



## **S.F. No. 1098 – Policy provisions in omnibus judiciary and public safety bill (as amended by scs1098A-1 DE)**

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### **Article 1 Criminal Provisions**

**Sections 1, 14, and 15** criminalize the creation, distribution, and possession of child-like sex dolls (**sections 14 and 15**). These sections are modelled after the child pornography crimes and provide identical penalties and conditional release terms for child-like sex dolls, as do the corresponding child pornography crimes. Penalties range from a five-year to a 15-year felony. Also, requires the offender to register as a predatory offender (**section 1**).

**Section 2** amends the accomplice liability law to provide that a person may not be held criminally liable for violating the first-degree murder crime involving premeditation and intent to effect the death of another or the second-degree murder crime involving intent to effect the death of another but without premeditation, where the death was caused by another, unless the person intentionally aided, advised, hired, counseled, or conspired with or otherwise procured the other person to commit the crime.

**Section 3** provides that the felony murder provision in the first-degree murder crime applies only to felony level violations of the listed predicate offenses.

**Section 4** strikes unintentional deaths arising from drive-by shootings from subdivision 1 of the second-degree murder crime. These are added to subdivision 2 of the second-degree murder crime in **section 5**. While both subdivisions carry a 40-year statutory maximum sentence, subdivision 2 crimes have shorter presumptive sentence durations and a lower severity level than subdivision 1 crimes.

**Section 5** amends the unintentional death felony murder provision in the second-degree murder crime to limit the predicate offenses to which it applies to the listed offenses (which are the same ones that currently can serve as predicates for first-degree intentional death felony murders).

**Section 6** adds an additional limitation for unintentional death felony murders in the second-degree murder crime (**see section 5**) to provide that, to be convicted, a person's acts must present a special danger to human life based on the circumstances under which the predicate felony was committed.

**Section 7** amends the fourth-degree assault crime. Makes physical assaults of fire fighters, EMS personnel, or health workers in hospital emergency room settings a gross misdemeanor. Also increases the statutory maximum for an assault against any of these individuals that results in demonstrable bodily harm from two years imprisonment/\$4k fine to three years imprisonment/\$6k fine.

**Section 8** provides an exception to the child neglect crime for acts committed while pregnant and before the birth of the child.

**Section 9** establishes a new crime for approaching or remaining within 25 feet of a first responder with the intent of impeding or interfering with the person while knowing of their status and failing to heed a warning to stay away. Penalties for a violation range from a misdemeanor to a five-year felony depending on the harm caused.

**Section 10** establishes a new crime relating to the theft of public funds. Penalties for a violation range from a six-year to a 24-year felony.

**Section 11** amends the crime addressing damage or theft of energy transmission or telecommunications equipment to clarify that it includes broadband services and cable services equipment.

**Section 12** expands the swatting crime provision that addresses victims who are public officials or employees to include all correctional employees of state or local political subdivisions.

**Section 13** expands the definition of "pornographic work" in the child pornography law (and thus the scope of that law) to include depictions of individuals indistinguishable from actual minors created through artificial intelligence or other computer technology.

**Section 16** provides a process for individuals to get retroactive relief for past first-degree murder convictions for intentional and premeditated deaths that were based on an accomplice liability theory and where the death was caused by another and the person did not intentionally aid, advise, hire, counsel, or conspire with or otherwise procure the other person to commit the crime (**section 2** prospectively prohibits similarly situated individuals from being convicted of this in the first place). Specifies the process for retroactive relief, which is nearly identical to the process enacted in 2023 for retroactive relief for certain other individuals convicted of felony murder under an accomplice liability theory.

## **Article 2**

### **Public Safety Provisions**

**Sections 1 to 3, 11, and 16** replace references in provisions addressing “videotapes” of child abuse victims with “recordings.”

**Sections 4, 10, 12, and 13** replace references to the term “pornographic work” in the child pornography and other related laws with “child sexual material.”

**Section 5** provides that DPS may retain for administrative costs up to five percent of funds appropriated for grants enacted by the legislature and single or sole source and formula grants and up to ten percent for competitive grants.

**Section 6** amends the Hometown Heroes law. Hometown Heroes is a program administered by the Minnesota Firefighters Initiative that provides critical illness coverage and monetary support payments to firefighters diagnosed with certain critical illnesses. It also provides psychotherapy to address emotional trauma experienced by firefighters, and education on the best practices for firefighters to limit the occupational risks of cancer, heart disease, and emotional trauma.

This section clarifies that the psychotherapy program offered by Hometown Heroes includes peer-to-peer support, and changes the requirement that at least two hours of education on occupational risks be provided to all firefighters to a requirement that at least two hours of education be made available to all firefighters.

**Section 7** amends the definition of “endangered” in the Minnesota missing children and endangered persons program to include persons at risk of physical injury or death because the person has dementia or other listed cognitive impairments.

