INFORMATION BRIEF
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A Summary of 2002 Criminal Justice Legislation

This information brief summarizes criminal justice laws passed by the legislature in the criminal justice area during the 2002 session. Information is grouped together by subject matter and includes provisions on anti-terrorism; criminal sexual conduct; predatory offender registration and community notification; domestic abuse; driving while impaired (DWI); general crime; evidence; Minnesota Code of Military Justice; juvenile law; law enforcement; and corrections, probation, and parole. This information brief also contains some limited information about legislative appropriations in the criminal justice area, as well as limited information about certain matters related to the operation of state agencies. For additional information on criminal justice fiscal matters, please see pages 47-52 of the *2002 Fiscal Summary* prepared by the House of Representatives Fiscal Analysis Department.

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Anti-Terrorism Provisions

Homeland Security Council

This law establishes a homeland security council to:

- advise the Department of Public Safety on issues related to homeland security,
- review and recommend changes to all terrorism preparedness and anti-terrorism policies and procedures, and
- ensure coordination of and accountability for all state and federal anti-terrorism and terrorism preparedness-related funding.

The Commissioners of Public Safety and Health are designated as the cochairs of the council. They must conduct meetings on a regular basis. The council itself consists of 27 members representing public safety, including law enforcement and emergency managers, health care, transportation, agriculture, pollution control, military affairs, natural resources, local units of government, fire fighter associations, Indian affairs, and the U.S. attorney's office. Each member of the council serves without remuneration.

The law requires the council to form and consult with subcommittees and task forces to provide advice on specific decisions related to homeland security, including:

- a public safety subcommittee,
- a terrorism and health task force, and
- other subcommittees and task forces the council deems necessary.

The council must submit an updated statewide terrorism preparedness implementation plan to the legislature annually, beginning November 1, 2002. The annual update must include a summary and report on the distribution of all funds reviewed by the council for the preceding year and recommendations for new funding.

The council is set to stay in effect until June 30, 2005, and the law pertaining to it will not be codified. Laws 2002, ch. 401, § 1.

Anti-Terrorism Crimes

Murder in the First Degree; Furthering Terrorism

This law adds a new type of first-degree murder crime. This crime occurs when a person causes the death of another while committing, attempting to commit, or conspiring to commit a felony crime to "further terrorism," and the death occurs under circumstances manifesting an extreme indifference to human life.

A crime is committed to "further terrorism" when it is a felony consisting of a premeditated act involving violence to persons or property that is intended to:

- terrorize, intimidate, or coerce a considerable number of members of the public in addition to the direct victims of the act; and
- significantly disrupts or interferes with the lawful exercise, operation, or conduct of government, lawful commerce, or the right of lawful assembly.

Minnesota's heinous crime statute is amended to provide that this crime is punishable by life imprisonment without the possibility of release. Laws 2002, ch. 401, §§ 13, 15, and 20; to be codified at Minn. Stat. §§ 609.106, 609.185, and 609.714.

Crime of Furthering Terrorism

A person who commits any felony crime to further terrorism is guilty of a crime. The definition of "further terrorism" is the same definition used for the new first-degree murder crime involving terrorism. The penalty for the crime of furthering terrorism is 50 percent longer than the statutory maximum for the underlying crime. Laws 2002, ch. 401, § 20; to be codified at Minn. Stat. § 609.714.

Damage to Property of Critical Public Service Facilities, Utilities, and Pipelines

Crime and Definition. This provision creates a ten-year felony for causing damage to the physical property of a critical public service facility, utility, or pipeline with intent to significantly disrupt the operation of or the provisions of services by the entity. The action must occur without consent.

The terms "critical public service facility," " pipeline," and "utility" are defined by the law and include places such as railroad yards and stations, bus stations, airports, and other mass transit facilities; oil refineries; places where hazardous substances are located; bridges; pipelines; and telecommunications, fuel, water, and sewage services.

Detention Authority. An employee or other agent of one of these entities has authority to detain individuals the employee or agent has reasonable cause to believe is violating this provision. The employee or agent must promptly inform the person of the purpose of the detention and may not subject the detainee to unnecessary or unreasonable force or interrogation. The detention must last for only a reasonable period of time, and a peace officer must be notified promptly. An employee or agent who reasonably believed the detention was authorized by and conducted in conformity with this provision is criminally and civilly immune from any action stemming from the detention. Laws 2002, ch. 401, §§ 17 and 18; to be codified at Minn. Stat. §§ 609.594 and 609.595, subd. 1.

Trespass on Critical Public Service Facility, Utility, or Pipeline

Crime and Definition. This law makes it a gross misdemeanor for a person to enter or be found on property containing a critical public service facility, utility, or pipeline without claim of right or consent to be there, if:

- the person refuses to depart upon request,

- within the past six months the person has been told to leave the property and not to return, or
- the property is posted.

The definitions of "critical public service facility," "utility," and "pipeline" are slightly broader in this law than in the new criminal damage to property law (above).

Acceptable Posting. The law describes acceptable posting. The property is deemed posted if there are signs that state "no trespassing" or similar terms, the letters on the signs are at least two inches high, the signs state Minnesota law prohibits trespassing on the property, and the signs are posted in a conspicuous place at intervals of 500 feet or less.

Detention Authority. This law also authorizes employees and agents to detain a person the employee or agent has reasonable cause to believe is trespassing. The detention authority and immunity are the same as provided in the criminal damage to property law (above).

Probable Cause for Arrest. A peace officer may arrest a person without a warrant if the officer has probable cause to believe the person violated this law within the preceding four hours. An arrest may be made even though the violation did not occur in the officer's presence. Laws 2002, ch. 401, § 18; to be codified at Minn. Stat. § 609.6055.

