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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 2519

04/13/2021 Authored by Keeler, Greenman, Wolgamott, Bliss, Boe and others
The bill was read for the first time and referred to the Committee on Public Safety and Criminal Justice Reform Finance and Policy

1.1 A bill for an act
1.2 relating to public safety; modifying and clarifying criminal sexual conduct
1.3 provisions; creating a new crime of sexual extortion; amending Minnesota Statutes
1.4 2020, sections 609.341, subdivisions 7, 14, 15, by adding subdivisions; 609.342;
1.5 609.343; 609.344; 609.345; 609.3451; 609.3455; proposing coding for new law
1.6 in Minnesota Statutes, chapter 609.

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

1.8 Section 1. Minnesota Statutes 2020, section 609.341, subdivision 7, is amended to read:

1.9 Subd. 7. **Mentally incapacitated.** "Mentally incapacitated" means:

1.10 (1) that a person under the influence of alcohol, a narcotic, anesthetic, or any other
1.11 substance, administered to that person without the person's agreement, lacks the judgment
1.12 to give a reasoned consent to sexual contact or sexual penetration; or

1.13 (2) that a person is under the influence of an intoxicating substance to a degree that
1.14 renders them incapable of consenting or incapable of appreciating, understanding, or
1.15 controlling the person's conduct.

1.16 Sec. 2. Minnesota Statutes 2020, section 609.341, subdivision 14, is amended to read:

1.17 Subd. 14. **Coercion.** "Coercion" means the use by the actor of words or circumstances
1.18 that cause the complainant reasonably to fear that the actor will inflict the infliction of bodily
1.19 harm upon the complainant or another, or the use by the actor of confinement, or superior
1.20 size or strength, against the complainant that causes the complainant to submit to sexual
1.21 penetration or contact against the complainant's will to accomplish the act. Proof of coercion
1.22 does not require proof of a specific act or threat.

2.1 Sec. 3. Minnesota Statutes 2020, section 609.341, subdivision 15, is amended to read:

2.2 Subd. 15. **Significant relationship.** "Significant relationship" means a situation in which  
2.3 the actor is:

2.4 (1) the complainant's parent, stepparent, or guardian;

2.5 (2) any of the following persons related to the complainant by blood, marriage, or  
2.6 adoption: brother, sister, stepbrother, stepsister, first cousin, aunt, uncle, nephew, niece,  
2.7 grandparent, great-grandparent, great-uncle, great-aunt; ~~or~~

2.8 (3) an adult who jointly resides intermittently or regularly in the same dwelling as the  
2.9 complainant and who is not the complainant's spouse; or

2.10 (4) an adult who is or was involved in a significant romantic or sexual relationship with  
2.11 the parent of a complainant.

2.12 Sec. 4. Minnesota Statutes 2020, section 609.341, is amended by adding a subdivision to  
2.13 read:

2.14 Subd. 24. **Prohibited occupational relationship.** A "prohibited occupational  
2.15 relationship" exists when the actor is in one of the following occupations and the act takes  
2.16 place under the specified circumstances:

2.17 (1) the actor performed massage or other bodywork for hire, the sexual penetration or  
2.18 sexual contact occurred during or immediately before or after the actor performed or was  
2.19 hired to perform one of those services for the complainant, and the sexual penetration or  
2.20 sexual contact was nonconsensual; or

2.21 (2) the actor and the complainant were in one of the following occupational relationships  
2.22 at the time of the act. Consent by the complainant is not a defense:

2.23 (i) the actor was a psychotherapist, the complainant was the actor's patient, and the sexual  
2.24 penetration or sexual contact occurred during a psychotherapy session or during a period  
2.25 of time when the psychotherapist-patient relationship was ongoing;

2.26 (ii) the actor was a psychotherapist and the complainant was the actor's former patient  
2.27 who was emotionally dependent on the actor;

2.28 (iii) the actor was or falsely impersonated a psychotherapist, the complainant was the  
2.29 actor's patient or former patient, and the sexual penetration or sexual contact occurred by  
2.30 means of therapeutic deception;

3.1 (iv) the actor was or falsely impersonated a provider of medical services to the  
3.2 complainant and the sexual penetration or sexual contact occurred by means of deception  
3.3 or false representation that the sexual penetration or sexual contact was for a bona fide  
3.4 medical purpose;

3.5 (v) the actor was or falsely impersonated a member of the clergy, the complainant was  
3.6 not married to the actor, the complainant met with the actor in private seeking or receiving  
3.7 religious or spiritual advice, aid, or comfort from the actor, and the sexual penetration or  
3.8 sexual contact occurred during the course of the meeting or during a period of time when  
3.9 the meetings were ongoing;

3.10 (vi) the actor provided special transportation service to the complainant and the sexual  
3.11 penetration or sexual contact occurred during or immediately before or after the actor  
3.12 transported the complainant;

3.13 (vii) the actor was or falsely impersonated a peace officer, as defined in section 626.84,  
3.14 the actor physically or constructively restrained the complainant or the complainant did not  
3.15 reasonably feel free to leave the actor's presence, and the sexual penetration or sexual contact  
3.16 was not pursuant to a lawful search or lawful use of force;

3.17 (viii) the actor was an employee, independent contractor, or volunteer of a state, county,  
3.18 city, or privately operated adult or juvenile correctional system, or secure treatment facility,  
3.19 or treatment facility providing services to clients civilly committed as mentally ill and  
3.20 dangerous, sexually dangerous persons, or sexual psychopathic personalities, including but  
3.21 not limited to jails, prisons, detention centers, or work release facilities, and the complainant  
3.22 was a resident of a facility or under supervision of the correctional system;

3.23 (ix) the complainant is enrolled in a secondary school and:

3.24 (A) the actor is a licensed educator employed or contracted to provide service for the  
3.25 school at which the complainant is a student;

3.26 (B) the actor is age 18 or older and at least four years older than the complainant and is  
3.27 employed or contracted to provide service for the secondary school at which the complainant  
3.28 is a student; or

3.29 (C) the actor is age 18 or older and at least four years older than the complainant, and  
3.30 is a licensed educator employed or contracted to provide services for an elementary, middle,  
3.31 or secondary school;

3.32 (x) the actor was a caregiver, facility staff person, or person providing services in a  
3.33 facility, as defined under section 609.232, subdivision 3, and the complainant was a

4.1 vulnerable adult who was a resident, patient, or client of the facility who was impaired in  
 4.2 judgment or capacity by mental or emotional dysfunction or undue influence; or

4.3 (xi) the actor was a caregiver, facility staff person, or person providing services in a  
 4.4 facility, and the complainant was a resident, patient, or client of the facility. This clause  
 4.5 does not apply if a consensual sexual personal relationship existed prior to the caregiving  
 4.6 relationship or if the actor was a personal care attendant.

