

2012 LEGISLATIVE BULLETIN



MINNESOTA COUNTY ATTORNEYS ASSOCIATION

2012 LEGISLATIVE BULLETIN

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2012 REGULAR SESSION BILLS

ADMINISTRATIVE

Chapter 171 – Firearms Exemption

Amends MS 2010 § 388.051 by adding a subdivision. Notwithstanding the general prohibition on agents of political subdivisions carrying firearms under MS 2010 § 626.84, a county attorney, or assistant county attorney, is now authorized to possess and carry a firearm while on duty. This authority may be restricted by the county attorney, and requires that the person possessing or carrying a firearm on duty lawfully possesses a permit to carry a pistol in accordance with MS 2010 § 624.714.

Effective Date: April 10, 2012

Chapter 127 – Sale of Forfeited Weapons

This bill amends MS § 609.5316.1 to authorize law enforcement agencies to sell forfeited weapons, including firearms, to federally licensed firearms dealers.

Effective Date: August 1, 2012

Chapter 147 – Vehicle Combinations to Transport Property and Equipment

This bill amends MS 2010 §169.81, subd. 3, to include the transportation of property or equipment (in addition to commodities) as types of transport allowable for certain vehicle combinations that, under state statutes, can be longer than the general maximum combined length of 75 feet.

Effective Date: March 31, 2012

Chapter 150 – Environmental Permitting and Review

Relating to environmental permitting efficiency, environmental review requirements, water supply plans. Amends MS 2010, §§ 41A.10, subd. 1; 103G.291, subd. 3, 4; 115.03, by adding a subdivision; 116.07, subd. 4a, by adding a subdivision; 116D.04, by adding a subdivision; 116J.035, by adding a subdivision; MS 2011 Supplement, §§ 84.027, subd. 14a; 116.03, subd. 2b; 116D.04, subd. 2a.

Article 1 - Permitting

MS 2011 Supplement, § 84.027, subd. 14a

Section 1 – modifies the permitting goals passed into law last session by establishing the goal of the State that all environmental and resource management permits be issued within 150 days of the submission of a permit application; removing language which began said time constraint upon the receipt of a “substantially complete” application. Simplifies the notification requirement for the Commissioner of Natural Resources by requiring only that the Commissioner notify an applicant, in writing and within 30 business days, whether the application is complete

or incomplete. If the application is determined to be incomplete, the Commissioner must list all deficiencies, citing to specific provisions of the applicable rules and statutes, and advise the applicant as to how the deficiencies can be remedied.

MS 2010, § 103G.291, subd. 3

Section 2 – amendment removes language requiring public water suppliers serving more than 1,000 people to use a conservation rate structure, and now requires suppliers to encourage water conservation by employing only water use demand reduction measures, as defined under this Section, before requesting approval from the Commissioner of Public Health to construct a public water supply well or requesting an increase in the authorized volume of appropriation. The Commissioner of Natural Resources and the water supplier are now required to use a collaborative process to achieve demand reduction measures as a part of a water supply plan review process.

MS 2010, § 103G.291, subd. 4

Section 3 – defines “demand reduction measures” as measures that reduce water demand, water losses, peak water demands, and nonessential water uses. Demand reduction measures must also include a conservation rate structure, or a uniform rate structure with a conservation program that achieves demand reduction. This amendment changes the deadline for implementation of demand reduction measures by water suppliers serving more than 1,000 people from January 1, 2013, to January 1, 2015. Removes language that exempted certain water suppliers from the above requirements for lack of proper measuring equipment to track water usage by its users.

MS 2010, § 115.03, amended to add subd. 8b

Section 4 – provides that state disposal system permits that are issued to feedlots without a national pollutant discharge elimination system permit shall be issued for a term of ten years. A feedlot with a permit under this subdivision is required to be in compliance with agency rules. A facility or operation change may require a permit modification if required under agency rules.

MS 2011 Supplement, § 116.03, subd. 2b

Section 5 – amends language regarding the State’s environmental permitting goals so that it is substantially uniform with the modified language in Section 1. In addition, the amendment defines a “permit professional” as an individual who is not employed by the Pollution Control Agency who:

- Has a professional license issued by the State of Minnesota in the subject area of the permit;
- Has at least 10 years of experience in the subject area of the permit; and,
- Abides by the duty of candor applicable to employees of the Pollution Control Agency under agency rules and complies with all applicable requirements under Chapter 326.

The agency may now request that an applicant relying on a permit professional participate in a preapplication meeting with the agency before submitting an application. At least two weeks prior to said meeting, the applicant must submit at least the following:

- A project description, including but not limited to, scope of work, primary emissions points, discharge outfalls, and water intake points;
- Location of the project, including county, municipality, and location on the site;
- Business schedule for project completion; and

- Other information requested by the agency at least 4 weeks prior to the scheduled meeting.

During the preapplication meeting, the agency shall provide the applicant at least the following:

- An overview of the permit review program;
- A determination of which specific application or applications will be necessary to complete the project;
- A statement notifying the applicant if the specific permit being sought requires a mandatory public hearing or comment period;
- A review of the timetable established in the permit review program for the specific permit being sought; and,
- A determination of what information must be included in the application including a description of any required modeling or testing.

An applicant may select a permit professional to prepare the permit application and draft permit. If a preapplication meeting was held, the agency is required to notify the applicant and submitting permit professional within 7 business days of whether the application is complete or is denied; specifying the deficiencies in the application. Upon receipt of notice that the application is complete, the permit professional is required to submit to the agency a timetable for submitting a draft permit, and the permit professional is required to submit a draft permit on or before the date provided in the timetable. The Commissioner is then required to notify the applicant within 60 days after the close of the public comment period whether the permit can be issued.

The permit application and draft permit shall identify or include as an appendix all studies and other sources of information used to substantiate the analysis contained in the permit application and draft period. The Commissioner is required to request additional studies, if needed, and the project proposer must then submit all additional studies and information necessary for the Commissioner to perform the Commissioner's responsibility to review, modify, and determine the completeness of the application and approve the draft permit.

Nothing in the section shall be construed to modify any requirement of law that is necessary to retain federal delegation to or assumption by the state; or the authority to implement a federal law or program.

MS 2010, § 116.07, subd. 4a

Section 6 – adds language which authorizes a person to commence construction, reconstruction, replacement, or modification of any facility prior to the issuance of a construction permit by the agency; except as prohibited by federal law.

MS 2010, § 116.07, adds a subdivision

Section 7 – regarding manure digester permits, except within metropolitan areas, as defined by statute, or within cities of the first or second class, an air emission permit is not required for digester and associated electrical generation equipment that processes manure from the farm, or provides backup power for the farm.

MS 2010, § 116J.035, adds a subdivision

Section 8 – requires the Commissioner of Employment and Economic Development to work

with the multiagency collaboration called “Minnesota Business First Stop” (MBFS) to ensure the coordination, implementation, and administration of state permits; including:

- Establishing a state government mechanism that will coordinate administrative decision-making procedures and related quasijudicial and judicial review pertaining to permits related to the State’s air, land, and water resources;
- Providing coordination and understanding between federal, state, and local governmental units in the administration of the various programs relating to air, water, and land resources;
- Identifying all existing state permits and other approvals, compliance schedules, or other programs that pertain to the use of natural resources and protection of the environment; and,
- Recommending legislative or administrative modifications to exiting permit programs to increase their efficiency and utility.

A person proposing a project may apply to MBFS for assistance in obtaining the necessary state permits and other approvals. Upon request, the Commissioner is required, to the extent practicable, to:

- Provide a list of all federal, state, and local permits and other required approvals for the project;
- Provide a plan that will coordinate federal, state, and local administrative decision-making practices, including monitoring, analysis and reporting, public comments and hearings, and issuances of permits and approvals;
- Provide a timeline for the issuance of all federal, state, and local permits and other approvals required for the project;
- Coordinate the execution of any memorandum of understanding between the person proposing a project and any federal, state, or local agency;
- Coordinate all federal, state, or local public comment periods and hearings; and,
- Provide other assistance requested to facilitate final approval and issuance of all federal, state, and local permits and other approvals required for the project.

The Commissioner may, as necessary, negotiate a schedule to assess the project proposer for reasonable costs that any state agency incurs in coordinating the implementation and administration of state permits; notwithstanding § 16A.1283. The coordination of implementation and administration of state permits is not governmental action under § 116D.04.

Article 2 – Environmental Review

MS 2010, § 41A.10, subd. 1

Section 1 – amends the definition of “cellulosic material” to include wood feedstock (in addition to agricultural feedstock). Feedstock must be primarily comprised of cellulose, hemicellulose, or lignin or a combination of those ingredients. These ingredients can now be harvested on timberlands, in addition to grown on agricultural lands.

MS 2011 Supplement, § 116D.04, subd. 2

Section 2 – modifies section to provide that, in addition to ethanol, a facility or plant that produces biobutanol, or cellulosic biofuel, shall not be required to provide a mandatory

environmental impact statement; provided the facility or plant is located outside of the 7 county metro area and produces less than 125,000,000 gallons of the aforementioned substances annually. Specific definitions for each substance can be found herein.

Amendment allows for multiple hearings to be consolidated into a single hearing upon the request of the proposer; provided that:

- An environmental impact statement has been prepared for a project requiring multiple permits;
- Two or more relevant agencies' decision processes include either mandatory or discretionary hearings before a hearing officer; and,
- No laws or rules exist to the contrary.

The amendment now requires the responsible governmental unit to establish procedures for the consolidated hearing process; and any agency that has jurisdiction over a permit included in a consolidated hearing must participate. Procedures must ensure that the consolidated hearing process is consistent with applicable requirements for each permit i.e. regarding the rights and duties of parties to the hearing, and shall utilize the earliest applicable hearing procedure to initiate the hearing. Procedures set forth in § 116C.28, subdivision 2, apply to the consolidated hearing.

MS 2010, § 116D.04, adds a subdivision

Section 3 - By December 1, 2012, and every five years thereafter, the Environmental Quality Board, Pollution Control Agency, Department of Natural Resources, and Department of Transportation, after consultation with political subdivisions, shall submit to the governor and the chairs of the house of representatives and senate committees having jurisdiction over environment and natural resources a list of mandatory environmental assessment worksheet and mandatory environmental impact statement categories for which the agency or a political subdivision is designated as the responsible government unit, and for each worksheet or statement category, a document including:

- Intended historical purposes of the category;
- Whether projects that fall within the category are also subject to local, state, or federal permits; and,
- An analysis of whether the mandatory category should be modified, eliminated, or unchanged based on its relationship to existing permits or other federal, state, or local laws or ordinances.

Section 4 – creates a joint pilot program between the Commissioner of the Pollution Control Agency and the Commissioner of Natural Resources for an alternative form of environmental review. The Commissioners may select up to 3 projects, which must begin before January 1, 2014, and provides in detail the procedures of the pilot program that must be followed.

Effective Date: April 3, 2012

Chapter 151 – Exclusions from Minnesota's Fraudulent Transfer Act

Amends the definition of "transfer" within Minnesota Statute 2010 §513.41 to describe certain types of transfers to a "qualified charitable or religious organization" [hereinafter organization] that are not subject to clawback by the debtor's creditors or victims of fraud under Minnesota's Uniform Fraudulent Transfer Act (MUFTA)(Minnesota Statutes, §§ 513.41-513.51). The term

“transfer” does not include a contribution to an organization, unless made within two years of the commencement of an action under MUFTA against said organization, and:

- The debtor made the contribution with actual intent to hinder, delay, or defraud any creditor of the debtor, or
- The debtor:
 - was insolvent at the time of the contribution or would be rendered insolvent by reason of the contribution;
 - was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction; or
 - intended to incur, or the organization believed or had reason to believe that the debtor would incur, debts beyond the debtor’s ability to pay as the debts became due.

The amendment further provides that a transfer is not considered a “transfer” if the amount of that contribution did not exceed 15 percent of the debtor’s gross annual income for the year in which the transfer was made; or the contribution did exceed that amount but was consistent with the debtor’s prior practices in making charitable contributions.

“Transfer” does include a return on investment made by an organization. An organization is any organization or entity described in U.S.C. 26 § 170(c)(1), (2), or (3).

Effective Date: April 4, 2012

Chapter 156 - Procedures for Police Civilian Review Authorities

Amends MS § 626.89, subd. 2, and creates a subdivision to provide for civilian review when investigating criminal charges against an officer. This will take the form of a civilian review board, commission, or other oversight body; however, these bodies cannot impose discipline on an officer, nor can they make a finding of fact or determination regarding a complaint against an officer or impose. Said civilian review board, commission, or other oversight body may only make a recommendation regarding the merits of a complaint. The recommendation is merely advisory, and shall not be binding on, nor limit the authority of the chief law enforcement officer of any unit of government.

Effective Date: August 1, 2012

Chapter 183 – Repeal of 20-Year Survival of Child Support Judgments

This bill amends MS, 2010, §§ 541.05; 548.09, subd. 1. It repeals a 2010 law that would have extended the survival of child support judgments from 10 to 20 years. The law was originally enacted in 2010, with an effective date of January 1, 2011; however, that date was later changed to July 1, 2011, and then to January 1, 2013.

Effective Date: amendments to this Section are effective retroactively from April 15, 2010, the date the language stricken in this Section was finally enacted.

Chapter 192 - Veteran's Affairs and Employment Rights

This bill amends MS 2010, §§ 1.05 by adding a subdivision; 43A.09; 192.261, subd. 1, 6; 197.455, subd 4, 5. Several changes are made regarding a veteran's rights to leave and reinstatement, as well provisions for an increase in the amount of credits for veterans in open examination ratings for public employment.

MS 2010, § 192.261, subd. 1

Section 3 - is amended to create a second category of veterans who are entitled to leave without pay and reinstatement to their jobs as officers or employees of state or local government. In addition to those veterans who engaged in active service in a time of war or other duly declared emergency, this amendment entitles veterans to leave without pay during any period of convalescence for an injury or disease incurred during active service. "Active service" is defined by reference to MS 2010, § 190.05, subd. 5.

