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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 341

01/24/2019 Authored by Mariani and Becker-Finn
The bill was read for the first time and referred to the Committee on Ways and Means

1.1 A bill for an act
1.2 relating to public safety; increasing the maximum penalty and requiring predatory
1.3 offender registration for certain invasion of privacy crimes involving minors;
1.4 increasing penalties for child pornography offenses; requiring written justification
1.5 for court-imposed stays of adjudication for sex offenses; expanding criminal sexual
1.6 conduct offenses for persons in current or recent positions of authority over
1.7 juveniles and for peace officers who engage in sexual activity with those in custody;
1.8 eliminating the voluntary relationship defense for criminal sexual conduct crimes;
1.9 eliminating the exclusion from fifth degree criminal sexual conduct for
1.10 nonconsensual, intentional touching of another person's clothed buttock; amending
1.11 Minnesota Statutes 2018, sections 243.166, subdivision 1b; 609.095; 609.341,
1.12 subdivision 10; 609.342, subdivision 1; 609.343, subdivision 1; 609.344,
1.13 subdivision 1; 609.345, subdivision 1; 609.3451, subdivision 1; 609.746,
1.14 subdivision 1; 617.246, subdivisions 2, 3, 4, 7; 617.247, subdivisions 3, 4, 9;
1.15 repealing Minnesota Statutes 2018, section 609.349.

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

1.17 Section 1. Minnesota Statutes 2018, section 243.166, subdivision 1b, is amended to read:

1.18 Subd. 1b. Registration required. (a) A person shall register under this section if:

1.19 (1) the person was charged with or petitioned for a felony violation of or attempt to
1.20 violate, or aiding, abetting, or conspiracy to commit, any of the following, and convicted
1.21 of or adjudicated delinquent for that offense or another offense arising out of the same set
1.22 of circumstances:

1.23 (i) murder under section 609.185, paragraph (a), clause (2);

1.24 (ii) kidnapping under section 609.25;

1.25 (iii) criminal sexual conduct under section 609.342; 609.343; 609.344; 609.345; 609.3451,
1.26 subdivision 3; or 609.3453; ~~or~~

2.1 (iv) indecent exposure under section 617.23, subdivision 3; or

2.2 (v) surreptitious intrusion under the circumstances described in section 609.746,  
2.3 subdivision 1, paragraph (f);

2.4 (2) the person was charged with or petitioned for a violation of, or attempt to violate, or  
2.5 aiding, abetting, or conspiring to commit criminal abuse in violation of section 609.2325,  
2.6 subdivision 1, paragraph (b); false imprisonment in violation of section 609.255, subdivision  
2.7 2; solicitation, inducement, or promotion of the prostitution of a minor or engaging in the  
2.8 sex trafficking of a minor in violation of section 609.322; a prostitution offense in violation  
2.9 of section 609.324, subdivision 1, paragraph (a); soliciting a minor to engage in sexual  
2.10 conduct in violation of section 609.352, subdivision 2 or 2a, clause (1); using a minor in a  
2.11 sexual performance in violation of section 617.246; or possessing pornographic work  
2.12 involving a minor in violation of section 617.247, and convicted of or adjudicated delinquent  
2.13 for that offense or another offense arising out of the same set of circumstances;

2.14 (3) the person was sentenced as a patterned sex offender under section 609.3455,  
2.15 subdivision 3a; or

2.16 (4) the person was charged with or petitioned for, including pursuant to a court martial,  
2.17 violating a law of the United States, including the Uniform Code of Military Justice, similar  
2.18 to the offenses described in clause (1), (2), or (3), and convicted of or adjudicated delinquent  
2.19 for that offense or another offense arising out of the same set of circumstances.

2.20 (b) A person also shall register under this section if:

2.21 (1) the person was charged with or petitioned for an offense in another state that would  
2.22 be a violation of a law described in paragraph (a) if committed in this state and convicted  
2.23 of or adjudicated delinquent for that offense or another offense arising out of the same set  
2.24 of circumstances;

2.25 (2) the person enters this state to reside, work, or attend school, or enters this state and  
2.26 remains for 14 days or longer; and

2.27 (3) ten years have not elapsed since the person was released from confinement or, if the  
2.28 person was not confined, since the person was convicted of or adjudicated delinquent for  
2.29 the offense that triggers registration, unless the person is subject to a longer registration  
2.30 period under the laws of another state in which the person has been convicted or adjudicated,  
2.31 or is subject to lifetime registration.

