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and Fiscal Analysis**

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Senate

State of Minnesota

S.F. No. 3273 - Forensic Laboratory Oversight Commission

Author: Senator Julianne E. Ortman

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

Date: March 30, 2006

Section 1, Subdivision 1, creates a 20-member Forensic Laboratory Oversight Commission. Provides that the commission shall select a chair from among its members and may employ staff. Commission members serve four-year terms and may be reappointed.

Subdivision 2 requires the commission to:

- ◆ develop and implement an accreditation and reporting system for all forensic laboratories;
- ◆ require all forensic labs to become accredited; and
- ◆ investigate allegations of professional negligence.

Subdivision 3 requires commission investigations to include the preparation of a written report regarding the alleged negligence and may include retrospective reexaminations of the facility charged with negligence.

Subdivision 4 allows the commission to contract its accreditation and investigations duties to a qualified person or entity.

Subdivision 5 authorizes the commission to establish accreditation standards and mandatory training requirements, validate forensic methods and methodologies, and establish procedures, policies, and practices to improve the quality of forensic analyses conducted in the state. Authorizes the commission to require facilities to bear any cost related to accreditation and compliance.

Subdivision 6 requires the commission to make all accreditation reviews and investigation reports public.

Subdivision 7 requires the commission to submit all accreditation reviews and investigation reports to the governor and the Legislature by January 15 of each year.

Subdivision 8 requires the commission to adopt forensic analysis processing time period standards.

Subdivision 9 requires the commission to determine reasonable standards and deadlines for the Bureau of Criminal Apprehension (BCA) to test and catalog forensic evidence samples.

Subdivision 10 provides that all public and private forensic facilities are subject to this section.

Subdivision 11 requires the Commissioner of Public Safety to provide adequate office space and administrative services to the commission.

Subdivision 12 provides that Minnesota Statutes, section 15.059 regarding advisory councils and committee applies to the commission.

Subdivision 13 defines "forensic analysis" for the purpose of the bill.

Section 2 requires the superintendent of the BCA to establish a four-person unit to focus on cold cases involving DNA analysis.

Section 3 provides two blank appropriations to the Commissioner of Public Safety for the purposes of the bill.

CT:rer

Senator Ortman introduced—

S.F. No. 3273: Referred to the Committee on Crime Prevention and Public Safety.

A bill for an act relating to public safety; establishing the Forensic Laboratory Oversight Commission and specifying its duties; establishing the cold case investigations unit and specifying its duties; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 299C.

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

Section 1. [299C.156] FORENSIC LABORATORY OVERSIGHT COMMISSION.

Subdivision 1. Membership. (a) The Forensic Laboratory Oversight Commission consists of the following:

- (1) the superintendent of the Bureau of Criminal Apprehension or the superintendent's designee;
- (2) the commissioner of public safety or the commissioner's designee;
- (3) the commissioner of corrections or the commissioner's designee;
- (4) two senators, one from the majority party and one from the minority party, selected by the Subcommittee on Committees of the senate Committee on Rules and Administration;
- (5) two representatives, one from the majority party and one from the minority party, selected by the speaker of the house of representatives;
- (6) an individual with expertise in the field of forensic science, selected by the governor;
- (7) an individual with expertise in the field of forensic science, selected by the attorney general;
- (8) a faculty member of the University of Minnesota Medical School who specializes in clinical laboratory medicine, selected by the president of the university;

- 2.1 (9) a faculty member of the University of Minnesota Law School who specializes in
2.2 criminal justice, selected by the president of the university;
- 2.3 (10) the state public defender or a designee;
- 2.4 (11) a prosecutor, selected by the Minnesota County Attorneys Association;
- 2.5 (12) a sheriff, selected by the Minnesota Sheriffs Association;
- 2.6 (13) a police chief, selected by the Minnesota Chiefs of Police Association;
- 2.7 (14) a peace officer, selected by the Minnesota Police and Peace Officers Association;
- 2.8 (15) a judge or court administrator, selected by the chief justice of the Supreme
2.9 Court;
- 2.10 (16) a criminal defense attorney, selected by the Minnesota State Bar Association;
- 2.11 (17) a local corrections official from a Community Corrections Act county, selected
2.12 by the commissioner of corrections; and
- 2.13 (18) a local corrections official from a non-Community Corrections Act county,
2.14 selected by the commissioner of corrections.
- 2.15 (b) The commission shall select a chair from among its members.
- 2.16 (c) Commission members serve four-year terms and may be reappointed.
- 2.17 (d) The commission may employ staff necessary to carry out its duties.
- 2.18 Subd. 2. Duties. The commission shall:
- 2.19 (1) develop and implement:
- 2.20 (i) an accreditation process for all laboratories, facilities, or entities that conduct
2.21 forensic analyses; and
- 2.22 (ii) a reporting system through which accredited laboratories, facilities, or entities
2.23 report professional negligence or misconduct;
- 2.24 (2) require all laboratories, facilities, or entities that conduct forensic analyses to:
- 2.25 (i) become accredited by the commission; and
- 2.26 (ii) report professional negligence or misconduct to the commission; and
- 2.27 (3) investigate, in a timely manner, any allegation of professional negligence or
2.28 misconduct that would substantially affect the integrity of the results of a forensic analysis
2.29 conducted by an accredited laboratory, facility, or entity.
- 2.30 Subd. 3. Investigations. An investigation under subdivision 2, clause (3):
- 2.31 (1) shall include the preparation of a written report that identifies and describes the
2.32 methods and procedures used to identify:
- 2.33 (i) the alleged negligence or misconduct;
- 2.34 (ii) whether negligence or misconduct occurred; and
- 2.35 (iii) any corrective action required of the laboratory, facility, or entity; and
- 2.36 (2) may include one or more:

3.1 (i) retrospective reexaminations of other forensic analyses conducted by the
3.2 laboratory, facility, or entity that may involve the same kind of negligence or misconduct;
3.3 and

3.4 (ii) follow-up evaluations of the laboratory, facility, or entity to review:

3.5 (A) the implementation of any corrective action required under clause (1), item
3.6 (iii); or

3.7 (B) the conclusion of any retrospective reexamination under this clause, item (i).

3.8 Subd. 4. Delegation of duties. The commission by contract may delegate the duties
3.9 described in subdivision 2, clauses (1) and (3), to any person or entity that the commission
3.10 determines to be qualified to assume those duties.

3.11 Subd. 5. Accreditation. (a) As part of the accreditation process developed and
3.12 implemented under subdivision 2, clause (1), item (i), the commission may:

3.13 (1) establish minimum accreditation standards and mandatory training requirements
3.14 for individuals employed by a laboratory, facility, or entity that conducts forensic analyses;

3.15 (2) validate or approve specific forensic methods or methodologies; and

3.16 (3) establish procedures, policies, and practices to improve the quality of forensic
3.17 analyses conducted in this state.

3.18 (b) The commission may require that a laboratory, facility, or entity required to be
3.19 accredited under this section pay any costs incurred to ensure compliance with this section.

3.20 Subd. 6. Reviews and reports are public. The commission shall make all
3.21 accreditation reviews conducted under subdivision 2, clause (2), and investigation reports
3.22 completed under subdivision 3, clause (1), available to the public. A report completed
3.23 under subdivision 3, clause (1), in a subsequent civil or criminal proceeding is not prima
3.24 facie evidence of the information or findings contained in the report.

3.25 Subd. 7. Reports to legislature. By January 15 of each year, the commission
3.26 shall submit any report received under subdivision 2, clause (2), and any report prepared
3.27 under subdivision 3, clause (1), during the preceding calendar year to the governor and
3.28 the legislature.

3.29 Subd. 8. Forensic analysis processing time period requirements. (a) By July 1,
3.30 2007, the commission shall adopt forensic analysis processing time period standards.
3.31 When adopting these standards and when making other related decisions, the commission
3.32 shall consider the goals and priorities identified by the presidential DNA initiative. The
3.33 commission shall consider the feasibility of the Bureau of Criminal Apprehension
3.34 completing the processing of forensic evidence submitted to it by sheriffs, chiefs of police,
3.35 or state or local corrections authorities within the following time periods:

3.36 (1) for an alleged homicide, within no later than 72 hours of the time of submission;

4.1 (2) for an alleged violent crime other than an alleged homicide, within no later
4.2 than seven days of the time of submission;

4.3 (3) for an alleged crime not specified in clause (1) or (2), including a violation
4.4 under chapter 169A involving a driving while impaired blood test, within no later than
4.5 three weeks of the time of submission; and

4.6 (4) for DNA analysis of inmates under section 609.117, subdivision 2, within no
4.7 later than 60 days or the term of incarceration, whichever period occurs first.

4.8 (b) The bureau shall report to the commission in the time, form, and manner
4.9 determined by the commission and keep it informed of the most up-to-date data on
4.10 the actual forensic analysis processing turn around time periods. The commission
4.11 shall compare the actual average turnaround times for the categories described in this
4.12 subdivision to the standards adopted by the commission. By January 15 of each year, the
4.13 commission shall report to the legislature on these issues, including the specific efforts
4.14 made by the commission to improve turnaround times.

4.15 Subd. 9. Forensic evidence processing deadline. The commission shall determine
4.16 reasonable standards and deadlines for the Bureau of Criminal Apprehension to test and
4.17 catalog forensic evidence samples relating to alleged crimes committed, including DNA
4.18 analysis, in their control and possession.

4.19 Subd. 10. Scope. Public and private laboratories, facilities, and other entities,
4.20 including the Bureau of Criminal Apprehension, medical examiners, and coroners, that
4.21 conduct forensic analyses or store and maintain forensic evidence in the state, and their
4.22 employees and agents, are subject to this section and shall comply with lawful directives
4.23 from the commission.

4.24 Subd. 11. Office space. The commissioner of public safety shall provide adequate
4.25 office space and administrative services to the commission.

4.26 Subd. 12. Expiration, expenses. Section 15.059 applies to the commission, except
4.27 that it does not expire.

4.28 Subd. 13. Definition. As used in this section, "forensic analysis" means a medical,
4.29 chemical, toxicologic, ballistic, or other expert examination or test performed on physical
4.30 evidence, including DNA evidence, for the purpose of determining the connection of
4.31 the evidence to a criminal action.

4.32 Sec. 2. [299C.157] COLD CASE INVESTIGATIONS UNIT.

4.33 The superintendent shall establish a four-person unit within the bureau to focus on
4.34 cold cases involving DNA. The unit must consist of a forensic scientist, an investigator,
4.35 a person with expertise in criminal prosecutions, and another person with skills relating

5.1 to DNA. The unit shall work together as a team to review investigative files of selected
5.2 cases. To the greatest extent possible, the unit shall work cooperatively with local law
enforcement and prosecutorial officials having jurisdiction over the case. The unit
5.4 shall attempt to use advances in forensics and DNA technology and new investigative
5.5 techniques to reinvestigate evidence and explore new leads in the cases it reviews. When
5.6 the unit completes a review of a case, it shall update the local law enforcement and
5.7 prosecutorial agency on the results of the review and forward any recommendations
5.8 to them.

5.9 Sec. 3. APPROPRIATION.

5.10 (a) \$..... is appropriated to the commissioner of public safety from the general fund
5.11 for the fiscal year ending June 30, 2007, to implement section 1.

5.12 (b) \$..... is appropriated to the superintendent of the Bureau of Criminal
5.13 Apprehension from the general fund for the fiscal year ending June 30, 2007, to implement
5.14 section 2.

Senate File 3273



**FORENSIC
LABORATORY
OVERSIGHT
COMMISSION**

Senator Julianne Ortman

Forensic Science Service
Forensic Science Service



St. Paul Forensic Science Laboratory
Bemidji Forensic Science Laboratory
St. Paul Forensic Science Laboratory
Bemidji Forensic Science Laboratory

2004 Annual Report
2004 Annual Report

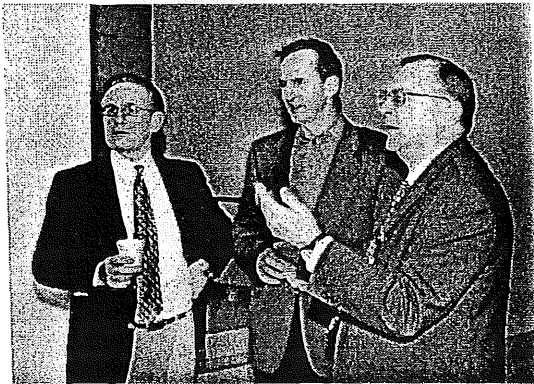
****Selected Pages****

DIRECTOR HIGHLIGHTS

■ BCA Grand Opening February 4, 2004



The BCA had the grand opening of the new facility at 1430 Maryland Ave. E. in St. Paul on February 4, 2004. The building includes state-of-the-art forensic laboratories. At the ribbon cutting were, left to right: Commissioner Stanik, Governor Pawlenty, Superintendent Campion and Mayor Kelly.

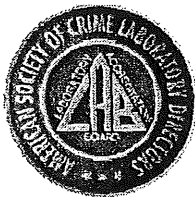


Director Dolejsi describes the new BCA facility to Governor Tim Pawlenty and St. Paul Mayor Randy Kelley. "It's better than sliced bread" he says.

■ Forensic Science Service * *Commitment to Service*

With Forensic Science Laboratories in Saint Paul and Bemidji we provide world-class forensic science services to our criminal justice clients in Minnesota.

■ Accreditation * *Commitment to Quality*



Both laboratories are accredited by ASCLD/LAB and maintain rigorous quality assurance programs.

■ Communications

There are currently over 280 departments set up to receive laboratory reports as e-mail attachments (about 90% of all reports). You can also receive e-mail receipts for any evidence mailed to the lab. Through a secure web site departments can access their encrypted reports at any time after they are issued by the laboratory.

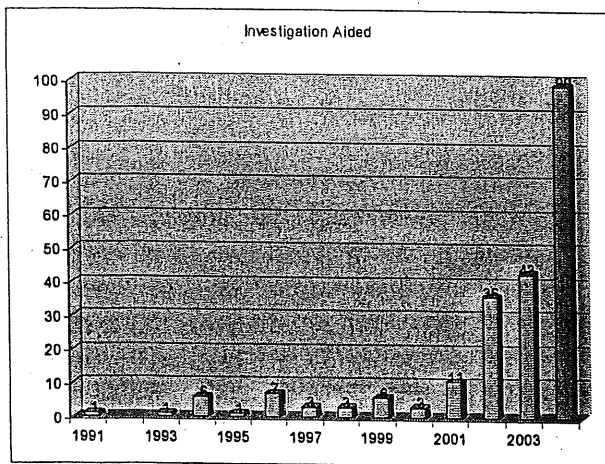
■ **ASCLD & ASCLD/LAB**

I was elected to the board of directors of ASCLD/LAB. Our involvement in this and other national organizations espouses our desire to improve our lab and forensic science in general.

■ **NIJ DNA Grants**

The BCA was awarded \$1Million in federal grants to improve our DNA capacity through robotics and new technologies and to address our DNA casework backlog.

■ **DNA Convicted Felon Database**



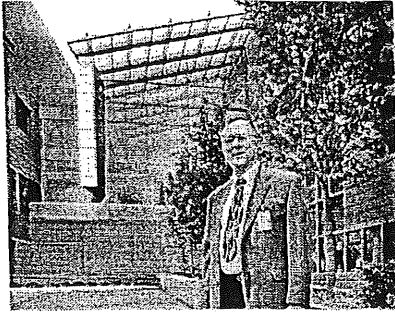
With over 30,000 individuals in CODIS (Combined DNA Index System) 99 cases were solved in 2004. When the law was passed in 2002 requiring DNA from all convicted felons the BCA was funded to collect the samples but not to analyze them. Over 14,000 samples were outsourced to private labs through another NIJ grant. **For every 1,000 samples entered into the database 7 to 10 cases are solved!** The Governor's budget includes funds for this activity.

Frank C. Dolejsi, Director

BCA FORENSIC SCIENCE SERVICE

The BCA Forensic Science Service ("Laboratory") provides identification and comparisons of physical evidence for law enforcement agencies in Minnesota. Staff scientists within various scientific disciplines prepare written reports and provide expert testimony to the courts on the findings and interpretation of their examinations. In conjunction with the BCA Training Unit, the scientists in the Laboratory provide specialized training to law enforcement agencies. The Laboratory's "Crime Scene Service" is available to process crime scenes for physical evidence in death investigations.

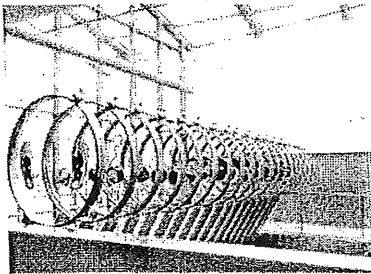
CASES RECEIVED	1998	1999	2000	2001	2002	2003	2004
Homicide & Attempted Homicide	105	122	97	95	103	71	107
Death Investigation	261	207	172	156	188	180	182
Controlled Substance	2,615	2,639	3,124	3,441	3,326	3,432	3,905
Criminal Sexual Conduct	510	514	506	551	689	718	695
Burglary/Robbery	526	441	479	337	455	612	570
Fire Investigation	140	185	166	132	178	159	164
Fraud/Forgery	130	152	124	78	87	94	84
DWI	8,147	7,702	7,466	5,633	5,200	5,168	5,029
All Other Criminal	956	1,073	1,314	1,365	1,553	1,565	1,747
Proficiency Testing	84	78	69	80	77	80	81
TOTALS	13,474	13,113	13,517	11,866	11,856	12,079	12,564



Director's Message:

2003 was a banner year for the BCA Laboratory. On the weekend of November 14 the lab was moved to the new BCA building at 1430 Maryland Ave. E. in St. Paul. The new facility is 3 times the square footage of the old building at 1246 University. The \$65 million project was started in 1997 and has 224,000 square feet with about 106,000 square feet dedicate to Laboratory activities. The building also houses the other sections of the BCA and includes an auditorium, training rooms, an exercise room, and an atrium. Believe me this building is "better than sliced bread".

The project included several % for art projects that add significantly to the overall environment of the BCA facility. If you visit the BCA web sit at www.dps.state.mn.us/bca there are links to the web sites of the artists involved with two of those projects.



The BCA lab partnered with the FBI to establish a regional Mitochondrial DNA and is scheduled to go on line in 2005. The FBI will provide funding to hire nine forensic scientists as well as provide the necessary training.

The BCA lab received a State "Auto Theft" grant that will allow us to give priority to latent prints from auto theft cases by providing funding to hire two latent print scientists (one in St. Paul and one in Bemidji).

NIJ grants for DNA included a grant for Non-suspect cases as well as a grant for DNA Offender Database backlog reduction. The BCA is also working in co-operation with County and City Crime Labs and Medical Examiner Labs, with funds from the National Forensic Science Improvement Act, to assist all labs in the state to achieve Accreditation.

In the midst of all these changes the staff of the BCA lab continues to provide world-class forensic science services to our law enforcement clients in Minnesota. I would like to publicly recognize our outstanding scientific staff; they really are responsible for the BCA Laboratory's national reputation.

Frank Dolejsi, Director

MINNESOTA DEPARTMENT OF PUBLIC SAFETY

BUREAU OF CRIMINAL APPREHENSION



FORENSIC SCIENCE SERVICE

2003 ANNUAL REPORT

Selected Pages

BCA FORENSIC SCIENCE SERVICE

The BCA Forensic Science Service ("Laboratory") provides identification and comparisons of physical evidence for law enforcement agencies in Minnesota. Staff scientists with various scientific specialties prepare written reports and provide expert testimony to the courts on the findings and interpretation of their examinations. In conjunction with the BCA Training Unit, the scientists in the Laboratory provide specialized training to law enforcement agencies. The Laboratory's "Crime Scene Service" is available to process crime scenes for physical evidence in death investigations.

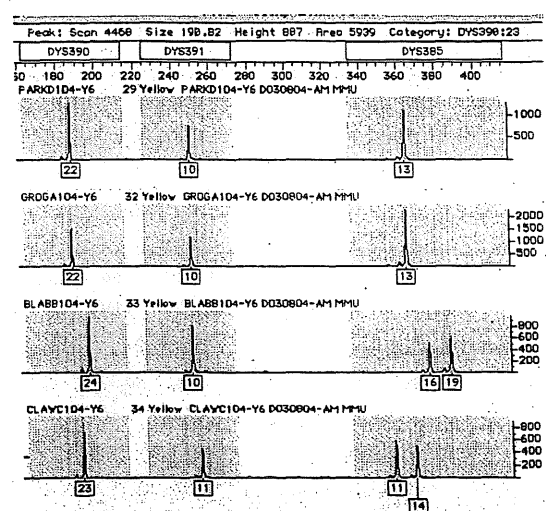
CASES RECEIVED	1997	1998	1999	2000	2001	2002	2003
Homicide & Attempted Homicide	124	105	122	97	95	103	71
Death Investigation	286	261	207	172	156	188	180
Controlled Substance	2,518	2,615	2,639	3,124	3,441	3,326	3,432
Criminal Sexual Conduct	510	510	514	506	551	689	718
Burglary/Robbery	420	526	441	479	337	455	612
Fire Investigation	178	140	185	166	132	178	159
Fraud/Forgery	172	130	152	124	78	87	94
DWI	9,239	8,147	7,702	7,466	5,633	5,200	5,168
All Other Criminal	960	956	1,073	1,314	1,365	1,553	1,565
Proficiency Testing	69	84	78	69	80	77	80
TOTALS	14,476	13,474	13,113	13,517	11,866	11,856	12,079

Specific scientific expertise is provided in the Laboratory sections. The following describes the types of examinations that can be made by each section:



BIOLOGY/DNA

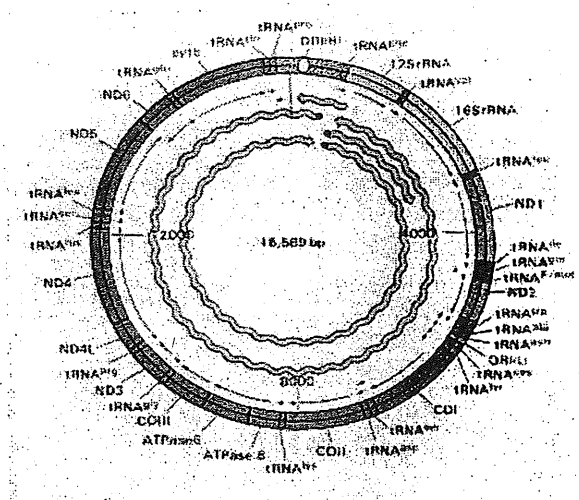
The start of this year brought exciting news to the world of DNA in the courts. In late February, the Minnesota Supreme Court ruled that PCR-STR DNA analysis was and is generally accepted in the scientific community. With that ruling, we saw an increase in the number of cases that went to trial and thus we kept busy testifying after a quiet year in 2002.



A matching game: A comparison of three of the loci that are analyzed in YSTR testing.

As that STR challenge is replaced with Y-STR challenges, we are refocusing our energies to provide information and proof that Y-STR DNA analysis is as reliable as autosomal STR testing and thus, being scientifically accepted in the scientific community, it should also be accepted into the courts. Y-STR testing analyzes areas on the Y, or male, chromosome, allowing us to obtain more information from DNA mixtures, specifically male: female mixtures, which are often encountered in cases of sexual assault. We look forward to our first Y-STR testimonies, which we anticipate will come in 2004 as we work towards training all casework scientists in Y-STR testing.

The summer of 2003 was busy with applications for the prestigious position of regional mitochondrial laboratory. In late September, along with Arizona, Connecticut and New Jersey, we were selected as one of four laboratories to become a regional mitochondrial DNA laboratory in collaboration with the FBI. That resulted in the Biology/DNA Group being split into two sections, a Nuclear DNA Section and a Mitochondrial DNA Section. A supervisor and at least two lead scientists head each section. Training and implementation of mitochondrial DNA testing will begin in early 2004 with the anticipation that casework could begin as soon as September 2005. Many dedicated people worked tirelessly to prove that our laboratory deserved this honor.



