

S.F. No. 7 – Public Safety and Judiciary Omnibus Bill (First Engrossment)

Author: Senator Warren Limmer

Prepared by: Kenneth P. Backhus, Senate Counsel (651/296-4396)
Chris Turner, Fiscal Analyst (651/296-4350)
Jeff Diebel, House Research Department
Ben Johnson, House Research Department
Anna Scholin, House Research Department
Mary Mullen, House Research Department
Nathan Hopkins, House Research Department

Date: June 29, 2021

Overview

This is the Public Safety and Judiciary Omnibus bill.

Article 1 – Appropriations

This article appropriates money for the criminal justice and public safety-related entities within the budget jurisdiction of the Judiciary and Public Safety Finance and Policy Committee (see spreadsheet for details).

Article 2 - Public Safety

This article contains provisions related to public safety.

Section 1. Drug Paraphernalia.

Amends the definition of “drug paraphernalia” to exclude products that detect the presence of fentanyl or a fentanyl analog in a controlled substance. A person who possessed testing products would not be guilty of possessing drug paraphernalia.

Section 2. Reinstatement of driving privileges; notice.

Removes the requirement that a person whose license was revoked for driving under the influence of alcohol or other substances take an examination before being eligible for reinstatement of driving privileges.

Section 3. Reinstatement of driving privileges; multiple incidents.

Establishes that the commissioner of public safety may not reinstate the driver's license of a person who committed a second DWI violation in ten years or a third violation in the person's lifetime until the commissioner certifies that the person meets one of the new requirements. Permits the commissioner to determine that the person met the first requirement if the person did not own or lease a vehicle, or commit a violation of the traffic or driver's license statutes, at the time of an arrest or between the arrest and when the person becomes eligible for reinstatement. Permits the commissioner to determine that the person met the second requirement if that person used an ignition interlock device in compliance with state law. Requires use of ignition interlock for one year if the person committed a second DWI violation in ten years or a third violation in the person's lifetime, and for two years if the violation involved an alcohol concentration of twice the legal limit or more or the refusal to submit to an authorized test.

Section 4. Plate impoundment violation; impoundment order.

Makes a conforming change to permit the commissioner to impound the plates of a person who received new registration plates upon entering the ignition interlock program, but either left or was expelled from the program.

Section 5. Notice of impoundment.

Makes a conforming change to permit the commissioner to mail notice of the impoundment of license plates to an address provided by a person when that person entered the ignition interlock program.

Section 6. Special registration plates.

Requires issuance of new registration plates, instead of special registration plates ("whiskey plates"), to a person who becomes a program participant in the ignition interlock program unless the person previously received new registration plates under this section but the person left or was expelled from the ignition interlock program. Provides that, if the person is issued special registration plates after leaving or being expelled from the ignition interlock program and the person previously paid the fee for new registration plates, the person is not required to pay an additional fee. Provides that the commissioner shall issue a plate impoundment order if the person who received new registration plates ceases to participate in the ignition interlock program or fails to successfully complete the program due to additional moving violations or violations of the terms of the contract with the interlock provider.

Section 7. Examination required.

Conforms to the change removing the requirement that a person whose license was revoked for driving under the influence of alcohol or other substances take an examination before being eligible for reinstatement of driving privileges.

Section 8. Conditions of issuance.

Removes the ability of a person to obtain a limited license if the person also has a restricted license under the ignition interlock program. A limited license permits individuals to drive at specific times and for specific purposes, such as going to treatment. A restricted license under the ignition interlock program permits a person to drive at any time provided the person is driving a vehicle equipped with the ignition interlock device.

Section 9. Performance standards; certification; manufacturer and provider requirements.

Requires ignition interlock companies to include a provision in their contracts that agrees to pay costs associated with device failure or malfunction, or damage caused during device installation, servicing, or monitoring.

Section 10. Issuance of restricted license.

Limits the requirement that a person seeking to participate in the ignition interlock program show a motor vehicle insurance certificate to individuals who have prior convictions for driving without insurance. Removes the requirement that a person seeking license reinstatement comply with the provisions in the section of law regarding limited licenses and inserts the requirement that the person complete chemical dependency treatment or rehabilitation if that is recommended by a chemical use assessment. Removes the requirement that the restricted license of a person who submits a sample showing a breath alcohol concentration of 0.02 or higher be cancelled and replaces that with the requirement to restart the time period that the participant must participate in the program to reach the required abstinence period.

Section 11. Registration required.

Clarifies that individuals who commit offenses in other states must register as predatory offenders if the offense is similar to an offense under Minnesota law that requires predatory offender registration.

Section 12. Hometown heroes assistance program.

Subd. 1. Definitions. Defines terms used in this section.

Subd. 2. Program established. Directs the commissioner of public safety to award a grant to the MN Firefighter Initiative to administer a hometown heroes assistance program for MN firefighters. The MN Firefighter Initiative is tasked with providing a onetime monetary payment to firefighters who are diagnosed with cancer or heart disease; developing a trauma counseling program for firefighters; and developing training and educational materials to help firefighters reduce the inherent health risks associated with their profession.

Subd. 3. Critical illness monetary support program. Entitles firefighters who are diagnosed with cancer or heart disease to receive a onetime payment of up to \$30,000. Establishes additional eligibility and application requirements. Directs the MN Firefighters Initiative to establish criteria to disburse available grant funds.

Subd. 4. Money from nonstate sources. Authorizes the commissioner to accept funds from nonstate sources to fund the program.

Section 13. Expense recovery.

Provides that assessments charged to regional hazardous response teams for costs of responses by the department may be used by the commissioner to pay for costs for which the funds were received and states that any excess funds shall be transferred to the Fire Safety Account.

Section 14. Statewide antitrafficking investigation coordinator.

Creates a new position, the statewide antitrafficking investigation coordinator, in the unclassified service. The position is within the Department of Public Safety's Office of Justice Programs. The coordinator must be a current or former law enforcement officer or prosecutor with experience investigating or prosecuting trafficking-related offenses.

Section 15. Office for missing and murdered indigenous relatives.

Creates the Office of Missing and Murdered Indigenous Relatives within the Office of Justice Programs. Directs the commissioner of public safety to appoint director and additional staff as needed. Establishes duties for the office including facilitating the mandates identified in the Missing and Murdered Indigenous Women Task Force report, developing recommendations to the legislature, facilitating technical assistance for local and Tribal law enforcement during active missing and murdered indigenous relatives cases, conducting case reviews, tracking and collecting data on missing and murdered indigenous people, and coordinating with other agencies and organizations. Requires an annual report. Permits the office to seek grants. Permits the office to access some corrections and detention data, and some medical data.

Section 16. Additional duty.

Requires the Bureau of Criminal Apprehension’s Use of Force Investigation Unit to investigate criminal sexual conduct cases where one member of the Minnesota National Guard (MN-NG) accuses another member of the MN-NG of criminal sexual conduct. The section is effective August 1, 2021, and applies to investigations beginning on or after that date.

Section 17. Exemption for members of federally recognized Tribes.

Authorizes the state fire marshal to issue building-specific waivers from the State Fire Code if there is conflict with a federally recognized Tribe’s religious beliefs, traditional building practices, or established teachings. Allows individual members of federally recognized Tribes, direct lineal descendants of those Tribes, or organizations of members of those Tribes to apply for waivers which can be granted only for traditional residential buildings for personal use, meeting houses, and one-room educational buildings. Sets the process for applying for a waiver and identifying the code provisions that will be waived. Bars selling or leasing a building a waiver is granted for unless the buyer or lessee also obtains a waiver or the building is brought up to code.

Section 18. Petroleum refineries.

Requires each petroleum refinery operating in Minnesota to maintain or contract for a full-time paid on-site fire department. Requires refinery fire departments to be properly trained, equipped, and staffed to respond to fires and conduct fire prevention inspections at the refinery.

Section 19. Exemption for members of federally recognized Tribes.

Authorizes the commissioner of labor and industry to issue building-specific waivers from the State Building Code if there is conflict with a federally recognized Tribe’s religious beliefs, traditional building practices, or established teachings. Allows individual members of federally recognized Tribes, direct lineal descendants of those Tribes, or organizations of members of those Tribes to apply for waivers which can be granted only for traditional residential buildings for personal use, meeting houses, and one-room educational buildings. Sets the process for applying for a waiver and identifying the code provisions that will be waived. Bars selling or leasing a building a waiver is granted for unless the buyer or lessee also obtains a waiver or the building is brought up to code.

Section 20. Sales after 1:00 a.m.; permit fee.

