STATE OF MINNESOTA

EIGHTY-FIRST SESSION — 2000

ONE HUNDRED SIXTH DAY

SAINT PAUL, MINNESOTA, WEDNESDAY, APRIL 12, 2000

The House of Representatives convened at 10:00 a.m. and was called to order by Steve Sviggum, Speaker of the House.

Prayer was offered by the Reverend Bruce Talso, Brooklyn Park, Minnesota.

The members of the House gave the pledge of allegiance to the flag of the United States of America.

The roll was called and the following members were present:

Abeler	Dorn	Huntley	Mares	Pelowski	Tingelstad
Abrams	Entenza	Jaros	Mariani	Peterson	Tomassoni
Anderson, B.	Erhardt	Jennings	Marko	Pugh	Trimble
Anderson, I.	Erickson	Johnson	McCollum	Rest	Tuma
Bakk	Finseth	Juhnke	McElroy	Reuter	Tunheim
Biernat	Folliard	Kahn	McGuire	Rhodes	Van Dellen
Bishop	Fuller	Kalis	Milbert	Rifenberg	Vandeveer
Boudreau	Gerlach	Kelliher	Molnau	Rostberg	Wagenius
Bradley	Gleason	Kielkucki	Mulder	Rukavina	Wejcman
Broecker	Goodno	Knoblach	Mullery	Schumacher	Wenzel
Buesgens	Gray	Koskinen	Murphy	Seagren	Westerberg
Carlson	Greenfield	Krinkie	Ness	Seifert, J.	Westfall
Carruthers	Greiling	Kubly	Nornes	Seifert, M.	Westrom
Cassell	Gunther	Kuisle	Olson	Skoe	Wilkin
Chaudhary	Haake	Larsen, P.	Opatz	Skoglund	Winter
Clark, J.	Hackbarth	Larson, D.	Orfield	Smith	Wolf
Clark, K.	Harder	Leighton	Osskopp	Solberg	Workman
Daggett	Hasskamp	Lenczewski	Osthoff	Stanek	Spk. Sviggum
Davids	Hausman	Leppik	Otremba	Stang	
Dawkins	Hilty	Lieder	Ozment	Storm	
Dehler	Holberg	Lindner	Paulsen	Swapinski	
Dempsey	Holsten	Luther	Pawlenty	Swenson	
Dorman	Howes	Mahoney	Paymar	Sykora	

A quorum was present.

Haas was excused.

The Chief Clerk proceeded to read the Journal of the preceding day. Daggett moved that further reading of the Journal be suspended and that the Journal be approved as corrected by the Chief Clerk. The motion prevailed.

PETITIONS AND COMMUNICATIONS

The following communications were received:

STATE OF MINNESOTA
OFFICE OF THE GOVERNOR
SAINT PAUL 55155

April 10, 2000

The Honorable Steve Sviggum
Speaker of the House of Representatives
The State of Minnesota

Dear Speaker Sviggum:

It is my honor to inform you that I have received, approved, signed and deposited in the Office of the Secretary of State the following House File:

H. F. No. 2803, relating to courts; authorizing court reporters in certain judicial districts to organize under the Public Employment Labor Relations Act.

Sincerely,

JESSE VENTURA
Governor

STATE OF MINNESOTA
OFFICE OF THE SECRETARY OF STATE
ST. PAUL 55155

The Honorable Steve Sviggum
Speaker of the House of Representatives

The Honorable Allan H. Spear
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 2000 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S.F. No.	*H.F. No.*	*Session Laws Chapter No.*	*Time and Date Approved 2000*	*Date Filed 2000*
	2803	345	2:54 p.m. April 10	April 10
2803		346	2:45 p.m. April 10	April 10

2499	347	2:49 p.m. April 10	April 10
3379	348	2:46 p.m. April 10	April 10
2767	349	2:49 p.m. April 10	April 10
3203	350	2:47 p.m. April 10	April 10
2397	351	2:50 p.m. April 10	April 10
3354	352	2:47 p.m. April 10	April 10
2850	353	2:50 p.m. April 10	April 10
3455	354	2:55 p.m. April 10	April 10
2989	355	2:55 p.m. April 10	April 10
3478	356	2:56 p.m. April 10	April 10
2725	357	2:56 p.m. April 10	April 10

Sincerely,

MARY KIFFMEYER
Secretary of State

STATE OF MINNESOTA
OFFICE OF THE SECRETARY OF STATE
ST. PAUL 55155

The Honorable Steve Sviggum
Speaker of the House of Representatives

The Honorable Allan H. Spear
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 2000 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S.F. No.	*H.F. No.*	*Session Laws Chapter No.*	*Time and Date Approved 2000*	*Date Filed 2000*
1126		358	10:30 a.m. April 11	April 11
2858		359	10:32 a.m. April 11	April 11
2789		360	10:34 a.m. April 11	April 11
1038		361	10:37 a.m. April 11	April 11
2723		362	10:40 a.m. April 11	April 11
3428		363	10:42 a.m. April 11	April 11
3198		364	10:45 a.m. April 11	April 11
3533		365	10:47 a.m. April 11	April 11

Sincerely,

MARY KIFFMEYER
Secretary of State

INTRODUCTION AND FIRST READING OF HOUSE BILLS

The following House File was introduced:

Gleason; Kahn; Leighton; Carlson; McCollum; Huntley; Peterson; Trimble; Greiling; Biernat; Wagenius; Folliard; Koskinen; Juhnke; Swapinski; Jennings; Larson, D.; Hausman; Dawkins; Dorn; Chaudhary; Pugh; Gray; Osthoff; Orfield; McGuire; Hasskamp; Mariani; Wejcman; Greenfield; Clark, K.; Mullery; Kelliher; Kubly and Marko introduced:

H. F. No. 4149, A bill for an act proposing an amendment to the Minnesota Constitution, article I, by adding a section; providing for equality of rights under the law for men and women.

The bill was read for the first time and referred to the Committee on Rules and Legislative Administration.

MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Mr. Speaker:

I hereby announce that the Senate refuses to concur in the House amendments to the following Senate File:

S. F. No. 2845, A bill for an act relating to crimes; increasing criminal penalties and driver license sanctions for underage persons who use any type of false identification to purchase or attempt to purchase alcoholic beverages or tobacco; authorizing peace officers to transport alleged truants from the child's home to school or to a truancy service center; authorizing retailers to seize false identification; amending Minnesota Statutes 1998, sections 171.171; 340A.702; and 609.685, subdivisions 1a, 2, and 3; Minnesota Statutes 1999 Supplement, sections 260B.235, subdivision 4; 260C.143, subdivision 4; and 340A.503, subdivision 6.

The Senate respectfully requests that a Conference Committee be appointed thereon. The Senate has appointed as such committee:

Senators Knutson, Junge and Hottinger.

Said Senate File is herewith transmitted to the House with the request that the House appoint a like committee.

PATRICK E. FLAHAVEN, Secretary of the Senate

Leppik moved that the House accede to the request of the Senate and that the Speaker appoint a Conference Committee of 3 members of the House to meet with a like committee appointed by the Senate on the disagreeing votes of the two houses on S. F. No. 2845. The motion prevailed.

Mr. Speaker:

I hereby announce that the Senate refuses to concur in the House amendments to the following Senate File:

S. F. No. 3016, A bill for an act relating to family law; changing certain child support enforcement provisions; providing for notices; clarifying certain delegation of powers provisions; amending Minnesota Statutes 1998, sections 256.979, by adding a subdivision; 518.255; 518.64, subdivision 5; 518.68, subdivision 2; 524.5-505; 552.01,

subdivision 3, and by adding a subdivision; 552.03; and 552.04, subdivisions 4, 6, 11, and 16; Minnesota Statutes 1999 Supplement, section 13B.06, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 518 and 552; repealing Minnesota Statutes 1998, section 552.05, subdivisions 1, 2, 3, 6, 7, 8, and 9; Minnesota Statutes 1999 Supplement, section 552.05, subdivisions 4, 5, and 10; Minnesota Rules, parts 9500.1800; 9500.1805; 9500.1810; 9500.1811; 9500.1812; 9500.1815; 9500.1817; 9500.1820; and 9500.1821.

The Senate respectfully requests that a Conference Committee be appointed thereon. The Senate has appointed as such committee:

Senators Knutson, Betzold and Cohen.

Said Senate File is herewith transmitted to the House with the request that the House appoint a like committee.

PATRICK E. FLAHAVEN, Secretary of the Senate

Entenza moved that the House accede to the request of the Senate and that the Speaker appoint a Conference Committee of 3 members of the House to meet with a like committee appointed by the Senate on the disagreeing votes of the two houses on S. F. No. 3016. The motion prevailed.

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 1733.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONFERENCE COMMITTEE REPORT ON S. F. NO. 1733

A bill for an act relating to alcoholic beverages; imposing civil third-party liability for damages caused by intoxication of persons under age 21; prohibiting certain subrogation claims; proposing coding for new law in Minnesota Statutes, chapter 340A.

April 7, 2000

The Honorable Allan H. Spear
President of the Senate

The Honorable Steve Sviggum
Speaker of the House of Representatives

We, the undersigned conferees for S. F. No. 1733, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S. F. No. 1733 be further amended as follows:

Delete everything after the enacting clause and insert:

"SOCIAL HOST LIABILITY

Section 1. [340A.90] [CIVIL ACTION; INTOXICATION OF PERSON UNDER AGE 21.]

Subdivision 1. [RIGHT OF ACTION.] (a) A spouse, child, parent, guardian, employer, or other person injured in person, property, or means of support, or who incurs other pecuniary loss, by an intoxicated person under 21 years of age or by the intoxication of another person under 21 years of age, has for all damages sustained a right of action in the person's own name against a person who is 21 years or older who:

(1) had control over the premises and, being in a reasonable position to prevent the consumption of alcoholic beverages by that person, knowingly or recklessly permitted that consumption and the consumption caused the intoxication of that person; or

(2) sold, bartered, furnished or gave to, or purchased for a person under the age of 21 years alcoholic beverages that caused the intoxication of that person.

This paragraph does not apply to sales licensed under this chapter.

(b) All damages recovered by a minor under this section must be paid either to the minor or to the minor's parent, guardian, or next friend as the court directs.

(c) An intoxicated person under the age of 21 years who caused the injury has no right of action under this section.

Subd. 2. [SUBROGATION CLAIMS DENIED.] There shall be no recovery by any insurance company for any subrogation claim pursuant to any subrogation clause of the uninsured, underinsured, collision, or other first-party coverages of a motor vehicle insurance policy as a result of payments made by the company to persons who have claims that arise in whole or in part under this section.

Subd. 3. [COVERAGE EXCLUDED.] (a) There shall be no coverage for liability created under this section under homeowner's insurance as defined under section 65A.27 unless:

(1) specifically covered in a policy; or

(2) covered by a rider attached to a policy.

(b) This subdivision expires on December 31, 2001."

Delete the title and insert:

"A bill for an act relating to alcoholic beverages; imposing civil third-party liability for damages caused by intoxication of persons under age 21; prohibiting certain subrogation claims; excluding certain homeowner's insurance coverage; proposing coding for new law in Minnesota Statutes, chapter 340A."

We request adoption of this report and repassage of the bill.

Senate Conferees: DON BETZOLD, JOHN C. HOTTINGER AND DAVID L. KNUTSON.

House Conferees: PHIL CARRUTHERS, STEVE SMITH AND BILL HAAS.

Carruthers moved that the report of the Conference Committee on S. F. No. 1733 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 1733, A bill for an act relating to alcoholic beverages; imposing civil third-party liability for damages caused by intoxication of persons under age 21; prohibiting certain subrogation claims; proposing coding for new law in Minnesota Statutes, chapter 340A.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 112 yeas and 15 nays as follows:

Those who voted in the affirmative were:

Abeler	Entenza	Howes	Lindner	Otremba	Swapinski
Abrams	Erhardt	Huntley	Luther	Ozment	Swenson
Anderson, B.	Erickson	Jaros	Mahoney	Paulsen	Sykora
Anderson, I.	Finseth	Jennings	Mares	Pawlenty	Tingelstad
Bakk	Folliard	Johnson	Marko	Paymar	Tomassoni
Biernat	Fuller	Juhnke	McCollum	Pelowski	Trimble
Bishop	Gleason	Kahn	McElroy	Peterson	Tuma
Boudreau	Goodno	Kalis	McGuire	Pugh	Tunheim
Bradley	Greenfield	Kelliher	Milbert	Rest	Vandeveer
Broecker	Greiling	Kielkucki	Molnau	Rhodes	Wagenius
Carlson	Gunther	Knoblach	Mullery	Rostberg	Wejcman
Carruthers	Haake	Koskinen	Murphy	Rukavina	Wenzel
Cassell	Hackbarth	Kubly	Ness	Schumacher	Westerberg
Chaudhary	Harder	Larsen, P.	Nornes	Seifert, J.	Winter
Daggett	Hasskamp	Larson, D.	Olson	Skoe	Wolf
Davids	Hausman	Leighton	Opatz	Skoglund	Workman
Dempsey	Hilty	Lenczewski	Orfield	Smith	Spk. Sviggum
Dorman	Holberg	Leppik	Osskopp	Stanek	
Dorn	Holsten	Lieder	Osthoff	Storm	

Those who voted in the negative were:

Buesgens	Dehler	Kuisle	Rifenberg	Stang
Clark, J.	Gerlach	Mulder	Seifert, M.	Westrom
Dawkins	Krinkie	Reuter	Solberg	Wilkin

The bill was repassed, as amended by Conference, and its title agreed to.

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 1202.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONFERENCE COMMITTEE REPORT ON S. F. NO. 1202

A bill for an act relating to health; establishing protocol for occupational exposure to bloodborne pathogens in certain settings; providing criminal penalties; amending Minnesota Statutes 1998, sections 13.99, subdivision 38, and by adding a subdivision; 72A.20, subdivision 29; 144.4804, by adding a subdivision; 214.18, subdivision 5, and by adding a subdivision; 214.19; 214.20; 214.22; 214.23, subdivisions 1 and 2; 214.25, subdivision 2; and 611A.19, subdivisions 1 and 2; proposing coding for new law in Minnesota Statutes, chapters 144; and 241; repealing Minnesota Statutes 1998, sections 144.761; 144.762; 144.763; 144.764; 144.765; 144.766; 144.767; 144.768; 144.769; and 144.7691.

April 6, 2000

The Honorable Allan H. Spear
President of the Senate

The Honorable Steve Sviggum
Speaker of the House of Representatives

We, the undersigned conferees for S. F. No. 1202, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S. F. No. 1202 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1999 Supplement, section 13.99, subdivision 38, is amended to read:

Subd. 38. [HEALTH TEST RESULTS.] Health test results obtained under chapter 144 are classified under section ~~144.768~~ 144.7611.

Sec. 2. Minnesota Statutes 1999 Supplement, section 13.99, is amended by adding a subdivision to read:

Subd. 65f. [BLOOD TEST RESULTS.] (a) Blood test results obtained under sections 241.33 to 241.342 are classified under section 241.339.

(b) Blood test results obtained under sections 246.80 to 246.821 are classified under section 246.818.

Sec. 3. Minnesota Statutes 1999 Supplement, section 72A.20, subdivision 29, is amended to read:

Subd. 29. [HIV TESTS; CRIME VICTIMS AND EMERGENCY MEDICAL SERVICE PERSONNEL.] No insurer regulated under chapter 61A, 62B, or 62S, or providing health, medical, hospitalization, long-term care insurance, or accident and sickness insurance regulated under chapter 62A, or nonprofit health service plan corporation regulated under chapter 62C, health maintenance organization regulated under chapter 62D, or fraternal benefit society regulated under chapter 64B, may:

(1) obtain or use the performance of or the results of a test to determine the presence of the human immunodeficiency virus (HIV) antibody performed on an offender under section 611A.19 or performed on a crime victim who was exposed to or had contact with an offender's bodily fluids during commission of a crime that was reported to law enforcement officials, in order to make an underwriting decision, cancel, fail to renew, or take any other action with respect to a policy, plan, certificate, or contract;

(2) obtain or use the performance of or the results of a test to determine the presence of ~~the human immunodeficiency virus (HIV) antibody~~ a bloodborne pathogen performed on ~~a patient pursuant to sections 144.761 to 144.7691, or performed on emergency medical services personnel pursuant to the protocol under section 144.762, subdivision 2,~~ an individual according to sections 144.7601 to 144.7615, 241.33 to 241.342, or 246.80 to 246.821 in order to make an underwriting decision, cancel, fail to renew, or take any other action with respect to a policy, plan, certificate, or contract~~; for purposes of this clause, "patient" and "emergency medical services personnel" have the meanings given in section 144.761~~; or

(3) ask an applicant for coverage or a person already covered whether the person has: (i) had a test performed for the reason set forth in clause (1) or (2); or (ii) been the victim of an assault or any other crime which involves bodily contact with the offender.

A question that purports to require an answer that would provide information regarding a test performed for the reason set forth in clause (1) or (2) may be interpreted as excluding this test. An answer that does not mention the test is considered to be a truthful answer for all purposes. An authorization for the release of medical records for insurance purposes must specifically exclude any test performed for the purpose set forth in clause (1) or (2) and must be read as providing this exclusion regardless of whether the exclusion is expressly stated. This subdivision does not affect tests conducted for purposes other than those described in clause (1) or (2), including any test to determine the presence of the human immunodeficiency virus (HIV) antibody if such test was performed at the insurer's direction as part of the insurer's normal underwriting requirements.

Sec. 4. Minnesota Statutes 1998, section 144.4804, is amended by adding a subdivision to read:

Subd. 8. [TUBERCULOSIS NOTIFICATION.] If an emergency medical services person, as defined in section 144.7601, subdivision 4, is exposed to a person with active tuberculosis during the performance of duties, the treatment facility's designated infection control coordinator shall notify the emergency medical services agency's exposure control officer by telephone and by written correspondence. The facility's designated infection control coordinator shall provide the emergency medical services person with information about screening and, if indicated, follow-up.

Sec. 5. [144.7601] [DEFINITIONS.]

Subdivision 1. [SCOPE OF DEFINITIONS.] For purposes of sections 144.7601 to 144.7615, the following terms have the meanings given them.

Subd. 2. [BLOODBORNE PATHOGENS.] "Bloodborne pathogens" means pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, hepatitis B virus (HBV), hepatitis C virus (HCV), and human immunodeficiency virus (HIV).

Subd. 3. [EMERGENCY MEDICAL SERVICES AGENCY.] "Emergency medical services agency" means an agency, entity, or organization that employs or uses emergency medical services persons as employees or volunteers.

Subd. 4. [EMERGENCY MEDICAL SERVICES PERSON.] "Emergency medical services person" means:

(1) an individual employed or receiving compensation to provide out-of-hospital emergency medical services such as a firefighter, paramedic, emergency medical technician, licensed nurse, rescue squad person, or other individual who serves as an employee or volunteer of an ambulance service as defined under chapter 144E or a member of an organized first responder squad that is formally recognized by a political subdivision in the state, who provides out-of-hospital emergency medical services during the performance of the individual's duties;

(2) an individual employed as a licensed peace officer under section 626.84, subdivision 1;

(3) an individual employed as a crime laboratory worker while working outside the laboratory and involved in a criminal investigation;

(4) any individual who renders emergency care or assistance at the scene of an emergency or while an injured person is being transported to receive medical care and who is acting as a good samaritan under section 604A.01; and

(5) any individual who, in the process of executing a citizen's arrest under section 629.30, may have experienced a significant exposure to a source individual.

Subd. 5. [SOURCE INDIVIDUAL.] "Source individual" means an individual, living or dead, whose blood, tissue, or potentially infectious body fluids may be a source of bloodborne pathogen exposure to an emergency medical services person. Examples include, but are not limited to, a victim of an accident, injury, or illness or a deceased person.

Subd. 6. [SIGNIFICANT EXPOSURE.] "Significant exposure" means contact likely to transmit a bloodborne pathogen, in a manner supported by the most current guidelines and recommendations of the United States Public Health Service at the time an evaluation takes place, that includes:

(1) percutaneous injury, contact of mucous membrane or nonintact skin, or prolonged contact of intact skin; and

(2) contact, in a manner that may transmit a bloodborne pathogen, with blood, tissue, or potentially infectious body fluids.

Subd. 7. [FACILITY.] "Facility" means a hospital licensed under sections 144.50 to 144.56 or a freestanding emergency medical care facility licensed under Laws 1988, chapter 467, that receives an emergency medical services person for evaluation for significant exposure or a source individual cared for by an emergency medical services person.

Sec. 6. [144.7602] [CONDITIONS FOR APPLICABILITY OF PROCEDURES.]

Subdivision 1. [REQUEST FOR PROCEDURES.] An emergency medical services person or emergency medical services agency may request that a facility follow the procedures of sections 144.7601 to 144.7615 when an emergency medical services person may have experienced a significant exposure to a source individual.

Subd. 2. [CONDITIONS.] A facility shall follow the procedures outlined in sections 144.7601 to 144.7615 when all of the following conditions are met:

(1) the facility determines that significant exposure has occurred, following the protocol under section 144.7614;

(2) the licensed physician for the emergency medical services person needs the source individual's bloodborne pathogen test results to begin, continue, modify, or discontinue treatment, in accordance with the most current guidelines of the United States Public Health Service, because of possible exposure to a bloodborne pathogen; and

(3) the emergency medical services person consents to provide a blood sample for testing for a bloodborne pathogen. If the emergency medical services person consents to blood collection, but does not consent at that time to bloodborne pathogen testing, the facility shall preserve the sample for at least 90 days. If the emergency medical services person elects to have the sample tested within 90 days, the testing shall be done as soon as feasible.

Subd. 3. [LOCATING SOURCE INDIVIDUAL.] If the source individual is not received by a facility but the facility is providing treatment to the emergency medical services person, the emergency medical services agency shall make reasonable efforts to locate the source individual and inform the facility of the source individual's identity and location. The facility shall make a reasonable effort to contact the source individual in order to follow the procedures in sections 144.7601 to 144.7615. The emergency medical services agency and facilities may exchange private data about the source individual as necessary to fulfill their responsibilities under this subdivision, notwithstanding any provision of law to the contrary.

Sec. 7. [144.7603] [INFORMATION REQUIRED TO BE GIVEN TO INDIVIDUALS.]

Subdivision 1. [INFORMATION TO SOURCE INDIVIDUAL.] (a) Before seeking any consent required by the procedures under sections 144.7601 to 144.7615, a facility shall inform the source individual that the source individual's bloodborne pathogen test results, without the individual's name, address, or other uniquely identifying information, shall be reported to the emergency medical services person if requested, and that test results collected under sections 144.7601 to 144.7615 are for medical purposes as set forth in section 144.7609 and may not be used as evidence in any criminal proceedings or civil proceedings, except for procedures under sections 144.4171 to 144.4186.

(b) The facility shall inform the source individual of the insurance protections in section 72A.20, subdivision 29.

(c) The facility shall inform the source individual that the individual may refuse to provide a blood sample and that the source individual's refusal may result in a request for a court order to require the source individual to provide a blood sample.

(d) The facility shall inform the source individual that the facility will advise the emergency medical services person of the confidentiality requirements and penalties before disclosing any test information.

Subd. 2. [INFORMATION TO EMS PERSON.] (a) Before disclosing any information about the source individual, the facility shall inform the emergency medical services person of the confidentiality requirements of section 144.7611 and that the person may be subject to penalties for unauthorized release of information about the source individual under section 144.7612.

(b) The facility shall inform the emergency medical services person of the insurance protections in section 72A.20, subdivision 29.

Sec. 8. [144.7604] [DISCLOSURE OF POSITIVE BLOODBORNE PATHOGEN TEST RESULTS.]

If the conditions of sections 144.7602 and 144.7603 are met, the facility shall ask the source individual and the emergency medical services person if they have ever had a positive test for a bloodborne pathogen. The facility must attempt to get existing test results under this section before taking any steps to obtain a blood sample or to test for bloodborne pathogens. The facility shall disclose the source individual's bloodborne pathogen test results to the emergency medical services person without the source individual's name, address, or other uniquely identifying information.

Sec. 9. [144.7605] [CONSENT PROCEDURES GENERALLY.]

(a) For purposes of sections 144.7601 to 144.7615, whenever the facility is required to seek consent, the facility shall follow its usual procedure for obtaining consent from an individual or an individual's representative consistent with other law applicable to consent.

(b) Consent from a source individual's representative for bloodborne pathogen testing of an existing blood sample obtained from the source individual is not required if the facility has made reasonable efforts to obtain the representative's consent and consent cannot be obtained within 24 hours of a significant exposure.

(c) If testing of the source individual's blood occurs without consent because the source individual is unable to provide consent or has left the facility and cannot be located, and the source individual's representative cannot be located, the facility shall provide the information required in section 144.7603 to the source individual or representative whenever it is possible to do so.

(d) If a source individual dies before an opportunity to consent to blood collection or testing under sections 144.7601 to 144.7615, the facility does not need consent of the deceased person's representative for purposes of sections 144.7601 to 144.7615.

Sec. 10. [144.7606] [TESTING OF AVAILABLE BLOOD.]

Subdivision 1. [PROCEDURES WITH CONSENT.] If the source individual is or was under the care or custody of the facility and a sample of the source individual's blood is available with the consent of the source individual, the facility shall test that blood for bloodborne pathogens with the consent of the source individual, provided the conditions in sections 144.7602 and 144.7603 are met.

Subd. 2. [PROCEDURES WITHOUT CONSENT.] If the source individual has provided a blood sample with consent but does not consent to bloodborne pathogen testing, the facility shall test for bloodborne pathogens if the emergency medical services person or emergency medical services agency requests the test, provided all of the following criteria are met:

(1) the emergency medical services person or emergency medical services agency has documented exposure to blood or body fluids during performance of that person's occupation or while acting as a good samaritan under section 604A.01 or executing a citizen's arrest under section 629.30;

(2) the facility has determined that a significant exposure has occurred and a licensed physician for the emergency medical services person has documented in the emergency medical services person's medical record that bloodborne pathogen test results are needed for beginning, modifying, continuing, or discontinuing medical treatment for the emergency medical services person under section 144.7614, subdivision 2;

(3) the emergency medical services person provides a blood sample for testing for bloodborne pathogens as soon as feasible;

(4) the facility asks the source individual to consent to a test for bloodborne pathogens and the source individual does not consent;

(5) the facility has provided the source individual with all of the information required by section 144.7603; and

(6) the facility has informed the emergency medical services person of the confidentiality requirements of section 144.7611 and the penalties for unauthorized release of source information under section 144.7612.

Subd. 3. [FOLLOW-UP.] The facility shall inform the source individual and the emergency medical services person of their own test results. The facility shall inform the emergency medical services person of the source individual's test results without the source individual's name, address, or other uniquely identifying information.

Sec. 11. [144.7607] [BLOOD SAMPLE COLLECTION FOR TESTING.]

Subdivision 1. [PROCEDURES WITH CONSENT.] (a) If a blood sample is not otherwise available, the facility shall obtain consent from the source individual before collecting a blood sample for testing for bloodborne pathogens. The consent process shall include informing the source individual that the individual may refuse to provide a blood sample and that the source individual's refusal may result in a request for a court order under subdivision 2 to require the source individual to provide a blood sample.

(b) If the source individual consents to provide a blood sample, the facility shall collect a blood sample and test the sample for bloodborne pathogens.

(c) The facility shall inform the emergency medical services person about the source individual's test results without the individual's name, address, or other uniquely identifying information. The facility shall inform the source individual of the test results.

(d) If the source individual refuses to provide a blood sample for testing, the facility shall inform the emergency medical services person of the source individual's refusal.

Subd. 2. [PROCEDURES WITHOUT CONSENT.] (a) An emergency medical services agency, or, if there is no agency, an emergency medical services person, may bring a petition for a court order to require a source individual to provide a blood sample for testing for bloodborne pathogens. The petition shall be filed in the district court in the county where the source individual resides or is hospitalized. The petitioner shall serve the petition on the source individual at least three days before a hearing on the petition. The petition shall include one or more affidavits attesting that:

(1) the facility followed the procedures in sections 144.7601 to 144.7615 and attempted to obtain bloodborne pathogen test results according to those sections;

(2) it has been determined under section 144.7614, subdivision 2, that a significant exposure has occurred to the emergency medical services person; and

(3) a physician with specialty training in infectious diseases, including HIV, has documented that the emergency medical services person has provided a blood sample and consented to testing for bloodborne pathogens and bloodborne pathogen test results are needed for beginning, continuing, modifying, or discontinuing medical treatment for the emergency medical services person.