2.32 If a person described in this paragraph is subject to a longer registration period in another  
2.33 state or is subject to lifetime registration, the person shall register for that time period

3.1 regardless of when the person was released from confinement, convicted, or adjudicated  
3.2 delinquent.

3.3 (c) A person also shall register under this section if the person was committed pursuant  
3.4 to a court commitment order under Minnesota Statutes 2012, section 253B.185, chapter  
3.5 253D, Minnesota Statutes 1992, section 526.10, or a similar law of another state or the  
3.6 United States, regardless of whether the person was convicted of any offense.

3.7 (d) A person also shall register under this section if:

3.8 (1) the person was charged with or petitioned for a felony violation or attempt to violate  
3.9 any of the offenses listed in paragraph (a), clause (1), or a similar law of another state or  
3.10 the United States, or the person was charged with or petitioned for a violation of any of the  
3.11 offenses listed in paragraph (a), clause (2), or a similar law of another state or the United  
3.12 States;

3.13 (2) the person was found not guilty by reason of mental illness or mental deficiency  
3.14 after a trial for that offense, or found guilty but mentally ill after a trial for that offense, in  
3.15 states with a guilty but mentally ill verdict; and

3.16 (3) the person was committed pursuant to a court commitment order under section  
3.17 253B.18 or a similar law of another state or the United States.

3.18 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to crimes  
3.19 committed on or after that date.

3.20 Sec. 2. Minnesota Statutes 2018, section 609.095, is amended to read:

3.21 **609.095 LIMITS OF SENTENCES.**

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

3.26 (b) Except as provided in section 152.18 or 609.375, or upon agreement of the parties,  
3.27 a court may not refuse to adjudicate the guilt of a defendant who tenders a guilty plea in  
3.28 accordance with Minnesota Rules of Criminal Procedure, rule 15, or who has been found  
3.29 guilty by a court or jury following a trial. A decision by the court to issue a stay of  
3.30 adjudication under this paragraph for a charge of violating section 243.166, 609.342, 609.343,  
3.31 609.344, 609.345, 609.3451, subdivision 3, or 609.3453, must be justified in writing and  
3.32 on the record.

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

4.2 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to crimes  
4.3 committed on or after that date.

4.4 Sec. 3. Minnesota Statutes 2018, section 609.341, subdivision 10, is amended to read:

4.5 Subd. 10. **Current or recent position of authority.** "Current or recent position of  
4.6 authority" includes but is not limited to any person who is a parent or acting in the place of  
4.7 a parent and charged with or assumes any of a parent's rights, duties or responsibilities to  
4.8 a child, or a person who is charged with or assumes any duty or responsibility for the health,  
4.9 welfare, or supervision of a child, either independently or through another, no matter how  
4.10 brief, at the time of or within 120 days immediately preceding the act. For the purposes of  
4.11 subdivision 11, "position of authority" includes a psychotherapist.

4.12 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to crimes  
4.13 committed on or after that date.

4.14 Sec. 4. Minnesota Statutes 2018, section 609.342, subdivision 1, is amended to read:

4.15 Subdivision 1. **Crime defined.** A person who engages in sexual penetration with another  
4.16 person, or in sexual contact with a person under 13 years of age as defined in section 609.341,  
4.17 subdivision 11, paragraph (c), is guilty of criminal sexual conduct in the first degree if any  
4.18 of the following circumstances exists:

4.19 (a) the complainant is under 13 years of age and the actor is more than 36 months older  
4.20 than the complainant. Neither mistake as to the complainant's age nor consent to the act by  
4.21 the complainant is a defense;

4.22 (b) the complainant is at least 13 years of age but less than 16 years of age and the actor  
4.23 is more than 48 months older than the complainant and in a current or recent position of  
4.24 authority over the complainant. Neither mistake as to the complainant's age nor consent to  
4.25 the act by the complainant is a defense;

4.26 (c) circumstances existing at the time of the act cause the complainant to have a  
4.27 reasonable fear of imminent great bodily harm to the complainant or another;

4.28 (d) the actor is armed with a dangerous weapon or any article used or fashioned in a  
4.29 manner to lead the complainant to reasonably believe it to be a dangerous weapon and uses  
4.30 or threatens to use the weapon or article to cause the complainant to submit;

5.1 (e) the actor causes personal injury to the complainant, and either of the following  
5.2 circumstances exist:

5.3 (i) the actor uses force or coercion to accomplish sexual penetration; or

5.4 (ii) the actor knows or has reason to know that the complainant is mentally impaired,  
5.5 mentally incapacitated, or physically helpless;

5.6 (f) the actor is aided or abetted by one or more accomplices within the meaning of section  
5.7 609.05, and either of the following circumstances exists:

