

1.1 Senator ..... moves to amend S.F. No. 3481 as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. Minnesota Statutes 2014, section 152.01, subdivision 16a, is amended to  
1.4 read:

1.5       **Subd. 16a. Subsequent controlled substance conviction.** Notwithstanding section  
1.6 152.18, subdivision 1, A "subsequent controlled substance conviction" means that before  
1.7 commission of the offense for which the person is convicted under this chapter, the person  
1.8 received a disposition for a felony-level offense under section 152.18, subdivision 1, was  
1.9 convicted in Minnesota of a felony violation of this chapter or a felony-level attempt or  
1.10 conspiracy to violate this chapter section 152.021 or 152.022, including an attempt or  
1.11 conspiracy, or was convicted elsewhere for conduct that would have been a felony under  
1.12 this chapter if committed in Minnesota. An earlier disposition for a felony-level offense  
1.13 under section 152.18, subdivision 1, or an earlier conviction is not relevant if of a similar  
1.14 offense by the United States or another state, provided that ten years have not elapsed  
1.15 since discharge from sentence or stay of adjudication.

1.6       **EFFECTIVE DATE.** This section is effective August 1, 2016, and applies to crimes  
1.7 committed on or after that date.

1.18 Sec. 2. Minnesota Statutes 2014, section 152.01, is amended by adding a subdivision  
1.19 to read:

1.20       Subd. 24. Aggravating factor. Each of the following is an "aggravating factor:"

1.21       (1) the defendant, within the previous ten years, has been convicted of a violent  
1.22 crime, as defined in section 609.1095, subdivision 1, paragraph (d), other than a violation  
1.23 of a provision under chapter 152, including an attempt or conspiracy, or was convicted  
1.24 of a similar offense by the United States or another state;

1.25       (2) the offense was committed for the benefit of a gang under section 609.229;

1.26       (3) the offense involved separate acts of sale or possession of a controlled substance  
1.27 in three or more counties;

1.28       (4) the offense involved the transfer of controlled substances across a state or  
1.29 international border and into Minnesota;

1.30       (5) the offense involved at least three separate transactions in which controlled  
1.31 substances were sold, transferred, or possessed with intent to sell or transfer;

1.32       (6) the circumstances of the offense reveal the offender to have occupied a high  
1.33 position in the drug distribution hierarchy;

2.1       (7) the defendant used a position or status to facilitate the commission of the offense,  
2.2       including positions of trust, confidence, or fiduciary relationships;

2.3       (8) the offense involved the sale of a controlled substance to a person under the age  
2.4       of 18 or a vulnerable adult as defined in section 609.232, subdivision 11;

2.5       (9) the defendant or an accomplice manufactured, possessed, or sold a controlled  
2.6       substance in a school zone, park zone, correctional facility, or drug treatment facility; or

2.7       (10) the defendant or an accomplice possessed equipment, drug paraphernalia,  
2.8       documents, or money evidencing that the offense involved the cultivation, manufacture,  
2.9       distribution, or possession of controlled substances in quantities substantially larger than  
2.10      the minimum threshold amount for the offense.

2.11      **EFFECTIVE DATE.** This section is effective August 1, 2016, and applies to crimes  
2.12      committed on or after that date.

2.13      Sec. 3. Minnesota Statutes 2014, section 152.021, is amended to read:

2.14      **152.021 CONTROLLED SUBSTANCE CRIME IN THE FIRST DEGREE.**

2.15      Subdivision 1. **Sale crimes.** A person is guilty of controlled substance crime in  
2.16      the first degree if:

2.17       (1) on one or more occasions within a 90-day period the person unlawfully sells one  
2.18       or more mixtures of a total weight of ten 17 grams or more containing cocaine, heroin, or  
2.19       methamphetamine;

2.20       (2) on one or more occasions within a 90-day period the person unlawfully sells  
2.21       one or more mixtures of a total weight of ten grams or more containing cocaine or  
2.22       methamphetamine and:

2.23       (i) the person or an accomplice possesses on their person or within immediate reach,  
2.24       or uses, whether by brandishing, displaying, threatening with, or otherwise employing, a  
2.25       firearm; or

2.26       (ii) the offense involves two aggravating factors;

2.27       (3) on one or more occasions within a 90-day period the person unlawfully sells one  
2.28       or more mixtures of a total weight of ten grams or more containing heroin;

2.29       (2) (4) on one or more occasions within a 90-day period the person unlawfully sells  
2.30       one or more mixtures of a total weight of 50 grams or more containing a narcotic drug  
2.31       other than cocaine, heroin, or methamphetamine;

2.32       (3) (5) on one or more occasions within a 90-day period the person unlawfully sells  
2.33       one or more mixtures of a total weight of 50 grams or more containing amphetamine,

3.1 phenyclidine, or hallucinogen or, if the controlled substance is packaged in dosage units,  
3.2 equaling 200 or more dosage units; or

3.3 (4) (6) on one or more occasions within a 90-day period the person unlawfully sells  
3.4 one or more mixtures of a total weight of 50 25 kilograms or more containing marijuana or  
3.5 Tetrahydrocannabinols, ~~or one or more mixtures of a total weight of 25 kilograms or more~~  
3.6 ~~containing marijuana or Tetrahydrocannabinols in a school zone, a park zone, a public~~  
3.7 ~~housing zone, or a drug treatment facility.~~

3.8 Subd. 2. **Possession crimes.** (a) A person is guilty of a controlled substance crime  
3.9 in the first degree if:

3.10 (1) the person unlawfully possesses one or more mixtures of a total weight of 25 50  
3.11 grams or more containing cocaine, ~~heroin~~, or methamphetamine;

3.12 (2) the person unlawfully possesses one or more mixtures of a total weight of 25  
3.13 grams or more containing cocaine or methamphetamine and:

3.14 (i) the person or an accomplice possesses on their person or within immediate reach,  
3.15 or uses, whether by brandishing, displaying, threatening with, or otherwise employing, a  
3.16 firearm; or

3.17 (ii) the offense involves two aggravating factors;

3.18 (3) the person unlawfully possesses one or more mixtures of a total weight of 25  
3.19 grams or more containing heroin;

3.20 (2) (4) the person unlawfully possesses one or more mixtures of a total weight of 500  
3.21 grams or more containing a narcotic drug other than cocaine, heroin, or methamphetamine;

3.22 (3) (5) the person unlawfully possesses one or more mixtures of a total weight of  
3.23 500 grams or more containing amphetamine, phenyclidine, or hallucinogen or, if the  
3.24 controlled substance is packaged in dosage units, equaling 500 or more dosage units; or

3.25 (4) (6) the person unlawfully possesses one or more mixtures of a total weight of  
3.26 100 50 kilograms or more containing marijuana or Tetrahydrocannabinols, or possesses  
3.27 500 or more marijuana plants.