4.7 Sec. 5. Minnesota Statutes 2020, section 609.341, is amended by adding a subdivision to  
 4.8 read:

4.9 Subd. 25. **Caregiver.** "Caregiver" has the meaning given in section 609.232, subdivision  
 4.10 2.

4.11 Sec. 6. Minnesota Statutes 2020, section 609.341, is amended by adding a subdivision to  
 4.12 read:

4.13 Subd. 26. **Facility.** "Facility" has the meaning given in section 609.232, subdivision 3.

4.14 Sec. 7. Minnesota Statutes 2020, section 609.341, is amended by adding a subdivision to  
 4.15 read:

4.16 Subd. 27. **Vulnerable adult.** "Vulnerable adult" has the meaning given in section  
 4.17 609.232, subdivision 11.

4.18 Sec. 8. Minnesota Statutes 2020, section 609.342, is amended to read:

4.19 **609.342 CRIMINAL SEXUAL CONDUCT IN THE FIRST DEGREE.**

4.20 Subdivision 1. **Adult victim; crime defined.** A person who engages in sexual penetration  
 4.21 with another person, ~~or in sexual contact with a person under 13 years of age as defined in~~  
 4.22 ~~section 609.341, subdivision 11, paragraph (e),~~ is guilty of criminal sexual conduct in the  
 4.23 first degree if any of the following circumstances exists:

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

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

5.1 ~~(e)~~ (a) circumstances existing at the time of the act cause the complainant to have a  
5.2 reasonable fear of imminent great bodily harm to the complainant or another;

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

5.6 ~~(e)~~ (c) the actor causes personal injury to the complainant, and either of the following  
5.7 circumstances exist:

5.8 (i) the actor uses force or coercion to accomplish the act; or

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

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

5.13 (i) the actor or an accomplice uses force or coercion to cause the complainant to submit;  
5.14 or

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

5.19 ~~(g) the actor has a significant relationship to the complainant and the complainant was  
5.20 under 16 years of age at the time of the act. Neither mistake as to the complainant's age nor  
5.21 consent to the act by the complainant is a defense; or~~

5.22 ~~(h) the actor has a significant relationship to the complainant, the complainant was under  
5.23 16 years of age at the time of the act, and:~~

5.24 ~~(i) the actor or an accomplice used force or coercion to accomplish the act;~~

5.25 ~~(ii) the complainant suffered personal injury; or~~

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

5.27 ~~Neither mistake as to the complainant's age nor consent to the act by the complainant is  
5.28 a defense.~~

5.29 Subd. 1a. **Child victim; crime defined.** A person who engages in penetration with  
5.30 anyone under 18 years of age or sexual contact with a person under 14 years of age as

6.1 defined in section 609.341, subdivision 11, paragraph (c), is guilty of criminal sexual conduct  
6.2 in the first degree if any of the following circumstances exists:

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

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

6.8 (c) the actor causes personal injury to the complainant, and either of the following  
6.9 circumstances exist:

6.10 (i) the actor uses force or coercion to accomplish the act; or

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

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

6.15 (i) the actor or an accomplice uses force or coercion to cause the complainant to submit;  
6.16 or

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

6.20 (e) the complainant is under 14 years of age and the actor is more than 36 months older  
6.21 than the complainant. Neither mistake as to the complainant's age nor consent to the act by  
6.22 the complainant is a defense;

6.23 (f) the complainant is at least 14 years of age but less than 16 years of age and:

6.24 (i) the actor is more than 36 months older than the complainant; and

6.25 (ii) the actor is in a current or recent position of authority over the complainant.

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

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

7.1 (h) the complainant was under 16 years of age at the time of the act, and the actor has  
 7.2 a significant relationship to the complainant and any of the following circumstances exist:

7.3 (i) the actor or an accomplice used force or coercion to accomplish the act;

7.4 (ii) the complainant suffered personal injury; or

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

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

7.8 Subd. 2. **Penalty.** (a) Except as otherwise provided in section 609.3455; or Minnesota  
 7.9 Statutes 2004, section 609.109, a person convicted under subdivision 1 or subdivision 1a  
 7.10 may be sentenced to imprisonment for not more than 30 years or to a payment of a fine of  
 7.11 not more than \$40,000, or both.

7.12 (b) Unless a longer mandatory minimum sentence is otherwise required by law or the  
 7.13 Sentencing Guidelines provide for a longer presumptive executed sentence, the court shall  
 7.14 presume that an executed sentence of 144 months must be imposed on an offender convicted  
 7.15 of violating this section. Sentencing a person in a manner other than that described in this  
 7.16 paragraph is a departure from the Sentencing Guidelines.

7.17 (c) A person convicted under this section is also subject to conditional release under  
 7.18 section 609.3455.

7.19 Subd. 3. **Stay.** Except when imprisonment is required under section 609.3455; or  
 7.20 Minnesota Statutes 2004, section 609.109, if a person is convicted under subdivision 1 or 1a,  
 7.21 clause (g), the court may stay imposition or execution of the sentence if it finds that:

7.22 (a) a stay is in the best interest of the complainant or the family unit; and

7.23 (b) a professional assessment indicates that the offender has been accepted by and can  
 7.24 respond to a treatment program.

7.25 If the court stays imposition or execution of sentence, it shall include the following as  
 7.26 conditions of probation:

7.27 (1) incarceration in a local jail or workhouse;

7.28 (2) a requirement that the offender complete a treatment program; and

7.29 (3) a requirement that the offender have no unsupervised contact with the complainant  
 7.30 until the offender has successfully completed the treatment program unless approved by  
 7.31 the treatment program and the supervising correctional agent.

