

REVISED LAWS OF  
MINNESOTA 94

SUPPLEMENT 1909

CONTAINING

THE AMENDMENTS TO THE REVISED LAWS,  
AND OTHER LAWS OF A GENERAL AND  
PERMANENT NATURE, ENACTED  
BY THE LEGISLATURE IN  
1905, 1907, AND 1909

WITH HISTORICAL AND EXPLANATORY NOTES TO PRIOR STATUTES  
AND FULL AND COMPLETE NOTES OF ALL  
APPLICABLE DECISIONS

COMPILED AND ANNOTATED BY  
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ST. PAUL  
WEST PUBLISHING CO.

1910

LIBEL AND SLANDER.

4916. Libel defined—A misdemeanor.

G. S. 1894, § 6496, cited in *Craig v. Warren*, 99 Minn. 246, 109 N. W. 231.

4918. Publication defined.

**Civil action.**—Whether this section applies to civil actions, *quære*. *Kramer v. Perkins*, 102 Minn. 455, 113 N. W. 1062, 15 L. R. A. (N. S.) 1141.

4920. Reports of proceedings privileged.

Cited in *Nixon v. Dispatch Printing Co.*, 101 Minn. 309, 112 N. W. 258, 12 L. R. A. (N. S.) 188.

CHAPTER 98.

CRIMES AGAINST MORALITY, DECENCY, ETC.

RAPE—ABDUCTION—CARNAL ABUSE, ETC.

4926. Rape.

**Resistance.**—The record does not sufficiently show the specific acts of resistance upon the part of prosecutrix. *State v. Cowing*, 99 Minn. 123, 108 N. W. 851.

**Evidence.**—Evidence held sufficient to sustain conviction. *State v. Zempel*, 103 Minn. 428, 115 N. W. 275.

Evidence held insufficient to establish identity of assailant. *State v. Alton*, 105 Minn. 410, 117 N. W. 617.

— **Corroboration.**—Corroborating testimony held insufficient. *State v. Cowing*, 99 Minn. 123, 108 N. W. 851.

**Instructions.**—Instructions held sufficient. *State v. Zempel*, 103 Minn. 428, 115 N. W. 275.

4927. Carnal knowledge of children.—Every person who shall carnally know and abuse any female child under the age of eighteen years shall be punished as follows:

1. When such child is under the age of ten years, by imprisonment in the state prison for life.

2. When such child is ten and under the age of fourteen years, by imprisonment in the state prison for not less than seven nor more than thirty years.

3. When such child is fourteen and under the age of eighteen years, by imprisonment in the state prison for not more than seven years, or by imprisonment in the county jail for not more than one year. (R. L. § 4927, as amended by Laws 1909, c. 92, § 1.)

4930. Abduction—Evidence.—Every person who—

1. Shall take a female under the age of eighteen years, for the purpose of prostitution or sexual intercourse, or, without the consent of her father, mother, guardian or other person having legal charge of her person, for the purpose of marriage;

2. Shall inveigle or entice an unmarried female under the age of twenty-five years, of previous chaste character, into a house of ill fame or assignation, or elsewhere for the purpose of prostitution or sexual intercourse;

3. Shall take or detain a woman unlawfully against her will, with intent to compel her by force, menace, or duress to marry him or any other person, or to be defiled, or,

4. Being parent, guardian, or other person having legal charge of the person of a female under the age of eighteen years, shall

consent to her taking or detention by any person for the purpose of prostitution or sexual intercourse—

Shall be guilty of abduction and punished by imprisonment in the state prison for not more than five years, or by a fine of not more than one thousand dollars, or both. But no conviction shall be had for abduction or compulsory marriage upon the unsupported testimony of the female abducted or compelled. (R. L. § 4930, as amended by Laws 1909, c. 92, § 2.)

**Taking for purpose of marriage—Female of 15 years.**—G. S. 1894, § 6529, is applicable to females of the age of 15 years notwithstanding that they have the right to marry when they attain that age, because the gist of the offense is taking from custody of the legal guardians and not marrying the child. *State v. Sager*, 99 Minn. 54, 108 N. W. 812.

See section 3553.

— **Indictment.**—It is sufficient to allege the taking for the illegal purpose in the words of the statute. The indictment need not show that the parents had legal charge; the legal custody following. *State v. Sager*, 99 Minn. 54, 108 N. W. 812.

