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and Fiscal Analysis**

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Senate

State of Minnesota

S.F. No. 1325 - Sex Offenders

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Date: March 29, 2005

(KB)

Overview

S.F. No. 1325 is the Governor's sex offender bill. It provides for life sentences (including some life-without-release sentences) for certain egregious sex offenders, increases statutory maximum sentences for all sex offenses, directs the Minnesota Sentencing Guidelines Commission to modify the sentencing guidelines for sex offenses, and establishes the Minnesota Sex Offender Review Board to make release decisions regarding sex offenders sentenced to life sentences. The bill also modifies the predatory offender registration law, most significantly, by addressing homeless predatory offenders and by requiring offenders to disclose their status as registered offenders upon admittance to a health care facility; modifies the community notification law, most significantly, by addressing out-of-state offenders; requires victim notification when certain civilly committed persons are being provisionally discharged; expands the Department of Human Services' access to the predatory offender registry; and establishes an ongoing sex offender policy board to develop uniform supervision and professional standards.

ARTICLE 1

**Sex Offenders: Life without Release Sentences for Certain Sex Offenses;
Indeterminate Life Sentences for Other Sex Offenses; Increased Statutory Maximums;
Direction to Sentencing Guidelines Commission**

Overview

Article 1 contains the bill's main sentencing provisions relating to sex offenders. It provides for a life without release sentence for certain egregious first- and second-degree criminal sexual conduct offenders. It provides for an indeterminate life sentence with a 20-year minimum term of

imprisonment for violent first- and second-degree criminal sexual conduct offenders and for repeat sex offenders. It creates the new substantive crime of criminal sexual predatory conduct. It doubles the statutory maximum sentences for all criminal sexual conduct offenses and directs the Sentencing Guidelines Commission to make changes to the guidelines grid relating to sex offenses.

Section 1 provides that offenders serving life without release sentences under **article 1, section 9 or 11**, may not be given supervised release. Also provides that an offender serving an indeterminate life sentence under **article 1, section 9, 11, 13, 15, or 17**, may not be given supervised release without having served a minimum term of imprisonment of 20 years unless the sentencing court imposed a longer term of imprisonment, in which case the offender may not given supervised release without having served that term.

Section 2 requires the Commissioner of Corrections to submit the community investigation report required by law to the Minnesota Sex Offender Review Board (see **article 2, section 3**) to assist the board in making release decisions for inmates sentenced to indeterminate life sentences. Requires the Commissioner of Corrections to give supervised release to inmates serving indeterminate life sentences under **article 1, section 9, 11, 13, 15, or 17**, when directed to do so by the Sex Offender Review Board.

Sections 3 and 4 amends the patterned and predatory offender sentencing law.

Section 3 strikes the law's definition of "predatory crime." This definition is essentially recodified later in the article (see **article 1, section 8**).

Section 4 amends the requirement relating to an offender being a danger to public safety. Replaces the law's provision that the court make the dangerousness finding with the fact finder making it. This change is necessitated by the 2004 United States Supreme Court decision, Blakely v. Washington.

Section 5 amends the repeat sex offender sentencing law by adding cross-references to the new criminal sexual predatory conduct crime (see **article 1, section 17**).

Section 6 adds a definition of "sex offense" in the criminal sexual conduct laws. The definition includes first- through fifth-degree criminal sexual conduct, the new criminal sexual predatory conduct crime, solicitation of a child to engage in sexual conduct, indecent exposure, use of minors in sexual performances, possession/distribution of child pornography, and any similar statute of the United States or any other state. This definition is significant because it is the definition used in the indeterminate life sentencing provisions (see **article 1, sections 9, 11, 13, 15, and 17**) to determine whether an offender is a repeat offender and, thus, subject to an indeterminate life sentence.

Section 7 adds a definition of "subsequent sex offense" to the criminal sexual conduct laws. Defines the term to mean a violation of first- through fourth-degree criminal sexual conduct or the new criminal sexual predatory conduct crime for which the offender is convicted after the offender has already been convicted or adjudicated delinquent for:

- ▶ another felony-level sex offense;
- ▶ two nonfelony-level sex offenses; or
- ▶ any felony-level predatory crime that the fact finder determines was motivated by the offender's sexual impulses or was committed as part of a predatory pattern of behavior that had criminal sexual conduct as its goal.

Of note, the definition requires the offenses to involve separate behavioral incidents but does not require that the prior offense be a true prior. That is to say, that it does not require a sequencing of events whereby an offender commits and is convicted of an offense before the commission of the new offense.

Section 8 adds a definition of "predatory crime" to the criminal sexual conduct laws. This definition is essentially the same definition as that stricken in **article 1, section 3**. However, it does not include first- through fourth-degree criminal sexual conduct offenses because references to those sections are unnecessary under the changes made by this article.

Sections 9 and 10 amend the first-degree criminal sexual conduct crime.

Section 9 doubles the statutory maximum sentence from 30 to 60 years. Provides for an indeterminate life sentence if the offender was convicted: (1) of specified violent provisions (i.e., where the offender causes injury to the victim under certain circumstances, is armed with a dangerous weapon, creates reasonable fear on the part of the victim of imminent great bodily harm, is aided or abetted by one or more accomplices under certain circumstances, or has a family-type relationship with a victim younger than 16 under certain circumstances); or (2) of first-degree criminal sexual conduct (any provision) and the offense is considered a subsequent sex offense (see definitions in **article 1, sections 6 and 7**). The court must impose at least a 20-year minimum term of imprisonment on these offenders. Also provides for a life without release sentence for offenders who violate the provisions of first-degree criminal sexual conduct specified above where the fact finder determines that:

- ▶ the offender tortured the victim;
- ▶ the offender intentionally inflicted great bodily harm upon the victim;
- ▶ the offender, without the victim's consent, removed the victim from one place to another and did not release the victim in a safe place;
- ▶ the victim was aged 13 or younger at the time of the offense;
- ▶ the victim was aged 70 or older at the time of the offense;

- ▶ the offender was armed with a dangerous weapon and used or threatened to use it to cause the victim to submit;
- ▶ the offense involved sexual penetration/contact with more than one victim; or
- ▶ the offense involved more than one perpetrator engaging in sexual penetration/contact with the victim.

Provides that the fact finder may not consider a factor listed above if the factor is an element of the underlying first-degree criminal sexual conduct violation. Defines “torture.”

Section 10 makes a conforming change relating to **article 1, section 9**.

Sections 11 and 12 amend the second-degree criminal sexual conduct crime.

Section 11 doubles the statutory maximum sentence from 25 to 50 years. Provides for an indeterminate life sentence if the offender was convicted: (1) of specified violent provisions (i.e., where the offender causes injury to the victim under certain circumstances, is armed with a dangerous weapon, creates reasonable fear on the part of the victim of imminent great bodily harm, is aided or abetted by one or more accomplices under certain circumstances, or has a family-type relationship with a victim younger than 16 under certain circumstances); or (2) of second-degree criminal sexual conduct (any provision) and the offense is considered a subsequent sex offense (see definitions in **article 1, sections 6 and 7**). The court must impose at least a 20-year minimum term of imprisonment on these offenders. Also provides for a life without release sentence for offenders who violate the provisions of second-degree criminal sexual conduct specified above where the fact finder determines that:

- ▶ the offender tortured the victim;
- ▶ the offender intentionally inflicted great bodily harm upon the victim;
- ▶ the offender, without the victim’s consent, removed the victim from one place to another and did not release the victim in a safe place;
- ▶ the victim was aged 13 or younger at the time of the offense;
- ▶ the victim was aged 70 or older at the time of the offense;
- ▶ the offender was armed with a dangerous weapon and used or threatened to use it to cause the victim to submit;
- ▶ the offense involved sexual penetration/contact with more than one victim; or

- ▶ the offense involved more than one perpetrator engaging in sexual penetration/contact with the victim.

Provides that the fact finder may not consider a factor listed above if the factor is an element of the underlying second-degree criminal sexual conduct violation. Defines "torture."

Section 12 makes a conforming change related to **article 1, section 11**.

Sections 13 and 14 amend the third-degree criminal sexual conduct crime.

Section 13 doubles the statutory maximum sentence from 15 to 30 years. Requires that a person convicted of third-degree criminal sexual conduct where the crime is considered a subsequent sex offense (see definitions in **article 1, sections 6 and 7**) be sentenced to an indeterminate life sentence. Requires the sentencing court to specify a minimum term of imprisonment of at least 20 years.

Section 14 makes a conforming change related to **article 1, section 13**.

Sections 15 and 16 amend the fourth-degree criminal sexual conduct crime.

Section 15 doubles the statutory maximum sentence from 10 to 20 years. Requires that a person convicted of fourth-degree criminal sexual conduct where the crime is considered a subsequent sex offense (see definitions in **article 1, sections 6 and 7**) be sentenced to an indeterminate life sentence. Requires the sentencing court to specify a minimum term of imprisonment of at least 20 years.

Section 16 makes a conforming change related to **article 1, section 15**.

Section 17 creates the new crime of criminal sexual predatory conduct. An offender violates this law if the offender commits a predatory crime (see definition in **article 1, section 8**) that was motivated by the offender's sexual impulses or was committed as part of a predatory pattern of behavior that had criminal sexual conduct as its goal. Provides a statutory maximum sentence of 15 years imprisonment and/or a \$20,000 fine. However, if the offense is considered a subsequent sex offense (see definitions in **article 1, sections 6 and 7**), the person must be sentenced to an indeterminate life sentence. Requires the sentencing court to specify a minimum term of imprisonment of at least 20 years.

Section 18 requires the Minnesota Sentencing Guidelines Commission to modify the sentencing guidelines to reflect the changes made in this article. Requires that the changes be based on the Commission's January 2005 proposal to the Legislature relating to sex offenders (as adapted to reflect the changes made in this article).

Section 19 repeals a provision of the patterned and predatory offender sentencing law related to an increased statutory maximum sentence that is no longer necessary because of the changes made by this article.

ARTICLE 2

Minnesota Sex Offender Review Board

Overview

Article 2 establishes the Minnesota Sex Offender Review Board to make release decisions regarding sex offenders sentenced to indeterminate life sentences under **article 1**.

Section 1 adds a cross-reference in Minnesota Statutes, chapter 13 (Data Practices), to data classified under chapter 13 that is being made accessible to the Minnesota Sex Offender Review Board (see **article 2, section 3**).

Section 2 provides that the open meeting law does not apply to meetings of the Minnesota Sex Offender Review Board.

Section 3 establishes the Minnesota Sex Offender Review Board and provides that it is responsible for making release decisions relating to offenders serving indeterminate life sentences under **article 1**.

Section 4 directs the Commissioner of Corrections to establish criteria and procedures for the Minnesota Sex Offender Review Board. Requires the Commissioner to seek the input of criminal justice stakeholders in establishing the criteria and procedures for the board. Requires a report to the Legislature on the proposed composition, duties, procedures, and review criteria of the board.

ARTICLE 3

Sex Offenders: Technical and Conforming Changes

Overview

Article 3 makes technical and conforming changes necessitated by **article 1** of the bill.

Sections 1 to 13 make technical and conforming changes necessitated by **article 1**. Almost all of these changes involve adding cross-references to the new criminal sexual predatory conduct crime.

Section 14 directs the Revisor of Statutes to renumber the sex offender assessment statute so that it does not fall numerically between fifth-degree criminal sexual conduct and the new criminal sexual predatory conduct crime. Requires the Revisor to make other technical changes necessitated by this act.

ARTICLE 4

Miscellaneous Provisions

Overview

Article 4 contains a variety of sex offender related initiatives.

Section 1 prohibits criminal history data classified as public from being reclassified as confidential medical data when included in a patient's health record.

Sections 2, 3, 10, and 11 require the Commissioner of Corrections to develop a plan to provide for sex offender programming. Authorizes the plan to include co-payments from specified sources.

Section 4 defines "crime" for purposes of the civil commitment chapter of law.

Section 5 defines "convicted" and "conviction" for purposes of the civil commitment chapter of law.

Section 6 defines "victim" for purposes of the civil commitment chapter of law.

Section 7 requires a county attorney filing a petition to civilly commit a person as being mentally ill and dangerous, being a sexually dangerous person, or having a sexual psychopathic personality to make a reasonable effort to notify victims of the filing and the resolution of the petition.

Section 8 requires the special review board or Commissioner of Human Services to consider statements received from victims (see **article 4, section 9**) when reviewing petitions for the discharge of persons civilly committed as being mentally ill and dangerous, being sexually dangerous persons, or having sexual psychopathic personalities.

Section 9 requires reasonable efforts to notify victims when a person civilly committed as being mentally ill and dangerous, being a sexually dangerous person, or having a sexual psychopathic personality is released, even temporarily from an institution. Notification applies only to the victims who have requested such notification.

Section 12 expands the escape from custody crime to include persons who escape while on pass status or provisional discharge under the mentally ill and dangerous civil commitment law.

Section 13 expands the escape from custody crime to make it a felony (statutory maximum sentence of one year and a day imprisonment and/or \$3,000 fine) to escape while under civil commitment as being mentally ill and dangerous, being a sexually dangerous person, or having a sexual psychopathic personality.

Section 14 amends the gross misdemeanor penalty provision of the indecent exposure crime to strike language relating to indecent exposure in the presence of a minor under the age of 16 (see **article 4, section 15**).

Section 15 amends the felony penalty provision of the indecent exposure crime to include indecent exposure committed in the presence of unaccompanied minor under the age of 16. This section, in conjunction with **article 4, section 14**, increases the penalty for this conduct from a gross misdemeanor to a felony (statutory maximum sentence of five years imprisonment and/or a \$10,000 fine). Also requires that the minor be unaccompanied.

Section 16 requests the Minnesota Supreme Court to establish a task force to study the use of the court system as an alternative to the administrative process of the Special Review Board regarding decisions about reduction in custody level and/or discharge from commitment of persons committed as sexually dangerous persons or as having sexual psychopathic personalities. Specifies the membership of the task force. Specifies duties of the task force and requires a report to the Legislature.

ARTICLE 5

Predatory Offender Registry

Overview

Article 5 makes numerous substantive and technical changes to the predatory offender registration law, most significantly, relating to the law's applicability to homeless offenders, requiring disclosure to health care facilities upon admission of an offender subject to the law, and requiring lifetime conditional release for level III offenders who are convicted of failing to register. The article also makes changes to the community notification law, most significantly, related to out-of-state offenders.

Section 1 prohibits a registered sex offender residing in a health care facility who failed to inform the facility of the person's status as a registered sex offender from relying on the transfer and appeal procedure provisions to remain in the facility.

Section 2 amends the predatory offender registration law. Restructures and, in many instances, rewrites provisions of the law. Most significantly, provides a process for the registration of homeless offenders. Also requires that, upon admittance to a health care facility, a person required to register as a predatory offender must disclose to the facility the person's status as a registered sex offender. The offender must also disclose that inpatient admission has occurred to the offender's corrections agent or the appropriate law enforcement authority. An offender who fails to do this is guilty of a felony (statutory maximum sentence of five years imprisonment and/or a \$10,000 fine). If an offender fails to make the disclosure to the health care facility, the offender may not rely on the transfer and discharge appeal procedures under the health care law. Requires a law enforcement authority or corrections agent to notify a health care facility as soon as it comes to the attention of

the agent or authority that a predatory offender has been admitted and is receiving health care at the facility. Requires that when a level III offender is convicted for violating the predatory offender registration law's requirements, the offender must be placed on supervised release for the remainder of the offender's life. Requires the Bureau of Criminal Apprehension (BCA) to notify the Commissioner of Corrections in certain instances involving offenders from other states.

Section 3 amends the law that requires predatory offender registration by offenders who commit a crime against a person and who previously registered under the law but whose registration period ended or who would have had to register, except the law did not apply to the offender at the time of the offense. Expands the definition of "crime against a person" to include fourth-degree assault. Also expands this law to apply to offenders convicted of a crime against a person and who previously completed registration in another state.

Section 4 amends the law requiring the Commissioner of Corrections making a preliminary determination on whether a civil commitment petition may be appropriate. Requires the Commissioner's opinion to be based on a recommendation of a Department of Corrections screening committee and a legal review and recommendation from the Attorney General's Office.

Section 5 strikes language from the community notification law relating to offenders coming from other states (see **article 4, section 6**).

Section 6 provides a process in the community notification law for community notification for offenders coming from other states.

Section 7 clarifies that the community notification law applies to homeless offenders.

Section 8 expands the community notification law to require law enforcement agencies in the area where a health care facility is located to disclose the predatory offender registrant status of an offender to the health care facility if the offender is receiving inpatient care in the facility.

Section 9 adds probation and correctional service professionals to the list of persons required to report suspected child neglect or abuse.

Section 10 contains a Revisor's instruction related to the changes made in this article.

Section 11 repeals two provisions of the predatory offender registration law superceded by the changes made in this article.

ARTICLE 6

Human Services Access to Predatory Offender Registry

Overview

Article 6 relates to the Department of Human Services' (DHS) access to and ability to share information contained in the predatory offender registry database, and expands the fourth-degree assault law.

Section 1 allows predatory offender registration information to be used for human services and corrections purposes.

Section 2 amends Minnesota Statutes, section 246.13 (relating to records of patients and residents receiving state-operated services). Defines terms. Addresses disclosure of information and records, the Commissioner of Human Services' access to certain criminal information, and predatory offender registration requirements in regards to state-operated facilities.

Section 3 provides that the local law enforcement agency must be notified when patients who are civilly committed as being mentally ill and dangerous are being transferred out of a state operated services facility.

Section 4 provides that the BCA's computerized data system relating to predatory offenders may be used for human services purposes.

Section 5 expands the fourth-degree assault law to include employees or other individuals who provide care or treatment at DHS treatment facilities.

Section 6 requires that health care facilities develop an abuse prevention plan to address potential risks an individual may pose to other patients and staff and other individuals.

Section 7 repeals a provision in Minnesota Statutes, chapter 246, relating to the DHS's system of records and statistics for hospitals for mentally ill patients.

ARTICLE 7

Humans Services Background Studies

Overview

Article 7 addresses disqualification for employment in a DHS-licensed facility or program and circumstances under which a variance can be granted or a disqualification decision rescinded.

Section 1 requires that prospective employees have a background study completed before having direct contact with clients in DHS-licensed facilities or programs.

Section 2 adds new crimes and administrative determinations as grounds to permanently bar employment at a DHS-licensed facility or program. Adds aiding and abetting in any of the disqualifying offenses as a permanent bar to employment.

Section 3 strikes the crimes added in **article 7, section 2**, as permanent bars to employment from the list of crimes that act as 15-year disqualifiers. Adds new crimes to the 15-year disqualification list. Adds aiding and abetting in any of the disqualifying offenses as a 15-year bar to employment.

Section 4 adds new crimes to the ten-year disqualification list. Adds aiding and abetting in any of the disqualifying offenses as a ten-year bar to employment.

Section 5 makes technical changes.

Section 6 makes changes to the required disclosure to individuals whose background study disqualifies them from direct contact with clients in DHS-licensed facilities or programs.

Section 7 makes changes to the disqualification notice sent to applicants, license holders, or other entities (other than the subject of the background study).

Section 8 amends the law on requests to rescind disqualifications of individuals following a DHS background check.

Section 9 addresses the notice of request for reconsideration following a DHS background check.

Section 10 addresses data issues related to setting aside disqualifications under the DHS background check law.

Section 11 addresses rescinded disqualifications under the DHS background check law.

Section 12 makes changes to the Commissioner of Human Services' set-aside authority with regard to individuals permanently barred.

Section 13 makes changes to the Commissioner of Human Services' set-aside authority with regard to individuals disqualified for ten years.

Section 14 makes changes to the Commissioner of Human Services' set-aside authority with regard to individuals disqualified for seven years.

Section 15 requires the Commissioner of Human Services to expand notification regarding disqualifications and inform the public about them.

Section 16 addresses requests for variances under the DHS background check law.

Section 17 addresses the Commissioner of Human Services' authority to grant variances for disqualified individuals under the DHS background check law.

Section 18 addresses the destruction of data from substantiated reports of maltreatment.

ARTICLE 8

Sex Offender Policy Board

Overview

Article 8 creates a Sex Offender Policy Board to develop professional standards for treatment of sex offenders, including uniform supervision and treatment guidelines. Requires the Governor to appoint the Board. The board consists of five professionals with relevant experience in treatment, law enforcement, sex offender assessment, and sex offender management. Requires the board to submit reports to the Legislature regarding sex offenders.

KPB:ph



State of Minnesota
Minnesota Department of Corrections

March 21, 2005

The Honorable Jane Ranum
Minnesota State Senate
120 State Capitol
75 Reverend Martin Luther King Blvd.
St. Paul, Minnesota 55155-1606

Dear Senator Ranum:

As a follow up to our hearing last week, I can provide you with the following information.

1. Of those offenders released last year, how many...

- were directed to CD treatment- 3200
- were directed to SO treatment – **At the time of intake into the DOC, approximately 50% of all sex offenders are recommended for treatment in prison. Those not recommended do not have enough time to complete treatment while incarcerated. They are then recommended for treatment in the community.**
- completed CD treatment – 1400 offenders completed CD treatment in prison in 2004. This is a lower number than in past years. A longer treatment period is needed to address the complex treatment needs of the offenders. Therefore, with the same number of treatment beds, we treat fewer offenders.
- completed SO treatment – 77 offenders completed treatment or satisfactorily participated in SO treatment until release from prison.
- participated in CD treatment – 2071 offenders participated in DOC CD treatment.
- participated in SO treatment – The DOC does not track this figure. Offenders released last year may have participated in treatment in previous years.
- were terminated from CD treatment – 550 offenders were terminated from CD treatment.
- were terminated from SO treatment – 37 offenders were terminated from SO treatment.
- refused CD treatment – 44 offenders refused an offer of CD treatment.
- refused SO treatment – 55 offenders refused SO treatment.

2. How do we measure success in the DOC's CD treatment programs?

Completion of CD treatment requires satisfactory progress in meeting treatment goals, completion of psycho educational materials and an approved comprehensive relapse prevention plan. We received federal funding to hire a researcher to assist us in developing more outcomes based measures. We hope to have those measures developed in the next year.

3. How many more SO treatment beds do we need to adequately treat our population?

Best practices tell us that some sex offenders, (low risk, low need) are more effectively treated in the community whether prior to incarceration or upon release.

The number of sex offender beds needed is not clear, due to pending legislation that may require longer sentences. This may alleviate the current pressures to treat sex offenders in a shorter incarceration period. However, depending on the passage of current legislative proposals, in our correctional facilities, there is a need for additional sex offender treatment beds ranging from 250 to 400. Similarly, there is a need for additional treatment beds in the community, but it is difficult for the Department to determine a specific number.

4. How many more CD treatment beds do we need to adequately treat our population?

We need an additional 1570 primary CD treatment beds and 200 psycho-educational programming beds. Adding these beds would result in the Department having 2170 primary treatment beds and 400 psycho-educational treatment beds.

5. How many of the juveniles respond to mental health treatment at RW once they are incarcerated?

MCF-RW has a comprehensive assessment process for all residents. That assessment forms the basis for the treatment plan to include education/vocation, medical, mental health, chemical dependency, sex offender and criminogenic needs. The residents respond very well to the plan and interventions because all programming is client based, measures progress through mastery of new concepts and behaviors and requires demonstrated change over time. Residents are not released from the facility until they have completed the treatment plan goals or it has been determined they are unable to do so. Most residents are very responsive to this approach.

6. What will the per diem be if the Governor's recommendations are enacted?

The per diems for FY06 and FY 07 are estimated at \$73. This estimate is based on current budget and population levels and then includes all of the change items and base adjustment directly impacting the cost of housing the offenders.

7. Attached is list of those offenders sentenced under the felony DUI law. You will note that this table also includes prior felonies.

8. Attached are the DOC's policies, which govern our intake process for both adults and juveniles.

9. For those offenders over 50, what are their crimes and length of sentences? How many are women? Males = 648, Females = 28

| Offense | Males | Females |
|---------------------|-------|---------|
| Drugs | | |
| Meth | 39 | 2 |
| Cocaine | 20 | 1 |
| Crack | 15 | 3 |
| Marijuana | 6 | 1 |
| Amphetamine | 1 | |
| Heroin | 3 | |
| DUI | 28 | 1 |
| Person | | |
| Assault | 55 | 2 |
| Burglary 1 | 12 | |
| Crim Sex | 197 | |
| Manslaughter | 5 | |
| Murder | 139 | 10 |
| Robbery | 16 | |
| Terroristic Threats | 7 | |
| Property | | |
| Arson | 2 | |
| Burglary | 12 | 1 |
| Forgery/Fraud | 7 | 1 |
| Stolen Property | 4 | 1 |
| Theft | 22 | 5 |
| Property Damage | 1 | |
| Weapons | 9 | |
| Other | 33 | |

Average Sentence Length (sentence imposed)

Drug = 70.8 months

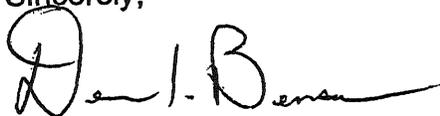
Person = 165 months (does not include 84 lifers)

Property = 56.3 months

DUI = 42.6 months

Please let me know if you have any questions on this information. I would be happy to discuss it with you.

Sincerely,



Dennis Benson
Deputy Commissioner
Facility Services

attachments

Preliminary

Consolidated Fiscal Note – 2005-06 Session

Bill #: H1406-0 Complete Date:

Chief Author: ZELLERS, KURT

Title: CRIM SEXUAL CONDUCT LIFE W/O PAROLE

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

Agencies: Corrections Dept (03/14/05)
 Attorney General (03/11/05)
 Sentencing Guidelines Comm (03/07/05)
 Public Safety Dept (03/11/05)

Supreme Court
 Public Defense Board
 Human Services Dept (03/15/05)

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 | 3,864 | 6,161 | 7,833 | 9,927 |
| Attorney General | | 310 | 338 | 338 | 338 |
| Public Safety Dept | | 1,146 | 564 | 636 | 564 |
| Supreme Court | | 2,309 | 3,848 | 3,848 | 3,848 |
| Corrections Dept | 0 | 99 | 1,411 | 3,011 | 5,177 |
| Revenues | | | | | |
| - No Impact - | | | | | |
| Net Cost <Savings> | | | | | |
| General Fund | 0 | 3,864 | 6,161 | 7,833 | 9,927 |
| Attorney General | | 310 | 338 | 338 | 338 |
| Public Safety Dept | | 1,146 | 564 | 636 | 564 |
| Supreme Court | | 2,309 | 3,848 | 3,848 | 3,848 |
| Corrections Dept | 0 | 99 | 1,411 | 3,011 | 5,177 |
| Total Cost <Savings> to the State | 0 | 3,864 | 6,161 | 7,833 | 9,927 |

| | FY05 | FY06 | FY07 | FY08 | FY09 |
|------------------------------|-------------|--------------|--------------|--------------|--------------|
| Full Time Equivalents | | | | | |
| General Fund | 0.00 | 12.00 | 33.00 | 56.60 | 91.20 |
| Attorney General | | 4.00 | 4.00 | 4.00 | 4.00 |
| Public Safety Dept | | 6.00 | 6.00 | 6.00 | 6.00 |
| Corrections Dept | 0.00 | 2.00 | 23.00 | 46.60 | 81.20 |
| Total FTE | 0.00 | 12.00 | 33.00 | 56.60 | 91.20 |

Preliminary

Fiscal Note – 2005-06 Session

Bill #: H1406-0 **Complete Date:** 03/14/05

Chief Author: ZELLERS, KURT

Title: CRIM SEXUAL CONDUCT LIFE W/O PAROLE

| 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 | 99 | 1,411 | 3,011 | 5,177 |
| Less Agency Can Absorb | | | | | |
| -- No Impact -- | | | | | |
| Net Expenditures | | | | | |
| General Fund | 0 | 99 | 1,411 | 3,011 | 5,177 |
| Revenues | | | | | |
| -- No Impact -- | | | | | |
| Net Cost <Savings> | | | | | |
| General Fund | 0 | 99 | 1,411 | 3,011 | 5,177 |
| Total Cost <Savings> to the State | 0 | 99 | 1,411 | 3,011 | 5,177 |

| | FY05 | FY06 | FY07 | FY08 | FY09 |
|-----------------------------|------|------|-------|-------|-------|
| Full Time Equivalent | | | | | |
| General Fund | 0.00 | 2.00 | 23.00 | 46.60 | 81.20 |
| Total FTE | 0.00 | 2.00 | 23.00 | 46.60 | 81.20 |

Preliminary

Bill Description

This bill doubles the statutory maximum penalties for all first through fourth degree criminal sexual conduct offenses. It creates a mandatory life sentence without possibility of release for first and second degree criminal sexual conduct offenses as defined in M.S. §609.342 and M.S. § 609.343 subdivisions 1 (c), (d), (e), (f), and (h), when one from a specific list of aggravating factors is present, as long as that factor is not an element of the offense. It also creates a mandatory life sentence with possibility of release after serving a minimum of 20 years for other first and second degree criminal sexual conduct offenses as defined in M.S. §609.342 and M.S. § 609.343 subdivisions 1 (c), (d), (e), (f), and (h), and for any other first through fourth degree offenders who are repeat offenders. Offenses that qualify as prior sex offenses are expanded to include some offenses other than criminal sexual conduct offenses, prior juvenile adjudications, and two prior misdemeanor sex offenses. The definition of a subsequent sex offense is also changed to include any conviction following a previous conviction for a sex offense regardless of when the offenses occurred. For other first through fourth degree offenses, the penalties prescribed by the Sentencing Guidelines Commission's sex offender grid would apply. The bill establishes a Sex Offender Review Board that would make decisions regarding conditional release for offenders eligible to be considered for release.

The bill also modifies and renumbers statute M.S. §609.108 – the patterned sex offender sentencing provision. It removes the "predatory crimes" from this provision and creates a new criminal sexual predatory conduct offense. This offense would consist of one of the predatory crimes that was motivated by the offender's sexual impulses or was part of a predatory pattern of behavior that had criminal sexual conduct as its goal. The statutory maximum for this offense would also be 15 years. If the predatory crime is a subsequent sex offense, the offender would qualify for the mandatory life sentence with possibility of release after serving a minimum of 20 years.

Assumptions

- According to the Minnesota Sentencing Guidelines Commission this bill will have a significant impact on future need for prison beds. The impact of this bill will not be realized until 11 months following enactment.
- In FY07 there will be a need for 81 prison beds, FY08 will increase to 177 prison beds, and FY09 will increase to 304 prison beds.
- The long-term impact of this bill is significant. This bill could create the need for an additional 3,858 to 7,478 prison beds in 2061.
- 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 department will be required to determine the supervised release status of all offenders entering Minnesota if notified of by local law enforcement or the BCA. Notification must be made if it is determined that the offender is required to register and has not yet done so.
- The department must determine if the risk level assigned to an offender from another state is comparable to the risk level that may have been assigned by Minnesota. Law enforcement must then be notified of this determination.
- If the risk level assigned by another state is not comparable then an end-of-confinement review committee must be convened to assign a new risk level. All relevant information must be obtained in order to accomplish this.
- The Commissioner must determine whether the laws of all other states are comparable to Minnesota.
- If local law enforcement disagrees with the determination of risk level by another state they may request the department to complete another end-of-confinement review.
- In order to accomplish the increased workload within the department's interstate unit an OAS Senior position must be added. This position will cost \$42,000 annually.
- In order to accomplish the increased workload within the department's community notification unit a Management Analyst 3 position must be added. This position will cost \$52,000 annually.
- It was the bill author's intent to pay for the Department of Corrections to pay for the expenses of the policy review board. It is anticipated that this board will meet approximately twelve times per year and the total annual expenses will be \$5,000.
- This bill is effective August 1, 2005.

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Expenditure and/or Revenue Formula

| Fiscal Year | 2005 | 2006 | 2007 | 2008 | 2009 |
|-----------------------------------|------------|-------------|----------------|----------------|----------------|
| Number of Prison Beds | 0 | 0 | 81 | 177 | 304 |
| Costs of Prison Beds (1=1,000) | \$0 | \$0 | \$1,312 | \$2,912 | \$5,078 |
| Community Services FTE's | \$0 | \$94 | \$94 | \$94 | \$94 |
| Sex Offender Policy Board | \$0 | \$5 | \$5 | \$5 | \$5 |
| Total DOC Cost (1=1,000) | \$0 | \$99 | \$1,411 | \$3,011 | \$5,177 |
| FTE | 0 | 2 | 23 | 46.6 | 81.2 |

Long-Term Fiscal Considerations

- Costs for prison beds will continue to increase in each subsequent year. The long-term impact on prison beds is significant ranging from 3,858 to 7,478 in 2061. This would cost the state between \$103 million to \$200 million per year (calculated on FY05 dollars).
- Costs for staffing the interstate and community notification unit of \$94,000 annually will be recognized in subsequent years. Depending on workload generated by the provisions of this bill will in all likelihood increase which will require additional staff.
- Based on the indeterminate sentencing provisions of this bill there will be a minimal savings in supervision caseloads from 2020 until 2025 by offenders serving an additional five years beyond current practice.
- These small savings will be offset very quickly beginning in 2025 when it is estimated that 196 offenders per year will be released and required to serve an estimated 20 years longer than current practice on conditional supervised release. The accumulative effect of this bill will be significant.

Local Government Costs

- The provisions of this bill will have an impact on local law enforcement costs that may be significant with regards to community notification activities.
- There is the possibility of some savings in the use of local jails and workhouses for these offenders.
- There also would be a small decrease in felony probation caseloads of 80 offenders a year who are currently receiving probation sentences but will, under the provisions of this bill, receive executed prison sentences.

References/Sources

Minnesota Sentencing Guidelines staff.
Minnesota Department of Corrections staff.

FN Coord Signature: DENNY FONSECA

Date: 03/11/05 Phone: 642-0220

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: JIM KING

Date: 03/14/05 Phone: 296-7964

Preliminary

Fiscal Note – 2005-06 Session

Bill #: H1406-0 **Complete Date:** 03/15/05

Chief Author: ZELLERS, KURT

Title: CRIM SEXUAL CONDUCT LIFE W/O PAROLE

| 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 | | | | | |
| -- 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 | | | | | |

Preliminary

NARRATIVE: HF 1406/SF 1325

This bill provides for indeterminate and mandatory life sentences for certain sex offenses. Establishes a Minnesota Sex Offender Review Board and directs the Sentencing Guidelines Commission to modify sentencing guidelines. The bill also expands Department of Human Services access to the predatory offender registry, modifies the predatory offender registry law as they pertain to health care facilities and develops an ongoing Sex Offender Policy Board.

Also, Article 7 of the bill amends the Department of Human Services Background Studies Act under chapter 245C. Amendments to chapter 245C include:

1. requires employers to wait for the study results before putting someone in direct contact or access;
2. when a disqualified person (who is not determined by the commissioner to present an imminent risk of harm requiring immediate removal) is allowed by an employer to provide direct contact services during the appeal period, the employer must first obtain from the individual a copy of the commissioner's notice of disqualification that explains the reason for disqualification;
3. adds all "violent crimes" as defined in section 609.1095 plus 5th degree criminal sex conduct to the list of crimes for which are considered "permanent disqualifications";
4. prohibits the commissioner from ever setting aside disqualifications for the crimes in the "permanent disqualification" section of law. Also provides 10 and 7 year restrictions on the commissioner's discretion to set aside disqualifications relative to other specified crimes -- across all settings. Similar restrictions have been in place for foster care and family child care settings in the provider's home since about 1993;
5. makes the identity of the disqualified individual and the reason for his/her disqualification public data at the moment that a set aside or variance is granted; and
6. modifies the notices to individuals telling them that their identity and history will be come public, and tells them in the disqualification notice what the restrictions are on set asides and variances, when applicable.

Assumptions

Presently, the growth for the Minnesota Sex Offender program (MSOP) population is projected to increase an average of 23 individuals per fiscal year. This projection is based on the number of high-risk sex offenders currently serving their sentence in the Department of Corrections that will be referred for civil committed to the MSOP program. On average, individuals serve nine years in the Department of Corrections prior to being referred to the Minnesota Sex Offender program.

With the enactment of this bill, the Department of Human Services does not anticipate a change in the commitment referrals to the MSOP program from the Department of Corrections until fiscal year 2013. Due to the volatility in the number of convictions, the criminal characteristics involved and the current number of individuals serving sentences in Corrections, it is impossible to estimate fiscal impact to the program this far in the future.

Also, the amendment to 245C.17, subdivision 2, may result in fewer requests for reconsiderations for two reasons.

First, if an individual is disqualified from direct contact, the notice must inform the individual of any restrictions on the Commissioner's discretion to set aside the disqualification. Because more crimes have been moved into the permanent bar section, and the permanent bar will apply to all licensed programs, the Commissioner will have less discretion to set aside disqualifications. The individual will be informed of the restrictions on the Commissioner's discretion to set aside the disqualification. It is assumed that disqualified individuals will not request reconsideration if the Commissioner can not set aside the disqualification. This will reduce the number of reconsiderations that will be completed by DHS.

Second, if the individual's disqualification is set aside or the facility is granted a variance, the individual's identity and the reason for the individual's disqualification will become public data. It is assumed that some individuals will not want their identity or the reason for their disqualification to become public data in this fashion. Therefore, some of these individuals will not request reconsideration of their disqualification.

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However, there may be a few additional hearings. The commissioner may disqualify individuals who, while they have not been convicted of an offense, the department has determined that there is a preponderance of evidence that the individual committed an act that meets the definition of the disqualifying crime. Under the current law, those disqualifications may be set aside, and if they are, the person does not have an appeal right relative to the preponderance of evidence determination. If those disqualifications for preponderance of evidence determinations can no longer be set aside, there may be a slight increase in the number of hearings challenging the preponderance of evidence determination.

Data is not available to determine how many disqualifications per year are made for permanent disqualifications, based on a preponderance of evidence, but it is a small number. In FY04, there were a total of 160 disqualifications in DHS directly licensed programs resulting from crimes in the permanent disqualification category, and an estimated 3 to 5 were based on a preponderance of evidence. Therefore, it is estimated that there may be one or two additional hearings per year based on disqualifications issued relative to directly licensed programs. As stated above, similar restrictions of the commissioner's discretion have been in place since 1993 for most background studies completed by counties, so there is not expected to a significant impact in those appeals.

It is difficult to estimate the number of people who will not request reconsideration because of the proposed requirement that, if a set aside or variance is granted, their identity and the reason for disqualification will become public data. The criminal conviction information that forms the basis of most disqualifications is already public data at the district court where the conviction occurred and, through specific procedures, it is public data available from the Bureau of Criminal Apprehension. A significant number of employers already ask prospective employees whether they have criminal histories and what they are.

Because this law will change the employability of some people currently in the human services system, some additional Court of Appeals cases can be expected. Over four years (CY 2001 – CY 2004), there have been 18 challenges to the background study process before the Court of Appeals. These law changes will allow people with current set asides to remain in their current employment situation. However, if some of these individuals seek similar employment in a different setting, the proposed changes would prohibit the commissioner from granting the necessary set aside or variance. An unknown number of court challenges can be expected.

With this bill, there will possibly be some minor savings in some areas, while there may be some minor increases in others. Overall, the net impact is expected to be no cost.

Expenditure and/or Revenue Formula

N/A

Long-Term Fiscal Considerations

Any changes in cost to the Department of Human Services will not be realized until fiscal year 2013 or beyond.

Local Government Costs

Counties currently pay 10% of the per diem rate. As the population changes, the county total financial liability will also change.

References/Sources

Agency Contact Name: Shirley Jacobson 582-1876
FN Coord Signature: STEVE BARTA
Date: 03/15/05 Phone: 296-5685

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

Preliminary

EBO Signature: CRAIG WIEBER
Date: 03/15/05 Phone: 282-5065

Preliminary

Fiscal Note – 2005-06 Session

Bill #: H1406-0 **Complete Date:** 03/11/05

Chief Author: ZELLERS, KURT

Title: CRIM SEXUAL CONDUCT LIFE W/O PAROLE

| 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 | | 310 | 338 | 338 | 338 |
| Less Agency Can Absorb | | | | | |
| -- No Impact -- | | | | | |
| Net Expenditures | | | | | |
| General Fund | | 310 | 338 | 338 | 338 |
| Revenues | | | | | |
| -- No Impact -- | | | | | |
| Net Cost <Savings> | | | | | |
| General Fund | | 310 | 338 | 338 | 338 |
| Total Cost <Savings> to the State | | 310 | 338 | 338 | 338 |

| | FY05 | FY06 | FY07 | FY08 | FY09 |
|------------------------------|------|------|------|------|------|
| Full Time Equivalents | | | | | |
| General Fund | | 4.00 | 4.00 | 4.00 | 4.00 |
| Total FTE | | 4.00 | 4.00 | 4.00 | 4.00 |

Preliminary

Bill Description

H.F. 1406-0, Article 5, § 4, provides that the Commissioner of Corrections' determination on whether a convicted sex offender or predatory offender is appropriate for a civil commitment petition shall be based on a recommendation of the Department of Corrections screening committee and a legal review and recommendation from a representative of the Office of the Attorney General knowledgeable in the legal requirements of the civil commitment process.

H.F. 1406-0, Article 3, § 16, requests that the Minnesota Supreme Court create a task force to study the use of the court system as an alternative to the administrative process of the special review board for reductions in custody level and discharge from commitment for persons committed as sexually dangerous persons and sexual psychopathic personalities. The bill mandates that a representative of the Attorney General's Office serve as a task force member. The task force is required to convene by August 1, 2005, and report to legislative committees with recommendations by February 1, 2006.

The remaining provisions of H.F. 1406-0 provide for life sentences for certain sex offenses, increased maximum penalties for certain sex offenses, requiring the Minnesota Sentencing Guidelines Commission to modify the sentencing guidelines to reflect changes in the sentencing provisions for these sex offenses, creating the Minnesota Sex Offender Review Board to make release and revocation decisions regarding sex offenders, notice to victims that a petition for civil commitment has been filed and the resolution of the petition, changes to the predatory offender registration system, increased disclosure of information between the Department of Corrections and the Department of Human Services regarding sex offenders, and creating the Sex Offender Policy Board to develop professional standards for the treatment of sex offenders and to advise the governor and report to the legislature.

Assumptions

It is estimated that 3.0 FTE attorney positions and 1.0 FTE legal secretary position would be immediately required upon passage of the bill to meet the requirements of H.F. 1406-0.

Expenditure and/or Revenue Formula

Expenditure: The fiscal note request is based on the cost for 3.0 FTE attorney positions and 1.0 FTE legal secretary position and \$310,000 in FY 2006 (prorated for an effective date of August 1, 2005) and 3.0 FTE attorney positions and 1.0 FTE legal secretary position and \$338,000 starting in FY 2007 and going forward.

The additional FTE positions would be required to meet the requirements of reviewing sex offenders to make a determination as to whether they meet the standards for civil commitment, as set forth in Article 5, § 4 of H.F. 1406-0. Currently, the DOC reviews all sex offenders assigned a risk level of three and certain sex offenders assigned a risk level of two for possible civil commitment. According to the DOC, in 2004 83 sex offenders were assigned level three status. It is difficult to determine how many level two sex offenders will be reviewed for possible civil commitment because that decision is made on a case by case basis. However, according to the DOC, level two status was assigned to 217 sex offenders in 2004. From past experience, it is reasonable to estimate that approximately one-third, or 75, of these offenders would be reviewed for possible civil commitment. Given these figures, it is reasonable to assume that in the average year the DOC would review approximately 160 sex offenders scheduled for release for possible civil commitment. Each year there are also a number of offenders on supervised release who violate the terms of their release, are returned to an institution and then assigned a risk level of three. Thus, a conservative estimate of sex offender cases to be reviewed each year would be 180.

To make a determination and recommendation regarding whether the legal standards for commitment were met in each case, the AGO representative would have to review all the records concerning the offender's criminal convictions as well as psychological assessments, treatment experiences, and incarceration history. It typically takes about 17 hours for an Assistant Attorney General to review these records for a civil commitment case. The AGO representative also often has to spend time obtaining additional records because records forwarded from the DOC often are incomplete and inadequate. The process of obtaining these records would necessitate a motion for a court order to obtain them. Based on current experience in filing these motions in civil commitment cases, it is reasonable to assume the AGO representative would spend approximately four hours on the motion process. Finally, an additional four hours would be needed to summarize the evidence supporting the elements for commitment and the recommendation for a written report.

Based on the above, it is reasonable to assume that the AGO attorney would spend a total of approximately 25 hours on each case. Multiplying 25 hours by 180 offenders means annual time spent on these reviews would be

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approximately 4,500 hours. One legal secretary would be needed to provide word processing and other support service for the attorneys.

It is estimated that some additional time would be required beginning upon passage of the bill and continuing through February 1, 2006 to meet the requirements of serving on the Minnesota Supreme Court task force, as set forth in Article 3, § 16 of H.F. 1406-0. It is assumed that the task force would have to meet frequently in order to meet the February 1, 2006 deadline for the report to the legislature. Assuming that the task force met for four hours two times per month over the minimum period of August 1, 2005 to February 1, 2006, the representative of the AGO would have to spend approximately 48 hours attending task force meetings. The AGO representative would also spend nearly an equivalent amount of time researching, reading, and preparing materials for those meetings.

Revenue: None.

Long-Term Fiscal Considerations

It is anticipated that the ongoing costs will consist of 3.0 FTE attorney positions and 1.0 FTE legal secretary position.

Local Government Costs

Certain provisions of H.F. 1406-0 would appear to increase the involvement of local law enforcement agencies in the predatory offender registration and notification process. This may increase the amount of staff hours those agencies need to dedicate to those functions.

References/Sources

Agency Contact Name: Ken Peterson (296-2731) Matthew Frank (297-2875)
FN Coord Signature: TERRY POHLKAMP
Date: 03/09/05 Phone: 297-1143

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: KRISTI SCHROEDL
Date: 03/11/05 Phone: 215-0595

Preliminary

Fiscal Note – 2005-06 Session

Bill #: H1406-0 **Complete Date:** 03/11/05

Chief Author: ZELLERS, KURT

Title: CRIM SEXUAL CONDUCT LIFE W/O PAROLE

| 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 | | 1,146 | 564 | 636 | 564 |
| Less Agency Can Absorb | | | | | |
| -- No Impact -- | | | | | |
| Net Expenditures | | | | | |
| General Fund | | 1,146 | 564 | 636 | 564 |
| Revenues | | | | | |
| -- No Impact -- | | | | | |
| Net Cost <Savings> | | | | | |
| General Fund | | 1,146 | 564 | 636 | 564 |
| Total Cost <Savings> to the State | | 1,146 | 564 | 636 | 564 |

| | FY05 | FY06 | FY07 | FY08 | FY09 |
|------------------------------|------|------|------|------|------|
| Full Time Equivalents | | | | | |
| General Fund | | 6.00 | 6.00 | 6.00 | 6.00 |
| Total FTE | | 6.00 | 6.00 | 6.00 | 6.00 |

Preliminary

Bill Description

A bill for an act relating to public safety; modifying predatory offender registration and community notification requirements; providing registration requirements for persons without a primary address under the registry; providing for community notification for offenders from other states and offenders released from federal facilities under the registry; expanding Department of Human Services access to the predatory offender registry; modifying the predatory offender registry law to require registered offenders to disclose to health care facilities, upon admittance, their status as a registered predatory offender, and to require local law enforcement to disclose a registrant's status to the administration of a health care facility if a registered offender is receiving inpatient care.

Assumptions

The following proposed language will result in a need to modify existing POR forms and/or POR Training materials:

1. The bill calls for new definitions in the registration statute regarding dwelling, incarceration, primary address and secondary address.
2. Under the current statute, aiding, abetting and conspiracy to commit a registerable offense do not trigger a registration requirement.
3. Under the current statute, false imprisonment involving an adult victim and Sixth Degree Criminal Sexual Conduct (M.S. § 609.3453) do not trigger a registration requirement.
4. Under the current statute, Fourth Degree Assault (M.S. § 609.2231) does not trigger a registration requirement.
5. The proposed language would allow the BCA to inactivate the registration status of offenders who move to another state, once the BCA has confirmed the address in the other state through the annual verification process.
6. The proposed legislation requires offenders who lack a primary residence to report to their local law enforcement agency within 24 hours of arriving in the jurisdiction and every 7 days thereafter until a primary residence is established. Law enforcement officials are required to report the weekly updates to the BCA within 2 business days for inclusion in the POR database.
7. The proposed language in this bill includes a new requirement for Level 2 and Level 3 offenders, who are not under correctional supervision, to have an annual or semi-annual in-person contact with their local law enforcement agency during the month of the person's birth. The purpose of the in-person contact is to verify the accuracy of the offender's registration information and update his/her photograph. The bill requires law enforcement to enter updated information into the Predatory Offender Registration database, to ensure immediate availability of the information to the law enforcement community.
8. The proposed language requires the BCA to send verification letters to Level 3 offenders on a bi-annual basis.
9. The proposed language requires registrants to notify health care facilities of their registration status upon admittance.
10. The proposed language requires the BCA to record risk level or community notification information for offenders who move to Minnesota from another state and forward this information to the Department of Corrections.
11. The proposed legislation requires the BCA to have each registrant sign a consent form authorizing a treatment facility or a residential housing unit or shelter to release information to a law enforcement officer about the person's admission to, or residence in the facility or shelter.

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The following proposed language will result in a need to modify the POR database and/or the POR web site. [Note: Changes to the Verification Forms are made in the POR database, as all Verification Forms are generated from the database.]:

1. Under the current statute, aiding, abetting and conspiracy to commit a registerable offense do not trigger a registration requirement.
2. Under the current statute, false imprisonment involving an adult victim and Sixth Degree Criminal Sexual Conduct (M.S. § 609.3453) do not trigger a registration requirement.
3. Under the current statute, Fourth Degree Assault (M.S. § 609.2231) does not trigger a registration requirement.
4. The proposed language would allow the BCA to inactivate the registration status of offenders who move to another state, once the BCA has confirmed the address in the other state through the annual verification process.
5. The proposed legislation requires offenders who lack a primary residence to report to their local law enforcement agency within 24 hours of arriving in the jurisdiction and every 7 days thereafter until a primary residence is established. Law enforcement officials are required to report the weekly updates to the BCA within 2 business days for inclusion in the POR database.
6. The proposed language in this bill includes a new requirement for Level 2 and Level 3 offenders, who are not under correctional supervision, to have an annual or semi-annual in-person contact with their local law enforcement agency during the month of the person's birth. The purpose of the in-person contact is to verify the accuracy of the offender's registration information and update his/her photograph. The bill requires law enforcement to enter updated information into the Predatory Offender Registration database, to ensure immediate availability of the information to the law enforcement community.
7. The proposed language requires the BCA to immediately investigate all Level 3 offenders who become non-compliant after failure to return their annual verification letters. The language also requires the BCA to provide immediate notification of the non-compliance to the law enforcement agency with jurisdiction over the subject's last registered address.
8. The proposed language requires the BCA to send verification letters to Level 3 offenders on a bi-annual basis.
9. The proposed language requires registrants to notify health care facilities of their registration status upon admittance.
10. The proposed language requires the BCA to notify the Department of Corrections (DOC) Community Notification Unit when offenders move to Minnesota from other states and forward any information regarding their risk level or community notification status in the other state.
11. The proposed legislation requires the BCA to have each registrant sign a consent form authorizing a treatment facility or a residential housing unit or shelter to release information to a law enforcement officer about the person's admission to, or residence in the facility or shelter.

The following proposed language will result in the need for additional POR personnel:

1. The proposed language requires the BCA to immediately investigate all Level 3 offenders who become non-compliant after failure to return their annual verification letters. The language also requires the BCA to provide immediate notification of the non-compliance to the law enforcement agency with jurisdiction over the subject's last registered address.
2. The proposed language requires the BCA to notify the Department of Corrections (DOC) Community Notification Unit when offenders move to Minnesota from other states and forward any information regarding their risk level or community notification status in the other state. Community notification and risk level assessments do not have a nation-wide uniform process. Obtaining community notification and

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risk level information, for offenders who are already living in Minnesota, from other states will be very time consuming. The proposed legislation would apply to anyone required to register on the date of enactment. Currently, there are approximately 750 registrants who have relocated to Minnesota from another state. Each of these files would need to be assessed and the states where the registration offense occurred would need to be contacted.

- In order to process the increased volume of information and offenders who will be required to register and to more effectively monitor and track Minnesota's 16,000 registered offenders, the BCA needs to hire additional personnel.

Expenditure and/or Revenue Formula

| | | |
|---|---------------------------------|---------------|
| • Registration Forms* – *Each book contains 20, 4-page registration forms in triplicate | (2,000 books x \$8) | \$16,000 |
| • Change of Information Forms - Triplicate | (70,000 forms x \$1) | 70,000 |
| • Training Manuals | (4,000 manuals x \$7) | 28,000 |
| • Training of Criminal Justice Professionals | (5 state-wide sessions x \$200) | <u>1,000</u> |
| | FY2006 | \$115,000 |
| [Forms, training manuals and training costs of \$72,000 in FY08.] | | |
| • Upgrades to POR database- one-time costs FY2006 | | 585,000 |
| [On-going maintenance to the POR database and security will be \$100,000 in FY07, FY08 and FY09] | | |
| • Three BCA Special Agents | (3 FTEs X 96,823.08) | 290,469 |
| • Two Office and Administrative Specialists – Intermediate (2 FTEs X 47,714.15) | | 95,428 |
| • One Criminal Intelligence Analyst | (1 FTE X 59,626.84) | <u>59,626</u> |
| | FY 2006 | \$1,145,523 |

Long-Term Fiscal Considerations

N/A

Local Government Costs

All law enforcement agencies have the potential to be affected by the proposed registration changes for offenders who lack a primary residence. Larger agencies such as the Minneapolis and St. Paul Police Departments will have a larger homeless population than smaller agencies in rural Minnesota. At this time, the Department of Public Safety is unable to predict the impact on local agencies.

Preliminary

All law enforcement agencies have the potential to be affected by the proposed requirements for Level 2 and Level 3 offenders; the new requirements for registrants who are admitted to a health care facility; the new community notification policies for registrants who move to Minnesota from other states. At this time, the Department of Public Safety is unable to predict the impact on local agencies.

Local law enforcement agencies may be required to buy camera and/or computer scanner equipment to be able to provide photos as required.

Local law enforcement agencies that do not currently have connections to the Criminal Justice Data Network (CJDN) may be required to request a connection and be subject to the fees specified in MSS 299C.48.

References/Sources

- Consultation with current developer of the POR database.
- Past expenses for modifying registration forms.

Agency Contact Name: AnnMarie O'Neill 651 793-7000
FN Coord Signature: FRANK AHRENS
Date: 03/11/05 Phone: 296-9484

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: NORMAN FOSTER
Date: 03/11/05 Phone: 215-0594

Preliminary

Fiscal Note – 2005-06 Session

Bill #: H1406-0 **Complete Date:** 03/07/05

Chief Author: ZELLERS, KURT

Title: CRIM SEXUAL CONDUCT LIFE W/O PAROLE

| 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 | | | | | |

Preliminary

Bill Description

This bill doubles the statutory maximum penalties for all first through fourth degree criminal sexual conduct offenses. It creates a mandatory life sentence without possibility of release for first and second degree criminal sexual conduct offenses as defined in M.S. §609.342 and M.S. § 609.343 subdivisions 1 (c), (d), (e), (f), and (h), when one from a specific list of aggravating factors is present, as long as that factor is not an element of the offense. It also creates a mandatory life sentence with possibility of release after serving a minimum of 20 years for other first and second degree criminal sexual conduct offenses as defined in M.S. §609.342 and M.S. § 609.343 subdivisions 1 (c), (d), (e), (f), and (h), and for any other first through fourth degree offenders who are repeat offenders. Offenses that qualify as prior sex offenses are expanded to include some offenses other than criminal sexual conduct offenses, prior juvenile adjudications, and two prior misdemeanor sex offenses. The definition of a subsequent sex offense is also changed to include any conviction following a previous conviction for a sex offense regardless of when the offenses occurred. For other first through fourth degree offenses, the penalties prescribed by the Sentencing Guidelines Commission's sex offender grid would apply. The bill establishes a Sex Offender Review Board that would make decisions regarding conditional release for offenders eligible to be considered for release.

The bill also modifies and renumbers statute M.S. §609.108 – the patterned sex offender sentencing provision. It removes the "predatory crimes" from this provision and creates a new criminal sexual predatory conduct offense. This offense would consist of one of the predatory crimes that was motivated by the offender's sexual impulses or was part of a predatory pattern of behavior that had criminal sexual conduct as its goal. The statutory maximum for this offense would also be 15 years. If the predatory crime is a subsequent sex offense, the offender would qualify for the mandatory life sentence with possibility of release after serving a minimum of 20 years.

The bill is effective for crimes committed on or after August 1, 2005.

Assumptions

Projections based on Current Policies and Sentencing Practices as Reflected in MSGC data for Offenders Sentenced in 2003

❖ Number of Offenders

Life Sentences – No Release: This provision applies to offenders convicted only of certain first and second degree offenses, if one from a specified list of aggravating factors is present, and the aggravating factor is not an element of the offense. According to MSGC monitoring data, 57 first-degree offenders and 29 second-degree offenders were sentenced for first-degree criminal sexual conduct offenses in 2003 with offenses from the clauses subject to this provision. It is not known how many of these offenders would be found by the fact finder to have the specified circumstances necessary to qualify for life without release. MSGC staff identified 12 first-degree offenders from this group who received aggravated durational departures that were twice the presumptive sentence or longer, and for whom the court cited departure factors that seemed related to the circumstances listed in this provision (departure reasons such as vulnerability of victim, particular cruelty, severity of injury). No such second-degree offenders were identified. For the projections, it is assumed that 12 offenders a year that are currently receiving aggravated durational departure would meet the requirements specified for a life sentences without possibility of release.

Life Sentences – Release Possible: After 12 first-degree offenders are assigned to the life sentence with no release group, 196 other offenders were identified who would qualify for life sentences with the possibility of release. These offenders are listed by group in the table below as well as the percent in each group currently receiving executed sentences. Also displayed is their degree of conviction. Because the bill specifies that offenders who qualify shall receive a life sentence, it is assumed that executed prison sentences would be required for all of these offenders.

Offenders Eligible for Life With Release

| Group | Number | Percent Executed |
|-------|--------|------------------|
|-------|--------|------------------|

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| | | Prison Sentences |
|--|------------|------------------|
| First Degree subdivisions 1 (c), (d), (e), (f), and (h), | 45 | 36 (80%) |
| Second Degree subdivisions 1 (c), (d), (e), (f), and (h), | 29 | 18 (62%) |
| Other Offenders with True Prior Sex Offenses (convicted on prior before commit current offense) | 44 | 38 (87%) |
| Others with Prior Sex Offenses (not convicted on prior before date of current offense) | 69 | 29 (42%) |
| Expanded Definition of Prior Sex Offense (Include juvenile adjudications, 2 prior misdemeanors, more offenses) | 9 | 4 (44%) |
| Total | 196 | 125 (64%) |

| Conviction Degree | Number of Offenders Eligible for Life With Release Possible |
|-------------------|---|
| First | 76 |
| Second | 62 |
| Third | 38 |
| Fourth | 20 |
| Total | 196 |

It is unclear how many offenders would qualify as predatory offenders under the new criminal sexual predatory conduct provision. Such offenders are currently eligible for sentencing as patterned sex offenders. None of the offenders sentenced as patterned sex offenders in 2003 were sentenced for an offense other than criminal sexual conduct. Since 1990, the patterned sex offender provision has only been used seven times for offenses other than criminal sexual conduct. Therefore, the impact presented here is limited to offenders sentenced for criminal sexual conduct offenses.

Other Offenders: Criminal sexual conduct offenders not covered by the life sentence provisions would be subject to the new modifications to the Sentencing Guidelines for sex offenders. Of the 607 offenders sentenced for criminal sexual conduct offenses in 2003, 12 would qualify for life sentences with no release, 196 would qualify for life with the possibility of release and 399 would remain. Of these remaining offenders, 113 currently receive executed prison sentences, and 122 would receive executed sentences under the Guidelines modifications. It is assumed that offenders currently receiving mitigated departures would continue to do so.

❖ Length of Incarceration

Life Sentences – No Release: It is assumed that the 12 offenders in this group will serve till death. Actuarial tables from the Social Security Administration were used to estimate how long offenders would survive/live. Different lengths of time to serve until death were applied to offenders based on their age at the time of sentencing. For example, those under age 25 were assumed to live an additional 55 years, while those in the 41-45 age group were assumed to live an additional 33 years.

Life Sentences – Release Possible: The length of time that will be served by these offenders, beyond what is served under current practices, is uncertain. Not all of the offenders sentenced in 2003 were eligible for the longer presumptive sentences created in statute for certain first and second degree criminal sexual conduct offenses. These provisions will cover future offenders. Therefore, the estimates presented here are based on the assumption that unless an offender received a mitigated durational departure, in the future they would have received the higher presumptive sentences now in effect. The bill states that these offenders must serve a minimum term of 20 years before they can be considered for release. Currently, the minimum term of imprisonment served by offenders is defined by statute as two-thirds of the total pronounced executed sentence. Through the use on consecutive sentences, offenders can serve longer than 20 years under current practices. It is assumed here that the minimum term to be served will be 20 years or what the offender is currently serving, whichever is longer. It is unknown how long offenders will serve beyond the minimum term before they are released or how many actually will ever be released.

Because of these uncertainties, a range of estimated prison impact is presented. Information is then provided on the number of additional beds needed as a result of offenders serving additional time (on average two years, five years,

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10 years, 20 years, and never being released). The actuarial life expectancies applied to the estimates for offenders receiving life sentences without release were also applied to the estimates for indeterminate sentences for the scenarios where offenders serve 20 additional years before release and no release.

Impact on State and Local Correctional Resources

❖ Impact on Prison Bed Needs

Life Sentences – No Release: Based on 12 offenders a year qualifying, the impact of the provision for life sentences without release is projected to be 272 additional beds over 54 years. Because these offenders are already receiving executed prison sentences with aggravated durational departures, no additional prison beds will be needed for them until FY2017.

Life Sentences – Release Possible: The impact of the provision for these sentences is uncertain, but is projected to be significant. If all of these offenders serve the minimum term of imprisonment as defined in this bill, it is projected that 3,073 additional prison beds would be required. However, offenders would have to apply for release, and, therefore, it is not reasonable to assume that all would be released after serving only the minimum term of imprisonment. If 196 offenders a year receive life sentences, the impact could range from 3,465 additional beds (if all were released after serving two years beyond the minimum) to 6,179 beds (if, on average, offenders served an additional 20 years). If these offenders were never released and served a life sentence, there would be a need for 7,085 additional prison beds. Because some of these offenders are not currently receiving executed prison sentences, some impact will be realized the first year this sentencing change affects cases.

The table below displays the potential impact based on various assumptions regarding the number of years, on average, which offenders would be required to serve before release. The Impact is displayed separately for offenders who currently receive probationary sentences and those who are currently receiving an executed prison sentence.

| Life Sentence When Mandated for First through Fourth Degree Sex Offenders Additional Prison Beds Required Based On Time Served Before Release | | | | | | |
|--|-------------------------------|---|---|--|--|--|
| Type of Offender | Minimum (20 years) | Minimum (20 years) + 2 years | Minimum (20 years) + 5 years | Minimum (20 years) + 10 years | Minimum (20 years) + 20 years | Serve Life (Time Served based on Age at Sentencing) |
| Current Probation (71 Offenders) | 1,420 | 1,562 | 1,753 | 2,073 | 2,580 | 2,924 |
| Current Prison (125 Offenders) | 1,653 | 1,903 | 2,244 | 2,790 | 3,599 | 4,161 |
| Total (196 Offenders) | 3,073 | 3,465 | 3,997 | 4,863 | 6,179 | 7,085 |

Other Offenders: One hundred twenty-one additional prison beds are projected to be needed for the remaining criminal sexual conduct offenders who would be sentenced according the modified guidelines. Nine of these offenders are currently receiving probation sentences.

Timing of Prison Beds Needed: An 11 month delay is assumed from the time the bill takes effect to the time impact is realized because there are often certain delays related to sex offenses (e.g., between offense dates, reporting dates, and conviction dates). Additionally, a delay is assumed because offenders subject to a life sentence are more likely to go to trial. The tables below show the estimated bed impact by fiscal year for the various scenarios for how long offenders given indeterminate sentences would serve before being released.

Number of Prison Beds Needed Each Year For Proposed Life Sentences With and Without Release And Other Criminal Sexual Conduct Offenders

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With Various Scenarios For Amounts of Time Served Before Release

| Fiscal Year | Other CSC-Guidelines Modifications | Life – No Release | Life – Release | | | | No Release | Total |
|-------------|------------------------------------|-------------------|-------------------|-------------------|--------------------|--------------------|------------|-----------|
| | | | Minimum + 2 years | Minimum + 5 years | Minimum + 10 years | Minimum + 20 years | | |
| 2007 | 9 | 0 | 72 | 72 | 72 | 72 | 72 | 81 |
| 2008 | 28 | 0 | 149 | 149 | 149 | 149 | 149 | 177 |
| 2009 | 55 | 0 | 249 | 249 | 249 | 249 | 249 | 304 |
| 2010 | 77 | 0 | 361 | 361 | 361 | 361 | 361 | 438 |
| 2011 | 92 | 0 | 485 | 485 | 485 | 485 | 485 | 577 |
| 2012 | 100 | 0 | 622 | 622 | 622 | 622 | 622 | 722 |
| 2013 | 106 | 0 | 761 | 761 | 761 | 761 | 761 | 867 |
| 2014 | 109 | 0 | 905 | 905 | 905 | 905 | 905 | 1014 |
| 2015 | 114 | 0 | 1070 | 1070 | 1070 | 1070 | 1070 | 1184 |
| 2016 | 118 | 0 | 1242 | 1242 | 1242 | 1242 | 1242 | 1360 |
| 2017 | 119 | 1 | 1420 | 1420 | 1420 | 1420 | 1420 | 1540 |
| 2018 | 120 | 2 | 1598 | 1598 | 1598 | 1598 | 1598 | 1720 |
| 2019 | 121 | 3 | 1778 | 1778 | 1778 | 1778 | 1778 | 1902 |
| 2020 | 121 | 4 | 1959 | 1959 | 1959 | 1959 | 1959 | 2084 |
| 2021 | 121 | 5 | 2142 | 2142 | 2142 | 2142 | 2142 | 2268 |
| 2022 | 121 | 7 | 2325 | 2325 | 2325 | 2325 | 2325 | 2453 |
| 2023 | 121 | 12 | 2511 | 2511 | 2511 | 2511 | 2511 | 2644 |
| 2024 | 121 | 18 | 2698 | 2698 | 2698 | 2698 | 2698 | 2837 |
| 2025 | 121 | 25 | 2885 | 2885 | 2885 | 2885 | 2885 | 3031 |
| 2026 | 121 | 33 | 3073 | 3073 | 3073 | 3073 | 3073 | 3227 |
| 2027 | 121 | 44 | 3264 | 3264 | 3264 | 3264 | 3264 | 3429 |
| 2028 | 121 | 55 | 3455 | 3455 | 3455 | 3455 | 3455 | 3631 |
| 2029 | 121 | 66 | 3457 | 3636 | 3636 | 3636 | 3636 | 3644-3823 |
| 2030 | 121 | 77 | 3457 | 3817 | 3817 | 3817 | 3817 | 3655-4015 |
| 2031 | 121 | 88 | 3458 | 3990 | 3999 | 3999 | 3999 | 3667-4208 |
| 2032 | 121 | 99 | 3459 | 3991 | 4171 | 4171 | 4171 | 3679-4391 |
| 2033 | 121 | 110 | 3459 | 3993 | 4344 | 4344 | 4344 | 3690-4575 |
| 2034 | 121 | 121 | 3461 | 3993 | 4518 | 4518 | 4518 | 3703-4760 |
| 2035 | 121 | 132 | 3463 | 3993 | 4692 | 4692 | 4692 | 3716-4945 |
| 2036 | 121 | 144 | 3463 | 3995 | 4853 | 4866 | 4866 | 3728-5131 |
| 2037 | 121 | 154 | 3463 | 3995 | 4855 | 5020 | 5020 | 3738-5295 |
| 2038 | 121 | 164 | 3463 | 3996 | 4857 | 5174 | 5174 | 3748-5459 |
| 2039 | 121 | 174 | 3463 | 3996 | 4858 | 5328 | 5328 | 3758-5623 |
| 2040 | 121 | 184 | 3463 | 3996 | 4858 | 5459 | 5459 | 3768-5764 |
| 2041 | 121 | 194 | 3463 | 3996 | 4859 | 5590 | 5590 | 3778-5905 |
| 2042 | 121 | 204 | 3463 | 3996 | 4859 | 5721 | 5721 | 3788-6046 |
| 2043 | 121 | 214 | 3463 | 3996 | 4860 | 5852 | 5852 | 3798-6187 |
| 2044 | 121 | 224 | 3463 | 3996 | 4862 | 5983 | 5983 | 3808-6328 |
| 2045 | 121 | 229 | 3463 | 3996 | 4862 | 6086 | 6086 | 3813-6436 |
| 2046 | 121 | 234 | 3463 | 3996 | 4862 | 6130 | 6189 | 3818-6544 |
| 2047 | 121 | 239 | 3463 | 3996 | 4862 | 6172 | 6292 | 3823-6652 |
| 2048 | 121 | 244 | 3463 | 3996 | 4862 | 6176 | 6395 | 3828-6760 |
| 2049 | 121 | 249 | 3463 | 3996 | 4862 | 6176 | 6498 | 3833-6868 |
| 2050 | 121 | 253 | 3463 | 3996 | 4862 | 6177 | 6567 | 3837-6941 |
| 2051 | 121 | 257 | 3463 | 3996 | 4862 | 6178 | 6636 | 3841-7014 |
| 2052 | 121 | 261 | 3463 | 3996 | 4862 | 6178 | 6705 | 3845-7087 |
| 2053 | 121 | 265 | 3463 | 3997 | 4863 | 6179 | 6774 | 3849-7160 |
| 2054 | 121 | 266 | 3464 | 3997 | 4863 | 6179 | 6821 | 3851-7208 |
| 2055 | 121 | 267 | 3465 | 3997 | 4863 | 6179 | 6868 | 3853-7256 |

Preliminary

| Fiscal Year | Other CSC-Guidelines Modifications | Life – No Release | Life – Release | | | | No Release | Total |
|-------------|------------------------------------|-------------------|-------------------|-------------------|--------------------|--------------------|------------|-----------|
| | | | Minimum + 2 years | Minimum + 5 years | Minimum + 10 years | Minimum + 20 years | | |
| 2056 | 121 | 268 | 3465 | 3997 | 4863 | 6179 | 6915 | 3854-7304 |
| 2057 | 121 | 269 | 3465 | 3997 | 4863 | 6179 | 6962 | 3855-7352 |
| 2058 | 121 | 270 | 3465 | 3997 | 4863 | 6179 | 7009 | 3856-7400 |
| 2059 | 121 | 271 | 3465 | 3997 | 4863 | 6179 | 7056 | 3857-7448 |
| 2060 | 121 | 272 | 3465 | 3997 | 4863 | 6179 | 7070 | 3858-7463 |
| 2061 | 121 | 272 | 3465 | 3997 | 4863 | 6179 | 7085 | 3858-7478 |

Impact on Conditional Release Caseloads: It is assumed that any offenders with a life sentence that are released from prison will remain on conditional release for the remainder of their lives. The increase in supervision caseloads could be significant. The offenders in this group currently receiving executed sentences now serve at least 60 months on conditional release. Those who meet the current definition of subsequent offenders must serve 10 years on conditional release. If, for example, 196 offenders per year receive indeterminate sentences, and they are released after serving five years beyond what they would under current sentencing provisions, they can be expected to serve approximately 20 more years on conditional release than they are currently serving, resulting in an eventual supervised release caseload increase of almost 4,000 offenders. If they serve 20 years in prison beyond what they would under current sentencing provisions, they can be expected to serve approximately five more years on conditional release than they are currently serving, resulting in an eventual supervised release caseload increase of close to 1,000 offenders.

