

1.1 A bill for an act

1.2 relating to public safety; establishing a certification process for multijurisdictional  
1.3 gang and drug task forces; authorizing law enforcement agencies to establish  
1.4 and maintain criminal gang investigative data systems; dissolving certain  
1.5 multijurisdictional entities; amending the forfeiture reporting requirements;  
1.6 amending Minnesota Statutes 2008, sections 13.6905, subdivision 14; 299A.641;  
1.7 299C.091, subdivisions 2, 4; 609.531, subdivision 1; 609.5315, subdivision 6;  
1.8 proposing coding for new law in Minnesota Statutes, chapter 626.

1.9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.10 Section 1. Minnesota Statutes 2008, section 13.6905, subdivision 14, is amended to  
1.11 read:

1.12 Subd. 14. **Criminal gang investigative data system.** Data in ~~the~~ criminal gang  
1.13 investigative data ~~system~~ systems are classified in ~~section~~ sections 299C.091 and 626.8442.

1.14 Sec. 2. Minnesota Statutes 2008, section 299A.641, is amended to read:

1.15 **299A.641 GANG AND DRUG OVERSIGHT COUNCIL.**

1.16 Subdivision 1. **Oversight council established.** The Gang and Drug Oversight  
1.17 Council is established to provide guidance related to the investigation and prosecution of  
1.18 gang and drug crime. For the purposes of this section, "gang and drug crime" includes  
1.19 violent crimes associated with gang activity.

1.20 Subd. 2. **Membership.** The oversight council shall consist of the following  
1.21 individuals or their designees:

1.22 (1) the director of the office of special investigations as the representative of the  
1.23 commissioner of corrections;

1.24 (2) the superintendent of the Bureau of Criminal Apprehension as the representative  
1.25 of the commissioner of public safety;

2.1 (3) the attorney general;

2.2 (4) ~~eight~~ two chiefs of police, selected by the Minnesota Chiefs of Police Association,  
2.3 ~~two of which one who must be selected from cities with populations greater than 200,000~~  
2.4 work in the seven-county metropolitan area and one who must work in greater Minnesota;

2.5 (5) ~~eight~~ two sheriffs, selected by the Minnesota Sheriffs Association ~~to represent~~  
2.6 ~~each district, two of which must be selected from counties with populations greater than~~  
2.7 500,000, one who must work in the seven-county metropolitan area and one who must  
2.8 work in greater Minnesota;

2.9 (6) the United States attorney for the district of Minnesota;

2.10 (7) two county attorneys, selected by the Minnesota County Attorneys Association,  
2.11 one who must work in the seven-county metropolitan area and one who must work in  
2.12 greater Minnesota;

2.13 (8) ~~a command-level representative of a gang strike force~~ two public defenders,  
2.14 selected by the Board of Public Defense, one who must work in the seven-county  
2.15 metropolitan area and one who must work in greater Minnesota;

2.16 (9) ~~a representative from a drug task force, selected by the Minnesota State~~  
2.17 ~~Association of Narcotics Investigators~~ two citizen members appointed by the  
2.18 commissioner of public safety in consultation with representatives from the councils of  
2.19 color created in sections 3.922, 3.9223, 3.9225, and 3.9226; and

2.20 (10) ~~a representative from the United States Drug Enforcement Administration;~~

2.21 (11) ~~a representative from the United States Bureau of Alcohol, Tobacco, Firearms~~  
2.22 ~~and Explosives;~~

2.23 (12) ~~a representative from the Federal Bureau of Investigation;~~

2.24 (13) ~~(10)~~ (10) a tribal peace officer, selected by the Minnesota Tribal Law Enforcement  
2.25 Association; commissioner of public safety, in consultation with the Minnesota Indian  
2.26 Affairs Council.