Real and Simulated Weapons of Mass Destruction

The anti-terrorism legislation contains numerous penalties related to real and simulated weapons of mass destruction. The law contains detailed definitions of the terms "biological agent," "simulated weapon of mass destruction," "toxin," "vector," and "weapon of mass destruction." Laws 2002, ch. 401, § 19; to be codified at Minn. Stat. § 609.712, subd. 1.

Intent to Injure; Weapons of Mass Destruction. This law outlaws the manufacture, acquisition, or possession of a weapon of mass destruction with the intent to cause injury. The penalty for this crime is a 20-year felony. It is an affirmative defense to criminal liability if the defendant proves by a preponderance of the evidence that the conduct engaged in was specifically authorized under state or federal law and conducted in accordance with that law as part of a legitimate scientific or medical research project or that the conduct constituted legitimate medical treatment. Laws 2002, ch. 401, § 19; to be codified at Minn. Stat. § 609.712, subd. 2.

Agents Dangerous to Human Life. This law makes it a crime to knowingly manufacture, acquire, possess, or make readily accessible to another certain inherently dangerous biological agents, chemical agents, and radiological materials in quantities dangerous to human life. The penalty for this offense is a 20-year felony. This law does not apply to conduct specifically authorized under state or federal law and conducted in accordance with that law, conduct that is part of a legitimate scientific or medical research project or

conduct that constitutes legitimate medical treatment. Laws 2002, ch. 401, § 19; to be codified at Minn. Stat. § 609.712, subd. 3.

Intent to Terrorize; Simulated Weapons of Mass Destruction. This law outlaws the manufacture, acquisition, or possession of a simulated weapon of mass destruction with the intent to terrorize another. This crime is a ten-year felony. Laws 2002, ch. 401, § 19; to be codified at Minn. Stat. § 609.712, subd. 4.

Terrorizing Through Display or Threat of Weapons/Simulated Weapons of Mass Destruction. The law creates a ten-year felony when a person does any of the following with intent to terrorize another or to cause evacuation of a place or another's activities, or when a person acts with reckless disregard of the risk of causing this terror, evacuation, or disruption:

- displays a weapon of mass destruction or a simulated weapon of mass disruption;
- threatens to use a weapon of mass destruction; or
- communicates, directly or indirectly, that a weapon of mass destruction is or will be present or introduced at a place or location, or will be used to cause death, disease, or injury to another or to another's property, whether or not the same is in fact presented or introduced.

Laws 2002, ch. 401, § 19; to be codified at Minn. Stat. § 609.712, subd. 4.

All of the new anti-terrorism crimes were effective July 1, 2002, and apply to crimes committed on or after that date.

Public Safety Radio Equipment

Planning Committee

This law establishes a Public Safety Radio System Planning Committee to develop a project plan for a statewide, shared, trunked public safety radio communication system. It requires the Commissioner of Public Safety to convene and chair the committee. The committee consists of representatives of public safety, transportation, administration, natural resources, radio, law enforcement, the League of Cities, the Association of Counties, and finance (nonvoting member). The Commissioner of Public Safety and committee share responsibility for the successful completion of statewide communications infrastructure system integration.

The planning committee must submit a status report to the governor and legislature by November 15, 2002, on any statutory changes and funding options necessary for consideration during the 2004-05 biennial budget process. Additionally, the committee must submit the project plan (described below) by January 15, 2003, and immediately thereafter begin executing the plan.

Advisory Groups. The planning committee is required to establish one or more advisory groups for the purpose of advising on the plan, design, implementation, and administration of the statewide communications system. At least one of these groups must include the chair of the Metropolitan Radio Board, the chief of the state patrol, and a representative of the state sheriffs' association, the chiefs of police association, and the fire chiefs' association.

Project Plan. The law requires the project plan to include:

- standards, guidelines, and a comprehensive design for the system, including use and integration of existing public and private communications infrastructure;
- a proposed project implementation schedule, including schedule phases and associated costs;
- recommended statutory changes required for implementation and administration of the system;
- establishment of a permanent governance structure to manage, administer, and operate the system as it becomes operational; and
- a policy for the lease of excess space or capacity on systems constructed under the project plan, with priority given first to local units of government for public safety communications needs, and second, to any other communications transmission needs of either the public or private sector.

The planning committee has responsibility for ensuring that generally accepted project management techniques are utilized for each project or phase of the system. The law sets forth the techniques that must be utilized.

Requirements on Local Units of Government. The law specifies that local units of government receiving state funds for the communications system must agree to participate in the system and comply with the standards and guidelines contained in the project plan. Requires the planning committee to review and approve all local planning initiatives, including a review of the local unit's budget and detailed cost estimates.

Amendment to 911 Fee

This law amends the law designating a 27-cent fee on telephone bills for 911 services. Allows the Commissioner of Administration to set the fee between 8 and 33 cents (anticipated fee is 33 cents). The six-cent increase will be used to cover current statutory obligations through fiscal year 2004. In 2005, 1.5 cents of the increase will be used for increased funding to public safety answering points (primarily county-operated public safety dispatch centers). The remaining 1.5 cents will be used for revenue bonds to continue the improvement and expansion of the public safety radio system in the metro area.

Issuance of Bonds

This law authorizes certain counties to issue bonds for public safety radio system infrastructure and equipment. These counties include the nine metro-area counties (these

counties are also the counties in the newly defined first phase of the system) that fall under the jurisdiction of the metropolitan radio board, the counties in the southeastern (Rochester) district of the state patrol, and the counties in the east side of the central (St. Cloud) district of the state patrol. Authority to issue bonds extends until 2012. Counties may not issue bonds without approval of the public safety radio planning committee.