5.8 (i) an accomplice uses force or coercion to cause the complainant to submit; or

5.9 (ii) an accomplice is armed with a dangerous weapon or any article used or fashioned  
5.10 in a manner to lead the complainant reasonably to believe it to be a dangerous weapon and  
5.11 uses or threatens to use the weapon or article to cause the complainant to submit;

5.12 (g) the actor has a significant relationship to the complainant and the complainant was  
5.13 under 16 years of age at the time of the sexual penetration. Neither mistake as to the  
5.14 complainant's age nor consent to the act by the complainant is a defense; or

5.15 (h) the actor has a significant relationship to the complainant, the complainant was under  
5.16 16 years of age at the time of the sexual penetration, and:

5.17 (i) the actor or an accomplice used force or coercion to accomplish the penetration;

5.18 (ii) the complainant suffered personal injury; or

5.19 (iii) the sexual abuse involved multiple acts committed over an extended period of time.

5.20 Neither mistake as to the complainant's age nor consent to the act by the complainant is  
5.21 a defense.

5.22 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to crimes  
5.23 committed on or after that date.

5.24 Sec. 5. Minnesota Statutes 2018, section 609.343, subdivision 1, is amended to read:

5.25 Subdivision 1. **Crime defined.** A person who engages in sexual contact with another  
5.26 person is guilty of criminal sexual conduct in the second degree if any of the following  
5.27 circumstances exists:

5.28 (a) the complainant is under 13 years of age and the actor is more than 36 months older  
5.29 than the complainant. Neither mistake as to the complainant's age nor consent to the act by  
5.30 the complainant is a defense. In a prosecution under this clause, the state is not required to  
5.31 prove that the sexual contact was coerced;

6.1 (b) the complainant is at least 13 but less than 16 years of age and the actor is more than  
6.2 48 months older than the complainant and in a current or recent position of authority over  
6.3 the complainant. Neither mistake as to the complainant's age nor consent to the act by the  
6.4 complainant is a defense;

6.5 (c) circumstances existing at the time of the act cause the complainant to have a  
6.6 reasonable fear of imminent great bodily harm to the complainant or another;

6.7 (d) the actor is armed with a dangerous weapon or any article used or fashioned in a  
6.8 manner to lead the complainant to reasonably believe it to be a dangerous weapon and uses  
6.9 or threatens to use the dangerous weapon to cause the complainant to submit;

6.10 (e) the actor causes personal injury to the complainant, and either of the following  
6.11 circumstances exist:

6.12 (i) the actor uses force or coercion to accomplish the sexual contact; or

6.13 (ii) the actor knows or has reason to know that the complainant is mentally impaired,  
6.14 mentally incapacitated, or physically helpless;

6.15 (f) the actor is aided or abetted by one or more accomplices within the meaning of section  
6.16 609.05, and either of the following circumstances exists:

6.17 (i) an accomplice uses force or coercion to cause the complainant to submit; or

6.18 (ii) an accomplice is armed with a dangerous weapon or any article used or fashioned  
6.19 in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and  
6.20 uses or threatens to use the weapon or article to cause the complainant to submit;

6.21 (g) the actor has a significant relationship to the complainant and the complainant was  
6.22 under 16 years of age at the time of the sexual contact. Neither mistake as to the complainant's  
6.23 age nor consent to the act by the complainant is a defense; or

6.24 (h) the actor has a significant relationship to the complainant, the complainant was under  
6.25 16 years of age at the time of the sexual contact, and:

6.26 (i) the actor or an accomplice used force or coercion to accomplish the contact;

6.27 (ii) the complainant suffered personal injury; or

6.28 (iii) the sexual abuse involved multiple acts committed over an extended period of time.

6.29 Neither mistake as to the complainant's age nor consent to the act by the complainant is  
6.30 a defense.

7.1 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to crimes  
7.2 committed on or after that date.

7.3 Sec. 6. Minnesota Statutes 2018, section 609.344, subdivision 1, is amended to read:

7.4 Subdivision 1. **Crime defined.** A person who engages in sexual penetration with another  
7.5 person is guilty of criminal sexual conduct in the third degree if any of the following  
7.6 circumstances exists:

7.7 (a) the complainant is under 13 years of age and the actor is no more than 36 months  
7.8 older than the complainant. Neither mistake as to the complainant's age nor consent to the  
7.9 act by the complainant shall be a defense;

