

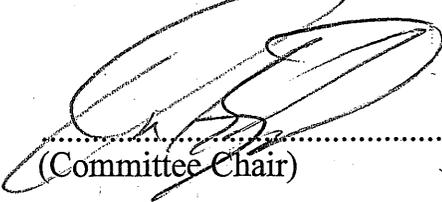
1.1 **Senator Betzold from the Committee on Judiciary, to which was re-referred**

1.2 **S.F. No. 2575:** A bill for an act relating to public safety; regulating international
1.3 marriage brokers; proposing coding for new law in Minnesota Statutes, chapter 325E.

1.4 Reports the same back with the recommendation that the bill be amended as follows:

1.5 Page 3, line 2, delete "shall refrain from providing any further" and insert "must not
1.6 provide"

1.7 And when so amended the bill do pass. Amendments adopted. Report adopted.

1.8 
1.9 (Committee Chair)

1.10 March 16, 2006
1.11 (Date of Committee recommendation)

1.1 A bill for an act
1.2 relating to public safety; regulating international marriage brokers; proposing
1.3 coding for new law in Minnesota Statutes, chapter 325E.

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

1.5 Section 1. [325E.65] INTERNATIONAL MARRIAGE BROKERS.

1.6 Subdivision 1. Definitions. (a) For purposes of this section, the terms defined in this
1.7 subdivision have the meanings given them.

1.8 (b) "Basic rights information" means information about human rights, immigration,
1.9 and emergency assistance and resources and victim rights under Minnesota law with
1.10 regard to domestic violence, as prepared under subdivision 2.

1.11 (c) "Client" means a person who is a resident of this state who contracts with an
1.12 international marriage broker to meet recruits.

1.13 (d) "Criminal history information" means a criminal background check obtained
1.14 from the Bureau of Criminal Apprehension, including information in its possession and a
1.15 search of the National Criminal Records Repository using a set of classifiable fingerprints
1.16 provided by the client to a law enforcement agency.

1.17 (e) "International marriage broker" means any person, corporation, partnership, sole
1.18 proprietorship, or other legal entity that does business in this state and that, for a fee, offers
1.19 to Minnesota residents dating, matrimonial, or social referral services involving recruits
1.20 by doing any of the following in Minnesota, including through use of the Internet:

1.21 (1) exchanging names, telephone numbers, addresses, or statistics;

1.22 (2) selecting photographs; and

1.23 (3) providing a social environment for introducing clients to recruits in a country
1.24 other than the United States.

2.1 (f) "Marital history information" means a signed written statement by a person of
2.2 the person's current marital status, the number of times the person has been married,
2.3 how each previous marriage ended, and whether the person has previously sponsored a
2.4 foreign national to whom the person has been engaged or married. The statement must be
2.5 signed by the person under penalty of perjury.

2.6 (g) "Recruit" means a person who is not a citizen or resident of the United States
2.7 and who is recruited by an international marriage broker for the purpose of providing
2.8 dating, matrimonial, or social referral services.

2.9 Subd. 2. Preparation of basic rights information. (a) The commissioner of public
2.10 safety shall have available pamphlets in appropriate languages providing the basic rights
2.11 information defined in subdivision 1, paragraph (b).

2.12 (b) The commissioner shall consult with:

2.13 (1) the Minnesota Department of Human Rights;

2.14 (2) a statewide organization that provides civil legal services to women and children;

2.15 (3) a statewide human rights and social justice advocacy organization;

2.16 (4) the statewide coalition against domestic violence;

2.17 (5) the statewide coalition against sexual assault;

2.18 (6) a statewide organization that serves the needs of immigrant and refugee women
2.19 and children from diverse ethnic communities; and

2.20 (7) the state immigrant and refugee coalition.

2.21 Subd. 3. Release of recruit contact information; consent required. Prior to the
2.22 release of any contact information of a recruit, an international marriage broker shall first
2.23 obtain the recruit's consent to the release of that information.

2.24 Subd. 4. Information required. (a) Prior to any application by a client for a foreign
2.25 fiancé or fiancée visa for a recruit, the international marriage broker shall obtain:

2.26 (1) basic rights information;

2.27 (2) criminal history information regarding the client; and

2.28 (3) marital history information regarding the client.

2.29 (b) The international marriage broker shall obtain the criminal history information
2.30 directly from the Department of Public Safety.

2.31 Subd. 5. Information provided to recruit. (a) An international marriage broker
2.32 shall provide the recruit with the information required to be collected under subdivision 4.

2.33 (b) The information in paragraph (a) must be provided in the recruit's native
2.34 language and displayed in a manner that conforms with the following:

2.35 (1) separates the criminal history information, the marital history information, and
2.36 the basic rights information from any other information; and

3.1 (2) is easily accessible and highly visible.

3.2 (c) An international marriage broker shall refrain from providing any further
3 services to the recruit or client until the broker has obtained and provided the recruit the
3.4 information described in paragraphs (a) and (b).

3.5 Subd. 6. Out-of-state business entity or assumed name filing required. An
3.6 international marriage broker shall comply with section 303.03, 322B.883, 323A.1102, or
3.7 333.02, whichever applies, with regard to filing the appropriate documents in the office of
3.8 the Secretary of State, prior to doing business in the state.

3.9 Subd. 7. Retention of records. An international marriage broker shall retain
3.10 records showing compliance with this section and shall promptly provide access to those
3.11 records to the attorney general or to a county attorney of a county in which a client lives,
3.12 upon request.

3.13 Subd. 8. Jurisdiction. An international marriage broker is deemed to be doing
3.14 business in this state if it contracts for services with a state resident or is considered to be
3.15 doing business in the state under any other law of the state.

3.16 Subd. 9. Enforcement. (a) An international marriage broker that violates this
3.17 section is subject to a civil penalty not to exceed \$20,000 for each violation.

3.18 (b) The attorney general or the appropriate county attorney may bring an action
3.19 under this section in the name of the state in a district court of a county in which any part
3.20 of the violation occurs. A penalty collected under this section by the attorney general or a
3.21 county attorney must be distributed in the same manner as proceeds of forfeiture under
3.22 section 609.5315, subdivision 5b.

3.23 EFFECTIVE DATE. This section is effective August 1, 2006, except that
3.24 subdivision 2 is effective the day following final enactment.

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

G-17 STATE CAPITOL
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Senate

State of Minnesota

S.F. No. 2995 - Motor Vehicle Storage Liens

Author: Senator Ellen R. Anderson

Prepared by: Kathleen Pontius, Senate Counsel (651/296-4394) 

Date: March 15, 2006

This bill amends the statute establishing a lien and right of detainer for storing property. If the property is a motor vehicle registered in this state and subject to a certificate of title and one or more secured creditors is listed on the title, a lien for a period greater than five days accrues only after written notice is sent by registered mail to all secured creditors. The notice must state the name, address, and telephone number of the lienholder, the amount of money owed, and the rate at which storage charges are accruing. This notice may fulfill the notice obligation for secured creditors required under **section 514.20** (the statute authorizing sale of property if a lien is not paid within 90 days after it becomes due).

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Senators Anderson and Senjem introduced—

S.F. No. 2995: Referred to the Committee on Judiciary.

A bill for an act
relating to liens; regulating liens for storage charges on certain motor vehicles;
amending Minnesota Statutes 2004, section 514.19.

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

Section 1. Minnesota Statutes 2004, section 514.19, is amended to read:

514.19 RIGHT OF DETAINER.

A lien and right of detainer exists for:

(1) transporting property, other than harvested crops or livestock, from one place to another but not as a carrier under article 7 of the Uniform Commercial Code;

(2) keeping or storing property, other than harvested crops or livestock, as a bailee but not as a warehouse operator under article 7 of the Uniform Commercial Code;

(3) the use and storage of molds and patterns in the possession of the fabricator belonging to the customer for the balance due from the customer for fabrication work;

(4) making, altering or repairing any article, other than livestock, or expending any labor, skill or material on it;

(5) reasonable charges for a vehicle rented as a replacement for a vehicle serviced or repaired and being retained as provided by this section.

The liens embrace all lawful charges against the property paid to any other person by the person claiming the lien, and the price or value of the care, storage or contribution and all reasonable disbursements occasioned by the detention or sale of the property.

If the property subject to the lien is a motor vehicle registered in this state and subject to a certificate of title and one or more secured creditors is listed on the certificate of title, a lien for storage charges for a period greater than five days accrues only after written notice is sent by registered mail to all listed secured creditors. The notice must

- 2.1 state the name, address, and telephone number of the lienholder, the amount of money
- 2.2 owed, and the rate at which storage charges are accruing. The notice provided in this
- 2.3 section may fulfill the notice obligation to secured creditors provided in section 514.20.

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

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State of Minnesota

S.F. No. 2575 - International Marriage Brokers

Author: Senator Sandra L. Pappas

Prepared by: Matthew S. Grosser, Senate Research (651/296-1890)

Date: March 9, 2006

The bill proposes a new section in consumer protection law regulating international marriage brokers.

Subdivision 1 provides definitions.

Subdivision 2 requires the Commissioner of Public Safety, in consultation with others, to prepare a form providing information on "basic rights," including human rights, immigration and emergency assistance and resources, and victim rights under Minnesota law with regard to domestic violence.

Subdivision 3 requires international marriage brokers to obtain consent prior to the release of any individual contact information.

Subdivision 4 requires international marriage brokers to obtain basic rights information, and criminal and marital history information regarding a client, prior to applying for a foreign fiancé or fiancée visa.

Subdivision 5 requires international marriage brokers to provide the information required in subdivision 4 to the recruit in their native language.

Subdivision 6 requires international marriage brokers to comply with out-of-state business entity and assumed name filing requirements in Minnesota statutes.

Subdivision 7 requires international marriage brokers to retain records showing compliance with this section.

Subdivision 8 deems an international marriage broker to be doing business in the state if it contracts for service with a state resident.

Subdivision 9 permits the Attorney General or appropriate county attorney to bring enforcement action with penalties up to \$20,000 for violations of this section.

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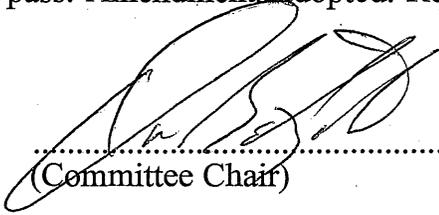
1.1 **Senator Betzold from the Committee on Judiciary, to which was referred**

1.2 **S.F. No. 3105:** A bill for an act relating to county recorders; modifying standards
1.3 for documents; modifying registration fees and provisions; amending Minnesota Statutes
1.4 2004, sections 508.75; 508A.11, subdivision 3; Minnesota Statutes 2005 Supplement,
1.5 sections 507.093; 508.82, subdivision 1; 508A.82, subdivision 1; repealing Minnesota
1.6 Statutes 2004, section 508.74.

1.7 Reports the same back with the recommendation that the bill be amended as follows:

1.8 Page 1, line 18, before "one-half" insert "at least"

1.9 And when so amended the bill do pass. Amendments adopted. Report adopted.

1.10 
1.11
(Committee Chair)

1.12 *March 16 2006*
1.13
(Date of Committee recommendation)

Senator Murphy introduced—

S.F. No. 3105: Referred to the Committee on State and Judiciary

A bill for an act

relating to county recorders; modifying standards for documents; modifying registration fees and provisions; amending Minnesota Statutes 2004, sections 508.75; 508A.11, subdivision 3; Minnesota Statutes 2005 Supplement, sections 507.093; 508.82, subdivision 1; 508A.82, subdivision 1; repealing Minnesota Statutes 2004, section 508.74.

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

Section 1. Minnesota Statutes 2005 Supplement, section 507.093, is amended to read:

507.093 STANDARDS FOR DOCUMENTS TO BE RECORDED OR FILED.

~~(a)~~ The following standards are imposed on documents to be recorded with the county recorder or ~~filed with~~ the registrar of titles:

(1) The document shall consist of one or more individual sheets measuring no larger than 8.5 inches by 14 inches.

(2) The form of the document shall be printed, typewritten, or computer generated in black ink and the form of the document shall not be smaller than 8-point type.

(3) The document shall be on white paper of not less than 20-pound weight with no background color, ~~or images, or writing~~ and, except for the first page, shall have a clear border of ~~approximately~~ one-half inch on the top, bottom, and each side.

(4) The first page of the document shall contain a blank space at the top measuring three inches, as measured from the top of the page, and a border of one-half inch on each side and the bottom. ~~The right half to be used by the county recorder of the blank space shall be reserved for recording information or registrar of titles for filing information and the left half to be used by the county auditor or treasurer shall be reserved for tax certification.~~ Any person may attach an administrative page before the first page of the document to accommodate this standard. The administrative page may contain the

2.1 document title, document date, and, if applicable, the grantor and grantee, and shall be
 2.2 deemed part of the document when recorded.

2.3 (5) The title of the document shall be prominently displayed at the top of the first
 2.4 page below the blank space referred to in clause (4), or on the administrative page.

2.5 (6) No additional sheet shall be attached or affixed to a page that covers up any
 2.6 information or printed part of the form.

2.7 (7) A document presented for recording ~~or filing~~ must be sufficiently legible to
 2.8 reproduce a readable copy using the county recorder's or registrar of title's current method
 2.9 of reproduction.

2.10 ~~(b) The standards in paragraph (a) do not apply to a document that is recorded~~
 2.11 ~~or filed as part of a pilot project for the electronic filing of real estate documents~~
 2.12 ~~implemented by the task force created in Laws 2000, chapter 391, and continued by~~
 2.13 ~~standards established by the Electronic Real Estate Recording Task Force created under~~
 2.14 ~~section 507.094. A county that participated in the pilot project for the electronic filing~~
 2.15 ~~of real estate documents under the task force created in Laws 2000, chapter 391, may~~
 2.16 ~~continue to record or file documents electronically, if:~~

2.17 ~~(1) the county complies with standards adopted by that task force; and~~

2.18 ~~(2) the county uses software that was validated by that task force.~~

2.19 ~~(c) A county that did not participate in the pilot project may record or file a real~~
 2.20 ~~estate document electronically, if:~~

2.21 ~~(i) the document to be recorded or filed is of a type included in the pilot project~~
 2.22 ~~for the electronic filing of real estate documents under the task force created in Laws~~
 2.23 ~~2000, chapter 391;~~

2.24 ~~(ii) the county complies with the standards adopted by the task force;~~

2.25 ~~(iii) the county uses software that was validated by the task force; and~~

2.26 ~~(iv) the task force created under section 507.094 votes to accept a written~~

2.27 ~~certification of compliance with paragraph (b), clause (2), of this section by the county~~
 2.28 ~~board and county recorder of the county to implement electronic filing under this section.~~

2.29 Sec. 2. Minnesota Statutes 2004, section 508.75, is amended to read:

2.30 **508.75 INVESTMENT.**

2.31 All money received by the registrar under the provisions of sections ~~508.74 and~~
 2.32 508.82 and 508A.82, clause (1), shall be paid quarterly by the registrar or the county
 2.33 treasurer to the commissioner of finance and placed in the general fund. There is annually
 2.34 appropriated to the commissioner of finance from the general fund sums sufficient to pay
 2.35 claims ordered by a district court under sections 508.77 and 508A.77.

