

2010 LEGISLATIVE CHANGES

AFFECTING CORRECTION

PROFESSIONALS



BY

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with assistance from Jamie Dalle, Office Specialist

Note: This document includes the legislative changes that occurred in the 2010 Regular Session. The statute numbers, effective dates, bill information and web site location to the actual bill are included. Please refer to the entire 2010 Minnesota Session Laws at <https://www.revisor.leg.state.mn.us/laws/?view=session&year=2010&type=0> for complete bill information.

This format is set up whereby if you hold down your control key and place your cursor over the web address, you should be able to go directly to that website location. If your computer is not set up for this feature, simply cut and paste into your address bar.

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Adult Law Changes

Order to Show Cause After Probation Expires in DNA

Violations: 609.115, subdivision 1, is amended to read:

Subd. 4. **After supervision expires.** (a) Upon motion of a prosecuting authority, a court shall issue an order to show cause why an offender who should have been ordered or required to provide a biological specimen under this section but did not, should not now be ordered to provide one for the purposes of DNA analysis. This subdivision applies if the offender's sentence or supervision has expired. The prosecuting authority shall provide the court with an affidavit that:

(1) identifies the offender by name and date of birth;

(2) identifies the offender's last known address;

(3) identifies the offender's charged offense, offense of conviction, and date of conviction; and

(4) indicates that the Bureau of Criminal Apprehension database of biological specimens has been searched and the offender has not previously provided a biological specimen for DNA analysis under this chapter.

(b) The order to show cause shall direct the offender to appear before the court within 30 days after the order is served. The prosecutor shall serve the order to show cause upon the offender in the same manner as a civil summons. The offender may avoid appearing before the court by appearing at a place and time designated in the order and voluntarily providing the specimen.

(c) Upon the offender's appearance before the court, and after an opportunity to be heard, the court may issue an order directing the offender to provide the specimen.

(d) If the offender has failed to provide the specimen or appear before the court and the prosecuting authority makes a sufficient showing that the offender was properly served with the order to show cause, the court may issue an order:

(1) requiring the offender to submit the specimen within 30 days from the date of the order at a designated location;

(2) including the designated location's address, telephone number, and regular hours of operation; and

(3) authorizing, if the offender fails or refuses to comply with the order to provide a specimen, a peace officer to detain and bring the offender before the court as soon as practicable to show cause why the specimen should not be obtained.

(e) The local corrections authority shall mail the order in paragraph (d) to the offender's last known address.

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Out of State Prisoners

MSA 641.035

A county or regional jail board may authorize the sheriff or regional jail superintendent to enter into agreements to house offenders from other states.(b) The extradition requirements of chapter 629 do not apply to offenders accepted from another state under this section. The sheriff or regional jail superintendent responsible for housing an out-of-state offender has the express authority to return the offender to the offender's state of origin upon request from the appropriate authority in the offender's state of origin.

Sec. 2. Minnesota Statutes 2008, section 641.12, subdivision 3, is amended to read:

Subd. 3. Inmate payment of room and board. (a) A county board may require that an offender a person convicted of a crime and confined in the county jail, workhouse, or correctional or work farm pay the cost of the offender's person's room, board, clothing, medical, dental, and other correctional services. The board shall establish a schedule to charge offenders persons under this subdivision. The charges may be assessed for any time for which the person receives credit for time served against the sentence imposed as a result of the conviction. The costs may be collected at any time while the offender person 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 person or any money deposited with the local correctional or law enforcement agency on the offender's person's behalf. The board, or local correctional agency or sheriff with authority over the jail, workhouse, or farm, may use any available civil means of debt collection in collecting costs under this subdivision.(b) The chief executive officer of the local correctional agency or sheriff may shall waive payment of the costs under this subdivision if the officer or sheriff determines that the offender person does not have the ability to pay the costs, payment of the costs would create undue hardship for the offender person or the offender's person's immediate family, the prospects for payment are poor, or there are extenuating circumstances justifying waiver of the costs. (c) If an offender a person has been ordered by a court to pay restitution, the offender person shall be obligated to pay the restitution ordered before paying the costs under this subdivision. However, if the offender person is making reasonable payments to satisfy the restitution obligation, the local correctional agency or sheriff may also collect costs under this section.

EFFECTIVE DATE.This section is effective the day following final enactment.

<https://www.revisor.mn.gov/laws/?id=318&doctype=Chapter&year=2010&type=0>

A county or regional jail board may authorize the sheriff or regional jail superintendent to enter into agreements to house offenders from other states.(b) The extradition requirements of chapter 629 do not apply to offenders accepted from another state under this section. The sheriff or regional jail superintendent responsible for housing an out-of-state offender has the express authority to return the offender to the offender's state of origin upon request from the appropriate authority in the offender's state of origin.

Out of State Prisoners, continued

Sec. 2. Minnesota Statutes 2008, section 641.12, subdivision 3, is amended to read:

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EFFECTIVE DATE. This section is effective the day following final enactment.

<https://www.revisor.mn.gov/laws/?id=318&doctype=Chapter&year=2010&type=0>

Forfeiture Law Changes

CHAPTER 391--S.F.No. 2634

Section 1. Minnesota Statutes 2009 Supplement, section 84.7741, is amended by adding a subdivision to read:

Subd. 13. Reporting. The appropriate agency and prosecuting authority shall report on forfeitures occurring under this section as described in section 609.5315, subdivision 6.

Sec. 2. Minnesota Statutes 2008, section 97A.221, is amended by adding a subdivision to read:

Subd. 5. Reporting. The appropriate agency and prosecuting authority shall report on forfeitures of firearms, bows, and motor vehicles occurring under this section as described in section 609.5315, subdivision 6.

Sec. 3. Minnesota Statutes 2008, section 97A.223, is amended by adding a subdivision to read:

Subd. 6. Reporting. The appropriate agency and prosecuting authority shall report on forfeitures of firearms, bows, and motor vehicles occurring under this section as described in section 609.5315, subdivision 6.

Sec. 4. Minnesota Statutes 2008, section 97A.225, is amended by adding a subdivision to read:

Subd. 10. Reporting. The appropriate agency and prosecuting authority shall report on forfeitures occurring under this section as described in section 609.5315, subdivision 6.

Sec. 5. Minnesota Statutes 2008, section 169A.63, is amended by adding a subdivision to read:

Subd. 12. Reporting. The appropriate agency and prosecuting authority shall report on forfeitures occurring under this section as described in section 609.5315, subdivision 6.

Sec. 6. Minnesota Statutes 2008, section 491A.01, subdivision 3, is amended to read:

Subd. 3. Jurisdiction; general. (a) Except as provided in subdivisions 4 and 5, the conciliation court has jurisdiction to hear, conciliate, try, and determine civil claims if the amount of money or property that is the subject matter of the claim does not exceed \$6,000 or, on and after July 1, 1994, : (1) \$7,500, or; (2) \$4,000, if the claim involves a consumer credit transaction; or (3) \$15,000, if the claim involves money or personal property subject to forfeiture under section 609.5311, 609.5312, 609.5314, or 609.5318. "Consumer credit transaction" means a sale of personal property, or a loan arranged to facilitate the purchase of personal property, in which:

- (1) credit is granted by a seller or a lender who regularly engages as a seller or lender in credit transactions of the same kind;
- (2) the buyer is a natural person;
- (3) the claimant is the seller or lender in the transaction; and
- (4) the personal property is purchased primarily for a personal, family, or household purpose and not for a commercial, agricultural, or business purpose.

(b) Except as otherwise provided in this subdivision and subdivisions 5 to 10, the territorial jurisdiction of conciliation court is coextensive with the county in which the court is established. The summons in a conciliation court action under subdivisions 6 to 10 may be served anywhere in the state, and the summons in a conciliation court action under subdivision 7, paragraph (b), may be served outside the state in the manner provided by law. The court administrator shall serve the summons in a conciliation court action by first class mail, except

Forfeiture Law Changes, continued

that if the amount of money or property that is the subject of the claim exceeds \$2,500, the summons must be served by the plaintiff by certified mail, and service on nonresident defendants must be made in accordance with applicable law or rule. Subpoenas to secure the attendance of nonparty witnesses and the production of documents at trial may be served anywhere within the state in the manner provided by law. When a court administrator is required to summon the defendant by certified mail under this paragraph, the summons may be made by personal service in the manner provided in the Rules of Civil Procedure for personal service of a summons of the district court as an alternative to service by certified mail.

Sec. 7. Minnesota Statutes 2008, section 609.531, subdivision 4, is amended to read:

Subd. 4. Seizure. (a) Property subject to forfeiture under sections 609.531 to 609.5318 may be seized by the appropriate agency upon process issued by any court having jurisdiction over the property. Property may be seized without process if: (1) the seizure is incident to a lawful arrest or a lawful search; (2) the property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding under this chapter; or (3) the appropriate agency has probable cause to believe that the delay occasioned by the necessity to obtain process would result in the removal or destruction of the property and that: (i) the property was used or is intended to be used in commission of a felony; or (ii) the property is dangerous to health or safety. If property is seized without process under item (i), the county attorney must institute a forfeiture action under section 609.5313 as soon as is reasonably possible. (b) When property is seized, the officer must provide a receipt to the person found in possession of the property; or in the absence of any person, the officer must leave a receipt in the place where the property was found, if reasonably possible.

Sec. 8. Minnesota Statutes 2008, section 609.531, subdivision 5, is amended to read:

Subd. 5. Right to possession vests immediately; custody of seized property. All right, title, and interest in property subject to forfeiture under sections 609.531 to 609.5318 vests in the appropriate agency upon commission of the act or omission giving rise to the forfeiture. Any property seized under sections 609.531 to 609.5318 is not subject to replevin, but is deemed to be in the custody of the appropriate agency subject to the orders and decrees of the court having jurisdiction over the forfeiture proceedings. When property is so seized, the appropriate agency shall use reasonable diligence to secure the property and prevent waste and may do any of the following: (1) place the property under seal; (2) remove the property to a place designated by it; and (3) in the case of controlled substances, require the state Board of Pharmacy to take custody of the property and remove it to an appropriate location for disposition in accordance with law; and. (4) take other steps reasonable and necessary to secure the property and prevent waste.

Sec. 14. Minnesota Statutes 2008, section 609.5314, subdivision 2, is amended to read:

Subd. 2. Administrative forfeiture procedure. (a) Forfeiture of property described in subdivision 1 that does not exceed \$50,000 in value is governed by this subdivision. Within 60 days from when seizure occurs, or within a reasonable time after that, all persons known to have an ownership, possessory, or security interest in seized property must be notified of the seizure and the intent to forfeit the property. In the case of a motor vehicle required to be registered under chapter 168, notice mailed by certified mail to the address shown in Department of Public Safety records is deemed sufficient notice to the registered owner.

Forfeiture Law Changes, continued

The notification to a person known to have a security interest in seized property required under this paragraph applies only to motor vehicles required to be registered under chapter 168 and only if the security interest is listed on the vehicle's title. Upon motion by the appropriate agency or county attorney, a court may extend the time period for sending notice for a period not to exceed 90 days for good cause shown. (b) Notice may otherwise be given in the manner provided by law for service of a summons in a civil action. The notice must be in writing and contain:

(1) a description of the property seized; (2) the date of seizure; (3) notice of the right to obtain judicial review of the forfeiture and of the procedure for obtaining that judicial review, printed in English, Hmong, Somali, and Spanish. Substantially the following language must appear conspicuously: "IF YOU DO NOT DEMAND JUDICIAL REVIEW EXACTLY AS PRESCRIBED IN MINNESOTA STATUTES, SECTION 609.5314, SUBDIVISION 3, YOU LOSE THE RIGHT TO A JUDICIAL DETERMINATION OF THIS FORFEITURE AND YOU LOSE ANY RIGHT YOU MAY HAVE TO THE ABOVE DESCRIBED PROPERTY. YOU MAY NOT HAVE TO PAY THE FILING FEE FOR THE DEMAND IF DETERMINED YOU ARE UNABLE TO AFFORD THE FEE. IF THE PROPERTY IS WORTH \$7,500 OR LESS, YOU MAY FILE YOUR CLAIM IN CONCILIATION COURT. YOU DO NOT HAVE TO PAY THE CONCILIATION COURT FILING FEE IF THE PROPERTY IS WORTH LESS THAN \$500." "If you do not demand judicial review exactly as prescribed in Minnesota Statutes, section 609.5314, subdivision 3, you lose the right to a judicial determination of this forfeiture and you lose any right you may have to the above described property. You may not have to pay the filing fee for the demand if determined you are unable to afford the fee. If the property is worth \$15,000 or less, you may file your claim in conciliation court. You do not have to pay the conciliation court filing fee if the property is worth less than \$500." (c) If notice is not sent in accordance with paragraph (a), and no time extension is granted or the extension period has expired, the appropriate agency shall return the property to the person from whom the property was seized, if known. An agency's return of property due to lack of proper notice does not restrict the right of the agency to commence a forfeiture proceeding at a later time. The agency shall not be required to return contraband or other property that the person from whom the property was seized may not legally possess.

Sec. 15. Minnesota Statutes 2008, section 609.5314, subdivision 3, is amended to read:

Subd. 3. Judicial determination. (a) Within 60 days following service of a notice of seizure and forfeiture under this section, a claimant may file a demand for a judicial determination of the forfeiture. The demand must be in the form of a civil complaint and must be filed with the court administrator in the county in which the seizure occurred, together with proof of service of a copy of the complaint on the county attorney for that county, and the standard filing fee for civil actions unless the petitioner has the right to sue in forma pauperis under section 563.01. If the value of the seized property is \$7,500 or less, the claimant may file an action in conciliation court for recovery of the seized property. If the value of the seized property is less than \$500, the claimant does not have to pay the conciliation court filing fee. No responsive pleading is required of the county attorney and no court fees may be charged for the county attorney's appearance in the matter. The hearing must be held at the earliest practicable date, and in any event no later than 180 days following the filing of the demand by the claimant. If a related criminal proceeding is pending, the hearing shall not be held until the conclusion of the criminal proceedings. The district court administrator shall schedule the hearing as soon as practicable after adjudication in the criminal prosecution. The proceedings are governed by the Rules of Civil Procedure. (b) The complaint must be captioned in

Forfeiture Law Changes, continued

the name of the claimant as plaintiff and the seized property as defendant, and must state with specificity the grounds on which the claimant alleges the property was improperly seized and the plaintiff's interest in the any law to the contrary, an action for the return of property seized under this section may not be maintained by or on behalf of any person who has been served with a notice of seizure and forfeiture unless the person has complied with this subdivision.