The Metropolitan Council is authorized to issue revenue bonds for the second phase of the public safety radio system. The second phase of the system means local government units of the metro area that do not build subsystems during the first phase. These bonds may be issued in an amount up to $12,000,000. The bonds must be issued to coincide with the revenue available from the increase in the 911-fee beginning in fiscal year 2005.

All public safety radio provisions can be found at Laws 2002, ch. 401, §§ 2 to 12; to be codified at Minn. Stat. §§ 373.47, 403.11, subd. 1, 473.891, subds. 3 and 10, 473.898, subds. 1 and 3, 473.901, subd. 1, 473.902, subds. 1, 3, and 5, and 473.907.

Appropriations

The anti-terrorism law contains a variety of appropriations for equipment, training, bomb disposal squads, hazardous materials emergency response teams, chemical assessment teams, increased capitol security, an 800-megahertz executive team report update, and medical resource control centers. The law also includes funding for increased costs associated with additional collection of biological specimens for DNA testing (see provision on page 22). Laws 2002, ch. 401, art. 2, §§ 1 to 2.

Criminal Sexual Conduct Provisions

Presumptive Executed Sentence for Second-Degree Criminal Sexual Conduct

The law creates a presumptive executed sentence of 90 months for certain second-degree criminal sexual conduct crimes. This penalty applies when a person engages in sexual contact and the act occurs with force or violence, causes injury, involves use of a dangerous weapon, or creates significant fear on the part of the victim of imminent great bodily harm (subparagraphs c, d, e, f, and h of the second degree criminal sexual conduct law). The presumptive executed sentence does not apply to other second-degree criminal sexual conduct offenses.

This penalty does not apply if a longer mandatory minimum sentence is otherwise required by law or where the sentencing guidelines presume a longer executed sentence. If the court sentences an offender in a manner other than as provided by this law, the sentence is a departure from the sentencing guidelines. This crime was effective the day following final enactment (May 22, 2002) and applies to crimes committed on or after that date. Laws 2002, ch. 381, § 2; to be codified at Minn. Stat. § 609.341, subd. 2.

Crimes Involving Persons Using Special Transportation Services

Crime. This law creates new third- and fourth-degree criminal sexual conduct crimes for situations where a person who is an agent of a special transportation services provider engages in criminal sexual conduct with a person who uses the service. The sexual conduct must occur during or immediately before or after transporting the individual. Third-degree crimes involve penetration; fourth degree crimes involve sexual contact.

Consent by the complainant is **not** a defense to these crimes, and the crimes are punishable by the existing penalties for third-degree (up to 15 years imprisonment, a fine of up to $30,000, or both) and fourth-degree (up to ten years imprisonment, a fine of up to $20,000, or both) criminal sexual conduct.

Definition. For the purposes of this law, a "special transportation service" means motor vehicle transportation provided on a regular basis by a public or private entity or person that is intended exclusively or primarily to serve individuals who are vulnerable adults, handicapped, or disabled. This definition includes, but is not limited to, services provided by buses, vans, taxis, and volunteers driving private automobiles. Laws 2002, ch. 381, §§ 1, 3 and 4; to be codified at Minn. Stat. §§ 609.341, subd. 21, 609.344, subd. 1, and 609.345, subd. 1.

Exception. A person does not commit criminal sexual conduct under this law if the actor and complainant are in a voluntary relationship as defined by law. A voluntary relationship includes adults cohabitating in an ongoing voluntary sexual relationship at the time of the alleged offense or a legal spousal relationship, unless the couple is living apart and one of them has filed for legal separation or the dissolution of marriage. Laws 2002, ch. 381, § 5; to be codified at Minn. Stat. § 609.349.

Expansion of Conditional Release Period for Sex Offenders

The law expands the group of offenders with more than one offense who are subject to a ten-year conditional release period, minus the time the person served on supervised release. Prior to this change, an offender was subject to the ten-year conditional release period only if the offender had a prior conviction for a violation of first- through fourth-degree criminal sexual conduct under Minnesota law. Now, an offender is subject to the ten-year conditional release period if the offender has a violation of first- through fourth-degree criminal sexual conduct under Minnesota law or a similar law of the United States or any other state. Laws 2002, ch. 385, § 4; to be codified at Minn. Stat. § 609.109, subd. 7.

Increased Penalty for Violating Anti-Harassment/Stalking Law with Sexual or Aggressive Intent

The law adds a provision to the anti-harassment/stalking law to provide that a ten-year felony penalty applies to a person who commits the offense against a victim under the age of 18, if the actor is more than 36 months older than the victim, and the act was committed with sexual or

aggressive intent. The law retains the five-year penalty that applies when the same conduct occurs *without* sexual or aggressive intent. Laws 2002, ch. 385, §§ 5 and 6; to be codified at Minn. Stat. § 609.749, subds. 1a and 3.

Use of Criminal Sexual Conduct Crimes to Enhance Anti-Harassment/Stalking Law Offense

This law now includes first- through fifth-degree criminal sexual conduct in the list of prior offenses that may be used to treat an offense as a pattern of harassing conduct under the anti-harassment/stalking law. A pattern of harassing conduct exists when a person engages in two or more acts (including first- through fifth-degree criminal sexual conduct) within a five-year period that violate certain laws with respect to a single victim or one or more members of a single household. This provision also brings within the law's scope *attempts* to commit any of the crimes that may be used to find a pattern of harassing conduct. Laws 2002, ch. 385, § 8; to be codified at Minn. Stat. § 609.749, subd.5.