3.28 (b) For the purposes of this subdivision, the weight of fluid used in a water pipe may  
3.29 not be considered in measuring the weight of a mixture except in cases where the mixture  
3.30 contains four or more fluid ounces of fluid.

3.31 Subd. 2a. **Methamphetamine manufacture crime.** (a) Notwithstanding  
3.32 subdivision 1, sections 152.022, subdivision 1, 152.023, subdivision 1, and 152.024,  
3.33 subdivision 1, a person is guilty of controlled substance crime in the first degree if the  
3.34 person manufactures any amount of methamphetamine.

3.35 (b) [Renumbered 152.0262, subdivision 1]

4.1       Subd. 2b. **Aggravated controlled substance crime in the first degree.** A person is  
4.2       guilty of aggravated controlled substance crime in the first degree if the person violates  
4.3       subdivision 1, clause (1), (2), (3), (4), or (5), or subdivision 2, paragraph (a), clause (1),  
4.4       (2), or (3), and the person or an accomplice sells or possesses 100 or more grams or 500 or  
4.5       more dosage units of a mixture containing the controlled substance at issue and:

4.6           (1) the person or an accomplice possesses on their person or within immediate reach,  
4.7       or uses, whether by brandishing, displaying, threatening with, or otherwise employing, a  
4.8       firearm; or

4.9           (2) the offense involves two aggravating factors.

4.10       Subd. 3. **Penalty.** (a) A person convicted under subdivisions 1 to 2a, paragraph (a),  
4.11       may be sentenced to imprisonment for not more than 30 years or to payment of a fine of  
4.12       not more than \$1,000,000, or both.

4.13           (b) If the conviction is a subsequent controlled substance conviction, a person  
4.14       convicted under subdivisions 1 to 2a, paragraph (a), shall be committed to the  
4.15       commissioner of corrections for not less than four years nor more than 40 years and, in  
4.16       addition, may be sentenced to payment of a fine of not more than \$1,000,000.

4.17           (c) If the defendant is convicted under subdivision 1, clause (1), (2), (3), (4), or (5),  
4.18       or subdivision 2, paragraph (a), clause (1), (2), or (3), and the defendant or an accomplice  
4.19       sold or possessed 100 or more grams or 500 or more dosage units of a mixture containing  
4.20       the controlled substance at issue, that person shall be committed to the commissioner  
4.21       of corrections for not less than 65 months or the presumptive fixed sentence under the  
4.22       Minnesota Sentencing Guidelines, whichever is greater, nor more than 40 years and may  
4.23       be sentenced to payment of a fine of not more than \$1,000,000, or both. If a person to  
4.24       be sentenced under this paragraph has not previously been convicted of an offense under  
4.25       section 152.021, 152.022, or 152.023, or of a similar offense by the United States or  
4.26       another state, the prosecutor may, prior to the time of sentencing, file a motion to have the  
4.27       person sentenced without regard to the mandatory minimum sentence established by this  
4.28       paragraph. The motion shall be accompanied by a statement on the record of the reasons  
4.29       for it. When presented with the motion, or on its own motion, the court may sentence the  
4.30       person without regard to this mandatory minimum sentence if the court finds substantial  
4.31       and compelling reasons to do so. Sentencing a person without regard to the mandatory  
4.32       minimum under this paragraph is a departure from the Sentencing Guidelines.

4.33           (d) A person convicted under subdivision 2b shall be committed to the commissioner  
4.34       of corrections for not less than 86 months or the presumptive fixed sentence under the  
4.35       Minnesota Sentencing Guidelines, whichever is greater, nor more than 40 years and may  
4.36       be sentenced to payment of a fine of not more than \$1,000,000, or both.

5.1       (e) In a prosecution under subdivision subdivisions 1 to 2b involving sales by the  
5.2 same person in two or more counties within a 90-day period, the person may be prosecuted  
5.3 for all of the sales in any county in which one of the sales occurred.

5.4       **EFFECTIVE DATE.** This section is effective August 1, 2016, and applies to crimes  
5.5 committed on or after that date.

5.6       Sec. 4. Minnesota Statutes 2014, section 152.022, is amended to read:

5.7       **152.022 CONTROLLED SUBSTANCE CRIME IN THE SECOND DEGREE.**

5.8       Subdivision 1. **Sale crimes.** A person is guilty of controlled substance crime  
5.9 in the second degree if:

5.10       (1) on one or more occasions within a 90-day period the person unlawfully sells  
5.11 one or more mixtures of a total weight of three ten grams or more containing cocaine,  
5.12 a narcotic drug other than heroin, or methamphetamine;

5.13       (2) on one or more occasions within a 90-day period the person unlawfully sells  
5.14 one or more mixtures of a total weight of three grams or more containing cocaine or  
5.15 methamphetamine and:

5.16           (i) the person or an accomplice possesses on their person or within immediate reach,  
5.17 or uses, whether by brandishing, displaying, threatening with, or otherwise employing, a  
5.18 firearm; or

5.19           (ii) the offense involves three aggravating factors;

5.20       (3) on one or more occasions within a 90-day period the person unlawfully sells one  
5.21 or more mixtures of a total weight of ten three grams or more containing a narcotic drug  
5.22 other than cocaine, heroin, or methamphetamine;

5.23       (3) (4) on one or more occasions within a 90-day period the person unlawfully sells  
5.24 one or more mixtures of a total weight of ten grams or more containing amphetamine,  
5.25 phencyclidine, or hallucinogen or, if the controlled substance is packaged in dosage units,  
5.26 equaling 50 or more dosage units;