[4930—]1. **Enticement into state for prostitution, etc.**—It shall be unlawful for any person to induce, entice or procure, or attempt to induce, entice or procure to come into this state, any female person for the purpose of prostitution or concubinage, or for any other immoral purpose, or to induce, entice or procure any female person in this state to enter any house of ill fame, assignation or prostitution. ('09 c. 404 § 1)

**Historical.**—“An act to prohibit any person from enticing or bringing any female person into this state for immoral purposes and to prohibit any person from inducing or procuring any female person to enter any house of ill fame, assignation or prostitution and providing a punishment for the violation thereof.” Approved April 22, 1909.

[4930—]2. **Penalty.**—Any person who violates the provisions of this act shall, upon conviction thereof, be punished by imprisonment in the state prison for a period of not more than two years, or by a fine of not less than \$200.00 or more than two thousand dollars. ('09 c. 404 § 2)

**4931. Seduction under promise of marriage—Evidence.**

**Promise of marriage.**—The statute is general in terms and includes any promise absolute or conditional the effect of which is to induce the female to consent to the act of intercourse. *State v. Sortviet*, 100 Minn. 12, 110 N. W. 100.

— **Evidence—Declaration of prosecutrix.**—It is error to permit the prosecuting witness to testify that, soon after the alleged promise, she informed her sister, in the absence of defendant, that he had promised to marry her. *State v. Sortviet*, 100 Minn. 12, 110 N. W. 100.

**Indictment.**—Form approved. *State v. Sortviet*, 100 Minn. 12, 110 N. W. 100.

[4932—]1. **Soliciting boy under 18 to house of ill fame, etc.**—Any person who shall solicit any boy under the age of eighteen years to visit a house of ill fame or assignation for the purpose of prostitution or sexual intercourse, or shall direct or accompany such boy to any such house of ill fame or assignation for such purpose, or shall arrange or assist in arranging any meeting for such purpose between any boy under the age of eighteen years and any female of dissolute character or any inmate of any house of ill fame or assignation, shall be guilty of a felony, and upon conviction thereof shall be punished by imprisonment for not less than six months nor more than five years. ('07 c. 320 § 1)

**Historical.**—“An act to provide a penalty for inviting, directing or accompanying any boy under the age of eighteen years to, or admitting him into a house of ill fame, or arranging any meeting between any such boy and any female of dissolute character.” Approved April 23, 1907.

Section 3 repeals inconsistent acts.

[4932—]2. **Same—Admitting or cohabiting.**—Any keeper of any house of ill fame or assignation who shall for any unlawful pur-

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pose admit to such house any boy under the age of eighteen years, or any female inmate of any such house of ill fame or assignation who shall cohabit with any boy under the age of eighteen years, shall be guilty of a felony, and upon conviction thereof shall be punished by imprisonment for not less than eighteen months nor more than seven years. ('07 c. 320 § 2)

CRIMES AGAINST CHILDREN, ETC.

4934. Failure to support wife or child.

See section [4934—] 1.

[4934—]1. Same—Complaint—Warrant.—On complaint being made to any justice of the peace or judge of any municipal court by the wife of any person accusing such person of wilfully omitting without lawful excuse to furnish proper food, clothing and shelter, or suitable care in case of sickness, to his wife or minor child under fifteen years of age, or upon similar complaint by any member of the board of county commissioners of the county wherein any such wife or minor child resides, the justice or judge shall take such complaint in writing, under the oath of such wife, or of such county commissioner, and shall thereupon issue his warrant against the person accused, directed to the sheriff or constable of his county, commanding him, forthwith, to bring such accused person before the justice or judge to answer such complaint. (Laws 1903, c. 222, § 1, as amended by Laws 1905, c. 217, § 1.)

**Historical.**—“An act to amend section one, chapter two hundred and twenty-two, of the General Laws of nineteen hundred and three, entitled ‘An act to prevent the abandonment and neglect of wife or children of persons charged by law with the maintenance thereof; to make such abandonment and neglect unlawful and to prescribe the punishment therefor.’” Approved April 17, 1905.

Laws 1903, c. 222, was repealed by R. L. § 5546; its provisions being incorporated in part in section 4934. So far as Laws 1905, c. 217, differs from the Revised Laws, it is to be construed, by virtue of section 5504, as amendatory or supplementary.

4936. Keepers of public places to exclude minors.

See sections [4937—] 1 to [4937—] 3.

4937. Minors—Gaming by prohibited, where—How punished.

See sections [4937—] 1 to [4937—] 3.