In addition, given the increased periods of supervised release these offenders would be subject to, it is reasonable to assume that additional prison beds will be needed to accommodate an increased number of conditional release revocations. Currently, supervised release return rates are higher for sex offenders than for any other group of released offenders, accounting for 42% of the prison admissions for sex offenders in 2003. With an increase in the number of sex offenders on conditional release supervision and the increased period of supervision, an increase in release revocations is highly probable and has the potential to have an additional significant impact on the number of prison beds required above what is indicated in this analysis.

Local Resources: There is the possibility of some savings in the use of local jail and workhouse beds for these offenders. Sex offenders with presumptive prison sentences who instead receive probationary sentences are almost always required to serve local jail time as a condition of probation. In 2003, 84% of the criminal sexual conduct offenders who received mitigated dispositional departures had local jail time pronounced as a condition of probation with an average pronounced duration of 277 days. There also would be a decrease in felony probation caseloads of 80 offenders a year who are currently receiving probation sentences but will, under the provisions of this bill, receive executed prison sentences.

FN Coord Signature: ANNE WALL
Date: 03/07/05 Phone: 296-0144

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

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

Preliminary

Fiscal Note – 2005-06 Session

Bill #: H1406-0 **Complete Date:**

Chief Author: ZELLERS, KURT

Title: CRIM SEXUAL CONDUCT LIFE W/O PAROLE

| 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 | | 2,309 | 3,848 | 3,848 | 3,848 |
| Less Agency Can Absorb | | | | | |
| -- No Impact -- | | | | | |
| Net Expenditures | | | | | |
| General Fund | | 2,309 | 3,848 | 3,848 | 3,848 |
| Revenues | | | | | |
| -- No Impact -- | | | | | |
| Net Cost <Savings> | | | | | |
| General Fund | | 2,309 | 3,848 | 3,848 | 3,848 |
| Total Cost <Savings> to the State | | 2,309 | 3,848 | 3,848 | 3,848 |

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

Preliminary

Bill Description

This bill doubles the statutory maximum penalties for all first through fourth degree criminal sexual conduct offenses. It creates a mandatory life sentence without possibility of release for first and second degree criminal sexual conduct offenses as defined in M.S. §609.342 and M.S. § 609.343 subdivisions 1 (c), (d), (e), (f), and (h), when one from a specific list of aggravating factors is present, as long as that factor is not an element of the offense. It also creates a mandatory life sentence with possibility of release after serving a minimum of 20 years for other first and second degree criminal sexual conduct offenses as defined in M.S. §609.342 and M.S. § 609.343 subdivisions 1 (c), (d), (e), (f), and (h), and for any other first through fourth degree offenders who are repeat offenders. Offenses that qualify as prior sex offenses are expanded to include some offenses other than criminal sexual conduct offenses, prior juvenile adjudications, and two prior misdemeanor sex offenses. The definition of a subsequent sex offense is also changed to include any conviction following a previous conviction for a sex offense regardless of when the offenses occurred. For other first through fourth degree offenses, the penalties prescribed by the Sentencing Guidelines Commission's sex offender grid would apply. The bill establishes a Sex Offender Review Board that would make decisions regarding conditional release for offenders eligible to be considered for release.

The bill also modifies and renumbers statute M.S. §609.108 – the patterned sex offender sentencing provision. It removes the "predatory crimes" from this provision and creates a new criminal sexual predatory conduct offense. This offense would consist of one of the predatory crimes that was motivated by the offender's sexual impulses or was part of a predatory pattern of behavior that had criminal sexual conduct as its goal. The statutory maximum for this offense would also be 15 years. If the predatory crime is a subsequent sex offense, the offender would qualify for the mandatory life sentence with possibility of release after serving a minimum of 20 years.

Article 4, Section 16 requests the supreme court to establish a task force to study the use of the special review board in the commitment process for reductions in custody and discharge of those persons committed as a sexually dangerous person or sexual psychopathic personality under M.S. 253B.185 and report to the legislature with recommendations by February 1, 2006.

The bill is effective for crimes committed on or after August 1, 2005.

Assumptions

❖ Number of Offenders

Life Sentences – No Release: This provision applies to offenders convicted only of certain first and second degree offenses, if one from a specified list of aggravating factors is present, and the aggravating factor is not an element of the offense. According to MSGC monitoring data, 57 first-degree offenders and 29 second-degree offenders were sentenced for first-degree criminal sexual conduct offenses in 2003 with offenses from the clauses subject to this provision. It is not known how many of these offenders would be found by the fact finder to have the specified circumstances necessary to qualify for life without release. MSGC staff identified 12 first-degree offenders from this group who received aggravated durational departures that were twice the presumptive sentence or longer, and for whom the court cited departure factors that seemed related to the circumstances listed in this provision (departure reasons such as vulnerability of victim, particular cruelty, severity of injury). No such second-degree offenders were identified. For the projections, it is assumed that 12 offenders a year that are currently receiving aggravated durational departure would meet the requirements specified for a life sentences without possibility of release.

Life Sentences – Release Possible: After 12 first-degree offenders are assigned to the life sentence with no release group, 196 other offenders were identified who would qualify for life sentences with the possibility of release. These offenders are listed by group in the table below as well as the percent in each group currently receiving executed sentences. Also displayed is their degree of conviction. Because the bill specifies that offenders who qualify shall receive a life sentence, it is assumed that executed prison sentences would be required for all of these offenders.

Preliminary

| Conviction Degree | Number of Offenders Eligible for Life With Release Possible |
|-------------------|---|
| First | 76 |
| Second | 62 |
| Third | 38 |
| Fourth | 20 |
| Total | 196 |

It is unclear how many offenders would qualify as predatory offenders under the new criminal sexual predatory conduct provision. Such offenders are currently eligible for sentencing as patterned sex offenders. None of the offenders sentenced as patterned sex offenders in 2003 were sentenced for an offense other than criminal sexual conduct. Since 1990, the patterned sex offender provision has only been used seven times for offenses other than criminal sexual conduct. Therefore, the impact presented here is limited to offenders sentenced for criminal sexual conduct offenses.

Other Offenders: Criminal sexual conduct offenders not covered by the life sentence provisions would be subject to the new modifications to the Sentencing Guidelines for sex offenders. Of the 607 offenders sentenced for criminal sexual conduct offenses in 2003, 12 would qualify for life sentences with no release, 196 would qualify for life with the possibility of release and 399 would remain. Of these remaining offenders, 113 currently receive executed prison sentences, and 122 would receive executed sentences under the Guidelines modifications. It is assumed that offenders currently receiving mitigated departures would continue to do so.

Because of the increased severity in sentences and because of the possibility of a life sentence with the possibility of release for any repeat sex offender, this fiscal note assumes a significant increase in the trial rate. The trial rate for first degree murder which has a life sentence is 70%. This fiscal note assumes that the first degree murder trial rate of 70% will apply to those cases identified by Sentencing Guidelines for cases with a presumptive life with release and a threefold increase in the trial rate for other criminal sex offenses because of the severity of the sanction for the subsequent offenses.

The fiscal note assumes an additional hour of case processing time for juvenile sex offenders. The actual impact could be significantly more as juveniles and others who would qualify for lesser sentences would risk trial rather than the possibility of a life sentence with release as a repeat offender. During the past 5 years an average of 675 juveniles have been charged with criminal sexual misconduct.

Expenditures

An additional 5.4-judges units would be required. A judge unit consists of a law clerk, court reporter and judge. The annual cost of a judge unit is \$307,000. The annual cost for judge 5.4 judge units is \$1,650,614. In addition to the additional judge units, the staffing study indicates an increased need for an additional 21 administrative positions to handle the scheduling, additional motion hearings, the processing of additional court papers, the administrative time spent during the jury trials. The additional annual costs for administrative staff is \$1,220,798. Funds for 125 additional jury trials would also be required. The jury costs, mileage and per diem, are estimated to be \$ 976,394. The annual estimated cost for 5.4 judge units, 21 administrative staff, and additional jury mileage and per diem is estimated to be \$3,847,806. Start Up costs for chambers and work stations for the new positions is \$299,476 .The first year cost is delayed for six months to take into account that the changes in the law would apply to cases commenced on or after August 1, 2005. The costs in the initial year are \$2,223,379

Supreme Court Study of Review Board in Civil Commitments under M.S. 253B.185

In addition the bill requests the supreme court to conduct a study of the current review board process in civil commitments under M.S. 253B.185. The estimated costs of the study are shown. The study would involve examination of the time, resources, and legal processes in 17 other states where sex offender release from commitment is processed through courts rather than through a review board. The supreme court is requested to report to the legislature by February 1, 2006.

Sexually Dangerous Persons Review Board Study

Preliminary

| | Hours | Unit Cost | Total Cost |
|--|-----------------|-----------|------------|
| Legal Research Time | 500 | \$46 | \$23,000 |
| Examine Statutory Schema approx 17 jurisdictions and Statutory Release Standards 17 jurisdictions | | | |
| Management Analysis | | | |
| Examine Court Case Processing Time and Resources | 500 | \$35 | \$17,250 |
| Examine Review Board Case Processing Time & Resources | Supplied by DHS | | |
| Examine Local Mn. Govt. Resources to Process | 500 | \$35 | \$17,500 |
| Minnesota Case Studies - 30 @ 3 hours file search | 90 | \$35 | \$3,150 |
| Administrative Time | 100 | \$23 | \$2,300 |
| ITV with Other Jurisdictions or within Mn. | 20 | \$25/\$75 | \$1,500 |
| 2 Regional Meetings re recommendations (Rooms, Audio Equip, Meal & Mileage) | | | \$4,000 |
| Supplies | | | \$200 |
| Postage | | | \$200 |
| Mileage for Participants | | | |
| 17 participants @ 100 miles @.405 per mile | | | \$6,197 |
| 9 meetings | | | |
| Meeting Parking Expense | | | \$535 |
| Total | | | \$75,832 |

Long Term Fiscal Considerations

Costs for personnel would increase over time with cost of living adjustments.

Local Government Costs

Increased courthouse would be required for additional trials.

Preliminary

Fiscal Note – 2005-06 Session

Bill #: H1406-0 Complete Date:

Chief Author: ZELLERS, KURT

Title: CRIM SEXUAL CONDUCT LIFE W/O PAROLE

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

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 | | | | | |

Preliminary

Bill Description

Assumptions

Expenditure and/or Revenue Formula

Long-Term Fiscal Considerations

Local Government Costs

References/Sources

1 Senator moves to amend S.F. No. 1325 as
2 follows:

3 Page 16, after line 9, insert:

4 "Section 1. Minnesota Statutes 2004, section 13.851,
5 subdivision 5, is amended to read:

6 Subd. 5. [SEX OFFENDERS; CIVIL COMMITMENT DETERMINATION;
7 COMMISSIONER OF CORRECTIONS.] Data provided to the county
8 attorney under section 244.05, subdivision 7, and to the
9 Minnesota Sex Offender Review Board under section 244.05,
10 subdivision 5, are governed by that section."

11 Page 16, delete section 2 and insert:

12 "Sec. 3. Minnesota Statutes 2004, section 13D.05,
13 subdivision 2, is amended to read:

14 Subd. 2. [WHEN MEETING MUST BE CLOSED.] (a) Any portion of
15 a meeting must be closed if expressly required by other law or
16 if the following types of data are discussed:

17 (1) data that would identify alleged victims or reporters
18 of criminal sexual conduct, domestic abuse, or maltreatment of
19 minors or vulnerable adults;

20 (2) active investigative data as defined in section 13.82,
21 subdivision 7, or internal affairs data relating to allegations
22 of law enforcement personnel misconduct collected or created by
23 a state agency, statewide system, or political subdivision; or

24 (3) educational data, health data, medical data, welfare
25 data, or mental health data that are not public data under
26 section 13.32, 13.3805, subdivision 1, 13.384, or 13.46,
27 subdivision 2 or 7.

28 (b) A public body shall close one or more meetings for
29 preliminary consideration of allegations or charges against an
30 individual subject to its authority. If the members conclude
31 that discipline of any nature may be warranted as a result of
32 those specific charges or allegations, further meetings or
33 hearings relating to those specific charges or allegations held
34 after that conclusion is reached must be open. A meeting must
35 also be open at the request of the individual who is the subject
36 of the meeting.

1 (c) The Minnesota Sex Offender Review Board authorized
2 under section 244.0515 must close a meeting to deliberate
3 whether an inmate's petition meets the criteria for release
4 established by the board. The board must identify the inmate
5 whose petition will be deliberated. At its next open meeting,
6 the board shall summarize its deliberations regarding the
7 inmate's petition."

8 Page 17, line 8, delete "sections" and insert "section" and
9 delete "and 244.0515 when proceeding under" and insert "to
10 implement"

11 Page 17, line 14, delete "board" and insert "commissioner"

12 Page 18, after line 5, insert:

13 "Section 1. Minnesota Statutes 2004, section 13.871,
14 subdivision 5, is amended to read:

15 Subd. 5. [CRIME VICTIMS.] (a) [CRIME VICTIM NOTICE OF
16 RELEASE.] Data on crime victims who request notice of an
17 offender's release are classified under section 611A.06.

18 (b) [SEX OFFENDER HIV TESTS.] Results of HIV tests of sex
19 offenders under section 611A.19, subdivision 2, are classified
20 under that section.

21 (c) [BATTERED WOMEN.] Data on battered women maintained by
22 grantees for emergency shelter and support services for battered
23 women are governed by section 611A.32, subdivision 5.

24 (d) [VICTIMS OF DOMESTIC ABUSE.] Data on battered women and
25 victims of domestic abuse maintained by grantees and recipients
26 of per diem payments for emergency shelter for battered women
27 and support services for battered women and victims of domestic
28 abuse are governed by sections 611A.32, subdivision 5, and
29 611A.371, subdivision 3.

30 (e) [PERSONAL HISTORY; INTERNAL AUDITING.] Certain personal
31 history and internal auditing data is classified by section
32 611A.46.

33 (f) [CRIME VICTIM CLAIMS FOR REPARATIONS.] Claims and
34 supporting documents filed by crime victims seeking reparations
35 are classified under section 611A.57, subdivision 6.

36 (g) [CRIME VICTIM OVERSIGHT ACT.] Data maintained by the

1 commissioner of public safety under the Crime Victim Oversight
2 Act are classified under section 611A.74, subdivision 2.

3 (h) [VICTIM IDENTITY DATA.] Data relating to the identity
4 of the victims of certain criminal sexual conduct is governed by
5 section 609.2471."

6 Page 30, line 35, delete everything after the headnote and
7 insert "A provider that receives criminal history information
8 about a patient from the Department of Corrections or the
9 Department of Human Services must include that information in
10 the patient's health record. The criminal history information
11 may only be used and disclosed as provided in this section and
12 applicable federal law."

13 Page 30, delete line 36

14 Page 31, delete line 1

15 Page 42, after line 7, insert:

16 "Section 1. Minnesota Statutes 2004, section 13.82, is
17 amended by adding a subdivision to read:

18 Subd. 28. [DISCLOSURE OF SEX OFFENDER REGISTRANT
19 STATUS.] Law enforcement agency disclosure to health facilities
20 of the registrant status of a registered sex offender is
21 governed by section 244.052."

22 Page 43, line 19, delete "is not"

23 Page 43, delete lines 20 and 21 and insert "shall be deemed
24 to have endangered the safety of individuals in the facility
25 under Code of Federal Regulations, chapter 42, section 483.12.
26 Notwithstanding paragraph (d), any appeal of the notice and
27 discharge shall not constitute a stay of the discharge."

28 Page 47, line 10, after "for" insert "a violation of, or
29 attempt to violate, or aiding, abetting, or conspiracy to
30 commit,"

31 Page 55, line 29, delete the new language

32 Page 55, line 30, delete "a failure to register offense"

33 Page 56, line 14, after "supervision" insert "for a
34 registration offense or a failure to register"

35 Page 58, delete lines 6 and 7 and insert "Upon admission to
36 a health care facility, a person required to register shall

1 immediately disclose to:"

2 Page 58, line 18, delete "a nursing home"

3 Page 58, line 19, delete everything before the comma and
4 insert "nursing facilities certified for participation in the
5 federal Medicare or Medicaid programs and licensed as a nursing
6 home under chapter 144A, a boarding care home under sections
7 144.50 to 144.56"

8 Page 58, delete lines 28 to 34

9 Page 60, delete lines 2 to 20

10 Page 65, lines 4 and 5, delete ", except for subdivision
11 5a,"

12 Page 65, line 9, delete everything after the period and
13 insert "Subdivision 6, paragraph (c), is effective August 1,
14 2005, and applies to any offense, revocation of probation,
15 supervised release, or conditional release that occurs on or
16 after that date."

17 Page 65, delete lines 10 and 11

18 Page 79, line 6, delete "a nursing home"

19 Page 79, line 7, delete everything before the comma and
20 insert "nursing facilities certified for participation in the
21 federal Medicare or Medicaid programs and licensed as a nursing
22 home under chapter 144A, a boarding care home under sections
23 144.50 to 144.56"

24 Page 81, line 33, strike "INFORMATION" and insert "DATA"

25 Page 81, line 35, strike "information" and insert "data"

26 Page 82, line 1, strike "information" and insert "data" and
27 delete ", human"

28 Page 82, line 2, delete "services," and after the period,
29 insert "State-operated services, as defined in section 246.014,
30 is also authorized to have access to the data for the purposes
31 described in section 246.13, subdivision 2, paragraph (c)."

32 Page 83, line 3, delete "provided" and insert "defined"

33 Page 83, delete lines 14 to 26 and insert:

34 "(3) "criminal history data" means that data maintained by
35 the Departments of Corrections and Public Safety and by the
36 supervisory authorities listed in section 13.84, subdivision 1,

1 that relate to an individual's criminal history or propensity
2 for violence; including data in the Corrections Offender
3 Management System (COMS) and Statewide Supervision System (S3)
4 maintained by the Department of Corrections and the Criminal
5 Justice Information System (CJIS); the Predatory Offender
6 Registration (POR) system maintained by the Department of Public
7 Safety; and the CrimNet System;"

8 Page 84, line 3, delete "to and review"

9 Page 84, delete lines 4 to 7 and insert ", and may review
10 and disclose medical and criminal history data as provided by
11 this section."

12 Page 84, line 21, delete "and"

13 Page 84, delete lines 22 and 23 and insert:

14 "(4) facilitate changes of custody and transfers of
15 individuals between the Department of Corrections and the
16 Department of Human Services; and

17 (5) facilitate the exchange of data between the Department
18 of Corrections, the Department of Human Services, and any of the
19 supervisory authorities listed in section 13.84, regarding an
20 individual under the authority of one or more of these entities."

21 Page 85, line 10, delete "the necessary"

22 Page 85, delete line 11 and insert "and disclose the
23 necessary data to complete the registration form or change of
24 status"

25 Page 85, line 13, delete "information" and insert "data"

26 Page 86, lines 29, 32, and 34, strike "information" and
27 insert "data"

28 Page 86, line 35, delete "human services,"

29 Page 86, line 36, delete the comma and after the period,
30 insert "State-operated services, as defined in section 246.014,
31 is also authorized to have access to the data for the purposes
32 described in section 246.13, subdivision 2, paragraph (c)."

33 Page 88, after line 9, insert:

34 "Section 1. Minnesota Statutes 2004, section 13.461, is
35 amended by adding a subdivision to read:

36 Subd. 29. [DISQUALIFICATION FROM DIRECT CONTACT.] The

1 classification of data about individuals disqualified from
2 providing direct contact services is governed by section
3 245C.22, subdivision 7.

4 Sec. 2. Minnesota Statutes 2004, section 13.461, is
5 amended by adding a subdivision to read:

6 Subd. 30. [SET-ASIDE DATA.] Disclosure of data relating to
7 individuals who have obtained a set-aside of the
8 disqualification, is governed by section 245C.22, subdivision 7.

9 Sec. 3. Minnesota Statutes 2004, section 13.461, is
10 amended by adding a subdivision to read:

11 Subd. 31. [VARIANCE DATA.] Disclosure of data relating to
12 disqualified individuals as to whom a variance has been obtained
13 by the individual's employer, is governed by section 245C.30,
14 subdivision 2."

15 Renumber the sections in sequence and correct the internal
16 references

17 Amend the title accordingly

Senator Kleis introduced--

S.F. No. 1325: Referred to the Committee on Crime Prevention and Public Safety.

A bill for an act

1
2 relating to public safety; requiring life without
3 release sentences for certain egregious first degree
4 criminal sexual conduct offenses; requiring
5 indeterminate life sentences for certain sex offenses;
6 increasing statutory maximum sentences for sex
7 offenses; establishing the Minnesota Sex Offender
8 Review Board and providing its responsibilities,
9 including release decisions, access to data, expedited
10 rulemaking, and the applicability to it of contested
11 case proceedings and the Open Meeting Law; directing
12 the Sentencing Guidelines Commission to modify the
13 sentencing guidelines; providing criminal penalties;
14 modifying predatory offender registration and
15 community notification requirements; requiring victim
16 notification for commitment of persons with sexual
17 psychopathic personalities and sexually dangerous
18 persons under certain circumstances; providing
19 registration requirements for persons without a
20 primary address under the registry; providing for
1 registration of offenders from other states and
2 offenders released from federal facilities under the
23 registry; expanding Department of Human Services
24 access to the predatory offender registry; modifying
25 the predatory offender registry law to require
26 registered offenders to disclose to health care
27 facilities, upon admittance, their status as a
28 registered predatory offender, and to require local
29 law enforcement to disclose a registrant's status to
30 the administration of a health care facility if a
31 registered offender is receiving inpatient care;
32 removing the commissioner of human services'
33 discretion to grant variances/set-asides for persons
34 convicted of certain violent crimes; modifying the
35 human services criminal background check law;
36 establishing an ongoing Sex Offender Policy Board to
37 develop uniform supervision and professional
38 standards; requiring the committing court to review
39 special review board recommendations with respect to
40 discharge of psychopathic personalities, sexual
41 psychopathic personalities, and sexually dangerous
2 persons; amending Minnesota Statutes 2004, sections
3 13.851, by adding a subdivision; 13D.01, subdivision
44 2; 144.335, by adding a subdivision; 144A.135; 241.67,
45 subdivision 3; 242.195, subdivision 1; 243.166;
46 243.167; 244.05, subdivisions 4, 5, 6, 7; 244.052,

1 subdivisions 3, 4, by adding subdivisions; 245C.03,
 2 subdivision 1; 245C.15, subdivisions 1, 2, 3, 4;
 3 245C.17, subdivisions 2, 3; 245C.21, subdivisions 3,
 4 4; 245C.22, by adding a subdivision; 245C.23,
 5 subdivision 1; 245C.24, subdivisions 2, 3, 4, by
 6 adding a subdivision; 245C.30, subdivisions 1, 2;
 7 246.13; 253B.02, subdivision 4a, by adding
 8 subdivisions; 253B.08, subdivision 2; 253B.18,
 9 subdivisions 4a, 5, by adding a subdivision; 299C.093;
 10 609.108, subdivisions 3, 4, 7; 609.109, subdivisions
 11 2, 5, 7; 609.117, subdivisions 1, 2; 609.1351;
 12 609.2231, subdivision 3; 609.341, by adding
 13 subdivisions; 609.342, subdivisions 2, 3; 609.343,
 14 subdivisions 2, 3; 609.344, subdivisions 2, 3;
 15 609.345, subdivisions 2, 3; 609.347; 609.3471;
 16 609.348; 609.353; 609.485, subdivisions 2, 4; 617.23,
 17 subdivisions 2, 3; 626.556, subdivision 3; 626.557,
 18 subdivisions 12b, 14; 631.045; proposing coding for
 19 new law in Minnesota Statutes, chapters 243; 244; 609;
 20 repealing Minnesota Statutes 2004, sections 243.166,
 21 subdivisions 1, 8; 246.017, subdivision 1; 609.108,
 22 subdivision 2.

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

24 ARTICLE 1

25 SEX OFFENDERS:

26 LIFE WITHOUT RELEASE SENTENCES FOR CERTAIN SEX OFFENSES;

27 INDETERMINATE LIFE SENTENCES FOR OTHER SEX OFFENSES;

28 INCREASED STATUTORY MAXIMUMS;

29 DIRECTION TO SENTENCING GUIDELINES COMMISSION

30 Section 1. Minnesota Statutes 2004, section 244.05,

31 subdivision 4, is amended to read:

32 Subd. 4. [MINIMUM IMPRISONMENT, LIFE SENTENCE.] (a) An
 33 inmate serving a mandatory life sentence under section 609.106,
 34 609.342, subdivision 2, paragraph (c), or 609.343, subdivision
 35 2, paragraph (c), must not be given supervised release under
 36 this section.

37 (b) An inmate serving a mandatory life sentence under
 38 section 609.185, clause (1), (3), (5), or (6); or 609.109,
 39 subdivision ~~2a~~ 3, must not be given supervised release under
 40 this section without having served a minimum term of 30 years.

41 (c) An inmate serving a mandatory life sentence under
 42 section 609.385 must not be given supervised release under this
 43 section without having served a minimum term of imprisonment of
 44 17 years.

45 (d) An inmate serving a mandatory life sentence under
 46 section 609.342, subdivision 2, paragraph (b); 609.343,

1 subdivision 2, paragraph (b); 609.344, subdivision 2, paragraph
2 (b); 609.345, subdivision 2, paragraph (b); or 609.3453,
3 subdivision 2, paragraph (b), must not be given supervised
4 release under this section without having served a minimum term
5 of imprisonment of 20 years. If the sentencing court imposed a
6 sentence with a term of imprisonment of more than 20 years, the
7 inmate may not be given supervised release without having served
8 that term.

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

11 Sec. 2. Minnesota Statutes 2004, section 244.05,
12 subdivision 5, is amended to read:

13 Subd. 5. [SUPERVISED RELEASE, LIFE SENTENCE.] (a) The
14 commissioner of corrections may, under rules promulgated by the
15 commissioner, give supervised release to an inmate serving a
16 mandatory life sentence under section 609.185, clause (1), (3),
17 (5), or (6); 609.109, subdivision 2a 3; or 609.385 after the
18 inmate has served the minimum term of imprisonment specified in
19 subdivision 4.

20 (b) The commissioner shall give supervised release to an
21 inmate serving a mandatory life sentence under section 609.342,
22 subdivision 2, paragraph (b); 609.343, subdivision 2, paragraph
23 (b); 609.344, subdivision 2, paragraph (b); 609.345, subdivision
24 2, paragraph (b); or 609.3453, subdivision 2, paragraph (b),
25 when directed to do so by the Sex Offender Review Board under
26 section 244.0515.

27 (c) The commissioner shall require the preparation of a
28 community investigation report and shall consider the findings
29 of the report when making a supervised release decision under
30 this subdivision. The report shall reflect the sentiment of the
31 various elements of the community toward the inmate, both at the
32 time of the offense and at the present time. The report shall
33 include the views of the sentencing judge, the prosecutor, any
34 law enforcement personnel who may have been involved in the
35 case, and any successors to these individuals who may have
36 information relevant to the supervised release decision. The

1 report shall also include the views of the victim and the
 2 victim's family unless the victim or the victim's family chooses
 3 not to participate. The commissioner shall submit the report
 4 required by this paragraph to the Minnesota Sex Offender Review
 5 Board to assist the board in making release decisions under
 6 section 244.0515. The commissioner also shall give the board,
 7 on request, any and all information the commissioner gathered
 8 for use in compiling the report.

9 {e} (d) The commissioner shall make reasonable efforts to
 10 notify the victim, in advance, of the time and place of the
 11 inmate's supervised release review hearing. The victim has a
 12 right to submit an oral or written statement at the review
 13 hearing. The statement may summarize the harm suffered by the
 14 victim as a result of the crime and give the victim's
 15 recommendation on whether the inmate should be given supervised
 16 release at this time. The commissioner must consider the
 17 victim's statement when making the supervised release decision.

18 {d} (e) As used in this subdivision, "victim" means the
 19 individual who suffered harm as a result of the inmate's crime
 20 or, if the individual is deceased, the deceased's surviving
 21 spouse or next of kin.

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 609.108,
 25 subdivision 3, is amended to read:

26 Subd. 3. [PREDATORY CRIME.] ~~A predatory crime is a felony~~
 27 ~~violation of section 609.185, 609.19, 609.195, 609.20, 609.205,~~
 28 ~~609.221, 609.222, 609.223, 609.24, 609.245, 609.25, 609.255,~~
 29 ~~609.342, 609.343, 609.344, 609.345, 609.365, 609.498, 609.561,~~
 30 ~~or 609.582, subdivision 1.~~ As used in this section, "predatory
 31 crime" has the meaning given in section 609.341, subdivision 24.

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

34 Sec. 4. Minnesota Statutes 2004, section 609.108,
 35 subdivision 4, is amended to read:

36 Subd. 4. [DANGER TO PUBLIC SAFETY.] The court fact finder

1 shall base its finding that the offender is a danger to public
2 safety on any of the following factors:

(1) the crime involved an aggravating factor that would
4 justify a durational departure from the presumptive sentence
5 under the Sentencing Guidelines;

6 (2) the offender previously committed or attempted to
7 commit a predatory crime or a violation of section 609.224 or
8 609.2242, including:

9 (i) an offense committed as a juvenile that would have been
10 a predatory crime or a violation of section 609.224 or 609.2242
11 if committed by an adult; or

12 (ii) a violation or attempted violation of a similar law of
13 any other state or the United States; or

14 (3) the offender planned or prepared for the crime prior to
15 its commission.

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

18 Sec. 5. Minnesota Statutes 2004, section 609.109,
19 subdivision 7, is amended to read:

20 Subd. 7. [CONDITIONAL RELEASE OF SEX OFFENDERS.] (a)
21 Notwithstanding the statutory maximum sentence otherwise
22 applicable to the offense or any provision of the Sentencing
23 Guidelines, when a court sentences a person to prison for a
24 violation of section 609.342, 609.343, 609.344, ~~or~~ 609.345, or
25 609.3453, the court shall provide that after the person has
26 completed the sentence imposed, the commissioner of corrections
27 shall place the person on conditional release.

28 If the person was convicted for a violation of section
29 609.342, 609.343, 609.344, ~~or~~ 609.345, or 609.3453, the person
30 shall be placed on conditional release for five years, minus the
31 time the person served on supervised release.

32 If the person was convicted for a violation of one of those
33 sections after a previous sex offense conviction as defined in
34 subdivision 5, or sentenced under subdivision 6 to a mandatory
35 departure, the person shall be placed on conditional release for
36 ten years, minus the time the person served on supervised

1 release.

2 (b) The conditions of release may include successful
3 completion of treatment and aftercare in a program approved by
4 the commissioner, satisfaction of the release conditions
5 specified in section 244.05, subdivision 6, and any other
6 conditions the commissioner considers appropriate. If the
7 offender fails to meet any condition of release, the
8 commissioner may revoke the offender's conditional release and
9 order that the offender serve the remaining portion of the
10 conditional release term in prison. The commissioner shall not
11 dismiss the offender from supervision before the conditional
12 release term expires.

13 Conditional release under this subdivision is governed by
14 provisions relating to supervised release, except as otherwise
15 provided in this subdivision, section 244.04, subdivision 1, or
16 244.05.

17 (c) The commissioner shall pay the cost of treatment of a
18 person released under this subdivision. This section does not
19 require the commissioner to accept or retain an offender in a
20 treatment program.

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

23 Sec. 6. Minnesota Statutes 2004, section 609.341, is
24 amended by adding a subdivision to read:

25 Subd. 22. [SEX OFFENSE.] Except for section 609.3452, "sex
26 offense" means any violation of, or attempt to violate, section
27 609.342 (first degree criminal sexual conduct), 609.343 (second
28 degree criminal sexual conduct), 609.344 (third degree criminal
29 sexual conduct), 609.345 (fourth degree criminal sexual
30 conduct), 609.3451 (fifth degree criminal sexual conduct),
31 609.3453 (criminal sexual predatory conduct), 609.352
32 (solicitation of a child to engage in sexual conduct), 617.23
33 (indecent exposure), 617.246 (use of minors in sexual
34 performance), 617.247 (possession of pornographic work involving
35 minors), or any similar statute of the United States or any
36 other state.

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

3 Sec. 7. Minnesota Statutes 2004, section 609.341, is
4 amended by adding a subdivision to read:

5 Subd. 23. [SUBSEQUENT SEX OFFENSE.] "Subsequent sex
6 offense" means a violation of section 609.342 (first degree
7 criminal sexual conduct), 609.343 (second degree criminal sexual
8 conduct), 609.344 (third degree criminal sexual conduct),
9 609.345 (fourth degree criminal sexual conduct), or 609.3453
10 (criminal sexual predatory conduct) for which the offender is
11 convicted after the offender has already been convicted or
12 adjudicated delinquent for the following, involving a separate
13 behavioral incident, regardless of when the behavioral incidents
14 occurred:

- 15 (1) another felony-level sex offense;
16 (2) two non-felony-level sex offenses; or
17 (3) any felony-level predatory crime that the fact finder
18 determines was motivated by the offender's sexual impulses or
19 was part of a predatory pattern of behavior that had criminal
20 sexual conduct as its goal.

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

23 Sec. 8. Minnesota Statutes 2004, section 609.341, is
24 amended by adding a subdivision to read:

25 Subd. 24. [PREDATORY CRIME.] "Predatory crime" means a
26 felony violation of section 609.185 (first degree murder),
27 609.19 (second degree murder), 609.195 (third degree murder),
28 609.20 (first degree manslaughter), 609.205 (second degree
29 manslaughter), 609.221 (first degree assault), 609.222 (second
30 degree assault), 609.223 (third degree assault), 609.24 (simple
31 robbery), 609.245 (aggravated robbery), 609.25 (kidnapping),
32 609.255 (false imprisonment), 609.365 (incest), 609.498
33 (tampering with a witness), 609.561 (first degree arson), or
34 609.582, subdivision 1 (first degree burglary).

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

1 Sec. 9. Minnesota Statutes 2004, section 609.342,
2 subdivision 2, is amended to read:

3 Subd. 2. [PENALTY.] (a) Except as otherwise provided
4 in ~~section-609.109~~ paragraph (b) or (c), or section 609.109, a
5 person convicted under subdivision 1 may be sentenced to
6 imprisonment for not more than ~~30~~ 60 years ~~or-to-a-payment-of-a~~
7 ~~fine-of-not-more-than-\$40,000,--or-both.~~

8 ~~(b)~~ Unless a longer mandatory minimum sentence is otherwise
9 required by law or the Sentencing Guidelines provide for a
10 longer presumptive executed sentence, the court shall presume
11 that an executed sentence of 144 months must be imposed on an
12 offender convicted of violating this section. Except as
13 provided in paragraph (b) or (c), sentencing a person in a
14 manner other than that described in this paragraph is a
15 departure from the Sentencing Guidelines.

16 (b) The court shall sentence a person to imprisonment for
17 life if:

18 (1) the person was convicted under subdivision 1, paragraph
19 (c), (d), (e), (f), or (h); or

20 (2) the person was convicted under subdivision 1 of a
21 subsequent sex offense.

22 Unless a longer mandatory minimum sentence is otherwise
23 required by law or the Sentencing Guidelines provide for a
24 longer presumptive executed sentence, and the court imposes this
25 sentence, the court shall specify a minimum term of imprisonment
26 of 20 years that must be served before the offender may be
27 considered for supervised release.

28 (c) The court shall sentence a person to imprisonment for
29 life without the possibility of release if the person is
30 convicted of violating subdivision 1, paragraph (c), (d), (e),
31 (f), or (h), and the fact finder determines beyond a reasonable
32 doubt that any of the following circumstances exist:

33 (1) the offender tortured the complainant;

34 (2) the offender intentionally inflicted great bodily harm
35 upon the complainant;

36 (3) the offender, without the complainant's consent,

1 removed the complainant from one place to another and did not
2 release the complainant in a safe place;

3 (4) the complainant was aged 13 or younger at the time of
4 the offense;

5 (5) the complainant was aged 70 or older at the time of the
6 offense;

7 (6) the offender was armed with a dangerous weapon or any
8 article used or fashioned in a manner to lead the complainant to
9 reasonably believe it to be a dangerous weapon and used or
10 threatened to use the weapon or article to cause the complainant
11 to submit;

12 (7) the charged offense involved sexual penetration or
13 sexual contact with more than one victim; or

14 (8) the offense involved more than one perpetrator engaging
15 in sexual penetration or sexual contact with the complainant.

16 The fact finder may not consider a circumstance described
17 in clauses (1) to (8), if it is an element of the underlying
18 specified violation of subdivision 1.

19 As used in this paragraph, "torture" means the intentional
20 infliction of extreme mental anguish, or extreme psychological
21 or physical abuse, when committed in an especially depraved
22 manner.

23 (d) In addition to the sentence imposed under paragraph
24 (a), (b), or (c), the person may also be sentenced to the
25 payment of a fine of not more than \$40,000.

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

28 Sec. 10. Minnesota Statutes 2004, section 609.342,
29 subdivision 3, is amended to read:

30 Subd. 3. [STAY.] Except when imprisonment is required
31 under subdivision 2, paragraph (b) or (c), or section 609.109,
32 if a person is convicted under subdivision 1, clause (g), the
33 court may stay imposition or execution of the sentence if it
34 finds that:

35 (a) a stay is in the best interest of the complainant or
36 the family unit; and

1 (b) a professional assessment indicates that the offender
2 has been accepted by and can respond to a treatment program.

3 If the court stays imposition or execution of sentence, it
4 shall include the following as conditions of probation:

5 (1) incarceration in a local jail or workhouse;

6 (2) a requirement that the offender complete a treatment
7 program; and

8 (3) a requirement that the offender have no unsupervised
9 contact with the complainant until the offender has successfully
10 completed the treatment program unless approved by the treatment
11 program and the supervising correctional agent.

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

14 Sec. 11. Minnesota Statutes 2004, section 609.343,
15 subdivision 2, is amended to read:

16 Subd. 2. [PENALTY.] (a) Except as otherwise provided
17 in paragraph (b) or (c) or section 609.109, a person convicted
18 under subdivision 1 may be sentenced to imprisonment for not
19 more than ~~25~~ 50 years ~~or to a payment of a fine of not more than~~
20 ~~\$35,000~~ or both.

21 ~~(b)~~ Unless a longer mandatory minimum sentence is otherwise
22 required by law or the Sentencing Guidelines provide for a
23 longer presumptive executed sentence, the court shall presume
24 that an executed sentence of 90 months must be imposed on an
25 offender convicted of violating subdivision 1, clause (c), (d),
26 (e), (f), or (h). Sentencing a person in a manner other than
27 that described in this paragraph is a departure from the
28 Sentencing Guidelines.

29 (b) The court shall sentence a person to imprisonment for
30 life if:

31 (1) the person was convicted under subdivision 1, paragraph
32 (c), (d), (e), (f), or (h); or

33 (2) the person was convicted under subdivision 1 of a
34 subsequent sex offense.

35 Unless a longer mandatory minimum sentence is otherwise
36 required by law or the Sentencing Guidelines provide for a

1 longer presumptive executed sentence, and the court imposes this
2 sentence, the court shall specify a minimum term of imprisonment
3 of 20 years that must be served before the offender may be
4 considered for supervised release.

5 (c) The court shall sentence a person to imprisonment for
6 life without the possibility of release if the person is
7 convicted of violating subdivision 1, paragraph (c), (d), (e),
8 (f), or (h), and the fact finder determines beyond a reasonable
9 doubt that any of the following circumstances exist:

10 (1) the offender tortured the complainant;

11 (2) the offender intentionally inflicted great bodily harm
12 upon the complainant;

13 (3) the offender, without the complainant's consent,
14 removed the complainant from one place to another and did not
15 release the complainant in a safe place;

16 (4) the complainant was aged 13 or younger at the time of
17 the offense;

18 (5) the complainant was aged 70 or older at the time of the
19 offense;

20 (6) the offender was armed with a dangerous weapon or any
21 article used or fashioned in a manner to lead the complainant to
22 reasonably believe it to be a dangerous weapon and used or
23 threatened to use the weapon or article to cause the complainant
24 to submit;

25 (7) the charged offense involved sexual penetration or
26 sexual contact with more than one victim; or

27 (8) the offense involved more than one perpetrator engaging
28 in sexual penetration or sexual contact with the complainant.

29 The fact finder may not consider a circumstance described
30 in clauses (1) to (8), if it is an element of the underlying
31 specified violation of subdivision 1.

32 As used in this paragraph, "torture" means the intentional
33 infliction of extreme mental anguish, or extreme psychological
34 or physical abuse, when committed in an especially depraved
35 manner.

36 (d) In addition to the sentence imposed under paragraph

1 (a), (b), or (c), the person may also be sentenced to the
2 payment of a fine of not more than \$35,000.

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

5 Sec. 12. Minnesota Statutes 2004, section 609.343,
6 subdivision 3, is amended to read:

7 Subd. 3. [STAY.] Except when imprisonment is required
8 under subdivision 2, paragraph (b) or (c), or section 609.109,
9 if a person is convicted under subdivision 1, clause (g), the
10 court may stay imposition or execution of the sentence if it
11 finds that:

12 (a) a stay is in the best interest of the complainant or
13 the family unit; and

14 (b) a professional assessment indicates that the offender
15 has been accepted by and can respond to a treatment program.

16 If the court stays imposition or execution of sentence, it
17 shall include the following as conditions of probation:

18 (1) incarceration in a local jail or workhouse;

19 (2) a requirement that the offender complete a treatment
20 program; and

21 (3) a requirement that the offender have no unsupervised
22 contact with the complainant until the offender has successfully
23 completed the treatment program unless approved by the treatment
24 program and the supervising correctional agent.

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

27 Sec. 13. Minnesota Statutes 2004, section 609.344,
28 subdivision 2, is amended to read:

29 Subd. 2. [PENALTY.] (a) Except as otherwise provided in
30 paragraph (b), a person convicted under subdivision 1 may be
31 sentenced to imprisonment for not more than ~~15~~ 30 years ~~or to a~~
32 payment of a fine of not more than \$30,000, or both.

33 (b) A person convicted under subdivision 1 of a subsequent
34 sex offense shall be sentenced to imprisonment for life. Unless
35 a longer mandatory minimum sentence is otherwise required by law
36 or the Sentencing Guidelines provide for a longer presumptive

1 executed sentence, and the court imposes this sentence, the
 2 court shall specify a minimum term of imprisonment of 20 years
 3 that must be served before the offender may be considered for
 4 supervised release.

5 (c) In addition to the sentence imposed under paragraph (a)
 6 or (b), the person may also be sentenced to the payment of a
 7 fine of not more than \$30,000.

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

10 Sec. 14. Minnesota Statutes 2004, section 609.344,
 11 subdivision 3, is amended to read:

12 Subd. 3. [STAY.] Except when imprisonment is required
 13 under subdivision 2, paragraph (b), or section 609.109, if a
 14 person is convicted under subdivision 1, clause (f), the court
 15 may stay imposition or execution of the sentence if it finds
 16 that:

17 (a) a stay is in the best interest of the complainant or
 18 the family unit; and

19 (b) a professional assessment indicates that the offender
 20 has been accepted by and can respond to a treatment program.

21 If the court stays imposition or execution of sentence, it
 22 shall include the following as conditions of probation:

23 (1) incarceration in a local jail or workhouse;

24 (2) a requirement that the offender complete a treatment
 25 program; and

26 (3) a requirement that the offender have no unsupervised
 27 contact with the complainant until the offender has successfully
 28 completed the treatment program unless approved by the treatment
 29 program and the supervising correctional agent.

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

32 Sec. 15. Minnesota Statutes 2004, section 609.345,
 33 subdivision 2, is amended to read:

34 Subd. 2. [PENALTY.] (a) Except as otherwise provided in
 35 paragraph (b), a person convicted under subdivision 1 may be
 36 sentenced to imprisonment for not more than ~~ten~~ 20 years ~~or to a~~

1 ~~payment of a fine of not more than \$20,000, or both.~~

2 (b) A person convicted under subdivision 1 of a subsequent
3 sex offense shall be sentenced to imprisonment for life. Unless
4 a longer mandatory minimum sentence is otherwise required by law
5 or the Sentencing Guidelines provide for a longer presumptive
6 executed sentence, and the court imposes this sentence, the
7 court shall specify a minimum term of imprisonment of 20 years
8 that must be served before the offender may be considered for
9 supervised release.

10 (c) In addition to the sentence imposed under paragraph (a)
11 or (b), the person may also be sentenced to the payment of a
12 fine of not more than \$20,000.

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

15 Sec. 16. Minnesota Statutes 2004, section 609.345,
16 subdivision 3, is amended to read:

17 Subd. 3. [STAY.] Except when imprisonment is required
18 under subdivision 2, paragraph (b), or section 609.109, if a
19 person is convicted under subdivision 1, clause (f), the court
20 may stay imposition or execution of the sentence if it finds
21 that:

22 (a) a stay is in the best interest of the complainant or
23 the family unit; and

24 (b) a professional assessment indicates that the offender
25 has been accepted by and can respond to a treatment program.

26 If the court stays imposition or execution of sentence, it
27 shall include the following as conditions of probation:

28 (1) incarceration in a local jail or workhouse;

29 (2) a requirement that the offender complete a treatment
30 program; and

31 (3) a requirement that the offender have no unsupervised
32 contact with the complainant until the offender has successfully
33 completed the treatment program unless approved by the treatment
34 program and the supervising correctional agent.

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

1 Sec. 17. [609.3453] [CRIMINAL SEXUAL PREDATORY CONDUCT.]

2 Subdivision 1. [CRIME DEFINED.] A person is guilty of
3 criminal sexual predatory conduct if the person commits a
4 predatory crime that was motivated by the offender's sexual
5 impulses or was part of a predatory pattern of behavior that had
6 criminal sexual conduct as its goal.

7 Subd. 2. [PENALTY.] (a) Except as provided in paragraph
8 (b), a person convicted under subdivision 1 may be sentenced to
9 imprisonment for not more than 15 years.

10 (b) A person convicted under subdivision 1 of a subsequent
11 sex offense shall be sentenced to imprisonment for life. Unless
12 a longer mandatory minimum sentence is otherwise required by law
13 or the Sentencing Guidelines provide for a longer presumptive
14 executed sentence, and the court imposes this sentence, the
15 court shall specify a minimum term of imprisonment of 20 years
16 that must be served before the offender may be considered for
17 supervised release.

18 (c) In addition to the sentence imposed under paragraph (a)
19 or (b), the person may also be sentenced to the payment of a
20 fine of not more than \$20,000.

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

23 Sec. 18. [SENTENCING GUIDELINES; CHANGES MANDATED.]

24 (a) The Sentencing Guidelines Commission shall modify the
25 Sentencing Guidelines, including the guidelines grid, to reflect
26 the changes made in this act.

27 (b) The commission shall make the sex offender-related
28 modifications to the guidelines and grid proposed in the
29 commission's January 2005 report to the legislature, including
30 creating a separate sex offender grid, and changing the method
31 used to calculate the weights assigned to sex offenses when
32 calculating an offender's criminal history. However, the
33 commission shall adapt the proposed modifications to reflect the
34 restructuring of sex offense sentences under this article.

35 (c) Modifications made by the commission under this section
36 take effect August 1, 2005.

1 [EFFECTIVE DATE.] This section is effective the day
 2 following final enactment.

3 Sec. 19. [REPEALER.]

4 Minnesota Statutes 2004, section 609.108, subdivision 2, is
 5 repealed.

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

8 ARTICLE 2

9 MINNESOTA SEX OFFENDER REVIEW BOARD

10 Section 1. Minnesota Statutes 2004, section 13.851, is
 11 amended by adding a subdivision to read:

12 Subd. 9. [PREDATORY OFFENDERS; MINNESOTA SEX OFFENDER
 13 REVIEW BOARD.] Certain data classified under this chapter are
 14 made accessible to the Minnesota Sex Offender Review Board under
 15 section 244.0515.

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

17 Sec. 2. Minnesota Statutes 2004, section 13D.01,
 18 subdivision 2, is amended to read:

19 Subd. 2. [EXCEPTIONS.] This chapter does not apply:

20 (1) to meetings of the commissioner of corrections;

21 (2) to meetings of the Minnesota Sex Offender Review Board
 22 under section 244.0515;

23 (3) to a state agency, board, or commission when it is
 24 exercising quasi-judicial functions involving disciplinary
 25 proceedings; or

26 ~~(4)~~ (4) as otherwise expressly provided by statute.

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

28 Sec. 3. [244.0515] [MINNESOTA SEX OFFENDER REVIEW BOARD.]

29 Subdivision 1. [DEFINITIONS.] As used in this section, the
 30 following terms have the meanings given:

31 (1) "board" means the Minnesota Sex Offender Review Board;

32 and

33 (2) "commissioner" means the commissioner of corrections.

34 Subd. 2. [RESPONSIBILITIES.] The board is responsible for
 35 making decisions regarding the release of inmates sentenced to
 36 life sentences under section 609.342, subdivision 2, paragraph

1 (b); 609.343, subdivision 2, paragraph (b); 609.344, subdivision
2 2, paragraph (b); 609.345, subdivision 2, paragraph (b); or
3 609.3453, subdivision 2, paragraph (b).

4 Subd. 3. [EXEMPTION FROM CHAPTER 14.] (a) For the purposes
5 of this section and except as provided in paragraph (b), the
6 board and the commissioner are not subject to chapter 14.

7 (b) The board and the commissioner may adopt rules under
8 sections 14.389 and 244.0515 when proceeding under this section.

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

10 Sec. 4. [DIRECTION TO COMMISSIONER OF CORRECTIONS.]

11 (a) The commissioner of corrections shall establish
12 criteria and procedures for the Minnesota Sex Offender Review
13 Board, established under Minnesota Statutes, section 244.0515.
14 The board shall develop recommendations for the composition,
15 duties, procedures, and review criteria for release of sex
16 offenders. The proposed procedures and review criteria shall be
17 for use by the board in making release and revocation decisions
18 on offenders sentenced under Minnesota Statutes, section
19 609.342, subdivision 2, paragraph (b); 609.343, subdivision 2,
20 paragraph (b); 609.344, subdivision 2, paragraph (b); 609.345,
21 subdivision 2, paragraph (b); or 609.3453, subdivision 2,
22 paragraph (b). In establishing criteria and procedures, the
23 commissioner shall seek the input of the end-of-confinement
24 review committee at each state correctional facility and at each
25 state treatment facility where predatory offenders are
26 confined. The commissioner also shall seek input from
27 individuals knowledgeable in health and human services; public
28 safety; Minnesota's sex offender treatment program; treatment of
29 sex offenders; crime victim issues; criminal law; sentencing
30 guidelines; law enforcement; and probation, supervised release,
31 and conditional release.

32 (b) By January 15, 2006, the commissioner shall submit a
33 written report to the legislature containing proposed
34 composition, duties, procedures, and review criteria of the
35 Minnesota Sex Offender Board. This report also must include a
36 summary of the input gathered under paragraph (a).

1 (4) the person was convicted of or adjudicated delinquent
2 for, including pursuant to a court martial, violating a law of
3 the United States, including the Uniform Code of Military
4 Justice, similar to the offenses described in clause (1), (2),
5 or (3).

6 (b) A person also shall register under this section if:

7 (1) the person was convicted of or adjudicated delinquent
8 in another state for an offense that would be a violation of a
9 law described in paragraph (a) if committed in this state;

10 (2) the person enters the state to reside, or to work or
11 attend school; and

12 (3) ten years have not elapsed since the person was
13 released from confinement or, if the person was not confined,
14 since the person was convicted of or adjudicated delinquent for
15 the offense that triggers registration, unless the person is
16 subject to lifetime registration, in which case the person must
17 register for life regardless of when the person was released
18 from confinement, convicted, or adjudicated delinquent.

19 For purposes of this paragraph:

20 (i) "school" includes any public or private educational
21 institution, including any secondary school, trade or
22 professional institution, or institution of higher education,
23 that the person is enrolled in on a full-time or part-time
24 basis; and

25 (ii) "work" includes employment that is full time or part
26 time for a period of time exceeding 14 days or for an aggregate
27 period of time exceeding 30 days during any calendar year,
28 whether financially compensated, volunteered, or for the purpose
29 of government or educational benefit.

30 (c) A person also shall register under this section if the
31 person was committed pursuant to a court commitment order under
32 section 253B.185 or Minnesota Statutes 1992, section 526.10, or
33 a similar law of another state or the United States, regardless
34 of whether the person was convicted of any offense.

35 (d) A person also shall register under this section if:

36 (1) the person was charged with or petitioned for a felony

1 violation or attempt to violate any of the offenses listed in
2 paragraph (a), clause (1), or a similar law of another state or
3 the United States, or the person was charged with or petitioned
4 for a violation of any of the offenses listed in paragraph (a),
5 clause (2), or a similar law of another state or the United
6 States;

7 (2) the person was found not guilty by reason of mental
8 illness or mental deficiency after a trial for that offense, or
9 found guilty but mentally ill after a trial for that offense, in
10 states with a guilty but mentally ill verdict; and

11 (3) the person was committed pursuant to a court commitment
12 order under section 253B.18 or a similar law of another state or
13 the United States.

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

16 Sec. 2. Minnesota Statutes 2004, section 244.05,
17 subdivision 6, is amended to read:

18 Subd. 6. [INTENSIVE SUPERVISED RELEASE.] The commissioner
19 may order that an inmate be placed on intensive supervised
20 release for all or part of the inmate's supervised release or
21 parole term if the commissioner determines that the action will
22 further the goals described in section 244.14, subdivision 1,
23 clauses (2), (3), and (4). In addition, the commissioner may
24 order that an inmate be placed on intensive supervised release
25 for all of the inmate's conditional or supervised release term
26 if the inmate was convicted of a sex offense under ~~sections~~
27 section 609.342 to, 609.343, 609.344, 609.345, or 609.3453 or
28 was sentenced under the provisions of section 609.108. The
29 commissioner may impose appropriate conditions of release on the
30 inmate including but not limited to unannounced searches of the
31 inmate's person, vehicle, or premises by an intensive
32 supervision agent; compliance with court-ordered restitution, if
33 any; random drug testing; house arrest; daily curfews; frequent
34 face-to-face contacts with an assigned intensive supervision
35 agent; work, education, or treatment requirements; and
36 electronic surveillance. In addition, any sex offender placed

1 on intensive supervised release may be ordered to participate in
2 an appropriate sex offender program as a condition of release.
3 If the inmate violates the conditions of the intensive
4 supervised release, the commissioner shall impose sanctions as
5 provided in subdivision 3 and section 609.108.

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

8 Sec. 3. Minnesota Statutes 2004, section 244.05,
9 subdivision 7, is amended to read:

10 Subd. 7. [SEX OFFENDERS; CIVIL COMMITMENT DETERMINATION.]

11 (a) Before the commissioner releases from prison any inmate
12 convicted under ~~sections~~ section 609.342 ~~to, 609.343, 609.344,~~
13 609.345, or 609.3453 or sentenced as a patterned offender under
14 section 609.108, and determined by the commissioner to be in a
15 high risk category, the commissioner shall make a preliminary
16 determination whether, in the commissioner's opinion, a petition
17 under section 253B.185 may be appropriate.

18 (b) In making this decision, the commissioner shall have
19 access to the following data only for the purposes of the
20 assessment and referral decision:

21 (1) private medical data under section 13.384 or 144.335,
22 or welfare data under section 13.46 that relate to medical
23 treatment of the offender;

4 (2) private and confidential court services data under
25 section 13.84;

26 (3) private and confidential corrections data under section
27 13.85; and

28 (4) private criminal history data under section 13.87.

29 (c) If the commissioner determines that a petition may be
30 appropriate, the commissioner shall forward this determination,
31 along with a summary of the reasons for the determination, to
32 the county attorney in the county where the inmate was convicted
33 no later than 12 months before the inmate's release date. If
34 the inmate is received for incarceration with fewer than 12
35 months remaining in the inmate's term of imprisonment, or if the
36 commissioner receives additional information less than 12 months

1 before release which makes the inmate's case appropriate for
2 referral, the commissioner shall forward the determination as
3 soon as is practicable. Upon receiving the commissioner's
4 preliminary determination, the county attorney shall proceed in
5 the manner provided in section 253B.185. The commissioner shall
6 release to the county attorney all requested documentation
7 maintained by the department.

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

10 Sec. 4. Minnesota Statutes 2004, section 609.109,
11 subdivision 2, is amended to read:

12 Subd. 2. [PRESUMPTIVE EXECUTED SENTENCE.] Except as
13 provided in subdivision 3 or 4, if a person is convicted under
14 sections 609.342 to ~~609.345~~ 609.3453, within 15 years of a
15 previous sex offense conviction, the court shall commit the
16 defendant to the commissioner of corrections for not less than
17 three years, nor more than the maximum sentence provided by law
18 for the offense for which convicted, notwithstanding the
19 provisions of sections 242.19, 243.05, 609.11, 609.12, and
20 609.135. The court may stay the execution of the sentence
21 imposed under this subdivision only if it finds that a
22 professional assessment indicates the offender is accepted by
23 and can respond to treatment at a long-term inpatient program
24 exclusively treating sex offenders and approved by the
25 commissioner of corrections. If the court stays the execution
26 of a sentence, it shall include the following as conditions of
27 probation:

- 28 (1) incarceration in a local jail or workhouse; and
29 (2) a requirement that the offender successfully complete
30 the treatment program and aftercare as directed by the court.

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

33 Sec. 5. Minnesota Statutes 2004, section 609.109,
34 subdivision 5, is amended to read:

35 Subd. 5. [PREVIOUS SEX OFFENSE CONVICTIONS.] For the
36 purposes of this section, a conviction is considered a previous

1 sex offense conviction if the person was convicted of a sex
 2 offense before the commission of the present offense of
 3 conviction. A person has two previous sex offense convictions
 4 only if the person was convicted and sentenced for a sex offense
 5 committed after the person was earlier convicted and sentenced
 6 for a sex offense, both convictions preceded the commission of
 7 the present offense of conviction, and 15 years have not elapsed
 8 since the person was discharged from the sentence imposed for
 9 the second conviction. A "sex offense" is a violation of
 10 sections 609.342 to ~~609.345~~ 609.3453 or any similar statute of
 11 the United States, this state, or any other state.

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

14 Sec. 6. Minnesota Statutes 2004, section 609.117,
 15 subdivision 1, is amended to read:

16 Subdivision 1. [UPON SENTENCING.] The court shall order an
 17 offender to provide a biological specimen for the purpose of DNA
 18 analysis as defined in section 299C.155 when:

19 (1) the court sentences a person charged with violating or
 20 attempting to violate any of the following, and the person is
 21 convicted of that offense or of any offense arising out of the
 22 same set of circumstances:

- 23 (i) murder under section 609.185, 609.19, or 609.195;
 24 (ii) manslaughter under section 609.20 or 609.205;
 25 (iii) assault under section 609.221, 609.222, or 609.223;
 26 (iv) robbery under section 609.24 or aggravated robbery
 27 under section 609.245;
 28 (v) kidnapping under section 609.25;
 29 (vi) false imprisonment under section 609.255;
 30 (vii) criminal sexual conduct under section 609.342,
 31 609.343, 609.344, 609.345, ~~or~~ 609.3451, subdivision 3, or
 32 609.3453;

- 33 (viii) incest under section 609.365;
 34 (ix) burglary under section 609.582, subdivision 1; or
 35 (x) indecent exposure under section 617.23, subdivision 3;
 36 (2) the court sentences a person as a patterned sex

1 offender under section 609.108; or

2 (3) the juvenile court adjudicates a person a delinquent
3 child who is the subject of a delinquency petition for violating
4 or attempting to violate any of the following, and the
5 delinquency adjudication is based on a violation of one of those
6 sections or of any offense arising out of the same set of
7 circumstances:

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

9 (ii) manslaughter under section 609.20 or 609.205;

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

11 (iv) robbery under section 609.24 or aggravated robbery
12 under section 609.245;

13 (v) kidnapping under section 609.25;

14 (vi) false imprisonment under section 609.255;

15 (vii) criminal sexual conduct under section 609.342,
16 609.343, 609.344, 609.345, or 609.3451, subdivision 3, or
17 609.3453;

18 (viii) incest under section 609.365;

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

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

21 The biological specimen or the results of the analysis shall be
22 maintained by the Bureau of Criminal Apprehension as provided in
23 section 299C.155.

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

26 Sec. 7. Minnesota Statutes 2004, section 609.117,
27 subdivision 2, is amended to read:

28 Subd. 2. [BEFORE RELEASE.] The commissioner of corrections
29 or local corrections authority shall order a person to provide a
30 biological specimen for the purpose of DNA analysis before
31 completion of the person's term of imprisonment when the person
32 has not provided a biological specimen for the purpose of DNA
33 analysis and the person:

34 (1) is currently serving a term of imprisonment for or has
35 a past conviction for violating or attempting to violate any of
36 the following or a similar law of another state or the United

1 States or initially charged with violating one of the following
2 sections or a similar law of another state or the United States
and convicted of another offense arising out of the same set of
4 circumstances:

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

6 (ii) manslaughter under section 609.20 or 609.205;

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

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

10 (v) kidnapping under section 609.25;

11 (vi) false imprisonment under section 609.255;

12 (vii) criminal sexual conduct under section 609.342,
13 609.343, 609.344, 609.345, ~~or~~ 609.3451, subdivision 3, or
14 609.3453;

15 (viii) incest under section 609.365;

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

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

18 or

19 (2) was sentenced as a patterned sex offender under section
20 609.108, and committed to the custody of the commissioner of
21 corrections; or

22 (3) is serving a term of imprisonment in this state under a
23 reciprocal agreement although convicted in another state of an
offense described in this subdivision or a similar law of the
25 United States or any other state. The commissioner of
26 corrections or local corrections authority shall forward the
27 sample to the Bureau of Criminal Apprehension.

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

30 Sec. 8. Minnesota Statutes 2004, section 609.1351, is
31 amended to read:

32 609.1351 [PETITION FOR CIVIL COMMITMENT.]

33 When a court sentences a person under section 609.108,
34 609.342, 609.343, 609.344, ~~or~~ 609.345, or 609.3453, the court
35 shall make a preliminary determination whether in the court's
36 opinion a petition under section 253B.185 may be appropriate and

1 include the determination as part of the sentencing order. If
2 the court determines that a petition may be appropriate, the
3 court shall forward its preliminary determination along with
4 supporting documentation to the county attorney.

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

7 Sec. 9. Minnesota Statutes 2004, section 609.347, is
8 amended to read:

9 609.347 [EVIDENCE IN CRIMINAL SEXUAL CONDUCT CASES.]

10 Subdivision 1. In a prosecution under sections 609.109 or,
11 609.342 to 609.3451, or 609.3453, the testimony of a victim need
12 not be corroborated.

13 Subd. 2. In a prosecution under sections 609.109 or,
14 609.342 to 609.3451, or 609.3453, there is no need to show that
15 the victim resisted the accused.

16 Subd. 3. In a prosecution under sections 609.109, 609.342
17 to 609.3451, 609.3453, or 609.365, evidence of the victim's
18 previous sexual conduct shall not be admitted nor shall any
19 reference to such conduct be made in the presence of the jury,
20 except by court order under the procedure provided in
21 subdivision 4. The evidence can be admitted only if the
22 probative value of the evidence is not substantially outweighed
23 by its inflammatory or prejudicial nature and only in the
24 circumstances set out in paragraphs (a) and (b). For the
25 evidence to be admissible under paragraph (a), subsection (i),
26 the judge must find by a preponderance of the evidence that the
27 facts set out in the accused's offer of proof are true. For the
28 evidence to be admissible under paragraph (a), subsection (ii)
29 or paragraph (b), the judge must find that the evidence is
30 sufficient to support a finding that the facts set out in the
31 accused's offer of proof are true, as provided under Rule 901 of
32 the Rules of Evidence.

33 (a) When consent of the victim is a defense in the case,
34 the following evidence is admissible:

35 (i) evidence of the victim's previous sexual conduct
36 tending to establish a common scheme or plan of similar sexual

1 conduct under circumstances similar to the case at issue. In
2 order to find a common scheme or plan, the judge must find that
3 the victim made prior allegations of sexual assault which were
4 fabricated; and

5 (ii) evidence of the victim's previous sexual conduct with
6 the accused.

7 (b) When the prosecution's case includes evidence of semen,
8 pregnancy, or disease at the time of the incident or, in the
9 case of pregnancy, between the time of the incident and trial,
10 evidence of specific instances of the victim's previous sexual
11 conduct is admissible solely to show the source of the semen,
12 pregnancy, or disease.

13 Subd. 4. The accused may not offer evidence described in
14 subdivision 3 except pursuant to the following procedure:

15 (a) A motion shall be made by the accused at least three
16 business days prior to trial, unless later for good cause shown,
17 setting out with particularity the offer of proof of the
18 evidence that the accused intends to offer, relative to the
19 previous sexual conduct of the victim;

20 (b) If the court deems the offer of proof sufficient, the
21 court shall order a hearing out of the presence of the jury, if
22 any, and in such hearing shall allow the accused to make a full
23 presentation of the offer of proof;

24 (c) At the conclusion of the hearing, if the court finds
25 that the evidence proposed to be offered by the accused
26 regarding the previous sexual conduct of the victim is
27 admissible under subdivision 3 and that its probative value is
28 not substantially outweighed by its inflammatory or prejudicial
29 nature, the court shall make an order stating the extent to
30 which evidence is admissible. The accused may then offer
31 evidence pursuant to the order of the court;

32 (d) If new information is discovered after the date of the
33 hearing or during the course of trial, which may make evidence
34 described in subdivision 3 admissible, the accused may make an
35 offer of proof pursuant to clause (a) and the court shall order
36 an in camera hearing to determine whether the proposed evidence

1 is admissible by the standards herein.

2 Subd. 5. In a prosecution under sections 609.109 or,
3 609.342 to 609.3451, or 609.3453, the court shall not instruct
4 the jury to the effect that:

5 (a) It may be inferred that a victim who has previously
6 consented to sexual intercourse with persons other than the
7 accused would be therefore more likely to consent to sexual
8 intercourse again; or

9 (b) The victim's previous or subsequent sexual conduct in
10 and of itself may be considered in determining the credibility
11 of the victim; or

12 (c) Criminal sexual conduct is a crime easily charged by a
13 victim but very difficult to disprove by an accused because of
14 the heinous nature of the crime; or

15 (d) The jury should scrutinize the testimony of the victim
16 any more closely than it should scrutinize the testimony of any
17 witness in any felony prosecution.

18 Subd. 6. (a) In a prosecution under sections 609.109 or,
19 609.342 to 609.3451, or 609.3453, involving a psychotherapist
20 and patient, evidence of the patient's personal or medical
21 history is not admissible except when:

22 (1) the accused requests a hearing at least three business
23 days prior to trial and makes an offer of proof of the relevancy
24 of the history; and

25 (2) the court finds that the history is relevant and that
26 the probative value of the history outweighs its prejudicial
27 value.

28 (b) The court shall allow the admission only of specific
29 information or examples of conduct of the victim that are
30 determined by the court to be relevant. The court's order shall
31 detail the information or conduct that is admissible and no
32 other evidence of the history may be introduced.

33 (c) Violation of the terms of the order is grounds for
34 mistrial but does not prevent the retrial of the accused.

35 Subd. 7. [EFFECT OF STATUTE ON RULES.] Rule 412 of the
36 Rules of Evidence is superseded to the extent of its conflict

1 with this section.

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

4 Sec. 10. Minnesota Statutes 2004, section 609.3471, is
5 amended to read:

6 609.3471 [RECORDS PERTAINING TO VICTIM IDENTITY
7 CONFIDENTIAL.]

8 Notwithstanding any provision of law to the contrary, no
9 data contained in records or reports relating to petitions,
10 complaints, or indictments issued pursuant to section 609.342;
11 609.343; 609.344; ~~or~~ 609.345; or 609.3453, which specifically
12 identifies a victim who is a minor shall be accessible to the
13 public, except by order of the court. Nothing in this section
14 authorizes denial of access to any other data contained in the
15 records or reports, including the identity of the defendant.

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

18 Sec. 11. Minnesota Statutes 2004, section 609.348, is
19 amended to read:

20 609.348 [MEDICAL PURPOSES; EXCLUSION.]

21 Sections 609.109 and, 609.342 to 609.3451, and 609.3453 do
22 not apply to sexual penetration or sexual contact when done for
23 a bona fide medical purpose.

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

26 Sec. 12. Minnesota Statutes 2004, section 609.353, is
27 amended to read:

28 609.353 [JURISDICTION.]

29 A violation or attempted violation of section 609.342,
30 609.343, 609.344, 609.345, 609.3451, 609.3453, or 609.352 may be
31 prosecuted in any jurisdiction in which the violation originates
32 or terminates.

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

35 Sec. 13. Minnesota Statutes 2004, section 631.045, is
36 amended to read:

1 631.045 [EXCLUDING SPECTATORS FROM THE COURTROOM.]

2 At the trial of a complaint or indictment for a violation
3 of sections 609.109, 609.341 to 609.3451, 609.3453, or 617.246,
4 subdivision 2, when a minor under 18 years of age is the person
5 upon, with, or against whom the crime is alleged to have been
6 committed, the judge may exclude the public from the courtroom
7 during the victim's testimony or during all or part of the
8 remainder of the trial upon a showing that closure is necessary
9 to protect a witness or ensure fairness in the trial. The judge
10 shall give the prosecutor, defendant and members of the public
11 the opportunity to object to the closure before a closure order.
12 The judge shall specify the reasons for closure in an order
13 closing all or part of the trial. Upon closure the judge shall
14 only admit persons who have a direct interest in the case.

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

17 Sec. 14. [REVISOR INSTRUCTION.]

18 (a) The revisor of statutes shall renumber Minnesota
19 Statutes, section 609.3452, as Minnesota Statutes, section
20 609.3457, and correct cross-references. In addition, the
21 revisor shall delete the reference in Minnesota Statutes,
22 section 13.871, subdivision 3, paragraph (d), to Minnesota
23 Statutes, section 609.3452, and insert a reference to Minnesota
24 Statutes, section 609.3457. The revisor shall include a
25 notation in Minnesota Statutes to inform readers of the statutes
26 of the renumbering of section 609.3457.

27 (b) In addition to the specific changes described in
28 paragraph (a), the revisor of statutes shall make other
29 technical changes necessitated by this act.

30 ARTICLE 4

31 MISCELLANEOUS PROVISIONS

32 Section 1. Minnesota Statutes 2004, section 144.335, is
33 amended by adding a subdivision to read:

34 Subd. 3d. [CRIMINAL HISTORY INFORMATION;
35 CLASSIFICATION.] Criminal history information that is classified
36 as public data shall not be reclassified as confidential medical

1 data when it is included in the patient's health record.

2 Sec. 2. Minnesota Statutes 2004, section 241.67,
3 subdivision 3, is amended to read:

4 Subd. 3. [PROGRAMS FOR ADULT OFFENDERS COMMITTED TO THE
5 COMMISSIONER.] (a) The commissioner shall provide for a range of
6 sex offender programs, including intensive sex offender
7 programs, within the state adult correctional facility system.
8 Participation in any program is subject to the rules and
9 regulations of the Department of Corrections. Nothing in this
10 section requires the commissioner to accept or retain an
11 offender in a program if the offender is determined by prison
12 professionals as unamenable to programming within the prison
13 system or if the offender refuses or fails to comply with the
14 program's requirements. Nothing in this section creates a right
15 of an offender to treatment.

16 (b) The commissioner shall develop a plan to provide for
17 residential and outpatient sex offender programming and
18 aftercare when required for conditional release under section
19 609.108 or as a condition of supervised release. The plan may
20 include co-payments from the offender, third-party payers, local
21 agencies, or other funding sources as they are identified.

22 Sec. 3. Minnesota Statutes 2004, section 242.195,
23 subdivision 1, is amended to read:

24 Subdivision 1. [SEX OFFENDER PROGRAMS.] (a) The
25 commissioner of corrections shall develop a plan to provide for
26 a range of sex offender programs, including intensive sex
27 offender programs, for juveniles within state juvenile
28 correctional facilities and through purchase of service from
29 county and private residential and outpatient juvenile sex
30 offender programs. The plan may include co-payments from the
31 offenders, third-party payers, local agencies, and other funding
32 sources as they are identified.

33 (b) The commissioner shall establish and operate a
34 residential sex offender program at one of the state juvenile
35 correctional facilities. The program must be structured to
36 address both the therapeutic and disciplinary needs of juvenile

1 sex offenders. The program must afford long-term residential
2 treatment for a range of juveniles who have committed sex
3 offenses and have failed other treatment programs or are not
4 likely to benefit from an outpatient or a community-based
5 residential treatment program.

