Minnesota Criminal Code 2017

Minnesota Continuing
Legal Education

SEARCH

Minnesota Criminal Code Book

Minnesota Continuing Legal Education
2550 University Avenue West, Suite 160-S
Saint Paul, Minnesota 55114
(651) 227-8266 • (800) 759-8840
http://www.minncle.org

August 2017 | 31171918-01

Minnesota CLE's Copyright Policy

Minnesota Continuing Legal Education wants practitioners to make the best use of these written materials but must also protect its copyright. If you wish to copy and use our CLE materials, you must first obtain permission from Minnesota CLE. Call us at 800-759-8840 or 651-227-8266 for more information. If you have any questions about our policy or want permission to make copies, do not hesitate to contact Minnesota CLE.

All authorized copies must reflect Minnesota CLE's notice of copyright.

MINNESOTA CLE is Self-Supporting

A not for profit 501(c)3 corporation, Minnesota CLE is entirely self-supporting. It receives no subsidy from State Bar dues or from any other source. The only source of support is revenue from enrollment fees that registrants pay to attend Minnesota CLE programs and from amounts paid for Minnesota CLE books, supplements and digital products.

© Copyright 2017

MINNESOTA CONTINUING LEGAL EDUCATION, INC.

ALL RIGHTS RESERVED

Minnesota Continuing Legal Education's publications and programs are intended to provide current and accurate information about the subject matter covered and are designed to help attorneys maintain their professional competence. Publications are distributed and oral programs presented with the understanding that Minnesota CLE does not render any legal, accounting or other professional advice. Attorneys using Minnesota CLE publications or orally conveyed information in dealing with a specific client's or other legal matter should also research original and fully quoted sources of authority.

2017–2018
Minnesota Continuing Legal Education
Board Members

Irene W. Kao, Chair
Saint Paul

Eric T. Cooperstein
Minneapolis

Charles A. Delbridge
Minneapolis

Jacqueline A. Dorsey
Northfield

Dyan J. Ebert
Saint Cloud

Paul W. Godfrey
Saint Paul

Professor Morgan L. Holcomb
Saint Paul

Bryan D. Huffman
Saint Paul

Jason C. Kohlmeyer
Mankato

Daniel K. Lew
Duluth

Thaddeus R. Lightfoot
Minneapolis

Former Chief Justice
Eric J. Magnuson
Minneapolis

Michelle A. Miller
Fridley

Professor Joel A. Nichols
Minneapolis

Professor Jean M. Sanderson
Minneapolis

Michael W. Unger
Minneapolis

EXECUTIVE DIRECTOR
Jeffrey H.A. Johnson

The Minnesota CLE Board consists of practicing attorneys and Judges from throughout Minnesota as well as one representative from each Minnesota law school. This provides representation of the interest and efforts of the bench, practicing bar and academic community.

Minnesota Continuing Legal Education is a non-profit 501(c)(3) organization. Minnesota CLE receives no subsidy from Bar dues or any other source. The only source of support is revenue from program tuition and publication sales. The basic ingredient in Minnesota CLE's success is the involvement of the very best Minnesota lawyers from the practicing bar, bench and academic community. These dedicated individuals have given generously of their time and talent to make Minnesota CLE courses and its publications what they are today.

INTRODUCING

the communities at
my.mnbar.org

Improving the way you connect, learn and collaborate with your colleagues at the MSBA.

Sample new features include ability to: search discussion posts and document libraries, schedule delivery of emails, and share files in a central location. For more information, send a note to **feedback@mnbar.org** or see, **my.mnbar.org/tutorial**

GET STARTED!
Use your existing MSBA credentials to login today.

MSBA

the communities at
my.mnbar.org

Foreword

This compilation of the Minnesota criminal code includes changes in the law enacted by the Legislature in 2017. This compilation is not official and minor technical changes may be made by the revisor of the statutes in the official version of the 2017 changes. The official codification, however, will not be available until later this year.

In each of the following sections appears a table of contents. The tables of contents indicate which statutes have been changed and, when applicable, the specific subdivisions that have been changed.

Table of Contents

TABLE OF CONTENTS

Section 1
Minnesota Statutes Chapter 609
Criminal Code

Section 2
Minnesota Statutes Chapter 609A
Expungement

Section 3
Minnesota Statutes Chapter 84
Department Of Natural Resources

Section 4
Minnesota Statutes Chapter 152
Drugs; Controlled Substances

Section 5
Minnesota Statutes Chapter 243
Corrections; Adults

Section 6
Minnesota Statutes Chapter 299C
Bureau Of Criminal Apprehension

Section 7
Minnesota Statutes Chapter 340A
Liquor

Section 8
Minnesota Statutes Chapter 518B
Domestic Abuse

Section 9
Minnesota Statutes Chapter 617
Abortion; Obscenity; Nuisance

Section 10
Minnesota Statutes Chapter 624
Crimes; Fireworks; Firearms

Section 11
Minnesota Statutes Chapter 626
Peace Officers; Searches; Pursuit;
Mandatory Reporting

Section 12
Minnesota Statutes Chapter 628
Accusation; Charging Instruments

SECTION 1

MINNESOTA STATUTES CHAPTER 609.
CRIMINAL CODE

GENERAL PRINCIPLES

609.01 NAME AND CONSTRUCTION. 1-1
609.015 SCOPE AND EFFECT. 1-1
609.02 DEFINITIONS. 1-1
609.025 JURISDICTION OF STATE. 1-3
609.03 PUNISHMENT WHEN NOT OTHERWISE FIXED. 1-3
609.033 MAXIMUM PENALTIES; MISDEMEANORS. 1-4
609.0331 MAXIMUM PENALTIES; PETTY MISDEMEANORS. 1-4
609.0332 MAXIMUM PENALTY; PETTY MISDEMEANOR ORDINANCE VIOLATIONS. 1-4
609.034 MAXIMUM PENALTY; ORDINANCE VIOLATIONS. 1-4
609.0341 MAXIMUM FINES FOR GROSS MISDEMEANORS; FELONIES. 1-4
609.035 CRIME PUNISHABLE UNDER DIFFERENT PROVISIONS. 1-5
609.04 CONVICTION OF LESSER OFFENSE. 1-6
609.041 PROOF OF PRIOR CONVICTIONS. 1-7
609.045 FOREIGN CONVICTION OR ACQUITTAL. 1-7
609.05 LIABILITY FOR CRIMES OF ANOTHER. 1-7
609.055 CAPABILITY OF CHILDREN TO COMMIT CRIME. 1-8
609.06 AUTHORIZED USE OF FORCE. 1-8
609.065 JUSTIFIABLE TAKING OF LIFE. 1-9
609.066 AUTHORIZED USE OF DEADLY FORCE BY PEACE OFFICERS. 1-9
609.075 INTOXICATION AS DEFENSE. 1-10
609.08 DURESS. 1-10
609.085 SENDING WRITTEN COMMUNICATION. 1-10
609.09 COMPELLING TESTIMONY; IMMUNITY FROM PROSECUTION. 1-10
609.092 JUVENILE PETTY OFFENDERS; USE OF RESTORATIVE JUSTICE. 1-11

SENTENCES

609.095 LIMITS OF SENTENCES. 1-12
609.10 SENTENCES AVAILABLE. 1-12
609.101 SURCHARGE ON FINES, ASSESSMENTS; MINIMUM FINES. 1-12
609.102 LOCAL CORRECTIONAL FEES; IMPOSITION BY COURT. 1-14
609.104 FINE AND SURCHARGE COLLECTION. 1-15
609.105 SENTENCE OF IMPRISONMENT. 1-15
609.1055 OFFENDERS WITH SERIOUS AND PERSISTENT MENTAL ILLNESS; ALTERNATIVE PLACEMENT. 1-16

609.106 HEINOUS CRIMES. 1-16
609.107 MANDATORY PENALTY FOR CERTAIN MURDERERS. 1-16
609.1095 INCREASED SENTENCES FOR CERTAIN DANGEROUS AND REPEAT FELONY OFFENDERS. 1-17
609.11 MINIMUM SENTENCES OF IMPRISONMENT. 1-18
609.115 PRESENTENCE INVESTIGATION. 1-19
609.117 DNA ANALYSIS OF CERTAIN OFFENDERS REQUIRED. 1-22
609.118 FINGERPRINTING REQUIRED. 1-24
609.12 PAROLE OR DISCHARGE. 1-24
609.125 SENTENCE FOR MISDEMEANOR OR GROSS MISDEMEANOR. 1-24
609.13 CONVICTIONS OF FELONY OR GROSS MISDEMEANOR; WHEN DEEMED MISDEMEANOR OR GROSS MISDEMEANOR. 1-25
609.131 CERTIFICATION OF MISDEMEANOR AS PETTY MISDEMEANOR. 1-25
609.132 CONTINUANCE FOR DISMISSAL. 1-26
609.135 STAY OF IMPOSITION OR EXECUTION OF SENTENCE. 1-26
609.1351 PETITION FOR CIVIL COMMITMENT. 1-29
609.14 REVOCATION OF STAY. [NEW SUBD. 2a] 1-30
609.145 CREDIT FOR PRIOR IMPRISONMENT. 1-31
609.15 MULTIPLE SENTENCES. 1-31
609.153 INCREASED PENALTIES FOR CERTAIN MISDEMEANORS. 1-31
609.165 RESTORATION OF CIVIL RIGHTS; POSSESSION OF FIREARMS AND AMMUNITION. 1-32

ANTICIPATORY CRIMES

609.17 ATTEMPTS. 1-33
609.175 CONSPIRACY. 1-33

HOMICIDE; BODILY HARM; SUICIDE

609.18 DEFINITION. 1-34
609.185 MURDER IN THE FIRST DEGREE. 1-34
609.19 MURDER IN THE SECOND DEGREE. 1-35
609.195 MURDER IN THE THIRD DEGREE. 1-36
609.20 MANSLAUGHTER IN THE FIRST DEGREE. 1-36
609.205 MANSLAUGHTER IN THE SECOND DEGREE. 1-36
609.2111 DEFINITIONS. 1-37
609.2112 CRIMINAL VEHICULAR HOMICIDE. 1-37
609.2113 CRIMINAL VEHICULAR OPERATION; BODILY HARM. 1-38
609.2114 CRIMINAL VEHICULAR OPERATION; UNBORN CHILD. 1-40
609.215 SUICIDE. 1-41

CRIMES AGAINST THE PERSON

609.221 ASSAULT IN THE FIRST DEGREE. 1-42
609.222 ASSAULT IN THE SECOND DEGREE. 1-43
609.223 ASSAULT IN THE THIRD DEGREE. 1-43
609.2231 ASSAULT IN THE FOURTH DEGREE. 1-43
609.2232 CONSECUTIVE SENTENCES FOR ASSAULTS COMMITTED BY STATE PRISON INMATES. 1-46
609.2233 FELONY ASSAULT MOTIVATED BY BIAS; INCREASED STATUTORY MAXIMUM SENTENCE. 1-46
609.224 ASSAULT IN THE FIFTH DEGREE. 1-46
609.2241 KNOWING TRANSFER OF COMMUNICABLE DISEASE. 1-47
609.2242 DOMESTIC ASSAULT. 1-48
609.2243 SENTENCING; REPEAT DOMESTIC ASSAULT. 1-50
609.2244 PRESENTENCE DOMESTIC ABUSE INVESTIGATIONS. 1-51
609.2245 FEMALE GENITAL MUTILATION; PENALTIES. 1-52
609.2247 DOMESTIC ASSAULT BY STRANGULATION. 1-52
609.226 HARM CAUSED BY DOG. 1-52
609.227 DANGEROUS ANIMALS DESTROYED. 1-53
609.228 GREAT BODILY HARM CAUSED BY DISTRIBUTION OF DRUGS. 1-53
609.229 CRIME COMMITTED FOR BENEFIT OF GANG. 1-53
609.23 MISTREATMENT OF PERSONS CONFINED. 1-54
609.231 MISTREATMENT OF RESIDENTS OR PATIENTS. 1-54
609.232 CRIMES AGAINST VULNERABLE ADULTS; DEFINITIONS. 1-54
609.2325 CRIMINAL ABUSE. 1-56
609.233 CRIMINAL NEGLECT. 1-57
609.2335 FINANCIAL EXPLOITATION OF VULNERABLE ADULT. 1-58
609.2336 DECEPTIVE OR UNFAIR TRADE PRACTICES; ELDERLY OR DISABLED VICTIMS 1-59
609.234 FAILURE TO REPORT. 1-60
609.235 USE OF DRUGS TO INJURE OR FACILITATE CRIME. 1-60
609.24 SIMPLE ROBBERY. 1-60
609.245 AGGRAVATED ROBBERY. 1-60
609.25 KIDNAPPING. 1-61
609.251 DOUBLE JEOPARDY; KIDNAPPING. 1-61
609.255 FALSE IMPRISONMENT. 1-61
609.26 DEPRIVING ANOTHER OF CUSTODIAL OR PARENTAL RIGHTS. 1-62
609.265 ABDUCTION. 1-64

CRIMES AGAINST UNBORN CHILDREN

609.266 DEFINITIONS 1-64

609.2661 MURDER OF UNBORN CHILD IN THE FIRST DEGREE. 1-64
609.2662 MURDER OF UNBORN CHILD IN THE SECOND DEGREE. 1-64
609.2663 MURDER OF UNBORN CHILD IN THE THIRD DEGREE. 1-64
609.2664 MANSLAUGHTER OF UNBORN CHILD IN THE FIRST DEGREE. 1-65
609.2665 MANSLAUGHTER OF UNBORN CHILD IN THE SECOND DEGREE. 1-65
609.267 ASSAULT OF UNBORN CHILD IN THE FIRST DEGREE. 1-65
609.2671 ASSAULT OF UNBORN CHILD IN THE SECOND DEGREE. 1-65
609.2672 ASSAULT OF UNBORN CHILD IN THE THIRD DEGREE. 1-66
609.268 INJURY OR DEATH OF UNBORN CHILD IN COMMISSION OF CRIME. 1-66
609.269 EXCEPTION. 1-66
609.2691 OTHER CONVICTIONS NOT BARRED. 1-66

CRIMES OF COMPULSION

609.27 COERCION. 1-66
609.275 ATTEMPT TO COERCE. 1-67
609.28 INTERFERING WITH RELIGIOUS OBSERVANCE. 1-67

SEXUAL AND LABOR TRAFFICKING CRIMES

609.281 DEFINITIONS. 1-67
609.282 LABOR TRAFFICKING. 1-68
609.283 UNLAWFUL CONDUCT WITH RESPECT TO DOCUMENTS IN FURTHERANCE OF LABOR OR SEX TRAFFICKING. 1-69
609.284 LABOR OR SEX TRAFFICKING CRIMES; DEFENSES; CIVIL LIABILITY; CORPORATE LIABILITY. 1-69

SEX CRIMES

609.293 SODOMY. 1-69
609.294 BESTIALITY. 1-70
609.31 LEAVING STATE TO EVADE ESTABLISHMENT OF PATERNITY. 1-70
609.321 PROSTITUTION AND SEX TRAFFICKING; DEFINITIONS. 1-70
609.322 SOLICITATION, INDUCEMENT, AND PROMOTION OF PROSTITUTION; SEX TRAFFICKING. 1-72
609.3232 PROTECTIVE ORDER AUTHORIZED; PROCEDURES; PENALTIES. 1-73
609.324 PATRONS; PROSTITUTES; HOUSING INDIVIDUALS ENGAGED IN PROSTITUTION; PENALTIES. 1-74
609.3241 PENALTY ASSESSMENT AUTHORIZED. 1-76
609.3242 PROSTITUTION CRIMES COMMITTED IN SCHOOL OR PARK ZONES; INCREASED PENALTIES. 1-76
609.3243 LOITERING WITH INTENT TO PARTICIPATE IN PROSTITUTION. 1-77
609.325 DEFENSES. 1-77
609.326 EVIDENCE. 1-77

609.33 DISORDERLY HOUSE. 1-77
609.34 FORNICATION. 1-78
609.341 DEFINITIONS. 1-78
609.342 CRIMINAL SEXUAL CONDUCT IN THE FIRST DEGREE. 1-81
609.343 CRIMINAL SEXUAL CONDUCT IN THE SECOND DEGREE. 1-83
609.344 CRIMINAL SEXUAL CONDUCT IN THE THIRD DEGREE. 1-84
609.345 CRIMINAL SEXUAL CONDUCT IN THE FOURTH DEGREE. 1-86
609.3451 CRIMINAL SEXUAL CONDUCT IN THE FIFTH DEGREE. 1-88
609.3453 CRIMINAL SEXUAL PREDATORY CONDUCT. 1-88
609.3455 DANGEROUS SEX OFFENDERS; LIFE SENTENCES; CONDITIONAL RELEASE. 1-89
609.3456 USE OF POLYGRAPHS FOR SEX OFFENDERS ON PROBATION OR CONDITIONAL RELEASE. 1-93
609.3457 SEX OFFENDER ASSESSMENT. 1-93
609.347 EVIDENCE IN CRIMINAL SEXUAL CONDUCT CASES. 1-94
609.3471 RECORDS PERTAINING TO VICTIM IDENTITY CONFIDENTIAL. 1-95
609.348 MEDICAL PURPOSES; EXCLUSION. 1-95
609.349 VOLUNTARY RELATIONSHIPS. 1-96
609.35 COSTS OF MEDICAL EXAMINATION. 1-96
609.351 APPLICABILITY TO PAST AND PRESENT PROSECUTIONS. 1-96
609.352 SOLICITATION OF CHILDREN TO ENGAGE IN SEXUAL CONDUCT; COMMUNICATION OF SEXUALLY EXPLICIT MATERIALS TO CHILDREN. 1-96
609.353 JURISDICTION. 1-97

CRIMES AGAINST THE FAMILY

609.355 BIGAMY. 1-97
609.36 ADULTERY. 1-98
609.365 INCEST. 1-98
609.375 NONSUPPORT OF SPOUSE OR CHILD. 1-98
609.3751 DISCHARGE AND DISMISSAL. 1-99
609.376 DEFINITIONS. 1-100
609.377 MALICIOUS PUNISHMENT OF CHILD. 1-100
609.378 NEGLECT OR ENDANGERMENT OF CHILD. 1-101
609.3785 UNHARMED NEWBORNS LEFT AT A SAFE PLACE; AVOIDANCE OF PROSECUTION. 1-102
609.379 PERMITTED ACTIONS. 1-102
609.38 STAYED SENTENCE. 1-102

CRIMES AGAINST THE GOVERNMENT

609.385 TREASON. 1-102
609.39 MISPRISION OF TREASON. 1-103

609.395 STATE MILITARY FORCES; INTERFERING WITH, OBSTRUCTING, OR OTHER. 1-103
609.396 UNAUTHORIZED PRESENCE AT CAMP RIPLEY. 1-103
609.40 FLAGS. 1-103
609.41 FALSE TAX STATEMENT. 1-104

CRIMES AFFECTING PUBLIC OFFICER OR EMPLOYEE

609.415 DEFINITIONS. 1-104
609.42 BRIBERY. 1-105
609.425 CORRUPTLY INFLUENCING LEGISLATOR. 1-105
609.43 MISCONDUCT OF PUBLIC OFFICER OR EMPLOYEE. 1-105
609.435 OFFICER NOT FILING SECURITY. 1-106
609.44 PUBLIC OFFICE; ILLEGALLY ASSUMING; NONSURRENDER. 1-106
609.445 FAILURE TO PAY OVER STATE FUNDS. 1-106
609.45 PUBLIC OFFICER; UNAUTHORIZED COMPENSATION. 1-106
609.455 PERMITTING FALSE CLAIMS AGAINST GOVERNMENT. 1-106
609.456 REPORTING TO STATE AUDITOR AND LEGISLATIVE AUDITOR REQUIRED. 1-106
609.465 PRESENTING FALSE CLAIMS TO PUBLIC OFFICER OR BODY. 1-107
609.466 MEDICAL ASSISTANCE FRAUD. 1-107
609.47 INTERFERENCE WITH PROPERTY IN OFFICIAL CUSTODY. 1-107
609.475 IMPERSONATING OFFICER. [AMENDED] 1-107
609.4751 IMPERSONATING A PEACE OFFICER. [NEW] 1-107

CRIMES AGAINST THE ADMINISTRATION OF JUSTICE

609.48 PERJURY. [NEW SUBD. 5] 1-108
609.485 ESCAPE FROM CUSTODY. 1-109
609.486 COMMISSION OF CRIME WHILE WEARING OR POSSESSING BULLET-RESISTANT VEST. 1-111
609.487 FLEEING PEACE OFFICER; MOTOR VEHICLE; OTHER. 1-111
609.49 RELEASE, FAILURE TO APPEAR. 1-112
609.491 FAILURE TO APPEAR; PETTY MISDEMEANOR. 1-113
609.493 SOLICITATION OF MENTALLY IMPAIRED PERSONS. 1-113
609.494 SOLICITATION OF JUVENILES. 1-113
609.495 AIDING AN OFFENDER. 1-114
609.496 CONCEALING CRIMINAL PROCEEDS. 1-115
609.497 ENGAGING IN BUSINESS OF CONCEALING CRIMINAL PROCEEDS. 1-115
609.4971 WARNING SUBJECT OF INVESTIGATION. 1-115
609.4975 WARNING SUBJECT OF SURVEILLANCE OR SEARCH. 1-116

609.498 TAMPERING WITH WITNESS. 1-116
609.50 OBSTRUCTING LEGAL PROCESS, ARREST, OR FIREFIGHTING....1-118
609.501 FUNERAL OR BURIAL SERVICE; PROHIBITED ACTS. 1-118
609.502 INTERFERENCE WITH DEAD BODY; REPORTING....1-119
609.504 DISARMING PEACE OFFICER. 1-120
609.505 FALSELY REPORTING CRIME.... 1-120
609.5051 CRIMINAL ALERT NETWORK; FALSE OR MISLEADING INFORMATION PROHIBITED..... 1-120
609.506 PROHIBITING GIVING PEACE OFFICER FALSE NAME. 1-121
609.507 FALSELY REPORTING CHILD ABUSE. 1-121
609.508 FALSE INFORMATION TO FINANCIAL INSTITUTION. 1-121
609.51 SIMULATING LEGAL PROCESS. 1-121
609.515 MISCONDUCT OF JUDICIAL OR HEARING OFFICER. 1-122

THEFT AND RELATED CRIMES

609.52 THEFT. 1-122
609.521 POSSESSION OF SHOPLIFTING GEAR.... 1-127
609.523 RETURN OF STOLEN PROPERTY TO OWNERS. 1-127
609.525 BRINGING STOLEN GOODS INTO STATE. 1-128
609.526 PRECIOUS METAL AND SCRAP METAL DEALERS; RECEIVING STOLEN PROPERTY. 1-128
609.527 IDENTITY THEFT. 1-129
609.528 POSSESSION OR SALE OF STOLEN OR COUNTERFEIT CHECK; PENALTIES.... 1-131
609.529 MAIL THEFT. 1-132
609.53 RECEIVING STOLEN PROPERTY. 1-132
609.531 FORFEITURES. 1-133
609.5311 FORFEITURE OF PROPERTY ASSOCIATED WITH CONTROLLED SUBSTANCES. 1-136
609.5312 FORFEITURE OF PROPERTY ASSOCIATED WITH DESIGNATED OFFENSES. 1-137
609.5313 FORFEITURE BY JUDICIAL ACTION; PROCEDURE. 1-140
609.5314 ADMINISTRATIVE FORFEITURE OF CERTAIN PROPERTY SEIZED IN CONNECTION WITH A CONTROLLED SUBSTANCES SEIZURE.... 1-140
609.5315 DISPOSITION OF FORFEITED PROPERTY. [SUBD. 5c AMENDED] 1-142
609.5316 SUMMARY FORFEITURES. [SUBD. 3 AMENDED].... 1-145
609.5317 REAL PROPERTY; SEIZURES. 1-145
609.5318 FORFEITURE OF VEHICLES USED IN DRIVE-BY SHOOTINGS. 1-146
609.5319 FINANCIAL INSTITUTION SECURED INTEREST. 1-147
609.532 ATTACHMENT OF DEPOSITED FUNDS. 1-148
609.535 ISSUANCE OF DISHONORED CHECKS.... 1-149
609.54 EMBEZZLEMENT OF PUBLIC FUNDS. 1-151
609.541 PROTECTION OF LIBRARY PROPERTY. 1-151
609.545 MISUSING CREDIT CARD TO SECURE SERVICES. 1-152

609.546 MOTOR VEHICLE TAMPERING. 1-152
609.551 RUSTLING AND LIVESTOCK THEFT; PENALTIES. 1-152
609.552 UNAUTHORIZED RELEASE OF ANIMALS 1-153

DAMAGE OR TRESPASS TO PROPERTY

609.556 DEFINITIONS 1-153
609.561 ARSON IN THE FIRST DEGREE 1-153
609.562 ARSON IN THE SECOND DEGREE. 1-154
609.563 ARSON IN THE THIRD DEGREE. 1-154
609.5631 ARSON IN THE FOURTH DEGREE. 1-154
609.5632 ARSON IN THE FIFTH DEGREE. 1-155
609.5633 USE OF IGNITION DEVICES; PETTY MISDEMEANOR. 1-155
609.564 EXCLUDED FIRES. 1-155
609.5641 WILDFIRE ARSON. 1-155
609.576 NEGLIGENT FIRES; DANGEROUS SMOKING. 1-156
609.581 DEFINITIONS 1-156
609.582 BURGLARY. 1-157
609.583 SENTENCING; FIRST BURGLARY OF DWELLING. 1-158
609.585 DOUBLE JEOPARDY 1-158
609.586 POSSESSION OF CODE-GRABBING DEVICES; PENALTY. 1-158
609.59 POSSESSION OF BURGLARY OR THEFT TOOLS. 1-158
609.591 DAMAGE TO TIMBER OR WOOD PROCESSING AND RELATED EQUIPMENT. 1-159
609.592 POSSESSION OF TIMBER DAMAGE DEVICES. 1-159
609.593 DAMAGE OR THEFT TO ENERGY TRANSMISSION OR TELECOMMUNICATIONS EQUIPMENT. 1-159
609.594 DAMAGE TO PROPERTY OF CRITICAL PUBLIC SERVICE FACILITIES, UTILITIES, AND PIPELINES. 1-160
609.595 DAMAGE TO PROPERTY. [SUBDS. 1 & 2 AMENDED; NEW SUBD. 4] 1-160
609.596 KILLING OR HARMING PUBLIC SAFETY DOG. 1-162
609.597 ASSAULTING OR HARMING POLICE HORSE; PENALTIES. 1-163
609.599 EXPOSING DOMESTIC ANIMALS TO DISEASE. 1-163
609.605 TRESPASS. [NEW SUBD. 4a] 1-164
609.6055 TRESPASS ON CRITICAL PUBLIC SERVICE FACILITY; UTILITY; OR PIPELINE. 1-167
609.6057 GEOGRAPHIC RESTRICTION. [NEW] 1-168
609.606 UNLAWFUL OUSTER OR EXCLUSION. 1-169
609.611 INSURANCE FRAUD. 1-169
609.612 EMPLOYMENT OF RUNNERS. 1-171
609.615 DEFEATING SECURITY ON REALTY. 1-171
609.62 DEFEATING SECURITY ON PERSONALTY. 1-171
609.621 PROOF OF CONCEALMENT OF PROPERTY BY OBLIGOR OF SECURED PROPERTY. 1-172

FORGERY AND RELATED CRIMES

609.625 AGGRAVATED FORGERY. 1-172
609.63 FORGERY. 1-173
609.631 CHECK FORGERY; OFFERING FORGED CHECK. 1-173
609.632 COUNTERFEITING OF CURRENCY. 1-174
609.635 OBTAINING SIGNATURE BY FALSE PRETENSE. 1-175
609.64 RECORDING, FILING OF FORGED INSTRUMENT. 1-176
609.645 FRAUDULENT STATEMENTS. 1-176
609.65 FALSE CERTIFICATION BY NOTARY PUBLIC. 1-176
609.651 STATE LOTTERY FRAUD. 1-176
609.652 FRAUDULENT DRIVERS' LICENSES AND IDENTIFICATION CARDS; PENALTY. 1-177

CRIMES AGAINST PUBLIC SAFETY AND HEALTH

609.66 DANGEROUS WEAPONS. 1-178
609.661 PENALTY FOR SET GUNS; SWIVEL GUNS. 1-181
609.662 SHOOTING VICTIM; DUTY TO RENDER AID. 1-181
609.663 DISPLAY OF HANDGUN AMMUNITION. 1-182
609.665 SPRING GUNS. 1-182
609.666 NEGLIGENT STORAGE OF FIREARMS. 1-182
609.667 FIREARMS; REMOVAL OR ALTERATION OF SERIAL NUMBER. 1-183
609.668 EXPLOSIVE AND INCENDIARY DEVICES. 1-183
609.669 CIVIL DISORDER. 1-185
609.67 MACHINE GUNS AND SHORT-BARRELED SHOTGUNS. 1-186
609.671 ENVIRONMENT; CRIMINAL PENALTIES. 1-187
609.672 PERMISSIVE INFERENCE; FIREARMS IN AUTOMOBILES. 1-191
609.675 EXPOSURE OF UNUSED REFRIGERATOR OR CONTAINER TO CHILDREN. 1-191
609.68 UNLAWFUL DEPOSIT OF GARBAGE, LITTER, OR LIKE. 1-192
609.681 UNLAWFUL SMOKING. 1-192
609.684 ABUSE OF TOXIC SUBSTANCES. 1-192
609.685 SALE OF TOBACCO TO CHILDREN. 1-192
609.6855 SALE OF NICOTINE DELIVERY PRODUCTS TO CHILDREN. 1-194
609.686 FALSE FIRE ALARMS; TAMPERING WITH OR INJURING FIRE ALARM SYSTEM. 1-194

PUBLIC MISCONDUCT OR NUISANCE

609.687 ADULTERATION. 1-195
609.688 ADULTERATION BY BODILY FLUID. 1-195
609.705 UNLAWFUL ASSEMBLY. 1-196
609.71 RIOT. 1-196

609.712 REAL AND SIMULATED WEAPONS OF MASS DESTRUCTION. 1-196
609.713 TERRORISTIC THREATS. 1-198
609.714 CRIMES COMMITTED IN FURTHERANCE OF TERRORISM. 1-199
609.715 PRESENCE AT UNLAWFUL ASSEMBLY. 1-199
609.72 DISORDERLY CONDUCT. 1-199
609.735 CONCEALING IDENTITY. 1-200
609.74 PUBLIC NUISANCE. 1-200
609.745 PERMITTING PUBLIC NUISANCE. 1-200
609.746 INTERFERENCE WITH PRIVACY. 1-200
609.7475 FRAUDULENT OR OTHERWISE IMPROPER FINANCING STATEMENTS. 1-201
609.748 HARASSMENT; RESTRAINING ORDER. [SUBDS. 3, 3a, 4, & 5 AMENDED; NEW SUBDS. 5a & 5b] 1-202
609.749 STALKING; PENALTIES. 1-207
609.7495 PHYSICAL INTERFERENCE WITH SAFE ACCESS TO HEALTH CARE. 1-212

GAMBLING

609.75 GAMBLING; DEFINITIONS. 1-213
609.755 GAMBLING; MISDEMEANOR. 1-215
609.76 GAMBLING; GROSS MISDEMEANOR; FELONY. 1-216
609.761 OPERATIONS PERMITTED. 1-217
609.762 FORFEITURE OF GAMBLING DEVICES, PRIZES AND PROCEEDS. 1-219
609.763 LAWFUL GAMBLING FRAUD. 1-220

CRIMES AGAINST REPUTATION

609.765 CRIMINAL DEFAMATION. 1-220
609.77 FALSE INFORMATION TO NEWS MEDIA. 1-221

CRIMES RELATING TO COMMUNICATIONS

609.774 EMERGENCY COMMUNICATIONS; KIDNAPPINGS. 1-221
609.775 DIVULGING TELEPHONE OR TELEGRAPH MESSAGE; NONDELIVERY. 1-221
609.776 INTERFERENCE WITH EMERGENCY COMMUNICATIONS. 1-222
609.78 EMERGENCY TELEPHONE CALLS AND COMMUNICATIONS. 1-222
609.79 OBSCENE OR HARASSING TELEPHONE CALLS. 1-223
609.795 LETTER, TELEGRAM, OR PACKAGE; OPENING; HARASSMENT. 1-223
609.80 INTERFERING WITH CABLE COMMUNICATIONS SYSTEMS. 1-224

CRIMES RELATING TO BUSINESS

609.806 INTERFERING WITH INTERNET TICKET SALES. 1-224
609.807 EVENT TICKETS; PROHIBITED ACTS. 1-225

609.815 MISCONDUCT OF JUNK OR SECONDHAND DEALER. 1-225
609.816 WRONGFUL EMPLOYMENT AT A CHILD CARE CENTER. 1-225
609.82 FRAUD IN OBTAINING CREDIT. 1-225
609.821 FINANCIAL TRANSACTION CARD FRAUD. 1-226

RESIDENTIAL MORTGAGE FRAUD

609.822 RESIDENTIAL MORTGAGE FRAUD. 1-228

MISCELLANEOUS CRIMES

609.825 BRIBERY OF PARTICIPANT OR OFFICIAL IN CONTEST. 1-229
609.83 FALSELY IMPERSONATING ANOTHER. 1-229
609.849 RAILROAD THAT OBSTRUCTS TREATMENT OF INJURED WORKER. 1-230
609.85 CRIMES AGAINST RAILROAD EMPLOYEES AND PROPERTY; PENALTY. 1-230
609.851 FALSE TRAFFIC SIGNAL. 1-231
609.855 CRIMES INVOLVING TRANSIT; SHOOTING AT TRANSIT VEHICLE. 1-231
609.856 USE OF POLICE RADIOS DURING COMMISSION OF CRIME; PENALTIES. 1-233
609.857 DISCHARGING A LASER AT AN AIRCRAFT. 1-233

CRIMES AGAINST COMMERCE

609.86 COMMERCIAL BRIBERY. 1-234
609.87 COMPUTER CRIME; DEFINITIONS. 1-234
609.88 COMPUTER DAMAGE. 1-236
609.89 COMPUTER THEFT. 1-236
609.891 UNAUTHORIZED COMPUTER ACCESS. 1-237
609.8911 REPORTING VIOLATIONS. 1-237
609.8912 CRIMINAL USE OF ENCRYPTION. 1-237
609.8913 FACILITATING ACCESS TO COMPUTER SECURITY SYSTEM. 1-238
609.892 DEFINITIONS. 1-238
609.893 TELECOMMUNICATIONS AND INFORMATION SERVICES FRAUD; CRIME DEFINED. 1-239
609.894 CELLULAR TELEPHONE COUNTERFEITING; CRIMES DEFINED. 1-239
609.895 COUNTERFEITED INTELLECTUAL PROPERTY; PENALTIES. 1-241
609.896 CRIMINAL USE OF REAL PROPERTY. 1-242

RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS (RICO)

609.901 CONSTRUCTION OF RACKETEERING PROVISIONS. 1-243
609.902 DEFINITIONS. 1-243
609.903 RACKETEERING. 1-244
609.904 CRIMINAL PENALTIES. 1-245
609.905 CRIMINAL FORFEITURE. 1-245

609.907 PRESERVATION OF PROPERTY SUBJECT TO FORFEITURE. 1-246
609.908 DISPOSITION OF FORFEITURE PROCEEDS. 1-247
609.909 ADDITIONAL RELIEF AVAILABLE. 1-248
609.910 RELATION TO OTHER SANCTIONS. 1-248
609.911 CIVIL REMEDIES 1-248
609.912 NOTICE TO OTHER PROSECUTING AUTHORITIES 1-249

CHAPTER 609.
CRIMINAL CODE

GENERAL PRINCIPLES

609.01 NAME AND CONSTRUCTION.

Subdivision 1. **Purposes.** This chapter may be cited as the Criminal Code of 1963. Its provisions shall be construed according to the fair import of its terms, to promote justice, and to effect its purposes which are declared to be:

(1) to protect the public safety and welfare by preventing the commission of crime through the deterring effect of the sentences authorized, the rehabilitation of those convicted, and their confinement when the public safety and interest requires; and

(2) to protect the individual against the misuse of the criminal law by fairly defining the acts and omissions prohibited, authorizing sentences reasonably related to the conduct and character of the convicted person, and prescribing fair and reasonable postconviction procedures.

Subd. 2. [Repealed, 1983 c 216 art 1 s 76]

History: *1963 c 753 art 1 s 609.01*

609.015 SCOPE AND EFFECT.

Subdivision 1. **Common law crimes abolished.** Common law crimes are abolished and no act or omission is a crime unless made so by this chapter or by other applicable statute, but this does not prevent the use of common law rules in the construction or interpretation of the provisions of this chapter or other statute. Crimes committed prior to September 1, 1963, are not affected thereby.

Subd. 2. **Applicability.** Unless expressly stated otherwise, or the context otherwise requires, the provisions of this chapter also apply to crimes created by statute other than in this chapter.

History: *1963 c 753 art 1 s 609.015*

609.02 DEFINITIONS.

Subdivision 1. **Crime.** "Crime" means conduct which is prohibited by statute and for which the actor may be sentenced to imprisonment, with or without a fine.

Subd. 2. **Felony.** "Felony" means a crime for which a sentence of imprisonment for more than one year may be imposed.

Subd. 2a. [Repealed, 1999 c 194 s 11]

Subd. 3. **Misdemeanor.** "Misdemeanor" means a crime for which a sentence of not more than 90 days or a fine of not more than $1,000, or both, may be imposed.

Subd. 4. **Gross misdemeanor.** "Gross misdemeanor" means any crime which is not a felony or misdemeanor. The maximum fine which may be imposed for a gross misdemeanor is $3,000.

Subd. 4a. **Petty misdemeanor.** "Petty misdemeanor" means a petty offense which is prohibited by statute, which does not constitute a crime and for which a sentence of a fine of not more than $300 may be imposed.

Subd. 5. **Conviction.** "Conviction" means any of the following accepted and recorded by the court:

(1) a plea of guilty; or

(2) a verdict of guilty by a jury or a finding of guilty by the court.

Subd. 6. **Dangerous weapon.** "Dangerous weapon" means any firearm, whether loaded or unloaded, or any device designed as a weapon and capable of producing death or great bodily harm, any combustible or flammable liquid or other device or instrumentality that, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm, or any fire that is used to produce death or great bodily harm.

As used in this subdivision, "flammable liquid" means any liquid having a flash point below 100 degrees Fahrenheit and having a vapor pressure not exceeding 40 pounds per square inch (absolute) at 100 degrees Fahrenheit but does not include intoxicating liquor as defined in section 340A.101. As used in this subdivision, "combustible liquid" is a liquid having a flash point at or above 100 degrees Fahrenheit.

Subd. 7. **Bodily harm.** "Bodily harm" means physical pain or injury, illness, or any impairment of physical condition.

Subd. 7a. **Substantial bodily harm.** "Substantial bodily harm" means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member.

Subd. 8. **Great bodily harm.** "Great bodily harm" means bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.

Subd. 9. **Mental state.** (1) When criminal intent is an element of a crime in this chapter, such intent is indicated by the term "intentionally," the phrase "with intent to," the phrase "with intent that," or some form of the verbs "know" or "believe."

(2) "Know" requires only that the actor believes that the specified fact exists.

(3) "Intentionally" means that the actor either has a purpose to do the thing or cause the result specified or believes that the act performed by the actor, if successful, will cause that result. In addition, except as provided in clause (6), the actor must have knowledge of those facts which are necessary to make the actor's conduct criminal and which are set forth after the word "intentionally."

(4) "With intent to" or "with intent that" means that the actor either has a purpose to do the thing or cause the result specified or believes that the act, if successful, will cause that result.

(5) Criminal intent does not require proof of knowledge of the existence or constitutionality of the statute under which the actor is prosecuted or the scope or meaning of the terms used in that statute.

(6) Criminal intent does not require proof of knowledge of the age of a minor even though age is a material element in the crime in question.

Subd. 10. **Assault.** "Assault" is:

(1) an act done with intent to cause fear in another of immediate bodily harm or death; or

(2) the intentional infliction of or attempt to inflict bodily harm upon another.

Subd. 11. **Second or subsequent violation or offense.** "Second or subsequent violation" or "second or subsequent offense" means that prior to the commission of the violation or offense, the actor has been adjudicated guilty of a specified similar violation or offense.

Subd. 12. [Repealed, 1993 c 326 art 2 s 34]

Subd. 13. [Repealed, 1993 c 326 art 2 s 34]

Subd. 14. [Repealed, 2014 c 263 s 4]

Subd. 15. **Probation.** "Probation" means a court-ordered sanction imposed upon an offender for a period of supervision no greater than that set by statute. It is imposed as an alternative to confinement or in conjunction with confinement or intermediate sanctions. The purpose of probation is to deter further criminal behavior, punish the offender, help provide reparation to crime victims and their communities, and provide offenders with opportunities for rehabilitation.

Subd. 16. **Qualified domestic violence-related offense.** "Qualified domestic violence-related offense" includes a violation of or an attempt to violate sections 518B.01, subdivision 14 (violation of domestic abuse order for protection); 609.185 (first-degree murder); 609.19 (second-degree murder); 609.221 (first-degree assault); 609.222 (second-degree assault); 609.223 (third-degree assault); 609.2231 (fourth-degree assault);609.224 (fifth-degree assault); 609.2242 (domestic assault); 609.2245 (female genital mutilation); 609.2247(domestic assault by strangulation); 609.342 (first-degree criminal sexual conduct); 609.343 (second-degree criminal sexual conduct); 609.344 (third-degree criminal sexual conduct); 609.345 (fourth-degree criminal sexual conduct); 609.377 (malicious punishment of a child); 609.713 (terroristic threats); 609.748, subdivision 6(violation of harassment restraining order); 609.749 (stalking); 609.78, subdivision 2 (interference with an emergency call); 617.261 (nonconsensual dissemination of private sexual images); and 629.75 (violation of domestic abuse no contact order); and similar laws of other states, the United States, the District of Columbia, tribal lands, and United States territories.

Subd. 17. **Ammunition.** "Ammunition" means ammunition or cartridge cases, primers, bullets, or propellent powder designed for use in any firearm. Ammunition does not include ornaments, curiosities, or souvenirs constructed from or resembling ammunition or ammunition components that are not operable as ammunition.

History: *1963 c 753 art 1 s 609.02; 1969 c 735 s 3; Ex1971 c 27 s 42,43; 1977 c 355 s 2; 1979 c 258 s 2,3; 1983 c 274 s 14; 1983 c 331 s 4,5; 1985 c 167 s 1; 1986 c 444; 1987 c 307 s 1,2; 1987 c 329 s 3; 1987 c 384 art 2 s 1; 1989 c 5 s 1,2; 1992 c 571 art 6 s 10; 1993 c 326 art 5 s 6; 1997 c 239 art 9 s 34; 1Sp1997 c 2 s 59,60; 1999 c 194 s 5; 2000 c 488 art 5 s 2,3; 1Sp2001 c 8 art 10 s 7; 2005 c 136 art 17 s 8; 2006 c 260 art 1 s 12; 2007 c 54 art 2 s 2; 2010 c 299 s 14; 2012 c 227 s 1; 2015 c 65 art 3 s 16; 2016 c 126 s 3*

609.025 JURISDICTION OF STATE.

A person may be convicted and sentenced under the law of this state if the person:

(1) commits an offense in whole or in part within this state; or

(2) being without the state, causes, aids or abets another to commit a crime within the state; or

(3) being without the state, intentionally causes a result within the state prohibited by the criminal laws of this state.

It is not a defense that the defendant's conduct is also a criminal offense under the laws of another state or of the United States or of another country.

History: *1963 c 753 art 1 s 609.025;Ex1971 c 27 s 44; 1986 c 444*

609.03 PUNISHMENT WHEN NOT OTHERWISE FIXED.

If a person is convicted of a crime for which no punishment is otherwise provided the person may be sentenced as follows:

(1) If the crime is a felony, to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both; or

(2) If the crime is a gross misdemeanor, to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both; or

(3) If the crime is a misdemeanor, to imprisonment for not more than 90 days or to payment of a fine of not more than $1,000, or both; or

(4) If the crime is other than a misdemeanor and a fine is imposed but the amount is not specified, to payment of a fine of not more than $1,000, or to imprisonment for a specified term of not more than six months if the fine is not paid.

History: *1963 c 753 art 1 s 609.03; 1969 c 735 s 4; 1977 c 355 s 3; 1983 c 331 s 6; 1986 c 444; 2000 c 488 art 5 s 4*

609.033 MAXIMUM PENALTIES; MISDEMEANORS.

Any law of this state which provides for a maximum fine of $700 as a penalty for a misdemeanor shall, on or after August 1, 2000, be deemed to provide for a maximum fine of $1,000.

History: *1983 c 331 s 7; 2000 c 488 art 5 s 5*

609.0331 MAXIMUM PENALTIES; PETTY MISDEMEANORS.

A law of this state that provides, on or after August 1, 2000, for a maximum penalty of $200 for a petty misdemeanor is considered to provide for a maximum fine of $300.

History: *1987 c 329 s 4; 1992 c 464 art 1 s 49; 1994 c 636 art 2 s 13; 2000 c 488 art 5 s 6*

609.0332 MAXIMUM PENALTY; PETTY MISDEMEANOR ORDINANCE VIOLATIONS.

Subdivision 1. **Increased fine.** From August 1, 2000, if a state law or municipal charter sets a limit of $200 or less on the fines that a statutory or home rule charter city, town, county, or other political subdivision may prescribe for an ordinance violation that is defined as a petty misdemeanor, that law or charter is considered to provide that the political subdivision has the power to prescribe a maximum fine of $300 for the petty misdemeanor violation.

Subd. 2. [Repealed, 1994 c 636 art 2 s 69]

History: *1987 c 329 s 5; 1991 c 199 art 2 s 1; 1994 c 636 art 2 s 14; 2000 c 488 art 5 s 7*

609.034 MAXIMUM PENALTY; ORDINANCE VIOLATIONS.

Any law of this state or municipal charter which limits the power of any statutory or home rule charter city, town, county, or other political subdivision to prescribe a maximum fine of $700 or less for an ordinance shall on or after August 1, 2000, be deemed to provide that the statutory or home rule charter city, town, county, or other political subdivision has the power to prescribe a maximum fine of $1,000.

History: *1983 c 331 s 8; 2000 c 488 art 5 s 8*

609.0341 MAXIMUM FINES FOR GROSS MISDEMEANORS; FELONIES.

Subdivision 1. **Gross misdemeanors.** Any law of this state which provides for a maximum fine of $1,000 or for a maximum sentence of imprisonment of one year or which is defined as a gross misdemeanor shall, on or after August 1, 1983, be deemed to provide for a maximum fine of $3,000 and for a maximum sentence of imprisonment of one year.

Subd. 2. **Felonies.** (a) Any law of this state which provides for a maximum fine of $2,000 shall, on or after August 1, 1983, be deemed to provide for a maximum fine of $4,000.

(b) Any law of this state which provides for a maximum fine of $3,000 shall, on or after August 1, 1983, be deemed to provide for a maximum fine of $5,000.

(c) Any law of this state which provides for a maximum fine of $5,000 shall, on or after August 1, 1983, be deemed to provide for a maximum fine of $10,000.

(d) Any law of this state which provides for a maximum fine of $7,000 shall, on or after August 1, 1983, be deemed to provide for a maximum fine of $14,000.

(e) Any law of this state which provides for a maximum fine of $10,000 shall, on or after August 1, 1983, be deemed to provide for a maximum fine of $20,000.

(f) Any law of this state which provides for a maximum fine of $15,000 shall, on or after August 1, 1983, be deemed to provide for a maximum fine of $30,000.

(g) Any law of this state which provides for a maximum fine of $20,000 shall, on or after August 1, 1983, be deemed to provide for a maximum fine of $35,000.

(h) Any law of this state which provides for a maximum fine of $25,000 shall, on or after August 1, 1983, be deemed to provide for a maximum fine of $40,000.

(i) Any law of this state which provides for a maximum fine of $30,000 shall, on or after August 1, 1983, be deemed to provide for a maximum fine of $45,000.

(j) Any law of this state which provides for a maximum fine of $40,000 shall, on or after August 1, 1983, be deemed to provide for a maximum fine of $50,000.

Subd. 3. [Repealed, 1984 c 628 art 3 s 10]

History: *1983 c 331 s 9; 1993 c 326 art 13 s 19*

609.035 CRIME PUNISHABLE UNDER DIFFERENT PROVISIONS.

Subdivision 1. **Conduct; multiple crimes; chargeable for one offense.** Except as provided in subdivisions 2, 3, 4, and 5, and in sections 609.2114, subdivision 3, 609.251, 609.2691, 609.486, 609.494, 609.585, and 609.856, and Minnesota Statutes 2012, section 609.21, subdivision 1b, if a person's conduct constitutes more than one offense under the laws of this state, the person may be punished for only one of the offenses and a conviction or acquittal of any one of them is a bar to prosecution for any other of them. All the offenses, if prosecuted, shall be included in one prosecution which shall be stated in separate counts.

Subd. 2. **Consecutive sentences.** (a) When a person is being sentenced for a violation of a provision listed in paragraph (e), the court may sentence the person to a consecutive term of imprisonment for a violation of any other provision listed in paragraph (e), notwithstanding the fact that the offenses arose out of the same course of conduct, subject to the limitation on consecutive sentences contained in section 609.15, subdivision 2, and except as provided in paragraphs (b), (c), and (f).

(b) When a person is being sentenced for a violation of section 171.09, 171.20, 171.24, or 171.30, the court may not impose a consecutive sentence for another violation of a provision in chapter 171.

(c) When a person is being sentenced for a violation of section 169.791 or 169.797, the court may not impose a consecutive sentence for another violation of a provision of sections 169.79 to 169.7995.

(d) This subdivision does not limit the authority of the court to impose consecutive sentences for crimes arising on different dates or to impose a consecutive sentence when a person is being sentenced for a crime and is also in violation of the conditions of a stayed or otherwise deferred sentence under section 609.135.

(e) This subdivision applies to misdemeanor and gross misdemeanor violations of the following if the offender has two or more prior impaired driving convictions as defined in section 169A.03 within the past ten years:

(1) section 169A.20, subdivision 1, 1a, 1b, or 1c, driving while impaired;

(2) section 169A.20, subdivision 2, test refusal;

(3) section 169.791, failure to provide proof of insurance;

(4) section 169.797, failure to provide vehicle insurance;

(5) section 171.09, violation of condition of restricted license;

(6) section 171.20, subdivision 2, operation after revocation, suspension, cancellation, or disqualification;

(7) section 171.24, driving without valid license; and

(8) section 171.30, violation of condition of limited license.

(f) When a court is sentencing an offender for a violation of section 169A.20 and a violation of an offense listed in paragraph (e), and the offender has five or more qualified prior impaired driving incidents, as defined in section 169A.03, within the past ten years, the court shall sentence the offender to serve consecutive sentences for the offenses, notwithstanding the fact that the offenses arose out of the same course of conduct.

[See Note.]

Subd. 3. **Exception; firearms offenses.** Notwithstanding section 609.04, a prosecution for or conviction of a violation of section 609.165 or 624.713, subdivision 1, clause (2), is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Subd. 4. **Exception; arson offenses.** Notwithstanding section 609.04, a prosecution for or conviction of a violation of sections 609.561 to 609.563 or 609.5641 is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct when the defendant is shown to have violated sections 609.561 to 609.563 or 609.5641 for the purpose of concealing any other crime.

For purposes of the Sentencing Guidelines, a violation of sections 609.561 to 609.563 or 609.5641 is a crime against the person.

Subd. 5. **Exception; fleeing a peace officer.** Notwithstanding subdivision 1, a prosecution or conviction for violating section 609.487 is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct. If an offender is punished for more than one crime as authorized by this subdivision and the court imposes consecutive sentences for the crimes, the consecutive sentences are not a departure from the Sentencing Guidelines.

Subd. 6. **Exception; criminal sexual conduct offenses.** Notwithstanding subdivision 1, a prosecution or conviction for committing a violation of sections 609.342 to 609.345 with force or violence is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct. If an offender is punished for more than one crime as authorized by this subdivision and the court imposes consecutive sentences for the crimes, the consecutive sentences are not a departure from the Sentencing Guidelines.

History: *1963 c 753 art 1 s 609.035; 1983 c 139 s 1; 1986 c 388 s 1; 1986 c 444; 1987 c 111 s 1; 1993 c 326 art 4 s 13; 1994 c 615 s 23; 1996 c 408 art 4 s 2, 3; 1997 c 239 art 8 s 28, 29; 1999 c 194 s 6; 1999 c 216 art 3 s 4-6; 2000 c 311 art 4 s 1; 2000 c 478 art 2 s 4; 1Sp2001 c 8 art 12 s 16; 2007 c 54 art 3 s 14; 2009 c 83 art 2 s 37; 2014 c 180 s 9*

NOTE: Subdivision 2, paragraph (f), was found unconstitutional in State v. Blooflat, 671 N.W.2d 591 (Minn. Ct. App. 2003).

609.04 CONVICTION OF LESSER OFFENSE.

Subdivision 1. **Lesser offense prosecution.** Upon prosecution for a crime, the actor may be convicted of either the crime charged or an included offense, but not both. An included offense may be any of the following:

(1) A lesser degree of the same crime; or

(2) An attempt to commit the crime charged; or

(3) An attempt to commit a lesser degree of the same crime; or

(4) A crime necessarily proved if the crime charged were proved; or

(5) A petty misdemeanor necessarily proved if the misdemeanor charge were proved.

Subd. 2. **Conviction; bar to prosecution.** A conviction or acquittal of a crime is a bar to further prosecution of any included offense, or other degree of the same crime.

History: *1963 c 753 art 1 s 609.04;Ex1971 c 27 s 45*

609.041 PROOF OF PRIOR CONVICTIONS.

In a criminal prosecution in which the degree of the crime or the penalty for the crime depends, in whole or in part, on proof of the existence of a prior conviction, if the defendant contests the existence of or factual basis for a prior conviction, proof of it is established by competent and reliable evidence, including a certified court record of the conviction.

History: *1988 c 520 s 2*

609.045 FOREIGN CONVICTION OR ACQUITTAL.

If an act or omission in this state constitutes a crime under both the laws of this state and the laws of another jurisdiction, a conviction or acquittal of the crime in the other jurisdiction shall not bar prosecution for the crime in this state unless the elements of both law and fact are identical.

History: *1963 c 753 art 1 s 609.045; 1983 c 152 s 1*

609.05 LIABILITY FOR CRIMES OF ANOTHER.

Subdivision 1. **Aiding, abetting; liability.** A person is criminally liable for a crime committed by another if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures the other to commit the crime.

Subd. 2. **Expansive liability.** A person liable under subdivision 1 is also liable for any other crime committed in pursuance of the intended crime if reasonably foreseeable by the person as a probable consequence of committing or attempting to commit the crime intended.

Subd. 3. **Abandonment of criminal purpose.** A person who intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit a crime and thereafter abandons that purpose and makes a reasonable effort to prevent the commission of the crime prior to its commission is not liable if the crime is thereafter committed.

Subd. 4. **Circumstances of conviction.** A person liable under this section may be charged with and convicted of the crime although the person who directly committed it has not been convicted, or has been convicted of some other degree of the crime or of some other crime based on the same act, or if the person is a juvenile who has not been found delinquent for the act.

Subd. 5. **Definition.** For purposes of this section, a crime also includes an act committed by a juvenile that would be a crime if committed by an adult.

History: *1963 c 753 art 1 s 609.05; 1986 c 444; 1991 c 279 s 22, 23*

609.055 CAPABILITY OF CHILDREN TO COMMIT CRIME.

Subdivision 1. **General rule.** Children under the age of 14 years are incapable of committing crime.

Subd. 2. **Adult prosecution.** (a) Except as otherwise provided in paragraph (b), children of the age of 14 years or over but under 18 years may be prosecuted for a felony offense if the alleged violation is duly certified for prosecution under the laws and court procedures controlling adult criminal violations or may be designated an extended jurisdiction juvenile in accordance with the provisions of chapter 260B. A child who is 16 years of age or older but under 18 years of age is capable of committing a crime and may be prosecuted for a felony if:

(1) the child has been previously certified on a felony charge pursuant to a hearing under section 260B.125, subdivision 2, or pursuant to the waiver of the right to such a hearing, or prosecuted pursuant to this subdivision; and

(2) the child was convicted of the felony offense or offenses for which the child was prosecuted or of a lesser included felony offense.

(b) A child who is alleged to have committed murder in the first degree after becoming 16 years of age is capable of committing a crime and may be prosecuted for the felony. This paragraph does not apply to a child alleged to have committed attempted murder in the first degree after becoming 16 years of age.

History: *1963 c 753 art 1 s 609.055; 1992 c 571 art 7 s 12; 1994 c 576 s 45; 1995 c 226 art 3 s 47; 1999 c 139 art 4 s 2*

609.06 AUTHORIZED USE OF FORCE.

Subdivision 1. **When authorized.** Except as otherwise provided in subdivision 2, reasonable force may be used upon or toward the person of another without the other's consent when the following circumstances exist or the actor reasonably believes them to exist:

(1) when used by a public officer or one assisting a public officer under the public officer's direction:

(a) in effecting a lawful arrest; or

(b) in the execution of legal process; or

(c) in enforcing an order of the court; or

(d) in executing any other duty imposed upon the public officer by law; or

(2) when used by a person not a public officer in arresting another in the cases and in the manner provided by law and delivering the other to an officer competent to receive the other into custody; or

(3) when used by any person in resisting or aiding another to resist an offense against the person; or

(4) when used by any person in lawful possession of real or personal property, or by another assisting the person in lawful possession, in resisting a trespass upon or other unlawful interference with such property; or

(5) when used by any person to prevent the escape, or to retake following the escape, of a person lawfully held on a charge or conviction of a crime; or

(6) when used by a parent, guardian, teacher, or other lawful custodian of a child or pupil, in the exercise of lawful authority, to restrain or correct such child or pupil; or

(7) when used by a school employee or school bus driver, in the exercise of lawful authority, to restrain a child or pupil, or to prevent bodily harm or death to another; or

(8) when used by a common carrier in expelling a passenger who refuses to obey a lawful requirement for the conduct of passengers and reasonable care is exercised with regard to the passenger's personal safety; or

(9) when used to restrain a person with a mental illness or a person with a developmental disability from self-injury or injury to another or when used by one with authority to do so to compel compliance with reasonable requirements for the person's control, conduct, or treatment; or

(10) when used by a public or private institution providing custody or treatment against one lawfully committed to it to compel compliance with reasonable requirements for the control, conduct, or treatment of the committed person.

Subd. 2. **Deadly force used against peace officers.** Deadly force may not be used against peace officers who have announced their presence and are performing official duties at a location where a person is committing a crime or an act that would be a crime if committed by an adult.

History: *1963 c 753 art 1 s 609.06; 1986 c 444; 1993 c 326 art 1 s 4; 1996 c 408 art 3 s 12; 2002 c 221 s 46; 2013 c 59 art 3 s 16; 2013 c 62 s 28*

609.065 JUSTIFIABLE TAKING OF LIFE.

The intentional taking of the life of another is not authorized by section 609.06, except when necessary in resisting or preventing an offense which the actor reasonably believes exposes the actor or another to great bodily harm or death, or preventing the commission of a felony in the actor's place of abode.

History: *1963 c 753 art 1 s 609.065; 1978 c 736 s 1; 1986 c 444*

609.066 AUTHORIZED USE OF DEADLY FORCE BY PEACE OFFICERS.

Subdivision 1. **Deadly force defined.** For the purposes of this section, "deadly force" means force which the actor uses with the purpose of causing, or which the actor should reasonably know creates a substantial risk of causing, death or great bodily harm. The intentional discharge of a firearm, other than a firearm loaded with less lethal munitions and used by a peace officer within the scope of official duties, in the direction of another person, or at a vehicle in which another person is believed to be, constitutes deadly force. "Less lethal munitions" means projectiles which are designed to stun, temporarily incapacitate, or cause temporary discomfort to a person. "Peace officer" has the meaning given in section 626.84, subdivision 1.

Subd. 2. **Use of deadly force.** Notwithstanding the provisions of section 609.06 or 609.065, the use of deadly force by a peace officer in the line of duty is justified only when necessary:

(1) to protect the peace officer or another from apparent death or great bodily harm;

(2) to effect the arrest or capture, or prevent the escape, of a person whom the peace officer knows or has reasonable grounds to believe has committed or attempted to commit a felony involving the use or threatened use of deadly force; or

(3) to effect the arrest or capture, or prevent the escape, of a person whom the officer knows or has reasonable grounds to believe has committed or attempted to commit a felony if the officer reasonably believes that the person will cause death or great bodily harm if the person's apprehension is delayed.

Subd. 3. **No defense.** This section and sections 609.06, 609.065 and 629.33 may not be used as a defense in a civil action brought by an innocent third party.

History: *1978 c 736 s 2; 1986 c 444; 2001 c 127 s 1*

609.075 INTOXICATION AS DEFENSE.

An act committed while in a state of voluntary intoxication is not less criminal by reason thereof, but when a particular intent or other state of mind is a necessary element to constitute a particular crime, the fact of intoxication may be taken into consideration in determining such intent or state of mind.

History: *1963 c 753 art 1 s 609.075*

609.08 DURESS.

Except as provided in section 609.20, clause (3), when any crime is committed or participated in by two or more persons, any one of whom participates only under compulsion by another engaged therein, who by threats creates a reasonable apprehension in the mind of such participator that in case of refusal that participator is liable to instant death, such threats and apprehension constitute duress which will excuse such participator from criminal liability.

History: *1963 c 753 art 1 s 609.08; 1986 c 444*

609.085 SENDING WRITTEN COMMUNICATION.

Subdivision 1. **Definition of offense.** When the sending of a letter or other written communication is made an offense, the offense is complete upon deposit of the letter or communication in any official depository of mail or given to another for the purpose of delivery to the receiver.

Subd. 2. **Venue.** The offense is committed in both the county in which the letter is so deposited or given and the county in which it is received by the person for whom it is intended.

History: *1963 c 753 art 1 s 609.085*

609.09 COMPELLING TESTIMONY; IMMUNITY FROM PROSECUTION.

Subdivision 1. **Conditions of immunity.** In any criminal proceeding, including a grand jury proceeding, paternity proceeding, or proceeding in juvenile court, if it appears a person may be entitled to refuse to answer a question or produce evidence of any other kind on the ground that the person may be incriminated thereby, and if the prosecuting attorney, in writing, requests the chief judge of the district or a judge of the court in which the proceeding is pending to order that person to answer the question or produce the evidence, the judge, after notice to the witness and hearing, shall so order if the judge finds that to do so would not be contrary to the public interest and would not be likely to expose the witness to prosecution in another state or in the federal courts.

After complying, and if, but for this section, the witness would have been privileged to withhold the answer given or the evidence produced by the witness, no testimony or other information compelled under the order, or any information directly or indirectly derived from such testimony or other information may be used against the witness in any criminal case, but the witness may be prosecuted or subjected to penalty or forfeiture for any perjury, false swearing or contempt committed in answering, or in failing to answer, or in producing, or failing to produce, evidence in accordance with the order.

Subd. 2. **Testimony required; no use of testimony for prosecution.** In every case not provided for in subdivision 1 and in which it is provided by law that a witness shall not be excused from giving testimony tending to be self-incriminating, no person shall be excused from testifying or producing any papers or documents on the ground that doing so may tend to criminate the person or subject the person to a penalty or forfeiture; but no testimony or other information directly or indirectly derived from such testimony or other information may be used against the witness in any criminal case, except for perjury committed in such testimony.

History: *1963 c 753 art 1 s 609.09; 1969 c 661 s 1; 1981 c 293 s 1; 1986 c 444*

609.092 JUVENILE PETTY OFFENDERS; USE OF RESTORATIVE JUSTICE.

Subdivision 1. **First-time juvenile petty offenders; applicability; procedure.** (a) This subdivision applies to a child alleged to be a juvenile petty offender who:

(1) has not been previously adjudicated delinquent or as a petty offender;

(2) has not previously participated in or completed a diversion program for an offense;

(3) has not previously been placed on probation without an adjudication for an offense or received a continuance under section 260B.198, subdivision 7; and

(4) agrees to successfully complete a restorative justice program under this section.

(b) Subject to subdivision 6, the prosecutor shall refer a child described in paragraph (a) to a restorative justice program or provider that has been included on the approved provider list described in subdivision 4. The program or provider shall arrange an appropriate outcome for the matter using restorative justice concepts. The program or provider shall involve the victim of the offense in the proceedings. If the victim is unwilling or unable to proceed, or if there is no identifiable victim, the program or provider shall ensure that someone serves as a proxy for the victim. The program or provider and child, along with other participants, shall agree in writing to an appropriate sanction for the child. The sanction may include any of the dispositions authorized in section 260B.235, if appropriate, along with any other sanctions agreed to.

Subd. 2. **Failure to comply.** If a person fails to comply with the settlement agreement, the person shall be referred back to the court for further proceedings.

Subd. 3. **Dismissal of charge.** Upon the successful completion by a person of the sanctions agreed to in the settlement agreement, the program or provider shall notify the court and the court shall dismiss the charge against the person.

Subd. 4. **Approved list.** The prosecutor shall maintain a list of approved restorative justice programs and providers to which persons may be referred under this section.

Subd. 5. **Preference for culturally specific programs.** If a restorative justice program or provider that is tailored in a more culturally specific manner to the person is on the list of approved providers under subdivision 4, and the prosecutor is referring the person to a restorative justice program or provider under this section, the prosecutor shall refer the person to the more appropriate program or provider.

Subd. 6. **Exceptions; availability of programs; diversion alternatives; domestic abuse.** This section applies only in jurisdictions where suitable restorative justice programs and providers are available and are able to accept the referral. This section does not apply if a prosecutor has determined that a nonrestorative justice diversion program is more appropriate for the person. In addition, this section does not apply to cases involving domestic violence or domestic assault.

Subd. 7. **Definition.** As used in this section, "restorative justice" has the meaning given in section 611A.775. The term also includes Native American sentencing circles.

History: *2009 c 83 art 2 s 38*

SENTENCES

609.095 LIMITS OF SENTENCES.

(a) The legislature has the exclusive authority to define crimes and offenses and the range of the sentences or punishments for their violation. No other or different sentence or punishment shall be imposed for the commission of a crime than is authorized by this chapter or other applicable law.

(b) Except as provided in section 152.18 or 609.375, or upon agreement of the parties, a court may not refuse to adjudicate the guilt of a defendant who tenders a guilty plea in accordance with Minnesota Rules of Criminal Procedure, rule 15, or who has been found guilty by a court or jury following a trial.

(c) Paragraph (b) does not supersede Minnesota Rules of Criminal Procedure, rule 26.04.

History: *1963 c 753 art 1 s 609.095; 1998 c 367 art 6 s 1; 2001 c 158 s 6*

609.10 SENTENCES AVAILABLE.

Subdivision 1. **Sentences available.** (a) Upon conviction of a felony and compliance with the other provisions of this chapter the court, if it imposes sentence, may sentence the defendant to the extent authorized by law as follows:

(1) to life imprisonment; or

(2) to imprisonment for a fixed term of years set by the court; or

(3) to both imprisonment for a fixed term of years and payment of a fine; or

(4) to payment of a fine without imprisonment or as an intermediate sanction on a stayed sentence; or

(5) to payment of court-ordered restitution in addition to either imprisonment or payment of a fine, or both; or

(6) to payment of a local correctional fee as authorized under section 609.102in addition to any other sentence imposed by the court.

(b) If the court imposes a fine or orders restitution under paragraph (a), payment is due on the date imposed unless the court otherwise establishes a due date or a payment plan.

Subd. 2. **Restitution.** (a) As used in this section, "restitution" includes:

(1) payment of compensation to the victim or the victim's family; and

(2) if the victim is deceased or already has been fully compensated, payment of money to a victim assistance program or other program directed by the court.

"Restitution" includes payment of compensation to a government entity that incurs loss as a direct result of a crime.

(b) When the defendant does not pay the entire amount of court-ordered restitution and the fine at the same time, the court may order that all restitution shall be paid before the fine is paid.

History: *1963 c 753 art 1 s 609.10; 1978 c 723 art 1 s 13; 1984 c 610 s 1; 1992 c 571 art 11 s 12; 1995 c 244 s 10; 1996 c 408 art 7 s 2; 1997 c 239 art 7 s 16; 2009 c 83 art 2 s 39*

609.101 SURCHARGE ON FINES, ASSESSMENTS; MINIMUM FINES.

Subdivision 1. [Repealed, 1998 c 367 art 8 s 26]

Subd. 2. **Minimum fines.** Notwithstanding any other law, when a court sentences a person convicted of violating section 609.221, 609.222, 609.223, 609.2231, 609.224, 609.2242, 609.267, 609.2671, 609.2672, 609.342, 609.343,

609.344, or 609.345, it must impose a fine of not less than 30 percent of the maximum fine authorized by law nor more than the maximum fine authorized by law.

The court shall collect the portion of the fine mandated by this subdivision and forward 70 percent of it to a local victim assistance program that provides services locally in the county in which the crime was committed. The court shall forward the remaining 30 percent to the commissioner of management and budget to be credited to the general fund. If more than one victim assistance program serves the county in which the crime was committed, the court may designate on a case-by-case basis which program will receive the fine proceeds, giving consideration to the nature of the crime committed, the types of victims served by the program, and the funding needs of the program. If no victim assistance program serves that county, the court shall forward 100 percent of the fine proceeds to the commissioner of management and budget to be credited to the general fund. Fine proceeds received by a local victim assistance program must be used to provide direct services to crime victims.

The minimum fine required by this subdivision is in addition to the surcharge or assessment required by section 357.021, subdivision 6, and is in addition to any sentence of imprisonment or restitution imposed or ordered by the court.

As used in this subdivision, "victim assistance program" means victim witness programs within county attorney offices or any of the following programs: crime victim crisis centers, victim-witness programs, battered women shelters and nonshelter programs, and sexual assault programs.

Subd. 3. **Controlled substance offenses; minimum fines.** (a) Notwithstanding any other law, when a court sentences a person convicted of a controlled substance crime under sections 152.021 to 152.025 and 152.0262, it must impose a fine of not less than 30 percent of the maximum fine authorized by law nor more than the maximum fine authorized by law.

(b) The minimum fine required by this subdivision is in addition to the surcharge or assessment required by section 357.021, subdivision 6, and is in addition to any sentence of imprisonment or restitution imposed or ordered by the court.

(c) The court shall collect the fine mandated by this subdivision and forward 70 percent of it to a local drug abuse prevention or intervention program existing or being implemented in the county in which the crime was committed. The court shall forward the remaining 30 percent to the commissioner of management and budget to be credited to the general fund. If more than one drug abuse prevention or intervention program serves the county in which the crime was committed, the court may designate on a case-by-case basis which program will receive the fine proceeds, giving consideration to the community in which the crime was committed, the funding needs of the program, the number of peace officers in each community certified to teach the program, and the number of children served by the program in each community. If no drug abuse prevention or intervention program serves communities in that county, the court shall forward 100 percent of the fine proceeds to the commissioner of management and budget to be credited to the general fund.

(d) The minimum fines required by this subdivision shall be collected as are other fines. Fine proceeds received by a local drug abuse prevention or intervention program must be used to support that program, and may be used for salaries of program staff or peace officers certified to teach the program. The program must report receipt and use of money generated under this subdivision to the state court administrator by January 15 of each year. The state court administrator must make this information available upon request.

(e) As used in this subdivision, "drug abuse prevention or intervention program" and "program" include:

(1) the drug abuse resistance education program described in section 299A.33;

(2) a drug abuse education and prevention program that includes the following components:

(i) instruction for students enrolled in kindergarten through grade six that is designed to teach students to recognize and resist pressures to experiment with controlled substances and alcohol;

(ii) provisions for parental involvement;

(iii) classroom instruction by uniformed law enforcement personnel;

(iv) the use of positive student leaders to influence younger students not to use drugs; and

(v) an emphasis on activity-oriented techniques designed to encourage student-generated responses to problem-solving situations; and

(3) a juvenile court program that:

(i) provides intervention strategies to reduce drug abuse and criminal behavior in juvenile offenders; and

(ii) promotes local drug abuse prevention efforts within the community.

Subd. 4. **Minimum fines; other crimes.** Notwithstanding any other law:

(1) when a court sentences a person convicted of a felony that is not listed in subdivision 2 or 3, it must impose a fine of not less than 30 percent of the maximum fine authorized by law nor more than the maximum fine authorized by law; and

(2) when a court sentences a person convicted of a gross misdemeanor or misdemeanor that is not listed in subdivision 2, it must impose a fine of not less than 30 percent of the maximum fine authorized by law nor more than the maximum fine authorized by law, unless the fine is set at a lower amount on a uniform fine schedule established by the Judicial Council in consultation with affected state and local agencies. This schedule shall be promulgated not later than September 1 of each year and shall become effective on January 1 of the next year unless the legislature, by law, provides otherwise.

The minimum fine required by this subdivision is in addition to the surcharge or assessment required by section 357.021, subdivision 6, and is in addition to any sentence of imprisonment or restitution imposed or ordered by the court.

Subd. 5. **Waiver prohibited; reduction and installment payments.** (a) The court may not waive payment of the minimum fine required by this section.

(b) If the defendant qualifies for the services of a public defender or the court finds on the record that the convicted person is indigent or that immediate payment of the fine would create undue hardship for the convicted person or that person's immediate family, the court may reduce the amount of the minimum fine to not less than $50. Additionally, the court may permit the defendant to perform community work service in lieu of a fine.

(c) The court also may authorize payment of the fine in installments.

History: *1981 c 360 art 2 s 50; 1983 c 262 art 1 s 6; 1Sp1985 c 13 s 366; 1986 c 442 s 15; 1986 c 444; 1986 c 463 s 2; 1Sp1986 c 1 art 8 s 15; 1987 c 244 s 1; 1987 c 404 s 189; 1989 c 264 s 2; 1989 c 335 art 4 s 99; 1991 c 279 s 24, 41; 1991 c 345 art 1 s 106; 1992 c 571 art 4 s 2, 3; 1993 c 192 s 105; 1993 c 326 art 4 s 14; art 12 s 8-12, 18; art 13 s 20-22; 1995 c 226 art 2 s 8-10; 1996 c 305 art 1 s 119; 1997 c 7 art 2 s 61; 1997 c 239 art 3 s 4; 1998 c 367 art 8 s 10; 2001 c 71 s 1-4; 2003 c 112 art 2 s 50; 1Sp2003 c 2 art 2 s 6; 2005 c 136 art 7 s 21; 2006 c 260 art 5 s 50; 2008 c 277 art 1 s 93; 2009 c 83 art 2 s 40, 41; 2009 c 101 art 2 s 109*

609.102 LOCAL CORRECTIONAL FEES; IMPOSITION BY COURT.

Subdivision 1. **Definition.** As used in this section, "local correctional fee" means a fee for local correctional services established by a local correctional agency under section 244.18.

Subd. 2. **Imposition of fee.** When a court places a person convicted of a crime under the supervision and control of a local correctional agency, that agency may collect a local correctional fee based on the local correctional agency's fee schedule adopted under section 244.18.

Subd. 2a. **Imposition of correctional fee.** When a person convicted of a crime is supervised by the commissioner of corrections, the commissioner may collect a correctional fee under section 241.272.

Subd. 3. [Repealed, 1999 c 111 s 6]

Subd. 4. [Repealed, 1999 c 111 s 6]

History: *1992 c 571 art 11 s 13; 1999 c 111 s 4; 1999 c 216 art 4 s 10; 2006 c 260 art 4 s 13*

609.104 FINE AND SURCHARGE COLLECTION.

Subdivision 1. **Failure to pay restitution or fine.** (a) Any portion of a fine, surcharge, court cost, restitution, or fee that the defendant fails to pay by the due date may be referred for collection under section 480.15, subdivision 10c. If the defendant has agreed to a payment plan but fails to pay an installment when due, the entire amount remaining becomes due and payable and may be referred for collection under section 480.15, subdivision 10c.

(b) The defendant may contest the referral for collection based on inability to pay by requesting a hearing no later than the due date. The defendant shall be notified in writing at sentencing that under section 480.15, subdivision 10c, the court may refer the case for collection for nonpayment, and collection costs may be added to the amount due. The defendant shall also be notified in writing of the right to contest a referral for collection. The state court administrator shall develop the notice language.

Subd. 2. **Fine and surcharge collection.** (a) A defendant's obligation to pay court-ordered fines, surcharges, court costs, restitution, and fees shall survive after the due date for a period set by the Judicial Council.

(b) Any change in the collection period established by the Judicial Council shall be effective on court-ordered fines, surcharges, court costs, restitution, and fees imposed on or after July 1, 2009.

(c) The period relating to a defendant's obligation to pay restitution under paragraph (a) does not limit the victim's right to collect restitution through other means such as a civil judgment.

(d) Nothing in this subdivision extends the period of a defendant's stay of sentence imposition or execution.

History: *2009 c 83 art 2 s 42*

609.105 SENTENCE OF IMPRISONMENT.

Subdivision 1. **Sentence to more than one year.** A felony sentence to imprisonment for more than one year shall commit the defendant to the custody of the commissioner of corrections.

Subd. 1a. [Repealed, 2009 c 83 art 3 s 24]

Subd. 1b. [Repealed, 2009 c 83 art 3 s 24]

Subd. 2. **Place of confinement.** The commissioner of corrections shall determine the place of confinement in a prison, reformatory, or other facility of the Department of Corrections established by law for the confinement of convicted persons and prescribe reasonable conditions and rules for their employment, conduct, instruction, and discipline within or without the facility.

Subd. 3. **Sentence to one year or less.** A sentence to imprisonment for a period of one year or any lesser period shall be to a workhouse, work farm, county jail, or other place authorized by law.

History: *1963 c 753 art 1 s 609.105; 1985 c 248 s 70; 1Sp1997 c 2 s 61; 1999 c 126 s 10; 1999 c 194 s 7, 8; 1Sp2003 c 2 art 5 s 7-9; 2009 c 83 art 3 s 19*

609.1055 OFFENDERS WITH SERIOUS AND PERSISTENT MENTAL ILLNESS; ALTERNATIVE PLACEMENT.

When a court intends to commit an offender with a serious and persistent mental illness, as defined in section 245.462, subdivision 20, paragraph (c), to the custody of the commissioner of corrections for imprisonment at a state correctional facility, either when initially pronouncing a sentence or when revoking an offender's probation, the court, when consistent with public safety, may instead place the offender on probation or continue the offender's probation and require as a condition of the probation that the offender successfully complete an appropriate supervised alternative living program having a mental health treatment component. This section applies only to offenders who would have a remaining term of imprisonment after adjusting for credit for prior imprisonment, if any, of more than one year.

History: *1Sp2003 c 2 art 5 s 10*

609.106 HEINOUS CRIMES.

Subdivision 1. **Terms.** (a) As used in this section, "heinous crime" means:

(1) a violation or attempted violation of section 609.185 or 609.19;

(2) a violation of section 609.195 or 609.221; or

(3) a violation of section 609.342, 609.343, or 609.344, if the offense was committed with force or violence.

(b) "Previous conviction" means a conviction in Minnesota for a heinous crime or a conviction elsewhere for conduct that would have been a heinous crime under this chapter if committed in Minnesota. The term includes any conviction that occurred before the commission of the present offense of conviction, but does not include a conviction if 15 years have elapsed since the person was discharged from the sentence imposed for the offense.

Subd. 2. **Life without release.** The court shall sentence a person to life imprisonment without possibility of release under the following circumstances:

(1) the person is convicted of first-degree murder under section 609.185, paragraph (a), clause (1), (2), (4), or (7);

(2) the person is convicted of committing first-degree murder in the course of a kidnapping under section 609.185, paragraph (a), clause (3); or

(3) the person is convicted of first-degree murder under section 609.185, paragraph (a), clause (3), (5), or (6), and the court determines on the record at the time of sentencing that the person has one or more previous convictions for a heinous crime.

[See Note.]

History: *1998 c 367 art 2 s 6; art 6 s 3,15; 2002 c 401 art 1 s 13; 2005 c 136 art 2 s 5; art 17 s 9; 2015 c 21 art 1 s 98*

NOTE: See State v. Ali, 855 N.W.2d 235 (Minn. 2014) and Chambers v. State, 831 N.W.2d 311 (Minn. 2013) for unconstitutionality and application of subdivision 2, clause (1), to sentencing of a juvenile defendant.

609.107 MANDATORY PENALTY FOR CERTAIN MURDERERS.

When a person is convicted of violating section 609.19 or 609.195, the court shall sentence the person to the statutory maximum sentence for the offense if the person was previously convicted of a heinous crime as defined in section 609.106 and 15 years have not elapsed since the person was discharged from the sentence imposed for that conviction. The court may not stay the imposition or execution of the sentence, notwithstanding section 609.135.

History: *1998 c 367 art 6 s 4*

609.1095 INCREASED SENTENCES FOR CERTAIN DANGEROUS AND REPEAT FELONY OFFENDERS.

Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the meanings given.

(b) "Conviction" means any of the following accepted and recorded by the court: a plea of guilty, a verdict of guilty by a jury, or a finding of guilty by the court. The term includes a conviction by any court in Minnesota or another jurisdiction.

(c) "Prior conviction" means a conviction that occurred before the offender committed the next felony resulting in a conviction and before the offense for which the offender is being sentenced under this section.

(d) "Violent crime" means a violation of or an attempt or conspiracy to violate any of the following laws of this state or any similar laws of the United States or any other state: sections 152.137; 609.165; 609.185; 609.19; 609.195; 609.20; 609.205; 609.2112; 609.2113; 609.2114; 609.221; 609.222; 609.223; 609.228; 609.235; 609.24; 609.245; 609.25; 609.255; 609.2661; 609.2662; 609.2663; 609.2664; 609.2665; 609.267; 609.2671; 609.268; 609.342; 609.343; 609.344; 609.345; 609.498, subdivision 1; 609.561; 609.562; 609.582, subdivision 1; 609.66, subdivision 1e; 609.687; and 609.855, subdivision 5; any provision of sections 609.229; 609.377; 609.378; 609.749; and 624.713 that is punishable by a felony penalty; or any provision of chapter 152 that is punishable by a maximum sentence of 15 years or more; or Minnesota Statutes 2012, section 609.21.

Subd. 2. **Increased sentences for dangerous offender who commits third violent crime.** Whenever a person is convicted of a violent crime that is a felony, and the judge is imposing an executed sentence based on a Sentencing Guidelines presumptive imprisonment sentence, the judge may impose an aggravated durational departure from the presumptive imprisonment sentence up to the statutory maximum sentence if the offender was at least 18 years old at the time the felony was committed, and:

(1) the court determines on the record at the time of sentencing that the offender has two or more prior convictions for violent crimes; and

(2) the fact finder determines that the offender is a danger to public safety. The fact finder may base its determination that the offender is a danger to public safety on the following factors:

(i) the offender's past criminal behavior, such as the offender's high frequency rate of criminal activity or juvenile adjudications, or long involvement in criminal activity including juvenile adjudications; or

(ii) the fact that the present offense of conviction involved an aggravating factor that would justify a durational departure under the Sentencing Guidelines.

Subd. 3. **Mandatory sentence for dangerous offender who commits third violent felony.** (a) Unless a longer mandatory minimum sentence is otherwise required by law or the court imposes a longer aggravated durational departure under subdivision 2, a person who is convicted of a violent crime that is a felony must be committed to the commissioner of corrections for a mandatory sentence of at least the length of the presumptive sentence under the Sentencing Guidelines if the court determines on the record at the time of sentencing that the person has two or more prior felony convictions for violent crimes. The court shall impose and execute the prison sentence regardless of whether the guidelines presume an executed prison sentence.

Any person convicted and sentenced as required by this subdivision is not eligible for probation, parole, discharge, or work release, until that person has served the full term of imprisonment imposed by the court, notwithstanding sections 241.26, 242.19, 243.05, 244.04, 609.12, and 609.135.

(b) For purposes of this subdivision, "violent crime" does not include a violation of section 152.023 or 152.024.

Subd. 4. **Increased sentence for offender who commits sixth felony.** Whenever a person is convicted of a felony, and the judge is imposing an executed sentence based on a Sentencing Guidelines presumptive imprisonment sentence, the judge may impose an aggravated durational departure from the presumptive sentence up to the statutory maximum sentence if the factfinder determines that the offender has five or more prior felony convictions and that the present offense is a felony that was committed as part of a pattern of criminal conduct.

History: *1998 c 367 art 6 s 7; 2005 c 136 art 7 s 16; art 16 s 11, 12; 2014 c 180 s 9*

609.11 MINIMUM SENTENCES OF IMPRISONMENT.

Subdivision 1. **Commitments without minimums.** All commitments to the commissioner of corrections for imprisonment of the defendant are without minimum terms except when the sentence is to life imprisonment as required by law and except as otherwise provided in this chapter.

Subd. 2. [Repealed, 1978 c 723 art 2 s 5]

Subd. 3. [Repealed, 1981 c 227 s 13]

Subd. 4. **Dangerous weapon.** Any defendant convicted of an offense listed in subdivision 9 in which the defendant or an accomplice, at the time of the offense, used, whether by brandishing, displaying, threatening with, or otherwise employing, a dangerous weapon other than a firearm, shall be committed to the commissioner of corrections for not less than one year plus one day, nor more than the maximum sentence provided by law. Any defendant convicted of a second or subsequent offense in which the defendant or an accomplice, at the time of the offense, used a dangerous weapon other than a firearm, shall be committed to the commissioner of corrections for not less than three years nor more than the maximum sentence provided by law.

Subd. 5. **Firearm.** (a) Except as otherwise provided in paragraph (b), any defendant convicted of an offense listed in subdivision 9 in which the defendant or an accomplice, at the time of the offense, had in possession or used, whether by brandishing, displaying, threatening with, or otherwise employing, a firearm, shall be committed to the commissioner of corrections for not less than three years, nor more than the maximum sentence provided by law. Any defendant convicted of a second or subsequent offense in which the defendant or an accomplice, at the time of the offense, had in possession or used a firearm shall be committed to the commissioner of corrections for not less than five years, nor more than the maximum sentence provided by law.

(b) Any defendant convicted of violating section 609.165 or 624.713, subdivision 1, clause (2), shall be committed to the commissioner of corrections for not less than five years, nor more than the maximum sentence provided by law.

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

Subd. 6. **No early release.** Any defendant convicted and sentenced as required by this section is not eligible for probation, parole, discharge, or supervised release until that person has served the full term of imprisonment as provided by law, notwithstanding the provisions of sections 242.19, 243.05, 244.04, 609.12 and 609.135.

Subd. 7. **Fact finder shall establish.** The question of whether the defendant or an accomplice, at the time of commission of an offense listed in subdivision 9, used a firearm or other dangerous weapon or had in possession a firearm shall be determined by the fact finder at the time of a verdict or finding of guilt at trial or the entry of a plea of guilty based upon the record of the trial or the plea of guilty. The fact finder shall also determine whether the defendant has been convicted of a second or subsequent offense in which the defendant or an accomplice, at the time

of commission of an offense listed in subdivision 9, used a firearm or other dangerous weapon or had in possession a firearm.

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

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

(c) The court may not, on its own motion or the prosecutor's motion, sentence a defendant without regard to the mandatory minimum sentences established by subdivision 5, if the defendant was convicted of a crime under section 152.021, subdivision 1, or 152.022, subdivision 1, and the person or an accomplice possessed on their person or within immediate reach, or used, whether by brandishing, displaying, threatening with, or otherwise employing, a firearm.

Subd. 9. **Applicable offenses.** The crimes for which mandatory minimum sentences shall be served as provided in this section are: murder in the first, second, or third degree; assault in the first, second, or third degree; burglary; kidnapping; false imprisonment; manslaughter in the first or second degree; aggravated robbery; simple robbery; first-degree or aggravated first-degree witness tampering; criminal sexual conduct under the circumstances described in sections 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision 1, clauses (a) to (f); and 609.344, subdivision 1, clauses (a) to (e) and (h) to (j); escape from custody; arson in the first, second, or third degree; drive-by shooting under section 609.66, subdivision 1e; stalking under section609.749, subdivision 3, clause (3); possession or other unlawful use of a firearm or ammunition in violation of section 609.165, subdivision 1b, or 624.713, subdivision 1, clause (2), a felony violation of chapter 152; or any attempt to commit any of these offenses.

Subd. 10. **Report on criminal cases involving firearm.** Beginning on July 1, 1994, every county attorney shall collect and maintain the following information on criminal complaints and prosecutions within the county attorney's office in which the defendant is alleged to have committed an offense listed in subdivision 9 while possessing or using a firearm:

(1) whether the case was charged or dismissed;

(2) whether the defendant was convicted of the offense or a lesser offense; and

(3) whether the mandatory minimum sentence required under this section was imposed and executed or was waived by the prosecutor or court.

No later than July 1 of each year, beginning on July 1, 1995, the county attorney shall forward this information to the Sentencing Guidelines commission upon forms prescribed by the commission.

History: *1963 c 753 art 1 s 609.11; 1969 c 743 s 1; 1971 c 845 s 15; 1974 c 32 s 1; 1975 c 378 s 8; 1977 c 130 s 2; 1978 c 723 art 2 s 2; 1979 c 258 s 1; 1981 c 227 s 1-7; 1983 c 274 s 15; 1986 c 351 s 5; 1989 c 290 art 3 s 27,28; 1991 c 279 s 25; 1993 c 326 art 13 s 23; 1994 c 576 s 46; 1994 c 636 art 3 s 5-8; 1996 c 408 art 4 s 4,5; 1997 c 96 s 4; 1998 c 367 art 2 s 4,5; 2006 c 260 art 1 s 13; 2010 c 299 s 14; 2015 c 65 art 3 s 17; 2016 c 160 s 16,17*

609.115 PRESENTENCE INVESTIGATION.

Subdivision 1. **Presentence investigation.** (a) When a defendant has been convicted of a misdemeanor or gross misdemeanor, the court may, and when the defendant has been convicted of a felony, the court shall, before sentence

is imposed, cause a presentence investigation and written report to be made to the court concerning the defendant's individual characteristics, circumstances, needs, potentialities, criminal record and social history, the circumstances of the offense and the harm caused by it to others and to the community. At the request of the prosecutor in a gross misdemeanor case, the court shall order that a presentence investigation and report be prepared. The investigation shall be made by a probation officer of the court, if there is one; otherwise it shall be made by the commissioner of corrections. The officer conducting the presentence or predispositional investigation shall make reasonable and good faith efforts to contact and provide the victim with the information required under section 611A.037, subdivision 2. Presentence investigations shall be conducted and summary hearings held upon reports and upon the sentence to be imposed upon the defendant in accordance with this section, section 244.10, and the Rules of Criminal Procedure.

(b) When the crime is a violation of sections 609.561 to 609.563, 609.5641, or 609.576 and involves a fire, the report shall include a description of the financial and physical harm the offense has had on the public safety personnel who responded to the fire. For purposes of this paragraph, "public safety personnel" means the state fire marshal; employees of the Division of the State Fire Marshal; firefighters, regardless of whether the firefighters receive any remuneration for providing services; peace officers, as defined in section 626.05, subdivision 2; individuals providing emergency management services; and individuals providing emergency medical services.

(c) When the crime is a felony violation of chapter 152 involving the sale or distribution of a controlled substance, the report may include a description of any adverse social or economic effects the offense has had on persons who reside in the neighborhood where the offense was committed.

(d) The report shall also include the information relating to crime victims required under section 611A.037, subdivision 1. If the court directs, the report shall include an estimate of the prospects of the defendant's rehabilitation and recommendations as to the sentence which should be imposed. In misdemeanor cases the report may be oral.

(e) When a defendant has been convicted of a felony, and before sentencing, the court shall cause a sentencing worksheet to be completed to facilitate the application of the Minnesota Sentencing Guidelines. The worksheet shall be submitted as part of the presentence investigation report.

(f) When a person is convicted of a felony for which the Sentencing Guidelines presume that the defendant will be committed to the commissioner of corrections under an executed sentence and no motion for a sentencing departure has been made by counsel, the court may, when there is no space available in the local correctional facility, commit the defendant to the custody of the commissioner of corrections, pending completion of the presentence investigation and report. When a defendant is convicted of a felony for which the Sentencing Guidelines do not presume that the defendant will be committed to the commissioner of corrections, or for which the Sentencing Guidelines presume commitment to the commissioner but counsel has moved for a sentencing departure, the court may commit the defendant to the commissioner with the consent of the commissioner, pending completion of the presentence investigation and report. The county of commitment shall return the defendant to the court when the court so orders.

Subd. 1a. **Contents of worksheet.** The Supreme Court shall promulgate rules uniformly applicable to all district courts for the form and contents of sentencing worksheets. These rules shall be promulgated by and effective on January 2, 1982.

Subd. 1b. [Repealed, 1987 c 331 s 13]

Subd. 1c. [Repealed, 1987 c 331 s 13]

Subd. 2. **Life imprisonment report.** If the defendant has been convicted of a crime for which a mandatory sentence of life imprisonment is provided by law, the probation officer of the court, if there is one, otherwise the commissioner of corrections, shall forthwith make a postsentence investigation and make a written report as provided by Subdivision 1.

Subd. 2a. **Sentencing worksheet; sentencing guidelines commission.** If the defendant has been convicted of a felony, including a felony for which a mandatory life sentence is required by law, the court shall cause a sentencing worksheet as provided in subdivision 1 to be completed and forwarded to the Sentencing Guidelines Commission.

For the purpose of this section, "mandatory life sentence" means a sentence under section 609.106, subdivision 2; 609.185; 609.3455; 609.385, subdivision 2; or Minnesota Statutes 2004, section 609.109, subdivision 3, and governed by section 244.05.

Subd. 3. **Criminal justice agency disclosure requirements.** All criminal justice agencies shall make available at no cost to the probation officer or the commissioner of corrections the criminal record and other relevant information relating to the defendant which they may have, when requested for the purposes of subdivisions 1 and 2.

Subd. 4. **Confidential sources of information.** (a) Any report made pursuant to subdivision 1 shall be, if written, provided to counsel for all parties before sentence. The written report shall not disclose confidential sources of information unless the court otherwise directs. On the request of the prosecuting attorney or the defendant's attorney a summary hearing in chambers shall be held on any matter brought in issue, but confidential sources of information shall not be disclosed unless the court otherwise directs. If the presentence report is given orally the defendant or the defendant's attorney shall be permitted to hear the report.

(b) Any report made under subdivision 1 or 2 shall be provided to counsel for the defendant for purposes of representing the defendant on any appeal or petition for postconviction relief. The reports shall be provided by the court and the commissioner of corrections at no cost to the defendant or the defendant's attorney.

Subd. 5. **Report to commissioner or local correctional agency.** If the defendant is sentenced to the commissioner of corrections, a copy of any report made pursuant to this section and not made by the commissioner shall accompany the commitment. If the defendant is sentenced to a local correctional agency or facility, a copy of the report must be provided to that agency or facility.

Subd. 6. **Report disclosure prohibited.** Except as provided in subdivisions 4 and 5 or as otherwise directed by the court any report made pursuant to this section shall not be disclosed.

Subd. 7. **Stay of imposition of sentence.** If imposition of sentence is stayed by reason of an appeal taken or to be taken, the presentence investigation provided for in this section shall not be made until such stay has expired or has otherwise been terminated.

Subd. 8. **Chemical use assessment required.** (a) If a person is convicted of a felony, the probation officer shall determine in the report prepared under subdivision 1 whether or not alcohol or drug use was a contributing factor to the commission of the offense. If so, the report shall contain the results of a chemical use assessment conducted in accordance with this subdivision. The probation officer shall make an appointment for the defendant to undergo the chemical use assessment if so indicated.

(b) The chemical use assessment report must include a recommended level of care for the defendant in accordance with the criteria contained in rules adopted by the commissioner of human services under section 254A.03, subdivision 3. The assessment must be conducted by an assessor qualified under rules adopted by the commissioner of human services under section 254A.03, subdivision 3. An assessor providing a chemical use assessment may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider, except as authorized under section 254A.19, subdivision 3. If an independent assessor is not available, the probation officer may use the services of an assessor authorized to perform assessments for the county social services agency under a variance granted under rules adopted by the commissioner of human services under section 254A.03, subdivision 3.

Subd. 9. **Compulsive gambling assessment required.** (a) If a person is convicted of theft under section 609.52, embezzlement of public funds under section 609.54, or forgery under section 609.625, 609.63, or 609.631, the probation officer shall determine in the report prepared under subdivision 1 whether or not compulsive gambling contributed to the commission of the offense. If so, the report shall contain the results of a compulsive gambling assessment conducted in accordance with this subdivision. The probation officer shall make an appointment for the offender to undergo the assessment if so indicated.

(b) The compulsive gambling assessment report must include a recommended level of treatment for the offender if the assessor concludes that the offender is in need of compulsive gambling treatment. The assessment must be conducted by an assessor qualified either under Minnesota Rules, part 9585.0040, subpart 1, item C, or qualifications determined to be equivalent by the commissioner, to perform these assessments or to provide compulsive gambling treatment. An assessor providing a compulsive gambling assessment may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider. If an independent assessor is not available, the probation officer may use the services of an assessor with a financial interest or referral relationship as authorized under rules adopted by the commissioner of human services under section 245.98, subdivision 2a.

(c) The commissioner of human services shall reimburse the assessor for each compulsive gambling assessment at a rate established by the commissioner. To the extent practicable, the commissioner shall standardize reimbursement rates for assessments. The commissioner shall reimburse the assessor after receiving written verification from the probation officer that the assessment was performed and found acceptable.

Subd. 10. **Military veterans.** (a) When a defendant appears in court and is convicted of a crime, the court shall inquire whether the defendant is currently serving in or is a veteran of the armed forces of the United States.

(b) If the defendant is currently serving in the military or is a veteran and has been diagnosed as having a mental illness by a qualified psychiatrist or clinical psychologist or physician, the court may:

(1) order that the officer preparing the report under subdivision 1 consult with the United States Department of Veterans Affairs, Minnesota Department of Veterans Affairs, or another agency or person with suitable knowledge or experience, for the purpose of providing the court with information regarding treatment options available to the defendant, including federal, state, and local programming; and

(2) consider the treatment recommendations of any diagnosing or treating mental health professionals together with the treatment options available to the defendant in imposing sentence.

History: *1963 c 753 art 1 s 609.115; 1978 c 723 art 2 s 3; 1979 c 233 s 23, 24; 1981 c 312 s 1, 2; 1983 c 262 art 2 s 3-5; 1986 c 444; 1987 c 331 s 8; 1988 c 669 s 1; 1989 c 117 s 1; 1990 c 602 art 8 s 1; 1991 c 279 s 26; 1991 c 336 art 2 s 42; 1993 c 339 s 23; 1994 c 636 art 6 s 25; 1997 c 239 art 8 s 30; 1998 c 407 art 8 s 7; 1999 c 126 s 11; 2000 c 468 s 28; 2005 c 136 art 14 s 14; 2007 c 13 art 3 s 37; 2007 c 147 art 8 s 32; art 12 s 12; 2008 c 299 s 18; 2010 c 236 s 1; 2012 c 212 s 7*

609.117 DNA ANALYSIS OF CERTAIN OFFENDERS REQUIRED.

Subdivision 1. **Upon sentencing.** If an offender has not already done so, the court shall order an offender to provide a biological specimen for the purpose of DNA analysis as defined in section 299C.155when:

(1) the court sentences a person charged with committing or attempting to commit a felony offense and the person is convicted of that offense or of any offense arising out of the same set of circumstances; or

(2) the juvenile court adjudicates a person a delinquent child who is petitioned for committing or attempting to commit a felony offense and is adjudicated delinquent for that offense or any offense arising out of the same set of circumstances.

The biological specimen or the results of the analysis shall be maintained by the Bureau of Criminal Apprehension as provided in section 299C.155.

Subd. 2. **Before release.** The commissioner of corrections or local corrections authority shall order a person to provide a biological specimen for the purpose of DNA analysis before completion of the person's term of imprisonment when the person has not provided a biological specimen for the purpose of DNA analysis and the person:

(1) was initially charged with committing or attempting to commit a felony offense and was convicted of that offense or of any offense arising out of the same set of circumstances, or the person has a past felony conviction in this or any other state; or

(2) is serving a term of imprisonment in this state under a reciprocal agreement although convicted in another state of committing or attempting to commit a felony offense or of any offense arising out of the same set of circumstances if the person was initially charged with committing or attempting to commit a felony offense. The commissioner of corrections or local corrections authority shall forward the sample to the Bureau of Criminal Apprehension.

Subd. 3. **Offenders from other states.** When the state accepts an offender from another state under the interstate compact authorized by section 243.1605, the acceptance is conditional on the offender providing a biological specimen for the purposes of DNA analysis as defined in section 299C.155, if the offender was initially charged with committing or attempting to commit a felony offense and was convicted of that offense or of any offense arising out of the same set of circumstances. The specimen must be provided under supervision of staff from the Department of Corrections or a Community Corrections Act county within 15 business days after the offender reports to the supervising agent. The cost of obtaining the biological specimen is the responsibility of the agency providing supervision.

Subd. 4. **After supervision expires.** (a) Upon motion of a prosecuting authority, a court shall issue an order to show cause why an offender who should have been ordered or required to provide a biological specimen under this section but did not, should not now be ordered to provide one for the purposes of DNA analysis. This subdivision applies if the offender's sentence or supervision has expired. The prosecuting authority shall provide the court with an affidavit that:

(1) identifies the offender by name and date of birth;

(2) identifies the offender's last known address;

(3) identifies the offender's charged offense, offense of conviction, and date of conviction; and

(4) indicates that the Bureau of Criminal Apprehension database of biological specimens has been searched and the offender has not previously provided a biological specimen for DNA analysis under this chapter.

(b) The order to show cause shall direct the offender to appear before the court within 30 days after the order is served. The prosecutor shall serve the order to show cause upon the offender in the same manner as a civil summons. The offender may avoid appearing before the court by appearing at a place and time designated in the order and voluntarily providing the specimen.

(c) Upon the offender's appearance before the court, and after an opportunity to be heard, the court may issue an order directing the offender to provide the specimen.

(d) If the offender has failed to provide the specimen or appear before the court and the prosecuting authority makes a sufficient showing that the offender was properly served with the order to show cause, the court may issue an order:

(1) requiring the offender to submit the specimen within 30 days from the date of the order at a designated location;

(2) including the designated location's address, telephone number, and regular hours of operation; and

(3) authorizing, if the offender fails or refuses to comply with the order to provide a specimen, a peace officer to detain and bring the offender before the court as soon as practicable to show cause why the specimen should not be obtained.

(e) The local corrections authority shall mail the order in paragraph (d) to the offender's last known address.

History: *1989 c 290 art 4 s 16; 1991 c 232 s 2; 1991 c 285 s 11; 1993 c 326 art 10 s 15; art 13 s 32; 1998 c 367 art 3 s 12, 13; art 6 s 15; 1999 c 216 art 3 s 7-9; 1Sp2001 c 8 art 9 s 6; 2005 c 136 art 12 s 9; 2008 c 299 s 19; 2010 c 256 s 1*

609.118 FINGERPRINTING REQUIRED.

(a) When a person is convicted of a felony, gross misdemeanor, or targeted misdemeanor, as defined in section 299C.10, subdivision 1, or is adjudicated delinquent for a felony or gross misdemeanor, the court shall order the offender to immediately report to the law enforcement agency responsible for the collection of fingerprint and other identification data required under section 299C.10, regardless of the sentence imposed or executed.

(b) Paragraph (a) does not apply if the person is remanded to the custody of a law enforcement agency or if the identification data was collected prior to the conviction or adjudication for the offense.

(c) A person who fails to obey a court order under paragraph (a) is subject to probation revocation, contempt of court, or any other appropriate remedy.

(d) This section does not limit or restrict any other statutory requirements or local policies regarding the collection of identification data.

History: *1Sp2001 c 8 art 6 s 7*

609.12 PAROLE OR DISCHARGE.

Subdivision 1. **Authority; conditions.** A person sentenced to the commissioner of corrections for imprisonment for a period less than life may be paroled or discharged at any time without regard to length of the term of imprisonment which the sentence imposes when in the judgment of the commissioner of corrections, and under the conditions the commissioner imposes, the granting of parole or discharge would be most conducive to rehabilitation and would be in the public interest.

Subd. 2. **Parole required after certain term.** If a sentence of more than five years has been imposed on a defendant for a crime authorizing a sentence of not more than ten years, the commissioner of corrections shall grant the defendant parole no later than the expiration of five years of imprisonment, less time granted for good behavior, unless the commissioner determines with or without hearing that the defendant's parole would not be conducive to rehabilitation or would not be in the public interest.

Subd. 3. **Parole; commissioner powers.** All sentences to the commissioner of corrections for the imprisonment of the defendant are subject to the laws relating to parole and the powers of the commissioner of corrections, except as modified in subdivisions 1 and 2, and to all other laws relating to persons in said institutions and their imprisonment.

History: *1963 c 753 art 1 s 609.12; 1973 c 654 s 15; 1975 c 271 s 6; 1983 c 274 s 18; 1986 c 444*

609.125 SENTENCE FOR MISDEMEANOR OR GROSS MISDEMEANOR.

Subdivision 1. **Sentences available.** (a) Upon conviction of a misdemeanor or gross misdemeanor the court, if sentence is imposed, may, to the extent authorized by law, sentence the defendant:

(1) to imprisonment for a definite term; or

(2) to payment of a fine without imprisonment or as an intermediate sanction on a stayed sentence; or

(3) to both imprisonment for a definite term and payment of a fine; or

(4) to payment of court-ordered restitution in addition to either imprisonment or payment of a fine, or both; or

(5) to payment of a local correctional fee as authorized under section 609.102in addition to any other sentence imposed by the court; or

(6) to perform work service in a restorative justice program in addition to any other sentence imposed by the court.

(b) If the court imposes a fine or orders restitution under paragraph (a), payment is due on the date imposed unless the court otherwise establishes a due date or a payment plan.

Subd. 2. **Restitution.** (a) As used in this section, "restitution" includes:

(1) payment of compensation to the victim or the victim's family; and

(2) if the victim is deceased or already has been fully compensated, payment of money to a victim assistance program or other program directed by the court.

"Restitution" includes payment of compensation to a government entity that incurs loss as a direct result of a crime.

(b) When the defendant does not pay the entire amount of court-ordered restitution and the fine at the same time, the court may order that all restitution shall be paid before the fine is paid.

History: *1963 c 753 art 1 s 609.125; 1971 c 25 s 91; 1984 c 610 s 2; 1992 c 571 art 11 s 14; 1995 c 244 s 11; 1996 c 408 art 7 s 3; 1997 c 239 art 3 s 6; art 7 s 17; 2009 c 83 art 2 s 43*

609.13 CONVICTIONS OF FELONY OR GROSS MISDEMEANOR; WHEN DEEMED MISDEMEANOR OR GROSS MISDEMEANOR.

Subdivision 1. **Felony.** Notwithstanding a conviction is for a felony:

(1) the conviction is deemed to be for a misdemeanor or a gross misdemeanor if the sentence imposed is within the limits provided by law for a misdemeanor or gross misdemeanor as defined in section 609.02; or

(2) the conviction is deemed to be for a misdemeanor if the imposition of the prison sentence is stayed, the defendant is placed on probation, and the defendant is thereafter discharged without a prison sentence.

Subd. 2. **Gross misdemeanor.** Notwithstanding that a conviction is for a gross misdemeanor, the conviction is deemed to be for a misdemeanor if:

(1) the sentence imposed is within the limits provided by law for a misdemeanor as defined in section 609.02; or

(2) if the imposition of the sentence is stayed, the defendant is placed on probation, and the defendant is thereafter discharged without sentence.

Subd. 3. **Misdemeanors.** If a defendant is convicted of a misdemeanor and is sentenced, or if the imposition of sentence is stayed, and the defendant is thereafter discharged without sentence, the conviction is deemed to be for a misdemeanor for purposes of determining the penalty for a subsequent offense.

History: *1963 c 753 art 1 s 609.13; 1971 c 937 s 21; 1986 c 435 s 6; 1986 c 444; 1993 c 326 art 2 s 10*

609.131 CERTIFICATION OF MISDEMEANOR AS PETTY MISDEMEANOR.

Subdivision 1. **General rule.** Except as provided in subdivision 2, an alleged misdemeanor violation must be treated as a petty misdemeanor if the prosecuting attorney believes that it is in the interest of justice that the defendant

not be imprisoned if convicted and certifies that belief to the court at or before the time of arraignment or pretrial hearing, and the court approves of the certification motion. Prior to the appointment of a public defender to represent a defendant charged with a misdemeanor, the court shall inquire of the prosecutor whether the prosecutor intends to certify the case as a petty misdemeanor. The defendant's consent to the certification is not required. When an offense is certified as a petty misdemeanor under this section, the defendant is not eligible for the appointment of a public defender.

Subd. 1a. [Repealed, 1993 c 326 art 4 s 40]

Subd. 2. **Certain violations excepted.** Subdivision 1 does not apply to a misdemeanor violation of section 169A.20; 171.09, subdivision 1, paragraph (g); 171.306, subdivision 6; 609.224; 609.2242; 609.226; 609.324, subdivision 3; 609.52; or 617.23, or an ordinance that conforms in substantial part to any of those sections. A violation described in this subdivision must be treated as a misdemeanor unless the defendant consents to the certification of the violation as a petty misdemeanor.

Subd. 3. **Use of conviction for enhancement.** Notwithstanding any other law, a conviction for a violation that was originally charged as a misdemeanor and was treated as a petty misdemeanor under subdivision 1 or the Rules of Criminal Procedure may not be used as the basis for charging a subsequent violation as a gross misdemeanor rather than a misdemeanor.

History: *1987 c 329 s 6; 1992 c 513 art 4 s 48; 1995 c 259 art 3 s 8; 2000 c 478 art 2 s 7; 2010 c 366 s 15; 2012 c 187 art 1 s 71; 2012 c 212 s 8*

609.132 CONTINUANCE FOR DISMISSAL.

The decision to offer or agree to a continuance of a criminal prosecution is an exercise of prosecutorial discretion resting solely with the prosecuting attorney.

History: *1994 c 636 art 2 s 15*

609.135 STAY OF IMPOSITION OR EXECUTION OF SENTENCE.

Subdivision 1. **Terms and conditions.** (a) Except when a sentence of life imprisonment is required by law, or when a mandatory minimum sentence is required by section 609.11, any court may stay imposition or execution of sentence and:

(1) may order intermediate sanctions without placing the defendant on probation; or

(2) may place the defendant on probation with or without supervision and on the terms the court prescribes, including intermediate sanctions when practicable. The court may order the supervision to be under the probation officer of the court, or, if there is none and the conviction is for a felony or gross misdemeanor, by the commissioner of corrections, or in any case by some other suitable and consenting person. Unless the court directs otherwise, state parole and probation agents and probation officers may impose community work service or probation violation sanctions, consistent with section 243.05, subdivision 1; sections 244.196 to 244.199; or 401.02, subdivision 5.

No intermediate sanction may be ordered performed at a location that fails to observe applicable requirements or standards of chapter 181A or 182, or any rule promulgated under them.

(b) For purposes of this subdivision, subdivision 6, and section 609.14, the term "intermediate sanctions" includes but is not limited to incarceration in a local jail or workhouse, home detention, electronic monitoring, intensive probation, sentencing to service, reporting to a day reporting center, chemical dependency or mental health treatment or counseling, restitution, fines, day-fines, community work service, work service in a restorative justice program, work in lieu of or to work off fines and, with the victim's consent, work in lieu of or to work off restitution.

(c) A court may not stay the revocation of the driver's license of a person convicted of violating the provisions of section 169A.20.

(d) If the court orders a fine, day-fine, or restitution as an intermediate sanction, payment is due on the date imposed unless the court otherwise establishes a due date or a payment plan.

Subd. 1a. **Failure to pay restitution.** If the court orders payment of restitution as a condition of probation and if the defendant fails to pay the restitution in accordance with the payment schedule or structure established by the court or the probation officer, the prosecutor or the defendant's probation officer may, on the prosecutor's or the officer's own motion or at the request of the victim, ask the court to hold a hearing to determine whether or not the conditions of probation should be changed or probation should be revoked. The defendant's probation officer shall ask for the hearing if the restitution ordered has not been paid prior to 60 days before the term of probation expires. The court shall schedule and hold this hearing and take appropriate action, including action under subdivision 2, paragraph (g), before the defendant's term of probation expires.

Nothing in this subdivision limits the court's ability to refer the case to collections under section 609.104 when a defendant fails to pay court-ordered restitution.

Subd. 1b. [Repealed, 1987 c 384 art 1 s 52]

Subd. 1c. **Failure to complete court-ordered treatment.** If the court orders a defendant to undergo treatment as a condition of probation and if the defendant fails to successfully complete treatment at least 60 days before the term of probation expires, the prosecutor or the defendant's probation officer may ask the court to hold a hearing to determine whether the conditions of probation should be changed or probation should be revoked. The court shall schedule and hold this hearing and take appropriate action, including action under subdivision 2, paragraph (h), before the defendant's term of probation expires.

Subd. 2. **Stay of sentence maximum periods.** (a) If the conviction is for a felony other than section 609.2113, subdivision 1 or 2, or 609.2114, subdivision 2, or Minnesota Statutes 2012, section 609.21, subdivision 1a, paragraph (b) or (c), the stay shall be for not more than four years or the maximum period for which the sentence of imprisonment might have been imposed, whichever is longer.

(b) If the conviction is for a gross misdemeanor violation of section 169A.20, 609.2113, subdivision 3, or 609.3451, or for a felony described in section 609.2113, subdivision 1 or 2, or 609.2114, subdivision 2, the stay shall be for not more than six years. The court shall provide for unsupervised probation for the last year of the stay unless the court finds that the defendant needs supervised probation for all or part of the last year.

(c) If the conviction is for a gross misdemeanor not specified in paragraph (b), the stay shall be for not more than two years.

(d) If the conviction is for any misdemeanor under section 169A.20; 609.746, subdivision 1; 609.79; or 617.23; or for a misdemeanor under section 609.2242 or 609.224, subdivision 1, in which the victim of the crime was a family or household member as defined in section 518B.01, the stay shall be for not more than two years. The court shall provide for unsupervised probation for the second year of the stay unless the court finds that the defendant needs supervised probation for all or part of the second year.

(e) If the conviction is for a misdemeanor not specified in paragraph (d), the stay shall be for not more than one year.

(f) The defendant shall be discharged six months after the term of the stay expires, unless the stay has been revoked or extended under paragraph (g), or the defendant has already been discharged.

(g) Notwithstanding the maximum periods specified for stays of sentences under paragraphs (a) to (f), a court may extend a defendant's term of probation for up to one year if it finds, at a hearing conducted under subdivision 1a, that:

(1) the defendant has not paid court-ordered restitution in accordance with the payment schedule or structure; and

(2) the defendant is likely to not pay the restitution the defendant owes before the term of probation expires.

This one-year extension of probation for failure to pay restitution may be extended by the court for up to one additional year if the court finds, at another hearing conducted under subdivision 1a, that the defendant still has not paid the court-ordered restitution that the defendant owes.

Nothing in this subdivision limits the court's ability to refer the case to collections under section 609.104.

(h) Notwithstanding the maximum periods specified for stays of sentences under paragraphs (a) to (f), a court may extend a defendant's term of probation for up to three years if it finds, at a hearing conducted under subdivision 1c, that:

(1) the defendant has failed to complete court-ordered treatment successfully; and

(2) the defendant is likely not to complete court-ordered treatment before the term of probation expires.

Subd. 3. **Motor vehicle offense report.** The court shall report to the commissioner of public safety any stay of imposition or execution granted in the case of a conviction for an offense in which a motor vehicle, as defined in section 169.011, subdivision 42, is used.

Subd. 4. **Jail as condition of probation.** The court may, as a condition of probation, require the defendant to serve up to one year incarceration in a county jail, a county regional jail, a county work farm, county workhouse or other local correctional facility, or require the defendant to pay a fine, or both. The court may allow the defendant the work release privileges of section 631.425 during the period of incarceration.

Subd. 5. **Assaulting spouse stay conditions.** If a person is convicted of assaulting a spouse or other person with whom the person resides, and the court stays imposition or execution of sentence and places the defendant on probation, the court must condition the stay upon the defendant's participation in counseling or other appropriate programs selected by the court.

Subd. 5a. **Domestic abuse victims; electronic monitoring; pilot project.** (a) Until a judicial district has adopted standards under section 629.72, subdivision 2a, paragraph (b), governing electronic monitoring devices used to protect victims of domestic abuse, a court within the judicial district, as a condition of a stay of imposition or execution of a sentence, may not order an offender convicted of a crime described in paragraph (b) to use an electronic monitoring device to protect a victim's safety.

(b) This subdivision applies to the following crimes, if committed by the defendant against a family or household member as defined in section 518B.01, subdivision 2:

(1) violations of orders for protection issued under chapter 518B;

(2) assault in the first, second, third, or fifth degree under section 609.221, 609.222, 609.223, or 609.224; or domestic assault under section 609.2242;

(3) criminal damage to property under section 609.595;

(4) disorderly conduct under section 609.72;

(5) harassing telephone calls under section 609.79;

(6) burglary under section 609.582;

(7) trespass under section 609.605;

(8) criminal sexual conduct in the first, second, third, fourth, or fifth degree under section 609.342, 609.343, 609.344, 609.345, or 609.3451;

(9) terroristic threats under section 609.713;

(10) stalking under section 609.749;

(11) violations of harassment restraining orders under section 609.748;

(12) violations of domestic abuse no contact orders under section 629.75; and

(13) interference with an emergency call under section 609.78, subdivision 2.

(c) The location data associated with the victim and offender are security information as defined in section 13.37. Location data maintained by a law enforcement agency, probation authority, prosecutorial agency, or court services department may be shared among those agencies to develop and monitor conditions of a stayed sentence under this section.

(d) A violation of a location restriction by an offender in a situation involving a victim and offender who are both mobile does not automatically constitute a violation of the conditions of the offender's stayed sentence.

[See Note.]

Subd. 6. **Preference for intermediate sanctions.** A court staying imposition or execution of a sentence that does not include a term of incarceration as a condition of the stay shall order other intermediate sanctions where practicable.

Subd. 7. **Demand of execution of sentence.** An offender may not demand execution of sentence in lieu of a stay of imposition or execution of sentence if the offender will serve less than nine months at the state institution. This subdivision does not apply to an offender who will be serving the sentence consecutively or concurrently with a previously imposed executed felony sentence.

Subd. 8. [Repealed, 2009 c 83 art 2 s 50]

History: *1963 c 753 art 1 s 609.135; 1971 c 244 s 2; 1976 c 341 s 3; 1977 c 349 s 1; 1977 c 355 s 6; 1978 c 723 art 2 s 4; 1978 c 724 s 1; 1981 c 9 s 2; 1981 c 227 s 8; 1983 c 264 s 9; 1984 c 610 s 3, 4; 1985 c 242 s 4; 1986 c 372 s 5; 1986 c 435 s 7-9; 1986 c 444; 1986 c 463 s 3; 1987 c 220 s 1; 1989 c 21 s 3; 1989 c 253 s 1; 1990 c 579 s 3, 4; 1991 c 272 s 6; 1991 c 279 s 27, 28; 1992 c 570 art 1 s 25; 1992 c 571 art 1 s 10; art 6 s 11, 12; 1993 c 326 art 10 s 12, 13; art 13 s 24; 1994 c 615 s 24; 1995 c 226 art 2 s 11; 1995 c 259 art 3 s 9, 10; 1996 c 408 art 7 s 4; 1997 c 239 art 3 s 7; art 5 s 8, 9; 1Sp1997 c 2 s 62; 1998 c 367 art 7 s 10; 1999 c 194 s 9; 2000 c 478 art 2 s 7; 1Sp2003 c 2 art 6 s 5; art 9 s 18; 2007 c 54 art 3 s 14; art 5 s 17; 2009 c 83 art 2 s 44-46; 2014 c 180 s 9; 2014 c 263 s 1; 2014 c 270 s 1*

NOTE: The amendment to subdivision 5a by Laws 2014, chapter 263, section 1, expires August 1, 2017. Laws 2014, chapter 263, section 1, the effective date.

609.1351 PETITION FOR CIVIL COMMITMENT.

When a court sentences a person under section 609.342, 609.343, 609.344, 609.345, 609.3453, or 609.3455, subdivision 3a, the court shall make a preliminary determination whether in the court's opinion a petition under chapter 253D may be appropriate and include the determination as part of the sentencing order. If the court determines that a petition may be appropriate, the court shall forward its preliminary determination along with supporting documentation to the county attorney.

History: *1989 c 290 art 4 s 9; 1992 c 571 art 3 s 7; 1Sp1994 c 1 art 2 s 32; 1998 c 367 art 6 s 15; 2005 c 136 art 4 s 5; 2006 c 260 art 1 s 47; 2013 c 49 s 22*

609.14 REVOCATION OF STAY. [NEW SUBD. 2a]

Subdivision 1. **Grounds.** (a) When it appears that the defendant has violated any of the conditions of probation or intermediate sanction, or has otherwise been guilty of misconduct which warrants the imposing or execution of sentence, the court may without notice revoke the stay and direct that the defendant be taken into immediate custody.

(b) When it appears that the defendant violated any of the conditions of probation during the term of the stay, but the term of the stay has since expired, the defendant's probation officer or the prosecutor may ask the court to initiate probation revocation proceedings under the Rules of Criminal Procedure at any time within six months after the expiration of the stay. The court also may initiate proceedings under these circumstances on its own motion. If proceedings are initiated within this six-month period, the court may conduct a revocation hearing and take any action authorized under rule 27.04 at any time during or after the six-month period.

(c) Notwithstanding the provisions of section 609.135 or any law to the contrary, after proceedings to revoke the stay have been initiated by a court order revoking the stay and directing either that the defendant be taken into custody or that a summons be issued in accordance with paragraph (a), the proceedings to revoke the stay may be concluded and the summary hearing provided by subdivision 2 may be conducted after the expiration of the stay or after the six-month period set forth in paragraph (b). The proceedings to revoke the stay shall not be dismissed on the basis that the summary hearing is conducted after the term of the stay or after the six-month period. The ability or inability to locate or apprehend the defendant prior to the expiration of the stay or during or after the six-month period shall not preclude the court from conducting the summary hearing unless the defendant demonstrates that the delay was purposefully caused by the state in order to gain an unfair advantage.

Subd. 2. **Notification of grounds for revocation.** The defendant shall thereupon be notified in writing and in such manner as the court directs of the grounds alleged to exist for revocation of the stay of imposition or execution of sentence. If such grounds are brought in issue by the defendant, a summary hearing shall be held thereon at which the defendant is entitled to be heard and to be represented by counsel.

Subd. 2a. **Alternatives to incarceration.** (a) A probation agent must present the court with local options to address and correct the violation including, but not limited to, inpatient chemical dependency treatment when the defendant at a summary hearing provided by subdivision 2 is:

(1) a nonviolent controlled substance offender;

(2) subject to supervised probation;

(3) appearing based on a technical violation; and

(4) admitting or found to have violated any of the conditions of probation.

(b) For purposes of this subdivision, "nonviolent controlled substance offender" is a person who meets the criteria described under section 244.0513, subdivision 2, clauses (1), (2), and (5), and "technical violation" has the meaning given in section 244.196, subdivision 6.

Subd. 3. **Sentence.** If any of such grounds are found to exist the court may:

(1) if imposition of sentence was previously stayed, again stay sentence or impose sentence and stay the execution thereof, and in either event place the defendant on probation or order intermediate sanctions pursuant to section 609.135, or impose sentence and order execution thereof; or

(2) if sentence was previously imposed and execution thereof stayed, continue such stay and place the defendant on probation or order intermediate sanctions in accordance with the provisions of section 609.135, or order execution of the sentence previously imposed.

Subd. 4. **Restoration to liberty.** If none of such grounds are found to exist, the defendant shall be restored to liberty under the previous order of the court.

History: *1963 c 753 art 1 s 609.14; 1984 c 610 s 5, 6; 1986 c 444; 1990 c 579 s 5; 1993 c 326 art 10 s 14; 1994 c 636 art 2 s 17*

609.145 CREDIT FOR PRIOR IMPRISONMENT.

Subdivision 1. **Prior imprisonment reduction.** When a person has been imprisoned pursuant to a conviction which is set aside and is thereafter convicted of a crime growing out of the same act or omission, the period of imprisonment to which the person is sentenced is reduced by the period of the prior imprisonment and the time earned thereby in diminution of sentence.

Subd. 2. **Reduction for time served before commitment to commissioner.** A sentence of imprisonment upon conviction of a felony is reduced by the period of confinement of the defendant following the conviction and before the defendant's commitment to the commissioner of corrections for execution of sentence unless the court otherwise directs.

Subd. 3. **Credit.** When a person is to be committed to the commissioner, the person's probation officer must provide to the court, prior to the sentencing hearing, the amount of time the person has in credit for prior imprisonment. The court must pronounce credit for prior imprisonment at the time of sentencing.

History: *1963 c 753 art 1 s 609.145; 1978 c 723 art 1 s 14; 1986 c 444; 1Sp2003 c 2 art 5 s 11*

609.15 MULTIPLE SENTENCES.

Subdivision 1. **Concurrent, consecutive sentences; specification requirement.** (a) Except as provided in paragraph (c), when separate sentences of imprisonment are imposed on a defendant for two or more crimes, whether charged in a single indictment or information or separately, or when a person who is under sentence of imprisonment in this state is being sentenced to imprisonment for another crime committed prior to or while subject to such former sentence, the court in the later sentences shall specify whether the sentences shall run concurrently or consecutively. If the court does not so specify, the sentences shall run concurrently.

(b) When a court imposes sentence for a misdemeanor or gross misdemeanor offense and specifies that the sentence shall run consecutively to any other sentence, the court may order the defendant to serve time in custody for the consecutive sentence in addition to any time in custody the defendant may be serving for any other offense, including probationary jail time or imprisonment for any felony offense.

(c) An inmate of a state prison who is convicted of committing an assault within the correctional facility is subject to the consecutive sentencing provisions of section 609.2232.

Subd. 2. **Limit on sentences; misdemeanor and gross misdemeanor.** If the court specifies that the sentence shall run consecutively and all of the sentences are for misdemeanors, the total of the sentences shall not exceed one year. If the sentences are for a gross misdemeanor and one or more misdemeanors, the total of the sentences shall not exceed two years. If all of the sentences are for gross misdemeanors, the total of the sentences shall not exceed four years.

History: *1963 c 753 art 1 s 609.15; 1992 c 571 art 2 s 8; 1993 c 326 art 13 s 26; 1994 c 615 s 25; 1997 c 239 art 3 s 8; art 9 s 35; 1Sp1997 c 2 s 63; 1999 c 194 s 10*

609.153 INCREASED PENALTIES FOR CERTAIN MISDEMEANORS.

Subdivision 1. **Application.** This section applies to the following misdemeanor-level crimes: sections 152.093(manufacture or delivery of drug paraphernalia prohibited); 152.095(advertisement of drug paraphernalia

prohibited); 609.324(prostitution); 609.3243(loitering with intent to participate in prostitution); 609.546(motor vehicle tampering); 609.595(damage to property); and 609.66(dangerous weapons); misdemeanor-level violations of section 609.605(trespass); and violations of local ordinances prohibiting the unlawful sale or possession of controlled substances.

Subd. 2. **Custodial arrest.** Notwithstanding rule 6.01 of the Rules of Criminal Procedure, a peace officer acting without a warrant who has decided to proceed with the prosecution of a person for committing a crime described in subdivision 1 may arrest and take the person into custody if the officer has reason to believe the person has a prior conviction for any crime described in Subdivision 1.

Subd. 3. **Increased penalty.** Notwithstanding the statutory maximum penalty otherwise applicable to the offense, a person who commits a misdemeanor-level crime described in subdivision 1 is guilty of a gross misdemeanor if the court determines at the time of sentencing that the person has two or more prior convictions in this or any other state for any of the crimes described in Subdivision 1.

Subd. 4. **Notice to complaining witness.** A prosecuting authority who is responsible for filing charges against or prosecuting a person arrested under the circumstances described in subdivision 2 shall make reasonable efforts to notify the complaining witness of the final outcome of the criminal proceeding that resulted from the arrest including, where appropriate, the decision to dismiss or not file charges against the arrested person.

History: *1997 c 239 art 3 s 9; 2006 c 260 art 1 s 14*

609.165 RESTORATION OF CIVIL RIGHTS; POSSESSION OF FIREARMS AND AMMUNITION.

Subdivision 1. **Restoration.** When a person has been deprived of civil rights by reason of conviction of a crime and is thereafter discharged, such discharge shall restore the person to all civil rights and to full citizenship, with full right to vote and hold office, the same as if such conviction had not taken place, and the order of discharge shall so provide.

Subd. 1a. **Certain convicted felons ineligible to possess firearms or ammunition.** The order of discharge must provide that a person who has been convicted of a crime of violence, as defined in section 624.712, subdivision 5, is not entitled to ship, transport, possess, or receive a firearm or ammunition for the remainder of the person's lifetime. Any person who has received such a discharge and who thereafter has received a relief of disability under United States Code, title 18, section 925, or whose ability to possess firearms and ammunition has been restored under subdivision 1d, shall not be subject to the restrictions of this subdivision.

Subd. 1b. **Violation and penalty.** (a) Any person who has been convicted of a crime of violence, as defined in section 624.712, subdivision 5, and who ships, transports, possesses, or receives a firearm or ammunition, commits a felony and may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than $30,000, or both.

(b) A conviction and sentencing under this section shall be construed to bar a conviction and sentencing for a violation of section 624.713, subdivision 2.

(c) The criminal penalty in paragraph (a) does not apply to any person who has received a relief of disability under United States Code, title 18, section 925, or whose ability to possess firearms and ammunition has been restored under subdivision 1d.

Subd. 1c. [Repealed, 1999 c 61 s 2]

Subd. 1d. **Judicial restoration of ability to possess firearms and ammunition by felon.** A person prohibited by state law from shipping, transporting, possessing, or receiving a firearm or ammunition because of a conviction or

a delinquency adjudication for committing a crime of violence may petition a court to restore the person's ability to possess, receive, ship, or transport firearms and otherwise deal with firearms and ammunition.

The court may grant the relief sought if the person shows good cause to do so and the person has been released from physical confinement.

If a petition is denied, the person may not file another petition until three years have elapsed without the permission of the court.

Subd. 2. **Discharge.** The discharge may be:

(1) by order of the court following stay of sentence or stay of execution of sentence; or

(2) upon expiration of sentence.

Subd. 3. **Applicability.** This section does not apply to a forfeiture of and disqualification for public office as provided in section 609.42, subdivision 2.

History: *1963 c 753 art 1 s 609.165; 1973 c 654 s 15; 1975 c 271 s 6; 1978 c 723 art 1 s 15; 1986 c 444;1987 c 276 s 1; 1994 c 636 art 3 s 9; 1996 c 408 art 4 s 7; 1998 c 376 s 5; 2003 c 28 art 3 s 3-5; 2005 c 83 s 1;2015 c 65 art 3 s 18*

ANTICIPATORY CRIMES

609.17 ATTEMPTS.

Subdivision 1. **Crime defined.** Whoever, with intent to commit a crime, does an act which is a substantial step toward, and more than preparation for, the commission of the crime is guilty of an attempt to commit that crime, and may be punished as provided in subdivision 4.

Subd. 2. **Act defined.** An act may be an attempt notwithstanding the circumstances under which it was performed or the means employed to commit the crime intended or the act itself were such that the commission of the crime was not possible, unless such impossibility would have been clearly evident to a person of normal understanding.

Subd. 3. **Defense.** It is a defense to a charge of attempt that the crime was not committed because the accused desisted voluntarily and in good faith and abandoned the intention to commit the crime.

Subd. 4. **Penalties.** Whoever attempts to commit a crime may be sentenced as follows:

(1) if the maximum sentence provided for the crime is life imprisonment, to not more than 20 years; or

(2) for any other attempt, to not more than one-half of the maximum imprisonment or fine or both provided for the crime attempted, but such maximum in any case shall not be less than imprisonment for 90 days or a fine of $100.

History: *1963 c 753 art 1 s 609.17; 1986 c 444*

609.175 CONSPIRACY.

Subdivision 1. **To cause arrest or prosecution.** Whoever conspires with another to cause a third person to be arrested or prosecuted on a criminal charge knowing the charge to be false is guilty of a misdemeanor.

Subd. 2. **To commit crime.** Whoever conspires with another to commit a crime and in furtherance of the conspiracy one or more of the parties does some overt act in furtherance of such conspiracy may be sentenced as follows:

(1) if the crime intended is a misdemeanor, by a sentence to imprisonment for not more than 90 days or to payment of a fine of not more than $300, or both; or

(2) if the crime intended is murder in the first degree or treason, to imprisonment for not more than 20 years; or

(3) if the crime intended is any other felony or a gross misdemeanor, to imprisonment or to payment of a fine of not more than one-half the imprisonment or fine provided for that felony or gross misdemeanor or both.

Subd. 3. **Application of section jurisdiction.** This section applies if:

(1) the defendant in this state conspires with another outside of this state; or

(2) the defendant outside of this state conspires with another in this state; or

(3) the defendant outside of this state conspires with another outside of this state and an overt act in furtherance of the conspiracy is committed within this state by either of them; or

(4) the defendant in this state conspires with another in this state.

History: *1963 c 753 art 1 s 609.175; 1971 c 23 s 37, 38; 1975 c 279 s 1*

HOMICIDE; BODILY HARM; SUICIDE

609.18 DEFINITION.

For the purposes of sections 609.185, 609.19, 609.2661, and 609.2662, "premeditation" means to consider, plan or prepare for, or determine to commit, the act referred to prior to its commission.

History: *1963 c 753 art 1 s 609.18; 1986 c 388 s 2*

609.185 MURDER IN THE FIRST DEGREE.

(a) Whoever does any of the following is guilty of murder in the first degree and shall be sentenced to imprisonment for life:

(1) causes the death of a human being with premeditation and with intent to effect the death of the person or of another;

(2) causes the death of a human being while committing or attempting to commit criminal sexual conduct in the first or second degree with force or violence, either upon or affecting the person or another;

(3) causes the death of a human being with intent to effect the death of the person or another, while committing or attempting to commit burglary, aggravated robbery, kidnapping, arson in the first or second degree, a drive-by shooting, tampering with a witness in the first degree, escape from custody, or any felony violation of chapter 152 involving the unlawful sale of a controlled substance;

(4) causes the death of a peace officer, prosecuting attorney, judge, or a guard employed at a Minnesota state or local correctional facility, with intent to effect the death of that person or another, while the person is engaged in the performance of official duties;

(5) causes the death of a minor while committing child abuse, when the perpetrator has engaged in a past pattern of child abuse upon a child and the death occurs under circumstances manifesting an extreme indifference to human life;

(6) causes the death of a human being while committing domestic abuse, when the perpetrator has engaged in a past pattern of domestic abuse upon the victim or upon another family or household member and the death occurs under circumstances manifesting an extreme indifference to human life; or

(7) causes the death of a human being while committing, conspiring to commit, or attempting to commit a felony crime to further terrorism and the death occurs under circumstances manifesting an extreme indifference to human life.

(b) For the purposes of paragraph (a), clause (4), "prosecuting attorney" has the meaning given in section 609.221, subdivision 2, paragraph (c), clause (4).

(c) For the purposes of paragraph (a), clause (4), "judge" has the meaning given in section 609.221, subdivision 2, paragraph (c), clause (5).

(d) For purposes of paragraph (a), clause (5), "child abuse" means an act committed against a minor victim that constitutes a violation of the following laws of this state or any similar laws of the United States or any other state: section 609.221; 609.222; 609.223; 609.224; 609.2242; 609.342; 609.343; 609.344; 609.345; 609.377; 609.378; or 609.713.

(e) For purposes of paragraph (a), clause (6), "domestic abuse" means an act that:

(1) constitutes a violation of section 609.221, 609.222, 609.223, 609.224, 609.2242, 609.342, 609.343, 609.344, 609.345, 609.713, or any similar laws of the United States or any other state; and

(2) is committed against the victim who is a family or household member as defined in section 518B.01, subdivision 2, paragraph (b).

(f) For purposes of paragraph (a), clause (7), "further terrorism" has the meaning given in section 609.714, subdivision 1.

History: *1963 c 753 art 1 s 609.185; 1975 c 374 s 1; 1981 c 227 s 9; 1986 c 444; 1988 c 662 s 2; 1989 c 290 art 2 s 11; 1990 c 583 s 4; 1992 c 571 art 4 s 5; 1994 c 636 art 2 s 19; 1995 c 244 s 12; 1995 c 259 art 3 s 12; 1998 c 367 art 2 s 7; 2000 c 437 s 5; 2002 c 401 art 1 s 15; 2005 c 136 art 17 s 10; 2014 c 302 s 1*

609.19 MURDER IN THE SECOND DEGREE.

Subdivision 1. **Intentional murder; drive-by shootings.** Whoever does either of the following is guilty of murder in the second degree and may be sentenced to imprisonment for not more than 40 years:

(1) causes the death of a human being with intent to effect the death of that person or another, but without premeditation; or

(2) causes the death of a human being while committing or attempting to commit a drive-by shooting in violation of section 609.66, subdivision 1e, under circumstances other than those described in section 609.185, paragraph (a), clause (3).

Subd. 2. **Unintentional murders.** Whoever does either of the following is guilty of unintentional murder in the second degree and may be sentenced to imprisonment for not more than 40 years:

(1) causes the death of a human being, without intent to effect the death of any person, while committing or attempting to commit a felony offense other than criminal sexual conduct in the first or second degree with force or violence or a drive-by shooting; or

(2) causes the death of a human being without intent to effect the death of any person, while intentionally inflicting or attempting to inflict bodily harm upon the victim, when the perpetrator is restrained under an order for protection and the victim is a person designated to receive protection under the order. As used in this clause, "order for protection" includes an order for protection issued under chapter 518B; a harassment restraining order issued under section 609.748; a court order setting conditions of pretrial release or conditions of a criminal sentence or juvenile court disposition; a restraining order issued in a marriage dissolution action; and any order issued by a court of another state or of the United States that is similar to any of these orders.

History: *1963 c 753 art 1 s 609.19; 1981 c 227 s 10; 1992 c 571 art 4 s 6; 1995 c 226 art 2 s 16; 1996 c 408 art 4 s 8; 1998 c 367 art 2 s 8; 2015 c 21 art 1 s 99*

609.195 MURDER IN THE THIRD DEGREE.

(a) Whoever, without intent to effect the death of any person, causes the death of another by perpetrating an act eminently dangerous to others and evincing a depraved mind, without regard for human life, is guilty of murder in the third degree and may be sentenced to imprisonment for not more than 25 years.

(b) Whoever, without intent to cause death, proximately causes the death of a human being by, directly or indirectly, unlawfully selling, giving away, bartering, delivering, exchanging, distributing, or administering a controlled substance classified in Schedule I or II, is guilty of murder in the third degree and may be sentenced to imprisonment for not more than 25 years or to payment of a fine of not more than $40,000, or both.

History: *1963 c 753 art 1 s 609.195; 1977 c 130 s 3; 1981 c 227 s 11; 1987 c 176 s 1*

609.20 MANSLAUGHTER IN THE FIRST DEGREE.

Whoever does any of the following is guilty of manslaughter in the first degree and may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than $30,000, or both:

(1) intentionally causes the death of another person in the heat of passion provoked by such words or acts of another as would provoke a person of ordinary self-control under like circumstances, provided that the crying of a child does not constitute provocation;

(2) violates section 609.224 and causes the death of another or causes the death of another in committing or attempting to commit a misdemeanor or gross misdemeanor offense with such force and violence that death of or great bodily harm to any person was reasonably foreseeable, and murder in the first or second degree was not committed thereby;

(3) intentionally causes the death of another person because the actor is coerced by threats made by someone other than the actor's coconspirator and which cause the actor reasonably to believe that the act performed by the actor is the only means of preventing imminent death to the actor or another;

(4) proximately causes the death of another, without intent to cause death by, directly or indirectly, unlawfully selling, giving away, bartering, delivering, exchanging, distributing, or administering a controlled substance classified in Schedule III, IV, or V; or

(5) causes the death of another in committing or attempting to commit a violation of section 609.377(malicious punishment of a child), and murder in the first, second, or third degree is not committed thereby.

As used in this section, a "person of ordinary self-control" does not include a person under the influence of intoxicants or a controlled substance.

History: *1963 c 753 art 1 s 609.20; 1981 c 227 s 12; 1984 c 628 art 3 s 3; 1986 c 444; 1987 c 176 s 2; 1988 c 604 s 1; 1995 c 244 s 13; 1996 c 408 art 3 s 13*

609.205 MANSLAUGHTER IN THE SECOND DEGREE.

A person who causes the death of another by any of the following means is guilty of manslaughter in the second degree and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both:

(1) by the person's culpable negligence whereby the person creates an unreasonable risk, and consciously takes chances of causing death or great bodily harm to another; or

(2) by shooting another with a firearm or other dangerous weapon as a result of negligently believing the other to be a deer or other animal; or

(3) by setting a spring gun, pit fall, deadfall, snare, or other like dangerous weapon or device; or

(4) by negligently or intentionally permitting any animal, known by the person to have vicious propensities or to have caused great or substantial bodily harm in the past, to run uncontrolled off the owner's premises, or negligently failing to keep it properly confined; or

(5) by committing or attempting to commit a violation of section 609.378(neglect or endangerment of a child), and murder in the first, second, or third degree is not committed thereby.

If proven by a preponderance of the evidence, it shall be an affirmative defense to criminal liability under clause (4) that the victim provoked the animal to cause the victim's death.

History: *1963 c 753 art 1 s 609.205; 1984 c 628 art 3 s 11; 1985 c 294 s 6; 1986 c 444; 1989 c 290 art 6 s 5; 1995 c 244 s 14*

609.2111 DEFINITIONS.

(a) For purposes of sections 609.2111 to 609.2114, the terms defined in this subdivision have the meanings given them.

(b) "Motor vehicle" has the meaning given in section 609.52, subdivision 1, and includes attached trailers.

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

(d) "Hazardous substance" means any chemical or chemical compound that is listed as a hazardous substance in rules adopted under chapter 182.

(e) "Qualified prior driving offense" includes a prior conviction:

(1) for a violation of section 169A.20 under the circumstances described in section 169A.24 or 169A.25;

(2) under section 609.2112, subdivision 1, clauses (2) to (6); 609.2113, subdivision 1, clauses (2) to (6); 2, clauses (2) to (6); or 3, clauses (2) to (6); or 609.2114, subdivision 1, clauses (2) to (6); or 2, clauses (2) to (6);

(3) under Minnesota Statutes 2012, section 609.21, subdivision 1, clauses (2) to (6); or

(4) under Minnesota Statutes 2006, section 609.21, subdivision 1, clauses (2) to (6); 2, clauses (2) to (6); 2a, clauses (2) to (6); 2b, clauses (2) to (6); 3, clauses (2) to (6); or 4, clauses (2) to (6).

History: *1990 c 602 art 4 s 1; 1996 c 442 s 33; 2007 c 54 art 3 s 11; 2014 c 180 s 6,9; 2016 c 109 s 1*

609.2112 CRIMINAL VEHICULAR HOMICIDE.

Subdivision 1. C**riminal vehicular homicide.** (a) Except as provided in paragraph (b), a person is guilty of criminal vehicular homicide and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both, if the person causes the death of a human being not constituting murder or manslaughter as a result of operating a motor vehicle:

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of:

(i) alcohol;

(ii) a controlled substance; or

(iii) any combination of those elements;

(3) while having an alcohol concentration of 0.08 or more;

(4) while having an alcohol concentration of 0.08 or more, as measured within two hours of the time of driving;

(5) in a negligent manner while knowingly under the influence of a hazardous substance;

(6) in a negligent manner while any amount of a controlled substance listed in Schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols, is present in the person's body;

(7) where the driver who causes the collision leaves the scene of the collision in violation of section 169.09, subdivision 1 or 6; or

(8) where the driver had actual knowledge that a peace officer had previously issued a citation or warning that the motor vehicle was defectively maintained, the driver had actual knowledge that remedial action was not taken, the driver had reason to know that the defect created a present danger to others, and the death was caused by the defective maintenance.

(b) If a person is sentenced under paragraph (a) for a violation under paragraph (a), clauses (2) to (6), occurring within ten years of a qualified prior driving offense, the statutory maximum sentence of imprisonment is 15 years.

Subd. 2. **Affirmative defense.** It shall be an affirmative defense to a charge under subdivision 1, clause (6), that the defendant used the controlled substance according to the terms of a prescription issued for the defendant in accordance with sections 152.11 and 152.12.

History: *1963 c 753 art 1 s 609.21; 1983 c 12 s 1; 1984 c 622 s 24; 1984 c 628 art 3 s 4,11; 1989 c 290 art 6 s 6; art 10 s 7; 1990 c 602 art 4 s 1; 1996 c 408 art 3 s 14; 1996 c 442 s 33; 2004 c 283 s 13; 2007 c 54 art 3 s 7,8,10; 2014 c 180 s 4,9; 2014 c 186 s 2; 2016 c 109 s 2*

609.2113 CRIMINAL VEHICULAR OPERATION; BODILY HARM.

Subdivision 1. **Great bodily harm.** A person is guilty of criminal vehicular operation resulting in great bodily harm and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if the person causes great bodily harm to another not constituting attempted murder or assault as a result of operating a motor vehicle:

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of:

(i) alcohol;

(ii) a controlled substance; or

(iii) any combination of those elements;

(3) while having an alcohol concentration of 0.08 or more;

(4) while having an alcohol concentration of 0.08 or more, as measured within two hours of the time of driving;

(5) in a negligent manner while knowingly under the influence of a hazardous substance;

(6) in a negligent manner while any amount of a controlled substance listed in Schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols, is present in the person's body;

(7) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6; or

(8) where the driver had actual knowledge that a peace officer had previously issued a citation or warning that the motor vehicle was defectively maintained, the driver had actual knowledge that remedial action was not taken, the driver had reason to know that the defect created a present danger to others, and the injury was caused by the defective maintenance.

Subd. 2. **Substantial bodily harm.** A person is guilty of criminal vehicular operation resulting in substantial bodily harm and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $10,000, or both, if the person causes substantial bodily harm to another as a result of operating a motor vehicle:

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of:

(i) alcohol;

(ii) a controlled substance; or

(iii) any combination of those elements;

(3) while having an alcohol concentration of 0.08 or more;

(4) while having an alcohol concentration of 0.08 or more, as measured within two hours of the time of driving;

(5) in a negligent manner while knowingly under the influence of a hazardous substance;

(6) in a negligent manner while any amount of a controlled substance listed in Schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols, is present in the person's body;

(7) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6; or

(8) where the driver had actual knowledge that a peace officer had previously issued a citation or warning that the motor vehicle was defectively maintained, the driver had actual knowledge that remedial action was not taken, the driver had reason to know that the defect created a present danger to others, and the injury was caused by the defective maintenance.

Subd. 3. **Bodily harm.** A person is guilty of criminal vehicular operation resulting in bodily harm and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both, if the person causes bodily harm to another as a result of operating a motor vehicle:

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of:

(i) alcohol;

(ii) a controlled substance; or

(iii) any combination of those elements;

(3) while having an alcohol concentration of 0.08 or more;

(4) while having an alcohol concentration of 0.08 or more, as measured within two hours of the time of driving;

(5) in a negligent manner while knowingly under the influence of a hazardous substance;

(6) in a negligent manner while any amount of a controlled substance listed in Schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols, is present in the person's body;

(7) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6; or

(8) where the driver had actual knowledge that a peace officer had previously issued a citation or warning that the motor vehicle was defectively maintained, the driver had actual knowledge that remedial action was not taken, the driver had reason to know that the defect created a present danger to others, and the injury was caused by the defective maintenance.

Subd. 4. **Affirmative defense.** It shall be an affirmative defense to a charge under subdivisions 1, clause (6); 2, clause (6); and 3, clause (6), that the defendant used the controlled substance according to the terms of a prescription issued for the defendant in accordance with sections 152.11 and 152.12.

History: *1983 c 12 s 1; 1984 c 622 s 25; 1984 c 628 art 3 s 4, 11; 1989 c 290 art 6 s 7; art 10 s 7; 1990 c 602 art 4 s 1; 1996 c 408 art 3 s 15, 16; 1996 c 442 s 33; 2004 c 283 s 13; 2007 c 54 art 3 s 7, 8, 10; 2014 c 180 s 5, 7, 9*

609.2114 CRIMINAL VEHICULAR OPERATION; UNBORN CHILD.

Subdivision 1. **Death to an unborn child.** (a) Except as provided in paragraph (b), a person is guilty of criminal vehicular operation resulting in death to an unborn child and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both, if the person causes the death of an unborn child as a result of operating a motor vehicle:

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of:

(i) alcohol;

(ii) a controlled substance; or

(iii) any combination of those elements;

(3) while having an alcohol concentration of 0.08 or more;

(4) while having an alcohol concentration of 0.08 or more, as measured within two hours of the time of driving;

(5) in a negligent manner while knowingly under the influence of a hazardous substance;

(6) in a negligent manner while any amount of a controlled substance listed in Schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols, is present in the person's body;

(7) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6; or

(8) where the driver had actual knowledge that a peace officer had previously issued a citation or warning that the motor vehicle was defectively maintained, the driver had actual knowledge that remedial action was not taken, the driver had reason to know that the defect created a present danger to others, and the injury was caused by the defective maintenance.

(b) If a person is sentenced under paragraph (a) for a violation under paragraph (a), clauses (2) to (6), occurring within ten years of a qualified prior driving offense, the statutory maximum sentence of imprisonment is 15 years.

Subd. 2. **Injury to an unborn child.** A person is guilty of criminal vehicular operation resulting in injury to an unborn child and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if the person causes the great bodily harm to an unborn child subsequently born alive as a result of operating a motor vehicle:

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of:

(i) alcohol;

(ii) a controlled substance; or

(iii) any combination of those elements;

(3) while having an alcohol concentration of 0.08 or more;

(4) while having an alcohol concentration of 0.08 or more, as measured within two hours of the time of driving;

(5) in a negligent manner while knowingly under the influence of a hazardous substance;

(6) in a negligent manner while any amount of a controlled substance listed in Schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols, is present in the person's body;

(7) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6; or

(8) where the driver had actual knowledge that a peace officer had previously issued a citation or warning that the motor vehicle was defectively maintained, the driver had actual knowledge that remedial action was not taken, the driver had reason to know that the defect created a present danger to others, and the injury was caused by the defective maintenance.

Subd. 3. **Conviction not bar to punishment for other crimes.** A prosecution for or a conviction of a crime under this section relating to causing death or injury to an unborn child is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Subd. 4. **Affirmative defense.** It shall be an affirmative defense to a charge under subdivisions 1, clause (6), and 2, clause (6), that the defendant used the controlled substance according to the terms of a prescription issued for the defendant in accordance with sections 152.11 and 152.12.

History: *1986 c 388 s 3,4; 1989 c 290 art 10 s 7; 1990 c 602 art 4 s 1; 1996 c 408 art 3 s 17,18; 1996 c 442 s 33; 2004 c 283 s 13; 2007 c 54 art 3 s 8,9,10; 2014 c 180 s 8,9; 2016 c 109 s 3*

609.215 SUICIDE.

Subdivision 1. **Aiding suicide.** Whoever intentionally advises, encourages, or assists another in taking the other's own life may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than $30,000, or both.

[See Note.]

Subd. 2. **Aiding attempted suicide.** Whoever intentionally advises, encourages, or assists another who attempts but fails to take the other's own life may be sentenced to imprisonment for not more than seven years or to payment of a fine of not more than $14,000, or both.

Subd. 3. **Acts or omissions not considered aiding suicide or aiding attempted suicide.** (a) A health care provider, as defined in section 145B.02, subdivision 6, who administers, prescribes, or dispenses medications or procedures to relieve another person's pain or discomfort, even if the medication or procedure may hasten or increase the risk of death, does not violate this section unless the medications or procedures are knowingly administered, prescribed, or dispensed to cause death.

(b) A health care provider, as defined in section 145B.02, subdivision 6, who withholds or withdraws a life-sustaining procedure in compliance with chapter 145B or 145C or in accordance with reasonable medical practice does not violate this section.

Subd. 4. **Injunctive relief.** A cause of action for injunctive relief may be maintained against any person who is reasonably believed to be about to violate or who is in the course of violating this section by any person who is:

(1) the spouse, parent, child, or sibling of the person who would commit suicide;

(2) an heir or a beneficiary under a life insurance policy of the person who would commit suicide;

(3) a health care provider of the person who would commit suicide;

(4) a person authorized to prosecute or enforce the laws of this state; or

(5) a legally appointed guardian or conservator of the person who would have committed suicide.

Subd. 5. **Civil damages.** A person given standing by subdivision 4, clause (1), (2), or (5), or the person who would have committed suicide, in the case of an attempt, may maintain a cause of action against any person who violates or who attempts to violate subdivision 1 or 2 for compensatory damages and punitive damages as provided in section 549.20. A person described in subdivision 4, clause (4), may maintain a cause of action against a person who violates or attempts to violate subdivision 1 or 2 for a civil penalty of up to $50,000 on behalf of the state. An action under this subdivision may be brought whether or not the plaintiff had prior knowledge of the violation or attempt.

Subd. 6. **Attorney fees.** Reasonable attorney fees shall be awarded to the prevailing plaintiff in a civil action brought under subdivision 4 or 5.

