

# Memo

**To:** Hon. Christopher J. Dietzen, Chair

**From:** Nate Reitz, Executive Director

**Date:** May 10, 2018

**Re:** Unofficial Summary, Selected Crime Provisions – Conference Committee on Senate File 3656

Below is an unofficial summary of selected crime provisions being considered by the conference committee on Senate File 3656. This does not reflect decisions by the conference committee, which is meeting this week.

| House Position – HF2856-3  | Senate Position – SF3656-2  |
|--|---|
| Amelioration doctrine abrogated  | (No Senate position)  |
| No recording or broadcasting a criminal hearing without consent of defendant & victim  | (No Senate position)  |
| Stay of adjudication sufficient to disqualify school bus driver  | (No Senate position)  |
| Dep’t of Corrections to report annually on administrative and disciplinary segregation   | (No Senate position)  |
| Task Force on Missing and Murdered Indigenous Women created  | (No Senate position)  |
| Courts to report stays of adjudication for predatory offenses to BCA; BCA to disclose stays of adjudication on background checks | (No Senate position)  |
| Short-term Working Group on Crimes Against Vulnerable Adults created   | (No Senate position)  |
| (No House position)  | When collecting trafficking data, Dep’t of Public Safety to include child pornography |
| Recklessly causing injury or death while texting & driving is a criminal vehicular homicide or injury                            | (No Senate position)  |
| Physical assault of a peace officer, even without demonstrable bodily harm, becomes a felony                                     | (No Senate position)  |

| House Position – HF2856-3   | Senate Position – SF3656-2   |
|---|--|
| Felony physical assault resulting in demonstrable bodily harm on hospital health-care worker expanded beyond emergency department; new gross misdemeanor offense created, for which demonstrable bodily harm is not required                  | (No Senate position)   |
| Felony for civilly committed person to spit at care provider  | (No Senate position)   |
| Second prostitution as patron within ten years is a felony  | (No Senate position)   |
| 25th theft within five years is a felony  | (No Senate position)   |
| 3rd theft within five years is a gross misdemeanor  | (No Senate position)   |
| Expanded accomplice liability for critical infrastructure damage  | (No Senate position)   |
| With intent to damage, impede, or tamper, critical infrastructure trespass becomes felony   | (No Senate position)   |
| Gross misdemeanor to obstruct freeway or airport traffic, or transit  | (No Senate position)   |
| Court must justify, in writing and on the record, stay of adjudication for predatory offender registration (POR) or sex offense   | Minn. County Attorneys Ass’n to report annually to the Legislature the circumstances of each stay of adjudication and mitigated dispositional departure for sex offenses |
| Judicial Branch rules must provide for remote computer access to stays of adjudication for POR and sex offenses   | (No Senate position)   |
| For sex offenses, “position of authority” to include recent authority (within 120 days)   | (Senate position identical to House position)  |
| “Position of authority” sex offenses to cover adult high school student complainants when actor is school employee, volunteer, or contractor  | (No Senate position)   |
| Peace officers and those in custody to become a prohibited relationship for sex offenses  | (Senate position similar to House position)  |
| Fifth-degree criminal sexual conduct exemption for contact with clothed buttocks repealed   | (No Senate position)   |
| Marital defense for statutory rape, and marital/cohabitation defense for impaired/incapacitated/helpless criminal sexual conduct, repealed  | (No Senate position)   |
| Ten-year conditional release term for sex-offense prisoners extended to at least 25 years, and sex-offense probationers to be placed on extended probation for at least 25 years, with option to petition for early discharge after ten years | (No Senate position)   |
| All sex-offense probationers to be placed on intensive supervision, with phased requirements re: liberty, residence, curfew, employment, treatment, contact, and surveillance   | (No Senate position)   |

| House Position – HF2856-3   | Senate Position – SF3656-2   |
|---|--|
| Felony fifth-degree criminal sexual conduct listed as a sex offense to which conditional release and probation requirements apply | (No Senate position)   |
| (No House position)   | Felony to violate “Peeping Tom” statute with sexual intent against a child   |
| Six-month mandatory minimum for child pornography; 12 months if repeat offender or POR registrant                                 | (No Senate position)   |
| Child pornography conditional release term extended to 10 years; at least 25 years for repeat offense                             | Child pornography conditional release term extended to 15 years for repeat offense   |
| Child pornography statutory maximums increased  | Statutory maximums applicable to repeat child pornography offenders standardized; offenses involving preteen child victims to be included within that higher statutory maximum |
| Sentencing Guidelines Commission to rerank child pornography offenses at specified levels   | Sentencing Guidelines Commission to comprehensively review and consider modifying rankings of child pornography offenses   |
| Violation of “revenge porn” statute requires POR  | Violation of “Peeping Tom” statute with sexual intent against a child requires POR   |
| Stay of adjudication for sex offense requires POR   | (No Senate position)   |
| POR registrants must give DNA sample, additional personal information, notice of foreign travel                                   | (No Senate position)   |
| Knowledge element deleted from POR offense  | (No Senate position)   |
| Out-of-state criminal vehicular operation involving substances qualify DWI as felony  | (Senate position same as House position)   |