

EIGHTY-THIRD DAY

St. Paul, Minnesota, Tuesday, April 6, 2010

The Senate met at 12:00 noon and was called to order by the President.

CALL OF THE SENATE

Senator Pogemiller imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

Prayer was offered by the Chaplain, Intern Pastor Chris Johnson.

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

The roll was called, and the following Senators answered to their names:

Anderson	Fischbach	Kubly	Pappas	Sieben
Bakk	Fobbe	Langseth	Pariseau	Skoe
Berglin	Foley	Latz	Parry	Skogen
Betzold	Frederickson	Limmer	Pogemiller	Sparks
Bonoff	Gerlach	Lourey	Prettner Solon	Stumpf
Carlson	Gimse	Lynch	Rest	Tomassoni
Chaudhary	Hann	Marty	Robling	Torres Ray
Clark	Higgins	Metzen	Rosen	Vandever
Cohen	Ingebrigtsen	Michel	Rummel	Vickerman
Dahle	Johnson	Moua	Saltzman	Wiger
Dibble	Jungbauer	Olseen	Saxhaug	
Dille	Kelash	Olson, G.	Scheid	
Doll	Koch	Olson, M.	Senjem	
Erickson Ropes	Koering	Ortman	Sheran	

The President declared a quorum present.

The reading of the Journal was dispensed with and the Journal, as printed and corrected, was approved.

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communications were received.

March 30, 2010

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 2010 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S.F. No.	H.F. No.	Session Laws Chapter No.	Time and Date Approved 2010	Date Filed 2010
	2561	204	10:37 a.m. March 30	March 30
	3350	206	10:39 a.m. March 30	March 30

Sincerely,
Mark Ritchie
Secretary of State

April 1, 2010

The Honorable James P. Metzen
President of the Senate

Dear President Metzen:

Please be advised that I have received, approved, signed and deposited in the Office of the Secretary of State, S.F. Nos. 1494 and 2494.

Sincerely,
Tim Pawlenty, Governor

April 1, 2010

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 2010 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S.F. No.	H.F. No.	Session Laws Chapter No.	Time and Date Approved 2010	Date Filed 2010
2494		Res. No. 1	9:50 a.m. April 1	April 1
	3108	201	9:52 a.m. April 1	April 1
1494		202	9:54 a.m. April 1	April 1

83RD DAY]

TUESDAY, APRIL 6, 2010

9259

2786	203	9:55 a.m. April 1	April 1
2915	205	9:56 a.m. April 1	April 1
2729	207	10:07 a.m. April 1	April 1
2360	208	10:11 a.m. April 1	April 1
2918	209	10:13 a.m. April 1	April 1
3259	210	10:14 a.m. April 1	April 1
2828	211	10:15 a.m. April 1	April 1
2949	212	10:19 a.m. April 1	April 1
3027	213	10:22 a.m. April 1	April 1
3139	214	10:23 a.m. April 1	April 1
1671	215	10:25 a.m. April 1	April 1
2695	216	11:20 a.m. April 1	April 1

Sincerely,
Mark Ritchie
Secretary of State

INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bills were read the first time.

Senators Cohen and Bakk introduced—

S.F. No. 3333: A bill for an act relating to the state budget; modifying certain payment schedules; amending Minnesota Statutes 2008, sections 276.112; 289A.60, by adding a subdivision; Minnesota Statutes 2009 Supplement, sections 137.025, subdivision 1; 289A.20, subdivision 4.

Referred to the Committee on Finance.

Senator Stumpf introduced—

S.F. No. 3334: A bill for an act relating to property taxation; allowing the Thief River Falls airport authority to levy against referendum market value rather than net tax capacity.

Referred to the Committee on Taxes.

Senators Michel, Koch, Gimse, Fischbach and Senjem introduced—

S.F. No. 3335: A bill for an act relating to taxes; individual income; allowing an additional personal exemption and providing an alternate even rate tax; amending Minnesota Statutes 2008, section 290.01, subdivision 19b, as amended; proposing coding for new law in Minnesota Statutes, chapter 290.

Referred to the Committee on Taxes.

MOTIONS AND RESOLUTIONS

Senator Saxhaug moved that the name of Senator Fischbach be added as a co-author to S.F. No. 2785. The motion prevailed.

Senator Pappas moved that the name of Senator Sieben be added as a co-author to S.F. No. 3102. The motion prevailed.

Senator Clark moved that the name of Senator Rummel be added as a co-author to S.F. No. 3107. The motion prevailed.

Senator Fobbe moved that the name of Senator Clark be added as a co-author to S.F. No. 3331. The motion prevailed.

Senators Betzold, Foley, Scheid and Jungbauer introduced –

Senate Resolution No. 168: A Senate resolution recognizing Duane Krueger on his retirement from the Anoka County Veterans Service Office on April 2, 2010.

Referred to the Committee on Rules and Administration.

Pursuant to Joint Rule 2.03, Senator Berglin moved that S.F. No. 3201 be withdrawn from the Committee on Finance, and re-referred to the Committee on Rules and Administration. The motion prevailed.

Senator Berglin moved that S.F. No. 1818, No. 19 on General Orders, be stricken and returned to its author. The motion prevailed.

Senator Jungbauer moved that S.F. No. 2544, No. 12 on General Orders, be stricken and re-referred to the Committee on Finance. The motion prevailed.

Senator Erickson Ropes moved that S.F. No. 2429, No. 36 on General Orders, be stricken and re-referred to the Committee on Finance. The motion prevailed.

Remaining on the Order of Business of Motions and Resolutions, Senator Pogemiller moved that the Senate take up the Calendar. The motion prevailed.

CALENDAR

H.F. No. 2668: A bill for an act relating to landlord and tenant; modifying certain procedures relating to expungement; providing procedures relating to the charging and recovery of various fees; providing certain rights to tenants of foreclosed properties; amending Minnesota Statutes 2008, sections 484.014, subdivision 3; 504B.111; 504B.173; 504B.178, subdivision 7; 504B.215, subdivision 4; 504B.271, subdivisions 1, 2; 504B.285, by adding subdivisions; 504B.291, subdivision 1; 504B.365, subdivision 4; Minnesota Statutes 2009 Supplement, section 504B.285, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 504B.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 55 and nays 7, as follows:

Those who voted in the affirmative were:

Anderson	Doll	Kubly	Olson, M.	Senjem
Berglin	Erickson Ropes	Langseth	Pariseau	Sheran
Betzold	Fischbach	Latz	Pogemiller	Sieben
Bonoff	Foley	Lourey	Prettner Solon	Skoe
Carlson	Frederickson	Lynch	Rest	Skogen
Chaudhary	Gimse	Marty	Robling	Sparks
Clark	Hann	Metzen	Rosen	Stumpf
Cohen	Higgins	Michel	Rummel	Tomassoni
Dahle	Ingebrigtsen	Moua	Saltzman	Torres Ray
Dibble	Jungbauer	Olseen	Saxhaug	Vickerman
Dille	Kelash	Olson, G.	Scheid	Wiger

Those who voted in the negative were:

Gerlach	Koch	Limmer	Vandev eer
Johnson	Koering	Parry	

So the bill passed and its title was agreed to.

H.F. No. 3164: A bill for an act relating to higher education; regulating the transfer of credits within institutions belonging to the Minnesota State Colleges and Universities system; requiring a report; proposing coding for new law in Minnesota Statutes, chapter 136F.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 63 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Fischbach	Koering	Olson, M.	Sheran
Berglin	Fobbe	Kubly	Pariseau	Sieben
Betzold	Foley	Langseth	Parry	Skoe
Bonoff	Frederickson	Latz	Pogemiller	Skogen
Carlson	Gerlach	Limmer	Prettner Solon	Sparks
Chaudhary	Gimse	Lourey	Rest	Stumpf
Clark	Hann	Lynch	Robling	Tomassoni
Cohen	Higgins	Marty	Rosen	Torres Ray
Dahle	Ingebrigtsen	Metzen	Rummel	Vandev eer
Dibble	Johnson	Michel	Saltzman	Vickerman
Dille	Jungbauer	Moua	Saxhaug	Wiger
Doll	Kelash	Olseen	Scheid	
Erickson Ropes	Koch	Olson, G.	Senjem	

So the bill passed and its title was agreed to.

