

S.F. No. 1267 – Miscellaneous Public Safety Provisions (as amended by the SCS1267A-1 delete-everything amendment)

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Article 1 – Corrections

Sections 1 and 2 make conforming changes to use consistent terms in Minnesota Statutes, section 241.021. (SF1972, Pappas)

Section 3 defines “strip search” and “health care professional.” Restricts the use of strip searches to situations where there is an immediate concern about contraband, other techniques cannot be used, and the chief administrator of the facility (or that person’s designee) approves the specific search. Requires such a search to be conducted by a health care professional or a staff person with appropriate training, and requires a report on searches to be made to the commissioner of corrections. Prohibits the use of isolation of juveniles for punishment of a juvenile, but permits isolation to be used for the safety of a juvenile or others. Authorizes the commissioner of corrections to take action to address violations and requires a report. (SF1972, Pappas)

Section 4 provides that the ombudsperson for corrections may be removed only for just cause. (SF1596, Seeberger)

Section 5 requires the commissioner of corrections to direct juvenile facilities to update their plans on searches and isolation to be consistent with the new requirements in section 3. (SF1972, Pappas)

Section 6 directs the commissioner of corrections to establish new rules regarding strip searches and the use of isolation. Requires the use of the exempt rulemaking process. Provides that the joint rulemaking authority with the commissioner of human services does not apply to amendments applicable only to the Department of Corrections. (SF1972, Pappas)

Article 2 – Probation

Article 2 authorizes Tribal Nations to provide the delivery of probation and post-release prison supervision through the Tribal Nations’ community supervision departments. (SF1661, Kunesh)

Article 3 – Public Safety

Sections 1 to 7 require carbon monoxide alarms in the sleeping rooms of hotels and lodging houses, with limited exceptions.

Currently, for hotels and lodging houses, the State Fire Code requires the installation and maintenance of:

- (1) a carbon monoxide alarm within every sleeping room, or within ten feet if there is no source of carbon monoxide inside the room; or
- (2) a carbon monoxide detector within 15 to 25 feet of every fixed source of carbon monoxide and linked to a centralized alarm system with continuous onsite monitoring.

Section 1 adds the carbon monoxide alarm requirements explicitly to the sections the commissioner of public safety has authority to enforce. (SF225, Hoffman)

Section 2 adds a definition of “hotel” to the statutes about carbon monoxide alarms. (SF225, Hoffman)

Section 3 adds a definition of a “lodging house” to the statutes about carbon monoxide alarms. (SF225, Hoffman)

Section 4 requires that every guest room in a hotel or lodging house have an approved and operational carbon monoxide alarm installed in each room lawfully used for sleeping purposes. (SF225, Hoffman)

Section 5 states that the owner of a hotel or lodging house must provide, install, and keep operational any carbon monoxide alarms required by statute. (SF225, Hoffman)

Section 6 makes a technical correction to current law. (SF225, Hoffman)

Section 7 stipulates that the first violation of section 4 or 5 results in only a safety warning and that subsequent violations are petty misdemeanors. (SF225, Hoffman)

Section 8 requires the Board of Private Detective and Protective Agent Services to accept proof of the required preassignment training from employees of licensed private detectives and protective agents if the training was provided by another Minnesota license holder within the past three years. Also requires license holders to provide a certificate of preassignment training to employees even when the license holder paid for the training. (SF2396, Latz)

Section 9 provides that costs incurred by a county, city, or private medical facility or physician for the examination of a victim of domestic assault by strangulation are to be paid under the terms of Minnesota Statutes, section 609.35. (Of note, currently that would require payment by the county in which the assault occurred. However, a provision in S.F. No. 2909 (omnibus judiciary and public

safety funding bill) (passed by the senate) would change financial responsibility under Minnesota Statutes, section 609.35, to the state) (SF1038, Gustafson)

Article 4 – Law Enforcement

Section 1 requires law enforcement agencies to file quarterly carjacking reports with the commissioner of public safety. It also requires the commissioner to include the carjacking data received in the department’s annual uniform crime report. (SF947, Limmer)

Section 2 prohibits a law enforcement agency from discharging, disciplining, threatening, retaliating, otherwise discriminating against, or penalizing a peace officer who interceded against or reported another officer’s or employee’s use of excessive force. Authorizes a court to order back wages or reinstatement of the victimized officer’s job as a remedy. Authorizes a peace officer victimized under this section to bring a civil action for damages. (SF477, Seeberger)

Section 3 prohibits peace officers or other law enforcement agency employees from threatening, harassing, retaliating, or otherwise discriminating against a peace officer who interceded against or reported another officer’s or employee’s use of excessive force. Subjects a person who violates this to disciplinary action. Authorizes a peace officer victimized under this section to bring a civil action for damages. (SF477, Seeberger)

Section 4 directs local government officials to cooperate with the Peace Officers Standards and Training (POST) Board when provided notice that the board is investigating a peace officer. Local officials must provide the board with public, private, and confidential data related to the peace officer who is the subject of the board’s investigation. Requires local officials to notify the board when a peace officer was discharged for misconduct. (SF427, Oumou Verbeten)