(b) Facilities shall cooperate with petitioners in providing any necessary affidavits to the extent that facility staff can attest under oath to the facts in the affidavits.

(c) The court may order the source individual to provide a blood sample for bloodborne pathogen testing if:

(1) there is probable cause to believe the emergency medical services person has experienced a significant exposure to the source individual;

(2) the court imposes appropriate safeguards against unauthorized disclosure that must specify the persons who have access to the test results and the purposes for which the test results may be used;

(3) a licensed physician for the emergency medical services person needs the test results for beginning, continuing, modifying, or discontinuing medical treatment for the emergency medical services person; and

(4) the court finds a compelling need for the test results. In assessing compelling need, the court shall weigh the need for the court-ordered blood collection and test results against the interests of the source individual, including, but not limited to, privacy, health, safety, or economic interests. The court shall also consider whether the involuntary blood collection and testing would serve the public interest.

(d) The court shall conduct the proceeding in camera unless the petitioner or the source individual requests a hearing in open court and the court determines that a public hearing is necessary to the public interest and the proper administration of justice.

(e) The source individual has the right to counsel in any proceeding brought under this subdivision.

Sec. 12. [144.7608] [NO DISCRIMINATION.]

A facility shall not base decisions about admission to a facility or the provision of care or treatment on any requirement that the source individual consent to bloodborne pathogen testing under sections 144.7601 to 144.7615.

Sec. 13. [144.7609] [USE OF TEST RESULTS.]

Bloodborne pathogen test results of a source individual obtained under sections 144.7601 to 144.7615 are for diagnostic purposes and to determine the need for treatment or medical care specific to a bloodborne pathogen-related illness of an emergency medical services person. The test results may not be used as evidence in any criminal proceedings or civil proceedings, except for procedures under sections 144.4171 to 144.4186.

Sec. 14. [144.7611] [TEST INFORMATION CONFIDENTIALITY.]

Subdivision 1. [PRIVATE DATA.] Information concerning test results obtained under sections 144.7601 to 144.7615 is information protected from disclosure without consent under section 144.335 with respect to private facilities and private data as defined in section 13.02, subdivision 12, with respect to public facilities.

Subd. 2. [CONSENT TO RELEASE INFORMATION.] No facility, individual, or employer shall disclose to an emergency medical services person the name, address, or other uniquely identifying information about a source individual without a written release signed by the source individual or the source individual's legally authorized representative. The facility shall not record the name, address, or other uniquely identifying information about the source individual's test results in the emergency medical services person's medical records.

Sec. 15. [144.7612] [PENALTY FOR UNAUTHORIZED RELEASE OF INFORMATION.]

Unauthorized release by an individual, facility, or agency of a source individual's name, address, or other uniquely identifying information under sections 144.7601 to 144.7615 is subject to the remedies and penalties under sections 13.08 and 13.09. This section does not preclude private causes of action against an individual, state agency, statewide system, political subdivision, or person responsible for releasing private data or information protected from disclosure.

Sec. 16. [144.7613] [RESPONSIBILITY FOR TESTING AND TREATMENT; COSTS.]

(a) The facility shall ensure that tests under sections 144.7601 to 144.7615 are performed if requested by the emergency medical services person or emergency medical services agency, provided the conditions set forth in sections 144.7601 to 144.7615 are met.

(b) The emergency medical services agency that employs the emergency medical services person who requests testing under sections 144.7601 to 144.7615 must pay or arrange payment for the cost of counseling, testing, and treatment of the emergency medical services person and costs associated with the testing of the source individual.

(c) A facility shall have a protocol that states whether the facility will pay for the cost of counseling, testing, or treatment of a person executing a citizen's arrest under section 629.30 or acting as a good samaritan under section 604A.01.

Sec. 17. [144.7614] [PROTOCOLS FOR EXPOSURE TO BLOODBORNE PATHOGENS.]

Subdivision 1. [EMS AGENCY REQUIREMENTS.] The emergency medical services agency shall have procedures for an emergency medical services person to notify a facility that the person may have experienced a significant exposure from a source individual. The emergency medical services agency shall also have a protocol to locate the source individual if the facility has not received the source individual and the emergency medical services agency knows the source individual's identity.

Subd. 2. [FACILITY PROTOCOL REQUIREMENTS.] Every facility shall adopt and follow a postexposure protocol for emergency medical services persons who have experienced a significant exposure. The postexposure protocol must adhere to the most current recommendations of the United States Public Health Service and include, at a minimum, the following:

(1) a process for emergency medical services persons to report an exposure in a timely fashion;

(2) a process for an infectious disease specialist, or a licensed physician who is knowledgeable about the most current recommendations of the United States Public Health Service in consultation with an infectious disease specialist, (i) to determine whether a significant exposure to one or more bloodborne pathogens has occurred and (ii) to provide, under the direction of a licensed physician, a recommendation or recommendations for follow-up treatment appropriate to the particular bloodborne pathogen or pathogens for which a significant exposure has been determined;

(3) if there has been a significant exposure, a process to determine whether the source individual has a bloodborne pathogen through disclosure of test results, or through blood collection and testing as required by sections 144.7601 to 144.7615;

(4) a process for providing appropriate counseling prior to and following testing for a bloodborne pathogen regarding the likelihood of bloodborne pathogen transmission and follow-up recommendations according to the most current recommendations of the United States Public Health Service, recommendations for testing, and treatment to the emergency medical services person;

(5) a process for providing appropriate counseling under clause (4) to the emergency medical services person and the source individual; and

(6) compliance with applicable state and federal laws relating to data practices, confidentiality, informed consent, and the patient bill of rights.

Sec. 18. [144.7615] [PENALTIES AND IMMUNITY.]

Subdivision 1. [PENALTIES.] Any facility or person who willfully violates the provisions of sections 144.7601 to 144.7615 is guilty of a misdemeanor.

Subd. 2. [IMMUNITY.] A facility, licensed physician, and designated health care personnel are immune from liability in any civil, administrative, or criminal action relating to the disclosure of test results to an emergency medical services person or emergency medical services agency and the testing of a blood sample from the source individual for bloodborne pathogens if a good faith effort has been made to comply with sections 144.7601 to 144.7615.

Sec. 19. Minnesota Statutes 1998, section 214.18, is amended by adding a subdivision to read:

Subd. 3a. [HCV.] "HCV" means the hepatitis C virus.

Sec. 20. Minnesota Statutes 1998, section 214.18, subdivision 5, is amended to read:

Subd. 5. [REGULATED PERSON.] "Regulated person" means a licensed dental hygienist, dentist, physician, nurse who is currently registered as a registered nurse or licensed practical nurse, podiatrist, a registered dental assistant, a physician's assistant, and for purposes of sections 214.19, subdivisions 4 and 5; 214.20, paragraph (a); and 214.24, a chiropractor.

Sec. 21. Minnesota Statutes 1998, section 214.19, is amended to read:

214.19 [REPORTING OBLIGATIONS.]

Subdivision 1. [PERMISSION TO REPORT.] A person with actual knowledge that a regulated person has been diagnosed as infected with HIV ~~or~~, HBV, or HCV may file a report with the commissioner.

Subd. 2. [SELF-REPORTING.] A regulated person who is diagnosed as infected with HIV ~~or~~, HBV, or HCV shall report that information to the commissioner promptly, and as soon as medically necessary for disease control purposes but no more than 30 days after learning of the diagnosis or 30 days after becoming licensed or registered by the state.

Subd. 3. [MANDATORY REPORTING.] A person or institution required to report HIV ~~or~~, HBV, or HCV status to the commissioner under Minnesota Rules, parts 4605.7030, subparts 1 to 4 and 6, and 4605.7040, shall, at the same time, notify the commissioner if the person or institution knows that the reported person is a regulated person.

Subd. 4. [INFECTION CONTROL REPORTING.] A regulated person shall, within ten days, report to the appropriate board personal knowledge of a serious failure or a pattern of failure by another regulated person to comply with accepted and prevailing infection control procedures related to the prevention of HIV ~~and~~, HBV, and HCV transmission. In lieu of reporting to the board, the regulated person may make the report to a designated official of the hospital, nursing home, clinic, or other institution or agency where the failure to comply with accepted and prevailing infection control procedures occurred. The designated official shall report to the appropriate board within 30 days of receiving a report under this subdivision. The report shall include specific information about the response by the institution or agency to the report. A regulated person shall not be discharged or discriminated against for filing a complaint in good faith under this subdivision.

Subd. 5. [IMMUNITY.] A person is immune from civil liability or criminal prosecution for submitting a report in good faith to the commissioner or to a board under this section.

Sec. 22. Minnesota Statutes 1998, section 214.20, is amended to read:

214.20 [GROUNDS FOR DISCIPLINARY OR RESTRICTIVE ACTION.]

A board may refuse to grant a license or registration or may impose disciplinary or restrictive action against a regulated person who:

(1) fails to follow accepted and prevailing infection control procedures, including a failure to conform to current recommendations of the Centers for Disease Control for preventing the transmission of HIV ~~and~~, HBV, and HCV, or fails to comply with infection control rules promulgated by the board. Injury to a patient need not be established;

(2) fails to comply with any requirement of sections 214.17 to 214.24; or

(3) fails to comply with any monitoring or reporting requirement.

Sec. 23. Minnesota Statutes 1998, section 214.22, is amended to read:

214.22 [NOTICE; ACTION.]

If the board has reasonable grounds to believe a regulated person infected with HIV ~~or~~, HBV, or HCV has done or omitted doing any act that would be grounds for disciplinary action under section 214.20, the board may take action after giving notice three business days before the action, or a lesser time if deemed necessary by the board. The board may:

(1) temporarily suspend the regulated person's right to practice under section 214.21;

(2) require the regulated person to appear personally at a conference with representatives of the board and to provide information relating to the regulated person's health or professional practice; and

(3) take any other lesser action deemed necessary by the board for the protection of the public.

Sec. 24. Minnesota Statutes 1998, section 214.23, subdivision 1, is amended to read:

Subdivision 1. [COMMISSIONER OF HEALTH.] The board shall enter into a contract with the commissioner to perform the functions in subdivisions 2 and 3. The contract shall provide that:

(1) unless requested to do otherwise by a regulated person, a board shall refer all regulated persons infected with HIV ~~or~~, HBV, or HCV to the commissioner;

(2) the commissioner may choose to refer any regulated person who is infected with HIV ~~or~~, HBV, or HCV as well as all information related thereto to the person's board at any time for any reason, including but not limited to: the degree of cooperation and compliance by the regulated person; the inability to secure information or the medical records of the regulated person; or when the facts may present other possible violations of the regulated persons practices act. Upon request of the regulated person who is infected with HIV ~~or~~, HBV, or HCV the commissioner shall refer the regulated person and all information related thereto to the person's board. Once the commissioner has referred a regulated person to a board, the board may not thereafter submit it to the commissioner to establish a monitoring plan unless the commissioner of health consents in writing;

(3) a board shall not take action on grounds relating solely to the HIV ~~or~~, HBV, or HCV status of a regulated person until after referral by the commissioner; and

(4) notwithstanding sections 13.39 and 13.41 and chapters 147, 147A, 148, 150A, 153, and 214, a board shall forward to the commissioner any information on a regulated person who is infected with HIV ~~or~~, HBV, or HCV that the department of health requests.

Sec. 25. Minnesota Statutes 1998, section 214.23, subdivision 2, is amended to read:

Subd. 2. [MONITORING PLAN.] After receiving a report that a regulated person is infected with HIV ~~or~~, HBV, or HCV, the board or the commissioner acting on behalf of the board shall evaluate the past and current professional practice of the regulated person to determine whether there has been a violation under section 214.20. After evaluation of the regulated person's past and current professional practice, the board or the commissioner, acting on behalf of the board, shall establish a monitoring plan for the regulated person. The monitoring plan may:

(1) address the scope of a regulated person's professional practice when the board or the commissioner, acting on behalf of the board, determines that the practice constitutes an identifiable risk of transmission of HIV ~~or~~, HBV, or HCV from the regulated person to the patient;

(2) include the submission of regular reports at a frequency determined by the board or the commissioner, acting on behalf of the board, regarding the regulated person's health status; and

(3) include any other provisions deemed reasonable by the board or the commissioner of health, acting on behalf of the board.

The board or commissioner, acting on behalf of the board, may enter into agreements with qualified persons to perform monitoring on its behalf. The regulated person shall comply with any monitoring plan established under this subdivision.

Sec. 26. Minnesota Statutes 1998, section 214.25, subdivision 2, is amended to read:

Subd. 2. [COMMISSIONER OF HEALTH DATA.] (a) All data collected or maintained as part of the commissioner of health's duties under sections 214.19, 214.23, and 214.24 shall be classified as investigative data under section 13.39, except that inactive investigative data shall be classified as private data under section 13.02, subdivision 12, or nonpublic data under section 13.02, subdivision 9, in the case of data not on individuals.

(b) Notwithstanding section 13.05, subdivision 9, data addressed in this subdivision shall not be disclosed except as provided in this subdivision or section 13.04; except that the commissioner may disclose to the boards under section 214.23.

(c) The commissioner may disclose data addressed under this subdivision as necessary: to identify, establish, implement, and enforce a monitoring plan; to investigate a regulated person; to alert persons who may be threatened by illness as evidenced by epidemiologic data; to control or prevent the spread of HIV ~~or~~, HBV, or HCV disease; or to diminish an imminent threat to the public health.

Sec. 27. [241.33] [DEFINITIONS.]

Subdivision 1. [SCOPE OF DEFINITIONS.] For purposes of sections 241.33 to 241.342, the following terms have the meaning given them.

Subd. 2. [BLOODBORNE PATHOGENS.] "Bloodborne pathogens" means pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, hepatitis B virus (HBV), hepatitis C virus (HCV), and human immunodeficiency virus (HIV).

Subd. 3. [INMATE.] "Inmate" means an individual who is in the custody or under the jurisdiction of the commissioner of corrections or a local correctional authority and is confined in a state or local correctional facility either before or after conviction.

Subd. 4. [CORRECTIONAL FACILITY.] "Correctional facility" means a state or local correctional facility.

Subd. 5. [CORRECTIONS EMPLOYEE.] "Corrections employee" means an employee of a state or local correctional agency.

Subd. 6. [SIGNIFICANT EXPOSURE.] "Significant exposure" means contact likely to transmit a bloodborne pathogen, in a manner supported by the most current guidelines and recommendations of the United States Public Health Service at the time an evaluation takes place, that includes:

(1) percutaneous injury, contact of mucous membrane or nonintact skin, or prolonged contact of intact skin; and

(2) contact, in a manner that may transmit a bloodborne pathogen, with blood, tissue, or potentially infectious body fluids.

Sec. 28. [241.331] [CONDITIONS FOR APPLICABILITY OF PROCEDURES.]

Subdivision 1. [REQUEST FOR PROCEDURES.] A corrections employee may request that the procedures of sections 241.33 to 241.342 be followed when the corrections employee may have experienced a significant exposure to an inmate.

Subd. 2. [CONDITIONS.] The correctional facility shall follow the procedures in sections 241.33 to 241.342 when all of the following conditions are met:

(1) a licensed physician determines that a significant exposure has occurred following the protocol under section 241.341;

(2) the licensed physician for the corrections employee needs the inmate's bloodborne pathogens test results to begin, continue, modify, or discontinue treatment in accordance with the most current guidelines of the United States Public Health Service, because of possible exposure to a bloodborne pathogen; and

(3) the corrections employee consents to providing a blood sample for testing for a bloodborne pathogen.

Sec. 29. [241.332] [INFORMATION REQUIRED TO BE GIVEN TO INDIVIDUALS.]

Subdivision 1. [INFORMATION TO INMATE.] (a) Before seeking any consent required by the procedures under sections 241.33 to 241.342, a correctional facility shall inform the inmate that the inmate's bloodborne pathogen test results, without the inmate's name or other uniquely identifying information, shall be reported to the corrections employee if requested and that test results collected under sections 241.33 to 241.342 are for medical purposes as set forth in section 241.338 and may not be used as evidence in any criminal proceedings or civil proceedings, except for procedures under sections 144.4171 to 144.4186.

(b) The correctional facility shall inform the inmate of the insurance protections in section 72A.20, subdivision 29.

(c) The correctional facility shall inform the inmate that the inmate may refuse to provide a blood sample and that the inmate's refusal may result in a request for a court order to require the inmate to provide a blood sample.

(d) The correctional facility shall inform the inmate that the correctional facility will advise the corrections employee of the confidentiality requirements and penalties before the employee's health care provider discloses any test results.

Subd. 2. [INFORMATION TO CORRECTIONS EMPLOYEE.] (a) Before disclosing any information about the inmate, the correctional facility shall inform the corrections employee of the confidentiality requirements of section 241.339 and that the person may be subject to penalties for unauthorized release of test results about the inmate under section 241.34.

(b) The correctional facility shall inform the corrections employee of the insurance protections in section 72A.20, subdivision 29.

Sec. 30. [241.333] [DISCLOSURE OF POSITIVE BLOODBORNE PATHOGEN TEST RESULTS.]

If the conditions of sections 241.331 and 241.332 are met, the correctional facility shall ask the inmate if the inmate has ever had a positive test for a bloodborne pathogen. The correctional facility must attempt to get existing test results under this section before taking any steps to obtain a blood sample or to test for bloodborne pathogens. The correctional facility shall disclose the inmate's bloodborne pathogen test results to the corrections employee without the inmate's name or other uniquely identifying information.

Sec. 31. [241.334] [CONSENT PROCEDURES GENERALLY.]

(a) For purposes of sections 241.33 to 241.342, whenever the correctional facility is required to seek consent, the correctional facility shall obtain consent from an inmate or an inmate's representative consistent with other law applicable to consent.

(b) Consent is not required if the correctional facility has made reasonable efforts to obtain the representative's consent and consent cannot be obtained within 24 hours of a significant exposure.

(c) If testing of available blood occurs without consent because the inmate is unconscious or unable to provide consent, and a representative cannot be located, the correctional facility shall provide the information required in section 241.332 to the inmate or representative whenever it is possible to do so.

(d) If an inmate dies before an opportunity to consent to blood collection or testing under sections 241.33 to 241.342, the correctional facility does not need consent of the inmate's representative for purposes of sections 241.33 to 241.342.

Sec. 32. [241.335] [TESTING OF AVAILABLE BLOOD.]

Subdivision 1. [PROCEDURES WITH CONSENT.] If a sample of the inmate's blood is available, the correctional facility shall ensure that blood is tested for bloodborne pathogens with the consent of the inmate, provided the conditions in sections 241.331 and 241.332 are met.

Subd. 2. [PROCEDURES WITHOUT CONSENT.] If the inmate has provided a blood sample, but does not consent to bloodborne pathogens testing, the correctional facility shall ensure that the blood is tested for bloodborne pathogens if the corrections employee requests the test, provided all of the following criteria are met:

(1) the corrections employee and correctional facility have documented exposure to blood or body fluids during performance of the employee's work duties;

(2) a licensed physician has determined that a significant exposure has occurred under section 241.341 and has documented that bloodborne pathogen test results are needed for beginning, modifying, continuing, or discontinuing medical treatment for the corrections employee as recommended by the most current guidelines of the United States Public Health Service;

(3) the corrections employee provides a blood sample for testing for bloodborne pathogens as soon as feasible;

(4) the correctional facility asks the inmate to consent to a test for bloodborne pathogens and the inmate does not consent;

(5) the correctional facility has provided the inmate and the corrections employee with all of the information required by section 241.332; and

(6) the correctional facility has informed the corrections employee of the confidentiality requirements of section 241.339 and the penalties for unauthorized release of inmate information under section 241.34.

Subd. 3. [FOLLOW-UP.] The correctional facility shall inform the inmate whose blood was tested of the results. The correctional facility shall inform the corrections employee's health care provider of the inmate's test results without the inmate's name or other uniquely identifying information.

Sec. 33. [241.336] [BLOOD SAMPLE COLLECTION FOR TESTING.]

Subdivision 1. [PROCEDURES WITH CONSENT.] (a) If a blood sample is not otherwise available, the correctional facility shall obtain consent from the inmate before collecting a blood sample for testing for bloodborne pathogens. The consent process shall include informing the inmate that the inmate may refuse to provide a blood sample and that the inmate's refusal may result in a request for a court order under subdivision 2 to require the inmate to provide a blood sample.

(b) If the inmate consents to provide a blood sample, the correctional facility shall collect a blood sample and ensure that the sample is tested for bloodborne pathogens.

(c) The correctional facility shall inform the corrections employee's health care provider about the inmate's test results without the inmate's name or other uniquely identifying information. The correctional facility shall inform the inmate of the test results.

(d) If the inmate refuses to provide a blood sample for testing, the correctional facility shall inform the corrections employee of the inmate's refusal.

Subd. 2. [PROCEDURES WITHOUT CONSENT.] (a) A correctional facility or a corrections employee may bring a petition for a court order to require an inmate to provide a blood sample for testing for bloodborne pathogens. The petition shall be filed in the district court in the county where the inmate is confined. The correctional facility shall serve the petition on the inmate three days before a hearing on the petition. The petition shall include one or more affidavits attesting that:

(1) the correctional facility followed the procedures in sections 241.33 to 241.342 and attempted to obtain bloodborne pathogen test results according to those sections;

(2) a licensed physician knowledgeable about the most current recommendations of the United States Public Health Service has determined that a significant exposure has occurred to the corrections employee under section 241.341; and

(3) a physician has documented that the corrections employee has provided a blood sample and consented to testing for bloodborne pathogens and bloodborne pathogen test results are needed for beginning, continuing, modifying, or discontinuing medical treatment for the corrections employee under section 241.341.

(b) Facilities shall cooperate with petitioners in providing any necessary affidavits to the extent that facility staff can attest under oath to the facts in the affidavits.

(c) The court may order the inmate to provide a blood sample for bloodborne pathogen testing if:

(1) there is probable cause to believe the corrections employee has experienced a significant exposure to the inmate;

(2) the court imposes appropriate safeguards against unauthorized disclosure that must specify the persons who have access to the test results and the purposes for which the test results may be used;

(3) a licensed physician for the corrections employee needs the test results for beginning, continuing, modifying, or discontinuing medical treatment for the corrections employee; and

(4) the court finds a compelling need for the test results. In assessing compelling need, the court shall weigh the need for the court-ordered blood collection and test results against the interests of the inmate, including, but not limited to, privacy, health, safety, or economic interests. The court shall also consider whether involuntary blood collection and testing would serve the public interests.

(d) The court shall conduct the proceeding in camera unless the petitioner or the inmate requests a hearing in open court and the court determines that a public hearing is necessary to the public interest and the proper administration of justice.

(e) The inmate may arrange for counsel in any proceeding brought under this subdivision.

Sec. 34. [241.337] [NO DISCRIMINATION.]

A correctional facility shall not withhold care or treatment on the requirement that the inmate consent to bloodborne pathogen testing under sections 241.33 to 241.342.

Sec. 35. [241.338] [USE OF TEST RESULTS.]

Bloodborne pathogen test results of an inmate obtained under sections 241.33 to 241.342 are for diagnostic purposes and to determine the need for treatment or medical care specific to a bloodborne pathogen-related illness. The test results may not be used as evidence in any criminal proceedings or civil proceedings, except for procedures under sections 144.4171 to 144.4186.

Sec. 36. [241.339] [TEST INFORMATION CONFIDENTIALITY.]

Test results obtained under sections 241.33 to 241.342 are private data as defined in sections 13.02, subdivision 12, and 13.85, subdivision 2, but shall be released as provided by sections 241.33 to 241.342.

Sec. 37. [241.34] [PENALTY FOR UNAUTHORIZED RELEASE OF INFORMATION.]

Unauthorized release of the inmate's name or other uniquely identifying information under sections 241.33 to 241.342 is subject to the remedies and penalties under sections 13.08 and 13.09. This section does not preclude private causes of action against an individual, state agency, statewide system, political subdivision, or person responsible for releasing private data, or confidential or private information on the inmate.

Sec. 38. [241.341] [PROTOCOL FOR EXPOSURE TO BLOODBORNE PATHOGENS.]

(a) Correctional facilities shall follow applicable Occupational Safety and Health Administration guidelines under Code of Federal Regulations, title 29, part 1910.1030, for bloodborne pathogens.

(b) Every correctional facility shall adopt and follow a postexposure protocol for corrections employees who have experienced a significant exposure. The postexposure protocol must adhere to the most current recommendations of the United States Public Health Service and include, at a minimum, the following:

(1) a process for corrections employees to report an exposure in a timely fashion;

(2) a process for an infectious disease specialist, or a licensed physician who is knowledgeable about the most current recommendations of the United States Public Health Service in consultation with an infectious disease specialist, (i) to determine whether a significant exposure to one or more bloodborne pathogens has occurred, and (ii) to provide, under the direction of a licensed physician, a recommendation or recommendations for follow-up treatment appropriate to the particular bloodborne pathogen or pathogens for which a significant exposure has been determined;

(3) if there has been a significant exposure, a process to determine whether the inmate has a bloodborne pathogen through disclosure of test results, or through blood collection and testing as required by sections 241.33 to 241.342;

(4) a process for providing appropriate counseling prior to and following testing for a bloodborne pathogen regarding the likelihood of bloodborne pathogen transmission and follow-up recommendations according to the most current recommendations of the United States Public Health Service, recommendations for testing, and treatment;

(5) a process for providing appropriate counseling under clause (4) to the corrections employee and inmate; and

(6) compliance with applicable state and federal laws relating to data practices, confidentiality, informed consent, and the patient bill of rights.

Sec. 39. [241.342] [IMMUNITY.]

A correctional facility, licensed physician, and designated health care personnel are immune from liability in any civil, administrative, or criminal action relating to the disclosure of test results of an inmate to a corrections employee and the testing of a blood sample from the inmate for bloodborne pathogens if a good faith effort has been made to comply with sections 241.33 to 241.342.

Sec. 40. [246.80] [DEFINITIONS.]

Subdivision 1. [SCOPE.] For purposes of sections 246.80 to 246.821, the following terms have the meaning given them.

Subd. 2. [BLOODBORNE PATHOGENS.] "Bloodborne pathogens" means pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, hepatitis B virus (HBV), hepatitis C virus (HCV), and human immunodeficiency virus (HIV).

Subd. 3. [PATIENT.] "Patient" means any person who is receiving treatment from or committed to a secure treatment facility.

Subd. 4. [EMPLOYEE OF A SECURE TREATMENT FACILITY OR EMPLOYEE.] "Employee of a secure treatment facility" or "employee" means an employee of the Minnesota security hospital or the Minnesota sexual psychopathic personality treatment center.

Subd. 5. [SECURE TREATMENT FACILITY.] "Secure treatment facility" means the Minnesota security hospital or the Minnesota sexual psychopathic personality treatment center.

Subd. 6. [SIGNIFICANT EXPOSURE.] "Significant exposure" means contact likely to transmit a bloodborne pathogen, in a manner supported by the most current guidelines and recommendations of the United States Public Health Service at the time an evaluation takes place, that includes:

(1) percutaneous injury, contact of mucous membrane or nonintact skin, or prolonged contact of intact skin; and

(2) contact, in a manner that may transmit a bloodborne pathogen, with blood, tissue, or potentially infectious body fluids.

Sec. 41. [246.81] [CONDITIONS FOR APPLICABILITY OF PROCEDURES.]

Subdivision 1. [REQUEST FOR PROCEDURES.] An employee of a secure treatment facility may request that the procedures of sections 246.80 to 246.821 be followed when the employee may have experienced a significant exposure to a patient.

Subd. 2. [CONDITIONS.] The secure treatment facility shall follow the procedures in sections 246.80 to 246.821 when all of the following conditions are met:

(1) a licensed physician determines that a significant exposure has occurred following the protocol under section 246.82;

(2) the licensed physician for the employee needs the patient's bloodborne pathogens test results to begin, continue, modify, or discontinue treatment in accordance with the most current guidelines of the United States Public Health Service, because of possible exposure to a bloodborne pathogen; and

(3) the employee consents to providing a blood sample for testing for a bloodborne pathogen.

Sec. 42. [246.811] [INFORMATION REQUIRED TO BE GIVEN TO INDIVIDUALS.]

Subdivision 1. [INFORMATION TO PATIENT.] (a) Before seeking any consent required by the procedures under sections 246.80 to 246.821, a secure treatment facility shall inform the patient that the patient's bloodborne pathogen test results, without the patient's name or other uniquely identifying information, shall be reported to the employee if requested and that test results collected under sections 246.80 to 246.821 are for medical purposes as set forth in section 246.817 and may not be used as evidence in any criminal proceedings or civil proceedings, except for procedures under sections 144.4171 to 144.4186.