Section 4 – amends current law to entitle an employee who does not work in state or local government, i.e. the private sector, but is a veteran of active service during a duly declared emergency, to the same leave and reinstatement rights enjoyed by veterans employed in state or local government; regardless of which state authorized their active duty service. Previously, these rights were available to private sector veterans only if the emergency was declared in Minnesota.

MS 2010, § 197.455, subd. 4

Section 5 - increases from five point to ten points the credit given to a nondisabled veteran who elects to receive a credit, in a competitive open examination rating, under civil service laws, charter provisions, ordinances, rules or regulations of a county, city, town, school district, or other municipality or political subdivision.

Section 6 - increases from ten to 15 points the credit given to a disable veteran who elects to receive a credit, in a competitive open examination rating under civil service laws, charter provisions, ordinances, rules or regulations of a county, city, town, school district, or other municipality.

Effective Date: April 19, 2012

Chapter 194 – Authorization to Sell Firearm Silencers

This bill amends MS 2011 Supplement, § 609.66, subd. 1h, to make an exception to the general prohibition against the possession or sale of devices designed to silence or muffle the discharge of a firearm ("Silencers"). Now, a person who is licensed as a firearms importer, manufacturer, or dealer by the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, under U.S.C., Title 18, § 923, and is acting in full compliance with all federal requirements under that license ("Authorized Party"), may possess, sell, or lawfully transfer Silencers to the following parties:

- The chief administrator of any federal, state, or local governmental agency;
- The commander or commander's designee of any unit of the United States Armed Forces; or
- Any other Authorized Party.

Effective Date: August 1, 2012

Chapter 195 –Titling and Licensing Requirements For Pioneer Vehicles

This bill relates to the requirements governing titling and license plates for pioneer vehicles, and amends MS 2010, §§ 168.10, subd. 1a; 168A.01, subd. 16, by adding a subdivision; 168A.04, subd 5; 168A.05, subd. 3; 168A.09, by adding a subdivision; 168A.15, subd. 2; 325F.6644, subd. 2.

MS 2010, § 168.10, subd. 1a

Section 1 – broadens eligibility for the special “pioneer” license plate to include vehicles classified as a restored pioneer vehicle, and makes several technical changes.

MS 2010, § 168A.01, subd. 16

Section 2 – specifies that a reconstructed vehicle, as defined under this Section, does not include a restored pioneer vehicle.

MS 2010, § 168A.01, adding a subdivision

Section 3 – defines a “restored pioneer vehicle” for the purpose of vehicle title. Among the requirements, the vehicle must have first been manufactured before 1919 and has to have been restored through necessary replacement or repair an essential part of the vehicle. Establishes that a vehicle meeting the definition of a "restored pioneer vehicle" is not considered a "reconstructed vehicle," which has the effect of preventing restored pioneer vehicles from being subject to regulations for reconstructed vehicles (including title branding).

MS 2010, § 168A.04, subd. 5

Section 4 – requires an applicant for a certificate of title on a restored pioneer vehicle to submit evidence of the manufacturer's year, make, model, and vehicle identifying number (VIN). This Section specifies what constitutes a valid VIN, as well as what additional documentation the Commissioner may request.

MS 2010, § 168A.05, subd. 3

Section 5 – specifies what information must be included on the certificate of title for a restored pioneer vehicle; namely:

- The unique identifying number on the title is the number specified by the vehicle owner in the title application;
- The year of manufacture of the vehicle is listed on the title as the year of original manufacture, rather than the year of title issuance following vehicle restoration; and
- The title is not branded as a "reconstructed vehicle."

MS 2010, § 168A.09, adding a subdivision

Section 6 - requires reissuance of a title where the vehicle qualifies as a restored pioneer vehicle, which for instance allows for obtaining a title on a vehicle that had been issued a title with a "reconstructed vehicle" brand. Sets a fee as the same amount as the fee for a duplicate title.

MS 2010, § 168A.15, subd 2

Section 7 - requires that a new certificate of title must be obtained for a vehicle that has been modified to become a restored pioneer vehicle.

MS 2010, § 325F.6644, subd 2

Section 8 - makes a conforming change.

Effective Date: August 1, 2012

Chapter 203 – Defining an Agricultural Pursuit

This bill amends MS 2010, § 17.459, subd 2, to classify solely as “agricultural operations” farms that engage in horse breeding, training, boarding, or any combination thereof. Raising horses or other equines remains both an “agricultural operation” and an “agricultural pursuit”. The bill proposes new coding for MS 2010, Ch. 17, and provides that participating in an agricultural pursuit identified in this chapter is not determinative for the classification of property under Ch. 273. Finally, the bill repeals MS 2010, § 17.459, subd 3, which addressed the property tax treatment on land used for raising horses.

Effective Date: August 1, 2012

Chapter 208 – Removing Restriction on Registered Voter Lists

Amends MS 2010, § 201.091 subd 9, by removing the restriction on registered voter list data received and compiled by courts for jury selection. A list provided for jury selection may therefore include a voter's date of birth or any part of a voter's Social Security number, driver's license number, identification card number, military identification card number, or passport number.

Effective Date: August 1, 2012

Chapter 209 – Official Depository Banks and Subcustodians

Amends MS 2010, §§ 123B.14, subd 3; 366.01, subd 4; 385.07; 427.06; to authorize a treasurer of one of four types of local government units to deposit funds into an official depository bank, under an arrangement that permits said depository bank to redeposit the funds into accounts at other banks that would then serve as subcustodians of the funds. The subcustodian financial institution must have at least five years of general custodial experience, and the redeposited funds must be covered by FDIC insurance. The four types of authorized local government units are school districts, towns, counties, and cities.

Effective Date, April 24, 2012

Chapter 230 – Veteran’s Removal Hearing in Counties Without a Civil Service Board

No honorably discharged veteran may be removed from their government employment position without a hearing showing incompetency or misconduct, or the veteran’s waiver of such a hearing. In governmental subdivisions that lack an established civil service board or commission or merit system authority, a three-person board conducts the hearing. This bill amends MS 2010, § 197.46 to require a governmental subdivision authorized to hold a three-person board to include within its notice of intent to discharge a statement that the veteran must respond to the notice in writing within 60 days of receipt, providing the governmental subdivision with the name, mailing address, and telephone number of the veteran’s selected representative for the three-person board. Provides that a veteran’s failure to do so constitutes a waiver of their right to a hearing and all other legal remedies available for reinstatement of the veteran’s employment position.

Provides a mechanism for the appointment of the third board member in the event that the veteran’s selectee and the governmental subdivision’s selectee fail to appoint a third person. Further provides that governmental entity, in addition to the veteran, may appeal the board’s decision.

Effective Date: August 1, 2012

Chapter 244 – Omnibus Agriculture Bill

This bill is the omnibus Agriculture bill. Among many amendments, this bill adds a subdivision to MS 2010, § 18B.065, providing that a local unit of government is to be treated as an employee of the state when said unit is participating in a waste pesticide collection program pursuant to a cooperative agreement with the commissioner; this is only for purposes of indemnification proceedings arising out of the transportation, management, or disposal of any waste pesticide. The scope of this treatment is as follows:

- From and after the time the waste permanently leaves the local unit of government’s possession and comes into the possession of the State’s authorized transporter; and
- During the time the waste is transported between the local unit of government facility by the State’s authorized transporter.

The State is not obligated to defend or indemnify a local unit of government to the extent of said unit’s liability insurance. Said unit’s right to indemnify is not a waiver of the limitation, defenses, and immunities available under to law to any state or local governmental unit.

Section 73 provides definitions regarding the seizure of animals; defines “establishment” as any public or private agency, person, society, or corporation having custody of animals that are seized under the authority of the state or any political subdivision of the state. Defines "regular business day" as a day during which the establishment having custody of an animal is open to the public not less than four consecutive hours between the hours of 8:00 a.m. and 7:00 p.m. A public authority, upon seizing an animal, must hold that animal at an establishment for redemption by that animal’s owner; the animals must be held for at least five business days, or longer if required by municipal ordinance. Establishments must keep the following records on animals in custody for at least six months:

- the description of the animal by species, breed, sex, approximate age, and other distinguishing traits;
- the location at which the animal was seized;
- the date of seizure;
- the name and address of the person from whom any animal three months of age or over was received; and
- the name and address of the person to whom any animal three months of age or over was transferred.

The public has a right to see these records at any time during a regular business day, and the records must be kept in a form that permits easy perusal. Finally, an establishment must not release a seized animal held for research or product testing; though this prohibition is inapplicable to the temporary transfer of an animal for the purpose of sterilization or needed medical care to a college of veterinary medicine or an accredited veterinary technology school.

Effective Date: August 1, 2012

Chapter 246 – Electronic Prescribing of Controlled Substances

This bill amends MS 2010, § 152.11, to allow for the electronic prescribing of controlled substances. Language regarding the requirements of written prescriptions, or oral prescriptions reduced to writing, is stricken from subd 1a and reinstated in subd 1. Regarding an electronic prescription for a controlled substance in Schedule II, III, IV, or V, it will be void unless it complies with the standards established under MS § 62J.497 (Electronic Prescription Drug Program statute) and with federal regulations related to electronic prescription.

Prescriptions for controlled substances in Schedule II, III, IV, or V that are transmitted by any form of facsimile are void unless they comply with federal regulations regarding same. A licensed pharmacy that dispenses a controlled substance is required to retain the original prescription for at least two years, and allow inspection of same by any duly authorized government official. An original electronic or facsimile prescription may be stored in an electronic database for at least two years, provided that they may be retrieved by the pharmacy. Finally, every licensed pharmacy must distinctly label the container in which a controlled substance is dispensed with the directions contained in the prescription for its use.

Effective Date: August 1, 2012

Chapter 250 – Absentee Ballot Return Envelope Modification

This bill amends MS 2010, §§ 203B.21, subd 3; 208.03; 211B10, by adding a subdivision, to make changes regarding absentee ballots. The amendment removes the requirement that the certificate on the back of an absentee ballot return envelope be dated, and removes corresponding language from the certificate's oath. Further, the chair of a major political party must certify to the Secretary of State the names of persons nominated as presidential electors 71 days prior to the general election day; formerly they had 77 days. Finally, the amendment

prohibits a political party unit from coercing an individual who does not have the party unit's official endorsement through the imposition or threatened imposition of fines, sanctions, or other penalties, from filing as a candidate for office.

**Effective Date: Section 1 – June 29, 2012,
Section 2 – August 1, 2012,
Section 3 – April 28, 2012**

Chapter 280 – Public Data Regarding Agreements Involving Payment of Public Money

This bill amends MS 2010, § 13.43, subd 2, to expand the definition of “public official” to include:

- The chief administrative officer or the individual acting in an equivalent position, in all political subdivisions;
- Individuals required to be identified by a political subdivision pursuant to §471.701 (the three highest paid employees of a city or county with a population of more than 15,000 people);
- In a city with a population of more than 7,500 or a county with a population of more than 5,000, individuals in a management capacity reporting directly to the chief administrative officer or the individual acting in an equivalent position; and
- In a school district, business managers, human resource directors, and individuals defined as superintendents, principals, and directors under Minnesota Rules, part 3512.0100; and in a charter school, individuals employed in comparable positions.

A complaint or charge against any of the above named employees is public only if:

- The complaint or charge results in disciplinary action or the employee resigns or is terminated from employment while the complaint or charge is pending; or
- Potential legal claims arising out of the conduct that is the subject of the complaint or charge are released as part of a settlement agreement with another person.
- The amendment adds language to clarify that the complete terms of any agreement settling any dispute arising out of an employment dispute is public.

Effective Date: May 5, 2012

Chapter 286 – Omnibus Pension Bill

The law lowers the pension systems' investment return assumption from 8.5 percent to 8 percent for five years, allowing for study during the five-year “select” period to determine a long-term rate and whether a return to 8.5 percent is advisable. The investment assumption rate is important to public pension plans because lowering the rate decreases funded ratios and increases liabilities and projected benefit costs. Sometimes called the “discount rate,” the number reflects the assumed rate of return on investment of pension fund assets managed by the Minnesota State Board of Investment (SBI). The assumption rate is also used to discount future pension fund liabilities. The law contains several other provisions impacting PERA. The agency has been directed to study and make recommendations on altering membership earnings threshold and eligibility criteria by 2013. The \$425 per month threshold has not changed since

1988. It also lowers the deferral rate of pensions for institutions coming under PERA's privatization law since December 31, 2010. The change was necessary to make the privatization provisions actuarially viable, given the 2010 change in PERA's normal deferral rates.

Effective Date: Various Effective Dates

Chapter 287 – Omnibus Transportation Bill

ARTICLE 3

MS 2010, § 169.06, subd 4

Section 27 - permits holders of a motorcycle road guard certificate who are acting as a “flagger” for a group motorcycle ride to stop and hold traffic; notwithstanding any contrary indications of a traffic-control device, provided that the person: (1) meets the safety and equipment standards for operating under the certificate; (2) has notified each statutory or home rule charter city through which the motorcycle ride group is proceeding; and (3) has obtained consent from the chief of police, or the chief's designee, of any city of the first class through which the group is proceeding.

Effective Date: One year after publication in the State Register of Rules adopted under § 171.60, subd 5

Section 43 – prohibits a person from performing traffic control as a motorcycle road guard without a valid certificate issued by the Commissioner of Public Safety. The Commissioner is directed to develop and offer a motorcycle road guard certification course, and to establish safety and equipment standards for holders of a certificate; including but not limited to wearing a reflective safety vest. The Commissioner is further directed to establish the minimum qualifications for a person to obtain a certificate through the Motorcycle Safety Center; which must include: (1) the applicant is at least 18 years old; (2) possesses a valid driver's license; and (3) has successfully completed the certification course.

