATE.]

20 Section 1 is effective August 1, 2005, and applies to
21 crimes committed on or after that date.

Consolidated Fiscal Note – 2005-06 Session

Bill #: S0934-1E Complete Date: 03/29/05

Chief Author: RANUM, JANE

Title: EXPAND 3RD DEGREE ASSAULT CRIME

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings		X
Tax Revenue		X

Agencies: Corrections Dept (03/29/05)
Public Defense Board (03/29/05)

Supreme Court (03/29/05)
Sentencing Guidelines Comm (03/29/05)

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Net Expenditures					
General Fund		1,897	3,037	3,365	3,699
Supreme Court		684	782	782	782
Public Defense Board		176	366	366	366
Corrections Dept		1,037	1,889	2,217	2,551
Revenues					
-- No Impact --					
Net Cost <Savings>					
General Fund		1,897	3,037	3,365	3,699
Supreme Court		684	782	782	782
Public Defense Board		176	366	366	366
Corrections Dept		1,037	1,889	2,217	2,551
Total Cost <Savings> to the State		1,897	3,037	3,365	3,699

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
General Fund		27.85	40.95	43.25	45.55
Supreme Court		7.00	7.00	7.00	7.00
Public Defense Board		4.25	4.25	4.25	4.25
Corrections Dept		16.60	29.70	32.00	34.30
Total FTE		27.85	40.95	43.25	45.55

Consolidated EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: JIM KING

Date: 03/29/05 Phone: 296-7964

Fiscal Note – 2005-06 Session

Bill #: S0934-1E **Complete Date:** 03/29/05

Chief Author: RANUM, JANE

Title: EXPAND 3RD DEGREE ASSAULT CRIME

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Corrections Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
General Fund		1,037	1,889	2,217	2,551
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
General Fund		1,037	1,889	2,217	2,551
Revenues					
-- No Impact --					
Net Cost <Savings>					
General Fund		1,037	1,889	2,217	2,551
Total Cost <Savings> to the State		1,037	1,889	2,217	2,551

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalent					
General Fund		16.60	29.70	32.00	34.30
Total FTE		16.60	29.70	32.00	34.30

SF 934-1E Expand 3rd Degree Assault Crime

Bill Description

This bill creates a new subdivision of Third Degree Assault for assault by strangulation. If someone is assaulted by strangulation, it shall be classified as a felony with a statutory maximum of five years. Such assaults are currently misdemeanors or gross misdemeanors unless they qualified for enhancement to a felony level Fourth Degree or Domestic Assault because the offender had two prior assault convictions.

Assumptions

- The Minnesota Sentencing Guidelines Commission provided a range of offenders being incarcerated for this offense. For the purposes of this fiscal note the mid-range numbers are utilized.
- According to the Minnesota Sentencing Guidelines Commission there will be increase in the need for prison beds. It is estimated the number of prison beds needed will start out at 65 the first year of the bill and hit a maximum number of 146 beds in 2011.
- Prison bed costs are based on a marginal cost per diem for each fiscal year. The annual per diems are as follows: FY06 \$69.85, FY07 \$70.91, FY08 \$71.99, and FY09 \$73.10. This includes marginal costs for all facility, private and public bed rental, health care, and support costs.
- In order to estimate the annual cost the number of prison beds needed is phased in on a quarterly basis. Then multiplying the number of beds for each quarter by the subsequent annual per diem determines the estimate for the annual costs of prison beds.
- Prison bed FTE impact for the increase in the inmate population assumes 80 percent of the ongoing bed impact is personnel-related and the average salary is \$50,000 per year including benefits.
- According to the Minnesota Sentencing Guidelines Commission approximately 370-650 additional felony level probation cases a year are projected.
- This impact of the additional caseloads will not be recognized until 2007.
- A total of 8.5 new probation officers each year, for three years, will be needed statewide based on a recommended caseload of 60 offenders per agent.
- Six (6) of these agents (70% of total) will be needed in the Community Corrections Act (CCA) counties and 2.5 agents (30% of total) in the Department of Corrections.
- These offenders will remain on probation for 5 years instead of 1 year for a misdemeanor and 2 years for a gross misdemeanor, which is the case now.
- Seventy-eight (78%) percent of these probation cases are estimated to receive an average of 109 days in local jails as a condition of their probation.
- The annual cost of a probation agent is \$75,000 per year, which includes salary, benefits, equipment, travel and operating costs.
- This bill is effective August 1, 2005.

Expenditure and/or Revenue Formula

Expenditures for Prison Beds

Fiscal Year	2005	2006	2007	2008	2009
Number of Prison Beds	0	65	105	112	119
Costs of Prison Beds (1=1,000)	\$0	\$1,037	\$1,701	\$1,842	\$1,988
Agent Costs	\$0	\$0	\$188	\$375	\$563
Total DOC Cost (1=1,000)	\$0	\$1,037	\$1,889	\$2,217	\$2,551
FTE	0	16.6	29.7	32	34.3

Long-Term Fiscal Considerations

The long-term fiscal considerations are substantial. The cost for the additional 146 prison beds is \$4 million per year. The probation agent costs will also be recognized in subsequent years at \$563,000. This has a total annual cost of \$4.563 million per year (not including inflation).

Local Government Costs

The impact on local correctional resources could be significant due to increased felony probation caseloads with some increased use of local jails and workhouses as a condition of probation. It is estimated that this bill will increase jail costs approximately \$2.4 million per year and agent costs of \$600,000 per year. The total local government cost is estimated to be \$4.2 million annually within four years.

References/Sources

Minnesota Sentencing Guidelines staff.
Minnesota Department of Corrections staff.

FN Coord Signature: DENNY FONSECA
Date: 03/28/05 Phone: 642-0220

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: JIM KING
Date: 03/29/05 Phone: 296-7964

Fiscal Note – 2005-06 Session

Bill #: S0934-1E **Complete Date:** 03/29/05

Chief Author: RANUM, JANE

Title: EXPAND 3RD DEGREE ASSAULT CRIME

Fiscal Impact	Yes	No
State	X	
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Supreme Court

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
General Fund		684	782	782	782
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
General Fund		684	782	782	782
Revenues					
-- No Impact --					
Net Cost <Savings>					
General Fund		684	782	782	782
Total Cost <Savings> to the State		684	782	782	782

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalent					
General Fund		7.00	7.00	7.00	7.00
Total FTE		7.00	7.00	7.00	7.00

Bill Description

This bill creates a new subdivision of Third Degree Assault for assault by strangulation. If someone is assaulted by strangulation, it shall be classified as a felony with a statutory maximum of five years. Such assaults are currently misdemeanors or gross misdemeanors unless they qualified for enhancement to a felony level Fourth Degree or Domestic Assault because the offender had two prior assault convictions.

The effective date is August 1, 2005 and it applies to offenses committed on or after that date.

Assumptions

As a result of this bill, some percentage of misdemeanor and gross misdemeanor domestic assault offenses will become felonies. According to information supplied by the State Court Research Office, there were over 5,500 convictions for misdemeanor and gross misdemeanor domestic assaults in 2004 that did not involve weapons. It is not known how many of those offenses involved the act of strangulation. In order to estimate the number of cases that could potentially be elevated to felonies, several prosecutors' offices were contacted. The Ramsey County Joint Domestic Abuse Prosecution Unit reported that of the 217 domestic abuse cases it handled in 2004, 32 involved strangulation, of which 19 were charged as misdemeanors or gross misdemeanors. There were a total of 127 misdemeanor or gross misdemeanor cases, thus 15% of those cases involved strangulation. However, the Ramsey County Attorney's Office is of the opinion that a statewide 15% rate is not to be expected. They note that even in their own cases, some may not result in felony level convictions because of reluctant witnesses and lack of corroborating evidence. They further note that especially in the beginning, not all jurisdictions will have the resources and training available to investigate these cases with the thoroughness necessary to achieve a felony conviction. This fiscal note assumes that charges will nonetheless be presented to the courts at the felony level.

In addition, this bill would elevate some misdemeanor and gross misdemeanor fifth degree assaults to felonies. According to information supplied by the State Court Research Office, there were over 3,900 convictions for misdemeanor and gross misdemeanor 5th degree assaults in 2003 that did not involve weapons. It is not known how many of those offenses involved the act of strangulation. The Ramsey County Attorney's Office believes that even a smaller percentage of fifth degree assaults involve strangulation and would have the evidence collected that would be necessary to secure a felony conviction. It is assumed that only 2% of the fifth degree assault cases would become felonies. At that rate, there would be 78 additional felony cases a year. The total projected number of new felony offenses is estimated to be 903.

This fiscal note assumes that 37% of the 903 cases are gross misdemeanors currently and 63% are misdemeanors, the current ratio of gross misdemeanor/misdemeanor assault cases.

Expenditure and/or Revenue Formula

Using the Weighted Caseload analysis, increasing the level of the crime increases the court resources needed to adjudicate the case. As a consequence, an additional 1.04 judge unit would be required. A judge unit is a judge, law clerk, and court reporter. The annual cost of a judge unit is \$307,000. The cost of 1.04 judge unit is \$319,380. Using the Court Staffing Study Analysis, an additional 3.85 administrative staff would be required to process the additional work. The annual cost of a senior court clerk is \$58,220. The cost for 3.85 staff is \$224,101. In addition an increase in jury cases is anticipated because of the severity. An additional 57 jury trials is anticipated with a cost for per diems and mileage of \$238,934 dollars per year. In the first year a non recurring cost of \$32,500 would be needed for furniture and equipment for the positions.

In the first year a delay of 2 months is anticipated to account for the August effective date and arrests for crimes occurring after that date. In the first year the anticipated total cost would be \$651,752. The annual cost thereafter is estimated to be \$782,415.

Long-Term Fiscal Considerations

Costs would increase with inflation.

Local Government Costs

Courthouse security costs for additional felony trials would increase.

References/Sources

FN Coord Signature: JUDY REHAK
Date: 03/28/05 Phone: 297-7800

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: JIM KING
Date: 03/29/05 Phone: 296-7964

Fiscal Note – 2005-06 Session

Bill #: S0934-1E **Complete Date:** 03/29/05

Chief Author: RANUM, JANE

Title: EXPAND 3RD DEGREE ASSAULT CRIME

Fiscal Impact	Yes	No
State	X	
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Sentencing Guidelines Comm

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

Bill Description

This bill creates a new subdivision of Third Degree Assault for assault by strangulation. If someone is assaulted by strangulation, it shall be classified as a felony with a statutory maximum of five years. Such assaults are currently misdemeanors or gross misdemeanors unless they qualified for enhancement to a felony level Fourth Degree or Domestic Assault because the offender had two prior assault convictions.

The effective date is August 1, 2005 and it applies to offenses committed on or after that date.

Assumptions

As a result of this bill, some percentage of misdemeanor and gross misdemeanor domestic assault offenses will become felonies. According to information supplied by the State Court Research Office, there were over 5,500 convictions for misdemeanor and gross misdemeanor domestic assaults in 2004 that did not involve weapons. It is not known how many of those offenses involved the act of strangulation. In order to estimate the number of cases that could potentially be elevated to felonies, several prosecutors' offices were contacted. The Ramsey County Joint Domestic Abuse Prosecution Unit reported that of the 217 domestic abuse cases it handled in 2004, 32 involved strangulation, of which 19 were charged as misdemeanors or gross misdemeanors. There were a total of 127 misdemeanor or gross misdemeanor cases, thus 15% of those cases involved strangulation. However, the Ramsey County Attorney's Office is of the opinion that a statewide 15% rate is not to be expected. They note that even in their own cases, some may not result in felony level convictions because of reluctant witnesses and lack of corroborating evidence. They further note that especially in the beginning, not all jurisdictions will have the resources and training available to investigate these cases with the thoroughness necessary to achieve a felony conviction. Given the additional information provided by Ramsey County, a range of estimates is presented, for 15%, 10% and 7.5% of the misdemeanor and gross misdemeanor 2004 domestic assault convictions statewide involving strangulation. Utilizing these percentages, it is projected that there would be an additional 412, 550 or 825 felony level cases each year.

In addition, this bill would elevate some misdemeanor and gross misdemeanor fifth degree assaults to felonies. According to information supplied by the State Court Research Office, there were over 3,900 convictions for misdemeanor and gross misdemeanor 5th degree assaults in 2003 that did not involve weapons. It is not known how many of those offenses involved the act of strangulation. The Ramsey County Attorney's Office believes that even a smaller percentage of fifth degree assaults involve strangulation and would have the evidence collected that would be necessary to secure a felony conviction. It is assumed that only 2% of the fifth degree assault cases would become felonies. At that rate, there would be 78 additional felony cases a year. The total projected number of new felony offenses would range from: 490 under the 7.5% scenario for domestic assault cases, 628 for the 10% scenario, and 903 for the 15% scenario.

It is assumed that the new felony offense will be ranked the same as the existing felony level domestic assault, which is ranked at severity level 4. At that severity level, only offenders with a criminal history score of four or more are recommended prison sentences. MSGC monitoring data indicate that 85 offenders were sentenced for the existing felony level domestic assault in 2003. Fifteen (17%) received executed prison sentences with an average duration of 25 months (17 months to serve). The imprisonment rate for felony fifth degree assault was 32% with an average duration of 24 months. However, it is assumed that fewer of the new felony level assault by strangulation cases will have the criminal history scores necessary to result in a presumptive prison sentence. Therefore an imprisonment rate of 10% is projected for the new felonies. Seventy-eight percent of the existing felony level domestic assault cases received local jail time as a condition of probation with an average pronounced duration of 109 days.

Impact on State and Local Correctional Resources

It is projected that elevating misdemeanor and gross misdemeanor assaults that involve strangulation to felonies will result in the need for 69-129 additional prison beds a year for initial sentences. This is based on the assumption that 10% of the projected 490-903 new felony level offenders will receive executed prison sentences with 17 month terms of imprisonment. If 2% of the lower level fifth degree assault cases and 7.5% of the lower level domestic assault cases are elevated to felonies, it is projected that 69 additional prison beds will be needed for initial sentences. If the felony rate for the new domestic assaults is 10%, the projected prison bed need is 89

beds. If 15% become felonies, the projected prison bed need is 129 beds.

It is projected that this bill will result in approximately 441-812 additional offenders a year being placed on felony probation. This increase creates the potential for additional prison beds being required for probation revocations. If 15% of these offenders have their probation revoked, and they have an average term of imprisonment to serve of eight months (average sentence of 15 months, serve 2/3 or 10 months with 2 months jail credit); an additional 44, 57, or 72 beds would be needed for these offenders. It is anticipated that the majority of that impact would not be realized until FY2007 or later. The Ramsey County Attorneys Office believes that many of these offenders will have significantly more jail credit and lower criminal histories than allowed for in this calculation and will end up as short term offenders serving their time in local facilities, however no data is available to validate that assumption.

The table below displays the number of new felony cases and prison beds required for each of the three scenarios.

Projected Number of New Felony Offenses and Prison Beds

	2% of Fifth Degree	Scenario for Domestic Assault Cases			Total Range
		7.5% of Domestic	10% of Domestic	15% of Domestic	
# of New Felonies	78	412	550	825	490-903
# Prison Sentences (10% imprisonment Rate)	8	41	55	83	49-91
# Beds for Initial Commits	11	58	78	118	69-129
# New Felony Probation	70	371	495	742	441-812
# Revocation Beds	7	37	50	65	44-72
Total Beds	18	95	128	183	113-201

The table below displays the timing of the need for additional prison beds. This projection allows for a four-month lag in implementation.

Total Projected Additional Prison Beds by Fiscal Year

Fiscal Year	7.5% of Lower Level Cases Elevated to Felonies			10% of Lower Level Cases Elevated to Felonies			15% of Lower Level Cases Elevated to Felonies		
	Initial Prison	Revo-cations	Total	Initial Prison	Revo-cations	Total	Initial Prison	Revo-cations	Total
2006	45	7	52	66	9	65	94	11	105
2007	69	25	94	89	32	105	129	40	169
2008	69	30	99	89	39	112	129	49	178
2009	69	35	104	89	45	119	129	57	186
2010	69	40	109	89	51	125	129	65	194
2011	69	44	113	89	57	146	129	72	201

This bill will also impact other state and local correctional resources. This impact cannot be clearly estimated because no information is available on the sanctions these offenders are currently receiving. Approximately 370-650 additional felony level probation cases a year are projected. The maximum amount of time an offender can be placed on probation is one year for misdemeanors and two years for gross misdemeanors. However, the maximum felony probation length is the statutory maximum, which for this offense is five years. In 2003, felony offenders placed on probation for the existing domestic assault offense had an average pronounced probation length of 52 months. It is not known how long they will actually serve on probation. Offenders can be released from probation before the end of the pronounced period if they comply with the conditions of probation. While the number of additional months or years these offenders will serve on probation cannot be determined, it is a fact that they will serve a longer probation period than they are currently serving and, as felony offenders they may be subject to a more intense level of supervision. It also cannot be determined how much additional local jail time

these offenders will serve, but it is reasonable to expect that they will serve longer, particularly if their offense is currently a misdemeanor, resulting in an impact on county jails.

FN Coord Signature: ANNE WALL
Date: 03/25/05 Phone: 296-0144

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: JIM KING
Date: 03/29/05 Phone: 296-7964

Fiscal Note – 2005-06 Session

Bill #: S0934-1E **Complete Date:** 03/29/05

Chief Author: RANUM, JANE

Title: EXPAND 3RD DEGREE ASSAULT CRIME

Fiscal Impact	Yes	No
State	X	
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Public Defense Board

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
General Fund		176	366	366	366
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
General Fund		176	366	366	366
Revenues					
-- No Impact --					
Net Cost <Savings>					
General Fund		176	366	366	366
Total Cost <Savings> to the State		176	366	366	366

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalent					
General Fund		4.25	4.25	4.25	4.25
Total FTE		4.25	4.25	4.25	4.25

Bill Description

This bill creates a new felony offense of Domestic Assault by Strangulation. If a family or household member is assaulted by strangulation it shall be classified as a felony with a statutory maximum of five years. Such assaults would currently be misdemeanors or gross misdemeanors unless they qualified for enhancement to a felony level Domestic Assault because they involved a third assault on a family or household member.

Assumptions

According to State Court Research Office, there were over 5,500 convictions for misdemeanor and gross misdemeanor domestic assaults in 2004 that did not involve weapons. According to information supplied by the MSGC about 15% of these convictions would involve strangulation which would result in an additional 825 felony level cases each year. In addition, there would be several cases handled which did not result in convictions. Accounting for these cases and also taking into account public defender representation rates, we would expect that there might be approximately 1,000 of these cases statewide. Base on the weighted difficulty of the case (felony v misdemeanor) we would expect an additional need for 4 attorneys statewide. In addition there would be a need for some additional attorney time in the appellate office.

Expenditure and/or Revenue Formula

Based on the above and phasing the positions in we would expect a cost of \$176,000 in FY 2006 and \$366,000 in FY 2007

Long-Term Fiscal Considerations

Local Government Costs

References/Sources

FN Coord Signature: KEVIN KAJER
Date: 03/29/05 Phone: 349-2565

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: JIM KING
Date: 03/29/05 Phone: 296-7964

Andrea Sternberg - family strangulation bill

From: "Connie Nelson" <connie.nelson@co.todd.mn.us>
To: <sen.jane.ranum@senate.mn>
Date: 4/5/2005 2:55:52 PM
Subject: family strangulation bill

Senator Ranum,

I am an advocate at Hands of Hope Resource Center in central Minnesota, and I am asking you on behalf of all of the Domestic abuse clients that I serve, to please support and pass the family strangulation bill that is before your committee. Strangulation has been proven to be one of the most common tactics used by batterers to cause great bodily harm to victims, and is also one of the most prominent signs in a violent relationship of the likelihood of a pending homicide. This crime needs to be a felony in Minnesota.

I, myself am a fortunate survivor of a strangulation by my abusive former husband. It was a fear technique that he had used previously, but in February 2000, he assaulted me knocking me to the floor and coming down on my throat with his knee, and forcefully applying pressure on my throat until I was rendered unconscious, causing me to have a strangulation induced stroke. I was also kidnapped and taken across state and international borders, which fortunately made his crime a Federal offense, and so he was therefore charged in the Federal court system and held accountable for the strangulation. Had this stayed within the state of Minnesota, his strangulation charges would not have been a felony, and he would not be in prison. I believe that the lethality of strangulation, and the other assaultive measures that this action leads to need to be taken very seriously by our elected officials. Please do your part in making strangulation of a family member a felony. Thank you for your attention to this matter.

