

PART V CRIMES, CRIMINALS CHAPTER 609

CRIMINAL CODE OF 1963

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GENERAL PRINCIPLES

609.01 NAME AND CONSTRUCTION. Subdivision 1. **Purposes.** This chapter may be cited as the Criminal Code of 1963. Its provisions shall be construed according to the fair import of its terms, to promote justice, and to effect its purposes which are declared to be:

(1) To protect the public safety and welfare by preventing the commission of crime through the deterring effect of the sentences authorized, the rehabilitation of those convicted, and their confinement when the public safety and interest requires; and

(2) To protect the individual against the misuse of the criminal law by fairly defining the acts and omissions prohibited, authorizing sentences reasonably related to the conduct and character of the convicted person, and prescribing fair and reasonable post-conviction procedures.

Subd. 2. **Numbering.** This chapter is arranged and numbered, subject, however, to the provisions of Minnesota Statutes 1961, Section 648.34, so that the enacted chapter may be compiled in the next edition of Minnesota Statutes without any changes in numbering.

[1963 c 753 art 1 s 609.01]

609.015 SCOPE AND EFFECT. Subdivision 1. Common law crimes are abolished and no act or omission is a crime unless made so by this chapter or by other applicable statute, but this does not prevent the use of common law rules in the construction or interpretation of the provisions of this chapter or other statute. Crimes committed prior to the effective date of this chapter are not affected thereby.

Subd. 2. Unless expressly stated otherwise, or the context otherwise requires, the provisions of this chapter also apply to crimes created by statute other than in this chapter.

[1963 c 753 art 1 s 609.015]

609.02 DEFINITIONS. Subdivision 1. **Crime.** "Crime" means conduct which is prohibited by statute and for which the actor may be sentenced to imprisonment, with or without a fine.

Subd. 2. **Felony.** "Felony" means a crime for which a sentence of imprisonment for more than one year may be imposed.

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.

Subd. 4. **Gross misdemeanor.** "Gross misdemeanor" means any crime which is not a felony or misdemeanor.

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 may be imposed.

Subd. 5. **Conviction.** "Conviction" means any of the following accepted and recorded by the court:

(1) A plea of guilty; or

(2) A verdict of guilty by a jury or a finding of guilty by the court.

Subd. 6. **Dangerous weapon.** "Dangerous weapon" means any firearm, whether loaded or unloaded, or any device designed as a weapon and capable of producing death or great bodily harm, or any other device or instrumentality which, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm.

Subd. 7. **Bodily harm.** "Bodily harm" means physical pain or injury, illness, or any impairment of physical condition.

Subd. 8. **Great bodily harm.** "Great bodily harm" means bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.

Subd. 9. **Mental state.** (1) When criminal intent is an element of a crime in this chapter, such intent is indicated by the term "intentionally," the phrase "with intent to," the phrase "with intent that," or some form of the verbs "know" or "believe."

(2) "Know" requires only that the actor believes that the specified fact exists.

(3) "Intentionally" means that the actor either has a purpose to do the thing or cause the result specified or believes that his act, if successful, will cause that result. In addition, except as provided in clause (6), the actor must have knowledge of those facts which are necessary to make his conduct criminal and which are set forth after the word "intentionally."

(4) "With intent to" or "with intent that" means that the actor either has a purpose to do the thing or cause the result specified or believes that his act, if successful, will cause that result.

(5) Criminal intent does not require proof of knowledge of the existence or constitutionality of the statute under which he is prosecuted or the scope or meaning of the terms used in that statute.

(6) Criminal intent does not require proof of knowledge of the age of a minor even though age is a material element in the crime in question.

[1963 c 753 art 1 s 609.02; 1969 c 735 s 3; Ex1971 c 27 s 42,43; 1977 c 355 s 2]

609.025 JURISDICTION OF STATE. A person may be convicted and sentenced under the law of this state if:

(1) He commits an offense in whole or in part within this state; or

(2) Being without the state, he causes, aids or abets another to commit a crime within the state; or

(3) Being without the state, he intentionally causes a result within the state prohibited by the criminal laws of this state.

It is not a defense that the defendant's conduct is also a criminal offense under the laws of another state or of the United States or of another country.

[1963 c 753 art 1 s 609.025; Ex1971 c 27 s 44]

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.