8.1 Sec. 9. Minnesota Statutes 2020, section 609.343, is amended to read:

8.2 **609.343 CRIMINAL SEXUAL CONDUCT IN THE SECOND DEGREE.**

8.3 Subdivision 1. **Adult victim; crime defined.** A person who engages in sexual contact  
8.4 with another person is guilty of criminal sexual conduct in the second degree if any of the  
8.5 following circumstances exists:

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

8.10 ~~(b) the complainant is at least 13 but less than 16 years of age and the actor is more than~~  
8.11 ~~48 months older than the complainant and in a current or recent position of authority over~~  
8.12 ~~the complainant. Neither mistake as to the complainant's age nor consent to the act by the~~  
8.13 ~~complainant is a defense;~~

8.14 ~~(e)~~ (a) circumstances existing at the time of the act cause the complainant to have a  
8.15 reasonable fear of imminent great bodily harm to the complainant or another;

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

8.19 ~~(e)~~ (c) the actor causes personal injury to the complainant, and either of the following  
8.20 circumstances exist:

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

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

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

8.26 (i) the actor or an accomplice uses force or coercion to cause the complainant to submit;  
8.27 or

8.28 (ii) the actor or an accomplice is armed with a dangerous weapon or any article used or  
8.29 fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous  
8.30 weapon and uses or threatens to use the weapon or article to cause the complainant to  
8.31 submit;.



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

9.4 ~~(h) the actor has a significant relationship to the complainant, the complainant was under~~  
 9.5 ~~16 years of age at the time of the sexual contact, and:~~

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

9.7 ~~(ii) the complainant suffered personal injury; or~~

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

9.9 ~~Neither mistake as to the complainant's age nor consent to the act by the complainant is~~  
 9.10 ~~a defense.~~

9.11 Subd. 1a. **Child victim; crime defined.** A person who engages in sexual contact with  
 9.12 another person is guilty of criminal sexual conduct in the second degree if any of the  
 9.13 following circumstances exists:

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

9.16 (b) the actor is armed with a dangerous weapon or any article used or fashioned in a  
 9.17 manner to lead the complainant to reasonably believe it to be a dangerous weapon and uses  
 9.18 or threatens to use the dangerous weapon to cause the complainant to submit;

9.19 (c) the actor causes personal injury to the complainant, and either of the following  
 9.20 circumstances exist:

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

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

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

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

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

9.30 (e) the complainant is under 14 years of age and the actor is more than 36 months older  
 9.31 than the complainant. Neither mistake as to the complainant's age nor consent to the act by

10.1 the complainant is a defense. In a prosecution under this clause, the state is not required to  
 10.2 prove that the sexual contact was coerced;

10.3 (f) the complainant is at least 14 but less than 16 years of age and the actor is more than  
 10.4 36 months older than the complainant and in a current or recent position of authority over  
 10.5 the complainant. Neither mistake as to the complainant's age nor consent to the act by the  
 10.6 complainant is a defense;

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

10.10 (h) the actor has a significant relationship to the complainant, the complainant was under  
 10.11 16 years of age at the time of the sexual contact, and:

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

10.13 (ii) the complainant suffered personal injury; or

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

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

10.17 Subd. 2. **Penalty.** (a) Except as otherwise provided in section 609.3455; or Minnesota  
 10.18 Statutes 2004, section 609.109, a person convicted under subdivision 1 or subdivision 1a  
 10.19 may be sentenced to imprisonment for not more than 25 years or to a payment of a fine of  
 10.20 not more than \$35,000, or both.

10.21 (b) Unless a longer mandatory minimum sentence is otherwise required by law or the  
 10.22 Sentencing Guidelines provide for a longer presumptive executed sentence, the court shall  
 10.23 presume that an executed sentence of 90 months must be imposed on an offender convicted  
 10.24 of violating subdivision 1, clause (a), (b), (c), or (d), ~~(e), (f)~~, or subdivision 1a, clause (a),  
 10.25 (b), (c), (d), (g), or (h). Sentencing a person in a manner other than that described in this  
 10.26 paragraph is a departure from the Sentencing Guidelines.

10.27 (c) A person convicted under this section is also subject to conditional release under  
 10.28 section 609.3455.

10.29 Subd. 3. **Stay.** Except when imprisonment is required under section 609.3455; or  
 10.30 Minnesota Statutes 2004, section 609.109, if a person is convicted under subdivision ~~1~~ 1a,  
 10.31 clause (g), the court may stay imposition or execution of the sentence if it finds that:

10.32 (a) a stay is in the best interest of the complainant or the family unit; and

11.1 (b) a professional assessment indicates that the offender has been accepted by and can  
11.2 respond to a treatment program.

11.3 If the court stays imposition or execution of sentence, it shall include the following as  
11.4 conditions of probation:

11.5 (1) incarceration in a local jail or workhouse;

11.6 (2) a requirement that the offender complete a treatment program; and

11.7 (3) a requirement that the offender have no unsupervised contact with the complainant  
11.8 until the offender has successfully completed the treatment program unless approved by  
11.9 the treatment program and the supervising correctional agent.

11.10 Sec. 10. Minnesota Statutes 2020, section 609.344, is amended to read:

11.11 **609.344 CRIMINAL SEXUAL CONDUCT IN THE THIRD DEGREE.**

11.12 Subdivision 1. **Adult victim; crime defined.** A person who engages in sexual penetration  
11.13 with another person is guilty of criminal sexual conduct in the third degree if any of the  
11.14 following circumstances exists:

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

11.18 ~~(b) the complainant is at least 13 but less than 16 years of age and the actor is more than~~  
11.19 ~~24 months older than the complainant. In any such case if the actor is no more than 120~~  
11.20 ~~months older than the complainant, it shall be an affirmative defense, which must be proved~~  
11.21 ~~by a preponderance of the evidence, that the actor reasonably believes the complainant to~~  
11.22 ~~be 16 years of age or older. In all other cases, mistake as to the complainant's age shall not~~  
11.23 ~~be a defense. Consent by the complainant is not a defense;~~

11.24 ~~(c)~~ (a) the actor uses force or coercion to accomplish the penetration;

11.25 ~~(d)~~ (b) the actor knows or has reason to know that the complainant is mentally impaired,  
11.26 mentally incapacitated, or physically helpless;

11.27 (c) At the time of the act, the actor is in a prohibited occupational relationship with the  
11.28 complainant.