Respectfully submitted,
Connie Nelson

Bill Summary

Senate

Senate Counsel & Research

State of Minnesota

S.F. No. 423 - Methamphetamine Provisions (First Engrossment)

Author: Senator Julie A. Rosen
Prepared by: Kenneth P. Backhus, Senate Counsel (651/296-4396)
Date: February 22, 2005

Overview

S.F. No. 423 makes numerous changes to laws relating to methamphetamine including: increasing methamphetamine-related criminal penalties and creating new crimes, placing property restrictions on methamphetamine laboratory sites, and creating a methamphetamine laboratory cleanup revolving loan fund. In addition, it amends the definition of narcotic drug in the controlled substances chapter of law to include methamphetamine, requires that schools be notified when students have been taken into protective custody after being found at methamphetamine lab sites, and recodifies the possession of methamphetamine precursors with the intent to manufacture methamphetamine crime into a stand-alone section of law. Finally, it appropriates unspecified sums to the Commissioner of Corrections, the Board of Public Defense, the Commissioner of Human Services, the Commissioner of Employment and Economic Development, the Commissioner of Public Safety, the Commissioner of Health, and the Commissioner of Education for various methamphetamine-related initiatives.

Article 1**Methamphetamine Provisions**

Section 1 amends the definition of "narcotic drug" in the controlled substance chapter of law to specifically include methamphetamine. Doing this ensures that methamphetamine sales and possession crimes are treated the same as cocaine and heroin throughout the controlled substances laws. Currently, this occurs for the most part. However, because methamphetamine is not defined as a narcotic drug, the sale of a small amount of methamphetamine is a fourth-degree controlled substance crime. The sale of a small amount of a narcotic drug (including heroin or cocaine) is a third-degree controlled substance crime.

Section 2 amends the attempted manufacture of methamphetamine crime enacted in the 2003 First Special Session. Makes mostly technical changes to clarify that this crime is not an "attempt crime" as much as a "possession of certain substances with intent to manufacture methamphetamine crime." These changes are consistent with the intent of the 2003 legislation and essentially "clean up" some confusing language in the provision. Strikes the cross-referenced definition of "anhydrous ammonia." Provides that the list of chemical reagents and precursors is not exclusive.

Section 3 increases the maximum criminal penalty for a violation of **article 1, section 2**, from a three-year/\$5,000 felony to a ten-year/\$20,000 felony and for a repeat offense from a four-year/\$5,000 felony to a 15-year/\$30,000 felony.

Section 4 requires courts to order persons convicted of manufacturing/attempting to manufacture controlled substances or of illegal activities involving precursor substances where the response to the crime involved an emergency response to pay restitution to public entities that participated in the response. Also requires courts to order these persons to pay restitution to property owners who incurred removal or remediation costs because of the crime. Courts may reduce the amount of restitution if the convicted person is indigent or if payment would create undue hardship for the convicted person's immediate family.

Requires peace officers who arrest persons at clandestine lab sites to notify the appropriate county or local health department and other entities of the arrest and the location of the site. Requires county or local health departments or sheriffs to prohibit all property that has been found to be a methamphetamine-contaminated clandestine lab site from being occupied, rented, sold, or used until it has been assessed and remediated. Specifies the process for remediation, including the circumstances under which the applicable authority must vacate its property use restriction order.

Requires that if a motor vehicle has been contaminated by methamphetamine production, and if the applicable authority is able to obtain its certificate of title, the authority shall notify the registrar of motor vehicles of this fact and forward the certificate of title to the registrar, so that a notation can be made on the title (see **article 1, section 7**). Requires that if the applicable authority has issued a property use restriction order, the authority shall record an affidavit containing a legal description of the property disclosing that it was the site of a clandestine lab and other specified information. Requires that if the applicable authority vacates its order, the authority must record an affidavit noting this. Provides that unless an affidavit has already been filed by the applicable authority, before any transfer of property ownership where the owner knew or should have known the property had been used as a clandestine lab site and contaminated by methamphetamine manufacturing, the owner shall record an affidavit noting this (failing to do so is a petty misdemeanor). Authorizes an interested party to record an affidavit indicating that proper removal and remediation has occurred. Requires the county recorder or registrar of titles to record any affidavits under this section in a manner that assures their disclosure in the ordinary course of a title search on the property.

Requires the Commissioner of Health to post on the Internet contact information for each local community health services administrator. Requires each of these administrators to maintain specified information related to property within the administrator's jurisdiction that is currently or was previously subject to a property use restriction order. Requires the administrator to make this information available to the public either upon request or by other means. Defines key terms.

Section 5 recodifies the prohibited fertilizer activities currently codified at sections 18C.201 and 18D.331. (These provisions are repealed in **article 1, section 12**.) In addition, adds two new crimes: stealing or unlawfully taking or carrying away any amount of anhydrous ammonia; and purchasing/possessing/transferring/distributing any amount of anhydrous ammonia, knowing or having reason to know that it will be used to unlawfully manufacture a controlled substance. Violation of either provision is a five-year/\$50,000 felony.

Section 6 criminalizes various methamphetamine-related activities that may impact children or vulnerable adults. The prohibited activities include manufacturing or attempting to manufacture methamphetamine, storing chemical substances, storing methamphetamine waste products, and storing methamphetamine paraphernalia. A person may not engage in these activities in the presence of a child or vulnerable adult; in the residence of a child or vulnerable adult; in a building, structure, conveyance, or outdoor location where a child or vulnerable adult might reasonably be expected to be present; in a room offered to the public for overnight accommodation; or in any multiple unit residential building. Also prohibits persons from knowingly causing or permitting a child or vulnerable adult to inhale, be

Minnesota	Meth Lab Task Force
Name	Organization
Sub	Committee
Paul Stevens	BCA
Deborah Durkin	MN Dept of Health
Rebecca Kenow	MN Dept of Health
Steve Lee	MN Pollution Control Agency
Tom Rime	DFO Community Corrections Supervisor
Brad Gerhardt	Martin Co Sheriff
Ginger Peterson	MN River Valley Drug Task Force
Greg Brolsma	Fairmont Police Dept Chief
Mark Harig	Freeborn Co Sheriff
Steve Borchardt	Olmsted Co Sheriff
Nancy Schroeder	Dept of Corrections
Jim Franklin	MN Sheriffs Assoc-Exec Director
Tracy Perzel	Assistant Attorney General
Scott Hersey	Dakota Co Attorney's Office & MCAA
Bob Nance	BCA
Paul Liemandt	MN Dept of Ag
Terese Amazi	Mower Co Sheriff
Tim Gallagher	Astrup Drug/MN Pharm Assn
Paul Philipp	Austin PD Chief
Kate Gaynor	MN Pollution Control Agency
Robert Walker	5th District Court Judge
Greg Herzog	Dept of Pub Safety Grants Specialist
Mary Ellison	DPS, Deputy Commissioner
Sue Perkins	Dept of Pub Safety
Nancy Schouweiler	Dakota Co Commissioner
Elizabeth Carpenter	MN Pharmacists Assn
Laura LaCroix	Local Pub Health Assn of MN c/o AMC
Dan Griffin	MN Supreme Court
Ruth Clinard	Dept of Human Services
Megan Helge	MN Dept of Health
Jay McLaren	Dept of Health
Abbie Laugtug	MN Pharmacists Assn
Jenn O'Rourke	League of MN Cities
Anne Finn	League of MN Cities
Ed Kaiser	MN Dept of Ag
Dr. Barbara Knox	Pediatric & Adolescent Medicine, Mayo
Clara James	Social Worker
Joanne Smith	Ramsey Co Judge
Scott Simmons	AMC
Terry Whitman	Jackson Co Human Services
Amy Rudolph	Dept of Education
Kevin Spading	MN Prevention Resource Center

Methamphetamine Trends and Activities

Background

In an effort to implement a statewide methamphetamine (meth) strategy *before* the problem of meth use and manufacturing reached epidemic proportions in Minnesota, the Minnesota Department of Public Safety (DPS), including the DPS Bureau of Criminal Apprehension (BCA), the Minnesota Department of Health and other state agencies created the Minnesota Multi-Agency Meth Taskforce in 2001.

DPS, MDH and the Minnesota Pollution Control Agency (MPCA) have since provided guidance and leadership in this effort. In 2004, methamphetamine use and making expanded from a mainly rural to whole-state problem, as use increased in major population centers. This rapid expansion of use has resulted in a proportionally dramatic increase of demands on state and local resources in all areas.

Meth Distinctions

State and federal experts on drug abuse trends describe these differences and distinctions that make meth a far-reaching public safety issue:

- A growing body of research tells us that meth addiction and disability are uncommonly rapid, causing functional brain disease in chronic users and a host of other physical and psychological problems. This addiction commonly occurs in 1 to 3 months, rather than the 2 to 3 years seen with cocaine and other amphetamines.
- Experts have identified a group of users who begin using meth for "practical" reasons such as weight loss, alertness, and mental acuity. These users are commonly identified as high achieving students, working mothers and other busy people who often have no previous drug abuse or criminal history.

- Meth is inexpensive to buy and easy to make.
- Nationwide statistics tell us that 25 percent of users are under 16 years of age.
- Networks unfamiliar to narcotics officers, often small friendship and family groups, typically distribute meth. Minnesota peace officers report multi-generational meth-making and using families.



- By the time meth users reach jail or treatment, most are poly-substance abusers, using meth with concurrent heavy alcohol and/or marijuana use. Some concurrent cocaine and heroin use is also reported.
- Meth is a drug of sexual enhancement. Children living with meth users are at high risk for sexual exploitation, sexually transmitted disease, and such blood-borne viruses as HIV and hepatitis.
- The majority of drugs are used more heavily by males than females (70 percent vs. 30 percent) but meth use among women and girls equals or exceeds use by males.
- States where drug-endangered children have been studied document a broad list of potential harms to children exposed In Utero and living with users and makers.
- Finally, methamphetamine is made easily but explosively in homes, vehicles, and in the outdoors throughout our state. Meth labs add a dangerous and costly extra risk for peace officers and the community.

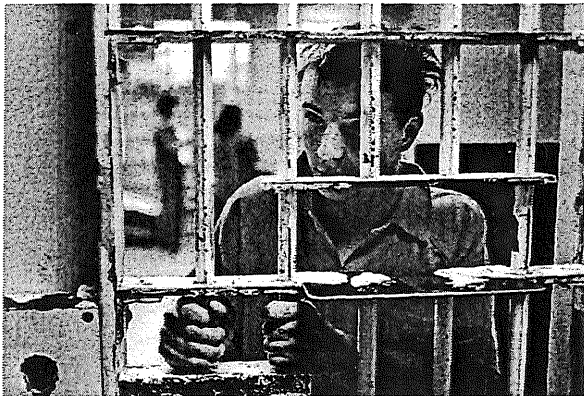
BCA

Superintendent's Office:
Bureau of Criminal Apprehension
1430 Maryland Avenue East
St. Paul, MN 55106
<http://www.dps.state.mn.us/bca/bca.html>

Methamphetamine Trends and Activities – page 2

Meth Stats and Trends

- One indication of the upward national and local trend in meth use comes from data released in July 2004 by Quest Inc., the nation's largest provider of workplace drug testing. Quest announced that the overall number of workplaces drug positives did not increase from 2003 to 2004; however the number of meth positives grew an alarming 68 percent in one year.
- The number of methamphetamine analyses performed at the BCA laboratory has increased steadily over the past six years. BCA records show 713 samples determined to be meth in 1999 and 2,304 meth positives in 2004.
- Similar increases were seen in prison incarceration rates. Meth crimes added 139 inmates to the system in 2001 and 869 in 2004.



- Many peace officers in rural Minnesota report that 70 to 90 percent of all crimes in their counties are meth-related. These include DWIs, crimes against persons and property, as well as drug related charges. For example, Sheriff Pat Medure of Itasca County recently reported that 93 percent of his county inmates were meth users.
- The Minnesota Department of Health has collected meth labs reports from local law enforcement since 1999. These are voluntary reports and do not reflect the total number of labs seized. However, MDH numbers have consistently exceeded reports to the Drug Enforcement Administration (DEA).

- The following numbers of labs were reported to MDH from 1999 to 2004: 18 (1999), 43 (2000), 53 (2001), 216 (2002), 497 (2003) and 319 labs in 2004. According to an informal MDH poll of 22 Minnesota narcotics officers and sheriffs, the 2004 figure does not reflect an accurate picture of lab activity. Reports are down because 1) labs are more mobile and harder to find, 2) meth is currently being made in as little as 2 hours, and 3) reporting is a low priority.
- The average Minnesota meth cook makes an ounce of meth every 2 to 4 days, providing drugs for himself and 1 to 5 others. An ounce of meth requires 1000 30-milligram pseudoephedrine tablets. It is estimated that the average Minnesota meth cook uses over-the-counter medications valued at \$13,500 each year.

Statewide Meth Costs

The Minnesota Department of Public Safety has compiled cost estimates from data received from state and local agencies. The total statewide public costs related to 2004 methamphetamine events were estimated at \$176,054,000 and included the following:

- Law Enforcement \$39,250,000
- Prosecution \$14,822,000
- Corrections \$88,622,000
- Environmental \$ 3,500,000
- Treatment \$14,129,000
- Child Welfare \$ 9,780,000

Law Enforcement Concerns

- Local Enforcement Capacity
Many small agencies in Minnesota lack the numbers of staff needed to respond to meth events and crimes. It may take a small sheriff's office six to ten days of staff time for all employees to seize, process and prosecute one meth lab. This is time taken away from normal duties, including lesser drug crimes and public service.

Methamphetamine Trends and Activities – page 2

Law Enforcement Concerns, continued.

- **Training and Equipment**
Currently there are approximately 120 officers trained to perform clandestine lab investigation and seizure. Cost to train and equip one officer is 8 to 12 thousand dollars initially, with an additional \$2000 a year for equipment and training. Many counties have one or two trained officers, and do not meet minimum OSHA safety standards.
- **Officer Health and Safety**
Few agencies have medical surveillance programs. Many clan lab officers must serve broad geographic areas. Many of the stresses of this work would be relieved by the addition of more trained responders.

Meth-Related Crime

Most individuals who are sentenced to Minnesota jails and prisons for meth-related offenses are not prosecuted for sales or manufacture of methamphetamine. Rather, they are arrested for a variety of other crimes, including, child and domestic abuse, driving while intoxicated, theft and burglary, and crimes against persons.

The most serious of these have been an increasing number of violent personal assaults and homicides over the past several years, including:

- **1998. Erhard.** Suicide and murder of 3 year old son.
- **1999. Anoka.** Undetermined cause of death; believed to be connected to meth trafficking.
- **1999. Hancock, Morris, Minneapolis.** Meth lab explosion; residences in three communities raided; death of one suspect who fired on officers.
- **2000. Eagan.** Charges involving sexual molestation of 12 and 14 year old girls for whom suspect provided meth.
- **2000. Burnsville.** Rape and meth overdose death of 16 year old girl.

- **2001. Austin.** First prosecution case in connection with death in a meth lab fire. Two suspects charge and convicted.
- **2001. Grove City.** Attempted murder of a Sheriff's officer at a residence where a large-scale meth lab was discovered.
- **2002. Elizabeth.** A 2 year old and an 11 year old child died in a meth-related fire.
- **2003. Saint Paul.** Two people killed and one wounded when a meth buy went bad.
- **2003. Chatfield.** Meth user on a crime spree later pleads guilty to 1st degree burglary, attempted 3rd degree murder, and 3 counts of 2nd degree assault.
- **2003. Pillager.** Meth-related triple homicide. Suspect committed suicide before he could be arrested.
- **2003. Little Canada.** Two charged with murder of teen while meth-intoxicated.
- **2003. Northeast Minneapolis, Long Prairie.** Murders, by two meth users, of a father and daughter in NE Minneapolis; a family of three in Long Prairie. One suspect committed suicide in his jail cell.
- **2004. Ashby.** Other charged with child endangerment after abandoning infant in freezing apartment while high on meth.
- **2004. Ramsey.** Random spree murders of two people in their homes, by meth user.
- **2004. Princeton.** Nineteen year old meth user charged with murder of his infant son.
- **2004. Fountain.** Death by fire of a Fountain man when his meth lab exploded.
- **2004. Dillworth.** Three charged with murder by hatchet related to a meth buy.

These events do not include all violent crimes related to meth use and manufacture. Nor do they include injury or death by suicide, overdose or vehicular accident, though there have been such incidents.

For more information

See the MDH Meth Website:
<http://www.health.state.mn.us/divs/eh/meth/index.html>. Or contact BCA Narcotics Supervisor, Larry Bergsgaard, (651) 793-7000, larry.bergsgaard@state.mn.us.

Consolidated Fiscal Note – 2005-06 Session

Bill #: S0423-1E Complete Date: 03/22/05

Chief Author: ROSEN, JULIE

Title: METHAMPHETAMINE RELATED CRIMES

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings	X	
Tax Revenue		X

Agencies: Corrections Dept (03/02/05)
 Health Dept (03/22/05)
 Human Services Dept (03/15/05)
 Sentencing Guidelines Comm (03/01/05)
 Public Safety Dept (03/02/05)

Supreme Court (03/08/05)
 Employment & Economic Dev Dept (03/02/05)
 Public Defense Board (03/16/05)
 Education Department (03/17/05)

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Net Expenditures					
New Fund			26	55	55
Employment & Economic Dev Dept			26	55	55
General Fund	0	2,666	3,386	3,259	3,320
Education Department		50	75	75	75
Human Services Dept	0	300	300	300	300
Health Dept		100	100	100	100
Employment & Economic Dev Dept		250	250		
Public Safety Dept		1,000	1,000	1,000	1,000
Supreme Court		165	165	165	165
Public Defense Board		450	945	945	945
Corrections Dept	0	351	551	674	735
Revenues					
New Fund			26	55	55
Employment & Economic Dev Dept			26	55	55
Net Cost <Savings>					
New Fund			0	0	0
Employment & Economic Dev Dept			0	0	0
General Fund	0	2,666	3,386	3,259	3,320
Education Department		50	75	75	75
Human Services Dept	0	300	300	300	300
Health Dept		100	100	100	100
Employment & Economic Dev Dept		250	250		
Public Safety Dept		1,000	1,000	1,000	1,000
Supreme Court		165	165	165	165
Public Defense Board		450	945	945	945
Corrections Dept	0	351	551	674	735
Total Cost <Savings> to the State	0	2,666	3,386	3,259	3,320

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
General Fund	0.00	28.35	31.75	33.75	34.75
Education Department		0.25	0.25	0.25	0.25
Health Dept		1.00	1.00	1.00	1.00
Employment & Economic Dev Dept			0.20	0.20	0.20
Public Safety Dept		10.00	10.00	10.00	10.00
Supreme Court		0.50	0.50	0.50	0.50
Public Defense Board		11.00	11.00	11.00	11.00
Corrections Dept	0.00	5.60	8.80	10.80	11.80
Total FTE	0.00	28.35	31.75	33.75	34.75

Consolidated EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: JIM KING

Date: 03/22/05 Phone: 296-7964

Fiscal Note – 2005-06 Session

Bill #: S0423-1E **Complete Date:** 03/02/05

Chief Author: ROSEN, JULIE

Title: METHAMPHETAMINE RELATED CRIMES

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Corrections Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
General Fund	0	351	551	674	735
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
General Fund	0	351	551	674	735
Revenues					
-- No Impact --					
Net Cost <Savings>					
General Fund	0	351	551	674	735
Total Cost <Savings> to the State	0	351	551	674	735

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
General Fund	0.00	5.60	8.80	10.80	11.80
Total FTE	0.00	5.60	8.80	10.80	11.80

H.F. 423 Methamphetamine Crimes

Bill Description

The provisions of this bill modify the definition of a Narcotic Drug to include methamphetamines, increases the statutory maximum for possession of precursors, recodifies and expands offenses involving Anhydrous Ammonia, expands methamphetamine related crimes involving children and vulnerable adults, and adds newly created child endangerment offenses to the definition of violent crime.

Assumptions

- According to the Minnesota Sentencing Guidelines Commission there will be increase in the need for prison beds. It is estimated the number of prison beds needed will start out at 22 the first year of the bill and hit a maximum number of 44 beds in four years.
- Prison bed costs are based on a marginal cost per diem for each fiscal year. The annual per diems are as follows: FY06 \$69.85, FY07 \$70.91, FY08 \$71.99, and FY09 \$73.10. This includes marginal costs for all facility, private and public bed rental, health care, and support costs.
- In order to estimate the annual cost the number of prison beds needed is phased in on a quarterly basis. Then multiplying the number of beds for each quarter by the subsequent annual per diem determines the estimate for the annual costs of prison beds.
- Prison bed FTE impact for the increase in the inmate population assumes 80 percent of the ongoing bed impact is personnel-related and the average salary is \$50,000 per year including benefits.
- Each section of this bill either expands current penalties or creates new crimes in the area of Methamphetamines.
- According to the Minnesota Sentencing Guidelines Commission, due to limited history, it is difficult to determine the impact on supervision caseloads.
- Each of these changes or new offenses will add offenders to the already overcrowded supervision caseloads statewide.
- The accumulative affect of this bill with all other enhancements and new laws passed this session may have a significant impact of caseloads.
- This bill is effective August 1, 2005, except for section 10, which is effective July 1, 2005.