(b) The secure treatment facility shall inform the patient of the insurance protections in section 72A.20, subdivision 29.

(c) The secure treatment facility shall inform the patient that the patient may refuse to provide a blood sample and that the patient's refusal may result in a request for a court order to require the patient to provide a blood sample.

(d) The secure treatment facility shall inform the patient that the secure treatment facility will advise the employee of a secure treatment facility of the confidentiality requirements and penalties before the employee's health care provider discloses any test results.

Subd. 2. [INFORMATION TO SECURE TREATMENT FACILITY EMPLOYEE.] (a) Before disclosing any information about the patient, the secure treatment facility shall inform the employee of a secure treatment facility of the confidentiality requirements of section 246.818 and that the person may be subject to penalties for unauthorized release of test results about the patient under section 246.819.

(b) The secure treatment facility shall inform the employee of the insurance protections in section 72A.20, subdivision 29.

Sec. 43. [246.812] [DISCLOSURE OF POSITIVE BLOODBORNE PATHOGEN TEST RESULTS.]

If the conditions of sections 246.81 and 246.811 are met, the secure treatment facility shall ask the patient if the patient has ever had a positive test for a bloodborne pathogen. The secure treatment facility must attempt to get existing test results under this section before taking any steps to obtain a blood sample or to test for bloodborne pathogens. The secure treatment facility shall disclose the patient's bloodborne pathogen test results to the employee without the patient's name or other uniquely identifying information.

Sec. 44. [246.813] [CONSENT PROCEDURES GENERALLY.]

(a) For purposes of sections 246.80 to 246.821, whenever the secure treatment facility is required to seek consent, the secure treatment facility shall obtain consent from a patient or a patient's representative consistent with other law applicable to consent.

(b) Consent is not required if the secure treatment facility has made reasonable efforts to obtain the representative's consent and consent cannot be obtained within 24 hours of a significant exposure.

(c) If testing of available blood occurs without consent because the patient is unconscious or unable to provide consent, and a representative cannot be located, the secure treatment facility shall provide the information required in section 246.811 to the patient or representative whenever it is possible to do so.

(d) If a patient dies before an opportunity to consent to blood collection or testing under sections 246.80 to 246.821, the secure treatment facility does not need consent of the patient's representative for purposes of sections 246.80 to 246.821.

Sec. 45. [246.814] [TESTING OF AVAILABLE BLOOD.]

Subdivision 1. [PROCEDURES WITH CONSENT.] If a sample of the patient's blood is available, the secure treatment facility shall ensure that blood is tested for bloodborne pathogens with the consent of the patient, provided the conditions in sections 246.81 and 246.811 are met.

Subd. 2. [PROCEDURES WITHOUT CONSENT.] If the patient has provided a blood sample, but does not consent to bloodborne pathogens testing, the secure treatment facility shall ensure that the blood is tested for bloodborne pathogens if the employee requests the test, provided all of the following criteria are met:

(1) the employee and secure treatment facility have documented exposure to blood or body fluids during performance of the employee's work duties;

(2) a licensed physician has determined that a significant exposure has occurred under section 246.81 and has documented that bloodborne pathogen test results are needed for beginning, modifying, continuing, or discontinuing medical treatment for the employee as recommended by the most current guidelines of the United States Public Health Service;

(3) the employee provides a blood sample for testing for bloodborne pathogens as soon as feasible;

(4) the secure treatment facility asks the patient to consent to a test for bloodborne pathogens and the patient does not consent;

(5) the secure treatment facility has provided the patient and the employee with all of the information required by section 246.811; and

(6) the secure treatment facility has informed the employee of the confidentiality requirements of section 246.818 and the penalties for unauthorized release of patient information under section 246.819.

Subd. 3. [FOLLOW-UP.] The secure treatment facility shall inform the patient whose blood was tested of the results. The secure treatment facility shall inform the employee's health care provider of the patient's test results without the patient's name or other uniquely identifying information.

Sec. 46. [246.815] [BLOOD SAMPLE COLLECTION FOR TESTING.]

Subdivision 1. [PROCEDURES WITH CONSENT.] (a) If a blood sample is not otherwise available, the secure treatment facility shall obtain consent from the patient before collecting a blood sample for testing for bloodborne pathogens. The consent process shall include informing the patient that the patient may refuse to provide a blood sample and that the patient's refusal may result in a request for a court order under subdivision 2 to require the patient to provide a blood sample.

(b) If the patient consents to provide a blood sample, the secure treatment facility shall collect a blood sample and ensure that the sample is tested for bloodborne pathogens.

(c) The secure treatment facility shall inform the employee's health care provider about the patient's test results without the patient's name or other uniquely identifying information. The secure treatment facility shall inform the patient of the test results.

(d) If the patient refuses to provide a blood sample for testing, the secure treatment facility shall inform the employee of the patient's refusal.

Subd. 2. [PROCEDURES WITHOUT CONSENT.] (a) A secure treatment facility or an employee of a secure treatment facility may bring a petition for a court order to require a patient to provide a blood sample for testing for bloodborne pathogens. The petition shall be filed in the district court in the county where the patient is receiving treatment from the secure treatment facility. The secure treatment facility shall serve the petition on the patient three days before a hearing on the petition. The petition shall include one or more affidavits attesting that:

(1) the secure treatment facility followed the procedures in sections 246.80 to 246.821 and attempted to obtain bloodborne pathogen test results according to those sections;

(2) a licensed physician knowledgeable about the most current recommendations of the United States Public Health Service has determined that a significant exposure has occurred to the employee of a secure treatment facility under section 246.82; and

(3) a physician has documented that the employee has provided a blood sample and consented to testing for bloodborne pathogens and bloodborne pathogen test results are needed for beginning, continuing, modifying, or discontinuing medical treatment for the employee under section 246.82.

(b) Facilities shall cooperate with petitioners in providing any necessary affidavits to the extent that facility staff can attest under oath to the facts in the affidavits.

(c) The court may order the patient to provide a blood sample for bloodborne pathogen testing if:

(1) there is probable cause to believe the employee of a secure treatment facility has experienced a significant exposure to the patient;

(2) the court imposes appropriate safeguards against unauthorized disclosure that must specify the persons who have access to the test results and the purposes for which the test results may be used;

(3) a licensed physician for the employee of a secure treatment facility needs the test results for beginning, continuing, modifying, or discontinuing medical treatment for the employee; and

(4) the court finds a compelling need for the test results. In assessing compelling need, the court shall weigh the need for the court-ordered blood collection and test results against the interests of the patient, including, but not limited to, privacy, health, safety, or economic interests. The court shall also consider whether involuntary blood collection and testing would serve the public interests.

(d) The court shall conduct the proceeding in camera unless the petitioner or the patient requests a hearing in open court and the court determines that a public hearing is necessary to the public interest and the proper administration of justice.

(e) The patient may arrange for counsel in any proceeding brought under this subdivision.

Sec. 47. [246.816] [NO DISCRIMINATION.]

A secure treatment facility shall not withhold care or treatment on the requirement that the patient consent to bloodborne pathogen testing under sections 246.80 to 246.821.

Sec. 48. [246.817] [USE OF TEST RESULTS.]

Bloodborne pathogen test results of a patient obtained under sections 246.80 to 246.821 are for diagnostic purposes and to determine the need for treatment or medical care specific to a bloodborne pathogen-related illness. The test results may not be used as evidence in any criminal proceedings or civil proceedings, except for procedures under sections 144.4171 to 144.4186.

Sec. 49. [246.818] [TEST INFORMATION CONFIDENTIALITY.]

Test results obtained under sections 246.80 to 246.821 are private data as defined in sections 13.02, subdivision 12, and 13.85, subdivision 2, but shall be released as provided by sections 246.80 to 246.821.

Sec. 50. [246.819] [PENALTY FOR UNAUTHORIZED RELEASE OF INFORMATION.]

Unauthorized release of the patient's name or other uniquely identifying information under sections 246.80 to 246.821 is subject to the remedies and penalties under sections 13.08 and 13.09. This section does not preclude private causes of action against an individual, state agency, statewide system, political subdivision, or person responsible for releasing private data, or confidential or private information on the inmate.

Sec. 51. [246.82] [PROTOCOL FOR EXPOSURE TO BLOODBORNE PATHOGENS.]

(a) A secure treatment facility shall follow applicable Occupational Safety and Health Administration guidelines under Code of Federal Regulations, title 29, part 1910.1030, for bloodborne pathogens.

(b) Every secure treatment facility shall adopt and follow a postexposure protocol for employees at a secure treatment facility who have experienced a significant exposure. The postexposure protocol must adhere to the most current recommendations of the United States Public Health Service and include, at a minimum, the following:

(1) a process for employees to report an exposure in a timely fashion;

(2) a process for an infectious disease specialist, or a licensed physician who is knowledgeable about the most current recommendations of the United States Public Health Service in consultation with an infectious disease specialist, (i) to determine whether a significant exposure to one or more bloodborne pathogens has occurred, and (ii) to provide, under the direction of a licensed physician, a recommendation or recommendations for follow-up treatment appropriate to the particular bloodborne pathogen or pathogens for which a significant exposure has been determined;

(3) if there has been a significant exposure, a process to determine whether the patient has a bloodborne pathogen through disclosure of test results, or through blood collection and testing as required by sections 246.80 to 246.821;

(4) a process for providing appropriate counseling prior to and following testing for a bloodborne pathogen regarding the likelihood of bloodborne pathogen transmission and follow-up recommendations according to the most current recommendations of the United States Public Health Service, recommendations for testing, and treatment;

(5) a process for providing appropriate counseling under clause (4) to the employee of a secure treatment facility and to the patient; and

(6) compliance with applicable state and federal laws relating to data practices, confidentiality, informed consent, and the patient bill of rights.

Sec. 52. [246.821] [IMMUNITY.]

A secure treatment facility, licensed physician, and designated health care personnel are immune from liability in any civil, administrative, or criminal action relating to the disclosure of test results of a patient to an employee of a secure treatment facility and the testing of a blood sample from the patient for bloodborne pathogens if a good faith effort has been made to comply with sections 246.80 to 246.821.

Sec. 53. Minnesota Statutes 1998, section 611A.19, subdivision 1, is amended to read:

Subdivision 1. [TESTING ON REQUEST OF VICTIM.] (a) Upon the request or with the consent of the victim, the prosecutor shall make a motion in camera and the sentencing court shall issue an order requiring an adult convicted of or a juvenile adjudicated delinquent for violating section 609.342 (criminal sexual conduct in the first degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree), or any other violent crime, as defined in section 609.1095, to submit to testing to determine the presence of human immunodeficiency virus (HIV) antibody if:

(1) the crime involved sexual penetration, however slight, as defined in section 609.341, subdivision 12; or

(2) evidence exists that the broken skin or mucous membrane of the victim was exposed to or had contact with the offender's semen or blood during the commission of the crime in a manner which has been demonstrated epidemiologically to transmit the human immunodeficiency virus (HIV).

(b) When the court orders an offender to submit to testing under paragraph (a), the court shall order that the test be performed by an appropriate health professional who is trained to provide the counseling described in section ~~144.763~~ 144.7614, and that no reference to the test, the motion requesting the test, the test order, or the test results may appear in the criminal record or be maintained in any record of the court or court services.

Sec. 54. Minnesota Statutes 1998, section 611A.19, subdivision 2, is amended to read:

Subd. 2. [DISCLOSURE OF TEST RESULTS.] The date and results of a test performed under subdivision 1 are private data as defined in section 13.02, subdivision 12, when maintained by a person subject to chapter 13, or may be released only with the subject's consent, if maintained by a person not subject to chapter 13. The results are available, on request, to the victim or, if the victim is a minor, to the victim's parent or guardian and positive test results shall be reported to the commissioner of health. Any test results given to a victim or victim's parent or guardian shall be provided by a health professional who is trained to provide the counseling described in section ~~144.763~~ 144.7614. Data regarding administration and results of the test are not accessible to any other person for any purpose and shall not be maintained in any record of the court or court services or any other record. After the test results are given to the victim or the victim's parent or guardian, data on the test must be removed from any medical data or health records maintained under section 13.42 or 144.335 and destroyed.

Sec. 55. [REPEALER.]

Minnesota Statutes 1998, sections 144.761; 144.762; 144.763; 144.764; 144.765; 144.766; 144.767; 144.768; 144.769; and 144.7691, are repealed."

Delete the title and insert:

"A bill for an act relating to health; establishing protocol for occupational exposure to bloodborne pathogens in certain settings; providing criminal penalties; amending Minnesota Statutes 1998, sections 144.4804, by adding a subdivision; 214.18, subdivision 5, and by adding a subdivision; 214.19; 214.20; 214.22; 214.23, subdivisions 1 and 2; 214.25, subdivision 2; and 611A.19, subdivisions 1 and 2; Minnesota Statutes 1999 Supplement, sections 13.99, subdivision 38, and by adding a subdivision; and 72A.20, subdivision 29; proposing coding for new law in Minnesota Statutes, chapters 144; 241; and 246; repealing Minnesota Statutes 1998, sections 144.761; 144.762; 144.763; 144.764; 144.765; 144.766; 144.767; 144.768; 144.769; and 144.7691."

We request adoption of this report and repassage of the bill.

Senate Conferees: ALLAN H. SPEAR, JOHN C. HOTTINGER AND SHEILA M. KISCADEN.

House Conferees: KEVIN GOODNO, JIM KNOBLACH AND LEE GREENFIELD.

Goodno moved that the report of the Conference Committee on S. F. No. 1202 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 1202, A bill for an act relating to health; establishing protocol for occupational exposure to bloodborne pathogens in certain settings; providing criminal penalties; amending Minnesota Statutes 1998, sections 13.99, subdivision 38, and by adding a subdivision; 72A.20, subdivision 29; 144.4804, by adding a subdivision; 214.18, subdivision 5, and by adding a subdivision; 214.19; 214.20; 214.22; 214.23, subdivisions 1 and 2; 214.25, subdivision 2; and 611A.19, subdivisions 1 and 2; proposing coding for new law in Minnesota Statutes, chapters 144; and 241; repealing Minnesota Statutes 1998, sections 144.761; 144.762; 144.763; 144.764; 144.765; 144.766; 144.767; 144.768; 144.769; and 144.7691.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 131 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Cassell	Erickson	Hasskamp	Kelliher	Lindner
Abrams	Chaudhary	Finseth	Hausman	Kielkucki	Luther
Anderson, B.	Clark, J.	Folliard	Hilty	Knoblach	Mahoney
Anderson, I.	Clark, K.	Fuller	Holberg	Koskinen	Mares
Bakk	Daggett	Gerlach	Holsten	Krinkie	Mariani
Biernat	Davids	Gleason	Howes	Kubly	Marko
Bishop	Dawkins	Goodno	Huntley	Kuisle	McCollum
Boudreau	Dehler	Greenfield	Jaros	Larsen, P.	McElroy
Bradley	Dempsey	Greiling	Jennings	Larson, D.	McGuire
Broecker	Dorman	Gunther	Johnson	Leighton	Milbert
Buesgens	Dorn	Haake	Juhnke	Lenczewski	Molnau
Carlson	Entenza	Hackbarth	Kahn	Leppik	Mulder
Carruthers	Erhardt	Harder	Kalis	Lieder	Mullery

Murphy	Ozment	Rhodes	Skoglund	Tingelstad	Westerberg
Ness	Paulsen	Rifenberg	Smith	Tomassoni	Westfall
Nornes	Pawlenty	Rostberg	Solberg	Trimble	Westrom
Olson	Paymar	Rukavina	Stanek	Tuma	Wilkin
Opatz	Pelowski	Schumacher	Stang	Tunheim	Winter
Orfield	Peterson	Seagren	Storm	Vandeveer	Wolf
Osskopp	Pugh	Seifert, J.	Swapinski	Wagenius	Workman
Osthoff	Rest	Seifert, M.	Swenson	Wejcman	Spk. Sviggum
Otremba	Reuter	Skoe	Sykora	Wenzel	

The bill was repassed, as amended by Conference, and its title agreed to.

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 2615.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONFERENCE COMMITTEE REPORT ON S. F. NO. 2615

A bill for an act relating to public health; providing that a person who leaves an unharmed newborn child at a hospital may not be prosecuted; providing for duties to be undertaken by a hospital when accepting an unharmed newborn child; providing immunity from liability for hospitals and their personnel when carrying out those duties; limiting duty to implement certain relative preference placement requirements; proposing coding for new law in Minnesota Statutes, chapters 145; and 609.

April 5, 2000

The Honorable Allan H. Spear
President of the Senate

The Honorable Steve Sviggum
Speaker of the House of Representatives

We, the undersigned conferees for S. F. No. 2615, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S. F. No. 2615 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [145.902] [SAFE PLACE FOR NEWBORNS; HOSPITAL DUTIES AND IMMUNITY FROM LIABILITY.]

Subdivision 1. [GENERAL.] (a) A hospital licensed under sections 144.50 to 144.56 shall receive a newborn left with a hospital employee on the hospital premises, provided that:

(1) the newborn was born within 72 hours of being left at the hospital, as determined within a reasonable degree of medical certainty; and

(2) the newborn is left in an unharmed condition.

(b) The hospital must not inquire as to the identity of the mother or the person leaving the newborn or call the police, provided the newborn is unharmed when presented to the hospital. The hospital may ask the mother or the person leaving the newborn about the medical history of the mother or newborn but the mother or the person leaving the newborn is not required to provide any information. The hospital may provide the mother or the person leaving the newborn with information about how to contact relevant social service agencies.

Subd. 2. [REPORTING.] Within 24 hours of receiving a newborn under this section, the hospital must inform the local welfare agency that a newborn has been left at the hospital, but must not do so before the mother or the person leaving the newborn leaves the hospital.

Subd. 3. [IMMUNITY.] (a) A hospital with responsibility for performing duties under this section, and any employee, doctor, or other medical professional working at the hospital, are immune from any criminal liability that otherwise might result from their actions, if they are acting in good faith in receiving a newborn, and are immune from any civil liability that otherwise might result from merely receiving a newborn.

(b) A hospital performing duties under this section, or an employee, doctor, or other medical professional working at the hospital who is a mandated reporter under section 626.556, is immune from any criminal or civil liability that otherwise might result from the failure to make a report under that section if the person is acting in good faith in complying with this section.

Sec. 2. [260C.217] [SAFE PLACE FOR NEWBORNS.]

Subdivision 1. [DUTY TO ATTEMPT REUNIFICATION, DUTY TO SEARCH FOR RELATIVES, AND PREFERENCES NOT APPLICABLE.] A local social service agency taking custody of a child after discharge from a hospital that received a child under section 145.902 is not required to attempt to reunify the child with the child's parents. Additionally, the agency is not required to search for relatives of the child as a placement or permanency option under section 260C.212, subdivision 5, or to implement other placement requirements that give a preference to relatives if the agency does not have information as to the identity of the child, the child's mother, or the child's father.

Subd. 2. [STATUS OF CHILD.] For purposes of proceedings under this chapter and adoption proceedings, a newborn left at a hospital under section 145.902 is considered an abandoned child.

Sec. 3. [609.3785] [UNHARMED NEWBORNS LEFT AT HOSPITALS; AVOIDANCE OF PROSECUTION.]

A person may leave a newborn with a hospital employee at a hospital in this state without being subjected to prosecution for that act, provided that:

(1) the newborn was born within 72 hours of being left at the hospital, as determined within a reasonable degree of medical certainty;

(2) the newborn is left in an unharmed condition; and

(3) in cases where the person leaving the newborn is not the newborn's mother, the person has the mother's approval to do so.

Sec. 4. [EFFECTIVE DATE.]

This act is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to public health; child protection; providing procedures for leaving an unharmed newborn at a hospital with a hospital employee; providing for certain reporting; providing immunity from liability for hospitals and their personnel for receiving a newborn; modifying certain social service agency duties; providing immunity from prosecution for leaving an unharmed newborn at a hospital; proposing coding for new law in Minnesota Statutes, chapters 145; 260C; and 609."

We request adoption of this report and repassage of the bill.

Senate Conferees: LEO T. FOLEY AND DEANNA L. WIENER.

House Conferees: BARBARA SYKORA, KATHY TINGELSTAD AND LINDA WEJCMAN.

Sykora moved that the report of the Conference Committee on S. F. No. 2615 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 2615, A bill for an act relating to public health; providing that a person who leaves an unharmed newborn child at a hospital may not be prosecuted; providing for duties to be undertaken by a hospital when accepting an unharmed newborn child; providing immunity from liability for hospitals and their personnel when carrying out those duties; limiting duty to implement certain relative preference placement requirements; proposing coding for new law in Minnesota Statutes, chapters 145; and 609.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 133 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Dawkins	Hackbarth	Krinkie	Molnau	Rest
Abrams	Dehler	Harder	Kubly	Mulder	Reuter
Anderson, B.	Dempsey	Hasskamp	Kuisle	Mullery	Rhodes
Anderson, I.	Dorman	Hausman	Larsen, P.	Murphy	Rifenberg
Bakk	Dorn	Hilty	Larson, D.	Ness	Rostberg
Biernat	Entenza	Holberg	Leighton	Nornes	Rukavina
Bishop	Erhardt	Holsten	Lenczewski	Olson	Schumacher
Boudreau	Erickson	Howes	Leppik	Opatz	Seagren
Bradley	Finseth	Huntley	Lieder	Orfield	Seifert, J.
Broecker	Folliard	Jaros	Lindner	Osskopp	Seifert, M.
Buesgens	Fuller	Jennings	Luther	Osthoff	Skoe
Carlson	Gerlach	Johnson	Mahoney	Otremba	Skoglund
Carruthers	Gleason	Juhnke	Mares	Ozment	Smith
Cassell	Goodno	Kahn	Mariani	Paulsen	Solberg
Chaudhary	Gray	Kalis	Marko	Pawlenty	Stanek
Clark, J.	Greenfield	Kelliher	McCollum	Paymar	Stang
Clark, K.	Greiling	Kielkucki	McElroy	Pelowski	Storm
Daggett	Gunther	Knoblach	McGuire	Peterson	Swapinski
Davids	Haake	Koskinen	Milbert	Pugh	Swenson

Sykora	Tuma	Wagenius	Westfall	Wolf
Tingelstad	Tunheim	Wejcman	Westrom	Workman
Tomassoni	Van Dellen	Wenzel	Wilkin	Spk. Sviggum
Trimble	Vandeveer	Westerberg	Winter	

The bill was repassed, as amended by Conference, and its title agreed to.

REPORT FROM THE COMMITTEE ON RULES AND LEGISLATIVE ADMINISTRATION

Pawlenty from the Committee on Rules and Legislative Administration, pursuant to rule 1.21, designated the following bills to be placed on the Calendar for the Day, immediately following the remaining bills on the Calendar for the Day, for Wednesday, April 12, 2000:

H. F. No. 2516; S. F. No. 2302; H. F. No. 3659; and S. F. Nos. 3156 and 2575.

ANNOUNCEMENT BY THE SPEAKER

The Speaker announced the following change in membership of the Conference Committee on S. F. No. 2500:

Delete the name of Wenzel and add the name of Stang.

CALENDAR FOR THE DAY

S. F. No. 2806 was reported to the House.

Holberg moved that S. F. No. 2806 be returned to the General Register. The motion prevailed.

S. F. No. 2972 was reported to the House.

S. F. No. 2972 was read for the third time.

MOTION FOR RECONSIDERATION

Seifert, M., moved that the action whereby S. F. No. 2972 was given its third reading be now reconsidered. The motion prevailed.

Mullery offered an amendment to S. F. No. 2972.

POINT OF ORDER

Seifert, M., raised a point of order pursuant to rule 3.21 that the Mullery amendment was not in order. The Speaker ruled the point of order not well taken and the Mullery amendment in order.

POINT OF ORDER

Pawlenty raised a point of order pursuant to rule 4.03, relating to Ways and Means Committee; Budget Resolution; Effect on Expenditure and Revenue Bills, that the Mullery amendment was not in order. The Speaker ruled the point of order well taken and the Mullery amendment out of order.

Mullery appealed the decision of the Speaker.

A roll call was requested and properly seconded.

The vote was taken on the question "Shall the decision of the Speaker stand as the judgment of the House?" and the roll was called. There were 70 yeas and 63 nays as follows:

Those who voted in the affirmative were:

Abeler	Dehler	Harder	McElroy	Rifenberg	Tuma
Abrams	Dempsey	Holberg	Molnau	Rostberg	Van Dellen
Anderson, B.	Dorman	Holsten	Mulder	Seagren	Vandeveer
Bishop	Erhardt	Howes	Ness	Seifert, J.	Westerberg
Boudreau	Erickson	Kielkucki	Nornes	Seifert, M.	Westfall
Bradley	Finseth	Knoblach	Olson	Smith	Westrom
Broecker	Fuller	Krinkie	Osskopp	Stanek	Wilkin
Buesgens	Gerlach	Kuisle	Ozment	Stang	Wolf
Cassell	Goodno	Larsen, P.	Paulsen	Storm	Workman
Clark, J.	Gunther	Leppik	Pawlenty	Swenson	Spk. Sviggum
Daggett	Haake	Lindner	Reuter	Sykora	
Davids	Hackbarth	Mares	Rhodes	Tingelstad	

Those who voted in the negative were:

Anderson, I.	Gleason	Juhnke	Mahoney	Otremba	Swapinski
Bakk	Gray	Kahn	Mariani	Paymar	Tomassoni
Biernat	Greenfield	Kalis	Marko	Pelowski	Trimble
Carlson	Greiling	Kelliher	McCollum	Peterson	Tunheim
Carruthers	Hasskamp	Koskinen	McGuire	Pugh	Wagenius
Chaudhary	Hausman	Kubly	Milbert	Rest	Wejcman
Clark, K.	Hilty	Larson, D.	Mullery	Rukavina	Wenzel
Dawkins	Huntley	Leighton	Murphy	Schumacher	Winter
Dorn	Jaros	Lenczewski	Opatz	Skoe	
Entenza	Jennings	Lieder	Orfield	Skoglund	
Folliard	Johnson	Luther	Osthoff	Solberg	

So it was the judgment of the House that the decision of the Speaker should stand.

S. F. No. 2972, A bill for an act relating to state government; authorizing open bidding for state purchases; amending Minnesota Statutes 1998, sections 16C.03, subdivision 3; and 16C.10, by adding a subdivision.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 129 yeas and 2 nays as follows:

Those who voted in the affirmative were:

Abeler	Dorn	Huntley	Mahoney	Pawlenty	Sykora
Abrams	Entenza	Jaros	Mares	Pelowski	Tingelstad
Anderson, B.	Erhardt	Jennings	Mariani	Peterson	Tomassoni
Anderson, I.	Erickson	Johnson	Marko	Pugh	Trimble
Bakk	Finseth	Juhnke	McCollum	Rest	Tuma
Biernat	Folliard	Kahn	McElroy	Reuter	Tunheim
Boudreau	Fuller	Kalis	McGuire	Rhodes	Van Dellen
Bradley	Gerlach	Kelliher	Milbert	Rifenberg	Vandeveer
Broecker	Gleason	Kielkucki	Molnau	Rukavina	Wagenius
Buesgens	Goodno	Knoblach	Mulder	Schumacher	Wejcman
Carlson	Gray	Koskinen	Mullery	Seagren	Wenzel
Carruthers	Greenfield	Krinkie	Murphy	Seifert, J.	Westerberg
Cassell	Greiling	Kubly	Ness	Seifert, M.	Westfall
Chaudhary	Gunther	Kuisle	Nornes	Skoe	Westrom
Clark, J.	Haake	Larsen, P.	Olson	Skoglund	Wilkin
Clark, K.	Hackbarth	Larson, D.	Opatz	Smith	Winter
Daggett	Harder	Leighton	Orfield	Solberg	Wolf
Davids	Hasskamp	Lenczewski	Osskopp	Stanek	Workman
Dawkins	Hilty	Leppik	Osthoff	Stang	Spk. Sviggum
Dehler	Holberg	Lieder	Otremba	Storm	
Dempsey	Holsten	Lindner	Ozment	Swapinski	
Dorman	Howes	Luther	Paulsen	Swenson	

Those who voted in the negative were:

Hausman	Paymar

The bill was passed and its title agreed to.

H. F. No. 2830 was reported to the House.

Clark, K., moved to amend H. F. No. 2830, the first engrossment, as follows:

Amend the title as follows:

Page 1, line 3, delete "and patrons"

The motion prevailed and the amendment was adopted.