6 Sec. 4. Minnesota Statutes 2004, section 253B.02,
7 subdivision 4a, is amended to read:

8 Subd. 4a. [CRIME AGAINST THE PERSON.] (a) "Crime" has the
9 meaning given to "violent crime" in section 609.1095, and
10 includes offenses within the definition of "crime against the
11 person" in section 253B.02, subdivision 4a, and also includes
12 offenses listed in section 253B.02, subdivision 7a, paragraph
13 (b), regardless of whether they are sexually motivated.

14 (b) "Crime against the person" means a violation of or
15 attempt to violate any of the following provisions: sections
16 609.185 (murder in the first degree); 609.19 (murder in the
17 second degree); 609.195 (murder in the third degree); 609.20
18 (manslaughter in the first degree); 609.205 (manslaughter in the
19 second degree); 609.21 (criminal vehicular homicide and injury);
20 609.215 (suicide); 609.221 (assault in the first degree);
21 609.222 (assault in the second degree); 609.223 (assault in the
22 third degree); 609.224 (assault in the fifth degree); 609.2242
23 (domestic assault); 609.23 (mistreatment of persons confined);
24 609.231 (mistreatment of residents or patients); 609.2325
25 (criminal abuse); 609.233 (criminal neglect); 609.2335
26 (financial exploitation of a vulnerable adult); 609.235 (use of
27 drugs to injure or facilitate crime); 609.24 (simple robbery);
28 609.245 (aggravated robbery); 609.25 (kidnapping); 609.255
29 (false imprisonment); 609.265 (abduction); 609.27, subdivision
30 1, clause (1) or (2) (coercion); 609.28 (interfering with
31 religious observance) if violence or threats of violence were
32 used; 609.322, subdivision 1, clause (2) (solicitation); 609.342
33 (criminal sexual conduct in the first degree); 609.343 (criminal
34 sexual conduct in the second degree); 609.344 (criminal sexual
35 conduct in the third degree); 609.345 (criminal sexual conduct
36 in the fourth degree); 609.365 (incest); 609.498, subdivision 1

1 (tampering with a witness); 609.50, clause (1) (obstructing
2 legal process, arrest, and firefighting); 609.561 (arson in the
3 first degree); 609.562 (arson in the second degree); 609.595
4 (damage to property); and 609.72, subdivision 3 (disorderly
5 conduct by a caregiver).

6 Sec. 5. Minnesota Statutes 2004, section 253B.02, is
7 amended by adding a subdivision to read:

8 Subd. 4c. [CONVICTED; CONVICTION.] "Convicted" and
9 "conviction" include findings under Minnesota Rules of Criminal
10 Procedure, Rule 20.02, that the elements of a crime have been
11 proved.

12 Sec. 6. Minnesota Statutes 2004, section 253B.02, is
13 amended by adding a subdivision to read:

14 Subd. 27. [VICTIM.] "Victim" means a person who has
15 incurred loss or harm as a result of a crime the behavior for
16 which forms the basis for a commitment under this section or
17 section 253B.185.

18 Sec. 7. Minnesota Statutes 2004, section 253B.08,
19 subdivision 2, is amended to read:

20 Subd. 2. [NOTICE OF HEARING.] (a) The proposed patient,
21 patient's counsel, the petitioner, the county attorney, and any
22 other persons as the court directs shall be given at least five
23 days' notice that a hearing will be held and at least two days'
24 notice of the time and date of the hearing, except that any
25 person may waive notice. Notice to the proposed patient may be
26 waived by patient's counsel.

27 (b) A county attorney who files a petition to commit a
28 person under section 253B.18 or 253B.185 shall make a reasonable
29 effort to provide prompt notice of filing the petition to any
30 victim of a crime for which the person was convicted. In
31 addition, the county attorney shall make a reasonable effort to
32 promptly notify the victim of the resolution of the petition.

33 Sec. 8. Minnesota Statutes 2004, section 253B.18,
34 subdivision 5, is amended to read:

35 Subd. 5. [PETITION; NOTICE OF HEARING; ATTENDANCE; ORDER.]
36 (a) A petition for an order of transfer, discharge, provisional

1 discharge, or revocation of provisional discharge shall be filed
2 with the commissioner and may be filed by the patient or by the
3 head of the treatment facility. A patient may not petition the
4 special review board for six months following commitment under
5 subdivision 3 or following the final disposition of any previous
6 petition and subsequent appeal by the patient. The medical
7 director may petition at any time.

8 (b) Fourteen days prior to the hearing, the committing
9 court, the county attorney of the county of commitment, the
10 designated agency, interested person, the petitioner, and the
11 petitioner's counsel shall be given written notice by the
12 commissioner of the time and place of the hearing before the
13 special review board. Only those entitled to statutory notice
14 of the hearing or those administratively required to attend may
15 be present at the hearing. The patient may designate interested
16 persons to receive notice by providing the names and addresses
17 to the commissioner at least 21 days before the hearing. The
18 board shall provide the commissioner with written findings of
19 fact and recommendations within 21 days of the hearing. The
20 commissioner shall issue an order no later than 14 days after
21 receiving the recommendation of the special review board. A
22 copy of the order shall be sent by certified mail to every
23 person entitled to statutory notice of the hearing within five
24 days after it is signed. No order by the commissioner shall be
25 effective sooner than 30 days after the order is signed, unless
26 the county attorney, the patient, and the commissioner agree
27 that it may become effective sooner.

28 (c) The special review board shall hold a hearing on each
29 petition prior to making its recommendation to the
30 commissioner. The special review board proceedings are not
31 contested cases as defined in chapter 14. Any person or agency
32 receiving notice that submits documentary evidence to the
33 special review board prior to the hearing shall also provide
34 copies to the patient, the patient's counsel, the county
35 attorney of the county of commitment, the case manager, and the
36 commissioner.

1 (d) Prior to the final decision by the commissioner, the
2 special review board may be reconvened to consider events or
3 circumstances that occurred subsequent to the hearing.

4 (e) In making its recommendations, the special review board
5 or commissioner must consider any statements received from
6 victims under subdivision 5a.

7 Sec. 9. Minnesota Statutes 2004, section 253B.18, is
8 amended by adding a subdivision to read:

9 Subd. 5a. [VICTIM NOTIFICATION.] (a) Before provisionally
10 discharging, discharging, granting pass-eligible status,
11 approving a pass plan, or otherwise permanently or temporarily
12 releasing a person committed under this section or section
13 253B.185 from a treatment facility, the head of the treatment
14 facility shall make a reasonable effort to notify any victim of
15 a crime for which the person was convicted that the person may
16 be discharged or released and that the victim has a right to
17 submit a written statement to the special review board or the
18 commissioner with respect to the person. To the extent
19 possible, the notice must be provided at least 14 days before
20 any special review board hearing or before a determination on a
21 pass plan.

22 (b) This subdivision applies only to victims who have
23 requested notification by contacting, in writing, the county
24 attorney in the county where the conviction for the crime
25 occurred. A county attorney who receives a request for
26 notification under this paragraph shall promptly forward the
27 request to the commissioner of human services.

28 (c) The rights under this subdivision are in addition to
29 rights available to a victim under chapter 611A.

30 Sec. 10. Minnesota Statutes 2004, section 609.108,
31 subdivision 7, is amended to read:

32 Subd. 7. [COMMISSIONER OF CORRECTIONS.] The commissioner
33 shall develop a plan to pay the cost of treatment of a person
34 released under subdivision 6. The plan may include co-payments
35 from offenders, third-party payers, local agencies, or other
36 funding sources as they are identified. This section does not

1 require the commissioner to accept or retain an offender in a
2 treatment program.

3 Sec. 11. Minnesota Statutes 2004, section 609.109,
4 subdivision 7, is amended to read:

5 Subd. 7. [CONDITIONAL RELEASE OF SEX OFFENDERS.] (a)
6 Notwithstanding the statutory maximum sentence otherwise
7 applicable to the offense or any provision of the Sentencing
8 Guidelines, when a court sentences a person to prison for a
9 violation of section 609.342, 609.343, 609.344, or 609.345, the
10 court shall provide that after the person has completed the
11 sentence imposed, the commissioner of corrections shall place
12 the person on conditional release. If the person was convicted
13 for a violation of section 609.342, 609.343, 609.344, or
14 609.345, the person shall be placed on conditional release for
15 five years, minus the time the person served on supervised
16 release. If the person was convicted for a violation of one of
17 those sections after a previous sex offense conviction as
18 defined in subdivision 5, or sentenced under subdivision 6 to a
19 mandatory departure, the person shall be placed on conditional
20 release for ten years, minus the time the person served on
21 supervised release.

22 (b) The conditions of release may include successful
23 completion of treatment and aftercare in a program approved by
24 the commissioner, satisfaction of the release conditions
25 specified in section 244.05, subdivision 6, and any other
26 conditions the commissioner considers appropriate. If the
27 offender fails to meet any condition of release, the
28 commissioner may revoke the offender's conditional release and
29 order that the offender serve the remaining portion of the
30 conditional release term in prison. The commissioner shall not
31 dismiss the offender from supervision before the conditional
32 release term expires.

33 Conditional release under this subdivision is governed by
34 provisions relating to supervised release, except as otherwise
35 provided in this subdivision, section 244.04, subdivision 1, or
36 244.05.

1 (c) The commissioner shall develop a plan to pay the cost
2 of treatment of a person released under this subdivision. The
3 plan may include co-payments from offenders, third-party payers,
4 local agencies, and other funding sources as they are
5 identified. This section does not require the commissioner to
6 accept or retain an offender in a treatment program.

7 Sec. 12. Minnesota Statutes 2004, section 609.485,
8 subdivision 2, is amended to read:

9 Subd. 2. [ACTS PROHIBITED.] Whoever does any of the
10 following may be sentenced as provided in subdivision 4:

11 (1) escapes while held pursuant to a lawful arrest, in
12 lawful custody on a charge or conviction of a crime, or while
13 held in lawful custody on an allegation or adjudication of a
14 delinquent act;

15 (2) transfers to another, who is in lawful custody on a
16 charge or conviction of a crime, or introduces into an
17 institution in which the latter is confined, anything usable in
18 making such escape, with intent that it shall be so used;

19 (3) having another in lawful custody on a charge or
20 conviction of a crime, intentionally permits the other to
21 escape;

22 (4) escapes while in a facility designated under section
23 253B.18, subdivision 1, pursuant to a court commitment order
24 after a finding of not guilty by reason of mental illness or
25 mental deficiency of a crime against the person, as defined in
26 section 253B.02, subdivision 4a. Notwithstanding section
27 609.17, no person may be charged with or convicted of an attempt
28 to commit a violation of this clause; ~~or~~

29 (5) escapes while in a facility designated under section
30 253B.18, subdivision 1, pursuant to a court commitment order
31 under section 253B.185 or Minnesota Statutes 1992, section
32 526.10; or

33 (6) escapes while on pass status or provisional discharge
34 according to section 253B.18.

35 For purposes of clause (1), "escapes while held in lawful
36 custody" includes absconding from electronic monitoring or

1 absconding after removing an electronic monitoring device from
2 the person's body.

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

5 Sec. 13. Minnesota Statutes 2004, section 609.485,
6 subdivision 4, is amended to read:

7 Subd. 4. [SENTENCE.] (a) Except as otherwise provided in
8 subdivision 3a, whoever violates this section may be sentenced
9 as follows:

10 (1) if the person who escapes is in lawful custody for a
11 felony, to imprisonment for not more than five years or to
12 payment of a fine of not more than \$10,000, or both;

13 (2) if the person who escapes is in lawful custody after a
14 finding of not guilty by reason of mental illness or mental
15 deficiency of a crime against the person, as defined in section
16 253B.02, subdivision 4a, or pursuant to a court commitment order
17 under section 253B.185 or Minnesota Statutes 1992, section
18 526.10, to imprisonment for not more than one year and one day
19 or to payment of a fine of not more than \$3,000, or both; or

20 (3) if the person who escapes is in lawful custody for a
21 gross misdemeanor or misdemeanor, or if the person who escapes
22 is in lawful custody on an allegation or adjudication of a
23 delinquent act, to imprisonment for not more than one year or to
24 payment of a fine of not more than \$3,000, or both; or

25 (4) if the person who escapes is under civil commitment
26 under sections 253B.18 and 253B.185, to imprisonment for not
27 more than one year and one day or to payment of a fine of not
28 more than \$3,000, or both.

29 (b) If the escape was a violation of subdivision 2, clause
30 (1), (2), or (3), and was effected by violence or threat of
31 violence against a person, the sentence may be increased to not
32 more than twice those permitted in paragraph (a), clauses (1)
33 and (3).

34 (c) Unless a concurrent term is specified by the court, a
35 sentence under this section shall be consecutive to any sentence
36 previously imposed or which may be imposed for any crime or

1 offense for which the person was in custody when the person
2 escaped.

3 (d) Notwithstanding paragraph (c), if a person who was
4 committed to the commissioner of corrections under section
5 260B.198 escapes from the custody of the commissioner while 18
6 years of age, the person's sentence under this section shall
7 commence on the person's 19th birthday or on the person's date
8 of discharge by the commissioner of corrections, whichever
9 occurs first. However, if the person described in this clause
10 is convicted under this section after becoming 19 years old and
11 after having been discharged by the commissioner, the person's
12 sentence shall commence upon imposition by the sentencing court.

13 (e) Notwithstanding paragraph (c), if a person who is in
14 lawful custody on an allegation or adjudication of a delinquent
15 act while 18 years of age escapes from a local juvenile
16 correctional facility, the person's sentence under this section
17 begins on the person's 19th birthday or on the person's date of
18 discharge from the jurisdiction of the juvenile court, whichever
19 occurs first. However, if the person described in this
20 paragraph is convicted after becoming 19 years old and after
21 discharge from the jurisdiction of the juvenile court, the
22 person's sentence begins upon imposition by the sentencing court.

23 (f) Notwithstanding paragraph (a), any person who escapes
4 or absconds from electronic monitoring or removes an electric
5 monitoring device from the person's body is guilty of a crime
6 and shall be sentenced to imprisonment for not more than one
7 year or to a payment of a fine of not more than \$3,000, or
8 both. A person in lawful custody for a violation of section
9 609.185, 609.19, 609.195, 609.20, 609.205, 609.21, 609.221,
10 609.222, 609.223, 609.2231, 609.342, 609.343, 609.344, 609.345,
11 or 609.3451 who escapes or absconds from electronic monitoring
12 or removes an electronic monitoring device while under sentence
13 may be sentenced to imprisonment for not more than five years or
14 to a payment of a fine of not more than \$10,000, or both.

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

1 Sec. 14. Minnesota Statutes 2004, section 617.23,
2 subdivision 2, is amended to read:

3 Subd. 2. [GROSS MISDEMEANOR.] A person who ~~commits any of~~
4 ~~the following acts is guilty of a gross misdemeanor:~~

5 ~~(1) the person violates subdivision 1 in the presence of a~~
6 ~~minor under the age of 16; or~~

7 (2) the person violates subdivision 1 after having been
8 previously convicted of violating subdivision 1, sections
9 609.342 to 609.3451, or a statute from another state in
10 conformity with any of those sections, is guilty of a gross
11 misdemeanor.

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

14 Sec. 15. Minnesota Statutes 2004, section 617.23,
15 subdivision 3, is amended to read:

16 Subd. 3. [FELONY.] A person is guilty of a felony and may
17 be sentenced to imprisonment for not more than five years or to
18 payment of a fine of not more than \$10,000, or both, if:

19 (1) the person violates subdivision 2, clause (1), after
20 having been previously convicted of or adjudicated delinquent
21 for violating subdivision 2, clause (1); section 609.3451,
22 subdivision 1, clause (2); or a statute from another state in
23 conformity with subdivision 2, clause (1), or section 609.3451,
24 subdivision 1, clause (2); or

25 (2) the person commits a violation of subdivision 1, clause
26 (1), in the presence of another person while intentionally
27 confining that person or otherwise intentionally restricting
28 that person's freedom to move; or

29 (3) the person violates subdivision 1 in the presence of an
30 unaccompanied minor under the age of 16.

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

33 Sec. 16. [SUPREME COURT TASK FORCE; STUDY REQUIRED.]

34 Subdivision 1. [ESTABLISHMENT.] The Minnesota Supreme
35 Court is requested to establish a task force to study the use of
36 the court system as an alternative to the administrative process

1 of the special review board for reductions in custody and
2 discharge from commitment of those persons committed as a
3 sexually dangerous person or sexual psychopathic personality
4 under Minnesota Statutes, section 253B.185.

5 Subd. 2. [MEMBERSHIP.] The task force shall consist of the
6 following:

- 7 (1) a representative from the Supreme Court;
8 (2) a court administrator;
9 (3) a district court judge;
10 (4) a county attorney selected by the county attorney's
11 association;
12 (5) a representative from the Attorney General's Office;
13 (6) the Ombudsman for Mental Health and Mental Retardation;
14 (7) a law enforcement representative;
15 (8) a county case manager;
16 (9) a victim services representative;
17 (10) a person experienced in treating sex offenders;
18 (11) a defense attorney;
19 (12) the commissioner of human services or designee;
20 (13) the state-operated services forensic medical director
21 or designee;
22 (14) the commissioner of corrections, or designee;
23 (15) a representative from community corrections;
24 (16) a member of the special review board; and
25 (17) any other persons deemed necessary by the Minnesota
26 Supreme Court.

27 Subd. 3. [RECOMMENDATIONS.] The task force shall be
28 convened no later than August 1, 2005. The task force shall
29 examine current law and practices relating to the reduction in
30 custody and discharge of persons committed as a sexually
31 dangerous person or sexual psychopathic personality. The task
32 forces shall examine the laws of other jurisdictions and shall
33 make recommendations regarding reduction in custody and
34 discharge procedures and release criteria. The recommendations
35 may suggest the establishment of a judicial process rather than
36 the special review board to authorize a reduction in custody or

1 discharge.

2 Subd. 4. [REPORT.] The task force shall report to the
3 chairs of the house public safety policy and finance committee
4 and the senate crime prevention and public safety committee with
5 recommendations by February 1, 2006.

6 ARTICLE 5

7 PREDATORY OFFENDER REGISTRY

8 Section 1. Minnesota Statutes 2004, section 144A.135, is
9 amended to read:

10 144A.135 [TRANSFER AND DISCHARGE APPEALS.]

11 (a) The commissioner shall establish a mechanism for
12 hearing appeals on transfers and discharges of residents by
13 nursing homes or boarding care homes licensed by the
14 commissioner. The commissioner may adopt permanent rules to
15 implement this section.

16 (b) Until federal regulations are adopted under sections
17 1819(f)(3) and 1919(f)(3) of the Social Security Act that govern
18 appeals of the discharges or transfers of residents from nursing
19 homes and boarding care homes certified for participation in
20 Medicare or medical assistance, the commissioner shall provide
21 hearings under sections 14.57 to 14.62 and the rules adopted by
22 the Office of Administrative Hearings governing contested
23 cases. To appeal the discharge or transfer, or notification of
24 an intended discharge or transfer, a resident or the resident's
25 representative must request a hearing in writing no later than
26 30 days after receiving written notice, which conforms to state
27 and federal law, of the intended discharge or transfer.

28 (c) Hearings under this section shall be held no later than
29 14 days after receipt of the request for hearing, unless
30 impractical to do so or unless the parties agree otherwise.
31 Hearings shall be held in the facility in which the resident
32 resides, unless impractical to do so or unless the parties agree
33 otherwise.

34 (d) A resident who timely appeals a notice of discharge or
35 transfer, and who resides in a certified nursing home or
36 boarding care home, may not be discharged or transferred by the

1 nursing home or boarding care home until resolution of the
 2 appeal. The commissioner can order the facility to readmit the
 resident if the discharge or transfer was in violation of state
 4 or federal law. If the resident is required to be hospitalized
 5 for medical necessity before resolution of the appeal, the
 6 facility shall readmit the resident unless the resident's
 7 attending physician documents, in writing, why the resident's
 8 specific health care needs cannot be met in the facility.

9 (e) The commissioner and Office of Administrative Hearings
 10 shall conduct the hearings in compliance with the federal
 11 regulations described in paragraph (b), when adopted.

12 (f) Nothing in this section limits the right of a resident
 13 or the resident's representative to request or receive
 14 assistance from the Office of Ombudsman for Older Minnesotans or
 15 the Office of Health Facility Complaints with respect to an
 16 intended discharge or transfer.

17 (g) A person required to inform a health care facility of
 18 the person's status as a registered sex offender under section
 19 243.166, subdivision 4b, who knowingly fails to do so is not
 20 eligible to rely on the transfer and appeal procedure prescribed
 21 by this section to remain in the facility.

22 Sec. 2. Minnesota Statutes 2004, section 243.166, is
 23 amended to read:

243.166 [REGISTRATION OF PREDATORY OFFENDERS.]

25 ~~Subdivision 1.---[REGISTRATION-REQUIRED.]-{a}-A person shall~~
 26 ~~register under this section if:~~

27 ~~{1}-the person was charged with or petitioned for a felony~~
 28 ~~violation of or attempt to violate any of the following, and~~
 29 ~~convicted of or adjudicated delinquent for that offense or~~
 30 ~~another offense arising out of the same set of circumstances:~~

31 ~~{i}-murder under section 609.185, clause (2), or~~

32 ~~{ii}-kidnapping under section 609.25, or~~

33 ~~{iii}-criminal sexual conduct under section 609.342,~~

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

35 ~~{iv}-indecent exposure under section 617.23, subdivision 3,~~

36 or

1 ~~(2)-the-person-was-charged-with-or-petitioned-for-falsely~~
 2 ~~imprisoning-a-minor-in-violation-of-section-609.2557-subdivision~~
 3 ~~27-soliciting-a-minor-to-engage-in-prostitution-in-violation-of~~
 4 ~~section-609.322-or-609.3247-soliciting-a-minor-to-engage-in~~
 5 ~~sexual-conduct-in-violation-of-section-609.3527-using-a-minor-in~~
 6 ~~a-sexual-performance-in-violation-of-section-617.2467-or~~
 7 ~~possessing-pornographic-work-involving-a-minor-in-violation-of~~
 8 ~~section-617.2477-and-convicted-of-or-adjudicated-delinquent-for~~
 9 ~~that-offense-or-another-offense-arising-out-of-the-same-set-of~~
 10 ~~circumstances7-or~~

11 ~~(3)-the-person-was-convicted-of-a-predatory-crime-as~~
 12 ~~defined-in-section-609.1087-and-the-offender-was-sentenced-as-a~~
 13 ~~patterned-sex-offender-or-the-court-found-on-its-own-motion-or~~
 14 ~~that-of-the-prosecutor-that-the-crime-was-part-of-a-predatory~~
 15 ~~pattern-of-behavior-that-had-criminal-sexual-conduct-as-its~~
 16 ~~goal7-or~~

17 ~~(4)-the-person-was-convicted-of-or-adjudicated-delinquent~~
 18 ~~for7-including-pursuant-to-a-court-martial7-violating-a-law-of~~
 19 ~~the-United-States7-including-the-Uniform-Code-of-Military~~
 20 ~~Justice7-similar-to-the-offenses-described-in-clause-(1)7-(2)7~~
 21 ~~or-(3)7-~~

22 ~~(b)-A-person-also-shall-register-under-this-section-if:~~

23 ~~(1)-the-person-was-convicted-of-or-adjudicated-delinquent~~
 24 ~~in-another-state-for-an-offense-that-would-be-a-violation-of-a~~
 25 ~~law-described-in-paragraph-(a)-if-committed-in-this-state7~~

26 ~~(2)-the-person-enters-the-state-to-reside7-or-to-work-or~~
 27 ~~attend-school7-and~~

28 ~~(3)-ten-years-have-not-elapsed-since-the-person-was~~
 29 ~~released-from-confinement-or7-if-the-person-was-not-confined7~~
 30 ~~since-the-person-was-convicted-of-or-adjudicated-delinquent-for~~
 31 ~~the-offense-that-triggers-registration7-unless-the-person-is~~
 32 ~~subject-to-lifetime-registration7-in-which-case-the-person-must~~
 33 ~~register-for-life-regardless-of-when-the-person-was-released~~
 34 ~~from-confinement7-convicted7-or-adjudicated-delinquent7~~

35 ~~For-purposes-of-this-paragraph:~~

36 ~~(i)-"school"-includes-any-public-or-private-educational~~

1 institution, including any secondary school, trade or
 2 professional institution, or institution of higher education,
 3 that the person is enrolled in on a full-time or part-time
 4 basis; and

5 (ii) "work" includes employment that is full-time or part
 6 time for a period of time exceeding 14 days or for an aggregate
 7 period of time exceeding 30 days during any calendar year,
 8 whether financially compensated, volunteered, or for the purpose
 9 of government or educational benefit.

10 (c) A person also shall register under this section if the
 11 person was committed pursuant to a court commitment order under
 12 section 253B.185 or Minnesota Statutes 1992, section 526.10, or
 13 a similar law of another state or the United States, regardless
 14 of whether the person was convicted of any offense.

15 (d) A person also shall register under this section if:

16 (1) the person was charged with or petitioned for a felony
 17 violation or attempt to violate any of the offenses listed in
 18 paragraph (a), clause (1), or a similar law of another state or
 19 the United States, or the person was charged with or petitioned
 20 for a violation of any of the offenses listed in paragraph (a),
 21 clause (2), or a similar law of another state or the United
 22 States;

23 (2) the person was found not guilty by reason of mental
 24 illness or mental deficiency after a trial for that offense, or
 25 found guilty but mentally ill after a trial for that offense, in
 26 states with a guilty but mentally ill verdict; and

27 (3) the person was committed pursuant to a court commitment
 28 order under section 253B.18 or a similar law of another state or
 29 the United States.

30 Subd. 1a. [DEFINITIONS.] (a) As used in this section,
 31 unless the context clearly indicates otherwise, the following
 32 terms have the meanings given them.

33 (b) "Bureau" means the Bureau of Criminal Apprehension.

34 (c) "Dwelling" means the building where the person lives
 35 under a formal or informal agreement to do so.

36 (d) "Incarceration" and "confinement" do not include

1 electronic home monitoring.

2 (e) "Law enforcement authority" or "authority" means, with
3 respect to a home rule charter or statutory city, the chief of
4 police, and with respect to an unincorporated area, the county
5 sheriff.

6 (f) "Motor vehicle" has the meaning given in section
7 169.01, subdivision 2.

8 (g) "Primary address" means the mailing address of the
9 person's dwelling. If the mailing address is different from the
10 actual location of the dwelling, "primary address" also includes
11 the physical location of the dwelling described with as much
12 specificity as possible.

13 (h) "School" includes any public or private educational
14 institution, including any secondary school, trade, or
15 professional institution, or institution of higher education,
16 that the person is enrolled in on a full-time or part-time basis.

17 (i) "Secondary address" means the mailing address of any
18 place where the person regularly or occasionally stays overnight
19 when not staying at the person's primary address. If the
20 mailing address is different from the actual location of the
21 place, secondary address also includes the physical location of
22 the place described with as much specificity as possible.

23 (j) "Treatment facility" means a residential facility, as
24 defined in section 244.052, subdivision 1, and residential
25 chemical dependency treatment programs and halfway houses
26 licensed under chapter 245A, including, but not limited to,
27 those facilities directly or indirectly assisted by any
28 department or agency of the United States.

29 (k) "Work" includes employment that is full time or part
30 time for a period of time exceeding 14 days or for an aggregate
31 period of time exceeding 30 days during any calendar year,
32 whether financially compensated, volunteered, or for the purpose
33 of government or educational benefit.

34 Subd. 1b. [REGISTRATION REQUIRED.] (a) A person shall
35 register under this section if:

36 (1) the person was charged with or petitioned for a felony

1 violation of or attempt to violate, or aiding, abetting, or
2 conspiracy to commit, any of the following, and convicted of or
3 adjudicated delinquent for that offense or another offense
4 arising out of the same set of circumstances:

5 (i) murder under section 609.185, clause (2);

6 (ii) kidnapping under section 609.25;

7 (iii) criminal sexual conduct under section 609.342;

8 609.343; 609.344; 609.345; or 609.3451, subdivision 3; or

9 (iv) indecent exposure under section 617.23, subdivision 3;

10 (2) the person was charged with or petitioned for false
11 imprisonment in violation of section 609.255, subdivision 2;
12 soliciting a minor to engage in prostitution in violation of
13 section 609.322 or 609.324; soliciting a minor to engage in
14 sexual conduct in violation of section 609.352; using a minor in
15 a sexual performance in violation of section 617.246; or
16 possessing pornographic work involving a minor in violation of
17 section 617.247, and convicted of or adjudicated delinquent for
18 that offense or another offense arising out of the same set of
19 circumstances;

20 (3) the person was sentenced as a patterned sex offender
21 under section 609.108; or

22 (4) the person was convicted of or adjudicated delinquent
23 for, including pursuant to a court martial, violating a law of
24 the United States, including the Uniform Code of Military
25 Justice, similar to the offenses described in clause (1), (2),
26 or (3).

27 (b) A person also shall register under this section if:

28 (1) the person was convicted of or adjudicated delinquent
29 in another state for an offense that would be a violation of a
30 law described in paragraph (a) if committed in this state;

31 (2) the person enters this state to reside, work, or attend
32 school, or enters this state and remains for 14 days or longer;
33 and

34 (3) ten years have not elapsed since the person was
35 released from confinement or, if the person was not confined,
36 since the person was convicted of or adjudicated delinquent for

1 the offense that triggers registration, unless the person is
2 subject to lifetime registration, in which case the person shall
3 register for life regardless of when the person was released
4 from confinement, convicted, or adjudicated delinquent.

5 (c) A person also shall register under this section if the
6 person was committed pursuant to a court commitment order under
7 section 253B.185 or Minnesota Statutes 1992, section 526.10, or
8 a similar law of another state or the United States, regardless
9 of whether the person was convicted of any offense.

10 (d) A person also shall register under this section if:

11 (1) the person was charged with or petitioned for a felony
12 violation or attempt to violate any of the offenses listed in
13 paragraph (a), clause (1), or a similar law of another state or
14 the United States, or the person was charged with or petitioned
15 for a violation of any of the offenses listed in paragraph (a),
16 clause (2), or a similar law of another state or the United
17 States;

18 (2) the person was found not guilty by reason of mental
19 illness or mental deficiency after a trial for that offense, or
20 found guilty but mentally ill after a trial for that offense, in
21 states with a guilty but mentally ill verdict; and

22 (3) the person was committed pursuant to a court commitment
23 order under section 253B.18 or a similar law of another state or
24 the United States.

25 Subd. 2. [NOTICE.] When a person who is required to
26 register under subdivision ± lb, paragraph (a), is sentenced or
27 becomes subject to a juvenile court disposition order, the court
28 shall tell the person of the duty to register under this section
29 and that, if the person fails to comply with the registration
30 requirements, information about the offender may be made
31 available to the public through electronic, computerized, or
32 other accessible means. The court may not modify the person's
33 duty to register in the pronounced sentence or disposition
34 order. The court shall require the person to read and sign a
35 form stating that the duty of the person to register under this
36 section has been explained. The court shall forward the signed

1 sex offender registration form, the complaint, and sentencing
2 documents to the bureau of ~~Criminal Apprehension~~. If a person
3 required to register under subdivision ~~±~~ lb, paragraph (a), was
4 not notified by the court of the registration requirement at the
5 time of sentencing or disposition, the assigned corrections
6 agent shall notify the person of the requirements of this
7 section. When a person who is required to register under
8 subdivision ~~±~~ lb, paragraph (c) or (d), is released from
9 commitment, the treatment facility shall notify the person of
10 the requirements of this section. The treatment facility shall
11 also obtain the registration information required under this
12 section and forward it to the bureau of ~~Criminal Apprehension~~.

13 Subd. 3. [REGISTRATION PROCEDURE.] (a) Except as provided
14 in subdivision 3a, a person required to register under this
15 section shall register with the corrections agent as soon as the
16 agent is assigned to the person. If the person does not have an
17 assigned corrections agent or is unable to locate the assigned
18 corrections agent, the person shall register with the law
19 enforcement agency authority that has jurisdiction in the area
20 of the person's residence primary address.

21 (b) Except as provided in subdivision 3a, at least five
22 days before the person starts living at a new primary address,
23 including living in another state, the person shall give written
24 notice of the new primary ~~living~~ address to the assigned
25 corrections agent or to the law enforcement authority with which
26 the person currently is registered. If the person will be
27 living in a new state and that state has a registration
28 requirement, the person shall also give written notice of the
29 new address to the designated registration agency in the new
30 state. A person required to register under this section shall
31 also give written notice to the assigned corrections agent or to
32 the law enforcement authority that has jurisdiction in the area
33 of the person's residence primary address that the person is no
34 longer living or staying at an address, immediately after the
35 person is no longer living or staying at that address. The
36 correcticns agent or law enforcement authority shall, within two

1 business days after receipt of this information, forward it to
2 the bureau of ~~Criminal Apprehension~~. The bureau of ~~Criminal~~
3 ~~Apprehension~~ shall, if it has not already been done, notify the
4 law enforcement authority having primary jurisdiction in the
5 community where the person will live of the new address. If the
6 person is leaving the state, the bureau of ~~Criminal Apprehension~~
7 shall notify the registration authority in the new state of the
8 new address. ~~If the person's obligation to register arose under~~
9 ~~subdivision 17, paragraph (b),~~ The person's registration
10 requirements under this section terminate when after the person
11 begins living in the new state and the bureau has confirmed the
12 address in the other state through the annual verification
13 process on at least one occasion.

14 (c) A person required to register under subdivision ~~1~~ 1b,
15 paragraph (b), because the person is working or attending school
16 in Minnesota shall register with the law enforcement
17 agency authority that has jurisdiction in the area where the
18 person works or attends school. In addition to other
19 information required by this section, the person shall provide
20 the address of the school or of the location where the person is
21 employed. A person ~~must~~ shall comply with this paragraph within
22 five days of beginning employment or school. A person's
23 obligation to register under this paragraph terminates when the
24 person is no longer working or attending school in Minnesota.

25 (d) A person required to register under this section who
26 works or attends school outside of Minnesota shall register as a
27 predatory offender in the state where the person works or
28 attends school. The person's corrections agent, or if the
29 person does not have an assigned corrections agent, the law
30 enforcement authority that has jurisdiction in the area of the
31 person's ~~residence~~ primary address shall notify the person of
32 this requirement.

33 Subd. 3a. [REGISTRATION PROCEDURE WHEN PERSON LACKS
34 PRIMARY ADDRESS.] (a) If a person leaves a primary address and
35 does not have a new primary address, the person shall register
36 with the law enforcement authority that has jurisdiction in the

1 area where the person is staying within 24 hours of the time the
2 person no longer has a primary address.

3 (b) A person who lacks a primary address shall register
4 with the law enforcement authority that has jurisdiction in the
5 area where the person is staying within 24 hours after entering
6 the jurisdiction. Each time a person who lacks a primary
7 address moves to a new jurisdiction without acquiring a new
8 primary address, the person shall register with the law
9 enforcement authority that has jurisdiction in the area where
10 the person is staying within 24 hours after entering the
11 jurisdiction.

12 (c) Upon registering under this subdivision, the person
13 shall provide the law enforcement authority with all of the
14 information the individual is required to provide under
15 subdivision 4a. However, instead of reporting the person's
16 primary address, the person shall describe the location of where
17 the person is staying with as much specificity as possible.

18 (d) Except as otherwise provided in paragraph (e), if a
19 person continues to lack a primary address, the person shall
20 report in person on a weekly basis to the law enforcement
21 authority with jurisdiction in the area where the person is
22 staying. This weekly report shall occur between the hours of
23 9:00 a.m. and 5:00 p.m. The person is not required to provide
24 the registration information required under subdivision 4a each
25 time the offender reports to an authority, but the person shall
26 inform the authority of changes to any information provided
27 under this subdivision or subdivision 4a and shall otherwise
28 comply with this subdivision.

29 (e) If the law enforcement authority determines that it is
30 impractical, due to the person's unique circumstances, to
31 require a person lacking a primary address to report weekly and
32 in person as required under paragraph (d), the authority may
33 authorize the person to follow an alternative reporting
34 procedure. The authority shall consult with the person's
35 corrections agent, if the person has one, in establishing the
36 specific criteria of this alternative procedure, subject to the

1 following requirements:

2 (1) the authority shall document, in the person's
3 registration record, the specific reasons why the weekly
4 in-person reporting process is impractical for the person to
5 follow;

6 (2) the authority shall explain how the alternative
7 reporting procedure furthers the public safety objectives of
8 this section;

9 (3) the authority shall require the person lacking a
10 primary address to report in person at least monthly to the
11 authority or the person's corrections agent and shall specify
12 the location where the person shall report. If the authority
13 determines it would be more practical and would further public
14 safety for the person to report to another law enforcement
15 authority with jurisdiction where the person is staying, it may,
16 after consulting with the other law enforcement authority,
17 include this requirement in the person's alternative reporting
18 process;

19 (4) the authority shall require the person to comply with
20 the weekly, in-person reporting process required under paragraph
21 (d), if the person moves to a new area where this process would
22 be practical;

23 (5) the authority shall require the person to report any
24 changes to the registration information provided under
25 subdivision 4a and to comply with the periodic registration
26 requirements specified under paragraph (f); and

27 (6) the authority shall require the person to comply with
28 the requirements of subdivision 3, paragraphs (b) and (c), if
29 the person moves to a primary address.

30 (f) If a person continues to lack a primary address and
31 continues to report to the same law enforcement authority, the
32 person shall provide the authority with all of the information
33 the individual is required to provide under this subdivision and
34 subdivision 4a at least annually, unless the person is required
35 to register under subdivision 1b, paragraph (c), following
36 commitment pursuant to a court commitment under section 253B.185

1 or a similar law of another state or the United States. If the
2 person is required to register under subdivision 1b, paragraph
3 (c), the person shall provide the law enforcement authority with
4 all of the information the individual is required to report
5 under this subdivision and subdivision 4a at least once every
6 three months.

7 (g) A law enforcement authority receiving information under
8 this subdivision shall forward registration information and
9 changes to that information to the bureau within two business
10 days of receipt of the information.

11 (h) For purposes of this subdivision, a person who fails to
12 report a primary address will be deemed to be a person who lacks
13 a primary address, and the person shall comply with the
14 requirements for a person who lacks a primary address.

15 Subd. 4. [CONTENTS OF REGISTRATION.] (a) The registration
16 provided to the corrections agent or law enforcement authority,
17 must consist of a statement in writing signed by the person,
18 giving information required by the bureau ~~of Criminal~~
19 ~~Apprehension~~, a fingerprint card, and photograph of the person
20 taken at the time of the person's release from incarceration or,
21 if the person was not incarcerated, at the time the person
22 initially registered under this section. The registration
23 information also must include a written consent form signed by
24 the person allowing a treatment facility or residential housing
25 unit or shelter to release information to a law enforcement
26 officer about the person's admission to, or residence in, a
27 treatment facility or residential housing unit or shelter.
28 Registration information on adults and juveniles may be
29 maintained together notwithstanding section 260B.171,
30 subdivision 3.

31 (b) For persons required to register under subdivision ~~1~~
32 1b, paragraph (c), following commitment pursuant to a court
33 commitment under section 253B.185 or a similar law of another
34 state or the United States, in addition to other information
35 required by this section, the registration provided to the
36 corrections agent or law enforcement authority must include the

1 person's offense history and documentation of treatment received
2 during the person's commitment. This documentation ~~shall be~~ is
3 limited to a statement of how far the person progressed in
4 treatment during commitment.

5 (c) Within three days of receipt, the corrections agent or
6 law enforcement authority shall forward the registration
7 information to the bureau ~~of Criminal Apprehension~~. The bureau
8 shall ascertain whether the person has registered with the law
9 enforcement authority ~~where the person resides~~ in the area of
10 the person's primary address, if any, or if the person lacks a
11 primary address, where the person is staying, as required by
12 subdivision 3a. If the person has not registered with the law
13 enforcement authority, the bureau shall send one copy to that
14 authority.

15 (d) The corrections agent or law enforcement authority may
16 require that a person required to register under this section
17 appear before the agent or authority to be photographed. The
18 agent or authority shall forward the photograph to the bureau ~~of~~
19 ~~Criminal Apprehension~~.

20 (e) During the period a person is required to register
21 under this section, the following ~~shall~~ provisions apply:

22 (1) Except for persons registering under subdivision 3a,
23 ~~the bureau of Criminal Apprehension~~ shall mail a verification
24 form to the ~~last-reported-address-of-the~~ person's residence last
25 reported primary address. This verification form ~~shall~~ must
26 provide notice to the offender that, if the offender does not
27 return the verification form as required, information about the
28 offender may be made available to the public through electronic,
29 computerized, or other accessible means. For persons who are
30 registered under subdivision 3a, the bureau shall mail an annual
31 verification form to the law enforcement authority where the
32 offender most recently reported. The authority shall provide
33 the verification form to the person at the next weekly meeting
34 and ensure that the person completes and signs the form and
35 returns it to the bureau.

36 (2) The person shall mail the signed verification form back

1 to the bureau of ~~Criminal Apprehension~~ within ten days after
2 receipt of the form, stating on the form the current and last
3 address of the person's residence and the other information
4 required under subdivision 4a.

5 (3) In addition to the requirements listed in this section,
6 a person who is assigned to risk level II or risk level III
7 under section 244.052, and who is no longer under correctional
8 supervision for a registration offense, or a failure to register
9 offense, but who resides, works, or attends school in Minnesota,
10 shall have an annual in-person contact with a law enforcement
11 authority as provided in this section. If the person resides in
12 Minnesota, the annual in-person contact shall be with the law
13 enforcement authority that has jurisdiction over the person's
14 primary address or, if the person has no address, the location
15 where the person is staying. If the person does not reside in
16 Minnesota, but works or attends school in this state, the person
17 shall have an annual in-person contact with the law enforcement
18 authority, or authorities, with jurisdiction over the person's
19 school or workplace. During the month of the person's birth
20 date, the person shall report to the authority to verify the
21 accuracy of the registration information and to be
22 photographed. Within three days of this contact, the authority
23 shall enter information as required by the bureau into the
24 predatory offender registration database and submit an updated
25 photograph of the person to the bureau's predatory offender
26 registration unit.

27 (4) If the person fails to mail the completed and signed
28 verification form to the bureau of ~~Criminal Apprehension~~ within
29 ten days after receipt of the form for a registration offense or
30 a failure to register offense, or if the person fails to report
31 to the law enforcement authority during the month of the
32 person's birth date, the person shall-be is in violation of this
33 section.

4 (5) For any person who fails to mail the completed and
35 signed verification form to the bureau within ten days after
36 receipt of the form and who has been determined to be a level

1 III offender under section 244.052, the bureau shall immediately
 2 investigate and notify local law enforcement authorities to
 3 investigate the person's location and to ensure compliance with
 4 this section. The bureau also shall immediately give notice of
 5 the person's violation of this section to the law enforcement
 6 authority having jurisdiction over the person's last registered
 7 address or addresses.

8 For persons required to register under subdivision ~~1~~ 1b,
 9 paragraph (c), following commitment pursuant to a court
 10 commitment under section 253B.185 or a similar law of another
 11 state or the United States, the bureau shall comply with clause
 12 (1) at least four times each year. For persons who, under
 13 section 244.052, are assigned to risk level III and who are no
 14 longer under correctional supervision, the bureau shall comply
 15 with clause (1) at least two times each year. For all other
 16 persons required to register under this section, the bureau
 17 shall comply with clause (1) each year within 30 days of the
 18 anniversary date of the person's initial registration.

19 (f) When sending out a verification form, the bureau of
 20 ~~Criminal-Apprehension-must~~ shall determine whether the person to
 21 whom the verification form is being sent has signed a written
 22 consent form as provided for in paragraph (a). If the person
 23 has not signed such a consent form, the bureau of ~~Criminal~~
 24 ~~Apprehension-must~~ shall send a written consent form to the
 25 person along with the verification form. A person who receives
 26 this written consent form ~~must~~ shall sign and return it to the
 27 bureau of ~~Criminal-Apprehension~~ at the same time as the
 28 verification form.

29 ~~(g)-For-the-purposes-of-this-subdivision,-"treatment~~
 30 ~~facility"-means-a-residential-facility,-as-defined-in-section~~
 31 ~~244.052,-subdivision-1,-and-residential-chemical-dependency~~
 32 ~~treatment-programs-and-halfway-houses-licensed-under-chapter~~
 33 ~~245A,-including,-but-not-limited-to,-those-facilities-directly~~
 34 ~~or-indirectly-assisted-by-any-department-or-agency-of-the-United~~
 35 ~~States.~~

36 Subd. 4a. [INFORMATION REQUIRED TO BE PROVIDED.] (a) As

1 used-in-this-section:

2 ~~{1}-"motor-vehicle"-has-the-meaning-given-"vehicle"-in~~
3 ~~section-169.017-subdivision-2;~~

4 ~~{2}-"primary-residence"-means-any-place-where-the-person~~
5 ~~resides-longer-than-14-days-or-that-is-deemed-a-primary~~
6 ~~residence-by-a-person's-corrections-agent,-if-one-is-assigned-to~~
7 ~~the-person;-and~~

8 ~~{3}-"secondary-residence"-means-any-place-where-the-person~~
9 ~~regularly-stays-overnight-when-not-staying-at-the-person's~~
10 ~~primary-residence,-and-includes,-but-is-not-limited-to:~~

11 ~~{i)-the-person's-parent's-home-if-the-person-is-a-student~~
12 ~~and-stays-at-the-home-at-times-when-the-person-is-not-staying-at~~
13 ~~school,-including-during-the-summer;-and~~

14 ~~{ii)-the-home-of-someone-with-whom-the-person-has-a-minor~~
15 ~~child-in-common-where-the-child's-custody-is-shared;~~

16 {b) A person required to register under this section shall
17 provide to the corrections agent or law enforcement authority
18 the following information:

19 (1) the ~~address-of-the~~ person's primary residence address;

20 (2) the ~~addresses-of~~ all of the person's secondary
21 residences addresses in Minnesota, including all addresses used
22 for residential or recreational purposes;

23 (3) the addresses of all Minnesota property owned, leased,
24 or rented by the person;

25 (4) the addresses of all locations where the person is
26 employed;

27 (5) the addresses of all residences schools where the
28 ~~person resides-while-attending-school~~ is enrolled; and

29 (6) the year, model, make, license plate number, and color
30 of all motor vehicles owned or regularly driven by the person.

31 {c) (b) The person shall report to the agent or authority
32 the information required to be provided under paragraph {b) (a),
33 clauses (2) to (6), within five days of the date the clause
34 becomes applicable. If because of a change in circumstances any
35 information reported under paragraph {b) (a), clauses (1) to
36 (6), no longer applies, the person shall immediately inform the

1 agent or authority that the information is no longer valid. If
2 the person leaves a primary address and does not have a new
3 primary address, the person shall register as provided in
4 subdivision 3a.

5 Subd. 4b. [HEALTH CARE FACILITY; NOTICE OF STATUS.] (a)
6 Upon admittance to a health care facility, a person required to
7 register under this section shall disclose to:

8 (1) the health care facility employee processing the
9 admission, the person's status as a registered sex offender
10 under this section;

11 (2) the person's supervision agent, if the person is under
12 supervision at the time of admission, that inpatient admission
13 has occurred; and

14 (3) the law enforcement authority with whom the person
15 registers, if the person is subject to registration under this
16 section, that in patient admission has occurred.

17 (b) "Health care facility" means a hospital or other entity
18 licensed under sections 144.50 to 144.58, a nursing home
19 licensed to serve adults under section 144A.02, or a group
20 residential housing facility or an intermediate care facility
21 for the mentally retarded licensed under chapter 245A.

22 (c) A person required to inform persons or entities under
23 paragraph (a), clauses (1) to (3), of the person's status as a
24 registered sex offender, who knowingly fails to provide this
25 information to the persons or entities, is guilty of a felony
26 and may be sentenced to imprisonment for not more than five
27 years or to payment of a fine of not more than \$10,000, or both.

28 (d) A person who fails to disclose the person's status as a
29 registered sex offender as required by paragraph (a) and is
30 subject to transfer or discharge and the health care facility
31 initiates transfer or discharge within 30 days of the discovery
32 that the person failed to disclose his or her status as a
33 registered sex offender, the person may not rely on the transfer
34 and discharge appeal procedure described in section 144A.135.

35 Subd. 4c. [HEALTH CARE FACILITY; LAW ENFORCEMENT
36 NOTIFICATION DUTY.] A law enforcement authority or corrections

1 agent shall notify the administrator of a health care facility,
2 as defined in subdivision 4b, as soon as it comes to the
3 attention of the authority or agent that a person required to
4 register under this section has been admitted and is receiving
5 health care at the facility.

6 Subd. 5. [CRIMINAL PENALTY.] (a) A person required to
7 register under this section who knowingly violates any of its
8 provisions or intentionally provides false information to a
9 corrections agent, law enforcement authority, or the bureau of
10 ~~Criminal Apprehension~~ is guilty of a felony and may be sentenced
11 to imprisonment for not more than five years or to payment of a
12 fine of not more than \$10,000, or both.

13 (b) Except as provided in paragraph (c), a person convicted
14 of violating paragraph (a) shall be committed to the custody of
15 the commissioner of corrections for not less than a year and a
16 day, nor more than five years.

17 (c) A person convicted of violating paragraph (a), who has
18 previously been convicted of or adjudicated delinquent for
19 violating this section, shall be committed to the custody of the
20 commissioner of corrections for not less than two years, nor
21 more than five years.

22 (d) Prior to the time of sentencing, the prosecutor may
23 file a motion to have the person sentenced without regard to the
24 mandatory minimum sentence established by this subdivision. The
25 motion ~~shall~~ must be accompanied by a statement on the record of
26 the reasons for it. When presented with the motion, or on its
27 own motion, the court may sentence the person without regard to
28 the mandatory minimum sentence if the court finds substantial
29 and compelling reasons to do so. Sentencing a person in the
30 manner described in this paragraph is a departure from the
31 Sentencing Guidelines.

32 (e) A person convicted and sentenced as required by this
33 subdivision is not eligible for probation, parole, discharge,
34 work release, conditional release, or supervised release, until
35 that person has served the full term of imprisonment as provided
36 by law, notwithstanding the provisions of sections 241.26,

1 242.19, 243.05, 244.04, 609.12, and 609.135.

2 Subd. 5a. [CONDITIONAL RELEASE.] (a) Notwithstanding the
3 statutory maximum sentence otherwise applicable to the offense
4 or any provision of the sentencing guidelines, when a court
5 convicts a person who is a level III sex offender under section
6 244.052, subdivision 3, paragraph (e), for a violation of
7 subdivision 5, the court shall provide that after the person has
8 completed the sentence imposed, the commissioner of corrections
9 shall place the person on conditional release for the remainder
10 of the person's life.

11 (b) The conditions of release may include satisfaction of
12 the release conditions specified in section 244.05, subdivision
13 6, and any other conditions the commissioner considers
14 appropriate. If the offender fails to meet any condition of
15 release, the commissioner may revoke the offender's conditional
16 release and order that the offender serve the remaining portion
17 of the conditional release term in prison.

18 Conditional release under this subdivision is governed by
19 provisions relating to supervised release, except as otherwise
20 provided in this subdivision or section 244.05.

21 Subd. 6. [REGISTRATION PERIOD.] (a) Notwithstanding the
22 provisions of section 609.165, subdivision 1, and except as
23 provided in paragraphs (b), (c), and (d), a person required to
24 register under this section shall continue to comply with this
25 section until ten years have elapsed since the person initially
26 registered in connection with the offense, or until the
27 probation, supervised release, or conditional release period
28 expires, whichever occurs later. For a person required to
29 register under this section who is committed under section
30 253B.18 or 253B.185, the ten-year registration period does not
31 include the period of commitment.

32 (b) If a person required to register under this section
33 fails to register-following-a-change-in-residence provide the
34 person's primary address as required by subdivision 3, paragraph
35 (b), fails to comply with the requirements of subdivision 3a,
36 fails to provide information as required by subdivision 4a, or

1 fails to return the verification form referenced in subdivision
2 4 within ten days, the commissioner of public safety may require
3 the person to continue to register for an additional period of
4 five years. This five-year period is added to the end of the
5 offender's registration period.

6 (c) If a person required to register under this section is
7 subsequently incarcerated following a conviction for a new
8 offense or following a revocation of probation, supervised
9 release, or conditional release for that any offense, ~~or a~~
10 ~~conviction for any new offense~~, the person shall continue to
11 register until ten years have elapsed since the person was last
12 released from incarceration or until the person's probation,
13 supervised release, or conditional release period expires,
14 whichever occurs later.

15 (d) A person shall continue to comply with this section for
16 the life of that person:

17 (1) if the person is convicted of or adjudicated delinquent
18 for any offense for which registration is required under
19 subdivision ± lb, or any offense from another state or any
20 federal offense similar to the offenses described in subdivision
21 ± lb, and the person has a prior conviction or adjudication for
22 an offense for which registration was or would have been
23 required under subdivision ± lb, or an offense from another
24 state or a federal offense similar to an offense described in
25 subdivision ± lb;

26 (2) if the person is required to register based upon a
27 conviction or delinquency adjudication for an offense under
28 section 609.185, clause (2), or a similar statute from another
29 state or the United States;

30 (3) if the person is required to register based upon a
31 conviction for an offense under section 609.342, subdivision 1,
32 paragraph (a), (c), (d), (e), (f), or (h); 609.343, subdivision
33 1, paragraph (a), (c), (d), (e), (f), or (h); 609.344,
34 subdivision 1, paragraph (a), (c), or (g); or 609.345,
35 subdivision 1, paragraph (a), (c), or (g); or a statute from
36 another state or the United States similar to the offenses

1 described in this clause; or

2 (4) if the person is required to register under subdivision
3 ~~±~~ 1b, paragraph (c), following commitment pursuant to a court
4 commitment under section 253B.185 or a similar law of another
5 state or the United States.

6 Subd. 7. [USE OF INFORMATION.] Except as otherwise
7 provided in subdivision 7a or sections 244.052 and 299C.093, the
8 information provided under this section is private data on
9 individuals under section 13.02, subdivision 12. The
10 information may be used only for law enforcement purposes.

11 Subd. 7a. [AVAILABILITY OF INFORMATION ON OFFENDERS WHO
12 ARE OUT OF COMPLIANCE WITH REGISTRATION LAW.] (a) The bureau of
13 ~~Criminal-Apprehension~~ may make information available to the
14 public about offenders who are 16 years of age or older and who
15 are out of compliance with this section for 30 days or longer
16 for failure to provide the ~~address-of-the~~ offenders' primary or
17 secondary ~~residences~~ addresses. This information may be made
18 available to the public through electronic, computerized, or
19 other accessible means. The amount and type of information made
20 available ~~shall-be~~ is limited to the information necessary for
21 the public to assist law enforcement in locating the offender.

22 (b) An offender who comes into compliance with this section
23 after the bureau of ~~Criminal-Apprehension~~ discloses information
24 about the offender to the public may send a written request to
25 the bureau requesting the bureau to treat information about the
26 offender as private data, consistent with subdivision 7. The
27 bureau shall review the request and promptly take reasonable
28 action to treat the data as private, if the offender has
29 complied with the requirement that the offender provide the
30 ~~addresses-of~~ the offender's primary and secondary ~~residences~~
31 addresses, or promptly notify the offender that the information
32 will continue to be treated as public information and the
33 reasons for the bureau's decision.

34 (c) If an offender believes the information made public
35 about the offender is inaccurate or incomplete, the offender may
36 challenge the data under section 13.04, subdivision 4.

1 (d) The bureau of ~~Criminal Apprehension~~ is immune from any
2 civil or criminal liability that might otherwise arise, based on
3 the accuracy or completeness of any information made public
4 under this subdivision, if the bureau acts in good faith.

5 ~~Subd. 8. --{LAW-ENFORCEMENT-AUTHORITY.}-- For purposes of this~~
6 ~~section, a law enforcement authority means, with respect to a~~
7 ~~home-rule charter or statutory city, the chief of police, and~~
8 ~~with respect to an unincorporated area, the sheriff of the~~
9 ~~county.~~

10 Subd. 9. [OFFENDERS FROM OTHER STATES.] (a) When the state
11 accepts an offender from another state under a reciprocal
12 agreement under the interstate compact authorized by section
13 243.16, the interstate compact authorized by section 243.1605,
14 or under any authorized interstate agreement, the acceptance is
15 conditional on the offender agreeing to register under this
16 section when the offender is living in Minnesota.

17 (b) The Bureau of Criminal Apprehension shall notify the
18 commissioner of corrections:

19 (1) when the bureau receives notice from a local law
20 enforcement authority that a person from another state who is
21 subject to this section has registered with the authority,
22 unless the bureau previously received information about the
23 offender from the commissioner of corrections;

24 (2) when a registration authority, corrections agent, or
25 law enforcement agency in another state notifies the bureau that
26 a person from another state who is subject to this section is
27 moving to Minnesota; and

28 (3) when the bureau learns that a person from another state
29 is in Minnesota and allegedly in violation of subdivision 5 for
30 failure to register.

31 (c) When a local law enforcement agency notifies the bureau
32 of an out-of-state offender's registration, the agency shall
33 provide the bureau with information on whether the person is
34 subject to community notification in another state and the risk
35 level the person was assigned, if any.

36 (d) The bureau must forward all information it receives

1 regarding offenders covered under this subdivision from sources
2 other than the commissioner of corrections to the commissioner.

3 (e) When the bureau receives information directly from a
4 registration authority, corrections agent, or law enforcement
5 agency in another state that a person who may be subject to this
6 section is moving to Minnesota, the bureau must ask whether the
7 person entering the state is subject to community notification
8 in another state and the risk level the person has been
9 assigned, if any.

10 (f) When the bureau learns that a person subject to this
11 section intends to move into Minnesota from another state or has
12 moved into Minnesota from another state, the bureau shall notify
13 the law enforcement authority with jurisdiction in the area of
14 the person's primary address and provide all information
15 concerning the person that is available to the bureau.

16 (g) The commissioner of corrections must determine the
17 parole, supervised release, or conditional release status of
18 persons who are referred to the commissioner under this
19 subdivision. If the commissioner determines that a person is
20 subject to parole, supervised release, or conditional release in
21 another state and is not registered in Minnesota under the
22 applicable interstate compact, the commissioner shall inform the
23 local law enforcement agency that the person is in violation of
24 section 243.161. If the person is not subject to supervised
25 release, the commissioner shall notify the bureau and the local
26 law enforcement agency of the person's status.

27 Subd. 10. [VENUE; AGGREGATION.] (a) A violation of this
28 section may be prosecuted in any jurisdiction where an offense
29 takes place. However, the prosecutorial agency in the
30 jurisdiction where the person last registered a primary address
31 is initially responsible to review the case for prosecution.

32 (b) When a person commits two or more offenses in two or
33 more counties, the accused may be prosecuted for all of the
34 offenses in any county in which one of the offenses was
35 committed.

36 Subd. 11. [CERTIFIED COPIES AS EVIDENCE.] Certified copies

1 of predatory offender registration records are admissible as
 2 substantive evidence when necessary to prove the commission of a
 3 violation of this section.

4 [EFFECTIVE DATE.] The provisions of this section, except
 5 for subdivision 5a, are effective the day following final
 6 enactment, and apply to persons subject to predatory offender
 7 registration on or after that date, except for subdivision 9,
 8 which is effective July 1, 2005, and subdivision 4, paragraph
 9 (e), clause (3), is effective December 1, 2005. Subdivision 5a
 10 is effective August 1, 2005, and applies to crimes committed on
 11 or after that date.

12 Sec. 3. Minnesota Statutes 2004, section 243.167, is
 13 amended to read:

14 243.167 [REGISTRATION UNDER THE PREDATORY OFFENDER
 15 REGISTRATION LAW FOR OTHER OFFENSES.]

16 Subdivision 1. [DEFINITION.] As used in this section;
 17 "crime against the person" means a violation of any of the
 18 following or a similar law of another state or of the United
 19 States: section 609.165; 609.185; 609.19; 609.195; 609.20;
 20 609.205; 609.221; 609.222; 609.223; 609.2231; 609.224,
 21 subdivision 2 or 4; 609.2242, subdivision 2 or 4; 609.235;
 22 609.245, subdivision 1; 609.25; 609.255; 609.3451, subdivision
 23 2; 609.498, subdivision 1; 609.582, subdivision 1; or 617.23,
 24 subdivision 2; or any felony-level violation of section 609.229;
 25 609.377; 609.749; or 624.713.

26 Subd. 2. [WHEN REQUIRED.] (a) In addition to the
 27 requirements of section 243.166, a person also shall register
 28 under section 243.166 if:

29 (1) the person is convicted of a crime against the person;
 30 and

31 (2) the person was previously convicted of or adjudicated
 32 delinquent for an offense listed in section 243.166, ~~subdivision~~
 33 ~~17-paragraph-(a)~~, but was not required to register for the
 34 offense because the registration requirements of that section
 35 did not apply to the person at the time the offense was
 36 committed or at the time the person was released from

1 imprisonment.

2 (b) A person who was previously required to register under
3 ~~section-243.166~~ in any state and who has completed the
4 registration requirements of that ~~section~~ state shall again
5 register under section 243.166 if the person commits a crime
6 against the person.

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

9 Sec. 4. Minnesota Statutes 2004, section 244.05,
10 subdivision 7, is amended to read:

11 Subd. 7. [SEX OFFENDERS; CIVIL COMMITMENT DETERMINATION.]

12 (a) Before the commissioner releases from prison any inmate
13 convicted under sections 609.342 to 609.345 or sentenced as a
14 patterned offender under section 609.108, and determined by the
15 commissioner to be in a high risk category, the commissioner
16 shall make a preliminary determination whether, in the
17 commissioner's opinion, a petition under section 253B.185 may be
18 appropriate. The commissioner's opinion must be based on a
19 recommendation of a Department of Corrections screening
20 committee and a legal review and recommendation from a
21 representative of the Office of the Attorney General
22 knowledgeable in the legal requirements of the civil commitment
23 process.

24 (b) In making this decision, the commissioner shall have
25 access to the following data only for the purposes of the
26 assessment and referral decision:

27 (1) private medical data under section 13.384 or 144.335,
28 or welfare data under section 13.46 that relate to medical
29 treatment of the offender;

30 (2) private and confidential court services data under
31 section 13.84;

32 (3) private and confidential corrections data under section
33 13.85; and

34 (4) private criminal history data under section 13.87.

35 (c) If the commissioner determines that a petition may be
36 appropriate, the commissioner shall forward this determination,

1 along with a summary of the reasons for the determination, to
2 the county attorney in the county where the inmate was convicted
3 no later than 12 months before the inmate's release date. If
4 the inmate is received for incarceration with fewer than 12
5 months remaining in the inmate's term of imprisonment, or if the
6 commissioner receives additional information less than 12 months
7 before release ~~which~~ that makes the inmate's case appropriate
8 for referral, the commissioner shall forward the determination
9 as soon as is practicable. Upon receiving the commissioner's
10 preliminary determination, the county attorney shall proceed in
11 the manner provided in section 253B.185. The commissioner shall
12 release to the county attorney all requested documentation
13 maintained by the department.

14 [EFFECTIVE DATE.] This section is effective the day
15 following final enactment.

16 Sec. 5. Minnesota Statutes 2004, section 244.052,
17 subdivision 3, is amended to read:

18 Subd. 3. [END-OF-CONFINEMENT REVIEW COMMITTEE.] (a) The
19 commissioner of corrections shall establish and administer
20 end-of-confinement review committees at each state correctional
21 facility and at each state treatment facility where predatory
22 offenders are confined. The committees shall assess on a
23 case-by-case basis the public risk posed by predatory offenders
24 who are about to be released from confinement.

25 (b) Each committee shall be a standing committee and shall
26 consist of the following members appointed by the commissioner:

27 (1) the chief executive officer or head of the correctional
28 or treatment facility where the offender is currently confined,
29 or that person's designee;

30 (2) a law enforcement officer;

31 (3) a treatment professional who is trained in the
32 assessment of sex offenders;

33 (4) a caseworker experienced in supervising sex offenders;

34 and

35 (5) a victim's services professional.

36 Members of the committee, other than the facility's chief

1 executive officer or head, shall be appointed by the
2 commissioner to two-year terms. The chief executive officer or
3 head of the facility or designee shall act as chair of the
4 committee and shall use the facility's staff, as needed, to
5 administer the committee, obtain necessary information from
6 outside sources, and prepare risk assessment reports on
7 offenders.

8 (c) The committee shall have access to the following data
9 on a predatory offender only for the purposes of its assessment
10 and to defend the committee's risk assessment determination upon
11 administrative review under this section:

12 (1) private medical data under section 13.384 or 144.335,
13 or welfare data under section 13.46 that relate to medical
14 treatment of the offender;

15 (2) private and confidential court services data under
16 section 13.84;

17 (3) private and confidential corrections data under section
18 13.85; and

19 (4) private criminal history data under section 13.87.

20 Data collected and maintained by the committee under this
21 paragraph may not be disclosed outside the committee, except as
22 provided under section 13.05, subdivision 3 or 4. The predatory
23 offender has access to data on the offender collected and
24 maintained by the committee, unless the data are confidential
25 data received under this paragraph.

26 (d)(i) Except as otherwise provided in item (ii), at least
27 90 days before a predatory offender is to be released from
28 confinement, the commissioner of corrections shall convene the
29 appropriate end-of-confinement review committee for the purpose
30 of assessing the risk presented by the offender and determining
31 the risk level to which the offender shall be assigned under
32 paragraph (e). The offender and the law enforcement agency that
33 was responsible for the charge resulting in confinement shall be
34 notified of the time and place of the committee's meeting. The
35 offender has a right to be present and be heard at the meeting.
36 The law enforcement agency may provide material in writing that

1 is relevant to the offender's risk level to the chair of the
2 committee. The committee shall use the risk factors described
3 in paragraph (g) and the risk assessment scale developed under
4 subdivision 2 to determine the offender's risk assessment score
5 and risk level. Offenders scheduled for release from
6 confinement shall be assessed by the committee established at
7 the facility from which the offender is to be released.

8 (ii) If an offender is received for confinement in a
9 facility with less than 90 days remaining in the offender's term
10 of confinement, the offender's risk shall be assessed at the
11 first regularly scheduled end of confinement review committee
12 that convenes after the appropriate documentation for the risk
13 assessment is assembled by the committee. The commissioner
14 shall make reasonable efforts to ensure that offender's risk is
15 assessed and a risk level is assigned or reassigned at least 30
16 days before the offender's release date.

17 (e) The committee shall assign to risk level I a predatory
18 offender whose risk assessment score indicates a low risk of
19 reoffense. The committee shall assign to risk level II an
20 offender whose risk assessment score indicates a moderate risk
21 of reoffense. The committee shall assign to risk level III an
22 offender whose risk assessment score indicates a high risk of
23 reoffense.

24 (f) Before the predatory offender is released from
25 confinement, the committee shall prepare a risk assessment
26 report which specifies the risk level to which the offender has
27 been assigned and the reasons underlying the committee's risk
28 assessment decision. The committee shall give the report to the
29 offender and to the law enforcement agency at least 60 days
30 before an offender is released from confinement. If the risk
31 assessment is performed under the circumstances described in
32 paragraph (d), item (ii), the report shall be given to the
33 offender and the law enforcement agency as soon as it is
34 available. The committee also shall inform the offender of the
35 availability of review under subdivision 6.

36 (g) As used in this subdivision, "risk factors" includes,

1 but is not limited to, the following factors:

2 (1) the seriousness of the offense should the offender
3 reoffend. This factor includes consideration of the following:

4 (i) the degree of likely force or harm;

5 (ii) the degree of likely physical contact; and

6 (iii) the age of the likely victim;

7 (2) the offender's prior offense history. This factor
8 includes consideration of the following:

9 (i) the relationship of prior victims to the offender;

10 (ii) the number of prior offenses or victims;

11 (iii) the duration of the offender's prior offense history;

12 (iv) the length of time since the offender's last prior
13 offense while the offender was at risk to commit offenses; and

14 (v) the offender's prior history of other antisocial acts;

15 (3) the offender's characteristics. This factor includes
16 consideration of the following:

17 (i) the offender's response to prior treatment efforts; and

18 (ii) the offender's history of substance abuse;

19 (4) the availability of community supports to the offender.

20 This factor includes consideration of the following:

21 (i) the availability and likelihood that the offender will
22 be involved in therapeutic treatment;

23 (ii) the availability of residential supports to the
24 offender, such as a stable and supervised living arrangement in
25 an appropriate location;

26 (iii) the offender's familial and social relationships,
27 including the nature and length of these relationships and the
28 level of support that the offender may receive from these
29 persons; and

30 (iv) the offender's lack of education or employment
31 stability;

32 (5) whether the offender has indicated or credible evidence
33 in the record indicates that the offender will reoffend if
34 released into the community; and

35 (6) whether the offender demonstrates a physical condition
36 that minimizes the risk of reoffense, including but not limited

1 to, advanced age or a debilitating illness or physical condition.

2 (h) Upon the request of the law enforcement agency or the
3 offender's corrections agent, the commissioner may reconvene the
4 end-of-confinement review committee for the purpose of
5 reassessing the risk level to which an offender has been
6 assigned under paragraph (e). In a request for a reassessment,
7 the law enforcement agency which was responsible for the charge
8 resulting in confinement or agent shall list the facts and
9 circumstances arising after the initial assignment or facts and
10 circumstances known to law enforcement or the agent but not
11 considered by the committee under paragraph (e) which support
12 the request for a reassessment. The request for reassessment by
13 the law enforcement agency must occur within 30 days of receipt
14 of the report indicating the offender's risk level assignment.
15 The offender's corrections agent, in consultation with the chief
16 law enforcement officer in the area where the offender resides
17 or intends to reside, may request a review of a risk level at
18 any time if substantial evidence exists that the offender's risk
19 level should be reviewed by an end-of-confinement review
20 committee. This evidence includes, but is not limited to,
21 evidence of treatment failures or completions, evidence of
22 exceptional crime-free community adjustment or lack of
23 appropriate adjustment, evidence of substantial community need
24 to know more about the offender or mitigating circumstances that
25 would narrow the proposed scope of notification, or other
26 practical situations articulated and based in evidence of the
27 offender's behavior while under supervision. Upon review of the
28 request, the end-of-confinement review committee may reassign an
29 offender to a different risk level. If the offender is
30 reassigned to a higher risk level, the offender has the right to
31 seek review of the committee's determination under subdivision 6.

32 (i) An offender may request the end-of-confinement review
33 committee to reassess the offender's assigned risk level after
34 three years have elapsed since the committee's initial risk
35 assessment and may renew the request once every two years
36 following subsequent denials. In a request for reassessment,

1 the offender shall list the facts and circumstances which
 2 demonstrate that the offender no longer poses the same degree of
 3 risk to the community. In order for a request for a risk level
 4 reduction to be granted, the offender must demonstrate full
 5 compliance with supervised release conditions, completion of
 6 required post-release treatment programming, and full compliance
 7 with all registration requirements as detailed in section
 8 243.166. The offender must also not have been convicted of any
 9 felony, gross misdemeanor, or misdemeanor offenses subsequent to
 10 the assignment of the original risk level. The committee shall
 11 follow the process outlined in paragraphs (a) to (c) in the
 12 reassessment. An offender who is incarcerated may not request a
 13 reassessment under this paragraph.

14 (j) Offenders returned to prison as release violators shall
 15 not have a right to a subsequent risk reassessment by the
 16 end-of-confinement review committee unless substantial evidence
 17 indicates that the offender's risk to the public has increased.

18 ~~(k) The commissioner shall establish an end-of-confinement~~
 19 ~~review committee to assign a risk level to offenders who are~~
 20 ~~released from a federal correctional facility in Minnesota or~~
 21 ~~another state and who intend to reside in Minnesota, and to~~
 22 ~~offenders accepted from another state under a reciprocal~~
 23 ~~agreement for parole supervision under the interstate compact~~
 24 ~~authorized by section 243.16. The committee shall make~~
 25 ~~reasonable efforts to conform to the same timelines as applied~~
 26 ~~to Minnesota cases. Offenders accepted from another state under~~
 27 ~~a reciprocal agreement for probation supervision are not~~
 28 ~~assigned a risk level, but are considered downward-dispositional~~
 29 ~~departures. The probation or court services officer and law~~
 30 ~~enforcement officer shall manage such cases in accordance with~~
 31 ~~section 244.10, subdivision 2a. The policies and procedures of~~
 32 ~~the committee for federal offenders and interstate compact cases~~
 33 ~~must be in accordance with all requirements as set forth in this~~
 34 ~~section, unless restrictions caused by the nature of federal or~~
 35 ~~interstate transfers prevents such conformance.~~

36 (l) If the committee assigns a predatory offender to risk

1 level III, the committee shall determine whether residency
2 restrictions shall be included in the conditions of the
3 offender's release based on the offender's pattern of offending
4 behavior.