An example of the mtDNA that will be tested in the new biology section of the laboratory

The number of database samples continued to grow as we moved into the first full year of collecting samples from all convicted felons. With help from a National Institute of Justice grant, we continue to profile the backlog of convicted offenders that has occurred with the

increase in sample submissions. To date there are over 36,000 convicted offenders in our database. In 2003 alone there were 11 forensic database hits, 25 offender database hits, four national forensic database hits, and four national offender database hits!

We also are the recipients of an NIJ non-suspect grant, which will allow us to re-examine old cases as well as tackle new non-suspect cases, such as burglaries, in a timely fashion. With this grant we also have the resources to get out into the community and encourage the local law enforcement agencies to reexamine non-suspect "cold" cases. Hopefully with the help of the ever-growing DNA databases, we will be able to glean some information from DNA testing and can help agencies solve these cases.

And, not to be forgotten, we moved into our new building in St. Paul, thus tripling our space. We finally have enough space that we are not bumping into our coworkers' elbows as we search evidence. Mitochondrial DNA and nuclear DNA and database personnel share our space, and we continue to share new ideas between these groups within the larger Biology/DNA discipline in St. Paul and Bemidji.

As we look forward to 2004, we anxiously await the arrival of at least eight new scientists to fill current vacancies in both the nuclear and mitochondrial sections of the St. Paul Laboratory. The move to the new building in St. Paul ended 2003 on a high note that we hope to carry through into 2004.

State of New York- About the Office of Forensic Services

The Office of Forensic Services (OFS) was established to carry out the provisions of Article 49-B of the Executive Law (Section 995 et seq). The office is responsible for administrative oversight of the New York state (NYS) DNA Databank and for maintaining a forensic laboratory accreditation program for public forensic laboratories in New York State under the authority of the NYS Commission on Forensic Science. OFS functions include:

- providing staff support to the New York State Commission on Forensic Science and its DNA Subcommittee;
- monitoring forensic laboratory compliance with state accreditation standards;
- administration of the State's DNA database; and
- working with forensic laboratories, law enforcement and other criminal justice agencies to improve the quality and delivery of forensic services pursuant to Article 49-B.

The office conducts its activities in coordination with the New York Crime Laboratory Advisory Committee (NYCLAC) and various technical working groups (TWGs) of forensic experts from state and local crime laboratories.

Texas: Crime Lab Oversight Law Takes Effect

On September 1, Texas' new crime lab oversight law (H.B. 1068; ch. 1224) went into effect. The law, signed by Gov. Rick Perry on June 18, creates a 9-member Texas Forensic Science Commission to develop and implement a crime lab oversight system. Crime labs in Texas are now required to "report professional negligence or misconduct to the commission," which the commission shall investigate. Labs also must be accredited by the public safety director of the Texas Department of Public Safety for test results to be allowed into evidence.

Illinois HB 3306

Establishes an independent forensic science oversight commission responsible for overseeing the performance of forensic science laboratories and maintaining the independence of these laboratories from both the prosecution and defense.

Virginia and Arizona

Both have created a DNA Task Force which determines whether forensic specialists are following procedures. Preliminary positive results have been found in each state's investigations of the Task Forces' progress.

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BILL AS INTRODUCED

2005-2006

S.249

Introduced by Senator Illuzzi of Essex-Orleans District

Referred to Committee on

Date:

Subject: Public safety; forensic laboratory; oversight commission

Statement of purpose: This bill proposes to create the forensic laboratory oversight commission to oversee and independently investigate the department of public safety's forensic laboratory.

AN ACT RELATING TO THE CREATION OF THE FORENSIC LABORATORY OVERSIGHT COMMISSION

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 20 V.S.A. § 1947 is added to read:

§ 1947. FORENSIC LABORATORY OVERSIGHT COMMISSION

(a) There is created the forensic laboratory oversight commission. The commission shall comprise the following members:

(1) one member appointed by the governor;

(2) one member of the senate appointed by the committee on committees;

(3) one member of the house of representatives appointed by the speaker of the house of representatives;

(4) one member appointed by the attorney general, who has expertise in the field of forensic science;

(5) one member appointed by the board of trustees of the

University of Vermont who is a faculty member of the medical school and who specializes in clinical lab

(6) one member appointed by the president of Vermont Law School who is a faculty or staff mem

(7) one member appointed by the executive director of

the department of state's attorneys and sheriffs; and

(8) one member appointed by the defender general.

(b) Each member of the commission shall serve for a two-year term.

The governor shall designate a member to serve as chair of the commission.

(c) The commission shall:

(1) develop and implement:

(A) an accreditation process for all laboratories, facilities, or entities that conduct forensic analy

(B) a reporting system through which accredited laboratories, facilities, or entities report profes

(2) require all laboratories, facilities, or entities that conduct forensic analyses to:

(A) become accredited by the commission; and

(B) report professional negligence or misconduct to the commission; and

(3) investigate, in a timely manner, any allegation of professional negligence or misconduct that w

(d) An investigation under subdivision (c)(3) of this section:

(1) shall include the preparation of a written report that identifies and describes the methods and pr

(A) the alleged negligence or misconduct;

(B) whether negligence or misconduct occurred;

(C) any corrective action required of the laboratory, facility, or entity; and

(2) may include one or more:

(A) retrospective reexaminations of other forensic analyses conducted by the laboratory, facility

(B) follow-up evaluations of the laboratory, facility, or entity to review:

(i) the implementation of any corrective action required under subdivision (1)(C) of this sub

(ii) the conclusion of any retrospective reexamination under subdivision (2)(A) of this subse

(e) The commission by contract may delegate the duties described by subdivisions (c)(1) and (3) of th

(f) As part of the accreditation process developed and implemented under subdivision (c)(1) of this se

(1) establish minimum accreditation standards and mandatory training requirements for individual

conducts forensic analyses;

(2) validate or approve specific forensic methods or methodologies; and

(3) establish procedures, policies, and practices to improve the quality of forensic analyses conduc

- (g) The commission may require that a laboratory, facility, or entity required to be accredited under tl
- (h) The commission shall make all accreditation reviews conducted under subdivision (c)(2) of this se
- (i) A member of the commission is entitled to reimbursement for travel expenses at the rate per mile c
- (j) The commission shall submit any report received under subdivision (c)(2) of this section and any r
- (k) In this section, "forensic analysis" means a medical, chemical, toxicologic, ballistic, or other expe

Published by:

**The Vermont General Assembly
115 State Street
Montpelier, Vermont**



www.leg.state.vt.us

HB 1380 – AS INTRODUCED

2006 SESSION

06-2487

08/09

HOUSE BILL 1380

AN ACT establishing the New Hampshire forensic science oversight commission.

SPONSORS: Rep. Hammond, Graf 11; Rep. Ulery, Hills 27

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill establishes the New Hampshire forensic science oversight commission.

Explanation: Matter added to current law appears in *bold italics*.Matter removed from current law appears [~~in brackets and struck through.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

06-2487

08/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Six

AN ACT establishing the New Hampshire forensic science oversight commission.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Chapter; New Hampshire Forensic Science Oversight Commission. Amend RSA by inserting after chapter 611-A the following new chapter:

CHAPTER 611-B

THE NEW HAMPSHIRE FORENSIC SCIENCE OVERSIGHT COMMISSION

611-B:1 Purpose and Legislative Findings. The legislature recognizes and acknowledges

that there have been significant advances in the forensic sciences. Forensic sciences play an increasingly important role in the investigation of crimes and in the trial of matters before the courts of this state. The legislature also recognizes that malfeasance, fraud, and serious negligence in the forensic sciences can interfere with the investigation of crimes and result in wrongful convictions which leave true perpetrators free to commit more crimes. Therefore, the legislature creates the New Hampshire forensic science oversight commission to monitor and investigate instances where crime laboratories in the state commit malfeasance, fraud, or serious neglect.

611-B:2 Definitions. For the purposes of this chapter:

I. "Crime laboratory" includes a public or private laboratory or other entity that conducts a forensic analysis subject to this article as well as entities that store and maintain forensic evidence. Crime laboratory includes the New Hampshire medical examiner's office and any other coroner or medical examiner practicing in the state.

II. "Criminal action" includes an investigation, complaint, arrest, bail, bond, trial, appeal, punishment, or other matter related to conduct proscribed by a criminal offense.

III. "Commissioner" means the commissioner of the department of health and human services.

IV. "Forensic analysis" means a medical, chemical, toxicological, ballistic, or other scientific examination or test performed on physical evidence, including DNA evidence, for the purpose of determining the connection of the evidence to a criminal action. The term includes an examination or test requested by a law enforcement agency, prosecutor, criminal suspect or defendant, or court. The term does not include:

(a) A presumptive test performed for the purpose of determining compliance with a term or condition of community supervision or parole and conducted by or under contract with a county department of corrections or the state department of corrections.

(b) An expert examination or test conducted principally for the purpose of scientific research, medical practice, civil or administrative litigation, or other purpose unrelated to determining the connection of physical evidence to a criminal action.

V. "Forensic evidence" means physical evidence which has been or will be subjected to forensic analysis.

VI. "Physical evidence" means any tangible object, thing, or substance relating to a criminal action.

611-B:3 Commission Established; Membership.

I. There is established the New Hampshire forensic science oversight commission.

II. The commission shall consist of the following members, who shall serve without salary

- (1) The alleged negligence or misconduct;
 - (2) Whether negligence or misconduct occurred; and
 - (3) Any corrective action required of the laboratory, facility, or entity; and
- (b) May include the following:

(1) Retrospective reexaminations of other forensic analyses conducted by the laboratory, facility, or entity that may involve the same kind of negligence or misconduct.

(2) Follow-up evaluations of the laboratory, facility, or entity to review:

(A) The implementation of any corrective action required by the commission; or

(B) The conclusion of any retrospective reexamination under subparagraph (1).

IV. The commission by contract may delegate the duties described in paragraph III to any person the commission determines to be qualified to assume those duties.

V. The commission shall require that a laboratory, facility, or entity investigated under paragraph III pay any costs incurred to ensure compliance with this section.

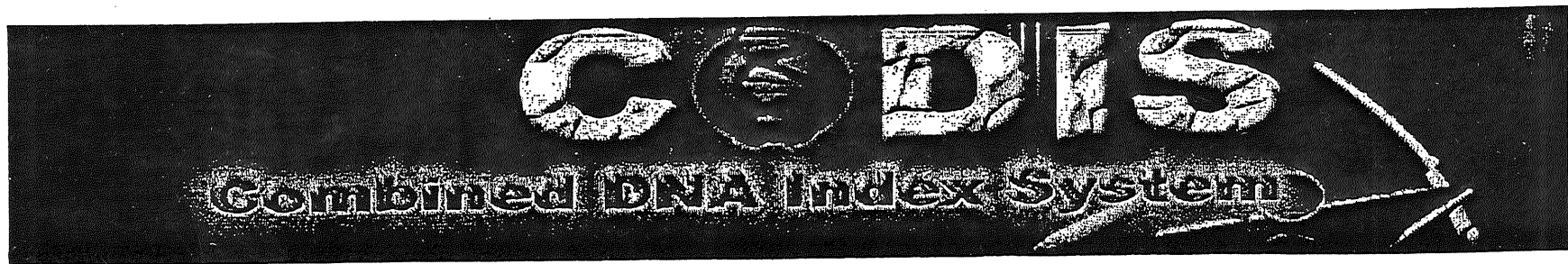
VI. The commission shall make all investigation reports completed under paragraph III(a) available to the public. A report completed under paragraph III(a), in a subsequent civil or criminal proceeding, is not prima facie evidence of the information or findings contained in the report.

611-B:5 Assistance. The New Hampshire judicial council and the university system of New Hampshire shall assist the commission in performing the commission's duties.

611-B:6 Rulemaking. The commission shall adopt rules, pursuant to RSA 541-A, governing the conduct, activities, investigations, and proceedings of the commission. The rules shall also govern the selection, employment, and payment of outside experts.

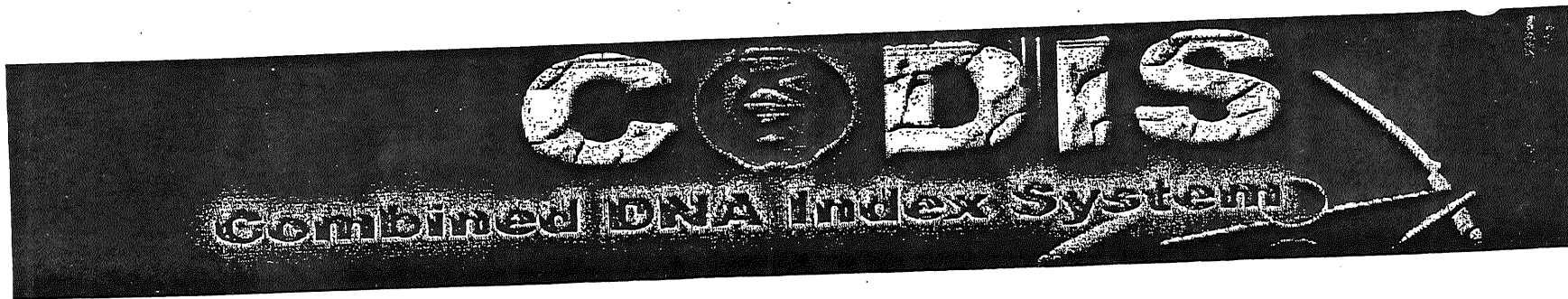
611-B:7 Report. The commission shall submit a report on its findings and recommendations for legislation and administrative changes to the speaker of the house, the senate president, and the governor on or before December 1 of each year.

2 Effective Date. This act shall take effect 60 days after its passage.



- **Minnesota History**

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

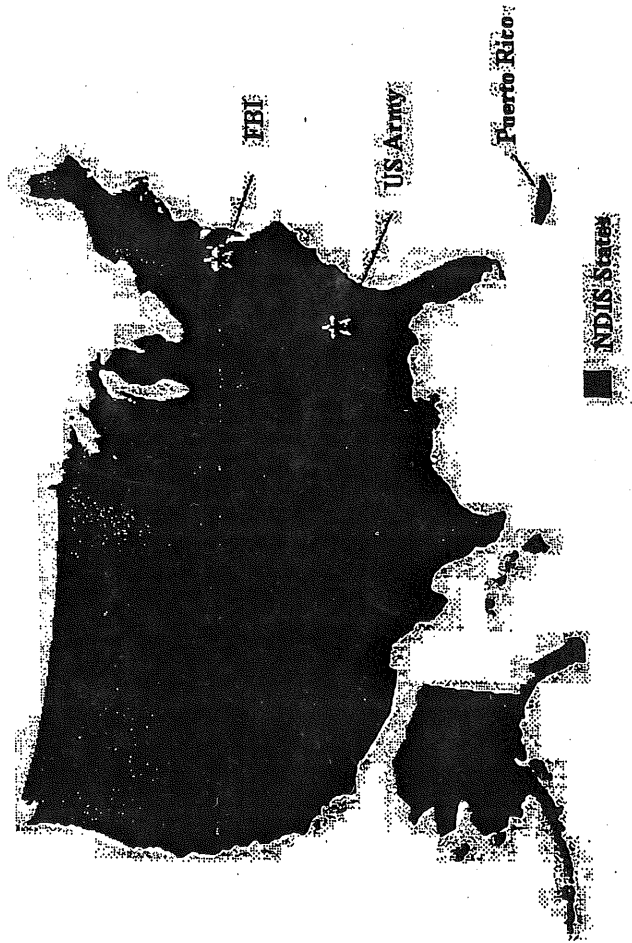


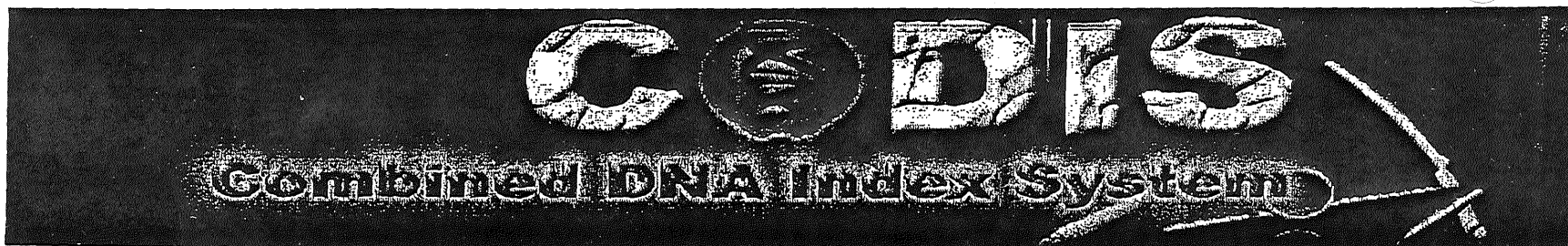
- **Status of MN CODIS**
 - **30,919 Offender Profiles in CODIS**
 - **Backlog : 19,700 samples**
 - 7,000 samples waiting to be sent to NIJ Labs**
 - 4,000 samples at NIJ Labs**
 - 3,000 samples returned awaiting data review**
 - 5,700 samples waiting to be processed at BCA**

As of 1/27/05

COEDIS COMBINED DNA INDEX SYSTEM

- National DNA Index System





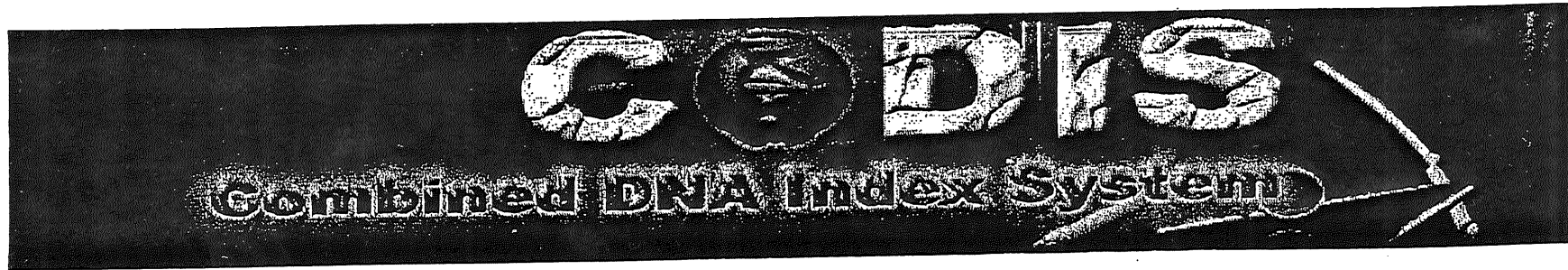
- **NDIS Statistics (National DNA Index System)**

As of 12/04, the profile composition is:

Total number of profiles: 2,132,470

Total Forensic profiles: 93,956

Total Convicted Offender Profiles: 2,038,470



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

BCA Funding Requests

Prepared By Senator Julianne Ortman

Confirmation Contacts:

Chris Turner 296-4350

Kent Hartwig 651-233-6446 (cel)

2004-2005 Biennium

- BCA Requested: \$68.7 million
- Appropriated: \$71.1 million
- DIFFERENCE: +\$2.4 million

2006-2007 Biennium

- BCA Requested: \$79.7 million
- Appropriated: \$79.1 million
- DIFFERENCE: -\$600,000

2004-2005 Specifically regarding DNA testing:

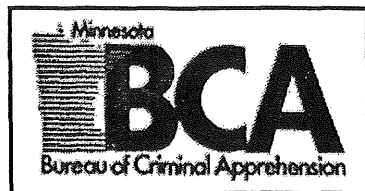
- there was no request
- Appropriated: \$300,000
- DIFFERENCE: +\$300,000

2006-2007 Specifically regarding DNA testing:

- For DNA/Felon Database: \$1,726,000
- Appropriated: \$1,526,000
- DIFFERENCE: -\$200,000

Minnesota Department of Public Safety

BUREAU OF CRIMINAL APPREHENSION



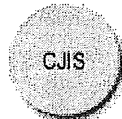
Laboratory Sections

The BCA Sections:

- **BIOLOGY/DNA:** The Biology scientists conduct several types of serological examinations on evidentiary materials, including the identification of blood, semen, saliva, and other body fluids. DNA testing is then performed in order to determine possible sources of the body fluids identified. This involves comparing the DNA types obtained from the questioned stains with the DNA types obtained from known blood and/or saliva samples from victims and suspects. Bloodspatter interpretation on clothing and at crime scenes can also be requested. DNA profiles of convicted felons are developed and stored in a DNA computer database. DNA profiles developed from evidence in criminal cases are also entered into the database. Searches are made to compare casework DNA profiles with other casework profiles as well as with the offender profiles.
- **BREATH TESTING:** Trains law enforcement personnel in breath-alcohol testing procedures, and evaluates and maintains breath-alcohol testing instruments.
- **CRIME SCENE RESPONSE:** The Laboratory's Crime Scene Response Teams provide on-site death investigation crime scene processing services to all Minnesota law enforcement agencies.
- **DRUG CHEMISTRY:** The Drug Chemistry scientists analyze and identify suspected controlled substances. This includes clandestinely manufactured products as well as legitimately manufactured pharmaceutical products. The scientists also identify controlled substances found in various psychoactive plant materials.
- **FIREARMS AND TOOLMARKS:** The Firearms and Toolmarks section conducts many types of firearms examinations: whether a questioned bullet or cartridge case was fired from a suspect firearm; the caliber and type of firearm possibly used to produce fired bullets and cartridge cases when no firearm has yet been recovered; the proximity of the firearm to the target material; whether a firearm is functional; and whether submitted ammunition is a commercial load or reload. The section also maintains a NIBIN database to use firearms evidence to link crime scenes. The section also works with toolmarks to determine whether an evidentiary toolmark matches a recovered tool, the type of tool that may have been used to produce a toolmark, and whether a lock is in working order or how it may have been compromised. Serial number restorations on various item types are also performed.
- **LATENT PRINTS:** The Latent Print sections compares unknown latent prints with elimination and suspect prints for identification purposes, uses the Midwest Automated Fingerprint Identification Network (MAFIN) and Automated Fingerprint Identification System (AFIS) to find a source for unknown latent prints, and develops latent prints for agencies that lack the necessary facilities.
- **PHOTOGRAPHY:** The Photography section develops and prints crime scene photographs, photographs of evidence, photographs of a sensitive nature submitted by law enforcement agencies, and photographs for training purposes.
- **PROGRAM SERVICES:** The Program Services Section provides support to all Forensic Science Service sections in the areas of Quality Assurance, Safety & Training, and the Laboratory Information Management System (LIMS). Quality Assurance programs are employed to monitor, document, and evaluate the quality of all Laboratory services for compliance with the accreditation standards of the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB). Training programs enable employees to develop new skills, maintain proficiency, and promote professional development. Safety programs furnish employees with a safe working environment and comply with occupational regulations. The LIMS is a tool for case management and a source for statistical information on Laboratory casework and employee professional activities.

- **QUESTIONED DOCUMENTS:** The Questioned Documents section offers examination services in the areas of signature, handwriting, and hand printing identification; typewriter identification; indented writing; inks; papers; mechanical impressions; photocopier identification; alterations and obliterations; reconstruction of documents that have been burned or otherwise damaged; and the identification of counterfeit documents.
- **TOXICOLOGY:** The Toxicology section analyzes blood, urine, and other biological samples for alcohol and other drugs.
- **TRACE EVIDENCE:** The Trace Evidence section makes comparisons to determine if there is a similarity between known and unknown samples of glass, paint, fibers, wood, soil, and other materials. Other examinations include the comparisons of shoeprints and tire tracks, as well as physical matches of broken or torn objects. Chemical testing examinations determine the presence of accelerants in fire debris.

Send questions or comments to: bca.info@state.mn.us



- DNA testing

From: [REDACTED] <[REDACTED]@courts.state.mn.us>
To: "sen.julianne.ortman" <sen.julianne.ortman@senate.mn>
Date: 02/08/2006 11:30:47 AM
Subject: DNA testing

Julie:

Saw yesterday's article in the Tribune regarding your proposed legislation. You've pinpointed a real need in the law enforcement community. Thank you and good luck not only with passage of your bill but with the upcoming session as a whole!