**Section 8** authorizes counties and cities to investigate the background of applicants for licenses to operate an adult entertainment establishment or business providing massage services. Specifically authorizes a check of national criminal records. Describes the process for a background check.

**Section 9** modifies the amount that the state fire marshal must charge for charter school building inspections from a designated flat fee per building to a designated fee based on square footage.

**Section 14** amends the permit to carry law. Requires a permit holder who has changed their legal name to notify the issuing sheriff of this within 30 days.

**Section 15** expands the situations for which a law enforcement agency may use an unmanned aerial vehicle (UAV) without a search warrant to include (1) use to preserve or protect evidence from the imminent risk of destruction, (2) use over private areas with the written consent of the occupant for training or public relations purposes, (3) use to facilitate

searches for missing persons, and (4) use to assist in the lawful pursuit of a suspect who is fleeing or might flee from law enforcement.

**Section 17** directs the Revisor to update headnote cross references in law to reflect the changes made in this bill.

### **Article 3** **Criminal Justice-Related Judicial Provisions**

**Section 1** provides that data collected, created, or maintained by a government entity that identifies a restorative practices participant (see **section 5**) is private data except as provided in **section 5**. This classification does not apply to personnel data or individuals who receive payment to facilitate a restorative practice.

**Section 2** amends the reporting requirement for the Restorative Practices Office to require data on recidivism, public safety impacts, and financial investments in restorative practices.

**Section 3** expands the post-conviction relief law to include stays of adjudication.

**Section 4** amends the privilege law to provide that domestic abuse advocates may not, without the victim's consent, disclose any opinion or information received from or about the victim that the advocate acquired in attending the victim in a professional capacity. Under current law, a court may compel disclosure using a balancing test. Provides that nothing in the provision modifies a prosecutor's obligation to disclose information in certain instances.

**Section 5** provides that statements made or documents offered in the course of a restorative practice is not subject to discovery or admissible as evidence. Makes exceptions for mandatory reporters complying with the provisions requiring reporting of maltreatment of children or vulnerable adults, disclosure of information necessary to prevent reasonably certain death, great bodily harm, or criminal activity, or information related to professional misconduct by a participant. Allows disclosure of information to verify to a court that a person ordered to participate in a program is participating.

**Sections 6 to 9** address expungements of certain cannabis-related offenses.

In 2023, the legislature established the Cannabis Expungement Board to review certain past convictions relating to cannabis sales or possession. The board was required to review records of past offenses, determine whether a person committed an act that would be a lesser offense or no longer a crime following the legalization of recreational cannabis, and direct the courts to take appropriate action (including vacating convictions, dismissing charges, expunging records, or resentencing persons to lesser offenses). Among other criteria for eligibility for this, the underlying offense could not have involved dangerous weapons or infliction of bodily harm. The prior crimes eligible for favorable action were restricted to citations to specific crimes that were in law at the time of the changes being enacted (but some of which, following enactment, are no longer on the books or are codified differently).

These sections modify the offenses eligible for expungements or resentencings to include any controlled substance crime involving the sale or possession of marijuana or tetrahydrocannabinols (assuming it meets the other eligibility requirements of the statute) existing as of the date the recreational cannabis law became effective and any prior versions of these or any other laws that criminalized the possession, sale, transportation, or cultivation of marijuana or tetrahydrocannabinols.

In addition, they authorize expungements for other offenses charged along with the underlying controlled substance crime if the charge was dismissed or eligible for automatic expungement under Minnesota Statutes, section 609A.055, and requires courts, when expunging records, to also seal correctional records.

## **Article 4**

### **Crime Victims Provisions**

**Section 1** adds children’s advocacy centers to the definition of “victim assistance program” in the statute requiring minimum fines for certain crimes. Under the law, 70% of the money mandated as a minimum fine is allocated to victim assistance programs.

**Section 2** makes clarifying, technical, and conforming changes in the statute requiring that victims receive notice of certain rights, including information about the address confidentiality program. Authorizes certain notifications to be provided in an electronic form, updates references to the Minnesota Crime Victims Reimbursement Program, specifies that notice about the right to reimbursement must include information on how to apply, clarifies the right of victims to be notified when an offender is charged, and specifies that notice to certain victims must include specific resources. Clarifies that the notice provided when an offender is a juvenile is supplemental to other notices.

**Section 3** includes violations of orders for protection, domestic abuse no contact orders, and harassment restraining orders in the list of offenses that require prosecutors to provide victims with additional notifications if a prosecutor declines to charge the offense or dismisses the charge.

**Section 4** requires the custodial authority for an imprisoned person to make a good faith effort to notify a victim when the person has submitted a letter of apology if the victim has requested such notification. Provides that, upon request, the authority must notify the Board of Pardons, the Clemency Review Commission, or a court that the offender has submitted the letter.