5 [EFFECTIVE DATE.] This section is effective July 1, 2005,
6 and applies to persons subject to community notification on or
7 after that date.

8 Sec. 6. Minnesota Statutes 2004, section 244.052, is
9 amended by adding a subdivision to read:

10 Subd. 3a. [OFFENDERS FROM OTHER STATES AND OFFENDERS
11 RELEASED FROM FEDERAL FACILITIES.] (a) Except as provided in
12 paragraph (b), the commissioner shall establish an
13 end-of-confinement review committee to assign a risk level:

14 (1) to offenders who are released from a federal
15 correctional facility in Minnesota or a federal correctional
16 facility in another state and who intend to reside in Minnesota;

17 (2) to offenders who are accepted from another state under
18 the interstate compact authorized by section 243.16 or 243.1605
19 or any other authorized interstate agreement; and

20 (3) to offenders who are referred to the committee by local
21 law enforcement agencies under paragraph (f).

22 (b) This subdivision does not require the commissioner to
23 convene an end-of-confinement review committee for a person
24 coming into Minnesota who is subject to probation under another
25 state's law. The probation or court services officer and law
26 enforcement officer shall manage such cases in accordance with
27 section 244.10, subdivision 2a.

28 (c) The committee shall make reasonable efforts to conform
29 to the same timelines applied to offenders released from a
30 Minnesota correctional facility and shall collect all relevant
31 information and records on offenders assessed and assigned a
32 risk level under this subdivision. However, for offenders who
33 were assigned the most serious risk level by another state, the
34 committee must act promptly to collect the information required
35 under this paragraph.

36 The end-of-confinement review committee must proceed in

1 accordance with all requirements set forth in this section and
2 follow all policies and procedures applied to offenders released
3 from a Minnesota correctional facility in reviewing information
4 and assessing the risk level of offenders covered by this
5 subdivision, unless restrictions caused by the nature of federal
6 or interstate transfers prevent such conformance. All of the
7 provisions of this section apply to offenders who are assessed
8 and assigned a risk level under this subdivision.

9 (d) If a local law enforcement agency learns or suspects
10 that a person who is subject to this section is living in
11 Minnesota and a risk level has not been assigned to the person
12 under this section, the law enforcement agency shall provide
13 this information to the Bureau of Criminal Apprehension and the
14 commissioner of corrections within three business days.

15 (e) If the commissioner receives reliable information from
16 a local law enforcement agency or the bureau that a person
17 subject to this section is living in Minnesota and a local law
18 enforcement agency so requests, the commissioner must determine
19 if the person was assigned a risk level under a law comparable
20 to this section. If the commissioner determines that the law is
21 comparable and public safety warrants, the commissioner, within
22 three business days of receiving a request, shall notify the
23 local law enforcement agency that it may, in consultation with
24 the department, proceed with notification under subdivision 4
25 based on the person's out-of-state risk level. However, if the
26 commissioner concludes that the offender is from a state with a
27 risk level assessment law that is not comparable to this
28 section, the extent of the notification may not exceed that of a
29 risk level II offender under subdivision 4, paragraph (b),
30 unless the requirements of paragraph (f) have been met. If an
31 assessment is requested from the end-of-confinement review
32 committee under paragraph (f), the local law enforcement agency
33 may continue to disclose information under subdivision 4 until
34 the committee assigns the person a risk level. After the
35 committee assigns a risk level to an offender pursuant to a
36 request made under paragraph (f), the information disclosed by

1 law enforcement shall be consistent with the risk level assigned
2 by the End-of-Confinement Review Committee. The commissioner of
3 corrections, in consultation with legal advisers, shall
4 determine whether the law of another state is comparable to this
5 section.

6 (f) If the local law enforcement agency wants to make a
7 broader disclosure than is authorized under paragraph (e), the
8 law enforcement agency may request that an End-of-Confinement
9 Review Committee assign a risk level to the offender. The local
10 law enforcement agency shall provide to the committee all
11 information concerning the offender's criminal history, the risk
12 the offender poses to the community, and other relevant
13 information. The department shall attempt to obtain other
14 information relevant to determining which risk level to assign
15 the offender. The committee shall promptly assign a risk level
16 to an offender referred to the committee under this paragraph.

17 [EFFECTIVE DATE.] This section is effective July 1, 2005,
18 and applies to persons subject to community notification on or
19 after that date.

20 Sec. 7. Minnesota Statutes 2004, section 244.052,
21 subdivision 4, is amended to read:

22 Subd. 4. [LAW ENFORCEMENT AGENCY; DISCLOSURE OF
23 INFORMATION TO PUBLIC.] (a) The law enforcement agency in the
24 area where the predatory offender resides, expects to reside, is
25 employed, or is regularly found, shall disclose to the public
26 any information regarding the offender contained in the report
27 forwarded to the agency under subdivision 3, paragraph (f), that
28 is relevant and necessary to protect the public and to
29 counteract the offender's dangerousness, consistent with the
30 guidelines in paragraph (b). The extent of the information
31 disclosed and the community to whom disclosure is made must
32 relate to the level of danger posed by the offender, to the
33 offender's pattern of offending behavior, and to the need of
4 community members for information to enhance their individual
35 and collective safety.

36 (b) The law enforcement agency shall employ the following

1 guidelines in determining the scope of disclosure made under
2 this subdivision:

3 (1) if the offender is assigned to risk level I, the agency
4 may maintain information regarding the offender within the
5 agency and may disclose it to other law enforcement agencies.
6 Additionally, the agency may disclose the information to any
7 victims of or witnesses to the offense committed by the
8 offender. The agency shall disclose the information to victims
9 of the offense committed by the offender who have requested
10 disclosure and to adult members of the offender's immediate
11 household;

12 (2) if the offender is assigned to risk level II, the
13 agency also may disclose the information to agencies and groups
14 that the offender is likely to encounter for the purpose of
15 securing those institutions and protecting individuals in their
16 care while they are on or near the premises of the institution.
17 These agencies and groups include the staff members of public
18 and private educational institutions, day care establishments,
19 and establishments and organizations that primarily serve
20 individuals likely to be victimized by the offender. The agency
21 also may disclose the information to individuals the agency
22 believes are likely to be victimized by the offender. The
23 agency's belief shall be based on the offender's pattern of
24 offending or victim preference as documented in the information
25 provided by the department of corrections or human services;

26 (3) if the offender is assigned to risk level III, the
27 agency shall disclose the information to the persons and
28 entities described in clauses (1) and (2) and to other members
29 of the community whom the offender is likely to encounter,
30 unless the law enforcement agency determines that public safety
31 would be compromised by the disclosure or that a more limited
32 disclosure is necessary to protect the identity of the victim.

33 Notwithstanding the assignment of a predatory offender to
34 risk level II or III, a law enforcement agency may not make the
35 disclosures permitted or required by clause (2) or (3), if: the
36 offender is placed or resides in a residential facility.

1 However, if an offender is placed or resides in a residential
2 facility, the offender and the head of the facility shall
3 designate the offender's likely residence upon release from the
4 facility and the head of the facility shall notify the
5 commissioner of corrections or the commissioner of human
6 services of the offender's likely residence at least 14 days
7 before the offender's scheduled release date. The commissioner
8 shall give this information to the law enforcement agency having
9 jurisdiction over the offender's likely residence. The head of
10 the residential facility also shall notify the commissioner of
11 corrections or human services within 48 hours after finalizing
12 the offender's approved relocation plan to a permanent
13 residence. Within five days after receiving this notification,
14 the appropriate commissioner shall give to the appropriate law
15 enforcement agency all relevant information the commissioner has
16 concerning the offender, including information on the risk
17 factors in the offender's history and the risk level to which
18 the offender was assigned. After receiving this information,
19 the law enforcement agency shall make the disclosures permitted
20 or required by clause (2) or (3), as appropriate.

21 (c) As used in paragraph (b), clauses (2) and (3), "likely
22 to encounter" means that:

23 (1) the organizations or community members are in a
24 location or in close proximity to a location where the offender
25 lives or is employed, or which the offender visits or is likely
26 to visit on a regular basis, other than the location of the
27 offender's outpatient treatment program; and

28 (2) the types of interaction which ordinarily occur at that
29 location and other circumstances indicate that contact with the
30 offender is reasonably certain.

31 (d) A law enforcement agency or official who discloses
32 information under this subdivision shall make a good faith
33 effort to make the notification within 14 days of receipt of a
34 confirmed address from the Department of Corrections indicating
35 that the offender will be, or has been, released from
36 confinement, or accepted for supervision, or has moved to a new

1 address and will reside at the address indicated. If a change
2 occurs in the release plan, this notification provision does not
3 require an extension of the release date.

4 (e) A law enforcement agency or official who discloses
5 information under this subdivision shall not disclose the
6 identity or any identifying characteristics of the victims of or
7 witnesses to the offender's offenses.

8 (f) A law enforcement agency shall continue to disclose
9 information on an offender as required by this subdivision for
10 as long as the offender is required to register under section
11 243.166. This requirement on a law enforcement agency to
12 continue to disclose information also applies to an offender who
13 lacks a primary address and is registering under section
14 243.166, subdivision 3a.

15 (g) A law enforcement agency that is disclosing information
16 on an offender assigned to risk level III to the public under
17 this subdivision shall inform the commissioner of corrections
18 what information is being disclosed and forward this information
19 to the commissioner within two days of the agency's
20 determination. The commissioner shall post this information on
21 the Internet as required in subdivision 4b.

22 (h) A city council may adopt a policy that addresses when
23 information disclosed under this subdivision must be presented
24 in languages in addition to English. The policy may address
25 when information must be presented orally, in writing, or both
26 in additional languages by the law enforcement agency disclosing
27 the information. The policy may provide for different
28 approaches based on the prevalence of non-English languages in
29 different neighborhoods.

30 [EFFECTIVE DATE.] This section is effective the day
31 following final enactment, and applies to persons subject to
32 community notification on or after that date.

33 Sec. 8. Minnesota Statutes 2004, section 244.052, is
34 amended by adding a subdivision to read:

35 Subd. 4c. [LAW ENFORCEMENT AGENCY; DISCLOSURE OF
36 INFORMATION TO A HEALTH CARE FACILITY.] (a) The law enforcement

1 agency in the area where a health care facility is located shall
2 disclose the registrant status of any sex offender registered
3 under section 243.166 to the health care facility if the
4 registered offender is receiving inpatient care in that facility.

5 (b) "Health care facility" means a hospital or other entity
6 licensed under sections 144.50 to 144.58, a nursing home
7 licensed under section 144A.02, or a group residential housing
8 facility or an intermediate care facility for the mentally
9 retarded licensed under chapter 245A.

10 [EFFECTIVE DATE.] This section is effective the day
11 following final enactment.

12 Sec. 9. Minnesota Statutes 2004, section 626.556,
13 subdivision 3, is amended to read:

14 Subd. 3. [PERSONS MANDATED TO REPORT.] (a) A person who
15 knows or has reason to believe a child is being neglected or
16 physically or sexually abused, as defined in subdivision 2, or
17 has been neglected or physically or sexually abused within the
18 preceding three years, shall immediately report the information
19 to the local welfare agency, agency responsible for assessing or
20 investigating the report, police department, or the county
21 sheriff if the person is:

22 (1) a professional or professional's delegate who is
23 engaged in the practice of the healing arts, social services,
24 hospital administration, psychological or psychiatric treatment,
25 child care, education, probation and correctional services, or
26 law enforcement; or

27 (2) employed as a member of the clergy and received the
28 information while engaged in ministerial duties, provided that a
29 member of the clergy is not required by this subdivision to
30 report information that is otherwise privileged under section
31 595.02, subdivision 1, paragraph (c).

32 The police department or the county sheriff, upon receiving
33 a report, shall immediately notify the local welfare agency or
34 agency responsible for assessing or investigating the report,
35 orally and in writing. The local welfare agency, or agency
36 responsible for assessing or investigating the report, upon

1 receiving a report, shall immediately notify the local police
2 department or the county sheriff orally and in writing. The
3 county sheriff and the head of every local welfare agency,
4 agency responsible for assessing or investigating reports, and
5 police department shall each designate a person within their
6 agency, department, or office who is responsible for ensuring
7 that the notification duties of this paragraph and paragraph (b)
8 are carried out. Nothing in this subdivision shall be construed
9 to require more than one report from any institution, facility,
10 school, or agency.

11 (b) Any person may voluntarily report to the local welfare
12 agency, agency responsible for assessing or investigating the
13 report, police department, or the county sheriff if the person
14 knows, has reason to believe, or suspects a child is being or
15 has been neglected or subjected to physical or sexual abuse.
16 The police department or the county sheriff, upon receiving a
17 report, shall immediately notify the local welfare agency or
18 agency responsible for assessing or investigating the report,
19 orally and in writing. The local welfare agency or agency
20 responsible for assessing or investigating the report, upon
21 receiving a report, shall immediately notify the local police
22 department or the county sheriff orally and in writing.

23 (c) A person mandated to report physical or sexual child
24 abuse or neglect occurring within a licensed facility shall
25 report the information to the agency responsible for licensing
26 the facility under sections 144.50 to 144.58; 241.021; 245A.01
27 to 245A.16; or chapter 245B; or a nonlicensed personal care
28 provider organization as defined in sections 256B.04,
29 subdivision 16; and 256B.0625, subdivision 19. A health or
30 corrections agency receiving a report may request the local
31 welfare agency to provide assistance pursuant to subdivisions
32 10, 10a, and 10b. A board or other entity whose licensees
33 perform work within a school facility, upon receiving a
34 complaint of alleged maltreatment, shall provide information
35 about the circumstances of the alleged maltreatment to the
36 commissioner of education. Section 13.03, subdivision 4,

1 applies to data received by the commissioner of education from a
2 licensing entity.

3 (d) Any person mandated to report shall receive a summary
4 of the disposition of any report made by that reporter,
5 including whether the case has been opened for child protection
6 or other services, or if a referral has been made to a community
7 organization, unless release would be detrimental to the best
8 interests of the child. Any person who is not mandated to
9 report shall, upon request to the local welfare agency, receive
10 a concise summary of the disposition of any report made by that
11 reporter, unless release would be detrimental to the best
12 interests of the child.

13 (e) For purposes of this subdivision, "immediately" means
14 as soon as possible but in no event longer than 24 hours.

15 [EFFECTIVE DATE.] This section is effective the day
16 following final enactment.

17 Sec. 10. [REVISOR'S INSTRUCTION.]

18 The revisor of statutes shall change all references to
19 Minnesota Statutes, section 243.166, subdivision 1, in Minnesota
20 Statutes to section 243.166. In addition, the revisor shall
21 make other technical changes necessitated by this article.

22 [EFFECTIVE DATE.] This section is effective the day
23 following final enactment.

24 Sec. 11. [REPEALER.]

25 Minnesota Statutes 2004, section 243.166, subdivisions 1
26 and 8, are repealed.

27 [EFFECTIVE DATE.] This section is effective the day
28 following final enactment.

29 ARTICLE 6

30 HUMAN SERVICES ACCESS TO PREDATORY OFFENDER REGISTRY

31 Section 1. Minnesota Statutes 2004, section 243.166,
32 subdivision 7, is amended to read:

33 Subd. 7. [USE OF INFORMATION.] Except as otherwise
34 provided in subdivision 7a or sections 244.052 and 299C.093, the
35 information provided under this section is private data on
36 individuals under section 13.02, subdivision 12. The

1 information may be used only for law enforcement, human
2 services, and corrections purposes.

3 Sec. 2. Minnesota Statutes 2004, section 246.13, is
4 amended to read:

5 246.13 [~~RECORD~~ RECORDS OF PATIENTS AND RESIDENTS
6 ~~IN RECEIVING~~ STATE-OPERATED SERVICES.]

7 Subdivision 1. [POWERS, DUTIES, AND AUTHORITY OF
8 COMMISSIONER.] (a) The commissioner of human services' office
9 shall have, accessible only by consent of the commissioner or on
10 the order of a judge or court of record, a record showing the
11 residence, sex, age, nativity, occupation, civil condition, and
12 date of entrance or commitment of every person, in the
13 state-operated services facilities as defined under section
14 246.014 under exclusive control of the commissioner; the date of
15 discharge and whether such discharge was final; the condition of
16 the person when the person left the state-operated services
17 facility; the vulnerable adult abuse prevention associated with
18 the person; and the date and cause of all deaths. The record
19 shall state every transfer from one state-operated services
20 facility to another, naming each state-operated services
21 facility. This information shall be furnished to the
22 commissioner of human services by each public agency, along with
23 other obtainable facts as the commissioner may require. When a
24 patient or resident in a state-operated services facility is
25 discharged, transferred, or dies, the head of the state-operated
26 services facility or designee shall inform the commissioner of
27 human services of these events within ten days on forms
28 furnished by the commissioner.

29 (b) The commissioner of human services shall cause to be
30 devised, installed, and operated an adequate system of records
31 and statistics which shall consist of all basic record forms,
32 including patient personal records and medical record forms, and
33 the manner of their use shall be precisely uniform throughout
34 all state-operated services facilities.

35 Subd. 2. [DEFINITIONS; RISK ASSESSMENT AND MANAGEMENT.] (a)
36 As used in this section:

1 (1) "appropriate and necessary medical and other records"
2 includes patient medical record and other protected health
3 information as provided by Code of Federal Regulations, title
4 45, section 164.501, relating to a patient in a state-operated
5 services facility, including but not limited to the patient's
6 treatment plan and abuse prevention plan that is pertinent to
7 the patient's ongoing care, treatment, or placement in a
8 community-based treatment facility or a health care facility
9 that is not operated by state-operated services, and includes
10 information describing the level of risk posed by a patient when
11 the patient enters such a facility;

12 (2) "community-based treatment" means the community support
13 services listed in section 253B.02, subdivision 4b;

14 (3) "criminal history databases" refers to the Corrections
15 Offender Management Systems (COMS) and Statewide Supervision
16 System (S3) maintained by the Department of Corrections;
17 Criminal Justice Information System (CJIS) and Predatory
18 Offender Registration (POR) system maintained by the Department
19 of Public Safety; the CrimNet system; the National Crime
20 Information Center (NCIC) database for out-of-state criminal
21 history information maintained by the Federal Bureau of
22 Investigation; and other federal, state, and local databases and
23 repositories that contain information describing the criminal
24 history or propensity for violence of patients under the care or
25 supervision of the state-operated services division of the
26 Department of Human Services;

27 (4) "designated agency" means the agency defined in section
28 253B.02, subdivision 5;

29 (5) "law enforcement agency" means the law enforcement
30 agency having primary jurisdiction over the location where the
31 offender expects to reside upon release;

32 (6) "predatory offender" and "offender" mean a person who
33 is required to register as a predatory offender under section
34 243.166; and

35 (7) "treatment facility" means a facility as defined in
36 section 253B.02, subdivision 19.

1 (b) To promote public safety and for the purposes and
2 subject to the requirements of paragraph (c), the commissioner
3 or the commissioner's designee shall have access to and review
4 pertinent information about patients under the care or
5 supervision of the state-operated services division of the
6 Department of Human Services, including but not limited to
7 information that is in state criminal history databases.

8 (c) The commissioner or the commissioner's designee shall
9 disseminate information to designated treatment facility staff,
10 special review board members, and end-of-confinement review
11 committee members to:

12 (1) determine whether a patient is required under state law
13 to register as a predatory offender according to section
14 244.166;

15 (2) facilitate and expedite the responsibilities of the
16 special review board and end-of-confinement review committees by
17 corrections institutions and state treatment facilities;

18 (3) prepare, amend, or revise the abuse prevention plans
19 required under section 626.557, subdivision 14, and individual
20 patient treatment plans required under section 253B.03,
21 subdivision 7; and

22 (4) facilitate transfers of individuals between the
23 Department of Corrections and the Department of Human Services.

24 Subd. 3. [COMMUNITY-BASED TREATMENT AND MEDICAL
25 TREATMENT.] (a) When a patient under the care and supervision of
26 state-operated services is released to a community-based
27 treatment facility or facility that provides health care
28 services, state-operated services may disclose all appropriate
29 and necessary health and other information relating to the
30 patient.

31 (b) The information that must be provided to the designated
32 agency, community-based treatment facility, or facility that
33 provides health care services includes but is not limited to the
34 patient's abuse prevention plan required under section 626.557,
35 subdivision 14, paragraph (b).

36 Subd. 4. [PREDATORY OFFENDER REGISTRATION

1 NOTIFICATION.] (a) When a state-operated facility determines
2 that a patient is required under section 243.166, subdivision 1,
3 to register as a predatory offender or, under section 243.166,
4 subdivision 4a, to provide notice of a change in status, the
5 facility shall provide written notice to the patient of the
6 requirement.

7 (b) If the patient refuses, is unable, or lacks capacity to
8 comply with the requirement described in paragraph (a) within
9 five days after receiving the notification of the duty to
10 comply, state-operated services staff shall obtain the necessary
11 forms and complete the registration or change of status
12 notification for the patient. The treatment facility shall also
13 forward the registration or change of status information that it
14 completes to the Bureau of Criminal Apprehension and, as
15 applicable, the patient's corrections agent and the law
16 enforcement agency in the community in which the patient
17 currently resides. If, after providing notification, the
18 patient refuses to comply with the requirements described in
19 paragraph (a), the treatment facility shall also notify the
20 county attorney in the county in which the patient is currently
21 residing of the refusal.

22 (c) The duties of state-operated services described in this
23 subdivision do not relieve the patient of the ongoing individual
24 duty to comply with the requirements of section 243.166.

25 Subd. 5. [LIMITATIONS ON USE OF BLOODBORNE PATHOGEN TEST
26 RESULTS.] Sections 246.71, 246.711, 246.712, 246.713, 246.714,
27 246.715, 246.716, 246.717, 246.718, 246.719, 246.72, 246.721,
28 and 246.722 apply to state-operated services facilities.

29 Sec. 3. Minnesota Statutes 2004, section 253B.18,
30 subdivision 4a, is amended to read:

31 Subd. 4a. [RELEASE ON PASS; NOTIFICATION.] A patient who
32 has been committed as a person who is mentally ill and dangerous
33 and who is confined at a secure treatment facility or has been
34 transferred out of a state-operated services facility according
35 to section 253B.18, subdivision 6, shall not be released on a
36 pass unless the pass is part of a pass plan that has been

1 approved by the medical director of the secure treatment
2 facility. The pass plan must have a specific therapeutic
3 purpose consistent with the treatment plan, must be established
4 for a specific period of time, and must have specific levels of
5 liberty delineated. The county case manager must be invited to
6 participate in the development of the pass plan. At least ten
7 days prior to a determination on the plan, the medical director
8 shall notify the designated agency, the committing court, the
9 county attorney of the county of commitment, an interested
10 person, the local law enforcement agency where the facility is
11 located, the local law enforcement agency in the location where
12 the pass is to occur, the petitioner, and the petitioner's
13 counsel of the plan, the nature of the passes proposed, and
14 their right to object to the plan. If any notified person
15 objects prior to the proposed date of implementation, the person
16 shall have an opportunity to appear, personally or in writing,
17 before the medical director, within ten days of the objection,
18 to present grounds for opposing the plan. The pass plan shall
19 not be implemented until the objecting person has been furnished
20 that opportunity. Nothing in this subdivision shall be
21 construed to give a patient an affirmative right to a pass plan.

22 Sec. 4. Minnesota Statutes 2004, section 299C.093, is
23 amended to read:

24 299C.093 [DATABASE OF REGISTERED PREDATORY OFFENDERS.]

25 The superintendent of the bureau of criminal apprehension
26 shall maintain a computerized data system relating to
27 individuals required to register as predatory offenders under
28 section 243.166. To the degree feasible, the system must
29 include the information required to be provided under section
30 243.166, subdivisions 4 and 4a, and indicate the time period
31 that the person is required to register. The superintendent
32 shall maintain this information in a manner that ensures that it
33 is readily available to law enforcement agencies. This
34 information is private data on individuals under section 13.02,
35 subdivision 12, but may be used for human services, law
36 enforcement, and corrections purposes.

1 Sec. 5. Minnesota Statutes 2004, section 609.2231,
2 subdivision 3, is amended to read:

3 Subd. 3. [CORRECTIONAL EMPLOYEES; PROBATION OFFICERS.]

4 Whoever commits either of the following acts against an employee
5 of a correctional facility as defined in section 241.021,
6 subdivision 1, paragraph (f), or an employee or other individual
7 who provides care or treatment at a treatment facility as
8 defined in section 252.025, subdivision 7, or 253B.02,
9 subdivision 18a, or against a probation officer or other
10 qualified person employed in supervising offenders while the
11 employee, officer, or person is engaged in the performance of a
12 duty imposed by law, policy, or rule is guilty of a felony and
13 may be sentenced to imprisonment for not more than two years or
14 to payment of a fine of not more than \$4,000, or both:

15 (1) assaults the employee person and inflicts demonstrable
16 bodily harm; or

17 (2) intentionally throws or otherwise transfers bodily
18 fluids or feces at or onto the employee person.

19 Sec. 6. Minnesota Statutes 2004, section 626.557,
20 subdivision 14, is amended to read:

21 Subd. 14. [ABUSE PREVENTION PLANS.] (a) Each facility,
22 except home health agencies and personal care attendant services
23 providers, shall establish and enforce an ongoing written abuse
24 prevention plan. The plan shall contain an assessment of the
25 physical plant, its environment, and its population identifying
26 factors which may encourage or permit abuse, and a statement of
27 specific measures to be taken to minimize the risk of abuse.
28 The plan shall comply with any rules governing the plan
29 promulgated by the licensing agency.

30 (b) Each facility, including a home health care agency and
31 personal care attendant services providers, shall develop an
32 individual abuse prevention plan for each vulnerable adult
33 residing there or receiving services from them. The plan shall
34 contain an individualized assessment of both the person's
35 susceptibility to abuse by other individuals, including other
36 vulnerable adults, and the potential risks posed by the person

1 to the other patients, to facility staff, and to others; and a
 2 statement of the specific measures to be taken to minimize the
 3 risk of abuse to that person and others. For the purposes of
 4 this clause, the term "abuse" includes self-abuse.

5 Sec. 7. [REPEALER.]

6 Minnesota Statutes 2004, section 246.017, subdivision 1, is
 7 repealed.

8 ARTICLE 7

9 HUMAN SERVICES BACKGROUND STUDIES

10 Section 1. Minnesota Statutes 2004, section 245C.03,
 11 subdivision 1, is amended to read:

12 Subdivision 1. [LICENSED PROGRAMS.] (a) The commissioner
 13 shall conduct a background study on:

14 (1) the person or persons applying for a license;

15 (2) an individual age 13 and over living in the household
 16 where the licensed program will be provided;

17 (3) current or prospective employees or contractors of the
 18 applicant who will have direct contact with persons served by
 19 the facility, agency, or program;

20 (4) volunteers or student volunteers who will have direct
 21 contact with persons served by the program to provide program
 22 services if the contact is not under the continuous, direct
 23 supervision by an individual listed in clause (1) or (3);

24 (5) an individual age ten to 12 living in the household
 25 where the licensed services will be provided when the
 26 commissioner has reasonable cause;

27 (6) an individual who, without providing direct contact
 28 services at a licensed program, may have unsupervised access to
 29 children or vulnerable adults receiving services from a program
 30 licensed to provide:

31 (i) family child care for children;

32 (ii) foster care for children in the provider's own home;

33 or

34 (iii) foster care or day care services for adults in the
 35 provider's own home; and

36 (7) all managerial officials as defined under section

1 245A.02, subdivision 5a.

2 The commissioner must have reasonable cause to study an
3 individual under this subdivision.

4 (b) For family child foster care settings, a short-term
5 substitute caregiver providing direct contact services for a
6 child for less than 72 hours of continuous care is not required
7 to receive a background study under this chapter.

8 Sec. 2. Minnesota Statutes 2004, section 245C.15,
9 subdivision 1, is amended to read:

10 Subdivision 1. [PERMANENT DISQUALIFICATION.] (a) An
11 individual is disqualified under section 245C.14 if: (1)
12 regardless of how much time has passed since the discharge of
13 the sentence imposed, if any, for the offense; and (2) unless
14 otherwise specified, regardless of the level of the ~~conviction~~
15 offense, the individual ~~is-convicted-of~~ has committed any of the
16 following offenses: sections 152.021 (controlled substance
17 crime in the first degree); 152.022 (controlled substance crime
18 in the second degree); 152.023 (controlled substance crime in
19 the third degree); 152.024 (controlled substance crime in the
20 fourth degree); 152.0261 (importing controlled substances across
21 state lines); 609.165 (certain convicted felons ineligible to
22 possess firearms); 609.185 (murder in the first degree); 609.19
23 (murder in the second degree); 609.195 (murder in the third
24 degree); 609.20 (manslaughter in the first degree); 609.205
25 (manslaughter in the second degree); 609.21 (criminal vehicular
26 homicide and injury); 609.221 ~~or~~ (assault in the first degree);
27 609.222 (assault in the ~~first-or~~ second degree); 609.223
28 (assault in the third degree); a felony offense under sections
29 609.2242 and 609.2243 (domestic assault), spousal abuse, child
30 abuse or neglect, or a crime against children; 609.228 (great
31 bodily harm caused by distribution of drugs); an offense
32 punishable as a felony under 609.229 (crime committed for the
33 benefit of a gang); 609.235 (use of drugs to injure or
34 facilitate a crime); 609.24 (simple robbery); 609.245
35 (aggravated robbery); 609.25 (kidnapping); 609.255 (false
36 imprisonment); 609.2661 (murder of an unborn child in the first

1 degree); 609.2662 (murder of an unborn child in the second
2 degree); 609.2663 (murder of an unborn child in the third
3 degree); 609.2664 (manslaughter of an unborn child in the first
4 degree); 609.2665 (manslaughter of an unborn child in the second
5 degree); 609.267 (assault of an unborn child in the first
6 degree); 609.2671 (assault of an unborn child in the second
7 degree); 609.268 (injury or death of an unborn child in
8 commission of a crime); 609.322 (solicitation, inducement, and
9 promotion of prostitution); a felony offense under 609.324,
10 subdivision 1 (other prohibited acts); 609.342 (criminal sexual
11 conduct in the first degree); 609.343 (criminal sexual conduct
12 in the second degree); 609.344 (criminal sexual conduct in the
13 third degree); 609.345 (criminal sexual conduct in the fourth
14 degree); 609.3451 (criminal sexual conduct in the fifth degree);
15 609.352 (solicitation of children to engage in sexual conduct);
16 609.365 (incest); an offense punishable as a felony offense
17 under 609.377 (malicious punishment of a child); an offense
18 punishable as a felony offense under 609.378 (neglect or
19 endangerment of a child); 609.498 (tampering with a witness);
20 609.561 (arson in the first degree); 609.562 (arson in the
21 second degree); 609.582, subdivision 1 (burglary in the first
22 degree); 609.66, subdivision 1e (drive-by shooting); 609.687
23 (adulteration); 609.749, subdivision 3, 4, or 5 (felony-level
24 harassment; stalking); 609.855, subdivision 5 (shooting at or in
25 a public transit vehicle or facility); 617.246 (use of minors in
26 sexual performance prohibited); ~~or~~ 617.247 (possession of
27 pictorial representations of minors); or an offense punishable
28 as a felony under 624.713 (certain persons not to have pistols
29 or semiautomatic military-style assault weapons).

30 (b) An individual also is disqualified under section
31 245C.14 regardless of how much time has passed since:

32 (1) the involuntary termination of the individual's
33 parental rights under section 260C.301;

34 (2) an administrative determination under section 626.556
35 of sexual abuse of a minor or abuse of a minor resulting in
36 death or serious injury as defined under section 245C.02,

1 subdivision 18; or

2 (3) an administrative determination under section 626.557
 3 of sexual abuse of a vulnerable adult or abuse of a vulnerable
 4 adult resulting in death or serious injury as defined under
 5 section 245C.02, subdivision 18.

6 ~~(b)~~ (c) An individual's aiding and abetting, attempt, or
 7 conspiracy to commit any of the offenses listed in paragraph
 8 (a), as each of these offenses is defined in Minnesota Statutes,
 9 permanently disqualifies the individual under section 245C.14.

10 ~~(c)~~ (d) An individual's offense in any other state or
 11 country, where the elements of the offense are substantially
 12 similar to any of the offenses listed in paragraph (a),
 13 permanently disqualifies the individual under section 245C.14.

14 Sec. 3. Minnesota Statutes 2004, section 245C.15,
 15 subdivision 2, is amended to read:

16 Subd. 2. [15-YEAR DISQUALIFICATION.] (a) An individual is
 17 disqualified under section 245C.14 if: (1) less than 15 years
 18 have passed since the discharge of the sentence imposed, if any,
 19 for the offense; and (2) the individual has ~~received~~ committed a
 20 ~~felony-conviction-for-a~~ felony-level violation of any of the
 21 following offenses: sections 152.025 (controlled substance
 22 crime in the fifth degree); 260C.301 (grounds for termination of
 23 parental rights); 609.165-(felon-ineligible-to-possess-firearm);
 24 ~~609.21-(criminal-vehicular-homicide-and-injury);~~ 609.215
 25 (suicide); ~~609.223-or~~ 609.2231 (assault in the ~~third-or~~ fourth
 26 degree); repeat offenses under 609.224 (assault in the fifth
 27 degree); 609.2325 (criminal abuse of a vulnerable adult);
 28 609.2335 (financial exploitation of a vulnerable adult); ~~609.235~~
 29 ~~(use-of-drugs-to-injure-or-facilitate-crime);-609.24-(simple~~
 30 ~~robbery);-609.255-(false-imprisonment);-609.2664-(manslaughter~~
 31 ~~of-an-unborn-child-in-the-first-degree);-609.2665-(manslaughter~~
 32 ~~of-an-unborn-child-in-the-second-degree);-609.267-(assault-of-an~~
 33 ~~unborn-child-in-the-first-degree);-609.2671-(assault-of-an~~
 34 ~~unborn-child-in-the-second-degree);-609.268-(injury-or-death-of~~
 35 ~~an-unborn-child-in-the-commission-of-a-crime);~~ 609.27
 36 (coercion); 609.275 (attempt to coerce); ~~repeat-offenses-under~~

1 ~~609.3451-(criminal-sexual-conduct-in-the-fifth-degree);~~ ~~609.498~~
 2 ~~subdivision-1-or-1b-(aggravated-first-degree-or-first-degree~~
 3 ~~tampering-with-a-witness);~~ 609.52 (theft); 609.521 (possession
 4 of shoplifting gear); ~~609.562-(arson-in-the-second-degree);~~
 5 609.563 (arson in the third degree); 609.582, subdivision 2, 3,
 6 or 4 (burglary in the second, third, or fourth degree); 609.625
 7 (aggravated forgery); 609.63 (forgery); 609.631 (check forgery;
 8 offering a forged check); 609.635 (obtaining signature by false
 9 pretense); 609.66 (dangerous weapons); 609.67 (machine guns and
 10 short-barreled shotguns); ~~609.687-(adulteration);~~ 609.71 (riot);
 11 609.713 (terroristic threats); repeat offenses under 617.23
 12 (indecent exposure; penalties); repeat offenses under 617.241
 13 (obscene materials and performances; distribution and exhibition
 14 prohibited; penalty); ~~chapter-152-(drugs,-controlled-substance);~~
 15 or a felony-level conviction involving alcohol or drug use.

16 (b) An individual is disqualified under section 245C.14 if
 17 less than 15 years has passed since the individual's aiding and
 18 abetting, attempt, or conspiracy to commit any of the offenses
 19 listed in paragraph (a), as each of these offenses is defined in
 20 Minnesota Statutes.

21 (c) An individual is disqualified under section 245C.14 if
 22 less than 15 years has passed since the discharge of the
 23 sentence imposed for an offense in any other state or country,
 24 the elements of which are substantially similar to the elements
 25 of the offenses listed in paragraph (a).

26 (d) If the individual studied is convicted of one of the
 27 felonies listed in paragraph (a), but the sentence is a gross
 28 misdemeanor or misdemeanor disposition, the individual is
 29 disqualified but the disqualification lookback period for the
 30 conviction is the period applicable to the gross misdemeanor or
 31 misdemeanor disposition.

32 Sec. 4. Minnesota Statutes 2004, section 245C.15,
 33 subdivision 3, is amended to read:

34 Subd. 3. [TEN-YEAR DISQUALIFICATION.] (a) An individual is
 35 disqualified under section 245C.14 if: (1) less than ten years
 36 have passed since the discharge of the sentence imposed, if any,

1 for the offense; and (2) the individual has ~~received~~ committed a
 2 ~~gross misdemeanor-conviction-for-a~~ misdemeanor-level violation
 3 of any of the following offenses: sections 609.224 (assault in
 4 the fifth degree); 609.224, subdivision 2, paragraph (c)
 5 (assault in the fifth degree by a caregiver against a vulnerable
 6 adult); 609.2242 and 609.2243 (domestic assault); 609.23
 7 (mistreatment of persons confined); 609.231 (mistreatment of
 8 residents or patients); 609.2325 (criminal abuse of a vulnerable
 9 adult); 609.233 (criminal neglect of a vulnerable adult);
 10 609.2335 (financial exploitation of a vulnerable adult); 609.234
 11 (failure to report maltreatment of a vulnerable adult); 609.265
 12 (abduction); 609.275 (attempt to coerce); 609.324, subdivision
 13 1a (other prohibited acts; minor engaged in prostitution);
 14 609.33 (disorderly house); ~~609.3451-(criminal-sexual-conduct-in~~
 15 ~~the-fifth-degree);~~ misdemeanor or gross misdemeanor offenses
 16 under 609.377 (malicious punishment of a child); misdemeanor or
 17 gross misdemeanor offenses under 609.378 (neglect or
 18 endangerment of a child); 609.52 (theft); 609.582 (burglary);
 19 609.631 (check forgery; offering a forged check); 609.66
 20 (dangerous weapons); 609.71 (riot); 609.72, subdivision 3
 21 (disorderly conduct against a vulnerable adult); repeat offenses
 22 under 609.746 (interference with privacy); 609.749, subdivision
 23 2 (harassment; stalking); repeat offenses under 617.23 (indecent
 24 exposure); 617.241 (obscene materials and performances); 617.243
 25 (indecent literature, distribution); 617.293 (harmful materials;
 26 dissemination and display to minors prohibited); or violation of
 27 an order for protection under section 518B.01, subdivision 14.

28 (b) An individual is disqualified under section 245C.14 if
 29 less than ten years has passed since the individual's aiding and
 30 abetting, attempt, or conspiracy to commit any of the offenses
 31 listed in paragraph (a), as each of these offenses is defined in
 32 Minnesota Statutes.

33 (c) An individual is disqualified under section 245C.14 if
 34 less than ten years has passed since the discharge of the
 35 sentence imposed for an offense in any other state or country,
 36 the elements of which are substantially similar to the elements

1 of any of the offenses listed in paragraph (a).

2 (d) If the defendant is convicted of one of the gross
3 misdemeanors listed in paragraph (a), but the sentence is a
4 misdemeanor disposition, the individual is disqualified but the
5 disqualification lookback period for the conviction is the
6 period applicable to misdemeanors.

7 Sec. 5. Minnesota Statutes 2004, section 245C.15,
8 subdivision 4, is amended to read:

9 Subd. 4. [SEVEN-YEAR DISQUALIFICATION.] (a) An individual
10 is disqualified under section 245C.14 if: (1) less than seven
11 years has passed since the discharge of the sentence imposed, if
12 any, for the offense; and (2) the individual has ~~received~~
13 committed a misdemeanor-conviction-for-a misdemeanor-level
14 violation of any of the following offenses: sections 609.224
15 (assault in the fifth degree); 609.2242 (domestic assault);
16 609.2335 (financial exploitation of a vulnerable adult); 609.234
17 (failure to report maltreatment of a vulnerable adult); 609.2672
18 (assault of an unborn child in the third degree); 609.27
19 (coercion); violation of an order for protection under 609.3232
20 (protective order authorized; procedures; penalties); 609.52
21 (theft); 609.66 (dangerous weapons); 609.665 (spring guns);
22 609.746 (interference with privacy); 609.79 (obscene or
23 harassing phone telephone calls); 609.795 (letter, telegram, or
24 package; opening; harassment); 617.23 (indecent exposure;
25 penalties); 617.293 (harmful materials; dissemination and
26 display to minors prohibited); or violation of an order for
27 protection under section 518B.01 (Domestic Abuse Act).

28 (b) An individual is disqualified under section 245C.14 if
29 less than seven years has passed since a determination or
30 disposition of the individual's:

31 (1) failure to make required reports under section 626.556,
32 subdivision 3, or 626.557, subdivision 3, for incidents in
33 which: (i) the final disposition under section 626.556 or
34 626.557 was substantiated maltreatment, and (ii) the
35 maltreatment was recurring or serious; or

36 (2) except for disqualifications under subdivision 1,

1 substantiated serious or recurring maltreatment of a minor under
2 section 626.556, a vulnerable adult under section 626.557, or
3 serious or recurring maltreatment in any other state, the
4 elements of which are substantially similar to the elements of
5 maltreatment under section 626.556 or 626.557 for which: (i)
6 there is a preponderance of evidence that the maltreatment
7 occurred, and (ii) the subject was responsible for the
8 maltreatment.

9 (c) An individual is disqualified under section 245C.14 if
10 less than seven years has passed since the individual's attempt
11 or conspiracy to commit any of the offenses listed in paragraphs
12 (a) and (b), as each of these offenses is defined in Minnesota
13 Statutes.

14 (d) An individual is disqualified under section 245C.14 if
15 less than seven years has passed since the discharge of the
16 sentence imposed for an offense in any other state or country,
17 the elements of which are substantially similar to the elements
18 of any of the offenses listed in paragraphs (a) and (b).

19 Sec. 6. Minnesota Statutes 2004, section 245C.17,
20 subdivision 2, is amended to read:

21 Subd. 2. [DISQUALIFICATION NOTICE SENT TO SUBJECT.] (a) If
22 the information in the study indicates the individual is
23 disqualified from direct contact with, or from access to,
24 persons served by the program, the commissioner shall disclose
25 to the individual studied:

26 (1) the information causing disqualification;

27 (2) instructions on how to request a reconsideration of the
28 disqualification; and

29 (3) an explanation of any restrictions on the
30 commissioner's discretion to set aside the disqualification
31 under section 245C.24, subdivision 2, when applicable to the
32 individual;

33 (4) a statement indicating that if the individual's
34 disqualification is set aside or the facility is granted a
35 variance under section 245C.30, the individual's identity and
36 the reason for the individual's disqualification will become

1 public data; and

2 (5) the commissioner's determination of the individual's
3 immediate risk of harm under section 245C.16.

4 (b) If the commissioner determines under section 245C.16
5 that an individual poses an imminent risk of harm to persons
6 served by the program where the individual will have direct
7 contact, the commissioner's notice must include an explanation
8 of the basis of this determination.

9 ~~(c) If the commissioner determines under section 245C.16~~
10 ~~that an individual studied does not pose a risk of harm that~~
11 ~~requires continuous, direct supervision, the commissioner shall~~
12 ~~only notify the individual of the disqualification.~~

13 Sec. 7. Minnesota Statutes 2004, section 245C.17,
14 subdivision 3, is amended to read:

15 Subd. 3. [DISQUALIFICATION NOTICE SENT TO APPLICANT,
16 LICENSE HOLDER, OR OTHER ENTITY.] (a) The commissioner shall
17 notify an applicant, license holder, or other entity as provided
18 in this chapter who is not the subject of the study:

19 (1) that the commissioner has found information that
20 disqualifies the individual studied from direct contact with, or
21 from access to, persons served by the program; and

22 (2) the commissioner's determination of the individual's
23 risk of harm under section 245C.16.

24 (b) If the commissioner determines under section 245C.16
25 that an individual studied poses an imminent risk of harm to
26 persons served by the program where the individual studied will
27 have direct contact, the commissioner shall order the license
28 holder to immediately remove the individual studied from direct
29 contact.

30 (c) If the commissioner determines under section 245C.16
31 that an individual studied poses a risk of harm that requires
32 continuous, direct supervision, the commissioner shall order the
33 applicant, license holder, or other entities as provided in this
34 chapter to:

35 (1) immediately remove the individual studied from direct
36 contact services; or

1 (2) assure that the individual studied is under continuous,
 2 direct supervision when providing direct contact services during
 3 the period in which the individual may request a reconsideration
 4 of the disqualification under section 245C.21.

5 (d) If the commissioner determines under section 245C.16
 6 that an individual studied does not pose an imminent risk of
 7 harm to persons served by the program or a risk of harm that
 8 requires continuous, direct supervision, the commissioner shall
 9 send the license holder a notice that ~~more-time-is-needed-to~~
 10 ~~complete-the-individual's-background-study~~ the individual may
 11 only provide direct contact services on behalf of a license
 12 holder, pending reconsideration, if:

13 (1) the license holder is provided documentation on the
 14 disqualifying offense; and

15 (2) a request for reconsideration is filed with the
 16 commissioner within 15 days of receipt of the disqualification
 17 notice.

18 (e) The commissioner shall not notify the applicant,
 19 license holder, or other entity as provided in this chapter of
 20 the information contained in the subject's background study
 21 unless:

22 (1) the basis for the disqualification is failure to
 23 cooperate with the background study or substantiated
 24 maltreatment under section 626.556 or 626.557;

25 (2) the Data Practices Act under chapter 13 provides for
 26 release of the information; or

27 (3) the individual studied authorizes the release of the
 28 information.

29 Sec. 8. Minnesota Statutes 2004, section 245C.21,
 30 subdivision 3, is amended to read:

31 Subd. 3. [INFORMATION DISQUALIFIED INDIVIDUALS MUST
 32 PROVIDE WHEN REQUESTING RECONSIDERATION.] The (a) When a
 33 disqualified individual ~~requesting-reconsideration~~ requests that
 34 the commissioner rescind the disqualification, the individual
 35 must submit information showing that:

36 (1) the information the commissioner relied upon in

1 determining the underlying conduct that gave rise to the
2 disqualification is incorrect;

3 (2) for disqualifications under section 245C.15,
4 subdivision 1, based on maltreatment, the information the
5 commissioner relied upon in determining that maltreatment
6 resulted in death or serious injury as defined under section
7 245C.02, subdivision 18, is incorrect; or

8 (3) for disqualifications under section 245C.15,
9 subdivision 4, based on maltreatment, the information the
10 commissioner relied upon in determining that maltreatment was
11 serious or recurring is incorrect; or.

12 ~~(3)~~ (b) When a disqualified individual requests that the
13 commissioner set aside a disqualification, the individual must
14 submit information showing that:

15 (1) the subject of the study does not pose a risk of harm
16 to any person served by the applicant, license holder, or other
17 entities as provided in this chapter, by addressing the
18 information required under section 245C.22, subdivision 4; and

19 (2) the disqualified individual has received a notice
20 stating that if the disqualification is set aside, the
21 individual's identity and the individual's disqualifying
22 characteristics will become public data.

23 Sec. 9. Minnesota Statutes 2004, section 245C.21,
24 subdivision 4, is amended to read:

25 Subd. 4. [NOTICE OF REQUEST FOR RECONSIDERATION.] Upon
26 request, the commissioner may inform the applicant, license
27 holder, or other entities as provided in this chapter who
28 received a notice of the individual's disqualification under
29 section 245C.17~~-subdivision-3, or has the consent of the~~
30 ~~disqualified individual,~~ whether the disqualified individual has
31 requested reconsideration.

32 Sec. 10. Minnesota Statutes 2004, section 245C.22, is
33 amended by adding a subdivision to read:

34 Subd. 7. [CLASSIFICATION OF CERTAIN DATA AS PUBLIC OR
35 PRIVATE.] (a) Notwithstanding section 13.46, upon setting aside
36 a disqualification under this section, the identity of the

1 disqualified individual who received the set aside and the
 2 individual's disqualifying characteristics are public data.

3 (b) Notwithstanding section 13.46, upon granting a variance
 4 to a license holder under section 245C.30, the identity of the
 5 disqualified individual who is the subject of the variance, the
 6 individual's disqualifying characteristics, and the terms of the
 7 variance are public data.

8 (c) The identity of a disqualified individual and the
 9 reason for disqualification remain private data when a
 10 disqualification is:

11 (1) not set aside and no variance is granted; and

12 (2) rescinded because the information relied upon to
 13 disqualify the individual is incorrect.

14 Sec. 11. Minnesota Statutes 2004, section 245C.23,
 15 subdivision 1, is amended to read:

16 Subdivision 1. [COMMISSIONER'S NOTICE OF DISQUALIFICATION
 17 THAT IS RESCINDED OR SET ASIDE.] ~~(a)-Except-as-provided-under~~
 18 ~~paragraph-(c),~~ If the commissioner rescinds or sets aside a
 19 disqualification, the commissioner shall notify the applicant or
 20 license holder in writing or by electronic transmission of the
 21 decision. In the notice from the commissioner that a
 22 disqualification has been rescinded, the commissioner must
 23 inform the license holder that the information relied upon to
 24 disqualify the individual was incorrect. In the notice from the
 25 commissioner that a disqualification has been set aside, the
 26 commissioner must inform the license holder ~~that-information~~
 27 ~~about-the-nature~~ of the reason for the individual's
 28 disqualification and which factors under section 245C.22,
 29 subdivision 4, were the basis of the decision to set aside the
 30 disqualification are-available-to-the-license-holder-upon
 31 request-without-the-consent-of-the-background-study-subject.

32 ~~(b)-With-the-written-consent-of-the-background-study~~
 33 ~~subject, the commissioner may release to the license holder~~
 34 ~~copies of all information related to the background study~~
 35 ~~subject's disqualification and the commissioner's decision to~~
 36 ~~set aside the disqualification as specified in the written~~

1 consent.

2 ~~(c)-If-the-individual-studied-submits-a-timely-request-for~~
 3 ~~reconsideration-under-section-245C.21-and-the-license-holder-was~~
 4 ~~previously-sent-a-notice-under-section-245C.17,-subdivision-3,~~
 5 ~~paragraph-(d),-and-if-the-commissioner-sets-aside-the~~
 6 ~~disqualification-for-that-license-holder-under-section-245C.22,~~
 7 ~~the-commissioner-shall-send-the-license-holder-the-same~~
 8 ~~notification-received-by-license-holders-in-cases-where-the~~
 9 ~~individual-studied-has-no-disqualifying-characteristic.~~

10 Sec. 12. Minnesota Statutes 2004, section 245C.24,
 11 subdivision 2, is amended to read:

12 Subd. 2. [PERMANENT BAR TO SET ASIDE OF A
 13 DISQUALIFICATION.] The commissioner may not set aside the
 14 disqualification of an individual in connection with a
 15 license to-provide-family-child-care-for-children,-foster-care
 16 for-children-in-the-provider's-home,-or-foster-care-or-day-care
 17 services-for-adults-in-the-provider's-home, issued or in
 18 application status under chapter 245A, regardless of how much
 19 time has passed, if the provider was disqualified for a crime or
 20 conduct listed in section 245C.15, subdivision 1.

21 Sec. 13. Minnesota Statutes 2004, section 245C.24,
 22 subdivision 3, is amended to read:

23 Subd. 3. [TEN-YEAR BAR TO SET ASIDE DISQUALIFICATION.] (a)
 24 The commissioner may not set aside the disqualification of an
 25 individual in connection with a license to-provide-family-child
 26 care-for-children,-foster-care-for-children-in-the-provider's
 27 home,-or-foster-care-or-day-care-services-for-adults-in-the
 28 provider's-home under chapter 245A if: (1) less than ten years
 29 has passed since the discharge of the sentence imposed, if any,
 30 for the offense; and (2) the individual has been convicted
 31 of disqualified for a violation of any of the following
 32 offenses: sections 609.165-~~(felon-ineligible-to-possess~~
 33 ~~firearm),-criminal-vehicular-homicide-under-609.21-(criminal~~
 34 ~~vehicular-homicide-and-injury), 609.215 (aiding suicide or~~
 35 ~~aiding attempted suicide); felony violations under 609.223-or~~
 36 ~~609.2231 (assault in the third-or fourth degree); 609.713~~

1 (terroristic threats); ~~609.235-(use-of-drugs-to-injure-or-to~~
2 ~~facilitate-crime)}~~; ~~609.24-(simple-robbery)}~~; ~~609.255-(false~~
3 ~~imprisonment)}~~; ~~609.562-(arson-in-the-second-degree)}~~; 609.71
4 (riot); ~~609.498-subdivision-1-or-1b-(aggravated-first-degree-or~~
5 ~~first-degree-tampering-with-a-witness)}~~; ~~burglary-in-the-first-or~~
6 ~~second-degree-under 609.582, subdivision 2 (burglary in the~~
7 ~~second degree)~~; 609.66, subdivision 1, 1a, 1b, 1c, 1d, 1f, 1g,
8 or 1h (dangerous weapon); 609.665 (spring guns); 609.67 (machine
9 guns and short-barreled shotguns); 609.749, subdivision 2 (gross
10 misdemeanor harassment; stalking); ~~152.021-or-152.022~~
11 ~~{controlled-substance-crime-in-the-first-or-second-degree)}~~;
12 ~~152.023-subdivision-1, clause-(3)-or-(4)-or-subdivision-2,~~
13 ~~clause-(4)-(controlled-substance-crime-in-the-third-degree)}~~;
14 ~~152.024-subdivision-1, clause-(2),-(3),-or-(4)-(controlled~~
15 ~~substance-crime-in-the-fourth-degree)}~~; 609.224, subdivision 2,
16 paragraph (c) (fifth degree assault by a caregiver against a
17 vulnerable adult); 609.23 (mistreatment of persons confined);
18 609.231 (mistreatment of residents or patients); 609.2325
19 (criminal abuse of a vulnerable adult); 609.233 (criminal
20 neglect of a vulnerable adult); 609.2335 (financial exploitation
21 of a vulnerable adult); 609.234 (failure to report); 609.265
22 (abduction); ~~609.2664-to-609.2665-(manslaughter-of-an-unborn~~
23 ~~child-in-the-first-or-second-degree)}~~; ~~609.267-to 609.2672~~
24 (assault of an unborn child in the ~~first, second, or third~~
25 ~~degree)~~; ~~609.268-(injury-or-death-of-an-unborn-child-in-the~~
26 ~~commission-of-a-crime)}~~; 617.293 (disseminating or displaying
27 harmful material to minors); a felony-level conviction involving
28 alcohol or drug use, a gross misdemeanor offense under 609.324,
29 subdivision 1 (other prohibited acts); a gross misdemeanor
30 offense under 609.378 (neglect or endangerment of a child); a
31 gross misdemeanor offense under 609.377 (malicious punishment of
32 a child); or 609.72, subdivision 3 (disorderly conduct against a
33 vulnerable adult).

34 (b) The commissioner may not set aside the disqualification
35 of an individual if less than ten years have passed since the
36 individual's attempt or conspiracy to commit any of the offenses

1 listed in paragraph (a) as each of these offenses is defined in
2 Minnesota Statutes.

3 (c) The commissioner may not set aside the disqualification
4 of an individual if less than ten years have passed since the
5 discharge of the sentence imposed for an offense in any other
6 state or country, the elements of which are substantially
7 similar to the elements of any of the offenses listed in
8 paragraph (a).

9 Sec. 14. Minnesota Statutes 2004, section 245C.24,
10 subdivision 4, is amended to read:

11 Subd. 4. [SEVEN-YEAR BAR TO SET ASIDE DISQUALIFICATION.]

12 The commissioner may not set aside the disqualification of an
13 individual in connection with a license ~~to provide family child~~
14 ~~care for children, foster care for children in the provider's~~
15 ~~home, or foster care or day care services for adults in the~~
16 ~~provider's home~~ under chapter 245A if within seven years
17 preceding the study:

18 (1) the individual ~~committed an act that constitutes~~ was
19 determined to be responsible for maltreatment of a child under
20 section 626.556, ~~subdivision 10e,~~ and:

21 (i) the maltreatment is a disqualification under section
22 245C.15, subdivision 4; and

23 (ii) the maltreatment resulted in substantial bodily harm
24 as defined in section 609.02, subdivision 7a, or substantial
25 mental or emotional harm as supported by competent psychological
26 or psychiatric evidence; or

27 (2) the individual was determined to be responsible for
28 maltreatment under section 626.557 ~~to be the perpetrator of a~~
29 ~~substantiated incident of maltreatment of a vulnerable adult~~
30 that, and:

31 (i) the maltreatment is a disqualification under section
32 245C.15, subdivision 4; and

33 (ii) the maltreatment resulted in substantial bodily harm
34 as defined in section 609.02, subdivision 7a, or substantial
35 mental or emotional harm as supported by competent psychological
36 or psychiatric evidence.

1 Sec. 15. Minnesota Statutes 2004, section 245C.24, is
2 amended by adding a subdivision to read:

3 Subd. 6. [NOTIFICATION OF DISQUALIFICATIONS.] The
4 commissioner shall expand notification of disqualifications to
5 entities and inform the public about disqualifications.

6 Sec. 16. Minnesota Statutes 2004, section 245C.30,
7 subdivision 1, is amended to read:

8 Subdivision 1. [LICENSE HOLDER VARIANCE.] (a) Except for
9 any disqualification under section 245C.15, subdivision 1, when
10 the commissioner has not set aside a background study subject's
11 disqualification, and there are conditions under which the
12 disqualified individual may provide direct contact services or
13 have access to people receiving services that minimize the risk
14 of harm to people receiving services, the commissioner may grant
15 a time-limited variance to a license holder.

16 (b) The variance shall state the reason for the
17 disqualification, the services that may be provided by the
18 disqualified individual, and the conditions with which the
19 license holder or applicant must comply for the variance to
20 remain in effect.

21 (c) Except for programs licensed to provide family child
22 care for children, foster care for children in the provider's
23 own home, or foster care or day care services for adults in the
24 provider's own home, the variance must be requested by the
25 license holder.

26 Sec. 17. Minnesota Statutes 2004, section 245C.30,
27 subdivision 2, is amended to read:

28 Subd. 2. [DISCLOSURE OF REASON FOR DISQUALIFICATION.] (a)
29 The commissioner may not grant a variance for a disqualified
30 individual unless the ~~applicant-or-license-holder-requests-the~~
31 ~~variance-and-the~~ disqualified individual provides written
32 consent for the commissioner to disclose to the applicant or
33 license holder the reason for the disqualification; and the
34 commissioner has documentation showing that the disqualified
35 individual has been informed that if the variance is granted,
36 the individual's identity, reason for disqualification, and

1 terms of the variance will become public data.

2 ~~(b)-This-subdivision-does-not-apply-to-programs-licensed-to~~
3 ~~provide-family-child-care-for-children,-foster-care-for-children~~
4 ~~in-the-provider's-own-home,-or-foster-care-or-day-care-services~~
5 ~~for-adults-in-the-provider's-own-home.~~

6 Sec. 18. Minnesota Statutes 2004, section 626.557,
7 subdivision 12b, is amended to read:

8 Subd. 12b. [DATA MANAGEMENT.] (a) [COUNTY DATA.] In
9 performing any of the duties of this section as a lead agency,
10 the county social service agency shall maintain appropriate
11 records. Data collected by the county social service agency
12 under this section are welfare data under section 13.46.
13 Notwithstanding section 13.46, subdivision 1, paragraph (a),
14 data under this paragraph that are inactive investigative data
15 on an individual who is a vendor of services are private data on
16 individuals, as defined in section 13.02. The identity of the
17 reporter may only be disclosed as provided in paragraph (c).

18 Data maintained by the common entry point are confidential
19 data on individuals or protected nonpublic data as defined in
20 section 13.02. Notwithstanding section 138.163, the common
21 entry point shall destroy data three calendar years after date
22 of receipt.

23 (b) [LEAD AGENCY DATA.] The commissioners of health and
24 human services shall prepare an investigation memorandum for
25 each report alleging maltreatment investigated under this
26 section. During an investigation by the commissioner of health
27 or the commissioner of human services, data collected under this
28 section are confidential data on individuals or protected
29 nonpublic data as defined in section 13.02. Upon completion of
30 the investigation, the data are classified as provided in
31 clauses (1) to (3) and paragraph (c).

32 (1) The investigation memorandum must contain the following
33 data, which are public:

34 (i) the name of the facility investigated;
35 (ii) a statement of the nature of the alleged maltreatment;
36 (iii) pertinent information obtained from medical or other

1 records reviewed;

2 (iv) the identity of the investigator;

3 (v) a summary of the investigation's findings;

4 (vi) statement of whether the report was found to be
5 substantiated, inconclusive, false, or that no determination
6 will be made;

7 (vii) a statement of any action taken by the facility;

8 (viii) a statement of any action taken by the lead agency;

9 and

10 (ix) when a lead agency's determination has substantiated
11 maltreatment, a statement of whether an individual, individuals,
12 or a facility were responsible for the substantiated
13 maltreatment, if known.

14 The investigation memorandum must be written in a manner
15 which protects the identity of the reporter and of the
16 vulnerable adult and may not contain the names or, to the extent
17 possible, data on individuals or private data listed in clause
18 (2).

19 (2) Data on individuals collected and maintained in the
20 investigation memorandum are private data, including:

21 (i) the name of the vulnerable adult;

22 (ii) the identity of the individual alleged to be the
23 perpetrator;

24 (iii) the identity of the individual substantiated as the
25 perpetrator; and

26 (iv) the identity of all individuals interviewed as part of
27 the investigation.

28 (3) Other data on individuals maintained as part of an
29 investigation under this section are private data on individuals
30 upon completion of the investigation.

31 (c) [IDENTITY OF REPORTER.] The subject of the report may
32 compel disclosure of the name of the reporter only with the
33 consent of the reporter or upon a written finding by a court
34 that the report was false and there is evidence that the report
35 was made in bad faith. This subdivision does not alter
36 disclosure responsibilities or obligations under the Rules of

1 Criminal Procedure, except that where the identity of the
2 reporter is relevant to a criminal prosecution, the district
3 court shall do an in-camera review prior to determining whether
4 to order disclosure of the identity of the reporter.

5 (d) [DESTRUCTION OF DATA.] Notwithstanding section
6 138.163, data maintained under this section by the commissioners
7 of health and human services must be destroyed under the
8 following schedule:

9 (1) data from reports determined to be false, two years
10 after the finding was made;

11 (2) data from reports determined to be inconclusive, four
12 years after the finding was made;

13 (3) data from reports determined to be substantiated, **seven**
14 at least ten years after the finding was made; and

15 (4) data from reports which were not investigated by a lead
16 agency and for which there is no final disposition, two years
17 from the date of the report.

18 (e) [SUMMARY OF REPORTS.] The commissioners of health and
19 human services shall each annually report to the legislature and
20 the governor on the number and type of reports of alleged
21 maltreatment involving licensed facilities reported under this
22 section, the number of those requiring investigation under this
23 section, and the resolution of those investigations. The report
24 shall identify:

25 (1) whether and where backlogs of cases result in a failure
26 to conform with statutory time frames;

27 (2) where adequate coverage requires additional
28 appropriations and staffing; and

29 (3) any other trends that affect the safety of vulnerable
30 adults.

31 (f) [RECORD RETENTION POLICY.] Each lead agency must have
32 a record retention policy.

33 (g) [EXCHANGE OF INFORMATION.] Lead agencies, prosecuting
34 authorities, and law enforcement agencies may exchange not
35 public data, as defined in section 13.02, if the agency or
36 authority requesting the data determines that the data are

1 pertinent and necessary to the requesting agency in initiating,
2 furthering, or completing an investigation under this section.
3 Data collected under this section must be made available to
4 prosecuting authorities and law enforcement officials, local
5 county agencies, and licensing agencies investigating the
6 alleged maltreatment under this section. The lead agency shall
7 exchange not public data with the vulnerable adult maltreatment
8 review panel established in section 256.021 if the data are
9 pertinent and necessary for a review requested under that
10 section. Upon completion of the review, not public data
11 received by the review panel must be returned to the lead agency.

12 (h) [COMPLETION TIME.] Each lead agency shall keep records
13 of the length of time it takes to complete its investigations.

14 (i) [NOTIFICATION OF OTHER AFFECTED PARTIES.] A lead
15 agency may notify other affected parties and their authorized
16 representative if the agency has reason to believe maltreatment
17 has occurred and determines the information will safeguard the
18 well-being of the affected parties or dispel widespread rumor or
19 unrest in the affected facility.

20 (j) [FEDERAL REQUIREMENTS.] Under any notification
21 provision of this section, where federal law specifically
22 prohibits the disclosure of patient identifying information, a
23 lead agency may not provide any notice unless the vulnerable
24 adult has consented to disclosure in a manner which conforms to
25 federal requirements.

26 ARTICLE 8

27 SEX OFFENDER POLICY BOARD

28 Section 1. [243.168] [SEX OFFENDER POLICY BOARD;
29 ESTABLISHMENT; MEMBERSHIP; REPORTS.]

30 Subdivision 1. [ESTABLISHMENT.] A Sex Offender Policy
31 Board is established to develop professional standards for
32 treatment of sex offenders, including uniform supervision and
33 treatment guidelines.

34 (a) The governor shall appoint a Sex Offender Policy Board
35 to serve in an advisory capacity to the governor. The governor
36 shall appoint to the board five professionals with relevant and

1 complimentary experience in treatment, law enforcement, sex
2 offender assessment, and sex offender management.

3 (b) Members of the advisory committee appointed by the
4 governor serve at the pleasure of the governor and their terms
5 end with the term of the governor. Members of the advisory
6 committee serve without compensation but may be reimbursed for
7 reasonable expenses as determined by the commissioner of public
8 safety. Notwithstanding section 15.059, the advisory committee
9 does not expire until repealed by law.

10 Subd. 2. [REPORTS TO LEGISLATURE.] The board must submit
11 reports to the legislature on the professional standards for
12 treatment of sex offenders, including uniform supervision and
13 treatment guidelines.

| | | | |
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243.166 REGISTRATION OF PREDATORY OFFENDERS.

Subdivision 1. Registration required. (a) A person shall register under this section if:

(1) the person was charged with or petitioned for a felony violation of or attempt to violate any of the following, and convicted of or adjudicated delinquent for that offense or another offense arising out of the same set of circumstances:

- (i) murder under section 609.185, clause (2); or
 - (ii) kidnapping under section 609.25; or
 - (iii) criminal sexual conduct under section 609.342; 609.343; 609.344; 609.345; or 609.3451, subdivision 3; or
 - (iv) indecent exposure under section 617.23, subdivision 3;
- or

(2) the person was charged with or petitioned for falsely imprisoning a minor in violation of section 609.255, subdivision 2; soliciting a minor to engage in prostitution in violation of section 609.322 or 609.324; soliciting a minor to engage in sexual conduct in violation of section 609.352; using a minor in a sexual performance in violation of section 617.246; or possessing pornographic work involving a minor in violation of section 617.247, and convicted of or adjudicated delinquent for that offense or another offense arising out of the same set of circumstances; or

(3) the person was convicted of a predatory crime as defined in section 609.108, and the offender was sentenced as a patterned sex offender or the court found on its own motion or that of the prosecutor that the crime was part of a predatory pattern of behavior that had criminal sexual conduct as its goal; or

(4) the person was convicted of or adjudicated delinquent for, including pursuant to a court martial, violating a law of the United States, including the Uniform Code of Military Justice, similar to the offenses described in clause (1), (2), or (3).

(b) A person also shall register under this section if:

(1) the person was convicted of or adjudicated delinquent in another state for an offense that would be a violation of a law described in paragraph (a) if committed in this state;

(2) the person enters the state to reside, or to work or attend school; and

(3) ten years have not elapsed since the person was released from confinement or, if the person was not confined, since the person was convicted of or adjudicated delinquent for the offense that triggers registration, unless the person is subject to lifetime registration, in which case the person must register for life regardless of when the person was released from confinement, convicted, or adjudicated delinquent.

For purposes of this paragraph:

(i) "school" includes any public or private educational institution, including any secondary school, trade or professional institution, or institution of higher education, that the person is enrolled in on a full-time or part-time basis; and

(ii) "work" includes employment that is full time or part time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

(c) A person also shall register under this section if the

APPENDIX
Repealed Minnesota Statutes for 05-2278

person was committed pursuant to a court commitment order under section 253B.185 or Minnesota Statutes 1992, section 526.10, or a similar law of another state or the United States, regardless of whether the person was convicted of any offense.

(d) A person also shall register under this section if:

(1) the person was charged with or petitioned for a felony violation or attempt to violate any of the offenses listed in paragraph (a), clause (1), or a similar law of another state or the United States, or the person was charged with or petitioned for a violation of any of the offenses listed in paragraph (a), clause (2), or a similar law of another state or the United States;

(2) the person was found not guilty by reason of mental illness or mental deficiency after a trial for that offense, or found guilty but mentally ill after a trial for that offense, in states with a guilty but mentally ill verdict; and

(3) the person was committed pursuant to a court commitment order under section 253B.18 or a similar law of another state or the United States.

Subd. 8. Law enforcement authority. For purposes of this section, a law enforcement authority means, with respect to a home rule charter or statutory city, the chief of police, and with respect to an unincorporated area, the sheriff of the county.

246.017 MEDICAL RECORD; POLICY.

Subdivision 1. System of records and statistics.

The commissioner of human services shall cause to be devised, installed and operated an adequate system of records and statistics which shall consist of all basic record forms including patient personal records and medical record forms and the manner of their use shall be precisely uniform throughout all hospitals for the mentally ill.

609.108 MANDATORY INCREASED SENTENCES FOR CERTAIN PATTERNED AND PREDATORY SEX OFFENDERS; NO PRIOR CONVICTION REQUIRED.

Subd. 2. Increased statutory maximum. If the factfinder determines, at the time of the trial or the guilty plea, that a predatory offense was motivated by, committed in the course of, or committed in furtherance of sexual contact or penetration, as defined in section 609.341, and the court is imposing a sentence under subdivision 1, the statutory maximum imprisonment penalty for the offense is 40 years, notwithstanding the statutory maximum imprisonment penalty otherwise provided for the offense.

Bill Summary

Senate

Senate Counsel & Research

State of Minnesota

S.F. No. 1377 - Sex Offenders

Author: Senator Wes Skoglund
Prepared by: Kenneth P. Backhus, Senate Counsel (651/296-4396)
Date: March 29, 2005

Overview

S.F. No. 1377 requires indeterminate life sentences for certain egregious first-degree criminal sexual conduct offenses; creates a new crime of sixth-degree criminal sexual conduct; requires the Minnesota Sentencing Guidelines Commission to modify the sentencing guidelines to reflect the changes made in the bill; and makes numerous technical and conforming statutory changes.

ARTICLE 1**Sex Offenders: Mandatory Life Sentences for Certain Egregious and Repeat Sex Offenses; Other Sentencing Changes**Overview

Article 1 contains the sex offender sentencing changes, including the indeterminate life sentences, creates the new crime of sixth-degree criminal sexual conduct, and requires the Minnesota Sentencing Guidelines Commission to modify the sentencing guidelines grid to reflect the changes made in the bill.

Section 1 states the legislative findings and intent.

Section 2 provides that an offender serving an indeterminate life sentence (see **article 1, sections 11, 13, 15, 17, and 19**) may not be given supervised release without having served the minimum term of imprisonment as specified by the sentencing court.

Section 3 requires the Commissioner of Corrections, when considering whether to give supervised release to an offender serving an indeterminate life sentence (see **article 1, sections 11, 13, 15, 17, and 19**), to consider, at a minimum:

- the risk the offender poses to the community if released;
- the offender's progress in treatment;
- the offender's behavior while incarcerated;
- psychological or other diagnostic evaluations of the offender;
- the offender's criminal history; and
- any other relevant conduct of the offender while incarcerated or before incarceration.

Also makes a conforming change related to **article 1, section 2**.

Sections 4 to 6 amend the patterned and predatory offender sentencing law.

