

Sec. 3. Minnesota Statutes 1978, Section 275.50, Subdivision 6, is amended to read:

Subd. 6. The cost to a governmental unit of implementing section 18.023, including sanitation and reforestation, as defined in section 18.023, subdivision 1, is a "special levy" and is not subject to tax levy limitations including those contained in sections 275.50 to 275.56 and in Laws 1969, Chapter 593, as amended by Laws 1974, Chapter 108, commencing with the levy made in 1976, payable in 1977, and terminating with the levy made in ~~1978~~ 1980, payable in ~~1979~~ 1981. A governmental subdivision may make a supplementary levy in ~~1977~~, payable in 1978; for all costs of implementing section 18.023 incurred in calendar year 1977 for which a levy was not made in 1976; payable in 1977. For the purpose of calculating the tax levy limit base under section 275.51; for levy year 1977; taxes payable 1978; there shall be subtracted from the levy limit base of any governmental subdivision an amount equal to 112 percent of the amount levied under section 18.023 in levy year 1974; taxes payable 1975; and included in the levy limit base of the governmental subdivision as a result of Laws 1975; Chapter 437.

Sec. 4. [18.023] [Subd. 3b.] LIMITATION UPON GRANTS TO METROPOLITAN AREA. The commissioner shall not make grants for sanitation and reforestation or wood utilization and disposal systems in excess of 67 percent of the amounts appropriated for those purposes to the municipalities located within the metropolitan area, as defined in Minnesota Statutes, Section 18.023, Subdivision 1.

Sec. 5. Of the money appropriated for the biennium 1980-81 for grants for the combined sanitation and reforestation programs one-half is available for expenditure in the calendar year ending December 31, 1979 and one-half is available in the calendar year ending December 31, 1980. However, money not expended for grants for the combined sanitation and reforestation programs in the calendar year ending December 31, 1979 shall be available for grants for the combined sanitation and reforestation programs in the calendar year ending December 31, 1980.

Sec. 6. EFFECTIVE DATE. This act is effective July 1, 1979 and applies to costs incurred on and after January 1, 1979.

Approved May 29, 1979.

CHAPTER 258—H.F.No.555

An act relating to crimes; specifying the crime of offering substances purporting to be prohibited for sale; creating a new category of offense for assault; reclassifying assaults by degrees; specifying the crime of interference with privacy; reclassifying the pecuniary categories of the crime of theft; redefining certain felonies; authorizing agents of the bureau of criminal apprehension to obtain search warrants; clarifying the locus of venue; providing penalties; amending Minnesota Statutes 1978, Sections 609.02, by adding subdivisions; 609.11; 609.25, Subdivision 2; 609.341, Subdivisions 3 and 13, and by adding a subdivision; 609.343; 609.344; 609.345; 609.52, Subdivision 3; 609.562; 609.563; 609.595, Subdivision 1; 611.033; 626.05, Subdivision 2; 626.11; 626.13; 627.01; Chapter 609, by adding sections;

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repealing Minnesota Statutes 1978, Sections 246.43; 609.116; 609.22; and 609.225.

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

Section 1. Minnesota Statutes 1978, Section 609.11, is amended to read:

609.11 MINIMUM TERMS OF IMPRISONMENT. Subdivision 1. All commitments to the commissioner of corrections for imprisonment of the defendant are without minimum terms except when sentence is to life imprisonment as required by law and except ~~that~~ as otherwise provided in this chapter. Any commitment following the defendant's first conviction of an offense wherein ~~he~~ the defendant or an accomplice had in ~~his~~ possession a firearm or used a dangerous weapon at the time of the offense shall be for a term of not less than one year plus one day, nor more than the maximum sentence provided by law for the offense for which convicted; ~~and except that~~ . Any commitment following defendant's second or subsequent conviction of an offense wherein ~~he~~ the defendant or an accomplice had in ~~his~~ possession a firearm or used a dangerous weapon at the time of the offense shall be for a term not less than three years, nor more than the maximum sentence provided by law for the offense for which convicted; ~~and such person~~ : Any person convicted and sentenced as required by this section shall not be eligible for probation or parole until ~~he~~ that person shall have served the full minimum sentence herein provided, notwithstanding the provisions of sections 242.19, 243.05, 609.12 ~~and~~ , 609.135 , ~~and any other law to the contrary~~ . The offenses for which mandatory minimum sentences shall be served before eligibility for probation or parole as herein provided are: aggravated assault, burglary, kidnapping, manslaughter, murder in the second or third degree, robbery, criminal sexual conduct in the first, second or third degree, escape while under charge or conviction of a felony, or discharge of an explosive or incendiary device, or any attempt to commit any of these offenses.

Subd. 3. If during the commission of any of the crimes set forth in subdivision 1, the defendant or an accomplice possessed a firearm or used a dangerous weapon, the prosecution shall allege that matter in the complaint or indictment.