Gross Misdemeanor Penalty for Failure to Report Certain Child Abuse

The law provides a gross misdemeanor penalty when a person who is mandated to report under the child abuse reporting law fails in this obligation. This penalty applies if the person knows or has reason to know that two or more children not related to the perpetrator have been physically or sexually abused by the same perpetrator within the preceding ten years. Laws 2002, ch. 385, § 9; to be codified at Minn. Stat. § 626.556, subd. 6.

Costs of Medical Examination in a Criminal Sexual Conduct Case

This provision amends the current law requiring the county in which an alleged criminal sexual conduct offense was committed to pay the reasonable medical costs of an examination of a complainant. Under the changes to the law, reasonable costs of the examination are defined to include, but are not limited to, the full cost of the rape examination kit and associated tests relating to the complainant's sexually transmitted disease and pregnancy status. This change became effective the day following final enactment (May 22, 2002). Laws 2002, ch. 381, § 6; to be codified at Minn. Stat. § 609.35.

Predatory Offender Registration and Community Notification

Expansion of Lifetime Registration

This law expands lifetime registration for recidivist offenders to require lifetime registration if the previous offense is one for which registration *would have been required* under the law. Formerly, lifetime registration was required only if the previous offense was one for which

registration *was* required. This change will result in additional offenders being required to register for life, as it will pick up offenders who committed their previous offense before the registration law existed (1991), as well as those offenders whose offense was not listed within the more narrow listing of offenses which previously existed.

This expansion of the law was effective March 1, 2002, and applies to persons who commit offenses requiring lifetime registration on or after that date. Laws 2002, ch. 222, §§ 1 and 2; to be codified at Minn. Stat. § 243.166, subd. 1.

Notification of Household Members

This law requires the local law enforcement agency with the obligation to disclose information about predatory offenders to disclose information it has on Level I offenders to adult members of the offender's immediate household. Prior to this change, this information could be disclosed only to law enforcement agencies and victims and witnesses of the offense. "Immediate household" is defined to mean all people living in the same household as the offender. Laws 2002, ch. 385, §§ 1 and 2; to be codified at Minn. Stat. § 244.052, subds. 1 and 4.

Notification in Languages in Addition to English

The law amends the predatory offender community notification law to allow city councils to adopt policies addressing when information disclosed under the law must be disclosed in languages in addition to English. It allows the policies to designate whether the information shall be disclosed orally, in writing, or both. The law specifies that policies may provide for different approaches based on the prevalence of non-English languages in different neighborhoods. Laws 2002, ch. 385, § 2; to be codified at Minn. Stat. § 244.052, subd. 4.

Location of Residence of Level III Offenders

This law requires agencies responsible for supervising predatory offenders to consider the proximity of the offender's residence to schools and, to the greatest extent feasible, to mitigate the concentration of level III offenders near schools. Prior to this change, agencies were required only to consider the offender's location in relation to other level III offenders and to mitigate concentration of level III offenders in a certain area. Laws 2002, ch. 385, § 3; to be codified at Minn. Stat. § 244.052, subd. 4a.

Location of Level III Offenders Near Domestic Abuse Victims

The law prohibits the owner or property manager of a hotel, motel, lodging establishment, or apartment building from knowingly renting rooms to both level III predatory offenders and domestic abuse victims at the same time. This prohibition applies only if the owner or property manager has an agreement with an agency that arranges or provides shelter for victims of

domestic abuse. If the owner or property manager discovers or is informed that a tenant is a level III offender, the owner or property manager may evict the tenant. Laws 2002, ch. 385, § 3; to be codified at Minn. Stat. § 244.052, subd. 4a.

Study and Report Pertaining to Level III Sex Offenders

This law requires the Commissioner of Corrections to report to the legislature on certain issues involving level III offenders. The report must provide:

- a detailed explanation of how offenders re-enter the community after being released from prison;
- the statewide locations and concentrations of offenders;
- the effects of having offenders living in close proximity to one another;
- efforts undertaken by local and state corrections agencies to mitigate the concentration of offenders;
- the likely effects of a policy requiring offenders to live a certain distance from schools;
- the likely effects of a policy prohibiting offenders from living within a certain distance from each other;
- the restricted zones that would result in the cities of Minneapolis and St. Paul if a 1,500-foot proximity restriction was adopted in relation to schools, parks, and other offenders, with detailed maps; and
- policies adopted by other states relating to mitigating the concentration of sex offenders.

In preparing the report, the commissioner must consult with representatives of local corrections agencies and other interested parties. Laws 2002, ch. 385, § 10.

Laws Pertaining to Domestic Abuse

Clarifies Conduct Constituting a Violation of an Order for Protection

This law amends the statute making it a crime to violate a domestic abuse order for protection. Specifies that the person must know of "the existence of" the order in order to constitute a violation. Prior to this change, the law required the individual to know of the order. The changes to the law also require an officer to immediately serve an order that has not been served whenever reasonably safe and possible to do so. For the purposes of this section of law, an order includes a short form order.

The clarification to the law also provides that, when the order is initially served on a person who is in a place where the order prohibits him or her from being, the person cannot be arrested without being given a reasonable opportunity to leave.

The no contact order statute also is amended to specify that the person must know of "the existence of" an order to violate the law. Laws 2002, ch. 282, §§ 1 and 2; to be codified at Minn. Stat. § 518B.01, subds. 14 and 22.

Evidence of Similar Conduct

The law eliminates a restriction on the admissibility of similar conduct evidence. Currently, only "prior" similar conduct of the accused against the victim of domestic abuse or against family or household members is admissible. This section drops all references to "prior" and permits a court to admit all similar conduct. This change will allow prosecutors to introduce evidence of similar conduct that occurs after the events that form the basis of the criminal charge. Previously, this evidence was not admissible under statutory law. Laws 2002, ch. 314, § 9; to be codified at Minn. Stat. § 634.20.