5.27       (4) (5) on one or more occasions within a 90-day period the person unlawfully sells  
5.28 one or more mixtures of a total weight of twenty-five ten kilograms or more containing marijuana  
5.29 or Tetrahydrocannabinols;

5.30       (5) (6) the person unlawfully sells any amount of a Schedule I or II narcotic drug  
5.31 to a person under the age of 18, or conspires with or employs a person under the age  
5.32 of 18 to unlawfully sell the substance; or

5.33       (6) (7) the person unlawfully sells any of the following in a school zone, a park zone,  
5.34 a public housing zone, or a drug treatment facility:

6.1                   (i) any amount of a Schedule I or II narcotic drug, lysergic acid diethylamide (LSD),  
6.2 3,4-methylenedioxy amphetamine, or 3,4-methylenedioxymethamphetamine;  
6.3                   (ii) one or more mixtures containing methamphetamine or amphetamine; or  
6.4                   (iii) one or more mixtures of a total weight of five kilograms or more containing  
6.5 marijuana or Tetrahydrocannabinols.

6.6                  Subd. 2. **Possession crimes.** (a) A person is guilty of controlled substance crime  
6.7 in the second degree if:

6.8                   (1) the person unlawfully possesses one or more mixtures of a total weight of six 25  
6.9 grams or more containing cocaine, heroin, or methamphetamine;

6.10                  (2) the person unlawfully possesses one or more mixtures of a total weight of ten  
6.11 grams or more containing cocaine or methamphetamine and:

6.12                  (i) the person or an accomplice possesses on their person or within immediate reach,  
6.13 or uses, whether by brandishing, displaying, threatening with, or otherwise employing, a  
6.14 firearm; or

6.15                  (ii) the offense involves three aggravating factors;

6.16                  (3) the person unlawfully possesses one or more mixtures of a total weight of six  
6.17 grams or more containing heroin;

6.18                  (2) (4) the person unlawfully possesses one or more mixtures of a total weight of 50  
6.19 grams or more containing a narcotic drug other than cocaine, heroin, or methamphetamine;

6.20                  (3) (5) the person unlawfully possesses one or more mixtures of a total weight of  
6.21 50 grams or more containing amphetamine, phencyclidine, or hallucinogen or, if the  
6.22 controlled substance is packaged in dosage units, equaling 100 or more dosage units; or

6.23                  (4) (6) the person unlawfully possesses one or more mixtures of a total weight of 50  
6.24 25 kilograms or more containing marijuana or Tetrahydrocannabinols, or possesses 100  
6.25 or more marijuana plants.

6.26                  (b) For the purposes of this subdivision, the weight of fluid used in a water pipe may  
6.27 not be considered in measuring the weight of a mixture except in cases where the mixture  
6.28 contains four or more fluid ounces of fluid.

6.29                  Subd. 3. **Penalty.** (a) A person convicted under subdivision 1 or 2 may be sentenced  
6.30 to imprisonment for not more than 25 years or to payment of a fine of not more than  
6.31 \$500,000, or both.

6.32                  (b) If the conviction is a subsequent controlled substance conviction, a person  
6.33 convicted under subdivision 1 or 2 shall be committed to the commissioner of corrections  
6.34 for not less than three years nor more than 40 years and, in addition, may be sentenced to  
6.35 payment of a fine of not more than \$500,000.

7.1                   (c) In a prosecution under subdivision 1 involving sales by the same person in two or  
7.2 more counties within a 90-day period, the person may be prosecuted for all of the sales in  
7.3 any county in which one of the sales occurred.

7.4                   **EFFECTIVE DATE.** This section is effective August 1, 2016, and applies to crimes  
7.5 committed on or after that date.

7.6                   Sec. 5. Minnesota Statutes 2014, section 152.023, is amended to read:

7.7                   **152.023 CONTROLLED SUBSTANCE CRIME IN THE THIRD DEGREE.**

7.8                   Subdivision 1. **Sale crimes.** A person is guilty of controlled substance crime in  
7.9 the third degree if:

7.10                  (1) the person unlawfully sells one or more mixtures containing a narcotic drug;

7.11                  (2) on one or more occasions within a 90-day period the person unlawfully sells one  
7.12 or more mixtures containing phencyclidine or hallucinogen, it is packaged in dosage  
7.13 units, and equals ten or more dosage units;

7.14                  (3) the person unlawfully sells one or more mixtures containing a controlled  
7.15 substance classified in Schedule I, II, or III, except a Schedule I or II narcotic drug, to a  
7.16 person under the age of 18;

7.17                  (4) the person conspires with or employs a person under the age of 18 to unlawfully  
7.18 sell one or more mixtures containing a controlled substance listed in Schedule I, II, or III,  
7.19 except a Schedule I or II narcotic drug; or

7.20                  (5) on one or more occasions within a 90-day period the person unlawfully sells one  
7.21 or more mixtures of a total weight of five kilograms or more containing marijuana or  
7.22 Tetrahydrocannabinols.

7.23                  Subd. 2. **Possession crimes.** (a) A person is guilty of controlled substance crime in  
7.24 the third degree if:

7.25                  (1) on one or more occasions within a 90-day period the person unlawfully possesses  
7.26 one or more mixtures of a total weight of three ten grams or more containing ~~eœaine~~,  
7.27 a narcotic drug other than heroin, or methamphetamine;

7.28                  (2) on one or more occasions within a 90-day period the person unlawfully possesses  
7.29 one or more mixtures of a total weight of ten three grams or more containing ~~a narcotic~~  
7.30 ~~drug other than eœaine, heroin, or methamphetamine~~;

7.31                  (3) on one or more occasions within a 90-day period the person unlawfully possesses  
7.32 one or more mixtures containing a narcotic drug, it is packaged in dosage units, and  
7.33 equals 50 or more dosage units;

8.1                   (4) on one or more occasions within a 90-day period the person unlawfully  
8.2 possesses any amount of a schedule I or II narcotic drug or five or more dosage  
8.3 units of lysergic acid diethylamide (LSD), 3,4-methylenedioxy amphetamine, or  
8.4 3,4-methylenedioxymethamphetamine in a school zone, a park zone, a public housing  
8.5 zone, or a drug treatment facility;

8.6                   (5) on one or more occasions within a 90-day period the person unlawfully possesses  
8.7 one or more mixtures of a total weight of ten kilograms or more containing marijuana or  
8.8 Tetrahydrocannabinols; or

8.9                   (6) the person unlawfully possesses one or more mixtures containing  
8.10 methamphetamine or amphetamine in a school zone, a park zone, a public housing zone,  
8.11 or a drug treatment facility.