Sec. 2. Minnesota Statutes 1978, Section 609.02, is amended by adding a subdivision to read:

Subd. 7a. SUBSTANTIAL BODILY HARM. "Substantial bodily harm" means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member.

Sec. 3. Minnesota Statutes 1978, Section 609.02, is amended by adding a subdivision to read:

Subd. 10. ASSAULT. "Assault" is:

(1) An act done with intent to cause fear in another of immediate bodily harm or death; or

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(2) The intentional infliction of or attempt to inflict bodily harm upon another.

Sec. 4. Minnesota Statutes 1978, Chapter 609, is amended by adding a section to read:

[609.221] ASSAULT IN THE FIRST DEGREE. Whoever assaults another and inflicts great bodily harm may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$10,000, or both.

Sec. 5. Minnesota Statutes 1978, Chapter 609, is amended by adding a section to read:

[609.222] ASSAULT IN THE SECOND DEGREE. Whoever assaults another with a dangerous weapon but without inflicting great bodily harm may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$5,000, or both.

Sec. 6. Minnesota Statutes 1978, Chapter 609, is amended by adding a section to read:

[609.223] ASSAULT IN THE THIRD DEGREE. Whoever assaults another and inflicts substantial bodily harm may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than \$3,000, or both.

Sec. 7. Minnesota Statutes 1978, Chapter 609, is amended by adding a section to read:

[609.224] ASSAULT IN THE FOURTH DEGREE. Whoever does any of the following commits an assault and is guilty of a misdemeanor:

(1) Does an act with intent to cause fear in another of immediate bodily harm or death; or

(2) Intentionally inflicts or attempts to inflict bodily harm upon another.

Sec. 8. Minnesota Statutes 1978, Section 609.25, Subdivision 2, is amended to read:

Subd. 2. **SENTENCE.** Whoever violates subdivision 1 may be sentenced as follows:

(1) If the victim is released in a safe place without great bodily harm, to imprisonment for not more than 20 years or to payment of a fine of not more than \$20,000, or both; or

(2) ~~Otherwise~~ If the victim is not released in a safe place or if the victim suffers great bodily harm during the course of the kidnapping to imprisonment for not more than 40 years or to payment of a fine of not more than \$40,000, or both.

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Sec. 9. Minnesota Statutes 1978, Section 609.341, Subdivision 3, is amended to read:

Subd. 3. "Force" means ~~commission or threat~~ the infliction, attempted infliction, or threatened infliction by the actor of ~~an assault, as defined in section 609.22,~~ bodily harm or commission or threat of any other crime by the actor against the complainant or another, which causes the complainant to reasonably believe that the actor has the present ability to execute the threat, and also causes the complainant to submit.

Sec. 10. Minnesota Statutes 1978, Section 609.341, Subdivision 13, is amended to read:

Subd. 13. "Complainant" means a person alleging to have been subjected to criminal sexual conduct, but need not be the person who signs the complaint.

Sec. 11. Minnesota Statutes 1978, Section 609.341, is amended by adding a subdivision to read:

Subd. 14. "Coercion" means a threat to unlawfully inflict bodily harm upon, or hold in confinement, the person threatened or another.

Sec. 12. Minnesota Statutes 1978, Section 609.343, is amended to read:

609.343 CRIMINAL SEXUAL CONDUCT IN THE SECOND DEGREE. A person is guilty of criminal sexual conduct in the second degree and may be sentenced to imprisonment for not more than 15 years if he engages in sexual contact with another person and if any of the following circumstances exists:

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

(b) The complainant is at least 13 but less than 16 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant, and uses this authority to coerce the complainant to submit. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense; or

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

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

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

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- (i) The actor uses force or coercion to accomplish the sexual contact; or
- (ii) The actor knows or has reason to know that the complainant is mentally defective, mentally incapacitated, or physically helpless; or
- (f) The actor is aided or abetted by one or more accomplices within the meaning of section 609.05, and either of the following circumstances exists:
 - (i) An accomplice uses force or coercion to cause the complainant to submit; or
 - (ii) An accomplice is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon, and uses or threatens to use the weapon or article to cause the complainant to submit.

Sec. 13. Minnesota Statutes 1978, Section 609.344, is amended to read:

609.344 CRIMINAL SEXUAL CONDUCT IN THE THIRD DEGREE. A person is guilty of criminal sexual conduct in the third degree and may be sentenced to imprisonment for not more than ten years, if he engages in sexual penetration with another person and any of the following circumstances exists:

- (a) The complainant is under 13 years of age and the actor is no more than 36 months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant shall be a defense; or
- (b) The complainant is at least 13 but less than 16 years of age and the actor is more than 24 months older than the complainant ~~and not in a position of authority over the complainant~~. In any such case it shall be an affirmative defense, which must be proved by a preponderance of the evidence, that the actor believes the complainant to be 16 years of age or older. If the actor in such a case is no more than 48 months but more than 24 months older than the complainant, he may be sentenced to imprisonment for not more than five years. Consent by the complainant is not a defense; or

- (c) The actor uses force or coercion to accomplish the penetration; or
- (d) The actor knows or has reason to know that the complainant is mentally defective, mentally incapacitated, or physically helpless.