(c) If the claimant makes a timely demand for judicial determination under this subdivision, the appropriate agency must conduct the forfeiture under section 609.531, subdivision 6a . The limitations and defenses set forth in section 609.5311, subdivision 3, apply to the judicial determination.

(d) If a demand for judicial determination of an administrative forfeiture is filed under this subdivision and the court orders the return of the seized property, the court shall order that filing fees be reimbursed to the person who filed the demand. In addition, the court may order sanctions under section 549.211. If the court orders payment of these costs, they must be paid from forfeited money or proceeds from the sale of forfeited property from the appropriate law enforcement and prosecuting agencies in the same proportion as they would be distributed under section 609.5315, sub5.

Sec. 16. Minnesota Statutes 2008, section 609.5315, subdivision 1, is amended to read:

Subdivision 1. Disposition. (a) Subject to paragraph (b), if the court finds under section 609.5313, 609.5314, or 609.5318 that the property is subject to forfeiture, it shall order the appropriate agency to do one of the following:

(1) unless a different disposition is provided under clause (3) or (4), either destroy firearms, ammunition, and firearm accessories that the agency decides not to use for law enforcement purposes under clause (8), or sell them to federally licensed firearms dealers, as defined in section 624.7161, subdivision 1, and distribute the proceeds under subdivision 5 or 5b;

(2) sell property that is not required to be destroyed by law and is not harmful to the public and distribute the proceeds under subdivision 5 or 5b;

(3) sell antique firearms, as defined in section 624.712, subdivision 3, to the public and distribute the proceeds under subdivision 5 or 5b;

(4) destroy or use for law enforcement purposes semiautomatic military-style assault weapons, as defined in section 624.712, subdivision 7;

Sec. 17. Minnesota Statutes 2008, section 609.5315, subdivision 2, is amended to read:

Subd. 2. Disposition of administratively forfeited property. If property is forfeited administratively under section 609.5314 or 609.5318 and no demand for judicial determination is made, the appropriate agency shall provide the county attorney with a copy of the forfeiture or evidence receipt, the notice of seizure and intent to forfeit, a statement of probable cause for forfeiture of the property, and a description of the property and its estimated value. Upon review and certification by the county attorney that (1) the appropriate agency provided a receipt in accordance with section 609.531, subdivision 4, or 626.16; (2) the appropriate agency served notice in accordance with section 609.5314, subdivision 2, or 609.5318, subdivision 2; and (3) probable cause for forfeiture exists based on the officer's statement, the appropriate agency may dispose of the property in any of the ways listed in subdivision 1.

Forfeiture Law Changes, continued

Sec. 18. Minnesota Statutes 2008, section 609.5315, subdivision 6, is amended to read:

Subd. 6. Reporting requirement. (a) For each forfeiture occurring in the state regardless of the authority for it, the appropriate agency and the prosecutor shall provide a written record of each the forfeiture incident to the state auditor. The record shall include the amount forfeited, the statutory authority for the forfeiture, its date, and a brief description of the circumstances involved, and whether the forfeiture was contested. For controlled substance and driving while impaired forfeitures, the record shall indicate whether the forfeiture was initiated as an administrative or a judicial forfeiture. The record shall also list the number of firearms forfeited and the make, model, and serial number of each firearm forfeited. The record shall indicate how the property was or is to be disposed of.

(b) An appropriate agency or the prosecutor shall report to the state auditor all instances in which property seized for forfeiture is returned to its owner either because forfeiture is not pursued or for any other reason.

(c) Reports shall be made on a monthly basis in a manner prescribed by the state auditor. The state auditor shall report annually to the legislature on the nature and extent of forfeitures.

(d) For forfeitures resulting from the activities of multijurisdictional law enforcement entities, the entity on its own behalf shall report the information required in this subdivision.

(e) The prosecutor is not required to report information required by this subdivision unless the prosecutor has been notified by the state auditor that the appropriate agency has not reported it.

Sec. 19. Minnesota Statutes 2008, section 609.762, is amended by adding a subdivision to read:

Subd. 6. Reporting. The law enforcement and prosecuting agencies shall report on forfeitures occurring under this section as described in section 609.5315, subdivision 6.

Sec. 20. Minnesota Statutes 2008, section 609.905, is amended by adding a subdivision to read:

Subd. 3. Reporting. The prosecuting authority shall report on forfeitures occurring under this section as described in section 609.5315, subdivision 6.

EFFECTIVE DATE. All the above sections are effective July 1, 2010

<https://www.revisor.mn.gov/laws/?id=391&doctype=Chapter&year=2010&type=0>

Evidence of Videotapes, Audiotapes, or Other Recordings

MSA 634.36

In any hearing or trial of a criminal offense or petty misdemeanor or proceeding pursuant to section 169A.53, subdivision 3, evidence of a videotape, audiotape, or electronic or digital recording prepared by a peace officer, using recording equipment in a law enforcement vehicle, while in the performance of official duties shall not be excluded on the ground that a written transcript of the recording was not prepared and available at or prior to trial. As used in this section, "peace officer" has the meaning given in section 169A.03, subdivision 18.

EFFECTIVE DATE. This section is effective July 1, 2010, and applies to trials and hearings beginning on or after that date.

<https://www.revisor.mn.gov/laws/?id=231&doctype=Chapter&year=2010&type=0>

Orders for Protection and No Contact Orders

Minnesota Statutes 2008, section 13.871, is amended by adding a subdivision to read:

Sec. 3. Minnesota Statutes 2008, section 299C.46, subdivision 6, is amended to read:

Subd. 6. **Orders for protection and no contact orders.** (a) As used in this subdivision, "no contact orders" include orders issued as pretrial orders under section 629.72, subdivision 2, orders under section 629.75, and orders issued as probationary or sentencing orders at the time of disposition in a criminal domestic abuse case. (b) The data communications network must include orders for protection issued under section 518B.01 and no contact orders issued under section 629.715, subdivision 4 against adults and juveniles. A no contact order must be accompanied by a photograph of the offender for the purpose of enforcement of the order, if a photograph is available and verified by the court to be an image of the defendant.

(c) Data from orders for protection or no contact orders and data entered by law enforcement to assist in the enforcement of those orders are classified as private data on individuals as defined in section 13.02, subdivision 12. Data about the offender can be shared with the victim for purposes of enforcement of the order.

Sec. 4. Minnesota Statutes 2008, section 518B.01, subdivision 6, is amended to read:

Subd. 6. **Relief by court.** (a) Upon notice and hearing, the court may provide relief as follows:

- (1) restrain the abusing party from committing acts of domestic abuse;
- (2) exclude the abusing party from the dwelling which the parties share or from the residence of the petitioner;
- (3) exclude the abusing party from a reasonable area surrounding the dwelling or residence, which area shall be described specifically in the order;

Orders for Protection and No Contact Orders, continued

(4) award temporary custody or establish temporary parenting time with regard to minor children of the parties on a basis which gives primary consideration to the safety of the victim and the children. In addition to the primary safety considerations, the court may consider particular best interest factors that are found to be relevant to the temporary custody and parenting time award. Findings under section 257.025, 518.17, or 518.175 are not required with respect to the particular best interest factors not considered by the court. If the court finds that the safety of the victim or the children will be jeopardized by unsupervised or unrestricted parenting time, the court shall condition or restrict parenting time as to time, place, duration, or supervision, or deny parenting time entirely, as needed to guard the safety of the victim and the children. The court's decision on custody and parenting time shall in no way delay the issuance of an order for protection granting other relief provided for in this section. The court must not enter a parenting plan under section 518.1705 as part of an action for an order for protection;

(5) on the same basis as is provided in chapter 518 or 518A, establish temporary support for minor children or a spouse, and order the withholding of support from the income of the person obligated to pay the support according to chapter 518A;

(6) provide upon request of the petitioner counseling or other social services for the parties, if married, or if there are minor children;

(7) order the abusing party to participate in treatment or counseling services, including requiring the abusing party to successfully complete a domestic abuse counseling program or educational program under section 518B.02;

(8) award temporary use and possession of property and restrain one or both parties from transferring, encumbering, concealing, or disposing of property except in the usual course of business or for the necessities of life, and to account to the court for all such transfers, encumbrances, dispositions, and expenditures made after the order is served or communicated to the party restrained in open court;

(9) exclude the abusing party from the place of employment of the petitioner, or otherwise limit access to the petitioner by the abusing party at the petitioner's place of employment;

(10) order the abusing party to have no contact with the petitioner whether in person, by telephone, mail, or electronic mail or messaging, through a third party, or by any other means;

(11) order the abusing party to pay restitution to the petitioner;

(12) order the continuance of all currently available insurance coverage without change in coverage or beneficiary designation; and

(13) order, in its discretion, other relief as it deems necessary for the protection of a family or household member, including orders or directives to the sheriff or other law enforcement or corrections officer as provided by this section.;

(14) direct the care, possession, or control of a pet or companion animal owned, possessed, or kept by the petitioner or respondent or a child of the petitioner or respondent; and

(15) direct the respondent to refrain from physically abusing or injuring any pet or companion animal, without legal justification, known to be owned, possessed, kept, or held by either party or a minor child residing in the residence or household of either party as an indirect means of intentionally threatening the safety of such person.

Orders for Protection and No Contact Order, continued

(b) Any relief granted by the order for protection shall be for a period not to exceed two years, except when the court determines a longer period is appropriate. When a referee presides at the hearing on the petition, the order granting relief becomes effective upon the referee's signature.

(c) An order granting the relief authorized in paragraph (a), clause (1), may not be vacated or modified in a proceeding for dissolution of marriage or legal separation, except that the court may hear a motion for modification of an order for protection concurrently with a proceeding for dissolution of marriage upon notice of motion and motion. The notice required by court rule shall not be waived. If the proceedings are consolidated and the motion to modify is granted, a separate order for modification of an order for protection shall be issued.

(d) An order granting the relief authorized in paragraph (a), clause (2) or (3), is not voided by the admittance of the abusing party into the dwelling from which the abusing party is excluded.

(e) If a proceeding for dissolution of marriage or legal separation is pending between the parties, the court shall provide a copy of the order for protection to the court with jurisdiction over the dissolution or separation proceeding for inclusion in its file.

(f) An order for restitution issued under this subdivision is enforceable as civil judgment.

Sec. 5. Minnesota Statutes 2008, section 518B.01, subdivision 7, is amended to read:

Subd. 7. **Ex parte order.** (a) Where an application under this section alleges an immediate and present danger of domestic abuse, the court may grant an ex parte order for protection and granting relief as the court deems proper, including an order:

(1) restraining the abusing party from committing acts of domestic abuse;

(2) excluding any party from the dwelling they share or from the residence of the other, including a reasonable area surrounding the dwelling or residence, which area shall be described specifically in the order, except by further order of the court;

(3) excluding the abusing party from the place of employment of the petitioner or otherwise limiting access to the petitioner by the abusing party at the petitioner's place of employment;

(4) ordering the abusing party to have no contact with the petitioner whether in person, by telephone, mail, e-mail, through electronic devices, or through a third party; and

(5) continuing all currently available insurance coverage without change in coverage or beneficiary designation;

(6) directing the care, possession, or control of a pet or companion animal owned, possessed, or kept by a party or a child of a party; and

(7) directing the respondent to refrain from physically abusing or injuring any pet or companion animal, without legal justification, known to be owned, possessed, kept, or

Orders for Protection and No Contact Orders, continued

held by either party or a minor child residing in the residence or household of either party as an indirect means of intentionally threatening the safety of such person.

(b) A finding by the court that there is a basis for issuing an ex parte order for protection constitutes a finding that sufficient reasons exist not to require notice under applicable court rules governing applications for ex parte relief.

(c) Subject to paragraph (d), an ex parte order for protection shall be effective for a fixed period set by the court, as provided in subdivision 6, paragraph (b), or until modified or vacated by the court pursuant to a hearing. When signed by a referee, the ex parte order becomes effective upon the referee's signature. Upon request, a hearing, as provided by this section, shall be set. Except as provided in paragraph (d), the respondent shall be personally served forthwith with a copy of the ex parte order along with a copy of the petition and, if requested by the petitioner, notice of the date set for the hearing. If the petitioner does not request a hearing, an order served on a respondent under this subdivision must include a notice advising the respondent of the right to request a hearing, must be accompanied by a form that can be used by the respondent to request a hearing and must include a conspicuous notice that a hearing will not be held unless requested by the respondent within five days of service of the order.

(d) Service of the ex parte order may be made by published notice, as provided under subdivision 5, provided that the petitioner files the affidavit required under that subdivision. If personal service is not made or the affidavit is not filed within 14 days of issuance of the ex parte order, the order expires. If the petitioner does not request a hearing, the petition mailed to the respondent's residence, if known, must be accompanied by the form for requesting a hearing and notice described in paragraph (c). Unless personal service is completed, if service by published notice is not completed within 28 days of issuance of the ex parte order, the order expires.

(e) If the petitioner seeks relief under subdivision 6 other than the relief described in paragraph (a), the petitioner must request a hearing to obtain the additional relief.

(f) Nothing in this subdivision affects the right of a party to seek modification of an order under subdivision 11. Sec. 6. Minnesota Statutes 2008, section 609.498, is amended by adding a subdivision to read:

Subd. 2a. Tampering with a witness in the third degree. (a) Unless a greater penalty is applicable under subdivision 1, 1b, or 2, whoever does any of the following is guilty of tampering with a witness in the third degree and may be sentenced as provided in subdivision 3:(1) intentionally prevents or dissuades or intentionally attempts to prevent or dissuade by means of intimidation, a person who is or may become a witness from attending or testifying at any trial, proceeding, or inquiry authorized by law; (2) by means of intimidation, intentionally influences or attempts to influence a person who is or may become a witness to testify falsely at any trial, proceeding, or inquiry authorized by law; (3) intentionally prevents or dissuades or attempts to prevent or dissuade by means of intimidation, a person from providing information to law enforcement authorities concerning a crime; or (4) by means of intimidation, intentionally influences or attempts to influence a person to provide false information concerning a crime to law enforcement authorities. (b) In a prosecution under this subdivision, proof of intimidation may be based on a specific act or on the totality of the circumstances.

Harrassment; Stalking; Penalties

MSA 609.749

Sec. 7. Minnesota Statutes 2008, section 609.498, subdivision 3, is amended to read:

Subd. 3. **Sentence.** (a) Whoever violates subdivision 2 may be sentenced to imprisonment for not more than one year or to payment of a fine not to exceed \$3,000 is guilty of a gross misdemeanor.