Clarifies that money collected under the section is deposited in the alcohol enforcement account in the general fund.

Section 21. Metropolitan area.

Expands the definition of “metropolitan area” in the emergency communications chapter (chapter 403) to include Chisago, Isanti, and Sherburne counties.

Section 22. Emergency response services.

Requires 911 operators to refer calls involving mental health crises to mental health crisis teams where available. (This referral is in addition to other emergency responses.)

Section 23. Design standards for metropolitan area.

Changes the name of the Metropolitan 911 Board to the Metropolitan Emergency Services Board.

Section 24. Emergency telecommunications service fee; account.

Authorizes 911 fee proceeds to be used to offset the costs of updating and maintaining systems to comply with Next Generation IP based 911 telecommunications. Directs unspent funds in the 911 fee account to be appropriated for the designated uses of the funds. Repeals the decrease in the funds scheduled to take place upon ARMER backbone revenue bonds are paid off.

Section 25. First phase.

Expands the definition of metropolitan area for purposes of the regionwide public safety radio communications system from “nine-county” to “ten-county,” with the inclusion of Sherburne County.

Section 26. Greater Minnesota.

Contains a conforming change to reflect the change made in the previous section.

Section 27. Membership.

Contains a conforming change to reflect the change made in section 25.

Section 28. Aid to sexual assault victim.

Subd. 1. Person seeking assistance; immunity from prosecution. Exempts persons acting in good faith who contact a 911 operator or first responder to report that a sexual assault victim is in need of assistance from charges and prosecution for the possession of a controlled substance or drug paraphernalia or underage consumption of alcohol. In order to qualify for immunity, the evidence indicating the caller committed an exempted offense must have been obtained as a result of the person’s seeking assistance and the person was the first to request assistance.

Subd. 2. Person experiencing sexual assault; immunity from prosecution. Exempts a victim of sexual assault from charges and prosecution for the possession of a controlled substance or drug paraphernalia or underage alcohol consumption. Requires that the evidence of the exempted offense was obtained as a result of a call for assistance to qualify for the immunity.

Subd. 3. Effect on other criminal prosecutions. Provides that calling for assistance for a sexual assault victim may be used as a mitigating factor in proceedings for offenses that are not subject to immunity under subdivision 1 or 2. Provides that prosecution based on evidence obtained from an independent source is not precluded by the immunity provisions.

Section 29. Definitions.

Adds a violation of section 609.322 (sex trafficking in the first degree) to the definition of “violent crime” in the section of law that permits increased sentences for certain dangerous and repeat felony offenders.

Section 30. Certain violations excepted.

Removes a reference to a misdemeanor violation that is repealed in this article.

Section 31. Solicitation, inducement, and promotion of prostitution; sex trafficking in the first degree.

Increases the maximum sentence of imprisonment for a person who commits sex trafficking in the first degree from 20 years to 25 years. Increases the maximum sentence of imprisonment for a person who commits sex trafficking in the first degree when any of four aggravating factors are present from 25 years to 30 years.

Section 32. Solicitation, inducement, and promotion of prostitution; sex trafficking in the second degree.

Increases the maximum sentence of imprisonment for a person who commits sex trafficking in the second degree from 15 years to 20 years.

Section 33. Assault in the first degree.

Establishes new crimes for: (1) assaulting a peace officer or other criminal justice partner and inflicting great bodily harm (statutory maximum sentence of 25 years imprisonment and/or a \$35,000 fine) (mandatory minimum prison sentence of 15 years); and (2) assaulting a peace officer or other criminal justice partner and inflicting great bodily harm when committed with a dangerous weapon or through the use or attempted use of deadly force (statutory maximum sentence of 30 years imprisonment and/or a \$40,000 fine) (mandatory minimum prison sentence of 25 years). Currently, the first-degree assault crime contains two separate offenses: assaults resulting in great bodily harm to the victim (regardless of who the victim is) and assaults of a peace officer, correctional employee, prosecutor, or judge through the use or attempted use of deadly force (this does not require any requisite level of harm to the victim). Both crimes have a statutory maximum sentence of 20 years imprisonment and/or a \$30,000 fine. In addition, the assault of a peace officer or other criminal justice partner crime carries a mandatory minimum prison sentence of ten years. The two new crimes added by the bill combine elements of the existing first-degree assault crimes (great bodily harm and use/attempted use of deadly force) and apply those elements to victims who are peace officers or other criminal justice partners.

Section 34. Patrons of prostitution; penalty.

Provides that any person who engages in prostitution with a person who is at least 18 years of age is guilty of a gross misdemeanor and establishes that repeated offenses are a felony.

Section 35. Community service in lieu of minimum fine.

Makes a conforming change based on the repeal of section 609.324, subdivision 3.

Section 36. Penalty assessment authorized.

Makes a conforming change based on the repeal of section 609.324, subdivision 3.

Section 37. Law enforcement; reports of sexual assaults.

Makes a conforming change related to the Bureau of Criminal Apprehension's Use of Force Investigation Unit to investigate criminal sexual conduct cases where one member of the Minnesota National Guard (MN-NG) accuses another member of the MN-NG of criminal sexual conduct. The section is effective August 1, 2021, and applies to investigations beginning on or after that date.

Section 38. Penalty.

Increases the maximum sentence of imprisonment for solicitation of children to engage in sexual conduct or electronic solicitation of children from three years to five years, and increases the maximum fine from \$5,000 to \$10,000.

Section 39. Child torture.

Establishes the crime of child torture. Defines “torture” to mean the intentional infliction of extreme mental anguish, or extreme psychological or physical abuse, when committed in an especially depraved matter. Establishes a maximum penalty of 25 years in prison, payment of a fine of not more than \$35,000, or both. Provides that expert testimony is not a requirement for a conviction under this section, that a child’s susceptibility to anguish or psychological abuse does not exonerate a defendant from criminal liability, and that proof of a victim’s pain is not an element of the violation.

Section 40. Gross misdemeanor.

Establishes a gross misdemeanor offense for trespassing on the grounds of a facility that provides emergency shelter services for sex trafficking victims, or a facility that provides transitional housing to sex trafficking victims and their children.

Section 41. Felony; drive-by shooting.

Clarifies that a person can commit drive-by shooting by firing at a person, not just a motor vehicle or building.

Section 42. Public safety.

Amends the 2016 session law related to grants to address sex trafficking to remove provisions related to training which is a duty that will be assumed by the antitrafficking coordinator.

Section 43. Office of Justice Programs.

Amends the 2017 session law related to grants to address sex trafficking to remove provisions related to training which is a duty that will be assumed by the antitrafficking coordinator.

Section 44. Transfer; alcohol enforcement account.

Eliminates the requirement that the commissioner of public safety certify to the commissioner of management and budget the amount of permit fees waived under the section of law.

Section 45. Neuropsychological examination feasibility study.

Directs the state court administrator to conduct a feasibility study on requiring the courts to order that individuals convicted of felonies undergo a neuropsychological examination. Directs the court administrator to consult with interested parties and make recommendations on whether the law should be changed. Recommendations should address the types of offenses where such an order is appropriate, how to screen individuals to determine whether an examination is appropriate, determining situations in which an examination should not be required, the cost of examinations and how they should be paid for, and the effect examinations would have on future proceedings involving a defendant. Requires the report by February 15, 2022.

Section 46. 911 Telecommunicator working group.

Establishes a 911 telecommunicator working group. The group is comprised of various representatives of organizations that operate and use the 911 response system in the state. Tasks the group with preparing a report for the legislature that:

- defines 911 telecommunicator;
- recommends training and continuing education requirements for certification of 911 telecommunicators;
- recommends standards for certification of 911 telecommunicators; and

- recommends funding options for mandated 911 telecommunicator training.

Section 47. Survivor support and prevention grants.

Establishes grants to meet victim needs by directing organizations to provide funds directly to victim survivors of crime and to services to meet emerging or unmet needs. Directs the director of OJP to work with advocacy groups to establish requirements for grant recipients and further requires the director to prioritize grants based on need and type of crime. Requires at least 30 percent of the money to be spent on each type of grant. Requires the director to provide a report on the grants issue every two years.

Section 48. Innovation in community safety.

Subd. 1. Definitions. Defines terms including “civilian review board” and “targeted area” for the purposes of this section.

Subd. 2. Community engagement. Directs the commissioner of public safety to work with community members to develop a targeted, community-centered response to violence. Also directs the commissioner to provide technical assistance to those seeking to apply for grants, develop simplified grant materials, encourage the use of restorative justice, and administer grants.