History: *1963 c 753 art 1 s 609.215; 1984 c 628 art 3 s 11; 1986 c 444; 1992 c 577 s 6-9; 1998 c 399 s 37*

NOTE: The words "advises" and "encourages" were severed from subdivision 1 as unconstitutional in State v. Melchert-Dinkel, 844 N.W.2d 13 (Minn. 2014).

CRIMES AGAINST THE PERSON

609.221 ASSAULT IN THE FIRST DEGREE.

Subdivision 1. **Great bodily harm.** Whoever assaults another and inflicts great bodily harm may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than $30,000, or both.

Subd. 2. **Use of deadly force against peace officer, prosecuting attorney, judge, or correctional employee.** (a) Whoever assaults a peace officer, prosecuting attorney, judge, or correctional employee by using or attempting to use deadly force against the officer, attorney, judge, or employee while the person is engaged in the performance of a duty imposed by law, policy, or rule may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than $30,000, or both.

(b) A person convicted of assaulting a peace officer, prosecuting attorney, judge, or correctional employee as described in paragraph (a) shall be committed to the commissioner of corrections for not less than ten years, nor more than 20 years. A defendant convicted and sentenced as required by this paragraph is not eligible for probation, parole, discharge, work release, or supervised release, until that person has served the full term of imprisonment as provided by law, notwithstanding the provisions of sections 241.26, 242.19, 243.05, 244.04, 609.12, and 609.135. Notwithstanding section 609.135, the court may not stay the imposition or execution of this sentence.

(c) As used in this subdivision:

(1) "correctional employee" means an employee of a public or private prison, jail, or workhouse;

(2) "deadly force" has the meaning given in section 609.066, subdivision 1;

(3) "peace officer" has the meaning given in section 626.84, subdivision 1;

(4) "prosecuting attorney" means an attorney, with criminal prosecution or civil responsibilities, who is the attorney general, a political subdivision's elected or appointed county or city attorney, or a deputy, assistant, or special assistant of any of these; and

(5) "judge" means a judge or justice of any court of this state that is established by the Minnesota Constitution.

History: *1979 c 258 s 4; 1984 c 628 art 3 s 11; 1989 c 290 art 6 s 8; 1997 c 239 art 3 s 10; 2014 c 302 s 2*

609.222 ASSAULT IN THE SECOND DEGREE.

Subdivision 1. **Dangerous weapon.** Whoever assaults another with a dangerous weapon may be sentenced to imprisonment for not more than seven years or to payment of a fine of not more than $14,000, or both.

Subd. 2. **Dangerous weapon; substantial bodily harm.** Whoever assaults another with a dangerous weapon and inflicts substantial bodily harm may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

History: *1979 c 258 s 5; 1984 c 628 art 3 s 11; 1985 c 53 s 1; 1989 c 290 art 6 s 9; 1992 c 571 art 4 s 7*

609.223 ASSAULT IN THE THIRD DEGREE.

Subdivision 1. **Substantial bodily harm.** Whoever assaults another and inflicts substantial bodily harm may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

Subd. 2. **Past pattern of child abuse.** Whoever assaults a minor may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if the perpetrator has engaged in a past pattern of child abuse against the minor. As used in this subdivision, "child abuse" has the meaning given it in section 609.185, paragraph (a), clause (5).

Subd. 3. **Felony; victim under four.** Whoever assaults a victim under the age of four, and causes bodily harm to the child's head, eyes, or neck, or otherwise causes multiple bruises to the body, is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

History: *1979 c 258 s 6; 1984 c 628 art 3 s 11; 1989 c 290 art 6 s 10; 1990 c 542 s 17; 1994 c 636 art 2 s 20; 2015 c 21 art 1 s 100*

609.2231 ASSAULT IN THE FOURTH DEGREE.

Subdivision 1. **Peace officers.** (a) As used in this subdivision, "peace officer" means a person who is licensed under section 626.845, subdivision 1, and effecting a lawful arrest or executing any other duty imposed by law.

(b) Whoever physically assaults a peace officer is guilty of a gross misdemeanor.

(c) Whoever commits either of the following acts against a peace officer is guilty of a felony and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $6,000, or both: (1) physically assaults the officer if the assault inflicts demonstrable bodily harm; or (2) intentionally throws or otherwise transfers bodily fluids or feces at or onto the officer.

Subd. 2. **Firefighters and emergency medical personnel.** Whoever assaults any of the following persons and inflicts demonstrable bodily harm is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than $4,000, or both:

(1) a member of a municipal or volunteer fire department or emergency medical services personnel unit in the performance of the member's duties; or

(2) a physician, nurse, or other person providing health care services in a hospital emergency department.

Subd. 2a. **Certain Department of Natural Resources employees.** Whoever assaults and inflicts demonstrable bodily harm on an employee of the Department of Natural Resources who is engaged in forest fire activities is guilty of a gross misdemeanor.

Subd. 3. **Correctional employees; prosecuting attorneys; judges; probation officers.** Whoever commits either of the following acts against an employee of a correctional facility as defined in section 241.021, subdivision 1, paragraph (f), against a prosecuting attorney as defined in section 609.221, subdivision 2, paragraph (c), clause (4),

against a judge as defined in section 609.221, subdivision 2, paragraph (c), clause (5), or against a probation officer or other qualified person employed in supervising offenders while the person is engaged in the performance of a duty imposed by law, policy, or rule is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than $4,000, or both:

(1) assaults the person and inflicts demonstrable bodily harm; or

(2) intentionally throws or otherwise transfers bodily fluids or feces at or onto the person.

Subd. 3a. **Secure treatment facility personnel.** (a) As used in this subdivision, "secure treatment facility" includes facilities listed in sections 253B.02, subdivision 18a, and 253D.02, subdivision 13.

(b) Whoever, while committed under chapter 253D, Minnesota Statutes 2012, section 253B.185, or Minnesota Statutes 1992, section 526.10, commits either of the following acts against an employee or other individual who provides care or treatment at a secure treatment facility while the person is engaged in the performance of a duty imposed by law, policy, or rule is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than $4,000, or both:

(1) assaults the person and inflicts demonstrable bodily harm; or

(2) intentionally throws or otherwise transfers bodily fluids or feces at or onto the person.

(c) Whoever, while committed under section 253B.18, or admitted under the provision of section 253B.10, subdivision 1, commits either of the following acts against an employee or other individual who supervises and works directly with patients at a secure treatment facility while the person is engaged in the performance of a duty imposed by law, policy, or rule, is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than $4,000, or both:

(1) assaults the person and inflicts demonstrable bodily harm; or

(2) intentionally throws or otherwise transfers urine, blood, semen, or feces onto the person.

(d) The court shall commit a person convicted of violating paragraph (b) to the custody of the commissioner of corrections for not less than one year and one day. The court may not, on its own motion or the prosecutor's motion, sentence a person without regard to this paragraph. A person convicted and sentenced as required by this paragraph is not eligible for probation, parole, discharge, work release, or supervised release, until that person has served the full term of imprisonment as provided by law, notwithstanding the provisions of sections 241.26, 242.19, 243.05, 244.04, 609.12, and 609.135.

(e) Notwithstanding the statutory maximum sentence provided in paragraph (b), when a court sentences a person to the custody of the commissioner of corrections for a violation of paragraph (b), the court shall provide that after the person has been released from prison, the commissioner shall place the person on conditional release for five years. The terms of conditional release are governed by sections 244.05 and 609.3455, subdivision 6, 7, or 8; and Minnesota Statutes 2004, section 609.109.

Subd. 4. **Assaults motivated by bias.** (a) Whoever assaults another because of the victim's or another's actual or perceived race, color, religion, sex, sexual orientation, disability as defined in section 363A.03, age, or national origin may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

(b) Whoever violates the provisions of paragraph (a) within five years of a previous conviction under paragraph (a) is guilty of a felony and may be sentenced to imprisonment for not more than one year and a day or to payment of a fine of not more than $3,000, or both.

Subd. 5. **School official.** Whoever assaults a school official while the official is engaged in the performance of the official's duties, and inflicts demonstrable bodily harm, is guilty of a gross misdemeanor. As used in this subdivision, "school official" includes teachers, school administrators, and other employees of a public or private school.

Subd. 6. **Public employees with mandated duties.** A person is guilty of a gross misdemeanor who:

(1) assaults an agricultural inspector, occupational safety and health investigator, child protection worker, public health nurse, animal control officer, or probation or parole officer while the employee is engaged in the performance of a duty mandated by law, court order, or ordinance;

(2) knows that the victim is a public employee engaged in the performance of the official public duties of the office; and

(3) inflicts demonstrable bodily harm.

Subd. 7. **Community crime prevention group members.** (a) A person is guilty of a gross misdemeanor who:

(1) assaults a community crime prevention group member while the member is engaged in neighborhood patrol;

(2) should reasonably know that the victim is a community crime prevention group member engaged in neighborhood patrol; and

(3) inflicts demonstrable bodily harm.

(b) As used in this subdivision, "community crime prevention group" means a community group focused on community safety and crime prevention that:

(1) is organized for the purpose of discussing community safety and patrolling community neighborhoods for criminal activity;

(2) is designated and trained by the local law enforcement agency as a community crime prevention group; or

(3) interacts with local law enforcement regarding community safety issues.

Subd. 8. **Vulnerable adults.** (a) As used in this subdivision, "vulnerable adult" has the meaning given in section 609.232, subdivision 11.

(b) Whoever assaults and inflicts demonstrable bodily harm on a vulnerable adult, knowing or having reason to know that the person is a vulnerable adult, is guilty of a gross misdemeanor.

Subd. 9. **Reserve officer.** A person is guilty of a gross misdemeanor who:

(1) assaults a reserve officer as defined in section 626.84, subdivision 1, paragraph (e), who is engaged in the performance of official public duties at the direction of, under the control of, or on behalf of a peace officer or supervising law enforcement officer or agency; and

(2) should reasonably know that the victim is a reserve officer engaged in the performance of official public duties of the peace officer, or supervising law enforcement officer or agency.

Subd. 10. **Utility and postal service employees and contractors.** (a) A person is guilty of a gross misdemeanor who:

(1) assaults an employee or contractor of a utility or the United States Postal Service while the employee or contractor is engaged in the performance of the employee's or contractor's duties;

(2) should reasonably know that the victim is an employee or contractor of a utility or the postal service who is:

(i) performing duties of the victim's employment; or

(ii) fulfilling the victim's contractual obligations; and

(3) inflicts demonstrable bodily harm.

(b) As used in this subdivision, "utility" has the meaning given it in section 609.594, subdivision 1, clause (3).

Subd. 11. **Transit operators.** (a) A person is guilty of a gross misdemeanor if (1) the person assaults a transit operator, or intentionally throws or otherwise transfers bodily fluids onto a transit operator; and (2) the transit operator is acting in the course of the operator's duties and is operating a transit vehicle, aboard a transit vehicle, or otherwise responsible for a transit vehicle. A person convicted under this paragraph may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

(b) For the purposes of this subdivision, "transit operator" means a driver or operator of a transit vehicle that is used to provide any of the following services:

(1) public transit, as defined in section 174.22, subdivision 7;

(2) light rail transit service;

(3) special transportation service under section 473.386, whether provided by the Metropolitan Council or by other providers under contract with the council; or

(4) commuter rail service.

History: *1983 c 169 s 1; 1984 c 628 art 3 s 11; 1985 c 185 s 1; 1986 c 444; 1987 c 252 s 9; 1989 c 261 s 1; 1989 c 290 art 6 s 11; 1991 c 121 s 1; 1991 c 279 s 29; 1992 c 571 art 4 s 8; 1994 c 636 art 2 s 21; 1996 c 408 art 3 s 19,20; 1997 c 180 s 5; 1997 c 239 art 9 s 36; 2000 c 441 s 1; 1Sp2003 c 2 art 8 s 8; 2004 c 184 s 1,2; 2005 c 136 art 17 s 11; 2006 c 260 art 1 s 15; 2007 c 13 art 3 s 37; 2011 c 28 s 7; 2011 c 85 s 1,2; 2013 c 49 s 22; 2013 c 96 s 2; 2013 c 133 s 1; 2014 c 302 s 3; 2015 c 23 s 1; 2016 c 93 s 1*

609.2232 CONSECUTIVE SENTENCES FOR ASSAULTS COMMITTED BY STATE PRISON INMATES.

If an inmate of a state correctional facility is convicted of violating section 609.221, 609.222, 609.223, 609.2231, or 609.224, while confined in the facility, the sentence imposed for the assault shall be executed and run consecutively to any unexpired portion of the offender's earlier sentence. The inmate is not entitled to credit against the sentence imposed for the assault for time served in confinement for the earlier sentence. The inmate shall serve the sentence for the assault in a state correctional facility even if the assault conviction was for a misdemeanor or gross misdemeanor.

History: *1997 c 239 art 9 s 37*

609.2233 FELONY ASSAULT MOTIVATED BY BIAS; INCREASED STATUTORY MAXIMUM SENTENCE.

A person who violates section 609.221, 609.222, or 609.223 because of the victim's or another person's actual or perceived race, color, religion, sex, sexual orientation, disability as defined in section 363A.03, age, or national origin is subject to a statutory maximum penalty of 25 percent longer than the maximum penalty otherwise applicable.

History: *2016 c 189 art 4 s 14*

609.224 ASSAULT IN THE FIFTH DEGREE.

Subdivision 1. **Misdemeanor.** Whoever does any of the following commits an assault and is guilty of a misdemeanor:

(1) commits an act with intent to cause fear in another of immediate bodily harm or death; or

(2) intentionally inflicts or attempts to inflict bodily harm upon another.

Subd. 2. **Gross misdemeanor.** (a) Whoever violates the provisions of subdivision 1 against the same victim within ten years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

(b) Whoever violates the provisions of subdivision 1 within three years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

Subd. 3. **Firearms.** (a) When a person is convicted of a violation of this section or section 609.221, 609.222, or 609.223, the court shall determine and make written findings on the record as to whether:

(1) the defendant owns or possesses a firearm; and

(2) the firearm was used in any way during the commission of the assault.

(b) Except as otherwise provided in section 609.2242, subdivision 3, paragraph (c), a person is not entitled to possess a pistol if the person has been convicted after August 1, 1992, of assault in the fifth degree if the offense was committed within three years of a previous conviction under sections 609.221 to 609.224, unless three years have elapsed from the date of conviction and, during that time, the person has not been convicted of any other violation of section 609.224. Property rights may not be abated but access may be restricted by the courts. A person who possesses a pistol in violation of this paragraph is guilty of a gross misdemeanor.

Subd. 4. **Felony.** (a) Whoever violates the provisions of subdivision 1 against the same victim within ten years of the first of any combination of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency is guilty of a felony and may be sentenced to imprisonment for not more than five years or payment of a fine of not more than $10,000, or both.

(b) Whoever violates the provisions of subdivision 1 within three years of the first of any combination of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

History: *1979 c 258 s 7; 1983 c 169 s 2; 1985 c 159 s 1; 1987 c 329 s 7; 1992 c 537 s 1, 2; 1992 c 571 art 6 s 13; 1993 c 326 art 2 s 11, 12; 1Sp1993 c 5 s 2, 3; 1994 c 636 art 3 s 10; 1995 c 229 art 2 s 1; 1995 c 259 art 3 s 13, 14; 1996 c 408 art 3 s 21, 22; 2000 c 437 s 6, 7; 1Sp2001 c 8 art 10 s 8, 9; 2006 c 260 art 1 s 16, 17; 2011 c 28 s 8*

609.2241 KNOWING TRANSFER OF COMMUNICABLE DISEASE.

Subdivision 1. **Definitions.** As used in this section, the following terms have the meanings given:

(a) "Communicable disease" means a disease or condition that causes serious illness, serious disability, or death; the infectious agent of which may pass or be carried from the body of one person to the body of another through direct transmission.

(b) "Direct transmission" means predominately sexual or blood-borne transmission.

(c) "A person who knowingly harbors an infectious agent" refers to a person who receives from a physician or other health professional:

(1) advice that the person harbors an infectious agent for a communicable disease;

(2) educational information about behavior which might transmit the infectious agent; and

(3) instruction of practical means of preventing such transmission.

(d) "Transfer" means to engage in behavior that has been demonstrated epidemiologically to be a mode of direct transmission of an infectious agent which causes the communicable disease.

(e) "Sexual penetration" means any of the acts listed in section 609.341, subdivision 12, when the acts described are committed without the use of a latex or other effective barrier.

Subd. 2. **Crime.** It is a crime, which may be prosecuted under section 609.17, 609.185, 609.19, 609.221, 609.222, 609.223, 609.2231, or 609.224, for a person who knowingly harbors an infectious agent to transfer, if the crime involved:

(1) sexual penetration with another person without having first informed the other person that the person has a communicable disease;

(2) transfer of blood, sperm, organs, or tissue, except as deemed necessary for medical research or if disclosed on donor screening forms; or

(3) sharing of nonsterile syringes or needles for the purpose of injecting drugs.

Subd. 3. **Affirmative defense.** It is an affirmative defense to prosecution, if it is proven by a preponderance of the evidence, that:

(1) the person who knowingly harbors an infectious agent for a communicable disease took practical means to prevent transmission as advised by a physician or other health professional; or

(2) the person who knowingly harbors an infectious agent for a communicable disease is a health care provider who was following professionally accepted infection control procedures.

Nothing in this section shall be construed to be a defense to a criminal prosecution that does not allege a violation of subdivision 2.

Subd. 4. **Health Department data.** Data protected by section 13.3805, subdivision 1, and information collected as part of a Health Department investigation under sections 144.4171 to 144.4186 may not be accessed or subpoenaed by law enforcement authorities or prosecutors without the consent of the subject of the data.

History: *1995 c 226 art 2 s 17; 1999 c 227 s 22*

609.2242 DOMESTIC ASSAULT.

Subdivision 1. **Misdemeanor.** Whoever does any of the following against a family or household member as defined in section 518B.01, subdivision 2, commits an assault and is guilty of a misdemeanor:

(1) commits an act with intent to cause fear in another of immediate bodily harm or death; or

(2) intentionally inflicts or attempts to inflict bodily harm upon another.

Subd. 2. **Gross misdemeanor.** Whoever violates subdivision 1 within ten years of a previous qualified domestic violence-related offense conviction or an adjudication of delinquency is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

Subd. 3. **Domestic assaults; firearms.** (a) When a person is convicted of a violation of this section or section 609.221, 609.222, 609.223, 609.224, or 609.2247, the court shall determine and make written findings on the record as to whether:

(1) the assault was committed against a family or household member, as defined in section 518B.01, subdivision 2;

(2) the defendant owns or possesses a firearm; and

(3) the firearm was used in any way during the commission of the assault.

(b) If the court determines that the assault was of a family or household member, and that the offender owns or possesses a firearm and used it in any way during the commission of the assault, it shall order that the firearm be summarily forfeited under section 609.5316, subdivision 3.

(c) When a person is convicted of assaulting a family or household member and is determined by the court to have used a firearm in any way during commission of the assault, the court may order that the person is prohibited from possessing any type of firearm for any period longer than three years or for the remainder of the person's life. A person who violates this paragraph is guilty of a gross misdemeanor. At the time of the conviction, the court shall inform the defendant for how long the defendant is prohibited from possessing a firearm and that it is a gross misdemeanor to violate this paragraph. The failure of the court to provide this information to a defendant does not affect the applicability of the firearm possession prohibition or the gross misdemeanor penalty to that defendant.

(d) Except as otherwise provided in paragraph (c), when a person is convicted of a violation of this section or section 609.224 and the court determines that the victim was a family or household member, the court shall inform the defendant that the defendant is prohibited from possessing a firearm for three years from the date of conviction and that it is a gross misdemeanor offense to violate this prohibition. The failure of the court to provide this information to a defendant does not affect the applicability of the firearm possession prohibition or the gross misdemeanor penalty to that defendant.

(e) Except as otherwise provided in paragraph (c), a person is not entitled to possess a pistol if the person has been convicted after August 1, 1992, or a firearm if a person has been convicted on or after August 1, 2014, of domestic assault under this section or assault in the fifth degree under section 609.224 and the assault victim was a family or household member as defined in section 518B.01, subdivision 2, unless three years have elapsed from the date of conviction and, during that time, the person has not been convicted of any other violation of this section or section 609.224. Property rights may not be abated but access may be restricted by the courts. A person who possesses a firearm in violation of this paragraph is guilty of a gross misdemeanor.

(f) Except as otherwise provided in paragraphs (b) and (h), when a person is convicted of a violation of this section or section 609.221, 609.222, 609.223, 609.224, or 609.2247 and the court determines that the assault was against a family or household member, the court shall order the defendant to transfer any firearms that the person possesses, within three business days, to a federally licensed firearms dealer, a law enforcement agency, or a third party who may lawfully receive them. The transfer may be permanent or temporary, unless the court prohibits the person from possessing a firearm for the remainder of the person's life under paragraph (c). A temporary firearm transfer only entitles the receiving party to possess the firearm. A temporary transfer does not transfer ownership or title. A defendant may not transfer firearms to a third party who resides with the defendant. If a defendant makes a temporary transfer, a federally licensed firearms dealer or law enforcement agency may charge the defendant a reasonable fee to store the person's firearms and may establish policies for disposal of abandoned firearms, provided such policies require that the person be notified by certified mail prior to disposal of abandoned firearms. For temporary firearms transfers under this paragraph, a law enforcement agency, federally licensed firearms dealer, or third party shall exercise due care to preserve the quality and function of the transferred firearms and shall return the transferred firearms to the person upon request after the expiration of the prohibiting time period imposed under this subdivision, provided the person is not otherwise prohibited from possessing firearms under state or federal law. The return of temporarily transferred firearms to a person shall comply with state and federal law. If a defendant permanently transfers the defendant's firearms to a law enforcement agency, the agency is not required to compensate the defendant and may charge the defendant a reasonable processing fee. A law enforcement agency is not required to accept a person's firearm under this paragraph. The court shall order that the person surrender all permits to carry and purchase firearms to the sheriff.

(g) A defendant who is ordered to transfer firearms under paragraph (f) must file proof of transfer as provided for in this paragraph. If the transfer is made to a third party, the third party must sign an affidavit under oath before a

notary public either acknowledging that the defendant permanently transferred the defendant's firearms to the third party or agreeing to temporarily store the defendant's firearms until such time as the defendant is legally permitted to possess firearms. The affidavit shall indicate the serial number, make, and model of all firearms transferred by the defendant to the third party. The third party shall acknowledge in the affidavit that the third party may be held criminally and civilly responsible under section 624.7144 if the defendant gains access to a transferred firearm while the firearm is in the custody of the third party. If the transfer is to a law enforcement agency or federally licensed firearms dealer, the law enforcement agency or federally licensed firearms dealer shall provide proof of transfer to the defendant. The proof of transfer must specify whether the firearms were permanently or temporarily transferred and include the name of the defendant, date of transfer, and the serial number, make, and model of all transferred firearms. The defendant shall provide the court with a signed and notarized affidavit or proof of transfer as described in this section within two business days of the firearms transfer. The court shall seal affidavits and proofs of transfer filed pursuant to this paragraph.

(h) When a person is convicted of a violation of this section or section 609.221, 609.222, 609.223, 609.224, or 609.2247, and the court determines that the assault was against a family or household member, the court shall determine by a preponderance of the evidence if the person poses an imminent risk of causing another person substantial bodily harm. Upon a finding of imminent risk, the court shall order that the local law enforcement agency take immediate possession of all firearms in the person's possession. The local law enforcement agency shall exercise due care to preserve the quality and function of the defendant's firearms and shall return the firearms to the person upon request after the expiration of the prohibiting time period, provided the person is not otherwise prohibited from possessing firearms under state or federal law. The local law enforcement agency shall, upon written notice from the person, transfer the firearms to a federally licensed firearms dealer or a third party who may lawfully receive them. Before a local law enforcement agency transfers a firearm under this paragraph, the agency shall require the third party or federally licensed firearms dealer receiving the firearm to submit an affidavit or proof of transfer that complies with the requirements for affidavits or proofs of transfer established in paragraph (g). The agency shall file all affidavits or proofs of transfer received with the court within two business days of the transfer. The court shall seal all affidavits or proofs of transfer filed pursuant to this paragraph. A federally licensed firearms dealer or third party who accepts a firearm transfer pursuant to this paragraph shall comply with paragraphs (f) and (g) as if accepting transfer from the defendant. If the law enforcement agency does not receive written notice from the defendant within three business days, the agency may charge a reasonable fee to store the defendant's firearms. A law enforcement agency may establish policies for disposal of abandoned firearms, provided such policies require that the person be notified via certified mail prior to disposal of abandoned firearms.

Subd. 4. **Felony.** Whoever violates the provisions of this section or section 609.224, subdivision 1, within ten years of the first of any combination of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency is guilty of a felony and may be sentenced to imprisonment for not more than five years or payment of a fine of not more than $10,000, or both.

History: *1995 c 259 art 3 s 15; 2000 c 437 s 8, 9; 1Sp2001 c 8 art 10 s 10, 11; 2005 c 136 art 17 s 12; 2006 c 260 art 1 s 18, 19; 2013 c 47 s 3; 2014 c 213 s 3*

609.2243 SENTENCING; REPEAT DOMESTIC ASSAULT.

Subdivision 1. **Gross misdemeanor.** A person convicted of gross misdemeanor domestic assault under section 609.2242, subdivision 2, shall be sentenced to a minimum of 20 days imprisonment, at least 96 hours of which must be served consecutively. The court may stay execution of the minimum sentence required under this subdivision on the condition that the person sentenced complete anger therapy or counseling and fulfill any other condition, as ordered by the court; provided, however, that the court shall revoke the stay of execution and direct the person to be taken into immediate custody if it appears that the person failed to attend or complete the ordered therapy or counsel-

ing, or violated any other condition of the stay of execution. If the court finds at the revocation hearing required under section 609.14, subdivision 2, that the person failed to attend or complete the ordered therapy, or violated any other condition of the stay of execution, the court shall order execution of the sentence previously imposed.

Subd. 2. **Felony.** (a) Except as otherwise provided in paragraph (b), in determining an appropriate disposition for felony domestic assault under section 609.2242, subdivision 4, the court shall presume that a stay of execution with at least a 45-day period of incarceration as a condition of probation shall be imposed. If the court imposes a stay of execution with a period of incarceration as a condition of probation, at least 15 days must be served consecutively.

(b) If the defendant's criminal history score, determined according to the Sentencing Guidelines, indicates a presumptive executed sentence, that sentence shall be imposed unless the court departs from the Sentencing Guidelines pursuant to section 244.10. A stay of imposition of sentence under this paragraph may be granted only if accompanied by a statement on the record of the reasons for it.

History: *1996 c 408 art 3 s 23*

609.2244 PRESENTENCE DOMESTIC ABUSE INVESTIGATIONS.

Subdivision 1. **Investigation.** A presentence domestic abuse investigation must be conducted and a report submitted to the court by the corrections agency responsible for conducting the investigation when:

(1) a defendant is convicted of an offense described in section 518B.01, subdivision 2;

(2) a defendant is arrested for committing an offense described in section 518B.01, subdivision 2, but is convicted of another offense arising out of the same circumstances surrounding the arrest; or

(3) a defendant is convicted of a violation against a family or household member of: (a) an order for protection under section 518B.01; (b) a harassment restraining order under section 609.748; (c) section 609.79, subdivision 1; or (d) section 609.713, subdivision 1.

Subd. 2. **Report.** (a) The Department of Corrections shall establish minimum standards for the report, including the circumstances of the offense, impact on the victim, the defendant's prior record, characteristics and history of alcohol and chemical use problems, and amenability to domestic abuse programs. The report is classified as private data on individuals as defined in section 13.02, subdivision 12. Victim impact statements are confidential.

(b) The report must include:

(1) a recommendation on any limitations on contact with the victim and other measures to ensure the victim's safety;

(2) a recommendation for the defendant to enter and successfully complete domestic abuse programming and any aftercare found necessary by the investigation, including a specific recommendation for the defendant to complete a domestic abuse counseling program or domestic abuse educational program under section 518B.02;

(3) a recommendation for chemical dependency evaluation and treatment as determined by the evaluation whenever alcohol or drugs were found to be a contributing factor to the offense;

(4) recommendations for other appropriate remedial action or care or a specific explanation why no level of care or action is recommended; and

(5) consequences for failure to abide by conditions set up by the court.

Subd. 3. **Corrections agents standards; rules; investigation time limits.** A domestic abuse investigation required by this section must be conducted by the local Corrections Department or the commissioner of corrections. The corrections agent shall have access to any police reports or other law enforcement data relating to the current offense or previous offenses that are necessary to complete the evaluation. A corrections agent conducting an investiga-

tion under this section may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider. An appointment for the defendant to undergo the investigation must be made by the court, a court services probation officer, or court administrator as soon as possible.

Subd. 4. [Repealed, 1Sp2001 c 8 art 10 s 20]

History: *1996 c 408 art 3 s 24; 1997 c 239 art 7 s 18; 1998 c 367 art 5 s 6, 7; 1Sp2001 c 8 art 10 s 12*

609.2245 FEMALE GENITAL MUTILATION; PENALTIES.

Subdivision 1. **Crime.** Except as otherwise permitted in subdivision 2, whoever knowingly circumcises, excises, or infibulates, in whole or in part, the labia majora, labia minora, or clitoris of another is guilty of a felony. Consent to the procedure by a minor on whom it is performed or by the minor's parent is not a defense to a violation of this subdivision.

Subd. 2. **Permitted activities.** A surgical procedure is not a violation of subdivision 1 if the procedure:

(1) is necessary to the health of the person on whom it is performed and is performed by: (i) a physician licensed under chapter 147; (ii) a physician in training under the supervision of a licensed physician; or (iii) a certified nurse midwife practicing within the nurse midwife's legal scope of practice; or

(2) is performed on a person who is in labor or who has just given birth and is performed for medical purposes connected with that labor or birth: (i) by a physician licensed under chapter 147; (ii) a physician in training under the supervision of a licensed physician; or (iii) a certified nurse midwife practicing within the nurse midwife's legal scope of practice.

History: *1994 c 636 art 2 s 22; 1997 c 239 art 3 s 11*

609.2247 DOMESTIC ASSAULT BY STRANGULATION.

Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the meanings given.

(b) "Family or household members" has the meaning given in section 518B.01, subdivision 2.

(c) "Strangulation" means intentionally impeding normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of another person.

Subd. 2. **Crime.** Unless a greater penalty is provided elsewhere, whoever assaults a family or household member by strangulation is guilty of a felony and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $5,000, or both.

History: *2005 c 136 art 17 s 13*

609.226 HARM CAUSED BY DOG.

Subdivision 1. **Great or substantial bodily harm.** A person who causes great or substantial bodily harm to another by negligently or intentionally permitting any dog to run uncontrolled off the owner's premises, or negligently failing to keep it properly confined is guilty of a misdemeanor. A person who is convicted of a second or subsequent violation of this section involving the same dog is guilty of a gross misdemeanor.

Subd. 2. **Dangerous dogs.** If the owner of a dangerous dog, as defined under section 347.50, subdivision 2, has been convicted of a misdemeanor under section 347.55, and the same dog causes bodily injury to a person other than the owner, the owner is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

Subd. 3. **Defense.** If proven by a preponderance of the evidence, it shall be an affirmative defense to liability under subdivision 1 or 2 that the victim provoked the dog to cause the victim's bodily harm.

Subd. 4. **Harm to service animal caused by dog; crime, mandatory restitution.** (a) As used in this subdivision, "service animal" means an animal individually trained or being trained to do work or perform tasks for the benefit of an individual with a disability.

(b) A person who negligently or intentionally (1) permits the person's dog to run uncontrolled off the person's premises, or (2) fails to keep the person's dog properly confined or controlled; and as a result the dog causes bodily harm to a service animal or otherwise renders a service animal unable to perform its duties, is guilty of a misdemeanor.

(c) The court shall order a person convicted of violating this subdivision to pay restitution for the costs and expenses resulting from the crime. Costs and expenses include, but are not limited to, the service animal user's loss of income, veterinary expenses, transportation costs, and other expenses of temporary replacement assistance services, and service animal replacement or retraining costs incurred by a school, agency, or individual. If the court finds that the convicted person is indigent, the court may reduce the amount of restitution to a reasonable level or order it paid in installments.

(d) This subdivision does not preclude a person from seeking any available civil remedies for an act that violates this subdivision.

History: *1985 c 294 s 7; 1988 c 711 s 8; 1989 c 37 s 13; 2004 c 159 s 1, 2*

609.227 DANGEROUS ANIMALS DESTROYED.

When a person has been charged with a violation of section 609.205, clause (4), or 609.226, subdivision 2 or 3, or a gross misdemeanor violation of section 609.226, subdivision 1, the court shall order that the animal which caused the death or injury be seized by the appropriate local law enforcement agency. The animal shall be killed in a proper and humane manner if the person has been convicted of the crime for which the animal was seized. The owner of the animal shall pay the cost of confining and killing the animal. This section shall not preempt local ordinances with more restrictive provisions.

History: *1985 c 294 s 8; 1988 c 711 s 9*

609.228 GREAT BODILY HARM CAUSED BY DISTRIBUTION OF DRUGS.

Whoever proximately causes great bodily harm by, directly or indirectly, unlawfully selling, giving away, bartering, delivering, exchanging, distributing, or administering a controlled substance classified in Schedule I or II may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

History: *1987 c 176 s 3*

609.229 CRIME COMMITTED FOR BENEFIT OF GANG.

Subdivision 1. **Definition.** As used in this section, "criminal gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, that:

(1) has, as one of its primary activities, the commission of one or more of the offenses listed in section 609.11, subdivision 9;

(2) has a common name or common identifying sign or symbol; and

(3) includes members who individually or collectively engage in or have engaged in a pattern of criminal activity.

Subd. 2. **Crimes.** A person who commits a crime for the benefit of, at the direction of, in association with, or motivated by involvement with a criminal gang, with the intent to promote, further, or assist in criminal conduct by gang members is guilty of a crime and may be sentenced as provided in subdivision 3.

Subd. 3. **Penalty.** (a) If the crime committed in violation of subdivision 2 is a felony, the statutory maximum for the crime is five years longer than the statutory maximum for the underlying crime. If the crime committed in violation of subdivision 2 is a felony, and the victim of the crime is a child under the age of 18 years, the statutory maximum for the crime is ten years longer than the statutory maximum for the underlying crime.

(b) If the crime committed in violation of subdivision 2 is a misdemeanor, the person is guilty of a gross misdemeanor.

(c) If the crime committed in violation of subdivision 2 is a gross misdemeanor, the person is guilty of a felony and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $15,000, or both.

Subd. 4. **Mandatory minimum sentence.** (a) Unless a longer mandatory minimum sentence is otherwise required by law, or the court imposes a longer aggravated durational departure, or a longer prison sentence is presumed under the Sentencing Guidelines and imposed by the court, a person convicted of a crime described in subdivision 3, paragraph (a), shall be committed to the custody of the commissioner of corrections for not less than one year plus one day.

(b) Any person convicted and sentenced as required by paragraph (a) is not eligible for probation, parole, discharge, work release, or supervised release until that person has served the full term of imprisonment as provided by law, notwithstanding the provisions of sections 242.19, 243.05, 244.04, 609.12, and 609.135.

History: *1991 c 279 s 30; 1993 c 326 art 13 s 29; 1998 c 367 art 2 s 9-11; 2005 c 136 art 17 s 14*

609.23 MISTREATMENT OF PERSONS CONFINED.

Whoever, being in charge of or employed in any institution, whether public or private, intentionally abuses or ill-treats any person confined therein who is mentally or physically disabled or who is involuntarily confined therein by order of court or other duly constituted authority may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

History: *1963 c 753 art 1 s 609.23; 1984 c 628 art 3 s 11*

609.231 MISTREATMENT OF RESIDENTS OR PATIENTS.

Whoever, being in charge of or employed in any facility required to be licensed under the provisions of sections 144.50 to 144.58, or 144A.02, intentionally abuses, ill-treats, or culpably neglects any patient or resident therein to the patient's or resident's physical detriment may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

History: *1973 c 688 s 9; 1976 c 173 s 60; 1984 c 628 art 3 s 11; 1986 c 444*

609.232 CRIMES AGAINST VULNERABLE ADULTS; DEFINITIONS.

Subdivision 1. **Scope.** As used in sections 609.2325, 609.233, 609.2335, and 609.234, the terms defined in this section have the meanings given.

Subd. 2. **Caregiver.** "Caregiver" means an individual or facility who has responsibility for the care of a vulnerable adult as a result of a family relationship, or who has assumed responsibility for all or a portion of the care of a vulnerable adult voluntarily, by contract, or by agreement.

Subd. 3. **Facility.** (a) "Facility" means a hospital or other entity required to be licensed under sections 144.50 to 144.58; a nursing home required to be licensed to serve adults under section 144A.02; a home care provider licensed or required to be licensed under sections 144A.43 to 144A.482; a residential or nonresidential facility required to be licensed to serve adults under sections 245A.01 to 245A.16; or a person or organization that exclusively offers,

provides, or arranges for personal care assistance services under the medical assistance program as authorized under sections 256B.0625, subdivision 19a, 256B.0651, 256B.0653, and 256B.0654.

(b) For home care providers and personal care attendants, the term "facility" refers to the provider or person or organization that exclusively offers, provides, or arranges for personal care services, and does not refer to the client's home or other location at which services are rendered.

Subd. 4. **Immediately.** "Immediately" means as soon as possible, but no longer than 24 hours from the time of initial knowledge that the incident occurred has been received.

Subd. 5. **Legal authority.** "Legal authority" includes, but is not limited to:

(1) a fiduciary obligation recognized elsewhere in law, including pertinent regulations;

(2) a contractual obligation; or

(3) documented consent by a competent person.

Subd. 6. **Maltreatment.** "Maltreatment" means any of the following:

(1) abuse under section 609.2325;

(2) neglect under section 609.233; or

(3) financial exploitation under section 609.2335.

Subd. 7. **Operator.** "Operator" means any person whose duties and responsibilities evidence actual control of administrative activities or authority for the decision making of or by a facility.

Subd. 8. **Person.** "Person" means any individual, corporation, firm, partnership, incorporated and unincorporated association, or any other legal, professional, or commercial entity.

Subd. 9. **Report.** "Report" means a statement concerning all the circumstances surrounding the alleged or suspected maltreatment, as defined in this section, of a vulnerable adult which are known to the reporter at the time the statement is made.

Subd. 10. **Therapeutic conduct.** "Therapeutic conduct" means the provision of program services, health care, or other personal care services done in good faith in the interests of the vulnerable adult by: (1) an individual, facility or employee, or person providing services in a facility under the rights, privileges, and responsibilities conferred by state license, certification, or registration; or (2) a caregiver.

Subd. 11. **Vulnerable adult.** "Vulnerable adult" means any person 18 years of age or older who:

(1) is a resident inpatient of a facility;

(2) receives services at or from a facility required to be licensed to serve adults under sections 245A.01 to 245A.15, except that a person receiving outpatient services for treatment of chemical dependency or mental illness, or one who is committed as a sexual psychopathic personality or as a sexually dangerous person under chapter 253B, is not considered a vulnerable adult unless the person meets the requirements of clause (4);

(3) receives services from a home care provider required to be licensed under sections 144A.43 to 144A.482; or from a person or organization that exclusively offers, provides, or arranges for personal care assistance services under the medical assistance program as authorized under sections 256B.0625, subdivision 19a, 256B.0651 to 256B.0654, and 256B.0659; or

(4) regardless of residence or whether any type of service is received, possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction:

(i) that impairs the individual's ability to provide adequately for the individual's own care without assistance, including the provision of food, shelter, clothing, health care, or supervision; and

(ii) because of the dysfunction or infirmity and the need for assistance, the individual has an impaired ability to protect the individual from maltreatment.

History: *1995 c 229 art 2 s 2; 2009 c 79 art 6 s 19; 2014 c 262 art 4 s 9; art 5 s 6; 2016 c 158 art 1 s 202,203*

609.2325 CRIMINAL ABUSE.

Subdivision 1. **Crimes.** (a) A caregiver who, with intent to produce physical or mental pain or injury to a vulnerable adult, subjects a vulnerable adult to any aversive or deprivation procedure, unreasonable confinement, or involuntary seclusion, is guilty of criminal abuse and may be sentenced as provided in subdivision 3.

This paragraph does not apply to therapeutic conduct.

(b) A caregiver, facility staff person, or person providing services in a facility who engages in sexual contact or penetration, as defined in section 609.341, under circumstances other than those described in sections 609.342 to 609.345, with a resident, patient, or client of the facility is guilty of criminal abuse and may be sentenced as provided in subdivision 3.

Subd. 2. **Exemptions.** For the purposes of this section, a vulnerable adult is not abused for the sole reason that:

(1) the vulnerable adult or a person with authority to make health care decisions for the vulnerable adult under sections 144.651, 144A.44, chapter 145B, 145C, or 252A, or sections 253B.03 or 524.5-101 to 524.5-502, refuses consent or withdraws consent, consistent with that authority and within the boundary of reasonable medical practice, to any therapeutic conduct, including any care, service, or procedure to diagnose, maintain, or treat the physical or mental condition of the vulnerable adult or, where permitted under law, to provide nutrition and hydration parenterally or through intubation; this paragraph does not enlarge or diminish rights otherwise held under law by:

(i) a vulnerable adult or a person acting on behalf of a vulnerable adult, including an involved family member, to consent to or refuse consent for therapeutic conduct; or

(ii) a caregiver to offer or provide or refuse to offer or provide therapeutic conduct;

(2) the vulnerable adult, a person with authority to make health care decisions for the vulnerable adult, or a caregiver in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the vulnerable adult in lieu of medical care, provided that this is consistent with the prior practice or belief of the vulnerable adult or with the expressed intentions of the vulnerable adult; or

(3) the vulnerable adult, who is not impaired in judgment or capacity by mental or emotional dysfunction or undue influence, engages in consensual sexual contact with: (i) a person, including a facility staff person, when a consensual sexual personal relationship existed prior to the caregiving relationship; or (ii) a personal care attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship.

Subd. 3. **Penalties.** (a) A person who violates subdivision 1, paragraph (a), may be sentenced as follows:

(1) if the act results in the death of a vulnerable adult, imprisonment for not more than 15 years or payment of a fine of not more than $30,000, or both;

(2) if the act results in great bodily harm, imprisonment for not more than ten years or payment of a fine of not more than $20,000, or both;

(3) if the act results in substantial bodily harm or the risk of death, imprisonment for not more than five years or payment of a fine of not more than $10,000, or both; or

(4) in other cases, imprisonment for not more than one year or payment of a fine of not more than $3,000, or both.

(b) A person who violates subdivision 1, paragraph (b), may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

History: *1995 c 229 art 2 s 3; 1996 c 408 art 10 s 11; 2004 c 146 art 3 s 43*

609.233 CRIMINAL NEGLECT.

Subdivision 1. **Gross misdemeanor crime.** A caregiver or operator who intentionally neglects a vulnerable adult or knowingly permits conditions to exist that result in the abuse or neglect of a vulnerable adult is guilty of a gross misdemeanor. For purposes of this section, "abuse" has the meaning given in section 626.5572, subdivision 2, and "neglect" means a failure to provide a vulnerable adult with necessary food, clothing, shelter, health care, or supervision.

Subd. 1a. **Felony deprivation.** A caregiver or operator who intentionally deprives a vulnerable adult of necessary food, clothing, shelter, health care, or supervision, when the caregiver or operator is reasonably able to make the necessary provisions, is guilty of a felony and may be sentenced as provided in subdivision 3 if:

(1) the caregiver or operator knows or has reason to know the deprivation could likely result in substantial bodily harm or great bodily harm to the vulnerable adult; or

(2) the deprivation occurred over an extended period of time.

Subd. 2. **Exemptions.** A vulnerable adult is not neglected or deprived under subdivision 1 or 1a for the sole reason that:

(1) the vulnerable adult or a person with authority to make health care decisions for the vulnerable adult under sections 144.651, 144A.44, 253B.03, or 524.5-101 to 524.5-502, or chapter 145B, 145C, or 252A, refuses consent or withdraws consent, consistent with that authority and within the boundary of reasonable medical practice, to any therapeutic conduct, including any care, service, or procedure to diagnose, maintain, or treat the physical or mental condition of the vulnerable adult or, where permitted under law, to provide nutrition and hydration parenterally or through intubation; this paragraph does not enlarge or diminish rights otherwise held under law by:

(i) a vulnerable adult or a person acting on behalf of a vulnerable adult, including an involved family member, to consent to or refuse consent for therapeutic conduct; or

(ii) a caregiver to offer or provide or refuse to offer or provide therapeutic conduct;

(2) the vulnerable adult, a person with authority to make health care decisions for the vulnerable adult, or a caregiver in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the vulnerable adult in lieu of medical care, provided that this is consistent with the prior practice or belief of the vulnerable adult or with the expressed intentions of the vulnerable adult; or

(3) the vulnerable adult, who is not impaired in judgment or capacity by mental or emotional dysfunction or undue influence, engages in consensual sexual contact with: (i) a person including a facility staff person when a consensual sexual personal relationship existed prior to the caregiving relationship; or (ii) a personal care attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship.

Subd. 3. **Penalties.** A person who violates subdivision 1a may be sentenced as follows:

(1) if the conduct results in great bodily harm to the vulnerable adult, imprisonment for not more than ten years or payment of a fine of not more than $10,000, or both; or

(2) if the conduct results in substantial bodily harm to the vulnerable adult, imprisonment for not more than five years or payment of a fine of not more than $5,000, or both.

Subd. 4. **Affirmative defenses.** It shall be an affirmative defense to a prosecution under subdivision 1 or 1a, if proven by a preponderance of evidence, that:

(1) the defendant is an individual employed by a facility or operator and does not have managerial or supervisory authority, and was unable to reasonably make the necessary provisions because of inadequate staffing levels, inadequate supervision, or institutional policies;

(2) the defendant is a facility, an operator, or an employee of a facility or operator in a position of managerial or supervisory authority, and did not knowingly, intentionally, or recklessly permit criminal acts by its employees or agents that resulted in the harm to the vulnerable adult; or

(3) the defendant is a caregiver and failed to perform acts necessary to prevent the applicable level of harm, if any, to the vulnerable adult because the caregiver was acting reasonably and necessarily to provide care to another identified vulnerable adult.

For these affirmative defenses, a defendant bears only the burden of production. A defendant's failure to meet the burden of production does not relieve the state of its burden of persuasion as to all elements of the offense.

History: *1995 c 229 art 2 s 4; 2004 c 146 art 3 s 44; 2012 c 175 s 1; 2013 c 125 art 1 s 85*

609.2335 FINANCIAL EXPLOITATION OF VULNERABLE ADULT.

Subdivision 1. **Crime.** Whoever does any of the following acts commits the crime of financial exploitation:

(1) in breach of a fiduciary obligation recognized elsewhere in law, including pertinent regulations, contractual obligations, documented consent by a competent person, or the obligations of a responsible party under section 144.6501 intentionally:

(i) fails to use the real or personal property or other financial resources of the vulnerable adult to provide food, clothing, shelter, health care, therapeutic conduct, or supervision for the vulnerable adult;

(ii) uses, manages, or takes either temporarily or permanently the real or personal property or other financial resources of the vulnerable adult, whether held in the name of the vulnerable adult or a third party, for the benefit of someone other than the vulnerable adult; or

(iii) deprives either temporarily or permanently a vulnerable adult of the vulnerable adult's real or personal property or other financial resources, whether held in the name of the vulnerable adult or a third party, for the benefit of someone other than the vulnerable adult; or

(2) in the absence of legal authority:

(i) acquires possession or control of an interest in real or personal property or other financial resources of a vulnerable adult, whether held in the name of the vulnerable adult or a third party, through the use of undue influence, harassment, or duress;

(ii) forces, compels, coerces, or entices a vulnerable adult against the vulnerable adult's will to perform services for the profit or advantage of another; or

(iii) establishes a relationship with a fiduciary obligation to a vulnerable adult by use of undue influence, harassment, duress, force, compulsion, coercion, or other enticement.

Subd. 2. **Defenses.** (a) Nothing in this section requires a facility or caregiver to provide financial management or supervise financial management for a vulnerable adult except as otherwise required by law.

(b) If the actor knew or had reason to know that the vulnerable adult lacked capacity to consent, consent is not a defense to a violation of this section.

Subd. 3. **Criminal penalties.** A person who violates subdivision 1, clause (1) or (2), item (i), may be sentenced as provided in section 609.52, subdivision 3. A person who violates subdivision 1, clause (2), item (ii) or (iii), may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

Subd. 4. **Aggregation.** In any prosecution under this section, the value of the money or property or services received by the defendant within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of subdivision 3; provided that when two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this subdivision.

Subd. 5. **Venue.** Notwithstanding anything to the contrary in section 627.01, an offense committed under this section may be prosecuted in: (1) the county where any part of the offense occurred; or (2) the county of residence of the victim or one of the victims.

History: *1995 c 229 art 2 s 5; 2009 c 119 s 8; 2013 c 5 s 1, 2*

609.2336 DECEPTIVE OR UNFAIR TRADE PRACTICES; ELDERLY OR DISABLED VICTIMS.

Subdivision 1. **Definitions.** As used in this section:

(1) "charitable solicitation law violation" means a violation of sections 309.50 to 309.61;

(2) "consumer fraud law violation" means a violation of sections 325F.68 to 325F.70;

(3) "deceptive trade practices law violation" means a violation of sections 325D.43 to 325D.48;

(4) "false advertising law violation" means a violation of section 325F.67;

(5) "disabled person" means a person who has an impairment of physical or mental function or emotional status that substantially limits one or more major life activities;

(6) "major life activities" means functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working; and

(7) "senior citizen" means a person who is 65 years of age or older.

Subd. 2. **Crime.** It is a gross misdemeanor for any person to commit a charitable solicitation law violation, a consumer fraud law violation, a deceptive trade practices law violation, or a false advertising law violation if the person knows or has reason to know that the person's conduct:

(1) is directed at one or more disabled persons or senior citizens; and

(2) will cause or is likely to cause a disabled person or a senior citizen to suffer loss or encumbrance of a primary residence, principal employment or other major source of income, substantial loss of property set aside for retirement or for personal or family care and maintenance, substantial loss of pension, retirement plan, or government benefits, or substantial loss of other assets essential to the victim's health or welfare.

Subd. 3. **Prosecutorial jurisdiction.** The attorney general has statewide jurisdiction to prosecute violations of this section. This jurisdiction is concurrent with that of the local prosecuting authority responsible for prosecuting gross misdemeanors in the place where the violation was committed.

History: *1997 c 239 art 3 s 12; 2005 c 56 s 1*

609.234 FAILURE TO REPORT.

Subdivision 1. **Crime.** Any mandated reporter who is required to report under section 626.557, who knows or has reason to believe that a vulnerable adult is being or has been maltreated, as defined in section 626.5572, subdivision 15, and who does any of the following is guilty of a misdemeanor:

(1) intentionally fails to make a report;

(2) knowingly provides information which is false, deceptive, or misleading; or

(3) intentionally fails to provide all of the material circumstances surrounding the incident which are known to the reporter when the report is made.

Subd. 2. **Increased penalty.** It is a gross misdemeanor for a person who is mandated to report under section 626.557, who knows or has reason to believe that a vulnerable adult is being or has been maltreated, as defined in section 626.5572, subdivision 15, to intentionally fail to make a report if:

(1) the person knows the maltreatment caused or contributed to the death or great bodily harm of a vulnerable adult; and

(2) the failure to report causes or contributes to the death or great bodily harm of a vulnerable adult or protects the mandated reporter's interests.

History: *1995 c 229 art 2 s 6*

609.235 USE OF DRUGS TO INJURE OR FACILITATE CRIME.

Whoever administers to another or causes another to take any poisonous, stupefying, overpowering, narcotic or anesthetic substance with intent thereby to injure or to facilitate the commission of a crime may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

History: *1963 c 753 art 1 s 609.235; 1984 c 628 art 3 s 11*

609.24 SIMPLE ROBBERY.

Whoever, having knowledge of not being entitled thereto, takes personal property from the person or in the presence of another and uses or threatens the imminent use of force against any person to overcome the person's resistance or powers of resistance to, or to compel acquiescence in, the taking or carrying away of the property is guilty of robbery and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

History: *1963 c 753 art 1 s 609.24; 1984 c 628 art 3 s 11; 1986 c 444*

609.245 AGGRAVATED ROBBERY.

Subdivision 1. **First degree.** Whoever, while committing a robbery, is armed with a dangerous weapon or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a dangerous weapon, or inflicts bodily harm upon another, is guilty of aggravated robbery in the first degree and may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than $35,000, or both.

Subd. 2. **Second degree.** Whoever, while committing a robbery, implies, by word or act, possession of a dangerous weapon, is guilty of aggravated robbery in the second degree and may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than $30,000, or both.

History: *1963 c 753 art 1 s 609.245; 1984 c 628 art 3 s 11; 1988 c 712 s 5; 1994 c 636 art 2 s 23*

609.25 KIDNAPPING.

Subdivision 1. **Acts constituting.** Whoever, for any of the following purposes, confines or removes from one place to another, any person without the person's consent or, if the person is under the age of 16 years, without the consent of the person's parents or other legal custodian, is guilty of kidnapping and may be sentenced as provided in subdivision 2:

(1) to hold for ransom or reward for release, or as shield or hostage; or

(2) to facilitate commission of any felony or flight thereafter; or

(3) to commit great bodily harm or to terrorize the victim or another; or

(4) to hold in involuntary servitude.

Subd. 2. **Sentence.** Whoever violates subdivision 1 may be sentenced as follows:

(1) if the victim is released in a safe place without great bodily harm, to imprisonment for not more than 20 years or to payment of a fine of not more than $35,000, or both; or

(2) if the victim is not released in a safe place, or if the victim suffers great bodily harm during the course of the kidnapping, or if the person kidnapped is under the age of 16, to imprisonment for not more than 40 years or to payment of a fine of not more than $50,000, or both.

History: *1963 c 753 art 1 s 609.25; 1979 c 258 s 8; 1984 c 628 art 3 s 11; 1986 c 444; 1994 c 636 art 2 s 24*

609.251 DOUBLE JEOPARDY; KIDNAPPING.

Notwithstanding section 609.04, a prosecution for or conviction of the crime of kidnapping is not a bar to conviction of or punishment for any other crime committed during the time of the kidnapping.

History: *1983 c 139 s 2; 1993 c 326 art 4 s 16*

609.255 FALSE IMPRISONMENT.

Subdivision 1. **Definition.** As used in this section, the following term has the meaning given it unless specific content indicates otherwise.

"Caretaker" means an individual who has responsibility for the care of a child as a result of a family relationship, or who has assumed responsibility for all or a portion of the care of a child.

Subd. 2. **Intentional restraint.** Whoever, knowingly lacking lawful authority to do so, intentionally confines or restrains someone else's child under the age of 18 years without consent of the child's parent or legal custodian, or any other person without the person's consent, is guilty of false imprisonment and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $5,000, or both.

Subd. 3. **Unreasonable restraint of children.** (a) A parent, legal guardian, or caretaker who intentionally subjects a child under the age of 18 years to unreasonable physical confinement or restraint by means including but not limited to, tying, locking, caging, or chaining for a prolonged period of time and in a cruel manner which is excessive under the circumstances, is guilty of unreasonable restraint of a child and, except as provided in paragraph (b) or (c), may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

(b) If the confinement or restraint results in demonstrable bodily harm, the person may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than $4,000, or both.

(c) If the confinement or restraint results in substantial bodily harm, the person may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

History: *1963 c 753 art 1 s 609.255; 1983 c 217 s 2; 1984 c 628 art 3 s 11; 1986 c 444; 1988 c 655 s 1; 1989 c 290 art 6 s 12; 2012 c 175 s 2*

609.26 DEPRIVING ANOTHER OF CUSTODIAL OR PARENTAL RIGHTS.

Subdivision 1. **Prohibited acts.** Whoever intentionally does any of the following acts may be charged with a felony and, upon conviction, may be sentenced as provided in subdivision 6:

(1) conceals a minor child from the child's parent where the action manifests an intent substantially to deprive that parent of parental rights or conceals a minor child from another person having the right to parenting time or custody where the action manifests an intent to substantially deprive that person of rights to parenting time or custody;

(2) takes, obtains, retains, or fails to return a minor child in violation of a court order which has transferred legal custody under chapter 260, 260B, or 260C to the commissioner of human services, a child-placing agency, or the local social services agency;

(3) takes, obtains, retains, or fails to return a minor child from or to the parent in violation of a court order, where the action manifests an intent substantially to deprive that parent of rights to parenting time or custody;

(4) takes, obtains, retains, or fails to return a minor child from or to a parent after commencement of an action relating to child parenting time or custody but prior to the issuance of an order determining custody or parenting time rights, where the action manifests an intent substantially to deprive that parent of parental rights;

(5) retains a child in this state with the knowledge that the child was removed from another state in violation of any of the above provisions;

(6) refuses to return a minor child to a parent or lawful custodian and is at least 18 years old and more than 24 months older than the child;

(7) causes or contributes to a child being a habitual truant as defined in section 260C.007, subdivision 19, and is at least 18 years old and more than 24 months older than the child;

(8) causes or contributes to a child being a runaway as defined in section 260C.007, subdivision 28, and is at least 18 years old and more than 24 months older than the child; or

(9) is at least 18 years old and resides with a minor under the age of 16 without the consent of the minor's parent or lawful custodian.

Subd. 2. **Defenses.** It is an affirmative defense if a person charged under subdivision 1 proves that:

(1) the person reasonably believed the action taken was necessary to protect the child from physical or sexual assault or substantial emotional harm;

(2) the person reasonably believed the action taken was necessary to protect the person taking the action from physical or sexual assault;

(3) the action taken is consented to by the parent, stepparent, or legal custodian seeking prosecution, but consent to custody or specific parenting time is not consent to the action of failing to return or concealing a minor child; or

(4) the action taken is otherwise authorized by a court order issued prior to the violation of Subdivision 1.

The defenses provided in this subdivision are in addition to and do not limit other defenses available under this chapter or chapter 611.

Subd. 2a. **Original intent clarified.** To the extent that it states that subdivision 2 creates affirmative defenses to a charge under this section, subdivision 2 clarifies the original intent of the legislature in enacting Laws 1984, chapter 484, section 2, and does not change the substance of this section. Subdivision 2 does not modify or alter any convictions entered under this section before August 1, 1988.

Subd. 3. **Venue.** A person who violates this section may be prosecuted and tried either in the county in which the child was taken, concealed, or detained or in the county of lawful residence of the child.

Subd. 4. **Return of child; costs.** A child who has been concealed, obtained, or retained in violation of this section shall be returned to the person having lawful custody of the child or shall be taken into custody pursuant to section 260C.175, subdivision 1, clause (2), item (ii). In addition to any sentence imposed, the court may assess any expense incurred in returning the child against any person convicted of violating this section. The court may direct the appropriate county welfare agency to provide counseling services to a child who has been returned pursuant to this subdivision.

Subd. 5. **Dismissal of charge.** A felony charge brought under this section shall be dismissed if:

(a) the person voluntarily returns the child within 48 hours after taking, detaining, or failing to return the child in violation of this section; or

(b)(1) the person taking the action and the child have not left the state of Minnesota; and (2) within a period of seven days after taking the action, (i) a motion or proceeding under chapter 518, 518A, 518B, 518C, or 518D is commenced by the person taking the action, or (ii) the attorney representing the person taking the action has consented to service of process by the party whose rights are being deprived, for any motion or action pursuant to chapter 518, 518A, 518B, 518C, or 518D.

Clause (a) does not apply if the person returns the child as a result of being located by law enforcement authorities.

This subdivision does not prohibit the filing of felony charges or an offense report before the expiration of the 48 hours.

Subd. 6. **Penalty.** (a) Except as otherwise provided in paragraph (b) and subdivision 5, whoever violates this section may be sentenced as follows:

(1) to imprisonment for not more than two years or to payment of a fine of not more than $4,000, or both; or

(2) to imprisonment for not more than four years or to payment of a fine of not more than $8,000, or both, if the court finds that:

(i) the defendant committed the violation while possessing a dangerous weapon or caused substantial bodily harm to effect the taking;

(ii) the defendant abused or neglected the child during the concealment, detention, or removal of the child;

(iii) the defendant inflicted or threatened to inflict physical harm on a parent or lawful custodian of the child or on the child with intent to cause the parent or lawful custodian to discontinue criminal prosecution;

(iv) the defendant demanded payment in exchange for return of the child or demanded to be relieved of the financial or legal obligation to support the child in exchange for return of the child; or

(v) the defendant has previously been convicted under this section or a similar statute of another jurisdiction.

(b) A violation of subdivision 1, clause (7), is a gross misdemeanor. The county attorney shall prosecute violations of subdivision 1, clause (7).

Subd. 7. **Reporting of deprivation of parental rights.** Any violation of this section shall be reported pursuant to section 626.556, subdivision 3a.

History: *1963 c 753 art 1 s 609.26; 1967 c 570 s 1; 1979 c 263 s 1; 1984 c 484 s 2; 1984 c 654 art 5 s 58; 1985 c 227 s 1, 2; 1986 c 444; 1986 c 445 s 1, 2; 1986 c 463 s 4, 5; 1987 c 246 s 1-3; 1988 c 523 s 1; 1989 c 290 art 7 s 3, 4; 1991 c 285 s 10; 1994 c 631 s 31; 1994 c 636 art 2 s 25, 26; 1999 c 86 art 1 s 78; 1999 c 139 art 4 s 2; 2000 c 444 art 2 s 45, 46; 2001 c 178 art 1 s 44; 2002 c 379 art 1 s 105; 2005 c 164 s 29; 1Sp2005 c 7 s 28*

609.265 ABDUCTION.

Whoever, for the purpose of marriage, takes a person under the age of 18 years, without the consent of the parents, guardian, or other person having legal custody of such person is guilty of abduction and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

History: *1963 c 753 art 1 s 609.265; 1984 c 628 art 3 s 11*

CRIMES AGAINST UNBORN CHILDREN

609.266 DEFINITIONS.

The definitions in this section apply to sections 609.2114, subdivisions 1 and 2, and 609.2661 to 609.2691:

(a) "Unborn child" means the unborn offspring of a human being conceived, but not yet born.

(b) "Whoever" does not include the pregnant woman.

History: *1986 c 388 s 5; 2007 c 54 art 3 s 14; 2014 c 180 s 9; 2015 c 21 art 1 s 101*

609.2661 MURDER OF UNBORN CHILD IN THE FIRST DEGREE.

Whoever does any of the following is guilty of murder of an unborn child in the first degree and must be sentenced to imprisonment for life:

(1) causes the death of an unborn child with premeditation and with intent to effect the death of the unborn child or of another;

(2) causes the death of an unborn child while committing or attempting to commit criminal sexual conduct in the first or second degree with force or violence, either upon or affecting the mother of the unborn child or another; or

(3) causes the death of an unborn child with intent to effect the death of the unborn child or another while committing or attempting to commit burglary, aggravated robbery, kidnapping, arson in the first or second degree, tampering with a witness in the first degree, or escape from custody.

History: *1986 c 388 s 6*

609.2662 MURDER OF UNBORN CHILD IN THE SECOND DEGREE.

Whoever does either of the following is guilty of murder of an unborn child in the second degree and may be sentenced to imprisonment for not more than 40 years:

(1) causes the death of an unborn child with intent to effect the death of that unborn child or another, but without premeditation; or

(2) causes the death of an unborn child, without intent to effect the death of any unborn child or person, while committing or attempting to commit a felony offense other than criminal sexual conduct in the first or second degree with force or violence.

History: *1986 c 388 s 7*

609.2663 MURDER OF UNBORN CHILD IN THE THIRD DEGREE.

Whoever, without intent to effect the death of any unborn child or person, causes the death of an unborn child by perpetrating an act eminently dangerous to others and evincing a depraved mind, without regard for human or fetal life, is guilty of murder of an unborn child in the third degree and may be sentenced to imprisonment for not more than 25 years.

History: *1986 c 388 s 8*

609.2664 MANSLAUGHTER OF UNBORN CHILD IN THE FIRST DEGREE.

Whoever does any of the following is guilty of manslaughter of an unborn child in the first degree and may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than $30,000, or both:

(1) intentionally causes the death of an unborn child in the heat of passion provoked by such words or acts of another as would provoke a person of ordinary self-control under like circumstances;

(2) causes the death of an unborn child in committing or attempting to commit a misdemeanor or gross misdemeanor offense with such force or violence that death of or great bodily harm to any person or unborn child was reasonably foreseeable, and murder of an unborn child in the first or second degree was not committed thereby; or

(3) intentionally causes the death of an unborn child because the actor is coerced by threats made by someone other than the actor's coconspirator and which cause the actor to reasonably believe that the act performed by the actor is the only means of preventing imminent death to the actor or another.

History: *1986 c 388 s 9; 1986 c 444*

609.2665 MANSLAUGHTER OF UNBORN CHILD IN THE SECOND DEGREE.

A person who causes the death of an unborn child by any of the following means is guilty of manslaughter of an unborn child in the second degree and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both:

(1) by the actor's culpable negligence whereby the actor creates an unreasonable risk and consciously takes chances of causing death or great bodily harm to an unborn child or a person;

(2) by shooting the mother of the unborn child with a firearm or other dangerous weapon as a result of negligently believing her to be a deer or other animal;

(3) by setting a spring gun, pit fall, deadfall, snare, or other like dangerous weapon or device; or

(4) by negligently or intentionally permitting any animal, known by the person to have vicious propensities or to have caused great or substantial bodily harm in the past, to run uncontrolled off the owner's premises, or negligently failing to keep it properly confined.

If proven by a preponderance of the evidence, it shall be an affirmative defense to criminal liability under clause (4) that the mother of the unborn child provoked the animal to cause the unborn child's death.

History: *1986 c 388 s 10; 1989 c 290 art 6 s 13*

609.267 ASSAULT OF UNBORN CHILD IN THE FIRST DEGREE.

Whoever assaults a pregnant woman and inflicts great bodily harm on an unborn child who is subsequently born alive may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than $30,000, or both.

History: *1986 c 388 s 11; 1989 c 290 art 6 s 14*

609.2671 ASSAULT OF UNBORN CHILD IN THE SECOND DEGREE.

Whoever assaults a pregnant woman and inflicts substantial bodily harm on an unborn child who is subsequently born alive may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

As used in this section, "substantial bodily harm" includes the birth of the unborn child prior to 37 weeks gestation if the child weighs 2, 500 grams or less at the time of birth. "Substantial bodily harm" does not include the inducement of the unborn child's birth when done for bona fide medical purposes.

History: *1986 c 388 s 12; 1989 c 20 s 1*

609.2672 ASSAULT OF UNBORN CHILD IN THE THIRD DEGREE.

Whoever does any of the following commits an assault of an unborn child in the third degree and is guilty of a misdemeanor:

(1) commits an act with intent to cause fear in a pregnant woman of immediate bodily harm or death to the unborn child; or

(2) intentionally inflicts or attempts to inflict bodily harm on an unborn child who is subsequently born alive.

History: *1986 c 388 s 13*

609.268 INJURY OR DEATH OF UNBORN CHILD IN COMMISSION OF CRIME.

Subdivision 1. **Death of unborn child.** Whoever, in the commission of a felony or in a violation of section 609.224, 609.2242, 609.23, 609.231, 609.2325, or 609.233, causes the death of an unborn child is guilty of a felony and may be sentenced to imprisonment for not more than 15 years or to payment of a fine not more than $30,000, or both. As used in this subdivision, "felony" does not include a violation of sections 609.185 to 609.2114, 609.221 to 609.2231, or 609.2661 to 609.2665.

Subd. 2. **Injury to unborn child.** Whoever, in the commission of a felony or in a violation of section 609.23, 609.231, 609.2325 or 609.233, causes great or substantial bodily harm to an unborn child who is subsequently born alive, is guilty of a felony and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both. As used in this subdivision, "felony" does not include a violation of sections 609.2112 to 609.2114, 609.221 to 609.2231, or 609.267 to 609.2672.

History: *1986 c 388 s 14; 1995 c 229 art 4 s 17, 18; 1995 c 259 art 3 s 16; 2014 c 180 s 9*

609.269 EXCEPTION.

Sections 609.2661 to 609.268do not apply to any act described in section 145.412.

History: *1986 c 388 s 15*

609.2691 OTHER CONVICTIONS NOT BARRED.

Notwithstanding section 609.04, a prosecution for or conviction under sections 609.2661 to 609.268is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

History: *1986 c 388 s 16*

CRIMES OF COMPULSION

609.27 COERCION.

Subdivision 1. **Acts constituting.** Whoever orally or in writing makes any of the following threats and thereby causes another against the other's will to do any act or forbear doing a lawful act is guilty of coercion and may be sentenced as provided in subdivision 2:

(1) a threat to unlawfully inflict bodily harm upon, or hold in confinement, the person threatened or another, when robbery or attempt to rob is not committed thereby; or

(2) a threat to unlawfully inflict damage to the property of the person threatened or another; or

(3) a threat to unlawfully injure a trade, business, profession, or calling; or

(4) a threat to expose a secret or deformity, publish a defamatory statement, or otherwise to expose any person to disgrace or ridicule; or

(5) a threat to make or cause to be made a criminal charge, whether true or false; provided, that a warning of the consequences of a future violation of law given in good faith by a peace officer or prosecuting attorney to any person shall not be deemed a threat for the purposes of this section; or

(6) a threat to commit a violation under section 617.261.

Subd. 2. **Sentence.** Whoever violates subdivision 1 may be sentenced as follows:

(1) to imprisonment for not more than 90 days or to payment of a fine of not more than $1,000, or both if neither the pecuniary gain received by the violator nor the loss suffered by the person threatened or another as a result of the threat exceeds $300, or the benefits received or harm sustained are not susceptible of pecuniary measurement; or

(2) to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if such pecuniary gain or loss is more than $300 but less than $2,500; or

(3) to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both, if such pecuniary gain or loss is $2,500, or more.

History: *1963 c 753 art 1 s 609.27; 1971 c 23 s 40; 1977 c 355 s 7; 1983 c 359 s 87; 1984 c 628 art 3 s 11; 1986 c 444; 2004 c 228 art 1 s 72; 2016 c 126 s 4*

609.275 ATTEMPT TO COERCE.

Whoever makes a threat within the meaning of section 609.27, subdivision 1, clauses (1) to (6), but fails to cause the intended act or forbearance, commits an attempt to coerce and may be punished as provided in section 609.17.

History: *1963 c 753 art 1 s 609.275; 2016 c 126 s 5*

609.28 INTERFERING WITH RELIGIOUS OBSERVANCE.

Subdivision 1. **Interference.** Whoever, by threats or violence, intentionally prevents another person from performing any lawful act enjoined upon or recommended to the person by the religion which the person professes is guilty of a misdemeanor.

Subd. 2. **Physical interference prohibited.** A person is guilty of a gross misdemeanor who intentionally and physically obstructs any individual's access to or egress from a religious establishment. This subdivision does not apply to the exclusion of a person from the establishment at the request of an official of the religious organization.

Subd. 3. **Definition.** For purposes of subdivision 2, a "religious establishment" is a building used for worship services by a religious organization and clearly identified as such by a posted sign or other means.

History: *1963 c 753 art 1 s 609.28; 1971 c 23 s 41; 1986 c 444; 1994 c 636 art 2 s 27*

SEXUAL AND LABOR TRAFFICKING CRIMES

609.281 DEFINITIONS.

Subdivision 1. **Generally.** As used in sections 609.281 to 609.284, the following terms have the meanings given.

Subd. 2. **Blackmail.** "Blackmail" means a threat to expose any fact or alleged fact tending to cause shame or to subject any person to hatred, contempt, or ridicule.

Subd. 3. **Debt bondage.** "Debt bondage" means the status or condition of a debtor arising from a pledge by the debtor of the debtor's personal services or those of a person under the debtor's control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

Subd. 4. **Forced labor or services.** "Forced labor or services" means labor or services that are performed or provided by another person and are obtained or maintained through an actor's:

(1) threat, either implicit or explicit, scheme, plan, or pattern, or other action intended to cause a person to believe that, if the person did not perform or provide the labor or services, that person or another person would suffer bodily harm or physical restraint;

(2) physically restraining or threatening to physically restrain a person;

(3) abuse or threatened abuse of the legal process;

(4) knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person; or

(5) use of blackmail.

Subd. 5. **Labor trafficking.** "Labor trafficking" means:

(1) the recruitment, transportation, transfer, harboring, enticement, provision, obtaining, or receipt of a person by any means, for the purpose of:

(i) debt bondage or forced labor or services;

(ii) slavery or practices similar to slavery; or

(iii) the removal of organs through the use of coercion or intimidation; or

(2) receiving profit or anything of value, knowing or having reason to know it is derived from an act described in clause (1).

Subd. 6. **Labor trafficking victim.** "Labor trafficking victim" means a person subjected to the practices in subdivision 5.

History: *2005 c 136 art 17 s 15; 2009 c 137 s 2*

609.282 LABOR TRAFFICKING.

Subdivision 1. **Individuals under age 18.** Whoever knowingly engages in the labor trafficking of an individual who is under the age of 18 is guilty of a crime and may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than $40,000, or both.

Subd. 2. **Other offenses.** Whoever knowingly engages in the labor trafficking of another is guilty of a crime and may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than $30,000, or both.

Subd. 3. **Consent or age of victim not a defense.** In a prosecution under this section the consent or age of the victim is not a defense.

History: *2005 c 136 art 17 s 16; 2006 c 260 art 1 s 20*

609.283 UNLAWFUL CONDUCT WITH RESPECT TO DOCUMENTS IN FURTHERANCE OF LABOR OR SEX TRAFFICKING.

Subdivision 1. **Crime defined.** Unless the person's conduct constitutes a violation of section 609.282, a person who knowingly destroys, conceals, removes, confiscates, or possesses any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person:

(1) in the course of a violation of section 609.282 or 609.322;

(2) with intent to violate section 609.282 or 609.322; or

(3) to prevent or restrict or to attempt to prevent or restrict, without lawful authority, a person's liberty to move or travel, in order to maintain the labor or services of that person, when the person is or has been a victim of a violation of section 609.282 or 609.322;

is guilty of a crime and may be sentenced as provided in subdivision 2.

Subd. 2. **Penalties.** A person who violates subdivision 1 may be sentenced as follows:

(1) if the crime involves a victim under the age of 18, to imprisonment for not more than ten years or to payment of a fine of $20,000, or both; or

(2) in other cases, to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

Subd. 3. **Consent or age of victim not a defense.** In a prosecution under this section the consent or age of the victim is not a defense.

History: *2005 c 136 art 17 s 17; 2006 c 260 art 1 s 21*

609.284 LABOR OR SEX TRAFFICKING CRIMES; DEFENSES; CIVIL LIABILITY; CORPORATE LIABILITY.

Subdivision 1. **Consent or age of victim not a defense.** In an action under this section the consent or age of the victim is not a defense.

Subd. 2. **Civil liability.** A labor trafficking victim may bring a cause of action against a person who violates section 609.282 or 609.283. The court may award damages, including punitive damages, reasonable attorney fees, and other litigation costs reasonably incurred by the victim. This remedy is in addition to potential criminal liability.

Subd. 3. **Corporate liability.** If a corporation or other business enterprise is convicted of violating section 609.282, 609.283, or 609.322, in addition to the criminal penalties described in those sections and other remedies provided elsewhere in law, the court may, when appropriate:

(1) order its dissolution or reorganization;

(2) order the suspension or revocation of any license, permit, or prior approval granted to it by a state agency; or

(3) order the surrender of its charter if it is organized under Minnesota law or the revocation of its certificate to conduct business in Minnesota if it is not organized under Minnesota law.

History: *2005 c 136 art 17 s 18*

SEX CRIMES

609.293 SODOMY.

Subdivision 1. **Definition.** "Sodomy" means carnally knowing any person by the anus or by or with the mouth.

Subd. 2. [Repealed, 1977 c 130 s 10]

Subd. 3. [Repealed, 1977 c 130 s 10]

Subd. 4. [Repealed, 1977 c 130 s 10]

Subd. 5. **Consensual acts.** Whoever, in cases not coming within the provisions of sections 609.342 or 609.344, voluntarily engages in or submits to an act of sodomy with another may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

History: *1967 c 507 s 4; 1977 c 130 s 4; 1984 c 628 art 3 s 11*

NOTE: The Hennepin County District Court found section 609.293 unconstitutional as applied to private, non-commercial acts by consenting adults in Doe v. Ventura, No. 01-489 (4th Dist. Ct. Hennepin County, May 15, 2001). In Devescovi v. Ventura, 195 F. Supp. 2d 1146 (D. Minn. 2002), the United States District Court found that, since the decision was not appealed, the Hennepin County District Court decision is binding state law.

609.294 BESTIALITY.

Whoever carnally knows a dead body or an animal or bird is guilty of bestiality, which is a misdemeanor. If knowingly done in the presence of another the person may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000 or both.

History: *1967 c 507 s 5; 1971 c 23 s 42; 1984 c 628 art 3 s 11; 1986 c 444*

609.31 LEAVING STATE TO EVADE ESTABLISHMENT OF PATERNITY.

Whoever with intent to evade proceedings to establish his paternity leaves the state knowing that a woman with whom he has had sexual intercourse is pregnant or has given birth within the previous 60 days to a living child may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than $4,000, or both.

History: *1967 c 507 s 8; 1984 c 628 art 3 s 11*

609.321 PROSTITUTION AND SEX TRAFFICKING; DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of sections 609.321 to 609.325, the following terms have the meanings given.

Subd. 2. **Business of prostitution.** "Business of prostitution" means any arrangement between or organization of two or more persons, acting other than as prostitutes or patrons, who commit acts punishable under sections 609.321 to 609.324.

Subd. 3. [Repealed, 1998 c 367 art 2 s 33]

Subd. 4. **Patron.** "Patron" means an individual who engages in prostitution by hiring, offering to hire, or agreeing to hire another individual to engage in sexual penetration or sexual contact.

Subd. 5. **Place of prostitution.** "Place of prostitution" means a house or other place where prostitution is practiced.

Subd. 6. [Repealed, 1998 c 367 art 2 s 33]

Subd. 7. **Promotes the prostitution of an individual.** "Promotes the prostitution of an individual" means any of the following wherein the person knowingly:

(1) solicits or procures patrons for a prostitute;

(2) provides, leases or otherwise permits premises or facilities owned or controlled by the person to aid the prostitution of an individual;

(3) owns, manages, supervises, controls, keeps or operates, either alone or with others, a place of prostitution to aid the prostitution of an individual;

(4) owns, manages, supervises, controls, operates, institutes, aids or facilitates, either alone or with others, a business of prostitution to aid the prostitution of an individual;

(5) admits a patron to a place of prostitution to aid the prostitution of an individual; or

(6) transports an individual from one point within this state to another point either within or without this state, or brings an individual into this state to aid the prostitution of the individual.

Subd. 7a. **Sex trafficking.** "Sex trafficking" means:

(1) receiving, recruiting, enticing, harboring, providing, or obtaining by any means an individual to aid in the prostitution of the individual; or

(2) receiving profit or anything of value, knowing or having reason to know it is derived from an act described in clause (1).

Subd. 7b. **Sex trafficking victim.** "Sex trafficking victim" means a person subjected to the practices in subdivision 7a.

Subd. 8. **Prostitute.** "Prostitute" means an individual who engages in prostitution by being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual contact.

Subd. 9. **Prostitution.** "Prostitution" means hiring, offering to hire, or agreeing to hire another individual to engage in sexual penetration or sexual contact, or being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual contact.

Subd. 10. **Sexual contact.** "Sexual contact" means any of the following acts, if the acts can reasonably be construed as being for the purpose of satisfying the actor's sexual impulses:

(i) the intentional touching by an individual of a prostitute's intimate parts; or

(ii) the intentional touching by a prostitute of another individual's intimate parts.

Subd. 11. **Sexual penetration.** "Sexual penetration" means any of the following acts, if for the purpose of satisfying sexual impulses: sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion however slight into the genital or anal openings of an individual's body by any part of another individual's body or any object used for the purpose of satisfying sexual impulses. Emission of semen is not necessary.

Subd. 12. **Public place.** A "public place" means a public street or sidewalk, a pedestrian skyway system as defined in section 469.125, subdivision 4, a hotel, motel, steam room, sauna, massage parlor, shopping mall and other public shopping areas, or other place of public accommodation, a place licensed to sell intoxicating liquor, wine, nonintoxicating malt beverages, or food, or a motor vehicle located on a public street, alley, or parking lot ordinarily used by or available to the public though not used as a matter of right and a driveway connecting such a parking lot with a street or highway.

Subd. 13. **Place of public accommodation.** "Place of public accommodation" means a business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.

Subd. 14. **Prior qualified human trafficking-related offense.** A "prior qualified human trafficking-related offense" means a conviction or delinquency adjudication within the ten years from the discharge from probation or parole immediately preceding the current offense for a violation of or an attempt to violate section 609.322, subdivision

1(solicitation, inducement, and promotion of prostitution; sex trafficking in the first degree); 609.322, subdivision 1a(solicitation, inducement, and promotion of prostitution; sex trafficking in the second degree); 609.282(labor trafficking); or 609.283(unlawful conduct with respect to documents in furtherance of labor or sex trafficking).

History: *1979 c 255 s 1; 1986 c 444; 1987 c 291 s 242; 2005 c 136 art 17 s 19-23; 2009 c 137 s 3-6; 2009 c 170 s 1; 1Sp2011 c 1 art 5 s 1-3*

609.322 SOLICITATION, INDUCEMENT, AND PROMOTION OF PROSTITUTION; SEX TRAFFICKING.

Subdivision 1. **Solicitation, inducement, and promotion of prostitution; sex trafficking in the first degree.** (a) Whoever, while acting other than as a prostitute or patron, intentionally does any of the following may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than $50,000, or both:

(1) solicits or induces an individual under the age of 18 years to practice prostitution;

(2) promotes the prostitution of an individual under the age of 18 years;

(3) receives profit, knowing or having reason to know that it is derived from the prostitution, or the promotion of the prostitution, of an individual under the age of 18 years; or

(4) engages in the sex trafficking of an individual under the age of 18 years.

(b) Whoever violates paragraph (a) or subdivision 1a may be sentenced to imprisonment for not more than 25 years or to payment of a fine of not more than $60,000, or both, if one or more of the following aggravating factors are present:

(1) the offender has committed a prior qualified human trafficking-related offense;

(2) the offense involved a sex trafficking victim who suffered bodily harm during the commission of the offense;

(3) the time period that a sex trafficking victim was held in debt bondage or forced labor or services exceeded 180 days; or

(4) the offense involved more than one sex trafficking victim.

Subd. 1a. **Solicitation, inducement, and promotion of prostitution; sex trafficking in the second degree.** Whoever, while acting other than as a prostitute or patron, intentionally does any of the following may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than $40,000, or both:

(1) solicits or induces an individual to practice prostitution;

(2) promotes the prostitution of an individual;

(3) receives profit, knowing or having reason to know that it is derived from the prostitution, or the promotion of the prostitution, of an individual; or

(4) engages in the sex trafficking of an individual.

Subd. 1b. **Exceptions.** Subdivisions 1, paragraph (a), clause (3), and 1a, clause (3), do not apply to:

(1) a minor who is dependent on an individual acting as a prostitute and who may have benefited from or been supported by the individual's earnings derived from prostitution; or

(2) a parent over the age of 55 who is dependent on an individual acting as a prostitute, who may have benefited from or been supported by the individual's earnings derived from prostitution, and who did not know that the earnings were derived from prostitution; or

(3) the sale of goods or services to a prostitute in the ordinary course of a lawful business.

Subd. 1c. **Aggregation of cases.** Acts by the defendant in violation of any one or more of the provisions in this section within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this section; provided that when two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this subdivision.

Subd. 2. [Repealed, 1998 c 367 art 2 s 33]

Subd. 3. [Repealed, 1998 c 367 art 2 s 33]

History: *1979 c 255 s 2; 1984 c 628 art 3 s 11; 1986 c 448 s 2; 1992 c 571 art 4 s 9; 1998 c 367 art 2 s 12-14; 2000 c 431 s 2; 1Sp2003 c 2 art 10 s 1; 2009 c 137 s 7*

609.3232 PROTECTIVE ORDER AUTHORIZED; PROCEDURES; PENALTIES.

Subdivision 1. **Order for protection.** Any parent or guardian who knows or has reason to believe that a person, while acting as other than a prostitute or patron, is inducing, coercing, soliciting, or promoting the prostitution of the parent or guardian's minor child, or is offering or providing food, shelter, or other subsistence for the purpose of enabling the parent or guardian's minor child to engage in prostitution, may seek an order for protection in the manner provided in this section.

Subd. 2. **Court jurisdiction.** An application for relief under this section shall be filed in the juvenile court. Actions under this section shall be given docket priority by the court.

Subd. 3. **Contents of petition.** A petition for relief shall allege the existence of a circumstance or circumstances described in subdivision 1, and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought. The court shall provide simplified forms and clerical assistance to help with the writing and filing of a petition under this section.

Subd. 4. **Hearing on application; notice.** (a) Upon receipt of the petition, the court shall order a hearing which shall be held no later than 14 days from the date of the order. Personal service shall be made upon the respondent not less than five days before the hearing. In the event that personal service cannot be completed in time to give the respondent the minimum notice required under this paragraph, the court may set a new hearing date.

(b) Notwithstanding the provisions of paragraph (a), service may be made by one week published notice, as provided under section 645.11, provided the petitioner files with the court an affidavit stating that an attempt at personal service made by a sheriff was unsuccessful because the respondent is avoiding service by concealment or otherwise, and that a copy of the petition and notice of hearing has been mailed to the respondent at the respondent's residence or that the residence is not known to the petitioner. Service under this paragraph is complete seven days after publication. The court shall set a new hearing date if necessary to allow the respondent the five-day minimum notice required under paragraph (a).

Subd. 5. **Relief by the court.** Upon notice and hearing, the court may order the respondent to return the minor child to the residence of the child's parents or guardian, and may order that the respondent cease and desist from committing further acts described in subdivision 1 and cease to have further contact with the minor child. Any relief granted by the court in the order for protection shall be for a fixed period of time determined by the court.

Subd. 6. **Service of order.** Any order issued under this section shall be served personally on the respondent. Upon the request of the petitioner, the court shall order the sheriff to assist in the execution or service of the order for protection.

Subd. 7. **Violation of order for protection.** (a) A violation of an order for protection shall constitute contempt of court and be subject to the penalties provided under chapter 588.

(b) Any person who willfully fails to return a minor child as required by an order for protection issued under this section commits an act which manifests an intent substantially to deprive the parent or guardian of custodial rights within the meaning of section 609.26, clause (3).

History: *1986 c 448 s 4*

609.324 PATRONS; PROSTITUTES; HOUSING INDIVIDUALS ENGAGED IN PROSTITUTION; PENALTIES.

Subdivision 1. **Engaging in, hiring, or agreeing to hire minor to engage in prostitution; penalties.** (a) Whoever intentionally does any of the following may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than $40,000, or both:

(1) engages in prostitution with an individual under the age of 13 years;

(2) hires or offers or agrees to hire an individual under the age of 13 years to engage in sexual penetration or sexual contact; or

(3) hires or offers or agrees to hire an individual who the actor reasonably believes to be under the age of 13 years to engage in sexual penetration or sexual contact.

(b) Whoever intentionally does any of the following may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both:

(1) engages in prostitution with an individual under the age of 16 years but at least 13 years;

(2) hires or offers or agrees to hire an individual under the age of 16 years but at least 13 years to engage in sexual penetration or sexual contact; or

(3) hires or offers or agrees to hire an individual who the actor reasonably believes to be under the age of 16 years but at least 13 years to engage in sexual penetration or sexual contact.

(c) Whoever intentionally does any of the following may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both:

(1) engages in prostitution with an individual under the age of 18 years but at least 16 years;

(2) hires or offers or agrees to hire an individual under the age of 18 years but at least 16 years to engage in sexual penetration or sexual contact; or

(3) hires or offers or agrees to hire an individual who the actor reasonably believes to be under the age of 18 years but at least 16 years to engage in sexual penetration or sexual contact.

Subd. 1a. **Housing unrelated minor engaged in prostitution; penalties.** Any person, other than one related by blood, adoption, or marriage to the minor, who permits a minor to reside, temporarily or permanently, in the person's dwelling without the consent of the minor's parents or guardian, knowing or having reason to know that the minor is engaging in prostitution may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both; except that, this subdivision does not apply to residential placements made, sanctioned, or supervised by a public or private social service agency.

Subd. 2. **Prostitution in public place; penalty for patrons.** Whoever, while acting as a patron, intentionally does any of the following while in a public place is guilty of a gross misdemeanor:

(1) engages in prostitution with an individual 18 years of age or older; or

(2) hires, offers to hire, or agrees to hire an individual 18 years of age or older to engage in sexual penetration or sexual contact.

Except as otherwise provided in subdivision 4, a person who is convicted of violating this subdivision must, at a minimum, be sentenced to pay a fine of at least $1,500.

Subd. 3. **General prostitution crimes; penalties for patrons.** (a) Whoever, while acting as a patron, intentionally does any of the following is guilty of a misdemeanor:

(1) engages in prostitution with an individual 18 years of age or older; or

(2) hires, offers to hire, or agrees to hire an individual 18 years of age or older to engage in sexual penetration or sexual contact. Except as otherwise provided in subdivision 4, a person who is convicted of violating this paragraph must, at a minimum, be sentenced to pay a fine of at least $500.

(b) Whoever violates the provisions of this subdivision within two years of a previous prostitution conviction for violating this section or section 609.322 is guilty of a gross misdemeanor. Except as otherwise provided in subdivision 4, a person who is convicted of violating this paragraph must, at a minimum, be sentenced as follows:

(1) to pay a fine of at least $1,500; and

(2) to serve 20 hours of community work service.

The court may waive the mandatory community work service if it makes specific, written findings that the community work service is not feasible or appropriate under the circumstances of the case.

Subd. 4. **Community service in lieu of minimum fine.** The court may order a person convicted of violating subdivision 2 or 3 to perform community work service in lieu of all or a portion of the minimum fine required under those subdivisions if the court makes specific, written findings that the convicted person is indigent or that payment of the fine would create undue hardship for the convicted person or that person's immediate family. Community work service ordered under this subdivision is in addition to any mandatory community work service ordered under subdivision 3.

Subd. 5. **Use of motor vehicle to patronize prostitutes; driving record notation.** (a) When a court sentences a person convicted of violating this section while acting as a patron, the court shall determine whether the person used a motor vehicle during the commission of the offense and whether the person has previously been convicted of violating this section or section 609.322. If the court finds that the person used a motor vehicle during the commission of the offense, it shall forward its finding along with an indication of whether the person has previously been convicted of a prostitution offense to the commissioner of public safety who shall record the finding on the person's driving record. Except as provided in paragraph (b), the finding is classified as private data on individuals, as defined in section 13.02, subdivision 12, but is accessible for law enforcement purposes.

(b) If the person has previously been convicted of a violation of this section or section 609.322, the finding is public data.

Subd. 6. **Prostitution in public place; penalty for prostitutes.** Whoever, while acting as a prostitute, intentionally does any of the following while in a public place is guilty of a gross misdemeanor:

(1) engages in prostitution with an individual 18 years of age or older; or

(2) is hired, offers to be hired, or agrees to be hired by an individual 18 years of age or older to engage in sexual penetration or sexual contact.

Subd. 7. **General prostitution crimes; penalties for prostitutes.** (a) Whoever, while acting as a prostitute, intentionally does any of the following is guilty of a misdemeanor:

(1) engages in prostitution with an individual 18 years of age or older; or

(2) is hired, offers to be hired, or agrees to be hired by an individual 18 years of age or older to engage in sexual penetration or sexual contact.

(b) Whoever violates the provisions of this subdivision within two years of a previous prostitution conviction for violating this section or section 609.322 is guilty of a gross misdemeanor.

History: *1979 c 255 s 4; 1984 c 628 art 3 s 11; 1986 c 448 s 5,6; 1990 c 463 s 1-4; 1Sp2003 c 2 art 10 s 5;2004 c 228 art 1 s 72; 2009 c 137 s 8,9; 2009 c 170 s 2-4; 1Sp2011 c 1 art 5 s 4-7; 2015 c 65 art 6 s 11; 2016 c 189 art 4 s 15*

609.3241 PENALTY ASSESSMENT AUTHORIZED.

(a) When a court sentences an adult convicted of violating section 609.322 or 609.324, while acting other than as a prostitute, the court shall impose an assessment of not less than $500 and not more than $750 for a violation of section 609.324, subdivision 2, or a misdemeanor violation of section 609.324, subdivision 3; otherwise the court shall impose an assessment of not less than $750 and not more than $1,000. The assessment shall be distributed as provided in paragraph (c) and is in addition to the surcharge required by section 357.021, subdivision 6.

(b) The court may not waive payment of the minimum assessment required by this section. If the defendant qualifies for the services of a public defender or the court finds on the record that the convicted person is indigent or that immediate payment of the assessment would create undue hardship for the convicted person or that person's immediate family, the court may reduce the amount of the minimum assessment to not less than $100. The court also may authorize payment of the assessment in installments.

(c) The assessment collected under paragraph (a) must be distributed as follows:

(1) 40 percent of the assessment shall be forwarded to the political subdivision that employs the arresting officer for use in enforcement, training, and education activities related to combating sexual exploitation of youth, or if the arresting officer is an employee of the state, this portion shall be forwarded to the commissioner of public safety for those purposes identified in clause (3);

(2) 20 percent of the assessment shall be forwarded to the prosecuting agency that handled the case for use in training and education activities relating to combating sexual exploitation activities of youth; and

(3) 40 percent of the assessment must be forwarded to the commissioner of health to be deposited in the safe harbor for youth account in the special revenue fund and are appropriated to the commissioner for distribution to crime victims services organizations that provide services to sexually exploited youth, as defined in section 260C.007, subdivision 31.

(d) A safe harbor for youth account is established as a special account in the state treasury.

History: *1986 c 448 s 7; 1990 c 463 s 5; 1994 c 636 art 2 s 28; 1998 c 367 art 2 s 32; art 8 s 11; 1Sp2003 c 2 art 10 s 2; 1Sp2010 c 1 art 14 s 17; 1Sp2011 c 1 art 4 s 7; 2016 c 189 art 15 s 23*

609.3242 PROSTITUTION CRIMES COMMITTED IN SCHOOL OR PARK ZONES; INCREASED PENALTIES.

Subdivision 1. **Definitions.** As used in this section:

(1) "park zone" has the meaning given in section 152.01, subdivision 12a; and

(2) "school zone" has the meaning given in section 152.01, subdivision 14a, and also includes school bus stops established by a school board under section 123B.88, while school children are waiting for the bus.

Subd. 2. **Increased penalties.** Any person who commits a violation of section 609.324 while acting other than as a prostitute while in a school or park zone may be sentenced as follows:

(1) if the crime committed is a felony, the statutory maximum for the crime is three years longer than the statutory maximum for the underlying crime;

(2) if the crime committed is a gross misdemeanor, the person is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than $4,000, or both; and

(3) if the crime committed is a misdemeanor, the person is guilty of a gross misdemeanor.

History: *1998 c 367 art 2 s 15; 1998 c 397 art 11 s 3*

609.3243 LOITERING WITH INTENT TO PARTICIPATE IN PROSTITUTION.

A person who loiters in a public place with intent to participate in prostitution is guilty of a misdemeanor.

History: *2005 c 136 art 17 s 24*

609.325 DEFENSES.

Subdivision 1. **No defense; solicited; not engaged.** It shall be no defense to a prosecution under section 609.322 that an individual solicited or induced to practice prostitution or whose prostitution was promoted, did not actually engage in prostitution.

Subd. 2. **Consent no defense.** Consent or mistake as to age shall be no defense to prosecutions under section 609.322 or 609.324.

Subd. 3. **No defense; prior prostitution.** It shall be no defense to actions under section 609.322 that the individual solicited or induced to practice prostitution, or whose prostitution was promoted, had engaged in prostitution prior to that solicitation, inducement, or promotion.

Subd. 3a. **No defense; undercover operative.** The fact that an undercover operative or law enforcement officer was involved in the detection or investigation of an offense shall not be a defense to a prosecution under section 609.324.

Subd. 4. **Affirmative defense.** It is an affirmative defense to a charge under section 609.324, subdivision 6 or 7, if the defendant proves by a preponderance of the evidence that the defendant is a labor trafficking victim, as defined in section 609.281, or a sex trafficking victim, as defined in section 609.321, and that the defendant committed the acts underlying the charge as a result of being a labor trafficking or sex trafficking victim.

History: *1979 c 255 s 5; 1994 c 636 art 2 s 29; 1998 c 367 art 2 s 32; 2005 c 136 art 17 s 25; 2015 c 65 art 6 s 12,13*

609.326 EVIDENCE.

The marital privilege provided for in section 595.02 shall not apply in any proceeding under section 609.322.

History: *1979 c 255 s 6; 1998 c 367 art 2 s 32*

609.33 DISORDERLY HOUSE.

Subdivision 1. **Definition.** For the purpose of this section, "disorderly house" means a building, dwelling, place, establishment, or premises in which actions or conduct habitually occur in violation of laws relating to:

(1) the sale of intoxicating liquor or 3.2 percent malt liquor;

(2) gambling;

(3) prostitution as defined in section 609.321, subdivision 9, or acts relating to prostitution; or

(4) the sale or possession of controlled substances as defined in section 152.01, subdivision 4.

Subd. 2. **Prohibiting owning or operating disorderly house.** No person may own, lease, operate, manage, maintain, or conduct a disorderly house, or invite or attempt to invite others to visit or remain in the disorderly house. A violation of this subdivision is a gross misdemeanor.

Subd. 3. **Mandatory minimum penalties.** (a) If a person is convicted of a first violation of subdivision 2, in addition to any sentence of imprisonment authorized by subdivision 2 which the court may impose, the court shall impose a fine of not less than $300 nor more than $3,000.

(b) If a person is convicted of a second violation of subdivision 2, in addition to any sentence of imprisonment authorized by subdivision 2 which the court may impose, the court shall impose a fine of not less than $500 nor more than $3,000.

(c) If a person is convicted of a third or subsequent violation of subdivision 2, in addition to any sentence of imprisonment authorized by subdivision 2 which the court may impose, the court shall impose a fine of not less than $1,000 nor more than $3,000.

Subd. 4. **Evidence.** Evidence of unlawful sales of intoxicating liquor or 3.2 percent malt liquor, of unlawful possession or sale of controlled substances, of prostitution or acts relating to prostitution, or of gambling or acts relating to gambling, is prima facie evidence of the existence of a disorderly house. Evidence of sales of intoxicating liquor or 3.2 percent malt liquor between the hours of 1:00 a.m. and 8:00 a.m., while a person is within a disorderly house, is prima facie evidence that the person knew it to be a disorderly house.

Subd. 5. **Local regulation.** Subdivisions 1 to 4 do not prohibit or restrict a local governmental unit from imposing more restrictive provisions.

Subd. 6. **Pretrial release.** When a person is charged under this section with owning or leasing a disorderly house, the court may require as a condition of pretrial release that the defendant bring an eviction action against a lessee who has violated the covenant not to allow drugs established by section 504B.171.

History: *1967 c 507 s 10; 1984 c 628 art 3 s 11; 1985 c 277 s 1; 1989 c 77 s 1; 1991 c 193 s 3; 1991 c 249 s 31; 1999 c 199 art 2 s 33; 2003 c 2 art 2 s 18*

609.34 FORNICATION.

When any man and single woman have sexual intercourse with each other, each is guilty of fornication, which is a misdemeanor.

History: *1967 c 507 s 11; 1971 c 23 s 43*

609.341 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of sections 609.341 to 609.351, the terms in this section have the meanings given them.

Subd. 2. **Actor.** "Actor" means a person accused of criminal sexual conduct.

Subd. 3. **Force.** "Force" means the infliction, attempted infliction, or threatened infliction by the actor of bodily harm or commission or threat of any other crime by the actor against the complainant or another, which (a) causes the complainant to reasonably believe that the actor has the present ability to execute the threat and (b) if the actor does not have a significant relationship to the complainant, also causes the complainant to submit.

Subd. 4. **Consent.** (a) "Consent" means words or overt actions by a person indicating a freely given present agreement to perform a particular sexual act with the actor. Consent does not mean the existence of a prior or current social relationship between the actor and the complainant or that the complainant failed to resist a particular sexual act.

(b) A person who is mentally incapacitated or physically helpless as defined by this section cannot consent to a sexual act.

(c) Corroboration of the victim's testimony is not required to show lack of consent.

Subd. 5. **Intimate parts.** "Intimate parts" includes the primary genital area, groin, inner thigh, buttocks, or breast of a human being.

Subd. 6. **Mentally impaired.** "Mentally impaired" means that a person, as a result of inadequately developed or impaired intelligence or a substantial psychiatric disorder of thought or mood, lacks the judgment to give a reasoned consent to sexual contact or to sexual penetration.

Subd. 7. **Mentally incapacitated.** "Mentally incapacitated" means that a person under the influence of alcohol, a narcotic, anesthetic, or any other substance, administered to that person without the person's agreement, lacks the judgment to give a reasoned consent to sexual contact or sexual penetration.

Subd. 8. **Personal injury.** "Personal injury" means bodily harm as defined in section 609.02, subdivision 7, or severe mental anguish or pregnancy.

Subd. 9. **Physically helpless.** "Physically helpless" means that a person is (a) asleep or not conscious, (b) unable to withhold consent or to withdraw consent because of a physical condition, or (c) unable to communicate nonconsent and the condition is known or reasonably should have been known to the actor.

Subd. 10. **Position of authority.** "Position of authority" includes but is not limited to any person who is a parent or acting in the place of a parent and charged with any of a parent's rights, duties or responsibilities to a child, or a person who is charged with any duty or responsibility for the health, welfare, or supervision of a child, either independently or through another, no matter how brief, at the time of the act. For the purposes of subdivision 11, "position of authority" includes a psychotherapist.

Subd. 11. **Sexual contact.** (a) "Sexual contact," for the purposes of sections 609.343, subdivision 1, clauses (a) to (f), and 609.345, subdivision 1, clauses (a) to (e), and (h) to (o), includes any of the following acts committed without the complainant's consent, except in those cases where consent is not a defense, and committed with sexual or aggressive intent:

(i) the intentional touching by the actor of the complainant's intimate parts, or

(ii) the touching by the complainant of the actor's, the complainant's, or another's intimate parts effected by a person in a position of authority, or by coercion, or by inducement if the complainant is under 13 years of age or mentally impaired, or

(iii) the touching by another of the complainant's intimate parts effected by coercion or by a person in a position of authority, or

(iv) in any of the cases above, the touching of the clothing covering the immediate area of the intimate parts, or

(v) the intentional touching with seminal fluid or sperm by the actor of the complainant's body or the clothing covering the complainant's body.

(b) "Sexual contact," for the purposes of sections 609.343, subdivision 1, clauses (g) and (h), and 609.345, subdivision 1, clauses (f) and (g), includes any of the following acts committed with sexual or aggressive intent:

(i) the intentional touching by the actor of the complainant's intimate parts;

(ii) the touching by the complainant of the actor's, the complainant's, or another's intimate parts;

(iii) the touching by another of the complainant's intimate parts;

(iv) in any of the cases listed above, touching of the clothing covering the immediate area of the intimate parts; or

(v) the intentional touching with seminal fluid or sperm by the actor of the complainant's body or the clothing covering the complainant's body.

(c) "Sexual contact with a person under 13" means the intentional touching of the complainant's bare genitals or anal opening by the actor's bare genitals or anal opening with sexual or aggressive intent or the touching by the complainant's bare genitals or anal opening of the actor's or another's bare genitals or anal opening with sexual or aggressive intent.

Subd. 12. **Sexual penetration.** "Sexual penetration" means any of the following acts committed without the complainant's consent, except in those cases where consent is not a defense, whether or not emission of semen occurs:

(1) sexual intercourse, cunnilingus, fellatio, or anal intercourse; or

(2) any intrusion however slight into the genital or anal openings:

(i) of the complainant's body by any part of the actor's body or any object used by the actor for this purpose;

(ii) of the complainant's body by any part of the body of the complainant, by any part of the body of another person, or by any object used by the complainant or another person for this purpose, when effected by a person in a position of authority, or by coercion, or by inducement if the child is under 13 years of age or mentally impaired; or

(iii) of the body of the actor or another person by any part of the body of the complainant or by any object used by the complainant for this purpose, when effected by a person in a position of authority, or by coercion, or by inducement if the child is under 13 years of age or mentally impaired.

Subd. 13. **Complainant.** "Complainant" means a person alleged to have been subjected to criminal sexual conduct, but need not be the person who signs the complaint.

Subd. 14. **Coercion.** "Coercion" means the use by the actor of words or circumstances that cause the complainant reasonably to fear that the actor will inflict bodily harm upon the complainant or another, or the use by the actor of confinement, or superior size or strength, against the complainant that causes the complainant to submit to sexual penetration or contact against the complainant's will. Proof of coercion does not require proof of a specific act or threat.

Subd. 15. **Significant relationship.** "Significant relationship" means a situation in which the actor is:

(1) the complainant's parent, stepparent, or guardian;

(2) any of the following persons related to the complainant by blood, marriage, or adoption: brother, sister, stepbrother, stepsister, first cousin, aunt, uncle, nephew, niece, grandparent, great-grandparent, great-uncle, great-aunt; or

(3) an adult who jointly resides intermittently or regularly in the same dwelling as the complainant and who is not the complainant's spouse.

Subd. 16. **Patient.** "Patient" means a person who seeks or obtains psychotherapeutic services.

Subd. 17. **Psychotherapist.** "Psychotherapist" means a person who is or purports to be a physician, psychologist, nurse, chemical dependency counselor, social worker, marriage and family therapist, licensed professional counselor, or other mental health service provider; or any other person, whether or not licensed by the state, who performs or purports to perform psychotherapy.

Subd. 18. **Psychotherapy.** "Psychotherapy" means the professional treatment, assessment, or counseling of a mental or emotional illness, symptom, or condition.

Subd. 19. **Emotionally dependent.** "Emotionally dependent" means that the nature of the former patient's emotional condition and the nature of the treatment provided by the psychotherapist are such that the psychotherapist

knows or has reason to know that the former patient is unable to withhold consent to sexual contact or sexual penetration by the psychotherapist.

Subd. 20. **Therapeutic deception.** "Therapeutic deception" means a representation by a psychotherapist that sexual contact or sexual penetration by the psychotherapist is consistent with or part of the patient's treatment.

Subd. 21. **Special transportation.** "Special transportation service" means motor vehicle transportation provided on a regular basis by a public or private entity or person that is intended exclusively or primarily to serve individuals who are vulnerable adults or disabled. Special transportation service includes, but is not limited to, service provided by buses, vans, taxis, and volunteers driving private automobiles.

Subd. 22. **Predatory crime.** "Predatory crime" means a felony violation of section 609.185 (first-degree murder), 609.19 (second-degree murder), 609.195 (third-degree murder), 609.20 (first-degree manslaughter), 609.205 (second-degree manslaughter), 609.221 (first-degree assault), 609.222 (second-degree assault), 609.223 (third-degree assault), 609.24 (simple robbery), 609.245 (aggravated robbery), 609.25 (kidnapping), 609.255 (false imprisonment), 609.498 (tampering with a witness), 609.561 (first-degree arson), or 609.582, subdivision 1 (first-degree burglary).

Subd. 23. **Secure treatment facility.** "Secure treatment facility" has the meaning given in sections 253B.02, subdivision 18a, and 253D.02, subdivision 13.

History: *1975 c 374 s 2; 1977 c 130 s 8; 1979 c 258 s 9-11; 1981 c 51 s 1; 1982 c 385 s 1; 1982 c 469 s 9; 1984 c 525 s 3; 1984 c 588 s 5, 6; 1985 c 24 s 3, 4; 1985 c 286 s 14; 1985 c 297 s 1-5; 1986 c 351 s 6, 7; 1986 c 444; 1987 c 198 s 1-3; 1987 c 347 art 1 s 22; 1988 c 413 s 1; 1989 c 290 art 4 s 11; 1993 c 326 art 4 s 17-19; 1994 c 636 art 2 s 30-33; 1995 c 226 art 2 s 18; 1998 c 367 art 3 s 5, 6; 2001 c 210 s 21; 2002 c 379 art 1 s 106; 2002 c 381 s 1; 2003 c 118 s 22; 2005 c 56 s 1; 2005 c 136 art 2 s 10, 11; 2007 c 54 art 2 s 3; 2009 c 59 art 1 s 5; 2010 c 270 s 1; 2013 c 49 s 22*

609.342 CRIMINAL SEXUAL CONDUCT IN THE FIRST DEGREE.

Subdivision 1. **Crime defined.** A person who engages in sexual penetration with another person, or in sexual contact with a person under 13 years of age as defined in section 609.341, subdivision 11, paragraph (c), is guilty of criminal sexual conduct in the first degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is more than 36 months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(b) the complainant is at least 13 years of age but less than 16 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(c) circumstances existing at the time of the act cause the complainant to have a reasonable fear of imminent great bodily harm to the complainant or another;

(d) the actor is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and uses or threatens to use the weapon or article to cause the complainant to submit;

(e) the actor causes personal injury to the complainant, and either of the following circumstances exist:

(i) the actor uses force or coercion to accomplish sexual penetration; or

(ii) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(f) the actor is aided or abetted by one or more accomplices within the meaning of section 609.05, and either of the following circumstances exists:

(i) an accomplice uses force or coercion to cause the complainant to submit; or

(ii) an accomplice is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant reasonably to believe it to be a dangerous weapon and uses or threatens to use the weapon or article to cause the complainant to submit;

(g) the actor has a significant relationship to the complainant and the complainant was under 16 years of age at the time of the sexual penetration. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense; or

(h) the actor has a significant relationship to the complainant, the complainant was under 16 years of age at the time of the sexual penetration, and:

(i) the actor or an accomplice used force or coercion to accomplish the penetration;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense.

Subd. 2. **Penalty.** (a) Except as otherwise provided in section 609.3455; or Minnesota Statutes 2004, section 609.109, a person convicted under subdivision 1 may be sentenced to imprisonment for not more than 30 years or to a payment of a fine of not more than $40,000, or both.

(b) Unless a longer mandatory minimum sentence is otherwise required by law or the Sentencing Guidelines provide for a longer presumptive executed sentence, the court shall presume that an executed sentence of 144 months must be imposed on an offender convicted of violating this section. Sentencing a person in a manner other than that described in this paragraph is a departure from the Sentencing Guidelines.

(c) A person convicted under this section is also subject to conditional release under section 609.3455.

Subd. 3. **Stay.** Except when imprisonment is required under section 609.3455; or Minnesota Statutes 2004, section 609.109, if a person is convicted under subdivision 1, clause (g), the court may stay imposition or execution of the sentence if it finds that:

(a) a stay is in the best interest of the complainant or the family unit; and

(b) a professional assessment indicates that the offender has been accepted by and can respond to a treatment program.

If the court stays imposition or execution of sentence, it shall include the following as conditions of probation:

(1) incarceration in a local jail or workhouse;

(2) a requirement that the offender complete a treatment program; and

(3) a requirement that the offender have no unsupervised contact with the complainant until the offender has successfully completed the treatment program unless approved by the treatment program and the supervising correctional agent.

History: *1975 c 374 s 3; 1981 c 51 s 2; 1983 c 204 s 1; 1984 c 628 art 3 s 11; 1985 c 24 s 5; 1985 c 286 s 15; 1986 c 444; 1989 c 290 art 4 s 12; 1992 c 571 art 1 s 14; 1994 c 636 art 2 s 34; 1995 c 186 s 99; 1998 c 367 art 3 s 7; art 6 s 15; 2000 c 311 art 4 s 2; 2000 c 437 s 10; 2005 c 136 art 2 s 12, 13; 2007 c 13 art 3 s 37*

609.343 CRIMINAL SEXUAL CONDUCT IN THE SECOND DEGREE.

Subdivision 1. **Crime defined.** A person who engages in sexual contact with another person is guilty of criminal sexual conduct in the second degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is more than 36 months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense. In a prosecution under this clause, the state is not required to prove that the sexual contact was coerced;

(b) the complainant is at least 13 but less than 16 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(c) circumstances existing at the time of the act cause the complainant to have a reasonable fear of imminent great bodily harm to the complainant or another;

(d) the actor is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and uses or threatens to use the dangerous weapon to cause the complainant to submit;

(e) the actor causes personal injury to the complainant, and either of the following circumstances exist:

(i) the actor uses force or coercion to accomplish the sexual contact; or

(ii) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(f) the actor is aided or abetted by one or more accomplices within the meaning of section 609.05, and either of the following circumstances exists:

(i) an accomplice uses force or coercion to cause the complainant to submit; or

(ii) an accomplice is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and uses or threatens to use the weapon or article to cause the complainant to submit;

(g) the actor has a significant relationship to the complainant and the complainant was under 16 years of age at the time of the sexual contact. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense; or

(h) the actor has a significant relationship to the complainant, the complainant was under 16 years of age at the time of the sexual contact, and:

(i) the actor or an accomplice used force or coercion to accomplish the contact;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense.

Subd. 2. **Penalty.** (a) Except as otherwise provided in section 609.3455; or Minnesota Statutes 2004, section 609.109, a person convicted under subdivision 1 may be sentenced to imprisonment for not more than 25 years or to a payment of a fine of not more than $35,000, or both.

(b) Unless a longer mandatory minimum sentence is otherwise required by law or the Sentencing Guidelines provide for a longer presumptive executed sentence, the court shall presume that an executed sentence of 90 months

must be imposed on an offender convicted of violating subdivision 1, clause (c), (d), (e), (f), or (h). Sentencing a person in a manner other than that described in this paragraph is a departure from the Sentencing Guidelines.

(c) A person convicted under this section is also subject to conditional release under section 609.3455.

Subd. 3. **Stay.** Except when imprisonment is required under section 609.3455; or Minnesota Statutes 2004, section 609.109, if a person is convicted under subdivision 1, clause (g), the court may stay imposition or execution of the sentence if it finds that:

(a) a stay is in the best interest of the complainant or the family unit; and

(b) a professional assessment indicates that the offender has been accepted by and can respond to a treatment program.

If the court stays imposition or execution of sentence, it shall include the following as conditions of probation:

(1) incarceration in a local jail or workhouse;

(2) a requirement that the offender complete a treatment program; and

(3) a requirement that the offender have no unsupervised contact with the complainant until the offender has successfully completed the treatment program unless approved by the treatment program and the supervising correctional agent.

History: *1975 c 374 s 4; 1979 c 258 s 12; 1981 c 51 s 3; 1983 c 204 s 2; 1984 c 628 art 3 s 11; 1985 c 24 s 6; 1985 c 286 s 16; 1986 c 444; 1989 c 290 art 4 s 13; 1992 c 571 art 1 s 15; 1998 c 367 art 3 s 8; art 6 s 15; 2000 c 437 s 11; 2002 c 381 s 2; 2005 c 136 art 2 s 14, 15; 2007 c 13 art 3 s 37*

609.344 CRIMINAL SEXUAL CONDUCT IN THE THIRD DEGREE.

Subdivision 1. **Crime defined.** A person who engages in sexual penetration with another person is guilty of criminal sexual conduct in the third degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is no more than 36 months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant shall be a defense;

(b) the complainant is at least 13 but less than 16 years of age and the actor is more than 24 months older than the complainant. In any such case if the actor is no more than 120 months older than the complainant, it shall be an affirmative defense, which must be proved by a preponderance of the evidence, that the actor reasonably believes the complainant to be 16 years of age or older. In all other cases, mistake as to the complainant's age shall not be a defense. Consent by the complainant is not a defense;

(c) the actor uses force or coercion to accomplish the penetration;

(d) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(e) the complainant is at least 16 but less than 18 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(f) the actor has a significant relationship to the complainant and the complainant was at least 16 but under 18 years of age at the time of the sexual penetration. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(g) the actor has a significant relationship to the complainant, the complainant was at least 16 but under 18 years of age at the time of the sexual penetration, and:

(i) the actor or an accomplice used force or coercion to accomplish the penetration;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(h) the actor is a psychotherapist and the complainant is a patient of the psychotherapist and the sexual penetration occurred:

(i) during the psychotherapy session; or

(ii) outside the psychotherapy session if an ongoing psychotherapist-patient relationship exists.

Consent by the complainant is not a defense;

(i) the actor is a psychotherapist and the complainant is a former patient of the psychotherapist and the former patient is emotionally dependent upon the psychotherapist;

(j) the actor is a psychotherapist and the complainant is a patient or former patient and the sexual penetration occurred by means of therapeutic deception. Consent by the complainant is not a defense;

(k) the actor accomplishes the sexual penetration by means of deception or false representation that the penetration is for a bona fide medical purpose. Consent by the complainant is not a defense;

(1) the actor is or purports to be a member of the clergy, the complainant is not married to the actor, and:

(i) the sexual penetration occurred during the course of a meeting in which the complainant sought or received religious or spiritual advice, aid, or comfort from the actor in private; or

(ii) the sexual penetration occurred during a period of time in which the complainant was meeting on an ongoing basis with the actor to seek or receive religious or spiritual advice, aid, or comfort in private. Consent by the complainant is not a defense;

(m) the actor is an employee, independent contractor, or volunteer of a state, county, city, or privately operated adult or juvenile correctional system, or secure treatment facility, or treatment facility providing services to clients civilly committed as mentally ill and dangerous, sexually dangerous persons, or sexual psychopathic personalities, including, but not limited to, jails, prisons, detention centers, or work release facilities, and the complainant is a resident of a facility or under supervision of the correctional system. Consent by the complainant is not a defense;

(n) the actor provides or is an agent of an entity that provides special transportation service, the complainant used the special transportation service, and the sexual penetration occurred during or immediately before or after the actor transported the complainant. Consent by the complainant is not a defense; or

(o) the actor performs massage or other bodywork for hire, the complainant was a user of one of those services, and nonconsensual sexual penetration occurred during or immediately before or after the actor performed or was hired to perform one of those services for the complainant.

Subd. 2. **Penalty.** Except as otherwise provided in section 609.3455, a person convicted under subdivision 1 may be sentenced:

(1) to imprisonment for not more than 15 years or to a payment of a fine of not more than $30,000, or both; or

(2) if the person was convicted under subdivision 1, paragraph (b), and if the actor was no more than 48 months but more than 24 months older than the complainant, to imprisonment for not more than five years or a fine of not more than $30,000, or both.

A person convicted under this section is also subject to conditional release under section 609.3455.

Subd. 3. **Stay.** Except when imprisonment is required under section 609.3455; or Minnesota Statutes 2004, section 609.109, if a person is convicted under subdivision 1, clause (f), the court may stay imposition or execution of the sentence if it finds that:

(a) a stay is in the best interest of the complainant or the family unit; and

(b) a professional assessment indicates that the offender has been accepted by and can respond to a treatment program.

If the court stays imposition or execution of sentence, it shall include the following as conditions of probation:

(1) incarceration in a local jail or workhouse;

(2) a requirement that the offender complete a treatment program; and

(3) a requirement that the offender have no unsupervised contact with the complainant until the offender has successfully completed the treatment program unless approved by the treatment program and the supervising correctional agent.

History: *1975 c 374 s 5; 1979 c 258 s 13; 1983 c 204 s 3; 1984 c 588 s 7; 1984 c 628 art 3 s 11; 1985 c 24 s 7; 1985 c 286 s 17; 1985 c 297 s 6; 1986 c 351 s 8; 1986 c 444; 1Sp1986 c 3 art 1 s 80; 1987 c 94 s 1; 1989 c 290 art 4 s 14; 1992 c 571 art 1 s 16, 17; 1993 c 326 art 4 s 20; 1994 c 636 art 2 s 35; 1998 c 367 art 3 s 9; art 6 s 15; 2000 c 437 s 12; 2001 c 210 s 22; 2002 c 381 s 3; 2005 c 136 art 2 s 16, 17; 2007 c 13 art 3 s 37; 2007 c 54 art 2 s 4; 2010 c 270 s 2; 2014 c 259 s 5, 6*

609.345 CRIMINAL SEXUAL CONDUCT IN THE FOURTH DEGREE.

Subdivision 1. **Crime defined.** A person who engages in sexual contact with another person is guilty of criminal sexual conduct in the fourth degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is no more than 36 months older than the complainant. Neither mistake as to the complainant's age or consent to the act by the complainant is a defense. In a prosecution under this clause, the state is not required to prove that the sexual contact was coerced;

(b) the complainant is at least 13 but less than 16 years of age and the actor is more than 48 months older than the complainant or in a position of authority over the complainant. Consent by the complainant to the act is not a defense. In any such case, if the actor is no more than 120 months older than the complainant, it shall be an affirmative defense which must be proved by a preponderance of the evidence that the actor reasonably believes the complainant to be 16 years of age or older. In all other cases, mistake as to the complainant's age shall not be a defense;

(c) the actor uses force or coercion to accomplish the sexual contact;

(d) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(e) the complainant is at least 16 but less than 18 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(f) the actor has a significant relationship to the complainant and the complainant was at least 16 but under 18 years of age at the time of the sexual contact. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(g) the actor has a significant relationship to the complainant, the complainant was at least 16 but under 18 years of age at the time of the sexual contact, and:

(i) the actor or an accomplice used force or coercion to accomplish the contact;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(h) the actor is a psychotherapist and the complainant is a patient of the psychotherapist and the sexual contact occurred:

(i) during the psychotherapy session; or

(ii) outside the psychotherapy session if an ongoing psychotherapist-patient relationship exists. Consent by the complainant is not a defense;

(i) the actor is a psychotherapist and the complainant is a former patient of the psychotherapist and the former patient is emotionally dependent upon the psychotherapist;

(j) the actor is a psychotherapist and the complainant is a patient or former patient and the sexual contact occurred by means of therapeutic deception. Consent by the complainant is not a defense;

(k) the actor accomplishes the sexual contact by means of deception or false representation that the contact is for a bona fide medical purpose. Consent by the complainant is not a defense;

(1) the actor is or purports to be a member of the clergy, the complainant is not married to the actor, and:

(i) the sexual contact occurred during the course of a meeting in which the complainant sought or received religious or spiritual advice, aid, or comfort from the actor in private; or

(ii) the sexual contact occurred during a period of time in which the complainant was meeting on an ongoing basis with the actor to seek or receive religious or spiritual advice, aid, or comfort in private. Consent by the complainant is not a defense;

(m) the actor is an employee, independent contractor, or volunteer of a state, county, city, or privately operated adult or juvenile correctional system, or secure treatment facility, or treatment facility providing services to clients civilly committed as mentally ill and dangerous, sexually dangerous persons, or sexual psychopathic personalities, including, but not limited to, jails, prisons, detention centers, or work release facilities, and the complainant is a resident of a facility or under supervision of the correctional system. Consent by the complainant is not a defense;

(n) the actor provides or is an agent of an entity that provides special transportation service, the complainant used the special transportation service, the complainant is not married to the actor, and the sexual contact occurred during or immediately before or after the actor transported the complainant. Consent by the complainant is not a defense; or

(o) the actor performs massage or other bodywork for hire, the complainant was a user of one of those services, and nonconsensual sexual contact occurred during or immediately before or after the actor performed or was hired to perform one of those services for the complainant.

Subd. 2. **Penalty.** Except as otherwise provided in section 609.3455, a person convicted under subdivision 1 may be sentenced to imprisonment for not more than ten years or to a payment of a fine of not more than $20,000, or both. A person convicted under this section is also subject to conditional release under section 609.3455.

Subd. 3. **Stay.** Except when imprisonment is required under section 609.3455; or Minnesota Statutes 2004, section 609.109, if a person is convicted under subdivision 1, clause (f), the court may stay imposition or execution of the sentence if it finds that:

(a) a stay is in the best interest of the complainant or the family unit; and

(b) a professional assessment indicates that the offender has been accepted by and can respond to a treatment program.

If the court stays imposition or execution of sentence, it shall include the following as conditions of probation:

(1) incarceration in a local jail or workhouse;

(2) a requirement that the offender complete a treatment program; and

(3) a requirement that the offender have no unsupervised contact with the complainant until the offender has successfully completed the treatment program unless approved by the treatment program and the supervising correctional agent.

History: *1975 c 374 s 6; 1976 c 124 s 9; 1979 c 258 s 14; 1981 c 51 s 4; 1983 c 204 s 4; 1984 c 588 s 8; 1984 c 628 art 3 s 11; 1985 c 24 s 8; 1985 c 286 s 18; 1985 c 297 s 7; 1986 c 351 s 9; 1986 c 444; 1Sp1986 c 3 art 1 s 81; 1987 c 94 s 2; 1989 c 290 art 4 s 15; 1992 c 571 art 1 s 18, 19; 1993 c 326 art 4 s 21; 1994 c 636 art 2 s 36; 1998 c 367 art 3 s 10; art 6 s 15; 2000 c 437 s 13; 2001 c 210 s 23; 2002 c 381 s 4; 2005 c 136 art 2 s 18, 19; 2007 c 13 art 3 s 37; 2007 c 54 art 2 s 5; 2010 c 270 s 3*

609.3451 CRIMINAL SEXUAL CONDUCT IN THE FIFTH DEGREE.

Subdivision 1. **Crime defined.** A person is guilty of criminal sexual conduct in the fifth degree:

(1) if the person engages in nonconsensual sexual contact; or

(2) the person engages in masturbation or lewd exhibition of the genitals in the presence of a minor under the age of 16, knowing or having reason to know the minor is present.

For purposes of this section, "sexual contact" has the meaning given in section 609.341, subdivision 11, paragraph (a), clauses (i), (iv), and (v), but does not include the intentional touching of the clothing covering the immediate area of the buttocks. Sexual contact also includes the intentional removal or attempted removal of clothing covering the complainant's intimate parts or undergarments, and the nonconsensual touching by the complainant of the actor's intimate parts, effected by the actor, if the action is performed with sexual or aggressive intent.

Subd. 2. **Gross misdemeanor.** A person convicted under subdivision 1 may be sentenced to imprisonment for not more than one year or to a payment of a fine of not more than $3,000, or both.

Subd. 3. **Felony.** (a) A person is guilty of a felony and may be sentenced to imprisonment for not more than seven years or to payment of a fine of not more than $14,000, or both, if the person violates this section within seven years of:

(1) a previous conviction for violating subdivision 1, clause (2), a crime described in paragraph (b), or a statute from another state in conformity with any of these offenses; or

(2) the first of two or more previous convictions for violating subdivision 1, clause (1), or a statute from another state in conformity with this offense.

(b) A previous conviction for violating section 609.342; 609.343; 609.344; 609.345; 609.3453; 617.23, subdivision 2, clause (2), or subdivision 3; or 617.247 may be used to enhance a criminal penalty as provided in paragraph (a).

History: *1988 c 529 s 2; 1990 c 492 s 1; 1995 c 226 art 2 s 19; 1996 c 408 art 3 s 26,27; 1998 c 367 art 3 s 11; 2014 c 270 s 2; 2015 c 65 art 6 s 14*

609.3453 CRIMINAL SEXUAL PREDATORY CONDUCT.

Subdivision 1. **Crime defined.** A person is guilty of criminal sexual predatory conduct if the person commits a predatory crime that was motivated by the offender's sexual impulses or was part of a predatory pattern of behavior that had criminal sexual conduct as its goal.

Subd. 2. **Penalty.** (a) Except as provided in section 609.3455, the statutory maximum sentence for a violation of subdivision 1 is: (1) 25 percent longer than for the underlying predatory crime; or (2) 50 percent longer than for the underlying predatory crime, if the violation is committed by a person with a previous sex offense conviction, as defined in section 609.3455, subdivision 1.

(b) In addition to the sentence imposed under paragraph (a), the person may also be sentenced to the payment of a fine of not more than $20,000.

(c) A person convicted under this section is also subject to conditional release under section 609.3455.

History: *2005 c 136 art 2 s 20*

609.3455 DANGEROUS SEX OFFENDERS; LIFE SENTENCES; CONDITIONAL RELEASE.

Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the meanings given.

(b) "Conviction" includes a conviction as an extended jurisdiction juvenile under section 260B.130for a violation of, or an attempt to violate, section 609.342, 609.343, 609.344, or 609.3453, if the adult sentence has been executed.

(c) "Extreme inhumane conditions" mean situations where, either before or after the sexual penetration or sexual contact, the offender knowingly causes or permits the complainant to be placed in a situation likely to cause the complainant severe ongoing mental, emotional, or psychological harm, or causes the complainant's death.

(d) A "heinous element" includes:

(1) the offender tortured the complainant;

(2) the offender intentionally inflicted great bodily harm upon the complainant;

(3) the offender intentionally mutilated the complainant;

(4) the offender exposed the complainant to extreme inhumane conditions;

(5) the offender was armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and used or threatened to use the weapon or article to cause the complainant to submit;

(6) the offense involved sexual penetration or sexual contact with more than one victim;

(7) the offense involved more than one perpetrator engaging in sexual penetration or sexual contact with the complainant; or

(8) the offender, without the complainant's consent, removed the complainant from one place to another and did not release the complainant in a safe place.

(e) "Mutilation" means the intentional infliction of physical abuse designed to cause serious permanent disfigurement or permanent or protracted loss or impairment of the functions of any bodily member or organ, where the offender relishes the infliction of the abuse, evidencing debasement or perversion.

(f) A conviction is considered a "previous sex offense conviction" if the offender was convicted and sentenced for a sex offense before the commission of the present offense.

(g) A conviction is considered a "prior sex offense conviction" if the offender was convicted of committing a sex offense before the offender has been convicted of the present offense, regardless of whether the offender was convicted for the first offense before the commission of the present offense, and the convictions involved separate behavioral incidents.

(h) "Sex offense" means any violation of, or attempt to violate, section 609.342, 609.343, 609.344, 609.345, 609.3451, 609.3453, or any similar statute of the United States, this state, or any other state.

(i) "Torture" means the intentional infliction of extreme mental anguish, or extreme psychological or physical abuse, when committed in an especially depraved manner.

(j) An offender has "two previous sex offense convictions" only if the offender was convicted and sentenced for a sex offense committed after the offender was earlier convicted and sentenced for a sex offense and both convictions preceded the commission of the present offense of conviction.

Subd. 2. **Mandatory life sentence without release; egregious first-time and repeat offenders.** (a) Notwithstanding the statutory maximum penalty otherwise applicable to the offense, the court shall sentence a person convicted under section 609.342, subdivision 1, paragraph (c), (d), (e), (f), or (h); or 609.343, subdivision 1, paragraph (c), (d), (e), (f), or (h), to life without the possibility of release if:

(1) the fact finder determines that two or more heinous elements exist; or

(2) the person has a previous sex offense conviction for a violation of section 609.342, 609.343, or 609.344, and the fact finder determines that a heinous element exists for the present offense.

(b) A fact finder may not consider a heinous element if it is an element of the underlying specified violation of section 609.342 or 609.343. In addition, when determining whether two or more heinous elements exist, the fact finder may not use the same underlying facts to support a determination that more than one element exists.

Subd. 3. **Mandatory life sentence for egregious first-time offenders.** (a) Notwithstanding the statutory maximum penalty otherwise applicable to the offense, the court shall sentence a person to imprisonment for life if the person is convicted under section 609.342, subdivision 1, paragraph (c), (d), (e), (f), or (h), or 609.343, subdivision 1, paragraph (c), (d), (e), (f), or (h); and the fact finder determines that a heinous element exists.

(b) The fact finder may not consider a heinous element if it is an element of the underlying specified violation of section 609.342 or 609.343.

Subd. 3a. **Mandatory sentence for certain engrained offenders.** (a) A court shall commit a person to the commissioner of corrections for a period of time that is not less than double the presumptive sentence under the sentencing guidelines and not more than the statutory maximum, or if the statutory maximum is less than double the presumptive sentence, for a period of time that is equal to the statutory maximum, if:

(1) the court is imposing an executed sentence on a person convicted of committing or attempting to commit a violation of section 609.342, 609.343, 609.344, 609.345, or 609.3453;

(2) the fact finder determines that the offender is a danger to public safety; and

(3) the fact finder determines that the offender's criminal sexual behavior is so engrained that the risk of reoffending is great without intensive psychotherapeutic intervention or other long-term treatment or supervision extending beyond the presumptive term of imprisonment and supervised release.

(b) The fact finder shall base its determination that the offender is a danger to public safety on any of the following factors:

(1) the crime involved an aggravating factor that would justify a durational departure from the presumptive sentence under the sentencing guidelines;

(2) the offender previously committed or attempted to commit a predatory crime or a violation of section 609.224 or 609.2242, including:

(i) an offense committed as a juvenile that would have been a predatory crime or a violation of section 609.224 or 609.2242 if committed by an adult; or

(ii) a violation or attempted violation of a similar law of any other state or the United States; or

(3) the offender planned or prepared for the crime prior to its commission.

(c) As used in this section, "predatory crime" has the meaning given in section 609.341, subdivision 22.

Subd. 4. **Mandatory life sentence; repeat offenders.** (a) Notwithstanding the statutory maximum penalty otherwise applicable to the offense, the court shall sentence a person to imprisonment for life if the person is convicted of violating section 609.342, 609.343, 609.344, 609.345, or 609.3453 and:

(1) the person has two previous sex offense convictions;

(2) the person has a previous sex offense conviction and:

(i) the fact finder determines that the present offense involved an aggravating factor that would provide grounds for an upward durational departure under the sentencing guidelines other than the aggravating factor applicable to repeat criminal sexual conduct convictions;

(ii) the person received an upward durational departure from the sentencing guidelines for the previous sex offense conviction; or

(iii) the person was sentenced under this section or Minnesota Statutes 2004, section 609.108, for the previous sex offense conviction; or

(3) the person has two prior sex offense convictions, and the fact finder determines that the prior convictions and present offense involved at least three separate victims, and:

(i) the fact finder determines that the present offense involved an aggravating factor that would provide grounds for an upward durational departure under the sentencing guidelines other than the aggravating factor applicable to repeat criminal sexual conduct convictions;

(ii) the person received an upward durational departure from the sentencing guidelines for one of the prior sex offense convictions; or

(iii) the person was sentenced under this section or Minnesota Statutes 2004, section 609.108, for one of the prior sex offense convictions.

(b) Notwithstanding paragraph (a), a court may not sentence a person to imprisonment for life for a violation of section 609.345, unless the person's previous or prior sex offense convictions that are being used as the basis for the sentence are for violations of section 609.342, 609.343, 609.344, or 609.3453, or any similar statute of the United States, this state, or any other state.

Subd. 5. **Life sentences; minimum term of imprisonment.** At the time of sentencing under subdivision 3 or 4, the court shall specify a minimum term of imprisonment, based on the sentencing guidelines or any applicable mandatory minimum sentence, that must be served before the offender may be considered for supervised release.

Subd. 6. **Mandatory ten-year conditional release term.** Notwithstanding the statutory maximum sentence otherwise applicable to the offense and unless a longer conditional release term is required in subdivision 7, when a court commits an offender to the custody of the commissioner of corrections for a violation of section 609.342, 609.343, 609.344, 609.345, or 609.3453, the court shall provide that, after the offender has been released from prison, the commissioner shall place the offender on conditional release for ten years.

Subd. 7. **Mandatory lifetime conditional release term.** (a) When a court sentences an offender under subdivision 3 or 4, the court shall provide that, if the offender is released from prison, the commissioner of corrections shall place the offender on conditional release for the remainder of the offender's life.

(b) Notwithstanding the statutory maximum sentence otherwise applicable to the offense, when the court commits an offender to the custody of the commissioner of corrections for a violation of section 609.342, 609.343,

609.344, 609.345, or 609.3453, and the offender has a previous or prior sex offense conviction, the court shall provide that, after the offender has been released from prison, the commissioner shall place the offender on conditional release for the remainder of the offender's life.

(c) Notwithstanding paragraph (b), an offender may not be placed on lifetime conditional release for a violation of section 609.345, unless the offender's previous or prior sex offense conviction is for a violation of section 609.342, 609.343, 609.344, or 609.3453, or any similar statute of the United States, this state, or any other state.

Subd. 8. **Terms of conditional release; applicable to all sex offenders.** (a) The provisions of this subdivision relating to conditional release apply to all sex offenders sentenced to prison for a violation of section 609.342, 609.343, 609.344, 609.345, or 609.3453. Except as provided in this subdivision, conditional release of sex offenders is governed by provisions relating to supervised release. The commissioner of corrections may not dismiss an offender on conditional release from supervision until the offender's conditional release term expires.

(b) The conditions of release may include successful completion of treatment and aftercare in a program approved by the commissioner, satisfaction of the release conditions specified in section 244.05, subdivision 6, and any other conditions the commissioner considers appropriate. The commissioner shall develop a plan to pay the cost of treatment of a person released under this subdivision. The plan may include co-payments from offenders, third-party payers, local agencies, or other funding sources as they are identified. This section does not require the commissioner to accept or retain an offender in a treatment program. Before the offender is placed on conditional release, the commissioner shall notify the sentencing court and the prosecutor in the jurisdiction where the offender was sentenced of the terms of the offender's conditional release. The commissioner also shall make reasonable efforts to notify the victim of the offender's crime of the terms of the offender's conditional release.

(c) If the offender fails to meet any condition of release, the commissioner may revoke the offender's conditional release and order that the offender serve all or a part of the remaining portion of the conditional release term in prison. An offender, while on supervised release, is not entitled to credit against the offender's conditional release term for time served in confinement for a violation of release.

Subd. 9. **Applicability.** The provisions of this section do not affect the applicability of Minnesota Statutes 2004, section 609.108, to crimes committed before August 1, 2005, or the validity of sentences imposed under Minnesota Statutes 2004, section 609.108.

Subd. 10. **Presumptive executed sentence for repeat sex offenders.** Except as provided in subdivision 2, 3, 3a, or 4, if a person is convicted under sections 609.342 to 609.345 or 609.3453 within 15 years of a previous sex offense conviction, the court shall commit the defendant to the commissioner of corrections for not less than three years, nor more than the maximum sentence provided by law for the offense for which convicted, notwithstanding sections 242.19, 243.05, 609.11, 609.12, and 609.135. The court may stay the execution of the sentence imposed under this subdivision only if it finds that a professional assessment indicates the offender is accepted by and can respond to treatment at a long-term inpatient program exclusively treating sex offenders and approved by the commissioner of corrections. If the court stays the execution of a sentence, it shall include the following as conditions of probation:

(1) incarceration in a local jail or workhouse; and

(2) a requirement that the offender successfully complete the treatment program and aftercare as directed by the court.

History: *2005 c 136 art 2 s 21; 2006 c 260 art 1 s 22, 23; art 4 s 14; 2007 c 54 art 2 s 6; 2013 c 86 art 3 s 10; 2013 c 96 s 3-5*

609.3456 USE OF POLYGRAPHS FOR SEX OFFENDERS ON PROBATION OR CONDITIONAL RELEASE.

(a) A court may order as an intermediate sanction under section 609.135 and the commissioner of corrections may order as a condition of release under section 244.05 or 609.3455 that an offender under supervision for a sex offense submit to polygraphic examinations to ensure compliance with the terms of probation or conditions of release.

(b) The court or commissioner may order the offender to pay all or a portion of the costs of the examinations. The fee may be waived if the offender is indigent or if payment would result in an economic hardship to the offender's immediate family.

History: *2005 c 136 art 3 s 24*

609.3457 SEX OFFENDER ASSESSMENT.

Subdivision 1. **Assessment required.** When a person is convicted of a sex offense, the court shall order an independent professional assessment of the offender's need for sex offender treatment to be completed before sentencing. The court may waive the assessment if: (1) the Sentencing Guidelines provide a presumptive prison sentence for the offender, or (2) an adequate assessment was conducted prior to the conviction. An assessor providing an assessment for the court must be experienced in the evaluation and treatment of sex offenders.

Subd. 1a. **Repeat offenders; mandatory assessment.** When a person is convicted of a felony-level sex offense, and the person has previously been convicted of a sex offense regardless of the penalty level, the court shall order a sex offender assessment to be completed by the Minnesota security hospital. The assessment must contain the facts upon which the assessment conclusion is based, with reference to the offense history of the offender or the severity of the current offense, the social history of the offender, and the results of an examination of the offender's mental status unless the offender refuses to be examined. The assessment conclusion may not be based on testing alone. Upon completion, the assessment must be forwarded to the court and the commissioner of corrections. The court shall consider the assessment when sentencing the offender and, if applicable, when making the preliminary determination regarding the appropriateness of a civil commitment petition under section 609.1351.

Subd. 2. **Access to data.** Notwithstanding sections 13.384, 13.85, 144.291 to 144.298, 260B.171, 260C.171, or 626.556, the assessor has access to the following private or confidential data on the person if access is relevant and necessary for the assessment:

(1) medical data under section 13.384;

(2) corrections and detention data under section 13.85;

(3) health records under sections 144.291 to 144.298;

(4) juvenile court records under sections 260B.171 and 260C.171; and

(5) local welfare agency records under section 626.556.

Data disclosed under this section may be used only for purposes of the assessment and may not be further disclosed to any other person, except as authorized by law.

Subd. 3. **Treatment order.** If the assessment indicates that the offender is in need of and amenable to sex offender treatment, the court shall include in the sentence a requirement that the offender undergo treatment, unless the court sentences the offender to prison.

Subd. 4. **Definition.** As used in this section, "sex offense" means a violation of section 609.342; 609.343; 609.344; 609.345; 609.3451; 609.746, subdivision 1; 609.79; or 617.23; or another offense arising out of a charge based on one or more of those sections.

History: *1992 c 571 art 1 s 20; 1999 c 139 art 4 s 2; 1999 c 227 s 22; 2001 c 210 s 24-26; 2004 c 228 art 1 s 66; 2005 c 136 art 3 s 23; art 4 s 11; 2007 c 147 art 10 s 15*

609.347 EVIDENCE IN CRIMINAL SEXUAL CONDUCT CASES.

Subdivision 1. **Victim testimony; corroboration unnecessary.** In a prosecution under sections 609.342 to 609.3451; 609.3453; or Minnesota Statutes 2004, section 609.109, the testimony of a victim need not be corroborated.

Subd. 2. **Showing of resistance unnecessary.** In a prosecution under sections 609.342 to 609.3451; 609.3453; or Minnesota Statutes 2004, section 609.109, there is no need to show that the victim resisted the accused.

Subd. 3. **Previous sexual conduct.** In a prosecution under sections 609.342 to 609.3451, 609.3453; 609.365; or Minnesota Statutes 2004, section 609.109, evidence of the victim's previous sexual conduct shall not be admitted nor shall any reference to such conduct be made in the presence of the jury, except by court order under the procedure provided in subdivision 4. The evidence can be admitted only if the probative value of the evidence is not substantially outweighed by its inflammatory or prejudicial nature and only in the circumstances set out in paragraphs (a) and (b). For the evidence to be admissible under paragraph (a), subsection (i), the judge must find by a preponderance of the evidence that the facts set out in the accused's offer of proof are true. For the evidence to be admissible under paragraph (a), subsection (ii) or paragraph (b), the judge must find that the evidence is sufficient to support a finding that the facts set out in the accused's offer of proof are true, as provided under Rule 901 of the Rules of Evidence.

(a) When consent of the victim is a defense in the case, the following evidence is admissible:

(i) evidence of the victim's previous sexual conduct tending to establish a common scheme or plan of similar sexual conduct under circumstances similar to the case at issue. In order to find a common scheme or plan, the judge must find that the victim made prior allegations of sexual assault which were fabricated; and

(ii) evidence of the victim's previous sexual conduct with the accused.

(b) When the prosecution's case includes evidence of semen, pregnancy, or disease at the time of the incident or, in the case of pregnancy, between the time of the incident and trial, evidence of specific instances of the victim's previous sexual conduct is admissible solely to show the source of the semen, pregnancy, or disease.

Subd. 4. **Accused offer of evidence.** The accused may not offer evidence described in subdivision 3 except pursuant to the following procedure:

(a) A motion shall be made by the accused at least three business days prior to trial, unless later for good cause shown, setting out with particularity the offer of proof of the evidence that the accused intends to offer, relative to the previous sexual conduct of the victim;

(b) If the court deems the offer of proof sufficient, the court shall order a hearing out of the presence of the jury, if any, and in such hearing shall allow the accused to make a full presentation of the offer of proof;

(c) At the conclusion of the hearing, if the court finds that the evidence proposed to be offered by the accused regarding the previous sexual conduct of the victim is admissible under subdivision 3 and that its probative value is not substantially outweighed by its inflammatory or prejudicial nature, the court shall make an order stating the extent to which evidence is admissible. The accused may then offer evidence pursuant to the order of the court;

(d) If new information is discovered after the date of the hearing or during the course of trial, which may make evidence described in subdivision 3 admissible, the accused may make an offer of proof pursuant to clause (a) and the court shall order an in camera hearing to determine whether the proposed evidence is admissible by the standards herein.

Subd. 5. **Prohibiting instructing jury on certain points.** In a prosecution under sections 609.342 to 609.3451; 609.3453; or Minnesota Statutes 2004, section 609.109, the court shall not instruct the jury to the effect that:

(a) It may be inferred that a victim who has previously consented to sexual intercourse with persons other than the accused would be therefore more likely to consent to sexual intercourse again; or

(b) The victim's previous or subsequent sexual conduct in and of itself may be considered in determining the credibility of the victim; or

(c) Criminal sexual conduct is a crime easily charged by a victim but very difficult to disprove by an accused because of the heinous nature of the crime; or

(d) The jury should scrutinize the testimony of the victim any more closely than it should scrutinize the testimony of any witness in any felony prosecution.

Subd. 6. **Psychotherapy evidence.** (a) In a prosecution under sections 609.342 to 609.3451; 609.3453; or Minnesota Statutes 2004, section 609.109, involving a psychotherapist and patient, evidence of the patient's personal or medical history is not admissible except when:

(1) the accused requests a hearing at least three business days prior to trial and makes an offer of proof of the relevancy of the history; and

(2) the court finds that the history is relevant and that the probative value of the history outweighs its prejudicial value.

(b) The court shall allow the admission only of specific information or examples of conduct of the victim that are determined by the court to be relevant. The court's order shall detail the information or conduct that is admissible and no other evidence of the history may be introduced.

(c) Violation of the terms of the order is grounds for mistrial but does not prevent the retrial of the accused.

Subd. 7. **Effect of statute on rules.** Rule 412 of the Rules of Evidence is superseded to the extent of its conflict with this section.

History: *1975 c 374 s 8; 1984 c 588 s 10; 1985 c 297 s 8; 1986 c 351 s 12; 1986 c 444; 1Sp1986 c 3 art 1 s 72; 1987 c 114 s 1; 1997 c 239 art 5 s 10; 1998 c 367 art 6 s 8-12; 2005 c 136 art 4 s 6; 2007 c 13 art 3 s 37*

609.3471 RECORDS PERTAINING TO VICTIM IDENTITY CONFIDENTIAL.

Notwithstanding any provision of law to the contrary, no data contained in records or reports relating to petitions, complaints, or indictments issued pursuant to section 609.322, 609.342, 609.343, 609.344, 609.345, or 609.3453, which specifically identifies a victim who is a minor shall be accessible to the public, except by order of the court. Nothing in this section authorizes denial of access to any other data contained in the records or reports, including the identity of the defendant.

History: *1984 c 573 s 9; 1985 c 119 s 1; 1986 c 351 s 13; 1Sp1986 c 3 art 1 s 73; 1987 c 331 s 9; 1992 c 571 art 1 s 26; 1993 c 13 art 1 s 49; 2005 c 136 art 4 s 7; 2015 c 65 art 6 s 15*

609.348 MEDICAL PURPOSES; EXCLUSION.

Sections 609.342 to 609.3451; 609.3453; and Minnesota Statutes 2004, section 609.109, do not apply to sexual penetration or sexual contact when done for a bona fide medical purpose.

History: *1975 c 374 s 9; 1981 c 273 s 5; 1986 c 351 s 14; 1998 c 367 art 6 s 13; 2005 c 136 art 4 s 8; 2007 c 13 art 3 s 37*

609.349 VOLUNTARY RELATIONSHIPS.

A person does not commit criminal sexual conduct under sections 609.342, clauses (a) and (b), 609.343, clauses (a) and (b), 609.344, clauses (a), (b), (d), (e), and (n), and 609.345, clauses (a), (b), (d), (e), and (n), if the actor and complainant were adults cohabiting in an ongoing voluntary sexual relationship at the time of the alleged offense, or if the complainant is the actor's legal spouse, unless the couple is living apart and one of them has filed for legal separation or dissolution of the marriage. Nothing in this section shall be construed to prohibit or restrain the prosecution for any other offense committed by one legal spouse against the other.

History: *1975 c 374 s 10; 1978 c 772 s 62; 1980 c 544 s 2; 1986 c 351 s 15; 1986 c 444; 2002 c 381 s 5*

609.35 COSTS OF MEDICAL EXAMINATION.

(a) Costs incurred by a county, city, or private hospital or other emergency medical facility or by a private physician for the examination of a victim of criminal sexual conduct when the examination is performed for the purpose of gathering evidence shall be paid by the county in which the criminal sexual conduct occurred. These costs include, but are not limited to, full cost of the rape kit examination, associated tests relating to the complainant's sexually transmitted disease status, and pregnancy status.

(b) Nothing in this section shall be construed to limit the duties, responsibilities, or liabilities of any insurer, whether public or private. However, a county may seek insurance reimbursement from the victim's insurer only if authorized by the victim. This authorization may only be sought after the examination is performed. When seeking this authorization, the county shall inform the victim that if the victim does not authorize this, the county is required by law to pay for the examination and that the victim is in no way liable for these costs or obligated to authorize the reimbursement.

(c) The applicability of this section does not depend upon whether the victim reports the offense to law enforcement or the existence or status of any investigation or prosecution.

History: *1975 c 374 s 11; 1981 c 273 s 6; 1986 c 351 s 16; 1Sp1986 c 3 art 1 s 75; 2002 c 381 s 6; 2003 c 116 s 3*

609.351 APPLICABILITY TO PAST AND PRESENT PROSECUTIONS.

Except for section 609.347, crimes committed prior to August 1, 1975, are not affected by its provisions.

History: *1975 c 374 s 12*

609.352 SOLICITATION OF CHILDREN TO ENGAGE IN SEXUAL CONDUCT; COMMUNICATION OF SEXUALLY EXPLICIT MATERIALS TO CHILDREN.

Subdivision 1. **Definitions.**

As used in this section:

(a) "child" means a person 15 years of age or younger;

(b) "sexual conduct" means sexual contact of the individual's primary genital area, sexual penetration as defined in section 609.341, or sexual performance as defined in section 617.246; and

(c) "solicit" means commanding, entreating, or attempting to persuade a specific person in person, by telephone, by letter, or by computerized or other electronic means.

Subd. 2. **Prohibited act.**

A person 18 years of age or older who solicits a child or someone the person reasonably believes is a child to engage in sexual conduct with intent to engage in sexual conduct is guilty of a felony and may be sentenced as provided in subdivision 4.

Subd. 2a. **Electronic solicitation of children.** A person 18 years of age or older who uses the Internet, a computer, computer program, computer network, computer system, an electronic communications system, or a telecommunications, wire, or radio communications system, or other electronic device capable of electronic data storage or transmission to commit any of the following acts, with the intent to arouse the sexual desire of any person, is guilty of a felony and may be sentenced as provided in subdivision 4:

(1) soliciting a child or someone the person reasonably believes is a child to engage in sexual conduct;

(2) engaging in communication with a child or someone the person reasonably believes is a child, relating to or describing sexual conduct; or

(3) distributing any material, language, or communication, including a photographic or video image, that relates to or describes sexual conduct to a child or someone the person reasonably believes is a child.

Subd. 2b. **Jurisdiction.** A person may be convicted of an offense under subdivision 2a if the transmission that constitutes the offense either originates within this state or is received within this state.

Subd. 3. **Defenses.** (a) Mistake as to age is not a defense to a prosecution under this section.

(b) The fact that an undercover operative or law enforcement officer was involved in the detection or investigation of an offense under this section does not constitute a defense to a prosecution under this section.

Subd. 4. **Penalty.** A person convicted under subdivision 2 or 2a is guilty of a felony and may be sentenced to imprisonment for not more than three years, or to payment of a fine of not more than $5,000, or both.

History: *1986 c 445 s 3; 2000 c 311 art 4 s 3, 4; 2007 c 54 art 2 s 7; 2009 c 59 art 1 s 6*

609.353 JURISDICTION.

A violation or attempted violation of section 609.342, 609.343, 609.344, 609.345, 609.3451, 609.3453, or 609.352 may be prosecuted in any jurisdiction in which the violation originates or terminates.

History: *2000 c 311 art 4 s 5; 2005 c 136 art 4 s 9*

CRIMES AGAINST THE FAMILY

609.355 BIGAMY.

Subdivision 1. **Definition.** In this section "cohabit" means to live together under the representation or appearance of being married.

Subd. 2. **Acts constituting.** Whoever does any of the following is guilty of bigamy and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both:

(1) knowingly having a prior marriage that is not dissolved, contracts a marriage in this state; or

(2) contracts a marriage with another in this state with knowledge that the prior marriage of the other is not dissolved; or

(3) marries another outside this state with knowledge that either of them has a prior marriage that has not been dissolved, and then cohabits with the other in this state.

History: *1963 c 753 art 1 s 609.355; 1984 c 628 art 3 s 11; 1986 c 444*

609.36 ADULTERY.

Subdivision 1. **Acts constituting.** When a married woman has sexual intercourse with a man other than her husband, whether married or not, both are guilty of adultery and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

Subd. 2. **Limitations.** No prosecution shall be commenced under this section except on complaint of the husband or the wife, except when such husband or wife lacks the mental capacity, nor after one year from the commission of the offense.