7.10 (b) the complainant is at least 13 but less than 16 years of age and the actor is more than  
7.11 24 months older than the complainant. In any such case if the actor is no more than 120  
7.12 months older than the complainant, it shall be an affirmative defense, which must be proved  
7.13 by a preponderance of the evidence, that the actor reasonably believes the complainant to  
7.14 be 16 years of age or older. In all other cases, mistake as to the complainant's age shall not  
7.15 be a defense. Consent by the complainant is not a defense;

7.16 (c) the actor uses force or coercion to accomplish the penetration;

7.17 (d) the actor knows or has reason to know that the complainant is mentally impaired,  
7.18 mentally incapacitated, or physically helpless;

7.19 (e) the complainant is at least 16 but less than 18 years of age and the actor is more than  
7.20 48 months older than the complainant and in a current or recent position of authority over  
7.21 the complainant. Neither mistake as to the complainant's age nor consent to the act by the  
7.22 complainant is a defense;

7.23 (f) the actor has a significant relationship to the complainant and the complainant was  
7.24 at least 16 but under 18 years of age at the time of the sexual penetration. Neither mistake  
7.25 as to the complainant's age nor consent to the act by the complainant is a defense;

7.26 (g) the actor has a significant relationship to the complainant, the complainant was at  
7.27 least 16 but under 18 years of age at the time of the sexual penetration, and:

7.28 (i) the actor or an accomplice used force or coercion to accomplish the penetration;

7.29 (ii) the complainant suffered personal injury; or

7.30 (iii) the sexual abuse involved multiple acts committed over an extended period of time.

8.1 Neither mistake as to the complainant's age nor consent to the act by the complainant is  
8.2 a defense;

8.3 (h) the actor is a psychotherapist and the complainant is a patient of the psychotherapist  
8.4 and the sexual penetration occurred:

8.5 (i) during the psychotherapy session; or

8.6 (ii) outside the psychotherapy session if an ongoing psychotherapist-patient relationship  
8.7 exists.

8.8 Consent by the complainant is not a defense;

8.9 (i) the actor is a psychotherapist and the complainant is a former patient of the  
8.10 psychotherapist and the former patient is emotionally dependent upon the psychotherapist;

8.11 (j) the actor is a psychotherapist and the complainant is a patient or former patient and  
8.12 the sexual penetration occurred by means of therapeutic deception. Consent by the  
8.13 complainant is not a defense;

8.14 (k) the actor accomplishes the sexual penetration by means of deception or false  
8.15 representation that the penetration is for a bona fide medical purpose. Consent by the  
8.16 complainant is not a defense;

8.17 (l) the actor is or purports to be a member of the clergy, the complainant is not married  
8.18 to the actor, and:

8.19 (i) the sexual penetration occurred during the course of a meeting in which the  
8.20 complainant sought or received religious or spiritual advice, aid, or comfort from the actor  
8.21 in private; or

8.22 (ii) the sexual penetration occurred during a period of time in which the complainant  
8.23 was meeting on an ongoing basis with the actor to seek or receive religious or spiritual  
8.24 advice, aid, or comfort in private. Consent by the complainant is not a defense;

8.25 (m) the actor is an employee, independent contractor, or volunteer of a state, county,  
8.26 city, or privately operated adult or juvenile correctional system, or secure treatment facility,  
8.27 or treatment facility providing services to clients civilly committed as mentally ill and  
8.28 dangerous, sexually dangerous persons, or sexual psychopathic personalities, including, but  
8.29 not limited to, jails, prisons, detention centers, or work release facilities, and the complainant  
8.30 is a resident of a facility or under supervision of the correctional system. Consent by the  
8.31 complainant is not a defense;



9.1 (n) the actor provides or is an agent of an entity that provides special transportation  
 9.2 service, the complainant used the special transportation service, and the sexual penetration  
 9.3 occurred during or immediately before or after the actor transported the complainant. Consent  
 9.4 by the complainant is not a defense; ~~or~~

9.5 (o) the actor performs massage or other bodywork for hire, the complainant was a user  
 9.6 of one of those services, and nonconsensual sexual penetration occurred during or  
 9.7 immediately before or after the actor performed or was hired to perform one of those services  
 9.8 for the complainant; or

9.9 (p) the actor is a peace officer, as defined in section 626.84, and the officer physically  
 9.10 or constructively restrains the complainant or the complainant does not reasonably feel free  
 9.11 to leave the officer's presence. Consent by the complainant is not a defense. This paragraph  
 9.12 does not apply to any penetration of the mouth, genitals, or anus during a lawful search.

9.13 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to crimes  
 9.14 committed on or after that date.

