

(b) As used in the subdivision, "vintage wine" means bottled wine which is at least ten years old.

Sec. 4. EFFECTIVE DATE.

This act is effective the day following final enactment.

Approved May 29, 1987

CHAPTER 329—H.F.No. 384

An act relating to crimes; providing for prosecution of certain gross misdemeanor violations; increasing the maximum fine for petty misdemeanor violations; creating a gross misdemeanor crime of damage to property; creating the crimes of check forgery and offering a forged check; increasing the maximum bail for certain misdemeanors and gross misdemeanors; prescribing penalties; amending Minnesota Statutes 1986, sections 171.07, subdivision 1a; 487.25, subdivision 10; 609.02, subdivision 4a; 609.224, subdivision 2; 609.52; 609.595; 609.625; 609.821; 626A.05, subdivision 2; 629.34, subdivision 1; and 629.47; proposing coding for new law in Minnesota Statutes, chapters 609 and 629.

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

Section 1. Minnesota Statutes 1986, section 171.07, subdivision 1a, is amended to read:

Subd. 1a. **PHOTOGRAPHIC NEGATIVES; FILING; DATA CLASSIFICATION.** The department shall file, or contract to file, all photographic negatives obtained in the process of issuing driver licenses or Minnesota identification cards. The negatives shall be private data pursuant to section 13.02, subdivision 12. Notwithstanding section 13.04, subdivision 3, the department shall not be required to provide copies of photographic negatives to data subjects. The use of the files is restricted to the issuance and control of driver licenses and for law enforcement purposes in the investigation and prosecution of felonies and violations of section 169.09_;

169.121_; 169.123_; 169.129_; 171.22_; 171.24_; 171.30_; ~~or 609.41~~; 609.487, subdivision 3; section 13, subdivision 4, clause (3); or 609.821, subdivision 3, clause (1), item (iv), and clause (3).

Sec. 2. Minnesota Statutes 1986, section 487.25, subdivision 10, is amended to read:

Subd. 10. **PROSECUTING ATTORNEYS.** Except as otherwise provided by law, violations of state law that are petty misdemeanors or misdemeanors must be prosecuted by the attorney of the statutory or home rule charter city where the violation is alleged to have occurred. In cities of the first, second, and third class, gross misdemeanor violations of sections 609.52, 609.595, section 13, and 609.821 must be prosecuted by the attorney of the city where the

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violation is alleged to have occurred. The statutory or home rule charter city may enter into an agreement with the county board and the county attorney to provide prosecution services for any criminal offense. All other petty misdemeanors ~~and~~, misdemeanors, ~~and~~ gross misdemeanors must be prosecuted by the county attorney of the county in which the alleged violation occurred. All violations of a municipal ordinance, charter provision, rule, or regulation must be prosecuted by the attorney for the governmental unit that promulgated the municipal ordinance, charter provision, rule, or regulation or by the county attorney with whom it has contracted to prosecute these matters.

In the counties of Anoka, Carver, Dakota, Scott, and Washington, violations of state law that are petty misdemeanors, misdemeanors, or gross misdemeanors except as provided in section 388.051, subdivision 2, must be prosecuted by the attorney of the statutory or home rule charter city where the violation is alleged to have occurred. The statutory or home rule charter city may enter into an agreement with the county board and the county attorney to provide prosecution services for any criminal offense. All other petty misdemeanors, misdemeanors, or gross misdemeanors must be prosecuted by the county attorney of the county in which the alleged violation occurred. All violations of a municipal ordinance, charter provision, rule, or regulation must be prosecuted by the attorney for the governmental unit that promulgated the municipal ordinance, charter provision, rule, or regulation or by the county attorney with whom it has contracted to prosecute these matters.

Sec. 3. Minnesota Statutes 1986, section 609.02, subdivision 4a, is amended to read:

Subd. 4a. **PETTY MISDEMEANOR.** "Petty misdemeanor" means a petty offense which is prohibited by statute, which does not constitute a crime and for which a sentence of a fine of not more than ~~\$100~~ \$200 may be imposed.