Section 4 adds a cross-reference to the new crime of sixth-degree criminal sexual conduct (see **article 1, section 19**). Strikes language relating to court findings regarding whether the necessary prongs of the law have been met. Substitutes for this a determination by the fact finder. These changes are necessary in light of the 2004 United States Supreme Court decision, Blakely v. Washington. Strikes other language that is no longer necessary in light of the changes made by this article.

Section 5 strikes the definition of "predatory crime." Replaces this with a cross-reference to what is essentially the same definition in **article 1, section 10**.

Section 6 makes the same substitution of a fact-finding determination for a court finding as was made in **article 1, section 4**.

Section 7 amends the repeat sex offender sentencing law to add a cross-reference to the new crime of sixth-degree criminal sexual conduct (see **article 1, section 19**).

Section 8 defines "sex offense" for purposes of the criminal sexual conduct laws to include violations/attempts to violate criminal sexual conduct in the first, second, third, fourth, or sixth degree or similar federal or state laws.

Section 9 defines "second or subsequent sex offense" for purposes of the criminal sexual conduct laws. Of note, this definition does not require an offender to commit and be convicted of a sex offense before the offender commits a subsequent sex offense in order to be considered a repeat offender. Instead, this definition allows an offender who commits more than one sex offense prior to being convicted as being considered a repeat offender (i.e., an offender who commits multiple offenses before being charged and convicted of anything can, after a conviction for the first offense, be considered as a repeat offender for the other offenses). Also of note, this definition also "counts" prior juvenile adjudications for sex offenses.

Section 10 defines "predatory crime" for purposes of the criminal sexual conduct laws. This definition is nearly identical to the definition stricken from the patterned and predatory offender sentencing law in **article 1, section 5**. The only difference is that the new definition does not include criminal sexual conduct in the first through fourth degrees because a reference to these crimes is unnecessary under the changes made by the article.

Sections 11 and 12 amend the first-degree criminal sexual conduct crime.

Section 11 requires an indeterminate life sentence for a person who commits a first-degree criminal sexual conduct offense that is considered to be a second or subsequent sex offense as defined in **article 1, section 9**. Also requires an indeterminate life sentence if the offender is convicted of first-degree criminal sexual conduct and the fact finder determines beyond a reasonable doubt that:

- the offender tortured the victim;
- the offender intentionally inflicted great bodily harm upon the victim;
- the offender kidnapped the victim;
- the victim was under the age of 13 at the time of the offense;
- the offender knowingly committed the offense in the presence of a child under the age of 13;
- the offender was armed with a dangerous weapon and used or threatened to use it to cause the victim to submit;

- the offense involved sexual penetration/contact of the victim by a foreign object or an animal;
- the offense involved sexual penetration/contact of more than one victim; or
- the offense involved more than one perpetrator engaging in sexual penetration/contact with the victim.

Specifies that the fact finder may not consider one of these elements if it already is an element of the underlying first-degree criminal sexual conduct violation. Requires the court to specify a minimum term of imprisonment that must be served before an offender serving an indeterminate life sentence under this section may be considered for supervised release. Defines "torture."

Section 12 makes a conforming change relating to **article 1, section 11**.

Sections 13, 15, and 17 amend the penalty subdivisions of criminal sexual conduct in the second, third, and fourth degrees to require an indeterminate life sentence for offenders who commit these crimes where the offense is considered a second or subsequent offense as defined in **article 1, section 9**. Makes other conforming and structural changes.

Sections 14, 16, and 18 amend other provisions of criminal sexual conduct in the second, third, and fourth degrees to make conforming changes consistent with this article.

Section 19 creates a new crime of criminal sexual conduct in the sixth degree, which occurs if an offender commits a predatory crime (see definition in **article 1, section 10**) that was motivated by the offender's sexual impulses or was committed as part of predatory pattern of behavior that had criminal sexual conduct as its goal. Provides a statutory maximum penalty for this offense of seven years imprisonment and/or payment of a fine of up to \$20,000. Requires that an offender convicted of this crime where the offense is considered a second or subsequent sex offense as defined in **article 1, section 9**, must be sentenced to an indeterminate life sentence. For an indeterminate life sentence, the court must specify a minimum term of imprisonment that must be served before the offender may be considered for supervised release. Thus, a person convicted of this new crime who is a repeat sex offender will receive the same type of indeterminate life sentence as a repeat first through fourth-degree criminal sexual conduct offender, or egregious first-degree criminal sexual conduct offender.

Section 20 requires the Minnesota Sentencing Guidelines Commission to modify the sentencing guidelines, including the guidelines grid, to reflect the changes made in this act. These changes must be based on the Commission's proposal in its January 2005 Report to the Legislature but must be adapted by the Commission to reflect the changes made in this act. These modifications go into effect on August 1, 2005.

Section 21 repeals a provision of the patterned and predatory offender sentencing statute providing for an increased statutory maximum penalty. This provision is no longer necessary based on the changes made in this article.

ARTICLE 2

Sex Offenders: Technical and Conforming Changes

Overview

Article 2 makes technical and conforming changes relating to the substantive changes made in **article 1**.

Sections 1 to 15 make technical and conforming changes to various statutes necessitated by **article 1** of this bill. Of note, **article 2, section 1**, clarifies that the definition of "rule" in chapter 14 does not include rules of the Commissioner of Corrections relating to the release or release term of inmates on supervised or conditional release. Also of note, **article 2, section 5**, provides timetables for the actions of the end of confinement review committees relating to offenders subject to indeterminate life sentences under **article 1**.

Section 16 instructs the Revisor of Statutes to renumber the sex offender assessment statute so that it does not fall numerically between fifth-degree criminal sexual conduct and the new sixth-degree criminal sexual conduct crime created in **article 1, section 19**. Also directs the Revisor to make other technical changes to statutes necessitated by this act.

KPB:ph

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

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Last review or update: 03/29/2005

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Preliminary

Consolidated Fiscal Note – 2005-06 Session

Bill #: S1377-0 Complete Date:

Chief Author: SKOGLUND, WESLEY

Title: MODIFY SEX OFFENDERS SENTENCING REQ

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

Agencies: Corrections Dept (03/10/05)
 Human Services Dept
 Public Defense Board (03/22/05)

Supreme Court
 Sentencing Guidelines Comm (03/10/05)
 Public Safety Dept (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 | 3,332 | 8,057 | 9,372 | 11,229 |
| Public Defense Board | | 3,332 | 7,020 | 7,020 | 7,020 |
| Corrections Dept | 0 | 0 | 1,037 | 2,352 | 4,209 |
| Revenues | | | | | |
| -- No Impact -- | | | | | |
| Net Cost <Savings> | | | | | |
| General Fund | 0 | 3,332 | 8,057 | 9,372 | 11,229 |
| Public Defense Board | | 3,332 | 7,020 | 7,020 | 7,020 |
| Corrections Dept | 0 | 0 | 1,037 | 2,352 | 4,209 |
| Total Cost <Savings> to the State | 0 | 3,332 | 8,057 | 9,372 | 11,229 |

| | FY05 | FY06 | FY07 | FY08 | FY09 |
|------------------------------|------|-------|-------|-------|--------|
| Full Time Equivalents | | | | | |
| General Fund | 0.00 | 52.00 | 68.60 | 89.60 | 119.30 |
| Public Defense Board | | 52.00 | 52.00 | 52.00 | 52.00 |
| Corrections Dept | 0.00 | 0.00 | 16.60 | 37.60 | 67.30 |
| Total FTE | 0.00 | 52.00 | 68.60 | 89.60 | 119.30 |

Preliminary

Fiscal Note – 2005-06 Session

Bill #: S1377-0 Complete Date: 03/10/05

Chief Author: SKOGLUND, WESLEY

Title: MODIFY SEX OFFENDERS SENTENCING REQ

| 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 | 0 | 1,037 | 2,352 | 4,209 |
| Less Agency Can Absorb | | | | | |
| - No Impact - | | | | | |
| Net Expenditures | | | | | |
| General Fund | 0 | 0 | 1,037 | 2,352 | 4,209 |
| Revenues | | | | | |
| - No Impact - | | | | | |
| Net Cost <Savings> | | | | | |
| General Fund | 0 | 0 | 1,037 | 2,352 | 4,209 |
| Total Cost <Savings> to the State | 0 | 0 | 1,037 | 2,352 | 4,209 |

| | FY05 | FY06 | FY07 | FY08 | FY09 |
|------------------------------|------|------|-------|-------|-------|
| Full Time Equivalents | | | | | |
| General Fund | 0.00 | 0.00 | 16.60 | 37.60 | 67.30 |
| Total FTE | 0.00 | 0.00 | 16.60 | 37.60 | 67.30 |

Preliminary

Bill Description

This bill establishes mandatory indeterminate life sentences for some criminal sexual conduct offenses. Offenders receiving these life sentences would be eligible to be considered for release after serving a minimum term pronounced by the sentencing court. The mandatory life sentences would apply to first degree offenders when one from a specific list of aggravating factors is present, as long as that factor is not an element of the offense. Indeterminate life sentences are also mandated for repeat first through fourth degree offenders. Offenses that qualify as prior sex offenses are expanded to include prior juvenile adjudications. The definition of a subsequent sex offense is also changed to include any conviction following a previous conviction for a sex offense regardless of when the offenses occurred. For other first through fourth degree offenses, the penalties prescribed by the Sentencing Guidelines Commission's sex offender grid would apply.

The bill also modifies and renumbers statute M.S. §609.108 – the patterned sex offender sentencing provision. It removes the "predatory crimes" from this provision and creates a new sixth degree criminal sexual conduct offense. This offense would consist of one of the predatory crimes that was motivated by the offender's sexual impulses or was part of a predatory pattern of behavior that had criminal sexual conduct as its goal. The statutory maximum for this offense would be seven years. If the predatory crime is a subsequent sex offense, the offender would qualify for the mandatory indeterminate life sentence.

See guidelines

Assumptions

- According to the Minnesota Sentencing Guidelines Commission there will be a significant increase in the need for prison beds. The impact of this bill is relatively clear for the first few years and after that point a range of beds is provided. In the long-term fiscal considerations section a range of costs will be provided for future 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.
- The provisions of this bill also provide that any offender with a life sentence that is released from prison will remain on conditional release for the remainder of life. This will increase supervision caseloads by up to 3,000 offenders statewide.
- Costs for supervision of these offenders is only mentioned in long-term fiscal considerations as it could be many years before the impact is felt on supervision caseloads
- This bill is effective August 1, 2005.

Expenditure and/or Revenue Formula

| Fiscal Year | 2005 | 2006 | 2007 | 2008 | 2009 |
|-----------------------------------|------|------|---------|---------|---------|
| Number of Prison Beds | 0 | 0 | 64 | 143 | 252 |
| Costs of Prison Beds (1=1,000) | \$0 | \$0 | \$1,037 | \$2,352 | \$4,209 |
| FTE | 0 | 0 | 16.6 | 37.6 | 67.3 |

Long-Term Fiscal Considerations

The long-term fiscal considerations are substantial. In 2060 the number of prison beds needed may range from 945 to 5,455. This would be a cost of \$25.2 million to \$145.5 million (calculated in FY05 dollars).

Based on the indeterminate sentencing provisions of this bill there will be a minimal savings in supervision caseloads from 2020 until 2025 by offenders serving an additional 5 years beyond current practice. These small savings will be offset very quickly beginning in 2025 when it is estimated that 152 offenders per year will be released and required to serve an estimated 20 years longer than current practice on conditional supervised release. The accumulative effect of this bill will be significant.

Preliminary

Local Government Costs

The provisions of this bill will have an impact on local law enforcement costs that may be significant with regards to community notification activities. There is the possibility of some savings in the use of local jails and workhouses for these offenders. There also would be a small decrease in felony probation caseloads of 80 offenders a year who are currently receiving probation sentences but will, under the provisions of this bill, receive executed prison sentences.

References/Sources

Minnesota Sentencing Guidelines staff.
Minnesota Department of Corrections staff.

FN Coord Signature: DENNY FONSECA
Date: 03/10/05 Phone: 642-0220

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: JIM KING
Date: 03/10/05 Phone: 296-7964

Preliminary

Fiscal Note – 2005-06 Session

Bill #: S1377-0 Complete Date:

Chief Author: SKOGLUND, WESLEY

Title: MODIFY SEX OFFENDERS SENTENCING REQ

| 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 | | | | | |
| – 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 | | | | | |

Preliminary

NARRATIVE: SF 1377/HF 1724

Bill Description

This bill provides for indeterminate and mandatory life sentences for certain sex offenses and creates the crime of sixth degree criminal sexual conduct. The bill also directs the Sentencing Guidelines Commission to modify sentencing guidelines.

Assumptions

Presently, the growth for the Minnesota Sex Offender program (MSOP) population is projected to increase an average of 23 individuals per fiscal year. This projection is based on the number of high-risk sex offenders currently serving their sentence in the Department of Corrections that will be referred for civil committed to the MSOP program. On average, individuals serve nine years in the Department of Corrections prior to being referred to the Minnesota Sex Offender program.

With the enactment of this bill, the Department of Human Services does not anticipate a change in the commitment referrals to the MSOP program from the Department of Corrections until fiscal year 2013. Due to the volatility in the number of convictions, the criminal characteristics involved and the current number of individuals serving sentences in Corrections, it is impossible to estimate fiscal impact to the program this far in the future.

Expenditure and/or Revenue Formula

N/A

Long-Term Fiscal Considerations

Any changes in cost to the Department of Human Services will not be realized until fiscal year 2013 or beyond.

Local Government Costs

Counties currently pay 10% of the per diem rate. As the population changes, the county total financial liability will also change.

References/Sources

Agency Contact Name: Shirley Jacobson 582-1876
FN Coord Signature: STEVE BARTA
Date: 03/14/05 Phone: 296-5685

Preliminary

Fiscal Note – 2005-06 Session

Bill #: S1377-0 Complete Date: 03/10/05

Chief Author: SKOGLUND, WESLEY

Title: MODIFY SEX OFFENDERS SENTENCING REQ

| 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 | | | | | |
| -- 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 | | | | | |

Preliminary

Agency Contact Name: AnnMarie O'Neill 651 793-7000
FN Coord Signature: FRANK AHRENS
Date: 03/10/05 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

Preliminary

Fiscal Note – 2005-06 Session

Bill #: S1377-0 Complete Date: 03/10/05

Chief Author: SKOGLUND, WESLEY

Title: MODIFY SEX OFFENDERS SENTENCING REQ

| 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 | | | | | |

Preliminary

Bill Description

This bill establishes mandatory indeterminate life sentences for some criminal sexual conduct offenses. Offenders receiving these life sentences would be eligible to be considered for release after serving a minimum term pronounced by the sentencing court. The mandatory life sentences would apply to first degree offenders when one from a specific list of aggravating factors is present, as long as that factor is not an element of the offense. Indeterminate life sentences are also mandated for repeat first through fourth degree offenders. Offenses that qualify as prior sex offenses are expanded to include prior juvenile adjudications. The definition of a subsequent sex offense is also changed to include any conviction following a previous conviction for a sex offense regardless of when the offenses occurred. For other first through fourth degree offenses, the penalties prescribed by the Sentencing Guidelines Commission's sex offender grid would apply.

The bill also modifies and renumbers statute M.S. §609.108 – the patterned sex offender sentencing provision. It removes the "predatory crimes" from this provision and creates a new sixth degree criminal sexual conduct offense. This offense would consist of one of the predatory crimes that was motivated by the offender's sexual impulses or was part of a predatory pattern of behavior that had criminal sexual conduct as its goal. The statutory maximum for this offense would be seven years. If the predatory crime is a subsequent sex offense, the offender would qualify for the mandatory indeterminate life sentence.

The bill is effective for crimes committed on or after August 1, 2005.

Assumptions

Projections based on Current Policies and Sentencing Practices as Reflected in MSGC data for Offenders Sentenced in 2003

❖ Number of Offenders

Indeterminate Life Sentences: MSGC identified 144 repeat sex offenders who would qualify for life sentences. These offenders are listed by type of prior offense in the table below as well as the percent in each group currently receiving executed sentences. Also displayed is their degree of conviction. Because the bill specifies that offenders who qualify shall receive a life sentence, it is assumed that executed prison sentences would be required for all of these offenders

This provision also applies to other offenders convicted of first degree offenses, if one from a specified list of aggravating factors is present, and the aggravating factor is not an element of the offense. It is not known how many of these offenders would be found by the fact finder to have the specified circumstances necessary to qualify for a life sentence. MSGC staff identified eight first-degree offenders who were not repeat offenders that received aggravated durational departures that were twice the presumptive sentence or longer, and for whom the court cited departure factors that appear related to the circumstances listed in this provision (departure reasons such as vulnerability of victim, particular cruelty, severity of injury, presence of young children). For the projections, it is assumed that eight first degree offenders a year who are not repeat offenders and are currently receiving aggravated durational departure would meet the requirements specified for a life sentence.

Offenders Eligible for Indeterminate Life Sentences

| Group | Number | Percent Executed |
|-------|--------|------------------|
|-------|--------|------------------|

Preliminary

| | | Prison Sentences |
|---|------------|------------------|
| First Degree offenders with aggravating factors | 8 | 8 (100%) |
| Offenders with True Prior Sex Offenses (convicted on prior before commit current offense) | 54 | 48 (89%) |
| Others with Prior Sex Offenses (not convicted on prior before date of current offense) | 82 | 38 (46%) |
| Offenders with a prior Juvenile Adjudication for a Criminal Sexual Conduct Offense | 8 | 4 (100%) |
| Total | 152 | 98 (65%) |

| Conviction Degree | Number of Offenders Eligible for Life With Release Possible |
|-------------------|---|
| First | 53 |
| Second | 42 |
| Third | 38 |
| Fourth | 19 |
| Total | 152 |

It is unclear how many offenders would qualify as predatory offenders under the new criminal sexual predatory conduct provision. Such offenders are currently eligible for sentencing as patterned sex offenders. None of the offenders sentenced as patterned sex offenders in 2003 were sentenced for an offense other than criminal sexual conduct. Since 1990, the patterned sex offender provision has only been used seven times for offenses other than criminal sexual conduct. Therefore, the impact presented here is limited to offenders sentenced for criminal sexual conduct offenses.

Other Offenders: Criminal sexual conduct offenders not covered by the life sentence provision would be subject to the new modifications to the Sentencing Guidelines for sex offenders. Of the 607 offenders sentenced for criminal sexual conduct offenses in 2003, 152 would qualify for life sentences and 455 would remain. Of these remaining offenders, 152 currently receive executed prison sentences, and it is projected that 161 would receive executed sentences under the Guidelines modifications. It is assumed that offenders currently receiving mitigated departures would continue to do so.

❖ Length of Incarceration

Indeterminate Life Sentences: The length of time that will be served by these offenders, beyond what is served under current practices, is uncertain. Not all of the offenders sentenced in 2003 were eligible for the longer presumptive sentences created in statute for certain first and second degree criminal sexual conduct offenses. These provisions will cover all future offenders. Therefore, the estimates presented here are based on the assumption that unless an offender received a mitigated durational departure, in the future they would have received the higher presumptive sentences now in effect. The bill states that these offenders must serve a minimum term to be determined by the sentencing court before being considered for release. Currently, the minimum term of imprisonment served by offenders is defined by statute as two-thirds of the total pronounced executed sentence. Through the use on consecutive sentences, offenders can serve longer than 20 years under current practices. It is assumed here that the minimum term to be served will be two-thirds of the new presumptive sentence from the Guidelines revised sex offender grid modifications, or what the offender is currently serving, whichever is longer. It is unknown how long offenders will serve beyond the minimum term before they are released or how many actually will ever be released.

Because of these uncertainties, a range of estimated prison impact is presented. Information is provided on the number of additional beds needed as a result of offenders serving additional time (on average two years, five years, 10 years, 20 years, and never being released). In order to determine the maximum amount of time these offenders could serve, different lengths of time to serve until death were applied to offenders based on their age at the time of sentencing. For example, those under age 25 were assumed to live an additional 55 years, while those in the 41-45 age group were assumed to live an additional 33 years. For the scenarios involving offenders serving 5 or more years beyond the minimum, these life expectancies were also applied.

Preliminary

Impact on State and Local Correctional Resources

❖ Impact on Prison Bed Needs

Indeterminate Life Sentences: The specific impact of the provision for these sentences is uncertain, but is projected to be significant. If all of these offenders serve the minimum term of imprisonment (assumed to be the new presumptive sentences on the sex offender grid), it is projected that 447 additional prison beds would be required. However, offenders would have to apply for release, and, therefore, it is not reasonable to assume that all would be released after serving only the minimum term of imprisonment. If 152 offenders a year receive life sentences, the impact could range from 745 additional beds (if all were released after serving two years beyond the minimum) to 3,230 beds (if, on average, offenders served an additional 20 years). If these offenders were never released and served a life sentence, there would be a need for 5,255 additional prison beds. Because some of these offenders are not currently receiving executed prison sentences, some impact will be realized the first year this sentencing change affects cases.

The table below displays the potential impact based on various assumptions regarding the number of years, on average, which offenders would be required to serve before release. The Impact is displayed separately for offenders who currently receive probationary sentences and those who are currently receiving an executed prison sentence.

| <u>Life Sentence When Mandated for First through Fourth Degree Sex Offenders</u> | | | | | | |
|---|--|---|---|--|--|--|
| <u>Additional Prison Beds Required Based On Time Served Before Release</u> | | | | | | |
| Type of Offender | Minimum (Based on Guidelines Modifications) | Minimum (20 years) + 2 years | Minimum (20 years) + 5 years | Minimum (20 years) + 10 years | Minimum (20 years) + 20 years | Serve Life (Time Served based on Age at Sentencing) |
| Current Probation (54 Offenders) | 187 | 450 | 731 | 1,187 | 1,991 | 3,000 |
| Current Prison (98 Offenders) | 260 | 295 | 457 | 724 | 1,240 | 2,255 |
| Total (152 Offenders) | 447 | 745 | 1,188 | 1,911 | 3,231 | 5,255 |

Other Offenders: Two hundred additional prison beds are projected to be needed for the remaining criminal sexual conduct offenders who would be sentenced according the modified guidelines. Nine of these offenders are currently receiving probation sentences.

Timing of Prison Beds Needed: An 11 month delay is assumed from the time the bill takes effect to the time impact is realized because there are often certain delays related to sex offenses (e.g., between offense dates, reporting dates, and conviction dates). Additionally, a delay is assumed because offenders subject to a life sentence are more likely to go to trial. The tables below show the estimated bed impact by fiscal year for the various scenarios for how long offenders given indeterminate sentences would serve before being released.

Number of Prison Beds Needed Each Year
For Proposed Life Sentences With and Without Release
And Other Criminal Sexual Conduct Offenders
With Various Scenarios For Amounts of Time Served Before Release

Preliminary

| Fiscal Year | Other CSC-Guidelines Modifications | Indeterminate Life | | | | No Release | Total |
|-------------|------------------------------------|--------------------|-------------------|--------------------|--------------------|------------|----------|
| | | Minimum + 2 years | Minimum + 5 years | Minimum + 10 years | Minimum + 20 years | | |
| 2007 | 9 | 55 | 55 | 55 | 55 | 55 | 64 |
| 2008 | 28 | 115 | 115 | 115 | 115 | 115 | 143 |
| 2009 | 55 | 197 | 197 | 197 | 197 | 197 | 252 |
| 2010 | 81 | 268 | 286 | 286 | 286 | 286 | 349-367 |
| 2011 | 102 | 331 | 382 | 382 | 382 | 382 | 433-484 |
| 2012 | 114 | 385 | 484 | 484 | 484 | 484 | 499-598 |
| 2013 | 123 | 430 | 571 | 588 | 588 | 588 | 553-711 |
| 2014 | 127 | 467 | 644 | 696 | 696 | 696 | 594-823 |
| 2015 | 137 | 506 | 715 | 814 | 814 | 814 | 643-951 |
| 2016 | 148 | 539 | 780 | 937 | 937 | 937 | 687-1085 |
| 2017 | 157 | 562 | 836 | 1062 | 1062 | 1062 | 719-1219 |
| 2018 | 162 | 583 | 883 | 1171 | 1188 | 1188 | 745-1350 |
| 2019 | 167 | 603 | 921 | 1266 | 1316 | 1316 | 770-1483 |
| 2020 | 172 | 620 | 946 | 1347 | 1444 | 1444 | 792-1616 |
| 2021 | 177 | 637 | 971 | 1417 | 1572 | 1572 | 814-1749 |
| 2022 | 182 | 651 | 992 | 1476 | 1701 | 1701 | 833-1883 |
| 2023 | 187 | 668 | 1016 | 1532 | 1835 | 1835 | 855-2022 |
| 2024 | 192 | 685 | 1041 | 1578 | 1969 | 1969 | 877-2161 |
| 2025 | 195 | 696 | 1062 | 1612 | 2103 | 2103 | 891-2298 |
| 2026 | 199 | 708 | 1084 | 1647 | 2240 | 2240 | 907-2439 |
| 2027 | 200 | 723 | 1108 | 1682 | 2380 | 2380 | 923-2580 |
| 2028 | 200 | 737 | 1126 | 1714 | 2501 | 2518 | 937-2718 |
| 2029 | 200 | 738 | 1142 | 1746 | 2608 | 2656 | 938-2856 |
| 2030 | 200 | 738 | 1157 | 1775 | 2700 | 2794 | 938-2994 |
| 2031 | 200 | 739 | 1172 | 1802 | 2784 | 2933 | 939-3133 |
| 2032 | 200 | 740 | 1174 | 1826 | 2851 | 3063 | 940-3263 |
| 2033 | 200 | 741 | 1176 | 1844 | 2910 | 3194 | 941-3394 |
| 2034 | 200 | 743 | 1179 | 1862 | 2963 | 3326 | 943-3526 |
| 2035 | 200 | 744 | 1182 | 1880 | 3003 | 3458 | 944-3658 |
| 2036 | 200 | 745 | 1184 | 1896 | 3043 | 3590 | 945-3790 |
| 2037 | 200 | 745 | 1186 | 1900 | 3073 | 3705 | 945-3905 |
| 2038 | 200 | 745 | 1188 | 1903 | 3102 | 3820 | 945-4020 |
| 2039 | 200 | 745 | 1188 | 1906 | 3130 | 3935 | 945-4135 |
| 2040 | 200 | 745 | 1188 | 1908 | 3150 | 4034 | 945-4234 |
| 2041 | 200 | 745 | 1188 | 1909 | 3168 | 4133 | 945-4333 |
| 2042 | 200 | 745 | 1188 | 1910 | 3185 | 4232 | 945-4432 |
| 2043 | 200 | 745 | 1188 | 1911 | 3198 | 4331 | 945-4531 |
| 2044 | 200 | 745 | 1188 | 1911 | 3209 | 4430 | 945-4630 |
| 2045 | 200 | 745 | 1188 | 1911 | 3216 | 4505 | 945-4705 |
| 2046 | 200 | 745 | 1188 | 1911 | 3223 | 4580 | 945-4780 |
| 2047 | 200 | 745 | 1188 | 1911 | 3225 | 4655 | 945-4855 |
| 2048 | 200 | 745 | 1188 | 1911 | 3227 | 4730 | 945-4930 |
| 2049 | 200 | 745 | 1188 | 1911 | 3229 | 4805 | 945-5005 |
| 2050 | 200 | 745 | 1188 | 1911 | 3230 | 4858 | 945-5058 |
| 2051 | 200 | 745 | 1188 | 1911 | 3231 | 4911 | 945-5111 |
| 2052 | 200 | 745 | 1188 | 1911 | 3231 | 4964 | 945-5164 |
| 2053 | 200 | 745 | 1188 | 1911 | 3231 | 5017 | 945-5217 |
| 2054 | 200 | 745 | 1188 | 1911 | 3231 | 5051 | 945-5251 |
| 2055 | 200 | 745 | 1188 | 1911 | 3231 | 5085 | 945-5285 |
| 2056 | 200 | 745 | 1188 | 1911 | 3231 | 5119 | 945-5319 |
| 2057 | 200 | 745 | 1188 | 1911 | 3231 | 5153 | 945-5353 |

Preliminary

| Fiscal Year | Other CSC-Guidelines Modifications | Indeterminate Life | | | | No Release | Total |
|-------------|------------------------------------|--------------------|-------------------|--------------------|--------------------|------------|----------|
| | | Minimum + 2 years | Minimum + 5 years | Minimum + 10 years | Minimum + 20 years | | |
| 2058 | 200 | 745 | 1188 | 1911 | 3231 | 5187 | 945-5387 |
| 2059 | 200 | 745 | 1188 | 1911 | 3231 | 5221 | 945-5421 |
| 2060 | 200 | 745 | 1188 | 1911 | 3231 | 5255 | 945-5455 |

Impact on Conditional Release Caseloads: It is assumed that any offenders with a life sentence that are released from prison will remain on conditional release for the remainder of their lives. The increase in supervision caseloads could be significant. The offenders in this group currently receiving executed sentences now serve at least 60 months on conditional release. Those who meet the current definition of subsequent offenders must serve 10 years on conditional release. If, for example, 152 offenders per year receive indeterminate sentences, and they are released after serving five years beyond what they would under current sentencing provisions, they can be expected to serve approximately 20 more years on conditional release than they are currently serving, resulting in an eventual supervised release caseload increase of over 3,000 offenders. If they serve 20 years in prison beyond what they would under current sentencing provisions, they can be expected to serve approximately five more years on conditional release than they are currently serving, resulting in an eventual supervised release caseload increase of over 700 offenders.

In addition, given the increased periods of supervised release for these offenders, it is reasonable to assume that additional prison beds will be needed to accommodate an increased number of conditional release revocations. Currently, supervised release return rates are higher for sex offenders than for any other group of released offenders, accounting for 42% of the prison admissions for sex offenders in 2003. With an increase in the number of sex offenders on conditional release supervision and the increased period of supervision, an increase in release revocations is highly probable and has the potential to have an additional significant impact on the number of prison beds required above what is indicated in this analysis.

Local Resources: There is the possibility of some savings in the use of local jail and workhouse beds for these offenders. Sex offenders with presumptive prison sentences who instead receive probationary sentences are almost always required to serve local jail time as a condition of probation. In 2003, 84% of the criminal sexual conduct offenders who received mitigated dispositional departures had local jail time pronounced as a condition of probation with an average pronounced duration of 277 days. There also would be a decrease in felony probation caseloads of 80 offenders a year who are currently receiving probation sentences but will, under the provisions of this bill, receive executed prison sentences.

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

Preliminary

Fiscal Note – 2005-06 Session

Bill #: S1377-0 Complete Date:

Chief Author: SKOGLUND, WESLEY

Title: MODIFY SEX OFFENDERS SENTENCING REQ

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

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 | | | | | |

Preliminary

Bill Description

This bill establishes mandatory indeterminate life sentences for some criminal sexual conduct offenses. Offenders receiving these life sentences would be eligible to be considered for release after serving a minimum term pronounced by the sentencing court. The mandatory life sentences would apply to first degree offenders when one from a specific list of aggravating factors is present, as long as that factor is not an element of the offense. Indeterminate life sentences are also mandated for repeat first through fourth degree offenders. Offenses that qualify as prior sex offenses are expanded to include prior juvenile adjudications. The definition of a subsequent sex offense is also changed to include any conviction following a previous conviction for a sex offense regardless of when the offenses occurred. For other first through fourth degree offenses, the penalties prescribed by the Sentencing Guidelines Commission's sex offender grid would apply.

The bill also modifies and renumbers statute M.S. §609.108 – the patterned sex offender sentencing provision. It removes the "predatory crimes" from this provision and creates a new sixth degree criminal sexual conduct offense. This offense would consist of one of the predatory crimes that was motivated by the offender's sexual impulses or was part of a predatory pattern of behavior that had criminal sexual conduct as its goal. The statutory maximum for this offense would be seven years. If the predatory crime is a subsequent sex offense, the offender would qualify for the mandatory indeterminate life sentence.

The bill is effective for crimes committed on or after August 1, 2005.

Assumptions

Expenditure and/or Revenue Formula

Long-Term Fiscal Considerations

Local Government Costs

References/Sources

Preliminary

Fiscal Note – 2005-06 Session

Bill #: S1377-0 Complete Date: 03/22/05

Chief Author: SKOGLUND, WESLEY

Title: MODIFY SEX OFFENDERS SENTENCING REQ

| 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 | | 3,332 | 7,020 | 7,020 | 7,020 |
| Less Agency Can Absorb | | | | | |
| -- No Impact -- | | | | | |
| Net Expenditures | | | | | |
| General Fund | | 3,332 | 7,020 | 7,020 | 7,020 |
| Revenues | | | | | |
| -- No Impact -- | | | | | |
| Net Cost <Savings> | | | | | |
| General Fund | | 3,332 | 7,020 | 7,020 | 7,020 |
| Total Cost <Savings> to the State | | 3,332 | 7,020 | 7,020 | 7,020 |

| | FY05 | FY06 | FY07 | FY08 | FY09 |
|------------------------------|------|-------|-------|-------|-------|
| Full Time Equivalents | | | | | |
| General Fund | | 52.00 | 52.00 | 52.00 | 52.00 |
| Total FTE | | 52.00 | 52.00 | 52.00 | 52.00 |

Preliminary

Bill Description

This bill provides for indeterminate life sentences for CSC 1 if accompanied by any of 9 aggravating factors. It provides for indeterminate life sentences for any second CSC 1, 2, 3, or 4, or the new CSC 6, which refers to a range of sexually motivated "predatory crimes." The "first offense" would include any CSC juvenile adjudication. Provisions are made for offenders serving life terms to apply for supervised release.

For CSC crimes not subject to life sentences, a new Guidelines grid is mandated, and the statutory maximums are doubled.

Assumptions

The creation of many possibilities for indeterminate life sentences, particularly for the "second offense" in the lower degrees of CSC, is a huge change from the Sentencing Guidelines that Minnesota has used for 25 years. Under the Guidelines, even very serious cases can be plea bargained either by adjusting the charges or by agreeing to accept or give up a possible departure, so that all parties know exactly what the sentence will be prior to the entry of the plea, or at least, before the court accepts the plea.

The "indeterminate life sentence" does not offer the alleged offender any break in exchange for a plea, so many more cases will go to trial. This includes the "aggravated CSC 1," and all the "second offense" other CSC cases. In addition, although most "first offense" cases will still be on the Guidelines grid, exposure to longer sentences and the knowledge that a conviction is a first step to a life sentence, will lead to more trials. Moreover, people convicted at trial have a much, much higher rate of appeal than people who plead guilty, because the Appellate Office has the discretion to decline guilty plea appeals if they lack merit. CSC cases that go to trial produce long, expensive, complex transcripts containing many possible appellate issues.

The creation of CSC 6 also will lead to more trials, because it converts 16 common felonies into sex crimes, again with the understanding that a second offense means a life sentence.

Further, the inclusion of a juvenile adjudication as a "first offense" will increase litigation substantially in Juvenile Court. There are currently about 500 juveniles charged with delinquency based on CSC in Minnesota every year, but very few of them go to trial because the Juvenile Court emphasizes planning the appropriate rehabilitation for Each individual. If the case is seen instead as a first step to a life sentence there will be more stays of adjudication, but also many more trials.

Expenditure and/or Revenue Formula

Trial Level

The Sentencing Guidelines Commission reports that in calendar year (CY) 2002 there were 558 felony level convictions for sexual offenses with 35% of these resulting in prison time. Using the Supreme Court's estimated trial rate of 70% for these types of cases this would result in an additional 137 trials. In addition, there would be additional trials based on the creation of a new category of offense criminal sexual conduct 6, (Estimated at 60) for a total of 197 new trials. This number may be low. With the prospect of the life sentence being involved, a vast majority of these cases will go to trial. When polled recently District Chief Public Defenders could only recall twelve to fifteen cases over the last twenty years where a defendant looking at life in prison without possibility of parole, ultimately pled guilty.

Finally, there will be an increase in the number of trials in juvenile court as result of having juvenile adjudications count as an offense when the individual is an adult. According to the Supreme Court there were approximately 500 juvenile CSC petitions in 2003. Even using the current trial rate for CSC II cases (24%) and accounting for public defender representation rates, this would yield an additional 108 trials on the juvenile level. I these tend not to be as long as a jury trial but the prep time and investigation time is just as great.

Based on two hundred trials and assuming two attorneys per case (standard in cases with life sentences) a trial lasting on average 1.5 weeks with, with 1.5 weeks of preparation time, we can expect an additional 40,000 hours of public defender time being necessary to try these cases. In addition there would be a need for an additional 8,600 hours of time to try the juvenile cases. Based on a regular year and accounting for vacation, holidays and other time off, there would be a need for an additional 27 FTE attorneys around the state. In addition, based on the Board's Weighted Caseload Study there would be a need for five additional investigators, four dispositional advisors, four paralegals, and three legal secretary positions. These cases would also require extensive use of expert witnesses, psychological exams, and DNA analysis.

Appeals

Preliminary

Under this bill we can expect approximately one ninety seven additional adult trials around the state and an additional 108 juvenile trials. Assuming that some of these folks are acquitted, and some will not be appealed, it still may be expected that there will be one hundred seventy five appeals filed in these cases.

This would require an additional eight attorneys and two legal secretaries in the in the OSPD. Assuming that staff is hired at just above entry level, costs directly related to personnel would be \$700,000. Another consideration is the cost of trial transcripts in these cases. Typically these would be quite long and costly. Assuming a one week trial we would estimate that the trial transcript could be approximately \$3,500 per case, or \$612,000.

TOTAL

1st Year- \$3,332,000 (Phased in)

2nd Year- \$7,020,000

Long-Term Fiscal Considerations

The process for seeking release under this bill may also require counsel. Significant costs will also be incurred as the result of the penalties in the bill. While these have not been included here, they are a consideration for the future.

FN Coord Signature: KEVIN KAJER

Date: 03/21/05 Phone: 349-2565

EBO Comments

The agency has projected costs based on its estimate of the number of additional cases and workload involved with trials and appeals.

EBO Signature: JIM KING

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

Senators Skoglund and Neuville introduced--

S.F. No. 1377: Referred to the Committee on Crime Prevention and Public Safety.

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A bill for an act

relating to public safety; requiring indeterminate life sentences for certain egregious first degree criminal sexual conduct offenses; requiring indeterminate life sentences for repeat sex offenses; creating the crime of sixth degree criminal sexual conduct; modifying the patterned sex offender sentencing law; making necessary technical and conforming statutory changes; directing the Sentencing Guidelines Commission to modify the Sentencing Guidelines; providing criminal penalties; amending Minnesota Statutes 2004, sections 14.03, subdivision 3; 243.166, subdivision 1; 244.05, subdivisions 4, 5, 6, 7; 244.052, subdivision 3; 609.108, subdivisions 1, 3, 4; 609.109, subdivisions 2, 5, 7; 609.117, subdivisions 1, 2; 609.1351; 609.341, by adding subdivisions; 609.342, subdivisions 2, 3; 609.343, subdivisions 2, 3; 609.344, subdivisions 2, 3; 609.345, subdivisions 2, 3; 609.347; 609.3471; 609.348; 609.353; 631.045; proposing coding for new law in Minnesota Statutes, chapter 609; repealing Minnesota Statutes 2004, section 609.108, subdivision 2.

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

ARTICLE 1

SEX OFFENDERS:

MANDATORY LIFE SENTENCES FOR CERTAIN EGREGIOUS AND REPEAT SEX OFFENSES; OTHER SENTENCING CHANGES

Section 1. [LEGISLATIVE FINDINGS AND INTENT.]

The legislature finds that sex offenders pose a significant public safety threat. Based upon the harm they cause to their victims and the community, psychological factors unique to their makeup, and their future dangerousness, these types of offenders merit long-term supervision and treatment more so than do other

1 types of criminal offenders. The legislature further finds that
2 this type of supervision and treatment is best provided in a
3 correctional setting and that the costs associated with this are
4 an appropriate use of state resources.

5 It is the legislature's intent in enacting this act to
6 provide a flexible approach that allows dangerous sex offenders
7 to be incarcerated for longer periods of time than is currently
8 possible. The legislature specifically intends that a sex
9 offender's future dangerousness be taken into consideration when
10 making sentencing and release decisions concerning the offender.

11 Sec. 2. Minnesota Statutes 2004, section 244.05,
12 subdivision 4, is amended to read:

13 Subd. 4. [MINIMUM IMPRISONMENT, LIFE SENTENCE.] An inmate
14 serving a mandatory life sentence under section 609.106 must not
15 be given supervised release under this section. An inmate
16 serving a mandatory life sentence under section 609.185, clause
17 (1), (3), (5), or (6); or 609.109, subdivision 2a 3, must not be
18 given supervised release under this section without having
19 served a minimum term of 30 years. An inmate serving a
20 mandatory life sentence under section 609.385 must not be given
21 supervised release under this section without having served a
22 minimum term of imprisonment of 17 years. An inmate serving a
23 mandatory life sentence under section 609.342, subdivision 2,
24 paragraph (b); 609.343, subdivision 2, paragraph (b); 609.344,
25 subdivision 2, paragraph (b); 609.345, subdivision 2, paragraph
26 (b); or 609.3453, subdivision 2, paragraph (b), must not be
27 given supervised release under this section without having
28 served the minimum term of imprisonment specified by the court
29 in its sentence.

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

32 Sec. 3. Minnesota Statutes 2004, section 244.05,
33 subdivision 5, is amended to read:

34 Subd. 5. [SUPERVISED RELEASE, LIFE SENTENCE.] (a) The
35 commissioner of corrections may, under rules promulgated by the
36 commissioner, give supervised release to an inmate serving a

1 mandatory life sentence under section 609.185, clause (1), (3),
2 (5), or (6); 609.109, subdivision 2a 3; 609.342, subdivision 2,
3 paragraph (b); 609.343, subdivision 2, paragraph (b); 609.344,
4 subdivision 2, paragraph (b); 609.345, subdivision 2, paragraph
5 (b); 609.3453, subdivision 2, paragraph (b); or 609.385 after
6 the inmate has served the minimum term of imprisonment specified
7 in subdivision 4.

8 (b) The commissioner shall require the preparation of a
9 community investigation report and shall consider the findings
10 of the report when making a supervised release decision under
11 this subdivision. The report shall reflect the sentiment of the
12 various elements of the community toward the inmate, both at the
13 time of the offense and at the present time. The report shall
14 include the views of the sentencing judge, the prosecutor, any
15 law enforcement personnel who may have been involved in the
16 case, and any successors to these individuals who may have
17 information relevant to the supervised release decision. The
18 report shall also include the views of the victim and the
19 victim's family unless the victim or the victim's family chooses
20 not to participate.

21 (c) The commissioner shall make reasonable efforts to
22 notify the victim, in advance, of the time and place of the
23 inmate's supervised release review hearing. The victim has a
24 right to submit an oral or written statement at the review
25 hearing. The statement may summarize the harm suffered by the
26 victim as a result of the crime and give the victim's
27 recommendation on whether the inmate should be given supervised
28 release at this time. The commissioner must consider the
29 victim's statement when making the supervised release decision.

30 (d) When considering whether to give supervised release to
31 an inmate serving a life sentence under section 609.342,
32 subdivision 2, paragraph (b); 609.343, subdivision 2, paragraph
33 (b); 609.344, subdivision 2, paragraph (b); 609.345, subdivision
34 2, paragraph (b); or 609.3453, subdivision 2, paragraph (b), the
35 commissioner shall consider, at a minimum, the following: the
36 risk the inmate poses to the community if released, the inmate's

1 progress in treatment, the inmate's behavior while incarcerated,
 2 psychological or other diagnostic evaluations of the inmate, the
 3 inmate's criminal history, and any other relevant conduct of the
 4 inmate while incarcerated or before incarceration.

5 (e) As used in this subdivision, "victim" means the
 6 individual who suffered harm as a result of the inmate's crime
 7 or, if the individual is deceased, the deceased's surviving
 8 spouse or next of kin.

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

11 Sec. 4. Minnesota Statutes 2004, section 609.108,
 12 subdivision 1, is amended to read:

13 Subdivision 1. [MANDATORY INCREASED SENTENCE.] (a) A court
 14 shall commit a person to the commissioner of corrections for a
 15 period of time that is not less than double the presumptive
 16 sentence under the Sentencing Guidelines and not more than the
 17 statutory maximum, or if the statutory maximum is less than
 18 double the presumptive sentence, for a period of time that is
 19 equal to the statutory maximum, if:

20 (1) ~~the court is imposing an executed sentence, based on a~~
 21 ~~Sentencing Guidelines presumptive imprisonment sentence or a~~
 22 ~~dispositional departure for aggravating circumstances or a~~
 23 ~~mandatory minimum sentence, on a person convicted of committing~~
 24 ~~or attempting to commit a violation of section 609.342, 609.343,~~
 25 ~~609.344, or 609.345, or on a person convicted of committing or~~
 26 ~~attempting to commit any other crime listed in subdivision 3 if~~
 27 ~~it reasonably appears to the court that the crime was motivated~~
 28 ~~by the offender's sexual impulses or was part of a predatory~~
 29 ~~pattern of behavior that had criminal sexual conduct as its goal~~
 30 609.3453;

31 (2) ~~the court finds~~ fact finder determines that the
 32 offender is a danger to public safety; and

33 (3) ~~the court finds~~ fact finder determines that the
 34 ~~offender needs long-term treatment or supervision~~ offender's
 35 criminal sexual behavior is so engrained that the risk of
 36 reoffending is great without intensive psychotherapeutic

1 intervention or other long-term treatment or supervision
 2 extending beyond the presumptive term of imprisonment and
 3 supervised release. ~~The finding must be based on a professional~~
 4 ~~assessment by an examiner experienced in evaluating sex~~
 5 ~~offenders that concludes that the offender is a patterned sex~~
 6 ~~offender. The assessment must contain the facts upon which the~~
 7 ~~conclusion is based, with reference to the offense history of~~
 8 ~~the offender or the severity of the current offense, the social~~
 9 ~~history of the offender, and the results of an examination of~~
 10 ~~the offender's mental status unless the offender refuses to be~~
 11 ~~examined. The conclusion may not be based on testing alone. A~~
 12 ~~patterned sex offender is one whose criminal sexual behavior is~~
 13 ~~so engrained that the risk of reoffending is great without~~
 14 ~~intensive psychotherapeutic intervention or other long-term~~
 15 ~~controls.~~

16 (b) ~~The court shall consider imposing a sentence under this~~
 17 ~~section whenever a person is convicted of violating section~~
 18 ~~609.342 or 609.343.~~

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

21 Sec. 5. Minnesota Statutes 2004, section 609.108,
 22 subdivision 3, is amended to read:

23 Subd. 3. [PREDATORY CRIME.] ~~A predatory crime is a felony~~
 24 ~~violation of section 609.185, 609.197, 609.195, 609.207, 609.205,~~
 25 ~~609.221, 609.222, 609.223, 609.247, 609.245, 609.257, 609.255,~~
 26 ~~609.342, 609.343, 609.344, 609.345, 609.365, 609.498, 609.561,~~
 27 ~~or 609.582, subdivision 1. As used in this section, "predatory~~
 28 ~~crime" has the meaning given in section 609.341, subdivision 24.~~

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

31 Sec. 6. Minnesota Statutes 2004, section 609.108,
 32 subdivision 4, is amended to read:

33 Subd. 4. [DANGER TO PUBLIC SAFETY.] ~~The court shall base~~
 34 ~~its finding~~ fact finder shall base its determination that the
 35 offender is a danger to public safety on any of the following
 36 factors:

1 (1) the crime involved an aggravating factor that would
2 justify a durational departure from the presumptive sentence
3 under the Sentencing Guidelines;

4 (2) the offender previously committed or attempted to
5 commit a predatory crime or a violation of section 609.224 or
6 609.2242, including:

7 (i) an offense committed as a juvenile that would have been
8 a predatory crime or a violation of section 609.224 or 609.2242
9 if committed by an adult; or

10 (ii) a violation or attempted violation of a similar law of
11 any other state or the United States; or

12 (3) the offender planned or prepared for the crime prior to
13 its commission.

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

16 Sec. 7. Minnesota Statutes 2004, section 609.109,
17 subdivision 7, is amended to read:

18 Subd. 7. [CONDITIONAL RELEASE OF SEX OFFENDERS.] (a)
19 Notwithstanding the statutory maximum sentence otherwise
20 applicable to the offense or any provision of the Sentencing
21 Guidelines, when a court sentences a person to prison for a
22 violation of section 609.342, 609.343, 609.344, ~~or~~ 609.345, or
23 609.3453, the court shall provide that after the person has
24 completed the sentence imposed, the commissioner of corrections
25 shall place the person on conditional release.

26 If the person was convicted for a violation of section
27 609.342, 609.343, 609.344, ~~or~~ 609.345, or 609.3453, the person
28 shall be placed on conditional release for five years, minus the
29 time the person served on supervised release.

30 If the person was convicted for a violation of one of those
31 sections ~~after-a-previous~~ and the violation is a second or
32 subsequent sex offense ~~conviction~~ as defined in section 609.341,
33 subdivision 5 23, or sentenced under subdivision 6 to a
34 mandatory departure, the person shall be placed on conditional
35 release for ten years, minus the time the person served on
36 supervised release.

1 (b) The conditions of release may include successful
2 completion of treatment and aftercare in a program approved by
3 the commissioner, satisfaction of the release conditions
4 specified in section 244.05, subdivision 6, and any other
5 conditions the commissioner considers appropriate. If the
6 offender fails to meet any condition of release, the
7 commissioner may revoke the offender's conditional release and
8 order that the offender serve the remaining portion of the
9 conditional release term in prison. The commissioner shall not
10 dismiss the offender from supervision before the conditional
11 release term expires.

12 Conditional release under this subdivision is governed by
13 provisions relating to supervised release, except as otherwise
14 provided in this subdivision, section 244.04, subdivision 1, or
15 244.05.

16 (c) The commissioner shall pay the cost of treatment of a
17 person released under this subdivision. This section does not
18 require the commissioner to accept or retain an offender in a
19 treatment program.

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

22 Sec. 8. Minnesota Statutes 2004, section 609.341, is
23 amended by adding a subdivision to read:

24 Subd. 22. [SEX OFFENSE.] Except for section 609.3452, "sex
25 offense" means any violation of, or attempt to violate, section
26 609.342, 609.343, 609.344, 609.345, 609.3453, or any similar
27 statute of the United States, this state, or any other state.

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

30 Sec. 9. Minnesota Statutes 2004, section 609.341, is
31 amended by adding a subdivision to read:

32 Subd. 23. [SECOND OR SUBSEQUENT SEX OFFENSE.] "Second or
33 subsequent sex offense" means a sex offense for which the
34 offender is convicted after the offender has already been
35 convicted or adjudicated delinquent for another sex offense in a
36 separate behavioral incident, regardless of when the behavioral

1 incident occurred.

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

4 Sec. 10. Minnesota Statutes 2004, section 609.341, is
5 amended by adding a subdivision to read:

6 Subd. 24. [PREDATORY CRIME.] "Predatory crime" means a
7 felony violation of section 609.185, 609.19, 609.195, 609.20,
8 609.205, 609.221, 609.222, 609.223, 609.24, 609.245, 609.25,
9 609.255, 609.365, 609.498, 609.561, or 609.582, subdivision 1.

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

12 Sec. 11. Minnesota Statutes 2004, section 609.342,
13 subdivision 2, is amended to read:

14 Subd. 2. [PENALTY.] (a) Except as otherwise provided
15 ~~in section 609.109~~ paragraph (b), a person convicted under
16 subdivision 1 may be sentenced to imprisonment for not more than
17 30 years ~~or to a payment of a fine of not more than \$40,000, or~~
18 ~~both.~~

19 ~~(b)~~ Unless a longer mandatory minimum sentence is otherwise
20 required by law or the Sentencing Guidelines provide for a
21 longer presumptive executed sentence, the court shall presume
22 that an executed sentence of 144 months must be imposed on an
23 offender convicted of violating this section. Sentencing a
24 person in a manner other than that described in this paragraph
25 is a departure from the Sentencing Guidelines.

26 (b) The court shall sentence a person to imprisonment for
27 life if:

28 (1) the person is convicted under subdivision 1 of a second
29 or subsequent sex offense; or

30 (2) the person is convicted under subdivision 1, and the
31 fact finder determines beyond a reasonable doubt that any of the
32 following circumstances exist:

33 (i) the offender tortured the complainant;

34 (ii) the offender intentionally inflicted great bodily harm
35 upon the complainant;

36 (iii) the offender violated section 609.25 as part of the

1 same course of conduct against the complainant;

2 (iv) the complainant was under 13 years of age at the time
3 of the offense;

4 (v) the offender knowingly committed the offense in the
5 presence of a child under 13 years of age;

6 (vi) the offender was armed with a dangerous weapon or any
7 article used or fashioned in a manner to lead the complainant to
8 reasonably believe it to be a dangerous weapon and used or
9 threatened to use the weapon or article to cause the complainant
10 to submit;

11 (vii) the offense involved sexual penetration or sexual
12 contact of the complainant by a foreign object or an animal;

13 (viii) the offense involved sexual penetration or sexual
14 contact of more than one victim; or

15 (ix) the offense involved more than one perpetrator
16 engaging in sexual penetration or sexual contact with the
17 complainant.

18 The fact finder may not consider a circumstance described
19 in items (i) to (ix), if it is an element of the underlying
20 violation of subdivision 1.

21 At the time of sentencing, the court shall specify a
22 minimum term of imprisonment that must be served before the
23 offender may be considered for supervised release.

24 As used in this paragraph, "torture" means the intentional
25 infliction of extreme mental anguish, or extreme psychological
26 or physical abuse, when committed in an especially depraved
27 manner.

28 (c) In addition to the sentence imposed under paragraph (a)
29 or (b), the person may also be sentenced to the payment of a
30 fine of not more than \$40,000.

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

33 Sec. 12. Minnesota Statutes 2004, section 609.342,
4 subdivision 3, is amended to read:

35 Subd. 3. [STAY.] Except when imprisonment is required
36 under ~~section 609.109~~ subdivision 2, paragraph (b), if a person

1 is convicted under subdivision 1, clause (g), the court may stay
2 imposition or execution of the sentence if it finds that:

3 (a) a stay is in the best interest of the complainant or
4 the family unit; and

5 (b) a professional assessment indicates that the offender
6 has been accepted by and can respond to a treatment program.

7 If the court stays imposition or execution of sentence, it
8 shall include the following as conditions of probation:

9 (1) incarceration in a local jail or workhouse;

10 (2) a requirement that the offender complete a treatment
11 program; and

12 (3) a requirement that the offender have no unsupervised
13 contact with the complainant until the offender has successfully
14 completed the treatment program unless approved by the treatment
15 program and the supervising correctional agent.

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

18 Sec. 13. Minnesota Statutes 2004, section 609.343,
19 subdivision 2, is amended to read:

20 Subd. 2. [PENALTY.] (a) Except as otherwise provided
21 in ~~section-609-109~~ paragraph (b), a person convicted under
22 subdivision 1 may be sentenced to imprisonment for not more than
23 ~~25 years or to a payment of a fine of not more than \$357,000, or~~
24 ~~both.~~

25 ~~(b)~~ Unless a longer mandatory minimum sentence is otherwise
26 required by law or the Sentencing Guidelines provide for a
27 longer presumptive executed sentence, the court shall presume
28 that an executed sentence of 90 months must be imposed on an
29 offender convicted of violating subdivision 1, clause (c), (d),
30 (e), (f), or (h). Sentencing a person in a manner other than
31 that described in this paragraph is a departure from the
32 Sentencing Guidelines.

33 (b) A person convicted under subdivision 1 of a second or
34 subsequent sex offense shall be sentenced to imprisonment for
35 life. At the time of sentencing, the court shall specify a
36 minimum term of imprisonment that must be served before the

1 offender may be considered for supervised release.

2 (c) In addition to the sentence imposed under paragraph (a)
3 or (b), the person may also be sentenced to the payment of a
4 fine of not more than \$35,000.

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

7 Sec. 14. Minnesota Statutes 2004, section 609.343,
8 subdivision 3, is amended to read:

9 Subd. 3. [STAY.] Except when imprisonment is required
10 under ~~section 609.109~~ subdivision 2, paragraph (b), if a person
11 is convicted under subdivision 1, clause (g), the court may stay
12 imposition or execution of the sentence if it finds that:

13 (a) a stay is in the best interest of the complainant or
14 the family unit; and

15 (b) a professional assessment indicates that the offender
16 has been accepted by and can respond to a treatment program.

17 If the court stays imposition or execution of sentence, it
18 shall include the following as conditions of probation:

19 (1) incarceration in a local jail or workhouse;

20 (2) a requirement that the offender complete a treatment
21 program; and

22 (3) a requirement that the offender have no unsupervised
23 contact with the complainant until the offender has successfully
24 completed the treatment program unless approved by the treatment
25 program and the supervising correctional agent.

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

28 Sec. 15. Minnesota Statutes 2004, section 609.344,
29 subdivision 2, is amended to read:

30 Subd. 2. [PENALTY.] (a) Except as otherwise provided in
31 paragraph (b), a person convicted under subdivision 1 may be
32 sentenced to imprisonment for not more than 15 years ~~or to a~~
33 payment of a fine of not more than \$30,000, or both.

34 (b) A person convicted under subdivision 1 of a second or
35 subsequent sex offense shall be sentenced to imprisonment for
36 life. At the time of sentencing, the court shall specify a

1 minimum term of imprisonment that must be served before the
2 offender may be considered for supervised release.

3 (c) In addition to the sentence imposed under paragraph (a)
4 or (b), the person may also be sentenced to the payment of a
5 fine of not more than \$30,000.

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

8 Sec. 16. Minnesota Statutes 2004, section 609.344,
9 subdivision 3, is amended to read:

10 Subd. 3. [STAY.] Except when imprisonment is required
11 under ~~section-609-109~~ subdivision 2, paragraph (b), if a person
12 is convicted under subdivision 1, clause (f), the court may stay
13 imposition or execution of the sentence if it finds that:

14 (a) a stay is in the best interest of the complainant or
15 the family unit; and

16 (b) a professional assessment indicates that the offender
17 has been accepted by and can respond to a treatment program.

18 If the court stays imposition or execution of sentence, it
19 shall include the following as conditions of probation:

20 (1) incarceration in a local jail or workhouse;

21 (2) a requirement that the offender complete a treatment
22 program; and

23 (3) a requirement that the offender have no unsupervised
24 contact with the complainant until the offender has successfully
25 completed the treatment program unless approved by the treatment
26 program and the supervising correctional agent.

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

29 Sec. 17. Minnesota Statutes 2004, section 609.345,
30 subdivision 2, is amended to read:

31 Subd. 2. [PENALTY.] (a) Except as otherwise provided in
32 paragraph (b), a person convicted under subdivision 1 may be
33 sentenced to imprisonment for not more than ten years ~~or to a~~
4 payment-of-a-fine-of-not-more-than-\$20,000,-or-both.

35 (b) A person convicted under subdivision 1 of a second or
36 subsequent sex offense shall be sentenced to imprisonment for

1 life. At the time of sentencing, the court shall specify a
2 minimum term of imprisonment that must be served before the
3 offender may be considered for supervised release.

4 (c) In addition to the sentence imposed under paragraph (a)
5 or (b), the person may also be sentenced to the payment of a
6 fine of not more than \$20,000.

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

9 Sec. 18. Minnesota Statutes 2004, section 609.345,
10 subdivision 3, is amended to read:

11 Subd. 3. [STAY.] Except when imprisonment is required
12 under ~~section 609.345~~ subdivision 2, paragraph (b), if a person
13 is convicted under subdivision 1, clause (f), the court may stay
14 imposition or execution of the sentence if it finds that:

15 (a) a stay is in the best interest of the complainant or
16 the family unit; and

17 (b) a professional assessment indicates that the offender
18 has been accepted by and can respond to a treatment program.

19 If the court stays imposition or execution of sentence, it
20 shall include the following as conditions of probation:

21 (1) incarceration in a local jail or workhouse;

22 (2) a requirement that the offender complete a treatment
23 program; and

24 (3) a requirement that the offender have no unsupervised
25 contact with the complainant until the offender has successfully
26 completed the treatment program unless approved by the treatment
27 program and the supervising correctional agent.

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

30 Sec. 19. [609.3453] [CRIMINAL SEXUAL CONDUCT IN THE SIXTH
31 DEGREE.]

32 Subdivision 1. [CRIME DEFINED.] A person is guilty of
33 criminal sexual conduct in the sixth degree if the person
34 commits a predatory crime that was motivated by the offender's
35 sexual impulses or was part of a predatory pattern of behavior
36 that had criminal sexual conduct as its goal.

1 TECHNICAL AND CONFORMING CHANGES

2 Section 1. Minnesota Statutes 2004, section 14.03,
3 subdivision 3, is amended to read:

4 Subd. 3. [RULEMAKING PROCEDURES.] (a) The definition of a
5 rule in section 14.02, subdivision 4, does not include:

6 (1) rules concerning only the internal management of the
7 agency or other agencies that do not directly affect the rights
8 of or procedures available to the public;

9 (2) an application deadline on a form; and the remainder of
10 a form and instructions for use of the form to the extent that
11 they do not impose substantive requirements other than
12 requirements contained in statute or rule;

13 (3) the curriculum adopted by an agency to implement a
14 statute or rule permitting or mandating minimum educational
15 requirements for persons regulated by an agency, provided the
16 topic areas to be covered by the minimum educational
17 requirements are specified in statute or rule;

18 (4) procedures for sharing data among government agencies,
19 provided these procedures are consistent with chapter 13 and
20 other law governing data practices.

21 (b) The definition of a rule in section 14.02, subdivision
22 4, does not include:

23 (1) rules of the commissioner of corrections relating to
24 the release, placement, term, and supervision of inmates serving
25 a supervised release or conditional release term, the internal
26 management of institutions under the commissioner's control, and
27 rules adopted under section 609.105 governing the inmates of
28 those institutions;

29 (2) rules relating to weight limitations on the use of
30 highways when the substance of the rules is indicated to the
31 public by means of signs;

32 (3) opinions of the attorney general;

33 (4) the data element dictionary and the annual data
34 acquisition calendar of the Department of Education to the
35 extent provided by section 125B.07;

36 (5) the occupational safety and health standards provided

1 in section 182.655;

2 (6) revenue notices and tax information bulletins of the
3 commissioner of revenue;

4 (7) uniform conveyancing forms adopted by the commissioner
5 of commerce under section 507.09; or

6 (8) the interpretive guidelines developed by the
7 commissioner of human services to the extent provided in chapter
8 245A.

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

11 Sec. 2. Minnesota Statutes 2004, section 243.166,
12 subdivision 1, is amended to read:

13 Subdivision 1. [REGISTRATION REQUIRED.] (a) A person shall
14 register under this section if:

15 (1) the person was charged with or petitioned for a felony
16 violation of or attempt to violate any of the following, and
17 convicted of or adjudicated delinquent for that offense or
18 another offense arising out of the same set of circumstances:

19 (i) murder under section 609.185, clause (2); or

20 (ii) kidnapping under section 609.25; or

21 (iii) criminal sexual conduct under section 609.342;

22 609.343; 609.344; 609.345; ~~or~~ 609.3451, subdivision 3; or

23 609.3453; or

24 (iv) indecent exposure under section 617.23, subdivision 3;

25 or

26 (2) the person was charged with or petitioned for falsely
27 imprisoning a minor in violation of section 609.255, subdivision
28 2; soliciting a minor to engage in prostitution in violation of
29 section 609.322 or 609.324; soliciting a minor to engage in
30 sexual conduct in violation of section 609.352; using a minor in
31 a sexual performance in violation of section 617.246; or
32 possessing pornographic work involving a minor in violation of
33 section 617.247, and convicted of or adjudicated delinquent for
34 that offense or another offense arising out of the same set of
35 circumstances; or

36 (3) ~~the person was convicted of a predatory crime as~~

1 ~~defined in section 609.108, and the offender~~ was sentenced as a
2 ~~patterned sex offender or the court found on its own motion or~~
3 ~~that of the prosecutor that the crime was part of a predatory~~
4 ~~pattern of behavior that had criminal sexual conduct as its goal~~
5 as a patterned sex offender under section 609.108; or

6 (4) the person was convicted of or adjudicated delinquent
7 for, including pursuant to a court martial, violating a law of
8 the United States, including the Uniform Code of Military
9 Justice, similar to the offenses described in clause (1), (2),
10 or (3).

11 (b) A person also shall register under this section if:

12 (1) the person was convicted of or adjudicated delinquent
13 in another state for an offense that would be a violation of a
14 law described in paragraph (a) if committed in this state;

15 (2) the person enters the state to reside, or to work or
16 attend school; and

17 (3) ten years have not elapsed since the person was
18 released from confinement or, if the person was not confined,
19 since the person was convicted of or adjudicated delinquent for
20 the offense that triggers registration, unless the person is
21 subject to lifetime registration, in which case the person must
22 register for life regardless of when the person was released
23 from confinement, convicted, or adjudicated delinquent.

24 For purposes of this paragraph:

25 (i) "school" includes any public or private educational
26 institution, including any secondary school, trade or
27 professional institution, or institution of higher education,
28 that the person is enrolled in on a full-time or part-time
29 basis; and

30 (ii) "work" includes employment that is full time or part
31 time for a period of time exceeding 14 days or for an aggregate
32 period of time exceeding 30 days during any calendar year,
33 whether financially compensated, volunteered, or for the purpose
34 of government or educational benefit.

35 (c) A person also shall register under this section if the
36 person was committed pursuant to a court commitment order under

1 section 253B.185 or Minnesota Statutes 1992, section 526.10, or
2 a similar law of another state or the United States, regardless
3 of whether the person was convicted of any offense.

4 (d) A person also shall register under this section if:

5 (1) the person was charged with or petitioned for a felony
6 violation or attempt to violate any of the offenses listed in
7 paragraph (a), clause (1), or a similar law of another state or
8 the United States, or the person was charged with or petitioned
9 for a violation of any of the offenses listed in paragraph (a),
10 clause (2), or a similar law of another state or the United
11 States;

12 (2) the person was found not guilty by reason of mental
13 illness or mental deficiency after a trial for that offense, or
14 found guilty but mentally ill after a trial for that offense, in
15 states with a guilty but mentally ill verdict; and

16 (3) the person was committed pursuant to a court commitment
17 order under section 253B.18 or a similar law of another state or
18 the United States.

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

21 Sec. 3. Minnesota Statutes 2004, section 244.05,
22 subdivision 6, is amended to read:

23 Subd. 6. [INTENSIVE SUPERVISED RELEASE.] The commissioner
24 may order that an inmate be placed on intensive supervised
25 release for all or part of the inmate's supervised release or
26 parole term if the commissioner determines that the action will
27 further the goals described in section 244.14, subdivision 1,
28 clauses (2), (3), and (4). In addition, the commissioner may
29 order that an inmate be placed on intensive supervised release
30 for all of the inmate's conditional or supervised release term
31 if the inmate was convicted of a sex offense under ~~sections~~
32 section 609.342 to, 609.343, 609.344, 609.345, or 609.3453, or
33 was sentenced under the provisions of section 609.108. The
34 commissioner may impose appropriate conditions of release on the
35 inmate including but not limited to unannounced searches of the
36 inmate's person, vehicle, or premises by an intensive

1 supervision agent; compliance with court-ordered restitution, if
2 any; random drug testing; house arrest; daily curfews; frequent
3 face-to-face contacts with an assigned intensive supervision
4 agent; work, education, or treatment requirements; and
5 electronic surveillance. In addition, any sex offender placed
6 on intensive supervised release may be ordered to participate in
7 an appropriate sex offender program as a condition of release.
8 If the inmate violates the conditions of the intensive
9 supervised release, the commissioner shall impose sanctions as
10 provided in subdivision 3 and section 609.108.

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

13 Sec. 4. Minnesota Statutes 2004, section 244.05,
14 subdivision 7, is amended to read:

15 Subd. 7. [SEX OFFENDERS; CIVIL COMMITMENT DETERMINATION.]

16 (a) Before the commissioner releases from prison any inmate
17 convicted under ~~sections~~ section 609.342 ~~to~~, 609.343, 609.344,
18 609.345, or 609.3453, or sentenced as a patterned offender under
19 section 609.108, and determined by the commissioner to be in a
20 high risk category, the commissioner shall make a preliminary
21 determination whether, in the commissioner's opinion, a petition
22 under section 253B.185 may be appropriate.

23 (b) In making this decision, the commissioner shall have
24 access to the following data only for the purposes of the
25 assessment and referral decision:

26 (1) private medical data under section 13.384 or 144.335,
27 or welfare data under section 13.46 that relate to medical
28 treatment of the offender;

29 (2) private and confidential court services data under
30 section 13.84;

31 (3) private and confidential corrections data under section
32 13.85; and

33 (4) private criminal history data under section 13.87.

34 (c) If the commissioner determines that a petition may be
35 appropriate, the commissioner shall forward this determination,
36 along with a summary of the reasons for the determination, to

1 the county attorney in the county where the inmate was convicted
2 no later than 12 months before the inmate's release date. If
3 the inmate is received for incarceration with fewer than 12
4 months remaining in the inmate's term of imprisonment, or if the
5 commissioner receives additional information less than 12 months
6 before release which makes the inmate's case appropriate for
7 referral, the commissioner shall forward the determination as
8 soon as is practicable. Upon receiving the commissioner's
9 preliminary determination, the county attorney shall proceed in
10 the manner provided in section 253B.185. The commissioner shall
11 release to the county attorney all requested documentation
12 maintained by the department.

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

15 Sec. 5. Minnesota Statutes 2004, section 244.052,
16 subdivision 3, is amended to read:

17 Subd. 3. [END-OF-CONFINEMENT REVIEW COMMITTEE.] (a) The
18 commissioner of corrections shall establish and administer
19 end-of-confinement review committees at each state correctional
20 facility and at each state treatment facility where predatory
21 offenders are confined. The committees shall assess on a
22 case-by-case basis the public risk posed by predatory offenders
23 who are about to be released from confinement.

24 (b) Each committee shall be a standing committee and shall
25 consist of the following members appointed by the commissioner:

26 (1) the chief executive officer or head of the correctional
27 or treatment facility where the offender is currently confined,
28 or that person's designee;

29 (2) a law enforcement officer;

30 (3) a treatment professional who is trained in the
31 assessment of sex offenders;

32 (4) a caseworker experienced in supervising sex offenders;
33 and

34 (5) a victim's services professional.

35 Members of the committee, other than the facility's chief
36 executive officer or head, shall be appointed by the

1 commissioner to two-year terms. The chief executive officer or
2 head of the facility or designee shall act as chair of the
3 committee and shall use the facility's staff, as needed, to
4 administer the committee, obtain necessary information from
5 outside sources, and prepare risk assessment reports on
6 offenders.

7 (c) The committee shall have access to the following data
8 on a predatory offender only for the purposes of its assessment
9 and to defend the committee's risk assessment determination upon
10 administrative review under this section:

11 (1) private medical data under section 13.384 or 144.335,
12 or welfare data under section 13.46 that relate to medical
13 treatment of the offender;

14 (2) private and confidential court services data under
15 section 13.84;

16 (3) private and confidential corrections data under section
17 13.85; and

18 (4) private criminal history data under section 13.87.

19 Data collected and maintained by the committee under this
20 paragraph may not be disclosed outside the committee, except as
21 provided under section 13.05, subdivision 3 or 4. The predatory
22 offender has access to data on the offender collected and
23 maintained by the committee, unless the data are confidential
24 data received under this paragraph.

25 (d) (i) Except as otherwise provided in ~~item~~ items (ii),
26 (iii), and (iv), at least 90 days before a predatory offender is
27 to be released from confinement, the commissioner of corrections
28 shall convene the appropriate end-of-confinement review
29 committee for the purpose of assessing the risk presented by the
30 offender and determining the risk level to which the offender
31 shall be assigned under paragraph (e). The offender and the law
32 enforcement agency that was responsible for the charge resulting
33 in confinement shall be notified of the time and place of the
34 committee's meeting. The offender has a right to be present and
35 be heard at the meeting. The law enforcement agency may provide
36 material in writing that is relevant to the offender's risk

1 level to the chair of the committee. The committee shall use
2 the risk factors described in paragraph (g) and the risk
3 assessment scale developed under subdivision 2 to determine the
4 offender's risk assessment score and risk level. Offenders
5 scheduled for release from confinement shall be assessed by the
6 committee established at the facility from which the offender is
7 to be released.

