

Sec. 6. **EFFECTIVE DATE.**

This act is effective the day following final enactment.

Approved March 25, 1986

---

**CHAPTER 435—S.F.No. 1014**

*An act relating to crimes; providing for prosecution by city attorneys of certain misdemeanors; defining escape from a juvenile correctional facility as a delinquent act; reinstating the sheriff's contingent fund for drug and alcohol-violation investigation; permitting six-member juries in gross misdemeanor cases; permitting the imposition of fines and minimum probation periods on persons placed on probation; expanding the crime of theft to cover diversions of corporate property and unlawful distributions; amending Minnesota Statutes 1984, sections 160.27, subdivision 5; 260.015, subdivision 5; 260.125, subdivision 3; 593.01, subdivision 2; 609.13, subdivision 1; 609.135, subdivisions 2 and 4; and 611.033; and Minnesota Statutes 1985 Supplement, sections 609.135, subdivision 1; and 609.52, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 387 and 611A.*

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

Section 1. Minnesota Statutes 1984, section 160.27, subdivision 5, is amended to read:

Subd. 5. **MISDEMEANORS.** Except for the actions of the road authorities, their agents, employees, contractors, and utilities in carrying out their duties imposed by law or contract, and except as herein provided, it shall be unlawful to:

- (1) Obstruct any highway or deposit snow or ice thereon;
- (2) Plow or perform any other detrimental operation within the road right of way except in the preparation of the land for planting a perennial hay crop, and the harvesting of said crop;
- (3) Erect a fence on the right of way of a trunk highway, county state-aid highway, county highway or town road, except to erect a lane fence to the ends of a livestock pass;
- (4) Dig any holes in any highway; except to locate markers placed to identify sectional corner positions and private boundary corners.
- (5) Remove any earth, gravel or rock from any highway;
- (6) Obstruct any ditch draining any highway or drain any noisome materials into any ditch;

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(7) Place or maintain any building or structure within the limits of any highway;

(8) Place or maintain any advertisement within the limits of any highway;

(9) Paint, print, place, or affix any advertisement or any object within the limits of any highway;

(10) Deface, mar, damage, or tamper with any structure, work, material, equipment, tools, signs, markers, signals, paving, guardrails, drains, or any other highway appurtenance on or along any highway;

(11) Remove, injure, displace, or destroy right of way markers, or reference or witness monuments, or markers placed to preserve section or quarter section corners;

(12) Improperly place or fail to place warning signs and detour signs as provided by law;

(13) Drive over, through, or around any barricade, fence, or obstruction erected for the purpose of preventing traffic from passing over a portion of a highway closed to public travel or to remove, deface, or damage any such barricade, fence, or obstruction.

~~Violations hereof shall be prosecuted by the county attorney of the county where the violations occur. Any person convicted of such violations shall be guilty of violation of this subdivision is a misdemeanor.~~

Sec. 2. Minnesota Statutes 1984, section 260.015, subdivision 5, is amended to read:

Subd. 5. **DELINQUENT CHILD.** "Delinquent child" means a child:

(a) Who has violated any state or local law, except as provided in section 260.193, subdivision 1, and except for juvenile offenders as described in subdivisions 19 to 23; or

(b) Who has violated a federal law or a law of another state and whose case has been referred to the juvenile court if the violation would be an act of delinquency if committed in this state or a crime or offense if committed by an adult; or

(c) Who has escaped from confinement to a state juvenile correctional facility after being committed to the custody of the commissioner of corrections.

Sec. 3. Minnesota Statutes 1984, section 260.125, subdivision 3, is amended to read:

Subd. 3. A prima facie case that the public safety is not served or that the child is not suitable for treatment shall have been established if the child was at least 16 years of age at the time of the alleged offense and:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(1) Is alleged by delinquency petition to have committed an aggravated felony against the person and (a) in committing the offense, the child acted with particular cruelty or disregard for the life or safety of another; or (b) the offense involved a high degree of sophistication or planning by the juvenile; or

(2) Is alleged by delinquency petition to have committed murder in the first degree; or

(3) Is alleged by delinquency petition (a) to have committed the delinquent act of escape from confinement to a state juvenile correctional facility and (b) to have committed an offense as part of, or subsequent to, escape from custody that would be a felony listed in section 609.11, subdivision 9, if committed by an adult; or

~~(3)~~ (4) Has been found by the court, pursuant to an admission in court or after trial, to have committed an offense within the preceding 24 months which would be a felony if committed by an adult, and is alleged by delinquency petition to have committed murder in the second or third degree, manslaughter in the first degree, criminal sexual conduct in the first degree or assault in the first degree; or

