

**SENATE  
STATE OF MINNESOTA  
NINETIETH SESSION**

**S.F. No. 1886**

(SENATE AUTHORS: LOUREY)

DATE  
03/07/2017

D-PG  
1145

OFFICIAL STATUS  
Introduction and first reading  
Referred to Judiciary and Public Safety Finance and Policy

1.1 A bill for an act  
1.2 relating to public safety; including certain sexual conduct in a secure treatment  
1.3 facility as criminal sexual conduct in the fifth degree crime; amending Minnesota  
1.4 Statutes 2016, section 609.3451.

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

1.6 Section 1. Minnesota Statutes 2016, section 609.3451, is amended to read:

1.7 **609.3451 CRIMINAL SEXUAL CONDUCT IN THE FIFTH DEGREE.**

1.8 Subdivision 1. **Crime defined.** A person is guilty of criminal sexual conduct in the fifth  
1.9 degree if:

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

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

1.13 (3) the person engages in a nonconsensual sexual act and the person is committed under  
1.14 chapter 253D, Minnesota Statutes 2012, section 253B.185, or Minnesota Statutes 1992,  
1.15 section 526.10, and commits the act against an employee or other individual who provides  
1.16 care or treatment at a secure treatment facility while the person is engaged in the performance  
1.17 of a duty imposed by law, policy, or rule; or

1.18 (4) the person engages in masturbation or lewd exhibition of the genitals in the presence  
1.19 of an employee or other individual who provides care or treatment at a secure treatment  
1.20 facility while the person is engaged in the performance of a duty imposed by law, policy,  
1.21 or rule, knowing or having reason to know the employee was 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, clauses (1) and (2), 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:

(1) the person is convicted under subdivision 1, clause (3); or

(2) the person violates this section within seven years of:

~~(1)~~ (i) 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)~~ (ii) 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).

**EFFECTIVE DATE.** This section is effective August 1, 2017, and applies to crimes committed on or after that date.