

## **Minn. Stat. § 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.

## Recommendation of Commission on Juvenile Sentencing for Heinous Crimes

The court must determine whether the juvenile is one of the rare offenders whose crime reflects irreparable corruption or permanent incorrigibility and is therefore eligible for a sentence of life imprisonment without the possibility of release pursuant to Minn. Stat. § 609.106, subd. 2(3), or whether the juvenile is one whose crime reflects transient immaturity. In making this determination, the court must consider the following factors:

- (a) The nature and circumstances of the offense committed by the defendant, including any mitigating and/or aggravating facts.
- (b) The defendant's age and intellectual capacity at the time of the offense.
- (c) The extent of the defendant's participation in the offense.
- (d) The effect, if any, of familial pressure or peer pressure on the defendant's actions at the time of the offense.
- (e) The defendant's immaturity, impetuosity, or failure to appreciate risks and consequences at the time of the offense.
- (f) The defendant's mental, emotional, and psychological health.
- (g) The defendant's background, including his or her family, home, and community environment.
- (h) The nature and extent of the defendant's prior delinquent and/or criminal history, and the defendant's prior history of delinquency programming and treatment.
- (i) Any other circumstances relevant to the determination of irreparable corruption or transient immaturity.

Prior to sentencing, the sentencing judge must order a psychological evaluation.