H.F. No. 3393: A bill for an act relating to real property; amending the Minnesota Common Interest Ownership Act; making clarifying, conforming, and technical changes; amending Minnesota Statutes 2008, sections 515B.1-102; 515B.1-103; 515B.1-107; 515B.1-112; 515B.1-115; 515B.1-116; 515B.2-101; 515B.2-102; 515B.2-105; 515B.2-106; 515B.2-108; 515B.2-109; 515B.2-110; 515B.2-111; 515B.2-112; 515B.2-113; 515B.2-114; 515B.2-118; 515B.2-119; 515B.2-121; 515B.2-124; 515B.3-101; 515B.3-102; 515B.3-103; 515B.3-104; 515B.3-105; 515B.3-106; 515B.3-109; 515B.3-110; 515B.3-112; 515B.3-113; 515B.3-114; 515B.3-115; 515B.3-116; 515B.3-117; 515B.3-120; 515B.3-121; 515B.4-101; 515B.4-102; 515B.4-104; 515B.4-105; 515B.4-106; 515B.4-107; 515B.4-108; 515B.4-110; 515B.4-111; 515B.4-115;

515B.4-116; proposing coding for new law in Minnesota Statutes, chapter 515B.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 62 and nays 2, as follows:

Those who voted in the affirmative were:

Anderson	Erickson Ropes	Koch	Olson, M.	Sheran
Bakk	Fischbach	Koering	Pariseau	Sieben
Berglin	Fobbe	Kubly	Parry	Skoe
Betzold	Foley	Langseth	Pogemiller	Skogen
Bonoff	Frederickson	Latz	Prettner Solon	Sparks
Carlson	Gerlach	Lourey	Rest	Stumpf
Chaudhary	Gimse	Lynch	Robling	Tomassoni
Clark	Hann	Marty	Rosen	Torres Ray
Cohen	Higgins	Metzen	Rummel	Vickerman
Dahle	Ingebrigtsen	Michel	Saltzman	Wiger
Dibble	Johnson	Moua	Saxhaug	
Dille	Jungbauer	Olseen	Scheid	
Doll	Kelash	Olson, G.	Senjem	

Those who voted in the negative were:

Limmer	Vandever
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So the bill passed and its title was agreed to.

H.F. No. 3286: A bill for an act relating to metropolitan government; limiting use of eminent domain; authorizing Metropolitan Council best value contracts and procurement for transit vehicles; amending Minnesota Statutes 2008, section 473.129, subdivision 7, by adding a subdivision.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 46 and nays 18, as follows:

Those who voted in the affirmative were:

Anderson	Dibble	Lourey	Prettner Solon	Sparks
Bakk	Doll	Lynch	Rest	Stumpf
Berglin	Erickson Ropes	Marty	Rummel	Tomassoni
Betzold	Fobbe	Metzen	Saltzman	Torres Ray
Bonoff	Foley	Moua	Saxhaug	Vickerman
Carlson	Higgins	Olseen	Scheid	Wiger
Chaudhary	Kelash	Olson, G.	Sheran	
Clark	Kubly	Olson, M.	Sieben	
Cohen	Langseth	Pariseau	Skoe	
Dahle	Latz	Pogemiller	Skogen	

Those who voted in the negative were:

Dille	Gimse	Jungbauer	Michel	Senjem
Fischbach	Hann	Koch	Parry	Vandever
Frederickson	Ingebrigtsen	Koering	Robling	
Gerlach	Johnson	Limmer	Rosen	

So the bill passed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, Senator Pogemiller moved that the Senate take up the General Orders Calendar. The motion prevailed.

GENERAL ORDERS

The Senate resolved itself into a Committee of the Whole, with Senator Metzen in the chair.

After some time spent therein, the committee arose, and Senator Frederickson reported that the committee had considered the following:

S.F. Nos. 2511, 2851, 2934, 3199 and H.F. Nos. 2639, 3174, 2851, 3143, 1692, 3460, which the committee recommends to pass.

S.F. No. 2663, which the committee recommends to pass with the following amendment offered by Senator Scheid:

Page 1, delete section 2

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

S.F. No. 525, which the committee recommends to pass, subject to the following motion:

Senator Hann moved to amend S.F. No. 525 as follows:

Page 17, after line 30, insert:

"Sec. 12. **REPEALER.**

Minnesota Statutes 2008, section 144.343, subdivision 1, is repealed."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Senator Prettner Solon questioned whether the amendment was germane.

The Chair ruled that the amendment was not germane.

Senator Hann appealed the decision of the Chair.

The question was taken on "Shall the decision of the Chair be the judgment of the Committee?"

The roll was called, and there were yeas 45 and nays 20, as follows:

Those who voted in the affirmative were:

Anderson
Bakk
Berglin

Betzold
Bonoff
Carlson

Chaudhary
Clark
Cohen

Dahle
Dibble
Dille

Doll
Erickson Ropes
Foley

Frederickson
Higgins
Kelash
Kubly
Langseth
Latz

Lourey
Lynch
Marty
Metzen
Moua
Olseen

Olson, M.
Pappas
Pogemiller
Prettner Solon
Rest
Rummel

Saltzman
Saxhaug
Scheid
Sheran
Sieben
Skoe

Skogen
Sparks
Stumpf
Tomassoni
Torres Ray
Wiger

Those who voted in the negative were:

Fischbach
Fobbe
Gimse
Hann

Ingebrigtsen
Johnson
Jungbauer
Koch

Koering
Limmer
Michel
Olson, G.

Ortman
Pariseau
Parry
Robling

Rosen
Senjem
Vanderveer
Vickerman

So the decision of the Chair was sustained.

S.F. No. 525 was then recommended to pass.

S.F. No. 2790, which the committee recommends to pass, subject to the following motions:

Senator Dille moved to amend S.F. No. 2790, the second engrossment, as follows:

Page 1, after line 22, insert:

"Section 1. Minnesota Statutes 2008, section 121A.23, subdivision 1, is amended to read:

Subdivision 1. **Sexually transmitted infections and diseases program.** The commissioner of education, in consultation with the commissioner of health, shall assist districts in developing and implementing a program to prevent and reduce the risk of sexually transmitted infections and diseases, including but not exclusive to human immune deficiency virus and human papilloma virus. Each district must have a program that includes at least:

- (1) planning materials, guidelines, and other technically accurate and updated information;
- (2) a comprehensive, technically accurate, and updated curriculum that includes helping students to abstain from sexual activity until marriage and information on criminal sexual conduct laws, specifically those based on the ages of the parties;
- (3) cooperation and coordination among districts and SCs;
- (4) a targeting of adolescents, especially those who may be at high risk of contracting sexually transmitted infections and diseases, for prevention efforts;
- (5) involvement of parents and other community members;
- (6) in-service training for appropriate district staff and school board members;
- (7) collaboration with state agencies and organizations having a sexually transmitted infection and disease prevention or sexually transmitted infection and disease risk reduction program;
- (8) collaboration with local community health services, agencies and organizations having a sexually transmitted infection and disease prevention or sexually transmitted infection and disease risk reduction program; and
- (9) participation by state and local student organizations.

The department may provide assistance at a neutral site to a nonpublic school participating in

a district's program. District programs must not conflict with the health and wellness curriculum developed under Laws 1987, chapter 398, article 5, section 2, subdivision 7.

If a district fails to develop and implement a program to prevent and reduce the risk of sexually transmitted infection and disease, the department must assist the service cooperative in the region serving that district to develop or implement the program.

EFFECTIVE DATE. This section is effective July 1, 2010."

Page 12, after line 30, insert:

"Sec. 14. Minnesota Statutes 2008, section 609.344, subdivision 1, is amended to read:

Subdivision 1. **Crime defined.** A person who engages in sexual penetration with another person is guilty of criminal sexual conduct in the third degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is no more than 36 months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant shall be a defense;

(b) the complainant is at least 13 but less than 16 years of age and the actor is more than ~~24~~ 36 months older than the complainant. In any such case if the actor is no more than 120 months older than the complainant, it shall be an affirmative defense, which must be proved by a preponderance of the evidence, that the actor reasonably believes the complainant to be 16 years of age or older. In all other cases, mistake as to the complainant's age shall not be a defense. If the actor in such a case is no more than 48 months but more than ~~24~~ 36 months older than the complainant, the actor may be sentenced to imprisonment for not more than five years. Consent by the complainant is not a defense;

(c) the actor uses force or coercion to accomplish the penetration;

(d) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(e) the complainant is at least 16 but less than 18 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(f) the actor has a significant relationship to the complainant and the complainant was at least 16 but under 18 years of age at the time of the sexual penetration. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(g) the actor has a significant relationship to the complainant, the complainant was at least 16 but under 18 years of age at the time of the sexual penetration, and:

(i) the actor or an accomplice used force or coercion to accomplish the penetration;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(h) the actor is a psychotherapist and the complainant is a patient of the psychotherapist and the sexual penetration occurred:

(i) during the psychotherapy session; or

(ii) outside the psychotherapy session if an ongoing psychotherapist-patient relationship exists.