Violations of Anti-Harassment/Stalking Law

The law provides that a person is guilty of a ten-year felony if the person violates the law a third or subsequent time during the period between the first of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency and the end of ten years following discharge from sentence or disposition for that offense. Prior to this change, a five-year penalty applied to all subsequent violations; now, the five-year penalty applies only to second violations. Laws 2002, ch. 385, §§ 5 and 7; to be codified at Minn. Stat. § 609.749, subds. 1a and 4.

See also page 13 regarding the location of level III offenders near domestic abuse victims and page 11 for changes to the anti-harassment/stalking law.

DWI Provisions

Implied Consent Hearings

The law prohibits a civil hearing under the implied consent law from giving rise to estoppel on any issues arising from the same set of circumstances in a criminal prosecution. Laws 2002, ch. 314, § 1; to be codified at Minn. Stat. § 169A.53, subd. 3.

Housing of DWI Offenders

The Commissioner of Administration is required to issue a request for proposals and select a vendor to provide housing and chemical dependency treatment for felony-level DWI offenders. In doing so, the commissioner must work with the executive director of the Sentencing Guidelines Commission and the commissioners of Corrections and Human Services, as

appropriate. The law requires the Department of Corrections to respond to the request for proposals. Laws 2002, ch. 220.

General Crime Provisions

Intentionally Obstructing or Failing to Yield to Emergency Vehicle

This law increases the penalty from a petty misdemeanor to a misdemeanor for intentionally obstructing an emergency vehicle or otherwise failing to yield to an emergency vehicle. In addition, not all emergency vehicles will have to continue to both sound a siren and show red lights when going through a traffic signal or stop sign; it is sufficient for *law enforcement vehicles* responding to an emergency to either sound a siren or display at least one red light to the front.

This law also permits a report from an emergency vehicle crew to establish probable cause for an arrest for failure to yield to an emergency vehicle, if a description of the vehicle and a license plate number are provided within four hours of the incident. Laws 2002, ch. 319, §§ 1 to 3; to be codified at Minn. Stat. §§ 169.03, subd. 2, and 169.20, subds. 5 and 5a.

Crime of Obstructing Investigation by Taking Responsibility for Criminal Act of Another

The law establishes the crime of taking responsibility for the criminal act of another with the intent to obstruct an investigation. This crime does not apply if the person is convicted of the underlying crime. The penalty for this offense is not more than one-half of the statutory maximum sentence of imprisonment, or payment of a fine of not more than one-half of the maximum fine that could be imposed on the principal offender for the criminal act. Laws 2002, ch. 348, § 2; to be codified at Minn. Stat. § 609.495, subd. 4. This law also provides a civil action for destruction of or damage to crops, animals, and organisms grown for testing or research for a product development program at certain facilities.

Escape from Electronic Monitoring

This law subjects offenders who are on electronic monitoring as a condition of parole, probation, or supervised release to the penalties that apply for escaping custody. Except in designated cases, escaping electronic monitoring is a misdemeanor. However, the penalty is a five-year felony if the offender is subject to electronic monitoring for first-, second-, and third-degree murder; first- and second-degree manslaughter, criminal vehicular homicide and injury, first- through fourth-degree assault, and first- through fifth-degree criminal sexual conduct. Laws 2002, ch. 314, §§ 7 and 8; to be codified at Minn. Stat. § 609.485, subds. 3 and 4.

Criminal Fraud in Conjunction With a Certificate of Title for a Motor Vehicle

This law eliminates the misdemeanor penalty for committing fraud in connection with any application for a certificate of title. The four-year felony penalty for certain types of fraud in connection with an application for title continues to exist and is broad enough to cover most types of fraud in this context. Laws 2002, ch. 343, § 1; to be codified at Minn. Stat. § 168A.30.

Criminal Conduct of Athletic Agents

This law provides that an athlete agent who violates certain provisions of the Uniform Athlete Agents Act is guilty of a gross misdemeanor. This act was drafted by the National Conference of Commissioners on Uniform State Laws and requires athlete agents who want to represent student athletes in negotiating a professional sports contract to register with the Commissioner of Commerce and comply with requirements regarding their conduct.

The conduct that is criminal under the law includes certain things an agent may not do to induce an athlete to sign an agency contract. The law also lists six things agents either must do or must not do. The law also specifies that athlete agents may not violate existing Minnesota law dealing with agency contracts and related matters. Laws 2002, ch.332, §§ 14 and 15; to be codified at Minn. Stat. §§ 81A.14 and 81A.15.

Evidentiary Provisions

Electronic Signatures for Blood Sample Reports

Minnesota law requires blood sample reports in criminal, petty misdemeanor, and DWI-related license revocation hearings to carry the signature or official character of the person whose name is on the report. Under this law, the signature on the report is authorized to be in written or electronic format. Laws 2002, ch. 301, § 1; to be codified at Minn. Stat. § 634.15, subd. 1.

See also page 14 for a provision allowing additional evidence to be admitted in domestic abuse.

Minnesota Code of Military Justice

This law amends the Minnesota Code of Military Justice that governs Minnesota National Guard members when not in federal active service (i.e., when in state active service or federally funded state active service). In essence, the act conforms the Minnesota Code of Military Justice to the evolving changes in the federal Uniform Code of Military Justice and to Minnesota criminal law and procedure. The act deletes certain obsolete language, clarifies and updates certain terms and language, and adds other conforming language. The act also repeals statutory language addressing procedural aspects of military justice, which the Department of Military Affairs

intends to shift to administrative rule, consistent with current civilian and federal military practice.