Sec. 14. Minnesota Statutes 1978, Section 609.345, is amended to read:

609.345 CRIMINAL SEXUAL CONDUCT IN THE FOURTH DEGREE. A person is guilty of criminal sexual conduct in the fourth degree and may be sentenced to imprisonment for not more than five years, if he engages in sexual contact with another person and if any of the following circumstances exists:

- (a) The complainant is under 13 years of age and the actor is no more than 36 months older than the complainant. Neither mistake as to the complainant's age or

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consent to the act by the complainant is a defense. In a prosecution under this clause, the state is not required to prove that the sexual contact was coerced : or

(b) The complainant is at least 13 but less than 16 years of age and the actor is more than 48 months older than the complainant or in a position of authority over the complainant and uses this authority to coerce the complainant to submit. In any such case, it shall be an affirmative defense which must be proved by a preponderance of the evidence that the actor ~~reasonably~~ believes the complainant to be 16 years of age or older; or

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

(d) The actor knows or has reason to know that the complainant is mentally defective, mentally incapacitated, or physically helpless.

Sec. 15. Minnesota Statutes 1978, Section 609.52, Subdivision 3, is amended to read:

Subd. 3. SENTENCE. Whoever commits theft may be sentenced as follows:

(1) To imprisonment for not more than ten years or to payment of a fine of not more than \$10,000, or both, if the value of the property or services stolen exceeds \$2,500; or

(2) To imprisonment for not more than five years or to payment of a fine of not more than \$5,000, or both, if the value of the property or services stolen is more than ~~\$400~~ \$150 but not more than \$2,500; or

(3) To imprisonment for not more than five years or to payment of a fine of not more than \$5,000, or both, notwithstanding the value of the property or services stolen is not more than ~~\$400~~ \$150, if any of the following circumstances exist:

(a) The property is taken from the person of another or from a corpse, or grave or coffin containing a corpse; or

(b) The property taken is a record of a court or officer, or a writing, instrument or record kept, filed or deposited according to law with or in the keeping of any public officer or office; or

(c) The property is taken from a burning building or upon its removal therefrom, or from an area of destruction caused by civil disaster, riot, bombing, or the proximity of battle; or

(d) The property taken consists of public funds belonging to the state or to any political subdivision or agency thereof; or

(4) To imprisonment for not more than ten years or to payment of a fine of not more than \$10,000, or both, if the property stolen is an article representing a trade secret;

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or if the property stolen is an explosive or an incendiary device; or

(5) In all other cases where the value of the property or services stolen is ~~\$100~~ \$150 or less, to imprisonment for not more than 90 days or to payment of a fine of not more than ~~\$300~~ \$500, or both, provided, however, in any prosecution under clause (1), clause (2), clause (3)(a), (b) and (c), and clause (4) of subdivision 2 the value of the money or property received by the defendant in violation of any one or more of the above provisions within any six month period may be aggregated and the defendant charged accordingly in applying the provisions of this subdivision; provided that when two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this paragraph.

Sec. 16. Minnesota Statutes 1978, Section 609.562, is amended to read:

609.562 **ARSON IN THE SECOND DEGREE.** Whoever unlawfully by means of fire or explosives, intentionally destroys or damages any building not covered by section 609.561, or any other real or personal property valued at more than \$2,500, whether the property of himself or another, may be sentenced to imprisonment for not more than ten years or to a fine of not more than \$10,000 or both.

Sec. 17. Minnesota Statutes 1978, Section 609.563, is amended to read:

609.563 **ARSON IN THE THIRD DEGREE.** Subdivision 1. Whoever unlawfully by means of fire or explosives, intentionally destroys or damages any real or personal property belonging to another may be sentenced to imprisonment for not more than five years or to a fine of \$5,000 or both, if:

(a) The property intended by the accused to be damaged or destroyed had a value of more than \$300 or more but less than \$2,500; or

(b) Property of the value of \$300 or more was unintentionally damaged or destroyed but such damage or destruction could reasonably have been foreseen; or

(c) The property specified in clauses (a) and (b) in the aggregate had a value of \$300 or more.

Subd. 2. In all other cases whoever intentionally by means of fire or explosives sets fire to or burns or causes to be burned any real or personal property of value belonging to another may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than \$300.

