

62CV115203

FILED
Court Administrator

JUL - 6 2011

By CW Deputy

Division of Insurance Fraud Prevention - Minnesota Department of Commerce

- 1) Department overview,
 - a. created in 2004,
 - i. 10 sworn police officers,
 - ii. 6 support staff (4 analysts, 1 computer forensic specialist, 1 office manager),
 - b. funding is governed by MN State Statute 45.0135,
 - i. every insurer is required to remit an assessment to the Commissioner of Commerce, which is used to fund the division,
 1. division is funded by special assessment, not public tax dollars.
- 2) Each police officer is deemed essential under MN State Statute 179A.03 Sub 7,
 - a. as an essential employee, officers are unable to strike.
- 3) Minnesota State Constitution Article 1, Section 1,
 - a. "Object of Government, instituted for the security, benefit and protection of the people....,"
 - i. Insurance Fraud Division investigates white collar crime,
 1. white collar crime presents an economic danger to the people of Minnesota,
 2. insurance fraud is often a crime committed in conjunction with other crimes, e.g., assault, arson, conspiracy, racketeering, theft.
- 4) Minnesota Law Enforcement Association (MLEA),
 - a. all state troopers, BCA agents, Alcohol & Gambling agents, conservation officers, Fugitive Task Force agents, and Insurance Fraud Division detectives are members,
 - i. 7 Insurance Fraud Division detectives are only MLEA members not working during the state shutdown.

2010 Minnesota Statutes

45.0135 DIVISION OF INSURANCE FRAUD PREVENTION.

Subdivision 1. [Repealed, 2004 c 269 art 1 s 12]

Subd. 2. [Repealed, 2004 c 269 art 1 s 12]

Subd. 2a. **Authorization.** The commissioner may appoint peace officers, as defined in section 626.84, subdivision 1, paragraph (c), and establish a law enforcement agency, as defined in section 626.84, subdivision 1, paragraph (f), known as the Division of Insurance Fraud Prevention, to conduct investigations, and to make arrests under sections 629.30 and 629.34. The jurisdiction of the law enforcement agency is limited to offenses related to insurance fraud.

Subd. 2b. **Duties.** The Division of Insurance Fraud Prevention shall:

(1) review notices and reports of insurance fraud submitted by authorized insurers, their employees, and agents or producers;

(2) respond to notifications or complaints of suspected insurance fraud generated by other law enforcement agencies, state or federal governmental units, or any other person;

(3) initiate inquiries and conduct investigations when the division has reason to believe that insurance fraud has been or is being committed; and

(4) report incidents of alleged insurance fraud disclosed by its investigations to appropriate law enforcement agencies, including, but not limited to, the attorney general, county attorneys, or any other appropriate law enforcement or regulatory agency, and shall assemble evidence, prepare charges, and otherwise assist any law enforcement authority having jurisdiction.

Subd. 2c. **Arrests and investigations.** The initial processing of a person arrested by the Division of Insurance Fraud Prevention for an offense within its jurisdiction is the responsibility of the Division of Insurance Fraud Prevention unless otherwise directed by the law enforcement agency with primary jurisdiction. Subsequent investigation shall be the responsibility of the Division of Insurance Fraud Prevention unless otherwise directed by the law enforcement agency with primary jurisdiction. At the request of the primary jurisdiction, the Division of Insurance Fraud Prevention may assist in a subsequent investigation being carried out by the primary jurisdiction.

Subd. 2d. **Policy for notice of investigations.** The Division of Insurance Fraud Prevention must develop a policy for notifying the law enforcement agency with primary jurisdiction when it has initiated investigation of any person within the jurisdiction of that agency.

Subd. 2e. **Chief law enforcement officer.** The commissioner shall appoint a peace officer employed full time to be the chief law enforcement officer and to be responsible for the management of the Division of Insurance Fraud Prevention. The chief law enforcement officer shall possess the necessary police and management experience to manage a law enforcement agency. The chief law enforcement officer may appoint, discipline, and discharge all employees of the Division of Insurance Fraud Prevention. All police managerial and supervisory personnel must be full-time employees of the Division of Insurance Fraud Prevention. Supervisory personnel must be on duty and available any time peace officers of the Division of Insurance Fraud Prevention are on duty.