Expenditure and/or Revenue Formula

Expenditures for Prison Beds

Fiscal Year	2005	2006	2007	2008	2009
Number of Prison Beds	0	22	34	41	44
Costs of Prison Beds (1=1,000)	\$0	\$351	\$551	\$674	\$735
Total DOC Cost (1=1,000)	\$0	\$351	\$551	\$674	\$735
FTE	0	5.6	8.8	10.8	11.8

Long-Term Fiscal Considerations

The long-term fiscal considerations are substantial. The cost of 44 prison beds in each subsequent will cost \$1.174 million per year (not including inflation). This proposal may also have significant long-term fiscal impact as felony supervision caseloads will increase in the long-term.

Local Government Costs

The impact on local correctional resources could be significant due to increased felony probation caseloads with some increased use of local jails and workhouses as a condition of probation.

References/Sources

Minnesota Sentencing Guidelines staff.
Minnesota Department of Corrections staff.

FN Coord Signature: DENNY FONSECA
Date: 03/02/05 Phone: 642-0220

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: JIM KING
Date: 03/02/05 Phone: 296-7964

Fiscal Note – 2005-06 Session

Bill #: S0423-1E **Complete Date:** 03/17/05

Chief Author: ROSEN, JULIE

Title: METHAMPHETAMINE RELATED CRIMES

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Education Department

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
General Fund		50	75	75	75
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
General Fund		50	75	75	75
Revenues					
-- No Impact --					
Net Cost <Savings>					
General Fund		50	75	75	75
Total Cost <Savings> to the State		50	75	75	75

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
General Fund		0.25	0.25	0.25	0.25
Total FTE		0.25	0.25	0.25	0.25

Bill Description

SF 432-1E is a broad based initiative addressing the issue of methamphetamines. This fiscal note addresses only portions that involve the E-12 education system.

The issues related to directly or indirectly to children or to schools in the bill include the following items.

Article 1

Section 6, Subd. 2 No person may permit a child to be exposed to any aspect of methamphetamine production or use.

Section 6, Subd. 5 A child may be taken into protective custody if present in an area of production or use of the drug. Children exposed to the drug or its precursors shall be offered health screening for harmful effects.

Section 8, Subd. 6 The officer taking a child into protective custody must notify the chief administrative officer of the school the child attends.

Article 2

Section 8 MDE is provided an appropriation to develop and distribute material addressing the dangers of methamphetamines to school districts to create an awareness of the drug, and to help school districts develop prevention programs.

Assumptions

There is information on methamphetamine available on the web and from states that have a long history of dealing with this drug. Expertise is needed to sort the information, select and package it in ways that complement existing prevention programming.

- a) The Curriculum Enhancement Resource Review Tool (CERRT) developed at MDE for drug abuse prevention provides criteria for development and selection of materials for schools.
- b) Materials need to be age-appropriate/developmentally appropriate for middle and high school students and for parents of elementary, middle and high school students.
- c) Messages for students and parents need to be sustained over time in order to have any effect. The content must be accurate and current and periodically modified with new, reinforcing messages.

Materials developed and provided to school district will also need to provide guidance to district and school administration regarding procedure for dealing with police reports to the school of student apprehended using or producing the drug and/or students exposed to drug production or use.

Expenditure and/or Revenue Formula

- 1. Agency general expenses
 - a. Staffing
 - MDE Support Staff 0.25 FTE

Clerical	Est. Salary	Est. Benefits	Total Cost	FTE	Adjusted Cost	Fiscal Note Cost
Clerical	33,800.00	14,969.74	48,769.74	0.25	12,192.44	12,192.44
Agency Indirect Costs						13,856.00
Total Cost for 0.25 FTE						26,048.44
Cost that agency can absorb						8,196.00
Net Cost for New Position						17,852.44

Existing staff with the support of a new .25 FTE staff will coordinate the activities of developing and disseminating methamphetamine education materials, integration of those resources into current prevention programming, communicating and monitoring of the regional sites to ensure adequate dissemination of materials, supervise material development contracts, organize and monitor web-posting of developed resources and guidelines for their use including links to credible youth and adult web sites.

Operating costs

- Use of ITV for connecting with HELP HERC sites and providing school regional in-services
- Funds for printing of a of communiqués that cannot be done electronically
- Web maintenance – posting (assume to be donated)
- Printing or fabricating resources and guidelines (pamphlet or packet, CD Rom, other attention-getting resources). The majority of resources would be on-line.

Year one communication estimate. \$32,147.56
 Years two through year four communication estimate \$57,147.56

	FY 2006	FY 2007	FY 2008	FY 2009
Staffing	17,852.44	17,852.44	17,852.44	17,852.44
Communications	32,147.56	57,147.56	57,147.56	57,147.56
Total	50,000.00	75,000.00	75,000.00	75,000.00

Federal Safe and Drug Free Schools funding is to be eliminated for school year 2006-2007. If these funds are no longer available to the state, the administrative and technical support system currently available to communicate methamphetamine information through will no longer exist, resulting in higher costs to the state including the level of agency staff required to support this initiative.

Long-Term Fiscal Considerations

Funds for addressing methamphetamine need to be sustained for 6 years in order to have an effect.

Local Government Costs

Schools will incur costs related to

- 1) Resources: Teachers acquainting themselves with new meth resources and guidelines for incorporating them into and effective prevention program context.
- 2) Review of policies and reporting requirements.
- 3) Pre-assessment/Student Assistance Team tasks:
 - Ensure there is a safe, secure and welcoming environment for children removed from their homes as reported by the police.
 - Support students at risk for and/or using meth to find treatment; provide after-care.

Agency Contact Name: Montano, Jessie 651-582-8784
 FN Coord Signature: AUDREY BOMSTAD
 Date: 03/17/05 Phone: 582-8793

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: BRIAN STEEVES
 Date: 03/17/05 Phone: 296-8674

Fiscal Note – 2005-06 Session

Bill #: S0423-1E **Complete Date:** 03/15/05

Chief Author: ROSEN, JULIE

Title: METHAMPHETAMINE RELATED CRIMES

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Human Services Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
General Fund	0	300	300	300	300
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
General Fund	0	300	300	300	300
Revenues					
-- No Impact --					
Net Cost <Savings>					
General Fund	0	300	300	300	300
Total Cost <Savings> to the State	0	300	300	300	300

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

NARRATIVE: SF 423-1E

Bill Description

Section 4 of the bill appropriates funds for three pilot projects addressing methamphetamine; to be awarded to counties with a comprehensive county wide plan to combat methamphetamine abuse. At least one project must have emphasis on adolescents, and at least one must have a maternal/early childhood emphasis. Counties, in order to be eligible for funding, must have a countywide plan addressing a number of methamphetamine issues, including chemical dependency treatment.

Assumptions

- It is assumed that qualifying counties have processes in place that assure persons with methamphetamine abuse are placing these people in treatment presently, and there will be no change the county's Chemical Dependency Fund cost as a result of this bill.
- It is assumed that each project will be supplying a number of supportive services to 40 individuals/families per year; and that actual chemical health treatment expenses will continue to be paid from the Consolidated Chemical Dependency Treatment Fund.

Expenditure and/or Revenue Formula

The Chemical Health Division administers a number of grants for services to pregnant women and women with children that are similar in intensity of service to the projects proposed in this bill. Of those programs operated by counties, the SFY 2004 average metropolitan cost was \$2,700 per person, and the average non-metropolitan cost was \$2,300. This yields an estimate of \$2,500 per person/family for the services proposed in this bill. \$2,500 per person X 40 persons X three projects = \$300,000 projected cost.

Long-Term Fiscal Considerations

None

Local Government Costs

Counties will bear cost of local administration of the grants.

References/Sources

Costs are based on the expenditures made in current Chemical Health grant projects providing similar levels of intensity of direct client services.

Agency Contact Name: Wayne Raske 582-1849
FN Coord Signature: STEVE BARTA
Date: 03/07/05 Phone: 296-5685

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: DOUG GREEN
Date: 03/15/05 Phone: 286-5618

Fiscal Note – 2005-06 Session

Bill #: S0423-1E **Complete Date:** 03/22/05

Chief Author: ROSEN, JULIE

Title: METHAMPHETAMINE RELATED CRIMES

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Health Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
General Fund		100	100	100	100
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
General Fund		100	100	100	100
Revenues					
-- No Impact --					
Net Cost <Savings>					
General Fund		100	100	100	100
Total Cost <Savings> to the State		100	100	100	100

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalent					
General Fund		1.00	1.00	1.00	1.00
Total FTE		1.00	1.00	1.00	1.00

Bill Description

A bill regulating the sale of methamphetamine precursor drugs; authorizing the reporting of suspicious transactions involving these drugs; increasing criminal penalties; mandating lab site cleanup following MDH Clandestine Drug Labs General Cleanup Guidelines, establishing a laboratory cleanup revolving fund and authorizing loans to assist counties and cities conducting methamphetamine cleanup under a local ordinance.

Section 4, Subdivision 2 (c) and (e) requires all property that has been found to be a clandestine lab site and is contaminated by substances or chemicals used to manufacture methamphetamine, needs to be assessed and remediated according to the Department of Health’s clandestine drug labs general cleanup guidelines.

A mandate to follow the new guidance will significantly increase the level of demand for MDH technical assistance to individuals and local governmental taskforces responsible for implementing these requirements. Research on the process and efficacy of mitigating the exposure hazards from dwellings that have been used to manufacture meth continues to evolve. A statewide mandate to follow the guidelines will require more frequent and timely revisions as new data are made available.

Assumptions

Assumes 1 full-time Research Scientist 3 with expertise in toxicology and/or industrial hygiene to monitor, analyze and interpret the rapidly changing scientific research on the impacts of meth manufacturing and exposures to children in particular. Revisions to MDH’s existing cleanup guidance will need to be made based on this research.

There are currently 37 counties and a handful of cities with meth-related ordinances. These ordinances require cleanup of homes and other structures used to manufacture meth following the current MDH Cleanup Guidance. This bill will require all 87 counties to follow our guidance. Since each cleanup site is different, requests for MDH technical assistance from the additional 50 counties will significantly increase, especially since many of these counties have a backlog of meth-impacted homes that have not been remediated.

PCA is just finishing up a federal grant for research in the area of cleanup (environmental/exterior) and efficacy and methods for interior remediation. PCA is currently responding to the volume of inquiries from local public health and environmental agencies, potential home buyers, other state programs interested in their research, etc. related to interior remediation, with approximately 1.5 FTEs devoted to this effort.

Based on the experience of PCA, and the increase in the number of counties that will adopt ordinances, we are assuming one additional FTE will be needed to provide technical assistance.

Expenditure and/or Revenue Formula

EXPENDITURES	
Research Scientist 3	59,466
Fringe 29%	17,245
Subtotal Sal & Fringe	76,711
Supplies & Exp:	
Communications	447
Travel expenses	3,000
Supplies	4,000
Desktop computer	2,000
Educational Material	5,000
Operation Support	8,842
Services 9.7%	
Subtotal S & E	23,289
TOTAL EXPENSES	100,000

Long-Term Fiscal Considerations

The MDH will continue to incur costs for their ongoing work of conducting meth awareness training to first responders, local response agency staff and other at-risk staff, as well as providing technical assistance for

mitigating exposures to the toxic chemicals used to manufacture methamphetamine.

Local Government Costs

Local government agencies will incur start-up and administrative costs to establish multi-disciplinary taskforces (law enforcement, public and environmental health, social services, etc.) and to develop local meth ordinances, policies, and procedures. The MDH, with the assistance of several local governments, has developed model meth ordinances and protocols, along with other materials to help facilitate local efforts. Local government agencies may also incur response and remediation costs. The bill establishes a methamphetamine laboratory cleanup revolving fund to reimburse local governments for response and remediation costs, if the local unit of government has adopted a methamphetamine ordinance.

References/Sources

MDH Meth Lab Program

Agency Contact Name: Rebecca Kenow (651-215-0732)
FN Coord Signature: MARGARET KELLY
Date: 03/07/05 Phone: 281-9998

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: CRAIG WIEBER
Date: 03/22/05 Phone: 282-5065

Fiscal Note – 2005-06 Session

Bill #: S0423-1E **Complete Date:** 03/02/05

Chief Author: ROSEN, JULIE

Title: METHAMPHETAMINE RELATED CRIMES

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings	X	
Tax Revenue		X

Agency Name: Employment & Economic Dev Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
New Fund			26	55	55
General Fund		250	250		
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
New Fund			26	55	55
General Fund		250	250		
Revenues					
New Fund			26	55	55
Net Cost <Savings>					
New Fund			0	0	0
General Fund		250	250		
Total Cost <Savings> to the State		250	250	0	0

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
General Fund			0.20	0.20	0.20
Total FTE			0.20	0.20	0.20

Bill Description

This first engrossment has the same fiscal impact to our agency as introduced in the original bill.

The Department of Employment and Economic Development (or more accurately, the Public Facilities Authority) will only deal with those parts of the bill that (a) amend M.S. 446A to create a Methamphetamine Laboratory Cleanup Revolving Fund, to pay for appropriate cleanup costs incurred by local government, and (b) provide an annual General Fund appropriation to the Authority for the purpose of establishing the new fund.

Loans out of the revolving fund would be repaid by collection of special assessments on sale of property.

Assumptions

- Based on discussions with Senate staff, the Authority assumes the legislative request will be \$250,000 per year for two years.
- The Authority abides by strict administrative cost regulations for each fund it controls. Therefore, the Authority would need 5% percent of the annual appropriation to administer this particular fund. This accounts for 0.2 FTEs. Over time, fees collected (or deducted) from interest on loan repayments would increasingly cover this cost. (For simplicity, the cover sheet does not show the initially small FTE fractions that the new fund would begin to cover in FY 2006.)
- The Authority estimates demand for the fund to be adequate both to use the requested appropriation fully each year and generate the "revolving", repayment aspect of the fund.
- The Authority assumes the loans would be paid over a 10 year period, with a 2% "interest" rate used as fees to reduce future administrative costs.
- For mathematical ease, this fiscal note assumes even payments of principal and interest over 10 years.
- The dates in section 14 are intended to be June 30, 2006.

Expenditure and/or Revenue Formula

FY 2006: The Authority would receive a \$250,000 appropriation, translated directly to the front page as fiscal impact. Five percent of \$250,000 (or \$12,500) will be used for administrative cost leaving \$237,500 for loans to local governments.

At 2%, this appropriation would generate principal and interest of approximately \$262,000 (\$25,000 in interest) over 10 years, resulting in annual repayments of about \$26,000 (\$2,500 in interest).

FY 2007. Assuming the repayment schedule above, the Authority would receive \$26,000 in principal and interest during this fiscal year as repayment on FY 06 loans. The Authority would receive a new appropriation of \$250,000. Combined, it would have \$276,000 in resources, of which \$263,500 would be available for loans. (Administration would still require \$12,500; but the \$2,500 in interest received would defray the General Fund's contribution.)

FY 2008: The Authority would cumulatively receive \$26,000 from FY 06 loans and \$29,000 from FY 07 loans. Of the \$55,000 in revenue, 2% would be used to service the loans and \$53,900/yr would be used to make additional loans.

Long-Term Fiscal Considerations

The revolving fund will continue to lend out funds as received.

Local Government Costs

While the local governments do technically incur costs, such costs can be assessed to the properties in question. The owners of properties requiring cleanup would be ultimately responsible for payments. Therefore, at worst the local governments may incur incidental staffing costs, to administer loan repayment procedures.

References/Sources

Terry Kuhlman, Executive Director, Minnesota Public Facilities Authority; 651-296-4704

FN Coord Signature: MIKE MEYER

Date: 03/02/05 Phone: 297-1978

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: KEITH BOGUT
Date: 03/02/05 Phone: 296-7642

Fiscal Note – 2005-06 Session

Bill #: S0423-1E **Complete Date:** 03/01/05

Chief Author: ROSEN, JULIE

Title: METHAMPHETAMINE RELATED CRIMES

Fiscal Impact	Yes	No
State	X	
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Sentencing Guidelines Comm

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

Summary of Estimated Bed Impact on State Prison Resources

Bill Section	Provision	Estimated Impact	Estimated Cumulative Beds
1	Define Methamphetamine as a Narcotic	Limited	19 beds
3	Possession of Precursors with Intent to Manufacture Meth.	Limited	15 beds
5	Anhydrous Ammonia	Minimal	Less than 10 beds
6	Meth. Crimes Involving Children and Vulnerable Adults	Minimal	Less than 10 beds
10	Definition of Violent Crime	Minimal	Less than 10 beds
	Total Impact	Moderate	44 beds (allowing for 10 beds from the 3 provisions with minimal impact)

Timing of Projected Prison Bed Impact

The following table displays the timing for the need of additional prison beds, allowing for a 4-month lag between when the new provisions take effect and when the impact will begin to be felt.

	Section 1: Redefine Narcotics	Section 4: Possession Precursors	Sections 7 and 8: Ammonia and Child Endangerment	Total
FY 2006	5 beds	10 beds	7 beds	22
FY 2007	11 beds	13 beds	10 beds	34
FY 2008	16 beds	15 beds	10 beds	41
FY 2009	19 beds	15 beds	10 beds	44

The effective date of all sections of the bill pertaining to criminal penalties is August 1, 2005 and it applies to offenses committed on or after that date.

A. Section 1: Redefinition of Narcotic Drug

Bill Description

Section one modifies the controlled substance definition statute so that methamphetamines are included in the definition of narcotic drugs.

Assumptions and Impact on State and Local Resources

The 1st and 2nd degree controlled substance crimes currently treat methamphetamine crimes the same as crimes involving cocaine or heroin, as does the 3rd degree possession offense. The sale of any amount of a narcotic drug is a 3rd degree offense, and this is where the definitional change may have an impact. Currently sales of methamphetamine, which do not qualify as 1st or 2nd degree offenses, are categorized as 4th degree offenses. MSGC monitoring data indicate that in 2003, the imprisonment rate for 3rd degree sale offenses was 32%, whereas the imprisonment rate for 4th degree sale offenses was 20%. The average pronounced sentence for 3rd degree sale offenders receiving a prison sentence was 35 months, whereas the average pronounced sentence for 4th degree offenders receiving a prison sentence was 23 months. There were 49 offenders sentenced for 4th degree sale of methamphetamine as their most serious offense, and nine of them received an executed prison sentence. If these 49 offenders were sentenced as 3rd degree offenders rather than 4th degree offenders, the projected bed impact is 19 beds.

B. Section 2 and 3: Increased Statutory Maximum for Possession of Precursors

Bill Description

Effective August 1, 2003 the legislature created a new offense called "attempted manufacture of methamphetamine" involving the possession of any chemical reagents or precursors with the intent to manufacture methamphetamine. The maximum penalty for this offense is 3 years for a first offense and 4 years for subsequent offenses. This bill removes the designation of this crime as "attempted manufacture of

methamphetamine” and increases the statutory maximum to ten years for a first offense and 15 years for subsequent offenses.

Assumptions and Impact on State and Local Resources

Because M.S. §152.021 subd. 2a(b) has only been in effect since August 1, 2003, there is very limited information about how many of these cases to expect. Four of these cases were sentenced in 2003. Preliminary information suggests that the number of these cases will be in the range of 100-120 in 2004. The number of drug cases sentenced, particularly methamphetamine cases, increased substantially between 2001 and 2002 and again in 2003. Projections based on 120 cases per year are presented here. That number could increase if the number of methamphetamine cases continues to grow at a significant rate.

The current M.S. §152.021 subd. 2a(b) offense has a 3-year statutory maximum and is ranked at Severity Level 3 by the Sentencing Guidelines. At that severity level, offenders with a criminal history score under 4 are recommended probationary sentences. Limited information is available on actual sentencing practices for this offense. Of the four cases sentenced in 2003, one offender received an executed prison sentence, which was the result of a request for a prison sentence due to a probation revocation for a previous offense. Since this proposal increases the statutory maximum for this offense to 10 years, it is likely to be ranked at a higher severity level. It is assumed that possession of methamphetamine precursors will be ranked at the same severity level as fourth degree drug offenses (severity level 4) because the proposed statutory maximum is closest to the 15 year statutory maximum in place for fourth degree controlled substance offenses. It is also assumed that the imprisonment rate for this offense will be similar to the 20% rate observed in 2003 for fourth degree controlled substance offenses. At this severity level, offenders receiving executed prison sentences serve slightly longer terms of imprisonment than offenders sentenced for offenses at severity level 3 (3-5 months). The projected impact from these longer durations and increase in number of cases is 15 prison beds a year.

C. Section 5: Recodification and Expansion of Offenses Involving Anhydrous Ammonia

Bill Description

This provision recodifies the existing felony anhydrous ammonia provisions as statute 152.136 provisions and expands the crime to include “purchase, possess, transfer or distribute any amount of anhydrous ammonia, knowing or having reason to know that it will be used to unlawfully manufacture a controlled substance” as prohibited conduct. As with the existing anhydrous ammonia offenses, the statutory maximum is 5 years. The existing anhydrous ammonia offenses are repealed.