3.1 Sec. 3. Minnesota Statutes 2005 Supplement, section 508.82, subdivision 1, is
3.2 amended to read:

3.3 Subdivision 1. **Standard documents.** The fees to be charged by the registrar of
3.4 titles shall be and not exceed the following:

3.5 (1) of the fees provided herein, \$1.50 of the fees collected under clauses (2), (3), (4),
3.6 (11), (13), (15), (17), and (18) for filing or memorializing shall be paid to the state treasury
3.7 pursuant to section 508.75 and credited to the general fund;

3.8 (2) for registering a first certificate of title, including issuing a copy of it, \$46.

3.9 Pursuant to clause (1), distribution of this fee is as follows:

3.10 (i) \$10.50 shall be paid to the state treasury and credited to the general fund;

3.11 (ii) \$10 shall be deposited in the technology fund pursuant to section 357.18,

3.12 subdivision 3; and

3.13 (iii) \$25.50 shall be deposited in the county general fund;

3.14 (3) for registering each instrument transferring the fee simple title for which a new
3.15 certificate of title is issued and for the registration of the new certificate of title, including
3.16 a copy of it, \$46. Pursuant to clause (1), distribution of this fee is as follows:

3.17 (i) \$12 shall be paid to the state treasury and credited to the general fund;

3.18 (ii) \$10 shall be deposited in the technology fund pursuant to section 357.18,

3.19 subdivision 3; and

3.20 (iii) \$24 shall be deposited in the county general fund;

3.21 (4) for the entry of each memorial on a certificate, \$46. For multiple certificate
3.22 entries, \$20 thereafter. Pursuant to clause (1), distribution of this fee is as follows:

3.23 (i) \$12 shall be paid to the state treasury and credited to the general fund;

3.24 (ii) \$10 shall be deposited in the technology fund pursuant to section 357.18,

3.25 subdivision 3;

3.26 (iii) \$24 shall be deposited in the county general fund; and

3.27 (iv) \$20 shall be deposited in the county general fund for each multiple entry used;

3.28 (5) for issuing each residue certificate and each additional new certificate, \$40;

3.29 (6) for exchange certificates, \$20 for each certificate canceled and \$20 for each
3.30 new certificate issued;

3.31 (7) for each certificate showing condition of the register, \$50;

3.32 (8) for any certified copy of any instrument or writing on file or recorded in the
3.33 registrar of titles' office, \$10;

3.34 (9) for a noncertified copy of any certificate of title, other than the copies issued
3.35 under clauses (2) and (3), any instrument or writing on file or recorded in the office of
3.36 the registrar of titles, or any specified page or part of it, an amount as determined by the

4.1 county board for each page or fraction of a page specified. If computer or microfilm
4.2 printers are used to reproduce the instrument or writing, a like amount per image;

4.3 (10) for a noncertified copy of any document submitted for recording, if the original
4.4 document is accompanied by a copy or duplicate original, \$2. Upon receipt of the copy
4.5 or duplicate original and payment of the fee, a registrar of titles shall return it marked
4.6 "copy" or "duplicate," showing the recording date and, if available, the document number
4.7 assigned to the original;

4.8 (11) for filing two copies of any plat in the office of the registrar, \$56. Pursuant to
4.9 clause (1), distribution of this fee is as follows:

4.10 (i) \$12 shall be paid to the state treasury and credited to the general fund;

4.11 (ii) \$10 shall be deposited in the technology fund pursuant to section 357.18,
4.12 subdivision 3; and

4.13 (iii) \$34 shall be deposited in the county general fund;

4.14 (12) for any other service under this chapter, such fee as the court shall determine;

4.15 (13) for filing an amendment to a declaration in accordance with chapter 515, \$46
4.16 for each certificate upon which the document is registered and for multiple certificate
4.17 entries, \$20 thereafter; \$56 for an amended floor plan filed in accordance with chapter
4.18 515. Pursuant to clause (1), distribution of this fee is as follows:

4.19 (i) \$12 shall be paid to the state treasury and credited to the general fund;

4.20 (ii) \$10 shall be deposited in the technology fund pursuant to section 357.18,
4.21 subdivision 3;

4.22 (iii) \$24 shall be deposited in the county general fund for amendment to a declaration;

4.23 (iv) \$20 shall be deposited in the county general fund for each multiple entry
4.24 used; and

4.25 (v) \$34 shall be deposited in the county general fund for an amended floor plan;

4.26 (14) for issuance of a CECT pursuant to section 508.351, \$40;

4.27 (15) for filing an amendment to a common interest community declaration, including
4.28 a supplemental declaration, and plat or amendment complying with section 515B.2-110,
4.29 subsection (c), \$46 for each certificate upon which the document is registered and for
4.30 multiple certificate entries, \$20 thereafter and \$56 for the filing of the condominium or
4.31 common interest community plat or amendment. See section 515B.1-116 for special
4.32 requirement relating to a common interest community. Pursuant to clause (1), distribution
4.33 of this fee is as follows:

4.34 (i) \$12 shall be paid to the state treasury and credited to the general fund;

4.35 (ii) \$10 shall be deposited in the technology fund pursuant to section 357.18,
4.36 subdivision 3;

5.1 (iii) \$24 shall be deposited in the county general fund for the filing of an amendment
 5.2 complying with section 515B.2-110, subsection (c);

5.3 (iv) \$20 shall be deposited in the county general fund for each multiple entry
 5.4 used; and

5.5 (v) \$34 shall be deposited in the county general fund for the filing of a condominium
 5.6 or CIC plat or amendment;

5.7 (16) for a copy of a condominium floor plan filed in accordance with chapter 515,
 5.8 or a copy of a common interest community plat complying with section 515B.2-110,
 5.9 subsection (c), the fee shall be \$1 for each page of the floor plan or common interest
 5.10 community plat with a minimum fee of \$10;

5.11 (17) for the filing of a certified copy of a plat of the survey pursuant to section
 5.12 508.23 or 508.671, \$46. Pursuant to clause (1), distribution of this fee is as follows:

5.13 (i) \$12 shall be paid to the state treasury and credited to the general fund;

5.14 (ii) \$10 shall be deposited in the technology fund pursuant to section 357.18,
 5.15 subdivision 3; and

5.16 (iii) \$24 shall be deposited in the county general fund;

5.17 (18) for filing a registered land survey in triplicate in accordance with section
 5.18 508.47, subdivision 4, \$56. Pursuant to clause (1), distribution of this fee is as follows:

5.19 (i) \$12 shall be paid to the state treasury and credited to the general fund;

5.20 (ii) \$10 shall be deposited in the technology fund pursuant to section 357.18,
 5.21 subdivision 3; and

5.22 (iii) \$34 shall be deposited in the county general fund; and

5.23 (19) for furnishing a certified copy of a registered land survey in accordance with
 section 508.47, subdivision 4, \$15.

5.25 Sec. 4. Minnesota Statutes 2004, section 508A.11, subdivision 3, is amended to read:

5.26 Subd. 3. Fees. Before the examiner of titles examines the abstract of title, the
 5.27 applicant shall pay to the registrar of titles the fee provided by section 508A.82, clause
 5.28 ~~(15)~~ (18).

5.29 Sec. 5. Minnesota Statutes 2005 Supplement, section 508A.82, subdivision 1, is
 5.30 amended to read:

5.31 Subdivision 1. **Standard documents.** The fees to be charged by the registrar of
 titles shall be and not exceed the following:

- 6.1 (1) of the fees provided herein, \$1.50 of the fees collected under clauses (2), (3),
6.2 (5), (12), (14), (16), and (19) for filing or memorializing shall be paid to the state treasury
6.3 pursuant to section 508.75 and credited to the general fund;
- 6.4 (2) for registering a first CPT, including issuing a copy of it, \$46. Pursuant to clause
6.5 (1), distribution of the fee is as follows:
- 6.6 (i) \$10.50 shall be paid to the state treasury and credited to the general fund;
- 6.7 (ii) \$10 shall be deposited in the technology fund pursuant to section 357.18,
6.8 subdivision 3; and
- 6.9 (iii) \$25.50 shall be deposited in the county general fund;
- 6.10 (3) for registering each instrument transferring the fee simple title for which a
6.11 new CPT is issued and for the registration of the new CPT, including a copy of it, \$46.
6.12 Pursuant to clause (1), distribution of the fee is as follows:
- 6.13 (i) \$12 shall be paid to the state treasury and credited to the general fund;
- 6.14 (ii) \$10 shall be deposited in the technology fund pursuant to section 357.18,
6.15 subdivision 3; and
- 6.16 (iii) \$24 shall be deposited in the county general fund;
- 6.17 (4) for issuance of a CECT pursuant to section 508A.351, ~~\$15~~ \$40;
- 6.18 (5) for the entry of each memorial on a CPT, \$46; for multiple certificate entries, \$20
6.19 thereafter. Pursuant to clause (1), distribution of the fee is as follows:
- 6.20 (i) \$12 shall be paid to the state treasury and credited to the general fund;
- 6.21 (ii) \$10 shall be deposited in the technology fund pursuant to section 357.18,
6.22 subdivision 3;
- 6.23 (iii) \$24 shall be deposited in the county general fund; and
- 6.24 (iv) \$20 shall be deposited in the county general fund for each multiple entry used;
- 6.25 (6) for issuing each residue CPT, \$40;
- 6.26 (7) for exchange CPTs or combined certificates of title, \$20 for each CPT and
6.27 certificate of title canceled and \$20 for each new CPT or combined certificate of title
6.28 issued;
- 6.29 (8) for each CPT showing condition of the register, \$50;
- 6.30 (9) for any certified copy of any instrument or writing on file or recorded in the
6.31 registrar of titles' office, \$10;
- 6.32 (10) for a noncertified copy of any CPT, other than the copies issued under clauses
6.33 (2) and (3), any instrument or writing on file or recorded in the office of the registrar of
6.34 titles, or any specified page or part of it, an amount as determined by the county board for
6.35 each page or fraction of a page specified. If computer or microfilm printers are used to
6.36 reproduce the instrument or writing, a like amount per image;

7.1 (11) for a noncertified copy of any document submitted for recording, if the original
7.2 document is accompanied by a copy or duplicate original, \$2. Upon receipt of the copy
7.3 or duplicate original and payment of the fee, a registrar of titles shall return it marked
7.4 "copy" or "duplicate," showing the recording date and, if available, the document number
7.5 assigned to the original;

7.6 (12) for filing two copies of any plat in the office of the registrar, \$56. Pursuant to
7.7 clause (1), distribution of the fee is as follows:

7.8 (i) \$12 shall be paid to the state treasury and credited to the general fund;

7.9 (ii) \$10 shall be deposited in the technology fund pursuant to section 357.18,
7.10 subdivision 3; and

7.11 (iii) \$34 shall be deposited in the county general fund;

7.12 (13) for any other service under sections 508A.01 to 508A.85, the fee the court
7.13 shall determine;

7.14 (14) for filing an amendment to a declaration in accordance with chapter 515, \$46
7.15 for each certificate upon which the document is registered and for multiple certificate
7.16 entries, \$20 thereafter; \$56 for an amended floor plan filed in accordance with chapter
7.17 515. Pursuant to clause (1), distribution of the fee is as follows:

7.18 (i) \$12 shall be paid to the state treasury and credited to the general fund;

7.19 (ii) \$10 shall be deposited in the technology fund pursuant to section 357.18,
7.20 subdivision 3;

7.21 (iii) \$24 shall be deposited in the county general fund for amendment to a declaration;

7.22 (iv) \$20 shall be deposited in the county general fund for each multiple entry
7.23 used; and

(v) \$34 shall be deposited in the county general fund for an amended floor plan;

7.25 (15) for issuance of a CECT pursuant to section 508.351, \$40;

7.26 (16) for filing an amendment to a common interest community declaration, including
7.27 a supplemental declaration, and plat or amendment complying with section 515B.2-110,
7.28 subsection (c), and issuing a CECT if required, \$46 for each certificate upon which the
7.29 document is registered and for multiple certificate entries, \$20 thereafter; \$56 for the filing
7.30 of the condominium or common interest community plat or amendment. See section
7.31 515B.1-116 for special requirement relating to a common interest community. Pursuant to
7.32 clause (1), distribution of the fee is as follows:

7.33 (i) \$12 shall be paid to the state treasury and credited to the general fund;

7.34 (ii) \$10 shall be deposited in the technology fund pursuant to section 357.18,
7.35 subdivision 3;

8.1 (iii) \$24 shall be deposited in the county general fund for the filing of an amendment
8.2 complying with section 515B.2-110, subsection (c);

8.3 (iv) \$20 shall be deposited in the county general fund for each multiple entry
8.4 used; and

8.5 (v) \$34 shall be deposited in the county general fund for the filing of a condominium
8.6 or CIC plat or amendment;

8.7 (17) for a copy of a condominium floor plan filed in accordance with chapter 515,
8.8 or a copy of a common interest community plat complying with section 515B.2-110,
8.9 subsection (c), the fee shall be \$1 for each page of the floor plan, or common interest
8.10 community plat with a minimum fee of \$10;

8.11 (18) in counties in which the compensation of the examiner of titles is paid in
8.12 the same manner as the compensation of other county employees, for each parcel of
8.13 land contained in the application for a CPT, as the number of parcels is determined by
8.14 the examiner, a fee which is reasonable and which reflects the actual cost to the county,
8.15 established by the board of county commissioners of the county in which the land is
8.16 located;

8.17 (19) for filing a registered land survey in triplicate in accordance with section
8.18 508A.47, subdivision 4, \$56. Pursuant to clause (1), distribution of the fee is as follows:

8.19 (i) \$12 shall be paid to the state treasury and credited to the general fund;

8.20 (ii) \$10 shall be deposited in the technology fund pursuant to section 357.18,
8.21 subdivision 3; and

8.22 (iii) \$34 shall be deposited in the county general fund; and

8.23 (20) for furnishing a certified copy of a registered land survey in accordance with
8.24 section 508A.47, subdivision 4, \$15.