Subd. 3. Innovation in community safety grants. Directs the commissioner, after consulting with community grant advisory boards, to issue grants to targeted areas for five general purposes. Provides that the grants must be issued according to the direction of the community grant advisory boards unless the direction conflicts with grant requirements or state law. Directs the commissioner to prioritize areas to receive the grants. Establishes that grants may be for youth, young adult, and family antiviolence outreach programs; implementation of the Minnesota SafeStreets program; promotion of community healing; establishment or maintenance of mobile mental health crisis teams; or establishment or maintenance of community-based mental health and social service centers.

Subd. 4. Appropriation; distribution. Directs that two-thirds of the money appropriated for grants must be directed to the metropolitan area and one-third must be directed outside that area. No recipient may receive more than \$1,000,000 each year.

Subd. 5. Community grant advisory boards; members. Directs the commissioner to work with the chair of a local commission or similar entity to establish a community grant advisory board to solicit and review grant applications.

Section 49. Task Force on Missing and Murdered African American Women.

Subd. 1. Creation and duties. Directs the commissioner of public safety, in consultation with the Council for Minnesotans of African Heritage to report to the legislature on recommendations to reduce and end violence against African American women and girls in Minnesota. Directs the task force to consider specific issues including the systemic causes behind violence that African American women and girls experience; appropriate methods for tracking and collecting data on violence against African American women and girls; policies and institutions that impact violence against African American women and girls; measures necessary to address and reduce violence against African American women and girls; and measures to help victims, victims' families, and victims' communities prevent and heal from violence that occurs against African American women and girls.

Subd. 2. Membership. Provides that the task force must consist of at least 12 members including legislators, representatives from law enforcement, representatives from the judicial system, and representatives from groups that provide direct services to African American women and girls. Establishes that members serve at the pleasure of the appointing authority and that vacancies must be filled consistent with the qualifications identified in this section.

Subd. 3. Officers; meetings. Directs the task force to elect a chair. Requires the board to meet at least quarterly. Provides that the task force must comply with chapter 13D, the open meetings law. Directs the task force to consult with nongovernmental organizations. Directs the commissioner of public safety to call the first meeting of the task force no later than October 1, 2021.

Subd. 4. Report. Directs the task force to report to the chairs and ranking minority members of the legislative committees with jurisdiction over public safety, human services, and state government by December 15, 2022.

Subd. 5. Expiration. Establishes that the task force expires on December 31, 2022.

Section 50. Public safety escrow account.

Provides that state agencies may accept funds from a public safety escrow account and that accepted funds are appropriated to the agency for the purposes for which they are received. This section is effective retroactively to June 28, 2018.

Section 51. Sentencing guidelines commission directed to increase the rankings for certain child pornography crimes.

Directs the Sentencing Guidelines Commission to increase the severity rankings on the sex offender grid for a violation of Minnesota Statutes, section 617.247, subdivision 3, paragraph (b), from severity level D to C, and subdivision 4, paragraph (b), from severity level F to E, consistent with the recommendations contained in the minority report in the commission's 2021 report to the legislature.

Section 52. Task force on sentencing for aiding and abetting felony murder.

Establishes a task force to review statutes and data related to charging, convicting, and sentencing individuals who aid and abet the commission of felony murder.

Subd. 1. Definitions. Defines the terms “aiding and abetting” and “felony murder” for the purposes of the task force.

Subd. 2. Establishment. Establishes a task force to collect and analyze data related to sentencing individuals for aiding and abetting felony murder.

Subd. 3. Membership. Identifies the members of the task force. Requires that appointments must be made by July 30, 2021, and establishes that members serve without compensation.

Subd. 4. Officers; meetings. Provides for the election of a chair, vice-chair, and any other necessary members of the task force. Requires the commissioner of corrections to convene the first meeting of the task force by August 1, 2021. Directs the task force to meet at least monthly and provides that the meetings are subject to the open meetings law. Directs the task force to request the cooperation of state agencies, academics, and others.

Subd. 5. Duties. Establishes duties for the task force including collecting and analyzing data related to charges and sentences for individuals convicted of aiding and abetting felony murder, reviewing relevant statutes, receiving input from victims and offenders; analyzing the benefits and unintended consequences of Minnesota’s laws related to charging, convicting, and sentencing individuals for aiding and abetting felony murder; and making recommendations to the legislature.

Subd. 6. Report. Directs the task force to submit a report by January 15, 2022.

Subd. 7. Expiration. Provides that the task force expires the day after it submits its report.

Section 53. Sentencing guidelines modification.

Directs the Minnesota Sentencing Guidelines Commission to review and consider modifying the sex offender grid based on the changes made to provisions related to sex trafficking.

Section 54. Title.

Entitles the changes made in section 22 as “Travis’s Law.”

Section 55. Title.

Entitles the changes made in section 33 as "Officer Arik Matson's Law."

Section 56. Repealer.

Repeals section 609.324, subdivision 3, the misdemeanor offense of being a patron of a prostitute in a place other than a public place.

Article 3 - Judiciary, Human Rights, and Data Practices

This article contains provisions related to judiciary, human rights, and data practices policy.

Section 1. Legislative Commission on Data Practices.

Reestablishes the Legislative Commission on Data Practices and Personal Data Privacy, which was first established in 2014, but expired in 2019. Section 37 of this article provides for initial appointments.

Section 2. Certificates of compliance.

Adds a new section to the Minnesota government data practices act creating a cross reference in statute and indicating that access to data on certificates of compliance are governed by the existing rules in data in the Minnesota human rights act.

Section 3. Data on individuals who are minors.

Creates a cross-reference within the Government Data Practices Act for the new statute created by section 7 of this article.

Section 4. Biennial audit.

Corrects a typo in the automated license plate reader statute.

Section 5. Biennial audit.

In the police body camera statute, adds a requirement that biennial audit reports also be sent to the relevant legislative committees.

Section 6. Jailhouse witnesses.

Makes a conforming reference in chapter 13 to data collected and maintained by the Department of Corrections regarding jailhouse witnesses.

Section 7. Data on individuals who are minors.

Classifies as private the enumerated kinds of data that the DNR collects, creates, receives, maintains, or disseminates about known minors. Creates an exception for data that would be classified as public because the minor is employed by the DNR. Specifies that data on a minor remains private even after the individual turns 18.

Section 8. Notice of surcharge.

Requires the uniform traffic ticket to notify recipients that they may be required to pay a surcharge. This section is effective August 1, 2022, and directs that changes to the uniform traffic ticket must be reflected on the ticket the next time it is revised.

Section 9. Financial hardship.

Contains the language required to be printed on the uniform traffic ticket informing recipients that the cost of the summons may be waived on a showing of financial hardship. This section is effective August 1, 2022, and directs that changes to the uniform traffic ticket must be reflected on the ticket the next time it is revised.

Section 10. Transmittal of fees to commissioner of management and budget.

Provides that a federally recognized American Indian tribe, and their attorney, can appear and file documents without paying a filing fee if the case they are participating in is for child support, paternity, civil commitment, public guardianship or conservatorship, or juvenile court or child protection matters.

Section 11. Surcharges on criminal and traffic offenders.

Allows courts to reduce or waive the surcharge imposed on criminal and traffic offenders based on their ability to pay. Courts may also impose community work service in lieu of the surcharge. This section is effective July 1, 2022.

Section 12. Freedom from discrimination.

Adds the protected class ‘familial status’ to the public policy statement in the Minnesota Human Rights Act (MHRA).

Section 13. Reasonable accommodation.

This section updates the language used in the section of the Minnesota Human Rights Act that requires an employer to make a reasonable accommodation for a job applicant or employee, when the individual has a disability. This section adds that an employer must engage in an informal interactive process to identify the limitations due to the disability and what reasonable accommodation would help with those limitations.

Section 14. Actions.

Clarifies that a person can file a charge with the Department of Human Rights about discrimination online.

Section 15. Charging process.

Allows a person bringing a discrimination claim to request reconsideration on a determination that no discrimination was found within 30 days after the determination is issued. The current statute requires a request for reconsideration to be made within ten days of receiving the notice. This section also allows the respondent 30 days to request a reconsideration if the Department of Human Rights finds probable cause that discrimination has occurred.

This section also allows notices to be sent electronically when the parties have agreed to receive notice electronically.

Section 16. Rescission of waiver.

Clarifies that a person can file a charge with the Department of Human Rights about discrimination online.

Section 17. Summons and complaints in a civil action.