~~(4)~~ (5) Has been found by the court, pursuant to an admission in court or after trial, to have committed two offenses, not in the same behavioral incident, within the preceding 24 months which would be felonies if committed by an adult, and is alleged by delinquency petition to have committed manslaughter in the second degree, kidnapping, criminal sexual conduct in the second degree, arson in the first degree, aggravated robbery, or assault in the second degree; or

~~(5)~~ (6) Has been found by the court, pursuant to an admission in court or after trial, to have committed two offenses, not in the same behavioral incident, within the preceding 24 months, one or both of which would be the felony of burglary of a dwelling if committed by an adult, and the child is alleged by the delinquency petition to have committed another burglary of a dwelling. For purposes of this subdivision, "dwelling" means a building which is, in whole or in part, usually occupied by one or more persons living there at night; or

~~(6)~~ (7) Has previously been found by the court, pursuant to an admission in court or after trial, to have committed three offenses, none in the same behavioral incident, within the preceding 24 months which would be felonies if committed by an adult, and is alleged by delinquency petition to have committed any felony other than those described in ~~clauses~~ clause (2), ~~(3) or~~ (4), or (5).

For the purposes of this subdivision, "aggravated felony against the person" means a violation of any of the following provisions: sections 609.185; 609.19; 609.195; 609.20, subdivision 1 or 2; 609.221; 609.222; 609.223; 609.245; 609.25; 609.342; 609.343; 609.344, clause (c) or (d); 609.345, clause (c) or (d); 609.561; 609.58, subdivision 2, clause (b); or 609.713.

#### Sec. 4. [387.213] SHERIFF'S CONTINGENT FUND FOR DRUG AND ALCOHOL INVESTIGATIONS.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

A sheriff's contingent fund is created in each county to be kept by the county treasurer as all other county funds. One-fourth of all money paid into the county treasury on account of fines imposed for violation of the provisions of chapter 152 or 340A shall be credited to this contingent fund. The sheriff may expend money from this fund for the purpose of investigating and securing evidence of violations of chapters 152 and 340A. Money may be withdrawn from the fund by the sheriff upon the order of the district court after application. At the close of the fiscal year any money in the fund in excess of \$5,000 shall be transferred into the general fund.

Sec. 5. Minnesota Statutes 1984, section 593.01, subdivision 2, is amended to read:

Subd. 2. The provisions of subdivision 1, as to the number of jurors ~~does~~ do not apply to a criminal action where the offense charged is a ~~gross misdemeanor or~~ a felony. In that event the petit jury is a body of 12 persons, unless the defendant consents to a jury of six.

Sec. 6. Minnesota Statutes 1984, section 609.13, subdivision 1, is amended to read:

Subdivision 1. Notwithstanding a conviction is for a felony:

(1) The conviction is deemed to be for a misdemeanor or a gross misdemeanor if the sentence imposed is within the limits provided by law for a misdemeanor or gross misdemeanor as defined in section 609.02; or

(2) The conviction is deemed to be for a misdemeanor if the imposition of the prison sentence is stayed, the defendant is placed on probation, and he is thereafter discharged without a prison sentence.

Sec. 7. Minnesota Statutes 1985 Supplement, section 609.135, subdivision 1, is amended to read:

Subdivision 1. **TERMS AND CONDITIONS.** Except when a sentence of life imprisonment is required by law, or when a mandatory minimum term of imprisonment is required by section 609.11, any court may stay imposition or execution of sentence and (a) may order noninstitutional sanctions without placing the defendant on probation, or (b) may place the defendant on probation with or without supervision and on the terms the court prescribes, including noninstitutional sanctions when practicable. The court may order the supervision to be under the probation officer of the court, or, if there is none and the conviction is for a felony or gross misdemeanor, by the commissioner of corrections, or in any case by some other suitable and consenting person. No noninstitutional sanction may be ordered performed at a location that fails to observe applicable requirements or standards of chapter 181A or 182, or any rule promulgated under them. For purposes of this subdivision, subdivision 6, and section 609.14, the term "noninstitutional sanctions" includes but is not limited to restitution, fines, community work service, and work in lieu of or to work off fines.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

A court may not stay the revocation of the driver's license of a person convicted of violating the provisions of section 169.121.

Sec. 8. Minnesota Statutes 1984, section 609.135, subdivision 2, is amended to read:

Subd. 2. (1) In case the conviction is for a felony such stay shall be for not more than three years or the maximum period for which the sentence of imprisonment might have been imposed, whichever is longer.

(2) In case the conviction is for a misdemeanor the stay shall not be for more than one year.