Sec. 4. **[609.0331] INCREASED MAXIMUM PENALTIES FOR PETTY MISDEMEANORS.**

Except as provided in this section, a law of this state that provides, on or after August 1, 1987, for a maximum penalty of \$100 for a petty misdemeanor is considered to provide for a maximum fine of \$200. However, a petty misdemeanor under section 152.15, subdivision 2, clause (5), or chapter 168 or 169 remains subject to a maximum fine of \$100, except that a violation of chapter 168 or 169 that was originally charged as a misdemeanor and is being treated as a petty misdemeanor under section 6 or the rules of criminal procedure is subject to a maximum fine of \$200.

Sec. 5. **[609.0332] INCREASED MAXIMUM PENALTY FOR PETTY MISDEMEANOR ORDINANCE VIOLATIONS.**

Subdivision 1. INCREASED FINE. From August 1, 1987, if a state law or municipal charter sets a limit of \$100 or less on the fines that a statutory or home rule charter city, town, county, or other political subdivision may prescribe for an ordinance violation that is defined as a petty misdemeanor, that law or charter is considered to provide that the political subdivision has the

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power to prescribe a maximum fine of \$200 for the petty misdemeanor violation.

Subd. 2. EXCEPTION. Notwithstanding subdivision 1, no fine of more than \$100 may be imposed for a petty misdemeanor ordinance violation which conforms in substantial part to a petty misdemeanor provision contained in section 152.15, subdivision 2, clause (5), or chapter 168 or 169.

Sec. 6. [609.131] CERTIFICATION OF MISDEMEANOR AS PETTY MISDEMEANOR.

Subdivision 1. GENERAL RULE. Except as provided in subdivision 2, an alleged misdemeanor violation must be treated as a petty misdemeanor if the prosecuting attorney believes that it is in the interest of justice that the defendant not be imprisoned if convicted and certifies that belief to the court at or before the time of arraignment or pretrial hearing, and the court approves of the certification motion. The defendant's consent to the certification is not required. When an offense is certified as a petty misdemeanor under this section, the defendant's eligibility for court-appointed counsel must be evaluated as though the offense were a misdemeanor.

Subd. 2. CERTAIN VIOLATIONS EXCEPTED. Subdivision 1 does not apply to a misdemeanor violation of section 169.121; 609.224; 609.226; 609.324, subdivision 3; 609.52; or 617.23, or an ordinance that conforms in substantial part to any of those sections. A violation described in this subdivision must be treated as a misdemeanor unless the defendant consents to the certification of the violation as a petty misdemeanor.

Subd. 3. USE OF CONVICTION FOR ENHANCEMENT. Notwithstanding any other law, a conviction for a violation that was originally charged as a misdemeanor and was treated as a petty misdemeanor under subdivision 1 or the rules of criminal procedure may not be used as the basis for charging a subsequent violation as a gross misdemeanor rather than a misdemeanor.

Sec. 7. Minnesota Statutes 1986, section 609.224, subdivision 2, is amended to read:

Subd. 2. GROSS MISDEMEANOR. (a) Whoever violates the provisions of subdivision 1 against the same victim within five years of a previous conviction under subdivision 1 or sections 609.221 to ~~609.223~~ 609.2231 may be sentenced to imprisonment for not more than one year or to a payment of a fine of not more than \$3,000, or both.

(b) Whoever violates the provisions of subdivision 1 within two years of a previous conviction under subdivision 1 or sections 609.221 to 609.2231 may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

Sec. 8. Minnesota Statutes 1986, section 609.52, subdivision 1, is amended to read:

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Subdivision 1. **DEFINITIONS.** In this section:

(1) "Property" means all forms of tangible property, whether real or personal, without limitation including documents of value, electricity, gas, water, corpses, domestic animals, dogs, pets, fowl, and heat supplied by pipe or conduit by municipalities or public utility companies and articles, as defined in clause (4), representing trade secrets, which articles shall be deemed for the purposes of Extra Session Laws 1967, chapter 15 to include any trade secret represented by the article.

(2) "Movable property" is property whose physical location can be changed, including without limitation things growing on, affixed to or found in land.