Allows notice of a case filing to be provided electronically to the Department of Human Rights when a case is brought in court while an administrative action is pending.

Section 18. Scope of application.

Updates the requirements and applications of certificates of compliance for public contracts, clarifying application to the Metropolitan Council and updating language related to the application of affirmative action plans, and removes obsolete language.

This section would be effective July 1, 2021, and would apply prospectively to contracts enter into after that date.

Section 19. Filing fee.

Increases the filing fee for certificates of compliance from \$150 to \$250.

Section 20. Violations; remedies.

Allows the commissioner of human rights to impose a fine for violations of certificates of compliance, and allows the commissioner to suspend or revoke a certificate of compliance when fines are not paid, or if the certificate holder has not complied with the statute. This section is effective on July 1, 2021 and applies to all certificates of compliance in effect on or after that date.

Section 21. Revocation of contract.

Makes conforming changes effective for all contracts entered into on or after July 1, 2021.

Section 22. Access to data. (Certificates of Compliance)

Provides that data related to certificates of compliance submitted by businesses is classified as private data on individuals or nonpublic data when the data does not relate to department employees. The bill provides, however, that the commissioner’s decisions on issuing, revoking, suspending, or penalizing a certificate holder is public data, and that application forms for a certificate are public data. This section also authorizes the commissioner to share private or nonpublic data with other government entities for compliance purposes.

Section 23. Application.

Increases the filing fee for an equal pay certificate from \$150 to \$250.

Section 24. Violations; remedies.

Allows the commissioner to issue a fine for lack of compliance, or suspend or revoke an equal pay certificate until all fines have been paid. This section is effective July 1, 2021, and applies to all equal pay certificates in effect on or after that date.

Section 25. Access to data. (Equal Pay Certificates)

Provides that data related to equal pay certificates submitted by businesses is classified as private data on individuals or nonpublic data when the data does not relate to department employees. The bill provides, however, that the commissioner’s decisions on issuing, revoking, suspending, or penalizing individuals or business related to equal pay certificates are public data, and that application forms for a certificate are public data. This section also authorizes the commissioner to share private or nonpublic data with other government entities for compliance purposes.

Section 26. Counties.

Modifies the process for allocating county program aid, to reflect the change in the structure for providing and paying for public defender services, as detailed in the sections of the bill that follow.

Section 27. Harmless error.

Amends the temporary harmless error rule that was passed in 2020, so that it no longer expires on February 15, 2021, making it a permanent part of the probate code. This provision would be retroactive to March 13, 2020, and apply to writings that occurred on or after that date since the previously passed law would have been in place and allowed writings on or after that date to have this rule apply.

The harmless error rule allows a court to consider evidence in a probate matter about whether or not all the formalities of a will have been met. The court may determine by clear and convincing evidence that the person making the document, such as a will or the revocation of the will, did intend for the document to be valid even if all the formal requirements for executing a will have not been met.

A number of states have adopted the rule in whole or part, including: California, Colorado, Hawaii, Michigan, Montana, New Jersey, South Dakota, Utah, and Virginia.

Section 28. Services other than counsel.

Provides that court-appointed counsel may file an application with the district court to pay for interpreters used in meetings that take place outside of court and are necessary to prepare an adequate defense.

Section 29. Request for other appointment of counsel.

Provides that the chief district public defender may request that the state public defender appoint counsel in a case where the chief district public defender does not believe that the office can provide adequate representation. Under current law, the state public defender must request that the chief judge of the district court appoint counsel.

Section 30. Addition of permanent staff.

Prohibits the state public defender from approving the addition of permanent staff outside of the appropriations made to the Board of Public Defense. Under current law, this prohibition applies to appointment by the chief judge of a district court.

Section 31. Appointment of counsel.

Establishes that, if the state public defender determines that the district public defender cannot provide adequate services, the state public defender may approve the appointment of other counsel. Removes the responsibility of the district court to appoint counsel and also strikes related references to decisions made by the district court and the right to appeal those decisions.

Section 32. Correctional facility inmates.

Makes conforming changes consistent with permitting the state public defender, not the district courts, to appoint counsel in a case where the chief district public defender does not believe that the office can provide adequate representation.

Section 33. Costs of transcripts.

Eliminates the requirement that the state public defender forward billings for transcripts and other necessary expenses to the commissioner of management and budget in appeal cases and postconviction cases where the appellate public defender's office does not have sufficient funds to pay because it has spent or committed all of the funds allocated for that purpose in its annual budget.

Section 34. Certifications for victims of crimes.

Requires law enforcement agencies to timely process a specific immigration-related request from victims of certain crimes who are foreign nationals. These victims are required to provide a certificate from law enforcement identifying them as crime victims to federal immigration authorities to support their request to remain in the United States under a U-visa. A U-visa is intended to protect crime victims and to ensure that foreign national crime victims are available to assist in the prosecution of those accused of the crimes.

Section 35. Jailhouse witnesses.

Subd. 1. Definitions. Defines the terms “benefit” and “jailhouse witness.”

Subd. 2. Use of and benefits provided to jailhouse witnesses; data collection. Requires county attorneys to collect and report data to the commissioner of corrections regarding the use of jailhouse witnesses and the nature of any cooperation agreements. Provides that data collected and maintained by the commissioner is confidential data on individuals.

Subd. 3. Report on jailhouse witnesses. Directs the commissioner to report summary data identifying the total number of jailhouse witnesses reported to the commissioner, including the number of witnesses reported by each county.

Subd. 4. Disclosure of information regarding jailhouse witnesses. Requires prosecutors, in addition to the disclosures required by court rule, to disclose specific information about any jailhouse witness including any cooperation agreements; the nature of any statements, including recantations, made by the jailhouse witness; and whether the jailhouse witness has testified or offered to testify in other cases. Requires the prosecutor to update the disclosures based on new information. Consistent with current court rule, permits the prosecutor to file a written certificate to limit disclosures if the disclosure would subject the witness or others to physical harm or coercion.

Subd. 5. Victim notification. Requires prosecutors to notify any victim of a crime if a defendant receives a reduction or dismissal of charges, plea bargain, change in bail, or change in sentence in exchange for the defendant’s agreement to testify in another case. Requires the

notification to include information about orders for protection and harassment restraining orders if the victim was the victim of domestic assault, criminal sexual conduct, or harassment or stalking.

Provides that the notice to victims required under this section is in addition to notice required under other sections of law.

Section 36. Initial appointments and meetings.

Related to the reestablishment of the Legislative Commission on Data Practices and Personal Data Privacy from section 1 of this article. Sets deadlines for initial appointments and the first meeting of the commission.

Article 4 - Criminal Sexual Conduct

Overview

This article implements many of the recommendations from the 2021 legislative report of the Criminal Sexual Conduct Statutory Reform Working Group that was established in 2019. The changes in this article relate to criminal sexual conduct (CSC) crimes and include: addressing situations where the victim was incapacitated due to voluntary intoxication, adding a new sexual extortion crime, adding a new 5th degree CSC nonconsensual penetration crime, criminalizing additional situations involving educators who engage in sexual acts with secondary school students, expanding the definition of significant relationship, increasing penalties for caregivers and others who engage in sexual acts with patients, changing some of the age restrictions and age ranges, amending definitions, restructuring the 1st to 4th degree CSC crimes to separate offenses involving adult victims from those involving child victims, and establishing a work group to review the predator offender registration law. In addition, the article establishes a new judgeship to reflect the costs that the judiciary will incur in implementing it. Finally, the article eliminates the statute of limitations for CSC crimes and makes age-based changes to the prostitution and child pornography laws that are similar to those made for CSC crimes (these were not working group recommendations).

Section 1. Description.

Adds a new judgeship in the 5th judicial district. (This is related to the article's fiscal costs.)

Section 2. Registration required.

Provides that a violation of the new felony 5th degree CSC nonconsensual penetration crime (see section 20) committed by a person who has a prior conviction for a sex crime is a registrable offense under the predatory offender registration law.

Section 3. Stay of sentence maximum periods.

Provides that a violation of the new felony 5th degree CSC nonconsensual penetration crime (see section 20) has a six-year maximum probation term.

Section 4. Criminal abuse.

Amends the criminal abuse crime to strike language relating to the current gross misdemeanor offense of caregivers/facility staff members who engage in sexual acts with residents/patients. This concept is being moved to the CSC laws later in the article (and the criminal penalty is being increased).

Section 5. Engaging in, hiring, or agreeing to hire minor to engage in prostitution; penalties.

