

**2019 LEGISLATIVE UPDATE  
ROBERT SMALL  
EXECUTIVE DIRECTOR  
MCAA  
JULY 31, 2019**



rsmall@mcaa-mn.org



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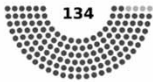
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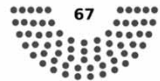
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**House 75 DFL, 59 R**



**Senate 35 R, 32 DFL**

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**NOVEMBER 28, 2018**

"WE CAN WORK TOGETHER"

"WE WILL BE TRANSPARENT AND SET EARLY DEADLINES"

"WE'RE OPTIMISTIC THAT WE CAN BUILD BRIDGES AND GET A  
BUDGET DONE EARLY"



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**JANUARY 8, 2019  
SESSION BEGINS**

**Starting  
Line**



**BRACE YOURSELVES**

**MINNESOTA LEGISLATIVE SESSION  
IS STARTING**

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**DFL's 'Values Agenda'**

▣ First 10 bills focused on:

- More affordable health care;
- Increased support for early childhood education; and
- Preventing gun violence



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**Republicans agenda**

▣ First 5 bills focused on:

- Access;
- Affordability; and
- Accountability



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## DIVIDED GOVERNMENT = DIVIDED PRIORITIES



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## The Minnesota Legislature's 'Cone Of Silence'



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## SPECIAL SESSION



Agreement for Special Services

In order to further legislation aimed at the health, well-being, and safety of the citizens of Minnesota, the Governor of Minnesota and the below legislative leaders agree as follows:

- [illegible]

Page 114

3. With due regard to the individual rights and authorities of each member of the international legislatures, the international legislatures shall, in exercising their functions, apply the following:
- a. The legislatures shall not set up administrative bodies or bodies that do not have an legislative character; the members of these bodies shall, however, when acting as members of a special legislative body, be members of the legislatures. The legislatures shall be organized in the House of Representatives of Poland. On 28.09.2010, the legislatures were set up pursuant to both legislatures having 7300 members. May 25, 2010.
  - b. Both the House and the Senate of Representatives must be elected in separate and identical districts. For Article 101 of the Ministerial Constitution, Senate Rule 1 and House Rule 4, requiring that "a law given by the legislatures is given force, as an act, when the two legislatures have approved the bill by both legislatures." (Article 101, Senate Rules, 2010, requires approval).

Signed on May 28, 2004



T. M. White

Prof. Dr. Maria Helena  
Supervisor: Maria Helena

*Paul F. Jaha*  
Senior Publications Editor

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**MAY 25, 2019**




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**"I think for both sides they'd say it is a draw," Senate Majority Leader Paul Gazelka said Saturday just after the 7 a.m. deadline to end the special session. "You just don't get everything you want in divided government; sometimes you get things you don't want at all."**




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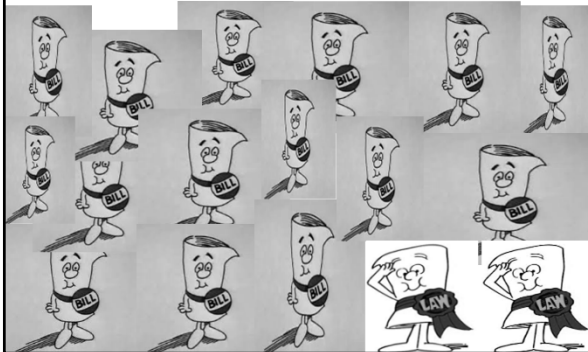
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**5,859 Bills Introduced  
78 Passed**




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### MCAA Priorities for the 2019 session:

- ▣ Continuation of MCAA Training money
- ▣ Ensure Transfer into the Justice Reinvestment Fund
- ▣ Probation Reform
- ▣ Legislation to Treat Incompetent Defendants




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### Ensure MCAA Training money is continued



**EDUCATION FUNDING**

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### JUSTICE REINVESTMENT FUND




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## Probation Reform



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## TREATING INCOMPETENT DEFENDANTS

▣ Summary of the Highlights of the Statutory Framework:

- 1) Automatic placement into a competence restoration program directly from criminal court;
- 2) DHS remains a provider and partner in competence restoration services;
- 3) Eliminates the legal gap between those defendants who are incompetent but who do not meet commitment criteria;
- 4) Creates clear deadlines for hearings and evaluations to prevent defendants from languishing in jails;
- 5) Creates clear deadlines for hearings and evaluations to prevent defendants from languishing in jails;
- 6) Clarifies that defendants are presumed competent unless proven to be incompetent.