[4937—]1. Minors, etc.—Playing pool or billiards, or bowling prohibited, where—How punished.—All persons under the age of eighteen years or who are minor pupils in any school, college or university are prohibited from playing pool or billiards or ten pins or bowling, whether on a ten pin alley or a box ball alley in any public pool or billiard room or bowling alley or in any public place of business, and any person under the age of eighteen years of age, or any minor pupil in any school, college or university who shall engage in any game of pool or billiard or bowling in any such place, or frequent, or loiter within any pool or billiard room or bowling alley, or public place of business where pool, billiard or bowling are played, shall be guilty of a misdemeanor and shall be punished by a fine of not exceeding ten dollars. ('09 c. 133 § 1)

**Historical.**—“An act prohibiting persons under eighteen years of age or minor pupils of schools from playing pool, billiards, or bowling in public places and providing a penalty for the violation thereof.” Approved March 31, 1909.

[4937—]2. Same—Keepers of public places to exclude—Penalty.—Every keeper or person in charge of any public pool or billiard room, public bowling alley or public place of business where pool, billiards or bowling are played who shall permit or allow any person under the age of eighteen years of age, or any minor pupil of any school, college or university to play any of said games therein, or to gather in, loiter in or frequent any such place, shall

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be guilty of a misdemeanor and be punished by a fine of not less than twenty-five dollars, or by imprisonment in the county jail not exceeding thirty days. ('09 c. 133 § 2)

[4937—]3. **Same—Permission by parents, etc.**—Nothing in this act shall prohibit the parents or lawful guardians of such minors from granting privileges prohibited by this act, provided that same shall be in writing, signed by such parent or guardian. ('09 c. 133 § 3)

4938. **Use of tobacco by minors.**

See sections [4938—] 1 to [4938—] 5.

[4938—]1. **Minors—Sale of tobacco to.**—Any person within this state who sells, gives to, or in any way furnishes any cigarettes, cigars or tobacco in any form to any person under eighteen years of age, or to any minor pupil in any school, college or university, shall be punished by a fine not to exceed fifty dollars or imprisonment in the county jail not to exceed thirty days for each offense. ('07 c. 386 § 2)

**Historical.**—"An act to prohibit the manufacture, sale or use of adulterated cigarettes, and prohibiting the use of tobacco by minor persons, and by all minor pupils of public schools." Approved April 24, 1907.

For section 1, see section [5163—] 1. Section 6 repeals inconsistent acts.

By section 7 the act took effect at the expiration of 30 days from its passage and approval.

[4938—]2. **Same—Use of tobacco in public place—Arrest—Penalty—Evidence.**—Any person under eighteen years of age, any minor pupil, as described in section two [4938—1] of this act, who shall smoke or use cigarettes, cigars or tobacco in any form on any public highway, street, alley, park or other lands used for public purposes, or in any public place of business, shall be arrested by an officer of the law, who may be cognizant of such offense; and further, it shall be the duty of all such officers, upon complaint of one citizen, to arrest such offenders and take them before the proper court. The court shall impose a punishment at its discretion in the sum of not to exceed ten dollars, or imprisonment in the county jail not to exceed five days for each offense; provided, if said minor person shall give information which may lead to the arrest of the person or persons violating section two [4938—1] of this act, in giving or selling to, or in any way furnishing said minor person tobacco, and shall give evidence as a witness in such proceedings against said party or parties, the court shall have power to suspend sentence against such minor person. ('07 c. 386 § 3)

[4938—]3. **Same—Harboring, etc.**—Any person who harbors or grants to persons under eighteen years of age, or to minor pupils as described in section two [4938—1] of this act, privilege or gathering upon or frequenting any property or lands held by him, for the purpose of indulging in the use of cigarettes, cigars or tobacco in any form, shall be held in the same penalty as provided for in section two [4938—1] of this act; provided, that no part of this act shall be so construed as to interfere with the rights of parents or lawful guardians in the rearing and management of their minor heirs or wards, within the bounds of their own private premises. ('07 c. 386 § 4)

[4938—]4. **Same—Powers of grand jury.**—Be it further enacted that grand juries shall have inquisitorial powers over offenses committed under this act. ('07 c. 386 § 5)

[4938—]5. **Sale of intoxicating liquor or cigarettes, etc., within mile of certain institutions.**—Any person who shall sell any intoxicating liquor or cigarettes, or maintain a drinking place, within one mile of the University Farm of the School of Agriculture of the

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University of Minnesota, located in Ramsey county, Minnesota, on section 21, township 29, and range 23 west, or shall aid or abet another in either of such acts, shall be guilty of a gross misdemeanor and shall be punished for the first offense with a fine of not more than \$100.00 or imprisonment for not less than sixty days nor more than ninety days; for each subsequent offense, by a fine of not less than \$500.00 nor more than \$1,000.00, or by imprisonment in the county jail for not less than six months nor more than one year, or by both. ('07 c. 378 § 1)

**Historical.**—"An act entitled an act to prohibit the sale of intoxicating liquors and cigarettes within one mile of the University Farm of the Agricultural College of the University of Minnesota, located in Ramsey county, Minnesota, on section 21, township 29, and range 23 west." Approved April 24, 1907.