8.25 **Sec. 6. REPEALER.**

8.26 Minnesota Statutes 2004, section 508.74, is repealed.

APPENDIX
Repealed Minnesota Statutes: 06-6376

508.74 CHARGES ON REGISTRATION.

Subdivision 1. **Original registration.** Upon the original registration of fee title to land there shall be paid to the registrar 1/15 of one percent of the estimated market value of the land, exclusive of improvements, as determined by the last official assessment for general taxation, or \$5, whichever is the greater.

Subd. 2. **Second, Fourth Districts.** In the Second and Fourth Judicial Districts the required fee shall be one-tenth of one percent of one-third of the estimated market value of the land, exclusive of improvements, or \$1, whichever is the greater.

Subd. 3. **First certificate, \$2.** For the issuance and registration of the first certificate of title there shall be paid to the registrar the sum of \$2, in addition to any other sum prescribed by law.

Subd. 4. **Easement, \$5.** Upon the original registration of an appurtenant easement over unregistered land there shall be paid to the registrar the sum of \$5.

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

G-17 STATE CAPITOL
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Senate

State of Minnesota

S.F. No. 3105 - Real Property Recording

Author: Senator Steve Murphy

Prepared by: Kathleen Pontius, Senate Counsel (651/296-4394) *K.P.*

Date: March 15, 2006

Section 1 amends standards for documents to be recorded or filed with the county recorder. Border requirements for the first page of a document to be recorded are modified and clarified. An administrative page may be attached before the first page to accommodate the blank space standard necessary for recording information and tax certification. Language authorizing a deviation from these standards for documents that are recorded as part of the pilot project for the electronic filing of real estate documents implemented by the task force created in 2000 are stricken.

Section 2 strikes a cross-reference to a statute that is repealed in **section 6**, dealing with charges on registrations, and replaces it with a cross-reference to the current statute dealing with charges for registered property.

Section 3 modifies fee provisions for standard documents. \$1.50 of the fees collected under **clause (2)** would be placed in the state treasury and credited to the general fund. The \$40 fee for issuing each residue certificate would also apply to additional new certificates. Fees for common interest community declarations would include supplemental declarations and a cross-reference to special requirements for common interest communities is added.

Section 4 changes a cross-reference for fees collected by the examiner of titles for examining an abstract.

Section 5 makes changes in the statute dealing with fees for standard documents relating to registered property, consistent with the changes in **section 3**.

Section 6 repeals the current statute dealing with charges on registrations.

KP:cs

A bill for an act

relating to liens; regulating liens for storage charges on certain motor vehicles;
amending Minnesota Statutes 2004, section 514.19.

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

Liens, Labor, Material

Section 1. Minnesota Statutes 2004, section 514.19, is amended to read:

514.19 RIGHT OF DETAINER.

A lien and right of detainer exists for:

(1) transporting property, other than harvested crops or livestock, from one place to another but not as a carrier under article 7 of the Uniform Commercial Code;

(2) keeping or storing property, other than harvested crops or livestock, as a bailee but not as a warehouse operator under article 7 of the Uniform Commercial Code;

(3) the use and storage of molds and patterns in the possession of the fabricator belonging to the customer for the balance due from the customer for fabrication work;

(4) making, altering or repairing any article, other than livestock, or expending any labor, skill or material on it;

(5) reasonable charges for a vehicle rented as a replacement for a vehicle serviced or repaired and being retained as provided by this section.

The liens embrace all lawful charges against the property paid to any other person by the person claiming the lien, and the price or value of the care, storage or contribution and all reasonable disbursements occasioned by the detention or sale of the property.

If the property subject to the lien is a motor vehicle registered in this state and subject to a certificate of title and one or more secured creditors is listed on the certificate of title, a lien for storage charges for a period greater than five days accrues only after written notice is sent by registered mail to all listed secured creditors. The notice must

- 2.1 state the name, address, and telephone number of the lienholder, the amount of money
- 2.2 owed, and the rate at which storage charges are accruing. The notice provided in this
- 3 section may fulfill the notice obligation to secured creditors provided in section 514.20.

1.1 **Senator Betzold from the Committee on Judiciary, to which was referred**

1.2 **S.F. No. 3049:** A bill for an act relating to commerce; providing an expedited
1.3 process for the judicial review of financing statements; establishing civil and criminal
1.4 liability for fraudulent or otherwise improper financing statements; amending Minnesota
1.5 Statutes 2005 Supplement, section 609.749, subdivision 2; proposing coding for new law
1.6 in Minnesota Statutes, chapters 545; 604; 609.

1.7 Reports the same back with the recommendation that the bill be amended as follows:

1.8 Page 1, line 18, delete "first class" and insert "certified United States"

1.9 Page 2, line 1, delete "that day" and insert "the day the motion is mailed"

1.10 Page 4, line 4, delete "ten" and insert "20" and delete "first class" and insert "
1.11 certified"

1.12 Page 6, line 26, delete "tenth" and insert "20th"

1.13 Page 6, line 29, delete "ten-day" and insert "20-day"

1.14 Page 7, line 14, delete "ten-day" and insert "20-day"

1.15 Page 8, line 15, delete "paragraph," and insert "section,"

1.16 Page 8, delete section 2

1.17 Page 10, line 16, delete "; STRAW MAN"

1.18 Page 10, line 32, after "(i)" insert "nominal damages up to"

1.19 Page 11, line 10, delete "municipal" and insert "city"

1.20 Page 11, line 32, delete "or"

1.21 Page 11, line 33, delete "described or indicated by" and insert ", or any other person
1.22 harmd by the filing of" and delete "1" and insert "2"

1.23 Page 11, line 36, after "index" insert "under the provisions of section 545.05,
1.24 paragraph (c),"

1.25 Page 12, line 4, delete "AND STRAW MAN"

1.26 Page 12, line 12, delete "and" and insert "or"

1.27 Page 13, line 9, delete "and" and insert "or"

1.28 Renumber the sections in sequence

1.29 Amend the title accordingly

1.30 And when so amended the bill do pass and be re-referred to the Committee on Crime
1.31 Prevention and Public Safety. Amendments adopted. Report adopted.

.....
(Committee Chair)

March 16, 2006
(Date of Committee recommendation)

1.35

Senators Hottinger, Reiter, Scheid and Sparks introduced--
S.F. No. 3049: Referred to the Committee on Judiciary

1.1 A bill for an act

1.2 relating to commerce; providing an expedited process for the judicial review of
1.3 financing statements; establishing civil and criminal liability for fraudulent or
1.4 otherwise improper financing statements; amending Minnesota Statutes 2005
1.5 Supplement, section 609.749, subdivision 2; proposing coding for new law in
1.6 Minnesota Statutes, chapters 545; 604; 609.

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

1.8 Section 1. [545.05] EXPEDITED PROCESS TO REVIEW AND DETERMINE
1.9 THE EFFECTIVENESS OF FINANCING STATEMENTS FORMS.

1.10 (a)(1) Any obligor, person named as a debtor, or owner of collateral described or
1.11 indicated in a financing statement or other record filed under the Uniform Commercial
1.12 Code - Secured Transactions, who has reason to believe that the financing statement or
1.13 other record is fraudulent or otherwise improper as defined in paragraph (e) may complete
1.14 and file, at any time without any time limitation, a motion for judicial review of the
1.15 effectiveness of the financing statement or other record. A secured party of record who
1.16 believes that an amendment or termination of a financing statement or other record is
1.17 fraudulent or otherwise improper as defined in paragraph (e) may also file such a motion.
1.18 The motion must be mailed by first class mail to the person who is indicated as the secured
1.19 party on the allegedly fraudulent or improper record at the address listed on that record,
1.20 or, in the case of a filing by the secured party of record, the mailing must be sent to the
1.21 address of the person who filed the amendment or termination in question, if and as listed
1.22 on the record, and must be accompanied by a copy of the record in question, an affidavit
1.23 of mailing, as well as the form for responding to the motion, which appears in paragraph
1.24 (a), clause (3), and a copy of the text of this entire section.

2.1 A copy of all materials must be filed on that day with the district court of the
 2.2 county in which the financing statement or other record has been filed, or in the county of
 2.3 residence of the movant. The motion must be supported by the affidavit of the movant
 2.4 or the movant's attorney setting forth a concise statement of the facts upon which the
 2.5 claim for relief is based.

2.6 The motion must be in substantially the following form:

2.7 In Re: A Purported Financing Statement In the district court In and For
 2.8 County, Minnesota Against [Name of person who filed the financing statement]

2.9 MOTION FOR JUDICIAL REVIEW OF A FINANCING STATEMENT FILED
 2.10 UNDER THE UNIFORM COMMERCIAL CODE - SECURED TRANSACTIONS

2.11 Now comes (name) and files this motion requesting a judicial
 2.12 determination of the effectiveness of a financing statement or other record filed under the
 2.13 Uniform Commercial Code - Secured Transactions in the office of the (filing
 2.14 office and location thereof) and in support of the motion would show the court as follows:

2.15 I.

2.16 (name), movant herein, is the [obligor, person named as a debtor, or
 2.17 owner of collateral described or indicated in] [secured party of record listed in] a financing
 2.18 statement or other record filed under the Uniform Commercial Code.

2.19 II.

2.20 On (date), in the exercise of the filing officer's official duties as
 2.21 (filing officer's position), the filing officer received and filed or recorded the financing
 2.22 statement or other record, a copy which is attached hereto, that purports to perfect a
 2.23 security interest against the obligor, the person named as debtor or against the owner
 2.24 of collateral described or indicated in the financing statement or other record] [amend
 2.25 or terminate the financing statement in which the movant is listed as the secured party
 2.26 of record].

2.27 III.

2.28 Movant alleges that the financing statement or other record is fraudulent or otherwise
 2.29 improper, as defined by paragraph (e), and that this court should declare the financing
 2.30 statement or other record ineffective.

2.31 IV.

2.32 Movant attests that assertions herein are true and correct.

2.33 V.

2.34 Movant does not request the court to make a finding as to any underlying claim
 2.35 of the parties involved and acknowledges that this motion does not seek review of an
 2.36 effective financing statement. Movant further acknowledges that movant may be subject

3.1 to sanctions if this motion is determined to be frivolous. Movant may be contacted by
3.2 respondent at:

Mailing Address: (required)

Telephone Number:

Facsimile Number: (either facsimile or e-mail contact is required)

E-Mail Address: (either facsimile or e-mail contact is required)

PRAYER

3.8 Movant requests the court to review the attached documentation and enter an order
3.9 finding that said financing statement or other record is ineffective together with such other
3.10 findings as the court deems appropriate.

3.11 Respectfully submitted, (Signature and typed name and address).

3.12 (2) The completed form for ordinary certificate of acknowledgment must be as
3.13 follows:

AFFIDAVIT

3.15 THE STATE OF) [state name]) COUNTY OF)

3.16 BEFORE ME, the undersigned authority, personally appeared, who, being by
3.17 me duly sworn, deposed as follows:

3.18 "My name is I am over 18 years of age, of sound mind, with personal
3.19 knowledge of the following facts, and fully competent to testify.

3.20 I further attest that the assertions contained in the accompanying motion are true and
3.21 correct."

3.22 Further affiant sayeth not.

3.23 SUBSCRIBED and SWORN TO before me, this day of

3.24 NOTARY PUBLIC, State of [state name]

3.25 Notary's printed name:

3.26 My commission expires:

3.27 (3) The movant shall complete an affidavit of mailing the response to the court and
3.28 to the respondent in substantially the following form:

3.29 State of Minnesota)

3.30)

3.31 County of

3.32, being the movant, being duly sworn, on oath, deposes and says
3.33 that on the day of,, ..he mailed the response to court and the respondent by
3.34 placing a true and correct copy of the response in an envelope addressed to them as shown
3.35 depositing the same with postage prepaid, in the U.S. Mail at, Minnesota.

4.1 Subscribed and sworn to before me this day of,

4.2 (4) The person listed as [the secured party on] [filing] the record for which the
4.3 movant has requested review may respond to the motion and accompanying materials to
4.4 request an actual hearing within ten days from the mailing by first class United States mail
4.5 by the movant, in which case the completed form for use by the person listed as [the
4.6 secured party in] [filing] the record in question to respond to the motion for judicial review
4.7 must be in substantially the following form:

4.8 In Re: A Purported Financing Statement In the district court In and For
4.9 County, Minnesota Against [Name of person who filed the financing statement]

4.10 RESPONSE TO MOTION FOR JUDICIAL REVIEW OF A FINANCING
4.11 STATEMENT FILED UNDER THE UNIFORM COMMERCIAL CODE
4.12 - SECURED TRANSACTIONS

4.13 Now comes (name) and files this response to a motion requesting
4.14 a judicial determination of the effectiveness of a financing statement or other record
4.15 filed under the Uniform Commercial Code - Secured Transactions in the office of the
4.16 (filing office and location thereof) and in support of the motion would show
4.17 the court as follows:

4.18 I.
4.19 (name), respondent herein, is the person listed as [the secured party in]
4.20 [filing] the record for which review has been requested by the movant.

4.21 II.
4.22 On (date), in the exercise of the filing officer's official duties as
4.23 (filing officer's position), the filing officer received and filed or recorded the financing
4.24 statement or other record, a copy which is attached hereto, that purports to [perfect a
4.25 security interest against] [amend or terminate a record filed by] the movant.

4.26 III.
4.27 Respondent hereby states that the financing statement or other record is not
4.28 fraudulent or otherwise improper, as defined in Minnesota Statutes, section 545.05,
4.29 paragraph (e), and that this court should not declare the financing statement or other
4.30 record ineffective.