This section authorizes the Commissioner to assess a fee for certificate applicants, and to adopt any rules necessary to carry out the provisions of this section. Finally, a petty misdemeanor penalty is authorized for violations of this section.

**Effective Date: Section 1 through 4 - One year after publication in the State Register (not yet published)
Section 5 – May 11, 2012**

ARTICLE 4

MS 2010, § 85.018, subd 2

Section 2 – prohibits local government units from restricting the use of an electric-assisted bicycle on trails which have been designated as bicycle or non-motorized trails; unless said unit determines that the operation of electric-assisted bicycles is not consistent with (1) the safety or general welfare of trail users; or (2) the terms of any property conveyance.

Effective Date: August 1, 2012

MS 2010, § 160.263, subd 2

Section 4 – prohibits the governing body of any political subdivision to, by ordinance or resolution, from restricting the operation of an electric-assisted bicycle on any bikeway, roadway, or shoulder, unless the governing body determines that the operation of an electric-assisted bicycle is not consistent with (1) the safety or general welfare of trail users; or (2) the terms of any property conveyance.

Effective Date: August 1, 2012

Sections 31 and 32 close a loophole in Minn. Stat. 169A.54 that allowed a person who provided an implied consent test between .16 and .20 and received a 1 year administrative driver's license revocation to shorten the revocation period to 30 days by pleading guilty to DWI. This was a legislative oversight when statute was amended in 2009. The statutory intent was for those testing above .16 to have a minimum revocation period of 1 year with the ability to obtain valid driving privileges with an ignition interlock restriction. For those who test under .16, the reduction from a 90 day revocation to 30 days when someone pleads guilty to DWI remains.

Effective Date: July 1, 2012

Section 35 expands Minn. Stat. 171.12, subd. 6. This is sometimes referred to as the “Dimler” statute. The statute previously prevented speeding violations from being reported to Driver and Vehicle Services and from appearing on the driving record for violations involving 65 mph in a 55 or 60 mph zones. Effective August 1, the statute does not allow recording violations of 65 mph in a 55 mph zone. For 60 mph zones, there is a two year sunset provision for violations of 70 mph. On August 1, 2014, it returns to a 65 mph violation. Due to Federal regulations, the Dimler statute does not apply to Commercial Drivers Licenses or violations occurring in commercial vehicles.

Effective Date: July 1, 2012

Sections 36 and 37 change cross references to reflect changes made in sections 31 and 32.

Effective Date: July 1, 2012

MS 2010, § 221.0314, subd 3a

Section 40 – regarding persons who are not physically qualified to drive under federal regulations and are applying for a waiver of their disqualifying medical condition, this amendment adds convictions under § 171.24 (Driving Without Valid License) as conduct that will result in the denial of their waiver application by the commissioner. The conviction must have occurred within three years preceding the application.

Effective Date: August 1, 2012

Chapter 290 – Omnibus Data Practices Act

Contains technical, clarifying, and stylistic changes to the Data Practices Act. Grammatical changes are made to reflect the use of the word "data" as a plural object.

MS 2010, § 13.02, subd 16

Section 9 - amends the definition of “responsible authority” under the Data Practices Act to specify individuals in political subdivisions who will serve as the responsible authority until the

governing body appoints one. The following officials will serve as the default responsible authority:

- Counties: the county coordinator or administrator; if the county does not employ a coordinator or administrator, then the county auditor will be the responsible authority;
- Statutory or home rule charter cities: the city clerk, or if no such office exists, the chief clerical officer;
- School districts: the superintendent; and
- All other subdivisions: the chief clerical officer.

MS 13.025

Section 10 – directs the responsible authority to prepare an inventory, the content of which can be found in the statute, and to update the inventory annually to ensure its accuracy. The inventory must be available to the public, and the commissioner may require responsible authorities to submit copies of the inventory, and request additional information from the responsible authority.

Directs the responsible authority to prepare a written data access policy and to update annually by August 1, or as needed to reflect changes in personnel, procedures, or other circumstances that impact the public’s ability to access data. Similarly, the responsible authority must annually, or as required, prepare a written policy of the rights of data subjects, and the specific procedures used by the government entity for access by the data subject to public or private data on individuals. Finally, the responsible authority must make copies of the above mentioned policies, and make them available to the public by distributing free copies or posting them online in a conspicuous place within the government entity’s website.

MS 2010, § 13.03, subd 2

Section 11 - removes a requirement that public access procedures be updated every year by August 1.

Section 12 - amends the “traveling data” statute, and makes conforming grammatical corrections. Clarifications are made in the language governing data that travel from the judicial branch to a government entity. If data have a specific classification under state or federal law, the government entity must maintain the data according to the specific classification.

MS 2010, § 13.072, subd 2

Section 13 - amends the commissioner opinion statute to require an opinion to indicate when the principles stated in the opinion are not intended to provide guidance to all similarly situated persons or government entities.

MS 2010, § 13.37, subd 1

Section 16 - amends the definition of “security information” to require the responsible authority to determine that disclosure would be likely to jeopardize the security of information, individuals, or property against theft and other improper uses.

Section 17 - provides that if a government entity denies a data request based on a determination that the data are “security information”, upon request, it must provide a short description explaining the necessity for the classification.

MS 2010, § 13.39, adding a subdivision

Section 20 - amends the civil investigative data statute to provide that it does not apply when the sole issue or dispute is a government entity’s timeliness in responding to a data request.

MS 2010, § 13.44, subd 3

Section 24 - amends the appraisal data statute to allow a government entity to make data that are confidential or protected nonpublic data to become public data upon a majority vote of the entity’s governing body.

MS 2010, § 13.601, subd 3

Section 37 - amends the statute governing data on applicants for appointment that are public to make it consistent with the personnel data statute.

MS 2010, § 13.82, adding a subdivision

Section 58 - amends the law enforcement data statute to provide that investigative data that become inactive that are a person’s financial account number or transaction numbers are private data on individuals or nonpublic data.

MS 2010, § 84.0874

Section 69 - amends the Department of Natural Resources electronic licensing data statute to expand the persons who have access to data.

Effective Date: Various Effective Dates

CIVIL

Chapter 123 – Community Notification on Individuals Released from MSOP

This bill amends MS §235B.

135, subd. 10(a) to permit local law enforcement agencies to proceed with the broadest disclosure authorized under §244.052, subd. 4, when disclosing information on individuals released from the Minnesota Sex Offender Program to residential facilities (halfway house), as defined under Minnesota Statute §244.052. Those individuals must have been committed under §235B.135 or Minnesota Statutes 1992, §526.10.

Effective Date: The day following final enactment

Chapter 128 – Changes to Forfeiture Laws

This bill changes various vehicle forfeiture laws to bring uniformity by amending Minnesota Statutes 2010 § 84.7741, 169A.63 by adding a subdivision; 491A.01, subdivision 3; 609.531; 609.5314, subdivision 2; 609.5315; 609.5318; Minnesota Statutes 2011 §609.5314, subdivision 3.

MS § 84.7741

Section 1 -- requires an officer, upon seizing an off-highway vehicle, to provide a receipt to a person in possession of said vehicle. If a person is not found with the vehicle, than an officer must leave a receipt in the place where the vehicle was found, if reasonably possible.

Section 2 -- changes the section's language from permissive to mandatory, and now requires an officer, upon seizure of an off-highway vehicle, to use reasonable diligence to secure the property and prevent waste. An officer may:

- Place the vehicle under seal;
- Remove the vehicle to a place designated by the agency; and
- Place a disabling device on the vehicle.

An officer is no longer authorized to take other reasonable steps to secure the vehicle and prevent waste.

Section 3 – is amended to allow owners of vehicles seized under this section to regain possession, pending the forfeiture's outcome, by giving security or posting bond equal to the fair market value of the property. The release of the vehicle is no longer subject to the approval of the appropriate agency; and the amendment excludes vehicles being held for investigatory purposes.

Section 4 - any person with an interest in the vehicle to, prior to entry of a final court order, petition the prosecuting authority for petition for remission or mitigation of the forfeiture. The prosecuting authority may remit or mitigate the forfeiture upon finding that:

- The forfeiture was incurred without willful negligence or intent to violate the law; or
- Extenuating circumstances exist.

Section 5 – paragraph (b) is amended to require that the appropriate agency serve the driver or operator of an off-highway vehicle within 60 days with notice of seizure and intent to forfeit the vehicle. It provides that an agency may petition the court for up to an additional 90 days for good cause shown. The amendment strikes the requirement that notice of the right to obtain judicial review, and the procedure for obtaining that review, be printed in Hmong and Spanish; and now only requires that notice be printed in English. The appropriate agency may still provide print the notice in other languages in addition to English.

The language required in the notice has been amended to reflect the raised threshold for Conciliation Court, from \$7,500 to \$15,000; and has otherwise been substantially altered. The specific language can be obtained by consulting the statute.

The appropriate agency is required to return the seized vehicle to the person from whom it was seized, if known, if it fails to comply with paragraph (b); namely, if notice was not sent within 60 days, and the appropriate agency did not seek a 90 day extension or the extension period has expired. An appropriate agency may still commence forfeiture proceedings at a later date, notwithstanding its failure to give proper notice, and is not required to return contraband or other property that the person from whom the vehicle was seized did not legally possess.

The section is further amended to allow a claimant to file for a demand for a judicial determination of the forfeiture within 60 days of service of the notice and forfeiture. The demand must be in the form of a civil complaint and filed with the court administrator in the county in where the seizure occurred, together with proof of service of a copy of the complaint on the prosecuting authority having jurisdiction over the forfeiture, including the standard filing fee for civil actions unless the claimant is proceeding in forma pauperis under §563.01. The complaint may be served by any means permitted by court rules; and if the value of the seized property is \$15,000 or less, the claimant may file an action in conciliation court for recovery of the seized vehicle. A copy of the conciliation court statement of claim must be served personally or by mail on the appropriate prosecuting authority, as well as on the agency that initiated the forfeiture, within 60 days. (The petition for remission or mitigation is also applicable to MS 84.7741 (off road) administrative forfeitures).

Section 6 -- is amended to require a judicial determination regarding forfeiture to be held at the earliest practicable date, and in any event no later than 180 days following the filing of the demand by the claimant. If a related criminal proceeding is pending, the hearing shall not be held until the conclusion of the criminal proceeding, and the district court administrator is required to schedule the hearing as soon as practicable after the conclusion of the criminal proceeding.

Section 7– if a vehicle is sold, the appropriate agency is now prohibited from selling the vehicle to:

- An officer or employee of the agency that seized the property or to a person related to the officer or employee by blood or marriage; or
- The prosecuting authority or any individual working in the same office or a person related to the authority by blood or marriage.

The amendment requires the sale of forfeited vehicles be conducted in a commercially reasonable manner. For vehicles forfeited administratively, and no demand for judicial

determination is made, the appropriate agency must now provide the prosecuting authority with:

- A copy of the forfeiture or evidence receipt;
- The notice of forfeiture of the seizure and intent to forfeit;
- A statement of probable cause for forfeiture of the property; and
- A description of the property and its estimated value.

The Prosecuting authority must review and certify that

- The appropriate agency provided a receipt in accordance with subdivision 2, paragraph (c);
- The appropriate agency served notice in accordance with subdivision 8; and
- Probable cause for forfeiture exists based on the officer's statement.

An appropriate agency may thereafter dispose of the property in any way authorized by this subdivision.

MS §169A.63

Section 8 – is amended to add paragraph (c); requiring an officer, upon seizing an off-highway vehicle, to provide a receipt to a person in possession of said vehicle. If a person is not found with the vehicle, than an officer must leave a receipt in the place where the vehicle was found, if reasonably possible.

Section 9 -- changes language from permissive to mandatory, and now requires an officer, upon seizure of an off-highway vehicle, to use reasonable diligence to secure the property and prevent waste. An officer may:

- Place the vehicle under seal;
- Remove the vehicle to a place designated by the agency; and
- Place a disabling device on the vehicle.

An officer is no longer authorized to take other reasonable steps to secure the vehicle and prevent waste.

Section 10 – is amended to allow owners of vehicles seized under this section to regain possession pending the forfeiture's outcome by giving security or posting bond equal to the fair market value of the property. The release of the vehicle is no longer subject to the approval of the appropriate agency; and the amendment excludes vehicles being held for investigatory purposes.

Section 11 -- has been changed to permit any person with an interest in the vehicle to, prior to entry of a final court order, petition the prosecuting authority for petition for remission or mitigation of the forfeiture. The prosecuting authority may remit or mitigate the forfeiture upon finding that:

- The forfeiture was incurred without willful negligence or intent to violate the law; or
- Extenuating circumstances exist.

Section 12 -- paragraph (b) is amended to require that the appropriate agency serve the driver or operator of an off-highway vehicle within 60 days with notice of seizure and intent to forfeit the vehicle. It provides that an agency may petition the court for up to an additional 90 days for good cause shown. The amendment strikes the requirement that notice of the right to obtain judicial review, and the procedure for obtaining that review, be printed in Hmong and Spanish; and now only requires that notice be printed in English. The appropriate agency may still provide print the notice in other languages in addition to English.

The language required in the notice has been amended to reflect the raised threshold for Conciliation Court, from \$7,500 to \$15,000; and has otherwise been substantially altered. The specific language can be obtained by consulting the statute.

The appropriate agency is required to return the seized vehicle to the person from whom it was seized, if known, if it fails to comply with paragraph (b); namely, if notice was not sent within 60 days, and the appropriate agency did not seek a 90 day extension or the extension period has expired. An appropriate agency may still commence forfeiture proceedings at a later date, notwithstanding its failure to give proper notice, and is not required to return contraband or other property that the person from whom the vehicle was seized did not legally possess.

