

SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION

S.F. No. 111

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| DATE | D-PG | OFFICIAL STATUS |
|------------|------|--|
| 01/14/2019 | 77 | Introduction and first reading Referred to Judiciary and Public Safety Finance and Policy |
| 01/24/2019 | 147a | Comm report: To pass as amended and re-refer to Finance |
| 05/09/2019 | | Comm report: To pass as amended Second reading |

- 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 subdivisions 10, 11; 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 609.341, subdivision 11, is amended to read:

4.15 Subd. 11. **Sexual contact.** (a) "Sexual contact," for the purposes of sections 609.343,
4.16 subdivision 1, clauses (a) to (f), and 609.345, subdivision 1, clauses (a) to (e), and (h) to
4.17 ~~(o)~~ (p), includes any of the following acts committed without the complainant's consent,
4.18 except in those cases where consent is not a defense, and committed with sexual or aggressive
4.19 intent:

4.20 (i) the intentional touching by the actor of the complainant's intimate parts, or

4.21 (ii) the touching by the complainant of the actor's, the complainant's, or another's intimate
4.22 parts effected by a person in a position of authority, or by coercion, or by inducement if the
4.23 complainant is under 13 years of age or mentally impaired, or

4.24 (iii) the touching by another of the complainant's intimate parts effected by coercion or
4.25 by a person in a position of authority, or

4.26 (iv) in any of the cases above, the touching of the clothing covering the immediate area
4.27 of the intimate parts, or

4.28 (v) the intentional touching with seminal fluid or sperm by the actor of the complainant's
4.29 body or the clothing covering the complainant's body.

5.1 (b) "Sexual contact," for the purposes of sections 609.343, subdivision 1, clauses (g)
5.2 and (h), and 609.345, subdivision 1, clauses (f) and (g), includes any of the following acts
5.3 committed with sexual or aggressive intent:

5.4 (i) the intentional touching by the actor of the complainant's intimate parts;

5.5 (ii) the touching by the complainant of the actor's, the complainant's, or another's intimate
5.6 parts;

5.7 (iii) the touching by another of the complainant's intimate parts;

5.8 (iv) in any of the cases listed above, touching of the clothing covering the immediate
5.9 area of the intimate parts; or

5.10 (v) the intentional touching with seminal fluid or sperm by the actor of the complainant's
5.11 body or the clothing covering the complainant's body.

5.12 (c) "Sexual contact with a person under 13" means the intentional touching of the
5.13 complainant's bare genitals or anal opening by the actor's bare genitals or anal opening with
5.14 sexual or aggressive intent or the touching by the complainant's bare genitals or anal opening
5.15 of the actor's or another's bare genitals or anal opening with sexual or aggressive intent.

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

5.18 Sec. 5. Minnesota Statutes 2018, section 609.342, subdivision 1, is amended to read:

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

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

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

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

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

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

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

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

6.9 (f) the actor is aided or abetted by one or more accomplices within the meaning of section
 6.10 609.05, and either of the following circumstances exists:

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

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

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

6.18 (h) the actor has a significant relationship to the complainant, the complainant was under
 6.19 16 years of age at the time of the sexual penetration, and:

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

6.21 (ii) the complainant suffered personal injury; or

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

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

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

6.27 Sec. 6. Minnesota Statutes 2018, section 609.343, subdivision 1, is amended to read:

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

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

7.5 (b) the complainant is at least 13 but less than 16 years of age and the actor is more than
7.6 48 months older than the complainant and in a current or recent position of authority over
7.7 the complainant. Neither mistake as to the complainant's age nor consent to the act by the
7.8 complainant is a defense;

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

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

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

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

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

7.19 (f) the actor is aided or abetted by one or more accomplices within the meaning of section
7.20 609.05, and either of the following circumstances exists:

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

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

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

7.28 (h) the actor has a significant relationship to the complainant, the complainant was under
7.29 16 years of age at the time of the sexual contact, and:

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

7.31 (ii) the complainant suffered personal injury; or

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

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

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

8.6 Sec. 7. Minnesota Statutes 2018, section 609.344, subdivision 1, is amended to read:

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

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

8.13 (b) the complainant is at least 13 but less than 16 years of age and the actor is more than
8.14 24 months older than the complainant. In any such case if the actor is no more than 120
8.15 months older than the complainant, it shall be an affirmative defense, which must be proved
8.16 by a preponderance of the evidence, that the actor reasonably believes the complainant to
8.17 be 16 years of age or older. In all other cases, mistake as to the complainant's age shall not
8.18 be a defense. Consent by the complainant is not a defense;

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

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

8.22 (e) the complainant is at least 16 but less than 18 years of age and the actor is more than
8.23 48 months older than the complainant and in a current or recent position of authority over
8.24 the complainant. Neither mistake as to the complainant's age nor consent to the act by the
8.25 complainant is a defense;

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

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

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

9.1 (ii) the complainant suffered personal injury; or

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

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

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

9.7 (i) during the psychotherapy session; or

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

9.10 Consent by the complainant is not a defense;

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

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

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

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

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

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

9.27 (m) the actor is an employee, independent contractor, or volunteer of a state, county,
9.28 city, or privately operated adult or juvenile correctional system, or secure treatment facility,
9.29 or treatment facility providing services to clients civilly committed as mentally ill and
9.30 dangerous, sexually dangerous persons, or sexual psychopathic personalities, including, but
9.31 not limited to, jails, prisons, detention centers, or work release facilities, and the complainant

10.1 is a resident of a facility or under supervision of the correctional system. Consent by the
10.2 complainant is not a defense;

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

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

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

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

10.17 Sec. 8. Minnesota Statutes 2018, section 609.345, subdivision 1, is amended to read:

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

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

10.25 (b) the complainant is at least 13 but less than 16 years of age and the actor is more than
10.26 48 months older than the complainant or in a current or recent position of authority over
10.27 the complainant. Consent by the complainant to the act is not a defense. In any such case,
10.28 if the actor is no more than 120 months older than the complainant, it shall be an affirmative
10.29 defense which must be proved by a preponderance of the evidence that the actor reasonably
10.30 believes the complainant to be 16 years of age or older. In all other cases, mistake as to the
10.31 complainant's age shall not be a defense;

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

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

11.3 (e) the complainant is at least 16 but less than 18 years of age and the actor is more than
11.4 48 months older than the complainant and in a current or recent position of authority over
11.5 the complainant. Neither mistake as to the complainant's age nor consent to the act by the
11.6 complainant is a defense;

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

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

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

11.13 (ii) the complainant suffered personal injury; or

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

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

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

11.19 (i) during the psychotherapy session; or

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

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

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

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

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

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

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

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

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

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

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

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

12.26 Sec. 9. Minnesota Statutes 2018, section 609.3451, subdivision 1, is amended to read:

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

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

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

13.1 For purposes of this section, "sexual contact" has the meaning given in section 609.341,
13.2 subdivision 11, paragraph (a), clauses (i), (iv), and (v), ~~but does not include the intentional~~
13.3 ~~touching of the clothing covering the immediate area of the buttocks.~~ Sexual contact also
13.4 includes the intentional removal or attempted removal of clothing covering the complainant's
13.5 intimate parts or undergarments, and the nonconsensual touching by the complainant of the
13.6 actor's intimate parts, effected by the actor, if the action is performed with sexual or
13.7 aggressive intent.

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

13.10 Sec. 10. Minnesota Statutes 2018, section 609.746, subdivision 1, is amended to read:

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

13.13 (1) enters upon another's property;

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

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

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

13.19 (1) enters upon another's property;

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

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

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

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

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

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

14.2 (1) surreptitiously installs or uses any device for observing, photographing, recording,
14.3 amplifying, or broadcasting sounds or events through the window or other aperture of a
14.4 sleeping room in a hotel, as defined in section 327.70, subdivision 3, a tanning booth, or
14.5 other place where a reasonable person would have an expectation of privacy and has exposed
14.6 or is likely to expose their intimate parts, as defined in section 609.341, subdivision 5, or
14.7 the clothing covering the immediate area of the intimate parts; and

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

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

14.11 (1) violates this subdivision after a previous conviction under this subdivision or section
14.12 609.749; or