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## What did pass during the session

### *Criminal Law*



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**HOUSE PUBLIC SAFETY  
COMMITTEE:**  
**\$232 million increase over the  
base budget**  
**Over 75 Policy Provisions in the  
Omnibus bill**

shutterstock.com • 302264657

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**SENATE JUDICIARY COMMITTEE:**  
**\$25.3 Increase over base budget**  
**0 POLICY PROVISIONS in the  
Omnibus bill**


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**EXONERATION AMENDMENTS TO  
MINN. STAT. § 591.11**

- ▣ Amends Definition of “exonerated”
- ▣ Defines “on grounds consistent with innocence” either exonerated through
  - (1) a pardon based on factual innocence or
  - (2) the vacation or reversal of a judgment of conviction based on evidence of factual innocence.
- ▣ Removes references to “in prison” and “imprisonment” and inserts the term “incarceration.”




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## HARASSMENT AND STALKING CRIMES

### AMENDING Minn. Stat. § 609.749

- ▣ What was “Stalking” is now defined as “Harassment”
- ▣ What was “Pattern of Stalking” is now defined as “Stalking”




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## ADMISSION OF DOMESTIC ABUSE NO CONTACT ORDER VIOLATIONS

- ▣ Amends Minn. Stat. § 634.20 – Relationship Evidence – effective May 31, 2019

**EVIDENCE**




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## WAGE THEFT AMENDS MINN. STAT. § 609.52

- ▣ Adds definitions related to criminal wage theft
- ▣ Adds wage theft with intent to defraud to list of acts that constitute theft in the criminal statutes
- ▣ Enhanced penalties as well as aggregation of offenses
- ▣ [http://www.dli.mn.gov/sites/default/files/pdf/wage\\_theft\\_law\\_summary.pdf](http://www.dli.mn.gov/sites/default/files/pdf/wage_theft_law_summary.pdf)




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## STAY OF ADJUDICATION AMENDING § 609.095

- ☐ Judge must justify in writing and on the record reasons for granting a stay of adjudication
  - In all felony Criminal Sexual Conduct cases
  - In all Failure to Register cases

Criminal  
Sexual  
Conduct




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## CURRENT OR RECENT POSITION OF AUTHORITY AMENDING §§ 609.341-.345

- ☐ Recent = within 120 days preceding the act
- ☐ Applies to Criminal Sexual Conduct statutes
- ☐ Includes persons who “assume” a duty or responsibility




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## 1<sup>st</sup> DEGREE CRIMINAL SEXUAL CONDUCT AMENDING §§ 609.342, Subd. 1(g), (h)

- ☐ Victim under 13
- ☐ Proof of either Sexual penetration or sexual contact




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### 3<sup>RD</sup> AND 4<sup>TH</sup> DEGREE CRIMINAL SEXUAL CONDUCT AMENDING §§ 609.344, 609.345

- ☐ Peace Officer engages in any type of Sexual Contact [4<sup>th</sup> degree] or Penetration [3<sup>rd</sup> degree]
- ☐ Person being restrained or
- ☐ Person not free to leave
- ☐ Consent by the complainant is not a defense




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### 5<sup>TH</sup> DEGREE CRIMINAL SEXUAL CONDUCT AMENDING § 609.3451

- ☐ Eliminates the *exception* for the intentional touching of the clothing covering the immediate area of the buttocks




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### INTERFERENCE WITH PRIVACY AMENDING § 609.746

- ☐ Enhanced Felony Penalty for Surreptitious Intrusion
  - Use of a recording device
  - Victim was a minor
  - Offender more than 36 months older
  - Offender knew, or had reason to know, of minor's presence
  - Offense committed with sexual intent
  - Predatory Registration is required




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### CHILD PORNOGRAPHY CRIMES – Possession; Dissemination; Use of a Minor in a Sexual Performance AMENDING §§ 609.246, 609.247