H. F. No. 2830, A bill for an act relating to crime prevention; enhancing the penalties for pimps of juvenile prostitutes; requiring a study by the commissioner of public safety and the executive director of the POST board on training peace officers to combat juvenile prostitution; amending Minnesota Statutes 1998, section 609.322, subdivision 1.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 131 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Dorman	Holsten	Lindner	Ozment	Swapinski
Abrams	Dorn	Howes	Luther	Paulsen	Swenson
Anderson, B.	Entenza	Huntley	Mahoney	Pawlenty	Sykora
Anderson, I.	Erhardt	Jaros	Mares	Paymar	Tingelstad
Bakk	Erickson	Jennings	Mariani	Pelowski	Tomassoni
Biernat	Finseth	Johnson	Marko	Peterson	Trimble
Bishop	Folliard	Juhnke	McCollum	Pugh	Tuma
Boudreau	Fuller	Kahn	McElroy	Rest	Tunheim
Bradley	Gerlach	Kalis	McGuire	Reuter	Van Dellen
Broecker	Gleason	Kelliher	Milbert	Rhodes	Vandeveer
Buesgens	Goodno	Kielkucki	Molnau	Rifenberg	Wagenius
Carlson	Gray	Knoblach	Mulder	Rukavina	Wejcman
Carruthers	Greenfield	Koskinen	Mullery	Schumacher	Wenzel
Cassell	Greiling	Krinkie	Murphy	Seifert, J.	Westerberg
Chaudhary	Gunther	Kubly	Ness	Seifert, M.	Westfall
Clark, J.	Haake	Kuisle	Nornes	Skoe	Westrom
Clark, K.	Hackbarth	Larsen, P.	Olson	Skoglund	Wilkin
Daggett	Harder	Larson, D.	Opatz	Smith	Winter
Davids	Hasskamp	Leighton	Orfield	Solberg	Wolf
Dawkins	Hausman	Lenczewski	Osskopp	Stanek	Workman
Dehler	Hilty	Leppik	Osthoff	Stang	Spk. Sviggum
Dempsey	Holberg	Lieder	Otremba	Storm	

The bill was passed, as amended, and its title agreed to.

H. F. No. 2591 was reported to the House.

Seifert, M.; Kubly; Anderson, I., and Peterson moved to amend H. F. No. 2591, the first engrossment, as follows:

Page 3, after line 25, insert:

"Sec. 3. [YELLOW MEDICINE COUNTY; ECONOMIC DEVELOPMENT AUTHORITY; ESTABLISHMENT AND POWERS.]

Subdivision 1. [ESTABLISHMENT.] The board of county commissioners of Yellow Medicine county may establish an economic development authority in the manner provided in Minnesota Statutes, sections 469.090 to 469.1081, and may impose limits on the authority enumerated in Minnesota Statutes, section 469.092. The economic development authority has all of the powers and duties granted to or imposed upon economic development authorities under Minnesota Statutes, sections 469.090 to 469.1081. The county economic development authority may create and define the boundaries of economic development districts at any place or places within the county, provided that a project as recommended by the county authority that is to be located within the corporate limits of a city may not be commenced without the approval of the governing body of the city. Minnesota Statutes, section 469.174, subdivision 10, and the contiguity requirement specified under Minnesota Statutes, section 469.101, subdivision 1, do not apply to limit the areas that may be designated as county economic development districts.

Subd. 2. [POWERS.] If an economic development authority is established as provided in subdivision 1, the county may exercise all of the powers relating to an economic development authority granted to a city under Minnesota Statutes, sections 469.090 to 469.1081, or other law, including the power to levy a tax to support the activities of the authority."

Page 3, line 27, before "Section" insert "(a)"

Page 3, after line 29, insert:

"(b) Section 3 is effective the day after the governing body of Yellow Medicine county and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3."

Renumber the sections in sequence and correct internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Kuisle and Jennings moved to amend H. F. No. 2591, the first engrossment, as amended, as follows:

Page 2, after line 20, insert:

"Sec. 2. [469.1082] [COUNTY ECONOMIC DEVELOPMENT SERVICE PROVIDER; NONMETRO ALTERNATIVE CREATION.]

Subdivision 1. [AUTHORITY TO CREATE.] A county located outside the metropolitan area may form a county economic development authority or grant a housing and redevelopment authority the powers specified in subdivision 4, clause (2), if it receives a recommendation to do so from a committee formed under subdivision 2. An economic development authority established under this section has all the powers and rights of an authority under sections 469.090 to 469.1081, except the authority granted under section 469.094 if so limited under subdivision 4. This section is in addition to any other authority to create a county economic development authority or service provider.

Subd. 2. [LOCAL COMMITTEES.] Upon notice to all local government units and development agencies within the county, a county may adopt a resolution to create a committee to recommend options for a county economic development service provider.

The committee shall consist of no fewer than 11 and no more than 15 members appointed by the county board. At least one city official and at least one township official from the county to be served by the county economic service provider shall be included on the committee. Members may also represent school districts, political subdivisions that currently provide services under sections 469.001 to 469.047 and 469.090 to 469.1081, nonprofit or for-profit housing and economic development organizations, business, and labor organizations located within the county. Political subdivision representatives must be selected by their local governments and must constitute no more than 50 percent of the total committee membership. The county may appoint no more than two county commissioners. The committee shall select a chair at its initial meeting.

Subd. 3. [COMMITTEE REPORT.] The committee shall issue its report within 90 days of its initial meeting. The committee may request one 60-day extension from the county board. The report must contain the committee's recommendation for the preferred organizational option for a county economic development service provider. The report must contain written findings on issues considered by the committee including, but not limited to, the following:

(1) identification of the current level of economic development, housing, and community development programs and services provided by existing agencies, any existing gaps in programs and services, and the capacity and ability of those agencies to expand their activities; and

(2) the recommended organizational option for providing needed economic development, housing, and community development services in the most efficient, effective manner.

Subd. 4. [ORGANIZATIONAL OPTIONS.] The committee may only recommend:

(1) establishment of a county economic development authority to operate under sections 469.090 to 469.1081, except that the county shall not have the powers of section 469.094 without the consent of an existing county housing and redevelopment authority operating within that county. For the purposes of a county economic development authority's operation, the county is considered to be the municipality and the county board is considered to be the city council;

(2) requiring an existing county housing and redevelopment authority or multicounty housing and redevelopment authority to operate under sections 469.090 to 469.1081;

(3) that the county pursue special legislation; or

(4) no change in the existing structure.

Subd. 5. [AREA OF OPERATION.] The area of operation of a county economic development service provider created under this section shall include all cities within a county that have adopted resolutions electing to participate. A city may adopt a resolution electing to withdraw participation. The withdrawal election may be made every fifth year following adoption of the resolution electing participation. The withdrawal election is effective on the anniversary date of the original resolution provided notice is given to the county economic development authority not less than 90 nor more than 180 days prior to that anniversary date. The city electing to withdraw retains any rights, obligations, and liabilities it obtained or incurred during its participation. If a city prohibits a county economic development service provider created under this section from operating within its boundaries, the city's property taxpayers shall not be subject to the property tax levied for the county economic development service provider.

Subd. 6. [CITY ECONOMIC DEVELOPMENT AUTHORITIES.] If a county economic development service provider has been established under this section, existing city economic development authorities shall continue to function and operate under sections 469.090 to 469.1081. Additional city economic development authorities may be created within the area of operation of the county economic development service provider created under this section without the explicit concurrence of the county economic development service provider.

Subd. 7. [CONTINUATION OF EXISTING COUNTY AND MULTICOUNTY HOUSING AND REDEVELOPMENT AUTHORITIES.] Existing county and multicounty housing and redevelopment authorities shall continue to function and operate under the provisions of sections 469.001 to 469.047."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

H. F. No. 2591, A bill for an act relating to local government; changing economic development authority of certain nonmetro counties; creating the Koochiching county economic development commission; authorizing Yellow Medicine county to establish an economic development commission; amending Minnesota Statutes 1998, section 298.17; proposing coding for new law in Minnesota Statutes, chapter 469.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 132 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Dorman	Holsten	Lindner	Paulsen	Storm
Abrams	Dorn	Howes	Luther	Pawlenty	Swapinski
Anderson, B.	Entenza	Huntley	Mahoney	Paymar	Swenson
Anderson, I.	Erhardt	Jaros	Mares	Pelowski	Sykora
Bakk	Erickson	Jennings	Mariani	Peterson	Tingelstad
Biernat	Finseth	Johnson	Marko	Pugh	Tomassoni
Bishop	Folliard	Juhnke	McCollum	Rest	Trimble
Boudreau	Fuller	Kahn	McElroy	Reuter	Tuma
Bradley	Gerlach	Kalis	McGuire	Rhodes	Tunheim
Broecker	Gleason	Kelliher	Milbert	Rifenberg	Van Dellen
Buesgens	Goodno	Kielkucki	Molnau	Rostberg	Vandeveer
Carlson	Gray	Knoblach	Mulder	Rukavina	Wagenius
Carruthers	Greenfield	Koskinen	Mullery	Schumacher	Wejcman
Cassell	Greiling	Krinkie	Murphy	Seagren	Wenzel
Chaudhary	Gunther	Kubly	Ness	Seifert, J.	Westerberg
Clark, J.	Haake	Kuisle	Nornes	Seifert, M.	Westfall
Clark, K.	Hackbarth	Larsen, P.	Olson	Skoe	Westrom
Daggett	Harder	Larson, D.	Opatz	Skoglund	Wilkin
Davids	Hasskamp	Leighton	Orfield	Smith	Winter
Dawkins	Hausman	Lenczewski	Osskopp	Solberg	Wolf
Dehler	Hilty	Leppik	Otremba	Stanek	Workman
Dempsey	Holberg	Lieder	Ozment	Stang	Spk. Sviggum

The bill was passed, as amended, and its title agreed to.

S. F. No. 2677 was reported to the House.

Fuller moved to amend S. F. No. 2677 as follows:

Delete everything after the enacting clause and insert the following language of H. F. No. 2995, the second engrossment:

"ARTICLE 1

CHAPTER 169A

DRIVING WHILE IMPAIRED;
CRIMINAL AND ADMINISTRATIVE SANCTIONS

GENERAL PROVISIONS

Section 1. [169A.01] [CITATION; APPLICATION.]

Subdivision 1. [CITATION.] This chapter may be cited as the Minnesota Impaired Driving Code. *[new]*

Subd. 2. [APPLICATION.] Unless otherwise indicated, the provisions of this chapter apply to any person who drives, operates, or is in physical control of a motor vehicle within this state or on any boundary water of this state. The provisions of this chapter are applicable and uniform throughout the state and in all its political subdivisions and municipalities. *[169.02 and 169.022]*

Subd. 3. [LOCAL ORDINANCES.] No local authority may enact or enforce any rule or regulation that conflicts with a provision of this chapter unless expressly authorized to do so in this chapter. Local authorities may adopt traffic regulations that do not conflict with the provisions of this chapter. However, if any local ordinance regulating traffic covers the same subject for which a penalty is provided for in this chapter, the penalty provided for the violation of the local ordinance must be identical to the penalty provided for in this chapter for the same offense. *[169.022]*

Sec. 2. [169A.03] [DEFINITIONS.] *[various]*

Subdivision 1. [SCOPE.] (a) As used in this chapter, unless the context clearly indicates otherwise, the terms defined in this section have the meanings given.

(b) If a term defined in section 169.01, but not defined in this chapter, is used in this chapter, the term has the meaning given in section 169.01, unless the context clearly indicates otherwise.

Subd. 2. [ALCOHOL CONCENTRATION.] "Alcohol concentration" means:

(1) the number of grams of alcohol per 100 milliliters of blood;

(2) the number of grams of alcohol per 210 liters of breath; or

(3) the number of grams of alcohol per 67 milliliters of urine.

Subd. 3. [AGGRAVATING FACTOR.] "Aggravating factor" includes:

(1) a qualified prior impaired driving incident within the ten years immediately preceding the current offense;

(2) having an alcohol concentration of 0.20 or more as measured at the time, or within two hours of the time, of the offense; or

(3) having a child under the age of 16 in the vehicle at the time of the offense if the child is more than 36 months younger than the offender.

Subd. 4. [COMMERCIAL MOTOR VEHICLE.] "Commercial motor vehicle" has the meaning given in section 169.01, subdivision 75.

Subd. 5. [COMMISSIONER.] "Commissioner" means the commissioner of public safety or a designee.

Subd. 6. [CONTROLLED SUBSTANCE.] "Controlled substance" has the meaning given in section 152.01, subdivision 4.

Subd. 7. [DRIVER.] "Driver" has the meaning given in section 169.01, subdivision 25.

Subd. 8. [GROSS MISDEMEANOR.] "Gross misdemeanor" means a crime for which a person may be sentenced to imprisonment for not more than one year, or to payment of a fine of not more than $3,000, or both.

Subd. 9. [HAZARDOUS SUBSTANCE.] "Hazardous substance" means any chemical or chemical compound that is listed as a hazardous substance in rules adopted under chapter 182 (occupational safety and health).

Subd. 10. [HEAD START BUS.] "Head Start bus" has the meaning given in section 169.01, subdivision 80.

Subd. 11. [INFRARED BREATH-TESTING INSTRUMENT.] "Infrared breath-testing instrument" means a breath-testing instrument that employs infrared technology and has been approved by the commissioner of public safety for determining alcohol concentration.

Subd. 12. [MISDEMEANOR.] "Misdemeanor" means a crime for which a person may be sentenced to imprisonment for not more than 90 days, or to payment of a fine of not more than $700, or both.

Subd. 13. [MOTORBOAT.] "Motorboat" has the meaning given in section 86B.005, subdivision 9.

Subd. 14. [MOTORBOAT IN OPERATION.] "Motorboat in operation" does not include a motorboat that is anchored, beached, or securely fastened to a dock or other permanent mooring or a motorboat that is being rowed or propelled by other than mechanical means.

Subd. 15. [MOTOR VEHICLE.] "Motor vehicle" means every vehicle that is self-propelled and every vehicle that is propelled by electric power obtained from overhead trolley wires. The term includes motorboats in operation and off-road recreational vehicles, but does not include a vehicle moved solely by human power.

Subd. 16. [OFF-ROAD RECREATIONAL VEHICLE.] "Off-road recreational vehicle" means an off-highway motorcycle as defined in section 84.787, subdivision 7; off-road vehicle as defined in section 84.797, subdivision 7; snowmobile as defined in section 84.81, subdivision 3; and all-terrain vehicle as defined in section 84.92, subdivision 8.

Subd. 17. [OWNER.] "Owner" has the meaning given in section 169.01, subdivision 26.

Subd. 18. [PEACE OFFICER.] "Peace officer" means:

(1) a state patrol officer;

(2) University of Minnesota peace officer;

(3) a constable as defined in section 367.40, subdivision 3;

(4) police officer of any municipality, including towns having powers under section 368.01, or county; and

(5) for purposes of violations of this chapter in or on an off-road recreational vehicle or motorboat, or for violations of section 97B.065 or 97B.066, a state conservation officer.

Subd. 19. [POLICE OFFICER.] "Police officer" has the meaning given in section 169.01, subdivision 27.

Subd. 20. [PRIOR IMPAIRED DRIVING CONVICTION.] "Prior impaired driving conviction" includes a prior conviction under:

(1) section 169A.20 (driving while impaired); 169A.31 (alcohol-related school bus or Head Start bus driving); or 360.0752 (impaired aircraft operation);

(2) section 609.21 (criminal vehicular homicide and injury, substance-related offenses), subdivision 1, clauses (2) to (6); subdivision 2, clauses (2) to (6); subdivision 2a, clauses (2) to (6); subdivision 2b, clauses (2) to (6); subdivision 3, clauses (2) to (6); or subdivision 4, clauses (2) to (6);

(3) Minnesota Statutes 1998, section 169.121 (driver under influence of alcohol or controlled substance); 169.1211 (alcohol-related driving by commercial vehicle drivers); or 169.129 (aggravated DWI-related violations; penalty);

(4) Minnesota Statutes 1996, section 84.91, subdivision 1, paragraph (a) (operating snowmobile or all-terrain vehicle while impaired); or 86B.331, subdivision 1, paragraph (a) (operating motorboat while impaired); or

(5) an ordinance from this state, or a statute or ordinance from another state, in conformity with any provision listed in clause (1), (2), (3), or (4).

A "prior impaired driving conviction" also includes a prior juvenile adjudication that would have been a prior impaired driving conviction if committed by an adult.

Subd. 21. [PRIOR IMPAIRED DRIVING-RELATED LOSS OF LICENSE.] "Prior impaired driving-related loss of license" includes a driver's license suspension, revocation, cancellation, denial, or disqualification under:

(1) section 169A.31 (alcohol-related school bus or Head Start bus driving); 169A.50 to 169A.53 (implied consent law); 169A.54 (impaired driving convictions and adjudications; administrative penalties); 171.04 (persons not eligible for drivers' licenses); 171.14 (cancellation); 171.16 (court may recommend suspension); 171.165 (commercial driver's license, disqualification); 171.17 (revocation); or 171.18 (suspension); because of an alcohol-related incident;

(2) section 609.21 (criminal vehicular homicide and injury, substance-related offenses), subdivision 1, clauses (2) to (6); subdivision 2, clauses (2) to (6); subdivision 2a, clauses (2) to (6); subdivision 2b, clauses (2) to (6); subdivision 3, clauses (2) to (6); or subdivision 4, clauses (2) to (6);

(3) Minnesota Statutes 1998, section 169.121 (driver under influence of alcohol or controlled substance); 169.1211 (alcohol-related driving by commercial vehicle drivers); or 169.123 (chemical tests for intoxication); or

(4) an ordinance from this state, or a statute or ordinance from another state, in conformity with any provision listed in clause (1), (2), or (3).

"Prior impaired driving-related loss of license" also includes the revocation of snowmobile or all-terrain vehicle operating privileges under section 84.911 (chemical testing), or motorboat operating privileges under section 86B.335 (testing for alcohol and controlled substances), for violations that occurred on or after August 1, 1994; the revocation of snowmobile or all-terrain vehicle operating privileges under section 84.91 (operation of snowmobiles and all-terrain vehicles by persons under the influence of alcohol or controlled substances); or the revocation of motorboat operating privileges under section 86B.331 (operation while using alcohol or drugs or with a physical or mental disability).

Subd. 22. [QUALIFIED PRIOR IMPAIRED DRIVING INCIDENT.] "Qualified prior impaired driving incident" includes prior impaired driving convictions and prior impaired driving-related losses of license.

Subd. 23. [SCHOOL BUS.] "School bus" has the meaning given in section 169.01, subdivision 6.

Subd. 24. [STREET OR HIGHWAY.] "Street or highway" has the meaning given in section 169.01, subdivision 29.

Subd. 25. [VEHICLE.] "Vehicle" has the meaning given in section 169.01, subdivision 2.

Sec. 3. [169A.05] [PARENTHETICAL REFERENCES.]

Words set forth in parentheses after references to sections or subdivisions in this chapter 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 any statutory language. *[new, see 645.49]*

Sec. 4. [169A.07] [FIRST-TIME DWI VIOLATOR; OFF-ROAD RECREATIONAL VEHICLE OR MOTORBOAT.]

A person who violates section 169A.20 (driving while impaired) while using an off-road recreational vehicle or motorboat and who does not have a qualified prior impaired driving incident is subject only to the criminal penalty provided in section 169A.25 (first-degree driving while impaired), 169A.26 (second-degree driving while impaired), or 169A.27 (third-degree driving while impaired); and loss of operating privileges as provided in section 84.91, subdivision 1 (operation of snowmobiles or all-terrain vehicles by persons under the influence of alcohol or controlled substances), or 86B.331, subdivision 1 (operation of motorboats while using alcohol or with a physical or mental disability), whichever is applicable. The person is not subject to the provisions of sections 169A.275, subdivision 5, (submission to the level of care recommended in chemical use assessment for repeat offenders and offenders with alcohol concentration of 0.20 or more); 169A.277 (long-term monitoring); 169A.285 (penalty assessment); 169A.44 (conditional release); 169A.54 (impaired driving convictions and adjudications; administrative penalties); or 169A.54, subdivision 11 (chemical use assessment); the license revocation sanctions of sections 169A.50 to 169A.53 (implied consent law); or the plate impoundment provisions of section 169A.60 (administrative impoundment of plates). *[169.121, subd. 1d]*

Sec. 5. [169A.09] [SANCTION FOR PRIOR BEHAVIOR BASED ON SEPARATE COURSES OF CONDUCT.]

Prior impaired driving convictions and prior impaired driving-related losses of license must arise out of a separate course of conduct to be considered as multiple qualified prior impaired driving incidents under this chapter. When a person has a prior impaired driving conviction and a prior impaired driving-related loss of license based on the same course of conduct, either the conviction or the loss of license may be considered a qualified prior impaired driving incident, but not both. *[new]*

Sec. 6. [169A.095] [DETERMINING NUMBER OF AGGRAVATING FACTORS.]

When determining the number of aggravating factors present for purposes of this chapter, subject to section 169A.09 (sanctions for prior behavior to be based on separate courses of conduct), each qualified prior impaired driving incident within the ten years immediately preceding the current offense is counted as a separate aggravating factor. *[new]*

CRIMINAL PROVISIONS

Sec. 7. [169A.20] [DRIVING WHILE IMPAIRED.]

Subdivision 1. [DRIVING WHILE IMPAIRED CRIME.] It is a crime for any person to drive, operate, or be in physical control of any motor vehicle within this state or on any boundary water of this state:

(1) when the person is under the influence of alcohol;

(2) when the person is under the influence of a controlled substance;

(3) when the person is knowingly under the influence of a hazardous substance that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to drive or operate the motor vehicle;

(4) when the person is under the influence of a combination of any two or more of the elements named in clauses (1), (2), and (3);

(5) when the person's alcohol concentration at the time, or as measured within two hours of the time, of driving, operating, or being in physical control of the motor vehicle is 0.10 or more;

(6) when the vehicle is a commercial motor vehicle and the person's alcohol concentration at the time, or as measured within two hours of the time, of driving, operating, or being in physical control of the commercial motor vehicle is 0.04 or more; or

(7) when the person's body contains any amount of a controlled substance listed in schedule I or II other than marijuana or tetrahydrocannabinols. *[169.121, subd. 1; 169.1211, subd. 1]*

Subd. 2. [REFUSAL TO SUBMIT TO CHEMICAL TEST CRIME.] It is a crime for any person to refuse to submit to a chemical test of the person's blood, breath, or urine under section 169A.52 (test refusal or failure; revocation of license). *[169.121, subd. 1a]*

Subd. 3. [SENTENCE.] A person who violates this section may be sentenced as provided in section 169A.25 (first-degree driving while impaired), 169A.26 (second-degree driving while impaired), or 169A.27 (third-degree driving while impaired). *[new]*

Sec. 8. [169A.25] [FIRST-DEGREE DRIVING WHILE IMPAIRED.]

Subdivision 1. [DEGREE DESCRIBED.] A person who violates section 169A.20 (driving while impaired) is guilty of first-degree driving while impaired if two or more aggravating factors were present when the violation was committed. *[new]*

Subd. 2. [CRIMINAL PENALTY.] First-degree driving while impaired is a gross misdemeanor. The mandatory penalties described in section 169A.275 and the long-term monitoring described in section 169A.277 may be applicable. *[new]*

Sec. 9. [169A.26] [SECOND-DEGREE DRIVING WHILE IMPAIRED.]

Subdivision 1. [DEGREE DESCRIBED.] A person who violates section 169A.20 (driving while impaired) is guilty of second-degree driving while impaired if one aggravating factor was present when the violation was committed. *[new]*

Subd. 2. [CRIMINAL PENALTY.] Second-degree driving while impaired is a gross misdemeanor. The mandatory penalties described in section 169A.275 and the long-term monitoring described in section 169A.277 may be applicable. *[new]*

Sec. 10. [169A.27] [THIRD-DEGREE DRIVING WHILE IMPAIRED.]

Subdivision 1. [DEGREE DESCRIBED.] A person who violates section 169A.20 (driving while impaired) is guilty of third-degree driving while impaired. *[new]*

Subd. 2. [CRIMINAL PENALTY.] Third-degree driving while impaired is a misdemeanor. *[new]*

Sec. 11. [169A.275] [MANDATORY PENALTIES.]

Subdivision 1. [SECOND OFFENSE.] (a) The court shall sentence a person who is convicted of a violation of section 169A.20 (driving while impaired) within ten years of a qualified prior impaired driving incident to either:

(1) a minimum of 30 days of incarceration, at least 48 hours of which must be served consecutively in a local correctional facility; or

(2) eight hours of community work service for each day less than 30 days that the person is ordered to serve in a local correctional facility.

Notwithstanding section 609.135 (stay of imposition or execution of sentence), the penalties in this paragraph must be executed, unless the court departs from the mandatory minimum sentence under paragraph (b) or (c).

(b) Prior to sentencing, the prosecutor may file a motion to have a defendant described in paragraph (a) sentenced without regard to the mandatory minimum sentence established by that paragraph. The motion must be accompanied by a statement on the record of the reasons for it. When presented with the prosecutor's motion and if it finds that substantial mitigating factors exist, the court shall sentence the defendant without regard to the mandatory minimum sentence established by paragraph (a).

(c) The court may, on its own motion, sentence a defendant described in paragraph (a) without regard to the mandatory minimum sentence established by that paragraph if it finds that substantial mitigating factors exist and if its sentencing departure is accompanied by a statement on the record of the reasons for it. The court also may sentence the defendant without regard to the mandatory minimum sentence established by paragraph (a) if the defendant is sentenced to probation and ordered to participate in a program established under section 169A.74 (pilot programs of intensive probation for repeat DWI offenders).

(d) When any portion of the sentence required by paragraph (a) is not executed, the court should impose a sentence that is proportional to the extent of the offender's prior criminal and moving traffic violation record. Any sentence required under paragraph (a) must include a mandatory sentence that is not subject to suspension or a stay of imposition or execution, and that includes incarceration for not less than 48 consecutive hours or at least 80 hours of community work service.

Subd. 2. [THIRD OFFENSE.] (a) The court shall sentence a person who is convicted of a violation of section 169A.20 (driving while impaired) within ten years of the first of two qualified prior impaired driving incidents to either:

(1) a minimum of 90 days of incarceration, at least 30 days of which must be served consecutively in a local correctional facility; or

(2) a program of intensive supervision of the type described in section 169A.74 (pilot programs of intensive probation for repeat DWI offenders) that requires the person to consecutively serve at least six days in a local correctional facility.

(b) The court may order that the person serve not more than 60 days of the minimum penalty under paragraph (a), clause (1), on home detention or in an intensive probation program described in section 169A.74.

(c) Notwithstanding section 609.135, the penalties in this subdivision must be imposed and executed.

Subd. 3. [FOURTH OFFENSE.] (a) The court shall sentence a person who is convicted of a violation of section 169A.20 (driving while impaired) within ten years of the first of three qualified prior impaired driving incidents to either:

(1) a minimum of 180 days of incarceration, at least 30 days of which must be served consecutively in a local correctional facility; or

(2) a program of intensive supervision of the type described in section 169A.74 (pilot programs of intensive probation for repeat DWI offenders) that requires the person to consecutively serve at least six days in a local correctional facility.

(b) The court may order that the person serve not more than 150 days of the minimum penalty under paragraph (a), clause (1), on home detention or in an intensive probation program described in section 169A.74. Notwithstanding section 609.135, the penalties in this subdivision must be imposed and executed.

Subd. 4. [FIFTH OFFENSE OR MORE.] (a) The court shall sentence a person who is convicted of a violation of section 169A.20 (driving while impaired) within ten years of the first of four or more qualified prior impaired driving incidents to either:

(1) a minimum of one year of incarceration, at least 60 days of which must be served consecutively in a local correctional facility; or

(2) a program of intensive supervision of the type described in section 169A.74 (pilot programs of intensive probation for repeat DWI offenders) that requires the person to consecutively serve at least six days in a local correctional facility.

(b) The court may order that the person serve the remainder of the minimum penalty under paragraph (a), clause (1), on intensive probation using an electronic monitoring system or, if such a system is unavailable, on home detention. Notwithstanding section 609.135, the penalties in this subdivision must be imposed and executed.