11.29 Subd. 1a. **Child victim; crime defined.** A person who engages in sexual penetration  
11.30 with another person is guilty of criminal sexual conduct in the third degree if any of the  
11.31 following circumstances exists:

12.1 (a) the complainant is under 14 years of age and the actor is no more than 36 months  
 12.2 older than the complainant. Neither mistake as to the complainant's age nor consent to the  
 12.3 act by the complainant shall be a defense;

12.4 (b) the complainant is at least 14 but less than 16 years of age and the actor is more than  
 12.5 24 months older than the complainant. In any such case if the actor is no more than 60  
 12.6 months older than the complainant, it shall be an affirmative defense, which must be proved  
 12.7 by a preponderance of the evidence, that the actor reasonably believes the complainant to  
 12.8 be 16 years of age or older. In all other cases, mistake as to the complainant's age shall not  
 12.9 be a defense. Consent by the complainant is not a defense;

12.10 (c) the actor uses coercion to accomplish the penetration;

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

12.13 (e) the complainant is at least 16 but less than 18 years of age and the actor is more than  
 12.14 ~~48~~ 36 months older than the complainant and in a current or recent position of authority  
 12.15 over the complainant. Neither mistake as to the complainant's age nor consent to the act by  
 12.16 the complainant is a defense;

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

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

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

12.23 (ii) the complainant suffered personal injury; or

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

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

12.27 ~~(h) the actor is a psychotherapist and the complainant is a patient of the psychotherapist~~  
 12.28 ~~and the sexual penetration occurred:~~

12.29 ~~(i) during the psychotherapy session; or~~

12.30 ~~(ii) outside the psychotherapy session if an ongoing psychotherapist-patient relationship~~  
 12.31 ~~exists.~~

- 13.1 ~~Consent by the complainant is not a defense;~~
- 13.2 ~~(i) the actor is a psychotherapist and the complainant is a former patient of the~~
- 13.3 ~~psychotherapist and the former patient is emotionally dependent upon the psychotherapist;~~
- 13.4 ~~(j) the actor is a psychotherapist and the complainant is a patient or former patient and~~
- 13.5 ~~the sexual penetration occurred by means of therapeutic deception. Consent by the~~
- 13.6 ~~complainant is not a defense;~~
- 13.7 ~~(k) the actor accomplishes the sexual penetration by means of deception or false~~
- 13.8 ~~representation that the penetration is for a bona fide medical purpose. Consent by the~~
- 13.9 ~~complainant is not a defense;~~
- 13.10 ~~(l) the actor is or purports to be a member of the clergy, the complainant is not married~~
- 13.11 ~~to the actor, and:~~
- 13.12 ~~(i) the sexual penetration occurred during the course of a meeting in which the~~
- 13.13 ~~complainant sought or received religious or spiritual advice, aid, or comfort from the actor~~
- 13.14 ~~in private; or~~
- 13.15 ~~(ii) the sexual penetration occurred during a period of time in which the complainant~~
- 13.16 ~~was meeting on an ongoing basis with the actor to seek or receive religious or spiritual~~
- 13.17 ~~advice, aid, or comfort in private. Consent by the complainant is not a defense;~~
- 13.18 ~~(m) the actor is an employee, independent contractor, or volunteer of a state, county,~~
- 13.19 ~~city, or privately operated adult or juvenile correctional system, or secure treatment facility,~~
- 13.20 ~~or treatment facility providing services to clients civilly committed as mentally ill and~~
- 13.21 ~~dangerous, sexually dangerous persons, or sexual psychopathic personalities, including, but~~
- 13.22 ~~not limited to, jails, prisons, detention centers, or work release facilities, and the complainant~~
- 13.23 ~~is a resident of a facility or under supervision of the correctional system. Consent by the~~
- 13.24 ~~complainant is not a defense;~~
- 13.25 ~~(n) the actor provides or is an agent of an entity that provides special transportation~~
- 13.26 ~~service, the complainant used the special transportation service, and the sexual penetration~~
- 13.27 ~~occurred during or immediately before or after the actor transported the complainant. Consent~~
- 13.28 ~~by the complainant is not a defense;~~
- 13.29 ~~(o) the actor performs massage or other bodywork for hire, the complainant was a user~~
- 13.30 ~~of one of those services, and nonconsensual sexual penetration occurred during or~~
- 13.31 ~~immediately before or after the actor performed or was hired to perform one of those services~~
- 13.32 ~~for the complainant; or~~

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

14.5 Subd. 2. **Penalty.** Except as otherwise provided in section 609.3455, a person convicted  
 14.6 under subdivision 1 or subdivision 1a may be sentenced:

14.7 (1) to imprisonment for not more than 15 years or to a payment of a fine of not more  
 14.8 than \$30,000, or both; or

14.9 (2) if the person was convicted under subdivision ~~1~~ 1a, paragraph (b), and if the actor  
 14.10 was no more than 48 months but more than 24 months older than the complainant, to  
 14.11 imprisonment for not more than five years or a fine of not more than \$30,000, or both.

14.12 A person convicted under this section is also subject to conditional release under section  
 14.13 609.3455.

14.14 Subd. 3. **Stay.** Except when imprisonment is required under section 609.3455; or  
 14.15 Minnesota Statutes 2004, section 609.109, if a person is convicted under subdivision ~~1~~ 1a,  
 14.16 clause (f), the court may stay imposition or execution of the sentence if it finds that:

14.17 (a) a stay is in the best interest of the complainant or the family unit; and

14.18 (b) a professional assessment indicates that the offender has been accepted by and can  
 14.19 respond to a treatment program.

14.20 If the court stays imposition or execution of sentence, it shall include the following as  
 14.21 conditions of probation:

14.22 (1) incarceration in a local jail or workhouse;

14.23 (2) a requirement that the offender complete a treatment program; and

14.24 (3) a requirement that the offender have no unsupervised contact with the complainant  
 14.25 until the offender has successfully completed the treatment program unless approved by  
 14.26 the treatment program and the supervising correctional agent.