Amends the prostitution crime to change the age limit for engaging in prostitution with a particularly young victim from 12 and under to 13 and under. (This change is related to similar age-based changes made in the article.)

Section 6. Force.

Amends the definition of “force” in the CSC laws to strike the requirement that the force causes the victim to submit. Also makes a conforming change.

Section 7. Mentally incapacitated.

Amends the definition of “mentally incapacitated” in the CSC laws.

Background

Under the CSC laws, a person who is under the influence of alcohol, a narcotic, anesthetic, or any other substance, administered to the person without the person’s agreement, is considered to be mentally incapacitated and legally lacks the judgment to give a reasoned consent to sexual relations. An offender who engages in sexual relations with such a person can be found guilty of CSC in the first, second, third, or fourth degree, depending on the specific circumstances involved.

In a recent case (State v. Khalil), the Minnesota Supreme Court unanimously held that the mentally incapacitated definition requires that the intoxicating substance be given to the victim without the victim’s agreement. Thus, a victim who is voluntarily intoxicated does not fall within the provision’s protection. This was a statutory interpretation case. The court analyzed and construed the mentally incapacitated definition as written in statute. The case did not involve any type of constitutional determination. Thus, the Legislature is free to change the definition if it so chooses.

This section amends the definition to add a new clause providing that a person who is under the influence of any substance or substances to a degree that renders them incapable of consenting or incapable of appreciating, understanding, or controlling the person's conduct is mentally incapacitated. Thus, an offender who engages in sexual relations with such a person may be held criminally liable for the conduct. The new language does not require that the substance be administered without the person’s consent, so it applies to voluntary intoxication cases.

Sections 8 and 9. Sexual contact, sexual penetration.

Make conforming definitional changes relating to concepts that appear later in the article.

Section 10. Coercion.

Amends the definition of “coercion” in the CSC laws to make the term applicable to situations in which a victim fears the infliction of bodily harm by someone other than the offender (i.e., an accomplice).

Section 11. Significant relationship.

Expands the definition of “significant relationship” in the CSC laws to include adults who are or were involved in a significant romantic or sexual relationship with the victim’s parent.

Section 12. Prohibited occupational relationship.

Adds a new definition of “prohibited occupational relationship” in the CSC laws. This definition is used as an umbrella term later to avoid having to repeat each specific type of relationship category for the 1st to 4th degree CSC crimes. Most of the relationships included in this definition mirror (but

with some modifications) those already in the CSC laws (and which are being stricken later). Of note, the concepts from the criminal abuse crime (caregiver/facility staff member and resident/patient) are added here (see section 4). This change results in a penalty increase from a gross misdemeanor to a felony (with either a 10- or 15-year statutory maximum sentence depending on the circumstances). In addition, a similar new category is added (caregivers/facility staff members and certain vulnerable adults who are impaired in judgment or capacity). Finally and significantly, three new categories are added, all of which involve victims who are students in secondary schools: (1) licensed educators employed or contracted to provide services at the secondary school where the victim is enrolled; (2) adults who are 48 months or older than the victim and employed or contracted to provide services at the secondary school where the victim is enrolled; and (3) licensed educators who are 48 months or older than the victim and employed or contracted to provide services for *any* elementary, middle, or secondary school, regardless of location or whether the victim is a student there.

Sections 13 to 15. Definitions.

Add definitions of “caregiver,” “facility,” and “vulnerable adult,” to the CSC laws. The definitions involve cross-references to current definitions from the vulnerable adult crimes. The addition of these definitions facilitates moving the crime of caregivers/facility staff members who engage in sexual acts with patients/residents into the CSC laws (see sections 4 and 12).

Sections 16 to 19. Criminal sexual conduct in the first to fourth degrees.

Amend and restructure the 1st to 4th degree CSC laws. The crimes are restructured by separating offenses with adult victims from those with child victims. Changes the upper age limit for CSC offenses involving particularly young victims from 12 and under to 13 and under. This results in 13-year-old victims receiving the same protections formerly reserved for those 12 and under. Establishes a uniform age range standard of 36 months for certain offenses where the age difference between the offender and victim is relevant. Employs the new defined term of “prohibited occupational relationship” to avoid having to specify numerous different clauses of prohibited conduct. Removes force as an element of 3rd and 4th degree CSC to avoid a potential conflict of duplicating similar conduct covered by 1st and 2nd degree CSC. Reduces the age span for which the mistake of age defense is available for certain 3rd and 4th degree CSC crimes.

Section 20. Criminal sexual conduct in the fifth degree.

Amends and restructures the 5th degree CSC crime to add a new felony offense (statutory maximum sentence of two years imprisonment/\$10,000 fine) of nonconsensual penetration (where the act does not rise to the level of a more severe CSC crime). Expands the lookback period for past violations that would result in a penalty enhancement for the 5th degree crime.

Section 21. Dangerous sex offenders; life sentences; conditional release.

Amends the dangerous sex offender sentencing law to add references to the new crime of sexual extortion (see section 22) and to make conforming changes.

Section 22. Sexual extortion.

Establishes the new crime of sexual extortion to address situations in which an offender directly or indirectly threatens a victim with various types of nonphysical harm (such as exposing the victim’s immigration status, making confidential information about the victim public, threatening the victim’s housing or job status, etc.). The statutory maximum penalty for the crime is 15 years imprisonment /\$30,000 fine if the extortion results in sexual penetration and ten years imprisonment/\$20,000 fine if the extortion results in sexual contact (these penalties mirror the 3rd

and 4th degree CSC crimes). Provides that the crime may not be charged as an attempt crime. Thus, the only way for it to be committed is if the extortion results in sexual contact or penetration.

Section 23. Voluntary intoxication defense.

Provides that a violation of 1st to 4th degree CSC involving a victim who is mentally incapacitated based on voluntary intoxication (see section 7) is considered a specific intent crime for the purposes of invoking the intoxication defense. Under current law, it is not settled whether the defense would be available. This provision clarifies that it is.

Sections 24-28. Child pornography crimes.

Amend the child pornography crimes to change the age limit for enhanced penalties for these crimes when they involve particularly young victims from those 12 and under to 13 and under. (These changes are related to similar age-based changes made in the article.)

Section 29. Limitations.

Eliminates the statute of limitations for 1st to 4th degree CSC and solicitation, inducement, and promotion of prostitution/sex trafficking (effective only for crimes committed on or after September 15, 2021).

Section 30. Predatory offender statutory framework working group; report.

Establishes a working group to assess the predatory offender registration law and make recommendations to the Legislature for possible reforms and changes.

Section 31. Revisor instruction.

Provides a revisor's instruction to make necessary cross-referencing and other changes in statute to conform with this article.

Article 5 - Forfeiture

This article revises Minnesota's forfeiture system for property seized in relation to criminal activity.

Section 1. Definitions.

Defines "asserting person" as a person, other than the driver, asserting an ownership interest in a vehicle that has been seized or restrained under the law governing forfeiture of certain vehicles following a DWI violation. Amends the definition of "designated offense" to include only a first-degree DWI or a third or subsequent DWI offense within ten years.

Section 2. Limitations on vehicle forfeiture.

Strikes the paragraph making a vehicle subject to forfeiture if the driver fails to appear for a scheduled court appearance with respect to a designated offense and fails to voluntarily surrender within 48 hours of that required appearance. Strikes the existing provisions related to innocent owners which are replaced by section 3 of this article.

Section 3. Innocent owner.

(a) Permits a person, other than the driver of a vehicle that has been seized, to assert a claim to being an innocent owner by notifying the prosecuting authority in writing within 60 days of receiving the notice of seizure.

- (b) Permits a prosecuting authority to release a vehicle to the asserting person. Requires a prosecutor to file a complaint within 30 days if the prosecutor chooses to proceed with the forfeiture. The complaint must be filed with the district court.
- (c) Requires the prosecutor to serve the complaint on the asserting person and any other registered owner. Allows service to be made by registered mail.
- (d) Directs the court to hold a hearing on the innocent owner claim within 30 days, to the extent possible, and permits multiple claims to be combined into one hearing.
- (e) Establishes burdens on the prosecuting authority to prove by a preponderance of the evidence that the seizure was incident to a lawful arrest or search and to certify that the prosecuting authority has filed, or intends to file, charges against the driver.
- (f) Establishes burdens on the asserting person to prove by a preponderance of the evidence that the person has an actual ownership interest in the vehicle and either did not know that the vehicle would be operated in a manner contrary to law or took steps to prevent the illegal use.
- (g) Directs the court to order that the vehicle remains subject to forfeiture if the state meets both its burdens and the asserting person fails to meet either burden.
- (h) Directs the court to order that a vehicle is not subject to forfeiture if the state failed to meet either of its burdens, the asserting person met both burdens, or both of those situations apply.
- (i) Requires an innocent owner to pay the reasonable costs of the towing, seizure, and storage of the vehicle incurred before the innocent owner provided notice to the prosecuting authority and any reasonable costs of storage incurred if more than two weeks pass after the court orders that the vehicle is not subject to forfeiture.