- ☐ Enhanced felony maximum penalties
  - if involves victim under 13
  - Repeat Offender
  - Offender is a Registered Predatory Offender
- ☐ Extends Conditional Release Period for Repeat Offenders
- ☐ Mandates to the Sentencing Guidelines Commission




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### PREDATORY OFFENDERS AMENDING MINN. STAT. § 243.166, Subd. 5

- ☐ Response to *State v. Mikulak*
  - Knows, or reasonably should know of the duty to register




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### ELIMINATION OF “MARITAL RAPE EXCEPTION”

- ☐ Repeals Minn. Stat. § 609.349 VOLUNTARY RELATIONSHIPS
- ☐ EFFECTIVE DATE is July 1, 2019, and applies to crimes committed on or after that date




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**What did pass during the session**  
**VEHICLE OPERATIONS**




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**OPERATING PRIVILEGES**  
**AMENDING**  
**MINN. STAT. §§84.91, 86B.331**

- ☐ Snowmobile, ATV, Motorboat operating privileges revoked
  - Fails a lawfully administered test to determine if person was operating under the influence




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**PRIOR OFFENSES TO ENHANCE**  
**TO 1<sup>ST</sup> DEGREE DWI AMENDING**  
**MINN. STAT. §169A.24**

- ☐ Adds convictions from Minnesota *and* from other states for impaired driving-related criminal vehicular operation offenses




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## FORFEITURE EXEMPTION – IGNITION INTERLOCK AMENDING MINN. STAT. § 169A.63

- ❑ No DWI forfeiture if person enters Ignition Interlock program
- ❑ Specifies future conduct that would resume the forfeiture proceeding




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## HANDS FREE DRIVING AMENDING § 169.475 USE OF WIRELESS COMMUNICATIONS DEVICE

- ❑ Drivers can send messages or place calls while driving only if their device is in hands-free or voice-activated mode
- ❑ Exception for emergency calls
- ❑ The penalty for violating the law is a petty misdemeanor




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## RECKLESS AND CARELESS DRIVING Operator of Light Rail Transit Vehicle

- ❑ Amends MINN. STAT. § 169.13 to include the Operator of a Light Rail Transit Vehicle




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**What did pass during the session**  
***Task Forces and a Working Group***




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**MISSING AND MURDERED  
 INDIGENOUS WOMEN TASK  
 FORCE**

- ▣ To include one or more representatives from the Minnesota County Attorneys Association;




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**COMMUNITY COMPETENCY  
 RESTORATION TASK FORCE**

- ▣ **24 Members to include a representative appointed by the Minnesota County Attorneys Association**




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## CRIMINAL SEXUAL CONDUCT STATUTORY REFORM WORKING GROUP

- ☐ Commissioner shall invite representatives from county prosecuting agencies




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## Family Child Care Task Force

**Family Child Care**  
is not **Babysitting**.  
**It's not comparable**  
to any child care center.  
**It's FAMILIES** in  
**relationships**  
with a **PROFESSIONAL** care provider  
in an **environment**  
that becomes, **BY DESIGN**  
**a second home.**  
and a whole **BUNCH of PEOPLE**  
partnering, trusting, caring  
and educating each other.

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What did pass during the  
session  
*Other Laws of Interest*




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### Amendments to the Juvenile Court Act, Minn. Stat. § 260C.329

- ▣ Allows people who have had parental rights terminated to Petition to have their parent-child relationships reestablished
  - the parent has corrected the conditions that led to an order terminating parental rights;
  - the parent is willing and has the capability to provide day-to-day care and maintain the health, safety, and welfare of the child;
  - the child has been in foster care for at least 48 months;
  - The child has not been adopted nor the subject of an adoption agreement

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### PETITION

- ▣ 45 days prior to filing a petition, a parent must notify the responsible social services agency of their intent to petition
- ▣ Served on Child, County Attorney, Social Service Agency, child's Guardian Ad Litem, and if applicable, Tribe
- ▣ Content of Petition is set forth in the statute
- ▣ Hearing – Clear and Convincing Evidence; criteria set forth in statute
- ▣ If denied, Court sets the length of time before another petition may be filed

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### TRACKING FORM mgomez@mcaa-mn.org

- ▣ Reestablishment of Parental Rights - Tracking Form available on our website
- ▣ <https://mcaa-mn.org/page/FLPAJL>