**Section 5** clarifies that peace officers must orally tell certain victims about shelters and other services in addition to providing written notice. Amends the written notice that informs certain victims of the right to seek an order for protection.

**Section 6** authorizes law enforcement agencies and prosecutors to exhaust the supply of existing notices before producing materials that comply with the updated

requirements in this article relating to victim notification.

## **Article 5**

### **Correctional Provisions**

**Sections 1, 3 to 7, 9 to 30, 46, and 47** make changes to statute to reflect the repeal of Minnesota Rules, chapter 2940, in **section 49**. Chapter 2940 governs the agency's Hearing and Release Unit (HRU). The HRU, once an independent entity, was brought under the department's jurisdiction in 2004. Much of the rule is considered by the agency to be either obsolete, duplicative, or already in statute.

**Sections 2 and 34** strike references to Minnesota Statutes, section 244.65, which is being repealed in **section 49**.

**Section 8** updates and modernizes language contained in the statute requiring the commissioner of corrections to have a policy to provide cultural programming services to American Indian incarcerated individuals at state correctional facilities and community-based programs.

**Sections 31, 32, 35 to 37, and 40 to 43** streamline the distribution of Tribal Nation supervision funding and clarify what these funds can be used for (see summary of **section 37** below for additional information on other charges made in that section).

**Section 33** exempts federal law enforcement officials from the licensing and background requirements for individuals who are employed as protective agents to transfer incarcerated individuals.

**Section 37** makes changes to the community supervision funding formula by requiring the felony and misdemeanor per diem rates to be multiplied by the three-year average total felony and misdemeanor populations. Under current law the per diem rates are multiplied by the felony and misdemeanor populations as reported in the most recent probation survey.

**Section 38** requires that all counties share the cost for the interstate transfer unit as the unit handles transfers of supervision throughout the state. Under current law, the cost is borne by DOC counties only. This section requires the commissioner to prorate the cost of the transfer unit among all counties, and deduct that amount from each county's subsidy.

**Section 39** clarifies and streamlines certain requirements of the community supervision funding report to the legislature and changes it from an annual to a biennial report.

**Section 44** expands the membership of the Community Supervision Advisory Council to include members of the judicial system and aspires to more diversity in certain commissioner appointed members of the council.

**Section 45** changes a reporting deadline from January 15, 2025, to May 1, 2025, and corrects a statutory reference.

**Section 48** extends, until August 1, 2027, the pilot program allowing for the transfer of individuals incarcerated in county jails to the Mental Health Unit at MCF-Oak Park Heights for mental health treatment. The section also strikes the requirement that inmates volunteer for program participation, and allows mental health professionals to refer them to the program.

**Section 49** repeals provisions considered obsolete by the agency regarding the issuance of warrants for escaped inmates or convicted defendants, work release or specialized programming for pregnant inmates, and Minnesota Rules, chapter 2940, regarding HRU policies. Also repeals statutes that require MCF-Stillwater and MCF-St. Cloud to initiate civil commitment proceedings on mentally ill inmates, transfer those to be found mentally ill to the Minnesota Security Hospital, and take them back upon restoration of their mental health.

## **Article 6**

### **Correctional Licensing Provisions**

This article contains changes to correctional licensing and other provisions proposed by the department of corrections (DOC).

The changes include:

- reorganizing licensing provisions to restructure the current statute into separate sections to delineate applicability between adult jail facilities and juvenile facilities, move provisions that apply only to state prisons to other statutory sections governing the DOC, and remove redundancies, streamline lists of licensing requirements, and ensure provisions are logically grouped.
- Clarifying language by adding definitions and promoting understandability.
- Updating language in the substance use disorder treatment law to reflect the current practice where DOC provides both inpatient and outpatient treatment to both adults and juveniles.
- Applying the licensing framework of the Hardel Sherrell Act to licensed juvenile detention centers.
- Allowing for conditional licensing for juvenile facilities facing significant or repeated violations, similar to adult jails.
- Modifying death reporting and investigation requirements for adult facilities.

## **Article 7**

### **Civil Commitment Coordinating Division**

This article establishes the Civil Commitment Coordinating Division, within the Office of the Attorney General, and the Transport Hold Work Group. **(Sen. Latz, S.F. 1492)**

**Section 1** defines terms for purposes of sections 2 and 3.

**Section 2** establishes the Civil Commitment Coordinating Division and requires the attorney general to appoint a civil commitment coordinator who must maintain the Civil Commitment

Advisory Committee; provide guidance and advocacy regarding engagement services, outpatient civil commitment, and provisional discharge; provide technical assistance to those charged with monitoring civilly committed participants; aggregate and analyze data; and educate the public. The Civil Commitment Advisory Committee, established by the attorney general, must consist of 11 to 20 members, including the attorney general, the chief executive officer of Direct Care and Treatment, the commissioner of public safety, a member representing district court judges, a member representing district court administrators, a member representing counties, a member who was previously civilly committed, and a family member of a person currently or previously civilly committed.