[1963 c 753 art 1 s 609.03; 1969 c 735 s 4; 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.

[1969 c 735 s 6; 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.

[1969 c 735 s 7; 1973 c 123 art 5 s 7; 1977 c 355 s 5]

609.035 CRIME PUNISHABLE UNDER DIFFERENT PROVISIONS. Except as provided in section 609.585, if a person's conduct constitutes more than one offense under the laws of this state he may be punished for only one of such offenses and a conviction or acquittal of any one of them is a bar to prosecution for any other of them. All such offenses may be included in one prosecution which shall be stated in separate counts.

[1963 c 753 art 1 s 609.035]

609.04 CONVICTION OF LESSER OFFENSE. Subdivision 1. Upon prosecution for a crime, the actor may be convicted of either the crime charged or an included offense, but not both. An included offense may be any of the following:

- (1) A lesser degree of the same crime; or
- (2) An attempt to commit the crime charged; or
- (3) An attempt to commit a lesser degree of the same crime; or
- (4) A crime necessarily proved if the crime charged were proved; or
- (5) A petty misdemeanor necessarily proved if the misdemeanor charge were proved.

Subd. 2. A conviction or acquittal of a crime is a bar to further prosecution of any included offense, or other degree of the same crime.

[1963 c 753 art 1 s 609.04; Ex1971 c 27 s 45]

609.045 FOREIGN CONVICTION OR ACQUITTAL. If an act or omission constitutes a crime under both the laws of this state and the laws of another jurisdiction, a conviction or acquittal of such crime in the other jurisdiction bars prosecution for the crime in this state.

[1963 c 753 art 1 s 609.045]

609.05 LIABILITY FOR CRIMES OF ANOTHER. Subdivision 1. A person is criminally liable for a crime committed by another if he intentionally aids, advises, hires, counsels, or conspires with or otherwise procures the other to commit the crime.

Subd. 2. A person liable under subdivision 1 is also liable for any other crime committed in pursuance of the intended crime if reasonably foreseeable by him as a probable consequence of committing or attempting to commit the crime intended.

Subd. 3. A person who intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit a crime and thereafter abandons his purpose and makes a reasonable effort to prevent the commission of the crime prior to its commission is not liable if the crime is thereafter committed.

Subd. 4. A person liable under this section may be charged with and convicted of the crime although the person who directly committed it has not been convicted or has been convicted of some other degree of the crime or of some other crime based on the same act.

[1963 c 753 art 1 s 609.05]

609.055 LIABILITY OF CHILDREN. Children under the age of 14 years are incapable of committing crime. Children of the age of 14 years or over but under 18 years may be prosecuted for a criminal offense if the alleged violation is duly referred to the appropriate prosecuting authority in accordance with the provisions of chapter 260.

[1963 c 753 art 1 s 609.055]

609.06 AUTHORIZED USE OF FORCE. Reasonable force may be used upon or toward the person of another without his consent when the following circumstances exist or the actor reasonably believes them to exist:

(1) When used by a public officer or one assisting him under his direction:

- (a) In effecting a lawful arrest; or
- (b) In the execution of legal process; or
- (c) In enforcing an order of the court; or
- (d) In executing any other duty imposed upon him by law; or

(2) When used by a person not a public officer in arresting another in the cases and in the manner provided by law and delivering him to an officer competent to receive him into custody; or

(3) When used by any person in resisting or aiding another to resist an offense against the person; or

(4) When used by any person in lawful possession of real or personal property, or by another assisting him, in resisting a trespass upon or other unlawful interference with such property; or

(5) When used by any person to prevent the escape, or to retake following the escape, of a person lawfully held on a charge or conviction of a crime; or

(6) When used by a parent, guardian, teacher or other lawful custodian of a child or pupil, in the exercise of lawful authority, to restrain or correct such child or pupil; or

(7) When used by a common carrier in expelling a passenger who refuses to obey a lawful requirement for the conduct of passengers and reasonable care is exercised with regard to his personal safety; or

(8) When used to restrain a mentally ill or mentally defective person from injuring himself or another or when used by one with authority to do so to compel compliance with reasonable requirements for his control, conduct or treatment; or

(9) When used by a public or private institution providing custody or treatment against one lawfully committed to it to compel compliance with reasonable requirements for his control, conduct or treatment.