8.12                  (b) For the purposes of this subdivision, the weight of fluid used in a water pipe may  
8.13 not be considered in measuring the weight of a mixture except in cases where the mixture  
8.14 contains four or more fluid ounces of fluid.

8.15                  Subd. 3. **Penalty.** (a) A person convicted under subdivision 1 or 2 may be sentenced  
8.16 to imprisonment for not more than 20 years or to payment of a fine of not more than  
8.17 \$250,000, or both.

8.18                  (b) ~~If the conviction is a subsequent controlled substance conviction, a person~~  
8.19 ~~convicted under subdivision 1 or 2 shall be committed to the commissioner of corrections~~  
8.20 ~~for not less than two years nor more than 30 years and, in addition, may be sentenced to~~  
8.21 ~~payment of a fine of not more than \$250,000.~~

8.22                  (e) (b) In a prosecution under subdivision 1 or 2 involving sales or acts of possession  
8.23 by the same person in two or more counties within a 90-day period, the person may be  
8.24 prosecuted in any county in which one of the sales or acts of possession occurred.

8.25                  **EFFECTIVE DATE.** This section is effective August 1, 2016, and applies to crimes  
8.26 committed on or after that date.

8.27                  Sec. 6. Minnesota Statutes 2014, section 152.024, is amended to read:

8.28                  **152.024 CONTROLLED SUBSTANCE CRIME IN THE FOURTH DEGREE.**

8.29                  Subdivision 1. **Sale crimes.** A person is guilty of controlled substance crime in  
8.30 the fourth degree if:

8.31                  (1) the person unlawfully sells one or more mixtures containing a controlled  
8.32 substance classified in Schedule I, II, or III, except marijuana or Tetrahydrocannabinols;

8.33                  (2) the person unlawfully sells one or more mixtures containing a controlled  
8.34 substance classified in Schedule IV or V to a person under the age of 18;

9.1                   (3) the person conspires with or employs a person under the age of 18 to unlawfully  
9.2 sell a controlled substance classified in Schedule IV or V; or

9.3                   (4) the person unlawfully sells any amount of marijuana or Tetrahydrocannabinols in  
9.4 a school zone, a park zone, a public housing zone, or a drug treatment facility, except a  
9.5 small amount for no remuneration.

9.6                   Subd. 2. **Possession crimes.** A person is guilty of controlled substance crime in  
9.7 the fourth degree if:

9.8                   (1) the person unlawfully possesses one or more mixtures containing phencyclidine  
9.9 or hallucinogen, it is packaged in dosage units, and equals ten or more dosage units; or

9.10                  (2) the person unlawfully possesses one or more mixtures containing a controlled  
9.11 substance classified in Schedule I, II, or III, except marijuana or Tetrahydrocannabinols,  
9.12 with the intent to sell it.

9.13                  Subd. 3. **Penalty.** (a) A person convicted under subdivision 1 or 2 may be sentenced  
9.14 to imprisonment for not more than 15 years or to payment of a fine of not more than  
9.15 \$100,000, or both.

9.16                  (b) ~~If the conviction is a subsequent controlled substance conviction, a person  
9.17 convicted under subdivision 1 or 2 shall be committed to the commissioner of corrections  
9.18 or to a local correctional authority for not less than one year nor more than 30 years and,  
9.19 in addition, may be sentenced to payment of a fine of not more than \$100,000.~~

9.20                  **EFFECTIVE DATE.** This section is effective August 1, 2016, and applies to crimes  
9.21 committed on or after that date.

9.22 Sec. 7. Minnesota Statutes 2014, section 152.025, is amended to read:

9.23                  **152.025 CONTROLLED SUBSTANCE CRIME IN THE FIFTH DEGREE.**

9.24                  Subdivision 1. **Sale crimes.** (a) A person is guilty of a controlled substance crime  
9.25 in the fifth degree and ~~if convicted upon conviction~~ may be sentenced to ~~imprisonment~~  
9.26 ~~for not more than five years or to payment of a fine of not more than \$10,000, or both~~  
9.27 ~~as provided in subdivision 3~~ if:

9.28                  (1) the person unlawfully sells one or more mixtures containing marijuana or  
9.29 tetrahydrocannabinols, except a small amount of marijuana for no remuneration; or

9.30                  (2) the person unlawfully sells one or more mixtures containing a controlled  
9.31 substance classified in Schedule IV.

9.32                  (b) ~~Except as provided in paragraph (e), if a person is guilty of a controlled  
9.33 substance crime in the fifth degree and the conviction is a subsequent controlled substance  
9.34 conviction, the person convicted shall be committed to the commissioner of corrections or~~

10.1 to a local correctional authority for not less than six months nor more than ten years and,  
10.2 in addition, may be sentenced to payment of a fine of not more than \$20,000 if:

10.3 (1) the person unlawfully sells one or more mixtures containing marijuana or  
10.4 tetrahydrocannabinols, except a small amount of marijuana for no remuneration; or

10.5 (2) the person unlawfully sells one or more mixtures containing a controlled  
10.6 substance classified in Schedule IV.

10.7 (e) Prior to the time of sentencing, the prosecutor may file a motion to have the  
10.8 person sentenced without regard to the mandatory minimum sentence established by  
10.9 paragraph (b). The motion must be accompanied by a statement on the record of the  
10.10 reasons for it. When presented with the motion, or on its own motion, the court may  
10.11 sentence the person without regard to the mandatory minimum sentence if the court finds,  
10.12 on the record, substantial and compelling reasons to do so.