Section 5 grants immunity from civil and criminal penalties under the Data Practices Act for local officials who comply with the data sharing and notice requirements in section 4, unless the information is false and presented with the intention of causing reputational harm to the peace officer. (SF427, Oumou Verbeten)

Section 6 requires law enforcement agencies to conduct a criminal history background check on applicants who are being considered for employment by the agency as peace officers. It also provides direction to the superintendent of the Bureau of Criminal Apprehension (BCA) on how to process background checks submitted under this section. Additionally, it authorizes law enforcement agencies to share the results of the background checks with the POST Board. (SF426, Oumou Verbeten)

Section 7 expands the requirement that employers comply with a law enforcement agency’s request for employment records of an employee or former employee who is applying to become a peace officer to include the records of persons who are applying for a law enforcement job in any capacity. (SF426, Oumou Verbeten)

Section 8 provides that if access to employment records is denied, an authorized representative of a law enforcement agency (as opposed to a sworn peace officer) may request a court order directing the disclosure of the employment information. (SF426, Oumou Verbeten)

Section 9 is a conforming amendment relating to sections 6 to 8. (SF426, Oumou Verbeten)

Sections 10 to 16 and 19 provide that Tribal law enforcement agencies are not required to enter cooperative agreements with the local sheriff as a condition of exercising concurrent jurisdiction within the boundaries of their reservations. Also expand the law enforcement jurisdiction of the Mille Lacs Band to include all persons within the geographical boundaries of the Treaty of 1855, as opposed to all persons on land held in trust by the United States for the band. (SF2251, Kunesh)

Section 17 permits law enforcement officers to attach a mobile tracking device to stolen vehicles without prior court approval if (1) the owner of the vehicle consents, or (2) the vehicle was reported as stolen and is occupied when the device is attached. Law enforcement must remove or disable the device after 24 hours or secure a search warrant to continue its use. The device must be removed if the vehicle is recovered and returned to its owner. Any evidence obtained after return to the owner is inadmissible. Requires an annual report to the legislature. (SF2734, Latz)

Section 18 amends a session law that limits the Minneapolis Police Department to three deputy chiefs and five inspectors. Strikes those limits. Updates terminology. This section is effective the day following approval by the Minneapolis City Council. (SF2798, Latz)

Article 5 – Criminal

Section 1 makes a conforming change related to section 14. (SF294, Gustafson)

Section 2 requires the Sentencing Guidelines Commission to annually report on resentencings pursuant to section 10. (SF586, Latz)

Section 3 establishes a cause of action against a person who disseminates, without consent, a deep fake that depicts intimate parts or sexual activity. (SF1394, Maye Quade)

Sections 4 to 9 and 25 reduce the maximum sentence for a gross misdemeanor from not more than one year to not more than 364 days and make corresponding changes to the definition of felony and additional conforming changes. Also adjust gross misdemeanor sentences imposed before the effective date of the amendments to reflect the proposed changes in these sections. (SF816, Latz)

Section 10 authorizes prosecutors to initiate proceedings to lower the sentence of a person convicted of a crime that they prosecuted. Authorizes the commissioner of corrections, a supervising agent, or the offender to request a prosecutor to review a case for possible action. Provides for the court to hold a hearing on the matter and authorizes it, if it finds by a preponderance of the evidence that substantial and compelling reasons exist, to modify the sentence. The court must consider the impact of a sentencing adjustment on public safety, including whether it would promote the rehabilitation of the offender, properly reflect the severity of the underlying offense, or reduce sentencing disparities. Provides for victim notification and input, addresses the service of the petition and what must be included in it, and what factors the court must consider when deciding whether to grant the petition. (SF586, Latz)

Sections 11 and 12 make conforming changes related to section 13. (SF1950, Oumou Verbeten)

Section 13 amends the statutory provision that provides maximum probation lengths. Under current law, the maximum probationary sentence for most felonies is four years or the statutory maximum for the offense, whichever is *longer*. Provides that the maximum will now be five years or the

statutory maximum for the offense, whichever is *less*. Certain felonies (first- and second-degree murder, first-degree manslaughter, criminal vehicular homicide, criminal vehicular operation involving substantial bodily harm, and sex offenses) are excluded. For these offenses, the maximum length is four years or the statutory maximum, whichever is longer. Also lowers the maximum probationary sentence applicable to gross misdemeanor DWIs, criminal vehicular operation resulting in bodily harm, and fifth-degree criminal sexual conduct from six years to four years. (SF1950, Oumou Verbeten)

Section 14 establishes a new crime for recording or broadcasting images of a person's intimate parts if the person is in a home or other place where a reasonable person would have an expectation of privacy and the image is captured without the person's consent. Violation is a gross misdemeanor. Establishes a new crime for recording images of a person's intimate parts or the clothing covering those parts that are taken under or around the person's outer clothing with the intent to interfere with a person's privacy. A first violation against an adult is a misdemeanor. A second violation, or recording images of a minor, is a gross misdemeanor. A third or subsequent violation is a felony. (SF294, Gustafson)