[1963 c 753 art 1 s 609.06]

609.065 JUSTIFIABLE TAKING OF LIFE. The intentional taking of the life of another is not authorized by section 609.06, except when necessary in resisting or preventing an offense which the actor reasonably believes exposes him or another to great bodily harm or death, or preventing the commission of a felony in his place of abode.

[1963 c 753 art 1 s 609.065; 1978 c 736 s 1]

609.066 AUTHORIZED USE OF DEADLY FORCE BY PEACE OFFICERS. Subdivision 1. **Deadly force defined.** For the purposes of this section, "deadly force" means force which the actor uses with the purpose of causing, or which the actor should reasonably know creates a substantial risk of causing, death or great bodily

harm. The intentional discharge of a firearm in the direction of another person, or at a vehicle in which another person is believed to be, constitutes deadly force.

Subd. 2. **Use of deadly force.** Notwithstanding the provisions of section 609.06 or 609.065, the use of deadly force by a peace officer in the line of duty is justified only when necessary:

- (1) To protect himself or another from apparent death or great bodily harm;
- (2) To effect the arrest or capture, or prevent the escape, of a person whom the peace officer knows or has reasonable grounds to believe has committed or attempted to commit a felony involving the use or threatened use of deadly force; or
- (3) To effect the arrest or capture, or prevent the escape, of a person whom the officer knows or has reasonable grounds to believe has committed or attempted to commit a felony if the officer reasonably believes that the person will cause death or great bodily harm if his apprehension is delayed.

Subd. 3. This section and sections 609.06, 609.065 and 629.33 may not be used as a defense in a civil action brought by an innocent third party.

[1978 c 736 s 2]

609.075 INTOXICATION AS DEFENSE. An act committed while in a state of voluntary intoxication is not less criminal by reason thereof, but when a particular intent or other state of mind is a necessary element to constitute a particular crime, the fact of intoxication may be taken into consideration in determining such intent or state of mind.

[1963 c 753 art 1 s 609.075]

609.08 DURESS. Except as provided in section 609.20, clause (3), when any crime is committed or participated in by two or more persons, any one of whom participates only under compulsion by another engaged therein, who by threats creates a reasonable apprehension in the mind of such participator that in case of refusal he is liable to instant death, such threats and apprehension constitute duress which will excuse such participator from criminal liability.

[1963 c 753 art 1 s 609.08]

609.085 SENDING WRITTEN COMMUNICATION. Subdivision 1. When the sending of a letter or other written communication is made an offense, the offense is complete upon deposit of the letter or communication in any official depository of mail or given to another for the purpose of delivery to the receiver.

Subd. 2. The offense is committed in both the county in which the letter is so deposited or given and the county in which it is received by the person for whom it is intended.

[1963 c 753 art 1 s 609.085]

609.09 COMPELLING TESTIMONY; IMMUNITY FROM PROSECUTION. Subdivision 1. In any criminal proceeding, paternity proceeding, or proceeding in juvenile court, if a person refuses to answer a question or produce evidence of any other kind on the ground that he may be incriminated thereby, and if the prosecuting attorney, in writing, requests a judge of the court in which the proceeding is pending to order that person to answer the question or produce the evidence, the judge, after notice to the witness and hearing, shall so order if he finds that to do so would not be contrary to the public interest and would not expose the witness to prosecution in another state or in the federal courts, and that person shall comply with the order.

After complying, and if, but for this section, he would have been privileged to withhold the answer given or the evidence produced by him, he shall not be prosecuted or subjected to penalty or forfeiture for or on account of any transaction, matter or thing concerning which, in accordance with the order, he gave, answered, or produced evidence, but he may be prosecuted or subjected to penalty or forfeiture for any perjury, false swearing or contempt committed in answering, or in failing to answer, or in producing, or failing to produce, evidence in accordance with the order.

Subd. 2. In every case not provided for in subdivision 1 and in which it is provided by law that a witness shall not be excused from giving testimony tending to criminate himself, no person shall be excused from testifying or producing any papers or documents on the ground that his testimony may tend to criminate him or subject him to a penalty or forfeiture; but he shall not be prosecuted or subjected to a penalty

or forfeiture for or on account of any action, matter, or thing concerning which he shall so testify, except for perjury committed in such testimony.