Section 4. Administrative forfeiture procedure.

Requires forfeiture notices to contain a warning to person, other than the driver, who may have an ownership interest in a vehicle that has been seized describing the manner in which the person may assert an innocent owner claim. Makes a conforming change consistent with DWI forfeitures being limited to vehicles. Eliminates the court filing fee for a driver who contests a forfeiture.

Section 5. Judicial forfeiture procedure.

Makes conforming changes to reference the new innocent owner subdivision and remove language related to returning filing fees which were removed in another section of the bill.

Section 6. Disposition of forfeited vehicle.

Identifies the specific ways in which a law enforcement agency or prosecuting authority can use money obtained through forfeiture.

Section 7. Exception.

Provides that a forfeiture proceeding in relation to a DWI offense is stayed if the driver becomes a program participant in the ignition interlock program provided the driver either (1) committed a designated offense other than a first-degree DWI, or (2) is accepted into a treatment court dedicated to changing the behavior of alcohol- and other drug-dependent offenders arrested for a DWI offense. Clarifies that a person's vehicle may be subject to forfeiture if the person operates any vehicle without an interlock device when the person's driver's license requires such a device. Current law does not include a reference to the driver's license requirement. Provides that a person's vehicle is subject to forfeiture if forfeiture was stayed after the person entered treatment court and the driver ceases to be a participant in treatment court for any reason. Replaces the option

of posting a bond in lieu of a vehicle being forfeit with the option of surrendering a title. Practitioners have indicated that bonds were difficult or impossible to obtain.

Section 8. Subsequent unlawful use of seized vehicle; immunity.

Provides that appropriate agencies (a defined term including law enforcement agencies), prosecuting authorities, and their employees are immune from liability for any harm caused by a driver to whom a vehicle is returned if they return a vehicle in good faith and within the course and scope of employment.

Section 9. Definitions.

Defines “asserting person” for purposes of the forfeiture statutes in chapter 609 to mean a person, other than the driver alleged to have used a vehicle in the transportation or exchange of a controlled substance, who claims an ownership interest in a vehicle that has been seized. Makes a technical change to recognize the correct name of the Three Rivers Park District Department of Public Safety.

Section 10. Transfer of forfeitable property to federal government.

Prohibits the transfer of property subject to forfeiture under Minnesota’s forfeiture laws for adoption by a federal agency if such a forfeiture would be prohibited under state law.

Section 11. Associated property.

Provides that personal property and real property, other than homestead property exempt from seizure, is subject to forfeiture if it is an instrument or represents the proceeds of a controlled substance offense. The current statute permits forfeiture of homestead property, but the Minnesota Supreme Court found such forfeiture unconstitutional in *Torgelson v. Real Property*, 749 N.W.2d 24 (Minn. 2008). Provides that money is the property of an appropriate agency and may be recovered if that money was provided by the agency and marked or recorded as “buy money.”

Section 12. Limitations on forfeiture of certain property associated with controlled substances.

Provides that a vehicle is subject to forfeiture if it was used in the transportation or exchange of controlled substances intended for distribution or sale and the controlled substances had a value of at least \$100. Also states that money is subject to forfeiture only if it has a value of at least \$1,500 or there is probable cause to believe that it was exchanged for the purchase of a controlled substance. States that nothing in the limitation prevents the seizure of property for use as evidence in a trial or for any other lawful purpose.

Section 13. Records; proceeds.

Makes a conforming change consistent with section 10 of this article, striking the paragraph providing that certain property, real and personal, is subject to forfeiture.

Section 14. Property subject to administrative forfeiture.

Establishes that money totaling \$1,500 and any precious metals or stones are subject to forfeiture if there is probable cause to believe that they represent the proceeds of a controlled substance offense. Further establishes that all money found in proximity to controlled substances is subject to forfeiture when there is probable cause to believe that the money was exchanged for the purchase of a controlled substance, and that any vehicle containing controlled substances with a value of \$100 or more is subject to forfeiture if there is probable cause to believe that the vehicle was used in the transportation or exchange of a controlled substance intended for distribution or sale. Establishes

that money is the property of an appropriate agency and may be recovered if it is properly documented or marked and used as “buy money.”

Section 15. Innocent owner.

Establishes an innocent owner proceeding that is essentially identical to the proceeding described in section 3 of this article. Instead of requiring that the prosecutor has filed, or intends to file, appropriate DWI charges, this section requires that the prosecutor establish, by a preponderance of evidence that the vehicle was used in the transportation or exchange of a controlled substance intended for distribution or sale.

Section 16. Administrative forfeiture procedure.

Requires forfeiture notices to contain a warning to a person, other than the person arrested when the property was seized, who may have an ownership interest in the property describing the manner in which the person may assert an innocent owner claim.

Section 17. Judicial determination.

Removes the requirement that a person challenging forfeiture pay a court filing fee and makes a conforming change to remove language related to the return of filing fees.

Section 18. Distribution of money.

Identifies the specific ways in which a law enforcement agency or prosecuting authority can use money obtained through forfeiture.

Section 19. Disposition of certain forfeited proceeds; trafficking of persons; report required.

Strikes the report on forfeiture required under current law. The bill establishes a new mandatory report.

Section 20. Reporting requirement.

Requires appropriate agencies and prosecuting authorities to provide the state auditor with information in 15 categories about each forfeiture occurring under the authority of the agency or prosecutor. Requires appropriate agencies and prosecuting authorities to provide the state auditor with a written record of the total amount of money or proceeds from the sale of forfeited property the agency or prosecutor obtained and the manner in which the money and proceeds were used. Requires the reports of specific forfeitures to be made quarterly and reports of the use of money or proceeds to be made annually. Directs the state auditor to report summary data, disaggregated by appropriate agency and prosecuting authority, to the legislature and to make the report available on its website.

Section 21. Recidivism study.

Directs the legislative auditor to conduct an audit on the efficacy of forfeiture and ignition interlock in DWI cases. The report should identify the financial impact of the programs, the efficacy in reducing recidivism, and any impact on public safety. The auditor must provide the final report to the legislature by January 15, 2025.

Section 22. Repealer.

Repeals section 609.5317 which governs the seizure of residential rental property.

Article 6 - Crime Victim Notification

This article contains provisions clarifying and amending the rights of victims to receive notification about the release or change of status of an offender.

Section 1. Victim notification of petition and release; right to submit statement.

Clarifies the definition of “convicted” and “conviction” to include situations in which a person is subject to commitment and a finding is made that an act was a part of the person’s course of harmful sexual conduct. Requires prosecutors to inform victims of their rights to request certain notifications and expands the ways in which victims can request notification to include sending a written request to an institution where an offender is housed.

Section 2. Notice of filing petition.

Clarifies that a victim can include a victim identified in a petition of commitment. Requires prosecutors to inform victims of the process for requesting notification of an individual’s change in status under section 253D.14, subdivision 3.

Section 3. Requesting notification.

Expands the ways in which victims can request notification of the release of an offender who was subject to commitment proceedings to include sending a written request to an institution where an offender is housed.

Section 4. Notice of discharge or release.

Clarifies that the notice of discharge provided to victims applies only to those who request notice in writing.

Section 5. Notice required.

Requires prosecutors to inform victims of their right to be notified about the release or discharge of certain offenders. Directs the Office of Justice Programs to update a model notice of postconviction rights for victims.

Section 6. Notice of release required.

Makes conforming changes related to the requirement to give certain notice to victims who request that notice in writing.

Section 7. Repealer.

Repeals sections 253D.14, subdivision 4 (victim notification of petition and release; right to submit statement) and 611A.0385 (sentencing; implementation of right to notice of offender release and expungement).

Article 7 - Child Protection Background Checks

Modifies the Child Protection Background Check Act to reflect the most updated federal authorities to provide the most complete and accurate criminal history information to hiring entities who provide services and supports to the elderly and individuals with disabilities.

Section 1. Citation.

Provides that the identified sections of law may be known as the Minnesota Child, Elder, and Individuals with Disabilities Protection Background Check Act.

Section 2. Authorized agency.

