

S.F. No. 2909 – Omnibus Judiciary and Public Safety Funding Bill (1st Engrossment)

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Date: March 31, 2023

Article 1 - Appropriations

Appropriates money for the fiscal year 2024-2025 biennium to fund the operations of the Supreme Court, court of appeals, district courts, civil legal services, Guardian Ad Litem Board, tax court, Uniform Laws Commission, Judicial Standards Board, Board of Public Defense, Sentencing Guidelines Commission, Department of Public Safety (DPS), Peace Officer Standards and Training (POST) Board, Private Detective and Protective Agent Services Board, Department of Human Rights, Department of Corrections, ombudsperson for corrections, and Competency Restoration Board, and also to fund various legislative and governor’s funding initiatives. See spreadsheet for details.

Article 2 – Judiciary

Section 1 amends the Minnesota Government Data Practices Act by removing the \$200 fee for requesting opinions from the commissioner of administration; requires the commissioner to provide notice in writing for decisions not to issue an opinion; and extends the time for the commissioner to issue an opinion.

Section 2 prohibits fees for uncertified copies of publicly available documents from a civil or criminal proceeding or to view or download those same documents.

Section 3 removes a requirement that the salary of a public defender not exceed the salary of a district court judge.

Article 3 - Public Safety

Section 1 requires that portable recording system data that documents a peace officer's use of deadly force be maintained indefinitely.

Sections 2 and 3 amend Minnesota Statutes, chapter 13A (release of information by financial institutions) by adding cross references to section 39 (authorized disclosure of information about a financial institution's customer's account).

Sections 4, 5, and 35 address financial responsibility for the costs of medical exams for criminal sexual conduct victims. Under current law, these costs are borne by the county in which the crime occurred. These sections require the state to pay these costs, which include the full cost of the medical forensic examination, associated tests and treatment relating to sexually transmitted infection, and pregnancy status, including emergency contraception.

Sections 6 to 11 amend the first- and second-degree controlled substance crimes (both sale and possession) to treat fentanyl the same as heroin. Also provide a dosage limit for both substances. Amend the third-degree possession crime to provide a fentanyl-specific threshold both by weight and dosage amount. Define fentanyl.

Section 12 makes permissive what is currently a requirement for the POST Board to order a law enforcement agency to conduct an inquiry into a written statement or complaint that alleges a violation of a statute or rule that the board is empowered to enforce.

Section 13 increases the current surcharge on homeowner's insurance from 0.5% to 0.65%. Money from this surcharge funds firefighter training.

Sections 14, 61, and 62 expand the reimbursement provisions relating to soft body armor to include firefighters and qualified emergency medical service providers. This will allow these individuals to receive partial reimbursement for these costs. Require the commissioner of public safety to amend rules to reflect this change.

Sections 15-17 and 59 amend the provisions of law that provide a death benefit for public safety officers killed in the line of duty to expand eligibility to officers who died by suicide and who suffered from work-related post-traumatic stress disorder (PTSD). Require that a licensed mental health provider had previously diagnosed the officer with PTSD and that the officer's mental health provider determined that the PTSD resulted from the officer's work as a public safety officer. These provisions are effective retroactively from January 1, 2017. Also expand when an officer is considered killed in the line of duty to include officers that died from certain types of cancer.

Sections 18 and 19 address financial liability for certain hazardous incident responses. Under current law, a "responsible person" (as defined in law) may be held liable for these costs. These sections expand potential responsibility to include costs related to an explosives sweep response, change terminology, and establish a special revenue account to reimburse DPS for these costs where there is no identified responsible party.

Section 20 establishes the 15-member Public Safety Innovation Board to focus on improving public safety by increasing efficiency, effectiveness, and capacity of public safety providers. The board must monitor trends, review research, and provide advice. Addresses appointment authority,

member removal and compensation, and board meetings. Requires annual reporting to the legislature.

Section 21 adds an annual reporting requirement relating to the violent crime investigation team account created in article 1.

Section 22 adds an annual reporting requirement for the youth intervention program.