[REDACTED]
Judge, First Judicial District

April 29, 2005 Friday

HEADLINE: Former BCA lab official guilty; Cocaine theft admitted; 7 years in prison possible

BYLINE: BY SHANNON PRATHER; Pioneer Press

The former assistant director of the state of Minnesota's crime lab admitted Thursday that he removed a 2-pound brick of cocaine from an evidence locker to feed his own drug habit.

David Bruce Petersen -- who had testified as a law enforcement expert in court dozens of times over his three-decade-long career -- stood before Judge Salvador Rosas and pleaded guilty to one count of first-degree drug possession in Ramsey County District Court. Petersen faces more than seven years in prison, according to state sentencing guidelines. "I am guilty, your honor," Petersen, 46, told Rosas. "It was an unlawful possession. I had no reason to take it."

Ramsey County prosecutors agreed to drop two lesser felony counts in exchange for the plea.

Police do not believe Petersen sold any of the cocaine taken from the Bureau of Criminal Apprehension lab. Petersen is out on bail until his June 17 sentencing. Petersen declined to comment outside court. "My client was prepared to accept responsibility for his conduct," said his defense attorney Mark Larsen.

Assistant Ramsey County Attorney Bob Plesha said his office accepted the plea because Petersen agreed to admit to the most serious charge.

"He admitted his full involvement in the offense," Plesha said. "We have no reason to believe he distributed it to anyone else or sold it."

As an assistant lab director, Petersen was entrusted to keep track of evidence, including illegal drugs stored in the BCA vaults. Petersen's colleagues say he was a national expert in his field.

Petersen's arrest last month prompted the BCA to tighten its security even though a spokesman called Petersen's case an isolated incident. Petersen's position gave him unfettered access to evidence vaults. He was dismissed from the BCA, which changed procedures after his arrest.

"Now, one person can't go into the evidence area without someone else," said Kevin Smith, spokesman for the state Department of Public Safety. "It takes two people to get into any of those sensitive areas."

St. Paul police arrested Petersen on March 4 after BCA co-workers noticed the assistant director making numerous trips to a storage locker. Officials investigated and discovered unsecured drugs in the locker.

According to a criminal complaint, Petersen told police that he began drinking again after a period of sobriety and in April 2004 started sneaking into the BCA's walk-in evidence vault and coring out a brick of cocaine used by undercover officers for drug stings. Petersen admitted that from December 2004 until his arrest he took one to two golf-ball-size amounts of cocaine.

Petersen told police he destroyed the brick of cored-out cocaine, with the intention of replacing it undetected with another brick of cocaine that had been inadvertently left behind when the BCA moved its St. Paul offices in November 2003. The new owners of the old BCA building called Petersen in January to report finding the cocaine. Petersen told police the call that presented him the opportunity to cover his crime felt like a "gift from God." But he was arrested first.

St. Paul police searched Petersen's home on Hamline Avenue and discovered trace amounts of cocaine behind a bookcase in the basement, according to the criminal complaint.

Petersen started at the BCA in October 1981 as a crime lab analyst trainee. He left in 1986 to work for Hewlett Packard but returned in 1989. He was promoted to one of three assistant lab director positions in 1998, overseeing toxicology and breath tests, firearms and evidence intake in 1998. Petersen earned \$81,600 a year.

"He spent his whole life in the criminal justice system," Smith said. "He knew what he was doing and he knew the ramifications of what he did."

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Saint Paul Pioneer Press (Minnesota)

KSTP.com - 5 EYEWITNESS NEWS

BCA crime lab under the microscope

Updated: 05/20/2005 10:49:30 AM - [VIDEO]

ST. PAUL – The Bureau of Criminal Apprehension's Crime Lab blows holes in criminals' claims of innocence, but now, the lab itself is coming under fire.

The BCA is defending itself against claims of DNA contamination while investigating cases.

The BCA's new \$65 million facility on St. Paul's East Side is nationally known. But some in the legal community feel the work there is getting sloppy.

"I am sure they don't want you talking about this on the evening news," said defense attorney Pat Sullivan.

Sullivan said he recently learned of an alarming rate of DNA contaminations at the lab.

"The rate of mistakes is unacceptable, not just to defense attorneys. I think it should be unacceptable to the general public," he said.

Out of 350 cases in the last 12 months, Sullivan said he found 25 DNA samples contaminated with a lab worker's or another person's DNA.

In seven of those cases the DNA sample was switched from one person's case to another.

That's a contamination rate of 2 percent, or 1 out of every 50 cases.

The BCA said the numbers are misleading, and that in each case the lab has caught the mistakes before entering the courtroom.

"The results that we send out on DNA cases from this laboratory are both accurate and reliable," said Frank Dolesji, of the BCA.

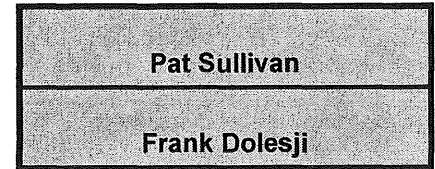
In one case, the DNA of a man charged with sexual assault was also discovered in a sample from a case in Blue Earth County.

Dolesji said in that case, the lab's quality assurance process caught the mistake and it was corrected.

The BCA also said its lab recently passed a DNA audit.

Sullivan wasn't convinced, saying the errors happened because the BCA handles too many cases.

"The general public should care about this because someday they might find themselves charged with a crime," he said.





aper: Star Tribune: Newspaper of the Twin Cities (Minneapolis, MN)
itl: DNA match in '02 Maple Grove rape, murder
h: man's killing haunted police. Her suspected killer was convicted separately of burglary.
ate: February 1, 2006

More than three years after 88-year-old May M. **Pelto** was raped, beaten and killed, authorities said they have matched **DNA** collected at the murder scene to **DNA** from an inmate convicted of burglary.

Pelto was found dead from head injuries Nov. 9, 2002, in her Maple Grove townhouse in the 6600 block of Ives Lane. Her murder came on the heels of four others in Maple Grove, where there had been no homicides in the previous 10 years.

The suspect, who authorities wouldn't identify Tuesday, is in custody for a 2004 burglary conviction, said Hennepin County Sheriff Pat McGowan. Authorities refused to discuss a possible motive in the case or whether the suspect knew **Pelto**.

Hennepin County Attorney Amy Klobuchar said the case will be presented to a grand jury this week for possible first-degree murder charges.

McGowan would not say where the suspect is incarcerated.

It almost goes unsaid that this is a true relief," said Maple Grove Police Chief Mona Dohman. "These cases haunt cops." **Pelto's** was the last of the five 2002 homicides to be cleared by police.

There were no signs of forced entry or theft at **Pelto's** house. The slight woman, who weighed 80 to 90 pounds, kept to herself and spent much of her time indoors watching TV, her family members have said.

A crime of opportunity

A sheriff's detective once described **Pelto**, who lived alone, as someone who had "never hurt anyone in her life." Authorities have said that she probably left her door unlocked accidentally and that her killing was a crime of opportunity.

"It was a crime few could easily forget," McGowan said. **Pelto's** family declined to comment Tuesday.

DNA from the murder scene was entered into a state and national database of **DNA** profiles in 2002, yielding no matches, authorities said. Meanwhile authorities collected and tested **DNA** from 56 men. No matches.

In 2004, **Pelto's** suspected killer was convicted of burglary in a separate case. State law required that he provide a **DNA** sample, which was collected that summer but wasn't analyzed by a lab until early 2005, authorities said.

Those results were returned in mid-2005, said Frank Dolejsi, lab director at the Bureau of Criminal Apprehension (BCA) in Minnesota.

Last month the sheriff's department was alerted to a possible **DNA** match with the inmate, prompting them to collect a fresh **DNA** sample and confirm the match on Jan. 26, said Sheriff's Lt. Brian Kasbohm.

Dolejsi attributed the delay in analyzing the **DNA** partly to a lack of state funding before June 2005. "My preference ... was that we would be able to do these samples as they came in," he said. "We didn't have the resources to do that. We do the best we can."

Because of the budget problems, prisons only send their **DNA** samples to the BCA when they have collected a number of samples, Dolejsi said. Likewise, he said, the BCA collected "several thousand" **DNA** samples before sending them to be tested by private labs. About 14,000 **DNA** samples are still waiting to be analyzed, he said.

Chao Xiong - 612-673-4391

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Author: Chao Xiong Staff Writer

Section: NEWS

Page: 1B

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Last update: January 13, 2006 – 11:06 PM

12 months of sorrow, without any answers

Pa Houa Yang was found shot to death and frozen in Minneapolis a year ago.

Chao Xiong, Star Tribune

In noting the ages of her six children, Xai Hang says Pa Houa is 14. Her fourth-born child was found shot to death and abandoned in a broken-down van a year ago today, when she was 13.

But if anything, Pa Houa Yang is more alive now than ever as her murder remains unsolved, haunting her parents' thoughts daily and smiting the family's joy.

"It's been a long year because we are still waiting," said her father, Dang Yang, a heavy solemnity in his voice and an agitated bounce in his knee. "It's been too long."

It was a Friday afternoon last year. Jan. 14. A Minneapolis man went to retrieve a jacket from his van, parked in an alley behind his home on Russell Avenue. N. in the Willard-Hay neighborhood. There in the front seat was Pa Houa's frozen body.

Pa Houa, who lived about a mile away, had been dead for about a day, police said, the victim of a gunshot wound to the head.

Reported missing

When she didn't come home from school Jan. 12, her mom went to her bedroom, bent low, pulled out her bottom dresser drawer and searched for a pink tin box where Pa Houa kept her money. The bills her daughter had slowly collected over time were gone.

She had taken the \$70 with her. Her mom doesn't know why. She refuses to believe that her daughter's life was taken for a bundle of bills, but in the next breath she wonders, "Maybe they wanted it?"

It was learned later that the Franklin Middle School eighth-grader, who earned A and B grades, had penned plans in her journal to skip school and spend time with two teenage girls her parents said were of questionable repute. Perhaps she was at a friend's overnight, her parents thought when she didn't come home. Another day passed, and still no Pa Houa. Her dad reported her missing.

Even today, neither family nor police can account for her whereabouts from Jan. 11 to 14. Questions about what exactly transpired in the days leading to her death plague Pa Houa's mom, a slight woman who spoke sometimes in tear-choked contemplation and sometimes in measured spoonfuls of steely curiosity.

"They purposefully took her and killed her," she said. "When they took her, how did they beat her and how did they yell at her before they killed her?"

She's never coming back

Pa Houa's parents turned her journal and photo albums over to police. Was the killer or killers lurking in one of the photographs that the social yet quiet girl meticulously collected and placed in the albums?

In early February, Land O' Lakes Inc. offered a \$10,000 reward for information leading to the arrest and conviction of those responsible for her death. It expired a few months later after little response. Her parents were in continuous contact with authorities, but as the days and months passed without answers, their string of calls -- like their weekly visits to her grave at Oakland Cemetery in St. Paul -- petered out. They tried to get used to waiting.

"I think about her every morning, every night," her mom said, a deluge of tears suddenly paralyzing her in midthought.

Her 5-year-old son, Jack, whom Pa Houa dressed every day for school and walked to the bus stop, silently extended his arm and wiped away the tears.

"I miss Pa Houa," Jack and his 10-year-old sister will say occasionally. "I want her to come back and live with us."

"Pa Houa isn't coming," their mom will reply. "She's never coming back to live with us."

Beyond those sporadic exchanges, there is little talk about Pa Houa's death. Minneapolis police are equally tight-lipped. Police would not discuss a possible motive but said that the murder was not random and that there are no suspects. They refused to discuss the missing \$70.

"One fact remains; Pa was a completely innocent girl who came from a good family," said police Lt. Lee Edwards. "Her character has remained above reproach."

Although the passage of time only compounds the aching for Pa Houa's parents, Capt. Rich Stanek said it could be the very key to unraveling the mystery of her death.

"As time goes by, people who had relationships with one another, those relationships go south and those people start to talk," he said. "Sometimes, time is an ally."

A bedroom unchanged

In a year of changes -- leaving Christmas presents for Pa Houa at a gravesite instead of under a tree, celebrating her birthday with a muffin-sized cake at the cemetery instead of sheet cake in her home -- there is one constant: her bedroom remains as it was the day she left it.

"We keep it to remember," said her father.

At the top of black stairs, Pa Houa shared a small white-walled room with her

older sister, now away at college. Stuffed animals huddle on a window ledge, Hello Kitty folders remain piled up on the headboard, and pink and red plastic roses sprout from a cylindrical cookie tin.

There Pa Houa slept nearly every night for eight years until she didn't come home from school Jan. 12.

Her parents believe that whoever shot their daughter and left her in a broken-down van in the freezing cold wanted something intangible -- Pa Houa's compliance in something nefarious. They know that her good character wouldn't normally invite trouble.

It has been a year, and that is all they know. They don't know if the sharp pang of sorrow that struck them last January when police arrived on their doorstep will ever go away. Or how to lift the thick shroud of sadness and fear from their children's lives. Or whether they could ever find the right words to address the killer or killers, if the time should come.

They may just look, trying to decipher reason and motive in the eyes and creases and posture.

"We just want to know and see who killed Pa Houa," her mom said. "I wouldn't have anything to say to them."

After all, she has entertained every possibility in her head. Every motive. If the killer or killers are found, it will only be a matter of plucking one from the many and attaching it to a face or faces. Even then, her daughter will still be dead, and the pain will sting just as fresh.

"Regardless of how many years pass," her mom said, "I will miss her the same."

Chao Xiong • 612-673-4391

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aper: St. Paul Pioneer Press (MN)
itle: GIRL'S SLAYING BAFFLES POLICE
3- OLD SHOT, HER BODY LEFT INSIDE VAN
ate: January 20, 2005

Minneapolis police on Wednesday were investigating how a shy, 13-year-old girl interested in writing and dancing wound up stuffed into the passenger well of a cargo van with a fatal gunshot wound to her head.

Teng Yang, 14, said he and his sister, **Pa Houa Yang**, walked together to Franklin Middle School on Minneapolis' North Side on Jan. 12, just as they did every morning. The siblings, both eighth-graders at the school, split up when they reached the building down the street from their home, and Teng Yang said he never saw his sister again. On Friday, her body was discovered in a van parked in a neighborhood alley.

Minneapolis school officials said **Pa Houa Yang** never went to class on Jan. 12, police Capt. Rich Stanek said.

Pa Houa Yang didn't return home that day -- last Wednesday -- but her parents waited a day to call the school's police liaison officer because they believed she was staying with a friend, Stanek said. The officer who took the missing person's report entered **Pa Houa Yang** in a national database as a runaway. But her family insisted this week she was happy at home and had no intention of leaving.

She said nothing about running away," her brother said. "She's always happy. Never had a sad moment."

Her mother said through **Pa Houa Yang**'s cousin that the teen liked school, and received mostly A's and B's. She had no boyfriend, but had many friends, said Toua Yang, a cousin.

She went to school Wednesday and did not come back. Someone picked her up and killed her. We don't know who might have done it," Toua said.

Police also had no suspects and few clues this week as the Hennepin County medical examiner on Tuesday classified **Pa Houa Yang**'s death as a homicide after determining she was killed by a single gunshot to the head. Because her body was frozen, investigators weren't able to determine the cause of death earlier.

"We are working this case very hard. It's a complex investigation any time you don't have many leads to go on and you have a young girl who is dead," Stanek said Wednesday. "She's 13. She's young. She has a loving family. It hits at the hearts and souls of a lot of people."

Meanwhile, the Minneapolis School District had psychologists available at Franklin Middle School for students to talk to, said district spokeswoman Sarah Snapp.

The owner of the van, which was parked in the alley behind his home on the 1500 block of Russell Avenue North, said he discovered **Pa Houa Yang**'s body on Friday afternoon.

James Demmings, who lives a little more than a mile from **Pa Houa Yang**'s home and Franklin Middle School, said it appeared from the tracks in the fresh snow behind his van that she had been dragged there. She was not visible from outside of the van, and Demmings said he spotted just a few drops of blood around the vehicle.

Someone broke into the van by prying open the back window, he said. Demmings hadn't driven the van since last September and opened it Friday to retrieve a coat, he said.

Demmings said he was up all night last Thursday and never heard a thing.

Stanek said Demmings is not a suspect.

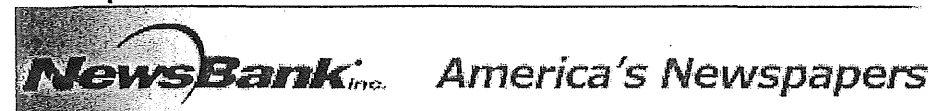
Pa Houa Yang's mother, Sai Hang, a machine operator at Mikros Energy in Brooklyn Park, and her father, Dang Yang, a driver for Avis car rental at the Twin Cities airport, emigrated from Laos in 1989. **Pa Houa Yang** was the fourth of the couple's six children.

Visitation was planned from 8 a.m. until midnight Saturday at the Hmong Funeral Home at 625 N. Dale St. in St. Paul. The funeral was scheduled for 11 a.m. Monday at the funeral home.

Beth Silver can be reached at bsilver@pioneerpress.com or 612-338-6516.

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Author: BETH SILVER, Pioneer Press
Section: Local
Page: B1



paper: Star Tribune: Newspaper of the Twin Cities (Minneapolis, MN)

title: Family, police grapple with girl's violent end

3 -old called shy, sometimes pensive.

Date: January 20, 2005

Last week, 13-year-old **Pa Houa Yang** and her older brother, Teng, walked a block to middle school together as they usually did. Teng didn't see her at lunch that day, he told family members, and when he waited to walk home with her, she didn't show up. She didn't come home that night, either.

On Friday, **Yang** was found dead, shot in the head in a van about a mile from her home in north Minneapolis.

The man who found her said she was folded over in the passenger seat, her long black hair draped over her back.

As police continued searching for her killer and as her family planned her funeral Wednesday, they said they had no clue why she met such a violent end. **Yang's** mother, Xai Hang, said she told her children to be careful, never to go with strangers or friends they weren't sure about.

"This could happen to anybody else, but not to this particular girl," said Pashoua Her, an elementary school aide who used to lead **Yang** in a dance group. **Yang** was extremely shy and didn't seem to have enemies, Her said.

"She doesn't make trouble to anyone," Her said. "I just want to know why this would happen."

Police have no suspects and haven't determined a motive, Capt. Rich Stanek said.

Accounts vary about when **Yang** was last seen and when she was reported missing. Police said that she was last seen Jan. 12 and that her parents filed a report Friday.

Police said **Yang** hadn't shown up at school from Jan. 11 to 13. One of her parents met with school officials Jan. 12 to talk about her attendance, said park police Lt. Robert Goodsell. A school liaison officer who works for the park police filled out a form indicating that the girl had run away, he said.

A grim discovery

James Demmings went to retrieve his coat from his broken-down van in the alley behind his home on Russell Avenue N. Friday afternoon. As he came up to the passenger-side panel door, he caught a glimpse of something that startled him in the front seat.

Opening the door, he saw a girl's frozen body in a heap on the passenger seat, her head in the foot well. He noticed a few drops of blood on the floor.

"Hey!" he shouted. "Hey!"

She didn't move.

He shut the door and called police.

"It wasn't gruesome, but it was grim," Demmings said Wednesday. "I was just real thankful that I didn't see her face."

Demmings, who had parked his van against a waist-high chain link fence since October, said he always kept it locked. But he said that someone apparently pried open a window at the back and unlocked the rear door; it was still ajar when he found the body.

He said he noticed what appeared to be drag marks in the snow beside the van leading up to the driver's door, but saw no blood on the ground.

He had been by the van on the 12th and didn't notice anything amiss then or the next afternoon, he said.

Unexplained sadness

About a month ago, Her said, **Yang** told her mom that she wanted to transfer out of Franklin Middle School. She didn't say why, Her said. A relative said that she missed a good friend who had transferred to another school.

Yang's mom said she told her she should stay put at Franklin because she only had a few more months before she would finish eighth grade, Her said.

about three years ago, Her said, **Yang** told her that she felt very sad and wanted to run away.

er said she told **Yang's** mother the next day. She said **Yang's** mother talked to her, but neither she nor Her got to the bottom of the girl's address.

When she was missing last week, police classified her as a runaway. All reports of runaways are sent to a Minneapolis police officer, who stays in or with the family and gathers more information. The runaway's name is immediately given to the police emergency communications center or broadcast and placed into a national database.

In the area where **Yang** lived and was killed, police said they hadn't received any reports of attempted abductions or a spike in gang violence. Itanek said he didn't know of any threats against **Yang**.

Yang had talked about being bullied by a female classmate, said relatives who did not want to be identified for fear of retaliation. The girl "always tried to start something" with **Yang**, the relatives said.

Family members read **Yang's** school planner Tuesday. On Jan. 11, she wrote "NO SCHOOL"; they suspect she spent the day at a friend's house before returning home. On Jan. 12, she wrote that she "hated" a male classmate and a group of girls who had bullied her.

Relatives said they don't know what role, if any, the bullying played in **Yang's** death, but they said they didn't know she was having trouble at school.

Obedient, shy

Yang's mother, Hang, huddled in her winter coat in her kitchen and spoke about her daughter Wednesday. **Yang** was a middle child of six. She took joy in riding her bike and looking at flowers, pointing them out whenever she and her mother came across them, Hang recalled. In elementary school, **Yang** blossomed into a confident dancer in traditional Hmong performances.

But most of the time, **Yang** was obedient, studious and shy, her mother said.

Every morning, **Yang** rose before the sun to wake her little brother, Jack, get him dressed and walk him to his school bus stop. Then she headed back home to get ready for school herself.

An eighth-grader, she sometimes stayed at school for after-school activities, Hang said. But when she came home, she did her homework right away and then helped around the house; washing dishes from the evening meal, cleaning and sometimes putting Jack to bed.

At parent-teacher conferences, Hang said, instructors encouraged **Yang** to speak up more in class.

And just this past year, Hang said, she noticed that as her 13-year-old daughter grew to look older than her years, she started talking more, started to open up.

Still, family members said, she never slept overnight at friends' homes and never stayed longer than a few hours at her cousin's house about four blocks away.

"Normally, if she was at a friend's she would call," her cousin Kang **Yang** said. "She wasn't someone who would up and leave and disappear for a few days."

She'd never had trouble in the neighborhood, either. The family had lived in a stucco duplex across the street from a Catholic Charities building for eight years, Hang said.

For now, the family is hoping someone in the community will go to police with clues about the murder.

"We need the community's help," said Toua C. **Yang**, another of the girl's cousins. "We need to find out who killed this young girl."

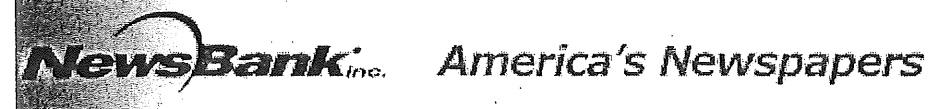
body with information should call 612-673-2941.

Staff writer Ron Nixon contributed to this report.

The writers are at plouwagie@startribune.com, dbrowning@startribune.com, dchanen@startribune.com and cxiong@startribune.com.

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Author: Pam Louwagie Dan Browning David Chanen Chao Xiong Staff Writers
Section: NEWS
Page: 1A
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aper: Star Tribune: Newspaper of the Twin Cities (Minneapolis, MN)
itle: Girl who was found frozen was shot to death, police say
e: January 19, 2005

Minneapolis police on Tuesday identified the frozen body found Friday as that of 13-year-old **Pa Houa Yang**. They said her death was a homicide.

Yang was found frozen and shot in a van behind a residence in the 1500 block of Russell Av. N. in the Willard-Hay neighborhood.

Police spokesman Ron Reier said the owner of the van, who had not used it for at least several days, found the girl's body. The vehicle was unlocked, Reier said.

Police said the girl had been dead for at least a day. The van's owner is not a suspect.

Capt. Rich Stanek said there are no suspects.

Carol Olson, who has lived nearby for 33 years, said Tuesday that she heard that the teen's body had been dragged in the snow and into the van.

NCCO-TV reported Tuesday night that **Yang** was reported missing by her family Thursday after she didn't come home from Franklin Middle School on Wednesday. The school is a block from her home, the station reported.

Yang's family described her as a good girl who got A's and B's in school.