(b) Whoever violates subdivision 2a is guilty of a misdemeanor.

EFFECTIVE DATE. This section is effective August 1, 2010, and applies to crimes committed on or after that date.

Subdivision 1. **Definition.** As used in this section, "harass" "stalking" means to engage in intentional conduct which: (1) the actor knows or has reason to know would cause the victim under the circumstances to feel frightened, threatened, oppressed, persecuted, or intimidated; and (2) causes this reaction on the part of the victim regardless of the relationship between the actor and victim.

Subd. 1a. **No proof of specific intent required.** In a prosecution under this section, the state is not required to prove that the actor intended to cause the victim to feel frightened, threatened, oppressed, persecuted, or intimidated, or except as otherwise provided in subdivision 3, paragraph (a), clause (4), or paragraph (b), that the actor intended to cause any other result.

Subd. 1b. **Venue.** (a) When acts constituting a violation of this section are committed in two or more counties, the accused may be prosecuted in any county in which one of the acts was committed for all acts in violation of this section. (b) The conduct described in subdivision 2, clauses (4) and (5) may be prosecuted at the place where any call is made or received or, in the case of wireless or electronic communication or any communication made through any available technologies, where the actor or victim resides or in the jurisdiction of the victim's designated address if the victim participates in the address confidentiality program established by chapter 5B. The conduct described in subdivision 2, clause (2), may be prosecuted where the actor or victim resides. The conduct described in subdivision 2, clause (6), may be prosecuted where any letter, telegram, message, package, or other object is sent or received or, in the case of wireless or electronic communication or communication made through other available technologies, where the actor or victim resides or in the jurisdiction of the victim's designated address if the victim participates in the address confidentiality program established by chapter 5B.

Subd. 1c. **Arrest.** For all violations under this section, except a violation of subdivision 2, clause (7), a peace officer may make an arrest under the provisions of section 629.34. A peace officer may not make a warrantless, custodial arrest of any person for a violation of subdivision 2, clause (7).

Subd. 2. **Harassment and Stalking crimes.** (a) A person who harasses stalks another by committing any of the following acts is guilty of a gross misdemeanor:

(1) directly or indirectly, or through third parties, manifests a purpose or intent to injure the person, property, or rights of another by the commission of an unlawful act;

(2) stalks, follows, monitors, or pursues another, whether in person or through any available technological or other means;

Harrassment; Stalking; Penalties, continued

- (3) returns to the property of another if the actor is without claim of right to the property or consent of one with authority to consent;
- (4) repeatedly makes telephone calls, sends text messages, or induces a victim to make telephone calls to the actor, whether or not conversation ensues;
- (5) makes or causes the telephone of another repeatedly or continuously to ring;
- (6) repeatedly mails or delivers or causes the delivery by any means, including electronically, of letters, telegrams, messages, packages, through assistive devices for the visually or hearing impaired, or any communication made through any available technologies or other objects; or
- (7) knowingly makes false allegations against a peace officer concerning the officer's performance of official duties with intent to influence or tamper with the officer's performance of official duties.

(b) The conduct described in paragraph (a), clauses (4) and (5), may be prosecuted at the place where any call is either made or received or, additionally in the case of wireless or electronic communication, where the actor or victim resides. The conduct described in paragraph (a), clause (2), may be prosecuted where the actor or victim resides. The conduct described in paragraph (a), clause (6), may be prosecuted where any letter, telegram, message, package, or other object is either sent or received or, additionally in the case of wireless or electronic communication, where the actor or victim resides.

(c) A peace officer may not make a warrantless, custodial arrest of any person for a violation of paragraph (a), clause (7).

Subd. 3. Aggravated violations. (a) A person who commits any of the following acts is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both:

- (1) commits any offense described in subdivision 2 because of the victim's or another's actual or perceived race, color, religion, sex, sexual orientation, disability as defined in section 363A.03, age, or national origin;
- (2) commits any offense described in subdivision 2 by falsely impersonating another;
- (3) commits any offense described in subdivision 2 and possesses a dangerous weapon at the time of the offense;
- (4) harasses stalks another, as defined in subdivision 1, with intent to influence or otherwise tamper with a juror or a judicial proceeding or with intent to retaliate against a judicial officer, as defined in section 609.415, or a prosecutor, defense attorney, or officer of the court, because of that person's performance of official duties in connection with a judicial proceeding; or
- (5) commits any offense described in subdivision 2 against a victim under the age of 18, if the actor is more than 36 months older than the victim.

(b) A person who commits any offense described in subdivision 2 against a victim under the age of 18, if the actor is more than 36 months older than the victim, and the act is committed with sexual or aggressive intent, is guilty of a felony and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both.

Subd. 4. Second or subsequent violations; felony. (a) A person is guilty of a felony who violates any provision of subdivision 2 within ten years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency, and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

(b) A person is guilty of a felony who violates any provision of subdivision 2 within ten years of the first of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency, and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both.

Harrassment; Stalking; Penalites, continued

Subd. 5. **Pattern of harassing stalking conduct.** (a) A person who engages in a pattern of harassing stalking conduct with respect to a single victim or one or more members of a single household which the actor knows or has reason to know would cause the victim under the circumstances to feel terrorized or to fear bodily harm and which does cause this reaction on the part of the victim, is guilty of a felony and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both.

(b) For purposes of this subdivision, a "pattern of harassing stalking conduct" means two or more acts within a five-year period that violate or attempt to violate the provisions of any of the following or a similar law of another state, the United States, the District of Columbia, tribal lands tribe, or United States territories:

(1) this section;

(2) sections 609.185 to 609.205 (first- to third-degree murder and first- and second-degree manslaughter);

(3) section 609.713 (terroristic threats);

(4) section 609.224 (fifth-degree assault);

(5) section 609.2242 (domestic assault);

(6) section 518B.01, subdivision 14 (violations of domestic abuse orders for protection);

(7) section 609.748, subdivision 6 (violations of harassment restraining orders);

(8) section 609.605, subdivision 1, paragraph (b), clauses (3), (4), and (7) (certain trespass offenses);

(9) section 609.78, subdivision 2 (interference with an emergency call);

(10) section 609.79 (obscene or harassing telephone calls);

(11) section 609.795 (letter, telegram, or package; opening; harassment);

(12) section 609.582 (burglary);

(13) section 609.595 (damage to property);

(14) section 609.765 (criminal defamation); or

(15) sections 609.342 to 609.3451 (first- to fifth-degree criminal sexual conduct); or

(16) section 629.75, subdivision 2 (violations of domestic abuse no contact orders).

(c) When acts constituting a violation of this subdivision are committed in two or more counties, the accused may be prosecuted in any county in which one of the acts was committed for all acts constituting the pattern Words set forth in parentheses after references to statutory sections in paragraph (b) are mere catchwords included solely for convenience in reference. They are not substantive and may not be used to construe or limit the meaning of the cited statutory provision.

Subd. 6. **Mental health assessment and treatment.** (a) When a person is convicted of a felony offense under this section, or another felony offense arising out of a charge based on this section, the court shall order an independent professional mental health assessment of the offender's need for mental health treatment. The court may waive the assessment if an adequate assessment was conducted prior to the conviction.

(b) Notwithstanding sections 13.384, 13.85, 144.291 to 144.298, 260B.171, or 260C.171, the assessor has access to the following private or confidential data on the person if access is relevant and necessary for the assessment:

(1) medical data under section 13.384;

(2) welfare data under section 13.46;

(3) corrections and detention data under section 13.85;

Harrassment; Stalking; Penalties, continued

- (4) health records under sections 144.291 to 144.298; and
- (5) juvenile court records under sections 260B.171 and 260C.171. Data disclosed under this section may be used only for purposes of the assessment and may not be further disclosed to any other person, except as authorized by law.
- (c) If the assessment indicates that the offender is in need of and amenable to mental health treatment, the court shall include in the sentence a requirement that the offender undergo treatment.
- (d) The court shall order the offender to pay the costs of assessment under this subdivision unless the offender is indigent under section 563.01.

Subd. 7. **Exception.** Conduct is not a crime under this section if it is performed under terms of a valid license, to ensure compliance with a court order, or to carry out a specific lawful commercial purpose or employment duty, is authorized or required by a valid contract, or is authorized, required, or protected by state or, federal, or tribal law or the state or, federal, or tribal constitutions. Subdivision 2, clause (2), does not impair the right of any individual or group to engage in speech protected by the federal Constitution, state, or tribal constitutions, the state Constitution, or federal or, state, or tribal law, including peaceful and lawful handbilling and picketing.

Subd. 8. **Stalking; firearms.** (a) When a person is convicted of a harassment or stalking crime under this section and the court determines that the person used a firearm in any way during commission of the crime, the court may order that the person is prohibited from possessing any type of firearm for any period longer than three years or for the remainder of the person's life. A person who violates this paragraph is guilty of a gross misdemeanor. At the time of the conviction, the court shall inform the defendant whether and for how long the defendant is prohibited from possessing a firearm and that it is a gross misdemeanor to violate this paragraph. The failure of the court to provide this information to a defendant does not affect the applicability of the firearm possession prohibition or the gross misdemeanor penalty to that defendant.

(b) Except as otherwise provided in paragraph (a), when a person is convicted of a stalking or harassment crime under this section, the court shall inform the defendant that the defendant is prohibited from possessing a pistol for three years from the date of conviction and that it is a gross misdemeanor offense to violate this prohibition. The failure of the court to provide this information to a defendant does not affect the applicability of the pistol possession prohibition or the gross misdemeanor penalty to that defendant.

(c) Except as otherwise provided in paragraph (a), a person is not entitled to possess a pistol if the person has been convicted after August 1, 1996, of a stalking or harassment crime under this section, unless three years have elapsed from the date of conviction and, during that time, the person has not been convicted of any other violation of this section. Property rights may not be abated but access may be restricted by the courts. A person who possesses a pistol in violation of this paragraph is guilty of a gross misdemeanor.

(d) If the court determines that a person convicted of a stalking or harassment crime under this section owns or possesses a firearm and used it in any way during the commission of the crime, it shall order that the firearm be summarily forfeited under section 609.5316, subdivision 3.

EFFECTIVE DATE. This section is effective August 1, 2010, and applies to crimes committed on or after that date.

Harassment; Stalking; Penalties, continued

Sec. 8. Minnesota Statutes 2008, section 609.749, is amended to read:

Subd. 5. **Pattern of harassing stalking conduct.** (a) A person who engages in a pattern of harassing stalking conduct with respect to a single victim or one or more members of a single household which the actor knows or has reason to know would cause the victim under the circumstances to feel terrorized or to fear bodily harm and which does cause this reaction on the part of the victim, is guilty of a felony and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both.

(b) For purposes of this subdivision, a "pattern of harassing stalking conduct" means two or more acts within a five-year period that violate or attempt to violate the provisions of any of the following or a similar law of another state, the United States, the District of Columbia, tribal lands tribe, or United States territories:

(1) this section;

(2) sections 609.185 to 609.205 (first- to third-degree murder and first- and second-degree manslaughter);

(3) section 609.713 (terroristic threats);

(4) section 609.224 (fifth-degree assault);

(5) section 609.2242 (domestic assault);

(6) section 518B.01, subdivision 14 (violations of domestic abuse orders for protection);

(7) section 609.748, subdivision 6 (violations of harassment restraining orders);

(8) section 609.605, subdivision 1, paragraph (b), clauses (3), (4), and (7) (certain trespass offenses);

(9) section 609.78, subdivision 2 (interference with an emergency call);

(10) section 609.79 (obscene or harassing telephone calls);

(11) section 609.795 (letter, telegram, or package; opening; harassment);

(12) section 609.582 (burglary);

(13) section 609.595 (damage to property);

(14) section 609.765 (criminal defamation); or

(15) sections 609.342 to 609.3451 (first- to fifth-degree criminal sexual conduct); or

(16) section 629.75, subdivision 2 (violations of domestic abuse no contact orders).

(c) When acts constituting a violation of this subdivision are committed in two or more counties, the accused may be prosecuted in any county in which one of the acts was committed for all acts constituting the pattern Words set forth in parentheses after references to statutory sections in paragraph (b) are mere catchwords included solely for convenience in reference. They are not substantive and may not be used to construe or limit the meaning of the cited statutory provision.

Subd. 6. **Mental health assessment and treatment.** (a) When a person is convicted of a felony offense under this section, or another felony offense arising out of a charge based on this section, the court shall order an independent professional mental health assessment of the offender's need for mental health treatment. The court may waive the assessment if an adequate assessment was conducted prior to the conviction. (b) Notwithstanding sections 13.384, 13.85, 144.291 to 144.298, 260B.171, or 260C.171, the assessor has access to the following private or confidential data on the person if access is relevant and necessary for the assessment:

(1) medical data under section 13.384;

(2) welfare data under section 13.46;

Harassment; Stalking; Penalties, continued

- (3) corrections and detention data under section 13.85;
- (4) health records under sections 144.291 to 144.298; and
- (5) juvenile court records under sections 260B.171 and 260C.171.

Data disclosed under this section may be used only for purposes of the assessment and may not be further disclosed to any other person, except as authorized by law.

- (c) If the assessment indicates that the offender is in need of and amenable to mental health treatment, the court shall include in the sentence a requirement that the offender undergo treatment.
- (d) The court shall order the offender to pay the costs of assessment under this subdivision unless the offender is indigent under section 563.01.

Sec. 9. Minnesota Statutes 2008, section 629.471, subdivision 3, is amended to read:

Subd. 3. **Six times fine.** For offenses under sections 518B.01, 609.224, 609.2242, and 609.377, the maximum cash bail that may be required for a person charged with a misdemeanor or gross misdemeanor violation is six times the highest cash fine that may be imposed for the offense.

Sec. 10. Minnesota Statutes 2008, section 629.471, is amended by adding a subdivision to read:

Subd. 3a. **Ten times fine.** For offenses under sections 518B.01, 609.2242, and 629.75, the maximum cash bail that may be required for a person charged with a misdemeanor or gross misdemeanor violation is ten times the highest cash fine that may be imposed for the offense.

Sec. 11. Minnesota Statutes 2008, section 629.72, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given them.

- (b) "Domestic abuse" has the meaning given in section 518B.01, subdivision 2.
- (c) "Harassment" has the meaning given in section 609.749.
- (d) "Violation of a domestic abuse no contact order" has the meaning given in section 18B.01, subdivision 22 629.75.
- (e) "Violation of an order for protection" has the meaning given in section 518B.01, subdivision 14 .