Assumptions and Impact on State and Local Resources

It is unclear what the impact of the provision that expands the list of prohibited behavior will be. MSGC monitoring data indicates that 51 offenders were sentenced in 2003 for the existing anhydrous ammonia offenses, and 90% received probationary sentences. Assuming that most offenders will continue to receive probationary sentences, the impact from this provision is projected to be minimal, even if the number of cases sentenced increases.

D. Section 6: Methamphetamine Related Crimes Involving Children and Vulnerable Adults

Bill Description

The bill prohibits the manufacture; attempted manufacture; and storage of methamphetamine, methamphetamine waste products, methamphetamine paraphernalia, and chemicals in the presence of children or vulnerable adults, in buildings where such a person might reasonably be expected to be present, in a room offered to the public for overnight accommodation, or in any multiple unit residential building. It also prohibits someone from causing or permitting a child or vulnerable adult to inhale, be exposed to, ingest, or have contact with methamphetamine, a chemical substance, or methamphetamine paraphernalia. The statutory maximum is 5 years. In addition, it specified that multiple sentences are allowed for this offense and any other offense committed as part of the same conduct.

Assumptions and Impact on State and Local Resources

It is not possible to project the exact number of new convictions that will result from this provision. There is an existing provision of the Child Endangerment Statute (M.S. § 609.378 subd. 1(b)(2)) that prohibits permitting a child to be present where any controlled substance is sold, manufactured or possessed. This offense is a

felony if it results in substantial harm to the child's physical, mental, or emotional health; otherwise, the offense is a gross misdemeanor. MSGC monitoring data show that 15 offenders were sentenced in 2003 for any form of felony child endangerment (not just through exposure to controlled substances). The new provision appears to expand the definition of prohibited behavior, making it applicable to vulnerable adults, and enhance some gross misdemeanors to felonies. In addition, it appears to cover offenses where children are not present. Therefore, it is estimated that there will be an increase in the number of felony level offenses sentenced each year, but the size of the increase is unknown. Information from the State Court's Research Office indicates that there were 140 gross misdemeanor charges filed in 2002 and 113 charges filed in the first 10 months of 2003 for child endangerment through exposure to controlled substances. The 2002 filings resulted in 29 convictions with 18 cases still open and the 2003 filings resulted in 15 convictions with 55 cases still open. It cannot be determined how many of these offenses stemmed from exposure to methamphetamine or methamphetamine precursors, but it is assumed that at least half of the filings were meth related. (In 2003, over 40% of the felony level drug offenses involved methamphetamine). Since this provision expands the scope of behavior categorized as criminal, it is estimated that it will result in at least 20 new felony level offenses a year.

The existing felony Child Endangerment offense has a 5-year statutory maximum and is ranked at Severity Level 1. At that severity level, offenders with a criminal history score of less than 6 are recommended probationary sentences. Of the 15 offenders sentenced for this offense in 2003, one received an executed prison sentence. It should be noted that those endangerment offenses could have involved offenses other than exposure to controlled substances. This proposed new offense also has a statutory maximum of 5 years. It will expand the pool of offenders sentenced for felony level endangerment to children and vulnerable adults. Because the size of that increase is unknown, the impact on correctional resources is uncertain. Since most offenders convicted solely of this offense are likely to receive probationary sentences, the impact from this provision on state prison resources is likely to be minimal. This estimate is based on the assumption that offenders convicted of child endangerment in addition to another methamphetamine controlled substance offense will receive concurrent sentences. Any increase in the number of felony level cases will also result in an increase in felony probation case loads and increased use of local jails and workhouses for jail time served as a condition of probation.

E. Section 10: Adds the newly created child endangerment offenses to the definition of violent crime in M.S. 609.1095

Assumptions and Impact on State and Local Resources

This statute specifies offenses for which mandatory sentencing provisions apply for offenders who commit a third violent felony. Projected Impact is minimal.

FN Coord Signature: ANNE WALL
Date: 03/01/05 Phone: 296-0144

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: JIM KING
Date: 03/01/05 Phone: 296-7964

Fiscal Note – 2005-06 Session

Bill #: S0423-1E **Complete Date:** 03/02/05

Chief Author: ROSEN, JULIE

Title: METHAMPHETAMINE RELATED CRIMES

Fiscal Impact	Yes	No
State	X	
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Public Safety Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
General Fund		1,000	1,000	1,000	1,000
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
General Fund		1,000	1,000	1,000	1,000
Revenues					
-- No Impact --					
Net Cost <Savings>					
General Fund		1,000	1,000	1,000	1,000
Total Cost <Savings> to the State		1,000	1,000	1,000	1,000

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
General Fund		10.00	10.00	10.00	10.00
Total FTE		10.00	10.00	10.00	10.00

Bill Description

Methamphetamine precursor drug sales regulated, civil immunity provided for reporting of suspicious transactions, criminal penalties and property restrictions imposed, meth lab cleanup fund established, and money appropriated for ten Bureau of Criminal Apprehension agents to be assigned exclusively to methamphetamine enforcement.

Assumptions

The proposed legislation appropriates money for ten Bureau of Criminal Apprehension agents to be assigned exclusively to methamphetamine enforcement, including the investigation of manufacturing and distributing methamphetamine and related violence. These appropriations are intended to increase the current allocation of Bureau of Criminal Apprehension resources dedicated to methamphetamine enforcement.

Expenditure and/or Revenue Formula

Obj	Description	FY2006 Item	10 Agents FY 2006	10 Agents FY 2007
1A	Special Agent Mid-Range with fringe	79,429	794,429	826,206
1C	Overtime 234 hours annual (\$32.59 hr.)	7,626	76,260	79,310
1E	Other Personnel Costs Workers Comp Care Clothing Allowance	50 450	5,000	5,000
2B	Repairs & Maintenance Equipment Repair Vehicle Repairs/Maint.	600 600	12,000	12,000
2D	Prof. Technical Services Agent Physical/Psychological	1,000	10,000	0
2F	Communications Postage Telephone & Cell Phone Costs	200 1,200	14,000	14,000
2G	In State Travel Meal Per Diems, Lodging Travel Expenses	1,500	15,000	15,000
2J	Supplies Gasoline, Auto Parts Armored Vests, Special Clothing Holsters, Belts, Ammunition Office Supplies. etc. 1st Year	2,600 700 400 400	41,000	26,000
2K	Equipment Radios, Weapons, Cell Phones	2,000	20,000	10,000
2L	Employee Development	1,231	<u>12,311</u>	<u>12,484</u>
	Total costs		<u>\$1,000,000</u>	<u>\$1,000,000</u>

Long-Term Fiscal Considerations

Projected costs are on-going.

Local Government Costs

N/A

References/Sources

Agency Contact Name: Tim O'Malley 651 793-7000
FN Coord Signature: FRANK AHRENS
Date: 03/01/05 Phone: 296-9484

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: NORMAN FOSTER
Date: 03/02/05 Phone: 215-0594

Fiscal Note – 2005-06 Session

Bill #: S0423-1E **Complete Date:** 03/08/05

Chief Author: ROSEN, JULIE

Title: METHAMPHETAMINE RELATED CRIMES

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Supreme Court

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
General Fund		165	165	165	165
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
General Fund		165	165	165	165
Revenues					
-- No Impact --					
Net Cost <Savings>					
General Fund		165	165	165	165
Total Cost <Savings> to the State		165	165	165	165

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
General Fund		0.50	0.50	0.50	0.50
Total FTE		0.50	0.50	0.50	0.50

Bill Description

This bill establishes new methamphetamine related crimes and also expands the definition of violent crime for mandatory sentencing. The bill regulates the sale of methamphetamine precursor drugs. A precursor drug is a drug or product that contains ephedrine or pseudoephedrine as its sole or active ingredient. The bill authorizes the reporting of suspicious transactions involving these drugs and providing civil immunity for those so doing. The bill requires courts to order restitution in certain situations involving controlled substances. The bill increases the criminal penalties for possessing certain substances with the intent to manufacture methamphetamines. A methamphetamine cleanup fund is also authorized in this bill.

Effective August 1, 2003 the legislature created a new offense called "attempted manufacture of methamphetamine" involving the possession of any chemical reagents or precursors with the intent to manufacture methamphetamine. The maximum penalty for this offense is 3 years for a first offense and 4 years for subsequent offenses. This bill removes the designation of this crime as "attempted manufacture of methamphetamine" and increases the statutory maximum to ten years for a first offense and 15 years for subsequent offenses.

This provision is similar to the existing provisions of M.S. §18D.331 subd. 5, with the exception that it adds "purchase, possess, transfer or distribute any amount of anhydrous ammonia, knowing or having reason to know that it will be used to unlawfully manufacture a controlled substance" as prohibited conduct. As with the existing anhydrous ammonia offenses, the statutory maximum is 5 years. The existing anhydrous ammonia offenses are repealed.

The bill prohibits the manufacture; attempted manufacture; and storage of methamphetamine, methamphetamine waste products, methamphetamine paraphernalia, and chemicals in the presence of children or vulnerable adults, in buildings where such a person might reasonably be expected to be present, in a room offered to the public for overnight accommodation, or in any multiple unit residential building. It also prohibits someone from causing or permitting a child or vulnerable adult to inhale, be exposed to, ingest, or have contact with methamphetamine, a chemical substance, or methamphetamine paraphernalia. The statutory maximum is 5 years. In addition, it specified that multiple sentences are allowed for this offense and any other offense committed as part of the same conduct.

Assumptions

It is unclear how many new offenses will result from these provisions. For example, M.S. 609.378, subd. 1(b)(2) prohibits permitting a child to be present where any controlled substance is sold, manufactured or possessed. This offense is a felony if it results in substantial harm to the child's physical, mental, or emotional health; otherwise the offense is a gross misdemeanor. 15 felony offenders were sentenced in 2002 according to MSGC, while there were 140 gross misdemeanor cases in 2002 and 113 through the first 10 months of 2003 involving exposure to controlled substances. It is not known how many involved the manufacture of a controlled substance. In 2003 there were 315 convictions for a methamphetamine crime. It is not known how many of these offenses occurred in the presence of children under the age of 14. Based on the data recited in the Sentencing Guidelines case assumptions and in prior fiscal notes, this fiscal note assumes an additional impact of 50 felony cases from the changes in the law – 15% of the 2003 meth convictions. The enhanced penalties with longer presumptive commits may result in additional trials. The increase in the volume of cases charged involving the manufacture of meth could significantly increase this estimate.

If the Public Defender assumes increased litigation, the court will incur additional work. From 2003 to 2004 the jury trial rate for meth cases increased by 24%. A 33% jury trial rate is assumed for these cases.

Restitution in methamphetamine cases is currently ordered in approximately 8% of the cases. In 2003 through November there were 315 convictions of a methamphetamine crime. In the past four years the average amount of restitution ordered has ranged from \$1500-\$2200. Based on restitution collection statistics in several jurisdictions, approximately 25-50% of ordered restitution will be collected. Where court administrative staff, instead of corrections staff, are responsible for collecting restitution, collection of additional restitution will impose an additional administrative workload. By FY06 all court administration staff will be state employees. Increases in administrative work will be the fiscal responsibility of the state.

Expenditure and/or Revenue Formula

Felony charges involve significantly more judicial resources than to gross misdemeanor charges. Using the Weighted Caseload Analysis, an additional .05 FTE judge unit workload would result from the additional processing time required for felonies. A judge unit consists of a law clerk, court reporter and judge. The annual

cost in FY06 of a judge unit is \$307,000. The annual cost for .05 FTE judge unit would be \$15,400. Using the Minnesota Court Staff Workload assessment which relates administrative court staff needs to judicial resource needs, results in an increased need for .2 FTE administrative staff. At an annual cost of \$58,000, for a senior court clerk including salary, fringe benefits, and operating costs, the increased cost for the .2 FTE position would be \$11,600. The total increased cost if 50 cases were to be processed as felonies rather than gross misdemeanors would be \$27,000 annually.

Assuming a 33% trial rate and a 5 day trial including jury selection, jury trial costs for 17 cases is estimated to be \$85,470 including per diem and mileage.

Additional judicial efforts to impose restitution: Assuming that the court would consider restitution in 100% of the 315 convictions and that restitution claims would require approximately ½ hour of time involving some expert testimony, an additional 145 hours of court time would be required. Probation violations are likely to result in a portion of these cases, requiring the defendant to reappear in court. If the defendant were required to reappear in court in 50% of the cases for a 10-minute hearing, and additional .15 FTE judge unit would be required to assess and hear restitution violations. The FY06 cost of a judge unit is \$307,000. The cost of .15 FTE is \$46,000.

Additional administrative effort to collect restitution: Assuming that time payments would be required, additional monitoring of the time payments, follow up calls and 2 notices of delinquent payment would e required for each case resulting in an additional 30 minutes over the duration of the collection effort and assuming 290 additional restitution cases (315 cases x 92%) an additional .1 administrative FTE would be required. A senior court clerk position with operating costs, fringe benefits, and salary would cost \$58,000 annually or \$5,800 for .1 FTE. The total estimated judge unit and administrative cost associated with restitution is \$52,000.

Assuming that 25% of the average amount of restitution is collected for the remaining caseload (\$1500x290x.25) an additional \$108,750 might be realized for local units of government. If the defendants are committed to prison for significant amount of time, the amount of restitution revenue cold be significantly reduced. In the initial year the revenue has been estimated at 1/4 the amount to take into account a delay in bringing cases to trial.

Long-Term Fiscal Considerations

The methamphetamine-related workload of the courts continues to increase dramatically. In 1999 the courts had 500 filings for meth related criminal cases while in 2004 the number exceeded 4000. This increase in workload impacts not only in the criminal law arena but juvenile and family court as well.

Local Government Costs

Costs for drug offender rehabilitation will increase to the extent that insurance is unavailable to cover the costs. Since many of the meth labs appear to be in dwellings with young children, this bill may result in more mothers being incarcerated with a resultant increase in local government costs for out of home placement for the children.

References/Sources

FN Coord Signature: JUDY REHAK
Date: 03/07/05 Phone: 297-7800

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: JIM KING
Date: 03/08/05 Phone: 296-7964

Fiscal Note – 2005-06 Session

Bill #: S0423-1E **Complete Date:** 03/16/05

Chief Author: ROSEN, JULIE

Title: METHAMPHETAMINE RELATED CRIMES

Fiscal Impact	Yes	No
State	X	
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Public Defense Board

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
General Fund		450	945	945	945
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
General Fund		450	945	945	945
Revenues					
-- No Impact --					
Net Cost <Savings>					
General Fund		450	945	945	945
Total Cost <Savings> to the State		450	945	945	945

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalent					
General Fund		11.00	11.00	11.00	11.00
Total FTE		11.00	11.00	11.00	11.00

Bill Description

The bill modifies the statute so that methamphetamines are included in the definition of narcotic drugs. It also increases the statutory maximum for Possession of Precursors. The bill removes the designation of this crime of "attempted manufacture of methamphetamine" and increases the statutory maximum from 3 years to ten years for a first offense and 15 years for subsequent offenses. It also recodifies and expands the offenses involving Anhydrous Ammonia. The bill also has very broad language that prohibits the manufacture; attempted manufacture; and storage of methamphetamine, methamphetamine waste products, methamphetamine paraphernalia, and chemicals in the presence of children or vulnerable adults, in buildings where such a person might reasonably be expected to be present, in a room offered to the public for overnight accommodation, or in any multiple unit residential building. It also prohibits someone from causing or permitting a child or vulnerable adult to inhale, be exposed to, ingest, or have contact with methamphetamine, a chemical substance, or methamphetamine paraphernalia. The statutory maximum is 5 years. In addition, it specifies that multiple sentences are allowed for this offense and any other offense committed as part of the same conduct.

Assumptions

The creation of new crimes and the enhanced penalties in this bill will certainly generate additional cases and time commitments for public defenders. As others have indicated, it is sometimes difficult to determine the exact impact; however, cases involving meth continue to grow rapidly. The Sentencing Guidelines Commission estimated that the number of offenders sentenced for manufacture of methamphetamine increased by almost 50% between 2001 and 2002. In 2001, 28% of offenders sentenced for this offense were sentenced for an attempted offense. In 2002, preliminary information suggests that over 43% of offenders sentenced for manufacture of methamphetamine were sentenced for an attempted offense.

Under this bill the statutory maximums are increased, and it has broad language that prohibits the manufacture; attempted manufacture; and storage of methamphetamine, methamphetamine waste products, methamphetamine paraphernalia, and chemicals in the presence of children or vulnerable adults, in buildings where such a person might reasonably be expected to be present, in a room offered to the public for overnight accommodation, or in any multiple unit residential building. It also prohibits someone from causing or permitting a child or vulnerable adult to inhale, be exposed to, ingest, or have contact with methamphetamine, a chemical substance, or methamphetamine paraphernalia. In addition, it specifies that multiple sentences are allowed for this offense and any other offense committed as part of the same conduct. All of these provisions will generate additional cases and since the statutory maximums are increased there will be little if any incentive to work these cases out and many will go to trial. In addition, restitution is required. Due to circumstances clients find themselves in there is little chance that they will have the funds necessary to provide reimbursement for cleanup. This is again another incentive to go to trial and will result in numerous appearances to settle restitution issues.

The cases also tend to occur more in Greater Minnesota (although they are increasing dramatically in the metro area as well) and often involve multiple defendants. These two factors place an enormous burden on public defenders especially part time defenders. Often times the attorney general is called in to prosecute these cases which mean that public defenders will need to be pulled out of other courtrooms to deal with these additional cases.

Expenditure and/or Revenue Formula

Given the increased number of cases, co-defendants and time commitments involved in these types of cases this will place a heavy burden on the public defense system. It is estimated that the 10 FTE attorney staff would need to be added at the trial level. In addition, 1 FTE attorney position would be needed in the appellate office. Assuming these folks are hired at step three in the salary range, personnel and associated costs would mean an annual cost of \$929,000 in FY 2006 and \$945,000 in FY 2007. This includes approximately \$50,000 in transcript costs at the appellate level. Prorating the start date 8/1/05, and phasing in the appellate office staffing would reduce the FY 2006 cost to \$450,000.

FY 2006	\$450,000	11 F.T.E.
FY 2007	\$945,000	11 F.T.E.

FN Coord Signature: KEVIN KAJER
Date: 03/16/05 Phone: 349-2565

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: JIM KING
Date: 03/16/05 Phone: 296-7964

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A bill for an act

relating to public safety; further regulating while recodifying activities involving anhydrous ammonia; requiring courts to order restitution in certain situations involving controlled substances; imposing property restrictions in certain situations involving controlled substances; increasing the criminal penalties for possessing certain substances with the intent to manufacture methamphetamine and recodifying this crime; establishing new methamphetamine-related crimes; clarifying the definition of "narcotic drug"; expanding the definition of "violent crime" for mandatory sentencing purposes; requiring that vehicles and other property used to manufacture methamphetamine indicate this in the title or by an affidavit; requiring notice to schools when children are taken into protective custody after being found at a methamphetamine laboratory; establishing a methamphetamine laboratory cleanup revolving fund and authorizing loans to assist counties and cities in conducting methamphetamine cleanup; imposing criminal penalties; providing for ten new Bureau of Criminal Apprehension agents dedicated to methamphetamine enforcement; appropriating money; amending Minnesota Statutes 2004, sections 152.01, subdivision 10; 152.021, subdivisions 2a, 3; 168A.05, subdivision 3; 260C.171, by adding a subdivision; 609.1095, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 152; 446A; repealing Minnesota Statutes 2004, sections 18C.005, subdivisions 1a, 35a; 18C.201, subdivisions 6, 7; 18D.331, subdivision 5.

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

ARTICLE 1

METHAMPHETAMINE PROVISIONS

Section 1. Minnesota Statutes 2004, section 152.01, subdivision 10, is amended to read:

Subd. 10. [NARCOTIC DRUG.] "Narcotic drug" means any of the following, whether produced directly or indirectly by

1 extraction from substances of vegetable origin, or independently
2 by means of chemical synthesis, or by a combination of
3 extraction and chemical synthesis:

4 (1) Opium, coca leaves, and opiates, and methamphetamine;

5 (2) A compound, manufacture, salt, derivative, or
6 preparation of opium, coca leaves, or opiates, or
7 methamphetamine;

8 (3) A substance, and any compound, manufacture, salt,
9 derivative, or preparation thereof, which is chemically
10 identical with any of the substances referred to in clauses (1)
11 and (2), except that the words "narcotic drug" as used in this
12 chapter shall not include decocainized coca leaves or extracts
13 of coca leaves, which extracts do not contain cocaine or
14 ecgonine.