4.31 IV.
4.32 Respondent asks for the scheduling of an expedited hearing to be held no later than
4.33 five days or as soon thereafter as the court shall order after the mailing of this response
4.34 to the court and to the movant.

4.35 V.
4.36 Respondent attests that assertions herein are true and correct.

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VI.

Respondent does not request the court to make a finding as to any underlying claim of the parties involved. Respondent further acknowledges that respondent may be subject to sanctions if this response is determined to be frivolous.

PRAYER

Respondent requests the court to review the attached documentation, to set a hearing for no later than five days after the date of this response or as soon thereafter as the court shall order and to enter an order finding that said financing statement or other record is not ineffective together with such other findings as the court deems appropriate. Respondent may be contacted at:

Mailing Address: (required)

Telephone Number:

Facsimile Number: (either facsimile or e-mail contact is required)

E-Mail Address: (either facsimile or e-mail contact is required)

Respectfully submitted,

(Signature and typed name and address).

(5) The completed form for ordinary certificate of acknowledgment must be as follows:

AFFIDAVIT

THE STATE OF) [state name]) COUNTY OF)

BEFORE ME, the undersigned authority, personally appeared, who, being by me duly sworn, deposed as follows:

"My name is I am over 18 years of age, of sound mind, with personal knowledge of the following facts, and fully competent to testify.

I further attest that the assertions contained in the accompanying motion are true and correct."

Further affiant sayeth not.

SUBSCRIBED and SWORN TO before me, this day of

NOTARY PUBLIC, State of [state name]

Notary's printed name:

My commission expires:

(6) The motion must be supported by the affidavit of the movant or the movant's attorney setting forth a concise statement of the facts upon which the claim for relief is based. Respondent shall submit the response by United States mail to both the court and the movant, and also by either e-mail or facsimile as provided by movant. The respondent

6.1 shall complete an affidavit of mailing the response to the court and to the movant in
6.2 substantially the following form:

6.3 State of Minnesota)

6.4)

6.5 County of)

6.6, being the movant, being duly sworn, on oath, deposes and says
6.7 that on the day of,, ..he mailed the response to court and the respondent
6.8 by placing a true and correct copy of the response in an envelope addressed to them as
6.9 shown depositing the same with postage prepaid, in the U.S. Mails at,
6.10 Minnesota.

6.11 Subscribed and sworn to before me this day of,

6.12 (7) The clerk of the district court shall not collect a filing fee for filing a motion or a
6.13 response as provided in this section at the time of filing.

6.14 (b)(1) If a hearing is timely requested, the court shall hold that hearing within five
6.15 days after the mailing of the response by the respondent or as soon thereafter as ordered
6.16 by the court. After the hearing, the district court shall enter an appropriate finding of fact
6.17 and conclusion of law regarding the financing statement or other record filed under the
6.18 Uniform Commercial Code. The filing officer shall not collect a filing fee for filing a
6.19 district court’s finding of fact and conclusion of law as provided in this section except as
6.20 specifically directed by the court in its findings and conclusions. A copy of the finding of
6.21 fact and conclusion of law must be sent to the movant, the respondent, and the person who
6.22 filed the financing statement or other record at the address listed in the motion or response
6.23 of each person within seven days of the date that the finding of fact and conclusion of
6.24 law is issued by the district court.

6.25 (2) If no hearing request in substantially this form is received by the court by the
6.26 tenth day following the mailing of the original motion, the court’s finding may be made
6.27 solely on a review of the documentation attached to the motion and without hearing any
6.28 testimonial evidence. After that review, which will be conducted no later than five days
6.29 after the ten-day period has expired, the district court shall enter an appropriate finding of
6.30 fact and conclusion of law in a form as provided in paragraph (c) regarding the financing
6.31 statement or other record filed under the Uniform Commercial Code, the movant shall
6.32 cause an attested copy of which must be filed or recorded and indexed in the filing office
6.33 in the appropriate class of records in which the original financing statement or other
6.34 record was filed or recorded. The filing officer shall not collect a filing fee for filing a
6.35 district court’s finding of fact and conclusion of law as provided in this section except as
6.36 specifically directed by the court in its findings and conclusions. A copy of the finding

7.1 of fact and conclusion of law must be sent to the movant, the respondent, and the person
 7.2 who filed the financing statement or other record at the last known address of each person
 7.3 within seven days of the date that the finding of fact and conclusion of law is issued
 7.4 by the district court.

7.5 (c) The findings of fact and conclusion of law for an expedited review where no
 7.6 hearing has been requested must be in substantially the following form:

7.7 MISCELLANEOUS DOCKET No.

7.8 In Re: A purported Financing Statement In the district court AgainstIn and
 7.9 For County, Minnesota [Name of person who filed financing statement]

7.10 Judicial Finding of Fact and Conclusion of Law Regarding a Financing Statement or
 7.11 Other Record Filed Under the Uniform Commercial Code - Secured Transactions

7.12 On the (number) day of (month), (year), in the above entitled and numbered cause,
 7.13 this court reviewed a motion, verified by affidavit, of (name) and the documentation
 7.14 attached thereto. The respondent did not respond within the required ten-day period. No
 7.15 testimony was taken from any party, nor was there any notice of the court's review, the
 7.16 court having made the determination that a decision could be made solely on review of the
 7.17 documentation as provided in Minnesota Statutes, section 545.05.

7.18 The court finds as follows (only an item or subitem checked and initialed is a valid
 7.19 court ruling):

7.20 [.] The documentation attached to the motion IS filed or recorded with the
 7.21 authorization of the obligor, person named as debtor, or owner of collateral described or
 7.22 indicated in the financing statement or other record, or by consent of an agent, fiduciary, or
 7.23 other representative of that person, or with the authorization of the secured party of record
 7.24 in the case of an amendment or termination.

7.25 [.] The documentation attached to the motion IS NOT filed or recorded with the
 7.26 authorization of the obligor, person named as debtor, or owner of collateral described
 7.27 or indicated in such documentation, or by consent of an agent, fiduciary, or other
 7.28 representative of that person, or with the authorization of the secured party of record in the
 7.29 case of an amendment or termination and, IS NOT an effective financing statement or
 7.30 other record under the Uniform Commercial Code - Secured Transactions of this state.

7.31 [.] This court makes no finding as to any underlying claims of the parties involved
 7.32 and expressly limits its finding of fact and conclusion of law to the review of a ministerial
 7.33 act. The filing officer shall remove the subject financing statement or other record from
 7.34 the index so that the records are not reflected in or obtained as a result of any search,
 7.35 standard or otherwise, conducted of those records, but shall retain them and this finding of

8.1 fact and conclusion of law in the filing office for the duration of the period for which they
8.2 would have otherwise been filed.

8.3 SIGNED ON THIS THE DAY of

8.4 District Judge

8.5 District

8.6 County, Minnesota

8.7 (d) If a determination is made after a hearing, the court may assess all costs related
8.8 to the entire review, including, but not limited to, filing fees, attorney fees, administrative
8.9 costs, and any other costs against the losing party, to be paid to the prevailing party.

8.10 (e) As used in this section, a financing statement or other record is fraudulent or
8.11 otherwise improper if it is filed without the authorization of the obligor, person named as
8.12 debtor, or owner of collateral described or indicated in the financing statement or other
8.13 record, or by consent of an agent, fiduciary, or other representative of that person or without
8.14 the consent of the secured party of record in the case of an amendment or termination.

8.15 (f) As used in this paragraph, filing office or filing officer refers to the office or
8.16 officer where a financing statement or other record is appropriately filed or recorded as
8.17 provided by law, including, but not limited to, the county recorder, and the secretary of
8.18 state, and other filing officers related thereto.

8.19 (g) If the movant files a subsequent motion under this section against any person
8.20 filing a financing statement or other record that is reviewed under this paragraph and
8.21 found to be filed or recorded with the authorization of the obligor, person named as debtor,
8.22 or owner of collateral described or indicated in the financing statement or other record,
8.23 or by consent of an agent, fiduciary, or other representative of that person, or with the
8.24 authorization of the secured party of record in the case of an amendment or termination,
8.25 the court may, in addition to assessing costs, order such other equitable relief against the
8.26 movant or enter other sanctions against the movant.

8.27 (h) The chief judge of a district court may order that any or all proceedings under
8.28 this section be conducted and heard by other judicial officers of that district court.

8.29 **Sec. 2. [604.17] CIVIL LIABILITY FOR FRAUDULENT OR OTHERWISE**
8.30 **IMPROPER FINANCING STATEMENTS; HARASSMENT.**

8.31 Subdivision 1. Definitions. For purposes of this section:

8.32 (1) "financing statement" has the meaning given in section 336.9-102(a); and

8.33 (2) "filing officer" is defined as Uniform Commercial Code filing officer in each
8.34 jurisdiction.

9.1 Subd. 2. Liability. (a) A person shall not knowingly cause to be presented for filing
9.2 or promote the filing of a financing statement that the person knows:

- 9.3 (1) is forged;
- 9.4 (2) is neither:
 - 9.5 (i) related to a valid lien or security agreement; nor
 - 9.6 (ii) filed pursuant to section 336.9-502(d); or
- 9.7 (3) is for an improper purpose or purposes, such as to harass, hinder, defraud, or
- 9.8 otherwise interfere with any person.

9.9 (b) A person who violates paragraph (a) is liable to each injured person for:

- 9.10 (1) the greater of:
 - 9.11 (i) \$10,000; or
 - 9.12 (ii) the actual damages caused by the violation;
- 9.13 (2) court costs;
- 9.14 (3) reasonable attorney fees;
- 9.15 (4) related expenses of bringing the action, including investigative expenses; and
- 9.16 (5) exemplary damages in the amount determined by the court.

9.17 Subd. 3. Cause of action. (a) The following persons may bring an action to enjoin
9.18 violation of this section or to recover damages under this section:

- 9.19 (1) the obligor, the person named as the debtor, any person who owns an interest
- 9.20 in the collateral described or indicated in the financing statement, or any person harmed
- 9.21 by the filing of the financing statement;
- 9.22 (2) the attorney general;
- 9.23 (3) a county attorney; and
- 9.24 (4) a municipal attorney.

9.25 (b) A filing officer may refer a matter to the attorney general or other appropriate
9.26 person for filing the legal actions under this section.

9.27 Subd. 4. Venue. An action under this section may be brought in any district court in
9.28 the county in which the financing statement is presented for filing or in a county where
9.29 any of the persons named in subdivision 3, paragraph (a), clause (1), resides.

9.30 Subd. 5. Filing fee. (a) The fee for filing an action under this section is \$..... The
9.31 plaintiff must pay the fee to the clerk of the court in which the action is filed. Except as
9.32 provided by paragraph (b), the plaintiff may not be assessed any other fee, cost, charge, or
9.33 expense by the clerk of the court or other public official in connection with the action.

34 (b) The fee for service of notice of an action under this section charged to the
9.35 plaintiff may not exceed:

- 9.36 (1) \$..... if the notice is delivered in person; or

10.1 (2) the cost of postage if the service is by registered or certified mail.

10.2 (c) A plaintiff who is unable to pay the filing fee and fee for service of notice may file
10.3 with the court an affidavit of inability to pay under the Minnesota Rules of Civil Procedure.

10.4 (d) If the fee imposed under paragraph (a) is less than the filing fee the court imposes
10.5 for filing other similar actions and the plaintiff prevails in the action, the court may order a
10.6 defendant to pay to the court the differences between the fee paid under paragraph (a) and
10.7 the filing fee the court imposes for filing other similar actions.

10.8 Subd. 6. Other remedies. (a) An obligor, person named as a debtor, or owner of
10.9 collateral described or indicated by a financing statement in violation of subdivision 1,
10.10 paragraph (a), also may request specific relief, including, but not limited to, terminating
10.11 the financing statement and removing the debtor named in the financing statement from
10.12 the index such that it will not appear in a search under that debtor name.

10.13 (b) This law is cumulative of other law under which a person may obtain judicial
10.14 relief with respect to any filed or recorded document.

10.15 Sec. 3. [604.18] CIVIL LIABILITY FOR FRAUDULENT OR OTHERWISE
10.16 IMPROPER FINANCING STATEMENTS; STRAW MAN.

10.17 Subdivision 1. Definitions. For purposes of this section:

10.18 (1) "financing statement" has the meaning given in section 336.9-102(a) of the
10.19 Uniform Commercial Code; and

10.20 (2) filing officer" is defined as Uniform Commercial Code filing officer in each
10.21 jurisdiction.

10.22 Subd. 2. Liability. (a) A person shall not knowingly cause to be presented for filing
10.23 or promote the filing of a financing statement that the person knows:

10.24 (1) is forged;

10.25 (2) is neither:

10.26 (i) related to a valid lien or security agreement; nor

10.27 (ii) filed pursuant to section 336.9-502(d); or

10.28 (3) is for an improper purpose or purposes, such as to harass, hinder, defraud, or
10.29 otherwise interfere with any person.

10.30 (b) A person who violates paragraph (a) is liable to each injured person for:

10.31 (1) the greater of:

10.32 (i) \$10,000; or

10.33 (ii) the actual damages caused by the violation;

10.34 (2) court costs;

10.35 (3) reasonable attorney fees;

11.1 (4) related expenses of bringing the action, including investigative expenses; and

11.2 (5) exemplary damages in the amount determined by the court.

11.3 Subd. 3. Cause of action. (a) The following persons may bring an action to enjoin
 11.4 violation of this section or to recover damages under this section:

11.5 (1) the obligor, the person named as the debtor, any person who owns an interest
 11.6 in the collateral described or indicated in the financing statement, or any person harmed
 11.7 by the filing of the financing statement;

11.8 (2) the attorney general;

11.9 (3) a county attorney;

11.10 (4) a municipal attorney; and

11.11 (5) a person who has been damaged as a result of an action taken in reliance on the
 11.12 filed financing statement.

11.13 (b) A filing officer may refer a matter to the attorney general or other appropriate
 11.14 person for filing the legal actions under this section.

11.15 Subd. 4. Venue. An action under this section may be brought in any district court in
 11.16 the county in which the financing statement is presented for filing or in a county where
 11.17 any of the persons named in subdivision 3, paragraph (a), clause (1), resides.