14.27 Sec. 11. Minnesota Statutes 2020, section 609.345, is amended to read:

14.28 **609.345 CRIMINAL SEXUAL CONDUCT IN THE FOURTH DEGREE.**

14.29 Subdivision 1. **Adult victim; crime defined.** A person who engages in sexual contact  
 14.30 with another person is guilty of criminal sexual conduct in the fourth degree if any of the  
 14.31 following circumstances exists:

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

15.5 ~~(b) the complainant is at least 13 but less than 16 years of age and the actor is more than~~  
 15.6 ~~48 months older than the complainant or in a current or recent position of authority over~~  
 15.7 ~~the complainant. Consent by the complainant to the act is not a defense. In any such case,~~  
 15.8 ~~if the actor is no more than 120 months older than the complainant, it shall be an affirmative~~  
 15.9 ~~defense which must be proved by a preponderance of the evidence that the actor reasonably~~  
 15.10 ~~believes the complainant to be 16 years of age or older. In all other cases, mistake as to the~~  
 15.11 ~~complainant's age shall not be a defense;~~

15.12 ~~(e) (a) the actor uses force or coercion to accomplish the sexual contact;~~

15.13 ~~(d) (b) the actor knows or has reason to know that the complainant is mentally impaired,~~  
 15.14 ~~mentally incapacitated, or physically helpless; or~~

15.15 ~~(c) at the time of the act, the actor is in a prohibited occupational relationship with the~~  
 15.16 ~~complainant.~~

15.17 Subd. 1a. **Child victim; crime defined.** A person who engages in sexual contact with  
 15.18 another person is guilty of criminal sexual conduct in the fourth degree if any of the following  
 15.19 circumstances exists:

15.20 (a) the complainant is under 14 years of age and the actor is no more than 36 months  
 15.21 older than the complainant. Neither mistake as to the complainant's age or consent to the  
 15.22 act by the complainant is a defense. In a prosecution under this clause, the state is not  
 15.23 required to prove that the sexual contact was coerced;

15.24 (b) the complainant is at least 14 but less than 16 years of age and the actor is more than  
 15.25 36 months older than the complainant or in a current or recent position of authority over  
 15.26 the complainant. Consent by the complainant to the act is not a defense.

15.27 Mistake of age is not a defense unless actor is less than 60 months older. In any such case,  
 15.28 if the actor is no more than 60 months older than the complainant, it shall be an affirmative  
 15.29 defense which must be proved by a preponderance of the evidence that the actor reasonably  
 15.30 believes the complainant to be 16 years of age or older. In all other cases, mistake as to the  
 15.31 complainant's age shall not be a defense;

15.32 (c) the actor uses coercion to accomplish the sexual contact;

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

16.3 (e) the complainant is at least 16 but less than 18 years of age and the actor is more than  
 16.4 ~~48~~ 36 months older than the complainant and in a current or recent position of authority  
 16.5 over the complainant. Neither mistake as to the complainant's age nor consent to the act by  
 16.6 the complainant is a defense;

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

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

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

16.13 (ii) the complainant suffered personal injury; or

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

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

16.17 ~~(h) the actor is a psychotherapist and the complainant is a patient of the psychotherapist  
 16.18 and the sexual contact occurred:~~

16.19 ~~(i) during the psychotherapy session; or~~

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

16.22 ~~(i) the actor is a psychotherapist and the complainant is a former patient of the  
 16.23 psychotherapist and the former patient is emotionally dependent upon the psychotherapist;~~

16.24 ~~(j) the actor is a psychotherapist and the complainant is a patient or former patient and  
 16.25 the sexual contact occurred by means of therapeutic deception. Consent by the complainant  
 16.26 is not a defense;~~

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

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



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

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

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

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

17.17 ~~(o) the actor performs massage or other bodywork for hire, the complainant was a user~~  
 17.18 ~~of one of those services, and nonconsensual sexual contact occurred during or immediately~~  
 17.19 ~~before or after the actor performed or was hired to perform one of those services for the~~  
 17.20 ~~complainant; or~~

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

17.24 Subd. 2. **Penalty.** Except as otherwise provided in section 609.3455, a person convicted  
 17.25 under subdivision 1 or subdivision 1a may be sentenced to imprisonment for not more than  
 17.26 ten years or to a payment of a fine of not more than \$20,000, or both. A person convicted  
 17.27 under this section is also subject to conditional release under section 609.3455.

17.28 Subd. 3. **Stay.** Except when imprisonment is required under section 609.3455; or  
 17.29 Minnesota Statutes 2004, section 609.109, if a person is convicted under subdivision 1 1a,  
 17.30 clause (f), the court may stay imposition or execution of the sentence if it finds that:

17.31 (a) a stay is in the best interest of the complainant or the family unit; and

17.32 (b) a professional assessment indicates that the offender has been accepted by and can  
 17.33 respond to a treatment program.

18.1 If the court stays imposition or execution of sentence, it shall include the following as  
18.2 conditions of probation:

18.3 (1) incarceration in a local jail or workhouse;

18.4 (2) a requirement that the offender complete a treatment program; and

18.5 (3) a requirement that the offender have no unsupervised contact with the complainant  
18.6 until the offender has successfully completed the treatment program unless approved by  
18.7 the treatment program and the supervising correctional agent.

18.8 Sec. 12. Minnesota Statutes 2020, section 609.3451, is amended to read:

18.9 **609.3451 CRIMINAL SEXUAL CONDUCT IN THE FIFTH DEGREE.**

18.10 Subdivision 1. **Sexual penetration; crime defined.** A person is guilty of criminal sexual  
18.11 conduct in the fifth degree: if the person engages in nonconsensual sexual penetration.

18.12 Subd. 1a. **Sexual contact; child present; crime defined.** A person is guilty of criminal  
18.13 sexual conduct in the fifth degree if:

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

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

18.17 For purposes of this section, "sexual contact" has the meaning given in section 609.341,  
18.18 subdivision 11, paragraph (a), clauses (i), (iv), and (v). Sexual contact also includes the  
18.19 intentional removal or attempted removal of clothing covering the complainant's intimate  
18.20 parts or undergarments, and the nonconsensual touching by the complainant of the actor's  
18.21 intimate parts, effected by the actor, if the action is performed with sexual or aggressive  
18.22 intent.