Subd. 2f. **Compliance.** Except as otherwise provided in this section, the Division of Insurance Fraud Prevention shall comply with all statutes and administrative rules relating to the operation and management of a law enforcement agency.

Subd. 3. **Evidence, documentation, and related materials.** If the division seeks evidence, documentation, and related materials pertinent to an investigation, and the matter is located outside of this state, the division may designate representatives, including officials of the state where the matter is located, to secure the matter or inspect the matter on its behalf.

Subd. 4. **Confidentiality and immunity.** The provisions of chapter 13, including, but not limited to, section 13.82, apply to the classification, disclosure, and collection of data relating to the Division of Insurance Fraud Prevention.

Subd. 5. **Annual report on activities and cost-effectiveness.** The Division of Insurance Fraud Prevention shall maintain records and information in order to produce an annual report of its activities as may be prescribed by the commissioner of commerce. The commissioner shall report annually to the house of representatives and senate standing committees with jurisdiction over insurance issues as to the activities of the division and the cost-effectiveness of the programs established by the division.

Subd. 6. **Insurance fraud prevention account.** The insurance fraud prevention account is created in the state treasury. Money received from assessments under subdivision 7 is deposited in the account. Money in this fund is appropriated to the commissioner of commerce for the purposes specified in this section and sections 60A.951 to 60A.956.

Subd. 7. **Assessment.** Each insurer authorized to sell insurance in the state of Minnesota, including surplus lines carriers, and having Minnesota earned premium the previous calendar year shall remit an assessment to the commissioner for deposit in the insurance fraud prevention account on or before June 1 of each year. The amount of the assessment shall be based on the insurer's total assets and on the insurer's total written Minnesota premium, for the preceding fiscal year, as reported pursuant to section 60A.13. The assessment is calculated to be an amount up to the following:

Total Assets		Assessment
Less than \$100,000,000	\$	200
\$100,000,000 to \$1,000,000,000	\$	750
Over \$1,000,000,000	\$	2,000
Minnesota Written Premium		Assessment
Less than \$10,000,000	\$	200
\$10,000,000 to \$100,000,000	\$	750
Over \$100,000,000	\$	2,000

For purposes of this subdivision, the following entities are not considered to be insurers authorized to sell insurance in the state of Minnesota: risk retention groups; or township mutuals organized under chapter 67A.

Subd. 8. **Investigations; health-related boards.** (a) The Division of Insurance Fraud Prevention may consult with the appropriate health-related board when a licensee, licensed under chapter 144E, 147, 148, 148B, or 150A, is suspected of insurance fraud.

(b) The division shall, for any conviction involving or related to insurance, send copies of all public data in its possession to the appropriate health-related licensing board.

History: 2002 c 331 s 1; 2004 c 269 art 1 s 2-9; 2005 c 10 art 2 s 4; 2005 c 77 s 1; 2005 c 147 art 11 s 1; 2009 c 178 art 1 s 2

2010 Minnesota Statutes

626.84 DEFINITIONS AND SCOPE.

Subdivision 1. **Definitions.** For purposes of sections 626.84 to 626.863, the following terms have the meanings given them:

(a) "Board" means the Board of Peace Officer Standards and Training.

(b) "Director" means the executive director of the board.

(c) "Peace officer" means:

(1) an employee or an elected or appointed official of a political subdivision or law enforcement agency who is licensed by the board, charged with the prevention and detection of crime and the enforcement of the general criminal laws of the state and who has the full power of arrest, and shall also include the Minnesota State Patrol, agents of the Division of Alcohol and Gambling Enforcement, state conservation officers, Metropolitan Transit police officers, Department of Corrections Fugitive Apprehension Unit officers, and Department of Commerce Insurance Fraud Unit officers, and the statewide coordinator of the Violent Crime Coordinating Council; and

(2) a peace officer who is employed by a law enforcement agency of a federally recognized tribe, as defined in United States Code, title 25, section 450b(e), and who is licensed by the board.

(d) "Part-time peace officer" means an individual licensed by the board whose services are utilized by law enforcement agencies no more than an average of 20 hours per week, not including time spent on call when no call to active duty is received, calculated on an annual basis, who has either full powers of arrest or authorization to carry a firearm while on active duty. The term shall apply even though the individual receives no compensation for time spent on active duty, and shall apply irrespective of the title conferred upon the individual by any law enforcement agency.