Sections 23 and 60 create a reward account for information on missing and murdered Indigenous relatives. Require the creation of an advisory council to make recommendations on paying rewards. Authorize an advertising or public awareness campaign.

Section 24 establishes the Office for Missing and Murdered Black Women and Girls.

Subdivision 1 establishes the office, which is dedicated to preventing and ending the targeting of violence against Black women and girls, within the Office of Justice Programs in DPS.

Subdivision 2 directs the commissioner of public safety to appoint a director of the office who is a person closely connected to the Black community and who is highly knowledgeable about criminal investigations.

Subdivision 3 establishes the duties of the new office, including facilitating research, collecting data, advocating for action by the legislature and state agencies to address violence against Black women and girls, proposing legislation, and maintaining communication with other departments and offices regarding cases involving missing Black women and girls.

Subdivision 4 authorizes the office to coordinate with stakeholders, community members, state agencies, local law enforcement agencies, prosecutors, and survivors to fulfill its duties.

Subdivision 5 directs the office to provide an annual report on its actions, data related to missing and murdered Black women and girls, and objectives for the coming year. Reports must be submitted by January 15 each year to the chairs and ranking minority members of the legislative committees with jurisdiction over public safety.

Subdivision 6 authorizes the office to apply for and receive grants from public and private entities for purposes of carrying out the office's duties under this section.

Subdivision 7 establishes a grant program for the Office of Missing and Murdered Black Women and Girls to award grants to organizations providing services designed to prevent or end the targeting of Black women and girls. Requires reporting from grant recipients. Requires the office to coordinate with the Office of Justice Programs to administer the grants.

Subdivision 8 states that the office, in performance of its duties, has access to confidential and private corrections, detention, and medical data maintained by an agency.

Section 25 requires the superintendent of the Bureau of Criminal Apprehension (BCA) to prepare an annual report to the legislature on the Minnesota Fusion Center (MNFC) activities and benefits.

The report must be submitted to the legislature and posted on the MNFC website by February 15, beginning in 2024. Specifies what the report must include.

Section 26 establishes a state fraud unit within the BCA to conduct investigations into fraud involving state-funded programs or services. Provides for both mandatory and discretionary referrals to the unit by state agencies. Requires a report to the legislature and governor every two years.

Section 27 requires all accredited forensic laboratories to test sexual assault examination kits within 90 days of receipt from a hospital or law enforcement agency, and to update the kit-tracking database upon completion. If the lab does not meet the 90-day deadline, it must notify the submitting agency and provide an estimated time frame for testing completion.

Section 28 directs the BCA to operate a missing person alert program and requires issuance of an alert when a person is reported to be missing and endangered.

Section 29 provides that the Board of Firefighter Training and Education may accept funding from the general fund and allocate funding for training reimbursements.

Sections 30 and 31 amend the definition of “license holder” in the private detective/protective agent law to include partnerships. Require licensees to submit fingerprints and written consent for background check purposes.

Section 32 requires the commissioner of human rights to solicit and compile information regarding incidents motivated in whole or in part by a person’s actual or perceived race, color, ethnicity, religion, sex, gender, sexual orientation, gender identity, gender expression, age, national origin, or disability. Requires summary data to be included in the commissioner’s annual report to the governor. Classifies data as private data on individuals.

Sections 33, 34, and 44 expand the crimes of assault motivated by bias, felony assault motivated by bias, and harassment motivated by bias, respectively, to include bias based on a person’s gender identity, gender expression, age, national origin, ethnicity, and bias against a person who associates with someone in a protected class. Clarifies that the conduct may be in whole or in substantial part based on a protected class status.

Section 36 adds a cross reference to the new organized retail theft crime established in section 36 in the general theft law’s penalty subdivision for repeat thefts. This results in the new crime being treated the same as other listed theft-related crimes in terms of determining the applicable criminal penalty and required value threshold for repeat offenses.