Sec. 12. Minnesota Statutes 2008, section 629.72, subdivision 2a, is amended to read:

Subd. 2a. **Electronic monitoring; condition of pretrial release.** (a) Until the commissioner of corrections has adopted standards governing electronic monitoring devices used to protect victims of domestic abuse, the court, as a condition of release, may not order a person arrested for a crime described in section 609.135, subdivision 5a, paragraph (b), to use an electronic monitoring device to protect a victim's safety. (b) Notwithstanding paragraph (a), district courts in the Tenth the chief judge of a judicial district may order, as a condition of a release, a person arrested on a charge of a crime described in section 609.135, subdivision 5a, paragraph (b), to use an electronic monitoring device to protect the victim's safety. The courts shall make data on the use of electronic monitoring devices to protect a victim's safety in the Tenth Judicial District available to the commissioner of corrections to evaluate and to aid in

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development of standards for the use of devices to protect victims of domestic abuse appoint and convene an advisory group comprised of representatives from law enforcement, prosecutors, defense attorneys, corrections, court administrators, judges, and battered women's organizations to develop standards for the use of electronic monitoring and global positioning system devices to protect victims of domestic abuse and for evaluating the effectiveness of electronic monitoring. After the advisory group does this, the chief judge, in consultation with the advisory group, may conduct a pilot project for implementation of the electronic monitoring standards. A judicial district that conducts a pilot project shall report on the standards and the pilot project to the chairs and ranking minority members of the senate and house of representatives committees having jurisdiction over criminal justice policy and the state court administrator's office.

SUNSET.The amendments to this section expire on January 15, 2014.

EFFECTIVE DATE.This section is effective August 1, 2010, and applies to crimes committed on or after that date.

<https://www.revisor.mn.gov/laws/?id=299&doctype=Chapter&year=2010&type=0>

Domestic Abuse No Contact Order

MSA 629.75

Subdivision 1. **Establishment; description.** (a) A domestic abuse no contact order is an order issued by a court against a defendant in a criminal proceeding or a juvenile offender in a delinquency proceeding for:

- (1) domestic abuse as defined in section 518B.01, subdivision 2;
- (2) harassment or stalking under section 609.749 when committed against a family or household member as defined in section 518B.01, subdivision 2;
- (3) violation of an order for protection under section 518B.01, subdivision 14; or
- (4) violation of a prior domestic abuse no contact order under this subdivision or section 518B.01, subdivision 22.

(b) A domestic abuse no contact order may be issued as a pretrial order before final disposition of the underlying criminal case or as a postconviction probationary order. A domestic abuse no contact order is independent of any condition of pretrial release or probation imposed on the defendant. A domestic abuse no contact order may be issued in addition to a similar restriction imposed as a condition of pretrial release or probation. In the context of a postconviction probationary order, a domestic abuse no contact order may be issued for an offense listed in paragraph (a) or for a conviction for any offense arising out of the same set of circumstances as an offense listed in paragraph (a).(c) A no contact order under this section shall be issued in a proceeding that is separate from but held immediately following a proceeding in which any pretrial release or sentencing issues are decided.

Subd. 2. **Criminal penalties.** (a) As used in this subdivision "qualified domestic violence-related offense" has the meaning given in section 609.02, subdivision 16.

(b) A person who knows of the existence of a domestic abuse no contact order issued against the person and violates the order is guilty of a misdemeanor.

(c) A person is guilty of a gross misdemeanor who knowingly violates this subdivision within ten years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency. Upon a gross misdemeanor conviction under this paragraph, the defendant must be sentenced to a minimum of ten days' imprisonment and must be ordered to participate in counseling or other appropriate programs selected by the court as provided in section 518B.02. Notwithstanding section 609.135, the court must impose and execute the minimum sentence provided in this paragraph for gross misdemeanor convictions.

(d) A person is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if the person knowingly violates this subdivision:

- (1) within ten years of the first of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency; or
- (2) while possessing a dangerous weapon, as defined in section 609.02, subdivision 6 . Upon a felony conviction under this paragraph in which the court stays imposition or execution of sentence, the court shall impose at least a 30-day period of incarceration as a condition of probation. The court also shall order that the defendant participate in counseling or other appropriate programs selected by the court. Notwithstanding section 609.135, the court must impose and execute the minimum sentence provided in this paragraph for felony convictions.

Subd. 3. **Warrantless custodial arrest.** A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated a domestic abuse no contact order, even if the violation of the order did not take place in the presence of the peace officer, if the existence of the order can be verified by the officer. The person shall be held in custody for at least 36 hours, excluding the day of arrest, Sundays, and holidays, unless

Domestic Abuse No Contact Order, continued

the person is released earlier by a judge or judicial officer. A peace officer acting in good faith and exercising due care in making an arrest pursuant to this subdivision is immune from civil liability that might result from the officer's actions.

EFFECTIVE DATE. This section is effective August 1, 2010, and applies to crimes committed on or after that date.

<https://www.revisor.mn.gov/laws/?id=299&doctype=Chapter&year=2010&type=0>

DWI Law Changes

CHAPTER 366--H.F.No. 3106

Sec. 2. Minnesota Statutes 2009 Supplement, section 169A.275, subdivision 7, is amended to read:

Subd. 7. Exception. (a) A judge is not required to sentence a person as provided in this section subdivisions 1 to 4 if the judge requires the person as a condition of probation to drive only motor vehicles equipped with an ignition interlock device meeting the standards described in section 171.306. (b) This subdivision expires July 1, 2011.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 3. Minnesota Statutes 2008, section 169A.52, subdivision 3, is amended to read:

Subd. 3. **Test refusal; license revocation.** (a) Upon certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a motor vehicle in violation of section 169A.20 (driving while impaired), and that the person refused to submit to a test, the commissioner shall revoke the person's license or permit to drive, or nonresident operating privilege, for a period of one year even if a test was obtained pursuant to this section after the person refused to submit to testing. The commissioner shall revoke the license, permit, or nonresident operating privilege:

- (1) for a person with no qualified prior impaired driving incidents within the past ten years, for a period of not less than one year;
- (2) for a person under the age of 21 years and with no qualified prior impaired driving incidents within the past ten years, for a period of not less than one year;
- (3) for a person with one qualified prior impaired driving incident within the past ten years, or two qualified prior impaired driving incidents, for a period of not less than two years;
- (4) for a person with two qualified prior impaired driving incidents within the past ten years, or three qualified prior impaired driving incidents, for a period of not less than three years;
- (5) for a person with three qualified prior impaired driving incidents within the past ten years, for a period of not less than four years; or
- (6) for a person with four or more qualified prior impaired driving incidents, for a period of not less than six years.

(b) Upon certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a commercial motor vehicle with the presence of any alcohol in violation of section 169A.20 (driving while impaired), and that the person refused to submit to a test, the commissioner shall disqualify the person from operating a commercial motor vehicle and shall revoke the person's license or permit to drive or nonresident operating privilege according to the federal regulations adopted by reference in section 171.165, subdivision 2.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 4. Minnesota Statutes 2008, section 169A.52, subdivision 4, is amended to read:

Subd. 4. **Test failure; license revocation.** (a) Upon certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a motor vehicle in violation of section 169A.20 (driving while impaired) and that the person submitted to a test and the test results indicate an alcohol concentration of 0.08 or more or the presence of a controlled substance listed in schedule I or II or its metabolite, other than marijuana or tetrahydrocannabinols, then the commissioner shall revoke the person's license or permit to drive, or nonresident operating privilege:

DWI Law Changes, continued

- (1) for a period of 90 days, or, if the test results indicate an alcohol concentration of twice the legal limit or more, not less than one year;
- (2) if the person is under the age of 21 years, for a period of six months not less than 180 days or, if the test results indicate an alcohol concentration of twice the legal limit or more, not less than one year;
- (3) for a person with a one qualified prior impaired driving incident within the past ten years, or two qualified prior impaired driving incidents, for a period of 180 days not less than one year, or if the test results indicate an alcohol concentration of twice the legal limit or more, not less than two years;
or
- (4) if the test results indicate an alcohol concentration of 0.20 or more, for twice the applicable period in clauses (1) to (3). for a person with two qualified prior impaired driving incidents within the past ten years, or three qualified prior impaired driving incidents, for a period of not less than three years;
- (5) for a person with three qualified prior impaired driving incidents within the past ten years, for a period of not less than four years; or
- (6) for a person with four or more qualified prior impaired driving incidents, for a period of not less than six years.
- (b) On certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a commercial motor vehicle with any presence of alcohol and that the person submitted to a test and the test results indicated an alcohol concentration of 0.04 or more, the commissioner shall disqualify the person from operating a commercial motor vehicle under section 171.165 (commercial driver's license disqualification).
- (c) If the test is of a person's blood or urine by a laboratory operated by the Bureau of Criminal Apprehension, or authorized by the bureau to conduct the analysis of a blood or urine sample, the laboratory may directly certify to the commissioner the test results, and the peace officer shall certify to the commissioner that there existed probable cause to believe the person had been driving, operating, or in physical control of a motor vehicle in violation of section 169A.20 and that the person submitted to a test. Upon receipt of both certifications, the commissioner shall undertake the license actions described in paragraphs (a) and (b).

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 5. Minnesota Statutes 2009 Supplement, section 169A.54, subdivision 1, is amended to read:

Subdivision 1. Revocation periods for DWI convictions. Except as provided in subdivision 7, the commissioner shall revoke the driver's license of a person convicted of violating section 169A.20 (driving while impaired) or an ordinance in conformity with it, as follows:

- (1) for an offense under section 169A.20, subdivision 1 (driving while impaired crime):, not less than 30 days;
- (2) for an offense under section 169A.20, subdivision 2 (refusal to submit to chemical test crime):, not less than 90 days;
- (3) for an offense occurring within ten years of a qualified prior impaired driving incident:, or occurring after two qualified prior impaired driving incidents,
- (i) if the current conviction is for a violation of section 169A.20, subdivision 1, 1a, 1b, or 1c, not less than 180 days one year, or if the test results indicate an alcohol concentration of twice the legal limit or more, not less than two years and until the court has certified that treatment or rehabilitation has been successfully completed where prescribed in accordance with section 169A.70 (chemical use assessments); or

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(ii) if the current conviction is for a violation of section 169A.20, subdivision 2, not less than one year and until the court has certified that treatment or rehabilitation has been successfully completed where prescribed in accordance with section 169A.70;

(4) for an offense occurring within ten years of the first of two qualified prior impaired driving incidents; or occurring after three qualified prior impaired driving incidents, not less than one year three years, together with denial under section 171.04, subdivision 1, clause (10), until rehabilitation is established in accordance with according to standards established by the commissioner; or

(5) for an offense occurring within ten years of the first of three or more qualified prior impaired driving incidents; not less than two four years, together with denial under section 171.04, subdivision 1, clause (10), until rehabilitation is established in accordance with according to standards established by the commissioner; or (6) for an offense occurring after four or more qualified prior impaired driving incidents, not less than six years, together with denial under section 171.04, subdivision 1, clause (10), until rehabilitation is established according to standards established by the commissioner.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 6. Minnesota Statutes 2008, section 169A.54, subdivision 2, is amended to read:

Subd. 2. **Driving while impaired by person under age 21.** If the person convicted of violating section 169A.20 (driving while impaired) is under the age of 21 years at the time of the violation, the commissioner shall revoke the offender's driver's license or operating privileges for a period of six months not less than 180 days or for the appropriate period of time under subdivision 1, clauses (1) to (5) (6), for the offense committed, whichever is the greatest longer period.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 7. Minnesota Statutes 2008, section 169A.54, subdivision 5, is amended to read:

Subd. 5. **Violations involving alcohol concentration of 0.20 twice the legal limit or more.** If the person has no qualified prior impaired driving incidents within the past ten years and is convicted of violating section 169A.20 (driving while impaired) while having an alcohol concentration of 0.20 twice the legal limit or more as measured at the time, or within two hours of the time, of the offense, the commissioner shall revoke the person's driver's license for twice the period of time otherwise provided for in this section not less than one year.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 8. Minnesota Statutes 2008, section 169A.55, is amended by adding a subdivision to read:

Subd. 4. **Reinstatement of driving privileges; multiple incidents.** (a) A person whose driver's license has been canceled or denied as a result of three or more qualified impaired driving incidents shall not be eligible for reinstatement of driving privileges without an ignition interlock restriction until the person:

(1) has completed rehabilitation according to rules adopted by the commissioner or been granted a variance from the rules by the commissioner; and

(2) has submitted verification of abstinence from alcohol and controlled substances, as evidenced

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by the person's use of an ignition interlock device or other chemical monitoring device approved by the commissioner.

(b) The verification of abstinence must show that the person has abstained from the use of alcohol and controlled substances for a period of not less than:

(1) three years, for a person whose driver's license was canceled or denied for an offense occurring within ten years of the first of two qualified prior impaired driving incidents, or occurring after three qualified prior impaired driving incidents;

(2) four years, for a person whose driver's license was canceled or denied for an offense occurring within ten years of the first of three qualified prior impaired driving incidents; or

(3) six years, for a person whose driver's license was canceled or denied for an offense occurring after four or more qualified prior impaired driving incidents.

(c) The commissioner shall establish performance standards and a process for certifying chemical monitoring devices. The standards and procedures are not rules and are exempt from chapter 14, including section 14.386.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 9. Minnesota Statutes 2008, section 169A.60, subdivision 1, is amended to read:

Subdivision 1. Definitions. (a) As used in this section, the following terms have the meanings given in this subdivision.

(b) "Family or household member" has the meaning given in section 169A.63, subdivision 1.

operation or an off-road recreational vehicle.

(d) "Plate impoundment violation" includes:

(1) a violation of section 169A.20 (driving while impaired) or 169A.52 (license revocation for test failure or refusal), or a conforming ordinance from this state or a conforming statute or ordinance from another state in conformity with either of those sections, that results in the revocation of a person's driver's license or driving privileges, within ten years of a qualified prior impaired driving incident;

(2) a license disqualification under section 171.165 (commercial driver's license disqualification) resulting from a violation of section 169A.52 within ten years of a qualified prior impaired driving incident;

(3) a violation of section 169A.20 or 169A.52 while having an alcohol concentration of 0.20 twice the legal limit or more as measured at the time, or within two hours of the time, of the offense;

(4) a violation of section 169A.20 or 169A.52 while having a child under the age of 16 in the vehicle if the child is more than 36 months younger than the offender; and or

(5) a violation of section 171.24 (driving without valid license) by a person whose driver's license or driving privileges have been canceled or denied under section 171.04, subdivision 1, clause (10) (persons not eligible for driver's license, inimical to public safety).