9.15 Sec. 7. Minnesota Statutes 2018, section 609.345, subdivision 1, is amended to read:

9.16 Subdivision 1. **Crime defined.** A person who engages in sexual contact with another  
 9.17 person is guilty of criminal sexual conduct in the fourth degree if any of the following  
 9.18 circumstances exists:

9.19 (a) the complainant is under 13 years of age and the actor is no more than 36 months  
 9.20 older than the complainant. Neither mistake as to the complainant's age or consent to the  
 9.21 act by the complainant is a defense. In a prosecution under this clause, the state is not  
 9.22 required to prove that the sexual contact was coerced;

9.23 (b) the complainant is at least 13 but less than 16 years of age and the actor is more than  
 9.24 48 months older than the complainant or in a current or recent position of authority over  
 9.25 the complainant. Consent by the complainant to the act is not a defense. In any such case,  
 9.26 if the actor is no more than 120 months older than the complainant, it shall be an affirmative  
 9.27 defense which must be proved by a preponderance of the evidence that the actor reasonably  
 9.28 believes the complainant to be 16 years of age or older. In all other cases, mistake as to the  
 9.29 complainant's age shall not be a defense;

9.30 (c) the actor uses force or coercion to accomplish the sexual contact;

9.31 (d) the actor knows or has reason to know that the complainant is mentally impaired,  
 9.32 mentally incapacitated, or physically helpless;

10.1 (e) the complainant is at least 16 but less than 18 years of age and the actor is more than  
10.2 48 months older than the complainant and in a current or recent position of authority over  
10.3 the complainant. Neither mistake as to the complainant's age nor consent to the act by the  
10.4 complainant is a defense;

10.5 (f) the actor has a significant relationship to the complainant and the complainant was  
10.6 at least 16 but under 18 years of age at the time of the sexual contact. Neither mistake as to  
10.7 the complainant's age nor consent to the act by the complainant is a defense;

10.8 (g) the actor has a significant relationship to the complainant, the complainant was at  
10.9 least 16 but under 18 years of age at the time of the sexual contact, and:

10.10 (i) the actor or an accomplice used force or coercion to accomplish the contact;

10.11 (ii) the complainant suffered personal injury; or

10.12 (iii) the sexual abuse involved multiple acts committed over an extended period of time.

10.13 Neither mistake as to the complainant's age nor consent to the act by the complainant is  
10.14 a defense;

10.15 (h) the actor is a psychotherapist and the complainant is a patient of the psychotherapist  
10.16 and the sexual contact occurred:

10.17 (i) during the psychotherapy session; or

10.18 (ii) outside the psychotherapy session if an ongoing psychotherapist-patient relationship  
10.19 exists. Consent by the complainant is not a defense;

10.20 (i) the actor is a psychotherapist and the complainant is a former patient of the  
10.21 psychotherapist and the former patient is emotionally dependent upon the psychotherapist;

10.22 (j) the actor is a psychotherapist and the complainant is a patient or former patient and  
10.23 the sexual contact occurred by means of therapeutic deception. Consent by the complainant  
10.24 is not a defense;

10.25 (k) the actor accomplishes the sexual contact by means of deception or false representation  
10.26 that the contact is for a bona fide medical purpose. Consent by the complainant is not a  
10.27 defense;

10.28 (l) the actor is or purports to be a member of the clergy, the complainant is not married  
10.29 to the actor, and:

10.30 (i) the sexual contact occurred during the course of a meeting in which the complainant  
10.31 sought or received religious or spiritual advice, aid, or comfort from the actor in private; or

11.1 (ii) the sexual contact occurred during a period of time in which the complainant was  
 11.2 meeting on an ongoing basis with the actor to seek or receive religious or spiritual advice,  
 11.3 aid, or comfort in private. Consent by the complainant is not a defense;

11.4 (m) the actor is an employee, independent contractor, or volunteer of a state, county,  
 11.5 city, or privately operated adult or juvenile correctional system, or secure treatment facility,  
 11.6 or treatment facility providing services to clients civilly committed as mentally ill and  
 11.7 dangerous, sexually dangerous persons, or sexual psychopathic personalities, including, but  
 11.8 not limited to, jails, prisons, detention centers, or work release facilities, and the complainant  
 11.9 is a resident of a facility or under supervision of the correctional system. Consent by the  
 11.10 complainant is not a defense;

11.11 (n) the actor provides or is an agent of an entity that provides special transportation  
 11.12 service, the complainant used the special transportation service, ~~the complainant is not~~  
 11.13 ~~married to the actor~~, and the sexual contact occurred during or immediately before or after  
 11.14 the actor transported the complainant. Consent by the complainant is not a defense; ~~or~~

11.15 (o) the actor performs massage or other bodywork for hire, the complainant was a user  
 11.16 of one of those services, and nonconsensual sexual contact occurred during or immediately  
 11.17 before or after the actor performed or was hired to perform one of those services for the  
 11.18 complainant; or

11.19 (p) the actor is a peace officer, as defined in section 626.84, and the officer physically  
 11.20 or constructively restrains the complainant or the complainant does not reasonably feel free  
 11.21 to leave the officer's presence. Consent by the complainant is not a defense.