**Section 3** requires each county to conduct diversion studies, in accordance with uniform guidelines set by the civil commitment coordinator, and provide diversion study data and narratives to the civil commitment coordinator by October 1, 2027, and every two years thereafter. A diversion study must examine the county's behavioral health system's capacity to divert people who have a mental illness, developmental disability, or chemical use disorder away from the criminal justice system and into treatment. The civil commitment coordinator must submit a report to the legislature by April 1, 2028, and every two years thereafter, summarizing county-level data related to diversion studies.

**Section 4** establishes the Transport Hold Work Group, which consists of members from law enforcement, mental health organizations, the legal community, and representatives from Direct Care and Treatment, the Department of Human Services, and the Ombudsman for Mental Health and Developmental Disabilities. The work group must determine best practices and develop policy recommendations related to safely transporting people experiencing a mental health crisis. The work group must submit a report to the legislature by February 1, 2026. The work group expires on February 1, 2026.

## **Article 8**

### **Courts**

This article includes the Judicial Branch's policy provisions and other provisions related to court filing fee exemptions and a reporting requirement for the State Board of Civil Legal Aid.

**Section 1** exempts the Office of the Ombudsperson for American Indian Families from paying a court filing fee for actions related to child support, medical assistance enforcement, establishment of parentage, civil commitment, appointment of a public conservator or guardian, the Minnesota Indian Family Preservation Act, delinquency proceedings, and child in need of protection or services proceedings. This section also extends court filing fee exemptions for federally recognized Indian Tribes to actions filed under chapters 256 (human services), 257 (parentage), 518 (marriage dissolution), and sections 524.5-201 to 524.5-317 (guardianship). **(Sen. Kunesh, S.F. 472)**

**Section 2** requires the State Board of Civil Legal Aid to provide a report, by April 1 in odd-numbered years, to the legislative committees with jurisdiction over the judiciary regarding data related to the cases, individuals, and families served by each grant recipient. A 2024 law established the State Board of Civil Legal Aid, effective July 1, 2025. **(Sen. Limmer, S.F. 1987)**



**Sections 3 and 4** allow court filings in any St. Louis County case to be accepted at any St. Louis County courthouse. **(Sen. Latz, S.F. 1098)**

**Section 5** eliminates the statutory two-page limit on Appendix A notices for child support, spousal maintenance, custody, and parenting time, ensuring compliance with updated legal and digital accessibility requirements. **(Sen. Latz, S.F. 1098)**

**Section 6** requires conservators to serve annual reports to individuals under conservatorship, increasing transparency and accountability. **(Sen. Latz, S.F. 1098)**

## **Article 9**

### **Data Practices**

This article modifies several provisions of chapter 13 (the Minnesota Government Data Practices Act) and other provisions governing access to government data.

**Section 1** permits a responsible authority to submit private data to the commissioner of administration to respond to an appeal related to the accuracy or completeness of public or private data about an individual data subject. The commissioner may disclose private data contained in the appeal records to the Office of Administrative Hearings. Data maintained by the commissioner that a responsible authority has completed, corrected, or destroyed as a result of an informal resolution process is private data on individuals. **(Sen. Clark, S.F. 2089)**

**Section 2** requires government entities to establish procedures to monitor access to private or confidential data on individuals. **(Sen. Westlin, S.F. 2885)**

**Section 3** classifies all telephone numbers, email addresses, and online account information as private data on individuals and permits a government entity to use the data to communicate with the individual or to perform health, safety, or welfare functions or provide government services. This section also exempts the government entity from providing a notice to the individual about how the private data will be used or shared. **(Sen. Westlin, S.F. 2885)**

**Section 4** classifies the name of a library patron who is a minor as private data on individuals and exempts the government entity from providing a notice about how the data will be used or shared. **(Sen. Westlin, S.F. 2885)**

**Section 5** expands the definition of “public official” for purposes of personnel data privacy. Under current law, only the managers, chiefs, heads or directors, and any equivalent position employed by a city with a population of more than 7,500 or a county with a population of more than 5,000 are defined as public officials. This section makes all managers, chiefs, heads or directors, and any equivalent position a public official, regardless of the city or county’s population. Under section 13.43, excluding data that would jeopardize an active investigation or reveal confidential sources, if the employee is a public official, all data relating to a complaint or charge against the public official is public upon the completion of an investigation or if the public official resigns or is terminated while the complaint or charge is pending. **(Sen. Howe, S.F. 2062)**

**Sections 6 and 10 to 13** modify provisions governing judicial data contained in real property records. A 2024 law classified certain judicial data held with government entities as private data on individuals. However, the law exempted real property records. These sections remove the exemption, classify judicial official data in real property records as private data on individuals, and create specific procedures related to the data. The penalties and remedies under chapter 13 apply only if the judicial official has provided a real property notice to the government entity. If the subject of the data is a spouse, domestic partner, or adult child of the judicial official who does not reside with the judicial official, the person must provide information confirming their relationship to the judicial official. A judicial official must provide a real property notice to the county recorder in the county where the property is located and the Office of the Secretary of State.