## ABORTION, ETC.

### 4942. Abortion, how punished.

**Evidence.**—The evidence is sufficient to support a conviction, although it does not appear what particular kind of instrument was used or in what manner defendant operated. State v. Bly, 99 Minn. 74, 108 N. W. 833.

**Indictment.**—Held sufficient. State v. Bly; 99 Minn. 74, 108 N. W. 833.

## BIGAMY—ADULTERY, ETC.

**4950. Crime against nature.**—Every person who shall commit the crime against nature with mankind or beast, or attempt sexual intercourse with a dead body, shall be punished by imprisonment in the state prison for not more than twenty years, and any sexual penetration, however slight, shall be sufficient to complete the crime. (R. L. § 4950, as amended by Laws 1909, c. 270, § 1.)

### 4952. Fornication.

Cited in State v. Zempel, 103 Minn. 428, 115 N. W. 275.

**[4957—]1. Certain medical advertisements—Penalty.**—Any person who shall advertise, in his own name or the name of another person, firm or pretended firm, association, corporation or pretended corporation, in any newspaper, pamphlet, circular, or other written or printed paper, or the owner, publisher, or manager of any newspaper or periodical who shall permit to be inserted or published in any newspaper or periodical owned or controlled by him, the treatment or curing of venereal diseases, the restoration of "lost manhood" or "lost vitality," or shall advertise in any manner that he is a specialist in diseases of the sexual organs, or diseases caused by sexual weakness, self-abuse, or excessive sexual indulgence, or in any disease of like causes, or who shall advertise in any manner any medicine, drug compound, appliance or any means whatever whereby it is claimed that sexual diseases of men and women may be cured or relieved, or miscarriage or abortion produced, shall be guilty of a gross misdemeanor and shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail for not more than six months. ('09 c. 162 § 1)

**Historical.**—"An act to prohibit certain classes of medical advertising and provide punishment for the violation thereof." Approved April 8, 1909.

**[4957—]2. Same—Publication, etc.—Penalty.**—Any person publishing, distributing, or causing to be distributed or circulated, any of the advertising matter herein above prohibited shall be guilty of a misdemeanor and punished as prescribed in section 1 [4957—1] of this act. ('09 c. 162 § 2)

**[4957—]3. Same—Evidence.**—The production of any advertisement or advertising matter published or distributed contrary to the

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provisions of this act shall be of itself *prima facie* evidence of the guilt of the person or persons advertising to cure any such disease herein above mentioned, or of the publishers who publish any matter such as is herein prohibited. ('09 c. 162 § 3)

[4958—]1. **Detention in house of ill fame for debt.**—It shall be unlawful for any person to hold, detain or restrain in any house of ill fame or prostitution, any female person for the purpose of compelling such female directly or indirectly by her voluntary or involuntary service or labor, to pay, liquidate or cancel any debt, dues or obligations incurred or said to have been incurred in such house of ill fame or prostitution. ('09 c. 461 § 1)

**Historical.**—"An act to prevent the restraint or detention of any female person in any house of ill fame or prostitution for the purpose of compelling such female to pay debts or obligations incurred in such house of ill fame or prostitution." Approved April 23, 1909.

[4958—]2. **Same—How punished.**—Any person who violates or suffers the violation of any of the provisions of this act shall be guilty of a felony, and, upon conviction thereof, shall be imprisoned in the state prison for not more than two years. ('09 c. 461 § 2)

[4958—]3. **Receiving earnings of prostitute.**—It shall be unlawful for any person to knowingly accept or receive in whole or in part his or her support or maintenance from the proceeds or earnings of any woman engaged in prostitution. ('09 c. 475 § 1)

**Historical.**—"An act to prohibit any person from accepting or receiving any part of the earnings of prostitutes for his support or maintenance." Approved April 23, 1909.

[4958—]4. **Same—How punished.**—Any person who violates the provisions of this act shall be guilty of a felony and upon conviction thereof shall be punished by imprisonment in the state prison for not less than one year nor more than three years. ('09 c. 475 § 2)

## PAWNBROKERS.

[4974—]1. **Junk dealers, pawnbrokers, etc.**—Purchase or pledge from minor prohibited.—It shall be unlawful for any junk dealer, pawnbroker or second hand dealer to purchase or to receive on deposit or pledge any thing of value as security for a loan of money from any person, male or female, under lawful age. ('07 c. 228 § 1)

**Historical.**—"An act to prohibit any junk dealer or any second hand dealer or any pawnbroker or any other person from purchasing or receiving on deposit or pledge any goods or anything of value from a minor, and providing a punishment for a violation thereof." Approved April 18, 1907.