(3) "Value" means the retail market value at the time of the theft, or if the retail market value cannot be ascertained, the cost of replacement of the property within a reasonable time after the theft, or in the case of a theft or the making of a copy of an article representing a trade secret, where the retail market value or replacement cost cannot be ascertained, any reasonable value representing the damage to the owner which the owner has suffered by reason of losing an advantage over those who do not know of or use the trade secret. For a theft committed within the meaning of subdivision 2, clause (5), (a) and (b), if the property has been restored to the owner, "value" means the value of the use of the property or the damage which it sustained, whichever is greater, while the owner was deprived of its possession, but not exceeding the value otherwise provided herein.

(4) "Article" means any object, material, device or substance, including any writing, record, recording, drawing, sample specimen, prototype, model, photograph, microorganism, blueprint or map, or any copy of any of the foregoing.

(5) "Representing" means describing, depicting, containing, constituting, reflecting or recording.

(6) "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

(i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and

(ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

(7) "Copy" means any facsimile, replica, photograph or other reproduction of an article, and any note, drawing or sketch made of or from an article while in the presence of the article.

(8) "Property of another" includes property in which the actor is coowner or has a lien, pledge, bailment, or lease or other subordinate interest, and property of a partnership of which the actor is a member, unless the actor and the victim

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are husband and wife. It does not include property in which the actor asserts in good faith a claim as a collection fee or commission out of property or funds recovered, or by virtue of a lien, set-off, or counterclaim.

(9) "Services" include but are not limited to labor, professional services, transportation services, electronic computer services, the supplying of hotel accommodations, restaurant services, entertainment services, advertising services, telecommunication services, and the supplying of equipment for use.

(10) "~~Financial transaction card~~" means any instrument or device, whether known as a credit card, credit plate, charge plate, courtesy card, bank services card, banking card, check guarantee card, debit card, or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining credit, money, goods, services, or anything else of value.

Sec. 9. Minnesota Statutes 1986, 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 the other's 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 the actor or another the possession, custody or title to property of or performance of services by a third person by intentionally deceiving the third person 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, except a forged check as defined in section 13, or the delivery of property knowing that the actor 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~~

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(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 the owner; or

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

(c) the actor 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 the finder's 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 the owner; 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 the actor's 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 the actor's 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 the defendant from a source other than the owner of the trade secret; or

(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 the lessee 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

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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

(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

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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. 10. Minnesota Statutes 1986, 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 \$20,000, or both, if the value of the property or services stolen exceeds \$2,500, or if the property stolen was a controlled substance listed in schedule 1 or 2 pursuant to section 152.02 with the exception of marijuana; or

(2) To imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if:

(a) the value of the property or services stolen is more than \$250 \$500 but not more than \$2,500; or

(b) ~~if~~ the property stolen was a controlled substance listed in schedule 3, 4, or 5 pursuant to section 152.02; or

(c) the value of the property or services stolen is more than \$200 but not more than \$500 and the person has been convicted within the preceding five years for an offense under this section, section 609.24; 609.245; 609.53; 609.582, subdivision 1, 2, or 3; 609.625; 609.63; section 13; or 609.821, or a statute from another state in conformity with any of those sections, and the person received a felony or gross misdemeanor sentence for the offense, or a sentence that was stayed under section 609.135 if the offense to which a plea was entered would allow imposition of a felony or gross misdemeanor sentence; or

(3) To imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, notwithstanding the value of the property or services stolen is not more than ~~\$250~~ \$200, if any of the following circumstances exist:

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(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 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 consists of public funds belonging to the state or to any political subdivision or agency thereof; or

(e) The property is a firearm; or

(4) To imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both, if the property stolen is an article representing a trade secret; or if the property stolen is an explosive or an incendiary device; or

(5) To imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both, if the value of the property or services stolen is more than \$200 but not more than \$500; or

(6) In all other cases where the value of the property or services stolen is ~~\$250~~ \$200 or less, to imprisonment for not more than 90 days or to payment of a fine of not more than \$700, or both, provided, however, in any prosecution under clauses (1), (2), (3), (4), and (13) of subdivision 2 the value of the money or property or services 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. 11. Minnesota Statutes 1986, section 609.595, is amended to read:

609.595 DAMAGE TO PROPERTY.

Subdivision 1. **AGGRAVATED CRIMINAL DAMAGE TO PROPERTY IN THE FIRST DEGREE.** Whoever intentionally causes damage to physical property of another without the latter's consent may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if:

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

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(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~~ \$500 measured by the cost of repair and replacement; or

(4) the damage reduces the value of the property by more than \$250 measured by the cost of repair and replacement and the defendant has been convicted within the preceding three years of an offense under this subdivision or subdivision 2.