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## CHILD SUPPORT

- ▣ Minn. Stat. § 518A.51 (Federal Annual Fee)
- ▣ Minn. Stat. § 144.225 (Access to Tribal Birth Records)
- ▣ Minn. Stat. § 518A.32 (Imputing potential Income)




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## Department of Human Services

- ▣ Family Child Care & Foster Care Licensing




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## BACKGROUND STUDIES Amending Minn. Stat. § 245C.05 Effective October 1, 2019

- ▣ Information obtained by the Commissioner of Human Services through a *national* criminal history record check:
  - Is private; and
  - Cannot be shared with private agencies, employers, or counties

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▣ § 13.46 –	Data Practices – Licensing Data
▣ § 245A.04 –	Exit Interviews
▣ § 245A.07 –	Temporary Immediate Suspension
▣ § 245A.14 –	Special Family Care
▣ § 245A.145 –	Child Care Program Reporting Notification
▣ § 245A.16 –	Variances for Extended Use of Substitutes
▣ § 245A.16 –	Reporting Fires in Providers Homes by County Agencies
▣ § 245A.24 –	Mandatory Fraud Reporting
▣ § 245A.51 –	Family Child Care Health & Safety Requirements
▣ § 245A.51 –	Emergency Preparedness Plan
▣ § 245A.52 –	Fire Code
▣ § 245A.53 –	Emergency Replacements in Family Child Care Program
▣ § 245A.53 –	Use of Substitutes in Family Child Care Program

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**What did NOT pass during the session but are alive for 2020 session**




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**What did NOT pass during the session but are alive for 2020 session**

- ▣ 1. Controlled Substances:  
Dimethyltryptamine (DMT) treated the same as meth (HF 2351)
- ▣ 2. Expansion of Background checks (HF 8)
- ▣ 3. Red Flag bill (HF 9)
- ▣ 4. Probation Reform (HF 689)
- ▣ 5. Mandated policy on eyewitness identification (HF 627)

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**What did NOT pass during the session but are alive for 2020 session**

- ▣ 6. Extending certain post conviction relief deadlines (HF 739)
- ▣ 7. Limiting Cash Bail in misdemeanors (HF 741)
- ▣ 8. Marijuana Thresholds (HF 2013)
- ▣ 9. Forfeiture (HF 1971)
- ▣ 10. Cannabis Task Force (HF 717)

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**What did NOT pass during the session but are alive for 2020 session**

- ▣ 11. Elimination of Statute of Limitations in CSC cases (HF 734)
- ▣ 12. Collateral Consequences bill (HF 981)
- ▣ 13. Amending Juvenile Life Without Parole (HF 1717)
- ▣ 14. Limitation of Use of Restraints on Juveniles (HF 1678)
- ▣ 15. Requiring Family Impact Statement in Presentence Investigations (HF 591)

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**What did NOT pass during the session but are alive for 2020 session**

- ▣ 16. Authority of Courts to waive or reduce mandatory surcharge (HF 1060)
- ▣ 17. Changes to the Burglary Statute (HF 301)
- ▣ 18. Cooperative Divorce (HF 1115)
- ▣ 19. Veterans Sentencing (HF 998)
- ▣ 20. Early Release from Prison (SF 2879)

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### What did NOT pass during the session but are alive for 2020 session

- ▣ 21. Organized Retail Theft (SF 2862)
- ▣ 22. Female Genital Mutilation (HF 373)
- ▣ 23. Increased penalties for damage to pipelines (HF 2241)
- ▣ 24. Closing Juvenile Court *and* raising age from 10 to 13 at which a juvenile is subject to adjudication as a delinquent (HF 1679)
- ▣ 25. African American Family Preservation Act (HF 342)

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### What did NOT pass during the session but are alive for 2020 session

- ▣ 26. Child Foster Care Modifications (HF 1050/SF1217)
- ▣ 27. Restoration of Voting Rights (HF40/SF 856)
- ▣ 28. Conservation Officers can enforce DWI laws (HF 1149/SF 449)
- ▣ 29. Sentencing Guidelines Modifications to apply to crimes prospectively only (HF 2045/SF 1441)

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2020 Session - FEBRUARY 11, 2020

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