(e) "Violator" means a person who was driving, operating, or in physical control of the motor vehicle when the plate impoundment violation occurred.

EFFECTIVE DATE. This section is effective July 1, 2011.

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Sec. 10. Minnesota Statutes 2008, section 171.09, is amended to read:

171.09 DRIVING RESTRICTIONS; AUTHORITY, VIOLATIONS.

Subdivision 1. Authority; violations. (a) The commissioner, when good cause appears, may impose restrictions suitable to the licensee's driving ability or other restrictions applicable to the licensee as the commissioner may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.

(b) Pursuant to Code of Federal Regulations, title 49, section 383.95, if an applicant for a commercial driver's license either does not successfully complete the air brake component of the knowledge test, or does not successfully complete the skills test in a vehicle equipped with air brakes as such tests are prescribed in Code of Federal Regulations, title 49, part 384, the department shall indicate on the class C, class B, or class A commercial driver's license, if issued, that the individual is restricted from operating a commercial motor vehicle equipped with air brakes.

(c) Upon receiving satisfactory evidence of any violation of the restrictions on the license, the commissioner may suspend or revoke the license. A license suspension under this section is subject to section 171.18, subdivisions 2 and 3.

(d) A person who drives, operates, or is in physical control of a motor vehicle while in violation of the restrictions imposed in a restricted driver's license issued to that person under this section is guilty of a crime as follows:

(1) if the restriction relates to the possession or consumption of alcohol or controlled substances, the person is guilty of a gross misdemeanor; or

(2) if the restriction relates to another matter, the person is guilty of a misdemeanor.

(e) It is a misdemeanor for a person who holds a restricted license issued under section 171.306 to drive, operate, or be in physical control of any motor vehicle that is not equipped with a functioning ignition interlock device certified by the commissioner.

Subd. 3. No-alcohol restriction. (a) As used in this subdivision, "impaired driving incident" has the meaning given in section 169A.03, subdivision 22.

(b) Upon proper application by a person having a valid driver's license containing the restriction that the person must not consume alcohol or controlled substances, who has not been documented as having consumed alcohol or having possessed or used a controlled substance within the past ten years, and whose driving record contains no impaired driving incident within the past ten years, the commissioner must remove the no-alcohol/controlled substance restriction on the person's driving record and issue to the person a duplicate driver's license that does not show that restriction.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 11. Minnesota Statutes 2008, section 171.30, subdivision 1, is amended to read:

Subdivision 1. **Conditions of issuance.** (a) In any case where a person's license has been suspended under section 171.18, 171.173, or 171.186, or; revoked under section 169.792,; 169.797,; 169A.52, 169A.54, subdivision 3, paragraph (a), clause (1), (2), (4), (5), or (6), or subdivision 4, paragraph (a), clause (1) if the test results indicate an alcohol concentration of less than twice the legal limit, (2) if the test results indicate an alcohol concentration of less than twice the legal limit, (4), (5), or (6); 171.17,; or 171.172,; or revoked, canceled, or denied under section 169A.54, subdivision 1, clause (1), (2), (4), (5), or (6), or subdivision 2 if the person does not have a qualified prior impaired driving incident as defined in section 169A.03, subdivision 22, on the person's record, the commissioner may issue a limited license to the driver including under the

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following conditions:

(1) if the driver's livelihood or attendance at a chemical dependency treatment or counseling program depends upon the use of the driver's license;

(2) if the use of a driver's license by a homemaker is necessary to prevent the substantial disruption of the education, medical, or nutritional needs of the family of the homemaker; or

(3) if attendance at a postsecondary institution of education by an enrolled student of that institution depends upon the use of the driver's license.

(b) The commissioner in issuing a limited license may impose such conditions and limitations as in the commissioner's judgment are necessary to the interests of the public safety and welfare including reexamination as to the driver's qualifications. The license may be limited to the operation of particular vehicles, to particular classes and times of operation, and to particular conditions of traffic. The commissioner may require that an applicant for a limited license affirmatively demonstrate that use of public transportation or carpooling as an alternative to a limited license would be a significant hardship.

(c) For purposes of this subdivision, (1) "homemaker" refers to the person primarily performing the domestic tasks in a household of residents consisting of at least the person and the person's dependent child or other dependents; and (2) "twice the legal limit" means an alcohol concentration of two times the limit specified in section 169A.20, subdivision 1, clause (5).

(d) The limited license issued by the commissioner shall clearly indicate the limitations imposed and the driver operating under the limited license shall have the license in possession at all times when operating as a driver.

(e) In determining whether to issue a limited license, the commissioner shall consider the number and the seriousness of prior convictions and the entire driving record of the driver and shall consider the number of miles driven by the driver annually.

(f) If the person's driver's license or permit to drive has been revoked under

section 169.792 or 169.797, the commissioner may only issue a limited license to the person after the person has presented an insurance identification card, policy, or written statement indicating that the driver or owner has insurance coverage satisfactory to the commissioner of public safety. The commissioner of public safety may require the insurance identification card provided to satisfy this subdivision be certified by the insurance company to be noncancelable for a period not to exceed 12 months.

(g) The limited license issued by the commissioner to a person under section 171.186, subdivision 4, must expire 90 days after the date it is issued. The commissioner must not issue a limited license to a person who previously has been issued a limited license under section 171.186, subdivision 4.

(h) The commissioner shall not issue a limited driver's license to any person described in section 171.04, subdivision 1, clause (6), (7), (8), (10), (11), or (14).

(i) The commissioner shall not issue a class A, class B, or class C limited license.

Sec. 12. Minnesota Statutes 2008, section 171.30, subdivision 2a, is amended to read:

Subd. 2a. Other waiting periods. Notwithstanding subdivision 2, a limited license shall not be issued for a period of:

(1) 15 days, to a person whose license or privilege has been revoked or suspended for a first violation of section 169A.20, sections 169A.50 to 169A.53, or a statute or ordinance from another state in conformity with either of those sections; or

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(2) 90 days, to a person who submitted to testing under sections 169A.50 to 169A.53 if the person's license or privilege has been revoked or suspended for a second violation within ten years or a third or subsequent violation of section 169A.20, sections 169A.50 to 169A.53, or a statute or ordinance from another state in conformity with either of those sections;

(3) 180 days, to a person who refused testing under sections 169A.50 to 169A.53 if the person's license or privilege has been revoked or suspended for a second violation within ten years or a third or subsequent violation of sections 169A.20, 169A.50 to 169A.53, or a statute or ordinance from another state in conformity with either of those sections; or

(4) (2) one year, to a person whose license or privilege has been revoked or suspended for committing manslaughter resulting from the operation of a motor vehicle, committing criminal vehicular homicide or injury under section 609.21, or violating a statute or ordinance from another state in conformity with either of those offenses.

EFFECTIVE DATE.This section is effective July 1, 2011.

Sec. 13. Minnesota Statutes 2008, section 171.30, subdivision 4, is amended to read:

Subd. 4. **Penalty.** A person who violates a condition or limitation of a limited license issued under subdivision 1 or fails to have the license in immediate possession at all times when operating a motor vehicle is guilty of a misdemeanor. In addition, except as otherwise provided in the ignition interlock program under section 171.306, a person who violates a condition or limitation of a limited license may not operate a motor vehicle for the remainder of the period of suspension or revocation, or 30 days, whichever is longer.

EFFECTIVE DATE.This section is effective July 1, 2011.

Ignition Interlock Device

Sec. 14. Minnesota Statutes 2008, section 171.306, as amended by Laws 2009, chapter 29, sections 2 and 3, is amended to read:

171.306 IGNITION INTERLOCK DEVICE PILOT PROJECT PROGRAM.

Subdivision 1. Pilot project established; reports Definitions. The commissioner shall conduct a statewide two-year ignition interlock device pilot project as provided in this section. The pilot project must begin on July 1, 2009, and continue until June 30, 2011. The commissioner shall submit a preliminary report by September 30, 2010, and a final report by September 30, 2011, to the chairs and ranking minority members of the senate and house of representatives committees having jurisdiction over criminal justice policy and funding. The reports must evaluate the successes and failures of the pilot project, provide information on participation rates, and make recommendations on continuing the project. (a) As used in this section, the terms in this subdivision have the meanings given them.

(b) "Ignition interlock device" or "device" means equipment that is designed to measure breath alcohol concentration and to prevent a motor vehicle's ignition from being started by a person whose breath alcohol concentration measures 0.02 or higher on the equipment.

(c) "Program participant" means a person whose driver's license has been revoked, canceled, or denied under section 169A.52, 169A.54, or 171.04, subdivision 1, clause (10), and who has qualified to take part in the ignition interlock program under this section.

(d) "Qualified prior impaired driving incident" has the meaning given in section 169A.03, subdivision 22.

Subd. 2. Performance standards; certification; manufacturer requirements. The commissioner shall determine appropriate establish performance standards and a certification process for ignition interlock certifying devices for used in the pilot project. Only devices certified by the commissioner as meeting the performance standards may be used in the pilot project. ignition interlock program. The manufacturer of a device must apply annually for certification of the device by submitting the form prescribed by the commissioner. The commissioner shall require manufacturers of certified devices to:

(1) provide device installation, servicing, and monitoring to indigent program participants at a discounted rate, according to the standards established by the commissioner; and

(2) include in an ignition interlock device contract a provision that a program participant who voluntarily terminates participation in the program is only liable for servicing and monitoring costs incurred during the time the device is installed on the motor vehicle, regardless of whether the term of the contract has expired.

Subd. 3. Pilot project components Program requirements. (a) Under the pilot project, the commissioner shall issue a driver's license to an individual whose driver's license has been revoked under chapter 169A for an impaired driving incident if the person qualifies under this section and agrees to all of the conditions of the project. The commissioner shall establish guidelines for participation in the ignition interlock program. A person who seeks to participate in the program shall sign a written acknowledgment that the person has received, reviewed, and agreed to abide by the program guidelines.

(b) The commissioner must denote the person's driver's license enter a notation on a person's driving record to indicate that the person's participation in the person is a program participant. The license must authorize the person to drive only vehicles having functioning ignition interlock devices conforming with the requirements of subdivision 2.

(c) Notwithstanding any statute or rule to the contrary, the commissioner has authority to and shall determine the appropriate period for which a person participating in the ignition interlock

Ignition Interlock Device, continued

pilot program shall be subject to this program, and when the person is eligible to be issued: A person under the age of 18 years is not eligible to be a program participant.

(a) a limited driver's license subject to the ignition interlock restriction;

(b) full driving privileges subject to the ignition interlock restriction; and

(c) a driver's license without an ignition interlock restriction.

(d) A program participant shall pay costs associated with an ignition interlock device on every motor vehicle that the participant operates or intends to operate.

(e) A person participating in this pilot project program participant shall agree to participate in any treatment recommended by in a chemical use assessment report.

(f) The commissioner shall determine guidelines for participation in the project. A person participating in the project shall sign a written agreement accepting these guidelines and agreeing to comply with them.

(g) It is a misdemeanor for a person who is licensed under this section for driving a vehicle equipped with an ignition interlock device to drive, operate, or be in physical control of a motor vehicle other than a vehicle properly equipped with an A program participant shall bring the device-equipped motor vehicle or vehicles operated by the program participant to an approved service provider for device calibration and servicing according to the schedule established by the commissioner and as indicated by the ignition interlock device.

Subd. 4. Issuance of restricted license. (a) The commissioner shall issue a class D driver's license, subject to the applicable limitations and restrictions of this section, to a program participant who meets the requirements of this section and the program guidelines. The commissioner shall not issue a license unless the program participant has provided satisfactory proof that: (1) a certified ignition interlock device has been installed on the participant's motor vehicle at an installation service center designated by the device's manufacturer; and (2) the participant has insurance coverage on the vehicle equipped with the ignition interlock device. The commissioner shall require the participant to present an insurance identification card, policy, or written statement as proof of insurance coverage, and may require the insurance identification card provided be certified by the insurance company to be noncancelable for a period not to exceed 12 months. A license issued under authority of this section must contain a restriction prohibiting the program participant from driving, operating, or being in physical control of any motor vehicle not equipped with a functioning ignition interlock device certified by the commissioner. A participant may drive an employer-owned vehicle not equipped with an interlock device while in the normal course and scope of employment duties pursuant to the program guidelines established by the commissioner and with the employer's written consent. (b) A program participant whose driver's license has been revoked under section 169A.52, subdivision 3, paragraph (a), clause (1), (2), or (3), or subdivision 4, paragraph (a), clause (1), (2), or (3), or section 169A.54, subdivision 1, clause (1), (2), or (3), may apply for conditional reinstatement of the driver's license, subject to the ignition interlock restriction. (c) A program participant whose driver's license has been revoked, canceled, or denied under section 169A.52, subdivision 3, paragraph (a), clause (4), (5), or (6), or subdivision 4, paragraph (a), clause (4), (5), or (6), or section 169A.54, subdivision 1, clause (4), (5), or (6), may apply for a limited license, subject to the ignition interlock restriction, if the program participant is enrolled in a licensed chemical dependency treatment or rehabilitation program as recommended in a chemical use assessment, and if the participant meets the other applicable requirements of section 171.30. After completing a licensed chemical dependency treatment or rehabilitation program and one year of limited license use without violating the ignition interlock restriction, the conditions of limited license use, or program guidelines, the participant may apply for conditional reinstatement of the driver's license, subject to the ignition

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interlock restriction. If the program participant's ignition interlock device subsequently registers a positive breath alcohol concentration of 0.02 or higher, the commissioner shall cancel the driver's license, and the program participant may apply for another limited license according to this paragraph.

(d) Notwithstanding any statute or rule to the contrary, the commissioner has authority to determine when a program participant is eligible for restoration of full driving privileges, except that the commissioner shall not reinstate full driving privileges until the program participant has met all applicable prerequisites for reinstatement under section 169A.55 and until the program participant's device has registered no positive breath alcohol concentrations of 0.02 or higher during the preceding 90 days.

Subd. 5. **Penalties; program violations.** (a) If a program participant tampers with, circumvents, or bypasses a device; drives, operates, or exercises physical control over a motor vehicle not equipped with a device certified by the commissioner; violates a condition of a limited license issued under subdivision 4 and section 171.30; or violates the program guidelines of subdivision 2, the commissioner shall extend the person's revocation period under section 169A.52 or 169A.54 by:

- (1) 180 days for a first violation;
- (2) one year for a second violation; or
- (3) 545 days for a third and each subsequent violation.

