

MINNESOTA STATUTES 1977 SUPPLEMENT

CRIMINAL CODE OF 1963 609.032

CHAPTER 609. CRIMINAL CODE OF 1963

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609.02 Definitions.

[For text of subds 1 and 2, see M.S.1976]

Subd. 3. **Misdemeanor.** "Misdemeanor" means a crime for which a sentence of not more than 90 days or a fine of not more than \$500, or both, may be imposed.

[For text of subds 4 to 9, see M.S.1976]

[1977 c 355 s 2]

609.03 Punishment when not otherwise fixed.

If a person is convicted of a crime for which no punishment is otherwise provided he may be sentenced as follows:

(1) If the crime is a felony, to imprisonment for not more than five years or to payment of a fine of not more than \$5,000, or both; or

(2) If the crime is a gross misdemeanor, to imprisonment for not more than one year or to payment of a fine of not more than \$1,000, or both; or

(3) If the crime is a misdemeanor, to imprisonment for not more than 90 days or to payment of a fine of not more than \$500, or both; or

(4) If the crime is other than a misdemeanor and a fine is imposed but the amount is not specified, to payment of a fine of not more than \$750, or to imprisonment for a specified term of not more than six months if the fine is not paid.

[1977 c 355 s 3]

609.031 Increased maximum penalty for misdemeanors.

Any law of this state which provides for a maximum fine of \$300 or imprisonment for 90 days as a penalty for a violation shall, after August 1, 1977, be deemed to provide for a maximum fine of \$500 or imprisonment for 90 days, or both.

[1977 c 355 s 4]

609.032 Increased maximum penalty for ordinance violations.

Any law of this state or city charter which limits the power of any city, town, county, or other political subdivision to prescribe a maximum fine of \$300 or imprisonment for 90 days for an ordinance violation shall, after August 1, 1977, be deemed to provide that such city, town, county, or other political subdivision has the power to prescribe a maximum fine of \$500 or imprisonment for 90 days, or both.

[1977 c 355 s 5]

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609.11 Minimum terms of imprisonment.

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

[For text of subd 2, see M.S.1976]

[1977 c 130 s 2]

609.135 Stay of imposition or execution of sentence.

Subdivision 1. Except when a sentence of life imprisonment is required by law, or when a person is convicted of one of the crimes specified under section 609.11, subdivision 1, and had in his possession a firearm or used another dangerous weapon, any court, including a justice of the peace to the extent otherwise authorized by law, may stay imposition or execution of sentence and place the defendant on probation with or without supervision and on such terms as the court may prescribe, including restitution 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, by the commissioner of corrections, or in any case by some other suitable and consenting person.

[For text of subds 2 and 3, see M.S.1976]

[1977 c 349 s 1; 1977 c 355 s 6]

609.195 Murder in the third degree.

Whoever, without intent to effect the death of any person, causes the death of another by either of the following means, is guilty of murder in the third degree and may be sentenced to imprisonment for not more than 25 years:

(1) Perpetrates an act eminently dangerous to others and evincing a depraved mind, regardless of human life; or

(2) Commits or attempts to commit a felony upon or affecting the person whose death was caused or another, except criminal sexual conduct in the first or second degree with force or violence within the meaning of section 609.185.

[1977 c 130 s 3]

609.27 Coercion.

[For text of subd 1, see M.S.1976]

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

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(1) To imprisonment for not more than 90 days or to payment of a fine of not more than \$300, or both if neither the pecuniary gain received by the violator nor the loss suffered by the person threatened or another as a result of the threat exceeds \$300, or the benefits received or harm sustained are not susceptible of pecuniary measurement; or

(2) To imprisonment for not more than five years or to payment of a fine of not more than \$5,000, or both, if such pecuniary gain or loss is more than \$300 but less than \$2,500; or

(3) To imprisonment for not more than ten years or to payment of a fine of not more than \$10,000, or both, if such pecuniary gain or loss is \$2,500, or more.