11.18 Subd. 5. Filing fee. (a) The fee for filing an action under this chapter is \$..... The
 11.19 plaintiff must pay the fee to the clerk of the court in which the action is filed. Except as
 11.20 provided by paragraph (b), the plaintiff may not be assessed any other fee, cost, charge, or
 11.21 expense by the clerk of the court or other public official in connection with the action.

11.22 (b) The fee for service of notice of an action under this section charged to the
 11.23 plaintiff may not exceed:

11.24 (1) \$..... if the notice is delivered in person; or

11.25 (2) the cost of postage if the service is by registered or certified mail.

11.26 (c) A plaintiff who is unable to pay the filing fee and fee for service of notice may file
 11.27 with the court an affidavit of inability to pay under the Minnesota Rules of Civil Procedure.

11.28 (d) If the fee imposed under paragraph (a) is less than the filing fee the court imposes
 11.29 for filing other similar actions and the plaintiff prevails in the action, the court may order a
 11.30 defendant to pay to the court the differences between the fee paid under paragraph (a) and
 11.31 the filing fee the court imposes for filing other similar actions.

11.32 Subd. 6. Other remedies. (a) An obligor, person named as a debtor, or owner of
 11.33 collateral described or indicated by a financing statement in violation of subdivision 1,
 11.34 paragraph (a), also may request specific relief, including, but not limited to, terminating
 11.35 the financing statement and removing the debtor named in the financing statement from
 11.36 the index such that it will not appear in a search under that debtor name.

12.1 (b) This law is cumulative of other law under which a person may obtain judicial
 12.2 relief with respect to any filed or recorded document.

12.3 **Sec. 4. [609.7475] FRAUDULENT OR OTHERWISE IMPROPER FINANCING**
 12.4 **STATEMENTS; HARASSMENT AND STRAW MAN.**

12.5 (a) A person commits an offense if the person knowingly causes to be presented
 12.6 for filing, or promotes the filing of, a record as defined in section 336.9-102 that the
 12.7 person knows:

12.8 (1) is neither:

12.9 (i) related to a valid lien or security agreement; nor

12.10 (ii) filed pursuant to section 336.9-502(d);

12.11 (2) contains a forged signature or is based upon a document containing a forged
 12.12 signature; and

12.13 (3) is presented for filing or caused to be presented for filing with the intent that it be
 12.14 used for an improper purpose or purposes, such as to harass, hinder, defraud, or otherwise
 12.15 interfere with any person.

12.16 (b) An offense under this section is a gross misdemeanor, except that if the
 12.17 circumstances set forth in section 609.749, subdivision 3, are met, in which event the
 12.18 offense is a felony.

12.19 **Sec. 5. Minnesota Statutes 2005 Supplement, section 609.749, subdivision 2, is**
 12.20 **amended to read:**

12.21 **Subd. 2. Harassment and stalking crimes.** (a) A person who harasses another by
 12.22 committing any of the following acts is guilty of a gross misdemeanor:

12.23 (1) directly or indirectly manifests a purpose or intent to injure the person, property,
 12.24 or rights of another by the commission of an unlawful act;

12.25 (2) stalks, follows, monitors, or pursues another, whether in person or through
 12.26 technological or other means;

12.27 (3) returns to the property of another if the actor is without claim of right to the
 12.28 property or consent of one with authority to consent;

12.29 (4) repeatedly makes telephone calls, or induces a victim to make telephone calls to
 12.30 the actor, whether or not conversation ensues;

12.31 (5) makes or causes the telephone of another repeatedly or continuously to ring;

12.32 (6) repeatedly mails or delivers or causes the delivery by any means, including
 12.33 electronically, of letters, telegrams, messages, packages, or other objects; ~~or~~

13.1 (7) knowingly makes false allegations against a peace officer concerning the
13.2 officer's performance of official duties with intent to influence or tamper with the officer's
13.3 performance of official duties; or

13.4 (8) knowingly causes to be presented for filing, or promotes the filing of, a record as
13.5 defined in section 9-102 of the Uniform Commercial Code that the person knows:

13.6 (i) is neither:

13.7 (A) related to a valid lien or security agreement; nor

13.8 (B) filed pursuant to section 9-502(d) of the Uniform Commercial Code;

13.9 (ii) contains a forged signature; and

13.10 (iii) is presented for filing or caused to be presented for filing with the intent that

13.11 it be used for an improper purpose or purposes, such as to harass, hinder, defraud, or

13.12 otherwise interfere with any person.

13.13 (b) The conduct described in paragraph (a), clauses (4) and (5), may be prosecuted at
13.14 the place where any call is either made or received or, additionally in the case of wireless
13.15 or electronic communication, where the actor or victim resides. The conduct described
13.16 in paragraph (a), clause (2), may be prosecuted where the actor or victim resides. The
13.17 conduct described in paragraph (a), clause (6), may be prosecuted where any letter,
13.18 telegram, message, package, or other object is either sent or received or, additionally in
13.19 the case of wireless or electronic communication, where the actor or victim resides. The
13.20 conduct described in paragraph (a), clause (8), may be prosecuted in either the county of
13.21 residence of the individual named as debtor, or the county in which the filing is made.

13.22 (c) A peace officer may not make a warrantless, custodial arrest of any person for a
13.23 violation of paragraph (a), clause (7).

- 1.1 Senator moves to amend S.F. No. 3049 as follows:
- 1.2 Page 1, line 18, delete "first class" and insert "certified United States"
- 1.3 Page 4, line 4, delete "ten" and insert "20" and delete "first class" and insert "
4 certified"
- 1.5 Page 6, line 26, delete "tenth" and insert "20th"
- 1.6 Page 6, line 29, delete "ten-day" and insert "20-day"
- 1.7 Page 7, line 14, delete "ten-day" and insert "20-day"
- 1.8 Page 10, line 8, delete "or"
- 1.9 Page 10, line 9, delete "described or indicated by" and insert ", or any other person
1.10 harmed by the filing of" and delete "1" and insert "2"
- 1.11 Page 10, line 12, after "index" insert "under the provisions of section 545.05,
1.12 paragraph (c),"
- 1.13 Page 11, line 32, delete "or"
- 1.14 Page 11, line 33, delete "described or indicated by" and insert ", or any other person
1.15 harmed by the filing of" and delete "1" and insert "2"
- 1.16 Page 11, line 36, after "index" insert "under the provisions of section 545.05,
1.17 paragraph (c),"
- 1.18 Page 12, line 12, delete "and" and insert "or"
- 1.19 Page 13, line 9, delete "and" and insert "or"

- 1.1 Senator moves to amend S.F. No. 3049 as follows:
- 1.2 Page 2, line 1, delete "that day" and insert "the day the motion is mailed"
- 1.3 Page 8, line 15, delete "paragraph" and insert "section"
- 4 Page 9, line 24, delete "municipal" and insert "city"
- 1.5 Page 10, line 16, delete "; STRAW MAN"
- 1.6 Page 11, line 10, delete "municipal" and insert "city"
- 1.7 Page 12, line 4, delete "AND STRAW MAN"

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**S.F. No. 3049 - Expedited Judicial Review of Financing
Statements**

Author: Senator John C. Hottinger

Prepared by: Kathleen Pontius, Senate Counsel (651/296-4394) *K.P.*

Date: March 16, 2006

This bill establishes a process for expedited judicial review of financing statements in cases where there is reason to believe that a statement or other record is fraudulent or otherwise improper.

Section 1 contains the general provisions for the expedited process.

Paragraph (a) authorizes an obligor, named debtor, or owner of collateral who has reason to believe that a financing statement or other record is fraudulent or improper to file a motion for judicial review of the effectiveness of the financing statement or other record without any time limitation. A secured party of record may also file a motion. Mailing requirements for making the motion are specified.

A copy of materials must be filed with the district court. The motion must be supported by an affidavit. A form for the motion is specified.

The district court clerk must not collect a filing fee for filing a motion or a response.

Paragraph (b) contains the hearing requirements in cases where one is requested. If no hearing is requested, the court's finding may be made based solely on review of the documentation attached to the motion. Time lines for review and entering an appropriate finding by the court are included.

Paragraph (c) contains the form for the findings of fact and conclusion of law for an expedited review where no hearing has been requested.

Paragraph (d) provides that if a determination is made after a hearing, the court may assess costs, including attorney fees, to the prevailing party.

Paragraph (e) defines when a financing statement or other record is fraudulent or otherwise improper for purposes of this section.

Paragraph (f) specifies the meaning of references to the filing office or filing officer.

Paragraph (g) provides for the assessment of costs and other equitable relief in cases where a motion is improperly made.

Paragraph (h) provides that the chief judge of a district court may order that all proceedings under this section be conducted and heard by other judicial officers.

Section 2 contains provisions imposing civil liability for fraudulent or otherwise improper financing statements and harassment.

Subdivision 1 contains the definitions.

Subdivision 2 specifies acts for which a person may be liable.

Subdivision 3 contains the cause of action for an injunction and damages and specifies who the action may be brought by.

Subdivision 4 contains venue provisions.

Subdivision 5 contains filing fees.

Subdivision 6 deals with other remedies.

Section 3 contains provisions governing civil liability for fraudulent or improper financing statements through the use of a “straw man.”

Subdivision 1 contains definitions.

Subdivision 2 specifies acts for which a person may be liable.

Subdivision 3 contains the cause of action.

Subdivision 4 contains venue provisions.

Subdivision 5 contains filing fees.

Subdivision 6 deals with other remedies.

Section 4 amends the criminal code to create a crime of fraudulent or improper financing statements, harassment, and straw man.

Section 5 amends the harassment and stalking crimes to add a reference to improper or fraudulent filings.

KP:cs

1.1 **Senator Betzold from the Committee on Judiciary, to which was referred**

1.2 **S.F. No. 3077:** A bill for an act relating to public defense; modifying right to public
1.3 defender representation; amending Minnesota Statutes 2004, sections 611.14; 611.16;
1.4 611.18; 611.25, subdivision 1; 611.26, subdivision 6.

1.5 Reports the same back with the recommendation that the bill be amended as follows:

1.6 Page 1, after line 5, insert:

1.7 "Section 1. Minnesota Statutes 2004, section 260C.163, subdivision 3, is amended
1.8 to read:

1.9 Subd. 3. **Appointment of counsel.** (a) The child, custodial parent, guardian or
1.10 custodian has the right to effective assistance of counsel in connection with a proceeding
1.11 in juvenile court.

1.12 (b) Except in proceedings where the sole basis for the petition is habitual truancy, if
1.13 the child, custodial parent, guardian, or custodian desires counsel but is unable to employ
1.14 it, the court shall appoint counsel to represent the child who is ten years of age or older
1.15 or the ~~parents or~~ custodial parent, guardian, or custodian in any case in which it feels
1.16 that such an appointment is appropriate.

1.17 (c) In any proceeding where the sole basis for the petition is habitual truancy, the
1.18 child, custodial parent, guardian, and custodian do not have the right to appointment of a
1.19 public defender or other counsel at public expense. However, before any out-of-home
1.20 placement, including foster care or inpatient treatment, can be ordered, the court must
1.21 appoint a public defender or other counsel at public expense in accordance with paragraph
1.22 (b).

1.23 (d) Counsel for the child shall not also act as the child's guardian ad litem.

1.24 (e) In any proceeding where the subject of a petition for a child in need of
1.25 protection or services is not represented by an attorney, the court shall determine the
1.26 child's preferences regarding the proceedings, if the child is of suitable age to express
1.27 a preference."

1.28 Renumber the sections in sequence

1.29 Amend the title accordingly

1.30 And when so amended the bill do pass. Amendments adopted. Report adopted.

1.31 
1.32
(Committee Chair)

1.33 March 16, 2006
1.34 (Date of Committee recommendation)

Senators Neuville and Foley introduced--

S.F. No. 3077: Referred to the Committee on Judiciary.

1.1 A bill for an act
 1.2 relating to public defense; modifying right to public defender representation;
 1.3 amending Minnesota Statutes 2004, sections 611.14; 611.16; 611.18; 611.25,
 1.4 subdivision 1; 611.26, subdivision 6.

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

1.6 Section 1. Minnesota Statutes 2004, section 611.14, is amended to read:

1.7 **611.14 RIGHT TO REPRESENTATION BY PUBLIC DEFENDER.**

1.8 The following persons who are financially unable to obtain counsel are entitled to be
 1.9 represented by a public defender:

1.10 (1) a person charged with a felony, gross misdemeanor, or misdemeanor including a
 1.11 person charged under sections 629.01 to 629.29;

1.12 (2) a person appealing from a conviction of a felony or gross misdemeanor, or
 1.13 a person convicted of a felony or gross misdemeanor, who is pursuing a postconviction
 1.14 proceeding and who has not already had a direct appeal of the conviction, but if the person
 1.15 pled guilty and received a presumptive sentence or a downward departure in sentence,
 1.16 and the state public defender reviewed the person's case and determined that there was no
 1.17 basis for an appeal of the conviction or of the sentence, then the state public defender may
 1.18 decline to represent the person in a postconviction remedy case;

1.19 (3) a person who is entitled to be represented by counsel under section 609.14,
 1.20 subdivision 2; ~~or~~

1.21 (4) a minor ten years of age or older who is entitled to be represented by counsel
 under section 260B.163, subdivision 4, or 260C.163, subdivision 3; or

1.23 (5) a custodial parent who is entitled to be represented by counsel under section
 1.24 260C.163, subdivision 3, or, if there is no custodial parent, the guardian or the custodian

2.1 of the child, except that in cases governed by the Indian Child Welfare Act, the district
 2.2 public defender may represent both parents regardless of whether they have custody of the
 2.3 child, or the guardian or custodian of the child.

2.4 The Board of Public Defense must not provide or pay for public defender services to
 2.5 persons other than those entitled to representation under this section.

2.6 Sec. 2. Minnesota Statutes 2004, section 611.16, is amended to read:

2.7 **611.16 REQUEST FOR APPOINTMENT OF PUBLIC DEFENDER.**

2.8 Any person described in section 611.14 ~~or any other person entitled by law to~~
 2.9 ~~representation by counsel~~, may at any time request the court in which the matter is pending,
 2.10 or the court in which the conviction occurred, to appoint a public defender to represent
 2.11 the person. In a proceeding defined by clause (2) of section 611.14, application for the
 2.12 appointment of a public defender may also be made to a judge of the Supreme Court.