8 (ii) If an offender is received for confinement in a
9 facility with less than 90 days remaining in the offender's term
10 of confinement, the offender's risk shall be assessed at the
11 first regularly scheduled end of confinement review committee
12 that convenes after the appropriate documentation for the risk
13 assessment is assembled by the committee. The commissioner
14 shall make reasonable efforts to ensure that offender's risk is
15 assessed and a risk level is assigned or reassigned at least 30
16 days before the offender's release date.

17 (iii) If the offender is subject to a mandatory life
18 sentence under section 609.342, subdivision 2, paragraph (b);
19 609.343, subdivision 2, paragraph (b); 609.344, subdivision 2,
20 paragraph (b); 609.345, subdivision 2, paragraph (b); or
21 609.3453, subdivision 2, paragraph (b), the commissioner of
22 corrections shall convene the appropriate end-of-confinement
23 review committee at least nine months before the offender's
24 minimum term of imprisonment has been served. If the offender
25 is received for confinement in a facility with less than nine
26 months remaining before the offender's minimum term of
27 imprisonment has been served, the committee shall conform its
28 procedures to those outlined in item (ii) to the extent
29 practicable.

30 (iv) If the offender is granted supervised release, the
31 commissioner of corrections shall notify the appropriate
32 end-of-confinement review committee that it needs to review the
33 offender's previously determined risk level at its next
34 regularly scheduled meeting. The commissioner shall make
35 reasonable efforts to ensure that the offender's earlier risk
36 level determination is reviewed and the risk level is confirmed

1 or reassigned at least 60 days before the offender's release
2 date. The committee shall give the report to the offender and
3 to the law enforcement agency at least 60 days before an
4 offender is released from confinement.

5 (e) The committee shall assign to risk level I a predatory
6 offender whose risk assessment score indicates a low risk of
7 reoffense. The committee shall assign to risk level II an
8 offender whose risk assessment score indicates a moderate risk
9 of reoffense. The committee shall assign to risk level III an
10 offender whose risk assessment score indicates a high risk of
11 reoffense.

12 (f) Before the predatory offender is released from
13 confinement, the committee shall prepare a risk assessment
14 report which specifies the risk level to which the offender has
15 been assigned and the reasons underlying the committee's risk
16 assessment decision. Except for an offender subject to a
17 mandatory life sentence under section 609.342, subdivision 2,
18 paragraph (b); 609.343, subdivision 2, paragraph (b); 609.344,
19 subdivision 2, paragraph (b); 609.345, subdivision 2, paragraph
20 (b); or 609.3453, subdivision 2, paragraph (b), who has not been
21 granted supervised release, the committee shall give the report
22 to the offender and to the law enforcement agency at least 60
23 days before an offender is released from confinement. If the
24 offender is subject to a mandatory life sentence and has not yet
25 served the entire minimum term of imprisonment, the committee
26 shall give the report to the offender and to the commissioner at
27 least six months before the offender is first eligible for
28 release. If the risk assessment is performed under the
29 circumstances described in paragraph (d), item (ii), the report
30 shall be given to the offender and the law enforcement agency as
31 soon as it is available. The committee also shall inform the
32 offender of the availability of review under subdivision 6.

33 (g) As used in this subdivision, "risk factors" includes,
34 but is not limited to, the following factors:

35 (1) the seriousness of the offense should the offender
36 reoffend. This factor includes consideration of the following:

- 1 (i) the degree of likely force or harm;
- 2 (ii) the degree of likely physical contact; and
- 3 (iii) the age of the likely victim;
- 4 (2) the offender's prior offense history. This factor
- 5 includes consideration of the following:
- 6 (i) the relationship of prior victims to the offender;
- 7 (ii) the number of prior offenses or victims;
- 8 (iii) the duration of the offender's prior offense history;
- 9 (iv) the length of time since the offender's last prior
- 10 offense while the offender was at risk to commit offenses; and
- 11 (v) the offender's prior history of other antisocial acts;
- 12 (3) the offender's characteristics. This factor includes
- 13 consideration of the following:
- 14 (i) the offender's response to prior treatment efforts; and
- 15 (ii) the offender's history of substance abuse;
- 16 (4) the availability of community supports to the offender.
- 17 This factor includes consideration of the following:
- 18 (i) the availability and likelihood that the offender will
- 19 be involved in therapeutic treatment;
- 20 (ii) the availability of residential supports to the
- 21 offender, such as a stable and supervised living arrangement in
- 22 an appropriate location;
- 23 (iii) the offender's familial and social relationships,
- 24 including the nature and length of these relationships and the
- 25 level of support that the offender may receive from these
- 26 persons; and
- 27 (iv) the offender's lack of education or employment
- 28 stability;
- 29 (5) whether the offender has indicated or credible evidence
- 30 in the record indicates that the offender will reoffend if
- 31 released into the community; and
- 32 (6) whether the offender demonstrates a physical condition
- 33 that minimizes the risk of reoffense, including but not limited
- 34 to, advanced age or a debilitating illness or physical condition.
- 35 (h) Upon the request of the law enforcement agency or the
- 36 offender's corrections agent, the commissioner may reconvene the

1 end-of-confinement review committee for the purpose of
2 reassessing the risk level to which an offender has been
3 assigned under paragraph (e). In a request for a reassessment,
4 the law enforcement agency which was responsible for the charge
5 resulting in confinement or agent shall list the facts and
6 circumstances arising after the initial assignment or facts and
7 circumstances known to law enforcement or the agent but not
8 considered by the committee under paragraph (e) which support
9 the request for a reassessment. The request for reassessment by
10 the law enforcement agency must occur within 30 days of receipt
11 of the report indicating the offender's risk level assignment.
12 The offender's corrections agent, in consultation with the chief
13 law enforcement officer in the area where the offender resides
14 or intends to reside, may request a review of a risk level at
15 any time if substantial evidence exists that the offender's risk
16 level should be reviewed by an end-of-confinement review
17 committee. This evidence includes, but is not limited to,
18 evidence of treatment failures or completions, evidence of
19 exceptional crime-free community adjustment or lack of
20 appropriate adjustment, evidence of substantial community need
21 to know more about the offender or mitigating circumstances that
22 would narrow the proposed scope of notification, or other
23 practical situations articulated and based in evidence of the
24 offender's behavior while under supervision. Upon review of the
25 request, the end-of-confinement review committee may reassign an
26 offender to a different risk level. If the offender is
27 reassigned to a higher risk level, the offender has the right to
28 seek review of the committee's determination under subdivision 6.

29 (i) An offender may request the end-of-confinement review
30 committee to reassess the offender's assigned risk level after
31 three years have elapsed since the committee's initial risk
32 assessment and may renew the request once every two years
33 following subsequent denials. In a request for reassessment,
34 the offender shall list the facts and circumstances which
35 demonstrate that the offender no longer poses the same degree of
36 risk to the community. In order for a request for a risk level

1 reduction to be granted, the offender must demonstrate full
2 compliance with supervised release conditions, completion of
3 required post-release treatment programming, and full compliance
4 with all registration requirements as detailed in section
5 243.166. The offender must also not have been convicted of any
6 felony, gross misdemeanor, or misdemeanor offenses subsequent to
7 the assignment of the original risk level. The committee shall
8 follow the process outlined in paragraphs (a) to (c) in the
9 reassessment. An offender who is incarcerated may not request a
10 reassessment under this paragraph.

11 (j) Offenders returned to prison as release violators shall
12 not have a right to a subsequent risk reassessment by the
13 end-of-confinement review committee unless substantial evidence
14 indicates that the offender's risk to the public has increased.

15 (k) The commissioner shall establish an end-of-confinement
16 review committee to assign a risk level to offenders who are
17 released from a federal correctional facility in Minnesota or
18 another state and who intend to reside in Minnesota, and to
19 offenders accepted from another state under a reciprocal
20 agreement for parole supervision under the interstate compact
21 authorized by section 243.16. The committee shall make
22 reasonable efforts to conform to the same timelines as applied
23 to Minnesota cases. Offenders accepted from another state under
24 a reciprocal agreement for probation supervision are not
25 assigned a risk level, but are considered downward dispositional
26 departures. The probation or court services officer and law
27 enforcement officer shall manage such cases in accordance with
28 section 244.10, subdivision 2a. The policies and procedures of
29 the committee for federal offenders and interstate compact cases
30 must be in accordance with all requirements as set forth in this
31 section, unless restrictions caused by the nature of federal or
32 interstate transfers prevents such conformance.

33 (l) If the committee assigns a predatory offender to risk
34 level III, the committee shall determine whether residency
35 restrictions shall be included in the conditions of the
36 offender's release based on the offender's pattern of offending

1 behavior.

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

4 Sec. 6. Minnesota Statutes 2004, section 609.109,
5 subdivision 2, is amended to read:

6 Subd. 2. [PRESUMPTIVE EXECUTED SENTENCE.] Except as
7 provided in subdivision 3 or 4, if a person is convicted under
8 sections 609.342 to ~~609.345~~ 609.3453, within 15 years of a
9 previous sex offense conviction, the court shall commit the
10 defendant to the commissioner of corrections for not less than
11 three years, nor more than the maximum sentence provided by law
12 for the offense for which convicted, notwithstanding the
13 provisions of sections 242.19, 243.05, 609.11, 609.12, and
14 609.135. The court may stay the execution of the sentence
15 imposed under this subdivision only if it finds that a
16 professional assessment indicates the offender is accepted by
17 and can respond to treatment at a long-term inpatient program
18 exclusively treating sex offenders and approved by the
19 commissioner of corrections. If the court stays the execution
20 of a sentence, it shall include the following as conditions of
21 probation:

- 22 (1) incarceration in a local jail or workhouse; and
- 23 (2) a requirement that the offender successfully complete
- 24 the treatment program and aftercare as directed by the court.

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

27 Sec. 7. Minnesota Statutes 2004, section 609.109,
28 subdivision 5, is amended to read:

29 Subd. 5. [PREVIOUS SEX OFFENSE CONVICTIONS.] For the
30 purposes of this section, a conviction is considered a previous
31 sex offense conviction if the person was convicted of a sex
32 offense before the commission of the present offense of
33 conviction. A person has two previous sex offense convictions
34 only if the person was convicted and sentenced for a sex offense
35 committed after the person was earlier convicted and sentenced
36 for a sex offense, both convictions preceded the commission of

1 the present offense of conviction, and 15 years have not elapsed
 2 since the person was discharged from the sentence imposed for
 3 the second conviction. A "sex offense" is a violation of
 4 sections 609.342 to ~~609.345~~ 609.3453 or any similar statute of
 5 the United States, this state, or any other state.

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

8 Sec. 8. Minnesota Statutes 2004, section 609.117,
 9 subdivision 1, is amended to read:

10 Subdivision 1. [UPON SENTENCING.] The court shall order an
 11 offender to provide a biological specimen for the purpose of DNA
 12 analysis as defined in section 299C.155 when:

13 (1) the court sentences a person charged with violating or
 14 attempting to violate any of the following, and the person is
 15 convicted of that offense or of any offense arising out of the
 16 same set of circumstances:

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

18 (ii) manslaughter under section 609.20 or 609.205;

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

20 (iv) robbery under section 609.24 or aggravated robbery
 21 under section 609.245;

22 (v) kidnapping under section 609.25;

23 (vi) false imprisonment under section 609.255;

24 (vii) criminal sexual conduct under section 609.342,
 25 609.343, 609.344, 609.345, ~~or~~ 609.3451, subdivision 3, or
 26 609.3453;

27 (viii) incest under section 609.365;

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

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

30 (2) the court sentences a person as a patterned sex
 31 offender under section 609.108; or

32 (3) the juvenile court adjudicates a person a delinquent
 33 child who is the subject of a delinquency petition for violating
 34 or attempting to violate any of the following, and the
 35 delinquency adjudication is based on a violation of one of those
 36 sections or of any offense arising out of the same set of

1 circumstances:

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

3 (ii) manslaughter under section 609.20 or 609.205;

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

5 (iv) robbery under section 609.24 or aggravated robbery

6 under section 609.245;

7 (v) kidnapping under section 609.25;

8 (vi) false imprisonment under section 609.255;

9 (vii) criminal sexual conduct under section 609.342,

10 609.343, 609.344, 609.345, ~~or~~ 609.3451, subdivision 3, or

11 609.3453;

12 (viii) incest under section 609.365;

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

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

15 The biological specimen or the results of the analysis shall be
16 maintained by the Bureau of Criminal Apprehension as provided in
17 section 299C.155.

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

20 Sec. 9. Minnesota Statutes 2004, section 609.117,
21 subdivision 2, is amended to read:

22 Subd. 2. [BEFORE RELEASE.] The commissioner of corrections
23 or local corrections authority shall order a person to provide a
24 biological specimen for the purpose of DNA analysis before
25 completion of the person's term of imprisonment when the person
26 has not provided a biological specimen for the purpose of DNA
27 analysis and the person:

28 (1) is currently serving a term of imprisonment for or has
29 a past conviction for violating or attempting to violate any of
30 the following or a similar law of another state or the United
31 States or initially charged with violating one of the following
32 sections or a similar law of another state or the United States
33 and convicted of another offense arising out of the same set of
34 circumstances:

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

36 (ii) manslaughter under section 609.20 or 609.205;

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

2 (iv) robbery under section 609.24 or aggravated robbery
3 under section 609.245;

4 (v) kidnapping under section 609.25;

5 (vi) false imprisonment under section 609.255;

6 (vii) criminal sexual conduct under section 609.342,
7 609.343, 609.344, 609.345, ~~or~~ 609.3451, subdivision 3, or
8 609.3453;

9 (viii) incest under section 609.365;

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

11 (x) indecent exposure under section 617.23, subdivision 3;
12 or.

13 (2) was sentenced as a patterned sex offender under section
14 609.108, and committed to the custody of the commissioner of
15 corrections; or

16 (3) is serving a term of imprisonment in this state under a
17 reciprocal agreement although convicted in another state of an
18 offense described in this subdivision or a similar law of the
19 United States or any other state. The commissioner of
20 corrections or local corrections authority shall forward the
21 sample to the Bureau of Criminal Apprehension.

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

24 Sec. 10. Minnesota Statutes 2004, section 609.1351, is
25 amended to read:

26 609.1351 [PETITION FOR CIVIL COMMITMENT.]

27 When a court sentences a person under section 609.108,
28 609.342, 609.343, 609.344, ~~or~~ 609.345, or 609.3453, the court
29 shall make a preliminary determination whether in the court's
30 opinion a petition under section 253B.185 may be appropriate and
31 include the determination as part of the sentencing order. If
32 the court determines that a petition may be appropriate, the
33 court shall forward its preliminary determination along with
34 supporting documentation to the county attorney.

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

1 Sec. 11. Minnesota Statutes 2004, section 609.347, is
2 amended to read:

3 609.347 [EVIDENCE IN CRIMINAL SEXUAL CONDUCT CASES.]

4 Subdivision 1. In a prosecution under sections 609.109 et,
5 609.342 to 609.3451, or 609.3453, the testimony of a victim need
6 not be corroborated.

7 Subd. 2. In a prosecution under sections 609.109 et,
8 609.342 to 609.3451, or 609.3453, there is no need to show that
9 the victim resisted the accused.

10 Subd. 3. In a prosecution under sections 609.109, 609.342
11 to 609.3451, 609.3453, or 609.365, evidence of the victim's
12 previous sexual conduct shall not be admitted nor shall any
13 reference to such conduct be made in the presence of the jury,
14 except by court order under the procedure provided in
15 subdivision 4. The evidence can be admitted only if the
16 probative value of the evidence is not substantially outweighed
17 by its inflammatory or prejudicial nature and only in the
18 circumstances set out in paragraphs (a) and (b). For the
19 evidence to be admissible under paragraph (a), subsection (i),
20 the judge must find by a preponderance of the evidence that the
21 facts set out in the accused's offer of proof are true. For the
22 evidence to be admissible under paragraph (a), subsection (ii)
23 or paragraph (b), the judge must find that the evidence is
24 sufficient to support a finding that the facts set out in the
25 accused's offer of proof are true, as provided under Rule 901 of
26 the Rules of Evidence.

27 (a) When consent of the victim is a defense in the case,
28 the following evidence is admissible:

29 (i) evidence of the victim's previous sexual conduct
30 tending to establish a common scheme or plan of similar sexual
31 conduct under circumstances similar to the case at issue. In
32 order to find a common scheme or plan, the judge must find that
33 the victim made prior allegations of sexual assault which were
34 fabricated; and

35 (ii) evidence of the victim's previous sexual conduct with
36 the accused.

1 (b) When the prosecution's case includes evidence of semen,
2 pregnancy, or disease at the time of the incident or, in the
3 case of pregnancy, between the time of the incident and trial,
4 evidence of specific instances of the victim's previous sexual
5 conduct is admissible solely to show the source of the semen,
6 pregnancy, or disease.

7 Subd. 4. The accused may not offer evidence described in
8 subdivision 3 except pursuant to the following procedure:

9 (a) A motion shall be made by the accused at least three
10 business days prior to trial, unless later for good cause shown,
11 setting out with particularity the offer of proof of the
12 evidence that the accused intends to offer, relative to the
13 previous sexual conduct of the victim;

14 (b) If the court deems the offer of proof sufficient, the
15 court shall order a hearing out of the presence of the jury, if
16 any, and in such hearing shall allow the accused to make a full
17 presentation of the offer of proof;

18 (c) At the conclusion of the hearing, if the court finds
19 that the evidence proposed to be offered by the accused
20 regarding the previous sexual conduct of the victim is
21 admissible under subdivision 3 and that its probative value is
22 not substantially outweighed by its inflammatory or prejudicial
23 nature, the court shall make an order stating the extent to
24 which evidence is admissible. The accused may then offer
25 evidence pursuant to the order of the court;

26 (d) If new information is discovered after the date of the
27 hearing or during the course of trial, which may make evidence
28 described in subdivision 3 admissible, the accused may make an
29 offer of proof pursuant to clause (a) and the court shall order
30 an in camera hearing to determine whether the proposed evidence
31 is admissible by the standards herein.

32 Subd. 5. In a prosecution under sections 609.109 ~~or~~
33 609.342 to 609.3451, or 609.3453, the court shall not instruct
34 the jury to the effect that:

35 (a) It may be inferred that a victim who has previously
36 consented to sexual intercourse with persons other than the

1 accused would be therefore more likely to consent to sexual
2 intercourse again; or

3 (b) The victim's previous or subsequent sexual conduct in
4 and of itself may be considered in determining the credibility
5 of the victim; or

6 (c) Criminal sexual conduct is a crime easily charged by a
7 victim but very difficult to disprove by an accused because of
8 the heinous nature of the crime; or

9 (d) The jury should scrutinize the testimony of the victim
10 any more closely than it should scrutinize the testimony of any
11 witness in any felony prosecution.

12 Subd. 6. (a) In a prosecution under sections 609.109 ~~or~~,
13 609.342 to 609.3451, or 609.3453, involving a psychotherapist
14 and patient, evidence of the patient's personal or medical
15 history is not admissible except when:

16 (1) the accused requests a hearing at least three business
17 days prior to trial and makes an offer of proof of the relevancy
18 of the history; and

19 (2) the court finds that the history is relevant and that
20 the probative value of the history outweighs its prejudicial
21 value.

22 (b) The court shall allow the admission only of specific
23 information or examples of conduct of the victim that are
24 determined by the court to be relevant. The court's order shall
25 detail the information or conduct that is admissible and no
26 other evidence of the history may be introduced.

27 (c) Violation of the terms of the order is grounds for
28 mistrial but does not prevent the retrial of the accused.

29 Subd. 7. [EFFECT OF STATUTE ON RULES.] Rule 412 of the
30 Rules of Evidence is superseded to the extent of its conflict
31 with this section.

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

34 Sec. 12. Minnesota Statutes 2004, section 609.3471, is
35 amended to read:

36 609.3471 [RECORDS PERTAINING TO VICTIM IDENTITY

1 CONFIDENTIAL.]

2 Notwithstanding any provision of law to the contrary, no
3 data contained in records or reports relating to petitions,
4 complaints, or indictments issued pursuant to section 609.342~~7~~,
5 609.343~~7~~, 609.344~~7-er~~, 609.345, or 609.3453, which
6 specifically identifies a victim who is a minor shall be
7 accessible to the public, except by order of the court. Nothing
8 in this section authorizes denial of access to any other data
9 contained in the records or reports, including the identity of
10 the defendant.

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

13 Sec. 13. Minnesota Statutes 2004, section 609.348, is
14 amended to read:

15 609.348 [MEDICAL PURPOSES; EXCLUSION.]

16 Sections 609.109 and, 609.342 to 609.3451, and 609.3453 do
17 not apply to sexual penetration or sexual contact when done for
18 a bona fide medical purpose.

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

21 Sec. 14. Minnesota Statutes 2004, section 609.353, is
22 amended to read:

23 609.353 [JURISDICTION.]

24 A violation or attempted violation of section 609.342,
25 609.343, 609.344, 609.345, 609.3451, 609.3453, or 609.352 may be
26 prosecuted in any jurisdiction in which the violation originates
27 or terminates.

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

30 Sec. 15. Minnesota Statutes 2004, section 631.045, is
31 amended to read:

32 631.045 [EXCLUDING SPECTATORS FROM THE COURTROOM.]

33 At the trial of a complaint or indictment for a violation
34 of sections 609.109, 609.341 to 609.3451, 609.3453, or 617.246,
35 subdivision 2, when a minor under 18 years of age is the person
36 upon, with, or against whom the crime is alleged to have been

1 committed, the judge may exclude the public from the courtroom
2 during the victim's testimony or during all or part of the
3 remainder of the trial upon a showing that closure is necessary
4 to protect a witness or ensure fairness in the trial. The judge
5 shall give the prosecutor, defendant and members of the public
6 the opportunity to object to the closure before a closure order.
7 The judge shall specify the reasons for closure in an order
8 closing all or part of the trial. Upon closure the judge shall
9 only admit persons who have a direct interest in the case.

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

12 Sec. 16. [REVISOR INSTRUCTION.]

13 (a) The revisor of statutes shall renumber Minnesota
14 Statutes, section 609.3452, as Minnesota Statutes, section
15 609.3457, and correct cross-references. In addition, the
16 revisor shall delete the reference in Minnesota Statutes,
17 section 13.871, subdivision 3, paragraph (d), to Minnesota
18 Statutes, section 609.3452, and insert a reference to Minnesota
19 Statutes, section 609.3457. The revisor shall include a
20 notation in Minnesota Statutes to inform readers of the statutes
21 of the renumbering of section 609.3457.

22 (b) In addition to the specific changes described in
23 paragraph (a), the revisor of statutes shall make other
24 technical changes necessitated by this act.

Article 1 SEX OFFENDERS:..... page 1
MANDATORY LIFE SENTENCES FOR CERTAIN EGREGIOUS AND
REPEAT SEX OFFENSES; OTHER SENTENCING CHANGES

Article 2 SEX OFFENDERS:..... page 14
TECHNICAL AND CONFORMING CHANGES

APPENDIX
Repealed Minnesota Statutes for 05-2953

**609.108 MANDATORY INCREASED SENTENCES FOR CERTAIN
PATTERNED AND PREDATORY SEX OFFENDERS; NO PRIOR CONVICTION
REQUIRED.**

Subd. 2. **Increased statutory maximum.** If the factfinder determines, at the time of the trial or the guilty plea, that a predatory offense was motivated by, committed in the course of, or committed in furtherance of sexual contact or penetration, as defined in section 609.341, and the court is imposing a sentence under subdivision 1, the statutory maximum imprisonment penalty for the offense is 40 years, notwithstanding the statutory maximum imprisonment penalty otherwise provided for the offense.

Bill Summary**Senate**

Senate Counsel & Research

State of Minnesota

S.F. No. 1875 - Sex Offenders**Author:** Senator Jane B. Ranum**Prepared by:** Kenneth P. Backhus, Senate Counsel (651/296-4396)**Date:** March 29, 2005Overview

S.F. No. 1875 requires indeterminate life sentences for certain egregious first-degree criminal sexual conduct offenses and certain repeat criminal sexual conduct offenses; creates a new crime of criminal sexual predatory conduct; increases the conditional release terms for sex offenders; and provides for intensive community supervision of sex offenders. The bill also makes changes to the predatory offender registration law, most significantly, by addressing homeless offenders; makes changes to the community notification law, most significantly, by addressing out-of-state offenders; authorizes the use of polygraphs for sex offenders under community supervision; provides for victim notification when certain civilly committed individuals are about to be provisionally discharged; implements most of the 2005 recommendations of the Legislative Auditor regarding sex offender supervision; and makes numerous technical and conforming statutory changes.

ARTICLE 1**Sex Offenders:****Mandatory Life Sentences for Certain Egregious and Repeat Sex Offenses; Conditional Release; Other Sentencing Changes**Overview

Article 1 contains the sex offender sentencing changes, including the indeterminate life sentences, the conditional release changes, and the new crime of criminal sexual predatory conduct.

Section 1 states the legislative findings and intent related to this article. Of note, specifies that the future dangerousness of sex offenders is one reason they merit longer-term supervision and treatment than do other types of criminal offenders and that their future dangerousness must be taken into consideration in sentencing and release decisions.

Section 2 makes a conforming change related to **article 1, section 21**.

Section 3 clarifies that the Commissioner of Corrections' rulemaking authority relating to the revocation of supervised release also applies to conditional release.

Section 4 provides that an offender serving an indeterminate life sentence (see **article 1, sections 12 and 21**) may not be given supervised release without having served the minimum term of imprisonment as specified by the sentencing court.

Section 5 requires the Commissioner of Corrections, when considering whether to give supervised release to an offender serving an indeterminate life sentence (see **article 1, sections 12 and 21**), to consider at a minimum:

- the risk the offender poses to the community if released;
- the offender's progress in treatment;
- the offender's behavior while incarcerated;
- psychological or other diagnostic evaluations of the offender;
- the offender's criminal history; and
- any other relevant conduct of the offender while incarcerated or before incarceration.

The commissioner may not give supervised release to the offender unless:

- while in prison, the offender has successfully completed appropriate sex offender treatment;
- while in prison, the offender has been assessed for chemical dependency and mental health needs and, if appropriate, has successfully completed necessary treatment; and
- a comprehensive individual release plan is in place for the offender that ensures that the offender will have suitable housing and receive appropriate aftercare and treatment, and includes an employment/education plan for the offender.

Also makes a conforming change relating to **article 1, section 4**.

Section 6 strikes language in the intensive supervised release law relating to sex offenders. Community supervision of sex offenders released from prison is addressed in **article 1, section 21**.

Sections 7 to 10 amend the patterned and predatory offender sentencing law.

Section 7 adds a cross-reference to the new crime of criminal sexual predatory conduct (see **article 1, section 20**). Strikes language relating to court findings regarding whether the necessary prongs of the law have been met. Substitutes for this a determination by the fact finder. These changes are necessary in light of the 2004 United States Supreme court decision, Blakely v. Washington. Strikes other language that is no longer necessary in light of the changes made by this article.

Section 8 strikes the definition of "predatory crime." Replaces this with a cross-reference to what is essentially the same definition in **article 1, section 11**.

Section 9 makes the same substitution of a fact finder determination for a court finding as was made in **article 1, section 7**.

Section 10 strikes language relating to the conditional release of offenders sentenced under this law. Instead, adds a cross-reference to **article 1, section 21**.

Section 11 defines "predatory crime" for purposes of the criminal sexual conduct laws. This definition is

nearly identical to the definition stricken from the patterned and predatory offender sentencing law in **article 1, section 8**. The only difference is that the new definition does not include criminal sexual conduct in the first- to fourth-degrees because a reference to these crimes is unnecessary under the changes made by the article.

Sections 12 and 13 amend the first-degree criminal sexual conduct crime.

Section 12 requires a court to sentence an offender to an indeterminate life sentence if the offender is convicted of certain clauses of the first-degree criminal sexual conduct crime involving force or violence (i.e., where circumstances exist that cause the victim to have a reasonable fear of great bodily harm; where the offender is armed with a dangerous weapon; where the offender causes personal injury to the victim under specified conditions; where the offender is aided or abetted by one or more accomplices under specified conditions; or where the offender has a family-type relationship to a victim under 16 and specified conditions exist) and the fact finder determines, beyond a reasonable doubt, that:

- the offender tortured the victim;
- the offender intentionally inflicted great bodily harm upon the victim;
- the offender intentionally mutilated the victim; or
- the offender exposed the victim to extreme inhumane conditions.

Defines "extreme inhumane conditions," "mutilation," and "torture." Requires a court to specify a minimum term of imprisonment that must be served before the offender may be considered for supervised release. Makes other structural and conforming changes.

Section 13 makes a conforming change relating to **article 1, section 21**.

Sections 14 and 15 amend the second-degree criminal sexual conduct crime to make conforming changes related to **article 1, section 21**.

Sections 16 and 17 amend the third-degree criminal sexual conduct crime to make conforming changes related to **article 1, section 21**.

Sections 18 and 19 amend the fourth-degree criminal sexual conduct crime to make conforming changes related to **article 1, section 21**.

Section 20 creates a new substantive crime known as "criminal sexual predatory conduct." This crime occurs if an offender commits a predatory crime (see definition in **article 1, section 11**) that was motivated by the offender's sexual impulses or was committed as part of a predatory pattern of behavior that had criminal sexual conduct as its goal. Provides that the statutory maximum sentence for this offense is 25 percent longer than for the underlying predatory crime. If the violation is committed by a person with a previous sex offense conviction, as defined in **article 1, section 21**, the statutory maximum is 50 percent longer than for the underlying predatory crime. Also authorizes a fine of up to \$20,000. An offender convicted of violating this section may be subject to the life sentence and conditional release provisions of **article 1, section 21**.

Section 21 creates a new section of law addressing indeterminate life sentences for certain repeat offenders and the conditional release of sex offenders.

Subdivision 1 defines "conviction," "previous sex offense conviction," "prior sex offense conviction," "sex offense," and "two previous sex offense convictions." Of note, "conviction" includes convictions as an extended jurisdiction juvenile for violations of first- through third-degree criminal sexual conduct or the new criminal sexual predatory conduct crime. "Previous sex offense conviction" is defined to be a "true prior" offense. That is to say that the offender must have committed, been convicted, and been sentenced for the previous sex offense before the commission of the present sex offense. "Prior sex offense conviction" does not require this sequencing of events. Thus, a person who has committed two sex offenses but has not been convicted of either would be considered to have a prior sex offense conviction once the offender has been convicted for the first offense even though the present offense occurred before the actual conviction for the prior offense. "Sex offense" includes first- through fifth-degree criminal sexual conduct offenses and criminal sexual predatory conduct, and similar laws from other jurisdictions.

Subdivision 2 provides for a mandatory indeterminate life sentence for an offender convicted of violating first- through fourth-degree criminal sexual conduct or criminal sexual predatory conduct if:

- the offender has two previous sex offense convictions (i.e., true priors);
- the offender has a previous sex offense conviction (i.e., a true prior), and:
- the present offense involved an aggravating factor that would provide grounds for an upward sentencing departure; or
- the offender received an upward sentencing departure for the previous sex conviction or was sentenced under the patterned and predatory sex offender sentencing law for the previous sex offense conviction; or
- the offender has two prior sex offense convictions (not necessarily true priors) and the prior convictions and present offense involved at least three separate victims, and:
- the present offense involved an aggravating factor that would provide grounds for an upward sentencing departure; or
- the offender received an upward sentencing departure for one of the prior sex offense convictions or was sentenced under the patterned and predatory offender sentencing law for one of the prior sex offense convictions.

Of note, if the present offense is a fourth-degree criminal sexual conduct offense, the offender is not subject to the indeterminate life sentence unless the offender's previous or prior sex offense convictions that are being used to enhance the sentence were for first- through third-degree criminal sexual conduct or criminal sexual predatory conduct.

Subdivision 3 requires courts sentencing offenders to indeterminate life sentences under **subdivision 2** to specify a minimum term of imprisonment that must be served before the offender may be considered for release.

Subdivision 4 provides that when an offender is released from prison for a violation of first- through fourth-degree criminal sexual conduct or criminal sexual predatory conduct, the person must be placed on conditional release for ten years. Under current law, offenders released from prison for violating first- through fourth-degree criminal sexual conduct receive a five-year conditional release term unless the

offender is a repeat offender, in which case the conditional release term is ten years.

Subdivision 5 provides that if an offender sentenced to an indeterminate life sentence under **subdivision 2** is released from prison, the offender must be placed on conditional release for the remainder of the offender's life. Also provides that if an offender is released from prison for a violation of first- through fourth-degree criminal sexual conduct or criminal sexual predatory conduct, and the offender has a previous or prior sex offense conviction, the offender must be placed on conditional release for the remainder of the offender's life. Similar to the eligibility for the indeterminate life sentence in **subdivision 2**, if an offender is released from prison for a violation of fourth-degree criminal sexual conduct, the offender will only be placed on lifetime conditional release if the offender's previous or prior sex offense conviction that is being used as the basis for the lifetime conditional release term is for first- through third-degree criminal sexual conduct or criminal sexual predatory conduct.

Subdivision 6 specifies the conditional release terms that are applicable to all sex offenders placed on conditional release (i.e., any offender released from prison after a conviction for first- through fourth-degree criminal sexual conduct or criminal sexual predatory conduct, or after being sentenced under the patterned and predatory offender sentencing law). Provides that the Commissioner of Corrections may not dismiss an offender on conditional release from supervision until the offender's conditional release term has expired. Requires a ratio of corrections agents to offenders of 15 to one. Provides intensive release conditions for sex offenders placed on conditional release. These conditions are similar to phase I of the current intensive supervised release program. Conditions include, but are not limited to, weekly urinalysis and breath tests, house arrest/modified house arrest/daily curfews, a minimum of four face-to-face contacts with the offender's corrections agent each week, including at least one home visit, etc. Authorizes the Commissioner of Corrections to modify certain conditions upon request of the offender's corrections agent. The modification may be ordered only if the commissioner determines that the offender has complied with these requirements for a substantial period of time, a modification is justified under the circumstances, and public safety will not be compromised. However, the minimum number of face-to-face contacts may not be reduced to fewer than one per week and one home visit per month.

Section 22 repeals a provision of the patterned and predatory offender sentencing law providing for an increased statutory maximum penalty. This provision is no longer necessary based on the changes made in this article. Also repeals a subdivision of the repeat sex offender sentencing law addressing conditional release of sex offenders. This provision is superseded by **article 1, section 21**.

ARTICLE 2

Sex Offenders: Predatory Offender Registration; Community Notification; Nonsentencing Changes

Overview

Article 2 makes numerous substantive and technical changes to the Predatory Offender Registration Law and the Community Notification Law. In addition, it specifically authorizes the use of polygraphic examinations for sex offenders under correctional supervision and provides for victim notification in certain situations regarding the release of offenders civilly committed as mentally ill and dangerous, as having a sexual psychopathic personality, or as being a sexually dangerous person.

Section 1 makes numerous changes to the Predatory Offender Registration (POR) Law. The primary substantive changes involve homeless predatory offenders, for whom there is presently no clearly

applicable registration procedure. Requires homeless predatory offenders who lack a primary address or who leave a primary address without having a new primary address to register with the law enforcement authority of the area in which the offender is staying within 24 hours. Each time an offender lacking a primary address moves to an area served by a different law enforcement authority, reregistration is required. If an offender continues to lack a primary address but remains in the same area, the offender must report weekly to the law enforcement authority in the area in which the offender is staying and inform the authority of any changes to the information required for predatory offender registration, with complete reregistration required annually. Offenders with no primary address whose registration is required because of a civil commitment are subject to the general homeless offender registration provisions but must completely reregister every three months. Authorizes the law enforcement authority to allow an offender to follow an alternative reporting procedure if it determines that due to an offender's unique circumstances it is impractical to require the offender to report weekly.

Section 1 also makes the following changes to the POR Law.

- Reorganizes it by repealing subdivisions 1 (Registration Required) and 8 (Definition of Law Enforcement Authority); creating a definitions subdivision 1a (placing all definitions at the beginning of the section); recodifying subdivision 1 as subdivision 1b; and making conforming and clarifying amendments to the remainder of the section.
- Adds new definitions for "bureau," "dwelling," "incarceration," and "confinement." The existing definitions of "primary residence," "secondary residence," and "law enforcement agency" are changed to "primary address," "secondary address," and "law enforcement authority" respectively. In addition, the definitions of "primary address" and "secondary address" are substantively overhauled.
- Provides that it applies to offenders who aid, abet, or conspire to commit an offense currently requiring registration.
- Expands it to require registration for nonchild false imprisonment offenses.
- Requires offenders who enter Minnesota to reside, work, or attend school, or enter the state and remain for 14 days or longer, to register within five days of when the registration requirement becomes applicable.
- Clarifies that if a person subject to registration moves out of the state, registration with Minnesota terminates when the BCA confirms the address in the new state.
- Requires an offender subject to registration to consent to allowing the offender's residential housing unit or shelter to release information on the offender to law enforcement.
- Requires all level III predatory offenders to be photographed every six months by their supervising authority.
- Requires level II and III predatory offenders who are no longer under correctional supervision to have an annual in-person contact with the law enforcement authority with jurisdiction over where the offender lives during which the offender must be photographed and verify the accuracy of the offender's registration information.
- Requires verification of registration information by mail twice annually for level III predatory

offenders who are no longer under correctional supervision (current law requires verification by mail annually).

- Authorizes the Commissioner of Public Safety to extend an offender's registration period for five additional years for failure to register a change in the offender's primary or secondary address, employment, school, or motor vehicle information; failure to report any property the offender owns, leases, or rents; or failure to return the annual verification letter within ten days.
- Provides that a violation of the POR Law may be prosecuted in any jurisdiction where an offense takes place. However, the prosecutorial agency in the jurisdiction where the offender last registered a primary address is initially responsible to review the case. When an offender commits two or more offenses in two or more counties, the offenses may be aggregated and prosecuted in any of the counties in which one of the offenses was committed.
- Provides that certified copies of predatory offender registration records are admissible as substantive evidence when necessary to prove the commission of a violation of the POR Law.
- Adds to the list of offenses that require registration a reference to the new criminal sexual predatory conduct crime created in **article 1, section 20**.
- Makes other technical and clarifying changes.

Section 2 amends section 243.167 (registration under the POR Law for other offenses). This law requires registration under the POR Law for offenders who commit a crime against the person and who previously registered under the POR Law but whose registration period ended or who would have had to register except the POR Law did not apply to the offender at the time of the offense. Expands the definition of "crime against the person" to include fourth-degree assault. Expands this law to apply to offenders who are convicted of a crime against the person and who previously completed registration in another state.

Section 3 requires the Commissioner of Corrections to report annually to the Legislature as specified on community supervision of level II and level III sex offenders and on other types of offenders.

Section 4 amends the Community Notification Law provision relating to non-Minnesotan offenders. Requires the Commissioner of Corrections to establish an end of confinement review committee to assign risk levels for offenders released from any federal correctional facility or from any state correctional facility of another state, and for offenders accepted from another state for parole supervision under the new interstate compact on adult offender supervision.

Section 5 allows for community notification for offenders who move to Minnesota from another state who, at the time of the move, are subject to a community notification statute in the other state and who are not already assigned a risk level under the community notification law. Authorizes the law enforcement agency in the area where the offender resides, expects to reside, or is regularly found to disclose information regarding the offender. The extent of the notification must be consistent with the notification made in the state from which the offender is moving. Caps the level of notification to that of a risk level II offender, unless the notification made concerning the offender in the state from which the offender is moving is broader than that authorized for a level II offender and the end of confinement review committee at the nearest state correctional or treatment facility at the request of the agency, assigns the offender to risk level III.

Section 6 clarifies that the Community Notification Law applies to homeless predatory offenders.

Section 7 authorizes law enforcement to disclose the probationary status of predatory offenders granted mitigated dispositional departures (sentences where the presumptive guidelines' disposition is commitment to the Commissioner of Corrections but where this disposition is stayed by the court) to individuals that law enforcement believes may be victimized by the offender (thus, conforming this notification provision to the one in the Community Notification Law governing level II offenders).

Section 8 amends the law relating to the civil commitment of persons as being mentally ill and dangerous. Requires the special review board or Commissioner of Human Services to consider statements received from victims under **article 2, section 9**, when making recommendations regarding release.

Section 9 amends the law relating to the civil commitment of persons as being mentally ill and dangerous. Requires a county attorney who files a civil commitment petition alleging that a person is mentally ill and dangerous, has a sexual psychopathic personality, or is a sexually dangerous person to make a reasonable effort to provide prompt notice of the filing of the petition to a victim and to notify the victim of the resolution of the petition. Also requires a treatment facility head to make a reasonable effort to notify victims that a person civilly committed as being mentally ill and dangerous, as having a sexual psychopathic personality, or as being a sexually dangerous person may be discharged or released and that the victim has a right to submit a written statement regarding the release decision. Requires victims to request these notifications by contacting in writing the county attorney in the county where the conviction for the crime occurred. Defines key terms used in this section. Of note, defines "convicted" and "conviction" in a manner that includes certain mental illness procedures where the elements of the crime have been proven but the person has not actually been convicted.

Section 10 authorizes a court or the Commissioner of Corrections to require a sex offender to submit to a polygraph exam as a probationary intermediate sanction or a condition of release from confinement. Allows the court or the commissioner to order all or part of the cost of the exam to be borne by the offender.

Section 11 requests the Chief Justice of the Supreme Court, in consultation with the Conference of Chief Judges, to develop, by September 1, 2005, a protocol for the use of polygraph examinations for sex offenders on probation.

Section 12 requires the Revisor of Statutes to make conforming changes to statutes as necessitated by this article.

Section 13 repeals two subdivisions in the POR Law superceded by changes made in this article.

ARTICLE 3

Legislative Auditor's Recommended Changes

Overview

Article 3 implements the Legislative Auditor's recommendations from the auditor's 2005 report to the Legislature on sex offender supervision.

Section 1 amends the law requiring county and private sex offender programs to provide the

Commissioner of Corrections with information related to program effectiveness. Strikes language that limits this provision to programs that seek new or continued state funding or reimbursements.

Section 2 clarifies that the law requiring the Commissioner of Corrections to provide follow-up information on sex offenders for three years following their completion or termination from treatment programs, provide treatment programs in different geographical areas of the state, provide necessary data relating to sex offender treatment programing, etc., is not a onetime project, but rather an ongoing obligation.

Section 3 amends the POR law to require offenders subject to registration to disclose their status as a registered offender to a health care facility upon admittance. The offender must also notify the offender's corrections agent or the applicable law enforcement authority when an inpatient admission has occurred. Requires a law enforcement authority or corrections agent who has received this notice or who knows that an offender has been admitted to a health care facility to notify the administrator of the facility.

Section 4 requires that when an offender who is subject to the POR law is being released from prison, the Commissioner of Corrections must provide the offender's prison records relating to psychological assessments, medical and mental health issues, and treatment to the corrections agency that is going to supervise the offender.

Section 5 provides that when a corrections agency supervising an offender who is required to register under the POR law and who is classified as a public risk monitoring case has knowledge that the offender is seeking housing arrangements in a location under the jurisdiction of a different corrections agency, the supervising agency must notify the other agency of this and initiate a supervision transfer request.

Section 6 requires a corrections agency supervising an offender who is required to register under the POR law to notify the appropriate child protection agency before authorizing the offender to live in a household where children are residing.

Section 7 clarifies that an independent professional assessment of a sex offender's need for sex offender treatment must be conducted before sentencing.

Section 8 adds to the list of mandatory reporters of child abuse individuals involved in correctional supervision.

Section 9 requires the Commissioner of Corrections to convene a working group related to sex offender management and supervision. Requires the working group to study and make recommendations on specified issues. Also requires the working group to review the provisions of any laws enacted in the 2005 legislative session relating to sex offender supervision and treatment. Requires the working group to report recommendations to the Legislature. Requires the Commissioner of Corrections to implement policies and standards relating to the issues studied by the working group over which the commissioner has jurisdiction.

Section 10 requires the Commissioner of Corrections to report specified information to the Legislature on prison-based sex offender treatment programs.

ARTICLE 4

Sex Offenders: Technical and Conforming Changes

Overview

Article 4 makes technical and conforming changes relating to the substantive changes made in **article 1**.

Sections 1 to 13 make technical and conforming changes to various statutes necessitated by **article 1** of this bill. Of note, **section 1** clarifies that the definition of "rule" in chapter 14 does not include rules of the Commissioner of Corrections relating to the release or release term of inmates on supervised or conditional release. Also of note, **section 3** provides timetables for the actions of the end of confinement review committees relating to offenders subject to indeterminate life sentences under **article 1**.

Section 13 instructs the Revisor of Statutes to renumber the sex offender assessment statute so that it does not fall numerically between fifth-degree criminal sexual conduct and the new criminal sexual predatory conduct crime created in **article 1, section 20**. Also directs the Revisor to make other technical changes to statutes necessitated by this act.

KPB:ph

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

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Last review or update: 03/29/2005

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Preliminary

Consolidated Fiscal Note – 2005-06 Session

Bill #: S1875-0 **Complete Date:**

Chief Author: RANUM, JANE

Title: SEX OFFENDERS INDETERMINATE LIFE SEN

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

Agencies: Corrections Dept
Human Services Dept
Public Defense Board

Supreme Court
Sentencing Guidelines Comm
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 |
|--|------|------|------|------|------|
| 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 | | | | | |

Preliminary

Fiscal Note – 2005-06 Session

Bill #: S1875-0 Complete Date:

Chief Author: RANUM, JANE

Title: SEX OFFENDERS INDETERMINATE LIFE SEN

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

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 | | | | | |
| -- 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 | | | | | |

Preliminary

Fiscal Note – 2005-06 Session

Bill #: S1875-0 Complete Date:

Chief Author: RANUM, JANE

Title: SEX OFFENDERS INDETERMINATE LIFE SEN

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

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 | | | | | |
| -- 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 | | | | | |

Preliminary

Fiscal Note – 2005-06 Session

Bill #: S1875-0 Complete Date:

Chief Author: RANUM, JANE

Title: SEX OFFENDERS INDETERMINATE LIFE SEN

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

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 | | | | | |
| – 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 | | | | | |

Preliminary

Fiscal Note – 2005-06 Session

Bill #: S1875-0 Complete Date:

Chief Author: RANUM, JANE

Title: SEX OFFENDERS INDETERMINATE LIFE SEN

| 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 | | | | | |

Preliminary

Bill Description

This bill establishes mandatory indeterminate life sentences for a specific group of criminal sexual conduct offenses. Offenders receiving these life sentences would be eligible to be considered for release after serving a minimum term pronounced by the sentencing court. The mandatory life sentences would apply to first degree offenders convicted under M.S. 609.342 subd, 1(c), (d), (e), (f), or (h) when at least one severe aggravating factors from a specified list is present. Indeterminate life sentences are also mandated for certain repeat first through fourth degree offenders and predatory offenders. A distinction is drawn between a "previous sex offense" (convicted and sentenced for a sex offense before committing the current offense) and a "prior sex offense" (convicted of a prior before convicted for the present offense, regardless of when the offenses occur). Offenders with two previous sex offenses would qualify for the mandatory life sentence, as would offenders with one previous sex offense conviction if the present offense involved an aggravating factor and the previous offense received an aggravated departure or was sentenced under the predatory offender statute. Offenders with two prior sex offense convictions would also qualify for the mandatory life sentence if their present offense had an aggravating factor, and they received an aggravated departure or was sentenced as a predatory offender for one of the prior offenses. Fourth degree offenders would not be eligible for life sentences unless their prior offenses were first, second, or third degree offenses or a predatory offense. For other first through fourth degree offenses, the penalties prescribed by the Sentencing Guidelines Commission's sex offender grid would apply.

The bill also modifies M.S. §609.108 – the patterned sex offender sentencing provision. It removes the "predatory crimes" from this provision and creates a Criminal Sexual Predatory Conduct Offense. This offense would consist of one of the predatory crimes that was motivated by the offender's sexual impulses or was part of a predatory pattern of behavior that had criminal sexual conduct as its goal. The statutory maximum for this offense would be 25% longer than for the underlying predatory crime; 50% longer if the offender has a previous sex offense conviction.

The bill also increases the period of conditional release that sex offenders released from prison must serve, and creates stringent conditions that must be met by released offenders. Currently, released sex offenders must serve five years on conditional release, ten years if they are repeat offenders. Under the provisions of this bill, first time sex offenders will be required to serve ten years on conditional release, and repeat sex offenders or offenders serving an indeterminate life sentence who are released, will be placed on lifetime conditional release.

The bill is effective for crimes committed on or after August 1, 2005.

Assumptions

Projections based on Current Policies and Sentencing Practices as Reflected in MSGC data for Offenders Sentenced in 2003

❖ Number of Offenders

Indeterminate Life Sentences:

This provision applies to offenders convicted of certain first degree offenses, if one or more severe aggravating factors from a specified list is present. It is not known how many of these offenders would be found by the fact finder to meet the specified circumstances necessary to qualify for a life sentence. MSGC staff identified twelve first-degree offenders who received aggravated durational departures that were twice the presumptive sentence or longer, and for whom the court cited departure factors that appear related to the criteria listed in this provision (departure reasons such as vulnerability of victim, particular cruelty, severity of injury). Some of these offenders might also qualify for the indeterminate life sentence as repeat offenders. For the projections, it is assumed that twelve first degree offenders a year, currently receiving aggravated durational departures would meet the requirements specified in this bill for a life sentence.

Identifying repeat sex offenders who might be subject to the mandatory life sentence provisions in this bill is difficult because in some cases, specific information about a prior sentence is necessary to make the determination. MSGC was able to identify 8 repeat sex offenders who had two or more previous sex offense convictions. MSGC identified 5 sex offenders who received aggravated durational departures and also had a prior or other current sex offense for which they received an aggravated departure.

Preliminary

The 25 offenders projected to be eligible for indeterminate life sentences are listed by category on the table below as well as the percent in each group currently receiving executed sentences. Also displayed is their degree of conviction. All of these offenders currently received executed prison sentences.

Offenders Eligible for Indeterminate Life Sentences

| Group | Number | Degree of Conviction |
|---|-----------|--|
| First Degree offenders with severe aggravating factors | 12 | 12 First |
| Offenders with two Previous Sex Offenses (convicted on prior before commit current offense) | 8 | 4 First, 1 Second, 2 Third, 1 Fourth |
| Aggravated departure with Previous or Prior Aggravated Departure | 5 | 4 First, 1 Second |
| Total | 25 | 20 First, 2 Second, 2 Third, 1 Fourth |

It is unclear how many offenders would qualify as predatory offenders under the new criminal sexual predatory conduct provision. Such offenders are currently eligible for sentencing as patterned sex offenders. None of the offenders sentenced as patterned sex offenders in 2003 were sentenced for an offense other than criminal sexual conduct. Since 1990, the patterned sex offender provision has only been used seven times for offenses other than criminal sexual conduct. Therefore, the impact presented here is limited to offenders sentenced for criminal sexual conduct offenses.

Other Offenders: Criminal sexual conduct offenders not covered by the life sentence provision would be subject to the new modifications to the Sentencing Guidelines for sex offenders. Of the 607 offenders sentenced for criminal sexual conduct offenses in 2003, 25 would qualify for life sentences and 582 would be sentenced on the new proposed grid. Of these remaining offenders, 225 currently receive executed prison sentences, and it is projected that 247 would receive executed sentences under the Guidelines modifications. It is assumed that the percentage offenders currently receiving mitigated departures would continue to do so.

❖ Length of Incarceration

Indeterminate Life Sentences: The length of time that will be served by these offenders, beyond what is served under current practices, is uncertain. Not all of the offenders sentenced in 2003 were eligible for the longer presumptive sentences created in statute for certain first and second degree criminal sexual conduct offenses. These provisions will cover all future offenders. Therefore, the estimates presented here are based on the assumption that unless an offender received a mitigated durational departure, in the future they would receive the higher presumptive sentences now in effect. The bill states that these offenders must serve a minimum term to be determined by the sentencing court before being considered for release. Currently, the minimum term of imprisonment served by offenders is defined by statute as two-thirds of the total pronounced executed sentence. Through the use on consecutive sentences, offenders can serve longer than 20 years under current practices. It is assumed here that the minimum term to be served will be two-thirds of the new presumptive sentence from the Guidelines revised sex offender grid modifications, or what the offender is currently serving, whichever is longer. It is unknown how long offenders will serve beyond the minimum term before they are released or how many offenders may never be released.

Because of these uncertainties, a range of estimated prison impact is presented. Information is provided on the number of additional beds needed as a result of offenders serving additional time (on average two years, five years, 10 years, 20 years, and never being released). In order to determine the maximum amount of time these offenders could serve, different lengths of time to serve until death were applied to offenders based on their age at the time of sentencing. For example, offenders under age 25 were assumed to live an additional 55 years, while offenders in the 41-45 age group were assumed to live an additional 33 years. For the scenarios involving offenders serving 5 or more years beyond the minimum, the appropriate life expectancies were also applied.

Impact on State and Local Correctional Resources

❖ Impact on Prison Bed Needs

Preliminary

Indeterminate Life Sentences: The specific impact of the provision for these sentences is difficult to determine, but projected to be significant. If all of these offenders serve the minimum term of imprisonment (assumed to be the new presumptive sentences on the sex offender grid), it is projected that 24 additional prison beds would be required. However, offenders would have to apply for release, and, therefore, it is not reasonable to assume that all would be released upon serving only the minimum term of imprisonment. If 25 offenders a year receive life sentences, the impact could range from 67 additional beds (if all were released after serving two years beyond the minimum) to 409 beds (if, on average, offenders served an additional 20 years). If these offenders are never released and serve a life sentence, there would be a need for 515 additional prison beds. Because some of these offenders are not currently receiving executed prison sentences, some impact will be realized within the first year this sentencing change takes affect.

The table below displays the potential impact based on various assumptions described above regarding the average number of years, which offenders would be required to serve before release. The Impact is displayed separately for offenders in each category for which a life sentence is mandated in this bill.

| Life Sentence When Mandated for First through Fourth Degree Sex Offenders | | | | | | |
|--|-----------|-------------------|-------------------|--------------------|--------------------|------------|
| Additional Prison Beds Required Based On Time Served Before Release | | | | | | |
| Minimum Based on Guidelines Sex Offender Modifications | | | | | | |
| Type of Offender | Minimum | Minimum + 2 years | Minimum + 5 years | Minimum + 10 years | Minimum + 20 years | Serve Life |
| First Degree: Agg. Factor | 1 | 24 | 57 | 112 | 209 | 264 |
| Two Previous Agg Factor: | 22 | 35 | 53 | 83 | 141 | 180 |
| Prior Agg Sent | 23 | 8 | 20 | 36 | 59 | 71 |
| Total (25 Offenders) | 24 | 67 | 130 | 231 | 409 | 515 |

Other Offenders: An additional 491 prison beds are projected to be needed for the remaining criminal sexual conduct offenders who would be sentenced on the grid according the modified guidelines. Twenty-two of these offenders are currently receiving probation sentences, and thus would require beds in the first year in which the bill is enacted.

Timing of Prison Beds Needed: An 11 month delay is assumed from the time the bill takes effect to the time impact is realized because there are often certain delays related to sex offenses (e.g., between offense dates, reporting dates, and conviction dates). Additionally, a delay is assumed because offenders subject to a life sentence are more likely to go to trial. The tables below show the estimated bed impact by fiscal year for the various scenarios for how long offenders given indeterminate sentences would serve before being released.

**Number of Prison Beds Needed Each Year
For Proposed Life Sentences With and Without Release
And Other Criminal Sexual Conduct Offenders
With Various Scenarios For Amounts of Time Served Before Release**

| Fiscal Year | Other CSC- Guidelines Modifications | Indeterminate Life | | | | No Release | Total |
|-------------|-------------------------------------|--------------------|-------------------|--------------------|--------------------|------------|-------|
| | | Minimum + 2 years | Minimum + 5 years | Minimum + 10 years | Minimum + 20 years | | |
| 2007 | 22 | 0 | 0 | 0 | 0 | 0 | 22 |
| 2008 | 59 | 0 | 0 | 0 | 0 | 0 | 59 |

Preliminary

| Fiscal Year | Other CSC-Guidelines Modifications | Indeterminate Life | | | | No Release | Total |
|-------------|------------------------------------|--------------------|-------------------|--------------------|--------------------|------------|----------|
| | | Minimum + 2 years | Minimum + 5 years | Minimum + 10 years | Minimum + 20 years | | |
| 2009 | 119 | 1 | 1 | 1 | 1 | 1 | 120 |
| 2010 | 172 | 3 | 3 | 3 | 3 | 3 | 175 |
| 2011 | 219 | 5 | 6 | 6 | 6 | 6 | 224-225 |
| 2012 | 253 | 7 | 9 | 9 | 9 | 9 | 260-262 |
| 2013 | 276 | 9 | 12 | 12 | 12 | 12 | 285-288 |
| 2014 | 289 | 10 | 15 | 15 | 15 | 15 | 299-304 |
| 2015 | 313 | 10 | 18 | 18 | 18 | 18 | 323-331 |
| 2016 | 341 | 10 | 20 | 21 | 21 | 21 | 351-362 |
| 2017 | 366 | 10 | 23 | 25 | 25 | 25 | 376-391 |
| 2018 | 385 | 10 | 26 | 29 | 29 | 29 | 395-414 |
| 2019 | 404 | 11 | 29 | 34 | 34 | 34 | 415-438 |
| 2020 | 420 | 12 | 32 | 39 | 40 | 40 | 432-460 |
| 2021 | 434 | 13 | 35 | 44 | 46 | 46 | 447-480 |
| 2022 | 447 | 14 | 37 | 50 | 52 | 52 | 461-499 |
| 2023 | 458 | 16 | 45 | 61 | 64 | 64 | 474-522 |
| 2024 | 470 | 18 | 53 | 71 | 76 | 76 | 488-546 |
| 2025 | 480 | 20 | 61 | 80 | 88 | 88 | 500-568 |
| 2026 | 490 | 23 | 70 | 92 | 102 | 102 | 513-592 |
| 2027 | 491 | 24 | 82 | 105 | 120 | 120 | 515-611 |
| 2028 | 491 | 24 | 92 | 120 | 139 | 139 | 515-630 |
| 2029 | 491 | 24 | 101 | 135 | 158 | 158 | 515-649 |
| 2030 | 491 | 24 | 110 | 149 | 176 | 177 | 515-668 |
| 2031 | 491 | 24 | 118 | 164 | 195 | 197 | 515-688 |
| 2032 | 491 | 24 | 121 | 179 | 214 | 217 | 515-708 |
| 2033 | 491 | 24 | 123 | 190 | 233 | 237 | 515-728 |
| 2034 | 491 | 24 | 125 | 201 | 253 | 258 | 515-749 |
| 2035 | 491 | 24 | 127 | 212 | 271 | 279 | 515-770 |
| 2036 | 491 | 24 | 128 | 222 | 290 | 300 | 515-791 |
| 2037 | 491 | 24 | 129 | 226 | 306 | 320 | 515-811 |
| 2038 | 491 | 24 | 130 | 228 | 322 | 340 | 515-831 |
| 2039 | 491 | 24 | 130 | 230 | 338 | 360 | 515-851 |
| 2040 | 491 | 24 | 130 | 231 | 351 | 375 | 515-866 |
| 2041 | 491 | 24 | 130 | 231 | 364 | 390 | 515-881 |
| 2042 | 491 | 24 | 130 | 231 | 376 | 405 | 515-896 |
| 2043 | 491 | 24 | 130 | 231 | 385 | 420 | 515-911 |
| 2044 | 491 | 24 | 130 | 231 | 393 | 435 | 515-926 |
| 2045 | 491 | 24 | 130 | 231 | 398 | 444 | 515-935 |
| 2046 | 491 | 24 | 130 | 231 | 403 | 453 | 515-944 |
| 2047 | 491 | 24 | 130 | 231 | 406 | 462 | 515-953 |
| 2048 | 491 | 24 | 130 | 231 | 407 | 471 | 515-962 |
| 2049 | 491 | 24 | 130 | 231 | 408 | 480 | 515-971 |
| 2050 | 491 | 24 | 130 | 231 | 409 | 487 | 515-978 |
| 2051 | 491 | 24 | 130 | 231 | 409 | 494 | 515-985 |
| 2052 | 491 | 24 | 130 | 231 | 409 | 501 | 515-992 |
| 2053 | 491 | 24 | 130 | 231 | 409 | 508 | 515-999 |
| 2054 | 491 | 24 | 130 | 231 | 409 | 509 | 515-1000 |
| 2055 | 491 | 24 | 130 | 231 | 409 | 510 | 515-1001 |
| 2056 | 491 | 24 | 130 | 231 | 409 | 511 | 515-1002 |
| 2057 | 491 | 24 | 130 | 231 | 409 | 512 | 515-1003 |
| 2058 | 491 | 24 | 130 | 231 | 409 | 513 | 515-1004 |
| 2059 | 491 | 24 | 130 | 231 | 409 | 514 | 515-1005 |

Preliminary

| Fiscal Year | Other CSC-Guidelines Modifications | Indeterminate Life | | | | No Release | Total |
|-------------|------------------------------------|--------------------|-------------------|--------------------|--------------------|------------|----------|
| | | Minimum + 2 years | Minimum + 5 years | Minimum + 10 years | Minimum + 20 years | | |
| 2060 | 491 | 24 | 130 | 231 | 409 | 515 | 515-1006 |

Impact from Conditional Release Modifications: Repeat offenders and any offenders with a life sentence that are released from prison will remain on conditional release for the remainder of their natural lives. The increase in supervision caseloads has the potential to be significant. The offenders in this group currently receiving executed sentences now serve at least 60 months on conditional release. Those who meet the current definition of subsequent offenders must serve 10 years on conditional release. According to MSGC monitoring data, 165 offenders a year who receive prison sentences will eventually be required to serve 10 years on conditional release and 82 offenders a year who would qualify as repeat offenders as defined by this bill receive prison sentences and would be required to serve lifetime conditional release. If any of the 25 offenders assumed to be eligible for life sentences are eventually released, they also would be required to serve lifetime conditional release. Given that more offenders will serve longer periods on conditional release, conditional release caseloads may increase significantly. The change from 5 to 10 year conditional release will add over 800 offenders to caseloads. The increase in caseload for repeat offenders serving lifetime conditional release could range from 800 if they serve an additional 10 years on conditional release before death, to 2,000 if they serve an additional 25 years on release. The eventual total increase could range from 1,600 to 2,800 offenders.

With the increased periods of conditional release contained in this bill of ten years and lifetime supervision, offenders may serve longer periods of incarceration for revocations since an offender may be incarcerated for the remaining period of the supervised release imposed. It is not expected that this situation will occur with all conditional release revocations but there is a high probability that offenders will serve longer periods of incarceration for revocations than is currently being served.

In addition, given the increased periods of conditional release for these offenders, and the very stringent conditions placed on them, it is reasonable to assume that additional prison beds will be needed to accommodate an increased number of conditional release revocations. There is the potential for a dual impact from increased revocations and increased lengths of stay for revocations resulting in incarceration. Currently, supervised release return rates are higher for sex offenders than for any other group of released offenders, accounting for 42% of the prison admissions for sex offenders in 2003. With an increase in the number of sex offenders on conditional release supervision and the increased period of supervision, an increase in release revocations is highly probable and has the potential to have an additional significant impact on the number of prison beds required above what is indicated in this analysis.

Local Resources: There is the possibility of some savings in the use of local jail and workhouse beds for these offenders. Sex offenders with presumptive prison sentences who instead receive probationary sentences are almost always required to serve local jail time as a condition of probation. In 2003, 84% of the criminal sexual conduct offenders who received mitigated dispositional departures had local jail time pronounced as a condition of probation with an average pronounced duration of 277 days. There also would be a decrease in felony probation caseloads of 22 offenders a year who are currently receiving probation sentences but will, under the provisions of this bill, receive executed prison sentences.

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

Preliminary

Fiscal Note – 2005-06 Session

Bill #: S1875-0 Complete Date:

Chief Author: RANUM, JANE

Title: SEX OFFENDERS INDETERMINATE LIFE SEN

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

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 | | | | | |

Preliminary

Fiscal Note – 2005-06 Session

Bill #: S1875-0 Complete Date:

Chief Author: RANUM, JANE

Title: SEX OFFENDERS INDETERMINATE LIFE SEN

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

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 | | | | | |

Senators Ranum, Neuville, Berglin, Foley and Skoglund introduced--

S.F. No. 1875: Referred to the Committee on Crime Prevention and Public Safety.

1

A bill for an act

2 relating to public safety; requiring indeterminate
 3 life sentences for certain egregious first degree
 4 criminal sexual conduct offenses and certain repeat
 5 sex offenses; creating the crime of criminal sexual
 6 predatory conduct; modifying the patterned sex
 7 offender sentencing law; increasing conditional
 8 release periods for sex offenders and providing for
 9 intensive supervision for these offenders; requiring
 10 predatory offender registration for offenders without
 11 primary addresses; providing for community
 12 notification for out-of-state offenders; changing
 13 other provisions of the predatory offender
 14 registration and community notification laws;
 15 authorizing the use of polygraphs for sex offenders
 16 under community supervision and providing for a
 17 protocol on their use; implementing the
 18 recommendations of the legislative auditor regarding
 19 sex offender supervision; making necessary technical
 20 and conforming statutory changes; requiring reports;
 21 providing criminal penalties; amending Minnesota
 22 Statutes 2004, sections 14.03, subdivision 3; 241.67,
 23 subdivisions 7, 8; 243.166; 243.167; 244.04,
 24 subdivision 1; 244.05, subdivisions 2, 4, 5, 6, 7;
 25 244.052, subdivisions 3, 4, by adding a subdivision;
 26 244.10, subdivision 2a; 253B.18, subdivision 5, by
 27 adding a subdivision; 609.108, subdivisions 1, 3, 4,
 28 6; 609.109, subdivisions 2, 5; 609.117, subdivisions
 29 1, 2; 609.1351; 609.341, by adding a subdivision;
 30 609.342, subdivisions 2, 3; 609.343, subdivisions 2,
 31 3; 609.344, subdivisions 2, 3; 609.345, subdivisions
 32 2, 3; 609.3452, subdivision 1; 609.347; 609.3471;
 33 609.348; 609.353; 626.556, subdivision 3; 631.045;
 34 proposing coding for new law in Minnesota Statutes,
 35 chapters 243; 244; 609; repealing Minnesota Statutes
 36 2004, sections 243.166, subdivisions 1, 8; 609.108,
 37 subdivision 2; 609.109, subdivision 7.

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

39

ARTICLE 1

40

SEX OFFENDERS:

41

MANDATORY LIFE SENTENCES FOR CERTAIN EGREGIOUS AND

1 REPEAT SEX OFFENSES; CONDITIONAL RELEASE;

2 OTHER SENTENCING CHANGES

3 Section 1. [LEGISLATIVE FINDINGS AND INTENT.]

4 The legislature finds that sex offenders pose a significant
 5 public safety threat. Based upon the harm they cause to their
 6 victims and the community, psychological factors unique to their
 7 makeup, and their future dangerousness, these types of offenders
 8 merit long-term supervision and treatment more so than do other
 9 types of criminal offenders. The legislature further finds that
 10 this type of supervision and treatment is best provided in a
 11 correctional setting and that the costs associated with this are
 12 an appropriate use of state resources.

13 It is the legislature's intent in enacting this act to
 14 provide a flexible approach that allows dangerous sex offenders
 15 to be incarcerated and supervised for longer periods of time
 16 than is currently possible. The legislature specifically
 17 intends that a sex offender's future dangerousness be taken into
 18 consideration when making sentencing and release decisions
 19 concerning the offender.

20 Sec. 2. Minnesota Statutes 2004, section 244.04,
 21 subdivision 1, is amended to read:

22 Subdivision 1. [REDUCTION OF SENTENCE; INMATES SENTENCED
 23 FOR CRIMES COMMITTED BEFORE 1993.] Notwithstanding the
 24 provisions of section 609.11, subdivision 6, and section
 25 609.109, subdivision 1, the term of imprisonment of any inmate
 26 sentenced to a presumptive fixed sentence after May 1, 1980, and
 27 whose crime was committed before August 1, 1993, shall be
 28 reduced in duration by one day for each two days during which
 29 the inmate violates none of the disciplinary offense rules
 30 promulgated by the commissioner. The reduction shall accrue to
 31 the period of supervised release to be served by the inmate,
 32 except that the period of supervised release for a sex offender
 33 ~~sentenced-and~~ conditionally released by the commissioner under
 34 ~~section 609.1087-subdivision-5,~~ 609.3455 is governed by that
 35 provision.

36 Except as otherwise provided in subdivision 2, if an inmate

1 whose crime was committed before August 1, 1993, violates a
2 disciplinary offense rule promulgated by the commissioner, good
3 time earned prior to the violation may not be taken away, but
4 the inmate may be required to serve an appropriate portion of
5 the term of imprisonment after the violation without earning
6 good time.

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

8 Sec. 3. Minnesota Statutes 2004, section 244.05,
9 subdivision 2, is amended to read:

10 Subd. 2. [RULES.] The commissioner of corrections shall
11 adopt by rule standards and procedures for the revocation of
12 supervised or conditional release, and shall specify the period
13 of revocation for each violation of supervised release.
14 Procedures for the revocation of supervised release shall
15 provide due process of law for the inmate.

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

18 Sec. 4. Minnesota Statutes 2004, section 244.05,
19 subdivision 4, is amended to read:

20 Subd. 4. [MINIMUM IMPRISONMENT, LIFE SENTENCE.] An inmate
21 serving a mandatory life sentence under section 609.106 must not
22 be given supervised release under this section. An inmate
23 serving a mandatory life sentence under section 609.185, clause
24 (1), (3), (5), or (6); or 609.109, subdivision 2a 3, must not be
25 given supervised release under this section without having
26 served a minimum term of 30 years. An inmate serving a
27 mandatory life sentence under section 609.385 must not be given
28 supervised release under this section without having served a
29 minimum term of imprisonment of 17 years. An inmate serving a
30 mandatory life sentence under section 609.342, subdivision 2,
31 paragraph (b), or 609.3455 must not be given supervised release
32 under this section without having served the minimum term of
33 imprisonment specified by the court in its sentence.

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

36 Sec. 5. Minnesota Statutes 2004, section 244.05,

1 subdivision 5, is amended to read:

2 Subd. 5. [SUPERVISED RELEASE, LIFE SENTENCE.] (a) The
3 commissioner of corrections may, under rules promulgated by the
4 commissioner, give supervised release to an inmate serving a
5 mandatory life sentence under section 609.185, clause (1), (3),
6 (5), or (6); 609.109, subdivision 2a 3; 609.342, subdivision 2,
7 paragraph (b); 609.3455; or 609.385 after the inmate has served
8 the minimum term of imprisonment specified in subdivision 4.

9 (b) The commissioner shall require the preparation of a
10 community investigation report and shall consider the findings
11 of the report when making a supervised release decision under
12 this subdivision. The report shall reflect the sentiment of the
13 various elements of the community toward the inmate, both at the
14 time of the offense and at the present time. The report shall
15 include the views of the sentencing judge, the prosecutor, any
16 law enforcement personnel who may have been involved in the
17 case, and any successors to these individuals who may have
18 information relevant to the supervised release decision. The
19 report shall also include the views of the victim and the
20 victim's family unless the victim or the victim's family chooses
21 not to participate.

22 (c) The commissioner shall make reasonable efforts to
23 notify the victim, in advance, of the time and place of the
24 inmate's supervised release review hearing. The victim has a
25 right to submit an oral or written statement at the review
26 hearing. The statement may summarize the harm suffered by the
27 victim as a result of the crime and give the victim's
28 recommendation on whether the inmate should be given supervised
29 release at this time. The commissioner must consider the
30 victim's statement when making the supervised release decision.