Subd. 3. **Defense.** It is a defense to violation of this section if the marital status of the woman was not known to the defendant at the time of the act of adultery.

History: *1963 c 753 art 1 s 609.36; 1984 c 628 art 3 s 11; 2013 c 59 art 3 s 17*

609.365 INCEST.

Whoever has sexual intercourse with another nearer of kin to the actor than first cousin, computed by rules of the civil law, whether of the half or the whole blood, with knowledge of the relationship, is guilty of incest and may be sentenced to imprisonment for not more than ten years.

History: *1963 c 753 art 1 s 609.365; 1986 c 444*

609.375 NONSUPPORT OF SPOUSE OR CHILD.

Subdivision 1. **Crime defined.** Whoever is legally obligated to provide court-ordered support to a spouse or child, whether or not the child's custody has been granted to another, and knowingly omits and fails to do so is guilty of a misdemeanor, and upon conviction may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than $1,000, or both.

Subd. 2. **Gross misdemeanor violation.** A person who violates subdivision 1 is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both, if:

(1) the violation continues for a period in excess of 90 days but not more than 180 days; or

(2) the person is in arrears in court-ordered child support or maintenance payments, or both, in an amount equal to or greater than six times but less than nine times the person's total monthly support and maintenance payments.

Subd. 2a. **Felony violation.** A person who violates subdivision 1 is guilty of a felony and upon conviction may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than $5,000, or both, if:

(1) the violation continues for a period in excess of 180 days; or

(2) the person is in arrears in court-ordered child support or maintenance payments, or both, in an amount equal to or greater than nine times the person's total monthly support and maintenance payments.

Subd. 2b. **Attempt to obtain contempt order as prerequisite to prosecution.** A person may not be charged with violating this section unless there has been an attempt to obtain a court order holding the person in contempt for failing to pay support or maintenance under chapter 518 or 518A. This requirement is satisfied by a showing that reasonable attempts have been made at service of the order.

Subd. 3. [Repealed, 1997 c 203 art 6 s 93; 1997 c 245 art 1 s 34]

Subd. 4. [Repealed, 1997 c 203 art 6 s 93; 1997 c 245 art 1 s 34]

Subd. 5. **Venue.** A person who violates this section may be prosecuted and tried in the county in which the support obligor resides or in the county in which the obligee or the child resides.

Subd. 6. [Repealed, 1997 c 203 art 6 s 93; 1997 c 245 art 1 s 34]

Subd. 7. **Conditions of work release; probation violation.** Upon conviction under this section, a defendant may obtain work release only upon the imposition of an automatic income withholding order, and may be required to post a bond in avoidance of jail time and conditioned upon payment of all court-ordered support owed. Nonpayment of court-ordered support is a violation of any probation granted following conviction under subdivision 2a.

Subd. 8. **Defense.** It is an affirmative defense to criminal liability under this section if the defendant proves by a preponderance of the evidence that the omission and failure to provide court-ordered support were with lawful excuse.

History: *1963 c 753 art 1 s 609.375; 1971 c 23 s 44; 1971 c 507 s 1; 1976 c 2 s 151; 1981 c 31 s 19; 1993 c 340 s 54, 55; 1994 c 630 art 11 s 17-20; 1995 c 257 art 3 s 15; 1997 c 245 art 1 s 31; 2001 c 158 s 7-11; 2004 c 228 art 1 s 72; 2005 c 164 s 29; 1Sp2005 c 7 s 28; 2014 c 242 s 1-3*

609.3751 DISCHARGE AND DISMISSAL.

Subdivision 1. **Applicability.** A person is eligible for a discharge and dismissal under this section, if the person:

(1) has not been previously convicted of a felony under the laws of this state or elsewhere;

(2) has not been previously convicted of a violation of section 609.375 or of a similar offense in this state or elsewhere;

(3) has not previously participated in or completed a diversion program relating to a charge of violating section 609.375; and

(4) has not previously been placed on probation without a judgment of guilty for violation of section 609.375.

Subd. 2. **Procedure.** For a person eligible under subdivision 1 who is charged with violating section 609.375, the court may after trial or upon a plea of guilty, 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. At a minimum, the conditions must require the defendant to:

(1) provide the public authority responsible for child support enforcement with an affidavit attesting to the defendant's present address, occupation, employer, current income, assets, and account information, as defined in section 13B.06; and

(2) execute a written payment agreement regarding both current support and arrearages that is approved by the court.

In determining whether to approve a payment agreement under clause (2), the court shall apply the provisions of chapter 518A consistent with the obligor's ability to pay.

Subd. 3. **Violation.** Upon violation of a condition of the probation, including a failure to comply with the written payment agreement approved by the court under subdivision 2, clause (2), the court may enter an adjudication of guilt and proceed as otherwise provided in law.

Subd. 4. **Early dismissal.** The court may, in its discretion, dismiss the proceedings against the person and discharge the person from probation before the expiration of the maximum period prescribed for the person's probation but may do so only if the full amount of any arrearages has been brought current.

Subd. 5. **Dismissal; record.** (a) For purposes of this subdivision, "not public" has the meaning given in section 13.02, subdivision 8a.

(b) If during the period of probation the person does not violate any of the conditions of the probation, then upon expiration of the period the court shall discharge the person and dismiss the proceedings against that person.

Discharge and dismissal under this subdivision shall be without court adjudication of guilt, but a not public record of it shall be retained by the Bureau of Criminal Apprehension for the purpose of use by the courts in determining the merits of subsequent proceedings against the person. The not public record may also be opened only upon court order for purposes of a criminal investigation, prosecution, or sentencing. Upon request by law enforcement, prosecution, or corrections authorities, the bureau shall notify the requesting party of the existence of the not public record and the right to seek a court order to open it pursuant to this section. The court shall forward a record of any discharge and dismissal under this section to the bureau which shall make and maintain the not public record of it as provided under this section. The discharge or dismissal shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime or for any other purpose.

History: *2001 c 158 s 12; 2005 c 164 s 29; 1Sp2005 c 7 s 28*

609.376 DEFINITIONS.

Subdivision 1. **Terms defined.** For the purposes of sections 609.255 and 609.376 to 609.38, the following terms have the meanings given unless specific content indicates otherwise.

Subd. 2. **Child.** "Child" means any person under the age of 18 years.

Subd. 3. **Caretaker.** "Caretaker" means an individual who has responsibility for the care of a child as a result of a family relationship or who has assumed responsibility for all or a portion of the care of a child.

Subd. 4. **Complainant.** "Complainant" means a person alleged to have been a victim of a violation of section 609.255, subdivision 3, 609.377, or 609.378, but need not be the person who signs the complaint.

History: *1983 c 217 s 3*

609.377 MALICIOUS PUNISHMENT OF CHILD.

Subdivision 1. **Malicious punishment.** A parent, legal guardian, or caretaker who, by an intentional act or a series of intentional acts with respect to a child, evidences unreasonable force or cruel discipline that is excessive under the circumstances is guilty of malicious punishment of a child and may be sentenced as provided in subdivisions 2 to 6.

Subd. 2. **Gross misdemeanor.** If the punishment results in less than substantial bodily harm, the person may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

Subd. 3. **Enhancement to a felony.** Whoever violates the provisions of subdivision 2 during the time period between a previous conviction or adjudication for delinquency under this section or sections 609.221 to 609.2231, 609.224, 609.2242, 609.342 to 609.345, or 609.713, and the end of five years following discharge from sentence or disposition for that conviction or adjudication may be sentenced to imprisonment for not more than five years or a fine of $10,000, or both.

Subd. 4. **Felony; child under age four.** If the punishment is to a child under the age of four and causes bodily harm to the head, eyes, neck, or otherwise causes multiple bruises to the body, the person may be sentenced to imprisonment for not more than five years or a fine of $10,000, or both.

Subd. 5. **Felony; substantial bodily harm.** If the punishment results in substantial bodily harm, the person may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

Subd. 6. **Felony; great bodily harm.** If the punishment results in great bodily harm, the person may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

History: *1983 c 217 s 4; 1984 c 628 art 3 s 11; 1988 c 655 s 2; 1989 c 290 art 6 s 16; 1990 c 542 s 18; 1994 c 636 art 2 s 37; 2000 c 437 s 14*

609.378 NEGLECT OR ENDANGERMENT OF CHILD.

Subdivision 1. **Persons guilty of neglect or endangerment.** (a)(1) A parent, legal guardian, or caretaker who willfully deprives a child of necessary food, clothing, shelter, health care, or supervision appropriate to the child's age, when the parent, guardian, or caretaker is reasonably able to make the necessary provisions and the deprivation harms or is likely to substantially harm the child's physical, mental, or emotional health is guilty of neglect of a child and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both. If the deprivation results in substantial harm to the child's physical, mental, or emotional health, the person may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both. If a parent, guardian, or caretaker responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child, this treatment or care is "health care," for purposes of this clause.

(2) A parent, legal guardian, or caretaker who knowingly permits the continuing physical or sexual abuse of a child is guilty of neglect of a child and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

(b) A parent, legal guardian, or caretaker who endangers the child's person or health by:

(1) intentionally or recklessly causing or permitting a child to be placed in a situation likely to substantially harm the child's physical, mental, or emotional health or cause the child's death; or

(2) knowingly causing or permitting the child to be present where any person is selling, manufacturing, possessing immediate precursors or chemical substances with intent to manufacture, or possessing a controlled substance, as defined in section 152.01, subdivision 4, in violation of section 152.021, 152.022, 152.023, 152.024, or 152.0262; is guilty of child endangerment and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

If the endangerment results in substantial harm to the child's physical, mental, or emotional health, the person may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

This paragraph does not prevent a parent, legal guardian, or caretaker from causing or permitting a child to engage in activities that are appropriate to the child's age, stage of development, and experience, or from selecting health care as defined in subdivision 1, paragraph (a).

(c) A person who intentionally or recklessly causes a child under 14 years of age to be placed in a situation likely to substantially harm the child's physical health or cause the child's death as a result of the child's access to a loaded firearm is guilty of child endangerment and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

If the endangerment results in substantial harm to the child's physical health, the person may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

Subd. 2. **Defenses.** It is a defense to a prosecution under subdivision 1, paragraph (a), clause (2), or paragraph (b), that at the time of the neglect or endangerment there was a reasonable apprehension in the mind of the defendant that acting to stop or prevent the neglect or endangerment would result in substantial bodily harm to the defendant or the child in retaliation.

History: *1983 c 217 s 5; 1984 c 628 art 3 s 11; 1989 c 282 art 2 s 199; 1992 c 571 art 4 s 11; 1993 c 326 art 4 s 22; 2002 c 314 s 6; 2005 c 136 art 7 s 21*

609.3785 UNHARMED NEWBORNS LEFT AT A SAFE PLACE; AVOIDANCE OF PROSECUTION.

A person may leave a newborn with an employee at a safe place, as defined in section 145.902, in this state pursuant to section 260C.139, subdivision 4, without being subjected to prosecution for that act, provided that:

(1) the newborn was born within seven days of being left at the safe place, as determined within a reasonable degree of medical certainty;

(2) the newborn is left in an unharmed condition; and

(3) in cases where the person leaving the newborn is not the newborn's mother, the person has the mother's approval to do so.

History: *2000 c 421 s 3; 2012 c 216 art 2 s 3; art 6 s 13*

609.379 PERMITTED ACTIONS.

Subdivision 1. **Reasonable force.** Reasonable force may be used upon or toward the person of a child without the child's consent when the following circumstance exists or the actor reasonably believes it to exist:

(a) when used by a parent, legal guardian, teacher, or other caretaker of a child or pupil, in the exercise of lawful authority, to restrain or correct the child or pupil; or

(b) when used by a teacher or other member of the instructional, support, or supervisory staff of a public or nonpublic school upon or toward a child when necessary to restrain the child from self-injury or injury to any other person or property.

Subd. 2. **Applicability.** This section applies to sections 260B.425, 260C.425, 609.255, 609.376, 609.378, and 626.556.

History: *1983 c 217 s 6; 1985 c 266 s 4; 1986 c 444; 1990 c 542 s 19; 1999 c 139 art 4 s 2*

609.38 STAYED SENTENCE.

For any violation of section 609.255, subdivision 3, 609.377, or 609.378 for which the Sentencing Guidelines establish a presumptive executed sentence, the court may stay imposition or execution of the sentence if it finds that a stay is in the best interest of the complainant or the family unit and that the defendant is willing to participate in any necessary or appropriate treatment. In determining an appropriate sentence when there is a family relationship between the complainant and the defendant, the court shall be guided by the policy of preserving and strengthening the family unit whenever possible.

History: *1983 c 217 s 7*

CRIMES AGAINST THE GOVERNMENT

609.385 TREASON.

Subdivision 1. **Definition.** "Levying war" includes an act of war or an insurrection of several persons with intent to prevent, by force and intimidation, the execution of a statute of the state, or to force its repeal. It does not include either a conspiracy to commit an act of war or a single instance of resistance for a private purpose to the execution of a law.

Subd. 2. **Acts constituting.** Any person owing allegiance to this state who does either of the following is guilty of treason against this state and shall be sentenced to life imprisonment:

(1) levies war against this state; or

(2) adheres to the enemies of this state, giving them aid and comfort.

Subd. 3. **Testimony required.** No person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or on the person's confession in open court.

History: *1963 c 753 art 1 s 609.385; 1986 c 444*

609.39 MISPRISION OF TREASON.

Whoever, owing allegiance to this state and having knowledge of the commission of treason against this state, does not, as soon as may be, disclose and make it known to the governor or a judge of the Supreme Court, Court of Appeals, or district court, is guilty of misprision of treason against this state and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

History: *1963 c 753 art 1 s 609.39; 1983 c 247 s 208; 1984 c 628 art 3 s 11*

609.395 STATE MILITARY FORCES; INTERFERING WITH, OBSTRUCTING, OR OTHER.

Whoever, when the United States is at war, does either of the following may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than $35,000, or both:

(1) intentionally makes or conveys false reports or statements with intent to interfere with the operation or success of the military or naval forces of this state; or

(2) intentionally causes or incites insubordination, disloyalty, mutiny, or refusal of duty in the military or naval forces of this state, or obstructs the recruiting or enlistment service of this state.

History: *1963 c 753 art 1 s 609.395; 1984 c 628 art 3 s 11*

609.396 UNAUTHORIZED PRESENCE AT CAMP RIPLEY.

Subdivision 1. **Misdemeanor.** A person is guilty of a misdemeanor if the person intentionally and without authorization of the adjutant general enters or is present on the Camp Ripley Military Reservation.

Subd. 2. **Felony.** A person is guilty of a felony and may be sentenced to not more than five years imprisonment or to payment of a fine of not more than $10,000, or both, if:

(1) the person intentionally enters or is present in an area at the Camp Ripley Military Reservation that is posted by order of the adjutant general as restricted for weapon firing or other hazardous military activity; and

(2) the person knows that doing so creates a risk of death, bodily harm, or serious property damage.

History: *1989 c 5 s 3; 1989 c 290 art 7 s 12*

609.40 FLAGS.

Subdivision 1. **Definition.** In this section "flag" means anything which is or purports to be the Stars and Stripes, the United States shield, the United States coat of arms, the Minnesota state flag, or a copy, picture, or representation of any of them.

Subd. 2. **Acts prohibited.** Whoever does any of the following is guilty of a misdemeanor:

(1) intentionally and publicly mutilates, defiles, or casts contempt upon the flag; or

(2) places on or attaches to the flag any word, mark, design, or advertisement not properly a part of such flag or exposes to public view a flag so altered; or

(3) manufactures or exposes to public view an article of merchandise or a wrapper or receptacle for merchandise upon which the flag is depicted; or

(4) uses the flag for commercial advertising purposes.

Subd. 3. **Exceptions.** This section does not apply to flags depicted on written or printed documents or periodicals or on stationery, ornaments, pictures, or jewelry, provided there are not unauthorized words or designs on such flags and provided the flag is not connected with any advertisement.

History: *1963 c 753 art 1 s 609.40; 1971 c 23 s 45*

609.41 FALSE TAX STATEMENT.

Whoever, in making any statement, oral or written, which is required or authorized by law to be made as a basis of imposing, reducing, or abating any tax or assessment, intentionally makes any statement as to any material matter which the maker of the statement knows is false may be sentenced, unless otherwise provided by law, to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

History: *1963 c 753 art 1 s 609.41; 1984 c 628 art 3 s 11; 1986 c 444*

CRIMES AFFECTING PUBLIC OFFICER OR EMPLOYEE

609.415 DEFINITIONS.

Subdivision 1. **Definitions.** As used in sections 609.415 to 609.465, and 609.515,

(1) "Public officer" means:

(a) an executive or administrative officer of the state or of a county, municipality or other subdivision or agency of the state;

(b) a member of the legislature or of a governing board of a county, municipality, or other subdivision of the state, or other governmental instrumentality within the state;

(c) a judicial officer;

(d) a hearing officer;

(e) a law enforcement officer; or

(f) any other person exercising the functions of a public officer.

(2) "Public employee" means a person employed by or acting for the state or a county, municipality, or other subdivision or governmental instrumentality of the state for the purpose of exercising their respective powers and performing their respective duties, and who is not a public officer. Public employee includes a member of a charter commission.

(3) "Judicial officer" means a judge, court commissioner, referee, or any other person appointed by a judge or court to hear or determine a cause or controversy.

(4) "Hearing officer" means any person authorized by law or private agreement to hear or determine a cause or controversy who is not a judicial officer.

(5) "Political subdivision" means a county, town, statutory or home rule charter city, school district, special service district, or other municipal corporation of the state of Minnesota.

Subd. 2. **Deemed officer or employee.** A person who has been elected, appointed, or otherwise designated as a public officer or public employee is deemed such officer or employee although the person has not yet qualified therefor or entered upon the duties thereof.

History: *1963 c 753 art 1 s 609.415; 1983 c 359 s 88; 1986 c 444; 1992 c 592 s 16; 2002 c 352 s 13*

609.42 BRIBERY.

Subdivision 1. **Acts constituting.** Whoever does any of the following is guilty of bribery and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both:

(1) offers, gives, or promises to give, directly or indirectly, to any person who is a public officer or employee any benefit, reward or consideration to which the person is not legally entitled with intent thereby to influence the person's performance of the powers or duties as such officer or employee; or

(2) being a public officer or employee, requests, receives or agrees to receive, directly or indirectly, any such benefit, reward or consideration upon the understanding that it will have such an influence; or

(3) offers, gives, or promises to give, directly or indirectly any such benefit, reward, or consideration to a person who is a witness or about to become a witness in a proceeding before a judicial or hearing officer, with intent that the person's testimony be influenced thereby, or that the person will not appear at the proceeding; or

(4) as a person who is, or is about to become such witness requests, receives, or agrees to receive, directly or indirectly, any such benefit, reward, or consideration upon the understanding that the person's testimony will be so influenced, or that the person will not appear at the proceeding; or

(5) accepts directly or indirectly a benefit, reward or consideration upon an agreement or understanding, express or implied, that the acceptor will refrain from giving information that may lead to the prosecution of a crime or purported crime or that the acceptor will abstain from, discontinue, or delay prosecution therefor, except in a case where a compromise is allowed by law.

Subd. 2. **Forfeiture of office.** Any public officer who is convicted of violating or attempting to violate subdivision 1 shall forfeit the public officer's office and be forever disqualified from holding public office under the state.

History: *1963 c 753 art 1 s 609.42; 1976 c 178 s 2; 1984 c 628 art 3 s 11; 1986 c 444*

609.425 CORRUPTLY INFLUENCING LEGISLATOR.

Whoever by menace, deception, concealment of facts, or other corrupt means, attempts to influence the vote or other performance of duty of any member of the legislature or person elected thereto may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

History: *1963 c 753 art 1 s 609.425; 1984 c 628 art 3 s 11*

609.43 MISCONDUCT OF PUBLIC OFFICER OR EMPLOYEE.

A public officer or employee who does any of the following, for which no other sentence is specifically provided by law, may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both:

(1) intentionally fails or refuses to perform a known mandatory, nondiscretionary, ministerial duty of the office or employment within the time or in the manner required by law; or

(2) in the capacity of such officer or employee, does an act knowing it is in excess of lawful authority or knowing it is forbidden by law to be done in that capacity; or

(3) under pretense or color of official authority intentionally and unlawfully injures another in the other's person, property, or rights; or

(4) in the capacity of such officer or employee, makes a return, certificate, official report, or other like document having knowledge it is false in any material respect.

History: *1963 c 753 art 1 s 609.43; 1984 c 628 art 3 s 11; 1986 c 444*

609.435 OFFICER NOT FILING SECURITY.

Whoever intentionally performs the functions of a public officer without having executed and duly filed the required security is guilty of a misdemeanor.

History: *1963 c 753 art 1 s 609.435; 1971 c 23 s 46*

609.44 PUBLIC OFFICE; ILLEGALLY ASSUMING; NONSURRENDER.

Whoever intentionally and without lawful right thereto, exercises a function of a public office or, having held such office and the right thereto having ceased, refuses to surrender the office or its seal, books, papers, or other incidents to a successor or other authority entitled thereto may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

History: *1963 c 753 art 1 s 609.44; 1984 c 628 art 3 s 11; 1986 c 444*

609.445 FAILURE TO PAY OVER STATE FUNDS.

Whoever receives money on behalf of or for the account of the state or any of its agencies or subdivisions and intentionally refuses or omits to pay the same to the state or its agency or subdivision entitled thereto, or to an officer or agent authorized to receive the same, may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

History: *1963 c 753 art 1 s 609.445; 1984 c 628 art 3 s 11; 1989 c 290 art 6 s 17*

609.45 PUBLIC OFFICER; UNAUTHORIZED COMPENSATION.

Whoever is a public officer or public employee and under color of office or employment intentionally asks, receives, or agrees to receive a fee or other compensation in excess of that allowed by law or where no such fee or compensation is allowed, is guilty of a misdemeanor.

History: *1963 c 753 art 1 s 609.45; 1971 c 23 s 47; 1986 c 444*

609.455 PERMITTING FALSE CLAIMS AGAINST GOVERNMENT.

A public officer or employee who audits, allows, or pays any claim or demand made upon the state or subdivision thereof or other governmental instrumentality within the state which the public officer or employee knows is false or fraudulent in whole or in part, may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

History: *1963 c 753 art 1 s 609.455; 1984 c 628 art 3 s 11; 1986 c 444*

609.456 REPORTING TO STATE AUDITOR AND LEGISLATIVE AUDITOR REQUIRED.

Subdivision 1. **State auditor; police; firefighters; teachers.** Whenever a public employee or public officer of a political subdivision, charter commission, or local public pension plan governed by sections 424A.091 to 424A.096 or chapter 354A, discovers evidence of theft, embezzlement, unlawful use of public funds or property, or misuse of public funds by a charter commission or any person authorized to expend public funds, the employee or officer shall

promptly report to law enforcement and shall promptly report in writing to the state auditor a detailed description of the alleged incident or incidents. Notwithstanding chapter 13 or any other statute related to the classification of government data, the public employee or public officer shall provide data or information related to the alleged incident or incidents to the state auditor and law enforcement, including data classified as not public.

Subd. 2. **Legislative auditor.** Whenever an employee or officer of the state, University of Minnesota, or other organization listed in section 3.971, subdivision 6, discovers evidence of theft, embezzlement, or unlawful use of public funds or property, the employee or officer shall, except when to do so would knowingly impede or otherwise interfere with an ongoing criminal investigation, promptly report in writing to the legislative auditor a detailed description of the alleged incident or incidents.

History: *1992 c 592 s 17; 1999 c 99 s 21, 23; 2002 c 352 s 14; 2013 c 35 s 1; 2013 c 111 art 5 s 80*

609.465 PRESENTING FALSE CLAIMS TO PUBLIC OFFICER OR BODY.

Whoever, with intent to defraud, presents a claim or demand, with knowledge that it is false in whole or in part, for audit, allowance or payment to a public officer or body authorized to make such audit, allowance or payment is guilty of an attempt to commit theft of public funds and may be sentenced accordingly.

History: *1963 c 753 art 1 s 609.465; 1986 c 444*

609.466 MEDICAL ASSISTANCE FRAUD.

Any person who, with the intent to defraud, presents a claim for reimbursement, a cost report or a rate application, relating to the payment of medical assistance funds pursuant to chapter 256B, to the state agency, which is false in whole or in part, is guilty of an attempt to commit theft of public funds and may be sentenced accordingly.

History: *1976 c 188 s 5*

609.47 INTERFERENCE WITH PROPERTY IN OFFICIAL CUSTODY.

Whoever intentionally takes, damages, or destroys any personal property held in custody by an officer or other person under process of law may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

History: *1963 c 753 art 1 s 609.47; 1984 c 628 art 3 s 11*

609.475 IMPERSONATING OFFICER. [AMENDED]

Whoever falsely impersonates an active or reserve component military service member, veteran, or public official with intent to wrongfully obtain money, property, or any other tangible benefit is guilty of a misdemeanor.

History: *1963 c 753 art 1 s 609.475; 1971 c 23 s 49; 1986 c 444*

609.4751 IMPERSONATING A PEACE OFFICER. [NEW]

Subdivision 1. **Misdemeanor.** Whoever falsely impersonates a peace officer with intent to mislead another into believing that the impersonator is actually an officer is guilty of a misdemeanor.

Subd. 2. **Gross misdemeanor.** Whoever violates subdivision 1 while committing any of the following acts is guilty of a gross misdemeanor:

(1) gaining access to a public building or government facility that is not open to the public;

(2) without legal authority, directing or ordering another person to act or refrain from acting;

(3) violating section 169.64, subdivision 2, 3, or 4, or the siren provisions of section 169.68; or

(4) operating a motor vehicle marked:

(i) with the word or words "police," "patrolman," "sheriff," "deputy," "trooper," "state patrol," "conservation officer," "agent," or "marshal"; or

(ii) with any lettering, marking, or insignia, or colorable imitation thereof, including, but not limited to, stars, badges, or shields identifying the vehicle as a law enforcement vehicle, and which a reasonable person would believe is a law enforcement vehicle governed under section 169.98, subdivision 1.

Subd. 3. **Felony.** Whoever violates this section within five years of a previous violation of this section is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than $4,000, or both.

CRIMES AGAINST THE ADMINISTRATION OF JUSTICE

609.48 PERJURY. [NEW SUBD. 5]

Subdivision 1. **Acts constituting.** Whoever makes a false material statement not believing it to be true in any of the following cases is guilty of perjury and may be sentenced as provided in subdivision 4:

(1) in or for an action, hearing or proceeding of any kind in which the statement is required or authorized by law to be made under oath or affirmation;

(2) in any writing which is required or authorized by law to be under oath or affirmation;

(3) in any writing made according to section 358.115;

(4) in any writing made according to section 358.116; or

(5) in any other case in which the penalties for perjury are imposed by law and no specific sentence is otherwise provided.

Subd. 2. **Defenses not available.** It is not a defense to a violation of this section that:

(1) the oath or affirmation was taken or administered in an irregular manner; or

(2) the declarant was not competent to give the statement; or

(3) the declarant did not know that the statement was material or believed it to be immaterial; or

(4) the statement was not used or, if used, did not affect the proceeding for which it was made; or

(5) the statement was inadmissible under the law of evidence.

Subd. 3. **Inconsistent statements.** When the declarant has made two inconsistent statements under such circumstances that one or the other must be false and not believed by the declarant when made, it shall be sufficient for conviction under this section to charge and the jury to find that, without determining which, one or the other of such statements was false and not believed by the declarant. The period of limitations for prosecution under this subdivision runs from the first such statement.

Subd. 4. **Sentence.** Whoever violates this section may be sentenced as follows:

(1) if the false statement was made upon the trial of a felony charge, or upon an application for an explosives license or use permit, to imprisonment for not more than seven years or to payment of a fine of not more than $14,000, or both; or

(2) in all other cases, to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

Subd. 5. **Venue.** A violation of subdivision 1, clause (4), may be prosecuted in the county where the statement, under penalty of perjury, was signed, or the county of the district court in which the statement was filed.

History: *1963 c 753 art 1 s 609.48; 1971 c 845 s 16; 1984 c 628 art 3 s 11; 1986 c 444; 1989 c 290 art 6 s 18; 2010 c 295 s 2; 2014 c 204 s 9*

609.485 ESCAPE FROM CUSTODY.

Subdivision 1. **Definition.** "Escape" includes departure without lawful authority and failure to return to custody following temporary leave granted for a specific purpose or limited period.

Subd. 2. **Acts prohibited.** Whoever does any of the following may be sentenced as provided in subdivision 4:

(1) escapes while held pursuant to a lawful arrest, in lawful custody on a charge or conviction of a crime, or while held in lawful custody on an allegation or adjudication of a delinquent act;

(2) transfers to another, who is in lawful custody on a charge or conviction of a crime, or introduces into an institution in which the latter is confined, anything usable in making such escape, with intent that it shall be so used;

(3) having another in lawful custody on a charge or conviction of a crime, intentionally permits the other to escape;

(4) escapes while in a facility designated under section 253B.18, subdivision 1, pursuant to a court commitment order after a finding of not guilty by reason of mental illness or mental deficiency of a crime against the person, as defined in section 253B.02, subdivision 4a. Notwithstanding section 609.17, no person may be charged with or convicted of an attempt to commit a violation of this clause;

(5) escapes while in or under the supervision of a facility designated under section 246B.01, subdivision 2a; 246B.02; 253B.18, subdivision 1; 253D.07, subdivision 3; or Minnesota Statutes 1992, section 526.10;

(6) escapes while on pass status or provisional discharge according to section 253B.18 or chapter 253D; or

(7) escapes while a civilly committed sex offender in the Minnesota sex offender program as defined in section 246B.01, subdivision 1a, or subject to a court hold order under chapter 253D.

For purposes of clauses (1) and (7), "escapes while held in lawful custody" or "escapes while a civilly committed sex offender in the Minnesota sex offender program" includes absconding from electronic monitoring or removing an electronic monitoring device from the person's body.

Subd. 3. **Exceptions.** This section does not apply to a person who is free on bail or who is on parole or probation, or subject to a stayed sentence or stayed execution of sentence, unless the person (1) has been taken into actual custody upon revocation of the parole, probation, or stay of the sentence or execution of sentence, (2) is in custody in a county jail or workhouse as a condition of a stayed sentence, or (3) is subject to electronic monitoring as a condition of parole, probation, or supervised release.

Subd. 3a. **Dismissal of charge.** A felony charge brought under subdivision 2, clause (4) shall be dismissed if the person charged voluntarily returns to the facility within 30 days after a reasonable effort has been made to provide written notice to the person that failure to return within 30 days may result in felony charges being filed.

Subd. 4. **Sentence.** (a) Except as otherwise provided in subdivision 3a, whoever violates this section may be sentenced as follows:

(1) if the person who escapes is in lawful custody for a felony, to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both;

(2) if the person who escapes is in lawful custody after a finding of not guilty by reason of mental illness or mental deficiency of a crime against the person, as defined in section 253B.02, subdivision 4a, to imprisonment for not more than one year and one day or to payment of a fine of not more than $3,000, or both;

(3) if the person who escapes is in lawful custody for a gross misdemeanor or misdemeanor, or if the person who escapes is in lawful custody on an allegation or adjudication of a delinquent act, to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both;

(4) if the person who escapes is under civil commitment under section 253B.18, to imprisonment for not more than one year and one day or to payment of a fine of not more than $3,000, or both; or

(5) if the person who escapes is under a court hold, civil commitment, or supervision under chapter 253D, Minnesota Statutes 2012, section 253B.185, or Minnesota Statutes 1992, section 526.10, to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

(b) If the escape was a violation of subdivision 2, clause (1), (2), or (3), and was effected by violence or threat of violence against a person, the sentence may be increased to not more than twice those permitted in paragraph (a), clauses (1) and (3).

(c) Unless a concurrent term is specified by the court, a sentence under this section shall be consecutive to any sentence previously imposed or which may be imposed for any crime or offense for which the person was in custody when the person escaped.

(d) Notwithstanding paragraph (c), if a person who was committed to the commissioner of corrections under section 260B.198 escapes from the custody of the commissioner while 18 years of age, the person's sentence under this section shall commence on the person's 19th birthday or on the person's date of discharge by the commissioner of corrections, whichever occurs first. However, if the person described in this clause is convicted under this section after becoming 19 years old and after having been discharged by the commissioner, the person's sentence shall commence upon imposition by the sentencing court.

(e) Notwithstanding paragraph (c), if a person who is in lawful custody on an allegation or adjudication of a delinquent act while 18 years of age escapes from a local juvenile correctional facility, the person's sentence under this section begins on the person's 19th birthday or on the person's date of discharge from the jurisdiction of the juvenile court, whichever occurs first. However, if the person described in this paragraph is convicted after becoming 19 years old and after discharge from the jurisdiction of the juvenile court, the person's sentence begins upon imposition by the sentencing court.

(f) Notwithstanding paragraph (a), any person who escapes or absconds from electronic monitoring or removes an electric monitoring device from the person's body is guilty of a crime and shall be sentenced to imprisonment for not more than one year or to a payment of a fine of not more than $3,000, or both. A person in lawful custody for a violation of section 609.185, 609.19, 609.195, 609.20, 609.205, 609.2112, 609.2113, 609.2114, 609.221, 609.222, 609.223, 609.2231, 609.342, 609.343, 609.344, 609.345, 609.3451, or civil commitment under chapter 253D, or Minnesota Statutes 2012, section 609.21, and who escapes or absconds from electronic monitoring or removes an electronic monitoring device while under sentence may be sentenced to imprisonment for not more than five years or to a payment of a fine of not more than $10,000, or both.

History: *1963 c 753 art 1 s 609.485; 1969 c 248 s 1; 1971 c 23 s 50; 1982 c 557 s 10; 1984 c 628 art 3 s 11; 1986 c 385 s 1-3; 1986 c 444; 1988 c 515 s 2, 3; 1990 c 499 s 7, 8; 1994 c 636 art 2 s 38, 39; 1995 c 226 art 2 s 20, 21; 1996 c 305 art 1 s 120, 121; 1996 c 408 art 3 s 28, 29; 1999 c 139 art 4 s 2; 2000 c 441 s 2, 3; 2002 c 314 s 7, 8; 2005 c 136 art 17 s 26, 27; 2006 c 260 art 1 s 24, 25; 2009 c 111 s 14, 15; 2011 c 76 art 1 s 66; 2011 c 102 art 2 s 3; 2013 c 49 s 22; 2014 c 180 s 9*

609.486 COMMISSION OF CRIME WHILE WEARING OR POSSESSING BULLET-RESISTANT VEST.

A person who commits or attempts to commit a gross misdemeanor or felony while wearing or possessing a bullet-resistant vest is guilty of a felony and, upon conviction, shall be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both. Notwithstanding section 609.04, a prosecution for or conviction under this section is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

As used in this section, "bullet-resistant vest" means a bullet-resistant garment that provides ballistic and trauma protection.

History: *1990 c 439 s 1*

609.487 FLEEING PEACE OFFICER; MOTOR VEHICLE; OTHER.

Subdivision 1. **Flee; definition.** For purposes of this section, the term "flee" means to increase speed, extinguish motor vehicle headlights or taillights, refuse to stop the vehicle, or use other means with intent to attempt to elude a peace officer following a signal given by any peace officer to the driver of a motor vehicle.

Subd. 2. **Peace officer; definition.** For purposes of this section, "peace officer" means:

(1) an employee of a political subdivision or state law enforcement agency who is licensed by the Minnesota Board of Peace Officer Standards and Training, 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 and Minnesota conservation officers;

(2) an employee of a law enforcement agency of a federally recognized tribe, as defined in United States Code, title 25, section 450b(e), who is licensed by the Minnesota Board of Peace Officer Standards and Training; or

(3) a member of a duly organized state, county, or municipal law enforcement unit of another state charged with the duty to prevent and detect crime and generally enforce criminal laws, and granted full powers of arrest.

Subd. 2a. **Motor vehicle; definition.** For purposes of this section, "motor vehicle" has the meaning given it in section 169.011, subdivision 42, and includes a snowmobile, as defined in section 84.81, off-road recreational vehicles as defined in section 169A.03, subdivision 16, and motorboats as defined in section 169A.03, subdivision 13.

Subd. 3. **Fleeing officer; motor vehicle.** Whoever by means of a motor vehicle flees or attempts to flee a peace officer who is acting in the lawful discharge of an official duty, and the perpetrator knows or should reasonably know the same to be a peace officer, is guilty of a felony and may be sentenced to imprisonment for not more than three years and one day or to payment of a fine of not more than $5,000, or both.

Subd. 4. **Fleeing officer; death; bodily injury.** Whoever flees or attempts to flee by means of a motor vehicle a peace officer who is acting in the lawful discharge of an official duty, and the perpetrator knows or should reasonably know the same to be a peace officer, and who in the course of fleeing in a motor vehicle or subsequently by other means causes the death of a human being not constituting murder or manslaughter or any bodily injury to any person other than the perpetrator may be sentenced to imprisonment as follows:

(a) if the course of fleeing results in death, to imprisonment for not more than 40 years or to payment of a fine of not more than $80,000, or both; or

(b) if the course of fleeing results in great bodily harm, to imprisonment for not more than seven years or to payment of a fine of not more than $14,000, or both; or

(c) if the course of fleeing results in substantial bodily harm, to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

Subd. 5. **Revocation; fleeing peace officer offense.** When a person is convicted of operating a motor vehicle in violation of subdivision 3 or 4, or an ordinance in conformity with those subdivisions, the court shall notify the commissioner of public safety and order the commissioner to revoke the driver's license of the person.

Subd. 6. **Fleeing, other than vehicle.** Whoever, for the purpose of avoiding arrest, detention, or investigation, or in order to conceal or destroy potential evidence related to the commission of a crime, attempts to evade or elude a peace officer, who is acting in the lawful discharge of an official duty, by means of running, hiding, or by any other means except fleeing in a motor vehicle, is guilty of a misdemeanor.

History: *1981 c 37 s 2; 1981 c 312 s 4; 1984 c 445 s 2, 3; 1984 c 628 art 3 s 11; 1984 c 655 art 1 s 78; 1986 c 444; 1988 c 712 s 6; 1989 c 290 art 6 s 19; 1990 c 449 s 1; 1996 c 408 art 3 s 30; 1997 c 226 s 44; 1997 c 239 art 3 s 13; 1Sp1997 c 2 s 64; 2000 c 411 s 1, 2; 2000 c 478 art 2 s 7; 1Sp2001 c 8 art 8 s 23; 2005 c 136 art 17 s 28; 2011 c 32 s 1*

609.49 RELEASE, FAILURE TO APPEAR.

Subdivision 1. **Felony offenders.** (a) A person charged with or convicted of a felony and released from custody, with or without bail or recognizance, who intentionally fails to appear when required after having been notified that a failure to appear for a court appearance is a criminal offense, or after having been released on an order or condition that the releasee personally appear when required with respect to the charge or conviction, is guilty of a crime for failure to appear and may be sentenced to not more than one-half of the maximum term of imprisonment or fine, or both, provided for the underlying crime for which the person failed to appear, but this maximum sentence shall, in no case, be less than a term of imprisonment of one year and one day or a fine of $1,500, or both.

(b) A felony charge under this subdivision may be filed upon the person's nonappearance. However, the charge must be dismissed if the person who fails to appear voluntarily surrenders within 48 hours after the time required for appearance. This paragraph does not apply if the offender appears as a result of being apprehended by law enforcement authorities.

Subd. 1a. **Juvenile offenders.** (a) A person who intentionally fails to appear for a juvenile court disposition is guilty of a felony if:

(1) the person was prosecuted in juvenile court for an offense that would have been a felony if committed by an adult;

(2) the juvenile court made findings pursuant to an admission in court or after trial;

(3) the person was released from custody on condition that the person appear in the juvenile court for a disposition in connection with the offense; and

(4) the person was notified that failure to appear is a criminal offense.

(b) A person who violates the provisions of this subdivision is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

Subd. 2. **Gross misdemeanor and misdemeanor offenders.** A person charged with a gross misdemeanor or misdemeanor who intentionally fails to appear in court for trial on the charge after having been notified that a failure to appear for a court appearance is a criminal offense, or after having been released on an order or condition that the releasee personally appear for trial when required with respect to the charge, is guilty of a misdemeanor.

Subd. 3. **Affirmative defense.** If proven by a preponderance of the evidence, it is an affirmative defense to a violation of subdivision 1, 1a, or 2 that the person's failure to appear in court as required was due to circumstances beyond the person's control.

Subd. 4. **Prosecution.** A violation of this section is prosecuted by the prosecuting authority who was responsible for prosecuting the offense in connection with which the person failed to appear in court.

Subd. 5. **Reimbursement for costs.** Upon conviction of a defendant for a violation of subdivision 1 or 2, the court may order as part of the sentence that the defendant pay the costs incurred by the prosecuting authority or governmental agency due to the defendant's failure to appear. The court may order this payment in addition to any other penalty authorized by law which it may impose. A defendant shall pay the entire amount of any restitution ordered and fine imposed before paying costs ordered under this subdivision. The order for payment of these costs may be enforced in the same manner as the sentence, or by execution against property. When collected, the costs must be paid into the treasury of the county of conviction.

History: *1963 c 753 art 1 s 609.49; 1984 c 628 art 3 s 11; 1986 c 444; 1989 c 333 s 4; 1994 c 576 s 47, 48; 1998 c 367 art 2 s 16; 1999 c 28 s 1-3*

609.491 FAILURE TO APPEAR; PETTY MISDEMEANOR.

Subdivision 1. **Considered guilty plea.** If a person fails to appear in court on a charge that is a petty misdemeanor, the failure to appear is considered a plea of guilty and waiver of the right to trial, unless the person appears in court within ten days and shows that the person's failure to appear was due to circumstances beyond the person's control.

Subd. 2. **Notice.** A complaint charging a person with a petty misdemeanor must include a conspicuous notice of the provisions of Subdivision 1.

History: *1989 c 333 s 5*

609.493 SOLICITATION OF MENTALLY IMPAIRED PERSONS.

Subdivision 1. **Crime.** A person is guilty of a crime and may be sentenced as provided in subdivision 2 if the person solicits a mentally impaired person to commit a criminal act.

Subd. 2. **Sentence.** (a) A person who violates subdivision 1 is guilty of a misdemeanor if the intended criminal act is a misdemeanor, and is guilty of a gross misdemeanor if the intended criminal act is a gross misdemeanor.

(b) A person who violates subdivision 1 is guilty of a felony if the intended criminal act is a felony, and may be sentenced to imprisonment for not more than one-half the statutory maximum term for the intended criminal act or to payment of a fine of not more than one-half the maximum fine for the intended criminal act, or both.

Subd. 3. **Definitions.** As used in this section:

(1) "mentally impaired person" means a person who, as a result of inadequately developed or impaired intelligence or a substantial psychiatric disorder of thought or mood, lacks the judgment to give a reasoned consent to commit the criminal act; and

(2) "solicit" means commanding, entreating, or attempting to persuade a specific person.

History: *1993 c 326 art 4 s 23*

609.494 SOLICITATION OF JUVENILES.

Subdivision 1. **Crime.** A person is guilty of a crime and may be sentenced as provided in subdivision 2 if the person is an adult and solicits or conspires with a minor to commit a crime or delinquent act or is an accomplice to a minor in the commission of a crime or delinquent act.

Subd. 2. **Sentence.** (a) A person who violates subdivision 1 is guilty of a misdemeanor if the intended criminal act is a misdemeanor or would be a misdemeanor if committed by an adult, and is guilty of a gross misdemeanor if the intended criminal act is a gross misdemeanor or would be a gross misdemeanor if committed by an adult.

(b) A person who violates subdivision 1 is guilty of a felony if the intended criminal act is a felony or would be a felony if committed by an adult, and may be sentenced to imprisonment for not more than one-half the statutory maximum term for the intended criminal act or to payment of a fine of not more than one-half the maximum fine for the intended criminal act, or both.

Subd. 3. **Multiple sentences.** Notwithstanding section 609.04, a prosecution for or conviction under this section is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Subd. 4. **Consecutive sentences.** Notwithstanding any provision of the Sentencing Guidelines, the court may provide that a sentence imposed for a violation of this section shall run consecutively to any sentence imposed for the intended criminal act. A decision by the court to impose consecutive sentences under this subdivision is not a departure from the Sentencing Guidelines.

Subd. 5. **Definition.** "Solicit" means commanding, entreating, or attempting to persuade a specific person.

History: *1991 c 279 s 31; 1993 c 326 art 4 s 24*

609.495 AIDING AN OFFENDER.

Subdivision 1. **Definition of crime.** (a) Whoever harbors, conceals, aids, or assists by word or acts another whom the actor knows or has reason to know has committed a crime under the laws of this or another state or of the United States with intent that such offender shall avoid or escape from arrest, trial, conviction, or punishment, may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $5,000, or both if the crime committed or attempted by the other person is a felony.

(b) Whoever knowingly harbors, conceals, or aids a person who is on probation, parole, or supervised release because of a felony level conviction and for whom an arrest and detention order has been issued, with intent that the person evade or escape being taken into custody under the order, may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $5,000, or both. As used in this paragraph, "arrest and detention order" means a written order to take and detain a probationer, parolee, or supervised releasee that is issued under section 243.05, subdivision 1; 244.195; or 401.025.

Subd. 2. [Repealed, 1996 c 408 art 3 s 40]

Subd. 3. **Obstructing investigation.** Whoever intentionally aids another person whom the actor knows or has reason to know has committed a criminal act, by destroying or concealing evidence of that crime, providing false or misleading information about that crime, receiving the proceeds of that crime, or otherwise obstructing the investigation or prosecution of that crime is an accomplice after the fact and may be sentenced to not more than one-half of the statutory maximum sentence of imprisonment or to payment of a fine of not more than one-half of the maximum fine that could be imposed on the principal offender for the crime of violence. For purposes of this subdivision, "criminal act" means an act that is a crime listed in section 609.11, subdivision 9, under the laws of this or another state, or of the United States, and also includes an act that would be a criminal act if committed by an adult.

Subd. 4. **Taking responsibility for criminal acts.** (a) Unless the person is convicted of the underlying crime, a person who assumes responsibility for a criminal act with the intent to obstruct, impede, or prevent a criminal investigation may be sentenced to not more than one-half of the statutory maximum sentence of imprisonment or to payment of a fine of not more than one-half of the maximum fine that could be imposed on the principal offender for the criminal act.

(b) Nothing in this subdivision shall be construed to impair the right of any individual or group to engage in speech protected by the United States Constitution or the Minnesota Constitution.

Subd. 5. **Venue.** An offense committed under subdivision 1 or 3 may be prosecuted in:

(1) the county where the aiding or obstructing behavior occurred; or

(2) the county where the underlying criminal act occurred.

History: *1963 c 753 art 1 s 609.495; 1984 c 628 art 3 s 11; 1986 c 444; 1993 c 326 art 4 s 25; 1997 c 239 art 3 s 14; art 9 s 51; 1Sp2001 c 8 art 8 s 24,25; 2002 c 348 s 2; 2006 c 260 art 1 s 26; 2016 c 158 art 1 s 204*

609.496 CONCEALING CRIMINAL PROCEEDS.

Subdivision 1. **Crime.** A person is guilty of a felony and may be sentenced under subdivision 2 if the person:

(1) conducts a transaction involving a monetary instrument or instruments with a value exceeding $5,000; and

(2) knows or has reason to know that the monetary instrument or instruments represent the proceeds of, or are derived from the proceeds of, the commission of a felony under this chapter or chapter 152 or an offense in another jurisdiction that would be a felony under this chapter or chapter 152 if committed in Minnesota.

Subd. 2. **Penalty.** A person convicted under subdivision 1 may be sentenced to imprisonment for not more than ten years, or to payment of a fine of not more than $100,000, or both.

Subd. 3. **Monetary instrument.** For purposes of this section, "monetary instrument" means United States currency and coin; the currency and coin of a foreign country; a bank check, cashier's check, traveler's check, money order, stock, investment security, or negotiable instrument in bearer form or otherwise in the form by which title to the instrument passes upon delivery; gold, silver, or platinum bullion or coins; and diamonds, emeralds, rubies, or sapphires.

Subd. 4. **Payment of reasonable attorney fees.** Subdivision 1 does not preclude the payment or receipt of reasonable attorney fees.

History: *1989 c 286 s 3*

609.497 ENGAGING IN BUSINESS OF CONCEALING CRIMINAL PROCEEDS.

Subdivision 1. **Crime.** A person is guilty of a felony and may be sentenced under subdivision 2 if the person knowingly initiates, organizes, plans, finances, directs, manages, supervises, or otherwise engages in a business that has as a primary or secondary purpose concealing money or property that was gained as a direct result of the commission of a felony under this chapter or chapter 152, or of an offense committed in another jurisdiction that would be a felony under this chapter or chapter 152 if committed in Minnesota.

Subd. 2. **Penalty.** A person convicted under subdivision 1 may be sentenced to imprisonment for not more than 20 years, or to payment of a fine of not more than $1,000,000, or both.

History: *1989 c 286 s 4*

609.4971 WARNING SUBJECT OF INVESTIGATION.

Whoever, having knowledge that a subpoena has been issued under sections 8.16 and 388.23, and with intent to obstruct, impede, or prevent the investigation for which the subpoena was issued, gives notice or attempts to give notice of the issuance of the subpoena or the production of the documents to a person, may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

History: *1989 c 336 art 2 s 4*

609.4975 WARNING SUBJECT OF SURVEILLANCE OR SEARCH.

Subdivision 1. **Electronic communication.** Whoever, having knowledge that an investigative or law enforcement officer has been authorized or has applied for authorization under chapter 626A to intercept a wire, oral, or electronic communication, and with intent to obstruct, impede, or prevent interception, gives notice or attempts to give notice of the possible interception to a person, may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

Subd. 2. **Pen register.** Whoever, having knowledge that an investigative or law enforcement officer has been authorized or has applied for authorization under chapter 626A to install and use a pen register or a trap and trace device, and with intent to obstruct, impede, or prevent the purposes for which the installation and use is being made, gives notice or attempts to give notice of the installation or use to any person, may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

Subd. 3. **Search warrant.** Whoever, having knowledge that a peace officer has been issued or has applied for the issuance of a search warrant, and with intent to obstruct, impede, or prevent the search, gives notice or attempts to give notice of the search or search warrant to any person, may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

History: *1989 c 336 art 2 s 3; 1990 c 426 art 2 s 1*

609.498 TAMPERING WITH WITNESS.

Subdivision 1. **Tampering with witness in the first degree.** Whoever does any of the following is guilty of tampering with a witness in the first degree and may be sentenced as provided in subdivision 1a:

(a) intentionally prevents or dissuades or intentionally attempts to prevent or dissuade by means of force or threats of injury to any person or property, a person who is or may become a witness from attending or testifying at any trial, proceeding, or inquiry authorized by law;

(b) by means of force or threats of injury to any person or property, intentionally coerces or attempts to coerce a person who is or may become a witness to testify falsely at any trial, proceeding, or inquiry authorized by law;

(c) intentionally causes injury or threatens to cause injury to any person or property in retaliation against a person who was summoned as a witness at any trial, proceeding, or inquiry authorized by law, within a year following that trial, proceeding, or inquiry or within a year following the actor's release from incarceration, whichever is later;

(d) intentionally prevents or dissuades or attempts to prevent or dissuade, by means of force or threats of injury to any person or property, a person from providing information to law enforcement authorities concerning a crime;

(e) by means of force or threats of injury to any person or property, intentionally coerces or attempts to coerce a person to provide false information concerning a crime to law enforcement authorities; or

(f) intentionally causes injury or threatens to cause injury to any person or property in retaliation against a person who has provided information to law enforcement authorities concerning a crime within a year of that person providing the information or within a year of the actor's release from incarceration, whichever is later.

Subd. 1a. **Penalty.** Whoever violates subdivision 1 may be sentenced to imprisonment for not more than five years or to payment of a fine not to exceed $10,000.

Subd. 1b. **Aggravated first-degree witness tampering.** (a) A person is guilty of aggravated first-degree witness tampering if the person causes or, by means of an implicit or explicit credible threat, threatens to cause great bodily harm or death to another in the course of committing any of the following acts intentionally:

(1) preventing or dissuading or attempting to prevent or dissuade a person who is or may become a witness from attending or testifying at any criminal trial or proceeding;

(2) coercing or attempting to coerce a person who is or may become a witness to testify falsely at any criminal trial or proceeding;

(3) retaliating against a person who was summoned as a witness at any criminal trial or proceeding within a year following that trial or proceeding or within a year following the actor's release from incarceration, whichever is later;

(4) preventing or dissuading or attempting to prevent or dissuade a person from providing information to law enforcement authorities concerning a crime;

(5) coercing or attempting to coerce a person to provide false information concerning a crime to law enforcement authorities; or

(6) retaliating against any person who has provided information to law enforcement authorities concerning a crime within a year of that person providing the information or within a year of the actor's release from incarceration, whichever is later.

(b) A person convicted of committing any act prohibited by paragraph (a) may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than $30,000, or both.

Subd. 2. **Tampering with a witness in the second degree.** Whoever does any of the following is guilty of tampering with a witness in the second degree and may be sentenced as provided in subdivision 3:

(a) intentionally prevents or dissuades or intentionally attempts to prevent or dissuade by means of any act described in section 609.27, subdivision 1, clause (3), (4), or (5), a person who is or may become a witness from attending or testifying at any trial, proceeding, or inquiry authorized by law;

(b) by means of any act described in section 609.27, subdivision 1, clause (3), (4), or (5), intentionally coerces or attempts to coerce a person who is or may become a witness to testify falsely at any trial, proceeding, or inquiry authorized by law;

(c) intentionally prevents or dissuades or attempts to prevent or dissuade by means of any act described in section 609.27, subdivision 1, clause (3), (4), or (5), a person from providing information to law enforcement authorities concerning a crime; or

(d) by means of any act described in section 609.27, subdivision 1, clause (3), (4), or (5), intentionally coerces or attempts to coerce a person to provide false information concerning a crime to law enforcement authorities.

Subd. 2a. **Tampering with a witness in the third degree.** (a) Unless a greater penalty is applicable under subdivision 1, 1b, or 2, whoever does any of the following is guilty of tampering with a witness in the third degree and may be sentenced as provided in subdivision 3:

(1) intentionally prevents or dissuades or intentionally attempts to prevent or dissuade by means of intimidation, a person who is or may become a witness from attending or testifying at any trial, proceeding, or inquiry authorized by law;

(2) by means of intimidation, intentionally influences or attempts to influence a person who is or may become a witness to testify falsely at any trial, proceeding, or inquiry authorized by law;

(3) intentionally prevents or dissuades or attempts to prevent or dissuade by means of intimidation, a person from providing information to law enforcement authorities concerning a crime; or

(4) by means of intimidation, intentionally influences or attempts to influence a person to provide false information concerning a crime to law enforcement authorities.

(b) In a prosecution under this subdivision, proof of intimidation may be based on a specific act or on the totality of the circumstances.

Subd. 3. **Sentence.** (a) Whoever violates subdivision 2 is guilty of a gross misdemeanor.

(b) Whoever violates subdivision 2a is guilty of a misdemeanor.

Subd. 4. **No bar to conviction.** Notwithstanding section 609.035 or 609.04, a prosecution for or conviction of the crime of aggravated first-degree witness tampering is not a bar to conviction of or punishment for any other crime.

History: *1976 c 178 s 1; 1983 c 262 art 2 s 6; 1984 c 628 art 3 s 11; 1987 c 194 s 1, 2; 1995 c 244 s 18; 1997 c 239 art 3 s 15, 16; 2010 c 299 s 6, 7*

609.50 OBSTRUCTING LEGAL PROCESS, ARREST, OR FIREFIGHTING.

Subdivision 1. **Crime.** Whoever intentionally does any of the following may be sentenced as provided in subdivision 2:

(1) obstructs, hinders, or prevents the lawful execution of any legal process, civil or criminal, or apprehension of another on a charge or conviction of a criminal offense;

(2) obstructs, resists, or interferes with a peace officer while the officer is engaged in the performance of official duties;

(3) interferes with or obstructs a firefighter while the firefighter is engaged in the performance of official duties;

(4) interferes with or obstructs a member of an ambulance service personnel crew, as defined in section 144E.001, subdivision 3a, who is providing, or attempting to provide, emergency care; or

(5) by force or threat of force endeavors to obstruct any employee of the Department of Revenue while the employee is lawfully engaged in the performance of official duties for the purpose of deterring or interfering with the performance of those duties.

Subd. 2. **Penalty.** A person convicted of violating subdivision 1 may be sentenced as follows:

(1) if (i) the person knew or had reason to know that the act created a risk of death, substantial bodily harm, or serious property damage; or (ii) the act caused death, substantial bodily harm, or serious property damage; to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both;

(2) if the act was accompanied by force or violence or the threat thereof, and is not otherwise covered by clause (1), to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both; or

(3) in other cases, to imprisonment for not more than 90 days or to payment of a fine of not more than $1,000, or both.

History: *1963 c 753 art 1 s 609.50; 1969 c 1013 s 1; 1971 c 23 s 51; 1984 c 628 art 3 s 11; 1986 c 444; 1986 c 470 s 18; 1988 c 584 s 1; 1989 c 5 s 4; 1991 c 103 s 1; 1998 c 367 art 2 s 17; 2004 c 228 art 1 s 72; 2005 c 136 art 17 s 29; 2008 c 304 s 1*

609.501 FUNERAL OR BURIAL SERVICE; PROHIBITED ACTS.

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Family or household" has the meaning given to family or household member in section 518B.01, subdivision 2.

(c) "Funeral ceremony" has the meaning given in section 149A.02, subdivision 18.

(d) "Funeral procession" means two or more motor vehicles that identify themselves by using regular lights and by keeping themselves in close formation, one of which contains the body of a deceased person, enroute to or from a funeral ceremony or a graveside service.

(e) "Graveside service" has the meaning given in section 149A.02, subdivision 24.

(f) "Memorial service" has the meaning given in section 149A.02, subdivision 28.

(g) "Targeted residential picketing" has the meaning given in section 609.748, subdivision 1, paragraph (c), but does not require more than one act or that acts be committed on more than one occasion.

Subd. 2. **Crime to disrupt.** (a) Whoever does any of the following is guilty of a misdemeanor:

(1) with intent to disrupt a funeral ceremony, graveside service, or memorial service, protests or pickets within 500 feet of the burial site or the entrance to a facility or location being used for the service or ceremony, within one hour prior to, during, or one hour following the service or ceremony;

(2) with intent to disrupt a funeral procession, impedes or attempts to impede a vehicle that is part of the procession;

(3) intentionally blocks or attempts to block access to a funeral ceremony, graveside service, or memorial service; or

(4) knowingly engages in targeted residential picketing at the home or domicile of any surviving member of the deceased person's family or household on the date of the funeral ceremony, graveside service, or memorial service.

(b) Whoever is convicted of a violation of paragraph (a) following a previous conviction for a violation of paragraph (a) or a similar statute from another state or the United States is guilty of a gross misdemeanor.

Subd. 3. **Civil remedy.** A person who violates subdivision 2 is liable to a surviving member of the deceased person's family or household for damages caused by the violation. A surviving member of the deceased person's family or household may also bring an action for injunctive relief and other appropriate relief or remedial compensation. In an action brought under this subdivision, a prevailing plaintiff may recover attorney fees.

History: *2006 c 195 s 1*

609.502 INTERFERENCE WITH DEAD BODY; REPORTING.

Subdivision 1. **Concealing evidence.** A person is guilty of a crime and may be sentenced under subdivision 1a if the person interferes with the body or scene of death with intent to:

(1) conceal the body;

(2) conceal evidence; or

(3) otherwise mislead the coroner or medical examiner.

Subd. 1a. **Penalty.** A person convicted under subdivision 1, clause (2) or (3), is guilty of a gross misdemeanor. A person convicted under subdivision 1, clause (1), may be sentenced to imprisonment for not more than three years or to a payment of a fine of not more than $5,000 or both.

Subd. 2. **Failure to report.** (a) A person in charge of a cemetery who has knowledge that the body of a deceased person interred in the cemetery has been unlawfully removed shall:

(1) immediately report the occurrence to local law enforcement authorities; and

(2) inform the next of kin of the deceased person, if known, within three business days of the discovery of the body's removal unless the person making the report has been instructed in writing by law enforcement authorities that informing the next of kin would compromise an active law enforcement investigation.

(b) A person who violates paragraph (a), clause (1) or (2), is guilty of a misdemeanor.

History: *1976 c 257 s 2; 1990 c 402 s 2; 2016 c 175 s 1,2*

609.504 DISARMING PEACE OFFICER.

Subdivision 1. **Definition.** As used in this section, "defensive device" includes a firearm; a dangerous weapon; an authorized tear gas compound, as defined in section 624.731, subdivision 1; an electronic incapacitation device, as defined in section 624.731, subdivision 1; a club or baton; and any item issued by a peace officer's employer to the officer to assist in the officer's protection.

Subd. 2. **Crime described.** Whoever intentionally takes possession of a defensive device being carried by a peace officer or from the area within the officer's immediate control, without the officer's consent while the officer is engaged in the performance of official duties, is guilty of a crime and may be sentenced as provided in subdivision 3.

Subd. 3. **Penalty.** A person who violates this section is guilty of a felony and may be sentenced to imprisonment for not more than five years, payment of a fine of not more than $10,000, or both.

History: *2008 c 304 s 2*

609.505 FALSELY REPORTING CRIME.

Subdivision 1. **False reporting.** Whoever informs a law enforcement officer that a crime has been committed or otherwise provides information to an on-duty peace officer, knowing that the person is a peace officer, regarding the conduct of others, knowing that it is false and intending that the officer shall act in reliance upon it, is guilty of a misdemeanor. A person who is convicted a second or subsequent time under this section is guilty of a gross misdemeanor.

Subd. 2. **Reporting police misconduct.** (a) Whoever informs, or causes information to be communicated to, a peace officer, whose responsibilities include investigating or reporting police misconduct, that a peace officer, as defined in section 626.84, subdivision 1, paragraph (c), has committed an act of police misconduct, knowing that the information is false, is guilty of a crime and may be sentenced as follows:

(1) up to the maximum provided for a misdemeanor if the false information does not allege a criminal act; or

(2) up to the maximum provided for a gross misdemeanor if the false information alleges a criminal act.

(b) The court shall order any person convicted of a violation of this subdivision to make full restitution of all reasonable expenses incurred in the investigation of the false allegation unless the court makes a specific written finding that restitution would be inappropriate under the circumstances. A restitution award may not exceed $3,000.

[See Note.]

History: *1963 c 753 art 1 s 609.505; 1971 c 23 s 52; 1993 c 326 art 4 s 26; 2005 c 136 art 17 s 30*

NOTE: Subdivision 2 was found constitutional in State v. Crawley, 819 N.W.2d 94 (Minn. 2012), reversing the decision in State v. Crawley, 789 N.W.2d 899 (Minn. Ct. App. 2010).

609.5051 CRIMINAL ALERT NETWORK; FALSE OR MISLEADING INFORMATION PROHIBITED.

Whoever uses the criminal alert network under section 299A.61 to disseminate information regarding the commission of a crime knowing that it is false or misleading, is guilty of a misdemeanor.

History: *1995 c 226 art 4 s 22; 1995 c 244 s 19*

609.506 PROHIBITING GIVING PEACE OFFICER FALSE NAME.

Subdivision 1. **Misdemeanor.** Whoever with intent to obstruct justice gives a fictitious name other than a nickname, or gives a false date of birth, or false or fraudulently altered identification card to a peace officer, as defined in section 626.84, subdivision 1, paragraph (c), when that officer makes inquiries incident to a lawful investigatory stop or lawful arrest, or inquiries incident to executing any other duty imposed by law, is guilty of a misdemeanor.

Subd. 2. **Name of another; gross misdemeanor.** Whoever with intent to obstruct justice gives the name and date of birth of another person to a peace officer, as defined in subdivision 1, when the officer makes inquiries incident to a lawful investigatory stop or lawful arrest, or inquiries incident to executing any other duty imposed by law, is guilty of a gross misdemeanor.

Subd. 3. **Fictitious name; gross misdemeanor.** Whoever in any criminal proceeding with intent to obstruct justice gives a fictitious name, other than a nickname, or gives a false date of birth to a court official is guilty of a misdemeanor. Whoever in any criminal proceeding with intent to obstruct justice gives the name and date of birth of another person to a court official is guilty of a gross misdemeanor. "Court official" includes a judge, referee, court administrator, or any employee of the court.

History: *1987 c 127 s 1; 1988 c 681 s 17; 1989 c 209 art 1 s 45; 1994 c 636 art 2 s 40*

609.507 FALSELY REPORTING CHILD ABUSE.

A person is guilty of a misdemeanor who:

(1) informs another person that a person has committed sexual abuse, physical abuse, or neglect of a child, as defined in section 626.556, subdivision 2;

(2) knows that the allegation is false or is without reason to believe that the alleged abuser committed the abuse or neglect; and

(3) has the intent that the information influence a child custody hearing.

History: *1988 c 662 s 3*

609.508 FALSE INFORMATION TO FINANCIAL INSTITUTION.

A person is guilty of a misdemeanor if the person informs a financial institution, orally or in writing, that one or more of the person's blank checks or debit cards have been lost or stolen, knowing or having reason to know that the information is false.

History: *2000 c 354 s 2*

609.51 SIMULATING LEGAL PROCESS.

Subdivision 1. **Acts prohibited.** Whoever does any of the following is guilty of a misdemeanor:

(1) sends or delivers to another any document which simulates a summons, complaint, or court process with intent thereby to induce payment of a claim; or

(2) prints, distributes, or offers for sale any such document knowing or intending that it shall be so used.

Subd. 2. **Exceptions.** This section does not prohibit the printing, distribution or sale of blank forms of legal documents for use in judicial proceedings.

History: *1963 c 753 art 1 s 609.51; 1971 c 23 s 53*

609.515 MISCONDUCT OF JUDICIAL OR HEARING OFFICER.

Whoever does any of the following, when the act is not in violation of section 609.42, is guilty of a misdemeanor:

(1) being a judicial or hearing officer, does either of the following:

(a) agrees with or promises another to determine a cause or controversy or issue pending or to be brought before the officer for or against any party; or

(b) intentionally obtains or receives and uses information relating thereto contrary to the regular course of the proceeding; and

(2) induces a judicial or hearing officer to act contrary to the provisions of this section.

History: *1963 c 753 art 1 s 609.515; 1971 c 23 s 54; 1986 c 444*

THEFT AND RELATED CRIMES

609.52 THEFT.

Subdivision 1. **Definitions.** In this section:

(1) "Property" means all forms of tangible property, whether real or personal, without limitation including documents of value, electricity, gas, water, corpses, domestic animals, dogs, pets, fowl, and heat supplied by pipe or conduit by municipalities or public utility companies and articles, as defined in clause (4), representing trade secrets, which articles shall be deemed for the purposes of Extra Session Laws 1967, chapter 15 to include any trade secret represented by the article.

(2) "Movable property" is property whose physical location can be changed, including without limitation things growing on, affixed to, or found in land.

(3) "Value" means the retail market value at the time of the theft, or if the retail market value cannot be ascertained, the cost of replacement of the property within a reasonable time after the theft, or in the case of a theft or the making of a copy of an article representing a trade secret, where the retail market value or replacement cost cannot be ascertained, any reasonable value representing the damage to the owner which the owner has suffered by reason of losing an advantage over those who do not know of or use the trade secret. For a check, draft, or other order for the payment of money, "value" means the amount of money promised or ordered to be paid under the terms of the check, draft, or other order. For a theft committed within the meaning of subdivision 2, clause (5), items (i) and (ii), if the property has been restored to the owner, "value" means the value of the use of the property or the damage which it sustained, whichever is greater, while the owner was deprived of its possession, but not exceeding the value otherwise provided herein. For a theft committed within the meaning of subdivision 2, clause (9), if the property has been restored to the owner, "value" means the rental value of the property, determined at the rental rate contracted by the defendant or, if no rental rate was contracted, the rental rate customarily charged by the owner for use of the property, plus any damage that occurred to the property while the owner was deprived of its possession, but not exceeding the total retail value of the property at the time of rental.

(4) "Article" means any object, material, device or substance, including any writing, record, recording, drawing, sample specimen, prototype, model, photograph, microorganism, blueprint or map, or any copy of any of the foregoing.

(5) "Representing" means describing, depicting, containing, constituting, reflecting or recording.

(6) "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

(i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and

(ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

(7) "Copy" means any facsimile, replica, photograph or other reproduction of an article, and any note, drawing, or sketch made of or from an article while in the presence of the article.

(8) "Property of another" includes property in which the actor is co-owner or has a lien, pledge, bailment, or lease or other subordinate interest, property transferred by the actor in circumstances which are known to the actor and which make the transfer fraudulent as defined in section 513.44, property possessed pursuant to a short-term rental contract, and property of a partnership of which the actor is a member, unless the actor and the victim are husband and wife. It does not include property in which the actor asserts in good faith a claim as a collection fee or commission out of property or funds recovered, or by virtue of a lien, setoff, or counterclaim.

(9) "Services" include but are not limited to labor, professional services, transportation services, electronic computer services, the supplying of hotel accommodations, restaurant services, entertainment services, advertising services, telecommunication services, and the supplying of equipment for use including rental of personal property or equipment.

(10) "Motor vehicle" means a self-propelled device for moving persons or property or pulling implements from one place to another, whether the device is operated on land, rails, water, or in the air.

(11) "Motor fuel" has the meaning given in section 604.15, subdivision 1.

(12) "Retailer" has the meaning given in section 604.15, subdivision 1.

Subd. 2. **Acts constituting theft.** (a) Whoever does any of the following commits theft and may be sentenced as provided in subdivision 3:

(1) intentionally and without claim of right takes, uses, transfers, conceals or retains possession of movable property of another without the other's consent and with intent to deprive the owner permanently of possession of the property; or

(2) with or without having a legal interest in movable property, intentionally and without consent, takes the property out of the possession of a pledgee or other person having a superior right of possession, with intent thereby to deprive the pledgee or other person permanently of the possession of the property; or

(3) obtains for the actor or another the possession, custody, or title to property of or performance of services by a third person by intentionally deceiving the third person with a false representation which is known to be false, made with intent to defraud, and which does defraud the person to whom it is made. "False representation" includes without limitation:

(i) the issuance of a check, draft, or order for the payment of money, except a forged check as defined in section 609.631, or the delivery of property knowing that the actor is not entitled to draw upon the drawee therefor or to order the payment or delivery thereof; or

(ii) a promise made with intent not to perform. Failure to perform is not evidence of intent not to perform unless corroborated by other substantial evidence; or

(iii) the preparation or filing of a claim for reimbursement, a rate application, or a cost report used to establish a rate or claim for payment for medical care provided to a recipient of medical assistance under chapter 256B, which intentionally and falsely states the costs of or actual services provided by a vendor of medical care; or

(iv) the preparation or filing of a claim for reimbursement for providing treatment or supplies required to be furnished to an employee under section 176.135 which intentionally and falsely states the costs of or actual treatment or supplies provided; or

(v) the preparation or filing of a claim for reimbursement for providing treatment or supplies required to be furnished to an employee under section 176.135 for treatment or supplies that the provider knew were medically unnecessary, inappropriate, or excessive; or

(4) by swindling, whether by artifice, trick, device, or any other means, obtains property or services from another person; or

(5) intentionally commits any of the acts listed in this subdivision but with intent to exercise temporary control only and:

(i) the control exercised manifests an indifference to the rights of the owner or the restoration of the property to the owner; or

(ii) the actor pledges or otherwise attempts to subject the property to an adverse claim; or

(iii) the actor intends to restore the property only on condition that the owner pay a reward or buy back or make other compensation; or

(6) finds lost property and, knowing or having reasonable means of ascertaining the true owner, appropriates it to the finder's own use or to that of another not entitled thereto without first having made reasonable effort to find the owner and offer and surrender the property to the owner; or

(7) intentionally obtains property or services, offered upon the deposit of a sum of money or tokens in a coin or token operated machine or other receptacle, without making the required deposit or otherwise obtaining the consent of the owner; or

(8) intentionally and without claim of right converts any article representing a trade secret, knowing it to be such, to the actor's own use or that of another person or makes a copy of an article representing a trade secret, knowing it to be such, and intentionally and without claim of right converts the same to the actor's own use or that of another person. It shall be a complete defense to any prosecution under this clause for the defendant to show that information comprising the trade secret was rightfully known or available to the defendant from a source other than the owner of the trade secret; or

(9) leases or rents personal property under a written instrument and who:

(i) with intent to place the property beyond the control of the lessor conceals or aids or abets the concealment of the property or any part thereof; or

(ii) sells, conveys, or encumbers the property or any part thereof without the written consent of the lessor, without informing the person to whom the lessee sells, conveys, or encumbers that the same is subject to such lease or rental contract with intent to deprive the lessor of possession thereof; or

(iii) does not return the property to the lessor at the end of the lease or rental term, plus agreed-upon extensions, with intent to wrongfully deprive the lessor of possession of the property; or

(iv) returns the property to the lessor at the end of the lease or rental term, plus agreed-upon extensions, but does not pay the lease or rental charges agreed upon in the written instrument, with intent to wrongfully deprive the lessor of the agreed-upon charges.

For the purposes of items (iii) and (iv), the value of the property must be at least $100.

Evidence that a lessee used a false, fictitious, or not current name, address, or place of employment in obtaining the property or fails or refuses to return the property or pay the rental contract charges to lessor within five days after written demand for the return has been served personally in the manner provided for service of process of a civil action or sent by certified mail to the last known address of the lessee, whichever shall occur later, shall be evidence of intent to violate this clause. Service by certified mail shall be deemed to be complete upon deposit in the United States mail of such demand, postpaid and addressed to the person at the address for the person set forth in the lease or rental agreement, or, in the absence of the address, to the person's last known place of residence; or

(10) alters, removes, or obliterates numbers or symbols placed on movable property for purpose of identification by the owner or person who has legal custody or right to possession thereof with the intent to prevent identification, if the person who alters, removes, or obliterates the numbers or symbols is not the owner and does not have the permission of the owner to make the alteration, removal, or obliteration; or

(11) with the intent to prevent the identification of property involved, so as to deprive the rightful owner of possession thereof, alters or removes any permanent serial number, permanent distinguishing number or manufacturer's identification number on personal property or possesses, sells or buys any personal property knowing or having reason to know that the permanent serial number, permanent distinguishing number or manufacturer's identification number has been removed or altered; or

(12) intentionally deprives another of a lawful charge for cable television service by:

(i) making or using or attempting to make or use an unauthorized external connection outside the individual dwelling unit whether physical, electrical, acoustical, inductive, or other connection; or by

(ii) attaching any unauthorized device to any cable, wire, microwave, or other component of a licensed cable communications system as defined in chapter 238. Nothing herein shall be construed to prohibit the electronic video rerecording of program material transmitted on the cable communications system by a subscriber for fair use as defined by Public Law 94-553, section 107; or

(13) except as provided in clauses (12) and (14), obtains the services of another with the intention of receiving those services without making the agreed or reasonably expected payment of money or other consideration; or

(14) intentionally deprives another of a lawful charge for telecommunications service by:

(i) making, using, or attempting to make or use an unauthorized connection whether physical, electrical, by wire, microwave, radio, or other means to a component of a local telecommunication system as provided in chapter 237; or

(ii) attaching an unauthorized device to a cable, wire, microwave, radio, or other component of a local telecommunication system as provided in chapter 237.

The existence of an unauthorized connection is prima facie evidence that the occupier of the premises:

(A) made or was aware of the connection; and

(B) was aware that the connection was unauthorized;

(15) with intent to defraud, diverts corporate property other than in accordance with general business purposes or for purposes other than those specified in the corporation's articles of incorporation; or

(16) with intent to defraud, authorizes or causes a corporation to make a distribution in violation of section 302A.551, or any other state law in conformity with it; or

(17) takes or drives a motor vehicle without the consent of the owner or an authorized agent of the owner, knowing or having reason to know that the owner or an authorized agent of the owner did not give consent; or

(18) intentionally, and without claim of right, takes motor fuel from a retailer without the retailer's consent and with intent to deprive the retailer permanently of possession of the fuel by driving a motor vehicle from the premises of the retailer without having paid for the fuel dispensed into the vehicle.

(b) Proof that the driver of a motor vehicle into which motor fuel was dispensed drove the vehicle from the premises of the retailer without having paid for the fuel permits the factfinder to infer that the driver acted intentionally and without claim of right, and that the driver intended to deprive the retailer permanently of possession of the fuel. This paragraph does not apply if: (1) payment has been made to the retailer within 30 days of the receipt of notice of nonpayment under section 604.15; or (2) a written notice as described in section 604.15, subdivision 4, disputing the retailer's claim, has been sent. This paragraph does not apply to the owner of a motor vehicle if the vehicle or the vehicle's license plate has been reported stolen before the theft of the fuel.

Subd. 3. **Sentence.** Whoever commits theft may be sentenced as follows:

(1) to imprisonment for not more than 20 years or to payment of a fine of not more than $100,000, or both, if the property is a firearm, or the value of the property or services stolen is more than $35,000 and the conviction is for a violation of subdivision 2, clause (3), (4), (15), or (16), or section 609.2335, subdivision 1, clause (1) or (2), item (i); or

(2) to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both, if the value of the property or services stolen exceeds $5,000, or if the property stolen was an article representing a trade secret, an explosive or incendiary device, or a controlled substance listed in Schedule I or II pursuant to section 152.02 with the exception of marijuana; or

(3) to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if any of the following circumstances exist:

(a) the value of the property or services stolen is more than $1,000 but not more than $5,000; or

(b) the property stolen was a controlled substance listed in Schedule III, IV, or V pursuant to section 152.02; or

(c) the value of the property or services stolen is more than $500 but not more than $1,000 and the person has been convicted within the preceding five years for an offense under this section, section 256.98; 268.182; 609.24; 609.245; 609.53; 609.582, subdivision 1, 2, or 3; 609.625; 609.63; 609.631; or 609.821, or a statute from another state, the United States, or a foreign jurisdiction, in conformity with any of those sections, and the person received a felony or gross misdemeanor sentence for the offense, or a sentence that was stayed under section 609.135 if the offense to which a plea was entered would allow imposition of a felony or gross misdemeanor sentence; or

(d) the value of the property or services stolen is not more than $1,000, and any of the following circumstances exist:

(i) the property is taken from the person of another or from a corpse, or grave or coffin containing a corpse; or

(ii) the property is a record of a court or officer, or a writing, instrument or record kept, filed or deposited according to law with or in the keeping of any public officer or office; or

(iii) the property is taken from a burning, abandoned, or vacant building or upon its removal therefrom, or from an area of destruction caused by civil disaster, riot, bombing, or the proximity of battle; or

(iv) the property consists of public funds belonging to the state or to any political subdivision or agency thereof; or

(v) the property stolen is a motor vehicle; or

(4) to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both, if the value of the property or services stolen is more than $500 but not more than $1,000; or

(5) in all other cases where the value of the property or services stolen is $500 or less, to imprisonment for not more than 90 days or to payment of a fine of not more than $1,000, or both, provided, however, in any prosecution under subdivision 2, clauses (1), (2), (3), (4), and (13), the value of the money or property or services received by the defendant in violation of any one or more of the above provisions within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this subdivision; provided that when two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this paragraph.

Subd. 3a. **Enhanced penalty.** If a violation of this section creates a reasonably foreseeable risk of bodily harm to another, the penalties described in subdivision 3 are enhanced as follows:

(1) if the penalty is a misdemeanor or a gross misdemeanor, the person is guilty of a felony and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $5,000, or both; and

(2) if the penalty is a felony, the statutory maximum sentence for the offense is 50 percent longer than for the underlying crime.

Subd. 4. **Wrongfully obtained public assistance; consideration of disqualification.** When determining the sentence for a person convicted of theft by wrongfully obtaining public assistance, as defined in section 256.98, subdivision 1, the court shall consider the fact that, under section 256.98, subdivision 8, the person will be disqualified from receiving public assistance as a result of the person's conviction.

History: *1963 c 753 art 1 s 609.52; 1967 c 178 s 1;Ex1967 c 15 s 1-3; 1971 c 23 s 55; 1971 c 25 s 92; 1971 c 697 s 1; 1971 c 717 s 1; 1971 c 796 s 1; 1971 c 845 s 14; 1975 c 244 s 1; 1976 c 112 s 1; 1976 c 188 s 6; 1977 c 396 s 1; 1978 c 674 s 60; 1979 c 258 s 15; 1981 c 120 s 1; 1981 c 299 s 1; 1983 c 238 s 1; 1983 c 331 s 10; 1984 c 419 s 1; 1984 c 466 s 1; 1984 c 483 s 1; 1984 c 628 art 3 s 5; 1985 c 243 s 7, 8; 1986 c 378 s 1; 1986 c 435 s 10; 1986 c 444; 1987 c 254 s 9; 1987 c 329 s 8-10; 1988 c 712 s 7; 1989 c 290 art 7 s 5; 1991 c 279 s 32; 1991 c 292 art 5 s 80; 1992 c 510 art 2 s 14; 1994 c 636 art 2 s 41; 1995 c 244 s 20; 1996 c 408 art 3 s 31, 32; 1997 c 66 s 79; 1997 c 239 art 3 s 17; 1998 c 367 art 2 s 18; 1999 c 76 s 1, 2; 1999 c 218 s 2; 2004 c 228 art 1 s 72; 2005 c 136 art 17 s 31; 2007 c 54 art 2 s 8, 9; 2009 c 119 s 9; 2012 c 173 s 5, 6*

609.521 POSSESSION OF SHOPLIFTING GEAR.

(a) As used in this section, an "electronic article surveillance system" means any electronic device or devices that are designed to detect the unauthorized removal of marked merchandise from a store.

(b) Whoever has in possession any device, gear, or instrument designed to assist in shoplifting or defeating an electronic article surveillance system with intent to use the same to shoplift and thereby commit theft may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $5,000, or both.

History: *1975 c 314 s 1; 1984 c 628 art 3 s 11; 1986 c 444; 1Sp2001 c 8 art 8 s 26*

609.523 RETURN OF STOLEN PROPERTY TO OWNERS.

Subdivision 1. **Photographic record.** Photographs of property, as defined in section 609.52, subdivision 1, over which a person is alleged to have exerted unauthorized control or to have otherwise obtained unlawfully, are competent evidence if the photographs are admissible into evidence under all rules of law governing the admissibility of photographs into evidence. The photographic record, when satisfactorily identified, is as admissible in evidence as the property itself.

Subd. 2. **Record of property.** The photographs may bear a written description of the property alleged to have been wrongfully taken, the name of the owner of the property taken, the name of the accused, the name of the arresting law enforcement officer, the date of the photograph, and the signature of the photographer.

Subd. 3. **Return of property.** A law enforcement agency which is holding property over which a person is alleged to have exerted unauthorized control or to have otherwise obtained unlawfully may return that property to its owner if:

(1) the appropriately identified photographs are filed and retained by the law enforcement agency;

(2) satisfactory proof of ownership of the property is shown by the owner;

(3) a declaration of ownership is signed under penalty of perjury; and

(4) a receipt for the property is obtained from the owner upon delivery by the law enforcement agency.

Subd. 4. **Examination of property.** If the recovered property has a value in excess of $150, then the owner shall retain possession for at least 14 days to allow the defense attorney to examine the property.

History: *1982 c 539 s 1*

609.525 BRINGING STOLEN GOODS INTO STATE.

Subdivision 1. **Crime.** Whoever brings property into the state which the actor has stolen outside the state, or received outside of the state knowing it to have been stolen, may be sentenced in accordance with the provisions of section 609.52, subdivision 3. The actor may be charged, indicted, and tried in any county, but not more than one county, into or through which the actor has brought such property.

Subd. 2. **Defining stolen property.** Property is stolen within the meaning of this section if the act by which the owner was deprived of property was a criminal offense under the laws of the state in which the act was committed and would constitute a theft under this chapter if the act had been committed in this state.

History: *1963 c 753 art 1 s 609.525; 1986 c 444*

609.526 PRECIOUS METAL AND SCRAP METAL DEALERS; RECEIVING STOLEN PROPERTY.

Subdivision 1. **Definitions.** As used in this section, the following terms have the meanings given:

(1) "precious metal dealer" has the meaning given in section 325F.731, subdivision 2; and

(2) "scrap metal dealer" has the meaning given in section 325E.21, subdivision 1.

Subd. 2. **Crime described.** Any precious metal dealer or scrap metal dealer or any person employed by a dealer, who receives, possesses, transfers, buys, or conceals any stolen property or property obtained by robbery, knowing or having reason to know the property was stolen or obtained by robbery, may be sentenced as follows:

(1) if the value of the property received, bought, or concealed is $1,000 or more, to imprisonment for not more than ten years or to payment of a fine of not more than $50,000, or both;

(2) if the value of the property received, bought, or concealed is less than $1,000 but more than $500, to imprisonment for not more than three years or to payment of a fine of not more than $25,000, or both;

(3) if the value of the property received, bought, or concealed is $500 or less, to imprisonment for not more than 90 days or to payment of a fine of not more than $1,000, or both.

Any person convicted of violating this section a second or subsequent time within a period of one year may be sentenced as provided in clause (1).

History: *1989 c 290 art 7 s 6; 2004 c 228 art 1 s 72; 2007 c 54 art 2 s 10*

609.527 IDENTITY THEFT.

Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the meanings given them in this subdivision.

(b) "Direct victim" means any person or entity described in section 611A.01, paragraph (b), whose identity has been transferred, used, or possessed in violation of this section.

(c) "False pretense" means any false, fictitious, misleading, or fraudulent information or pretense or pretext depicting or including or deceptively similar to the name, logo, Web site address, e-mail address, postal address, telephone number, or any other identifying information of a for-profit or not-for-profit business or organization or of a government agency, to which the user has no legitimate claim of right.

(d) "Identity" means any name, number, or data transmission that may be used, alone or in conjunction with any other information, to identify a specific individual or entity, including any of the following:

(1) a name, Social Security number, date of birth, official government-issued driver's license or identification number, government passport number, or employer or taxpayer identification number;

(2) unique electronic identification number, address, account number, or routing code; or

(3) telecommunication identification information or access device.

(e) "Indirect victim" means any person or entity described in section 611A.01, paragraph (b), other than a direct victim.

(f) "Loss" means value obtained, as defined in section 609.52, subdivision 1, clause (3), and expenses incurred by a direct or indirect victim as a result of a violation of this section.

(g) "Unlawful activity" means:

(1) any felony violation of the laws of this state or any felony violation of a similar law of another state or the United States; and

(2) any nonfelony violation of the laws of this state involving theft, theft by swindle, forgery, fraud, or giving false information to a public official, or any nonfelony violation of a similar law of another state or the United States.

(h) "Scanning device" means a scanner, reader, or any other electronic device that is used to access, read, scan, obtain, memorize, or store, temporarily or permanently, information encoded on a computer chip or magnetic strip or stripe of a payment card, driver's license, or state-issued identification card.

(i) "Reencoder" means an electronic device that places encoded information from the computer chip or magnetic strip or stripe of a payment card, driver's license, or state-issued identification card, onto the computer chip or magnetic strip or stripe of a different payment card, driver's license, or state-issued identification card, or any electronic medium that allows an authorized transaction to occur.

(j) "Payment card" means a credit card, charge card, debit card, or any other card that:

(1) is issued to an authorized card user; and

(2) allows the user to obtain, purchase, or receive credit, money, a good, a service, or anything of value.

Subd. 2. **Crime.** A person who transfers, possesses, or uses an identity that is not the person's own, with the intent to commit, aid, or abet any unlawful activity is guilty of identity theft and may be punished as provided in subdivision 3.

Subd. 3. **Penalties.** A person who violates subdivision 2 may be sentenced as follows:

(1) if the offense involves a single direct victim and the total, combined loss to the direct victim and any indirect victims is $250 or less, the person may be sentenced as provided in section 609.52, subdivision 3, clause (5);

(2) if the offense involves a single direct victim and the total, combined loss to the direct victim and any indirect victims is more than $250 but not more than $500, the person may be sentenced as provided in section 609.52, subdivision 3, clause (4);

(3) if the offense involves two or three direct victims or the total, combined loss to the direct and indirect victims is more than $500 but not more than $2, 500, the person may be sentenced as provided in section 609.52, subdivision 3, clause (3);

(4) if the offense involves more than three but not more than seven direct victims, or if the total combined loss to the direct and indirect victims is more than $2, 500, the person may be sentenced as provided in section 609.52, subdivision 3, clause (2); and

(5) if the offense involves eight or more direct victims; or if the total, combined loss to the direct and indirect victims is more than $35,000; or if the offense is related to possession or distribution of pornographic work in violation of section 617.246 or 617.247; the person may be sentenced as provided in section 609.52, subdivision 3, clause (1).

Subd. 4. **Restitution; items provided to victim.** (a) A direct or indirect victim of an identity theft crime shall be considered a victim for all purposes, including any rights that accrue under chapter 611A and rights to court-ordered restitution.

(b) The court shall order a person convicted of violating subdivision 2 to pay restitution of not less than $1,000 to each direct victim of the offense.

(c) Upon the written request of a direct victim or the prosecutor setting forth with specificity the facts and circumstances of the offense in a proposed order, the court shall provide to the victim, without cost, a certified copy of the complaint filed in the matter, the judgment of conviction, and an order setting forth the facts and circumstances of the offense.

Subd. 5. **Reporting.** (a) A person who has learned or reasonably suspects that a person is a direct victim of a crime under subdivision 2 may initiate a law enforcement investigation by contacting the local law enforcement agency that has jurisdiction where the person resides, regardless of where the crime may have occurred. The agency must prepare a police report of the matter, provide the complainant with a copy of that report, and may begin an investigation of the facts, or, if the suspected crime was committed in a different jurisdiction, refer the matter to the law enforcement agency where the suspected crime was committed for an investigation of the facts.

(b) If a law enforcement agency refers a report to the law enforcement agency where the crime was committed, it need not include the report as a crime committed in its jurisdiction for purposes of information that the agency is required to provide to the commissioner of public safety pursuant to section 299C.06.

Subd. 5a. **Crime of electronic use of false pretense to obtain identity.** (a) A person who, with intent to obtain the identity of another, uses a false pretense in an e-mail to another person or in a Web page, electronic communication, advertisement, or any other communication on the Internet, is guilty of a crime.

(b) Whoever commits such offense may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

(c) In a prosecution under this subdivision, it is not a defense that:

(1) the person committing the offense did not obtain the identity of another;

(2) the person committing the offense did not use the identity; or

(3) the offense did not result in financial loss or any other loss to any person.

Subd. 5b. **Unlawful possession or use of scanning device or reencoder.** (a) A person who uses a scanning device or reencoder without permission of the cardholder of the card from which the information is being scanned or reencoded, with the intent to commit, aid, or abet any unlawful activity, is guilty of a crime.

(b) A person who possesses, with the intent to commit, aid, or abet any unlawful activity, any device, apparatus, equipment, software, material, good, property, or supply that is designed or adapted for use as a scanning device or a reencoder is guilty of a crime.

(c) Whoever commits an offense under paragraph (a) or (b) may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

Subd. 6. **Venue.** Notwithstanding anything to the contrary in section 627.01, an offense committed under subdivision 2, 5a, or 5b may be prosecuted in:

(1) the county where the offense occurred;

(2) the county of residence or place of business of the direct victim or indirect victim; or

(3) in the case of a violation of subdivision 5a or 5b, the county of residence of the person whose identity was obtained or sought.

Subd. 7. **Aggregation.** In any prosecution under subdivision 2, the value of the money or property or services the defendant receives or the number of direct or indirect victims within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of subdivision 3; provided that when two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this subdivision.

History: *1999 c 244 s 2; 2000 c 354 s 3; 2003 c 106 s 1-3; 1Sp2003 c 2 art 8 s 9; 2005 c 136 art 17 s 32-36; 2010 c 293 s 2-4*

609.528 POSSESSION OR SALE OF STOLEN OR COUNTERFEIT CHECK; PENALTIES.

Subdivision 1. **Definition.** (a) As used in this section, the following terms have the meanings given them in this subdivision.

(b) "Direct victim" means any person or entity described in section 611A.01, paragraph (b), from whom a check is stolen or whose name or other identifying information is contained in a counterfeit check.

(c) "Indirect victim" means any person or entity described in section 611A.01, paragraph (b), other than a direct victim.

(d) "Loss" means value obtained, as defined in section 609.52, subdivision 1, clause (3), and expenses incurred by a direct or indirect victim as a result of a violation of this section.

Subd. 2. **Crime.** A person who sells, possesses, receives, or transfers a check that is stolen or counterfeit, knowing or having reason to know the check is stolen or counterfeit, is guilty of a crime and may be punished as provided in subdivision 3.

Subd. 3. **Penalties.** A person who violates subdivision 2 may be sentenced as follows:

(1) if the offense involves a single direct victim and the total, combined loss to the direct victim and any indirect victims is $250 or less, the person may be sentenced as provided in section 609.52, subdivision 3, clause (5);

(2) if the offense involves a single direct victim and the total, combined loss to the direct victim and any indirect victims is more than $250 but not more than $500, the person may be sentenced as provided in section 609.52, subdivision 3, clause (4);

(3) if the offense involves two or three direct victims or the total, combined loss to the direct and indirect victims is more than $500 but not more than $2, 500, the person may be sentenced as provided in section 609.52, subdivision 3, clause (3); and

(4) if the offense involves four or more direct victims, or if the total, combined loss to the direct and indirect victims is more than $2, 500, the person may be sentenced as provided in section 609.52, subdivision 3, clause (2).

History: *2000 c 354 s 4*

609.529 MAIL THEFT.

Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the meanings given them in this subdivision.

(b) "Mail" means a letter, postal card, package, bag, or other sealed article addressed to another.

(c) "Mail depository" means a mail box, letter box, or mail receptacle; a post office or station of a post office; a mail route; or a postal service vehicle.

Subd. 2. **Crime.** Whoever does any of the following is guilty of mail theft and may be sentenced as provided in subdivision 3:

(1) intentionally and without claim of right removes mail from a mail depository;

(2) intentionally and without claim of right takes mail from a mail carrier;

(3) obtains custody of mail by intentionally deceiving a mail carrier, or other person who rightfully possesses or controls the mail, with a false representation which is known to be false, made with intent to deceive and which does deceive a mail carrier or other person who possesses or controls the mail;

(4) intentionally and without claim of right removes the contents of mail addressed to another;

(5) intentionally and without claim of right takes mail, or the contents of mail, that has been left for collection on or near a mail depository; or

(6) receives, possesses, transfers, buys, or conceals mail obtained by acts described in clauses (1) to (5), knowing or having reason to know the mail was obtained illegally.

Subd. 3. **Penalties.** A person convicted under subdivision 2 may be sentenced to imprisonment for not more than three years or to a payment of a fine of not more than $5,000, or both.

Subd. 4. **Venue.** Notwithstanding anything to the contrary in section 627.01, an offense committed under subdivision 2 may be prosecuted in:

(1) the county where the offense occurred; or

(2) the county of residence or place of business of the direct victim or indirect victim.

History: *2003 c 106 s 4*

609.53 RECEIVING STOLEN PROPERTY.

Subdivision 1. **Penalty.** Except as otherwise provided in section 609.526, any person who receives, possesses, transfers, buys or conceals any stolen property or property obtained by robbery, knowing or having reason to know the property was stolen or obtained by robbery, may be sentenced in accordance with the provisions of section 609.52, subdivision 3.

Subd. 1a. [Repealed, 1989 c 290 art 7 s 14]

Subd. 2. [Repealed, 1982 c 613 s 7]

Subd. 2a. [Repealed, 1982 c 613 s 7]

Subd. 3. [Repealed, 1989 c 290 art 7 s 14]

Subd. 3a. [Repealed, 1989 c 290 art 7 s 14]

Subd. 4. **Civil action; treble damages.** Any person who has been injured by a violation of subdivision 1 or section 609.526 may bring an action for three times the amount of actual damages sustained by the plaintiff or $1,500, whichever is greater, and the costs of suit and reasonable attorney's fees.

Subd. 5. **Value.** In this section, "value" has the meaning defined in section 609.52, subdivision 1, clause (3).

History: *1963 c 753 art 1 s 609.53; 1973 c 669 s 1; 1979 c 232 s 1, 2; 1981 c 333 s 14-17; 1982 c 613 s 1-4; 1984 c 483 s 2; 1984 c 628 art 3 s 11; 1987 c 384 art 1 s 46, 47; 1989 c 290 art 7 s 7, 8*

609.531 FORFEITURES.

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

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

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

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

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

(e) "Appropriate agency" means the Bureau of Criminal Apprehension, the Department of Commerce Fraud Bureau, the Minnesota Division of Driver and Vehicle Services, the Minnesota State Patrol, a county sheriff's department, the Three Rivers Park District park rangers, the Department of Natural Resources Division of Enforcement, the University of Minnesota Police Department, the Department of Corrections Fugitive Apprehension Unit, a city, metropolitan transit, or airport police department; or a multijurisdictional entity established under section 299A.642 or 299A.681.

(f) "Designated offense" includes:

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

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

(3) for all other purposes: a felony violation of, or a felony-level attempt or conspiracy to violate, section 325E.17; 325E.18; 609.185; 609.19; 609.195; 609.2112; 609.2113; 609.2114; 609.221; 609.222; 609.223;609.2231; 609.2335; 609.24; 609.245; 609.25; 609.255; 609.282; 609.283; 609.322; 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision 1, clauses (a) to (f); 609.344, subdivision 1, clauses (a) to (e), and (h) to (j); 609.345, subdivision 1, clauses (a) to (e), and (h) to (j); 609.352; 609.42; 609.425; 609.466; 609.485;609.487; 609.52; 609.525; 609.527; 609.528; 609.53; 609.54; 609.551; 609.561; 609.562; 609.563; 609.582;609.59; 609.595; 609.611; 609.631; 609.66, subdivision 1e; 609.671, subdivisions 3, 4, 5, 8, and 12; 609.687; 609.821; 609.825; 609.86; 609.88; 609.89; 609.893; 609.895; 617.246; 617.247; or a gross misdemeanor or felony violation of section 609.891 or 624.7181; or any violation of section 609.324; or a felony violation of, or a felony-level attempt or conspiracy to violate, Minnesota Statutes 2012, section 609.21.

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

(h) "Prosecuting authority" means the attorney who is responsible for prosecuting an offense that is the basis for a forfeiture under sections 609.531 to 609.5318.

Subd. 1a. **Construction.** Sections 609.531 to 609.5318 must be liberally construed to carry out the following remedial purposes:

(1) to enforce the law;

(2) to deter crime;

(3) to reduce the economic incentive to engage in criminal enterprise;

(4) to increase the pecuniary loss resulting from the detection of criminal activity; and

(5) to forfeit property unlawfully used or acquired and divert the property to law enforcement purposes.

Subd. 2. [Repealed, 1988 c 665 s 17]

Subd. 3. [Repealed, 1988 c 665 s 17]

Subd. 4. **Seizure.** (a) Property subject to forfeiture under sections 609.531 to 609.5318 may be seized by the appropriate agency upon process issued by any court having jurisdiction over the property. Property may be seized without process if:

(1) the seizure is incident to a lawful arrest or a lawful search;

(2) the property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding under this chapter; or

(3) the appropriate agency has probable cause to believe that the delay occasioned by the necessity to obtain process would result in the removal or destruction of the property and that:

(i) the property was used or is intended to be used in commission of a felony; or

(ii) the property is dangerous to health or safety.

If property is seized without process under item (i), the prosecuting authority must institute a forfeiture action under section 609.5313 as soon as is reasonably possible.

(b) When property is seized, the officer must provide a receipt to the person found in possession of the property; or in the absence of any person, the officer must leave a receipt in the place where the property was found, if reasonably possible.

Subd. 5. **Right to possession vests immediately; custody of seized property.** All right, title, and interest in property subject to forfeiture under sections 609.531 to 609.5318 vests in the appropriate agency upon commission of the act or omission giving rise to the forfeiture. Any property seized under sections 609.531 to 609.5318 is not subject to replevin, but is deemed to be in the custody of the appropriate agency subject to the orders and decrees of the court having jurisdiction over the forfeiture proceedings. When property is so seized, the appropriate agency shall use reasonable diligence to secure the property and prevent waste and may do any of the following:

(1) place the property under seal;

(2) remove the property to a place designated by it; and

(3) in the case of controlled substances, require the state Board of Pharmacy to take custody of the property and remove it to an appropriate location for disposition in accordance with law.

Subd. 5a. **Bond by owner for possession.** (a) If the owner of property that has been seized under sections 609.531 to 609.5318 seeks possession of the property before the forfeiture action is determined, the owner may give security or post bond payable to the appropriate agency in an amount equal to the retail value of the seized property.

On posting the security or bond, the seized property must be returned to the owner and the forfeiture action shall proceed against the security as if it were the seized property. This subdivision does not apply to contraband property or property being held for investigatory purposes.

(b) If the owner of a motor vehicle that has been seized under this section seeks possession of the vehicle before the forfeiture action is determined, the owner may surrender the vehicle's certificate of title in exchange for the vehicle. The motor vehicle must be returned to the owner within 24 hours if the owner surrenders the motor vehicle's certificate of title to the appropriate agency, pending resolution of the forfeiture action. If the certificate is surrendered, the owner may not be ordered to post security or bond as a condition of release of the vehicle. When a certificate of title is surrendered under this provision, the agency shall notify the Department of Public Safety and any secured party noted on the certificate. The agency shall also notify the department and the secured party when it returns a surrendered title to the motor vehicle owner.

Subd. 6. [Repealed, 1988 c 665 s 17]

Subd. 6a. **Forfeiture a civil procedure; conviction required.** (a) An action for forfeiture is a civil in rem action and is independent of any criminal prosecution, except as provided in this subdivision.

(b) An asset is subject to forfeiture by judicial determination under sections 609.5311 to 609.5318 only if:

(1) a person is convicted of the criminal offense related to the action for forfeiture; or

(2) a person is not charged with a criminal offense under chapter 152 related to the action for forfeiture based in whole or in part on the person's agreement to provide information regarding the criminal activity of another person.

For purposes of clause (1), an admission of guilt to an offense chargeable under chapter 152, a sentence under section 152.152, a stay of adjudication under section 152.18, or a referral to a diversion program for an offense chargeable under chapter 152 is considered a conviction.

(c) The appropriate agency handling the judicial forfeiture may introduce into evidence in the judicial forfeiture case in civil court the agreement in paragraph (b), clause (2).

(d) The appropriate agency handling the judicial forfeiture bears the burden of proving by clear and convincing evidence that the property is an instrument or represents the proceeds of the underlying offense.

Subd. 7. **Petition for remission or mitigation.** Prior to the entry of a court order disposing with the forfeiture action, any person who has an interest in forfeited property may file with the prosecuting authority a petition for remission or mitigation of the forfeiture. The prosecuting authority may remit or mitigate the forfeiture upon terms and conditions the prosecuting authority deems reasonable if the prosecuting authority finds that: (1) the forfeiture was incurred without willful negligence or without any intention on the part of the petitioner to violate the law; or (2) extenuating circumstances justify the remission or mitigation of the forfeiture.

Subd. 8. **Forfeiture policies; statewide model policy required.** (a) By December 1, 2010, the Peace Officer Standards and Training Board, after consulting with the Minnesota County Attorneys Association, the Minnesota Sheriffs' Association, the Minnesota Chiefs of Police Association, and the Minnesota Police and Peace Officers Association, shall develop a model policy that articulates best practices for forfeiture and is designed to encourage the uniform application of forfeiture laws statewide. At a minimum, the policy shall address the following:

(1) best practices in pursuing, seizing, and tracking forfeitures;

(2) type and frequency of training for law enforcement on forfeiture laws; and

(3) situations in which forfeitures should not be pursued.

(b) By December 1, 2010, the Minnesota County Attorneys Association, after consulting with the attorney general, the Peace Officer Standards and Training Board, the Minnesota Sheriffs' Association, the Minnesota Chiefs

of Police Association, and the Minnesota Police and Peace Officers Association, shall develop a model policy that articulates best practices for forfeiture and is designed to encourage the uniform application of forfeiture laws statewide. At a minimum, the policy shall address the following:

(1) statutory role of prosecuting authorities in forfeiture procedures;

(2) best practices for timely and fair resolution of forfeiture cases;

(3) type and frequency of training for prosecuting authorities on forfeiture laws; and

(4) situations in which forfeitures should not be pursued.

(c) By December 1, 2010, the Minnesota County Attorneys Association and the Peace Officer Standards and Training Board shall forward an electronic copy of its respective model policy to the chairs and ranking minority members of the senate and house of representatives committees having jurisdiction over criminal justice and civil law policy.

(d) By March 1, 2011, the chief law enforcement officer of every state and local law enforcement agency and every prosecution office in the state shall adopt and implement a written policy on forfeiture that is identical or substantially similar to the model policies developed under paragraphs (a) and (b). The written policy shall be made available to the public upon request.

History: *1984 c 625 s 1; 1985 c 160 s 2; 1Sp1985 c 16 art 2 s 15; 1986 c 351 s 17; 1986 c 444; 1986 c 446 s 4; 1987 c 267 s 2; 1988 c 665 s 5-10; 1988 c 712 s 8; 1989 c 95 s 1; 1989 c 290 art 3 s 29; 1989 c 305 s 4; 1990 c 494 s 2; 1991 c 199 art 1 s 85; 1991 c 323 s 1; 1991 c 347 art 3 s 3; 1993 c 221 s 6; 1993 c 326 art 1 s 5; art 4 s 27,28; 1994 c 636 art 3 s 11; 1999 c 142 s 1; 1999 c 244 s 3; 2000 c 354 s 5; 2004 c 295 art 1 s 16;2005 c 82 s 12; 2005 c 136 art 13 s 8; art 17 s 37; 2008 c 287 art 1 s 112; 2008 c 363 art 6 s 10; 2010 c 383 s 4;2010 c 391 s 7-11; 2012 c 128 s 16,17,26; 2013 c 135 art 3 s 22; 2014 c 201 s 1; 2015 c 21 art 1 s 102; 2015 c 65 art 6 s 16*

609.5311 FORFEITURE OF PROPERTY ASSOCIATED WITH CONTROLLED SUBSTANCES.

Subdivision 1. **Controlled substances.** All controlled substances that were manufactured, distributed, dispensed, or acquired in violation of chapter 152 are subject to forfeiture under this section, except as provided in subdivision 3 and section 609.5316.

Subd. 2. **Associated property.** (a) All property, real and personal, that has been used, or is intended for use, or has in any way facilitated, in whole or in part, the manufacturing, compounding, processing, delivering, importing, cultivating, exporting, transporting, or exchanging of contraband or a controlled substance that has not been lawfully manufactured, distributed, dispensed, and acquired is subject to forfeiture under this section, except as provided in subdivision 3.

(b) The Department of Corrections Fugitive Apprehension Unit shall not seize real property for the purposes of forfeiture under paragraph (a).

[See Note.]

Subd. 3. **Limitations on forfeiture of certain property associated with controlled substances.** (a) A conveyance device is subject to forfeiture under this section only if the retail value of the controlled substance is $75 or more and the conveyance device is associated with a felony-level controlled substance crime.

(b) Real property is subject to forfeiture under this section only if the retail value of the controlled substance or contraband is $2,000 or more.

(c) Property used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section only if the owner of the property is a consenting party to, or is privy to, the use or intended use of the property as described in subdivision 2.

(d) Property is subject to forfeiture under this section only if its owner was privy to the use or intended use described in subdivision 2, or the unlawful use or intended use of the property otherwise occurred with the owner's knowledge or consent.

(e) Forfeiture under this section of a conveyance device or real property encumbered by a bona fide security interest is subject to the interest of the secured party unless the secured party had knowledge of or consented to the act or omission upon which the forfeiture is based. A person claiming a security interest bears the burden of establishing that interest by clear and convincing evidence.

(f) Forfeiture under this section of real property is subject to the interests of a good faith purchaser for value unless the purchaser had knowledge of or consented to the act or omission upon which the forfeiture is based.

(g) Notwithstanding paragraphs (d), (e), and (f), property is not subject to forfeiture based solely on the owner's or secured party's knowledge of the unlawful use or intended use of the property if: (1) the owner or secured party took reasonable steps to terminate use of the property by the offender; or (2) the property is real property owned by the parent of the offender, unless the parent actively participated in, or knowingly acquiesced to, a violation of chapter 152, or the real property constitutes proceeds derived from or traceable to a use described in subdivision 2.

(h) The Department of Corrections Fugitive Apprehension Unit shall not seize a conveyance device or real property, for the purposes of forfeiture under paragraphs (a) to (g).

Subd. 4. **Records; proceeds.** (a) All books, records, and research products and materials, including formulas, microfilm, tapes, and data that are used, or intended for use in the manner described in subdivision 2 are subject to forfeiture.

(b) All property, real and personal, that represents proceeds derived from or traceable to a use described in subdivision 2 is subject to forfeiture.

History: *1988 c 665 s 11; 1989 c 290 art 3 s 30; 1989 c 305 s 5, 6; 1992 c 533 s 2; 1993 c 6 s 5; 1993 c 326 art 1 s 6; 2005 c 136 art 13 s 9, 10; 2010 c 391 s 12*

NOTE: Subdivision 2 was found unconstitutional as applied to homestead property in Torgelson v. Real Property, 749 N.W.2d 24 (Minn. 2008).

609.5312 FORFEITURE OF PROPERTY ASSOCIATED WITH DESIGNATED OFFENSES.

Subdivision 1. **Property subject to forfeiture.** (a) All personal property is subject to forfeiture if it was used or intended for use to commit or facilitate the commission of a designated offense. All money and other property, real and personal, that represent proceeds of a designated offense, and all contraband property, are subject to forfeiture, except as provided in this section.

(b) All money used or intended to be used to facilitate the commission of a violation of section 609.322 or 609.324 or a violation of a local ordinance substantially similar to section 609.322 or 609.324 is subject to forfeiture.

(c) The Department of Corrections Fugitive Apprehension Unit shall not seize real property for the purposes of forfeiture under paragraph (a).

Subd. 1a. **Computers and related property subject to forfeiture.** (a) As used in this subdivision, "property" has the meaning given in section 609.87, subdivision 6.

(b) When a computer or a component part of a computer is used or intended for use to commit or facilitate the commission of a designated offense, the computer and all software, data, and other property contained in the computer are subject to forfeiture unless prohibited by the Privacy Protection Act, United States Code, title 42, sections 2000aa to 2000aa-12, or other state or federal law.

(c) Regardless of whether a forfeiture action is initiated following the lawful seizure of a computer and related property, if the appropriate agency returns hardware, software, data, or other property to the owner, the agency may charge the owner for the cost of separating contraband from the computer or other property returned, including salary and contract costs. The agency may not charge these costs to an owner of a computer or related property who was not privy to the act or omission upon which the seizure was based, or who did not have knowledge of or consent to the act or omission, if the owner:

(1) requests from the agency copies of specified legitimate data files and provides sufficient storage media; or

(2) requests the return of a computer or other property less data storage devices on which contraband resides.

Subd. 2. **Limitations on forfeiture of property associated with designated offenses.** (a) Property used by a person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section only if the owner of the property is a consenting party to, or is privy to, the commission of a designated offense.

(b) Property is subject to forfeiture under this section only if the owner was privy to the act or omission upon which the forfeiture is based, or the act or omission occurred with the owner's knowledge or consent.

(c) Property encumbered by a bona fide security interest is subject to the interest of the secured party unless the party had knowledge of or consented to the act or omission upon which the forfeiture is based. A person claiming a security interest bears the burden of establishing that interest by clear and convincing evidence.

(d) Notwithstanding paragraphs (b) and (c), property is not subject to forfeiture based solely on the owner's or secured party's knowledge of the act or omission upon which the forfeiture is based if the owner or secured party took reasonable steps to terminate use of the property by the offender.

Subd. 3. **Vehicle forfeiture for prostitution offenses.** (a) A motor vehicle is subject to forfeiture under this subdivision if it was used to commit or facilitate, or used during the commission of, a violation of section 609.324 or a violation of a local ordinance substantially similar to section 609.324. A motor vehicle is subject to forfeiture under this subdivision only if the offense is established by proof of a criminal conviction for the offense. Except as otherwise provided in this subdivision, a forfeiture under this subdivision is governed by sections 609.531, 609.5312, and 609.5313.

(b) When a motor vehicle subject to forfeiture under this subdivision is seized in advance of a judicial forfeiture order, a hearing before a judge or referee must be held within 96 hours of the seizure. Notice of the hearing must be given to the registered owner within 48 hours of the seizure. The prosecuting authority shall certify to the court, at or in advance of the hearing, that it has filed or intends to file charges against the alleged violator for violating section 609.324 or a local ordinance substantially similar to section 609.324. After conducting the hearing, the court shall order that the motor vehicle be returned to the owner if:

(1) the prosecuting authority has failed to make the certification required by paragraph (b);

(2) the owner of the motor vehicle has demonstrated to the court's satisfaction that the owner has a defense to the forfeiture, including but not limited to the defenses contained in subdivision 2; or

(3) the court determines that seizure of the vehicle creates or would create an undue hardship for members of the owner's family.

(c) If the defendant is acquitted or prostitution charges against the defendant are dismissed, neither the owner nor the defendant is responsible for paying any costs associated with the seizure or storage of the vehicle.

(d) A vehicle leased or rented under section 168.27, subdivision 4, for a period of 180 days or less is not subject to forfeiture under this subdivision.

(e) For purposes of this subdivision, seizure occurs either:

(1) at the date at which personal service of process upon the registered owner is made; or

(2) at the date when the registered owner has been notified by certified mail at the address listed in the Minnesota Department of Public Safety computerized motor vehicle registration records.

(f) The Department of Corrections Fugitive Apprehension Unit shall not participate in paragraphs (a) to (e).

Subd. 4. **Vehicle forfeiture for fleeing peace officer.** (a) A motor vehicle is subject to forfeiture under this subdivision if it was used to commit a violation of section 609.487 and endanger life or property. A motor vehicle is subject to forfeiture under this subdivision only if the offense is established by proof of a criminal conviction for the offense. Except as otherwise provided in this subdivision, a forfeiture under this subdivision is governed by sections 609.531, 609.5312, 609.5313, and 609.5315, subdivision 6.

(b) When a motor vehicle subject to forfeiture under this subdivision is seized in advance of a judicial forfeiture order, a hearing before a judge or referee must be held within 96 hours of the seizure. Notice of the hearing must be given to the registered owner within 48 hours of the seizure. The prosecuting authority shall certify to the court, at or in advance of the hearing, that it has filed or intends to file charges against the alleged violator for violating section 609.487. After conducting the hearing, the court shall order that the motor vehicle be returned to the owner if:

(1) the prosecuting authority has failed to make the certification required by this paragraph;

(2) the owner of the motor vehicle has demonstrated to the court's satisfaction that the owner has a defense to the forfeiture, including but not limited to the defenses contained in subdivision 2; or

(3) the court determines that seizure of the vehicle creates or would create an undue hardship for members of the owner's family.

(c) If the defendant is acquitted or the charges against the defendant are dismissed, neither the owner nor the defendant is responsible for paying any costs associated with the seizure or storage of the vehicle.

(d) A vehicle leased or rented under section 168.27, subdivision 4, for a period of 180 days or less is not subject to forfeiture under this subdivision.

(e) A motor vehicle that is an off-road recreational vehicle as defined in section 169A.03, subdivision 16, or a motorboat as defined in section 169A.03, subdivision 13, is not subject to paragraph (b).

(f) For purposes of this subdivision, seizure occurs either:

(1) at the date at which personal service of process upon the registered owner is made; or

(2) at the date when the registered owner has been notified by certified mail at the address listed in the Minnesota Department of Public Safety computerized motor vehicle registration records.

(g) The Department of Corrections Fugitive Apprehension Unit shall not seize a motor vehicle for the purposes of forfeiture under paragraphs (a) to (f).

History: *1988 c 665 s 12; 1993 c 326 art 1 s 7; art 4 s 29; 1994 c 465 art 1 s 59; 1995 c 244 s 21; 2000 c 466 s 5; 2000 c 478 art 2 s 7; 1Sp2003 c 2 art 4 s 25, 26; 2005 c 136 art 13 s 11-13; art 17 s 38; 2012 c 128 s 26; 2013 c 80 s 1*

609.5313 FORFEITURE BY JUDICIAL ACTION; PROCEDURE.

(a) The forfeiture of property under sections 609.5311 and 609.5312 is governed by this section. A separate complaint must be filed against the property stating the act, omission, or occurrence giving rise to the forfeiture and the date and place of the act or occurrence. Within 60 days from when the seizure occurs, the prosecuting authority shall notify the owner or possessor of the property of the action, if known or readily ascertainable. The action must be captioned in the name of the prosecuting authority or the prosecuting authority's designee as plaintiff and the property as defendant. Upon motion by the prosecuting authority, a court may extend the time period for sending notice for a period not to exceed 90 days for good cause shown.

(b) If notice is not sent in accordance with paragraph (a), and no time extension is granted or the extension period has expired, the appropriate agency shall return the property to the person from whom the property was seized, if known. An agency's return of property due to lack of proper notice does not restrict the right of the agency to commence a forfeiture proceeding at a later time. The agency shall not be required to return contraband or other property that the person from whom the property was seized may not legally possess.

History: *1988 c 665 s 13; 2010 c 391 s 13; 2012 c 128 s 26*

609.5314 ADMINISTRATIVE FORFEITURE OF CERTAIN PROPERTY SEIZED IN CONNECTION WITH A CONTROLLED SUBSTANCES SEIZURE.

Subdivision 1. **Property subject to administrative forfeiture; presumption.** (a) The following are presumed to be subject to administrative forfeiture under this section:

(1) all money, precious metals, and precious stones found in proximity to:

(i) controlled substances;

(ii) forfeitable drug manufacturing or distributing equipment or devices; or

(iii) forfeitable records of manufacture or distribution of controlled substances;

(2) all conveyance devices containing controlled substances with a retail value of $100 or more if possession or sale of the controlled substance would be a felony under chapter 152; and

(3) all firearms, ammunition, and firearm accessories found:

(i) in a conveyance device used or intended for use to commit or facilitate the commission of a felony offense involving a controlled substance;

(ii) on or in proximity to a person from whom a felony amount of controlled substance is seized; or

(iii) on the premises where a controlled substance is seized and in proximity to the controlled substance, if possession or sale of the controlled substance would be a felony under chapter 152.

(b) The Department of Corrections Fugitive Apprehension Unit shall not seize items listed in paragraph (a), clauses (2) and (3), for the purposes of forfeiture.

(c) A claimant of the property bears the burden to rebut this presumption.

Subd. 2. **Administrative forfeiture procedure.** (a) Forfeiture of property described in subdivision 1 that does not exceed $50,000 in value is governed by this subdivision. Within 60 days from when seizure occurs, all persons known to have an ownership, possessory, or security interest in seized property must be notified of the seizure and the intent to forfeit the property. In the case of a motor vehicle required to be registered under chapter 168, notice mailed by certified mail to the address shown in Department of Public Safety records is deemed sufficient notice to the registered owner. The notification to a person known to have a security interest in seized property required under this paragraph applies only to motor vehicles required to be registered under chapter 168 and only if the security in-

terest is listed on the vehicle's title. Upon motion by the appropriate agency or the prosecuting authority, a court may extend the time period for sending notice for a period not to exceed 90 days for good cause shown.

(b) Notice may otherwise be given in the manner provided by law for service of a summons in a civil action. The notice must be in writing and contain:

(1) a description of the property seized;

(2) the date of seizure; and

(3) notice of the right to obtain judicial review of the forfeiture and of the procedure for obtaining that judicial review, printed in English. This requirement does not preclude the appropriate agency from printing the notice in other languages in addition to English.

Substantially the following language must appear conspicuously in the notice:

"WARNING: You will automatically lose the above-described property and the right to be heard in court if you do not file a lawsuit and serve the prosecuting authority within 60 days. You may file your lawsuit in conciliation court if the property is worth $15,000 or less; otherwise, you must file in district court. You may not have to pay a filing fee for your lawsuit if you are unable to afford the fee. You do not have to pay a conciliation court fee if your property is worth less than $500."

(c) If notice is not sent in accordance with paragraph (a), and no time extension is granted or the extension period has expired, the appropriate agency shall return the property to the person from whom the property was seized, if known. An agency's return of property due to lack of proper notice does not restrict the agency's authority to commence a forfeiture proceeding at a later time. The agency shall not be required to return contraband or other property that the person from whom the property was seized may not legally possess.

Subd. 3. **Judicial determination.** (a) Within 60 days following service of a notice of seizure and forfeiture under this section, a claimant may file a demand for a judicial determination of the forfeiture. The demand must be in the form of a civil complaint and must be filed with the court administrator in the county in which the seizure occurred, together with proof of service of a copy of the complaint on the prosecuting authority for that county, and the standard filing fee for civil actions unless the petitioner has the right to sue in forma pauperis under section 563.01. The claimant may serve the complaint on the prosecuting authority by any means permitted by court rules. If the value of the seized property is $15,000 or less, the claimant may file an action in conciliation court for recovery of the seized property. If the value of the seized property is less than $500, the claimant does not have to pay the conciliation court filing fee. No responsive pleading is required of the prosecuting authority and no court fees may be charged for the prosecuting authority's appearance in the matter. The district court administrator shall schedule the hearing as soon as practicable after, and in any event no later than 90 days following, the conclusion of the criminal prosecution. The proceedings are governed by the Rules of Civil Procedure.

(b) The complaint must be captioned in the name of the claimant as plaintiff and the seized property as defendant, and must state with specificity the grounds on which the claimant alleges the property was improperly seized and the plaintiff's interest in the property seized. Notwithstanding any law to the contrary, an action for the return of property seized under this section may not be maintained by or on behalf of any person who has been served with a notice of seizure and forfeiture unless the person has complied with this subdivision.

(c) If the claimant makes a timely demand for judicial determination under this subdivision, the appropriate agency must conduct the forfeiture under section 609.531, subdivision 6a. The limitations and defenses set forth in section 609.5311, subdivision 3, apply to the judicial determination.

(d) If a demand for judicial determination of an administrative forfeiture is filed under this subdivision and the court orders the return of the seized property, the court shall order that filing fees be reimbursed to the person who

filed the demand. In addition, the court may order sanctions under section 549.211. If the court orders payment of these costs, they must be paid from forfeited money or proceeds from the sale of forfeited property from the appropriate law enforcement and prosecuting agencies in the same proportion as they would be distributed under section 609.5315, subdivision 5.

History: *1988 c 665 s 14; 1989 c 290 art 3 s 31; 1991 c 323 s 2, 3; 1993 c 326 art 1 s 8, 9; 1997 c 213 art 2 s 5; 1999 c 225 s 3, 4; 2005 c 136 art 13 s 14; 2010 c 391 s 14, 15; 2011 c 76 art 1 s 67; 2012 c 128 s 18, 19; 2014 c 201 s 2*

609.5315 DISPOSITION OF FORFEITED PROPERTY. [SUBD. 5c AMENDED]

Subdivision 1. **Disposition.** (a) Subject to paragraph (b), if the court finds under section 609.5313, 609.5314, or 609.5318 that the property is subject to forfeiture, it shall order the appropriate agency to do one of the following:

(1) unless a different disposition is provided under clause (3) or (4), either destroy firearms, ammunition, and firearm accessories that the agency decides not to use for law enforcement purposes under clause (8), or sell them to federally licensed firearms dealers, as defined in section 624.7161, subdivision 1, and distribute the proceeds under subdivision 5 or 5b;

(2) sell property that is not required to be destroyed by law and is not harmful to the public and distribute the proceeds under subdivision 5 or 5b;

(3) sell antique firearms, as defined in section 624.712, subdivision 3, to the public and distribute the proceeds under subdivision 5 or 5b;

(4) destroy or use for law enforcement purposes semiautomatic military-style assault weapons, as defined in section 624.712, subdivision 7;

(5) take custody of the property and remove it for disposition in accordance with law;

(6) forward the property to the federal drug enforcement administration;

(7) disburse money as provided under subdivision 5, 5b, or 5c; or

(8) keep property other than money for official use by the agency and the prosecuting agency.

(b) Notwithstanding paragraph (a), the Hennepin or Ramsey County sheriff may not sell firearms, ammunition, or firearms accessories if the policy is disapproved by the applicable county board.

(c) If property is sold under paragraph (a), the appropriate agency shall not sell property to: (1) an officer or employee of the agency that seized the property or to a person related to the officer or employee by blood or marriage; or (2) the prosecuting authority or any individual working in the same office or a person related to the authority or individual by blood or marriage.

(d) Sales of forfeited property under this section must be conducted in a commercially reasonable manner.

Subd. 2. **Disposition of administratively forfeited property.** If property is forfeited administratively under section 609.5314 or 609.5318 and no demand for judicial determination is made, the appropriate agency shall provide the prosecuting authority with a copy of the forfeiture or evidence receipt, the notice of seizure and intent to forfeit, a statement of probable cause for forfeiture of the property, and a description of the property and its estimated value. Upon review and certification by the prosecuting authority that (1) the appropriate agency provided a receipt in accordance with section 609.531, subdivision 4, or 626.16; (2) the appropriate agency served notice in accordance with section 609.5314, subdivision 2, or 609.5318, subdivision 2; and (3) probable cause for forfeiture exists based on the officer's statement, the appropriate agency may dispose of the property in any of the ways listed in Subdivision 1.

Subd. 3. **Use by law enforcement.** (a) Property kept under this section may be used only in the performance of official duties of the appropriate agency or prosecuting agency and may not be used for any other purpose. If an appropriate agency keeps a forfeited motor vehicle for official use, it shall make reasonable efforts to ensure that the motor vehicle is available for use and adaptation by the agency's officers who participate in the drug abuse resistance education program.

(b) Proceeds from the sale of property kept under this subdivision must be disbursed as provided in subdivision 5.

Subd. 4. **Distribution of proceeds of the offense.** Property that consists of proceeds derived from or traced to the commission of a designated offense or a violation of section 609.66, subdivision 1e, must be applied first to payment of seizure, storage, forfeiture, and sale expenses, and to satisfy valid liens against the property; and second, to any court-ordered restitution before being disbursed as provided under subdivision 5.

Subd. 5. **Distribution of money.** The money or proceeds from the sale of forfeited property, after payment of seizure, storage, forfeiture, and sale expenses, and satisfaction of valid liens against the property, must be distributed as follows:

(1) 70 percent of the money or proceeds must be forwarded to the appropriate agency for deposit as a supplement to the agency's operating fund or similar fund for use in law enforcement;

(2) 20 percent of the money or proceeds must be forwarded to the prosecuting authority that handled the forfeiture for deposit as a supplement to its operating fund or similar fund for prosecutorial purposes; and

(3) the remaining ten percent of the money or proceeds must be forwarded within 60 days after resolution of the forfeiture to the state treasury and credited to the general fund. Any local police relief association organized under chapter 423 which received or was entitled to receive the proceeds of any sale made under this section before the effective date of Laws 1988, chapter 665, sections 1 to 17, shall continue to receive and retain the proceeds of these sales.

Subd. 5a. **Disposition of certain forfeited proceeds; prostitution.** The proceeds from the sale of motor vehicles forfeited under section 609.5312, subdivision 3, after payment of seizure, storage, forfeiture, and sale expenses, and satisfaction of valid liens against the vehicle, shall be distributed as follows:

(1) 40 percent of the proceeds must be forwarded to the appropriate agency for deposit as a supplement to the agency's operating fund or similar fund for use in law enforcement;

(2) 20 percent of the proceeds must be forwarded to the prosecuting authority that handled the forfeiture for deposit as a supplement to its operating fund or similar fund for prosecutorial purposes; and

(3) the remaining 40 percent of the proceeds must be forwarded to the city treasury for distribution to neighborhood crime prevention programs.

Subd. 5b. **Disposition of certain forfeited proceeds; trafficking of persons; report required.** (a) Except as provided in subdivision 5c, for forfeitures resulting from violations of section 609.282, 609.283, or 609.322, the money or proceeds from the sale of forfeited property, after payment of seizure, storage, forfeiture, and sale expenses, and satisfaction of valid liens against the property, must be distributed as follows:

(1) 40 percent of the proceeds must be forwarded to the appropriate agency for deposit as a supplement to the agency's operating fund or similar fund for use in law enforcement;

(2) 20 percent of the proceeds must be forwarded to the prosecuting authority that handled the forfeiture for deposit as a supplement to its operating fund or similar fund for prosecutorial purposes; and

(3) the remaining 40 percent of the proceeds must be forwarded to the commissioner of health and are appropriated to the commissioner for distribution to crime victims services organizations that provide services to victims of trafficking offenses.

(b) By February 15 of each year, the commissioner of public safety shall report to the chairs and ranking minority members of the senate and house of representatives committees or divisions having jurisdiction over criminal justice funding on the money collected under paragraph (a), clause (3). The report must indicate the following relating to the preceding calendar year:

(1) the amount of money appropriated to the commissioner;

(2) how the money was distributed by the commissioner; and

(3) what the organizations that received the money did with it.

Subd. 5c. **Disposition of money; prostitution.** Money forfeited under section 609.5312, subdivision 1, paragraph (b), must be distributed as follows:

(1) 40 percent must be forwarded to the appropriate agency for deposit as a supplement to the agency's operating fund or similar fund for use in law enforcement;

(2) 20 percent must be forwarded to the prosecuting authority that handled the forfeiture for deposit as a supplement to its operating fund or similar fund for prosecutorial purposes; and

(3) the remaining 40 percent must be forwarded to the commissioner of public safety to be deposited in the safe harbor for youth account in the special revenue fund and is appropriated to the commissioner for distribution to crime victims services organizations that provide services to sexually exploited youth, as defined in section 260C.007, subdivision 31.

Subd. 6. **Reporting requirement.** (a) For each forfeiture occurring in the state regardless of the authority for it, the appropriate agency and the prosecuting authority shall provide a written record of the forfeiture incident to the state auditor. The record shall include the amount forfeited, the statutory authority for the forfeiture, its date, a brief description of the circumstances involved, and whether the forfeiture was contested. For controlled substance and driving while impaired forfeitures, the record shall indicate whether the forfeiture was initiated as an administrative or a judicial forfeiture. The record shall also list the number of firearms forfeited and the make, model, and serial number of each firearm forfeited. The record shall indicate how the property was or is to be disposed of.

(b) An appropriate agency or the prosecuting authority shall report to the state auditor all instances in which property seized for forfeiture is returned to its owner either because forfeiture is not pursued or for any other reason.

(c) Reports shall be made on a monthly basis in a manner prescribed by the state auditor. The state auditor shall report annually to the legislature on the nature and extent of forfeitures.

(d) For forfeitures resulting from the activities of multijurisdictional law enforcement entities, the entity on its own behalf shall report the information required in this subdivision.

(e) The prosecuting authority is not required to report information required by this subdivision unless the prosecuting authority has been notified by the state auditor that the appropriate agency has not reported it.

Subd. 7. **Firearms.** The agency shall make best efforts for a period of 90 days after the seizure of an abandoned or stolen firearm to protect the firearm from harm and return it to the lawful owner.

History: *1988 c 665 s 15; 1989 c 290 art 3 s 32; 1989 c 335 art 4 s 100; 1990 c 499 s 9; 1992 c 513 art 4 s 49; 1993 c 326 art 1 s 10-12; art 4 s 30; 1994 c 636 art 3 s 12-15; art 4 s 29; 1999 c 148 s 1, 2; 2005 c 136 art 17 s 39, 40; 2010 c 391 s 16-18; 2012 c 128 s 20-23, 26; 2013 c 80 s 2-4*

609.5316 SUMMARY FORFEITURES. [SUBD. 3 AMENDED]

Subdivision 1. **Contraband.** Except as otherwise provided in this subdivision, if the property is contraband, the property must be summarily forfeited and either destroyed or used by the appropriate agency for law enforcement purposes. Upon summary forfeiture, weapons used must be destroyed by the appropriate agency unless the agency decides to use the weapons for law enforcement purposes or sell the weapons in a commercially reasonable manner to federally licensed firearms dealers, as defined in section 624.7161, Subdivision 1. If a weapon is sold under this subdivision, the proceeds must be distributed under section 609.5315, subdivision 5 or 5b.

Subd. 2. **Controlled substances.** (a) Controlled substances listed in Schedule I that are possessed, transferred, sold, or offered for sale in violation of chapter 152, are contraband and must be seized and summarily forfeited. Controlled substances listed in Schedule I that are seized or come into the possession of peace officers, the owners of which are unknown, are contraband and must be summarily forfeited.

(b) Species of plants from which controlled substances in Schedules I and II may be derived that have been planted or cultivated in violation of chapter 152 or of which the owners or cultivators are unknown, or that are wild growths, may be seized and summarily forfeited to the state. The appropriate agency or its authorized agent may seize the plants if the person in occupancy or in control of land or premises where the plants are growing or being stored fails to produce an appropriate registration or proof that the person is the holder of appropriate registration.

Subd. 3. **Weapons, telephone cloning paraphernalia, automated sales suppression devices, and bullet-resistant vests.** Weapons used are contraband and must be summarily forfeited to the appropriate agency upon conviction of the weapon's owner or possessor for a controlled substance crime; for any offense of this chapter or chapter 624, or for a violation of an order for protection under section 518B.01, subdivision 14. Bullet-resistant vests, as defined in section 609.486, worn or possessed during the commission or attempted commission of a crime are contraband and must be summarily forfeited to the appropriate agency upon conviction of the owner or possessor for a controlled substance crime or for any offense of this chapter. Telephone cloning paraphernalia used in a violation of section 609.894, and automated sales suppression devices, phantom-ware, and other devices containing an automated sales suppression or phantom-ware device or software used in violation of section 289A.63, subdivision 12, are contraband and must be summarily forfeited to the appropriate agency upon a conviction.

History: *1988 c 665 s 16; 1990 c 439 s 2; 1994 c 636 art 3 s 16, 17; 1996 c 331 s 1; 1996 c 408 art 4 s 9; 2012 c 127 s 1; 2014 c 201 s 3*

609.5317 REAL PROPERTY; SEIZURES.

Subdivision 1. **Rental property.** (a) When contraband or a controlled substance manufactured, distributed, or acquired in violation of chapter 152 is seized on residential rental property incident to a lawful search or arrest, the prosecuting authority shall give the notice required by this subdivision to (1) the landlord of the property or the fee owner identified in the records of the county assessor, and (2) the agent authorized by the owner to accept service pursuant to section 504B.181. The notice is not required during an ongoing investigation. The notice shall state what has been seized and specify the applicable duties and penalties under this subdivision. The notice shall state that the landlord who chooses to assign the right to bring an eviction action retains all rights and duties, including removal of a tenant's personal property following issuance of the writ of restitution and delivery of the writ to the sheriff for execution. The notice shall also state that the landlord may contact the prosecuting authority if threatened by the tenant. Notice shall be sent by certified letter, return receipt requested, within 30 days of the seizure. If receipt is not returned, notice shall be given in the manner provided by law for service of summons in a civil action.

(b) Within 15 days after notice of the first occurrence, the landlord shall bring, or assign to the prosecuting authority of the county in which the real property is located, the right to bring an eviction action against the tenant. The assignment must be in writing on a form prepared by the prosecuting authority. Should the landlord choose to assign

the right to bring an eviction action, the assignment shall be limited to those rights and duties up to and including delivery of the writ of restitution to the sheriff for execution.

(c) Upon notice of a second occurrence on any residential rental property owned by the same landlord in the same county and involving the same tenant, and within one year after notice of the first occurrence, the property is subject to forfeiture under sections 609.531, 609.5311, 609.5313, and 609.5315, unless an eviction action has been commenced as provided in paragraph (b) or the right to bring an eviction action was assigned to the prosecuting authority as provided in paragraph (b). If the right has been assigned and not previously exercised, or if the prosecuting authority requests an assignment and the landlord makes an assignment, the prosecuting authority may bring an eviction action rather than an action for forfeiture.

(d) The Department of Corrections Fugitive Apprehension Unit shall not seize real property for the purposes of forfeiture as described in paragraphs (a) to (c).

Subd. 2. **Additional remedies.** Nothing in subdivision 1 prevents the prosecuting authority from proceeding under section 609.5311 whenever that section applies.

Subd. 3. **Defenses.** It is a defense against a proceeding under subdivision 1, paragraph (b), that the tenant had no knowledge or reason to know of the presence of the contraband or controlled substance or could not prevent its being brought onto the property.

It is a defense against a proceeding under subdivision 1, paragraph (c), that the landlord made every reasonable attempt to evict a tenant or to assign the prosecuting authority the right to bring an eviction action against the tenant, or that the landlord did not receive notice of the seizure.

Subd. 4. **Limitations.** This section shall not apply if the retail value of the controlled substance is less than $100, but this section does not subject real property to forfeiture under section 609.5311 unless the retail value of the controlled substance is: (1) $1,000 or more; or (2) there have been two previous controlled substance seizures involving the same tenant.

History: *1989 c 305 s 7; 1991 c 193 s 4; 1992 c 533 s 3; 1999 c 199 art 2 s 34; 2003 c 2 art 2 s 19, 20; 2005 c 136 art 13 s 15; 2012 c 128 s 26*

609.5318 FORFEITURE OF VEHICLES USED IN DRIVE-BY SHOOTINGS.

Subdivision 1. **Motor vehicles subject to forfeiture.** (a) If the prosecuting authority establishes by clear and convincing evidence that a motor vehicle was used in a violation of section 609.66, subdivision 1e, the vehicle is subject to forfeiture under this section upon a conviction for the same offense.

(b) The Department of Corrections Fugitive Apprehension Unit shall not seize a motor vehicle for the purposes of forfeiture under paragraph (a).

Subd. 2. **Notice.** (a) The registered owner of the vehicle must be notified of the seizure and intent to forfeit the vehicle within seven days after the seizure. Notice by certified mail to the address shown in Department of Public Safety records is deemed to be sufficient notice to the registered owner.

(b) The notice must be in writing and:

(1) contain a description of the property seized;

(2) contain the date of seizure; and

(3) be printed in English. This requirement does not preclude the appropriate agency from printing the notice in other languages in addition to English.

(c) Substantially, the following language must appear conspicuously in the notice:

"WARNING: You will automatically lose the above-described property and the right to be heard in court if you do not file a lawsuit and serve the prosecuting authority within 60 days. You may file your lawsuit in conciliation court if the property is worth $15,000 or less; otherwise, you must file in district court. You may not have to pay a filing fee for your lawsuit if you are unable to afford the fee. You do not have to pay a conciliation court fee if your property is worth less than $500."

Subd. 3. **Hearing.** (a) Within 60 days following service of a notice of seizure and forfeiture, a claimant may demand a judicial determination of the forfeiture. If a related criminal proceeding is pending, the 60-day period begins to run at the conclusion of those proceedings.

(b) The demand must be in the form of a civil complaint as provided in section 609.5314, subdivision 3, except as otherwise provided in this section.

(c) If the claimant makes a timely demand for judicial determination under this subdivision, the appropriate agency must conduct the forfeiture under subdivision 4.

Subd. 4. **Procedure.** (a) If a judicial determination of the forfeiture is requested, a separate complaint must be filed against the vehicle, stating the specific act giving rise to the forfeiture and the date, time, and place of the act. The action must be captioned in the name of the prosecuting authority or the prosecuting authority's designee as plaintiff and the property as defendant.

(b) If a demand for judicial determination of an administrative forfeiture is filed and the court orders the return of the seized property, the court shall order that filing fees be reimbursed to the person who filed the demand. In addition, the court may order the payment of reasonable costs, expenses, attorney fees, and towing and storage fees. If the court orders payment of these costs, they must be paid from forfeited money or proceeds from the sale of forfeited property from the appropriate law enforcement and prosecuting agencies in the same proportion as they would be distributed under section 609.5315, subdivision 5.

Subd. 5. **Limitations.** (a) A vehicle used by a person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section only if the owner is a consenting party to, or is privy to, the commission of the act giving rise to the forfeiture.

(b) A vehicle is subject to forfeiture under this section only if the registered owner was privy to the act upon which the forfeiture is based, the act occurred with the owner's knowledge or consent, or the act occurred due to the owner's gross negligence in allowing another to use the vehicle.

(c) A vehicle encumbered by a bona fide security interest is subject to the interest of the secured party unless the party had knowledge of or consented to the act upon which the forfeiture is based. A person claiming a security interest bears the burden of establishing that interest by clear and convincing evidence.

History: *1993 c 326 art 1 s 13; 1993 c 366 s 9; 2005 c 136 art 13 s 16; 2012 c 128 s 24-26; 2014 c 201 s 4*

609.5319 FINANCIAL INSTITUTION SECURED INTEREST.

Property that is subject to a bona fide security interest, based upon a loan or other financing arranged by a bank, credit union, or any other financial institution, is subject to the interest of the bank, credit union, or other financial institution in any forfeiture proceeding that is based upon a violation of any provision of this chapter or the commission of any other criminal act. The security interest must be established by clear and convincing evidence.

History: *1996 c 408 art 11 s 7*

609.532 ATTACHMENT OF DEPOSITED FUNDS.

Subdivision 1. **Attachment.** Upon application by the prosecuting authority, a court may issue an attachment order directing a financial institution to freeze some or all of the funds or assets deposited with or held by the financial institution by or on behalf of an account holder charged with the commission of a felony.

Subd. 2. **Application.** The application of the prosecuting authority required by this section must contain:

(1) a copy of a criminal complaint issued by a court of competent jurisdiction that alleges the commission of a felony by the account holder;

(2) a statement of the actual financial loss caused by the account holder in the commission of the alleged felony, if not already stated in the complaint; and

(3) identification of the account holder's name and financial institution account number.

Subd. 3. **Issuance of court order.** If the court finds that (1) there is probable cause that the account holder was involved in the commission of a felony; (2) the accounts of the account holder are specifically identified; (3) there was a loss of $10,000 or more as a result of the commission of the alleged felony; and (4) it is necessary to freeze the account holder's funds or assets to ensure eventual restitution to victims of the alleged offense, the court may order the financial institution to freeze all or part of the account holder's deposited funds or assets so that the funds or assets may not be withdrawn or disposed of until further order of the court.

Subd. 4. **Duty of financial institutions.** Upon receipt of the order authorized by this section, a financial institution must not permit any funds or assets that were frozen by the order to be withdrawn or disposed of until further order of the court.

Subd. 5. **Release of funds.** (a) The account holder may, upon notice and motion, have a hearing to contest the freezing of funds or assets and to seek the release of all or part of them.

(b) The account holder is entitled to an order releasing the freeze by showing:

(1) that the account holder has posted a bond or other adequate surety, guaranteeing that, upon conviction, adequate funds or assets will be available to pay complete restitution to victims of the alleged offense;

(2) that there is no probable cause to believe that the account holder was involved in the alleged offense;

(3) that the amount of funds or assets frozen is more than is necessary to pay complete restitution to all victims of the alleged offense;

(4) that a joint account holder who is not involved in the alleged criminal activity has deposited all or part of the funds or assets; or

(5) that the funds or assets should be returned in the interests of justice.

(c) It is not grounds for the release of funds or assets that the particular accounts frozen do not contain funds or assets that were proceeds from or used in the commission of the alleged offense.

Subd. 6. **Disposition of funds.**

(a) If the account holder is convicted of a felony or a lesser offense, the funds or assets may be used to pay complete restitution to victims of the offense. The court may order the financial institution to remit all or part of the frozen funds or assets to the court.

(b) If the account holder is acquitted or the charges are dismissed, the court must issue an order releasing the freeze on the funds or assets.

Subd. 7. **Time limit.** The freeze permitted by this section expires 24 months after the date of the court's initial attachment order unless the time limit is extended by the court in writing upon a showing of good cause by the prosecution.

Subd. 8. **Notice.** Within ten days after a court issues an attachment order under this section, the prosecutor shall send a copy of the order to the account holder's last known address or to the account holder's attorney, if known.

History: *1987 c 217 s 1*

609.535 ISSUANCE OF DISHONORED CHECKS.

Subdivision 1. **Definitions.** For the purpose of this section, the following terms have the meanings given them.

(a) "Check" means a check, draft, order of withdrawal, or similar negotiable or nonnegotiable instrument.

(b) "Credit" means an arrangement or understanding with the drawee for the payment of a check.

Subd. 2. **Acts constituting.** Whoever issues a check which, at the time of issuance, the issuer intends shall not be paid, is guilty of issuing a dishonored check and may be sentenced as provided in subdivision 2a. In addition, restitution may be ordered by the court.

Subd. 2a. **Penalties.** (a) A person who is convicted of issuing a dishonored check under subdivision 2 may be sentenced as follows:

(1) to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if the value of the dishonored check, or checks aggregated under paragraph (b), is more than $500;

(2) to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both, if the value of the dishonored check, or checks aggregated under paragraph (b), is more than $250 but not more than $500; or

(3) to imprisonment for not more than 90 days or to payment of a fine of not more than $1,000, or both, if the value of the dishonored check, or checks aggregated under paragraph (b), is not more than $250.

(b) In a prosecution under this subdivision, the value of dishonored checks issued by the defendant in violation of this subdivision within any six-month period may be aggregated and the defendant charged accordingly in applying this section. When two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the dishonored checks was issued for all of the offenses aggregated under this paragraph.

Subd. 3. **Proof of intent.** Any of the following is evidence sufficient to sustain a finding that the person at the time the person issued the check intended it should not be paid:

(1) proof that, at the time of issuance, the issuer did not have an account with the drawee;

(2) proof that, at the time of issuance, the issuer did not have sufficient funds or credit with the drawee and that the issuer failed to pay the check within five business days after mailing of notice of nonpayment or dishonor as provided in this subdivision; or

(3) proof that, when presentment was made within a reasonable time, the issuer did not have sufficient funds or credit with the drawee and that the issuer failed to pay the check within five business days after mailing of notice of nonpayment or dishonor as provided in this subdivision.

Notice of nonpayment or dishonor that includes a citation to and a description of the penalties in this section shall be sent by the payee or holder of the check to the maker or drawer by certified mail, return receipt requested, or by regular mail, supported by an affidavit of service by mailing, to the address printed on the check. Refusal by the

maker or drawer of the check to accept certified mail notice or failure to claim certified or regular mail notice is not a defense that notice was not received.

The notice may state that unless the check is paid in full within five business days after mailing of the notice of nonpayment or dishonor, the payee or holder of the check will or may refer the matter to proper authorities for prosecution under this section.

An affidavit of service by mailing shall be retained by the payee or holder of the check.

Subd. 4. **Proof of lack of funds or credit.** If the check has been protested, the notice of protest is admissible as proof of presentation, nonpayment, and protest, and is evidence sufficient to sustain a finding that there was a lack of funds or credit with the drawee.

Subd. 5. **Exceptions.** This section does not apply to a postdated check or to a check given for a past consideration, except a payroll check or a check issued to a fund for employee benefits.

Subd. 6. **Release of account information to law enforcement authorities.** A drawee shall release the information specified below to any state, county, or local law enforcement or prosecuting authority which certifies in writing that it is investigating or prosecuting a complaint against the drawer under this section or section 609.52, subdivision 2, clause (3), item (i), and that 15 days have elapsed since the mailing of the notice of dishonor required by subdivisions 3 and 8. This subdivision applies to the following information relating to the drawer's account:

(1) documents relating to the opening of the account by the drawer and to the closing of the account;

(2) notices regarding nonsufficient funds, overdrafts, and the dishonor of any check drawn on the account within a period of six months of the date of request;

(3) periodic statements mailed to the drawer by the drawee for the periods immediately prior to, during, and subsequent to the issuance of any check which is the subject of the investigation or prosecution; or

(4) the last known home and business addresses and telephone numbers of the drawer.

The drawee shall release all of the information described in clauses (1) to (4) that it possesses within ten days after receipt of a request conforming to all of the provisions of this subdivision. The drawee may not impose a fee for furnishing this information to law enforcement or prosecuting authorities.

A drawee is not liable in a criminal or civil proceeding for releasing information in accordance with this subdivision.

Subd. 7. **Release of account information to payee or holder.** (a) A drawee shall release the information specified in paragraph (b), clauses (1) to (3) to the payee or holder of a check that has been dishonored who makes a written request for this information and states in writing that the check has been dishonored and that 30 days have elapsed since the mailing of the notice described in subdivision 8 and who accompanies this request with a copy of the dishonored check and a copy of the notice of dishonor.

The requesting payee or holder shall notify the drawee immediately to cancel this request if payment is made before the drawee has released this information.

(b) This subdivision applies to the following information relating to the drawer's account:

(1) whether at the time the check was issued or presented for payment the drawer had sufficient funds or credit with the drawee, and whether at that time the account was open, closed, or restricted for any reason and the date it was closed or restricted;

(2) the last known home address and telephone number of the drawer. The drawee may not release the address or telephone number of the place of employment of the drawer unless the drawer is a business entity or the place of employment is the home; and

(3) a statement as to whether the aggregated value of dishonored checks attributable to the drawer within six months before or after the date of the dishonored check exceeds $250; for purposes of this clause, a check is not dishonored if payment was not made pursuant to a stop payment order.

The drawee shall release all of the information described in clauses (1) to (3) that it possesses within ten days after receipt of a request conforming to all of the provisions of this subdivision. The drawee may require the person requesting the information to pay the reasonable costs, not to exceed 15 cents per page, of reproducing and mailing the requested information.

(c) A drawee is not liable in a criminal or civil proceeding for releasing information in accordance with this subdivision.

Subd. 8. **Notice.** The provisions of subdivisions 6 and 7 are not applicable unless the notice to the maker or drawer required by subdivision 3 states that if the check is not paid in full within five business days after mailing of the notice, the drawee will be authorized to release information relating to the account to the payee or holder of the check and may also release this information to law enforcement or prosecuting authorities.

History: *1963 c 753 art 1 s 609.535; 1967 c 466 s 1; 1971 c 23 s 56; 1974 c 106 s 1, 2; 1981 c 202 s 1; 1981 c 247 s 1-3; 1983 c 225 s 10; 1984 c 436 s 34; 1985 c 140 s 3; 1986 c 444; 1988 c 527 s 2, 3; 1991 c 256 s 11-13; 1992 c 569 s 26; 1999 c 218 s 3; 2004 c 228 art 1 s 72*

609.54 EMBEZZLEMENT OF PUBLIC FUNDS.

Whoever does an act which constitutes embezzlement under the provisions of Minnesota Constitution, article XI, section 13 may be sentenced as follows:

(1) if the value of the funds so embezzled is $2, 500, or less, to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both; or

(2) if such value is more than $2, 500, to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

History: *1963 c 753 art 1 s 609.54; 1976 c 2 s 172; 1984 c 628 art 3 s 11*

609.541 PROTECTION OF LIBRARY PROPERTY.

Subdivision 1. **Damage to library materials.** A person who intentionally, and without permission from library personnel damages any books, maps, pictures, manuscripts, films, or other property of any public library or library belonging to the state or to any political subdivision is guilty of a petty misdemeanor.

Subd. 2. **Removal of library property.** A person who intentionally, and without permission from library personnel removes any books, maps, pictures, manuscripts, films, or other property of any public library or library belonging to the state or to any political subdivision is guilty of a misdemeanor.

Subd. 3. **Detention of library materials.** A person who detains a book, periodical, pamphlet, film, or other property belonging to any public library, or to a library belonging to the state or any political subdivision, for more than 60 days after notice in writing to return it, given after the expiration of the library's stated loan period for the material, is guilty of a petty misdemeanor. The written notice shall be sent by mail to the last known address of the person detaining the material. The notice shall state the type of material borrowed, the title of the material, the author's name, the library from which the material was borrowed, and the date by which the material was to have been returned to

the library. The notice shall include a statement indicating that if the material is not returned within 60 days after the written notice the borrower will be in violation of this section.

Subd. 4. **Responsibility for prosecution for regional libraries.** For regional libraries the county attorney for the county in which the offense occurred shall prosecute violations of subdivisions 1 to 3.

History: *1983 c 280 s 3*

609.545 MISUSING CREDIT CARD TO SECURE SERVICES.

Whoever obtains the services of another by the intentional unauthorized use of a credit card issued or purporting to be issued by an organization for use as identification in purchasing services is guilty of a misdemeanor.

History: *1963 c 753 art 1 s 609.545; 1971 c 23 s 57*

609.546 MOTOR VEHICLE TAMPERING.

A person is guilty of a misdemeanor who intentionally:

(1) rides in or on a motor vehicle knowing that the vehicle was taken and is being driven by another without the owner's permission; or

(2) tampers with or enters into or on a motor vehicle without the owner's permission.

History: *1989 c 290 art 7 s 9*

609.551 RUSTLING AND LIVESTOCK THEFT; PENALTIES.

Subdivision 1. **Crime defined; stealing cattle; penalties.** Whoever intentionally and without claim of right shoots, kills, takes, uses, transfers, conceals or retains possession of live cattle, swine or sheep or the carcasses thereof belonging to another without the other's consent and with the intent to permanently deprive the owner thereof may be sentenced as follows:

(a) if the value of the animals which are shot, killed, taken, used, transferred, concealed, or retained exceeds $2, 500, the defendant may be sentenced to imprisonment for not more than ten years, and may be fined up to $20,000;

(b) if the value of the animals which are shot, killed, taken, used, transferred, concealed, or retained exceeds $300 but is less than $2, 500, the defendant may be sentenced to imprisonment for not more than five years, and may be fined up to $10,000;

(c) if the value of the animals which are shot, killed, taken, used, transferred, concealed, or retained is $300 or less, the defendant may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than $300 or both.

Subd. 2. **Crime defined; selling stolen cattle.** Whoever knowingly buys, sells, transports, or otherwise handles cattle, swine, or sheep illegally acquired under subdivision 1 or knowingly aids or abets another in the violation of subdivision 1 shall be sentenced as in subdivision 1, clauses (a), (b), and (c).