(3) In case the conviction is for a gross misdemeanor the stay shall not be for more than two years.

(4) At the expiration of such stay, unless the stay has been revoked or the defendant discharged prior thereto, the defendant shall be discharged.

Sec. 9. Minnesota Statutes 1984, section 609.135, subdivision 4, is amended to read:

Subd. 4. The court may, as a condition of probation, require the defendant to serve up to one year incarceration in a county jail, a county regional jail, a county workfarm, county workhouse or other local correctional facility, or require the defendant to pay a fine, or both. The court may allow the defendant the work release privileges of section 631.425 during the period of incarceration.

Sec. 10. Minnesota Statutes 1985 Supplement, section 609.52, subdivision 2, is amended to read:

Subd. 2. **ACTS CONSTITUTING THEFT.** Whoever does any of the following commits theft and may be sentenced as provided in subdivision 3:

(1) intentionally and without claim of right takes, uses, transfers, conceals or retains possession of movable property of another without his consent and with intent to deprive the owner permanently of possession of the property; or

(2) having a legal interest in movable property, intentionally and without consent, takes the property out of the possession of a pledgee or other person having a superior right of possession, with intent thereby to deprive the pledgee or other person permanently of the possession of the property; or

(3) obtains for himself or another the possession, custody or title to property or performance of services by a third person by intentionally deceiving him with a false representation which is known to be false, made with intent to defraud, and which does defraud the person to whom it is made. "False representation" includes without limitation:

(a) the issuance of a check, draft, or order for the payment of money or the

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

delivery of property knowing that he is not entitled to draw upon the drawee therefor or to order the payment or delivery thereof; or

(b) a promise made with intent not to perform. Failure to perform is not evidence of intent not to perform unless corroborated by other substantial evidence; or

(c) the unauthorized use of a financial transaction card, or the number thereof, or other identification device issued by an organization to a person for use in purchasing goods or services on credit; or

(d) the preparation or filing of a claim for reimbursement, a rate application, or a cost report used to establish a rate or claim for payment for medical care provided to a recipient of medical assistance under chapter 256B, which intentionally and falsely states the costs of or actual services provided by a vendor of medical care; or

(4) by swindling, whether by artifice, trick, device, or any other means, obtains property or services from another person; or

(5) intentionally commits any of the acts listed in this subdivision but with intent to exercise temporary control only and;

(a) the control exercised manifests an indifference to the rights of the owner or the restoration of the property to him; or

(b) he pledges or otherwise attempts to subject the property to an adverse claim; or

(c) he intends to restore the property only on condition that the owner pay a reward or buy back or make other compensation; or

(6) finds lost property and, knowing or having reasonable means of ascertaining the true owner, appropriates it to his own use or to that of another not entitled thereto without first having made reasonable effort to find the owner and offer and surrender the property to him; or

(7) intentionally obtains property or services, offered upon the deposit of a sum of money or tokens in a coin or token operated machine or other receptacle, without making the required deposit or otherwise obtaining the consent of the owner; or

(8) intentionally and without claim of right converts any article representing a trade secret, knowing it to be such, to his own use or that of another person or makes a copy of an article representing a trade secret, knowing it to be such, and intentionally and without claim of right converts the same to his own use or that of another person. It shall be a complete defense to any prosecution under this clause for the defendant to show that information comprising the trade secret was rightfully known or available to him from a source other than the owner of the trade secret; or

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(9) leases or rents personal property under a written instrument and who with intent to place the property beyond the control of the lessor conceals or aids or abets the concealment of the property or any part thereof, or any lessee of the property who sells, conveys or encumbers the property or any part thereof without the written consent of the lessor, without informing the person to whom he sells, conveys, or encumbers that the same is subject to such lease and with intent to deprive the lessor of possession thereof. Evidence that a lessee used a false or fictitious name or address in obtaining the property or fails or refuses to return the property to lessor within five days after written demand for the return has been served personally in the manner provided for service of process of a civil action or sent by certified mail to the last known address of the lessee, whichever shall occur later, shall be evidence of intent to violate this clause. Service by certified mail shall be deemed to be complete upon deposit in the United States mail of such demand, postpaid and addressed to the person at the address for the person set forth in the lease or rental agreement, or, in the absence of the address, to the person's last known place of residence; or

(10) alters, removes or obliterates numbers or symbols placed on movable property for purpose of identification by the owner or person who has legal custody or right to possession thereof with the intent to prevent identification, if the person who alters, removes or obliterates the numbers or symbols is not the owner and does not have the permission of the owner to make the alteration, removal or obliteration; or