[1977 c 355 s 7]

609.293 Sodomy.

[For text of subd 1, see M.S.1976]

Subd. 2. [Repealed, 1977 c 130 s 10]

Subd. 3. [Repealed, 1977 c 130 s 10]

Subd. 4. [Repealed, 1977 c 130 s 10]

Subd. 5. **Consensual acts.** Whoever, in cases not coming within the provisions of sections 609.342 or 609.344, voluntarily engages in or submits to an act of sodomy with another may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$1,000, or both.

[1977 c 130 s 4]

609.32 Prostitution.

Subdivision 1. **Definitions.** (1) "Prostitution" means engaging or offering or agreeing to engage for hire in sexual penetration, as defined in section 609.341, subdivision 12.

(2) A "place of prostitution" is a house or other place where prostitution is practiced or from which prostitution is promoted.

[For text of subd 2, see M.S.1976]

Subd. 3. **Other acts prohibited.** Whoever intentionally does any of the following may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$5,000, or both:

(1) Keeps a place of prostitution; or

(2) Leases or otherwise permits premises owned by him or under his control to be used as a place of prostitution; or

(3) Solicits or induces another over the age of 18 years to practice prostitution; or

(4) Solicits another under the age of 18 years to engage in sexual penetration with a prostitute or admits him to a place of prostitution; or

(5) Engages as a prostitute in an act of prostitution with another under the age of 18 years; or

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(6) Transports a prostitute from one place of prostitution within the state to another such place within or without the state, or brings a prostitute into the state, for the purpose of prostitution.

Subd. 4. **Further acts prohibited.** Whoever intentionally does any of the following may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$1,000, or both:

- (1) Engages in prostitution; or
- (2) Is supported in whole or in part by the earnings of a prostitute; or
- (3) Solicits for a prostitute, directs, takes, or transports another to a prostitute or place of prostitution, or brings a prostitute to him, for the purpose of sexual penetration with a prostitute; or
- (4) Hires or offers or agrees to hire another person to engage in sexual penetration.

[1977 c 130 s 5-7]

609.341 Definitions.

[For text of subds 1 to 9, see M.S.1976]

Subd. 10. "Position of authority" includes but is not limited to any person who is a parent or acting in the place of a parent and charged with any of a parent's rights, duties or responsibilities to a child, or a person who is charged with any duty or responsibility for the health, welfare, or supervision of a child, either independently or through another, no matter how brief, at the time of the act.

[For text of subds 11 to 13, see M.S.1976]

[1977 c 130 s 8]

609.52 Theft.

[For text of subd 1, see M.S.1976]

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 such 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 of 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:

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(a) The issuance of a check, draft, or order for the payment of money or the 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 credit card, credit plate, charge plate, or other identification device issued by an organization to a person for use in purchasing goods 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 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

(9) Leases or rents personal property under a written instrument and who with intent to place such property beyond the control of the lessor conceals or aids or abets the concealment of such property or any part thereof, or any lessee of such property who sells, conveys or encumbers such 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

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fictitious name or address in obtaining such property or fails or refuses to return such property to lessor within five days after written demand for such return has been served personally in the manner provided for service of process of a civil action or sent by registered or 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 or registered mail shall be deemed to be complete upon deposit in the United States mail of such demand, postpaid and addressed to such person at the address for such person set forth in the lease or rental agreement, or, in the absence of such address, to such 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 re-recording of program material transmitted on the cable communications system by a subscriber for fair use as defined by Public Law 94-553, Section 107.