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.

Subd. 2. CRIMINAL DAMAGE TO PROPERTY IN THE SECOND DEGREE. (a) Whoever intentionally ~~so~~ causes ~~such~~ damage under any other circumstances is guilty of a misdemeanor to another person's physical property without the other person's consent may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both, if the damage reduces the value of the property by more than \$250 but not more than \$500 as measured by the cost of repair and replacement.

(b) In any prosecution under paragraph (a), the value of 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 this section. 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.

Subd. 3. CRIMINAL DAMAGE TO PROPERTY IN THE THIRD DEGREE. Whoever intentionally causes damage described in subdivision 2 under any other circumstances is guilty of a misdemeanor.

Sec. 12. Minnesota Statutes 1986, section 609.625, is amended to read:

609.625 AGGRAVATED FORGERY.

Subdivision 1. MAKING OR ALTERING WRITING OR OBJECT. Whoever, with intent to defraud, falsely makes or alters a writing or object of any of the following kinds so that it purports to have been made by another or by the maker or alterer under an assumed or fictitious name, or at another time, or with different provisions, or by authority of one who did not give such authority, is guilty of aggravated forgery and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both:

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(1) a writing or object whereby, when genuine, legal rights, privileges, or obligations are created, terminated, transferred, or evidenced, or any writing normally relied upon as evidence of debt or property rights, other than a check as defined in section 13 or a financial transaction card as defined in section 609.821; or

(2) an official seal or the seal of a corporation; or

(3) a public record or an official authentication or certification of a copy thereof; or

(4) an official return or certificate entitled to be received as evidence of its contents; or

(5) a court order, judgment, decree, or process; or

(6) the records or accounts of a public body, office, or officer; or

(7) the records or accounts of a bank or person, with whom funds of the state or any of its agencies or subdivisions are deposited or entrusted, relating to such funds; or

~~(8) a financial transaction card as defined in section 609.52.~~

Subd. 2. **MEANS FOR FALSE REPRODUCTION.** Whoever, with intent to defraud, makes, engraves, possesses or transfers a plate or instrument for the false reproduction of a writing or object mentioned in subdivision 1, a check as defined in section 13, or a financial transaction card as defined in section 609.821, may be sentenced as provided in subdivision 1.

Subd. 3. **UTTERING OR POSSESSING.** Whoever, with intent to defraud, utters or possesses with intent to utter any forged writing or object mentioned in subdivision 1, not including a check as defined in section 13 or a financial transaction card as defined in section 609.821, knowing it to have been so forged, may be sentenced as provided in subdivision 1.

Sec. 13. **[609.631] CHECK FORGERY; OFFERING A FORGED CHECK.**

Subdivision 1. DEFINITIONS. (a) The definitions in this subdivision apply to this section.

(b) "Check" means a check, draft, order of withdrawal, or similar negotiable or nonnegotiable instrument.

(c) "Property" and "services" have the meanings given in section 609.52.

Subd. 2. CHECK FORGERY; ELEMENTS. A person who, with intent to defraud, falsely makes or alters a check so that it purports to have been made by another or by the maker under an assumed or fictitious name, or at another time, or with different provisions, or by the authority of one who did not give authority, is guilty of check forgery and may be sentenced as provided in subdivision 4.

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Subd. 3. OFFERING A FORGED CHECK; ELEMENTS. A person who, with intent to defraud, offers, or possesses with intent to offer, a forged check, whether or not it is accepted, is guilty of offering a forged check and may be sentenced as provided in subdivision 4.