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

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

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

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

14.27 Sec. 11. Minnesota Statutes 2018, section 617.246, subdivision 2, is amended to read:

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

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

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

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

15.9 (2) the violation occurs when the person is a registered predatory offender under section
 15.10 243.166; or

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

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

15.14 Sec. 12. Minnesota Statutes 2018, section 617.246, subdivision 3, is amended to read:

15.15 Subd. 3. **Operation or ownership of business.** (a) A person who owns or operates a
 15.16 business in which a pornographic work, as defined in this section, is disseminated to an
 15.17 adult or a minor or is reproduced, and who knows the content and character of the
 15.18 pornographic work disseminated or reproduced, is guilty of a felony and may be sentenced
 15.19 to imprisonment for not more than ten years, or to payment of a fine of not more than
 15.20 \$20,000 ~~for the first offense and \$40,000 for a second or subsequent offense~~, or both.

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

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

15.26 (2) the violation occurs when the person is a registered predatory offender under section
 15.27 243.166; or

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

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

16.1 Sec. 13. Minnesota Statutes 2018, section 617.246, subdivision 4, is amended to read:

16.2 Subd. 4. **Dissemination.** (a) A person who, knowing or with reason to know its content
16.3 and character, disseminates for profit to an adult or a minor a pornographic work, as defined
16.4 in this section, is guilty of a felony and may be sentenced to imprisonment for not more
16.5 than ten years, or to payment of a fine of not more than \$20,000 for the first offense and
16.6 \$40,000 for a second or subsequent offense, or both.

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

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

16.12 (2) the violation occurs when the person is a registered predatory offender under section
16.13 243.166; or

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

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

16.17 Sec. 14. Minnesota Statutes 2018, section 617.246, subdivision 7, is amended to read:

16.18 Subd. 7. **Conditional release term.** Notwithstanding the statutory maximum sentence
16.19 otherwise applicable to the offense or any provision of the sentencing guidelines, when a
16.20 court commits a person to the custody of the commissioner of corrections for violating this
16.21 section, the court shall provide that after the person has been released from prison, the
16.22 commissioner shall place the person on conditional release for five years. If the person has
16.23 previously been convicted of a violation of this section, section 609.342, 609.343, 609.344,
16.24 609.345, 609.3451, 609.3453, or 617.247, or any similar statute of the United States, this
16.25 state, or any state, the commissioner shall place the person on conditional release for ~~ten~~
16.26 15 years. The terms of conditional release are governed by section 609.3455, subdivision
16.27 8.

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

17.1 Sec. 15. Minnesota Statutes 2018, section 617.247, subdivision 3, is amended to read:

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

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

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

17.12 (2) the violation occurs when the person is a registered predatory offender under section
17.13 243.166; or

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

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

17.17 Sec. 16. Minnesota Statutes 2018, section 617.247, subdivision 4, is amended to read:

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

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

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

17.30 (2) the violation occurs when the person is a registered predatory offender under section
17.31 243.166; or

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

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

18.3 Sec. 17. Minnesota Statutes 2018, section 617.247, subdivision 9, is amended to read:

18.4 Subd. 9. **Conditional release term.** Notwithstanding the statutory maximum sentence
18.5 otherwise applicable to the offense or any provision of the sentencing guidelines, when a
18.6 court commits a person to the custody of the commissioner of corrections for violating this
18.7 section, the court shall provide that after the person has been released from prison, the
18.8 commissioner shall place the person on conditional release for five years. If the person has
18.9 previously been convicted of a violation of this section, section 609.342, 609.343, 609.344,
18.10 609.345, 609.3451, 609.3453, or 617.246, or any similar statute of the United States, this
18.11 state, or any state, the commissioner shall place the person on conditional release for ~~ten~~
18.12 15 years. The terms of conditional release are governed by section 609.3455, subdivision
18.13 8.

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

18.16 Sec. 18. **SENTENCING GUIDELINES MODIFICATION.**

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

18.21 Sec. 19. **REPEALER.**

18.22 Minnesota Statutes 2018, section 609.349, is repealed.

18.23 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to crimes
18.24 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.