Subd. 3. **Aggregation.** In any prosecution under this section the value of the animals which are shot, killed, taken, used, transferred, concealed, or retained within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this section.

Subd. 4. **Amount of action.** Any person who has been injured by violation of this section may bring an action for three times the amount of actual damages sustained by the plaintiff, costs of suit and reasonable attorney's fees.

History: *1975 c 314 s 2; 1977 c 355 s 8; 1984 c 628 art 3 s 11; 1986 c 444*

609.552 UNAUTHORIZED RELEASE OF ANIMALS.

A person who intentionally and without permission releases an animal lawfully confined for science, research, commerce, or education is guilty of a misdemeanor. A second or subsequent offense by the same person is a gross misdemeanor.

History: *1989 c 55 s 2*

DAMAGE OR TRESPASS TO PROPERTY

609.556 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of sections 609.556 to 609.576 and 609.611, the terms defined in this section have the meanings given them.

Subd. 2. **Property of another.** "Property of another" means a building or other property, whether real or personal, in which a person other than the accused has an interest which the accused has no authority to defeat or impair even though the accused may also have an interest in the building or property.

Subd. 3. **Building.** "Building" in addition to its ordinary meaning includes any tent, watercraft, structure or vehicle that is customarily used for overnight lodging of a person or persons. If a building consists of two or more units separately secured or occupied, each unit shall be deemed a separate building.

History: *1976 c 124 s 3; 1977 c 347 s 63*

609.561 ARSON IN THE FIRST DEGREE.

Subdivision 1. **First degree; dwelling.** Whoever unlawfully by means of fire or explosives, intentionally destroys or damages any building that is used as a dwelling at the time the act is committed, whether the inhabitant is present therein at the time of the act or not, or any building appurtenant to or connected with a dwelling whether the property of the actor or of another, commits arson in the first degree and may be sentenced to imprisonment for not more than 20 years or to a fine of not more than $20,000, or both.

Subd. 2. **First degree; other buildings.** Whoever unlawfully by means of fire or explosives, intentionally destroys or damages any building not included in subdivision 1, whether the property of the actor or another commits arson in the first degree and may be sentenced to imprisonment for not more than 20 years or to a fine of not more than $35,000, or both if:

(a) another person who is not a participant in the crime is present in the building at the time and the defendant knows that; or

(b) the circumstances are such as to render the presence of such a person therein a reasonable possibility.

Subd. 3. **First degree; flammable material.** (a) Whoever unlawfully by means of fire or explosives, intentionally destroys or damages any building not included in subdivision 1, whether the property of the actor or another, commits arson in the first degree if a flammable material is used to start or accelerate the fire. A person who violates this paragraph may be sentenced to imprisonment for not more than 20 years or a fine of not more than $20,000, or both.

(b) As used in this subdivision:

(1) "combustible liquid" means a liquid having a flash point at or above 100 degrees Fahrenheit;

(2) "flammable gas" means any material which is a gas at 68 degrees Fahrenheit or less and 14.7 psi of pressure and which: (i) is ignitable when in a mixture of 13 percent or less by volume with air at atmospheric pressure; or (ii) has a flammable range with air at atmospheric pressure of at least 12 percent, regardless of the lower flammable limit;

(3) "flammable liquid" means any liquid having a flash point below 100 degrees Fahrenheit and having a vapor pressure not exceeding 40 pounds per square inch (absolute) at 100 degrees Fahrenheit, but does not include intoxicating liquor as defined in section 340A.101;

(4) "flammable material" means a flammable or combustible liquid, a flammable gas, or a flammable solid; and

(5) "flammable solid" means any of the following three types of materials:

(i) wetted explosives;

(ii) self-reactive materials that are liable to undergo heat-producing decomposition; or

(iii) readily combustible solids that may cause a fire through friction or that have a rapid burning rate as determined by specific flammability tests.

History: *1976 c 124 s 4; 1984 c 628 art 3 s 11; 1986 c 444; 1994 c 636 art 2 s 42; 1995 c 186 s 100; 1999 c 176 s 1*

609.562 ARSON IN THE SECOND DEGREE.

Whoever unlawfully by means of fire or explosives, intentionally destroys or damages any building not covered by section 609.561, no matter what its value, or any other real or personal property valued at more than $1,000, whether the property of the actor or another, may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

History: *1976 c 124 s 5; 1979 c 258 s 16; 1984 c 628 art 3 s 11; 1985 c 141 s 2; 1986 c 444; 1993 c 326 art 5 s 7*

609.563 ARSON IN THE THIRD DEGREE.

Subdivision 1. **Crime.** Whoever unlawfully by means of fire or explosives, intentionally destroys or damages any real or personal property may be sentenced to imprisonment for not more than five years or to payment of a fine of $10,000, or both, if:

(a) the property intended by the accused to be damaged or destroyed had a value of more than $300 but less than $1,000; or

(b) property of the value of $300 or more was unintentionally damaged or destroyed but such damage or destruction could reasonably have been foreseen; or

(c) the property specified in clauses (a) and (b) in the aggregate had a value of $300 or more.

Subd. 2. [Repealed, 1998 c 367 art 2 s 33]

History: *1976 c 124 s 6; 1977 c 355 s 9; 1979 c 258 s 17; 1984 c 628 art 3 s 11; 1985 c 141 s 3; 1993 c 326 art 5 s 8*

609.5631 ARSON IN THE FOURTH DEGREE.

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Multiple unit residential building" means a building containing two or more apartments.

(c) "Public building" means a building such as a hotel, hospital, motel, dormitory, sanitarium, nursing home, theater, stadium, gymnasium, amusement park building, school or other building used for educational purposes, museum, restaurant, bar, correctional institution, place of worship, or other building of public assembly.

Subd. 2. **Crime described.** Whoever intentionally by means of fire or explosives sets fire to or burns or causes to be burned any personal property in a multiple unit residential building or public building and arson in the first,

second, or third degree was not committed is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

History: *1998 c 367 art 2 s 19; 1999 c 176 s 2*

609.5632 ARSON IN THE FIFTH DEGREE.

Whoever intentionally by means of fire or explosives sets fire to or burns or causes to be burned any real or personal property of value is guilty of a misdemeanor and may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than $1,000, or both.

History: *1998 c 367 art 2 s 20; 2004 c 228 art 1 s 72*

609.5633 USE OF IGNITION DEVICES; PETTY MISDEMEANOR.

A student who uses an ignition device, including a butane or disposable lighter or matches, inside an educational building and under circumstances where there is an obvious risk of fire, and arson in the first, second, third, or fourth degree was not committed, is guilty of a petty misdemeanor. This section does not apply if the student uses the device in a manner authorized by the school.

For the purposes of this section, "student" has the meaning given in section 123B.41, subdivision 11.

History: *1999 c 176 s 3*

609.564 EXCLUDED FIRES.

A person does not violate section 609.561, 609.562, 609.563, or 609.5641 if the person sets a fire pursuant to a validly issued license or permit or with written permission from the fire department of the jurisdiction where the fire occurs.

History: *1985 c 141 s 4; 1990 c 478 s 1*

609.5641 WILDFIRE ARSON.

Subdivision 1. **Setting wildfires.** A person who intentionally sets a fire to burn out of control on land of another containing timber, underbrush, grass, or other vegetative combustible material is guilty of a felony and may be sentenced as provided in subdivision 1a.

Subd. 1a. **Penalty; felonies.** (a) Except as provided in paragraphs (b), (c), and (d), a person who violates subdivision 1 may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

(b) A person who violates subdivision 1 where the fire threatens to damage or damages in excess of five buildings or dwellings, burns 500 acres or more, or damages crops in excess of $100,000, may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $15,000, or both.

(c) A person who violates subdivision 1 where the fire threatens to damage or damages in excess of 100 buildings or dwellings, burns 1, 500 acres or more, or damages crops in excess of $250,000, may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than $25,000, or both.

(d) A person who violates subdivision 1 where the fire causes another person to suffer demonstrable bodily harm may be sentenced to imprisonment for not more than ten years or to payment of a fine of $15,000, or both.

(e) For purposes of this section, a building or dwelling is threatened when there is a probability of damage to the building or dwelling requiring evacuation for safety of life.

Subd. 2. **Possession of flammables to set wildfires.** A person is guilty of a gross misdemeanor who possesses a flammable, explosive, or incendiary device, substance, or material with intent to use the device, substance, or material to violate Subdivision 1.

Subd. 3. **Restitution.** In addition to the sentence otherwise authorized, the court may order a person who is convicted of violating this section to pay fire suppression costs, damages to the owner of the damaged land, costs associated with injuries sustained by a member of a municipal or volunteer fire department in the performance of the member's duties, and any other restitution costs allowed under section 611A.04.

History: *1990 c 478 s 2; 2013 c 139 s 1-3*

609.576 NEGLIGENT FIRES; DANGEROUS SMOKING.

Subdivision 1. **Negligent fire resulting in injury or property damage.** Whoever is grossly negligent in causing a fire to burn or get out of control thereby causing damage or injury to another, and as a result of this:

(1) a human being is injured and great bodily harm incurred, is guilty of a crime and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both;

(2) a human being is injured and bodily harm incurred, is guilty of a crime and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both; or

(3) property of another is injured, thereby, is guilty of a crime and may be sentenced as follows:

(i) to imprisonment for not more than 90 days or to payment of a fine of not more than $1,000, or both, if the value of the property damage is under $300;

(ii) to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both, if the value of the property damaged is at least $300 but is less than $2,500; or

(iii) to imprisonment for not more than three years or to payment of a fine of not more than $5,000, or both, if the value of the property damaged is $2,500 or more.

Subd. 2. **Dangerous smoking.** A person is guilty of a misdemeanor if the person smokes in the presence of explosives or inflammable materials. If a person violates this subdivision and knows that doing so creates a risk of death or bodily harm or serious property damage, the person is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

History: *1976 c 124 s 7; 1977 c 355 s 10; 1981 c 107 s 1; 1984 c 628 art 3 s 11; 1985 c 141 s 5; 1989 c 5 s 8; 1989 c 290 art 6 s 20; 1993 c 326 art 5 s 9; 2001 c 155 s 1; 2003 c 82 s 1*

609.581 DEFINITIONS.

Subdivision 1. **Terms defined.** For purpose of sections 609.582 and 609.583, the terms defined in this section have the meanings given them.

Subd. 2. **Building.** "Building" means a structure suitable for affording shelter for human beings including any appurtenant or connected structure.

Subd. 3. **Dwelling.** "Dwelling" means a building used as a permanent or temporary residence.

Subd. 4. **Enters a building without consent.** "Enters a building without consent" means:

(a) to enter a building without the consent of the person in lawful possession;

(b) to enter a building by using artifice, trick, or misrepresentation to obtain consent to enter from the person in lawful possession; or

(c) to remain within a building without the consent of the person in lawful possession.

Whoever enters a building while open to the general public does so with consent except when consent was expressly withdrawn before entry.

Subd. 5. **Government building.** "Government building" means a building that is owned, leased, controlled, or operated by a governmental entity for a governmental purpose.

Subd. 6. **Religious establishment.** "Religious establishment" means a building used for worship services by a religious organization and clearly identified as such by a posted sign or other means.

Subd. 7. **School building.** "School building" means a public or private preschool, elementary school, middle school, secondary school, or postsecondary school building.

Subd. 8. **Historic property.** "Historic property" means any property identified as a historic site or historic place by sections 138.661 to 138.664 and clearly identified as such by a posted sign or other means.

History: *1983 c 321 s 1; 2007 c 54 art 2 s 11-14*

609.582 BURGLARY.

Subdivision 1. **Burglary in the first degree.** Whoever enters a building without consent and with intent to commit a crime, or enters a building without consent and commits a crime while in the building, either directly or as an accomplice, commits burglary in the first degree and may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than $35,000, or both, if:

(a) the building is a dwelling and another person, not an accomplice, is present in it when the burglar enters or at any time while the burglar is in the building;

(b) the burglar possesses, when entering or at any time while in the building, any of the following: a dangerous weapon, any article used or fashioned in a manner to lead the victim to reasonably believe it to be a dangerous weapon, or an explosive; or

(c) the burglar assaults a person within the building or on the building's appurtenant property.

Subd. 1a. **Mandatory minimum sentence for burglary of occupied dwelling.** A person convicted of committing burglary of an occupied dwelling, as defined in subdivision 1, clause (a), must be committed to the commissioner of corrections or county workhouse for not less than six months.

Subd. 2. **Burglary in the second degree.** (a) Whoever enters a building without consent and with intent to commit a crime, or enters a building without consent and commits a crime while in the building, either directly or as an accomplice, commits burglary in the second degree and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both, if:

(1) the building is a dwelling;

(2) the portion of the building entered contains a banking business or other business of receiving securities or other valuable papers for deposit or safekeeping and the entry is with force or threat of force;

(3) the portion of the building entered contains a pharmacy or other lawful business or practice in which controlled substances are routinely held or stored, and the entry is forcible; or

(4) when entering or while in the building, the burglar possesses a tool to gain access to money or property.

(b) Whoever enters a government building, religious establishment, historic property, or school building without consent and with intent to commit a crime under section 609.52 or 609.595, or enters a government building, religious establishment, historic property, or school building without consent and commits a crime under section 609.52 or 609.595 while in the building, either directly or as an accomplice, commits burglary in the second degree and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

Subd. 3. **Burglary in the third degree.** Whoever enters a building without consent and with intent to steal or commit any felony or gross misdemeanor while in the building, or enters a building without consent and steals or commits a felony or gross misdemeanor while in the building, either directly or as an accomplice, commits burglary in the third degree and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

Subd. 4. **Burglary in the fourth degree.** Whoever enters a building without consent and with intent to commit a misdemeanor other than to steal, or enters a building without consent and commits a misdemeanor other than to steal while in the building, either directly or as an accomplice, commits burglary in the fourth degree and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

History: *1983 c 321 s 2; 1984 c 628 art 3 s 6; 1986 c 470 s 19; 1988 c 712 s 9-12; 1993 c 326 art 13 s 33; 1995 c 244 s 22; 1998 c 367 art 2 s 21; 2007 c 54 art 2 s 15*

609.583 SENTENCING; FIRST BURGLARY OF DWELLING.

Except as provided in section 609.582, subdivision 1a, in determining an appropriate disposition for a first offense of burglary of a dwelling, the court shall presume that a stay of execution with at least a 90-day period of incarceration as a condition of probation shall be imposed unless the defendant's criminal history score determined according to the Sentencing Guidelines indicates a presumptive executed sentence, in which case the presumptive executed sentence shall be imposed unless the court departs from the Sentencing Guidelines pursuant to section 244.10. A stay of imposition of sentence may be granted only if accompanied by a statement on the record of the reasons for it. The presumptive period of incarceration may be waived in whole or in part by the court if the defendant provides restitution or performs community work service.

History: *1983 c 321 s 3; 1984 c 497 s 1; 1986 c 470 s 20; 1996 c 408 art 3 s 33*

609.585 DOUBLE JEOPARDY.

Notwithstanding section 609.04, a prosecution for or conviction of the crime of burglary is not a bar to conviction of or punishment for any other crime committed on entering or while in the building entered.

History: *1963 c 753 art 1 s 609.585; 1993 c 326 art 4 s 31*

609.586 POSSESSION OF CODE-GRABBING DEVICES; PENALTY.

Subdivision 1. **Definition.** As used in this section, "code-grabbing device" means a device that can receive and record the coded signal sent by the transmitter of a security or other electronic system and can play back the signal to disarm or operate that system.

Subd. 2. **Crime.** Whoever possesses a code-grabbing device with intent to use the device to commit an unlawful act may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $5,000, or both.

History: *1996 c 408 art 3 s 34*

609.59 POSSESSION OF BURGLARY OR THEFT TOOLS.

Whoever has in possession any device, explosive, or other instrumentality with intent to use or permit the use of the same to commit burglary or theft may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $5,000, or both.

History: *1963 c 753 art 1 s 609.59; 1984 c 628 art 3 s 11; 1986 c 444; 1988 c 712 s 13*

609.591 DAMAGE TO TIMBER OR WOOD PROCESSING AND RELATED EQUIPMENT.

Subdivision 1. **Definition.** As used in this section and section 609.592, "timber" means trees, whether standing or down, that will produce forest products of value including but not limited to logs, posts, poles, bolts, pulpwood, cordwood, lumber, and decorative material.

Subd. 2. **Crime.** Whoever, without claim of right or consent of the owner, drives, places, or fastens in timber any device of iron, steel, ceramic, or other substance sufficiently hard to damage saws or wood processing or manufacturing equipment, with the intent to hinder the logging or the processing of timber, is guilty of a crime and may be sentenced as provided in subdivisions 3 and 4.

Subd. 3. **Penalties.** A person convicted of violating subdivision 2 may be sentenced as follows:

(1) if the violation caused great bodily harm, to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both;

(2) otherwise, to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

Subd. 4. **Restitution.** In addition to any sentence imposed under subdivision 3, the sentencing court may order a person convicted of violating this section, or of violating section 609.595 by damaging timber or commercial wood processing, manufacturing, or transportation equipment to pay restitution to the owner of the damaged property.

History: *1991 c 180 s 1*

609.592 POSSESSION OF TIMBER DAMAGE DEVICES.

Whoever commits any of the following acts is guilty of a misdemeanor:

(1) possesses a device of iron, steel, ceramic, or other substance sufficiently hard to damage saws, wood processing, manufacturing, or transportation equipment, with the intent to use the device to hinder the logging or the processing of timber; or

(2) possesses a chemical or biological substance, mechanical equipment, or tool with the intent to use it or permit its use to damage timber processing, manufacturing, or transportation equipment.

History: *1991 c 180 s 2*

609.593 DAMAGE OR THEFT TO ENERGY TRANSMISSION OR TELECOMMUNICATIONS EQUIPMENT.

Subdivision 1. **Crime.** Whoever intentionally and without consent from one authorized to give consent causes any damage to or takes, removes, severs, or breaks:

(1) any line erected or maintained for the purpose of transmitting electricity for light, heat, or power, or any insulator or cross-arm, appurtenance or apparatus connected to the line, or any wire, cable, or current of the line; or any component used in the generation, transmission, or distribution of electricity, including equipment used for grounding, system protection, or personnel protection;

(2) any pipe or main or hazardous liquid pipeline erected, operated, or maintained for the purpose of transporting, conveying, or distributing gas or other hazardous liquids for light, heat, power, or any other purpose, or any part of the pipe, main, or pipeline, or any valve, meter, holder, compressor, machinery, appurtenance, equipment, or apparatus connected with any main or pipeline; or

(3) any machinery, equipment, or fixtures used in receiving, initiating, amplifying, processing, transmitting, retransmitting, recording, switching, or monitoring telecommunications services, such as computers, transformers,

amplifiers, routers, repeaters, multiplexers, and other items performing comparable functions; and machinery, equipment, and fixtures used in the transportation of telecommunications services, radio transmitters and receivers, satellite equipment, microwave equipment, and other transporting media including wire, cable, fiber, poles, and conduit;

is guilty of a crime and may be sentenced as provided in subdivision 2.

Subd. 2. **Penalty.** Whoever violates subdivision 1 is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

History: *2007 c 54 art 2 s 16; 2016 c 152 s 1*

609.594 DAMAGE TO PROPERTY OF CRITICAL PUBLIC SERVICE FACILITIES, UTILITIES, AND PIPELINES.

Subdivision 1. **Definitions.** As used in this section:

(1) "critical public service facility" includes railroad yards and stations, bus stations, airports, and other mass transit facilities; oil refineries; storage areas or facilities for hazardous materials, hazardous substances, or hazardous wastes; and bridges;

(2) "pipeline" has the meaning given in section 609.6055, subdivision 1; and

(3) "utility" includes: (i) any organization defined as a utility in section 216C.06, subdivision 18; (ii) any telecommunications carrier or telephone company regulated under chapter 237; and (iii) any local utility or enterprise formed for the purpose of providing electrical or gas heating and power, telephone, water, sewage, wastewater, or other related utility service, which is owned, controlled, or regulated by a town, a statutory or home rule charter city, a county, a port development authority, the Metropolitan Council, a district heating authority, a regional commission or other regional government unit, or a combination of these governmental units.

Subd. 2. **Prohibited conduct; penalty.** Whoever causes damage to the physical property of a critical public service facility, utility, or pipeline with the intent to significantly disrupt the operation of or the provision of services by the facility, utility, or pipeline and without the consent of one authorized to give consent, is guilty of a felony and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

Subd. 3. **Detention authority; immunity.** An employee or other person designated by a critical public service facility, utility, or pipeline to ensure the provision of services by the critical public service facility or the safe operation of the equipment or facility of the utility or pipeline who has reasonable cause to believe that a person is violating this section may detain the person as provided in this subdivision. The person detained must be promptly informed of the purpose of the detention and may not be subjected to unnecessary or unreasonable force or interrogation. The employee or other designated person must notify a peace officer promptly of the detention and may only detain the person for a reasonable period of time. No employee or other designated person is criminally or civilly liable for any detention that the employee or person reasonably believed was authorized by and conducted in conformity with this subdivision.

History: *2002 c 401 art 1 s 16*

609.595 DAMAGE TO PROPERTY. [SUBDS. 1 & 2 AMENDED; NEW SUBD. 4]

Subdivision 1. **Criminal damage to property in the first degree.** Whoever intentionally causes damage to physical property of another without the latter's consent may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if:

(1) the damage to the property caused a reasonably foreseeable risk of bodily harm; or

(2) the property damaged was a public safety motor vehicle, the defendant knew the vehicle was a public safety motor vehicle, and the damage to the vehicle caused a substantial interruption or impairment of public safety service or a reasonably foreseeable risk of bodily harm; or

(3) the property damaged belongs to a common carrier and the damage impairs the service to the public rendered by the carrier; or

(4) the damage reduces the value of the property by more than $1,000 measured by the cost of repair and replacement; or

(5) the damage reduces the value of the property by more than $500 measured by the cost of repair and replacement and the defendant has been convicted within the preceding three years of an offense under this subdivision or subdivision 2.

In any prosecution under clause (4), the value of any property damaged by the defendant in violation of that clause within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this section; provided that when two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this paragraph.

Subd. 1a. **Criminal damage to property in the second degree.** (a) Whoever intentionally causes damage described in subdivision 2, paragraph (a), because of the property owner's or another's actual or perceived race, color, religion, sex, sexual orientation, disability as defined in section 363A.03, age, or national origin is guilty of a felony and may be sentenced to imprisonment for not more than one year and a day or to payment of a fine of not more than $3,000, or both.

(b) In any prosecution under paragraph (a), the value of property damaged by the defendant in violation of that paragraph within any six-month period may be aggregated and the defendant charged accordingly in applying this section. When two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this paragraph.

Subd. 2. **Criminal damage to property in the third degree.** (a) Except as otherwise provided in subdivision 1a, whoever intentionally causes damage to another person's physical property without the other person's consent may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both, if: (1) the damage reduces the value of the property by more than $500 but not more than $1,000 as measured by the cost of repair and replacement; or (2) the damage was to a public safety motor vehicle and the defendant knew the vehicle was a public safety motor vehicle.

(b) Whoever intentionally causes damage to another person's physical property without the other person's consent because of the property owner's or another's actual or perceived race, color, religion, sex, sexual orientation, disability as defined in section 363A.03, age, or national origin may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both, if the damage reduces the value of the property by not more than $500.

(c) In any prosecution under paragraph (a), clause (1), the value of property damaged by the defendant in violation of that paragraph within any six-month period may be aggregated and the defendant charged accordingly in applying this section. When two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this paragraph.

Subd. 3. **Criminal damage to property in the fourth degree.** Whoever intentionally causes damage described in subdivision 2 under any other circumstances is guilty of a misdemeanor.

Subd. 4. **Definitions.** (a) As used in this section, "public safety motor vehicle" includes:

(1) marked vehicles used by law enforcement agencies and specially marked vehicles permitted under section 169.98, subdivision 2a, owned or leased by the state or a political subdivision;

(2) fire apparatuses, including fire-suppression support vehicles, owned or leased by the state or a political subdivision;

(3) ambulances owned or leased by the state or a political subdivision;

(4) vehicles owned by ambulance services licensed under section 144E.10 that are equipped and specifically intended for emergency response or providing ambulance services; and

(5) marked vehicles used by conservation officers of the Division of Enforcement and Field Service of the Department of Natural Resources.

(b) As used in subdivision 1, clause (2), and subdivision 2, paragraph (a), clause (2), "damage" includes tampering with a public safety motor vehicle and acts that obstruct or interfere with the vehicle's use.

History: *1963 c 753 art 1 s 609.595; 1971 c 23 s 60; 1977 c 355 s 11; 1979 c 258 s 18; 1984 c 421 s 1; 1984 c 628 art 3 s 11; 1987 c 329 s 11; 1989 c 261 s 2-4; 2002 c 401 art 1 s 17; 2007 c 54 art 2 s 17, 18*

609.596 KILLING OR HARMING PUBLIC SAFETY DOG.

Subdivision 1. **Felony.** It is a felony for any person to intentionally and without justification cause the death of or great or substantial bodily harm to a police dog, a search and rescue dog, or an arson dog when the dog is involved in law enforcement, fire, or correctional investigation or apprehension, search and rescue duties, or the dog is in the custody of or under the control of a peace officer, a trained handler, or an employee of a correctional facility. A person convicted under this subdivision may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than $5,000, or both.

Subd. 2. **Gross misdemeanor.** It is a gross misdemeanor for any person to intentionally and without justification cause demonstrable bodily harm to a police dog, search and rescue dog, or an arson dog when the dog is involved in law enforcement, fire, or correctional investigation or apprehension, search and rescue duties, or the dog is in the custody of or under the control of a peace officer, a trained handler, or an employee of a correctional facility.

Subd. 2a. **Misdemeanor.** It is a misdemeanor for any person to intentionally and without justification assault a police dog, search and rescue dog, or an arson dog when the dog is involved in law enforcement, fire, or correctional investigation or apprehension, search and rescue duties, or the dog is in the custody of or under the control of a peace officer, a trained handler, or an employee of a correctional facility.

Subd. 2b. **Mandatory restitution.** The court shall order a person convicted of violating this section to pay restitution for the costs and expenses resulting from the crime. Costs and expenses include, but are not limited to, the purchase and training of a replacement dog and veterinary services for the injured dog. If the court finds that the convicted person is indigent, the court may reduce the amount of restitution to a reasonable level or order it paid in installments.

Subd. 3. **Definitions.** As used in this section:

(1) "arson dog" means a dog that has been certified as an arson dog by a state fire or police agency or by an independent testing laboratory;

(2) "correctional facility" has the meaning given in section 241.021, subdivision 1, paragraph (f);

(3) "peace officer" has the meaning given in section 626.84, subdivision 1, paragraph (c); and

(4) "search and rescue dog" means a dog that is trained to locate lost or missing persons, victims of natural or other disasters, and human bodies.

History: *1987 c 167 s 1; 1996 c 408 art 3 s 35; 1999 c 77 s 1; 2001 c 7 s 87; 2011 c 9 s 1*

609.597 ASSAULTING OR HARMING POLICE HORSE; PENALTIES.

Subdivision 1. **Definition.** As used in this section, "police horse" means a horse that has been trained for crowd control and other law enforcement purposes and is used to assist peace officers or reserve officers in the performance of their official duties.

Subd. 2. **Crime.** Whoever assaults or intentionally harms a police horse while the horse is being used or maintained for use by a law enforcement agency, or while under the control of a reserve officer who is operating at the direction of, under the control of, or on behalf of a peace officer or a law enforcement agency, is guilty of a crime and may be sentenced as provided in subdivision 3.

Subd. 3. **Penalties.** A person convicted of violating subdivision 2 may be sentenced as follows:

(1) if a peace officer, a reserve officer, or any other person suffers great bodily harm or death as a result of the violation, the person may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both;

(2) if the police horse suffers death or great bodily harm as a result of the violation, or if a peace officer or a reserve officer suffers demonstrable bodily harm as a result of the violation, the person may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than $4,000, or both;

(3) if the police horse suffers demonstrable bodily harm as a result of the violation, the person may be sentenced to imprisonment for not more than one year and one day or to payment of a fine of not more than $3,000, or both;

(4) if a peace officer or a reserve officer is involuntarily unseated from the police horse or any person, other than the peace officer or reserve officer, suffers demonstrable bodily harm as a result of the violation, the person may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both;

(5) if a violation other than one described in clauses (1) to (4) occurs, the person may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than $1,000, or both.

History: *1995 c 179 s 1; 2004 c 228 art 1 s 72; 2011 c 85 s 3*

609.599 EXPOSING DOMESTIC ANIMALS TO DISEASE.

Subdivision 1. **Gross misdemeanor.** (a) A person who intentionally exposes a domestic animal to an animal disease contrary to reasonable veterinary practice, or intentionally puts a domestic animal at risk of quarantine or destruction by actions contrary to reasonable veterinary practice, is guilty of a gross misdemeanor.

(b) The provisions of paragraph (a) do not apply to a person performing academic or industry research on domestic animals under protocols approved by an institutional animal care and use committee.

Subd. 2. **Civil liability.** A person who violates subdivision 1 is liable in a civil action for damages in an amount three times the value of any domestic animal destroyed because it has the disease, has been exposed to the disease agent, or is at high risk of being exposed to the disease agent because of proximity to diseased animals.

Subd. 3. **Definition.** For purposes of this section, "domestic animal" means:

(1) those species of animals that live under the husbandry of humans;

(2) livestock within the meaning of section 35.01, subdivision 3;

(3) a farm-raised deer, farm-raised game bird, or farm-raised fish; or

(4) an animal listed as a domestic animal by a rule adopted by the Department of Agriculture.

History: *2004 c 254 s 45*

609.605 TRESPASS. [NEW SUBD. 4a]

Subdivision 1. **Misdemeanor.** (a) The following terms have the meanings given them for purposes of this section.

(1) "Premises" means real property and any appurtenant building or structure.

(2) "Dwelling" means the building or part of a building used by an individual as a place of residence on either a full-time or a part-time basis. A dwelling may be part of a multidwelling or multipurpose building, or a manufactured home as defined in section 168.002, subdivision 16.

(3) "Construction site" means the site of the construction, alteration, painting, or repair of a building or structure.

(4) "Owner or lawful possessor," as used in paragraph (b), clause (9), means the person on whose behalf a building or dwelling is being constructed, altered, painted, or repaired and the general contractor or subcontractor engaged in that work.

(5) "Posted," as used:

(i) in paragraph (b), clause (4), means the placement of a sign at least 8-1/2 inches by 11 inches in a conspicuous place on the exterior of the building, or in a conspicuous place within the property on which the building is located. The sign must carry a general notice warning against trespass;

(ii) in paragraph (b), clause (9), means the placement of a sign at least 8-1/2 inches by 11 inches in a conspicuous place on the exterior of the building that is under construction, alteration, or repair, or in a conspicuous place within the area being protected. If the area being protected is less than three acres, one additional sign must be conspicuously placed within that area. If the area being protected is three acres but less than ten acres, two additional signs must be conspicuously placed within that area. For each additional full ten acres of area being protected beyond the first ten acres of area, two additional signs must be conspicuously placed within the area being protected. The sign must carry a general notice warning against trespass; and

(iii) in paragraph (b), clause (10), means the placement of signs that:

(A) carry a general notice warning against trespass;

(B) display letters at least two inches high;

(C) state that Minnesota law prohibits trespassing on the property; and

(D) are posted in a conspicuous place and at intervals of 500 feet or less.

(6) "Business licensee," as used in paragraph (b), clause (9), includes a representative of a building trades labor or management organization.

(7) "Building" has the meaning given in section 609.581, subdivision 2.

(b) A person is guilty of a misdemeanor if the person intentionally:

(1) permits domestic animals or fowls under the actor's control to go on the land of another within a city;

(2) interferes unlawfully with a monument, sign, or pointer erected or marked to designate a point of a boundary, line or a political subdivision, or of a tract of land;

(3) trespasses on the premises of another and, without claim of right, refuses to depart from the premises on demand of the lawful possessor;

(4) occupies or enters the dwelling or locked or posted building of another, without claim of right or consent of the owner or the consent of one who has the right to give consent, except in an emergency situation;

(5) enters the premises of another with intent to take or injure any fruit, fruit trees, or vegetables growing on the premises, without the permission of the owner or occupant;

(6) enters or is found on the premises of a public or private cemetery without authorization during hours the cemetery is posted as closed to the public;

(7) returns to the property of another with the intent to abuse, disturb, or cause distress in or threaten another, after being told to leave the property and not to return, if the actor is without claim of right to the property or consent of one with authority to consent;

(8) returns to the property of another within one year after being told to leave the property and not to return, if the actor is without claim of right to the property or consent of one with authority to consent;

(9) enters the locked or posted construction site of another without the consent of the owner or lawful possessor, unless the person is a business licensee;

(10) enters the locked or posted aggregate mining site of another without the consent of the owner or lawful possessor, unless the person is a business licensee; or

(11) crosses into or enters any public or private area lawfully cordoned off by or at the direction of a peace officer engaged in the performance of official duties. As used in this clause: (i) an area may be "cordoned off" through the use of tape, barriers, or other means conspicuously placed and identifying the area as being restricted by a peace officer and identifying the responsible authority; and (ii) "peace officer" has the meaning given in section 626.84, subdivision 1. It is an affirmative defense to a charge under this clause that a peace officer permitted entry into the restricted area.

Subd. 2. **Gross misdemeanor.** Whoever trespasses upon the grounds of a facility providing emergency shelter services for battered women, as defined under section 611A.31, subdivision 3, or of a facility providing transitional housing for battered women and their children, without claim of right or consent of one who has right to give consent, and refuses to depart from the grounds of the facility on demand of one who has right to give consent, is guilty of a gross misdemeanor.

Subd. 3. [Repealed, 1993 c 326 art 2 s 34]

Subd. 4. **Trespasses on school property.** (a) It is a misdemeanor for a person to enter or be found in a public or nonpublic elementary, middle, or secondary school building unless the person:

(1) is an enrolled student in, a parent or guardian of an enrolled student in, or an employee of the school or school district;

(2) has permission or an invitation from a school official to be in the building;

(3) is attending a school event, class, or meeting to which the person, the public, or a student's family is invited; or

(4) has reported the person's presence in the school building in the manner required for visitors to the school.

(b) It is a misdemeanor for a person to be on the roof of a public or nonpublic elementary, middle, or secondary school building unless the person has permission from a school official to be on the roof of the building.

(c) It is a gross misdemeanor for a group of three or more persons to enter or be found in a public or nonpublic elementary, middle, or secondary school building unless one of the persons:

(1) is an enrolled student in, a parent or guardian of an enrolled student in, or an employee of the school or school district;

(2) has permission or an invitation from a school official to be in the building;

(3) is attending a school event, class, or meeting to which the person, the public, or a student's family is invited; or

(4) has reported the person's presence in the school building in the manner required for visitors to the school.

(d) It is a misdemeanor for a person to enter or be found on school property within one year after being told by the school principal or the principal's designee to leave the property and not to return, unless the principal or the principal's designee has given the person permission to return to the property. As used in this paragraph, "school property" has the meaning given in section 152.01, subdivision 14a, clauses (1) and (3).

(e) A school principal or a school employee designated by the school principal to maintain order on school property, who has reasonable cause to believe that a person is violating this subdivision may detain the person in a reasonable manner for a reasonable period of time pending the arrival of a peace officer. A school principal or designated school employee is not civilly or criminally liable for any action authorized under this paragraph if the person's action is based on reasonable cause.

(f) A peace officer may arrest a person without a warrant if the officer has probable cause to believe the person violated this subdivision within the preceding four hours. The arrest may be made even though the violation did not occur in the peace officer's presence.

Subd. 4a. **Trespass on a school bus.** (a) As used in this subdivision, "school bus" has the meaning given in section 169.011, subdivision 71.

(b) As used in this subdivision, "pupils" means persons in grades prekindergarten through grade 12.

(c) A person who boards a school bus when the bus is on its route or otherwise in operation, or while it has pupils on it, and who refuses to leave the bus on demand of the bus operator, is guilty of a misdemeanor.

Subd. 5. **Certain trespass on agricultural land.** (a) A person is guilty of a gross misdemeanor if the person enters the posted premises of another on which cattle, bison, sheep, goats, swine, horses, poultry, farmed cervidae, farmed ratitae, aquaculture stock, or other species of domestic animals for commercial production are kept, without the consent of the owner or lawful occupant of the land.

(b) "Domestic animal," for purposes of this section, has the meaning given in section 609.599.

(c) "Posted," as used in paragraph (a), means the placement of a sign at least 11 inches square in a conspicuous place at each roadway entry to the premises. The sign must provide notice of a biosecurity area and wording such as: "Biosecurity measures are in force. No entrance beyond this point without authorization." The sign may also contain a telephone number or a location for obtaining such authorization.

(d) The provisions of this subdivision do not apply to employees or agents of the state or county when serving in a regulatory capacity and conducting an inspection on posted premises where domestic animals are kept.

History: *1963 c 753 art 1 s 609.605; 1971 c 23 s 62; 1973 c 123 art 5 s 7; 1976 c 251 s 1; 1978 c 512 s 1; 1981 c 365 s 9; 1982 c 408 s 2; 1985 c 159 s 2; 1986 c 444; 1987 c 307 s 3; 1989 c 5 s 9; 1989 c 261 s 5; 1990 c 426 art 1 s 54; 1993 c 326 art 1 s 14; art 2 s 13; art 4 s 32; 1993 c 366 s 13; 1994 c 465 art 1 s 60; 1995 c 226 art 3 s 48; 2004 c 254 s 46; 2005 c 136 art 17 s 41, 42; 2009 c 59 art 5 s 15; 2009 c 123 s 14*

609.6055 TRESPASS ON CRITICAL PUBLIC SERVICE FACILITY; UTILITY; OR PIPELINE.

Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the meanings given.

(b) "Critical public service facility" includes buildings and other physical structures, and fenced in or otherwise enclosed property, of railroad yards and stations, bus stations, airports, and other mass transit facilities; oil refineries; and storage areas or facilities for hazardous materials, hazardous substances, or hazardous wastes. The term also includes nonpublic portions of bridges. The term does not include railroad tracks extending beyond a critical public service facility.

(c) "Pipeline" includes an aboveground pipeline, a belowground pipeline housed in an underground structure, and any equipment, facility, or building located in this state that is used to transport natural or synthetic gas, crude petroleum or petroleum fuels or oil or their derivatives, or hazardous liquids, to or within a distribution, refining, manufacturing, or storage facility that is located inside or outside of this state. Pipeline does not include service lines.

(d) "Utility" includes:

(1) any organization defined as a utility in section 216C.06, subdivision 18;

(2) any telecommunications carrier or telephone company regulated under chapter 237; and

(3) any local utility or enterprise formed for the purpose of providing electrical or gas heating and power, telephone, water, sewage, wastewater, or other related utility service, which is owned, controlled, or regulated by a town, a statutory or home rule charter city, a county, a port development authority, the Metropolitan Council, a district heating authority, a regional commission or other regional government unit, or a combination of these governmental units.

The term does not include property located above buried power or telecommunications lines or property located below suspended power or telecommunications lines, unless the property is fenced in or otherwise enclosed.

(e) "Utility line" includes power, telecommunications, and transmissions lines as well as related equipment owned or controlled by a utility.

Subd. 2. **Prohibited conduct; penalty.** (a) Whoever enters or is found upon property containing a critical public service facility, utility, or pipeline, without claim of right or consent of one who has the right to give consent to be on the property, is guilty of a gross misdemeanor, if:

(1) the person refuses to depart from the property on the demand of one who has the right to give consent;

(2) within the past six months, the person had been told by one who had the right to give consent to leave the property and not to return, unless a person with the right to give consent has given the person permission to return; or

(3) the property is posted.

(b) Whoever enters an underground structure that (1) contains a utility line or pipeline and (2) is not open to the public for pedestrian use, without claim of right or consent of one who has the right to give consent to be in the underground structure, is guilty of a gross misdemeanor. The underground structure does not need to be posted for this paragraph to apply.

Subd. 3. **Posting.** For purposes of this section, a critical public service facility, utility, or pipeline is posted if there are signs that:

(1) state "no trespassing" or similar terms;

(2) display letters at least two inches high;

(3) state that Minnesota law prohibits trespassing on the property; and

(4) are posted in a conspicuous place and at intervals of 500 feet or less.

Subd. 4. **Detention authority; immunity.** An employee or other person designated by a critical public service facility, utility, or pipeline to ensure the provision of services by the critical public service facility or the safe operation of the equipment or facility of the utility or pipeline who has reasonable cause to believe that a person is violating this section may detain the person as provided in this subdivision. The person detained must be promptly informed of the purpose of the detention and may not be subjected to unnecessary or unreasonable force or interrogation. The employee or other designated person must notify a peace officer promptly of the detention and may only detain the person for a reasonable period of time. No employee or other designated person is criminally or civilly liable for any detention that the employee or person reasonably believed was authorized by and conducted in conformity with this subdivision.

Subd. 5. **Arrest authority.** A peace officer may arrest a person without a warrant if the officer has probable cause to believe the person violated this section within the preceding four hours. The arrest may be made even though the violation did not occur in the presence of the peace officer.

History: *2002 c 401 art 1 s 18; 2008 c 217 s 1, 2*

609.6057 GEOGRAPHIC RESTRICTION. [NEW]

Subdivision 1. **Definition.** As used in this section, "geographic restriction" means a limitation prohibiting a defendant in a criminal proceeding or a juvenile offender in a delinquency proceeding from entering a designated property or geographic area.

Subd. 2. **Prohibited conduct; penalty.** A person who knows of a geographic restriction order issued against the person and intentionally enters or remains in the restricted area is guilty of a misdemeanor.

Subd. 3. **Notice.** (a) A geographic restriction may be issued as a pretrial order before final disposition of the underlying criminal case, as a postconviction probationary order, or both. A geographic restriction order is independent of any condition of pretrial release or probation imposed on the defendant. A geographic restriction order may be issued in addition to a similar restriction imposed as a condition of pretrial release or probation.

(b) A court may issue a geographic restriction upon a finding that its issuance will serve the interests of protecting public safety or property. In making that determination, a court shall consider the following factors:

(1) whether a defendant's presence in a restricted area creates a risk to public safety or property;

(2) a defendant's criminal history;

(3) the likelihood of future criminal activity within the restricted area; and

(4) any other factors deemed relevant by the court.

(c) A court may grant any exceptions to a geographic restriction that it deems necessary in order to avoid the imposition of a significant hardship upon a defendant. In determining whether to grant an exception, a court shall also consider the impact of the exception on the interests of protecting public safety or property.

(d) A geographic restriction order under this section shall be issued in a proceeding that is separate from but which may be held immediately following a proceeding in which any pretrial release or sentencing issues are decided.

(e) A court issuing a geographic restriction order under this section shall notify a defendant:

(1) of the area subject to a geographic restriction; and

(2) that violation of the geographic restriction order is a crime.

Subd. 4. **Cancellation.** (a) A court shall cancel a pretrial geographic restriction order at the final disposition of the underlying criminal case.

(b) A court shall cancel a postconviction geographic restriction order when an offender completes a period of probationary supervision or is committed to the commissioner of corrections.

(c) A court may cancel a postconviction geographic restriction order at any time during which an offender is under probationary supervision.

609.606 UNLAWFUL OUSTER OR EXCLUSION.

A landlord, agent of the landlord, or person acting under the landlord's direction or control who unlawfully and intentionally removes or excludes a tenant from lands or tenements or intentionally interrupts or causes the interruption of electrical, heat, gas, or water services to the tenant with intent to unlawfully remove or exclude the tenant from lands or tenements is guilty of a misdemeanor.

History: *1992 c 376 art 1 s 16*

609.611 INSURANCE FRAUD.

Subdivision 1. **Insurance fraud prohibited.** Whoever with the intent to defraud for the purpose of depriving another of property or for pecuniary gain, commits, or permits its employees or its agents to commit any of the following acts, is guilty of insurance fraud and may be sentenced as provided in subdivision 3:

(a) Presents, causes to be presented, or prepares with knowledge or reason to believe that it will be presented, by or on behalf of an insured, claimant, or applicant to an insurer, insurance professional, or premium finance company in connection with an insurance transaction or premium finance transaction, any information that contains a false representation as to any material fact, or that conceals a material fact concerning any of the following:

(1) an application for, rating of, or renewal of, an insurance policy;

(2) a claim for payment or benefit under an insurance policy;

(3) a payment made according to the terms of an insurance policy;

(4) an application used in a premium finance transaction;

(b) Presents, causes to be presented, or prepares with knowledge or reason to believe that it will be presented, to or by an insurer, insurance professional, or a premium finance company in connection with an insurance transaction or premium finance transaction, any information that contains a false representation as to any material fact, or that conceals a material fact, concerning any of the following:

(1) a solicitation for sale of an insurance policy or purported insurance policy;

(2) an application for certificate of authority;

(3) the financial condition of an insurer; or

(4) the acquisition, formation, merger, affiliation, or dissolution of an insurer;

(c) Solicits or accepts new or renewal insurance risks by or for an insolvent insurer;

(d) Removes the assets or any record of assets, transactions, and affairs or any material part thereof, from the home office or other place of business of an insurer, or from the place of safekeeping of an insurer, or destroys or sequesters the same from the Department of Commerce.

(e) Diverts, misappropriates, converts, or embezzles funds of an insurer, insured, claimant, or applicant for insurance in connection with:

(1) an insurance transaction;

(2) the conducting of business activities by an insurer or insurance professional; or

(3) the acquisition, formation, merger, affiliation, or dissolution of any insurer.

Subd. 2. **Statute of limitations.** The applicable statute of limitations provision under section 628.26 shall not begin to run until the insurance company or law enforcement agency is aware of the fraud, but in no event may the prosecution be commenced later than seven years after the act has occurred.

Subd. 3. **Sentence.** Whoever violates this provision may be sentenced as provided in section 609.52, subdivision 3, based on the greater of (i) the value of property, services, or other benefit wrongfully obtained or attempted to obtain, or (ii) the aggregate economic loss suffered by any person as a result of the violation. A person convicted of a violation of this section must be ordered to pay restitution to persons aggrieved by the violation. Restitution must be ordered in addition to a fine or imprisonment but not in lieu of a fine or imprisonment.

Subd. 4. **Definitions.** (a) "Insurance policy" means the written instrument in which are set forth the terms of any certificate of insurance, binder of coverage, or contract of insurance (including a certificate, binder, or contract issued by a state-assigned risk plan); benefit plan; nonprofit hospital service plan; motor club service plan; or surety bond, cash bond, or any other alternative to insurance authorized by a state's Financial Responsibility Act.

(b) "Insurance professional" means sales agents, agencies, managing general agents, brokers, producers, claims representatives, adjusters, and third-party administrators.

(c) "Insurance transaction" means a transaction by, between, or among: (1) an insurer or a person who acts on behalf of an insurer; and (2) an insured, claimant, applicant for insurance, public adjuster, insurance professional, practitioner, or any person who acts on behalf of any of the foregoing, for the purpose of obtaining insurance or reinsurance, calculating insurance premiums, submitting a claim, negotiating or adjusting a claim, or otherwise obtaining insurance, self-insurance, or reinsurance or obtaining the benefits thereof or therefrom.

(d) "Insurer" means a person purporting to engage in the business of insurance or authorized to do business in the state or subject to regulation by the state, who undertakes to indemnify another against loss, damage, or liability arising from a contingent or unknown event. Insurer includes, but is not limited to, an insurance company; self-insurer; reinsurer; reciprocal exchange; interinsurer; risk retention group; Lloyd's insurer; fraternal benefit society; surety; medical service, dental, optometric, or any other similar health service plan; and any other legal entity engaged or purportedly engaged in the business of insurance, including any person or entity that falls within the definition of insurer found within section 60A.951, subdivision 5.

(e) "Premium" means consideration paid or payable for coverage under an insurance policy. Premium includes any payment, whether due within the insurance policy term or otherwise, and any deductible payment, whether advanced by the insurer or insurance professional and subject to reimbursement by the insured or otherwise, any self-insured retention or payment, whether advanced by the insurer or insurance professional and subject to reimbursement by the insured or otherwise, and any collateral or security to be provided to collateralize obligations to pay any of the above.

(f) "Premium finance company" means a person engaged or purporting to engage in the business of advancing money, directly or indirectly, to an insurer or producer at the request of an insured under the terms of a premium finance agreement, including but not limited to, loan contracts, notes, agreements or obligations, wherein the insured has assigned the unearned premiums, accrued dividends, or loss payments as security for such advancement in payment of premiums on insurance policies only, but does not include the financing of insurance premiums purchased in connection with the financing of goods or services.

(g) "Premium finance transaction" means a transaction by, between, or among an insured, a producer or other party claiming to act on behalf of an insured and a third-party premium finance company, for the purposes of purportedly or actually advancing money directly or indirectly to an insurer or producer at the request of an insured under the terms of a premium finance agreement, wherein the insured has assigned the unearned premiums, accrued dividends, or loan payments as security for such advancement in payment of premiums on insurance policies only, but does not include the financing of insurance premiums purchased in connection with the financing of goods or services.

History: *1976 c 124 s 8; 1984 c 628 art 3 s 11; 1986 c 444; 1987 c 217 s 2; 1994 c 636 art 2 s 43; 1996 c 408 art 3 s 36*

609.612 EMPLOYMENT OF RUNNERS.

Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the meanings given.

(b) "Public media" means telephone directories, professional directories, newspapers and other periodicals, radio and television, billboards, and mailed or electronically transmitted written communications that do not involve in-person contact with a specific prospective patient or client.

(c) "Runner," "capper," or "steerer" means a person who for a pecuniary gain directly procures or solicits prospective patients through telephonic, electronic, or written communication, or in-person contact, at the direction of, or in cooperation with, a health care provider when the person knows or has reason to know that the provider's purpose is to perform or obtain services or benefits under or relating to a contract of motor vehicle insurance. The term runner, capper, or steerer does not include a person who solicits or procures clients either through public media, or consistent with the requirements of section 65B.54, subdivision 6.

Subd. 2. **Act constituting.** Whoever employs, uses, or acts as a runner, capper, or steerer is guilty of a felony and may be sentenced to imprisonment for not more than three years or to a payment of a fine of not more than $6,000, or both. Charges for any services rendered by a health care provider, who violated this section in regard to the person for whom such services were rendered, are noncompensable and unenforceable as a matter of law.

History: *2002 c 331 s 15; 2012 c 255 s 2*

609.615 DEFEATING SECURITY ON REALTY.

Whoever removes or damages real property which is subject to a mortgage, mechanic's lien, or contract for deed, including during the period of time allowed for redemption, with intent to impair the value of the property, without the consent of the security holder, may be sentenced as follows:

(1) if the value of the property is impaired by $300 or less, to imprisonment for not more than 90 days or to payment of a fine of not more than $1,000, or both; or

(2) if the value of the property is impaired by more than $300, to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

History: *1963 c 753 art 1 s 609.615; 1971 c 23 s 63; 1977 c 355 s 12; 1984 c 628 art 3 s 11; 1993 c 40 s 10; 2004 c 228 art 1 s 72*

609.62 DEFEATING SECURITY ON PERSONALTY.

Subdivision 1. **Definition.** In this section "security interest" means an interest in property which secures payment or other performance of an obligation.

Subd. 2. **Acts constituting.** Whoever, with intent to defraud, does any of the following may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $6,000, or both:

(1) conceals, removes, or transfers any personal property in which the actor knows that another has a security interest; or

(2) being an obligor and knowing the location of the property refuses to disclose the same to an obligee entitled to possession thereof.

History: *1963 c 753 art 1 s 609.62; 1984 c 628 art 3 s 11; 1986 c 444; 1989 c 290 art 6 s 21*

609.621 PROOF OF CONCEALMENT OF PROPERTY BY OBLIGOR OF SECURED PROPERTY.

Subdivision 1. **Crime defined; obligor conceals property.** When in any prosecution under section 609.62, it appears that there is a default in the payment of the debts secured and it further appears that the obligor has failed or refused to reveal the location of the security, this shall be considered sufficient evidence to sustain a finding that the obligor has removed, concealed, or disposed of the property.

Subd. 2. **Allegation.** In any prosecution under section 609.62, it is a sufficient allegation and description of the security and the property secured to state generally that such property was duly mortgaged or sold under a conditional sales contract, or as the case may be, giving the date thereof and the names of the obligor and obligee.

History: *1963 c 753 art 2 s 15*

FORGERY AND RELATED CRIMES

609.625 AGGRAVATED FORGERY.

Subdivision 1. **Making or altering writing or object.** Whoever, with intent to defraud, falsely makes or alters a writing or object of any of the following kinds so that it purports to have been made by another or by the maker or alterer under an assumed or fictitious name, or at another time, or with different provisions, or by authority of one who did not give such authority, is guilty of aggravated forgery and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both:

(1) a writing or object whereby, when genuine, legal rights, privileges, or obligations are created, terminated, transferred, or evidenced, or any writing normally relied upon as evidence of debt or property rights, other than a check as defined in section 609.631 or a financial transaction card as defined in section 609.821; or

(2) an official seal or the seal of a corporation; or

(3) a public record or an official authentication or certification of a copy thereof; or

(4) an official return or certificate entitled to be received as evidence of its contents; or

(5) a court order, judgment, decree, or process; or

(6) the records or accounts of a public body, office, or officer; or

(7) the records or accounts of a bank or person, with whom funds of the state or any of its agencies or subdivisions are deposited or entrusted, relating to such funds.

Subd. 2. **Means for false reproduction.** Whoever, with intent to defraud, makes, engraves, possesses or transfers a plate or instrument for the false reproduction of a writing or object mentioned in subdivision 1, a check as defined in section 609.631, or a financial transaction card as defined in section 609.821, may be sentenced as provided in Subdivision 1.

Subd. 3. **Uttering or possessing.** Whoever, with intent to defraud, utters or possesses with intent to utter any forged writing or object mentioned in subdivision 1, not including a check as defined in section 609.631 or a financial

transaction card as defined in section 609.821, knowing it to have been so forged, may be sentenced as provided in Subdivision 1.

History: *1963 c 753 art 1 s 609.625; 1984 c 628 art 3 s 11; 1985 c 243 s 9; 1986 c 444; 1987 c 329 s 12*

609.63 FORGERY.

Subdivision 1. **Crime defined; intent to defraud.** Whoever, with intent to injure or defraud, does any of the following is guilty of forgery and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $5,000, or both:

(1) uses a false writing, knowing it to be false, for the purpose of identification or recommendation; or

(2) without consent, places, or possesses with intent to place, upon any merchandise an identifying label or stamp which is or purports to be that of another craftsperson, tradesperson, packer, or manufacturer, or disposes or possesses with intent to dispose of any merchandise so labeled or stamped; or

(3) falsely makes or alters a membership card purporting to be that of a fraternal, business, professional, or other association, or of any labor union, or possesses any such card knowing it to have been thus falsely made or altered; or

(4) falsely makes or alters a writing, or possesses a falsely made or altered writing, evidencing a right to transportation on a common carrier; or

(5) destroys, mutilates, or by alteration, false entry or omission, falsifies any record, account, or other document relating to a private business; or

(6) without authority of law, destroys, mutilates, or by alteration, false entry, or omission, falsifies any record, account, or other document relating to a person, corporation, or business, or filed in the office of, or deposited with, any public office or officer; or

(7) destroys a writing or object to prevent it from being produced at a trial, hearing, or other proceeding authorized by law.

Subd. 2. **Crime defined; forged document at trial.** Whoever, with knowledge that it is forged, offers in evidence in any trial, hearing or other proceedings authorized by law, as genuine, any forged writing or object may be sentenced as follows:

(1) if the writing or object is offered in evidence in the trial of a felony charge, to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both; or

(2) in all other cases, to imprisonment for not more than three years or to payment of a fine of not more than $5,000, or both.

History: *1963 c 753 art 1 s 609.63; 1984 c 628 art 3 s 11; 1986 c 444*

609.631 CHECK FORGERY; OFFERING FORGED CHECK.

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Check" means a check, draft, order of withdrawal, or similar negotiable or nonnegotiable instrument.

(c) "Property" and "services" have the meanings given in section 609.52.

Subd. 2. **Check forgery; elements.** A person is guilty of check forgery and may be sentenced under subdivision 4 if the person, with intent to defraud, does any of the following:

(1) falsely makes or alters a check so that it purports to have been made by another or by the maker under an assumed or fictitious name, or at another time, or with different provisions, or by the authority of one who did not give authority; or

(2) falsely endorses or alters a check so that it purports to have been endorsed by another.

Subd. 3. **Offering forged check; elements.** A person who, with intent to defraud, offers, or possesses with intent to offer, a forged check, whether or not it is accepted, is guilty of offering a forged check and may be sentenced as provided in subdivision 4.

Subd. 4. **Sentencing.** A person who is convicted under subdivision 2 or 3 may be sentenced as follows:

(1) to imprisonment for not more than 20 years or to payment of a fine of not more than $100,000, or both, if the forged check or checks are used to obtain or in an attempt to obtain, property or services of more than $35,000 or the aggregate amount of the forged check or checks is more than $35,000;

(2) to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both, if the forged check or checks are used to obtain or in an attempt to obtain, property or services of more than $2,500 or the aggregate amount of the forged check or checks is more than $2,500;

(3) to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if:

(a) the forged check or checks are used to obtain or in an attempt to obtain, property or services of more than $250 but not more than $2,500, or the aggregate face amount of the forged check or checks is more than $250 but not more than $2,500; or

(b) the forged check or checks are used to obtain or in an attempt to obtain, property or services of no more than $250, or have an aggregate face value of no more than $250, and the person has been convicted within the preceding five years for an offense under this section, section 609.24; 609.245; 609.52; 609.53; 609.582, subdivision 1, 2, or 3; 609.625; 609.63; or 609.821, or a statute from another state in conformity with any of those sections, and the person received a felony or gross misdemeanor sentence for the offense, or a sentence that was stayed under section 609.135 if the offense to which a plea was entered would allow imposition of a felony or gross misdemeanor sentence; and

(4) to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both, if the forged check or checks are used to obtain or in an attempt to obtain, property or services of no more than $250, or the aggregate face amount of the forged check or checks is no more than $250.

In any prosecution under this subdivision, the value of the checks forged or offered by the defendant in violation of this subdivision within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this section. When two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the checks was forged or offered for all of the offenses aggregated under this paragraph.

History: *1987 c 329 s 13; 1988 c 712 s 14; 1989 c 290 art 7 s 10; 1999 c 218 s 4*

609.632 COUNTERFEITING OF CURRENCY.

Subdivision 1. **Manufacturing; printing.** Whoever, with the intent to defraud, falsely makes, alters, prints, scans, images, or copies any United States postal money order, United States currency, Federal Reserve note, or other obligation or security of the United States so that it purports to be genuine or has different terms or provisions than that of the United States Postal Service or United States Treasury is guilty of counterfeiting and may be sentenced as provided in subdivision 4.

Subd. 2. **Means for false reproduction.** Whoever, with intent to defraud, makes, engraves, possesses, or transfers a plate or instrument, computer, printer, camera, software, paper, cloth, fabric, ink, or other material for the false reproduction of any United States postal money order, United States currency, Federal Reserve note, or other obligation or security of the United States is guilty of counterfeiting and may be sentenced as provided in subdivision 4.

Subd. 3. **Uttering or possessing.** Whoever, with intent to defraud, utters or possesses with intent to utter any counterfeit United States postal money order, United States currency, Federal Reserve note, or other obligation or security of the United States, having reason to know that the money order, currency, note, or obligation or security is forged, counterfeited, falsely made, altered, or printed, is guilty of offering counterfeited currency and may be sentenced as provided in subdivision 4.

Subd. 4. **Penalty.** (a) A person who is convicted of violating subdivision 1 or 2 may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than $100,000, or both.

(b) A person who is convicted of violating subdivision 3 may be sentenced as follows:

(1) to imprisonment for not more than 20 years or to payment of a fine of not more than $100,000, or both, if the counterfeited item is used to obtain or in an attempt to obtain property or services having a value of more than $35,000, or the aggregate face value of the counterfeited item is more than $35,000;

(2) to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both, if the counterfeited item is used to obtain or in an attempt to obtain property or services having a value of more than $5,000, or the aggregate face value of the counterfeited item is more than $5,000;

(3) to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if:

(i) the counterfeited item is used to obtain or in an attempt to obtain property or services having a value of more than $1,000 or the aggregate face value of the counterfeited item is more than $1,000; or

(ii) the counterfeited item is used to obtain or in an attempt to obtain property or services having a value of no more than $1,000, or the aggregate face value of the counterfeited item is no more than $1,000, and the person has been convicted within the preceding five years for an offense under this section, section 609.24; 609.245; 609.52; 609.53; 609.582, subdivision 1, 2, or 3; 609.625; 609.63; or 609.821, or a statute from another state or the United States in conformity with any of those sections, and the person received a felony or gross misdemeanor sentence for the offense, or a sentence that was stayed under section 609.135 if the offense to which a plea was entered would allow the imposition of a felony or gross misdemeanor sentence; or

(4) to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both, if the counterfeited item is used to obtain or in an attempt to obtain property or services having a value of no more than $1,000, or the aggregate face value of the counterfeited item is no more than $1,000.

Subd. 5. **Aggregation; venue.** In any prosecution under this section, the value of the counterfeited United States postal money orders, United States currency, Federal Reserve notes, or other obligations or securities of the United States, offered by the defendant in violation of this section within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this section. When two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the counterfeited items was forged, offered, or possessed, for all of the offenses aggregated under this subdivision.

History: *2006 c 260 art 1 s 27*

609.635 OBTAINING SIGNATURE BY FALSE PRETENSE.

Whoever, by false pretense, obtains the signature of another to a writing which is a subject of forgery under section 609.625, subdivision 1, may be punished as therein provided.

History: *1963 c 753 art 1 s 609.635*

609.64 RECORDING, FILING OF FORGED INSTRUMENT.

Whoever intentionally presents for filing, registering, or recording, or files, registers, or records a false or forged instrument relating to or affecting real or personal property in a public office entitled to file, register, or record such instrument when genuine may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $5,000, or both.

History: *1963 c 753 art 1 s 609.64; 1984 c 628 art 3 s 11*

609.645 FRAUDULENT STATEMENTS.

Whoever, with intent to injure or defraud, does any of the following may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $5,000, or both:

(1) circulates or publishes a false statement, oral or written, relating to a corporation, association, or individual, intending thereby to give a false apparent value to securities issued or to be issued by, or to the property of, such corporation, association, or individual; or

(2) makes a false ship's or airplane's manifest, invoice, register, or protest.

History: *1963 c 753 art 1 s 609.645; 1984 c 628 art 3 s 11*

609.65 FALSE CERTIFICATION BY NOTARY PUBLIC.

Whoever, when acting or purporting to act as a notary public or other public officer, certifies falsely that an instrument has been acknowledged or that any other act was performed by a party appearing before the actor or that as such notary public or other public officer the actor performed any other official act may be sentenced as follows:

(1) if the actor so certifies with intent to injure or defraud, to imprisonment for not more than three years or to payment of a fine of not more than $5,000, or both; or

(2) in any other case, to imprisonment for not more than 90 days or to payment of a fine of not more than $1,000, or both.

History: *1963 c 753 art 1 s 609.65; 1971 c 23 s 64; 1984 c 628 art 3 s 11; 1986 c 444; 2004 c 228 art 1 s 72*

609.651 STATE LOTTERY FRAUD.

Subdivision 1. **Felony.** A person is guilty of a felony and may be sentenced under subdivision 4 if the person does any of the following with intent to defraud the State Lottery:

(1) alters or counterfeits a state lottery ticket;

(2) knowingly presents an altered or counterfeited state lottery ticket for payment;

(3) knowingly transfers an altered or counterfeited state lottery ticket to another person; or

(4) otherwise claims a lottery prize by means of fraud, deceit, or misrepresentation.

Subd. 2. **Computer access.** A person is guilty of a felony and may be sentenced under subdivision 4 if the person:

(1) obtains access to a computer database maintained by the director without the specific authorization of the director;

(2) obtains access to a computer database maintained by a person under contract with the director to maintain the database without the specific authorization of the director and the person maintaining the database.

Subd. 3. **False statements.** A person is guilty of a felony and may be sentenced under subdivision 4 if the person:

(1) makes a materially false or misleading statement, or a material omission, in a record required to be submitted under chapter 349A; or

(2) makes a materially false or misleading statement, or a material omission, in information submitted to the director of the State Lottery in a lottery retailer's application or a document related to a bid.

Subd. 4. **Penalty.** (a) A person who violates subdivision 1 or 2 may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $50,000, or both.

(b) A person who violates subdivision 1 or 2 and defrauds the State Lottery of $35,000 or more may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than $100,000, or both.

(c) A person who violates subdivision 3 may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $25,000, or both.

History: *1989 c 334 art 3 s 16; 1989 c 356 s 36*

609.652 FRAUDULENT DRIVERS' LICENSES AND IDENTIFICATION CARDS; PENALTY.

Subdivision 1. **Definitions.** For purposes of this section:

(1) "driver's license or identification card" means a driver's license or identification card issued by the Driver and Vehicle Services Division of the Department of Public Safety or receipts issued by its authorized agents or those of any state as defined in section 171.01 that issues licenses recognized in this state for the operation of a motor vehicle or that issues identification cards recognized in this state for the purpose of indicating a person's legal name and age;

(2) "fraudulent driver's license or identification card" means a document purporting to be a driver's license or identification card, but that is not authentic; and

(3) "sell" means to sell, barter, deliver, exchange, distribute, or dispose of to another.

Subd. 2. **Criminal acts.** (a) A person who does any of the following for consideration and with intent to manufacture, sell, issue, publish, or pass more than one fraudulent driver's license or identification card or to cause or permit any of the items listed in clauses (1) to (5) to be used in forging or making more than one false or counterfeit driver's license or identification card is guilty of a crime:

(1) has in control, custody, or possession any plate, block, press, stone, digital image, computer software program, encoding equipment, computer optical scanning equipment, or digital photo printer, or other implement, or any part of such an item, designed to assist in making a fraudulent driver's license or identification card;

(2) engraves, makes, or amends, or begins to engrave, make, or amend, any plate, block, press, stone, or other implement for the purpose of producing a fraudulent driver's license or identification card;

(3) uses a photocopier, digital camera, photographic image, or computer software to generate a fraudulent driver's license or identification card;

(4) has in control, custody, or possession or makes or provides paper or other material adapted and designed for the making of a fraudulent driver's license or identification card; or

(5) prints, photographs, or in any manner makes or executes an engraved photograph, print, or impression purporting to be a driver's license or identification card.

(b) Notwithstanding section 171.22, a person who manufactures or possesses more than one fraudulent driver's license or identification card with intent to sell is guilty of a crime.

Subd. 3. **Penalties.** A person who commits any act described in subdivision 2 is guilty of a gross misdemeanor. A person convicted of a second or subsequent offense of this subdivision may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

History: *1Sp2001 c 8 art 8 s 27; 2006 c 212 art 1 s 19*

CRIMES AGAINST PUBLIC SAFETY AND HEALTH

609.66 DANGEROUS WEAPONS.

Subdivision 1. **Misdemeanor and gross misdemeanor crimes.** (a) Whoever does any of the following is guilty of a crime and may be sentenced as provided in paragraph (b):

(1) recklessly handles or uses a gun or other dangerous weapon or explosive so as to endanger the safety of another; or

(2) intentionally points a gun of any kind, capable of injuring or killing a human being and whether loaded or unloaded, at or toward another; or

(3) manufactures or sells for any unlawful purpose any weapon known as a slungshot or sand club; or

(4) manufactures, transfers, or possesses metal knuckles or a switch blade knife opening automatically; or

(5) possesses any other dangerous article or substance for the purpose of being used unlawfully as a weapon against another; or

(6) outside of a municipality and without the parent's or guardian's consent, furnishes a child under 14 years of age, or as a parent or guardian permits the child to handle or use, outside of the parent's or guardian's presence, a firearm or airgun of any kind, or any ammunition or explosive.

Possession of written evidence of prior consent signed by the minor's parent or guardian is a complete defense to a charge under clause (6).

(b) A person convicted under paragraph (a) may be sentenced as follows:

(1) if the act was committed in a public housing zone, as defined in section 152.01, subdivision 19, a school zone, as defined in section 152.01, subdivision 14a, or a park zone, as defined in section 152.01, subdivision 12a, to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both; or

(2) otherwise, including where the act was committed on residential premises within a zone described in clause (1) if the offender was at the time an owner, tenant, or invitee for a lawful purpose with respect to those residential premises, to imprisonment for not more than 90 days or to payment of a fine of not more than $1,000, or both.

Subd. 1a. **Felony crimes; suppressors; reckless discharge.** (a) Whoever does any of the following is guilty of a felony and may be sentenced as provided in paragraph (b):

(1) sells or has in possession a suppressor that is not lawfully possessed under federal law;

(2) intentionally discharges a firearm under circumstances that endanger the safety of another; or

(3) recklessly discharges a firearm within a municipality.

(b) A person convicted under paragraph (a) may be sentenced as follows:

(1) if the act was a violation of paragraph (a), clause (2), or if the act was a violation of paragraph (a), clause (1) or (3), and was committed in a public housing zone, as defined in section 152.01, subdivision 19, a school zone, as defined in section 152.01, subdivision 14a, or a park zone, as defined in section 152.01, subdivision 12a, to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both; or

(2) otherwise, to imprisonment for not more than two years or to payment of a fine of not more than $5,000, or both.

(c) As used in this subdivision, "suppressor" means any device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication.

Subd. 1b. **Felony; furnishing to minors.** Whoever, in any municipality of this state, furnishes a minor under 18 years of age with a firearm, airgun, ammunition, or explosive without the prior consent of the minor's parent or guardian or of the police department of the municipality is guilty of a felony and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both. Possession of written evidence of prior consent signed by the minor's parent or guardian is a complete defense to a charge under this subdivision.

Subd. 1c. **Felony; furnishing dangerous weapon.** Whoever recklessly furnishes a person with a dangerous weapon in conscious disregard of a known substantial risk that the object will be possessed or used in furtherance of a felony crime of violence is guilty of a felony and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

Subd. 1d. **Possession on school property; penalty.** (a) Except as provided under paragraphs (d) and (f), whoever possesses, stores, or keeps a dangerous weapon while knowingly on school property is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

(b) Whoever uses or brandishes a replica firearm or a BB gun while knowingly on school property is guilty of a gross misdemeanor.

(c) Whoever possesses, stores, or keeps a replica firearm or a BB gun while knowingly on school property is guilty of a misdemeanor.

(d) Notwithstanding paragraph (a), (b), or (c), it is a misdemeanor for a person authorized to carry a firearm under the provisions of a permit or otherwise to carry a firearm on or about the person's clothes or person in a location the person knows is school property. Notwithstanding section 609.531, a firearm carried in violation of this paragraph is not subject to forfeiture.

(e) As used in this subdivision:

(1) "BB gun" means a device that fires or ejects a shot measuring .18 of an inch or less in diameter;

(2) "dangerous weapon" has the meaning given it in section 609.02, subdivision 6;

(3) "replica firearm" has the meaning given it in section 609.713; and

(4) "school property" means:

(i) a public or private elementary, middle, or secondary school building and its improved grounds, whether leased or owned by the school;

(ii) a child care center licensed under chapter 245A during the period children are present and participating in a child care program;

(iii) the area within a school bus when that bus is being used by a school to transport one or more elementary, middle, or secondary school students to and from school-related activities, including curricular, cocurricular, noncurricular, extracurricular, and supplementary activities; and

(iv) that portion of a building or facility under the temporary, exclusive control of a public or private school, a school district, or an association of such entities where conspicuous signs are prominently posted at each entrance that give actual notice to persons of the school-related use.

(f) This subdivision does not apply to:

(1) active licensed peace officers;

(2) military personnel or students participating in military training, who are on-duty, performing official duties;

(3) persons authorized to carry a pistol under section 624.714 while in a motor vehicle or outside of a motor vehicle to directly place a firearm in, or retrieve it from, the trunk or rear area of the vehicle;

(4) persons who keep or store in a motor vehicle pistols in accordance with section 624.714 or 624.715 or other firearms in accordance with section 97B.045;

(5) firearm safety or marksmanship courses or activities conducted on school property;

(6) possession of dangerous weapons, BB guns, or replica firearms by a ceremonial color guard;

(7) a gun or knife show held on school property;

(8) possession of dangerous weapons, BB guns, or replica firearms with written permission of the principal or other person having general control and supervision of the school or the director of a child care center; or

(9) persons who are on unimproved property owned or leased by a child care center, school, or school district unless the person knows that a student is currently present on the land for a school-related activity.

(g) Notwithstanding section 471.634, a school district or other entity composed exclusively of school districts may not regulate firearms, ammunition, or their respective components, when possessed or carried by nonstudents or nonemployees, in a manner that is inconsistent with this subdivision.

Subd. 1e. **Felony; drive-by shooting.** (a) Whoever, while in or having just exited from a motor vehicle, recklessly discharges a firearm at or toward another motor vehicle or a building is guilty of a felony and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $6,000, or both.

(b) Any person who violates this subdivision by firing at or toward a person, or an occupied building or motor vehicle, may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

(c) For purposes of this subdivision, "motor vehicle" has the meaning given in section 609.52, subdivision 1, and "building" has the meaning given in section 609.581, subdivision 2.

Subd. 1f. **Gross misdemeanor; transferring firearm without background check.** A person, other than a federally licensed firearms dealer, who transfers a pistol or semiautomatic military-style assault weapon to another without complying with the transfer requirements of section 624.7132, is guilty of a gross misdemeanor if the transferee possesses or uses the weapon within one year after the transfer in furtherance of a felony crime of violence, and if:

(1) the transferee was prohibited from possessing the weapon under section 624.713 at the time of the transfer; or

(2) it was reasonably foreseeable at the time of the transfer that the transferee was likely to use or possess the weapon in furtherance of a felony crime of violence.

Subd. 1g. **Felony; possession in courthouse or certain state buildings.** (a) A person who commits either of the following acts is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both:

(1) possesses a dangerous weapon, ammunition, or explosives within any courthouse complex; or

(2) possesses a dangerous weapon, ammunition, or explosives in any state building within the Capitol Area described in chapter 15B, other than the National Guard Armory.

(b) Unless a person is otherwise prohibited or restricted by other law to possess a dangerous weapon, this subdivision does not apply to:

(1) licensed peace officers or military personnel who are performing official duties;

(2) persons who carry pistols according to the terms of a permit issued under section 624.714 and who so notify the sheriff or the commissioner of public safety, as appropriate;

(3) persons who possess dangerous weapons for the purpose of display as demonstrative evidence during testimony at a trial or hearing or exhibition in compliance with advance notice and safety guidelines set by the sheriff or the commissioner of public safety; or

(4) persons who possess dangerous weapons in a courthouse complex with the express consent of the county sheriff or who possess dangerous weapons in a state building with the express consent of the commissioner of public safety.

(c) For purposes of this subdivision, the issuance of a permit to carry under section 624.714 constitutes notification of the commissioner of public safety as required under paragraph (b), clause (2).

Subd. 1h. [Repealed, 2015 c 65 art 3 s 38]

Subd. 2. **Exceptions.** Nothing in this section prohibits the possession of the articles mentioned by museums or collectors of art or for other lawful purposes of public exhibition.

History: *1963 c 753 art 1 s 609.66; 1971 c 23 s 66; 1983 c 359 s 89; 1986 c 444; 1990 c 439 s 3,4; 1991 c 279 s 33; 1993 c 326 art 1 s 15-17; 1994 c 576 s 49; 1994 c 636 art 3 s 18-21; 1995 c 186 s 101; 1996 c 408 art 4 s 10; 1998 c 367 art 2 s 22; 2003 c 17 s 2; 2003 c 28 art 2 s 2; 1Sp2003 c 2 art 8 s 10,11; 2004 c 228 art 1 s 72; 2005 c 83 s 1,2; 2005 c 102 s 2; 2010 c 268 s 1; 1Sp2011 c 2 art 4 s 28; 2012 c 194 s 1; 2015 c 65 art 3 s 19,20*

609.661 PENALTY FOR SET GUNS; SWIVEL GUNS.

A person who violates a provision relating to set guns or swivel guns is guilty of a gross misdemeanor.

History: *1986 c 386 art 4 s 31*

609.662 SHOOTING VICTIM; DUTY TO RENDER AID.

Subdivision 1. **Definition.** As used in this section, "reasonable assistance" means aid appropriate to the circumstances, and includes obtaining or attempting to obtain assistance from a conservation or law enforcement officer, or from medical personnel.

Subd. 2. **Duty to render aid.** (a) A person who discharges a firearm and knows or has reason to know that the discharge has caused bodily harm to another person, shall:

(1) immediately investigate the extent of the person's injuries; and

(2) render immediate reasonable assistance to the injured person.

(b) A person who violates this subdivision is guilty of a crime and may be sentenced as follows:

(1) if the injured person suffered death or great bodily harm as a result of the discharge, to imprisonment for not more than two years or to payment of a fine of not more than $4,000, or both;

(2) if the injured person suffered substantial bodily harm as a result of the discharge, to imprisonment for not more than one year and one day or to payment of a fine of not more than $3,000, or both;

(3) otherwise, to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

(c) Notwithstanding section 609.035 or 609.04, a prosecution for or conviction under this subdivision is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Subd. 3. **Duty of witness.** (a) A person who witnesses the discharge of a firearm and knows or has reason to know that the discharge caused bodily harm to a person shall:

(1) immediately investigate the extent of the injuries; and

(2) render immediate reasonable assistance to the injured person.

(b) A person who violates this subdivision is guilty of a crime and may be sentenced as follows:

(1) if the defendant was a companion of the person who discharged the firearm at the time of the discharge, to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both;

(2) otherwise, to imprisonment for not more than 90 days or to payment of a fine of not more than $1,000, or both.

Subd. 4. **Defense.** It is an affirmative defense to a charge under this section if the defendant proves by a preponderance of the evidence that the defendant failed to investigate or render assistance as required under this section because the defendant reasonably perceived that these actions could not be taken without a significant risk of bodily harm to the defendant or others.

Subd. 5. [Repealed, 1994 c 623 art 5 s 3]

History: *1991 c 243 s 2; 2004 c 228 art 1 s 72*

609.663 DISPLAY OF HANDGUN AMMUNITION.

It is a petty misdemeanor to display centerfire metallic-case handgun ammunition for sale to the public in a manner that makes the ammunition directly accessible to persons under the age of 18 years, other than employees or agents of the seller, unless the display is under observation of the seller or the seller's employee or agent, or the seller takes reasonable steps to exclude underage persons from the immediate vicinity of the display. Ammunition displayed in an enclosed display case or behind a counter is not directly accessible. This section does not apply to ammunition suitable for big game hunting.

History: *1991 c 251 s 1*

609.665 SPRING GUNS.

Whoever sets a spring gun, pitfall, deadfall, snare, or other like dangerous weapon or device may be sentenced to imprisonment for not more than six months or to payment of a fine of not more than $1,000, or both.

History: *1963 c 753 art 1 s 609.665; 1984 c 628 art 3 s 11; 2004 c 228 art 1 s 72*

609.666 NEGLIGENT STORAGE OF FIREARMS.

Subdivision 1. **Definitions.** For purposes of this section, the following words have the meanings given.

(a) "Firearm" means a device designed to be used as a weapon, from which is expelled a projectile by the force of any explosion or force of combustion.

(b) "Child" means a person under the age of 18 years.

(c) "Loaded" means the firearm has ammunition in the chamber or magazine, if the magazine is in the firearm, unless the firearm is incapable of being fired by a child who is likely to gain access to the firearm.

Subd. 2. **Access to firearms.** A person is guilty of a gross misdemeanor who negligently stores or leaves a loaded firearm in a location where the person knows, or reasonably should know, that a child is likely to gain access, unless reasonable action is taken to secure the firearm against access by the child.

Subd. 3. **Limitations.** Subdivision 2 does not apply to a child's access to firearms that was obtained as a result of an unlawful entry.

History: *1993 c 326 art 1 s 18; 1996 c 408 art 4 s 11*

609.667 FIREARMS; REMOVAL OR ALTERATION OF SERIAL NUMBER.

Whoever commits any of the following acts may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both:

(1) obliterates, removes, changes, or alters the serial number or other identification of a firearm;

(2) receives or possesses a firearm, the serial number or other identification of which has been obliterated, removed, changed, or altered; or

(3) receives or possesses a firearm that is not identified by a serial number.

As used in this section, "serial number or other identification" means the serial number and other information required under United States Code, title 26, section 5842, for the identification of firearms.

History: *1994 c 636 art 3 s 22*

609.668 EXPLOSIVE AND INCENDIARY DEVICES.

Subdivision 1. **Definitions.** For purposes of this section, the following terms have the meanings given them.

(a) "Explosive device" means a device so articulated that an ignition by fire, friction, concussion, chemical reaction, or detonation of any part of the device may cause such sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects. Explosive devices include, but are not limited to, bombs, grenades, rockets having a propellant charge of more than four ounces, mines, and fireworks modified for other than their intended purpose. The term includes devices that produce a chemical reaction that produces gas capable of bursting its container and producing destructive effects. The term does not include firearms ammunition.

(b) "Incendiary device" means a device so articulated that an ignition by fire, friction, concussion, detonation, or other method may produce destructive effects primarily through combustion rather than explosion. The term does not include a manufactured device or article in common use by the general public that is designed to produce combustion for a lawful purpose, including but not limited to matches, lighters, flares, or devices commercially manufactured primarily for the purpose of illumination, heating, or cooking. The term does not include firearms ammunition.

(c) "Crime of violence" has the meaning given in section 624.712, subdivision 5, and also includes a domestic assault conviction when committed within the last three years or while an order for protection is active against the person, whichever period is longer.

Subd. 2. **Possession by certain persons prohibited.** The following persons are prohibited from possessing or reporting an explosive device or incendiary device:

(a) a person under the age of 18 years;

(b) a person who has been convicted in this state or elsewhere of a crime of violence unless ten years have elapsed since the person's civil rights have been restored or the sentence has expired, whichever occurs first, and during that time the person has not been convicted of any other crime of violence. For purposes of this section, crime of violence includes crimes in other states or jurisdictions that would have been crimes of violence if they had been committed in this state;

(c) a person who is or has ever been confined or committed in Minnesota or elsewhere as a person who is mentally ill, developmentally disabled, or mentally ill and dangerous to the public, as defined in section 253B.02, to a treatment facility, unless the person possesses a certificate of a medical doctor or psychiatrist licensed in Minnesota, or other satisfactory proof, that the person is no longer suffering from this disability;

(d) a person who has been convicted in Minnesota or elsewhere for the unlawful use, possession, or sale of a controlled substance other than conviction for possession of a small amount of marijuana, as defined in section 152.01, subdivision 16, or who is or has ever been hospitalized or committed for treatment for the habitual use of a controlled substance or marijuana, as defined in sections 152.01 and 152.02, unless the person possesses a certificate of a medical doctor or psychiatrist licensed in Minnesota, or other satisfactory proof, that the person has not abused a controlled substance or marijuana during the previous two years;

(e) a person who has been confined or committed to a treatment facility in Minnesota or elsewhere as chemically dependent, as defined in section 253B.02, unless the person has completed treatment; and

(f) a peace officer who is informally admitted to a treatment facility under section 253B.04for chemical dependency, unless the officer possesses a certificate from the head of the treatment facility discharging or provisionally discharging the officer from the treatment facility.

A person who in good faith issues a certificate to a person described in this subdivision to possess or use an incendiary or explosive device is not liable for damages resulting or arising from the actions or misconduct with an explosive or incendiary device committed by the individual who is the subject of the certificate.

Subd. 3. **Uses permitted.** (a) The following persons may own or possess an explosive device or incendiary device provided that subdivision 4 is complied with:

(1) law enforcement officers for use in the course of their duties;

(2) fire department personnel for use in the course of their duties;

(3) corrections officers and other personnel at correctional facilities or institutions when used for the retention of persons convicted or accused of crime;

(4) persons possessing explosive devices or incendiary devices that although designed as devices have been determined by the commissioner of public safety or the commissioner's delegate, by reason of the date of manufacture, value, design, or other characteristics, to be a collector's item, relic, museum piece, or specifically used in a particular vocation or employment, such as the entertainment industry; and

(5) dealers and manufacturers who are federally licensed or registered.

(b) Persons listed in paragraph (a) shall also comply with the federal requirements for the registration and licensing of destructive devices.

Subd. 4. **Report required.** (a) Before owning or possessing an explosive device or incendiary device as authorized by subdivision 3, a person shall file a written report with the Department of Public Safety showing the person's name and address; the person's title, position, and type of employment; a description of the explosive device or incendiary device sufficient to enable identification of the device; the purpose for which the device will be owned or possessed; the federal license or registration number, if appropriate; and other information as the department may require.

(b) Before owning or possessing an explosive device or incendiary device, a dealer or manufacturer shall file a written report with the Department of Public Safety showing the name and address of the dealer or manufacturer; the federal license or registration number, if appropriate; the general type and disposition of the device; and other information as the department may require.

Subd. 5. **Exceptions.** This section does not apply to:

(1) members of the armed forces of either the United States or the state of Minnesota when for use in the course of duties;

(2) educational institutions when the devices are manufactured or used in conjunction with an official education course or program;

(3) propellant-actuated devices, or propellant-actuated industrial tools manufactured, imported, or distributed for their intended purpose;

(4) items that are neither designed or redesigned for use as explosive devices or incendiary devices;

(5) governmental organizations using explosive devices or incendiary devices for agricultural purposes or control of wildlife;

(6) governmental organizations using explosive devices or incendiary devices for official training purposes or as items retained as evidence; or

(7) arsenals, navy yards, depots, or other establishments owned by, or operated by or on behalf of, the United States.

Subd. 6. **Acts prohibited; penalties.** (a) Except as otherwise provided in this section, whoever possesses, manufactures, transports, or stores an explosive device or incendiary device in violation of this section may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

(b) Whoever legally possesses, manufactures, transports, or stores an explosive device or incendiary device, with intent to use the device to damage property or cause injury, may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

(c) Whoever, acting with gross disregard for human life or property, negligently causes an explosive device or incendiary device to be discharged, may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than $100,000, or both.

Subd. 7. [Repealed, 2003 c 2 art 1 s 45]

History: *1994 c 636 art 5 s 15; 2002 c 221 s 47; 2005 c 56 s 1*

609.669 CIVIL DISORDER.

Subdivision 1. **Prohibited acts.** (a) A person is guilty of a gross misdemeanor who:

(1) teaches or demonstrates to any other person how to use or make any firearm, or explosive or incendiary device capable of causing injury or death, knowing or having reason to know that it will be unlawfully employed for use in, or in furtherance of, a civil disorder; or

(2) assembles with one or more persons for the purpose of training with, practicing with, or being instructed in the use of any firearm, or explosive or incendiary device capable of causing injury or death, with the intent that it be unlawfully employed for use in, or in furtherance of, a civil disorder.

(b) This section does not apply to law enforcement officers engaged in the lawful performance of the officer's official duties.

Subd. 2. **Definitions.** For purposes of this section, the following terms have the meanings given them:

(1) "civil disorder" means any public disturbance involving acts of violence by assemblages of three or more persons, which causes an immediate danger of or results in damage or injury to the property or person of any other individual;

(2) "firearm" means any weapon which is designed to or may readily be converted to expel any projectile by the action of an explosive; or the frame or receiver of any such weapon;

(3) "explosive or incendiary device" has the meaning given in section 609.668, subdivision 1; and

(4) "law enforcement officer" means any officer or employee of the United States, the state, or any political subdivision of the state, and specifically includes members of the National Guard and members of the armed forces of the United States.

History: *1995 c 244 s 23*

609.67 MACHINE GUNS AND SHORT-BARRELED SHOTGUNS.

Subdivision 1. **Definitions.** (a) "Machine gun" means any firearm designed to discharge, or capable of discharging automatically more than once by a single function of the trigger.

(b) "Shotgun" means a weapon designed, redesigned, made or remade which is intended to be fired from the shoulder and uses the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

(c) "Short-barreled shotgun" means a shotgun having one or more barrels less than 18 inches in length and any weapon made from a shotgun if such weapon as modified has an overall length less than 26 inches.

(d) "Trigger activator" means a removable manual or power driven trigger activating device constructed and designed so that, when attached to a firearm, the rate at which the trigger may be pulled increases and the rate of fire of the firearm increases to that of a machine gun.

(e) "Machine gun conversion kit" means any part or combination of parts designed and intended for use in converting a weapon into a machine gun, and any combination of parts from which a machine gun can be assembled, but does not include a spare or replacement part for a machine gun that is possessed lawfully under section 609.67, subdivision 3.

Subd. 2. **Acts prohibited.** Except as otherwise provided herein, whoever owns, possesses, or operates a machine gun, any trigger activator or machine gun conversion kit, or a short-barreled shotgun may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

Subd. 3. **Uses permitted.** The following persons may own or possess a machine gun or short-barreled shotgun provided the provisions of subdivision 4 are complied with:

(1) law enforcement officers for use in the course of their duties;

(2) chief executive officers of correctional facilities and other personnel thereof authorized by them and persons in charge of other institutions for the retention of persons convicted or accused of crime, for use in the course of their duties;

(3) persons possessing machine guns or short-barreled shotguns which, although designed as weapons, have been determined by the superintendent of the Bureau of Criminal Apprehension or the superintendent's delegate by reason of the date of manufacture, value, design or other characteristics to be primarily collector's items, relics, museum pieces or objects of curiosity, ornaments or keepsakes, and are not likely to be used as weapons;

(4) manufacturers of ammunition who possess and use machine guns for the sole purpose of testing ammunition manufactured for sale to federal and state agencies or political subdivisions;

(5) dealers and manufacturers who are federally licensed to buy and sell, or manufacture machine guns or short-barreled shotguns and who either use the machine guns or short-barreled shotguns in peace officer training under

courses approved by the Board of Peace Officer Standards and Training, or are engaged in the sale of machine guns or short-barreled shotguns to federal and state agencies or political subdivisions; and

(6) persons employed by the Minnesota National Guard as security guards, for use in accordance with applicable federal military regulations.

Subd. 4. **Report required.** (a) A person owning or possessing a machine gun or short-barreled shotgun as authorized by subdivision 3, clause (1), (2), (3), or (4) shall, within ten days after acquiring such ownership or possession, file a written report with the Bureau of Criminal Apprehension, showing the person's name and address; the person's official title and position, if any; a description of the machine gun or short-barreled shotgun sufficient to enable identification thereof; the purpose for which it is owned or possessed; and such further information as the bureau may reasonably require.

(b) A dealer or manufacturer owning or having a machine gun or short-barreled shotgun as authorized by subdivision 3, clause (5) shall, by the tenth day of each month, file a written report with the Bureau of Criminal Apprehension showing the name and address of the dealer or manufacturer and the serial number of each machine gun or short-barreled shotgun acquired or manufactured during the previous month.

Subd. 5. **Exceptions.** This section does not apply to members of the armed services of either the United States or the state of Minnesota for use in the course of their duties or to security guards employed by the Minnesota National Guard for use in accordance with applicable federal military regulations.

Subd. 6. **Preemption.** Laws 1977, chapter 255, supersedes all local ordinances, rules, and regulations.

History: *1963 c 753 art 1 s 609.67; 1977 c 255 s 1, 2; 1979 c 102 s 13; 1984 c 628 art 3 s 11; 1986 c 444; 1987 c 93 s 1, 2; 1990 c 439 s 5; 1993 c 326 art 1 s 19, 20; 1993 c 366 s 10; 2006 c 273 s 11, 12*

609.671 ENVIRONMENT; CRIMINAL PENALTIES.

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Agency" means the Pollution Control Agency.

(c) "Deliver" or "delivery" means the transfer of possession of hazardous waste, with or without consideration.

(d) "Dispose" or "disposal" has the meaning given it in section 115A.03, subdivision 9.

(e) "Hazardous air pollutant" means an air pollutant listed under United States Code, title 42, section 7412(b).

(f) "Hazardous waste" means any waste identified as hazardous under the authority of section 116.07, subdivision 4, except for those wastes exempted under Minnesota Rules, part 7045.0120, wastes generated under Minnesota Rules, part 7045.0213, and household appliances.

(g) "Permit" means a permit issued by the Pollution Control Agency under chapter 115 or 116 or the rules promulgated under those chapters including interim status for hazardous waste facilities.

(h) "Solid waste" has the meaning given in section 116.06, subdivision 22.

(i) "Toxic pollutant" means a toxic pollutant on the list established under United States Code, title 33, section 1317.

Subd. 2. **Definition of knowing.** (a) For purposes of this section, an act is committed knowingly if it is done voluntarily and is not the result of negligence, mistake, accident, or circumstances that are beyond the control of the defendant. Whether an act was knowing may be inferred from the person's conduct, from the person's familiarity with the subject matter in question, or from all of the facts and circumstances connected with the case. Knowledge may also be established by evidence that the person took affirmative steps to shield the person from relevant informa-

tion. Proof of knowledge does not require that a person knew a particular act or failure to act was a violation of law or that the person had specific knowledge of the regulatory limits or testing procedures involved in a case.

(b) Knowledge of a corporate official may be established under paragraph (a) or by proof that the person is a responsible corporate official. To prove that a person is a responsible corporate official, it must be shown that:

(1) the person is an official of the corporation, not merely an employee;

(2) the person has direct control of or supervisory responsibility for the activities related to the alleged violation, but not solely that the person held a certain job or position in a corporation; and

(3) the person had information regarding the offense for which the defendant is charged that would lead a reasonable and prudent person in the defendant's position to learn the actual facts.

(c) Knowledge of a corporation may be established by showing that an illegal act was performed by an agent acting on behalf of the corporation within the scope of employment and in furtherance of the corporation's business interest, unless a high managerial person with direct supervisory authority over the agent demonstrated due diligence to prevent the crime's commission.

Subd. 3. **Knowing endangerment.** (a) A person is guilty of a felony if the person:

(1) commits an act described in subdivision 4, 5, 8, paragraph (a), or 12; and

(2) at the time of the violation knowingly places another person in imminent danger of death, great bodily harm, or substantial bodily harm.

(b) A person convicted under this subdivision may be sentenced to imprisonment for not more than ten years, or to payment of a fine of not more than $100,000, or both, except that a defendant that is an organization may be sentenced to payment of a fine of not more than $1,000,000.

Subd. 4. **Hazardous waste; unlawful disposal or abandonment.** A person who knowingly disposes of or abandons hazardous waste or arranges for the disposal of hazardous waste at a location other than one authorized by the Pollution Control Agency or the United States Environmental Protection Agency, or in violation of any material term or condition of a hazardous waste facility permit, is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $50,000, or both.

Subd. 5. **Hazardous waste; unlawful treatment, storage, transportation, or delivery.** (a) A person is guilty of a felony who knowingly does any of the following:

(1) delivers hazardous waste to any person other than a person who is authorized to receive the waste under rules adopted under section 116.07, subdivision 4, or under United States Code, title 42, sections 6921 to 6938;

(2) treats or stores hazardous waste without a permit if a permit is required, or in violation of a material term or condition of a permit held by the person, unless:

(i) the person notifies the agency prior to the time a permit would be required that the person will be treating or storing waste without a permit; or

(ii) for a violation of a material term or condition of a permit, the person immediately notifies the agency issuing the permit of the circumstances of the violation as soon as the person becomes aware of the violation;

(3) transports hazardous waste to any location other than a facility that is authorized to receive, treat, store, or dispose of the hazardous waste under rules adopted under section 116.07, subdivision 4, or under United States Code, title 42, sections 6921 to 6938;

(4) transports hazardous waste without a manifest as required by the rules under section 116.07, subdivision 4; or

(5) transports hazardous waste without a license required for the transportation of hazardous waste by chapter 221.

(b) A person convicted under this subdivision may be sentenced to imprisonment for not more than three years, or to payment of a fine of not more than $25,000, or both. A person convicted for a second or subsequent offense may be sentenced to imprisonment for not more than five years, or to payment of a fine of not more than $50,000, or both.

Subd. 6. **Negligent violation as gross misdemeanor.** A person who commits any of the acts set forth in subdivision 4, 5, or 12 as a result of the person's gross negligence is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year, or to payment of a fine of not more than $15,000, or both.

Subd. 7. **Prosecution.** When two or more offenses in violation of this section are committed by the same person in two or more counties within a two-year period, the accused may be prosecuted in any county in which one of the offenses was committed.

Subd. 8. **Water pollution.** (a) A person is guilty of a felony who knowingly:

(1) causes the violation of an effluent standard or limitation for a toxic pollutant in a national pollutant discharge elimination system permit or state disposal system permit;

(2) introduces into a sewer system or into a publicly owned treatment works a hazardous substance that the person knew or reasonably should have known is likely to cause personal injury or property damage; or

(3) except in compliance with all applicable federal, state, and local requirements and permits, introduces into a sewer system or into a publicly owned treatment works a hazardous substance that causes the treatment works to violate an effluent limitation or condition of the treatment works' national pollutant discharge elimination system permit.

(b) For purposes of paragraph (a), "hazardous substance" means a substance on the list established under United States Code, title 33, section 1321(b).

(c) A person convicted under paragraph (a) may be sentenced to imprisonment for not more than three years, or to payment of a fine of not more than $50,000 per day of violation, or both.

(d) A person is guilty of a crime who knowingly:

(1) violates any effluent standard or limitation, or any water quality standard adopted by the agency;

(2) violates any material term or condition of a national pollutant discharge elimination system permit or state disposal system permit;

(3) fails to carry out any recording, reporting, monitoring, sampling, or information gathering requirement provided for under chapter 115 or 116; or

(4) fails to file a discharge monitoring report or other document required for compliance with a national pollutant discharge elimination system or state disposal system permit.

(e) A person convicted under paragraph (d) may be sentenced to imprisonment for not more than one year, or to payment of a fine of not less than $2, 500 and not more than $25,000 per day of violation, or both. A person convicted for a second or subsequent offense may be sentenced to imprisonment for not more than two years, or to payment of a fine of not more than $50,000 per day of violation, or both.

Subd. 9. **False statements; tampering.** (a) A person is guilty of a felony who knowingly:

(1) makes any false material statement, representation, or certification in; omits material information from; or alters, conceals, or fails to file or maintain a notice, application, record, report, plan, manifest, permit, license, or other document required under sections 103F.701 to 103F.755; chapter 115 or 116; the hazardous waste transportation requirements of chapter 221; or rules adopted under these laws; or

(2) falsifies, tampers with, renders inaccurate, or fails to install any monitoring device or method required to be maintained or followed for the purpose of compliance with sections 103F.701 to 103F.755, chapter 115 or 116, or rules adopted under these laws.

(b) Except as provided in paragraph (c), a person convicted under this subdivision may be sentenced to imprisonment for not more than two years, or to payment of a fine of not more than $10,000, or both.

(c) A person convicted under this subdivision for a violation related to a notice or report required by an air permit issued by the agency as provided in United States Code, title 42, section 7661a(a), as amended through January 1, 1991, may be sentenced to payment of a fine of not more than $10,000 per day of violation.

Subd. 10. **Failure to report release of hazardous substance or extremely hazardous substance.** (a) A person is, upon conviction, subject to a fine of up to $25,000 or imprisonment for up to two years, or both, who:

(1) is required to report the release of a hazardous substance under United States Code, title 42, section 9603, or the release of an extremely hazardous substance under United States Code, title 42, section 11004;

(2) knows that a hazardous substance or an extremely hazardous substance has been released; and

(3) fails to provide immediate notification of the release of a reportable quantity of a hazardous substance or an extremely hazardous substance to the state emergency response center and, if directed by the center, to notify a local 911 emergency dispatch center.

For purposes of clause (3), the state emergency response center shall direct a caller to notify a local 911 emergency dispatch center if the situation requires an immediate response or the area is unknown to the center. In all other cases, the state emergency response center must notify a local firefighting or law enforcement organization of the situation within 24 hours of receiving the notification.

(b) For a second or subsequent conviction under this subdivision, the violator is subject to a fine of up to $50,000 or imprisonment for not more than five years, or both.

(c) For purposes of this subdivision, a "hazardous substance" means a substance on the list established under United States Code, title 42, section 9602.

(d) For purposes of this subdivision, an "extremely hazardous substance" means a substance on the list established under United States Code, title 42, section 11002.

(e) For purposes of this subdivision, a "reportable quantity" means a quantity that must be reported under United States Code, title 42, section 9602 or 11002.

(f) The penalties in paragraphs (a) and (b) do not apply to an employee of a state emergency response center to the extent that the employee is acting in the scope of that employee's official duties.

Subd. 11. **Infectious waste.** A person who knowingly disposes of or arranges for the disposal of infectious waste as defined in section 116.76 at a location or in a manner that is prohibited by section 116.78 is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year, or to payment of a fine of not more than $10,000, or both. A person convicted a second or subsequent time under this subdivision is guilty of a felony and may be sentenced to imprisonment for not more than two years, or to payment of a fine of not more than $25,000, or both.

Subd. 12. **Air pollution.** (a) A person is guilty of a felony who knowingly:

(1) causes a violation of a national emission standard for a hazardous air pollutant adopted under United States Code, title 42, section 7412; or

(2) causes a violation of an emission standard, limitation, or operational limitation for a hazardous air pollutant established in a permit issued by the Pollution Control Agency.

A person convicted under this paragraph may be sentenced to imprisonment for not more than three years, or to payment of a fine of not more than $50,000 per day of violation, or both.

(b) A person is guilty of a misdemeanor who knowingly violates:

(1) a requirement of chapter 116, or a rule adopted under that chapter, that is an applicable requirement of the federal Clean Air Act, as defined in Federal Register, volume 57, page 32295;

(2) a condition of an air emission permit issued by the agency under chapter 116 or a rule adopted under that chapter; or

(3) a requirement to pay a fee based on air emissions under chapter 116 or a rule adopted under that chapter.

A person convicted under this paragraph may be sentenced to imprisonment for not more than 90 days, or to payment of a fine of not more than $10,000 per day of violation, or both.

Subd. 13. **Solid waste disposal.** (a) A person is guilty of a gross misdemeanor who:

(1) knowingly disposes of solid waste at, transports solid waste to, or arranges for disposal of solid waste at a location that does not have a required permit for the disposal of solid waste; and

(2) does so in exchange for or in expectation of money or other consideration.

(b) A person convicted under this subdivision may be sentenced to imprisonment for not more than one year, or to payment of a fine of not more than $15,000, or both.

Subd. 14. **Defense.** Except for intentional violations, a person is not guilty of a crime for air quality violations under subdivision 6 or 12, or for water quality violations under subdivision 8, if the person notified the Pollution Control Agency of the violation as soon as the person discovered the violation and took steps to promptly remedy the violation.

History: *1987 c 267 s 3; 1988 c 553 s 2; 1989 c 315 s 11; 1989 c 337 s 12; 1990 c 391 art 10 s 3; 1991 c 347 art 3 s 4; 1993 c 365 s 1, 2; 1999 c 238 art 2 s 77; 2006 c 212 art 3 s 40; 2011 c 107 s 107; 2013 c 92 s 1*

609.672 PERMISSIVE INFERENCE; FIREARMS IN AUTOMOBILES.

The presence of a firearm in a passenger automobile permits the fact finder to infer knowing possession of the firearm by the driver or person in control of the automobile when the firearm was in the automobile. The inference does not apply:

(1) to a licensed operator of an automobile who is at the time operating it for hire in the lawful and proper pursuit of the operator's trade;

(2) to any person in the automobile if one of them legally possesses a firearm; or

(3) when the firearm is concealed on the person of one of the occupants.

History: *1993 c 326 art 1 s 21*

609.675 EXPOSURE OF UNUSED REFRIGERATOR OR CONTAINER TO CHILDREN.

Whoever, being the owner or in possession or control, permits an unused refrigerator or other container, sufficiently large to retain any child and with doors which fasten automatically when closed, to be exposed and accessible to children, without removing the doors, lids, hinges, or latches, is guilty of a misdemeanor.

History: *1963 c 753 art 1 s 609.675; 1971 c 23 s 67*

609.68 UNLAWFUL DEPOSIT OF GARBAGE, LITTER, OR LIKE.

Whoever unlawfully deposits garbage, rubbish, cigarette filters, debris from fireworks, offal, or the body of a dead animal, or other litter in or upon any public highway, public waters or the ice thereon, shoreland areas adjacent to rivers or streams as defined by section 103F.205, public lands, or, without the consent of the owner, private lands or water or ice thereon, is guilty of a petty misdemeanor.

History: *1963 c 753 art 1 s 609.68; 1971 c 23 s 68; 1988 c 685 s 36; 1990 c 391 art 8 s 56; 2003 c 28 art 1 s 19; 1Sp2003 c 2 art 8 s 12*

609.681 UNLAWFUL SMOKING.

A person is guilty of a petty misdemeanor if the person intentionally smokes in a building, area, or common carrier in which "no smoking" notices have been prominently posted, or when requested not to by the operator of the common carrier.

History: *1989 c 5 s 10; 1Sp2003 c 2 art 8 s 13*

609.684 ABUSE OF TOXIC SUBSTANCES.

Subdivision 1. **Toxic substances.** For purposes of this section, "toxic substance" means:

(1) glue, cement, or aerosol paint containing toluene, benzene, xylene, amyl nitrate, butyl nitrate, nitrous oxide, or containing other aromatic hydrocarbon solvents, but does not include glue, cement, or paint contained in a packaged kit for the construction of a model automobile, airplane, or similar item;

(2) butane or a butane lighter; or

(3) any similar substance declared to be toxic to the central nervous system and to have a potential for abuse, by a rule adopted by the commissioner of health under chapter 14.

Subd. 2. [Repealed, 1997 c 239 art 3 s 25]

Subd. 3. **Use for intoxication prohibited.** A person is guilty of a misdemeanor who uses or possesses any toxic substance with the intent of inducing intoxication, excitement, or stupefaction of the central nervous system, except under the direction and supervision of a medical doctor. A person is guilty of a misdemeanor who intentionally aids another in violation of this subdivision.

Subd. 4. **Notice required.** (a) A business establishment that offers for sale at retail any toxic substance must display a conspicuous sign that contains the following, or substantially similar, language:

"NOTICE

It is a misdemeanor for a person to use or possess glue, cement, aerosol paint, with the intent of inducing intoxication, excitement, or stupefaction of the central nervous system. This use can be harmful or fatal."

(b) A business establishment may omit from the required notice references to any toxic substance that is not offered for sale by that business establishment.

(c) A business establishment that does not sell any toxic substance listed in subdivision 1 other than butane or butane lighters is not required to post a notice under paragraph (a).

History: *1992 c 485 s 2; 1997 c 239 art 3 s 18*

609.685 SALE OF TOBACCO TO CHILDREN.

Subdivision 1. **Definitions.** For the purposes of this section, the following terms shall have the meanings respectively ascribed to them in this section.

(a) "Tobacco" means cigarettes and any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product including but not limited to cigars; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco. Tobacco excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.

(b) "Tobacco-related devices" means cigarette papers or pipes for smoking or other devices intentionally designed or intended to be used in a manner which enables the chewing, sniffing, smoking, or inhalation of vapors of tobacco or tobacco products. Tobacco-related devices include components of tobacco-related devices which may be marketed or sold separately.

(c) "Electronic delivery device" means any product containing or delivering nicotine, lobelia, or any other substance intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of vapor from the product. Electronic delivery device includes any component part of a product, whether or not marketed or sold separately. Electronic delivery device does not include any product that has been approved or certified by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is marketed and sold for such an approved purpose.

Subd. 1a. **Penalty to sell.** (a) Whoever sells tobacco, tobacco-related devices, or electronic delivery devices to a person under the age of 18 years is guilty of a misdemeanor for the first violation. Whoever violates this subdivision a subsequent time within five years of a previous conviction under this subdivision is guilty of a gross misdemeanor.

(b) It is an affirmative defense to a charge under this subdivision if the defendant proves by a preponderance of the evidence that the defendant reasonably and in good faith relied on proof of age as described in section 340A.503, subdivision 6.

Subd. 2. **Other offenses.** (a) Whoever furnishes tobacco, tobacco-related devices, or electronic delivery devices to a person under the age of 18 years is guilty of a misdemeanor for the first violation. Whoever violates this paragraph a subsequent time is guilty of a gross misdemeanor.

(b) A person under the age of 18 years who purchases or attempts to purchase tobacco, tobacco-related devices, or electronic delivery devices and who uses a driver's license, permit, Minnesota identification card, or any type of false identification to misrepresent the person's age, is guilty of a misdemeanor.

Subd. 3. **Petty misdemeanor.** Except as otherwise provided in subdivision 2, whoever possesses, smokes, chews, or otherwise ingests, purchases, or attempts to purchase tobacco, tobacco-related devices, or electronic delivery devices and is under the age of 18 years is guilty of a petty misdemeanor.

Subd. 4. **Effect on local ordinances.** Nothing in subdivisions 1 to 3 shall supersede or preclude the continuation or adoption of any local ordinance which provides for more stringent regulation of the subject matter in subdivisions 1 to 3.

Subd. 5. **Exceptions.** (a) Notwithstanding subdivision 2, an Indian may furnish tobacco to an Indian under the age of 18 years if the tobacco is furnished as part of a traditional Indian spiritual or cultural ceremony. For purposes of this paragraph, an Indian is a person who is a member of an Indian tribe as defined in section 260.755, subdivision 12.

(b) The penalties in this section do not apply to a person under the age of 18 years who purchases or attempts to purchase tobacco, tobacco-related devices, or electronic delivery devices while under the direct supervision of a responsible adult for training, education, research, or enforcement purposes.

Subd. 6. **Seizure of false identification.** A retailer may seize a form of identification listed in section 340A.503, subdivision 6, if the retailer has reasonable grounds to believe that the form of identification has been altered or falsified or is being used to violate any law. A retailer that seizes a form of identification as authorized under this subdivision shall deliver it to a law enforcement agency within 24 hours of seizing it.

History: *1963 c 753 art 1 s 609.685; 1981 c 218 s 1, 2; 1986 c 352 s 4; 1989 c 290 art 3 s 33, 34; 1992 c 588 s 1; 1993 c 224 art 9 s 44, 45; 1994 c 636 art 2 s 44; 1999 c 139 art 4 s 2; 2000 c 472 s 5-9; 2010 c 305 s 11; 2014 c 291 art 6 s 33*

609.6855 SALE OF NICOTINE DELIVERY PRODUCTS TO CHILDREN.

Subdivision 1. **Penalty to sell.** (a) Whoever sells to a person under the age of 18 years a product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not tobacco or an electronic delivery device as defined by section 609.685, is guilty of a misdemeanor for the first violation. Whoever violates this subdivision a subsequent time within five years of a previous conviction under this subdivision is guilty of a gross misdemeanor.

(b) It is an affirmative defense to a charge under this subdivision if the defendant proves by a preponderance of the evidence that the defendant reasonably and in good faith relied on proof of age as described in section 340A.503, subdivision 6.

(c) Notwithstanding paragraph (a), a product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not tobacco or an electronic delivery device as defined by section 609.685, may be sold to persons under the age of 18 if the product has been approved or otherwise certified for legal sale by the United States Food and Drug Administration for tobacco use cessation, harm reduction, or for other medical purposes, and is being marketed and sold solely for that approved purpose.

Subd. 2. **Other offense.** A person under the age of 18 years who purchases or attempts to purchase a product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not tobacco or an electronic delivery device as defined by section 609.685, and who uses a driver's license, permit, Minnesota identification card, or any type of false identification to misrepresent the person's age, is guilty of a misdemeanor.

Subd. 3. **Petty misdemeanor.** Except as otherwise provided in subdivisions 1 and 2, whoever is under the age of 18 years and possesses, purchases, or attempts to purchase a product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not tobacco or an electronic delivery device as defined by section 609.685, is guilty of a petty misdemeanor.

History: *2010 c 305 s 12; 2014 c 291 art 6 s 34*

609.686 FALSE FIRE ALARMS; TAMPERING WITH OR INJURING FIRE ALARM SYSTEM.

Subdivision 1. **Misdemeanor.** Whoever intentionally gives a false alarm of fire, or unlawfully tampers or interferes with any fire alarm system, fire protection device, or the station or signal box of any fire alarm system or any auxiliary fire appliance, or unlawfully breaks, injures, defaces, or removes any such system, device, box or station, or unlawfully breaks, injures, destroys, disables, renders inoperable, or disturbs any of the wires, poles, or other supports and appliances connected with or forming a part of any fire alarm system or fire protection device or any auxiliary fire appliance is guilty of a misdemeanor.

Subd. 2. **Felony.** Whoever violates subdivision 1 by tampering and knows or has reason to know that the tampering creates the potential for bodily harm or the tampering results in bodily harm is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

Subd. 3. **Tampering.** For purpose of this section, tampering means to intentionally disable, alter, or change the fire alarm system, fire protective device, or the station or signal box of any fire alarm system of any auxiliary fire appliance, with knowledge that it will be disabled or rendered inoperable.

History: *1971 c 77 s 1; 1993 c 326 art 5 s 10*

PUBLIC MISCONDUCT OR NUISANCE

609.687 ADULTERATION.

Subdivision 1. **Definition.** "Adulteration" is the intentional adding of any substance, which has the capacity to cause death, bodily harm or illness by ingestion, injection, inhalation or absorption, to a substance having a customary or reasonably foreseeable human use.

Subd. 2. **Acts constituting.** (a) Whoever, knowing or having reason to know that the adulteration will cause or is capable of causing death, bodily harm or illness, adulterates any substance with the intent to cause death, bodily harm or illness is guilty of a crime and may be sentenced as provided in subdivision 3; or

(b) Whoever, knowing or having reason to know that a substance has been adulterated as defined in subdivision 1, distributes, disseminates, gives, sells, or otherwise transfers an adulterated substance with the intent to cause death, bodily harm or illness is guilty of a crime and may be sentenced as provided in subdivision 3.

Subd. 3. **Sentence.** Whoever violates subdivision 2 may be sentenced as follows:

(1) if the adulteration causes death, to imprisonment for not more than 40 years or to payment of a fine of not more than $100,000, or both;

(2) if the adulteration causes any illness, pain, or other bodily harm, to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both;

(3) otherwise, to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

Subd. 4. **Charging discretion.** Criminal proceedings may be instituted under this section, notwithstanding the provisions of section 29.24, 31.02, 31.601, 34.01, 151.34, 340A.508, subdivision 2, or other law proscribing adulteration of substances intended for use by persons.

History: *1983 c 8 s 1; 1987 c 384 art 2 s 110; 1999 c 64 s 1, 2; 1Sp2001 c 2 s 148*

609.688 ADULTERATION BY BODILY FLUID.

Subdivision 1. **Definition.** (a) As used in this section, the following terms have the meanings given.

(b) "Adulterates" is the intentional adding of a bodily fluid to a substance.

(c) "Bodily fluid" means the blood, seminal fluid, vaginal fluid, urine, or feces of a human.

Subd. 2. **Crime.** (a) Whoever adulterates any substance that the person knows or should know is intended for human consumption is guilty of a misdemeanor.

(b) Whoever violates paragraph (a) and another person ingests the adulterated substance without knowledge of the adulteration is guilty of a gross misdemeanor.

History: *2015 c 65 art 6 s 17*

609.705 UNLAWFUL ASSEMBLY.

When three or more persons assemble, each participant is guilty of unlawful assembly, which is a misdemeanor, if the assembly is:

(1) with intent to commit any unlawful act by force; or

(2) with intent to carry out any purpose in such manner as will disturb or threaten the public peace; or

(3) without unlawful purpose, but the participants so conduct themselves in a disorderly manner as to disturb or threaten the public peace.

History: *1963 c 753 art 1 s 609.705; 1971 c 23 s 69*

609.71 RIOT.

Subdivision 1. **Riot first degree.** When three or more persons assembled disturb the public peace by an intentional act or threat of unlawful force or violence to person or property and a death results, and one of the persons is armed with a dangerous weapon, that person is guilty of riot first degree and may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than $35,000, or both.

Subd. 2. **Riot second degree.** When three or more persons assembled disturb the public peace by an intentional act or threat of unlawful force or violence to person or property, each participant who is armed with a dangerous weapon or knows that any other participant is armed with a dangerous weapon is guilty of riot second degree and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

Subd. 3. **Riot third degree.** When three or more persons assembled disturb the public peace by an intentional act or threat of unlawful force or violence to person or property, each participant therein is guilty of riot third degree and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $1,000, or both.

History: *1963 c 753 art 1 s 609.71; 1984 c 628 art 3 s 11; 1986 c 444; 1993 c 326 art 4 s 33*

609.712 REAL AND SIMULATED WEAPONS OF MASS DESTRUCTION.

Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the meanings given.

(b) "Biological agent" means any microorganism, virus, infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of a microorganism, virus, infectious substance, or biological product, that is capable of causing:

(1) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

(2) deterioration of food, water, equipment, supplies, or material of any kind; or

(3) deleterious alteration of the environment.

(c) "Simulated weapon of mass destruction" means any device, substance, or object that by its design, construction, content, or characteristics, appears to be or to contain, or is represented to be, constitute, or contain, a weapon of mass destruction, but that is, in fact, an inoperative facsimile, imitation, counterfeit, or representation of a weapon of mass destruction that does not meet the definition of a weapon of mass destruction or that does not actually contain or constitute a weapon, biological agent, toxin, vector, or delivery system prohibited by this section.

(d) "Toxin" means the toxic material of plants, animals, microorganisms, viruses, fungi, or infectious substances, or a recombinant molecule, whatever its origin or method of production, including:

(1) any poisonous substance or biological product that may be engineered as a result of biotechnology or produced by a living organism; or

(2) any poisonous isomer or biological product, homolog, or derivative of such a substance.

(e) "Vector" means a living organism or molecule, including a recombinant molecule or biological product that may be engineered as a result of biotechnology, capable of carrying a biological agent or toxin to a host.

(f) "Weapon of mass destruction" includes weapons, substances, devices, vectors, or delivery systems that:

(1) are designed or have the capacity to cause death or great bodily harm to a considerable number of people through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors, disease organisms, biological agents, or toxins; or

(2) are designed to release radiation or radioactivity at a level dangerous to human life.

Subd. 2. **Weapons of mass destruction.** (a) Whoever manufactures, acquires, possesses, or makes readily accessible to another a weapon of mass destruction with the intent to cause injury to another is guilty of a crime and may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than $100,000, or both.

(b) It is an affirmative defense to criminal liability under this subdivision if the defendant proves by a preponderance of the evidence that the conduct engaged in:

(1) was specifically authorized under state or federal law and conducted in accordance with that law; or

(2) was part of a legitimate scientific or medical research project, or constituted legitimate medical treatment.

Subd. 3. **Prohibited substances.** (a) Whoever knowingly manufactures, acquires, possesses, or makes readily accessible to another the following, or substances that are substantially similar in chemical makeup to the following, in levels dangerous to human life, is guilty of a crime:

(1) variola major (smallpox);

(2) bacillus anthracis (anthrax);

(3) yersinia pestis (plague);

(4) botulinum toxin (botulism);

(5) francisella tularensis (tularemia);

(6) viral hemorrhagic fevers;

(7) a mustard agent;

(8) lewisite;

(9) hydrogen cyanide;

(10) GA (Tabun);

(11) GB (Sarin);

(12) GD (Soman);

(13) GF (cyclohexymethyl phosphonofluoridate);

(14) VX (0-ethyl, supdiisopropylaminomethyl methylphosphonothiolate);

(15) radioactive materials; or

(16) any combination of the above.

(b) A person who violates this subdivision may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than $100,000, or both.

(c) This subdivision does not apply to conduct:

(1) specifically authorized under state or federal law and conducted in accordance with that law;

(2) that is part of a legitimate scientific or medical research project; or

(3) that constitutes legitimate medical treatment.

Subd. 4. **Simulated weapons of mass destruction; penalty.** Whoever manufactures, acquires, possesses, or makes readily accessible to another a simulated weapon of mass destruction with the intent of terrorizing another may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

Subd. 5. **Threats involving real or simulated weapons of mass destruction.** Whoever does the following with intent to terrorize another or cause evacuation of a place, whether a building or not, or disruption of another's activities, or with reckless disregard of the risk of causing terror, evacuation, or disruption, may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both:

(1) displays a weapon of mass destruction or a simulated weapon of mass destruction;

(2) threatens to use a weapon of mass destruction; or

(3) communicates, whether directly or indirectly, that a weapon of mass destruction is or will be present or introduced at a place or location, or will be used to cause death, disease, or injury to another or to another's property, whether or not the same is in fact present or introduced.

Subd. 6. **Civil action to recover.** A person who violates this section is liable in a civil action brought by:

(1) an individual for damages resulting from the violation; and

(2) a municipality, the state, or a rescue organization to recover expenses incurred to provide investigative, rescue, medical, or other services for circumstances or injuries which resulted from the violation.

History: *2002 c 401 art 1 s 19*

609.713 TERRORISTIC THREATS.

Subdivision 1. **Threaten violence; intent to terrorize.** Whoever threatens, directly or indirectly, to commit any crime of violence with purpose to terrorize another or to cause evacuation of a building, place of assembly, vehicle or facility of public transportation or otherwise to cause serious public inconvenience, or in a reckless disregard of the risk of causing such terror or inconvenience may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both. As used in this subdivision, "crime of violence" has the meaning given "violent crime" in section 609.1095, subdivision 1, paragraph (d).

Subd. 2. **Communicates to terrorize.** Whoever communicates to another with purpose to terrorize another or in reckless disregard of the risk of causing such terror, that explosives or an explosive device or any incendiary device is present at a named place or location, whether or not the same is in fact present, may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $3,000, or both.

Subd. 3. **Display replica of firearm.** (a) Whoever displays, exhibits, brandishes, or otherwise employs a replica firearm or a BB gun in a threatening manner, may be sentenced to imprisonment for not more than one year and one day or to payment of a fine of not more than $3,000, or both, if, in doing so, the person either:

(1) causes or attempts to cause terror in another person; or

(2) acts in reckless disregard of the risk of causing terror in another person.

(b) For purposes of this subdivision:

(1) "BB gun" means a device that fires or ejects a shot measuring .18 of an inch or less in diameter; and

(2) "replica firearm" means a device or object that is not defined as a dangerous weapon, and that is a facsimile or toy version of, and reasonably appears to be a pistol, revolver, shotgun, sawed-off shotgun, rifle, machine gun, rocket launcher, or any other firearm. The term replica firearm includes, but is not limited to, devices or objects that are designed to fire only blanks.

History: *1971 c 845 s 19; 1988 c 712 s 15; 1990 c 461 s 3; 1993 c 326 art 4 s 34; 1994 c 636 art 2 s 45; art 3 s 23; 1995 c 244 s 24, 25; 1998 c 367 art 6 s 15*

609.714 CRIMES COMMITTED IN FURTHERANCE OF TERRORISM.

Subdivision 1. **Definition.** As used in this section, a crime is committed to "further terrorism" if the crime is a felony and is a premeditated act involving violence to persons or property that is intended to:

(1) terrorize, intimidate, or coerce a considerable number of members of the public in addition to the direct victims of the act; and

(2) significantly disrupt or interfere with the lawful exercise, operation, or conduct of government, lawful commerce, or the right of lawful assembly.

Subd. 2. **Furtherance of terrorism; crime described; penalty.** A person who commits a felony crime to further terrorism is guilty of a crime. The statutory maximum for the crime is 50 percent longer than the statutory maximum for the underlying crime.

History: *2002 c 401 art 1 s 20*

609.715 PRESENCE AT UNLAWFUL ASSEMBLY.

Whoever without lawful purpose is present at the place of an unlawful assembly and refuses to leave when so directed by a law enforcement officer is guilty of a misdemeanor.

History: *1963 c 753 art 1 s 609.715; 1971 c 23 s 70*

609.72 DISORDERLY CONDUCT.

Subdivision 1. **Crime.** Whoever does any of the following in a public or private place, including on a school bus, knowing, or having reasonable grounds to know that it will, or will tend to, alarm, anger or disturb others or provoke an assault or breach of the peace, is guilty of disorderly conduct, which is a misdemeanor:

(1) engages in brawling or fighting; or

(2) disturbs an assembly or meeting, not unlawful in its character; or

(3) engages in offensive, obscene, abusive, boisterous, or noisy conduct or in offensive, obscene, or abusive language tending reasonably to arouse alarm, anger, or resentment in others.

A person does not violate this section if the person's disorderly conduct was caused by an epileptic seizure.

Subd. 2. [Repealed, 1969 c 226 s 1]

Subd. 3. **Caregiver; penalty for disorderly conduct.** A caregiver, as defined in section 609.232, who violates the provisions of subdivision 1 against a vulnerable adult, as defined in section 609.232, may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

History: *1963 c 753 art 1 s 609.72; 1967 c 242 s 1; 1971 c 23 s 71; 1988 c 689 art 2 s 236; 1991 c 279 s 34; 1994 c 636 art 2 s 46; 1995 c 229 art 2 s 7*

609.735 CONCEALING IDENTITY.

A person whose identity is concealed by the person in a public place by means of a robe, mask, or other disguise, unless based on religious beliefs, or incidental to amusement, entertainment, protection from weather, or medical treatment, is guilty of a misdemeanor.

History: *1963 c 753 art 1 s 609.735; 1971 c 23 s 73; 1986 c 444; 1995 c 30 s 1*

609.74 PUBLIC NUISANCE.

Whoever by an act or failure to perform a legal duty intentionally does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:

(1) maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public; or

(2) interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; or

(3) is guilty of any other act or omission declared by law to be a public nuisance and for which no sentence is specifically provided.

History: *1963 c 753 art 1 s 609.74; 1971 c 23 s 74; 1986 c 444*

609.745 PERMITTING PUBLIC NUISANCE.

Whoever having control of real property permits it to be used to maintain a public nuisance or lets the same knowing it will be so used is guilty of a misdemeanor.

History: *1963 c 753 art 1 s 609.745; 1971 c 23 s 75; 1986 c 444*

609.746 INTERFERENCE WITH PRIVACY.

Subdivision 1. **Surreptitious intrusion; observation device.** (a) A person is guilty of a gross misdemeanor who:

(1) enters upon another's property;

(2) surreptitiously gazes, stares, or peeps in the window or any other aperture of a house or place of dwelling of another; and

(3) does so with intent to intrude upon or interfere with the privacy of a member of the household.

(b) A person is guilty of a gross misdemeanor who:

(1) enters upon another's property;

(2) surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events through the window or any other aperture of a house or place of dwelling of another; and

(3) does so with intent to intrude upon or interfere with the privacy of a member of the household.

(c) A person is guilty of a gross misdemeanor who:

(1) surreptitiously gazes, stares, or peeps in the window or other aperture of a sleeping room in a hotel, as defined in section 327.70, subdivision 3, a tanning booth, or other place where a reasonable person would have an expectation of privacy and has exposed or is likely to expose their intimate parts, as defined in section 609.341, subdivision 5, or the clothing covering the immediate area of the intimate parts; and

(2) does so with intent to intrude upon or interfere with the privacy of the occupant.

(d) A person is guilty of a gross misdemeanor who:

(1) surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events through the window or other aperture of a sleeping room in a hotel, as defined in section 327.70, subdivision 3, a tanning booth, or other place where a reasonable person would have an expectation of privacy and has exposed or is likely to expose their intimate parts, as defined in section 609.341, subdivision 5, or the clothing covering the immediate area of the intimate parts; and

(2) does so with intent to intrude upon or interfere with the privacy of the occupant.

(e) A person is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than $5,000, or both, if the person:

(1) violates this subdivision after a previous conviction under this subdivision or section 609.749; or

(2) violates this subdivision against a minor under the age of 18, knowing or having reason to know that the minor is present.

(f) Paragraphs (b) and (d) do not apply to law enforcement officers or corrections investigators, or to those acting under their direction, while engaged in the performance of their lawful duties. Paragraphs (c) and (d) do not apply to conduct in: (1) a medical facility; or (2) a commercial establishment if the owner of the establishment has posted conspicuous signs warning that the premises are under surveillance by the owner or the owner's employees.

Subd. 2. [Repealed, 1993 c 326 art 2 s 34]

Subd. 3. [Repealed, 1993 c 326 art 2 s 34]

History: *1979 c 258 s 19; 1987 c 307 s 4; 1989 c 261 s 6; 1992 c 571 art 6 s 14; 1994 c 636 art 2 s 47; 1995 c 226 art 2 s 22; 1997 c 239 art 5 s 11; 2005 c 136 art 17 s 43*

609.7475 FRAUDULENT OR OTHERWISE IMPROPER FINANCING STATEMENTS.

Subdivision 1. **Definition.** As used in this section, "record" has the meaning given in section 336.9-102.

Subd. 2. **Crime described.** A person who:

(1) knowingly causes to be presented for filing or promotes the filing of a record that:

(i) is not:

(A) related to a valid lien or security agreement; or

(B) filed pursuant to section 336.9-502(d); or

(ii) contains a forged signature or is based upon a document containing a forged signature; or

(2) presents for filing or causes to be presented for filing a record with the intent that it be used to harass or defraud any other person;

is guilty of a crime and may be sentenced as provided in subdivision 3.

Subd. 3. **Penalties.** (a) Except as provided in paragraph (b), a person who violates subdivision 2 is guilty of a gross misdemeanor.

(b) A person who violates subdivision 2 is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if the person:

(1) commits the offense with intent to influence or otherwise tamper with a juror or a judicial proceeding or with intent to retaliate against:

(i) a judicial officer, as defined in section 609.415;

(ii) a prosecutor, defense attorney, or officer of the court, because of that person's performance of official duties in connection with a judicial proceeding;

(iii) a sheriff or deputy sheriff because of that person's performance of official duties;

(iv) a police officer or chief of police because of that person's performance of official duties;

(v) an official or employee of the Department of Corrections or a local correctional agency because of that person's performance of official duties; or

(vi) a county recorder because of that person's performance of official duties in connection with the filing of liens placed on real property; or

(2) commits the offense after having been previously convicted of a violation of this section.

Subd. 4. **Venue.** A violation of this section may be prosecuted in either the county of residence of the individual listed as debtor or the county in which the filing is made.

History: *2006 c 260 art 7 s 13; 2012 c 210 s 1; 2014 c 306 s 1*

609.748 HARASSMENT; RESTRAINING ORDER. [SUBDS. 3, 3a, 4, & 5 AMENDED; NEW SUBDS. 5a & 5b]

Subdivision 1. **Definition.** For the purposes of this section, the following terms have the meanings given them in this subdivision.

(a) "Harassment" includes:

(1) a single incident of physical or sexual assault, a single incident of stalking under section 609.749, subdivision 2, clause (8), a single incident of nonconsensual dissemination of private sexual images under section 617.261, or repeated incidents of intrusive or unwanted acts, words, or gestures that have a substantial adverse effect or are intended to have a substantial adverse effect on the safety, security, or privacy of another, regardless of the relationship between the actor and the intended target;

(2) targeted residential picketing; and

(3) a pattern of attending public events after being notified that the actor's presence at the event is harassing to another.

(b) "Respondent" includes any adults or juveniles alleged to have engaged in harassment or organizations alleged to have sponsored or promoted harassment.

(c) "Targeted residential picketing" includes the following acts when committed on more than one occasion:

(1) marching, standing, or patrolling by one or more persons directed solely at a particular residential building in a manner that adversely affects the safety, security, or privacy of an occupant of the building; or

(2) marching, standing, or patrolling by one or more persons which prevents an occupant of a residential building from gaining access to or exiting from the property on which the residential building is located.

Subd. 2. **Restraining order; court jurisdiction.** A person who is a victim of harassment may seek a restraining order from the district court in the manner provided in this section. The parent, guardian, or stepparent of a minor who is a victim of harassment may seek a restraining order from the district court on behalf of the minor. An application for relief under this section may be filed in the county of residence of either party or in the county in which the alleged harassment occurred. There are no residency requirements that apply to a petition for a harassment restraining order.

Subd. 3. **Contents of petition; hearing; notice.** (a) A petition for relief must allege facts sufficient to show the following:

(1) the name of the alleged harassment victim;

(2) the name of the respondent; and

(3) that the respondent has engaged in harassment.

A petition for relief must state whether the petitioner has had a previous restraining order in effect against the respondent. The petition shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought. The court shall provide simplified forms and clerical assistance to help with the writing and filing of a petition under this section and shall advise the petitioner of the right to sue in forma pauperis under section 563.01. The court shall advise the petitioner of the right to request a hearing. If the petitioner does not request a hearing, the court shall advise the petitioner that the respondent may request a hearing and that notice of the hearing date and time will be provided to the petitioner by mail at least five days before the hearing. Upon receipt of the petition and a request for a hearing by the petitioner, the court shall order a hearing. Personal service must be made upon the respondent not less than five days before the hearing. If personal service cannot be completed in time to give the respondent the minimum notice required under this paragraph, the court may set a new hearing date. Nothing in this section shall be construed as requiring a hearing on a matter that has no merit.

(b) Notwithstanding paragraph (a), the order for a hearing and a temporary order issued under subdivision 4 may be served on the respondent by means of a one-week published notice under section 645.11, if:

(1) the petitioner files an affidavit with the court stating that an attempt at personal service made by a peace officer was unsuccessful because the respondent is avoiding service by concealment or otherwise; and

(2) a copy of the petition and order for hearing and any temporary restraining order has been mailed to the respondent at the respondent's residence or place of business, if the respondent is an organization, or the respondent's residence or place of business is not known to the petitioner.

(c) Regardless of the method of service, if the respondent is a juvenile, whenever possible, the court also shall have notice of the pendency of the case and of the time and place of the hearing served by mail at the last known address upon any parent or guardian of the juvenile respondent who is not the petitioner.

(d) A request for a hearing under this subdivision must be made within 20 days of service of the petition.

Subd. 3a. **Filing fee; cost of service.** The filing fees for a restraining order under this section are waived for the petitioner and the respondent if the petition alleges acts that would constitute a violation of section 609.749, subdivision 2, 3, 4, or 5, or sections 609.342 to 609.3451. The court administrator and any peace officer in this state shall perform their duties relating to service of process without charge to the petitioner. The court shall direct payment of the reasonable costs of service of process if served by a private process server when a peace officer is unavailable or if service is made by publication.

Subd. 4. **Temporary restraining order; relief by court.** (a) The court may issue a temporary restraining order that provides any or all of the following:

(1) orders the respondent to cease or avoid the harassment of another person; or

(2) orders the respondent to have no contact with another person.

(b) The court may issue an order under paragraph (a) if the petitioner files a petition in compliance with subdivision 3 and if the court finds reasonable grounds to believe that the respondent has engaged in harassment. When a petition alleges harassment as defined by subdivision 1, paragraph (a), clause (1), the petition must further allege an immediate and present danger of harassment before the court may issue a temporary restraining order under this section. When signed by a referee, the temporary order becomes effective upon the referee's signature.

(c) Notice need not be given to the respondent before the court issues a temporary restraining order under this subdivision. A copy of the restraining order must be served on the respondent along with the order for hearing and petition, as provided in subdivision 3. If the respondent is a juvenile, whenever possible, a copy of the restraining order, along with notice of the pendency of the case and the time and place of the hearing, shall also be served by mail at the last known address upon any parent or guardian of the juvenile respondent who is not the petitioner. A temporary restraining order may be entered only against the respondent named in the petition.

(d) The temporary restraining order is in effect until a hearing is held on the issuance of a restraining order under subdivision 5. The court shall hold the hearing on the issuance of a restraining order if the petitioner requests a hearing. The hearing may be continued by the court upon a showing that the respondent has not been served with a copy of the temporary restraining order despite the exercise of due diligence or if service is made by published notice under subdivision 3 and the petitioner files the affidavit required under that subdivision.

(e) If the temporary restraining order has been issued and the respondent requests a hearing, the hearing shall be scheduled by the court upon receipt of the respondent's request. Service of the notice of hearing must be made upon the petitioner not less than five days prior to the hearing. The court shall serve the notice of the hearing upon the petitioner by mail in the manner provided in the Rules of Civil Procedure for pleadings subsequent to a complaint and motions and shall also mail notice of the date and time of the hearing to the respondent. In the event that service cannot be completed in time to give the respondent or petitioner the minimum notice required under this subdivision, the court may set a new hearing date.

(f) A request for a hearing under this subdivision must be made within 20 days of the date of completed service of the petition.

Subd. 5. **Restraining order.** (a) The court may issue a restraining order that provides any or all of the following:

(1) orders the respondent to cease or avoid the harassment of another person; or

(2) orders the respondent to have no contact with another person.

(b) The court may issue an order under paragraph (a) if all of the following occur:

(1) the petitioner has filed a petition under subdivision 3;

(2) a peace officer has served respondent with a copy of the temporary restraining order obtained under subdivision 4, and with notice of the right to request a hearing, or service has been made by publication under subdivision 3, paragraph (b); and

(3) the court finds at the hearing that there are reasonable grounds to believe that the respondent has engaged in harassment.

A restraining order may be issued only against the respondent named in the petition; except that if the respondent is an organization, the order may be issued against and apply to all of the members of the organization. If the court finds that the petitioner has had two or more previous restraining orders in effect against the same respondent or the respondent has violated a prior or existing restraining order on two or more occasions, relief granted by the restraining order may be for a period of up to 50 years. In all other cases, relief granted by the restraining order must be for a fixed period of not more than two years. When a referee presides at the hearing on the petition, the restraining order becomes effective upon the referee's signature.

(c) An order issued under this subdivision must be personally served upon the respondent.

(d) If the court orders relief for a period of up to 50 years under paragraph (a), the respondent named in the restraining order may request to have the restraining order vacated or modified if the order has been in effect for at least five years and the respondent has not violated the order. Application for relief under this paragraph must be made in

the county in which the restraining order was issued. Upon receipt of the request, the court shall set a hearing date. Personal service must be made upon the petitioner named in the restraining order not less than 30 days before the date of the hearing. At the hearing, the respondent named in the restraining order has the burden of proving by a preponderance of the evidence that there has been a material change in circumstances and that the reasons upon which the court relied in granting the restraining order no longer apply and are unlikely to occur. If the court finds that the respondent named in the restraining order has met the burden of proof, the court may vacate or modify the order. If the court finds that the respondent named in the restraining order has not met the burden of proof, the court shall deny the request and no request may be made to vacate or modify the restraining order until five years have elapsed from the date of denial. An order vacated or modified under this paragraph must be personally served on the petitioner named in the restraining order.

Subd. 5a. **Short-form notification.** (a) In lieu of personal service of a harassment restraining order, a peace officer may serve a person with a short-form notification. The short-form notification must include the following clauses: the respondent's name; the respondent's date of birth, if known; the petitioner's name; the names of other protected parties; the date and county in which the temporary restraining order or restraining order was filed; the court file number; the hearing date and time, if known; the conditions that apply to the respondent, either in checklist form or handwritten; and the name of the judge who signed the order.

The short-form notification must be in bold print in the following form:

"The restraining order is now enforceable. You must report to your nearest sheriff's office or county court to obtain a copy of the restraining order. You are subject to arrest and may be charged with a misdemeanor, gross misdemeanor, or felony if you violate any of the terms of the restraining order or this short-form notification."

(b) Upon verification of the identity of the respondent and the existence of an unserved harassment restraining order against the respondent, a law enforcement officer may detain the respondent for a reasonable time necessary to complete and serve the short-form notification.

(c) When service is made by short-form notification, it may be proved by the affidavit of the law enforcement officer making the service.

(d) For service under this section only, service upon an individual may occur at any time, including Sundays and legal holidays.

(e) The superintendent of the Bureau of Criminal Apprehension shall provide the short form to law enforcement agencies.

Subd. 5b. **Service by others.** In addition to peace officers, corrections officers, including but not limited to probation officers, court services officers, parole officers, and employees of jails or correctional facilities, may serve a temporary restraining order or restraining order.

Subd. 6. **Violation of restraining order.** (a) A person who violates a restraining order issued under this section is subject to the penalties provided in paragraphs (b) to (d).

(b) Except as otherwise provided in paragraphs (c) and (d), when a temporary restraining order or a restraining order is granted under this section and the respondent knows of the order, violation of the order is a misdemeanor.

(c) A person is guilty of a gross misdemeanor who violates the order within ten years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency.

(d) A person is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if the person violates the order:

(1) within ten years of the first of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency;

(2) because of the victim's or another's actual or perceived race, color, religion, sex, sexual orientation, disability as defined in section 363A.03, age, or national origin;

(3) by falsely impersonating another;

(4) while possessing a dangerous weapon;

(5) with an intent to influence or otherwise tamper with a juror or a judicial proceeding or with intent to retaliate against a judicial officer, as defined in section 609.415, or a prosecutor, defense attorney, or officer of the court, because of that person's performance of official duties in connection with a judicial proceeding; or

(6) against a victim under the age of 18, if the respondent is more than 36 months older than the victim.

(e) A person who commits violations in two or more counties may be prosecuted in any county in which one of the acts was committed for all acts in violation of this section.

(f) A person may be prosecuted at the place where any call is made or received or, in the case of wireless or electronic communication or any communication made through any available technologies, where the actor or victim resides, or in the jurisdiction of the victim's designated address if the victim participates in the address confidentiality program established under chapter 5B.

(g) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order issued under subdivision 4 or 5 if the existence of the order can be verified by the officer.

(h) A violation of a temporary restraining order or restraining order shall also constitute contempt of court.

(i) Upon the filing of an affidavit by the petitioner, any peace officer, or an interested party designated by the court, alleging that the respondent has violated an order issued under subdivision 4 or 5, the court may issue an order to the respondent requiring the respondent to appear within 14 days and show cause why the respondent should not be held in contempt of court. The court also shall refer the violation of the order to the appropriate prosecuting authority for possible prosecution under paragraph (b), (c), or (d).

Subd. 7. **Copy to law enforcement agency.** An order granted under this section shall be forwarded by the court administrator within 24 hours to the local law enforcement agency with jurisdiction over the residence of the applicant. Each appropriate law enforcement agency shall make available to other law enforcement officers through a system for verification, information as to the existence and status of any order issued under this section.

Subd. 8. **Notice.** (a) An order granted under this section must contain a conspicuous notice to the respondent:

(1) of the specific conduct that will constitute a violation of the order;

(2) that violation of an order is either (i) a misdemeanor punishable by imprisonment for up to 90 days or a fine of up to $1,000, or both, (ii) a gross misdemeanor punishable by imprisonment for up to one year or a fine of up to $3,000, or both, or (iii) a felony punishable by imprisonment for up to five years or a fine of up to $10,000, or both; and

(3) that a peace officer must arrest without warrant and take into custody a person if the peace officer has probable cause to believe the person has violated a restraining order.

(b) If the court grants relief for a period of up to 50 years under subdivision 5, the order must also contain a conspicuous notice to the respondent that the respondent must wait five years to seek a modification of the order.

Subd. 9. **Effect on local ordinances.** Nothing in this section shall supersede or preclude the continuation or adoption of any local ordinance which applies to a broader scope of targeted residential picketing conduct than that described in subdivision 1.

Subd. 10. **Prohibition against employer retaliation.** (a) An employer shall not discharge, discipline, threaten, otherwise discriminate against, or penalize an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment, because the employee took reasonable time off from work to obtain or attempt to obtain relief under this section. Except in cases of imminent danger to the health or safety of the employee or the employee's child, or unless impracticable, an employee who is absent from the workplace shall give 48 hours' advance notice to the employer. Upon request of the employer, the employee shall provide verification that supports the employee's reason for being absent from the workplace. All information related to the employee's leave pursuant to this section shall be kept confidential by the employer.

(b) An employer who violates paragraph (a) is guilty of a misdemeanor and may be punished for contempt of court. In addition, the court shall order the employer to pay back wages and offer job reinstatement to any employee discharged from employment in violation of paragraph (a).

(c) In addition to any remedies otherwise provided by law, an employee injured by a violation of paragraph (a) may bring a civil action for recovery of damages, together with costs and disbursements, including reasonable attorneys fees, and may receive such injunctive and other equitable relief, including reinstatement, as determined by the court.

History: *1990 c 461 s 5; 1991 c 170 s 1,2; 1992 c 571 art 6 s 15-17; 1993 c 326 art 2 s 14-21; 1Sp1993 c 5 s 4; 1994 c 636 art 2 s 48; 1995 c 226 art 6 s 13; 1995 c 259 art 3 s 17; 1997 c 96 s 5; 1997 c 239 art 11 s 5;1998 c 367 art 5 s 8,9; 2000 c 476 s 1-3; 1Sp2001 c 8 art 10 s 13,14; 1Sp2003 c 2 art 8 s 14-16; 2004 c 145 s 2;2004 c 228 art 1 s 72; 2005 c 136 art 8 s 21; art 17 s 44-45; 2006 c 260 art 1 s 28; 2008 c 316 s 6-8; 2012 c 218 s 2-4; 2012 c 223 s 1,2; 2013 c 47 s 4; 2014 c 204 s 10; 2016 c 126 s 6*

609.749 STALKING; PENALTIES.

Subdivision 1. **Definition.** As used in this section, "stalking" means to engage in conduct which the actor knows or has reason to know would cause the victim under the circumstances to feel frightened, threatened, oppressed, persecuted, or intimidated, and causes this reaction on the part of the victim regardless of the relationship between the actor and victim.

Subd. 1a. **No proof of specific intent required.** In a prosecution under this section, the state is not required to prove that the actor intended to cause the victim to feel frightened, threatened, oppressed, persecuted, or intimidated, or except as otherwise provided in subdivision 3, paragraph (a), clause (4), or paragraph (b), that the actor intended to cause any other result.

Subd. 1b. **Venue.** (a) When acts constituting a violation of this section are committed in two or more counties, the accused may be prosecuted in any county in which one of the acts was committed for all acts in violation of this section.

(b) The conduct described in subdivision 2, clauses (4) and (5), may be prosecuted at the place where any call is made or received or, in the case of wireless or electronic communication or any communication made through any available technologies, where the actor or victim resides or in the jurisdiction of the victim's designated address if the victim participates in the address confidentiality program established by chapter 5B. The conduct described in subdivision 2, clause (2), may be prosecuted where the actor or victim resides. The conduct described in subdivision 2, clause (6), may be prosecuted where any letter, telegram, message, package, or other object is sent or received or, in the case of wireless or electronic communication or communication made through other available technologies, where the actor or victim resides or in the jurisdiction of the victim's designated address if the victim participates in the address confidentiality program established by chapter 5B.

Subd. 1c. **Arrest.** For all violations under this section, except a violation of subdivision 2, clause (7), a peace officer may make an arrest under the provisions of section 629.34. A peace officer may not make a warrantless, custodial arrest of any person for a violation of subdivision 2, clause (7).

Subd. 2. **Stalking crimes.** A person who stalks another by committing any of the following acts is guilty of a gross misdemeanor:

(1) directly or indirectly, or through third parties, manifests a purpose or intent to injure the person, property, or rights of another by the commission of an unlawful act;

(2) follows, monitors, or pursues another, whether in person or through any available technological or other means;

(3) returns to the property of another if the actor is without claim of right to the property or consent of one with authority to consent;

(4) repeatedly makes telephone calls, sends text messages, or induces a victim to make telephone calls to the actor, whether or not conversation ensues;

(5) makes or causes the telephone of another repeatedly or continuously to ring;

(6) repeatedly mails or delivers or causes the delivery by any means, including electronically, of letters, telegrams, messages, packages, through assistive devices for people with vision impairments or hearing loss, or any communication made through any available technologies or other objects;

(7) knowingly makes false allegations against a peace officer concerning the officer's performance of official duties with intent to influence or tamper with the officer's performance of official duties; or

(8) uses another's personal information, without consent, to invite, encourage, or solicit a third party to engage in a sexual act with the person.

For purposes of this clause, "personal information" and "sexual act" have the meanings given in section 617.261, subdivision 7.

Subd. 3. **Aggravated violations.** (a) A person who commits any of the following acts is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both:

(1) commits any offense described in subdivision 2 because of the victim's or another's actual or perceived race, color, religion, sex, sexual orientation, disability as defined in section 363A.03, age, or national origin;

(2) commits any offense described in subdivision 2 by falsely impersonating another;

(3) commits any offense described in subdivision 2 and possesses a dangerous weapon at the time of the offense;

(4) stalks another, as defined in subdivision 1, with intent to influence or otherwise tamper with a juror or a judicial proceeding or with intent to retaliate against a judicial officer, as defined in section 609.415, or a prosecutor, defense attorney, or officer of the court, because of that person's performance of official duties in connection with a judicial proceeding; or

(5) commits any offense described in subdivision 2 against a victim under the age of 18, if the actor is more than 36 months older than the victim.

(b) A person who commits any offense described in subdivision 2 against a victim under the age of 18, if the actor is more than 36 months older than the victim, and the act is committed with sexual or aggressive intent, is guilty of a felony and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

Subd. 4. **Second or subsequent violations; felony.** (a) A person is guilty of a felony who violates any provision of subdivision 2 within ten years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency, and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

(b) A person is guilty of a felony who violates any provision of subdivision 2 within ten years of the first of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency, and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

Subd. 5. **Pattern of stalking conduct.** (a) A person who engages in a pattern of stalking conduct with respect to a single victim or one or more members of a single household which the actor knows or has reason to know would cause the victim under the circumstances to feel terrorized or to fear bodily harm and which does cause this reaction on the part of the victim, is guilty of a felony and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

(b) For purposes of this subdivision, a "pattern of stalking conduct" means two or more acts within a five-year period that violate or attempt to violate the provisions of any of the following or a similar law of another state, the United States, the District of Columbia, tribe, or United States territories:

(1) this section;

(2) sections 609.185 to 609.205 (first- to third-degree murder and first- and second-degree manslaughter);

(3) section 609.713 (terroristic threats);

(4) section 609.224 (fifth-degree assault);

(5) section 609.2242 (domestic assault);

(6) section 518B.01, subdivision 14 (violations of domestic abuse orders for protection);

(7) section 609.748, subdivision 6 (violations of harassment restraining orders);

(8) section 609.605, subdivision 1, paragraph (b), clauses (3), (4), and (7) (certain trespass offenses);

(9) section 609.78, subdivision 2 (interference with an emergency call);

(10) section 609.79 (obscene or harassing telephone calls);

(11) section 609.795 (letter, telegram, or package; opening; harassment);

(12) section 609.582 (burglary);

(13) section 609.595 (damage to property);

(14) section 609.765 (criminal defamation);

(15) sections 609.342 to 609.3451 (first- to fifth-degree criminal sexual conduct); or

(16) section 629.75, subdivision 2 (violations of domestic abuse no contact orders).

(c) Words set forth in parentheses after references to statutory sections in paragraph (b) are mere catchwords included solely for convenience in reference. They are not substantive and may not be used to construe or limit the meaning of the cited statutory provision.

Subd. 6. **Mental health assessment and treatment.** (a) When a person is convicted of a felony offense under this section, or another felony offense arising out of a charge based on this section, the court shall order an independent professional mental health assessment of the offender's need for mental health treatment. The court may waive the assessment if an adequate assessment was conducted prior to the conviction.

(b) Notwithstanding sections 13.384, 13.85, 144.291 to 144.298, 260B.171, or 260C.171, the assessor has access to the following private or confidential data on the person if access is relevant and necessary for the assessment:

(1) medical data under section 13.384;

(2) welfare data under section 13.46;

(3) corrections and detention data under section 13.85;

(4) health records under sections 144.291 to 144.298; and

(5) juvenile court records under sections 260B.171 and 260C.171.

Data disclosed under this section may be used only for purposes of the assessment and may not be further disclosed to any other person, except as authorized by law.

(c) If the assessment indicates that the offender is in need of and amenable to mental health treatment, the court shall include in the sentence a requirement that the offender undergo treatment.

(d) The court shall order the offender to pay the costs of assessment under this subdivision unless the offender is indigent under section 563.01.

Subd. 7. **Exception.** Conduct is not a crime under this section if it is performed under terms of a valid license, to ensure compliance with a court order, or to carry out a specific lawful commercial purpose or employment duty, is authorized or required by a valid contract, or is authorized, required, or protected by state, federal, or tribal law or the state, federal, or tribal constitutions. Subdivision 2, clause (2), does not impair the right of any individual or group to engage in speech protected by the federal, state, or tribal constitutions, or federal, state, or tribal law, including peaceful and lawful handbilling and picketing.

Subd. 8. **Stalking; firearms.** (a) When a person is convicted of a stalking crime under this section and the court determines that the person used a firearm in any way during commission of the crime, the court may order that the person is prohibited from possessing any type of firearm for any period longer than three years or for the remainder of the person's life. A person who violates this paragraph is guilty of a gross misdemeanor. At the time of the conviction, the court shall inform the defendant for how long the defendant is prohibited from possessing a firearm and that it is a gross misdemeanor to violate this paragraph. The failure of the court to provide this information to a defendant does not affect the applicability of the firearm possession prohibition or the gross misdemeanor penalty to that defendant.

(b) Except as otherwise provided in paragraph (a), when a person is convicted of a stalking crime under this section, the court shall inform the defendant that the defendant is prohibited from possessing a firearm for three years from the date of conviction and that it is a gross misdemeanor offense to violate this prohibition. The failure of the court to provide this information to a defendant does not affect the applicability of the firearm possession prohibition or the gross misdemeanor penalty to that defendant.

(c) Except as otherwise provided in paragraph (a), a person is not entitled to possess a pistol if the person has been convicted after August 1, 1996, of a stalking crime under this section, or to possess a firearm if the person has been convicted on or after August 1, 2014, of a stalking crime under this section, unless three years have elapsed from the date of conviction and, during that time, the person has not been convicted of any other violation of this section. Property rights may not be abated but access may be restricted by the courts. A person who possesses a firearm in violation of this paragraph is guilty of a gross misdemeanor.