Section 37 establishes the crime of organized retail theft. This crime occurs when a person, acting as a participant in an organized retail theft enterprise, steals or fraudulently obtains retail merchandise from a retailer and: resells or intends to resell it; advertises or displays it for sale; returns it to a retailer for anything of value; or the act occurs within five years of a previous conviction under this section. In addition, the person is required to have, while acting as a participant in an organized retail theft enterprise, done this on more than one occasion within the past six months. Receiving stolen retail merchandise with the intent to resell it under the circumstances described above is a violation. An organized retail theft enterprise is defined as an ongoing criminal enterprise having retail theft as one of its goals in which two or more individuals participate.

Penalties for the new crime range from a gross misdemeanor to a two-, seven-, or 15-year statutory maximum felony depending on the value of the property stolen and whether the offender has violated the crime in the past. These penalties are enhanced versions of what would be applicable under the general theft crime. Also provides for enhanced penalties for violations that create a reasonably foreseeable risk of bodily harm to others and allows aggregation of the value of retail merchandise stolen in a six-month period for charging purposes.

Sections 38 and 39 amend the identity theft crime to authorize financial institutions to release certain specified information (name and last known address/phone numbers of account holders) to law enforcement and prosecutors who certify that it is related to an identity theft crime investigation or prosecution. Gives complying financial institutions immunity for so doing. (See also sections 2 and 3)

Sections 40 and 41 amend the third- and fourth-degree burglary crimes to include situations in which a person enters a building that is open to the public with intent to steal while inside or does steal while inside (regardless of original intent). Currently, this type of activity is not considered burglary since the crime generally requires that the building involved be one that the person is not allowed to enter.

Sections 42 and 43 amend the crimes of criminal damage to property in the second degree and third degree to include damage committed in whole or in substantial part because of (1) the victim's actual or perceived status in a protected class; (2) the victim's association with someone who is, or was perceived to be, part of a protected class; or (3) a motivation to intimidate or harm a person who is, or was perceived to be, part of a protected class.

Section 45 authorizes the commissioner of public safety to include programs that provide emergency shelter and housing support in the award of grants to agencies that provide services to victims of sexual assault.

Sections 46, 47, and 49 change the term "battered woman" to "domestic abuse victim" in three provisions of the crime victims chapter of law. Make conforming changes.

Section 48 defines the term "housing supports" in the crime victims chapter of law to include services to enable victims to secure and maintain transitional and permanent housing placement.

Section 50 amends the law specifying how long a search warrant is valid. Provides that a search warrant on a financial institution is valid for 30 days (rather than the general ten-day period).

Section 51 expands required reporting on crimes motivated by bias to include bias based on a victim's color, ethnicity, sexual orientation, gender identity, gender expression, national origin, or because a person associated with someone perceived to be in a protected class.

Section 52 directs the POST Board to adopt rules under chapter 14 that permit the board to take action on a licensee for a violation of a standard of conduct whether or not criminal charges have been filed and in accordance with the standards and processes for boards under chapter 214.

Section 53 requires training for peace officers in the use of opiate antagonists. Requires peace officers to be supplied with and carry opiate antagonists.

Section 54 expands training course requirements on crimes motivated by bias to include bias based on color, ethnicity, sexual orientation, gender identity, gender expression, national origin, and bias against a person who associates with someone in a protected class. Requires the POST Board to review the approved course list every three years in consultation with communities most targeted by hate crimes.

Section 55 requires peace officer training to identify, respond to, and report crimes motivated by bias. Requires the POST Board to review learning objectives and consult with communities most targeted by hate crimes.

Section 56 addresses law enforcement agency policies on body worn cameras. Requires that policies prohibit altering, erasing, or destroying any recordings during the applicable retention period, mandate that cameras be worn in a specified manner to provide unobstructed views and be activated as described, and mandate they be worn and operated in compliance with the policy of the officer's agency when the officer is operating under the command of a chief law enforcement officer of another agency.

Section 57 establishes the intensive comprehensive peace officer education and training program within DPS with the aim of addressing the critical shortage of peace officers in the state, specifically those that are college graduates. Authorizes reimbursement grants to law enforcement agencies for the cost of educating, training, paying, and insuring eligible candidates until the candidate is licensed as a peace officer. Provides for retention bonus reimbursement grants and student loan reimbursement grants. Requires the commissioner, in consultation with the POST Board executive director, to develop an intensive comprehensive law enforcement education and skills training curriculum designed to be completed in eight months or less and offered at specified institutions.