Subd. 4. SENTENCING. A person who is convicted under subdivision 2 or 3 may be sentenced as follows:

(1) to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both, if the forged check or checks are used to obtain or in an attempt to obtain, property or services of more than \$2,500 or the aggregate amount of the forged check or checks is more than \$2,500;

(2) to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if:

(a) the forged check or checks are used to obtain or in an attempt to obtain, property or services of more than \$200 but not more than \$2,500, or the aggregate face amount of the forged check or checks is more than \$200 but not more than \$2,500; or

(b) the forged check or checks are used to obtain or in an attempt to obtain, property or services of no more than \$200, or have an aggregate face value of no more than \$200, and the person has been convicted within the preceding five years for an offense under this section, section 609.24; 609.245; 609.52; 609.53; 609.582, subdivision 1, 2, or 3; 609.625; 609.63; or 609.821, or a statute from another state in conformity with any of those sections, and the person received a felony or gross misdemeanor sentence for the offense, or a sentence that was stayed under section 609.135 if the offense to which a plea was entered would allow imposition of a felony or gross misdemeanor sentence; and

(3) to imprisonment for not more than one year or to a fine of not more than \$3,000, or both, if the forged check or checks are used to obtain or in an attempt to obtain, property or services of no more than \$200, or the aggregate face amount of the forged check or checks is no more than \$200.

In any prosecution under this subdivision, the value of the checks forged or offered by the defendant in violation of this subdivision within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this section. 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 checks was forged or offered for all of the offenses aggregated under this paragraph.

Sec. 14. Minnesota Statutes 1986, section 609.821, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** For the purposes of this section, the following terms have the meanings given them:

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(a) "Financial transaction card" or "card" ~~has the meaning given in section 609.52~~ means any instrument or device, whether known as a credit card, credit plate, charge plate, courtesy card, bank services card, banking card, check guarantee card, debit card, or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining credit, money, goods, services, or anything else of value, and includes the account or identification number or symbol of a financial transaction card.

(b) "Cardholder" means a person in whose name a card is issued.

(c) "Issuer" means a person or firm, or a duly authorized agent, that issues a financial transaction card.

(d) "Property" includes money, goods, services, or anything else of value.

Sec. 15. Minnesota Statutes 1986, section 609.821, subdivision 2, is amended to read:

Subd. 2. **VIOLATIONS; PENALTIES.** A person who does any of the following commits financial transaction card fraud:

(1) without the consent of the cardholder, and knowing that the cardholder has not given consent, uses or attempts to use a card to obtain the property of another;

(2) uses or attempts to use a card knowing it to be forged, false, fictitious, or obtained in violation of clause (6);

(3) sells or transfers a card knowing that the cardholder and issuer have not authorized the person to whom the card is sold or transferred to use the card, or that the card is forged, false, fictitious, or was obtained in violation of clause (6);

(4) without a legitimate business purpose, and without the consent of the cardholders, receives or possesses, with intent to use, or with intent to sell or transfer in violation of clause (3), two or more cards issued in the name of another, or two or more cards knowing the cards to be forged, false, fictitious, or obtained in violation of clause (6);

(5) being authorized by an issuer to furnish money, goods, services, or anything else of value, knowingly and with an intent to defraud the issuer or the cardholder:

(i) furnishes money, goods, services, or anything else of value upon presentation of a financial transaction card knowing it to be forged, expired, or revoked, or knowing that it is presented by a person without authority to use the card; or

(ii) represents in writing to the issuer that the person has furnished money, goods, services, or anything else of value which has not in fact been furnished;

(6) upon applying for a financial transaction card to an issuer:

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(i) knowingly gives a false name or occupation; or

(ii) knowingly and substantially overvalues assets or substantially undervalues indebtedness for the purpose of inducing the issuer to issue a financial transaction card; or

(7) with intent to defraud, falsely notifies the issuer or any other person of a theft, loss, disappearance, or nonreceipt of a financial transaction card; or

(8) without the consent of the cardholder and knowing that the cardholder has not given consent, falsely alters, makes, or signs any written document pertaining to a card transaction to obtain or attempt to obtain the property of another.