(d) If the court determines that a person convicted of a stalking crime under this section owns or possesses a firearm and used it in any way during the commission of the crime, it shall order that the firearm be summarily forfeited under section 609.5316, subdivision 3.

(e) Except as otherwise provided in paragraphs (d) and (g), when a person is convicted of a stalking crime under this section, the court shall order the defendant to transfer any firearms that the person possesses, within three business days, to a federally licensed firearms dealer, a law enforcement agency, or a third party who may lawfully receive them. The transfer may be permanent or temporary. A temporary firearm transfer only entitles the receiving party to possess the firearm. A temporary transfer does not transfer ownership or title. A defendant may not transfer firearms to a third party who resides with the defendant. If a defendant makes a temporary transfer, a federally licensed firearms dealer or law enforcement agency may charge the defendant a reasonable fee to store the person's firearms and may establish policies for disposal of abandoned firearms, provided such policies require that the person be notified via certified mail prior to disposal of abandoned firearms. For temporary firearms transfers under this paragraph, a law enforcement agency, federally licensed firearms dealer, or third party shall exercise due care to preserve the quality and function of the transferred firearms and shall return the transferred firearms to the person upon request after the expiration of the prohibiting time period imposed under this subdivision, provided the person is not otherwise prohibited from possessing firearms under state or federal law. The return of temporarily transferred firearms to a defendant shall comply with state and federal law. If a defendant permanently transfers the defendant's firearms to a law enforcement agency, the agency is not required to compensate the defendant and may charge the defendant a reasonable processing fee. A law enforcement agency is not required to accept a person's firearm under this paragraph. The court shall order that the person surrender all permits to carry and purchase firearms to the sheriff.

(f) A defendant who is ordered to transfer firearms under paragraph (e) must file proof of transfer as provided for in this paragraph. If the transfer is made to a third party, the third party must sign an affidavit under oath before a notary public either acknowledging that the defendant permanently transferred the defendant's firearms to the third party or agreeing to temporarily store the defendant's firearms until such time as the defendant is legally permitted to possess firearms. The affidavit shall indicate the serial number, make, and model of all firearms transferred by the defendant to the third party. The third party shall acknowledge in the affidavit that the third party may be held criminally and civilly responsible under section 624.7144 if the defendant gains access to a transferred firearm while the firearm is in the custody of the third party. If the transfer is to a law enforcement agency or federally licensed firearms dealer, the law enforcement agency or federally licensed firearms dealer shall provide proof of transfer to the defendant. The proof of transfer must specify whether the firearms were permanently or temporarily transferred and include the name of the defendant, date of transfer, and the serial number, make, and model of all transferred firearms. The defendant shall provide the court with a signed and notarized affidavit or proof of transfer as described in this section within two business days of the firearms transfer. The court shall seal affidavits and proofs of transfer filed pursuant to this paragraph.

(g) When a person is convicted of a stalking crime under this section, the court shall determine by a preponderance of the evidence if the person poses an imminent risk of causing another person substantial bodily harm. Upon a finding of imminent risk, the court shall order that the local law enforcement agency take immediate possession of all firearms in the person's possession. The local law enforcement agency shall exercise due care to preserve the quality and function of the defendant's firearms and shall return the firearms to the person upon request after the expiration of the prohibiting time period, provided the person is not otherwise prohibited from possessing firearms under state or federal law. The local law enforcement agency shall, upon written notice from the person, transfer the firearms to a federally licensed firearms dealer or a third party who may lawfully receive them. Before a local law enforcement agency transfers a firearm under this paragraph, the agency shall require the third party or federally licensed firearms dealer receiving the firearm to submit an affidavit or proof of transfer that complies with the requirements for affidavits or proofs of transfer established in paragraph (f). The agency shall file all affidavits or proofs of transfer received with the court within two business days of the transfer. The court shall seal all affidavits or proofs of transfer filed pursuant to this paragraph. A federally licensed firearms dealer or third party who accepts a firearm transfer pursuant to this paragraph shall comply with paragraphs (e) and (f) as if accepting transfer from the defendant. If the

law enforcement agency does not receive written notice from the defendant within three business days, the agency may charge a reasonable fee to store the defendant's firearms. A law enforcement agency may establish policies for disposal of abandoned firearms, provided such policies require that the person be notified via certified mail prior to disposal of abandoned firearms.

History: *1993 c 326 art 2 s 22; 1Sp1993 c 5 s 5; 1994 c 465 art 1 s 61; 1995 c 226 art 2 s 23; 1995 c 259 art 3 s 18,19; 1996 c 408 art 4 s 12; 1997 c 96 s 6-9; 1998 c 367 art 2 s 23,24; 1999 c 139 art 4 s 2; 1999 c 227 s 22; 2000 c 311 art 4 s 6; 2000 c 437 s 15,16; 1Sp2001 c 8 art 10 s 15,16; 2002 c 385 s 5-8; 2005 c 136 art 17 s 46; 2006 c 260 art 1 s 29; 2007 c 147 art 10 s 15; 2010 c 299 s 8; 2013 c 62 s 29; 2014 c 213 s 4; 2016 c 126 s 7*

609.7495 PHYSICAL INTERFERENCE WITH SAFE ACCESS TO HEALTH CARE.

Subdivision 1. **Definitions.** For the purposes of this section, the following terms have the meanings given them.

(a) "Facility" means any of the following:

(1) a hospital or other health institution licensed under sections 144.50 to 144.56;

(2) a medical facility as defined in section 144.561;

(3) an agency, clinic, or office operated under the direction of or under contract with the commissioner of health or a community health board, as defined in section 145A.02;

(4) a facility providing counseling regarding options for medical services or recovery from an addiction;

(5) a facility providing emergency shelter services for battered women, as defined in section 611A.31, subdivision 3, or a facility providing transitional housing for battered women and their children;

(6) a facility as defined in section 626.556, subdivision 2, paragraph (f);

(7) a facility as defined in section 626.5572, subdivision 6, where the services described in that paragraph are provided;

(8) a place to or from which ambulance service, as defined in section 144E.001, is provided or sought to be provided; and

(9) a hospice provider licensed under section 144A.753.

(b) "Aggrieved party" means a person whose access to or egress from a facility is obstructed in violation of subdivision 2, or the facility.

Subd. 2. **Obstructing access prohibited.** A person is guilty of a gross misdemeanor who intentionally and physically obstructs any individual's access to or egress from a facility.

Subd. 3. **Not applicable.** Nothing in this section shall be construed to impair the right of any individual or group to engage in speech protected by the United States Constitution, the Minnesota Constitution, or federal or state law, including but not limited to peaceful and lawful handbilling and picketing.

Subd. 4. **Civil remedies.** (a) A party who is aggrieved by an act prohibited by this section, or by an attempt or conspiracy to commit an act prohibited by this section, may bring an action for damages, injunctive or declaratory relief, as appropriate, in district court against any person or entity who has violated or has conspired to violate this section.

(b) A party who prevails in a civil action under this subdivision is entitled to recover from the violator damages, costs, attorney fees, and other relief as determined by the court. In addition to all other damages, the court may award to the aggrieved party a civil penalty of up to $1,000 for each violation. If the aggrieved party is a facility and the political subdivision where the violation occurred incurred law enforcement or prosecution expenses in connection

with the same violation, the court shall award any civil penalty it imposes to the political subdivision instead of to the facility.

(c) The remedies provided by this subdivision are in addition to any other legal or equitable remedies the aggrieved party may have and are not intended to diminish or substitute for those remedies or to be exclusive.

History: *1993 c 284 s 2; 1995 c 229 art 4 s 19; 1997 c 199 s 14; 1998 c 254 art 1 s 102; 2002 c 252 s 22, 24*

GAMBLING

609.75 GAMBLING; DEFINITIONS.

Subdivision 1. **Lottery.** (a) A lottery is a plan which provides for the distribution of money, property or other reward or benefit to persons selected by chance from among participants some or all of whom have given a consideration for the chance of being selected. A participant's payment for use of a 900 telephone number or another means of communication that results in payment to the sponsor of the plan constitutes consideration under this paragraph.

(b) An in-package chance promotion is not a lottery if all of the following are met:

(1) participation is available, free and without purchase of the package, from the retailer or by mail or toll-free telephone request to the sponsor for entry or for a game piece;

(2) the label of the promotional package and any related advertising clearly states any method of participation and the scheduled termination date of the promotion;

(3) the sponsor on request provides a retailer with a supply of entry forms or game pieces adequate to permit free participation in the promotion by the retailer's customers;

(4) the sponsor does not misrepresent a participant's chances of winning any prize;

(5) the sponsor randomly distributes all game pieces and maintains records of random distribution for at least one year after the termination date of the promotion;

(6) all prizes are randomly awarded if game pieces are not used in the promotion; and

(7) the sponsor provides on request of a state agency a record of the names and addresses of all winners of prizes valued at $100 or more, if the request is made within one year after the termination date of the promotion.

(c) Except as provided by section 299L.07, acts in this state in furtherance of a lottery conducted outside of this state are included notwithstanding its validity where conducted.

(d) The distribution of property, or other reward or benefit by an employer to persons selected by chance from among participants, all of whom:

(1) have made a contribution through a payroll or pension deduction campaign to a registered combined charitable organization, within the meaning of section 43A.50; or

(2) have paid other consideration to the employer entirely for the benefit of such a registered combined charitable organization, as a precondition to the chance of being selected, is not a lottery if:

(i) all of the persons eligible to be selected are employed by or retirees of the employer; and

(ii) the cost of the property or other reward or benefit distributed and all costs associated with the distribution are borne by the employer.

Subd. 2. **Bet.** A bet is a bargain whereby the parties mutually agree to a gain or loss by one to the other of specified money, property or benefit dependent upon chance although the chance is accompanied by some element of skill.

Subd. 3. **What are not bets.** The following are not bets:

(1) a contract to insure, indemnify, guarantee or otherwise compensate another for a harm or loss sustained, even though the loss depends upon chance;

(2) a contract for the purchase or sale at a future date of securities or other commodities;

(3) offers of purses, prizes or premiums to the actual contestants in any bona fide contest for the determination of skill, speed, strength, endurance, or quality or to the bona fide owners of animals or other property entered in such a contest;

(4) the game of bingo when conducted in compliance with sections 349.11 to 349.23;

(5) a private social bet not part of or incidental to organized, commercialized, or systematic gambling;

(6) the operation of equipment or the conduct of a raffle under sections 349.11 to 349.22, by an organization licensed by the Gambling Control Board or an organization exempt from licensing under section 349.166;

(7) pari-mutuel betting on horse racing when the betting is conducted under chapter 240; and

(8) the purchase and sale of state lottery tickets under chapter 349A.

Subd. 4. **Gambling device.** A gambling device is a contrivance the purpose of which is that for a consideration a player is afforded an opportunity to obtain something of value, other than free plays, automatically from the machine or otherwise, the award of which is determined principally by chance, whether or not the contrivance is actually played. "Gambling device" also includes a video game of chance, as defined in subdivision 8.

Subd. 4a. **Associated equipment.** Associated equipment means any equipment used in connection with gambling that would not be classified as a gambling device, including but not limited to: cards, dice, computerized systems of betting at a race book or sports pool, computerized systems for monitoring slot machines or games of chance, devices for weighing or counting money, and links which connect progressive slot machines.

Subd. 5. **Gambling place.** A gambling place is a location or structure, stationary or movable, or any part thereof, wherein, as one of its uses, betting is permitted or promoted, a lottery is conducted or assisted or a gambling device is operated.

Subd. 6. **Bucket shop.** A bucket shop is a place wherein the operator is engaged in making bets in the form of purchases or sales on public exchanges of securities, commodities or other personal property for future delivery to be settled at prices dependent on the chance of those prevailing at the public exchanges without a bona fide purchase or sale being in fact made on a board of trade or exchange.

Subd. 7. **Sports bookmaking.** Sports bookmaking is the activity of intentionally receiving, recording or forwarding within any 30-day period more than five bets, or offers to bet, that total more than $2,500 on any one or more sporting events.

Subd. 8. **Video game of chance.** A video game of chance is a game or device that simulates one or more games commonly referred to as poker, blackjack, craps, hi-lo, roulette, or other common gambling forms, though not offering any type of pecuniary award or gain to players. The term also includes any video game having one or more of the following characteristics:

(1) it is primarily a game of chance, and has no substantial elements of skill involved;

(2) it awards game credits or replays and contains a meter or device that records unplayed credits or replays. A video game that simulates horse racing that does not involve a prize payout is not a video game of chance.

Subd. 9. **900 telephone number.** A 900 telephone number is a ten-digit number, the first three numbers of which are from 900 to 999.

Subd. 10. **Game.** A game means any game played with cards, dice, equipment, or any mechanical or electronic device or machine for money or other value, whether or not approved by law, and includes, but is not limited to: card and dice games of chance, slot machines, banking or percentage games, video games of chance, sports pools, pari-mutuel betting, and race book. "Game" does not include any private social bet.

Subd. 11. **Authorized gambling activity.** An authorized gambling activity means any form of gambling authorized by and operated in conformance with law.

Subd. 12. **Authorized gambling establishment.** An authorized gambling establishment means any premises where gambling authorized by law is occurring.

Subd. 13. [Repealed, 2015 c 29 s 9]

Subd. 14. **Savings promotion raffle.** A "savings promotion raffle" means a contest or promotion in which a chance of winning designated prizes is obtained by the deposit of a specified amount of money in a savings account, share account, savings association, share certificate, or other savings program offered by a state or federally chartered credit union or bank.

Subd. 15. **Qualifying account.** "Qualifying account" means a savings account, share account, savings association, share certificate, or other savings program through which depositors may obtain chances to win prizes in a savings promotion raffle by depositing specified sums of money.

Subd. 16. **Nonqualifying account.** "Nonqualifying account" means a savings account, share account, savings association, share certificate, or other savings program that is not a qualifying account.

Subd. 17. **Applicability of definitions.** For the purposes of sections 609.75 to 609.762, the terms defined in this section have the meanings given, unless the context clearly indicates otherwise.

History: *1963 c 753 art 1 s 609.75; 1971 c 947 s 1; 1976 c 2 s 152; 1976 c 239 s 126; 1976 c 261 s 14;1978 c 507 s 4,5; 1981 c 126 s 3; 1983 c 214 s 34-36; 1983 c 216 art 2 s 17 subd 3; 1984 c 502 art 12 s 22;1985 c 126 s 2; 1986 c 467 s 29; 1988 c 705 s 2; 1989 c 334 art 6 s 8; 1990 c 590 art 1 s 52; 1991 c 199 art 2 s 1; 1991 c 336 art 2 s 43-46; 2000 c 336 s 5-9; 1Sp2001 c 5 art 20 s 18; 2005 c 166 art 1 s 37; art 3 s 1; 2008 c 277 art 1 s 94; 2008 c 294 s 1; 2008 c 318 art 2 s 2; 2009 c 86 art 1 s 82; 2015 c 29 s 4-7*

609.755 GAMBLING; MISDEMEANOR.

Whoever does any of the following is guilty of a misdemeanor:

(1) makes a bet;

(2) sells or transfers a chance to participate in a lottery;

(3) disseminates information about a lottery, except a lottery conducted by an adjoining state, with intent to encourage participation therein;

(4) permits a structure or location owned or occupied by the actor or under the actor's control to be used as a gambling place; or

(5) except where authorized by statute, possesses a gambling device.

Clause (5) does not prohibit possession of a gambling device in a person's dwelling for amusement purposes in a manner that does not afford players an opportunity to obtain anything of value.

History: *1963 c 753 art 1 s 609.755; 1971 c 23 s 76; 1986 c 444; 1991 c 336 art 2 s 47; 1994 c 633 art 4 s 10*

609.76 GAMBLING; GROSS MISDEMEANOR; FELONY.

Subdivision 1. **Gross misdemeanors.** Whoever does any of the following may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both:

(1) maintains or operates a gambling place or operates a bucket shop;

(2) intentionally participates in the income of a gambling place or bucket shop;

(3) conducts a lottery, or, with intent to conduct a lottery, possesses facilities for doing so;

(4) sets up for use for the purpose of gambling, or collects the proceeds of, any gambling device or bucket shop;

(5) except as provided in section 299L.07, manufactures, sells, offers for sale, or otherwise provides, in whole or any part thereof, any gambling device including those defined in section 349.30, subdivision 2;

(6) with intent that it be so used, manufactures, sells, or offers for sale any facility for conducting a lottery, except as provided by section 299L.07; or

(7) receives, records, or forwards bets or offers to bet or, with intent to receive, record, or forward bets or offers to bet, possesses facilities to do so.

Subd. 2. **Sports bookmaking.** Whoever engages in sports bookmaking is guilty of a felony.

Subd. 3. **Cheating.** Whoever cheats in a game, as described in this subdivision, is subject to the following penalties:

(i) if the person holds a license related to gambling or is an employee of the licensee, the person is guilty of a felony; and

(ii) any other person is guilty of a gross misdemeanor. Any person who is a repeat offender is guilty of a felony.

A person cheats in a game by intentionally:

(1) altering or misrepresenting the outcome of a game or event on which wagers have been made, after the outcome is determined, but before the outcome is revealed to the players;

(2) placing, canceling, increasing, or decreasing a bet after acquiring knowledge, not available to other players, of the outcome of the game or subject of the bet, or of events affecting the outcome of the game or subject of the bet;

(3) claiming or collecting money or anything of value from a game or authorized gambling establishment not won or earned from the game or authorized gambling establishment;

(4) manipulating a gambling device or associated equipment to affect the outcome of the game or the number of plays or credits available on the game; or

(5) otherwise altering the elements of chance or methods of selection or criteria which determine the result of the game or amount or frequency of payment of the game.

Subd. 4. **Certain devices prohibited.** (a) Whoever uses or possesses a probability-calculating or outcome-affecting device at an authorized gambling establishment is guilty of a felony. For purposes of this subdivision, a "probability-calculating" or "outcome-affecting" device is any device to assist in:

(1) projecting the outcome of a game other than pari-mutuel betting authorized by chapter 240;

(2) keeping track of or counting cards used in a game;

(3) analyzing the probability of the occurrence of an event relating to a game other than pari-mutuel betting authorized by chapter 240; or

(4) analyzing the strategy for playing or betting in a game other than pari-mutuel betting authorized by chapter 240.

For purposes of this section, a book, graph, periodical, chart, or pamphlet is not a "probability-calculating" or "outcome-affecting" device.

(b) Whoever uses, or possesses with intent to use, a key or other instrument for the purpose of opening, entering, and affecting the operation of any game or gambling device or for removing money, chips, tokens, or other contents from therein, is guilty of a felony. This paragraph does not apply to an agent or employee of an authorized gambling establishment acting within the scope of employment.

Subd. 5. **Counterfeit chips prohibited.** Whoever intentionally uses counterfeit chips or tokens to play a game at an authorized gambling establishment as defined in section 609.75, subdivision 5, designed to be played with or operated by chips or tokens is guilty of a felony. For purposes of this subdivision, counterfeit chips or tokens are chips or tokens not approved by the government regulatory agency for use in an authorized gambling activity.

Subd. 6. **Manufacture, sale, and modification prohibited.** (a) Whoever manufactures, sells, distributes, or otherwise provides cards, chips, tokens, dice, or other equipment or devices intended to be used to violate this section, is guilty of a felony.

(b) Whoever intentionally marks, alters, or otherwise modifies lawful associated equipment or gambling devices for the purpose of violating this section is guilty of a felony.

Subd. 7. **Instruction.** Whoever instructs another person to violate the provisions of this section, with the intent that the information or knowledge conveyed be used to violate this section, is guilty of a felony.

Subd. 8. **Value of chips or tokens.** The value of chips or tokens approved for use in a game designed to be played with or operated by chips or tokens, as the term "value" is used in section 609.52, is the amount or denomination shown on the face of the chip or token representing United States currency. Chips used in tournament play at a card club at a class A facility have no United States currency value.

History: *1963 c 753 art 1 s 609.76; 1981 c 126 s 4; 1983 c 214 s 37; 1984 c 628 art 3 s 11; 1989 c 334 art 6 s 9; 1990 c 590 art 2 s 17; 1991 c 336 art 2 s 48; 2000 c 336 s 10-16; 2009 c 86 art 1 s 83*

609.761 OPERATIONS PERMITTED.

Subdivision 1. **Lawful gambling.** Notwithstanding sections 609.755 and 609.76, an organization may conduct lawful gambling as defined in section 349.12, if authorized under chapter 349, and a person may manufacture, sell, or offer for sale a gambling device to an organization authorized under chapter 349 to conduct lawful gambling, and pari-mutuel betting on horse racing may be conducted under chapter 240.

Subd. 2. **State lottery.** Sections 609.755 and 609.76 do not prohibit the operation of the state lottery or the sale, possession, or purchase of tickets for the state lottery under chapter 349A.

Subd. 3. **Social skill game.** Sections 609.755 and 609.76 do not prohibit tournaments or contests that satisfy all of the following requirements:

(1) the tournament or contest consists of the card games of chance commonly known as cribbage, skat, sheepshead, bridge, euchre, pinochle, gin, 500, smear, Texas hold'em, or whist;

(2) the tournament or contest does not provide any direct financial benefit to the promoter or organizer;

(3) the value of all prizes awarded for each tournament or contest does not exceed $200; and

(4) for a tournament or contest involving Texas hold'em:

(i) no person under 18 years of age may participate;

(ii) the payment of an entry fee or other consideration for participating is prohibited;

(iii) the value of all prizes awarded to an individual winner of a tournament or contest at a single location may not exceed $200 each day; and

(iv) the organizer or promoter must ensure that reasonable accommodations are made for players with disabilities. Accommodations to the table and the cards shall include the announcement of the cards visible to the entire table and the use of Braille cards for players who are blind.

Subd. 4. **Social dice games.** Sections 609.755 and 609.76 do not prohibit dice games conducted on the premises and adjoining rooms of a retail establishment licensed to sell alcoholic beverages if the following requirements are satisfied:

(1) the games consist of board games played with dice or commonly known dice games such as "shake-a-day," "3-2-1," "who buys," "last chance," "liar's poker," "6-5-4," "horse," and "aces";

(2) wagers or prizes for the games are limited to food or beverages; and

(3) the retail establishment does not organize or participate financially in the games.

Subd. 5. **High school raffles.** Sections 609.755 and 609.76 do not prohibit a raffle, as defined in section 349.12, subdivision 33, conducted by a school district or a nonprofit organization organized primarily to support programs of a school district, if the following conditions are complied with:

(1) tickets for the raffle may only be sold and the drawing conducted at a high school event sponsored by a school district. All tickets must be sold for the same price;

(2) tickets may only be sold to persons 18 years of age or older attending the event;

(3) the drawing must be held during or immediately after the conclusion of the event;

(4) one-half of the gross receipts from the sale of tickets must be awarded as prizes for the raffle, and the remaining one-half may only be expended to defray the school district's costs of sending event participants to high school activities held at other locations; and

(5) if a school district's or nonprofit organization's gross receipts from the conduct of raffles exceeds $12,000 in a calendar year or $5,000 in a single raffle, the school district or organization must report the following information to the Gambling Control Board annually: the total amount of gross receipts received, the total expenses for the raffles, the total prizes awarded, and an accounting of the expenditures from the gross receipts of the raffles.

Subd. 6. **Savings promotion raffles.** Sections 609.755 and 609.76 do not prohibit the conduct of or participation in a savings promotion raffle, as defined in section 609.75, subdivision 14, if the following conditions are complied with:

(1) participants in a savings promotion raffle shall not be required to provide any consideration, other than the deposit of a sum of money in a qualifying account, to obtain chances to win prizes in a savings promotion raffle. For purposes of this clause, participants shall not be deemed to have provided such consideration merely because the interest rate, if any, associated with a qualifying account is lower than the interest rate associated with comparable nonqualifying accounts. Participants shall not be deemed to have given consideration as a consequence of paying any fees associated with a qualifying account, so long as such fees are approximately of a kind and in an amount charged in connection with comparable nonqualifying accounts, if any, offered by the savings promotion raffle sponsor;

(2) a savings promotion raffle shall be conducted so that each entry in the savings promotion raffle has an equal chance of being drawn; and

(3) participants in a savings promotion raffle shall not be required to be present at a prize drawing in order to win.

History: *1978 c 507 s 6; 1983 c 214 s 38; 1984 c 502 art 12 s 23; 1986 c 467 s 30; 1989 c 334 art 6 s 10;1997 c 155 s 10; 1999 c 187 s 2; 2002 c 378 s 2; 2003 c 110 s 43; 2005 c 166 art 4 s 1; 2015 c 29 s 8*

609.762 FORFEITURE OF GAMBLING DEVICES, PRIZES AND PROCEEDS.

Subdivision 1. **Forfeiture.** The following are subject to forfeiture:

(1) devices used or intended for use, including those defined in section 349.30, subdivision 2, as a gambling device, except as authorized in sections 299L.07 and 349.11 to 349.23;

(2) all moneys, materials, and other property used or intended for use as payment to participate in gambling or a prize or receipt for gambling;

(3) books, records, and research products and materials, including formulas, microfilm, tapes, and data used or intended for use in gambling; and

(4) property used or intended to be used to illegally influence the outcome of a horse race.

Subd. 2. **Seizure.** Property subject to forfeiture under subdivision 1 may be seized by any law enforcement agency upon process issued by any court having jurisdiction over the property. Seizure without process may be made if:

(1) the seizure is incident to an arrest or a search under a search warrant;

(2) the property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding; or

(3) the law enforcement agency has probable cause to believe that the property was used or is intended to be used in a gambling violation and the delay occasioned by the necessity to obtain process would result in the removal, loss, or destruction of the property.

Subd. 3. **Not subject to replevin.** Property taken or detained under subdivision 2 is not subject to a replevin action, but is considered to be in the custody of the law enforcement agency subject only to the orders and decrees of the court having jurisdiction over the forfeiture proceedings.

Subd. 4. **Procedures.** Property must be forfeited after a conviction for a gambling violation according to the following procedure:

(1) a separate complaint must be filed against the property describing it, charging its use in the specified violation, and specifying the time and place of its unlawful use;

(2) if the person charged with a gambling offense is acquitted, the court shall dismiss the complaint and order the property returned to the persons legally entitled to it; and

(3) if after conviction the court finds the property, or any part of it, was used in violation as specified in the complaint, it shall order that the property be sold or retained by the law enforcement agency for official use. Proceeds from the sale of forfeited property may be retained for official use and shared equally between the law enforcement agency investigating the offense involved in the forfeiture and the prosecuting agency that prosecuted the offense involved in the forfeiture and handled the forfeiture proceedings.

Subd. 5. **Exception.** Property may not be seized or forfeited under this section if the owner shows to the satisfaction of the court that the owner had no notice or knowledge or reason to believe that the property was used or intended to be used in violation of this section.

Subd. 6. **Reporting.** The law enforcement and prosecuting agencies shall report on forfeitures occurring under this section as described in section 609.5315, subdivision 6.

History: *1983 c 214 s 39; 1986 c 444; 2009 c 86 art 1 s 84; 2010 c 391 s 19*

609.763 LAWFUL GAMBLING FRAUD.

Subdivision 1. **Crime.** A person is guilty of a crime and may be sentenced as provided in subdivision 2 if the person does any of the following:

(1) knowingly claims a lawful gambling prize using altered or counterfeited gambling equipment;

(2) knowingly claims a lawful gambling prize by means of fraud, deceit, or misrepresentation;

(3) manipulates any form of lawful gambling or tampers with any gambling equipment with intent to influence the outcome of a game or the receipt of a prize;

(4) knowingly tampers with or attempts to alter any component or device used in the conduct or play of electronic pull-tabs or electronic linked bingo as authorized under chapter 349 or attempts to convert legal gambling into illegal gambling at an establishment licensed under chapter 340A;

(5) has unauthorized possession of an electronic pull-tab device, an electronic linked bingo device, or other component used in the conduct of electronic pull-tabs or electronic linked bingo as authorized under chapter 349; or

(6) knowingly places or uses false information on a prize receipt or on any other form approved for use by the Gambling Control Board or the Alcohol and Gambling Enforcement Division of the Department of Public Safety.

Subd. 2. **Penalty.** A person who violates subdivision 1 may be sentenced as follows:

(1) if the dollar amount involved is $500 or less, the person is guilty of a misdemeanor;

(2) if the dollar amount involved is more than $500 but not more than $2, 500, the person is guilty of a gross misdemeanor; and

(3) if the dollar amount involved is more than $2, 500, the person is guilty of a felony and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $6,000, or both.

Subd. 3. **Aggregation; jurisdiction.** In a prosecution under this section, the dollar amounts involved in violation of subdivision 1 within any 12-month period may be aggregated and the defendant charged accordingly. When two or more offenses are committed by the same person in two or more counties, the defendant may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this subdivision.

History: *2000 c 318 s 1; 2005 c 136 art 17 s 47; 2014 c 240 s 20*

CRIMES AGAINST REPUTATION

609.765 CRIMINAL DEFAMATION.

Subdivision 1. **Definition.** Defamatory matter is anything which exposes a person or a group, class or association to hatred, contempt, ridicule, degradation or disgrace in society, or injury to business or occupation.

Subd. 2. **Acts constituting.** Whoever with knowledge of its false and defamatory character orally, in writing or by any other means, communicates any false and defamatory matter to a third person without the consent of the person defamed is guilty of criminal defamation and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

Subd. 3. **Justification.** Violation of subdivision 2 is justified if:

(1) the communication is absolutely privileged; or

(2) the communication consists of fair comment made in good faith with respect to persons participating in matters of public concern; or

(3) the communication consists of a fair and true report or a fair summary of any judicial, legislative or other public or official proceedings; or

(4) the communication is between persons each having an interest or duty with respect to the subject matter of the communication and is made with intent to further such interest or duty.

Subd. 4. **Testimony required.** No person shall be convicted on the basis of an oral communication of defamatory matter except upon the testimony of at least two other persons that they heard and understood the oral statement as defamatory or upon a plea of guilty.

History: *1963 c 753 art 1 s 609.765; 1984 c 628 art 3 s 11; 1986 c 444; 2016 c 126 s 8*

609.77 FALSE INFORMATION TO NEWS MEDIA.

Whoever, with intent that it be published or disseminated and that it defame another person, communicates to any newspaper, magazine or other news media, any statement, knowing it to be false, is guilty of a misdemeanor.

History: *1963 c 753 art 1 s 609.77; 1971 c 23 s 77*

CRIMES RELATING TO COMMUNICATIONS

609.774 EMERGENCY COMMUNICATIONS; KIDNAPPINGS.

Subdivision 1. **Definitions.** For the purposes of this section, "supervising peace officer" means a person licensed pursuant to chapter 626, who has probable cause to believe that a person is being unlawfully confined, and who has lawful jurisdiction in the geographical area where the violation is believed to be occurring.

Subd. 2. **Authority.** A supervising peace officer may order a telephone company to cut, reroute, or divert telephone lines for the purpose of establishing and controlling communications with a violator.

Subd. 3. **Designation.** Each telephone company shall designate an employee to serve as a security official and to provide assistance as required by the supervising peace officer to carry out the purposes of this section.

Subd. 4. **Unauthorized communication prohibited.** Whoever initiates telephone communications with a violator with knowledge of an order issued pursuant to subdivision 2 and without prior police authorization, is guilty of a misdemeanor.

Subd. 5. **Defense.** Good faith reliance by telephone employees on an order issued pursuant to subdivision 2 shall constitute a complete defense to any legal action brought for an interruption of telephone communications occurring by reason of this section.

History: *1979 c 63 s 1; 1979 c 289 s 2*

609.775 DIVULGING TELEPHONE OR TELEGRAPH MESSAGE; NONDELIVERY.

Whoever does any of the following is guilty of a misdemeanor:

(1) being entrusted as an employee of a telephone or telegraph company with the transmission or delivery of a telephonic or telegraphic message, intentionally or through culpable negligence discloses the contents or meaning thereof to a person other than the intended receiver; or

(2) having knowledge of not being the intended receiver, obtains such disclosure from such employee; or

(3) being such employee, intentionally or negligently fails duly to deliver such message.

History: *1963 c 753 art 1 s 609.775; 1971 c 23 s 78; 1986 c 444*

609.776 INTERFERENCE WITH EMERGENCY COMMUNICATIONS.

Whoever, without prior authorization, broadcasts or transmits on, interferes with, blocks, or cross-patches another frequency onto a law enforcement, firefighting, emergency medical services, emergency radio frequency or channel, any assigned or alternate emergency frequency or channel, or an official cellular telephone communication of a law enforcement agency, a fire department, or emergency medical services provider, knowing, or having reason to know that the act creates a risk of obstructing, preventing, or misdirecting official law enforcement, firefighting, or emergency medical services communications, is guilty of a felony and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $10,000, or both.

History: *1Sp2003 c 2 art 4 s 27*

609.78 EMERGENCY TELEPHONE CALLS AND COMMUNICATIONS.

Subdivision 1. **Misdemeanor offenses.** Whoever does the following is guilty of a misdemeanor:

(1) refuses to relinquish immediately a coin-operated telephone or a telephone line consisting of two or more stations when informed that the line is needed to make an emergency call;

(2) secures a relinquishment of a coin-operated telephone or a telephone line consisting of two or more stations by falsely stating that the line is needed for an emergency;

(3) publishes telephone directories to be used for telephones or telephone lines and the directories do not contain a copy of this section;

(4) makes a call for emergency police, fire, medical, or ambulance service, knowing that no police, fire, or medical emergency exists;

(5) interrupts, disrupts, impedes, or otherwise interferes with the transmission of a citizen's band radio channel communication the purpose of which is to inform or inquire about a medical emergency or an emergency in which property is or is reasonably believed to be in imminent danger of damage or destruction; or

(6) makes or initiates an emergency call, knowing that no emergency exists, and with the intent to disrupt, interfere with, or reduce the provision of emergency services or the emergency call center's resources, remains silent, or makes abusive or harassing statements to the call recipient.

Subd. 2. **Gross misdemeanor offenses.** Whoever does the following is guilty of a gross misdemeanor:

(1) intentionally interrupts, disrupts, impedes, or interferes with an emergency call or who intentionally prevents or hinders another from placing an emergency call, and whose conduct does not result in a violation of section 609.498;

(2) places an emergency call and reports a fictitious emergency with the intent of prompting an emergency response by law enforcement, fire, or emergency medical services personnel; or

(3) violates subdivision 1, clause (6), after having been previously convicted or adjudicated delinquent for violating that clause.

Subd. 2a. **Felony offense; reporting fictitious emergency resulting in serious injury.** Whoever violates subdivision 2, clause (2), is guilty of a felony and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both, if the call triggers an emergency response and, as a result of the response, someone suffers great bodily harm or death.

Subd. 2b. **Other felony offenses.** Whoever does the following is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both:

(1) violates subdivision 1, clause (6), after having been previously convicted or adjudicated delinquent for violating that clause on more than one occasion; or

(2) intentionally uses multiple communications devices or electronic means to block, interfere with, overload, or otherwise prevent the emergency call center's system from functioning properly, and these actions make the system unavailable to someone needing emergency assistance.

Subd. 3. **Definition.** (a) Except as provided in paragraph (b), for purposes of this section, "emergency call" means:

(1) a 911 call;

(2) any call for emergency medical or ambulance service; or

(3) any call for assistance from a police or fire department or for other assistance needed in an emergency to avoid serious harm to person or property,

and an emergency exists.

(b) As used in subdivisions 1, clause (6); 2, clause (2); and 2a:

(1) "call" includes the use of any method of communication including, but not limited to: telephones, facsimiles, Voice over Internet Protocols, e-mail messages, text messages, and electronic transmissions of an image or video; and

(2) "emergency call" has the meaning given in paragraph (a) but does not require the existence of an emergency.

History: *1963 c 753 art 1 s 609.78; 1971 c 23 s 79; 1983 c 140 s 1; 1984 c 630 s 1; 1997 c 239 art 3 s 19; 1999 c 24 s 1; 2008 c 270 s 1; 2013 c 20 s 1*

609.79 OBSCENE OR HARASSING TELEPHONE CALLS.

Subdivision 1. **Crime defined; obscene call.** Whoever,

(1) by means of a telephone,

(i) makes any comment, request, suggestion or proposal which is obscene, lewd, or lascivious,

(ii) repeatedly makes telephone calls, whether or not conversation ensues, with intent to abuse, disturb, or cause distress,

(iii) makes or causes the telephone of another repeatedly or continuously to ring, with intent to abuse, disturb, or cause distress in any person at the called number, or

(2) having control of a telephone, knowingly permits it to be used for any purpose prohibited by this section,

shall be guilty of a misdemeanor.

Subd. 1a. [Repealed, 1993 c 326 art 2 s 34]

Subd. 2. **Venue.** The offense may be prosecuted either at the place where the call is made or where it is received or, additionally in the case of wireless or electronic communication, where the sender or receiver resides.

History: *1963 c 753 art 1 s 609.79; 1969 c 174 s 1; 1986 c 444; 1987 c 307 s 5; 1989 c 261 s 7; 1993 c 326 art 2 s 23; 2005 c 136 art 17 s 48*

609.795 LETTER, TELEGRAM, OR PACKAGE; OPENING; HARASSMENT.

Subdivision 1. **Misdemeanors.** Whoever does any of the following is guilty of a misdemeanor:

(1) knowing that the actor does not have the consent of either the sender or the addressee, intentionally opens any sealed letter, telegram, or package addressed to another; or

(2) knowing that a sealed letter, telegram, or package has been opened without the consent of either the sender or addressee, intentionally publishes any of the contents thereof; or

(3) with the intent to abuse, disturb, or cause distress, repeatedly mails or delivers or causes the delivery by any means, including electronically, of letters, telegrams, or packages.

Subd. 2. [Repealed, 1993 c 326 art 2 s 34]

Subd. 3. **Venue.** The offense may be prosecuted either at the place where the letter, telegram, or package is sent or received or, alternatively in the case of wireless electronic communication, where the sender or receiver resides.

History: *1963 c 753 art 1 s 609.795; 1971 c 23 s 81; 1986 c 444; 1987 c 307 s 6; 1989 c 261 s 8; 1993 c 326 art 2 s 24; 2000 c 311 art 4 s 7; 2005 c 136 art 17 s 49*

609.80 INTERFERING WITH CABLE COMMUNICATIONS SYSTEMS.

Subdivision 1. **Misdemeanor.** Whoever does any of the following is guilty of a misdemeanor:

(1) intentionally and with the purpose of making or aiding in an unauthorized connection as prohibited by section 609.52, subdivision 2, clause (12), to a licensed cable communications system as defined in chapter 238 lends, offers, or gives to another any instrument, apparatus, equipment, or device designed to make an unauthorized connection, or plan, specification or instruction for making an unauthorized connection, without receiving or seeking to receive money or any other thing of value in exchange; or

(2) intentionally tampers with, removes or injures any cable, wire, or other component of a licensed cable communications system as defined in chapter 238; or

(3) intentionally and without claim of right interrupts a service of a licensed cable communications system as defined in chapter 238.

Subd. 2. **Commercial activity; felony.** Whoever sells or rents, or offers or advertises for sale or rental, any instrument, apparatus, equipment, or device designed to make an unauthorized connection as prohibited by section 609.52, subdivision 2, clause (12), to a licensed cable communications system as defined in chapter 238, or a plan, specification, or instructions for making an unauthorized connection, is guilty of a felony and may be sentenced to not more than three years of imprisonment or a fine of not more than $5,000, or both.

History: *1977 c 396 s 2; 1988 c 410 s 1*

CRIMES RELATING TO BUSINESS

609.806 INTERFERING WITH INTERNET TICKET SALES.

(a) A person who intentionally uses or sells software to circumvent on a ticket seller's Web site a security measure, an access control system, or a control or measure that is used to ensure an equitable ticket buying process, is guilty of a misdemeanor.

(b) For the purposes of this section, "software" means computer programs that are primarily designed or produced for the purpose of interfering with the operation of any person or entity that sells, over the Internet, tickets of admission to a sporting event, theater, musical performance, or place of public entertainment or amusement of any kind.

History: *2008 c 245 s 1*

609.807 EVENT TICKETS; PROHIBITED ACTS.

(a) As used in this section: (1) "initial seller" means a person or entity with whom a provider of an event or venue has contracted for the sale of tickets for the purpose of the initial sale of those tickets to the general public; and (2) "ticket" means a ticket of admission to a sporting event, theater, musical performance, or place of public entertainment or amusement of any kind.

(b) The initial seller of tickets shall make available for sale all tickets under control of the initial seller in the manner and under terms directed by the provider of the event or venue. The initial seller shall not, unless authorized by the provider of the event or venue, divert tickets from the initial sale to the general public to be sold in any other manner or under any other terms.

(c) No person or entity, with intent to defraud, may sell or offer for sale a ticket that is invalid, counterfeit, altered, or otherwise not genuine.

(d) A violation of this section is a misdemeanor.

History: *2009 c 61 s 1*

609.815 MISCONDUCT OF JUNK OR SECONDHAND DEALER.

Whoever is a junk dealer or secondhand dealer and does any of the following is guilty of a misdemeanor:

(1) has stolen goods in possession and refuses to permit a law enforcement officer to examine them during usual business hours; or

(2) purchases property from a person under lawful age, without the written consent of the person's parent or guardian.

History: *1963 c 753 art 1 s 609.815; 1971 c 23 s 84; 1986 c 444*

609.816 WRONGFUL EMPLOYMENT AT A CHILD CARE CENTER.

A person is guilty of a crime and may be sentenced as provided in section 609.52, subdivision 3, clauses (1) to (5), if the person:

(1) is a child care center owner, director, manager, license holder, or other controlling individual or agent of a child care center;

(2) engages in the recruitment or screening of potential employees or applicants or instructs other persons engaged in the recruitment or screening of potential employees or applicants; and

(3) requires, as a condition of obtaining or continuing employment at the child care center, in order to obtain child care assistance program funds, that the applicant, potential employee, or employee has one or more children who are eligible for or receive child care assistance.

History: *2015 c 78 art 4 s 59*

609.82 FRAUD IN OBTAINING CREDIT.

A person who, with intent to defraud, obtains personal credit or credit for another from a bank, trust company, savings association, or credit union, by means of a present or past false representation as to the person's or another's financial ability may be sentenced as follows:

(1) if no money or property is obtained by the defendant by means of such credit, to imprisonment for not more than 90 days or to payment of a fine of not more than $300, or both; or

(2) if money or property is so obtained, the value thereof shall be determined as provided in section 609.52, subdivision 1, clause (3) and the person obtaining the credit may be sentenced as provided in section 609.52, subdivision 3.

History: *1963 c 753 art 1 s 609.82; 1971 c 23 s 85; 1986 c 444; 1995 c 202 art 1 s 25*

609.821 FINANCIAL TRANSACTION CARD FRAUD.

Subdivision 1. **Definitions.** For the purposes of this section, the following terms have the meanings given them:

(a) "Financial transaction card" means any instrument or device, whether known as a credit card, credit plate, charge plate, courtesy card, bank services card, banking card, check guarantee card, debit card, electronic benefit system (EBS) card, electronic benefit transfer (EBT) card, assistance transaction card, or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining credit, money, goods, services, public assistance benefits, or anything else of value, and includes the account or identification number or symbol of a financial transaction card.

(b) "Cardholder" means a person in whose name a card is issued.

(c) "Issuer" means a person, firm, or governmental agency, or a duly authorized agent or designee, that issues a financial transaction card.

(d) "Property" includes money, goods, services, public assistance benefit, or anything else of value.

(e) "Public assistance benefit" means any money, goods or services, or anything else of value, issued under chapters 256, 256B, 256D, or section 393.07, subdivision 10.

(f) "Trafficking of SNAP benefits" means:

(1) the buying, selling, stealing, or otherwise effecting an exchange of Supplemental Nutrition Assistance Program (SNAP) benefits issued and accessed via an electronic benefit transfer (EBT) card, card number and personal identification number (PIN), or manual voucher and signature, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone;

(2) the exchange of one of the following for SNAP benefits: firearms, ammunition, explosives, or controlled substances as defined in United States Code, title 21, section 802;

(3) purchasing a product with SNAP benefits that has a container requiring a return deposit with the intent of obtaining cash by discarding the product and returning the container for the deposit amount, intentionally discarding the product, and intentionally returning the container for the deposit amount;

(4) purchasing a product with SNAP benefits with the intent of obtaining cash or consideration other than eligible food by reselling the product, and intentionally reselling the product purchased with SNAP benefits in exchange for cash or consideration other than eligible food;

(5) intentionally purchasing products originally purchased with SNAP benefits in exchange for cash or consideration other than eligible food; or

(6) attempting to buy, sell, steal, or otherwise effect an exchange of SNAP benefits issued and accessed via an EBT card, card number and PIN number, or manual voucher and signature, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone.

Subd. 2. **Violations; penalties.** A person who does any of the following commits financial transaction card fraud:

(1) without the consent of the cardholder, and knowing that the cardholder has not given consent, uses or attempts to use a card to obtain the property of another, or a public assistance benefit issued for the use of another;

(2) uses or attempts to use a card knowing it to be forged, false, fictitious, or obtained in violation of clause (6);

(3) sells or transfers a card knowing that the cardholder and issuer have not authorized the person to whom the card is sold or transferred to use the card, or that the card is forged, false, fictitious, or was obtained in violation of clause (6);

(4) without a legitimate business purpose, and without the consent of the cardholders, receives or possesses, with intent to use, or with intent to sell or transfer in violation of clause (3), two or more cards issued in the name of another, or two or more cards knowing the cards to be forged, false, fictitious, or obtained in violation of clause (6);

(5) being authorized by an issuer to furnish money, goods, services, or anything else of value, knowingly and with an intent to defraud the issuer or the cardholder:

(i) furnishes money, goods, services, or anything else of value upon presentation of a financial transaction card knowing it to be forged, expired, or revoked, or knowing that it is presented by a person without authority to use the card; or

(ii) represents in writing to the issuer that the person has furnished money, goods, services, or anything else of value which has not in fact been furnished;

(6) upon applying for a financial transaction card to an issuer, or for a public assistance benefit which is distributed by means of a financial transaction card:

(i) knowingly gives a false name or occupation;

(ii) knowingly and substantially overvalues assets or substantially undervalues indebtedness for the purpose of inducing the issuer to issue a financial transaction card; or

(iii) knowingly makes a false statement or representation for the purpose of inducing an issuer to issue a financial transaction card used to obtain a public assistance benefit;

(7) with intent to defraud, falsely notifies the issuer or any other person of a theft, loss, disappearance, or nonreceipt of a financial transaction card;

(8) without the consent of the cardholder and knowing that the cardholder has not given consent, falsely alters, makes, or signs any written document pertaining to a card transaction to obtain or attempt to obtain the property of another; or

(9) engages in trafficking of SNAP benefits.

Subd. 3. **Sentence.** (a) A person who commits financial transaction card fraud may be sentenced as follows:

(1) for a violation of subdivision 2, clause (1), (2), (5), (8), or (9):

(i) to imprisonment for not more than 20 years or to payment of a fine of not more than $100,000, or both, if the value of the property the person obtained or attempted to obtain was more than $35,000, or the aggregate amount of the transactions under this subdivision was more than $35,000; or

(ii) to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both, if the value of the property the person obtained or attempted to obtain was more than $2,500, or the aggregate amount of the transactions under this subdivision was more than $2,500; or

(iii) to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if the value of the property the person obtained or attempted to obtain was more than $250 but not more than $2,500, or the aggregate amount of the transactions under this subdivision was more than $250 but not more than $2,500; or

(iv) to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if the value of the property the person obtained or attempted to obtain was not more than $250, or the aggregate amount of

the transactions under this subdivision was not more than $250, and the person has previously been convicted within the preceding five years for an offense under this section, section 609.24; 609.245; 609.52; 609.53; 609.582, subdivision 1, 2, or 3; 609.625; 609.63; or 609.631, or a statute from another state in conformity with any of those sections, and the person received a felony or gross misdemeanor sentence for the offense, or a sentence that was stayed under section 609.135 if the offense to which a plea was entered would allow imposition of a felony or gross misdemeanor sentence; or

(v) to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both, if the value of the property the person obtained or attempted to obtain was not more than $250, or the aggregate amount of the transactions under this subdivision was not more than $250;

(2) for a violation of subdivision 2, clause (3) or (4), to imprisonment for not more than three years or to payment of a fine of not more than $5,000, or both; or

(3) for a violation of subdivision 2, clause (6) or (7):

(i) if no property, other than a financial transaction card, has been obtained by the defendant by means of the false statement or false report, to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both; or

(ii) if property, other than a financial transaction card, is so obtained, in the manner provided in clause (1).

(b) In any prosecution under paragraph (a), clause (1), the value of the transactions made or attempted within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this section. When two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the card transactions occurred for all of the transactions aggregated under this paragraph.

History: *1985 c 243 s 10; 1987 c 329 s 14-16; 1988 c 712 s 16; 1Sp1993 c 1 art 6 s 53,54; 1999 c 218 s 5;2015 c 78 art 4 s 60*

RESIDENTIAL MORTGAGE FRAUD

609.822 RESIDENTIAL MORTGAGE FRAUD.

Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the meanings given.

(b) "Mortgage lending process" means the process through which a person seeks or obtains a residential mortgage loan including, but not limited to, solicitation, application, or origination, negotiation of terms, third-party provider services, underwriting, signing and closing, and funding of the loan. Documents involved in the mortgage lending process include, but are not limited to, uniform residential loan applications or other loan applications; appraisal reports; HUD-1 settlement statements; supporting personal documentation for loan applications such as W-2 forms, verifications of income and employment, bank statements, tax returns, and payroll stubs; and any required disclosures.

(c) "Residential mortgage loan" has the meaning given in section 58.02, subdivision 18.

Subd. 2. **Residential mortgage fraud prohibited.** Whoever does any of the following commits residential mortgage fraud and may be sentenced as provided in subdivision 3:

(1) knowingly makes or causes to be made any deliberate and material misstatement, misrepresentation, or omission during the mortgage lending process with the intention that it be relied on by a mortgage lender, borrower, or any other party to the mortgage lending process;

(2) knowingly uses or facilitates the use of any deliberate and material misstatement, misrepresentation, or omission, knowing the same to contain a material misstatement, misrepresentation, or omission, during the mortgage lending process with the intention that it be relied on by a mortgage lender, borrower, or any other party to the mortgage lending process; or

(3) conspires to violate clause (1) or (2).

An offense of residential mortgage fraud must not be predicated solely upon information lawfully disclosed under federal disclosure laws, regulations, and interpretations related to the mortgage lending process.

Subd. 3. **Sentence.** Whoever violates this section shall be sentenced as provided in section 609.52, subdivision 3, based on the aggregate economic loss suffered by any person as a result of the violation. However, the maximum sentence of imprisonment for the offense may not exceed two years. A person convicted of a violation of this section shall be ordered to pay restitution to persons aggrieved by the violation. Restitution shall be ordered in addition to a fine or imprisonment but not in lieu of a fine or imprisonment. Nothing in this section limits the power of the state to punish any person for conduct which constitutes a crime under any other statute.

Subd. 4. **Vulnerable victim.** If the person who violates subdivision 2 knew or had reason to know that the victim was vulnerable due to age, infirmity, or reduced physical or mental capacity, the court may order an aggravated departure under the sentencing guidelines.

History: *2007 c 74 s 7; 2008 c 215 s 2*

MISCELLANEOUS CRIMES

609.825 BRIBERY OF PARTICIPANT OR OFFICIAL IN CONTEST.

Subdivision 1. **Definition.** As used in this section, "official" means one who umpires, referees, judges, officiates or is otherwise designated to render decisions concerning the conduct or outcome of any contest included herein.

Subd. 2. **Acts prohibited.** Whoever does any of the following may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both:

(1) offers, gives, or agrees to give, directly or indirectly, any benefit, reward or consideration to a participant, manager, director, or other official, or to one who intends to become such participant or official, in any sporting event, race or other contest of any kind whatsoever with intent thereby to influence such participant not to use the participant's best effort to win or enable the participant's team to win or to attain a maximum score or margin of victory, or to influence such official in decisions with respect to such contest; or

(2) requests, receives, or agrees to receive, directly or indirectly, any benefit, reward or consideration upon the understanding that the actor will be so influenced as such participant or official.

Subd. 3. **Duty to report.** Whoever is offered or promised such benefit, reward or consideration upon the understanding to be so influenced as such participant or official and fails promptly to report the same to the offeree's or promisee's employer, manager, coach, or director, or to a county attorney may be punished by imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

History: *1963 c 753 art 1 s 609.825; 1984 c 628 art 3 s 11; 1986 c 444*

609.83 FALSELY IMPERSONATING ANOTHER.

Whoever does either of the following may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both:

(1) assumes to enter into a marriage relationship with another by falsely impersonating a third person; or

(2) by falsely impersonating another with intent to defraud the other or a third person, appears, participates, or executes an instrument to be used in a judicial proceeding.

History: *1963 c 753 art 1 s 609.83; 1984 c 628 art 3 s 11; 1986 c 444*

609.849 RAILROAD THAT OBSTRUCTS TREATMENT OF INJURED WORKER.

(a) It shall be unlawful for a railroad or person employed by a railroad to intentionally:

(1) deny, delay, or interfere with medical treatment or first aid treatment to an employee of a railroad who has been injured during employment; or

(2) discipline, harass, or intimidate an employee to discourage the employee from receiving medical attention or threaten to discipline an employee who has been injured during employment for requesting medical treatment or first aid treatment.

(b) Nothing in this section shall deny a railroad company or railroad employee from making a reasonable inquiry of an injured employee about the circumstance of an injury in order to gather information necessary to identify a safety hazard.

(c) It is not a violation under this section for a railroad company or railroad employee to enforce safety regulations.

(d) A railroad or a person convicted of a violation of paragraph (a), clause (1) or (2), is guilty of a misdemeanor and may be fined not more than $1,000 but is not subject to an incarcerative sanction.

History: *2005 c 136 art 17 s 50; 1Sp2005 c 1 art 4 s 116*

NOTE: Paragraph (a), clause (1), was found preempted by the federal Railroad Safety Act in BNSF Railway Co. v. Swanson, 533 F.3d 618 (8th Cir. 2008).

609.85 CRIMES AGAINST RAILROAD EMPLOYEES AND PROPERTY; PENALTY.

Subdivision 1. **Intent to cause derailment.** Whoever throws or deposits any type of debris, waste material, or other obstruction on any railroad track or whoever causes damage or causes another person to damage, tamper, change or destroy any railroad track, switch, bridge, trestle, tunnel, signal or moving equipment used in providing rail services, with intention to cause injury, accident or derailment, is guilty of a felony.

Subd. 2. **Foreseeable risk.** Whoever intentionally throws or deposits any type of debris, waste material, or other obstruction on any railroad track or whoever intentionally causes damage or causes another person to damage, tamper, change or destroy any railroad track, switch, bridge, trestle, tunnel, signal or moving equipment used in providing rail services, which creates a reasonably foreseeable risk of any injury, accident or derailment, is guilty of a gross misdemeanor.

Subd. 3. **Shooting at train.** Whoever intentionally shoots a firearm at any portion of a railroad train, car, caboose, engine or moving equipment so as to endanger the safety of another is guilty of a gross misdemeanor.

Subd. 4. **Throwing objects at train.** Whoever intentionally throws, shoots or propels any stone, brick or other missile at any railroad train, car, caboose, engine or moving equipment, so as to endanger the safety of another is guilty of a gross misdemeanor.

Subd. 5. **Placing obstruction on track.** Whoever places an obstruction on a railroad track is guilty of a misdemeanor.

Subd. 6. **Trespass; allowing animals on track; exception.** Whoever intentionally trespasses, or who permits animals under the person's control to trespass on a railroad track, yard, or bridge is guilty of a misdemeanor. This

subdivision does not apply to an elected union official's access to those facilities when acting in an official capacity, to an employee acting within the scope of employment, or to a person with written permission from the railroad company to enter upon the railroad facility.

History: *1977 c 179 s 1; 1989 c 5 s 11; 2008 c 350 art 2 s 3*

609.851 FALSE TRAFFIC SIGNAL.

Subdivision 1. **Misdemeanor.** A person is guilty of a misdemeanor if the person exhibits a false light or signal or interferes with a light, signal, or sign controlling or guiding traffic on a highway, railroad track, navigable waters, or in the air.

Subd. 2. **Felony.** A person who violates subdivision 1 and knows that doing so creates a risk of death or bodily harm or serious property damage is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

History: *1989 c 5 s 12*

609.855 CRIMES INVOLVING TRANSIT; SHOOTING AT TRANSIT VEHICLE.

Subdivision 1. **Unlawfully obtaining services; misdemeanor.** A person is guilty of a misdemeanor who intentionally obtains or attempts to obtain service for himself, herself, or another person from a provider of public transit or from a public conveyance by doing any of the following:

(1) occupies or rides in any public transit vehicle without paying the applicable fare or otherwise obtaining the consent of the transit provider including:

(i) the use of a reduced fare when a person is not eligible for the fare; or

(ii) the use of a fare medium issued solely for the use of a particular individual by another individual;

(2) presents a falsified, counterfeit, photocopied, or other deceptively manipulated fare medium as fare payment or proof of fare payment;

(3) sells, provides, copies, reproduces, or creates any version of any fare medium without the consent of the transit provider; or

(4) puts or attempts to put any of the following into any fare box, pass reader, ticket vending machine, or other fare collection equipment of a transit provider:

(i) papers, articles, instruments, or items other than fare media or currency; or

(ii) a fare medium that is not valid for the place or time at, or the manner in, which it is used.

Where self-service barrier-free fare collection is utilized by a public transit provider, it is a violation of this subdivision to intentionally fail to exhibit proof of fare payment upon the request of an authorized transit representative when entering, riding upon, or leaving a transit vehicle or when present in a designated paid fare zone located in a transit facility.

Subd. 2. **Unlawful interference with transit operator.** (a) Whoever intentionally commits an act that interferes with or obstructs, or tends to interfere with or obstruct, the operation of a transit vehicle is guilty of unlawful interference with a transit operator and may be sentenced as provided in paragraph (c).

(b) An act that is committed on a transit vehicle that distracts the driver from the safe operation of the vehicle or that endangers passengers is a violation of this subdivision if an authorized transit representative has clearly warned the person once to stop the act.

(c) A person who violates this subdivision may be sentenced as follows:

(1) to imprisonment for not more than three years or to payment of a fine of not more than $5,000, or both, if the violation was accompanied by force or violence or a communication of a threat of force or violence; or

(2) to imprisonment for not more than 90 days or to payment of a fine of not more than $1,000, or both, if the violation was not accompanied by force or violence or a communication of a threat of force or violence.

Subd. 3. **Prohibited activities; misdemeanor.** (a) A person is guilty of a misdemeanor who, while riding in a vehicle providing public transit service:

(1) operates a radio, television, tape player, electronic musical instrument, or other electronic device, other than a watch, which amplifies music, unless the sound emanates only from earphones or headphones and except that vehicle operators may operate electronic equipment for official business;

(2) smokes or carries lighted smoking paraphernalia;

(3) consumes food or beverages, except when authorized by the operator or other official of the transit system;

(4) throws or deposits litter; or

(5) carries or is in control of an animal without the operator's consent.

(b) A person is guilty of a violation of this subdivision only if the person continues to act in violation of this subdivision after being warned once by an authorized transit representative to stop the conduct.

Subd. 4. [Repealed, 1994 c 636 art 2 s 69]

Subd. 5. **Shooting at or in public transit vehicle or facility.** Whoever recklessly discharges a firearm at or in any portion of a public transit vehicle or facility is guilty of a felony and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $6,000, or both. If the transit vehicle or facility is occupied by any person other than the offender, the person may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

Subd. 6. **Restraining orders.** (a) At the sentencing on a violation of this section, the district court shall consider the extent to which the person's conduct has negatively disrupted the delivery of transit services or has affected the utilization of public transit services by others. The district court may, in its discretion, include as part of any sentence for a violation of this section, an order restraining the person from using public transit vehicles and facilities for a fixed period, not to exceed two years or any term of probation, whichever is longer.

(b) The district court administrator shall forward copies of any orders, and any subsequent orders of the court rescinding or modifying the original order, promptly to the operator of the transit system on which the offense took place.

(c) A person who violates an order issued under this subdivision is guilty of a gross misdemeanor.

Subd. 7. **Definitions.** (a) The definitions in this subdivision apply in this section.

(b) "Public transit" or "transit" has the meaning given in section 174.22, subdivision 7.

(c) "Public transit vehicle" or "transit vehicle" means any vehicle used for the purpose of providing public transit, whether or not the vehicle is owned or operated by a public entity.

(d) "Public transit facilities" or "transit facilities" means any vehicles, equipment, property, structures, stations, improvements, plants, parking or other facilities, or rights that are owned, leased, held, or used for the purpose of providing public transit, whether or not the facility is owned or operated by a public entity.

(e) "Fare medium" means a ticket, smart card, pass, coupon, token, transfer, or other medium sold or distributed by a public transit provider, or its authorized agents, for use in gaining entry to or use of the public transit facilities or vehicles of the provider.

(f) "Proof of fare payment" means a fare medium valid for the place or time at, or the manner in, which it is used. If using a reduced-fare medium, proof of fare payment also includes proper identification demonstrating a person's eligibility for the reduced fare. If using a fare medium issued solely for the use of a particular individual, proof of fare payment also includes an identification document bearing a photographic likeness of the individual and demonstrating that the individual is the person to whom the fare medium is issued.

(g) "Authorized transit representative" means the person authorized by the transit provider to operate the transit vehicle, a peace officer, or any other person designated by the transit provider as an authorized transit provider under this section.

History: *1983 c 189 s 1; 1984 c 628 art 3 s 11; 1984 c 654 art 3 s 139, 140; 1985 c 271 s 1; 1989 c 5 s 13, 14; 1994 c 636 art 2 s 49; 1996 c 408 art 4 s 13; 2004 c 228 art 1 s 72; 2004 c 245 s 3, 4*

609.856 USE OF POLICE RADIOS DURING COMMISSION OF CRIME; PENALTIES.

Subdivision 1. **Acts constituting.** Whoever has in possession or uses a radio or device capable of receiving or transmitting a police radio signal, message, or transmission of information used for law enforcement purposes, while in the commission of a felony or violation of section 609.487 or the attempt to commit a felony or violation of section 609.487, is guilty of a felony and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $5,000, or both. Notwithstanding section 609.04, a prosecution for or conviction under this section is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Subd. 2. **Forfeiture.** A radio or device defined in subdivision 1 that is used in the commission of a felony or violation of section 609.487 or attempt to commit a felony or violation of section 609.487is contraband property and subject to the forfeiture provisions of section 609.531.

History: *1987 c 111 s 2; 1993 c 326 art 4 s 35*

609.857 DISCHARGING A LASER AT AN AIRCRAFT.

Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the meanings given.

(b) "Aircraft" means any contrivance now known or hereafter invented, used, or designed for navigation of or flight in the air, but excluding parachutes.

(c) "Laser" means both of the following:

(1) any device that utilizes the natural oscillations of atoms or molecules between energy levels for generating coherent electromagnetic radiation in the ultraviolet, visible, or infrared region of the spectrum and when discharged exceeds one milliwatt continuous wave;

(2) any device designed or used to amplify electromagnetic radiation by simulated emission that is visible to the human eye.

Subd. 2. **Crime.** Whoever knowingly aims and discharges a laser or other device that creates visible light into the cockpit of an aircraft that is in the process of taking off or landing or is in flight is guilty of a gross misdemeanor.

Subd. 3. **Exceptions.** This section does not apply to the following individuals who aim and discharge a laser or other device at an aircraft:

(1) an authorized individual in the conduct of research and development or flight test operations conducted by an aircraft manufacturer, the Federal Aviation Administration, or any other person authorized by the Federal Aviation Administration to conduct such research and development or flight test operations; or

(2) members or elements of the Department of Defense or Department of Homeland Security acting in an official capacity for the purpose of research, development, operations, testing, or training.

Subd. 4. **Defense.** It is an affirmative defense to a charge under this section if the defendant proves by a preponderance of the evidence that the defendant intended to send an emergency distress signal.

History: *2009 c 73 s 1*

CRIMES AGAINST COMMERCE

609.86 COMMERCIAL BRIBERY.

Subdivision 1. **Definition.** "Corruptly" means that the actor intends the action to injure or defraud:

(1) the actor's employer or principal; or

(2) the employer or principal of the person to whom the actor offers, gives or agrees to give the bribe or from whom the actor requests, receives or agrees to receive the bribe.

Subd. 2. **Acts constituting.** Whoever does any of the following, when not consistent with usually accepted business practices, is guilty of commercial bribery and may be sentenced as provided in subdivision 3:

(1) corruptly offers, gives, or agrees to give, directly or indirectly, any benefit, consideration, compensation, or reward to any employee, agent or fiduciary of a person with the intent to influence the person's performance of duties as an employee, agent, or fiduciary in relation to the person's employer's or principal's business; or

(2) being an employee, agent or fiduciary of a person, corruptly requests, receives or agrees to receive, directly or indirectly, from another person any benefit, consideration, compensation, or reward with the understanding or agreement to be influenced in the performance of duties as an employee, agent, or fiduciary in relation to the employer's or principal's business.

Subd. 3. **Sentence.** Whoever commits commercial bribery may be sentenced as follows:

(1) to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if the value of the benefit, consideration, compensation or reward is greater than $500;

(2) in all other cases where the value of the benefit, consideration, compensation or reward is $500 or less, to imprisonment for not more than 90 days or to payment of a fine of not more than $1,000; provided, however, in any prosecution of the value of the benefit, consideration, compensation or reward received by the defendant within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this subdivision; provided that when two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed, or all of the offenses aggregated under this clause.

History: *1982 c 442 s 1; 1984 c 628 art 3 s 11; 1986 c 444; 1989 c 290 art 6 s 22; 2004 c 228 art 1 s 72*

609.87 COMPUTER CRIME; DEFINITIONS.

Subdivision 1. **Applicability.** For purposes of sections 609.87 to 609.891 and 609.8912 to 609.8913, the terms defined in this section have the meanings given them.

Subd. 2. **Access.** "Access" means to instruct, communicate with, store data in, or retrieve data from a computer, computer system, or computer network.

Subd. 2a. **Authorization.** "Authorization" means with the permission of the owner of the computer, computer system, computer network, computer software, or other property. Authorization may be limited by the owner by:

(1) giving the user actual notice orally or in writing;

(2) posting a written notice in a prominent location adjacent to the computer being used; or

(3) using a notice displayed on or announced by the computer being used.

Subd. 3. **Computer.** "Computer" means an electronic device which performs logical, arithmetic or memory functions by the manipulations of signals, including but not limited to electronic or magnetic impulses.

Subd. 4. **Computer system.** "Computer system" means related, connected or unconnected, computers and peripheral equipment.

Subd. 5. **Computer network.** "Computer network" means the interconnection of a communication system with a computer through a remote terminal, or with two or more interconnected computers or computer systems, and includes private and public telecommunications networks.

Subd. 6. **Property.** "Property" includes, but is not limited to, electronically processed or produced data and information contained in a computer or computer software in either machine or human readable form.

Subd. 7. **Services.** "Services" includes but is not limited to, computer time, data processing, and storage functions.

Subd. 8. **Computer program.** "Computer program" means an instruction or statement or a series of instructions or statements, in a form acceptable to a computer, which directs the functioning of a computer system in a manner designed to provide appropriate products from the computer.

Subd. 9. **Computer software.** "Computer software" means a computer program or procedures, or associated documentation concerned with the operation of a computer.

Subd. 10. **Loss.** "Loss" means the greatest of the following:

(1) the retail market value of the property or services involved;

(2) the reasonable repair or replacement cost, whichever is less; or

(3) the reasonable value of the damage created by the unavailability or lack of utility of the property or services involved until repair or replacement can be effected.

Subd. 11. **Computer security system.** "Computer security system" means a software program or computer device that is intended to protect the confidentiality and secrecy of data and information stored in or accessible through the computer system.

Subd. 12. **Destructive computer program.** "Destructive computer program" means a computer program that performs a destructive function or produces a destructive product. A program performs a destructive function if it degrades performance of the affected computer, associated peripherals or a computer program; disables the computer, associated peripherals or a computer program; or destroys or alters computer programs or data. A program produces a destructive product if it produces unauthorized data, including data that make computer memory space unavailable; results in the unauthorized alteration of data or computer programs; or produces a destructive computer program, including a self-replicating computer program.

Subd. 13. **Encryption.** "Encryption" means any protective or disruptive measure, including but not limited to, cryptography, enciphering, or encoding that:

(1) causes or makes any data, information, image, program, signal, or sound unintelligible or unusable; or

(2) prevents, impedes, delays, or disrupts access to any data, information, image, program, signal, or sound.

Subd. 14. **Personal data.** "Personal data" means any computer property or computer program which contains records of the employment, salary, credit, or other financial or personal information relating to another person.

History: *1982 c 534 s 1; 1989 c 95 s 2, 3; 1989 c 159 s 1; 1990 c 494 s 3, 4; 1994 c 636 art 2 s 50; 2006 c 260 art 1 s 30-33*

609.88 COMPUTER DAMAGE.

Subdivision 1. **Acts.** Whoever does any of the following is guilty of computer damage and may be sentenced as provided in subdivision 2:

(a) intentionally and without authorization damages or destroys any computer, computer system, computer network, computer software, or any other property specifically defined in section 609.87, subdivision 6;

(b) intentionally and without authorization or with intent to injure or defraud alters any computer, computer system, computer network, computer software, or any other property specifically defined in section 609.87, subdivision 6; or

(c) distributes a destructive computer program, without authorization and with intent to damage or destroy any computer, computer system, computer network, computer software, or any other property specifically defined in section 609.87, subdivision 6.

Subd. 2. **Penalty.** Whoever commits computer damage may be sentenced as follows:

(a) To imprisonment for not more than ten years or to payment of a fine of not more than $50,000, or both, if the damage, destruction or alteration results in a loss in excess of $2, 500, to the owner, or the owner's agent, or lessee;

(b) To imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if the damage, destruction or alteration results in a loss of more than $500, but not more than $2, 500 to the owner, or the owner's agent or lessee; or

(c) In all other cases to imprisonment for not more than 90 days or to payment of a fine of not more than $1,000, or both.

History: *1982 c 534 s 2; 1984 c 628 art 3 s 11; 1986 c 444; 1989 c 159 s 2; 1994 c 636 art 2 s 51; 2004 c 228 art 1 s 72*

609.89 COMPUTER THEFT.

Subdivision 1. **Acts.** Whoever does any of the following is guilty of computer theft and may be sentenced as provided in subdivision 2:

(a) intentionally and without authorization or claim of right accesses or causes to be accessed any computer, computer system, computer network or any part thereof for the purpose of obtaining services or property; or

(b) intentionally and without claim of right, and with intent to deprive the owner of use or possession, takes, transfers, conceals or retains possession of any computer, computer system, or any computer software or data contained in a computer, computer system, or computer network.

Subd. 2. **Penalty.** Anyone who commits computer theft may be sentenced as follows:

(a) to imprisonment for not more than ten years or to payment of a fine of not more than $50,000, or both, if the loss to the owner, or the owner's agent, or lessee is in excess of $2,500; or

(b) to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if the loss to the owner, or the owner's agent, or lessee is more than $500 but not more than $2,500; or

(c) in all other cases to imprisonment for not more than 90 days or to payment of a fine of not more than $1,000, or both.

History: *1982 c 534 s 3; 1984 c 628 art 3 s 11; 1986 c 444; 1994 c 636 art 2 s 52; 2004 c 228 art 1 s 72*

609.891 UNAUTHORIZED COMPUTER ACCESS.

Subdivision 1. **Crime.** A person is guilty of unauthorized computer access if the person intentionally and without authorization attempts to or does penetrate a computer security system.

Subd. 2. **Felony.** (a) A person who violates subdivision 1 in a manner that creates a grave risk of causing the death of a person is guilty of a felony and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

(b) A person who is convicted of a second or subsequent gross misdemeanor violation of subdivision 1 is guilty of a felony and may be sentenced under paragraph (a).

Subd. 3. **Gross misdemeanor.** (a) A person who violates subdivision 1 in a manner that creates a risk to public health and safety is guilty of a gross misdemeanor and may be sentenced to imprisonment for a term of not more than one year or to payment of a fine of not more than $3,000, or both.

(b) A person who violates subdivision 1 in a manner that compromises the security of data that are protected under section 609.52, subdivision 2, clause (8), or are not public data as defined in section 13.02, subdivision 8a, is guilty of a gross misdemeanor and may be sentenced under paragraph (a).

(c) A person who violates subdivision 1 and gains access to personal data is guilty of a gross misdemeanor and may be sentenced under paragraph (a).

(d) A person who is convicted of a second or subsequent misdemeanor violation of subdivision 1 within five years is guilty of a gross misdemeanor and may be sentenced under paragraph (a).

Subd. 4. **Misdemeanor.** A person who violates subdivision 1 is guilty of a misdemeanor and may be sentenced to imprisonment for a term of not more than 90 days or to payment of a fine of not more than $1,000, or both.

History: *1989 c 95 s 4; 1993 c 326 art 13 s 34; 2004 c 228 art 1 s 72; 2006 c 260 art 1 s 34, 35*

609.8911 REPORTING VIOLATIONS.

A person who has reason to believe that any provision of section 609.88, 609.89, or 609.891 is being or has been violated shall report the suspected violation to the prosecuting authority in the county in which all or part of the suspected violation occurred. A person who makes a report under this section is immune from any criminal or civil liability that otherwise might result from the person's action, if the person is acting in good faith.

History: *1994 c 636 art 2 s 53*

609.8912 CRIMINAL USE OF ENCRYPTION.

Subdivision 1. **Crime.** Whoever intentionally uses or attempts to use encryption to do any of the following is guilty of criminal use of encryption and may be sentenced as provided in subdivision 2:

(1) to commit, further, or facilitate conduct constituting a crime;

(2) to conceal the commission of any crime;

(3) to conceal or protect the identity of a person who has committed any crime; or

(4) to prevent, impede, delay, or disrupt the normal operation or use of another's computer, computer program, or computer system.

Subd. 2. **Penalties.** (a) A person who violates subdivision 1 may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if:

(1) the crime referenced in subdivision 1, clause (1), (2), or (3), is a felony; or

(2) the person has two or more prior convictions for an offense under this section, section 609.88, 609.89, 609.891, or 609.8913, or similar laws of other states, the United States, the District of Columbia, tribal lands, and United States territories.

(b) A person who violates subdivision 1, under circumstances not described in paragraph (a), is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

History: *2006 c 260 art 1 s 36*

609.8913 FACILITATING ACCESS TO COMPUTER SECURITY SYSTEM.

A person is guilty of a gross misdemeanor if the person knows or has reason to know that by facilitating access to a computer security system the person is aiding another who intends to commit a crime and in fact commits a crime. For purposes of this section, "facilitating access" includes the intentional disclosure of a computer password, identifying code, personal information number, or other confidential information about a computer security system which provides a person with the means or opportunity for the commission of a crime.

History: *2006 c 260 art 1 s 37*

609.892 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to sections 237.73, 609.892, and 609.893.

Subd. 2. **Access device.** "Access device" means a card, plate, code, account number, or other means of account access that can be used, alone or in conjunction with another access device, to obtain telecommunications service.

Subd. 3. **Credit card number.** "Credit card number" means the card number appearing on a credit card that is an identification card or plate issued to a person by a supplier of telecommunications service that permits the person to whom the card has been issued to obtain telecommunications service on credit. The term includes the number or description of the card or plate even if the card or plate itself is not produced when obtaining telecommunications service.

Subd. 4. **Telecommunications device.** "Telecommunications device" means an instrument, apparatus, equipment mechanism, operating procedure, or code designed or adapted for a particular use and that is intended or can be used in violation of section 609.893. The term includes but is not limited to computer hardware, software, programs, electronic mail system, voice mail system, identification validation system, private branch exchange, or any other means of facilitating telecommunications service.

Subd. 5. **Telecommunications provider.** "Telecommunications provider" means a person, firm, association, or a corporation, private or municipal, owning, operating, or managing facilities used to provide telecommunications service.

Subd. 6. **Telecommunications service.** "Telecommunications service" means a service that, in exchange for a pecuniary consideration, provides or offers to provide transmission of messages, signals, facsimiles, or other communication between persons who are physically separated from each other by telephone, telegraph, cable, wire, fiber optic cable, or the projection of energy without physical connection. This term applies when the telecommunications service originates or ends or both originates and ends in this state.

Subd. 7. **Telephone company.** "Telephone company" means a telecommunications provider that provides local exchange telecommunications service.

History: *1990 c 494 s 5; 1991 c 199 art 1 s 86*

609.893 TELECOMMUNICATIONS AND INFORMATION SERVICES FRAUD; CRIME DEFINED.

Subdivision 1. **Obtaining services by fraud.** A person commits telecommunications and information services fraud and may be sentenced as provided in subdivision 3 if the person, with intent to evade a lawful charge, obtains telecommunications service for the person's own use by any fraudulent means.

Subd. 2. **Facilitation of telecommunications fraud.** A person commits a felony and may be sentenced as provided in subdivision 4 who:

(1) makes available to another, or offers or advertises to make available, a telecommunications device or information in order to facilitate violation of subdivision 1 by another; or

(2) makes, assembles, or possesses a telecommunications device that is designed or adapted to violate subdivision 1 or to conceal from a provider of telecommunications service or from a lawful authority, the existence or place of origin or destination of telecommunications service.

Subd. 3. **Fraud.** (a) Whoever commits telecommunications and information services fraud in violation of subdivision 1 may be sentenced as follows:

(1) to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both, if the value of the services is in excess of $2,500;

(2) to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if the value of the services is more than $500 but not more than $2,500; or

(3) in all other cases, to imprisonment for not more than 90 days or to payment of a fine of not more than $1,000, or both.

(b) Amounts involved in a violation of paragraph (a) under one scheme or course of conduct, whether from the same credit card number or several credit card numbers, may be aggregated in determining the classification of the offense.

Subd. 4. **Facilitation of fraud.** Whoever violates subdivision 2 is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

History: *1990 c 494 s 6; 2004 c 228 art 1 s 72*

609.894 CELLULAR TELEPHONE COUNTERFEITING; CRIMES DEFINED.

Subdivision 1. **Definitions.** The definitions in this subdivision apply to this section.

(a) "Cellular telephone" means a radio telecommunications device that may be used to obtain access to the public and cellular switch telephone networks and that is programmed by the manufacturer with an electronic serial number.

(b) "Cellular telephone service" means all services and cellular telephone equipment and capabilities available from a provider to an end user for a fee.

(c) "Cloned cellular telephone" or "counterfeit cellular telephone" means a cellular telephone, the electronic serial number of which has been altered by someone other than the manufacturer.

(d) "Telephone cloning paraphernalia" means materials that, when possessed in combination, are capable of creating a cloned cellular telephone. Telephone cloning paraphernalia includes, but is not limited to:

(1) scanners to intercept electronic serial numbers and mobile identification numbers;

(2) cellular telephones;

(3) cables;

(4) EPROM chips;

(5) EPROM burners;

(6) software for programming the cellular telephone with a false electronic serial number, mobile identification number, other identifiable data, or a combination of those items;

(7) computers containing software described in clause (6); and

(8) lists of electronic serial number and mobile identification number combinations.

(e) "Electronic serial number" means a unique number that is programmed into a cellular telephone by the manufacturer, transmitted by the cellular telephone, and used by cellular telephone providers to validate radio transmissions to the system as having been made by an authorized device.

(f) "End user" is a person who pays a fee to subscribe to cellular telephone service from a provider or a person receiving a call from or sending a call to the person paying or subscribing for cellular telephone service.

(g) "Intercept" means to electronically capture, record, reveal, or otherwise access the signals emitted or received during the operation of a cellular telephone by any instrument, device, or equipment without the consent of the sender or receiver.

(h) "Mobile identification number" means the cellular telephone number assigned to the cellular telephone by the cellular telephone provider.

(i) "Provider" means a licensed seller of cellular telephone service or a reselling agent authorized by a licensed seller.

Subd. 2. **Cellular counterfeiting in the third degree.** (a) A person commits the crime of cellular counterfeiting in the third degree if the person knowingly possesses a cloned cellular telephone and knows that the telephone is unlawfully cloned.

(b) Cellular counterfeiting in the third degree is a gross misdemeanor.

Subd. 3. **Cellular counterfeiting in the second degree.** (a) A person commits the crime of cellular counterfeiting in the second degree if the person knowingly possesses, and knows the unlawful nature of using, any telephone cloning paraphernalia or any instrument capable of intercepting or manipulating electronic serial numbers, mobile identification numbers, other identifiable data, or a combination of those items.

(b) A person who violates paragraph (a) may be sentenced to imprisonment for not more than three years and may be fined up to $7,000, or both.

Subd. 4. **Cellular counterfeiting in the first degree.** (a) A person commits the crime of cellular counterfeiting in the first degree if the person knowingly possesses or distributes, and knows the unlawful nature of using, any telephone cloning paraphernalia or any instrument capable of intercepting or manipulating electronic serial numbers, mobile identification numbers, other identifiable data, or a combination of those items, and agrees with, encourages, solicits, or permits one or more other persons to engage in or cause, or obtain cellular telephone service through, cellular counterfeiting.

(b) A person who violates paragraph (a) may be sentenced to imprisonment for not more than five years and may be fined up to $10,000, or both.

Subd. 5. **Exclusions.** The provisions of subdivisions 2 to 4 do not apply to:

(1) officers, employees, or agents of cellular telephone service providers who engage in conduct prohibited by this section for the purpose of constructing, maintaining, or conducting the radio telecommunication service or for law enforcement purposes;

(2) law enforcement officers and public officials in charge of jails, police premises, sheriffs' offices, Department of Corrections institutions, and other penal or correctional institutions, or any other person under the color of law, who engages in conduct prohibited by this section for the purpose of law enforcement or in the normal course of the officer's or official's employment activities or duties; and

(3) officers, employees, or agents of federal or state agencies that are authorized to monitor or intercept cellular telephone service in the normal course of the officer's, employee's, or agent's employment.

Subd. 6. **Civil liability.** A prosecution under this section does not preclude civil liability under any applicable provision of law.

History: *1996 c 331 s 2*

609.895 COUNTERFEITED INTELLECTUAL PROPERTY; PENALTIES.

Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the meanings given them.

(b) "Counterfeit mark" means:

(1) any unauthorized reproduction or copy of intellectual property; or

(2) intellectual property affixed to any item without the authority of the owner of the intellectual property.

(c) "Counterfeited item or service" means an item or service bearing or identified by a counterfeit mark.

(d) "Intellectual property" means any trademark, service mark, or trade name.

(e) "Retail value" means:

(1) the usual selling price of the article or service bearing or identified by the counterfeit mark; or

(2) the usual selling price of a finished product on or in which components bearing or identified by a counterfeit mark are used.

(f) "Service mark" means a mark used by a person to identify services and to distinguish them from the services of others.

(g) "Trademark" means a mark used by a person to identify goods and to distinguish them from the goods of others.

(h) "Trade name" means a word, name, symbol, device, or any combination of the foregoing in any form or arrangement, used by a person to identify the person's business, vocation, or occupation and to distinguish it from the business, vocation, or occupation of others.

Subd. 2. **Crime.** A person who intentionally manufactures, produces, distributes, offers for sale, sells, or possesses with intent to sell or distribute any counterfeited item or service, knowing or having reason to know that the item or service is counterfeit, is guilty of counterfeiting intellectual property and may be punished as provided in subdivision 3.

Subd. 3. **Penalties.** (a) A person who is convicted of violating subdivision 2 may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $100,000, or both, if:

(1) the violation involves the manufacture or production of a counterfeited item or items;

(2) the violation involves the distribution, offer for sale, sale, or possession with intent to sell or distribute 1,000 or more counterfeited items;

(3) the violation involves the distribution, offer for sale, sale, or possession with intent to sell or distribute counterfeited items or services having a retail value of more than $10,000; or

(4) the defendant has two or more prior convictions for violating this section or a law of another state or the United States that provides criminal penalties for counterfeiting intellectual property.

(b) Except as otherwise provided in paragraph (a), a person who is convicted of violating subdivision 2 may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $50,000, or both, if:

(1) the violation involves more than 100 but fewer than 1,000 counterfeited items;

(2) the violation involves counterfeited items or services having a retail value of more than $1,000 but not more than $10,000; or

(3) the defendant has one prior conviction for violating this section or a law of another state or the United States that provides criminal penalties for counterfeiting intellectual property.

(c) A person may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both, if the person is convicted of violating subdivision 2, under circumstances not described in paragraph (a) or (b).

(d) If the defendant distributes, sells, offers for sale, or possesses with intent to sell or distribute more than one item or service bearing or identified by more than one counterfeit mark, the quantity or retail value of these items and services may be aggregated for purposes of determining penalties under this subdivision.

Subd. 4. **Alternative fine.** In lieu of the fine authorized by subdivision 3, a person convicted of violating this section who received economic gain from the act or caused economic loss during the act may be sentenced to pay a fine calculated in the manner provided in section 609.904, subdivision 2.

Subd. 5. **Forfeiture.** Property used to commit or facilitate the commission of a violation of this section, and all money and property representing proceeds of a violation of this section, shall be forfeited in accordance with sections 609.531 to 609.5316. Notwithstanding any provision of section 609.5315 to the contrary, forfeited items bearing or identified by a counterfeit mark must be destroyed unless the intellectual property owner consents to another disposition.

Subd. 6. **Prima facie evidence.** A Minnesota or federal certificate of registration of an intellectual property is prima facie evidence of the registrant's ownership and exclusive right to use the intellectual property in connection with the goods or services described in the certificate.

History: *1999 c 142 s 2*

609.896 CRIMINAL USE OF REAL PROPERTY.

Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have the meanings given them.

(b) "Audiovisual recording function" means the capability of a device to record or transmit a motion picture or any part of a motion picture by means of any technology now known or later developed.

(c) "Convicted" includes a conviction for a similar offense under the law of another state or the federal government.

(d) "Motion picture theater" means a movie theater, screening room, or other venue when used primarily for the exhibition of a motion picture.

Subd. 2. **Crime.** (a) Any person in a motion picture theater while a motion picture is being exhibited who knowingly operates an audiovisual recording function of a device without the consent of the owner or lessee of the motion picture theater is guilty of criminal use of real property.

(b) If a person is convicted of a first offense, it is a misdemeanor.

(c) If a person is convicted of a second offense, it is a gross misdemeanor.

(d) If a person is convicted of a third or subsequent offense, it is a felony and the person may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than $4,000, or both.

Subd. 3. **Detaining suspects.** An owner or lessee of a motion picture theater is a merchant for purposes of section 629.366.

Subd. 4. **Exception.** This section does not prevent any lawfully authorized investigative, law enforcement protective, or intelligence-gathering employee or agent of the state or federal government from operating any audiovisual recording device in a motion picture theater where a motion picture is being exhibited, as part of lawfully authorized investigative, law enforcement protective, or intelligence gathering activities.

Subd. 5. **Not preclude alternative prosecution.** Nothing in this section prevents prosecution under any other provision of law.

History: *2005 c 136 art 17 s 51*

RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS (RICO)

609.901 CONSTRUCTION OF RACKETEERING PROVISIONS.

Sections 609.902 to 609.912 shall be liberally construed to achieve their remedial purposes of curtailing racketeering activity and controlled substance crime and lessening their economic and political power in Minnesota.

History: *1989 c 286 s 5*

609.902 DEFINITIONS.

Subdivision 1. **Definitions.** As used in sections 609.901 to 609.912, the following terms have the meanings given them.

Subd. 2. **Criminal proceeding.** "Criminal proceeding" means a criminal proceeding begun under section 609.903.

Subd. 3. **Enterprise.** "Enterprise" means a sole proprietorship, partnership, corporation, trust, or other legal entity, or a union, governmental entity, association, or group of persons, associated in fact although not a legal entity, and includes illicit as well as legitimate enterprises.

Subd. 4. **Criminal act.** "Criminal act" means conduct constituting, or a conspiracy or attempt to commit, a felony violation of chapter 152, or a felony violation of section 297D.09; 299F.79; 299F.80; 299F.82; 609.185; 609.19; 609.195; 609.20; 609.205; 609.221; 609.222; 609.223; 609.2231; 609.228; 609.235; 609.245; 609.25; 609.27; 609.322; 609.342; 609.343; 609.344; 609.345; 609.42; 609.48; 609.485; 609.495; 609.496; 609.497; 609.498; 609.52, subdivision 2, if the offense is punishable under subdivision 3, clause (1), if the property is a firearm, clause (3)(b), or clause (3)(d)(v); section 609.52, subdivision 2, clause (1) or (4); 609.527, if the crime is punishable under subdivision 3, clause (4); 609.528, if the crime is punishable under subdivision 3, clause (4); 609.53; 609.561; 609.562; 609.582, subdivision 1 or 2; 609.668, subdivision 6, paragraph (a); 609.67; 609.687; 609.713; 609.86; 609.894, subdivision 3 or 4; 609.895; 624.713; 624.7191; or 626A.02, subdivision 1, if the offense is punishable under section 626A.02, subdivision 4, paragraph (a). "Criminal act" also includes conduct constituting, or a conspiracy

or attempt to commit, a felony violation of section 609.52, subdivision 2, clause (3), (4), (15), or (16), if the violation involves an insurance company as defined in section 60A.02, subdivision 4, a nonprofit health service plan corporation regulated under chapter 62C, a health maintenance organization regulated under chapter 62D, or a fraternal benefit society regulated under chapter 64B.

Subd. 5. **Participation in a pattern of criminal activity.** A person "participates in a pattern of criminal activity" when the person is a principal with respect to conduct constituting at least three of the criminal acts included in the pattern and two of the acts constitute felonies other than conspiracy.

Subd. 6. **Pattern of criminal activity.** "Pattern of criminal activity" means conduct constituting three or more criminal acts that:

(1) were committed within ten years of the commencement of the criminal proceeding;

(2) are neither isolated incidents, nor so closely related and connected in point of time or circumstance of commission as to constitute a single criminal offense; and

(3) were either: (i) related to one another through a common scheme or plan or a shared criminal purpose or (ii) committed, solicited, requested, importuned, or intentionally aided by persons acting with the mental culpability required for the commission of the criminal acts and associated with or in an enterprise involved in those activities.

Subd. 7. **Personal property.** "Personal property" includes personal property, an interest in personal property, or a right, including a bank account, debt, corporate stock, patent, or copyright. Personal property and a beneficial interest in personal property are deemed to be located where the trustee is, the personal property is, or the instrument evidencing the right is.

Subd. 8. **Principal.** "Principal" means a person who personally engages in conduct constituting a violation or who is criminally liable under section 609.05 for the conduct of another constituting a violation.

Subd. 9. **Prosecuting authority.** "Prosecuting authority" means the office of a county attorney or office of the attorney general.

Subd. 10. **Real property.** "Real property" means any real property or an interest in real property, including a lease of, or mortgage on, real property. A beneficial interest in real property is deemed to be located where the real property is located.

History: *1989 c 286 s 6; 1991 c 325 art 17 s 1; 1992 c 564 art 1 s 54; 1993 c 326 art 5 s 11; 1994 c 636 art 5 s 16; 1997 c 239 art 3 s 20; 1998 c 367 art 2 s 32; 1999 c 142 s 3; 1999 c 244 s 4; 2000 c 354 s 6; 2011 c 76 art 1 s 68; 2011 c 81 s 1*

609.903 RACKETEERING.

Subdivision 1. **Crime.** A person is guilty of racketeering if the person:

(1) is employed by or associated with an enterprise and intentionally conducts or participates in the affairs of the enterprise by participating in a pattern of criminal activity;

(2) acquires or maintains an interest in or control of an enterprise, or an interest in real property, by participating in a pattern of criminal activity; or

(3) participates in a pattern of criminal activity and knowingly invests any proceeds derived from that conduct, or any proceeds derived from the investment or use of those proceeds, in an enterprise or in real property.

Subd. 2. **Permitted activities.** For purposes of this section, it is not unlawful to:

(1) purchase securities on the open market with intent to make an investment, and without the intent of controlling or participating in the control of the issuer, or of assisting another to do so, if the securities of the issuer held

by the purchaser, the members of the purchaser's immediate family, and the purchaser's accomplices in a pattern of criminal activity do not amount in the aggregate to five percent of the outstanding securities of any one class and do not confer, either in the law or in fact, the power to elect one or more directors of the issuer;

(2) make a deposit in an account maintained in a savings association, or a deposit in any other financial institution, that creates an ownership interest in that association or institution; or

(3) purchase nonvoting shares in a limited partnership, with intent to make an investment, and without the intent of controlling or participating in the control of the partnership.

History: *1989 c 286 s 7; 1995 c 202 art 1 s 25*

609.904 CRIMINAL PENALTIES.

Subdivision 1. **Penalty.** A person convicted of violating section 609.903 may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than $1,000,000, or both.

Subd. 2. **Fine.** In lieu of the fine authorized by subdivision 1, a person convicted of violating section 609.903, who received economic gain from the act or caused economic loss or personal injury during the act, may be sentenced to pay a fine calculated under this subdivision. The maximum fine is three times the gross value gained or three times the gross loss caused, whichever is greater, plus court costs and the costs of investigation and prosecution reasonably incurred, less the value of any property forfeited under section 609.905. The district court shall hold a hearing to determine the amount of the fine authorized by this subdivision. In imposing a fine, the court shall consider the seriousness of the conduct, whether the amount of the fine is disproportionate to the conduct in which the person engaged, its impact on victims and any legitimate enterprise involved in that conduct, as well as the economic circumstances of the convicted person, including the effect of the imposition of the fine on the person's immediate family. For purposes of this subdivision, loss does not include pain and suffering.

Subd. 3. **Injunctive relief.** After the entry of a judgment that includes a fine or an order of criminal forfeiture under section 609.905, the district court may enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take other action, including the appointment of a receiver, that the court deems proper to protect the interests of the prosecuting authority in collecting the money or forfeiture or an innocent party.

Subd. 4. **Disposition of fine proceeds.** The court shall apply fines collected under this section to the costs and expenses of investigation and prosecution, including costs of resources and personnel incurred in investigation and prosecution and the balance, if any, as provided under section 574.34.

Subd. 5. **Restitution.** In a settlement discussion or before the imposition of a sentence under this section, the prosecuting authority shall vigorously advocate full and complete restitution to an aggrieved person. Before the acceptance of a plea or after a verdict but before the imposition of a sentence under this section, the district court must ensure that full and complete restitution has been duly effected or that a satisfactory explanation of why it is impractical has been made to the court.

History: *1989 c 286 s 8*

609.905 CRIMINAL FORFEITURE.

Subdivision 1. **Forfeiture.** When a person is convicted of violating section 609.903, the court may order the person to forfeit to the prosecuting authority any real or personal property subject to forfeiture under this section. Property subject to forfeiture is real and personal property that was used in the course of, intended for use in the course of, derived from, or realized through conduct in violation of section 609.903. A court may not order the forfeiture of property that has been used to pay reasonable attorney fees in connection with a criminal proceeding under section 609.903. The term includes property constituting an interest in or means of control or influence over the enterprise

involved in the violation of section 609.902 and any property constituting proceeds derived from the violation of section 609.902, including:

(1) a position, office, appointment, tenure, commission, or employment contract that was acquired or maintained in violation of section 609.903 or through which the person conducted or participated in the conduct of the affairs of an enterprise in violation of section 609.903 or that afforded the person a source of influence or control over the affairs of an enterprise that the person exercised in violation of section 609.903;

(2) any compensation, right, or benefit derived from a position, office, appointment, tenure, commission, or employment contract described in this section that accrued to the person during the period of conduct in violation of section 609.903;

(3) any interest in, security of, claim against, or property or contractual right affording the person a source of influence or control over the affairs of an enterprise that the person exercised in violation of section 609.903; and

(4) any amount payable or paid under any contract for goods or services that was awarded or performed in violation of section 609.903.

Subd. 2. **Other property of defendant.** The district court may order criminal forfeiture of any other property of the defendant up to the value of the property that is unreachable if any property subject to criminal forfeiture under subdivision 1:

(1) cannot be located;

(2) has been sold to a bona fide purchaser for value;

(3) has been placed beyond the jurisdiction of the court;

(4) has been substantially diminished in value by the conduct of the defendant;

(5) has been commingled with other property that cannot be divided without difficulty or undue injury to innocent persons; or

(6) is otherwise unreachable without undue injury to an innocent person.

Subd. 3. **Reporting.** The prosecuting authority shall report on forfeitures occurring under this section as described in section 609.5315, subdivision 6.

History: *1989 c 286 s 9; 2010 c 391 s 20*

609.907 PRESERVATION OF PROPERTY SUBJECT TO FORFEITURE.

Subdivision 1. **Temporary restraining order.** (a) When an indictment or complaint is filed under section 609.903, the district court may take any of the following actions if the prosecuting authority shows by a preponderance of the evidence that the action is necessary to preserve the reachability of property subject to criminal forfeiture:

(1) enter a restraining order or injunction;

(2) require the execution of a satisfactory performance bond; or

(3) take any other reasonable action, including the appointment of a receiver.

(b) Before granting the remedies provided by this subdivision, the court shall hold a hearing, after notice to all affected persons, giving them a reasonable opportunity to respond. At the hearing, the rules of evidence do not apply.

Subd. 2. **Preindictment order.** (a) If no indictment or complaint has been filed, the district court may take actions provided in subdivision 1 if the prosecuting authority makes the showing required by subdivision 1 and also shows that:

(1) there is probable cause to believe that the property with respect to which the order is sought would, in the event of a conviction, be subject to criminal forfeiture under section 609.904; and

(2) the requested order would not result in substantial and irreparable harm or injury to the party against whom the order is to be entered, or to other affected persons, that outweighs the need to preserve the reachability of the property.

(b) An order entered under this subdivision is effective for a maximum of 90 days unless:

(1) extended by the district court for good cause; or

(2) terminated by the filing of an indictment or complaint alleging that the property is subject to forfeiture.

Subd. 3. **Restraining order without notice.** (a) On application by the prosecuting authority, the district court may grant, without notice to any party, a temporary restraining order to preserve the reachability of property subject to criminal forfeiture under section 609.905 if:

(1) an indictment or complaint alleging that property is subject to criminal forfeiture has been filed or the district court determines that there is probable cause to believe that property with respect to which the order is sought would, in the event of a conviction, be subject to criminal forfeiture under section 609.905;

(2) the property is in the possession or control of the party against whom the order is to be entered; and

(3) the district court makes a specific finding in writing that the property can be concealed, disposed of, or placed beyond the jurisdiction of the court before any party may be heard in opposition.

(b) A temporary restraining order granted without notice to any party under this subdivision expires within the time fixed by the court, not to exceed ten days. The court may extend the order for good cause shown, or if the party against whom it is entered consents to an extension. After a temporary restraining order is granted under this subdivision, a hearing concerning the entry of an order under this section shall be held at the earliest practicable time and before the temporary order expires.

History: *1989 c 286 s 10*

609.908 DISPOSITION OF FORFEITURE PROCEEDS.

Subdivision 1. **Disposition alternatives.** After making due provisions for the rights of innocent persons, the prosecuting authority shall, as soon as feasible, dispose of all property ordered forfeited under section 609.905 by:

(1) public sale;

(2) transfer to a state governmental agency for official use;

(3) sale or transfer to an innocent person; or

(4) destruction, if the property is not needed for evidence in a pending criminal or civil proceeding.

Subd. 2. **No reversion to defendant.** An interest in personal or real property not exercisable by or transferable for value by the prosecuting authority expires and does not revert to the defendant. Forfeited property may not be purchased by the defendant, relative of the defendant, or any person acting in concert with the defendant or on the defendant's behalf.

Subd. 3. **Sale proceeds.** The proceeds of a sale or other disposition of forfeited property under this section whether by final judgment, settlement, or otherwise, must be applied as follows:

(1) to the fees and costs of the forfeiture and sale including expenses of seizure, maintenance, and custody of the property pending its disposition, advertising, and court costs;

(2) to all costs and expenses of investigation and prosecution including costs of resources and personnel incurred in investigation and prosecution; and

(3) the balance to the appropriate agencies under section 609.5315, subdivision 5.

History: *1989 c 286 s 11*

609.909 ADDITIONAL RELIEF AVAILABLE.

With respect to property ordered forfeited, fine imposed, or civil penalty imposed in a criminal proceeding under section 609.903 or civil proceeding under section 609.911, the district court may, on petition of the prosecuting authority or any other person within 60 days of a final order:

(1) authorize the compromise of claims;

(2) award compensation to persons providing information that results in a forfeiture under section 609.905;

(3) grant petitions for mitigation or remission of forfeiture or fines;

(4) restore forfeited property or imposed fines to victims of a violation of section 609.903; and

(5) take any other action to protect the rights of innocent persons that is in the interest of justice and is consistent with the purposes of sections 609.901 to 609.912.

History: *1989 c 286 s 12*

609.910 RELATION TO OTHER SANCTIONS.

Subdivision 1. **Remedy not exclusive.** Except as provided in this section, a criminal penalty, forfeiture, or fine imposed under section 609.903, 609.904, 609.905, or 609.911 does not preclude the application of any other criminal penalty or civil remedy for the separate criminal acts. A prosecuting authority may not file a civil action under section 609.911 if any prosecuting authority has filed a previous criminal proceeding under section 609.903 against the same person based on the same criminal conduct and the charges were dismissed after jeopardy attached or the person acquitted.

Subd. 2. **Restitution.** A restitution payment to a victim under section 609.904 does not limit the liability for damages in a civil action or proceeding for an amount greater than the restitution payment.

History: *1989 c 286 s 13*

609.911 CIVIL REMEDIES.

Subdivision 1. **Relief available.** The prosecuting authority may institute civil proceedings in district court against a person seeking relief from conduct constituting a violation of section 609.903 or to prevent or restrain future violations. If the prosecuting authority proves the alleged violation by a preponderance of the evidence, and the court has made due provision for the rights of innocent persons, the court may:

(1) order a defendant to divest an interest in an enterprise or in real property;

(2) impose reasonable restrictions on the future activities or investments of a defendant, including prohibiting a defendant from engaging in the same type of endeavor as the enterprise in which the defendant was engaged in violation of section 609.903;

(3) order the dissolution or reorganization of an enterprise;

(4) order the suspension or revocation of a license, permit, or prior approval granted to an enterprise by a state agency; or

(5) order the surrender of the charter of a corporation organized under Minnesota law, dissolution of an enterprise, or the revocation of a certificate authorizing a foreign corporation to conduct business in Minnesota, if the court finds that:

(i) the board of directors or a managerial agent acting on behalf of the corporation, in conducting the affairs of the corporation, authorized or engaged in conduct prohibited by section 609.903; and

(ii) the public interest in preventing future criminal conduct requires the action.

Subd. 2. **Injunctive relief.** In a proceeding under this section, the court may grant injunctive relief.

Subd. 3. **Civil penalty.** The prosecuting authority may institute proceedings against an enterprise or an individual to recover a civil penalty. The penalty may be imposed in the discretion of the district court for conduct constituting a violation of section 609.903. The civil penalty may not exceed $1,000,000 less a fine imposed under section 609.903. Penalties collected under this section must be applied to the costs and expenses of investigation and prosecution, including costs of resources and personnel incurred in investigation and prosecution, and the balance, if any, to the state general fund.

Subd. 4. **Attorney fees.** If the district court issues an injunction, or grants other relief under this section, or the prosecuting authority otherwise substantially prevails, the prosecuting authority shall also recover reasonable attorney fees in the trial and appellate courts and costs of investigation and litigation reasonably incurred.

Subd. 5. **Personal jurisdiction.** Personal service of process in a proceeding under this section may be made on any person outside of Minnesota if the person was a principal in any conduct constituting a violation of section 609.903 in this state. The person is deemed to have submitted to the jurisdiction of the courts of this state for the purposes of this section.

History: *1989 c 286 s 14*

609.912 NOTICE TO OTHER PROSECUTING AUTHORITIES.

When a county attorney begins an investigation involving sections 609.901 to 609.911, the county attorney shall notify the attorney general. When the attorney general begins an investigation involving sections 609.901 to 609.911, the attorney general shall notify the county attorney of each county in which a substantial part of the investigation is likely to be conducted.

History: *1989 c 286 s 15*

SECTION 2

MINNESOTA STATUTES CHAPTER 609A.
EXPUNGEMENT

609A.01 EXPUNGEMENT OF CRIMINAL RECORDS. 2-1

609A.02 GROUNDS FOR ORDER. 2-1

609A.025 NO PETITION REQUIRED IN CERTAIN CASES WITH PROSECUTOR AGREEMENT AND NOTIFICATION. 2-4

609A.03 PETITION TO EXPUNGE CRIMINAL RECORDS. 2-4

609A.04 REMEDY. 2-9

CHAPTER 609A.
EXPUNGEMENT

609A.01 EXPUNGEMENT OF CRIMINAL RECORDS.

This chapter provides the grounds and procedures for expungement of criminal records under section 13.82; 152.18, subdivision 1; 299C.11, where a petition is authorized under section 609A.02, subdivision 3; or other applicable law. The remedy available is limited to a court order sealing the records and prohibiting the disclosure of their existence or their opening except under court order or statutory authority. Nothing in this chapter authorizes the destruction of records or their return to the subject of the records.

History: *1996 c 408 art 9 s 7*

609A.02 GROUNDS FOR ORDER.

Subdivision 1. **Certain controlled substance offenses.** Upon the dismissal and discharge of proceedings against a person under section 152.18, subdivision 1, for violation of section 152.024, 152.025, or 152.027 for possession of a controlled substance, the person may petition under section 609A.03 for the sealing of all records relating to the arrest, indictment or information, trial, and dismissal and discharge.

Subd. 2. **Juveniles prosecuted as adults.** A petition for the sealing of a conviction record may be filed under section 609A.03 by a person who has been committed to the custody of the commissioner of corrections upon conviction of a crime following certification to district court under section 260B.125, if the person:

(1) is finally discharged by the commissioner; or

(2) has been placed on probation by the court under section 609.135 and has been discharged from probation after satisfactory fulfillment of it.

Subd. 3. **Certain criminal proceedings.** (a) A petition may be filed under section 609A.03 to seal all records relating to an arrest, indictment or information, trial, or verdict if the records are not subject to section 299C.11, subdivision 1, paragraph (b), and if:

(1) all pending actions or proceedings were resolved in favor of the petitioner. For purposes of this chapter, a verdict of not guilty by reason of mental illness is not a resolution in favor of the petitioner. For the purposes of this chapter, an action or proceeding is resolved in favor of the petitioner, if the petitioner received an order under section 590.11 determining that the petitioner is eligible for compensation based on exoneration;

(2) the petitioner has successfully completed the terms of a diversion program or stay of adjudication and has not been charged with a new crime for at least one year since completion of the diversion program or stay of adjudication;

(3) the petitioner was convicted of or received a stayed sentence for a petty misdemeanor or misdemeanor and has not been convicted of a new crime for at least two years since discharge of the sentence for the crime;

(4) the petitioner was convicted of or received a stayed sentence for a gross misdemeanor and has not been convicted of a new crime for at least four years since discharge of the sentence for the crime; or

(5) the petitioner was convicted of or received a stayed sentence for a felony violation of an offense listed in paragraph (b), and has not been convicted of a new crime for at least five years since discharge of the sentence for the crime.

(b) Paragraph (a), clause (5), applies to the following offenses:

(1) section 35.824 (altering livestock certificate);

(2) section 62A.41 (insurance regulations);

(3) section 86B.865, subdivision 1 (certification for title on watercraft);

(4) section 152.025 (controlled substance in the fifth degree); or 152.097 (sale of simulated controlled substance);

(5) section 168A.30, subdivision 1 (certificate of title false information); or 169.09, subdivision 14, paragraph (a), clause (2) (accident resulting in great bodily harm);

(6) chapter 201; 203B; or 204C (voting violations);

(7) section 228.45; 228.47; 228.49; 228.50; or 228.51 (false bill of lading);

(8) section 256.984 (false declaration in assistance application);

(9) section 296A.23, subdivision 2 (willful evasion of fuel tax);

(10) section 297D.09, subdivision 1 (failure to affix stamp on scheduled substances);

(11) section 297G.19 (liquor taxation); or 340A.701 (unlawful acts involving liquor);

(12) section 325F.743(precious metal dealers); or 325F.755, subdivision 7 (prize notices and solicitations);

(13) section 346.155, subdivision 10 (failure to control regulated animal);

(14) section 349.2127; or 349.22 (gambling regulations);

(15) section 588.20 (contempt);

(16) section 609.27, subdivision 1, clauses (2) to (5) (coercion);

(17) section 609.31 (leaving state to evade establishment of paternity);

(18) section 609.485, subdivision 4, paragraph (a), clause (2) or (4) (escape from civil commitment for mental illness);

(19) section 609.49 (failure to appear in court);

(20) section 609.52, subdivision 3, clause (3)(a) (theft of $5,000 or less), or other theft offense that is sentenced under this provision; or 609.52, subdivision 3a, clause (1) (theft of $1,000 or less with risk of bodily harm);

(21) section 609.525 (bringing stolen goods into state);

(22) section 609.526, subdivision 2, clause (2) (metal dealer receiving stolen goods);

(23) section 609.527, subdivision 5b (possession or use of scanning device or reencoder); 609.528, subdivision 3, clause (3) (possession or sale of stolen or counterfeit check); or 609.529 (mail theft);

(24) section 609.53 (receiving stolen goods);

(25) section 609.535, subdivision 2a, paragraph (a), clause (1) (dishonored check over $500);

(26) section 609.54, clause (1) (embezzlement of public funds $2, 500 or less);

(27) section 609.551 (rustling and livestock theft);

(28) section 609.5641, subdivision 1a, paragraph (a) (wildfire arson);

(29) section 609.576, subdivision 1, clause (3), item (iii) (negligent fires);

(30) section 609.595, subdivision 1, clauses (2) to (4), and subdivision 1a, paragraph (a) (criminal damage to property);

(31) section 609.597, subdivision 3, clause (3) (assaulting or harming police horse);

(32) section 609.625 (aggravated forgery); 609.63 (forgery); 609.631, subdivision4, clause (3)(a) (check forgery $2,500 or less); 609.635 (obtaining signature by false pretense); 609.64 (recording, filing forged instrument); or 609.645 (fraudulent statements);

(33) section 609.65, clause (1) (false certification by notary); or 609.651, subdivision4, paragraph (a) (lottery fraud);

(34) section 609.652 (fraudulent driver's license and identification card);

(35) section 609.66, subdivision 1a, paragraph (a) (discharge of firearm; silencer); or 609.66, subdivision 1b (furnishing firearm to minor);

(36) section 609.662, subdivision 2, paragraph (b) (duty to render aid);

(37) section 609.686, subdivision 2 (tampering with fire alarm);

(38) section 609.746, subdivision 1, paragraph (e) (interference with privacy; subsequent violation or minor victim);

(39) section 609.80, subdivision 2 (interference with cable communications system);

(40) section 609.821, subdivision 2 (financial transaction card fraud);

(41) section 609.822 (residential mortgage fraud);

(42) section 609.825, subdivision 2 (bribery of participant or official in contest);

(43) section 609.855, subdivision 2, paragraph (c), clause (1) (interference with transit operator);

(44) section 609.88 (computer damage); or 609.89 (computer theft);

(45) section 609.893, subdivision 2 (telecommunications and information services fraud);

(46) section 609.894, subdivision 3 or 4 (cellular counterfeiting);

(47) section 609.895, subdivision 3, paragraph (a) or (b) (counterfeited intellectual property);

(48) section 609.896 (movie pirating);

(49) section 624.7132, subdivision 15, paragraph (b) (transfer pistol to minor); 624.714, subdivision 1a (pistol without permit; subsequent violation); or 624.7141, subdivision 2 (transfer of pistol to ineligible person); or

(50) section 624.7181 (rifle or shotgun in public by minor).

(c) Paragraph (a), clause (3) or (4), does not apply if the crime involved domestic abuse or sexual assault, as defined in section 518B.01, subdivision 2, or to violation of an order for protection under section 518B.01, subdivision 14, a harassment restraining order under section 609.748, subdivision 6, a violation of section 609.749, or a violation of section 629.75. This paragraph expires on July 15, 2015.

[See Note.]

Subd. 4. **Expungement prohibited.** Records of a conviction of an offense for which registration is required under section 243.166 may not be expunged.

History: *1996 c 408 art 9 s 8; 1999 c 139 art 4 s 2; 2001 c 209 s 1; 2005 c 136 art 12 s 10; 2014 c 246 s 6; 2014 c 269 s 2*

NOTE: The amendment to subdivision 3 by Laws 2014, chapter 246, section 6, is effective January 1, 2015. Laws 2014, chapter 246, section 6, the effective date.

609A.025 NO PETITION REQUIRED IN CERTAIN CASES WITH PROSECUTOR AGREEMENT AND NOTIFICATION.

(a) If the prosecutor agrees to the sealing of a criminal record, the court shall seal the criminal record for a person described in section 609A.02, subdivision 3, without the filing of a petition unless it determines that the interests of the public and public safety in keeping the record public outweigh the disadvantages to the subject of the record in not sealing it.

(b) Before agreeing to the sealing of a record under this section, the prosecutor shall make a good faith effort to notify any identifiable victims of the offense of the intended agreement and the opportunity to object to the agreement.

(c) Subject to paragraph (b), the agreement of the prosecutor to the sealing of records for a person described in section 609A.02, subdivision 3, paragraph (a), clause (2), may occur before or after the criminal charges are dismissed.

History: *2014 c 246 s 7*

NOTE: This section, as added by Laws 2014, chapter 246, section 7, is effective January 1, 2015. Laws 2014, chapter 246, section 7, the effective date.

609A.03 PETITION TO EXPUNGE CRIMINAL RECORDS.

Subdivision 1. **Petition; filing fee.** An individual who is the subject of a criminal record who is seeking the expungement of the record shall file a petition under this section and pay a filing fee in the amount required under section 357.021, subdivision 2, clause (1). The filing fee may be waived in cases of indigency and shall be waived in the cases described in section 609A.02, subdivision 3, paragraph (a), clause (1).

[See Note.]

Subd. 2. **Contents of petition.** (a) A petition for expungement shall be signed under oath by the petitioner and shall state the following:

(1) the petitioner's full name and all other legal names or aliases by which the petitioner has been known at any time;

(2) the petitioner's date of birth;

(3) all of the petitioner's addresses from the date of the offense or alleged offense in connection with which an expungement order is sought, to the date of the petition;

(4) why expungement is sought, if it is for employment or licensure purposes, the statutory or other legal authority under which it is sought, and why it should be granted;

(5) the details of the offense or arrest for which expungement is sought, including the date and jurisdiction of the occurrence, either the names of any victims or that there were no identifiable victims, whether there is a current order for protection, restraining order, or other no contact order prohibiting the petitioner from contacting the victims or whether there has ever been a prior order for protection or restraining order prohibiting the petitioner from contacting the victims, the court file number, and the date of conviction or of dismissal;

(6) in the case of a conviction, what steps the petitioner has taken since the time of the offense toward personal rehabilitation, including treatment, work, or other personal history that demonstrates rehabilitation;

(7) petitioner's criminal conviction record indicating all convictions for misdemeanors, gross misdemeanors, or felonies in this state, and for all comparable convictions in any other state, federal court, or foreign country, whether the convictions occurred before or after the arrest or conviction for which expungement is sought;

(8) petitioner's criminal charges record indicating all prior and pending criminal charges against the petitioner in this state or another jurisdiction, including all criminal charges that have been continued for dismissal or stayed for adjudication, or have been the subject of pretrial diversion; and

(9) all prior requests by the petitioner, whether for the present offense or for any other offenses, in this state or any other state or federal court, for pardon, return of arrest records, or expungement or sealing of a criminal record, whether granted or not, and all stays of adjudication or imposition of sentence involving the petitioner.

(b) If there is a current order for protection, restraining order, or other no contact order prohibiting the petitioner from contacting the victims or there has ever been a prior order for protection or restraining order prohibiting the petitioner from contacting the victims, the petitioner shall attach a copy of the order to the petition.

Subd. 3. **Service of petition and proposed order.** (a) The petitioner shall serve by mail the petition for expungement and a proposed expungement order on the prosecutorial office that had jurisdiction over the offense for which expungement is sought and all other state and local government agencies and jurisdictions whose records would be affected by the proposed order. The petitioner shall also serve by mail the attorney for each agency and jurisdiction.

(b) The prosecutorial office that had jurisdiction over the offense for which expungement is sought shall serve by mail the petition for expungement and a proposed expungement order on any victims of the offense for which expungement is sought who have requested notice of expungement pursuant to section 611A.06. Service under this paragraph does not constitute a violation of an existing order for protection, restraining order, or other no contact order.

(c) The prosecutorial office's notice to victims of the offense under this subdivision must specifically inform the victims of the victims' right to be present and to submit an oral or written statement at the expungement hearing described in subdivision 4.

(d) An agency or jurisdiction that is served with a petition under this subdivision may submit to the court private or confidential data on the petitioner that the agency or jurisdiction determines is necessary to respond to the petition. As part of the submission, the agency or jurisdiction shall inform the court and the petitioner that the submission contains private or confidential data that may become accessible to the public as part of the expungement proceeding. The petitioner may, at the time of filing the petition or after that time, file a request with the court to seal the private or confidential data that are submitted by the agency or jurisdiction.

Subd. 4. **Hearing.** A hearing on the petition shall be held no sooner than 60 days after service of the petition. A victim of the offense for which expungement is sought has a right to submit an oral or written statement to the court at the time of the hearing describing the harm suffered by the victim as a result of the crime and the victim's recommendation on whether expungement should be granted or denied. The judge shall consider the victim's statement when making a decision.

Subd. 5. **Nature of remedy; standard.** (a) Except as otherwise provided by paragraph (b), expungement of a criminal record is an extraordinary remedy to be granted only upon clear and convincing evidence that it would yield a benefit to the petitioner commensurate with the disadvantages to the public and public safety of:

(1) sealing the record; and

(2) burdening the court and public authorities to issue, enforce, and monitor an expungement order.

(b) Except as otherwise provided by this paragraph, if the petitioner is petitioning for the sealing of a criminal record under section 609A.02, subdivision 3, paragraph (a), clause (1) or (2), the court shall grant the petition to seal the record unless the agency or jurisdiction whose records would be affected establishes by clear and convincing evidence that the interests of the public and public safety outweigh the disadvantages to the petitioner of not sealing the record.

(c) In making a determination under this subdivision, the court shall consider:

(1) the nature and severity of the underlying crime, the record of which would be sealed;

(2) the risk, if any, the petitioner poses to individuals or society;

(3) the length of time since the crime occurred;

(4) the steps taken by the petitioner toward rehabilitation following the crime;

(5) aggravating or mitigating factors relating to the underlying crime, including the petitioner's level of participation and context and circumstances of the underlying crime;

(6) the reasons for the expungement, including the petitioner's attempts to obtain employment, housing, or other necessities;

(7) the petitioner's criminal record;

(8) the petitioner's record of employment and community involvement;

(9) the recommendations of interested law enforcement, prosecutorial, and corrections officials;

(10) the recommendations of victims or whether victims of the underlying crime were minors;

(11) the amount, if any, of restitution outstanding, past efforts made by the petitioner toward payment, and the measures in place to help ensure completion of restitution payment after expungement of the record if granted; and

(12) other factors deemed relevant by the court.

(d) Notwithstanding section 13.82, 13.87, or any other law to the contrary, if the court issues an expungement order it may require that the criminal record be sealed, the existence of the record not be revealed, and the record not be opened except as required under subdivision 7. Records must not be destroyed or returned to the subject of the record.

(e) Information relating to a criminal history record of an employee, former employee, or tenant that has been expunged before the occurrence of the act giving rise to the civil action may not be introduced as evidence in a civil action against a private employer or landlord or its employees or agents that is based on the conduct of the employee, former employee, or tenant.

[See Note.]

Subd. 5a. **Order concerning crimes of violence; firearms restriction.** An order expunging the record of a conviction for a crime of violence as defined in section 624.712, subdivision 5, must provide that the person is not entitled to ship, transport, possess, or receive a firearm for the remainder of the person's lifetime. Any person whose record of conviction is expunged under this section and who thereafter receives a relief of disability under United States Code, title 18, section 925, or whose ability to possess firearms has been restored under section 609.165, subdivision 1d, is not subject to the restriction in this subdivision.

Subd. 6. **Order concerning controlled substance offenses.** If the court orders the sealing of the record of proceedings under section 152.18, the effect of the order shall be to restore the person, in the contemplation of the law, to the status the person occupied before the arrest, indictment, or information. The person shall not be held guilty of perjury or otherwise of giving a false statement if the person fails to acknowledge the arrest, indictment, information, or trial in response to any inquiry made for any purpose.

Subd. 6a. **Order when context and circumstances of the underlying crime indicate a nexus between the criminal record to be expunged and person's status as a crime victim.** If the court finds, under subdivision 5, paragraph (c), clause (5), that the context and circumstances of the underlying crime indicate a nexus between the criminal record to be expunged and the person's status as a crime victim, then the effect of the court order to seal the record of the proceedings shall be to restore the person, in the contemplation of the law, to the status the person

occupied before the arrest, indictment, or information. The person shall not be guilty of perjury or otherwise of giving a false statement if the person fails to acknowledge the arrest, indictment, information, or trial in response to any inquiry made for any purpose. The court may request a sworn statement from a staff member of a state-funded victim services organization or a licensed health care provider as evidence to support a determination under subdivision 5.

[See Note.]

Subd. 7. **Limitations of order effective before January 1, 2015.** (a) Upon issuance of an expungement order related to a charge supported by probable cause, the DNA samples and DNA records held by the Bureau of Criminal Apprehension and collected under authority other than section 299C.105, shall not be sealed, returned to the subject of the record, or destroyed.

(b) Notwithstanding the issuance of an expungement order:

(1) an expunged record may be opened for purposes of a criminal investigation, prosecution, or sentencing, upon an ex parte court order;

(2) an expunged record of a conviction may be opened for purposes of evaluating a prospective employee in a criminal justice agency without a court order; and

(3) an expunged record of a conviction may be opened for purposes of a background study under section 245C.08 unless the court order for expungement is directed specifically to the commissioner of human services.

Upon request by law enforcement, prosecution, or corrections authorities, an agency or jurisdiction subject to an expungement order shall inform the requester of the existence of a sealed record and of the right to obtain access to it as provided by this paragraph. For purposes of this section, a "criminal justice agency" means courts or a government agency that performs the administration of criminal justice under statutory authority.

(c) This subdivision applies to expungement orders subject to its limitations and effective before January 1, 2015.

[See Note.]

Subd. 7a. **Limitations of order effective January 1, 2015, and later.** (a) Upon issuance of an expungement order related to a charge supported by probable cause, the DNA samples and DNA records held by the Bureau of Criminal Apprehension and collected under authority other than section 299C.105 shall not be sealed, returned to the subject of the record, or destroyed.

(b) Notwithstanding the issuance of an expungement order:

(1) except as provided in clause (2), an expunged record may be opened, used, or exchanged between criminal justice agencies without a court order for the purposes of initiating, furthering, or completing a criminal investigation or prosecution or for sentencing purposes or providing probation or other correctional services;

(2) when a criminal justice agency seeks access to a record that was sealed under section 609A.02, subdivision 3, paragraph (a), clause (1), after an acquittal or a court order dismissing for lack of probable cause, for purposes of a criminal investigation, prosecution, or sentencing, the requesting agency must obtain an ex parte court order after stating a good-faith basis to believe that opening the record may lead to relevant information;

(3) an expunged record of a conviction may be opened for purposes of evaluating a prospective employee in a criminal justice agency without a court order;

(4) an expunged record of a conviction may be opened for purposes of a background study under section 245C.08 unless the commissioner had been properly served with notice of the petition for expungement and the court order for expungement is directed specifically to the commissioner of human services;

(5) an expunged record of a conviction may be opened for purposes of a background check required under section 122A.18, subdivision 8, unless the court order for expungement is directed specifically to the Board of Teaching or the licensing division of the Department of Education; and

(6) the court may order an expunged record opened upon request by the victim of the underlying offense if the court determines that the record is substantially related to a matter for which the victim is before the court.

(c) An agency or jurisdiction subject to an expungement order shall maintain the record in a manner that provides access to the record by a criminal justice agency under paragraph (b), clause (1) or (2), but notifies the recipient that the record has been sealed. The Bureau of Criminal Apprehension shall notify the commissioner of human services, the Board of Teaching, or the licensing division of the Department of Education of the existence of a sealed record and of the right to obtain access under paragraph (b), clause (4) or (5). Upon request, the agency or jurisdiction subject to the expungement order shall provide access to the record to the commissioner of human services, the Board of Teaching, or the licensing division of the Department of Education under paragraph (b), clause (4) or (5).

(d) An expunged record that is opened or exchanged under this subdivision remains subject to the expungement order in the hands of the person receiving the record.

(e) A criminal justice agency that receives an expunged record under paragraph (b), clause (1) or (2), must maintain and store the record in a manner that restricts the use of the record to the investigation, prosecution, or sentencing for which it was obtained.

(f) For purposes of this section, a "criminal justice agency" means a court or government agency that performs the administration of criminal justice under statutory authority.

(g) This subdivision applies to expungement orders subject to its limitations and effective on or after January 1, 2015.

[See Note.]

Subd. 8. **Distribution and confirmation of expungement orders.** (a) The court administrator shall send a copy of an expungement order to each agency and jurisdiction whose records are affected by the terms of the order and send a letter to the petitioner identifying each agency that received the order.

(b) If requested in the petition, each agency and jurisdiction receiving the order must send a letter to the petitioner at an address provided in the petition confirming the receipt of the expungement order and that the record has been expunged.

(c) Data on the petitioner in a letter sent under this subdivision are private data on individuals as defined in section 13.02.

[See Note.]

Subd. 9. **Stay of order; appeal.** An expungement order shall be stayed automatically for 60 days after the order is filed and, if the order is appealed, during the appeal period. A person or an agency or jurisdiction whose records would be affected by the order may appeal the order within 60 days of service of notice of filing of the order. An agency or jurisdiction or its officials or employees need not file a cost bond or supersedeas bond in order to further stay the proceedings or file an appeal.

History: *1996 c 408 art 9 s 9; 1998 c 367 art 11 s 19; 2000 c 311 art 4 s 8; 2001 c 209 s 2-5; 2003 c 28 art 3 s 6; 2005 c 83 s 1; 2005 c 136 art 12 s 11; 1Sp2005 c 4 art 1 s 53; 2014 c 246 s 8-14*

NOTE: The amendments to subdivisions 1, 5, 7, and 8 by Laws 2014, chapter 246, sections 8, 10, 12, and 14, are effective January 1, 2015. Laws 2014, chapter 246, sections 8, 10, 12, and 14, the effective dates.

NOTE: Subdivisions 6a and 7a, as added by Laws 2014, chapter 246, sections 11 and 13, are effective January 1, 2015. Laws 2014, chapter 246, sections 11 and 13, the effective dates.

609A.04 REMEDY.

An individual whose record is expunged under this chapter or other law may bring an action under section 13.08 against a government entity that knowingly opens or exchanges the expunged record in a manner not authorized by law.

History: *2014 c 246 s 15*

SECTION 3

MINNESOTA STATUTES CHAPTER 84.
DEPARTMENT OF NATURAL RESOURCES

84.774 OFF-HIGHWAY VEHICLE CRIMINAL PENALTIES. 3-1

84.7741 OFF-HIGHWAY VEHICLE FORFEITURE. 3-1

CHAPTER 84.
DEPARTMENT OF NATURAL RESOURCES

84.774 OFF-HIGHWAY VEHICLE CRIMINAL PENALTIES.

(a) Except as provided in paragraph (b), a person who violates a provision of sections 84.773; 84.777; 84.788 to 84.795; 84.798 to 84.804; 84.90; or 84.922 to 84.928 or rules of the commissioner relating to off-highway vehicle use is guilty of a misdemeanor.

(b) A person is guilty of a gross misdemeanor if the person violates section 84.773, subdivision 2, clause (2), and the person recklessly upsets the natural and ecological balance of a wetland or public waters wetland.

(c) A person is prohibited from operating an off-highway vehicle for a period of one year if the person is:

(1) convicted of a gross misdemeanor under paragraph (b);

(2) convicted of or subject to a final order under section 84.775 for a violation of the prohibition on the intentional operation on unfrozen public water, in a state park, in a scientific and natural area, or in a wildlife management area under section 84.773, subdivision 1, clause (3);

(3) convicted of or is subject to a final order under section 84.775 for a violation of the prohibition on the willful, wanton, or reckless disregard for the safety of persons or property under section 84.773, subdivision 2, clause (1); or

(4) convicted of or subject to a final order under section 84.775 for a violation of the prohibition on carelessly upsetting the natural and ecological balance of a wetland or public waters wetland under section 84.773, subdivision 2, clause (2).

The commissioner shall notify the person of the time period during which the person is prohibited from operating an off-highway vehicle.

History: *2009 c 176 art 1 s 4*

84.7741 OFF-HIGHWAY VEHICLE FORFEITURE.

Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the meanings given them.

(b) "Appropriate agency" means a law enforcement agency that has the authority to make an arrest for a violation of a designated offense.

(c) "Claimant" means an owner of an off-highway vehicle or a person claiming a leasehold or security interest in an off-highway vehicle.

(d) "Designated offense" means a second gross misdemeanor violation under section 84.774, paragraph (b).

(e) "Family or household member" means:

(1) a parent, stepparent, or guardian;

(2) any of the following persons related by blood, marriage, or adoption: brother, sister, stepbrother, stepsister, first cousin, aunt, uncle, nephew, niece, grandparent, great-grandparent, great-uncle, or great-aunt; or

(3) persons residing together or persons who regularly associate and communicate with one another outside of a workplace setting.

(f) "Off-highway vehicle" and "vehicle" do not include an off-highway vehicle that is stolen or taken in violation of the law.

(g) "Owner" means a person legally entitled to possession, use, and control of an off-highway vehicle, including a lessee of an off-highway vehicle if the lease agreement has a term of 180 days or more. There is a rebuttable

presumption that a person registered as the owner of an off-highway vehicle according to the records of the Department of Public Safety or the Department of Natural Resources is the legal owner. For purposes of this section, if an off-highway vehicle is owned jointly by two or more people, each owner's interest extends to the whole of the vehicle and is not subject to apportionment.

(h) "Prosecuting authority" means the attorney in the jurisdiction in which the designated offense occurred, or a designee, who is responsible for prosecuting violations of a designated offense. If a state agency initiated the forfeiture and the attorney responsible for prosecuting the designated offense declines to pursue forfeiture, the attorney general's office, or its designee, may initiate forfeiture under this section.

(i) "Security interest" means a bona fide security interest perfected according to section 168A.17, subdivision 2, based on a loan or other financing that, if an off-highway vehicle is required to be registered under chapter 168, is listed on the vehicle's title.

Subd. 2. **Seizure.** (a) An off-highway vehicle subject to forfeiture under this section may be seized by the appropriate agency upon process issued by any court having jurisdiction over the vehicle.

(b) Property may be seized without process if:

(1) the seizure is incident to a lawful arrest or a lawful search;

(2) the vehicle subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding under this section; or

(3) the appropriate agency has probable cause to believe that the delay occasioned by the necessity to obtain process would result in the removal or destruction of the vehicle. If property is seized without process under this clause, the prosecuting authority must institute a forfeiture action under this section as soon as is reasonably possible by serving a notice of seizure and intent to forfeit at the address of the owner as listed in the records of the Department of Public Safety or Department of Natural Resources.

(c) When an off-highway vehicle is seized, the officer must provide a receipt to the person found in possession of the vehicle; or in the absence of any person, the officer must leave a receipt in the place where the vehicle was found, if reasonably possible.

Subd. 3. **Right to possession vests immediately; custody.** All right, title, and interest in an off-highway vehicle subject to forfeiture under this section vests in the appropriate agency upon commission of the conduct resulting in the designated offense giving rise to the forfeiture. Any vehicle seized under this section is not subject to replevin, but is deemed to be in the custody of the appropriate agency subject to the orders and decrees of the court having jurisdiction over the forfeiture proceedings. When an off-highway vehicle is seized under this section, the appropriate agency shall use reasonable diligence to secure the property and prevent waste and may do any of the following:

(1) place the vehicle under seal;

(2) remove the vehicle to a place designated by the agency; and

(3) place a disabling device on the vehicle.

Subd. 4. **Bond by owner for possession.** If the owner of an off-highway vehicle that has been seized under this section seeks possession of the vehicle before the forfeiture action is determined, the owner may give security or post bond payable to the appropriate agency in an amount equal to the retail value of the seized vehicle. On posting the security or bond, the seized vehicle may be returned to the owner. The forfeiture action must proceed against the security as if it were the seized vehicle. This subdivision does not apply to a vehicle being held for investigatory purposes.

Subd. 5. **Evidence.** Certified copies of court records and off-highway vehicle and driver's records concerning prior incidents are admissible as substantive evidence where necessary to prove the commission of a designated offense.

Subd. 5a. **Petition for remission or mitigation.** Prior to the entry of a court order disposing with the forfeiture action, any person who has an interest in forfeited property may file with the prosecuting authority a petition for remission or mitigation of the forfeiture. The prosecuting authority may remit or mitigate the forfeiture upon terms and conditions the prosecuting authority deems reasonable if the prosecuting authority finds that: (1) the forfeiture was incurred without willful negligence or without any intention on the part of the petitioner to violate the law; or (2) extenuating circumstances justify the remission or mitigation of the forfeiture.

Subd. 6. **Vehicle subject to forfeiture.** An off-highway vehicle is subject to forfeiture under this section if it was used in the commission of a designated offense.

Subd. 7. **Presumptions; limitations on vehicle forfeiture.** (a) An off-highway vehicle is presumed subject to forfeiture under this section if the driver:

(1) is convicted of the designated offense upon which the forfeiture is based; or

(2) fails to appear for a scheduled court appearance with respect to the designated offense charged and fails to voluntarily surrender within 48 hours after the time required for appearance.

(b) An off-highway vehicle encumbered by a security interest perfected according to section 168A.17, subdivision 2, or subject to a lease that has a term of 180 days or more, is subject to the interest of the secured party or lessor unless the party or lessor had knowledge of or consented to the act upon which the forfeiture is based. However, when the proceeds of the sale of a seized vehicle do not equal or exceed the outstanding loan balance, the appropriate agency shall remit all proceeds of the sale to the secured party after deducting the agency's costs for the seizure, tow, storage, forfeiture, and sale of the vehicle. If the sale of the vehicle is conducted in a commercially reasonable manner consistent with section 336.9-610, the agency is not liable to the secured party for any amount owed on the loan in excess of the sale proceeds. The validity and amount of a nonperfected security interest must be established by its holder by clear and convincing evidence.

(c) Notwithstanding paragraph (b), the secured party's or lessor's interest in an off-highway vehicle is not subject to forfeiture based solely on the secured party's or lessor's knowledge of the act or omission upon which the forfeiture is based if the secured party or lessor demonstrates by clear and convincing evidence that the party or lessor took reasonable steps to terminate use of the vehicle by the offender.

(d) An off-highway vehicle is not subject to forfeiture under this section if its owner can demonstrate by clear and convincing evidence that the owner did not have actual or constructive knowledge that the vehicle would be used or operated in any manner contrary to law or that the owner took reasonable steps to prevent use of the vehicle by the offender. If the offender is a family or household member of the owner and has three or more prior off-highway vehicle convictions, the owner is presumed to know of any vehicle use by the offender that is contrary to law.

Subd. 8. **Administrative forfeiture procedure.** (a) An off-highway vehicle used to commit a designated offense is subject to administrative forfeiture under this subdivision.

(b) Within 60 days from when an off-highway vehicle is seized under subdivision 2, or within a reasonable time after seizure, the appropriate agency shall serve the driver or operator of the vehicle with a notice of the seizure and intent to forfeit the vehicle. Additionally, when an off-highway vehicle is seized under subdivision 2, or within a reasonable time after that, all persons known to have an ownership, possessory, or security interest in the vehicle must be notified of the seizure and the intent to forfeit the vehicle. For those vehicles required to be registered under chapter 168, the notification to a person known to have a security interest in the vehicle is required only if the vehicle

is registered under chapter 168 and the interest is listed on the vehicle's title. Upon motion by the appropriate agency or prosecuting authority, a court may extend the time period for sending notice for a period not to exceed 90 days for good cause shown. Notice mailed by certified mail to the address shown in Department of Public Safety records is sufficient notice to the registered owner of the vehicle. For off-highway vehicles not required to be registered under chapter 168, notice mailed by certified mail to the address shown in the applicable filing or registration for the vehicle is sufficient notice to a person known to have an ownership, possessory, or security interest in the vehicle. Otherwise, notice may be given in the manner provided by law for service of a summons in a civil action.

(c) The notice must be in writing and contain:

(1) a description of the vehicle seized;

(2) the date of the seizure; and

(3) notice of the right to obtain judicial review of the forfeiture and of the procedure for obtaining that judicial review, printed in English. This requirement does not preclude the appropriate agency from printing the notice in other languages in addition to English.

Substantially the following language must appear conspicuously in the notice:

"WARNING: You will automatically lose the above-described property and the right to be heard in court if you do not file a lawsuit and serve the prosecuting authority within 60 days. You may file your lawsuit in conciliation court if the property is worth $15,000 or less; otherwise, you must file in district court. You may not have to pay a filing fee for your lawsuit if you are unable to afford the fee. You do not have to pay a conciliation court fee if your property is worth less than $500."

(d) If notice is not sent in accordance with paragraph (b), and no time extension is granted or the extension period has expired, the appropriate agency shall return the property to the person from whom the property was seized, if known. An agency's return of property due to lack of proper notice does not restrict the agency's authority to commence a forfeiture proceeding at a later time. The agency shall not be required to return contraband or other property that the person from whom the property was seized may not legally possess.

(e) Within 60 days following service of a notice of seizure and forfeiture under this subdivision, a claimant may file a demand for a judicial determination of the forfeiture. The demand must be in the form of a civil complaint and must be filed with the court administrator in the county in which the seizure occurred, together with proof of service of a copy of the complaint on the prosecuting authority having jurisdiction over the forfeiture and the standard filing fee for civil actions unless the petitioner has the right to sue in forma pauperis under section 563.01. The claimant may serve the complaint on the prosecuting authority by any means permitted by court rules. If the value of the seized property is $15,000 or less, the claimant may file an action in conciliation court for recovery of the seized vehicle. A copy of the conciliation court statement of claim must be served personally or by mail on the prosecuting authority having jurisdiction over the forfeiture within 60 days following service of the notice of seizure and forfeiture under this subdivision. If the value of the seized property is less than $500, the claimant does not have to pay the conciliation court filing fee. No responsive pleading is required of the prosecuting authority and no court fees may be charged for the prosecuting authority's appearance in the matter. Pleadings, filings, and methods of service are governed by the Rules of Civil Procedure.

(f) The complaint must be captioned in the name of the claimant as plaintiff and the seized vehicle as defendant and must state with specificity the grounds on which the claimant alleges the vehicle was improperly seized, the claimant's interest in the vehicle seized, and any affirmative defenses the claimant may have. Notwithstanding any law to the contrary, an action for the return of an off-highway vehicle seized under this section may not be maintained by or on behalf of any person who has been served with a notice of seizure and forfeiture unless the person has complied with this subdivision.

(g) If the claimant makes a timely demand for a judicial determination under this subdivision, the forfeiture proceedings must be conducted according to subdivision 9.

Subd. 9. **Judicial forfeiture procedure.** (a) This subdivision governs judicial determinations of the forfeiture of an off-highway vehicle used to commit a designated offense. An action for forfeiture is a civil in rem action and is independent of any criminal prosecution. All proceedings are governed by the Rules of Civil Procedure.

(b) If no demand for judicial determination of the forfeiture is pending, the prosecuting authority may, in the name of the jurisdiction pursuing the forfeiture, file a separate complaint against the vehicle, describing it, specifying that it was used in the commission of a designated offense, and specifying the time and place of its unlawful use.

(c) The prosecuting authority may file an answer to a properly served demand for judicial determination, including an affirmative counterclaim for forfeiture. The prosecuting authority is not required to file an answer.

(d) A judicial determination under this subdivision must be held at the earliest practicable date, and in any event no later than 180 days following the filing of the demand by the claimant. If a related criminal proceeding is pending, the hearing shall not be held until the conclusion of the criminal proceedings. The district court administrator shall schedule the hearing as soon as practicable after the conclusion of the criminal prosecution. The district court administrator shall establish procedures to ensure efficient compliance with this subdivision. The hearing is to the court without a jury.

(e) There is a presumption that an off-highway vehicle seized under this section is subject to forfeiture if the prosecuting authority establishes that the vehicle was used in the commission of a designated offense. A claimant bears the burden of proving any affirmative defense raised.

(f) If the forfeiture is based on the commission of a designated offense and the person charged with the designated offense appears in court as required and is not convicted of the offense, the court shall order the property returned to the person legally entitled to it upon that person's compliance with the redemption requirements of subdivision 12.

(g) If the lawful ownership of the vehicle used in the commission of a designated offense can be determined and the owner makes the demonstration required under subdivision 7, paragraph (d), the vehicle must be returned immediately upon the owner's compliance with the redemption requirements of subdivision 12.

(h) If the court orders the return of a seized vehicle under this subdivision, it must order that filing fees be reimbursed to the person who filed the demand for judicial determination. In addition, the court may order sanctions under section 549.211. Any reimbursement fees or sanctions must be paid from other forfeiture proceeds of the law enforcement agency and prosecuting authority involved and in the same proportion as distributed under subdivision 10, paragraph (b).

Subd. 10. **Disposition of forfeited vehicle.** (a) If the vehicle is administratively forfeited under subdivision 8, or if the court finds under subdivision 9 that the vehicle is subject to forfeiture under subdivisions 6 and 7, the appropriate agency shall:

(1) sell the vehicle and distribute the proceeds under paragraph (b); or

(2) keep the vehicle for official use. If the agency keeps a forfeited off-highway vehicle for official use, the agency shall make reasonable efforts to ensure that the off-highway vehicle is available for use by the agency's officers who participate in off-highway vehicle enforcement or education programs.

(b) The proceeds from the sale of forfeited vehicles, after payment of seizure, towing, storage, forfeiture, and sale expenses and satisfaction of valid liens against the property, must be distributed as follows:

(1) 70 percent of the proceeds must be forwarded to the appropriate agency for deposit as a supplement to the state or local agency's operating fund or similar fund for use in purchasing equipment for off-highway vehicle enforcement, training, and education; and

(2) 30 percent of the money or proceeds must be forwarded to the prosecuting authority that handled the forfeiture for deposit as a supplement to its operating fund or similar fund for prosecutorial purposes.

(c) If a vehicle is sold under paragraph (a), the appropriate agency shall not sell the vehicle to: (1) an officer or employee of the agency that seized the property or to a person related to the officer or employee by blood or marriage; or (2) the prosecuting authority or any individual working in the same office or a person related to the authority or individual by blood or marriage.

(d) Sales of forfeited vehicles under this section must be conducted in a commercially reasonable manner.

(e) If a vehicle is forfeited administratively under this section and no demand for judicial determination is made, the appropriate agency shall provide the prosecuting authority with a copy of the forfeiture or evidence receipt, the notice of seizure and intent to forfeit, a statement of probable cause for forfeiture of the property, and a description of the property and its estimated value. Upon review and certification by the prosecuting authority that (1) the appropriate agency provided a receipt in accordance with subdivision 2, paragraph (c), (2) the appropriate agency served notice in accordance with subdivision 8, and (3) probable cause for forfeiture exists based on the officer's statement, the appropriate agency may dispose of the property in any of the ways listed in this subdivision.

Subd. 11. **Sale of forfeited vehicle by secured party.** (a) A financial institution with a valid security interest in or a valid lease covering a forfeited off-highway vehicle may choose to dispose of the vehicle under this subdivision, in lieu of the appropriate agency disposing of the vehicle under subdivision 10. A financial institution wishing to dispose of an off-highway vehicle under this subdivision shall notify the appropriate agency of its intent, in writing, within 30 days after receiving notice of the seizure and forfeiture. The appropriate agency shall release the vehicle to the financial institution or its agent after the financial institution presents proof of its valid security agreement or of its lease agreement and the financial institution agrees not to sell the vehicle to a family or household member of the violator, unless the violator is not convicted of the offense on which the forfeiture is based. The financial institution shall dispose of the vehicle in a commercially reasonable manner as defined in section 336.9-610.

(b) After disposing of the forfeited vehicle, the financial institution shall reimburse the appropriate agency for its seizure, storage, and forfeiture costs. The financial institution may then apply the proceeds of the sale to its storage costs, to its sale expenses, and to satisfy the lien or the lease on the vehicle. If any proceeds remain, the financial institution shall forward the proceeds to the state treasury, which shall credit the appropriate fund as specified in subdivision 10.

Subd. 12. **Redemption requirements.** (a) If an off-highway vehicle is seized by a peace officer for a designated offense, the seized vehicle must be released only:

(1) to the registered owner, a person authorized by the registered owner, a lienholder of record, or a person who has purchased the vehicle from the registered owner who provides proof of ownership of the vehicle;

(2) if the vehicle is subject to a rental or lease agreement, to a renter or lessee who provides a copy of the rental or lease agreement; or

(3) to an agent of a towing company authorized by a registered owner if the owner provides proof of ownership of the vehicle.

(b) The proof of ownership or, if applicable, the copy of the rental or lease agreement required under paragraph (a) must be provided to the law enforcement agency seizing the vehicle or to a person or entity designated by the law enforcement agency to receive the information.

(c) No law enforcement agency, local unit of government, or state agency is responsible or financially liable for any storage fees incurred due to a seizure under this section.

Subd. 13. **Reporting.** The appropriate agency and prosecuting authority shall report on forfeitures occurring under this section as described in section 609.5315, subdivision 6.

History: *2009 c 176 art 1 s 5; 2010 c 391 s 1; 2012 c 128 s 1-7*

SECTION 4

MINNESOTA STATUTES CHAPTER 152.
DRUGS; CONTROLLED SUBSTANCES

DEFINITIONS AND SCHEDULES OF CONTROLLED SUBSTANCES

152.01 DEFINITIONS 4-1

152.02 SCHEDULES OF CONTROLLED SUBSTANCES; ADMINISTRATION OF CHAPTER. [SUBDS. 2 & 12 AMENDED; NEW SUBD. 14] 4-4

CONTROLLED SUBSTANCE CRIMES

152.021 CONTROLLED SUBSTANCE CRIME IN THE FIRST DEGREE 4-26

152.022 CONTROLLED SUBSTANCE CRIME IN THE SECOND DEGREE. 4-28

152.023 CONTROLLED SUBSTANCE CRIME IN THE THIRD DEGREE. 4-29

152.024 CONTROLLED SUBSTANCE CRIME IN THE FOURTH DEGREE. 4-30

152.025 CONTROLLED SUBSTANCE CRIME IN THE FIFTH DEGREE. 4-31

152.026 MANDATORY SENTENCES. 4-31

152.0261 IMPORTING CONTROLLED SUBSTANCES ACROSS STATE BORDERS. 4-32

152.0262 POSSESSION OF SUBSTANCES WITH INTENT TO MANUFACTURE METHAMPHETAMINE CRIME. 4-32

152.027 OTHER CONTROLLED SUBSTANCE OFFENSES. 4-33

LOCATION OF USE, SALE, MANUFACTURE

152.0271 NOTICE OF DRUG CONVICTIONS; DRIVER'S LICENSE REVOCATION 4-34

152.0273 SYNTHETIC DRUG SALES; MANDATORY RESTITUTION. 4-34

152.0275 CERTAIN CONTROLLED SUBSTANCE OFFENSES; RESTITUTION; PROHIBITIONS ON PROPERTY USE; NOTICE PROVISIONS. 4-34

152.028 PERMISSIVE INFERENCE OF KNOWING PROSSESSION. 4-37

152.029 PUBLIC INFORMATION; SCHOOL ZONES, PARK ZONES, PUBLIC HOUSING ZONES, AND DRUG TREATMENT FACILITIES. 4-37

DRUG PARAPHERNALIA

152.092 POSSESSION OF DRUG PARAPHERNALIA PROHIBITED. 4-38

152.093 MANUFACTURE OR DELIVERY OF DRUG PARAPHERNALIA PROHIBITED. 4-38

152.094 DELIVERY OF DRUG PARAPHERNALIA TO A MINOR PROHIBITED. 4-38

152.095 ADVERTISEMENT OF DRUG PARAPHERNALIA PROHIBITED. 4-38

CONSPIRACIES

152.096 CONSPIRACIES PROHIBITED 4-38

SIMULATED CONTROLLED SUBSTANCES

152.097 SIMULATED CONTROLLED SUBSTANCES. 4-39

PRECURSORS OF CONTROLLED SUBSTANCES

152.0971 TERMS. 4-39
152.0972 PRECURSORS OF CONTROLLED SUBSTANCES. 4-40
152.0973 REPORT OF TRANSACTION. 4-41
152.0974 EXCEPTIONS. 4-42

SALES AND RECORDS

152.10 SALES, PERSONS ELIGIBLE 4-42
152.101 MANUFACTURERS, RECORDS. 4-43
152.105 DISPOSAL. [AMENDED] 4-43

PRESCRIPTIONS

152.11 PRESCRIPTIONS. [NEW SUBD. 4] 4-43
152.12 HEALTH CARE PROVIDERS MAY PRESCRIBE. 4-45
152.125 INTRACTABLE PAIN. 4-46
152.126 PRESCRIPTION MONITORING PROGRAM. 4-47
152.13 DUTIES OF STATE BOARD OF PHARMACY. 4-53
152.135 RESTRICTIONS ON SALES, MARKETING, AND POSSESSION OF EPHEDRINE. 4-53

ANHYDROUS AMMONIA

152.136 ANHYDROUS AMMONIA; PROHIBITED CONDUCT; CRIMINAL PENALTIES; CIVIL LIABILITY 4-54

METHAMPHETAMINE-RELATED CRIMES; CHILDREN AND VULNERABLE ADULTS

152.137 METHAMPHETAMINE-RELATED CRIMES INVOLVING CHILDREN AND VULNERABLE ADULTS 4-55

STAY; DISMISSAL; EXPUNGEMENT; OTHER LAW

152.152 STAYED SENTENCE LIMITED. 4-56
152.18 DISCHARGE AND DISMISSAL. 4-56
152.20 PENALTIES UNDER OTHER LAWS 4-58
152.205 LOCAL REGULATIONS. 4-58

THERAPEUTIC RESEARCH ACT; MEDICAL CANNABIS

152.21	THC THERAPEUTIC RESEARCH ACT.	4-58
152.22	DEFINITIONS.	4-60
152.23	LIMITATIONS.	4-62
152.24	FEDERALLY APPROVED CLINICAL TRIALS.	4-62
152.25	COMMISSIONER DUTIES. [SUBDS. 1 & 4 AMENDED; NEW SUBDS. 1a, 1b, & 1c]	4-62
152.26	RULEMAKING.	4-64
152.261	RULES; ADVERSE INCIDENTS.	4-64
152.27	PATIENT REGISTRY PROGRAM ESTABLISHED.	4-65
152.28	HEALTH CARE PRACTITIONER DUTIES. [NEW SUBD. 3]	4-67
152.29	MANUFACTURER OF MEDICAL CANNABIS DUTIES	4-68
152.30	PATIENT DUTIES.	4-71
152.31	DATA PRACTICES.	4-71
152.32	PROTECTIONS FOR REGISTRY PROGRAM PARTICIPATION	4-71
152.33	VIOLATIONS. [NEW SUBD. 1a]	4-73
152.34	NURSING FACILITIES.	4-74
152.35	FEES; DEPOSIT OF REVENUE.	4-74
152.36	IMPACT ASSESSMENT OF MEDICAL CANNABIS THERAPEUTIC RESEARCH.	4-75
152.37	FINANCIAL EXAMINATIONS; PRICING REVIEWS.	4-76

CHAPTER 152.
DRUGS; CONTROLLED SUBSTANCES

DEFINITIONS AND SCHEDULES OF CONTROLLED SUBSTANCES

152.01 DEFINITIONS.

Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the following words, terms, and phrases, for the purposes of this chapter, shall be given the meanings subjoined to them.

Subd. 2. **Drug.** The term "drug" includes all medicines and preparations recognized in the United States Pharmacopoeia or National Formulary and any substance or mixture of substances intended to be used for the cure, mitigation, or prevention of disease of either humans or other animals.

Subd. 3. MS 1967 [Repealed, 1969 c 933 s 22]

Subd. 3. **Administer.** "Administer" means to deliver by, or pursuant to the lawful order of a practitioner a single dose of a controlled substance to a patient or research subject by injection, inhalation, ingestion, or by any other immediate means.

Subd. 3a. **Cocaine.** "Cocaine" means coca leaves and any salt, compound, derivative, or preparation of coca leaves, including cocaine and ecgonine, the salts and isomers of cocaine and ecgonine, and the salts of their isomers and any salt, compound, derivative, or preparation thereof that is chemically equivalent or identical with any of those substances, except decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine.

Subd. 4. MS 1967 [Repealed, 1969 c 933 s 22]

Subd. 4. **Controlled substance.** "Controlled substance" means a drug, substance, or immediate precursor in Schedules I through V of section 152.02. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco.

Subd. 5. [Repealed, 1971 c 937 s 22]

Subd. 5a. **Hallucinogen.** "Hallucinogen" means any hallucinogen listed in section 152.02, subdivision 2, paragraph (d), or Minnesota Rules, part 6800.4210, item C, except marijuana and Tetrahydrocannabinols.