Subd. 5. [LEVEL OF CARE RECOMMENDED IN CHEMICAL USE ASSESSMENT.] In addition to other penalties required under this section, the court shall order a person to submit to the level of care recommended in the chemical use assessment conducted under section 169A.70 (alcohol safety program; chemical use assessments) if the person is convicted of violating section 169A.20 (driving while impaired) while having an alcohol concentration of 0.20 or more as measured at the time, or within two hours of the time, of the offense or if the violation occurs within ten years of one or more qualified prior impaired driving incidents. *[169.121, subd. 3d (par. (a) to (g)); 169.121, subd. 3b (par. (h))]*

Sec. 12. [169A.277] [LONG-TERM MONITORING.]

Subdivision 1. [APPLICABILITY.] This section applies to a person convicted of:

(1) a violation of section 169A.20 (driving while impaired) within ten years of the first of two or more prior impaired driving convictions;

(2) a violation of section 169A.20, if the person is under the age of 19 years and has previously been convicted of violating section 169A.20 or Minnesota Statutes 1998, section 169.121 (driver under the influence of alcohol or controlled substance); or

(3) a violation of section 169A.20, while the person's driver's license or driving privileges have been canceled under section 171.04, subdivision 1, clause (9) (persons not eligible for drivers' licenses, inimical to public safety).

Subd. 2. [MONITORING REQUIRED.] When the court sentences a person described in subdivision 1 to a stayed sentence and when electronic monitoring equipment is available to the court, the court shall require that the person participate in a program of electronic alcohol monitoring in addition to any other conditions of probation or jail time it imposes. During the first one-third of the person's probationary term, the electronic alcohol monitoring must be continuous and involve measurements of the person's alcohol concentration at least three times a day. During the remainder of the person's probationary term, the electronic alcohol monitoring may be intermittent, as determined by the court.

Subd. 3. [REIMBURSEMENT.] The court shall require partial or total reimbursement from the person for the cost of the electronic alcohol monitoring, to the extent the person is able to pay. *[169.121, subd. 3e]*

Sec. 13. [169A.28] [CONSECUTIVE SENTENCES.]

Subdivision 1. [MANDATORY CONSECUTIVE SENTENCES.] The court shall impose consecutive sentences when it sentences a person for:

(1) violations of section 169A.20 (driving while impaired) arising out of separate courses of conduct;

(2) a violation of section 169A.20 when the person, at the time of sentencing, is on probation for, or serving, an executed sentence for a violation of section 169A.20 or Minnesota Statutes 1998, section 169.121 (driver under the influence of alcohol or controlled substance) or 169.129 (aggravated DWI-related violations; penalty), and the prior sentence involved a separate course of conduct; or

(3) a violation of section 169A.20 and another offense arising out of a single course of conduct that is listed in subdivision 2, paragraph (f), when the person has five or more qualified prior impaired driving incidents within the past ten years. *[169.121, subd. 3, par. (f) and (i); 609.035, subd. 2, par. (g)]*

Subd. 2. [PERMISSIVE CONSECUTIVE SENTENCES; MULTIPLE OFFENSES.] (a) When a person is being sentenced for a violation of a provision listed in paragraph (e), the court may sentence the person to a consecutive term of imprisonment for a violation of any other provision listed in paragraph (e), notwithstanding the fact that the offenses arose out of the same course of conduct, subject to the limitation on consecutive sentences contained in section 609.15, subdivision 2, and except as provided in paragraphs (b) and (c) of this subdivision.

(b) When a person is being sentenced for a violation of section 171.20 (operation after revocation, suspension, cancellation, or disqualification), 171.24 (driving without valid license), or 171.30 (violation of condition of limited license), the court may not impose a consecutive sentence for another violation of a provision in chapter 171 (drivers' licenses and training schools).

(c) When a person is being sentenced for a violation of section 169.791 (failure to provide proof of insurance) or 169.797 (failure to provide vehicle insurance), the court may not impose a consecutive sentence for another violation of a provision of sections 169.79 to 169.7995.

(d) This subdivision does not limit the authority of the court to impose consecutive sentences for crimes arising on different dates or to impose a consecutive sentence when a person is being sentenced for a crime and is also in violation of the conditions of a stayed or otherwise deferred sentence under section 609.135 (stay of imposition or execution of sentence).

(e) This subdivision applies to misdemeanor and gross misdemeanor violations of the following if the offender has two or more prior impaired driving convictions within the past ten years:

(1) section 169A.20 (driving while impaired);

(2) section 169.791;

(3) section 169.797;

(4) section 171.20, subdivision 2 (operation after revocation, suspension, cancellation, or disqualification);

(5) section 171.24; and

(6) section 171.30. *[169.121, subd. 3, par. (h); 609.035, subd. 2]*

Subd. 3. [PERMISSIVE CONSECUTIVE SENTENCES; PREVIOUS OFFENSES.] The court may order that the sentence imposed for a violation of section 169A.20 (driving while impaired) run consecutively to a previously imposed misdemeanor, gross misdemeanor, or felony sentence for a violation other than section 169A.20. *[169.121, subd. 3, par. (f)]*

Sec. 14. [169A.283] [STAY OF EXECUTION OF SENTENCE.]

Subdivision 1. [STAY AUTHORIZED.] Except as otherwise provided in section 169A.275 (mandatory penalties), when a court sentences a person convicted of a violation of section 169A.20 (driving while impaired), the court may stay execution of the criminal sentence described in section 169A.25 (first-degree driving while impaired), 169A.26

(second-degree driving while impaired), or 169A.27 (third-degree driving while impaired), on the condition that the convicted person submit to the level of care recommended in the chemical use assessment report required under section 169A.70 (alcohol safety programs; chemical use assessments). If the court does not order a level of care in accordance with the assessment report recommendation as a condition of a stay of execution, it shall state on the record its reasons for not following the assessment report recommendation.

Subd. 2. [MANNER AND LENGTH OF STAY, REQUIRED REPORT.] A stay of execution must be in the manner provided in section 609.135 (stay of imposition or execution of sentence). The length of stay is governed by section 609.135, subdivision 2. The court shall report to the commissioner any stay of execution of sentence granted under this section.

Subd. 3. [NO STAY OF LICENSE REVOCATION.] The court may not stay the execution of the driver's license revocation provisions of section 169A.54 (impaired driving convictions and adjudications; administrative penalties). *[169.121, subd. 3, par. (g); 169.121, subd. 5]*

Sec. 15. [169A.284] [CHEMICAL DEPENDENCY ASSESSMENT CHARGE; SURCHARGE.]

Subdivision 1. [WHEN REQUIRED.] (a) When a court sentences a person convicted of an offense enumerated in section 169A.70, subdivision 2 (chemical use assessment; requirement; form), it shall impose a chemical dependency assessment charge of $125. A person shall pay an additional surcharge of $5 if the person is convicted of a violation of section 169A.20 (driving while impaired) within five years of a prior impaired driving conviction or a prior conviction for an offense arising out of an arrest for a violation of section 169A.20 or Minnesota Statutes 1998, section 169.121 (driver under influence of alcohol or controlled substance) or 169.129 (aggravated DWI-related violations; penalty). This section applies when the sentence is executed, stayed, or suspended. The court may not waive payment or authorize payment of the assessment charge and surcharge in installments unless it makes written findings on the record that the convicted person is indigent or that the assessment charge and surcharge would create undue hardship for the convicted person or that person's immediate family.

(b) The chemical dependency assessment charge and surcharge required under this section are in addition to the surcharge required by section 357.021, subdivision 6 (surcharges on criminal and traffic offenders). *[169.121, subd. 5a]*

Subd. 2. [DISTRIBUTION OF MONEY.] The county shall collect and forward to the commissioner of finance $25 of the chemical dependency assessment charge and the $5 surcharge, if any, within 60 days after sentencing or explain to the commissioner in writing why the money was not forwarded within this time period. The commissioner shall credit the money to the general fund. The county shall collect and keep $100 of the chemical dependency assessment charge. *[169.121, subd. 5a]*

Sec. 16. [169A.285] [PENALTY ASSESSMENT.]

Subdivision 1. [AUTHORITY; AMOUNT.] When a court sentences a person who violates section 169A.20 (driving while impaired) while having an alcohol concentration of 0.20 or more as measured at the time, or within two hours of the time, of the violation, the court may impose a penalty assessment of up to $1,000. The court may impose this assessment in addition to any other penalties or charges authorized under law.

Subd. 2. [ASSESSMENT DISTRIBUTION.] Money collected under this section must be distributed as follows:

(1) if the arresting officer is an employee of a political subdivision, the assessment must be forwarded to the treasury of the political subdivision for use in enforcement, training, and education activities related to driving while impaired; or

(2) if the arresting officer is an employee of the state, the assessment must be forwarded to the state treasury and credited to the general fund. *[169.121, subd. 5b]*

Sec. 17. [169A.31] [ALCOHOL-RELATED SCHOOL BUS OR HEAD START BUS DRIVING.]

Subdivision 1. [CRIME DESCRIBED.] It is a crime for any person to drive, operate, or be in physical control of any class of school bus or Head Start bus within this state when there is physical evidence present in the person's body of the consumption of any alcohol. *[169.1211, subd. 1, par. (b)]*

Subd. 2. [GROSS MISDEMEANOR ALCOHOL-RELATED SCHOOL BUS OR HEAD START BUS DRIVING.] A person who violates subdivision 1 is guilty of gross misdemeanor alcohol-related school bus or Head Start bus driving if:

(1) the violation occurs while a child under the age of 16 is in the vehicle, if the child is more than 36 months younger than the violator; or

(2) the violation occurs within ten years of a qualified prior impaired driving incident. *[169.1211, subd. 5, par. (b)]*

Subd. 3. [MISDEMEANOR ALCOHOL-RELATED SCHOOL BUS OR HEAD START BUS DRIVING.] Except as provided in subdivision 2, a person who violates subdivision 1 is guilty of misdemeanor alcohol-related school bus or Head Start bus driving. *[169.1211, subd. 5, par. (a)]*

Sec. 18. [169A.33] [UNDERAGE DRINKING AND DRIVING.]

Subdivision 1. [DEFINITION.] As used in this section, "motor vehicle" does not include motorboats in operation or off-road recreational vehicles. *[new]*

Subd. 2. [CRIME DESCRIBED.] It is a crime for a person under the age of 21 years to drive, operate, or be in physical control of a motor vehicle while consuming alcoholic beverages, or after having consumed alcoholic beverages while there is physical evidence of the consumption present in the person's body. *[169.1218, par. (a)]*

Subd. 3. [CRIMINAL PENALTY.] A person who violates subdivision 2 is guilty of a misdemeanor. *[169.1218, par. (a)]*

Subd. 4. [ADMINISTRATIVE PENALTY.] When a person is found to have committed an offense under subdivision 2, the court shall notify the commissioner of its determination. Upon receipt of the court's determination, the commissioner shall suspend the person's driver's license or operating privileges for 30 days, or for 180 days if the person has previously been found to have violated subdivision 2 or a statute or ordinance in conformity with it. *[169.1218, par. (b)]*

Subd. 5. [EXCEPTION.] If the person's conduct violates section 169A.20 (driving while impaired) or 169A.31 (alcohol-related school bus or Head Start bus driving), the penalties and license sanctions in those laws or section 169A.54 (impaired driving convictions and adjudications; administrative penalties) apply instead of the license sanction in subdivision 4. *[169.1218, par. (c)]*

Subd. 6. [JURISDICTION.] An offense under subdivision 2 may be prosecuted either in the jurisdiction where consumption occurs or the jurisdiction where evidence of consumption is observed. *[169.1218, par. (d)]*

Sec. 19. [169A.35] [OPEN BOTTLE LAW.]

Subdivision 1. [DEFINITIONS.] As used in this section:

(1) "motor vehicle" does not include motorboats in operation or off-road recreational vehicles; and

(2) "possession" means either that the person had actual possession of the bottle or receptacle or that the person consciously exercised dominion and control over the bottle or receptacle. *[new; 169.122, subd. 2]*

Subd. 2. [DRINKING AND CONSUMPTION; CRIME DESCRIBED.] It is a crime for a person to drink or consume intoxicating liquor or 3.2 percent malt liquor in a motor vehicle when the vehicle is upon a street or highway. *[169.122, subd. 1]*

Subd. 3. [POSSESSION; CRIME DESCRIBED.] It is a crime for a person to have in possession, while in a private motor vehicle upon a street or highway, any bottle or receptacle containing intoxicating liquor or 3.2 percent malt liquor which has been opened, or the seal broken, or the contents of which have been partially removed. *[169.122, subd. 2]*

Subd. 4. [LIABILITY OF NONPRESENT OWNER; CRIME DESCRIBED.] It is a crime for the owner of any private motor vehicle or the driver, if the owner is not present in the motor vehicle, to keep or allow to be kept in a motor vehicle when the vehicle is upon a street or highway any bottle or receptacle containing intoxicating liquor or 3.2 percent malt liquor which has been opened, or the seal broken, or the contents of which have been partially removed. *[169.122, subd. 3]*

Subd. 5. [CRIMINAL PENALTY.] A person who violates subdivisions 2 to 4 is guilty of a misdemeanor. *[169.122, subd. 4]*

Subd. 6. [EXCEPTIONS.] (a) This section does not prohibit the possession or consumption of alcoholic beverages by passengers in:

(1) a bus that is operated by a motor carrier of passengers, as defined in section 221.011, subdivision 48; or

(2) a vehicle providing limousine service as defined in section 221.84, subdivision 1.

(b) Subdivisions 3 and 4 do not apply to a bottle or receptacle that is in the trunk of the vehicle if it is equipped with a trunk, or that is in another area of the vehicle not normally occupied by the driver and passengers if the vehicle is not equipped with a trunk. However, a utility compartment or glove compartment is deemed to be within the area occupied by the driver and passengers. *[169.122, subds. 2, 3, and 5]*

Sec. 20. [169A.37] [LICENSE PLATE IMPOUNDMENT VIOLATION CRIME.]

Subdivision 1. [CRIME DESCRIBED.] It is a crime for a person to:

(1) fail to comply with an impoundment order under section 169A.60 (administrative plate impoundment);

(2) file a false statement under section 169A.60, subdivision 7 or 8;

(3) operate a self-propelled motor vehicle on a street or highway when the vehicle is subject to an impoundment order issued under section 169A.60; or

(4) fail to notify the commissioner of the impoundment order when requesting new plates. *[168.042, subd. 14]*

Subd. 2. [CRIMINAL PENALTY.] A person who violates subdivision 1 is guilty of a misdemeanor. *[168.042, subd. 14]*

PROCEDURAL PROVISIONS

Sec. 21. [169A.40] [ARREST FOR DRIVING WHILE IMPAIRED OR ALCOHOL-RELATED SCHOOL BUS OR HEAD START BUS DRIVING OFFENSE.]

Subdivision 1. [PROBABLE CAUSE ARREST.] A peace officer may lawfully arrest a person for violation of section 169A.20 (driving while impaired), 169A.31 (alcohol-related school bus or Head Start bus driving), or 169A.33 (underage drinking and driving), without a warrant upon probable cause, without regard to whether the violation was committed in the officer's presence.

Subd. 2. [FRESH PURSUIT.] When a peace officer has probable cause to believe that a person is driving or operating a motor vehicle in violation of section 169A.20 (driving while impaired), 169A.31 (alcohol-related school bus or Head Start bus driving), or 169A.33 (underage drinking and driving) and before a stop or arrest can be made the person escapes from the geographical limits of the officer's jurisdiction, the officer in fresh pursuit of the person may stop or arrest the person in another jurisdiction within this state and may exercise the powers and perform the duties of a peace officer under this chapter. An officer acting in fresh pursuit pursuant to this section is serving in the regular line of duty as fully as though within the officer's jurisdiction.

Subd. 3. [FIRST-DEGREE DWI OFFENDERS; CUSTODIAL ARREST.] Notwithstanding rule 6.01 of the Rules of Criminal Procedure, a peace officer acting without a warrant who has decided to proceed with the prosecution of a person for violating section 169A.20 (driving while impaired), must arrest and take the person into custody if the officer has reason to believe the violation occurred under the circumstances described in section 169A.25 (first-degree driving while impaired). The person must be detained until the person's first court appearance.

Subd. 4. [OTHER ARREST POWERS NOT LIMITED.] The express grant of arrest powers in this section does not limit the arrest powers of peace officers pursuant to sections 626.65 to 626.70 (uniform law on fresh pursuit) or section 629.40 (allowing arrests anywhere in state) in cases of arrests for violation of section 169A.20 (driving while impaired), 169A.31 (alcohol-related school bus or Head Start bus driving), 169A.33 (underage drinking and driving), or any other provision of law. *[169.121, subd. 1b]*

Sec. 22. [169A.41] [PRELIMINARY SCREENING TEST.]

Subdivision 1. [WHEN AUTHORIZED.] When a peace officer has reason to believe from the manner in which a person is driving, operating, controlling, or acting upon departure from a motor vehicle, or has driven, operated, or controlled a motor vehicle, that the driver may be violating or has violated section 169A.20 (driving while impaired), 169A.31 (alcohol-related school bus or Head Start bus driving), or 169A.33 (underage drinking and driving), the officer may require the driver to provide a sample of the driver's breath for a preliminary screening test using a device approved by the commissioner for this purpose.

Subd. 2. [USE OF TEST RESULTS.] The results of this preliminary screening test must be used for the purpose of deciding whether an arrest should be made and whether to require the tests authorized in section 169A.51 (chemical tests for intoxication), but must not be used in any court action except the following:

(1) to prove that a test was properly required of a person pursuant to section 169A.51, subdivision 1;

(2) in a civil action arising out of the operation or use of the motor vehicle;

(3) in an action for license reinstatement under section 171.19;

(4) in a prosecution or juvenile court proceeding concerning a violation of section 169A.33 (underage drinking and driving), or 340A.503, subdivision 1, paragraph (a), clause (2) (underage alcohol consumption);

(5) in a prosecution under section 169A.31, (alcohol-related school or Head Start bus driving); or 171.30 (limited license); or

(6) in a prosecution for a violation of a restriction on a driver's license under section 171.09, which provides that the license holder may not use or consume any amount of alcohol or a controlled substance.

Subd. 3. [ADDITIONAL TESTS.] Following the screening test additional tests may be required of the driver pursuant to the provisions of section 169A.51 (chemical tests for intoxication).

Subd. 4. [CONSEQUENCES OF REFUSAL.] The driver who refuses to furnish a sample of the driver's breath is subject to the provisions of section 169A.51 (chemical tests for intoxication), unless the driver submits to a blood, breath, or urine test to determine the presence or amount of alcohol, controlled substances, or hazardous substances in compliance with section 169A.51. *[169.121, subd. 6]*

Sec. 23. [169A.42] [IMPOUNDMENT OF MOTOR VEHICLE UNDER LOCAL ORDINANCE; REDEMPTION.]

Subdivision 1. [DEFINITION.] As used in this section, "impoundment" means the removal of a motor vehicle to a storage facility or impound lot as authorized by a local ordinance.

Subd. 2. [REDEMPTION; PREREQUISITES.] If a motor vehicle is impounded by a peace officer following the arrest or taking into custody of a driver for a violation of section 169A.20 (driving while impaired), or an ordinance in conformity with it, the impounded vehicle must only be released from impoundment:

(1) to the registered owner, a person authorized by the registered owner, a lienholder of record, or a person who has purchased the vehicle from the registered owner, who provides proof of ownership of the vehicle, proof of valid Minnesota driving privileges, and proof of insurance required by law to cover the vehicle;

(2) if the vehicle is subject to a rental or lease agreement, to a renter or lessee with valid Minnesota driving privileges who provides a copy of the rental or lease agreement and proof of insurance required by law to cover the vehicle; or

(3) to an agent of a towing company authorized by a registered owner if the owner provides proof of ownership of the vehicle and proof of insurance required by law to cover the vehicle.

Subd. 3. [TO WHOM INFORMATION PROVIDED.] The proof of ownership and insurance or, if applicable, the copy of the rental or lease agreement required by subdivision 2 must be provided to the law enforcement agency impounding the vehicle or to a person or entity designated by the law enforcement agency to receive the information.

Subd. 4. [LIABILITY FOR STORAGE COSTS.] No law enforcement agency, local unit of government, or state agency is responsible or financially liable for any storage fees incurred due to an impoundment under this section. *[169.1216]*

Sec. 24. [169A.43] [RESPONSIBILITY FOR PROSECUTION; CRIMINAL HISTORY INFORMATION.]

Subdivision 1. [DEFINITION.] As used in this section, "impaired driving offense" includes violations of sections 169A.20 to 169A.33. *[new]*

Subd. 2. [PROSECUTION.] The attorney in the jurisdiction in which an impaired driving offense occurred who is responsible for prosecution of misdemeanor-level impaired driving offenses is also responsible for prosecution of gross misdemeanor-level impaired driving offenses. *[169.121, subd. 3, par. (f) and 169.129, subd. 3]*

Subd. 3. [VENUE.] (a) A violation of section 169A.20, subdivision 2 (refusal to submit to chemical test) may be prosecuted either in the jurisdiction where the arresting officer observed the defendant driving, operating, or in control of the motor vehicle or in the jurisdiction where the refusal occurred. *[169.121, subd. 3, par. (k)]*

(b) An underage drinking and driving offense may be prosecuted as provided in section 169A.33, subdivision 6 (underage drinking and driving). *[new cross-reference; see also 169.1218, par. (d)]*

Subd. 4. [CRIMINAL HISTORY INFORMATION.] When an attorney responsible for prosecuting impaired driving offenses requests criminal history information relating to prior impaired driving convictions from a court, the court shall furnish the information without charge. *[169.121, subd. 3, par. (j)]*

Sec. 25. [169A.44] [CONDITIONAL RELEASE.]

(a) This section applies to a person charged with:

(1) a violation of section 169A.20 (driving while impaired) within ten years of the first of two or more prior impaired driving convictions;

(2) a violation of section 169A.20, if the person is under the age of 19 years and has previously been convicted of violating section 169A.20 or Minnesota Statutes 1998, section 169.121 (driver under the influence of alcohol or controlled substance);

(3) a violation of section 169A.20, while the person's driver's license or driving privileges have been canceled under section 171.04, subdivision 1, clause (9) (persons not eligible for drivers' licenses, inimical to public safety); or

(4) a violation of section 169A.20 by a person having an alcohol concentration of 0.20 or more as measured at the time, or within two hours of the time, of the offense.

(b) Unless maximum bail is imposed under section 629.471, a person described in paragraph (a) may be released from detention only if the person agrees to:

(1) abstain from alcohol; and

(2) submit to a program of electronic alcohol monitoring, involving at least daily measurements of the person's alcohol concentration, pending resolution of the charge.

Clause (2) applies only when electronic alcohol monitoring equipment is available to the court. The court shall require partial or total reimbursement from the person for the cost of the electronic alcohol monitoring, to the extent the person is able to pay.

(c) Unless maximum bail is imposed under section 629.471, subdivision 2, a person charged with violating section 169A.20 within ten years of the first of three or more prior impaired driving convictions may be released from detention only if the following conditions are imposed in addition to the condition imposed in paragraph (b), if applicable, and any other conditions of release ordered by the court:

(1) the impoundment of the registration plates of the vehicle used to commit the violation, unless already impounded;

(2) if the vehicle used to commit the violation was an off-road recreational vehicle or a motorboat, the impoundment of the off-road recreational vehicle or motorboat;

(3) a requirement that the person report weekly to a probation agent;

(4) a requirement that the person abstain from consumption of alcohol and controlled substances and submit to random alcohol tests or urine analyses at least weekly; and

(5) a requirement that, if convicted, the person reimburse the court or county for the total cost of these services. *[169.121, subd. 1c]*

Sec. 26. [169A.45] [EVIDENCE.]

Subdivision 1. [ALCOHOL CONCENTRATION EVIDENCE.] Upon the trial of any prosecution arising out of acts alleged to have been committed by any person arrested for violating section 169A.20 (driving while impaired) or 169A.31 (alcohol-related school bus or Head Start bus driving), the court may admit evidence of the presence or amount of alcohol in the person's blood, breath, or urine as shown by an analysis of those items. In addition, in a prosecution for a violation of section 169A.20, the court may admit evidence of the presence or amount of controlled substances or hazardous substances in the person's blood, breath, or urine as shown by an analysis of those items.

Subd. 2. [RELEVANT EVIDENCE OF IMPAIRMENT.] For the purposes of section 169A.20 (driving while impaired), evidence that there was at the time an alcohol concentration of 0.04 or more is relevant evidence in indicating whether or not the person was under the influence of alcohol.

Subd. 3. [EVIDENCE OF REFUSAL.] Evidence of the refusal to take a test is admissible into evidence in a prosecution under section 169A.20 (driving while impaired).

Subd. 4. [OTHER COMPETENT EVIDENCE ADMISSIBLE.] The preceding provisions do not limit the introduction of any other competent evidence bearing upon the question of whether the person violated section 169A.20 (driving while impaired) or 169A.31 (alcohol-related school bus or Head Start bus driving), including tests obtained more than two hours after the alleged violation and results obtained from partial tests on an infrared breath-testing instrument. A result from a partial test is the measurement obtained by analyzing one adequate breath sample, as described in section 169A.51, subdivision 5, paragraph (b) (breath test using infrared breath-testing instrument). *[169.121, subd. 2]*

Sec. 27. [169A.46] [AFFIRMATIVE DEFENSES.]

Subdivision 1. [IMPAIRMENT OCCURRED AFTER DRIVING CEASED.] If proven by a preponderance of the evidence, it is an affirmative defense to a violation of section 169A.20, subdivision 1, clause (5) (driving while impaired, alcohol concentration within two hours of driving), or 169A.20 by a person having an alcohol concentration of 0.20 or more as measured at the time, or within two hours of the time, of the offense, that the defendant consumed a sufficient quantity of alcohol after the time of the violation and before the administration of the evidentiary test to cause the defendant's alcohol concentration to exceed the level specified in the applicable clause. Evidence that the defendant consumed alcohol after the time of the violation may not be admitted in defense to any alleged violation of section 169A.20, unless notice is given to the prosecution prior to the omnibus or pretrial hearing in the matter.

Subd. 2. [IMPAIRMENT FROM PRESCRIPTION DRUG.] If proven by a preponderance of the evidence, it is an affirmative defense to a violation of section 169A.20 subdivision 1, clause (7) (presence of schedule I or II controlled substance), that the defendant used the controlled substance according to the terms of a prescription issued for the defendant in accordance with sections 152.11 and 152.12. *[169.121, subd. 2; 169.1211, subd. 3]*

Sec. 28. [169A.47] [NOTICE OF ENHANCED PENALTY.]

When a court sentences a person for a violation of sections 169A.20 to 169A.31 (impaired driving offenses), it shall inform the defendant of the statutory provisions that provide for enhancement of criminal penalties for repeat violators, and the provisions that provide for administrative plate impoundment and forfeiture of motor vehicles used to commit an impaired driving offense. The notice must describe the conduct and the time periods within which the conduct must occur in order to result in increased penalties, plate impoundment, or forfeiture. The failure of a court to provide this information to a defendant does not affect the future applicability of these enhanced penalties to that defendant. *[169.121, subd. 3, par. (d), and subd. 3c]*

Sec. 29. [169A.48] [IMMUNITY FROM LIABILITY.]

Subdivision 1. [DEFINITION.] For purposes of this section, "political subdivision" means a county, statutory or home rule charter city, or town.

Subd. 2. [IMMUNITY.] The state or political subdivision by which a peace officer making an arrest for violation of sections 169A.20 to 169A.33 (impaired driving offenses), is employed has immunity from any liability, civil or criminal, for the care or custody of the motor vehicle being driven by, operated by, or in the physical control of the person arrested if the peace officer acts in good faith and exercises due care. *[169.121, subd. 9]*

ADMINISTRATIVE PROVISIONS

Sec. 30. [169A.50] [CITATION.]

Sections 169A.50 to 169A.53 may be cited as the implied consent law. *[new]*

Sec. 31. [169A.51] [CHEMICAL TESTS FOR INTOXICATION.]

Subdivision 1. [IMPLIED CONSENT; CONDITIONS; ELECTION OF TEST.] (a) Any person who drives, operates, or is in physical control of a motor vehicle within this state or on any boundary water of this state consents, subject to the provisions of sections 169A.50 to 169A.53 (implied consent law), and section 169A.20 (driving while impaired), to a chemical test of that person's blood, breath, or urine for the purpose of determining the presence of alcohol, controlled substances, or hazardous substances. The test must be administered at the direction of a peace officer.