2.27 (14) ~~two additional members who may be selected by the oversight council;~~

2.28 (15) ~~a senator who serves on the committee having jurisdiction over criminal justice~~  
2.29 ~~policy, chosen by the Subcommittee on Committees of the senate Committee on Rules~~  
2.30 ~~and Administration; and~~

2.31 (16) ~~a representative who serves on the committee having jurisdiction over criminal~~  
2.32 ~~justice policy, chosen by the speaker of the house.~~

2.33 The oversight council ~~may~~ shall adopt procedures to govern its conduct as necessary  
2.34 and ~~may~~ shall select a chair from among its members. ~~The legislative members of the~~  
2.35 ~~council may not vote on matters before the council.~~ The chair shall serve a two-year term

3.1 and the appointment of the chair shall alternate between a person who works in greater  
3.2 Minnesota and a person who works in the seven-county metropolitan area.

3.3 Subd. 3. **Oversight council's duties.** The oversight council shall develop an overall  
3.4 strategy to ameliorate the harm caused to the public by gang and drug crime within  
3.5 the state of Minnesota. ~~This strategy may include the development of protocols and~~  
3.6 ~~procedures to investigate gang and drug crime and a structure for best addressing these~~  
3.7 ~~issues in a multijurisdictional manner.~~ Additionally, the oversight council shall:

3.8 (1) subject to approval by the commissioner of public safety, develop an operating  
3.9 procedures and policies manual to investigate gang and drug crime in a multijurisdictional  
3.10 manner;

3.11 ~~(1)~~ (2) identify and recommend a candidate or candidates for statewide coordinator  
3.12 to the commissioner of public safety;

3.13 ~~(2)~~ (3) establish multijurisdictional task forces ~~and strike forces~~ to combat gang  
3.14 and drug crime, ~~to include a metro gang strike force and a gang strike force located in~~  
3.15 ~~the St. Cloud metropolitan area;~~

3.16 ~~(3)~~ (4) assist the Department of Public Safety in developing grant eligibility criteria  
3.17 and operating an objective and conflict-free grant review application process ~~that is free~~  
3.18 ~~from conflicts of interest;~~

3.19 ~~(4)~~ ~~make funding recommendations to the commissioner of public safety on grants~~  
3.20 ~~to support efforts to combat gang and drug crime;~~

3.21 (5) make recommendations to the commissioner of public safety to terminate grant  
3.22 funding for multijurisdictional entities if an entity no longer operates in accordance with  
3.23 guidelines established under subdivision 3a, or no longer functions in a manner consistent  
3.24 with the best interests of the state or public;

3.25 ~~(5)~~ (6) assist in developing a process to collect and share information to improve the  
3.26 investigation and prosecution of gang and drug offenses;

3.27 ~~(6)~~ (7) develop and approve an operational budget for the ~~office of the statewide~~  
3.28 ~~coordinator and the oversight council; and~~

3.29 (8) develop policies that prohibit the improper use of personal characteristics such as  
3.30 race, color, national origin, gender, or religion to target individuals for law enforcement  
3.31 action, prosecution, or forfeiture action;

3.32 (9) subject to approval by the commissioner of public safety, develop and update  
3.33 a statewide policy and procedure manual for criminal gang investigative data systems  
3.34 under section 626.8442; and

3.35 ~~(7)~~ (10) subject to approval by the commissioner of public safety, adopt narrowly  
3.36 tailored, objective criteria and identifying characteristics for use in determining whether

4.1 individuals are or may be members of gangs involved in criminal activity. The council  
4.2 shall review and update the criteria and characteristics adopted under this clause every two  
4.3 years with the objective to ensure effectiveness and relevance to the accurate identification  
4.4 of subjects actively involved in criminal gang activity. As part of its review process, the  
4.5 council shall obtain input from members of communities that are impacted by criminal  
4.6 gang activity. Before adopting any changes under this clause, the council must submit its  
4.7 recommendations to the commissioner of public safety for approval.

4.8 Subd. 3a. **Duties and authority of commissioner.** (a) By September 1, 2010,  
4.9 the commissioner of public safety shall establish guidelines for the certification of  
4.10 multijurisdictional entities that are established pursuant to this section. The guidelines  
4.11 shall require that all multijurisdictional entities:

4.12 (1) be subject to the operational command and supervision of one of the participating  
4.13 agencies;

4.14 (2) be subject to an operational and financial audit conducted annually by an outside,  
4.15 independent entity; and

4.16 (3) have adequate staffing and funding to support law enforcement, prosecutorial, and  
4.17 financial operations, including bookkeeping, evidence handling, and inventory recording.