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

17 Sec. 2. Minnesota Statutes 2004, section 152.021,
18 subdivision 2a, is amended to read:

19 Subd. 2a. [METHAMPHETAMINE MANUFACTURE CRIMES CRIME;
20 POSSESSION OF SUBSTANCES WITH INTENT TO MANUFACTURE

21 METHAMPHETAMINE CRIME.] (a) Notwithstanding subdivision 1,
22 sections 152.022, subdivision 1, 152.023, subdivision 1, and
23 152.024, subdivision 1, a person is guilty of controlled
24 substance crime in the first degree if the person manufactures
25 any amount of methamphetamine.

26 (b) ~~Notwithstanding paragraph (a) and section 609.177~~ A
27 person is guilty of ~~attempted manufacture of methamphetamine~~ a
28 crime if the person possesses any chemical reagents or
29 precursors with the intent to manufacture methamphetamine. As
30 used in this section, "chemical reagents or precursors" ~~refers~~
31 ~~to one or more~~ includes any of the following substances, or any
32 similar substances that can be used to manufacture
33 methamphetamine, or their the salts, isomers, and salts of
34 isomers of a listed or similar substance:

35 (1) ephedrine;

36 (2) pseudoephedrine;

- 1 (3) phenyl-2-propanone;
2 (4) phenylacetone;
3 (5) anhydrous ammonia~~7--as-defined-in-section-18C-005,~~
4 ~~subdivision-1a;~~
5 (6) organic solvents;
6 (7) hydrochloric acid;
7 (8) lithium metal;
8 (9) sodium metal;
9 (10) ether;
10 (11) sulfuric acid;
11 (12) red phosphorus;
12 (13) iodine;
13 (14) sodium hydroxide;
14 (15) benzaldehyde;
15 (16) benzyl methyl ketone;
16 (17) benzyl cyanide;
17 (18) nitroethane;
18 (19) methylamine;
19 (20) phenylacetic acid;
20 (21) hydriodic acid; or
21 (22) hydriotic acid.

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

24 Sec. 3. Minnesota Statutes 2004, section 152.021,
25 subdivision 3, is amended to read:

26 Subd. 3. [PENALTY.] (a) A person convicted under
27 subdivisions 1 to 2a, paragraph (a), may be sentenced to
28 imprisonment for not more than 30 years or to payment of a fine
29 of not more than \$1,000,000, or both; a person convicted under
30 subdivision 2a, paragraph (b), may be sentenced to imprisonment
31 for not more than ~~three~~ ten years or to payment of a fine of not
32 more than ~~\$5,000~~ \$20,000, or both.

33 (b) If the conviction is a subsequent controlled substance
34 conviction, a person convicted under subdivisions 1 to 2a,
35 paragraph (a), shall be committed to the commissioner of
36 corrections for not less than four years nor more than 40 years

1 and, in addition, may be sentenced to payment of a fine of not
2 more than \$1,000,000; a person convicted under subdivision 2a,
3 paragraph (b), may be sentenced to imprisonment for not more
4 than ~~four~~ 15 years or to payment of a fine of not more than
5 ~~\$5,000~~ \$30,000, or both.

6 (c) In a prosecution under subdivision 1 involving sales by
7 the same person in two or more counties within a 90-day period,
8 the person may be prosecuted for all of the sales in any county
9 in which one of the sales occurred.

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

12 Sec. 4. [152.0275] [CERTAIN CONTROLLED SUBSTANCE OFFENSES;
13 RESTITUTION; PROHIBITIONS ON PROPERTY USE; NOTICE PROVISIONS.]

14 Subdivision 1. [RESTITUTION.] (a) As used in this
15 subdivision:

16 (1) "clandestine lab site" means any structure or
17 conveyance or outdoor location occupied or affected by
18 conditions or chemicals typically associated with the
19 manufacturing of methamphetamine;

20 (2) "emergency response" includes, but is not limited to,
21 removing and collecting evidence, securing the site, removal,
22 remediation, and hazardous chemical assessment or inspection of
23 the site where the relevant offense or offenses took place,
24 regardless of whether these actions are performed by the public
25 entities themselves or by private contractors paid by the public
26 entities, or the property owner;

27 (3) "remediation" means proper cleanup, treatment, or
28 containment of hazardous substances or methamphetamine at or in
29 a clandestine lab site, and may include demolition or disposal
30 of structures or other property when an assessment so indicates;
31 and

32 (4) "removal" means the removal from the clandestine lab
33 site of precursor or waste chemicals, chemical containers, or
34 equipment associated with the manufacture, packaging, or storage
35 of illegal drugs.

36 (b) A court shall require a person convicted of

1 manufacturing or attempting to manufacture a controlled
2 substance or of an illegal activity involving a precursor
3 substance, where the response to the crime involved an emergency
4 response, to pay restitution to all public entities that
5 participated in the response. The restitution ordered must
6 cover the reasonable costs of their participation in the
7 response.

8 (c) In addition to the restitution required in paragraph
9 (b), a court shall require a person convicted of manufacturing
10 or attempting to manufacture a controlled substance or of
11 illegal activity involving a precursor substance to pay
12 restitution to a property owner who incurred removal or
13 remediation costs because of the crime.

14 (d) Notwithstanding paragraphs (b) and (c), if the court
15 finds that the convicted person is indigent or that payment of
16 the restitution would create undue hardship for the convicted
17 person's immediate family, the court may reduce the amount of
18 restitution to an appropriate level.

19 Subd. 2. [PROPERTY-RELATED PROHIBITIONS; NOTICE; WEB
20 SITE.] (a) As used in this subdivision:

21 (1) "clandestine lab site" has the meaning given in
22 subdivision 1, paragraph (a);

23 (2) "property" means publicly or privately owned real
24 property including buildings and other structures, motor
25 vehicles as defined in section 609.487, subdivision 2a, public
26 waters, and public rights-of-way;

27 (3) "remediation" has the meaning given in subdivision 1,
28 paragraph (a); and

29 (4) "removal" has the meaning given in subdivision 1,
30 paragraph (a).

31 (b) A peace officer who arrests a person at a clandestine
32 lab site shall notify the appropriate county or local health
33 department, state duty officer, and child protection services of
34 the arrest and the location of the site.

35 (c) A county or local health department or sheriff shall
36 order that any property or portion of a property that has been

1 found to be a clandestine lab site and contaminated by
2 substances, chemicals, or items of any kind used in the
3 manufacture of methamphetamine or any part of the manufacturing
4 process, or the by-products or degradates of manufacturing
5 methamphetamine be prohibited from being occupied or used until
6 it has been assessed and remediated as provided in the
7 Department of Health's clandestine drug labs general cleanup
8 guidelines. The remediation shall be accomplished by a
9 contractor who will make the verification required under
10 paragraph (e).

11 (d) Unless clearly inapplicable, the procedures specified
12 in chapter 145A and any related rules adopted under that chapter
13 addressing the enforcement of public health laws, the removal
14 and abatement of public health nuisances, and the remedies
15 available to property owners or occupants apply to this
16 subdivision.

17 (e) Upon the proper removal and remediation of any property
18 used as a clandestine lab site, the contractor shall verify to
19 the applicable authority that issued the order under paragraph
20 (c) that the work was completed according to the Department of
21 Health's clandestine drug labs general cleanup guidelines and
22 best practices and that levels of contamination have been
23 reduced to levels set forth in the guidelines. The contractor
24 shall provide the verification to the property owner and the
25 applicable authority within five days from the completion of the
26 remediation. Following this, the applicable authority shall
27 vacate its order.

28 (f) If a contractor issues a verification and the property
29 was not remediated according to the Department of Health's
30 clandestine drug labs general cleanup guidelines or the levels
31 of contamination were not reduced to levels set forth in the
32 guidelines, the contractor is liable to the property owner for
33 the additional costs relating to the proper remediation of the
34 property according to the guidelines and reducing the levels of
35 contamination to levels set in the guidelines and for reasonable
36 attorney fees for collection of costs by the property owner. An

1 action under this paragraph must be commenced within six years
2 from the date on which the verification was issued by the
3 contractor.

4 (g) If the applicable authority determines under paragraph
5 (c) that a motor vehicle has been contaminated by substances,
6 chemicals, or items of any kind used in the manufacture of
7 methamphetamine or any part of the manufacturing process, or the
8 by-products or degradates of manufacturing methamphetamine and
9 if the authority is able to obtain the certificate of title for
10 the motor vehicle, the authority shall notify the registrar of
11 motor vehicles of this fact and in addition, forward the
12 certificate of title to the registrar. The authority shall also
13 notify the registrar when it vacates its order under paragraph
14 (e).

15 (h) The applicable authority issuing an order under
16 paragraph (c) shall record with the county recorder or registrar
17 of titles of the county where the clandestine lab is located an
18 affidavit containing the name of the owner, a legal description
19 of the property where the clandestine lab was located, and a map
20 drawn from available information showing the boundary of the
21 property and the location of the contaminated area on the
22 property that is prohibited from being occupied or used that
23 discloses to any potential transferee:

24 (1) that the property, or a portion of the property, was
25 the site of a clandestine lab;

26 (2) the location, condition, and circumstances of the
27 clandestine lab, to the full extent known or reasonably
28 ascertainable; and

29 (3) that the use of the property or some portion of it may
30 be restricted as provided by paragraph (c).

31 If an inaccurate drawing or description is filed, the authority,
32 on request of the owner or another interested person, shall file
33 a supplemental affidavit with a corrected drawing or description.

34 If the authority vacates its order under paragraph (e), the
35 authority shall record an affidavit that contains the recording
36 information of the above affidavit and states that the order is

1 vacated. Upon filing the affidavit vacating the order, the
2 affidavit and the affidavit filed under this paragraph, together
3 with the information set forth in the affidavits, cease to
4 constitute either actual or constructive notice.

5 (i) If proper removal and remediation has occurred on the
6 property, an interested party may record an affidavit indicating
7 that this has occurred. Upon filing the affidavit described in
8 this paragraph, the affidavit and the affidavit filed under
9 paragraph (h), together with the information set forth in the
10 affidavits, cease to constitute either actual or constructive
11 notice. Failure to record an affidavit under this section does
12 not affect or prevent any transfer of ownership of the property.

13 (j) The county recorder or registrar of titles must record
14 all affidavits presented under paragraph (h) or (i) in a manner
15 that assures their disclosure in the ordinary course of a title
16 search of the subject property.

17 (k) The commissioner of health shall post on the Internet
18 contact information for each local community health services
19 administrator.

20 (l) Each local community health services administrator
21 shall maintain information related to property within the
22 administrator's jurisdiction that is currently or was previously
23 subject to an order issued under paragraph (c). The information
24 maintained must include the name of the owner, the location of
25 the property, the extent of the contamination, the status of the
26 removal and remediation work on the property, and whether the
27 order has been vacated. The administrator shall make this
28 information available to the public either upon request or by
29 other means.

30 (m) Before signing an agreement to sell or transfer real
31 property, the seller or transferor must disclose in writing to
32 the buyer or transferee if, to the seller's or transferor's
33 knowledge, methamphetamine production has occurred on the
34 property. If methamphetamine production has occurred on the
35 property, the disclosure shall include a statement to the buyer
36 or transferee informing the buyer or transferee:

1 (1) whether an order has been issued on the property as
2 described in paragraph (c);

3 (2) whether any orders issued against the property under
4 paragraph (c) have been vacated under paragraph (i); or

5 (3) if there was no order issued against the property and
6 the seller or transferor is aware that methamphetamine
7 production has occurred on the property, the status of removal
8 and remediation on the property.

9 Unless the buyer or transferee and seller or transferor
10 agree to the contrary in writing before the closing of the sale,
11 a seller or transferor who fails to disclose, to the best of
12 their knowledge, at the time of sale any of the facts required
13 above, and who knew or had reason to know of methamphetamine
14 production on the property, is liable to the buyer or transferee
15 for:

16 (1) costs relating to remediation of the property according
17 to the Department of Health's clandestine drug labs general
18 cleanup guidelines and best practices so that contamination is
19 reduced to levels set forth in the guidelines; and

20 (2) reasonable attorney fees for collection of costs from
21 the seller or transferor.

22 An action under this paragraph must be commenced within six
23 years after the date on which the buyer or transferee closed the
24 purchase or transfer of the real property where the
25 methamphetamine production occurred.

26 [EFFECTIVE DATE.] This section is effective January 1,
27 2006, and applies to crimes committed on or after that date.

28 Sec. 5. [152.136] [ANHYDROUS AMMONIA; PROHIBITED CONDUCT;
29 CRIMINAL PENALTIES; CIVIL LIABILITY.]

30 Subdivision 1. [DEFINITIONS.] As used in this section,
31 "tamper" means action taken by a person not authorized to take
32 that action by law or by the owner or authorized custodian of an
33 anhydrous ammonia container or of equipment where anhydrous
34 ammonia is used, stored, distributed, or transported.

35 Subd. 2. [PROHIBITED CONDUCT.] (a) A person may not:

36 (1) steal or unlawfully take or carry away any amount of

1 anhydrous ammonia;

2 (2) purchase, possess, transfer, or distribute any amount
3 of anhydrous ammonia, knowing, or having reason to know, that it
4 will be used to unlawfully manufacture a controlled substance;

5 (3) place, have placed, or possess anhydrous ammonia in a
6 container that is not designed, constructed, maintained, and
7 authorized to contain or transport anhydrous ammonia;

8 (4) transport anhydrous ammonia in a container that is not
9 designed, constructed, maintained, and authorized to transport
10 anhydrous ammonia;

11 (5) use, deliver, receive, sell, or transport a container
12 designed and constructed to contain anhydrous ammonia without
13 the express consent of the owner or authorized custodian of the
14 container; or

15 (6) tamper with any equipment or facility used to contain,
16 store, or transport anhydrous ammonia.

17 (b) For the purposes of this subdivision, containers
18 designed and constructed for the storage and transport of
19 anhydrous ammonia are described in rules adopted under section
20 18C.121, subdivision 1, or in Code of Federal Regulations, title
21 49.

22 Subd. 3. [NO CAUSE OF ACTION.] (a) Except as provided in
23 paragraph (b), a person tampering with anhydrous ammonia
24 containers or equipment under subdivision 2 shall have no cause
25 of action for damages arising out of the tampering against:

26 (1) the owner or lawful custodian of the container or
27 equipment;

28 (2) a person responsible for the installation or
29 maintenance of the container or equipment; or

30 (3) a person lawfully selling or offering for sale the
31 anhydrous ammonia.

32 (b) Paragraph (a) does not apply to a cause of action
33 against a person who unlawfully obtained the anhydrous ammonia
34 or anhydrous ammonia container or who possesses the anhydrous
35 ammonia or anhydrous ammonia container for any unlawful purpose.

36 Subd. 4. [CRIMINAL PENALTY.] A person who knowingly

1 violates subdivision 2 is guilty of a felony and may be
2 sentenced to imprisonment for not more than five years or to
3 payment of a fine of not more than \$50,000, or both.

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

6 Sec. 6. [152.137] [METHAMPHETAMINE-RELATED CRIMES
7 INVOLVING CHILDREN AND VULNERABLE ADULTS.]

8 Subdivision 1. [DEFINITIONS.] (a) As used in this section,
9 the following terms have the meanings given.

10 (b) "Chemical substance" means a substance intended to be
11 used as a precursor in the manufacture of methamphetamine or any
12 other chemical intended to be used in the manufacture of
13 methamphetamine.

14 (c) "Child" means any person under the age of 18 years.

15 (d) "Methamphetamine paraphernalia" means all equipment,
16 products, and materials of any kind that are used, intended for
17 use, or designed for use in manufacturing, injecting, ingesting,
18 inhaling, or otherwise introducing methamphetamine into the
19 human body.

20 (e) "Methamphetamine waste products" means substances,
21 chemicals, or items of any kind used in the manufacture of
22 methamphetamine or any part of the manufacturing process, or the
23 by-products or degradates of manufacturing methamphetamine.

24 (f) "Vulnerable adult" has the meaning given in section
25 609.232, subdivision 11.

26 Subd. 2. [PROHIBITED CONDUCT.] (a) No person may knowingly
27 engage in any of the following activities in the presence of a
28 child or vulnerable adult; in the residence of a child or a
29 vulnerable adult; in a building, structure, conveyance, or
30 outdoor location where a child or vulnerable adult might
31 reasonably be expected to be present; in a room offered to the
32 public for overnight accommodation; or in any multiple unit
33 residential building:

34 (1) manufacturing or attempting to manufacture
35 methamphetamine;

36 (2) storing any chemical substance;

1 (3) storing any methamphetamine waste products; or

2 (4) storing any methamphetamine paraphernalia.

3 (b) No person may knowingly cause or permit a child or
4 vulnerable adult to inhale, be exposed to, have contact with, or
5 ingest methamphetamine, a chemical substance, or methamphetamine
6 paraphernalia.

7 Subd. 3. [CRIMINAL PENALTY.] A person who violates
8 subdivision 2 is guilty of a felony and may be sentenced to
9 imprisonment for not more than five years or to payment of a
10 fine of not more than \$10,000, or both.

11 Subd. 4. [MULTIPLE SENTENCES.] Notwithstanding sections
12 609.035 and 609.04, a prosecution for or conviction under this
13 section is not a bar to conviction of or punishment for any
14 other crime committed by the defendant as part of the same
15 conduct.

16 Subd. 5. [PROTECTIVE CUSTODY.] A peace officer may take
17 any child present in an area where any of the activities
18 described in subdivision 2, paragraph (a), clauses (1) to (4),
19 are taking place into protective custody in accordance with
20 section 260C.175, subdivision 1, paragraph (b), clause (2). A
21 child taken into protective custody under this subdivision shall
22 be provided health screening to assess potential health concerns
23 related to methamphetamine as provided in section 260C.188. A
24 child not taken into protective custody under this subdivision
25 but who is known to have been exposed to methamphetamine shall
26 be offered health screening for potential health concerns
27 related to methamphetamine as provided in section 260C.188.

28 Subd. 6. [REPORTING MALTREATMENT OF VULNERABLE ADULT.] (a)
29 A peace officer shall make a report of suspected maltreatment of
30 a vulnerable adult if the vulnerable adult is present in an area
31 where any of the activities described in subdivision 2,
32 paragraph (a), clauses (1) to (4), are taking place, and the
33 peace officer has reason to believe the vulnerable adult
34 inhaled, was exposed to, had contact with, or ingested
35 methamphetamine, a chemical substance, or methamphetamine
36 paraphernalia. The peace officer shall immediately report to

1 the county common entry point as described in section 626.557,
2 subdivision 9b.

3 (b) As required in section 626.557, subdivision 9b, law
4 enforcement is the primary agency to conduct investigations of
5 any incident when there is reason to believe a crime has been
6 committed. Law enforcement shall initiate a response
7 immediately. If the common entry point notified a county agency
8 for adult protective services, law enforcement shall cooperate
9 with that county agency when both agencies are involved and
10 shall exchange data to the extent authorized in section 626.557,
11 subdivision 12b, paragraph (g). County adult protection shall
12 initiate a response immediately.

13 (c) The county social services agency shall immediately
14 respond as required in section 626.557, subdivision 10, upon
15 receipt of a report from the common entry point staff.

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

18 Sec. 7. Minnesota Statutes 2004, section 168A.05,
19 subdivision 3, is amended to read:

20 Subd. 3. [CONTENT OF CERTIFICATE.] Each certificate of
21 title issued by the department shall contain:

22 (1) the date issued;

23 (2) the first, middle, and last names, the dates of birth,
24 and addresses of all owners who are natural persons, the full
25 names and addresses of all other owners;

26 (3) the names and addresses of any secured parties in the
27 order of priority as shown on the application, or if the
28 application is based on a certificate of title, as shown on the
29 certificate, or as otherwise determined by the department;

30 (4) any liens filed pursuant to a court order or by a
31 public agency responsible for child support enforcement against
32 the owner;

33 (5) the title number assigned to the vehicle;

34 (6) a description of the vehicle including, so far as the
35 following data exists, its make, model, year, identifying
36 number, type of body, whether new or used, and if a new vehicle,

1 the date of the first sale of the vehicle for use;

2 (7) with respect to motor vehicles subject to the
3 provisions of section 325E.15, the true cumulative mileage
4 registered on the odometer or that the actual mileage is unknown
5 if the odometer reading is known by the owner to be different
6 from the true mileage;

7 (8) with respect to vehicles subject to sections 325F.6641
8 and 325F.6642, the appropriate term "flood damaged," "rebuilt,"
9 "prior salvage," or "reconstructed"; and

10 (9) with respect to a vehicle contaminated by
11 methamphetamine production, if the registrar has received the
12 certificate of title and notice described in section 152.0275,
13 subdivision 2, paragraph (g), the term "hazardous waste
14 contaminated vehicle"; and

15 (10) any other data the department prescribes.

16 [EFFECTIVE DATE.] This section is effective August 1, 2005.