(b) The test may be required of a person when an officer has probable cause to believe the person was driving, operating, or in physical control of a motor vehicle in violation of section 169A.20 (driving while impaired), and one of the following conditions exist:

(1) the person has been lawfully placed under arrest for violation of section 169A.20 or an ordinance in conformity with it;

(2) the person has been involved in a motor vehicle accident or collision resulting in property damage, personal injury, or death;

(3) the person has refused to take the screening test provided for by section 169A.41 (preliminary screening test); or

(4) the screening test was administered and indicated an alcohol concentration of 0.10 or more.

(c) The test may also be required of a person when an officer has probable cause to believe the person was driving, operating, or in physical control of a commercial motor vehicle with the presence of any alcohol. *[169.123, subd. 2, par. (a)]*

Subd. 2. [IMPLIED CONSENT ADVISORY.] At the time a test is requested, the person must be informed:

(1) that Minnesota law requires the person to take a test:

(i) to determine if the person is under the influence of alcohol, controlled substances, or hazardous substances;

(ii) to determine the presence of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols; and

(iii) if the motor vehicle was a commercial motor vehicle, to determine the presence of alcohol;

(2) that refusal to take a test is a crime;

(3) if the peace officer has probable cause to believe the person has violated the criminal vehicular homicide and injury laws, that a test will be taken with or without the person's consent; and

(4) that the person has the right to consult with an attorney, but that this right is limited to the extent that it cannot unreasonably delay administration of the test. *[169.123, subd. 2, par. (b)]*

Subd. 3. [TYPE OF TEST.] The peace officer who requires a test pursuant to this section may direct whether the test is of blood, breath, or urine. Action may be taken against a person who refuses to take a blood test only if an alternative test was offered and action may be taken against a person who refuses to take a urine test only if an alternative test was offered. *[169.123, subd. 2, par. (c)]*

Subd. 4. [REQUIREMENT OF URINE OR BLOOD TEST.] Notwithstanding subdivision 3, a blood or urine test may be required even after a breath test has been administered if there is probable cause to believe that:

(1) there is impairment by a controlled substance or hazardous substance that is not subject to testing by a breath test; or

(2) a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols, is present in the person's body.

Action may be taken against a person who refuses to take a blood test under this subdivision only if a urine test was offered and action may be taken against a person who refuses to take a urine test only if a blood test was offered. *[169.123, subd. 2a]*

Subd. 5. [BREATH TEST USING INFRARED BREATH-TESTING INSTRUMENT.] (a) In the case of a breath test administered using an infrared breath-testing instrument, the test must consist of analyses in the following sequence: one adequate breath sample analysis, one calibration standard analysis, and a second, adequate breath sample analysis.

(b) In the case of a test administered using an infrared breath-testing instrument, a sample is adequate if the instrument analyzes the sample and does not indicate the sample is deficient.

(c) For purposes of section 169A.52 (revocation of license for test failure or refusal), when a test is administered using an infrared breath-testing instrument, failure of a person to provide two separate, adequate breath samples in the proper sequence constitutes a refusal. *[169.123, subd. 2b]*

Subd. 6. [CONSENT OF PERSON INCAPABLE OF REFUSAL NOT WITHDRAWN.] A person who is unconscious or who is otherwise in a condition rendering the person incapable of refusal is deemed not to have withdrawn the consent provided by subdivision 1 and the test may be given. *[169.123, subd. 2c]*

Subd. 7. [REQUIREMENTS FOR CONDUCTING TESTS; LIABILITY.] (a) Only a physician, medical technician, physician's trained mobile intensive care paramedic, registered nurse, medical technologist, or laboratory assistant acting at the request of a peace officer may withdraw blood for the purpose of determining the presence of alcohol, controlled substances, or hazardous substances. This limitation does not apply to the taking of a breath or urine sample.

(b) The person tested has the right to have someone of the person's own choosing administer a chemical test or tests in addition to any administered at the direction of a peace officer; provided, that the additional test sample on behalf of the person is obtained at the place where the person is in custody, after the test administered at the direction of a peace officer, and at no expense to the state. The failure or inability to obtain an additional test or tests by a person does not preclude the admission in evidence of the test taken at the direction of a peace officer unless the additional test was prevented or denied by the peace officer.

(c) The physician, medical technician, physician's trained mobile intensive care paramedic, medical technologist, laboratory assistant, or registered nurse drawing blood at the request of a peace officer for the purpose of determining the concentration of alcohol, controlled substances, or hazardous substances is in no manner liable in any civil or criminal action except for negligence in drawing the blood. The person administering a breath test must be fully trained in the administration of breath tests pursuant to training given by the commissioner of public safety. *[169.123, subd. 3]*

Sec. 32. [169A.52] [TEST REFUSAL OR FAILURE; LICENSE REVOCATION.]

Subdivision 1. [TEST REFUSAL.] If a person refuses to permit a test, then a test must not be given, but the peace officer shall report the refusal to the commissioner and the authority having responsibility for prosecution of impaired driving offenses for the jurisdiction in which the acts occurred. However, if a peace officer has probable

cause to believe that the person has violated section 609.21 (criminal vehicular homicide and injury), a test may be required and obtained despite the person's refusal. A refusal to submit to an alcohol concentration test does not constitute a violation of section 609.50 (obstructing legal process), unless the refusal was accompanied by force or violence or the threat of force or violence. *[169.123, subd. 4, par. (a)]*

Subd. 2. [TEST FAILURE.] If a person submits to a test, the results of that test must be reported to the commissioner and to the authority having responsibility for prosecution of impaired driving offenses for the jurisdiction in which the acts occurred, if the test results indicate:

(1) an alcohol concentration of 0.10 or more;

(2) an alcohol concentration of 0.04 or more, if the person was driving, operating, or in physical control of a commercial motor vehicle at the time of the violation; or

(3) the presence of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols. *[169.123, subd. 4, par. (b)]*

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.

(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 for a period of one year under section 171.165 (commercial driver's license disqualification) and shall revoke the person's license or permit to drive or nonresident operating privilege for a period of one year. *[169.123, subd. 4, par. (c) and (d)]*

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 0.10 or more or the presence of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols, then the commissioner shall revoke the person's license or permit to drive, or nonresident operating privilege:

(1) for a period of 90 days;

(2) if the person is under the age of 21 years, for a period of six months;

(3) for a person with a qualified prior impaired driving incident within the past ten years, for a period of 180 days; 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).

(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). *[169.123, subd. 4, par. (e) and (f)]*

Subd. 5. [UNLICENSED DRIVERS; LICENSE ISSUANCE DENIAL.] If the person is a resident without a license or permit to operate a motor vehicle in this state, the commissioner shall deny to the person the issuance of a license or permit after the date of the alleged violation for the same period as provided in this section for revocation, subject to review as provided in section 169A.53 (administrative and judicial review of license revocation). *[169.123, subd. 4, par. (g)]*

Subd. 6. [NOTICE OF REVOCATION, DISQUALIFICATION, OR DETERMINATION TO DENY; REQUEST FOR HEARING.] A revocation under this section or a disqualification under section 171.165 (commercial driver's license disqualification) becomes effective at the time the commissioner or a peace officer acting on behalf of the commissioner notifies the person of the intention to revoke, disqualify, or both, and of revocation or disqualification. The notice must advise the person of the right to obtain administrative and judicial review as provided in section 169A.53 (administrative and judicial review of license revocation). If mailed, the notice and order of revocation or disqualification is deemed received three days after mailing to the last known address of the person. *[169.123, subd. 5]*

Subd. 7. [TEST REFUSAL; DRIVING PRIVILEGE LOST.] (a) On behalf of the commissioner, a peace officer requiring a test or directing the administration of a chemical test shall serve immediate notice of intention to revoke and of revocation on a person who refuses to permit a test or on a person who submits to a test the results of which indicate an alcohol concentration of 0.10 or more.

(b) On behalf of the commissioner, a peace officer requiring a test or directing the administration of a chemical test of a person driving, operating, or in physical control of a commercial motor vehicle shall serve immediate notice of intention to disqualify and of disqualification on a person who refuses to permit a test, or on a person who submits to a test the results of which indicate an alcohol concentration of 0.04 or more.

(c) The officer shall either:

(1) take the driver's license or permit, if any, send it to the commissioner along with the certificate required by subdivision 3 or 4, and issue a temporary license effective only for seven days; or

(2) invalidate the driver's license or permit in such a way that no identifying information is destroyed. *[169.123, subd. 5a]*

Subd. 8. [NOTICE OF ACTION TO OTHER STATES.] When a nonresident's privilege to operate a motor vehicle in this state has been revoked or denied, the commissioner shall give information in writing of the action taken to the official in charge of traffic control or public safety of the state of the person's residence and of any state in which the person has a license. *[169.123, subd. 8]*

Sec. 33. [169A.53] [ADMINISTRATIVE AND JUDICIAL REVIEW OF LICENSE REVOCATION.]

Subdivision 1. [ADMINISTRATIVE REVIEW.] (a) At any time during a period of revocation imposed under section 169A.52 (revocation of license for test failure or refusal) or a period of disqualification imposed under section 171.165 (commercial driver's license disqualification), a person may request in writing a review of the order of revocation or disqualification by the commissioner, unless the person is entitled to review under section 171.166 (review of disqualification). Upon receiving a request the commissioner or the commissioner's designee shall review the order, the evidence upon which the order was based, and any other material information brought to the attention of the commissioner, and determine whether sufficient cause exists to sustain the order. Within 15 days of receiving the request the commissioner shall report in writing the results of the review. The review provided in this subdivision is not subject to the contested case provisions of the Administrative Procedure Act in sections 14.001 to 14.69.

(b) The availability of administrative review for an order of revocation or disqualification has no effect upon the availability of judicial review under this section.

(c) Review under this subdivision must take place, if possible, at the same time as any administrative review of the person's impoundment order under section 169A.60, subdivision 9. *[169.123, subd. 5b]*

Subd. 2. [PETITION FOR JUDICIAL REVIEW.] (a) Within 30 days following receipt of a notice and order of revocation or disqualification pursuant to section 169A.52 (revocation of license for test failure or refusal), a person may petition the court for review. The petition must be filed with the district court administrator in the county where the alleged offense occurred, together with proof of service of a copy on the commissioner, and accompanied by the standard filing fee for civil actions. Responsive pleading is not required of the commissioner, and court fees must not be charged for the appearance of the commissioner in the matter.

(b) The petition must:

(1) be captioned in the full name of the person making the petition as petitioner and the commissioner as respondent;

(2) include the petitioner's date of birth, driver's license number, and date of the offense; and

(3) state with specificity the grounds upon which the petitioner seeks rescission of the order of revocation, disqualification, or denial.

(c) The filing of the petition does not stay the revocation, disqualification, or denial. The reviewing court may order a stay of the balance of the revocation or disqualification if the hearing has not been conducted within 60 days after filing of the petition upon terms the court deems proper.

(d) Judicial reviews must be conducted according to the Rules of Civil Procedure, except that prehearing discovery is mandatory and is limited to:

(1) the notice of revocation;

(2) the test record or, in the case of blood or urine tests, the certificate of analysis;

(3) the peace officer's certificate and any accompanying documentation submitted by the arresting officer to the commissioner; and

(4) disclosure of potential witnesses, including experts, and the basis of their testimony.

Other types of discovery are available only upon order of the court. *[169.123, subd. 5c]*

Subd. 3. [HEARING.] (a) A judicial review hearing under this section must be before a district judge in any county in the judicial district where the alleged offense occurred. The hearing is to the court and may be conducted at the same time and in the same manner as hearings upon pretrial motions in the criminal prosecution under section 169A.20 (driving while impaired), if any. The hearing must be recorded. The commissioner shall appear and be represented by the attorney general or through the prosecuting authority for the jurisdiction involved. The hearing must be held at the earliest practicable date, and in any event no later than 60 days following the filing of the petition for review. The judicial district administrator shall establish procedures to ensure efficient compliance with this subdivision. To accomplish this, the administrator may, whenever possible, consolidate and transfer review hearings among the locations within the judicial district where terms of district court are held.

(b) The scope of the hearing is limited to the issues in clauses (1) to (10):

(1) Did the peace officer have probable cause to believe the person was driving, operating, or in physical control of a motor vehicle or commercial motor vehicle in violation of section 169A.20 (driving while impaired)?

(2) Was the person lawfully placed under arrest for violation of section 169A.20?

(3) Was the person involved in a motor vehicle accident or collision resulting in property damage, personal injury, or death?

(4) Did the person refuse to take a screening test provided for by section 169A.41 (preliminary screening test)?

(5) If the screening test was administered, did the test indicate an alcohol concentration of 0.10 or more?

(6) At the time of the request for the test, did the peace officer inform the person of the person's rights and the consequences of taking or refusing the test as required by section 169A.51, subdivision 2?

(7) Did the person refuse to permit the test?

(8) If a test was taken by a person driving, operating, or in physical control of a motor vehicle, did the test results indicate at the time of testing:

(i) an alcohol concentration of 0.10 or more; or

(ii) the presence of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols?

(9) If a test was taken by a person driving, operating, or in physical control of a commercial motor vehicle, did the test results indicate an alcohol concentration of 0.04 or more at the time of testing?

(10) Was the testing method used valid and reliable and were the test results accurately evaluated?

(c) It is an affirmative defense for the petitioner to prove that, at the time of the refusal, the petitioner's refusal to permit the test was based upon reasonable grounds.

(d) Certified or otherwise authenticated copies of laboratory or medical personnel reports, records, documents, licenses, and certificates are admissible as substantive evidence.

(e) The court shall order that the revocation or disqualification be either rescinded or sustained and forward the order to the commissioner. The court shall file its order within 14 days following the hearing. If the revocation or disqualification is sustained, the court shall also forward the person's driver's license or permit to the commissioner for further action by the commissioner if the license or permit is not already in the commissioner's possession.

(f) Any party aggrieved by the decision of the reviewing court may appeal the decision as provided in the rules of appellate procedure. *[169.123, subds. 6 and 7]*

Sec. 34. [169A.54] [IMPAIRED DRIVING CONVICTIONS AND ADJUDICATIONS; ADMINISTRATIVE PENALTIES.]

Subdivision 1. [DRIVING WHILE IMPAIRED 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:

(i) if the current conviction is for a violation of section 169A.20, subdivision 1, not less than 180 days 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

(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: not less than one year, together with denial under section 171.04, subdivision 1, clause (9), until rehabilitation is established in accordance with 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 years, together with denial under section 171.04, subdivision 1, clause (9), until rehabilitation is established in accordance with standards established by the commissioner. *[169.121, subd. 4, par. (a)]*

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 or for the appropriate period of time under subdivision 1, clauses (1) to (5), for the offense committed, whichever is the greatest period. *[169.121, subd. 4, par. (b)]*

Subd. 3. [JUVENILE ADJUDICATIONS.] For purposes of this section, a juvenile adjudication under section 169A.20 (driving while impaired), an ordinance in conformity with it, or a statute or ordinance from another state in conformity with it is an offense. *[169.121, subd. 4, par. (c)]*

Subd. 4. [VIOLATIONS INVOLVING PERSONAL INJURY.] Whenever department records show that the violation involved personal injury or death to any person, at least 90 additional days must be added to the base periods provided in subdivisions 1 to 3. *[169.121, subd. 4, par. (d)]*

Subd. 5. [VIOLATIONS INVOLVING AN ALCOHOL CONCENTRATION OF 0.20 OR MORE.] If the person is convicted of violating section 169A.20 (driving while impaired) while having an alcohol concentration of 0.20 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. *[169.121, subd. 4, par. (e)]*

Subd. 6. [APPLICABILITY OF IMPLIED CONSENT REVOCATION PROVISIONS.] Except for a person whose license has been revoked under subdivision 2, and except for a person convicted of a violation of section 169A.20 (driving while impaired) while having a child under the age of 16 in the vehicle if the child is more than 36 months younger than the offender, any person whose license has been revoked pursuant to section 169A.52 (license revocation for test failure or refusal) as the result of the same incident, and who does not have a qualified prior impaired driving incident, is subject to the mandatory revocation provisions of subdivision 1, clause (1) or (2), in lieu of the mandatory revocation provisions of section 169A.52. *[169.121, subd. 4, par. (f)]*

Subd. 7. [ALCOHOL-RELATED COMMERCIAL VEHICLE DRIVING VIOLATIONS.] (a) The administrative penalties described in subdivision 1 do not apply to violations of section 169A.20, subdivision 1 (driving while impaired crime), by a person operating a commercial motor vehicle unless the person's alcohol concentration as measured at the time, or within two hours of the time, of the operation was 0.10 or more or the person violates section 169A.20, subdivision 1, clauses (1) to (4) or (7).

(b) The commissioner shall disqualify a person from operating a commercial motor vehicle as provided under section 171.165 (commercial driver's license, disqualification), on receipt of a record of conviction for a violation of section 169A.20.

(c) A person driving, operating, or in physical control of a commercial motor vehicle with any presence of alcohol is prohibited from operating a commercial motor vehicle for 24 hours from issuance of an out-of-service order. *[169.1211, subd. 4, and 169.1215]*

Subd. 8. [UNDERAGE DRINKING AND DRIVING VIOLATIONS.] The administrative penalties described in section 169A.33, subdivision 3, apply to violations of section 169A.33 (underage drinking and driving). *[new; see also 169.1218, par. (c)]*

Subd. 9. [ALCOHOL-RELATED SCHOOL BUS DRIVING VIOLATIONS.] The administrative penalties described in section 171.3215 (canceling school bus endorsements for certain offenses) apply to violations of section 169A.20 (driving while impaired) by a person driving, operating, or in physical control of a school bus or Head Start bus. *[new]*

Subd. 10. [LICENSE REVOCATION; COURT INVALIDATION.] (a) Except as provided in subdivision 7, on behalf of the commissioner, a court shall serve notice of revocation or cancellation on a person convicted of a violation of section 169A.20 (driving while impaired) unless the commissioner has already revoked the person's driving privileges or served the person with a notice of revocation for a violation of section 169A.52 (license revocation for test failure or refusal) arising out of the same incident.

(b) The court shall invalidate the driver's license or permit in such a way that no identifying information is destroyed. *[169.121, subd. 7]*

Subd. 11. [CHEMICAL USE ASSESSMENT.] When the evidentiary test shows an alcohol concentration of 0.07 or more, that result must be reported to the commissioner. The commissioner shall record that fact on the driver's record. When the driver's record shows a second or subsequent report of an alcohol concentration of 0.07 or more within two years of a recorded report, the commissioner may require that the driver have a chemical use assessment meeting the commissioner's requirements. The assessment must be at the driver's expense. In no event shall the commissioner deny the license of a person who refuses to take the assessment or to undertake treatment, if treatment is indicated by the assessment, for longer than 90 days. If an assessment is made pursuant to this section, the commissioner may waive the assessment required by section 169A.70. *[169.121, subd. 8]*

Sec. 35. [169A.55] [LICENSE REVOCATION TERMINATION; LICENSE REINSTATEMENT.]

Subdivision 1. [TERMINATION OF REVOCATION PERIOD.] If the commissioner receives notice of the driver's attendance at a driver improvement clinic, attendance at counseling sessions, or participation in treatment for an alcohol problem, the commissioner may, 30 days prior to the time the revocation period would otherwise expire, terminate the revocation period. The commissioner shall not terminate the revocation period under this subdivision for a driver who has had a license revoked under section 169A.52 (license revocation for test failure or refusal); 169A.54 (impaired driving convictions and adjudications; administrative penalties); or Minnesota Statutes 1998, section 169.121 (driving under the influence of alcohol or controlled substances); or 169.123 (implied consent) for another incident during the preceding three-year period. *[169.123, subd. 10]*

Subd. 2. [REINSTATEMENT OF DRIVING PRIVILEGES; NOTICE.] Upon expiration of a period of revocation under section 169A.52 (license revocation for test failure or refusal) or 169A.54 (impaired driving convictions and adjudications; administrative penalties), the commissioner shall notify the person of the terms upon which driving privileges can be reinstated, and new registration plates issued, which terms are: (1) successful completion of an examination and proof of compliance with any terms of alcohol treatment or counseling previously prescribed, if any; and (2) any other requirements imposed by the commissioner and applicable to that particular case. The commissioner shall notify the owner of a motor vehicle subject to an impoundment order under section 169A.60 (administrative impoundment of plates) as a result of the violation of the procedures for obtaining new registration plates, if the owner is not the violator. The commissioner shall also notify the person that if driving is resumed without reinstatement of driving privileges or without valid registration plates and registration certificate, the person will be subject to criminal penalties. *[169.1261]*

Sec. 36. [169A.60] [ADMINISTRATIVE IMPOUNDMENT OF PLATES.]

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

(b) "Motor vehicle" means a self-propelled motor vehicle other than a motorboat in operation or a recreational vehicle.

(c) "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, 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 while having an alcohol concentration of 0.20 or more as measured at the time, or within two hours of the time, of the offense;

(4) a violation of section 169A.20 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

(5) a violation of section 171.24 (driving without valid license) by a person whose driver's license or driving privileges have been canceled under section 171.04, subdivision 1, clause (9) (persons not eligible for driver's license, inimical to public safety).

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

Subd. 2. [PLATE IMPOUNDMENT VIOLATION; ISSUANCE OF IMPOUNDMENT ORDER.] (a) The commissioner shall issue a registration plate impoundment order when:

(1) a person's driver's license or driving privileges are revoked for a plate impoundment violation; or

(2) a person is arrested for or charged with a plate impoundment violation described in subdivision 1, paragraph (c), clause (5).

(b) The order must require the impoundment of the registration plates of the motor vehicle involved in the plate impoundment violation and all motor vehicles owned by, registered, or leased in the name of the violator, including motor vehicles registered jointly or leased in the name of the violator and another. The commissioner shall not issue an impoundment order for the registration plates of a rental vehicle, as defined in section 168.041, subdivision 10, or a vehicle registered in another state.

Subd. 3. [NOTICE OF IMPOUNDMENT.] An impoundment order is effective when the commissioner or a peace officer acting on behalf of the commissioner notifies the violator or the registered owner of the motor vehicle of the intent to impound and order of impoundment. The notice must advise the violator of the duties and obligations set forth in subdivision 6 (surrender of plates) and of the right to obtain administrative and judicial review. The notice to the registered owner who is not the violator must include the procedure to obtain new registration plates under subdivision 8. If mailed, the notice and order of impoundment is deemed received three days after mailing to the last known address of the violator or the registered owner.

Subd. 4. [PEACE OFFICER AS AGENT FOR NOTICE OF IMPOUNDMENT.] On behalf of the commissioner, a peace officer issuing a notice of intent to revoke and of revocation for a plate impoundment violation shall also serve a notice of intent to impound and an order of impoundment. On behalf of the commissioner, a peace officer who is arresting a person for or charging a person with a plate impoundment violation described in subdivision 1, paragraph (c), clause (5), shall also serve a notice of intent to impound and an order of impoundment. If the vehicle involved in the plate impoundment violation is accessible to the officer at the time the impoundment order is issued, the officer shall seize the registration plates subject to the impoundment order. The officer shall destroy all plates seized or impounded under this section. The officer shall send to the commissioner copies of the notice of intent to impound and the order of impoundment and a notice that registration plates impounded and seized under this section have been destroyed.

Subd. 5. [TEMPORARY PERMIT.] If the motor vehicle is registered to the violator, the officer shall issue a temporary vehicle permit that is valid for seven days when the officer issues the notices under subdivision 4. If the motor vehicle is registered in the name of another, the officer shall issue a temporary vehicle permit that is valid for 45 days when the notices are issued under subdivision 3. The permit must be in a form determined by the registrar and whenever practicable must be posted on the left side of the inside rear window of the vehicle. A permit is valid only for the vehicle for which it is issued.

Subd. 6. [SURRENDER OF PLATES.] Within seven days after issuance of the impoundment notice, a person who receives a notice of impoundment and impoundment order shall surrender all registration plates subject to the impoundment order that were not seized by a peace officer under subdivision 4. Registration plates required to be surrendered under this subdivision must be surrendered to a Minnesota police department, sheriff, or the state patrol, along with a copy of the impoundment order. A law enforcement agency receiving registration plates under this subdivision shall destroy the plates and notify the commissioner that they have been destroyed. The notification to the commissioner shall also include a copy of the impoundment order.

Subd. 7. [VEHICLE NOT OWNED BY VIOLATOR.] A violator may file a sworn statement with the commissioner within seven days of the issuance of an impoundment order stating any material information relating to the impoundment order, including that the vehicle has been sold or destroyed, and supplying the date, name, location, and address of the person or entity that purchased or destroyed the vehicle. The commissioner shall rescind the impoundment order if the violator shows that the impoundment order was not properly issued.

Subd. 8. [REISSUANCE OF REGISTRATION PLATES.] (a) The commissioner shall rescind the impoundment order of a person subject to an order under this section, other than the violator, if:

(1) the violator had a valid driver's license on the date of the plate impoundment violation and the person files with the commissioner an acceptable sworn statement containing the following information:

(i) that the person is the registered owner of the vehicle from which the plates have been impounded under this section;

(ii) that the person is the current owner and possessor of the vehicle used in the violation;

(iii) the date on which the violator obtained the vehicle from the registered owner;

(iv) the residence addresses of the registered owner and the violator on the date the violator obtained the vehicle from the registered owner;

(v) that the person was not a passenger in the vehicle at the time of the plate impoundment violation; and

(vi) that the person knows that the violator may not drive, operate, or be in physical control of a vehicle without a valid driver's license; or

(2) the violator did not have a valid driver's license on the date of the plate impoundment violation and the person made a report to law enforcement before the violation stating that the vehicle had been taken from the person's possession or was being used without permission.

(b) A person who has failed to make a report as provided in paragraph (a), clause (2), may be issued special registration plates under subdivision 13 for a period of one year from the effective date of the impoundment order. At the next registration renewal following this period, the person may apply for regular registration plates.

(c) If the order is rescinded, the owner shall receive new registration plates at no cost, if the plates were seized and destroyed.

Subd. 9. [ADMINISTRATIVE REVIEW.] (a) At any time during the effective period of an impoundment order, a person may request in writing a review of the impoundment order by the commissioner. On receiving a request, the commissioner or the commissioner's designee shall review the order, the evidence upon which the order was based, and any other material information brought to the attention of the commissioner, and determine whether sufficient cause exists to sustain the order. The commissioner shall report in writing the results of the review within 15 days of receiving the request. The review provided in this subdivision is not subject to the contested case provisions of the Administrative Procedure Act in sections 14.001 to 14.69. As a result of this review, the commissioner may authorize the issuance at no cost of new registration plates to the registered owner of the vehicle if the registered owner's license or driving privileges were not revoked as a result of the plate impoundment violation.

(b) Review under this subdivision must take place, if possible, at the same time as any administrative review of the person's license revocation under section 169A.53 (administrative and judicial review of license revocation).

Subd. 10. [PETITION FOR JUDICIAL REVIEW.] (a) Within 30 days following receipt of a notice and order of impoundment under this section, a person may petition the court for review. The petition must include the petitioner's date of birth, driver's license number, and date of the plate impoundment violation. The petition must state with specificity the grounds upon which the petitioner seeks rescission of the order for impoundment. The petition may be combined with any petition filed under section 169A.53 (administrative and judicial review of license revocation).

(b) Except as otherwise provided in this section, the judicial review and hearing are governed by section 169A.53 and must take place at the same time as any judicial review of the person's license revocation under section 169A.53. The filing of the petition does not stay the impoundment order. The reviewing court may order a stay of the balance of the impoundment period if the hearing has not been conducted within 60 days after filing of the petition upon terms the court deems proper. The court shall order either that the impoundment be rescinded or sustained, and forward the order to the commissioner. The court shall file its order within 14 days following the hearing.

(c) In addition to the issues described in section 169A.53, subdivision 3 (judicial review of license revocation), the scope of a hearing under this subdivision is limited to:

(1) whether the violator owns, is the registered owner of, possesses, or has access to the vehicle used in the plate impoundment violation;

(2) whether a member of the violator's household has a valid driver's license, the violator or registered owner has a limited license issued under section 171.30, the registered owner is not the violator, and the registered owner has a valid or limited driver's license, or a member of the registered owner's household has a valid driver's license; and

(3) if the impoundment is based on a plate impoundment violation described in subdivision 1, paragraph (c), clause (3) or (4), whether the peace officer had probable cause to believe the violator committed the plate impoundment violation and whether the evidence demonstrates that the plate impoundment violation occurred.

(d) In a hearing under this subdivision, the following records are admissible in evidence:

(1) certified copies of the violator's driving record; and

(2) certified copies of vehicle registration records bearing the violator's name.