Subd. 6. **Pharmacist intern.** The term "pharmacist intern" means a natural person, a graduate of the College of Pharmacy, University of Minnesota, or other pharmacy college, approved by the board, or a person satisfactorily progressing toward the degree in pharmacy required for licensure, registered by the state Board of Pharmacy, for the purpose of obtaining practical experience as a requirement for licensure as a pharmacist or a qualified applicant, awaiting licensure.

Subd. 7. **Manufacture.** "Manufacture," in places other than a pharmacy, means and includes the production, cultivation, quality control, and standardization by mechanical, physical, chemical, or pharmaceutical means, packing, repacking, tableting, encapsulating, labeling, relabeling, filling, or by other process, of drugs.

Subd. 8. **Dispense.** "Dispense" means to deliver one or more doses of a controlled substance in a suitable container, properly labeled, for subsequent administration to, or use by a patient or research subject.

Subd. 9. **Marijuana.** "Marijuana" means all parts of the plant of any species of the genus Cannabis, including all agronomical varieties, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and

every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin, but shall not include the mature stalks of such plant, fiber from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

Subd. 9a. **Mixture.** "Mixture" means a preparation, compound, mixture, or substance containing a controlled substance, regardless of purity except as provided in subdivision 16; sections 152.021, subdivision 2, paragraph (b); 152.022, subdivision 2, paragraph (b); and 152.023, subdivision 2, paragraph (b).

Subd. 10. **Narcotic drug.** "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) opium, coca leaves, opiates, and methamphetamine;

(2) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, opiates, or methamphetamine;

(3) a substance, and any compound, manufacture, salt, derivative, or preparation thereof, which is chemically identical with any of the substances referred to in clauses (1) and (2), except that the words "narcotic drug" as used in this chapter shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine.

Subd. 11. **Opiate.** "Opiate" means any dangerous substance having an addiction forming or addiction sustaining liability similar to morphine or being capable of conversion into a drug having such addiction forming or addiction sustaining liability.

Subd. 12. **Opium poppy.** "Opium poppy" means the plant of the species Papaver somniferum L., except the seeds thereof.

Subd. 12a. Park **zone.** "Park zone" means an area designated as a public park by the federal government, the state, a local unit of government, a park district board, or a park and recreation board in a city of the first class. "Park zone" includes the area within 300 feet or one city block, whichever distance is greater, of the park boundary.

Subd. 13. **Person.** "Person" includes every individual, copartnership, corporation or association of one or more individuals.

Subd. 14. **Poppy straw.** "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

Subd. 14a. **School zone.** "School zone" means:

(1) any property owned, leased, or controlled by a school district or an organization operating a nonpublic school, as defined in section 123B.41, subdivision 9, where an elementary, middle, secondary school, secondary vocational center or other school providing educational services in grade one through grade 12 is located, or used for educational purposes, or where extracurricular or cocurricular activities are regularly provided;

(2) the area surrounding school property as described in clause (1) to a distance of 300 feet or one city block, whichever distance is greater, beyond the school property; and

(3) the area within a school bus when that bus is being used to transport one or more elementary or secondary school students.

Subd. 15. **Immediate precursor.** "Immediate precursor" means a substance which the state Board of Pharmacy has found to be and by rule designates as being the principal compound commonly used or produced for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit such manufacture.

Subd. 15a. **Sell.** "Sell" means:

(1) to sell, give away, barter, deliver, exchange, distribute or dispose of to another, or to manufacture; or

(2) to offer or agree to perform an act listed in clause (1); or

(3) to possess with intent to perform an act listed in clause (1).

Subd. 16. **Small amount.** "Small amount" as applied to marijuana means 42.5 grams or less. This provision shall not apply to the resinous form of marijuana. The weight of fluid used in a water pipe may not be considered in determining a small amount except in cases where the marijuana is mixed with four or more fluid ounces of fluid.

Subd. 16a. **Subsequent controlled substance conviction.** A "subsequent controlled substance conviction" means that before commission of the offense for which the person is convicted under this chapter, the person was convicted of a violation of section 152.021 or 152.022, including an attempt or conspiracy, or was convicted of a similar offense by the United States or another state, provided that ten years have not elapsed since discharge from sentence.

Subd. 17. [Repealed, 1994 c 636 art 2 s 69]

Subd. 18. **Drug paraphernalia.** (a) Except as otherwise provided in paragraph (b), "drug paraphernalia" means all equipment, products, and materials of any kind, except those items used in conjunction with permitted uses of controlled substances under this chapter or the Uniform Controlled Substances Act, which are knowingly or intentionally used primarily in (1) manufacturing a controlled substance, (2) injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance, (3) testing the strength, effectiveness, or purity of a controlled substance, or (4) enhancing the effect of a controlled substance.

(b) "Drug paraphernalia" does not include the possession, manufacture, delivery, or sale of hypodermic needles or syringes in accordance with section 151.40, subdivision 2.

Subd. 19. **Public housing zone.** "Public housing zone" means any public housing project or development administered by a local housing agency, plus the area within 300 feet of the property's boundary, or one city block, whichever distance is greater.

Subd. 20. **Unlawfully.** "Unlawfully" means selling or possessing a controlled substance in a manner not authorized by law.

Subd. 21. **Orphan drug.** "Orphan drug" means a drug for a disease or condition which is rare in the United States and has been designated as an orphan drug by the Secretary of Health and Human Services as provided in the Orphan Drug Act, Public Law 92-414, as amended.

Subd. 22. **Drug treatment facility.** "Drug treatment facility" means any facility in which a residential rehabilitation program licensed under Minnesota Rules, parts 9530.6405 to 9530.6590, is located, and includes any property owned, leased, or controlled by the facility.

Subd. 23. **Analog.** (a) Except as provided in paragraph (b), "analog" means a substance, the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II:

(1) that has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or

(2) with respect to a particular person, if the person represents or intends that the substance have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.

(b) "Analog" does not include:

(1) a controlled substance;

(2) any substance for which there is an approved new drug application under the Federal Food, Drug, and Cosmetic Act; or

(3) with respect to a particular person, any substance, if an exemption is in effect for investigational use, for that person, as provided by United States Code, title 21, section 355, and the person is registered as a controlled substance researcher as required under section 152.12, subdivision 3, to the extent conduct with respect to the substance is pursuant to the exemption and registration.

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

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

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

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

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

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

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

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

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

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

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

History: *(3899-2, 3899-5, 3899-7, 3906-12) 1921 c 190 s 2,5,7; 1939 c 102 s 2; 1967 c 408 s 1,2; 1971 c 937 s 1-11; Ex1971 c 38 s 1; Ex1971 c 48 s 17; 1973 c 693 s 1; 1979 c 157 s 1; 1981 c 37 s 2; 1981 c 295 s 1;1982 c 557 s 1; 1982 c 642 s 22; 1985 c 248 s 70; 1986 c 444; 1987 c 298 s 1; 1989 c 290 art 3 s 1-7; 1991 c 279 s 1,2; 1992 c 359 s 1-3; 1993 c 82 s 1; 1997 c 239 art 4 s 1,2; 1998 c 397 art 11 s 3; 1999 c 98 s 1; 2005 c 136 art 7 s 2; 2011 c 53 s 1-3; 2013 c 113 art 3 s 1; 2016 c 160 s 1,2*

152.02 SCHEDULES OF CONTROLLED SUBSTANCES; ADMINISTRATION OF CHAPTER. [SUBDS. 2 & 12 AMENDED; NEW SUBD. 14]

Subdivision 1. **Five schedules.** There are established five schedules of controlled substances, to be known as Schedules I, II, III, IV, and V. The schedules consist of the substances listed in this section by whatever official name, common or usual name, chemical name, or trade name designated.

Subd. 2. **Schedule I.** (a) Schedule I consists of the substances listed in this subdivision.

(b) Opiates. Unless specifically excepted or unless listed in another schedule, any of the following substances, including their analogs, isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the analogs, isomers, esters, ethers, and salts is possible:

(1) acetylmethadol;

(2) allylprodine;

(3) alphacetylmethadol (except levo-alphacetylmethadol, also known as levomethadyl acetate);

(4) alphameprodine;

(5) alphamethadol;

(6) alpha-methylfentanyl benzethidine;

(7) betacetylmethadol;

(8) betameprodine;

(9) betamethadol;

(10) betaprodine;

(11) clonitazene;

(12) dextromoramide;

(13) diampromide;

(14) diethyliambutene;

(15) difenoxin;

(16) dimenoxadol;

(17) dimepheptanol;

(18) dimethyliambutene;

(19) dioxaphetyl butyrate;

(20) dipipanone;

(21) ethylmethylthiambutene;

(22) etonitazene;

(23) etoxeridine;

(24) furethidine;

(25) hydroxypethidine;

(26) ketobemidone;

(27) levomoramide;

(28) levophenacylmorphan;

(29) 3-methylfentanyl;

(30) acetyl-alpha-methylfentanyl;

(31) alpha-methylthiofentanyl;

(32) benzylfentanyl beta-hydroxyfentanyl;

(33) beta-hydroxy-3-methylfentanyl;

(34) 3-methylthiofentanyl;

(35) thenylfentanyl;

(36) thiofentanyl;

(37) para-fluorofentanyl;

(38) morpheridine;

(39) 1-methyl-4-phenyl-4-propionoxypiperidine;

(40) noracymethadol;

(41) norlevorphanol;

(42) normethadone;

(43) norpipanone;

(44) 1-(2-phenylethyl)-4-phenyl-4-acetoxypiperidine (PEPAP);

(45) phenadoxone;

(46) phenampromide;

(47) phenomorphan;

(48) phenoperidine;

(49) piritramide;

(50) proheptazine;

(51) properidine;

(52) propiram;

(53) racemoramide;

(54) tilidine;

(55) trimeperidine;

(56) N-(1-Phenethylpiperidin-4-yl)-N-phenylacetamide (acetyl fentanyl);

(57) 3,4-dichloro-N-[(1R,2R)-2-(dimethylamino)cyclohexyl]-N-methylbenzamide(U47700); and

(58) N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]furan-2-carboxamide(furanylfentanyl).

(c) Opium derivatives. Any of the following substances, their analogs, salts, isomers, and salts of isomers, unless specifically excepted or unless listed in another schedule, whenever the existence of the analogs, salts, isomers, and salts of isomers is possible:

(1) acetorphine;

(2) acetyldihydrocodeine;

(3) benzylmorphine;

(4) codeine methylbromide;

(5) codeine-n-oxide;

(6) cyprenorphine;

(7) desomorphine;

(8) dihydromorphine;

(9) drotebanol;

(10) etorphine;

(11) heroin;

(12) hydromorphinol;

(13) methyldesorphine;

(14) methyldihydromorphine;

(15) morphine methylbromide;

(16) morphine methylsulfonate;

(17) morphine-n-oxide;

(18) myrophine;

(19) nicocodeine;

(20) nicomorphine;

(21) normorphine;

(22) pholcodine;

(23) thebacon.

(d) Hallucinogens. Any material, compound, mixture or preparation which contains any quantity of the following substances, their analogs, salts, isomers (whether optical, positional, or geometric), and salts of isomers, unless specifically excepted or unless listed in another schedule, whenever the existence of the analogs, salts, isomers, and salts of isomers is possible:

(1) methylenedioxy amphetamine;

(2) methylenedioxymethamphetamine;

(3) methylenedioxy-N-ethylamphetamine (MDEA);

(4) n-hydroxy-methylenedioxyamphetamine;

(5) 4-bromo-2,5-dimethoxyamphetamine (DOB);

(6) 2,5-dimethoxyamphetamine (2,5-DMA);

(7) 4-methoxyamphetamine;

(8) 5-methoxy-3, 4-methylenedioxyamphetamine;

(9) alpha-ethyltryptamine;

(10) bufotenine;

(11) diethyltryptamine;

(12) dimethyltryptamine;

(13) 3,4,5-trimethoxyamphetamine;

(14) 4-methyl-2, 5-dimethoxyamphetamine (DOM);

(15) ibogaine;

(16) lysergic acid diethylamide (LSD);

(17) mescaline;

(18) parahexyl;

(19) N-ethyl-3-piperidyl benzilate;

(20) N-methyl-3-piperidyl benzilate;

(21) psilocybin;

(22) psilocyn;

(23) tenocyclidine (TPCP or TCP);

(24) N-ethyl-1-phenyl-cyclohexylamine (PCE);

(25) 1-(1-phenylcyclohexyl) pyrrolidine (PCPy);

(26) 1-[1-(2-thienyl)cyclohexyl]-pyrrolidine (TCPy);

(27) 4-chloro-2,5-dimethoxyamphetamine (DOC);

(28) 4-ethyl-2,5-dimethoxyamphetamine (DOET);

(29) 4-iodo-2,5-dimethoxyamphetamine (DOI);

(30) 4-bromo-2,5-dimethoxyphenethylamine (2C-B);

(31) 4-chloro-2,5-dimethoxyphenethylamine (2C-C);

(32) 4-methyl-2,5-dimethoxyphenethylamine (2C-D);

(33) 4-ethyl-2,5-dimethoxyphenethylamine (2C-E);

(34) 4-iodo-2,5-dimethoxyphenethylamine (2C-I);

(35) 4-propyl-2,5-dimethoxyphenethylamine (2C-P);

(36) 4-isopropylthio-2,5-dimethoxyphenethylamine (2C-T-4);

(37) 4-propylthio-2,5-dimethoxyphenethylamine (2C-T-7);

(38) 2-(8-bromo-2,3,6,7-tetrahydrofuro [2,3-f][1]benzofuran-4-yl)ethanamine (2-CB-FLY);

(39) bromo-benzodifuranyl-isopropylamine (Bromo-DragonFLY);

(40) alpha-methyltryptamine (AMT);

(41) N,N-diisopropyltryptamine (DiPT);

(42) 4-acetoxy-N,N-dimethyltryptamine (4-AcO-DMT);

(43) 4-acetoxy-N,N-diethyltryptamine (4-AcO-DET);

(44) 4-hydroxy-N-methyl-N-propyltryptamine (4-HO-MPT);

(45) 4-hydroxy-N,N-dipropyltryptamine (4-HO-DPT);

(46) 4-hydroxy-N,N-diallyltryptamine (4-HO-DALT);

(47) 4-hydroxy-N,N-diisopropyltryptamine (4-HO-DiPT);

(48) 5-methoxy-N,N-diisopropyltryptamine (5-MeO-DiPT);

(49) 5-methoxy-α-methyltryptamine (5-MeO-AMT);

(50) 5-methoxy-N,N-dimethyltryptamine (5-MeO-DMT);

(51) 5-methylthio-N,N-dimethyltryptamine (5-MeS-DMT);

(52) 5-methoxy-N-methyl-N-isopropyltryptamine (5-MeO-MiPT);

(53) 5-methoxy-α-ethyltryptamine (5-MeO-AET);

(54) 5-methoxy-N,N-dipropyltryptamine (5-MeO-DPT);

(55) 5-methoxy-N,N-diethyltryptamine (5-MeO-DET);

(56) 5-methoxy-N,N-diallyltryptamine (5-MeO-DALT);

(57) methoxetamine (MXE);

(58) 5-iodo-2-aminoindane (5-IAI);

(59) 5,6-methylenedioxy-2-aminoindane (MDAI);

(60) 2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25B-NBOMe);

(61) 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25C-NBOMe);

(62) 2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25I-NBOMe);

(63) 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H);

(64) 2-(4-Ethylthio-2,5-dimethoxyphenyl)ethanamine (2C-T-2);

(65) N,N-Dipropyltryptamine (DPT);

(66) 3-[1-(Piperidin-1-yl)cyclohexyl]phenol (3-HO-PCP);

(67) N-ethyl-1-(3-methoxyphenyl)cyclohexanamine (3-MeO-PCE);

(68) 4-[1-(3-methoxyphenyl)cyclohexyl]morpholine (3-MeO-PCMo);

(69) 1-[1-(4-methoxyphenyl)cyclohexyl]-piperidine (methoxydine, 4-MeO-PCP);

(70) 2-(2-Chlorophenyl)-2-(ethylamino)cyclohexan-1-one (N-Ethylnorketamine, ethketamine, NENK); and

(71) methylenedioxy-N,N-dimethylamphetamine (MDDMA);

(72) 3-(2-Ethyl(methyl)aminoethyl)-1H-indol-4-yl (4-AcO-MET); and

(73) 2-Phenyl-2-(methylamino)cyclohexanone (deschloroketamine).

(e) Peyote. All parts of the plant presently classified botanically as Lophophora williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of the plant, and every compound, manufacture, salts, derivative, mixture, or preparation of the plant, its seeds or extracts. The listing of peyote as a controlled substance in Schedule I does not apply to the nondrug use of peyote in bona fide religious ceremonies of the American Indian Church, and members of the American Indian Church are exempt from registration. Any person who manufactures peyote for or distributes peyote to the American Indian Church, however, is required to obtain federal registration annually and to comply with all other requirements of law.

(f) Central nervous system depressants. Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances, their analogs, salts, isomers, and salts of isomers whenever the existence of the analogs, salts, isomers, and salts of isomers is possible:

(1) mecloqualone;

(2) methaqualone;

(3) gamma-hydroxybutyric acid (GHB), including its esters and ethers;

(4) flunitrazepam; and

(5) 2-(2-Methoxyphenyl)-2-(methylamino)cyclohexanone (2-MeO-2-deschloroketamine, methoxyketamine).

(g) Stimulants. Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances, their analogs, salts, isomers, and salts of isomers whenever the existence of the analogs, salts, isomers, and salts of isomers is possible:

(1) aminorex;

(2) cathinone;

(3) fenethylline;

(4) methcathinone;

(5) methylaminorex;

(6) N,N-dimethylamphetamine;

(7) N-benzylpiperazine (BZP);

(8) methylmethcathinone (mephedrone);

(9) 3,4-methylenedioxy-N-methylcathinone (methylone);

(10) methoxymethcathinone (methedrone);

(11) methylenedioxypyrovalerone (MDPV);

(12) 3-fluoro-N-methylcathinone (3-FMC);

(13) methylethcathinone (MEC);

(14) 1-benzofuran-6-ylpropan-2-amine (6-APB);

(15) dimethylmethcathinone (DMMC);

(16) fluoroamphetamine;

(17) fluoromethamphetamine;

(18) α-methylaminobutyrophenone (MABP or buphedrone);

(19) 1-(1,3-benzodioxol-5-yl)-2-(methylamino)butan-1-one (butylone);

(20) 2-(methylamino)-1-(4-methylphenyl)butan-1-one (4-MEMABP or BZ-6378);

(21) 1-(naphthalen-2-yl)-2-(pyrrolidin-1-yl) pentan-1-one (naphthylpyrovalerone or naphyrone);

(22) (alpha-pyrrolidinopentiophenone (alpha-PVP);

(23) (RS)-1-(4-methylphenyl)-2-(1-pyrrolidinyl)-1-hexanone (4-Me-PHP or MPHP);

(24) 2-(1-pyrrolidinyl)-hexanophenone (Alpha-PHP);

(25) 4-methyl-N-ethylcathinone (4-MEC);

(26) 4-methyl-alpha-pyrrolidinopropiophenone (4-MePPP);

(27) 2-(methylamino)-1-phenylpentan-1-one (pentedrone);

(28) 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one (pentylone);

(29) 4-fluoro-N-methylcathinone (4-FMC);

(30) 3,4-methylenedioxy-N-ethylcathinone (ethylone);

(31) alpha-pyrrolidinobutiophenone (α-PBP);

(32) 5-(2-Aminopropyl)-2,3-dihydrobenzofuran (5-APDB);

(33) 1-phenyl-2-(1-pyrrolidinyl)-1-heptanone (PV8);

(34) 6-(2-Aminopropyl)-2,3-dihydrobenzofuran (6-APDB);

(35) 4-methyl-alpha-ethylaminopentiophenone (4-MEAPP);

(36) 4'-chloro-alpha-pyrrolidinopropiophenone (4-chloro-PPP);

(37) 1-(1,3-Benzodioxol-5-yl)-2-(dimethylamino)butan-1-one (dibutylone, bk-DMBDB); and

(38) any other substance, except bupropion or compounds listed under a different schedule, that is structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is further modified in any of the following ways:

(i) by substitution in the ring system to any extent with alkyl, alkylenedioxy, alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further substituted in the ring system by one or more other univalent substituents;

(ii) by substitution at the 3-position with an acyclic alkyl substituent;

(iii) by substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups; or

(iv) by inclusion of the 2-amino nitrogen atom in a cyclic structure.

(h) Marijuana, tetrahydrocannabinols, and synthetic cannabinoids. Unless specifically excepted or unless listed in another schedule, any natural or synthetic material, compound, mixture, or preparation that contains any quantity of the following substances, their analogs, isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, or salts is possible:

(1) marijuana;

(2) tetrahydrocannabinols naturally contained in a plant of the genus Cannabis, synthetic equivalents of the substances contained in the cannabis plant or in the resinous extractives of the plant, or synthetic substances with similar chemical structure and pharmacological activity to those substances contained in the plant or resinous extract, including, but not limited to, 1 cis or trans tetrahydrocannabinol, 6 cis or trans tetrahydrocannabinol, and 3,4 cis or trans tetrahydrocannabinol;

(3) synthetic cannabinoids, including the following substances:

(i) Naphthoylindoles, which are any compounds containing a 3-(1-napthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of naphthoylindoles include, but are not limited to:

(A) 1-Pentyl-3-(1-naphthoyl)indole (JWH-018 and AM-678);

(B) 1-Butyl-3-(1-naphthoyl)indole (JWH-073);

(C) 1-Pentyl-3-(4-methoxy-1-naphthoyl)indole (JWH-081);

(D) 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH-200);

(E) 1-Propyl-2-methyl-3-(1-naphthoyl)indole (JWH-015);

(F) 1-Hexyl-3-(1-naphthoyl)indole (JWH-019);

(G) 1-Pentyl-3-(4-methyl-1-naphthoyl)indole (JWH-122);

(H) 1-Pentyl-3-(4-ethyl-1-naphthoyl)indole (JWH-210);

(I) 1-Pentyl-3-(4-chloro-1-naphthoyl)indole (JWH-398);

(J) 1-(5-fluoropentyl)-3-(1-naphthoyl)indole (AM-2201).

(ii) Napthylmethylindoles, which are any compounds containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of naphthylmethylindoles include, but are not limited to:

(A) 1-Pentyl-1H-indol-3-yl-(1-naphthyl)methane (JWH-175);

(B) 1-Pentyl-1H-indol-3-yl-(4-methyl-1-naphthyl)methane (JWH-184).

(iii) Naphthoylpyrroles, which are any compounds containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent. Examples of naphthoylpyrroles include, but are not limited to, (5-(2-fluorophenyl)-1-pentylpyrrol-3-yl)-naphthalen-1-ylmethanone (JWH-307).

(iv) Naphthylmethylindenes, which are any compounds containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an allkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent. Examples of naphthylemethylindenes include, but are not limited to, E-1-[1-(1-naphthalenylmethylene)-1H-inden-3-yl]pentane (JWH-176).

(v) Phenylacetylindoles, which are any compounds containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent, whether or not substituted in the phenyl ring to any extent. Examples of phenylacetylindoles include, but are not limited to:

(A) 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole (RCS-8);

(B) 1-pentyl-3-(2-methoxyphenylacetyl)indole (JWH-250);

(C) 1-pentyl-3-(2-methylphenylacetyl)indole (JWH-251);

(D) 1-pentyl-3-(2-chlorophenylacetyl)indole (JWH-203).

(vi) Cyclohexylphenols, which are compounds containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not substituted in the cyclohexyl ring to any extent. Examples of cyclohexylphenols include, but are not limited to:

(A) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (CP 47,497);

(B) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (Cannabicyclohexanol or CP 47,497 C8 homologue);

(C) 5-(1,1-dimethylheptyl)-2-[(1R,2R)-5-hydroxy-2-(3-hydroxypropyl)cyclohexyl] -phenol (CP 55,940).

(vii) Benzoylindoles, which are any compounds containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of benzoylindoles include, but are not limited to:

(A) 1-Pentyl-3-(4-methoxybenzoyl)indole (RCS-4);

(B) 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (AM-694);

(C) (4-methoxyphenyl-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3-yl]methanone (WIN 48,098 or Pravadoline).

(viii) Others specifically named:

(A) (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl) -6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol (HU-210);

(B) (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl) -6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol (Dexanabinol or HU-211);

(C) 2,3-dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de] -1,4-benzoxazin-6-yl-1-naphthalenylmethanone (WIN 55,212-2);

(D) (1-pentylindol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone (UR-144);

(E) (1-(5-fluoropentyl)-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone (XLR-11);

(F) 1-pentyl-N-tricyclo[3.3.1.13,7]dec-1-yl-1H-indazole-3-carboxamide (AKB-48(APINACA));

(G) N-((3s,5s,7s)-adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide (5-Fluoro-AKB-48);

(H) 1-pentyl-8-quinolinyl ester-1H-indole-3-carboxylic acid (PB-22);

(I) 8-quinolinyl ester-1-(5-fluoropentyl)-1H-indole-3-carboxylic acid (5-Fluoro PB-22);

(J) N-[(1S)-1-(aminocarbonyl)-2-methylpropyl]-1-pentyl-1H-indazole- 3-carboxamide (AB-PINACA);

(K) N-[(1S)-1-(aminocarbonyl)-2-methylpropyl]-1-[(4-fluorophenyl)methyl]- 1H-indazole-3-carboxamide (AB-FUBINACA);

(L) N-[(1S)-1-(aminocarbonyl)-2-methylpropyl]-1-(cyclohexylmethyl)-1H- indazole-3-carboxamide(AB-CHMINACA);

(M) (S)-methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3- methylbutanoate (5-fluoro-AMB);

(N) [1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl) methanone (THJ-2201);

(O) (1-(5-fluoropentyl)-1H-benzo[d]imidazol-2-yl)(naphthalen-1-yl)methanone) (FUBIMINA);

(P) (7-methoxy-1-(2-morpholinoethyl)-N-((1S,2S,4R)-1,3,3-trimethylbicyclo [2.2.1]heptan-2-yl)-1H-indole-3-carboxamide (MN-25 or UR-12);

(Q) (S)-N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl) -1H-indole-3-carboxamide (5-fluoro-ABICA);

(R) N-(1-amino-3-phenyl-1-oxopropan-2-yl)-1-(5-fluoropentyl) -1H-indole-3-carboxamide;

(S) N-(1-amino-3-phenyl-1-oxopropan-2-yl)-1-(5-fluoropentyl) -1H-indazole-3-carboxamide;

(T) methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido) -3,3-dimethylbutanoate;

(U) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1(cyclohexylmethyl)-1 H-indazole-3-carboxamide (MAB-CHMINACA);

(V) N-(1-Amino-3,3-dimethyl-1-oxo-2-butanyl)-1-pentyl-1H-indazole-3-carboxamide (ADB-PINACA);

(W) methyl (1-(4-fluorobenzyl)-1H-indazole-3-carbonyl)-L-valinate (FUB-AMB);

(X) N-[(1S)-2-amino-2-oxo-1-(phenylmethyl)ethyl]-1-(cyclohexylmethyl)-1H-Indazole-3-carboxamide. (APP-CHMINACA);

(Y) quinolin-8-yl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate (FUB-PB-22); and

(Z) methyl N-[1-(cyclohexylmethyl)-1H-indole-3-carbonyl]valinate (MMB-CHMICA).

(i) A controlled substance analog, to the extent that it is implicitly or explicitly intended for human consumption.

Subd. 3. **Schedule II.** (a) Schedule II consists of the substances listed in this subdivision.

(b) Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.

(i) Excluding:

(A) apomorphine;

(B) thebaine-derived butorphanol;

(C) dextrophan;

(D) nalbuphine;

(E) nalmefene;

(F) naloxegol;

(G) naloxone;

(H) naltrexone; and

(I) their respective salts;

(ii) but including the following:

(A) opium, in all forms and extracts;

(B) codeine;

(C) dihydroetorphine;

(D) ethylmorphine;

(E) etorphine hydrochloride;

(F) hydrocodone;

(G) hydromorphone;

(H) metopon;

(I) morphine;

(J) oxycodone;

(K) oxymorphone;

(L) thebaine;

(M) oripavine;

(2) any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (1), except that these substances shall not include the isoquinoline alkaloids of opium;

(3) opium poppy and poppy straw;

(4) coca leaves and any salt, cocaine compound, derivative, or preparation of coca leaves (including cocaine and ecgonine and their salts, isomers, derivatives, and salts of isomers and derivatives), and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine;

(5) concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy).

(c) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, unless specifically excepted, or unless listed in another schedule, whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation:

(1) alfentanil;

(2) alphaprodine;

(3) anileridine;

(4) bezitramide;

(5) bulk dextropropoxyphene (nondosage forms);

(6) carfentanil;

(7) dihydrocodeine;

(8) dihydromorphinone;

(9) diphenoxylate;

(10) fentanyl;

(11) isomethadone;

(12) levo-alpha-acetylmethadol (LAAM);

(13) levomethorphan;

(14) levorphanol;

(15) metazocine;

(16) methadone;

(17) methadone - intermediate, 4-cyano-2-dimethylamino-4, 4-diphenylbutane;

(18) moramide - intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;

(19) pethidine;

(20) pethidine - intermediate - a, 4-cyano-1-methyl-4-phenylpiperidine;

(21) pethidine - intermediate - b, ethyl-4-phenylpiperidine-4-carboxylate;

(22) pethidine - intermediate - c, 1-methyl-4-phenylpiperidine-4-carboxylic acid;

(23) phenazocine;

(24) piminodine;

(25) racemethorphan;

(26) racemorphan;

(27) remifentanil;

(28) sufentanil;

(29) tapentadol;

(30) 4-Anilino-N-phenethyl-4-piperidine (ANPP).

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) amphetamine, its salts, optical isomers, and salts of its optical isomers;

(2) methamphetamine, its salts, isomers, and salts of its isomers;

(3) phenmetrazine and its salts;

(4) methylphenidate;

(5) lisdexamfetamine.

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) amobarbital;

(2) glutethimide;

(3) secobarbital;

(4) pentobarbital;

(5) phencyclidine;

(6) phencyclidine immediate precursors:

(i) 1-phenylcyclohexylamine;

(ii) 1-piperidinocyclohexanecarbonitrile;

(7) phenylacetone.

(f) Hallucinogenic substances: nabilone.

Subd. 4. **Schedule III.** (a) Schedule III consists of the substances listed in this subdivision.

(b) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system, including its salts, isomers, and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) benzphetamine;

(2) chlorphentermine;

(3) clortermine;

(4) phendimetrazine.

(c) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(1) any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule;

(2) any suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs and approved by the food and drug administration for marketing only as a suppository;

(3) any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules;

(4) any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under section 505 of the federal Food, Drug, and Cosmetic Act;

(5) any of the following substances:

(i) chlorhexadol;

(ii) ketamine, its salts, isomers and salts of isomers;

(iii) lysergic acid;

(iv) lysergic acid amide;

(v) methyprylon;

(vi) sulfondiethylmethane;

(vii) sulfonenthylmethane;

(viii) sulfonmethane;

(ix) tiletamine and zolazepam and any salt thereof;

(x) embutramide;

(xi) Perampanel [2-(2-oxo-1-phenyl-5-pyridin-2-yl-1,2-Dihydropyridin-3-yl) benzonitrile].

(d) Nalorphine.

(e) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as follows:

(1) not more than 1.80 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(2) not more than 1.80 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(3) not more than 1.80 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(4) not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(5) not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(6) not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(f) Anabolic steroids, human growth hormone, and chorionic gonadotropin.

(1) Anabolic steroids, for purposes of this subdivision, means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone, and includes:

(i) 3[beta],17[beta]-dihydroxy-5[alpha]-androstane;

(ii) 3[alpha],17[beta]-dihydroxy-5[alpha]-androstane;

(iii) androstanedione (5[alpha]-androstan-3,17-dione);

(iv) 1-androstenediol (3[beta],17[beta]-dihydroxy-5[alpha]-androst-l-ene;

(v) 3[alpha],17[beta]-dihydroxy-5[alpha]-androst-1-ene);

(vi) 4-androstenediol (3[beta],17[beta]-dihydroxy-androst-4-ene);

(vii) 5-androstenediol (3[beta],17[beta]-dihydroxy-androst-5-ene);

(viii) 1-androstenedione (5[alpha]-androst-1-en-3,17-dione);

(ix) 4-androstenedione (androst-4-en-3,17-dione);

(x) 5-androstenedione (androst-5-en-3,17-dione);

(xi) bolasterone (7[alpha],17[alpha]-dimethyl-17[beta]-hydroxyandrost-4-en-3-one);

(xii) boldenone (17[beta]-hydroxyandrost-1,4-diene-3-one);

(xiii) boldione (androsta-1,4-diene-3,17-dione);

(xiv) calusterone (7[beta],17[alpha]-dimethyl-17[beta]-hydroxyandrost-4-en-3-one);

(xv) clostebol (4-chloro-17[beta]-hydroxyandrost-4-en-3-one);

(xvi) dehydrochloromethyltestosterone (4-chloro-17[beta]-hydroxy-17[alpha]-methylandrost-1,4-dien-3-one);

(xvii) desoxymethyltestosterone (17[alpha]-methyl-5[alpha]-androst-2-en-17[beta]-ol);

(xviii) [delta]1-dihydrotestosterone- (17[beta]-hydroxy-5[alpha]-androst-1-en-3-one);

(xix) 4-dihydrotestosterone (17[beta]-hydroxy-androstan-3-one);

(xx) drostanolone (17[beta]hydroxy-2[alpha]-methyl-5[alpha]-androstan-3-one);

(xxi) ethylestrenol (17[alpha]-ethyl-17[beta]-hydroxyestr-4-ene);

(xxii) fluoxymesterone (9-fluoro-17[alpha]-methyl-11[beta],17[beta]-dihydroxyandrost-4-en-3-one);

(xxiii) formebolone (2-formyl-17[alpha]-methyl-11[alpha],17[beta]-dihydroxyandrost-1,4-dien-3-one);

(xxiv) furazabol (17[alpha]-methyl-17[beta]-hydroxyandrostano[2,3-c]-furazan)13[beta]-ethyl-17[beta] -hydroxygon-4-en-3-one;

(xxv) 4-hydroxytestosterone (4,17[beta]-dihydroxyandrost-4-en-3-one);

(xxvi) 4-hydroxy-19-nortestosterone (4,17[beta]-dihydroxyestr-4-en-3-one);

(xxvii) mestanolone (17[alpha]-methyl-17[beta]-hydroxy-5[alpha]-androstan-3-one);

(xxviii) mesterolone (1[alpha]-methyl-17[beta]-hydroxy-5[alpha]-androstan-3-one);

(xxix) methandienone (17[alpha]-methyl-17[beta]-hydroxyandrost-1,4-dien-3-one);

(xxx) methandriol (17[alpha]-methyl-3[beta],17[beta]-dihydroxyandrost-5-ene);

(xxxi) methasterone (2 alpha-17 alpha-dimethyl-5 alpha-androstan-17beta-ol-3-one);

(xxxii) methenolone (1-methyl-17[beta]-hydroxy-5[alpha]-androst-1-en-3-one);

(xxxiii) 17[alpha]-methyl-3[beta],17[beta]-dihydroxy-5[alpha]-androstane;

(xxxiv) 17[alpha]-methyl-3[alpha],17[beta]-dihydroxy-5[alpha]-androstane;

(xxxv) 17[alpha]-methyl-3[beta],17[beta]-dihydroxyandrost-4-ene;

(xxxvi) 17[alpha]-methyl-4-hydroxynandrolone (17[alpha]-methyl-4-hydroxy-17[beta]-hydroxyestr-4-en-3-one);

(xxxvii) methyldienolone (17[alpha]-methyl-17[beta]-hydroxyestra-4,9(10)-dien-3-one);

(xxxviii) methyltrienolone (17[alpha]-methyl-17[beta]-hydroxyestra-4,9-11-trien-3-one);

(xxxix) methyltestosterone (17[alpha]-methyl-17[beta]-hydroxyandrost-4-en-3-one);

(xl) mibolerone (7[alpha],17[alpha]-dimethyl-17[beta]-hydroxyestr-4-en-3-one);

(xli) 17[alpha]-methyl-[delta]1-dihydrotestosterone (17[beta]-hydroxy-17[alpha]-methyl-5[alpha]-androst-1-en-3-one);

(xlii) nandrolone (17[beta]-hydroxyestr-4-en-3-one);

(xliii) 19-nor-4-androstenediol (3[beta],17[beta]-dihydroxyestr-4-ene;

(xliv) 3[alpha],17[beta]-dihydroxyestr-4-ene); 19-nor-5-androstenediol (3[beta],17[beta]-dihydroxyestr-5-ene;

(xlv) 3[alpha],17[beta]-dihydroxyestr-5-ene);

(xlvi) 19-nor-4,9(10)-androstadienedione (estra-4,9(10)-diene-3,17-dione);

(xlvii) 19-nor-5-androstenedione (estr-5-en-3,17-dione);

(xlviii) norbolethone (13[beta],17[alpha]-diethyl-17[beta]-hydroxygon-4-en-3-one);

(xlix) norclostebol (4-chloro-17[beta]-hydroxyestr-4-en-3-one);

(l) norethandrolone (17[alpha]-ethyl-17[beta]-hydroxyestr-4-en-3-one);

(li) normethandrolone (17[alpha]-methyl-17[beta]-hydroxyestr-4-en-3-one);

(lii) oxandrolone (17[alpha]-methyl-17[beta]-hydroxy-2-oxa-5[alpha]-androstan-3-one);

(liii) oxymesterone (17[alpha]-methyl-4,17[beta]-dihydroxyandrost-4-en-3-one);

(liv) oxymetholone (17[alpha]-methyl-2-hydroxymethylene-17[beta]-hydroxy-5[alpha]-androstan-3-one);

(lv) prostanozol (17 beta-hydroxy-5 alpha-androstano[3,2-C]pryazole;

(lvi) stanozolol (17[alpha]-methyl-17[beta]-hydroxy-5[alpha]-androst-2-eno[3,2-c]-pyrazole);

(lvii) stenbolone (17[beta]-hydroxy-2-methyl-5[alpha]-androst-1-en-3-one);

(lviii) testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone);

(lix) testosterone (17[beta]-hydroxyandrost-4-en-3-one);

(lx) tetrahydrogestrinone (13[beta],17[alpha]-diethyl-17[beta]-hydroxygon-4,9,11-trien-3-one);

(lxi) trenbolone (17[beta]-hydroxyestr-4,9,11-trien-3-one);

(lxii) any salt, ester, or ether of a drug or substance described in this paragraph.

Anabolic steroids are not included if they are: (A) expressly intended for administration through implants to cattle or other nonhuman species; and (B) approved by the United States Food and Drug Administration for that use;

(2) Human growth hormones.

(3) Chorionic gonadotropin.

(g) Hallucinogenic substances. Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved product.

(h) Any material, compound, mixture, or preparation containing the following narcotic drug or its salt: buprenorphine.

Subd. 5. **Schedule IV.** (a) Schedule IV consists of the substances listed in this subdivision.

(b) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as follows:

(1) not more than one milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit;

(2) dextropropoxyphene (Darvon and Darvocet);

(3) 2-[(dimethylamino)methyl]-1-(3-methoxyphenyl)cyclohexanol, its salts, optical and geometric isomers, and salts of these isomers (including tramadol); and

(4) eluxadoline.

(c) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of the salts, isomers, and salts of isomers is possible:

(1) alfaxalone (5α-pregnan-3α-ol-11,20-dione);

(2) alprazolam;

(3) barbital;

(4) bromazepam;

(5) camazepam;

(6) carisoprodol;

(7) chloral betaine;

(8) chloral hydrate;

(9) chlordiazepoxide;

(10) clobazam;

(11) clonazepam;

(12) clorazepate;

(13) clotiazepam;

(14) cloxazolam;

(15) delorazepam;

(16) diazepam;

(17) dichloralphenazone;

(18) estazolam;

(19) ethchlorvynol;

(20) ethinamate;

(21) ethyl loflazepate;

(22) fludiazepam;

(23) flurazepam;

(24) fospropofol;

(25) halazepam;

(26) haloxazolam;

(27) ketazolam;

(28) loprazolam;

(29) lorazepam;

(30) lormetazepam mebutamate;

(31) medazepam;

(32) meprobamate;

(33) methohexital;

(34) methylphenobarbital;

(35) midazolam;

(36) nimetazepam;

(37) nitrazepam;

(38) nordiazepam;

(39) oxazepam;

(40) oxazolam;

(41) paraldehyde;

(42) petrichloral;

(43) phenobarbital;

(44) pinazepam;

(45) prazepam;

(46) quazepam;

(47) suvorexant;

(48) temazepam;

(49) tetrazepam;

(50) triazolam;

(51) zaleplon;

(52) zolpidem;

(53) zopiclone.

(d) Any material, compound, mixture, or preparation which contains any quantity of the following substance including its salts, isomers, and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible: fenfluramine.

(e) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(1) cathine (norpseudoephedrine);

(2) diethylpropion;

(3) fencamfamine;

(4) fenproporex;

(5) mazindol;

(6) mefenorex;

(7) modafinil;

(8) pemoline (including organometallic complexes and chelates thereof);

(9) phentermine;

(10) pipradol;

(11) sibutramine;

(12) SPA (1-dimethylamino-1,2-diphenylethane).

(f) lorcaserin.

Subd. 6. **Schedule V; restrictions on methamphetamine precursor drugs.** (a) As used in this subdivision, the following terms have the meanings given:

(1) "methamphetamine precursor drug" means any compound, mixture, or preparation intended for human consumption containing ephedrine or pseudoephedrine as its sole active ingredient or as one of its active ingredients; and

(2) "over-the-counter sale" means a retail sale of a drug or product but does not include the sale of a drug or product pursuant to the terms of a valid prescription.

(b) The following items are listed in Schedule V:

(1) any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(i) not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(ii) not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

(iii) not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(iv) not more than 100 milligrams of opium per 100 milliliters or per 100 grams; or

(v) not more than 0.5 milligrams of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(2) Stimulants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substance having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers: pyrovalerone.

(3) Depressants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substance having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(i) ezogabine;

(ii) pregabalin;

(iii) lacosamide.

(4) Any compound, mixture, or preparation containing ephedrine or pseudoephedrine as its sole active ingredient or as one of its active ingredients.

(c) No person may sell in a single over-the-counter sale more than two packages of a methamphetamine precursor drug or a combination of methamphetamine precursor drugs or any combination of packages exceeding a total weight of six grams, calculated as the base.

(d) Over-the-counter sales of methamphetamine precursor drugs are limited to:

(1) packages containing not more than a total of three grams of one or more methamphetamine precursor drugs, calculated in terms of ephedrine base or pseudoephedrine base; or

(2) for nonliquid products, sales in blister packs, where each blister contains not more than two dosage units, or, if the use of blister packs is not technically feasible, sales in unit dose packets or pouches.

(e) A business establishment that offers for sale methamphetamine precursor drugs in an over-the-counter sale shall ensure that all packages of the drugs are displayed behind a checkout counter where the public is not permitted and are offered for sale only by a licensed pharmacist, a registered pharmacy technician, or a pharmacy clerk. The establishment shall ensure that the person making the sale requires the buyer:

(1) to provide photographic identification showing the buyer's date of birth; and

(2) to sign a written or electronic document detailing the date of the sale, the name of the buyer, and the amount of the drug sold.

A document described under clause (2) must be retained by the establishment for at least three years and must at all reasonable times be open to the inspection of any law enforcement agency.

Nothing in this paragraph requires the buyer to obtain a prescription for the drug's purchase.

(f) No person may acquire through over-the-counter sales more than six grams of methamphetamine precursor drugs, calculated as the base, within a 30-day period.

(g) No person may sell in an over-the-counter sale a methamphetamine precursor drug to a person under the age of 18 years. It is an affirmative defense to a charge under this paragraph if the defendant proves by a preponderance of the evidence that the defendant reasonably and in good faith relied on proof of age as described in section 340A.503, subdivision 6.

(h) A person who knowingly violates paragraph (c), (d), (e), (f), or (g) is guilty of a misdemeanor and may be sentenced to imprisonment for not more than 90 days, or to payment of a fine of not more than $1,000, or both.

(i) An owner, operator, supervisor, or manager of a business establishment that offers for sale methamphetamine precursor drugs whose employee or agent is convicted of or charged with violating paragraph (c), (d), (e), (f), or (g) is not subject to the criminal penalties for violating any of those paragraphs if the person:

(1) did not have prior knowledge of, participate in, or direct the employee or agent to commit the violation; and

(2) documents that an employee training program was in place to provide the employee or agent with information on the state and federal laws and regulations regarding methamphetamine precursor drugs.

(j) Any person employed by a business establishment that offers for sale methamphetamine precursor drugs who sells such a drug to any person in a suspicious transaction shall report the transaction to the owner, supervisor, or manager of the establishment. The owner, supervisor, or manager may report the transaction to local law enforcement. A person who reports information under this subdivision in good faith is immune from civil liability relating to the report.

(k) Paragraphs (b) to (j) do not apply to:

(1) pediatric products labeled pursuant to federal regulation primarily intended for administration to children under 12 years of age according to label instructions;

(2) methamphetamine precursor drugs that are certified by the Board of Pharmacy as being manufactured in a manner that prevents the drug from being used to manufacture methamphetamine;

(3) methamphetamine precursor drugs in gel capsule or liquid form; or

(4) compounds, mixtures, or preparations in powder form where pseudoephedrine constitutes less than one percent of its total weight and is not its sole active ingredient.

(l) The Board of Pharmacy, in consultation with the Department of Public Safety, shall certify methamphetamine precursor drugs that meet the requirements of paragraph (k), clause (2), and publish an annual listing of these drugs.

(m) Wholesale drug distributors licensed and regulated by the Board of Pharmacy pursuant to sections 151.42 to 151.51 and registered with and regulated by the United States Drug Enforcement Administration are exempt from the methamphetamine precursor drug storage requirements of this section.

(n) This section preempts all local ordinances or regulations governing the sale by a business establishment of over-the-counter products containing ephedrine or pseudoephedrine. All ordinances enacted prior to the effective date of this act are void.

Subd. 7. **Board of Pharmacy; regulation of substances.** The Board of Pharmacy is authorized to regulate and define additional substances which contain quantities of a substance possessing abuse potential in accordance with the following criteria:

(1) The Board of Pharmacy shall place a substance in Schedule I if it finds that the substance has: A high potential for abuse, no currently accepted medical use in the United States, and a lack of accepted safety for use under medical supervision.

(2) The Board of Pharmacy shall place a substance in Schedule II if it finds that the substance has: A high potential for abuse, currently accepted medical use in the United States, or currently accepted medical use with severe restrictions, and that abuse may lead to severe psychological or physical dependence.

(3) The Board of Pharmacy shall place a substance in Schedule III if it finds that the substance has: A potential for abuse less than the substances listed in Schedules I and II, currently accepted medical use in treatment in the United States, and that abuse may lead to moderate or low physical dependence or high psychological dependence.

(4) The Board of Pharmacy shall place a substance in Schedule IV if it finds that the substance has: A low potential for abuse relative to the substances in Schedule III, currently accepted medical use in treatment in the United States, and that abuse may lead to limited physical dependence or psychological dependence relative to the substances in Schedule III.

(5) The Board of Pharmacy shall place a substance in Schedule V if it finds that the substance has: A low potential for abuse relative to the substances listed in Schedule IV, currently accepted medical use in treatment in the United States, and limited physical dependence and/or psychological dependence liability relative to the substances listed in Schedule IV.

Subd. 8. **Add, delete, or reschedule substances.** The state Board of Pharmacy may, by rule, add substances to or delete or reschedule substances listed in this section. The Board of Pharmacy may not delete or reschedule a drug that is in Schedule I, except as provided in subdivision 12.

In making a determination regarding a substance, the Board of Pharmacy shall consider the following: The actual or relative potential for abuse, the scientific evidence of its pharmacological effect, if known, the state of current scientific knowledge regarding the substance, the history and current pattern of abuse, the scope, duration, and significance of abuse, the risk to public health, the potential of the substance to produce psychic or physiological dependence liability, and whether the substance is an immediate precursor of a substance already controlled under this section. The state Board of Pharmacy may include any nonnarcotic drug authorized by federal law for medicinal use in a schedule only if such drug must, under either federal or state law or rule, be sold only on prescription.

Subd. 8a. [Repealed by amendment, 2012 c 240 s 1]

Subd. 8b. **Board of Pharmacy; expedited scheduling of additional substances.** The state Board of Pharmacy may, by rule, add a substance to Schedule I provided that it finds that the substance has a high potential for abuse, has no currently accepted medical use in the United States, has a lack of accepted safety for use under medical supervision, has known adverse health effects, and is currently available for use within the state. For the purposes of this subdivision only, the board may use the expedited rulemaking process under section 14.389.

Subd. 9. **Except substances by rule.** The state Board of Pharmacy may by rule except any compound, mixture, or preparation containing any stimulant or depressant substance listed in subdivision 4, paragraphs (b) and (c), or in subdivisions 5 and 6 from the application of all or any part of this chapter, if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system; provided, that such admixtures shall be included therein in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse of the substances which do have a stimulant or depressant effect on the central nervous system.

Subd. 10. **Dextromethorphan.** Dextromethorphan shall not be deemed to be included in any schedule by reason of the enactment of Laws 1971, chapter 937, unless controlled pursuant to the foregoing provisions of this section.

Subd. 11. [Repealed, 1993 c 337 s 20]

Subd. 12. **Coordination of controlled substance regulation with federal law and state statute. (a)** If any substance is designated, rescheduled, or deleted as a controlled substance under federal law the Board of Pharmacy may similarly and temporarily control the substance under this chapter by issuing an order and causing it to be published in the State Register and filed with the secretary of state. In issuing the order, the board is not required to engage in rulemaking. The order expires no later than 12 months after the date of issue and may not be renewed. After issuing the order, the board may permanently schedule the substance only by exercising the authority granted to it under subdivision 8.

(b) The state Board of Pharmacy shall annually submit a report to the legislature on or before December 1 that specifies what changes the board made to the controlled substance schedules maintained by the board in Minnesota Rules, parts 6800.4210 to 6800.4250, in the preceding 12 months. The report must also specify any orders issued by the board under this subdivision. The report must include specific recommendations for amending the controlled substance schedules contained in subdivisions 2 to 6, so that they conform with the controlled substance schedules maintained by the board in Minnesota Rules, parts 6800.4210 to 6800.4250, and with the federal schedules.

Subd. 13. [Repealed by amendment, 2012 c 240 s 1]

Subd. 14. **Procedural requirements.** Except as otherwise permitted in this section, the Board of Pharmacy is subject to the provisions of chapter 14 in exercising the authority granted by this chapter.

History: *1971 c 937 s 12; 1973 c 693 s 2-4; 1976 c 338 s 1-4; 1979 c 157 s 2-4; 1979 c 243 s 2; 1982 c 424 s 130; 1983 c 260 s 39,40; 1985 c 248 s 70; 1987 c 14 s 1; 1987 c 298 s 2; 1987 c 384 art 2 s 40; 1989 c 230 s 1; 1994 c 465 art 1 s 20-22; 1996 c 408 art 11 s 2; 1997 c 7 art 2 s 21; 1997 c 187 art 5 s 21; 1997 c 239 art 4 s 3,4,15; 1998 c 367 art 4 s 7; 1999 c 9 s 1; 1999 c 163 s 1; 2000 c 262 s 1; 2001 c 173 s 1; 1Sp2001 c 8 art 8 s 1; 2005 c 136 art 7 s 3,4; art 17 s 1,2; 1Sp2005 c 7 s 25; 2009 c 59 art 5 s 3,4; 2011 c 53 s 4,5; 2012 c 240 s 1; 2013 c 113 art 3 s 2; 2014 c 285 s 8; 2014 c 291 art 5 s 18; 2015 c 65 art 8 s 1-5; 2016 c 182 s 1,2*

CONTROLLED SUBSTANCE CRIMES

152.021 CONTROLLED SUBSTANCE CRIME IN THE FIRST DEGREE.

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

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

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

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

(ii) the offense involves two aggravating factors;

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

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

(5) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of 50 grams or more containing amphetamine, phencyclidine, or hallucinogen or, if the controlled substance is packaged in dosage units, equaling 200 or more dosage units; or

(6) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of 25 kilograms or more containing marijuana or Tetrahydrocannabinols.

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

(1) the person unlawfully possesses one or more mixtures of a total weight of 50 grams or more containing cocaine or methamphetamine;

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

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

(ii) the offense involves two aggravating factors;

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

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

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

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

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

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

(b) [Renumbered 152.0262, subdivision 1]

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

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

(2) the offense involves two aggravating factors.

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

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

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

sentence if the court finds substantial and compelling reasons to do so; such a sentence is a departure from the Sentencing Guidelines.

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

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

History: *1989 c 290 art 3 s 8; 1990 c 602 art 7 s 1; 1991 c 279 s 3; 1992 c 359 s 4,5; 1993 c 326 art 13 s 5; 1995 c 244 s 1; 1997 c 239 art 4 s 5,6; 1998 c 367 art 4 s 1; 1Sp2003 c 2 art 8 s 2,3; 2005 c 136 art 7 s 5,6,21; 2011 c 53 s 6; 2016 c 160 s 3*

152.022 CONTROLLED SUBSTANCE CRIME IN THE SECOND DEGREE.

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

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

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

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

(ii) the offense involves three aggravating factors;

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

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

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

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

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

(i) any amount of a Schedule I or II narcotic drug, lysergic acid diethylamide (LSD), 3,4-methylenedioxy amphetamine, or 3,4-methylenedioxymethamphetamine;

(ii) one or more mixtures containing methamphetamine or amphetamine; or

(iii) one or more mixtures of a total weight of five kilograms or more containing marijuana or Tetrahydrocannabinols.

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

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

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

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

(ii) the offense involves three aggravating factors;

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

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

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

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

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

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

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

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

History: *1989 c 290 art 3 s 9; 1990 c 602 art 7 s 2; 1991 c 199 art 1 s 53; 1991 c 279 s 4; 1992 c 359 s 6,7; 1993 c 326 art 3 s 1; art 13 s 6; 1995 c 244 s 2; 1997 c 239 art 4 s 7,8; 1998 c 367 art 4 s 2; 1Sp2001 c 8 art 8 s 2; 2011 c 53 s 7; 2016 c 160 s 4*

152.023 CONTROLLED SUBSTANCE CRIME IN THE THIRD DEGREE.

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

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

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

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

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

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

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

(1) on one or more occasions within a 90-day period the person unlawfully possesses one or more mixtures of a total weight of ten grams or more containing a narcotic drug other than heroin;

(2) on one or more occasions within a 90-day period the person unlawfully possesses one or more mixtures of a total weight of three grams or more containing heroin;

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

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

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

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

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

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

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

History: *1989 c 290 art 3 s 10; 1990 c 602 art 7 s 3,4; 1991 c 199 art 1 s 54; 1991 c 279 s 5; 1992 c 359 s 8; 1993 c 326 art 3 s 2; art 13 s 7; 1995 c 244 s 3; 1997 c 239 art 4 s 9-11; 1998 c 367 art 4 s 3; 1Sp2001 c 8 art 8 s 3; 2011 c 53 s 8; 2016 c 160 s 5*

152.024 CONTROLLED SUBSTANCE CRIME IN THE FOURTH DEGREE.

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

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

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

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

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

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

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

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

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

History: *1989 c 290 art 3 s 11; 1990 c 602 art 7 s 5; 1991 c 279 s 6; 1993 c 326 art 13 s 8; 1995 c 244 s 4; 1997 c 239 art 4 s 12; 2016 c 160 s 6*

152.025 CONTROLLED SUBSTANCE CRIME IN THE FIFTH DEGREE.

Subdivision 1. **Sale crimes.** A person is guilty of a controlled substance crime in the fifth degree and upon conviction may be sentenced as provided in subdivision 4 if:

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

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

Subd. 2. **Possession and other crimes.** A person is guilty of controlled substance crime in the fifth degree and upon conviction may be sentenced as provided in subdivision 4 if:

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

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

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

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

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

Subd. 3. [Repealed, 2009 c 83 art 3 s 24]

Subd. 4. **Penalty.** (a) A person convicted under the provisions of subdivision 2, clause (1), who has not been previously convicted of a violation of this chapter or a similar offense in another jurisdiction, is guilty of a gross misdemeanor if: (1) the amount of the controlled substance possessed, other than heroin, is less than 0.25 grams or one dosage unit or less if the controlled substance was possessed in dosage units; or (2) the controlled substance possessed is heroin and the amount possessed is less than 0.05 grams.

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

History: *1989 c 290 art 3 s 12; 1990 c 602 art 7 s 6; 1992 c 359 s 9; 1993 c 326 art 13 s 9; 1995 c 244 s 5; 2009 c 83 art 3 s 3,4; 2010 c 382 s 35; 2016 c 119 s 7; 2016 c 160 s 7*

152.026 MANDATORY SENTENCES.

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

History: *1989 c 290 art 3 s 13; 1993 c 326 art 13 s 10; 2005 c 136 art 7 s 21; 2016 c 160 s 8*

152.0261 IMPORTING CONTROLLED SUBSTANCES ACROSS STATE BORDERS.

Subdivision 1. **Felony.** A person who crosses a state or international border into Minnesota while in possession of an amount of a controlled substance that constitutes a first-degree controlled substance crime under section 152.021, subdivision 2, is guilty of importing controlled substances and may be sentenced as provided in subdivision 3.

Subd. 1a. **Use of person under 18 to import.** A person who conspires with or employs a person under the age of 18 to cross a state or international border into Minnesota while that person or the person under the age of 18 is in possession of an amount of a controlled substance that constitutes a controlled substance crime under sections 152.021 to 152.025 and 152.0262, with the intent to obstruct the criminal justice process, is guilty of importing controlled substances and may be sentenced as provided in subdivision 3.

Subd. 2. **Jurisdiction.** A violation of this section may be charged, indicted, and tried in any county, but not more than one county, into or through which the actor has brought the controlled substance.

Subd. 3. **Penalty.** A person convicted of violating this section is guilty of a felony and may be sentenced to imprisonment for not more than 35 years or to payment of a fine of not more than $1,250,000, or both.

History: *1990 c 602 art 7 s 7; 1998 c 367 art 4 s 4, 5; 2005 c 136 art 7 s 21*

152.0262 POSSESSION OF SUBSTANCES WITH INTENT TO MANUFACTURE METHAMPHETAMINE CRIME.

Subdivision 1. **Possession of precursors.** (a) A person is guilty of a crime if the person possesses any chemical reagents or precursors with the intent to manufacture methamphetamine and if convicted may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

(b) A person is guilty of a crime if the person possesses any chemical reagents or precursors with the intent to manufacture methamphetamine and may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than $30,000, or both, if the conviction is for a subsequent controlled substance conviction.

As used in this section and section 152.021, "chemical reagents or precursors" includes any of the following substances, or any similar substances that can be used to manufacture methamphetamine, or the salts, isomers, and salts of isomers of a listed or similar substance:

(1) ephedrine;

(2) pseudoephedrine;

(3) phenyl-2-propanone;

(4) phenylacetone;

(5) anhydrous ammonia;

(6) organic solvents;

(7) hydrochloric acid;

(8) lithium metal;

(9) sodium metal;

(10) ether;

(11) sulfuric acid;

(12) red phosphorus;

(13) iodine;

(14) sodium hydroxide;

(15) benzaldehyde;

(16) benzyl methyl ketone;

(17) benzyl cyanide;

(18) nitroethane;

(19) methylamine;

(20) phenylacetic acid;

(21) hydriodic acid; or

(22) hydriotic acid.

Subd. 2. [Repealed, 2009 c 83 art 2 s 50]

History: *1989 c 290 art 3 s 8; 1990 c 602 art 7 s 1; 1991 c 279 s 3; 1992 c 359 s 4, 5; 1993 c 326 art 13 s 5; 1995 c 244 s 1; 1997 c 239 art 4 s 5, 6; 1998 c 367 art 4 s 1; 1Sp2003 c 2 art 8 s 2, 3; 2005 c 136 art 7 s 5, 6, 21; 2009 c 83 art 2 s 8*

152.027 OTHER CONTROLLED SUBSTANCE OFFENSES.

Subdivision 1. **Sale of Schedule V controlled substance.** Except as provided in section 152.02, subdivision 6, a person who unlawfully sells one or more mixtures containing a controlled substance classified in Schedule V may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

Subd. 2. **Possession of Schedule V controlled substance.** Except as provided in section 152.02, subdivision 6, a person who unlawfully possesses one or more mixtures containing a controlled substance classified in Schedule V may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both. The court may order that a person who is convicted under this subdivision and placed on probation be required to take part in a drug education program as specified by the court.

Subd. 3. **Possession of marijuana in a motor vehicle.** A person is guilty of a misdemeanor if the person is the owner of a private motor vehicle, or is the driver of the motor vehicle if the owner is not present, and possesses on the person, or knowingly keeps or allows to be kept within the area of the vehicle normally occupied by the driver or passengers, more than 1.4 grams of marijuana. This area of the vehicle does not include the trunk of the motor vehicle if the vehicle is equipped with a trunk, or another area of the vehicle not normally occupied by the driver or passengers if the vehicle is not equipped with a trunk. A utility or glove compartment is deemed to be within the area occupied by the driver and passengers.

Subd. 4. **Possession or sale of small amounts of marijuana.** (a) A person who unlawfully sells a small amount of marijuana for no remuneration, or who unlawfully possesses a small amount of marijuana is guilty of a petty misdemeanor and shall be required to participate in a drug education program unless the court enters a written finding that a drug education program is inappropriate. The program must be approved by an area mental health board with a curriculum approved by the state alcohol and drug abuse authority.

(b) A person convicted of an unlawful sale under paragraph (a) who is subsequently convicted of an unlawful sale under paragraph (a) within two years is guilty of a misdemeanor and shall be required to participate in a chemical dependency evaluation and treatment if so indicated by the evaluation.

(c) A person who is convicted of a petty misdemeanor under paragraph (a) who willfully and intentionally fails to comply with the sentence imposed, is guilty of a misdemeanor. Compliance with the terms of the sentence imposed before conviction under this paragraph is an absolute defense.

Subd. 5. **Sale or possession of salvia divinorum.** (a) A person who unlawfully sells any amount of salvia divinorum or salvinorin A is guilty of a gross misdemeanor.

(b) A person who unlawfully possesses any amount of salvia divinorum or salvinorin A is guilty of a misdemeanor.

Subd. 6. **Sale or possession of synthetic cannabinoids.** (a) As used in this subdivision, "synthetic cannabinoid" includes any substance included in section 152.02, subdivision 2, paragraph (h), clause (3).

(b) A person who unlawfully sells a synthetic cannabinoid for no remuneration is guilty of a gross misdemeanor.

(c) A person who unlawfully sells a synthetic cannabinoid is guilty of a felony and if convicted may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

(d) A person who unlawfully possesses any amount of a synthetic cannabinoid is guilty of a misdemeanor.

(e) Notwithstanding any contrary provision in sections 152.021 to 152.025, this subdivision describes the exclusive penalties for the sale and possession of synthetic cannabinoid.

History: *1989 c 290 art 3 s 14; 2005 c 10 art 3 s 8; 2005 c 136 art 7 s 7, 8; 2010 c 368 s 1; 2011 c 53 s 9; 2011 c 76 art 1 s 20; 2012 c 240 s 2*

LOCATION OF USE, SALE, MANUFACTURE

152.0271 NOTICE OF DRUG CONVICTIONS; DRIVER'S LICENSE REVOCATION.

When a person is convicted of violating a provision of sections 152.021 to 152.027 and 152.0262, the sentencing court shall determine whether the person unlawfully sold or possessed the controlled substance while driving a motor vehicle. If so, the court shall notify the commissioner of public safety of its determination and order the commissioner to revoke the person's driver's license for 30 days. If the person does not have a driver's license or if the person's driver's license is suspended or revoked at the time of the conviction, the commissioner shall delay the issuance or reinstatement of the person's driver's license for 30 days after the person applies for the issuance or reinstatement of the license. Upon receipt of the court's order, the commissioner is authorized to take the licensing action without a hearing.

History: *1993 c 347 s 1; 2005 c 136 art 7 s 21*

152.0273 SYNTHETIC DRUG SALES; MANDATORY RESTITUTION.

The court shall order a person convicted of selling a controlled substance or analog of a controlled substance under the false pretense that the substance is legal to pay restitution for the costs and expenses resulting from the crime. Costs and expenses include, but are not limited to, the medical costs of persons who consumed the substances sold by the offender and the reasonable costs incurred by public and private entities that provided an emergency response to a person who consumed the substances sold by the offender.

History: *2014 c 285 s 9*

152.0275 CERTAIN CONTROLLED SUBSTANCE OFFENSES; RESTITUTION; PROHIBITIONS ON PROPERTY USE; NOTICE PROVISIONS.

Subdivision 1. **Restitution.** (a) As used in this subdivision:

(1) "clandestine lab site" means any structure or conveyance or outdoor location occupied or affected by conditions or chemicals typically associated with the manufacturing of methamphetamine;

(2) "emergency response" includes, but is not limited to, removing and collecting evidence, securing the site, removal, remediation, and hazardous chemical assessment or inspection of the site where the relevant offense or offenses took place, regardless of whether these actions are performed by the public entities themselves or by private contractors paid by the public entities, or the property owner;

(3) "remediation" means proper cleanup, treatment, or containment of hazardous substances or methamphetamine at or in a clandestine lab site, and may include demolition or disposal of structures or other property when an assessment so indicates; and

(4) "removal" means the removal from the clandestine lab site of precursor or waste chemicals, chemical containers, or equipment associated with the manufacture, packaging, or storage of illegal drugs.

(b) A court may require a person convicted of manufacturing or attempting to manufacture a controlled substance or of an illegal activity involving a precursor substance, where the response to the crime involved an emergency response, to pay restitution to all public entities that participated in the response. The restitution ordered may cover the reasonable costs of their participation in the response.

(c) In addition to the restitution authorized in paragraph (b), a court may require a person convicted of manufacturing or attempting to manufacture a controlled substance or of illegal activity involving a precursor substance to pay restitution to a property owner who incurred removal or remediation costs because of the crime.

Subd. 2. **Property-related prohibitions; notice; Web site.** (a) As used in this subdivision:

(1) "clandestine lab site" has the meaning given in subdivision 1, paragraph (a);

(2) "property" means publicly or privately owned real property including buildings and other structures, motor vehicles as defined in section 609.487, subdivision 2a, public waters, and public rights-of-way;

(3) "remediation" has the meaning given in subdivision 1, paragraph (a); and

(4) "removal" has the meaning given in subdivision 1, paragraph (a).

(b) A peace officer who arrests a person at a clandestine lab site shall notify the appropriate county or local health department, state duty officer, and child protection services of the arrest and the location of the site.

(c) A county or local health department or sheriff shall order that any property or portion of a property that has been found to be a clandestine lab site and contaminated by substances, chemicals, or items of any kind used in the manufacture of methamphetamine or any part of the manufacturing process, or the by-products or degradates of manufacturing methamphetamine be prohibited from being occupied or used until it has been assessed and remediated as provided in the Department of Health's clandestine drug labs general cleanup guidelines. The remediation shall be accomplished by a contractor who will make the verification required under paragraph (e).

(d) Unless clearly inapplicable, the procedures specified in chapter 145A and any related rules adopted under that chapter addressing the enforcement of public health laws, the removal and abatement of public health nuisances, and the remedies available to property owners or occupants apply to this subdivision.

(e) Upon the proper removal and remediation of any property used as a clandestine lab site, the contractor shall verify to the property owner and the applicable authority that issued the order under paragraph (c) that the work was completed according to the Department of Health's clandestine drug labs general cleanup guidelines and best practices. The contractor shall provide the verification to the property owner and the applicable authority within five days from the completion of the remediation. Following this, the applicable authority shall vacate its order.

(f) If a contractor issues a verification and the property was not remediated according to the Department of Health's clandestine drug labs general cleanup guidelines, the contractor is liable to the property owner for the additional costs relating to the proper remediation of the property according to the guidelines and for reasonable attorney

fees for collection of costs by the property owner. An action under this paragraph must be commenced within six years from the date on which the verification was issued by the contractor.

(g) If the applicable authority determines under paragraph (c) that a motor vehicle has been contaminated by substances, chemicals, or items of any kind used in the manufacture of methamphetamine or any part of the manufacturing process, or the by-products or degradates of manufacturing methamphetamine and if the authority is able to obtain the certificate of title for the motor vehicle, the authority shall notify the registrar of motor vehicles of this fact and in addition, forward the certificate of title to the registrar. The authority shall also notify the registrar when it vacates its order under paragraph (e).

(h) The applicable authority issuing an order under paragraph (c) shall record with the county recorder or registrar of titles of the county where the clandestine lab is located an affidavit containing the name of the owner, a legal description of the property where the clandestine lab was located, and a map drawn from available information showing the boundary of the property and the location of the contaminated area on the property that is prohibited from being occupied or used that discloses to any potential transferee:

(1) that the property, or portion of the property, was the site of a clandestine lab;

(2) the location, condition, and circumstances of the clandestine lab, to the full extent known or reasonably ascertainable; and

(3) that the use of the property or some portion of it may be restricted as provided by paragraph (c).

If an inaccurate drawing or description is filed, the authority, on request of the owner or another interested person, shall file a supplemental affidavit with a corrected drawing or description.

If the authority vacates its order under paragraph (e), the authority shall record an affidavit that contains the recording information of the above affidavit and states that the order is vacated. Upon filing the affidavit vacating the order, the affidavit and the affidavit filed under this paragraph, together with the information set forth in the affidavits, cease to constitute either actual or constructive notice.

(i) If proper removal and remediation has occurred on the property, an interested party may record an affidavit indicating that this has occurred. Upon filing the affidavit described in this paragraph, the affidavit and the affidavit filed under paragraph (h), together with the information set forth in the affidavits, cease to constitute either actual or constructive notice. Failure to record an affidavit under this section does not affect or prevent any transfer of ownership of the property.

(j) The county recorder or registrar of titles must record all affidavits presented under paragraph (h) or (i) in a manner that ensures their disclosure in the ordinary course of a title search of the subject property.

(k) The commissioner of health shall post on the Internet contact information for each local community health services administrator.

(l) Each local community health services administrator shall maintain information related to property within the administrator's jurisdiction that is currently or was previously subject to an order issued under paragraph (c). The information maintained must include the name of the owner, the location of the property, the extent of the contamination, the status of the removal and remediation work on the property, and whether the order has been vacated. The administrator shall make this information available to the public either upon request or by other means.

(m) Before signing an agreement to sell or transfer real property, the seller or transferor must disclose in writing to the buyer or transferee if, to the seller's or transferor's knowledge, methamphetamine production has occurred on the property. If methamphetamine production has occurred on the property, the disclosure shall include a statement to the buyer or transferee informing the buyer or transferee:

(1) whether an order has been issued on the property as described in paragraph (c);

(2) whether any orders issued against the property under paragraph (c) have been vacated under paragraph (j); or

(3) if there was no order issued against the property and the seller or transferor is aware that methamphetamine production has occurred on the property, the status of removal and remediation on the property.

(n) Unless the buyer or transferee and seller or transferor agree to the contrary in writing before the closing of the sale, a seller or transferor who fails to disclose, to the best of their knowledge, at the time of sale any of the facts required, and who knew or had reason to know of methamphetamine production on the property, is liable to the buyer or transferee for:

(1) costs relating to remediation of the property according to the Department of Health's clandestine drug labs general cleanup guidelines and best practices; and

(2) reasonable attorney fees for collection of costs from the seller or transferor.

An action under this paragraph must be commenced within six years after the date on which the buyer or transferee closed the purchase or transfer of the real property where the methamphetamine production occurred.

(o) This section preempts all local ordinances relating to the sale or transfer of real property designated as a clandestine lab site.

History: *2005 c 136 art 7 s 9*

152.028 PERMISSIVE INFERENCE OF KNOWING POSSESSION.

Subdivision 1. **Residences.** The presence of a controlled substance in open view in a room, other than a public place, under circumstances evincing an intent by one or more of the persons present to unlawfully mix, compound, package, or otherwise prepare for sale the controlled substance permits the fact finder to infer knowing possession of the controlled substance by each person in close proximity to the controlled substance when the controlled substance was found. The permissive inference does not apply to any person if:

(1) one of them legally possesses the controlled substance; or

(2) the controlled substance is on the person of one of the occupants.

Subd. 2. **Passenger automobiles.** The presence of a controlled substance in a passenger automobile permits the fact finder to infer knowing possession of the controlled substance by the driver or person in control of the automobile when the controlled substance was in the automobile. This inference may only be made if the defendant is charged with violating section 152.021, 152.022, 152.023, 152.0261, or 152.0262. The inference does not apply:

(1) to a duly licensed operator of an automobile who is at the time operating it for hire in the lawful and proper pursuit of the operator's trade;

(2) to any person in the automobile if one of them legally possesses a controlled substance; or

(3) when the controlled substance is concealed on the person of one of the occupants.

History: *1989 c 290 art 3 s 15; 1990 c 602 art 7 s 8; 2005 c 136 art 7 s 21*

152.029 PUBLIC INFORMATION; SCHOOL ZONES, PARK ZONES, PUBLIC HOUSING ZONES, AND DRUG TREATMENT FACILITIES.

The attorney general shall disseminate information to the public relating to the penalties for committing controlled substance crimes in park zones, school zones, public housing zones, and drug treatment facilities. The attorney general shall draft a plain language version of sections 152.022 and 152.023 and relevant provisions of the Sentencing Guidelines, that describes in a clear and coherent manner using words with common and everyday meanings

the content of those provisions. The attorney general shall publicize and disseminate the plain language version as widely as practicable, including distributing the version to school boards, local governments, and administrators and occupants of drug treatment facilities and public housing.

History: *1989 c 290 art 3 s 16; 1991 c 279 s 7; 1997 c 239 art 4 s 13*

DRUG PARAPHERNALIA

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.

History: *1982 c 557 s 2; 2016 c 160 s 9*

152.093 MANUFACTURE OR DELIVERY OF DRUG PARAPHERNALIA PROHIBITED.

It is unlawful for any person knowingly or intentionally to deliver drug paraphernalia or knowingly or intentionally to possess or manufacture drug paraphernalia for delivery. Any violation of this section is a misdemeanor.

History: *1982 c 557 s 3*

152.094 DELIVERY OF DRUG PARAPHERNALIA TO A MINOR PROHIBITED.

Any person 18 years of age or older who violates section 152.093by knowingly or intentionally delivering drug paraphernalia to a person under 18 years of age who is at least three years younger is guilty of a gross misdemeanor.

History: *1982 c 557 s 4; 1986 c 444*

152.095 ADVERTISEMENT OF DRUG PARAPHERNALIA PROHIBITED.

It is unlawful for any person knowingly or intentionally to place in any newspaper, magazine, handbill, or other publication any advertisement or promotion for the sale of drug paraphernalia. A violation of this section is a misdemeanor.

History: *1982 c 557 s 5*

CONSPIRACIES

152.096 CONSPIRACIES PROHIBITED.

Subdivision 1. **Prohibited acts; penalties.** Any person who conspires to commit any act prohibited by this chapter, except possession or distribution for no remuneration of a small amount of marijuana as defined in section 152.01, subdivision 16, is guilty of a felony and upon conviction may be imprisoned, fined, or both, up to the maximum amount authorized by law for the act the person conspired to commit.

Subd. 2. **Conviction of coconspirator not required.** A person liable under this section may be charged with and convicted of conspiracy although the person or persons with whom that person conspired have not been convicted or have been convicted of some other crime based on the same act.

History: *1982 c 557 s 6; 1986 c 444; 1989 c 290 art 3 s 17*

SIMULATED CONTROLLED SUBSTANCES

152.097 SIMULATED CONTROLLED SUBSTANCES.

Subdivision 1. **Prohibition.** It is unlawful for any person knowingly to manufacture, sell, transfer or deliver or attempt to sell, transfer or deliver a noncontrolled substance upon:

(1) the express representation that the noncontrolled substance is a narcotic or nonnarcotic controlled substance; or

(2) the express representation that the substance is of such nature or appearance that the recipient of the delivery will be able to sell, transfer or deliver the substance as a controlled substance; or

(3) under circumstances which would lead a reasonable person to believe that the substance was a controlled substance. Any of the following factors shall constitute relevant evidence:

(i) the noncontrolled substance was packaged in a manner normally used for the illegal delivery of controlled substances; or

(ii) the delivery or attempted delivery included an exchange of or demand for money or other valuable property as consideration for delivery of the noncontrolled substance, and the amount of the consideration was substantially in excess of the reasonable value of the noncontrolled substance; or

(iii) the physical appearance of the noncontrolled substance is substantially identical to a specified controlled substance.

Subd. 2. **No defense.** In any prosecution under this section, it is no defense that the accused believed the noncontrolled substance to actually be a controlled substance.

Subd. 3. **Exemption.** This section does not apply to the prescribing and dispensing of placebos by licensed practitioners and licensed pharmacists.

Subd. 4. **Penalty.** A person who violates this section may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $20,000, or both. Sentencing for a conviction for attempting to sell, transfer, or deliver a noncontrolled substance in violation of this section is governed by section 609.17, subdivision 4.

History: *1982 c 599 s 1; 1989 c 290 art 3 s 18*

PRECURSORS OF CONTROLLED SUBSTANCES

152.0971 TERMS.

Subdivision 1. **Terms.** For purposes of sections 152.0971 to 152.0974, the following terms have the meanings given.

Subd. 1a. **Authorized agent.** An "authorized agent" is an individual representing a business who is responsible for the disbursement or custody of precursor substances.

Subd. 2. **Furnish.** "Furnish" means to sell, transfer, deliver, send, or supply a precursor substance by any other means.

Subd. 2a. **Purchaser.** A "purchaser" is a manufacturer, wholesaler, retailer, or any other person in this state who receives or seeks to receive a precursor substance.

Subd. 2b. **Receive.** "Receive" means to purchase, receive, collect, or otherwise obtain a precursor substance from a supplier.

Subd. 3. **Supplier.** A "supplier" is a manufacturer, wholesaler, retailer, or any other person in this or any other state who furnishes a precursor substance to another person in this state.

History: *1990 c 565 s 22; 1993 c 326 art 3 s 3-6*

152.0972 PRECURSORS OF CONTROLLED SUBSTANCES.

Subdivision 1. **Precursor substances.** The following precursors of controlled substances are "precursor substances":

(1) phenyl-2-propanone;

(2) methylamine;

(3) ethylamine;

(4) d-lysergic acid;

(5) ergotamine tartrate;

(6) diethyl malonate;

(7) malonic acid;

(8) hydriodic acid;

(9) ethyl malonate;

(10) barbituric acid;

(11) piperidine;

(12) n-acetylanthranilic acid;

(13) pyrrolidine;

(14) phenylacetic acid;

(15) anthranilic acid;

(16) ephedrine;

(17) pseudoephedrine;

(18) norpseudoephedrine;

(19) phenylpropanolamine;

(20) propionic anhydride;

(21) isosafrole;

(22) safrole;

(23) piperonal;

(24) thionylchloride;

(25) benzyl cyanide;

(26) ergonovine maleate;

(27) n-methylephedrine;

(28) n-ethylpseudoephedrine;

(29) n-methylpseudoephedrine;

(30) chloroephedrine;

(31) chloropseudoephedrine; and

(32) any substance added to this list by rule adopted by the state Board of Pharmacy.

Subd. 2. **Adoption of rules.** The state Board of Pharmacy may adopt rules under chapter 14 that add a substance to the list in subdivision 1, if the substance is a precursor to a controlled substance, or delete a substance from the list. A rule adding or deleting a substance is effective only until December 31 of the year following the calendar year during which the rule was adopted.

History: *1990 c 565 s 23; 1993 c 326 art 3 s 7*

152.0973 REPORT OF TRANSACTION.

Subdivision 1. **Predelivery notice.** A supplier who furnishes a precursor substance to a person in this state shall, not less than 21 days before delivery of the substance, submit to the Bureau of Criminal Apprehension a report of the transaction that includes the identification information specified in subdivision 3.

Subd. 1a. **Report of precursor substances received from out of state.** A purchaser of a precursor substance from outside of Minnesota shall, not less than 21 days before taking possession of the substance, submit to the Bureau of Criminal Apprehension a report of the transaction that includes the identification information specified in subdivision 3.

Subd. 2. **Regular reports.** The bureau may authorize a purchaser or supplier to submit the reports on a monthly basis with respect to repeated, regular transactions between the supplier and the purchaser involving the same substance if the superintendent of the Bureau of Criminal Apprehension determines that:

(1) a pattern of regular supply of the precursor substance exists between the supplier and the purchaser of the substance; or

(2) the purchaser has established a record of utilizing the precursor substance for lawful purposes.

Subd. 2a. **Report of missing precursor substance.** A supplier or purchaser who discovers a discrepancy between the quantity of precursor substance shipped and the quantity of precursor substance received shall report the discrepancy to the Bureau of Criminal Apprehension within three days of knowledge of the discrepancy. The report must include:

(1) the complete name and address of the purchaser;

(2) the type of precursor substance missing;

(3) whether the precursor substance is missing due to theft, loss, or shipping discrepancy;

(4) the method of delivery used;

(5) the name of the common carrier or person who transported the substance; and

(6) the date of shipment.

Subd. 3. **Proper identification.** A report submitted by a supplier or purchaser under this section must include:

(1) the purchaser's driver's license number or state identification number and residential or mailing address other than a post office box number taken from the purchaser's driver's license or state identification card, if the purchaser is not an authorized agent;

(2) the motor vehicle license number of the motor vehicle operated by the purchaser at the time of sale, if the purchaser is not an authorized agent;

(3) a complete description of how the precursor substance will be used, if the purchaser is not an authorized agent;

(4) a letter of authorization from the business for which the precursor substance is being furnished, including the state tax identification number and address of the business, a full description of how the precursor substance is to be used, and the signature of the authorized agent for the purchaser;

(5) the signature of the supplier as a witness to the signature and identification of the purchaser;

(6) the type and quantity of the precursor substance;

(7) the method of delivery used; and

(8) the complete name and address of the supplier.

Subd. 4. **Retention of records.** A supplier shall retain a copy of reports filed under subdivisions 1, 2, and 2a for five years. A purchaser shall retain a copy of reports filed under subdivisions 1a and 2a for five years.

Subd. 5. **Inspections.** All records relating to sections 152.0971 to 152.0974 shall be open to inspection by the Bureau of Criminal Apprehension during regular business hours.

Subd. 6. **Penalties.** (a) A person who does not submit a report as required by this section is guilty of a misdemeanor.

(b) A person who knowingly submits a report required by this section with false or fictitious information is guilty of a gross misdemeanor.

(c) A person who is convicted a second or subsequent time of violating paragraph (a) is guilty of a gross misdemeanor if the subsequent offense occurred after the earlier conviction.

History: *1990 c 565 s 24; 1993 c 326 art 3 s 8-14*

152.0974 EXCEPTIONS.

Sections 152.0971 to 152.0974 do not apply to:

(1) a pharmacist or other authorized person who sells or furnishes a precursor substance on the prescription of a physician, dentist, podiatrist, or veterinarian;

(2) a physician, dentist, podiatrist, or veterinarian who administers or furnishes a precursor substance to patients;

(3) a manufacturer or wholesaler licensed by the state Board of Pharmacy who sells, transfers, or otherwise furnishes a precursor substance to a licensed pharmacy, physician, dentist, podiatrist, or veterinarian; or

(4) the furnishing or receipt of a drug that contains ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine and is lawfully furnished over the counter without a prescription under the Federal Food, Drug, and Cosmetic Act, United States Code, title 21, chapter 9, or regulations adopted under that act.

History: *1990 c 565 s 25*

SALES AND RECORDS

152.10 SALES, PERSONS ELIGIBLE.

No person other than a licensed pharmacist, assistant pharmacist or pharmacist intern under the supervision of a pharmacist shall sell a stimulant or depressant drug and then only as provided in sections 152.021 to 152.12 and 152.0262.

History: *(3906-13)1939 c 102 s 3; 1967 c 408 s 5; 1991 c 199 art 2 s 1; 2005 c 136 art 7 s 21*

152.101 MANUFACTURERS, RECORDS.

Subdivision 1. **Preparation of record.** Every person engaged in manufacturing, compounding, processing, selling, delivering or otherwise disposing of any controlled substance shall, upon July 1, 1971, May 1, 1973, and every second year thereafter, prepare a complete and accurate record of all stocks of each controlled substance on hand and shall keep such record for two years. When additional controlled substances are designated after July 1, 1971, a similar record must be prepared upon the effective date of their designation. On and after July 1, 1971, every person manufacturing, compounding or processing any controlled substance shall prepare and keep, for not less than two years, a complete and accurate record of the kind and quantity of each drug manufactured, compounded or processed and the date of such manufacture, compounding, or processing; and every person selling, delivering, or otherwise disposing of any controlled substance shall prepare or obtain, and keep for not less than two years, a complete and accurate record of the kind and quantity of each such controlled substance received, sold, delivered, or otherwise disposed of, the name and address from whom it was received and to whom it was sold, delivered or otherwise disposed of, and the date of such transaction. The form of such records shall be prescribed by the state board of pharmacy.

Subd. 2. **Application to doctors.** This section shall not apply to a licensed doctor of medicine, a doctor of osteopathy duly licensed to practice medicine, a licensed doctor of dentistry, a licensed doctor of podiatry, or licensed doctor of veterinary medicine in the course of that doctor's professional practice, unless such practitioner regularly engages in dispensing any such drugs to the practitioner's patients for which the patients are charged, either separately or together with charges for other professional services.

Subd. 3. **Research exception.** This section shall not apply to a person engaged in bona fide research conducted under an exemption granted under applicable federal law.

History: *1967 c 408 s 6; 1971 c 937 s 14; 1973 c 693 s 6; 1986 c 444*

152.105 DISPOSAL. [AMENDED]

Subdivision 1. **Disposal of controlled substances.** Controlled substances listed in section 152.02, subdivisions 3 to 6, may be collected and disposed of only pursuant to the provisions of Code of Federal Regulations, title 21, parts 1300, 1301, 1304, 1305, 1307, and 1317, that are applicable to the disposal of controlled substances. Disposal of controlled substances and legend and nonlegend drugs must also comply with the requirements of section 116.07 governing the disposal of hazardous waste, and the rules promulgated thereunder.

Subd. 2. **Sheriff to maintain collection receptacle.** The sheriff of each county shall maintain or contract for the maintenance of at least one collection receptacle for the disposal of noncontrolled substances, pharmaceutical controlled substances, and other legend drugs, as permitted by federal law. For purposes of this section, "legend drug" has the meaning given in section 151.01, subdivision 17. The collection receptacle must comply with federal law. In maintaining and operating the collection receptacle, the sheriff shall follow all applicable provisions of Code of Federal Regulations, title 21, parts 1300, 1301, 1304, 1305, 1307, and 1317, as amended through May 1, 2017.

History: *2016 c 124 s 8*

PRESCRIPTIONS

152.11 PRESCRIPTIONS. [NEW SUBD. 4]

Subdivision 1. **General prescription requirements for controlled substances.** (a) A written prescription or an oral prescription reduced to writing, when issued for a controlled substance in Schedule II, III, IV, or V, is void unless (1) it is written in ink and contains the name and address of the person for whose use it is intended; (2) it states the amount of the controlled substance to be compounded or dispensed, with directions for its use; (3) if a written

prescription, it contains the handwritten signature, address, and federal registry number of the prescriber and a designation of the branch of the healing art pursued by the prescriber; and if an oral prescription, the name and address of the prescriber and a designation of the prescriber's branch of the healing art; and (4) it shows the date when signed by the prescriber, or the date of acceptance in the pharmacy if an oral prescription.

(b) An electronic prescription for a controlled substance in Schedule II, III, IV, or V is void unless it complies with the standards established pursuant to section 62J.497 and with those portions of Code of Federal Regulations, title 21, parts 1300, 1304, 1306, and 1311, that pertain to electronic prescriptions.

(c) A prescription for a controlled substance in Schedule II, III, IV, or V that is transmitted by facsimile, either computer to facsimile machine or facsimile machine to facsimile machine, is void unless it complies with the applicable requirements of Code of Federal Regulations, title 21, part 1306.

(d) Every licensed pharmacy that dispenses a controlled substance prescription shall retain the original prescription in a file for a period of not less than two years, open to inspection by any officer of the state, county, or municipal government whose duty it is to aid and assist with the enforcement of this chapter. An original electronic or facsimile prescription may be stored in an electronic database, provided that the database provides a means by which original prescriptions can be retrieved, as transmitted to the pharmacy, for a period of not less than two years.

(e) Every licensed pharmacy shall distinctly label the container in which a controlled substance is dispensed with the directions contained in the prescription for the use of that controlled substance.

Subd. 1a. **Prescription requirements for Schedule II controlled substances.** No person may dispense a controlled substance included in Schedule II of section 152.02 without a prescription issued by a doctor of medicine, a doctor of osteopathy licensed to practice medicine, a doctor of dental surgery, a doctor of dental medicine, a doctor of podiatry, or a doctor of veterinary medicine, lawfully licensed to prescribe in this state or by a practitioner licensed to prescribe controlled substances by the state in which the prescription is issued, and having a current federal Drug Enforcement Administration registration number. The prescription must either be printed or written in ink and contain the handwritten signature of the prescriber or be transmitted electronically or by facsimile as permitted under Subdivision 1. Provided that in emergency situations, as authorized by federal law, such drug may be dispensed upon oral prescription reduced promptly to writing and filed by the pharmacist. Such prescriptions shall be retained in conformity with section 152.101. No prescription for a Schedule II substance may be refilled.

Subd. 2. **Prescription requirements for Schedule III or IV controlled substances.** No person may dispense a controlled substance included in Schedule III or IV of section 152.02 without a prescription issued, as permitted under subdivision 1, by a doctor of medicine, a doctor of osteopathy licensed to practice medicine, a doctor of dental surgery, a doctor of dental medicine, a doctor of podiatry, a doctor of optometry limited to Schedule IV, or a doctor of veterinary medicine, lawfully licensed to prescribe in this state or from a practitioner licensed to prescribe controlled substances by the state in which the prescription is issued, and having a current federal drug enforcement administration registration number. Such prescription may not be dispensed or refilled except with the documented consent of the prescriber, and in no event more than six months after the date on which such prescription was issued and no such prescription may be refilled more than five times.

Subd. 2a. **Federal registration number exemption.** A prescription need not bear a federal drug enforcement administration registration number that authorizes the prescriber to prescribe controlled substances if the drug prescribed is not a controlled substance in Schedule II, III, IV, or V. No person shall impose a requirement inconsistent with this subdivision.

Subd. 2b. **Restriction on release of federal registration number.** No person or entity may offer for sale, sell, lease, or otherwise release a federal drug enforcement administration registration number for any reason, except for drug enforcement purposes authorized by this chapter and the federal controlled substances registration system. For

purposes of this section, an entity includes a state governmental agency or regulatory board, a health plan company as defined under section 62Q.01, subdivision 4, a managed care organization as defined under section 62Q.01, subdivision 5, or any other entity that maintains prescription data.

Subd. 2c. **Restriction on use of federal registration number.** No entity may use a federal drug enforcement administration registration number to identify or monitor the prescribing practices of a prescriber to whom that number has been assigned, except for drug enforcement purposes authorized by this chapter and the federal controlled substances registration system. For purposes of this section, an entity includes a health plan company as defined under section 62Q.01, subdivision 4, a managed care organization as defined under section 62Q.01, subdivision 5, or any other entity that maintains prescription data.

Subd. 2d. **Identification requirement for Schedule II or III controlled substance prescriptions.** (a) No person may dispense a controlled substance included in Schedule II or III without requiring the person purchasing the controlled substance, who need not be the person for whom the controlled substance prescription is written, to present valid photographic identification, unless the person purchasing the controlled substance, or if applicable the person for whom the controlled substance prescription is written, is known to the dispenser.

(b) This subdivision applies only to purchases of controlled substances that are not covered, in whole or in part, by a health plan company or other third-party payor.

Subd. 3. **Dispensing orphan drugs.** For the purpose of this section, nothing shall prohibit the dispensing of orphan drugs prescribed by a person practicing in and licensed by another state as a physician, dentist, veterinarian, or podiatrist; who has a current federal drug enforcement administration registration number; and who may legally prescribe Schedule II, III, IV, or V controlled substances in that state.

Subd. 4. **Limit on quantity of opiates prescribed for acute dental and ophthalmic pain.** (a) When used for the treatment of acute dental pain or acute pain associated with refractive surgery, prescriptions for opiate or narcotic pain relievers listed in Schedules II through IV of section 152.02 shall not exceed a four-day supply. The quantity prescribed shall be consistent with the dosage listed in the professional labeling for the drug that has been approved by the United States Food and Drug Administration.

(b) For the purposes of this subdivision, "acute pain" means pain resulting from disease, accidental or intentional trauma, surgery, or another cause, that the practitioner reasonably expects to last only a short period of time. Acute pain does not include chronic pain or pain being treated as part of cancer care, palliative care, or hospice or other end-of-life care.

(c) Notwithstanding paragraph (a), if in the professional clinical judgment of a practitioner more than a four-day supply of a prescription listed in Schedules II through IV of section 152.02 is required to treat a patient's acute pain, the practitioner may issue a prescription for the quantity needed to treat such acute pain.

History: *(3906-14)1939 c 102 s 4; 1939 c 193 s 4; 1955 c 185 s 2; 1967 c 408 s 7; 1971 c 937 s 15; 1973 c 693 s 7; 1986 c 444; 1993 c 82 s 2; 1994 c 465 art 1 s 23; 1995 c 66 s 1, 2; 1998 c 316 s 1-3; 2003 c 62 s 8; 2004 c 242 s 1, 2; 2007 c 147 art 11 s 6; art 12 s 8; 2012 c 246 s 1*

152.12 HEALTH CARE PROVIDERS MAY PRESCRIBE.

Subdivision 1. **Prescribing, dispensing, administering controlled substances in Schedules II through V.** A licensed doctor of medicine, a doctor of osteopathy, duly licensed to practice medicine, a doctor of dental surgery, a doctor of dental medicine, a licensed doctor of podiatry, a licensed advanced practice registered nurse, or a licensed doctor of optometry limited to Schedules IV and V, and in the course of professional practice only, may prescribe, administer, and dispense a controlled substance included in Schedules II through V of section 152.02, may cause the same to be administered by a nurse, an intern or an assistant under the direction and supervision of the doctor, and

may cause a person who is an appropriately certified and licensed health care professional to prescribe and administer the same within the expressed legal scope of the person's practice as defined in Minnesota Statutes.

Subd. 2. **Doctor of veterinary medicine.** A licensed doctor of veterinary medicine, in good faith, and in the course of professional practice only, and not for use by a human being, may prescribe, administer, and dispense a controlled substance included in Schedules II through V of section 152.02, and may cause the same to be administered by an assistant under the direction and supervision of the doctor.

Subd. 3. **Research project use of controlled substances.** Any qualified person may use controlled substances in the course of a bona fide research project but cannot administer or dispense such drugs to human beings unless such drugs are prescribed, dispensed and administered by a person lawfully authorized to do so. Every person who engages in research involving the use of such substances shall apply annually for registration by the state Board of Pharmacy and shall pay any applicable fee specified in section 151.065, provided that such registration shall not be required if the person is covered by and has complied with federal laws covering such research projects.

Subd. 4. **Sale of controlled substances not prohibited for certain persons and entities.** Nothing in this chapter shall prohibit the sale to, or the possession of, a controlled substance in Schedule II, III, IV or V by: Registered drug wholesalers, registered manufacturers, registered pharmacies, or any licensed hospital or other licensed institutions wherein sick and injured persons are cared for or treated, or bona fide hospitals wherein animals are treated; or by licensed pharmacists, licensed doctors of medicine, doctors of osteopathy duly licensed to practice medicine, licensed doctors of dental surgery, licensed doctors of dental medicine, licensed doctors of podiatry, licensed doctors of optometry limited to Schedules IV and V, or licensed doctors of veterinary medicine when such practitioners use controlled substances within the course of their professional practice only.

Nothing in this chapter shall prohibit the possession of a controlled substance in Schedule II, III, IV or V by an employee or agent of a registered drug wholesaler, registered manufacturer, or registered pharmacy, while acting in the course of employment; by a patient of a licensed doctor of medicine, a doctor of osteopathy duly licensed to practice medicine, a licensed doctor of dental surgery, a licensed doctor of dental medicine, or a licensed doctor of optometry limited to Schedules IV and V; or by the owner of an animal for which a controlled substance has been prescribed by a licensed doctor of veterinary medicine, when such controlled substances are dispensed according to law.

Subd. 5. **Analytical laboratory not prohibited from providing anonymous analysis service.** Nothing in this chapter shall prohibit an analytical laboratory from conducting an anonymous analysis service when such laboratory is registered by the Federal Drug Enforcement Administration, nor prohibit the possession of a controlled substance by an employee or agent of such analytical laboratory while acting in the course of employment.

History: *(3906-15)1939 c 102 s 5; 1967 c 408 s 8; 1971 c 937 s 16; 1973 c 693 s 8, 9; 1974 c 369 s 2; 1986 c 444; 1988 c 440 s 3; 2003 c 62 s 9, 10; 1Sp2011 c 9 art 5 s 27; 2014 c 235 s 39*

152.125 INTRACTABLE PAIN.

Subdivision 1. **Definition.** For purposes of this section, "intractable pain" means a pain state in which the cause of the pain cannot be removed or otherwise treated with the consent of the patient and in which, in the generally accepted course of medical practice, no relief or cure of the cause of the pain is possible, or none has been found after reasonable efforts. Reasonable efforts for relieving or curing the cause of the pain may be determined on the basis of, but are not limited to, the following:

(1) when treating a nonterminally ill patient for intractable pain, evaluation by the attending physician and one or more physicians specializing in pain medicine or the treatment of the area, system, or organ of the body perceived as the source of the pain; or

(2) when treating a terminally ill patient, evaluation by the attending physician who does so in accordance with the level of care, skill, and treatment that would be recognized by a reasonably prudent physician under similar conditions and circumstances.

Subd. 2. **Prescription and administration of controlled substances for intractable pain.** Notwithstanding any other provision of this chapter, a physician may prescribe or administer a controlled substance in Schedules II to V of section 152.02 to an individual in the course of the physician's treatment of the individual for a diagnosed condition causing intractable pain. No physician shall be subject to disciplinary action by the Board of Medical Practice for appropriately prescribing or administering a controlled substance in Schedules II to V of section 152.02 in the course of treatment of an individual for intractable pain, provided the physician keeps accurate records of the purpose, use, prescription, and disposal of controlled substances, writes accurate prescriptions, and prescribes medications in conformance with chapter 147.

Subd. 3. **Limits on applicability.** This section does not apply to:

(1) a physician's treatment of an individual for chemical dependency resulting from the use of controlled substances in Schedules II to V of section 152.02;

(2) the prescription or administration of controlled substances in Schedules II to V of section 152.02 to an individual whom the physician knows to be using the controlled substances for nontherapeutic purposes;

(3) the prescription or administration of controlled substances in Schedules II to V of section 152.02 for the purpose of terminating the life of an individual having intractable pain; or

(4) the prescription or administration of a controlled substance in Schedules II to V of section 152.02 that is not a controlled substance approved by the United States Food and Drug Administration for pain relief.

Subd. 4. **Notice of risks.** Prior to treating an individual for intractable pain in accordance with subdivision 2, a physician shall discuss with the individual the risks associated with the controlled substances in Schedules II to V of section 152.02 to be prescribed or administered in the course of the physician's treatment of an individual, and document the discussion in the individual's record.

History: *1997 c 124 s 1*

152.126 PRESCRIPTION MONITORING PROGRAM.

Subdivision 1. **Definitions.** (a) For purposes of this section, the terms defined in this subdivision have the meanings given.

(b) "Board" means the Minnesota State Board of Pharmacy established under chapter 151.

(c) "Controlled substances" means those substances listed in section 152.02, subdivisions 3 to 6, and those substances defined by the board pursuant to section 152.02, subdivisions 7, 8, and 12. For the purposes of this section, controlled substances includes butalbital and gabapentin.

(d) "Dispense" or "dispensing" has the meaning given in section 151.01, subdivision 30. Dispensing does not include the direct administering of a controlled substance to a patient by a licensed health care professional.

(e) "Dispenser" means a person authorized by law to dispense a controlled substance, pursuant to a valid prescription. For the purposes of this section, a dispenser does not include a licensed hospital pharmacy that distributes controlled substances for inpatient hospital care or a veterinarian who is dispensing prescriptions under section 156.18.

(f) "Prescriber" means a licensed health care professional who is authorized to prescribe a controlled substance under section 152.12, subdivision 1 or 2.

(g) "Prescription" has the meaning given in section 151.01, subdivision 16a.

Subd. 1a. **Treatment of intractable pain.** This section is not intended to limit or interfere with the legitimate prescribing of controlled substances for pain. No prescriber shall be subject to disciplinary action by a health-related licensing board for prescribing a controlled substance according to the provisions of section 152.125.

Subd. 2. **Prescription electronic reporting system.** (a) The board shall establish by January 1, 2010, an electronic system for reporting the information required under subdivision 4 for all controlled substances dispensed within the state.

(b) The board may contract with a vendor for the purpose of obtaining technical assistance in the design, implementation, operation, and maintenance of the electronic reporting system.

Subd. 3. **Prescription Monitoring Program Advisory Task Force.** (a) The board shall appoint an advisory task force consisting of at least one representative of:

(1) the Department of Health;

(2) the Department of Human Services;

(3) each health-related licensing board that licenses prescribers;

(4) a professional medical association, which may include an association of pain management and chemical dependency specialists;

(5) a professional pharmacy association;

(6) a professional nursing association;

(7) a professional dental association;

(8) a consumer privacy or security advocate;

(9) a consumer or patient rights organization; and

(10) an association of medical examiners and coroners.

(b) The advisory task force shall advise the board on the development and operation of the prescription monitoring program, including, but not limited to:

(1) technical standards for electronic prescription drug reporting;

(2) proper analysis and interpretation of prescription monitoring data;

(3) an evaluation process for the program; and

(4) criteria for the unsolicited provision of prescription monitoring data by the board to prescribers and dispensers.

(c) The task force is governed by section 15.059. Notwithstanding any other provisions of law to the contrary, the task force shall not expire.

Subd. 4. **Reporting requirements; notice.** (a) Each dispenser must submit the following data to the board or its designated vendor:

(1) name of the prescriber;

(2) national provider identifier of the prescriber;

(3) name of the dispenser;

(4) national provider identifier of the dispenser;

(5) prescription number;

(6) name of the patient for whom the prescription was written;

(7) address of the patient for whom the prescription was written;

(8) date of birth of the patient for whom the prescription was written;

(9) date the prescription was written;

(10) date the prescription was filled;

(11) name and strength of the controlled substance;

(12) quantity of controlled substance prescribed;

(13) quantity of controlled substance dispensed; and

(14) number of days supply.

(b) The dispenser must submit the required information by a procedure and in a format established by the board. The board may allow dispensers to omit data listed in this subdivision or may require the submission of data not listed in this subdivision provided the omission or submission is necessary for the purpose of complying with the electronic reporting or data transmission standards of the American Society for Automation in Pharmacy, the National Council on Prescription Drug Programs, or other relevant national standard-setting body.

(c) A dispenser is not required to submit this data for those controlled substance prescriptions dispensed for:

(1) individuals residing in a health care facility as defined in section 151.58, subdivision 2, paragraph (b), when a drug is distributed through the use of an automated drug distribution system according to section 151.58; and

(2) individuals receiving a drug sample that was packaged by a manufacturer and provided to the dispenser for dispensing as a professional sample pursuant to Code of Federal Regulations, title 21, part 203, subpart D.

(d) A dispenser must provide to the patient for whom the prescription was written a conspicuous notice of the reporting requirements of this section and notice that the information may be used for program administration purposes.

Subd. 5. **Use of data by board.** (a) The board shall develop and maintain a database of the data reported under subdivision 4. The board shall maintain data that could identify an individual prescriber or dispenser in encrypted form. Except as otherwise allowed under subdivision 6, the database may be used by permissible users identified under subdivision 6 for the identification of:

(1) individuals receiving prescriptions for controlled substances from prescribers who subsequently obtain controlled substances from dispensers in quantities or with a frequency inconsistent with generally recognized standards of use for those controlled substances, including standards accepted by national and international pain management associations; and

(2) individuals presenting forged or otherwise false or altered prescriptions for controlled substances to dispensers.

(b) No permissible user identified under subdivision 6 may access the database for the sole purpose of identifying prescribers of controlled substances for unusual or excessive prescribing patterns without a valid search warrant or court order.

(c) No personnel of a state or federal occupational licensing board or agency may access the database for the purpose of obtaining information to be used to initiate a disciplinary action against a prescriber.

(d) Data reported under subdivision 4 shall be made available to permissible users for a 12-month period beginning the day the data was received and ending 12 months from the last day of the month in which the data was received, except that permissible users defined in subdivision 6, paragraph (b), clauses (6) and (7), may use all data collected under this section for the purposes of administering, operating, and maintaining the prescription monitoring program and conducting trend analyses and other studies necessary to evaluate the effectiveness of the program.

(e) Data reported during the period January 1, 2015, through December 31, 2018, may be retained through December 31, 2019, in an identifiable manner. Effective January 1, 2020, data older than 24 months must be destroyed. Data reported on or after January 1, 2020, must be destroyed no later than 12 months from the date the data was received.

Subd. 6. **Access to reporting system data.** (a) Except as indicated in this subdivision, the data submitted to the board under subdivision 4 is private data on individuals as defined in section 13.02, subdivision 12, and not subject to public disclosure.

(b) Except as specified in subdivision 5, the following persons shall be considered permissible users and may access the data submitted under subdivision 4 in the same or similar manner, and for the same or similar purposes, as those persons who are authorized to access similar private data on individuals under federal and state law:

(1) a prescriber or an agent or employee of the prescriber to whom the prescriber has delegated the task of accessing the data, to the extent the information relates specifically to a current patient, to whom the prescriber is:

(i) prescribing or considering prescribing any controlled substance;

(ii) providing emergency medical treatment for which access to the data may be necessary;

(iii) providing care, and the prescriber has reason to believe, based on clinically valid indications, that the patient is potentially abusing a controlled substance; or

(iv) providing other medical treatment for which access to the data may be necessary for a clinically valid purpose and the patient has consented to access to the submitted data, and with the provision that the prescriber remains responsible for the use or misuse of data accessed by a delegated agent or employee;

(2) a dispenser or an agent or employee of the dispenser to whom the dispenser has delegated the task of accessing the data, to the extent the information relates specifically to a current patient to whom that dispenser is dispensing or considering dispensing any controlled substance and with the provision that the dispenser remains responsible for the use or misuse of data accessed by a delegated agent or employee;

(3) a licensed pharmacist who is providing pharmaceutical care for which access to the data may be necessary to the extent that the information relates specifically to a current patient for whom the pharmacist is providing pharmaceutical care: (i) if the patient has consented to access to the submitted data; or (ii) if the pharmacist is consulted by a prescriber who is requesting data in accordance with clause (1);

(4) an individual who is the recipient of a controlled substance prescription for which data was submitted under subdivision 4, or a guardian of the individual, parent or guardian of a minor, or health care agent of the individual acting under a health care directive under chapter 145C;

(5) personnel or designees of a health-related licensing board listed in section 214.01, subdivision 2, or of the Emergency Medical Services Regulatory Board, assigned to conduct a bona fide investigation of a complaint received by that board that alleges that a specific licensee is impaired by use of a drug for which data is collected under subdivision 4, has engaged in activity that would constitute a crime as defined in section 152.025, or has engaged in the behavior specified in subdivision 5, paragraph (a);

(6) personnel of the board engaged in the collection, review, and analysis of controlled substance prescription information as part of the assigned duties and responsibilities under this section;

(7) authorized personnel of a vendor under contract with the state of Minnesota who are engaged in the design, implementation, operation, and maintenance of the prescription monitoring program as part of the assigned duties and responsibilities of their employment, provided that access to data is limited to the minimum amount necessary to carry out such duties and responsibilities, and subject to the requirement of de-identification and time limit on retention of data specified in subdivision 5, paragraphs (d) and (e);

(8) federal, state, and local law enforcement authorities acting pursuant to a valid search warrant;

(9) personnel of the Minnesota health care programs assigned to use the data collected under this section to identify and manage recipients whose usage of controlled substances may warrant restriction to a single primary care provider, a single outpatient pharmacy, and a single hospital;

(10) personnel of the Department of Human Services assigned to access the data pursuant to paragraph (i);

(11) personnel of the health professionals services program established under section 214.31, to the extent that the information relates specifically to an individual who is currently enrolled in and being monitored by the program, and the individual consents to access to that information. The health professionals services program personnel shall not provide this data to a health-related licensing board or the Emergency Medical Services Regulatory Board, except as permitted under section 214.33, subdivision 3.

For purposes of clause (4), access by an individual includes persons in the definition of an individual under section 13.02; and

(12) personnel or designees of a health-related licensing board listed in section 214.01, subdivision 2, assigned to conduct a bona fide investigation of a complaint received by that board that alleges that a specific licensee is inappropriately prescribing controlled substances as defined in this section.

(c) By July 1, 2017, every prescriber licensed by a health-related licensing board listed in section 214.01, subdivision 2, practicing within this state who is authorized to prescribe controlled substances for humans and who holds a current registration issued by the federal Drug Enforcement Administration, and every pharmacist licensed by the board and practicing within the state, shall register and maintain a user account with the prescription monitoring program. Data submitted by a prescriber, pharmacist, or their delegate during the registration application process, other than their name, license number, and license type, is classified as private pursuant to section 13.02, subdivision 12.

(d) Only permissible users identified in paragraph (b), clauses (1), (2), (3), (6), (7), (9), and (10), may directly access the data electronically. No other permissible users may directly access the data electronically. If the data is directly accessed electronically, the permissible user shall implement and maintain a comprehensive information security program that contains administrative, technical, and physical safeguards that are appropriate to the user's size and complexity, and the sensitivity of the personal information obtained. The permissible user shall identify reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of personal information that could result in the unauthorized disclosure, misuse, or other compromise of the information and assess the sufficiency of any safeguards in place to control the risks.

(e) The board shall not release data submitted under subdivision 4 unless it is provided with evidence, satisfactory to the board, that the person requesting the information is entitled to receive the data.

(f) The board shall maintain a log of all persons who access the data for a period of at least three years and shall ensure that any permissible user complies with paragraph (c) prior to attaining direct access to the data.

(g) Section 13.05, subdivision 6, shall apply to any contract the board enters into pursuant to subdivision 2. A vendor shall not use data collected under this section for any purpose not specified in this section.

(h) The board may participate in an interstate prescription monitoring program data exchange system provided that permissible users in other states have access to the data only as allowed under this section, and that section 13.05, subdivision 6, applies to any contract or memorandum of understanding that the board enters into under this paragraph.

(i) With available appropriations, the commissioner of human services shall establish and implement a system through which the Department of Human Services shall routinely access the data for the purpose of determining whether any client enrolled in an opioid treatment program licensed according to chapter 245A has been prescribed or dispensed a controlled substance in addition to that administered or dispensed by the opioid treatment program. When the commissioner determines there have been multiple prescribers or multiple prescriptions of controlled substances, the commissioner shall:

(1) inform the medical director of the opioid treatment program only that the commissioner determined the existence of multiple prescribers or multiple prescriptions of controlled substances; and

(2) direct the medical director of the opioid treatment program to access the data directly, review the effect of the multiple prescribers or multiple prescriptions, and document the review.

If determined necessary, the commissioner of human services shall seek a federal waiver of, or exception to, any applicable provision of Code of Federal Regulations, title 42, section 2.34, paragraph (c), prior to implementing this paragraph.

(j) The board shall review the data submitted under subdivision 4 on at least a quarterly basis and shall establish criteria, in consultation with the advisory task force, for referring information about a patient to prescribers and dispensers who prescribed or dispensed the prescriptions in question if the criteria are met.

Subd. 7. **Disciplinary action.** (a) A dispenser who knowingly fails to submit data to the board as required under this section is subject to disciplinary action by the appropriate health-related licensing board.

(b) A prescriber or dispenser authorized to access the data who knowingly discloses the data in violation of state or federal laws relating to the privacy of health care data shall be subject to disciplinary action by the appropriate health-related licensing board, and appropriate civil penalties.

Subd. 8. [Repealed by amendment, 2014 c 291 art 2 s 3]

Subd. 9. **Immunity from liability; no requirement to obtain information.** (a) A pharmacist, prescriber, or other dispenser making a report to the program in good faith under this section is immune from any civil, criminal, or administrative liability, which might otherwise be incurred or imposed as a result of the report, or on the basis that the pharmacist or prescriber did or did not seek or obtain or use information from the program.

(b) Nothing in this section shall require a pharmacist, prescriber, or other dispenser to obtain information about a patient from the program, and the pharmacist, prescriber, or other dispenser, if acting in good faith, is immune from any civil, criminal, or administrative liability that might otherwise be incurred or imposed for requesting, receiving, or using information from the program.

Subd. 10. **Funding.** (a) The board may seek grants and private funds from nonprofit charitable foundations, the federal government, and other sources to fund the enhancement and ongoing operations of the prescription monitoring program established under this section. Any funds received shall be appropriated to the board for this purpose. The board may not expend funds to enhance the program in a way that conflicts with this section without seeking approval from the legislature.

(b) Notwithstanding any other section, the administrative services unit for the health-related licensing boards shall apportion between the Board of Medical Practice, the Board of Nursing, the Board of Dentistry, the Board of Podiatric Medicine, the Board of Optometry, the Board of Veterinary Medicine, and the Board of Pharmacy an

amount to be paid through fees by each respective board. The amount apportioned to each board shall equal each board's share of the annual appropriation to the Board of Pharmacy from the state government special revenue fund for operating the prescription monitoring program under this section. Each board's apportioned share shall be based on the number of prescribers or dispensers that each board identified in this paragraph licenses as a percentage of the total number of prescribers and dispensers licensed collectively by these boards. Each respective board may adjust the fees that the boards are required to collect to compensate for the amount apportioned to each board by the administrative services unit.

History: *2007 c 147 art 11 s 7; 2008 c 321 s 7; 2009 c 79 art 11 s 9-11; 1Sp2010 c 1 art 19 s 3; 2013 c 113 art 3 s 3; 2014 c 275 art 1 s 32; 2014 c 286 art 7 s 4,13; art 8 s 39; 2014 c 291 art 2 s 3; 2016 c 185 s 1-5*

152.13 DUTIES OF STATE BOARD OF PHARMACY.

It shall be the duty of the state board to enforce the provisions of this chapter, and the power and authority of the board, as now defined by the laws of this state, are hereby extended so as to be commensurate with the duties hereby imposed.

History: *(3899-10)1921 c 190 s 10; 1967 c 408 s 9*

152.135 RESTRICTIONS ON SALES, MARKETING, AND POSSESSION OF EPHEDRINE.

Subdivision 1. **Prescription status for ephedrine.** Except as provided in this section, a material, compound, mixture, or preparation that contains any quantity of ephedrine, a salt of ephedrine, an optical isomer of ephedrine, or a salt of an optical isomer of ephedrine, may be dispensed only upon the prescription of a duly licensed practitioner authorized by the laws of the state to prescribe prescription drugs.

Subd. 2. **Exceptions.** (a) A drug product containing ephedrine, its salts, optical isomers, and salts of optical isomers is exempt from subdivision 1 if the drug product:

(1) may be lawfully sold over the counter without a prescription under the Federal Food, Drug, and Cosmetic Act, United States Code, title 21, section 321, et seq.;

(2) is labeled and marketed in a manner consistent with the pertinent OTC Tentative Final or Final Monograph;

(3) is manufactured and distributed for legitimate medicinal use in a manner that reduces or eliminates the likelihood of abuse;

(4) is not marketed, advertised, or labeled for the indication of stimulation, mental alertness, weight loss, muscle enhancement, appetite control, or energy;

(5) is in solid oral dosage forms, including soft gelatin caplets, that combine 400 milligrams of guaifenesin and 25 milligrams of ephedrine per dose, according to label instructions; or is an anorectal preparation containing not more than five percent ephedrine; and

(6) is sold in a manner that does not conflict with section 152.02, subdivision 6.

(b) Subdivisions 1 and 3 shall not apply to products containing ephedra or ma huang and lawfully marketed as dietary supplements under federal law.

Subd. 3. **Mismarketing of ephedrine prohibited.** The marketing, advertising, or labeling of a product containing ephedrine, a salt of ephedrine, an optical isomer of ephedrine, or a salt of an optical isomer of ephedrine for the indication of stimulation, mental alertness, weight loss, appetite control, or energy, is prohibited. In determining compliance with this subdivision, the following factors may be considered:

(1) the packaging of the drug product;

(2) the name and labeling of the product;

(3) the manner of distribution, advertising, and promotion of the product;

(4) verbal representations made concerning the product; and

(5) the duration, scope, and significance of abuse or misuse of the product.

Subd. 4. [Repealed, 1Sp2003 c 2 art 8 s 19]

Subd. 5. **Sales for illicit purposes prohibited.** It is unlawful for a person to sell, distribute, or otherwise make available a product containing ephedrine, pseudoephedrine, or phenylpropanolamine or their salts, optical isomers, or salts of optical isomers if the person knows or reasonably should know that the product will be used as a precursor to an illegal substance.

Subd. 6. **Penalty.** A person who violates this section is guilty of a misdemeanor.

History: *1998 c 367 art 4 s 6; 2005 c 136 art 7 s 10*

ANHYDROUS AMMONIA

152.136 ANHYDROUS AMMONIA; PROHIBITED CONDUCT; CRIMINAL PENALTIES; CIVIL LIABILITY.

Subdivision 1. **Definitions.** As used in this section, "tamper" means action taken by a person not authorized to take that action by law or by the owner or authorized custodian of an anhydrous ammonia container or of equipment where anhydrous ammonia is used, stored, distributed, or transported.

Subd. 2. **Prohibited conduct.** (a) A person may not:

(1) steal or unlawfully take or carry away any amount of anhydrous ammonia;

(2) purchase, possess, transfer, or distribute any amount of anhydrous ammonia, knowing, or having reason to know, that it will be used to unlawfully manufacture a controlled substance;

(3) place, have placed, or possess anhydrous ammonia in a container that is not designed, constructed, maintained, and authorized to contain or transport anhydrous ammonia;

(4) transport anhydrous ammonia in a container that is not designed, constructed, maintained, and authorized to transport anhydrous ammonia;

(5) use, deliver, receive, sell, or transport a container designed and constructed to contain anhydrous ammonia without the express consent of the owner or authorized custodian of the container; or

(6) tamper with any equipment or facility used to contain, store, or transport anhydrous ammonia.

(b) For the purposes of this subdivision, containers designed and constructed for the storage and transport of anhydrous ammonia are described in rules adopted under section 18C.121, subdivision 1, or in Code of Federal Regulations, title 49.

Subd. 3. **No cause of action.** (a) Except as provided in paragraph (b), a person tampering with anhydrous ammonia containers or equipment under subdivision 2 shall have no cause of action for damages arising out of the tampering against:

(1) the owner or lawful custodian of the container or equipment;

(2) a person responsible for the installation or maintenance of the container or equipment; or

(3) a person lawfully selling or offering for sale the anhydrous ammonia.

(b) Paragraph (a) does not apply to a cause of action against a person who unlawfully obtained the anhydrous ammonia or anhydrous ammonia container or who possesses the anhydrous ammonia or anhydrous ammonia container for any unlawful purpose.

Subd. 4. **Criminal penalty.** A person who knowingly violates subdivision 2 is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $50,000, or both.

History: *2005 c 136 art 7 s 11*

METHAMPHETAMINE-RELATED CRIMES; CHILDREN AND VULNERABLE ADULTS

152.137 METHAMPHETAMINE-RELATED CRIMES INVOLVING CHILDREN AND VULNERABLE ADULTS.

Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the meanings given.

(b) "Chemical substance" means a substance intended to be used as a precursor in the manufacture of methamphetamine or any other chemical intended to be used in the manufacture of methamphetamine.

(c) "Child" means any person under the age of 18 years.

(d) "Methamphetamine paraphernalia" means all equipment, products, and materials of any kind that are used, intended for use, or designed for use in manufacturing, injecting, ingesting, inhaling, or otherwise introducing methamphetamine into the human body.

(e) "Methamphetamine waste products" means substances, chemicals, or items of any kind used in the manufacture of methamphetamine or any part of the manufacturing process, or the by-products or degradates of manufacturing methamphetamine.

(f) "Vulnerable adult" has the meaning given in section 609.232, subdivision 11.

Subd. 2. **Prohibited conduct.** (a) No person may knowingly engage in any of the following activities in the presence of a child or vulnerable adult; in the residence of a child or a vulnerable adult; in a building, structure, conveyance, or outdoor location where a child or vulnerable adult might reasonably be expected to be present; in a room offered to the public for overnight accommodation; or in any multiple unit residential building:

(1) manufacturing or attempting to manufacture methamphetamine;

(2) storing any chemical substance;

(3) storing any methamphetamine waste products; or

(4) storing any methamphetamine paraphernalia.

(b) No person may knowingly cause or permit a child or vulnerable adult to inhale, be exposed to, have contact with, or ingest methamphetamine, a chemical substance, or methamphetamine paraphernalia.

Subd. 3. **Criminal penalty.** A person who violates subdivision 2 is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

Subd. 4. **Multiple sentences.** Notwithstanding sections 609.035 and 609.04, a prosecution for or conviction under this section is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Subd. 5. **Protective custody.** A peace officer may take any child present in an area where any of the activities described in subdivision 2, paragraph (a), clauses (1) to (4), are taking place into protective custody in accordance

with section 260C.175, subdivision 1, clause (2), item (ii). A child taken into protective custody under this subdivision shall be provided health screening to assess potential health concerns related to methamphetamine as provided in section 260C.188. A child not taken into protective custody under this subdivision but who is known to have been exposed to methamphetamine shall be offered health screening for potential health concerns related to methamphetamine as provided in section 260C.188.

Subd. 6. **Reporting maltreatment of vulnerable adult.** (a) A peace officer shall make a report of suspected maltreatment of a vulnerable adult if the vulnerable adult is present in an area where any of the activities described in subdivision 2, paragraph (a), clauses (1) to (4), are taking place, and the peace officer has reason to believe the vulnerable adult inhaled, was exposed to, had contact with, or ingested methamphetamine, a chemical substance, or methamphetamine paraphernalia. The peace officer shall immediately report to the county common entry point as described in section 626.557, subdivision 9b.

(b) As required in section 626.557, subdivision 9b, law enforcement is the primary agency to conduct investigations of any incident when there is reason to believe a crime has been committed. Law enforcement shall initiate a response immediately. If the common entry point notified a county agency for adult protective services, law enforcement shall cooperate with that county agency when both agencies are involved and shall exchange data to the extent authorized in section 626.557, subdivision 12b, paragraph (g). County adult protection shall initiate a response immediately.

(c) The county social services agency shall immediately respond as required in section 626.557, subdivision 10, upon receipt of a report from the common entry point staff.

History: *2005 c 136 art 7 s 12*

STAY; DISMISSAL; EXPUNGEMENT; OTHER LAW

152.152 STAYED SENTENCE LIMITED.

If a person is convicted under section 152.021, 152.022, 152.023, or 152.0262, and the Sentencing Guidelines grid calls for a presumptive prison sentence for the offense, the court may stay imposition or execution of the sentence only as provided in this section. The sentence may be stayed based on amenability to probation only if the offender presents adequate evidence to the court that the offender has been accepted by, and can respond to, a treatment program that has been approved by the commissioner of human services. The court may impose a sentence that is a mitigated dispositional departure on any other ground only if the court includes as a condition of probation incarceration in a local jail or workhouse.

History: *1989 c 290 art 3 s 20; 2005 c 136 art 7 s 21*

152.18 DISCHARGE AND DISMISSAL.

Subdivision 1. **Deferring prosecution for certain first time drug offenders.** (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, 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;

(2) has not previously been placed on probation without a judgment of guilty and thereafter been discharged from probation under this section; 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 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 may give the person the opportunity to attend and participate in an appropriate program of education regarding the nature and effects of alcohol and drug abuse as a stipulation of probation. Upon violation of a condition of the probation, the court may enter an adjudication of guilt and proceed as otherwise provided. The court may, in its discretion, dismiss the proceedings against the person and discharge the person from probation before the expiration of the maximum period prescribed for the person's probation. If during the period of probation the person does not violate any of the conditions of the probation, then upon expiration of the period the court shall discharge the person and dismiss the proceedings against that person. Discharge and dismissal under this subdivision shall be without court adjudication of guilt, but a not public record of it shall be retained by the Bureau of Criminal Apprehension for the purpose of use by the courts in determining the merits of subsequent proceedings against the person. The not public record may also be opened only upon court order for purposes of a criminal investigation, prosecution, or sentencing. Upon request by law enforcement, prosecution, or corrections authorities, the bureau shall notify the requesting party of the existence of the not public record and the right to seek a court order to open it pursuant to this section. The court shall forward a record of any discharge and dismissal under this subdivision to the bureau which shall make and maintain the not public record of it as provided under this subdivision. The discharge or dismissal shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime or for any other purpose.

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

Subd. 2. [Repealed, 1996 c 408 art 9 s 10]

Subd. 3. **Expungement of certain marijuana offenses.** Any person who has been found guilty of a violation of section 152.09 with respect to a small amount of marijuana which violation occurred prior to April 11, 1976, and whose conviction would have been a petty misdemeanor under the provisions of section 152.15, subdivision 2, clause (5) in effect on April 11, 1978, but whose conviction was for an offense more serious than a petty misdemeanor under laws in effect prior to April 11, 1976, may petition the court in which the person was convicted to expunge from all official records, other than the nonpublic record retained by the Department of Public Safety pursuant to section 152.15, subdivision 2, clause (5), all recordation relating to the person's arrest, indictment or information, trial and conviction of an offense more serious than a petty misdemeanor. The court, upon being satisfied that a small amount was involved in the conviction, shall order all the recordation expunged. No person as to whom an order has been entered pursuant to this subdivision shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of the person's failure to recite or acknowledge conviction of an offense greater than a petty misdemeanor, unless possession of marijuana is material to a proceeding.

History: *1971 c 937 s 18; 1973 c 693 s 14; 1978 c 639 s 1; 1986 c 444; 1989 c 290 art 3 s 21; 1992 c 569 s 13; 1993 c 326 art 13 s 11; 1995 c 226 art 2 s 2; 1996 c 408 art 9 s 2; 2012 c 240 s 3; 2016 c 160 s 10*

152.20 PENALTIES UNDER OTHER LAWS.

Any penalty imposed for violation of this chapter is in addition to, and not in lieu of, any civil or administrative penalty or sanction otherwise authorized by law.

History: *1971 c 937 s 20; 1989 c 290 art 3 s 22*

152.205 LOCAL REGULATIONS.

Sections 152.01, subdivision 18, and 152.092 to 152.095 do not preempt enforcement or preclude adoption of municipal or county ordinances prohibiting or otherwise regulating the manufacture, delivery, possession, or advertisement of drug paraphernalia.

History: *1982 c 557 s 11; 1988 c 665 s 1*

THERAPEUTIC RESEARCH ACT; MEDICAL CANNABIS

152.21 THC THERAPEUTIC RESEARCH ACT.

Subdivision 1. **Findings and purpose.** The legislature finds that scientific literature indicates promise for delta-9-tetrahydro-cannabinol (THC), the active component of marijuana, in alleviating certain side effects of cancer chemotherapy under strictly controlled medical circumstances.

The legislature also finds that further research and strictly controlled experimentation regarding the therapeutic use of THC is necessary and desirable. The intent of this section is to establish an extensive research program to investigate and report on the therapeutic effects of THC under strictly controlled circumstances in compliance with all federal laws and regulations promulgated by the federal Food and Drug Administration, the National Institute on Drug Abuse and the Drug Enforcement Administration. The intent of the legislature is to allow this research program the greatest possible access to qualified cancer patients residing in Minnesota who meet protocol requirements. The establishment of this research program is not intended in any manner whatsoever to condone or promote the illicit recreational use of marijuana.

Subd. 2. **Definitions.** For purposes of this section, the following terms shall have the meanings given.

(a) "Commissioner" means the commissioner of health.

(b) "Marijuana" means marijuana as defined in section 152.01, subdivision 9, and delta-9-tetrahydro-cannabinol (THC), tetrahydrocannabinols or a chemical derivative of tetrahydrocannabinols, and all species of the genus Cannabis.

(c) "Principal investigator" means the individual responsible for the medical and scientific aspects of the research, development of protocol, and contacting and qualifying the clinical investigators in the state.

(d) "Clinical investigators" means those individuals who conduct the clinical trials.

(e) "Sponsor" means that individual or organization who, acting on behalf of the state, has the total responsibility for the state program.

Subd. 3. **Research grant.** The commissioner of health shall grant funds to the principal investigator selected by the commissioner pursuant to subdivision 4 for the purpose of conducting a research program under a protocol approved by the FDA regarding the therapeutic use of oral THC and other dosage forms, if available, according to the guidelines and requirements of the federal Food and Drug Administration, the Drug Enforcement Administration and the National Institute on Drug Abuse. The commissioner shall ensure that the research principal investigator complies with the requirements of subdivision 5. The commissioner may designate the principal investigator as the sponsor.

Subd. 4. **Principal investigator.** Within three months of April 25, 1980, the commissioner shall, in consultation with a representative chosen by the state Board of Pharmacy and a representative chosen by the state Board of Medical Examiners, select a person or research organization to be the principal investigator of the research program.

Subd. 5. **Duties.** The principal investigator shall:

(1) Apply to the Food and Drug Administration for a notice of "Claimed Investigational Exemption for a New Drug (IND)" pursuant to the Federal Food, Drug and Cosmetic Act, United States Code, title 21, section 301, et seq., and shall comply with all applicable laws and regulations of the federal Food and Drug Administration, the Drug Enforcement Administration, and the National Institute on Drug Abuse in establishing the program;

(2) Notify every oncologist in the state of the program, explain the purposes and requirements of the program to them, provide on request each of them with a copy of the approved protocol which shall include summaries of current papers in medical journals reporting on research concerning the safety, efficacy and appropriate use of THC in alleviating the nausea and emetic effects of cancer chemotherapy, and provide on request each of them with a bibliography of other articles published in medical journals;

(3) Allow each oncologist (clinical investigator) in the state who meets or agrees to meet all applicable federal requirements for investigational new drug research and who so requests to be included in the research program as a clinical investigator to conduct the clinical trials;

(4) Provide explanatory information and assistance to each clinical investigator in understanding the nature of therapeutic use of THC within program requirements, including the informed consent document contained in the protocol, informing and counseling patients involved in the program regarding the appropriate use and the effects of therapeutic use of THC;

(5) Apply to contract with the National Institute on Drug Abuse for receipt of dosage forms of THC, fully characterized as to contents and delivery to the human system, pursuant to regulations promulgated by the National Institute on Drug Abuse, and the federal Food and Drug Administration. The principal investigator shall ensure delivery of the THC dosages to clinical investigators as needed for participation in the program;

(6) Conduct the research program in compliance with federal laws and regulations promulgated by the federal Food and Drug Administration, the Drug Enforcement Administration, the National Institute on Drug Abuse, and the purposes and provisions of this section;

(7) Submit periodic reports as determined by the commissioner on the numbers of oncologists and patients involved in the program and the results of the program;

(8) Submit reports on intermediate or final research results, as appropriate, to the major scientific journals in the United States; and

(9) Otherwise comply with the provisions of this section.

Subd. 6. **Exemption from criminal sanctions.** For the purposes of this section, the following are not violations under this chapter:

(1) use or possession of THC, or both, by a patient in the research program;

(2) possession, prescribing use of, administering, or dispensing THC, or any combination of these actions, by the principal investigator or by any clinical investigator; and

(3) possession or distribution of THC, or both, by a pharmacy registered to handle Schedule I substances which stores THC on behalf of the principal investigator or a clinical investigator.

THC obtained and distributed pursuant to this section is not subject to forfeiture under sections 609.531 to 609.5316.

For the purposes of this section, THC is removed from Schedule I contained in section 152.02, subdivision 2, and inserted in schedule II contained in section 152.02, subdivision 3.

Subd. 7. **Citation.** This section may be cited as the "THC Therapeutic Research Act."

History: *1980 c 614 s 93; 1988 c 665 s 2; 1989 c 290 art 3 s 23; 1997 c 7 art 2 s 22*

152.22 DEFINITIONS.

Subdivision 1. **Applicability.** For purposes of sections 152.22 to 152.37, the terms defined in this section have the meanings given them.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of health.

Subd. 3. **Disqualifying felony offense.** "Disqualifying felony offense" means a violation of a state or federal controlled substance law that is a felony under Minnesota law, or would be a felony if committed in Minnesota, regardless of the sentence imposed, unless the commissioner determines that the person's conviction was for the medical use of cannabis or assisting with the medical use of cannabis.

Subd. 4. **Health care practitioner.** "Health care practitioner" means a Minnesota licensed doctor of medicine, a Minnesota licensed physician assistant acting within the scope of authorized practice, or a Minnesota licensed advanced practice registered nurse who has the primary responsibility for the care and treatment of the qualifying medical condition of a person diagnosed with a qualifying medical condition.

Subd. 5. **Health records.** "Health records" means health records as defined in section 144.291, subdivision 2, paragraph (c).

Subd. 6. **Medical cannabis.** (a) "Medical cannabis" means any species of the genus cannabis plant, or any mixture or preparation of them, including whole plant extracts and resins, and is delivered in the form of:

(1) liquid, including, but not limited to, oil;

(2) pill;

(3) vaporized delivery method with use of liquid or oil but which does not require the use of dried leaves or plant form; or

(4) any other method, excluding smoking, approved by the commissioner.

(b) This definition includes any part of the genus cannabis plant prior to being processed into a form allowed under paragraph (a), that is possessed by a person while that person is engaged in employment duties necessary to carry out a requirement under sections 152.22 to 152.37 for a registered manufacturer or a laboratory under contract with a registered manufacturer.

Subd. 7. **Medical cannabis manufacturer.** "Medical cannabis manufacturer" or "manufacturer" means an entity registered by the commissioner to cultivate, acquire, manufacture, possess, prepare, transfer, transport, supply, or dispense medical cannabis, delivery devices, or related supplies and educational materials.

Subd. 8. **Medical cannabis product.** "Medical cannabis product" means any delivery device or related supplies and educational materials used in the administration of medical cannabis for a patient with a qualifying medical condition enrolled in the registry program.

Subd. 9. **Patient.** "Patient" means a Minnesota resident who has been diagnosed with a qualifying medical condition by a health care practitioner and who has otherwise met any other requirements for patients under sections 152.22 to 152.37 to participate in the registry program under sections 152.22 to 152.37.

Subd. 10. **Patient registry number.** "Patient registry number" means a unique identification number assigned by the commissioner to a patient enrolled in the registry program.

Subd. 11. **Registered designated caregiver.** "Registered designated caregiver" means a person who:

(1) is at least 21 years old;

(2) does not have a conviction for a disqualifying felony offense;

(3) has been approved by the commissioner to assist a patient who has been identified by a health care practitioner as developmentally or physically disabled and therefore unable to self-administer medication or acquire medical cannabis from a distribution facility due to the disability; and

(4) is authorized by the commissioner to assist the patient with the use of medical cannabis.

Subd. 12. **Registry program.** "Registry program" means the patient registry established in sections 152.22 to 152.37.

Subd. 13. **Registry verification.** "Registry verification" means the verification provided by the commissioner that a patient is enrolled in the registry program and that includes the patient's name, registry number, and qualifying medical condition and, if applicable, the name of the patient's registered designated caregiver or parent or legal guardian.

Subd. 14. **Qualifying medical condition.** "Qualifying medical condition" means a diagnosis of any of the following conditions:

(1) cancer, if the underlying condition or treatment produces one or more of the following:

(i) severe or chronic pain;

(ii) nausea or severe vomiting; or

(iii) cachexia or severe wasting;

(2) glaucoma;

(3) human immunodeficiency virus or acquired immune deficiency syndrome;

(4) Tourette's syndrome;

(5) amyotrophic lateral sclerosis;

(6) seizures, including those characteristic of epilepsy;

(7) severe and persistent muscle spasms, including those characteristic of multiple sclerosis;

(8) inflammatory bowel disease, including Crohn's disease;

(9) terminal illness, with a probable life expectancy of under one year, if the illness or its treatment produces one or more of the following:

(i) severe or chronic pain;

(ii) nausea or severe vomiting; or

(iii) cachexia or severe wasting; or

(10) any other medical condition or its treatment approved by the commissioner.

History: *2014 c 311 s 2; 2015 c 74 s 2; 2016 c 179 s 27*

152.23 LIMITATIONS.

(a) Nothing in sections 152.22 to 152.37 permits any person to engage in and does not prevent the imposition of any civil, criminal, or other penalties for:

(1) undertaking any task under the influence of medical cannabis that would constitute negligence or professional malpractice;

(2) possessing or engaging in the use of medical cannabis:

(i) on a school bus or van;

(ii) on the grounds of any preschool or primary or secondary school;

(iii) in any correctional facility; or

(iv) on the grounds of any child care facility or home day care;

(3) vaporizing medical cannabis pursuant to section 152.22, subdivision 6:

(i) on any form of public transportation;

(ii) where the vapor would be inhaled by a nonpatient minor child; or

(iii) in any public place, including any indoor or outdoor area used by or open to the general public or a place of employment as defined under section 144.413, subdivision 1b; and

(4) operating, navigating, or being in actual physical control of any motor vehicle, aircraft, train, or motorboat, or working on transportation property, equipment, or facilities while under the influence of medical cannabis.

(b) Nothing in sections 152.22 to 152.37 require the medical assistance and MinnesotaCare programs to reimburse an enrollee or a provider for costs associated with the medical use of cannabis. Medical assistance and MinnesotaCare shall continue to provide coverage for all services related to treatment of an enrollee's qualifying medical condition if the service is covered under chapter 256B or 256L.

History: *2014 c 311 s 3*

152.24 FEDERALLY APPROVED CLINICAL TRIALS.

The commissioner may prohibit enrollment of a patient in the registry program if the patient is simultaneously enrolled in a federally approved clinical trial for the treatment of a qualifying medical condition with medical cannabis. The commissioner shall provide information to all patients enrolled in the registry program on the existence of federally approved clinical trials for the treatment of the patient's qualifying medical condition with medical cannabis as an alternative to enrollment in the patient registry program.

History: *2014 c 311 s 4*

152.25 COMMISSIONER DUTIES. [SUBDS. 1 & 4 AMENDED; NEW SUBDS. 1a, 1b, & 1c]

Subdivision 1. **Medical cannabis manufacturer registration.** (a) The commissioner shall register two in-state manufacturers for the production of all medical cannabis within the state. The commissioner shall register new manufacturers or reregister the existing manufacturers by December 1 every two years, using the factors described in this subdivision. The commissioner shall accept applications after December 1, 2014, if one of the manufacturers registered before December 1, 2014, ceases to be registered as a manufacturer. The commissioner's determination that no manufacturer exists to fulfill the duties under sections 152.22 to 152.37 is subject to judicial review in Ramsey County District Court. Data submitted during the application process are private data on individuals or nonpublic data as defined in section13.02 until the manufacturer is registered under this section. Data on a manufacturer that is registered are public data, unless the data are trade secret or security information under section 13.37.

(b) As a condition for registration, a manufacturer must agree to:

(1) begin supplying medical cannabis to patients by July 1, 2015; and

(2) comply with all requirements under sections 152.22 to 152.37.

(c) The commissioner shall consider the following factors when determining which manufacturer to register:

(1) the technical expertise of the manufacturer in cultivating medical cannabis and converting the medical cannabis into an acceptable delivery method under section 152.22, subdivision 6;

(2) the qualifications of the manufacturer's employees;

(3) the long-term financial stability of the manufacturer;

(4) the ability to provide appropriate security measures on the premises of the manufacturer;

(5) whether the manufacturer has demonstrated an ability to meet the medical cannabis production needs required by sections 152.22 to 152.37; and

(6) the manufacturer's projection and ongoing assessment of fees on patients with a qualifying medical condition.

(d) If an officer, director, or controlling person of the manufacturer pleads or is found guilty of intentionally diverting medical cannabis to a person other than allowed by law under section 152.33, subdivision 1, the commissioner may decide not to renew the registration of the manufacturer, provided the violation occurred while the person was an officer, director, or controlling person of the manufacturer.

(e) The commissioner shall require each medical cannabis manufacturer to contract with an independent laboratory to test medical cannabis produced by the manufacturer. The commissioner shall approve the laboratory chosen by each manufacturer and require that the laboratory report testing results to the manufacturer in a manner determined by the commissioner.

Subd. 1a. **Revocation, nonrenewal, or denial of consent to transfer a medical cannabis manufacturer registration.** If the commissioner intends to revoke, not renew, or deny consent to transfer a registration issued under this section, the commissioner must first notify in writing the manufacturer against whom the action is to be taken and provide the manufacturer with an opportunity to request a hearing under the contested case provisions of chapter 14. If the manufacturer does not request a hearing by notifying the commissioner in writing within 20 days after receipt of the notice of proposed action, the commissioner may proceed with the action without a hearing. For revocations, the registration of a manufacturer is considered revoked on the date specified in the commissioner's written notice of revocation.

Subd. 1b. **Temporary suspension proceedings.** The commissioner may institute proceedings to temporarily suspend the registration of a medical cannabis manufacturer for a period of up to 90 days by notifying the manufacturer in writing if any action by an employee, agent, officer, director, or controlling person of the manufacturer:

(1) violates any of the requirements of sections 152.21 to 152.37 or the rules adopted thereunder;

(2) permits, aids, or abets the commission of any violation of state law at the manufacturer's location for cultivation, harvesting, manufacturing, packaging, and processing or at any site for distribution of medical cannabis;

(3) performs any act contrary to the welfare of a registered patient or registered designated caregiver; or

(4) obtains, or attempts to obtain, a registration by fraudulent means or misrepresentation.

Subd. 1c. **Notice to patients.** Upon the revocation or nonrenewal of a manufacturer's registration under subdivision 1a or implementation of an enforcement action under subdivision 1b that may affect the ability of a registered patient, registered designated caregiver, or a registered patient's parent or legal guardian to obtain medical cannabis

from the manufacturer subject to the enforcement action, the commissioner shall notify in writing each registered patient and the patient's registered designated caregiver or registered patient's parent or legal guardian about the outcome of the proceeding and information regarding alternative registered manufacturers. This notice must be provided two or more business days prior to the effective date of the revocation, nonrenewal, or other enforcement action.

Subd. 2. **Range of compounds and dosages; report.** The commissioner shall review and publicly report the existing medical and scientific literature regarding the range of recommended dosages for each qualifying condition and the range of chemical compositions of any plant of the genus cannabis that will likely be medically beneficial for each of the qualifying medical conditions. The commissioner shall make this information available to patients with qualifying medical conditions beginning December 1, 2014, and update the information annually. The commissioner may consult with the independent laboratory under contract with the manufacturer or other experts in reporting the range of recommended dosages for each qualifying medical condition, the range of chemical compositions that will likely be medically beneficial, and any risks of noncannabis drug interactions. The commissioner shall consult with each manufacturer on an annual basis on medical cannabis offered by the manufacturer. The list of medical cannabis offered by a manufacturer shall be published on the Department of Health Web site.

Subd. 3. **Deadlines.** The commissioner shall adopt rules necessary for the manufacturer to begin distribution of medical cannabis to patients under the registry program by July 1, 2015, and have notice of proposed rules published in the State Register prior to January 1, 2015.

Subd. 4. **Reports.** (a) The commissioner shall provide regular updates to the task force on medical cannabis therapeutic research and to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services, public safety, judiciary, and civil law regarding any changes in federal law or regulatory restrictions regarding the use of medical cannabis.

(b) The commissioner may submit medical research based on the data collected under sections 152.22 to 152.37 to any federal agency with regulatory or enforcement authority over medical cannabis to demonstrate the effectiveness of medical cannabis for treating a qualifying medical condition.

History: *2014 c 311 s 5; 2015 c 74 s 3; 2016 c 179 s 28,29*

152.26 RULEMAKING.

The commissioner may adopt rules to implement sections 152.22 to 152.37. Rules for which notice is published in the State Register before January 1, 2015, may be adopted using the process in section 14.389.

History: *2014 c 311 s 6*

152.261 RULES; ADVERSE INCIDENTS.

(a) The commissioner of health shall adopt rules to establish requirements for reporting incidents when individuals who are not authorized to possess medical cannabis under Minnesota Statutes, sections 152.22 to 152.37, are found in possession of medical cannabis. The rules must identify professionals required to report, the information they are required to report, and actions the reporter must take to secure the medical cannabis.

(b) The commissioner of health shall adopt rules to establish requirements for law enforcement officials and health care professionals to report incidents involving an overdose of medical cannabis to the commissioner of health.

(c) Rules must include the method by which the commissioner will collect and tabulate reports of unauthorized possession and overdose.

History: *2014 c 311 s 19*

152.27 PATIENT REGISTRY PROGRAM ESTABLISHED.

Subdivision 1. **Patient registry program; establishment.** (a) The commissioner shall establish a patient registry program to evaluate data on patient demographics, effective treatment options, clinical outcomes, and quality-of-life outcomes for the purpose of reporting on the benefits, risks, and outcomes regarding patients with a qualifying medical condition engaged in the therapeutic use of medical cannabis.

(b) The establishment of the registry program shall not be construed or interpreted to condone or promote the illicit recreational use of marijuana.

Subd. 2. **Commissioner duties.** (a) The commissioner shall:

(1) give notice of the program to health care practitioners in the state who are eligible to serve as health care practitioners and explain the purposes and requirements of the program;

(2) allow each health care practitioner who meets or agrees to meet the program's requirements and who requests to participate, to be included in the registry program to collect data for the patient registry;

(3) provide explanatory information and assistance to each health care practitioner in understanding the nature of therapeutic use of medical cannabis within program requirements;

(4) create and provide a certification to be used by a health care practitioner for the practitioner to certify whether a patient has been diagnosed with a qualifying medical condition and include in the certification an option for the practitioner to certify whether the patient, in the health care practitioner's medical opinion, is developmentally or physically disabled and, as a result of that disability, the patient is unable to self-administer medication or acquire medical cannabis from a distribution facility;

(5) supervise the participation of the health care practitioner in conducting patient treatment and health records reporting in a manner that ensures stringent security and record-keeping requirements and that prevents the unauthorized release of private data on individuals as defined by section 13.02;

(6) develop safety criteria for patients with a qualifying medical condition as a requirement of the patient's participation in the program, to prevent the patient from undertaking any task under the influence of medical cannabis that would constitute negligence or professional malpractice on the part of the patient; and

(7) conduct research and studies based on data from health records submitted to the registry program and submit reports on intermediate or final research results to the legislature and major scientific journals. The commissioner may contract with a third party to complete the requirements of this clause. Any reports submitted must comply with section 152.28, subdivision 2.

(b) If the commissioner wishes to add a delivery method under section 152.22, subdivision 6, or a qualifying medical condition under section 152.22, subdivision 14, the commissioner must notify the chairs and ranking minority members of the legislative policy committees having jurisdiction over health and public safety of the addition and the reasons for its addition, including any written comments received by the commissioner from the public and any guidance received from the task force on medical cannabis research, by January 15 of the year in which the commissioner wishes to make the change. The change shall be effective on August 1 of that year, unless the legislature by law provides otherwise.

Subd. 3. **Patient application.** (a) The commissioner shall develop a patient application for enrollment into the registry program. The application shall be available to the patient and given to health care practitioners in the state who are eligible to serve as health care practitioners. The application must include:

(1) the name, mailing address, and date of birth of the patient;

(2) the name, mailing address, and telephone number of the patient's health care practitioner;

(3) the name, mailing address, and date of birth of the patient's designated caregiver, if any, or the patient's parent or legal guardian if the parent or legal guardian will be acting as a caregiver;

(4) a copy of the certification from the patient's health care practitioner that is dated within 90 days prior to submitting the application which certifies that the patient has been diagnosed with a qualifying medical condition and, if applicable, that, in the health care practitioner's medical opinion, the patient is developmentally or physically disabled and, as a result of that disability, the patient is unable to self-administer medication or acquire medical cannabis from a distribution facility; and

(5) all other signed affidavits and enrollment forms required by the commissioner under sections 152.22 to 152.37, including, but not limited to, the disclosure form required under paragraph (c).

(b) The commissioner shall require a patient to resubmit a copy of the certification from the patient's health care practitioner on a yearly basis and shall require that the recertification be dated within 90 days of submission.

(c) The commissioner shall develop a disclosure form and require, as a condition of enrollment, all patients to sign a copy of the disclosure. The disclosure must include:

(1) a statement that, notwithstanding any law to the contrary, the commissioner, or an employee of any state agency, may not be held civilly or criminally liable for any injury, loss of property, personal injury, or death caused by any act or omission while acting within the scope of office or employment under sections 152.22 to 152.37; and

(2) the patient's acknowledgement that enrollment in the patient registry program is conditional on the patient's agreement to meet all of the requirements of sections 152.22 to 152.37.

Subd. 4. **Registered designated caregiver.** (a) The commissioner shall register a designated caregiver for a patient if the patient's health care practitioner has certified that the patient, in the health care practitioner's medical opinion, is developmentally or physically disabled and, as a result of that disability, the patient is unable to self-administer medication or acquire medical cannabis from a distribution facility and the caregiver has agreed, in writing, to be the patient's designated caregiver. As a condition of registration as a designated caregiver, the commissioner shall require the person to:

(1) be at least 21 years of age;

(2) agree to only possess any medical cannabis for purposes of assisting the patient; and

(3) agree that if the application is approved, the person will not be a registered designated caregiver for more than one patient, unless the patients reside in the same residence.

(b) The commissioner shall conduct a criminal background check on the designated caregiver prior to registration to ensure that the person does not have a conviction for a disqualifying felony offense. Any cost of the background check shall be paid by the person seeking registration as a designated caregiver.

Subd. 5. **Parents or legal guardians.** A parent or legal guardian of a patient may act as the caregiver to the patient without having to register as a designated caregiver. The parent or legal guardian shall follow all of the requirements of parents and legal guardians listed in sections 152.22 to 152.37. Nothing in sections 152.22 to 152.37 limits any legal authority a parent or legal guardian may have for the patient under any other law.

Subd. 6. **Patient enrollment.** (a) After receipt of a patient's application, application fees, and signed disclosure, the commissioner shall enroll the patient in the registry program and issue the patient and patient's registered designated caregiver or parent or legal guardian, if applicable, a registry verification. The commissioner shall approve or deny a patient's application for participation in the registry program within 30 days after the commissioner receives the patient's application and application fee. The commissioner may approve applications up to 60 days after the

receipt of a patient's application and application fees until January 1, 2016. A patient's enrollment in the registry program shall only be denied if the patient:

(1) does not have certification from a health care practitioner that the patient has been diagnosed with a qualifying medical condition;

(2) has not signed and returned the disclosure form required under subdivision 3, paragraph (c), to the commissioner;

(3) does not provide the information required;

(4) has previously been removed from the registry program for violations of section 152.30 or 152.33; or

(5) provides false information.

(b) The commissioner shall give written notice to a patient of the reason for denying enrollment in the registry program.

(c) Denial of enrollment into the registry program is considered a final decision of the commissioner and is subject to judicial review under the Administrative Procedure Act pursuant to chapter 14.

(d) A patient's enrollment in the registry program may only be revoked upon the death of the patient or if a patient violates a requirement under section 152.30 or 152.33.

(e) The commissioner shall develop a registry verification to provide to the patient, the health care practitioner identified in the patient's application, and to the manufacturer. The registry verification shall include:

(1) the patient's name and date of birth;

(2) the patient registry number assigned to the patient;

(3) the patient's qualifying medical condition as provided by the patient's health care practitioner in the certification; and

(4) the name and date of birth of the patient's registered designated caregiver, if any, or the name of the patient's parent or legal guardian if the parent or legal guardian will be acting as a caregiver.

Subd. 7. **Notice requirements.** Patients and registered designated caregivers shall notify the commissioner of any address or name change within 30 days of the change having occurred. A patient or registered designated caregiver is subject to a $100 fine for failure to notify the commissioner of the change.

History: *2014 c 311 s 7; 2015 c 74 s 4*

152.28 HEALTH CARE PRACTITIONER DUTIES. [NEW SUBD. 3]

Subdivision 1. **Health care practitioner duties.** (a) Prior to a patient's enrollment in the registry program, a health care practitioner shall:

(1) determine, in the health care practitioner's medical judgment, whether a patient suffers from a qualifying medical condition, and, if so determined, provide the patient with a certification of that diagnosis;

(2) determine whether a patient is developmentally or physically disabled and, as a result of that disability, the patient is unable to self-administer medication or acquire medical cannabis from a distribution facility, and, if so determined, include that determination on the patient's certification of diagnosis;

(3) advise patients, registered designated caregivers, and parents or legal guardians who are acting as caregivers of the existence of any nonprofit patient support groups or organizations;

(4) provide explanatory information from the commissioner to patients with qualifying medical conditions, including disclosure to all patients about the experimental nature of therapeutic use of medical cannabis; the possible risks, benefits, and side effects of the proposed treatment; the application and other materials from the commissioner; and provide patients with the Tennessen warning as required by section 13.04, subdivision 2; and

(5) agree to continue treatment of the patient's qualifying medical condition and report medical findings to the commissioner.