Defines “authorized agency” to include the licensing agency which may refer to the Department of Human Services, Department of Health, and Professional Educator Licensing and Standards Board.

Section 3. Background check crime.

Expands the definition of “background check crime” to include offenses against a vulnerable adult.

Section 4. Care.

Defines “care” to mean the provision of treatment, services, supervision, and recreation to children, the elderly, or individuals with disabilities.

Section 5. Child abuse crime.

Expands the definition of “child abuse crime” to include a violation of Minnesota Statutes, sections 617.246 (use of a minor in sexual performance) and 617.247 (possession of pornographic work involving minors).

Section 6. Covered individual.

Defines “covered individual” to include a person who has access to children, the elderly, or a person with disabilities and who works for, volunteers with, or owns or operates a qualified entity.

Section 7. Individuals with disabilities.

Defines “individuals with disabilities” to include persons with a mental or physical impairment who require assistance to perform one or more daily living tasks.

Section 8. National criminal history background check system.

Defines “national criminal history background check system” to mean the criminal history system maintained by the FBI which is based on fingerprint identifications or other forms of positive identification.

Section 9. Qualified entity.

Defines “qualified entity” to mean a business or nonprofit that provides care or care placement services.

Section 10. Generally.

Makes conforming changes based on new definitions established in this article.

Section 11. Background check; requirements.

Requires the superintendent of the BCA to obtain consent and specific information from a person before performing a background check on a covered individual.

Section 12. Covered individuals rights.

Requires qualified entities to inform covered individuals of their rights including the right to obtain a copy of a background check report, challenge the accuracy or completeness of a check, and receive notice of the right to appeal.

Section 13. Response of bureau.

Makes conforming changes based on new definitions established in this article.

Section 14. Admissibility of evidence.

Makes conforming changes based on new definitions established in this article.

Section 15. Exception; other laws.

Makes conforming changes based on new definitions established in this article. Removes the limitation that prevented use of background checks for other purposes.

Section 16. Definitions.

Defines “current employee” as a person who works, or volunteers, at the current time and “current licensee” as a person who holds a license that is valid at this time. Makes conforming changes based on the new definitions.

Article 8 - Law Enforcement Salaries

This article contains provision concerning law enforcement salaries for certain state employees.

Section 1. Law enforcement salary increases.

Provides that, if a collective bargaining agreement between the Minnesota Law Enforcement Association and the state is approved as provided in statute, the percent increase for salary provided under Laws 2021, First Special Session chapter 4, article 9, section 1, paragraph (a) shall be reduced by the percent increase of any wage adjustment for the same period provided in the collective bargaining agreement.

Section 2. Law enforcement salary supplement for fiscal year 2020.

Provides that, if a collective bargaining agreement between the Minnesota Law Enforcement Association and the state is approved as provided in statute, the percent increase for salary provided under Laws 2021, First Special Session chapter 4, article 9, section 2, paragraph (a) shall be reduced by the percent increase of any wage adjustment for the same period provided in the collective bargaining agreement.

Section 3. Law enforcement salary supplement for a portion of fiscal year 2021.

Provides that, if a collective bargaining agreement between the Minnesota Law Enforcement Association and the state is approved as provided in statute, the percent increase for salary provided under Laws 2021, First Special Session chapter 4, article 9, section 3, paragraph (a) shall be reduced by the percent increase of any wage adjustment for the same period provided in the collective bargaining agreement.

Section 4. Appropriations; salary increases.

Makes a conforming change in Laws 2021, First Special Session chapter 4, article 9, section 3 to delete a reference to section 1.

Section 5. Appropriations; salary supplements from July 1, 2019 to October 21, 2020.

Makes a conforming change in Laws 2021, First Special Session chapter 4, article 9, section 5 to delete a reference to sections 2 and 3.

Section 6. Law enforcement salary increases.

Provides that, if a collective bargaining agreement between the Minnesota Law Enforcement Association and the state is approved as provided in statute, the percent increase for salary provided under Laws 2021, First Special Session chapter 5, article 3, section 1, paragraph (a) shall be reduced

by the percent increase of any wage adjustment for the same period provided in the collective bargaining agreement.

Section 7. Law enforcement salary supplement for fiscal year 2020.

Provides that, if a collective bargaining agreement between the Minnesota Law Enforcement Association and the state is approved as provided in statute, the percent increase for salary provided under Laws 2021, First Special Session chapter 5, article 3, section 2, paragraph (a) shall be reduced by the percent increase of any wage adjustment for the same period provided in the collective bargaining agreement.

Section 8. Law enforcement salary supplement for a portion of fiscal year 2021.

Provides that, if a collective bargaining agreement between the Minnesota Law Enforcement Association and the state is approved as provided in statute, the percent increase for salary provided under Laws 2021, First Special Session chapter 5, article 3, section 3, paragraph (a) shall be reduced by the percent increase of any wage adjustment for the same period provided in the collective bargaining agreement.

Section 9. Appropriations; salary increases.

Makes conforming changes in Laws 2021, First Special Session chapter 5, article 3, section to delete references to section 1.

Section 10. Appropriations; salary supplements from July 1, 2019 to October 21, 2020.

Makes conforming changes in Laws 2021, First Special Session chapter 5, article 3, section 5 to delete references to sections 2 and 3.

Section 11. Law enforcement salary increases.

Provides for salary increases for state employees who are represented by the Minnesota Law Enforcement Association. Provides that, if a collective bargaining agreement between the Minnesota Law Enforcement Association and the state is approved as provided in statute, the percent increase for salary shall be reduced by the percent increase of any wage adjustment for the same period provided in the collective bargaining agreement. Provides for salary increases for peace officers who are supervisors and managers.

Section 12. Law enforcement salary supplement for fiscal year 2020.

Provides for supplemental pay for state employees who are represented by the Minnesota Law Enforcement Association. Provides that, if a collective bargaining agreement between the Minnesota Law Enforcement Association and the state is approved as provided in statute, the percent increase for salary shall be reduced by the percent increase of any wage adjustment for the same period provided in the collective bargaining agreement.

Section 13. Law enforcement salary supplement for a portion of fiscal year 2021.

Provides for supplemental pay for state employees who are represented by the Minnesota Law Enforcement Association. Provides that, if a collective bargaining agreement between the Minnesota Law Enforcement Association and the state is approved as provided in statute, the percent increase for salary shall be reduced by the percent increase of any wage adjustment for the same period provided in the collective bargaining agreement.

Section 14. Appropriations; salary increases.

Appropriates \$142,000 in fiscal year 2021 and \$209,000 in fiscal years 2022 and 2023 from the general fund to the Department of Corrections for salary increases provided for in this article. Appropriates \$1,076,000 in fiscal year 2021 and \$1,846,000 in fiscal years 2022 and 2023 from the general fund to the Bureau of Criminal Apprehension (BCA) for salary increases provided for in this article. Appropriates \$99,000 in fiscal year 2021 and \$148,000 in fiscal years 2022 and 2023 from the general fund to the Department of Public Safety’s Alcohol and Gambling Enforcement Division (AGED) for salary increases provided for in this article. Provides that the fiscal year 2021 appropriations are available until December 30, 2021.

Section 15. Appropriations; salary supplements from July 1, 2019 to October 21, 2020.

Appropriates \$41,000 in fiscal year 2021 from the general fund to the commissioner of corrections for salary supplements. Appropriates \$240,000 in fiscal year from the general fund to the BCA for salary supplements. Appropriates \$24,000 in fiscal year 2021 to AGED for salary supplements. Provides that the fiscal year 2021 appropriations are available until December 30, 2021.

Section 16. Interpretation.

Provides that, if an appropriation in this article is enacted more than once in the 2021 first special session, the appropriation must be given effect only once.

Article 9 - Policing and Corrections

This article contains provisions related to policing and corrections.

Section 1. Board of Peace Officer Standards and Training.

Classifies personal phone numbers and email addresses of law enforcement officers as private data. Removes the private data classification for data that identifies which agency a peace officer works for.

Section 2. Peace officer database.

Adds a cross-reference to the data practices act to address the proposed sharing of private data in section 26.

Section 3. Board of Peace Officers Standards and Training; reasonable grounds determination.

Reforms the POST Board’s complaint investigation committee composition to comply with the law enforcement reforms that were enacted in the summer of 2020.

Section 4. Annual performance report required.