2.13 Sec. 3. Minnesota Statutes 2004, section 611.18, is amended to read:

2.14 **611.18 APPOINTMENT OF PUBLIC DEFENDER.**

2.15 If it appears to a court that a person requesting the appointment of counsel satisfies
 2.16 the requirements of this chapter, the court shall order the appropriate public defender to
 2.17 represent the person at all further stages of the proceeding through appeal, if any. For a
 2.18 person appealing from a conviction, or a person pursuing a postconviction proceeding
 2.19 and who has not already had a direct appeal of the conviction, according to the standards
 2.20 of sections 611.14 and 611.25, subdivision 1, paragraph (a), clause (2), the state public
 2.21 defender shall be appointed. For a person covered by section 611.14, clause (1), (3),
 2.22 (4), or (5), a district public defender shall be appointed to represent that person. ~~If (a)~~
 2.23 ~~conflicting interests exist, (b) the district public defender for any other reason is unable~~
 2.24 ~~to act, or (c) the interests of justice require, the state public defender may be ordered to~~
 2.25 ~~represent a person. When the state public defender is directed by a court to represent a~~
 2.26 ~~defendant or other person, the state public defender may assign the representation to~~
 2.27 ~~any district public defender.~~ If at any stage of the proceedings, including an appeal, the
 2.28 court finds that the defendant is financially unable to pay counsel whom the defendant
 2.29 had retained, the court may appoint the appropriate public defender to represent the
 2.30 defendant, as provided in this section. Prior to any court appearance, a public defender
 2.31 may represent a person accused of violating the law, who appears to be financially unable
 2.32 to obtain counsel, and shall continue to represent the person unless it is subsequently
 2.33 determined that the person is financially able to obtain counsel. The representation may

3.1 be made available at the discretion of the public defender, upon the request of the person
3.2 or someone on the person's behalf. Any law enforcement officer may notify the public
3.3 defender of the arrest of any such person.

3.4 Sec. 4. Minnesota Statutes 2004, section 611.25, subdivision 1, is amended to read:

3.5 Subdivision 1. **Representation.** (a) The state public defender shall represent,
3.6 without charge:

3.7 (1) a defendant or other person appealing from a conviction of a felony or gross
3.8 misdemeanor;

3.9 (2) a person convicted of a felony or gross misdemeanor who is pursuing a
3.10 postconviction proceeding and who has not already had a direct appeal of the conviction,
3.11 but if the person pled guilty and received a presumptive sentence or a downward departure
3.12 in sentence, and the state public defender reviewed the person's case and determined that
3.13 there was no basis for an appeal of the conviction or of the sentence, then the state public
3.14 defender may decline to represent the person in a postconviction remedy case; and

3.15 (3) a child who is appealing from a delinquency adjudication or from an extended
3.16 jurisdiction juvenile conviction.

3.17 (b) The state public defender may represent, without charge, all other persons
3.18 pursuing a postconviction remedy under section 590.01, who are financially unable
3.19 to obtain counsel.

3.20 (c) ~~The state public defender shall represent any other person, who is financially~~
3.21 ~~unable to obtain counsel, when directed to do so by the Supreme Court or the Court of~~
3.22 ~~Appeals, except that~~ The state public defender shall not represent a person in any action or
3.23 proceeding in which a party is seeking a monetary judgment, recovery or award. When
3.24 requested by a district public defender or appointed counsel, the state public defender
3.25 may assist the district public defender, appointed counsel, or an organization designated
3.26 in section 611.216 in the performance of duties, including trial representation in matters
3.27 involving legal conflicts of interest or other special circumstances, and assistance with
3.28 legal research and brief preparation. ~~When the state public defender is directed by a~~
3.29 ~~court to represent a defendant or other person, the state public defender may assign the~~
3.30 ~~representation to any district public defender.~~

3.31 Sec. 5. Minnesota Statutes 2004, section 611.26, subdivision 6, is amended to read:

3.32 Subd. 6. **Persons defended.** The district public defender shall represent, without
3.33 charge, a defendant charged with a felony, a gross misdemeanor, or misdemeanor when
3.34 so directed by the district court. The district public defender shall also represent a minor

4.1 ten years of age or older in the juvenile court when so directed by the juvenile court. The
4.2 district public defender must not serve as advisory counsel. The juvenile court may not
4.3 order the district public defender to represent a minor who is under the age of ten years,
4.4 to serve as a guardian ad litem, or to represent a guardian ad litem. The district public
4.5 defender shall represent a custodial parent in the juvenile court under section 260C.163,
4.6 subdivision 3, or, if there is no custodial parent, the guardian or the custodian of the child,
4.7 when so directed by the juvenile court, except that in cases governed by the Indian Child
4.8 Welfare Act, the district public defender may represent both parents regardless of whether
4.9 they have custody of the child, or the guardian or custodian of the child.

AMENDMENTS ADOPTED ON MARCH 2, 2006

1.1 Senator moves to amend S.F. No. 1973 as follows:

1.2 Page 1, after line 6, insert:

1.3 "Section 1. Minnesota Statutes 2004, section 13.3806, is amended by adding a
1.4 subdivision to read:

1.5 Subd. 21. Medical use of marijuana registry. Data collected by the commissioner
1.6 of health relation to registrations for the medical use of marijuana are classified in section
1.7 152.25, subdivision 5."

1.8 Page 1, after line 10, insert:

1.9 "Subd. 2. Allowable amount of marijuana. Allowable amount of marijuana"
1.10 means:

- 1.11 (1) 12 marijuana plants;
- 1.12 (2) 2.5 ounces of usable marijuana; and
- 1.13 (3) any amount of other parts of a marijuana plant."

1.14 Page 1, line 11, delete "2" and insert "3"

1.15 Page 1, line 13, delete "3" and insert "4"

1.16 Page 2, line 6, delete "4" and insert "5"

1.17 Page 2, delete lines 12 to 14 and insert:

1.18 "Subd. 6. Practitioner. Practitioner" means a licensed doctor of medicine or
1.19 licensed doctor of osteopathy licensed to practice medicine."

1.20 Page 2, line 15, delete "6" and insert "7"

1.21 Page 2, line 20, delete "7" and insert "8"

1.22 Page 2, line 23, delete "8" and insert "9"

1.23 Page 2, line 27, delete "9" and insert "10"

1.24 Page 2, line 31, delete "10" and insert "11"

2.1 Page 3, delete lines 8 to 29 and insert:

2.2 "Subdivision 1. **Qualifying patient.** A qualifying patient who possesses a registry
2.3 identification card is not civilly or criminally liable and may not be denied any right or
2.4 privilege for possession for medical use of an amount of marijuana that does not exceed
2.5 the allowable amount. This immunity includes a civil penalty or disciplinary action by a
2.6 business, occupational, or professional licensing board.

2.7 Subd. 2. **Primary supplier.** A primary supplier who possesses a registry
2.8 identification card is not civilly or criminally liable and may not be denied any right or
2.9 privilege for:

2.10 (1) assisting a registered qualifying patient for whom the supplier is a registered
2.11 primary supplier in obtaining for medical use an allowable amount of marijuana; or

2.12 (2) possessing an amount of marijuana that does not exceed the total of the allowable
2.13 amounts for the registered qualifying patients for whom the supplier is a registered
2.14 primary supplier.

2.15 This immunity includes a civil penalty or disciplinary action by a business,
2.16 occupational, or professional licensing board."

2.17 Page 8, delete lines 26 to 36

2.18 Page 9, delete lines 1 to 11 and insert:

2.19 "Subd. 5. **Data practices.** (a) Data in registration applications and supporting data
2.20 submitted by qualifying patients, including data on primary suppliers and practitioners,
2.21 are private data on individuals or nonpublic data as defined in section 13.02.

2.22 (b) The commissioner shall maintain a list of persons to whom the commissioner
2.23 has issued registry identification cards. Data in the list are private data on individuals or
2.24 nonpublic data except that:

2.25 (1) upon request of a law enforcement agency, the commissioner shall verify whether
2.26 a registry identification card is valid based on the card number; and

2.27 (2) the commissioner may notify law enforcement of falsified or fraudulent
2.28 information submitted for purposes of obtaining or renewing a registration card."

2.29 Page 9, line 19, delete everything after the period

2.30 Page 9, delete lines 20 and 21 and insert: "The commissioner must not include
2.31 identifying information on qualifying patients, primary suppliers, or practitioners in the
2.32 report."

2.33 Page 10, after line 7, insert:

- 3.1 "(c) Nothing in sections 152.22 to 152.30 prevents a court from limiting or
- 3.2 prohibiting the possession or use of marijuana as a condition of probation or conditional
- 3.3 release."
- 3.4 Page 10, delete section 7
- 3.5 Page 12, line 30, delete "established as nonprofit entities" and insert "organized as a
- 3.6 nonprofit corporation under chapter 317A or a similar law of another state"
- 3.7 Page 12, delete lines 31 to 33
- 3.8 Page 13, line 1, delete "operating documents" and insert "articles or bylaws"
- 3.9 Page 13, line 21, delete "12 marijuana plants"
- 3.10 Page 13; line 22, delete "and 2.5 ounces of usable" and insert "the total of the
- 3.11 allowable amounts of" and delete "each" and insert "the"
- 3.12 Page 13, line 23, delete "patient" and insert "patients for whom the organization
- 3.13 is a registered primary supplier"
- 3.14 Renumber the sections in sequence and correct the internal references
- 3.15 Amend the title accordingly

1.1 Senator moves to amend S.F. No. 3077 as follows:

1.2 Page 1, after line 5, insert:

1.3 "Section 1. Minnesota Statutes 2004, section 260C.163, subdivision 3, is amended
1.4 to read:

1.5 Subd. 3. **Appointment of counsel.** (a) The child, custodial parent, guardian or
1.6 custodian has the right to effective assistance of counsel in connection with a proceeding
1.7 in juvenile court.

1.8 (b) Except in proceedings where the sole basis for the petition is habitual truancy, if
1.9 the child, custodial parent, guardian, or custodian desires counsel but is unable to employ
1.10 it, the court shall appoint counsel to represent the child who is ten years of age or older
1.11 or the ~~parents or~~ custodial parent, guardian, or custodian in any case in which it feels
1.12 that such an appointment is appropriate.

1.13 (c) In any proceeding where the sole basis for the petition is habitual truancy, the
1.14 child, custodial parent, guardian, and custodian do not have the right to appointment of a
1.15 public defender or other counsel at public expense. However, before any out-of-home
1.16 placement, including foster care or inpatient treatment, can be ordered, the court must
1.17 appoint a public defender or other counsel at public expense in accordance with paragraph
1.18 (b).

1.19 (d) Counsel for the child shall not also act as the child's guardian ad litem.

1.20 (e) In any proceeding where the subject of a petition for a child in need of
1.21 protection or services is not represented by an attorney, the court shall determine the
1.22 child's preferences regarding the proceedings, if the child is of suitable age to express
1.23 a preference."

1.24 Renumber the sections in sequence and correct the internal references

1.25 Amend the title accordingly

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State of Minnesota

S.F. No. 3077 - Public Defender Representation

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Date: March 16, 2006

Section 1 amends the statute dealing with right to representation by a public defender to include a reference to a custodial parent who is entitled to be represented by counsel in a child protection proceeding, or if there is no custodial parent, the guardian or custodian of the child. In cases governed by the Indian Child Welfare Act, the public defender may represent both parents regardless of whether they have custody. Note that under current law in **section 260C.163, subdivision 3**, the right to counsel is not limited to custodial parents. The Board of Public Defense must not provide nor pay for public defender services to persons other than those entitled to representation under this section.

Section 2 strikes a reference to other laws in the statute dealing with requests for appointment of a public defender.

Section 3 amends the general statute dealing with appointment of a public defender. Clause references are changed with respect to when the district public defender is appointed (these clauses appear in **section 1**) and other language dealing with when the district versus state public defender is responsible for representing a person is stricken.

Section 4 strikes language requiring the state public defender to represent other persons who are financially unable to obtain counsel when directed to do so by the Supreme Court or Court of Appeals. Language providing that when the state public defender is directed by a court to represent a defendant or other person, the state public defender may assign representation to a district public defender is stricken.

Section 5 amends the statute dealing with persons defended by a district public defender to include a reference to representing custodial parents in child protection proceedings under **section 260C.163**, parallel to the changes made in **section 1**.

KP:cs

1.1 **Senator Betzold from the Committee on Judiciary, to which was re-referred**

1.2 **S.F. No. 1973:** A bill for an act relating to health; providing for the medical use
1.3 of marijuana; providing civil and criminal penalties; proposing coding for new law in
1.4 Minnesota Statutes, chapter 152.

1.5 Reports the same back with the recommendation that the bill be amended as follows:

1.6 Page 1, after line 6, insert:

1.7 "Section 1. Minnesota Statutes 2004, section 13.3806, is amended by adding a
1.8 subdivision to read:

1.9 Subd. 21. Medical use of marijuana registry. Data collected by the commissioner
1.10 of health relating to registrations for the medical use of marijuana are classified in section
1.11 152.25, subdivision 5."

1.12 Page 1, after line 10, insert:

1.13 "Subd. 2. Allowable amount of marijuana. (a) With respect to a qualifying patient,
1.14 the "allowable amount of marijuana" means 2.5 ounces of usable marijuana. An allowable
1.15 amount of marijuana for a qualifying patient does not include marijuana plants.

1.16 (b) With respect to a primary supplier or registered organization, the allowable
1.17 amount of marijuana for each patient means:

1.18 (1) 12 marijuana plants;

1.19 (2) 2.5 ounces of usable marijuana; and

1.20 (3) any amount of other parts of the marijuana plant."

1.21 Page 1, line 11, delete "2" and insert "3"

1.22 Page 1, line 13, delete "3" and insert "4"

1.23 Page 2, line 6, delete "4" and insert "5"

1.24 Page 2, delete lines 12 to 14 and insert:

1.25 "Subd. 6. Practitioner. "Practitioner" means a licensed doctor of medicine or
1.26 licensed doctor of osteopathy licensed to practice medicine."