Subd. 11. [RESCISSION OF REVOCATION; DISMISSAL OR ACQUITTAL; NEW PLATES.] If:

(1) the driver's license revocation that is the basis for an impoundment order is rescinded;

(2) the charges for the plate impoundment violation have been dismissed with prejudice; or

(3) the violator has been acquitted of the plate impoundment violation;

then the registrar of motor vehicles shall issue new registration plates for the vehicle at no cost, when the registrar receives an application that includes a copy of the order rescinding the driver's license revocation, the order dismissing the charges, or the judgment of acquittal.

Subd. 12. [CHARGE FOR REINSTATEMENT OF PLATES IN CERTAIN SITUATIONS.] When the registrar of motor vehicles reinstates a person's registration plates after impoundment for reasons other than those described in subdivision 11, the registrar shall charge the person $50 for each vehicle for which the registration plates are being reinstated.

Subd. 13. [SPECIAL REGISTRATION PLATES.] A violator or registered owner may apply to the commissioner for new registration plates, which must bear a special series of numbers or letters so as to be readily identified by traffic law enforcement officers. The commissioner may authorize the issuance of special plates if:

(1) the violator has a qualified licensed driver whom the violator must identify;

(2) the violator or registered owner has a limited license issued under section 171.30;

(3) the registered owner is not the violator and the registered owner has a valid or limited driver's license; or

(4) a member of the registered owner's household has a valid driver's license.

The commissioner may issue the special plates on payment of a $50 fee for each vehicle for which special plates are requested.

Subd. 14. [SALE OF VEHICLE SUBJECT TO IMPOUNDMENT ORDER.] A registered owner may not sell a motor vehicle during the time its registration plates have been ordered impounded or during the time its registration plates bear a special series number, unless:

(1) the sale is for a valid consideration;

(2) the transferee does not reside in the same household as the registered owner; and

(3) all elements of section 168A.10 (transfer of interest by owner) are satisfied.

The registrar may then transfer the title to the new owner upon proper application and issue new registration plates.

Subd. 15. [ACQUIRING ANOTHER VEHICLE.] If the violator applies to the commissioner for registration plates for any vehicle during the effective period of the plate impoundment, the commissioner shall not issue registration plates unless the violator qualifies for special registration plates under subdivision 13 and unless the plates issued are special plates as described in subdivision 13.

Subd. 16. [FEES CREDITED TO HIGHWAY USER FUND.] Fees collected from the sale or reinstatement of license plates under this section must be paid into the state treasury and credited one-half to the highway user tax distribution fund and one-half to the general fund.

Subd. 17. [PLATE IMPOUNDMENT; PENALTY.] Criminal penalties for violating this section are governed by section 169A.37.

Subd. 18. [STOP OF VEHICLES BEARING SPECIAL PLATES.] The authority of a peace officer to stop a vehicle bearing special plates is governed by section 168.0422. *[168.042]*

Sec. 37. [169A.63] [VEHICLE FORFEITURE FOR DESIGNATED OFFENSE OR LICENSE REVOCATION.]

Subdivision 1. [DEFINITIONS.] (a) As used in this section, the following terms have the meanings given them.

(b) "Appropriate agency" means a law enforcement agency that has the authority to make an arrest for a violation of a designated offense or to require a test under section 169A.51 (chemical tests for intoxication).

(c) "Designated license revocation" includes a license revocation under section 169A.52 (license revocation for test failure or refusal) or a license disqualification under section 171.165 (commercial driver's license disqualification) resulting from a violation of section 169A.52; within ten years of the first of two or more qualified prior impaired driving incidents.

(d) "Designated offense" includes:

(1) a violation of section 169A.20 (driving while impaired) under the circumstances described in section 169A.25 (first-degree driving while impaired); or

(2) a violation of section 169A.20 or an ordinance in conformity with it:

(i) by a person whose driver's license or driving privileges have been canceled as inimical to public safety under section 171.04, subdivision 1, clause (9); or

(ii) by a person who is subject to a restriction on the person's driver's license under section 171.09 (commissioner's license restrictions), which provides that the person may not use or consume any amount of alcohol or a controlled substance.

(e) "Motor vehicle" and "vehicle" do not include a vehicle which is stolen or taken in violation of the law.

(f) "Owner" means the registered owner of the motor vehicle according to records of the department of public safety and includes a lessee of a motor vehicle if the lease agreement has a term of 180 days or more.

(g) "Prosecuting authority" means the attorney in the jurisdiction in which the designated offense occurred who is responsible for prosecuting violations of a designated offense.

Subd. 2. [SEIZURE.] (a) A motor vehicle subject to forfeiture under this section may be seized by the appropriate agency upon process issued by any court having jurisdiction over the vehicle.

(b) Property may be seized without process if:

(1) the seizure is incident to a lawful arrest or a lawful search;

(2) the vehicle 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 section; 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 vehicle. If property is seized without process under this clause, the prosecuting authority must institute a forfeiture action under this section as soon as is reasonably possible.

Subd. 3. [RIGHT TO POSSESSION VESTS IMMEDIATELY; CUSTODY OF SEIZED VEHICLE.] All right, title, and interest in a vehicle subject to forfeiture under this section vests in the appropriate agency upon commission of the conduct resulting in the designated offense or designated license revocation giving rise to the forfeiture. Any vehicle seized under this section 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 a vehicle is seized under this section, the appropriate agency may:

(1) place the vehicle under seal;

(2) remove the vehicle to a place designated by it;

(3) place a disabling device on the vehicle; and

(4) take other steps reasonable and necessary to secure the vehicle and prevent waste.

Subd. 4. [BOND BY OWNER FOR POSSESSION.] If the owner of a vehicle that has been seized under this section seeks possession of the vehicle before the forfeiture action is determined, the owner may, subject to the approval of the appropriate agency, give security or post bond payable to the appropriate agency in an amount equal to the retail value of the seized vehicle. On posting the security or bond, the seized vehicle may be returned to the owner only if a disabling device is attached to the vehicle. The forfeiture action must proceed against the security as if it were the seized vehicle.

Subd. 5. [EVIDENCE.] Certified copies of court records and motor vehicle and driver's license records concerning qualified prior impaired driving incidents are admissible as substantive evidence where necessary to prove the commission of a designated offense or the occurrence of a designated license revocation.

Subd. 6. [MOTOR VEHICLE SUBJECT TO FORFEITURE.] A motor vehicle is subject to forfeiture under this section if it was used in the commission of a designated offense or was used in conduct resulting in a designated license revocation.

Subd. 7. [LIMITATIONS ON FORFEITURE OF MOTOR VEHICLE.] (a) A vehicle is subject to forfeiture under this section only if:

(1) the driver is convicted of the designated offense upon which the forfeiture is based;

(2) the driver fails to appear with respect to the designated offense charge in violation of section 609.49 (release; failure to appear); or

(3) the driver's conduct results in a designated license revocation and the driver either fails to seek administrative or judicial review of the revocation in a timely manner as required by section 169A.53 (administrative and judicial review of license revocation), or the license revocation is sustained under section 169A.53.

(b) A vehicle encumbered by a bona fide security interest, or subject to a lease that has a term of 180 days or more, is subject to the interest of the secured party or lessor unless the party or lessor had knowledge of or consented to the act upon which the forfeiture is based. However, when the proceeds of the sale of a seized vehicle do not equal or exceed the outstanding loan balance, the appropriate agency shall remit all proceeds of the sale to the secured party. If the sale of the vehicle is conducted in a commercially reasonable manner consistent with the provisions of section 336.9-504, clause (3), the agency is not liable to the secured party for any amount owed on the loan in excess of the sale proceeds if the secured party received notification of the time and place of the sale at least three days prior to the sale.

(c) Notwithstanding paragraphs (b) and (d), the secured party's, lessor's, or owner's interest in a vehicle is not subject to forfeiture based solely on the secured party's, lessor's, or owner's knowledge of the act or omission upon which the forfeiture is based if the secured party, lessor, or owner took reasonable steps to terminate use of the vehicle by the offender.

(d) A motor vehicle is subject to forfeiture under this section only if its owner knew or should have known of the unlawful use or intended use.

(e) A vehicle subject to a security interest, based upon a loan or other financing arranged by a financial institution, is subject to the interest of the financial institution.

Subd. 8. [ADMINISTRATIVE FORFEITURE PROCEDURE.] (a) A motor vehicle used to commit a designated offense or used in conduct resulting in a designated license revocation is subject to administrative forfeiture under this subdivision.

(b) When a motor vehicle is seized under subdivision 2, the appropriate agency shall serve the driver or operator of the vehicle with a notice of the seizure and intent to forfeit the vehicle. Additionally, when a motor vehicle is seized under subdivision 2, or within a reasonable time after that, all persons known to have an ownership, possessory, or security interest in the vehicle must be notified of the seizure and the intent to forfeit the vehicle. If the vehicle is required to be registered under chapter 168, the notification to a person known to have a security interest in the vehicle is required only if the vehicle is registered under chapter 168 and the interest is listed on the vehicle's title. Notice mailed by certified mail to the address shown in department of public safety records is sufficient notice to the registered owner of the vehicle. Otherwise, notice may be given in the manner provided by law for service of a summons in a civil action.

(c) The notice must be in writing and contain:

(1) a description of the vehicle seized;

(2) the date of seizure; and

(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, and Spanish. Substantially the following language must appear conspicuously: "IF YOU DO NOT DEMAND JUDICIAL REVIEW EXACTLY AS PRESCRIBED IN MINNESOTA STATUTES, SECTION 169A.63, SUBDIVISION 8, 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."

(d) Within 30 days following service of a notice of seizure and forfeiture under this subdivision, 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 prosecuting authority having jurisdiction over the forfeiture, 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 vehicle. 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 prosecuting authority and no court fees may be charged for the prosecuting authority's appearance in the matter. Except as provided in this section, judicial reviews and hearings are governed by section 169A.53, subdivisions 2 and 3, and shall take place at the same time as any judicial review of the person's license revocation under section 169A.53. The proceedings may be combined with any hearing on a petition filed under section 169A.53, subdivision 2, and are governed by the Rules of Civil Procedure.

(e) The complaint must be captioned in the name of the claimant as plaintiff and the seized vehicle as defendant, and must state with specificity the grounds on which the claimant alleges the vehicle was improperly seized and the plaintiff's interest in the vehicle seized. Notwithstanding any law to the contrary, an action for the return of a vehicle 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.

(f) If the claimant makes a timely demand for a judicial determination under this subdivision, the appropriate agency must conduct the forfeiture under subdivision 9.

(g) If a demand for judicial determination of an administrative forfeiture is filed under this subdivision and the court orders the return of the seized vehicle, 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 (sanctions in civil actions).

Subd. 9. [JUDICIAL FORFEITURE PROCEDURE.] (a) This subdivision governs judicial determinations of the forfeiture of a motor vehicle used to commit a designated offense or used in conduct resulting in a designated license revocation.

(b) A separate complaint must be filed against the vehicle, describing it, specifying that it was used in the commission of a designated offense or was used in conduct resulting in a designated license revocation, and specifying the time and place of its unlawful use. If the forfeiture is based on the commission of a designated offense and the person charged with the designated offense appears in court as required and is not convicted of the offense, the court shall dismiss the complaint against the vehicle and order the property returned to the person legally entitled to it. If the forfeiture is based on a designated license revocation, and the license revocation is rescinded under section 169A.53 (administrative and judicial review of license revocation), the court shall dismiss the complaint against the vehicle and order the property returned to the person legally entitled to it. If the lawful ownership of the vehicle used in the commission of a designated offense or used in conduct resulting in a designated license revocation can be determined and it is found the owner was not privy to commission of a designated offense or was not privy to the conduct resulting in the designated license revocation, the vehicle must be returned immediately.

Subd. 10. [DISPOSITION OF FORFEITED VEHICLE.] (a) If the vehicle is administratively forfeited under subdivision 8, or if the court finds under subdivision 9 that the vehicle is subject to forfeiture under subdivisions 6 and 7, the appropriate agency shall:

(1) sell the vehicle and distribute the proceeds under paragraph (b); or

(2) keep the vehicle for official use. If the agency keeps a forfeited motor vehicle for official use, it shall make reasonable efforts to ensure that the motor vehicle is available for use by the agency's officers who participate in the drug abuse resistance education program.

(b) The proceeds from the sale of forfeited vehicles, after payment of seizure, storage, forfeiture, and sale expenses, and satisfaction of valid liens against the property, must be forwarded to the treasury of the political subdivision that employs the appropriate agency responsible for the forfeiture for use in DWI-related enforcement, training, and education. If the appropriate agency is an agency of state government, the net proceeds must be forwarded to the state treasury and credited to the following funds:

(1) if the forfeited vehicle is a motorboat, the net proceeds must be credited to the water recreation account in the natural resources fund;

(2) if the forfeited vehicle is a snowmobile, the net proceeds must be credited to the snowmobile trails and enforcement account in the natural resources fund;

(3) if the forfeited vehicle is an all-terrain vehicle, the net proceeds must be credited to the all-terrain vehicle account in the natural resources fund;

(4) if the forfeited vehicle is an off-highway motorcycle, the net proceeds must be credited to the off-highway motorcycle account in the natural resources fund;

(5) if the forfeited vehicle is an off-road vehicle, the net proceeds must be credited to the off-road vehicle account in the natural resources fund; and

(6) if otherwise, the net proceeds must be credited to the general fund. *[169.1217]*

MISCELLANEOUS PROVISIONS

Sec. 38. [169A.70] [ALCOHOL SAFETY PROGRAMS; CHEMICAL USE ASSESSMENTS.]

Subdivision 1. [ALCOHOL SAFETY PROGRAMS; ESTABLISHMENT.] (a) The county board of every county shall establish an alcohol safety program designed to provide chemical use assessments of persons convicted of an offense enumerated in subdivision 2. *[169.124]*

(b) County boards may enter into an agreement to establish a regional alcohol safety program. County boards may contract with other counties and agencies for alcohol problem screening and chemical use assessment services. *[169.125]*

Subd. 2. [CHEMICAL USE ASSESSMENT; REQUIREMENT; FORM.] A chemical use assessment must be conducted and an assessment report submitted to the court and to the department of public safety by the county agency administering the alcohol safety program when:

(1) the defendant is convicted of an offense described in section 169A.20 (driving while impaired), 169A.31 (alcohol-related school bus and Head Start bus driving), or 360.0752 (impaired aircraft operation); or

(2) the defendant is arrested for committing an offense described in clause (1) but is convicted of another offense arising out of the circumstances surrounding the arrest.

Subd. 3. [ASSESSMENT REPORT.] (a) The assessment report must be on a form prescribed by the commissioner and shall contain an evaluation of the convicted defendant concerning the defendant's prior traffic record, characteristics and history of alcohol and chemical use problems, and amenability to rehabilitation through the alcohol safety program. The report is classified as private data on individuals as defined in section 13.02, subdivision 12.

(b) The assessment report must include:

(1) a recommended level of care for the offender in accordance with the criteria contained in rules adopted by the commissioner of human services under section 254A.03, subdivision 3 (chemical dependency treatment rules);

(2) recommendations for other appropriate remedial action or care that may consist of educational programs, one-on-one counseling, a program or type of treatment that addresses mental health concerns, or a combination of them; or

(3) a specific explanation why no level of care or action was recommended.

Subd. 4. [ASSESSOR STANDARDS; RULES; ASSESSMENT TIME LIMITS.] A chemical use assessment required by this section must be conducted by an assessor appointed by the court. The assessor must meet the training and qualification requirements of rules adopted by the commissioner of human services under section 254A.03, subdivision 3 (chemical dependency treatment rules). Notwithstanding section 13.82 (law enforcement data), the assessor shall have access to any police reports, laboratory test results, and other law enforcement data relating to the current offense or previous offenses that are necessary to complete the evaluation. An assessor providing an assessment under this section may not have any direct or shared financial interest or

referral relationship resulting in shared financial gain with a treatment provider. If an independent assessor is not available, the court may use the services of an assessor authorized to perform assessments for the county social services agency under a variance granted under rules adopted by the commissioner of human services under section 254A.03, subdivision 3. An appointment for the defendant to undergo the assessment must be made by the court, a court services probation officer, or the court administrator as soon as possible but in no case more than one week after the defendant's court appearance. The assessment must be completed no later than three weeks after the defendant's court appearance. If the assessment is not performed within this time limit, the county where the defendant is to be sentenced shall perform the assessment. The county of financial responsibility must be determined under chapter 256G.

Subd. 5. [APPLICABILITY TO NONRESIDENT.] This section does not apply to a person who is not a resident of the state of Minnesota at the time of the offense and at the time of the assessment. *[169.126]*

Sec. 39. [169A.71] [RESEARCH PROGRAMS.]

No person is guilty of a violation of section 169A.20 (driving while impaired) committed while participating in a research or demonstration project conducted by the Minnesota highway safety center. This section applies only to conduct occurring while operating a state-owned vehicle under the supervision of personnel of the center on the grounds of the center. *[169.121, subd. 10]*

Sec. 40. [169A.72] [DRIVER EDUCATION PROGRAMS.]

Driver training courses offered through the public schools and driver training courses offered by private or commercial schools or institutes shall include instruction which must encompass at least:

(1) information on the effects of consumption of beverage alcohol products and the use of illegal drugs, prescription drugs, and nonprescription drugs on the ability of a person to operate a motor vehicle;

(2) the hazards of driving while under the influence of alcohol or drugs; and

(3) the legal penalties and financial consequences resulting from violations of laws prohibiting the operation of a motor vehicle while under the influence of alcohol or drugs. *[169.121, subd. 12]*

Sec. 41. [169A.73] [REMOTE ELECTRONIC ALCOHOL MONITORING PROGRAM.]

Subdivision 1. [DEFINITIONS.] As used in this section:

(1) "breath analyzer unit" means a device that performs breath alcohol testing and is connected to a remote electronic alcohol monitoring system; and

(2) "remote electronic alcohol monitoring system" means a system that electronically monitors the alcohol concentration of individuals in their homes or other locations to ensure compliance with conditions of pretrial release, supervised release, or probation.

Subd. 2. [PROGRAM ESTABLISHED.] In cooperation with the conference of chief judges, the state court administrator, and the commissioner of public safety, the commissioner of corrections shall establish a program to use breath analyzer units to monitor impaired driving offenders who are ordered to abstain from alcohol use as a condition of pretrial release, supervised release, or probation. The program must include procedures to ensure that violators of this condition of release receive swift consequences for the violation.

Subd. 3. [COST OF PROGRAM.] Offenders who are ordered to participate in the program shall also be ordered to pay the per diem cost of the monitoring unless the offender is indigent. The commissioner of corrections shall reimburse the judicial districts in a manner proportional to their use of remote electronic alcohol monitoring for any costs the districts incur in participating in the program.

Subd. 4. [REPORT REQUIRED.] By January 1, 2004, the commissioner of corrections shall evaluate the effectiveness of the program and report the results of this evaluation to the conference of chief judges, the state court administrator, the commissioner of public safety, and the chairs and ranking minority members of the house and senate committees and divisions having jurisdiction over criminal justice policy and funding. *[169.1219]*

Sec. 42. [169A.74] [PILOT PROGRAMS OF INTENSIVE PROBATION FOR REPEAT IMPAIRED DRIVING OFFENDERS.]

Subdivision 1. [GRANT APPLICATION.] The commissioners of corrections and public safety, in cooperation with the commissioner of human services, shall jointly administer a program to provide grants to counties to establish and operate programs of intensive probation for repeat violators of the driving while impaired laws. The commissioners shall adopt an application form on which a county or a group of counties may apply for a grant to establish and operate an impaired driving repeat offender program.

Subd. 2. [GOALS.] The goals of the impaired driving repeat offender program are to protect public safety and provide an appropriate sentencing alternative for persons convicted of repeat violations of section 169A.20 (driving while impaired), who are considered to be of high risk to the community.

Subd. 3. [PROGRAM ELEMENTS.] To be considered for a grant under this section, a county program must contain the following elements:

(1) an initial assessment of the offender's chemical dependency, based on the results of a chemical use assessment conducted under section 169A.70, with recommended treatment and aftercare, and a requirement that the offender follow the recommended treatment and aftercare;

(2) several stages of probation supervision, including:

(i) a period of incarceration in a local or regional detention facility;

(ii) a period during which an offender is, at all times, either working, on home detention, being supervised at a program facility, or traveling between two of these locations;

(iii) a period of home detention; and

(iv) a period of gradually decreasing involvement with the program;

(3) decreasing levels of intensity and contact with probation officials based on the offender's successful participation in the program and compliance with its rules;

(4) a provision for increasing the severity of the program's requirements when an offender offends again or violates the program's rules;

(5) a provision for offenders to continue or seek employment during their period of intensive probation;

(6) a requirement that offenders abstain from alcohol and controlled substances during the probation period and be tested for such use on a routine basis; and

(7) a requirement that all or a substantial part of the costs of the program be paid by the offenders.

Subd. 4. [TRAINING.] Counties participating in the program shall provide relevant training in intensive probation programs to affected officials. *[169.1265]*

Sec. 43. [169A.75] [IMPAIRED DRIVING-RELATED RULES.]

The commissioner may promulgate rules to carry out the provisions of this chapter. The rules may include forms for notice of intention to revoke that describe clearly the right to a hearing, the procedure for requesting a hearing, and the consequences of failure to request a hearing; forms for revocation and notice of reinstatement of driving privileges as provided in section 169A.55; and forms for temporary licenses.

Rules promulgated pursuant to this section are subject to sections 14.01 to 14.20 and 14.365 to 14.69 (Administrative Procedure Act). *[169.128]*

Sec. 44. [169A.76] [CIVIL ACTION; PUNITIVE DAMAGES.]

In a civil action involving a motor vehicle accident, it is sufficient for the trier of fact to consider an award of punitive damages if there is evidence that the accident was caused by a driver:

(1) with an alcohol concentration of 0.10 or more;

(2) who was under the influence of a controlled substance;

(3) who was under the influence of alcohol and refused to take a test required under section 169A.51 (chemical tests for intoxication); or

(4) who was knowingly under the influence of a hazardous substance that substantially affects the person's nervous system, brain, or muscles so as to impair the person's ability to drive or operate a motor vehicle.

A criminal charge or conviction is not a prerequisite to consideration of punitive damages under this section. At the trial in an action where the trier of fact will consider an award of punitive damages, evidence that the driver has been convicted of violating section 169A.20 (driving while impaired) or 609.21 (criminal vehicular homicide and injury) is admissible into evidence. *[169.121, subd. 10a]*

ARTICLE 2

CONFORMING AMENDMENTS;
IMPLEMENTATION OF ACT

Section 1. Minnesota Statutes 1999 Supplement, section 260B.171, subdivision 7, is amended to read:

Subd. 7. [COURT RECORD RELEASED TO PROSECUTOR.] If a prosecutor has probable cause to believe that a person has committed a gross misdemeanor violation of section ~~169.121 or has violated section 169.129~~ 169A.20, and that a prior juvenile court adjudication forms, in part, the basis for the current violation, the prosecutor may file an application with the court having jurisdiction over the criminal matter attesting to this probable cause determination and seeking the relevant juvenile court records. The court shall transfer the application to the juvenile court where the requested records are maintained, and the juvenile court shall release to the prosecutor any records relating to the person's prior juvenile traffic adjudication, including a transcript, if any, of the court's advisory of the right to counsel and the person's exercise or waiver of that right.

Sec. 2. Minnesota Statutes 1999 Supplement, section 260B.225, subdivision 4, is amended to read:

Subd. 4. [ORIGINAL JURISDICTION; JUVENILE COURT.] The juvenile court ~~shall have~~ has original jurisdiction over:

(1) all juveniles age 15 and under alleged to have committed any traffic offense; and

(2) 16- and 17-year-olds alleged to have committed any major traffic offense, except that the adult court has original jurisdiction over:

(i) petty traffic misdemeanors not a part of the same behavioral incident of a misdemeanor being handled in juvenile court; and

(ii) violations of ~~sections 169.121 (drivers under the influence of alcohol or controlled substance) and 169.129 (aggravated driving while intoxicated)~~ section 169A.20 (driving while impaired), and any other misdemeanor or gross misdemeanor level traffic violations committed as part of the same behavioral incident as a violation of section ~~169.121 or 169.129~~ 169A.20.

Sec. 3. Minnesota Statutes 1999 Supplement, section 609.035, subdivision 2, is amended to read:

Subd. 2. (a) When a person is being sentenced for a violation of a provision listed in paragraph ~~(f)~~ (e), the court may sentence the person to a consecutive term of imprisonment for a violation of any other provision listed in paragraph ~~(f)~~ (e), notwithstanding the fact that the offenses arose out of the same course of conduct, subject to the limitation on consecutive sentences contained in section 609.15, subdivision 2, and except as provided in paragraphs (b), (c), ~~(d),~~ and ~~(g)~~ (f) of this subdivision.

(b) ~~When a person is being sentenced for a violation of section 169.129 the court may not impose a consecutive sentence for a violation of a provision of section 169.121, subdivision 1, or for a violation of a provision of section 171.20, 171.24, or 171.30.~~

~~(c)~~ When a person is being sentenced for a violation of section 171.20, 171.24, or 171.30, the court may not impose a consecutive sentence for another violation of a provision in chapter 171.

~~(d)~~ (c) When a person is being sentenced for a violation of section 169.791 or 169.797, the court may not impose a consecutive sentence for another violation of a provision of sections 169.79 to 169.7995.

~~(e)~~ (d) This subdivision does not limit the authority of the court to impose consecutive sentences for crimes arising on different dates or to impose a consecutive sentence when a person is being sentenced for a crime and is also in violation of the conditions of a stayed or otherwise deferred sentence under section 609.135.

~~(f)~~ (e) This subdivision applies to misdemeanor and gross misdemeanor violations of the following if the offender has two or more prior impaired driving convictions as defined in section ~~169.121, subdivision 3~~ 169A.03 within the past ten years:

(1) section ~~169.121, subdivision 1, driving while intoxicated~~ 169A.20, driving while impaired;

(2) ~~section 169.121, subdivision 1a, testing refusal;~~

~~(3) section 169.129, aggravated driving while intoxicated;~~

~~(4)~~ section 169.791, failure to provide proof of insurance;

~~(5)~~ (3) section 169.797, failure to provide vehicle insurance;

~~(6)~~ (4) section 171.20, subdivision 2, operation after revocation, suspension, cancellation, or disqualification;

~~(7)~~ (5) section 171.24, driving without valid license; and

~~(8)~~ (6) section 171.30, violation of condition of limited license.

~~(g)~~ (f) When a court is sentencing an offender for a violation of section ~~169.121 or 169.129~~ 169A.20 and a violation of an offense listed in paragraph ~~(f)~~ (e), and the offender has five or more qualified prior impaired driving ~~convictions, five or more prior license revocations, or a combination of the two based on separate instances,~~ incidents, as defined in section 169A.03, within the ~~person's lifetime~~ past ten years, the court shall sentence the offender to serve consecutive sentences for the offenses, notwithstanding the fact that the offenses arose out of the same course of conduct.

Sec. 4. Minnesota Statutes 1998, section 629.471, is amended to read:

629.471 [MAXIMUM BAIL ON MISDEMEANORS; GROSS MISDEMEANORS.]

Subdivision 1. [DOUBLE THE FINE.] Except as provided in subdivision 2 or 3, the maximum cash bail that may be required for a person charged with a misdemeanor or gross misdemeanor offense is double the highest cash fine that may be imposed for that offense.

Subd. 2. [QUADRUPLE THE FINE.] (a) For offenses under sections 169.09, ~~169.121, 169.129,~~ 169A.20, 171.24, paragraph (c), 609.2231, subdivision 2, 609.487, and 609.525, the maximum cash bail that may be required for a person charged with a misdemeanor or gross misdemeanor violation is quadruple the highest cash fine that may be imposed for the offense.

(b) Unless the court imposes the conditions of release specified in section ~~169.121, subdivision 1c,~~ 169A.44, the court must impose maximum bail when releasing a person from detention who has been charged with violating section ~~169.121, subdivision 1,~~ 169A.20 if the person has three or more prior impaired driving convictions within the previous ten years ~~or four or more prior impaired driving convictions in the person's lifetime~~. As used in this subdivision, "prior impaired driving conviction" has the meaning given in section ~~169.121, subdivision 3~~ 169A.03.

Subd. 3. [SIX TIMES THE FINE.] For offenses under sections 518B.01, 609.224, and 609.2242, 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. 5. [INSTRUCTION TO REVISOR.]

(a) In each section of Minnesota Statutes referred to in column A, the revisor of statutes shall delete the reference in column B and insert the reference in column C.