4.18 (b) A multijurisdictional entity may not operate unless it meets the guidelines  
4.19 established by, and is annually certified by, the commissioner of public safety. If, at any  
4.20 time, the commissioner revokes an entity's certification, the commissioner may order  
4.21 any or all of the following:

4.22 (1) dissolution of the entity, its governing boards, or both;

4.23 (2) transfer of duties of the entity, its governing boards, or both, to the Department of  
4.24 Public Safety; and

4.25 (3) any other actions deemed necessary by the commissioner.

4.26 Notwithstanding any action taken by the commissioner, any outstanding obligations  
4.27 or liabilities of the entity remain with the entity and the parties to the agreement and  
4.28 do not transfer.

4.29 (c) Except as provided in section 8, a multijurisdictional entity that is operating  
4.30 on the effective date of this section shall have six months from the date guidelines are  
4.31 established under paragraph (a) to be certified under this section.

4.32 Subd. 4. **Statewide coordinator.** The ~~current gang strike force commander shall~~  
4.33 ~~serve as a transition coordinator until July 1, 2006, at which time the commissioner of~~  
4.34 ~~public safety shall appoint a statewide coordinator as recommended by the oversight~~  
4.35 ~~council.~~ The coordinator serving in the unclassified service shall:

5.1 (1) coordinate and monitor all multijurisdictional gang and drug enforcement  
5.2 activities;

5.3 (2) facilitate local efforts and ensure statewide coordination with efforts to combat  
5.4 gang and drug crime;

5.5 (3) facilitate training for personnel;

5.6 (4) monitor compliance with investigative protocols; and

5.7 (5) ~~implement an outcome evaluation and data quality control process~~ review annual  
5.8 audits conducted under subdivision 3a, take corrective actions based on audit results, and  
5.9 submit a summary report of the audits and any corrective actions to the commissioner of  
5.10 public safety.

5.11 Subd. 5. **Participating officers; employment status.** All participating law  
5.12 enforcement officers must be licensed peace officers as defined in section 626.84,  
5.13 subdivision 1, or qualified federal law enforcement officers as defined in section 626.8453.  
5.14 Participating officers remain employees of the same entity that employed them before  
5.15 joining any multijurisdictional entity established under this section. Participating  
5.16 officers are not employees of the state. Participating officers shall be subject to annual  
5.17 performance reviews conducted by the entity's governing board.

5.18 Subd. 6. **Jurisdiction and powers.** Law enforcement officers participating in any  
5.19 multijurisdictional entity established under this section have statewide jurisdiction to  
5.20 conduct criminal investigations and have the same powers of arrest as those possessed by  
5.21 a sheriff.

5.22 Subd. 6a. **Evidence handling.** A multijurisdictional entity established pursuant  
5.23 to this section shall process all seized cash, physical assets, and evidence through the  
5.24 standard evidence handling procedures established by the participating agencies.

5.25 Subd. 7. **Grants authorized.** The commissioner of public safety, ~~upon~~  
5.26 ~~recommendation of the council,~~ may make grants to state and local units of government to  
5.27 combat gang and drug crime. When awarding grants, the commissioner shall consider  
5.28 appropriating grants under this section to fund community-based gang intervention and  
5.29 prevention efforts for youth.

5.30 Subd. 8. **Oversight council is permanent.** Notwithstanding section 15.059, this  
5.31 section does not expire.

5.32 Subd. 8a. **Governing board; prosecutor's role.** (a) A multijurisdictional entity  
5.33 established under this section shall create a governing board consisting of the chief law  
5.34 enforcement officer, or designee, from each participating agency, a prosecutor from one of  
5.35 the participating agencies, and up to three additional members selected by the governing  
5.36 board. A governing board shall have no less than six members.

6.1 (b) The prosecutor on the governing board shall have the following responsibilities:

6.2 (1) to ensure adequate training for officers assigned to a multijurisdictional entity in  
6.3 order to increase successful prosecutions;

6.4 (2) to advise on the lawful handling and processing of seized property and evidence  
6.5 and forfeited property and money; and

6.6 (3) to ensure that seizures and forfeitures are reported in accordance with section  
6.7 609.5315, subdivision 6.