10.13 Subd. 2. **Possession and other crimes.** (a) A person is guilty of controlled  
10.14 substance crime in the fifth degree and if convicted upon conviction may be sentenced  
10.15 to imprisonment for not more than five years or to payment of a fine of not more than  
10.16 \$10,000, or both as provided in subdivision 3 if:

10.17 (1) the person unlawfully possesses one or more mixtures containing a controlled  
10.18 substance classified in Schedule I, II, III, or IV, except a small amount of marijuana; or

10.19 (2) the person procures, attempts to procure, possesses, or has control over a  
10.20 controlled substance by any of the following means:

10.21 (i) fraud, deceit, misrepresentation, or subterfuge;

10.22 (ii) using a false name or giving false credit; or

10.23 (iii) falsely assuming the title of, or falsely representing any person to be, a  
10.24 manufacturer, wholesaler, pharmacist, physician, doctor of osteopathy licensed to practice  
10.25 medicine, dentist, podiatrist, veterinarian, or other authorized person for the purpose of  
10.26 obtaining a controlled substance.

10.27 (b) Except as provided in paragraph (e), if a person is guilty of a controlled  
10.28 substance crime in the fifth degree and the conviction is a subsequent controlled substance  
10.29 conviction, the person convicted shall be committed to the commissioner of corrections or  
10.30 to a local correctional authority for not less than six months nor more than ten years and,  
10.31 in addition, may be sentenced to payment of a fine of not more than \$20,000 if:

10.32 (1) the person unlawfully possesses one or more mixtures containing a controlled  
10.33 substance classified in Schedule I, II, III, or IV, except a small amount of marijuana; or

10.34 (2) the person procures, attempts to procure, possesses, or has control over a  
10.35 controlled substance by any of the following means:

10.36 (i) fraud, deceit, misrepresentation, or subterfuge;

11.1                   (ii) using a false name or giving false credit; or  
11.2                   (iii) falsely assuming the title of, or falsely representing any person to be, a  
11.3 manufacturer, wholesaler, pharmacist, physician, doctor of osteopathy licensed to practice  
11.4 medicine, dentist, podiatrist, veterinarian, or other authorized person for the purpose of  
11.5 obtaining a controlled substance.

11.6                   (e) Prior to the time of sentencing, the prosecutor may file a motion to have the  
11.7 person sentenced without regard to the mandatory minimum sentence established by  
11.8 paragraph (b). The motion must be accompanied by a statement on the record of the  
11.9 reasons for it. When presented with the motion, or on its own motion, the court may  
11.10 sentence the person without regard to the mandatory minimum sentence if the court finds,  
11.11 on the record, substantial and compelling reasons to do so.

11.12                  Subd. 3. Penalty. (a) A person convicted under the provisions of subdivision 2,  
11.13 clause (1), who has not been previously convicted of a violation of this chapter or a similar  
11.14 offense in another jurisdiction, is guilty of a gross misdemeanor if: (1) the amount of the  
11.15 controlled substance possessed, other than heroin, is less than 0.25 grams or one dosage  
11.16 unit or less if the controlled substance was possessed in dosage units; or (2) the controlled  
11.17 substance possessed is heroin and the amount possessed is less than 0.05 grams.

11.18                  (b) A person convicted under the provisions of subdivision 1; subdivision 2, clause  
11.19 (1), unless the conduct is described in paragraph (a); or subdivision 2, clause (2), may  
11.20 be sentenced to imprisonment for not more than five years or to payment of a fine of  
11.21 not more than \$10,000, or both.

11.22                  EFFECTIVE DATE. This section is effective August 1, 2016, and applies to crimes  
11.23 committed on or after that date.

11.24 Sec. 8. Minnesota Statutes 2014, section 152.026, is amended to read:

11.25                  **152.026 MANDATORY SENTENCES.**

11.26                  A defendant convicted and sentenced to a mandatory sentence under sections  
11.27 section 152.021 to 152.025 and 152.0262 or 152.022 is not eligible for probation, parole,  
11.28 discharge, or supervised release until that person has served the full term of imprisonment  
11.29 as provided by law, notwithstanding sections 242.19, 243.05, 609.12, and 609.135. "Term  
11.30 of imprisonment" has the meaning given in section 244.01, subdivision 8.

11.31                  EFFECTIVE DATE. This section is effective August 1, 2016, and applies to crimes  
11.32 committed on or after that date.

11.33 Sec. 9. Minnesota Statutes 2014, section 152.092, is amended to read:

**152.092 POSSESSION OF DRUG PARAPHERNALIA PROHIBITED.**

(a) It is unlawful for any person knowingly or intentionally to use or to possess drug paraphernalia. Any violation of this section is a petty misdemeanor.

(b) A person who violates paragraph (a) and has previously violated paragraph (a) on two or more occasions has committed a crime and may be sentenced to imprisonment for up to 90 days or to payment of a fine up to \$1,000, or both.

**EFFECTIVE DATE.** This section is effective August 1, 2016, and applies to crimes committed on or after that date.

Sec. 10. Minnesota Statutes 2014, section 152.18, subdivision 1, is amended to read:

**Subdivision 1. Deferring prosecution for certain first time drug offenders.** If (a) A court may defer prosecution as provided in paragraph (c) for any person found guilty, after trial or upon a plea of guilty, of a violation of section 152.023, subdivision 2, section 152.024, subdivision 2, 152.025, subdivision 2, or 152.027, subdivision 2, 3, 4, or 6, paragraph (d), for possession of a controlled substance, who:

(1) has not previously participated in or completed a diversion program authorized under section 401.065;

or who (2) has not previously been placed on probation without a judgment of guilty and thereafter been discharged from probation under this section is found guilty of a violation of section 152.024, subdivision 2, 152.025, subdivision 2, or 152.027, subdivision 2, 3, 4, or 6, paragraph (d), for possession of a controlled substance, after trial or upon a plea of guilty, and the court determines that the violation does not qualify as a subsequent controlled substance conviction under section 152.01, subdivision 16a; and

(3) has not been convicted of a felony violation of this chapter, including a felony-level attempt or conspiracy, or been convicted by the United States or another state of a similar offense that would have been a felony under this chapter if committed in Minnesota, unless ten years have elapsed since discharge from sentence.