To affect other real property records, the judicial official must provide the notice to the responsible authority for the government entity that maintains the records. Upon receipt of the real property notice, a government entity must not disclose the judicial official's personal information without their consent, except pursuant to a court order or for the purpose of administering assessments and taxation laws. The county recorder must establish recording procedures that comply with this section. A county recorder or other government entity must process the real property notice within 60 days, unless exigent circumstances exist. The disclosure prohibitions apply until the judicial official terminates the real property notice, the notice is terminated pursuant to a court order, the judicial official no longer holds a record interest in the identified real property, or the judicial official no longer qualifies as a judicial official. Pursuant to a court order or with the judicial official's consent, unredacted property records may be provided to certain licensed professionals, a mortgage loan originator, a real estate broker, or certain buyers or sellers of real property. A person who receives unredacted property information must establish procedures to safeguard the data from further disclosure. A county or other government entity may charge service fees. These sections are effective January 1, 2026. **(Sen. Latz, S.F. 2039)**

**Sections 7 and 8** permit state agencies and local governments to reproduce records by any method, but they may only reproduce permanent and archival records pursuant to guidance from the state archives in consultation with the records disposition panel. Reproduced records are admissible in all courts and proceedings. **(Sen. Westlin, S.F. 2885)**

**Section 9** exempts video that does not document actions and circumstances surrounding the officer-involved death from a current law requiring the superintendent of the Bureau of Criminal Apprehension to publish inactive investigative data for officer-involved death investigations on their website. **(Sen. Carlson, S.F. 1859)**

## **Article 10**

### **Minnesota Business Corporation Act**

This article amends chapter 302A, the Minnesota Business Corporation Act, by making several changes, including addressing procedures in the event of an emergency, providing limitations on a board's authority to manage the corporations, and establishing procedures for ratification and validation for defective corporate acts. **(Sen. Kreun, H.F. 747)**

**Sections 1 to 9** clarify current law definitions or create definitions for new terms for purposes of chapter 302A.

**Section 10** provides that section 302A.201, a statute that requires that a corporation's business and affairs be managed by the board, governs a corporation unless modified by the articles or a shareholder control agreement.

**Section 11** provides default requirements for meeting notices, meetings of the board, and meetings of shareholders in an emergency.

**Section 12** provides that a defective corporate act or putative share is not void or voidable solely as a result of a failure to authorize if it is ratified under this section or validated by a court proceeding. This section provides the process for a board to ratify a defective corporate act, as well as a separate specific process to ratify a defective corporate act in respect to the election of the first board of directors. This section requires that a defective corporate act, other than ratifying the election of the first board, must be submitted for approval by the shareholders under certain circumstances and provides a process for submission to the shareholders. This section describes the circumstances under which a certificate of validation must be filed with the secretary of state and provides requirements for the contents of the certificate. After the validation effective time, ratified defective corporate acts and putative shares are no longer void or voidable and are effective retroactively. This section provides timing and content requirements for notice to shareholders of ratification of defective corporate act.

**Section 13** provides a judicial process to review the ratification and issue potential remedies. This section permits the court to consider certain information when making a determination in an action related to a ratification and establishes a statute of limitations.

**Section 14** permits bylaws to include provisions effective only during an emergency, unless articles provide otherwise.

**Section 15** permits the articles to limit the board's powers and, in that event, addresses the liabilities of the directors and other natural persons with the responsibilities of the directors.

**Section 16** permits a board of directors to ratify an agreement when a certificate must be filed with the secretary of state.

**Section 17** permits the articles to limit or eliminate the personal liability of an officer for monetary damages for a breach of fiduciary duty during the time the corporation is publicly held.

**Section 18** permits a shareholder, beneficial owner, or a holder of a voting trust certificate of the corporation to petition the court to enforce their right to inspect and collect expenses for attorney fees.

**Section 19** permits a shareholder to dissent and obtain payment for their shares if the corporation diminishes or abolishes the board's right to manage the corporation.

**Section 20** makes a technical change.

**Section 21** permits a plan of merger or exchange to include penalties for a party's failure to perform its obligations and that an appointment is irrevocable and unamendable.

## **Article 11**

### **Trusts**

This article makes technical, clarifying, and substantive changes to laws governing trusts, trust decanting, and probate. **(Sen. Westlin, S.F. 571)**

**Section 1** provides that for any trust created after the effective date of this section, section 501A.01 applies to a nonvested property interest or power of appointment contained in the trust except that 500 years is substituted for 90 years, unless the terms of the trust provide for a lesser period.