17 Sec. 8. Minnesota Statutes 2004, section 260C.171, is
18 amended by adding a subdivision to read:

19 Subd. 6. [NOTICE TO SCHOOL.] (a) As used in this
20 subdivision, the following terms have the meanings given.
21 "Chemical substance," "methamphetamine paraphernalia," and
22 "methamphetamine waste products" have the meanings given in
23 section 152.137, subdivision 1. "School" means a charter school
24 or a school as defined in section 120A.22, subdivision 4, except
25 a home school.

26 (b) If a child has been taken into protective custody after
27 being found in an area where methamphetamine was being
28 manufactured or attempted to be manufactured or where any
29 chemical substances, methamphetamine paraphernalia, or
30 methamphetamine waste products were stored, and the child is
31 enrolled in school, the officer who took the child into custody
32 shall notify the chief administrative officer of the child's
33 school of this fact.

34 [EFFECTIVE DATE.] This section is effective August 1, 2005,
35 and applies to acts occurring on or after that date.

36 Sec. 9. [446A.083] [METHAMPHETAMINE LABORATORY CLEANUP

1 REVOLVING FUND.]

2 Subdivision 1. [DEFINITIONS.] As used in this section:

3 (1) "clandestine lab site" has the meaning given in section
4 152.0275, subdivision 1, paragraph (a);

5 (2) "property" has the meaning given in section 152.0275,
6 subdivision 2, paragraph (a), but does not include motor
7 vehicles; and

8 (3) "remediate" has the meaning given to remediation in
9 section 152.0275, subdivision 1, paragraph (a).

10 Subd. 2. [FUND ESTABLISHED.] The authority shall establish
11 a methamphetamine laboratory cleanup revolving fund to provide
12 loans to counties and cities to remediate clandestine lab
13 sites. The fund must be credited with repayments.

14 Subd. 3. [APPLICATIONS.] Applications by a county or city
15 for a loan from the fund must be made to the authority on the
16 forms prescribed by the authority. The application must
17 include, but is not limited to:

18 (1) the amount of the loan requested and the proposed use
19 of the loan proceeds;

20 (2) the source of revenues to repay the loan; and

21 (3) certification by the county or city that it meets the
22 loan eligibility requirements of subdivision 4.

23 Subd. 4. [LOAN ELIGIBILITY.] A county or city is eligible
24 for a loan under this section if the county or city:

25 (1) identifies a site or sites designated by a local public
26 health department or law enforcement as a clandestine lab site;

27 (2) has required the site's property owner to remediate the
28 site at cost, under a local public health nuisance ordinance
29 that addresses clandestine lab remediation;

30 (3) certifies that the property owner cannot pay for the
31 remediation immediately;

32 (4) certifies that the property owner has not properly
33 remediated the site; and

34 (5) issues a revenue bond payable to the authority to
35 secure the loan.

36 Subd. 5. [USE OF LOAN PROCEEDS; REIMBURSEMENT BY PROPERTY

1 OWNER.] (a) A loan recipient shall use the loan to remediate the
2 clandestine lab site or if this has already been done to
3 reimburse the applicable county or city fund for costs paid by
4 the recipient to remediate the clandestine lab site.

5 (b) A loan recipient shall seek reimbursement from the
6 owner of the property containing the clandestine lab site for
7 the costs of the remediation. In addition to other lawful means
8 of seeking reimbursement, the loan recipient may recover its
9 costs through a property tax assessment by following the
10 procedures specified in section 145A.08, subdivision 2,
11 paragraph (c).

12 Subd. 6. [AWARD AND DISBURSEMENT OF FUNDS.] The authority
13 shall award loans to recipients on a first-come, first-served
14 basis, provided that the recipient is able to comply with the
15 terms and conditions of the authority loan, which must be in
16 conformance with this section. The authority shall make a
17 single disbursement of the loan upon receipt of a payment
18 request that includes a list of remediation expenses and
19 evidence that a second-party sampling was undertaken to ensure
20 that the remediation work was successful or a guarantee that
21 such a sampling will be undertaken.

22 Subd. 7. [LOAN CONDITIONS AND TERMS.] (a) When making
23 loans from the revolving fund, the authority shall comply with
24 the criteria in paragraphs (b) to (e).

25 (b) Loans must be made at a two percent per annum interest
26 rate for terms not to exceed ten years unless the recipient
27 requests a 20-year term due to financial hardship.

28 (c) The annual principal and interest payments must begin
29 no later than one year after completion of the clean up. Loans
30 must be amortized no later than 20 years after completion of the
31 clean up.

32 (d) A loan recipient must identify and establish a source
33 of revenue for repayment of the loan and must undertake whatever
34 steps are necessary to collect payments within one year of
35 receipt of funds from the authority.

36 (e) The fund must be credited with all payments of

1 principal and interest on all loans, except the costs as
2 permitted under section 446A.04, subdivision 5, paragraph (a).

3 (f) Loans must be made only to recipients with a local
4 public health nuisance ordinance that addresses clandestine lab
5 remediation.

6 Subd. 8. [AUTHORITY TO INCUR DEBT.] Counties and cities
7 may incur debt under this section by resolution of the board or
8 council authorizing issuance of a revenue bond to the authority.

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

10 Sec. 10. Minnesota Statutes 2004, section 609.1095,
11 subdivision 1, is amended to read:

12 Subdivision 1. [DEFINITIONS.] (a) As used in this section,
13 the following terms have the meanings given.

14 (b) "Conviction" means any of the following accepted and
15 recorded by the court: a plea of guilty, a verdict of guilty by
16 a jury, or a finding of guilty by the court. The term includes
17 a conviction by any court in Minnesota or another jurisdiction.

18 (c) "Prior conviction" means a conviction that occurred
19 before the offender committed the next felony resulting in a
20 conviction and before the offense for which the offender is
21 being sentenced under this section.

22 (d) "Violent crime" means a violation of or an attempt or
23 conspiracy to violate any of the following laws of this state or
24 any similar laws of the United States or any other state:

25 ~~section~~ sections 152.137; 609.165; 609.185; 609.19; 609.195;
26 609.20; 609.205; 609.21; 609.221; 609.222; 609.223; 609.228;
27 609.235; 609.24; 609.245; 609.25; 609.255; 609.2661; 609.2662;
28 609.2663; 609.2664; 609.2665; 609.267; 609.2671; 609.268;
29 609.342; 609.343; 609.344; 609.345; 609.498, subdivision 1;
30 609.561; 609.562; 609.582, subdivision 1; 609.66, subdivision
31 1e; 609.687; and 609.855, subdivision 5; any provision of
32 sections 609.229; 609.377; 609.378; 609.749; and 624.713 that is
33 punishable by a felony penalty; or any provision of chapter 152
34 that is punishable by a maximum sentence of 15 years or more.

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

1 Sec. 11. [REVISOR'S INSTRUCTION.]

2 The revisor of statutes shall recodify the provisions of
3 Minnesota Statutes, section 152.021, subdivision 2a, paragraph
4 (b), and subdivision 3, as amended by this act, that relate to
5 the possession of chemical reagents or precursors with the
6 intent to manufacture methamphetamine and the penalties for
7 doing this into a new section of law codified as Minnesota
8 Statutes, section 152.0262. The revisor shall make any
9 necessary technical changes, including, but not limited to,
10 changes to statutory cross-references, to Minnesota Statutes,
11 section 152.021, and any other statutory sections to accomplish
12 this.

13 Sec. 12. [REPEALER.]

14 Minnesota Statutes 2004, sections 18C.005, subdivisions 1a
15 and 35a; 18C.201, subdivisions 6 and 7; and 18D.331, subdivision
16 5, are repealed.

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

19 ARTICLE 2

20 METHAMPHETAMINE APPROPRIATIONS

21 Section 1. [TOTAL APPROPRIATIONS.]

22 The dollar amounts in the columns under "APPROPRIATIONS"
23 are appropriated to the specified agencies for the purposes
24 specified. The appropriations are from the general fund and are
25 available for the fiscal years indicated for each purpose. The
26 figures "2006" and "2007" used in this article mean that the
27 addition to or subtraction from the appropriations listed under
28 the figure is for the fiscal years ending June 30, 2006, and
29 June 30, 2007, respectively.

30 SUMMARY

31		2006	2007	TOTAL
32	GENERAL	\$,.....	\$,.....	\$,.....

33 APPROPRIATIONS
34 Available for the Year
35 Ending June 30
36 2006 2007

37 Sec. 2. CORRECTIONS

1 For the increased prison
2 population based on this act. \$ \$

3 Sec. 3. BOARD OF PUBLIC DEFENSE

4 For a methamphetamine trial team.

5 Sec. 4. HUMAN SERVICES

6 For grants to counties to fund three
7 pilot projects addressing
8 methamphetamine.

9 A county seeking a grant under this
10 section shall submit a detailed
11 application to the commissioner that
12 specifies how the money will be used.
13 The application must demonstrate a
14 comprehensive countywide plan to combat
15 methamphetamine. At a minimum, this
16 plan must address how the county will
17 handle: (1) methamphetamine-related
18 child endangerment cases; (2)
19 methamphetamine-related cleanup and
20 remediation; (3) enforcing
21 methamphetamine-related criminal laws;
22 and (4) methamphetamine-related
23 treatment. To the extent possible, the
24 commissioner shall ensure that one
25 pilot project has an emphasis on
26 adolescents and one has a
27 maternal/early childhood emphasis.

28 Sec. 5. EMPLOYMENT AND
29 ECONOMIC DEVELOPMENT

30 To carry out the public facilities
31 authority's duties involving the
32 methamphetamine laboratory cleanup
33 revolving fund under Minnesota
34 Statutes, section 446A.083.

35 Sec. 6. PUBLIC SAFETY

36 For ten Bureau of Criminal Apprehension
37 agents to be assigned exclusively to
38 methamphetamine enforcement, including
39 the investigation of manufacturing and
40 distributing methamphetamine and
41 related violence. These appropriations
42 are intended to increase the current
43 allocation of Bureau of Criminal
44 Apprehension resources dedicated to
45 methamphetamine enforcement. Positions
46 funded by these appropriations may not
47 supplant existing agent assignments or
48 positions.

49 Sec. 7. HEALTH

50 To provide technical assistance on
51 methamphetamine lab remediation.

52 Sec. 8. EDUCATION

53 To develop and distribute to school
54 districts materials addressing the
55 dangers of methamphetamine.

Article 1 METHAMPHETAMINE PROVISIONS..... page 1
Article 2 METHAMPHETAMINE APPROPRIATIONS..... page 18

APPENDIX
Repealed Minnesota Statutes for S0423-3

18C.005 DEFINITIONS.

Subd. 1a. **Anhydrous ammonia.** "Anhydrous ammonia" means a compound formed by the chemical combination of the elements nitrogen and hydrogen in the molar proportion of one part nitrogen to three parts hydrogen. This relationship is shown by the chemical formula, NH_3 . On a weight basis, the ratio is 14 parts nitrogen to three parts hydrogen or approximately 82 percent nitrogen to 18 percent hydrogen. Anhydrous ammonia may exist in either a gaseous or a liquid state.

Subd. 35a. **Tamper.** "Tamper" means action taken by a person not authorized to take that action by law or by the owner or authorized custodian of an anhydrous ammonia container or of equipment where anhydrous ammonia is used, stored, distributed, or transported.

18C.201 PROHIBITED FERTILIZER ACTIVITIES.

Subd. 6. **Anhydrous ammonia.** (a) A person may not:

(1) place, have placed, or possess anhydrous ammonia in a container that is not designed, constructed, maintained, and authorized to contain or transport anhydrous ammonia;

(2) transport anhydrous ammonia in a container that is not designed, constructed, maintained, and authorized to transport anhydrous ammonia;

(3) use, deliver, receive, sell, or transport a container designed and constructed to contain anhydrous ammonia without the express consent of the owner or authorized custodian of the container; or

(4) tamper with any equipment or facility used to contain, store, or transport anhydrous ammonia.

(b) For the purposes of this subdivision, containers designed and constructed for the storage and transport of anhydrous ammonia are described in rules adopted under section 18C.121, subdivision 1, or in Code of Federal Regulations, title 49.

Subd. 7. **No cause of action.** (a) Except as provided in paragraph (b), a person tampering with anhydrous ammonia containers or equipment under subdivision 6 shall have no cause of action for damages arising out of the tampering against (1) the owner or lawful custodian of the container or equipment; (2) a person responsible for the installation or maintenance of the container or equipment; or (3) a person lawfully selling or offering for sale the anhydrous ammonia.

(b) Paragraph (a) does not apply to a cause of action against a person who unlawfully obtained the anhydrous ammonia or anhydrous ammonia container or who possesses the anhydrous ammonia or anhydrous ammonia container for any unlawful purpose.

18D.331 CRIMINAL PENALTIES.

Subd. 5. **Anhydrous ammonia containment, tampering, theft, transport.** A person who knowingly violates section 18C.201, subdivision 6, is guilty of a felony and may be sentenced to imprisonment for not more than five years, or to payment of a fine of not more than \$50,000, or both.

1 Senator moves to amend S.F. No. 423 as follows:

2 Page 5, line 15, delete "the convicted person is indigent
3 or that"

4 Page 5, line 18, after the period, insert "If the court
5 finds that the convicted person is indigent, there is a
6 presumption that restitution is waived."

Bill Summary**Senate**

Senate Counsel & Research

State of Minnesota

S.F. No. 901 - Methamphetamine Provisions**(First Engrossment)**

Author: Senator Wes Skoglund
Prepared by: Kenneth P. Backhus, Senate Counsel (651/296-4396)
Date: February 18, 2005

Overview

S.F. No. 901 addresses methamphetamine by: establishing a toll-free telephone number for citizen tips; making it a crime to improperly dispose of or abandon methamphetamine waste products; amending the nuisance law to make it easier to establish nuisances involving methamphetamine manufacturing; requesting a report from the Legislative Auditor on the efficacy of drug treatment programs; requiring the Board of Veterinary Medicine to report on animal products that may be used to manufacture methamphetamine; and establishing a methamphetamine awareness and educational account in the state treasury.

Section 1 requires the Department of Health to maintain and publicize a toll-free telephone number to enable citizens to report suspected methamphetamine crimes.

Section 2 creates a new crime for disposing or abandoning methamphetamine waste products or chemical substances. A knowing violation is a five year/\$50,000 felony, but if it places another person in imminent danger of death, great bodily harm, or substantial bodily harm, it is a ten-year/\$100,000 felony. Provides an exception for peace officers acting in the course of their employment and persons who lawfully dispose of any product or substance in a manner approved by the Pollution Control Agency. Defines key terms.

Section 3 creates a methamphetamine awareness and educational account as a special revenue account in the State Treasury. The state is authorized to accept contributions, gifts, grants, and bequests for deposit into the fund. Appropriates money in the account to the Commissioner of Public Safety to support projects related to educating retailers and the public on the dangers of methamphetamine, including an educational initiative entitled Minnesota meth watch.

Section 4 amends the nuisance law to allow a public nuisance involving the manufacture of methamphetamine to be established upon a showing of a single methamphetamine manufacturing incident within the building in the previous 12 months. The nuisance law generally requires two incidents to have occurred in a 12-month period.

Sections 5 and 6 are technical changes related to **section 4**.

Section 7 requests the Legislative Audit Commission to direct the legislative auditor to conduct a study related to the efficacy of controlled substance treatment programs for criminal offenders. If the

commission directs the auditor to conduct the study, requires a report to the Legislature by February 1, 2006.

Section 8 requires the Minnesota Board of Veterinary Medicine to study and issue a report to the Legislature by February 1, 2006, on animal products that may be used in the manufacture of methamphetamine.

KPB:ph

[Check on the status of this bill](#)

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Last review or update: 02/23/2005

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Consolidated Fiscal Note – 2005-06 Session

Bill #: S0901-2E **Complete Date:** 03/21/05

Chief Author: SKOGLUND, WESLEY

Title: METHAMPHETAMINE CRIMES & PROVISIONS

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings		X
Tax Revenue		X

Agencies: Corrections Dept (03/16/05)
 Veterinary Medicine Board (03/17/05)
 Sentencing Guidelines Comm (03/10/05)
 Public Safety Dept (03/10/05)

Supreme Court (03/21/05)
 Public Defense Board (03/16/05)
 Legislative Audit Commission (03/10/05)

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Net Expenditures					
General Fund	0	981	1,803	2,559	2,589
Supreme Court		201	201	201	201
Public Defense Board		181	387	387	387
Corrections Dept	0	599	1,215	1,971	2,001
Health Related Boards Fund		7			
Veterinary Medicine Board		7			
Misc Special Revenue Fund		40			
Public Safety Dept		40			
Revenues					
Misc Special Revenue Fund		40			
Public Safety Dept		40			
Net Cost <Savings>					
General Fund	0	981	1,803	2,559	2,589
Supreme Court		201	201	201	201
Public Defense Board		181	387	387	387
Corrections Dept	0	599	1,215	1,971	2,001
Health Related Boards Fund		7			
Veterinary Medicine Board		7			
Misc Special Revenue Fund		0			
Public Safety Dept		0			
Total Cost <Savings> to the State	0	988	1,803	2,559	2,589

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
General Fund	0.00	14.60	24.40	36.50	37.00
Public Defense Board		5.00	5.00	5.00	5.00
Corrections Dept	0.00	9.60	19.40	31.50	32.00
Total FTE	0.00	14.60	24.40	36.50	37.00

Consolidated EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: JIM KING
 Date: 03/21/05 Phone: 296-7964

Fiscal Note – 2005-06 Session

Bill #: S0901-2E **Complete Date:** 03/16/05

Chief Author: SKOGLUND, WESLEY

Title: METHAMPHETAMINE CRIMES & PROVISIONS

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Corrections Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
General Fund	0	599	1,215	1,971	2,001
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
General Fund	0	599	1,215	1,971	2,001
Revenues					
-- No Impact --					
Net Cost <Savings>					
General Fund	0	599	1,215	1,971	2,001
Total Cost <Savings> to the State	0	599	1,215	1,971	2,001

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalent					
General Fund	0.00	9.60	19.40	31.50	32.00
Total FTE	0.00	9.60	19.40	31.50	32.00

Bill Description

This bill expands creates criminal penalties for the disposal of methamphetamine waste products. Knowingly disposing of such waste products would be a felony with a five-year statutory maximum. If a person knowingly disposes of such waste products in a manner that places another person in imminent danger of death, great bodily harm or substantial bodily harm, the statutory maximum is increased to 10 years.

Assumptions

- The Minnesota Sentencing Guidelines Commission estimates a prison bed impact between 25-50 beginning in FY06 and a maximum number of beds of 50-100 beginning in FY07. This will then be the maximum bed impact of this bill.
- A mid-range number was utilized to complete the fiscal note.
- Prison bed costs are based on a marginal cost per diem for each fiscal year. The annual per diems are as follows: FY06 \$69.85, FY07 \$70.91, FY08 \$71.99, and FY09 \$73.10. This includes marginal costs for all facility, private and public bed rental, health care, and support costs.
- In order to estimate the annual cost the number of prison beds needed is phased in on a quarterly basis. Then multiplying the number of beds for each quarter by the subsequent annual per diem determines the estimate for the annual costs of prison beds. The beds hit a maximum number in FY08 and costs are based on a full year versus the "phasing-in" method used for FY06 and FY07.
- Prison bed FTE impact for the increase in the inmate population assumes 80 percent of the ongoing bed impact is personnel-related and the average salary is \$50,000 per year including benefits.
- According to Minnesota Sentencing Guidelines it is difficult to determine how many offenders might be sentenced for this bill so realizing an impact on supervision is problematic. However, with each new crime and penalty enhancement of this bill and all others enacted this legislative session the accumulative effect of supervision caseloads could be significant.
- This bill is effective August 1, 2005.

Expenditure and/or Revenue Formula

Expenditures for Prison Beds

Fiscal Year	2005	2006	2007	2008	2009
Number of Prison Beds	0	38	75	75	75
Costs of Prison Beds (1=1,000)	\$0	\$599	\$1,215	\$1,971	\$2,001
FTE	0	9.6	19.4	31.5	32

Long-Term Fiscal Considerations

The impact of prison beds will cost the state \$2 million FY10 and will continue into subsequent years.

Local Government Costs

Any offenders placed on probation as a result of the enactment of these new offenses would add to probation caseloads and could have a significant impact on local jail resource if jail time is ordered as a condition of probation.

References/Sources

Minnesota Sentencing Guidelines staff.
Minnesota Department of Corrections staff.

FN Coord Signature: DENNY FONSECA
Date: 03/16/05 Phone: 642-0220

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: JIM KING

Date: 03/16/05 Phone: 296-7964

Fiscal Note – 2005-06 Session

Bill #: S0901-2E **Complete Date:** 03/17/05

Chief Author: SKOGLUND, WESLEY

Title: METHAMPHETAMINE CRIMES & PROVISIONS

Fiscal Impact	Yes	No
State	X	
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Veterinary Medicine Board

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
Health Related Boards Fund		7			
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
Health Related Boards Fund		7			
Revenues					
-- No Impact --					
Net Cost <Savings>					
Health Related Boards Fund		7			
Total Cost <Savings> to the State		7			

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

Bill Description

Bill S0901-2E – Methamphetamine Crimes & Provisions

Methamphetamine and precursor drugs sale regulation and crimes definition. Requiring Board of Veterinary Medicine to study and issue report on animal products that may be used in the manufacture of methamphetamine. The report is to include proposals for restricting access to such products only to legitimate users, specifically addressing the manufacturing, wholesaling, distributing and retailing of veterinary precursor products.