Sec. 16. Minnesota Statutes 1986, section 609.821, subdivision 3, is amended to read:

Subd. 3. SENTENCE. A person who commits financial transaction card fraud may be sentenced as follows:

(1) for a violation of clause (1), (2) ~~or~~, (5), or 8 of subdivision 2; ~~in the manner provided in section 609.52, subdivision 3;~~

(i) to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both, if the value of the property the person obtained or attempted to obtain was more than \$2,500, or the aggregate amount of the transactions under this subdivision was more than \$2,500; or

(ii) to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if the value of the property the person obtained or attempted to obtain was more than \$200 but not more than \$2,500, or the aggregate amount of the transactions under this subdivision was more than \$200 but not more than \$2,500; or

(iii) to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if the value of the property the person obtained or attempted to obtain was not more than \$200, or the aggregate amount of the transactions under this subdivision was not more than \$200, and the person has previously been convicted within the preceding five years for an offense under this section, section 609.24; 609.245; 609.52; 609.53; 609.582, subdivision 1, 2, or 3; 609.625; 609.63; or section 13, or a statute from another state in conformity with any of those sections, and the person received a felony or gross misdemeanor sentence for the offense, or a sentence that was stayed under section 609.135 if the offense to which a plea was entered would allow imposition of a felony or gross misdemeanor sentence; or

(iv) to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both, if the value of the property the person obtained or attempted to obtain was not more than \$200, or the aggregate amount of the transactions under this subdivision was not more than \$200; and

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

(v) in any prosecution under clauses (i) to (iv) of this subdivision, the value of the transactions made or attempted within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this section. 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 card transactions occurred for all of the transactions aggregated under this paragraph;

(2) for a violation of clause (3) or (4) of subdivision 2, to imprisonment for not more than three years or to payment of a fine of not more than \$5,000, or both; or

(3) for a violation of clause (6) or (7) of subdivision 2;

~~(a)~~ (i) if no property, other than a financial transaction card, has been obtained by the defendant by means of the false statement or false report, to imprisonment for not more than ~~90 days~~ one year or to payment of a fine of not more than ~~\$300~~ \$3,000, or both; or

~~(b)~~ (ii) if property, other than a financial transaction card, is so obtained, in the manner provided in ~~section 609.52, subdivision 3~~ clause (1) of this subdivision.

Sec. 17. Minnesota Statutes 1986, section 626A.05, subdivision 2, is amended to read:

Subd. 2. **OFFENSES FOR WHICH INTERCEPTION OF WIRE OR ORAL COMMUNICATION MAY BE AUTHORIZED.** A warrant authorizing interception of wire or oral communications by investigative or law enforcement officers may only be issued when the interception may provide evidence of the commission of gambling or any criminal felony offense involving murder, manslaughter, aggravated assault, aggravated robbery, kidnapping, aggravated rape, prostitution, bribery, perjury, escape from custody, theft, receiving stolen property, embezzlement, burglary, forgery, aggravated forgery, check forgery, financial transaction card fraud, and offenses relating to controlled substances, or an attempt or conspiracy to commit any of these offenses, as punishable under sections 609.185, 609.19, 609.195, 609.20, 609.225, 609.245, 609.25, 609.291, 609.321 to 609.324, 609.42, 609.48, 609.485, subdivision 4, clause (1), 609.52, 609.53, 609.54, 609.58, 609.625, 609.63, section 13, 609.76, 609.821, 609.825, and chapter 152.

Sec. 18. Minnesota Statutes 1986, section 629.34, subdivision 1, is amended to read:

Subdivision 1. **PEACE OFFICERS AND CONSTABLES.** (a) A peace officer, as defined in section 626.84, subdivision 1, clause (c), or a constable, as defined in section 367.40, subdivision 3, who is on or off duty within the jurisdiction of the appointing authority, or on duty outside the jurisdiction of the appointing authority pursuant to section 629.40, may arrest a person without a warrant as provided under paragraph (c).

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(b) A part-time peace officer, as defined in section 626.84, subdivision 1, clause (f), who is on duty within the jurisdiction of the appointing authority, or on duty outside the jurisdiction of the appointing authority pursuant to section 629.40 may arrest a person without a warrant as provided under paragraph (c).