(e) "Reserve officer" means an individual whose services are utilized by a law enforcement agency to provide supplementary assistance at special events, traffic or crowd control, and administrative or clerical assistance. A reserve officer's duties do not include enforcement of the general criminal laws of the state, and the officer does not have full powers of arrest or authorization to carry a firearm on duty.

(f) "Law enforcement agency" means:

(1) a unit of state or local government that is authorized by law to grant full powers of arrest and to charge a person with the duties of preventing and detecting crime and enforcing the general criminal laws of the state; and

(2) subject to the limitations in section 626.93, a law enforcement agency of a federally recognized tribe, as defined in United States Code, title 25, section 450b(e).

(g) "Professional peace officer education" means a postsecondary degree program, or a nondegree program for persons who already have a college degree, that is offered by a college or university in Minnesota, designed for persons seeking licensure as a peace officer, and approved by the board.

Subd. 2. **Scope.** Notwithstanding sections 12.03, subdivision 4, 12.25, or any other law to the contrary, no individual employed or acting as an agent of any political subdivision shall be authorized to carry a firearm when on duty unless the individual has been licensed under sections 626.84 to 626.863. Nothing herein shall be construed as requiring licensure of a security guard as that term is defined in section 626.88, subdivision 1,

paragraph (c).

History: 1977 c 433 s 1; 1978 c 681 s 8; 1979 c 282 s 1; 1980 c 578 s 2; 1981 c 37 s 2; 1981 c 310 s 1; 1986 c 444; 1987 c 334 s 4; 1989 c 334 art 6 s 13; 1991 c 356 art 6 s 1; 1997 c 129 art 2 s 15; 1997 c 149 s 4; 1999 c 175 s 1; 2000 c 291 s 2; 2004 c 269 art 1 s 11; 2005 c 10 art 1 s 77; *art 2 s 3*; *2007 c 134 art 11 s 9*; *2010 c 383 s 7*

2010 Minnesota Statutes

179A.03 DEFINITIONS.

Subdivision 1. **General.** For the purposes of sections 179A.01 to 179A.25, the terms defined in this section have the meanings given them unless otherwise stated.

Subd. 2. **Appropriate unit.** "Appropriate unit" or "unit" means a unit of employees determined under sections 179A.09 to 179A.11. For school districts, the term means all the teachers in the district.

Subd. 3. **Bureau.** "Bureau" means the Minnesota Bureau of Mediation Services.

Subd. 4. **Confidential employee.** "Confidential employee" means an employee who as part of the employee's job duties:

(1) has access to labor relations information as that term is defined in section 13.37, subdivision 1, paragraph (c); or

(2) actively participates in the meeting and negotiating on behalf of the public employer.

Subd. 5. **Commissioner.** "Commissioner of the Minnesota Bureau of Mediation Services" or "commissioner" means the commissioner of the Bureau of Mediation Services.

Subd. 5a. **Court employee.** "Court employee" means a public employee employed by the Supreme Court, Court of Appeals, or a judicial district that is under section 480.181, subdivision 1, paragraph (b).

Subd. 6. **Employee organization.** "Employee organization" means any union or organization of public employees whose purpose is, in whole or in part, to deal with public employers concerning grievances and terms and conditions of employment.

Subd. 7. **Essential employee.** "Essential employee" means firefighters, peace officers subject to licensure under sections 626.84 to 626.863, 911 system and police and fire department public safety dispatchers, guards at correctional facilities, confidential employees, supervisory employees, assistant county attorneys, assistant city attorneys, principals, and assistant principals. However, for state employees, "essential employee" means all employees in law enforcement, public safety radio communications operators, health care professionals, correctional guards, professional engineering, and supervisory collective bargaining units, irrespective of severance, and no other employees. For University of Minnesota employees, "essential employee" means all employees in law enforcement, nursing professional and supervisory units, irrespective of severance, and no other employees. "Firefighters" means salaried employees of a fire department whose duties include, directly or indirectly, controlling, extinguishing, preventing, detecting, or investigating fires. Employees for whom the state court administrator is the negotiating employer are not essential employees. For Hennepin Healthcare System, Inc. employees, "essential employees" means all employees.

Subd. 8. **Exclusive representative.** "Exclusive representative" means an employee organization which has been certified by the commissioner under section 179A.12 to meet and negotiate with the employer on behalf of all employees in the appropriate unit.