Assumptions:

Information and data would be gathered primarily via internet and contact with knowledgeable individuals via telephone and letter. Need to contract with veterinary pharmacist to identify veterinary products that contain Methamphetamine precursor drugs, manufacturers and distributors.

Expenditure and/or Revenue Formula

Estimated costs to compile the study and prepare a report:

Type of Expense	Cost
Salaries	\$2,500.00
Professional/Technical Contract	\$4,000.00
Miscellaneous other costs	\$500.00
Total	\$7,000.00

Revenue – No revenue would be collected.

Long-Term Fiscal Considerations: None

Local Government Costs: None

References/Sources

Assumptions

Expenditure and/or Revenue Formula

Long-Term Fiscal Considerations

Local Government Costs

References/Sources

FN Coord Signature: JULI VANGSNESS
Date: 03/10/05 Phone: 617-2120

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: DOUG GREEN
Date: 03/17/05 Phone: 286-5618

Fiscal Note – 2005-06 Session

Bill #: S0901-2E **Complete Date:** 03/10/05

Chief Author: SKOGLUND, WESLEY

Title: METHAMPHETAMINE CRIMES & PROVISIONS

Fiscal Impact	Yes	No
State		X
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Legislative Audit Commission

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalent					
-- No Impact --					
Total FTE					

Bill Description

The bill requests the Legislative Audit Commission to direct the legislative auditor to study and issue a report on the efficacy of controlled substance treatment programs for criminal offenders in Minnesota.

Assumptions

If directed by the Legislative Audit Commission to complete the study, it would be considered a part of the regular research agenda for the legislative auditor and would, therefore, not require additional funding.

FN Coord Signature: ERIC JACOBSON

Date: 03/09/05 Phone: 296-4720

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: KRISTI SCHROEDL

Date: 03/10/05 Phone: 215-0595

Fiscal Note – 2005-06 Session

Bill #: S0901-2E **Complete Date:** 03/10/05

Chief Author: SKOGLUND, WESLEY

Title: METHAMPHETAMINE CRIMES & PROVISIONS

Fiscal Impact	Yes	No
State	X	
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Public Safety Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
Misc Special Revenue Fund		40			
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
Misc Special Revenue Fund		40			
Revenues					
Misc Special Revenue Fund		40			
Net Cost <Savings>					
Misc Special Revenue Fund		0			
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalent					
-- No Impact --					
Total FTE					

Bill Description

A bill for an act relating to Public Safety, creating the methamphetamine awareness and educational account and appropriating money in the account to the commissioner of public safety to support projects to educate retailers and the public on the dangers of methamphetamine and methamphetamine precursor drugs including Minnesota meth watch; requiring the bureau of criminal apprehension (BCA) to maintain and publish a toll free telephone number to enable the reporting of information about potential methamphetamine violations.

Assumptions

Sec. 2., Subd. 1, requires the Department of Public Safety to educate retailers and the public on the dangers of methamphetamine, including an educational initiative addressing its use, manufacture, and impact on children, the environment and Minnesota's quality of life.

Sec. 3., requires the BCA to maintain and publicize a toll-free telephone number for reporting potential methamphetamine-related crimes.

Expenditure and/or Revenue Formula

The Bureau of Criminal Apprehension (BCA) estimates the cost to develop, print and distribute a written, educational publication to retailers and businesses would be approximately \$40,000. The Minnesota Retailers Association currently conducts training on the issues surrounding methamphetamine; the BCA's Training Unit could partner with the Minnesota Retailers Association to conduct additional training at no additional cost. The cost of publishing and maintaining a toll-free number would be minimal and would be absorbed by BCA.

We are estimating that the one-time costs of the program in FY 2006 will be \$40,000. We are assuming special revenue collections of \$40,000 in FY 2006.

Long-Term Fiscal Considerations

There are no long-term fiscal considerations for this bill.

Local Government Costs

N/A

References/Sources

Agency Contact Name: Tim O'Malley 651 793-7000
FN Coord Signature: FRANK AHRENS
Date: 03/09/05 Phone: 296-9484

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: NORMAN FOSTER
Date: 03/10/05 Phone: 215-0594

Fiscal Note – 2005-06 Session

Bill #: S0901-2E **Complete Date:** 03/10/05

Chief Author: SKOGLUND, WESLEY

Title: METHAMPHETAMINE CRIMES & PROVISIONS

Fiscal Impact	Yes	No
State	X	
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Sentencing Guidelines Comm

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalent					
-- No Impact --					
Total FTE					

Bill Description

This bill expands creates criminal penalties for the disposal of methamphetamine waste products. Knowingly disposing of such waste products would be a felony with a five year statutory maximum. If a person knowingly disposes of such waste products in a manner that places another person in imminent danger of death, great bodily harm or substantial bodily harm, the statutory maximum is increased to 10 years.

The effective date is August 1, 2005 and it applies to offenses committed on or after that date.

Assumptions

It is difficult to estimate presumptive sentences for these offenses because there currently are no similar existing offenses to make a comparison with. There is a felony level offense involving the improper disposal of hazardous waste, but that offense is presently unranked. There are various statutory maximums for that offense depending on the seriousness of the crime. Since the Guidelines went into effect in 1981, this offense has been sentenced a total of 24 times with severity levels assigned by judges ranging from 1-6. The bulk of the crimes were ranked at severity levels 4, 5 or 6. It is assumed that the new offense with the five year statutory maximum will be ranked at a severity level where most offenders will be recommended a probationary sentence. The offense involving knowledge of danger of harm to another person is likely to be ranked at a higher severity level, but in it uncertain as to whether this offense will be ranked at a severity level where offenders with low criminal history scores will be recommended probation, or whether it would be ranked at a severity level where all offenders are recommended prison sentences. Since it may be difficult to prove that an offender knew that the waste disposal placed another in imminent danger, it is assumed that most offenders prosecuted for this offense will be sentenced for the provision with the five year statutory maximum.

Determining how many offenders might be sentenced for these offenses is also problematical. The Minnesota Department of Health, in 2003 over 500 meth labs, were reported to their meth lab database by counties. However, they also note that their database may not be complete because reporting is not mandatory. It is unknown how many of these lab sites could be linked to specific offenders who could be prosecuted. In 2003, MSGC data indicated 310 offenders were sentenced for manufacture of methamphetamine. Meth labs could be connected to multiple offenders and an offender could be responsible for more than one meth lab.

Impact on State and Local Correctional Resources

Given that the number of offenders likely to be prosecuted for these new offenses is uncertain, and the type of sentences they are likely to receive is unknown, it is difficult to estimate the impact of this bill on state and local correctional resources. If offenders sentenced for this offense are already receiving a sentence for manufacture of methamphetamine, it is likely that that sentence will be longer than the sentence for meth waste disposal, and therefore, there would be no impact on prison beds unless these offenders were given consecutive sentences. Only offenders receiving consecutive sentences or an executed prison sentence for a waste disposal offense alone will have an impact on prison resources. The following projection is based on 5 – 10% of the meth lab sites resulting in prosecutions that end with offenders receiving additional prison time. That would mean 25-50 offenders a year receiving additional prison time. If those offenders serve an average term of imprisonment of 24 months, the impact would range from 50-100 prison beds. Between 25 and 50 beds would be needed in FY06 and 50-100 beds would be needed in FY07 and every year after.

Any additional offenders placed on probation as a result of the enactment of these new offenses would add to probation case loads and could have an impact on local jail resources if they receive jail time as a condition of probation.

FN Coord Signature: ANNE WALL
Date: 03/08/05 Phone: 296-0144

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: JIM KING

Date: 03/10/05 Phone: 296-7964

Fiscal Note – 2005-06 Session

Bill #: S0901-2E **Complete Date:** 03/21/05

Chief Author: SKOGLUND, WESLEY

Title: METHAMPHETAMINE CRIMES & PROVISIONS

Fiscal Impact	Yes	No
State	X	
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Supreme Court

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
General Fund		201	201	201	201
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
General Fund		201	201	201	201
Revenues					
-- No Impact --					
Net Cost <Savings>					
General Fund		201	201	201	201
Total Cost <Savings> to the State		201	201	201	201

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalent					
-- No Impact --					
Total FTE					

Bill Description

This bill expands creates criminal penalties for the disposal of methamphetamine waste products. Knowingly disposing of such waste products would be a felony with a five year statutory maximum. If a person knowingly disposes of such waste products in a manner that places another person in imminent danger of death, great bodily harm or substantial bodily harm, the statutory maximum is increased to 10 years.

The effective date is August 1, 2005 and it applies to offenses committed on or after that date.

Assumptions

Sentencing Guidelines highlights the difficulty in estimating the number of charges that might result under this provision. However, MSGC estimates 25-50 offenders could potentially receive enhanced sentences under this bill. With additional charges and severe penalties added to meth manufacture charges, the number of cases demanding a jury trial is likely to increase. In 2003 Sentencing Guidelines noted 310 meth manufacture convictions. This fiscal note assumes a 10% increase in the trial demand because of the additional charge and severity of the penalty.

Expenditure and/or Revenue Formula

Jury costs could be anticipated to increase by approximately \$201, 600 for per diem and mileage costs for an additional 30 trials (10% of 310).

Long-Term Fiscal Considerations

Local Government Costs

References/Sources

FN Coord Signature: JUDY REHAK
Date: 03/20/05 Phone: 297-7800

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: JIM KING
Date: 03/21/05 Phone: 296-7964

Fiscal Note – 2005-06 Session

Bill #: S0901-2E **Complete Date:** 03/16/05

Chief Author: SKOGLUND, WESLEY

Title: METHAMPHETAMINE CRIMES & PROVISIONS

Fiscal Impact	Yes	No
State	X	
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Public Defense Board

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
General Fund		181	387	387	387
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
General Fund		181	387	387	387
Revenues					
-- No Impact --					
Net Cost <Savings>					
General Fund		181	387	387	387
Total Cost <Savings> to the State		181	387	387	387

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
General Fund		5.00	5.00	5.00	5.00
Total FTE		5.00	5.00	5.00	5.00

Bill Description

This bill criminalizes the knowing disposal or abandonment of a chemical substance used to make meth, or of a meth waste product. There is a 5 year felony for just disposal and a 10 year felony for disposal that endangers someone. The language defining waste product is is very broad. It also makes it a 5 year felony to not clean up after a meth lab. If you fail to do so in a manner that places someone in danger of great bodily harm, which most toxic meth labs do, it's a 10 year felony. No one cleans up their meth lab.

**Based on my experience all meth cooks disregard the PCA procedures, so each time a meth lab site (or suspected lab site) is discovered this crime can also be charged. I also wondering if flushing precursors down the toilet when the cops arrive with a search warrant is now in itself a felony.

This bill also amends the public nuisance statute to allow landlords to evict after 1 incident (instead of 2 incidents) when there has been meth manufacturing or attempted manufacturing on a premises.

Steve

Assumptions

This has the potential to add a number of cases or additional charges. Based on experience all meth cooks disregard the PCA procedures, so each time a meth lab site (or suspected lab site) is discovered this crime can also be charged. The potential also exists that flushing precursors down the toilet when law enforcement arrives is now in itself a felony. In addition, there is a provision for consecutive sentences that will make it more difficult to negotiate these cases.

It is difficult to estimate presumptive sentences for these offenses because there currently are no similar existing offenses to make a comparison with. According to the Minnesota Department of Health, over 500 meth labs were reported to their meth lab database by counties in 2003. However, they also note that their database may not be complete because reporting is not mandatory.

Expenditure and/or Revenue Formula

Based on the above assumptions we would expect a need for an additional five FTE attorneys. Meth is the fastest growing area of crime that public defenders see and is often connected to other crimes. Phased in for FY 2006 this would be \$181,000, and \$387,000 in FY 2007

Long-Term Fiscal Considerations

Local Government Costs

References/Sources

FN Coord Signature: KEVIN KAJER
Date: 03/16/05 Phone: 349-2565

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: JIM KING
Date: 03/16/05 Phone: 296-7964

1 A bill for an act

2 relating to public safety; establishing a
3 methamphetamine waste disposal crime; creating a
4 methamphetamine awareness and educational account;
5 providing for the establishment of civil nuisances
6 involving methamphetamine manufacture; requiring a
7 toll-free number for citizen reports of
8 methamphetamine laboratories; providing for reports;
9 imposing criminal penalties; amending Minnesota
10 Statutes 2004, sections 617.81, subdivision 4, by
11 adding a subdivision; 617.85; proposing coding for new
12 law in Minnesota Statutes, chapters 144; 152.

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

14 Section 1. [144.4188] [CITIZEN REPORTS OF METHAMPHETAMINE
15 VIOLATIONS.]

16 The Department of Health shall maintain and publicize a
17 toll-free telephone number to enable citizens to report
18 information about potential methamphetamine violations,
19 including, but not limited to, illicit methamphetamine
20 laboratories. The department shall take appropriate steps after
21 receiving a citizen report after considering the nature and
22 trustworthiness of the information reported, including, but not
23 limited to, contacting the appropriate law enforcement agency.

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

25 Sec. 2. [152.139] [DISPOSING OF METHAMPHETAMINE WASTE
26 PRODUCTS; CRIME.]

27 Subdivision 1. [DEFINITIONS.] As used in this section:

28 (1) "chemical substance" means a substance intended to be used
29 as a precursor in the manufacture of methamphetamine or any

1 other chemical intended to be used in the manufacture of
2 methamphetamine; and (2) "methamphetamine waste product" means a
3 substance, chemical, or item of any kind used in the manufacture
4 or attempted manufacture of methamphetamine or any part of the
5 manufacturing process, or the by-product or degradate of
6 manufacturing or attempting to manufacture methamphetamine.

7 Subd. 2. [CRIMES DESCRIBED; PENALTIES.] (a) Except as
8 provided in paragraph (b), a person who knowingly disposes of or
9 abandons any methamphetamine waste product or chemical substance
10 is guilty of a felony and may be sentenced to imprisonment for
11 not more than five years or to payment of a fine of not more
12 than \$50,000, or both.

13 (b) A person who knowingly disposes of or abandons any
14 methamphetamine waste product or chemical substance in a manner
15 that places another person in imminent danger of death, great
16 bodily harm, or substantial bodily harm, is guilty of a felony
17 and may be sentenced to imprisonment for not more than ten years
18 or to payment of a fine of not more than \$100,000, or both.

19 Subd. 3. [EXCEPTION.] This section does not apply to:

20 (1) a peace officer acting in the course of the officer's
21 employment; or

22 (2) a person who lawfully disposes of any product or
23 substance in a manner approved by the Pollution Control Agency.

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

26 Sec. 3. [152.185] [METHAMPHETAMINE AWARENESS AND
27 EDUCATIONAL ACCOUNT; MINNESOTA METH WATCH.]

28 Subdivision 1. [ACCOUNT ESTABLISHED; EDUCATIONAL PROGRAM.]
29 The methamphetamine awareness and educational account is a
30 special revenue account in the state treasury. Money in the
31 account is appropriated to the commissioner of public safety to
32 be used to support projects relating to educating retailers and
33 the public on the dangers of methamphetamine and methamphetamine
34 precursor drugs and the laws and regulations governing their
35 use, including an educational initiative entitled "Minnesota
36 meth watch" addressing methamphetamine, its use and manufacture,

1 and the impact of methamphetamine-related activities on
2 children, the environment, and the state's quality of life.

3 Subd. 2. [CONTRIBUTIONS.] The state may accept
4 contributions, gifts, grants, and bequests for deposit into the
5 fund.

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

7 Sec. 4. Minnesota Statutes 2004, section 617.81, is
8 amended by adding a subdivision to read:

9 Subd. 2b. [EXCEPTION; NUISANCES INVOLVING METHAMPHETAMINE
10 MANUFACTURE.] Notwithstanding subdivision 2, for purposes of
11 sections 617.80 to 617.87, a public nuisance exists upon proof
12 of one or more behavioral incidents involving the manufacturing
13 or attempted manufacture of methamphetamine in the previous 12
14 months within the building. The requirement of two or more
15 behavioral incidents in subdivision 2, paragraph (b), does not
16 apply to incidents involving the manufacturing or attempted
17 manufacture of methamphetamine.

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

20 Sec. 5. Minnesota Statutes 2004, section 617.81,
21 subdivision 4, is amended to read:

22 Subd. 4. [NOTICE.] (a) If a prosecuting attorney has
23 reason to believe that a nuisance is maintained or permitted in
24 the jurisdiction the prosecuting attorney serves, and intends to
25 seek abatement of the nuisance, the prosecuting attorney shall
26 provide the written notice described in paragraph (b), by
27 personal service or certified mail, return receipt requested, to
28 the owner and all interested parties known to the prosecuting
29 attorney.

30 (b) The written notice must:

31 (1) state that a nuisance as defined in subdivision 2 is
32 maintained or permitted in the building and must specify the
33 kind or kinds of nuisance being maintained or permitted;

34 (2) summarize the evidence that a nuisance is maintained or
35 permitted in the building, including the date or dates on which
36 nuisance-related activity or activities are alleged to have

1 occurred;

2 (3) inform the recipient that failure to abate the conduct
3 constituting the nuisance or to otherwise resolve the matter
4 with the prosecuting attorney within 30 days of service of the
5 notice may result in the filing of a complaint for relief in
6 district court that could, among other remedies, result in
7 enjoining the use of the building for any purpose for one year
8 or, in the case of a tenant, could result in cancellation of the
9 lease; and

10 (4) inform the owner of the options available under section
11 617.85.

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

14 Sec. 6. Minnesota Statutes 2004, section 617.85, is
15 amended to read:

16 617.85 [NUISANCE; MOTION TO CANCEL LEASE.]

17 Where notice is provided under section 617.81, subdivision
18 4, that an abatement of a nuisance is sought and the
19 circumstances that are the basis for the requested abatement
20 involved the acts of a commercial or residential tenant or
21 lessee of part or all of a building, the owner of the building
22 that is subject to the abatement proceeding may file before the
23 court that has jurisdiction over the abatement proceeding a
24 motion to cancel the lease or otherwise secure restitution of
25 the premises from the tenant or lessee who has maintained or
26 conducted the nuisance. The owner may assign to the prosecuting
27 attorney the right to file this motion. In addition to the
28 grounds provided in chapter 566, the maintaining or conducting
29 of a nuisance as defined in section 617.81, subdivision 2, by a
30 tenant or lessee, is an additional ground authorized by law for
31 seeking the cancellation of a lease or the restitution of the
32 premises. Service of motion brought under this section must be
33 served in a manner that is sufficient under the Rules of Civil
34 Procedure and chapter 566.

35 It is no defense to a motion under this section by the
36 owner or the prosecuting attorney that the lease or other

1 agreement controlling the tenancy or leasehold does not provide
2 for eviction or cancellation of the lease upon the ground
3 provided in this section.

4 Upon a finding by the court that the tenant or lessee has
5 maintained or conducted a nuisance in any portion of the
6 building, the court shall order cancellation of the lease or
7 tenancy and grant restitution of the premises to the owner. The
8 court must not order abatement of the premises if the court:

9 (a) cancels a lease or tenancy and grants restitution of
10 that portion of the premises to the owner; and

11 (b) further finds that the act or acts constituting the
12 nuisance as defined in section 617.81, subdivision 2, were
13 committed by the tenant or lessee whose lease or tenancy has
14 been canceled pursuant to this section and the tenant or lessee
15 was not committing the act or acts in conjunction with or under
16 the control of the owner.

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

19 Sec. 7. [REQUESTED LEGISLATIVE AUDITOR'S REPORT; DRUG
20 TREATMENT.]

21 (a) The Legislative Audit Commission is requested to direct
22 the legislative auditor to study and issue a report on the
23 efficacy of controlled substance treatment programs for criminal
24 offenders in Minnesota. The report must include programs
25 offered in state and local correctional facilities and
26 community-based programs. The auditor shall study the programs
27 offered for each type of controlled substance addiction. The
28 report must compare the costs of the programs and their success
29 rates. The report must also address funding sources for these
30 programs, including, but not limited to, rule 25 funding. To
31 the degree feasible, the auditor shall investigate treatment
32 programs offered in other states for controlled substance
33 offenders and compare the breadth and comprehensiveness of the
34 treatment options available in Minnesota, their costs, and their
35 success rates to those in other states.

36 (b) If the Legislative Audit Commission directs the

1 legislative auditor to conduct the study described in paragraph
2 (a), the auditor shall report its findings to the legislature by
3 February 1, 2006.