Section 58 amends the Philando Castile Memorial Training Fund appropriation from 2021 to specify that certain listed law enforcement training courses are eligible for reimbursement from the appropriation.

Section 63 repeals the statutory provision that sunsets the BCA's independent Use of Force Investigations Unit.

Article 4 - Corrections

Section 1 gives the commissioner of corrections authority to award grant contracts to, among other things, implement legislative directives.

Section 2 clarifies that the commissioner of corrections is required to provide public notice when a correctional facility's license is restricted by the commissioner due to a correction order.

Section 3 provides that the commissioner of corrections may reimburse sheriffs for transportation expenses incurred by counties when returning probationers to the state who are being held in custody under the Interstate Compact for Adult Supervision. Reimbursements shall be based on a fee schedule agreed upon by the Department of Corrections and the Minnesota Sheriff's Association. Reimbursements are limited to the transport of individuals from locations over 250 miles from the office of the sheriff arranging and supervising the offender's return to the state.

Section 4 limits the criminal liability of a person under the accomplice liability law for deaths caused by another during the commission of a felony. For first-degree felony murder, the person would have to have intentionally aided the other person with the intent to cause the death. For second-degree felony murder, the person would have had to be a major participant in the underlying felony who acted with extreme indifference to human life.

Section 5 prohibits counties from charging jail inmates for external phone calls made to mental health care providers.

Section 6 modifies the commissioner of corrections' obligation to develop and distribute a model discharge planning process for jails. Establishes a timeline for development of a discharge plan for mentally ill jail inmates. Authorizes counties to establish reentry coordination programs.

Section 7 authorizes persons to apply to have their convictions vacated for aiding and abetting certain felony murders committed by another (see section 4). Requires notice by the Department of Corrections to persons who might be eligible to bring a petition. Requires a person seeking relief to bring a preliminary application for review by the Ramsey County District Court by October 1, 2024. If the court determines there is reasonable probability that the applicant is entitled to relief, the applicant may then petition the district court in the county where the conviction took place for relief. Specifies the process for both the initial application and the petition for actual relief, the grounds and review standards for each step, notice requirements, and other related issues.

Section 8 revives the Task Force on Aiding and Abetting Felony Murder and expands its duties. Requires a report to the legislature by January 15, 2024, before once again sunseting it.

Article 5 - Clemency Changes

Article 5 changes the process for the issuance of pardons and sentence commutations.

Under current law, the Board of Pardons consists of the governor, attorney general, and chief justice of the Supreme Court. The commissioner of corrections serves as secretary to the board, screens petitions, and provides administrative support. The board may issue an absolute or conditional pardon or sentence commutation based on a unanimous vote.

This article changes the approval requirement for the granting of relief (now called clemency). Clemency may be granted unless the governor or a majority of the board objects. Thus, the governor would have sole "veto" authority, as would a majority of the board. In practice, this allows a nonunanimous vote to grant clemency so long as the governor is not objecting. Establishes a 9-member Clemency Review Commission (with three members appointed by each member of the Board of Pardons). The commission is required to review applications for clemency and make nonbinding recommendations to the Board of Pardons. Also, provides that the commission will make recommendations on whether to waive the applicable waiting period for a clemency application. Unless the period is waived, an applicant must wait (1) five years following discharge of sentence when applying for a pardon, and (2) at least one-half of the imposed sentence or five years, whichever is less, when applying for a commutation (current law requires a five year wait for pardons (ten for those involving crimes of violence), unless waived by the board). Addresses the appointment and compensation of members, the appointment of an executive director, commission meetings, commission powers, and other related issues. Specifies what must be included on a clemency application and what the commission must consider when reviewing and ultimately making recommendations to the board on clemency applications.