(b) The court must defer prosecution as provided in paragraph (c) for any person found guilty of a violation of section 152.025, subdivision 2, who:

(1) meets the criteria listed in paragraph (a), clauses (1) to (3); and

(2) has not previously been convicted of a felony offense under any state or federal law or of a gross misdemeanor under section 152.025.

(c) In granting relief under this section, the court may shall, without entering a judgment of guilty and with the consent of the person, defer further proceedings and place the person on probation upon such reasonable conditions as it may require and for a period, not to exceed the maximum sentence provided for the violation. The court

13.1 may give the person the opportunity to attend and participate in an appropriate program  
13.2 of education regarding the nature and effects of alcohol and drug abuse as a stipulation  
13.3 of probation. Upon violation of a condition of the probation, the court may enter an  
13.4 adjudication of guilt and proceed as otherwise provided. The court may, in its discretion,  
13.5 dismiss the proceedings against the person and discharge the person from probation before  
13.6 the expiration of the maximum period prescribed for the person's probation. If during the  
13.7 period of probation the person does not violate any of the conditions of the probation,  
13.8 then upon expiration of the period the court shall discharge the person and dismiss the  
13.9 proceedings against that person. Discharge and dismissal under this subdivision shall be  
13.10 without court adjudication of guilt, but a not public record of it shall be retained by the  
13.11 Bureau of Criminal Apprehension for the purpose of use by the courts in determining the  
13.12 merits of subsequent proceedings against the person. The not public record may also be  
13.13 opened only upon court order for purposes of a criminal investigation, prosecution, or  
13.14 sentencing. Upon request by law enforcement, prosecution, or corrections authorities, the  
13.15 bureau shall notify the requesting party of the existence of the not public record and the  
13.16 right to seek a court order to open it pursuant to this section. The court shall forward a  
13.17 record of any discharge and dismissal under this subdivision to the bureau which shall  
13.18 make and maintain the not public record of it as provided under this subdivision. The  
13.19 discharge or dismissal shall not be deemed a conviction for purposes of disqualifications  
13.20 or disabilities imposed by law upon conviction of a crime or for any other purpose.

13.21       For purposes of this subdivision, "not public" has the meaning given in section  
13.22 13.02, subdivision 8a.

13.23       **EFFECTIVE DATE.** This section is effective August 1, 2016, and applies to crimes  
13.24 committed on or after that date.

13.25       Sec. 11. Minnesota Statutes 2014, section 244.0513, subdivision 2, is amended to read:  
13.26           Subd. 2. **Conditional release of certain nonviolent controlled substance**  
13.27 **offenders.** An offender who has been committed to the commissioner's custody may  
13.28 petition the commissioner for conditional release from prison before the offender's  
13.29 scheduled supervised release date or target release date if:

13.30           (1) the offender is serving a sentence for violating section 152.021, subdivision 2 or  
13.31 2a; 152.022, subdivision 2; 152.023, subdivision 2; 152.024, subdivision 2; or 152.025;  
13.32 subdivision 2;

13.33           (2) the offender committed the crime as a result of a controlled substance addiction;  
13.34           (3) the offender has served at least:

14.1           (i) 18 months or one-half of the offender's term of imprisonment, whichever is  
14.2       less, if the offense for which the offender is seeking conditional release is a violation of  
14.3       section 152.024 or 152.025; or

14.4           (ii) 36 months or one-half of the offender's term of imprisonment, whichever is less,  
14.5       if the offense for which the offender is seeking conditional release is a violation of section  
14.6       152.021, subdivision 2 or 2a, 152.022, subdivision 2, or 152.023, subdivision 2;

14.7           (4) the offender successfully completed a chemical dependency treatment program  
14.8       of the type described in this section while in prison;

14.9           (5) the offender has not previously been conditionally released under this section; and

14.10          (6) the offender has not within the past ten years been convicted or adjudicated  
14.11       delinquent for a violent crime as defined in section 609.1095 other than the current  
14.12       conviction for the controlled substance offense.

14.13          **EFFECTIVE DATE.** This section is effective August 1, 2016.

14.14          Sec. 12. Minnesota Statutes 2014, section 244.0513, subdivision 5, is amended to read:

14.15           **Subd. 5. Additional requirements.** To be eligible for release under this section,  
14.16       an offender shall sign a written contract with the commissioner agreeing to comply with  
14.17       the requirements of this section and the conditions imposed by the commissioner. ~~In~~  
14.18       ~~addition to other items, the contract must specifically refer to the term of imprisonment~~  
14.19       ~~extension in subdivision 6.~~ In addition, the offender shall agree to submit to random drug  
14.20       and alcohol tests and electronic or home monitoring as determined by the commissioner or  
14.21       the offender's supervising agent. The commissioner may impose additional requirements  
14.22       on the offender that are necessary to carry out the goals of this section.

14.23          **EFFECTIVE DATE.** This section is effective August 1, 2016.

14.24          Sec. 13. Minnesota Statutes 2014, section 244.09, subdivision 6, is amended to read:

14.25           **Subd. 6. Clearinghouse and information center.** The commission, in addition  
14.26       to establishing Sentencing Guidelines, shall serve as a clearinghouse and information  
14.27       center for the collection, preparation, analysis and dissemination of information on state  
14.28       and local sentencing practices, and shall conduct ongoing research regarding Sentencing  
14.29       Guidelines, use of imprisonment and alternatives to imprisonment, plea bargaining, and  
14.30       other matters relating to the improvement of the criminal justice system. The commission  
14.31       shall from time to time make recommendations to the legislature regarding changes in the  
14.32       Criminal Code, criminal procedures, and other aspects of sentencing.

15.1        This information shall include information regarding the impact of statutory changes  
15.2        to the state's criminal laws related to controlled substances, including those changes  
15.3        enacted by the legislature in this act.

15.4        **EFFECTIVE DATE.** This section is effective August 1, 2016.