Subd. 9. **Fair share fee challenge.** "Fair share fee challenge" means any proceeding or action instituted by a public employee, a group of public employees, or any other person, to determine their rights and obligations with respect to the circumstances or the amount of a fair share fee.

Subd. 10. **Meet and confer.** "Meet and confer" means the exchange of views and concerns between employers and their employees.

Subd. 11. **Meet and negotiate.** "Meet and negotiate" means the performance of the mutual obligations of public employers and the exclusive representatives of public employees to meet at reasonable times, including where possible meeting in advance of the budget making process, with the good faith intent of entering into an agreement on terms and conditions of employment. This obligation does not compel either party to agree to a proposal or to make a concession.

Subd. 12. **Principal; assistant principal.** "Principal" and "assistant principal" means any person so licensed by the commissioner of education who devotes more than 50 percent of the time to administrative or

supervisory duties.

Subd. 13. **Professional employee.** "Professional employee" means:

(a) any employee engaged in work (i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (ii) involving the consistent exercise of discretion and judgment in its performance; (iii) of a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and (iv) requiring advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education, an apprenticeship, or training in the performance of routine mental, manual, or physical processes; or

(b) any employee, who (i) has completed the course of advanced instruction and study described in clause (iv) of paragraph (a); and (ii) is performing related work under the supervision of a professional person to qualify as a professional employee as defined in paragraph (a); or

(c) a teacher.

Subd. 14. **Public employee or employee.** "Public employee" or "employee" means any person appointed or employed by a public employer except:

(a) elected public officials;

(b) election officers;

(c) commissioned or enlisted personnel of the Minnesota National Guard;

(d) emergency employees who are employed for emergency work caused by natural disaster;

(e) part-time employees whose service does not exceed the lesser of 14 hours per week or 35 percent of the normal work week in the employee's appropriate unit;

(f) employees whose positions are basically temporary or seasonal in character and: (1) are not for more than 67 working days in any calendar year; or (2) are not for more than 100 working days in any calendar year and the employees are under the age of 22, are full-time students enrolled in a nonprofit or public educational institution prior to being hired by the employer, and have indicated, either in an application for employment or by being enrolled at an educational institution for the next academic year or term, an intention to continue as students during or after their temporary employment;

(g) employees providing services for not more than two consecutive quarters to the Board of Trustees of the Minnesota State Colleges and Universities under the terms of a professional or technical services contract as defined in section 16C.08, subdivision 1;

(h) employees of charitable hospitals as defined by section 179.35, subdivision 3;

(i) full-time undergraduate students employed by the school which they attend under a work-study program or in connection with the receipt of financial aid, irrespective of number of hours of service per week;

(j) an individual who is employed for less than 300 hours in a fiscal year as an instructor in an adult vocational education program;

(k) an individual hired by the Board of Trustees of the Minnesota State Colleges and Universities to teach one course for three or fewer credits for one semester in a year;

(l) with respect to court employees:

(1) personal secretaries to judges;

(2) law clerks;

(3) managerial employees;

(4) confidential employees; and

(5) supervisory employees;

(m) with respect to employees of Hennepin Healthcare System, Inc., managerial, supervisory, and confidential employees.

The following individuals are public employees regardless of the exclusions of clauses (e) and (f):

(i) an employee hired by a school district or the Board of Trustees of the Minnesota State Colleges and Universities except at the university established in the Twin Cities metropolitan area under section 136F.10 or for community services or community education instruction offered on a noncredit basis: (A) to replace an absent teacher or faculty member who is a public employee, where the replacement employee is employed more than 30 working days as a replacement for that teacher or faculty member; or (B) to take a teaching position created due to increased enrollment, curriculum expansion, courses which are a part of the curriculum whether offered annually or not, or other appropriate reasons;

(ii) an employee hired for a position under clause (f)(1) if that same position has already been filled under clause (f)(1) in the same calendar year and the cumulative number of days worked in that same position by all employees exceeds 67 calendar days in that year. For the purpose of this paragraph, "same position" includes a substantially equivalent position if it is not the same position solely due to a change in the classification or title of the position; and

(iii) an early childhood family education teacher employed by a school district.