6.8 Subd. 9. **Funding.** Participating agencies may accept lawful grants or contributions  
6.9 from any federal source or legal business or entity.

6.10 Subd. 10. **Role of attorney general.** The attorney general or a designee shall  
6.11 generally advise on any matters that the oversight council deems appropriate.

6.12 Subd. 11. **Attorney general; community liaison.** (a) The attorney general or a  
6.13 designee shall serve as a liaison between the oversight council and the councils of color  
6.14 created in sections 3.922, 3.9223, 3.9225, and 3.9226. The attorney general or designee  
6.15 will be responsible for:

6.16 (1) informing the councils of color of the plans, activities, and decisions and hearing  
6.17 their reactions to those plans, activities, and decisions; and

6.18 (2) providing the oversight council with the ~~councils'~~ position of the councils of  
6.19 color on the oversight council's plan, activities, and decisions.

6.20 (b) In no event is the oversight council required to disclose the names of individuals  
6.21 identified by it to the councils of color referenced in this subdivision.

6.22 (c) Nothing in this subdivision changes the data classification of any data held  
6.23 by the oversight council.

6.24 Subd. 12. **Required ~~report~~ reports.** (a) By ~~March~~ February 1 of each year,  
6.25 the ~~council~~ commissioner of public safety shall ~~report~~ submit the following reports to  
6.26 the chairs of the senate and house of representatives committees and divisions having  
6.27 jurisdiction over criminal justice policy and funding ~~on the activities of the council and~~  
6.28 ~~any strike or task forces. This annual report shall include:~~

6.29 (1) ~~a description of the council's goals for the previous year and for the coming year~~  
6.30 report containing summary data of all audits conducted on multijurisdictional entities  
6.31 under subdivision 3a;

6.32 (2) ~~a description of the outcomes the council achieved or did not achieve during the~~  
6.33 ~~preceding year and a description of the outcomes the council will seek to achieve during~~  
6.34 ~~the coming year~~ report on the results of audits conducted on criminal gang investigative  
6.35 data systems under sections 299C.091 and 626.8442; and

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7.1 (3) ~~any legislative recommendations the council has including, where necessary, a~~  
7.2 ~~description of the specific legislation needed to implement the recommendations~~ a report  
7.3 on the development of, and updates to, the statewide policy and procedure manual for  
7.4 criminal gang investigative data systems under section 626.8442, subdivision 4; and  
7.5 (4) a report on the activities and goals of the oversight council.

7.6 Sec. 3. Minnesota Statutes 2008, section 299C.091, subdivision 2, is amended to read:

7.7 Subd. 2. **Entry of data into system.** (a) A law enforcement agency may submit  
7.8 data on an individual to the criminal gang investigative data system only if the agency  
7.9 obtains and maintains the documentation required under this subdivision. Documentation  
7.10 may include data obtained from other criminal justice agencies, provided that a record of  
7.11 all of the documentation required under paragraph (b) is maintained by the agency that  
7.12 submits the data to the bureau. Data maintained by a law enforcement agency to document  
7.13 an entry in the system are confidential data on individuals as defined in section 13.02,  
7.14 subdivision 3, but may be released to criminal justice agencies.

7.15 (b) A law enforcement agency may submit data on an individual to the bureau for  
7.16 inclusion in the system if the individual is 14 years of age or older and the agency has  
7.17 documented that:

7.18 (1) the individual has met at least three of the criteria or identifying characteristics  
7.19 of gang membership developed by the Gang and Drug Oversight Council and approved  
7.20 by the commissioner of public safety under section 299A.641, subdivision 3, clause ~~(7)~~,  
7.21 ~~as required by the council~~ (10); and

7.22 (2) the individual has been convicted of a gross misdemeanor or felony or has been  
7.23 adjudicated or has a stayed adjudication as a juvenile for an offense that would be a gross  
7.24 misdemeanor or felony if committed by an adult.

7.25 (c) The bureau shall provide users that enter data into the system with training on  
7.26 the statewide policy and procedure manual under section 626.8442, subdivision 4, before  
7.27 granting users access to the system.