[For text of subd 3, see M.S.1976]

[1977 c 396 s 1]

609.551 Rustling and livestock theft; penalties.

Subdivision 1. Whoever intentionally and without claim of right shoots, kills, takes, uses, transfers, conceals or retains possession of live cattle, swine or sheep or the carcasses thereof belonging to another without his consent and with the intent to permanently deprive the owner thereof may be sentenced as follows:

(a) If the value of the animals which are shot, killed, taken, used, transferred, concealed or retained exceeds \$2,500, the defendant may be sentenced to imprisonment for not more than ten years, and may be fined up to \$10,000;

(b) If the value of the animals which are shot, killed, taken, used, transferred, concealed or retained exceeds \$300 but is less than \$2,500, the defendant may be sentenced to imprisonment for not more than five years, and may be fined up to \$5,000;

(c) If the value of the animals which are shot, killed, taken, used, transferred, concealed, or retained is \$300 or less, the defendant may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than \$300 or both.

[For text of subds 2 to 4, see M.S.1976]

[1977 c 355 s 8]

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609.556 Definitions.

Subdivision 1. For the purposes of sections 609.556 to 609.576 and 609.611, the terms defined in this section have the meanings given them.

[For text of subds 2 and 3, see M.S.1976]

[1977 c 347 s 63]

609.563 Arson in the third degree.

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

(a) The property intended by the accused to be damaged or destroyed had a value of \$300 or more; or

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

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

[For text of subd 2, see M.S.1976]

[1977 c 355 s 9]

609.576 Negligent fires.

Whoever is culpably negligent in causing a fire to burn or get out of control thereby causing damage or injury to another, and as a result thereof:

(a) A human being is injured and great bodily harm incurred, is guilty of a crime and may be sentenced to imprisonment of not more than three years or to a fine of not more than \$3,000, or both; or

(b) Property of another is injured, thereby, is guilty of a crime and may be sentenced as follows:

(1) To imprisonment for not more than 90 days or to payment of a fine of not more than \$300, or both, if the value of the property damage is under \$300;

(2) To imprisonment for not less than 90 days, nor more than one year, or to a fine of \$1,000 or both, if the value of the property damaged is at least \$300 and under \$2,500;

(3) To imprisonment for not more than one year, or to a fine of \$1,000, or both, if the value of the property damaged is \$2,500 and under \$10,000;

(4) To imprisonment for not more than three years or to a fine of \$3,000 or both, if value of property damaged is \$10,000 or greater.

[1977 c 355 s 10]

609.595 Damage to property.

Subdivision 1. **Aggravated criminal damage to property.** Whoever intentionally causes damage to physical property of another without the latter's consent may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$5,000, or both, if:

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

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

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

[For text of subd 2, see M.S.1976]

[1977 c 355 s 11]

609.615 Defeating security on realty.

Whoever removes or damages real property which is subject to a mortgage, mechanic's lien, or contract for deed, with intent to impair the value of the security, without the consent of the security holder, may be sentenced as follows:

(1) If the value of the property is impaired by \$300 or less, to imprisonment for not more than 90 days or to payment of a fine of not more than \$300, or both; or

(2) If the value of the property is impaired by more than \$300, to imprisonment for not more than five years or to payment of a fine of not more than \$5,000, or both.

[1977 c 355 s 12]

609.67 Machine guns and short-barreled shotguns.

Subdivision 1. **Definition.** (a) "Machine gun" means any firearm designed to discharge, or capable of discharging automatically more than once by a single function of the trigger.

(b) "Shotgun" means a weapon designed, redesigned, made or remade which is intended to be fired from the shoulder and uses the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

(c) "Short-barreled shotgun" means a shotgun having one or more barrels less than 18 inches in length and any weapon made from a shotgun if such weapon as modified has an overall length less than 26 inches.

Subd. 2. **Acts prohibited.** Except as otherwise provided herein, whoever owns, possesses, or operates a machine gun or a short-barreled shotgun may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$5,000, or both.

Subd. 3. **Uses permitted.** The following persons may own or possess a machine gun or short-barreled shotgun provided the provisions of subdivision 4 are complied with:

(1) Law enforcement officers for use in the course of their duties;

(2) Wardens of penal institutions and other personnel thereof authorized by them and persons in charge of other institutions for the retention of persons convicted or accused of crime, for use in the course of their duties; and

(3) Persons possessing machine guns or short-barreled shotguns which, although designed as weapons, have been determined by the superintendent of the bureau of criminal apprehension or his delegate by reason of the date of manufacture, value, design or other characteristics to be primarily collector's items, relics, museum pieces or objects of curiosity, ornaments or keepsakes, and are not likely to be used as weapons.