18.23 Subd. 2. **Gross misdemeanor.** A person convicted under subdivision ~~1~~ 1a may be  
18.24 sentenced to imprisonment for not more than one year or to a payment of a fine of not more  
18.25 than \$3,000, or both.

18.26 Subd. 3. **Felony.** (a) A person is guilty of a felony and may be sentenced to imprisonment  
18.27 for not more than two years or to payment of a fine of not more than \$10,000, or both, if  
18.28 the person violates subdivision 1.

18.29 (b) A person is guilty of a felony and may be sentenced to imprisonment for not more  
18.30 than seven years or to payment of a fine of not more than \$14,000, or both, if the person  
18.31 violates ~~this section~~ subdivision 1 or 1a within ~~seven~~ ten years of:

19.1 (1) conviction or adjudication under subdivision 1; or

19.2 (2) a previous conviction or adjudication for violating subdivision 1a, clause (2), a  
 19.3 ~~crime described in paragraph (b)~~, or a statute from another state in conformity with any of  
 19.4 these offenses; or

19.5 ~~(2)~~ (3) the first of two or more previous convictions for violating subdivision 1a, clause  
 19.6 (1), or a statute from another state in conformity with this offense.

19.7 (b) A previous conviction for violating section 609.342; 609.343; 609.344; 609.345;  
 19.8 609.3453; 617.23, subdivision 2, clause (2), or subdivision 3; or 617.247 may be used to  
 19.9 enhance a criminal penalty as provided in paragraph (a).

19.10 Sec. 13. Minnesota Statutes 2020, section 609.3455, is amended to read:

19.11 **609.3455 DANGEROUS SEX OFFENDERS; LIFE SENTENCES; CONDITIONAL**  
 19.12 **RELEASE.**

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

19.15 (b) "Conviction" includes a conviction as an extended jurisdiction juvenile under section  
 19.16 260B.130 for a violation of, or an attempt to violate, section 609.342, 609.343, 609.344, ~~or~~  
 19.17 609.3453, or 609.3458, if the adult sentence has been executed.

19.18 (c) "Extreme inhumane conditions" mean situations where, either before or after the  
 19.19 sexual penetration or sexual contact, the offender knowingly causes or permits the  
 19.20 complainant to be placed in a situation likely to cause the complainant severe ongoing  
 19.21 mental, emotional, or psychological harm, or causes the complainant's death.

19.22 (d) A "heinous element" includes:

19.23 (1) the offender tortured the complainant;

19.24 (2) the offender intentionally inflicted great bodily harm upon the complainant;

19.25 (3) the offender intentionally mutilated the complainant;

19.26 (4) the offender exposed the complainant to extreme inhumane conditions;

19.27 (5) the offender was armed with a dangerous weapon or any article used or fashioned  
 19.28 in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and  
 19.29 used or threatened to use the weapon or article to cause the complainant to submit;

19.30 (6) the offense involved sexual penetration or sexual contact with more than one victim;

20.1 (7) the offense involved more than one perpetrator engaging in sexual penetration or  
20.2 sexual contact with the complainant; or

20.3 (8) the offender, without the complainant's consent, removed the complainant from one  
20.4 place to another and did not release the complainant in a safe place.

20.5 (e) "Mutilation" means the intentional infliction of physical abuse designed to cause  
20.6 serious permanent disfigurement or permanent or protracted loss or impairment of the  
20.7 functions of any bodily member or organ, where the offender relishes the infliction of the  
20.8 abuse, evidencing debasement or perversion.

20.9 (f) A conviction is considered a "previous sex offense conviction" if the offender was  
20.10 convicted and sentenced for a sex offense before the commission of the present offense.

20.11 (g) A conviction is considered a "prior sex offense conviction" if the offender was  
20.12 convicted of committing a sex offense before the offender has been convicted of the present  
20.13 offense, regardless of whether the offender was convicted for the first offense before the  
20.14 commission of the present offense, and the convictions involved separate behavioral  
20.15 incidents.

20.16 (h) "Sex offense" means any violation of, or attempt to violate, section 609.342, 609.343,  
20.17 609.344, 609.345, 609.3451, 609.3453, 609.3458, or any similar statute of the United States,  
20.18 this state, or any other state.

20.19 (i) "Torture" means the intentional infliction of extreme mental anguish, or extreme  
20.20 psychological or physical abuse, when committed in an especially depraved manner.

20.21 (j) An offender has "two previous sex offense convictions" only if the offender was  
20.22 convicted and sentenced for a sex offense committed after the offender was earlier convicted  
20.23 and sentenced for a sex offense and both convictions preceded the commission of the present  
20.24 offense of conviction.

20.25 Subd. 2. **Mandatory life sentence without release; egregious first-time and repeat**  
20.26 **offenders.** (a) Notwithstanding the statutory maximum penalty otherwise applicable to the  
20.27 offense, the court shall sentence a person convicted under section 609.342, subdivision 1,  
20.28 paragraph (c), (d), (e), (f), or (h); or 609.343, subdivision 1, paragraph (c), (d), (e), (f), or  
20.29 (h), to life without the possibility of release if:

20.30 (1) the fact finder determines that two or more heinous elements exist; or

20.31 (2) the person has a previous sex offense conviction for a violation of section 609.342,  
20.32 609.343, ~~or~~ 609.344, or 609.3458, and the fact finder determines that a heinous element  
20.33 exists for the present offense.

21.1 (b) A fact finder may not consider a heinous element if it is an element of the underlying  
 21.2 specified violation of section 609.342 or 609.343. In addition, when determining whether  
 21.3 two or more heinous elements exist, the fact finder may not use the same underlying facts  
 21.4 to support a determination that more than one element exists.

21.5 Subd. 3. **Mandatory life sentence for egregious first-time offenders.** (a)  
 21.6 Notwithstanding the statutory maximum penalty otherwise applicable to the offense, the  
 21.7 court shall sentence a person to imprisonment for life if the person is convicted under section  
 21.8 609.342, subdivision 1, paragraph (c), (d), (e), (f), or (h), or 609.343, subdivision 1, paragraph  
 21.9 (c), (d), (e), (f), or (h); and the fact finder determines that a heinous element exists.

21.10 (b) The fact finder may not consider a heinous element if it is an element of the underlying  
 21.11 specified violation of section 609.342 or 609.343.