Subd. 15. **Public employer or employer.** "Public employer" or "employer" means:

(a) the state of Minnesota for employees of the state not otherwise provided for in this subdivision or section 179A.10 for executive branch employees;

(b) the Board of Regents of the University of Minnesota for its employees;

(c) the state court administrator for court employees;

(d) the state Board of Public Defense for its employees;

(e) Hennepin Healthcare System, Inc.; and

(f) notwithstanding any other law to the contrary, the governing body of a political subdivision or its agency or instrumentality which has final budgetary approval authority for its employees. However, the views of elected appointing authorities who have standing to initiate interest arbitration, and who are responsible for the selection, direction, discipline, and discharge of individual employees shall be considered by the employer in the course of the discharge of rights and duties under sections 179A.01 to 179A.25.

When two or more units of government subject to sections 179A.01 to 179A.25 undertake a project or form a new agency under law authorizing common or joint action, the employer is the governing person or board of the created agency. The governing official or body of the cooperating governmental units shall be bound by an agreement entered into by the created agency according to sections 179A.01 to 179A.25.

"Public employer" or "employer" does not include a "charitable hospital" as defined in section 179.35, subdivision 2.

Nothing in this subdivision diminishes the authority granted pursuant to law to an appointing authority with respect to the selection, direction, discipline, or discharge of an individual employee if this action is consistent with general procedures and standards relating to selection, direction, discipline, or discharge which are the subject of an agreement entered into under sections 179A.01 to 179A.25.

Subd. 16. **Strike.** "Strike" means concerted action in failing to report for duty, the willful absence from one's position, the stoppage of work, slowdown, or the abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment for the purposes of inducing, influencing, or coercing a change in the conditions or compensation or the rights, privileges, or obligations of employment.

Subd. 17. **Supervisory employee.** "Supervisory employee" means a person who has the authority to

undertake a majority of the following supervisory functions in the interests of the employer: hiring, transfer, suspension, promotion, discharge, assignment, reward, or discipline of other employees, direction of the work of other employees, or adjustment of other employees' grievances on behalf of the employer. To be included as a supervisory function which the person has authority to undertake, the exercise of the authority by the person may not be merely routine or clerical in nature but must require the use of independent judgment. An employee, other than an essential employee, who has authority to effectively recommend a supervisory function, is deemed to have authority to undertake that supervisory function for the purposes of this subdivision. The administrative head of a municipality, municipal utility, or police or fire department, and the administrative head's assistant, are always considered supervisory employees.

The removal of employees by the employer from a nonsupervisory appropriate unit for the purpose of designating the employees as "supervisory employees" shall require either the prior written agreement of the exclusive representative and the written approval of the commissioner or a separate determination by the commissioner before the redesignation is effective.

Subd. 18. Teacher. "Teacher" means any public employee other than a superintendent or assistant superintendent, principal, assistant principal, or a supervisory or confidential employee, employed by a school district:

(1) in a position for which the person must be licensed by the Board of Teaching or the commissioner of education; or

(2) in a position as a physical therapist or an occupational therapist.

Subd. 19. Terms and conditions of employment. "Terms and conditions of employment" means the hours of employment, the compensation therefor including fringe benefits except retirement contributions or benefits other than employer payment of, or contributions to, premiums for group insurance coverage of retired employees or severance pay, and the employer's personnel policies affecting the working conditions of the employees. In the case of professional employees the term does not mean educational policies of a school district. "Terms and conditions of employment" is subject to section 179A.07.

Subd. 20. MS 2006 [Renumbered subd 5a]

History: 1984 c 462 s 4; 1986 c 444; 1987 c 186 s 15; 1987 c 384 art 2 s 1; 1988 c 605 s 4; 1989 c 255 s 2; 1990 c 377 s 1; 1991 c 308 s 2; 1992 c 582 s 3-5; 1993 c 12 s 1; 1995 c 212 art 4 s 64; 1995 c 226 art 6 s 3; 1996 c 425 s 7; 1997 c 7 art 1 s 81,82; 1997 c 156 s 3; 1998 c 355 s 1; 1998 c 386 art 2 s 65; 1998 c 398 art 5 s 55; 1Sp1998 c 1 art 3 s 20; 1999 c 216 art 7 s 3-6; 1999 c 221 s 5; 2000 c 345 s 1; 2003 c 130 s 12; 2005 c 125 art 1 s 29; art 2 s 1-3,10; 1Sp2005 c 5 art 7 s 16; 1Sp2005 c 6 art 3 s 81; 1Sp2005 c 7 s 34; 2009 c 95 art 2 s 35

priority critical services must be continued. The Governor created a Statewide Contingency Response Team (SCRT) chaired by the Commissioner of the Department of Management and Budget, to establish statewide objectives in the event of a shutdown. The Court agrees with the Governor that the following critical core functions of government should continue to be funded after June 30, 2011 even if there is no resolution of the present funding dispute between the executive and legislative branches:

- 1) Basic custodial care for residents of state correctional facilities, regional treatment centers, nursing homes, veterans homes, and residential academies and other similar state-operated services.
- 2) Maintenance of public safety and immediate public health concerns.
- 3) Provision of benefit payments and medical services to individuals.
- 4) Preservation of the essential elements of the financial system of the government.
- 5) Necessary administration and supportive services, including by not limited to computer system maintenance, internet security, issuance of payments.

28. The Court has attached as Exhibit A the document entitled, "Recommended State-wide Objectives, 2001 Potential Minnesota Government Shutdown and Recommended Priority 1 and Priority 2 Critical Services." The Court has made some minimal changes in the document submitted by the Governor. The Court agrees with the Governor that the Court's order regarding continuing funding for core functions of the government should focus on the critical services discussed in Exhibit A. It agrees that those functions are critical.

29. Any order of this Court allowing the Commissioner of the Department of Management and Budget to issue checks and process funds to pay for core functions and

Recommended Priority One and Priority Two Critical Services
2011 Potential Minnesota Government Shutdown

Prepared by the Statewide Contingency Response Team, Commissioner of MMB Jim Schowalter, Chair

Only minimal levels of staff and operating expenses that are necessary to continue, secure, or support these operations are requested to continue in the event of a government shutdown.
 All others are recommended to close.

	Estimated # Critical
	FTE
Administration	137
Activities Recommended to Continue	
Materials management - manage emergency and critical purchases	
Materials management - manage emergency Prof/Tech Contracts	
Plant Management--safety HVAC/emergency repairs	
Central Mail--delivery/pick-up	
Building maintenance/systems/basic custodial/garbage	
Manage critical construction	
Workers' comp services to state employees	
Property/casualty services in case of state building damage	
Grounds maintenance (reduced frequency) -- <i>MINIMUM GROUNDS MAINTENANCE, by</i>	
Incident command and support for critical services	

	Estimated # Critical
	FTE
Corrections	3,601
Activities Recommended to Continue	
Operations, support and basic security of correctional facilities	
Community supervision including re-entry programs and placement coordination	
Educational programs	
MINNCOR	
Incident command and support for critical services	

	Estimated # Critical
	FTE
Commerce	16
Activities Recommended to Continue	
Insurance fraud prevention activities	
Utility rate case processing (time sensitive case pending)	
Incident command and support for critical services	



Minnesota Constitution

House | Senate | Legislation & Bill Status | Laws, Statutes & Rules | Joint Papers & Commissions

ARTICLE I BILL OF RIGHTS

Section 1. **OBJECT OF GOVERNMENT.** Government is instituted for the security, benefit and protection of the people, in whom all political power is inherent, together with the right to alter, modify or reform government whenever required by the public good.

Sec. 2. **RIGHTS AND PRIVILEGES.** No member of this state shall be disfranchised or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land or the judgment of his peers. There shall be neither slavery nor involuntary servitude in the state otherwise than as punishment for a crime of which the party has been convicted.

Sec. 3. **LIBERTY OF THE PRESS.** The liberty of the press shall forever remain inviolate, and all persons may freely speak, write and publish their sentiments on all subjects, being responsible for the abuse of such right.

Sec. 4. **TRIAL BY JURY.** The right of trial by jury shall remain inviolate, and shall extend to all cases at law without regard to the amount in controversy. A jury trial may be waived by the parties in all cases in the manner prescribed by law. The legislature may provide that the agreement of five-sixths of a jury in a civil action or proceeding, after not less than six hours' deliberation, is a sufficient verdict. The legislature may provide for the number of jurors in a civil action or proceeding, provided that a jury have at least six members. [Amended, November 8, 1988]

Sec. 5. **NO EXCESSIVE BAIL OR UNUSUAL PUNISHMENTS.** Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