[1963 c 753 art 1 s 609.09; 1969 c 661 s 1]

SENTENCES

609.095 LIMITS OF SENTENCES. No other or different sentence or punishment shall be imposed for the commission of a crime than is authorized by this chapter or other applicable law.

[1963 c 753 art 1 s 609.095]

609.10 SENTENCES AVAILABLE. Upon conviction of a felony and compliance with the other provisions of this chapter the court, if it imposes sentence, may sentence the defendant to the extent authorized by law as follows:

- (1) To life imprisonment; or
- (2) To imprisonment for a fixed term of years set by the court; or
- (3) To both imprisonment for a fixed term of years and payment of a fine; or
- (4) To payment of a fine without imprisonment or to imprisonment for a fixed term of years if the fine is not paid.

[1963 c 753 art 1 s 609.10; 1978 c 723 art 1 s 13]

NOTE: The amendment to section 609.10 by Laws 1978, Chapter 723, Article 1, Section 13 is effective May 1, 1980. See Laws 1978, Chapter 723, Article 1, Section 20.

609.105 SENTENCE OF IMPRISONMENT. Subdivision 1. A sentence to imprisonment for more than one year shall commit the defendant to the custody of the commissioner of corrections.

Subd. 2. The commissioner of corrections shall determine the place of confinement in a prison, reformatory, or other facility of the department of corrections established by law for the confinement of convicted persons and prescribe reasonable conditions, rules, and regulations for their employment, conduct, instruction, and discipline within or without the facility.

Subd. 3. A sentence to imprisonment for a period of one year or any lesser period shall be to a workhouse, work farm, county jail, or other place authorized by law.

[1963 c 753 art 1 s 609.105]

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.

Subd. 2. [Repealed, 1978 c 723 art 2 s 5]

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

[1963 c 753 art 1 s 609.11; 1969 c 743 s 1; 1971 c 845 s 15; 1974 c 32 s 1; 1975 c 378 s 8; 1977 c 130 s 2; 1978 c 723 art 2 s 2]

609.115 PRESENTENCE INVESTIGATION. Subdivision 1. When a defendant has been convicted of a felony the court shall, before sentence is imposed, cause a

presentence investigation and written report to be made to the court concerning the defendant's individual characteristics, circumstances, needs, potentialities, criminal record and social history, the circumstances of the offense and the harm caused thereby to others and to the community. If the court so directs, the report shall include an estimate of the prospects of the defendant's rehabilitation and recommendations as to the sentence which should be imposed.

The investigation shall be made by a probation officer of the court, if there is one, otherwise by the commissioner of corrections.

Pending the presentence investigation and report, the court with the consent of the commissioner may commit the defendant to the custody of the commissioner of corrections who shall return the defendant to the court when the court so orders.

Subd. 2. If the defendant has been convicted of a crime for which a mandatory sentence of life imprisonment is provided by law, the probation officer of the court, if there is one, otherwise the commissioner of corrections, shall forthwith make a post-sentence investigation and make a written report as provided by subdivision 1.

Subd. 3. All law enforcement agencies shall make available to the probation officer or the commissioner of corrections the criminal record and other relevant information relating to the defendant which they may have, when requested for the purposes of subdivisions 1 and 2.

Subd. 4. Any report made pursuant to subdivision 1 shall be open to inspection by the prosecuting attorney and the defendant's attorney prior to sentence and on the request of either of them a summary hearing in chambers shall be held on any matter brought in issue, but confidential sources of information shall not be disclosed unless the court otherwise directs.

Subd. 5. If the defendant is sentenced to the commissioner of corrections, a copy of any report made pursuant to this section and not made by the commissioner shall accompany the commitment.

Subd. 6. Except as provided in subdivisions 4 and 5 or as otherwise directed by the court any report made pursuant to this section shall not be disclosed.

Subd. 7. If imposition of sentence is stayed by reason of an appeal taken or to be taken, the presentence investigation provided for in this section shall not be made until such stay has expired or has otherwise been terminated.

[1963 c 753 art 1 s 609.115; 1978 c 723 art 2 s 3]

609.116 PRESENTENCE EXAMINATION OF SEX OFFENDERS. Subdivision 1. A presentence social, physical, and mental examination shall be made of persons convicted of certain sex offenses as provided in section 246.43.