21.12 Subd. 3a. **Mandatory sentence for certain engrained offenders.** (a) A court shall  
 21.13 commit a person to the commissioner of corrections for a period of time that is not less than  
 21.14 double the presumptive sentence under the sentencing guidelines and not more than the  
 21.15 statutory maximum, or if the statutory maximum is less than double the presumptive sentence,  
 21.16 for a period of time that is equal to the statutory maximum, if:

21.17 (1) the court is imposing an executed sentence on a person convicted of committing or  
 21.18 attempting to commit a violation of section 609.342, 609.343, 609.344, 609.345, ~~or~~ 609.3453,  
 21.19 or 609.3458;

21.20 (2) the fact finder determines that the offender is a danger to public safety; and

21.21 (3) the fact finder determines that the offender's criminal sexual behavior is so engrained  
 21.22 that the risk of reoffending is great without intensive psychotherapeutic intervention or other  
 21.23 long-term treatment or supervision extending beyond the presumptive term of imprisonment  
 21.24 and supervised release.

21.25 (b) The fact finder shall base its determination that the offender is a danger to public  
 21.26 safety on any of the following factors:

21.27 (1) the crime involved an aggravating factor that would justify a durational departure  
 21.28 from the presumptive sentence under the sentencing guidelines;

21.29 (2) the offender previously committed or attempted to commit a predatory crime or a  
 21.30 violation of section 609.224 or 609.2242, including:

21.31 (i) an offense committed as a juvenile that would have been a predatory crime or a  
 21.32 violation of section 609.224 or 609.2242 if committed by an adult; or

22.1 (ii) a violation or attempted violation of a similar law of any other state or the United  
22.2 States; or

22.3 (3) the offender planned or prepared for the crime prior to its commission.

22.4 (c) As used in this section, "predatory crime" has the meaning given in section 609.341,  
22.5 subdivision 22.

22.6 Subd. 4. **Mandatory life sentence; repeat offenders.** (a) Notwithstanding the statutory  
22.7 maximum penalty otherwise applicable to the offense, the court shall sentence a person to  
22.8 imprisonment for life if the person is convicted of violating section 609.342, 609.343,  
22.9 609.344, 609.345, ~~or~~ 609.3453, or 609.3458 and:

22.10 (1) the person has two previous sex offense convictions;

22.11 (2) the person has a previous sex offense conviction and:

22.12 (i) the fact finder determines that the present offense involved an aggravating factor that  
22.13 would provide grounds for an upward durational departure under the sentencing guidelines  
22.14 other than the aggravating factor applicable to repeat criminal sexual conduct convictions;

22.15 (ii) the person received an upward durational departure from the sentencing guidelines  
22.16 for the previous sex offense conviction; or

22.17 (iii) the person was sentenced under this section or Minnesota Statutes 2004, section  
22.18 609.108, for the previous sex offense conviction; or

22.19 (3) the person has two prior sex offense convictions, and the fact finder determines that  
22.20 the prior convictions and present offense involved at least three separate victims, and:

22.21 (i) the fact finder determines that the present offense involved an aggravating factor that  
22.22 would provide grounds for an upward durational departure under the sentencing guidelines  
22.23 other than the aggravating factor applicable to repeat criminal sexual conduct convictions;

22.24 (ii) the person received an upward durational departure from the sentencing guidelines  
22.25 for one of the prior sex offense convictions; or

22.26 (iii) the person was sentenced under this section or Minnesota Statutes 2004, section  
22.27 609.108, for one of the prior sex offense convictions.

22.28 (b) Notwithstanding paragraph (a), a court may not sentence a person to imprisonment  
22.29 for life for a violation of section 609.345, unless the person's previous or prior sex offense  
22.30 convictions that are being used as the basis for the sentence are for violations of section  
22.31 609.342, 609.343, 609.344, ~~or~~ 609.3453, or 609.3458, or any similar statute of the United  
22.32 States, this state, or any other state.

23.1 Subd. 5. **Life sentences; minimum term of imprisonment.** At the time of sentencing  
23.2 under subdivision 3 or 4, the court shall specify a minimum term of imprisonment, based  
23.3 on the sentencing guidelines or any applicable mandatory minimum sentence, that must be  
23.4 served before the offender may be considered for supervised release.

23.5 Subd. 6. **Mandatory ten-year conditional release term.** Notwithstanding the statutory  
23.6 maximum sentence otherwise applicable to the offense and unless a longer conditional  
23.7 release term is required in subdivision 7, when a court commits an offender to the custody  
23.8 of the commissioner of corrections for a violation of section 609.342, 609.343, 609.344,  
23.9 609.345, ~~or 609.3453~~, or 609.3458, the court shall provide that, after the offender has been  
23.10 released from prison, the commissioner shall place the offender on conditional release for  
23.11 ten years.

23.12 Subd. 7. **Mandatory lifetime conditional release term.** (a) When a court sentences an  
23.13 offender under subdivision 3 or 4, the court shall provide that, if the offender is released  
23.14 from prison, the commissioner of corrections shall place the offender on conditional release  
23.15 for the remainder of the offender's life.

23.16 (b) Notwithstanding the statutory maximum sentence otherwise applicable to the offense,  
23.17 when the court commits an offender to the custody of the commissioner of corrections for  
23.18 a violation of section 609.342, 609.343, 609.344, 609.345, ~~or 609.3453~~, or 609.3458, and  
23.19 the offender has a previous or prior sex offense conviction, the court shall provide that, after  
23.20 the offender has been released from prison, the commissioner shall place the offender on  
23.21 conditional release for the remainder of the offender's life.

23.22 (c) Notwithstanding paragraph (b), an offender may not be placed on lifetime conditional  
23.23 release for a violation of section 609.345, unless the offender's previous or prior sex offense  
23.24 conviction is for a violation of section 609.342, 609.343, 609.344, ~~or 609.3453~~, or 609.3458,  
23.25 or any similar statute of the United States, this state, or any other state.

23.26 Subd. 8. **Terms of conditional release; applicable to all sex offenders.** (a) The  
23.27 provisions of this subdivision relating to conditional release apply to all sex offenders  
23.28 sentenced to prison for a violation of section 609.342, 609.343, 609.344, 609.345, ~~or~~  
23.29 609.3453, or 609.3458. Except as provided in this subdivision, conditional release of sex  
23.30 offenders is governed by provisions relating to supervised release. The commissioner of  
23.31 corrections may not dismiss an offender on conditional release from supervision until the  
23.32 offender's conditional release term expires.