(b) Notwithstanding paragraph (a), the commissioner may terminate participation in the program by any person when, in the commissioner's judgment, termination is necessary to the interests of public safety and welfare. In the event of termination, the commissioner shall not reduce the applicable revocation period under section 169A.52 or 169A.54 by the amount of time during which the person possessed a limited or restricted driver's license issued under the authority of subdivision 4.

Subd. 6. Penalties; tampering. (a) A person who lends, rents, or leases a motor vehicle that is not equipped with a functioning ignition interlock device certified by the commissioner to a person with a license issued under this section knowing that the person is subject to the ignition interlock restriction is guilty of a misdemeanor. (b) A person who tampers with, circumvents, or bypasses the ignition interlock device, or assists another to tamper with, circumvent, or bypass the device, is guilty of a misdemeanor except when the action was taken for emergency purposes or for mechanical repair, and the person limited to the use of an ignition interlock device does not operate the motor vehicle while the device is disengaged.

Subd. 7. Venue. In addition to the provisions of Rule 24 of the Rules of Criminal Procedure and section 627.01, a violation of subdivision 6 or section 171.09, subdivision 1, paragraph (e), may be prosecuted in:

- (1) the county in which the vehicle involved in the offense is found;
- (2) the county in which the accused resides;
- (3) any county through which the vehicle traveled in the course of the trip during or after which the offense was committed; or

(4) the county in which the impaired driving incident occurred, which resulted in the accused being issued a driver's license with an ignition interlock restriction.

Subd. 8. Rulemaking. In establishing the performance standards and certification process of subdivision 2 and the program guidelines of subdivision 3, the commissioner is exempt from chapter 14.

Ignition Interlock Device, continued

including section 14.386. If rules are otherwise necessary to implement this section, the commissioner may adopt, amend, and repeal rules using the exempt procedures of section 14.386, except that paragraph (b) shall not apply.

EFFECTIVE DATE. Subdivisions 1 to 7 are effective July 1, 2011. Subdivision 8 is effective August 1, 2010.

Sec. 15. Minnesota Statutes 2008, section 609.131, subdivision 2, is amended to read:

Subd. 2. Certain violations excepted. Subdivision 1 does not apply to a misdemeanor violation of section 169A.20; 171.09, subdivision 1, paragraph (e); 171.306, subdivision 6; 609.224; 609.2242; 609.226; 609.324, subdivision 3; 609.52; or 617.23, or an ordinance that conforms in substantial part to any of those sections. A violation described in this subdivision must be treated as a misdemeanor unless the defendant consents to the certification of the violation as a petty misdemeanor.

EFFECTIVE DATE. This section is effective July 1, 2011.

<https://www.revisor.mn.gov/laws/?id=366&doctype=Chapter&year=2010&type=0>

Unlawful Possession or Use of Scanning Device or Reencoder

Sec. 3. Minnesota Statutes 2008, section 609.527, is amended by adding a subdivision to read:

Subd. 5b. **Unlawful possession or use of scanning device or reencoder.** (a) A person who uses a scanning device or reencoder without permission of the cardholder of the card from which the information is being scanned or reencoded, with the intent to commit, aid, or abet any unlawful activity, is guilty of a crime.

(b) A person who possesses, with the intent to commit, aid, or abet any unlawful activity, any device, apparatus, equipment, software, material, good, property, or supply that is designed or adapted for use as a scanning device or a reencoder is guilty of a crime.

(c) Whoever commits an offense under paragraph (a) or (b) may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

EFFECTIVE DATE. This section is effective August 1, 2010, and applies to crimes committed on or after that date.

<https://www.revisor.mn.gov/laws/?id=293&doctype=Chapter&year=2010&type=0>

Possession on School Property; Penalty

Section 1. Minnesota Statutes 2008, section 609.66, subdivision 1d, is amended to read:

Subd. 1d. **Possession on school property; penalty.** (a) Except as provided under paragraphs (c) (d) and (e) (f), whoever possesses, stores, or keeps a dangerous weapon or uses or brandishes a replica firearm or a BB gun while knowingly on school property is guilty of a felony and may be sentenced to imprisonment for not more than two five years or to payment of a fine of not more than \$5,000 \$10,000, or both.

(b) Whoever uses or brandishes a replica firearm or a BB gun while knowingly on school property is guilty of a gross misdemeanor.

(b) (c) Whoever possesses, stores, or keeps a replica firearm or a BB gun while knowingly on school property is guilty of a gross misdemeanor.

(c) (d) Notwithstanding paragraph (a) or, (b), or (c), it is a misdemeanor for a person authorized to carry a firearm under the provisions of a permit or otherwise to carry a firearm on or about the person's clothes or person in a location the person knows is school property. Notwithstanding section 609.531, a firearm carried in violation of this paragraph is not subject to forfeiture.

(d) (e) As used in this subdivision:

(1) "BB gun" means a device that fires or ejects a shot measuring .18 of an inch or less in diameter;

(2) "dangerous weapon" has the meaning given it in section 609.02, subdivision 6;

(3) "replica firearm" has the meaning given it in section 609.713; and

(4) "school property" means:

(i) a public or private elementary, middle, or secondary school building and its improved grounds, whether leased or owned by the school; (ii) a child care center licensed under chapter 245A during the period children are present and participating in a child care program;

(iii) the area within a school bus when that bus is being used by a school to transport one or more elementary, middle, or secondary school students to and from school-related activities, including curricular, cocurricular, noncurricular, extracurricular, and supplementary activities; and

(iv) that portion of a building or facility under the temporary, exclusive control of a public or private school, a school district, or an association of such entities where conspicuous signs are prominently posted at each entrance that give actual notice to persons of the school-related use. (e) (f) This subdivision does not apply to:

(1) active licensed peace officers; (2) military personnel or students participating in military training, who are on-duty, performing official duties; (3) persons authorized to carry a pistol under section 624.714 while in a motor vehicle or outside of a motor vehicle to directly place a firearm in, or retrieve it from, the trunk or rear area of the vehicle; (4) persons who keep or store in a motor vehicle pistols in accordance with section 624.714 or 624.715 or other firearms in accordance with section 97B.045; (5) firearm safety or marksmanship courses or activities conducted on school property; (6) possession of dangerous weapons, BB guns, or replica firearms by a ceremonial color guard; (7) a gun or knife show held on school property; (8) possession of dangerous weapons, BB guns, or replica firearms with written permission of the principal or other person having general control and supervision of the school or the director of a child care center; or (9) persons who are on unimproved property owned or leased by a child care center, school, or school district unless the person knows that a student is currently present on the land for a school-related activity.

Possession on School Property; Penalty continued

(f) (g) Notwithstanding section 471.634, a school district or other entity composed exclusively of school districts may not regulate firearms, ammunition, or their respective components, when possessed or carried by nonstudents or nonemployees, in a manner that is inconsistent with this subdivision.

EFFECTIVE DATE. This section is effective August 1, 2010, and applies to crimes committed on or after that date.

<https://www.revisor.mn.gov/laws/?id=268&doctype=Chapter&year=2010&type=0>

Detaining EJJ Offender in Jail

Section 1. Minnesota Statutes 2008, section 260B.130, subdivision 5, is amended to read:

Subd. 5. **Execution of adult sentence.** (a) When it appears that a person convicted as an extended jurisdiction juvenile has violated the conditions of the stayed sentence, or is alleged to have committed a new offense, the court may, without notice, revoke the stay and probation and direct that the offender be taken into immediate custody. The court shall notify the offender in writing of the reasons alleged to exist for revocation of the stay of execution of the adult sentence. If the offender challenges the reasons, the court shall hold a summary hearing on the issue at which the offender is entitled to be heard and represented by counsel.

(b) If a person described in paragraph (a) is taken into custody, the person may be detained in a secure juvenile detention facility. If there is no secure juvenile detention facility or existing acceptable detention alternative available for juveniles within the county, the child may be detained up to 24 hours, excluding Saturdays, Sundays, and holidays, or for up to six hours in a standard metropolitan statistical area, in a jail, lockup, or other facility used for the confinement of adults who have been charged with or convicted of a crime. In this instance, the person must be confined in quarters separate from any adult confined in the facility that allow for complete sight and sound separation for all activities during the period of the detention, and the adult facility must be approved for the detention of juveniles by the commissioner of corrections. If the person is 18 years of age or older and is to be detained prior to the revocation hearing, the person may be detained in a local adult correctional facility without the need for sight and sound separation.

(c) After the hearing, if the court finds that reasons exist to revoke the stay of execution of sentence, the court shall treat the offender as an adult and order any of the adult sanctions authorized by section 609.14, subdivision 3, except that no credit shall be given for time served in juvenile facility custody prior to a summary hearing. If the offender was convicted of an offense described in subdivision 1, clause (2), and the court finds that reasons exist to revoke the stay, the court must order execution of the previously imposed sentence unless the court makes written findings regarding the mitigating factors that justify continuing the stay.

(d) Upon revocation, the offender's extended jurisdiction status is terminated and juvenile court jurisdiction is terminated. The ongoing jurisdiction for any adult sanction, other than commitment to the commissioner of corrections, is with the adult court.

<https://www.revisor.mn.gov/laws/?id=330&doctype=Chapter&year=2010&type=0>

Interstate Compact on Juvenile Offenders

Section 1. [260.515] INTERSTATE COMPACT FOR JUVENILES.

The Interstate Compact for Juveniles is enacted into law and entered into with all other states legally joining in it in substantially the following form:

ARTICLE I PURPOSE

The compacting states to this Interstate Compact recognize that each state is responsible for the proper supervision or return of juveniles, delinquents, and status offenders who are on probation or parole and who have absconded, escaped, or run away from supervision and control and in so doing have endangered their own safety and the safety of others. The compacting states also recognize that each state is responsible for the safe return of juveniles who have run away from home and in doing so have left their state of residence. The compacting states also recognize that Congress, by enacting the Crime Control Act, United States Code, title 4, section 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.

It is the purpose of this compact, through means of joint and cooperative action among the compacting states to:

- (A) ensure that the adjudicated juveniles and status offenders subject to this compact are provided adequate supervision and services in the receiving state as ordered by the adjudicating judge or parole authority in the sending state;
- (B) ensure that the public safety interests of the citizens, including the victims of juvenile offenders, in both the sending and receiving states are adequately protected;
- (C) return juveniles who have run away, absconded, or escaped from supervision or control or have been accused of an offense to the state requesting their return;
- (D) make contracts for the cooperative institutionalization in public facilities in member states for delinquent youth needing special services;
- (E) provide for the effective tracking and supervision of juveniles;
- (F) equitably allocate the costs, benefits, and obligations of the compact states;
- (G) establish procedures to manage the movement between states of juvenile offenders released to the community under the jurisdiction of courts, juvenile departments, or any other criminal or juvenile justice agency which has jurisdiction over juvenile offenders;
- (H) insure immediate notice to jurisdictions where defined juvenile offenders are authorized to travel or to relocate across state lines;
- (I) establish procedures to resolve pending charges (detainers) against juvenile offenders prior to transfer or release to the community under the terms of this compact;
- (J) establish a system of uniform data collection on information pertaining to juveniles subject to this compact that allows access by authorized juvenile justice and criminal justice officials, and regular reporting of compact activities to heads of state; executive, judicial, and legislative branches; and juvenile criminal justice administrators;
- (K) monitor compliance with rules governing interstate movement of juveniles and initiate interventions to address and correct noncompliance;
- (L) coordinate training and education regarding the regulation of interstate movement of juveniles for officials involved in such activity; and
- (M) coordinate the implementation and operation of the compact with the Interstate Compact for the Placement of Children, the Interstate Compact for Adult Offender Supervision, and other compacts affecting juveniles particularly in those cases where concurrent or overlapping supervision issues arise. It is the policy of the compacting states that the activities conducted by the Interstate Commission created herein are the information of public policies and therefore are public business. Furthermore, the compacting states shall cooperate and observe their individual and collective duties and responsibilities for the prompt return and acceptance of juveniles subject to the provisions

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of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the purpose and policies of the compact.

ARTICLE II DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

- A. "Bylaws" means those bylaws established by the commission for its governance, or for directing or controlling its actions or conduct.
- B. "Compact administrator" means the individual in each compacting state appointed pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission, and policies adopted by the state council under this compact.
- C. "Compacting state" means any state which has enacted the enabling legislation for this compact.
- D. "Commissioner" means the voting representative of each compacting state appointed pursuant to Article III of this compact.
- E. "Court" means any court having jurisdiction over delinquent, neglected, or dependent children.
- F. "Deputy compact administrator" means the individual, if any, in each compacting state appointed to act on behalf of a compact administrator pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission, and policies adopted by the state council under this compact.
- G. "Interstate Commission" means the Interstate Commission for Juveniles created by Article III of this compact.
- H. "Juvenile" means any person defined as a juvenile in any member state or by the rules of the Interstate Commission, including: (1) accused delinquent - a person charged with an offense that, if committed by an adult, would be a criminal offense; (2) adjudicated delinquent - a person found to have committed an offense that, if committed by an adult, would be a criminal offense; (3) accused status offender - a person charged with an offense that would not be a criminal offense if committed by an adult; (4) adjudicated status offender - a person found to have committed an offense that would not be a criminal offense if committed by an adult; and (5) nonoffender - a person in need of supervision who has not been accused or adjudicated a status offender or delinquent.
- I. "Noncompacting state" means any state which has not enacted the enabling legislation for this compact.
- J. "Probation" or "parole" means any kind of supervision or conditional release of juveniles authorized under the laws of the compacting states.
- K. "Rule" means a written statement by the Interstate Commission promulgated pursuant to Article VI of this compact that is of general applicability, implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the commission, and has the force and effect of statutory law in a compacting state, and includes the amendment, repeal, or suspension of an existing rule.
- L. "State" means a state of the United States, the District of Columbia (or its designee), the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Northern Marianas.

ARTICLE III INTERSTATE COMMISSION FOR JUVENILES

A. The compacting states hereby create the "Interstate Commission for Juveniles." The commission shall be a body corporate and joint agency of the compacting states. The commission shall have all the responsibilities, powers, and duties set forth herein, and

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such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

B. The Interstate Commission shall consist of commissioners appointed by the appropriate appointing authority in each state pursuant to the rules and requirements of each compacting state and in consultation with the State Advisory Council for Interstate Supervision of Juvenile Offenders and Runaways created hereunder. The commissioner shall be the compact administrator. The commissioner of corrections or the commissioner's designee shall serve as the compact administrator, who shall serve on the Interstate Commission in such capacity under or pursuant to the applicable law of the compacting state.