Section 15 makes it a crime to disseminate a deep fake if the person making the dissemination knows or should know the item is a deep fake and the dissemination takes place during the 90 days before an election, is made without consent of the individual depicted in the deep fake, and is made with the intent to influence the result of an election. The penalty ranges from a misdemeanor to a gross misdemeanor to a five-year felony depending on the circumstances of the offense. (SF1394, Maye Quade)

Section 16 adds a three-year felony penalty for a person who places an emergency call reporting a fictitious emergency with the intent of prompting an emergency response by law enforcement, fire, or EMS personnel, and, as a result of the response, someone suffers substantial bodily harm. Under current law, the base crime for doing this is a gross misdemeanor. It is a ten-year felony if the response results in someone's death or great bodily harm, but there is no enhanced penalty for lower-level injuries. (SF682, Limmer)

Section 17 makes a conforming change related to section 14. (SF294, Gustafson)

Section 18 modifies this section to clarify that concealing a birth of a child by any disposition of its dead body when the child died after its birth is guilty of a misdemeanor and does not apply to the disposition of remains resulting from an abortion or miscarriage. (SF70, Maye Quade)

Section 19 makes a conforming change due to the repeal of Minnesota Statutes, section 617.201 (see section 26). (SF70, Maye Quade)

Section 20 makes it a crime to intentionally disseminate a deep fake when the person knew that the person depicted in the deep fake does not consent to the dissemination, the deep fake realistically depicts intimate parts or sexual acts, and the person being depicted is identifiable. The penalty ranges from a gross misdemeanor to a three-year felony depending on the circumstances of the offense. (SF1394, Maye Quade)

Section 21 provides that violations of the crime of surreptitious intrusion may be charged within the later of three years after the commission of the offense or three years after the offense was reported to law enforcement.

This section is effective August 1, 2023, for crimes committed on or after that date and to crimes committed before that date, if the limitation period for the crime did not expire before August 1, 2023. (SF294, Gustafson)

Section 22 requires a court to seal the records of a conviction where the convicted person received a pardon extraordinary. The records may only be subsequently opened by court order or without court order for use by a criminal justice agency for a criminal investigation, prosecution, or sentencing. (SF528, Champion)

Section 23 provides for retroactive application of the probation period changes in section 13. If the person is still on probation and would have been subject to a shorter period under section 13, the person is eligible for resentencing to the shorter period or, where applicable, the probation term is considered to have expired. Resentencing may occur without a hearing. (SF1950, Oumou Verbeten)

Section 24 requires the Sentencing Guidelines Commission to amend the guidelines to reflect the changes made in section 13. (SF1950, Oumou Verbeten)

Section 26 repeals the following sections:

Minnesota Statutes, section 609.293, subs. 1 and 5 (Sodomy). The definition of sodomy and the criminal penalty involving the voluntary act of sodomy that does not fall within criminal sexual conduct in the first degree or the third degree.

Minnesota Statutes, section 609.34 (Fornication). The criminal penalty involving fornication between “any man and a single woman.”

Minnesota Statutes, section 609.36 (Adultery). The criminal penalty for acts constituting adultery or “when a married woman has sexual intercourse with a man other than her husband, whether married or not.”

Minnesota Statutes, section 617.20 (Drugs to produce miscarriage). The criminal penalty for manufacturing, giving, or selling an instrument, drug, or medicine, or any other substance, with the intent that it may be unlawfully used in producing a miscarriage.

Minnesota Statutes, section 617.201 (Indecent articles and information). The criminal penalty involving the selling, lending, or giving away any instrument or article, or any drug or medicine for causing an unlawful abortion or to write or print a card, circular, pamphlet, advertisement or notice of any kind, or give oral information that states when, where, how, or by what means such an article or medicine could be obtained or who manufactures it.

Minnesota Statutes, section 617.202 (Sale of articles relating to prevention of conception or disease). The criminal penalty against selling, offering to sell, distributing or dispensing instruments, articles, drugs, or medicines for the prevention of conception or disease unless the person or organization is recognized as dealing primarily with health or welfare.

Minnesota Statutes, section 617.21 (Evidence). The provision that in any prosecution for abortion or attempting an abortion no person is excused from testifying as a witness on the grounds that the person's testimony may incriminate the person.

Minnesota Statutes, section 617.28 (Certain medical advertisements). The prohibition on advertising the treatment of venereal diseases, the restoration of "lost virility" or that a person is a specialist in diseases of the sex organs, diseases caused by sexual weakness, self-abuse or excessive sexual indulgence or any medicine, drug, or appliance to cure sexual diseases or produce a miscarriage or abortion.

Minnesota Statutes, section 617.29 (Evidence). Establishes that any advertisement material is prima facie evidence that a person is guilty of advertising to cure a disease in violation of section 617.28, which is also being repealed.

(SF70, Maye Quade)