(b) Upon notification from the commissioner of the patient's enrollment in the registry program, the health care practitioner shall:

(1) participate in the patient registry reporting system under the guidance and supervision of the commissioner;

(2) report health records of the patient throughout the ongoing treatment of the patient to the commissioner in a manner determined by the commissioner and in accordance with subdivision 2;

(3) determine, on a yearly basis, if the patient continues to suffer from a qualifying medical condition and, if so, issue the patient a new certification of that diagnosis; and

(4) otherwise comply with all requirements developed by the commissioner.

(c) Nothing in this section requires a health care practitioner to participate in the registry program.

Subd. 2. **Data.** Data collected on patients by a health care practitioner and reported to the patient registry are health records under section 144.291, and are private data on individuals under section 13.02, but may be used or reported in an aggregated, nonidentifiable form as part of a scientific, peer-reviewed publication of research conducted under section 152.25 or in the creation of summary data, as defined in section 13.02, subdivision 19.

Subd. 3. **Advertising restrictions.** (a) A health care practitioner shall not publish or cause to be published any advertisement that:

(1) contains false or misleading statements about medical cannabis or about the medical cannabis registry program;

(2) uses colloquial terms to refer to medical cannabis, such as pot, weed, or grass;

(3) states or implies the health care practitioner is endorsed by the Department of Health or by the medical cannabis registry program;

(4) includes images of cannabis in its plant or leaf form or of cannabis-smoking paraphernalia; or

(5) contains medical symbols that could reasonably be confused with symbols of established medical associations or groups.

(b) A health care practitioner found by the commissioner to have violated this subdivision is prohibited from certifying that patients have a qualifying medical condition for purposes of patient participation in the registry program. The commissioner's decision that a health care practitioner has violated this subdivision is a final decision of the commissioner and is not subject to the contested case procedures in chapter 14.

History: *2014 c 311 s 8*

152.29 MANUFACTURER OF MEDICAL CANNABIS DUTIES.

Subdivision 1. **Manufacturer; requirements.** (a) A manufacturer shall operate four distribution facilities, which may include the manufacturer's single location for cultivation, harvesting, manufacturing, packaging, and processing but is not required to include that location. A manufacturer is required to begin distribution of medical cannabis from at least one distribution facility by July 1, 2015. All distribution facilities must be operational and begin distribution

of medical cannabis by July 1, 2016. The distribution facilities shall be located based on geographical need throughout the state to improve patient access. A manufacturer shall disclose the proposed locations for the distribution facilities to the commissioner during the registration process. A manufacturer shall operate only one location where all cultivation, harvesting, manufacturing, packaging, and processing shall be conducted. Any additional distribution facilities may dispense medical cannabis and medical cannabis products but may not contain any medical cannabis in a form other than those forms allowed under section 152.22, subdivision 6, and the manufacturer shall not conduct any cultivation, harvesting, manufacturing, packaging, or processing at an additional distribution facility site. Any distribution facility operated by the manufacturer is subject to all of the requirements applying to the manufacturer under sections 152.22 to 152.37, including, but not limited to, security and distribution requirements.

(b) A medical cannabis manufacturer shall contract with a laboratory approved by the commissioner, subject to any additional requirements set by the commissioner, for purposes of testing medical cannabis manufactured by the medical cannabis manufacturer as to content, contamination, and consistency to verify the medical cannabis meets the requirements of section 152.22, subdivision 6. The cost of laboratory testing shall be paid by the manufacturer.

(c) The operating documents of a manufacturer must include:

(1) procedures for the oversight of the manufacturer and procedures to ensure accurate record keeping; and

(2) procedures for the implementation of appropriate security measures to deter and prevent the theft of medical cannabis and unauthorized entrance into areas containing medical cannabis.

(d) A manufacturer shall implement security requirements, including requirements for protection of each location by a fully operational security alarm system, facility access controls, perimeter intrusion detection systems, and a personnel identification system.

(e) A manufacturer shall not share office space with, refer patients to a health care practitioner, or have any financial relationship with a health care practitioner.

(f) A manufacturer shall not permit any person to consume medical cannabis on the property of the manufacturer.

(g) A manufacturer is subject to reasonable inspection by the commissioner.

(h) For purposes of sections 152.22 to 152.37, a medical cannabis manufacturer is not subject to the Board of Pharmacy licensure or regulatory requirements under chapter 151.

(i) A medical cannabis manufacturer may not employ any person who is under 21 years of age or who has been convicted of a disqualifying felony offense. An employee of a medical cannabis manufacturer must submit a completed criminal history records check consent form, a full set of classifiable fingerprints, and the required fees for submission to the Bureau of Criminal Apprehension before an employee may begin working with the manufacturer. The bureau must conduct a Minnesota criminal history records check and the superintendent is authorized to exchange the fingerprints with the Federal Bureau of Investigation to obtain the applicant's national criminal history record information. The bureau shall return the results of the Minnesota and federal criminal history records checks to the commissioner.

(j) A manufacturer may not operate in any location, whether for distribution or cultivation, harvesting, manufacturing, packaging, or processing, within 1,000 feet of a public or private school existing before the date of the manufacturer's registration with the commissioner.

(k) A manufacturer shall comply with reasonable restrictions set by the commissioner relating to signage, marketing, display, and advertising of medical cannabis.

Subd. 2. **Manufacturer; production.** (a) A manufacturer of medical cannabis shall provide a reliable and ongoing supply of all medical cannabis needed for the registry program.

(b) All cultivation, harvesting, manufacturing, packaging, and processing of medical cannabis must take place in an enclosed, locked facility at a physical address provided to the commissioner during the registration process.

(c) A manufacturer must process and prepare any medical cannabis plant material into a form allowable under section 152.22, subdivision 6, prior to distribution of any medical cannabis.

Subd. 3. **Manufacturer; distribution.** (a) A manufacturer shall require that employees licensed as pharmacists pursuant to chapter 151 be the only employees to give final approval for the distribution of medical cannabis to a patient.

(b) A manufacturer may dispense medical cannabis products, whether or not the products have been manufactured by the manufacturer, but is not required to dispense medical cannabis products.

(c) Prior to distribution of any medical cannabis, the manufacturer shall:

(1) verify that the manufacturer has received the registry verification from the commissioner for that individual patient;

(2) verify that the person requesting the distribution of medical cannabis is the patient, the patient's registered designated caregiver, or the patient's parent or legal guardian listed in the registry verification using the procedures described in section 152.11, subdivision 2d;

(3) assign a tracking number to any medical cannabis distributed from the manufacturer;

(4) ensure that any employee of the manufacturer licensed as a pharmacist pursuant to chapter 151 has consulted with the patient to determine the proper dosage for the individual patient after reviewing the ranges of chemical compositions of the medical cannabis and the ranges of proper dosages reported by the commissioner. For purposes of this clause, a consultation may be conducted remotely using a videoconference, so long as the employee providing the consultation is able to confirm the identity of the patient, the consultation occurs while the patient is at a distribution facility, and the consultation adheres to patient privacy requirements that apply to health care services delivered through telemedicine;

(5) properly package medical cannabis in compliance with the United States Poison Prevention Packing Act regarding child-resistant packaging and exemptions for packaging for elderly patients, and label distributed medical cannabis with a list of all active ingredients and individually identifying information, including:

(i) the patient's name and date of birth;

(ii) the name and date of birth of the patient's registered designated caregiver or, if listed on the registry verification, the name of the patient's parent or legal guardian, if applicable;

(iii) the patient's registry identification number;

(iv) the chemical composition of the medical cannabis; and

(v) the dosage; and

(6) ensure that the medical cannabis distributed contains a maximum of a 30-day supply of the dosage determined for that patient.

(d) A manufacturer shall require any employee of the manufacturer who is transporting medical cannabis or medical cannabis products to a distribution facility to carry identification showing that the person is an employee of the manufacturer.

Subd. 3a. **Transportation of medical cannabis; staffing.** A medical cannabis manufacturer may staff a transport motor vehicle with only one employee if the medical cannabis manufacturer is transporting medical cannabis to either a certified laboratory for the purpose of testing or a facility for the purpose of disposal. If the medical cannabis

manufacturer is transporting medical cannabis for any other purpose or destination, the transport motor vehicle must be staffed with a minimum of two employees as required by rules adopted by the commissioner.

Subd. 4. **Report.** Each manufacturer shall report to the commissioner on a monthly basis the following information on each individual patient for the month prior to the report:

(1) the amount and dosages of medical cannabis distributed;

(2) the chemical composition of the medical cannabis; and

(3) the tracking number assigned to any medical cannabis distributed.

History: *2014 c 311 s 9; 2015 c 74 s 5; 2016 c 179 s 30,31*

152.30 PATIENT DUTIES.

(a) A patient shall apply to the commissioner for enrollment in the registry program by submitting an application as required in section 152.27 and an annual registration fee as determined under section 152.35.

(b) As a condition of continued enrollment, patients shall agree to:

(1) continue to receive regularly scheduled treatment for their qualifying medical condition from their health care practitioner; and

(2) report changes in their qualifying medical condition to their health care practitioner.

(c) A patient shall only receive medical cannabis from a registered manufacturer but is not required to receive medical cannabis products from only a registered manufacturer.

History: *2014 c 311 s 10*

152.31 DATA PRACTICES.

(a) Government data in patient files maintained by the commissioner and the health care practitioner, and data submitted to or by a medical cannabis manufacturer, are private data on individuals, as defined in section 13.02, subdivision 12, or nonpublic data, as defined in section 13.02, subdivision 9, but may be used for purposes of complying with chapter 13 and complying with a request from the legislative auditor or the state auditor in the performance of official duties. The provisions of section 13.05, subdivision 11, apply to a registration agreement entered between the commissioner and a medical cannabis manufacturer under section 152.25.

(b) Not public data maintained by the commissioner may not be used for any purpose not provided for in sections 152.22 to 152.37, and may not be combined or linked in any manner with any other list, dataset, or database.

History: *2014 c 311 s 11*

152.32 PROTECTIONS FOR REGISTRY PROGRAM PARTICIPATION.

Subdivision 1. **Presumption.** (a) There is a presumption that a patient enrolled in the registry program under sections 152.22 to 152.37 is engaged in the authorized use of medical cannabis.

(b) The presumption may be rebutted by evidence that conduct related to use of medical cannabis was not for the purpose of treating or alleviating the patient's qualifying medical condition or symptoms associated with the patient's qualifying medical condition.

Subd. 2. **Criminal and civil protections.** (a) Subject to section 152.23, the following are not violations under this chapter:

(1) use or possession of medical cannabis or medical cannabis products by a patient enrolled in the registry program, or possession by a registered designated caregiver or the parent or legal guardian of a patient if the parent or legal guardian is listed on the registry verification;

(2) possession, dosage determination, or sale of medical cannabis or medical cannabis products by a medical cannabis manufacturer, employees of a manufacturer, a laboratory conducting testing on medical cannabis, or employees of the laboratory; and

(3) possession of medical cannabis or medical cannabis products by any person while carrying out the duties required under sections 152.22 to 152.37.

(b) Medical cannabis obtained and distributed pursuant to sections 152.22 to 152.37 and associated property is not subject to forfeiture under sections 609.531 to 609.5316.

(c) The commissioner, the commissioner's staff, the commissioner's agents or contractors, and any health care practitioner are not subject to any civil or disciplinary penalties by the Board of Medical Practice, the Board of Nursing, or by any business, occupational, or professional licensing board or entity, solely for the participation in the registry program under sections 152.22 to 152.37. A pharmacist licensed under chapter 151 is not subject to any civil or disciplinary penalties by the Board of Pharmacy when acting in accordance with the provisions of sections 152.22 to 152.37. Nothing in this section affects a professional licensing board from taking action in response to violations of any other section of law.

(d) Notwithstanding any law to the contrary, the commissioner, the governor of Minnesota, or an employee of any state agency may not be held civilly or criminally liable for any injury, loss of property, personal injury, or death caused by any act or omission while acting within the scope of office or employment under sections 152.22 to 152.37.

(e) Federal, state, and local law enforcement authorities are prohibited from accessing the patient registry under sections 152.22 to 152.37 except when acting pursuant to a valid search warrant.

(f) Notwithstanding any law to the contrary, neither the commissioner nor a public employee may release data or information about an individual contained in any report, document, or registry created under sections 152.22 to 152.37 or any information obtained about a patient participating in the program, except as provided in sections 152.22 to 152.37.

(g) No information contained in a report, document, or registry or obtained from a patient under sections 152.22 to 152.37 may be admitted as evidence in a criminal proceeding unless independently obtained or in connection with a proceeding involving a violation of sections 152.22 to 152.37.

(h) Notwithstanding section 13.09, any person who violates paragraph (e) or (f) is guilty of a gross misdemeanor.

(i) An attorney may not be subject to disciplinary action by the Minnesota Supreme Court or professional responsibility board for providing legal assistance to prospective or registered manufacturers or others related to activity that is no longer subject to criminal penalties under state law pursuant to sections 152.22 to 152.37.

(j) Possession of a registry verification or application for enrollment in the program by a person entitled to possess or apply for enrollment in the registry program does not constitute probable cause or reasonable suspicion, nor shall it be used to support a search of the person or property of the person possessing or applying for the registry verification, or otherwise subject the person or property of the person to inspection by any governmental agency.

Subd. 3. **Discrimination prohibited.** (a) No school or landlord may refuse to enroll or lease to and may not otherwise penalize a person solely for the person's status as a patient enrolled in the registry program under sections 152.22 to 152.37, unless failing to do so would violate federal law or regulations or cause the school or landlord to lose a monetary or licensing-related benefit under federal law or regulations.

(b) For the purposes of medical care, including organ transplants, a registry program enrollee's use of medical cannabis under sections 152.22 to 152.37 is considered the equivalent of the authorized use of any other medication used at the discretion of a physician and does not constitute the use of an illicit substance or otherwise disqualify a patient from needed medical care.

(c) Unless a failure to do so would violate federal law or regulations or cause an employer to lose a monetary or licensing-related benefit under federal law or regulations, an employer may not discriminate against a person in hiring, termination, or any term or condition of employment, or otherwise penalize a person, if the discrimination is based upon either of the following:

(1) the person's status as a patient enrolled in the registry program under sections 152.22 to 152.37; or

(2) a patient's positive drug test for cannabis components or metabolites, unless the patient used, possessed, or was impaired by medical cannabis on the premises of the place of employment or during the hours of employment.

(d) An employee who is required to undergo employer drug testing pursuant to section 181.953 may present verification of enrollment in the patient registry as part of the employee's explanation under section 181.953, subdivision 6.

(e) A person shall not be denied custody of a minor child or visitation rights or parenting time with a minor child solely based on the person's status as a patient enrolled in the registry program under sections 152.22 to 152.37. There shall be no presumption of neglect or child endangerment for conduct allowed under sections 152.22 to 152.37, unless the person's behavior is such that it creates an unreasonable danger to the safety of the minor as established by clear and convincing evidence.

History: *2014 c 311 s 12*

152.33 VIOLATIONS. [NEW SUBD. 1a]

Subdivision 1. **Intentional diversion; criminal penalty.** In addition to any other applicable penalty in law, a manufacturer or an agent of a manufacturer who intentionally transfers medical cannabis to a person other than a patient, a registered designated caregiver or, if listed on the registry verification, a parent or legal guardian of a patient is guilty of a felony punishable by imprisonment for not more than two years or by payment of a fine of not more than $3,000, or both. A person convicted under this subdivision may not continue to be affiliated with the manufacturer and is disqualified from further participation under sections 152.22 to 152.37.

Subd. 1a. **Intentional diversion outside the state; penalties.** (a) In addition to any other applicable penalty in law, the commissioner may levy a fine of $250,000 against a manufacturer and may immediately initiate proceedings to revoke the manufacturer's registration, using the procedure in section 152.25, if:

(1) an officer, director, or controlling person of the manufacturer pleads or is found guilty under subdivision 1 of intentionally transferring medical cannabis, while the person was an officer, director, or controlling person of the manufacturer, to a person other than allowed by law; and

(2) in intentionally transferring medical cannabis to a person other than allowed by law, the officer, director, or controlling person transported or directed the transport of medical cannabis outside of Minnesota.

(b) All fines collected under this subdivision shall be deposited in the state government special revenue fund.

Subd. 2. **Diversion by patient, registered designated caregiver, or parent; criminal penalty.** In addition to any other applicable penalty in law, a patient, registered designated caregiver or, if listed on the registry verification, a parent or legal guardian of a patient who intentionally sells or otherwise transfers medical cannabis to a person other than a patient, designated registered caregiver or, if listed on the registry verification, a parent or legal guardian of a

patient is guilty of a felony punishable by imprisonment for not more than two years or by payment of a fine of not more than $3,000, or both.

Subd. 3. **False statement; criminal penalty.** A person who intentionally makes a false statement to a law enforcement official about any fact or circumstance relating to the medical use of cannabis to avoid arrest or prosecution is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or by payment of a fine of not more than $1,000, or both. The penalty is in addition to any other penalties that may apply for making a false statement or for the possession, cultivation, or sale of cannabis not protected by sections 152.22 to 152.37. If a person convicted of violating this subdivision is a patient or a registered designated caregiver, the person is disqualified from further participation under sections 152.22 to 152.37.

Subd. 4. **Submission of false records; criminal penalty.** A person who knowingly submits false records or documentation required by the commissioner to register as a manufacturer of medical cannabis under sections 152.22 to 152.37 is guilty of a felony and may be sentenced to imprisonment for not more than two years or by payment of a fine of not more than $3,000, or both.

Subd. 5. **Violation by health care practitioner; criminal penalty.** A health care practitioner who knowingly refers patients to a manufacturer or to a designated caregiver, who advertises as a manufacturer, or who issues certifications while holding a financial interest in a manufacturer is guilty of a misdemeanor and may be sentenced to imprisonment for not more than 90 days or by payment of a fine of not more than $1,000, or both.

Subd. 6. **Other violations; civil penalty.** A manufacturer shall be fined up to $1,000 for any violation of sections 152.22 to 152.37, or the regulations issued pursuant to them, where no penalty has been specified. This penalty is in addition to any other applicable penalties in law.

History: *2014 c 311 s 13*

152.34 NURSING FACILITIES.

Nursing facilities licensed under chapter 144A, boarding care homes licensed under section 144.50, and assisted living facilities may adopt reasonable restrictions on the use of medical cannabis by a patient enrolled in the registry program who resides at the facility. The restrictions may include a provision that the facility will not store or maintain the patient's supply of medical cannabis, that the facility is not responsible for providing the medical cannabis for patients, and that medical cannabis be used only in a place specified by the facility. Nothing contained in this section shall require the facilities to adopt such restrictions and no facility shall unreasonably limit a patient's access to or use of medical cannabis to the extent that use is authorized by the patient under sections 152.22 to 152.37.

History: *2014 c 311 s 14*

152.35 FEES; DEPOSIT OF REVENUE.

(a) The commissioner shall collect an enrollment fee of $200 from patients enrolled under this section. If the patient attests to receiving Social Security disability, Supplemental Security Insurance payments, or being enrolled in medical assistance or MinnesotaCare, then the fee shall be $50. The fees shall be payable annually and are due on the anniversary date of the patient's enrollment. The fee amount shall be deposited in the state treasury and credited to the state government special revenue fund.

(b) The commissioner shall collect an application fee of $20,000 from each entity submitting an application for registration as a medical cannabis manufacturer. Revenue from the fee shall be deposited in the state treasury and credited to the state government special revenue fund.

(c) The commissioner shall establish and collect an annual fee from a medical cannabis manufacturer equal to the cost of regulating and inspecting the manufacturer in that year. Revenue from the fee amount shall be deposited in the state treasury and credited to the state government special revenue fund.

(d) A medical cannabis manufacturer may charge patients enrolled in the registry program a reasonable fee for costs associated with the operations of the manufacturer. The manufacturer may establish a sliding scale of patient fees based upon a patient's household income and may accept private donations to reduce patient fees.

History: *2014 c 311 s 15*

152.36 IMPACT ASSESSMENT OF MEDICAL CANNABIS THERAPEUTIC RESEARCH.

Subdivision 1. **Task force on medical cannabis therapeutic research.** (a) A 23-member task force on medical cannabis therapeutic research is created to conduct an impact assessment of medical cannabis therapeutic research. The task force shall consist of the following members:

(1) two members of the house of representatives, one selected by the speaker of the house, the other selected by the minority leader;

(2) two members of the senate, one selected by the majority leader, the other selected by the minority leader;

(3) four members representing consumers or patients enrolled in the registry program, including at least two parents of patients under age 18;

(4) four members representing health care providers, including one licensed pharmacist;

(5) four members representing law enforcement, one from the Minnesota Chiefs of Police Association, one from the Minnesota Sheriff's Association, one from the Minnesota Police and Peace Officers Association, and one from the Minnesota County Attorneys Association;

(6) four members representing substance use disorder treatment providers; and

(7) the commissioners of health, human services, and public safety.

(b) Task force members listed under paragraph (a), clauses (3), (4), (5), and (6), shall be appointed by the governor under the appointment process in section 15.0597. Members shall serve on the task force at the pleasure of the appointing authority. All members must be appointed by July 15, 2014, and the commissioner of health shall convene the first meeting of the task force by August 1, 2014.

(c) There shall be two cochairs of the task force chosen from the members listed under paragraph (a). One cochair shall be selected by the speaker of the house and the other cochair shall be selected by the majority leader of the senate. The authority to convene meetings shall alternate between the cochairs.

(d) Members of the task force other than those in paragraph (a), clauses (1), (2), and (7), shall receive expenses as provided in section 15.059, subdivision 6.

Subd. 1a. **Administration.** The commissioner of health shall provide administrative and technical support to the task force.

Subd. 2. **Impact assessment.** The task force shall hold hearings to evaluate the impact of the use of medical cannabis and Minnesota's activities involving medical cannabis, including, but not limited to:

(1) program design and implementation;

(2) the impact on the health care provider community;

(3) patient experiences;

(4) the impact on the incidence of substance abuse;

(5) access to and quality of medical cannabis and medical cannabis products;

(6) the impact on law enforcement and prosecutions;

(7) public awareness and perception; and

(8) any unintended consequences.

Subd. 3. **Cost assessment.** By January 15 of each year, beginning January 15, 2015, and ending January 15, 2019, the commissioners of state departments impacted by the medical cannabis therapeutic research study shall report to the cochairs of the task force on the costs incurred by each department on implementing sections152.22 to 152.37. The reports must compare actual costs to the estimated costs of implementing these sections and must be submitted to the task force on medical cannabis therapeutic research.

Subd. 4. **Reports to the legislature.** (a) The cochairs of the task force shall submit the following reports to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over health and human services, public safety, judiciary, and civil law:

(1) by February 1, 2015, a report on the design and implementation of the registry program; and every two years thereafter, a complete impact assessment report; and

(2) upon receipt of a cost assessment from a commissioner of a state agency, the completed cost assessment.

(b) The task force may make recommendations to the legislature on whether to add or remove conditions from the list of qualifying medical conditions.

Subd. 5. **No expiration.** The task force on medical cannabis therapeutic research does not expire.

History: *2014 c 311 s 16; 2016 c 179 s 32,33*

152.37 FINANCIAL EXAMINATIONS; PRICING REVIEWS.

Subdivision 1. **Financial records.** A medical cannabis manufacturer shall maintain detailed financial records in a manner and format approved by the commissioner, and shall keep all records updated and accessible to the commissioner when requested.

Subd. 2. **Certified annual audit.** A medical cannabis manufacturer shall submit the results of an annual certified financial audit to the commissioner no later than May 1 of each year. The annual audit shall be conducted by an independent certified public accountant and the costs of the audit are the responsibility of the medical cannabis manufacturer. Results of the audit shall be provided to the medical cannabis manufacturer and the commissioner. The commissioner may also require another audit of the medical cannabis manufacturer by a certified public accountant chosen by the commissioner with the costs of the audit paid by the medical cannabis manufacturer.

Subd. 3. **Power to examine.** (a) The commissioner or designee may examine the business affairs and conditions of any medical cannabis manufacturer, including but not limited to a review of the financing, budgets, revenues, sales, and pricing.

(b) An examination may cover the medical cannabis manufacturer's business affairs, practices, and conditions including but not limited to a review of the financing, budgets, revenues, sales, and pricing. The commissioner shall determine the nature and scope of each examination and in doing so shall take into account all available relevant factors concerning the financial and business affairs, practices, and conditions of the examinee. The costs incurred by the department in conducting an examination shall be paid for by the medical cannabis manufacturer.

(c) When making an examination under this section, the commissioner may retain attorneys, appraisers, independent economists, independent certified public accountants, or other professionals and specialists as designees. A

certified public accountant retained by the commissioner may not be the same certified public accountant providing the certified annual audit in subdivision 2.

(d) The commissioner shall make a report of an examination conducted under this section and provide a copy to the medical cannabis manufacturer. The commissioner shall then post a copy of the report on the department's Web site. All working papers, recorded information, documents, and copies produced by, obtained by, or disclosed to the commissioner or any other person in the course of an examination, other than the information contained in any commissioner official report, made under this section are private data on individuals or nonpublic data, as defined in section 13.02.

History: *2014 c 311 s 17*

SECTION 5

MINNESOTA STATUTES CHAPTER 243.
CORRECTIONS; ADULTS

PREDATORY OFFENDER REGISTRATION

243.166 REGISTRATION OF PREDATORY OFFENDERS. 5-1

243.167 REGISTRATION UNDER PREDATORY OFFENDER REGISTRATION LAW FOR OTHER OFFENSES. 5-11

CHAPTER 243.
CORRECTIONS; ADULTS

PREDATORY OFFENDER REGISTRATION

243.166 REGISTRATION OF PREDATORY OFFENDERS.

Subdivision 1. [Repealed, 2005 c 136 art 3 s 31]

Subd. 1a. **Definitions.** (a) As used in this section, unless the context clearly indicates otherwise, the following terms have the meanings given them.

(b) "Bureau" means the Bureau of Criminal Apprehension.

(c) "Dwelling" means the building where the person lives under a formal or informal agreement to do so. However, dwelling does not include a supervised publicly or privately operated shelter or facility designed to provide temporary living accommodations for homeless individuals as defined in section 116L.361, subdivision 5.

(d) "Incarceration" and "confinement" do not include electronic home monitoring.

(e) "Law enforcement authority" or "authority" means, with respect to a home rule charter or statutory city, the chief of police, and with respect to an unincorporated area, the county sheriff.

(f) "Motor vehicle" has the meaning given in section 169.011, subdivision 92.

(g) "Primary address" means the mailing address of the person's dwelling. If the mailing address is different from the actual location of the dwelling, primary address also includes the physical location of the dwelling described with as much specificity as possible.

(h) "School" includes any public or private educational institution, including any secondary school, trade, or professional institution, or institution of higher education, that the person is enrolled in on a full-time or part-time basis.

(i) "Secondary address" means the mailing address of any place where the person regularly or occasionally stays overnight when not staying at the person's primary address. If the mailing address is different from the actual location of the place, secondary address also includes the physical location of the place described with as much specificity as possible. However, the location of a supervised publicly or privately operated shelter or facility designated to provide temporary living accommodations for homeless individuals as defined in section 116L.361, subdivision 5, does not constitute a secondary address.

(j) "Treatment facility" means a residential facility, as defined in section 244.052, subdivision 1, and residential chemical dependency treatment programs and halfway houses licensed under chapter 245A, including, but not limited to, those facilities directly or indirectly assisted by any department or agency of the United States.

(k) "Work" includes employment that is full time or part time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

Subd. 1b. Registration required.

(a) A person shall register under this section if:

(1) the person was charged with or petitioned for a felony violation of or attempt to violate, or aiding, abetting, or conspiracy to commit, any of the following, and convicted of or adjudicated delinquent for that offense or another offense arising out of the same set of circumstances:

(i) murder under section 609.185, paragraph (a), clause (2);

(ii) kidnapping under section 609.25;

(iii) criminal sexual conduct under section 609.342; 609.343; 609.344; 609.345; 609.3451, subdivision 3; or 609.3453; or

(iv) indecent exposure under section 617.23, subdivision 3;

(2) the person was charged with or petitioned for a violation of, or attempt to violate, or aiding, abetting, or conspiring to commit criminal abuse in violation of section 609.2325, subdivision 1, paragraph (b); false imprisonment in violation of section 609.255, subdivision 2; solicitation, inducement, or promotion of the prostitution of a minor or engaging in the sex trafficking of a minor in violation of section 609.322; a prostitution offense in violation of section 609.324, subdivision 1, paragraph (a); soliciting a minor to engage in sexual conduct in violation of section 609.352, subdivision 2 or 2a, clause (1); using a minor in a sexual performance in violation of section 617.246; or possessing pornographic work involving a minor in violation of section 617.247, and convicted of or adjudicated delinquent for that offense or another offense arising out of the same set of circumstances;

(3) the person was sentenced as a patterned sex offender under section 609.3455, subdivision 3a; or

(4) the person was charged with or petitioned for, including pursuant to a court martial, violating a law of the United States, including the Uniform Code of Military Justice, similar to the offenses described in clause (1), (2), or (3), and convicted of or adjudicated delinquent for that offense or another offense arising out of the same set of circumstances.

(b) A person also shall register under this section if:

(1) the person was charged with or petitioned for an offense in another state that would be a violation of a law described in paragraph (a) if committed in this state and convicted of or adjudicated delinquent for that offense or another offense arising out of the same set of circumstances;

(2) the person enters this state to reside, work, or attend school, or enters this state and remains for 14 days or longer; and

(3) ten years have not elapsed since the person was released from confinement or, if the person was not confined, since the person was convicted of or adjudicated delinquent for the offense that triggers registration, unless the person is subject to a longer registration period under the laws of another state in which the person has been convicted or adjudicated, or is subject to lifetime registration.

If a person described in this paragraph is subject to a longer registration period in another state or is subject to lifetime registration, the person shall register for that time period regardless of when the person was released from confinement, convicted, or adjudicated delinquent.

(c) A person also shall register under this section if the person was committed pursuant to a court commitment order under Minnesota Statutes 2012, section 253B.185, chapter 253D, Minnesota Statutes 1992, section 526.10, or a similar law of another state or the United States, regardless of whether the person was convicted of any offense.

(d) A person also shall register under this section if:

(1) the person was charged with or petitioned for a felony violation or attempt to violate any of the offenses listed in paragraph (a), clause (1), or a similar law of another state or the United States, or the person was charged with or petitioned for a violation of any of the offenses listed in paragraph (a), clause (2), or a similar law of another state or the United States;

(2) the person was found not guilty by reason of mental illness or mental deficiency after a trial for that offense, or found guilty but mentally ill after a trial for that offense, in states with a guilty but mentally ill verdict; and

(3) the person was committed pursuant to a court commitment order under section 253B.18 or a similar law of another state or the United States.

Subd. 2. **Notice.** When a person who is required to register under subdivision 1b, paragraph (a), is sentenced or becomes subject to a juvenile court disposition order, the court shall tell the person of the duty to register under this section and that, if the person fails to comply with the registration requirements, information about the offender may be made available to the public through electronic, computerized, or other accessible means. The court may not modify the person's duty to register in the pronounced sentence or disposition order. The court shall require the person to read and sign a form stating that the duty of the person to register under this section has been explained. The court shall forward the signed sex offender registration form, the complaint, and sentencing documents to the bureau. If a person required to register under subdivision 1b, paragraph (a), was not notified by the court of the registration requirement at the time of sentencing or disposition, the assigned corrections agent shall notify the person of the requirements of this section. When a person who is required to register under subdivision 1b, paragraph (c) or (d), is released from commitment, the treatment facility shall notify the person of the requirements of this section. The treatment facility shall also obtain the registration information required under this section and forward it to the bureau.

Subd. 3. **Registration procedure.** (a) Except as provided in subdivision 3a, a person required to register under this section shall register with the corrections agent as soon as the agent is assigned to the person. If the person does not have an assigned corrections agent or is unable to locate the assigned corrections agent, the person shall register with the law enforcement authority that has jurisdiction in the area of the person's primary address.

(b) Except as provided in subdivision 3a, at least five days before the person starts living at a new primary address, including living in another state, the person shall give written notice of the new primary address to the assigned corrections agent or to the law enforcement authority with which the person currently is registered. If the person will be living in a new state and that state has a registration requirement, the person shall also give written notice of the new address to the designated registration agency in the new state. A person required to register under this section shall also give written notice to the assigned corrections agent or to the law enforcement authority that has jurisdiction in the area of the person's primary address that the person is no longer living or staying at an address, immediately after the person is no longer living or staying at that address. The written notice required by this paragraph must be provided in person. The corrections agent or law enforcement authority shall, within two business days after receipt of this information, forward it to the bureau. The bureau shall, if it has not already been done, notify the law enforcement authority having primary jurisdiction in the community where the person will live of the new address. If the person is leaving the state, the bureau shall notify the registration authority in the new state of the new address. The person's registration requirements under this section are suspended after the person begins living in the new state and the bureau has confirmed the address in the other state through the annual verification process on at least one occasion. The person's registration requirements under this section are reactivated if the person resumes living in Minnesota and the registration time period described in subdivision 6 has not expired.

(c) A person required to register under subdivision 1b, paragraph (b), because the person is working or attending school in Minnesota shall register with the law enforcement authority that has jurisdiction in the area where the person works or attends school. In addition to other information required by this section, the person shall provide the address of the school or of the location where the person is employed. A person shall comply with this paragraph within five days of beginning employment or school. A person's obligation to register under this paragraph terminates when the person is no longer working or attending school in Minnesota.

(d) A person required to register under this section who works or attends school outside of Minnesota shall register as a predatory offender in the state where the person works or attends school. The person's corrections agent, or if the person does not have an assigned corrections agent, the law enforcement authority that has jurisdiction in the area of the person's primary address shall notify the person of this requirement.

Subd. 3a. **Registration procedure when person lacks primary address.** (a) If a person leaves a primary address and does not have a new primary address, the person shall register with the law enforcement authority that has jurisdiction in the area where the person is staying within 24 hours of the time the person no longer has a primary address.

(b) Notwithstanding the time period for registration in paragraphs (a) and (c), a person with a primary address of a correctional facility who is scheduled to be released from the facility and who does not have a new primary address shall register with the law enforcement authority that has jurisdiction in the area where the person will be staying at least three days before the person is released from the correctional facility.

(c) A person who lacks a primary address shall register with the law enforcement authority that has jurisdiction in the area where the person is staying within 24 hours after entering the jurisdiction. Each time a person who lacks a primary address moves to a new jurisdiction without acquiring a new primary address, the person shall register with the law enforcement authority that has jurisdiction in the area where the person is staying within 24 hours after entering the jurisdiction.

(d) Upon registering under this subdivision, the person shall provide the law enforcement authority with all of the information the individual is required to provide under subdivision 4a. However, instead of reporting the person's primary address, the person shall describe the location of where the person is staying with as much specificity as possible.

(e) Except as otherwise provided in paragraph (f), if a person continues to lack a primary address, the person shall report in person on a weekly basis to the law enforcement authority with jurisdiction in the area where the person is staying. This weekly report shall occur between the hours of 9:00 a.m. and 5:00 p.m. The person is not required to provide the registration information required under subdivision 4a each time the offender reports to an authority, but the person shall inform the authority of changes to any information provided under this subdivision or subdivision 4a and shall otherwise comply with this subdivision.

(f) If the law enforcement authority determines that it is impractical, due to the person's unique circumstances, to require a person lacking a primary address to report weekly and in person as required under paragraph (e), the authority may authorize the person to follow an alternative reporting procedure. The authority shall consult with the person's corrections agent, if the person has one, in establishing the specific criteria of this alternative procedure, subject to the following requirements:

(1) the authority shall document, in the person's registration record, the specific reasons why the weekly in-person reporting process is impractical for the person to follow;

(2) the authority shall explain how the alternative reporting procedure furthers the public safety objectives of this section;

(3) the authority shall require the person lacking a primary address to report in person at least monthly to the authority or the person's corrections agent and shall specify the location where the person shall report. If the authority determines it would be more practical and would further public safety for the person to report to another law enforcement authority with jurisdiction where the person is staying, it may, after consulting with the other law enforcement authority, include this requirement in the person's alternative reporting process;

(4) the authority shall require the person to comply with the weekly, in-person reporting process required under paragraph (e), if the person moves to a new area where this process would be practical;

(5) the authority shall require the person to report any changes to the registration information provided under subdivision 4a and to comply with the periodic registration requirements specified under paragraph (g); and

(6) the authority shall require the person to comply with the requirements of subdivision 3, paragraphs (b) and (c), if the person moves to a primary address.

(g) If a person continues to lack a primary address and continues to report to the same law enforcement authority, the person shall provide the authority with all of the information the individual is required to provide under this subdivision and subdivision 4a at least annually, unless the person is required to register under subdivision 1b, paragraph (c), following commitment pursuant to a court commitment under Minnesota Statutes 2012, section 253B.185, chapter 253D, Minnesota Statutes 1992, section 526.10, or a similar law of another state or the United States. If the person is required to register under subdivision 1b, paragraph (c), the person shall provide the law enforcement authority with all of the information the individual is required to report under this subdivision and subdivision 4a at least once every three months.

(h) A law enforcement authority receiving information under this subdivision shall forward registration information and changes to that information to the bureau within two business days of receipt of the information.

(i) For purposes of this subdivision, a person who fails to report a primary address will be deemed to be a person who lacks a primary address, and the person shall comply with the requirements for a person who lacks a primary address.

Subd. 4. **Contents of registration.** (a) The registration provided to the corrections agent or law enforcement authority, must consist of a statement in writing signed by the person, giving information required by the bureau, fingerprints, and photograph of the person taken at the time of the person's release from incarceration or, if the person was not incarcerated, at the time the person initially registered under this section. The registration information also must include a written consent form signed by the person allowing a treatment facility or residential housing unit or shelter to release information to a law enforcement officer about the person's admission to, or residence in, a treatment facility or residential housing unit or shelter. Registration information on adults and juveniles may be maintained together notwithstanding section 260B.171, subdivision 3.

(b) For persons required to register under subdivision 1b, paragraph (c), following commitment pursuant to a court commitment under Minnesota Statutes 2012, section 253B.185, chapter 253D, Minnesota Statutes 1992, section 526.10, or a similar law of another state or the United States, in addition to other information required by this section, the registration provided to the corrections agent or law enforcement authority must include the person's offense history and documentation of treatment received during the person's commitment. This documentation is limited to a statement of how far the person progressed in treatment during commitment.

(c) Within three days of receipt, the corrections agent or law enforcement authority shall forward the registration information to the bureau. The bureau shall ascertain whether the person has registered with the law enforcement authority in the area of the person's primary address, if any, or if the person lacks a primary address, where the person is staying, as required by subdivision 3a. If the person has not registered with the law enforcement authority, the bureau shall send one copy to that authority.

(d) The corrections agent or law enforcement authority may require that a person required to register under this section appear before the agent or authority to be photographed. The agent or authority shall forward the photograph to the bureau.

(1) Except as provided in clause (2), the agent or authority may photograph any offender at a time and frequency chosen by the agent or authority.

(2) The requirements of this paragraph shall not apply during any period where the person to be photographed is: (i) committed to the commissioner of corrections and incarcerated, (ii) incarcerated in a regional jail or county jail, or (iii) committed to the commissioner of human services and receiving treatment in a secure treatment facility.

(e) During the period a person is required to register under this section, the following provisions apply:

(1) Except for persons registering under subdivision 3a, the bureau shall mail a verification form to the person's last reported primary address. This verification form must provide notice to the offender that, if the offender does not return the verification form as required, information about the offender may be made available to the public through electronic, computerized, or other accessible means. For persons who are registered under subdivision 3a, the bureau shall mail an annual verification form to the law enforcement authority where the offender most recently reported. The authority shall provide the verification form to the person at the next weekly meeting and ensure that the person completes and signs the form and returns it to the bureau. Notice is sufficient under this paragraph, if the verification form is sent by first class mail to the person's last reported primary address, or for persons registered under subdivision 3a, to the law enforcement authority where the offender most recently reported.

(2) The person shall mail the signed verification form back to the bureau within ten days after receipt of the form, stating on the form the current and last address of the person's residence and the other information required under subdivision 4a.

(3) In addition to the requirements listed in this section, an offender who is no longer under correctional supervision for a registration offense, or a failure to register offense, but who resides, works, or attends school in Minnesota, shall have an in-person contact with a law enforcement authority as provided in this section. If the person resides in Minnesota, the in-person contact shall be with the law enforcement authority that has jurisdiction over the person's primary address or, if the person has no address, the location where the person is staying. If the person does not reside in Minnesota but works or attends school in this state, the person shall have an in-person contact with the law enforcement authority or authorities with jurisdiction over the person's school or workplace. During the month of the person's birth date, the person shall report to the authority to verify the accuracy of the registration information and to be photographed. Within three days of this contact, the authority shall enter information as required by the bureau into the predatory offender registration database and submit an updated photograph of the person to the bureau's predatory offender registration unit.

(4) If the person fails to mail the completed and signed verification form to the bureau within ten days after receipt of the form, or if the person fails to report to the law enforcement authority during the month of the person's birth date, the person is in violation of this section.

(5) For any person who fails to mail the completed and signed verification form to the bureau within ten days after receipt of the form and who has been determined to be a risk level III offender under section 244.052, the bureau shall immediately investigate and notify local law enforcement authorities to investigate the person's location and to ensure compliance with this section. The bureau also shall immediately give notice of the person's violation of this section to the law enforcement authority having jurisdiction over the person's last registered address or addresses.

For persons required to register under subdivision 1b, paragraph (c), following commitment pursuant to a court commitment under Minnesota Statutes 2012, section 253B.185, chapter 253D, Minnesota Statutes 1992, section 526.10, or a similar law of another state or the United States, the bureau shall comply with clause (1) at least four times each year. For persons who, under section 244.052, are assigned to risk level III and who are no longer under correctional supervision for a registration offense or a failure to register offense, the bureau shall comply with clause (1) at least two times each year. For all other persons required to register under this section, the bureau shall comply with clause (1) each year within 30 days of the anniversary date of the person's initial registration.

(f) When sending out a verification form, the bureau shall determine whether the person to whom the verification form is being sent has signed a written consent form as provided for in paragraph (a). If the person has not signed such a consent form, the bureau shall send a written consent form to the person along with the verification form. A person who receives this written consent form shall sign and return it to the bureau at the same time as the verification form.

Subd. 4a. **Information required to be provided.** (a) A person required to register under this section shall provide to the corrections agent or law enforcement authority the following information:

(1) the person's primary address;

(2) all of the person's secondary addresses in Minnesota, including all addresses used for residential or recreational purposes;

(3) the addresses of all Minnesota property owned, leased, or rented by the person;

(4) the addresses of all locations where the person is employed;

(5) the addresses of all schools where the person is enrolled; and

(6) the year, model, make, license plate number, and color of all motor vehicles owned or regularly driven by the person.

(b) The person shall report to the agent or authority the information required to be provided under paragraph (a), clauses (2) to (6), within five days of the date the clause becomes applicable. If because of a change in circumstances any information reported under paragraph (a), clauses (1) to (6), no longer applies, the person shall immediately inform the agent or authority that the information is no longer valid. If the person leaves a primary address and does not have a new primary address, the person shall register as provided in subdivision 3a.

Subd. 4b. **Health care facility; notice of status.** (a) For the purposes of this subdivision, "health care facility" means a facility:

(1) licensed by the commissioner of health as a hospital, boarding care home or supervised living facility under sections 144.50 to 144.58, or a nursing home under chapter 144A;

(2) registered by the commissioner of health as a housing with services establishment as defined in section 144D.01; or

(3) licensed by the commissioner of human services as a residential facility under chapter 245A to provide adult foster care, adult mental health treatment, chemical dependency treatment to adults, or residential services to persons with disabilities.

(b) Prior to admission to a health care facility, a person required to register under this section shall disclose to:

(1) the health care facility employee processing the admission the person's status as a registered predatory offender under this section; and

(2) the person's corrections agent, or if the person does not have an assigned corrections agent, the law enforcement authority with whom the person is currently required to register, that inpatient admission will occur.

(c) A law enforcement authority or corrections agent who receives notice under paragraph (b) or who knows that a person required to register under this section is planning to be admitted and receive, or has been admitted and is receiving health care at a health care facility shall notify the administrator of the facility and deliver a fact sheet to the administrator containing the following information: (1) name and physical description of the offender; (2) the offender's conviction history, including the dates of conviction; (3) the risk level classification assigned to the offender under section 244.052, if any; and (4) the profile of likely victims.

(d) Except for a hospital licensed under sections 144.50 to 144.58, if a health care facility receives a fact sheet under paragraph (c) that includes a risk level classification for the offender, and if the facility admits the offender, the facility shall distribute the fact sheet to all residents at the facility. If the facility determines that distribution to a resident is not appropriate given the resident's medical, emotional, or mental status, the facility shall distribute the fact sheet to the patient's next of kin or emergency contact.

Subd. 4c. **Notices in writing; signed.** All notices required by this section must be in writing and signed by the person required to register.

Subd. 5. **Criminal penalty.** (a) A person required to register under this section who knowingly violates any of its provisions or intentionally provides false information to a corrections agent, law enforcement authority, or the bureau is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

(b) Except as provided in paragraph (c), a person convicted of violating paragraph (a) shall be committed to the custody of the commissioner of corrections for not less than a year and a day, nor more than five years.

(c) A person convicted of violating paragraph (a), who has previously been convicted of or adjudicated delinquent for violating this section or a similar statute of another state or the United States, shall be committed to the custody of the commissioner of corrections for not less than two years, nor more than five years.

(d) Prior to the time of sentencing, the prosecutor may file a motion to have the person sentenced without regard to the mandatory minimum sentence established by this subdivision. The motion must be accompanied by a statement on the record of the reasons for it. When presented with the motion, or on its own motion, the court may sentence the person without regard to the mandatory minimum sentence if the court finds substantial and compelling reasons to do so. Sentencing a person in the manner described in this paragraph is a departure from the Sentencing Guidelines.

(e) A person convicted and sentenced as required by this subdivision is not eligible for probation, parole, discharge, work release, conditional release, or supervised release, until that person has served the full term of imprisonment as provided by law, notwithstanding the provisions of sections 241.26, 242.19, 243.05, 244.04, 609.12, and 609.135.

Subd. 5a. **Ten-year conditional release for violations committed by level III offenders.** Notwithstanding the statutory maximum sentence otherwise applicable to the offense or any provision of the sentencing guidelines, when a court commits a person to the custody of the commissioner of corrections for violating subdivision 5 and, at the time of the violation, the person was assigned to risk level III under section244.052, the court shall provide that after the person has been released from prison, the commissioner shall place the person on conditional release for ten years. The terms of conditional release are governed by section609.3455, subdivision 8.

Subd. 6. **Registration period.** (a) Notwithstanding the provisions of section 609.165, subdivision 1, and except as provided in paragraphs (b), (c), and (d), a person required to register under this section shall continue to comply with this section until ten years have elapsed since the person initially registered in connection with the offense, or until the probation, supervised release, or conditional release period expires, whichever occurs later. For a person required to register under this section who is committed under section 253B.18, Minnesota Statutes 2012, section 253B.185, or chapter 253D, the ten-year registration period does not include the period of commitment.

(b) If a person required to register under this section fails to provide the person's primary address as required by subdivision 3, paragraph (b), fails to comply with the requirements of subdivision 3a, fails to provide information as required by subdivision 4a, or fails to return the verification form referenced in subdivision 4 within ten days, the commissioner of public safety shall require the person to continue to register for an additional period of five years. This five-year period is added to the end of the offender's registration period.

(c) If a person required to register under this section is incarcerated due to a conviction for a new offense or following a revocation of probation, supervised release, or conditional release for any offense, the person shall continue to register until ten years have elapsed since the person was last released from incarceration or until the person's probation, supervised release, or conditional release period expires, whichever occurs later.

(d) A person shall continue to comply with this section for the life of that person:

(1) if the person is convicted of or adjudicated delinquent for any offense for which registration is required under subdivision 1b, or any offense from another state or any federal offense similar to the offenses described in subdivision 1b, and the person has a prior conviction or adjudication for an offense for which registration was or would have been required under subdivision 1b, or an offense from another state or a federal offense similar to an offense described in subdivision 1b;

(2) if the person is required to register based upon a conviction or delinquency adjudication for an offense under section 609.185, paragraph (a), clause (2), or a similar statute from another state or the United States;

(3) if the person is required to register based upon a conviction for an offense under section 609.342, subdivision 1, paragraph (a), (c), (d), (e), (f), or (h); 609.343, subdivision 1, paragraph (a), (c), (d), (e), (f), or (h); 609.344, subdivision 1, paragraph (a), (c), or (g); or 609.345, subdivision 1, paragraph (a), (c), or (g); or a statute from another state or the United States similar to the offenses described in this clause; or

(4) if the person is required to register under subdivision 1b, paragraph (c), following commitment pursuant to a court commitment under Minnesota Statutes 2012, section 253B.185, chapter 253D, Minnesota Statutes 1992, section 526.10, or a similar law of another state or the United States.

(e) A person described in subdivision 1b, paragraph (b), who is required to register under the laws of a state in which the person has been previously convicted or adjudicated delinquent, shall register under this section for the time period required by the state of conviction or adjudication unless a longer time period is required elsewhere in this section.

Subd. 7. **Use of data.** (a) Except as otherwise provided in subdivision 7a or sections 244.052 and299C.093, the data provided under this section is private data on individuals under section 13.02, subdivision 12.

(b) The data may be used only by law enforcement and corrections agencies for law enforcement and corrections purposes. Law enforcement may disclose the status of an individual as a predatory offender to a child protection worker with a local welfare agency for purposes of doing a family assessment under section 626.556.

(c) The commissioner of human services is authorized to have access to the data for:

(1) state-operated services, as defined in section 246.014, for the purposes described in section 246.13, subdivision 2, paragraph (b); and

(2) purposes of completing background studies under chapter 245C.

Subd. 7a. **Availability of information on offenders who are out of compliance with registration law.** (a) The bureau may make information available to the public about offenders who are 16 years of age or older and who are out of compliance with this section for 30 days or longer for failure to provide the offenders' primary or secondary addresses. This information may be made available to the public through electronic, computerized, or other accessible means. The amount and type of information made available is limited to the information necessary for the public to assist law enforcement in locating the offender.

(b) An offender who comes into compliance with this section after the bureau discloses information about the offender to the public may send a written request to the bureau requesting the bureau to treat information about the offender as private data, consistent with subdivision 7. The bureau shall review the request and promptly take reasonable action to treat the data as private, if the offender has complied with the requirement that the offender provide the offender's primary and secondary addresses, or promptly notify the offender that the information will continue to be treated as public information and the reasons for the bureau's decision.

(c) If an offender believes the information made public about the offender is inaccurate or incomplete, the offender may challenge the data under section 13.04, subdivision 4.

(d) The bureau is immune from any civil or criminal liability that might otherwise arise, based on the accuracy or completeness of any information made public under this subdivision, if the bureau acts in good faith.

Subd. 8. [Repealed, 2005 c 136 art 3 s 31]

Subd. 9. **Offenders from other states.** (a) When the state accepts an offender from another state under a reciprocal agreement under the interstate compact authorized by section 243.1605, or under any authorized interstate agreement, the acceptance is conditional on the offender agreeing to register under this section when the offender is living in Minnesota.

(b) The Bureau of Criminal Apprehension shall notify the commissioner of corrections:

(1) when the bureau receives notice from a local law enforcement authority that a person from another state who is subject to this section has registered with the authority, unless the bureau previously received information about the offender from the commissioner of corrections;

(2) when a registration authority, corrections agent, or law enforcement agency in another state notifies the bureau that a person from another state who is subject to this section is moving to Minnesota; and

(3) when the bureau learns that a person from another state is in Minnesota and allegedly in violation of subdivision 5 for failure to register.

(c) When a local law enforcement agency notifies the bureau of an out-of-state offender's registration, the agency shall provide the bureau with information on whether the person is subject to community notification in another state and the risk level the person was assigned, if any.

(d) The bureau must forward all information it receives regarding offenders covered under this subdivision from sources other than the commissioner of corrections to the commissioner.

(e) When the bureau receives information directly from a registration authority, corrections agent, or law enforcement agency in another state that a person who may be subject to this section is moving to Minnesota, the bureau must ask whether the person entering the state is subject to community notification in another state and the risk level the person has been assigned, if any.

(f) When the bureau learns that a person subject to this section intends to move into Minnesota from another state or has moved into Minnesota from another state, the bureau shall notify the law enforcement authority with jurisdiction in the area of the person's primary address and provide all information concerning the person that is available to the bureau.

(g) The commissioner of corrections must determine the parole, supervised release, or conditional release status of persons who are referred to the commissioner under this subdivision. If the commissioner determines that a person is subject to parole, supervised release, or conditional release in another state and is not registered in Minnesota under the applicable interstate compact, the commissioner shall inform the local law enforcement agency that the person is in violation of section 243.161. If the person is not subject to supervised release, the commissioner shall notify the bureau and the local law enforcement agency of the person's status.

Subd. 10. [Repealed, 1Sp2001 c 8 art 9 s 8]

Subd. 10. **Venue; aggregation.** (a) A violation of this section may be prosecuted in any jurisdiction where an offense takes place. However, the prosecutorial agency in the jurisdiction where the person last registered a primary address is initially responsible to review the case for prosecution.

(b) When a person commits two or more offenses in two or more counties, the accused may be prosecuted for all of the offenses in any county in which one of the offenses was committed.

Subd. 11. **Certified copies as evidence.** Certified copies of predatory offender registration records are admissible as substantive evidence when necessary to prove the commission of a violation of this section.

History: *1991 c 285 s 3; 1993 c 326 art 10 s 1-7; 1994 c 636 art 4 s 5-8; 1Sp1994 c 1 art 3 s 1,2; 1995 c 226 art 4 s 3; 1996 c 408 art 5 s 2,3; 1997 c 239 art 5 s 1-3; 1998 c 367 art 3 s 1-3; art 6 s 15; 1999 c 127 s 1;1999 c 139 art 4 s 2; 1999 c 233 s 1-3; 2000 c 260 s 28; 2000 c 311 art 2 s 1-10; 1Sp2001 c 8 art 9 s 1-4; 2002 c 222 s 1; 2003 c 116 s 2; 1Sp2003 c 2 art 8 s 4,5; 2005 c 136 art 3 s 8; art 5 s 1; 1Sp2005 c 4 art 1 s 2,3; 2006 c 260 art 1 s 47; art 3 s 7-10; 2008 c 299 s 6,7; 2009 c 59 art 1 s 1; 2009 c 86 art 1 s 35-37; 2010 c 251 s 1,2;2011 c 28 s 2; 2013 c 49 s 22; 2013 c 96 s 1; 2013 c 108 art 5 s 2; art 8 s 3; 2014 c 259 s 1-4; 2016 c 136 s 1,2;2016 c 189 art 4 s 11*

243.167 REGISTRATION UNDER PREDATORY OFFENDER REGISTRATION LAW FOR OTHER OFFENSES.

Subdivision 1. **Definition.** As used in this section, "crime against the person" means a violation of any of the following or a similar law of another state or of the United States: section 609.165; 609.185; 609.19; 609.195; 609.20; 609.205; 609.221; 609.222; 609.223; 609.2231; 609.224, subdivision 2 or 4; 609.2242, subdivision 2 or 4; 609.2247; 609.235; 609.245, subdivision 1; 609.25; 609.255; 609.3451, subdivision 2; 609.498, subdivision 1; 609.582, subdivision 1; or 617.23, subdivision 2; or any felony-level violation of section 609.229; 609.377; 609.749; or 624.713.

Subd. 2. **When required.** (a) In addition to the requirements of section 243.166, a person also shall register under section 243.166 if:

(1) the person is convicted of a crime against the person; and

(2) the person was previously convicted of or adjudicated delinquent for an offense listed in section 243.166, or a comparable offense in another state, but was not required to register for the offense because the registration requirements of that section did not apply to the person at the time the offense was committed or at the time the person was released from imprisonment.

(b) A person who was previously required to register in any state and who has completed the registration requirements of that state shall again register under section 243.166 if the person commits a crime against the person.

History: *2000 c 311 art 2 s 11; 1Sp2001 c 8 art 9 s 5; 2005 c 136 art 3 s 9; 2007 c 54 art 7 s 2; 2008 c 299 s 8*

SECTION 6

MINNESOTA STATUTES CHAPTER 299C.
BUREAU OF CRIMINAL APPREHENSION

IDENTIFICATION AND INVESTIGATION DATA SYSTEMS

299C.10 IDENTIFICATION DATA REQUIRED. 6-1
299C.105 DNA DATA REQUIRED. 6-2
299C.11 IDENTIFICATION DATA FURNISHED TO BUREAU. 6-4

CHAPTER 299C.
BUREAU OF CRIMINAL APPREHENSION

IDENTIFICATION AND INVESTIGATION DATA SYSTEMS

299C.10 IDENTIFICATION DATA REQUIRED.

Subdivision 1. **Required fingerprinting.** (a) Sheriffs, peace officers, and community corrections agencies operating secure juvenile detention facilities shall take or cause to be taken immediately finger and thumb prints, photographs, distinctive physical mark identification data, information on any known aliases or street names, and other identification data requested or required by the superintendent of the bureau, of the following:

(1) persons arrested for, appearing in court on a charge of, or convicted of a felony, gross misdemeanor, or targeted misdemeanor;

(2) juveniles arrested for, appearing in court on a charge of, adjudicated delinquent for, or alleged to have committed felonies or gross misdemeanors as distinguished from those committed by adult offenders;

(3) adults and juveniles admitted to jails or detention facilities;

(4) persons reasonably believed by the arresting officer to be fugitives from justice;

(5) persons in whose possession, when arrested, are found concealed firearms or other dangerous weapons, burglar tools or outfits, high-power explosives, or articles, machines, or appliances usable for an unlawful purpose and reasonably believed by the arresting officer to be intended for such purposes;

(6) juveniles referred by a law enforcement agency to a diversion program for a felony or gross misdemeanor offense; and

(7) persons currently involved in the criminal justice process, on probation, on parole, or in custody for any offense whom the superintendent of the bureau identifies as being the subject of a court disposition record which cannot be linked to an arrest record, and whose fingerprints are necessary to reduce the number of suspense files, or to comply with the mandates of section 299C.111, relating to the reduction of the number of suspense files. This duty to obtain fingerprints for the offenses in suspense at the request of the bureau shall include the requirement that fingerprints be taken in post-arrest interviews, while making court appearances, while in custody, or while on any form of probation, diversion, or supervised release.

(b) Unless the superintendent of the bureau requires a shorter period, within 24 hours of taking the fingerprints and data, the fingerprint records and other identification data specified under paragraph (a) must be electronically entered into a bureau-managed searchable database in a manner as may be prescribed by the superintendent.

(c) Prosecutors, courts, and probation officers and their agents, employees, and subordinates shall attempt to ensure that the required identification data is taken on a person described in paragraph (a). Law enforcement may take fingerprints of an individual who is presently on probation.

(d) Finger and thumb prints must be obtained no later than:

(1) release from booking; or

(2) if not booked prior to acceptance of a plea of guilty or not guilty.

Prior to acceptance of a plea of guilty or not guilty, an individual's finger and thumb prints must be submitted to the Bureau of Criminal Apprehension for the offense. If finger and thumb prints have not been successfully received by the bureau, an individual may, upon order of the court, be taken into custody for no more than eight hours so that

the taking of prints can be completed. Upon notice and motion of the prosecuting attorney, this time period may be extended upon a showing that additional time in custody is essential for the successful taking of prints.

(e) For purposes of this section, a targeted misdemeanor is a misdemeanor violation of section 169A.20 (driving while impaired), 518B.01 (order for protection violation), 609.224 (fifth-degree assault), 609.2242 (domestic assault), 609.746 (interference with privacy), 609.748 (harassment or restraining order violation), 617.23 (indecent exposure), or 629.75 (domestic abuse no contact order).

Subd. 1a. **Court disposition record in suspense; fingerprinting.** The superintendent of the bureau shall inform a prosecuting authority that a person prosecuted by that authority is the subject of a court disposition record in suspense which requires fingerprinting under this section. Upon being notified by the superintendent or otherwise learning of the suspense status of a court disposition record, any prosecuting authority may bring a motion in district court to compel the taking of the person's fingerprints upon a showing to the court that the person is the subject of the court disposition record in suspense.

Subd. 2. **Law enforcement education.** The sheriffs and police officers who take finger and thumb prints must obtain training in the proper methods of taking and transmitting fingerprints under this section consistent with bureau requirements.

Subd. 3. **Bureau duty.** The bureau must convert into an electronic format for entry in the criminal records system fingerprints, thumbprints, and other identification data within three business days after they are received under this section if the fingerprints, thumbprints, and other identification data were not electronically entered by a criminal justice agency.

Subd. 4. **Fee for background check; account; appropriation.** The superintendent shall collect a fee in an amount to cover the expense for each background check provided for a purpose not directly related to the criminal justice system or required by section 624.7131, 624.7132, or 624.714. The proceeds of the fee must be deposited in a special account. Money in the account is annually appropriated to the commissioner to maintain and improve the quality of the criminal record system in Minnesota. The superintendent shall collect an additional handling fee of $7 for FBI background fingerprint checks.

Subd. 5. **Fee for taking fingerprints; account, appropriation.** The superintendent may charge a fee of $10 to take fingerprints for the public when required by an employer or government entity for either employment or licensing. No fee will be charged when there is a question whether the person is the subject of a criminal history record. The proceeds of the fee must be deposited in an account in the special revenue fund. Money in the account is annually appropriated to the commissioner to maintain and improve the quality of the criminal record system in Minnesota.

History: *(9950-10)1927 c 224 s 6; 1929 c 46 s 1; 1935 c 197 s 4; 1957 c 790 s 2; 1993 c 266 s 32; 1994 c 636 art 4 s 19; 1995 c 226 art 4 s 10, 11; 1996 c 408 art 6 s 11; 1996 c 440 art 1 s 50; 1997 c 159 art 2 s 43; 1997 c 239 art 8 s 14, 15; 2000 c 478 art 2 s 7; 1Sp2001 c 8 art 6 s 1; 1Sp2003 c 2 art 4 s 7, 8; 2005 c 136 art 11 s 8, 9; 2008 c 242 s 2; 2011 c 79 s 1; 2012 c 211 s 1; 2013 c 86 art 4 s 3, 4*

299C.105 DNA DATA REQUIRED.

Subdivision 1. **Required collection of biological specimen for DNA testing.** (a) Sheriffs, peace officers, and community corrections agencies operating secure juvenile detention facilities shall take or cause to be taken biological specimens for the purpose of DNA analysis as defined in section 299C.155, of the following:

(1) persons who have appeared in court and have had a judicial probable cause determination on a charge of committing, or persons having been convicted of or attempting to commit, any of the following:

(i) murder under section 609.185, 609.19, or 609.195;

(ii) manslaughter under section 609.20 or 609.205;

(iii) assault under section 609.221, 609.222, or 609.223;

(iv) robbery under section 609.24 or aggravated robbery under section 609.245;

(v) kidnapping under section 609.25;

(vi) false imprisonment under section 609.255;

(vii) criminal sexual conduct under section 609.342, 609.343, 609.344, 609.345, 609.3451, subdivision 3, or 609.3453;

(viii) incest under section 609.365;

(ix) burglary under section 609.582, subdivision 1; or

(x) indecent exposure under section 617.23, subdivision 3;

(2) persons sentenced as patterned sex offenders under section 609.3455, subdivision 3a; or

(3) juveniles who have appeared in court and have had a judicial probable cause determination on a charge of committing, or juveniles having been adjudicated delinquent for committing or attempting to commit, any of the following:

(i) murder under section 609.185, 609.19, or 609.195;

(ii) manslaughter under section 609.20 or 609.205;

(iii) assault under section 609.221, 609.222, or 609.223;

(iv) robbery under section 609.24 or aggravated robbery under section 609.245;

(v) kidnapping under section 609.25;

(vi) false imprisonment under section 609.255;

(vii) criminal sexual conduct under section 609.342, 609.343, 609.344, 609.345, 609.3451, subdivision 3, or 609.3453;

(viii) incest under section 609.365;

(ix) burglary under section 609.582, subdivision 1; or

(x) indecent exposure under section 617.23, subdivision 3.

(b) Unless the superintendent of the bureau requires a shorter period, within 72 hours the biological specimen required under paragraph (a) must be forwarded to the bureau in such a manner as may be prescribed by the superintendent.

(c) Prosecutors, courts, and probation officers shall attempt to ensure that the biological specimen is taken on a person described in paragraph (a).

[See Note.]

Subd. 2. **Law enforcement training; duties.** (a) The persons who collect the biological specimens required under subdivision 1 must be trained to bureau-established standards in the proper method of collecting and transmitting biological specimens.

(b) A law enforcement officer who seeks to collect a biological specimen from a juvenile pursuant to subdivision 1 must notify the juvenile's parent or guardian prior to collecting the biological specimen.

Subd. 3. **Bureau duty.** (a) The bureau shall destroy the biological specimen and return all records to a person who submitted a biological specimen under subdivision 1 but who was found not guilty of a felony. Upon the request of a person who submitted a biological specimen under subdivision 1 but where the charge against the person was later dismissed, the bureau shall destroy the person's biological specimen and return all records to the individual.

(b) If the bureau destroys a biological specimen under paragraph (a), the bureau shall also remove the person's information from the bureau's combined DNA index system and return all related records and all copies or duplicates of them.

History: *2005 c 136 art 12 s 4; 2006 c 260 art 1 s 47*

NOTE: Subdivision 1, paragraph (a), clauses (1) and (3), were found unconstitutional as applied to a person who has been charged but not convicted in In re Welfare of C.T.L., 722 N.W.2d 484 (Minn. Ct. App. 2006).

299C.11 IDENTIFICATION DATA FURNISHED TO BUREAU.

Subdivision 1. **Identification data other than DNA.** (a) Each sheriff and chief of police shall furnish the bureau, upon such form as the superintendent shall prescribe, with such finger and thumb prints, photographs, distinctive physical mark identification data, information on known aliases and street names, and other identification data as may be requested or required by the superintendent of the bureau, which must be taken under the provisions of section 299C.10. In addition, sheriffs and chiefs of police shall furnish this identification data to the bureau for individuals found to have been convicted of a felony, gross misdemeanor, or targeted misdemeanor, within the ten years immediately preceding their arrest. When the bureau learns that an individual who is the subject of a background check has used, or is using, identifying information, including, but not limited to, name and date of birth, other than those listed on the criminal history, the bureau shall convert into an electronic format, if necessary, and enter into a bureau-managed searchable database the new identifying information when supported by fingerprints within three business days of learning the information if the information is not entered by a law enforcement agency.

(b) No petition under chapter 609A is required if the person has not been convicted of any felony or gross misdemeanor, either within or without the state, within the period of ten years immediately preceding the determination of all pending criminal actions or proceedings in favor of the arrested person, and either of the following occurred:

(1) all charges were dismissed prior to a determination of probable cause; or

(2) the prosecuting authority declined to file any charges and a grand jury did not return an indictment.

Where these conditions are met, the bureau or agency shall, upon demand, destroy the arrested person's finger and thumb prints, photographs, distinctive physical mark identification data, information on known aliases and street names, and other identification data, and all copies and duplicates of them.

(c) Except as otherwise provided in paragraph (b), upon the determination of all pending criminal actions or proceedings in favor of the arrested person, and the granting of the petition of the arrested person under chapter 609A, the bureau shall seal finger and thumb prints, photographs, distinctive physical mark identification data, information on known aliases and street names, and other identification data, and all copies and duplicates of them if the arrested person has not been convicted of any felony or gross misdemeanor, either within or without the state, within the period of ten years immediately preceding such determination.

Subd. 2. **DNA samples; law enforcement duties.** (a) Each sheriff and chief of police shall furnish the bureau, in such form as the superintendent shall prescribe, with the biological specimens required to be taken under section 299C.105.

(b) DNA samples and DNA records of the arrested person obtained through authority other than section 299C.105shall not be returned, sealed, or destroyed as to a charge supported by probable cause.

Subd. 3. **Definitions.** For purposes of this section:

(1) "determination of all pending criminal actions or proceedings in favor of the arrested person" does not include:

(i) the sealing of a criminal record pursuant to section 152.18, subdivision 1, 242.31, or chapter 609A;

(ii) the arrested person's successful completion of a diversion program;

(iii) an order of discharge under section 609.165; or

(iv) a pardon granted under section 638.02; and

(2) "targeted misdemeanor" has the meaning given in section 299C.10, subdivision 1.

History: *(9950-11)1927 c 224 s 7; 1929 c 46 s 2; 1935 c 197 s 5; 1957 c 790 s 3; 1986 c 444; 1992 c 569 s 16; 1994 c 636 art 4 s 20; 1995 c 259 art 1 s 49; 1996 c 408 art 9 s 5; 1997 c 7 art 1 s 122; 1Sp2001 c 8 art 6 s 2; 2005 c 136 art 8 s 10; art 12 s 5; 2013 c 82 s 25; 2013 c 86 art 4 s 5*

SECTION 7

MINNESOTA STATUTES CHAPTER 340A.
LIQUOR

RETAIL SALES REGULATIONS

340A.503 PERSONS UNDER 21; ILLEGAL ACTS. 7-1

VIOLATIONS AND PENALTIES

340A.703 MISDEMEANORS. 7-3

CHARITABLE AUCTION

340A.707 AUCTION OR RAFFLE FOR CHARITABLE PURPOSES..... 7-3

CHAPTER 340A.
LIQUOR

RETAIL SALES REGULATIONS

340A.503 PERSONS UNDER 21; ILLEGAL ACTS.

Subdivision 1. **Consumption.** (a) It is unlawful for any:

(1) retail intoxicating liquor or 3.2 percent malt liquor licensee, municipal liquor store, or bottle club permit holder under section 340A.414, to permit any person under the age of 21 years to drink alcoholic beverages on the licensed premises or within the municipal liquor store; or

(2) person under the age of 21 years to consume any alcoholic beverages. If proven by a preponderance of the evidence, it is an affirmative defense to a violation of this clause that the defendant consumed the alcoholic beverage in the household of the defendant's parent or guardian and with the consent of the parent or guardian.

(b) An offense under paragraph (a), clause (2), may be prosecuted either in the jurisdiction where consumption occurs or the jurisdiction where evidence of consumption is observed.

(c) As used in this subdivision, "consume" includes the ingestion of an alcoholic beverage and the physical condition of having ingested an alcoholic beverage.

Subd. 2. **Purchasing.** It is unlawful for any person:

(1) to sell, barter, furnish, or give alcoholic beverages to a person under 21 years of age;

(2) under the age of 21 years to purchase or attempt to purchase any alcoholic beverage unless under the supervision of a responsible person over the age of 21 for training, education, or research purposes. Prior notification of the licensing authority is required unless the supervised alcohol purchase attempt is for professional research conducted by postsecondary educational institutions or state, county, or local health departments; or

(3) to induce a person under the age of 21 years to purchase or procure any alcoholic beverage, or to lend or knowingly permit the use of the person's driver's license, permit, Minnesota identification card, or other form of identification by a person under the age of 21 years for the purpose of purchasing or attempting to purchase an alcoholic beverage.

If proven by a preponderance of the evidence, it shall be an affirmative defense to a violation of clause (1) that the defendant is the parent or guardian of the person under 21 years of age and that the defendant gave or furnished the alcoholic beverage to that person solely for consumption in the defendant's household.

Subd. 3. **Possession.** It is unlawful for a person under the age of 21 years to possess any alcoholic beverage with the intent to consume it at a place other than the household of the person's parent or guardian. Possession at a place other than the household of the parent or guardian creates a rebuttable presumption of intent to consume it at a place other than the household of the parent or guardian. This presumption may be rebutted by a preponderance of the evidence.

Subd. 4. **Entering licensed premises.** (a) It is unlawful for a person under the age of 21 years to enter an establishment licensed for the sale of alcoholic beverages or any municipal liquor store for the purpose of purchasing or having served or delivered any alcoholic beverage.

(b) Notwithstanding section 340A.509, no ordinance enacted by a statutory or home rule charter city may prohibit a person 18, 19, or 20 years old from entering an establishment licensed under this chapter to:

(1) perform work for the establishment, including the serving of alcoholic beverages, unless otherwise prohibited by section 340A.412, subdivision 10;

(2) consume meals; and

(3) attend social functions that are held in a portion of the establishment where liquor is not sold.

Subd. 5. **Misrepresentation of age.** It is unlawful for a person under the age of 21 years to claim to be 21 years old or older for the purpose of purchasing alcoholic beverages.

Subd. 5a. **Attainment of age.** With respect to purchasing, possessing, consuming, selling, furnishing, and serving alcoholic beverages, a person is not 21 years of age until 8:00 a.m. on the day of that person's 21st birthday.

Subd. 6. **Proof of age; defense; seizure of false identification.** (a) Proof of age for purchasing or consuming alcoholic beverages may be established only by one of the following:

(1) a valid driver's license or identification card issued by Minnesota, another state, or a province of Canada, and including the photograph and date of birth of the licensed person;

(2) a valid military identification card issued by the United States Department of Defense;

(3) a valid passport issued by the United States;

(4) a valid instructional permit issued under section 171.05 to a person of legal age to purchase alcohol which includes a photograph and the date of birth of the person issued the permit; or

(5) in the case of a foreign national, by a valid passport.

(b) In a prosecution under subdivision 2, clause (1), it is a defense for the defendant to prove by a preponderance of the evidence that the defendant reasonably and in good faith relied upon representations of proof of age authorized in paragraph (a) in selling, bartering, furnishing, or giving the alcoholic beverage.

(c) A licensed retailer or municipal liquor store may seize a form of identification listed under paragraph (a) if the retailer or municipal liquor store has reasonable grounds to believe that the form of identification has been altered or falsified or is being used to violate any law. A retailer or municipal liquor store that seizes a form of identification as authorized under this paragraph must deliver it to a law enforcement agency, within 24 hours of seizing it.

Subd. 7. [Repealed, 1989 c 351 s 19]

Subd. 8. **Prosecution; immunity.** (a) A person is not subject to prosecution under subdivision 1, paragraph (a), clause (2), or subdivision 3, if the person contacts a 911 operator to report that the person or another person is in need of medical assistance for an immediate health or safety concern, provided that the person who initiates contact is the first person to make such a report, provides a name and contact information, remains on the scene until assistance arrives, and cooperates with the authorities at the scene.

(b) The person who receives medical assistance shall also be immune from prosecution under paragraph (a).

(c) Paragraph (a) also applies to one or two persons acting in concert with the person initiating contact provided that all the requirements of paragraph (a) are met.

History: *1985 c 305 art 7 s 3; 1986 c 330 s 6; 1986 c 444; 1987 c 152 art 1 s 1; 1989 c 301 s 13,14; 1990 c 602 art 5 s 2-4; 1991 c 68 s 1; 1991 c 249 s 20; 1993 c 347 s 21; 1993 c 350 s 13; 1994 c 615 s 21; 1995 c 185 s 7; 1995 c 186 s 67; 1996 c 323 s 4; 1996 c 442 s 24; 1Sp1997 c 2 s 57; 1999 c 202 s 7; 2000 c 472 s 3; 2005 c 131 s 7; 2013 c 112 s 1; 2015 c 9 art 2 s 6*

VIOLATIONS AND PENALTIES

340A.703 MISDEMEANORS.

Where no other penalty is specified a violation of any provision of this chapter is a misdemeanor. A minimum fine of $100 must be assessed against a person under the age of 21 years who violates section 340A.503.

History: *1985 c 305 art 9 s 3; 1987 c 152 art 1 s 1; 1999 c 216 art 3 s 1*

CHARITABLE AUCTION

340A.707 AUCTION OR RAFFLE FOR CHARITABLE PURPOSES.

Notwithstanding sections 340A.401, 340A.414, and 340A.505, a nonprofit organization conducting a silent auction, raffle, or other fund-raising event may conduct live, on premises auctions or raffles of wine, beer, or intoxicating liquors, provided that funds from the auction or raffle are dedicated to the charitable purposes of the nonprofit organization, such auctions or raffles are limited to not more than six occasions per year, and the alcohol may only be auctioned or raffled to persons who demonstrate that they are 21 years of age or older and do not show signs of obvious intoxication. Nothing in this section authorizes on-premises consumption of alcohol.

History: *2007 c 89 s 8*

SECTION 8

MINNESOTA STATUTES CHAPTER 518B.
DOMESTIC ABUSE

518B.01 DOMESTIC ABUSE ACT. 8-1

518B.02 DOMESTIC ABUSE COUNSELING PROGRAM OR EDUCATIONAL PROGRAM REQUIRED. ... 8-14

CHAPTER 518B.
DOMESTIC ABUSE

518B.01 DOMESTIC ABUSE ACT.

Subdivision 1. **Short title.** This section may be cited as the "Domestic Abuse Act."

Subd. 2. **Definitions.** As used in this section, the following terms shall have the meanings given them:

(a) "Domestic abuse" means the following, if committed against a family or household member by a family or household member:

(1) physical harm, bodily injury, or assault;

(2) the infliction of fear of imminent physical harm, bodily injury, or assault; or

(3) terroristic threats, within the meaning of section 609.713, subdivision 1; criminal sexual conduct, within the meaning of section 609.342, 609.343, 609.344, 609.345, or 609.3451; or interference with an emergency call within the meaning of section 609.78, subdivision 2.

(b) "Family or household members" means:

(1) spouses and former spouses;

(2) parents and children;

(3) persons related by blood;

(4) persons who are presently residing together or who have resided together in the past;

(5) persons who have a child in common regardless of whether they have been married or have lived together at any time;

(6) a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time; and

(7) persons involved in a significant romantic or sexual relationship.

Issuance of an order for protection on the ground in clause (6) does not affect a determination of paternity under sections 257.51 to 257.74. In determining whether persons are or have been involved in a significant romantic or sexual relationship under clause (7), the court shall consider the length of time of the relationship; type of relationship; frequency of interaction between the parties; and, if the relationship has terminated, length of time since the termination.

(c) "Qualified domestic violence-related offense" has the meaning given in section 609.02, subdivision 16.

Subd. 3. **Court jurisdiction.** An application for relief under this section may be filed in the court having jurisdiction over dissolution actions, in the county of residence of either party, in the county in which a pending or completed family court proceeding involving the parties or their minor children was brought, or in the county in which the alleged domestic abuse occurred. There are no residency requirements that apply to a petition for an order for protection. In a jurisdiction which utilizes referees in dissolution actions, the court or judge may refer actions under this section to a referee to take and report the evidence in the action in the same manner and subject to the same limitations provided in section 518.13. Actions under this section shall be given docket priorities by the court.

Subd. 3a. **Filing fee.** The filing fees for an order for protection under this section are waived for the petitioner and respondent. The court administrator, the sheriff of any county in this state, and other law enforcement and corrections officers shall perform their duties relating to service of process without charge to the petitioner. The court shall direct payment of the reasonable costs of service of process if served by a private process server when the sheriff or

other law enforcement or corrections officer is unavailable or if service is made by publication, without requiring the petitioner to make application under section 563.01.

Subd. 3b. **Information on petitioner's location or residence.** Upon the petitioner's request, information maintained by the court regarding the petitioner's location or residence is not accessible to the public and may be disclosed only to court personnel or law enforcement for purposes of service of process, conducting an investigation, or enforcing an order.

Subd. 4. **Order for protection.** There shall exist an action known as a petition for an order for protection in cases of domestic abuse.

(a) A petition for relief under this section may be made by any family or household member personally or by a family or household member, a guardian as defined in section 524.1-201, clause (27), or, if the court finds that it is in the best interests of the minor, by a reputable adult age 25 or older on behalf of minor family or household members. A minor age 16 or older may make a petition on the minor's own behalf against a spouse or former spouse, or a person with whom the minor has a child in common, if the court determines that the minor has sufficient maturity and judgment and that it is in the best interests of the minor.

(b) A petition for relief shall allege the existence of domestic abuse, and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought.

(c) A petition for relief must state whether the petitioner has ever had an order for protection in effect against the respondent.

(d) A petition for relief must state whether there is an existing order for protection in effect under this chapter governing both the parties and whether there is a pending lawsuit, complaint, petition or other action between the parties under chapter 257, 518, 518A, 518B, or 518C. The court administrator shall verify the terms of any existing order governing the parties. The court may not delay granting relief because of the existence of a pending action between the parties or the necessity of verifying the terms of an existing order. A subsequent order in a separate action under this chapter may modify only the provision of an existing order that grants relief authorized under subdivision 6, paragraph (a), clause (1). A petition for relief may be granted, regardless of whether there is a pending action between the parties.

(e) The court shall provide simplified forms and clerical assistance to help with the writing and filing of a petition under this section.

(f) The court shall advise a petitioner under paragraph (e) of the right to file a motion and affidavit and to sue in forma pauperis pursuant to section 563.01 and shall assist with the writing and filing of the motion and affidavit.

(g) The court shall advise a petitioner under paragraph (e) of the right to serve the respondent by published notice under subdivision 5, paragraph (b), if the respondent is avoiding personal service by concealment or otherwise, and shall assist with the writing and filing of the affidavit.

(h) The court shall advise the petitioner of the right to seek restitution under the petition for relief.

(i) The court shall advise the petitioner of the right to request a hearing under subdivision 7, paragraph (c). If the petitioner does not request a hearing, the court shall advise the petitioner that the respondent may request a hearing and that notice of the hearing date and time will be provided to the petitioner by mail at least five days before the hearing.

(j) The court shall advise the petitioner of the right to request supervised parenting time, as provided in section 518.175, subdivision 1a.

Subd. 5. **Hearing on application; notice.** (a) Upon receipt of the petition, the court shall order a hearing which shall be held not later than 14 days from the date of the order for hearing unless an ex parte order is issued.

(b) If an ex parte order has been issued under subdivision 7 and the petitioner seeks only the relief under subdivision 7, paragraph (a), a hearing is not required unless:

(1) the court declines to order the requested relief; or

(2) one of the parties requests a hearing.

(c) If an ex parte order has been issued under subdivision 7 and the petitioner seeks relief beyond that specified in subdivision 7, paragraph (a), or if the court declines to order relief requested by the petitioner, a hearing must be held within seven days. Personal service of the ex parte order may be made upon the respondent at any time up to 12 hours prior to the time set for the hearing, provided that the respondent at the hearing may request a continuance of up to five days if served fewer than five days prior to the hearing which continuance shall be granted unless there are compelling reasons not to.

(d) If an ex parte order has been issued only granting relief under subdivision 7, paragraph (a), and the respondent requests a hearing, the hearing shall be held within ten days of the court's receipt of the respondent's request. Service of the notice of hearing must be made upon the petitioner not less than five days prior to the hearing. The court shall serve the notice of hearing upon the petitioner by mail in the manner provided in the Rules of Civil Procedure for pleadings subsequent to a complaint and motions and shall also mail notice of the date and time of the hearing to the respondent. In the event that service cannot be completed in time to give the respondent or petitioner the minimum notice required under this subdivision, the court may set a new hearing date no more than five days later.

(e) If for good cause shown either party is unable to proceed at the initial hearing and requests a continuance and the court finds that a continuance is appropriate, the hearing may be continued. Unless otherwise agreed by the parties and approved by the court, the continuance shall be for no more than five days. If the court grants the requested continuance, the court shall also issue a written order continuing all provisions of the ex parte order pending the issuance of an order after the hearing.

(f) Notwithstanding the preceding provisions of this subdivision, service on the respondent may be made by one week published notice, as provided under section 645.11, provided the petitioner files with the court an affidavit stating that an attempt at personal service made by a sheriff or other law enforcement or corrections officer was unsuccessful because the respondent is avoiding service by concealment or otherwise, and that a copy of the petition and notice of hearing has been mailed to the respondent at the respondent's residence or that the residence is not known to the petitioner. Service under this paragraph is complete seven days after publication. The court shall set a new hearing date if necessary to allow the respondent the five-day minimum notice required under paragraph (d).

Subd. 6. **Relief by court.** (a) Upon notice and hearing, the court may provide relief as follows:

(1) restrain the abusing party from committing acts of domestic abuse;

(2) exclude the abusing party from the dwelling which the parties share or from the residence of the petitioner;

(3) exclude the abusing party from a reasonable area surrounding the dwelling or residence, which area shall be described specifically in the order;

(4) award temporary custody or establish temporary parenting time with regard to minor children of the parties on a basis which gives primary consideration to the safety of the victim and the children. In addition to the primary safety considerations, the court may consider particular best interest factors that are found to be relevant to the temporary custody and parenting time award. Findings under section 257.025, 518.17, or 518.175 are not required with respect to the particular best interest factors not considered by the court. If the court finds that the safety of the victim or the children will be jeopardized by unsupervised or unrestricted parenting time, the court shall condition or

restrict parenting time as to time, place, duration, or supervision, or deny parenting time entirely, as needed to guard the safety of the victim and the children. The court's decision on custody and parenting time shall in no way delay the issuance of an order for protection granting other relief provided for in this section. The court must not enter a parenting plan under section 518.1705 as part of an action for an order for protection;

(5) on the same basis as is provided in chapter 518 or 518A, establish temporary support for minor children or a spouse, and order the withholding of support from the income of the person obligated to pay the support according to chapter 518A;

(6) provide upon request of the petitioner counseling or other social services for the parties, if married, or if there are minor children;

(7) order the abusing party to participate in treatment or counseling services, including requiring the abusing party to successfully complete a domestic abuse counseling program or educational program under section 518B.02;

(8) award temporary use and possession of property and restrain one or both parties from transferring, encumbering, concealing, or disposing of property except in the usual course of business or for the necessities of life, and to account to the court for all such transfers, encumbrances, dispositions, and expenditures made after the order is served or communicated to the party restrained in open court;

(9) exclude the abusing party from the place of employment of the petitioner, or otherwise limit access to the petitioner by the abusing party at the petitioner's place of employment;

(10) order the abusing party to have no contact with the petitioner whether in person, by telephone, mail, or electronic mail or messaging, through a third party, or by any other means;

(11) order the abusing party to pay restitution to the petitioner;

(12) order the continuance of all currently available insurance coverage without change in coverage or beneficiary designation;

(13) order, in its discretion, other relief as it deems necessary for the protection of a family or household member, including orders or directives to the sheriff or other law enforcement or corrections officer as provided by this section;

(14) direct the care, possession, or control of a pet or companion animal owned, possessed, or kept by the petitioner or respondent or a child of the petitioner or respondent; and

(15) direct the respondent to refrain from physically abusing or injuring any pet or companion animal, without legal justification, known to be owned, possessed, kept, or held by either party or a minor child residing in the residence or household of either party as an indirect means of intentionally threatening the safety of such person.

(b) Any relief granted by the order for protection shall be for a period not to exceed two years, except when the court determines a longer period is appropriate. When a referee presides at the hearing on the petition, the order granting relief becomes effective upon the referee's signature.

(c) An order granting the relief authorized in paragraph (a), clause (1), may not be vacated or modified in a proceeding for dissolution of marriage or legal separation, except that the court may hear a motion for modification of an order for protection concurrently with a proceeding for dissolution of marriage upon notice of motion and motion. The notice required by court rule shall not be waived. If the proceedings are consolidated and the motion to modify is granted, a separate order for modification of an order for protection shall be issued.

(d) An order granting the relief authorized in paragraph (a), clause (2) or (3), is not voided by the admittance of the abusing party into the dwelling from which the abusing party is excluded.

(e) If a proceeding for dissolution of marriage or legal separation is pending between the parties, the court shall provide a copy of the order for protection to the court with jurisdiction over the dissolution or separation proceeding for inclusion in its file.

(f) An order for restitution issued under this subdivision is enforceable as civil judgment.

(g) An order granting relief shall prohibit the abusing party from possessing firearms for the length the order is in effect if the order (1) restrains the abusing party from harassing, stalking, or threatening the petitioner or restrains the abusing party from engaging in other conduct that would place the petitioner in reasonable fear of bodily injury, and (2) includes a finding that the abusing party represents a credible threat to the physical safety of the petitioner or prohibits the abusing party from using, attempting to use, or threatening to use physical force against the petitioner. The order shall inform the abusing party of that party's prohibited status. Except as provided in paragraph (i), the court shall order the abusing party to transfer any firearms that the person possesses, within three business days, to a federally licensed firearms dealer, a law enforcement agency, or a third party who may lawfully receive them. The transfer may be permanent or temporary. A temporary firearm transfer only entitles the receiving party to possess the firearm. A temporary transfer does not transfer ownership or title. An abusing party may not transfer firearms to a third party who resides with the abusing party. If an abusing party makes a temporary transfer, a federally licensed firearms dealer or law enforcement agency may charge the abusing party a reasonable fee to store the person's firearms and may establish policies for disposal of abandoned firearms, provided such policies require that the person be notified via certified mail prior to disposal of abandoned firearms. For temporary firearms transfers under this paragraph, a law enforcement agency, federally licensed firearms dealer, or third party shall exercise due care to preserve the quality and function of the transferred firearms and shall return the transferred firearms to the person upon request after the expiration of the prohibiting time period, provided the person is not otherwise prohibited from possessing firearms under state or federal law. The return of temporarily transferred firearms to an abusing party shall comply with state and federal law. If an abusing party permanently transfers the abusing party's firearms to a law enforcement agency, the agency is not required to compensate the abusing party and may charge the abusing party a reasonable processing fee. A law enforcement agency is not required to accept an abusing party's firearm under this paragraph.

(h) An abusing party who is ordered to transfer firearms under paragraph (g) must file proof of transfer as provided for in this paragraph. If the transfer is made to a third party, the third party must sign an affidavit under oath before a notary public either acknowledging that the abusing party permanently transferred the abusing party's firearms to the third party or agreeing to temporarily store the abusing party's firearms until such time as the abusing party is legally permitted to possess firearms. The affidavit shall indicate the serial number, make, and model of all firearms transferred by the abusing party to the third party. The third party shall acknowledge in the affidavit that the third party may be held criminally and civilly responsible under section 624.7144 if the abusing party gains access to a transferred firearm while the firearm is in the custody of the third party. If the transfer is to a law enforcement agency or federally licensed firearms dealer, the law enforcement agency or federally licensed firearms dealer shall provide proof of transfer to the abusing party. The proof of transfer must specify whether the firearms were permanently or temporarily transferred and include the name of the abusing party, date of transfer, and the serial number, make, and model of all transferred firearms. The abusing party shall provide the court with a signed and notarized affidavit or proof of transfer as described in this section within two business days of the firearms transfer. The court shall seal affidavits and proofs of transfer filed pursuant to this paragraph.

(i) When a court issues an order containing a firearms restriction provided for in paragraph (g), the court shall determine by a preponderance of evidence if an abusing party poses an imminent risk of causing another person substantial bodily harm. Upon a finding of imminent risk, the court shall order that the local law enforcement agency take immediate possession of all firearms in the abusing party's possession. The local law enforcement agency shall exercise due care to preserve the quality and function of the abusing party's firearms and shall return the firearms

to the person upon request after the expiration of the prohibiting time period, provided the person is not otherwise prohibited from possessing firearms under state or federal law. The local law enforcement agency shall, upon written notice from the abusing party, transfer the firearms to a federally licensed firearms dealer or a third party who may lawfully receive them. Before a local law enforcement agency transfers a firearm under this paragraph, the agency shall require the third party or federally licensed firearms dealer receiving the firearm to submit an affidavit or proof of transfer that complies with the requirements for affidavits or proofs of transfer established in paragraph (h). The agency shall file all affidavits or proofs of transfer received with the court within two business days of the transfer. The court shall seal all affidavits or proofs of transfer filed pursuant to this paragraph. A federally licensed firearms dealer or third party who accepts a firearm transfer pursuant to this paragraph shall comply with paragraphs (g) and (h) as if accepting transfer from the abusing party. If the law enforcement agency does not receive written notice from the abusing party within three business days, the agency may charge a reasonable fee to store the abusing party's firearms. A law enforcement agency may establish policies for disposal of abandoned firearms, provided such policies require that the abusing party be notified via certified mail prior to disposal of abandoned firearms.

Subd. 6a. **Subsequent orders and extensions.** (a) Upon application, notice to all parties, and hearing, the court may extend the relief granted in an existing order for protection or, if a petitioner's order for protection is no longer in effect when an application for subsequent relief is made, grant a new order. If the petitioner seeks only the relief under subdivision 7, paragraph (a), a hearing is not required unless the court declines to order the requested relief or the respondent requests a hearing. If a hearing is required, subdivisions 5 and 7 apply to service of the application, notice to the parties, and time for the hearing.

(b) The court may extend the terms of an existing order or, if an order is no longer in effect, grant a new order upon a showing that:

(1) the respondent has violated a prior or existing order for protection;

(2) the petitioner is reasonably in fear of physical harm from the respondent;

(3) the respondent has engaged in the act of stalking within the meaning of section 609.749, subdivision 2; or

(4) the respondent is incarcerated and about to be released, or has recently been released from incarceration.

A petitioner does not need to show that physical harm is imminent to obtain an extension or a subsequent order under this subdivision.

(c) Relief granted by the order for protection may be for a period of up to 50 years, if the court finds:

(1) the respondent has violated a prior or existing order for protection on two or more occasions; or

(2) the petitioner has had two or more orders for protection in effect against the same respondent.

An order issued under this paragraph may restrain the abusing party from committing acts of domestic abuse; or prohibit the abusing party from having any contact with the petitioner, whether in person, by telephone, mail or electronic mail or messaging, through electronic devices, through a third party, or by any other means.

Subd. 7. **Ex parte order.** (a) Where an application under this section alleges an immediate and present danger of domestic abuse, the court may grant an ex parte order for protection and granting relief as the court deems proper, including an order:

(1) restraining the abusing party from committing acts of domestic abuse;

(2) excluding any party from the dwelling they share or from the residence of the other, including a reasonable area surrounding the dwelling or residence, which area shall be described specifically in the order, except by further order of the court;

(3) excluding the abusing party from the place of employment of the petitioner or otherwise limiting access to the petitioner by the abusing party at the petitioner's place of employment;

(4) ordering the abusing party to have no contact with the petitioner whether in person, by telephone, mail, e-mail, through electronic devices, or through a third party;

(5) continuing all currently available insurance coverage without change in coverage or beneficiary designation;

(6) directing the care, possession, or control of a pet or companion animal owned, possessed, or kept by a party or a child of a party; and

(7) directing the respondent to refrain from physically abusing or injuring any pet or companion animal, without legal justification, known to be owned, possessed, kept, or held by either party or a minor child residing in the residence or household of either party as an indirect means of intentionally threatening the safety of such person.

(b) A finding by the court that there is a basis for issuing an ex parte order for protection constitutes a finding that sufficient reasons exist not to require notice under applicable court rules governing applications for ex parte relief.

(c) Subject to paragraph (d), an ex parte order for protection shall be effective for a fixed period set by the court, as provided in subdivision 6, paragraph (b), or until modified or vacated by the court pursuant to a hearing. When signed by a referee, the ex parte order becomes effective upon the referee's signature. Upon request, a hearing, as provided by this section, shall be set. Except as provided in paragraph (d), the respondent shall be personally served forthwith a copy of the ex parte order along with a copy of the petition and, if requested by the petitioner, notice of the date set for the hearing. If the petitioner does not request a hearing, an order served on a respondent under this subdivision must include a notice advising the respondent of the right to request a hearing, must be accompanied by a form that can be used by the respondent to request a hearing and must include a conspicuous notice that a hearing will not be held unless requested by the respondent within five days of service of the order.

(d) Service of the ex parte order may be made by published notice, as provided under subdivision 5, provided that the petitioner files the affidavit required under that subdivision. If personal service is not made or the affidavit is not filed within 14 days of issuance of the ex parte order, the order expires. If the petitioner does not request a hearing, the petition mailed to the respondent's residence, if known, must be accompanied by the form for requesting a hearing and notice described in paragraph (c). Unless personal service is completed, if service by published notice is not completed within 28 days of issuance of the ex parte order, the order expires.

(e) If the petitioner seeks relief under subdivision 6 other than the relief described in paragraph (a), the petitioner must request a hearing to obtain the additional relief.

(f) Nothing in this subdivision affects the right of a party to seek modification of an order under subdivision 11.

Subd. 8. **Service; alternate service; publication; notice.** (a) The petition and any order issued under this section other than orders for dismissal shall be served on the respondent personally. Orders for dismissal may be served personally or by certified mail. In lieu of personal service of an order for protection, a law enforcement officer may serve a person with a short form notification as provided in subdivision 8a.

(b) When service is made out of this state and in the United States, it may be proved by the affidavit of the person making the service. When service is made outside the United States, it may be proved by the affidavit of the person making the service, taken before and certified by any United States minister, charge d'affaires, commissioner, consul, or commercial agent, or other consular or diplomatic officer of the United States appointed to reside in the other country, including all deputies or other representatives of the officer authorized to perform their duties; or before an office authorized to administer an oath with the certificate of an officer of a court of record of the country in which the affidavit is taken as to the identity and authority of the officer taking the affidavit.

(c) If personal service cannot be made, the court may order service of the petition and any order issued under this section by alternate means, or by publication, which publication must be made as in other actions. The application for alternate service must include the last known location of the respondent; the petitioner's most recent contacts with the respondent; the last known location of the respondent's employment; the names and locations of the respondent's parents, siblings, children, and other close relatives; the names and locations of other persons who are likely to know the respondent's whereabouts; and a description of efforts to locate those persons.

The court shall consider the length of time the respondent's location has been unknown, the likelihood that the respondent's location will become known, the nature of the relief sought, and the nature of efforts made to locate the respondent. The court shall order service by first class mail, forwarding address requested, to any addresses where there is a reasonable possibility that mail or information will be forwarded or communicated to the respondent.

The court may also order publication, within or without the state, but only if it might reasonably succeed in notifying the respondent of the proceeding. Service shall be deemed complete 14 days after mailing or 14 days after court-ordered publication.

(d) A petition and any order issued under this section, including the short form notification, must include a notice to the respondent that if an order for protection is issued to protect the petitioner or a child of the parties, upon request of the petitioner in any parenting time proceeding, the court shall consider the order for protection in making a decision regarding parenting time.

Subd. 8a. **Short form notification.** (a) In lieu of personal service of an order for protection under subdivision 8, a law enforcement officer may serve a person with a short form notification. The short form notification must include the following clauses: the respondent's name; the respondent's date of birth, if known; the petitioner's name; the names of other protected parties; the date and county in which the ex parte order for protection or order for protection was filed; the court file number; the hearing date and time, if known; the conditions that apply to the respondent, either in checklist form or handwritten; and the name of the judge who signed the order.

The short form notification must be in bold print in the following form:

The order for protection is now enforceable. You must report to your nearest sheriff office or county court to obtain a copy of the order for protection. You are subject to arrest and may be charged with a misdemeanor, gross misdemeanor, or felony if you violate any of the terms of the order for protection or this short form notification.

(b) Upon verification of the identity of the respondent and the existence of an unserved order for protection against the respondent, a law enforcement officer may detain the respondent for a reasonable time necessary to complete and serve the short form notification.

(c) When service is made by short form notification, it may be proved by the affidavit of the law enforcement officer making the service.

(d) For service under this section only, service upon an individual may occur at any time, including Sundays, and legal holidays.

(e) The superintendent of the Bureau of Criminal Apprehension shall provide the short form to law enforcement agencies.

Subd. 9. **Assistance of sheriff in service or execution.** When an order is issued under this section upon request of the petitioner, the court shall order the sheriff to accompany the petitioner and assist in placing the petitioner in possession of the dwelling or residence, or otherwise assist in execution or service of the order of protection. If the application for relief is brought in a county in which the respondent is not present, the sheriff shall forward the pleadings necessary for service upon the respondent to the sheriff of the county in which the respondent is present. This transmittal must be expedited to allow for timely service.

Subd. 9a. **Service by others.** Peace officers licensed by the state of Minnesota and corrections officers, including, but not limited to, probation officers, court services officers, parole officers, and employees of jails or correctional facilities, may serve an order for protection.

Subd. 10. **Right to apply for relief.** (a) A person's right to apply for relief shall not be affected by the person's leaving the residence or household to avoid abuse.

(b) The court shall not require security or bond of any party unless it deems necessary in exceptional cases.

Subd. 11. **Modifying or vacating order.** (a) Upon application, notice to all parties, and hearing, the court may modify the terms of an existing order for protection.

(b) If the court orders relief under subdivision 6a, paragraph (c), the respondent named in the order for protection may request to have the order vacated or modified if the order has been in effect for at least five years and the respondent has not violated the order during that time. Application for relief under this subdivision must be made in the county in which the order for protection was issued. Upon receipt of the request, the court shall set a hearing date. Personal service must be made upon the petitioner named in the order for protection not less than 30 days before the date of the hearing. At the hearing, the respondent named in the order for protection has the burden of proving by a preponderance of the evidence that there has been a material change in circumstances and that the reasons upon which the court relied in granting or extending the order for protection no longer apply and are unlikely to occur. If the court finds that the respondent named in the order for protection has met the burden of proof, the court may vacate or modify the order. If the court finds that the respondent named in the order for protection has not met the burden of proof, the court shall deny the request and no request may be made to vacate or modify the order for protection until five years have elapsed from the date of denial. An order vacated or modified under this paragraph must be personally served on the petitioner named in the order for protection.

Subd. 12. **Real estate.** Nothing in this section shall affect the title to real estate.

Subd. 13. **Copy to law enforcement agency.** (a) An order for protection and any continuance of an order for protection granted pursuant to this section shall be forwarded by the court administrator within 24 hours to the local law enforcement agency with jurisdiction over the residence of the applicant.

Each appropriate law enforcement agency shall make available to other law enforcement officers through a system for verification, information as to the existence and status of any order for protection issued pursuant to this section.

(b) If the applicant notifies the court administrator of a change in the applicant's residence so that a different local law enforcement agency has jurisdiction over the residence, the order for protection and any continuance of an order for protection must be forwarded by the court administrator to the new law enforcement agency within 24 hours of the notice. If the applicant notifies the new law enforcement agency that an order for protection has been issued under this section and the applicant has established a new residence within that agency's jurisdiction, within 24 hours the local law enforcement agency shall request a copy of the order for protection from the court administrator in the county that issued the order.

(c) When an order for protection is granted, the applicant for an order for protection must be told by the court that:

(1) notification of a change in residence should be given immediately to the court administrator and to the local law enforcement agency having jurisdiction over the new residence of the applicant;

(2) the reason for notification of a change in residence is to forward an order for protection to the proper law enforcement agency; and

(3) the order for protection must be forwarded to the law enforcement agency having jurisdiction over the new residence within 24 hours of notification of a change in residence, whether notification is given to the court administrator or to the local law enforcement agency having jurisdiction over the applicant's new residence.

An order for protection is enforceable even if the applicant does not notify the court administrator or the appropriate law enforcement agency of a change in residence.

Subd. 14. **Violation of an order for protection.** (a) A person who violates an order for protection issued by a judge or referee is subject to the penalties provided in paragraphs (b) to (d).

(b) Except as otherwise provided in paragraphs (c) and (d), whenever an order for protection is granted by a judge or referee or pursuant to a similar law of another state, the United States, the District of Columbia, tribal lands, or United States territories, and the respondent or person to be restrained knows of the existence of the order, violation of the order for protection is a misdemeanor. Upon a misdemeanor conviction under this paragraph, the defendant must be sentenced to a minimum of three days imprisonment and must be ordered to participate in counseling or other appropriate programs selected by the court. If the court stays imposition or execution of the jail sentence and the defendant refuses or fails to comply with the court's treatment order, the court must impose and execute the stayed jail sentence. A violation of an order for protection shall also constitute contempt of court and be subject to the penalties provided in chapter 588.

(c) A person is guilty of a gross misdemeanor who violates this subdivision within ten years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency. Upon a gross misdemeanor conviction under this paragraph, the defendant must be sentenced to a minimum of ten days imprisonment and must be ordered to participate in counseling or other appropriate programs selected by the court. Notwithstanding section 609.135, the court must impose and execute the minimum sentence provided in this paragraph for gross misdemeanor convictions.

(d) A person is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if the person violates this subdivision:

(1) within ten years of the first of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency; or

(2) while possessing a dangerous weapon, as defined in section 609.02, subdivision 6.

Upon a felony conviction under this paragraph in which the court stays imposition or execution of sentence, the court shall impose at least a 30-day period of incarceration as a condition of probation. The court also shall order that the defendant participate in counseling or other appropriate programs selected by the court. Notwithstanding section 609.135, the court must impose and execute the minimum sentence provided in this paragraph for felony convictions.

(e) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order granted pursuant to this section or a similar law of another state, the United States, the District of Columbia, tribal lands, or United States territories restraining the person or excluding the person from the residence or the petitioner's place of employment, even if the violation of the order did not take place in the presence of the peace officer, if the existence of the order can be verified by the officer. The probable cause required under this paragraph includes probable cause that the person knows of the existence of the order. If the order has not been served, the officer shall immediately serve the order whenever reasonably safe and possible to do so. An order for purposes of this subdivision, includes the short form order described in subdivision 8a. When the order is first served upon the person at a location at which, under the terms of the order, the person's presence constitutes a violation, the person shall not be arrested for violation of the order without first being given a reasonable opportunity to leave the location in the presence of the peace officer. A person arrested under this paragraph shall be held in custody for at least 36 hours, excluding the day of arrest, Sundays, and holidays, unless the person is released

earlier by a judge or judicial officer. A peace officer acting in good faith and exercising due care in making an arrest pursuant to this paragraph is immune from civil liability that might result from the officer's actions.

(f) If the court finds that the respondent has violated an order for protection and that there is reason to believe that the respondent will commit a further violation of the provisions of the order restraining the respondent from committing acts of domestic abuse or excluding the respondent from the petitioner's residence, the court may require the respondent to acknowledge an obligation to comply with the order on the record. The court may require a bond sufficient to deter the respondent from committing further violations of the order for protection, considering the financial resources of the respondent, and not to exceed $10,000. If the respondent refuses to comply with an order to acknowledge the obligation or post a bond under this paragraph, the court shall commit the respondent to the county jail during the term of the order for protection or until the respondent complies with the order under this paragraph. The warrant must state the cause of commitment, with the sum and time for which any bond is required. If an order is issued under this paragraph, the court may order the costs of the contempt action, or any part of them, to be paid by the respondent. An order under this paragraph is appealable.

(g) Upon the filing of an affidavit by the petitioner, any peace officer, or an interested party designated by the court, alleging that the respondent has violated any order for protection granted pursuant to this section or a similar law of another state, the United States, the District of Columbia, tribal lands, or United States territories, the court may issue an order to the respondent, requiring the respondent to appear and show cause within 14 days why the respondent should not be found in contempt of court and punished therefor. The hearing may be held by the court in any county in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation, or in the county in which the alleged violation occurred, if the petitioner and respondent do not reside in this state. The court also shall refer the violation of the order for protection to the appropriate prosecuting authority for possible prosecution under paragraph (b), (c), or (d).

(h) If it is alleged that the respondent has violated an order for protection issued under subdivision 6 or a similar law of another state, the United States, the District of Columbia, tribal lands, or United States territories, and the court finds that the order has expired between the time of the alleged violation and the court's hearing on the violation, the court may grant a new order for protection under subdivision 6 based solely on the respondent's alleged violation of the prior order, to be effective until the hearing on the alleged violation of the prior order. If the court finds that the respondent has violated the prior order, the relief granted in the new order for protection shall be extended for a fixed period, not to exceed one year, except when the court determines a longer fixed period is appropriate.

(i) The admittance into petitioner's dwelling of an abusing party excluded from the dwelling under an order for protection is not a violation by the petitioner of the order for protection.

A peace officer is not liable under section 609.43, clause (1), for a failure to perform a duty required by paragraph (e).

(j) When a person is convicted under paragraph (b) or (c) of violating an order for protection and the court determines that the person used a firearm in any way during commission of the violation, the court may order that the person is prohibited from possessing any type of firearm for any period longer than three years or for the remainder of the person's life. A person who violates this paragraph is guilty of a gross misdemeanor. At the time of the conviction, the court shall inform the defendant whether and for how long the defendant is prohibited from possessing a firearm and that it is a gross misdemeanor to violate this paragraph. The failure of the court to provide this information to a defendant does not affect the applicability of the firearm possession prohibition or the gross misdemeanor penalty to that defendant.

(k) Except as otherwise provided in paragraph (j), when a person is convicted under paragraph (b) or (c) of violating an order for protection, the court shall inform the defendant that the defendant is prohibited from possessing a

pistol for three years from the date of conviction and that it is a gross misdemeanor offense to violate this prohibition. The failure of the court to provide this information to a defendant does not affect the applicability of the pistol possession prohibition or the gross misdemeanor penalty to that defendant.

(l) Except as otherwise provided in paragraph (j), a person is not entitled to possess a pistol if the person has been convicted under paragraph (b) or (c) after August 1, 1996, of violating an order for protection, unless three years have elapsed from the date of conviction and, during that time, the person has not been convicted of any other violation of this section. Property rights may not be abated but access may be restricted by the courts. A person who possesses a pistol in violation of this paragraph is guilty of a gross misdemeanor.

(m) If the court determines that a person convicted under paragraph (b) or (c) of violating an order for protection owns or possesses a firearm and used it in any way during the commission of the violation, it shall order that the firearm be summarily forfeited under section 609.5316, subdivision 3.

Subd. 14a. **Venue.** A person may be prosecuted under subdivision 14 at the place where any call is made or received or, in the case of wireless or electronic communication or any communication made through any available technologies, where the actor or victim resides, or in the jurisdiction of the victim's designated address if the victim participates in the address confidentiality program established under chapter 5B.

Subd. 15. **Admissibility of testimony in criminal proceeding.** Any testimony offered by a respondent in a hearing pursuant to this section is inadmissible in a criminal proceeding.

Subd. 16. **Other remedies available.** Any proceeding under this section shall be in addition to other civil or criminal remedies.

Subd. 17. **Effect on custody proceedings.** In a subsequent custody proceeding the court must consider a finding in a proceeding under this chapter or under a similar law of another state that domestic abuse has occurred between the parties.

Subd. 18. **Notices.** (a) Each order for protection granted under this chapter must contain a conspicuous notice to the respondent or person to be restrained that:

(1) violation of an order for protection is either (i) a misdemeanor punishable by imprisonment for up to 90 days or a fine of up to $1,000, or both, (ii) a gross misdemeanor punishable by imprisonment of up to one year or a fine of up to $3,000, or both, or (iii) a felony punishable by imprisonment of up to five years or a fine of up to $10,000, or both;

(2) the respondent is forbidden to enter or stay at the petitioner's residence, even if invited to do so by the petitioner or any other person; in no event is the order for protection voided;

(3) a peace officer must arrest without warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order for protection restraining the person or excluding the person from a residence; and

(4) pursuant to the Violence Against Women Act of 1994, United States Code, title 18, section 2265, the order is enforceable in all 50 states, the District of Columbia, tribal lands, and United States territories, that violation of the order may also subject the respondent to federal charges and punishment under United States Code, title 18, sections 2261 and 2262, and that if a final order is entered against the respondent after the hearing, the respondent may be prohibited from possessing, transporting, or accepting a firearm under the 1994 amendment to the Gun Control Act, United States Code, title 18, section 922(g)(8).

(b) If the court grants relief under subdivision 6a, paragraph (c), the order for protection must also contain a conspicuous notice to the respondent or person to be restrained that the respondent must wait five years to seek a modification of the order.

Subd. 19. **Recording required.** Proceedings under this section must be recorded.

Subd. 19a. **Entry and enforcement of foreign protective orders.** (a) As used in this subdivision, "foreign protective order" means an order for protection entered by a court of another state; an order by an Indian tribe or United States territory that would be a protective order entered under this chapter; a temporary or permanent order or protective order to exclude a respondent from a dwelling; or an order that establishes conditions of release or is a protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault if it had been entered in Minnesota.

(b) A person for whom a foreign protection order has been issued or the issuing court or tribunal may provide a certified or authenticated copy of a foreign protective order to the court administrator in any county that would have venue if the original action was being commenced in this state or in which the person in whose favor the order was entered may be present, for filing and entering of the same into the state order for protection database.

(c) The court administrator shall file and enter foreign protective orders that are not certified or authenticated, if supported by an affidavit of a person with personal knowledge, subject to the penalties for perjury. The person protected by the order may provide this affidavit.

(d) The court administrator shall provide copies of the order as required by this section.

(e) A valid foreign protective order has the same effect and shall be enforced in the same manner as an order for protection issued in this state whether or not filed with a court administrator or otherwise entered in the state order for protection database.

(f) A foreign protective order is presumed valid if it meets all of the following:

(1) the order states the name of the protected individual and the individual against whom enforcement is sought;

(2) the order has not expired;

(3) the order was issued by a court or tribunal that had jurisdiction over the parties and subject matter under the law of the foreign jurisdiction; and

(4) the order was issued in accordance with the respondent's due process rights, either after the respondent was provided with reasonable notice and an opportunity to be heard before the court or tribunal that issued the order, or in the case of an ex parte order, the respondent was granted notice and an opportunity to be heard within a reasonable time after the order was issued.

(g) Proof that a foreign protective order failed to meet all of the factors listed in paragraph (f) is an affirmative defense in any action seeking enforcement of the order.

(h) A peace officer shall treat a foreign protective order as a valid legal document and shall make an arrest for a violation of the foreign protective order in the same manner that a peace officer would make an arrest for a violation of a protective order issued within this state.

(i) The fact that a foreign protective order has not been filed with the court administrator or otherwise entered into the state order for protection database shall not be grounds to refuse to enforce the terms of the order unless it is apparent to the officer that the order is invalid on its face.

(j) A peace officer acting reasonably and in good faith in connection with the enforcement of a foreign protective order is immune from civil and criminal liability in any action arising in connection with the enforcement.

(k) Filing and service costs in connection with foreign protective orders are waived.

Subd. 20. **Statewide application.** An order for protection granted under this section applies throughout this state.

Subd. 21. **Order for protection forms.** The state court administrator, in consultation with city and county attorneys and legal advocates who work with victims, shall update the uniform order for protection form that facilitates the consistent enforcement of orders for protection throughout the state.

Subd. 22. [Repealed, 2010 c 299 s 15]

Subd. 23. **Prohibition against employer retaliation.** (a) An employer shall not discharge, discipline, threaten, otherwise discriminate against, or penalize an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment, because the employee took reasonable time off from work to obtain or attempt to obtain relief under this chapter. Except in cases of imminent danger to the health or safety of the employee or the employee's child, or unless impracticable, an employee who is absent from the workplace shall give 48 hours' advance notice to the employer. Upon request of the employer, the employee shall provide verification that supports the employee's reason for being absent from the workplace. All information related to the employee's leave pursuant to this section shall be kept confidential by the employer.

(b) An employer who violates paragraph (a) is guilty of a misdemeanor and may be punished for contempt of court. In addition, the court shall order the employer to pay back wages and offer job reinstatement to any employee discharged from employment in violation of paragraph (a).

(c) In addition to any remedies otherwise provided by law, an employee injured by a violation of paragraph (a) may bring a civil action for recovery of damages, together with costs and disbursements, including reasonable attorneys fees, and may receive such injunctive and other equitable relief, including reinstatement, as determined by the court.

History: *1979 c 214 s 1; 1981 c 273 s 2; 1983 c 52 s 1-3; 1983 c 308 s 26,27; 1985 c 195 s 1-4; 1986 c 351 s 4; 1986 c 444; 1Sp1986 c 3 art 1 s 69,82; 1987 c 106 s 2; 1987 c 237 s 2-5; 1988 c 638 s 3; 1990 c 583 s 1-3; 1991 c 271 s 7; 1991 c 272 s 2-5; 1992 c 464 art 1 s 56; 1992 c 571 art 6 s 2-9; 1993 c 322 s 17-20; 1993 c 326 art 2 s 4-9; 1Sp1993 c 5 s 1; 1994 c 630 art 12 s 5; 1994 c 636 art 2 s 11,12; 1995 c 142 s 2-5; 1995 c 226 art 7 s 3-7; 1995 c 259 art 3 s 6; 1996 c 408 art 4 s 1; 1997 c 96 s 3; 1997 c 239 art 7 s 11-15; 1998 c 367 art 5 s 1-5; 2000 c 437 s 1-4; 2000 c 444 art 1 s 7; art 2 s 42,43; 2000 c 445 art 2 s 8; 1Sp2001 c 8 art 10 s 1-5; 2002 c 282 s 1,2; 2002 c 304 s 9-11; 2004 c 145 s 1; 2004 c 164 s 1; 2004 c 228 art 1 s 72; 2005 c 10 art 2 s 4; 2005 c 76 s 1; 2005 c 136 art 8 s 20; art 17 s 5; 2005 c 164 s 29; 1Sp2005 c 7 s 28; 2006 c 260 art 1 s 10,11; art 5 s 48; 2006 c 280 s 45; 2007 c 54 art 2 s 1; 2008 c 316 s 1-5; 2010 c 299 s 4,5,14; 2011 c 116 art 1 s 8; 2013 c 47 s 1,2; 2014 c 212 art 1 s 4; 2014 c 213 s 2; 2015 c 21 art 1 s 95; 2016 c 141 s 1-3; 2016 c 176 s 1*

518B.02 DOMESTIC ABUSE COUNSELING PROGRAM OR EDUCATIONAL PROGRAM REQUIRED.

Subdivision 1. **Court-ordered domestic abuse counseling program or educational program.** If the court stays imposition or execution of a sentence for a domestic abuse offense and places the offender on probation, the court shall order that, as a condition of the stayed sentence, the offender participate in and successfully complete a domestic abuse counseling program or educational program.

Subd. 2. **Standards for domestic abuse counseling programs and domestic abuse educational programs.** (a) Domestic abuse counseling or educational programs that provide group or class sessions for court-ordered domestic abuse offenders must provide documentation to the probation department or the court on program policies and how the program meets the criteria contained in paragraphs (b) to (l).

(b) Programs shall require offenders and abusing parties to attend a minimum of 24 sessions or 36 hours of programming, unless a probation agent has recommended fewer sessions. The documentation provided to the probation department or the court must specify the length of the program that offenders are required to complete.

(c) Programs must have a written policy requiring that counselors and facilitators report to the court and to the offender's probation or corrections officer any threats of violence made by the offender or abusing party, acts of violence by the offender or abusing party, violation of court orders by the offender or abusing party, and violation of program rules that resulted in the offender's or abusing party's termination from the program. Programs shall have written policies requiring that counselors and facilitators hold offenders and abusing parties solely responsible for their behavior.

Programs shall have written policies requiring that counselors and facilitators be violence free in their own lives.

(d) Each program shall conduct an intake process with each offender or abusing party. This intake process shall look for chemical dependency problems and possible risks the offender or abusing party might pose to self or others. The program must have policies regarding referral of a chemically dependent offender or abusing party to a chemical dependency treatment center. If the offender or abusing party poses a risk to self or others, the program shall report this information to the court, the probation or corrections officer, and the victim.

(e) If the offender or abusing party is reported back to the court or is terminated from the program, the program shall notify the victim of the circumstances unless the victim requests otherwise.

(f) Programs shall require court-ordered offenders and abusing parties to sign a release of information authorizing communication regarding the offender's or abusing party's progress in the program to the court, the offender's probation or corrections officer, other providers, and the victim. The offender or abusing party may not enter the program if the offender does not sign a release.

(g) If a counselor or facilitator contacts the victim, the counselor or facilitator must not elicit any information that the victim does not want to provide. A counselor or facilitator who contacts a victim shall (1) notify the victim of the right not to provide any information, (2) notify the victim of how any information provided will be used and with whom it will be shared, and (3) obtain the victim's permission before eliciting information from the victim or sharing information with anyone other than staff of the counseling program.

Programs shall have written policies requiring that counselors and facilitators inform victims of the confidentiality of information as provided by this subdivision. Programs must maintain separate files for information pertaining to the offender or abusing party and to the victim.

If a counselor or facilitator contacts a victim, the counselor or facilitator shall provide the victim with referral information for support services.

(h) Programs shall have written policies forbidding program staff from disclosing any confidential communication made by the offender or abusing party without the consent of the offender or abusing party, except that programs must warn a potential victim of imminent danger based upon information provided by an offender or abusing party.

(i) The counseling program or educational program must provide services in a group setting, unless the offender or abusing party would be inappropriate in a group setting.

Programs must provide separate sessions for male and female offenders and abusing parties.

(j) Programs shall have written policies forbidding program staff from offering or referring marriage or couples counseling until the offender or abusing party has completed a domestic abuse counseling program or educational program for the minimum number of court-ordered sessions and the counselor or facilitator reasonably believes that the violence, intimidation, and coercion has ceased and the victim feels safe to participate.

(k) Programs must have written policies requiring that the counselor or facilitator report when the court-ordered offender or abusing party has completed the program to the court and the offender's probation or corrections officer.

(l) Programs must have written policies to coordinate with the court, probation and corrections officers, battered women's and domestic abuse programs, child protection services, and other providers on promotion of victim safety and offender accountability.

Subd. 3. **Program accountability.** The Office of Justice Programs in the Department of Public Safety will consult with domestic abuse counseling and educational programs, the court, probation departments, and the interagency task force on the prevention of domestic and sexual abuse on acceptable measures to ensure program accountability. By December 30, 2001, the center shall make recommendations to the house of representatives and senate committees and divisions with jurisdiction over criminal justice policy and funding on agreed-upon accountability measures including outcome studies.

History: *1Sp2001 c 8 art 10 s 6; 2013 c 125 art 1 s 82*

SECTION 9

MINNESOTA STATUTES CHAPTER 617.
ABORTION; OBSCENITY; NUISANCE

OBSCENITY

617.23 INDECENT EXPOSURE; PENALTIES. 9-1
617.241 OBSCENE MATERIALS AND PERFORMANCES; DISTRIBUTION AND EXHIBITION PROHIBITED; PENALTY. 9-1
617.242 ADULT ENTERTAINMENT ESTABLISHMENTS. 9-2
617.243 INDECENT LITERATURE, DISTRIBUTION. 9-4
617.245 CIVIL ACTION; USE OF MINOR IN SEXUAL PERFORMANCE. 9-4
617.246 USE OF MINORS IN SEXUAL PERFORMANCE PROHIBITED. 9-4
617.247 POSSESSION OF PORNOGRAPHIC WORK INVOLVING MINORS. 9-6
617.261 NONCONSENSUAL DISSEMINATION OF PRIVATE SEXUAL IMAGES. 9-7

NUISANCE

617.91 DEFINITIONS. 9-9
617.92 PUBLIC NUISANCE. 9-10
617.93 SUIT TO ABATE NUISANCE. 9-10
617.94 COURT ORDER. 9-10
617.95 VIOLATION OF COURT ORDER; FINE AND CRIMINAL PENALTY. 9-10
617.96 ATTORNEY FEES. 9-11
617.97 USE OF PLACE; EVIDENCE. 9-11

CHAPTER 617.
ABORTION; OBSCENITY; NUISANCE

OBSCENITY

617.23 INDECENT EXPOSURE; PENALTIES.

Subdivision 1. **Misdemeanor.** A person who commits any of the following acts in any public place, or in any place where others are present, is guilty of a misdemeanor:

(1) willfully and lewdly exposes the person's body, or the private parts thereof;

(2) procures another to expose private parts; or

(3) engages in any open or gross lewdness or lascivious behavior, or any public indecency other than behavior specified in this subdivision.

Subd. 2. **Gross misdemeanor.** A person who commits any of the following acts is guilty of a gross misdemeanor:

(1) the person violates subdivision 1 in the presence of a minor under the age of 16; or

(2) the person violates subdivision 1 after having been previously convicted of violating subdivision 1, sections 609.342 to 609.3451, or a statute from another state in conformity with any of those sections.

Subd. 3. **Felony.** A person is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if:

(1) the person violates subdivision 2, clause (1), after having been previously convicted of or adjudicated delinquent for violating subdivision 2, clause (1); section 609.3451, subdivision 1, clause (2); or a statute from another state in conformity with subdivision 2, clause (1), or section 609.3451, subdivision 1, clause (2); or

(2) the person commits a violation of subdivision 1, clause (1), in the presence of another person while intentionally confining that person or otherwise intentionally restricting that person's freedom to move.

Subd. 4. **Breast-feeding.** It is not a violation of this section for a woman to breast-feed.

History: *(10186)RL s 4953; 1931 c 321; 1986 c 444; 1994 c 636 art 2 s 54; 1995 c 226 art 2 s 31; 1996 c 408 art 3 s 37; 1998 c 367 art 3 s 14; 1998 c 369 s 2*

617.241 OBSCENE MATERIALS AND PERFORMANCES; DISTRIBUTION AND EXHIBITION PROHIBITED; PENALTY.

Subdivision 1. **Definitions.** For purposes of this section, the following terms have the meanings given them:

(a) "Obscene" means that the work, taken as a whole, appeals to the prurient interest in sex and depicts or describes in a patently offensive manner sexual conduct and which, taken as a whole, does not have serious literary, artistic, political, or scientific value. In order to determine that a work is obscene, the trier of fact must find:

(1) that the average person, applying contemporary community standards would find that the work, taken as a whole, appeals to the prurient interest in sex;

(2) that the work depicts sexual conduct specifically defined by paragraph (b) in a patently offensive manner; and

(3) that the work, taken as a whole, lacks serious literary, artistic, political, or scientific value.

(b) "Sexual conduct" means any of the following:

(1) An act of sexual intercourse, normal or perverted, actual or simulated, including genital-genital, anal-genital, or oral-genital intercourse, whether between human beings or between a human being and an animal.

(2) Sadomasochistic abuse, meaning flagellation or torture by or upon a person who is nude or clad in undergarments or in a sexually revealing costume or the condition of being fettered, bound, or otherwise physically restricted on the part of one so clothed or who is nude.

(3) Masturbation, excretory functions, or lewd exhibitions of the genitals including any explicit, close-up representation of a human genital organ.

(4) Physical contact or simulated physical contact with the clothed or unclothed pubic areas or buttocks of a human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

(c) "Community" means the political subdivision from which persons properly qualified to serve as jurors in a criminal proceeding are chosen.

(d) "Work" means "material" or "performance."

(e) "Material" means a book, magazine, pamphlet, paper, writing, card, advertisement, circular, print, picture, photograph, motion picture film, videotape, script, image, instrument, statue, drawing, or other article.

(f) "Performance" means a play, motion picture, dance, or other exhibition performed before an audience.

Subd. 2. **Crime.** It is unlawful for a person, knowing or with reason to know its content and character, to:

(a) exhibit, sell, print, offer to sell, give away, circulate, publish, distribute or attempt to distribute any obscene material; or

(b) produce, present, participate in, or direct an obscene performance.

Subd. 3. **Penalty.** A person violating subdivision 2 is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year, or to payment of a fine of not more than $3,000, or both.

Subd. 4. **Second or subsequent violations.**

Whoever violates the provisions of subdivision 2 within five years of a previous conviction under that subdivision is guilty of a felony and may be sentenced to imprisonment for not more than two years, or to payment of a fine of not more than $10,000, or both.

History: *1961 c 664 s 1; 1982 c 604 s 1; 1983 c 204 s 9; 1984 c 628 art 3 s 11; 1988 c 406 s 1*

617.242 ADULT ENTERTAINMENT ESTABLISHMENTS.

Subdivision 1. **Definitions.** For purposes of this section:

(1) "adult entertainment establishment" means a business that is open only to adults and that presents live performances that are distinguished or characterized by an emphasis on the depiction of sexual conduct or nudity;

(2) "sexual conduct" has the meaning given in section 617.241; and

(3) nudity has the meaning given in section 617.292, subdivision 3.

Subd. 2. **Notice to local government unit.** A person must not operate an adult entertainment establishment at a location where this type of establishment was not previously located unless, at least 60 days before submitting a permit application for operation of the establishment or, if a permit is not required, at least 60 days before beginning operation of the establishment, the person gives written notice by certified mail to the chief clerical officer of the statutory or home rule charter city in which it will be located of the date on which the person intends to begin operation of the establishment. If the adult entertainment establishment is proposed to be located outside the boundaries

of a statutory or home rule charter city the notice must be given to the clerk of the town board and the county auditor of the county in which the establishment is proposed to be located. Upon receipt of the notice, the officer must acknowledge receipt of the notice by certified mail, return receipt requested, addressed to the person, and notify the governing body or town board of the receipt of the notice. The governing body or town board may conduct hearings on the proposed operation of the adult entertainment establishment and must give written notice by ordinary mail to the operator of the establishment of any hearings.

Subd. 3. **Zoning; adult entertainment establishments.** If an adult entertainment establishment is located within 50 miles of a statutory or home rule charter city or town, the governing body of the city or the town board is not required to provide by zoning or otherwise for a location within the city or town limits in which an adult entertainment establishment may be located. If an adult entertainment establishment is located within 50 miles of the boundaries of a county, the county board is not required to provide by zoning or otherwise for a location within the county limits in which an adult entertainment establishment may be located.

Subd. 4. **Proximity.** An adult entertainment establishment may not operate in the same building as, or within 1,500 feet from, another adult entertainment establishment; within 500 feet of residential property, regardless of how the property is zoned; or within 2,800 feet of a public or private elementary or secondary school or a church, synagogue, mosque, or other place of worship. Distances are measured between the closest property lines.

Subd. 5. **Hours and days of operation.** An adult entertainment establishment located in a statutory or home rule city, town, or county that does not regulate hours of operation may not be open for business before 10:00 a.m. or after 10:00 p.m. on Monday through Saturday and may not be open for business on a Sunday or legal holiday.

Subd. 6. **Restrictions on ownership or management by persons convicted of certain crimes.** A person who has been convicted of one of the following offenses may not operate or manage an adult business establishment for three years after discharge of the sentence for the offense, or a similar offense in another state or jurisdiction:

(1) prostitution or sex trafficking under section 609.321; 609.322; 609.324; or 609.3242;

(2) criminal sexual conduct under sections 609.342 to 609.3451;

(3) solicitation of children under section 609.352;

(4) indecent exposure under section 617.23;

(5) distribution or exhibition of obscene materials and performances under section 617.241;

(6) use of a minor in a sexual performance under section 617.246; or

(7) possession of pornographic work involving minors under section 617.247.

Subd. 7. **Local regulation allowed.** If a county, town, or statutory or home rule charter city does not enact an ordinance or regulation governing adult entertainment establishments, this section applies in the county, town, or city. A county, town, or city may adopt an ordinance or regulation that is consistent with this section, that supersedes or is in whole or in part more restrictive than this section, or that provides that this section does not apply in the county, town, or city, and the county, town, or city ordinance applies. If a county, town, or city adopts an ordinance that only regulates a portion or facet of the operation of an adult entertainment establishment, this section applies to the remainder of the operation that is not regulated by the county, town, or city ordinance, unless the ordinance provides otherwise.

History: *2006 c 240 s 2; 2015 c 65 art 6 s 20*

NOTE: The enforcement of this section by the city of Duluth was preliminarily enjoined in Northshor Experience, Inc. v. City of Duluth, 442 F.Supp.2d 713 (D.Minn. 2006).

617.243 INDECENT LITERATURE, DISTRIBUTION.

Subdivision 1. **Prohibited activity.** No person, copartnership or corporation shall, as a condition to a sale or delivery for resale of any paper, magazine, book, comic, periodical or publication, require that the purchaser or consignee receive for resale any other article, book, comic or other publication reasonably believed by the purchaser or consignee to be obscene as defined in section 617.241.

Subd. 2. **Penalty.** A violation of subdivision 1 is a gross misdemeanor.

History: *1957 c 323 s 1; 1983 c 204 s 10*

617.245 CIVIL ACTION; USE OF MINOR IN SEXUAL PERFORMANCE.

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Minor" means any person who, at the time of use in a sexual performance, is under the age of 16.

(c) "Promote" means to produce, direct, publish, manufacture, issue, or advertise.

(d) "Sexual performance" means any play, dance, or other exhibition presented before an audience or for purposes of visual or mechanical reproduction which depicts sexual conduct as defined by paragraph (e).

(e) "Sexual conduct" means any of the following if the depiction involves a minor:

(1) an act of sexual intercourse, actual or simulated, including genital-genital, anal-genital, or oral-genital intercourse, whether between human beings or between a human being and an animal;

(2) sadomasochistic abuse, meaning flagellation, torture, or similar demeaning acts inflicted by or upon a minor who is nude, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so unclothed;

(3) masturbation or lewd exhibitions of the genitals; and

(4) physical contact or simulated physical contact with the unclothed pubic areas or buttocks of a human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

Subd. 2. **Cause of action.** A cause of action exists for injury caused by the use of a minor in a sexual performance. The cause of action exists against a person who promotes, employs, uses, or permits a minor to engage or assist others to engage in posing or modeling alone or with others in a sexual performance, if the person knows or has reason to know that the conduct intended is a sexual performance.

A person found liable for injuries under this section is liable to the minor for damages.

Neither consent to sexual performance by the minor or by the minor's parent, guardian, or custodian, or mistake as to the minor's age is a defense to the action.

Subd. 3. **Limitation period.** An action for damages under this section must be commenced within six years of the time the plaintiff knew or had reason to know injury was caused by plaintiff's use as a minor in a sexual performance. The knowledge of a parent, guardian, or custodian may not be imputed to the minor. This section does not affect the suspension of the statute of limitations during a period of disability under section 541.15.

History: *1992 c 571 art 12 s 1*

617.246 USE OF MINORS IN SEXUAL PERFORMANCE PROHIBITED.

Subdivision 1. **Definitions.** (a) For the purpose of this section, the terms defined in this subdivision have the meanings given them.

(b) "Minor" means any person under the age of 18.

(c) "Promote" means to produce, direct, publish, manufacture, issue, or advertise.

(d) "Sexual performance" means any play, dance or other exhibition presented before an audience or for purposes of visual or mechanical reproduction that uses a minor to depict actual or simulated sexual conduct as defined by clause (e).

(e) "Sexual conduct" means any of the following:

(1) an act of sexual intercourse, normal or perverted, including genital-genital, anal-genital, or oral-genital intercourse, whether between human beings or between a human being and an animal;

(2) sadomasochistic abuse, meaning flagellation, torture, or similar demeaning acts inflicted by or upon a person who is nude or clad in undergarments or in a revealing costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed;

(3) masturbation;

(4) lewd exhibitions of the genitals; or

(5) physical contact with the clothed or unclothed pubic areas or buttocks of a human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

(f) "Pornographic work" means:

(1) an original or reproduction of a picture, film, photograph, negative, slide, videotape, videodisc, or drawing of a sexual performance involving a minor; or

(2) any visual depiction, including any photograph, film, video, picture, drawing, negative, slide, or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means that:

(i) uses a minor to depict actual or simulated sexual conduct;

(ii) has been created, adapted, or modified to appear that an identifiable minor is engaging in sexual conduct; or

(iii) is advertised, promoted, presented, described, or distributed in such a manner that conveys the impression that the material is or contains a visual depiction of a minor engaging in sexual conduct.

For the purposes of this paragraph, an identifiable minor is a person who was a minor at the time the depiction was created or altered, whose image is used to create the visual depiction.

Subd. 2. **Use of minor.** It is unlawful for a person to promote, employ, use or permit a minor to engage in or assist others to engage minors in posing or modeling alone or with others in any sexual performance or pornographic work if the person knows or has reason to know that the conduct intended is a sexual performance or a pornographic work.

Any person who violates this subdivision is guilty of a felony and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000 for the first offense and $40,000 for a second or subsequent offense, or both.

Subd. 3. **Operation or ownership of business.** A person who owns or operates a business in which a pornographic work, as defined in this section, is disseminated to an adult or a minor or is reproduced, and who knows the content and character of the pornographic work disseminated or reproduced, is guilty of a felony and may be sentenced to imprisonment for not more than ten years, or to payment of a fine of not more than $20,000 for the first offense and $40,000 for a second or subsequent offense, or both.

Subd. 4. **Dissemination.** A person who, knowing or with reason to know its content and character, disseminates for profit to an adult or a minor a pornographic work, as defined in this section, is guilty of a felony and may be sentenced to imprisonment for not more than ten years, or to payment of a fine of not more than $20,000 for the first offense and $40,000 for a second or subsequent offense, or both.

Subd. 5. **Consent; mistake.** Neither consent to sexual performance by a minor or the minor's parent, guardian, or custodian nor mistake as to the minor's age is a defense to a charge of violation of this section.

Subd. 6. **Affirmative defense.** It shall be an affirmative defense to a charge of violating this section that the sexual performance or pornographic work was produced using only persons who were 18 years or older.

Subd. 7. **Conditional release term.** Notwithstanding the statutory maximum sentence otherwise applicable to the offense or any provision of the sentencing guidelines, when a court commits a person to the custody of the commissioner of corrections for violating this section, the court shall provide that after the person has been released from prison, the commissioner shall place the person on conditional release for five years. If the person has previously been convicted of a violation of this section, section 609.342, 609.343, 609.344, 609.345, 609.3451, 609.3453, or 617.247, or any similar statute of the United States, this state, or any state, the commissioner shall place the person on conditional release for ten years. The terms of conditional release are governed by section 609.3455, subdivision 8.

History: *1977 c 371 s 1; 1982 c 604 s 2; 1983 c 204 s 11; 1984 c 628 art 3 s 7-9; 1986 c 444; 1999 c 217 s 1-5; 2006 c 260 art 1 s 38; 2013 c 96 s 6*

617.247 POSSESSION OF PORNOGRAPHIC WORK INVOLVING MINORS.

Subdivision 1. **Policy; purpose.** It is the policy of the legislature in enacting this section to protect minors from the physical and psychological damage caused by their being used in pornographic work depicting sexual conduct which involves minors. It is therefore the intent of the legislature to penalize possession of pornographic work depicting sexual conduct which involve minors or appears to involve minors in order to protect the identity of minors who are victimized by involvement in the pornographic work, and to protect minors from future involvement in pornographic work depicting sexual conduct.

Subd. 2. **Definitions.** For purposes of this section, the following terms have the meanings given them:

(a) "Pornographic work" has the meaning given to it in section 617.246.

(b) "Sexual conduct" has the meaning given to it in section 617.246.

Subd. 3. **Dissemination prohibited.** (a) A person who disseminates pornographic work to an adult or a minor, knowing or with reason to know its content and character, is guilty of a felony and may be sentenced to imprisonment for not more than seven years and a fine of not more than $10,000 for a first offense and for not more than 15 years and a fine of not more than $20,000 for a second or subsequent offense.

(b) A person who violates paragraph (a) is guilty of a felony and may be sentenced to imprisonment for not more than 15 years if the violation occurs when the person is a registered predatory offender under section 243.166.

Subd. 4. **Possession prohibited.** (a) A person who possesses a pornographic work or a computer disk or computer or other electronic, magnetic, or optical storage system or a storage system of any other type, containing a pornographic work, knowing or with reason to know its content and character, is guilty of a felony and may be sentenced to imprisonment for not more than five years and a fine of not more than $5,000 for a first offense and for not more than ten years and a fine of not more than $10,000 for a second or subsequent offense.

(b) A person who violates paragraph (a) is guilty of a felony and may be sentenced to imprisonment for not more than ten years if the violation occurs when the person is a registered predatory offender under section 243.166.

Subd. 5. **Exception.** This section does not apply to the performance of official duties by peace officers, court personnel, or attorneys, nor to licensed physicians, psychologists, or social workers or persons acting at the direction of a licensed physician, psychologist, or social worker in the course of a bona fide treatment or professional education program.

Subd. 6. **Consent.** Consent to sexual performance by a minor or the minor's parent, guardian, or custodian is not a defense to a charge of violation of this section.

Subd. 7. **Second offense.** If a person is convicted of a second or subsequent violation of this section within 15 years of the prior conviction, the court shall order a mental examination of the person. The examiner shall report to the court whether treatment of the person is necessary.

Subd. 8. **Affirmative defense.** It shall be an affirmative defense to a charge of violating this section that the pornographic work was produced using only persons who were 18 years or older.

[See Note.]

Subd. 9. **Conditional release term.** Notwithstanding the statutory maximum sentence otherwise applicable to the offense or any provision of the sentencing guidelines, when a court commits a person to the custody of the commissioner of corrections for violating this section, the court shall provide that after the person has been released from prison, the commissioner shall place the person on conditional release for five years. If the person has previously been convicted of a violation of this section, section 609.342, 609.343, 609.344, 609.345, 609.3451, 609.3453, or 617.246, or any similar statute of the United States, this state, or any state, the commissioner shall place the person on conditional release for ten years. The terms of conditional release are governed by section 609.3455, subdivision 8.

History: *1982 c 604 s 3; 1983 c 204 s 12; 1986 c 444; 1999 c 217 s 6-10; 2001 c 197 s 4, 5; 1Sp2001 c 8 art 8 s 28; 2006 c 260 art 1 s 39; 2013 c 96 s 7*

NOTE: Subdivision 8 was found unconstitutional in State v. Cannady, 727 N.W.2d 403 (Minn. 2007).

617.261 NONCONSENSUAL DISSEMINATION OF PRIVATE SEXUAL IMAGES.

Subdivision 1. **Crime.** It is a crime to intentionally disseminate an image of another person who is depicted in a sexual act or whose intimate parts are exposed, in whole or in part, when:

(1) the person is identifiable:

(i) from the image itself, by the person depicted in the image or by another person; or

(ii) from personal information displayed in connection with the image;

(2) the actor knows or reasonably should know that the person depicted in the image does not consent to the dissemination; and

(3) the image was obtained or created under circumstances in which the actor knew or reasonably should have known the person depicted had a reasonable expectation of privacy.

Subd. 2. **Penalties.** (a) Except as provided in paragraph (b), whoever violates subdivision 1 is guilty of a gross misdemeanor.

(b) Whoever violates subdivision 1 may be sentenced to imprisonment for not more than three years or to payment of a fine of $5,000, or both, if one of the following factors is present:

(1) the person depicted in the image suffers financial loss due to the dissemination of the image;

(2) the actor disseminates the image with intent to profit from the dissemination;

(3) the actor maintains an Internet Web site, online service, online application, or mobile application for the purpose of disseminating the image;

(4) the actor posts the image on a Web site;

(5) the actor disseminates the image with intent to harass the person depicted in the image;

(6) the actor obtained the image by committing a violation of section 609.52, 609.746, 609.89, or 609.891; or

(7) the actor has previously been convicted under this chapter.

Subd. 3. **No defense.** It is not a defense to a prosecution under this section that the person consented to the capture or possession of the image.

Subd. 4. **Venue.** Notwithstanding anything to the contrary in section 627.01, an offense committed under this section may be prosecuted in:

(1) the county where the offense occurred;

(2) the county of residence of the actor or victim or in the jurisdiction of the victim's designated address if the victim participates in the address confidentiality program established by chapter 5B; or

(3) only if venue cannot be located in the counties specified under clause (1) or (2), the county where any image is produced, reproduced, found, stored, received, or possessed in violation of this section.

Subd. 5. **Exemptions.** Subdivision 1 does not apply when:

(1) the dissemination is made for the purpose of a criminal investigation or prosecution that is otherwise lawful;

(2) the dissemination is for the purpose of, or in connection with, the reporting of unlawful conduct;

(3) the dissemination is made in the course of seeking or receiving medical or mental health treatment and the image is protected from further dissemination;

(4) the image involves exposure in public or was obtained in a commercial setting for the purpose of the legal sale of goods or services, including the creation of artistic products for sale or display;

(5) the image relates to a matter of public interest and dissemination serves a lawful public purpose;

(6) the dissemination is for legitimate scientific research or educational purposes; or

(7) the dissemination is made for legal proceedings and is consistent with common practice in civil proceedings necessary for the proper functioning of the criminal justice system, or protected by court order which prohibits any further dissemination.

Subd. 6. **Immunity.** Nothing in this section shall be construed to impose liability upon the following entities solely as a result of content or information provided by another person:

(1) an interactive computer service as defined in United States Code, title 47, section 230, paragraph (f), clause (2);

(2) a provider of public mobile services or private radio services; or

(3) a telecommunications network or broadband provider.

Subd. 7. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Dissemination" means distribution to one or more persons, other than the person depicted in the image, or publication by any publicly available medium.

(c) "Harass" means an act that would cause a substantial adverse effect on the safety, security, or privacy of a reasonable person.

(d) "Image" means a photograph, film, video recording, or digital photograph or recording.

(e) "Intimate parts" means the genitals, pubic area, or anus of an individual, or if the individual is female, a partially or fully exposed nipple.

(f) "Personal information" means any identifier that permits communication or in-person contact with a person, including:

(1) a person's first and last name, first initial and last name, first name and last initial, or nickname;

(2) a person's home, school, or work address;

(3) a person's telephone number, e-mail address, or social media account information; or

(4) a person's geolocation data.

(g) "Sexual act" means either sexual contact or sexual penetration.

(h) "Sexual contact" means the intentional touching of intimate parts or intentional touching with seminal fluid or sperm onto another person's body.

(i) "Sexual penetration" means any of the following acts:

(1) sexual intercourse, cunnilingus, fellatio, or anal intercourse; or

(2) any intrusion, however slight, into the genital or anal openings of an individual by another's body part or an object used by another for this purpose.

(j) "Social media" means any electronic medium, including an interactive computer service, telephone network, or data network, that allows users to create, share, and view user-generated content.

Subd. 8. **Other crimes.** Nothing in this section shall limit the power of the state to prosecute or punish a person for conduct that constitutes any other crime under any other law of this state.

History: *2016 c 126 s 9*

NUISANCE

617.91 DEFINITIONS.

Subdivision 1. **General.** The definitions in this section apply to sections 617.91 to 617.97.

Subd. 2. **Continuously or regularly.** "Continuously or regularly" means at least three separate incidents or occurrences in a period of not more than 12 months.

Subd. 3. **Criminal gang.** "Criminal gang" has the meaning given in section 609.229.

Subd. 4. **Gang activity.** "Gang activity" means the commission of one or more of the offenses listed in section 609.11, subdivision 9; criminal damage to property in the first or second degree under section 609.595, subdivision 1 or 1a; trespass under section 609.605; disorderly conduct under section 609.72; or unlawful possession of a firearm by a minor under section 624.713, subdivision 1, clause (1).

Subd. 5. **Place.** "Place" means:

(1) a structure suitable for human shelter, a commercial structure that is maintained for business activities, a portion of the structure, or the land surrounding the structure that is under the control of the person who owns or is responsible for maintaining the structure. If the place is a multiunit dwelling, a hotel or motel, or a commercial or office building, "place" means only the portion of the place in which a public nuisance is maintained or permitted, including

a dwelling unit, room, suite of rooms, office, common area, storage area, garage, parking area, or the land surrounding the place that is under the control of the person who owns or is responsible for maintaining the structure; or

(2) a parcel of land that does not include a structure and is under the control of the person who owns or is responsible for maintaining the land.

History: *2007 c 150 s 1; 2012 c 200 s 1*

617.92 PUBLIC NUISANCE.

Subdivision 1. **Gang activities.** A criminal gang that continuously or regularly engages in gang activities is a public nuisance.

Subd. 2. **Use of place.** The continuous or regular use of a place by a lessee or tenant to engage in or allow gang activity by a criminal gang that is knowingly permitted by the owner or a person who is responsible for maintaining the place on behalf of the owner is a public nuisance.

History: *2007 c 150 s 2*

617.93 SUIT TO ABATE NUISANCE.

(a) A county or city attorney or the attorney general may sue to enjoin a public nuisance under sections 617.91 to 617.97.

(b) A person who continuously or regularly engages in gang activity as a member of a criminal gang may be made a defendant in a suit.

(c) If the public nuisance involves the use of a place as provided in section 617.92, subdivision 2, the owner or a person who is responsible for maintaining the place on behalf of the owner may be made a defendant in the suit pursuant to the procedures applicable to owners under sections 617.81 to 617.87.

History: *2007 c 150 s 3*

617.94 COURT ORDER.

(a) If the court finds, by a preponderance of the evidence, that a criminal gang constitutes a public nuisance, the court may enter a temporary or permanent order:

(1) enjoining a defendant in the suit from engaging in the gang activities; and

(2) imposing other reasonable requirements to prevent the defendant from engaging in future gang activities.

(b) "Reasonable requirement" as specified in paragraph (a), clause (2), means an injunctive limitation on gang behavior and social interaction that reduces the opportunity for gang activity. The court in imposing reasonable requirements must balance state interests in public safety against constitutional freedoms.

(c) If the court finds, by a preponderance of the evidence, that a place is continuously or regularly used in a manner that constitutes a public nuisance, the court may include in its order reasonable requirements to prevent the use of the place for gang activity. This may include cancellation of any applicable lease pursuant to the procedures in section 617.85 that may involve any tenant or lessee who has maintained or conducted the public nuisance, or other reasonable requirements established in the order.

History: *2007 c 150 s 4*

617.95 VIOLATION OF COURT ORDER; FINE AND CRIMINAL PENALTY.

Subdivision 1. **Fine for civil contempt.** A person who violates a temporary or permanent injunctive order issued under section 617.94 is subject to a fine for civil contempt of not less than $1,000 nor more than $10,000.

Subd. 2. **Criminal penalty.** A person who knowingly violates a temporary or permanent injunctive order issued under section 617.94 is guilty of a misdemeanor.

History: *2007 c 150 s 5*

617.96 ATTORNEY FEES.

In an action brought under sections 617.91 to 617.97, the court may award a prevailing party reasonable attorney fees and costs.

History: *2007 c 150 s 6*

617.97 USE OF PLACE; EVIDENCE.

(a) In an action brought under sections 617.91 to 617.97, proof that gang activity by a member of a criminal gang is continuously or regularly committed at a place or proof that a place is continuously or regularly used for engaging in gang activity by a member of a criminal gang is prima facie evidence that the person who owns or is responsible for maintaining the place knowingly permitted the act.

(b) Paragraph (a) does not apply if the person who owns or is responsible for maintaining the place proves, by a preponderance of the evidence, that the person has made reasonable efforts to prevent the occurrence of the gang activity, which may include cancellation of or an attempt to cancel the lease.

History: *2007 c 150 s 7*

SECTION 10

MINNESOTA STATUTES CHAPTER 624.
CRIMES; FIREWORKS; FIREARMS

FIREARMS

624.71 GUN CONTROL; APPLICATION OF FEDERAL LAW. 10-1
624.711 DECLARATION OF POLICY. 10-1
624.712 DEFINITIONS. 10-1
624.713 CERTAIN PERSONS NOT TO POSSESS FIREARMS. 10-4
624.7131 TRANSFEREE PERMIT; PENALTY. 10-7
624.7132 REPORT OF TRANSFER. 10-9
624.7133 PURCHASING FIREARM ON BEHALF OF INELIGIBLE PERSON. 10-12
624.714 CARRYING OF WEAPONS WITHOUT PERMIT; PENALTIES. [SUBD. 17 AMENDED] 10-12
624.7141 TRANSFER TO INELIGIBLE PERSON. 10-21
624.7142 CARRYING WHILE UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE. 10-22
624.7143 CHEMICAL TESTING. [SUBDS. 1, 2, 3, 4 AMENDED; NEW SUBD. 1a] 10-23
624.7144 ALLOWING AN INELIGIBLE PERSON ACCESS TO FIREARMS. 10-24
624.715 EXEMPTIONS; ANTIQUES AND ORNAMENTS. 10-24
624.7151 STANDARDIZED FORMS. 10-25
624.716 SATURDAY NIGHT SPECIALS PROHIBITED; PENALTY. 10-25
624.7161 FIREARMS DEALERS; CERTAIN SECURITY MEASURES REQUIRED. 10-25
624.7162 FIREARMS DEALERS; SAFETY REQUIREMENTS. 10-26
624.717 LOCAL REGULATION. 10-26
624.7181 RIFLES AND SHOTGUNS IN PUBLIC PLACES. 10-26
624.719 POSSESSION OF FIREARM BY NONRESIDENT ALIEN. 10-27

OTHER PROVISIONS

624.7191 METAL-PENETRATING BULLETS. 10-27
624.7192 AUTHORITY TO SEIZE AND CONFISCATE FIREARMS. 10-27
624.72 INTERFERENCE WITH USE OF PUBLIC PROPERTY. 10-28
624.731 TEAR GAS AND TEAR GAS COMPOUNDS; ELECTRONIC INCAPACITATION DEVICES. 10-29
624.732 INTENTIONAL RELEASE OF HARMFUL SUBSTANCE. 10-31

CHAPTER 624.
CRIMES; FIREWORKS; FIREARMS

FIREARMS

624.71 GUN CONTROL; APPLICATION OF FEDERAL LAW.

Subdivision 1. **Application.** Notwithstanding any other law to the contrary, it shall be lawful for any federally licensed importer, manufacturer, dealer, or collector to sell and deliver firearms and ammunition to a resident of any state in any instance where such sale and delivery is lawful under the federal Gun Control Act of 1968 (Public Law 90-618).

Subd. 2. **Other state purchases.** Notwithstanding any other law to the contrary, it shall be lawful for a resident of Minnesota to purchase firearms and ammunition in any state in any instance where such sale and delivery is lawful under the federal Gun Control Act of 1968 (Public Law 90-618).

History: *1969 c 216 s 1,2; 2015 c 65 art 3 s 24*

624.711 DECLARATION OF POLICY.

It is not the intent of the legislature to regulate shotguns, rifles and other longguns of the type commonly used for hunting and not defined as pistols or semiautomatic military-style assault weapons, or to place costs of administration upon those citizens who wish to possess or carry pistols or semiautomatic military-style assault weapons lawfully, or to confiscate or otherwise restrict the use of pistols or semiautomatic military-style assault weapons by law-abiding citizens.

History: *1975 c 378 s 1; 1993 c 326 art 1 s 22*

624.712 DEFINITIONS.

Subdivision 1. **Scope.** As used in sections 624.711 to 624.717, the terms defined in this section shall have the meanings given them.