Column A	Column B	Column C
3.736, subd. 3	169.121, subd. 9	169A.48
13.99, subd. 54a	169.126, subd. 2	169A.70
65B.133, subd. 5	169.123	169A.52
65B.15, subd. 1	169.121, subd. 1, para. (a)	169A.20
84.795, subd. 2	chapter 169	chapters 169 and 169A
84.795, subd. 5	169.121	169A.20
84.795, subd. 5	169.123	169A.50 to 169A.53
84.804, subd. 2	169.121 to 169.129	chapter 169A
84.83, subd. 2	169.1217	169A.63
84.83, subd. 5	169.121	169A.20
84.83, subd. 5	169.01, subd. 86	169A.03, subd. 16
84.87, subd. 1	chapter 169	chapters 169 and 169A
84.91, subd. 1	169.121 to 169.1218 and 169.123 to 169.129	chapter 169A
84.91, subd. 1	169.123	169A.50 to 169A.53
84.91, subd. 1	169.121, subd. 3	169A.03

84.91, subd. 1	169.123	169A.53
84.911, subd. 7	169.01, subd. 86	169A.03, subd. 16
84.927, subd. 1	169.1217	169A.63
84.928, subd. 1a	chapter 169	chapters 169 and 169A
86B.305, subd. 1	169.121	169A.20
86B.305, subd. 2	169.121	169A.20
86B.331, subd. 1	169.121 to 169.1218 and 169.123 to 169.129	chapter 169A
86B.331, subd. 1	chapter 169	chapter 169A
86B.331, subd. 1	169.121	169A.20
86B.331, subd. 1	169.123	169A.50 to 169A.53
86B.331, subd. 1	169.121, subd. 3	169A.03
86B.331, subd. 1	169.123	169A.53
86B.705, subd. 2	169.121	169A.20
86B.811, subd. 2	169.121	169A.20
89.71, subd. 4	chapter 169	chapters 169 and 169A
97A.065, subd. 2	169.121	169A.20
97A.065, subd. 2	169.01, subd. 86	169A.03, subd. 16
97B.065, subd. 4	169.121, subd. 2	169A.45
97B.066, subd. 5	169.123, subds. 2b, 2c, and 3	169A.51
168.041, subd. 3	168.042	169A.60
168.041, subd. 8	168.042	169A.60
168.0422	168.042	169A.60
169.01, subd. 75	169.1211, 169.1215, and 169.123, subds. 2 and 4	chapter 169A
169.03, subd. 6	169.121 to 169.129	chapter 169A
169.965, subd. 5	chapter 169	chapters 169 and 169A
171.04, subd. 1	169.121, 169.1218, 169.122, or 169.123	169A.20, 169A.33, 169A.35, or 169A.50 to 169A.53
171.05, subd. 2b	169.121, 169.1218, 169.122, or 169.123	169A.20, 169A.33, 169A.35, or 169A.50 to 169A.53
171.055, subd. 1	169.121, 169.1218, 169.122, or 169.123	169A.20, 169A.33, 169A.35, or 169A.50 to 169A.53
171.055, subd. 2	169.121, 169.1218, 169.122, or 169.123	169A.20, 169A.33, 169A.35, or 169A.50 to 169A.53
171.06, subd. 2	169.121, 169.1218, 169.122, or 169.123	169A.20, 169A.33, 169A.35, or 169A.50 to 169A.53
171.12, subd. 2a	169.121, 169.1218 169.122, or 169.123	169A.20, 169A.33, 169A.35, or 169A.50 to 169A.53
171.12, subd. 3	169.121, subd. 3	169A.03, subds. 20 and 21
171.12, subd. 3	169.1211	169A.31
171.16, subd. 5	169.121	169A.20
171.165, subd. 1	169.121	169A.20
171.165, subd. 1	169.1211	169A.31
171.165, subd. 2	169.123	169A.52
171.166, subd. 1	169.121, 169.1211, or 169.123	169A.20, 169A.31, 160A.50 to 169A.53
171.17, subd. 1	169.121	169A.20
171.18, subd. 1	169.1218, para. (a)	169A.33
171.19	169.123	169A.52
171.29, subd. 1	169.123	169A.52
171.29, subd. 2	169.121 or 169.123	169A.52 or 169A.54
171.29, subd. 3	169.121 or 169.123	169A.52 or 160A.54

171.29, subd. 3	168.042	169A.60
171.30, subd. 1	169.121	169A.52
171.30, subd. 1	169.123	169A.54
171.30, subd. 2a	169.121	169A.20
171.30, subd. 2a	169.123	169A.50 to 169A.53
171.30, subd. 2c	169.121 or 169.123	169A.20 or 169A.50 to 69A.53
171.30, subd. 3	169.121 or 169.123	169A.20 or 169A.50 to 169A.53
171.3215, subd. 1	169.121, 169.129	169A.20
171.3215, subd. 2	169.121	169A.20
171.3215, subd. 2	169.123	169A.52
171.3215, subd. 2	169.121, 169.123, 169.129	169A.20 or 169A.50 to 169A.53
171.3215, subd. 3	169.121, 169.129	169A.20
171.3215, subd. 3	169.123	169A.52
260B.171, subd. 5	169.121 or 169.129	169A.20
260B.225, subd. 1	169.121, 169.129	169A.20
260B.225, subd. 9	169.121	169A.20
260B.225, subd. 9	169.126	169A.70
260B.225, subd. 9	169.126, subd. 4c	169A.284
268.095, subd. 4	169.121, 169.1211, or 169.123	169A.20, 169A.31, or 169.50A to 169A.53
299C.10, subd. 1	169.121 (driving while intoxicated)	169A.20 (driving while impaired)
299F.831, subd. 1	169.121, subd. 1	169A.20
357.021, subd. 1a	169.1217	169A.63
364.09	chapter 169	chapter 169 or 169A
387.213	chapter 169	chapter 169A
466.03, subd. 6a	169.121, subd. 9	169A.48
466.03, subd. 14	169.121, subd. 9	169A.48
604A.30, subd. 3	169.121 to 169.123, 169.129	chapter 169A
609.131, subd. 2	169.121	169A.20
609.135, subd. 1	169.121	169A.20
609.135, subd. 2	169.121 or 169.129	169A.20
609.135, subd. 2	169.121	169A.20
609.487, subd. 2a	169.01, subd. 86	169A.03, subd. 16
609.487, subd. 2a	169.01, subd. 87	169A.03, subd. 13
611A.52, subd. 6	169.121	169A.20
631.40, subd. 1a	169.121 or 169.129	169A.20
634.15, subd. 1	169.123	169A.53
634.15, subd. 1	169.123, subd. 3	169A.51, subd. 7
634.15, subd. 2	169.123	169A.53
634.16	169.01, subd. 68	169A.03, subd. 11
634.30	169.123	169A.53

(b) The revisor shall publish the statutory derivations of the laws that are repealed and recodified in this act in Laws of Minnesota.

(c) The revisor shall correct cross-references in Minnesota Statutes and Minnesota Rules to sections that are repealed and recodified by this act, as necessary, and if Minnesota Statutes, chapter 169, is further amended in the 2000 legislative session, shall codify the amendments in a manner consistent with this act.

Sec. 6. [REPEALER.]

Minnesota Statutes 1998, sections 168.042; 169.01, subdivisions 61, 68, 82, 83, 86, 87, 88, and 89; 169.121, subdivisions 1, 1a, 1b, 1d, 2, 3b, 3c, 5, 5a, 5b, 6, 7, 8, 9, 10, 10a, 11, and 12; 169.1211; 169.1215; 169.1216; 169.1217, subdivisions 2, 3, 4, 5, 6, and 8; 169.1218; 169.1219; 169.122, subdivisions 1, 2, 3, and 4; 169.123, subdivisions 2, 2a, 2b, 2c, 3, 4, 5, 5a, 5b, 6, 7, 8, and 10; 169.124; 169.125; 169.126; 169.1261; 169.1265; 169.128; and 169.129, subdivision 3; and Minnesota Statutes 1999 Supplement, sections 169.121, subdivisions 1c, 3, 3f, 3d, and 4; 169.1217, subdivisions 1, 7, 7a, and 9; 169.122, subdivision 5; 169.123, subdivisions 1 and 5c; and 169.129, subdivision 1, are repealed.

Sec. 7. [EFFECTIVE DATE.]

This act is effective January 1, 2001, for crimes committed and conduct occurring on or after that date. However, violations occurring before January 1, 2001, which are listed in Minnesota Statutes, section 169A.03, subdivisions 20 and 21, are considered qualified prior impaired driving incidents for all purposes under this act."

The motion prevailed and the amendment was adopted.

Stanek; Fuller; Broecker; Gerlach; Larsen, P.; Haake and Westerberg moved to amend S. F. No. 2677, as amended, as follows:

Page 3, after line 13, insert:

"Subd. 8. [FELONY.] "Felony" means a crime for which a sentence of imprisonment for more than one year may be imposed."

Renumber the subdivisions in sequence

Page 7, line 4, delete "first-degree" and insert "second-degree"

Page 7, line 5, delete "second-degree" and insert "third-degree"

Page 7, line 6, delete "third-degree" and insert "fourth-degree"

Page 9, line 5, after "in" insert "section 169A.24 (first-degree driving while impaired),"

Page 9, line 5, delete "first-degree" and insert "second-degree"

Page 9, line 6, delete "second-degree" and insert "third-degree"

Page 9, line 7, delete "third-degree" and insert "fourth-degree"

Page 9, after line 8, insert:

"Sec. 8. [169A.24] [FIRST-DEGREE DRIVING WHILE IMPAIRED.]

Subdivision 1. [DEGREE DESCRIBED.] A person who violates section 169A.20 (driving while impaired) is guilty of first-degree driving while impaired if the person:

(1) commits the violation within ten years of the first of three or more prior impaired driving convictions; or

(2) has previously been convicted of a felony under this section.

Subd. 2. [CRIMINAL PENALTY.] A person who commits first-degree driving while impaired is guilty of a felony and may be sentenced to imprisonment for not more than seven years or to payment of a fine of not more that $14,000, or both. The person is subject to the mandatory penalties described in section 169A.276. *[new]"*

Page 9, line 9, delete "FIRST-DEGREE" and insert "SECOND-DEGREE"

Page 9, line 10, before "A" insert "Except as otherwise provided in section 169A.24,"

Page 9, lines 12 and 14, delete "first-degree" and insert "second-degree"

Page 9, line 18, delete "SECOND-DEGREE" and insert "THIRD-DEGREE"

Page 9, lines 21 and 23, delete "second-degree" and insert "third-degree"

Page 9, line 27, delete "THIRD-DEGREE" and insert "FOURTH-DEGREE"

Page 9, lines 30 and 31, delete "third-degree" and insert "fourth-degree"

Page 9, line 33, after "PENALTIES" insert "; NON-FELONY VIOLATIONS"

Page 11, line 22, before "The" insert "Except as otherwise provided in section 169A.276,"

Page 12, line 3, before "The" insert "Except as otherwise provided in section 169A.276,"

Page 12, after line 33, insert:

"Sec. 13. [169A.276] [MANDATORY PENALTIES; FELONY VIOLATIONS.]

A person convicted of a felony under section 169A.24 must be sentenced to imprisonment for not less than five years and, in addition, may be ordered to pay a fine of not more than $14,000. The court must impose this mandatory sentence and may stay execution of it only on condition that the offender:

(1) serve 180 consecutive days in a local correctional facility; and

(2) enter a program of probation supervision following this period of incarceration that includes electronic monitoring and, if recommended by the chemical use assessment, chemical dependency treatment and aftercare.

The length of stay is governed by section 609.135, subdivision 2. Hearings on whether the offender has violated the conditions of the stayed sentence are governed by section 609.135, subdivision 1d. The court may not stay the execution of the driver's license revocation provisions of section 169A.54 (impaired driving convictions and adjudications; administrative penalties)." *[new]*

Renumber the sections in sequence

Page 13, line 2, delete "or more"

Page 15, line 24, after "penalties" insert "; non-felony violations"

Page 15, line 27, delete "first-degree" and insert "second-degree"

Page 15, line 28, delete "second-degree" and insert "third-degree"

Page 15, line 29, delete "third-degree" and insert "fourth-degree"

Page 21, line 14, after "FIRST-DEGREE" insert "AND SECOND-DEGREE"

Page 21, line 21, after "section" insert "169A.24 (first-degree driving while impaired) or section" and delete "first-degree" and insert "second-degree"

Page 51, line 29, after "section" insert "169A.24 (first-degree driving while impaired) or section"

Page 51, line 30, delete "first-degree" and insert "second-degree"

Page 54, line 27, delete "only" and delete "of the" and insert "that the offender did not have a valid license at the time the offender used the vehicle and if the owner gave explicit or implicit permission to the offender to use the vehicle."

Page 54, delete line 28

Page 67, after line 12, insert:

"Sec. 4. Minnesota Statutes 1998, section 609.135, is amended by adding a subdivision to read:

Subd. 1d. [FELONY-LEVEL DWI OFFENDER; ALCOHOL OR DRUG USE.] If a defendant convicted of a violation of section 169A.24 is required, as a condition of a stayed sentence, to refrain from the use of alcohol or drugs, the probation agent supervising the defendant must immediately report to the court any information or indication that the defendant has violated this condition. As soon as practicable after receiving the probation agent's report, the court shall hold a hearing under section 609.14 to determine whether the defendant used alcohol or drugs in violation of the condition of the stayed sentence. If the court finds that the defendant violated this condition, the court may continue the stay only on the additional condition that the defendant serve 365 consecutive days of incarceration in a local correctional facility. The court must impose this additional condition unless the court makes written findings regarding the mitigating factors justifying nonimposition of the condition. *[new]*

Sec. 5. Minnesota Statutes 1999 Supplement, section 609.135, subdivision 2, is amended to read:

Subd. 2. [STAY OF SENTENCE MAXIMUM PERIODS.] (a) Except as otherwise provided in this paragraph, if the conviction is for a felony the stay shall be for not more than four years or the maximum period for which the sentence of imprisonment might have been imposed, whichever is longer. If the conviction is for a felony violation of section 169A.20, the stay shall be for not more than ten years.

(b) If the conviction is for a gross misdemeanor violation of section ~~169.121 or 169.129~~ 169A.20, the stay shall be for not more than six years. The court shall provide for unsupervised probation for the last year of the stay unless the court finds that the defendant needs supervised probation for all or part of the last year.

(c) If the conviction is for a gross misdemeanor not specified in paragraph (b), the stay shall be for not more than two years.

(d) If the conviction is for any misdemeanor under section ~~169.121~~ 169A.20; 609.746, subdivision 1; 609.79; or 617.23; or for a misdemeanor under section 609.2242 or 609.224, subdivision 1, in which the victim of the crime was a family or household member as defined in section 518B.01, the stay shall be for not more than two years. The court shall provide for unsupervised probation for the second year of the stay unless the court finds that the defendant needs supervised probation for all or part of the second year.

(e) If the conviction is for a misdemeanor not specified in paragraph (d), the stay shall be for not more than one year.

(f) The defendant shall be discharged six months after the term of the stay expires, unless the stay has been revoked or extended under paragraph (g), or the defendant has already been discharged.

(g) Notwithstanding the maximum periods specified for stays of sentences under paragraphs (a) to (f), a court may extend a defendant's term of probation for up to one year if it finds, at a hearing conducted under subdivision 1a, that:

(1) the defendant has not paid court-ordered restitution or a fine in accordance with the payment schedule or structure; and

(2) the defendant is likely to not pay the restitution or fine the defendant owes before the term of probation expires.

This one-year extension of probation for failure to pay restitution or a fine may be extended by the court for up to one additional year if the court finds, at another hearing conducted under subdivision 1a, that the defendant still has not paid the court-ordered restitution or fine that the defendant owes.

(h) Notwithstanding the maximum periods specified for stays of sentences under paragraphs (a) to (f), a court may extend a defendant's term of probation for up to three years if it finds, at a hearing conducted under subdivision 1c, that:

(1) the defendant has failed to complete court-ordered treatment successfully; and

(2) the defendant is likely not to complete court-ordered treatment before the term of probation expires."

Page 68, after line 5, insert:

"Sec. 7. [SENTENCING GUIDELINES RANKING OF DWI FELONY.]

The sentencing guidelines commission is requested to leave violations of Minnesota Statutes, section 169A.24 unranked under sentencing guideline II.A.03. The commission also is requested to provide that each violation of Minnesota Statutes, section 169A.24 constitutes one criminal history point.

Sec. 8. [PLAN FOR PLACEMENT OF DWI OFFENDERS SENTENCED TO PRISON.]

The commissioner of corrections, in consultation with the commissioner of human services, shall develop a plan for the placement and management of felony-level DWI offenders who are committed to the commissioner's custody. The plan shall identify the facilities in which these offenders will be confined and shall consider state-owned or state-operated residential facilities and private facilities that currently are not part of the state correctional system. The commissioner shall submit the plan to the chairs and ranking minority members of the house and senate committees with jurisdiction over criminal justice policy and funding by November 1, 2000.

Sec. 9. [STUDY OF COMMUNITY CORRECTIONS IMPACTS OF FELONY DWI.]

The commissioner of corrections shall study and report to the legislature on the likely community corrections impacts of the felony penalty created by this act. In conducting the study, the commissioner shall obtain relevant information from counties within each of the three probation services delivery systems in order to answer the following questions:

(1) How many felony-level DWI offenders will be on probation each year?

(2) What conditions of probation will these offenders be required to observe?

(3) How many offenders are expected to successfully complete probation and how many are expected to violate probation and serve their stayed prison sentence?

As part of the study, the commissioner must also examine and report on private services to satisfy the mandatory incarceration sentences and the chemical dependency requirements.

The commissioner shall submit the report to the chairs and ranking minority members of the house and senate committees with jurisdiction over criminal justice policy and funding by November 1, 2000."

Renumber the sections in sequence

Page 72, delete lines 3 and 4

Page 72, delete lines 35 and 36

Page 73, delete lines 1 to 5, and insert:

"Sec. 12. [EFFECTIVE DATES.]

Subdivision 1. [FELONY DRIVING WHILE IMPAIRED PROVISIONS.] (a) Except as otherwise provided in this subdivision, the provisions of this act that pertain to felony-level driving while impaired offenses are effective July 1, 2001, and apply to offenses committed on or after that date. However, violations occurring before July 1, 2001, which are listed in Minnesota Statutes, section 169A.03, subdivision 20, are considered prior impaired driving convictions for purposes of these provisions.

(a) Article 2, sections 8 and 9 are effective August 1, 2000.

Subd. 2. [OTHER PROVISIONS.] The provisions of this act that do not pertain to felony-level driving while impaired offenses are effective January 1, 2001, and apply to offenses committed on or after that date. However, violations occurring before January 1, 2001, which are listed in Minnesota Statutes, section 169A.03, subdivisions 20 and 21, are considered prior impaired driving incidents for purposes of these provisions."

Amend the title as follows:

Page 1, line 5, after the semicolon, insert "providing felony penalties and mandatory sentences for certain repeat driving while impaired violators; requiring certain studies and reports;"

Page 1, line 6, delete "section" and insert "sections 609.135, by adding a subdivision; and"

Page 1, line 8, delete "and"

Page 1, line 9, after the semicolon, insert "and 609.135, subdivision 2;"

A roll call was requested and properly seconded.

POINT OF ORDER

Rukavina raised a point of order pursuant to rule 4.03, relating to Ways and Means Committee; Budget Resolution; Effect on Expenditure and Revenue Bills, that the Stanek et al amendment was not in order. The Speaker ruled the point of order not well taken and the Stanek et al amendment in order.

The Speaker called Abrams to the Chair.

Leighton moved to amend the Stanek et al amendment to S. F. No. 2677, as amended, as follows:

Page 7, delete lines 16 to 36

A roll call was requested and properly seconded.

The question was taken on the amendment to the amendment and the roll was called. There were 64 yeas and 69 nays as follows:

Those who voted in the affirmative were:

Anderson, I.	Gleason	Johnson	Lenczewski	Opatz	Skoglund
Bakk	Gray	Juhnke	Lieder	Orfield	Solberg
Biernat	Greenfield	Kahn	Luther	Osthoff	Swapinski
Carlson	Greiling	Kalis	Mahoney	Otremba	Tomassoni
Carruthers	Hackbarth	Kelliher	Mariani	Paymar	Trimble
Chaudhary	Hasskamp	Koskinen	Marko	Pelowski	Tunheim
Clark, K.	Hausman	Krinkie	McCollum	Peterson	Wagenius
Dawkins	Hilty	Kubly	McGuire	Pugh	Wejcman
Dorn	Huntley	Kuisle	Milbert	Rukavina	Winter
Entenza	Jaros	Larson, D.	Mullery	Schumacher	
Folliard	Jennings	Leighton	Murphy	Skoe	

Those who voted in the negative were:

Abeler	Dehler	Holberg	Ness	Seagren	Vandeveer
Abrams	Dempsey	Holsten	Nornes	Seifert, J.	Wenzel
Anderson, B.	Dorman	Howes	Olson	Seifert, M.	Westerberg
Bishop	Erhardt	Kielkucki	Osskopp	Smith	Westfall
Boudreau	Erickson	Knoblach	Ozment	Stanek	Westrom
Bradley	Finseth	Larsen, P.	Paulsen	Stang	Wilkin
Broecker	Fuller	Leppik	Pawlenty	Storm	Wolf
Buesgens	Gerlach	Lindner	Rest	Swenson	Workman
Cassell	Goodno	Mares	Reuter	Sykora	Spk. Sviggum
Clark, J.	Gunther	McElroy	Rhodes	Tingelstad	
Daggett	Haake	Molnau	Rifenberg	Tuma	
Davids	Harder	Mulder	Rostberg	Van Dellen	

The motion did not prevail and the amendment to the amendment was not adopted.

The Speaker resumed the Chair.

The question recurred on the Stanek et al amendment and the roll was called. There were 102 yeas and 30 nays as follows:

Those who voted in the affirmative were:

Abeler	Chaudhary	Finseth	Jennings	Lieder	Nornes
Abrams	Clark, J.	Folliard	Juhnke	Lindner	Olson
Anderson, B.	Clark, K.	Fuller	Kalis	Luther	Opatz
Biernat	Daggett	Gerlach	Kelliher	Mares	Orfield
Bishop	Davids	Gleason	Kielkucki	McCollum	Osskopp
Boudreau	Dehler	Goodno	Knoblach	McElroy	Ozment
Bradley	Dempsey	Gunther	Kubly	McGuire	Paulsen
Broecker	Dorman	Haake	Kuisle	Milbert	Pawlenty
Buesgens	Dorn	Harder	Larsen, P.	Molnau	Paymar
Carlson	Entenza	Hasskamp	Larson, D.	Mulder	Pelowski
Carruthers	Erhardt	Holsten	Lenczewski	Murphy	Peterson
Cassell	Erickson	Howes	Leppik	Ness	Pugh

Rest	Seagren	Smith	Sykora	Wagenius	Westrom
Rhodes	Seifert, J.	Stanek	Tingelstad	Wejcman	Wilkin
Rifenberg	Seifert, M.	Stang	Tuma	Wenzel	Wolf
Rostberg	Skoe	Storm	Van Dellen	Westerberg	Workman
Schumacher	Skoglund	Swenson	Vandeveer	Westfall	Spk. Sviggum

Those who voted in the negative were:

Anderson, I.	Greiling	Huntley	Krinkie	Mullery	Swapinski
Bakk	Hackbarth	Jaros	Leighton	Otremba	Tomassoni
Dawkins	Hausman	Johnson	Mahoney	Reuter	Trimble
Gray	Hilty	Kahn	Mariani	Rukavina	Tunheim
Greenfield	Holberg	Koskinen	Marko	Solberg	Winter

The motion prevailed and the amendment was adopted.

Dawkins and Rukavina offered an amendment to S. F. No. 2677, as amended.

POINT OF ORDER

Abrams raised a point of order pursuant to rule 3.21 that the Dawkins and Rukavina amendment was not in order. The Speaker ruled the point of order well taken and the Dawkins and Rukavina amendment out of order.

S. F. No. 2677, A bill for an act relating to crime prevention; recodifying the driving while impaired crimes and related provisions; making numerous clarifying, technical, and substantive changes in the pursuit of simplification; amending Minnesota Statutes 1998, section 629.471; Minnesota Statutes 1999 Supplement, sections 260B.171, subdivision 7; 260B.225, subdivision 4; and 609.035, subdivision 2; proposing coding for new law as Minnesota Statutes, chapter 169A; repealing Minnesota Statutes 1998, sections 168.042; 169.01, subdivisions 61, 68, 82, 83, 86, 87, 88, and 89; 169.121, subdivisions 1, 1a, 1b, 1d, 2, 3b, 3c, 5, 5a, 5b, 6, 7, 8, 9, 10, 10a, 11, and 12; 169.1211; 169.1215; 169.1216; 169.1217, subdivisions 2, 3, 4, 5, 6, and 8; 169.1218; 169.1219; 169.122, subdivisions 1, 2, 3, and 4; 169.123, subdivisions 2, 2a, 2b, 2c, 3, 4, 5, 5a, 5b, 6, 7, 8, and 10; 169.124; 169.125; 169.126; 169.1261; 169.1265; 169.128; and 169.129, subdivision 3; Minnesota Statutes 1999 Supplement, sections 169.121, subdivisions 1c, 3, 3d, 3f, and 4; 169.1217, subdivisions 1, 7, 7a, and 9; 169.122, subdivision 5; 169.123, subdivisions 1 and 5c; and 169.129, subdivision 1.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 115 yeas and 17 nays as follows:

Those who voted in the affirmative were:

Abeler	Broecker	Clark, K.	Entenza	Gleason	Harder
Abrams	Buesgens	Daggett	Erhardt	Goodno	Hasskamp
Anderson, B.	Carlson	Davids	Erickson	Greenfield	Hausman
Biernat	Carruthers	Dehler	Finseth	Greiling	Hilty
Bishop	Cassell	Dempsey	Folliard	Gunther	Holsten
Boudreau	Chaudhary	Dorman	Fuller	Haake	Howes
Bradley	Clark, J.	Dorn	Gerlach	Hackbarth	Huntley

Jennings	Lenczewski	Murphy	Peterson	Stanek	Wenzel
Johnson	Leppik	Ness	Pugh	Stang	Westerberg
Juhnke	Lieder	Nornes	Rest	Storm	Westfall
Kahn	Lindner	Olson	Rhodes	Swapinski	Westrom
Kalis	Luther	Opatz	Rifenberg	Swenson	Wilkin
Kelliher	Mares	Orfield	Rostberg	Sykora	Wolf
Kielkucki	Mariani	Osskopp	Schumacher	Tingelstad	Workman
Knoblach	McCollum	Osthoff	Seagren	Trimble	Spk. Sviggum
Koskinen	McElroy	Ozment	Seifert, J.	Tuma	
Kubly	McGuire	Paulsen	Seifert, M.	Van Dellen	
Kuisle	Milbert	Pawlenty	Skoe	Vandeveer	
Larsen, P.	Molnau	Paymar	Skoglund	Wagenius	
Larson, D.	Mulder	Pelowski	Smith	Wejcman	

Those who voted in the negative were:

Anderson, I.	Holberg	Leighton	Mullery	Rukavina	Tunheim
Bakk	Jaros	Mahoney	Otremba	Solberg	Winter
Dawkins	Krinkie	Marko	Reuter	Tomassoni	

The bill was passed, as amended, and its title agreed to.

The Speaker called Abrams to the Chair.

Pawlenty moved that the remaining bills on the Calendar for the Day be continued. The motion prevailed.

MOTIONS AND RESOLUTIONS

Vandeveer moved that the name of Olson be added as an author on H. F. No. 474. The motion prevailed.

Reuter moved that H. F. No. 4149 be recalled from the Committee on Rules and Legislative Administration and be re-referred to the Committee on Governmental Operations and Veterans Affairs Policy. The motion prevailed.

ANNOUNCEMENTS BY THE SPEAKER

The Speaker announced the appointment of the following members of the House to a Conference Committee on S. F. No. 2845:

Leppik, Rest and Dorman.

The Speaker announced the appointment of the following members of the House to a Conference Committee on S. F. No. 3016:

Entenza; Seifert, J., and Broecker.

ADJOURNMENT

Pawlenty moved that when the House adjourns today it adjourn until 9:00 a.m., Thursday, April 13, 2000. The motion prevailed.

Pawlenty moved that the House adjourn. The motion prevailed, and Speaker pro tempore Abrams declared the House stands adjourned until 9:00 a.m., Thursday, April 13, 2000.

EDWARD A. BURDICK, Chief Clerk, House of Representatives