**Section 2** extends the current law permitted use of virtual representation for consent to agreements and waivers.

**Section 3** clarifies that a power of appointment, regardless of whether it is general or special, provides the authority necessary to act on behalf of beneficiaries.

**Section 4** makes a technical change.

**Section 5** provides that a power of attorney, other than a statutory short form under section 523.23, that expressly authorizes the agent to consent to a trust's modification may be used only if the trust instrument is silent with respect to consent to the trust's modification by an agent.

**Section 6** increases the value to terminate an uneconomic trust from \$50,000 to \$150,000.

**Section 7** provides that a power of attorney, other than a statutory short form under section 523.23, that expressly authorizes the agent to exercise the settlor's powers with respect to revocation, amendment, or distribution of trust property may be used only if the trust instrument is silent with respect to exercise of those powers by an agent.

**Section 8** clarifies that notice may only be used after the settlor's death.

**Section 9** provides a cap of 120 days for a designated trustee to accept trusteeship.

**Section 10** modifies the definitions of "directing party," "distribution trust advisor," "excluded fiduciary," "fiduciary," "investment trust advisor," and "trust protector" for purposes of the statute governing directed trusts. Directed trusts are trusts where multiple parties with specialized knowledge and powers perform the duties of a trustee.

**Section 11** permits the governing instrument to give the investment trust advisor the authority to direct, consent to, or veto the exercise of all or any portion of the investment powers of the trustee.

**Section 12** permits the governing instrument to give the distribution trust advisor the authority to direct, consent to, veto, or otherwise exercise all or any portion of the distribution powers and discretions of the trustee. The distribution trust advisor has the authority to direct the trustee to terminate the trust and determine how the trustee must distribute the trust property.

**Section 13** removes the trust protector's powers to terminate the trust, direct distribution of the trust property upon termination, and veto or direct trust distributions.

**Section 14** provides that the distribution trust advisor and investment trust advisor are fiduciaries of the trust and are subject to the same duties and liabilities as a trustee. The governing instrument may vary duties and liabilities but only to the same extent that the duties and liabilities could be varied for any other trustee in the same position. A trust protector is not a fiduciary unless the governing instrument provides otherwise or grants the trust protector with any powers of an investment trust advisor or a distribution trust advisor.

**Section 15** clarifies that the excluded fiduciary must take reasonable steps to comply with the directing party's exercise of granted powers. A person acting in the role of an excluded fiduciary or a directing party is an interested person who may petition the district court and invoke its jurisdiction as provided in sections 501C.0201 to 501C.0208.

**Section 16** requires the excluded fiduciary to keep the directing party reasonably informed regarding the administration of the trust and any specific duties or functions performed by the excluded fiduciary.

**Section 17** provides that unless a governing instrument provides otherwise, certain rules applicable to a trustee apply to a directing party, including acceptance, reasonable compensation, resignation, removal, and vacancy.

**Section 18** clarifies that the subsequent revocation or amendment of a certificate of trust does not affect prior transactions.

**Section 19** establishes an affidavit of trustee for personal property transactions that must substantially be in the form of the affidavit of trustee for real property transactions.

**Section 20** makes a clarifying change.

**Section 21** defines "defendant's estate" for purposes of determining income and expenses during the administration of the estate.

**Section 22** modifies the definition of "appointed trust." The appointed trust may be the same trust as the invaded trust with modified terms which do not require the appointed trust trustee to refer to the trust by a different name or tax identification number.

**Section 23** provides that if the exercise of the power to invade trust principal would otherwise be effective except that the appointed trust instrument does not comply with section 502.851, the exercise of the power is effective and, to the extent necessary to comply with section

502.851, a provision that is not permitted is void and a provision required to be included is deemed to be included.

**Section 24** provides that the successor and remainder beneficiaries of the appointed trust must be one or more of the successor and remainder beneficiaries of the invaded trust, and may be to the exclusion of any one or more of the invaded trust successor and remainder beneficiaries.

**Section 25** requires the appointed trust beneficiaries to include present and future members of a class if the invaded trust beneficiaries are described by class.

**Section 26** requires a copy of certain documents related to the exercise of the power and the appointed and invaded trusts to be delivered to any person considered to be the owner of all or a portion of the appointed trust.

**Section 27** provides that the appointed trust may divide and reallocate fiduciary powers among fiduciaries and relieve a fiduciary from liability for an act or failure to act of another fiduciary. If the property of the invaded trust includes shares of an S corporation and the invaded trust is or would be a permitted shareholder, the authorized trustee may exercise power with respect to the S corporation stock only if the appointed trust receiving the stock is a permitted shareholder.

**Section 28** removes a clause prohibiting trustee from receiving a commission or compensation for the appointing of property from the invaded trust to the appointed trust.