1.27 Page 2, line 15, delete "6" and insert "7"

1.28 Page 2, line 20, delete "7" and insert "8"

1.29 Page 2, line 22, after the period, insert "A qualifying patient may not be a primary
1.30 supplier."

1.31 Page 2, line 23, delete "8" and insert "9"

1.32 Page 2, line 27, delete "9" and insert "10"

1.33 Page 2, line 31, delete "10" and insert "11"

1.34 Page 3, delete lines 8 to 29 and insert:

1.35 "Subdivision 1. Qualifying patient. A qualifying patient who possesses a registry
1.36 identification card is not civilly or criminally liable and may not be denied any right or
1.37 privilege for possession for medical use of an amount of marijuana that does not exceed

2.1 the allowable amount. This immunity includes a civil penalty or disciplinary action by a
 2.2 business, occupational, or professional licensing board.

2.3 Subd. 2. Primary supplier. A primary supplier who possesses a registry
 2.4 identification card is not civilly or criminally liable and may not be denied any right or
 2.5 privilege for:

2.6 (1) assisting a registered qualifying patient for whom the supplier is a registered
 2.7 primary supplier in obtaining for medical use an allowable amount of marijuana; or

2.8 (2) possessing an amount of marijuana that does not exceed the total of the allowable
 2.9 amounts for the registered qualifying patients for whom the supplier is a registered
 2.10 primary supplier.

2.11 This immunity includes a civil penalty or disciplinary action by a business,
 2.12 occupational, or professional licensing board."

2.13 Page 5, line 13, delete "3" and insert "4"

2.14 Page 8, delete lines 26 to 36

2.15 Page 9, delete lines 1 to 11 and insert:

2.16 "Subd. 5. Data practices. (a) Data in registration applications and supporting data
 2.17 submitted by qualifying patients, including data on primary suppliers and practitioners,
 2.18 are private data on individuals or nonpublic data as defined in section 13.02.

2.19 (b) The commissioner shall maintain a list of persons to whom the commissioner
 2.20 has issued registry identification cards. Data in the list are private data on individuals or
 2.21 nonpublic data except that:

2.22 (1) upon request of a law enforcement agency, the commissioner shall verify whether
 2.23 a registry identification card is valid based on the card number; and

2.24 (2) the commissioner may notify law enforcement of falsified or fraudulent
 2.25 information submitted for purposes of obtaining or renewing a registration card."

2.26 Page 9, line 19, delete everything after the period

2.27 Page 9, delete lines 20 and 21 and insert "The commissioner must not include
 2.28 identifying information on qualifying patients, primary suppliers, or practitioners in the
 2.29 report."

2.30 Page 10, after line 7, insert:

2.31 "(c) Nothing in sections 152.22 to 152.30 prevents a court from limiting or
 2.32 prohibiting the possession or use of marijuana as a condition of probation or conditional
 2.33 release."

2.34 Pages 10 to 11, delete section 7

2.35 Page 12, line 30, delete "established as nonprofit entities" and insert "organized as a
 2.36 nonprofit corporation under chapter 317A or a similar law of another state"

2.37 Page 12, delete lines 31 to 33

2.38 Page 13, line 1, delete "operating documents" and insert "articles or bylaws"

3.1 Page 13, line 21, delete "12 marijuana plants"

3.2 Page 13, line 22, delete "and 2.5 ounces of usable" and insert "the total of the
3 allowable amounts of" and delete "each" and insert "the"

3.4 Page 13, line 23, delete "patient" and insert "patients for whom the organization
3.5 is a registered primary supplier"

3.6 Renumber the sections in sequence

3.7 Amend the title accordingly

3.8 And when so amended the bill do pass and be re-referred to the Committee on Crime
3.9 Prevention and Public Safety. Amendments adopted. Report adopted.

3.10
3.11 (Committee Chair)

3.12 March 16, 2006
3.13 (Date of Committee recommendation)

1 A bill for an act
2 relating to health; providing for the medical use of
3 marijuana; providing civil and criminal penalties;
4 proposing coding for new law in Minnesota Statutes,
5 chapter 152.

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

7 Section 1. [152.22] [DEFINITIONS.]

8 Subdivision 1. [APPLICABILITY.] For purposes of sections
9 152.22 to 152.31, the terms defined in this section have the
10 meanings given them.

11 Subd. 2. [COMMISSIONER.] "Commissioner" means the
12 commissioner of health.

13 Subd. 3. [DEBILITATING MEDICAL CONDITION.] "Debilitating
14 medical condition" means:

15 (1) cancer, glaucoma, acquired immune deficiency syndrome,
16 hepatitis C, or the treatment of these conditions;

17 (2) a chronic or debilitating disease or medical condition
18 or its treatment that produces one or more of the following:
19 cachexia or wasting syndrome; severe or chronic pain; severe
20 nausea; seizures, including but not limited to those
21 characteristic of epilepsy; severe and persistent muscle spasms,
22 including but not limited to those characteristic of multiple
23 sclerosis and Crohn's disease; or agitation of Alzheimer's
24 disease;

25 (3) the condition of an HIV-positive patient when the

1 patient's condition has worsened and the patient's physician
2 believes the patient could benefit from consumption of
3 marijuana; or

4 (4) any other medical condition or its treatment approved
5 by the commissioner under section 152.24.

6 Subd. 4. [MEDICAL USE.] "Medical use" means the
7 acquisition, possession, cultivation, manufacture, use,
8 delivery, transfer, or transportation of marijuana or
9 paraphernalia relating to the consumption of marijuana to
10 alleviate a registered qualifying patient's debilitating medical
11 condition or symptoms associated with the medical condition.

12 Subd. 5. [PRACTITIONER.] "Practitioner" means a person who
13 is licensed with the authority to prescribe drugs under section
14 151.01, subdivision 23.

15 Subd. 6. [PRIMARY SUPPLIER.] "Primary supplier" means a
16 person who is at least 18 years old and who has agreed to assist
17 with a qualifying patient's medical use of marijuana. A primary
18 supplier may assist no more than five qualifying patients with
19 their medical use of marijuana.

20 Subd. 7. [QUALIFYING PATIENT.] "Qualifying patient" means
21 a person who has been diagnosed by a practitioner as having a
22 debilitating medical condition.

23 Subd. 8. [REGISTRY IDENTIFICATION CARD.] "Registry
24 identification card" means a document issued by the commissioner
25 that identifies a person as a qualifying patient or primary
26 supplier.

27 Subd. 9. [USABLE MARIJUANA.] "Usable marijuana" means the
28 dried leaves and flowers of the marijuana plant, and any mixture
29 or preparation thereof, but does not include the seeds, stalks,
30 and roots of the plant.

31 Subd. 10. [WRITTEN CERTIFICATION.] "Written certification"
32 means the qualifying patient's medical records, or a statement
33 signed by a practitioner, stating that in the practitioner's
34 professional opinion the potential benefits of the medical use
35 of marijuana would likely outweigh the health risks for the
36 qualifying patient. A written certification shall only be made

1 in the course of a bona fide practitioner-patient relationship
2 after the practitioner has completed a full assessment of the
3 qualifying patient's medical history. The written certification
4 shall specify the qualifying patient's debilitating medical
5 condition or conditions.

6 Sec. 2. [152.23] [PROTECTIONS FOR THE MEDICAL USE OF
7 MARIJUANA.]

8 Subdivision 1. [QUALIFYING PATIENT.] A qualifying patient
9 who has a registry identification card in possession shall not
10 be subject to arrest, prosecution, or penalty in any manner or
11 denied any right or privilege, including but not limited to
12 civil penalty or disciplinary action by a business,
13 occupational, or professional licensing board or bureau, for the
14 medical use of marijuana, provided that the qualifying patient
15 possesses an amount of marijuana that does not exceed 12
16 marijuana plants and 2.5 ounces of usable marijuana.

17 Subd. 2. [PRIMARY SUPPLIER.] A primary supplier who has a
18 registry identification card in possession shall not be subject
19 to arrest, prosecution, or penalty in any manner or denied any
20 right or privilege, including but not limited to civil penalty
21 or disciplinary action by a business, occupational, or
22 professional licensing board or bureau, for assisting a
23 qualifying patient to whom the supplier is connected through the
24 commissioner's registration process with the medical use of
25 marijuana, provided that the primary supplier possesses an
26 amount of marijuana that does not exceed 12 marijuana plants and
27 2.5 ounces of usable marijuana for each qualifying patient to
28 whom the supplier is connected through the commissioner's
29 registration process.

30 Subd. 3. [DISCRIMINATION PROHIBITED.] No school, employer,
31 or landlord may refuse to enroll, employ, lease to, or otherwise
32 penalize a person solely for the person's status as a registered
33 qualifying patient or a registered primary supplier.

34 Subd. 4. [PRESUMPTION.] (a) There is a presumption that a
35 qualifying patient or primary supplier is engaged in the medical
36 use of marijuana if the qualifying patient or primary supplier:

1 (1) is in possession of a registry identification card; and
2 (2) is in possession of an amount of marijuana that does
3 not exceed the amount permitted under sections 152.22 to 152.31.

4 (b) The presumption may be rebutted by evidence that
5 conduct related to marijuana was not for the purpose of
6 alleviating the qualifying patient's debilitating medical
7 condition or symptoms associated with the medical condition.

8 Subd. 5. [SUPPLIER'S REIMBURSEMENT.] A primary supplier
9 may receive reimbursement for costs associated with assisting
10 with a registered qualifying patient's medical use of marijuana.
11 Compensation does not constitute sale of controlled substances.

12 Subd. 6. [PRACTITIONER.] A practitioner shall not be
13 subject to arrest, prosecution, or penalty in any manner or
14 denied any right or privilege, including but not limited to
15 civil penalty or disciplinary action by the Board of Medical
16 Practice or by another business, occupational, or professional
17 licensing board or bureau, solely for providing written
18 certifications or otherwise stating that, in the practitioner's
19 professional opinion, the potential benefits of the medical use
20 of marijuana would likely outweigh the health risks for a
21 patient.

22 Subd. 7. [PROPERTY RIGHTS.] (a) Any interest in or right
23 to property that is possessed, owned, or used in connection with
24 the medical use of marijuana, or acts incidental to such use, is
25 not forfeited.

26 (b) A law enforcement agency that seizes and does not
27 return usable marijuana to a registered qualifying patient or a
28 registered primary supplier is liable to the cardholder for the
29 fair market value of the marijuana.

30 Subd. 8. [ARREST AND PROSECUTION PROHIBITED.] No person is
31 subject to arrest or prosecution for constructive possession,
32 conspiracy, aiding and abetting, being an accessory, or any
33 other offense for being in the presence or vicinity of the
34 medical use of marijuana as permitted under sections 152.22 to
35 152.31 or for assisting a registered qualifying patient with
36 using or administering marijuana.

1 Subd. 9. [RECIPROCITY.] A registry identification card, or
2 its equivalent, issued under the laws of another state, United
3 States territory, or the District of Columbia to permit the
4 medical use of marijuana by a qualifying patient, or to permit a
5 person to assist with a qualifying patient's medical use of
6 marijuana, shall have the same force and effect as a registry
7 identification card issued by the commissioner.

8 Sec. 3. [152.24] [RULEMAKING.]

9 (a) Not later than 90 days after the effective date of this
10 section, the commissioner shall adopt rules governing the manner
11 in which the commissioner shall consider petitions from the
12 public to add debilitating medical conditions to those included
13 under section 152.22, subdivision 3. When considering
14 petitions, the commissioner shall give public notice of and an
15 opportunity to comment at a public hearing upon the petitions.
16 The commissioner shall, after a public hearing, approve or deny
17 petitions within 180 days of submission. The approval or denial
18 of a petition is a final agency action, subject to judicial
19 review. Jurisdiction and venue for judicial review are vested
20 in the district court. The denial of a petition does not
21 disqualify qualifying patients with that condition if they have
22 a debilitating medical condition. The denial of a petition does
23 not prevent a person with the denied condition from raising an
24 affirmative defense.

25 (b) Not later than 90 days after the effective date of this
26 section, the commissioner shall adopt rules governing the manner
27 in which the commissioner shall consider applications for and
28 renewals of registry identification cards for qualifying
29 patients and primary suppliers. Notwithstanding section
30 16A.1283, the commissioner shall establish application and
31 renewal fees that generate revenues sufficient to offset all
32 expenses of implementing and administering sections 152.22 to
33 152.31. The commissioner may vary the application and renewal
34 fees along a sliding scale that accounts for a qualifying
35 patient's income. The commissioner may accept donations from
36 private sources to reduce the application and renewal fees.

1 Sec. 4. [152.25] [REGISTRY IDENTIFICATION CARDS;
2 ISSUANCE.]

3 Subdivision 1. [REQUIREMENTS; ISSUANCE.] (a) The
4 commissioner shall issue registry identification cards to
5 qualifying patients who submit:

6 (1) a written certification;

7 (2) the application or renewal fee;

8 (3) the name, address, and date of birth of the qualifying
9 patient, except that if the applicant is homeless, no address is
10 required;

11 (4) the name, address, and telephone number of the
12 qualifying patient's practitioner; and

13 (5) the name, address, and date of birth of each primary
14 supplier of the qualifying patient, if any.

15 (b) The commissioner shall not issue a registry
16 identification card to a qualifying patient under the age of 18
17 unless:

18 (1) the qualifying patient's practitioner has explained the
19 potential risks and benefits of the medical use of marijuana to
20 the qualifying patient and to a parent, guardian, or person
21 having legal custody of the qualifying patient; and

22 (2) a parent, guardian, or person having legal custody
23 consents in writing to:

24 (i) allow the qualifying patient's medical use of
25 marijuana;

26 (ii) serve as one of the qualifying patient's primary
27 suppliers; and

28 (iii) control the acquisition of marijuana, the dosage, and
29 the frequency of the medical use of marijuana by the qualifying
30 patient.

31 (c) The commissioner shall verify the information contained
32 in an application or renewal submitted under this section and
33 shall approve or deny an application or renewal within 15 days
34 of receiving it. The commissioner may deny an application or
35 renewal only if the applicant did not provide the information
36 required under this section or if the commissioner determines

1 that the information provided was falsified. Rejection of an
2 application or renewal is a final agency action, subject to
3 judicial review. Jurisdiction and venue for judicial review are
4 vested in the district court.