Consent by the complainant is not a defense;

(i) the actor is a psychotherapist and the complainant is a former patient of the psychotherapist and the former patient is emotionally dependent upon the psychotherapist;

(j) the actor is a psychotherapist and the complainant is a patient or former patient and the sexual penetration occurred by means of therapeutic deception. Consent by the complainant is not a defense;

(k) the actor accomplishes the sexual penetration by means of deception or false representation that the penetration is for a bona fide medical purpose. Consent by the complainant is not a defense;

(l) the actor is or purports to be a member of the clergy, the complainant is not married to the actor, and:

(i) the sexual penetration occurred during the course of a meeting in which the complainant sought or received religious or spiritual advice, aid, or comfort from the actor in private; or

(ii) the sexual penetration occurred during a period of time in which the complainant was meeting on an ongoing basis with the actor to seek or receive religious or spiritual advice, aid, or comfort in private. Consent by the complainant is not a defense;

(m) the actor is an employee, independent contractor, or volunteer of a state, county, city, or privately operated adult or juvenile correctional system, including, but not limited to, jails, prisons, detention centers, or work release facilities, and the complainant is a resident of a facility or under supervision of the correctional system. Consent by the complainant is not a defense;

(n) the actor provides or is an agent of an entity that provides special transportation service, the complainant used the special transportation service, and the sexual penetration occurred during or immediately before or after the actor transported the complainant. Consent by the complainant is not a defense; or

(o) the actor performs massage or other bodywork for hire, the complainant was a user of one of those services, and nonconsensual sexual penetration occurred during or immediately before or after the actor performed or was hired to perform one of those services for the complainant.

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

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Senator Limmer requested division of the Dille amendment as follows:

First portion:

Page 1, after line 22, insert:

"Section 1. Minnesota Statutes 2008, section 121A.23, subdivision 1, is amended to read:

Subdivision 1. **Sexually transmitted infections and diseases program.** The commissioner of education, in consultation with the commissioner of health, shall assist districts in developing and implementing a program to prevent and reduce the risk of sexually transmitted infections and diseases, including but not exclusive to human immune deficiency virus and human papilloma virus. Each district must have a program that includes at least:

- (1) planning materials, guidelines, and other technically accurate and updated information;
- (2) a comprehensive, technically accurate, and updated curriculum that includes helping students to abstain from sexual activity until marriage and information on criminal sexual conduct laws, specifically those based on the ages of the parties;
- (3) cooperation and coordination among districts and SCs;
- (4) a targeting of adolescents, especially those who may be at high risk of contracting sexually transmitted infections and diseases, for prevention efforts;
- (5) involvement of parents and other community members;
- (6) in-service training for appropriate district staff and school board members;
- (7) collaboration with state agencies and organizations having a sexually transmitted infection and disease prevention or sexually transmitted infection and disease risk reduction program;
- (8) collaboration with local community health services, agencies and organizations having a sexually transmitted infection and disease prevention or sexually transmitted infection and disease risk reduction program; and
- (9) participation by state and local student organizations.

The department may provide assistance at a neutral site to a nonpublic school participating in a district's program. District programs must not conflict with the health and wellness curriculum developed under Laws 1987, chapter 398, article 5, section 2, subdivision 7.

If a district fails to develop and implement a program to prevent and reduce the risk of sexually transmitted infection and disease, the department must assist the service cooperative in the region serving that district to develop or implement the program.

EFFECTIVE DATE. This section is effective July 1, 2010."

The question was taken on the adoption of the first portion of the amendment. The motion prevailed. So the first portion of the amendment was adopted.

Second portion:

Page 12, after line 30, insert:

"Sec. 14. Minnesota Statutes 2008, section 609.344, subdivision 1, is amended to read:

Subdivision 1. **Crime defined.** A person who engages in sexual penetration with another person

is guilty of criminal sexual conduct in the third degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is no more than 36 months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant shall be a defense;

(b) the complainant is at least 13 but less than 16 years of age and the actor is more than ~~24~~ 36 months older than the complainant. In any such case if the actor is no more than 120 months older than the complainant, it shall be an affirmative defense, which must be proved by a preponderance of the evidence, that the actor reasonably believes the complainant to be 16 years of age or older. In all other cases, mistake as to the complainant's age shall not be a defense. If the actor in such a case is no more than 48 months but more than ~~24~~ 36 months older than the complainant, the actor may be sentenced to imprisonment for not more than five years. Consent by the complainant is not a defense;

(c) the actor uses force or coercion to accomplish the penetration;

(d) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(e) the complainant is at least 16 but less than 18 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(f) the actor has a significant relationship to the complainant and the complainant was at least 16 but under 18 years of age at the time of the sexual penetration. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(g) the actor has a significant relationship to the complainant, the complainant was at least 16 but under 18 years of age at the time of the sexual penetration, and:

(i) the actor or an accomplice used force or coercion to accomplish the penetration;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(h) the actor is a psychotherapist and the complainant is a patient of the psychotherapist and the sexual penetration occurred:

(i) during the psychotherapy session; or

(ii) outside the psychotherapy session if an ongoing psychotherapist-patient relationship exists.

Consent by the complainant is not a defense;

(i) the actor is a psychotherapist and the complainant is a former patient of the psychotherapist and the former patient is emotionally dependent upon the psychotherapist;

(j) the actor is a psychotherapist and the complainant is a patient or former patient and the sexual penetration occurred by means of therapeutic deception. Consent by the complainant is not

a defense;

(k) the actor accomplishes the sexual penetration by means of deception or false representation that the penetration is for a bona fide medical purpose. Consent by the complainant is not a defense;

(l) the actor is or purports to be a member of the clergy, the complainant is not married to the actor, and:

(i) the sexual penetration occurred during the course of a meeting in which the complainant sought or received religious or spiritual advice, aid, or comfort from the actor in private; or

(ii) the sexual penetration occurred during a period of time in which the complainant was meeting on an ongoing basis with the actor to seek or receive religious or spiritual advice, aid, or comfort in private. Consent by the complainant is not a defense;

(m) the actor is an employee, independent contractor, or volunteer of a state, county, city, or privately operated adult or juvenile correctional system, including, but not limited to, jails, prisons, detention centers, or work release facilities, and the complainant is a resident of a facility or under supervision of the correctional system. Consent by the complainant is not a defense;

(n) the actor provides or is an agent of an entity that provides special transportation service, the complainant used the special transportation service, and the sexual penetration occurred during or immediately before or after the actor transported the complainant. Consent by the complainant is not a defense; or

(o) the actor performs massage or other bodywork for hire, the complainant was a user of one of those services, and nonconsensual sexual penetration occurred during or immediately before or after the actor performed or was hired to perform one of those services for the complainant.

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

The question was taken on the adoption of the second portion of the amendment.

The roll was called, and there were yeas 43 and nays 20, as follows:

Those who voted in the affirmative were:

Anderson	Dahle	Koering	Olson, M.	Sheran
Bakk	Dibble	Kubly	Pappas	Sieben
Berglin	Dille	Langseth	Pogemiller	Skoe
Betzold	Doll	Latz	Prettner Solon	Stumpf
Bonoff	Erickson Ropes	Lourey	Rest	Tomassoni
Carlson	Foley	Lynch	Robling	Torres Ray
Chaudhary	Frederickson	Marty	Rummel	Wiger
Clark	Higgins	Metzen	Saxhaug	
Cohen	Kelash	Moua	Scheid	

Those who voted in the negative were:

Fischbach	Hann	Koch	Parry	Skogen
Fobbe	Ingebrigtsen	Limmer	Rosen	Sparks
Gerlach	Johnson	Olseen	Saltzman	Vandever
Gimse	Jungbauer	Ortman	Senjem	Vickerman

The motion prevailed. So the second portion of the amendment was adopted.