Sec. 18. Minnesota Statutes 1978, Section 609.595, Subdivision 1, is amended to read:

609.595 **DAMAGE TO PROPERTY.** Subdivision 1. **AGGRAVATED CRIMINAL DAMAGE TO PROPERTY.** Whoever intentionally causes damage to physical property of another without the latter's consent may be sentenced to imprisonment for not more

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than five years or to payment of a fine of not more than \$5,000, or both, if:

(1) The damage to the property caused a reasonably foreseeable risk of bodily harm; or

(2) The property damaged belongs to a public utility or a common carrier and the damage impairs the service to the public rendered by them; or

(3) The damage reduces the value of the property by more than \$300 measured by the cost of repair or replacement, whichever is less.

In any prosecution under clause (3), the value of any property damaged by the defendant in violation of that clause within any six month period may be aggregated and the defendant charged accordingly in applying the provisions of this section; provided that when two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this paragraph.

Sec. 19. Minnesota Statutes 1978, Chapter 609, is amended by adding a section to read:

[609.746] INTERFERENCE WITH PRIVACY. Any person who enters upon another's property and surreptitiously gazes, stares, or peeps in the window of a house or place of dwelling of another with intent to intrude upon or interfere with the privacy of a member of the household thereof is guilty of a misdemeanor.

Sec. 20. Minnesota Statutes 1978, Section 611.033, is amended to read:

611.033 COPY OF CONFESSION OR ADMISSION. ~~No~~ A statement, confession, or admission in writing shall not be received in evidence in any criminal proceeding against any defendant unless at the within a reasonable time of the taking thereof ~~such~~ the defendant ~~shall have been~~ is furnished with a copy thereof and which statement, confession, or admission shall have endorsed thereon or attached thereto the receipt of the accused or certification of a peace officer which shall state that a copy thereof has been received by ~~him~~ or made available to the accused.

Sec. 21. Minnesota Statutes 1978, Section 626.05, Subdivision 2, is amended to read:

Subd. 2. The term "peace officer" as used in sections 626.04 to 626.17 means a sheriff, deputy sheriff, policeman, constable, agent of the bureau of criminal apprehension or university of Minnesota peace officer.

Sec. 22. Minnesota Statutes 1978, Section 626.11, is amended to read:

626.11 ISSUANCE OF WARRANT. If the court or justice of the peace is thereupon satisfied of the existence of the grounds of the application, or that there is probable cause to believe their existence, he must issue a search warrant, signed by him

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with his name of office, to a peace officer in his county or to an agent of the bureau of criminal apprehension, commanding him forthwith to search the person or place named, for the property or things specified, and to retain such property or things in his custody subject to order of the court or justice of the peace issuing the warrant.

Sec. 23. Minnesota Statutes 1978, Section 626.13, is amended to read:

626.13 **SERVICE, PERSONS MAKING.** A search warrant may in all cases be served by any of the officers mentioned in its directions, but by no other person, except in aid of the officer on his requiring it, he being present and acting in its execution. If the warrant is to be served by an agent of the bureau of criminal apprehension he shall notify the chief of police of an organized fulltime police department of the municipality or, if there is no such local chief of police, the sheriff or a deputy sheriff of the county in which service is to be made prior to execution.

Sec. 24. Minnesota Statutes 1978, Section 627.01, is amended to read:

627.01 **PLACE OF TRIAL; CHANGE OF VENUE.** Subdivision 1. Every criminal cause shall be tried in the county where the offense was committed, except as otherwise provided by law, unless it shall appear to the satisfaction of the court, by affidavit, that a fair and impartial trial cannot be had in such county, in which case the court before whom the same shall be pending, if the offense charged in the indictment is punishable with death or imprisonment in the state prison, may direct the person accused to be tried in some other county, in the same or any other judicial district in the state, where a fair and impartial trial can be had; but the party accused shall be entitled to one change of venue only.

Subd. 2. "County where the offense was committed" means any county where any element of the offense was committed or any county where the property involved in an offense is or has been located or where the services involved in an offense were provided.

Sec. 25. **REPEALER.** Subdivision 1. Minnesota Statutes 1978, Sections 609.22 and 609.225, are repealed.

Subd. 2. Minnesota Statutes 1978, Sections 246.43 and 609.116, are repealed. The sections hereby repealed shall continue to be applicable to any person with respect to acts committed prior to the effective date of this subdivision.

Sec. 26. **EFFECTIVE DATE.** Subdivision 1. Sections 1 to 24 and section 25, subdivision 1 are effective August 1, 1979 and apply to all offenses committed on or after that date and to all persons convicted of a crime committed on or after that date.

Subd. 2. Section 25, subdivision 2, is effective the day following final enactment and applies to all offenses committed on or after that date and to all persons convicted of a sex crime committed on or after that date.

Approved May 29, 1979.

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