Amendments to the code specify the purely military offenses to which courts-martial have primary jurisdiction; with the exception of these offenses, a proper civilian tribunal has primary jurisdiction over an act or omission that violates both this code and local criminal law, foreign or domestic. In these cases, a court-martial may be initiated only after the civilian authority has declined or dismissed charges, provided jeopardy has not attached. Laws 2002, ch. 308; to be codified in chapter 192A.

Provisions Related to Juvenile Law and Juveniles

Treatment of Habitual Truants

This law specifies that appointment of counsel in juvenile cases will not be provided in cases involving habitual truants, unless an out-of-home placement, including foster care or inpatient treatment, is ordered. In these cases, counsel must be appointed before the court may order the out-of-home placement. Laws 2002, ch. 314, §§ 2 to 4; to be codified at Minn. Stat. §§ 260B.007, subd. 16, and 260C.141, subd. 3, 260C.163, subd. 3.

Failure to Provide Instruction

The law changes the penalty from a misdemeanor to a petty misdemeanor for any person who fails or refuses to provide for the instruction of a child over whom the person has legal custody and who is required to receive instruction, when notified to do so by a truant officer or other official. This same penalty change applies to someone who induces or attempts to induce any child unlawfully to be absent from school, or to a person who knowingly harbors or employs, while school is in session, any child unlawfully absent from school. Laws 2002, ch. 220, art. 6, § 7.

Expansion of Child Endangerment Law

This law expands the crime of endangering a child through exposure to drug activity. Under the changes to the law, a person is guilty of endangering a child and is subject to a five-year felony if the person knowingly causes or permits the child to be present where any person is manufacturing drugs or where any person is possessing immediate precursors or chemical substances with intent to manufacture. Previously, child endangerment through exposure to drug activity occurred only when a person caused or permitted a child to be present where any person was selling controlled substances. Laws 2002, ch. 314, § 6; to be codified at Minn. Stat. § 609.378, subd. 1.

Termination of Jurisdiction

This law expands the group of juvenile offenders over whom the juvenile court may exercise jurisdiction until they are 21 years old (because the offenders missed a hearing or fled juvenile adjudication) by adding the following groups of individuals:

- juveniles who have been found to have committed a delinquent act, and
- juveniles who have been charged by a juvenile petition.

Previously, only juveniles who had "been adjudicated delinquent" and who failed to appear at a hearing or who absconded from placement were subject to supervision until the age of 21. Laws 2002, ch. 314, § 5; to be codified at Minn. Stat. § 260B.193, subd. 5.

Rules Governing Sharing of Data by Schools

Sharing the Existence of Data. This law establishes additional parameters for sharing data on students involved with the juvenile justice system. A school official may disclose *the existence of* nondirectory information about a student related to the use of a controlled substance, assaultive or threatening conduct, possession or use of weapons, theft, and property damage. A school official may **not** disclose actual data related to the conduct described or additional information beyond the existence of the data itself. This law does not require a principal to create data or to provide data protected by court order.

In requesting private data from schools, a member of the juvenile justice system must use the form set forth in law. The data request form requires "yes or no" responses to the existence of specific types of data. The information the form provides allows a member of the juvenile justice system to seek a court order to obtain the student data.

Parental Notice and Objection. A principal who receives a request for the above information must notify the student's parent or guardian by certified mail. The parent or guardian then has ten days to object to disclosing the information. The principal may **not** disclose the information when a parent or guardian objects, but the principal must notify the juvenile justice system of the objection.

Data Practices Law. A school district, its agents, and employees who provide data in good faith under this law are not liable for damages or attorney fees and may not be the subject of an action under the Minnesota government data practices act (MGDPA). However, a member of the juvenile justice system who falsely certifies a request for data is subject to the penalties in the MGDPA. In those cases where data are shared with a member of the juvenile justice system who is not a government entity, the person receiving the data must treat the data consistent with the requirements of this law applicable to a government entity.

Charter Schools. The law requires charter schools to comply with its requirements. Laws 2002, ch. 352, §§ 3, 4, 5 and 10; to be codified at Minn. Stat. §§ 13.32, subds. 7, 8, and 9, and 142D.10, subd. 8.

Law Enforcement Sharing of Data With Schools

Peace Officer Notice to Schools. This provision amends the law requiring law enforcement agencies to share certain information about juveniles with schools. Under the law, the head of a law enforcement agency or a specifically authorized designee must notify the superintendent or chief administrative officer of a juvenile's school of an incident occurring within the agency's jurisdiction if:

- the agency has probable cause to believe the juvenile committed an offense that would be a crime if committed by an adult, the victim of the offense is a student or staff member of the school, and notice to the school is reasonably necessary for victim protection; or

- the agency has probable cause to believe the juvenile committed one of certain designated violent offenses, drug offenses, or offenses involving use of a dangerous weapon and the offense would be a crime if committed by an adult.

This information does not need to be provided if it would jeopardize an ongoing investigation. For the purposes of this provision, "school" means a public school, a nonpublic school that elects to comply with this law, and a charter school, but does not mean a home school.

Notice to Others. A law enforcement agency also must submit the above information to the student's school district, and the district must immediately transmit the notice to the principal of the school the student attends. The principal must place the notice in the student's educational record and immediately notify any teacher, counselor, or administrator directly supervising the student whom the principal believes needs the data to work with the student in an appropriate manner, to avoid being needlessly vulnerable, or to protect other persons from needless vulnerability. A principal also must notify other district employees, substitutes, or volunteers who are in direct contact with the student if the principal determines the individuals need the data for the same reasons a teacher, counselor, or administrator would need the data. The notice must identify the student and describe the alleged offense whenever this information is provided in the peace officer notice.