11.22 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to crimes  
 11.23 committed on or after that date.

11.24 Sec. 8. Minnesota Statutes 2018, section 609.3451, subdivision 1, is amended to read:

11.25 Subdivision 1. **Crime defined.** A person is guilty of criminal sexual conduct in the fifth  
 11.26 degree:

11.27 (1) if the person engages in nonconsensual sexual contact; or

11.28 (2) the person engages in masturbation or lewd exhibition of the genitals in the presence  
 11.29 of a minor under the age of 16, knowing or having reason to know the minor is present.

11.30 For purposes of this section, "sexual contact" has the meaning given in section 609.341,  
 11.31 subdivision 11, paragraph (a), clauses (i), (iv), and (v), ~~but does not include the intentional~~  
 11.32 ~~touching of the clothing covering the immediate area of the buttocks.~~ Sexual contact also

12.1 includes the intentional removal or attempted removal of clothing covering the complainant's  
12.2 intimate parts or undergarments, and the nonconsensual touching by the complainant of the  
12.3 actor's intimate parts, effected by the actor, if the action is performed with sexual or  
12.4 aggressive intent.

12.5 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to crimes  
12.6 committed on or after that date.

12.7 Sec. 9. Minnesota Statutes 2018, section 609.746, subdivision 1, is amended to read:

12.8 Subdivision 1. **Surreptitious intrusion; observation device.** (a) A person is guilty of  
12.9 a gross misdemeanor who:

12.10 (1) enters upon another's property;

12.11 (2) surreptitiously gazes, stares, or peeps in the window or any other aperture of a house  
12.12 or place of dwelling of another; and

12.13 (3) does so with intent to intrude upon or interfere with the privacy of a member of the  
12.14 household.

12.15 (b) A person is guilty of a gross misdemeanor who:

12.16 (1) enters upon another's property;

12.17 (2) surreptitiously installs or uses any device for observing, photographing, recording,  
12.18 amplifying, or broadcasting sounds or events through the window or any other aperture of  
12.19 a house or place of dwelling of another; and

12.20 (3) does so with intent to intrude upon or interfere with the privacy of a member of the  
12.21 household.

12.22 (c) A person is guilty of a gross misdemeanor who:

12.23 (1) surreptitiously gazes, stares, or peeps in the window or other aperture of a sleeping  
12.24 room in a hotel, as defined in section 327.70, subdivision 3, a tanning booth, or other place  
12.25 where a reasonable person would have an expectation of privacy and has exposed or is  
12.26 likely to expose their intimate parts, as defined in section 609.341, subdivision 5, or the  
12.27 clothing covering the immediate area of the intimate parts; and

12.28 (2) does so with intent to intrude upon or interfere with the privacy of the occupant.

12.29 (d) A person is guilty of a gross misdemeanor who:

12.30 (1) surreptitiously installs or uses any device for observing, photographing, recording,  
12.31 amplifying, or broadcasting sounds or events through the window or other aperture of a

13.1 sleeping room in a hotel, as defined in section 327.70, subdivision 3, a tanning booth, or  
 13.2 other place where a reasonable person would have an expectation of privacy and has exposed  
 13.3 or is likely to expose their intimate parts, as defined in section 609.341, subdivision 5, or  
 13.4 the clothing covering the immediate area of the intimate parts; and

13.5 (2) does so with intent to intrude upon or interfere with the privacy of the occupant.

13.6 (e) A person is guilty of a felony and may be sentenced to imprisonment for not more  
 13.7 than two years or to payment of a fine of not more than \$5,000, or both, if the person:

13.8 (1) violates this subdivision after a previous conviction under this subdivision or section  
 13.9 609.749; or

13.10 (2) violates this subdivision against a minor under the age of 18, knowing or having  
 13.11 reason to know that the minor is present.

13.12 (f) A person is guilty of a felony and may be sentenced to imprisonment for not more  
 13.13 than four years or to payment of a fine of not more than \$5,000, or both, if: (1) the person  
 13.14 violates paragraph (b) or (d) against a minor victim under the age of 18; (2) the person is  
 13.15 more than 36 months older than the minor victim; (3) the person knows or has reason to  
 13.16 know that the minor victim is present; and (4) the violation is committed with sexual intent.