Article 6 - 911 Emergency Communications System

Article 6 amends Minnesota Statutes, chapter 403 (911 emergency and public safety communications) to update language to reflect changes in technology for 911 network architecture and services, including adding references to current technology used to access 911 services, as well as how the network transports 911 calls to the appropriate public safety answering points (PSAPs). These changes are meant to also accommodate future technological enhancements related to the delivery and processing of 911 calls. Changes are made to align the chapter's language with a recent Federal Communications Commission (FCC) amendment to the federal code of regulations (CFR) and clarify the allowable uses of 911 fees; to address the commissioner of public safety's role to provide the 911 network to PSAPs and to establish network redundancy and cybersecurity functional requirements for any entity that connects to the network and receives 911 calls; to address the role of counties to provide existing and ongoing 911 systems and services to facilitate the technology needed to dispatch assistance to callers; and to require voice over IP (VOIP) providers to fulfill the data remittance and fee submission requirements of their originating service provider (OSP) counterparts (wireless and wireline).

Article 7 - Minnesota Rehabilitation and Reinvestment Provisions

Article 7 provides a process to allow certain individuals to be released from prison early or to have their active supervised release term shortened.

Requires the commissioner of corrections to establish a policy providing for earned incentive release credit (EIRC) for prison inmates (including potentially allowing participation in community programming outside of prison to receive credit) and earned compliance credit for persons on supervised release.

EIRC is meant to reduce the term of imprisonment of an inmate based on participation in rehabilitative programming. The policy to implement the credit (including most of the specifics relating to its application) is to be established by the commissioner, in consultation with specified criminal justice and other organizations. Once earned, these credits will be nonrevocable and will reduce the inmate's term of imprisonment (while not lengthening the inmate's supervised release term). Allows for a maximum reduction of 17% of an inmate's total executed sentence (not just term of imprisonment) up to a maximum of one half of the inmate's total executed sentence. Any inmate is eligible to receive EIRC except for those serving a life sentence and those under the old parole or good time laws.

Specifies the type of rehabilitative and other related programming the commissioner must offer to inmates in general (and which participation in would result in the potential earning of EIRC). Requires the commissioner to develop a comprehensive needs assessment for most inmates and develop an individualized rehabilitation plan for them.

Provides for earned compliance credit for those on supervised release, which entails a one-month reduction from the period of active supervision for every two months that the person exhibits compliance with the conditions and goals of the person's supervised release plan. Provides for the person to be put on supervision abatement status once the person's time on active supervision plus the earned compliance credits equal the total length of the original supervised release term. A person on supervision abatement status may not be required to regularly report to a supervised release agent or to pay a supervision fee.

Requires that savings realized under the EIRC be reallocated as follows: (1) 25% for crime victim services; (2) 25% for community correctional supervision; (3) 25% for: (i) community-based services for persons who are correctionally involved or at-risk or becoming so involved, and (ii) evidence-based rehabilitative programming in state and local correctional facilities; and (4) 25% to the state general fund.

Defines terms. Provides for victim notification and input. Requires annual reporting to the legislature.

Article 8 - Supervised Release Board; Changes to Release Determinations and Eligibility for Certain Offenders

Article 8 makes changes in law related to when a person who committed certain crimes before reaching the age of 18 is eligible for release. Also, changes who the decision-maker is for release determinations for inmates serving life sentences with the possibility of release (regardless of what age they were when they committed the offense) and for inmates who committed their crime before the age of 18 and who are eligible for discretionary release.

Provides that a person who commits a crime before reaching the age of 18 for which a life sentence applies is eligible for supervised release consideration after serving 15 years in prison. This applies to sentences where, if the person had committed the crime as an adult, the person would have been subject to either a life without release or 30-year minimum sentence. Provides that persons who committed their crime (any crime) before reaching the age of 18 and who received a prison sentence of 15 or more years (including via consecutive sentences) are eligible for supervised release consideration upon reaching the 15-year mark.

Establishes a seven member Supervised Release Board to make release determinations for inmates serving life sentences with the possibility of release, those serving under the old parole system, and those who committed their crime before reaching 18 (those described above). Under current statute, release decisions for inmates who are eligible for discretionary release are solely the decision of the commissioner of corrections.