"Her mom, she's been crying all day," said Maihli **Yang**, the victim's cousin. "It's been very hard for us. We're all heartbroken right now."

Yang's relatives waited to call police because they believed that she was staying at a friend's house, the cousin said.

After she was reported missing, police classified **Yang** as a runaway. Her family insisted that she never would have run away. They said she was not interested in boys and was very shy.

Anyone with information is asked to call Minneapolis police at 612-673-2941.

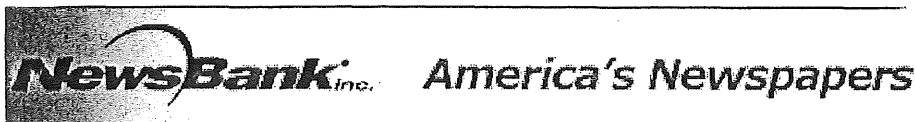
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Author: Chao XiongTerry CollinsStaff Writers

Section: NEWS

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aper: Star Tribune: Newspaper of the Twin Cities (Minneapolis, MN)
it/ Reward offered for help finding man's killer
e April 20, 2005

Richie Dunbar doesn't like seeing his relatives crying again.

There was the pain of a brother being killed in a civil war in Liberia. And now, after the family was able to escape to the United States, his older brother was killed in south Minneapolis last week by bullets that weren't meant for him.

Because Richmond Eric Dunbar was an innocent victim of a hail of gunfire that could have injured others that night, Minneapolis Lt. Lee Edwards announced a \$10,000 reward Tuesday offered by Land O'Lakes Milk for information leading to the arrest and conviction of anybody involved in the death.

"We don't want another Tyasha Edwards," said Lt. Edwards, referring to the 11-year-old girl who was killed by a stray bullet while sitting in her house. "We don't want these people to shoot indiscriminately at anybody else."

The victim, his two brothers and two others went to a house for a barbecue in the 3700 block of Oakland Av. S. about 12:30 a.m. April 10, but the gathering was already over. Shots were fired within minutes and the victim, who was known by his middle name Eric, was killed.

The former U.S. Marine died 15 hours later.

"He had nothing to do with the shooting," said his brother Emmet Dunbar. "I told him to hold on when I was calling 911."

Edwards said police have developed several leads, and they know Eric Dunbar, 29, wasn't killed by a drive-by shooting. Investigators need to talk to people who were outside at the party when the shooting happened, he said.

"It's embarrassing nobody is coming forward," said Richie Dunbar. "It's sad that it had come to needing a reward to get people to talk."

Rhonda Dunbar, Richmond's mother, was too distraught to talk at the start of a news conference Tuesday to announce the reward. But she later described her son as a good person who had an easygoing attitude about life.

This is the second reward offered by Land O'Lakes. The other was for the death of 13-year Pa Houa Yang, who was found in a van in January. Her case remains unsolved.

Anybody with information about Dunbar's death can call homicide Sgt. Cheryl Alguire at 612-673-2864. Callers can remain anonymous.

David Chanen is at dchanen@startribune.com.

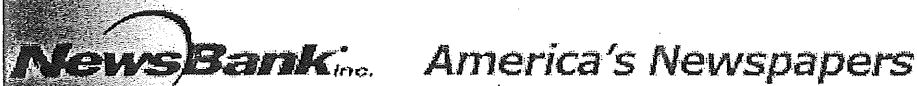
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Author: David Chanen Staff Writer

Section: NEWS

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Paper: Star Tribune: Newspaper of the Twin Cities (Minneapolis, MN)
Title: Reward offered to help find who killed girl, 13
Date: February 8, 2005

Authorities and family members hope that a \$10,000 reward announced Monday will encourage the public to help solve the slaying of 13-year-old **Pa Houa Yang**.

Minneapolis police said they have several leads but are missing pieces of the events that led to the girl being shot in the head and stashed in a van. Her frozen body was found Jan. 14 in an alley in the 1500 block of Russell Av. N. She was last seen Jan. 12.

"We get the majority of our help in solving crimes from the community," said Lt. Lee Edwards, commander of the homicide unit. "We still have a lot of work to do."

Police revealed few details, refusing to say whether **Yang** knew her assailant, how many suspects there are or what directions leads are taking them.

Dean Foods and O'Lakes, Inc. offered the reward as part of a national program run by its parent company, Dean Foods. This is the company's first reward posting in the Twin Cities.

The reward, which expires May 7, will be allotted by Minneapolis police for information leading to the arrest and conviction of those responsible for **Yang's** death.

Helean Her, executive director of the Council on Asian-Pacific Minnesotans, called on the Hmong community to play a more active role.

"There's been an injustice and there are people out there living free and enjoying life," said Her, who is working with **Yang's** family. "The Hmong community has not been galvanized about this either."

Speaking softly at a news conference, **Yang's** mother, Xai Hang, called on anyone with information to come forward.

"My child was a good child, and they took her and killed her," she said.

Anyone with information is asked to call the Minneapolis homicide unit at 612-673-3786. Anonymous calls will be accepted.

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Author: Chao Xiong Staff Writer

Section: NEWS

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aper: Star Tribune: Newspaper of the Twin Cities (Minneapolis, MN)
itle: Wake held for girl, 13, who was shot
at: January 24, 2005

s friends and family members gathered for a wake Sunday for 13-year-old **Pa Houa Yang**, Minneapolis police said there were no new developments in the investigation of her murder.

he two-day visitation at the Hmong Funeral Home at 625 N. Dale St. in St. Paul began at 8 a.m. Saturday. She will be buried at noon today at Oakland Cemetery in St. Paul. **Yang's** family asked the media not to attend.

man retrieving a jacket from his van Jan. 14 in north Minneapolis discovered **Yang's** frozen body in the front passenger seat; she died from a unshot wound to the head.

olice have said that they have leads but no suspects or motives.

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uthor: Chao Xiong Staff Writer

ection: NEWS

age: 6B

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Source: Star Tribune: Newspaper of the Twin Cities (Minneapolis, MN)
Title: State will house, run a DNA lab for FBI
The feds will pay start-up costs and nine salaries for the lab specializing in mitochondrial DNA.
Date: October 17, 2003

The state's **BCA** and the **FBI** are combining forces on **DNA** testing.

The two agencies announced Thursday that the state Bureau of Criminal Apprehension has been selected to start and operate one of four **FBI**-funded regional laboratories specializing in mitochondrial **DNA** analysis.

The **FBI** will provide about \$1 million in start-up costs and also pay to hire and train nine people to run mitochondrial **DNA** tests, which are more expensive and more time consuming than traditional nuclear **DNA** tests.

The lab, which will open in 2005 and will be housed in the **BCA**'s new headquarters on St. Paul's East Side, will be one of four such labs in the nation.

The **BCA** was one of 12 labs from around the country that competed for the new facilities. The other labs will be built at the state police headquarters in Arizona, Connecticut and New Jersey.

The **FBI** estimates that the regional labs combined will handle about 500 cases a year from local and federal law enforcement agencies. Most of that work is currently sent to private labs, officials said.

"Being chosen for this program is a testimony to the reputation we've worked to build," said Michael Campion, the **BCA**'s superintendent.

The science

Mitochondrial **DNA** tests are generally run when traditional, nuclear **DNA** testing is not possible because samples are too small or have been degraded. Testing mitochondrial **DNA** allows investigators to cull information from hair strands, old bones and other tissues that traditional **DNA** testing can't. But there are drawbacks, too.

"We call it the **DNA** of last resort," said Frank Dolejsi, director of the **BCA**'s forensic science laboratory.

Mitochondrial testing compares less **DNA** than traditional **DNA** testing, so scientists use it to rule out tissues that don't match rather than to positively match tissues. It is not as reliable as nuclear **DNA** testing, but it can help investigators narrow the field of suspects in what might otherwise become cold cases.

Dolejsi said mitochondrial **DNA** testing is generally used when regular **DNA** is not available or the sample is not conclusive. The other drawbacks are that extracting it is very expensive, and it can take months to get results instead of the weeks it takes for nuclear **DNA** testing.

Mitochondrial **DNA** testing helped to solve the 1999 rape and murder of 12-year-old Cally Jo Larson in her home in Waseca, Minn.

In that case, investigators found two pubic hairs that allowed them to match the mitochondrial **DNA** of the prime suspect, Lorenzo Sanchez, and that led to his confession, Campion said.

The big difference with mitochondrial **DNA** is that it is inherited from the mother and is not unique to an individual, but to a family. Using mitochondrial **DNA** requires that other people with the same markers have to be ruled out as suspects. In the Larson case, investigators tracked down Sanchez's relatives in Mexico and ruled them out as suspects.

"Mysteries will be solved, criminals will be taken off the street and justice will be served," said state Department of Public Safety Commissioner Rich Stanek.

Herón Márquez Estrada is at hme@startribune.com.

Mitochondrial DNA analysis

The Minnesota Bureau of Criminal Apprehension and the **FBI** are going to build a special mitochondrial **DNA** lab in St. Paul. The lab will help federal and local law enforcement agencies analyze evidence in crimes that might otherwise go unsolved.

How it is used

Mitochondrial DNA, (mtDNA) analysis can be used to examine the DNA from samples that cannot be analyzed by more common methods that are used for nuclear DNA. Nuclear DNA must be extracted from samples such as blood, skin or semen; however, mtDNA analysis uses DNA extracted from another cellular organelle called a mitochondrion. While some biological samples that lack nucleated cellular material, such as hair shafts, bones, and teeth, cannot be analyzed using regular DNA testing methods, they can be analyzed with mtDNA. In the investigation of cases that have gone unsolved for many years, mtDNA is extremely valuable.

From mother to child

All mothers have the same mitochondrial DNA as their daughters. This is because the mitochondria of each new embryo comes from the mother's egg cell. The father's sperm contributes only nuclear DNA. Comparing the mtDNA profile of unidentified remains with the profile of a potential maternal relative can be an important technique in missing person investigations.

Mitochondrial DNA:

- More than 1,000 copies per cell
- Maternally inherited
- Not unique to individual

Nuclear DNA:

- 1 copy per cell
- Inherited from both parents
- Unique to individual

Sources: U.S. Human Genome Project, Federal Bureau of Investigation

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Author: HerÁon MÁarquez Estrada Staff Writer

Section: NEWS

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- 1.1 Senator moves to amend S.F. No. 3273 as follows:
- 1.2 Page 4, delete section 2
- 1.3 Page 5, line 10, delete "a"
- 1.4 Page 5, delete lines 12 to 14
- 1.5 Renumber the sections in sequence and correct the internal references
- 1.6 Amend the title accordingly

- 1.1 Senator moves to amend S.F. No. 3273 as follows:
- 1.2 Page 4, delete lines 19 to 23
- 1.3 Page 4, line 24, delete "11" and insert "10"
- 1.4 Page 4, line 26, delete "12" and insert "11"
- 1.5 Page 4, line 28, delete "13" and insert "12"

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Senate

State of Minnesota

S.F. No. 3532 - Requiring An Addition Gang Strike Force

Author: Senator Tarryl Clark

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

Date: March 30, 2006

The bill requires the Gang and Drug Oversight Council to establish a second gang strike force located in the St. Cloud metropolitan area.

CT:rer

Senator Clark introduced-

S.F. No. 3532: Referred to the Committee on Crime Prevention and Public Safety.

1.1 A bill for an act
2 relating to public safety; requiring an additional gang strike force; amending
1.3 Minnesota Statutes 2005 Supplement, section 299A.641, subdivision 3.

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

1.5 Section 1. Minnesota Statutes 2005 Supplement, section 299A.641, subdivision 3,
1.6 is amended to read:

1.7 Subd. 3. **Oversight council's duties.** The oversight council shall develop an overall
1.8 strategy to ameliorate the harm caused to the public by gang and drug crime within
1.9 the state of Minnesota. This strategy may include the development of protocols and
1.10 procedures to investigate gang and drug crime and a structure for best addressing these
1.11 issues in a multijurisdictional manner. Additionally, the oversight council shall:

1.12 (1) identify and recommend a candidate or candidates for statewide coordinator to
1.13 the commissioner of public safety;

1.14 (2) establish multijurisdictional task forces and strike forces to combat gang and
1.15 drug crime, to include a metro gang strike force and a gang strike force located in the St.
1.16 Cloud metropolitan area;

1.17 (3) assist the Department of Public Safety in developing an objective grant review
1.18 application process that is free from conflicts of interest;

1.19 (4) make funding recommendations to the commissioner of public safety on grants
1.20 to support efforts to combat gang and drug crime;

1.21 (5) assist in developing a process to collect and share information to improve the
1.22 investigation and prosecution of drug offenses;

1.23 (6) develop and approve an operational budget for the office of the statewide
1.24 coordinator and the oversight council; and

2.1 (7) adopt criteria and identifying characteristics for use in determining whether
2.2 individuals are or may be members of gangs involved in criminal activity.

2.3 **EFFECTIVE DATE.** This section is effective the day following final enactment.

**Senate Counsel, Research,
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Senate

State of Minnesota

S.F. No. 3170 - Uniform Fire Code Appeal Procedures

Author: Senator Michelle L. Fischbach

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

Date: March 28, 2006

Under current law, an appeal for a variance from the Uniform Fire Code cannot be accepted by the state fire marshal until the applicant has applied to the local governing body and the local unit has acted on the application.

The bill allows direct appeal to the fire marshal who is only obligated to consider any decision or recommendation that may have been made by the local governing body.

CT:rer

Senator Fischbach introduced—

S.F. No. 3170: Referred to the Committee on Crime Prevention and Public Safety.

1.1 A bill for an act
1.2 relating to public safety; modifying provision governing variances to Uniform
1.3 Fire Code; amending Minnesota Statutes 2004, section 299F.011, subdivision 5.

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

1.5 Section 1. Minnesota Statutes 2004, section 299F.011, subdivision 5, is amended to
1.6 read:

1.7 Subd. 5. **Appeal policy; variance.** Upon application, the state fire marshal may
1.8 grant variances from the minimum requirements specified in the code if there is substantial
1.9 compliance with the provisions of the code, the safety of the public and occupants of
1.10 such building will not be jeopardized, and undue hardship will result to the applicant
1.11 unless such variance is granted. ~~No appeal to the state fire marshal for a variance from the~~
1.12 ~~Uniform Fire Code shall be accepted until the applicant has first made application to the~~
1.13 ~~local governing body and the local unit has acted on the application.~~ The state fire marshal
1.14 shall consider ~~the decision~~ any decisions or recommendations of the local governing body.
1.15 Any person aggrieved by a decision made by the fire marshal under this subdivision
1.16 may proceed before the fire marshal as with a contested case in accordance with the
1.17 Administrative Procedure Act.

1.1 Senator moves to amend S.F. No. 3170 as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. Minnesota Statutes 2004, section 299F.011, subdivision 5, is amended to
1.4 read:

1.5 Subd. 5. **Appeal policy; variance.** Upon application, the state fire marshal may
1.6 grant variances from the minimum requirements specified in the code if there is substantial
1.7 compliance with the provisions of the code, the safety of the public and occupants of
1.8 such building will not be jeopardized, and undue hardship will result to the applicant
1.9 unless such variance is granted. No appeal to the state fire marshal for a variance from
1.10 orders issued by a local fire official from the Uniform Fire Code shall be accepted until
1.11 the applicant has first made application to the local governing body and the local unit has
1.12 acted on the application. The state fire marshal shall consider ~~the decision~~ any decisions
1.13 or recommendations of the local governing body. Any person aggrieved by a decision
1.14 made by the fire marshal under this subdivision may proceed before the fire marshal as
1.15 with a contested case in accordance with the Administrative Procedure Act.

1.16 **EFFECTIVE DATE.** This section is effective July 1, 2006."

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

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State of Minnesota

**S.F. No. 3051 - Fireworks Operator Permit Suspension or
Revocation Appeal**

Author: Senator Michelle L. Fischbach

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

Date: March 28, 2006

The bill requires the state fire marshal to reconsider a decision to suspend, revoke, or refuse to renew certification of a fireworks operator upon petition. Requires the fire marshal to render a written decision within 30 days. The decision may be appealed to the district court.

CT:rer

Senator Fischbach introduced—

S.F. No. 3051: Referred to the Committee on Crime Prevention and Public Safety.

1.1 A bill for an act

1.2 relating to public safety; providing for appeal of state fire marshal decision to
1.3 suspend, revoke, or refuse fireworks operator permit; amending Minnesota
1.4 Statutes 2004, section 624.22, subdivision 8.

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

1.6 Section 1. Minnesota Statutes 2004, section 624.22, subdivision 8, is amended to read:

1.7 Subd. 8. **Suspension, revocation, or refusal to renew certification.** (a) The state
1.8 fire marshal may suspend, revoke, or refuse to renew certification of an operator if the
1.9 operator has:

1.10 (1) submitted a fraudulent application;

1.11 (2) caused or permitted a fire or safety hazard to exist or occur during the storage,
1.12 transportation, handling, preparation, or use of fireworks;

1.13 (3) conducted a display of fireworks without receipt of a permit required by the
1.14 state or a political subdivision;

1.15 (4) conducted a display of fireworks with assistants who were not at least 18 years of
1.16 age, properly instructed, and continually supervised; or

1.17 (5) otherwise failed to comply with any federal or state law or regulation, or the
1.18 guidelines, relating to fireworks.

1.19 (b) Any person aggrieved by a decision made by the state fire marshal under this
1.20 subdivision may petition the state fire marshal in writing to reconsider the decision. The
1.21 state fire marshal shall render a decision in writing within 30 days of receipt of the
1.22 written request for reconsideration. Following reconsideration, the person may appeal
1.23 the decision to the district court.

Senators Neuville, Foley and Ortman introduced—

S.F. No. 3078: Referred to the Committee on Crime Prevention and Public Safety.

A bill for an act

1 relating to public safety; requiring deferred prosecution for certain drug
 1.1 offenders; modifying provisions governing suspension of driver's license without
 1.4 preliminary warning; modifying license reinstatement provisions; modifying
 1.5 provisions for conditional release of nonviolent offenders; classifying certain
 1.6 data as private arrest data; increasing monetary thresholds for certain property
 1.7 crimes to more accurately reflect inflationary economic increases; establishing
 1.8 classifications for nonconvictions and low-level offenses; prohibiting charging
 1.9 fees for local correctional inmates participating in work release programs;
 1.10 creating a committee to study and recommend adjusting collateral consequences
 1.11 of adult criminal convictions and juvenile adjudications; repealing the sunset
 1.12 on early release of qualified drug offenders; amending Minnesota Statutes
 1.13 2004, sections 13.871, by adding subdivisions; 152.18, subdivision 1; 609.52,
 1.14 subdivision 3; 609.535, subdivision 2a; 609.595, subdivisions 1, 2; 631.425,
 1.15 subdivision 3; Minnesota Statutes 2005 Supplement, sections 171.18, subdivision
 1.16 1; 171.29, subdivision 2; 244.055, subdivisions 2, 10; proposing coding for new
 1.17 law as Minnesota Statutes, chapter 609B; repealing Minnesota Statutes 2005
 Supplement, section 244.055, subdivision 11.

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

1.20 Section 1. Minnesota Statutes 2004, section 13.871, is amended by adding a
 1.21 subdivision to read:

1.22 Subd. 10. Arrest data not leading to conviction. Arrest data relating to arrests that
 1.23 do not lead to prosecution of the subject is governed by section 609B.02.

1.24 Sec. 2. Minnesota Statutes 2004, section 13.871, is amended by adding a subdivision
 1.25 to read:

1.26 Subd. 11. Low-level offense. Data relating to low-level offenses and in favor of
 1 resolutions as defined in section 609B.03, subdivision 4, is governed by section 609B.03.

1.28 Sec. 3. Minnesota Statutes 2004, section 152.18, subdivision 1, is amended to read:

Sec. 3.

2.1 **Subdivision 1. Deferring prosecution for certain first time drug offenders.** If
2.2 any person who has not previously participated in or completed a diversion program
2.3 authorized under section 401.065 or who has not previously been placed on probation
2.4 without a judgment of guilty and thereafter been discharged from probation under
2.5 this section is found guilty of a violation of section 152.024, subdivision 2, 152.025,
2.6 subdivision 2, or 152.027, subdivision 2, 3, or 4, for possession of a controlled substance,
2.7 after trial or upon a plea of guilty, and the court determines that the violation does not
2.8 qualify as a subsequent controlled substance conviction under section 152.01, subdivision
2.9 16a, the court ~~may shall~~, without entering a judgment of guilty and with the consent
2.10 of the person, either (1) defer further proceedings and place the person on probation
2.11 upon such reasonable conditions as it may require and for a period, not to exceed the
2.12 maximum sentence provided for the violation. ~~The court~~ or (2) enter a written finding
2.13 that states substantial and compelling reasons why a deferral is inappropriate. If the court
2.14 grants a deferral, it may give the person the opportunity to attend and participate in an
2.15 appropriate program of education regarding the nature and effects of alcohol and drug
2.16 abuse as a stipulation of probation. Upon violation of a condition of the probation, the
2.17 court may enter an adjudication of guilt and proceed as otherwise provided. The court
2.18 may, in its discretion, dismiss the proceedings against the person and discharge the
2.19 person from probation before the expiration of the maximum period prescribed for the
2.20 person's probation. If during the period of probation the person does not violate any of the
2.21 conditions of the probation, then upon expiration of the period the court shall discharge the
2.22 person and dismiss the proceedings against that person. Discharge and dismissal under this
2.23 subdivision shall be without court adjudication of guilt, but a not public record of it shall
2.24 be retained by the Bureau of Criminal Apprehension for the purpose of use by the courts
2.25 in determining the merits of subsequent proceedings against the person. The not public
2.26 record may also be opened only upon court order for purposes of a criminal investigation,
2.27 prosecution, or sentencing. Upon request by law enforcement, prosecution, or corrections
2.28 authorities, the bureau shall notify the requesting party of the existence of the not public
2.29 record and the right to seek a court order to open it pursuant to this section. The court shall
2.30 forward a record of any discharge and dismissal under this subdivision to the bureau which
2.31 shall make and maintain the not public record of it as provided under this subdivision. The
2.32 discharge or dismissal shall not be deemed a conviction for purposes of disqualifications
2.33 or disabilities imposed by law upon conviction of a crime or for any other purpose.

2.34 For purposes of this subdivision, "not public" has the meaning given in section
2.35 13.02, subdivision 8a.

2.36 **EFFECTIVE DATE.** This section is effective July 1, 2006.

3.1 Sec. 4. Minnesota Statutes 2005 Supplement, section 171.18, subdivision 1, is
3.2 amended to read:

3.3 Subdivision 1. **Offenses.** The commissioner may suspend the license of a driver
3.4 without preliminary hearing upon a showing by department records or other sufficient
3.5 evidence that the licensee:

3.6 (1) has committed an offense for which mandatory revocation of license is required
3.7 upon conviction;

3.8 (2) has been convicted by a court for violating a provision of chapter 169 or
3.9 an ordinance regulating traffic, other than a conviction for a petty misdemeanor, and
3.10 department records show that the violation contributed in causing an accident resulting in
3.11 the death or personal injury of another, or serious property damage;

3.12 (3) is an habitually reckless or negligent driver of a motor vehicle;

(4) is an habitual violator of the traffic laws;

(5) is incompetent to drive a motor vehicle as determined in a judicial proceeding;

3.15 (6) has permitted an unlawful or fraudulent use of the license;

3.16 (7) has committed an offense in another state that, if committed in this state, would
3.17 be grounds for suspension;

3.18 (8) has committed a violation of section 169.444, subdivision 2, paragraph (a),
3.19 within five years of a prior conviction under that section;

3.20 (9) has committed a violation of section 171.22, except that the commissioner may
3.21 not suspend a person's driver's license based solely on the fact that the person possessed a
3.22 fictitious or fraudulently altered Minnesota identification card;

3.23 (10) has failed to appear in court as provided in section 169.92, subdivision 4;

3.24 (11) has failed to report a medical condition that, if reported, would have resulted in
3.25 cancellation of driving privileges;

3.26 (12) has been found to have committed an offense under section 169A.33; or

3.27 (13) has paid or attempted to pay a fee required under this chapter for a license or
3.28 permit by means of a dishonored check issued to the state or a driver's license agent,
3.29 which must be continued until the registrar determines or is informed by the agent that the
3.30 dishonored check has been paid in full;

3.31 (14) has committed a violation of section 171.24, subdivision 1, within a period of
3.32 12 months of three prior convictions under that section; or

3.33 (15) has committed a violation of section 171.24, subdivision 2, within a period of
12 months of three prior convictions under that section and the person's license was
revoked for a violation of section 169.792.