The section is further amended to allow a claimant to file for a demand for a judicial determination of the forfeiture within 60 days of service of the notice and forfeiture. The demand must be in the form of a civil complaint and filed with the court administrator in the county in where the seizure occurred, together with proof of service of a copy of the complaint on the prosecuting authority having jurisdiction over the forfeiture, including the standard filing fee for civil actions unless the claimant is proceeding in forma pauperis under §563.01. The complaint may be served by any means permitted by court rules; and if the value of the seized property is \$15,000 or less, the claimant may file an action in conciliation court for recovery of the seized vehicle. A copy of the conciliation court statement of claim must be served personally or by mail on the appropriate prosecuting authority, as well as on the agency that initiated the forfeiture, within 60 days.

Section 13 -- is amended to require a judicial determination regarding forfeiture to be held at the earliest practicable date and in any event no later than 180 days following the filing of the demand by the claimant. If a related criminal proceeding is pending, the hearing shall not be held until the conclusion of the criminal proceeding, and the district court administrator is required to schedule the hearing as soon as practicable after the conclusion of the criminal proceeding.

Section 14 -- if a vehicle is sold the appropriate agency is now prohibited from selling the vehicle to:

- An officer or employee of the agency that seized the property or to a person related to the officer or employee by blood or marriage; or
- The prosecuting authority or any individual working in the same office or a person related to the authority by blood or marriage.

The amendment requires the sale of forfeited vehicles be conducted in a commercially reasonable manner. For vehicles forfeited administratively, and no demand for judicial determination is made, the appropriate agency must now provide the prosecuting authority with:

- A copy of the forfeiture or evidence receipt;
- The notice of forfeiture of the seizure and intent to forfeit;
- A statement of probable cause for forfeiture of the property; and
- A description of the property and its estimated value.

The Prosecuting authority must review and certify that

- The appropriate agency provided a receipt in accordance with subdivision 2, paragraph (c);
- The appropriate agency served notice in accordance with subdivision 8; and
- Probable cause for forfeiture exists based on the officer's statement.

An appropriate agency may thereafter dispose of the property in any way authorized by this subdivision.

MS 2010, §491A.01

Section 15 – is amended to raise the threshold for jurisdiction from \$7,500 to \$15,000 over forfeiture claims in Conciliation, provided that they were brought under § 84.7741 or 169A.63.

MS 2010, §609.531

Section 16 -- defines “Prosecuting authority” as the attorney who is responsible for prosecuting an offense that is the basis for a forfeiture under §§ 609.531 to 609.5318.

Section 17 -- requires that an asset is subject to a designated offense forfeiture under §609.5312 only if the underlying designated offense is established by proof of a criminal conviction. When the forfeiture is related to controlled substances, the section has been amended to grant the appropriate agency handling the forfeiture the evidentiary presumption under §609.5314, subdivision 1. For all other forfeitures, the appropriate agency handling the forfeiture continues to bear the burden of proving the act or omission giving rise to the forfeiture by clear and convincing evidence.

The section now defines the alleged owner as:

- For forfeiture of a motor vehicle, the registered owner according to records of the Department of Public Safety;
- For real property, the owner of record; and,
- For other property, the person notified by the prosecuting authority in filing the forfeiture action.

Section 18 – is amended to remove language about county attorneys, and now provides that, upon motion by an appropriate agency or prosecuting authority, a court may extend the time period for sending notice for a period not to exceed 90 days for good cause shown. The notice must contain:

- A description of the property seized;
- The date of the seizure; and
- Notice of the right to obtain judicial review of the forfeiture and the procedure for obtaining that review in English.

The amendment strikes the requirement that said notice be printed in Hmong, Somali, and Spanish. The language required in the notice has been amended to reflect the raised threshold for Conciliation Court, from \$7,500 to \$15,000; and has otherwise been substantially altered. The specific language can be obtained by consulting the statute.

MS §609.5314

Section 19 – is amended to require a claimant, when making a demand for judicial determination of a forfeiture, to draft the demand in the form of a civil complaint, together with proof of service of a copy of the complaint to the prosecuting authority, and file it with the court administrator in the county in which the forfeiture occurred. The claimant is authorized to serve the complaint upon the prosecuting authority in any means permitted by court rules. The amendment removes language about county attorneys, and instead provides that no responsive pleading is required from the prosecuting authority, and no fees may be charged for the prosecuting authority’s appearance in the matter. The amendment requires the court administrator to schedule a hearing as soon as practicable after the conclusion of a criminal proceeding, removing the requirement that an adjudication occur prior to scheduling a hearing.

MS §609.5315

Section 20 – if a vehicle is sold, the appropriate agency is now prohibited from selling the vehicle to:

- An officer or employee of the agency that seized the property or to a person related to the officer or employee by blood or marriage; or
- The prosecuting authority or any individual working in the same office or a person related to the authority by blood or marriage.

MS §609.5318

Section 24 – is amended to require that the registered owner of the vehicle be notified of the seizure and intent to forfeit within 7 days of the vehicle’s seizure. Notice by certified mail to the address shown in Department of Public Safety records is deemed to be sufficient notice to the registered owner. Notice must be in writing and contain:

- contain a description of the property seized;
- contain the date of seizure; and
- be printed in English.

The section does not prohibit the appropriate agency from printing the above notice in any other languages in addition to English. The language required in the notice has been amended to reflect the raised threshold for Conciliation Court, from \$7,500 to \$15,000; and has otherwise been substantially altered. The specific language can be obtained by consulting the statute.

Section 26 – is amended with a Revisor’s instruction that the terms “county attorney” and “prosecutor” shall be amended to “prosecuting authority” wherever they appear in Minnesota Statutes §§ 609.531 to 609.5318. The above instruction does not apply to references to the “Minnesota County Attorney’s Association” in Minnesota Statute §609.531, subdivision 8.

Effective Date for all sections: August 1, 2012

Chapter 131 – State and Local Government Tort Liability Limits

This bill amends MS 2010 §§ sections 3.736, subd. 4, and 466.04, subd. 1, 3; to limit tort liability in claims involving nonprofit corporations engaged in or administering outdoor recreational activities funded or operating under a government-issued permit to pre-2008 levels i.e. \$1,000,000. This limit is an aggregate limit that applies regardless of the number of claims filed resulting from a single occurrence.

Effective Date: March 15, 2012

Chapter 135 – Procedure for Detachment from a Municipality

Amends MS 2010 § 414.06, subd. 1, 2, 3; relating to procedures for detachment of property from a city, which, if detached, becomes part of the unincorporated town.

Section 1 – Amended to require additional information be submitted to the chief administrative law judge in initiating a detachment from a municipality; specifically, petitioners now must state the reasons for seeking the detachment, and summarize efforts taken to resolve issues that form the basis for the detachment request. Requires petitioners seeking detachment without a resolution from the affected city to provide said city with a copy of the petition. Also requires copies of the petition to be given to each affected property owner who is not a party to the petition, the clerk of the affected town, the clerk of any other abutting town or city, and the county recorder.

Section 2 – Amendment adds this subdivision. An affected town board, notified of a petition for detachment under subdivision 1, may now submit to the chief administrative law judge a resolution of support, opposition, or neutrality. Failure to submit a resolution must be deemed as a position of neutrality. A that town expresses a position to the petition other than neutrality, i.e. in support of a petition opposed by the city, or opposed to a resolution supported by the city, then it will become a party to the hearing.

Section 3 – Provides that no hearing will be held and the petition will be granted by the chief administrative law judge if the city, town, and all property owners support, or are neutral to the petition. Conversely, if both the city and town express opposition, then no hearing will be held and the petition will be denied. In all other cases, a hearing is required. Before the hearing the chief administrative law judge must order the parties to mediation.

Section 4 – Adds to the factors that must be considered by the chief administrative law judge when ordering detachment; specifically, all applicable comprehensive plans, land use regulations, and land use maps of the affected city, town, and county in making findings.

Section 5 - Requires the chief administrative law judge to apportion the costs of mediation and a hearing in an equitable manner. Requires the petitioning landowners to pay at least half of the total costs unless the chief administrative law judge makes specific findings why another party should be responsible for a greater share.

Effective Date: August 1, 2012

Chapter 143 – Receiverships and Assignments for the Benefit of Creditors

Amends statutes regarding receiverships and assignments for the benefit of creditors; amending Minnesota Statutes 2010, sections 302A; 308A; 316.11; 317A; 322B; 462A.05, subd. 32; 469.012, subd. 2i; 540.14; 559.17, subd. 2; 576; proposing coding for new law in Minnesota Statutes, chapters 576; 577; repealing Minnesota Statutes 2010, sections 302A.759, subd. 2; 308A.961, subd. 2; 308B.951, subd. 2, 3; 317A.759, subd. 2; 576.01; 577.01; 577.02; 577.03; 577.04; 577.05; 577.06; 577.08; 577.09; 577.10.

ARTICLE 1 – Receiverships

Defining terms; specifying law applicability, court powers, receivership types, receiver appointment, receivership not a trust, receiver eligibility, bond, immunity, discovery, receiver powers and duties, receiver as lien creditor, real estate recording, real estate subsequent sales, respondent duties, professional employment and compensation, property and claims schedules, notice, motions, orders, records, reports, receiver removal and termination, actions, property turnover, ancillary receiverships, stays, utility service, financing, executory contracts, sales free of lien, property abandonment, liens against after-acquired property, claims process, claims, priority, interest, and distributions.

ARTICLE 2 - Assignments for the Benefit of Creditors

Defining terms; specifying requisites, assignment form, court administrator duty, assignee as lien creditor, real estate recording, notice, assignee removal, and receiverships law application; repealing assignments for benefit of creditors.

ARTICLE 3 – Conforming Amendments

Making statutory conforming amendments; repealing certain filing claims and receivers provisions.

Effective Date: August 1, 2012

Chapter 283 – Conciliation Court Civil Claim Limit Increased

This bill amends MS 2010 § 491A.01, subd 3, to raise the jurisdictional limit of conciliations courts over civil claims from \$7,500 to \$10,000. No changes are made to limits for filing consumer credit transaction or forfeiture claims. This will be the jurisdictional limit from August 1, 2012 until this section expires on August 1, 2014. Thereafter, the jurisdictional limit over all civil claims will be raised to \$15,000, as the new subdivision removes any distinction between claims involving money or property subject to forfeiture, and other civil claims. This bill contains an instruction to the revisor to make conforming amendments in order to correct the threshold monetary amount, and any statutory cross-references.

Effective Date: Section 1 – August 1, 2012 (expires August 1, 2014)

Section 2 – August 1, 2014

Section 3 – Paragraph (a) August 1, 2012

Paragraph (b) August 1, 2014

CRIMINAL

Chapter 126 – Handgun Permitting Laws and Presumptions Regarding the Use of Deadly Force

This bill amends M S §609.065; 624.7131, subds. 2 and 8; 624.714, subd.

Governor Dayton vetoed the bill, expressing concern that the majority of Minnesota’s major law enforcement and public safety organizations “strongly oppose” its passage. The MN Police and Peace Officers Association, the MN Chiefs of Police, and the MN Sheriffs Association, have stated that the bill would increase the dangers to peace officers they represent in performing their duties. MCAA also strongly opposed the bill. The bill would have been effective had the Governor signed the measure.

The Governor argues that Minnesota Statutes and case law already authorize a law-abiding citizen to use deadly force to defend themselves or others either inside or outside of their homes, so long as that use of force constitutes “reasonable force”.

Article 1 – Permit to Purchase Renewal

Section 1 – amends §624.7131, subd. 2 and requires the chief of police or sheriff to check criminal histories, records and warrant information relating to the applicant through the Minnesota Crime Information System (MNCIS), the National Criminal Record Repository (NCRR), and the National Instant Criminal Background Check System (NICBCS). It amends language that required the chief of police or sheriff to use reasonable efforts to check other state and local record-keeping systems, and instead made such efforts merely permissible.

Section 2 – amends §624.7131, subd. 8, and creates a right to petition for relief to the district court for any violation of this section or appeal a denial of a transferee permit. A district court is now required to grant an appeal if the applicant is not prohibited from possessing a pistol or semiautomatic military-style assault weapon by Minnesota Statute § 624.713, and said individual is entitled to reasonable costs and expenses including attorney’s fees.

Article 2 – Authority to Seize Weapons

Section 1 – adds paragraph (b), which authorizes law enforcement to seize and confiscate firearms during a governor proclaimed state of emergency relating to a public disorder or disaster. A peace officer may temporarily detain an individual without a warrant in instances where the officer reasonably believes that it is immediately necessary for the protection of the officer or another individual. Should an officer temporarily detain an individual the officer is required to return any seized firearms and ammunition to the individual, unless:

- The officer takes that individual into physical custody; or
- Seizes the items as evidence pursuant to an investigation for the commission of the crime for which the individual was arrested.

Under paragraph (c) a government unit, governmental official, government employee, peace officer, or other person acting under governmental authority or color of law is *prohibited* from taking action to:

- Prohibit, regulate, or curtail the lawful possession, carrying, transportation, transfer, defensive use, of firearms;
- Seize, commandeer, or confiscate any firearms for any manner not expressly authorized by paragraph (b);
- Suspend or revoke a valid permit issued pursuant to §624.7131 or 624.714;
- Close or limit the operating hours of businesses that lawfully sell or service firearms, unless such closure or limitation applies equally to all other commerce.

This section prohibits construing any disorder or disaster emergency proclamation by the Governor or any other state or local public official as authorizing any violation of paragraphs (b) or (c); and creates a right of action by any person aggrieved by the seizure or confiscation of their weapon(s) in the district court of the county where the violation occurred. The court is required to order a return of the items, except as provided in paragraph(b), and authorizes the award to individuals of reasonable court costs and expenses, including attorney’s fees.

Article 3 – Self-Defense: Use of Force

Section 1 – amends MS §609.065, formerly titled “Justifiable Taking of Life”, to read “Justifiable Use of Deadly Force in Defense of Home and Person”.