Describes the appointment authority, qualifications, terms, compensation of members, and other related matters. Requires annual reporting to the legislature. Describes the process for the board to follow when making release determinations. In addition to determining whether an eligible inmate may be released from prison, the board may also grant (1) "constructive parole," which involves the person being paroled from an indeterminate sentence to begin serving a consecutive sentence in prison, and (2) final discharge of sentence to a person on supervised release or parole. Supervised Release Board decisions are based on a majority vote of the board. Decisions on the terms imposed on persons released from prison and whether to revoke a person's release remain solely with the commissioner of corrections.

Article 9 - Expungement Without Petition

Article 9 provides for automatic expungement of criminal records in certain instances. There are four groupings of persons eligible for this:

- (1) those whose charges were dismissed (except based on an incompetency determination), or who successfully completed a stay of adjudication under Minnesota Statutes, section 152.18 (certain low-level drug possession cases for first-time offenders), or where all pending actions were resolved in the person's favor;

- (2) those who successfully completed a diversion program or stay of adjudication for a nonfelony qualifying offense (as defined) and have satisfied a one-year waiting period without new charges being brought;
- (3) those who have received a pardon extraordinary; and
- (4) those convicted of a qualifying offense and who have not been convicted of any new non-petty misdemeanor offense in Minnesota during the applicable specified waiting period (two, three, four, or five years depending on the penalty level of the crime) and who are not charged with a crime (except for a petty misdemeanor offense) at the time of the review.

Defines “qualifying offense” to include petty misdemeanors (other than traffic and parking offenses), misdemeanors (other than listed offenses including DWI and offenses related to assaults or domestic violence), gross misdemeanors (other than listed offenses including DWI and offenses related to assaults or domestic violence), and felonies that are eligible for expungement through the petition process under current law (see article 10) other than certain specifically excluded ones.

Requires the BCA to identify individuals who are eligible for an automatic expungement under this article. The BCA must notify the judicial branch of records that are eligible for expungement and direct the judiciary to issue an order sealing the records. The BCA must seal its own records for these offenses 60 days after this notification is given. Requires the BCA to notify every agency with relevant records related to the offense and require that those records be sealed as well (the records may still be used for certain defined law enforcement type purposes).

Article 10 - Expungement by Petition

Article 10 reduces certain waiting periods under current law to file an expungement petition for convictions that are eligible for expungements (gross misdemeanors from three years to two years and listed felonies from five years to four years). Expands the list of convictions that are eligible for expungement to include the following felony crimes: third- and fourth-degree controlled substance possession, possession of shoplifting gear, third-degree burglary, and possession of theft tools. Establishes that a person sentenced to a misdemeanor or gross misdemeanor sentence is eligible for expungement relief even if the conviction was for a more serious offense.

Article 11 - Expungement Changes; Conforming Changes

Article 11 makes a series of clarifying and conforming changes and other changes to law largely to effectuate the expungement-related provisions in articles 9 and 10.

Sections 1, 2, 6, 7, and 8 are conforming changes.

Section 3 provides that evidence of the criminal history of an employee or former employee may not be introduced into evidence in a civil action based on the conduct of the employee if the record was sealed as the result of an automatic expungement.

Section 4 directs the BCA to establish a database for petty misdemeanor offenses and misdemeanor offenses that may become eligible for expungement and for which no fingerprints are collected.

Section 5 amends the list of “targeted misdemeanors” for which fingerprinting is required to include obscene or harassing telephone calls.

Section 9 establishes that the nature of the remedy for an expungement based on a petition does not apply to an automatic expungement.

Section 10 clarifies that prosecutors may obtain records of convictions that were expunged, and the subject of an expunged record may obtain a copy of the record.

Section 11 establishes that the waiting period following the grant of an expungement based on a petition does not apply to other expungements.

Section 12 requires prosecutors to make a reasonable and good faith effort to notify a victim if a conviction is eligible for automatic expungement.

Article 12 - Community Supervision

Article 12 creates a Community Supervision Advisory Committee to develop standards for probation, supervised release, and community supervision. Replaces the Community Corrections Act funding formula with a new statewide funding formula. Authorizes Tribal governments to receive supervision funding under the new formula. Codifies certain release violation standards. Makes technical changes and deletes obsolete language.