Senator Latz moved to amend S.F. No. 2790, the second engrossment, as follows:

Page 15, after line 5, insert:

"Section 15. Minnesota Statutes 2008, section 609A.02, subdivision 3, is amended to read:

Subd. 3. **Certain criminal proceedings not resulting in conviction.** A petition may be filed under section 609A.03 to seal all records relating to an arrest, indictment or information, trial, or verdict if the records are not subject to section 299C.11, subdivision 1, paragraph (b), and if:

(1) all pending actions or proceedings were resolved in favor of the petitioner. For purposes of this chapter, a verdict of not guilty by reason of mental illness is not a resolution in favor of the petitioner; or

(2) the petitioner has successfully completed the terms of a diversion program or stay of adjudication that was agreed to by the prosecutor and has not been charged with a new crime for at least one year since completion of the diversion program or stay of adjudication.

Sec. 16. [609A.025] EXPUNGEMENT FOR CASES INVOLVING DIVERSION AND STAYS OF ADJUDICATION; NO PETITION REQUIRED WITH PROSECUTOR AGREEMENT AND VICTIM NOTIFICATION.

(a) Upon agreement of the prosecutor, the court shall seal the criminal record for a person described in section 609A.02, subdivision 3, clause (2), without the filing of a petition unless it determines that the interests of the public and public safety in keeping the record public outweigh the disadvantages to the subject of the record in not sealing it.

(b) Before agreeing to the sealing of a record under this section, the prosecutor shall make a good-faith effort to inform any identifiable victims of the offense of the intended prosecutorial agreement and the opportunity to object to the agreement.

(c) Subject to paragraph (b), the prosecutor may agree to the sealing of records under this section before or after the criminal charges are dismissed."

Page 16, after line 15, insert:

"(c) Where practicable, the petitioner shall attach to the petition a copy of the complaint or the police report for the offense or offenses for which expungement is sought."

Page 17, line 33, after "opened" insert "upon request by law enforcement, prosecution, or corrections authorities"

Page 17, line 34, strike "upon an ex parte" and insert "without a"

Page 21, after line 23, insert:

"Sec. 25. COSTS ASSOCIATED WITH ACT.

The Department of Public Safety shall absorb any costs incurred as a result of this act within its existing budget."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Limmer moved to amend S.F. No. 2790 as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 241.31, subdivision 1, is amended to read:

Subdivision 1. **Establishment of program.** Notwithstanding any provisions of Minnesota Statutes to the contrary, any city, county or town, or any nonprofit corporation approved by the commissioner of corrections, or any combination thereof may establish and operate a community corrections program for the purpose of providing housing, supervision, treatment, counseling or other correctional services;

(a) to persons convicted of crime in the courts of this state and placed on probation by such courts pursuant to section 609.135;

(b) to persons not yet convicted of a crime but under criminal accusation who voluntarily accept such treatment;

(c) to persons adjudicated a delinquent or who received a stay of adjudication of delinquency under chapter 260 or chapter 260B;

(d) with the approval of the commissioner of corrections, to persons paroled under chapter 242; and

(e) with the approval of the commissioner of corrections, to persons paroled under section 243.05 or released under section 241.26.

Sec. 2. Minnesota Statutes 2008, section 242.32, subdivision 2, is amended to read:

Subd. 2. **Secure placement of juvenile offenders.** The commissioner shall license several small regional facilities providing secure capacity programming for juveniles who have been adjudicated delinquent, have received a stay of adjudication of delinquency, or have been convicted as extended jurisdiction juveniles and require secure placement. The programming shall be tailored to the types of juveniles being served, including their offense history, age, gender, cultural and ethnic heritage, mental health and chemical dependency problems, and other characteristics. Services offered shall include but not be limited to:

(1) intensive general educational programs, with an individual educational plan for each juvenile;

(2) specific educational components in the management of anger and nonviolent conflict resolution;

(3) treatment for chemical dependency;

(4) mental health screening, assessment, and treatment; and

(5) programming to educate offenders about sexuality and address issues specific to victims and perpetrators of sexual abuse.

The facilities shall collaborate with facilities providing nonsecure residential programming and with community-based aftercare programs.

Sec. 3. Minnesota Statutes 2008, section 260B.125, subdivision 4, is amended to read:

Subd. 4. **Public safety.** In determining whether the public safety is served by certifying the matter, the court shall consider the following factors:

(1) the seriousness of the alleged offense in terms of community protection, including the existence of any aggravating factors recognized by the Sentencing Guidelines, the use of a firearm, and the impact on any victim;

(2) the culpability of the child in committing the alleged offense, including the level of the child's participation in planning and carrying out the offense and the existence of any mitigating factors recognized by the Sentencing Guidelines;

(3) the child's prior record of delinquency, including adjudications of delinquency and delinquency petitions that resulted in stays of adjudication of delinquency;

(4) the child's programming history, including the child's past willingness to participate meaningfully in available programming;

(5) the adequacy of the punishment or programming available in the juvenile justice system; and

(6) the dispositional options available for the child.

In considering these factors, the court shall give greater weight to the seriousness of the alleged offense and the child's prior record of delinquency, including adjudications of delinquency and delinquency petitions that resulted in stays of adjudication of delinquency, than to the other factors listed in this subdivision.

Sec. 4. Minnesota Statutes 2008, section 260B.130, subdivision 5, is amended to read:

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

(b) If a person described in paragraph (a) is taken into custody, the person may be detained in a secure juvenile detention facility. If there is no secure juvenile detention facility or existing acceptable detention alternative available for juveniles within the county, the child may be detained up to 24 hours, excluding Saturdays, Sundays, and holidays, or for up to six hours in a standard metropolitan statistical area, in a jail, lockup, or other facility used for the confinement of adults who have been charged with or convicted of a crime. In this instance, the person must be confined in quarters separate from any adult confined in the facility that allow for complete sight and sound separation for all activities during the period of the detention, and the adult facility must be approved for the detention of juveniles by the commissioner of corrections.

If the person is 18 years of age or older and is to be detained prior to the revocation hearing, the person may be detained in a local adult correctional facility without the need for sight and sound separation.

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

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

Sec. 5. Minnesota Statutes 2008, section 260B.157, subdivision 1, is amended to read:

Subdivision 1. **Investigation.** Upon request of the court the local social services agency or probation officer shall investigate the personal and family history and environment of any minor coming within the jurisdiction of the court under section 260B.101 and shall report its findings to the court. The court may order any minor coming within its jurisdiction to be examined by a duly qualified physician, psychiatrist, or psychologist appointed by the court.

The court shall order a chemical use assessment conducted when a child is (1) found to be delinquent for violating a provision of chapter 152, or for committing a felony-level violation of a provision of chapter 609 if the probation officer determines that alcohol or drug use was a contributing factor in the commission of the offense, or (2) alleged to be delinquent for violating a provision of chapter 152, if the child is being held in custody under a detention order. The assessor's qualifications and the assessment criteria shall comply with Minnesota Rules, parts 9530.6600 to 9530.6655. If funds under chapter 254B are to be used to pay for the recommended treatment, the assessment and placement must comply with all provisions of Minnesota Rules, parts 9530.6600 to 9530.6655 and 9530.7000 to 9530.7030. The commissioner of human services shall reimburse the court for the cost of the chemical use assessment, up to a maximum of \$100.

The court shall order a children's mental health screening and a chemical use screening conducted when a child is found to be delinquent. The screening shall be conducted with a screening instrument approved by the commissioner of human services and shall be conducted by a mental health practitioner as defined in section 245.4871, subdivision 26, or a probation officer who is trained in the use of the screening instrument. If the screening indicates a need for a mental health assessment, the local social services agency, in consultation with the child's family, shall have a diagnostic assessment conducted, including a functional assessment, as defined in section 245.4871. If the screening indicates a need for a chemical use assessment, the local social service agency, in consultation with the child's family, shall have a chemical use assessment conducted, as defined in section 254A.03, subdivision 3.

With the consent of the commissioner of corrections and agreement of the county to pay the costs thereof, the court may, by order, place a minor coming within its jurisdiction in an institution maintained by the commissioner for the detention, diagnosis, custody and treatment of persons adjudicated to be delinquent or who received a stay of adjudication of delinquency, in order that the condition of the minor be given due consideration in the disposition of the case. Any funds received under the provisions of this subdivision shall not cancel until the end of the fiscal year immediately following the fiscal year in which the funds were received. The funds are available for

use by the commissioner of corrections during that period and are hereby appropriated annually to the commissioner of corrections as reimbursement of the costs of providing these services to the juvenile courts.