Requires the Department of Corrections to maintain annual statistics and provide them in the department’s annual report. The statistics must include: the number and demographics of extended jurisdiction juveniles under supervision; the number of extended jurisdiction juveniles who successfully completed probation in the previous year; the number who were discharged early from supervision; the number who had a sentence executed; and the average length of time an extended jurisdiction juvenile spends under supervision. Requires the report to include aggregate of the security audit group’s recommendations.

Section 5. Correctional facilities; inspection; licensing.

- Requires the commissioner or corrections to establish minimum standards on topics such as mental health, suicide prevention, medication administration and discharge planning, sharing relevant information with medical personnel, code of conduct policy development, and death reviews.
- Clarifies that the commissioner must inspect and determine compliance with minimum standards established in rule and any related law.
- Clarifies license expiration practices.
- Increases the timeline for death reporting to 24 hours and codifies reporting obligations related to uses of force and those currently in rule related to emergencies and unusual occurrences.
- Requires the commissioner to publicly post its facility inspection reports within 30 days of completion.
- Moves outdated revocation statutory language to section 241.021, subdivision 1b.

Section 6. Correction order; conditional license.

Para. (a) Updates archaic language and clarifies ways the commissioner may act without revoking a facility license and codifies steps needed to correct deficiencies that are currently authorized in rule.

Para. (b) Authorizes the commissioner to lift orders or restrictions if satisfactory progress towards substantial compliance is made by the facility.

Para. (c) Clarifies that the licensing actions may be issued in any order necessary to bring a facility into compliance.

Section 7. License revocation order.

Para. (a) Updates outdated language and establishes a clear process for revocation of a license. Clarifies the commissioner’s condemnation authority for insecure or unfit for use facilities. Declares that facilities will remain operational during notice and written response period.

Para. (b) Establishes the process for a facility administrator to respond to the commissioner.

Para. (c) Adds parameters for what must be considered when revoking a license.

Para. (d) Clarifies the contents of revocation orders and the authority to authorize use of a facility until a certain date in anticipation of a facility closure.

Para. (e) Recodifies current statutory language.

Section 8. Temporary license suspension.

Grants the commissioner the authority to impose a temporary, immediate suspension to a facility.

Section 9. Public notice of restriction, revocation, or suspension.

Requires the commissioner to provide public notice if the commissioner restricts, revokes, or suspends a facility’s license.

Section 10. Reconsideration of orders; appeals.

Establishes the process and timeline for a facility to request that the commissioner reconsider an order and establishes that the commissioner’s decisions on requests for reconsideration are final, but subject to appeal.

Section 11. Report.

Imposes the following legislative reporting obligations on the commissioner:

- information on individuals who have died in facilities;
- information on death review results;
- information on uses of force;
- information on suicide attempts, segregation, and medical transports;
- information on individuals housed outside of DOC facilities; and
- summary data on complaints and discipline in DOC facilities.

Section 12. Biennial assessment and audit of security practices; state correctional facilities.

Requires the commissioner of corrections to conduct independent biennial safety audits of each state correctional facility. The audits must be completed by a team of experts as specified in the following section.

Section 13. State correctional facilities security audit group.

Directs the commissioner to establish an independent correctional facilities security audit group to establish security audit standards and review security audit reports performed by the agency’s inspection unit.

Section 14. Definition.

Recodifies the definition of “correctional facility” as that term is used in section 241.021.

Section 15. Intake release of information.

Requires all correctional facilities to provide a release of information form to individuals upon intake allowing them to authorize information and circumstances related to health status that can be shared in the event of incapacitation.

Section 16. Death review teams.

Establishes the following death review requirements for licensed facilities:

- use a chosen, objective, medical expert, and includes mental health if appropriate;
- assess for preventable mortality and morbidity within 90 days of death;
- requires notice to DOC of any recommendations for changes in policy, procedure, or training; and
- death review data is designated as confidential.

Section 17. General searches.

Authorizes the state correctional facilities audit group to visit state correctional facilities to execute the group’s duties.

Section 18. Duty to report.

Subd. 1. Discipline and prevention of escape. Adds clarifying language.

Subd. 2. Use of force. Declares that force may not be applied maliciously or sadistically to cause harm to inmates. Prohibits certain means of restraining inmates including chokeholds and prone restraints, unless deadly force is justified. Defines when deadly force is permitted.

Subd. 3. Duty to report. Creates a duty to report for staff who observe another staff use excessive force or who observe neglect of incarcerated individuals in facilities no later than 24 hours after the incident to the facility administrator.

Section 19. Powers and duties.

Requires county probation officers to provide the Department of Corrections with the data needed to prepare a report on extended jurisdiction juveniles.

Section 20. Use of restraints.

Prohibits the use of restraints on children appearing in court unless the court makes findings that there are no less restrictive alternatives available and the use is necessary to prevent physical harm to the child or another, or to prevent the child from fleeing. Describes factors the court can consider. Requires the court to hold a hearing before ordering the use of restraints, and further requires the court to make findings of fact in support of the order.

Section 21. Alternative to arrest of certain juvenile offenders authorized.

Establishes that a peace officer may refer a child to a program that the law enforcement agency deems appropriate if the officer has probable cause to believe that the child is a delinquent child or juvenile petty offender. Permits law enforcement to defer issuing a citation, referring the matter to a prosecutor, or otherwise initiating a proceeding in juvenile court after referring a child to an appropriate program. Prohibits issuing a citation, referring the matter to a prosecutor, or otherwise initiating a proceeding in juvenile court after a child successfully completes an appropriate program. Prohibits prosecution of a child who successfully completes a program to which the child was referred.

Section 22. Comprehensive plan; standards of eligibility; compliance.

Requires probation agencies in County Corrections Act counties to provide the Department of Corrections with the data needed to prepare a report on extended jurisdiction juveniles.

Section 23. Time and manner of service; no-knock search warrants.

Subd. 1. Time. Contains a technical change.

Subd. 2. Definition. Defines the term “no-knock search warrant” for purposes of this section.

Subd. 3. Requirements for a no-knock search warrant. Provides a process to be followed regarding the issuance of no-knock warrants. Requires a chief law enforcement officer and another superior officer to review and approve warrant applications. Generally, prohibits the issuance of these warrants in drug possession cases.

Subd. 4. Reporting requirements regarding no-knock search warrants. Requires a law enforcement agency to report to the commissioner of public safety on the agency’s use of no-knock warrants. Requires the commissioner to report the data received to the legislature.

Section 24. Terms, compensation, removal, filling of vacancies.

Clarifies that all board positions are subject to the requirements of chapter 214 regarding how positions expire and are renewed.

Section 25. Establishment and membership.

Clarifies that the Minnesota ethnic councils have the authority to appoint certain members to the Ensuring Police Excellence and Improving Community Relations Advisory Council.

Section 26. Peace officer data.

Contains conforming changes to reflect the sharing of private peace officer data under section 27.

Section 27. Report on alleged misconduct; database; report.

Requires chief law enforcement officers to share, in real time, certain private peace officer data with the POST Board in order for the board to evaluate the effectiveness of required training, to assist the Ensuring Police Excellence and Improving Community Relations Advisory Council in fulfilling the council's duties, and to enable the board and advisory council to identify patterns of behavior that suggest an officer is in crisis or is likely to violate a board mandated model policy.

Section 28. Crisis intervention and mental illness crisis training; dementia and Alzheimer's.

Requires the POST Board to create a list of approved trainers and training courses related to peace officers responding to individuals with mental illness or Alzheimer's.

Section 29. Confidential informants; required policy and training.

Requires the Peace Officer Standards and Training (POST) Board to develop a comprehensive model policy and learning objectives addressing the use of confidential informants by law enforcement. This section requires law enforcement agencies to adopt a policy governing the use of confidential informants that is substantially similar or identical to the model policy. This section further requires peace officers to complete training that satisfies the learning objectives developed by the POST Board.

Section 30. Alternatives to incarceration pilot program.

Expands the Alternatives to Incarceration Pilot program funded by the Community Services division of the Department of Corrections to three sites and updates and expands the reporting requirement. The program was established by the 2017 Legislature and has an annual base funding of \$160,000. The sole grant recipient is Anoka County. Article 1 permanently funds two additional sites, one in Wright County and another in Crow Wing County.

Section 31. Title.

Provides that section 29, establishing requirements for confidential informant policies, shall be known as "Matthew's Law."

Section 32. Rulemaking authority.

Grants the board the authority to use rulemaking to implement section 3.

Section 33. Revisor instruction.

Directs the Revisor of Statutes to codify the Alternatives to Incarceration Program (see section 30) to reflect that it is a permanent program.

Article 10 – Effective Date

This article clarifies the effective dates for the bill.