Sec. 6. **RIGHTS OF ACCUSED IN CRIMINAL PROSECUTIONS.** In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the county or district wherein the crime shall have been committed, which county or district shall have been previously ascertained by law. In all prosecutions of crimes defined by law as felonies, the accused has the right to a jury of 12 members. In all other criminal prosecutions, the legislature may provide for the number of jurors, provided that a jury have at least six members. The accused shall enjoy the right to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor and to have the assistance of counsel in his defense. [Amended, November 8, 1988]

Sec. 7. **DUE PROCESS; PROSECUTIONS; DOUBLE JEOPARDY; SELF-INCRIMINATION; BAIL; HABEAS CORPUS.** No person shall be held to answer for a criminal offense without due process of law, and no person shall be put twice in jeopardy of punishment for the same offense, nor be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property without due process of law. All persons before conviction shall be bailable by sufficient sureties, except for capital offenses when the proof is evident or the presumption great. The privilege of the writ of habeas corpus shall not be suspended unless the public safety requires it in case of rebellion or invasion.

Sec. 8. **REDRESS OF INJURIES OR WRONGS.** Every person is entitled to a certain remedy in the laws for all injuries or wrongs which he may receive to his person, property or character, and to obtain justice freely and without purchase, completely and without denial, promptly and without delay, conformable to the laws.

Sec. 9. **TREASON DEFINED.** Treason against the state consists only in levying war against the state, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act or on confession in open court.

Sec. 10. **UNREASONABLE SEARCHES AND SEIZURES PROHIBITED.** The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and

particularly describing the place to be searched and the person or things to be seized.

Sec. 11. ATTAINERS, EX POST FACTO LAWS AND LAWS IMPAIRING CONTRACTS PROHIBITED. No bill of attainder, ex post facto law, or any law impairing the obligation of contracts shall be passed, and no conviction shall work corruption of blood or forfeiture of estate.

Sec. 12. IMPRISONMENT FOR DEBT; PROPERTY EXEMPTION. No person shall be imprisoned for debt in this state, but this shall not prevent the legislature from providing for imprisonment, or holding to bail, persons charged with fraud in contracting said debt. A reasonable amount of property shall be exempt from seizure or sale for the payment of any debt or liability. The amount of such exemption shall be determined by law. Provided, however, that all property so exempted shall be liable to seizure and sale for any debts incurred to any person for work done or materials furnished in the construction, repair or improvement of the same, and provided further, that such liability to seizure and sale shall also extend to all real property for any debt to any laborer or servant for labor or service performed.

Sec. 13. PRIVATE PROPERTY FOR PUBLIC USE. Private property shall not be taken, destroyed or damaged for public use without just compensation therefor, first paid or secured.

Sec. 14. MILITARY POWER SUBORDINATE. The military shall be subordinate to the civil power and no standing army shall be maintained in this state in times of peace.

Sec. 15. LANDS ALLODIAL; VOID AGRICULTURAL LEASES. All lands within the state are allodial and feudal tenures of every description with all their incidents are prohibited. Leases and grants of agricultural lands for a longer period than 21 years reserving rent or service of any kind shall be void.

Sec. 16. FREEDOM OF CONSCIENCE; NO PREFERENCE TO BE GIVEN TO ANY RELIGIOUS ESTABLISHMENT OR MODE OF WORSHIP. The enumeration of rights in this constitution shall not deny or impair others retained by and inherent in the people. The right of every man to worship God according to the dictates of his own conscience shall never be infringed; nor shall any man be compelled to attend, erect or support any place of worship, or to maintain any religious or ecclesiastical ministry, against his consent; nor shall any control of or interference with the rights of conscience be permitted, or any preference be given by law to any religious establishment or mode of worship; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness or justify practices inconsistent with the peace or safety of the state, nor shall any money be drawn from the treasury for the benefit of any religious societies or religious or theological seminaries.

Sec. 17. RELIGIOUS TESTS AND PROPERTY QUALIFICATIONS PROHIBITED. No religious test or amount of property shall be required as a qualification for any office of public trust in the state. No religious test or amount of property shall be required as a qualification of any voter at any election in this state; nor shall any person be rendered incompetent to give evidence in any court of law or equity in consequence of his opinion upon the subject of religion.

[Next Article](#)
[Constitution Home](#)

Send comments regarding this site to:
webmaster@house.leg.state.nv.us

Updated on