The amendment strikes the statute’s original language and creates a new standard for the use of deadly force. The statute formerly prohibited the intentional taking of life, except when a person reasonably believes that they or another person is exposed to great bodily harm or death, or preventing the commission of a felony in the person’s place of abode.

Definitions are now provided for the following: *court order; deadly force; dwelling; forcible felony; good faith; great bodily harm; imminent; substantial bodily harm; and vehicle*. Each term is defined with precision in subdivision 1.

This section now authorizes the use of deadly force by an individual under the following circumstances:

- To resist or prevent the commission of a felony in the individual’s dwelling (*castle doctrine*);
- To resist or prevent what the individual reasonably believes is an offense that imminently exposes an individual to substantial harm, great bodily harm, or death; or,
- To resist or prevent what the individual reasonably believes is the commission or imminent commission of a forcible felony.

The use of deadly force is *not authorized* if the individual knows that the person against whom force is being used is a licensed peace officer who is acting lawfully. Further, the common law duty to retreat is abrogated, and this section authorizes an individual to use all force and means, including deadly force, if the individual believes in good faith that it is necessary to succeed in defense.

A rebuttable presumption is created when a person using deadly force possesses a reasonable belief that there exists an imminent threat of substantial bodily harm, great bodily harm, or death to that individual or another person when:

- The person against whom force is used is unlawfully entering or attempting to enter by force or stealth, or has entered by stealth and remains within, the dwelling or occupied vehicle of the individual; or,

- The person against whom force is used is in the process of removing, or attempting to remove, the individual or another person from the dwelling or occupied vehicle of the individual.

A person is *not entitled to the rebuttable presumption* if the individual knows that the person against whom force is used is:

- A lawful resident of the dwelling or a lawful possessor of the vehicle, or is otherwise lawfully permitted to enter the dwelling or vehicle; or,
- A person who has lawful custody of the person being removed, or attempting to be removed, from the dwelling or vehicle.

A person who is prohibited by a court order from contacting another individual, or entering a dwelling, or possessing a vehicle of another individual, *is not a lawful resident* of that individual's dwelling and *is not a lawful possessor* of that individual's vehicle. Similarly, the benefit of the presumption for an individual using deadly force is not available if:

- the individual using deadly force is presently engaged in a crime or attempting to escape from the scene of a crime; or
- if the person knows, or has reason to know, that the person against whom the force is being used is a licensed peace officer who is acting lawfully.

This section creates immunity from any civil liability or criminal prosecution for any individual who justifiably uses force, including deadly force in defense of the individual, the individual's dwelling, or another individual. A law enforcement agency may arrest an individual using force under circumstances described in this section only after considering any claims or circumstances supporting self-defense or lawful defense of another individual.

This section provides that in a criminal trial, where there is any evidence of justifiable use of force under this section or §609.06, the state has the burden of proving beyond a reasonable doubt that the defendant's actions *were not* justifiable. This section of law may now be cited as the "*Defense of Dwelling and Person Act of 2011.*"

Article 4 – Recognition of Other State's Permits to Carry

Amends MS §624.714, subd. 16, allowing for the recognition of a valid permit-to-carry a pistol issued by any other state or non-Minnesota governmental jurisdiction, so long as the permit remains valid in the issuing jurisdiction and has not since been invalidated by any Minnesota district court.

The commissioner is required to publish an annual list, to be available on the internet, of states that have reciprocity agreements with Minnesota mutually recognizing each state's permits or licenses to carry a pistol. The commission is no longer required to publish a list of states that have permit laws dissimilar to Minnesota's.

A Minnesota resident *is not authorized* to carry a pistol in Minnesota under the terms of a carry permit or license issued by another state or non-Minnesota government jurisdiction.

Chapter 153 - “Jacob’s Law”

This Bill amends MS 2010, §§ 518.17, subd 3; 626.556, subd 10a. Requires law enforcement to notify social services if a child has been neglected or abused outside the home, and amends parental rights under custody orders to include police reports on minor children.

Section 1 – currently, each party in a dissolution or separation proceeding, or in a child custody proceeding, has the right to important records and information regarding their minor children; specifically, each party has the right to receive copies of police reports in addition to copies of documents relating to, school, medical, dental, and religious training. Each party now has the right to be notified by the other party if the minor child is the victim of a crime, including the name of the investigating law enforcement agency or officer. This duty is inapplicable if the other party to be notified is the alleged perpetrator.

Notice under this section cannot be communicated directly if contact with the other party has been prohibited by court order or applicable law, and nothing in this section shall modify, suspend, revoke, or terminate a court order or law that prohibits said contact. A party who is a program participant under Chapter 5B (Data Protection for Victims of Violence) is exempted from this Section’s notice and information requirements, and notice and information to be provided to them must be sent to the participant’s designated address. Further, failure to notify or inform a party of their rights under this section does not alone form the basis for modification of a custody order or parenting plan.

Section 2 – requires law the law enforcement agency to immediately notify the local welfare agency if a child is the victim of an alleged crime. The agency is required to offer appropriate social services for the purpose of safeguarding and enhancing the welfare of the abused or neglected minor.

Effective Date: July 1, 2012

Chapter 155 - Miscellaneous Department of Corrections Provisions

This bill amends MS 2010 §§ 241.016, subd 1; 241.025, subd 2; 244.17, subd 1, 2; 253B.18, subd 5a; 253B.185, subd 10; 611A.06, subd 1, 2; 626.05, subd 2; proposing coding for new law in Minnesota Statutes, chapter 241.

MS 2010, § 241.016, subd 1

Section 1 – removes language that required the Commissioner, as part of the Department’s biennial performance report, to present a report that listed and described the performance measures and targets of the Department. Similarly removed language that detailed what must be included in said reports.

Effective Date: April 5, 2012

MS 2010, § 241.025, subd 2

Section 2 – removes language that prohibited the fugitive apprehension unit members from applying for search warrants.

MS 2010, § 241.241

Section 3 – creates a requirement that the Commissioner establish a gardening program for inmates at each correctional facility, provided that space and security allows for the operation of a garden. The garden must be tended primarily by inmates, and the Commissioner must strive to raise produce that can be used to feed the inmates. Any portion of the harvest that cannot be used to feed inmates shall be donated to food shelves and charities located nearby the correctional facility where the produce was grown.

MS 2010, § 244.17, subd 1

Section 4 – amended to restore the Commissioner’s discretionary authority to select eligible individuals for participation in a Challenge Incarceration Program. The Commission must now strive to select sufficient numbers of eligible offenders to ensure that the program operates as close to capacity as possible. The Commissioner must include specific information regarding how close to capacity the program is operating in the department’s performance report.

Effective Date: April 5, 2012

MS 2010, § 244.17, subd 2

Section 5 – clarifies the requirements for eligibility to participate in a the Challenge Incarceration Program; participation is limited to the following offenders:

- Who are committed to the commissioner's custody following revocation of a stayed sentence; and
- Who are committed to the commissioner's custody, have 48 months or less in or remaining in their term of imprisonment, and did not receive a dispositional departure under the Sentencing Guidelines.

The Commissioner once again has the discretion to place an eligible person on a waiting list if there is insufficient space in the Challenge Incarceration Program.

Effective Date: April 5, 2012

MS 2010, § 253B.18, subdivision 5a

Section 6 – amended to permit victims to request information through the Department of Corrections electronic victim notification system. Victims may still request information by contacting the county attorney, in writing, in the county where the conviction for the crime took place. Requests received through the victim notification system are to be promptly forwarded to the prosecuting authority with jurisdiction over the relevant offense, or in the case of commitment, to the head of the appropriate treatment facility. If a county attorney receives a request under this section following commitment, then said attorney must forward the request to the Commissioner of Human Services.

MS 2010, § 611A.06, subd 1

Section 8 – Commissioner must make a good faith effort to notify a victim prior to the release or reduction in custody status of an offender if the victim has made a request for such notice to the Commissioner of Corrections through the Department of Corrections electronic victim notification system.

MS 2010 § 611A.06, subd 2

Section 9 – allows the provision of electronic notice of an offender’s release to a victim who requested same through the Department of Corrections electronic victim notification system.

MS 2010, § 626.05, subd 2

Section 10 – includes Minnesota Department of Corrections Fugitive Apprehension Unit members in the Section’s definition of “Peace Officer”.

Effective Date (excluding sections 1, 4, 5): August 1, 2012

Chapter 173 – Theft of Motor Fuel

This bill amends MS 2010 §§, 171.175; 332.32; 604.15, subd 3, by adding a subdivision; 609.52, subd 1, and 2, to specifically include theft of motor fuel in the theft crime, create a permissive inference regarding same, and modify the drive-off civil liability law.

MS 2010, § 171.175

Section 1 - replaces the term “gasoline” with “motor fuel” when directing the Commissioner of Public Safety to suspend a person’s license for 30 days when convicted or adjudicated for theft under this Section.

MS 2010, § 332.32

Section 2 - adds a subdivision to exclude trade associations performing services under Section 4 from the definition of “collection agency”; however, said associations cannot engage in conduct that would be prohibited for a collection agency under § 332.37.

MS 2010, § 604.15, subd 3, adding a subdivision

Section 3 – strikes the phrase “if known”; thus requiring that notice of nonpayment for theft of motor fuel must include the license number of the motor vehicle involved.

Section 4 – permits a trade association recognized by the I.R.S. as an exempt organization under I.R.C. 501(c)(6) to, on behalf of a member retailer and as authorized by this Section, give and receive notices, collect payments for motor fuel, and collect the specified service charge.

MS 2010, § 609.52, subd 1, 2

Section 5 – provides the definition of “motor fuel” and “retailer” by reference to § 604.15, subd 1.

Section 6 – adds a new clause which defines an act of theft as: intentionally and without claim of right, takes motor fuel from a retailer without the retailer’s consent and with intent to deprive the retailer permanently of possession of the fuel by driving a motor vehicle from the premises of a motor fuel retailer without having paid for the motor fuel dispensed into the vehicle.

Creates a permissive inference that the driver acted intentionally and without claim of right, and that the driver intended to deprive the retailer permanently of the fuel by proof that the driver drove the vehicle from the premises without having paid for the fuel. This inference would not apply if the vehicle had been reported as stolen before the theft, if payment was made to the

retailer within 30 days of receipt of a nonpayment notice, or if written notice has been sent disputing the retailer's claim.

Effective Date: August 1, 2012

Chapter 175 – Criminal Neglect of Vulnerable Adult Penalties

This bill amends MS 2010, §§, 609.233; 609.255, subd 3 to add a felony-level penalty and affirmative defense to the vulnerable adult deprivation crime.

MS 2010, § 609.233

Section 1 – amends the vulnerable adult neglect crime, providing for a felony level penalty for a caregiver or operator who intentionally deprives a vulnerable adult of necessary food, clothing, shelter, health care, or supervision when the offender is reasonably able to make the necessary provisions, and:

- The offender knows or has reason to know the deprivation could likely result in substantial or great bodily harm, or
- The deprivation occurred over an extended period of time.

The felony penalty is only applicable if the vulnerable adult actually suffered substantial or great bodily harm; the authorized felony penalties are as follows:

- If the vulnerable adult suffers great bodily harm, the maximum sentence is 10 years imprisonment and/or a \$10,000 fine;
- If the vulnerable adult suffers substantial bodily harm, the maximum sentence is 5 years and/ or a \$5,000 fine.

Creates three new affirmative defenses for line workers, supervisors/facilities, and caregivers, applicable to both the new felony penalty and the existing gross misdemeanor crime; which are detailed in the statute.

MS 2010, §609.255, subd 3

Section 2 – amends the crime of unreasonable confinement or restraint of a child. A parent, guardian, or caretaker who uses unreasonable restraint against a child may still be subject to a gross misdemeanor penalty; however, this amendment creates a new felony level penalty for confinement resulting in demonstrable bodily harm. The maximum sentence is 2 years and/or a \$4,000 fine. The 5 year sentence and or \$10,000 fine remains in place for confinement that results in substantial bodily harm.

Demonstrable bodily harm is not defined by statute, but courts have defined it as proof of harm between “bodily harm” and “substantial bodily harm”; or more specifically, harm that is capable of being perceived by some else i.e. a visible or apparent injury.

Effective Date: August 1, 2012

Chapter 185 – Access to Expanded Accident Reports

Amends and reformats MS 2010, § 169.09, subd 13. Legal counsel or an insurance representative of anyone involved in the accident are now included amongst those already authorized to have access to traffic accident reports.

This bill also amends MS 2010, §§ 65B.482, subd 1; MS 2011 Supplement, § 60C.21, subd 1.

Effective Date: April 19, 2012

Chapter 200 – Crimes Constituting “Gang Activity”

Amends the definition of “gang activity” under MS 2010, § 617.91 subd 4, to include the crime of unlawful possession of a firearm by a minor.

Effective Date: August 1, 2012

Chapter 210 – Extending Felony Punishment for Fraudulent Finance Statements

The bill amends MS 2010, § 609.7475, subd 3. Under this section, it is a crime to knowingly file a record that is (1) not related to a valid lien or security agreement, or (2) contains a forged signature or is based on a document containing a forged signature. The new law extends the felony level penalty to persons who commit the above crime with the intent to retaliate against a sheriff, deputy sheriff, or county recorder because of that person's duties in connection with a sheriff's sale or filing of liens regarding real property.

Effective Date: August 1, 2012

Chapter 211 – Fingerprinting to Resolve Cases in “Suspense”

Amends MS 2011 Supplement, § 299C.10, subd 1, to require law enforcement officials to take fingerprints from offenders arrested for any offense if the fingerprints are needed to reduce the number of files that are in suspense. A file is considered in suspense when the BCA cannot link a record with a booking because law enforcement did not collect fingerprints at the time of the booking. A common record that cannot be linked is a court disposition.