Sec. 6. Minnesota Statutes 2008, section 260B.176, subdivision 2, is amended to read:

Subd. 2. **Reasons for detention.** (a) If the child is not released as provided in subdivision 1, the person taking the child into custody shall notify the court as soon as possible of the detention of the child and the reasons for detention.

(b) No child may be detained in a juvenile secure detention facility or shelter care facility longer than 36 hours, excluding Saturdays, Sundays, and holidays, after being taken into custody for a delinquent act as defined in section 260B.007, subdivision 6, unless a petition has been filed and the judge or referee determines pursuant to section 260B.178 that the child shall remain in detention.

(c) No child may be detained in an adult jail or municipal lockup longer than 24 hours, excluding Saturdays, Sundays, and holidays, or longer than six hours in an adult jail or municipal lockup in a standard metropolitan statistical area, after being taken into custody for a delinquent act as defined in section 260B.007, subdivision 6, unless:

(1) a petition has been filed under section 260B.141; and

(2) a judge or referee has determined under section 260B.178 that the child shall remain in detention.

After August 1, 1991, no child described in this paragraph may be detained in an adult jail or municipal lockup longer than 24 hours, excluding Saturdays, Sundays, and holidays, or longer than six hours in an adult jail or municipal lockup in a standard metropolitan statistical area, unless the requirements of this paragraph have been met and, in addition, a motion to refer the child for adult prosecution has been made under section 260B.125. Notwithstanding this paragraph, continued detention of a child in an adult detention facility outside of a standard metropolitan statistical area county is permissible if:

(i) the facility in which the child is detained is located where conditions of distance to be traveled or other ground transportation do not allow for court appearances within 24 hours. A delay not to exceed 48 hours may be made under this clause; or

(ii) the facility is located where conditions of safety exist. Time for an appearance may be delayed until 24 hours after the time that conditions allow for reasonably safe travel. "Conditions of safety" include adverse life-threatening weather conditions that do not allow for reasonably safe travel.

The continued detention of a child under clause (i) or (ii) must be reported to the commissioner of corrections.

(d) If a child described in paragraph (c) is to be detained in a jail beyond 24 hours, excluding Saturdays, Sundays, and holidays, the judge or referee, in accordance with rules and procedures established by the commissioner of corrections, shall notify the commissioner of the place of the detention and the reasons therefor. The commissioner shall thereupon assist the court in the relocation of the child in an appropriate juvenile secure detention facility or approved jail within the county or elsewhere in the state, or in determining suitable alternatives. The commissioner shall direct that a child detained in a jail be detained after eight days from and including the date of

the original detention order in an approved juvenile secure detention facility with the approval of the administrative authority of the facility. If the court refers the matter to the prosecuting authority pursuant to section 260B.125, notice to the commissioner shall not be required.

(e) When a child is detained for an alleged delinquent act in a state licensed juvenile facility or program, or when a child is detained in an adult jail or municipal lockup as provided in paragraph (c), the supervisor of the facility shall, if the child's parent or legal guardian consents, have a children's mental health screening conducted with a screening instrument approved by the commissioner of human services, unless a screening has been performed within the previous 180 days or the child is currently under the care of a mental health professional. The screening shall be conducted by a mental health practitioner as defined in section 245.4871, subdivision 26, or a probation officer who is trained in the use of the screening instrument. The screening shall be conducted after the initial detention hearing has been held and the court has ordered the child continued in detention. The results of the screening may only be presented to the court at the dispositional phase of the court proceedings on the matter unless the parent or legal guardian consents to presentation at a different time. If the screening indicates a need for assessment, the local social services agency or probation officer, with the approval of the child's parent or legal guardian, shall have a diagnostic assessment conducted, including a functional assessment, as defined in section 245.4871.

(f) When a child is detained for an alleged delinquent act in a state licensed juvenile facility or program, or when a child is detained in an adult jail or municipal lockup as provided in paragraph (c), the supervisor of the facility shall, if the child's parent or legal guardian consents, have a chemical use screen conducted with a screening instrument approved by the commissioner of human services, unless a screening has been performed within the previous 180 days or the child is currently under the care of a licensed alcohol and drug counselor. The screening shall be conducted by a mental health practitioner as defined in section 245.4871, subdivision 26, or a probation officer who is trained in the use of the screening instrument. The screening shall be conducted after the initial detention hearing has been held and the court has ordered the child continued in detention.

Sec. 7. Minnesota Statutes 2008, section 260B.198, subdivision 7, is amended to read:

Subd. 7. **Continuance.** When it is in the best interests of the child and public safety to do so and when the child has admitted the allegations contained in the petition before the judge or referee, or when a hearing has been held as provided for in section 260B.163 and the allegations contained in the petition have been duly proven but, in either case, before a finding of delinquency has been entered, the court may stay the adjudication of delinquency and continue the case for a period not to exceed 90 180 days on any one order. With the consent of the prosecutor, such a continuance may be extended renewed for one additional successive a period not to exceed 90 days extend beyond the child's 19th birthday and only after the court has reviewed the case and entered its order for an additional continuance without a finding of delinquency. During this either continuance the court may enter an order in accordance with the provisions of subdivision 1, clause (1) or (2), or enter an order to hold the child in detention for a period not to exceed 15 days on any one order for the purpose of completing any consideration, or any investigation or examination ordered in accordance with the provisions of section 260B.157. The court shall not stay adjudication on any felony offense if the child has previously received a stay of adjudication of delinquency by a court in any judicial district. This subdivision does not apply to an extended jurisdiction juvenile proceeding. In calculating an adult criminal history score, a stay of adjudication for a felony-level offense ordered by the court pursuant to this subdivision shall be counted as an adjudication by the

Minnesota Sentencing Guidelines Commission.

Sec. 8. Minnesota Statutes 2008, section 299C.105, subdivision 1, is amended to read:

Subdivision 1. **Required collection of biological specimen for DNA testing.** (a) Sheriffs, peace officers, and community corrections agencies operating secure juvenile detention facilities shall take or cause to be taken biological specimens for the purpose of DNA analysis as defined in section 299C.155, of the following:

(1) persons who have appeared in court and have had a judicial probable cause determination on a charge of committing, or persons having been convicted of or attempting to commit, any of the following:

- (i) murder under section 609.185, 609.19, or 609.195;
 - (ii) manslaughter under section 609.20 or 609.205;
 - (iii) assault under section 609.221, 609.222, or 609.223;
 - (iv) robbery under section 609.24 or aggravated robbery under section 609.245;
 - (v) kidnapping under section 609.25;
 - (vi) false imprisonment under section 609.255;
 - (vii) criminal sexual conduct under section 609.342, 609.343, 609.344, 609.345, 609.3451, subdivision 3, or 609.3453;
 - (viii) incest under section 609.365;
 - (ix) burglary under section 609.582, subdivision 1; or
 - (x) indecent exposure under section 617.23, subdivision 3;
- (2) persons sentenced as patterned sex offenders under section 609.3455, subdivision 3a; or

(3) juveniles who have appeared in court and have had a judicial probable cause determination on a charge of committing, ~~or juveniles having been adjudicated delinquent,~~ or juveniles who have received a stay of adjudication of delinquency for committing or attempting to commit, any of the following:

- (i) murder under section 609.185, 609.19, or 609.195;
- (ii) manslaughter under section 609.20 or 609.205;
- (iii) assault under section 609.221, 609.222, or 609.223;
- (iv) robbery under section 609.24 or aggravated robbery under section 609.245;
- (v) kidnapping under section 609.25;
- (vi) false imprisonment under section 609.255;
- (vii) criminal sexual conduct under section 609.342, 609.343, 609.344, 609.345, 609.3451, subdivision 3, or 609.3453;

(viii) incest under section 609.365;

(ix) burglary under section 609.582, subdivision 1; or

(x) indecent exposure under section 617.23, subdivision 3.

(b) Unless the superintendent of the bureau requires a shorter period, within 72 hours the biological specimen required under paragraph (a) must be forwarded to the bureau in such a manner as may be prescribed by the superintendent.

(c) Prosecutors, courts, and probation officers shall attempt to ensure that the biological specimen is taken on a person described in paragraph (a).