C. In addition to the commissioners who are the voting representatives of each state, the Interstate Commission shall include individuals who are not commissioners but who are members of interested organizations. Such noncommissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general, Interstate Compact for Adult Offender Supervision, Interstate Compact on the Placement of Children, juvenile justice and juvenile corrections officials, and crime victims. All noncommissioner members of the Interstate Commission shall be ex-officio (nonvoting) members. The Interstate Commission may provide in its bylaws for such additional ex-officio (nonvoting) members, including members of other national organizations, in such numbers as shall be determined by the commission.

D. Each compacting state represented at any meeting of the commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

E. The commission shall meet at least once each calendar year. The chair may call additional meetings and, upon the request of a simple majority of the compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

F. The Interstate Commission shall establish an executive committee, which shall include commission officers, members, and others as determined by the bylaws. The executive committee shall have the power to act on behalf of the Interstate Commission during periods when the Interstate Commission is not in session, with the exception of rulemaking and/or amendment to the compact. The executive committee shall oversee the day-to-day activities of the administration of the compact managed by an executive director and Interstate Commission staff; administer enforcement and compliance with the provisions of the compact, its bylaws, and rules; and perform such other duties as directed by the Interstate Commission or set forth in the bylaws.

G. Each member of the Interstate Commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the Interstate Commission. A member shall vote in person and shall not delegate a vote to another compacting state. However, a commissioner, in consultation with the state council, shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the compacting state at a specified meeting. The bylaws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication.

H. The Interstate Commission's bylaws shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

I. Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and any of its committees may close a meeting to the public whereit determines by two-thirds vote that an open meeting would be likely to:

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1. relate solely to the Interstate Commission's internal personnel practices and procedures;
2. disclose matters specifically exempted from disclosure by statute;
3. disclose trade secrets or commercial or financial information which is privileged or confidential;
4. involve accusing any person of a crime or formally censuring any person;
5. disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
6. disclose investigative records compiled for law enforcement purposes;
7. disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of or for the use of, the Interstate Commission with respect to a regulated person or entity for the purpose of regulation or supervision of such person or entity;
8. disclose information, the premature disclosure of which would significantly endanger the stability of a regulated person or entity;
9. specifically relate to the Interstate Commission's issuance of a subpoena or its participation in a civil action or other legal proceeding.

J. For every meeting closed pursuant to this provision, the Interstate Commission's legal counsel shall publicly certify that, in the legal counsel's opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefore, including a description of each of the views expressed on any item and the record of any roll call vote (reflected in the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

K. The Interstate Commission shall collect standardized data concerning the interstate movement of juveniles as directed through its rules which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements. Such methods of data collection, exchange, and reporting shall insofar as is reasonably possible conform to up-to-date technology and coordinate its information functions with the appropriate repository of records.

ARTICLE IV POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The commission shall have the following powers and duties:

1. To provide for dispute resolution among compacting states.
2. To promulgate rules to affect the purposes and obligations as enumerated in this compact, which shall have the force and effect of statutory law and shall be binding in the compact states to the extent and in the manner provided in this compact.
3. To oversee, supervise, and coordinate the interstate movement of juveniles subject to the terms of this compact and any bylaws adopted and rules promulgated by the Interstate Commission.
4. To enforce compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process.
5. To establish and maintain offices which shall be located within one or more of the compacting states.
6. To purchase and maintain insurance and bonds.
7. To borrow, accept, hire, or contract for services of personnel.
8. To establish and appoint committees and hire staff which it deems necessary for the carrying out of its functions including, but not limited to, an executive committee as required by Article III, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.

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9. To elect or appoint such officers, attorneys, employees, agents, or consultants, and
10. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.
11. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed.
12. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.
13. To establish a budget, make expenditures, and levy dues as provided in Article VIII of this compact.
14. To sue and be sued.
15. To adopt a seal and bylaws governing the management and operation of the Interstate Commission.
16. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.
17. To report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.
18. To coordinate education, training, and public awareness regarding the interstate movement of juveniles for officials involved in such activity.
19. To establish uniform standards of the reporting, collecting, and exchanging of data.
20. The Interstate Commission shall maintain its corporate books and records in accordance with the bylaws.

ARTICLE V ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

Section A. Bylaws.

1. The Interstate Commission shall, by a majority of the members present and voting, within 12 months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:
 - a. establishing the fiscal year of the Interstate Commission;
 - b. establishing an executive committee and such other committees as may be necessary;
 - c. provide: (i) for the establishment of committees, and (ii) governing any general or specific delegation of any authority or function of the Interstate Commission;
 - d. providing reasonable procedures for calling and conducting meetings of the Interstate Commission and ensuring reasonable notice of each such meeting;
 - e. establishing the titles and responsibilities of the officers of the Interstate Commission;
 - f. providing a mechanism for concluding the operations of the Interstate Commission and the return of any surplus funds that may exist upon the termination of the compact after the payment and/or reserving of all of its debts and obligations;
 - g. providing "start-up" rules for initial administration of the compact;
 - h. establishing standards and procedures for compliance and technical assistance in carrying out the compact.

Section B. Officers and staff.

1. The Interstate Commission shall, by a majority of the members, elect annually from among its members a chair and a vice chair, each of whom shall have such authority and duties as may be specified in the bylaws. The chair or, in the chair's absence or disability, the vice chair shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budget funds, the officers shall be reimbursed for any ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.
2. The Interstate Commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions, and for such

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compensation as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a member and shall hire and supervise such other staff as may be authorized by the Interstate Commission. Section C. Qualified immunity, defense, and indemnification.

1. The commission's executive director and employees shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to any actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided, that any such person shall not be protected from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

2. The liability of any commissioner, or the employee or agent of a commissioner, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. Nothing in this subsection shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

3. The Interstate Commission shall defend the executive director or the employees or representatives of the Interstate Commission and, subject to the approval of the attorney general of the state represented by any commissioner of a compacting state, shall defend such commissioner or the commissioner's representatives or employees in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the defendant has a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

4. The Interstate Commission shall indemnify and hold the commissioner of a compacting state, or the commissioner's representatives or employees, or the Interstate Commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE VI RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

1. The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

2. Rulemaking shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, page 1 (2000), or such other administrative procedures act, as the Interstate Commission deems appropriate consistent with due process requirements under the United States Constitution as now or hereafter interpreted by the United States Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the commission.

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3. When promulgating a rule, the Interstate Commission shall, at a minimum: a. publish the proposed rule's entire text stating the reasons for that proposed rule; b. allow and invite any and all persons to submit written data, facts, opinions, and arguments, which information shall be added to the record, and be made publicly available; c. provide an opportunity for an informal hearing if petitioned by ten or more persons; and d. promulgate a final rule and its effective date, if appropriate, based on input from state or local officials, or interested parties.
4. The Interstate Commission shall allow, not later than 60 days after a rule is promulgated, any interested person to file a petition in the United States District Court for the District of Columbia or in the federal District Court where the Interstate Commission's principal office is located for judicial review of such rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside. For purposes of this subsection, evidence is substantial if it would be considered substantial evidence under the Model (State) Administrative Procedures Act.
5. If a majority of the legislatures of the compacting states rejects a rule, those states may, by enactment of a statute or resolution in the same manner used to adopt the compact, cause that such rule shall have no further force and effect in any compacting state.
6. The existing rules governing the operation of the Interstate Compact on Juveniles superceded by this act shall be null and void 12 months after the first meeting of the Interstate Commission created hereunder.
7. Upon determination by the Interstate Commission that a state of emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, but no later than 90 days after the effective date of the emergency rule.

ARTICLE VII OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION BY THE INTERSTATE COMMISSION

Section A. Oversight.

1. The Interstate Commission shall oversee the administration and operations of the interstate movement of juveniles subject to this compact in the compacting states and shall monitor such activities being administered in noncompacting states which may significantly affect compacting states.
2. The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall be received by all the judges, public officers, commissions, and departments of the state government as evidence of the authorized statute and administrative rules. All courts shall take judicial notice of the compact and the rules. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the Interstate Commission, it shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes.
3. The compact administrator shall assess and collect fines, fees, and costs from any state or local entity deemed responsible by the compact administrator for a default as determined by the Interstate Commission under Article XI. Section B. Dispute resolution. The compacting states shall report to the Interstate Commission on all issues and activities necessary for the administration of the compact as well as issues and activities pertaining to compliance with the provisions of the compact and its bylaws and rules. The Interstate Commission shall attempt, upon the request of a compacting state,

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3. The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact using any or all means set forth in Article XI of this compact.

ARTICLE VIII FINANCE

1. The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.
2. The Interstate Commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, taking into consideration the population of each compacting state and the volume of interstate movement of juveniles in each compacting state, and shall promulgate a rule binding upon all compacting states which governs said assessment.
3. The Interstate Commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.
4. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.
5. Minnesota's annual assessment shall not exceed \$30,000. The Interstate Compact for Juveniles fund is established as a special fund in the Department of Corrections. The fund consists of money appropriated for the purpose of meeting financial obligations imposed on the state as a result of Minnesota's participation in this compact. An assessment levied or any other financial obligation imposed under this compact is effective against the state only to the extent that money to pay the assessment or meet the financial obligation has been appropriated and deposited in the fund established in this paragraph.

ARTICLE IX THE STATE ADVISORY COUNCIL

Each member state shall create a State Advisory Council for the Interstate Compact for Juveniles. The Advisory Council on the Interstate Compact for Juveniles consists of the following individuals or their designees:

- (1) the governor;
- (2) the chief justice of the Supreme Court;
- (3) two senators, one from the majority and the other from the minority party, selected by the Subcommittee on Committees of the senate Committee on Rules and Administration;
- (4) two representatives, one from the majority and the other from the minority party, selected by the house speaker;
- (5) a representative from the Department of Human Services regarding the Interstate Compact for the Placement of Children;
- (6) the compact administrator, selected as provided in Article III;
- (7) the executive director of the Office of Justice Programs or designee;
- (8) the deputy compact administrator; and
- (9) other members as appointed by the commissioner of corrections. The council may elect a chair from among its members. The council shall oversee and administer the state's participation in the compact as described in Article III. The council shall appoint the compact administrator as the state's commissioner.

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The state advisory council will advise and exercise advocacy concerning that state's participation in Interstate Commission activities and other duties as may be determined by that state, including, but not limited to, development of policy concerning operations and procedures of the compact within that state. Expiration; expenses. The provisions of section 15.059 apply to the council except that it does not expire.

ARTICLE X COMPACTING STATES, EFFECTIVE DATE, AND AMENDMENT

1. Any state, the District of Columbia (or its designee), the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands as defined in Article II of this compact is eligible to become a compacting state.
2. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 of the states. The initial effective date shall be the later of July 1, 2004, or upon enactment into law by the 35th jurisdiction. Thereafter, it shall become effective and binding as to any other compacting state upon enactment of the compact into law by that state. The governors of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states and territories of the United States.
3. The Interstate Commission may propose amendments to the compact for enactment by the compacting states. No amendment shall become effective and binding upon the Interstate Commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

ARTICLE XI WITHDRAWAL, DEFAULT, TERMINATION, AND JUDICIAL ENFORCEMENT

Section A. Withdrawal.

1. Once effective, the compact shall continue in force and remain binding upon each and every compacting state; provided that a compacting state may withdraw from the compact specifically repealing the statute, which enacted the compact into law.
2. The effective date of withdrawal is the effective date of the repeal.
3. The withdrawing state shall immediately notify the chair of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other compacting states of the withdrawing state's intent to withdraw within 60 days of its receipt thereof.
4. The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.
5. Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

Section B. Technical assistance, fines, suspension, termination, and default. If the Interstate Commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact, or the bylaws or duly promulgated rules, the Interstate Commission may impose any or all of the following penalties: a. remedial training and technical assistance as directed by the Interstate Commission; b. alternative dispute resolution; c. fines, fees, and costs in such amounts as are deemed to be reasonable as fixed by the Interstate Commission; d. suspension or termination of membership in the compact, which shall be imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted and the

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Interstate Commission has therefore determined that the offending state is in default. Immediate notice of suspension shall be given by the Interstate Commission to the governor, the chief justice, or the chief judicial officer of the state; the majority and minority leaders of the defaulting state's legislature; and the state council. The grounds for default include, but are not limited to, failure of a compacting state to perform such obligations or responsibilities imposed upon it by this compact, the bylaws, or duly promulgated rules and any other grounds designated in commission bylaws and rules. The Interstate Commission shall immediately notify the defaulting state in writing of the penalty imposed by the Interstate Commission and of the default pending a cure of the default. The commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the commission, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of termination.

2. Within 60 days of the effective date of termination of a defaulting state, the commission shall notify the governor, the chief justice or chief judicial officer, the majority and minority leaders of the defaulting state's legislature, and the state council of such termination.

3. The defaulting state is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

4. The Interstate Commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

5. Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the Interstate Commission pursuant to the rules.

Section C. Judicial enforcement. The Interstate Commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its offices, to enforce compliance with the provisions of the compact, its duly promulgated rules and bylaws, against any compacting state in default. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.

Section D. Dissolution of compact. The compact dissolves effective upon the date of the withdrawal or default of the compacting state, which reduces membership in the compact to one compacting state. 2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and any surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XII

SEVERABILITY AND CONSTRUCTION

1. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of this compact shall be enforceable.

2. The provisions of this compact shall be liberally constructed to effectuate its purposes.

ARTICLE XIII BINDING EFFECT OF COMPACT AND OTHER LAWS

Section A. Other laws.

1. Nothing herein prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact. 2. All compacting states' laws other than state constitutions and other interstate compacts conflicting with this compact are superseded to the extent of the conflict.

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Section B. Binding effect of the compact. 1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the compacting state. 2. All agreements between the Interstate Commission and the compacting states are binding in accordance with their terms. 3. Upon the request of a party to a conflict over meaning or interpretation of Interstate Commission actions, and upon a majority vote of the compacting states, the Interstate Commission may issue advisory opinions regarding such meaning of interpretation. 4. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by such provision upon the Interstate Commission shall be ineffective and such obligations, duties, powers, or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this compact becomes effective.