Effective Date: August 1, 2012

Chapter 212 – Modifications of Public Defender Eligibility

This bill amends MS 2010, §§ 244.052, subd 6; 257.69 subd 1; 260B; 260C; 609.115, subd 4; 609.131, subd 1; 611; repealing MS 2010, § 611.20, subd 6, making various changes to matters related to public defender representation.

MS 2010, § 244.052, subd 6

Section 1 – removes the offender's right to be represented by counsel during an administrative review hearing of the end-of-confinement committee's risk assessment determination. Similarly, the amendment strikes the corresponding obligation of the Legal Advocacy Project or Public Defender's office to provide an attorney at such a hearing for indigent offenders.

MS 2010, § 257.69, subd 1

Section 2 – strikes the requirement that a court appoint counsel for a party who is unable to pay in a timely manner in actions brought under the Parentage Act. Courts shall appoint counsel for indigent persons; however, the scope of the representation is limited to the issue of establishing parentage.

MS 2010, § 260B.163, subd 4

Section 3 – directs a court to appoint counsel to represent a minor in a juvenile proceeding, and grants the court the discretion to appoint counsel to the parents or guardian if they are found to be indigent under statutory guidelines. If the court appoints standby or advisory counsel, the cost of counsel shall be paid for by the Office of the State Court Administrator with state funds, or if appointment is requested by the prosecutor, by the governmental unit conducting the prosecution. The Board of Public Defense is not responsible for paying the cost of standby or advisory counsel.

MS 2010, § 260B.331, subd 5

Section 4 – removes the court’s discretion and instead directs it to inquire into the ability of parents to pay for counsel appointed under Section 3 of this bill. Authorizes the court in its discretion to order a parent to reimburse the state for the cost of the child’s appointed counsel. When determining the cost of reimbursement, a court is to consider the parent’s income, assets, and employment. If the court orders reimbursement, it must do so when counsel is first appointed or as soon as possible after the court determines that reimbursement is required. The court may accept partial reimbursement if warranted by the parent’s financial circumstances, and can order a parent’s employer to withhold a percentage of their income to be turned over to the court to cover reimbursement.

MS 2010, § 260C.163, subd 3

Section 5 – makes conforming changes to vest the court with discretion in appointing counsel for indigent parents, guardians, or custodians if they are found indigent under statutory guidelines. Clarifies that the child, parent, guardian, and custodian do not have a right to appointment of a public defender if the sole basis for the petition is habitual truancy; however, before any out-of-home placement can be ordered, the court must appoint a public defender or other counsel.

Provides that court-appointed counsel for the parent, guardian, or custodian under this subdivision is at the county’s expense. The county may contract to retain counsel for this purpose, provided that counsel: (1) has a minimum of two year’ experience handling child protection cases; (2) has training in handling child protection cases from a course or courses approved by the Judicial Council; or (3) is supervised by an attorney who meets the minimum qualifications under clause (1) or (2). The court shall appoint the counsel retained by the county unless a conflict of interest exists; if such a conflict exists, the county shall contract with other competent counsel after consulting will the chief judge of the judicial district, or the judge’s designee.

The court may appoint only one counsel at public expense for the first court hearing to represent the interests of the parents, guardians, and custodians, unless, at anytime during the proceedings upon petition of a party, the court determines and makes written findings on the record that extraordinary circumstances.

MS 2010, § 260C.331, subd 5

Section 6 – removes the court’s discretion and directs it to inquire into the ability of the parents to pay for appointed counsel’s services. The court may order reimbursement in the same manner authorized under Section 4 of this bill.

MS 2010, § 609.115, subd 4

Section 7 – requires that defendant’s counsel be provided presentence investigation and/or life imprisonment reports for the purpose of representing the defendant on any appeal or petition for postconviction relief. The reports are to be provided by the court and the Commissioner of Corrections at no cost to the defendant or the defendant’s attorney.

MS 2010, § 609.131, subd 1

Section 8 – directs the court to inquire of the prosecutor whether the prosecutor intends to certify the misdemeanor case as a petty misdemeanor prior to appointing a public defender. A defendant is no longer eligible for court appointed counsel if the case is certified as a petty misdemeanor.

MS 2010, § 611.14

Section 9 – adds another category of indigent person entitled to representation by a public defender; a person appealing from a conviction of a misdemeanor, or who is pursuing a post conviction proceeding and who has not already had a direct appeal of the conviction.

MS 2010, § 611.16

Section 10 – limits to indigent persons the right to request the court in which a matter is pending, or the court in which the conviction occurred, to appoint a public defender to represent them. Strikes language that granted the same right to “any other person entitled by law to representation of counsel”.

MS 2010, § 611.17

Section 11 - requires the court to actually make a determination of financial eligibility of a defendant (as opposed to an inquiry into an defendant’s financial circumstances). Requires district courts throughout the state to use the forms furnished by the state public defender related to financial eligibility. Strikes language allowing only the public defender representing the applicant to see information in the application. Provides that a court may not appoint a public defender if the defendant refuses to execute a financial statement, or refuses to provide information necessary to determine financial eligibility, or the defendant waives the appointment of a public defender.

Authorizes the court to reduce the \$75 co-payment for public defender representation, but prohibits a court from appointing the district public defender as stand-by counsel. Provides that if a court appoints stand-by counsel, the cost is to be paid by the State Court Administrator. If appointed based on the prosecutor's request, however, the cost must be paid by the governmental unit conducting the prosecution. Prohibits the board of public defense from being forced to pay the cost for advisory or stand-by counsel.

MS 2010, § 611.18

Section 12 - amends the law addressing the appointment of a public defender to clarify the situations in which the chief appellate public defender is appointed versus the chief district public defender.

MS 2010, § 611.20, subd 4

Section 13 – strikes language directing the court to order a defendant to reimburse the state for the cost of a public defender if a defendant was employed at any time during the representation, and instead grants the court the discretion to order reimbursement. The court should consider the defendant’s income, assets, and employment when determining the amount of reimbursement. Strikes language that authorized the court to consider the reimbursement schedule guidelines, and instead directs a court to evaluate the defendant’s ability to make partial payments or reimbursement if the court determines that the defendant is unable to pay the reasonable costs charged by private counsel due to the cost of a private retainer fee.

MS 2010, § 611.25, subd 1

Section 14 – adds another category of defendant entitled to representation by the chief appellate public defender; defendants appealing a misdemeanor conviction and defendants convicted of a misdemeanor pursuing a post-conviction proceeding that have not already had a direct appeal of the conviction.

MS 2010, § 611.25, subd 6

Section 15 – prohibits the district public defender from serving as standby counsel.

MS 2010, § 611.25, subd 5

Section 16 – strikes language which limited the Board of Public Defense’s funding of items and services which were included in the original budgets of district public defender’s offices (in 1990), and provides that the Board of Public Defense is solely responsible to provide counsel in adult criminal and juvenile cases as specified in Minnesota Statutes, section 611.14. Prohibits courts from appointing counsel at county expense for representation under section 611.14, except in Hennepin County (Hennepin County partially funds public defender services in the county).

MS 2010, § 611.27, adds a subdivision

Section 17 - provides that when the prosecutor appeals a pre-trial order to the Court of Appeals in a criminal case, reasonable attorney fees and costs may be allowed to the defendant. These are to be paid by the governmental unit responsible for the prosecution. Requires the chief judge of a judicial district, after consulting with listed parties, to establish a reimbursement rate for attorney fees and costs associated with pre-trial appeals. Caps the compensation at \$5,000, except where additional money is certified by the chief judge as being necessary to provide fair compensation for services of an unusual character or duration.

Section 18 – repeals MS 2010, § 611.20, subd 6.

**Effective Dates: Section 1 – July 1, 2012
Sections 2-18 – August 1, 2012**

Chapter 218 – Public Notice for Release Hearing for Killers of Peace Officers

Amends MS 2010, §§ 244.05, by adding a subdivision; 609.748, subd 4, 5, 6, to provide notice for the release hearing for killers of peace officers, and modifying certain harassment restraining order provisions.

Public Notice of a Person Convicted of Killing a Police Officer

MS 2010, § 244.05, adds a subdivision

Section 1 – requires the commissioner to post on the department’s website information about any hearing to consider the release of an inmate sentenced to life imprisonment for committing murder in the first degree involving the killing of a peace officer or a guard employed at a Minnesota or local correctional facility. The information must be posted at least 30 days before the hearing, and need only include only public information about the inmate, the circumstances of the case, and the scheduled hearing.

A member of the public may submit a written statement at the review hearing, and nothing in this subdivision may be interpreted to circumvent or limit the rights of the victim, the victim’s family, the inmate, or the criminal justice community specified elsewhere in the law to notice of the hearing or the right to participate in it.

Harassment Restraining Orders Modified

MS 2010, § 609.748, subd 4

Section 2 – makes structural changes to the temporary restraining order subdivision, and rewords what can be included in a temporary restraining order. The court may issue a temporary restraining order that provides for any and all of the following:

- Orders the respondent to cease or avoid the harassment of another person; or
- Orders the respondent to have no contact with another person.

MS 2010, § 609.748, subd 5

Section 3 – makes structural changes to the restraining order subdivision, and rewords what can be included in a restraining order. The court may issue a restraining order that provides for any and all of the following:

- Orders the respondent to cease or avoid the harassment of another person; or
- Orders the respondent to have no contact with another person.

MS 2010, §609.748, subd 6

Section 4 – expands venue options for prosecuting violations of restraining orders (this language is similar to venue provisions found in the stalking law). Provides that any person who violates restraining orders in two or more counties may be prosecuted for all of the violations in any county in which one of the acts was committed. The amendment also provides that a person may be prosecuted at the place where any call is made or received or, in the case of wireless or electronic communication or any communication made through any available technologies, where the actor or victim resides, or in the jurisdiction of the victim's designated address if the victim participates in the address confidentiality program established under chapter 5B.

Effective Date: August 1, 2012

Chapter 222 - Convictions Under the Original Criminal Vehicular Operation Law Allowed to Enhance DWI Offenses

Chapter 222 corrects a statutory oversight in the DWI statute dealing with enhancement to a felony based upon a prior felony CVO conviction. The statutory glitch resulted from the 2007 reorganization of the Criminal Vehicular Homicide/ Operation statute. The issue is currently at the Minnesota Supreme Court. *State v. Retzlaff*, 807 N.W.2d 437 (Minn. Ct. App. 2011), review granted (February 17, 2012). When the statute was reorganized in 2007, the changes were referenced in DWI law to provide for a felony DWI based upon a felony conviction under the Criminal Vehicular Homicide/ Operation statute. In *Retzlaff*, the defendant was convicted of a felony under the statute prior to 2007 and the DWI statute referenced, by number, the new statute. The bill amends the DWI statute to include a reference to the old CVO law under the “once a felon, always a felon” provisions. In addition, the bill contains a statement of legislative intent.

Effective Date: April 24, 2012

Chapter 223 – Harassment Restraining Order Law

Amends MS 2010, § 609.748, subd 2, 3a; making changes to the Harassment Restraining Order law. Clarifies that an application for relief under this section may be filed in the county of residence of either party or in the county in which the alleged harassment occurred, and that there are no residency requirements that apply to a petition for a harassment restraining order.

Expands the filing fee waiver for certain restraining order petitions. Current law provides that the filing fee is waived if the petition alleges acts that would constitute criminal sexual conduct or a gross misdemeanor- or felony-level stalking crime. This section expands the list to include petitions alleging second or subsequent stalking violations or conduct constituting a pattern of stalking. (The civil filing fee is \$310, plus a law library fee.)

Effective Date: August 1, 2012

Chapter 227 – Qualified Domestic Violence Related Offenses

Amends MS 2010, § 609.02, subd 16, to include violations of § 609.2245 (female genital mutilation) to the definition of “qualified domestic violence-related offense”.

Effective Date: August 1, 2012

Chapter 229 – Modification to Sex Offender Sentencing Grid

The Minnesota Sentencing Guidelines Commission issued technical corrections to certain ranges on the Sex Offender Grid – Some upper and lower ranges displayed on the Sex Offender Grid were off by one month due to a rounding error. The corrected Sex Offender Grid ensures that it provides for an increase of not greater than 20 percent and a decrease of not greater than 15 percent in the presumptive fixed sentence.

Effective Date: May 1, 2012

Chapter 240 - Controlled Substance Schedules & the Board of Pharmacy

This bill amends MS 2010, §§ 152.02, as amended; 152.18, subd 1; and MS 2011 Supplement 152.027, subd 6 to align Minnesota's controlled substance schedules with federal controlled substance schedules, and those maintained by the Minnesota Board of Pharmacy.

MS 2010, § 152.02, as amended by Laws 2011, chapter 53, §§ 4 and 5

Section 1 – amends the statutory controlled substance schedules to bring them in conformity with the controlled substance schedules maintained by the Board of Pharmacy in its rules. Modifies the definition of synthetic cannabinoids, and adds recently detected synthetic stimulants and hallucinogens to Schedule I. The amendments contained in this section are also intended to increase the flexibility of the schedules for use by prosecutors.

Regarding the powers of the Board of Pharmacy, the amendment removes authorization for the Board to place restrictions on the sale of nonprescription ephedrine and pseudophedrine capsules. It grants the Board the power to add a drug to Schedule I through the expedited rulemaking process under § 14.389, provided that it finds that the drug has: (1) a high potential for abuse, (2) no current accepted medical use in the United States, (3) a lack of accepted safety for use under medical supervision, (4) has known adverse health effects, and (5) is currently available within the State. The Board is required to notify the chairs and ranking minority members of the Senate and House of Representatives committees having jurisdiction over criminal justice and health policy and finance; however, this section will expire on August 1, 2014. If the Board uses this expedited process, the Legislature must ratify it by the conclusion of the next session or the provision becomes void. The amendment also eliminates the Board's obligation to complete an annual study of implementation of Ch 152 in relation to drug abuse in Minnesota.