**Section 29** amends the probate code to bar a parent from inheriting through a child if the child was an adult when they died and there is clear and convincing evidence that: (1) when the child was a minor, the parent's parental rights could have been terminated on the basis of abandonment, abuse, or neglect; and (2) during the year before the child's death, the parent and child were estranged.

**Section 30** provides that the dissolution or annulment of a marriage revokes any revocable disposition, beneficiary designation, appointment of property, or nomination made in a governing instrument by the individual to the individual's former spouse's family member who is not also a family member of the individual.

## **Article 12**

### **Mortgage Foreclosure**

This article modifies laws governing mortgage foreclosures and clarifies when a lien is created if a person, other than the owner, pays delinquent taxes. (**Sen. Kreun, S.F. 2338**)

**Section 1** makes clarifying changes to a current law that provides that a lien is created when a person with an interest in the land pays delinquent taxes that should have been paid by the owner or other party. This section clarifies that the person who pays the delinquent taxes must have a legal or equitable interest in the land and must provide a sworn statement and a copy of

the payment receipt, and that the lien is created from the date of recording of the sworn statement.

**Section 2** provides for the use of surplus money after a sheriff's sale on a foreclosure and allows the money to be held and used for the redemption of the property or paid to a junior creditor. This section requires the sheriff to notify the owner if there is a surplus after the sheriff's sale and provide the owner with information about redemption and surplus. The owner may submit a written request to the sheriff to have the amount from the sheriff's sale applied to the redemption amount. If a surplus is less than \$100, the sheriff may pay the amount to the owner. If there are competing claims or any claim is not meritorious, the sheriff may petition the court to address the claims.

**Section 3** makes a technical change to the headnote.

**Section 4** extends the time creditors have to redeem a mortgage from seven days to 14 days after a mortgagor's redemption period ends. This section also sets a default interest rate of six percent if no rate is stated on the certificate of sale and the creditor's affidavit. If the sheriff determines there is a dispute or question of validity, the sheriff may accept the amount required to redeem without executing a certificate of redemption and file an action with the court to address the issue. A creditor may also commence an action to address the issue. This section is effective for redemptions occurring after January 1, 2026.

**Section 5** makes clarifying changes to the process for creditors to redeem. This section is effective for redemptions occurring after January 1, 2026.

**Section 6** terms that must be included in a certificate of redemption and extends the time to record the certificate from four days to one week after the redemption. This section is effective for redemptions occurring after January 1, 2026.

**Section 7** clarifies that a dispute regarding redemption rights or the rights to any surplus may be brought in an action under chapter 580 and clarifies how to provide a deposit for that action. This section is effective for redemptions occurring after January 1, 2026.

**Section 8** clarifies the interest rate by setting a default interest rate of six percent if no rate is stated on the certificate of sale. This section is effective for affidavits filed with the sheriff after January 1, 2026.

**Section 9** clarifies that the date of payment of each allowable costs must be provided on the affidavit. This section is effective for affidavits filed with the sheriff after January 1, 2026.

**Section 10** provides that if a servicer is required to halt a foreclosure sale upon receipt of a loss mitigation application, the servicer may cancel or postpone the sale, but must not conduct the sale unless 60 days have passed since the servicer's final determination that the mortgagor is not eligible for a loss mitigation option, the mortgagor fails to accept a loss mitigation offer, or the mortgagor declines a loss mitigation offer.

## **Article 13**

### **Civil Law**

This article modifies laws governing civil marriage, the Statewide Office of Appellate Counsel and Training, the rights of a person subject to guardianship, and civil remedies.

**Sections 1** removes the requirement that the local registrar report specific personal information relating to marriage certificates to the state registrar. Instead, the local registrar must report only the number of certificates of marriage registered in a format and with the frequency determined by the state registrar. **(Sen. Mann, S.F. 1409)**

**Sections 2 to 4** provide that the Statewide Office of Appellate Counsel and Training is created as an agency within the executive branch and that the governor shall designate one member to serve as the initial chair of the State Board of Appellate Counsel and Training. This section makes clarifying and conforming changes. **(Sen. Kunesh, S.F. 2006)**

**Sections 5 and 17** require any person who wishes to officiate a civil marriage to register as a civil marriage officiant under a 2023 law, and removes all other requirements or references to individuals who are currently authorized to perform civil marriages, including judges and licensed or ordained ministers of any religious denominations. **(Sen. Mann, S.F. 1409)**

**Section 6** no longer requires parties applying for a marriage license to provide the sex of each party but requires the parties to provide their dates of birth. This section also clarifies that a party who was previously married is only required to provide their name from their most recent marriage. **(Sen. Mann, S.F. 1409)**

**Section 7** permits local registrars to examine parties upon oath remotely or accept verified statements and civil marriage license applications by mail, facsimile, or electronic filing. **(Sen. Mann, S.F. 1409)**