31 (d) When considering whether to give supervised release to
32 an inmate serving a life sentence under section 609.342,
33 subdivision 2, paragraph (b), or 609.3455, the commissioner
34 shall consider, at a minimum, the following: the risk the
35 inmate poses to the community if released, the inmate's progress
36 in treatment, the inmate's behavior while incarcerated,

1 psychological or other diagnostic evaluations of the inmate, the
2 inmate's criminal history, and any other relevant conduct of the
3 inmate while incarcerated or before incarceration. However, the
4 commissioner may not give supervised release to the inmate
5 unless:

6 (1) while in prison, the inmate has successfully completed
7 appropriate sex offender treatment;

8 (2) while in prison, the inmate has been assessed for
9 chemical dependency needs and, if appropriate, has successfully
10 completed chemical dependency treatment;

11 (3) while in prison, the inmate has been assessed for
12 mental health needs and, if appropriate, has successfully
13 completed mental health treatment; and

14 (4) a comprehensive individual release plan is in place for
15 the inmate that ensures that, after release, the inmate will
16 have suitable housing and receive appropriate aftercare and
17 community-based treatment, and includes a postprison employment
18 or education plan for the inmate.

19 (e) As used in this subdivision, "victim" means the
20 individual who suffered harm as a result of the inmate's crime
21 or, if the individual is deceased, the deceased's surviving
22 spouse or next of kin.

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

25 Sec. 6. Minnesota Statutes 2004, section 244.05,
26 subdivision 6, is amended to read:

27 Subd. 6. [INTENSIVE SUPERVISED RELEASE.] The commissioner
28 may order that an inmate be placed on intensive supervised
29 release for all or part of the inmate's supervised release or
30 parole term if the commissioner determines that the action will
31 further the goals described in section 244.14, subdivision 1,
32 clauses (2), (3), and (4). ~~In addition, the commissioner may~~
33 ~~order that an inmate be placed on intensive supervised release~~
34 ~~for all of the inmate's conditional or supervised release term~~
35 ~~if the inmate was convicted of a sex offense under sections~~
36 ~~609.342 to 609.345 or was sentenced under the provisions of~~

1 ~~section-609.108.~~ The commissioner may impose appropriate
 2 conditions of release on the inmate including but not limited to
 3 unannounced searches of the inmate's person, vehicle, or
 4 premises by an intensive supervision agent; compliance with
 5 court-ordered restitution, if any; random drug testing; house
 6 arrest; daily curfews; frequent face-to-face contacts with an
 7 assigned intensive supervision agent; work, education, or
 8 treatment requirements; and electronic surveillance. ~~In~~
 9 ~~addition, any sex offender placed on intensive supervised~~
 10 ~~release may be ordered to participate in an appropriate sex~~
 11 ~~offender program as a condition of release.~~ If the inmate
 12 violates the conditions of the intensive supervised release, the
 13 commissioner shall impose sanctions as provided in subdivision 3
 14 ~~and section 609.108.~~

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

17 Sec. 7. Minnesota Statutes 2004, section 609.108,
 18 subdivision 1, is amended to read:

19 Subdivision 1. [MANDATORY INCREASED SENTENCE.] ~~{a}~~ A court
 20 shall commit a person to the commissioner of corrections for a
 21 period of time that is not less than double the presumptive
 22 sentence under the Sentencing Guidelines and not more than the
 23 statutory maximum, or if the statutory maximum is less than
 24 double the presumptive sentence, for a period of time that is
 25 equal to the statutory maximum, if:

26 (1) ~~the court is imposing an executed sentence, based on a~~
 27 ~~Sentencing Guidelines presumptive imprisonment sentence or a~~
 28 ~~dispositional departure for aggravating circumstances or a~~
 29 ~~mandatory minimum sentence,~~ on a person convicted of committing
 30 or attempting to commit a violation of section 609.342, 609.343,
 31 609.344, or 609.345, ~~or on a person convicted of committing or~~
 32 ~~attempting to commit any other crime listed in subdivision 3 if~~
 33 ~~it reasonably appears to the court that the crime was motivated~~
 34 ~~by the offender's sexual impulses or was part of a predatory~~
 35 ~~pattern of behavior that had criminal sexual conduct as its goal~~
 36 609.3453;

1 (2) the ~~court-finds~~ fact finder determines that the
2 offender is a danger to public safety; and

3 (3) the ~~court-finds~~ fact finder determines that the
4 ~~offender-needs-long-term-treatment-or-supervision~~ offender's
5 criminal sexual behavior is so engrained that the risk of
6 reoffending is great without intensive psychotherapeutic
7 intervention or other long-term treatment or supervision
8 extending beyond the presumptive term of imprisonment and
9 supervised release. The-finding-must-be-based-on-a-professional
10 assessment-by-an-examiner-experienced-in-evaluating-sex
11 offenders-that-concludes-that-the-offender-is-a-patterned-sex
12 offender.---The-assessment-must-contain-the-facts-upon-which-the
13 conclusion-is-based,---with-reference-to-the-offense-history-of
14 the-offender-or-the-severity-of-the-current-offense,---the-social
15 history-of-the-offender,---and-the-results-of-an-examination-of
16 the-offender's-mental-status-unless-the-offender-refuses-to-be
17 examined.---The-conclusion-may-not-be-based-on-testing-alone.---A
18 patterned-sex-offender-is-one-whose-criminal-sexual-behavior-is
19 so-engrained-that-the-risk-of-reoffending-is-great-without
20 intensive-psychotherapeutic-intervention-or-other-long-term
21 controls.

22 ~~(b)---The-court-shall-consider-imposing-a-sentence-under-this~~
23 ~~section-when-ever-a-person-is-convicted-of-violating-section~~
24 ~~609.342-or-609.343.~~

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

27 Sec. 8. Minnesota Statutes 2004, section 609.108,
28 subdivision 3, is amended to read:

29 Subd. 3. [PREDATORY CRIME.] ~~A-predatory-crime-is-a-felony~~
30 ~~violation-of-section-609.185,---609.197,---609.195,---609.207,---609.205,~~
31 ~~609.221,---609.222,---609.223,---609.247,---609.245,---609.257,---609.255,~~
32 ~~609.342,---609.343,---609.344,---609.345,---609.365,---609.498,---609.561,~~
33 ~~or-609.582,---subdivision-1.~~ As used in this section, "predatory
34 crime" has the meaning given in section 609.341, subdivision 22.

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

1 Sec. 9. Minnesota Statutes 2004, section 609.108,
2 subdivision 4, is amended to read:

3 Subd. 4. [DANGER TO PUBLIC SAFETY.] ~~The court shall base~~
4 ~~its finding~~ fact finder shall base its determination that the
5 offender is a danger to public safety on any of the following
6 factors:

7 (1) the crime involved an aggravating factor that would
8 justify a durational departure from the presumptive sentence
9 under the Sentencing Guidelines;

10 (2) the offender previously committed or attempted to
11 commit a predatory crime or a violation of section 609.224 or
12 609.2242, including:

13 (i) an offense committed as a juvenile that would have been
14 a predatory crime or a violation of section 609.224 or 609.2242
15 if committed by an adult; or

16 (ii) a violation or attempted violation of a similar law of
17 any other state or the United States; or

18 (3) the offender planned or prepared for the crime prior to
19 its commission.

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

22 Sec. 10. Minnesota Statutes 2004, section 609.108,
23 subdivision 6, is amended to read:

24 Subd. 6. [CONDITIONAL RELEASE.] At the time of sentencing
25 under subdivision 1, the court shall provide that after the
26 offender has completed the sentence imposed, less any good time
27 earned by an offender whose crime was committed before August 1,
28 1993, the commissioner of corrections shall place the offender
29 on conditional release for the remainder of the statutory
30 maximum period, or for ten years, whichever is longer. The
31 terms of conditional release are governed by section 609.3455.

32 ~~The conditions of release may include successful completion~~
33 ~~of treatment and aftercare in a program approved by the~~
34 ~~commissioner, satisfaction of the release conditions specified~~
35 ~~in section 244.05, subdivision 6, and any other conditions the~~
36 ~~commissioner considers appropriate. Before the offender is~~

1 released, the commissioner shall notify the sentencing court,
 2 the prosecutor in the jurisdiction where the offender was
 3 sentenced, and the victim of the offender's crime, where
 4 available, of the terms of the offender's conditional release.
 5 If the offender fails to meet any condition of release, the
 6 commissioner may revoke the offender's conditional release and
 7 order that the offender serve all or a part of the remaining
 8 portion of the conditional release term in prison. The
 9 commissioner shall not dismiss the offender from supervision
 10 before the conditional release term expires.

11 Conditional release granted under this subdivision is
 12 governed by provisions relating to supervised release, except as
 13 otherwise provided in this subdivision, section 244.04,
 14 subdivision 1, or 244.05.

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

17 Sec. 11. Minnesota Statutes 2004, section 609.341, is
 18 amended by adding a subdivision to read:

19 Subd. 22. [PREDATORY CRIME.] "Predatory crime" means a
 20 felony violation of section 609.185, 609.19, 609.195, 609.20,
 21 609.205, 609.221, 609.222, 609.223, 609.24, 609.245, 609.25,
 22 609.255, 609.365, 609.498, 609.561, or 609.582, subdivision 1.

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

25 Sec. 12. Minnesota Statutes 2004, section 609.342,
 26 subdivision 2, is amended to read:

27 Subd. 2. [PENALTY.] (a) Except as otherwise provided
 28 in paragraph (b); section 609.109; or 609.3455, a person
 29 convicted under subdivision 1 may be sentenced to imprisonment
 30 for not more than 30 years ~~or to a payment of a fine of not more~~
 31 ~~than \$40,000, or both.~~

32 (b) Unless a longer mandatory minimum sentence is otherwise
 33 required by law or the Sentencing Guidelines provide for a
 34 longer presumptive executed sentence, the court shall presume
 35 that an executed sentence of 144 months must be imposed on an
 36 offender convicted of violating this section. Sentencing a

1 person in a manner other than that described in this paragraph
2 is a departure from the Sentencing Guidelines.

3 (b) The court shall sentence a person to imprisonment for
4 life if the person is convicted under subdivision 1, clause (c),
5 (d), (e), (f), or (h), and the fact finder determines beyond a
6 reasonable doubt that any of the following circumstances exist:

7 (1) the offender tortured the complainant;

8 (2) the offender intentionally inflicted great bodily harm
9 upon the complainant;

10 (3) the offender intentionally mutilated the complainant;

11 or

12 (4) the offender exposed the complainant to extreme
13 inhumane conditions.

14 When sentencing an offender under this paragraph, the court
15 shall specify a minimum term of imprisonment that must be served
16 before the offender may be considered for supervised release.

17 (c) As used in this subdivision:

18 (1) "extreme inhumane conditions" means situations where,
19 either before or after the sexual penetration, the offender
20 knowingly causes or permits the complainant to be placed in a
21 situation likely to cause the complainant severe ongoing mental,
22 emotional, or psychological harm, or causes the complainant's
23 death;

24 (2) "mutilation" means the intentional infliction of
25 physical abuse designed to cause serious permanent disfigurement
26 or permanent or protracted loss or impairment of the functions
27 of any bodily member or organ, where the offender relishes the
28 infliction of the abuse, evidencing debasement or perversion;
29 and

30 (3) "torture" means the intentional infliction of extreme
31 mental anguish, or extreme psychological or physical abuse, when
32 committed in an especially depraved manner.

33 (d) In addition to the sentence imposed under paragraph (a)
34 or (b), the person may also be sentenced to the payment of a
35 fine of not more than \$40,000.

36 (e) Notwithstanding the statutory maximum sentence

1 described in paragraph (a) or (b), the person is also subject to
2 conditional release as provided in section 609.3455.

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

5 Sec. 13. Minnesota Statutes 2004, section 609.342,
6 subdivision 3, is amended to read:

7 Subd. 3. [STAY.] Except when imprisonment is required
8 under section 609.109 or 609.3455, if a person is convicted
9 under subdivision 1, clause (g), the court may stay imposition
10 or execution of the sentence if it finds that:

11 (a) a stay is in the best interest of the complainant or
12 the family unit; and

13 (b) a professional assessment indicates that the offender
14 has been accepted by and can respond to a treatment program.

15 If the court stays imposition or execution of sentence, it
16 shall include the following as conditions of probation:

17 (1) incarceration in a local jail or workhouse;

18 (2) a requirement that the offender complete a treatment
19 program; and

20 (3) a requirement that the offender have no unsupervised
21 contact with the complainant until the offender has successfully
22 completed the treatment program unless approved by the treatment
23 program and the supervising correctional agent.

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

26 Sec. 14. Minnesota Statutes 2004, section 609.343,
27 subdivision 2, is amended to read:

28 Subd. 2. [PENALTY.] (a) Except as otherwise provided in
29 section 609.109 or 609.3455, a person convicted under
30 subdivision 1 may be sentenced to imprisonment for not more than
31 25 years or to a payment of a fine of not more than \$35,000, or
32 both.

33 (b) Unless a longer mandatory minimum sentence is otherwise
34 required by law or the Sentencing Guidelines provide for a
35 longer presumptive executed sentence, the court shall presume
36 that an executed sentence of 90 months must be imposed on an

1 offender convicted of violating subdivision 1, clause (c), (d),
2 (e), (f), or (h). Sentencing a person in a manner other than
3 that described in this paragraph is a departure from the
4 Sentencing Guidelines.

5 (c) Notwithstanding the statutory maximum sentence
6 described in paragraph (a), the person is also subject to
7 conditional release as provided in section 609.3455.

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

10 Sec. 15. Minnesota Statutes 2004, section 609.343,
11 subdivision 3, is amended to read:

12 Subd. 3. [STAY.] Except when imprisonment is required
13 under section 609.109 or 609.3455, if a person is convicted
14 under subdivision 1, clause (g), the court may stay imposition
15 or execution of the sentence if it finds that:

16 (a) a stay is in the best interest of the complainant or
17 the family unit; and

18 (b) a professional assessment indicates that the offender
19 has been accepted by and can respond to a treatment program.

20 If the court stays imposition or execution of sentence, it
21 shall include the following as conditions of probation:

22 (1) incarceration in a local jail or workhouse;

23 (2) a requirement that the offender complete a treatment
24 program; and

25 (3) a requirement that the offender have no unsupervised
26 contact with the complainant until the offender has successfully
27 completed the treatment program unless approved by the treatment
28 program and the supervising correctional agent.

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

31 Sec. 16. Minnesota Statutes 2004, section 609.344,
32 subdivision 2, is amended to read:

33 Subd. 2. [PENALTY.] Except as otherwise provided in
34 section 609.3455, a person convicted under subdivision 1 may be
35 sentenced to imprisonment for not more than 15 years or to a
36 payment of a fine of not more than \$30,000, or

1 both. Notwithstanding this statutory maximum sentence, the
2 person is also subject to conditional release as provided in
3 section 609.3455.

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

6 Sec. 17. Minnesota Statutes 2004, section 609.344,
7 subdivision 3, is amended to read:

8 Subd. 3. [STAY.] Except when imprisonment is required
9 under section 609.109 or 609.3455, if a person is convicted
10 under subdivision 1, clause (f), the court may stay imposition
11 or execution of the sentence if it finds that:

12 (a) a stay is in the best interest of the complainant or
13 the family unit; and

14 (b) a professional assessment indicates that the offender
15 has been accepted by and can respond to a treatment program.

16 If the court stays imposition or execution of sentence, it
17 shall include the following as conditions of probation:

18 (1) incarceration in a local jail or workhouse;

19 (2) a requirement that the offender complete a treatment
20 program; and

21 (3) a requirement that the offender have no unsupervised
22 contact with the complainant until the offender has successfully
23 completed the treatment program unless approved by the treatment
24 program and the supervising correctional agent.

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

27 Sec. 18. Minnesota Statutes 2004, section 609.345,
28 subdivision 2, is amended to read:

29 Subd. 2. [PENALTY.] Except as otherwise provided in
30 section 609.3455, a person convicted under subdivision 1 may be
31 sentenced to imprisonment for not more than ten years or to a
32 payment of a fine of not more than \$20,000, or

33 both. Notwithstanding this statutory maximum sentence, the
34 person is also subject to conditional release as provided in
35 section 609.3455.

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

1 and applies to crimes committed on or after that date.

2 Sec. 19. Minnesota Statutes 2004, section 609.345,
3 subdivision 3, is amended to read:

4 Subd. 3. [STAY.] Except when imprisonment is required
5 under section 609.109 or 609.3455, if a person is convicted
6 under subdivision 1, clause (f), the court may stay imposition
7 or execution of the sentence if it finds that:

8 (a) a stay is in the best interest of the complainant or
9 the family unit; and

10 (b) a professional assessment indicates that the offender
11 has been accepted by and can respond to a treatment program.

12 If the court stays imposition or execution of sentence, it
13 shall include the following as conditions of probation:

14 (1) incarceration in a local jail or workhouse;

15 (2) a requirement that the offender complete a treatment
16 program; and

17 (3) a requirement that the offender have no unsupervised
18 contact with the complainant until the offender has successfully
19 completed the treatment program unless approved by the treatment
20 program and the supervising correctional agent.

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

23 Sec. 20. [609.3453] [CRIMINAL SEXUAL PREDATORY CONDUCT.]

24 Subdivision 1. [CRIME DEFINED.] A person is guilty of
25 criminal sexual predatory conduct if the person commits a
26 predatory crime that was motivated by the offender's sexual
27 impulses or was part of a predatory pattern of behavior that had
28 criminal sexual conduct as its goal.

29 Subd. 2. [PENALTY.] (a) Except as provided in section
30 609.3455, the statutory maximum sentence for a violation of
31 subdivision 1 is: (1) 25 percent longer than for the underlying
32 predatory crime; or (2) 50 percent longer than for the
33 underlying predatory crime, if the violation is committed by a
34 person with a previous sex offense conviction, as defined in
35 section 609.3455, subdivision 1.

36 (b) In addition to the sentence imposed under paragraph

1 (a), the person may also be sentenced to the payment of a fine
2 of not more than \$20,000.

3 (c) Notwithstanding the statutory maximum sentence
4 described in paragraph (a), the person is also subject to
5 conditional release as provided in section 609.3455.

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

8 Sec. 21. [609.3455] [DANGEROUS SEX OFFENDERS; LIFE
9 SENTENCES; CONDITIONAL RELEASE.]

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

12 (b) "Conviction" includes a conviction as an extended
13 jurisdiction juvenile under section 260B.130 for a violation of,
14 or an attempt to violate, section 609.342, 609.343, 609.344, or
15 609.3453.

16 (c) A conviction is considered a "previous sex offense
17 conviction" if the offender was convicted and sentenced for a
18 sex offense before the commission of the present offense.

19 (d) A conviction is considered a "prior sex offense
20 conviction" if the offender was convicted of committing a sex
21 offense before the offender has been convicted of the present
22 offense, regardless of whether the offender was convicted for
23 the first offense before the commission of the present offense,
24 and the convictions involved separate behavioral incidents.

25 (e) "Sex offense" means any violation of, or attempt to
26 violate, section 609.342, 609.343, 609.344, 609.345, 609.3451,
27 609.3453, or any similar statute of the United States, this
28 state, or any other state.

29 (f) An offender has "two previous sex offense convictions"
30 only if the offender was convicted and sentenced for a sex
31 offense committed after the offender was earlier convicted and
32 sentenced for a sex offense and both convictions preceded the
33 commission of the present offense of conviction.

34 Subd. 2. [MANDATORY LIFE SENTENCE.] (a) Notwithstanding
35 the statutory maximum penalty otherwise applicable to the
36 offense, the court shall sentence an offender to imprisonment

1 for life if the offender is convicted of violating section
2 609.342, 609.343, 609.344, 609.345, or 609.3453 if:

3 (1) the offender has two previous sex offense convictions;
4 (2) the offender has a previous sex offense conviction and:
5 (i) the present offense involved an aggravating factor that
6 would provide grounds for an upward departure under the
7 sentencing guidelines other than the aggravating factor
8 applicable to repeat criminal sexual conduct convictions;

9 (ii) the offender received an upward departure from the
10 sentencing guidelines for the previous sex offense conviction;
11 or

12 (iii) the offender was sentenced under section 609.108 for
13 the previous sex offense conviction; or

14 (3) the offender has two prior sex offense convictions, the
15 prior convictions and present offense involved at least three
16 separate victims, and:

17 (i) the present offense involved an aggravating factor that
18 would provide grounds for an upward departure under the
19 sentencing guidelines other than the aggravating factor
20 applicable to repeat criminal sexual conduct convictions;

21 (ii) the offender received an upward departure from the
22 sentencing guidelines for one of the prior sex offense
23 convictions; or

24 (iii) the offender was sentenced under section 609.108 for
25 one of the prior sex offense convictions.

26 (b) Notwithstanding paragraph (a), a court may not sentence
27 an offender to imprisonment for life under that paragraph for a
28 violation of section 609.345, unless the offender's previous or
29 prior sex offense convictions that are being used as the basis
30 for the sentence are for violations of section 609.342, 609.343,
31 609.344, 609.3453, or any similar statute of the United States,
32 this state, or any other state.

33 Subd. 3. [LIFE SENTENCES; MINIMUM TERM OF
34 IMPRISONMENT.] At the time of sentencing under subdivision 2,
35 the court shall specify a minimum term of imprisonment that must
36 be served before the offender may be considered for supervised

1 release.

2 Subd. 4. [MANDATORY TEN-YEAR CONDITIONAL RELEASE TERM.]

3 Notwithstanding the statutory maximum sentence otherwise
4 applicable to the offense and unless a longer conditional
5 release term is required in subdivision 5, when a court commits
6 an offender to the custody of the commissioner of corrections
7 for a violation of section 609.342, 609.343, 609.344, 609.345,
8 or 609.3453, the court shall provide that, after the offender
9 has completed the sentence imposed, the commissioner shall place
10 the offender on conditional release for ten years, minus the
11 time the offender served on supervised release.

12 Subd. 5. [MANDATORY LIFETIME CONDITIONAL RELEASE TERM.] (a)

13 When a court sentences an offender under subdivision 2, the
14 court shall provide that, if the offender is released from
15 prison, the commissioner of corrections shall place the offender
16 on conditional release for the remainder of the offender's life.

17 (b) Notwithstanding the statutory maximum sentence
18 otherwise applicable to the offense, when the court commits an
19 offender to the custody of the commissioner of corrections for a
20 violation of section 609.342, 609.343, 609.344, 609.345, or
21 609.3453, and the offender has a previous or prior sex offense
22 conviction, the court shall provide that, after the offender has
23 completed the sentence imposed, the commissioner shall place the
24 offender on conditional release for the remainder of the
25 offender's life.

26 (c) Notwithstanding paragraph (b), an offender may not be
27 placed on lifetime conditional release under that paragraph for
28 a violation of section 609.345, unless the offender's previous
29 or prior sex offense conviction that is being used as the basis
30 for the placement is for a violation of section 609.342,
31 609.343, 609.344, 609.3453, or any similar statute of the United
32 States, this state, or any other state.

33 Subd. 6. [TERMS OF CONDITIONAL RELEASE; APPLICABLE TO ALL

34 SEX OFFENDERS.] (a) The provisions of this subdivision apply to
35 all sex offenders placed on conditional release. Except as
36 provided in this subdivision, conditional release of sex

1 offenders is governed by provisions relating to supervised
2 release. The commissioner of corrections may not dismiss an
3 offender on conditional release from supervision until the
4 offender's conditional release term expires. The agent caseload
5 of corrections agents supervising offenders on conditional
6 release may not exceed the ratio of 30 offenders to two agents.

7 (b) The commissioner of corrections shall impose severe and
8 meaningful sanctions for violating the terms of conditional
9 release, including revocation of release for an offender who:

10 (1) fails to meet any condition of release;

11 (2) commits any misdemeanor, gross misdemeanor, or felony
12 offense; or

13 (3) presents a risk to the public, based on the offender's
14 behavior, attitude, or abuse of alcohol or controlled substances.

15 The revocation of conditional release is governed by the
16 procedures in the commissioner's rules adopted under section
17 244.05, subdivision 2. The commissioner may order an offender
18 whose conditional release is revoked to serve any portion of the
19 remaining conditional release term in prison up to and including
20 the entire term.

21 (c) An offender on conditional release shall be required to
22 successfully complete sex offender treatment, chemical
23 dependency and mental health treatment, if appropriate, and
24 aftercare in programs approved by the commissioner of
25 corrections. An offender shall submit at any time to
26 unannounced searches of the offender's person, vehicle, or
27 premises by a corrections agent. An offender shall be subjected
28 at least weekly to urinalysis and breath tests to detect the
29 presence of controlled substances or alcohol. The tests must be
30 random and unannounced. An offender shall be under house arrest
31 in a residence approved by the offender's corrections agent and
32 may not move to another residence without permission for a
33 period determined by the offender's agent. Following the house
34 arrest period, the agent shall impose periods of decreasing
35 restrictions on the offender's freedom of movement, including,
36 but not limited to, modified house arrest and daily curfews.

1 However, if the offender's conduct merits, the agent may impose
2 stricter conditions at any time. An offender may be placed on
3 electronic surveillance at any time if the offender's
4 corrections agent so directs. The offender's corrections agent
5 shall have at least four face-to-face contacts with the offender
6 each week, including at least one in the offender's home. The
7 offender shall spend at least 40 hours per week performing
8 approved work, undertaking constructive activity designed to
9 obtain employment, or attending a treatment or education program
10 as directed by the commissioner. An offender may not spend more
11 than six months in a residential treatment program that does not
12 require the offender to spend at least 40 hours per week
13 performing approved work or undertaking constructive activity
14 designed to obtain employment. The offender's corrections agent
15 shall make appropriate use of polygraphic examinations when
16 supervising the offender. If an offender received a restitution
17 order as part of the sentence, the offender shall make weekly
18 payments as scheduled by the offender's corrections agent until
19 the full amount is paid. The commissioner may include any other
20 conditions on an offender that the commissioner finds necessary
21 and appropriate.

22 (d) Upon the request of an offender's corrections agent,
23 the commissioner of corrections may modify the terms of an
24 offender's conditions of release relating to the frequency of
25 the urinalysis and breath tests and face-to-face contacts with
26 the corrections agent and the minimum hours per week in
27 constructive activities. The commissioner may order such a
28 modification if the commissioner determines that the offender
29 has complied with these requirements for a substantial period of
30 time, a modification is justified given the circumstances, and
31 public safety will not be compromised. However, the number of
32 face-to-face contacts may not be reduced to fewer than one per
33 week and one home visit per month. The commissioner may modify
34 other terms in the same manner as for supervised release.

35 [EFFECTIVE DATE.] This section is effective August 1, 2005.
36 Subdivisions 2 to 5 apply to crimes committed on or after that

1 date. Subdivision 6 applies to offenders on conditional release
2 on or after that date.

3 Sec. 22. [REPEALER.]

4 Minnesota Statutes 2004, sections 609.108, subdivision 2;
5 and 609.109, subdivision 7, are repealed.

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

8 ARTICLE 2

9 SEX OFFENDERS: PREDATORY OFFENDER REGISTRATION;
10 COMMUNITY NOTIFICATION; NONSENTENCING CHANGES

11 Section 1. Minnesota Statutes 2004, section 243.166, is
12 amended to read:

13 243.166 [REGISTRATION OF PREDATORY OFFENDERS.]

14 ~~Subdivision 1. --[REGISTRATION REQUIRED.]--(a) A person shall~~
15 ~~register under this section if:~~

16 ~~(i) the person was charged with or petitioned for a felony~~
17 ~~violation of or attempt to violate any of the following, and~~
18 ~~convicted of or adjudicated delinquent for that offense or~~
19 ~~another offense arising out of the same set of circumstances:~~

20 ~~(i) murder under section 609.185, clause (2), or~~

21 ~~(ii) kidnapping under section 609.25, or~~

22 ~~(iii) criminal sexual conduct under section 609.342,~~

23 ~~609.343, 609.344, 609.345, or 609.3451, subdivision 3, or~~

24 ~~(iv) indecent exposure under section 617.23, subdivision 3,~~

25 or

26 ~~(2) the person was charged with or petitioned for falsely~~
27 ~~imprisoning a minor in violation of section 609.255, subdivision~~

28 ~~2, soliciting a minor to engage in prostitution in violation of~~

29 ~~section 609.322 or 609.324, soliciting a minor to engage in~~

30 ~~sexual conduct in violation of section 609.352, using a minor in~~

31 ~~a sexual performance in violation of section 617.246, or~~

32 ~~possessing pornographic work involving a minor in violation of~~

33 ~~section 617.247, and convicted of or adjudicated delinquent for~~

34 ~~that offense or another offense arising out of the same set of~~

35 ~~circumstances, or~~

36 ~~(3) the person was convicted of a predatory crime as~~

1 defined-in-section-609.108, and the offender was sentenced as a
 2 patterned-sex-offender-or-the-court-found-on-its-own-motion-or
 3 that-of-the-prosecutor-that-the-crime-was-part-of-a-predatory
 4 pattern-of-behavior-that-had-criminal-sexual-conduct-as-its
 5 goal, or

6 (4) the person was convicted of or adjudicated delinquent
 7 for, including pursuant to a court martial, violating a law of
 8 the United States, including the Uniform Code of Military
 9 Justice, similar to the offenses described in clause (1), (2),
 10 or (3).

11 (b) A person also shall register under this section if:

12 (1) the person was convicted of or adjudicated delinquent
 13 in another state for an offense that would be a violation of a
 14 law described in paragraph (a) if committed in this state,

15 (2) the person enters the state to reside, or to work or
 16 attend school, and

17 (3) ten years have not elapsed since the person was
 18 released from confinement or, if the person was not confined,
 19 since the person was convicted of or adjudicated delinquent for
 20 the offense that triggers registration, unless the person is
 21 subject to lifetime registration, in which case the person must
 22 register for life regardless of when the person was released
 23 from confinement, convicted, or adjudicated delinquent.

24 For purposes of this paragraph:

25 (i) "school" includes any public or private educational
 26 institution, including any secondary school, trade or
 27 professional institution, or institution of higher education,
 28 that the person is enrolled in on a full-time or part-time
 29 basis, and

30 (ii) "work" includes employment that is full-time or part
 31 time for a period of time exceeding 14 days or for an aggregate
 32 period of time exceeding 30 days during any calendar year,
 33 whether financially compensated, volunteered, or for the purpose
 34 of government or educational benefit.

35 (c) A person also shall register under this section if the
 36 person was committed pursuant to a court commitment order under

1 ~~section-253B.185-or-Minnesota-Statutes-1992-section-526.10-or~~
2 ~~a-similar-law-of-another-state-or-the-United-States,-regardless~~
3 ~~of-whether-the-person-was-convicted-of-any-offense-~~

4 ~~(d)-A-person-also-shall-register-under-this-section-if-~~
5 ~~(1)-the-person-was-charged-with-or-petitioned-for-a-felony~~
6 ~~violation-or-attempt-to-violate-any-of-the-offenses-listed-in~~
7 ~~paragraph-(a),-clause-(1),-or-a-similar-law-of-another-state-or~~
8 ~~the-United-States,-or-the-person-was-charged-with-or-petitioned~~
9 ~~for-a-violation-of-any-of-the-offenses-listed-in-paragraph-(a),~~
10 ~~clause-(2),-or-a-similar-law-of-another-state-or-the-United~~
11 ~~States,-~~

12 ~~(2)-the-person-was-found-not-guilty-by-reason-of-mental~~
13 ~~illness-or-mental-deficiency-after-a-trial-for-that-offense,-or~~
14 ~~found-guilty-but-mentally-ill-after-a-trial-for-that-offense,-in~~
15 ~~states-with-a-guilty-but-mentally-ill-verdict,-and~~

16 ~~(3)-the-person-was-committed-pursuant-to-a-court-commitment~~
17 ~~order-under-section-253B.18-or-a-similar-law-of-another-state-or~~
18 ~~the-United-States-~~

19 Subd. 1a. [DEFINITIONS.] (a) As used in this section,
20 unless the context clearly indicates otherwise, the following
21 terms have the meanings given them.

22 (b) "Bureau" means the Bureau of Criminal Apprehension.

23 (c) "Dwelling" means the building where the person lives
24 under a formal or informal agreement to do so.

25 (d) "Incarceration" and "confinement" do not include
26 electronic home monitoring.

27 (e) "Law enforcement authority" or "authority" means, with
28 respect to a home rule charter or statutory city, the chief of
29 police, and with respect to an unincorporated area, the county
30 sheriff.

31 (f) "Motor vehicle" has the meaning given for "vehicle" in
32 section 169.01, subdivision 2.

33 (g) "Primary address" means the mailing address of the
34 person's dwelling. If the mailing address is different from the
35 actual location of the dwelling, "primary address" also includes
36 the physical location of the dwelling described with as much

1 specificity as possible.

2 (h) "School" includes any public or private educational
3 institution, including any secondary school, trade, or
4 professional institution, or institution of higher education,
5 that the person is enrolled in on a full-time basis or part-time
6 basis.

7 (i) "Secondary address" means the mailing address of any
8 place where the person regularly or occasionally stays overnight
9 when not staying at the person's primary address. If the
10 mailing address is different from the actual location of the
11 place, "secondary address" also includes the physical location
12 of the place described with as much specificity as possible.

13 (j) "Treatment facility" means a residential facility, as
14 defined in section 244.052, subdivision 1, and residential
15 chemical dependency treatment programs and halfway houses
16 licensed under chapter 245A, including, but not limited to,
17 those facilities directly or indirectly assisted by any
18 department or agency of the United States.

19 (k) "Work" includes employment that is full time or part
20 time for a period of time exceeding 14 days or for an aggregate
21 period of time exceeding 30 days during any calendar year,
22 whether financially compensated, volunteered, or for the purpose
23 of government or educational benefit.

24 Subd. 1b. [REGISTRATION REQUIRED.] (a) A person shall
25 register under this section if:

26 (1) the person was charged with or petitioned for a felony
27 violation of or attempt to violate, or aiding, abetting, or
28 conspiracy to commit, any of the following, and convicted of or
29 adjudicated delinquent for that offense or another offense
30 arising out of the same set of circumstances:

31 (i) murder under section 609.185, paragraph (a), clause
32 (2); or

33 (ii) kidnapping under section 609.25; or

34 (iii) criminal sexual conduct under section 609.342;

35 609.343; 609.344; 609.345; 609.3451, subdivision 3; or 609.3453;

36 or

1 (iv) indecent exposure under section 617.23, subdivision 3;
2 (2) the person was charged with or petitioned for false
3 imprisonment in violation of section 609.255, subdivision 2;
4 soliciting a minor to engage in prostitution in violation of
5 section 609.322 or 609.324; soliciting a minor to engage in
6 sexual conduct in violation of section 609.352; using a minor in
7 a sexual performance in violation of section 617.246; or
8 possessing pornographic work involving a minor in violation of
9 section 617.247, and convicted of or adjudicated delinquent for
10 that offense or another offense arising out of the same set of
11 circumstances;

12 (3) the person was sentenced as a patterned sex offender
13 under section 609.108; or

14 (4) the person was convicted of or adjudicated delinquent
15 for, including pursuant to a court martial, violating a law of
16 the United States, including the Uniform Code of Military
17 Justice, similar to the offenses described in clause (1), (2),
18 or (3).

19 (b) A person also shall register under this section if:

20 (1) the person was convicted of or adjudicated delinquent
21 in another state for an offense that would be a violation of a
22 law described in paragraph (a) if committed in this state;

23 (2) the person enters the state to reside, work, or attend
24 school, or enters the state and remains for 14 days or longer;
25 and

26 (3) ten years have not elapsed since the person was
27 released from confinement or, if the person was not confined,
28 since the person was convicted of or adjudicated delinquent for
29 the offense that triggers registration, unless the person is
30 subject to lifetime registration, in which case the person shall
31 register for life regardless of when the person was released
32 from confinement, convicted, or adjudicated delinquent.

33 A person described in this paragraph shall register with
34 the bureau within five days after the registration requirement
35 becomes applicable.

36 (c) A person also shall register under this section if the

1 person was committed pursuant to a court commitment order under
2 section 253B.185 or Minnesota Statutes 1992, section 526.10, or
3 a similar law of another state or the United States, regardless
4 of whether the person was convicted of any offense.

5 (d) A person also shall register under this section if:

6 (1) the person was charged with or petitioned for a felony
7 violation or attempt to violate any of the offenses listed in
8 paragraph (a), clause (1), or a similar law of another state or
9 the United States, or the person was charged with or petitioned
10 for a violation of any of the offenses listed in paragraph (a),
11 clause (2), or a similar law of another state or the United
12 States;

13 (2) the person was found not guilty by reason of mental
14 illness or mental deficiency after a trial for that offense, or
15 found guilty but mentally ill after a trial for that offense, in
16 states with a guilty but mentally ill verdict; and

17 (3) the person was committed pursuant to a court commitment
18 order under section 253B.18 or a similar law of another state or
19 the United States.

20 Subd. 2. [NOTICE.] When a person who is required to
21 register under subdivision ± lb, paragraph (a), is sentenced or
22 becomes subject to a juvenile court disposition order, the court
23 shall tell the person of the duty to register under this section
24 and that, if the person fails to comply with the registration
25 requirements, information about the offender may be made
26 available to the public through electronic, computerized, or
27 other accessible means. The court may not modify the person's
28 duty to register in the pronounced sentence or disposition
29 order. The court shall require the person to read and sign a
30 form stating that the duty of the person to register under this
31 section has been explained. The court shall forward the signed
32 sex offender registration form, the complaint, and sentencing
33 documents to the bureau ~~of-Criminal-Apprehension~~. If a person
34 required to register under subdivision ± lb, paragraph (a), was
35 not notified by the court of the registration requirement at the
36 time of sentencing or disposition, the assigned corrections

1 agent shall notify the person of the requirements of this
2 section. When a person who is required to register under
3 subdivision 1b, paragraph (c) or (d), is released from
4 commitment, the treatment facility shall notify the person of
5 the requirements of this section. The treatment facility shall
6 also obtain the registration information required under this
7 section and forward it to the bureau ~~of-Criminal-Apprehension~~.

8 Subd. 3. [REGISTRATION PROCEDURE.] (a) Except as provided
9 in subdivision 3a, a person required to register under this
10 section shall register with the corrections agent as soon as the
11 agent is assigned to the person. If the person does not have an
12 assigned corrections agent or is unable to locate the assigned
13 corrections agent, the person shall register with the law
14 enforcement agency authority that has jurisdiction in the area
15 of the person's residence primary address.

16 (b) Except as provided in subdivision 3a, at least five
17 days before the person starts living at a new primary address,
18 including living in another state, the person shall give written
19 notice of the new primary ~~living~~ address to the assigned
20 corrections agent or to the law enforcement authority with which
21 the person currently is registered. If the person will be
22 living in a new state and that state has a registration
23 requirement, the person shall also give written notice of the
24 new address to the designated registration agency in the new
25 state. A person required to register under this section shall
26 also give written notice to the assigned corrections agent or to
27 the law enforcement authority that has jurisdiction in the area
28 of the person's residence primary address that the person is no
29 longer living or staying at an address, immediately after the
30 person is no longer living or staying at that address. The
31 corrections agent or law enforcement authority shall, within two
32 business days after receipt of this information, forward it to
33 the bureau ~~of-Criminal-Apprehension~~. The bureau ~~of-Criminal~~
34 ~~Apprehension~~ shall, if it has not already been done, notify the
35 law enforcement authority having primary jurisdiction in the
36 community where the person will live of the new address. If the

1 person is leaving the state, the bureau of ~~Criminal Apprehension~~
2 shall notify the registration authority in the new state of the
3 new address. ~~If the person's obligation to register arose under~~
4 ~~subdivision 17, paragraph (b),~~ The person's registration
5 requirements under this section terminate when after the person
6 begins living in the new state and the bureau has confirmed the
7 address in the other state through the annual verification
8 process on at least one occasion.

9 (c) A person required to register under subdivision ~~17~~ 1b,
10 paragraph (b), because the person is working or attending school
11 in Minnesota shall register with the law enforcement
12 agency authority that has jurisdiction in the area where the
13 person works or attends school. In addition to other
14 information required by this section, the person shall provide
15 the address of the school or of the location where the person is
16 employed. A person ~~must~~ shall comply with this paragraph within
17 five days of beginning employment or school. A person's
18 obligation to register under this paragraph terminates when the
19 person is no longer working or attending school in Minnesota.

20 (d) A person required to register under this section who
21 works or attends school outside of Minnesota shall register as a
22 predatory offender in the state where the person works or
23 attends school. The person's corrections agent, or if the
24 person does not have an assigned corrections agent, the law
25 enforcement authority that has jurisdiction in the area of the
26 person's residence primary address shall notify the person of
27 this requirement.

28 Subd. 3a. [REGISTRATION PROCEDURE WHEN PERSON LACKS
29 PRIMARY ADDRESS.] (a) If a person leaves a primary address and
30 does not have a new primary address, the person shall register
31 with the law enforcement authority that has jurisdiction in the
32 area where the person is staying within 24 hours of the time the
33 person no longer has a primary address.

34 (b) A person who lacks a primary address shall register
35 with the law enforcement authority that has jurisdiction in the
36 area where the person is staying within 24 hours after entering

1 the jurisdiction. Each time a person who lacks a primary
2 address moves to a new jurisdiction without acquiring a new
3 primary address, the person shall register with the law
4 enforcement authority that has jurisdiction in the area where
5 the person is staying within 24 hours after entering the
6 jurisdiction.

7 (c) Upon registering under this subdivision, the person
8 shall provide the law enforcement authority with all of the
9 information the individual is required to provide under
10 subdivision 4a. However, instead of reporting the person's
11 primary address, the person shall describe the location of where
12 the person is staying with as much specificity as possible.

13 (d) Except as otherwise provided in paragraph (e), if a
14 person continues to lack a primary address, the person shall
15 report in person on a weekly basis to the law enforcement
16 authority with jurisdiction in the area where the person is
17 staying. This weekly report shall occur between the hours of
18 9:00 a.m. and 5:00 p.m. The person is not required to provide
19 the registration information required under subdivision 4a each
20 time the offender reports to an authority, but the person shall
21 inform the authority of changes to any information provided
22 under subdivision 4a or this subdivision and shall otherwise
23 comply with this subdivision.

24 (e) If the law enforcement authority determines that it is
25 impractical, due to the person's unique circumstances, to
26 require a person lacking a primary address to report weekly and
27 in person as required under paragraph (d), the authority may
28 authorize the person to follow an alternative reporting
29 procedure. The authority shall consult with the person's
30 corrections agent, if the person has one, in establishing the
31 specific criteria of this alternative procedure, subject to the
32 following requirements:

33 (1) The authority shall document, in the person's
34 registration record, the specific reasons why the weekly
35 in-person reporting process is impractical for the person to
36 follow.

1 (2) The authority shall explain how the alternative
2 reporting procedure furthers the public safety objectives of
3 this section.

4 (3) The authority shall require the person lacking a
5 primary address to report in person at least monthly to the
6 authority or the person's corrections agent and shall specify
7 the location where the person shall report. If the authority
8 determines it would be more practical and would further public
9 safety for the person to report to another law enforcement
10 authority with jurisdiction where the person is staying, it may,
11 after consulting with the other law enforcement authority,
12 include this requirement in the person's alternative reporting
13 process.

14 (4) The authority shall require the person to comply with
15 the weekly, in-person reporting process required under paragraph
16 (d), if the person moves to a new area where this process would
17 be practical.

18 (5) The authority shall require the person to report any
19 changes to the registration information provided under
20 subdivision 4a and to comply with the periodic registration
21 requirements specified under paragraph (f).

22 (6) The authority shall require the person to comply with
23 the requirements of subdivision 3, paragraphs (b) and (c), if
24 the person moves to a primary address.

25 (f) If a person continues to lack a primary address and
26 continues to report to the same law enforcement authority, the
27 person shall provide the authority with all of the information
28 the individual is required to provide under subdivision 4a and
29 this subdivision at least annually, unless the person is
30 required to register under subdivision 1b, paragraph (c),
31 following commitment pursuant to a court commitment under
32 section 253B.185 or a similar law of another state or the United
33 States. If the person is required to register under subdivision
34 1b, paragraph (c), the person shall provide the law enforcement
35 authority with all of the information the individual is required
36 to report under subdivision 4a and this subdivision at least

1 once every three months.

2 (g) A law enforcement authority receiving information under
3 this subdivision shall forward registration information and
4 changes to that information to the bureau within two business
5 days of receipt of the information.

6 (h) For purposes of this subdivision, a person who fails to
7 report a primary address will be deemed to be a person who lacks
8 a primary address, and the person shall comply with the
9 requirements for a person who lacks a primary address.

10 Subd. 4. [CONTENTS OF REGISTRATION.] (a) The registration
11 provided to the corrections agent or law enforcement authority,
12 must consist of a statement in writing signed by the person,
13 giving information required by the bureau ~~of Criminal~~
14 ~~Apprehension~~, a fingerprint card, and photograph of the person
15 taken at the time of the person's release from incarceration or,
16 if the person was not incarcerated, at the time the person
17 initially registered under this section. The registration
18 information also must include a written consent form signed by
19 the person allowing a treatment facility or residential housing
20 unit or shelter to release information to a law enforcement
21 officer about the person's admission to, or residence in, a
22 treatment facility or residential housing unit or shelter.
23 Registration information on adults and juveniles may be
24 maintained together notwithstanding section 260B.171,
25 subdivision 3.

26 (b) For persons required to register under subdivision ~~3~~
27 1b, paragraph (c), following commitment pursuant to a court
28 commitment under section 253B.185 or a similar law of another
29 state or the United States, in addition to other information
30 required by this section, the registration provided to the
31 corrections agent or law enforcement authority must include the
32 person's offense history and documentation of treatment received
33 during the person's commitment. This documentation ~~shall be~~ is
34 limited to a statement of how far the person progressed in
35 treatment during commitment.

36 (c) Within three days of receipt, the corrections agent or

1 law enforcement authority shall forward the registration
2 information to the bureau of ~~Criminal Apprehension~~. The bureau
3 shall ascertain whether the person has registered with the law
4 enforcement authority ~~where the person resides~~ in the area of
5 the person's primary address, if any, or if the person lacks a
6 primary address, where the person is staying, as required by
7 subdivision 3a. If the person has not registered with the law
8 enforcement authority, the bureau shall send one copy to that
9 authority.

10 (d) The corrections agent or law enforcement authority may
11 require that a person required to register under this section
12 appear before the agent or authority to be photographed. The
13 agent or authority shall require a person required to register
14 under this section who is classified as a risk level III
15 offender under section 244.052 to appear before the agent or
16 authority at least every six months to be photographed. The
17 agent or authority shall forward the photograph to the bureau of
18 ~~Criminal Apprehension~~.

19 (e) During the period a person is required to register
20 under this section, the following ~~shall~~ provisions apply:

21 (1) Except for persons registering under subdivision 3a,
22 the bureau of ~~Criminal Apprehension~~ shall mail a verification
23 form to the ~~last-reported-address-of-the person's residence~~ last
24 reported primary address. This verification form ~~shall~~ must
25 provide notice to the offender that, if the offender does not
26 return the verification form as required, information about the
27 offender may be made available to the public through electronic,
28 computerized, or other accessible means. For persons who are
29 registered under subdivision 3a, the bureau shall mail an annual
30 verification form to the law enforcement authority where the
31 offender most recently reported. The authority shall provide
32 the verification form to the person at the next weekly meeting
33 and ensure that the person completes and signs the form and
34 returns it to the bureau.

35 (2) The person shall mail the signed verification form back
36 to the bureau of ~~Criminal Apprehension~~ within ten days after

1 receipt of the form, stating on the form the current and last
2 address of the person's residence and the other information
3 required under subdivision 4a.

4 (3) In addition to the requirements listed in this section,
5 a person who, under section 244.052, is assigned to risk level
6 II or risk level III, and who is no longer under correctional
7 supervision, shall have an annual in-person contact with the law
8 enforcement authority in the area of the person's primary
9 address or, if the person has no primary address, where the
10 person is staying. During the month of the person's birth date,
11 the person shall report to the authority to verify the accuracy
12 of the registration information and to be photographed. Within
13 three days of this contact, the authority shall enter
14 information as required by the bureau into the predatory
15 offender registration database and submit an updated photograph
16 of the person to the bureau's predatory offender registration
17 unit. The authority may waive the photograph requirement for a
18 person assigned to risk level III who has recently been
19 photographed under paragraph (d).

20 (4) If the person fails to mail the completed and signed
21 verification form to the bureau of-Criminal-Apprehension within
22 ten days after receipt of the form, or if the person fails to
23 report to the law enforcement authority during the month of the
24 person's birth date, the person shall-be is in violation of this
25 section.

26 For persons required to register under subdivision ~~±~~ 1b,
27 paragraph (c), following commitment pursuant to a court
28 commitment under section 253B.185 or a similar law of another
29 state or the United States, the bureau shall comply with clause
30 (1) at least four times each year. For persons who under
31 section 244.052 are assigned to risk level III and who are no
32 longer under correctional supervision, the bureau shall comply
33 with clause (1) at least two times each year. For all other
34 persons required to register under this section, the bureau
35 shall comply with clause (1) each year within 30 days of the
36 anniversary date of the person's initial registration.

1 (f) When sending out a verification form, the bureau of
 2 ~~Criminal Apprehension~~ must shall determine whether the person to
 3 whom the verification form is being sent has signed a written
 4 consent form as provided for in paragraph (a). If the person
 5 has not signed such a consent form, the bureau of ~~Criminal~~
 6 ~~Apprehension~~ must shall send a written consent form to the
 7 person along with the verification form. A person who receives
 8 this written consent form must shall sign and return it to the
 9 bureau of ~~Criminal Apprehension~~ at the same time as the
 10 verification form.

11 ~~(g) For the purposes of this subdivision, "treatment~~
 12 ~~facility" means a residential facility, as defined in section~~
 13 ~~244.052, subdivision 1, and residential chemical dependency~~
 14 ~~treatment programs and halfway houses licensed under chapter~~
 15 ~~245A, including, but not limited to, those facilities directly~~
 16 ~~or indirectly assisted by any department or agency of the United~~
 17 ~~States.~~

18 Subd. 4a. [INFORMATION REQUIRED TO BE PROVIDED.] (a) As
 19 ~~used in this section:~~

20 ~~(1) "motor vehicle" has the meaning given "vehicle" in~~
 21 ~~section 169.01, subdivision 2;~~

22 ~~(2) "primary residence" means any place where the person~~
 23 ~~resides longer than 14 days or that is deemed a primary~~
 24 ~~residence by a person's corrections agent, if one is assigned to~~
 25 ~~the person, and~~

26 ~~(3) "secondary residence" means any place where the person~~
 27 ~~regularly stays overnight when not staying at the person's~~
 28 ~~primary residence, and includes, but is not limited to:~~

29 ~~(i) the person's parent's home if the person is a student~~
 30 ~~and stays at the home at times when the person is not staying at~~
 31 ~~school, including during the summer, and~~

32 ~~(ii) the home of someone with whom the person has a minor~~
 33 ~~child in common where the child's custody is shared.~~

34 (b) A person required to register under this section shall
 35 provide to the corrections agent or law enforcement authority
 36 the following information:

1 (1) the ~~address-of-the~~ person's primary residence address;

2 (2) the ~~addresses-of~~ all of the person's secondary
3 residences addresses in Minnesota, including all addresses used
4 for residential or recreational purposes;

5 (3) the addresses of all Minnesota property owned, leased,
6 or rented by the person;

7 (4) the addresses of all locations where the person is
8 employed;

9 (5) the addresses of all residences schools where the
10 person ~~resides-while-attending-school~~ is enrolled; and

11 (6) the year, model, make, license plate number, and color
12 of all motor vehicles owned or regularly driven by the person.

13 ~~(c)~~ (b) The person shall report to the agent or authority
14 the information required to be provided under paragraph ~~(b)~~ (a),
15 clauses (2) to (6), within five days of the date the clause
16 becomes applicable. If because of a change in circumstances any
17 information reported under paragraph ~~(b)~~ (a), clauses (1) to
18 (6), no longer applies, the person shall immediately inform the
19 agent or authority that the information is no longer valid. If
20 the person leaves a primary address and does not have a new
21 primary address, the person shall register as provided in
22 subdivision 3a.

23 Subd. 5. [CRIMINAL PENALTY.] (a) A person required to
24 register under this section who knowingly violates any of its
25 provisions or intentionally provides false information to a
26 corrections agent, law enforcement authority, or the bureau of
27 ~~Criminal Apprehension~~ is guilty of a felony and may be sentenced
28 to imprisonment for not more than five years or to payment of a
29 fine of not more than \$10,000, or both.

30 (b) Except as provided in paragraph (c), a person convicted
31 of violating paragraph (a) shall be committed to the custody of
32 the commissioner of corrections for not less than a year and a
33 day, nor more than five years.

34 (c) A person convicted of violating paragraph (a), who has
35 previously been convicted of or adjudicated delinquent for
36 violating this section, shall be committed to the custody of the

1 commissioner of corrections for not less than two years, nor
2 more than five years.

3 (d) Prior to the time of sentencing, the prosecutor may
4 file a motion to have the person sentenced without regard to the
5 mandatory minimum sentence established by this subdivision. The
6 motion ~~shall~~ must be accompanied by a statement on the record of
7 the reasons for it. When presented with the motion, or on its
8 own motion, the court may sentence the person without regard to
9 the mandatory minimum sentence if the court finds substantial
10 and compelling reasons to do so. Sentencing a person in the
11 manner described in this paragraph is a departure from the
12 Sentencing Guidelines.

13 (e) A person convicted and sentenced as required by this
14 subdivision is not eligible for probation, parole, discharge,
15 work release, or supervised release, until that person has
16 served the full term of imprisonment as provided by law,
17 notwithstanding the provisions of sections 241.26, 242.19,
18 243.05, 244.04, 609.12, and 609.135.

19 Subd. 6. [REGISTRATION PERIOD.] (a) Notwithstanding the
20 provisions of section 609.165, subdivision 1, and except as
21 provided in paragraphs (b), (c), and (d), a person required to
22 register under this section shall continue to comply with this
23 section until ten years have elapsed since the person initially
24 registered in connection with the offense, or until the
25 probation, supervised release, or conditional release period
26 expires, whichever occurs later. For a person required to
27 register under this section who is committed under section
28 253B.18 or 253B.185, the ten-year registration period does not
29 include the period of commitment.

30 (b) If a person required to register under this section
31 fails to register following a change in residence the person's
32 primary or secondary address, employment, school, or motor
33 vehicle information; fails to report any property the person
34 owns, leases, or rents; or fails to return the annual
35 verification form within ten days; the commissioner of public
36 safety may require the person to continue to register for an

1 additional period of five years. This five-year period is added
2 to the end of the offender's registration period.

3 (c) If a person required to register under this section is
4 subsequently incarcerated following a conviction for a new
5 offense or following a revocation of probation, supervised
6 release, or conditional release for that any offense, ~~or a~~
7 ~~conviction-for-any-new-offense~~, the person shall continue to
8 register until ten years have elapsed since the person was last
9 released from incarceration or until the person's probation,
10 supervised release, or conditional release period expires,
11 whichever occurs later.

12 (d) A person shall continue to comply with this section for
13 the life of that person:

14 (1) if the person is convicted of or adjudicated delinquent
15 for any offense for which registration is required under
16 subdivision \pm lb, or any offense from another state or any
17 federal offense similar to the offenses described in subdivision
18 \pm lb, and the person has a prior conviction or adjudication for
19 an offense for which registration was or would have been
20 required under subdivision \pm lb, or an offense from another
21 state or a federal offense similar to an offense described in
22 subdivision \pm lb;

23 (2) if the person is required to register based upon a
24 conviction or delinquency adjudication for an offense under
25 section 609.185, clause (2), or a similar statute from another
26 state or the United States;

27 (3) if the person is required to register based upon a
28 conviction for an offense under section 609.342, subdivision 1,
29 paragraph (a), (c), (d), (e), (f), or (h); 609.343, subdivision
30 1, paragraph (a), (c), (d), (e), (f), or (h); 609.344,
31 subdivision 1, paragraph (a), (c), or (g); or 609.345,
32 subdivision 1, paragraph (a), (c), or (g); or a statute from
33 another state or the United States similar to the offenses
34 described in this clause; or

35 (4) if the person is required to register under subdivision
36 \pm lb, paragraph (c), following commitment pursuant to a court

1 commitment under section 253B.185 or a similar law of another
2 state or the United States.

3 Subd. 7. [USE OF INFORMATION.] Except as otherwise
4 provided in subdivision 7a or sections 244.052 and 299C.093, the
5 information provided under this section is private data on
6 individuals under section 13.02, subdivision 12. The
7 information may be used only for law enforcement purposes.

8 Subd. 7a. [AVAILABILITY OF INFORMATION ON OFFENDERS WHO
9 ARE OUT OF COMPLIANCE WITH REGISTRATION LAW.] (a) The bureau of
10 ~~Criminal Apprehension~~ may make information available to the
11 public about offenders who are 16 years of age or older and who
12 are out of compliance with this section for 30 days or longer
13 for failure to provide the ~~address-of-the~~ offenders' primary or
14 secondary ~~residences~~ addresses. This information may be made
15 available to the public through electronic, computerized, or
16 other accessible means. The amount and type of information made
17 available ~~shall-be~~ is limited to the information necessary for
18 the public to assist law enforcement in locating the offender.

19 (b) An offender who comes into compliance with this section
20 after the bureau of ~~Criminal Apprehension~~ discloses information
21 about the offender to the public may send a written request to
22 the bureau requesting the bureau to treat information about the
23 offender as private data, consistent with subdivision 7. The
24 bureau shall review the request and promptly take reasonable
25 action to treat the data as private, if the offender has
26 complied with the requirement that the offender provide the
27 ~~addresses-of~~ the offender's primary and secondary
28 ~~residences~~ addresses, or promptly notify the offender that the
29 information will continue to be treated as public information
30 and the reasons for the bureau's decision.

31 (c) If an offender believes the information made public
32 about the offender is inaccurate or incomplete, the offender may
33 challenge the data under section 13.04, subdivision 4.

34 (d) The bureau of ~~Criminal Apprehension~~ is immune from any
35 civil or criminal liability that might otherwise arise, based on
36 the accuracy or completeness of any information made public

1 under this subdivision, if the bureau acts in good faith.

2 ~~Subd. 8. --[LAW-ENFORCEMENT-AUTHORITY.] For purposes of this~~
 3 ~~section, a law enforcement authority means, with respect to a~~
 4 ~~home-rule charter or statutory city, the chief of police, and~~
 5 ~~with respect to an unincorporated area, the sheriff of the~~
 6 ~~county.~~

7 Subd. 9. [OFFENDERS FROM OTHER STATES.] When the state
 8 accepts an offender from another state under a reciprocal
 9 agreement under the interstate compact authorized by section
 10 243.16 or 243.1605, or under any authorized interstate
 11 agreement, the acceptance is conditional on the offender
 12 agreeing to register under this section when the offender is
 13 living in Minnesota.

14 Subd. 10. [VENUE; AGGREGATION.] (a) A violation of this
 15 section may be prosecuted in any jurisdiction where an offense
 16 takes place. However, the prosecutorial agency in the
 17 jurisdiction where the person last registered a primary address
 18 is initially responsible to review the case for prosecution.

19 (b) When a person commits two or more offenses in two or
 20 more counties, the accused may be prosecuted for all of the
 21 offenses in any county in which one of the offenses was
 22 committed.

23 Subd. 11. [CERTIFIED COPIES AS EVIDENCE.] Certified copies
 24 of predatory offender registration records are admissible as
 25 substantive evidence when necessary to prove the commission of a
 26 violation of this section.

27 [EFFECTIVE DATE.] This section is effective August 1, 2005,
 28 and applies to persons subject to predatory offender
 29 registration on or after that date.

30 Sec. 2. Minnesota Statutes 2004, section 243.167, is
 31 amended to read:

32 243.167 [REGISTRATION UNDER THE PREDATORY OFFENDER
 33 REGISTRATION LAW FOR OTHER OFFENSES.]

34 Subdivision 1. [DEFINITION.] As used in this section,
 35 "crime against the person" means a violation of any of the
 36 following or a similar law of another state or of the United

1 States: section 609.165; 609.185; 609.19; 609.195; 609.20;
 2 609.205; 609.221; 609.222; 609.223; 609.2231; 609.224,
 3 subdivision 2 or 4; 609.2242, subdivision 2 or 4; 609.235;
 4 609.245, subdivision 1; 609.25; 609.255; 609.3451, subdivision
 5 2; 609.498, subdivision 1; 609.582, subdivision 1; or 617.23,
 6 subdivision 2; or any felony-level violation of section 609.229;
 7 609.377; 609.749; or 624.713.

8 Subd. 2. [WHEN REQUIRED.] (a) In addition to the
 9 requirements of section 243.166, a person also shall register
 10 under section 243.166 if:

11 (1) the person is convicted of a crime against the person;
 12 and

13 (2) the person was previously convicted of or adjudicated
 14 delinquent for an offense listed in section 243.166, ~~subdivision~~
 15 ~~17-paragraph-(a)~~, but was not required to register for the
 16 offense because the registration requirements of that section
 17 did not apply to the person at the time the offense was
 18 committed or at the time the person was released from
 19 imprisonment.

20 (b) A person who was previously required to register under
 21 ~~section-243.166~~ in any state and who has completed the
 22 registration requirements of that ~~section~~ state shall again
 23 register under section 243.166 if the person commits a crime
 24 against the person.

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

27 Sec. 3. [243.95] [REPORT ON COMMUNITY CORRECTIONAL
 28 SUPERVISION.]

29 By January 15 of each year, the commissioner of corrections
 30 shall report to the chairs of the senate and house committees
 31 having jurisdiction over criminal justice policy on the number,
 32 geographic location, and aggregate and average caseloads for
 33 each caseload type of risk level II and risk level III sex
 34 offender residing in the state for the preceding calendar year.
 35 In addition, the commissioner shall provide this information for
 36 all other types of offenders. The commissioner shall compile

1 and include in the report comparative historical data for the
2 five calendar years preceding the year included in the report.

3 Sec. 4. Minnesota Statutes 2004, section 244.052,
4 subdivision 3, is amended to read:

5 Subd. 3. [END-OF-CONFINEMENT REVIEW COMMITTEE.] (a) The
6 commissioner of corrections shall establish and administer
7 end-of-confinement review committees at each state correctional
8 facility and at each state treatment facility where predatory
9 offenders are confined. The committees shall assess on a
10 case-by-case basis the public risk posed by predatory offenders
11 who are about to be released from confinement.

12 (b) Each committee shall be a standing committee and shall
13 consist of the following members appointed by the commissioner:

14 (1) the chief executive officer or head of the correctional
15 or treatment facility where the offender is currently confined,
16 or that person's designee;

17 (2) a law enforcement officer;

18 (3) a treatment professional who is trained in the
19 assessment of sex offenders;

20 (4) a caseworker experienced in supervising sex offenders;
21 and

22 (5) a victim's services professional.

23 Members of the committee, other than the facility's chief
24 executive officer or head, shall be appointed by the
25 commissioner to two-year terms. The chief executive officer or
26 head of the facility or designee shall act as chair of the
27 committee and shall use the facility's staff, as needed, to
28 administer the committee, obtain necessary information from
29 outside sources, and prepare risk assessment reports on
30 offenders.

31 (c) The committee shall have access to the following data
32 on a predatory offender only for the purposes of its assessment
33 and to defend the committee's risk assessment determination upon
34 administrative review under this section:

35 (1) private medical data under section 13.384 or 144.335,
36 or welfare data under section 13.46 that relate to medical

1 treatment of the offender;

2 (2) private and confidential court services data under
3 section 13.84;

4 (3) private and confidential corrections data under section
5 13.85; and

6 (4) private criminal history data under section 13.87.

7 Data collected and maintained by the committee under this
8 paragraph may not be disclosed outside the committee, except as
9 provided under section 13.05, subdivision 3 or 4. The predatory
10 offender has access to data on the offender collected and
11 maintained by the committee, unless the data are confidential
12 data received under this paragraph.

13 (d)(i) Except as otherwise provided in item (ii), at least
14 90 days before a predatory offender is to be released from
15 confinement, the commissioner of corrections shall convene the
16 appropriate end-of-confinement review committee for the purpose
17 of assessing the risk presented by the offender and determining
18 the risk level to which the offender shall be assigned under
19 paragraph (e). The offender and the law enforcement agency that
20 was responsible for the charge resulting in confinement shall be
21 notified of the time and place of the committee's meeting. The
22 offender has a right to be present and be heard at the meeting.
23 The law enforcement agency may provide material in writing that
24 is relevant to the offender's risk level to the chair of the
25 committee. The committee shall use the risk factors described
26 in paragraph (g) and the risk assessment scale developed under
27 subdivision 2 to determine the offender's risk assessment score
28 and risk level. Offenders scheduled for release from
29 confinement shall be assessed by the committee established at
30 the facility from which the offender is to be released.

31 (ii) If an offender is received for confinement in a
32 facility with less than 90 days remaining in the offender's term
33 of confinement, the offender's risk shall be assessed at the
34 first regularly scheduled end of confinement review committee
35 that convenes after the appropriate documentation for the risk
36 assessment is assembled by the committee. The commissioner

1 shall make reasonable efforts to ensure that offender's risk is
2 assessed and a risk level is assigned or reassigned at least 30
3 days before the offender's release date.

4 (e) The committee shall assign to risk level I a predatory
5 offender whose risk assessment score indicates a low risk of
6 reoffense. The committee shall assign to risk level II an
7 offender whose risk assessment score indicates a moderate risk
8 of reoffense. The committee shall assign to risk level III an
9 offender whose risk assessment score indicates a high risk of
10 reoffense.

11 (f) Before the predatory offender is released from
12 confinement, the committee shall prepare a risk assessment
13 report which specifies the risk level to which the offender has
14 been assigned and the reasons underlying the committee's risk
15 assessment decision. The committee shall give the report to the
16 offender and to the law enforcement agency at least 60 days
17 before an offender is released from confinement. If the risk
18 assessment is performed under the circumstances described in
19 paragraph (d), item (ii), the report shall be given to the
20 offender and the law enforcement agency as soon as it is
21 available. The committee also shall inform the offender of the
22 availability of review under subdivision 6.

23 (g) As used in this subdivision, "risk factors" includes,
24 but is not limited to, the following factors:

25 (1) the seriousness of the offense should the offender
26 reoffend. This factor includes consideration of the following:

- 27 (i) the degree of likely force or harm;
28 (ii) the degree of likely physical contact; and
29 (iii) the age of the likely victim;

30 (2) the offender's prior offense history. This factor
31 includes consideration of the following:

- 32 (i) the relationship of prior victims to the offender;
33 (ii) the number of prior offenses or victims;
34 (iii) the duration of the offender's prior offense history;
35 (iv) the length of time since the offender's last prior
36 offense while the offender was at risk to commit offenses; and

1 (v) the offender's prior history of other antisocial acts;

2 (3) the offender's characteristics. This factor includes

3 consideration of the following:

4 (i) the offender's response to prior treatment efforts; and

5 (ii) the offender's history of substance abuse;

6 (4) the availability of community supports to the offender.

7 This factor includes consideration of the following:

8 (i) the availability and likelihood that the offender will
9 be involved in therapeutic treatment;

10 (ii) the availability of residential supports to the
11 offender, such as a stable and supervised living arrangement in
12 an appropriate location;

13 (iii) the offender's familial and social relationships,
14 including the nature and length of these relationships and the
15 level of support that the offender may receive from these
16 persons; and

17 (iv) the offender's lack of education or employment
18 stability;

19 (5) whether the offender has indicated or credible evidence
20 in the record indicates that the offender will reoffend if
21 released into the community; and

22 (6) whether the offender demonstrates a physical condition
23 that minimizes the risk of reoffense, including but not limited
24 to, advanced age or a debilitating illness or physical condition.

25 (h) Upon the request of the law enforcement agency or the
26 offender's corrections agent, the commissioner may reconvene the
27 end-of-confinement review committee for the purpose of
28 reassessing the risk level to which an offender has been
29 assigned under paragraph (e). In a request for a reassessment,
30 the law enforcement agency which was responsible for the charge
31 resulting in confinement or agent shall list the facts and
32 circumstances arising after the initial assignment or facts and
33 circumstances known to law enforcement or the agent but not
34 considered by the committee under paragraph (e) which support
35 the request for a reassessment. The request for reassessment by
36 the law enforcement agency must occur within 30 days of receipt

1 of the report indicating the offender's risk level assignment.
2 The offender's corrections agent, in consultation with the chief
3 law enforcement officer in the area where the offender resides
4 or intends to reside, may request a review of a risk level at
5 any time if substantial evidence exists that the offender's risk
6 level should be reviewed by an end-of-confinement review
7 committee. This evidence includes, but is not limited to,
8 evidence of treatment failures or completions, evidence of
9 exceptional crime-free community adjustment or lack of
10 appropriate adjustment, evidence of substantial community need
11 to know more about the offender or mitigating circumstances that
12 would narrow the proposed scope of notification, or other
13 practical situations articulated and based in evidence of the
14 offender's behavior while under supervision. Upon review of the
15 request, the end-of-confinement review committee may reassign an
16 offender to a different risk level. If the offender is
17 reassigned to a higher risk level, the offender has the right to
18 seek review of the committee's determination under subdivision 6.

19 (i) An offender may request the end-of-confinement review
20 committee to reassess the offender's assigned risk level after
21 three years have elapsed since the committee's initial risk
22 assessment and may renew the request once every two years
23 following subsequent denials. In a request for reassessment,
24 the offender shall list the facts and circumstances which
25 demonstrate that the offender no longer poses the same degree of
26 risk to the community. In order for a request for a risk level
27 reduction to be granted, the offender must demonstrate full
28 compliance with supervised release conditions, completion of
29 required post-release treatment programming, and full compliance
30 with all registration requirements as detailed in section
31 243.166. The offender must also not have been convicted of any
32 felony, gross misdemeanor, or misdemeanor offenses subsequent to
33 the assignment of the original risk level. The committee shall
34 follow the process outlined in paragraphs (a) to (c) in the
35 reassessment. An offender who is incarcerated may not request a
36 reassessment under this paragraph.

1 (j) Offenders returned to prison as release violators shall
2 not have a right to a subsequent risk reassessment by the
3 end-of-confinement review committee unless substantial evidence
4 indicates that the offender's risk to the public has increased.

5 (k) The commissioner shall establish an end-of-confinement
6 review committee to assign a risk level to offenders who:

7 (1) are released from a any federal correctional facility
8 in-Minnesota or from any state correctional facility of another
9 state, and who intend to reside in Minnesota, ~~and to offenders;~~
10 or

11 (2) are accepted from another state under a reciprocal
12 agreement for parole supervision under the interstate compact
13 authorized by section 243.16 or 243.1605.

14 The committee shall make reasonable efforts to conform to the
15 same timelines as applied to Minnesota cases. Offenders
16 accepted from another state under a reciprocal agreement for
17 probation supervision are not assigned a risk level, but are
18 considered downward dispositional departures. The probation or
19 court services officer and law enforcement officer shall manage
20 such cases in accordance with section 244.10, subdivision 2a.
21 The policies and procedures of the committee for federal
22 offenders and interstate compact cases must be in accordance
23 with all requirements as set forth in this section, unless
24 restrictions caused by the nature of federal or interstate
25 transfers prevents such conformance.

26 (l) If the committee assigns a predatory offender to risk
27 level III, the committee shall determine whether residency
28 restrictions shall be included in the conditions of the
29 offender's release based on the offender's pattern of offending
30 behavior.

31 [EFFECTIVE DATE.] This section is effective August 1, 2005,
32 and applies to offenders entering the state, released from
33 confinement, subject to community notification, or sentenced on
34 or after that date.

35 Sec. 5. Minnesota Statutes 2004, section 244.052, is
36 amended by adding a subdivision to read:

1 Subd. 3a. [OUT-OF-STATE OFFENDERS; NOTIFICATION
2 AUTHORIZED.] (a) This subdivision applies to offenders who move
3 or have moved to Minnesota from other states and who:

4 (1) at the time of the move are subject to a community
5 notification statute similar to this section in the state from
6 which the offender is moving; and

7 (2) are not assigned a risk level under subdivision 3,
8 paragraph (k).

9 (b) The law enforcement agency in the area where an
10 offender described in paragraph (a) resides, expects to reside,
11 or is regularly found, may disclose information regarding the
12 offender consistent with subdivision 4, paragraph (a). The
13 extent of the notification must be consistent with the
14 notification made about the offender in the state from which the
15 offender is moving or has moved. However, the extent of the
16 notification may not exceed that of a risk level II offender
17 under subdivision 4, paragraph (b), unless the requirements of
18 paragraph (c) have been met. Except as otherwise provided in
19 this subdivision and unless clearly inapplicable, the provisions
20 of subdivision 4 apply to notifications made under this
21 paragraph.