(c) A peace officer, constable, or part-time peace officer who is authorized under paragraph (a) or (b) to make an arrest without a warrant may do so under the following circumstances:

(1) When a public offense has been committed or attempted in the officer's or constable's presence;

(2) When the person arrested has committed a felony, although not in the officer's or constable's presence;

(3) When a felony has in fact been committed, and the officer or constable has reasonable cause for believing the person arrested to have committed it; or

(4) Upon a charge based upon reasonable cause of the commission of a felony by the person arrested; or

(5) Under the circumstances described in clause (2), (3), or (4), when the offense is a gross misdemeanor violation of section 609.52, 609.595, section 13, or 609.821.

(d) To make an arrest authorized under this subdivision, the officer or constable may break open an outer or inner door or window of a dwelling house if, after notice of office and purpose, the officer or constable is refused admittance.

Sec. 19. Minnesota Statutes 1986, section 629.47, is amended to read:

629.47 HEARING OR TRIAL ADJOURNED; RECOGNIZANCE ALLOWED.

Subject to the right of the accused to a speedy trial as prescribed by the rules of criminal procedure, a court may adjourn a hearing or trial from time to time, as the need arises and reconvene it at the same or a different place in the county. During the adjournment, the person being tried may be released in accordance with rule 6.02 of the rules of criminal procedure. ~~The maximum cash bail that may be required for a person charged with a misdemeanor is double the highest cash fine which may be imposed for the offense.~~

Sec. 20. [629.471] MAXIMUM BAIL ON MISDEMEANORS; GROSS MISDEMEANORS.

Subdivision 1. DOUBLE THE FINE. Except as provided in subdivision 2, the maximum cash bail that may be required for a person charged with a misdemeanor or gross misdemeanor offense is double the highest cash fine that may be imposed for that offense.

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

Subd. 2. QUADRUPLE THE FINE. For offenses under sections 169.09, 169.121, 169.129, 518B.01, 609.2231, subdivision 2, 609.224, 609.487, and 609.525, the maximum cash bail that may be required for a person charged with a misdemeanor or gross misdemeanor violation is quadruple the highest cash fine that may be imposed for the offense.

Sec. 21. REVISOR'S INSTRUCTION.

In the next and subsequent editions of Minnesota Statutes the revisor of statutes shall change laws that provide for a maximum fine of \$100 as a penalty for a petty misdemeanor violation to provide for a maximum fine of \$200. The change must be consistent with sections 3 and 4. The maximum fines for a petty misdemeanor under section 152.15, subdivision 2, clause (5), and chapters 168 and 169, must remain \$100 and must not be changed under this section.

Sec. 22. EFFECTIVE DATE.

Sections 1 to 20 are effective August 1, 1987, and apply to crimes committed on or after that date.

Approved May 29, 1987

CHAPTER 330—H.F.No. 391

An act relating to crimes; increasing penalties for distributing controlled substances to a minor or employing a minor to distribute controlled substances; defining measurement and purity requirements of controlled substances for criminal and tax law purposes; amending Minnesota Statutes 1986, sections 152.15, subdivision 1; 297D.01, subdivision 3; and 297D.07; repealing Minnesota Statutes 1986, section 152.15, subdivision 4.

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

Section 1. Minnesota Statutes 1986, section 152.15, subdivision 1, is amended to read:

Subdivision 1. Any person who violates section 152.09, subdivision 1, clause (1) with respect to:

(1) ~~Seven or more grams or ten or more dosage units, when the substance is not sold by weight, of Any controlled substance classified in schedule I or II which is a narcotic drug, or of phencyclidine or any hallucinogen listed in section 152.02, subdivision 2, clause (3), or Minnesota Rules, part 6800.4210, item C, except marijuana or tetrahydrocannabinols, is guilty of a crime and upon conviction may be imprisoned for not more than 20 years or fined not more than \$60,000, or both for a first violation, and for a second or subsequent violation, upon conviction, shall be imprisoned for not less than two years nor more than 30 years or fined not more than \$100,000, or both if:~~

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