7.28 Sec. 4. Minnesota Statutes 2008, section 299C.091, subdivision 4, is amended to read:

7.29 Subd. 4. **Audit of data submitted to system; reports.** The bureau shall conduct  
7.30 periodic random audits of data under subdivision 2 that documents inclusion of an  
7.31 individual in, and removal of an individual from, the criminal gang investigative data  
7.32 system for the purpose of determining the validity, completeness, and accuracy of data  
7.33 submitted to the system. The bureau has access to the documenting data for purposes of

8.1 conducting an audit. By October 1 of each year, the bureau shall submit a report on the  
8.2 results of the audits to the commissioner of public safety.

8.3 Sec. 5. Minnesota Statutes 2008, section 609.531, subdivision 1, is amended to read:

8.4 Subdivision 1. **Definitions.** For the purpose of sections 609.531 to 609.5318, the  
8.5 following terms have the meanings given them.

8.6 (a) "Conveyance device" means a device used for transportation and includes, but  
8.7 is not limited to, a motor vehicle, trailer, snowmobile, airplane, and vessel and any  
8.8 equipment attached to it. The term "conveyance device" does not include property which  
8.9 is, in fact, itself stolen or taken in violation of the law.

8.10 (b) "Weapon used" means a dangerous weapon as defined under section 609.02,  
8.11 subdivision 6, that the actor used or had in possession in furtherance of a crime.

8.12 (c) "Property" means property as defined in section 609.52, subdivision 1, clause (1).

8.13 (d) "Contraband" means property which is illegal to possess under Minnesota law.

8.14 (e) "Appropriate agency" means the Bureau of Criminal Apprehension, the  
8.15 Department of Commerce Division of Insurance Fraud Prevention, the Minnesota  
8.16 Division of Driver and Vehicle Services, the Minnesota State Patrol, a county sheriff's  
8.17 department, the Three Rivers Park District park rangers, the Department of Natural  
8.18 Resources Division of Enforcement, the University of Minnesota Police Department, the  
8.19 Department of Corrections Fugitive Apprehension Unit, ~~or~~ a city, metropolitan transit, or  
8.20 airport police department; or a multijurisdictional entity established pursuant to section  
8.21 299A.641 or 299A.681.

8.22 (f) "Designated offense" includes:

8.23 (1) for weapons used: any violation of this chapter, chapter 152, or chapter 624;

8.24 (2) for driver's license or identification card transactions: any violation of section  
8.25 171.22; and

8.26 (3) for all other purposes: a felony violation of, or a felony-level attempt or  
8.27 conspiracy to violate, section 325E.17; 325E.18; 609.185; 609.19; 609.195; 609.21;  
8.28 609.221; 609.222; 609.223; 609.2231; 609.24; 609.245; 609.25; 609.255; 609.282;  
8.29 609.283; 609.322; 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision 1,  
8.30 clauses (a) to (f); 609.344, subdivision 1, clauses (a) to (e), and (h) to (j); 609.345,  
8.31 subdivision 1, clauses (a) to (e), and (h) to (j); 609.352; 609.42; 609.425; 609.466;  
8.32 609.485; 609.487; 609.52; 609.525; 609.527; 609.528; 609.53; 609.54; 609.551; 609.561;  
8.33 609.562; 609.563; 609.582; 609.59; 609.595; 609.611; 609.631; 609.66, subdivision 1e;  
8.34 609.671, subdivisions 3, 4, 5, 8, and 12; 609.687; 609.821; 609.825; 609.86; 609.88;



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9.1 609.89; 609.893; 609.895; 617.246; 617.247; or a gross misdemeanor or felony violation  
9.2 of section 609.891 or 624.7181; or any violation of section 609.324.

9.3 (g) "Controlled substance" has the meaning given in section 152.01, subdivision 4.

9.4 Sec. 6. Minnesota Statutes 2008, section 609.5315, subdivision 6, is amended to read:

9.5 Subd. 6. **Reporting requirement.** The appropriate agency shall provide a written  
9.6 record of each forfeiture incident to the state auditor. The record shall include the amount  
9.7 forfeited, date of seizure and forfeiture, the basis of the forfeiture disposition, including  
9.8 statutory or other authority, whether the forfeiture was contested, and a brief description of  
9.9 the circumstances involved. The record shall also list the number of firearms forfeited  
9.10 and the make, model, and serial number of each firearm forfeited. The state auditor may  
9.11 require information not specified in this subdivision to also be reported. Reports shall be  
9.12 made on a monthly basis in a manner prescribed by the state auditor. The state auditor  
9.13 shall report annually to the legislature on the nature and extent of forfeitures, including  
9.14 a list of agencies that failed to comply with the requirements of this subdivision for a  
9.15 cumulative period of 30 days or longer during the reporting year.