4.1 However, an action taken by the commissioner under clause (2) or (5) must conform to
4.2 the recommendation of the court when made in connection with the prosecution of the
4.3 licensee.

4.4 Sec. 5. Minnesota Statutes 2005 Supplement, section 171.29, subdivision 2, is
4.5 amended to read:

4.6 **Subd. 2. Reinstatement fees and surcharges allocated and appropriated. (a)**
4.7 An individual whose driver's license has been revoked as provided in subdivision 1,
4.8 except under section 169A.52, 169A.54, or 609.21, must pay a \$30 fee before the driver's
4.9 license is reinstated.

4.10 (b) A person whose driver's license has been revoked as provided in subdivision 1
4.11 under section 169A.52, 169A.54, or 609.21, must pay a \$250 fee plus a \$40 surcharge
4.12 before the driver's license is reinstated, except as provided in paragraph (f). Beginning
4.13 July 1, 2002, the surcharge is \$145. Beginning July 1, 2003, the surcharge is \$430. The
4.14 \$250 fee is to be credited as follows:

4.15 (1) Twenty percent must be credited to the driver services operating account in the
4.16 special revenue fund as specified in section 299A.705.

4.17 (2) Sixty-seven percent must be credited to the general fund.

4.18 (3) Eight percent must be credited to a separate account to be known as the Bureau
4.19 of Criminal Apprehension account. Money in this account may be appropriated to the
4.20 commissioner of public safety and the appropriated amount must be apportioned 80 percent
4.21 for laboratory costs and 20 percent for carrying out the provisions of section 299C.065.

4.22 (4) Five percent must be credited to a separate account to be known as the vehicle
4.23 forfeiture account, which is created in the special revenue fund. The money in the account
4.24 is annually appropriated to the commissioner for costs of handling vehicle forfeitures.

4.25 (c) The revenue from \$50 of each surcharge, or \$12.50 for each year of reinstatement
4.26 under paragraph (f), must be credited to a separate account to be known as the traumatic
4.27 brain injury and spinal cord injury account. The money in the account is annually
4.28 appropriated to the commissioner of health to be used as follows: 83 percent for contracts
4.29 with a qualified community-based organization to provide information, resources,
4.30 and support to assist persons with traumatic brain injury and their families to access
4.31 services, and 17 percent to maintain the traumatic brain injury and spinal cord injury
4.32 registry created in section 144.662. For the purposes of this paragraph, a "qualified
4.33 community-based organization" is a private, not-for-profit organization of consumers of
4.34 traumatic brain injury services and their family members. The organization must be

5.1 registered with the United States Internal Revenue Service under section 501(c)(3) as a
5.2 tax-exempt organization and must have as its purposes:

(i) the promotion of public, family, survivor, and professional awareness of the
5.4 incidence and consequences of traumatic brain injury;

5.5 (ii) the provision of a network of support for persons with traumatic brain injury,
5.6 their families, and friends;

5.7 (iii) the development and support of programs and services to prevent traumatic
5.8 brain injury;

5.9 (iv) the establishment of education programs for persons with traumatic brain
5.10 injury; and

5.11 (v) the empowerment of persons with traumatic brain injury through participation
5.12 in its governance.

A patient's name, identifying information, or identifiable medical data must not be
disclosed to the organization without the informed voluntary written consent of the patient
5.15 or patient's guardian or, if the patient is a minor, of the parent or guardian of the patient.

5.16 (d) The remainder of the surcharge must be credited to a separate account to be
5.17 known as the remote electronic alcohol-monitoring program account. The commissioner
5.18 shall transfer the balance of this account to the commissioner of finance on a monthly
5.19 basis for deposit in the general fund.

5.20 (e) When these fees are collected by a licensing agent, appointed under section
5.21 171.061, a handling charge is imposed in the amount specified under section 171.061,
5.22 subdivision 4. The reinstatement fees and surcharge must be deposited in an approved
depository as directed under section 171.061, subdivision 4.

(f) A person whose driver's license has been revoked as provided in subdivision 1
5.25 under section 169A.52, 169A.54, or 609.21, may choose to pay 25 percent of the total
5.26 amount of the surcharge and fee required under paragraph (b) to reinstate the person's
5.27 driver's license, provided the person meets all other requirements of reinstatement. If a
5.28 person chooses to pay 25 percent of the total, the driver's license must expire after one
5.29 year. The person must pay an additional 25 percent of the total to extend the license for
5.30 an additional year for each of the next two years, provided the person is otherwise still
5.31 eligible for the license. After a final 25 percent payment of the surcharge and fee, the
5.32 license may be renewed on a standard schedule, as measured from the date of original
5.33 license issuance. A handling charge may be imposed for each installment payment.

EFFECTIVE DATE. This section is effective July 1, 2006.

6.1 Sec. 6. Minnesota Statutes 2005 Supplement, section 244.055, subdivision 2, is
6.2 amended to read:

6.3 Subd. 2. **Conditional release of certain nonviolent controlled substance**
6.4 **offenders.** An offender who has been committed to the commissioner's custody may
6.5 petition the commissioner for conditional release from prison before the offender's
6.6 scheduled supervised release date or target release date if:

6.7 (1) the offender is serving a sentence for violating section 152.021, subdivision 2 or
6.8 2a; 152.022, subdivision 2; 152.023; 152.024; or 152.025;

6.9 (2) the offender committed the crime as a result of a controlled substance addiction,
6.10 and not primarily for profit;

6.11 (3) the offender has served at least 36 months or one-half of the offender's term of
6.12 imprisonment, whichever is less;

6.13 (4) the offender successfully completed a chemical dependency treatment program
6.14 of the type described in this section while in prison;

6.15 (5) the offender has not previously been conditionally released under this section; and

6.16 (6) the offender has not within the past ten years been convicted or ~~adjudicated~~
6.17 ~~delinquent~~ received an executed adult sentence pursuant to an extended jurisdiction
6.18 juvenile disposition under section 260B.130 for a violent crime as defined in section
6.19 609.1095 other than the current conviction for the controlled substance offense.

6.20 **EFFECTIVE DATE.** This section is effective July 1, 2006.

6.21 Sec. 7. Minnesota Statutes 2005 Supplement, section 244.055, subdivision 10, is
6.22 amended to read:

6.23 Subd. 10. **Notice.** Upon receiving an offender's petition for release under
6.24 subdivision 2, the commissioner shall notify the prosecuting authority responsible for the
6.25 offender's conviction and the sentencing court. The commissioner shall give the authority
6.26 and court a reasonable opportunity to comment on the offender's potential release. If the
6.27 authority or court elects to comment, the comments must specify the reasons for the
6.28 authority or court's position. This subdivision applies only to offenders sentenced before
6.29 July 1, 2005.

6.30 **EFFECTIVE DATE.** This section is effective July 1, 2006.

6.31 Sec. 8. Minnesota Statutes 2004, section 609.52, subdivision 3, is amended to read:

6.32 Subd. 3. **Sentence.** Whoever commits theft may be sentenced as follows:

7.1 (1) to imprisonment for not more than 20 years or to payment of a fine of not more
7.2 than \$100,000, or both, if the property is a firearm, or the value of the property or services
7.3 stolen is more than \$35,000 and the conviction is for a violation of subdivision 2, clause
7.4 (3), (4), (15), or (16); or

7.5 (2) to imprisonment for not more than ten years or to payment of a fine of not more
7.6 than \$20,000, or both, if the value of the property or services stolen exceeds ~~\$2,500~~
7.7 \$5,000, or if the property stolen was an article representing a trade secret, an explosive or
7.8 incendiary device, or a controlled substance listed in schedule I or II pursuant to section
7.9 152.02 with the exception of marijuana; or

7.10 (3) to imprisonment for not more than five years or to payment of a fine of not
7.11 more than \$10,000, or both, if:

7.12 (a) the value of the property or services stolen is more than ~~\$500~~ \$1,000 but not
7.13 more than ~~\$2,500~~ \$5,000; or

7.14 (b) the property stolen was a controlled substance listed in schedule III, IV, or V
7.15 pursuant to section 152.02; or

7.16 (c) the value of the property or services stolen is more than ~~\$250~~ \$500 but not more
7.17 than ~~\$500~~ \$1,000 and the person has been convicted within the preceding five years for an
7.18 offense under this section, section 256.98; 268.182; 609.24; 609.245; 609.53; 609.582,
7.19 subdivision 1, 2, or 3; 609.625; 609.63; 609.631; or 609.821, or a statute from another
7.20 state, the United States, or a foreign jurisdiction, in conformity with any of those sections,
7.21 and the person received a felony or gross misdemeanor sentence for the offense, or a
7.22 sentence that was stayed under section 609.135 if the offense to which a plea was entered
7.23 would allow imposition of a felony or gross misdemeanor sentence; or

7.24 (d) the value of the property or services stolen is not more than ~~\$500~~ \$1,000, and
7.25 any of the following circumstances exist:

7.26 (i) the property is taken from the person of another or from a corpse, or grave or
7.27 coffin containing a corpse; or

7.28 (ii) the property is a record of a court or officer, or a writing, instrument or record
7.29 kept, filed or deposited according to law with or in the keeping of any public officer or
7.30 office; or

7.31 (iii) the property is taken from a burning, abandoned, or vacant building or upon its
7.32 removal therefrom, or from an area of destruction caused by civil disaster, riot, bombing,
7.33 or the proximity of battle; or

7.34 (iv) the property consists of public funds belonging to the state or to any political
7.35 subdivision or agency thereof; or

7.36 (v) the property stolen is a motor vehicle; or

8.1 (4) to imprisonment for not more than one year or to payment of a fine of not more
8.2 than \$3,000, or both, if the value of the property or services stolen is more than ~~\$250~~ \$500
8.3 but not more than ~~\$500~~ \$1,000; or

8.4 (5) in all other cases where the value of the property or services stolen is ~~\$250~~
8.5 \$500 or less, to imprisonment for not more than 90 days or to payment of a fine of not
8.6 more than \$1,000, or both, provided, however, in any prosecution under subdivision 2,
8.7 clauses (1), (2), (3), (4), and (13), the value of the money or property or services received
8.8 by the defendant in violation of any one or more of the above provisions within any
8.9 six-month period may be aggregated and the defendant charged accordingly in applying
8.10 the provisions of this subdivision; provided that when two or more offenses are committed
8.11 by the same person in two or more counties, the accused may be prosecuted in any county
8.12 in which one of the offenses was committed for all of the offenses aggregated under
8.13 this paragraph.

8.14 Sec. 9. Minnesota Statutes 2004, section 609.535, subdivision 2a, is amended to read:

8.15 Subd. 2a. **Penalties.** (a) A person who is convicted of issuing a dishonored check
8.16 under subdivision 2 may be sentenced as follows:

8.17 (1) to imprisonment for not more than five years or to payment of a fine of not more
8.18 than \$10,000, or both, if the value of the dishonored check, or checks aggregated under
8.19 paragraph (b), is more than ~~\$500~~ \$1,000;

8.20 (2) to imprisonment for not more than one year or to payment of a fine of not more
8.21 than \$3,000, or both, if the value of the dishonored check, or checks aggregated under
8.22 paragraph (b), is more than ~~\$250~~ \$500 but not more than ~~\$500~~ \$1,000; or

8.23 (3) to imprisonment for not more than 90 days or to payment of a fine of not more
8.24 than \$1,000, or both, if the value of the dishonored check, or checks aggregated under
8.25 paragraph (b), is not more than ~~\$250~~ \$500.

8.26 (b) In a prosecution under this subdivision, the value of dishonored checks issued
8.27 by the defendant in violation of this subdivision within any six-month period may be
8.28 aggregated and the defendant charged accordingly in applying this section. When two or
8.29 more offenses are committed by the same person in two or more counties, the accused
8.30 may be prosecuted in any county in which one of the dishonored checks was issued for all
8.31 of the offenses aggregated under this paragraph.

8.32 Sec. 10. Minnesota Statutes 2004, section 609.595, subdivision 1, is amended to read:

8.33 Subdivision 1. **Criminal damage to property in the first degree.** Whoever
8.34 intentionally causes damage to physical property of another without the latter's consent

9.1 may be sentenced to imprisonment for not more than five years or to payment of a fine of
9.2 not more than \$10,000, or both, if:

9.3 (1) the damage to the property caused a reasonably foreseeable risk of bodily
9.4 harm; or

9.5 (2) the property damaged belongs to a common carrier and the damage impairs the
9.6 service to the public rendered by the carrier; or

9.7 (3) the damage reduces the value of the property by more than ~~\$500~~ \$1,000 measured
9.8 by the cost of repair and replacement; or

9.9 (4) the damage reduces the value of the property by more than ~~\$250~~ \$500 measured
9.10 by the cost of repair and replacement and the defendant has been convicted within the
9.11 preceding three years of an offense under this subdivision or subdivision 2.

9.12 In any prosecution under clause (3), the value of any property damaged by the
9.13 defendant in violation of that clause within any six-month period may be aggregated and
9.14 the defendant charged accordingly in applying the provisions of this section; provided that
9.15 when two or more offenses are committed by the same person in two or more counties, the
9.16 accused may be prosecuted in any county in which one of the offenses was committed for
9.17 all of the offenses aggregated under this paragraph.

9.18 Sec. 11. Minnesota Statutes 2004, section 609.595, subdivision 2, is amended to read:

9.19 Subd. 2. **Criminal damage to property in the third degree.** (a) Except as
9.20 otherwise provided in subdivision 1a, whoever intentionally causes damage to another
9.21 person's physical property without the other person's consent may be sentenced to
9.22 imprisonment for not more than one year or to payment of a fine of not more than \$3,000,
9.23 or both, if the damage reduces the value of the property by more than ~~\$250~~ \$500 but not
9.24 more than ~~\$500~~ \$1,000 as measured by the cost of repair and replacement.

9.25 (b) Whoever intentionally causes damage to another person's physical property
9.26 without the other person's consent because of the property owner's or another's actual
9.27 or perceived race, color, religion, sex, sexual orientation, disability as defined in section
9.28 363A.03, age, or national origin may be sentenced to imprisonment for not more than one
9.29 year or to payment of a fine of not more than \$3,000, or both, if the damage reduces the
9.30 value of the property by not more than ~~\$250~~ \$500.

9.31 (c) In any prosecution under paragraph (a), the value of property damaged by the
9.32 defendant in violation of that paragraph within any six-month period may be aggregated
9.33 and the defendant charged accordingly in applying this section. When two or more
9.34 offenses are committed by the same person in two or more counties, the accused may

10.1 be prosecuted in any county in which one of the offenses was committed for all of the
10.2 offenses aggregated under this paragraph.

10.3 **Sec. 12. [609B.01] RETENTION OF NONCONVICTION AND FAVORABLE**
10.4 **RESOLUTION DATA.**

10.5 This chapter provides for the nonpublic retention of data relating to (1) arrests that
10.6 do not lead to prosecution and (2) charged offenses resolved in favor of the subject of the
10.7 data. Nothing in this chapter authorizes the destruction or sealing of data. The data shall
10.8 remain accessible to law enforcement and may be made public for any of the purposes set
10.9 forth in section 13.82, subdivision 15, or pursuant to court order.

10.10 **Sec. 13. [609B.02] ARREST DATA NOT LEADING TO PROSECUTION.**

10.11 Subdivision 1. Reclassification of arrest data as private arrest data. On the
10.12 expiration of 180 days from the date of an arrest, arrest data pertaining to the person
10.13 arrested shall be after that classified as private arrest data as defined in subdivision 2
10.14 unless the arrest has lead to the prosecution of the subject of the data.

10.15 Subd. 2. Definition of private arrest data. Data reclassified as private arrest data
10.16 pursuant to subdivision 1 shall be governed by the definition of private data on individuals
10.17 under section 13.02, subdivision 12, except that the data shall not be released or made
10.18 accessible to the public unless done so by the arresting law enforcement agency for a
10.19 purpose set forth in section 13.82, subdivision 15, or pursuant to a court order.

10.20 Subd. 3. Responsibility for reclassification. It shall be the responsibility of the
10.21 arresting law enforcement agency to reclassify the arrest data in the agency's possession
10.22 as private arrest data and to notify all other criminal justice agencies enumerated in section
10.23 13.02, subdivision 3a, to which it has transmitted the data, including the Bureau of
10.24 Criminal Apprehension, that the arrest data has been reclassified as private arrest data.
10.25 Any agency receiving the notification shall reclassify the arrest data in its possession
10.26 regarding the subject of the notification, if any, as private arrest data.

10.27 **Sec. 14. [609B.03] DATA ON OFFENSES RESOLVED IN FAVOR OF**
10.28 **INDIVIDUAL.**

10.29 Subdivision 1. Reclassification of data resolved in favor of individual. Upon the
10.30 favorable resolution of a criminal action, as defined in subdivision 4, all criminal justice
10.31 agency records pertaining to the action shall after that be classified as private data on
10.32 actions favorably resolved, as defined in subdivision 2, and all judicial records shall after
10.33 that be made inaccessible to the public, unless the prosecuting attorney upon motion

11.1 with not less than five days' notice to the person or the person's attorney demonstrates
11.2 to the satisfaction of the court that the interests of justice require otherwise, or the court
11.3 on its own motion with not less than five days' notice to the person or the person's
11.4 attorney determines that the interests of justice require otherwise and states the reasons for
11.5 the determination on the record.

11.6 Subd. 2. Definition of data on actions favorably resolved. Data reclassified as
11.7 private data pursuant to subdivision 1 shall be governed by the definition of private data on
11.8 individuals under section 13.02, subdivision 12, except that the data shall not be released
11.9 or made accessible to the public unless done so by the prosecuting authority for a purpose
11.10 set forth in section 13.82, subdivision 15, or pursuant to a court order.

11.11 Subd. 3. Responsibility of reclassification. Upon the favorable resolution of an
11.12 action as defined in subdivision 4, it is the responsibility of the clerk of court to make
11.13 the judicial records pertaining to the action inaccessible to the public and to notify the
11.14 superintendent of the Bureau of Criminal Apprehension, the Department of Corrections,
11.15 the prosecuting authority, and the heads of all appropriate law enforcement agencies, and,
11.16 unless the court has directed otherwise, that the criminal justice agency records related to
11.17 the action shall be classified as private data.

11.18 Subd. 4. Resolutions resulting in reclassification. For purposes of subdivision 1, a
11.19 criminal action against a person is resolved in favor of that person if:

11.20 (1) charges against a person were dismissed;

11.21 (2) the person was acquitted;

11.22 (3) charges against the person were dismissed pursuant to a continuance for
11.23 dismissal;

11.24 (4) charges against the person were dismissed upon successful completion of a
11.25 pretrial diversion program or pursuant to section 152.18;

11.26 (5) one year has passed since the person plead guilty to a petty misdemeanor;

11.27 (6) two years have passed since a stay of adjudication has been dismissed; or

11.28 (7) three years have passed since a stay of imposition was vacated and dismissed.

11.29 Subd. 5. Intervening charges. For purposes of subdivision 4, clauses (5) to (7),
11.30 a criminal action against a person shall not be reclassified as private data on actions
11.31 favorably resolved if new criminal charges are brought against that person during the
11.32 stated time period.

11.33 Subd. 6. Motion for reclassification. A person whose criminal action was
11.34 favorably resolved as set forth in subdivision 4, but prior to the effective date of sections
11.35 609B.01 to 609B.03, may upon motion with not less than five days' notice to the

12.1 appropriate prosecuting authority apply for an order to reclassify the criminal justice
 12.2 agency records relating to the action as private data.

12.3 Sec. 15. Minnesota Statutes 2004, section 631.425, subdivision 3, is amended to read:

12.4 Subd. 3. **Continuation of employment.** If the person committed under this
 12.5 section has been regularly employed, the sheriff shall arrange for a continuation of the
 12.6 employment insofar as possible without interruption. If the person is not employed, the
 12.7 court may designate a suitable person or agency to make reasonable efforts to secure some
 12.8 suitable employment for that person. An inmate employed under this section must be paid
 12.9 a fair and reasonable wage for work performed and must work at fair and reasonable hours
 12.10 per day and per week. There must not be a fee or charge for the inmate to participate in
 12.11 any employment under this section.

12.12 Sec. 16. **COLLATERAL CONSEQUENCES COMMITTEE.**

12.13 Subdivision 1. Establishment; duties. A collateral consequences committee is
 12.14 established to study and propose adjusting collateral consequences of adult convictions and
 12.15 juvenile adjudications. The committee shall identify the uses of collateral consequences of
 12.16 convictions and adjudications and develop recommendations to the legislature to mitigate
 12.17 the effects of those collateral consequences.

12.18 Subd. 2. Resources. The committee may use legislative staff to provide legal
 12.19 counsel, research, and secretarial and clerical assistance. The Department of Corrections
 12.20 shall provide technical assistance to the committee on request, with the assistance of the
 12.21 commissioner of public safety and the Sentencing Guidelines Commission.

12.22 Subd. 3. Membership. The committee consists of:

12.23 (1) two senators, one from each political party, appointed by the senate Subcommittee
 12.24 on Committees of the Committee on Rules and Administration and two members of the
 12.25 house of representatives, one from each political party, appointed by the speaker;

12.26 (2) one representative from each of the following groups:

12.27 (i) crime victim advocates, appointed by the commissioner of public safety;

12.28 (ii) county attorneys, appointed by the County Attorneys Association;

12.29 (iii) city attorneys, appointed by the League of Minnesota Cities;

12.30 (iv) district court judges, appointed by the Judicial Council;

12.31 (v) private criminal defense attorneys, appointed by the Minnesota Association of
 12.32 Criminal Defense Lawyers;

12.33 (vi) probation officers, appointed by the Minnesota Association of County Probation
 12.34 Officers; and

- 13.1 (vii) the state public defender or a designee; and
13.2 (3) the commissioner of public safety, or a designee, who shall chair the group.

13.3 Subd. 4. Recommendations. The committee shall present the legislature with
13.4 recommendations in the form of a bill that amends the statutes it has identified as in need
13.5 of revision no later than January 15, 2007. The bill shall be presented to the chairs of
13.6 the senate Crime Prevention and Public Safety Committee and the house Public Safety
13.7 and Finance Committee.

13.8 **Sec. 17. REPEALER.**

13.9 Minnesota Statutes 2005 Supplement, section 244.055, subdivision 11, is repealed.

13.10 **EFFECTIVE DATE.** This section is effective July 1, 2006.

11 **Sec. 18. EFFECTIVE DATE.**

13.12 Sections 8 to 11 and 15 are effective August 1, 2006, and apply to crimes committed
13.13 on or after that date.

APPENDIX

Repealed Minnesota Statutes: 06-6468

**244.055 CONDITIONAL RELEASE OF NONVIOLENT CONTROLLED
SUBSTANCE OFFENDERS; OPPORTUNITY FOR DRUG TREATMENT.**

Subd. 11. **Sunset.** This section expires July 1, 2007.

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

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Senate

State of Minnesota

S.F. No. 3078 - Miscellaneous Public Safety Provisions (Delete-Everything Amendment SCS3078A-1)

Author: Senator Thomas M. Neuville

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

Date: March 30, 2006

Section 1 requires the court to defer further proceedings and place a defendant on probation for certain first-time drug offenders under Minnesota Statutes, section 152.18, subdivision 1. If the court finds a deferral inappropriate, it must enter a written finding that states the reasons why. Under current law, the court is not obligated to defer proceedings of first-time drug offenders who meet certain criteria.

Section 2 prohibits the Commissioner of Public Safety from administratively suspending the license of a driver if the individual was convicted of a violation of Minnesota Statutes, section 171.24, subdivision 1 (Driving After Suspension), based on a failure to appear in court, or failure to pay the fine.

Section 3 allows the payment of fees and surcharges for the reinstatement of drivers licenses for DWI, Test Refusal, or Criminal Vehicular Homicide and Injury to be made in four annual installments.