Data Practices. The data received by the school under this law are private data and are received for the limited purpose of serving the student's educational needs and protecting students or staff. Those who are authorized to receive the data must not further disseminate the data, except to communicate with the student or the student's parent or guardian as needed to serve the student, protect students or staff, or as otherwise required by law.

Destruction and Transfer of Data. If the county attorney decides not to proceed with a petition for certain listed offenses (violent offenses, drug offenses, and offenses involving dangerous weapons) or directs the student into a diversion program, the county attorney must notify the superintendent of the student's school district who must then notify the principal. Likewise, if a juvenile court decides not to issue a disposition order on one of

these offenses, the court must notify the superintendent who must then notify the principal. The notice must contain the name of the student and a summary of the resolution of the case. The principal must then delete the peace officer's report and notice from the student's educational record, destroy the data, and make reasonable efforts to notify any teacher, staff member, or volunteer who received data from the peace officer notice.

If the principal or chief administrative officer of a school that has received a peace officer notice does not receive a disposition or court order related to the offense described in the notice within one year from the date of the notice, the principal or chief administrative officer must remove the notice from the student's educational record and destroy it. This provision does not apply if the student no longer attends the school at the time one year has passed.

Unless the law requires the data to be destroyed, a principal or chief administrative officer must include the peace officer notice, or a disposition or court order in the student's educational records, if they are transmitted to another school.

Creation of Forms. The law also amends the provision that requires the criminal and juvenile justice information policy group to prepare standard forms for use by juvenile probation officers in forwarding information to schools. This law is amended to require creation of these forms by September 1, 2002, and to require the group to provide these forms and any procedures adopted to the legislature by January 15, 2003. Laws 2002, ch. 352, §§ 8 to 12; to be codified at Minn. Stat. §§ 120A.22, subd. 7, 121A.75, 124D.10, subd. 8, and 260B.171, subds. 3 and 5.

Juvenile Data; Statewide Supervision System

This law requires the juvenile court to send the statewide supervision system the following data on individuals who are being supervised by probation agencies or who are in out-of-home placement:

- name, address, birth date, race, and gender of the juvenile, including known aliases and street names;
- the act for which the juvenile was petitioned and the date of the offense;
- the date and county where the petition was filed;
- the county, date of court action, and court file number of any adjudication and continuance;
- the case disposition, including any conditions of supervision; and
- the discharge or closing date and the reason for the case under supervision.

This law requires the Department of Corrections to administer and maintain the statewide supervision system (previously, the Bureau of Criminal Apprehension (BCA) had authority to administer and maintain the system). This system is a computerized data system for the purpose of assisting criminal justice agencies with monitoring and enforcing the conditions of release imposed on criminal offenders by a sentencing court or the Commissioner of Corrections. A provision regarding sharing of the data in the

system is amended to make data available to both the trial and appellate courts; prior to this change, data was not available to appellate courts. Laws 2002, ch. 233, §§ 1 to 5; to be codified at Minn. Stat. §§ 260B.171, 299C.09, and 299C.147, subds. 2, 3, and 4.

Law Enforcement Provisions

Metropolitan Transit Police

This law includes Metropolitan Transit Police within the definition of "peace officer" and expands the authority of the Metropolitan Transit Police to include carrying out investigations. It authorizes transit police officers to apply for, obtain, and serve a search warrant.

This law permits local law enforcement agencies to authorize transit police to undertake or assist in the investigation of crime within their jurisdiction. The law specifies that persons arrested for violations which the transit police determine are not within the agency's jurisdiction must be referred to the appropriate local law enforcement agency for further investigation or disposition.

Under this law, the transit police must notify the law enforcement agency with primary jurisdiction when the transit police initiate surveillance or investigation of any person within the jurisdiction of that agency. This language replaces language that required the transit police to have agreed upon policy language with local law enforcement agencies governing jurisdictional issues.

All of the changes related to transit police were effective the day following final enactment (March 27, 2002). Laws 2002, ch. 291, §§ 1 to 8 ; to be codified at Minn. Stat. §§ 473.407, subds. 1, 2, and 3, 626.05, subd. 2, 626.11, and 626.13.

Additional Collection of Biological Specimens For DNA Testing

Minnesota law requires collection of biological specimens for DNA testing for certain felony offenders, regardless of whether the crime was committed under Minnesota law, federal law, or another state's law. These specimens must be collected at the time of sentencing or, if not provided then, at the time of release from confinement. Offenders coming into the state who are still under supervision also must provide a specimen. This provision expands the group of offenders who must provide a biological specimen to include all persons who commit or attempt to commit **any** felony offense.

Although biological specimens will be collected, the law does not require analysis of the specimens now. Rather, the specimens of felony offenders collected under this new law will be held for future DNA analysis. The collection period runs from July 1, 2002, to June 30, 2003. Laws 2002, ch. 401, § 14; to be codified at Minn. Stat. § 609.119.

Mandated Report to Law Enforcement of Theft of Public Funds

The law requires a public employee or public officer of a political subdivision or charter commission to promptly report theft of public funds to law enforcement officials in addition to the state or legislative auditor. Previously, this report had to be made only to the state auditor and, under a separate subdivision, to the legislative auditor. No penalty is provided for failure to report. Under this law, an individual must include information related to the incident, including data that are not public. The identity of mandated reporters is protected.
This provision also allows a governmental entity to disseminate private personnel data or confidential data on employees to law enforcement agencies when:

- reporting a crime or an alleged crime committed by an employee, or
- when assisting law enforcement officials investigating a crime committed by or allegedly committed by the employee.