<https://www.revisor.mn.gov/laws/?id=378&doctype=Chapter&year=2010&type=0>

Drivers License for Foster Children

Section 1. Minnesota Statutes 2008, section 171.04, subdivision 1, is amended to read:
Subdivision 1. **Persons not eligible.** The department shall not issue a driver's license:

(1) to any person under 18 years unless:

(i) the applicant is 16 or 17 years of age and has a previously issued valid license from another state or country or the applicant has, for the 12 consecutive months preceding application, held a provisional license and during that time has incurred (A) no conviction for a violation of section 169A.20, 169A.33, 169A.35, or sections 169A.50 to 169A.53, (B) no conviction for a crash-related moving violation, and (C) not more than one conviction for a moving violation that is not crash related. "Moving violation" means a violation of a traffic regulation but does not include a parking violation, vehicle equipment violation, or warning citation;

(ii) the application for a license is approved by (A) either parent when both reside in the same household as the minor applicant or, if otherwise, then (B) the parent or spouse of the parent having custody or, in the event there is no court order for custody, then (C) the parent or spouse of the parent with whom the minor is living or, if subitems (A) to (C) do not apply, then (D) the guardian having custody of the minor, (E) the foster parent or director of the transitional living program in which the child resides or, in the event a person under the age of 18 has no living father, mother, or guardian, or is married or otherwise legally emancipated, then (E) (F) the minor's adult spouse, adult close family member, or adult employer; provided, that the approval required by this item contains a verification of the age of the applicant and the identity of the parent, guardian, adult spouse, adult close family member, or adult employer; and (iii) the applicant presents a certification by the person who approves the application under item (ii), stating that the applicant has driven a motor vehicle accompanied by and under supervision of a licensed driver at least 21 years of age for at least ten hours during the period of provisional licensure;

(2) to any person who is 18 years of age or younger, unless the person has applied for, been issued, and possessed the appropriate instruction permit for a minimum of six months, and, with respect to a person under 18 years of age, a provisional license for a minimum of 12 months;

(3) to any person who is 19 years of age or older, unless that person has applied for, been issued, and possessed the appropriate instruction permit for a minimum of three months;

(4) to any person whose license has been suspended during the period of suspension except that a suspended license may be reinstated during the period of suspension upon the licensee furnishing proof of financial responsibility in the same manner as provided in the Minnesota No-Fault Automobile Insurance Act;

(5) to any person whose license has been revoked except upon furnishing proof of financial responsibility in the same manner as provided in the Minnesota No-Fault Automobile Insurance Act and if otherwise qualified;

(6) to any drug-dependent person, as defined in section 254A.02, subdivision 5;

(7) to any person who has been adjudged legally incompetent by reason of mental illness, mental deficiency, or inebriation, and has not been restored to capacity, unless the department is satisfied that the person is competent to operate a motor vehicle with safety to persons or property;

(8) to any person who is required by this chapter to take a vision, knowledge, or road examination, unless the person has successfully passed the examination. An applicant who fails four road tests must complete a minimum of six hours of behind-the-wheel instruction with an approved instructor before taking the road test again;

(9) to any person who is required under the Minnesota No-Fault Automobile Insurance Act to deposit proof of financial responsibility and who has not deposited the proof;

Drivers License for Foster Children, continued

- (10) to any person when the commissioner has good cause to believe that the operation of a motor vehicle on the highways by the person would be inimical to public safety or welfare;
- (11) to any person when, in the opinion of the commissioner, the person is afflicted with or suffering from a physical or mental disability or disease that will affect the person in a manner as to prevent the person from exercising reasonable and ordinary control over a motor vehicle while operating it upon the highways;
- (12) to a person who is unable to read and understand official signs regulating, warning, and directing traffic;
- (13) to a child for whom a court has ordered denial of driving privileges under section 260C.201, subdivision 1, or 260B.235, subdivision 5, until the period of denial is completed; or
- (14) to any person whose license has been canceled, during the period of cancellation.

Sec. 2. Minnesota Statutes 2008, section 171.05, subdivision 2, is amended to read:

Subd. 2. **Person less than 18 years of age.** (a) Notwithstanding any provision in subdivision 1 to the contrary, the department may issue an instruction permit to an applicant who is 15, 16, or 17 years of age and who: (1) has completed a course of driver education in another state, has a previously issued valid license from another state, or is enrolled in either: (i) a public, private, or commercial driver education program that is approved by the commissioner of public safety and that includes classroom and behind-the-wheel training; or (ii) an approved behind-the-wheel driver education program when the student is receiving full-time instruction in a home school within the meaning of sections 120A.22 and 120A.24, the student is working toward a homeschool diploma, the student's status as a homeschool student has been certified by the superintendent of the school district in which the student resides, and the student is taking home-classroom driver training with classroom materials approved by the commissioner of public safety;

(2) has completed the classroom phase of instruction in the driver education program;

(3) has passed a test of the applicant's eyesight;

(4) has passed a department-administered test of the applicant's knowledge of traffic laws;

(5) has completed the required application, which must be approved by (i) either parent when both reside in the same household as the minor applicant or, if otherwise, then (ii) the parent or spouse of the parent having custody or, in the event there is no court order for custody, then (iii) the parent or spouse of the parent with whom the minor is living or, if items (i) to (iii) do not apply, then (iv) the guardian having custody of the minor, (v) the foster parent or the director of the transitional living program in which the child resides or, in the event a person under the age of 18 has no living father, mother, or guardian, or is married or otherwise legally emancipated, then (v) (vi) the applicant's adult spouse, adult close family member, or adult employer; provided, that the approval required by this clause contains a verification of the age of the applicant and the identity of the parent, guardian, adult spouse, adult close family member, or adult employer; and (6) has paid the fee required in section 171.06, subdivision 2.

(b) The instruction permit is valid for two years from the date of application and may be renewed upon payment of a fee equal to the fee for issuance of an instruction permit under section 171.06, subdivision 2.

Drivers License for Foster Children, continued

Sec. 3. Minnesota Statutes 2008, section 171.055, subdivision 1, is amended to read:

Subdivision 1. **Requirements for provisional license.** (a) The department may issue a provisional license, which must be distinctive in appearance from a driver's license, to an applicant who:

- (1) has reached the age of 16 years;
- (2) during the six months immediately preceding the application for the provisional license has possessed an instruction permit and has incurred (i) no convictions for a violation of section 169A.20, 169A.33, 169A.35, or sections 169A.50 to 169A.53, (ii) no convictions for a crash-related moving violation, and (iii) no convictions for a moving violation that is not crash related;
- (3) has successfully completed a course of driver education in accordance with department rules;
- (4) completes the required application, which must be approved by (i) either parent when both reside in the same household as the minor applicant or, if otherwise, then (ii) the parent or spouse of the parent having custody or, in the event there is no court order for custody, then (iii) the parent or spouse of the parent with whom the minor is living or, if items (i) to (iii) do not apply, then (iv) the guardian having custody of the minor, (v) the foster parent or the director of the transitional living program in which the child resides or, in the event a person under the age of 18 has no living father, mother, or guardian, or is married or otherwise legally emancipated, then (v) (vi) the applicant's adult spouse, adult close family member, or adult employer; provided, that the approval required by this clause contains a verification of the age of the applicant and the identity of the parent, guardian, adult spouse, adult close family member, or adult employer;
- (5) presents certification by the person who approves the application under clause stating that the applicant has driven a motor vehicle accompanied by and under the supervision of a licensed driver at least 21 years of age, for no less than 30 hours, at least ten of which were nighttime hours; and
- (6) pays the fee required in section 171.06, subdivision 2. (b) For purposes of this section, "moving violation" has the meaning given it in section 171.04, subdivision 1. (c) Notwithstanding paragraph (a), clause (2), the commissioner shall not issue a provisional license to a person who has ever incurred a conviction for violation of section 169A.20, 169A.33, or 169A.35; a violation of a provision of sections 169A.50 to 169A.53; or a crash-related moving violation, and at the time of the conviction the person did not possess an instruction permit.

<https://www.revisor.mn.gov/laws/?id=269&doctype=Chapter&year=2010&type=0>

MISCELLANEOUS

Evidence of Videotapes, Audiotapes, or Other Recordings

MSA 634.36

In any hearing or trial of a criminal offense or petty misdemeanor or proceeding pursuant to section 169A.53, subdivision 3, evidence of a videotape, audiotape, or electronic or digital recording prepared by a peace officer, using recording equipment in a law enforcement vehicle, while in the performance of official duties shall not be excluded on the ground that a written transcript of the recording was not prepared and available at or prior to trial. As used in this section, "peace officer" has the meaning given in section 169A.03, subdivision 18.

EFFECTIVE DATE. This section is effective July 1, 2010, and applies to trials and hearings beginning on or after that date.

<https://www.revisor.mn.gov/laws/?id=231&doctype=Chapter&year=2010&type=0>

Sale or Possession of Salvia Divinorum

Minnesota Statutes 2008, section 152.027

- (a) A person who unlawfully sells any amount of salvia divinorum or salvinorin A is guilty of a gross misdemeanor.
- (a) A person who unlawfully possesses any amount of salvia divinorum or salvinorin A is guilty of a misdemeanor.

EFFECTIVE DATE. This section is effective August 1, 2010, and applies to crimes committed on or after that date.

<https://www.revisor.mn.gov/laws/?id=368&doctype=Chapter&year=2010&type=0>

Licensure required. (a) Effective January 1, 2011, no individual may perform tattooing unless the individual holds a valid tattoo technician license issued by the commissioner under this chapter, except as provided in subdivision 3. (b) Effective January 1, 2011, no individual may perform body piercing unless the individual holds a valid body piercing technician license issued by the commissioner under this chapter, except as provided in subdivision 3.(c) If an individual performs both tattooing and body piercing, the individual must hold a valid dual body art technician license.

Subd. 2. Designation. (a) No individual may use the title of "tattooist," "tattoo artist," "tattoo technician," "body art practitioner," "body art technician," or other letters, words, or titles in connection with that individual's name which in any way represents that the individual is engaged in the practice of tattooing or authorized to do so, unless the individual is licensed and authorized to perform tattooing under this chapter.

(b) No individual may use the title "body piercer," "body piercing artist," "body art practitioner," "body art technician," or other letters, words, or titles in connection with that individual's name which in any way represents that the individual is engaged in the practice of body piercing or authorized to do so, unless the individual is licensed and authorized to perform body piercing under this chapter.

(c) Any representation made to the public by a licensed technician must specify the types of body art procedures the technician is licensed to perform.

Subd. 3. Exceptions. (a) The following individuals may perform body art procedures within the scope of their practice without a technician's license:

- (1) a physician licensed under chapter 147;
- (2) a nurse licensed under sections 148.171 to 148.285;
- (3) a chiropractor licensed under chapter 148;
- (4) an acupuncturist licensed under chapter 147B;
- (5) a physician's assistant licensed under chapter 147A; or
- (6) a dental professional licensed under chapter 150A.

(b) A guest artist under section 146B.04 may perform body art procedures in accordance with the requirements of section 146B.04.

Subd. 4. Licensure requirements. An applicant for licensure under this section shall submit to the commissioner on a form provided by the commissioner:(1) proof that the applicant is over the age of 18; (2) the type of license the applicant is applying for; (3) all fees required under section 146B.10; (4) proof of completing a minimum of 200 hours of supervised experience within the area for which the applicant is seeking a license, and must include an affidavit from the supervising licensed technician; (5) proof of having satisfactorily completed coursework approved by the commissioner on bloodborne pathogens, the prevention of disease transmission, infection control, and aseptic technique. Courses to be considered for approval by the commissioner

may include, but are not limited to, those administered by one of the following:

- (i) the American Red Cross;
 - (ii) United States Occupational Safety and Health Administration (OSHA); or
 - (iii) the Alliance of Professional Tattooists; and
- (6) any other relevant information requested by the commissioner.

Subd. 5. Action on licensure applications. (a) The commissioner shall notify the applicant in writing of the action taken on the application. If the application is approved, the commissioner shall issue a tattoo technician license, a body piercing technician license, or a dual body art technician license.

Licensure For Body Art Technicians, continued

(b) If licensure is denied, the applicant must be notified of the determination and the grounds for it, and the applicant may request a hearing under chapter 14 on the determination by filing a written statement with the commissioner within 30 days after receipt of the notice of denial. After the hearing, the commissioner shall notify the applicant in writing of the decision.

Subd. 6. Licensure term; renewal. (a) A technician's license is valid for two years from the date of issuance and may be renewed upon payment of the renewal fee established under section 146B.10.(b) At renewal, a licensee must submit proof of continuing education approved by the commissioner in the areas identified in subdivision 4, clause (5).

Subd. 7. Temporary licensure. (a) The commissioner may issue a temporary license to an applicant who submits to the commissioner on a form provided by the commissioner:

(1) proof that the applicant is over the age of 18;

(2) all fees required under section 148B.10; and

(3) a letter from a licensed technician who has agreed to provide the supervision to meet the supervised experience requirement under subdivision 4, clause

(4). b) Upon completion of the required supervised experience, the temporary licensee shall submit documentation of satisfactorily completing the requirements under subdivision 4, clauses (3) and (4), and the applicable fee under section 146B.10. The commissioner shall issue a new license in accordance with subdivision 4 (c) A temporary license issued under this subdivision is valid for one year and may be renewed for one additional year.

Subd. 8. License by reciprocity. The commissioner shall issue a technician's license to a person who holds a current license, certification, or registration from another state if the commissioner determines that the standards for licensure, certification, or registration in the other jurisdiction meet or exceed the requirements for licensure stated in this chapter and a letter is received from that jurisdiction stating that the applicant is in good standing.

Subd. 9. Transfer and display of license. A license issued under this section is not transferable to another individual. A valid license must be displayed at the establishment site and available to the public upon request.

Subd. 10. Transition period. Until January 1, 2012, the supervised experience requirement under subdivision 4, clause (4), shall be waived by the commissioner if the applicant submits to the commissioner evidence satisfactory to the commissioner that the applicant has performed at least 2,080 hours within the last five years in the body art area in which the applicant is seeking licensure.

<https://www.revisor.mn.gov/laws/?id=317&doctype=Chapter&year=2010&type=0>

Tinted Windows

Section 1. Minnesota Statutes 2008, section 169.71, is amended by adding a subdivision to read:

Subd. 5. Glazing material; prohibitions on sale. (a) No person shall sell or offer for sale or use on any motor vehicle, windows or windshields that are composed of, covered by, or treated with material that fails to comply with the provisions of subdivision 4. No person shall apply or offer to apply, as part of a business transaction, material to motor vehicle windows or windshields that fails to comply with the provisions of subdivision 4.

(b) Violation of this subdivision is a misdemeanor.

(c) This subdivision does not apply to sale or offers for sale of a motor vehicle containing windows or windshields composed of, covered by, or treated with material that fails to comply with the provisions of subdivision 4.

<https://www.revisor.mn.gov/laws/?id=304&doctype=Chapter&year=2010&type=0>