Subd. 2. **Pistol.** "Pistol" includes a weapon designed to be fired by the use of a single hand and with an overall length less than 26 inches, or having a barrel or barrels of a length less than 18 inches in the case of a shotgun or having a barrel of a length less than 16 inches in the case of a rifle (1) from which may be fired or ejected one or more solid projectiles by means of a cartridge or shell or by the action of an explosive or the igniting of flammable or explosive substances; or (2) for which the propelling force is a spring, elastic band, carbon dioxide, air or other gas, or vapor.

"Pistol" does not include a device firing or ejecting a shot measuring .18 of an inch, or less, in diameter and commonly known as a "BB gun," a scuba gun, a stud gun or nail gun used in the construction industry or children's pop guns or toys.

Subd. 3. **Antique firearm.** "Antique firearm" means any firearm, including any pistol, with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured before 1899 and any replica of any firearm described herein if such replica is not designed or redesigned, made or remade, or intended to fire conventional rimfire or conventional centerfire ammunition, or uses conventional rimfire or conventional centerfire ammunition which is not readily available in the ordinary channels of commercial trade.

Subd. 4. **Saturday night special pistol.** "Saturday night special pistol" means a pistol other than an antique firearm or a pistol for which the propelling force is carbon dioxide, air or other vapor, or children's pop guns or toys, having a frame, barrel, cylinder, slide or breechblock:

(1) of any material having a melting point (liquidus) of less than 1,000 degrees Fahrenheit, or

(2) of any material having an ultimate tensile strength of less than 55,000 pounds per square inch, or

(3) of any powdered metal having a density of less than 7.5 grams per cubic centimeter.

Subd. 5. **Crime of violence.** "Crime of violence" means: felony convictions of the following offenses: sections 609.185 (murder in the first degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); 609.215(aiding suicide and aiding attempted suicide); 609.221 (assault in the first degree); 609.222 (assault in the second degree); 609.223 (assault in the third degree); 609.2231 (assault in the fourth degree); 609.224 (assault in the fifth degree); 609.2242 (domestic assault); 609.2247 (domestic assault by strangulation); 609.229 (crimes committed for the benefit of a gang); 609.235 (use of drugs to injure or facilitate crime); 609.24 (simple robbery); 609.245 (aggravated robbery); 609.25 (kidnapping); 609.255 (false imprisonment); 609.322(solicitation, inducement, and promotion of prostitution; sex trafficking); 609.342 (criminal sexual conduct in the first degree); 609.343 (criminal sexual conduct in the second degree); 609.344 (criminal sexual conduct in the third degree); 609.345 (criminal sexual conduct in the fourth degree); 609.377 (malicious punishment of a child); 609.378 (neglect or endangerment of a child); 609.486 (commission of crime while wearing or possessing a bullet-resistant vest); 609.52 (involving theft of a firearm and theft involving the theft of a controlled substance, an explosive, or an incendiary device); 609.561 (arson in the first degree); 609.562 (arson in the second degree); 609.582, subdivision 1 or 2 (burglary in the first and second degrees); 609.66, subdivision 1e (drive-by shooting); 609.67 (unlawfully owning, possessing, operating a machine gun or short-barreled shotgun); 609.71 (riot); 609.713 (terroristic threats); 609.749 (stalking); 609.855, subdivision 5 (shooting at a public transit vehicle or facility); and chapter 152 (drugs, controlled substances); and an attempt to commit any of these offenses.

Subd. 6. **Transfer.** "Transfer" means a sale, gift, loan, assignment or other delivery to another, whether or not for consideration, of a pistol or semiautomatic military-style assault weapon or the frame or receiver of a pistol or semiautomatic military-style assault weapon.

Subd. 7. **Semiautomatic military-style assault weapon.** "Semiautomatic military-style assault weapon" means:

(1) any of the following firearms:

(i) Avtomat Kalashnikov (AK-47) semiautomatic rifle type;

(ii) Beretta AR-70 and BM-59 semiautomatic rifle types;

(iii) Colt AR-15 semiautomatic rifle type;

(iv) Daewoo Max-1 and Max-2 semiautomatic rifle types;

(v) Famas MAS semiautomatic rifle type;

(vi) Fabrique Nationale FN-LAR and FN-FNC semiautomatic rifle types;

(vii) Galil semiautomatic rifle type;

(viii) Heckler & Koch HK-91, HK-93, and HK-94 semiautomatic rifle types;

(ix) Ingram MAC-10 and MAC-11 semiautomatic pistol and carbine types;

(x) Intratec TEC-9 semiautomatic pistol type;

(xi) Sigarms SIG 550SP and SIG 551SP semiautomatic rifle types;

(xii) SKS with detachable magazine semiautomatic rifle type;

(xiii) Steyr AUG semiautomatic rifle type;

(xiv) Street Sweeper and Striker-12 revolving-cylinder shotgun types;

(xv) USAS-12 semiautomatic shotgun type;

(xvi) Uzi semiautomatic pistol and carbine types; or

(xvii) Valmet M76 and M78 semiautomatic rifle types;

(2) any firearm that is another model made by the same manufacturer as one of the firearms listed in clause (1), and has the same action design as one of the listed firearms, and is a redesigned, renamed, or renumbered version of one of the firearms listed in clause (1), or has a slight modification or enhancement, including but not limited to a folding or retractable stock; adjustable sight; case deflector for left-handed shooters; shorter barrel; wooden, plastic, or metal stock; larger clip size; different caliber; or a bayonet mount; and

(3) any firearm that has been manufactured or sold by another company under a licensing agreement with a manufacturer of one of the firearms listed in clause (1) entered into after the effective date of Laws 1993, chapter 326, to manufacture or sell firearms that are identical or nearly identical to those listed in clause (1), or described in clause (2), regardless of the company of production or country of origin.

The weapons listed in clause (1), except those listed in items (iii), (ix), (x), (xiv), and (xv), are the weapons the importation of which was barred by the Bureau of Alcohol, Tobacco, and Firearms of the United States Department of the Treasury in July 1989.

Except as otherwise specifically provided in paragraph (d), a firearm is not a "semiautomatic military-style assault weapon" if it is generally recognized as particularly suitable for or readily adaptable to sporting purposes under United States Code, title 18, section 925, paragraph (d)(3), or any regulations adopted pursuant to that law.

Subd. 8. **Included weapons.** By August 1, 1993, and annually thereafter, the superintendent of the Bureau of Criminal Apprehension shall publish a current authoritative list of the firearms included within the definition of "semiautomatic military-style assault weapon" under this section. Dealers, purchasers, and other persons may rely on the list in complying with this chapter.

Subd. 9. **Business day.** "Business day" means a day on which state offices are open for normal business and excludes weekends and legal holidays.

Subd. 10. **Crime punishable by imprisonment for a term exceeding one year.** "Crime punishable by imprisonment for a term exceeding one year" does not include:

(1) any federal or state offense pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices; or

(2) any state offense classified by the laws of this state or any other state as a misdemeanor and punishable by a term of imprisonment of two years or less.

What constitutes a conviction of a crime shall be determined in accordance with the law of the jurisdiction in which the proceedings were held. Any conviction which has been expunged, or set aside, or for which a person has been pardoned or has had civil rights restored shall not be considered a conviction for purposes of this definition, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

Subd. 11. **Commissioner.** "Commissioner" means the commissioner of public safety unless otherwise indicated.

Subd. 12. **Ammunition.** "Ammunition" has the meaning given in section 609.02, subdivision 17.

History: *1975 c 378 s 2; 1977 c 349 s 2; 1987 c 276 s 3; 1991 c 279 s 35; 1993 c 326 art 1 s 23-26; 1994 c 636 art 3 s 24-26; 1995 c 226 art 2 s 32; 1996 c 408 art 4 s 14; 2003 c 28 art 2 s 3; art 3 s 7; 2005 c 83 s 1;2009 c 137 s 11; 2010 c 299 s 14; 2014 c 260 s 1; 2015 c 65 art 3 s 25*

624.713 CERTAIN PERSONS NOT TO POSSESS FIREARMS.

Subdivision 1. **Ineligible persons.** The following persons shall not be entitled to possess ammunition or a pistol or semiautomatic military-style assault weapon or, except for clause (1), any other firearm:

(1) a person under the age of 18 years except that a person under 18 may possess ammunition designed for use in a firearm that the person may lawfully possess and may carry or possess a pistol or semiautomatic military-style assault weapon (i) in the actual presence or under the direct supervision of the person's parent or guardian, (ii) for the purpose of military drill under the auspices of a legally recognized military organization and under competent supervision, (iii) for the purpose of instruction, competition, or target practice on a firing range approved by the chief of police or county sheriff in whose jurisdiction the range is located and under direct supervision; or (iv) if the person has successfully completed a course designed to teach marksmanship and safety with a pistol or semiautomatic military-style assault weapon and approved by the commissioner of natural resources;

(2) except as otherwise provided in clause (9), a person who has been convicted of, or adjudicated delinquent or convicted as an extended jurisdiction juvenile for committing, in this state or elsewhere, a crime of violence. For purposes of this section, crime of violence includes crimes in other states or jurisdictions which would have been crimes of violence as herein defined if they had been committed in this state;

(3) a person who is or has ever been committed in Minnesota or elsewhere by a judicial determination that the person is mentally ill, developmentally disabled, or mentally ill and dangerous to the public, as defined in section 253B.02, to a treatment facility, or who has ever been found incompetent to stand trial or not guilty by reason of mental illness, unless the person's ability to possess a firearm and ammunition has been restored under subdivision 4;

(4) a person who has been convicted in Minnesota or elsewhere of a misdemeanor or gross misdemeanor violation of chapter 152, unless three years have elapsed since the date of conviction and, during that time, the person has not been convicted of any other such violation of chapter 152 or a similar law of another state; or a person who is or has ever been committed by a judicial determination for treatment for the habitual use of a controlled substance or marijuana, as defined in sections 152.01 and 152.02, unless the person's ability to possess a firearm and ammunition has been restored under subdivision 4;

(5) a person who has been committed to a treatment facility in Minnesota or elsewhere by a judicial determination that the person is chemically dependent as defined in section 253B.02, unless the person has completed treatment or the person's ability to possess a firearm and ammunition has been restored under subdivision 4. Property rights may not be abated but access may be restricted by the courts;

(6) a peace officer who is informally admitted to a treatment facility pursuant to section 253B.04 for chemical dependency, unless the officer possesses a certificate from the head of the treatment facility discharging or provisionally discharging the officer from the treatment facility. Property rights may not be abated but access may be restricted by the courts;

(7) a person, including a person under the jurisdiction of the juvenile court, who has been charged with committing a crime of violence and has been placed in a pretrial diversion program by the court before disposition, until the person has completed the diversion program and the charge of committing the crime of violence has been dismissed;

(8) except as otherwise provided in clause (9), a person who has been convicted in another state of committing an offense similar to the offense described in section 609.224, subdivision 3, against a family or household member or section 609.2242, subdivision 3, unless three years have elapsed since the date of conviction and, during that time, the person has not been convicted of any other violation of section 609.224, subdivision 3, or 609.2242, subdivision 3, or a similar law of another state;

(9) a person who has been convicted in this state or elsewhere of assaulting a family or household member and who was found by the court to have used a firearm in any way during commission of the assault is prohibited from possessing any type of firearm or ammunition for the period determined by the sentencing court;

(10) a person who:

(i) has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;

(ii) is a fugitive from justice as a result of having fled from any state to avoid prosecution for a crime or to avoid giving testimony in any criminal proceeding;

(iii) is an unlawful user of any controlled substance as defined in chapter 152;

(iv) has been judicially committed to a treatment facility in Minnesota or elsewhere as a person who is mentally ill, developmentally disabled, or mentally ill and dangerous to the public, as defined in section 253B.02;

(v) is an alien who is illegally or unlawfully in the United States;

(vi) has been discharged from the armed forces of the United States under dishonorable conditions;

(vii) has renounced the person's citizenship having been a citizen of the United States; or

(viii) is disqualified from possessing a firearm under United States Code, title 18, section 922(g)(8) or (9), as amended through March 1, 2014;

(11) a person who has been convicted of the following offenses at the gross misdemeanor level, unless three years have elapsed since the date of conviction and, during that time, the person has not been convicted of any other violation of these sections: section 609.229 (crimes committed for the benefit of a gang); 609.2231, subdivision 4 (assaults motivated by bias); 609.255 (false imprisonment); 609.378 (neglect or endangerment of a child); 609.582, subdivision 4 (burglary in the fourth degree); 609.665 (setting a spring gun); 609.71 (riot); or 609.749 (stalking). For purposes of this paragraph, the specified gross misdemeanor convictions include crimes committed in other states or jurisdictions which would have been gross misdemeanors if conviction occurred in this state;

(12) a person who has been convicted of a violation of section 609.224 if the court determined that the assault was against a family or household member in accordance with section 609.2242, subdivision 3 (domestic assault), unless three years have elapsed since the date of conviction and, during that time, the person has not been convicted of another violation of section 609.224 or a violation of a section listed in clause (11); or

(13) a person who is subject to an order for protection as described in section 260C.201, subdivision 3, paragraph (d), or 518B.01, subdivision 6, paragraph (g).

A person who issues a certificate pursuant to this section in good faith is not liable for damages resulting or arising from the actions or misconduct with a firearm or ammunition committed by the individual who is the subject of the certificate.

The prohibition in this subdivision relating to the possession of firearms other than pistols and semiautomatic military-style assault weapons does not apply retroactively to persons who are prohibited from possessing a pistol or semiautomatic military-style assault weapon under this subdivision before August 1, 1994.

The lifetime prohibition on possessing, receiving, shipping, or transporting firearms and ammunition for persons convicted or adjudicated delinquent of a crime of violence in clause (2), applies only to offenders who are discharged from sentence or court supervision for a crime of violence on or after August 1, 1993.

For purposes of this section, "judicial determination" means a court proceeding pursuant to sections 253B.07 to 253B.09 or a comparable law from another state.

Subd. 1a. **Ineligible to receive, ship, transport.** A person presently charged with a crime punishable by imprisonment for a term exceeding one year shall not be entitled to receive, ship, or transport any pistol or semiautomatic military-style assault weapon or ammunition designed for use in a pistol or semiautomatic military-style assault weapon. A violation of this subdivision is a gross misdemeanor.

Subd. 2. **Penalties.** (a) A person named in subdivision 1, clause (1), who possesses ammunition or a pistol or semiautomatic military-style assault weapon in violation of that clause is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

(b) A person named in subdivision 1, clause (2), who possesses any type of firearm or ammunition is guilty of a felony and may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than $30,000, or both. This paragraph does not apply to any person who has received a relief of disability under United States Code, title 18, section 925, or whose ability to possess firearms and ammunition has been restored under section 609.165, subdivision 1d.

(c) A person named in any other clause of subdivision 1 who possesses any type of firearm or ammunition is guilty of a gross misdemeanor.

Subd. 3. **Notice.** (a) When a person is convicted of, or adjudicated delinquent or convicted as an extended jurisdiction juvenile for committing, a crime of violence as defined in section 624.712, subdivision 5, the court shall inform the defendant that the defendant is prohibited from possessing ammunition or a pistol or semiautomatic military-style assault weapon for the remainder of the person's lifetime, and that it is a felony offense to violate this prohibition. The failure of the court to provide this information to a defendant does not affect the applicability of the ammunition or pistol or semiautomatic military-style assault weapon possession prohibition or the felony penalty to that defendant.

(b) When a person, including a person under the jurisdiction of the juvenile court, is charged with committing a crime of violence and is placed in a pretrial diversion program by the court before disposition, the court shall inform the defendant that: (1) the defendant is prohibited from possessing a pistol or semiautomatic military-style assault weapon or ammunition designed for use in a pistol or semiautomatic military-style assault weapon until the person has completed the diversion program and the charge of committing a crime of violence has been dismissed; (2) it is a gross misdemeanor offense to violate this prohibition; and (3) if the defendant violates this condition of participation in the diversion program, the charge of committing a crime of violence may be prosecuted. The failure of the court to provide this information to a defendant does not affect the applicability of the ammunition or pistol or semiautomatic military-style assault weapon possession prohibition or the gross misdemeanor penalty to that defendant.

(c) A court shall notify a person subject to subdivision 1, clause (3), of the prohibitions described in that clause and those described in United States Code, title 18, sections 922(d)(4) and 922(g)(4).

Subd. 4. **Restoration of firearms and ammunition eligibility to civilly committed person; petition authorized.** (a) A person who is prohibited from possessing a firearm or ammunition under subdivision 1, due to commitment resulting from a judicial determination that the person is mentally ill, developmentally disabled, mentally ill and dangerous, or chemically dependent, may petition a court to restore the person's ability to possess a firearm or ammunition.

(b) The court may grant the relief sought in paragraph (a) in accordance with the principles of due process if the circumstances regarding the person's disqualifying condition and the person's record and reputation are determined to be such that:

(1) the person is not likely to act in a manner that is dangerous to public safety; and

(2) the granting of relief would not be contrary to the public interest.

(c) When determining whether a person has met the requirement of paragraph (b), clause (1), the court may consider evidence from a licensed medical doctor or clinical psychologist that the person is no longer suffering from the disease or condition that caused the disability or that the disease or condition has been successfully treated for a period of three consecutive years.

(d) Review on appeal shall be de novo.

Subd. 5. **Provision of firearms background check information.** (a) When a court places a person, including a person under the jurisdiction of the juvenile court, who is charged with committing a crime of violence into a pretrial diversion program before disposition, the court must ensure that information regarding the person's placement in that program and the ordered expiration date of that placement is transmitted as soon as practicable to the National Instant Criminal Background Check System. When a person successfully completes or discontinues the program, the prosecuting attorney must also report that fact within 24 hours of receipt to the National Instant Criminal Background Check System.

(b) The court must report the conviction and duration of the firearms disqualification imposed as soon as practicable to the National Instant Criminal Background Check System when a person is convicted of a gross misdemeanor that disqualifies the person from possessing firearms under the following sections:

(1) 518B.01, subdivision 14;

(2) 609.224, subdivision 3;

(3) 609.2242, subdivision 3;

(4) 609.749, subdivision 8;

(5) 624.713, subdivision 1, clause (11); or

(6) 629.715, subdivision 2.

(c) If the court reports a firearms disqualification based on a charge of violating an offense listed in paragraph (b), the court must provide notice of the disposition of the charge to the National Instant Criminal Background Check System within three business days.

History: *1975 c 378 s 3; 1983 c 269 s 2; 1Sp1985 c 9 art 2 s 98; 1986 c 444; 1991 c 279 s 36; 1992 c 537 s 3; 1993 c 326 art 1 s 27; 1993 c 366 s 11; 1994 c 576 s 55,56; 1994 c 636 art 3 s 27,28; 1995 c 259 art 3 s 21;1996 c 408 art 4 s 15; 2002 c 221 s 48; 2003 c 28 art 3 s 8-10; 2005 c 56 s 1; 2005 c 83 s 1; 2009 c 139 s 2,3;2010 c 299 s 14; 2013 c 86 art 4 s 8,9; 2014 c 213 s 5; 2015 c 65 art 3 s 26-30; 2016 c 158 art 1 s 208*

624.7131 TRANSFEREE PERMIT; PENALTY.

Subdivision 1. **Information.** Any person may apply for a transferee permit by providing the following information in writing to the chief of police of an organized full time police department of the municipality in which the person resides or to the county sheriff if there is no such local chief of police:

(1) the name, residence, telephone number, and driver's license number or nonqualification certificate number, if any, of the proposed transferee;

(2) the sex, date of birth, height, weight, and color of eyes, and distinguishing physical characteristics, if any, of the proposed transferee;

(3) a statement that the proposed transferee authorizes the release to the local police authority of commitment information about the proposed transferee maintained by the commissioner of human services, to the extent that the information relates to the proposed transferee's eligibility to possess a pistol or semiautomatic military-style assault weapon under section 624.713, subdivision 1; and

(4) a statement by the proposed transferee that the proposed transferee is not prohibited by section 624.713 from possessing a pistol or semiautomatic military-style assault weapon.

The statements shall be signed and dated by the person applying for a permit. At the time of application, the local police authority shall provide the applicant with a dated receipt for the application. The statement under clause (3) must comply with any applicable requirements of Code of Federal Regulations, title 42, sections 2.31 to 2.35, with respect to consent to disclosure of alcohol or drug abuse patient records.

Subd. 2. **Investigation.** The chief of police or sheriff shall check criminal histories, records and warrant information relating to the applicant through the Minnesota Crime Information System, the national criminal record repository, and the National Instant Criminal Background Check System. The chief of police or sheriff shall also make a reasonable effort to check other available state and local record-keeping systems. The chief of police or sheriff shall obtain commitment information from the commissioner of human services as provided in section 245.041.

Subd. 3. **Forms.** Chiefs of police and sheriffs shall make transferee permit application forms available throughout the community. There shall be no charge for forms, reports, investigations, notifications, waivers or any other act performed or materials provided by a government employee or agency in connection with application for or issuance of a transferee permit.

Subd. 4. **Grounds for disqualification.** A determination by the chief of police or sheriff that the applicant is prohibited by section 624.713 from possessing a pistol or semiautomatic military-style assault weapon shall be the only basis for refusal to grant a transferee permit.

Subd. 5. **Granting of permits.** The chief of police or sheriff shall issue a transferee permit or deny the application within seven days of application for the permit. The chief of police or sheriff shall provide an applicant with written notification of a denial and the specific reason for the denial. The permits and their renewal shall be granted free of charge.

Subd. 6. **Permits valid statewide.** Transferee permits issued pursuant to this section are valid statewide and shall expire after one year. A transferee permit may be renewed in the same manner and subject to the same provisions by which the original permit was obtained, except that all renewed permits must comply with the standards adopted by the commissioner under section 624.7151. Permits issued pursuant to this section are not transferable. A person who transfers a permit in violation of this subdivision is guilty of a misdemeanor.

Subd. 7. **Permit voided.** The transferee permit shall be void at the time that the holder becomes prohibited from possessing a pistol under section 624.713, in which event the holder shall return the permit within five days to the issuing authority. Failure of the holder to return the permit within the five days is a misdemeanor unless the court finds that the circumstances or the physical or mental condition of the permit holder prevented the holder from complying with the return requirement.

Subd. 8. **Hearing upon denial.** Any person aggrieved by denial of a transferee permit may appeal the denial to the district court having jurisdiction over the county or municipality in which the denial occurred.

Subd. 9. **Permit to carry.** A valid permit to carry issued pursuant to section 624.714 constitutes a transferee permit for the purposes of this section and section 624.7132.

Subd. 10. **Transfer report not required.** A person who transfers a pistol or semiautomatic military-style assault weapon to a person exhibiting a valid transferee permit issued pursuant to this section or a valid permit to carry issued pursuant to section 624.714 is not required to file a transfer report pursuant to section 624.7132, subdivision 1.

Subd. 11. **Penalty.** A person who makes a false statement in order to obtain a transferee permit knowing or having reason to know the statement is false is guilty of a gross misdemeanor.

Subd. 12. **Local regulation.** This section shall be construed to supersede municipal or county regulation of the issuance of transferee permits.

History: *1977 c 349 s 4; 1986 c 444; 1992 c 571 art 15 s 5, 6; 1993 c 326 art 1 s 28-30; 1994 c 618 art 1 s 41, 42; 1994 c 636 art 3 s 29-31; 1998 c 254 art 2 s 67; 2003 c 28 art 2 s 34; 2009 c 139 s 4*

624.7132 REPORT OF TRANSFER.

Subdivision 1. **Required information.** Except as provided in this section and section 624.7131, every person who agrees to transfer a pistol or semiautomatic military-style assault weapon shall report the following information in writing to the chief of police of the organized full-time police department of the municipality where the proposed transferee resides or to the appropriate county sheriff if there is no such local chief of police:

(1) the name, residence, telephone number, and driver's license number or nonqualification certificate number, if any, of the proposed transferee;

(2) the sex, date of birth, height, weight, and color of eyes, and distinguishing physical characteristics, if any, of the proposed transferee;

(3) a statement that the proposed transferee authorizes the release to the local police authority of commitment information about the proposed transferee maintained by the commissioner of human services, to the extent that the information relates to the proposed transferee's eligibility to possess a pistol or semiautomatic military-style assault weapon under section 624.713, subdivision 1;

(4) a statement by the proposed transferee that the transferee is not prohibited by section 624.713 from possessing a pistol or semiautomatic military-style assault weapon; and

(5) the address of the place of business of the transferor.

The report shall be signed and dated by the transferor and the proposed transferee. The report shall be delivered by the transferor to the chief of police or sheriff no later than three days after the date of the agreement to transfer, excluding weekends and legal holidays. The statement under clause (3) must comply with any applicable requirements of Code of Federal Regulations, title 42, sections 2.31 to 2.35, with respect to consent to disclosure of alcohol or drug abuse patient records.

Subd. 2. **Investigation.** Upon receipt of a transfer report, the chief of police or sheriff shall check criminal histories, records and warrant information relating to the proposed transferee through the Minnesota Crime Information System, the national criminal record repository, and the National Instant Criminal Background Check System. The chief of police or sheriff shall also make a reasonable effort to check other available state and local record-keeping systems. The chief of police or sheriff shall obtain commitment information from the commissioner of human services as provided in section 245.041.

Subd. 3. **Notification.** The chief of police or sheriff shall notify the transferor and proposed transferee in writing as soon as possible if the chief or sheriff determines that the proposed transferee is prohibited by section 624.713 from possessing a pistol or semiautomatic military-style assault weapon. The notification to the transferee shall specify the grounds for the disqualification of the proposed transferee and shall set forth in detail the transferee's right of appeal under subdivision 13.

Subd. 4. **Delivery.** Except as otherwise provided in subdivision 7 or 8, no person shall deliver a pistol or semiautomatic military-style assault weapon to a proposed transferee until five business days after the date the agreement to transfer is delivered to a chief of police or sheriff in accordance with subdivision 1 unless the chief of police or sheriff waives all or a portion of the seven-day waiting period. The chief of police or sheriff may waive all or a portion of the five business day waiting period in writing if the chief of police or sheriff finds that the transferee requires access

to a pistol or semiautomatic military-style assault weapon because of a threat to the life of the transferee or of any member of the household of the transferee.

No person shall deliver a pistol or semiautomatic military-style assault weapon to a proposed transferee after receiving a written notification that the chief of police or sheriff has determined that the proposed transferee is prohibited by section 624.713 from possessing a pistol or semiautomatic military-style assault weapon.

If the transferor makes a report of transfer and receives no written notification of disqualification of the proposed transferee within five business days after delivery of the agreement to transfer, the pistol or semiautomatic military-style assault weapon may be delivered to the transferee.

Subd. 5. **Grounds for disqualification.** A determination by the chief of police or sheriff that the proposed transferee is prohibited by section 624.713 from possessing a pistol or semiautomatic military-style assault weapon shall be the sole basis for a notification of disqualification under this section.

Subd. 6. **Transferee permit.** If a chief of police or sheriff determines that a transferee is not a person prohibited by section 624.713 from possessing a pistol or semiautomatic military-style assault weapon, the transferee may, within 30 days after the determination, apply to that chief of police or sheriff for a transferee permit, and the permit shall be issued.

Subd. 7. [Repealed, 1994 c 636 art 3 s 46]

Subd. 8. **Report not required.** If the proposed transferee presents a valid transferee permit issued under section 624.7131 or a valid permit to carry issued under section 624.714, the transferor need not file a transfer report.

Subd. 9. **Number of pistols or semiautomatic military-style assault weapons.** Any number of pistols or semiautomatic military-style assault weapons may be the subject of a single transfer agreement and report to the chief of police or sheriff. Nothing in this section or section 624.7131 shall be construed to limit or restrict the number of pistols or semiautomatic military-style assault weapons a person may acquire.

Subd. 10. **Restriction on records.** If, after a determination that the transferee is not a person prohibited by section 624.713 from possessing a pistol or semiautomatic military-style assault weapon, a transferee requests that no record be maintained of the fact of who is the transferee of a pistol or semiautomatic military-style assault weapon, the chief of police or sheriff shall sign the transfer report and return it to the transferee as soon as possible. Thereafter, no government employee or agency shall maintain a record of the transfer that identifies the transferee, and the transferee shall retain the report of transfer.

Subd. 11. **Forms; cost.** Chiefs of police and sheriffs shall make transfer report forms available throughout the community. There shall be no charge for forms, reports, investigations, notifications, waivers or any other act performed or materials provided by a government employee or agency in connection with a transfer.

Subd. 12. **Exclusions.** Except as otherwise provided in section 609.66, subdivision 1f, this section shall not apply to transfers of antique firearms as curiosities or for their historical significance or value, transfers to or between federally licensed firearms dealers, transfers by order of court, involuntary transfers, transfers at death or the following transfers:

(1) a transfer by a person other than a federally licensed firearms dealer;

(2) a loan to a prospective transferee if the loan is intended for a period of no more than one day;

(3) the delivery of a pistol or semiautomatic military-style assault weapon to a person for the purpose of repair, reconditioning or remodeling;

(4) a loan by a teacher to a student in a course designed to teach marksmanship or safety with a pistol and approved by the commissioner of natural resources;

(5) a loan between persons at a firearms collectors exhibition;

(6) a loan between persons lawfully engaged in hunting or target shooting if the loan is intended for a period of no more than 12 hours;

(7) a loan between law enforcement officers who have the power to make arrests other than citizen arrests; and

(8) a loan between employees or between the employer and an employee in a business if the employee is required to carry a pistol or semiautomatic military-style assault weapon by reason of employment and is the holder of a valid permit to carry a pistol.

Subd. 13. **Appeal.** A person aggrieved by the determination of a chief of police or sheriff that the person is prohibited by section 624.713 from possessing a pistol or semiautomatic military-style assault weapon may appeal the determination as provided in this subdivision. The district court shall have jurisdiction of proceedings under this subdivision.

On review pursuant to this subdivision, the court shall be limited to a determination of whether the proposed transferee is a person prohibited from possessing a pistol or semiautomatic military-style assault weapon by section 624.713.

Subd. 14. **Transfer to unknown party.** (a) No person shall transfer a pistol or semiautomatic military-style assault weapon to another who is not personally known to the transferor unless the proposed transferee presents evidence of identity to the transferor.

(b) No person who is not personally known to the transferor shall become a transferee of a pistol or semiautomatic military-style assault weapon unless the person presents evidence of identity to the transferor.

(c) The evidence of identity shall contain the name, residence address, date of birth, and photograph of the proposed transferee; must be made or issued by or under the authority of the United States government, a state, a political subdivision of a state, a foreign government, a political subdivision of a foreign government, an international governmental or an international quasi-governmental organization; and must be of a type commonly accepted for the purpose of identification of individuals.

(d) A person who becomes a transferee of a pistol or semiautomatic military-style assault weapon in violation of this subdivision is guilty of a misdemeanor.

Subd. 15. **Penalties.** (a) Except as otherwise provided in paragraph (b), a person who does any of the following is guilty of a gross misdemeanor:

(1) transfers a pistol or semiautomatic military-style assault weapon in violation of subdivisions 1 to 13;

(2) transfers a pistol or semiautomatic military-style assault weapon to a person who has made a false statement in order to become a transferee, if the transferor knows or has reason to know the transferee has made the false statement;

(3) knowingly becomes a transferee in violation of subdivisions 1 to 13; or

(4) makes a false statement in order to become a transferee of a pistol or semiautomatic military-style assault weapon knowing or having reason to know the statement is false.

(b) A person who does either of the following is guilty of a felony:

(1) transfers a pistol or semiautomatic military-style assault weapon to a person under the age of 18 in violation of subdivisions 1 to 13; or

(2) transfers a pistol or semiautomatic military-style assault weapon to a person under the age of 18 who has made a false statement in order to become a transferee, if the transferor knows or has reason to know the transferee has made the false statement.

Subd. 16. **Local regulation.** This section shall be construed to supersede municipal or county regulation of the transfer of pistols.

History: *1977 c 349 s 5; 1985 c 144 s 2; 1986 c 444; 1992 c 571 art 15 s 7; 1993 c 326 art 1 s 31; 1994 c 576 s 57; 1994 c 618 art 1 s 43, 44; 1994 c 636 art 3 s 32-37; 1996 c 305 art 1 s 122; 1998 c 254 art 2 s 68; 2009 c 139 s 5*

624.7133 PURCHASING FIREARM ON BEHALF OF INELIGIBLE PERSON.

Any person who purchases or otherwise obtains a firearm on behalf of or for transfer to a person known to be ineligible to possess or purchase a firearm pursuant to federal or state law is guilty of a gross misdemeanor.

History: *2015 c 65 art 3 s 31*

624.714 CARRYING OF WEAPONS WITHOUT PERMIT; PENALTIES. [SUBD. 17 AMENDED]

Subdivision 1. [Repealed, 2003 c 28 art 2 s 35; 2005 c 83 s 1]

Subd. 1a. **Permit required; penalty.** A person, other than a peace officer, as defined in section 626.84, subdivision 1, who carries, holds, or possesses a pistol in a motor vehicle, snowmobile, or boat, or on or about the person's clothes or the person, or otherwise in possession or control in a public place, as defined in section 624.7181, subdivision 1, paragraph (c), without first having obtained a permit to carry the pistol is guilty of a gross misdemeanor. A person who is convicted a second or subsequent time is guilty of a felony.

Subd. 1b. **Display of permit; penalty.** (a) The holder of a permit to carry must have the permit card and a driver's license, state identification card, or other government-issued photo identification in immediate possession at all times when carrying a pistol and must display the permit card and identification document upon lawful demand by a peace officer, as defined in section 626.84, subdivision 1. A violation of this paragraph is a petty misdemeanor. The fine for a first offense must not exceed $25. Notwithstanding section 609.531, a firearm carried in violation of this paragraph is not subject to forfeiture.

(b) A citation issued for violating paragraph (a) must be dismissed if the person demonstrates, in court or in the office of the arresting officer, that the person was authorized to carry the pistol at the time of the alleged violation.

(c) Upon the request of a peace officer, a permit holder must write a sample signature in the officer's presence to aid in verifying the person's identity.

(d) Upon the request of a peace officer, a permit holder shall disclose to the officer whether or not the permit holder is currently carrying a firearm.

Subd. 2. **Where application made; authority to issue permit; criteria; scope.** (a) Applications by Minnesota residents for permits to carry shall be made to the county sheriff where the applicant resides. Nonresidents, as defined in section 171.01, subdivision 42, may apply to any sheriff.

(b) Unless a sheriff denies a permit under the exception set forth in subdivision 6, paragraph (a), clause (3), a sheriff must issue a permit to an applicant if the person:

(1) has training in the safe use of a pistol;

(2) is at least 21 years old and a citizen or a permanent resident of the United States;

(3) completes an application for a permit;

(4) is not prohibited from possessing a firearm under the following sections:

(i) 518B.01, subdivision 14;

(ii) 609.224, subdivision 3;

(iii) 609.2242, subdivision 3;

(iv) 609.749, subdivision 8;

(v) 624.713;

(vi) 624.719;

(vii) 629.715, subdivision 2;

(viii) 629.72, subdivision 2; or

(ix) any federal law; and

(5) is not listed in the criminal gang investigative data system under section 299C.091.

(c) A permit to carry a pistol issued or recognized under this section is a state permit and is effective throughout the state.

(d) A sheriff may contract with a police chief to process permit applications under this section. If a sheriff contracts with a police chief, the sheriff remains the issuing authority and the police chief acts as the sheriff's agent. If a sheriff contracts with a police chief, all of the provisions of this section will apply.

Subd. 2a. **Training in safe use of a pistol.** (a) An applicant must present evidence that the applicant received training in the safe use of a pistol within one year of the date of an original or renewal application. Training may be demonstrated by:

(1) employment as a peace officer in the state of Minnesota within the past year; or

(2) completion of a firearms safety or training course providing basic training in the safe use of a pistol and conducted by a certified instructor.

(b) Basic training must include:

(1) instruction in the fundamentals of pistol use;

(2) successful completion of an actual shooting qualification exercise; and

(3) instruction in the fundamental legal aspects of pistol possession, carry, and use, including self-defense and the restrictions on the use of deadly force.

(c) The certified instructor must issue a certificate to a person who has completed a firearms safety or training course described in paragraph (b). The certificate must be signed by the instructor and attest that the person attended and completed the course.

(d) A person qualifies as a certified instructor if the person is certified as a firearms instructor within the past five years by an organization or government entity that has been approved by the Department of Public Safety in accordance with the department's standards.

(e) A sheriff must accept the training described in this subdivision as meeting the requirement in subdivision 2, paragraph (b), for training in the safe use of a pistol. A sheriff may also accept other satisfactory evidence of training in the safe use of a pistol.

Subd. 3. **Form and contents of application.** (a) Applications for permits to carry must be an official, standardized application form, adopted under section 624.7151, and must set forth in writing only the following information:

(1) the applicant's name, residence, telephone number, if any, and driver's license number or state identification card number;

(2) the applicant's sex, date of birth, height, weight, and color of eyes and hair, and distinguishing physical characteristics, if any;

(3) the township or statutory city or home rule charter city, and county, of all Minnesota residences of the applicant in the last five years, though not including specific addresses;

(4) the township or city, county, and state of all non-Minnesota residences of the applicant in the last five years, though not including specific addresses;

(5) a statement that the applicant authorizes the release to the sheriff of commitment information about the applicant maintained by the commissioner of human services or any similar agency or department of another state where the applicant has resided, to the extent that the information relates to the applicant's eligibility to possess a firearm; and

(6) a statement by the applicant that, to the best of the applicant's knowledge and belief, the applicant is not prohibited by law from possessing a firearm.

(b) The statement under paragraph (a), clause (5), must comply with any applicable requirements of Code of Federal Regulations, title 42, sections 2.31 to 2.35, with respect to consent to disclosure of alcohol or drug abuse patient records.

(c) An applicant must submit to the sheriff an application packet consisting only of the following items:

(1) a completed application form, signed and dated by the applicant;

(2) an accurate photocopy of the certificate described in subdivision 2a, paragraph (c), that is submitted as the applicant's evidence of training in the safe use of a pistol; and

(3) an accurate photocopy of the applicant's current driver's license, state identification card, or the photo page of the applicant's passport.

(d) In addition to the other application materials, a person who is otherwise ineligible for a permit due to a criminal conviction but who has obtained a pardon or expungement setting aside the conviction, sealing the conviction, or otherwise restoring applicable rights, must submit a copy of the relevant order.

(e) Applications must be submitted in person.

(f) The sheriff may charge a new application processing fee in an amount not to exceed the actual and reasonable direct cost of processing the application or $100, whichever is less. Of this amount, $10 must be submitted to the commissioner and deposited into the general fund.

(g) This subdivision prescribes the complete and exclusive set of items an applicant is required to submit in order to apply for a new or renewal permit to carry. The applicant must not be asked or required to submit, voluntarily or involuntarily, any information, fees, or documentation beyond that specifically required by this subdivision. This paragraph does not apply to alternate training evidence accepted by the sheriff under subdivision 2a, paragraph (d).

(h) Forms for new and renewal applications must be available at all sheriffs' offices and the commissioner must make the forms available on the Internet.

(i) Application forms must clearly display a notice that a permit, if granted, is void and must be immediately returned to the sheriff if the permit holder is or becomes prohibited by law from possessing a firearm. The notice must list the applicable state criminal offenses and civil categories that prohibit a person from possessing a firearm.

(j) Upon receipt of an application packet and any required fee, the sheriff must provide a signed receipt indicating the date of submission.

Subd. 4. **Investigation.** (a) The sheriff must check, by means of electronic data transfer, criminal records, histories, and warrant information on each applicant through the Minnesota Crime Information System and the National Instant Criminal Background Check System. The sheriff shall also make a reasonable effort to check other available and relevant federal, state, or local record-keeping systems. The sheriff must obtain commitment information from the commissioner of human services as provided in section 245.041 or, if the information is reasonably available, as provided by a similar statute from another state.

(b) When an application for a permit is filed under this section, the sheriff must notify the chief of police, if any, of the municipality where the applicant resides. The police chief may provide the sheriff with any information relevant to the issuance of the permit.

(c) The sheriff must conduct a background check by means of electronic data transfer on a permit holder through the Minnesota Crime Information System and the National Instant Criminal Background Check System at least yearly to ensure continuing eligibility. The sheriff may also conduct additional background checks by means of electronic data transfer on a permit holder at any time during the period that a permit is in effect.

Subd. 5. [Repealed, 2003 c 28 art 2 s 35; 2005 c 83 s 1]

Subd. 6. **Granting and denial of permits.** (a) The sheriff must, within 30 days after the date of receipt of the application packet described in subdivision 3:

(1) issue the permit to carry;

(2) deny the application for a permit to carry solely on the grounds that the applicant failed to qualify under the criteria described in subdivision 2, paragraph (b); or

(3) deny the application on the grounds that there exists a substantial likelihood that the applicant is a danger to self or the public if authorized to carry a pistol under a permit.

(b) Failure of the sheriff to notify the applicant of the denial of the application within 30 days after the date of receipt of the application packet constitutes issuance of the permit to carry and the sheriff must promptly fulfill the requirements under paragraph (c). To deny the application, the sheriff must provide the applicant with written notification and the specific factual basis justifying the denial under paragraph (a), clause (2) or (3), including the source of the factual basis. The sheriff must inform the applicant of the applicant's right to submit, within 20 business days, any additional documentation relating to the propriety of the denial. Upon receiving any additional documentation, the sheriff must reconsider the denial and inform the applicant within 15 business days of the result of the reconsideration. Any denial after reconsideration must be in the same form and substance as the original denial and must specifically address any continued deficiencies in light of the additional documentation submitted by the applicant. The applicant must be informed of the right to seek de novo review of the denial as provided in subdivision 12.

(c) Upon issuing a permit to carry, the sheriff must provide a laminated permit card to the applicant by first class mail unless personal delivery has been made. Within five business days, the sheriff must submit the information specified in subdivision 7, paragraph (a), to the commissioner for inclusion solely in the database required under subdivision 15, paragraph (a). The sheriff must transmit the information in a manner and format prescribed by the commissioner.

(d) Within five business days of learning that a permit to carry has been suspended or revoked, the sheriff must submit information to the commissioner regarding the suspension or revocation for inclusion solely in the databases required or permitted under subdivision 15.

(e) Notwithstanding paragraphs (a) and (b), the sheriff may suspend the application process if a charge is pending against the applicant that, if resulting in conviction, will prohibit the applicant from possessing a firearm.

Subd. 7. **Permit card contents; expiration; renewal.** (a) Permits to carry must be on an official, standardized permit card adopted by the commissioner, containing only the name, residence, and driver's license number or state identification card number of the permit holder, if any.

(b) The permit card must also identify the issuing sheriff and state the expiration date of the permit. The permit card must clearly display a notice that a permit, if granted, is void and must be immediately returned to the sheriff if the permit holder becomes prohibited by law from possessing a firearm.

(c) A permit to carry a pistol issued under this section expires five years after the date of issue. It may be renewed in the same manner and under the same criteria which the original permit was obtained, subject to the following procedures:

(1) no earlier than 90 days prior to the expiration date on the permit, the permit holder may renew the permit by submitting to the appropriate sheriff the application packet described in subdivision 3 and a renewal processing fee not to exceed the actual and reasonable direct cost of processing the application or $75, whichever is less. Of this amount, $5 must be submitted to the commissioner and deposited into the general fund. The sheriff must process the renewal application in accordance with subdivisions 4 and 6; and

(2) a permit holder who submits a renewal application packet after the expiration date of the permit, but within 30 days after expiration, may renew the permit as provided in clause (1) by paying an additional late fee of $10.

(d) The renewal permit is effective beginning on the expiration date of the prior permit to carry.

Subd. 7a. **Change of address; loss or destruction of permit.** (a) Within 30 days after changing permanent address, or within 30 days of having lost or destroyed the permit card, the permit holder must notify the issuing sheriff of the change, loss, or destruction. Failure to provide notification as required by this subdivision is a petty misdemeanor. The fine for a first offense must not exceed $25. Notwithstanding section 609.531, a firearm carried in violation of this paragraph is not subject to forfeiture.

(b) After notice is given under paragraph (a), a permit holder may obtain a replacement permit card by paying $10 to the sheriff. The request for a replacement permit card must be made on an official, standardized application adopted for this purpose under section 624.7151, and, except in the case of an address change, must include a notarized statement that the permit card has been lost or destroyed.

Subd. 8. **Permit to carry voided.** (a) The permit to carry is void at the time that the holder becomes prohibited by law from possessing a firearm, in which event the holder must return the permit card to the issuing sheriff within five business days after the holder knows or should know that the holder is a prohibited person. If the sheriff has knowledge that a permit is void under this paragraph, the sheriff must give notice to the permit holder in writing in the same manner as a denial. Failure of the holder to return the permit within the five days is a gross misdemeanor unless the court finds that the circumstances or the physical or mental condition of the permit holder prevented the holder from complying with the return requirement.

(b) When a permit holder is convicted of an offense that prohibits the permit holder from possessing a firearm, the court must take possession of the permit, if it is available, and send it to the issuing sheriff.

(c) The sheriff of the county where the application was submitted, or of the county of the permit holder's current residence, may file a petition with the district court therein, for an order revoking a permit to carry on the grounds set forth in subdivision 6, paragraph (a), clause (3). An order shall be issued only if the sheriff meets the burden of proof and criteria set forth in subdivision 12. If the court denies the petition, the court must award the permit holder reasonable costs and expenses, including attorney fees.

(d) A permit revocation must be promptly reported to the issuing sheriff.

Subd. 8a. **Prosecutor's duty.** Whenever a person is charged with an offense that would, upon conviction, prohibit the person from possessing a firearm, the prosecuting attorney must ascertain whether the person is a permit holder under this section. If the person is a permit holder, the prosecutor must notify the issuing sheriff that the person has been charged with a prohibiting offense. The prosecutor must also notify the sheriff of the final disposition of the case.

Subd. 9. **Carrying pistols about one's premises or for purposes of repair, target practice.** A permit to carry is not required of a person:

(1) to keep or carry about the person's place of business, dwelling house, premises or on land possessed by the person a pistol;

(2) to carry a pistol from a place of purchase to the person's dwelling house or place of business, or from the person's dwelling house or place of business to or from a place where repairing is done, to have the pistol repaired;

(3) to carry a pistol between the person's dwelling house and place of business;

(4) to carry a pistol in the woods or fields or upon the waters of this state for the purpose of hunting or of target shooting in a safe area; or

(5) to transport a pistol in a motor vehicle, snowmobile or boat if the pistol is unloaded, contained in a closed and fastened case, gunbox, or securely tied package.

Subd. 10. **False representations.** A person who gives or causes to be given any false material information in applying for a permit to carry, knowing or having reason to know the information is false, is guilty of a gross misdemeanor.

Subd. 11. **No limit on number of pistols.** A person shall not be restricted as to the number of pistols the person may carry.

Subd. 11a. **Emergency issuance of permits.** A sheriff may immediately issue an emergency permit to a person if the sheriff determines that the person is in an emergency situation that may constitute an immediate risk to the safety of the person or someone residing in the person's household. A person seeking an emergency permit must complete an application form and must sign an affidavit describing the emergency situation. An emergency permit applicant does not need to provide evidence of training. An emergency permit is valid for 30 days, may not be renewed, and may be revoked without a hearing. No fee may be charged for an emergency permit. An emergency permit holder may seek a regular permit under subdivision 3 and is subject to the other applicable provisions of this section.

Subd. 12. **Hearing upon denial or revocation.** (a) Any person aggrieved by denial or revocation of a permit to carry may appeal by petition to the district court having jurisdiction over the county or municipality where the application was submitted. The petition must list the sheriff as the respondent. The district court must hold a hearing at the earliest practicable date and in any event no later than 60 days following the filing of the petition for review. The court may not grant or deny any relief before the completion of the hearing. The record of the hearing must be sealed. The matter must be heard de novo without a jury.

(b) The court must issue written findings of fact and conclusions of law regarding the issues submitted by the parties. The court must issue its writ of mandamus directing that the permit be issued and order other appropriate relief unless the sheriff establishes by clear and convincing evidence:

(1) that the applicant is disqualified under the criteria described in subdivision 2, paragraph (b); or

(2) that there exists a substantial likelihood that the applicant is a danger to self or the public if authorized to carry a pistol under a permit. Incidents of alleged criminal misconduct that are not investigated and documented may not be considered.

(c) If an applicant is denied a permit on the grounds that the applicant is listed in the criminal gang investigative data system under section 299C.091, the person may challenge the denial, after disclosure under court supervision of the reason for that listing, based on grounds that the person:

(1) was erroneously identified as a person in the data system;

(2) was improperly included in the data system according to the criteria outlined in section 299C.091, subdivision 2, paragraph (b); or

(3) has demonstrably withdrawn from the activities and associations that led to inclusion in the data system.

(d) If the court grants a petition brought under paragraph (a), the court must award the applicant or permit holder reasonable costs and expenses including attorney fees.

Subd. 12a. **Suspension as condition of release.** The district court may order suspension of the application process for a permit or suspend the permit of a permit holder as a condition of release pursuant to the same criteria as the surrender of firearms under section 629.715. A permit suspension must be promptly reported to the issuing sheriff. If the permit holder has an out-of-state permit recognized under subdivision 16, the court must promptly report the suspension to the commissioner for inclusion solely in the database under subdivision 15, paragraph (a).

Subd. 13. **Exemptions; adult correctional facility officers.** A permit to carry a pistol is not required of any officer of a state adult correctional facility when on guard duty or otherwise engaged in an assigned duty.

Subd. 14. **Records.** (a) A sheriff must not maintain records or data collected, made, or held under this section concerning any applicant or permit holder that are not necessary under this section to support a permit that is outstanding or eligible for renewal under subdivision 7, paragraph (b). Notwithstanding section 138.163, sheriffs must completely purge all files and databases by March 1 of each year to delete all information collected under this section concerning all persons who are no longer current permit holders or currently eligible to renew their permit.

(b) Paragraph (a) does not apply to records or data concerning an applicant or permit holder who has had a permit denied or revoked under the criteria established in subdivision 2, paragraph (b), clause (1), or subdivision 6, paragraph (a), clause (3), for a period of six years from the date of the denial or revocation.

Subd. 15. **Commissioner; contracts; database.** (a) The commissioner must maintain an automated database of persons authorized to carry pistols under this section that is available 24 hours a day, seven days a week, only to law enforcement agencies, including prosecutors carrying out their duties under subdivision 8a, to verify the validity of a permit.

(b) The commissioner may maintain a separate automated database of denied applications for permits to carry and of revoked permits that is available only to sheriffs performing their duties under this section containing the date of, the statutory basis for, and the initiating agency for any permit application denied or permit revoked for a period of six years from the date of the denial or revocation.

(c) The commissioner may contract with one or more vendors to implement the commissioner's duties under this section.

Subd. 16. **Recognition of permits from other states.** (a) The commissioner must annually establish and publish a list of other states that have laws governing the issuance of permits to carry weapons that are not similar to this section. The list must be available on the Internet. A person holding a carry permit from a state not on the list may use the license or permit in this state subject to the rights, privileges, and requirements of this section.

(b) Notwithstanding paragraph (a), no license or permit from another state is valid in this state if the holder is or becomes prohibited by law from possessing a firearm.

(c) Any sheriff or police chief may file a petition under subdivision 12 seeking an order suspending or revoking an out-of-state permit holder's authority to carry a pistol in this state on the grounds set forth in subdivision 6, paragraph (a), clause (3). An order shall only be issued if the petitioner meets the burden of proof and criteria set forth in subdivision 12. If the court denies the petition, the court must award the permit holder reasonable costs and expenses including attorney fees. The petition may be filed in any county in the state where a person holding a license or permit from another state can be found.

(d) The commissioner must, when necessary, execute reciprocity agreements regarding carry permits with jurisdictions whose carry permits are recognized under paragraph (a).

Subd. 17. **Posting; trespass.** (a) A person carrying a firearm on or about his or her person or clothes under a permit or otherwise who remains at a private establishment knowing that the operator of the establishment or its agent has made a reasonable request that firearms not be brought into the establishment may be ordered to leave the premises. A person who fails to leave when so requested is guilty of a petty misdemeanor. The fine for a first offense must not exceed $25. Notwithstanding section 609.531, a firearm carried in violation of this subdivision is not subject to forfeiture.

(b) As used in this subdivision, the terms in this paragraph have the meanings given.

(1) "Reasonable request" means a request made under the following circumstances:

(i) the requester has prominently posted a conspicuous sign at every entrance to the establishment containing the following language: "(INDICATE IDENTITY OF OPERATOR) BANS GUNS IN THESE PREMISES."; or

(ii) the requester or the requester's agent personally informs the person that guns are prohibited in the premises and demands compliance.

(2) "Prominently" means readily visible and within four feet laterally of the entrance with the bottom of the sign at a height of four to six feet above the floor.

(3) "Conspicuous" means lettering in black arial typeface at least 1-1/2 inches in height against a bright contrasting background that is at least 187 square inches in area.

(4) "Private establishment" means a building, structure, or portion thereof that is owned, leased, controlled, or operated by a nongovernmental entity for a nongovernmental purpose.

(c) The owner or operator of a private establishment may not prohibit the lawful carry or possession of firearms in a parking facility or parking area.

(d) The owner or operator of a private establishment may not prohibit the lawful carry or possession of firearms by a peace officer, as defined in section 626.84, subdivision 1, paragraph (c), within the private establishment or deny the officer access thereto, except when specifically authorized by statute. The owner or operator of the private establishment may require the display of official credentials issued by the agency that employs the peace officer prior to granting the officer entry into the private establishment.

(e) This subdivision does not apply to private residences. The lawful possessor of a private residence may prohibit firearms, and provide notice thereof, in any lawful manner.

(f) A landlord may not restrict the lawful carry or possession of firearms by tenants or their guests.

(g) Notwithstanding any inconsistent provisions in section 609.605, this subdivision sets forth the exclusive criteria to notify a permit holder when otherwise lawful firearm possession is not allowed in a private establishment and sets forth the exclusive penalty for such activity.

(h) This subdivision does not apply to a security guard acting in the course and scope of employment. The owner or operator of a private establishment may require the display of official credentials issued by the company, which must be licensed by the Private Detective and Protective Agent Services Board, that employs the security guard and the guard's permit card prior to granting the guard entrance into the private establishment.

Subd. 18. **Employers; public colleges and universities.** (a) An employer, whether public or private, may establish policies that restrict the carry or possession of firearms by its employees while acting in the course and scope of employment. Employment related civil sanctions may be invoked for a violation.

(b) A public postsecondary institution regulated under chapter 136F or 137 may establish policies that restrict the carry or possession of firearms by its students while on the institution's property. Academic sanctions may be invoked for a violation.

(c) Notwithstanding paragraphs (a) and (b), an employer or a postsecondary institution may not prohibit the lawful carry or possession of firearms in a parking facility or parking area.

Subd. 19. **Immunity.** Neither a sheriff, police chief, any employee of a sheriff or police chief involved in the permit issuing process, nor any certified instructor is liable for damages resulting or arising from acts with a firearm committed by a permit holder, unless the person had actual knowledge at the time the permit was issued or the instruction was given that the applicant was prohibited by law from possessing a firearm.

Subd. 20. **Monitoring.** (a) By March 1, 2004, and each year thereafter, the commissioner must report to the legislature on:

(1) the number of permits applied for, issued, suspended, revoked, and denied, further categorized by the age, sex, and zip code of the applicant or permit holder, since the previous submission, and in total;

(2) the number of permits currently valid;

(3) the specific reasons for each suspension, revocation, and denial and the number of reversed, canceled, or corrected actions;

(4) without expressly identifying an applicant, the number of denials or revocations based on the grounds under subdivision 6, paragraph (a), clause (3), the factual basis for each denial or revocation, and the result of an appeal, if any, including the court's findings of fact, conclusions of law, and order;

(5) the number of convictions and types of crimes committed since the previous submission, and in total, by individuals with permits including data as to whether a firearm lawfully carried solely by virtue of a permit was actually used in furtherance of the crime;

(6) to the extent known or determinable, data on the lawful and justifiable use of firearms by permit holders; and

(7) the status of the segregated funds reported to the commissioner under subdivision 21.

(b) Sheriffs and police chiefs must supply the Department of Public Safety with the basic data the department requires to complete the report under paragraph (a). Sheriffs and police chiefs may submit data classified as private to the Department of Public Safety under this paragraph.

(c) Copies of the report under paragraph (a) must be made available to the public at the actual cost of duplication.

(d) Nothing contained in any provision of this section or any other law requires or authorizes the registration, documentation, collection, or providing of serial numbers or other data on firearms or on firearms' owners.

Subd. 21. **Use of fees.** Fees collected by sheriffs under this section and not forwarded to the commissioner must be used only to pay the direct costs of administering this section. Fee money may be used to pay the costs of appeals of prevailing applicants or permit holders under subdivision 8, paragraph (c); subdivision 12, paragraph (e); and sub-

division 16, paragraph (c). Fee money may also be used to pay the reasonable costs of the county attorney to represent the sheriff in proceedings under this section. The revenues must be maintained in a segregated fund. Fund balances must be carried over from year to year and do not revert to any other fund. As part of the information supplied under subdivision 20, paragraph (b), by January 31 of each year, a sheriff must report to the commissioner on the sheriff's segregated fund for the preceding calendar year, including information regarding:

(1) nature and amount of revenues;

(2) nature and amount of expenditures; and

(3) nature and amount of balances.

Subd. 22. **Short title; construction; severability.** This section may be cited as the Minnesota Citizens' Personal Protection Act of 2003. The legislature of the state of Minnesota recognizes and declares that the second amendment of the United States Constitution guarantees the fundamental, individual right to keep and bear arms. The provisions of this section are declared to be necessary to accomplish compelling state interests in regulation of those rights. The terms of this section must be construed according to the compelling state interest test. The invalidation of any provision of this section shall not invalidate any other provision.

Subd. 23. **Exclusivity.** This section sets forth the complete and exclusive criteria and procedures for the issuance of permits to carry and establishes their nature and scope. No sheriff, police chief, governmental unit, government official, government employee, or other person or body acting under color of law or governmental authority may change, modify, or supplement these criteria or procedures, or limit the exercise of a permit to carry.

Subd. 24. **Predatory offenders.** Except when acting under the authority of other law, it is a misdemeanor for a person required to register by section 243.166 to carry a pistol whether or not the carrier possesses a permit to carry issued under this section. If an action prohibited by this subdivision is also a violation of another law, the violation may be prosecuted under either law.

History: *1975 c 378 s 4; 1976 c 269 s 1; 1977 c 349 s 3; 1983 c 264 s 10; 1986 c 444; 1992 c 571 art 15 s 8,9; 1993 c 326 art 1 s 32; 1994 c 618 art 1 s 45,46; 1994 c 636 art 3 s 38-40; 1998 c 254 art 2 s 69; 2003 c 28 art 2 s 4-28,34; 2005 c 83 s 1,3-10; 2009 c 139 s 6; 2015 c 65 art 3 s 32*

624.7141 TRANSFER TO INELIGIBLE PERSON.

Subdivision 1. **Transfer prohibited.** A person is guilty of a gross misdemeanor who intentionally transfers a pistol or semiautomatic military-style assault weapon to another if the person knows that the transferee:

(1) has been denied a permit to carry under section 624.714 because the transferee is not eligible under section 624.713 to possess a pistol or semiautomatic military-style assault weapon;

(2) has been found ineligible to possess a pistol or semiautomatic military-style assault weapon by a chief of police or sheriff as a result of an application for a transferee permit or a transfer report; or

(3) is disqualified under section 624.713 from possessing a pistol or semiautomatic military-style assault weapon.

Subd. 2. **Felony.** A violation of this section is a felony if the transferee possesses or uses the weapon within one year after the transfer in furtherance of a felony crime of violence.

Subd. 3. **Subsequent eligibility.** This section is not applicable to a transfer to a person who became eligible to possess a pistol or semiautomatic military-style assault weapon under section 624.713 after the transfer occurred but before the transferee used or possessed the weapon in furtherance of any crime.

History: *1994 c 636 art 3 s 41*

624.7142 CARRYING WHILE UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE.

Subdivision 1. **Acts prohibited.** A person may not carry a pistol on or about the person's clothes or person in a public place:

(1) when the person is under the influence of a controlled substance, as defined in section 152.01, subdivision 4;

(2) when the person is under the influence of a combination of any two or more of the elements named in clauses (1) and (4);

(3) when the person is knowingly under the influence of any chemical compound or combination of chemical compounds that is listed as a hazardous substance in rules adopted under section 182.655 and that affects the nervous system, brain, or muscles of the person so as to impair the person's clearness of intellect or physical control;

(4) when the person is under the influence of alcohol;

(5) when the person's alcohol concentration is 0.10 or more; or

(6) when the person's alcohol concentration is less than 0.10, but more than 0.04.

Subd. 2. **Arrest.** A peace officer may arrest a person for a violation under subdivision 1 without a warrant upon probable cause, without regard to whether the violation was committed in the officer's presence.

Subd. 3. **Preliminary screening test.** When an officer authorized under subdivision 2 to make arrests has reason to believe that the person may be violating or has violated subdivision 1, the officer may require the person to provide a breath sample for a preliminary screening test using a device approved by the commissioner for this purpose. The results of the preliminary screening test must be used for the purpose of deciding whether an arrest should be made under this section and whether to require the chemical tests authorized in section 624.7143, but may not be used in any court action except: (1) to prove that the test was properly required of a person under section 624.7143, or (2) in a civil action arising out of the use of the pistol. Following the preliminary screening test, additional tests may be required of the person as provided under section 624.7143. A person who refuses a breath sample is subject to the provisions of section 624.7143 unless, in compliance with that section, the person submits to a blood, breath, or urine test to determine the presence of alcohol or a controlled substance.

Subd. 4. **Evidence.** In a prosecution for a violation of subdivision 1, the admission of evidence of the amount of alcohol or a controlled substance in the person's blood, breath, or urine is governed by section 169A.45.

Subd. 5. **Suspension.** A person who is charged with a violation under this section may have their authority to carry a pistol in a public place on or about the person's clothes or person under the provisions of a permit or otherwise suspended by the court as a condition of release.

Subd. 6. **Penalties.** (a) A person who violates a prohibition under subdivision 1, clauses (1) to (5), is guilty of a misdemeanor. A second or subsequent violation is a gross misdemeanor.

(b) A person who violates subdivision 1, clause (6), is guilty of a misdemeanor.

(c) In addition to the penalty imposed under paragraph (a), if a person violates subdivision 1, clauses (1) to (5), the person's authority to carry a pistol in a public place on or about the person's clothes or person under the provisions of a permit or otherwise is revoked and the person may not reapply for a period of one year from the date of conviction.

(d) In addition to the penalty imposed under paragraph (b), if a person violates subdivision 1, clause (6), the person's authority to carry a pistol in a public place on or about the person's clothes or person under the provisions of a permit or otherwise is suspended for 180 days from the date of conviction.

(e) Notwithstanding section 609.531, a firearm carried in violation of subdivision 1, clause (6), is not subject to forfeiture.

Subd. 7. **Reporting.** Suspensions and revocations under this section must be reported in the same manner as in section 624.714, subdivision 12a.

History: *2003 c 28 art 2 s 29, 34; 2005 c 83 s 1*

624.7143 CHEMICAL TESTING. [SUBDS. 1, 2, 3, 4 AMENDED; NEW SUBD. 1a]

Subdivision 1. **Mandatory chemical testing.** (a) A person who carries a pistol in a public place on or about the person's clothes or person is required, subject to the provisions of this section, to take or submit to a test of the person's blood, breath, or urine for the purpose of determining the presence and amount of alcohol or a controlled substance. The test shall be administered at the direction of an officer authorized to make arrests under section 624.7142.

(b) Taking or submitting to a test of the person's breath is mandatory when requested by an officer who has probable cause to believe the person was carrying a pistol in violation of section 624.7142, and one of the following conditions exists:

(1) the person has been lawfully placed under arrest for violating section 624.7142;

(2) the person has been involved while carrying a firearm in a firearms-related accident resulting in property damage, personal injury, or death;

(3) the person has refused to take the preliminary screening test provided for in section 624.7142; or

(4) the screening test was administered and indicated an alcohol concentration of 0.04 or more.

(c) Taking or submitting to a test of the person's blood or urine is mandatory when requested by a peace officer under the conditions described in paragraph (b) if the officer is acting pursuant to a search warrant under sections 626.04 to 626.18.

Subd. 1a. **Blood or urine test; search warrant required.** Notwithstanding any contrary provision in this section, a blood or urine test may be conducted only pursuant to a search warrant under sections 626.04 to 626.18, or a judicially recognized exception to the search warrant requirement. When, under the provisions of this section, a search warrant is required for a blood or urine test, that requirement is met if a judicially recognized exception to the search warrant is applicable.

Subd. 2. **Penalties; refusal; revocation.** (a) If a person refuses to take a test required under subdivision 1, none must be given but the officer shall report the refusal to the sheriff and to the authority having responsibility for prosecution of misdemeanor offenses for the jurisdiction in which the incident occurred that gave rise to the test demand and refusal. On certification by the officer that probable cause existed to believe the person had been carrying a pistol on or about the person's clothes or person in a public place while under the influence of alcohol or a controlled substance that in the case of a blood or urine test the officer was acting pursuant to a search warrant, and that the person refused to submit to testing, a court may impose a civil penalty of $500 and may revoke the person's authority to carry a pistol in a public place on or about the person's clothes or person under the provisions of a permit or otherwise for a period of one year from the date of the refusal. The person shall be accorded notice and an opportunity to be heard prior to imposition of the civil penalty or the revocation.

(b) Revocations under this subdivision must be reported in the same manner as in section 624.714, subdivision 12a.

Subd. 3. **Rights and obligations.** At the time a test is requested, the person must be informed that:

(1) Minnesota law requires a person to take a test to determine if the person is under the influence of alcohol or a controlled substance;

(2) if the person refuses to take the test, the person is subject to a civil penalty of $500 and is prohibited for a period of one year from carrying a pistol in a public place on or about the person's clothes or person, as provided under subdivision 2; and

(3) that, in the case of a breath test, the person has the right to consult with an attorney, but that this right is limited to the extent it cannot unreasonably delay administration of the test or the person will be deemed to have refused the test.

Subd. 4. **Type of test.** (a) A peace officer who directs a test pursuant to this section may direct a breath test.

(b) A peace officer, acting pursuant to a search warrant, may direct a blood or urine test as provided in the warrant. If the warrant authorizes either a blood or urine test, the officer may direct whether the test is of blood or urine. If the person to whom the test is directed objects to the test, the officer shall offer the person an alternative test of either blood or urine.

(c) If there is probable cause to believe there is impairment by a controlled substance that is not subject to testing by a breath test, a blood or urine test may be required pursuant to a search warrant even after a breath test has been administered.

(d) Action under this section may be taken against a person who refuses to take a blood test only if an alternative test was offered and action may be taken against a person who refuses to take a urine test only if an alternative test was offered.

Subd. 5. **Chemical tests.** Chemical tests administered under this section are governed by section 169A.51in all aspects that are not inconsistent with this section.

History: *2003 c 28 art 2 s 30; 2005 c 83 s 1*

624.7144 ALLOWING AN INELIGIBLE PERSON ACCESS TO FIREARMS.

A person who accepts a transferred firearm from an abusing party or offender pursuant to section 260C.201, subdivision 3; 518B.01, subdivision 6; 609.2242, subdivision 3; or 609.749, subdivision 8, is guilty of a gross misdemeanor if the abusing party or offender obtains possession of the transferred firearm while the person is prohibited from possessing firearms. It is an affirmative defense to a violation of this section that the third party who accepted the transferred firearm exercised due care to ensure that the abusing party or offender could not access the firearm. The third party shall not return the firearm to the abusing party or offender until the prohibiting time period imposed under section 260C.201, subdivision 3; 518B.01, subdivision6; 609.2242, subdivision 3; or 609.749, subdivision 8, has expired and the abusing party or offender presents a current, valid transferee permit or passes a federal background check through the National Instant Criminal Background Check System. The third party may rely on a court order describing the length of the prohibiting time period as conclusive evidence that the prohibiting time period has expired, unless otherwise notified by the court.

History: *2014 c 213 s 6*

624.715 EXEMPTIONS; ANTIQUES AND ORNAMENTS.

Sections 624.713 and 624.714 shall not apply to antique firearms which are carried or possessed as curiosities or for their historical significance or value, or to ammunition or primers, projectiles, or propellent powder designed solely for use in an antique firearm.

History: *1975 c 378 s 5; 2015 c 65 art 3 s 33*

624.7151 STANDARDIZED FORMS.

By December 1, 1992, the commissioner shall adopt statewide standards governing the form and contents, as required by sections 624.7131 to 624.714, of every application for a pistol transferee permit, pistol transferee permit, report of transfer of a pistol, application for a permit to carry a pistol, and permit to carry a pistol that is granted or renewed on or after January 1, 1993.

Every application for a pistol transferee permit, pistol transferee permit, report of transfer of a pistol, application for a permit to carry a pistol, and permit to carry a pistol that is received, granted, or renewed by a police chief or county sheriff on or after January 1, 1993, must meet the statewide standards adopted by the commissioner. Notwithstanding the previous sentence, neither failure of the Department of Public Safety to adopt standards nor failure of the police chief or county sheriff to meet them shall delay the timely processing of applications nor invalidate permits issued on other forms meeting the requirements of sections 624.7131 to 624.714.

History: *1992 c 571 art 15 s 10; 1997 c 187 art 2 s 15; 2003 c 28 art 2 s 34*

624.716 SATURDAY NIGHT SPECIALS PROHIBITED; PENALTY.

Any federally licensed firearms dealer who sells a Saturday night special pistol, or any person who manufactures or assembles a Saturday night special pistol in whole or in part, shall be guilty of a gross misdemeanor.

History: *1975 c 378 s 6*

624.7161 FIREARMS DEALERS; CERTAIN SECURITY MEASURES REQUIRED.

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Firearms dealer" means a dealer federally licensed to sell pistols who operates a retail business in which pistols are sold from a permanent business location other than the dealer's home.

(c) "Small firearms dealer" means a firearms dealer who operates a retail business at which no more than 50 pistols are displayed for sale at any time.

(d) "Large firearms dealer" means a firearms dealer who operates a retail business at which more than 50 pistols are displayed for sale at any time.

Subd. 2. **Security measures required.** After business hours when the dealer's place of business is unattended, a small firearms dealer shall place all pistols that are located in the dealer's place of business in a locked safe or locked steel gun cabinet, or on a locked, hardened steel rod or cable that runs through the pistol's trigger guards. The safe, gun cabinet, rod, or cable must be anchored to prevent its removal from the premises.

Subd. 3. **Security standards.** The commissioner shall adopt standards specifying minimum security requirements for small and large firearms dealers. By January 1, 1993, all firearms dealers shall comply with the standards. The standards may provide for:

(1) alarm systems for small and large firearms dealers;

(2) site hardening and other necessary and effective security measures required for large firearms dealers;

(3) a system of inspections, during normal business hours, by local law enforcement officials for compliance with the standards; and

(4) other reasonable requirements necessary and effective to reduce the risk of burglaries at firearms dealers' business establishments.

History: *1992 c 571 art 15 s 11; 2003 c 28 art 2 s 34*

624.7162 FIREARMS DEALERS; SAFETY REQUIREMENTS.

Subdivision 1. **Firearms dealers.** For purposes of this section, a firearms dealer is any person who is federally licensed to sell firearms from any location.

Subd. 2. **Notice required.** In each business location where firearms are sold by a firearms dealer, the dealer shall post in a conspicuous location the following warning in block letters not less than one inch in height: "IT IS UNLAWFUL TO STORE OR LEAVE A LOADED FIREARM WHERE A CHILD CAN OBTAIN ACCESS."

Subd. 3. **Fine.** A person who violates the provisions of this section is guilty of a petty misdemeanor and may be fined not more than $300.

History: *1993 c 326 art 1 s 33; 2004 c 228 art 1 s 72*

624.717 LOCAL REGULATION.

Sections 624.711 to 624.716 shall be construed to supersede municipal or county regulation of the carrying or possessing of pistols and the regulation of Saturday night special pistols.

History: *1975 c 378 s 7; 1985 c 144 s 3*

624.7181 RIFLES AND SHOTGUNS IN PUBLIC PLACES.

Subdivision 1. **Definitions.** For purposes of this section, the following terms have the meanings given them.

(a) "BB gun" means a device that fires or ejects a shot measuring .18 of an inch or less in diameter.

(b) "Carry" does not include:

(1) the carrying of a BB gun, rifle, or shotgun to, from, or at a place where firearms are repaired, bought, sold, traded, or displayed, or where hunting, target shooting, or other lawful activity involving firearms occurs, or at funerals, parades, or other lawful ceremonies;

(2) the carrying by a person of a BB gun, rifle, or shotgun that is unloaded and in a gun case expressly made to contain a firearm, if the case fully encloses the firearm by being zipped, snapped, buckled, tied, or otherwise fastened, and no portion of the firearm is exposed;

(3) the carrying of a BB gun, rifle, or shotgun by a person who has a permit under section 624.714;

(4) the carrying of an antique firearm as a curiosity or for its historical significance or value; or

(5) the transporting of a BB gun, rifle, or shotgun in compliance with section 97B.045.

(c) "Public place" means property owned, leased, or controlled by a governmental unit and private property that is regularly and frequently open to or made available for use by the public in sufficient numbers to give clear notice of the property's current dedication to public use but does not include: a person's dwelling house or premises, the place of business owned or managed by the person, or land possessed by the person; a gun show, gun shop, or hunting or target shooting facility; or the woods, fields, or waters of this state where the person is present lawfully for the purpose of hunting or target shooting or other lawful activity involving firearms.

Subd. 2. **Penalties.** Whoever carries a BB gun, rifle, or shotgun on or about the person in a public place is guilty of a gross misdemeanor. A person under the age of 21 who carries a semiautomatic military-style assault weapon, as defined in section 624.712, subdivision 7, on or about the person in a public place is guilty of a felony.

Subd. 3. **Exceptions.** This section does not apply to officers, employees, or agents of law enforcement agencies or the armed forces of this state or the United States, or private detectives or protective agents, to the extent that these persons are authorized by law to carry firearms and are acting in the scope of their official duties.

History: *1993 c 326 art 1 s 34; 1994 c 576 s 58; 1994 c 636 art 3 s 42*

624.719 POSSESSION OF FIREARM BY NONRESIDENT ALIEN.

A nonresident alien may not possess a firearm except to take game as a nonresident under the game and fish laws. A firearm possessed in violation of this section is contraband and may be confiscated.

History: *1986 c 386 art 4 s 32*

OTHER PROVISIONS

624.7191 METAL-PENETRATING BULLETS.

Subdivision 1. **Intent.** This section is designed to give law enforcement officers performing their official duties a reasonable degree of protection from penetration of quality body armor. It is not the intent of this section to restrict the availability of ammunition for personal defense, sporting, or hunting purposes.

Subd. 2. **Definition.** For purposes of this section, "metal-penetrating bullet" means a handgun bullet of 9 mm, .25, .32, .357, .38, .41, .44, or .451 caliber which is comprised of a hardened core equal to the minimum of the maximum attainable hardness by solid red metal alloys which purposely reduces the normal expansion or mushrooming of the bullet's shape upon impact. "Metal-penetrating bullet" excludes any bullet composed of copper or brass jacket with lead or lead alloy cores and any bullet composed of lead or lead alloys.

Subd. 3. **Use or possession in commission of crime.** Any person who uses or possesses a metal-penetrating bullet during the commission of a crime is guilty of a felony and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $5,000, or both. Any imprisonment sentence imposed under this subdivision shall run consecutively to any sentence imposed for the other crime.

Subd. 4. **Local regulation.** This section shall be construed to supersede any municipal or county regulation of ammunition, including its component parts.

History: *1982 c 525 s 1; 1984 c 628 art 3 s 11*

624.7192 AUTHORITY TO SEIZE AND CONFISCATE FIREARMS.

(a) This section applies only during the effective period of a state of emergency proclaimed by the governor relating to a public disorder or disaster.

(b) A peace officer who is acting in the lawful discharge of the officer's official duties without a warrant may disarm a lawfully detained individual only temporarily and only if the officer reasonably believes it is immediately necessary for the protection of the officer or another individual. Before releasing the individual, the peace officer must return to the individual any seized firearms and ammunition, and components thereof, any firearms accessories and ammunition reloading equipment and supplies, and any other personal weapons taken from the individual, unless the officer: (1) takes the individual into physical custody for engaging in criminal activity or for observation pursuant to section 253B.05, subdivision 2; or (2) seizes the items as evidence pursuant to an investigation for the commission of the crime for which the individual was arrested.

(c) Notwithstanding any other law to the contrary, no governmental unit, government official, government employee, peace officer, or other person or body acting under governmental authority or color of law may undertake any of the following actions with regard to any firearms and ammunition, and components thereof; any firearms accessories and ammunition reloading equipment and supplies; and any other personal weapons:

(1) prohibit, regulate, or curtail the otherwise lawful possession, carrying, transportation, transfer, defensive use, or other lawful use of any of these items;

(2) seize, commandeer, or confiscate any of these items in any manner, except as expressly authorized in paragraph (b);

(3) suspend or revoke a valid permit issued pursuant to section 624.7131 or 624.714, except as expressly authorized in those sections; or

(4) close or limit the operating hours of businesses that lawfully sell or service any of these items, unless such closing or limitation of hours applies equally to all forms of commerce.

(d) No provision of law relating to a public disorder or disaster emergency proclamation by the governor or any other governmental or quasi-governmental official, including but not limited to emergency management powers pursuant to chapters 9 and 12, shall be construed as authorizing the governor or any other governmental or quasi-governmental official of this state or any of its political subdivisions acting at the direction of the governor or another official to act in violation of this paragraph or paragraphs (b) and (c).

(e)(1) An individual aggrieved by a violation of this section may seek relief in an action at law or in equity or in any other proper proceeding for damages, injunctive relief, or other appropriate redress against a person who commits or causes the commission of this violation. Venue must be in the district court having jurisdiction over the county in which the aggrieved individual resides or in which the violation occurred.

(2) In addition to any other remedy available at law or in equity, an individual aggrieved by the seizure or confiscation of an item listed in paragraph (c) in violation of this section may make application for the immediate return of the items to the office of the clerk of court for the county in which the items were seized and, except as provided in paragraph (b), the court must order the immediate return of the items by the seizing or confiscating governmental office and that office's employed officials.

(3) In an action or proceeding to enforce this section, the court must award the prevailing plaintiff reasonable court costs and expenses, including attorney fees.

History: *2015 c 65 art 3 s 34*

624.72 INTERFERENCE WITH USE OF PUBLIC PROPERTY.

Subdivision 1. **Right to petition.** The state of Minnesota acknowledges and reaffirms the right of its citizens to petition, peacefully and in an orderly manner, all levels and units of government for the redress of grievances of whatever nature, but also affirms that functions and proceedings of governmental bodies and agencies must remain free from organized or calculated confusion, disturbance or delay, and that to this end rules and regulations for the governance of public property and business lawfully promulgated must be observed.

Subd. 2. **Public property.** As used in this section, "public property" means any building or other property owned by or in control of the state or any of its political subdivisions or of the Board of Regents of the University of Minnesota.

Subd. 3. **Rules.** For the purpose of protecting the free, proper and lawful access to, egress from and proper use of public property, and for the purpose of protecting the conduct of public business therein or thereon, free from interference, or disruption or the threat thereof, the legislature or any public officer, agency or board having the supervision thereof may to that end promulgate reasonable rules and regulations.

Subd. 4. **Rule violation.** Violation of a rule or regulation which has been published, posted, or announced in a reasonable manner at the time of such conduct shall be prima facie evidence of intent to violate this section.

Subd. 5. **Deny free access; penalty.** Whoever, intentionally, or through coercion, force or intimidation, denies or interferes with the lawful right of another to the free access to or egress from or to use or remain in or upon public

property or in like manner interferes with the transaction of public business therein or thereon may be sentenced to imprisonment for not more than one year or a fine of not more than $3,000, or both.

Subd. 6. **Not to affect chapter 179.** Nothing contained herein shall in any way affect the provisions of chapter 179.

History: *1969 c 767 s 1-6; 1984 c 628 art 3 s 11*

624.731 TEAR GAS AND TEAR GAS COMPOUNDS; ELECTRONIC INCAPACITATION DEVICES.

Subdivision 1. **Definitions.** For the purposes of this section:

(1) "authorized tear gas compound" means a lachrymator or any substance composed of a mixture of a lachrymator including chloroacetophenone, alpha-chloroacetophenone; phenylchloromethylketone, orthochlorobenzalmalononitrile or oleoresin capsicum, commonly known as tear gas; and

(2) "electronic incapacitation device" means a portable device which is designed or intended by the manufacturer to be used, offensively or defensively, to temporarily immobilize or incapacitate persons by means of electric pulse or current, including devices operating by means of carbon dioxide propellant. "Electronic incapacitation device" does not include cattle prods, electric fences, or other electric devices when used in agricultural, animal husbandry, or food production activities.

Subd. 2. **Authorized possession; use.** (a) A person may possess and use an authorized tear gas compound in the exercise of reasonable force in defense of the person or the person's property only if it is propelled from an aerosol container, labeled with or accompanied by clearly written instructions as to its use and the dangers involved in its use, and dated to indicate its anticipated useful life.

(b) A person may possess and use an electronic incapacitation device in the exercise of reasonable force in defense of the person or the person's property only if the electronic incapacitation device is labeled with or accompanied by clearly written instructions as to its use and the dangers involved in its use.

Subd. 3. **Prohibited possession; use.** (a) No person under the age of 16 may possess or use an authorized tear gas compound except by written permission of a parent or guardian, and no person under the age of 18 may possess or use an electronic incapacitation device.

(b) No person prohibited from possessing a pistol pursuant to section 624.713, subdivision 1, clause (2), may possess or use an authorized tear gas compound or an electronic incapacitation device.

(c) No person prohibited from possessing a pistol pursuant to section 624.713, subdivision 1, clauses (3) to (5), may possess or use an authorized tear gas compound or an electronic incapacitation device, except that the certificate or other proof required for possession of a handgun shall not apply.

(d) No person shall possess or use tear gas or a tear gas compound other than an authorized tear gas compound.

Subd. 4. **Prohibited use.** (a) No person shall knowingly, or with reason to know, use tear gas, a tear gas compound, an authorized tear gas compound, or an electronic incapacitation device on or against a peace officer who is in the performance of duties.

(b) No person shall use tear gas, a tear gas compound, an authorized tear gas compound, or an electronic incapacitation device except as authorized in subdivision 2 or 6.

(c) Tear gas, a tear gas compound, or an electronic incapacitation device shall legally constitute a weapon when it is used in the commission of a crime.

(d) No person shall use tear gas or a tear gas compound in an immobilizing concentration against another person, except as otherwise permitted by subdivision 2.

Subd. 5. **Prohibited sale.** Except as permitted by subdivision 6, no person shall knowingly furnish or sell tear gas or a tear gas compound to another person. No person shall knowingly furnish or sell an authorized tear gas compound or an electronic incapacitation device to a person prohibited from possessing it by subdivision 3. No person shall knowingly furnish or sell an authorized tear gas compound or an electronic incapacitation device which fails to meet the requirements of subdivision 2. No tear gas, tear gas compound, authorized tear gas compound, or electronic incapacitation device shall be sold or furnished on premises where 3.2 percent malt liquor as defined in section 340A.101, subdivision 19, is sold on an on-sale basis or where intoxicating liquor as defined in section 340A.101, subdivision 13, is sold on an on-sale or off-sale basis. No person shall sell tear gas, a tear gas compound, authorized tear gas compound, or electronic incapacitation device in violation of local licensing requirements.

Subd. 6. **Exceptions.** Nothing in this section shall prohibit the possession or use of by, or the sale or furnishing of, tear gas, a tear gas compound, an authorized tear gas compound, or electronic incapacitation device to, a law enforcement agency, peace officer, the National Guard or reserves, or a member of the National Guard or reserves for use in their official duties, except that counties and municipalities may impose licensing requirements on sellers pursuant to subdivision 9.

Subd. 7. **Exemption.** Tear gas, tear gas compounds, and authorized tear gas compounds shall not be classified as an obnoxious or harmful gas, fluid, or substance under section 624.732.

Subd. 8. **Penalties.** (a) The following violations of this section shall be considered a felony:

(1) The possession or use of tear gas, a tear gas compound, an authorized tear gas compound, or an electronic incapacitation device by a person specified in subdivision 3, paragraph (b).

(2) Knowingly selling or furnishing of tear gas, a tear gas compound, an authorized tear gas compound, or an electronic incapacitation device to a person specified in subdivision 3, paragraph (b).

(3) The use of an electronic incapacitation device as prohibited in subdivision 4, paragraph (a).

(4) The use of tear gas or a tear gas compound as prohibited in subdivision 4, paragraph (d).

(b) The following violations of this section shall be considered a gross misdemeanor: (1) the prohibited use of tear gas, a tear gas compound, or an authorized tear gas compound as specified in subdivision 4, paragraph (a); (2) the use of an electronic incapacitation device except as allowed by subdivision 2 or 6.

(c) The following violations of this section shall be considered a misdemeanor:

(1) The possession or use of tear gas, a tear gas compound, an authorized tear gas compound, or an electronic incapacitation device which fails to meet the requirements of subdivision 2 by any person except as allowed by subdivision 6.

(2) The possession or use of an authorized tear gas compound or an electronic incapacitation device by a person specified in subdivision 3, paragraph (a) or (c).

(3) The use of tear gas, a tear gas compound, or an authorized tear gas compound except as allowed by subdivision 2 or 6.

(4) Knowingly selling or furnishing an authorized tear gas compound or an electronic incapacitation device to a person specified in subdivision 3, paragraph (a) or (c).

(5) Selling or furnishing of tear gas or a tear gas compound other than an authorized tear gas compound to any person except as allowed by subdivision 6.

(6) Selling or furnishing of an authorized tear gas compound or an electronic incapacitation device on premises where intoxicating liquor is sold on an on-sale or off-sale basis or where 3.2 percent malt liquor is sold on an on-sale basis.

(7) Selling an authorized tear gas compound or an electronic incapacitation device in violation of local licensing requirements.

Subd. 9. **Local licensing.** (a) For purposes of this section, "municipality" means statutory or home rule charter city or town.

(b) There is hereby conferred upon the governing body of each county, statutory or home rule charter city and town in the state the authority to license the business of vendors of tear gas, tear gas compounds, authorized tear gas compounds, or electronic incapacitation devices within their respective jurisdictions, to impose a license fee therefor, to impose qualifications for obtaining a license, the duration of licenses and to restrict the number of licenses the governing body will issue.

(c) Every person desiring a license from a local governing body shall file with the clerk of the municipality or the county board in the case of application to a county, a verified written application in the form to be prescribed by the local governing body.

(d) The local governing body may establish the grounds, notice and hearing procedures for revocation of licenses issued pursuant to this section. The local governing body may also establish penalties for sale of tear gas, tear gas compounds, authorized tear gas compounds, or electronic incapacitation devices in violation of its licensing requirements.

Subd. 10. **Local regulation.** This section shall be the exclusive regulation of the possession, use, and furnishing of tear gas, tear gas compounds, authorized tear gas compounds, and electronic incapacitation devices in Minnesota. This section shall supersede and preempt all regulation of the possession, use, and furnishing of tear gas, tear gas compounds, authorized tear gas compounds, and electronic incapacitation devices by political subdivisions.

History: *1981 c 283 s 1; 1985 c 160 s 3; 1985 c 305 art 12 s 5; 1Sp1985 c 116 art 2 s 26; 1986 c 444; 1989 c 5 s 15; 1991 c 249 s 31; 1994 c 636 art 2 s 55, 56; 1995 c 244 s 35, 36; 2009 c 86 art 1 s 85*

624.732 INTENTIONAL RELEASE OF HARMFUL SUBSTANCE.

Subdivision 1. **Misdemeanor.** A person is guilty of a misdemeanor if the person intentionally exposes another or the other's property to an obnoxious or harmful gas, fluid, or substance, with intent to injure, molest, or coerce.

Subd. 2. **Felony.** A person who violates subdivision 1 and knows that doing so creates a risk of death or bodily harm or serious property damage is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

History: *1989 c 5 s 16*

SECTION 11

MINNESOTA STATUTES CHAPTER 626.
PEACE OFFICERS; SEARCHES; PURSUIT; MANDATORY REPORTING

SEARCH WARRANTS

626.11 ISSUANCE OF WARRANT. 11-1
626.14 TIME OF SERVICE. 11-1

REPORTING

626.557 REPORTING OF MALTREATMENT OF VULNERABLE ADULTS. 11-1

PEACE OFFICERS

626.5572 DEFINITIONS 11-15
626.77 PEACE OFFICERS FROM ADJOINING STATES; FEDERAL LAW ENFORCEMENT OFFICERS. 11-21

CHAPTER 626.
PEACE OFFICERS; SEARCHES; PURSUIT; MANDATORY REPORTING

SEARCH WARRANTS

626.11 ISSUANCE OF WARRANT.

(a) If the judge is satisfied of the existence of the grounds of the application, or that there is probable cause to believe their existence, the judge must issue a signed search warrant, naming the judge's judicial office, to a peace officer inside or outside the officer's jurisdiction. The warrant shall direct the officer to search the person or place named for the property or things specified, and to retain the property or things in the officer's custody subject to order of the court issuing the warrant.

(b) Nothing in sections 626.04 to 626.17 is meant to supersede another law or statute that limits a peace officer's authority to obtain, serve, or execute a search warrant.

History: *1963 c 849 s 9; 1979 c 258 s 22; 1983 c 359 s 115; 1986 c 444; 2000 c 325 s 1; 2001 c 78 s 2; 2002 c 291 s 5; 2003 c 86 s 1*

626.14 TIME OF SERVICE.

A search warrant may be served only between the hours of 7:00 a.m. and 8:00 p.m. unless the court determines on the basis of facts stated in the affidavits that a nighttime search outside those hours is necessary to prevent the loss, destruction, or removal of the objects of the search or to protect the searchers or the public. The search warrant shall state that it may be served only between the hours of 7:00 a.m. and 8:00 p.m. unless a nighttime search outside those hours is authorized.

History: *1963 c 849 s 12; 1983 c 359 s 116; 1992 c 569 s 29*

REPORTING

626.557 REPORTING OF MALTREATMENT OF VULNERABLE ADULTS.

Subdivision 1. **Public policy.** The legislature declares that the public policy of this state is to protect adults who, because of physical or mental disability or dependency on institutional services, are particularly vulnerable to maltreatment; to assist in providing safe environments for vulnerable adults; and to provide safe institutional or residential services, community-based services, or living environments for vulnerable adults who have been maltreated.

In addition, it is the policy of this state to require the reporting of suspected maltreatment of vulnerable adults, to provide for the voluntary reporting of maltreatment of vulnerable adults, to require the investigation of the reports, and to provide protective and counseling services in appropriate cases.

Subd. 2. [Repealed, 1995 c 229 art 1 s 24]

Subd. 3. **Timing of report.** (a) A mandated reporter who has reason to believe that a vulnerable adult is being or has been maltreated, or who has knowledge that a vulnerable adult has sustained a physical injury which is not reasonably explained shall immediately report the information to the common entry point. If an individual is a vulnerable adult solely because the individual is admitted to a facility, a mandated reporter is not required to report suspected maltreatment of the individual that occurred prior to admission, unless:

(1) the individual was admitted to the facility from another facility and the reporter has reason to believe the vulnerable adult was maltreated in the previous facility; or

(2) the reporter knows or has reason to believe that the individual is a vulnerable adult as defined in section 626.5572, subdivision 21, paragraph (a), clause (4).

(b) A person not required to report under the provisions of this section may voluntarily report as described above.

(c) Nothing in this section requires a report of known or suspected maltreatment, if the reporter knows or has reason to know that a report has been made to the common entry point.

(d) Nothing in this section shall preclude a reporter from also reporting to a law enforcement agency.

(e) A mandated reporter who knows or has reason to believe that an error under section 626.5572, subdivision 17, paragraph (c), clause (5), occurred must make a report under this subdivision. If the reporter or a facility, at any time believes that an investigation by a lead investigative agency will determine or should determine that the reported error was not neglect according to the criteria under section 626.5572, subdivision 17, paragraph (c), clause (5), the reporter or facility may provide to the common entry point or directly to the lead investigative agency information explaining how the event meets the criteria under section 626.5572, subdivision 17, paragraph (c), clause (5). The lead investigative agency shall consider this information when making an initial disposition of the report under subdivision 9c.

Subd. 3a. **Report not required.** The following events are not required to be reported under this section:

(1) A circumstance where federal law specifically prohibits a person from disclosing patient identifying information in connection with a report of suspected maltreatment, unless the vulnerable adult, or the vulnerable adult's guardian, conservator, or legal representative, has consented to disclosure in a manner which conforms to federal requirements. Facilities whose patients or residents are covered by such a federal law shall seek consent to the disclosure of suspected maltreatment from each patient or resident, or a guardian, conservator, or legal representative, upon the patient's or resident's admission to the facility. Persons who are prohibited by federal law from reporting an incident of suspected maltreatment shall immediately seek consent to make a report.

(2) Verbal or physical aggression occurring between patients, residents, or clients of a facility, or self-abusive behavior by these persons does not constitute abuse unless the behavior causes serious harm. The operator of the facility or a designee shall record incidents of aggression and self-abusive behavior to facilitate review by licensing agencies and county and local welfare agencies.

(3) Accidents as defined in section 626.5572, subdivision 3.

(4) Events occurring in a facility that result from an individual's error in the provision of therapeutic conduct to a vulnerable adult, as provided in section 626.5572, subdivision 17, paragraph (c), clause (4).

(5) Nothing in this section shall be construed to require a report of financial exploitation, as defined in section 626.5572, subdivision 9, solely on the basis of the transfer of money or property by gift or as compensation for services rendered.

Subd. 4. **Reporting.** (a) Except as provided in paragraph (b), a mandated reporter shall immediately make an oral report to the common entry point. The common entry point may accept electronic reports submitted through a Web-based reporting system established by the commissioner. Use of a telecommunications device for the deaf or other similar device shall be considered an oral report. The common entry point may not require written reports. To the extent possible, the report must be of sufficient content to identify the vulnerable adult, the caregiver, the nature and extent of the suspected maltreatment, any evidence of previous maltreatment, the name and address of the reporter, the time, date, and location of the incident, and any other information that the reporter believes might be helpful in investigating the suspected maltreatment. A mandated reporter may disclose not public data, as defined in section 13.02, and medical records under sections 144.291 to 144.298, to the extent necessary to comply with this subdivision.

(b) A boarding care home that is licensed under sections 144.50 to 144.58 and certified under Title 19 of the Social Security Act, a nursing home that is licensed under section 144A.02 and certified under Title 18 or Title 19 of the Social Security Act, or a hospital that is licensed under sections 144.50 to 144.58 and has swing beds certified under Code of Federal Regulations, title 42, section 482.66, may submit a report electronically to the common entry point instead of submitting an oral report. The report may be a duplicate of the initial report the facility submits electronically to the commissioner of health to comply with the reporting requirements under Code of Federal Regulations, title 42, section 483.13. The commissioner of health may modify these reporting requirements to include items required under paragraph (a) that are not currently included in the electronic reporting form.

Subd. 4a. **Internal reporting of maltreatment.** (a) Each facility shall establish and enforce an ongoing written procedure in compliance with applicable licensing rules to ensure that all cases of suspected maltreatment are reported. If a facility has an internal reporting procedure, a mandated reporter may meet the reporting requirements of this section by reporting internally. However, the facility remains responsible for complying with the immediate reporting requirements of this section.

(b) A facility with an internal reporting procedure that receives an internal report by a mandated reporter shall give the mandated reporter a written notice stating whether the facility has reported the incident to the common entry point. The written notice must be provided within two working days and in a manner that protects the confidentiality of the reporter.

(c) The written response to the mandated reporter shall note that if the mandated reporter is not satisfied with the action taken by the facility on whether to report the incident to the common entry point, then the mandated reporter may report externally.

(d) A facility may not prohibit a mandated reporter from reporting externally, and a facility is prohibited from retaliating against a mandated reporter who reports an incident to the common entry point in good faith. The written notice by the facility must inform the mandated reporter of this protection from retaliatory measures by the facility against the mandated reporter for reporting externally.

Subd. 5. **Immunity; protection for reporters.** (a) A person who makes a good faith report is immune from any civil or criminal liability that might otherwise result from making the report, or from participating in the investigation, or for failure to comply fully with the reporting obligation under section 609.234 or 626.557, subdivision 7.

(b) A person employed by a lead investigative agency or a state licensing agency who is conducting or supervising an investigation or enforcing the law in compliance with this section or any related rule or provision of law is immune from any civil or criminal liability that might otherwise result from the person's actions, if the person is acting in good faith and exercising due care.

(c) A person who knows or has reason to know a report has been made to a common entry point and who in good faith participates in an investigation of alleged maltreatment is immune from civil or criminal liability that otherwise might result from making the report, or from failure to comply with the reporting obligation or from participating in the investigation.

(d) The identity of any reporter may not be disclosed, except as provided in subdivision 12b.

(e) For purposes of this subdivision, "person" includes a natural person or any form of a business or legal entity.

Subd. 5a. **Financial institution cooperation.** Financial institutions shall cooperate with a lead investigative agency, law enforcement, or prosecuting authority that is investigating maltreatment of a vulnerable adult and comply with reasonable requests for the production of financial records as authorized under section 13A.02, subdivision 1. Financial institutions are immune from any civil or criminal liability that might otherwise result from complying with this subdivision.

Subd. 6. **Falsified reports.** A person or facility who intentionally makes a false report under the provisions of this section shall be liable in a civil suit for any actual damages suffered by the reported facility, person or persons and for punitive damages up to $10,000 and attorney fees.

Subd. 7. **Failure to report.** A mandated reporter who negligently or intentionally fails to report is liable for damages caused by the failure. Nothing in this subdivision imposes vicarious liability for the acts or omissions of others.

Subd. 8. **Evidence not privileged.** No evidence regarding the maltreatment of the vulnerable adult shall be excluded in any proceeding arising out of the alleged maltreatment on the grounds of lack of competency under section 595.02.

Subd. 9. **Common entry point designation.** (a) Each county board shall designate a common entry point for reports of suspected maltreatment, for use until the commissioner of human services establishes a common entry point. Two or more county boards may jointly designate a single common entry point. The commissioner of human services shall establish a common entry point effective July 1, 2015. The common entry point is the unit responsible for receiving the report of suspected maltreatment under this section.

(b) The common entry point must be available 24 hours per day to take calls from reporters of suspected maltreatment. The common entry point shall use a standard intake form that includes:

(1) the time and date of the report;

(2) the name, address, and telephone number of the person reporting;

(3) the time, date, and location of the incident;

(4) the names of the persons involved, including but not limited to, perpetrators, alleged victims, and witnesses;

(5) whether there was a risk of imminent danger to the alleged victim;

(6) a description of the suspected maltreatment;

(7) the disability, if any, of the alleged victim;

(8) the relationship of the alleged perpetrator to the alleged victim;

(9) whether a facility was involved and, if so, which agency licenses the facility;

(10) any action taken by the common entry point;

(11) whether law enforcement has been notified;

(12) whether the reporter wishes to receive notification of the initial and final reports; and

(13) if the report is from a facility with an internal reporting procedure, the name, mailing address, and telephone number of the person who initiated the report internally.

(c) The common entry point is not required to complete each item on the form prior to dispatching the report to the appropriate lead investigative agency.

(d) The common entry point shall immediately report to a law enforcement agency any incident in which there is reason to believe a crime has been committed.

(e) If a report is initially made to a law enforcement agency or a lead investigative agency, those agencies shall take the report on the appropriate common entry point intake forms and immediately forward a copy to the common entry point.

(f) The common entry point staff must receive training on how to screen and dispatch reports efficiently and in accordance with this section.

(g) The commissioner of human services shall maintain a centralized database for the collection of common entry point data, lead investigative agency data including maltreatment report disposition, and appeals data. The common entry point shall have access to the centralized database and must log the reports into the database and immediately identify and locate prior reports of abuse, neglect, or exploitation.

(h) When appropriate, the common entry point staff must refer calls that do not allege the abuse, neglect, or exploitation of a vulnerable adult to other organizations that might resolve the reporter's concerns.

(i) A common entry point must be operated in a manner that enables the commissioner of human services to:

(1) track critical steps in the reporting, evaluation, referral, response, disposition, and investigative process to ensure compliance with all requirements for all reports;

(2) maintain data to facilitate the production of aggregate statistical reports for monitoring patterns of abuse, neglect, or exploitation;

(3) serve as a resource for the evaluation, management, and planning of preventative and remedial services for vulnerable adults who have been subject to abuse, neglect, or exploitation;

(4) set standards, priorities, and policies to maximize the efficiency and effectiveness of the common entry point; and

(5) track and manage consumer complaints related to the common entry point.

(j) The commissioners of human services and health shall collaborate on the creation of a system for referring reports to the lead investigative agencies. This system shall enable the commissioner of human services to track critical steps in the reporting, evaluation, referral, response, disposition, investigation, notification, determination, and appeal processes.

Subd. 9a. **Evaluation and referral of reports made to common entry point.** (a) The common entry point must screen the reports of alleged or suspected maltreatment for immediate risk and make all necessary referrals as follows:

(1) if the common entry point determines that there is an immediate need for emergency adult protective services, the common entry point agency shall immediately notify the appropriate county agency;

(2) if the report contains suspected criminal activity against a vulnerable adult, the common entry point shall immediately notify the appropriate law enforcement agency;

(3) the common entry point shall refer all reports of alleged or suspected maltreatment to the appropriate lead investigative agency as soon as possible, but in any event no longer than two working days;

(4) if the report contains information about a suspicious death, the common entry point shall immediately notify the appropriate law enforcement agencies, the local medical examiner, and the ombudsman for mental health and developmental disabilities established under section 245.92. Law enforcement agencies shall coordinate with the local medical examiner and the ombudsman as provided by law; and

(5) for reports involving multiple locations or changing circumstances, the common entry point shall determine the county agency responsible for emergency adult protective services and the county responsible as the lead investigative agency, using referral guidelines established by the commissioner.

(b) If the lead investigative agency receiving a report believes the report was referred by the common entry point in error, the lead investigative agency shall immediately notify the common entry point of the error, including the basis for the lead investigative agency's belief that the referral was made in error. The common entry point shall review the information submitted by the lead investigative agency and immediately refer the report to the appropriate lead investigative agency.

Subd. 9b. **Response to reports.** Law enforcement is the primary agency to conduct investigations of any incident in which there is reason to believe a crime has been committed. Law enforcement shall initiate a response immediately. If the common entry point notified a county agency for emergency adult protective services, law enforcement shall cooperate with that county agency when both agencies are involved and shall exchange data to the extent authorized in subdivision 12b, paragraph (g). County adult protection shall initiate a response immediately. Each lead investigative agency shall complete the investigative process for reports within its jurisdiction. A lead investigative agency, county, adult protective agency, licensed facility, or law enforcement agency shall cooperate with other agencies in the provision of protective services, coordinating its investigations, and assisting another agency within the limits of its resources and expertise and shall exchange data to the extent authorized in subdivision 12b, paragraph (g). The lead investigative agency shall obtain the results of any investigation conducted by law enforcement officials. The lead investigative agency has the right to enter facilities and inspect and copy records as part of investigations. The lead investigative agency has access to not public data, as defined in section 13.02, and medical records under sections 144.291 to 144.298, that are maintained by facilities to the extent necessary to conduct its investigation. Each lead investigative agency shall develop guidelines for prioritizing reports for investigation.

Subd. 9c. **Lead investigative agency; notifications, dispositions, determinations.** (a) Upon request of the reporter, the lead investigative agency shall notify the reporter that it has received the report, and provide information on the initial disposition of the report within five business days of receipt of the report, provided that the notification will not endanger the vulnerable adult or hamper the investigation.

(b) Upon conclusion of every investigation it conducts, the lead investigative agency shall make a final disposition as defined in section 626.5572, subdivision 8.

(c) When determining whether the facility or individual is the responsible party for substantiated maltreatment or whether both the facility and the individual are responsible for substantiated maltreatment, the lead investigative agency shall consider at least the following mitigating factors:

(1) whether the actions of the facility or the individual caregivers were in accordance with, and followed the terms of, an erroneous physician order, prescription, resident care plan, or directive. This is not a mitigating factor when the facility or caregiver is responsible for the issuance of the erroneous order, prescription, plan, or directive or knows or should have known of the errors and took no reasonable measures to correct the defect before administering care;

(2) the comparative responsibility between the facility, other caregivers, and requirements placed upon the employee, including but not limited to, the facility's compliance with related regulatory standards and factors such as the adequacy of facility policies and procedures, the adequacy of facility training, the adequacy of an individual's participation in the training, the adequacy of caregiver supervision, the adequacy of facility staffing levels, and a consideration of the scope of the individual employee's authority; and

(3) whether the facility or individual followed professional standards in exercising professional judgment.

(d) When substantiated maltreatment is determined to have been committed by an individual who is also the facility license holder, both the individual and the facility must be determined responsible for the maltreatment, and both the background study disqualification standards under section 245C.15, subdivision 4, and the licensing actions under section 245A.06 or 245A.07 apply.

(e) The lead investigative agency shall complete its final disposition within 60 calendar days. If the lead investigative agency is unable to complete its final disposition within 60 calendar days, the lead investigative agency shall notify the following persons provided that the notification will not endanger the vulnerable adult or hamper the investigation: (1) the vulnerable adult or the vulnerable adult's guardian or health care agent, when known, if the lead investigative agency knows them to be aware of the investigation; and (2) the facility, where applicable. The notice

shall contain the reason for the delay and the projected completion date. If the lead investigative agency is unable to complete its final disposition by a subsequent projected completion date, the lead investigative agency shall again notify the vulnerable adult or the vulnerable adult's guardian or health care agent, when known if the lead investigative agency knows them to be aware of the investigation, and the facility, where applicable, of the reason for the delay and the revised projected completion date provided that the notification will not endanger the vulnerable adult or hamper the investigation. The lead investigative agency must notify the health care agent of the vulnerable adult only if the health care agent's authority to make health care decisions for the vulnerable adult is currently effective under section 145C.06 and not suspended under section 524.5-310 and the investigation relates to a duty assigned to the health care agent by the principal. A lead investigative agency's inability to complete the final disposition within 60 calendar days or by any projected completion date does not invalidate the final disposition.

(f) Within ten calendar days of completing the final disposition, the lead investigative agency shall provide a copy of the public investigation memorandum under subdivision 12b, paragraph (b), clause (1), when required to be completed under this section, to the following persons: (1) the vulnerable adult, or the vulnerable adult's guardian or health care agent, if known, unless the lead investigative agency knows that the notification would endanger the well-being of the vulnerable adult; (2) the reporter, if the reporter requested notification when making the report, provided this notification would not endanger the well-being of the vulnerable adult; (3) the alleged perpetrator, if known; (4) the facility; and (5) the ombudsman for long-term care, or the ombudsman for mental health and developmental disabilities, as appropriate.

(g) If, as a result of a reconsideration, review, or hearing, the lead investigative agency changes the final disposition, or if a final disposition is changed on appeal, the lead investigative agency shall notify the parties specified in paragraph (f).

(h) The lead investigative agency shall notify the vulnerable adult who is the subject of the report or the vulnerable adult's guardian or health care agent, if known, and any person or facility determined to have maltreated a vulnerable adult, of their appeal or review rights under this section or section 256.021.

(i) The lead investigative agency shall routinely provide investigation memoranda for substantiated reports to the appropriate licensing boards. These reports must include the names of substantiated perpetrators. The lead investigative agency may not provide investigative memoranda for inconclusive or false reports to the appropriate licensing boards unless the lead investigative agency's investigation gives reason to believe that there may have been a violation of the applicable professional practice laws. If the investigation memorandum is provided to a licensing board, the subject of the investigation memorandum shall be notified and receive a summary of the investigative findings.

(j) In order to avoid duplication, licensing boards shall consider the findings of the lead investigative agency in their investigations if they choose to investigate. This does not preclude licensing boards from considering other information.

(k) The lead investigative agency must provide to the commissioner of human services its final dispositions, including the names of all substantiated perpetrators. The commissioner of human services shall establish records to retain the names of substantiated perpetrators.

Subd. 9d. **Administrative reconsideration; review panel.** (a) Except as provided under paragraph (e), any individual or facility which a lead investigative agency determines has maltreated a vulnerable adult, or the vulnerable adult or an interested person acting on behalf of the vulnerable adult, regardless of the lead investigative agency's determination, who contests the lead investigative agency's final disposition of an allegation of maltreatment, may request the lead investigative agency to reconsider its final disposition. The request for reconsideration must be submitted in writing to the lead investigative agency within 15 calendar days after receipt of notice of final disposition or, if the request is made by an interested person who is not entitled to notice, within 15 days after receipt of the notice by

the vulnerable adult or the vulnerable adult's guardian or health care agent. If mailed, the request for reconsideration must be postmarked and sent to the lead investigative agency within 15 calendar days of the individual's or facility's receipt of the final disposition. If the request for reconsideration is made by personal service, it must be received by the lead investigative agency within 15 calendar days of the individual's or facility's receipt of the final disposition. An individual who was determined to have maltreated a vulnerable adult under this section and who was disqualified on the basis of serious or recurring maltreatment under sections 245C.14 and 245C.15, may request reconsideration of the maltreatment determination and the disqualification. The request for reconsideration of the maltreatment determination and the disqualification must be submitted in writing within 30 calendar days of the individual's receipt of the notice of disqualification under sections 245C.16 and 245C.17. If mailed, the request for reconsideration of the maltreatment determination and the disqualification must be postmarked and sent to the lead investigative agency within 30 calendar days of the individual's receipt of the notice of disqualification. If the request for reconsideration is made by personal service, it must be received by the lead investigative agency within 30 calendar days after the individual's receipt of the notice of disqualification.

(b) Except as provided under paragraphs (e) and (f), if the lead investigative agency denies the request or fails to act upon the request within 15 working days after receiving the request for reconsideration, the person or facility entitled to a fair hearing under section 256.045, may submit to the commissioner of human services a written request for a hearing under that statute. The vulnerable adult, or an interested person acting on behalf of the vulnerable adult, may request a review by the Vulnerable Adult Maltreatment Review Panel under section 256.021 if the lead investigative agency denies the request or fails to act upon the request, or if the vulnerable adult or interested person contests a reconsidered disposition. The lead investigative agency shall notify persons who request reconsideration of their rights under this paragraph. The request must be submitted in writing to the review panel and a copy sent to the lead investigative agency within 30 calendar days of receipt of notice of a denial of a request for reconsideration or of a reconsidered disposition. The request must specifically identify the aspects of the lead investigative agency determination with which the person is dissatisfied.

(c) If, as a result of a reconsideration or review, the lead investigative agency changes the final disposition, it shall notify the parties specified in subdivision 9c, paragraph (f).

(d) For purposes of this subdivision, "interested person acting on behalf of the vulnerable adult" means a person designated in writing by the vulnerable adult to act on behalf of the vulnerable adult, or a legal guardian or conservator or other legal representative, a proxy or health care agent appointed under chapter 145B or 145C, or an individual who is related to the vulnerable adult, as defined in section 245A.02, subdivision 13.

(e) If an individual was disqualified under sections 245C.14 and 245C.15, on the basis of a determination of maltreatment, which was serious or recurring, and the individual has requested reconsideration of the maltreatment determination under paragraph (a) and reconsideration of the disqualification under sections 245C.21 to 245C.27, reconsideration of the maltreatment determination and requested reconsideration of the disqualification shall be consolidated into a single reconsideration. If reconsideration of the maltreatment determination is denied and the individual remains disqualified following a reconsideration decision, the individual may request a fair hearing under section 256.045. If an individual requests a fair hearing on the maltreatment determination and the disqualification, the scope of the fair hearing shall include both the maltreatment determination and the disqualification.

(f) If a maltreatment determination or a disqualification based on serious or recurring maltreatment is the basis for a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, the license holder has the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. As provided for under section 245A.08, the scope of the contested case hearing must include the maltreatment determination, disqualification, and licensing sanction or denial of a license. In such cases, a fair hearing must not be conducted under

section 256.045. Except for family child care and child foster care, reconsideration of a maltreatment determination under this subdivision, and reconsideration of a disqualification under section 245C.22, must not be conducted when:

(1) a denial of a license under section 245A.05, or a licensing sanction under section 245A.07, is based on a determination that the license holder is responsible for maltreatment or the disqualification of a license holder based on serious or recurring maltreatment;

(2) the denial of a license or licensing sanction is issued at the same time as the maltreatment determination or disqualification; and

(3) the license holder appeals the maltreatment determination or disqualification, and denial of a license or licensing sanction.

Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment determination or disqualification, but does not appeal the denial of a license or a licensing sanction, reconsideration of the maltreatment determination shall be conducted under sections 626.556, subdivision 10i, and 626.557, subdivision 9d, and reconsideration of the disqualification shall be conducted under section 245C.22. In such cases, a fair hearing shall also be conducted as provided under sections 245C.27, 626.556, subdivision 10i, and626.557, subdivision 9d.

If the disqualified subject is an individual other than the license holder and upon whom a background study must be conducted under chapter 245C, the hearings of all parties may be consolidated into a single contested case hearing upon consent of all parties and the administrative law judge.

(g) Until August 1, 2002, an individual or facility that was determined by the commissioner of human services or the commissioner of health to be responsible for neglect under section 626.5572, subdivision 17, after October 1, 1995, and before August 1, 2001, that believes that the finding of neglect does not meet an amended definition of neglect may request a reconsideration of the determination of neglect. The commissioner of human services or the commissioner of health shall mail a notice to the last known address of individuals who are eligible to seek this reconsideration. The request for reconsideration must state how the established findings no longer meet the elements of the definition of neglect. The commissioner shall review the request for reconsideration and make a determination within 15 calendar days. The commissioner's decision on this reconsideration is the final agency action.

(1) For purposes of compliance with the data destruction schedule under subdivision 12b, paragraph (d), when a finding of substantiated maltreatment has been changed as a result of a reconsideration under this paragraph, the date of the original finding of a substantiated maltreatment must be used to calculate the destruction date.

(2) For purposes of any background studies under chapter 245C, when a determination of substantiated maltreatment has been changed as a result of a reconsideration under this paragraph, any prior disqualification of the individual under chapter 245C that was based on this determination of maltreatment shall be rescinded, and for future background studies under chapter 245C the commissioner must not use the previous determination of substantiated maltreatment as a basis for disqualification or as a basis for referring the individual's maltreatment history to a health-related licensing board under section 245C.31.

Subd. 9e. **Education requirements.** (a) The commissioners of health, human services, and public safety shall cooperate in the development of a joint program for education of lead investigative agency investigators in the appropriate techniques for investigation of complaints of maltreatment. This program must be developed by July 1, 1996. The program must include but need not be limited to the following areas: (1) information collection and preservation; (2) analysis of facts; (3) levels of evidence; (4) conclusions based on evidence; (5) interviewing skills, including specialized training to interview people with unique needs; (6) report writing; (7) coordination and referral to other necessary agencies such as law enforcement and judicial agencies; (8) human relations and cultural diversity; (9) the dynamics of adult abuse and neglect within family systems and the appropriate methods for interviewing relatives in the course of the assessment or investigation; (10) the protective social services that are available to protect alleged

victims from further abuse, neglect, or financial exploitation; (11) the methods by which lead investigative agency investigators and law enforcement workers cooperate in conducting assessments and investigations in order to avoid duplication of efforts; and (12) data practices laws and procedures, including provisions for sharing data.

(b) The commissioner of human services shall conduct an outreach campaign to promote the common entry point for reporting vulnerable adult maltreatment. This campaign shall use the Internet and other means of communication.

(c) The commissioners of health, human services, and public safety shall offer at least annual education to others on the requirements of this section, on how this section is implemented, and investigation techniques.

(d) The commissioner of human services, in coordination with the commissioner of public safety shall provide training for the common entry point staff as required in this subdivision and the program courses described in this subdivision, at least four times per year. At a minimum, the training shall be held twice annually in the seven-county metropolitan area and twice annually outside the seven-county metropolitan area. The commissioners shall give priority in the program areas cited in paragraph (a) to persons currently performing assessments and investigations pursuant to this section.

(e) The commissioner of public safety shall notify in writing law enforcement personnel of any new requirements under this section. The commissioner of public safety shall conduct regional training for law enforcement personnel regarding their responsibility under this section.

(f) Each lead investigative agency investigator must complete the education program specified by this subdivision within the first 12 months of work as a lead investigative agency investigator.

A lead investigative agency investigator employed when these requirements take effect must complete the program within the first year after training is available or as soon as training is available.

All lead investigative agency investigators having responsibility for investigation duties under this section must receive a minimum of eight hours of continuing education or in-service training each year specific to their duties under this section.

Subd. 10. **Duties of county social service agency.** (a) When the common entry point refers a report to the county social service agency as the lead investigative agency or makes a referral to the county social service agency for emergency adult protective services, or when another lead investigative agency requests assistance from the county social service agency for adult protective services, the county social service agency shall immediately assess and offer emergency and continuing protective social services for purposes of preventing further maltreatment and for safeguarding the welfare of the maltreated vulnerable adult. The county shall use a standardized tool made available by the commissioner. The information entered by the county into the standardized tool must be accessible to the Department of Human Services. In cases of suspected sexual abuse, the county social service agency shall immediately arrange for and make available to the vulnerable adult appropriate medical examination and treatment. When necessary in order to protect the vulnerable adult from further harm, the county social service agency shall seek authority to remove the vulnerable adult from the situation in which the maltreatment occurred. The county social service agency may also investigate to determine whether the conditions which resulted in the reported maltreatment place other vulnerable adults in jeopardy of being maltreated and offer protective social services that are called for by its determination.

(b) County social service agencies may enter facilities and inspect and copy records as part of an investigation. The county social service agency has access to not public data, as defined in section 13.02, and medical records under sections 144.291 to 144.298, that are maintained by facilities to the extent necessary to conduct its investigation. The inquiry is not limited to the written records of the facility, but may include every other available source of information.

(c) When necessary in order to protect a vulnerable adult from serious harm, the county social service agency shall immediately intervene on behalf of that adult to help the family, vulnerable adult, or other interested person by seeking any of the following:

(1) a restraining order or a court order for removal of the perpetrator from the residence of the vulnerable adult pursuant to section 518B.01;

(2) the appointment of a guardian or conservator pursuant to sections 524.5-101 to 524.5-502, or guardianship or conservatorship pursuant to chapter 252A;

(3) replacement of a guardian or conservator suspected of maltreatment and appointment of a suitable person as guardian or conservator, pursuant to sections 524.5-101 to 524.5-502; or

(4) a referral to the prosecuting attorney for possible criminal prosecution of the perpetrator under chapter 609.

The expenses of legal intervention must be paid by the county in the case of indigent persons, under section 524.5-502 and chapter 563.

In proceedings under sections 524.5-101 to 524.5-502, if a suitable relative or other person is not available to petition for guardianship or conservatorship, a county employee shall present the petition with representation by the county attorney. The county shall contract with or arrange for a suitable person or organization to provide ongoing guardianship services. If the county presents evidence to the court exercising probate jurisdiction that it has made a diligent effort and no other suitable person can be found, a county employee may serve as guardian or conservator. The county shall not retaliate against the employee for any action taken on behalf of the ward or protected person even if the action is adverse to the county's interest. Any person retaliated against in violation of this subdivision shall have a cause of action against the county and shall be entitled to reasonable attorney fees and costs of the action if the action is upheld by the court.

Subd. 10a. [Repealed, 1995 c 229 art 1 s 24]

Subd. 10b. **Investigations; guidelines.** Each lead investigative agency shall develop guidelines for prioritizing reports for investigation. When investigating a report, the lead investigative agency shall conduct the following activities, as appropriate:

(1) interview of the alleged victim;

(2) interview of the reporter and others who may have relevant information;

(3) interview of the alleged perpetrator;

(4) examination of the environment surrounding the alleged incident;

(5) review of pertinent documentation of the alleged incident; and

(6) consultation with professionals.

Subd. 11. [Repealed, 1995 c 229 art 1 s 24]

Subd. 11a. [Repealed, 1995 c 229 art 1 s 24]

Subd. 12. [Repealed, 1995 c 229 art 1 s 24]

Subd. 12a. [Repealed, 1983 c 273 s 8]

Subd. 12b. **Data management.** (a) In performing any of the duties of this section as a lead investigative agency, the county social service agency shall maintain appropriate records. Data collected by the county social service agency under this section are welfare data under section 13.46. Notwithstanding section 13.46, subdivision 1, paragraph (a), data under this paragraph that are inactive investigative data on an individual who is a vendor of services

are private data on individuals, as defined in section 13.02. The identity of the reporter may only be disclosed as provided in paragraph (c).

Data maintained by the common entry point are confidential data on individuals or protected nonpublic data as defined in section 13.02. Notwithstanding section 138.163, the common entry point shall maintain data for three calendar years after date of receipt and then destroy the data unless otherwise directed by federal requirements.

(b) The commissioners of health and human services shall prepare an investigation memorandum for each report alleging maltreatment investigated under this section. County social service agencies must maintain private data on individuals but are not required to prepare an investigation memorandum. During an investigation by the commissioner of health or the commissioner of human services, data collected under this section are confidential data on individuals or protected nonpublic data as defined in section 13.02. Upon completion of the investigation, the data are classified as provided in clauses (1) to (3) and paragraph (c).

(1) The investigation memorandum must contain the following data, which are public:

(i) the name of the facility investigated;

(ii) a statement of the nature of the alleged maltreatment;

(iii) pertinent information obtained from medical or other records reviewed;

(iv) the identity of the investigator;

(v) a summary of the investigation's findings;

(vi) statement of whether the report was found to be substantiated, inconclusive, false, or that no determination will be made;

(vii) a statement of any action taken by the facility;

(viii) a statement of any action taken by the lead investigative agency; and

(ix) when a lead investigative agency's determination has substantiated maltreatment, a statement of whether an individual, individuals, or a facility were responsible for the substantiated maltreatment, if known.

The investigation memorandum must be written in a manner which protects the identity of the reporter and of the vulnerable adult and may not contain the names or, to the extent possible, data on individuals or private data listed in clause (2).

(2) Data on individuals collected and maintained in the investigation memorandum are private data, including:

(i) the name of the vulnerable adult;

(ii) the identity of the individual alleged to be the perpetrator;

(iii) the identity of the individual substantiated as the perpetrator; and

(iv) the identity of all individuals interviewed as part of the investigation.

(3) Other data on individuals maintained as part of an investigation under this section are private data on individuals upon completion of the investigation.

(c) After the assessment or investigation is completed, the name of the reporter must be confidential. The subject of the report may compel disclosure of the name of the reporter only with the consent of the reporter or upon a written finding by a court that the report was false and there is evidence that the report was made in bad faith. This subdivision does not alter disclosure responsibilities or obligations under the Rules of Criminal Procedure, except that where the identity of the reporter is relevant to a criminal prosecution, the district court shall do an in-camera review prior to determining whether to order disclosure of the identity of the reporter.

(d) Notwithstanding section 138.163, data maintained under this section by the commissioners of health and human services must be maintained under the following schedule and then destroyed unless otherwise directed by federal requirements:

(1) data from reports determined to be false, maintained for three years after the finding was made;

(2) data from reports determined to be inconclusive, maintained for four years after the finding was made;

(3) data from reports determined to be substantiated, maintained for seven years after the finding was made; and

(4) data from reports which were not investigated by a lead investigative agency and for which there is no final disposition, maintained for three years from the date of the report.

(e) The commissioners of health and human services shall annually publish on their Web sites the number and type of reports of alleged maltreatment involving licensed facilities reported under this section, the number of those requiring investigation under this section, and the resolution of those investigations. On a biennial basis, the commissioners of health and human services shall jointly report the following information to the legislature and the governor:

(1) the number and type of reports of alleged maltreatment involving licensed facilities reported under this section, the number of those requiring investigations under this section, the resolution of those investigations, and which of the two lead agencies was responsible;

(2) trends about types of substantiated maltreatment found in the reporting period;

(3) if there are upward trends for types of maltreatment substantiated, recommendations for addressing and responding to them;

(4) efforts undertaken or recommended to improve the protection of vulnerable adults;

(5) whether and where backlogs of cases result in a failure to conform with statutory time frames and recommendations for reducing backlogs if applicable;

(6) recommended changes to statutes affecting the protection of vulnerable adults; and

(7) any other information that is relevant to the report trends and findings.

(f) Each lead investigative agency must have a record retention policy.

(g) Lead investigative agencies, prosecuting authorities, and law enforcement agencies may exchange not public data, as defined in section 13.02, if the agency or authority requesting the data determines that the data are pertinent and necessary to the requesting agency in initiating, furthering, or completing an investigation under this section. Data collected under this section must be made available to prosecuting authorities and law enforcement officials, local county agencies, and licensing agencies investigating the alleged maltreatment under this section. The lead investigative agency shall exchange not public data with the vulnerable adult maltreatment review panel established in section 256.021 if the data are pertinent and necessary for a review requested under that section. Notwithstanding section 138.17, upon completion of the review, not public data received by the review panel must be destroyed.

(h) Each lead investigative agency shall keep records of the length of time it takes to complete its investigations.

(i) A lead investigative agency may notify other affected parties and their authorized representative if the lead investigative agency has reason to believe maltreatment has occurred and determines the information will safeguard the well-being of the affected parties or dispel widespread rumor or unrest in the affected facility.

(j) Under any notification provision of this section, where federal law specifically prohibits the disclosure of patient identifying information, a lead investigative agency may not provide any notice unless the vulnerable adult has consented to disclosure in a manner which conforms to federal requirements.

Subd. 13. [Repealed, 1995 c 229 art 1 s 24]

Subd. 14. **Abuse prevention plans.** (a) Each facility, except home health agencies and personal care attendant services providers, shall establish and enforce an ongoing written abuse prevention plan. The plan shall contain an assessment of the physical plant, its environment, and its population identifying factors which may encourage or permit abuse, and a statement of specific measures to be taken to minimize the risk of abuse. The plan shall comply with any rules governing the plan promulgated by the licensing agency.

(b) Each facility, including a home health care agency and personal care attendant services providers, shall develop an individual abuse prevention plan for each vulnerable adult residing there or receiving services from them. The plan shall contain an individualized assessment of: (1) the person's susceptibility to abuse by other individuals, including other vulnerable adults; (2) the person's risk of abusing other vulnerable adults; and (3) statements of the specific measures to be taken to minimize the risk of abuse to that person and other vulnerable adults. For the purposes of this paragraph, the term "abuse" includes self-abuse.

(c) If the facility, except home health agencies and personal care attendant services providers, knows that the vulnerable adult has committed a violent crime or an act of physical aggression toward others, the individual abuse prevention plan must detail the measures to be taken to minimize the risk that the vulnerable adult might reasonably be expected to pose to visitors to the facility and persons outside the facility, if unsupervised. Under this section, a facility knows of a vulnerable adult's history of criminal misconduct or physical aggression if it receives such information from a law enforcement authority or through a medical record prepared by another facility, another health care provider, or the facility's ongoing assessments of the vulnerable adult.

Subd. 15. [Repealed, 1995 c 229 art 1 s 24]

Subd. 16. [Repealed, 2014 c 262 art 4 s 9]

Subd. 17. **Retaliation prohibited.** (a) A facility or person shall not retaliate against any person who reports in good faith suspected maltreatment pursuant to this section, or against a vulnerable adult with respect to whom a report is made, because of the report.

(b) In addition to any remedies allowed under sections 181.931 to 181.935, any facility or person which retaliates against any person because of a report of suspected maltreatment is liable to that person for actual damages, punitive damages up to $10,000, and attorney fees.

(c) There shall be a rebuttable presumption that any adverse action, as defined below, within 90 days of a report, is retaliatory. For purposes of this clause, the term "adverse action" refers to action taken by a facility or person involved in a report against the person making the report or the person with respect to whom the report was made because of the report, and includes, but is not limited to:

(1) discharge or transfer from the facility;

(2) discharge from or termination of employment;

(3) demotion or reduction in remuneration for services;

(4) restriction or prohibition of access to the facility or its residents; or

(5) any restriction of rights set forth in section 144.651.

Subd. 18. **Outreach.** The commissioner of human services shall maintain an aggressive program to educate those required to report, as well as the general public, about the requirements of this section using a variety of media. The commissioner of human services shall print and make available the form developed under subdivision 9.

Subd. 19. [Repealed, 1995 c 229 art 1 s 24]

Subd. 20. **Cause of action for financial exploitation; damages.** (a) A vulnerable adult who is a victim of financial exploitation as defined in section 626.5572, subdivision 9, has a cause of action against a person who committed

the financial exploitation. In an action under this subdivision, the vulnerable adult is entitled to recover damages equal to three times the amount of compensatory damages or $10,000, whichever is greater.

(b) In addition to damages under paragraph (a), the vulnerable adult is entitled to recover reasonable attorney fees and costs, including reasonable fees for the services of a guardian or conservator or guardian ad litem incurred in connection with a claim under this subdivision.

(c) An action may be brought under this subdivision regardless of whether there has been a report or final disposition under this section or a criminal complaint or conviction related to the financial exploitation.

Subd. 21. **Contested case hearing.** When an appeal of a lead investigative agency determination results in a contested case hearing under chapter 245A or 245C, the administrative law judge shall notify the vulnerable adult who is the subject of the maltreatment determination and, if known, a guardian of the vulnerable adult appointed under section 524.5-310, or a health care agent designated by the vulnerable adult in a health care directive that is currently effective under section 145C.06, and whose authority to make health care decisions is not suspended under section 524.5-310, of the hearing. The notice must be sent by certified mail and inform the vulnerable adult of the right to file a signed written statement in the proceedings. A guardian or health care agent who prepares or files a written statement for the vulnerable adult must indicate in the statement that the person is the vulnerable adult's guardian or health care agent and sign the statement in that capacity. The vulnerable adult, the guardian, or the health care agent may file a written statement with the administrative law judge hearing the case no later than five business days before commencement of the hearing. The administrative law judge shall include the written statement in the hearing record and consider the statement in deciding the appeal. This subdivision does not limit, prevent, or excuse the vulnerable adult from being called as a witness testifying at the hearing or grant the vulnerable adult, the guardian, or health care agent a right to participate in the proceedings or appeal the administrative law judge's decision in the case. The lead investigative agency must consider including the vulnerable adult victim of maltreatment as a witness in the hearing. If the lead investigative agency determines that participation in the hearing would endanger the well-being of the vulnerable adult or not be in the best interests of the vulnerable adult, the lead investigative agency shall inform the administrative law judge of the basis for this determination, which must be included in the final order. If the administrative law judge is not reasonably able to determine the address of the vulnerable adult, the guardian, or the health care agent, the administrative law judge is not required to send a hearing notice under this subdivision.

History: *1980 c 542 s 1; 1981 c 311 s 39; 1982 c 393 s 3,4; 1982 c 424 s 130; 1982 c 545 s 24; 1982 c 636 s 5,6; 1983 c 273 s 1-7; 1984 c 640 s 32; 1984 c 654 art 5 s 58; 1985 c 150 s 1-6; 1985 c 293 s 6,7;1Sp1985 c 14 art 9 s 75; 1986 c 444; 1987 c 110 s 3; 1987 c 211 s 2; 1987 c 352 s 11; 1987 c 378 s 17; 1987 c 384 art 2 s 1; 1988 c 543 s 13; 1989 c 209 art 2 s 1; 1991 c 181 s 2; 1994 c 483 s 1; 1994 c 636 art 2 s 60-62;1Sp1994 c 1 art 2 s 34; 1995 c 189 s 8; 1995 c 229 art 1 s 1-21; 1996 c 277 s 1; 1996 c 305 art 2 s 66; 2000 c 465 s 3-5; 1Sp2001 c 9 art 5 s 31; art 14 s 30,31; 2002 c 289 s 4; 2002 c 375 art 1 s 22,23; 2002 c 379 art 1 s 113; 2003 c 15 art 1 s 33; 2004 c 146 art 3 s 45; 2004 c 288 art 1 s 80; 2005 c 56 s 1; 2005 c 98 art 2 s 17;2005 c 136 art 5 s 5; 1Sp2005 c 4 art 1 s 55,56; 2006 c 253 s 21; 2007 c 112 s 55,56; 2007 c 147 art 7 s 75; art 10 s 15; 2009 c 119 s 11-16; 2009 c 142 art 2 s 46,47; 2009 c 159 s 107; 2010 c 329 art 2 s 6; 2010 c 352 art 1 s 23; 2010 c 382 s 81; 2011 c 28 s 9-14,17; 2012 c 216 art 9 s 30,31; 2013 c 63 s 17; 2013 c 108 art 2 s 41-43; art 8 s 57; 2014 c 192 art 2 s 1; 2014 c 291 art 8 s 17; 2015 c 78 art 6 s 23-25*

PEACE OFFICERS

626.5572 DEFINITIONS.

Subdivision 1. **Scope.** For the purpose of section 626.557, the following terms have the meanings given them, unless otherwise specified.

Subd. 2. **Abuse.** "Abuse" means:

(a) An act against a vulnerable adult that constitutes a violation of, an attempt to violate, or aiding and abetting a violation of:

(1) assault in the first through fifth degrees as defined in sections 609.221 to 609.224;

(2) the use of drugs to injure or facilitate crime as defined in section 609.235;

(3) the solicitation, inducement, and promotion of prostitution as defined in section 609.322; and

(4) criminal sexual conduct in the first through fifth degrees as defined in sections 609.342 to 609.3451.

A violation includes any action that meets the elements of the crime, regardless of whether there is a criminal proceeding or conviction.

(b) Conduct which is not an accident or therapeutic conduct as defined in this section, which produces or could reasonably be expected to produce physical pain or injury or emotional distress including, but not limited to, the following:

(1) hitting, slapping, kicking, pinching, biting, or corporal punishment of a vulnerable adult;

(2) use of repeated or malicious oral, written, or gestured language toward a vulnerable adult or the treatment of a vulnerable adult which would be considered by a reasonable person to be disparaging, derogatory, humiliating, harassing, or threatening;

(3) use of any aversive or deprivation procedure, unreasonable confinement, or involuntary seclusion, including the forced separation of the vulnerable adult from other persons against the will of the vulnerable adult or the legal representative of the vulnerable adult; and

(4) use of any aversive or deprivation procedures for persons with developmental disabilities or related conditions not authorized under section 245.825.

(c) Any sexual contact or penetration as defined in section 609.341, between a facility staff person or a person providing services in the facility and a resident, patient, or client of that facility.

(d) The act of forcing, compelling, coercing, or enticing a vulnerable adult against the vulnerable adult's will to perform services for the advantage of another.

(e) For purposes of this section, a vulnerable adult is not abused for the sole reason that the vulnerable adult or a person with authority to make health care decisions for the vulnerable adult under sections 144.651, 144A.44, chapter 145B, 145C or 252A, or section 253B.03 or 524.5-313, refuses consent or withdraws consent, consistent with that authority and within the boundary of reasonable medical practice, to any therapeutic conduct, including any care, service, or procedure to diagnose, maintain, or treat the physical or mental condition of the vulnerable adult or, where permitted under law, to provide nutrition and hydration parenterally or through intubation. This paragraph does not enlarge or diminish rights otherwise held under law by:

(1) a vulnerable adult or a person acting on behalf of a vulnerable adult, including an involved family member, to consent to or refuse consent for therapeutic conduct; or

(2) a caregiver to offer or provide or refuse to offer or provide therapeutic conduct.

(f) For purposes of this section, a vulnerable adult is not abused for the sole reason that the vulnerable adult, a person with authority to make health care decisions for the vulnerable adult, or a caregiver in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the vulnerable adult in lieu of medical care, provided that this is consistent with the prior practice or belief of the vulnerable adult or with the expressed intentions of the vulnerable adult.

(g) For purposes of this section, a vulnerable adult is not abused for the sole reason that the vulnerable adult, who is not impaired in judgment or capacity by mental or emotional dysfunction or undue influence, engages in consensual sexual contact with:

(1) a person, including a facility staff person, when a consensual sexual personal relationship existed prior to the caregiving relationship; or

(2) a personal care attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship.

Subd. 3. **Accident.** "Accident" means a sudden, unforeseen, and unexpected occurrence or event which:

(1) is not likely to occur and which could not have been prevented by exercise of due care; and

(2) if occurring while a vulnerable adult is receiving services from a facility, happens when the facility and the employee or person providing services in the facility are in compliance with the laws and rules relevant to the occurrence or event.

Subd. 4. **Caregiver.** "Caregiver" means an individual or facility who has responsibility for the care of a vulnerable adult as a result of a family relationship, or who has assumed responsibility for all or a portion of the care of a vulnerable adult voluntarily, by contract, or by agreement.

Subd. 5. **Common entry point.** "Common entry point" means the entity responsible for receiving reports of alleged or suspected maltreatment of a vulnerable adult under section 626.557.

Subd. 6. **Facility.** (a) "Facility" means a hospital or other entity required to be licensed under sections144.50 to 144.58; a nursing home required to be licensed to serve adults under section 144A.02; a facility or service required to be licensed under chapter 245A; a home care provider licensed or required to be licensed under sections 144A.43 to 144A.482; a hospice provider licensed under sections 144A.75 to 144A.755; or a person or organization that offers, provides, or arranges for personal care assistance services under the medical assistance program as authorized under sections 256B.0625, subdivision 19a, 256B.0651 to 256B.0654,256B.0659, or 256B.85.

(b) For services identified in paragraph (a) that are provided in the vulnerable adult's own home or in another unlicensed location, the term "facility" refers to the provider, person, or organization that offers, provides, or arranges for personal care services, and does not refer to the vulnerable adult's home or other location at which services are rendered.

Subd. 7. **False.** "False" means a preponderance of the evidence shows that an act that meets the definition of maltreatment did not occur.

Subd. 8. **Final disposition.** "Final disposition" is the determination of an investigation by a lead investigative agency that a report of maltreatment under Laws 1995, chapter 229, is substantiated, inconclusive, false, or that no determination will be made. When a lead investigative agency determination has substantiated maltreatment, the final disposition also identifies, if known, which individual or individuals were responsible for the substantiated maltreatment, and whether a facility was responsible for the substantiated maltreatment.

Subd. 9. **Financial exploitation.** "Financial exploitation" means:

(a) In breach of a fiduciary obligation recognized elsewhere in law, including pertinent regulations, contractual obligations, documented consent by a competent person, or the obligations of a responsible party under section 144.6501, a person:

(1) engages in unauthorized expenditure of funds entrusted to the actor by the vulnerable adult which results or is likely to result in detriment to the vulnerable adult; or

(2) fails to use the financial resources of the vulnerable adult to provide food, clothing, shelter, health care, therapeutic conduct or supervision for the vulnerable adult, and the failure results or is likely to result in detriment to the vulnerable adult.

(b) In the absence of legal authority a person:

(1) willfully uses, withholds, or disposes of funds or property of a vulnerable adult;

(2) obtains for the actor or another the performance of services by a third person for the wrongful profit or advantage of the actor or another to the detriment of the vulnerable adult;

(3) acquires possession or control of, or an interest in, funds or property of a vulnerable adult through the use of undue influence, harassment, duress, deception, or fraud; or

(4) forces, compels, coerces, or entices a vulnerable adult against the vulnerable adult's will to perform services for the profit or advantage of another.

(c) Nothing in this definition requires a facility or caregiver to provide financial management or supervise financial management for a vulnerable adult except as otherwise required by law.

Subd. 10. **Immediately.** "Immediately" means as soon as possible, but no longer than 24 hours from the time initial knowledge that the incident occurred has been received.

Subd. 11. **Inconclusive.** "Inconclusive" means there is less than a preponderance of evidence to show that maltreatment did or did not occur.

Subd. 12. **Initial disposition.** "Initial disposition" is the lead investigative agency's determination of whether the report will be assigned for further investigation.

Subd. 13. **Lead investigative agency.** "Lead investigative agency" is the primary administrative agency responsible for investigating reports made under section 626.557.

(a) The Department of Health is the lead investigative agency for facilities or services licensed or required to be licensed as hospitals, home care providers, nursing homes, boarding care homes, hospice providers, residential facilities that are also federally certified as intermediate care facilities that serve people with developmental disabilities, or any other facility or service not listed in this subdivision that is licensed or required to be licensed by the Department of Health for the care of vulnerable adults. "Home care provider" has the meaning provided in section 144A.43, subdivision 4, and applies when care or services are delivered in the vulnerable adult's home, whether a private home or a housing with services establishment registered under chapter 144D, including those that offer assisted living services under chapter 144G.

(b) The Department of Human Services is the lead investigative agency for facilities or services licensed or required to be licensed as adult day care, adult foster care, community residential settings, programs for people with disabilities, family adult day services, mental health programs, mental health clinics, chemical dependency programs, the Minnesota sex offender program, or any other facility or service not listed in this subdivision that is licensed or required to be licensed by the Department of Human Services.

(c) The county social service agency or its designee is the lead investigative agency for all other reports, including, but not limited to, reports involving vulnerable adults receiving services from a personal care provider organization under section 256B.0659.

Subd. 14. **Legal authority.** "Legal authority" includes, but is not limited to: (1) a fiduciary obligation recognized elsewhere in law, including pertinent regulations; (2) a contractual obligation; or (3) documented consent by a competent person.

Subd. 15. **Maltreatment.** "Maltreatment" means abuse as defined in subdivision 2, neglect as defined in subdivision 17, or financial exploitation as defined in subdivision 9.

Subd. 16. **Mandated reporter.** "Mandated reporter" means a professional or professional's delegate while engaged in: (1) social services; (2) law enforcement; (3) education; (4) the care of vulnerable adults; (5) any of the occupations referred to in section 214.01, subdivision 2; (6) an employee of a rehabilitation facility certified by the commissioner of jobs and training for vocational rehabilitation; (7) an employee or person providing services in a facility as defined in subdivision 6; or (8) a person that performs the duties of the medical examiner or coroner.

Subd. 17. **Neglect.** "Neglect" means:

(a) The failure or omission by a caregiver to supply a vulnerable adult with care or services, including but not limited to, food, clothing, shelter, health care, or supervision which is:

(1) reasonable and necessary to obtain or maintain the vulnerable adult's physical or mental health or safety, considering the physical and mental capacity or dysfunction of the vulnerable adult; and

(2) which is not the result of an accident or therapeutic conduct.

(b) The absence or likelihood of absence of care or services, including but not limited to, food, clothing, shelter, health care, or supervision necessary to maintain the physical and mental health of the vulnerable adult which a reasonable person would deem essential to obtain or maintain the vulnerable adult's health, safety, or comfort considering the physical or mental capacity or dysfunction of the vulnerable adult.

(c) For purposes of this section, a vulnerable adult is not neglected for the sole reason that:

(1) the vulnerable adult or a person with authority to make health care decisions for the vulnerable adult under sections 144.651, 144A.44, chapter 145B, 145C, or 252A, or sections 253B.03 or 524.5-101 to 524.5-502, refuses consent or withdraws consent, consistent with that authority and within the boundary of reasonable medical practice, to any therapeutic conduct, including any care, service, or procedure to diagnose, maintain, or treat the physical or mental condition of the vulnerable adult, or, where permitted under law, to provide nutrition and hydration parenterally or through intubation; this paragraph does not enlarge or diminish rights otherwise held under law by:

(i) a vulnerable adult or a person acting on behalf of a vulnerable adult, including an involved family member, to consent to or refuse consent for therapeutic conduct; or

(ii) a caregiver to offer or provide or refuse to offer or provide therapeutic conduct; or

(2) the vulnerable adult, a person with authority to make health care decisions for the vulnerable adult, or a caregiver in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the vulnerable adult in lieu of medical care, provided that this is consistent with the prior practice or belief of the vulnerable adult or with the expressed intentions of the vulnerable adult;

(3) the vulnerable adult, who is not impaired in judgment or capacity by mental or emotional dysfunction or undue influence, engages in consensual sexual contact with:

(i) a person including a facility staff person when a consensual sexual personal relationship existed prior to the caregiving relationship; or

(ii) a personal care attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship; or

(4) an individual makes an error in the provision of therapeutic conduct to a vulnerable adult which does not result in injury or harm which reasonably requires medical or mental health care; or

(5) an individual makes an error in the provision of therapeutic conduct to a vulnerable adult that results in injury or harm, which reasonably requires the care of a physician, and:

(i) the necessary care is provided in a timely fashion as dictated by the condition of the vulnerable adult;

(ii) if after receiving care, the health status of the vulnerable adult can be reasonably expected, as determined by the attending physician, to be restored to the vulnerable adult's preexisting condition;

(iii) the error is not part of a pattern of errors by the individual;

(iv) if in a facility, the error is immediately reported as required under section 626.557, and recorded internally in the facility;

(v) if in a facility, the facility identifies and takes corrective action and implements measures designed to reduce the risk of further occurrence of this error and similar errors; and

(vi) if in a facility, the actions required under items (iv) and (v) are sufficiently documented for review and evaluation by the facility and any applicable licensing, certification, and ombudsman agency.

(d) Nothing in this definition requires a caregiver, if regulated, to provide services in excess of those required by the caregiver's license, certification, registration, or other regulation.

(e) If the findings of an investigation by a lead investigative agency result in a determination of substantiated maltreatment for the sole reason that the actions required of a facility under paragraph (c), clause (5), item (iv), (v), or (vi), were not taken, then the facility is subject to a correction order. An individual will not be found to have neglected or maltreated the vulnerable adult based solely on the facility's not having taken the actions required under paragraph (c), clause (5), item (iv), (v), or (vi). This must not alter the lead investigative agency's determination of mitigating factors under section 626.557, subdivision 9c, paragraph (c).

Subd. 18. **Report.** "Report" means a statement concerning all the circumstances surrounding the alleged or suspected maltreatment, as defined in this section, of a vulnerable adult which are known to the reporter at the time the statement is made.

Subd. 19. **Substantiated.** "Substantiated" means a preponderance of the evidence shows that an act that meets the definition of maltreatment occurred.

Subd. 20. **Therapeutic conduct.** "Therapeutic conduct" means the provision of program services, health care, or other personal care services done in good faith in the interests of the vulnerable adult by: (1) an individual, facility, or employee or person providing services in a facility under the rights, privileges and responsibilities conferred by state license, certification, or registration; or (2) a caregiver.

Subd. 21. **Vulnerable adult.** (a) "Vulnerable adult" means any person 18 years of age or older who:

(1) is a resident or inpatient of a facility;

(2) receives services required to be licensed under chapter 245A, except that a person receiving outpatient services for treatment of chemical dependency or mental illness, or one who is served in the Minnesota sex offender program on a court-hold order for commitment, or is committed as a sexual psychopathic personality or as a sexually dangerous person under chapter 253B, is not considered a vulnerable adult unless the person meets the requirements of clause (4);

(3) receives services from a home care provider required to be licensed under sections 144A.43 to 144A.482; or from a person or organization that offers, provides, or arranges for personal care assistance services under the medical assistance program as authorized under section 256B.0625, subdivision 19a, 256B.0651, 256B.0653, 256B.0654, 256B.0659, or 256B.85; or

(4) regardless of residence or whether any type of service is received, possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction:

(i) that impairs the individual's ability to provide adequately for the individual's own care without assistance, including the provision of food, shelter, clothing, health care, or supervision; and

(ii) because of the dysfunction or infirmity and the need for care or services, the individual has an impaired ability to protect the individual's self from maltreatment.

(b) For purposes of this subdivision, "care or services" means care or services for the health, safety, welfare, or maintenance of an individual.

History: *1995 c 229 art 1 s 22; 2000 c 319 s 3; 1Sp2001 c 9 art 14 s 32; 2002 c 252 s 23,24; 2002 c 379 art 1 s 113; 2004 c 146 art 3 s 46; 2006 c 212 art 3 s 41; 2007 c 112 s 57; 2008 c 326 art 2 s 15; 2009 c 79 art 6 s 20,21; art 8 s 75; 2009 c 119 s 17; 2009 c 142 art 2 s 48; 2011 c 28 s 16,17; 2012 c 216 art 9 s 32; 2013 c 108 art 8 s 58; 2014 c 262 art 4 s 9; art 5 s 6; 2015 c 78 art 6 s 26-28; 2016 c 158 art 1 s 210,211*

626.77 PEACE OFFICERS FROM ADJOINING STATES; FEDERAL LAW ENFORCEMENT OFFICERS.

Subdivision 1. **Arrest authority.** A peace officer of a state adjoining Minnesota and a federal law enforcement officer have the same authority to arrest and hold an individual in custody as has any peace officer of this state if all of the following circumstances are present:

(1) the officer is on duty and is acting on a request for assistance by a peace officer of this state;

(2) while in this state, the officer acts under the direction of the peace officer to whom the officer is rendering assistance;

(3) while in this state, the officer acts in accordance with the rules and regulations of the officer's own appointive or elective authority; and

(4) upon effecting an arrest, the officer surrenders custody of the arrested individual to a peace officer of this state without unnecessary delay.

Subd. 2. **Tort liability; indemnification.** A peace officer from an adjoining state or a federal law enforcement officer who responds to a request for assistance and who acts in accordance with subdivision 1 is serving in the regular line of duty as fully as though the service was within the officer's jurisdiction. For the purposes of section 3.736 and chapter 466, the officer is deemed to be an employee of the elective or appointive agency of the peace officer requesting assistance.

Subd. 3. **Definition.** As used in this section, "federal law enforcement officer" means an officer or employee whether employed inside or outside the state of the Federal Bureau of Investigation, the Drug Enforcement Administration, the United States Marshal Service, the Secret Service, the Bureau of Alcohol, Tobacco, Firearms and Explosives, the Department of Homeland Security, or the United States Postal Inspection Service, or their successor agencies, who is responsible for the prevention or detection of crimes or for the enforcement of the United States Code and who is authorized to arrest, with or without a warrant, any individual for a violation of the United States Code.

History: *1994 c 441 s 1; 2001 c 16 s 1; 2006 c 260 art 1 s 40; 2007 c 13 art 1 s 25*

SECTION 12

MINNESOTA STATUTES CHAPTER 628.
ACCUSATION; CHARGING INSTRUMENTS

INDICTMENTS; COMPLAINTS

628.26 LIMITATIONS. 12-1

CHAPTER 628.
ACCUSATION; CHARGING INSTRUMENTS

INDICTMENTS; COMPLAINTS

628.26 LIMITATIONS.

(a) Indictments or complaints for any crime resulting in the death of the victim may be found or made at any time after the death of the person killed.

(b) Indictments or complaints for a violation of section 609.25 may be found or made at any time after the commission of the offense.

(c) Indictments or complaints for violation of section 609.282 may be found or made at any time after the commission of the offense if the victim was under the age of 18 at the time of the offense.

(d) Indictments or complaints for violation of section 609.282 where the victim was 18 years of age or older at the time of the offense, or 609.42, subdivision 1, clause (1) or (2), shall be found or made and filed in the proper court within six years after the commission of the offense.

(e) Indictments or complaints for violation of sections 609.322 and 609.342 to 609.345, if the victim was under the age of 18 years at the time the offense was committed, shall be found or made and filed in the proper court within the later of nine years after the commission of the offense or three years after the offense was reported to law enforcement authorities.

(f) Notwithstanding the limitations in paragraph (e), indictments or complaints for violation of sections 609.322 and 609.342 to 609.344 may be found or made and filed in the proper court at any time after commission of the offense, if physical evidence is collected and preserved that is capable of being tested for its DNA characteristics. If this evidence is not collected and preserved and the victim was 18 years old or older at the time of the offense, the prosecution must be commenced within nine years after the commission of the offense.

(g) Indictments or complaints for violation of sections 609.466 and 609.52, subdivision 2, clause (3), item (iii), shall be found or made and filed in the proper court within six years after the commission of the offense.

(h) Indictments or complaints for violation of section 609.2335, 609.52, subdivision 2, clause (3), items (i) and (ii), (4), (15), or (16), 609.631, or 609.821, where the value of the property or services stolen is more than $35,000, or for violation of section 609.527 where the offense involves eight or more direct victims or the total combined loss to the direct and indirect victims is more than $35,000, shall be found or made and filed in the proper court within five years after the commission of the offense.

(i) Except for violations relating to false material statements, representations or omissions, indictments or complaints for violations of section 609.671 shall be found or made and filed in the proper court within five years after the commission of the offense.

(j) Indictments or complaints for violation of sections 609.561 to 609.563, shall be found or made and filed in the proper court within five years after the commission of the offense.

(k) In all other cases, indictments or complaints shall be found or made and filed in the proper court within three years after the commission of the offense.

(l) The limitations periods contained in this section shall exclude any period of time during which the defendant was not an inhabitant of or usually resident within this state.

(m) The limitations periods contained in this section for an offense shall not include any period during which the alleged offender participated under a written agreement in a pretrial diversion program relating to that offense.

(n) The limitations periods contained in this section shall not include any period of time during which physical evidence relating to the offense was undergoing DNA analysis, as defined in section 299C.155, unless the defendant demonstrates that the prosecuting or law enforcement agency purposefully delayed the DNA analysis process in order to gain an unfair advantage.

History: *(10655) RL s 5313; 1976 c 184 s 1; 1982 c 432 s 1; 1984 c 419 s 2; 1984 c 496 s 1; 1986 c 351 s 21; 1Sp1986 c 3 art 1 s 78; 1987 c 254 s 12; 1987 c 267 s 4; 1988 c 712 s 20; 1989 c 290 art 4 s 17; 1991 c 232 s 3; 1993 c 326 art 4 s 36; art 5 s 12; 1994 c 636 art 2 s 64; 1995 c 226 art 2 s 35; 2000 c 311 art 4 s 9; 2001 c 7 s 89; 2005 c 136 art 17 s 52; 2009 c 59 art 5 s 20; 2009 c 119 s 18; 2015 c 65 art 6 s 21; 2016 c 121 s 1*