**Sections 8 and 9** make clarifying and conforming changes. **(Sen. Mann, S.F. 1409)**

**Section 10** provides that the fee for a copy of a marriage record or a letter of no record is \$20 and is retained by the local registrar issuing the record. The fee for amending a marriage record is \$40, except that if the local registrar makes an error in the marriage record, the local registrar must amend the record at no cost to the applicant. **(Sen. Mann, S.F. 1409)**

**Section 11** permits a person to request an amendment of an error in a marriage record directly with the local registrar by providing an affidavit and supporting documentation. **(Sen. Mann, S.F. 1409)**

**Sections 12 and 14** modify a guardian's ability to restrict communication and visitation for a person subject to guardianship. Under current law, a guardian may not restrict the right to communication and visitation for a person subject to guardianship unless the guardian has good cause to believe that the restriction is necessary because the interaction poses a risk of significant physical, psychological, or financial harm to the person subject to guardianship, and there is no other means to avoid such significant harm. These sections require the guardian



to submit a petition to the court supporting the guardian's belief and requires the court to hold a hearing within five days of receiving the petition. The court may order a restriction on communication, visitation, or interaction to the extent necessary to prevent risk of significant harm. The guardian may impose a restriction without filing a petition with the court if the restriction is necessary to prevent immediate harm and the guardian notifies the court and others. **(Sen. Dibble, S.F. 1920)**

**Section 13** requires the court to make a finding that the petitioner made good faith efforts to provide notice to the respondent or respondent's lawyer before appointing an emergency guardian without notice to the respondent or respondent's lawyer. This section also provides that if the respondent is a patient in a hospital or a resident of a care facility, a rebuttable presumption exists that there is no risk of substantial harm to the respondent's health, safety, or welfare. If the rebuttable presumption is overcome, the court must hold a hearing on the appropriateness of the appointment within five days of the appointment. **(Sen. Dibble, S.F. 1920)**

**Section 15** permits a civil cause of action against: (1) a person who removes a sexually protective device and causes contact between the sexual organ from which the sexually protective device is removed and the intimate part of another person who did not consent to the removal of the condom; or (2) a person who removes a sexually protective device from the sexual organ of another person who did not consent to the removal of the sexually protective device and causes contact with the person's own intimate part. The section defines "sexually protective device" and "intimate part." The court may award to a prevailing plaintiff the following: general damages, special damages, punitive damages, statutory damages up to the amount of \$10,000, equitable relief, costs, and reasonable attorney fees. The court must allow plaintiffs to make confidential filings. This section is effective August 1, 2025, and applies to causes of action accruing on or after that date. **(Sen. Gustafson, S.F. 662)**

**Section 16** creates an order for protection against financial exploitation of a vulnerable adult ("order") and imposes enhanceable criminal penalties for violations of an order. The petition for an order may be filed in the county where the petitioner, respondent, or vulnerable adult resides. The filing fees are waived for both parties to the order. The court must hold a hearing within 14 days of receiving the petition unless a temporary ex parte order is issued. Service must be made in the same manner as service for orders for protection under section 518B.01. This section also requires service upon the vulnerable adult if the petitioner is not the vulnerable adult. If service on the respondent is not possible as provided under section 518B.01, the petitioner may serve the respondent using the same method used to contact the vulnerable adult and provide the court with the reasons why service was not possible under section 518B.01. Unless previously filed, the petitioner must file a maltreatment report within 24 hours of filing a petition under this section.

The court may consider all relevant factors, including whether there have been other protective orders issued, any history of financial exploitation, the vulnerable adult's capacity to make decisions, the vulnerable adult's susceptibility to undue influence, and the respondent's criminal history. The court may issue an order if the vulnerable adult is or is in imminent danger of becoming a victim of financial exploitation, there is a likelihood of irreparable harm and nonavailability of an adequate remedy, the threatened injury to the vulnerable adult outweighs

the possible harm to the respondent, and an order protects the vulnerable adult's financial security. This section provides specific relief that the court may grant, including prohibiting direct or indirect contact, freezing the vulnerable adult's assets, providing necessary directives to law enforcement. **(Sen. Westlin, S.F. 2146)**

## **Article 14**

### **Statutory Forms for Garnishment**

A 2024 law directed the Attorney General to update statutory forms to conform to the changes made to garnishment laws in 2024 (Laws 2024, chapter 114). This article modifies the statutory forms used to garnish the wages and bank accounts of a person who has a court ordered judgment against them. The forms are also used to claim exemptions, such as wages or money in the bank that cannot be garnished, including Social Security benefits or public assistance payments. In addition, the forms used to execute a judgment are updated in this article to reflect the 2024 changes. The form updates include clarifying, grammatical, and technical changes to the forms as well.

This article extends the effective date of the 2024 law requiring the Attorney General to update the form to June 1, 2025, and requires the new forms to be available on the state court website on or before June 1, 2025. **(Sen. Boldon, S.F. 2847)**



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