13.17 (g) Paragraphs (b) and (d) do not apply to law enforcement officers or corrections  
 13.18 investigators, or to those acting under their direction, while engaged in the performance of  
 13.19 their lawful duties. Paragraphs (c) and (d) do not apply to conduct in: (1) a medical facility;  
 13.20 or (2) a commercial establishment if the owner of the establishment has posted conspicuous  
 13.21 signs warning that the premises are under surveillance by the owner or the owner's employees.

13.22 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to crimes  
 13.23 committed on or after that date.

13.24 Sec. 10. Minnesota Statutes 2018, section 617.246, subdivision 2, is amended to read:

13.25 Subd. 2. **Use of minor.** (a) It is unlawful for a person to promote, employ, use or permit  
 13.26 a minor to engage in or assist others to engage minors in posing or modeling alone or with  
 13.27 others in any sexual performance or pornographic work if the person knows or has reason  
 13.28 to know that the conduct intended is a sexual performance or a pornographic work.

13.29 Any person who violates this ~~subdivision~~ paragraph is guilty of a felony and may be  
 13.30 sentenced to imprisonment for not more than ten years or to payment of a fine of not more  
 13.31 than \$20,000 ~~for the first offense and \$40,000 for a second or subsequent offense~~, or both.

14.1 (b) A person who violates paragraph (a) is guilty of a felony and may be sentenced to  
 14.2 imprisonment for not more than 15 years or to payment of a fine of not more than \$40,000,  
 14.3 or both, if:

14.4 (1) the person has a prior conviction or delinquency adjudication for violating this section  
 14.5 or section 617.247;

14.6 (2) the violation occurs when the person is a registered predatory offender under section  
 14.7 243.166; or

14.8 (3) the violation involved a minor under the age of 13 years.

14.9 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to crimes  
 14.10 committed on or after that date.

14.11 Sec. 11. Minnesota Statutes 2018, section 617.246, subdivision 3, is amended to read:

14.12 Subd. 3. **Operation or ownership of business.** (a) A person who owns or operates a  
 14.13 business in which a pornographic work, as defined in this section, is disseminated to an  
 14.14 adult or a minor or is reproduced, and who knows the content and character of the  
 14.15 pornographic work disseminated or reproduced, is guilty of a felony and may be sentenced  
 14.16 to imprisonment for not more than ten years, or to payment of a fine of not more than  
 14.17 \$20,000 for the first offense and \$40,000 for a second or subsequent offense, or both.

14.18 (b) A person who violates paragraph (a) is guilty of a felony and may be sentenced to  
 14.19 imprisonment for not more than 15 years or to payment of a fine of not more than \$40,000,  
 14.20 or both, if:

14.21 (1) the person has a prior conviction or delinquency adjudication for violating this section  
 14.22 or section 617.247;

14.23 (2) the violation occurs when the person is a registered predatory offender under section  
 14.24 243.166; or

14.25 (3) the violation involved a minor under the age of 13 years.

14.26 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to crimes  
 14.27 committed on or after that date.

14.28 Sec. 12. Minnesota Statutes 2018, section 617.246, subdivision 4, is amended to read:

14.29 Subd. 4. **Dissemination.** (a) A person who, knowing or with reason to know its content  
 14.30 and character, disseminates for profit to an adult or a minor a pornographic work, as defined  
 14.31 in this section, is guilty of a felony and may be sentenced to imprisonment for not more

15.1 than ten years, or to payment of a fine of not more than \$20,000 ~~for the first offense and~~  
 15.2 ~~\$40,000 for a second or subsequent offense~~, or both.

15.3 (b) A person who violates paragraph (a) is guilty of a felony and may be sentenced to  
 15.4 imprisonment for not more than 15 years or to payment of a fine of not more than \$40,000,  
 15.5 or both, if:

15.6 (1) the person has a prior conviction or delinquency adjudication for violating this section  
 15.7 or section 617.247;

15.8 (2) the violation occurs when the person is a registered predatory offender under section  
 15.9 243.166; or

15.10 (3) the violation involved a minor under the age of 13 years.

15.11 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to crimes  
 15.12 committed on or after that date.