15.5        **Sec. 14. [299A.707] COMMUNITY JUSTICE REINVESTMENT ACCOUNT.**

15.6        Subdivision 1. **Account established.** The community justice reinvestment account  
15.7        is an account in the special revenue fund.

15.8        Subd. 2. **Account purpose, grants.** Money in this account shall be allocated by a  
15.9        grant program administered by the commissioner of public safety through the Office of  
15.10        Justice Programs. Local units of government and nonprofit organizations are eligible for  
15.11        grants to establish or operate chemical dependency and mental health treatment programs,  
15.12        programs that improve supervision, including pretrial and precharge supervision, and  
15.13        programs to reduce recidivism of controlled substances offenders on probation or  
15.14        supervised release or participating in drug courts or to fund local participation in drug  
15.15        court initiatives approved by the Judicial Council.

15.16        Subd. 3. **Reporting.** By January 15, in each even-numbered year, the commissioner  
15.17        shall report to the chairs and ranking minority members of the senate and house of  
15.18        representatives committees and divisions having jurisdiction over criminal justice funding  
15.19        on grants made in the preceding two years from the account.

15.20        Subd. 4. **Legislative intent.** It is the legislature's intent that savings to the state  
15.21        realized as a result of the passage of this act be used to fund the transfers from the general  
15.22        fund to this account.

15.23        Subd. 5. **Appropriation.** The amounts transferred to the account are appropriated  
15.24        to the commissioner to make grants under subdivision 2.

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

15.26        Sec. 15. Minnesota Statutes 2014, section 388.051, is amended to read:

15.27        **388.051 DUTIES.**

15.28        Subdivision 1. **General provisions.** The county attorney shall:

15.29        (a) appear in all cases in which the county is a party;

15.30        (b) give opinions and advice, upon the request of the county board or any county  
15.31        officer, upon all matters in which the county is or may be interested, or in relation to  
15.32        the official duties of the board or officer;

16.1                   (c) prosecute felonies, including the drawing of indictments found by the grand  
16.2                   jury, and, to the extent prescribed by law, gross misdemeanors, misdemeanors, petty  
16.3                   misdemeanors, and violations of municipal ordinances, charter provisions and rules or  
16.4                   regulations;

16.5                   (d) attend before the grand jury, give them legal advice, and examine witnesses in  
16.6                   their presence;

16.7                   (e) request the court administrator to issue subpoenas to bring witnesses before the  
16.8                   grand jury or any judge or judicial officer before whom the county attorney is conducting  
16.9                   a criminal hearing;

16.10                  (f) attend any inquest at the request of the coroner; and

16.11                  (g) appear, when requested by the attorney general, for the state in any case instituted  
16.12                  by the attorney general in the county attorney's county or before the United States Land  
16.13                  Office in case of application to preempt or locate any public lands claimed by the state and  
16.14                  assist in the preparation and trial.

16.15                  Subd. 2. **Special provisions.** (a) In Anoka, Carver, Dakota, Hennepin, Scott,  
16.16                  and Washington Counties, only the county attorney shall prosecute gross misdemeanor  
16.17                  violations of sections 289A.63, subdivisions 1, 2, 4, and 6; 297B.10; 609.255, subdivision  
16.18                  3; 609.377; 609.378; 609.41; and 617.247.

16.19                  (b) In Ramsey County, only the county attorney shall prosecute gross misdemeanor  
16.20                  violations of sections 609.255, subdivision 3; 609.377; and 609.378.

16.21                  (c) The county attorney shall prosecute failure to report physical or sexual  
16.22                  child abuse or neglect as provided under section 626.556, subdivision 6, violations of  
16.23                  fifth-degree criminal sexual conduct under section 609.3451, and environmental law  
16.24                  violations under sections 115.071, 299F.098, and 609.671.

16.25                  (d) Except in Hennepin and Ramsey Counties, only the county attorney shall  
16.26                  prosecute gross misdemeanor violations of section 152.025.

16.27                  Subd. 3. **Charging and plea negotiation policies and practices; written guidelines**  
16.28                  **required.** (a) On or before January 1, 1995, each county attorney shall adopt written  
16.29                  guidelines governing the county attorney's charging and plea negotiation policies and  
16.30                  practices. The guidelines shall address, but need not be limited to, the following matters:

16.31                  (1) the circumstances under which plea negotiation agreements are permissible;

16.32                  (2) the factors that are considered in making charging decisions and formulating  
16.33                  plea agreements; and

16.34                  (3) the extent to which input from other persons concerned with a prosecution, such  
16.35                  as victims and law enforcement officers, is considered in formulating plea agreements.

17.1                   (b) Plea negotiation policies and procedures adopted under this subdivision are  
17.2 public data, as defined in section 13.02.

17.3                   Subd. 4. **Firearms exemption.** Notwithstanding section 626.84, subdivision 2, a  
17.4 county attorney, or an assistant county attorney appointed under section 388.10, who  
17.5 lawfully possesses a permit to carry a pistol issued in accordance with section 624.714  
17.6 may possess and carry a firearm while on duty, unless restricted by the county attorney.

17.7                   **EFFECTIVE DATE.** This section is effective August 1, 2016, and applies to crimes  
17.8 committed on or after that date.

17.9                   Sec. 16. Minnesota Statutes 2014, section 609.11, subdivision 5a, is amended to read:

17.10                  Subd. 5a. **Drug offenses.** Notwithstanding section 609.035, whenever a defendant  
17.11 is subject to a mandatory minimum sentence for a felony violation of chapter 152, other  
17.12 than a violation of section 152.021, subdivision 2b, clause (1), or a violation of chapter  
17.13 152 sentenced under section 152.021, subdivision 3, paragraph (c), and is also subject to  
17.14 this section, the minimum sentence imposed under this section shall be consecutive to  
17.15 that imposed under chapter 152.

17.16                  **EFFECTIVE DATE.** This section is effective August 1, 2016, and applies to crimes  
17.17 committed on or after that date.