(11) with the intent to prevent the identification of property involved, so as to deprive the rightful owner of possession thereof, alters or removes any permanent serial number, permanent distinguishing number or manufacturer's identification number on personal property or possesses, sells or buys any personal property with knowledge that the permanent serial number, permanent distinguishing number or manufacturer's identification number has been removed or altered; or

(12) intentionally deprives another of a lawful charge for cable television service by

(i) making or using or attempting to make or use an unauthorized external connection outside the individual dwelling unit whether physical, electrical, acoustical, inductive or other connection, or by

(ii) attaching any unauthorized device to any cable, wire, microwave, or other component of a licensed cable communications system as defined in chapter 238. Nothing herein shall be construed to prohibit the electronic video rerecording of program material transmitted on the cable communications system by a subscriber for fair use as defined by Public Law Number 94-553, section 107; or

(13) except as provided in paragraphs (12) and (14), obtains the services of another with the intention of receiving those services without making the agreed or reasonably expected payment of money or other consideration; or

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(14) intentionally deprives another of a lawful charge for telecommunications service by:

(i) making, using, or attempting to make or use an unauthorized connection whether physical, electrical, by wire, microwave, radio or other means to a component of a local telecommunication system as provided in chapter 237; or

(ii) attaching an unauthorized device to a cable, wire, microwave, radio or other component of a local telecommunication system as provided in chapter 237.

The existence of an unauthorized connection is prima facie evidence that the occupier of the premises:

(i) made or was aware of the connection; and

(ii) was aware that the connection was unauthorized; or

(15) with intent to defraud, diverts corporate property other than in accordance with general business purposes or for purposes other than those specified in the corporation's articles of incorporation; or

(16) with intent to defraud, authorizes or causes a corporation to make a distribution in violation of section 302A.551, or any other state law in conformity with it.

Sec. 11. Minnesota Statutes 1984, section 611.033, is amended to read:

#### 611.033 COPY OF CONFESSION OR ADMISSION.

A statement, confession, or admission in writing shall not be received in evidence in any criminal proceeding against any defendant unless within a reasonable time of the taking thereof the defendant 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 or made available to the accused. Nothing in this section requires that a videotape, audiotape, or transcript of a tape be given to the defendant at the time the statement, confession, or admission is made or within a reasonable time thereafter, provided that the videotape or audiotape is available to the defendant or the defendant's attorney for review within a reasonable time of the defendant's arrest, as well as in discovery pursuant to the rules of criminal procedure.

#### Sec. 12. [611A.033] SPEEDY TRIAL; NOTICE OF SCHEDULE CHANGE.

(a) A victim has the right to request that the prosecutor make a demand under rule 11.10 of the Rules of Criminal Procedure that the trial be commenced within 60 days of the demand. The prosecutor shall make reasonable efforts to comply with the victim's request.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.



(b) A prosecutor shall make reasonable efforts to provide advance notice of any change in the schedule of the court proceedings to a victim who has been subpoenaed or requested to testify.

Sec. 13. [611A.034] SEPARATE WAITING AREAS IN COURTHOUSE.

The court shall provide a waiting area for victims during court proceedings which is separate from the waiting area used by the defendant, the defendant's relatives, and defense witnesses, if such a waiting area is available and its use is practical. If a separate waiting area for victims is not available or practical, the court shall provide other safeguards to minimize the victim's contact with the defendant, the defendant's relatives, and defense witnesses during court proceedings.

Approved March 25, 1986

---

CHAPTER 436—S.F.No. 1850

*An act relating to state government; expanding when fiscal notes must be prepared; regulating fees for state agency services; providing conditions for certain hydropower developments; amending Minnesota Statutes 1984, section 105.482, subdivisions 8 and 9; and Minnesota Statutes 1985 Supplement, sections 3.981, subdivision 2; 16A.128; and 16A.1281.*

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

Section 1. Minnesota Statutes 1985 Supplement, section 3.981, subdivision 2, is amended to read:

Subd. 2. **COSTS MANDATED BY THE STATE.** "Costs mandated by the state" means increased costs that a local agency or a school district is required to incur as a result of:

(a) a law enacted after June 30, 1985, which mandates a new program or an increased level of service of an existing program;

(b) an executive order issued after June 30, 1985, which mandates a new program;

(c) an executive order issued after June 30, 1985, which implements or interprets a state statute and, by this implementation or interpretation, increases program levels above the levels required before July 1, 1985;

(d) a statute enacted after June 30, 1985, or executive order issued after June 30, 1985, which implements or interprets a federal statute or regulation and, by this implementation or interpretation, increases program or service levels above the levels required by this federal statute or regulation;

Changes or additions are indicated by underline, deletions by ~~strikeout~~.