Sec. 9. Minnesota Statutes 2008, section 299C.61, subdivision 8a, is amended to read:

Subd. 8a. **Conviction.** "Conviction" means a criminal conviction or an adjudication of delinquency or a stay of adjudication of delinquency for an offense that would be a crime if committed by an adult.

Sec. 10. Minnesota Statutes 2008, section 609.117, subdivision 1, is amended to read:

Subdivision 1. **Upon sentencing.** If an offender has not already done so, the court shall order an offender to provide a biological specimen for the purpose of DNA analysis as defined in section 299C.155 when:

(1) the court sentences a person charged with committing or attempting to commit a felony offense and the person is convicted of that offense or of any offense arising out of the same set of circumstances; or

(2) ~~the juvenile court adjudicates a person a delinquent child who is petitioned for committing or attempting to commit a felony offense and is adjudicated delinquent for that offense or any offense arising out of the same set of circumstances~~ finds that a child who was petitioned for committing or attempting to commit a felony offense did commit that offense or any offense arising out of the same set of circumstances.

The biological specimen or the results of the analysis shall be maintained by the Bureau of Criminal Apprehension as provided in section 299C.155.

Sec. 11. Minnesota Statutes 2008, section 609.66, subdivision 1d, is amended to read:

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

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

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

~~(e)~~ (d) Notwithstanding paragraph (a) ~~or~~ (b), or (c), it is a misdemeanor for a person authorized

to carry a firearm under the provisions of a permit or otherwise to carry a firearm on or about the person's clothes or person in a location the person knows is school property. Notwithstanding section 609.531, a firearm carried in violation of this paragraph is not subject to forfeiture.

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

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

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

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

(4) "school property" means:

(i) a public or private elementary, middle, or secondary school building and its improved grounds, whether leased or owned by the school;

(ii) a child care center licensed under chapter 245A during the period children are present and participating in a child care program;

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

(iv) that portion of a building or facility under the temporary, exclusive control of a public or private school, a school district, or an association of such entities where conspicuous signs are prominently posted at each entrance that give actual notice to persons of the school-related use.

~~(e)~~ (f) This subdivision does not apply to:

(1) active licensed peace officers;

(2) military personnel or students participating in military training, who are on-duty, performing official duties;

(3) persons authorized to carry a pistol under section 624.714 while in a motor vehicle or outside of a motor vehicle to directly place a firearm in, or retrieve it from, the trunk or rear area of the vehicle;

(4) persons who keep or store in a motor vehicle pistols in accordance with section 624.714 or 624.715 or other firearms in accordance with section 97B.045;

(5) firearm safety or marksmanship courses or activities conducted on school property;

(6) possession of dangerous weapons, BB guns, or replica firearms by a ceremonial color guard;

(7) a gun or knife show held on school property;

(8) possession of dangerous weapons, BB guns, or replica firearms with written permission of the principal or other person having general control and supervision of the school or the director of a child care center; or

(9) persons who are on unimproved property owned or leased by a child care center, school,

or school district unless the person knows that a student is currently present on the land for a school-related activity.

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

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

Sec. 12. Minnesota Statutes 2009 Supplement, section 624.713, subdivision 1, is amended to read:

Subdivision 1. **Ineligible persons.** The following persons shall not be entitled to possess a pistol or semiautomatic military-style assault weapon or, except for clause (1), any other firearm:

(1) a person under the age of 18 years except that a person under 18 may carry or possess a pistol or semiautomatic military-style assault weapon (i) in the actual presence or under the direct supervision of the person's parent or guardian, (ii) for the purpose of military drill under the auspices of a legally recognized military organization and under competent supervision, (iii) for the purpose of instruction, competition, or target practice on a firing range approved by the chief of police or county sheriff in whose jurisdiction the range is located and under direct supervision; or (iv) if the person has successfully completed a course designed to teach marksmanship and safety with a pistol or semiautomatic military-style assault weapon and approved by the commissioner of natural resources;

(2) except as otherwise provided in clause (9), a person who has been convicted of, or adjudicated delinquent or received a stay of adjudication of delinquency or convicted as an extended jurisdiction juvenile for committing, in this state or elsewhere, a crime of violence. For purposes of this section, crime of violence includes crimes in other states or jurisdictions which would have been crimes of violence as herein defined if they had been committed in this state;

(3) a person who is or has ever been committed in Minnesota or elsewhere by a judicial determination that the person is mentally ill, developmentally disabled, or mentally ill and dangerous to the public, as defined in section 253B.02, to a treatment facility, or who has ever been found incompetent to stand trial or not guilty by reason of mental illness, unless the person's ability to possess a firearm has been restored under subdivision 4;

(4) a person who has been convicted in Minnesota or elsewhere of a misdemeanor or gross misdemeanor violation of chapter 152, unless three years have elapsed since the date of conviction and, during that time, the person has not been convicted of any other such violation of chapter 152 or a similar law of another state; or a person who is or has ever been committed by a judicial determination for treatment for the habitual use of a controlled substance or marijuana, as defined in sections 152.01 and 152.02, unless the person's ability to possess a firearm has been restored under subdivision 4;

(5) a person who has been committed to a treatment facility in Minnesota or elsewhere by a judicial determination that the person is chemically dependent as defined in section 253B.02, unless the person has completed treatment or the person's ability to possess a firearm has been restored

under subdivision 4. Property rights may not be abated but access may be restricted by the courts;

(6) a peace officer who is informally admitted to a treatment facility pursuant to section 253B.04 for chemical dependency, unless the officer possesses a certificate from the head of the treatment facility discharging or provisionally discharging the officer from the treatment facility. Property rights may not be abated but access may be restricted by the courts;

(7) a person, including a person under the jurisdiction of the juvenile court, who has been charged with committing a crime of violence and has been placed in a pretrial diversion program by the court before disposition, until the person has completed the diversion program and the charge of committing the crime of violence has been dismissed;

(8) except as otherwise provided in clause (9), a person who has been convicted in another state of committing an offense similar to the offense described in section 609.224, subdivision 3, against a family or household member or section 609.2242, subdivision 3, unless three years have elapsed since the date of conviction and, during that time, the person has not been convicted of any other violation of section 609.224, subdivision 3, or 609.2242, subdivision 3, or a similar law of another state;

(9) a person who has been convicted in this state or elsewhere of assaulting a family or household member and who was found by the court to have used a firearm in any way during commission of the assault is prohibited from possessing any type of firearm for the period determined by the sentencing court;

(10) a person who:

(i) has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;

(ii) is a fugitive from justice as a result of having fled from any state to avoid prosecution for a crime or to avoid giving testimony in any criminal proceeding;

(iii) is an unlawful user of any controlled substance as defined in chapter 152;

(iv) has been judicially committed to a treatment facility in Minnesota or elsewhere as a person who is mentally ill, developmentally disabled, or mentally ill and dangerous to the public, as defined in section 253B.02;

(v) is an alien who is illegally or unlawfully in the United States;

(vi) has been discharged from the armed forces of the United States under dishonorable conditions; or

(vii) has renounced the person's citizenship having been a citizen of the United States; or

(11) a person who has been convicted of the following offenses at the gross misdemeanor level, unless three years have elapsed since the date of conviction and, during that time, the person has not been convicted of any other violation of these sections: section 609.229 (crimes committed for the benefit of a gang); 609.2231, subdivision 4 (assaults motivated by bias); 609.255 (false imprisonment); 609.378 (neglect or endangerment of a child); 609.582, subdivision 4 (burglary in the fourth degree); 609.665 (setting a spring gun); 609.71 (riot); or 609.749 (harassment and stalking). For purposes of this paragraph, the specified gross misdemeanor convictions include

crimes committed in other states or jurisdictions which would have been gross misdemeanors if conviction occurred in this state.

A person who issues a certificate pursuant to this section in good faith is not liable for damages resulting or arising from the actions or misconduct with a firearm committed by the individual who is the subject of the certificate.

The prohibition in this subdivision relating to the possession of firearms other than pistols and semiautomatic military-style assault weapons does not apply retroactively to persons who are prohibited from possessing a pistol or semiautomatic military-style assault weapon under this subdivision before August 1, 1994.

The lifetime prohibition on possessing, receiving, shipping, or transporting firearms for persons convicted or adjudicated delinquent or received a stay of adjudication of delinquency of a crime of violence in clause (2), applies only to offenders who are discharged from sentence or court supervision for a crime of violence on or after August 1, 1993.