Subd. 4. **Report required.** A person owning or possessing a machine gun or short-barreled shotgun as authorized by subdivision 3 shall, within ten days after acquiring such ownership or possession, file a written report with the bureau of criminal apprehension, showing his name and address; his official title and position, if any; a description of the machine gun or short-barreled shotgun sufficient to enable identification thereof; the purpose for which it is owned or possessed; and such further information as the bureau may reasonably require.

Subd. 5. **Exceptions.** This section does not apply to members of the armed services of either the United States or the state of Minnesota for use in the course of their duties.

Subd. 6. **Preemption.** Laws 1977, Chapter 255, supersedes all local ordinances, rules and regulations.

[1977 c 255 s 1,2]

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609.785 Fraudulent long distance telephone calls.

Subdivision 1. Whoever obtains long distance telephone service by intentionally charging the cost thereof to a false or non-existent telephone or credit card number or to the telephone or credit card number of another without his authority may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than \$300, or both, when the value of the telephone service obtained is not more than \$300; and by imprisonment for not more than five years or to payment of a fine of not more than \$5,000, or both, if the value of the telephone service obtained in a single transaction, or in separate transactions within any six month period, is more than \$300.

Subd. 2. Whoever wilfully makes, assembles or possesses any electronic, mechanical or other device having reason to know that it is intended to be used and that its design renders it primarily useful to avoid payment of lawful charges for long distance telecommunications services, in whole or in part, or whoever sells, gives, or otherwise transfers to another, such a device, or offers or advertises such a device for sale, or advertises or offers, for a monetary consideration, plans or component parts for the purpose of making or assembling such a device, having reason to know it is intended to be used unlawfully, or whoever, by use of such a device, obtains or attempts to obtain long distance telecommunications services, may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than \$3,000, or both.

[1977 c 14 s 1; 1977 c 355 s 13]

609.80 Interfering with cable communications systems.

Whoever does any of the following is guilty of a misdemeanor:

(1) intentionally and with the purpose of making or aiding in an unauthorized connection as defined in section 609.52, subdivision 2, clause (12) to a licensed cable communications system as defined in chapter 238 sells, rents, lends, offers or advertises for sale, rental or use, any instrument, apparatus, equipment, device or plan, specification or instruction for making an unauthorized connection; or

(2) intentionally tampers with, removes or injures any cable, wire, or other component of a licensed cable communications system as defined in chapter 238; or

(3) intentionally and without claim of right interrupts a service of a licensed cable communications system as defined in chapter 238.

[1977 c 396 s 2]

609.85 Crimes against railroad employees and property; penalty.

(1) Whoever throws or deposits any type of debris or waste material on any railroad track or whoever causes damage or causes another person to damage, tamper, change or destroy any railroad track, switch, bridge, trestle, tunnel, signal or moving equipment used in providing rail services, with intention to cause injury, accident or derailment, is guilty of a felony.

(2) Whoever intentionally throws or deposits any type of debris or waste material on any railroad track or whoever intentionally causes damage or causes another person to damage, tamper, change or destroy any railroad track, switch, bridge, trestle, tunnel, signal or moving equipment used in providing rail services, which creates a reasonably foreseeable risk of any injury, accident or derailment, is guilty of a gross misdemeanor.

(3) Whoever intentionally shoots a firearm at any portion of a railroad train, car, caboose, engine or moving equipment so as to endanger the safety of another is guilty of a gross misdemeanor.

(4) Whoever intentionally throws, shoots or propels any stone, brick or other missile at any railroad train, car, caboose, engine or moving equipment, so as to endanger the safety of another is guilty of a gross misdemeanor.

[1977 c 179 s 1]