23.33 (b) The conditions of release may include successful completion of treatment and aftercare  
23.34 in a program approved by the commissioner, satisfaction of the release conditions specified

24.1 in section 244.05, subdivision 6, and any other conditions the commissioner considers  
24.2 appropriate. The commissioner shall develop a plan to pay the cost of treatment of a person  
24.3 released under this subdivision. The plan may include co-payments from offenders,  
24.4 third-party payers, local agencies, or other funding sources as they are identified. This  
24.5 section does not require the commissioner to accept or retain an offender in a treatment  
24.6 program. Before the offender is placed on conditional release, the commissioner shall notify  
24.7 the sentencing court and the prosecutor in the jurisdiction where the offender was sentenced  
24.8 of the terms of the offender's conditional release. The commissioner also shall make  
24.9 reasonable efforts to notify the victim of the offender's crime of the terms of the offender's  
24.10 conditional release.

24.11 (c) If the offender fails to meet any condition of release, the commissioner may revoke  
24.12 the offender's conditional release and order that the offender serve all or a part of the  
24.13 remaining portion of the conditional release term in prison. An offender, while on supervised  
24.14 release, is not entitled to credit against the offender's conditional release term for time served  
24.15 in confinement for a violation of release.

24.16 Subd. 9. **Applicability.** The provisions of this section do not affect the applicability of  
24.17 Minnesota Statutes 2004, section 609.108, to crimes committed before August 1, 2005, or  
24.18 the validity of sentences imposed under Minnesota Statutes 2004, section 609.108.

24.19 Subd. 10. **Presumptive executed sentence for repeat sex offenders.** Except as provided  
24.20 in subdivision 2, 3, 3a, or 4, if a person is convicted under sections 609.342 to 609.345 or  
24.21 609.3453 within 15 years of a previous sex offense conviction, the court shall commit the  
24.22 defendant to the commissioner of corrections for not less than three years, nor more than  
24.23 the maximum sentence provided by law for the offense for which convicted, notwithstanding  
24.24 sections 242.19, 243.05, 609.11, 609.12, and 609.135. The court may stay the execution of  
24.25 the sentence imposed under this subdivision only if it finds that a professional assessment  
24.26 indicates the offender is accepted by and can respond to treatment at a long-term inpatient  
24.27 program exclusively treating sex offenders and approved by the commissioner of corrections.  
24.28 If the court stays the execution of a sentence, it shall include the following as conditions of  
24.29 probation:

24.30 (1) incarceration in a local jail or workhouse; and

24.31 (2) a requirement that the offender successfully complete the treatment program and  
24.32 aftercare as directed by the court.



25.1 Sec. 14. [609.3458] SEXUAL EXTORTION.

25.2 Subdivision 1. Crime defined. (a) A person who engages in sexual contact with another  
25.3 person and compels the other person to submit to the contact by making any of the following  
25.4 threats, directly or indirectly, is guilty of sexual extortion:

25.5 (1) a threat to withhold or harm the complainant's trade, business, profession, position,  
25.6 employment, or calling;

25.7 (2) a threat to make or cause to be made a criminal charge against the complainant,  
25.8 whether true or false;

25.9 (3) a threat to report the complainant's immigration status to immigration or law  
25.10 enforcement authorities;

25.11 (4) a threat to disseminate private sexual images of the complainant as specified in  
25.12 section 617.261, nonconsensual dissemination of private sexual images;

25.13 (5) a threat to expose any fact or piece of information about the complainant, whether  
25.14 true or false, that would tend to subject the complainant to hatred, contempt, ridicule,  
25.15 discrimination, or to the disruption of the complainant's significant relationships or faith  
25.16 practice; or

25.17 (6) a threat to withhold complainant's housing, or to cause complainant a loss or  
25.18 disadvantage in the complainant's housing, or a change in the cost of complainant's housing.

25.19 (b) A person who engages in sexual penetration with another person and compels the  
25.20 other person to submit to such penetration by making any of the following threats, directly  
25.21 or indirectly, is guilty of sexual extortion:

25.22 (1) a threat to withhold or harm the complainant's trade, business, profession, position,  
25.23 employment, or calling;

25.24 (2) a threat to make or cause to be made a criminal charge against the complainant,  
25.25 whether true or false;

25.26 (3) a threat to report the complainant's immigration status to immigration or law  
25.27 enforcement authorities;

25.28 (4) a threat to disseminate private sexual images of the complainant as specified in  
25.29 section 617.261, nonconsensual dissemination of private sexual images;

25.30 (5) a threat to expose any fact or piece of information about the complainant, whether  
25.31 true or false, that would tend to subject the complainant to hatred, contempt, ridicule,

26.1 discrimination, or to the disruption of the complainant's significant relationships or faith  
26.2 practice; or

26.3 (6) a threat to withhold complainant's housing, or to cause complainant a loss or  
26.4 disadvantage in the complainant's housing, or a change in the cost of complainant's housing.

26.5 Subd. 2. **Penalty.** (a) A person is guilty of a felony and may be sentenced to imprisonment  
26.6 for not more than ten years or to payment of a fine of not more than \$20,000, or both, if the  
26.7 person violates subdivision 1, paragraph (a).

26.8 (b) A person is guilty of a felony and may be sentenced to imprisonment for not more  
26.9 than 15 years or to payment of a fine of not more than \$30,000, or both, if the person violates  
26.10 subdivision 1, paragraph (b).

26.11 (c) A person convicted under this section is also subject to conditional release under  
26.12 section 609.3455.

26.13 Subd. 3. **No attempt charge.** Notwithstanding section 609.17, no person may be charged  
26.14 with or convicted of an attempt to commit a violation of this section.

26.15 Sec. 15. **REVISOR INSTRUCTION.**

26.16 The revisor of statutes shall make necessary cross-reference changes and remove statutory  
26.17 cross-references in Minnesota Statutes to conform with this act. The revisor may make  
26.18 technical and other necessary changes to language and sentence structure to preserve the  
26.19 meaning of the text.