MS 2011 Supplement, § 152.027, subd 6

Section 2 - bifurcates the current gross misdemeanor penalty for selling synthetic cannabinoids into a gross misdemeanor and a felony. A person who "sells" a synthetic cannabinoid for no remuneration is guilty of a gross misdemeanor. All other sales of a synthetic cannabinoid carry a five-year felony penalty.

MS 2010, § 152.18, subd 1

Section 3 - authorizes judges to defer prosecution for certain offenders charged with misdemeanor possession of synthetic cannabinoids.

Effective Date: August 1, 2012

Chapter 255 – Regulations of Auto Insurance Claims Practices

This bill amends MS 2010, §§ 65B.54, subd 6; 609.612, subd 1, making several changes to the rules regarding contact between a licensed health care provider and a third party who has suffered an injury arising out of the maintenance or use of an automobile.

MS 2010, § 65B.54, subd 6

Section 1 – modifies several rules regarding prohibited contact between a licensed health care provider and individuals who have suffered an injury arising out of the maintenance or use of an

automobile. Defines by reference to § 609.612 several categories of third parties who are prohibited from initiating contact on behalf of a health care provider, and provides specific rules by which such a provider must comply when making any solicitation or advertisement for medical treatment, or for a referral for medical treatment.

MS 2010, § 609.612, subd 1

Section 2 – defines a “runner”, “capper”, or “steerer” as a person who for a pecuniary gain directly procures or solicits prospective patients through telephonic, electronic, or written communication, or in-person contact, at the direction of, or in cooperation with a health care provider when the person knows or has reason to know that the provider’s purpose is to perform or obtain services or benefits under or relating to a contract of motor vehicle insurance. Exempts from the definition of “runner”, “capper”, or “steerer”, persons who solicit or procure clients via public media or consistent with the requirements of section 1 of this bill. Removes the word “fraudulently” from the description of services or benefits related to a contract of motor vehicle insurance.

Effective Date, January 1, 2013

HUMAN SERVICES

Chapter 148 – Out-Of State Residential Mental Health Treatment

Amends MS 2010 § 256B.0945, subd. 1; to allow for the coverage of out-of-state residential mental health treatment, if:

- The facility specializes in mental health services for children who are deaf, deaf blind, or hard-of-hearing and use American Sign Language as their first language;
- The facility is licensed; and,
- The state in which the facility is located is a member state of the Interstate Compact on Mental Health.

If the above criterion is met, then the services are covered notwithstanding contrary licensing requirements in paragraph (b).

Effective Date: August 1, 2012

Chapter 185 –Access to Expanded Accident Reports

Amends and reformats MS 2010, § 169.09, subd 13. Legal counsel or an insurance representative of anyone involved in the accident are now included amongst those already authorized to have access to traffic accident reports.

This bill also amends MS 2010, §§ 65B.482, subd 1; MS 2011 Supplement, § 60C.21, subd 1.

Effective Date: April 19, 2012

Chapter 197 – Social Work License Modifications

Amends MS 2010, §§ 13.383, subd11a; 148B.5301, subd 1, 4, by adding a subdivision; 148B.54, subd 2, 3; 148E.055, subd1; 148E.060, subd 1, 2, 3, 5, by adding a subdivision; 148E.065, subd 2, 4, 5, by adding subdivisions; 148E.120; 148E.195, subd 2, by adding a subdivision; 148E.280; proposing coding for new law in MS, Ch 148E; proposing coding for new law as MS, Ch 148F; repealing MS 2010, §§ 148C.01, numerous subdivisions; 148C.015; 148C.03, subd1, 4; 148C.0351, subd 1, 3, 4; 148C.0355; 148C.04, numerous subdivisions; 148C.044; 148C.045; 148C.05, subd 1, 1a, 5, 6; 148C.055; 148C.07; 148C.075; 148C.08; 148C.09, subd1, 1a, 2, 4; 148C.091; 148C.093; 148C.095; 148C.099; 148C.10, subd 1, 2, 3; 148C.11; 148C.12, numerous subdivisions; 148E.065, subd 3; Minnesota Rules, Chapter 4747; 6310.3600; 6310.3700, subpart 1.

ARTICLE 1 - SOCIALWORKERS

This Chapter modifies certain social workers licensing provisions under the Board of Social Work Practice Act; expanding licensure requirements, specifying criminal background check applicability, providing for a grandfathering period and specifying qualifications during grandfathering for licensure as a licensed social worker (LSW), licensed graduate social worker (LGSW), licensed independent social worker (LISW), and licensed independent clinical social worker (LICSW); allowing city, county, state agencies, and tribes to employ unlicensed social workers; providing for the expiration of the voluntary licensure requirement for city, county, and state agency social workers on July 1, 2016; requiring under certain circumstances that new

social workers of city, county, state agencies, and tribes, hired after July 1, 2016 be licensed; providing certain transition period exceptions; modifying certain provisions relating to temporary licensing requirements, exemptions, requirements for supervisors, and representations to clients and public; specifying authorized use of titles; repealing the geographic waiver exemption.

ARTICLE 2 - ALCOHOL AND DRUG COUNSELORS

Establishing licensure requirements for alcohol and drug counselors; providing for data sharing and classification; providing governance and specifications for law application, definitions, board of behavioral health and therapy duties, licensure requirements, reciprocity, temporary permits, supervised post degree professional practice, alcohol and drug counselor technician, license renewal, expired licenses, voluntary termination, relicensure following termination, inactive license status, continuing education, sponsor's application for approval, nontransferability of licenses, license denial, suspension or revocation, additional remedies, investigation cooperation, prohibited practice or use of titles and penalty, license requirement exceptions, fees, conduct, competent provision of services, client privacy protection, private information access and release, informed consent, termination of services, record keeping, impaired objectivity or effectiveness, provider impairment, client welfare, student, supervisees, and research subjects' welfare, medical and health care considerations, assessments and reports, public statements, fee statements, aiding and abetting unlicensed practice, law violations, and board complaints; requiring the board of behavioral health and therapy to convene a working group and make a report to the legislature by a certain date; repealing current alcohol and drug counselors licensing statutes and rules and obsolete language.

ARTICLE 3 - LICENSED PROFESSIONAL COUNSELING

Modifying certain licensed professional clinical counselor general requirements; establishing provisions relating to conversion from a licensed professional counselor to a licensed professional clinical counselor; modifying certain continuing education provisions related to license renewal.

Effective Date: 8/1/2012 (Article 3, § 2 is effective retroactively from 8/1/2011)

Chapter 216 – Children and Families

ARTICLE 1 – CHILDREN AND FAMILY POLICY PROVISIONS

MS 2010, § 13.461, subd 17

Section 1 - deletes a reference to data of the child maltreatment review panel, which is repealed in within the chapter.

MS 2010, § 13.465, adds a subdivision

Section 2 – adds a cross-reference to a new section within this Article, §260C.613, subd 2, regarding data that may be disclosed to a prospective adoptive parent.

MS 2010, § 259.22, subd 2

Section 6 – strikes the Commissioner of Human Services as a placing authority for adoptions, leaving only licensed child-placing agencies.

MS 2010, § 259.23, subd 1

Section 7 – strikes provisions related to venue for court proceedings related to children who are under the guardianship of the commissioner, and updates cross-references to be consistent with recodifying language in § 260C.

MS 2010, § 259.24,

Section 8 – amends subd 1; modifying consent provisions for adoption by striking provisions related to children under the guardianship of the commissioner, and strikes the reference to a “parent who has lost custody through divorce or dissolution”.

Section 9 – amends subd 3; striking provisions related to children under the guardianship of the commissioner.

Section 10 – amends subd 5; striking language that required consent to an adoption to be made before the commissioner, the commissioner’s agent, or a licensed child-placing agency to children under the guardianship of the commissioner.

MS 2010, § 260C.193, subd 3

Section 14 – updates cross-references and modifies language governing the placement of siblings.

MS 2010, § 260C.201, subd 11a

Section 15 - requires the court to conduct a permanency progress review after the child has been in foster care for six months. A review would be required for all children, not just children less than eight years old. Factors to be considered by the court are expanded and notice provisions are included. The time for holding a trial on certain petitions is modified.

MS 2010, § 260C.212

Section 16 – amends subd 1; requires that the out-of-home placement plan prepared by the social services agency makes efforts to ensure that the child remains in the same school when the child moves from one placement to another. Adds a requirement that the agency must annually provide a child age 16 and over with a consumer credit report, and assistance in interpreting and resolving inaccuracies in the report. This report is to be included in the independent living plan for the child.

Section 17 – amends subd 2 to make education and medical needs of a child two separate items to consider in selecting a placement option for the child.

Section 18 – amends subd 5 to allow a relative to receive notice of the permanency progress review hearing and eliminates the parent’s ability to refuse a relative search, unless the relative should not be considered due to safety reasons.

Section 19 – amends subd 7; requiring the responsible social agency to ensure that youth who are over 17 years old and are being discharged from foster care receive their annual consumer credit report and assistance in interpreting and resolving inaccuracies in the report.

MS 2010, § 260C.317

Section 20 – amends subd 3 to modify the termination of parental rights statute; striking language regarding children under the guardianship of the commissioner, which is consolidated later in this chapter. This section also clarifies continuing jurisdiction of the court.

Section 21 – amends subd 4 to modify the rights of terminated parents; allowing a contract or communication agreement with the adopting family, if it is determined by the court to be in the best interests of the child.

MS 2010, § 260C.325

Section 22 – amends subd 1 to clarify provisions related to court-ordered guardianship

Section 23 – amends subd 3 to clarify guardianship of a child when both parents are deceased

Section 24 – amends subd 4 to modify a guardian’s responsibilities, by establishing explicit rights and duties of the guardian, and restates the legal relationship between the commissioner as the guardian and the county social services as the agent with placement responsibilities.

MS 2010, § 260C.328

Section 25 - strikes the provision that permits the court to discharge an emancipated child from guardianship, and allows a child turning 18 who has not been adopted to continue in foster care. This section also deletes the provision the permits a foster parent to be appointed guardian for a child age 14 or older.

§ 260C.601

Section 26 – provides the court review and adoption finalization requirements for children under the guardianship of the commissioner. Cross-references the governing authority for adoptions of children not under the guardianship of the commissioner. Details the duties of a responsible agency, and requires a background study to be conducted before any adoption is finalized.

§ 260C.603

Section 27 – defines the following: “adoptive parent”; “adoptive placement”; “adoptive placement agreement”; “commissioner”; “guardianship”; “prospective adoptive parent”.

§ 260C.605

Section 28 – directs the responsible social services agency to make “reasonable efforts” to finalize the adoption for a child, and details what constitutes “reasonable efforts” under various circumstances. Prohibits a child under the guardianship of the commissioner from refusing or waiving the agencies ongoing duty to use “reasonable efforts”.

§ 260C.607

Section 29 – directs the court to conduct a review of the responsible social services agency’s “reasonable efforts” at least every 90 days after the court issues an order naming the commissioner as guardian of the child. Provides who has a right to notice and participation, as well as the content of the review. Details the rights of the child’s relatives, and requires that no petition for adoption be filed without a prior adoptive placement.

§ 260C.609

Section 30 – directs the responsible social services agency to work with all relevant parties to ensure that there is a detailed, thorough, and up-to-date social and medical history report of the child. Lists what must be included in the report, when the agency must begin their reasonable efforts in compiling said report, and what information must be shared with adopting parents.

§ 260C.611

Section 31 - requires that the adoption study be completed before placing a child in a home for adoption, and lists what is required if a prospective adoptive parent has previously held a foster care license or had an adoptive home study.

§ 260C.613

Section 32 – provides the authority and obligations of the responsible social services agency in making adoptive placements. Lists what a court must find to justify not placing siblings together, what records must be kept by the agency, whom the agency must notify in case of terminal illness or death of the child, and the agency’s continuing obligation to provide adopted persons over 19 years of age with post-adoption search services.

§ 260C.615

Section 33 – enumerates the duties of the Commissioner with regards to any child under the Commissioner’s guardianship.

§ 260C.617

Section 34 – directs the responsible social services agency to make every effort to place siblings together for adoption, and provides a mechanism for court review (rather than the Commissioner) of proposals by the agency to separate siblings.

§ 260C.619

Section 35 – authorizes agreements regarding communication or contact between an adopting parent and a relative or foster parent of a child. Lists what is required for said agreements to be enforceable, how it may be enforced, and who has standing. Provides that failure to abide by the terms of the agreement is not grounds for (1) setting aside an adoption decree; or (2) revocation of a written consent to an adoption after that consent has become irrevocable.

§ 260C.621

Section 36 – grants to the juvenile court original jurisdiction for all adoption proceedings involving adoption of a child under the guardianship of the Commissioner, including when the Commissioner approves the out of state placement of the child through the Interstate Compact on the Placement of Children for adoption petitions filed in Minnesota. Specifies the proper venue for the adoption of the child committed to the guardianship of the Commissioner.

§ 260C.623

Section 37 – provides that the adopting parent, or the responsible social services agency on their behalf, may petition to adopt a child who is under the guardianship of the Commissioner. Specifies what must be included in the petition, and requires that a adopting parent who is not related to the child must be at least 21 years old. Provides the general rule that an adoption petition must be filed within 9 months of the fully executed adoption placement agreements, but

lists several exceptions as well as the agency's duties in the event that a petition is not timely filed. Details what must be within and attached to the petition.

§ 260C.625

Section 38 – requires the responsible social services agency to file the following documents prior to finalization of the adoption: (1) a certified copy of the child's birth record; (2) a certified copy of the findings and order terminating parental rights or order accepting the parent's consent to adoption, and for guardianship to the commissioner; (3) a copy of any communication or contact agreement; (4) certification that the Minnesota Father's Adoption Registry has been searched; (5) the original of each consent to adoption required, if any, unless the original was filed in the permanency proceeding; and (6) the post placement assessment report.