Section 4 amends the conditional release of certain nonviolent drug offender statute. Under current law, an offender who has been adjudicated delinquent for a violent crime is ineligible for release. This section narrows this disqualification to offenders who have received an executed adult sentence pursuant to an extended juvenile jurisdiction disposition.

Section 5 provides that if a prosecuting authority or sentencing court wants to comment regarding the conditional release of a nonviolent drug offender, it must specify the reasons for its position.

Section 6 extends the sunset for the conditional release of nonviolent drug offenders from July 1, 2007, to July 1, 2009.

Section 7 increases the ten-year felony, five-year felony, gross misdemeanor and misdemeanor theft value thresholds.

Section 8 increases the ten-year felony, five-year felony, gross misdemeanor and misdemeanor value thresholds for issuing bad checks.

Section 9 increases the five-year felony value threshold for criminal damage to property in the first-degree.

Section 10 increases the gross misdemeanor threshold for criminal damage to property in the third-degree.

Section 11 forbids county jails from charging a fee for an inmate to participate in a work release program if the inmate is paying the costs of the inmate's maintenance under subdivision 5 of Minnesota Statutes, section 631.425.

Section 12, Subdivision 1, establishes an eight-member collateral consequences committee to study collateral consequences of adult convictions and juvenile adjudications and recommend any proposed changes to the Legislature.

Subdivision 2 requires the Department of Corrections to provide technical assistance to the committee, with the assistance of the Department of Public Safety and the Sentencing Guidelines Commission.

Subdivision 3 provides for the membership of the committee.

Subdivision 4 requires the committee to submit a report to the Legislature no later than January 15, 2007.

CT:rer

1.1 Senator moves to amend S.F. No. 3078 as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. Minnesota Statutes 2004, section 152.18, subdivision 1, is amended to
1.4 read:

1.5 **Subdivision 1. Deferring prosecution for certain first time drug offenders.** If any
1.6 person who has not previously participated in or completed a diversion program authorized
1.7 under section 401.065 or who has not previously been placed on probation without a
1.8 judgment of guilty and thereafter been discharged from probation under this section is
1.9 found guilty of a violation of section 152.024, subdivision 2, 152.025, subdivision 2, or
1.10 152.027, subdivision 2, 3, or 4, for possession of a controlled substance, after trial or upon
1.11 a plea of guilty, and the court determines that the violation does not qualify as a subsequent
1.12 controlled substance conviction under section 152.01, subdivision 16a, the court ~~may~~ shall,
1.13 without entering a judgment of guilty and with the consent of the person, either (1) defer
1.14 further proceedings and place the person on probation upon such reasonable conditions
1.15 as it may require and for a period, not to exceed the maximum sentence provided for the
1.16 violation. ~~The court~~ or (2) state in writing the reason why a deferral is inappropriate. If the
1.17 court grants a deferral, it may give the person the opportunity to attend and participate
1.18 in an appropriate program of education regarding the nature and effects of alcohol and
1.19 drug abuse as a stipulation of probation. Upon violation of a condition of the probation,
1.20 the court may enter an adjudication of guilt and proceed as otherwise provided. The
1.21 court may, in its discretion, dismiss the proceedings against the person and discharge the
1.22 person from probation before the expiration of the maximum period prescribed for the
1.23 person's probation. If during the period of probation the person does not violate any of the
1.24 conditions of the probation, then upon expiration of the period the court shall discharge the
1.25 person and dismiss the proceedings against that person. Discharge and dismissal under this
1.26 subdivision shall be without court adjudication of guilt, but a not public record of it shall
1.27 be retained by the Bureau of Criminal Apprehension for the purpose of use by the courts
1.28 in determining the merits of subsequent proceedings against the person. The not public
1.29 record may also be opened only upon court order for purposes of a criminal investigation,
1.30 prosecution, or sentencing. Upon request by law enforcement, prosecution, or corrections
1.31 authorities, the bureau shall notify the requesting party of the existence of the not public
1.32 record and the right to seek a court order to open it pursuant to this section. The court shall
1.33 forward a record of any discharge and dismissal under this subdivision to the bureau which
1.34 shall make and maintain the not public record of it as provided under this subdivision. The
1.35 discharge or dismissal shall not be deemed a conviction for purposes of disqualifications
1.36 or disabilities imposed by law upon conviction of a crime or for any other purpose.

2.1 For purposes of this subdivision, "not public" has the meaning given in section
2.2 13.02, subdivision 8a.

2.3 **EFFECTIVE DATE.** This section is effective July 1, 2006.

2.4 Sec. 2. Minnesota Statutes 2005 Supplement, section 171.18, subdivision 1, is
2.5 amended to read:

2.6 Subdivision 1. **Offenses.** (a) The commissioner may suspend the license of a driver
2.7 without preliminary hearing upon a showing by department records or other sufficient
2.8 evidence that the licensee:

2.9 (1) has committed an offense for which mandatory revocation of license is required
2.10 upon conviction;

2.11 (2) has been convicted by a court for violating a provision of chapter 169 or
2.12 an ordinance regulating traffic, other than a conviction for a petty misdemeanor, and
2.13 department records show that the violation contributed in causing an accident resulting in
2.14 the death or personal injury of another, or serious property damage;

2.15 (3) is an habitually reckless or negligent driver of a motor vehicle;

2.16 (4) is an habitual violator of the traffic laws;

2.17 (5) is incompetent to drive a motor vehicle as determined in a judicial proceeding;

2.18 (6) has permitted an unlawful or fraudulent use of the license;

2.19 (7) has committed an offense in another state that, if committed in this state, would
2.20 be grounds for suspension;

2.21 (8) has committed a violation of section 169.444, subdivision 2, paragraph (a),
2.22 within five years of a prior conviction under that section;

2.23 (9) has committed a violation of section 171.22, except that the commissioner may
2.24 not suspend a person's driver's license based solely on the fact that the person possessed a
2.25 fictitious or fraudulently altered Minnesota identification card;

2.26 (10) has failed to appear in court as provided in section 169.92, subdivision 4;

2.27 (11) has failed to report a medical condition that, if reported, would have resulted in
2.28 cancellation of driving privileges;

2.29 (12) has been found to have committed an offense under section 169A.33; or

2.30 (13) has paid or attempted to pay a fee required under this chapter for a license or
2.31 permit by means of a dishonored check issued to the state or a driver's license agent,
2.32 which must be continued until the registrar determines or is informed by the agent that
2.33 the dishonored check has been paid in full.

3.1 However, an action taken by the commissioner under clause (2) or (5) must conform to
3.2 the recommendation of the court when made in connection with the prosecution of the
3.3 licensee.

3.4 (b) The commissioner may not suspend the driver's license of an individual under
3.5 paragraph (a) who was convicted of a violation of section 171.24, subdivision 1, whose
3.6 license had been previously suspended based upon the individual's failure to appear in
3.7 court or failure to pay a fine.

3.8 **EFFECTIVE DATE.** This section is effective July 1, 2006.

3.9 Sec. 3. Minnesota Statutes 2005 Supplement, section 171.29, subdivision 2, is
3.10 amended to read:

3.11 **Subd. 2. Reinstatement fees and surcharges allocated and appropriated.** (a)
3.12 An individual whose driver's license has been revoked as provided in subdivision 1,
3.13 except under section 169A.52, 169A.54, or 609.21, must pay a \$30 fee before the driver's
3.14 license is reinstated.

3.15 (b) A person whose driver's license has been revoked as provided in subdivision 1
3.16 under section 169A.52, 169A.54, or 609.21, must pay a \$250 fee plus a \$40 surcharge
3.17 before the driver's license is reinstated, except as provided in paragraph (f). Beginning
3.18 July 1, 2002, the surcharge is \$145. Beginning July 1, 2003, the surcharge is \$430. The
3.19 \$250 fee is to be credited as follows:

3.20 (1) Twenty percent must be credited to the driver services operating account in the
3.21 special revenue fund as specified in section 299A.705.

3.22 (2) Sixty-seven percent must be credited to the general fund.

3.23 (3) Eight percent must be credited to a separate account to be known as the Bureau
3.24 of Criminal Apprehension account. Money in this account may be appropriated to the
3.25 commissioner of public safety and the appropriated amount must be apportioned 80 percent
3.26 for laboratory costs and 20 percent for carrying out the provisions of section 299C.065.

3.27 (4) Five percent must be credited to a separate account to be known as the vehicle
3.28 forfeiture account, which is created in the special revenue fund. The money in the account
3.29 is annually appropriated to the commissioner for costs of handling vehicle forfeitures.

3.30 (c) The revenue from \$50 of each surcharge, or \$12.50 for each year of reinstatement
3.31 under paragraph (f), must be credited to a separate account to be known as the traumatic
3.32 brain injury and spinal cord injury account. The money in the account is annually
3.33 appropriated to the commissioner of health to be used as follows: 83 percent for contracts
3.34 with a qualified community-based organization to provide information, resources,
3.35 and support to assist persons with traumatic brain injury and their families to access

4.1 services, and 17 percent to maintain the traumatic brain injury and spinal cord injury
4.2 registry created in section 144.662. For the purposes of this paragraph, a "qualified
4.3 community-based organization" is a private, not-for-profit organization of consumers of
4.4 traumatic brain injury services and their family members. The organization must be
4.5 registered with the United States Internal Revenue Service under section 501(c)(3) as a
4.6 tax-exempt organization and must have as its purposes:

4.7 (i) the promotion of public, family, survivor, and professional awareness of the
4.8 incidence and consequences of traumatic brain injury;

4.9 (ii) the provision of a network of support for persons with traumatic brain injury,
4.10 their families, and friends;

4.11 (iii) the development and support of programs and services to prevent traumatic
4.12 brain injury;

4.13 (iv) the establishment of education programs for persons with traumatic brain
4.14 injury; and

4.15 (v) the empowerment of persons with traumatic brain injury through participation
4.16 in its governance.

4.17 A patient's name, identifying information, or identifiable medical data must not be
4.18 disclosed to the organization without the informed voluntary written consent of the patient
4.19 or patient's guardian or, if the patient is a minor, of the parent or guardian of the patient.

4.20 (d) The remainder of the surcharge must be credited to a separate account to be
4.21 known as the remote electronic alcohol-monitoring program account. The commissioner
4.22 shall transfer the balance of this account to the commissioner of finance on a monthly
4.23 basis for deposit in the general fund.

4.24 (e) When these fees are collected by a licensing agent, appointed under section
4.25 171.061, a handling charge is imposed in the amount specified under section 171.061,
4.26 subdivision 4. The reinstatement fees and surcharge must be deposited in an approved
4.27 depository as directed under section 171.061, subdivision 4.

4.28 (f) A person whose driver's license has been revoked as provided in subdivision 1
4.29 under section 169A.52, 169A.54, or 609.21, may choose to pay 25 percent of the total
4.30 amount of the surcharge and fee required under paragraph (b) to reinstate the person's
4.31 driver's license, provided the person meets all other requirements of reinstatement. If a
4.32 person chooses to pay 25 percent of the total, the driver's license must expire after one
4.33 year. The person must pay an additional 25 percent of the total to extend the license for
4.34 an additional year for each of the next two years, provided the person is otherwise still
4.35 eligible for the license. After a final 25 percent payment of the surcharge and fee, the

5.1 license may be renewed on a standard schedule, as measured from the date of original
5.2 license issuance. A handling charge may be imposed for each installment payment.

5.3 **EFFECTIVE DATE.** This section is effective July 1, 2006.

5.4 Sec. 4. Minnesota Statutes 2005 Supplement, section 244.055, subdivision 2, is
5.5 amended to read:

5.6 Subd. 2. **Conditional release of certain nonviolent controlled substance**
5.7 **offenders.** An offender who has been committed to the commissioner's custody may
5.8 petition the commissioner for conditional release from prison before the offender's
5.9 scheduled supervised release date or target release date if:

5.10 (1) the offender is serving a sentence for violating section 152.021, subdivision 2 or
5.11 2a; 152.022, subdivision 2; 152.023; 152.024; or 152.025;

5.12 (2) the offender committed the crime as a result of a controlled substance addiction,
5.13 and not primarily for profit;

5.14 (3) the offender has served at least 36 months or one-half of the offender's term of
5.15 imprisonment, whichever is less;

5.16 (4) the offender successfully completed a chemical dependency treatment program
5.17 of the type described in this section while in prison;

5.18 (5) the offender has not previously been conditionally released under this section; and

5.19 (6) the offender has not within the past ten years been convicted or ~~adjudicated~~
5.20 ~~delinquent~~ received an executed adult sentence pursuant to an extended jurisdiction
5.21 juvenile disposition under section 260B.130 for a violent crime as defined in section
5.22 609.1095 other than the current conviction for the controlled substance offense.

5.23 **EFFECTIVE DATE.** This section is effective July 1, 2006.

5.24 Sec. 5. Minnesota Statutes 2005 Supplement, section 244.055, subdivision 10, is
5.25 amended to read:

5.26 Subd. 10. **Notice.** Upon receiving an offender's petition for release under
5.27 subdivision 2, the commissioner shall notify the prosecuting authority responsible for the
5.28 offender's conviction and the sentencing court. The commissioner shall give the authority
5.29 and court a reasonable opportunity to comment on the offender's potential release. If the
5.30 authority or court elects to comment, the comments must specify the reasons for the
5.31 authority or court's position. This subdivision applies only to offenders sentenced before
5.32 July 1, 2005.

5.33 **EFFECTIVE DATE.** This section is effective July 1, 2006.

6.1 Sec. 6. Minnesota Statutes 2005 Supplement, section 244.055, subdivision 11, is
6.2 amended to read:

6.3 Subd. 11. **Sunset.** This section expires July 1, ~~2007~~ 2009.

6.4 **EFFECTIVE DATE.** This section is effective July 1, 2006.

6.5 Sec. 7. Minnesota Statutes 2004, section 609.52, subdivision 3, is amended to read:

6.6 Subd. 3. **Sentence.** Whoever commits theft may be sentenced as follows:

6.7 (1) to imprisonment for not more than 20 years or to payment of a fine of not more
6.8 than \$100,000, or both, if the property is a firearm, or the value of the property or services
6.9 stolen is more than \$35,000 and the conviction is for a violation of subdivision 2, clause
6.10 (3), (4), (15), or (16); or

6.11 (2) to imprisonment for not more than ten years or to payment of a fine of not more
6.12 than \$20,000, or both, if the value of the property or services stolen exceeds ~~\$2,500~~
6.13 \$5,000, or if the property stolen was an article representing a trade secret, an explosive or
6.14 incendiary device, or a controlled substance listed in schedule I or II pursuant to section
6.15 152.02 with the exception of marijuana; or

6.16 (3) to imprisonment for not more than five years or to payment of a fine of not
6.17 more than \$10,000, or both, if:

6.18 (a) the value of the property or services stolen is more than ~~\$500~~ \$1,000 but not
6.19 more than ~~\$2,500~~ \$5,000; or

6.20 (b) the property stolen was a controlled substance listed in schedule III, IV, or V
6.21 pursuant to section 152.02; or

6.22 (c) the value of the property or services stolen is more than ~~\$250~~ \$500 but not more
6.23 than ~~\$500~~ \$1,000 and the person has been convicted within the preceding five years for an
6.24 offense under this section, section 256.98; 268.182; 609.24; 609.245; 609.53; 609.582,
6.25 subdivision 1, 2, or 3; 609.625; 609.63; 609.631; or 609.821, or a statute from another
6.26 state, the United States, or a foreign jurisdiction, in conformity with any of those sections,
6.27 and the person received a felony or gross misdemeanor sentence for the offense, or a
6.28 sentence that was stayed under section 609.135 if the offense to which a plea was entered
6.29 would allow imposition of a felony or gross misdemeanor sentence; or

6.30 (d) the value of the property or services stolen is not more than ~~\$500~~ \$1,000, and
6.31 any of the following circumstances exist:

6.32 (i) the property is taken from the person of another or from a corpse, or grave or
6.33 coffin containing a corpse; or

7.1 (ii) the property is a record of a court or officer, or a writing, instrument or record
7.2 kept, filed or deposited according to law with or in the keeping of any public officer or
7.3 office; or

7.4 (iii) the property is taken from a burning, abandoned, or vacant building or upon its
7.5 removal therefrom, or from an area of destruction caused by civil disaster, riot, bombing,
7.6 or the proximity of battle; or

7.7 (iv) the property consists of public funds belonging to the state or to any political
7.8 subdivision or agency thereof; or

7.9 (v) the property stolen is a motor vehicle; or

7.10 (4) to imprisonment for not more than one year or to payment of a fine of not more
7.11 than \$3,000, or both, if the value of the property or services stolen is more than ~~\$250~~ \$500
7.12 but not more than ~~\$500~~ \$1,000; or

7.13 (5) in all other cases where the value of the property or services stolen is ~~\$250~~
7.14 \$500 or less, to imprisonment for not more than 90 days or to payment of a fine of not
7.15 more than \$1,000, or both, provided, however, in any prosecution under subdivision 2,
7.16 clauses (1), (2), (3), (4), and (13), the value of the money or property or services received
7.17 by the defendant in violation of any one or more of the above provisions within any
7.18 six-month period may be aggregated and the defendant charged accordingly in applying
7.19 the provisions of this subdivision; provided that when two or more offenses are committed
7.20 by the same person in two or more counties, the accused may be prosecuted in any county
7.21 in which one of the offenses was committed for all of the offenses aggregated under
7.22 this paragraph.

7.23 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes
7.24 committed on or after that date.

7.25 Sec. 8. Minnesota Statutes 2004, section 609.535, subdivision 2a, is amended to read:

7.26 Subd. 2a. **Penalties.** (a) A person who is convicted of issuing a dishonored check
7.27 under subdivision 2 may be sentenced as follows:

7.28 (1) to imprisonment for not more than five years or to payment of a fine of not more
7.29 than \$10,000, or both, if the value of the dishonored check, or checks aggregated under
7.30 paragraph (b), is more than ~~\$500~~ \$1,000;

7.31 (2) to imprisonment for not more than one year or to payment of a fine of not more
7.32 than \$3,000, or both, if the value of the dishonored check, or checks aggregated under
7.33 paragraph (b), is more than ~~\$250~~ \$500 but not more than ~~\$500~~ \$1,000; or

8.1 (3) to imprisonment for not more than 90 days or to payment of a fine of not more
8.2 than \$1,000, or both, if the value of the dishonored check, or checks aggregated under
8.3 paragraph (b), is not more than ~~\$250~~ \$500.

8.4 (b) In a prosecution under this subdivision, the value of dishonored checks issued
8.5 by the defendant in violation of this subdivision within any six-month period may be
8.6 aggregated and the defendant charged accordingly in applying this section. When two or
8.7 more offenses are committed by the same person in two or more counties, the accused
8.8 may be prosecuted in any county in which one of the dishonored checks was issued for all
8.9 of the offenses aggregated under this paragraph.

8.10 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes
8.11 committed on or after that date.

8.12 Sec. 9. Minnesota Statutes 2004, section 609.595, subdivision 1, is amended to read:

8.13 Subdivision 1. **Criminal damage to property in the first degree.** Whoever
8.14 intentionally causes damage to physical property of another without the latter's consent
8.15 may be sentenced to imprisonment for not more than five years or to payment of a fine of
8.16 not more than \$10,000, or both, if:

8.17 (1) the damage to the property caused a reasonably foreseeable risk of bodily
8.18 harm; or

8.19 (2) the property damaged belongs to a common carrier and the damage impairs the
8.20 service to the public rendered by the carrier; or

8.21 (3) the damage reduces the value of the property by more than ~~\$500~~ \$1,000 measured
8.22 by the cost of repair and replacement; or

8.23 (4) the damage reduces the value of the property by more than ~~\$250~~ \$500 measured
8.24 by the cost of repair and replacement and the defendant has been convicted within the
8.25 preceding three years of an offense under this subdivision or subdivision 2.

8.26 In any prosecution under clause (3), the value of any property damaged by the
8.27 defendant in violation of that clause within any six-month period may be aggregated and
8.28 the defendant charged accordingly in applying the provisions of this section; provided that
8.29 when two or more offenses are committed by the same person in two or more counties, the
8.30 accused may be prosecuted in any county in which one of the offenses was committed for
8.31 all of the offenses aggregated under this paragraph.

8.32 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes
8.33 committed on or after that date.

8.34 Sec. 10. Minnesota Statutes 2004, section 609.595, subdivision 2, is amended to read:

9.1 Subd. 2. **Criminal damage to property in the third degree.** (a) Except as
 9.2 otherwise provided in subdivision 1a, whoever intentionally causes damage to another
 9.3 person's physical property without the other person's consent may be sentenced to
 9.4 imprisonment for not more than one year or to payment of a fine of not more than \$3,000,
 9.5 or both, if the damage reduces the value of the property by more than ~~\$250~~ \$500 but not
 9.6 more than ~~\$500~~ \$1,000 as measured by the cost of repair and replacement.

9.7 (b) Whoever intentionally causes damage to another person's physical property
 9.8 without the other person's consent because of the property owner's or another's actual
 9.9 or perceived race, color, religion, sex, sexual orientation, disability as defined in section
 9.10 363A.03, age, or national origin may be sentenced to imprisonment for not more than one
 9.11 year or to payment of a fine of not more than \$3,000, or both, if the damage reduces the
 9.12 value of the property by not more than ~~\$250~~ \$500.

9.13 (c) In any prosecution under paragraph (a), the value of property damaged by the
 9.14 defendant in violation of that paragraph within any six-month period may be aggregated
 9.15 and the defendant charged accordingly in applying this section. When two or more
 9.16 offenses are committed by the same person in two or more counties, the accused may
 9.17 be prosecuted in any county in which one of the offenses was committed for all of the
 9.18 offenses aggregated under this paragraph.

9.19 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes
 9.20 committed on or after that date.

9.21 Sec. 11. Minnesota Statutes 2004, section 631.425, subdivision 3, is amended to read:

9.22 Subd. 3. **Continuation of employment.** If the person committed under this
 9.23 section has been regularly employed, the sheriff shall arrange for a continuation of the
 9.24 employment insofar as possible without interruption. If the person is not employed, the
 9.25 court may designate a suitable person or agency to make reasonable efforts to secure some
 9.26 suitable employment for that person. An inmate employed under this section must be paid
 9.27 a fair and reasonable wage for work performed and must work at fair and reasonable hours
 9.28 per day and per week. There must not be a fee or charge for the inmate to participate in
 9.29 any employment under this section if the inmate is paying for the cost of the inmate's
 9.30 maintenance under subdivision 5.

9.31 **EFFECTIVE DATE.** This section is effective July 1, 2006.

9.32 Sec. 12. **COLLATERAL CONSEQUENCES COMMITTEE.**

9.33 **Subdivision 1. Establishment; duties.** A collateral consequences committee
 9.34 is established to study collateral consequences of adult convictions and juvenile
 9.35 adjudications. The committee shall identify the uses of collateral consequences of

10.1 convictions and adjudications and recommend any proposed changes to the legislature on
10.2 collateral consequences.

10.3 Subd. 2. Resources. The Department of Corrections shall provide technical
10.4 assistance to the committee on request, with the assistance of the commissioner of public
10.5 safety and the Sentencing Guidelines Commission.

10.6 Subd. 3. Membership. The committee consists of:

10.7 (1) one representative from each of the following groups:

10.8 (i) crime victim advocates, appointed by the commissioner of public safety;

10.9 (ii) county attorneys, appointed by the Minnesota County Attorneys Association;

10.10 (iii) city attorneys, appointed by the League of Minnesota Cities;

10.11 (iv) district court judges, appointed by the Judicial Council;

10.12 (v) private criminal defense attorneys, appointed by the Minnesota Association of
10.13 Criminal Defense Lawyers;

10.14 (vi) probation officers, appointed by the Minnesota Association of County Probation
10.15 Officers; and

10.16 (vii) the state public defender or a designee; and

10.17 (2) the commissioner of public safety, or a designee, who shall chair the group.

10.18 Subd. 4. Report and recommendations. The committee shall present the
10.19 legislature with its report and recommendations no later than January 15, 2007. The
10.20 report must be presented to the chairs of the senate Crime Prevention and Public Safety
10.21 Committee and the house Public Safety and Finance Committee."