17.18                  Sec. 17. Minnesota Statutes 2014, section 609.11, subdivision 8, is amended to read:

17.19                  Subd. 8. **Motion by prosecutor.** (a) Except as otherwise provided in paragraph  
17.20 paragraphs (b) and (c), prior to the time of sentencing, the prosecutor may file a motion  
17.21 to have the defendant sentenced without regard to the mandatory minimum sentences  
17.22 established by this section. The motion shall be accompanied by a statement on the record  
17.23 of the reasons for it. When presented with the motion, or on its own motion, the court may  
17.24 sentence the defendant without regard to the mandatory minimum sentences established  
17.25 by this section if the court finds substantial and compelling reasons to do so. A sentence  
17.26 imposed under this subdivision is a departure from the Sentencing Guidelines.

17.27                  (b) The court may not, on its own motion or the prosecutor's motion, sentence a  
17.28 defendant without regard to the mandatory minimum sentences established by this section  
17.29 if the defendant previously has been convicted of an offense listed in subdivision 9 in  
17.30 which the defendant used or possessed a firearm or other dangerous weapon.

17.31                  (c) The court may not, on its own motion or the prosecutor's motion, sentence a  
17.32 defendant without regard to the mandatory minimum sentences established by subdivision  
17.33 5, if the defendant was convicted of a crime under section 152.021, subdivision 1, or

18.1 section 152.022, subdivision 1, and the person or an accomplice possessed on their person  
18.2 or within immediate reach, or used, whether by brandishing, displaying, threatening  
18.3 with, or otherwise employing, a firearm.

18.4 **EFFECTIVE DATE.** This section is effective August 1, 2016, and applies to crimes  
18.5 committed on or after that date.

18.6 Sec. 18. **MINNESOTA SENTENCING GUIDELINES COMMISSION;**  
18.7 **CERTAIN RECOMMENDATIONS ON CONTROLLED SUBSTANCE OFFENSES**  
18.8 **REJECTED; ADDITIONAL MODIFICATIONS TO GUIDELINES.**

18.9 (a) The following modifications proposed by the Minnesota Sentencing Guidelines  
18.10 Commission in its January 15, 2016, report to the legislature are rejected and do not  
18.11 go into effect:

18.12 (1) the new presumptive sentence for first-degree possession of a controlled  
18.13 substance under Minnesota Statutes, section 152.021, subdivision 2, paragraph (a),  
18.14 described in 2.A. Non-Legislative Modifications to Controlled Substance offenses on  
18.15 pages 14 to 17 of the report;

18.16 (2) the severity level D8 found in the new drug offender grid on page 80 of the report  
18.17 and in the criminal history grids found on page 67 of the report;

18.18 (3) the presumptive sentences for severity level D7 offenses found in the new drug  
18.19 offender grid on page 80 of the report; and

18.20 (4) related changes found in corresponding language in Appendix 2.2.A. on pages  
18.21 65 to 81 of the report.

18.22 (b) The Sentencing Guidelines Commission shall:

18.23 (1) modify the new drug offender grid found on page 80 of the report by renumbering  
18.24 D9 as D8 and renumbering D10 as D9;

18.25 (2) modify the criminal history grids on page 67 of the report by renumbering D8 as  
18.26 D7 and renumbering D9-D10 as D8-D9;

18.27 (3) modify the presumptive sentences for severity level D7 offenses found in the  
18.28 new drug offender grid found on page 80 of the report as follows:

18.29 (i) for zero criminal history points, a presumptive stayed sentence of 48 months;

18.30 (ii) for one criminal history point, a presumptive stayed sentence of 58 months;

18.31 (iii) for two criminal history points, a presumptive executed sentence of 68 months  
18.32 and a range of 58 to 81 months;

18.33 (iv) for three criminal history points, a presumptive executed sentence of 78 months  
18.34 and a range of 67 to 93 months;

19.1               (v) for four criminal history points, a presumptive executed sentence of 88 months  
19.2               and a range of 75 to 105 months;

19.3               (vi) for five criminal history points, a presumptive executed sentence of 98 months  
19.4               and a range of 84 to 117 months; and

19.5               (vii) for six criminal history points, a presumptive executed sentence of 108 months  
19.6               and a range of 92 to 129 months;

19.7               (4) re-rank first-degree possession of a controlled substance under Minnesota  
19.8               Statutes, section 152.021, subdivision 2, paragraph (a), at the renumbered severity level D8;  
19.9               (5) rank the new offense of aggravated controlled substance crime in the first degree  
19.10               under Minnesota Statutes, section 152.021, subdivision 2b, at the renumbered severity  
19.11               level D9; and

19.12               (6) make changes in Appendix 2.2.A. consistent with this section.

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

19.14               Sec. 19. **TRANSFER; COMMUNITY JUSTICE REINVESTMENT ACCOUNT.**

19.15               In fiscal year 2017, the commissioner of management and budget shall transfer  
19.16               \$..... from the general fund to the community justice reinvestment account in the special  
19.17               revenue fund. The base for this transfer is \$..... in each of fiscal years 2018 and 2019,  
19.18               and thereafter.

19.19               Sec. 20. **REPEALER.**

19.20               Minnesota Statutes 2014, section 244.0513, subdivision 6, is repealed.

19.21               **EFFECTIVE DATE.** This section is effective August 1, 2016."

19.22               Delete the title and insert:

19.23               "A bill for an act  
19.24               relating to criminal justice; modifying the thresholds for certain controlled  
19.25               substance crimes; creating new offenses specific to the possession of marijuana  
19.26               plants; creating a new offense for possessing trace amounts of certain controlled  
19.27               substances; eliminating mandatory minimum sentences for lower level controlled  
19.28               substance crimes; establishing a new account in the state treasury; appropriating  
19.29               money; amending Minnesota Statutes 2014, sections 152.01, subdivision  
19.30               16a, by adding a subdivision; 152.021; 152.022; 152.023; 152.024; 152.025;  
19.31               152.026; 152.092; 152.18, subdivision 1; 244.0513, subdivisions 2, 5; 244.09,  
19.32               subdivision 6; 388.051; 609.11, subdivisions 5a, 8; proposing coding for new  
19.33               law in Minnesota Statutes, chapter 299A; repealing Minnesota Statutes 2014,  
19.34               section 244.0513, subdivision 6."