22 (c) If the notification made concerning the offender in the
23 state from which the offender is moving or has moved is broader
24 than that authorized for a risk level II offender under
25 subdivision 4, paragraph (b), and the agency wants to make a
26 broader disclosure, the agency may request the
27 end-of-confinement review committee at the nearest state
28 correctional or treatment facility to assign a risk level to the
29 offender. The agency shall provide to the committee all
30 information concerning the offender's criminal history, the risk
31 the offender poses to the community, and other relevant
32 information. In addition, the committee shall attempt to obtain
33 other information relevant to determining which risk level to
34 assign the offender. Except as provided in this subdivision and
35 unless clearly inapplicable, the provisions of subdivision 3
36 govern the risk assessment under this paragraph. If the

1 committee assigns the offender to risk level III, the agency may
2 disclose information in a manner consistent with a risk level
3 III offender under subdivision 4, paragraph (b).

4 [EFFECTIVE DATE.] This section is effective August 1, 2005,
5 and applies to offenders entering the state, released from
6 confinement, subject to community notification, or sentenced on
7 or after that date.

8 Sec. 6. Minnesota Statutes 2004, section 244.052,
9 subdivision 4, is amended to read:

10 Subd. 4. [LAW ENFORCEMENT AGENCY; DISCLOSURE OF
11 INFORMATION TO PUBLIC.] (a) The law enforcement agency in the
12 area where the predatory offender resides, expects to reside, is
13 employed, or is regularly found, shall disclose to the public
14 any information regarding the offender contained in the report
15 forwarded to the agency under subdivision 3, paragraph (f), that
16 is relevant and necessary to protect the public and to
17 counteract the offender's dangerousness, consistent with the
18 guidelines in paragraph (b). The extent of the information
19 disclosed and the community to whom disclosure is made must
20 relate to the level of danger posed by the offender, to the
21 offender's pattern of offending behavior, and to the need of
22 community members for information to enhance their individual
23 and collective safety.

24 (b) The law enforcement agency shall employ the following
25 guidelines in determining the scope of disclosure made under
26 this subdivision:

27 (1) if the offender is assigned to risk level I, the agency
28 may maintain information regarding the offender within the
29 agency and may disclose it to other law enforcement agencies.
30 Additionally, the agency may disclose the information to any
31 victims of or witnesses to the offense committed by the
32 offender. The agency shall disclose the information to victims
33 of the offense committed by the offender who have requested
34 disclosure and to adult members of the offender's immediate
35 household;

36 (2) if the offender is assigned to risk level II, the

1 agency also may disclose the information to agencies and groups
2 that the offender is likely to encounter for the purpose of
3 securing those institutions and protecting individuals in their
4 care while they are on or near the premises of the institution.
5 These agencies and groups include the staff members of public
6 and private educational institutions, day care establishments,
7 and establishments and organizations that primarily serve
8 individuals likely to be victimized by the offender. The agency
9 also may disclose the information to individuals the agency
10 believes are likely to be victimized by the offender. The
11 agency's belief shall be based on the offender's pattern of
12 offending or victim preference as documented in the information
13 provided by the department of corrections or human services;

14 (3) if the offender is assigned to risk level III, the
15 agency shall disclose the information to the persons and
16 entities described in clauses (1) and (2) and to other members
17 of the community whom the offender is likely to encounter,
18 unless the law enforcement agency determines that public safety
19 would be compromised by the disclosure or that a more limited
20 disclosure is necessary to protect the identity of the victim.

21 Notwithstanding the assignment of a predatory offender to
22 risk level II or III, a law enforcement agency may not make the
23 disclosures permitted or required by clause (2) or (3), if: the
24 offender is placed or resides in a residential facility.

25 However, if an offender is placed or resides in a residential
26 facility, the offender and the head of the facility shall
27 designate the offender's likely residence upon release from the
28 facility and the head of the facility shall notify the
29 commissioner of corrections or the commissioner of human
30 services of the offender's likely residence at least 14 days
31 before the offender's scheduled release date. The commissioner
32 shall give this information to the law enforcement agency having
33 jurisdiction over the offender's likely residence. The head of
34 the residential facility also shall notify the commissioner of
35 corrections or human services within 48 hours after finalizing
36 the offender's approved relocation plan to a permanent

1 residence. Within five days after receiving this notification,
2 the appropriate commissioner shall give to the appropriate law
3 enforcement agency all relevant information the commissioner has
4 concerning the offender, including information on the risk
5 factors in the offender's history and the risk level to which
6 the offender was assigned. After receiving this information,
7 the law enforcement agency shall make the disclosures permitted
8 or required by clause (2) or (3), as appropriate.

9 (c) As used in paragraph (b), clauses (2) and (3), "likely
10 to encounter" means that:

11 (1) the organizations or community members are in a
12 location or in close proximity to a location where the offender
13 lives or is employed, or which the offender visits or is likely
14 to visit on a regular basis, other than the location of the
15 offender's outpatient treatment program; and

16 (2) the types of interaction which ordinarily occur at that
17 location and other circumstances indicate that contact with the
18 offender is reasonably certain.

19 (d) A law enforcement agency or official who discloses
20 information under this subdivision shall make a good faith
21 effort to make the notification within 14 days of receipt of a
22 confirmed address from the Department of Corrections indicating
23 that the offender will be, or has been, released from
24 confinement, or accepted for supervision, or has moved to a new
25 address and will reside at the address indicated. If a change
26 occurs in the release plan, this notification provision does not
27 require an extension of the release date.

28 (e) A law enforcement agency or official who discloses
29 information under this subdivision shall not disclose the
30 identity or any identifying characteristics of the victims of or
31 witnesses to the offender's offenses.

32 (f) A law enforcement agency shall continue to disclose
33 information on an offender as required by this subdivision for
34 as long as the offender is required to register under section
35 243.166. This requirement on a law enforcement agency to
36 continue to disclose information also applies to an offender who

1 lacks a primary address and is registering under section
 2 243.166, subdivision 3a.

3 (g) A law enforcement agency that is disclosing information
 4 on an offender assigned to risk level III to the public under
 5 this subdivision shall inform the commissioner of corrections
 6 what information is being disclosed and forward this information
 7 to the commissioner within two days of the agency's
 8 determination. The commissioner shall post this information on
 9 the Internet as required in subdivision 4b.

10 (h) A city council may adopt a policy that addresses when
 11 information disclosed under this subdivision must be presented
 12 in languages in addition to English. The policy may address
 13 when information must be presented orally, in writing, or both
 14 in additional languages by the law enforcement agency disclosing
 15 the information. The policy may provide for different
 16 approaches based on the prevalence of non-English languages in
 17 different neighborhoods.

18 [EFFECTIVE DATE.] This section is effective August 1, 2005,
 19 and applies to offenders entering the state, released from
 20 confinement, subject to community notification, or sentenced on
 21 or after that date.

22 Sec. 7. Minnesota Statutes 2004, section 244.10,
 23 subdivision 2a, is amended to read:

24 Subd. 2a. [NOTICE OF INFORMATION REGARDING PREDATORY
 25 OFFENDERS.] (a) Subject to paragraph (b), in any case in which a
 26 person is convicted of an offense and the presumptive sentence
 27 under the Sentencing Guidelines is commitment to the custody of
 28 the commissioner of corrections, if the court grants a
 29 dispositional departure and stays imposition or execution of
 30 sentence, the probation or court services officer who is
 31 assigned to supervise the offender shall provide in writing to
 32 the following the fact that the offender is on probation and the
 33 terms and conditions of probation:

34 (1) a victim of and any witnesses to the offense committed
 35 by the offender, if the victim or the witness has requested
 36 notice; and

1 (2) the chief law enforcement officer in the area where the
2 offender resides or intends to reside.

3 The law enforcement officer, in consultation with the
4 offender's probation officer, may provide all or part of this
5 information to any of the following agencies or groups the
6 offender is likely to encounter: public and private educational
7 institutions, day care establishments, and establishments or
8 organizations that primarily serve individuals likely to be
9 victimized by the offender. The law enforcement officer, in
10 consultation with the offender's probation officer, also may
11 disclose the information to individuals the officer believes are
12 likely to be victimized by the offender. The officer's belief
13 shall be based on the offender's pattern of offending or victim
14 preference as documented in the information provided by the
15 Department of Corrections or Department of Human Services.

16 The probation officer is not required under this
17 subdivision to provide any notice while the offender is placed
18 or resides in a residential facility that is licensed under
19 section 245A.02, subdivision 14, or 241.021, if the facility
20 staff is trained in the supervision of sex offenders.

21 (b) Paragraph (a) applies only to offenders required to
22 register under section 243.166, as a result of the conviction.

23 (c) The notice authorized by paragraph (a) shall be limited
24 to data classified as public under section 13.84, subdivision 6,
25 unless the offender provides informed consent to authorize the
26 release of nonpublic data or unless a court order authorizes the
27 release of nonpublic data.

28 (d) Nothing in this subdivision shall be interpreted to
29 impose a duty on any person to use any information regarding an
30 offender about whom notification is made under this subdivision.

31 [EFFECTIVE DATE.] This section is effective August 1, 2005,
32 and applies to offenders entering the state, released from
33 confinement, subject to community notification, or sentenced on
34 or after that date.

35 Sec. 8. Minnesota Statutes 2004, section 253B.18,
36 subdivision 5, is amended to read:

1 Subd. 5. [PETITION; NOTICE OF HEARING; ATTENDANCE; ORDER.]

2 (a) A petition for an order of transfer, discharge, provisional
3 discharge, or revocation of provisional discharge shall be filed
4 with the commissioner and may be filed by the patient or by the
5 head of the treatment facility. A patient may not petition the
6 special review board for six months following commitment under
7 subdivision 3 or following the final disposition of any previous
8 petition and subsequent appeal by the patient. The medical
9 director may petition at any time.

10 (b) Fourteen days prior to the hearing, the committing
11 court, the county attorney of the county of commitment, the
12 designated agency, interested person, the petitioner, and the
13 petitioner's counsel shall be given written notice by the
14 commissioner of the time and place of the hearing before the
15 special review board. Only those entitled to statutory notice
16 of the hearing or those administratively required to attend may
17 be present at the hearing. The patient may designate interested
18 persons to receive notice by providing the names and addresses
19 to the commissioner at least 21 days before the hearing. The
20 board shall provide the commissioner with written findings of
21 fact and recommendations within 21 days of the hearing. The
22 commissioner shall issue an order no later than 14 days after
23 receiving the recommendation of the special review board. A
24 copy of the order shall be sent by certified mail to every
25 person entitled to statutory notice of the hearing within five
26 days after it is signed. No order by the commissioner shall be
27 effective sooner than 30 days after the order is signed, unless
28 the county attorney, the patient, and the commissioner agree
29 that it may become effective sooner.

30 (c) The special review board shall hold a hearing on each
31 petition prior to making its recommendation to the
32 commissioner. The special review board proceedings are not
33 contested cases as defined in chapter 14. Any person or agency
34 receiving notice that submits documentary evidence to the
35 special review board prior to the hearing shall also provide
36 copies to the patient, the patient's counsel, the county

1 attorney of the county of commitment, the case manager, and the
2 commissioner.

3 (d) Prior to the final decision by the commissioner, the
4 special review board may be reconvened to consider events or
5 circumstances that occurred subsequent to the hearing.

6 (e) In making its recommendations, the special review board
7 or commissioner must consider any statements received from
8 victims under subdivision 5a.

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

10 Sec. 9. Minnesota Statutes 2004, section 253B.18, is
11 amended by adding a subdivision to read:

12 Subd. 5a. [VICTIM NOTIFICATION OF PETITION AND RELEASE;
13 RIGHT TO SUBMIT STATEMENT.] (a) As used in this subdivision:

14 (1) "crime" has the meaning given to "violent crime" in
15 section 609.1095, and includes offenses within the definition of
16 "crime against the person" in section 253B.02, subdivision 4a,
17 and also includes offenses listed in section 253B.02,
18 subdivision 7a, paragraph (b), regardless of whether they are
19 sexually motivated;

20 (2) "victim" means a person who has incurred loss or harm
21 as a result of a crime the behavior for which forms the basis
22 for a commitment under this section or section 253B.185; and

23 (3) "convicted" and "conviction" include findings under
24 Minnesota Rules of Criminal Procedure, Rule 20.02, that the
25 elements of a crime have been proved.

26 (b) A county attorney who files a petition to commit a
27 person under this section or section 253B.185 shall make a
28 reasonable effort to provide prompt notice of filing the
29 petition to any victim of a crime for which the person was
30 convicted. In addition, the county attorney shall make a
31 reasonable effort to promptly notify the victim of the
32 resolution of the petition.

33 (c) Before provisionally discharging, discharging, granting
34 pass-eligible status, approving a pass plan, or otherwise
35 permanently or temporarily releasing a person committed under
36 this section or section 253B.185 from a treatment facility, the

1 treatment facility head shall make a reasonable effort to notify
 2 any victim of a crime for which the person was convicted that
 3 the person may be discharged or released and that the victim has
 4 a right to submit a written statement regarding decisions of the
 5 special review board or the commissioner with respect to the
 6 person. To the extent possible, the notice must be provided at
 7 least seven days before any special review board hearing or
 8 before a determination on a pass plan.

9 (d) This subdivision applies only to victims who have
 10 requested notification by contacting in writing the county
 11 attorney in the county where the conviction for the crime
 12 occurred. A county attorney who receives a request for
 13 notification under this paragraph shall promptly forward the
 14 request to the commissioner of human services.

15 (e) The rights under this subdivision are in addition to
 16 rights available to a victim under chapter 611A. This provision
 17 does not give a victim all the rights of a person entitled to
 18 statutory notice under subdivision 5.

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

20 Sec. 10. [609.3456] [USE OF POLYGRAPHS FOR SEX OFFENDERS
 21 ON PROBATION OR CONDITIONAL RELEASE.]

22 (a) A court may order as an intermediate sanction under
 23 section 609.135 and the commissioner of corrections may order as
 24 a condition of release under section 244.05 or 609.3455 that an
 25 offender under supervision for a sex offense submit to
 26 polygraphic examinations to ensure compliance with the terms of
 27 probation or conditions of release.

28 (b) The court or commissioner may order the offender to pay
 29 all or a portion of the costs of the examinations. The fee may
 30 be waived if the offender is indigent or if payment would result
 31 in an economic hardship to the offender's immediate family.

32 [EFFECTIVE DATE.] This section is effective the day
 33 following final enactment.

34 Sec. 11. [PROTOCOL ON USE OF POLYGRAPHS.]

35 By September 1, 2005, the chief justice of the Supreme
 36 Court, in consultation with the Conference of Chief Judges, is

1 requested to develop a protocol for the use of polygraphic
 2 examinations for sex offenders placed on probation under
 3 Minnesota Statutes, section 609.3456. This protocol shall be
 4 distributed to judges across the state.

5 [EFFECTIVE DATE.] This section is effective the day
 6 following final enactment.

7 Sec. 12. [REVISOR INSTRUCTION.]

8 The revisor of statutes shall change all references to
 9 section 243.166, subdivision 1, in Minnesota Statutes to section
 10 243.166. In addition, the revisor shall make other technical
 11 changes necessitated by this article.

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

13 Sec. 13. [REPEALER.]

14 Minnesota Statutes 2004, section 243.166, subdivisions 1
 15 and 8, are repealed.

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

17 ARTICLE 3

18 LEGISLATIVE AUDITOR'S RECOMMENDED CHANGES

19 Section 1. Minnesota Statutes 2004, section 241.67,
 20 subdivision 7, is amended to read:

21 Subd. 7. [FUNDING PRIORITY; PROGRAM EFFECTIVENESS.] (a)

22 Unless otherwise directed by the terms of a particular
 23 appropriations provision, the commissioner shall give priority
 24 to the funding of juvenile sex offender programs over the
 25 funding of adult sex offender programs.

26 (b) Every county or private sex offender program that seeks
 27 ~~new-or-continued-state-funding-or-reimbursement~~ shall provide
 28 the commissioner with any information relating to the program's
 29 effectiveness that the commissioner considers necessary. The
 30 commissioner shall deny state funding or reimbursement to any
 31 county or private program that fails to provide this information
 32 or that appears to be an ineffective program.

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

34 Sec. 2. Minnesota Statutes 2004, section 241.67,
 35 subdivision 8, is amended to read:

36 Subd. 8. [COMMUNITY-BASED SEX OFFENDER PROGRAM EVALUATION

1 PROJECT.] (a) For the purposes of this project subdivision, a
 2 sex offender is an adult who has been convicted, or a juvenile
 3 who has been adjudicated, for a sex offense or a sex-related
 4 offense which would require registration under section 243.166.

5 (b) The commissioner shall ~~develop-a-long-term-project-to~~
 6 ~~accomplish-the-following~~:

7 (1) ~~provide~~ collect follow-up information on each sex
 8 offender for a period of three years following the offender's
 9 completion of or termination from treatment;

10 (2) provide treatment programs in several geographical
 11 areas in the state;

12 (3) provide the necessary data to form the basis to
 13 recommend a fiscally sound plan to provide a coordinated
 14 statewide system of effective sex offender treatment
 15 programming; and

16 (4) provide an opportunity to local and regional
 17 governments, agencies, and programs to establish models of sex
 18 offender programs that are suited to the needs of that region.

19 (c) The commissioner shall establish an advisory task force
 20 consisting of county probation officers from Community
 21 Corrections Act counties and other counties, court services
 22 providers, and other interested officials. The commissioner
 23 shall consult with the task force ~~concerning-the-establishment~~
 24 ~~and-operation-of-the-project~~ on how best to implement the
 25 requirements of this subdivision.

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

27 Sec. 3. Minnesota Statutes 2004, section 243.166, is
 28 amended by adding a subdivision to read:

29 Subd. 4b. [HEALTH CARE FACILITY; NOTICE OF STATUS.] (a) As
 30 used in this subdivision, "health care facility" means a
 31 hospital or other entity licensed under sections 144.50 to
 32 144.58, a nursing home licensed to serve adults under section
 33 144A.02, or a group residential housing facility or an
 34 intermediate care facility for the mentally retarded licensed
 35 under chapter 245A.

36 (b) Upon admittance to a health care facility, a person

1 required to register under this section shall disclose to:

2 (1) the health care facility employee processing the
3 admission, the person's status as a registered predatory
4 offender under this section; and

5 (2) the person's corrections agent, or if the person does
6 not have an assigned corrections agent, the law enforcement
7 authority with whom the person is currently required to
8 register, that inpatient admission has occurred.

9 (c) A law enforcement authority or corrections agent who
10 receives notice under paragraph (b) or who knows that a person
11 required to register under this section has been admitted and is
12 receiving health care at a health care facility shall notify the
13 administrator of the facility.

14 [EFFECTIVE DATE.] This section is effective August 1, 2005,
15 and applies to persons who are subject to predatory offender
16 registration on or after that date.

17 Sec. 4. [244.055] [SEX OFFENDER INFORMATION PROVIDED TO
18 SUPERVISING CORRECTIONS AGENCY.]

19 Notwithstanding any other law to the contrary, when an
20 offender who is required to register as a predatory offender
21 under section 243.166 is being released from prison, the
22 commissioner shall provide to the corrections agency that will
23 supervise the offender, the offender's prison records relating
24 to psychological assessments, medical and mental health issues,
25 and treatment.

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

27 Sec. 5. [244.056] [SEX OFFENDER SEEKING HOUSING IN
28 JURISDICTION OF DIFFERENT CORRECTIONS AGENCY.]

29 If a corrections agency supervising an offender who is
30 required to register as a predatory offender under section
31 243.166 and who is classified by the department as a public risk
32 monitoring case has knowledge that the offender is seeking
33 housing arrangements in a location under the jurisdiction of
34 another corrections agency, the agency shall notify the other
35 agency of this and initiate a supervision transfer request.

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

1 Sec. 6. [244.057] [PLACEMENT OF SEX OFFENDER IN HOUSEHOLD
2 WITH CHILDREN.]

3 A corrections agency supervising an offender required to
4 register as a predatory offender under section 243.166 shall
5 notify the appropriate child protection agency before
6 authorizing the offender to live in a household where children
7 are residing.

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

9 Sec. 7. Minnesota Statutes 2004, section 609.3452,
10 subdivision 1, is amended to read:

11 Subdivision 1. [ASSESSMENT REQUIRED.] When a person is
12 convicted of a sex offense, before sentencing, the court shall
13 order an independent professional assessment of the offender's
14 need for sex offender treatment. The court may waive the
15 assessment if: (1) the Sentencing Guidelines provide a
16 presumptive prison sentence for the offender, or (2) an adequate
17 assessment was conducted prior to the conviction. An assessor
18 providing an assessment for the court must be experienced in the
19 evaluation and treatment of sex offenders.

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

21 Sec. 8. Minnesota Statutes 2004, section 626.556,
22 subdivision 3, is amended to read:

23 Subd. 3. [PERSONS MANDATED TO REPORT.] (a) A person who
24 knows or has reason to believe a child is being neglected or
25 physically or sexually abused, as defined in subdivision 2, or
26 has been neglected or physically or sexually abused within the
27 preceding three years, shall immediately report the information
28 to the local welfare agency, agency responsible for assessing or
29 investigating the report, police department, or the county
30 sheriff if the person is:

31 (1) a professional or professional's delegate who is
32 engaged in the practice of the healing arts, social services,
33 hospital administration, psychological or psychiatric treatment,
34 child care, education, correctional supervision, or law
35 enforcement; or

36 (2) employed as a member of the clergy and received the

1 information while engaged in ministerial duties, provided that a
2 member of the clergy is not required by this subdivision to
3 report information that is otherwise privileged under section
4 595.02, subdivision 1, paragraph (c).

5 The police department or the county sheriff, upon receiving
6 a report, shall immediately notify the local welfare agency or
7 agency responsible for assessing or investigating the report,
8 orally and in writing. The local welfare agency, or agency
9 responsible for assessing or investigating the report, upon
10 receiving a report, shall immediately notify the local police
11 department or the county sheriff orally and in writing. The
12 county sheriff and the head of every local welfare agency,
13 agency responsible for assessing or investigating reports, and
14 police department shall each designate a person within their
15 agency, department, or office who is responsible for ensuring
16 that the notification duties of this paragraph and paragraph (b)
17 are carried out. Nothing in this subdivision shall be construed
18 to require more than one report from any institution, facility,
19 school, or agency.

20 (b) Any person may voluntarily report to the local welfare
21 agency, agency responsible for assessing or investigating the
22 report, police department, or the county sheriff if the person
23 knows, has reason to believe, or suspects a child is being or
24 has been neglected or subjected to physical or sexual abuse.
25 The police department or the county sheriff, upon receiving a
26 report, shall immediately notify the local welfare agency or
27 agency responsible for assessing or investigating the report,
28 orally and in writing. The local welfare agency or agency
29 responsible for assessing or investigating the report, upon
30 receiving a report, shall immediately notify the local police
31 department or the county sheriff orally and in writing.

32 (c) A person mandated to report physical or sexual child
33 abuse or neglect occurring within a licensed facility shall
34 report the information to the agency responsible for licensing
35 the facility under sections 144.50 to 144.58; 241.021; 245A.01
36 to 245A.16; or chapter 245B; or a nonlicensed personal care

1 provider organization as defined in sections 256B.04,
2 subdivision 16; and 256B.0625, subdivision 19. A health or
3 corrections agency receiving a report may request the local
4 welfare agency to provide assistance pursuant to subdivisions
5 10, 10a, and 10b. A board or other entity whose licensees
6 perform work within a school facility, upon receiving a
7 complaint of alleged maltreatment, shall provide information
8 about the circumstances of the alleged maltreatment to the
9 commissioner of education. Section 13.03, subdivision 4,
10 applies to data received by the commissioner of education from a
11 licensing entity.

12 (d) Any person mandated to report shall receive a summary
13 of the disposition of any report made by that reporter,
14 including whether the case has been opened for child protection
15 or other services, or if a referral has been made to a community
16 organization, unless release would be detrimental to the best
17 interests of the child. Any person who is not mandated to
18 report shall, upon request to the local welfare agency, receive
19 a concise summary of the disposition of any report made by that
20 reporter, unless release would be detrimental to the best
21 interests of the child.

22 (e) For purposes of this subdivision, "immediately" means
23 as soon as possible but in no event longer than 24 hours.

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

25 Sec. 9. [WORKING GROUP ON SEX OFFENDER MANAGEMENT.]

26 Subdivision 1. [WORKING GROUP ESTABLISHED.] The
27 commissioner of corrections shall convene a working group of
28 individuals knowledgeable in the supervision and treatment of
29 sex offenders. The group must include individuals from both
30 inside and outside of the Department of Corrections. The
31 commissioner shall ensure broad representation in the group,
32 including representatives from all three probation systems and
33 from diverse parts of the state. The working group shall study
34 and make recommendations on the issues listed in this section.
35 To the degree feasible, the group shall consider how these
36 issues are addressed in other states.

1 Subd. 2. [ISSUES TO BE STUDIED.] The working group shall
2 review and make recommendations on:

3 (1) statewide standards regarding the minimum frequency of
4 in-person contacts between sex offenders and their correctional
5 agents, including, but not limited to, home visits;

6 (2) a model set of special conditions of sex offender
7 supervision that can be used by courts and corrections agencies
8 throughout Minnesota;

9 (3) statewide standards regarding the documentation by
10 correctional agents of their supervision activities;

11 (4) standards to provide corrections agencies with guidance
12 regarding sex offender assessment practices;

13 (5) policies that encourage sentencing conditions and
14 prison release plans to clearly distinguish between sex offender
15 treatment programs and other types of programs and services and
16 to clearly specify which type of program the offender is
17 required to complete;

18 (6) ways to improve the Department of Corrections' prison
19 release planning practices for sex offenders;

20 (7) methods for periodic external reviews of sex offender
21 supervision practices;

22 (8) statewide standards for the use of polygraphs by
23 corrections agencies and sex offender treatment programs;

24 (9) statewide standards for basic program elements for
25 community-based sex offender treatment programs;

26 (10) a statewide protocol on the sharing of sex offender
27 information between corrections agencies and child protection
28 agencies in situations where offenders are placed in households
29 where children reside; and

30 (11) any other issues related to sex offender treatment and
31 management that the working group deems appropriate.

32 Subd. 3. [REVIEW OF NEW LAWS.] The working group shall
33 also review the provisions of any laws enacted in 2005 relating
34 to sex offender supervision and treatment. The group shall make
35 recommendations on whether any changes to these provisions
36 should be considered by the legislature.

1 agency or other agencies that do not directly affect the rights
2 of or procedures available to the public;

3 (2) an application deadline on a form; and the remainder of
4 a form and instructions for use of the form to the extent that
5 they do not impose substantive requirements other than
6 requirements contained in statute or rule;

7 (3) the curriculum adopted by an agency to implement a
8 statute or rule permitting or mandating minimum educational
9 requirements for persons regulated by an agency, provided the
10 topic areas to be covered by the minimum educational
11 requirements are specified in statute or rule;

12 (4) procedures for sharing data among government agencies,
13 provided these procedures are consistent with chapter 13 and
14 other law governing data practices.

15 (b) The definition of a rule in section 14.02, subdivision
16 4, does not include:

17 (1) rules of the commissioner of corrections relating to
18 the release, placement, term, and supervision of inmates serving
19 a supervised release or conditional release term, the internal
20 management of institutions under the commissioner's control, and
21 rules adopted under section 609.105 governing the inmates of
22 those institutions;

23 (2) rules relating to weight limitations on the use of
24 highways when the substance of the rules is indicated to the
25 public by means of signs;

26 (3) opinions of the attorney general;

27 (4) the data element dictionary and the annual data
28 acquisition calendar of the Department of Education to the
29 extent provided by section 125B.07;

30 (5) the occupational safety and health standards provided
31 in section 182.655;

32 (6) revenue notices and tax information bulletins of the
33 commissioner of revenue;

34 (7) uniform conveyancing forms adopted by the commissioner
35 of commerce under section 507.09; or

36 (8) the interpretive guidelines developed by the

1 commissioner of human services to the extent provided in chapter
2 245A.

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

5 Sec. 2. Minnesota Statutes 2004, section 244.05,
6 subdivision 7, is amended to read:

7 Subd. 7. [SEX OFFENDERS; CIVIL COMMITMENT DETERMINATION.]

8 (a) Before the commissioner releases from prison any inmate
9 convicted under ~~sections~~ section 609.342 ~~to, 609.343, 609.344,~~
10 609.345, or 609.3453, or sentenced as a patterned offender under
11 section 609.108, and determined by the commissioner to be in a
12 high risk category, the commissioner shall make a preliminary
13 determination whether, in the commissioner's opinion, a petition
14 under section 253B.185 may be appropriate.

15 (b) In making this decision, the commissioner shall have
16 access to the following data only for the purposes of the
17 assessment and referral decision:

18 (1) private medical data under section 13.384 or 144.335,
19 or welfare data under section 13.46 that relate to medical
20 treatment of the offender;

21 (2) private and confidential court services data under
22 section 13.84;

23 (3) private and confidential corrections data under section
24 13.85; and

25 (4) private criminal history data under section 13.87.

26 (c) If the commissioner determines that a petition may be
27 appropriate, the commissioner shall forward this determination,
28 along with a summary of the reasons for the determination, to
29 the county attorney in the county where the inmate was convicted
30 no later than 12 months before the inmate's release date. If
31 the inmate is received for incarceration with fewer than 12
32 months remaining in the inmate's term of imprisonment, or if the
33 commissioner receives additional information less than 12 months
34 before release which makes the inmate's case appropriate for
35 referral, the commissioner shall forward the determination as
36 soon as is practicable. Upon receiving the commissioner's

1 preliminary determination, the county attorney shall proceed in
2 the manner provided in section 253B.185. The commissioner shall
3 release to the county attorney all requested documentation
4 maintained by the department.

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

7 Sec. 3. Minnesota Statutes 2004, section 244.052,
8 subdivision 3, is amended to read:

9 Subd. 3. [END-OF-CONFINEMENT REVIEW COMMITTEE.] (a) The
10 commissioner of corrections shall establish and administer
11 end-of-confinement review committees at each state correctional
12 facility and at each state treatment facility where predatory
13 offenders are confined. The committees shall assess on a
14 case-by-case basis the public risk posed by predatory offenders
15 who are about to be released from confinement.

16 (b) Each committee shall be a standing committee and shall
17 consist of the following members appointed by the commissioner:

18 (1) the chief executive officer or head of the correctional
19 or treatment facility where the offender is currently confined,
20 or that person's designee;

21 (2) a law enforcement officer;

22 (3) a treatment professional who is trained in the
23 assessment of sex offenders;

24 (4) a caseworker experienced in supervising sex offenders;
25 and

26 (5) a victim's services professional.

27 Members of the committee, other than the facility's chief
28 executive officer or head, shall be appointed by the
29 commissioner to two-year terms. The chief executive officer or
30 head of the facility or designee shall act as chair of the
31 committee and shall use the facility's staff, as needed, to
32 administer the committee, obtain necessary information from
33 outside sources, and prepare risk assessment reports on
34 offenders.

35 (c) The committee shall have access to the following data
36 on a predatory offender only for the purposes of its assessment

1 and to defend the committee's risk assessment determination upon
2 administrative review under this section:

3 (1) private medical data under section 13.384 or 144.335,
4 or welfare data under section 13.46 that relate to medical
5 treatment of the offender;

6 (2) private and confidential court services data under
7 section 13.84;

8 (3) private and confidential corrections data under section
9 13.85; and

10 (4) private criminal history data under section 13.87.

11 Data collected and maintained by the committee under this
12 paragraph may not be disclosed outside the committee, except as
13 provided under section 13.05, subdivision 3 or 4. The predatory
14 offender has access to data on the offender collected and
15 maintained by the committee, unless the data are confidential
16 data received under this paragraph.

17 (d)(i) Except as otherwise provided in item items (ii),
18 (iii), and (iv), at least 90 days before a predatory offender is
19 to be released from confinement, the commissioner of corrections
20 shall convene the appropriate end-of-confinement review
21 committee for the purpose of assessing the risk presented by the
22 offender and determining the risk level to which the offender
23 shall be assigned under paragraph (e). The offender and the law
24 enforcement agency that was responsible for the charge resulting
25 in confinement shall be notified of the time and place of the
26 committee's meeting. The offender has a right to be present and
27 be heard at the meeting. The law enforcement agency may provide
28 material in writing that is relevant to the offender's risk
29 level to the chair of the committee. The committee shall use
30 the risk factors described in paragraph (g) and the risk
31 assessment scale developed under subdivision 2 to determine the
32 offender's risk assessment score and risk level. Offenders
33 scheduled for release from confinement shall be assessed by the
34 committee established at the facility from which the offender is
35 to be released.

36 (ii) If an offender is received for confinement in a

1 facility with less than 90 days remaining in the offender's term
2 of confinement, the offender's risk shall be assessed at the
3 first regularly scheduled end of confinement review committee
4 that convenes after the appropriate documentation for the risk
5 assessment is assembled by the committee. The commissioner
6 shall make reasonable efforts to ensure that offender's risk is
7 assessed and a risk level is assigned or reassigned at least 30
8 days before the offender's release date.

9 (iii) If the offender is subject to a mandatory life
10 sentence under section 609.342, subdivision 2, paragraph (b), or
11 609.3455, the commissioner of corrections shall convene the
12 appropriate end-of-confinement review committee at least nine
13 months before the offender's minimum term of imprisonment has
14 been served. If the offender is received for confinement in a
15 facility with less than nine months remaining before the
16 offender's minimum term of imprisonment has been served, the
17 committee shall conform its procedures to those outlined in item
18 (ii) to the extent practicable.

19 (iv) If the offender is granted supervised release, the
20 commissioner of corrections shall notify the appropriate
21 end-of-confinement review committee that it needs to review the
22 offender's previously determined risk level at its next
23 regularly scheduled meeting. The commissioner shall make
24 reasonable efforts to ensure that the offender's earlier risk
25 level determination is reviewed and the risk level is confirmed
26 or reassigned at least 60 days before the offender's release
27 date. The committee shall give the report to the offender and
28 to the law enforcement agency at least 60 days before an
29 offender is released from confinement.

30 (e) The committee shall assign to risk level I a predatory
31 offender whose risk assessment score indicates a low risk of
32 reoffense. The committee shall assign to risk level II an
33 offender whose risk assessment score indicates a moderate risk
34 of reoffense. The committee shall assign to risk level III an
35 offender whose risk assessment score indicates a high risk of
36 reoffense.

1 (f) Before the predatory offender is released from
2 confinement, the committee shall prepare a risk assessment
3 report which specifies the risk level to which the offender has
4 been assigned and the reasons underlying the committee's risk
5 assessment decision. Except for an offender subject to a
6 mandatory life sentence under section 609.342, subdivision 2,
7 paragraph (b), or 609.3455, who has not been granted supervised
8 release, the committee shall give the report to the offender and
9 to the law enforcement agency at least 60 days before an
10 offender is released from confinement. If the offender is
11 subject to a mandatory life sentence and has not yet served the
12 entire minimum term of imprisonment, the committee shall give
13 the report to the offender and to the commissioner at least six
14 months before the offender is first eligible for release. If
15 the risk assessment is performed under the circumstances
16 described in paragraph (d), item (ii), the report shall be given
17 to the offender and the law enforcement agency as soon as it is
18 available. The committee also shall inform the offender of the
19 availability of review under subdivision 6.

20 (g) As used in this subdivision, "risk factors" includes,
21 but is not limited to, the following factors:

22 (1) the seriousness of the offense should the offender
23 reoffend. This factor includes consideration of the following:

- 24 (i) the degree of likely force or harm;
25 (ii) the degree of likely physical contact; and
26 (iii) the age of the likely victim;

27 (2) the offender's prior offense history. This factor
28 includes consideration of the following:

- 29 (i) the relationship of prior victims to the offender;
30 (ii) the number of prior offenses or victims;
31 (iii) the duration of the offender's prior offense history;
32 (iv) the length of time since the offender's last prior
33 offense while the offender was at risk to commit offenses; and

34 (v) the offender's prior history of other antisocial acts;

35 (3) the offender's characteristics. This factor includes
36 consideration of the following:

- 1 (i) the offender's response to prior treatment efforts; and
2 (ii) the offender's history of substance abuse;
3 (4) the availability of community supports to the offender.

4 This factor includes consideration of the following:

5 (i) the availability and likelihood that the offender will
6 be involved in therapeutic treatment;

7 (ii) the availability of residential supports to the
8 offender, such as a stable and supervised living arrangement in
9 an appropriate location;

10 (iii) the offender's familial and social relationships,
11 including the nature and length of these relationships and the
12 level of support that the offender may receive from these
13 persons; and

14 (iv) the offender's lack of education or employment
15 stability;

16 (5) whether the offender has indicated or credible evidence
17 in the record indicates that the offender will reoffend if
18 released into the community; and

19 (6) whether the offender demonstrates a physical condition
20 that minimizes the risk of reoffense, including but not limited
21 to, advanced age or a debilitating illness or physical condition.

22 (h) Upon the request of the law enforcement agency or the
23 offender's corrections agent, the commissioner may reconvene the
24 end-of-confinement review committee for the purpose of
25 reassessing the risk level to which an offender has been
26 assigned under paragraph (e). In a request for a reassessment,
27 the law enforcement agency which was responsible for the charge
28 resulting in confinement or agent shall list the facts and
29 circumstances arising after the initial assignment or facts and
30 circumstances known to law enforcement or the agent but not
31 considered by the committee under paragraph (e) which support
32 the request for a reassessment. The request for reassessment by
33 the law enforcement agency must occur within 30 days of receipt
34 of the report indicating the offender's risk level assignment.
35 The offender's corrections agent, in consultation with the chief
36 law enforcement officer in the area where the offender resides

1 or intends to reside, may request a review of a risk level at
2 any time if substantial evidence exists that the offender's risk
3 level should be reviewed by an end-of-confinement review
4 committee. This evidence includes, but is not limited to,
5 evidence of treatment failures or completions, evidence of
6 exceptional crime-free community adjustment or lack of
7 appropriate adjustment, evidence of substantial community need
8 to know more about the offender or mitigating circumstances that
9 would narrow the proposed scope of notification, or other
10 practical situations articulated and based in evidence of the
11 offender's behavior while under supervision. Upon review of the
12 request, the end-of-confinement review committee may reassign an
13 offender to a different risk level. If the offender is
14 reassigned to a higher risk level, the offender has the right to
15 seek review of the committee's determination under subdivision 6.

16 (i) An offender may request the end-of-confinement review
17 committee to reassess the offender's assigned risk level after
18 three years have elapsed since the committee's initial risk
19 assessment and may renew the request once every two years
20 following subsequent denials. In a request for reassessment,
21 the offender shall list the facts and circumstances which
22 demonstrate that the offender no longer poses the same degree of
23 risk to the community. In order for a request for a risk level
24 reduction to be granted, the offender must demonstrate full
25 compliance with supervised release conditions, completion of
26 required post-release treatment programming, and full compliance
27 with all registration requirements as detailed in section
28 243.166. The offender must also not have been convicted of any
29 felony, gross misdemeanor, or misdemeanor offenses subsequent to
30 the assignment of the original risk level. The committee shall
31 follow the process outlined in paragraphs (a) to (c) in the
32 reassessment. An offender who is incarcerated may not request a
33 reassessment under this paragraph.

34 (j) Offenders returned to prison as release violators shall
35 not have a right to a subsequent risk reassessment by the
36 end-of-confinement review committee unless substantial evidence

1 indicates that the offender's risk to the public has increased.

2 (k) The commissioner shall establish an end-of-confinement
3 review committee to assign a risk level to offenders who are
4 released from a federal correctional facility in Minnesota or
5 another state and who intend to reside in Minnesota, and to
6 offenders accepted from another state under a reciprocal
7 agreement for parole supervision under the interstate compact
8 authorized by section 243.16. The committee shall make
9 reasonable efforts to conform to the same timelines as applied
10 to Minnesota cases. Offenders accepted from another state under
11 a reciprocal agreement for probation supervision are not
12 assigned a risk level, but are considered downward dispositional
13 departures. The probation or court services officer and law
14 enforcement officer shall manage such cases in accordance with
15 section 244.10, subdivision 2a. The policies and procedures of
16 the committee for federal offenders and interstate compact cases
17 must be in accordance with all requirements as set forth in this
18 section, unless restrictions caused by the nature of federal or
19 interstate transfers prevents such conformance.

20 (l) If the committee assigns a predatory offender to risk
21 level III, the committee shall determine whether residency
22 restrictions shall be included in the conditions of the
23 offender's release based on the offender's pattern of offending
24 behavior.

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

27 Sec. 4. Minnesota Statutes 2004, section 609.109,
28 subdivision 2, is amended to read:

29 Subd. 2. [PRESUMPTIVE EXECUTED SENTENCE.] Except as
30 provided in subdivision 3 or 4, if a person is convicted under
31 sections 609.342 to ~~609.345~~ 609.3453, within 15 years of a
32 previous sex offense conviction, the court shall commit the
33 defendant to the commissioner of corrections for not less than
34 three years, nor more than the maximum sentence provided by law
35 for the offense for which convicted, notwithstanding the
36 provisions of sections 242.19, 243.05, 609.11, 609.12, and

1 609.135. The court may stay the execution of the sentence
 2 imposed under this subdivision only if it finds that a
 3 professional assessment indicates the offender is accepted by
 4 and can respond to treatment at a long-term inpatient program
 5 exclusively treating sex offenders and approved by the
 6 commissioner of corrections. If the court stays the execution
 7 of a sentence, it shall include the following as conditions of
 8 probation:

- 9 (1) incarceration in a local jail or workhouse; and
 10 (2) a requirement that the offender successfully complete
 11 the treatment program and aftercare as directed by the court.

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

14 Sec. 5. Minnesota Statutes 2004, section 609.109,
 15 subdivision 5, is amended to read:

16 Subd. 5. [PREVIOUS SEX OFFENSE CONVICTIONS.] For the
 17 purposes of this section, a conviction is considered a previous
 18 sex offense conviction if the person was convicted of a sex
 19 offense before the commission of the present offense of
 20 conviction. A person has two previous sex offense convictions
 21 only if the person was convicted and sentenced for a sex offense
 22 committed after the person was earlier convicted and sentenced
 23 for a sex offense, both convictions preceded the commission of
 24 the present offense of conviction, and 15 years have not elapsed
 25 since the person was discharged from the sentence imposed for
 26 the second conviction. A "sex offense" is a violation of
 27 sections 609.342 to ~~609.345~~ 609.3453 or any similar statute of
 28 the United States, this state, or any other state.

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

31 Sec. 6. Minnesota Statutes 2004, section 609.117,
 32 subdivision 1, is amended to read:

33 Subdivision 1. [UPON SENTENCING.] The court shall order an
 34 offender to provide a biological specimen for the purpose of DNA
 35 analysis as defined in section 299C.155 when:

- 36 (1) the court sentences a person charged with violating or

1 attempting to violate any of the following, and the person is
2 convicted of that offense or of any offense arising out of the
3 same set of circumstances:

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

5 (ii) manslaughter under section 609.20 or 609.205;

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

7 (iv) robbery under section 609.24 or aggravated robbery
8 under section 609.245;

9 (v) kidnapping under section 609.25;

10 (vi) false imprisonment under section 609.255;

11 (vii) criminal sexual conduct under section 609.342,
12 609.343, 609.344, 609.345, ~~or~~ 609.3451, subdivision 3, or
13 609.3453;

14 (viii) incest under section 609.365;

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

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

17 (2) the court sentences a person as a patterned sex
18 offender under section 609.108; or

19 (3) the juvenile court adjudicates a person a delinquent
20 child who is the subject of a delinquency petition for violating
21 or attempting to violate any of the following, and the
22 delinquency adjudication is based on a violation of one of those
23 sections or of any offense arising out of the same set of
24 circumstances:

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

26 (ii) manslaughter under section 609.20 or 609.205;

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

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

30 (v) kidnapping under section 609.25;

31 (vi) false imprisonment under section 609.255;

32 (vii) criminal sexual conduct under section 609.342,
33 609.343, 609.344, 609.345, ~~or~~ 609.3451, subdivision 3, or
34 609.3453;

35 (viii) incest under section 609.365;

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

1 (x) indecent exposure under section 617.23, subdivision 3.
 2 The biological specimen or the results of the analysis shall be
 3 maintained by the Bureau of Criminal Apprehension as provided in
 4 section 299C.155.

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

7 Sec. 7. Minnesota Statutes 2004, section 609.117,
 8 subdivision 2, is amended to read:

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

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

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

23 (ii) manslaughter under section 609.20 or 609.205;

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

25 (iv) robbery under section 609.24 or aggravated robbery
 26 under section 609.245;

27 (v) kidnapping under section 609.25;

28 (vi) false imprisonment under section 609.255;

29 (vii) criminal sexual conduct under section 609.342,

30 609.343, 609.344, 609.345, ~~or~~ 609.3451, subdivision 3, or

31 609.3453;

32 (viii) incest under section 609.365;

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

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

35 or

36 (2) was sentenced as a patterned sex offender under section

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

3 (3) is serving a term of imprisonment in this state under a
4 reciprocal agreement although convicted in another state of an
5 offense described in this subdivision or a similar law of the
6 United States or any other state. The commissioner of
7 corrections or local corrections authority shall forward the
8 sample to the Bureau of Criminal Apprehension.

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

11 Sec. 8. Minnesota Statutes 2004, section 609.1351, is
12 amended to read:

13 609.1351 [PETITION FOR CIVIL COMMITMENT.]

14 When a court sentences a person under section 609.108,
15 609.342, 609.343, 609.344, ~~or 609.345,~~ or 609.3453, the court
16 shall make a preliminary determination whether in the court's
17 opinion a petition under section 253B.185 may be appropriate and
18 include the determination as part of the sentencing order. If
19 the court determines that a petition may be appropriate, the
20 court shall forward its preliminary determination along with
21 supporting documentation to the county attorney.

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

24 Sec. 9. Minnesota Statutes 2004, section 609.347, is
25 amended to read:

26 609.347 [EVIDENCE IN CRIMINAL SEXUAL CONDUCT CASES.]

27 Subdivision 1. In a prosecution under sections 609.109 ~~or,~~
28 609.342 to 609.3451, or 609.3453, the testimony of a victim need
29 not be corroborated.

30 Subd. 2. In a prosecution under sections 609.109 ~~or,~~
31 609.342 to 609.3451, or 609.3453, there is no need to show that
32 the victim resisted the accused.

33 Subd. 3. In a prosecution under sections 609.109, 609.342
34 to 609.3451, 609.3453, or 609.365, evidence of the victim's
35 previous sexual conduct shall not be admitted nor shall any
36 reference to such conduct be made in the presence of the jury,

1 except by court order under the procedure provided in
2 subdivision 4. The evidence can be admitted only if the
3 probative value of the evidence is not substantially outweighed
4 by its inflammatory or prejudicial nature and only in the
5 circumstances set out in paragraphs (a) and (b). For the
6 evidence to be admissible under paragraph (a), subsection (i),
7 the judge must find by a preponderance of the evidence that the
8 facts set out in the accused's offer of proof are true. For the
9 evidence to be admissible under paragraph (a), subsection (ii)
10 or paragraph (b), the judge must find that the evidence is
11 sufficient to support a finding that the facts set out in the
12 accused's offer of proof are true, as provided under Rule 901 of
13 the Rules of Evidence.

14 (a) When consent of the victim is a defense in the case,
15 the following evidence is admissible:

16 (i) evidence of the victim's previous sexual conduct
17 tending to establish a common scheme or plan of similar sexual
18 conduct under circumstances similar to the case at issue. In
19 order to find a common scheme or plan, the judge must find that
20 the victim made prior allegations of sexual assault which were
21 fabricated; and

22 (ii) evidence of the victim's previous sexual conduct with
23 the accused.

24 (b) When the prosecution's case includes evidence of semen,
25 pregnancy, or disease at the time of the incident or, in the
26 case of pregnancy, between the time of the incident and trial,
27 evidence of specific instances of the victim's previous sexual
28 conduct is admissible solely to show the source of the semen,
29 pregnancy, or disease.

30 Subd. 4. The accused may not offer evidence described in
31 subdivision 3 except pursuant to the following procedure:

32 (a) A motion shall be made by the accused at least three
33 business days prior to trial, unless later for good cause shown,
34 setting out with particularity the offer of proof of the
35 evidence that the accused intends to offer, relative to the
36 previous sexual conduct of the victim;

1 (b) If the court deems the offer of proof sufficient, the
2 court shall order a hearing out of the presence of the jury, if
3 any, and in such hearing shall allow the accused to make a full
4 presentation of the offer of proof;

5 (c) At the conclusion of the hearing, if the court finds
6 that the evidence proposed to be offered by the accused
7 regarding the previous sexual conduct of the victim is
8 admissible under subdivision 3 and that its probative value is
9 not substantially outweighed by its inflammatory or prejudicial
10 nature, the court shall make an order stating the extent to
11 which evidence is admissible. The accused may then offer
12 evidence pursuant to the order of the court;

13 (d) If new information is discovered after the date of the
14 hearing or during the course of trial, which may make evidence
15 described in subdivision 3 admissible, the accused may make an
16 offer of proof pursuant to clause (a) and the court shall order
17 an in camera hearing to determine whether the proposed evidence
18 is admissible by the standards herein.

19 Subd. 5. In a prosecution under sections 609.109 or,
20 609.342 to 609.3451, or 609.3453, the court shall not instruct
21 the jury to the effect that:

22 (a) It may be inferred that a victim who has previously
23 consented to sexual intercourse with persons other than the
24 accused would be therefore more likely to consent to sexual
25 intercourse again; or

26 (b) The victim's previous or subsequent sexual conduct in
27 and of itself may be considered in determining the credibility
28 of the victim; or

29 (c) Criminal sexual conduct is a crime easily charged by a
30 victim but very difficult to disprove by an accused because of
31 the heinous nature of the crime; or

32 (d) The jury should scrutinize the testimony of the victim
33 any more closely than it should scrutinize the testimony of any
34 witness in any felony prosecution.

35 Subd. 6. (a) In a prosecution under sections 609.109 or,
36 609.342 to 609.3451, or 609.3453, involving a psychotherapist

1 and patient, evidence of the patient's personal or medical
2 history is not admissible except when:

3 (1) the accused requests a hearing at least three business
4 days prior to trial and makes an offer of proof of the relevancy
5 of the history; and

6 (2) the court finds that the history is relevant and that
7 the probative value of the history outweighs its prejudicial
8 value.

9 (b) The court shall allow the admission only of specific
10 information or examples of conduct of the victim that are
11 determined by the court to be relevant. The court's order shall
12 detail the information or conduct that is admissible and no
13 other evidence of the history may be introduced.

14 (c) Violation of the terms of the order is grounds for
15 mistrial but does not prevent the retrial of the accused.

16 Subd. 7. [EFFECT OF STATUTE ON RULES.] Rule 412 of the
17 Rules of Evidence is superseded to the extent of its conflict
18 with this section.

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

21 Sec. 10. Minnesota Statutes 2004, section 609.3471, is
22 amended to read:

23 609.3471 [RECORDS PERTAINING TO VICTIM IDENTITY
24 CONFIDENTIAL.]

25 Notwithstanding any provision of law to the contrary, no
26 data contained in records or reports relating to petitions,
27 complaints, or indictments issued pursuant to section 609.342~~7~~,
28 609.343~~7~~, 609.344~~7~~-~~or~~, 609.345, or 609.3453, which
29 specifically identifies a victim who is a minor shall be
30 accessible to the public, except by order of the court. Nothing
31 in this section authorizes denial of access to any other data
32 contained in the records or reports, including the identity of
33 the defendant.

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

36 Sec. 11. Minnesota Statutes 2004, section 609.348, is

1 amended to read:

2 609.348 [MEDICAL PURPOSES; EXCLUSION.]

3 Sections 609.109 and, 609.342 to 609.3451, and 609.3453 do
4 not apply to sexual penetration or sexual contact when done for
5 a bona fide medical purpose.

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

8 Sec. 12. Minnesota Statutes 2004, section 609.353, is
9 amended to read:

10 609.353 [JURISDICTION.]

11 A violation or attempted violation of section 609.342,
12 609.343, 609.344, 609.345, 609.3451, 609.3453, or 609.352 may be
13 prosecuted in any jurisdiction in which the violation originates
14 or terminates.

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

17 Sec. 13. Minnesota Statutes 2004, section 631.045, is
18 amended to read:

19 631.045 [EXCLUDING SPECTATORS FROM THE COURTROOM.]

20 At the trial of a complaint or indictment for a violation
21 of sections 609.109, 609.341 to 609.3451, 609.3453, or 617.246,
22 subdivision 2, when a minor under 18 years of age is the person
23 upon, with, or against whom the crime is alleged to have been
24 committed, the judge may exclude the public from the courtroom
25 during the victim's testimony or during all or part of the
26 remainder of the trial upon a showing that closure is necessary
27 to protect a witness or ensure fairness in the trial. The judge
28 shall give the prosecutor, defendant and members of the public
29 the opportunity to object to the closure before a closure order.
30 The judge shall specify the reasons for closure in an order
31 closing all or part of the trial. Upon closure the judge shall
32 only admit persons who have a direct interest in the case.

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

35 Sec. 14. [REVISOR INSTRUCTION.]

36 (a) The revisor of statutes shall renumber Minnesota

1 Statutes, section 609.3452, as Minnesota Statutes, section
2 609.3457, and correct cross-references. In addition, the
3 revisor shall delete the reference in Minnesota Statutes,
4 section 13.871, subdivision 3, paragraph (d), to Minnesota
5 Statutes, section 609.3452, and insert a reference to Minnesota
6 Statutes, section 609.3457. The revisor shall include a
7 notation in Minnesota Statutes to inform readers of the statutes
8 of the renumbering of section 609.3457.

9 (b) In addition to the specific changes described in
10 paragraph (a), the revisor of statutes shall make other
11 technical changes necessitated by this act.

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TECHNICAL AND CONFORMING CHANGES

APPENDIX
Repealed Minnesota Statutes for 05-3518

243.166 REGISTRATION OF PREDATORY OFFENDERS.

Subdivision 1. **Registration required.** (a) A person shall register under this section if:

(1) the person was charged with or petitioned for a felony violation of or attempt to violate any of the following, and convicted of or adjudicated delinquent for that offense or another offense arising out of the same set of circumstances:

- (i) murder under section 609.185, clause (2); or
 - (ii) kidnapping under section 609.25; or
 - (iii) criminal sexual conduct under section 609.342; 609.343; 609.344; 609.345; or 609.3451, subdivision 3; or
 - (iv) indecent exposure under section 617.23, subdivision 3;
- or

(2) the person was charged with or petitioned for falsely imprisoning a minor in violation of section 609.255, subdivision 2; soliciting a minor to engage in prostitution in violation of section 609.322 or 609.324; soliciting a minor to engage in sexual conduct in violation of section 609.352; using a minor in a sexual performance in violation of section 617.246; or possessing pornographic work involving a minor in violation of section 617.247, and convicted of or adjudicated delinquent for that offense or another offense arising out of the same set of circumstances; or

(3) the person was convicted of a predatory crime as defined in section 609.108, and the offender was sentenced as a patterned sex offender or the court found on its own motion or that of the prosecutor that the crime was part of a predatory pattern of behavior that had criminal sexual conduct as its goal; or

(4) the person was convicted of or adjudicated delinquent for, including pursuant to a court martial, violating a law of the United States, including the Uniform Code of Military Justice, similar to the offenses described in clause (1), (2), or (3).

(b) A person also shall register under this section if:

(1) the person was convicted of or adjudicated delinquent in another state for an offense that would be a violation of a law described in paragraph (a) if committed in this state;

(2) the person enters the state to reside, or to work or attend school; and

(3) ten years have not elapsed since the person was released from confinement or, if the person was not confined, since the person was convicted of or adjudicated delinquent for the offense that triggers registration, unless the person is subject to lifetime registration, in which case the person must register for life regardless of when the person was released from confinement, convicted, or adjudicated delinquent.

For purposes of this paragraph:

(i) "school" includes any public or private educational institution, including any secondary school, trade or professional institution, or institution of higher education, that the person is enrolled in on a full-time or part-time basis; and

(ii) "work" includes employment that is full time or part time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

(c) A person also shall register under this section if the

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person was committed pursuant to a court commitment order under section 253B.185 or Minnesota Statutes 1992, section 526.10, or a similar law of another state or the United States, regardless of whether the person was convicted of any offense.

(d) A person also shall register under this section if:

(1) the person was charged with or petitioned for a felony violation or attempt to violate any of the offenses listed in paragraph (a), clause (1), or a similar law of another state or the United States, or the person was charged with or petitioned for a violation of any of the offenses listed in paragraph (a), clause (2), or a similar law of another state or the United States;

(2) the person was found not guilty by reason of mental illness or mental deficiency after a trial for that offense, or found guilty but mentally ill after a trial for that offense, in states with a guilty but mentally ill verdict; and

(3) the person was committed pursuant to a court commitment order under section 253B.18 or a similar law of another state or the United States.

Subd. 8. Law enforcement authority. For purposes of this section, a law enforcement authority means, with respect to a home rule charter or statutory city, the chief of police, and with respect to an unincorporated area, the sheriff of the county.

609.108 MANDATORY INCREASED SENTENCES FOR CERTAIN PATTERNED AND PREDATORY SEX OFFENDERS; NO PRIOR CONVICTION REQUIRED.

Subd. 2. Increased statutory maximum. If the factfinder determines, at the time of the trial or the guilty plea, that a predatory offense was motivated by, committed in the course of, or committed in furtherance of sexual contact or penetration, as defined in section 609.341, and the court is imposing a sentence under subdivision 1, the statutory maximum imprisonment penalty for the offense is 40 years, notwithstanding the statutory maximum imprisonment penalty otherwise provided for the offense.

609.109 PRESUMPTIVE AND MANDATORY SENTENCES FOR REPEAT SEX OFFENDERS.

Subd. 7. Conditional release of sex offenders. (a) Notwithstanding the statutory maximum sentence otherwise applicable to the offense or any provision of the Sentencing Guidelines, when a court sentences a person to prison for a violation of section 609.342, 609.343, 609.344, or 609.345, the court shall provide that after the person has completed the sentence imposed, the commissioner of corrections shall place the person on conditional release. If the person was convicted for a violation of section 609.342, 609.343, 609.344, or 609.345, the person shall be placed on conditional release for five years, minus the time the person served on supervised release. If the person was convicted for a violation of one of those sections after a previous sex offense conviction as defined in subdivision 5, or sentenced under subdivision 6 to a mandatory departure, the person shall be placed on conditional release for ten years, minus the time the person served on supervised release.

(b) The conditions of release may include successful completion of treatment and aftercare in a program approved by the commissioner, satisfaction of the release conditions specified in section 244.05, subdivision 6, and any other

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conditions the commissioner considers appropriate. If the offender fails to meet any condition of release, the commissioner may revoke the offender's conditional release and order that the offender serve the remaining portion of the conditional release term in prison. The commissioner shall not dismiss the offender from supervision before the conditional release term expires.

Conditional release under this subdivision is governed by provisions relating to supervised release, except as otherwise provided in this subdivision, section 244.04, subdivision 1, or 244.05.

(c) The commissioner shall pay the cost of treatment of a person released under this subdivision. This section does not require the commissioner to accept or retain an offender in a treatment program.

**Comparison of Sex Offender Sentencing Provisions of
S.F. No. 1875 (Ranum) and S.F. No. 1325 (Kleis)**

| Issue | S.F. No. 1875 (Ranum) | S.F. No. 1325 (Kleis) | Comments |
|----------------|---|---|--|
| Life Sentences | <p>➤ <u>Mandatory indeterminate life sentence for certain repeat sex offenders</u></p> <p>▶ Applies to first- through third-degree CSC and CSPC offenders, who have:</p> <ul style="list-style-type: none"> • two true prior¹ CSC (including first- through <u>fifth</u>-degree) or CSPC convictions (including extended jurisdiction juvenile (EJJ) convictions/adjudications²); • one true prior CSC (including first- through <u>fifth</u>-degree) or CSPC conviction (including EJJ convictions/adjudications²), and where: (1) the current offense involves an aggravating factor (this must be proven beyond a reasonable doubt under <u>Blakely v. Washington</u>); (2) the prior offense involved an upward sentencing departure; or (3) the prior offense was sentenced under the patterned and predatory offender sentencing law; or | <p>➤ <u>Mandatory indeterminate life sentence (20-year minimum term of imprisonment) for repeat sex offenders</u></p> <p>▶ Applies to first- through fourth-degree CSC and CSPC (see below) where the offender has previously been convicted or adjudicated delinquent for a felony-level sex offense, two nonfelony-level sex offenses, or a felony-level predatory crime where the fact finder determined that the crime was motivated by the offender's sexual impulses or was committed as part of a predatory pattern of behavior that had criminal sexual conduct as its goal. Does not require that the prior offense be a true prior (i.e., the offender need not have committed and been convicted of the prior offense before the commission of the current offense).</p> | <p>S.F. No. 1325 requires the offender to <u>serve</u> a 20-year minimum prison sentence before being eligible for release. It also "counts" as priors the crimes of indecent exposure, solicitation of a child to engage in sexual conduct, use of minors in a sexual performance and possession/distribution of child pornography (S.F. No. 1875 does not allow these crimes to act as predicates to a life sentence). It "counts" delinquency adjudications as priors (S.F. No. 1875 "counts" only certain EJJ convictions). For felony-level priors, S.F. No. 1325 requires only a single prior (which need not be a true prior) and does not require that there be any aggravating factors, etc. S.F. No. 1325 treats fourth-degree CSC offenses the same as other degrees (S.F. No. 1875 distinguishes between fourth-degree and other CSC offenses when the current offense is a fourth-degree CSC).</p> <p>S.F. No. 1875 is broader in at least one respect. It would allow a single, nonfelony-level fifth-degree CSC to be used as a predicate for an indeterminate life sentence. However, this would require that it be a true prior and also that the current offense involved an aggravating factor.</p> |

¹For an offense to be considered a true prior, the offender must have committed the prior offense and been convicted and sentenced for it before the commission of the current offense.

²Note: the prior EJJ conviction(s)/adjudication(s) must be for first- through third-degree CSC or CSPC (i.e., would not include fourth- or fifth-degree CSC).

| Issue | S.F. No. 1875 (Ranum) | S.F. No. 1325 (Kleis) | Comments |
|-------|--|-----------------------|----------|
| | <ul style="list-style-type: none"> • two prior CSC (including first- through <u>fifth</u>-degree) or CSPC convictions (including EJJ convictions/adjudications²) (note: here the priors are not required to be “true” priors) involving separate victims from the current offense, and where: (1) the current offense involves an aggravating factor (this must be proven beyond a reasonable doubt under <u>Blakely v. Washington</u>); (2) one of the prior offenses involved an upward sentencing departure; or (3) one of the prior offenses was sentenced under the patterned and predatory offender sentencing law. ▶ Also applies to fourth-degree CSC offenders where the prior offense or offenses (if multiple priors are required) involved first-through <u>third</u>-degree CSC or CSPC. ▶ Minimum sentence to be set by the sentencing judge based on the sentencing guidelines’ presumptive sentence/applicable mandatory minimum sentence/durational departure. If the Commissioner of Corrections releases the offender (see below), the offender remains under conditional release for the remainder of the offender’s life. | | |

| Issue | S.F. No. 1875 (Ranum) | S.F. No. 1325 (Kleis) | Comments |
|-------|---|---|---|
| | <p>➤ <u>Mandatory indeterminate life sentence for egregious first-time, first-degree CSC offenders</u></p> <p>▶ Applies to first-degree CSC offenses committed with force or violence (i.e., specified violent provisions) where the fact finder determines that the offense involved:</p> <ul style="list-style-type: none"> • torture of the victim; • intentional infliction of great bodily harm upon the victim; • mutilation of the victim; or • exposure of the victim to extreme inhumane conditions. <p>This life sentence is the same as that described for repeat offenders (see above).</p> | <p>➤ <u>Mandatory life without release sentence for egregious first-time, first- or second-degree CSC offenders</u></p> <p>▶ Applies to first- and second-degree CSC offenses committed with force or violence (i.e., specified violent provisions) where the fact finder determines that:</p> <ul style="list-style-type: none"> • the offender tortured the victim; • the offender intentionally inflicted great bodily harm upon the victim; • without the victim's consent, the offender removed the victim from one place to another and did not release the victim in a safe place; • the victim was aged 13 or younger at the time of the offense; • the victim was aged 70 or older at the time of the offense; • the offender was armed with a dangerous weapon and used or threatened to use it to cause the victim to submit; • the offense involved sexual penetration/contact with more than one victim; or • the offense involved more than one perpetrator engaging in sexual penetration/contact with the victim. | <p>S.F. No. 1875 does not have a life without release provision or a 20-year minimum term of imprisonment provision. Instead, the minimum sentence will be set by the judge in the same manner as current law.</p> <p>S.F. No. 1325's life without release sentence and 20-year minimum term of imprisonment life sentence applies also to second-degree CSCs. In addition, the heinous elements that trigger the life without release sentence are broader than those in S.F. No. 1875. The 20-year minimum term of imprisonment life sentence does not require any additional heinous elements to be established (i.e., a conviction under one of the specified violent provisions of first- or second-degree CSC triggers the sentence).</p> |

| Issue | S.F. No. 1875 (Ranum) | S.F. No. 1325 (Kleis) | Comments |
|---------------------|---|---|--|
| | | <ul style="list-style-type: none"> ➤ <u>Mandatory indeterminate life sentence (20-year minimum term of imprisonment)</u> ▶ Applies to first- and second-degree CSC committed with force or violence (i.e., specified violent provisions). | |
| Conditional Release | <ul style="list-style-type: none"> ➤ <u>Lifetime conditional release for repeat sex offenders</u> <ul style="list-style-type: none"> ▶ Applies to offenders sentenced to indeterminate life sentences who are released from prison (see above). ▶ Also applies to first- through third-degree CSC and CSPC offenders who have one true prior CSC (including first- through <u>fifth-degree</u>) or CSPC conviction (including EJJ convictions/adjudications²) where the mandatory indeterminate life sentence (see above) does not apply. Similar to current law, these offenders receive a determinate sentence (based on the sentencing guidelines' presumptive sentence/applicable mandatory minimum sentence/durational departure) with mandatory lifetime conditional release upon release from prison. Also applies to fourth-degree CSC offenders where the prior offense involved first- through <u>third-degree</u> CSC or CSPC . | | S.F. No. 1325 does not specifically address this issue. However, an offender released from an indeterminate life sentence under the bill would serve a lifetime conditional release term. In addition, since the bill contains a broader indeterminate life sentence for repeat sex offenders, it would result in more offenders being sentenced to indeterminate life sentences who, if released, would serve lifetime conditional release terms. |
| | <ul style="list-style-type: none"> ➤ <u>Increased conditional release terms for other sex offenders</u> <ul style="list-style-type: none"> ▶ Any first- through fourth-degree CSC or CSPC offender not described above is subject to an additional five years of conditional release upon release from prison (this results in a minimum of ten years of postprison supervision). | No comparable provision. | S.F. No. 1325 does not address this issue. However, the bill doubles the statutory maximum sentences for all CSC offenses. It also requires the MSGC to modify the guidelines grid in accordance with the bill. These changes will likely result in sex offenders who are not subject to the bill's lifetime sentences serving longer sentences. This will likely result in longer periods of postprison correctional supervision as well. |

| Issue | S.F. No. 1875 (Ranum) | S.F. No. 1325 (Kleis) | Comments |
|----------------------------------|---|---|---|
| | <ul style="list-style-type: none"> ➤ <u>Conditional release terms</u> <ul style="list-style-type: none"> ▶ Any conditional release of a sex offender (either those serving an indeterminate life sentence or a standard sentence) is governed by a new statute that imposes specific (and intensive) terms on the supervision (i.e., low caseload ratios, minimum number of home visits, work visits, etc.) and treatment requirements. | <p>No comparable provision.</p> | |
| <p>New Substantive Sex Crime</p> | <ul style="list-style-type: none"> ➤ <u>New criminal sexual predatory conduct crime (CSPC)</u> <ul style="list-style-type: none"> ▶ Creates a new substantive crime whose concept is taken from the current patterned and predatory offender sentencing law. Crime applies to offenders who commit a predatory offense (a defined term) that was motivated by the offender's sexual impulses or was part of a predatory pattern of behavior having criminal sexual conduct as its goal. (See 2004 Senate and House omnibus crime bills.) Statutory maximum sentence is 25 percent longer than the statutory maximum for the underlying predatory crime. If the offense is committed by a person who has a true prior CSC (including first- through <u>fifth</u>-degree) or CSPC conviction (including an EJJ conviction/adjudication²), the statutory maximum sentence is 50 percent longer than the statutory maximum for the underlying predatory crime. Repeat offenders may be eligible for an indeterminate life sentence (see above) if the other applicable factors exist. | <ul style="list-style-type: none"> ➤ <u>New criminal sexual predatory conduct crime (CSPC)</u> <ul style="list-style-type: none"> ▶ Creates a new substantive crime whose concept is taken from the current patterned and predatory offender sentencing law. Crime applies to offenders who commit a predatory offense (a defined term) that was motivated by the offender's sexual impulses or was part of a predatory pattern of behavior having criminal sexual conduct as its goal. (See 2004 Senate and House omnibus crime bills.) Statutory maximum sentence is 15 years imprisonment and/or a \$20,000 fine. An offender convicted of this crime will receive an indeterminate life sentence with a 20-year minimum term of imprisonment if the offender is a repeat offender (see above). | <p>The elements of these substantive crimes are identical. However, the statutory maximum for the crime in S.F. No. 1875 is reflected as a percentage of the underlying predatory crime. S.F. No. 1325 provides for a statutory maximum sentence of 15 years imprisonment and/or a \$20,000 fine.</p> |

| Issue | S.F. No. 1875 (Ranum) | S.F. No. 1325 (Kleis) | Comments |
|---------------------------------------|--|--|----------|
| Release Authority | <p>➤ <u>Release authority</u></p> <p>▶ Commissioner of Corrections to determine if/when a sex offender serving an indeterminate life sentence may be released from prison (same as current law for first-degree murderers eligible for release after serving 30 years). When considering whether to release an offender, the commissioner must consider, at a minimum, the risk the offender poses to the community if released; the offender's progress in treatment; the offender's behavior while incarcerated; psychological or other diagnostic evaluations of the offender; the offender's criminal history; and any other relevant conduct of the offender while incarcerated or before incarceration. The commissioner may not release an offender unless while in prison the offender has successfully completed appropriate sex offender treatment and has been assessed for chemical dependency and mental health needs and if necessary, has completed appropriate treatment. In addition, the commissioner may not release an offender unless there is an individual release plan that ensures that the offender has suitable housing, receives appropriate aftercare/treatment, and has an employment or education plan.</p> | <p>➤ <u>Release authority</u></p> <p>▶ Requires the Minnesota Sex Offender Review Board to make decisions regarding the release of offenders sentenced to indeterminate life sentences under the bill. However, does not provide any details on the release criteria, composition of the Board, etc. Instead, requires the Commissioner of Corrections to establish criteria and procedures for the Board. Requires the Commissioner to seek the input of criminal justice stakeholders when establishing the criteria and procedures.</p> | |
| Increased Statutory Maximum Sentences | No comparable provision. | <p>➤ <u>Doubles CSC statutory maximum sentences</u></p> <p>▶ Increases CSC statutory maximum sentences as follows:</p> <ul style="list-style-type: none"> • first-degree CSC increased from 30 to 60 years; • second-degree CSC increased from 25 to 50 years; • third-degree CSC increased from 15 to 30 years; and • fourth-degree CSC increased from ten to 20 years. | |

| Issue | S.F. No. 1875 (Ranum) | S.F. No. 1325 (Kleis) | Comments |
|---|--------------------------|--|----------|
| Direction to Minnesota Sentencing Guidelines Commission | No comparable provision. | <ul style="list-style-type: none"> ➤ <u>Sentencing guidelines changes</u> <ul style="list-style-type: none"> ▸ Requires the MSGC to modify the sentencing guidelines, including the guidelines grid, consistent with its January 2005 report to the Legislature (but adapting the proposal to reflect the changes made in the bill). These modifications go into effect on August 1, 2005, and, along with other changes made in the bill, will likely increase presumptive sentences for sex offenders not subject to the bill's life sentences. | |