9.16 Sec. 7. **[626.8442] CRIMINAL GANG INVESTIGATIVE DATA SYSTEMS.**

9.17 Subdivision 1. **Definitions.** For purposes of this section, the following terms have  
9.18 the meaning given to them:

9.19 (1) "criminal justice agency" has the meaning given in section 13.02, subdivision  
9.20 3a; and

9.21 (2) "law enforcement agency" has the meaning given in section 626.84, subdivision  
9.22 1, paragraph (f).

9.23 Subd. 2. **Data system.** (a) Upon approval by the governing body of the appropriate  
9.24 statutory or home rule charter city or county, a law enforcement agency may administer  
9.25 and maintain a computerized criminal gang investigative data system for the purpose  
9.26 of investigating and prosecuting criminal activity by gang members. The agency may  
9.27 only enter and maintain data on an individual in accordance with this section and section  
9.28 299C.091. Data on an individual must be removed from the system in accordance with  
9.29 section 299C.091, subdivision 5.

9.30 (b) The law enforcement agency shall provide users who enter data into the system  
9.31 with training on the statewide policy and procedure manual under subdivision 4 before  
9.32 granting users access to the system.

9.33 Subd. 3. **Classification of data.** Data in the criminal gang investigative data system  
9.34 are confidential data on individuals as defined in section 13.02, subdivision 3, but are

10.1 accessible to law enforcement agencies and may be released to criminal justice agencies  
10.2 for investigative purposes.

10.3 Subd. 4. **Policies and protocols.** (a) By December 1, 2010, the Bureau of Criminal  
10.4 Apprehension, in consultation with the Gang and Drug Oversight Council, shall develop a  
10.5 statewide policy and procedure manual to be used by the bureau under section 299C.091,  
10.6 and by any law enforcement agency that maintains a criminal gang investigative data  
10.7 system under this section. At a minimum, the manual must contain the following:

10.8 (1) uniform policies and procedures governing usage of criminal gang investigative  
10.9 data systems;

10.10 (2) protocols for collecting and entering data in the systems and removing data  
10.11 from the systems; and

10.12 (3) standards that address oversight and accountability of all users and agencies  
10.13 involved in data collection.

10.14 (b) The Bureau of Criminal Apprehension shall review and update the manual every  
10.15 two years and shall report changes made to the manual to the commissioner of public  
10.16 safety. The commissioner must submit the manual and any subsequent changes to the  
10.17 legislature with its report under section 299A.641, subdivision 12.

10.18 Subd. 5. **Audits; reports to commissioner.** The law enforcement agency shall  
10.19 conduct periodic random audits of data under subdivision 2 that documents inclusion of  
10.20 an individual in, and removal of an individual from, the criminal gang investigative data  
10.21 system for the purpose of determining the validity, completeness, and accuracy of data  
10.22 submitted to the system. The agency has access to the documenting data for purposes of  
10.23 conducting an audit. By October 1 of each year, the agency shall submit a report on the  
10.24 results of the audits to the commissioner of public safety.

10.25 Sec. 8. **MULTIJURISDICTIONAL GANG AND DRUG STRIKE FORCES.**

10.26 A joint powers entity established pursuant to Minnesota Statutes, section 299A.641,  
10.27 before the effective date of this section that included as parties to the joint powers  
10.28 agreement two counties with a population over 500,000 each, is dissolved and any  
10.29 governing or advisory board established by the terms of the agreement is also dissolved.  
10.30 All current and future obligations and liabilities of the joint powers entity remain with the  
10.31 parties to the agreement and do not transfer to the state.

10.32 For purposes of this section, "population" means the most recent population estimate  
10.33 made by the state demographer under Minnesota Statutes, section 4A.02.

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