10.22 Amend the title accordingly



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To Whom It May Concern:

St. Stephen's Human Services, Inc. is writing this letter of support for passage of the Re-classification bill being given hearing by the Public Safety Committee and under consideration by the legislature. St. Stephen's works daily with people experiencing homelessness, particularly those who are chronically homeless, and who face barriers to getting into housing and finding employment due to having a criminal record. The current legislative remedy referred to as the "Second Chance" Bill (HF 3345/SF 3078) provides a creative approach to dealing with this particular issue. The re-classification of arrest data, particularly in those cases where no conviction has resulted, would give many of our clients the chance to leave the streets.

Currently, in cases where an arrest does not result in a conviction, the burden to petition for the sealing or returning of the arrest data falls on individual who has the arrest record. In such cases where no court action is brought within 6 months of the arrest, the burden should not fall on the arrestee, nor should that person be penalized in cases where no conviction has resulted.

As an organization that works to end homelessness we are well aware that people who become homeless often get ticketed for minor livability offenses that build up over time and that almost never lead to convictions. These offenses for loitering, lurking, trespassing etc... often become a barrier to individuals being able to leave the streets and shelters and to finding employment as landlords and potential employers. Under the current law when someone is arrested and their case doesn't result in a court action within 6 months (180 days) the arrestee can petition to have all information pertaining to the arrest returned. This process is very challenging for our clients, who are homeless and focused on the immediate task of finding food and shelter, and have trouble navigating the system.

Sincerely,

Mikkel Beckonen
Executive Director

Barbara  Schneider
FOUNDATION

March 29, 2006

Mr. Tom Johnson
President, Council on Crime and Justice
822 South Third Street
Minneapolis, MN 55415

Dear Mr. Johnson:

I am writing to express my appreciation for your work of decriminalizing mental illness at the state level. It is my understanding that you are supporting reclassification bills, HF 3345 and SF 3078, at the Minnesota State Legislature this session. Thank you for your leadership.

As you know, I served as health and mental health policy staff to U.S. Senator Paul Wellstone for 12 years in his U.S. Senate office. Since then, in my current position, I have had the opportunity to work on a variety of initiatives related to those with mental illness who find themselves in contact with the criminal justice system. These include: the successful Federal Mediation between Minneapolis Police Department and 18 community organizations that created a Memorandum of Agreement that includes mental health related reforms; the Police Community Relations Council which is charged with implementing the Memorandum of Agreement; collaboration with the Minneapolis Police Department, MPD, on the development of their CIT (Crisis Intervention Team) Unit; consulting with Minneapolis Police Department on in-service mental health training for all officers and 40 hour CIT training for new members of the MPD CIT Unit; delivery of open enrollment CIT training with 11 other police and sheriff departments from Minnesota and North Dakota; co-sponsorship with the MPD CIT Unit of a successful first annual Minnesota CIT Conference that brought together law enforcement, courts, corrections, mental health, county social service and health care, from around the state, for a conference to learn about the CIT model; Downtown Minneapolis Mental Health and Criminal Justice Workgroup which brings together the same complement of CIT partners in Hennepin County to improve the response to those with mental illness in the criminal justice system; the City and County Taskforce to De-criminalize Homelessness that worked with the Minneapolis City Council to improve the response to the same population.

Based on this experience and work on countless other smaller projects and interventions on behalf of individuals, I am certain that the reclassification bill would do much to remove serious barriers to those with mental illness who have had contact with the criminal justice system. It would remove serious barriers to employment and housing. It would remove these barriers and assist many who need a stable living environment and secure employment in order to successfully comply with their mental health treatment program. People with serious mental illness can live productive, fulfilling lives with adequate support. Your efforts will help this vulnerable population enormously.

Sincerely,

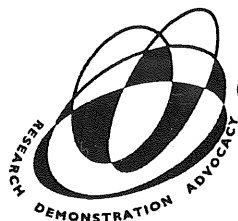


Mark Anderson
Executive Director



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IMPROVING MENTAL HEALTH CRISIS RESPONSE
PREVENTING MENTAL HEALTH CRISIS



Council on Crime and Justice

CRIMINAL RECORD ACCESSIBILITY: A BALANCED APPROACH

General Overview

The primary purpose of the bill is to alleviate the collateral consequences of having certain criminal records at the same time preserving law enforcement's ability to access the records.

The proposed bill does not seal public records, it reclassifies them. This is the strength and uniqueness of the bill. Sealing, as defined in Minnesota Chapter 609A, means that a record may not be opened unless for purposes of a criminal investigation, prosecution, or sentencing, and then only by court order. Records reclassified as private, on the other hand, remain open for law enforcement purposes. The record remains in the criminal justice information system as if nothing had happened to it. The only change is that the public is not able to view the record. The proposed bill, as a result, offers a balanced approach to alleviate the negative consequences of certain criminal records without jeopardizing its availability for use by law enforcement.

Statement of the Problem

The negative consequences of a criminal record are known both anecdotally and empirically. These consequences are dramatic and largely a function of the expanded use of background checks in combination with the growing ability to gain electronic access to criminal justice records.

Criminal records, whether resulting from a conviction or a simple arrest, are easily accessed electronically, and are routinely used as screening mechanisms by employers, housing managers, credit agencies, and educational institutions, among others. To compound the issue, the distinction between a *conviction* and an *arrest* is often unclear when looking at a person's record. The impact of this is enormous, particularly for young African American men. It is also prevalent among military veterans.

Princeton Professor Devah Pager has demonstrated through rigorous research that a criminal record has serious negative implications for job seekers, particularly if they are persons of color. (Pager, Mark of a Criminal Record 2004). These barriers affect not only the individual and his or her family, but also whole communities. The affect is largest in those communities where there are high concentrations of crime and of prisoner re-entry, and where, as a result, there is already diminished human, physical and social capital.



MACV Minnesota Assistance Council for Veterans

Serving Veterans Throughout Minnesota

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March 16, 2006

Re: Reclassification Bill: House File No. 3345

Minnesota Assistance Council for Veterans is a 501c3 nonprofit organization that has been serving veterans and their families throughout Minnesota for over 14 years. We provide assistance to veterans who are homeless or experiencing other life crises and who are motivated to make positive changes.

We have regional offices in the Twin Cities, Duluth, and Mankato. We served over 450 veterans in 2005. Most of the veterans that we assist have criminal records. These records often show arrests that did not lead to a charge or charges that were dismissed. This could impact the veteran's ability to obtain affordable housing and/or employment.

I have had the opportunity to review House File No. 3345 (authored by Meslow, Smith, Soderstrom, and Murphy) and I feel that its passage has the potential to benefit the veteran community that we serve.

Sincerely,

Kathleen Vitalis

Executive Director

Minnesota Assistance Council for Veterans

612.726.6296 (work)

612.205.5001 (cell)

kvitalis@mac-v.org

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Duluth

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Mankato

Phone 507.345.8258 Fax 507.345.8292

** MACV is a 501(c)3 non-profit organization **

Case Data for cases filed or disposed in 2004 in COURT in Ramsey and Hennepin Counties

County	Case Type	Cases Filed in COURT	COURT Dispositions							Total Dispositions
			Acquitted	Dismissed	Convicted	Adjudication Withheld	Diverted*	Continued For Dismissal	Closed /other	
Hennepin	5th Degree Assault	819	3	356	369	3	0	89	0	820
Hennepin	Dept. Nat. Resources	6	0	11	7	0	0	2	0	20
Hennepin	Domestic Assault-MSD	3,061	5	1,407	849	14	0	336	0	2,611
Hennepin	Housing Court Misd	209	0	134	26	0	0	4	0	164
Hennepin	NonTraffic Misdemeanor	17,758	19	8,886	8,067	73	22	2,068	0	19,135
Hennepin	Boating Intoxicated	35	0	0	24	0	0	0	0	24
Hennepin	Operat Snowmob Intox	1	0	0	1	0	0	0	0	1
Hennepin	Driving Intoxicated DWI	4,322	1	98	3,108	0	0	6	0	3,213
Hennepin	Overlength Misdemeanor	7	0	2	5	0	0	1	0	8
Hennepin	Overweight Misdemeanor	3	0	0	2	0	0	0	0	2
Hennepin	Moving-Misdemeanor	20,328	10	10,103	7,718	55	0	5,182	0	23,068
Hennepin	Speeding-Misdemeanor	257	0	46	164	1	0	27	0	238
Hennepin	Misdemeanor Total	46,806	38	21,043	20,340	146	22	7,715	0	49,304
Ramsey	5th Degree Assault	317	0	124	103	3	0	0	0	230
Ramsey	Dept. Nat. Resources	168	0	10	103	0	0	0	0	113
Ramsey	Domestic Assault-MSD	1,033	2	393	466	0	0	9	0	870
Ramsey	Housing Court Misd	255	1	386	75	0	0	5	94	561
Ramsey	NonTraffic Misdemeanor	24,549	8	9,684	6,815	49	3	1,020	27	17,606
Ramsey	Boating Intoxicated	1	0	0	0	0	0	0	0	0
Ramsey	Driving Intoxicated DWI	1,192	1	63	874	1	0	1	0	940
Ramsey	Overweight Misdemeanor	4	0	0	4	0	0	0	0	4
Ramsey	Moving-Misdemeanor	10,698	5	4,486	4,073	4	0	632	9	9,209
Ramsey	Speeding-Misdemeanor	28	0	4	17	0	0	1	0	22
Ramsey	Misdemeanor Total	38,245	17	15,150	12,530	57	3	1,668	130	29,555
Hennepin	Housing Crt Petty	94	0	1	126	0	0	1	0	128
Hennepin	NonMoving-Petty Misd.	1,396	6	735	471	1	0	167	0	1,380
Hennepin	Petty Misdemeanor	2,448	2	312	2,312	1	0	64	0	2,691
Hennepin	Speeding-Petty Misd.	6,139	19	3,120	2,588	1	0	2,695	0	8,423
Hennepin	Petty Misdemeanor Total	10,077	27	4,168	5,497	3	0	2,927	0	12,622
Ramsey	Housing Crt Petty	0	0	0	2	0	0	0	1	3
Ramsey	NonMoving-Petty Misd.	1,944	2	135	2,340	0	0	10	0	2,487
Ramsey	Petty Misdemeanor	1,211	3	73	1,171	0	0	9	0	1,256
Ramsey	Speeding-Petty Misd.	7,525	14	4,994	7,571	0	0	1,068	2	13,649
Ramsey	Petty Misdemeanor Total	10,680	19	5,202	11,084	0	0	1,087	3	17,395

*These are cases with a diverted disposition. Cases may be diverted before they are actually filed and thus are not seen here.

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

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Senate

State of Minnesota

S.F. No. 3517 - Driving While Impaired

Author: Senator Leo T. Foley

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

Date: March 28, 2006

Section 1 broadly defines “drug” by cross-reference to Minnesota Statutes, section 151.01, subdivision 5.

Section 2 broadens the definition of a driving while impaired (DWI) crime in two ways:

- ◆ by broadening the prohibition against driving while impaired by controlled substances to include the metabolites of those substances; and
- ◆ by creating a new offense for driving under the influence of a drug – whether that drug in an illegal controlled substance (already prohibited), a prescription drug, or an over-the-counter drug – provided that the person who is impaired by the drug has had a prior qualified impaired driving incident within the preceding ten years.

Section 3 exempts the court from the mandatory consecutive sentencing requirement in current law when the court is sentencing an offender for a felony-level DWI offense.

Section 4 authorizes the admission into evidence, in a criminal prosecution, the results of any test indicating the presence of a controlled substance or its metabolite, a hazardous substance, or a drug or its metabolite if the person has one or more qualified prior impaired driving incidents within ten years.

Sections 5, 6, 7, 8, 10, and 11 broaden language in DWI law referring to controlled substances to include metabolites of those substances, and also include new language referencing any drug, where applicable.

Section 9 adds a requirement that when the test results indicate the presence of a drug or its metabolite or a hazardous substance, the results of the test must be reported to the prosecuting authority only. These results are not reported to the Department of Public Safety and thus, do not trigger administrative revocation of the violator's driver's license. Instead, license revocation depends on obtaining a court conviction for the offense.

Sections 12 and 13 correct cross-references to non-existing statutes.

Section 14 repeals a cross-reference regarding refusal of the preliminary breath test.

Section 15 provides effective dates. The bill, with the exception of section 3, is effective August 1, 2006. Section 3 is effective the day following enactment.

CT:rer

Senator Foley introduced—

S.F. No. 3517: Referred to the Committee on Crime Prevention and Public Safety.

A bill for an act

1.3 relating to crimes; broadening prohibitions for driving while impaired to include
 1.4 impairment by any drug or its metabolite; broadening prohibition against
 1.5 driving while impaired by controlled substances to include metabolites of
 1.6 those substances; exempting courts from mandatory consecutive sentencing
 1.7 requirements when sentencing a person for felony-level violation for driving
 1.8 while impaired; making technical and clarifying changes; repealing archaic
 1.9 language; amending Minnesota Statutes 2004, sections 169A.03, by adding
 1.10 a subdivision; 169A.20, subdivision 1; 169A.28, subdivision 1; 169A.45,
 1.11 subdivision 1; 169A.51, subdivisions 1, 2, 4, 7; 169A.52, subdivision 2;
 1.12 169A.60, subdivisions 2, 4; Minnesota Statutes 2005 Supplement, sections
 1.13 169A.52, subdivision 4; 169A.53, subdivision 3; repealing Minnesota Statutes
 2004, section 169A.41, subdivision 4.

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

5 Section 1. Minnesota Statutes 2004, section 169A.03, is amended by adding a
 1.16 subdivision to read:

1.17 Subd. 7. Drug. "Drug" has the meaning given in section 151.01, subdivision 5.

1.18 Sec. 2. Minnesota Statutes 2004, section 169A.20, subdivision 1, is amended to read:

1.19 Subdivision 1. **Driving while impaired crime.** It is a crime for any person to
 1.20 drive, operate, or be in physical control of any motor vehicle within this state or on any
 1.21 boundary water of this state:

- 1.22 (1) when the person is under the influence of alcohol;
- 1.23 (2) when the person is under the influence of a controlled substance;
- 1.24 (3) when the person is knowingly under the influence of a hazardous substance that
 5 affects the nervous system, brain, or muscles of the person so as to substantially impair
 1.26 the person's ability to drive or operate the motor vehicle;

2.1 (4) when the person is under the influence of a combination of any two or more of
2.2 the elements named in clauses (1), (2), and (3);

2.3 (5) when the person's alcohol concentration at the time, or as measured within
2.4 two hours of the time, of driving, operating, or being in physical control of the motor
2.5 vehicle is 0.08 or more;

2.6 (6) when the vehicle is a commercial motor vehicle and the person's alcohol
2.7 concentration at the time, or as measured within two hours of the time, of driving,
2.8 operating, or being in physical control of the commercial motor vehicle is 0.04 or more; ~~or~~

2.9 (7) when the person's body contains any amount of a controlled substance listed in
2.10 schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols; or

2.11 (8) when a person, with one or more qualified prior impaired driving incidents
2.12 within ten years, is impaired by any drug, alone or in combination with any substance
2.13 listed in clauses (1) to (3).

2.14 Sec. 3. Minnesota Statutes 2004, section 169A.28, subdivision 1, is amended to read:

2.15 Subdivision 1. **Mandatory consecutive sentences.** (a) The court shall impose
2.16 consecutive sentences when it sentences a person for:

2.17 (1) violations of section 169A.20 (driving while impaired) arising out of separate
2.18 courses of conduct;

2.19 (2) a violation of section 169A.20 when the person, at the time of sentencing, is
2.20 on probation for, or serving, an executed sentence for a violation of section 169A.20
2.21 or Minnesota Statutes 1998, section 169.121 (driver under the influence of alcohol or
2.22 controlled substance) or 169.129 (aggravated DWI-related violations; penalty), and the
2.23 prior sentence involved a separate course of conduct; or

2.24 (3) a violation of section 169A.20 and another offense arising out of a single course
2.25 of conduct that is listed in subdivision 2, paragraph (e), when the person has five or more
2.26 qualified prior impaired driving incidents within the past ten years.

2.27 (b) The requirement for consecutive sentencing in paragraph (a) does not apply if the
2.28 person is being sentenced to an executed prison term for a violation of section 169A.20
2.29 (driving while impaired) under circumstances described in section 169A.24 (first-degree
2.30 driving while impaired).

2.31 Sec. 4. Minnesota Statutes 2004, section 169A.45, subdivision 1, is amended to read:

2.32 Subdivision 1. **Alcohol concentration evidence.** Upon the trial of any prosecution
2.33 arising out of acts alleged to have been committed by any person arrested for violating
2.34 section 169A.20 (driving while impaired) or 169A.31 (alcohol-related school bus or Head

3.1 Start bus driving), the court may admit evidence of the presence or amount of alcohol in
 3.2 the person's blood, breath, or urine as shown by an analysis of those items. In addition,
 in a prosecution for a violation of section 169A.20, the court may admit evidence of
 3.4 the presence or amount in the person's blood, breath, or urine, as shown by an analysis
 3.5 of those items, of:

3.6 (1) a controlled ~~substances~~ substance or its metabolite;

3.7 (2) a hazardous ~~substances in the person's blood, breath, or urine as shown by an~~
 3.8 analysis of those items substance; or

3.9 (3) a drug or its metabolite if the person has one or more qualified prior impaired
 3.10 driving incidents within ten years.

3.11 Sec. 5. Minnesota Statutes 2004, section 169A.51, subdivision 1, is amended to read:

3.12 Subdivision 1. **Implied consent; conditions; election of test.** (a) Any person
 3.13 who drives, operates, or is in physical control of a motor vehicle within this state or on
 3.14 any boundary water of this state consents, subject to the provisions of sections 169A.50
 3.15 to 169A.53 (implied consent law), and section 169A.20 (driving while impaired), to
 3.16 a chemical test of that person's blood, breath, or urine for the purpose of determining
 3.17 the presence of alcohol, a drug or its metabolite, a controlled ~~substances~~ substance or
 3.18 its metabolite, or a hazardous ~~substances~~ substance. The test must be administered at
 3.19 the direction of a peace officer.

3.20 (b) The test may be required of a person when an officer has probable cause to believe
 3.21 the person was driving, operating, or in physical control of a motor vehicle in violation of
 3.22 section 169A.20 (driving while impaired), and one of the following conditions exist:

3.23 (1) the person has been lawfully placed under arrest for violation of section 169A.20
 3.24 or an ordinance in conformity with it;

3.25 (2) the person has been involved in a motor vehicle accident or collision resulting in
 3.26 property damage, personal injury, or death;

3.27 (3) the person has refused to take the screening test provided for by section 169A.41
 3.28 (preliminary screening test); or

3.29 (4) the screening test was administered and indicated an alcohol concentration of
 3.30 0.08 or more.

3.31 (c) The test may also be required of a person when an officer has probable cause to
 3.32 believe the person was driving, operating, or in physical control of a commercial motor
 3.33 vehicle with the presence of any alcohol.

3.34 Sec. 6. Minnesota Statutes 2004, section 169A.51, subdivision 2, is amended to read:

4.1 Subd. 2. **Implied consent advisory.** At the time a test is requested, the person
4.2 must be informed:

4.3 (1) that Minnesota law requires the person to take a test:

4.4 (i) to determine if the person is under the influence of alcohol, any drug, controlled
4.5 substances, or hazardous substances;

4.6 (ii) to determine the presence of a controlled substance listed in schedule I or II or its
4.7 metabolite, other than marijuana or tetrahydrocannabinols; and

4.8 (iii) if the motor vehicle was a commercial motor vehicle, to determine the presence
4.9 of alcohol;

4.10 (2) that refusal to take a test is a crime;

4.11 (3) if the peace officer has probable cause to believe the person has violated the
4.12 criminal vehicular homicide and injury laws, that a test will be taken with or without
4.13 the person's consent; and

4.14 (4) that the person has the right to consult with an attorney, but that this right is
4.15 limited to the extent that it cannot unreasonably delay administration of the test.

4.16 Sec. 7. Minnesota Statutes 2004, section 169A.51, subdivision 4, is amended to read:

4.17 Subd. 4. **Requirement of urine or blood test.** Notwithstanding subdivision 3, a
4.18 blood or urine test may be required even after a breath test has been administered if there
4.19 is probable cause to believe that:

4.20 (1) there is impairment by a drug, a controlled substance, or a hazardous substance
4.21 that is not subject to testing by a breath test; or

4.22 (2) a controlled substance listed in schedule I or II or its metabolite, other than
4.23 marijuana or tetrahydrocannabinols, is present in the person's body.

4.24 Action may be taken against a person who refuses to take a blood test under this
4.25 subdivision only if a urine test was offered and action may be taken against a person who
4.26 refuses to take a urine test only if a blood test was offered.

4.27 Sec. 8. Minnesota Statutes 2004, section 169A.51, subdivision 7, is amended to read:

4.28 Subd. 7. **Requirements for conducting tests; liability.** (a) Only a physician,
4.29 medical technician, emergency medical technician-paramedic, registered nurse, medical
4.30 technologist, medical laboratory technician, or laboratory assistant acting at the request
4.31 of a peace officer may withdraw blood for the purpose of determining the presence of
4.32 alcohol, a drug or its metabolite, a controlled substances substance or its metabolite,
4.33 or a hazardous substances substance. This limitation does not apply to the taking of a
4.34 breath or urine sample.

5.1 (b) The person tested has the right to have someone of the person's own choosing
 5.2 administer a chemical test or tests in addition to any administered at the direction of a
 5.3 peace officer; provided, that the additional test sample on behalf of the person is obtained
 5.4 at the place where the person is in custody, after the test administered at the direction of a
 5.5 peace officer, and at no expense to the state. The failure or inability to obtain an additional
 5.6 test or tests by a person does not preclude the admission in evidence of the test taken at
 5.7 the direction of a peace officer unless the additional test was prevented or denied by the
 5.8 peace officer.

5.9 (c) The physician, medical technician, emergency medical technician-paramedic,
 5.10 medical technologist, medical laboratory technician, laboratory assistant, or registered
 5.11 nurse drawing blood at the request of a peace officer for the purpose of determining the
 5.12 concentration of alcohol, a drug or its metabolite, a controlled substances substance or
 5.13 its metabolite, or a hazardous substances substance is in no manner liable in any civil or
 5.14 criminal action except for negligence in drawing the blood. The person administering a
 5.15 breath test must be fully trained in the administration of breath tests pursuant to training
 5.16 given by the commissioner of public safety.

5.17 Sec. 9. Minnesota Statutes 2004, section 169A.52, subdivision 2, is amended to read:

5.18 Subd. 2. **Reporting test failure.** (a) If a person submits to a test, the results of that
 5.19 test must be reported to the commissioner and to the authority having responsibility for
 5.20 prosecution of impaired driving offenses for the jurisdiction in which the acts occurred, if
 5.21 the test results indicate:

- 5.22 (1) an alcohol concentration of 0.08 or more;
- 5.23 (2) an alcohol concentration of 0.04 or more, if the person was driving, operating, or
 5.24 in physical control of a commercial motor vehicle at the time of the violation; or
- 5.25 (3) the presence of a controlled substance listed in schedule I or II or its metabolite,
 5.26 other than marijuana or tetrahydrocannabinols.

5.27 (b) If a person submits to a test and the test results indicate the presence of a drug
 5.28 or its metabolite or a hazardous substance, the results of that test must be reported to
 5.29 the authority having responsibility for prosecution of impaired driving offenses for the
 5.30 jurisdiction in which the acts occurred.

