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State of Minnesota
HOUSE OF REPRESENTATIVES
First Division Engrossment

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

Division Action

03/13/2019 Referred by Chair to the Public Safety and Criminal Justice Reform Finance and Policy Division
Division action, to adopt as amended and return to the Committee on Ways and Means

1.1 A bill for an act

1.2 relating to public safety; increasing penalties for child pornography offenses;

1.3 reviewing sentencing guidelines; amending Minnesota Statutes 2018, sections

1.4 617.246, subdivisions 2, 3, 4, 7; 617.247, subdivisions 3, 4, 9.

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

1.6 Section 1. Minnesota Statutes 2018, section 617.246, subdivision 2, is amended to read:

1.7 Subd. 2. **Use of minor.** (a) It is unlawful for a person to promote, employ, use or permit

1.8 a minor to engage in or assist others to engage minors in posing or modeling alone or with

1.9 others in any sexual performance or pornographic work if the person knows or has reason

1.10 to know that the conduct intended is a sexual performance or a pornographic work.

1.11 Any person who violates this ~~subdivision~~ paragraph is guilty of a felony and may be

1.12 sentenced to imprisonment for not more than ten years or to payment of a fine of not more

1.13 than \$20,000 ~~for the first offense and \$40,000 for a second or subsequent offense~~, or both.

1.14 (b) A person who violates paragraph (a) is guilty of a felony and may be sentenced to

1.15 imprisonment for not more than 15 years or to payment of a fine of not more than \$40,000,

1.16 or both, if:

1.17 (1) the person has a prior conviction or delinquency adjudication for violating this section

1.18 or section 617.247;

1.19 (2) the violation occurs when the person is a registered predatory offender under section

1.20 243.166; or

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

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

Sec. 2. Minnesota Statutes 2018, section 617.246, subdivision 3, is amended to read:

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

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

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

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

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

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

Sec. 3. Minnesota Statutes 2018, section 617.246, subdivision 4, is amended to read:

Subd. 4. **Dissemination.** (a) A person who, knowing or with reason to know its content and character, disseminates for profit to an adult or a minor a pornographic work, as defined in this section, is guilty of a felony and may be sentenced to imprisonment for not more than ten years, or to payment of a fine of not more than \$20,000 ~~for the first offense and \$40,000 for a second or subsequent offense~~, or both.

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

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

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

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

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

Sec. 4. Minnesota Statutes 2018, section 617.246, subdivision 7, is amended to read:

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

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

Sec. 5. Minnesota Statutes 2018, section 617.247, subdivision 3, is amended to read:

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

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

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

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

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

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. 6. Minnesota Statutes 2018, section 617.247, subdivision 4, is amended to read:

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

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

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

4.17 (2) the violation occurs when the person is a registered predatory offender under section
4.18 243.166; or

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

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

4.22 Sec. 7. Minnesota Statutes 2018, section 617.247, subdivision 9, is amended to read:

4.23 Subd. 9. **Conditional release term.** Notwithstanding the statutory maximum sentence
4.24 otherwise applicable to the offense or any provision of the sentencing guidelines, when a
4.25 court commits a person to the custody of the commissioner of corrections for violating this
4.26 section, the court shall provide that after the person has been released from prison, the
4.27 commissioner shall place the person on conditional release for five years. If the person has
4.28 previously been convicted of a violation of this section, section 609.342, 609.343, 609.344,
4.29 609.345, 609.3451, 609.3453, or 617.246, or any similar statute of the United States, this
4.30 state, or any state, the commissioner shall place the person on conditional release for ~~ten~~
4.31 15 years. The terms of conditional release are governed by section 609.3455, subdivision
4.32 8.

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

5.3 Sec. 8. **SENTENCING GUIDELINES MODIFICATION.**

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