For purposes of this section, "judicial determination" means a court proceeding pursuant to sections 253B.07 to 253B.09 or a comparable law from another state.

Sec. 13. Minnesota Statutes 2008, section 624.713, subdivision 3, is amended to read:

Subd. 3. **Notice.** (a) When a person is convicted of, or adjudicated delinquent, received a stay of adjudication of delinquency, or convicted as an extended jurisdiction juvenile for committing, a crime of violence as defined in section 624.712, subdivision 5, the court shall inform the defendant that the defendant is prohibited from possessing a pistol or semiautomatic military-style assault weapon for the remainder of the person's lifetime, and that it is a felony offense to violate this prohibition. The failure of the court to provide this information to a defendant does not affect the applicability of the pistol or semiautomatic military-style assault weapon possession prohibition or the felony penalty to that defendant.

(b) When a person, including a person under the jurisdiction of the juvenile court, is charged with committing a crime of violence and is placed in a pretrial diversion program by the court before disposition, the court shall inform the defendant that: (1) the defendant is prohibited from possessing a pistol or semiautomatic military-style assault weapon until the person has completed the diversion program and the charge of committing a crime of violence has been dismissed; (2) it is a gross misdemeanor offense to violate this prohibition; and (3) if the defendant violates this condition of participation in the diversion program, the charge of committing a crime of violence may be prosecuted. The failure of the court to provide this information to a defendant does not affect the applicability of the pistol or semiautomatic military-style assault weapon possession prohibition or the gross misdemeanor penalty to that defendant.

Sec. 14. **REVISOR INSTRUCTION; TABLE OF JUVENILE COLLATERAL SANCTIONS.**

(a) The revisor of statutes shall publish a table in Minnesota Statutes that contains cross-references to state laws that are collateral sanctions imposed on a juvenile as a result of an adjudication of delinquency. The revisor shall create a structure that categorizes these laws in a useful way to users.

(b) The revisor shall include appropriate cautionary language with the table, including, at a

minimum, language that notifies users that:

(1) the list of collateral sanctions laws is intended to be comprehensive but is not necessarily complete;

(2) the inclusion or exclusion of a collateral sanction is not intended to have any substantive legal effect; and

(3) users must consult the language of each cross-referenced law to fully understand the scope and effect of the collateral sanction it imposes.

(c) The revisor shall consult with legislative staff and the chairs of the senate and house committees having jurisdiction over criminal justice to identify laws that impose collateral sanctions on a juvenile who has been adjudicated delinquent.

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

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 22 and nays 42, as follows:

Those who voted in the affirmative were:

Fischbach	Ingebrigtsen	Lynch	Robling	Vandevveer
Fobbe	Johnson	Metzen	Rosen	Wiger
Gerlach	Jungbauer	Olson, G.	Saltzman	
Gimse	Koch	Ortman	Senjem	
Hann	Limmer	Parry	Sparks	

Those who voted in the negative were:

Anderson	Dahle	Koering	Pappas	Skoe
Bakk	Dibble	Kubly	Pogemiller	Skogen
Berglin	Dille	Langseth	Prettner Solon	Stumpf
Betzold	Doll	Latz	Rest	Tomassoni
Bonoff	Erickson Ropes	Lourey	Rummel	Torres Ray
Carlson	Foley	Marty	Saxhaug	Vickerman
Chaudhary	Frederickson	Moua	Scheid	
Clark	Higgins	Olseen	Sheran	
Cohen	Kelash	Olson, M.	Sieben	

The motion did not prevail. So the amendment was not adopted.

S.F. No. 2790 was then recommended to pass.

S.F. No. 2386, which the committee recommends to pass, subject to the following motion:

Senator Limmer moved to amend S.F. No. 2386 as follows:

Page 3, after line 16, insert:

"Sec. 2. **ADDITIONAL NEGOTIATION.**

If the commissioner of management and budget determines that the cost of implementing any of the labor agreements ratified in section 1 may require layoffs under the terms of the applicable agreement, the commissioner may request the exclusive representatives of the employees covered

by the agreement to negotiate an amendment to the agreement that would allow the commissioner to use unpaid leave and reductions in hours in lieu of layoffs to manage the cost increases imposed by the agreement."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 19 and nays 43, as follows:

Those who voted in the affirmative were:

Dille	Hann	Koch	Pariseau	Senjem
Fischbach	Ingebrigtsen	Limmer	Parry	Stumpf
Gerlach	Johnson	Olson, G.	Robling	Vanderveer
Gimse	Jungbauer	Ortman	Rosen	

Those who voted in the negative were:

Anderson	Dahle	Koering	Olson, M.	Sieben
Bakk	Dibble	Kubly	Pappas	Skoe
Berglin	Doll	Latz	Pogemiller	Skogen
Betzold	Erickson Ropes	Lourey	Prettner Solon	Sparks
Bonoff	Fobbe	Lynch	Rest	Tomassoni
Carlson	Foley	Marty	Saltzman	Torres Ray
Chaudhary	Frederickson	Metzen	Saxhaug	Vickerman
Clark	Higgins	Moua	Scheid	
Cohen	Kelash	Olseen	Sheran	

The motion did not prevail. So the amendment was not adopted.

H.F. No. 3128, which the committee recommends to pass, subject to the following motion:

Senator Limmer moved to amend H.F. No. 3128 as follows:

Page 1, after line 17, insert:

"Sec. 2. Minnesota Statutes 2009 Supplement, section 171.06, subdivision 3, is amended to read:

Subd. 3. **Contents of application; other information.** (a) An application must:

(1) state the full name, date of birth, sex, and either (i) the residence address of the applicant, or (ii) designated address under section 5B.05;

(2) as may be required by the commissioner, contain a description of the applicant and any other facts pertaining to the applicant, the applicant's driving privileges, and the applicant's ability to operate a motor vehicle with safety;

(3) state:

(i) the applicant's Social Security number; or

(ii) if the applicant does not have a Social Security number and is applying for a Minnesota identification card, instruction permit, or class D provisional or driver's license, that the applicant certifies that the applicant does not have a Social Security number;

(4) contain ~~a space~~ spaces where the applicant may indicate a desire to make an anatomical gift or may refuse to make an anatomical gift according to paragraph (b);

(5) contain a notification to the applicant of the availability of a living will/health care directive designation on the license under section 171.07, subdivision 7; and

(6) contain a space where the applicant may request a veteran designation on the license under section 171.07, subdivision 15, and the driving record under section 171.12, subdivision 5a.

(b) If the applicant does not indicate a desire to make an anatomical gift or a refusal to make an anatomical gift when the application is made, the applicant must be offered a donor document or document of refusal in accordance with section 171.07, subdivision 5. The application must contain statements sufficient to comply with the requirements of the Darlene Luther Revised Uniform Anatomical Gift Act, chapter 525A, so that execution of the application or ~~donor~~ document will make the anatomical gift or be a refusal to make an anatomical gift as provided in section 171.07, subdivision 5, for those indicating a desire to make an anatomical gift or refusal to make an anatomical gift. The application must be accompanied by information describing Minnesota laws regarding anatomical gifts and the need for and benefits of anatomical gifts, and the legal implications of making an anatomical gift or refusal to make an anatomical gift, including the law governing revocation of anatomical gifts. The commissioner shall distribute a notice that must accompany all applications for and renewals of a driver's license or Minnesota identification card. The notice must be prepared in conjunction with a Minnesota organ procurement organization that is certified by the federal Department of Health and Human Services and must include:

(1) a statement that provides a fair and reasonable description of the organ donation process, the care of the donor body after death, and the importance of informing family members of the donation decision; and

(2) a telephone number in a certified Minnesota organ procurement organization that may be called with respect to questions regarding anatomical gifts.

(c) The application must be accompanied also by information containing relevant facts relating to:

(1) the effect of alcohol on driving ability;

(2) the effect of mixing alcohol with drugs;

(3) the laws of Minnesota relating to operation of a motor vehicle while under the influence of alcohol or a controlled substance; and

(4) the levels of alcohol-related fatalities and accidents in Minnesota and of arrests for alcohol-related violations.