§ 260C.627

Section 39 – prohibits providing notice of the adoption proceeding to any parent whose rights have been terminated or who has consented to the adoption. Requires notice be given to (1) the child's tribe if child is Indian; (2) the responsible social services agency; (3) the child's guardian ad litem; (4) the child if 10 years or older; (5) the child's attorney; and (5) the adopting parent. Specifies how notice can be accomplished, and when the adoption petitioner must be attached.

§ 260C.629

Section 40 – requires a parent whose rights to the child have not been terminated to give a consent to the adoption, and that consent becomes irrevocable upon acceptance by the court. Requires the consent of a child over 14 years old. Allows a parent of an Indian child to withdraw their consent for any reason before entry of a final decree of adoption. Specifies what documents are required before a court can issue a decree for adoption and enter judgment accordingly.

§ 260C.631

Section 41 – authorizes the court, after taking testimony from the responsible social services agency in whatever manner authorized under this section, to issue a decree of adoption, and to change the child's name if requested, if it finds that doing so is in the best interests of the child. Requires the court administrator to mail a copy of a granted decree to the Commissioner of Human Services.

§ 260C.633

Section 42 – requires the court to deny the petition, order the responsible agency to take appropriate action for the protection and safety of the child, and if venue had been transferred, notify the court originally conducting guardianship reviews if the proposed adoption is not in the best interests of the child. The court responsible for conducting reviews must hold a hearing within 30 days of receiving notice of the denial.

§ 260C.635

Section 43 – describes the legal effect of adoption; generally, the creation of a legal parent and child relationship upon adoption with all the attendant rights and duties, and the severance of that same relationship between the birth parents or previous legal parents and the child. Clarifies the validity of communication or contact agreements notwithstanding the legal effect of adoption. Prohibits changing the child's enrollment in an American Indian tribe if the child's birth parent(s) are so enrolled.

§ 260C.367

Section 44 – allows an adopted person to ask the Commissioner of Health to disclose the information on their own original birth record.

MS 2010, § 541.04

Section 45 – strikes language that authorized actions in the case of a judgment for child support within 20 years, and instead requires that all actions against a judgment or decree be brought within 10 years. The law extending these judgments was originally enacted in 2010, has been extended twice, and is currently scheduled to take effect on January 1, 2013.

Effective Date: Effective Retroactively from April 15, 2010

MS 2010, § 548.09, subd 1

Section 46 – strikes corresponding language regarding the survivability of 20-year judgments and liens for child support. The law extending these judgments was originally enacted in 2010, has been extended twice, and is currently scheduled to take effect on January 1, 2013.

Effective Date: Effective Retroactively from April 15, 2010

MS 2010, § 626.556, subd 2

Section 47 – defines “birth match data” under the Maltreatment of Minors statute. Provides that a child is the subject of a report of threatened injury when the responsible social services agency receives birth match data from the Department of Human Services. Specifies when the agency needs to consult with the county attorney.

Effective Date - Article 1: August 2, 2012 (except where indicated otherwise)

ARTICLE 2 – SAFE PLACE FOR NEWBORNS

§ 260C.217

Section 2 – strikes language and defines “safe place” by reference to § 145.902. Provides that the responsible social services agency, which accepts responsibility for a child that has been left at a “safe place”, is exempt from the duty to reunify the child with the child’s parents. Provides that a child left at a safe place is abandoned under state law. Allows a mother, or any person with her permission, to leave a newborn infant at a “safe place”, or to call 911 and request an ambulance to come another location and pick up the child. Requires the responsible agency to place the infant in foster care within 72 hours and to petition the court for continued placement in foster care.

Effective Date – Article 2: August 1, 2012

ARTICLE 3 – ADOPTION ASSISTANCE

This Article creates several sections to update adoption assistance procedures.

§ 259A.01

Section 1 – provides an exhaustive list of definitions for terms used throughout the chapter.

§259A.05

Section 2 – details the manner of administration of Title IV-E programs; specifically the procedures, requirements, and requirements to be specified by the commissioner; as well as the promotion of adoptive assistance programs.

§259A.10

Section 3 – lists the general eligibility requirements for adoption assistance programs, and what factors need to be met for the child to be considered “special needs” under this section. Requires that a background study be performed on each prospective adoptive parent. Further, it requires the state to make determinations regarding eligibility programs, and specifies whom the state cannot enter into an adoption assistance agreement with.

§259A.15

Section 4 - requires that documentation from a qualified expert must accompany the child-placing agency's certification that a child meets the special needs criteria. Provides an illustrative list of appropriate documentation. Requires documentation that the child is an at-risk child to be submitted according to the requirements/procedures established by the Commissioner. States that an adoption assistance agreement is a binding contract between the adopting parent, the child-placing agency, and the Commissioner. Provides that in order for a parent to receive adoption assistance benefits, the adoption assistance agreement must be negotiated with the parent within 30 days of approval of the adoptive placement. The Commissioner must approve or deny adoption assistance within 15 days receipt of an application. It must be a written agreement signed by the parent, a representative of the child-placing agency, and the Commissioner. Disruption or termination of the adoptive placement prior to finalization voids the agreement.

Provides a list of the mandatory components to the adoption assistance agreement, and states the agreement is effective on the date of the adoption decree. Finally, requires that an assessment prescribed by the Commissioner must be completed for any child who has a disability that necessitates care beyond that provided in a family setting. The assessment must be submitted with the adoption assistance certification.

Effective Date – Article 3: August 1, 2012

ARTICLE 4 – CHILD PROTECTION

This Article amends and creates statutes to make several changes to child protection.

MS 2010, § 260C.163, subd 4

Section 10 – strikes language requiring the County Attorney to present evidence upon request of the court in adoption proceedings. Clarifies that in representing the responsible social services agency in adoption proceedings, the County Attorney has the responsibility to advance the public interest in the welfare of the child.

§ 260C.229

Section 21 – authorizes voluntary agreements between the responsible social services agency and a child over 18 for the child to remain or continue in foster care; provided the child requests such

an agreement. Details the responsibilities of the agency, and the procedures to be followed, pursuant to such an agreement.

§ 260C.503

Section 25 - makes changes to permanency proceedings. Requires that they be held no later than 12 months after the child was placed in care. Lists the conditions under which the agency must request that the county attorney immediately file a petition to terminate parental rights. Sets out the method of determining the time when permanency hearings must be held.

§ 260C.505

Section 26 – establishes the time limits for when a petition must be filed and upon whom it must be served. Provides that a petition is not required if the child is being reunified with the parent.

§ 260C.507

Section 27 – establishes the time limits for when the admit-deny hearing on a permanency or termination of parental rights petition must be held. Requires the court to enter findings.

Section 28 – requires a trial to be held in a timely fashion, including that any trial under § 260C.163 must commence within 60 days of the admit-deny hearing.

§260C.511

Section 29 – defines the “best interests of the child” as all relevant factors to be considered and evaluated. Clarifies that all dispositions under this section must be governed by the best interests of the child.

§260C.513

Section 30 – provides that if a child cannot return home, then the preferred permanency option is the termination of parental rights and adoption, or guardianship to the Commissioner.

§ 260C.515

Section 31 – lists the options available to the court for dispositional orders when a child cannot be returned to the home from which the child was removed; specifically, (1) termination of parental rights, (2) guardianship to the Commissioner, (3) custody to a relative, (4) permanent custody to agency, (5) temporary legal custody to agency.

§ 260C.517

Section 32 – lists the judicial findings that must be included in an order permanently placing the child out-of-home, except for a termination of parental rights order.

§ 260C.519

Section 33 – lists the circumstances that require further court hearings following a permanency disposition order.

§ 260C.521

Section 34 – requires court reviews following a permanency disposition order. For a child in permanent custody of a responsible social services agency, a review must be conducted at least yearly. Lists the requirements of the review, and the issues to be examined.

When modifying an order for permanent legal and physical custody to a relative, this section requires that the social services agency be made a party and receive notice. Further, the best interests of the child is the standard to be applied.

When modifying an order for permanent custody to agency for placement in foster care, this section authorizes a parent to file a motion for the child's return home. Authorizes the responsible social services agency to ask the court to vacate the permanent custody to the agency order under specific circumstances. Requires the county attorney to file the petition and give notice in order to modify an order for permanent custody under this section.

Effective Date - Article 4: August 1, 2012

ARTICLE 5 – CHILD SUPPORT

This article makes technical changes regarding parentage forms, as wells as the court's continuing, exclusive jurisdiction over child support cases.

MS 2011 Supplement, § 256.01, subd 14b

Section 1 – raises the age limit for the purpose of being considered an “American Indian child” from 18 to 21 years old.

MS 2010, § 518A.40, subd 4

Section 3 – removes mandatory language, and instead merely allows the county agency to suspend collecting child care support if either party tells the agency that no child care costs are being incurred and the oblige verifies this fact, or the oblige fails to respond within 30 days of written inquiry from the agency.

MS 2010, § 518C.205

Section 4 – clarifies that Minnesota courts do not retain continuing, exclusive jurisdiction over the child support matter when both parents and the child no longer reside in the state.

Effective Date - Article 5: August 1, 2012

ARTICLE 6 – TECHNICAL AND CONFORMING AMENDMENTS

Section 6 creates MS § 611.012, which authorizes a law enforcement officer to release a child to a person designated by the parent unless the child is found in surroundings or conditions that endanger the child.

Effective Date: August 1, 2012

ARTICLE 15

Amends several statutes to make a number of data practice changes in the areas of welfare, licensing, and investigative data.

Effective Date: August 1, 2012

Chapter 247 – Health and Human Services Omnibus Bill

ARTICLE 2 – DEPARTMENT OF HEALTH

Section 11 – requires the Commissioner, to the extent federal funding is available, to publicly report data on the prevalence and incidence of sexual violence in Minnesota using data provided by Centers for Disease Control and Prevention or any other source identified by the commissioner.

Effective Date: April 29, 2012

ARTICLE 3 – CHILDREN AND FAMILY SERVICES

MS 2010, § 256.01, adding three subdivisions

Sections 2, 3, 4 – for the purpose of preventing improper or illegal receipt of public assistance, this amendment requires the State Court Administrator to send an electronic report every 6 months to the Commissioner of Human Services; providing certain information about individuals convicted of felony drug charge(s) within the preceding 6 months. The Commissioner is to then determine whether each individual is receiving General Assistance or MFIP benefits. If an individual is receiving benefits, the Commissioner is required to instruct the county to issue vendor payment of benefits and initiate random drug screening for the individual. The Administrator is also required to provide the Commissioner with a onetime report of certain data for all individuals with a felony drug conviction since July 1, 1997 until the date of the data transfer, and the Commissioner is prohibited from retaining any information that does not to an individual receiving public assistance.

Similarly, the Commissioner of Public Safety is required to provide the Commissioner of Human services a monthly report detailing certain information regarding persons whose driver's licenses or state identification cards have been canceled, or whose temporary legal presence date has expired (resulting in driver's license or identification card cancellation); The Commissioner of Human Services must then cross-reference the provided data with the Commissioner's own data regarding recipients of all public assistance programs, and determine whether any individual has illegally or improperly enrolled in any public assistance programs using multiple or expired identification cards. If the Commissioner of Human Resources determines that a recipient has illegally or improperly received benefits, then the Commissioner is directed to provide all due process protections to the individual prior to termination of benefits and notification of the county attorney.

Effective Date: July 1, 2013

MS 2010, § 256J.26, adding a subdivision

Section 17 - requires the county to immediately notify the landlord to return the vendor paid rent upon discovery that a unit has been deemed uninhabitable under applicable law. The county is prohibited from making further rent payments until the landlord demonstrates that the premises are fit for their intended use. Prohibits a landlord who is required to return vendor paid rent, or who has yet to demonstrate that the premises are fit for their intended use, from initiating an eviction action against anyone in the assistance unit.

Effective Date: August 1, 2012

§ 626.5533

Section 23 – requires a police office to report certain information to the head of the officer’s department when an arrestee possesses more than one welfare electronic benefit transfer (EBT) card. The head of the law enforcement agency or department must forward the information to the Commissioner of Human Services within 30 days of receiving the report, and the Commissioner shall determine whether the arrestee was authorized to possess any of the possessed EBT cards. Directs the Commissioner to adopt reporting forms in consultation with the Bureau of Criminal Apprehension.

Effective Date: August 1, 2012

MS 2010, § 626.556, adding a subdivision

Section 24 – modifies the Maltreatment of Minors Act; requires that a child under three years old, who is involved in a substantiated case of maltreatment, be referred for screening under the Individuals with Disabilities Act, part C. Requires parents to be informed that the evaluation and acceptance of services are voluntary. Provides that refusal to have a child screened is not a basis for a child in need of protection or services petition. Requires the Commissioner of Human Services to monitor referral rates and report the information annually to the Legislature beginning March 15, 2014

Effective Date: August 1, 2012

ARTICLE 5

MS 2010, § 254A.19, adding a subdivision

Section 3 – clarifies that no Rule 25 chemical health assessment is required for an individual who is being committed to a court-ordered early intervention, a stay of commitment, or civil commitment, as a chemically dependent person under § 253B.02 in order for the county to access consolidated chemical dependency treatment funds (“treatment funds”). The county is required, however, to determine whether the individual is financially eligible for the treatment funds.

Effective Date: August 1, 2012

Chapter 266 – Background Checks and Civil Commitment Data

This bill amends MS 2010, §§ 181A.04, subd 5; 245.041, to authorize law enforcement access to electronic civil commitment data maintained by the Department of Human Services for the purpose of conducting background checks on applicants for a permit to possess explosives. This is in addition to law enforcement’s right of access for conducting a firearms background check. Exempts minors employed in retail stores that sell explosives or pyrotechnics from the general prohibition against their employment in occupations found to be particularly hazardous for children; provided that the retail store is nonseasonal and non-transient in nature.

Effective Date: Section 1 – May 3, 2012

Section 2 – August 1, 2012