It is not a violation of the Minnesota government data practices act (MGDPA) or other laws classifying governmental data for any governmental entity to give the state auditor not public data for the purpose of an audit or to comply with a current mandatory reporting law. The law also specifies that the auditor may share not public data relating to an audit with law enforcement agencies, despite contrary provisions in the MGDPA or other statutes classifying governmental data.

This law also includes a member of a charter commission within the definition of "public employee" under the criminal code provision governing public officers and employees. Laws 2002, ch. 352, §§ 1, 2, 6, 7, 13, and 14; to be codified at Minn. Stat. §§ 6.715, subds. 3 and 4, 13.43, subd. 15, 13.82, subd. 17, 609.415, subd. 1, and 609.456, subd. 1.

Inter-governmental Compact for Sharing Criminal History Data

This compact establishes an agreement among states and the federal government to share fingerprint-based criminal history records for the purposes of background checks relating to licensing, employment, and certain other matters. The compact does **not** expand the purposes for which criminal history data may be used. The compact only governs background checks conducted in noncriminal matters. The compact establishes a council to adopt rules and procedures relevant to administering the compact and specifies that the Commissioner of Public Safety is responsible for implementing the compact in Minnesota. Laws 2002, ch. 269; to be codified at Minn. Stat. §§ 299C.58 and 299C.582.

Provisions Related to Corrections, Probation, and Parole

Interstate Compact on Adult Offenders

Background. This law adopts a new interstate compact for the supervision of adult offenders and repeals the existing compact. The compact addresses the supervision of

adult offenders who travel across state lines to reside in states other than where they were convicted. Minnesota's existing compact was established in 1937 and has been adopted by all 50 states, the District of Columbia, Puerto Rico, and the Virgin Islands. This compact has been criticized for a number of reasons. The new compact adopted by the legislature this year aims to address these criticisms.

A compact is a contract among states to address an area of mutual concern. The provisions of a compact are legally binding on party states and prevail over competing state law, even if the law is more recent. The states that enter into a compact must enact identical substantive language. The language of this compact is taken nearly verbatim from the model language developed by the Council of State Governments and the National Institute of Corrections.

Language of Compact. The language of the compact identifies the compact's purpose; sets forth the creation, organization, operation, and powers of an interstate commission and state councils; provides enforcement and dispute resolution provisions; and addresses how the compact will be administered. The compact establishes an interstate commission made up of a representative from each member state. The commission's responsibilities include adopting bylaws and rules to determine how the compact will address issues involving interstate supervision of adult offenders.

The commission is required to charge and collect dues from member states and to enforce the provisions of the compact. It can impose reasonable fines, fees, and costs on defaulting member states. The compact goes into effect when the 35th jurisdiction enacts it.

Advisory Council. This law also creates an advisory council on interstate adult offender supervision. This council is required by the compact. The council must consist of representatives from the executive, legislative, and judicial branches of Minnesota government. The council must oversee the state's participation in the compact and develop a model policy concerning the operations and procedures of the compact within the state. The council must report to the governor and legislature on its activities and the activities of the interstate commission, as well as how the interstate compact is functioning both within and outside the state.

Compact Administrator. This law designates the Commissioner of Corrections or her designee to serve as the compact administrator. The administrator must assess and collect fines, fees, and costs from entities deemed responsible by the administrator for defaults under the compact. This provision allows the compact administrator to obtain reimbursement from nonstate entities (e.g., local correctional agencies) for fines caused by their, rather than the state's, default.

Application of Compact. The law specifies that the new compact applies to supervision proceedings with states that have adopted it, while the existing compact applies to all other proceedings. The old compact is repealed effective July 1, 2004.

New Penalty. Finally, this law creates a new penalty for a person residing in Minnesota in violation of the terms or rules of the new compact. A similar provision regarding the old compact is repealed effective July 1, 2004. Laws 2002, ch. 268; to be codified at Minn. Stat. §§ 243.1605, 243.1606, 243.1607, 243.1608, and 243.161.

Collaborative Case Planning for Certain Mentally Ill Individuals Under Correctional Supervision

This law requires correctional and social services agencies to develop policies and practices that maximize collaborative case planning for adult and juvenile offenders under correctional supervision who have been diagnosed with serious and persistent mental illness or a severe emotional disturbance. The law specifies the areas the policies and practices must cover and requires a report from these agencies to the Department of Corrections. In addition, the Commissioner of Corrections must submit a statewide report to the legislature on mental health correctional policies and practices.

The law also authorizes correctional and social services agencies to share data on adult and juvenile offenders under correctional supervision who have been diagnosed with severe and persistent mental illness or a severe emotional disturbance. This data is for the purpose of collaborative case planning. Laws 2002, ch. 220, §§ 15 and 16.

Local Correctional Fees

The law allows a county board to require an offender convicted of a crime and confined in a local correctional facility to pay the cost of the offender's room, board, clothing, medical, dental, and other correctional services. Under the law, the county may use any available civil means of debt collection in collecting costs for services. If an offender has been ordered to pay restitution, then restitution must be paid before payment of costs, unless the offender is making reasonable restitution payments, in which case costs may be collected at the same time.

The fees may be collected at any time while the offender is under sentence or after the sentence has been discharged. During the period of confinement, the costs may be deducted from any money possessed by the offender or any money deposited with the local correctional or law enforcement agency on the offender's behalf.

The chief executive officer of the local correctional agency or sheriff may waive payment of costs if:

- the offender does not have the ability to pay costs,
- payment would create undue hardship for the offender or the offender's immediate family,
- the prospects for payment are poor, or
- there are extenuating circumstances justifying waiver of the costs.

Laws 2002, ch. 322, § 1; to be codified at Minn. Stat. § 641.12, subd. 3.