5.31 Sec. 10. Minnesota Statutes 2005 Supplement, section 169A.52, subdivision 4, is
 5.32 amended to read:

5.33 Subd. 4. **Test failure; license revocation.** (a) Upon certification by the peace
 5.34 officer that there existed probable cause to believe the person had been driving, operating,

6.1 or in physical control of a motor vehicle in violation of section 169A.20 (driving
6.2 while impaired) and that the person submitted to a test and the test results indicate an
6.3 alcohol concentration of 0.08 or more or the presence of a controlled substance listed in
6.4 schedule I or II or its metabolite, other than marijuana or tetrahydrocannabinols, then
6.5 the commissioner shall revoke the person's license or permit to drive, or nonresident
6.6 operating privilege:

6.7 (1) for a period of 90 days;

6.8 (2) if the person is under the age of 21 years, for a period of six months;

6.9 (3) for a person with a qualified prior impaired driving incident within the past ten
6.10 years, for a period of 180 days; or

6.11 (4) if the test results indicate an alcohol concentration of 0.20 or more, for twice
6.12 the applicable period in clauses (1) to (3).

6.13 (b) On certification by the peace officer that there existed probable cause to believe
6.14 the person had been driving, operating, or in physical control of a commercial motor
6.15 vehicle with any presence of alcohol and that the person submitted to a test and the
6.16 test results indicated an alcohol concentration of 0.04 or more, the commissioner shall
6.17 disqualify the person from operating a commercial motor vehicle under section 171.165
6.18 (commercial driver's license disqualification).

6.19 (c) If the test is of a person's blood or urine by a laboratory operated by the Bureau
6.20 of Criminal Apprehension, or authorized by the bureau to conduct the analysis of a blood
6.21 or urine sample, the laboratory may directly certify to the commissioner the test results,
6.22 and the peace officer shall certify to the commissioner that there existed probable cause to
6.23 believe the person had been driving, operating, or in physical control of a motor vehicle
6.24 in violation of section 169A.20 and that the person submitted to a test. Upon receipt
6.25 of both certifications, the commissioner shall undertake the license actions described
6.26 in paragraphs (a) and (b).

6.27 Sec. 11. Minnesota Statutes 2005 Supplement, section 169A.53, subdivision 3, is
6.28 amended to read:

6.29 Subd. 3. **Judicial hearing; issues, order, appeal.** (a) A judicial review hearing
6.30 under this section must be before a district judge in any county in the judicial district
6.31 where the alleged offense occurred. The hearing is to the court and may be conducted at
6.32 the same time and in the same manner as hearings upon pretrial motions in the criminal
6.33 prosecution under section 169A.20 (driving while impaired), if any. The hearing must be
6.34 recorded. The commissioner shall appear and be represented by the attorney general or
6.35 through the prosecuting authority for the jurisdiction involved. The hearing must be held

7.1 at the earliest practicable date, and in any event no later than 60 days following the filing
7.2 of the petition for review. The judicial district administrator shall establish procedures to
7.3 ensure efficient compliance with this subdivision. To accomplish this, the administrator
7.4 may, whenever possible, consolidate and transfer review hearings among the locations
7.5 within the judicial district where terms of district court are held.

7.6 (b) The scope of the hearing is limited to the issues in clauses (1) to (10):

7.7 (1) Did the peace officer have probable cause to believe the person was driving,
7.8 operating, or in physical control of a motor vehicle or commercial motor vehicle in
7.9 violation of section 169A.20 (driving while impaired)?

7.10 (2) Was the person lawfully placed under arrest for violation of section 169A.20?

7.11 (3) Was the person involved in a motor vehicle accident or collision resulting in
7.12 property damage, personal injury, or death?

3 (4) Did the person refuse to take a screening test provided for by section 169A.41
7.14 (preliminary screening test)?

7.15 (5) If the screening test was administered, did the test indicate an alcohol
7.16 concentration of 0.08 or more?

7.17 (6) At the time of the request for the test, did the peace officer inform the person
7.18 of the person's rights and the consequences of taking or refusing the test as required by
7.19 section 169A.51, subdivision 2?

7.20 (7) Did the person refuse to permit the test?

7.21 (8) If a test was taken by a person driving, operating, or in physical control of a
7.22 motor vehicle, did the test results indicate at the time of testing:

7.23 (i) an alcohol concentration of 0.08 or more; or

(ii) the presence of a controlled substance listed in schedule I or II or its metabolite,
7.25 other than marijuana or tetrahydrocannabinols?

7.26 (9) If a test was taken by a person driving, operating, or in physical control of a
7.27 commercial motor vehicle, did the test results indicate an alcohol concentration of 0.04 or
7.28 more at the time of testing?

7.29 (10) Was the testing method used valid and reliable and were the test results
7.30 accurately evaluated?

7.31 (c) It is an affirmative defense for the petitioner to prove that, at the time of the
7.32 refusal, the petitioner's refusal to permit the test was based upon reasonable grounds.

7.33 (d) Certified or otherwise authenticated copies of laboratory or medical personnel
34 reports, records, documents, licenses, and certificates are admissible as substantive
7.35 evidence.

8.1 (e) The court shall order that the revocation or disqualification be either rescinded or
8.2 sustained and forward the order to the commissioner. The court shall file its order within
8.3 14 days following the hearing. If the revocation or disqualification is sustained, the court
8.4 shall also forward the person's driver's license or permit to the commissioner for further
8.5 action by the commissioner if the license or permit is not already in the commissioner's
8.6 possession.

8.7 (f) Any party aggrieved by the decision of the reviewing court may appeal the
8.8 decision as provided in the Rules of Appellate Procedure.

8.9 (g) The civil hearing under this section shall not give rise to an estoppel on any
8.10 issues arising from the same set of circumstances in any criminal prosecution.

8.11 Sec. 12. Minnesota Statutes 2004, section 169A.60, subdivision 2, is amended to read:

8.12 Subd. 2. **Plate impoundment violation; impoundment order.** (a) The
8.13 commissioner shall issue a registration plate impoundment order when:

8.14 (1) a person's driver's license or driving privileges are revoked for a plate
8.15 impoundment violation; or

8.16 (2) a person is arrested for or charged with a plate impoundment violation described
8.17 in subdivision 1, paragraph ~~(c)~~ (d), clause (5).

8.18 (b) The order must require the impoundment of the registration plates of the motor
8.19 vehicle involved in the plate impoundment violation and all motor vehicles owned by,
8.20 registered, or leased in the name of the violator, including motor vehicles registered jointly
8.21 or leased in the name of the violator and another. The commissioner shall not issue an
8.22 impoundment order for the registration plates of a rental vehicle, as defined in section
8.23 168.041, subdivision 10, or a vehicle registered in another state.

8.24 Sec. 13. Minnesota Statutes 2004, section 169A.60, subdivision 4, is amended to read:

8.25 Subd. 4. **Peace officer as agent for notice of impoundment.** On behalf of the
8.26 commissioner, a peace officer issuing a notice of intent to revoke and of revocation for a
8.27 plate impoundment violation shall also serve a notice of intent to impound and an order of
8.28 impoundment. On behalf of the commissioner, a peace officer who is arresting a person
8.29 for or charging a person with a plate impoundment violation described in subdivision
8.30 1, paragraph ~~(c)~~ (d), clause (5), shall also serve a notice of intent to impound and an
8.31 order of impoundment. If the vehicle involved in the plate impoundment violation is
8.32 accessible to the officer at the time the impoundment order is issued, the officer shall seize
8.33 the registration plates subject to the impoundment order. The officer shall destroy all
8.34 plates seized or impounded under this section. The officer shall send to the commissioner

9.1 copies of the notice of intent to impound and the order of impoundment and a notice that
9.2 registration plates impounded and seized under this section have been destroyed.

9.3 Sec. 14. **REPEALER.**

9.4 Minnesota Statutes 2004, section 169A.41, subdivision 4, is repealed.

9.5 Sec. 15. **EFFECTIVE DATE.**

9.6 Sections 1, 2, and 4 to 14 are effective August 1, 2006, and apply to impaired
9.7 driving incidents occurring on or after that date. Section 3 is effective the day following
9.8 final enactment.

1.1 Senator moves to amend S.F. No. 3517 as follows:

1.2 Page 1, line 17, delete "7" and insert "7a"

1.3 Page 1, after line 17, insert:

1.4 "Sec. 2. Minnesota Statutes 2004, section 169A.03, is amended by adding a
1.5 subdivision to read:

1.6 Subd. 11a. Metabolite. A "metabolite" is a substance produced as a result of the
1.7 processing of a drug within the body.

1.8 EFFECTIVE DATE. This section is effective August 1, 2006, and applies to crimes
1.9 committed on or after that date."

1.10 Page 2, line 11, delete "a person, with" and insert "the person has"

1.11 Page 2, delete line 12, and insert "within the ten years immediately preceding the
1.12 current offense and is under the influence of any drug, alone or in combination with any
1.13 substance"

1.14 Page 2, after line 13, insert:

1.15 "Sec. 4. Minnesota Statutes 2004, section 169A.25, subdivision 1, is amended to
1.16 read:

1.17 Subdivision 1. **Degree described.** (a) A person who violates section 169A.20,
1.18 subdivision 1 (driving while impaired crime), is guilty of second-degree driving while
1.19 impaired if two or more aggravating factors were present when the violation was
1.20 committed.

1.21 (b) A person who violates section 169A.20, subdivision 2 (refusal to submit to
1.22 chemical test crime), or 169A.20, subdivision 1, clause (8) (driving while impaired by any
1.23 drug crime), is guilty of second-degree driving while impaired if one aggravating factor
1.24 was present when the violation was committed.

1.25 EFFECTIVE DATE. This section is effective August 1, 2006, and applies to crimes
1.26 committed on or after that date.

1.27 Sec. 5. Minnesota Statutes 2004, section 169A.26, subdivision 1, is amended to read:

1.28 Subdivision 1. **Degree described.** (a) A person who violates section 169A.20,
1.29 subdivision 1 (driving while impaired crime), is guilty of third-degree driving while
1.30 impaired if one aggravating factor was present when the violation was committed.

1.31 (b) A person who violates section 169A.20, subdivision 2 (refusal to submit to
1.32 chemical test crime), is guilty of third-degree driving while impaired.

1.33 (c) A person who violates section 169A.20, subdivision 1, clause (8) (driving while
1.34 impaired by any drug crime), is guilty of third-degree driving while impaired.

2.1 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes
2.2 committed on or after that date.

2.3 Sec. 6. Minnesota Statutes 2004, section 169A.27, subdivision 1, is amended to read:

2.4 Subdivision 1. **Degree described.** A person who violates section 169A.20,
2.5 subdivision 1 (driving while impaired crime), except for section 169A.20, subdivision
2.6 1, clause (8) (driving while impaired by any drug crime), is guilty of fourth-degree
2.7 driving while impaired.

2.8 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes
2.9 committed on or after that date."

2.10 Page 3, line 10, after "within" insert "the" and after "years" insert "immediately
2.11 preceding the current offense"

2.12 Page 9, after line 2, insert:

2.13 "Sec. 15. Minnesota Statutes 2004, section 609.21, is amended to read:

2.14 **609.21 CRIMINAL VEHICULAR HOMICIDE AND INJURY.**

2.15 Subdivision 1. **Criminal vehicular homicide.** A person is guilty of criminal
2.16 vehicular homicide resulting in death and may be sentenced to imprisonment for not
2.17 more than ten years or to payment of a fine of not more than \$20,000, or both, if the
2.18 person causes the death of a human being not constituting murder or manslaughter as a
2.19 result of operating a motor vehicle:

2.20 (1) in a grossly negligent manner;

2.21 (2) in a negligent manner while under the influence of:

2.22 (i) alcohol;

2.23 (ii) a controlled substance; ~~or~~

2.24 (iii) a drug, when a person has one or more qualified prior impaired driving incidents
2.25 within the ten years immediately preceding the current offense; or

2.26 (iv) any combination of ~~those elements~~ alcohol, a controlled substance, or if
2.27 applicable, a drug;

2.28 (3) while having an alcohol concentration of 0.08 or more;

2.29 (4) while having an alcohol concentration of 0.08 or more, as measured within
2.30 two hours of the time of driving;

2.31 (5) in a negligent manner while knowingly under the influence of a hazardous
2.32 substance;

2.33 (6) in a negligent manner while any amount of a controlled substance listed in
2.34 schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols, is
2.35 present in the person's body; or

3.1 (7) where the driver who causes the accident leaves the scene of the accident in
3.2 violation of section 169.09, subdivision 1 or 6.

3.3 **Subd. 2. Resulting in great bodily harm.** A person is guilty of criminal vehicular
3.4 operation resulting in great bodily harm and may be sentenced to imprisonment for not
3.5 more than five years or to payment of a fine of not more than \$10,000, or both, if the
3.6 person causes great bodily harm to another, not constituting attempted murder or assault,
3.7 as a result of operating a motor vehicle:

3.8 (1) in a grossly negligent manner;

3.9 (2) in a negligent manner while under the influence of:

3.10 (i) alcohol;

3.11 (ii) a controlled substance; ~~or~~

3.12 (iii) a drug, when a person has one or more qualified prior impaired driving incidents
3.13 within the ten years immediately preceding the current offense; or

3.14 (iv) any combination of ~~those elements~~ alcohol, a controlled substance, or if
3.15 applicable, a drug;

3.16 (3) while having an alcohol concentration of 0.08 or more;

3.17 (4) while having an alcohol concentration of 0.08 or more, as measured within
3.18 two hours of the time of driving;

3.19 (5) in a negligent manner while knowingly under the influence of a hazardous
3.20 substance;

3.21 (6) in a negligent manner while any amount of a controlled substance listed in
3.22 schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols, is
3.23 present in the person's body; or

3.24 (7) where the driver who causes the accident leaves the scene of the accident in
3.25 violation of section 169.09, subdivision 1 or 6.

3.26 **Subd. 2a. Resulting in substantial bodily harm.** A person is guilty of criminal
3.27 vehicular operation resulting in substantial bodily harm and may be sentenced to
3.28 imprisonment of not more than three years or to payment of a fine of not more than
3.29 \$10,000, or both, if the person causes substantial bodily harm to another, as a result of
3.30 operating a motor vehicle;

3.31 (1) in a grossly negligent manner;

3.32 (2) in a negligent manner while under the influence of:

3.33 (i) alcohol;

3.34 (ii) a controlled substance; ~~or~~

3.35 (iii) a drug, when a person has one or more qualified prior impaired driving incidents
3.36 within the ten years immediately preceding the current offense; or

4.1 (iv) any combination of ~~those elements~~ alcohol, a controlled substance, or if
4.2 applicable, a drug;

4.3 (3) while having an alcohol concentration of 0.08 or more;

4.4 (4) while having an alcohol concentration of 0.08 or more, as measured within
4.5 two hours of the time of driving;

4.6 (5) in a negligent manner while knowingly under the influence of a hazardous
4.7 substance;

4.8 (6) in a negligent manner while any amount of a controlled substance listed in
4.9 schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols, is
4.10 present in the person's body; or

4.11 (7) where the driver who causes the accident leaves the scene of the accident in
4.12 violation of section 169.09, subdivision 1 or 6.

4.13 Subd. 2b. **Resulting in bodily harm.** A person is guilty of criminal vehicular
4.14 operation resulting in bodily harm and may be sentenced to imprisonment for not more
4.15 than one year or to payment of a fine of not more than \$3,000, or both, if the person causes
4.16 bodily harm to another, as a result of operating a motor vehicle:

4.17 (1) in a grossly negligent manner;

4.18 (2) in a negligent manner while under the influence of:

4.19 (i) alcohol;

4.20 (ii) a controlled substance; ~~or~~

4.21 (iii) a drug, when a person has one or more qualified prior impaired driving incidents
4.22 within the ten years immediately preceding the current offense; or

4.23 (iv) any combination of ~~those elements~~ alcohol, a controlled substance, or if
4.24 applicable, a drug;

4.25 (3) while having an alcohol concentration of 0.08 or more;

4.26 (4) while having an alcohol concentration of 0.08 or more, as measured within
4.27 two hours of the time of driving;

4.28 (5) in a negligent manner while knowingly under the influence of a hazardous
4.29 substance;

4.30 (6) in a negligent manner while any amount of a controlled substance listed in
4.31 schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols, is
4.32 present in the person's body; or

4.33 (7) where the driver who causes the accident leaves the scene of the accident in
4.34 violation of section 169.09, subdivision 1 or 6.

4.35 Subd. 3. **Resulting in death to an unborn child.** A person is guilty of criminal
4.36 vehicular operation resulting in death to an unborn child and may be sentenced to

5.1 imprisonment for not more than ten years or to payment of a fine of not more than
5.2 \$20,000, or both, if the person causes the death of an unborn child as a result of operating
5.3 a motor vehicle:

5.4 (1) in a grossly negligent manner;

5.5 (2) in a negligent manner while under the influence of:

5.6 (i) alcohol;

5.7 (ii) a controlled substance; ~~or~~

5.8 (iii) a drug, when a person has one or more qualified prior impaired driving incidents
5.9 within the ten years immediately preceding the current offense; or

5.10 (iv) any combination of ~~those elements~~ alcohol, a controlled substance, or if
5.11 applicable, a drug;

5.12 (3) while having an alcohol concentration of 0.08 or more;

5.13 (4) while having an alcohol concentration of 0.08 or more, as measured within
5.14 two hours of the time of driving;

5.15 (5) in a negligent manner while knowingly under the influence of a hazardous
5.16 substance;

5.17 (6) in a negligent manner while any amount of a controlled substance listed in
5.18 schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols, is
5.19 present in the person's body; or

5.20 (7) where the driver who causes the accident leaves the scene of the accident in
5.21 violation of section 169.09, subdivision 1 or 6.

5.22 A prosecution for or conviction of a crime under this subdivision is not a bar to
5.23 conviction of or punishment for any other crime committed by the defendant as part of
5.24 the same conduct.

5.25 **Subd. 4. Resulting in injury to unborn child.** A person is guilty of criminal
5.26 vehicular operation resulting in injury to an unborn child and may be sentenced to
5.27 imprisonment for not more than five years or to payment of a fine of not more than
5.28 \$10,000, or both, if the person causes great bodily harm to an unborn child who is
5.29 subsequently born alive, as a result of operating a motor vehicle:

5.30 (1) in a grossly negligent manner;

5.31 (2) in a negligent manner while under the influence of:

5.32 (i) alcohol;

5.33 (ii) a controlled substance; ~~or~~

5.34 (iii) a drug, when a person has one or more qualified prior impaired driving incidents
5.35 within the ten years immediately preceding the current offense; or

6.1 (iv) any combination of ~~those elements~~ alcohol, a controlled substance, or if
6.2 applicable, a drug;

6.3 (3) while having an alcohol concentration of 0.08 or more;

6.4 (4) while having an alcohol concentration of 0.08 or more, as measured within
6.5 two hours of the time of driving;

6.6 (5) in a negligent manner while knowingly under the influence of a hazardous
6.7 substance;

6.8 (6) in a negligent manner while any amount of a controlled substance listed in
6.9 schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols, is
6.10 present in the person's body; or

6.11 (7) where the driver who causes the accident leaves the scene of the accident in
6.12 violation of section 169.09, subdivision 1 or 6.

6.13 A prosecution for or conviction of a crime under this subdivision is not a bar to
6.14 conviction of or punishment for any other crime committed by the defendant as part of
6.15 the same conduct.

6.16 Subd. 4a. **Affirmative defense.** It shall be an affirmative defense to a charge under
6.17 subdivision 1, clause (6); 2, clause (6); 2a, clause (6); 2b, clause (6); 3, clause (6); or 4,
6.18 clause (6), that the defendant used the controlled substance according to the terms of a
6.19 prescription issued for the defendant in accordance with sections 152.11 and 152.12.

6.20 Subd. 5. **Definitions.** For purposes of this section, the terms defined in this
6.21 subdivision have the meanings given them.

6.22 (a) "Motor vehicle" has the meaning given in section 609.52, subdivision 1.

6.23 (b) "Controlled substance" has the meaning given in section 152.01, subdivision 4.

6.24 (c) "Hazardous substance" means any chemical or chemical compound that is listed
6.25 as a hazardous substance in rules adopted under chapter 182.

6.26 (d) "Metabolite" has the meaning given in section 169A.03, subdivision 11a.

6.27 (e) "Drug" has the meaning given in section 169A.03, subdivision 7a.

6.28 (f) "Qualified prior impaired driving incident" has the meaning given in section
6.29 169A.03, subdivision 22.

6.30 **EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes
6.31 committed on or after that date."

6.32 Renumber the sections in sequence and correct the internal references

6.33 Amend the title accordingly

Senators Bakk and Foley introduced—

S.F. No. 2615: Referred to the Committee on Crime Prevention and Public Safety.

A bill for an act

relating to corrections; requiring state and local jail and prison inmates to be housed in publicly owned and operated jails and prisons; prohibiting the state and counties from contracting with private prisons; authorizing the purchase of the Prairie Correctional Facility; amending Minnesota Statutes 2004, section 241.01, subdivision 3a; proposing coding for new law in Minnesota Statutes, chapter 641.

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

Section 1. Minnesota Statutes 2004, section 241.01, subdivision 3a, is amended to read:

Subd. 3a. **Commissioner, powers and duties.** The commissioner of corrections has the following powers and duties:

(a) To accept persons committed to the commissioner by the courts of this state for care, custody, and rehabilitation.

(b) To determine the place of confinement of committed persons in a correctional facility or other facility of the Department of Corrections and to prescribe reasonable conditions and rules for their employment, conduct, instruction, and discipline within or outside the facility. After August 1, 2007, the commissioner shall not allow inmates to be housed in facilities that are not owned and operated by the state, a local unit of government, or a group of local units of government. Inmates shall not exercise custodial functions or have authority over other inmates. Inmates may serve on the board of directors or hold an executive position subordinate to correctional staff in any corporation, private industry or educational program located on the grounds of, or conducted within, a state correctional facility with written permission from the chief executive officer of the facility.

(c) To administer the money and property of the department.

(d) To administer, maintain, and inspect all state correctional facilities.

2.1 (e) To transfer authorized positions and personnel between state correctional
2.2 facilities as necessary to properly staff facilities and programs.

2.3 (f) To utilize state correctional facilities in the manner deemed to be most efficient
2.4 and beneficial to accomplish the purposes of this section, but not to close the Minnesota
2.5 Correctional Facility-Stillwater or the Minnesota Correctional Facility-St. Cloud without
2.6 legislative approval. The commissioner may place juveniles and adults at the same
2.7 state minimum security correctional facilities, if there is total separation of and no
2.8 regular contact between juveniles and adults, except contact incidental to admission,
2.9 classification, and mental and physical health care.

2.10 (g) To organize the department and employ personnel the commissioner deems
2.11 necessary to discharge the functions of the department, including a chief executive officer
2.12 for each facility under the commissioner's control who shall serve in the unclassified civil
2.13 service and may, under the provisions of section 43A.33, be removed only for cause.

2.14 (h) To define the duties of these employees and to delegate to them any of the
2.15 commissioner's powers, duties and responsibilities, subject to the commissioner's control
2.16 and the conditions the commissioner prescribes.

2.17 (i) To annually develop a comprehensive set of goals and objectives designed to
2.18 clearly establish the priorities of the Department of Corrections. This report shall be
2.19 submitted to the governor commencing January 1, 1976. The commissioner may establish
2.20 ad hoc advisory committees.

2.21 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.22 **Sec. 2. [641.015] PLACEMENT IN PRIVATE PRISONS PROHIBITED.**

2.23 **Subdivision 1. Placement prohibited.** After August 1, 2007, a sheriff shall not
2.24 allow inmates committed to the custody of the sheriff to be housed in facilities that are not
2.25 owned and operated by a local unit of government, or a group of local units of government.

2.26 **Subd. 2. Contracts prohibited.** The county board may not authorize the sheriff to
2.27 contract with privately owned and operated prisons for the care, custody, and rehabilitation
2.28 of offenders committed to the custody of the sheriff.

2.29 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.30 **Sec. 3. PURCHASE OF PRAIRIE CORRECTIONAL FACILITY.**

2.31 The commissioner of administration, in consultation with the commissioner of
2.32 corrections, shall enter into negotiations with Corrections Corporation of America for
2.33 the purchase of the Prairie Correctional Facility located in Appleton, Minnesota. The

3.1 governor shall include in his capital budget recommendations presented to the 2007
3.2 legislature a recommendation on whether to purchase the Prairie Correctional Facility
and, if so, at what price.

3.4 **EFFECTIVE DATE.** This section is effective the day following final enactment.