[4974—]2. **Same—Gross misdemeanor.**—Any person violating this act shall be guilty of a gross misdemeanor. ('07 c. 228 § 2)

## SABBATH BREAKING, ETC.

## 4980. Definitions.

G. S. 1894, § 6510, cited in *State v. Weiss*, 97 Minn. 125, 105 N. W. 1127.

4981. **Things prohibited—Exceptions.**—All hunting, shooting, fishing, playing, horse racing, gaming and other public sports, exercises, and shows; all noises disturbing the peace of the day; all trades, manufactures, and mechanical employments, except works of necessity performed in an orderly manner so as not to interfere with the repose and religious liberty of the community; all public selling or offering for sale of property, and all other labor except works of necessity and charity are prohibited on the Sabbath day: Provided, that meals to be served upon the premises or elsewhere by caterers, prepared tobacco in places other than where intoxicating liquors are kept for sale, fruits, confectionery, newspapers,

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drugs, medicines, and surgical appliances may be sold in a quiet and orderly manner. In works of necessity or charity is included whatever is needful during the day for good order, health or comfort of the community; but keeping open a barber shop or shaving and hair cutting shall not be deemed works of necessity or charity, and nothing in this section shall be construed to permit the selling of uncooked meats, groceries, clothing, boots, or shoes. Provided, however, that the game of base ball when conducted in a quiet and orderly manner so as not to interfere with the peace, repose and comfort of the community, may be played between the hours of one p. m. and six p. m. on the Sabbath day. (R. L. § 4981, as amended by Laws 1909, c. 267, § 1.)

**Constitutionality.**—Laws 1903, c. 362, prohibiting the public traffic in certain articles of merchandise on Sunday, is constitutional. That defendant was a Hebrew and of the Jewish Church, attended such church on Saturdays, and believed Saturday to be the Sabbath, did not affect the constitutionality of said law. *State v. Weiss*, 97 Minn. 125, 105 N. W. 1127.

**4982. Punishment.**

**Defense—Observing another day.**—G. S. 1894, § 6514, which provided that "it is a sufficient defense to a prosecution for servile labor on the first day of the week that the defendant uniformly keeps another day of the week as holy time and does not labor upon that day," had no application to a proprietor publicly selling groceries on Sunday. *State v. Weiss*, 97 Minn. 125, 105 N. W. 1127.

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CRIMES AGAINST PUBLIC HEALTH AND SAFETY.

**4987. Public nuisance defined.**

Cited in *Minnesota Canal & Power Co. v. Pratt*, 101 Minn. 197, 112 N. W. 395, 11 L. R. A. (N. S.) 105.

[4995—]1. **Sale of young veal.**—No person, firm or corporation shall sell, offer or expose for sale, or have in possession with intent to sell, the veal of calves killed when less than four weeks old. ('05 c. 323 § 1)

**Historical.**—"An act to prevent the sale or offering for sale, the veal of calves killed when less than four weeks old." Approved April 19, 1905.

[4995—]2. **Same—Penalty.**—Any person violating any of the provisions of this act shall be guilty of a misdemeanor and shall be fined not less than fifty dollars nor more than one hundred dollars, or by imprisonment for a period not to exceed ninety days. ('05 c. 323 § 2)

[4996—]1. **Blank cartridge firearms, certain firecrackers, etc., prohibited.**—Every person who shall manufacture, use, sell or keep for sale within this state any blank cartridge pistols, blank cartridge revolver or other blank cartridge firearms, blank cartridges, caps containing dynamite, and firecrackers exceeding three inches in length, and exceeding one-half of an inch in diameter, shall be guilty of a misdemeanor. ('07 c. 28 § 1)

**Historical.**—"An act to prohibit the manufacture, use and sale of blank cartridge firearms, certain firecrackers and certain other explosives." Approved March 5, 1907.

By section 2 the act took effect January 1, 1908.

**5001. Failure to ring bell, etc.**

**Application in general.**—A railway company is not under a legal duty to give the signal for the benefit of a person who is driving along a street parallel to the track near a crossing, but who does not intend to use the crossing. *Everett v. Great Northern R. Co.*, 100 Minn. 309, 111 N. W. 281, 9 L. R. A. (N. S.) 703.

[5012—]1. **Careless distribution of drugs, etc.**—That no person, or persons, either directly or indirectly, by agent or otherwise, shall