5 (d) The commissioner shall issue a registry identification
6 card to each primary supplier, if any, who is named in a
7 qualifying patient's approved application, up to a maximum of
8 two primary suppliers per qualifying patient.

9 (e) The commissioner shall issue a registry identification
10 card within five days of approving an application or renewal.
11 The card expires one year after the date of issuance. A
12 registry identification card shall contain:

13 (1) the name, address, and date of birth of the qualifying
14 patient;

15 (2) the name, address, and date of birth of each primary
16 supplier of the qualifying patient, if any;

17 (3) the date of issuance and expiration date of the
18 registry identification card;

19 (4) a random registry identification number; and

20 (5) a photograph, if the commissioner adopts rules to
21 require one.

22 Subd. 2. [NOTIFICATION OF CHANGES; PENALTIES.] (a) A
23 qualifying patient who has been issued a registry identification
24 card shall notify the commissioner within ten days of any change
25 in the qualifying patient's name, address, or primary supplier
26 or if the qualifying patient ceases to have a debilitating
27 medical condition.

28 (b) Failure to notify the commissioner of a change as
29 required under paragraph (a) is a civil violation, punishable by
30 a fine of no more than \$150. If the person has ceased to have a
31 debilitating medical condition, the card is null and void and
32 the person is liable for any other penalties that may apply to
33 the person's nonmedical use of marijuana.

34 (c) A registered primary supplier shall notify the
35 commissioner within ten days of any change in the supplier's
36 name or address. Failure to notify the commissioner of the

1 change is a civil violation, punishable by a fine of no more
2 than \$150.

3 (d) When a qualifying patient or primary supplier notifies
4 the commissioner of any changes under this subdivision, the
5 commissioner shall issue the qualifying patient and each primary
6 supplier a new registry identification card within ten days of
7 receiving the updated information and a \$10 fee.

8 (e) When a registered qualifying patient ceases to use the
9 assistance of a registered primary supplier, the commissioner
10 shall notify the primary supplier within ten days. The primary
11 supplier's protections as provided under section 152.23 expire
12 ten days after notification by the commissioner.

13 Subd. 3. [LOST CARDS.] If a registered qualifying patient
14 or a registered primary supplier loses a registry identification
15 card, the patient or supplier shall notify the commissioner and
16 submit a \$10 fee within ten days of losing the card. Within
17 five days, the commissioner shall issue a new registry
18 identification card with a new random identification number.

19 Subd. 4. [CARD AS PROBABLE CAUSE.] Possession of, or
20 application for, a registry identification card does not
21 constitute probable cause or reasonable suspicion, nor shall it
22 be used to support search of the person or property of the
23 person possessing or applying for the registry identification
24 card, or otherwise subject the person or property of the person
25 to inspection by any governmental agency.

26 Subd. 5. [CONFIDENTIALITY.] (a) Registration applications
27 and supporting information submitted by qualifying patients,
28 including information regarding their primary suppliers and
29 practitioners, are confidential.

30 (b) The commissioner shall maintain a confidential list of
31 the persons to whom the commissioner has issued registry
32 identification cards. Individual names and other identifying
33 information on the list are private data on individuals under
34 chapter 13 and are not subject to disclosure, except to
35 authorized employees of the Department of Health as necessary to
36 perform official duties of the department.

1 (c) The commissioner shall verify to law enforcement
2 personnel whether a registry identification card is valid solely
3 by confirming the random registry identification card number.

4 (d) It is a crime, punishable by up to 180 days in jail and
5 a \$1,000 fine, for a person, including an employee or official
6 of the Department of Health or another state agency or local
7 government, to breach the confidentiality of information
8 obtained under sections 152.22 to 152.31. Notwithstanding this
9 paragraph, employees of the Department of Health may notify law
10 enforcement about falsified or fraudulent information submitted
11 to the commissioner.

12 Subd. 6. [REPORT.] The commissioner shall report annually
13 to the legislature on the number of applications for registry
14 identification cards, the number of qualifying patients and
15 primary suppliers approved, the nature of the debilitating
16 medical conditions of the qualifying patients, the number of
17 registry identification cards revoked, and the number of
18 practitioners providing written certification for qualifying
19 patients. The commissioner shall not provide any identifying
20 information of qualifying patients, primary suppliers, or
21 practitioners.

22 Sec. 5. [152.26] [CONSTRUCTION.]

23 (a) Sections 152.22 to 152.31 do not permit:

24 (1) a person to undertake a task under the influence of
25 marijuana, when doing so would constitute negligence or
26 professional malpractice;

27 (2) smoking of marijuana:

28 (i) in a school bus or other form of public transportation;

29 (ii) on school grounds;

30 (iii) in a correctional facility; or

31 (iv) in any public place; and

32 (3) a person to operate, navigate, or be in actual physical
33 control of any motor vehicle, aircraft, or motorboat while under
34 the influence of marijuana. However, a registered qualifying
35 patient shall not be considered to be under the influence solely
36 for having marijuana metabolites in the patient's system.

1 (b) Nothing in sections 152.22 to 152.31 shall be construed
2 to require:

3 (1) a government medical assistance program or private
4 health insurer to reimburse a person for costs associated with
5 the medical use of marijuana; or

6 (2) an employer to accommodate the medical use of marijuana
7 in any workplace.

8 Sec. 6. [152.27] [PENALTIES.]

9 Fraudulent representation to a law enforcement official of
10 any fact or circumstance relating to the medical use of
11 marijuana to avoid arrest or prosecution is punishable by a fine
12 of \$500, which shall be in addition to any other penalties that
13 may apply for making a false statement and for the nonmedical
14 use of marijuana.

15 Sec. 7. [152.28] [AFFIRMATIVE DEFENSE AND DISMISSAL FOR
16 MEDICAL USE OF MARIJUANA.]

17 (a) Except as provided in section 152.27, a person and a
18 person's primary supplier, if any, may assert the medical
19 purpose for using marijuana as a defense to any prosecution
20 involving marijuana, and such defense shall be presumed valid
21 where the evidence shows that:

22 (1) the person's medical records indicate, or a
23 practitioner has stated that, in the practitioner's professional
24 opinion, after having completed a full assessment of the
25 person's medical history and current medical condition made in
26 the course of a bona fide practitioner-patient relationship, the
27 potential benefits of using marijuana for medical purposes would
28 likely outweigh the health risks for the person; and

29 (2) the person and the person's primary supplier, if any,
30 were collectively in possession of a quantity of marijuana that
31 was not more than was reasonably necessary to ensure the
32 uninterrupted availability of marijuana for the purpose of
33 alleviating the person's medical condition or symptoms
34 associated with the medical condition.

35 (b) A person may assert the medical purpose for using
36 marijuana in a motion to dismiss and the charges shall be

1 dismissed following an evidentiary hearing when the defendant
2 shows the elements listed in paragraph (a).

3 (c) Any interest in or right to property that was
4 possessed, owned, or used in connection with a person's use of
5 marijuana for medical purposes is not forfeited if the person or
6 the person's primary supplier demonstrates the person's medical
7 purpose for using marijuana pursuant to sections 152.22 to
8 152.31.

9 Sec. 8. [152.30] [SEVERABILITY.]

10 Any provision of sections 152.22 to 152.31 being held
11 invalid as to any person or circumstances shall not affect the
12 application of any other provision of sections 152.22 to 152.31
13 that can be given full effect without the invalid section or
14 application.

15 Sec. 9. [152.31] [REGISTERED ORGANIZATION.]

16 Subdivision 1. [DEFINITION.] For purposes of this section,
17 "registered organization" means a nonprofit entity registered
18 with the commissioner under this section that acquires,
19 possesses, cultivates, manufactures, delivers, transfers,
20 transports, supplies, or dispenses marijuana, cultivation
21 equipment, related supplies and educational materials, or
22 marijuana seeds to registered qualifying patients and their
23 registered primary suppliers. A registered organization is a
24 primary supplier, although it may supply marijuana to any number
25 of registered qualifying patients who have designated it as one
26 of their primary suppliers.

27 Subd. 2. [REGISTRATION REQUIREMENTS.] (a) The commissioner
28 shall issue a registered organization license within 20 days to
29 any person who complies with rules adopted by the commissioner
30 and provides:

31 (1) a fee in an amount established by the commissioner
32 notwithstanding section 16A.1283, which shall not exceed \$1,000;

33 (2) the name of the registered organization;

34 (3) the physical addresses of the registered organization
35 and any other real property where marijuana is to be possessed,
36 cultivated, manufactured, supplied, or dispensed relating to the

1 operations of the registered organization; and

2 (4) the name, address, and date of birth of any person who
3 is an agent of or employed by the registered organization.

4 (b) The commissioner shall issue each agent and employee of
5 a registered organization a registry identification card for a
6 cost of \$10 each within ten days of receipt of the person's
7 identifying information and the fee. Each card shall specify
8 that the cardholder is an employee or agent of a registered
9 organization.

10 Subd. 3. [EXPIRATION.] A license for a registered
11 organization and each employee or agent registry identification
12 card expires one year after the date of issuance.

13 Subd. 4. [RULEMAKING.] Not later than 90 days after the
14 effective date of this section, the commissioner shall adopt
15 rules to implement this section, including:

16 (1) procedures for the oversight of registered
17 organizations, record keeping and reporting requirements for
18 registered organizations, procedures for the transference or
19 sale of seized cultivation equipment and related supplies from
20 law enforcement agencies to registered organizations, and
21 procedures for suspending or terminating the licenses of
22 registered organizations; and

23 (2) the form and content of the license and renewal
24 applications.

25 Subd. 5. [INSPECTION.] Registered organizations are
26 subject to reasonable inspection by the commissioner to
27 determine that applicable rules are being followed. Reasonable
28 notice shall be given prior to the inspections.

29 Subd. 6. [ORGANIZATION REQUIREMENTS.] (a) Registered
30 organizations must be established as nonprofit entities.
31 Registered organizations are subject to all applicable state
32 laws governing nonprofit entities, but need not be recognized as
33 a 501(c)(3) organization by the Internal Revenue Service.

34 (b) Registered organizations may not be located within 500
35 feet of the property line of a public school, private school, or
36 structure used primarily for religious services or worship.

1 (c) The operating documents of a registered organization
2 shall include procedures for the oversight of the registered
3 organization and procedures to ensure adequate record keeping.

4 (d) A registered organization shall notify the commissioner
5 within ten days of when an employee or agent ceases to work at
6 the registered organization.

7 (e) The registered organization shall notify the
8 commissioner before a new agent or employee begins working at
9 the registered organization, in writing, and the organization
10 shall submit a \$10 fee for the person's registry identification
11 card.

12 (f) No registered organization shall be subject to
13 prosecution, search, seizure, or penalty in any manner or denied
14 any right or privilege, including but not limited to civil
15 penalty or disciplinary action by a business, occupational, or
16 professional licensing board or bureau, for acting according to
17 sections 152.22 to 152.31 and rules adopted thereunder to assist
18 registered qualifying patients to whom it is connected through
19 the commissioner's registration process with the medical use of
20 marijuana, provided that the registered organization possesses
21 an amount of marijuana that does not exceed 12 marijuana plants
22 and 2.5 ounces of usable marijuana for each registered
23 qualifying patient.

24 (g) No employees, agents, or board members of a registered
25 organization shall be subject to arrest, prosecution, search,
26 seizure, or penalty in any manner or denied any right or
27 privilege, including but not limited to civil penalty or
28 disciplinary action by a business, occupational, or professional
29 licensing board or bureau, for working for a registered
30 organization according to sections 152.22 to 152.31.

31 (h) The registered organization is prohibited from:

32 (1) obtaining marijuana from outside the state in violation
33 of federal law; or

34 (2) acquiring, possessing, cultivating, manufacturing,
35 delivering, transferring, transporting, supplying, or dispensing
36 marijuana for any purpose except to assist registered qualifying

1 patients with the medical use of marijuana directly or through
2 the qualifying patients' other primary suppliers.

3 (i) A municipality may not prevent a registered
4 organization from operating according to sections 152.22 to
5 152.31 in an area where zoning permits retail businesses.

6 (j) If provisions of this section are enjoined or declared
7 unconstitutional, then enforcing laws against delivery of
8 marijuana for consideration to registered qualifying patients
9 shall be the lowest priority of law enforcement.

10 Sec. 10. [EFFECTIVE DATE.]

11 Sections 1 to 9 are effective the day following final
12 enactment.

1.1 Senator moves to amend the SCS1973A-6 amendment to S.F. No.
1.2 1973 as follows:

1.3 Page 1, delete lines 9 to 13, and insert:

4 "Subd. 2. Allowable amount of marijuana. (a) With respect to a qualifying patient,
1.5 the "allowable amount of marijuana" means 2.5 ounces of usable marijuana. An allowable
1.6 amount of marijuana for a qualifying patient does not include marijuana plants.

1.7 (b) With respect to a primary supplier or registered organization, the allowable
1.8 amount of marijuana for each patient means:

1.9 (1) 12 marijuana plants;

1.10 (2) 2.5 ounces of usable marijuana; and

1.11 (3) any amount of other parts of the marijuana plant."

3-16-06

Senate Judiciary Committee

Roll Call Vote

BILL: SF/HF A7 to Alcon SF 1973

Member	AYE	NAY
Senator Betzold	✓	
Senator Chaudhary	✓	
Senator Hann	✓	
Senator Limmer		✓
Senator Marty		
Senator Neuville	✓	
Senator Ortman		✓
Senator Rest	✓	
Senator Skoglund		✓
Total	<u>5</u>	<u>3</u>

pass

The Motion:

~~PASSED~~
DID NOT PASS

1.1 Senator moves to amend S.F. No. 1973 as follows:

1.2 Page 2, line 22, after the period, insert "A qualifying patient may not be a primary
1.3 supplier."

3-14-00

Senate Judiciary Committee

Roll Call Vote

BILL: SF/HF 1973 to pass

Member	AYE	NAY
Senator Betzold	✓	
Senator Chaudhary	✓	
Senator Hann		✓
Senator Limmer		✓
Senator Marty	✓	
Senator Neuville		✓
Senator Ortman		✓
Senator Rest	✓	
Senator Skoglund	✓	
Total	<u>5</u>	<u>4</u>

The Motion:

✓ PASSED

_____ DID NOT PASS