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

5 Sec. 8. [BOARD OF VETERINARY MEDICINE REPORT, PRECURSOR
6 ANIMAL PRODUCTS.]

7 The Minnesota Board of Veterinary Medicine shall study and
8 issue a report on animal products that may be used in the
9 manufacture of methamphetamine. The report must include
10 proposals for restricting access to such products only to
11 legitimate users, specifically addressing the manufacturing,
12 wholesaling, distributing, and retailing of precursor veterinary
13 products. The board shall report its findings to the chairs and
14 ranking minority members of the senate and house committees
15 having jurisdiction over criminal justice and veterinary policy
16 by February 1, 2006.

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

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

G-17 STATE CAPITOL
75 REV. DR. MARTIN LUTHER KING, JR. BLVD.
ST. PAUL, MN 55155-1606
(651) 296-4791
FAX: (651) 296-7747
JO ANNE ZOFF SELLNER
DIRECTOR

Senate

State of Minnesota

**S.F. No. 992 -Expanding the Crime of Identity Theft
(First Engrossment)**

Author: Senator Wes Skoglund

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

Date: April 1, 2005

Section 1 expands the crime of identity theft by creating a 20-year felony for crimes involving the possession or distribution of child pornography (Minnesota Statutes, sections 609.246 and 609.247).

Section 2 requires the court to order an offender to pay restitution of not less than \$1,000 to each direct victim of an identity theft. In addition, upon the written request of a direct victim or the prosecutor, the court shall provide a copy of the complaint, the judgment of conviction, and an order setting forth the facts and circumstances of the offense.

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

CT:vs

Consolidated Fiscal Note – 2005-06 Session

Bill #: S0992-0 **Complete Date:** 03/08/05

Chief Author: SKOGLUND, WESLEY

Title: IDENTITY THEFT PENALTY MODIFICATION

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings		X
Tax Revenue		X

Agencies: Supreme Court (03/07/05)
Public Defense Board (03/02/05)

Corrections Dept (03/08/05)
Sentencing Guidelines Comm (03/03/05)

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Net Expenditures					
General Fund	0	80	162	214	217
Corrections Dept	0	80	162	214	217
Revenues					
– No Impact –					
Net Cost <Savings>					
General Fund	0	80	162	214	217
Corrections Dept	0	80	162	214	217
Total Cost <Savings> to the State	0	80	162	214	217

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
General Fund		1.30	2.60	3.40	3.50
Corrections Dept		1.30	2.60	3.40	3.50
Total FTE		1.30	2.60	3.40	3.50

Consolidated EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: JIM KING
Date: 03/08/05 Phone: 296-7964

Fiscal Note – 2005-06 Session

Bill #: S0992-0 **Complete Date:** 03/07/05

Chief Author: SKOGLUND, WESLEY

Title: IDENTITY THEFT PENALTY MODIFICATION

Fiscal Impact	Yes	No
State		X
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Supreme Court

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

This bill version has no fiscal effect on our agency.

FN Coord Signature: JUDY REHAK
Date: 03/07/05 Phone: 297-7800

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: JIM KING
Date: 03/07/05 Phone: 296-7964

Fiscal Note – 2005-06 Session

Bill #: S0992-0 **Complete Date:** 03/02/05

Chief Author: SKOGLUND, WESLEY

Title: IDENTITY THEFT PENALTY MODIFICATION

Fiscal Impact	Yes	No
State		X
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Public Defense Board

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalent					
-- No Impact --					
Total FTE					

Bill Description

Assumptions

While the provisions of this bill do not have a major impact on the public defense system, it does present the already overburdened criminal justice and public defender systems with additional cases and time commitments. Any time there is an increase in penalties or expansion of criminal law the result will be more cases, more contested cases, and more appeals.

Expenditure and/or Revenue Formula

Long-Term Fiscal Considerations

Local Government Costs

References/Sources

FN Coord Signature: KEVIN KAJER
Date: 03/02/05 Phone: 349-2565

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: JIM KING
Date: 03/02/05 Phone: 296-7964

Fiscal Note – 2005-06 Session

Bill #: S0992-0 **Complete Date:** 03/08/05

Chief Author: SKOGLUND, WESLEY

Title: IDENTITY THEFT PENALTY MODIFICATION

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Corrections Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
General Fund	0	80	162	214	217
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
General Fund	0	80	162	214	217
Revenues					
-- No Impact --					
Net Cost <Savings>					
General Fund	0	80	162	214	217
Total Cost <Savings> to the State	0	80	162	214	217

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalent					
General Fund		1.30	2.60	3.40	3.50
Total FTE		1.30	2.60	3.40	3.50

Bill Description

This bill amends the penalty provisions of the Identity Theft statute. Currently Identity Theft offenses that involve eight or more direct victims or a total combined loss of more than \$35,000 have a statutory maximum of 20 years. This bill would add identity theft offenses related to the possession or dissemination of pornographic works to this penalty provision, with no specification of a dollar value for the loss.

Assumptions

- According to the Minnesota Sentencing Guidelines Commission this bill will have a minimal impact on future need for prison beds. The impact of this bill will reach a maximum of 13 beds by 2008.
- Prison bed costs are based on a marginal cost per diem for each fiscal year. The annual per diems are as follows: FY06 \$69.85, FY07 \$70.91, FY08 \$71.99, and FY09 \$73.10. This includes marginal costs for all facility, private and public bed rental, health care, and support costs.
- In order to estimate the annual cost the number of prison beds needed is phased in on a quarterly basis. Then multiplying the number of beds for each quarter by the subsequent annual per diem determines the estimate for the annual costs of prison beds.
- Prison bed FTE impact for the increase in the inmate population assumes 80 percent of the ongoing bed impact is personnel-related and the average salary is \$50,000 per year including benefits.
- The revision of this bill creates a new category to existing penalties.
- According to Sentencing Guidelines this bill will have a minimal impact on supervision caseloads statewide. However, with each new crime and penalty enhancement enacted this legislative session the accumulative effect of supervision caseloads could be significant.
- This bill will be effective August 1, 2005.

Expenditure and/or Revenue Formula

Fiscal Year	2005	2006	2007	2008	2009
Number of Prison Beds	0	5	10	13	13
Costs of Prison Beds (1=1,000)	\$0	\$80	\$162	\$214	\$217
FTE	0	1.3	2.6	3.4	3.5

Long-Term Fiscal Considerations

The prison bed costs will be recognized in subsequent years costing \$217,000 annually (calculated using FY05 dollars).

Local Government Costs

The impact on local jurisdictions is estimated to be minimal.

References/Sources

Minnesota Sentencing Guidelines staff.
Minnesota Department of Corrections staff.

FN Coord Signature: DENNY FONSECA

Date: 03/08/05 Phone: 642-0220

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: JIM KING

Date: 03/08/05 Phone: 296-7964

Fiscal Note – 2005-06 Session

Bill #: S0992-0 **Complete Date:** 03/03/05

Chief Author: SKOGLUND, WESLEY

Title: IDENTITY THEFT PENALTY MODIFICATION

Fiscal Impact	Yes	No
State	X	
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Sentencing Guidelines Comm

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

Bill Description

This bill amends the penalty provisions of the Identity Theft statute. Currently Identity Theft offenses that involve eight or more direct victims or a total combined loss of more than \$35,000 have a statutory maximum of 20 years. This bill would add identity theft offenses related to the possession or dissemination of pornographic works to this penalty provision, with no specification of a dollar value for the loss.

The effective date is August 1, 2005 and it applies to offenses committed on or after that date..

Assumptions

It is assumed that Identity Theft crimes related to the possession or dissemination of pornographic works will be ranked the same as the other Identity Theft crimes with a 20 year statutory maximum. These offenses are ranked at severity level 8. At that severity level, all offenders are recommended executed prison sentences with recommended durations ranging from 48-108 months depending on criminal history score. The existing sentencing provision went into effect in August of 2003 and no offenders were sentenced for this offense in 2003. Preliminary information from 2004 indicates that six offenders were sentenced for this offense; all but one received executed prison sentences with durations of 22 months (an attempted offense), 24, 37, and 46 months (mitigated durational departures) and 110 months (criminal history score of 6). Given the small number of offenses observed thus far qualifying for this sentencing provision, it is assumed that the addition of offenses related to the possession or dissemination of pornographic works will result in only a small addition to the number of offenders sentenced at this penalty level. However, it is assumed that most additional offenders will receive executed prison sentences of about four years.

Impact on State and Local Correctional Resources

The impact on state correctional resources is uncertain, because the number of offenders that will be sentenced for these offenses is not known. If the expansion of the offenders covered by this sentencing provision results in a similar number of additional offenders sentenced each year as were sentenced for the existing offense in 2004, that would result in 5 more offenders a year receiving executed prison sentences. At average durations of 48 months, these offenders would eventually occupy 13 prison beds. Five beds would be needed in FY2006, 10 in FY2007, and 13 in FY2008 and every year after.

Because the number of expected new offenders is small, and most are expected to receive executed prison sentences, the impact on local correctional resources is projected to be minimal.

FN Coord Signature: ANNE WALL
Date: 03/03/05 Phone: 296-0144

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: JIM KING
Date: 03/03/05 Phone: 296-7964

1 A bill for an act

2 relating to crimes; modifying penalties for identity
3 theft; requiring minimum restitution payments and
4 providing information to victims of identity theft;
5 amending Minnesota Statutes 2004, section 609.527,
6 subdivisions 3, 4.

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

8 Section 1. Minnesota Statutes 2004, section 609.527,
9 subdivision 3, is amended to read:

10 Subd. 3. [PENALTIES.] A person who violates subdivision 2
11 may be sentenced as follows:

12 (1) if the offense involves a single direct victim and the
13 total, combined loss to the direct victim and any indirect
14 victims is \$250 or less, the person may be sentenced as provided
15 in section 609.52, subdivision 3, clause (5);

16 (2) if the offense involves a single direct victim and the
17 total, combined loss to the direct victim and any indirect
18 victims is more than \$250 but not more than \$500, the person may
19 be sentenced as provided in section 609.52, subdivision 3,
20 clause (4);

21 (3) if the offense involves two or three direct victims or
22 the total, combined loss to the direct and indirect victims is
23 more than \$500 but not more than \$2,500, the person may be
24 sentenced as provided in section 609.52, subdivision 3, clause
25 (3);

26 (4) if the offense involves more than three but not more

1 than seven direct victims, or if the total combined loss to the
2 direct and indirect victims is more than \$2,500, the person may
3 be sentenced as provided in section 609.52, subdivision 3,
4 clause (2); and

5 (5) if the offense involves eight or more direct victims⁷;
6 or if the total, combined loss to the direct and indirect
7 victims is more than \$35,000⁷; or if the offense is related to
8 possession or distribution of pornographic work in violation of
9 section 617.246 or 617.247; the person may be sentenced as
10 provided in section 609.52, subdivision 3, clause (1).

11 Sec. 2. Minnesota Statutes 2004, section 609.527,
12 subdivision 4, is amended to read:

13 Subd. 4. [RESTITUTION; ITEMS PROVIDED TO VICTIM.] (a) A
14 direct or indirect victim of an identity theft crime shall be
15 considered a victim for all purposes, including any rights that
16 accrue under chapter 611A and rights to court-ordered
17 restitution.

18 (b) The court shall order a person convicted of violating
19 subdivision 2 to pay restitution of not less than \$1,000 to each
20 direct victim of the offense.

21 (c) Upon the written request of a direct victim or the
22 prosecutor setting forth with specificity the facts and
23 circumstances of the offense in a proposed order, the court
24 shall provide to the victim, without cost, a certified copy of
25 the complaint filed in the matter, the judgment of conviction,
26 and an order setting forth the facts and circumstances of the
27 offense.

28 Sec. 3. [EFFECTIVE DATE.]

29 Sections 1 and 2 are effective August 1, 2005, and apply to
30 crimes committed on or after that date.

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

G-17 STATE CAPITOL
75 REV. DR. MARTIN LUTHER KING, JR. BLVD.
ST. PAUL, MN 55155-1606
(651) 296-4791
FAX: (651) 296-7747
JO ANNE ZOFF SELLNER
DIRECTOR

Senate

State of Minnesota

**S.F. No. 277 - Making Permanent the Requirement that Certain
Litigation and Settlement Proceeds Be Deposited in the General
Fund**

Author: Senator Thomas Neuville

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

Date: April 1, 2005

Minnesota Statutes, section 16A.151, prohibits state officials from settling any legal action with funds distributed anyplace other than the general fund. Subdivision 5 sunsets section 16A.151.

The bill repeals the sunset, thereby making permanent the requirement that settlement proceeds be deposited in the general fund.

CT:vs

SF 277 - Newville

Consolidated Fiscal Note – 2005-06 Session

Bill #: H0046-0 Complete Date: 03/08/05

Chief Author: WILKIN, TIM

Title: REPEAL SUNSET;GF LITIGATION SETTLEMT

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings		X
Tax Revenue		X

Agencies: Attorney General (03/08/05)

Finance Dept (02/16/05)

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Net Expenditures					
General Fund			152	152	152
Attorney General			152	152	152
Revenues					
-- No Impact --					
Net Cost <Savings>					
General Fund			152	152	152
Attorney General			152	152	152
Total Cost <Savings> to the State			152	152	152

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
General Fund			1.00	1.00	1.00
Attorney General			1.00	1.00	1.00
Total FTE			1.00	1.00	1.00

Consolidated EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: KRISTI SCHROEDL

Date: 03/08/05 Phone: 215-0595

Fiscal Note – 2005-06 Session

Bill #: H0046-0 **Complete Date:** 03/08/05

Chief Author: WILKIN, TIM

Title: REPEAL SUNSET;GF LITIGATION SETTLEMT

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Attorney General

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
General Fund			152	152	152
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
General Fund			152	152	152
Revenues					
-- No Impact --					
Net Cost <Savings>					
General Fund			152	152	152
Total Cost <Savings> to the State			152	152	152

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
General Fund			1.00	1.00	1.00
Total FTE			1.00	1.00	1.00

Bill Description

Makes permanent the prohibition on state officials from settling any legal action with funds distributed any place other than the state's General Fund. The prohibition is now scheduled to expire June 30, 2006. The overwhelming majority of civil lawsuits in which the state prevails as plaintiff result in cash payments to the General Fund. However, prior to enactment of this provision both settlements and court decisions on a few occasions resulted in contributions to charitable organizations of either cash or in kind products.

Assumptions

There will be no fiscal impact in FY 2006, as that ends June 30, 2006.

1. General Fund. For two reasons in later years the General Fund, as well as charities, will likely suffer a net loss due to this legislation:
 - One reason for loss to the General Fund is that the provision eliminates a settlement option. The state's flexibility in negotiations is narrowed and there are fewer settlements. At times defendants simply do not want to pay the entire amount to the state. Instead, they prefer that a portion in cash or in the form of a product, such as toys, food, or medical supplies, be given to charity. The consequence is that cases are taken to trial that otherwise would have settled and fewer funds go to the General Fund.
 - The second reason is that Minnesota often joins with other states in litigating a claim against a particular defendant. Because Minnesota is the only state known to have this restriction, it has had to forego participating in settlements in multi-state litigation, which would have either directly benefited the General Fund or indirectly benefited it, through in-kind payments.
2. Attorney General's Office. Because of the restriction, litigation requires more time and resources from the Attorney General's Office. Cases either have to go to trial or take longer to settle since often defendants, for whatever reasons, find it easier to provide a portion of the settlement funds to worthy charities, as opposed to paying state government.

Expenditure and/or Revenue Formula

Expenditure: Additional costs caused by this provision will vary depending on specific litigation. It is estimated that several million dollars of benefits to Minnesotans are foregone because of the current law. Three examples from the past year:

1. In a case involving a pharmaceutical company, this Office had to turn down a preliminary offer of up to \$500,000 worth of free drugs to be donated to the state's Medicaid program.
2. Minnesota had to forego participating in another settlement involving hundreds of millions of dollars with 45 other states and a tobacco firm that did not participate in the major 1998 settlement. The settlement required that some of the funds go to a non-profit charity.
3. Finally, the state was not able to participate in an anti-trust settlement against two large drug companies with 39 other states and the Federal Trade Commission. The terms required the firms to pay \$10,000 to each state and to make a significant contribution to a nonprofit organization.

Revenue: N/A

Long-Term Fiscal Considerations

Will cause the need for one additional lawyer to provide the same level of legal services.

Local Government Costs

It will impact units of local government in two ways: 1) there may be cases where the state brings action on behalf of itself as well as local governments in general for damages arising out of fraudulent or improper activities. Since payment to the General Fund is required, except for specific parties, local governments would not be entitled to settlement funds they would have otherwise received and 2) in order to avoid the prohibition of the bill, local governments may have to bring their own suits and not rely upon state government.

Agency Contact Name: Ken Peterson (651-296-2731)
FN Coord Signature: TERRY POHLKAMP

Date: 02/28/05 Phone: 297-1143

EBO Comments

The Attorney General's office is prepared to discuss the impact of this legislation on their operating budget.

EBO Signature: KRISTI SCHROEDL

Date: 03/08/05 Phone: 215-0595

Fiscal Note – 2005-06 Session

Bill #: H0046-0 **Complete Date:** 02/16/05

Chief Author: WILKIN, TIM

Title: REPEAL SUNSET;GF LITIGATION SETTLEMT

Fiscal Impact	Yes	No
State		X
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Finance Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalent					
-- No Impact --					
Total FTE					

Assumptions

This bill repeals the sunset date for M.S. 16A.151, which requires that proceeds received on behalf of the state as a result of litigation or settlements of potential litigation be returned to the General Fund or the state fund for which the matter was defended or pursued. Litigation and settlement of such matters as well as the proceeds from such action cannot be predicted, and therefore, no estimated fiscal impact can be estimated.

In most situations, the initial expenditures for which the state is seeking reimbursement through legal means were expended 2-5 years prior to the settlement of the matter. Therefore, by the time the state receives reimbursement through settlement or successful litigation, the legislature or administration has already taken action to replenish the budget of agencies that were originally affected by the wrongful actions, or the fiscal environment in which such decisions are made must be reexamined. There are a handful of exceptions where agency-specific statutes authorize the deposit of legal proceeds to certain state agency accounts, and in these cases, it has been interpreted that the most specific law supercedes the more general law (ex. M.S. 16B.31, Subd. 7).

FN Coord Signature: PETER SAUSEN
Date: 02/16/05 Phone: 296-8372

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: KRISTI SCHROEDL
Date: 02/16/05 Phone: 215-0595

Senator Neuville introduced--

S.F. No. 277: Referred to the Committee on Finance.

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2
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10

A bill for an act

relating to state government; making permanent the requirement that certain litigation and settlement proceeds be deposited in the general fund; repealing Minnesota Statutes 2004, section 16A.151, subdivision 5.

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

Section 1. [REPEALER.]

Minnesota Statutes 2004, section 16A.151, subdivision 5, is

repealed.

APPENDIX
Repealed Minnesota Statutes for 05-0462

16A.151 PROCEEDS OF LITIGATION OR SETTLEMENT.

Subd. 5. Expiration. This section expires June 30, 2006.

1 Senator moves to amend S.F. No. 277 as follows:

2 Page 1, after line 7, insert:

3 "Section 1. Minnesota Statutes 2004, section 16A.151,
4 subdivision 2, is amended to read:

5 Subd. 2. [EXCEPTIONS.] (a) If a state official litigates
6 or settles a matter on behalf of specific injured persons or
7 entities, this section does not prohibit distribution of money
8 to the specific injured persons or entities on whose behalf the
9 litigation or settlement efforts were initiated. If money
10 recovered on behalf of injured persons or entities cannot
11 reasonably be distributed to those persons or entities because
12 they cannot readily be located or identified or because the cost
13 of distributing the money would outweigh the benefit to the
14 persons or entities, the money must be paid into the general
15 fund.

16 (b) Money recovered on behalf of a fund in the state
17 treasury other than the general fund may be deposited in that
18 fund.

19 (c) This section does not prohibit a state official from
20 distributing money to a person or entity other than the state in
21 litigation or potential litigation in which the state is a
22 defendant or potential defendant.

23 (d) State agencies may accept funds as directed by a
24 federal court for any restitution or monetary penalty under
25 United States Code, title 18, section 3663(a)(3) or United
26 States Code, title 18, section 3663A(a)(3). Funds received must
27 be deposited in a special revenue account and are appropriated
28 to the commissioner of the agency for the purpose as directed by
29 the federal court.

30 (e) This section does not prohibit the state from
31 participating in multistate class action settlements that
32 involve the distribution of money or in-kind donations to a
33 nonprofit charity in the same manner as other states to the
34 settlement.

35 (f) This section does not prohibit the state from entering
36 into settlements that provide for distribution of nonmonetary,

1 in-kind donations to nonprofit charities of up to \$500,000."

2 Renumber the sections in sequence and correct the internal
3 references

4 Amend the title accordingly