15.13 Sec. 13. Minnesota Statutes 2018, section 617.246, subdivision 7, is amended to read:

15.14 Subd. 7. **Conditional release term.** Notwithstanding the statutory maximum sentence  
 15.15 otherwise applicable to the offense or any provision of the sentencing guidelines, when a  
 15.16 court commits a person to the custody of the commissioner of corrections for violating this  
 15.17 section, the court shall provide that after the person has been released from prison, the  
 15.18 commissioner shall place the person on conditional release for five years. If the person has  
 15.19 previously been convicted of a violation of this section, section 609.342, 609.343, 609.344,  
 15.20 609.345, 609.3451, 609.3453, or 617.247, or any similar statute of the United States, this  
 15.21 state, or any state, the commissioner shall place the person on conditional release for ~~ten~~  
 15.22 15 years. The terms of conditional release are governed by section 609.3455, subdivision  
 15.23 8.

15.24 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to crimes  
 15.25 committed on or after that date.

15.26 Sec. 14. Minnesota Statutes 2018, section 617.247, subdivision 3, is amended to read:

15.27 Subd. 3. **Dissemination prohibited.** (a) A person who disseminates pornographic work  
 15.28 to an adult or a minor, knowing or with reason to know its content and character, is guilty  
 15.29 of a felony and may be sentenced to imprisonment for not more than seven years ~~and~~ or to  
 15.30 payment of a fine of not more than \$10,000 for a first offense and for not more than 15  
 15.31 years and a fine of not more than \$20,000 for a second or subsequent offense, or both.

16.1 (b) A person who violates paragraph (a) is guilty of a felony and may be sentenced to  
16.2 imprisonment for not more than 15 years or to payment of a fine of not more than \$20,000,  
16.3 or both, if:

16.4 (1) the person has a prior conviction or delinquency adjudication for violating this section  
16.5 or section 617.246;

16.6 (2) the violation occurs when the person is a registered predatory offender under section  
16.7 243.166; or

16.8 (3) the violation involved a minor under the age of 13 years.

16.9 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to crimes  
16.10 committed on or after that date.

16.11 Sec. 15. Minnesota Statutes 2018, section 617.247, subdivision 4, is amended to read:

16.12 Subd. 4. **Possession prohibited.** (a) A person who possesses a pornographic work or a  
16.13 computer disk or computer or other electronic, magnetic, or optical storage system or a  
16.14 storage system of any other type, containing a pornographic work, knowing or with reason  
16.15 to know its content and character, is guilty of a felony and may be sentenced to imprisonment  
16.16 for not more than five years ~~and~~ or to payment of a fine of not more than \$5,000 for a first  
16.17 ~~offense and for not more than ten years and a fine of not more than \$10,000 for a second~~  
16.18 ~~or subsequent offense, or both.~~

16.19 (b) A person who violates paragraph (a) is guilty of a felony and may be sentenced to  
16.20 imprisonment for not more than ten years or to payment of a fine of not more than \$10,000,  
16.21 or both, if:

16.22 (1) the person has a prior conviction or delinquency adjudication for violating this section  
16.23 or section 617.246;

16.24 (2) the violation occurs when the person is a registered predatory offender under section  
16.25 243.166; or

16.26 (3) the violation involved a minor under the age of 13 years.

16.27 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to crimes  
16.28 committed on or after that date.

16.29 Sec. 16. Minnesota Statutes 2018, section 617.247, subdivision 9, is amended to read:

16.30 Subd. 9. **Conditional release term.** Notwithstanding the statutory maximum sentence  
16.31 otherwise applicable to the offense or any provision of the sentencing guidelines, when a



17.1 court commits a person to the custody of the commissioner of corrections for violating this  
17.2 section, the court shall provide that after the person has been released from prison, the  
17.3 commissioner shall place the person on conditional release for five years. If the person has  
17.4 previously been convicted of a violation of this section, section 609.342, 609.343, 609.344,  
17.5 609.345, 609.3451, 609.3453, or 617.246, or any similar statute of the United States, this  
17.6 state, or any state, the commissioner shall place the person on conditional release for ~~ten~~  
17.7 15 years. The terms of conditional release are governed by section 609.3455, subdivision  
17.8 8.

17.9 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to crimes  
17.10 committed on or after that date.

17.11 **Sec. 17. SENTENCING GUIDELINES MODIFICATION.**

17.12 The Sentencing Guidelines Commission shall comprehensively review and consider  
17.13 modifying how the Sentencing Guidelines and the sex offender grid address the crimes  
17.14 described in Minnesota Statutes, sections 617.246 and 617.247, as compared to similar  
17.15 crimes, including other sex offenses and other offenses with similar maximum penalties.

17.16 **Sec. 18. REPEALER.**

17.17 Minnesota Statutes 2018, section 609.349, is repealed.

17.18 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to crimes  
17.19 committed on or after that date.

**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.