Sec. 3. Minnesota Statutes 2008, section 171.07, subdivision 5, is amended to read:

Subd. 5. **Anatomical gift; donor document.** The department shall offer a donor document and a document of refusal to make an anatomical gift to each person making application for a driver's license or a Minnesota identification card who indicates a desire not to make a decision about making an anatomical gift at the time the application is made. The commissioner of public safety shall prescribe the ~~form~~ forms of the ~~donor document~~ documents and the application for a driver's license

or a Minnesota identification card. The forms must be designed so that execution by the applicant of the donor document or application will make an anatomical gift or be a refusal to make an anatomical gift under the Darlene Luther Revised Uniform Anatomical Gift Act, chapter 525A. If the donor is 18 years of age or older, the ~~donor~~ document or application must be signed by the donor. If the donor cannot sign, the ~~donor~~ document or application may be signed for the ~~donor~~ individual at the ~~donor~~ individual's direction, in the ~~donor~~'s individual's presence, and in the presence of two witnesses who must sign the ~~donor~~ document or application in the ~~donor~~'s individual's presence. If the ~~donor~~ individual is a minor, the ~~donor~~ document or application must be signed by the minor ~~donor~~, and one of the ~~minor~~ ~~donor~~'s minor's parents, a legal guardian, or a parent having legal custody. If the minor cannot sign, the ~~donor~~ document or application may not be signed for the minor. The department shall identify donors of anatomical gifts by the designation "donor", and shall identify persons who execute a refusal to make an anatomical gift by the designation "donor refusal," on the front side of the donor's driver's license or Minnesota identification card. The issuance of a driver's license or Minnesota identification card identifying the person as a "donor" or indicating a "donor refusal" completes the donation or refusal process and the license or identification card constitutes the final ~~donor~~ record. The department is not required to keep the physical record of the ~~donor~~ card document or application after issuing the driver's license or identification card for the donation or refusal to be valid. The department shall maintain a computer record of donors and individuals who execute a refusal to make an anatomical gift. Revocation, suspension, expiration, or cancellation of the license does not invalidate the anatomical gift or refusal. The designation "donor" constitutes sufficient legal authority for the removal of all body organs or parts upon death of the donor for the purpose of transplantation. The donor or refusal designation may be removed only upon written notice to the department. Delivery of the license or Minnesota identification card during the ~~donor~~'s individual's lifetime is not necessary to make the gift valid or refusal effective."

Page 15, after line 3, insert:

"Sec. 14. Minnesota Statutes 2008, section 525A.07, is amended to read:

525A.07 REFUSAL TO MAKE ANATOMICAL GIFT; EFFECT OF REFUSAL.

(a) An individual may refuse to make an anatomical gift of the individual's body or part by:

(1) a record signed by:

(i) the individual; or

(ii) subject to paragraph (b), another individual acting at the direction of the individual if the individual is physically unable to sign;

(2) the individual's will, whether or not the will is admitted to probate or invalidated after the individual's death; or

(3) any form of communication made by the individual during the individual's terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness; or

(4) authorizing a statement or symbol indicating that the donor has executed a refusal to make an anatomical gift to be imprinted on the individual's driver's license or identification card.

(b) A record signed pursuant to paragraph (a), clause (1), item (ii), must:

(1) be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the individual; and

(2) state that it has been signed and witnessed as provided in clause (1).

(c) An individual who has made a refusal may amend or revoke the refusal:

(1) in the manner provided in paragraph (a) for making a refusal;

(2) by subsequently making an anatomical gift pursuant to section 525A.05 that is inconsistent with the refusal; or

(3) by destroying or canceling the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal.

(d) Except as otherwise provided in section 525A.08, paragraph (h), in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of the individual's body or part bars all other persons from making an anatomical gift of the individual's body or part.

(e) Revocation, suspension, expiration, or cancellation of a driver's license or identification card upon which a refusal to make an anatomical gift is indicated does not invalidate the refusal."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 26 and nays 38, as follows:

Those who voted in the affirmative were:

Bonoff	Gimse	Koering	Rest	Vandevver
Dille	Hann	Limmer	Robling	Vickerman
Erickson Ropes	Ingebrigtsen	Olson, G.	Rosen	
Fischbach	Johnson	Ortman	Saltzman	
Frederickson	Jungbauer	Pariseau	Senjem	
Gerlach	Koch	Parry	Sheran	

Those who voted in the negative were:

Anderson	Dahle	Langseth	Olson, M.	Skogen
Bakk	Dibble	Latz	Pappas	Sparks
Berglin	Doll	Lourey	Pogemiller	Stumpf
Betzold	Fobbe	Lynch	Prettner Solon	Tomassoni
Carlson	Foley	Marty	Saxhaug	Torres Ray
Chaudhary	Higgins	Metzen	Scheid	Wiger
Clark	Kelash	Moua	Sieben	
Cohen	Kubly	Olseen	Skoe	

The motion did not prevail. So the amendment was not adopted.

H.F. No. 3263 which the committee reports progress, subject to the following motions:

Senator Jungbauer moved to amend H.F. No. 3263, as amended pursuant to Rule 45, adopted by the Senate March 25, 2010, as follows:

(The text of the amended House File is identical to S.F. No. 3106.)

Page 2, after line 14, insert:

"Sec. 2. **ROUNDABOUTS DESIGN.**

(a) The commissioner of transportation shall, as part of the next regular update of appropriate design and highway construction manuals, develop specifications or standards on the design of roundabouts. The specifications or standards must include consideration of the suitability of roundabout designs for commercial motor vehicles, as defined in Minnesota Statutes, section 169.011, subdivision 16.

(b) In developing the specifications or standards, the commissioner shall consult with:

(1) the Minnesota Trucking Association; and

(2) representatives, as identified by the commissioner, of persons who regularly obtain oversize or overweight permits under Minnesota Statutes, chapter 169, and are reasonably likely to travel on routes that would include a roundabout.

(c) The commissioner shall distribute the specifications or standards, or a similar advisory guidance document, to local road authorities.

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

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Carlson moved to amend H.F. No. 3263, as amended pursuant to Rule 45, adopted by the Senate March 25, 2010, as follows:

(The text of the amended House File is identical to S.F. No. 3106.)

Page 2, after line 14, insert:

"Sec. 2. Minnesota Statutes 2008, section 169.685, subdivision 6, is amended to read:

Subd. 6. **Exceptions.** (a) This section does not apply to:

(1) a person transporting a child in an emergency medical vehicle while in the performance of official duties and when the physical or medical needs of the child make the use of a child passenger restraint system unreasonable or when a child passenger restraint system is not available;

(2) a peace officer transporting a child while in the performance of official duties and when a child passenger restraint system is not available, provided that a seat belt must be substituted; ~~and~~

(3) a person while operating a motor vehicle for hire, including a taxi, airport limousine, and bus, but excluding a rented, leased, or borrowed motor vehicle; ~~and~~

(4) a person while operating a school bus as defined in section 169.011, subdivision 71, other than a type III vehicle that does not meet the crash protection structural requirements of federal motor vehicle safety standard 222, Code of Federal Regulations, title 49, part 571.

(b) A child passenger restraint system is not required for a child who cannot, in the judgment of a licensed physician, be safely transported in a child passenger restraint system because of a medical condition, body size, or physical disability. A motor vehicle operator claiming exemption for a child under this paragraph must possess a typewritten statement from the physician stating that the child cannot be safely transported in a child passenger restraint system. The statement must give the name and birth date of the child, be dated within the previous six months, and be made on the physician's letterhead or contain the physician's name, address, and telephone number. A person charged with violating subdivision 5 may not be convicted if the person produces the physician's statement in court or in the office of the arresting officer.

(c) A person offering a motor vehicle for rent or lease shall provide a child passenger restraint device to a customer renting or leasing the motor vehicle who requests the device. A reasonable rent or fee may be charged for use of the child passenger restraint device.

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

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

H.F. No. 3263 was then progressed.

On motion of Senator Pogemiller, the report of the Committee of the Whole, as kept by the Secretary, was adopted.

MEMBERS EXCUSED

Senator Murphy was excused from the Session of today. Senator Ortman was excused from the Session of today from 12:00 noon to 12:35 p.m. Senator Pappas was excused from the Session of today from 12:15 to 12:40 p.m. Senator Fobbe was excused from the Session of today from 12:20 to 12:25 p.m. Senator Wiger was excused from the Session of today from 2:50 to 2:55 p.m.

ADJOURNMENT

Senator Pogemiller moved that the Senate do now adjourn until 11:00 a.m., Wednesday, April 7, 2010. The motion prevailed.

Peter S. Wattson, Secretary of the Senate (Legislative)