Subd. 2. [Repealed, 1969 c 997 s 3]

[1967 c 333 s 1; 1969 c 6 s 47; 1969 c 997 s 2]

609.12 PAROLE OR DISCHARGE. Subdivision 1. A person sentenced to the commissioner of corrections for imprisonment for a period less than life may be paroled or discharged at any time without regard to length of the term of imprisonment which the sentence imposes when in the judgment of the corrections board, and under the conditions it imposes, the granting of parole or discharge would be most conducive to his rehabilitation and would be in the public interest.

Subd. 2. If a sentence of more than five years has been imposed on a defendant for a crime authorizing a sentence of not more than ten years, the corrections board shall grant him parole no later than the expiration of five years of imprisonment, less time granted for good behavior, unless the board with or without hearing that his parole would not be conducive to his rehabilitation or would not be in the public interest.

Subd. 3. All sentences to the commissioner of corrections for the imprisonment of the defendant are subject to the laws relating to parole and the powers of the corrections board and the commissioner of corrections, except as modified in subdivisions 1 and 2, and to all other laws relating to persons in said institutions and their imprisonment.

[1963 c 753 art 1 s 609.12; 1973 c 654 s 15; 1975 c 271 s 6]

609.125 SENTENCE FOR MISDEMEANOR OR GROSS MISDEMEANOR. Upon conviction of a misdemeanor or gross misdemeanor the court, if sentence is imposed, may, to the extent authorized by law, sentence the defendant:

- (1) To imprisonment for a definite term; or
 - (2) To payment of a fine, or to imprisonment for a specified term if the fine is not paid; or
 - (3) To both imprisonment for a definite term and payment of a fine.
- [1963 c 753 art 1 s 609.125; 1971 c 25 s 91]

609.13 CONVICTIONS OF FELONY OR GROSS MISDEMEANOR; WHEN DEEMED MISDEMEANOR OR GROSS MISDEMEANOR. Subdivision 1. Notwithstanding a conviction is for a felony:

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

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

Subd. 2. Notwithstanding that a conviction is for a gross misdemeanor, the conviction is deemed to be for a misdemeanor if:

(1) The sentence imposed is within the limits provided by law for a misdemeanor as defined in section 609.02; or

(2) If the imposition of the sentence is stayed, the defendant is placed on probation, and he is thereafter discharged without sentence.

[1963 c 753 art 1 s 609.13; 1971 c 937 s 21]

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.

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

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

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

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

Subd. 3. The court shall report to the commissioner of public safety any stay of imposition or execution granted in the case of a conviction for an offense in which a motor vehicle, as defined in section 169.01, subdivision 3, is used.

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

Subd. 5. If a person is convicted of assaulting his spouse or other person with whom he resides, and the court stays imposition or execution of sentence and places the defendant on probation, the court may condition the stay upon the defendant's participation in counseling or other appropriate programs selected by the court.

[1963 c 753 art 1 s 609.135; 1971 c 244 s 2; 1976 c 341 s 3; 1977 c 349 s 1; 1977 c 355 s 6; 1978 c 723 art 2 s 4; 1978 c 724 s 1]

609.14 REVOCATION OF STAY. Subdivision 1. When it appears that the defendant has violated any of the conditions of his probation or has otherwise been guilty of misconduct which warrants the imposing or execution of sentence, the court may without notice revoke the stay thereof and probation and direct that the defendant be taken into immediate custody.

Subd. 2. The defendant shall thereupon be notified in writing and in such manner as the court directs of the grounds alleged to exist for revocation of the stay of imposition or execution of sentence. If such grounds are brought in issue by the defendant, a summary hearing shall be held thereon at which he is entitled to be heard and to be represented by counsel.

Subd. 3. If any of such grounds are found to exist the court may:

(1) If imposition of sentence was previously stayed, again stay sentence or impose sentence and stay the execution thereof, and in either event place the defendant on probation pursuant to section 609.135, or impose sentence and order execution thereof; or

(2) If sentence was previously imposed and execution thereof stayed, continue such stay and place the defendant on probation in accordance with the provisions of section 609.135, or order execution of the sentence previously imposed.

Subd. 4. If none of such grounds are found to exist, the defendant shall be restored to his liberty under the previous order of the court.

[1963 c 753 art 1 s 609.14]

609.145 CREDIT FOR PRIOR IMPRISONMENT. Subdivision 1. When a person has been imprisoned pursuant to a conviction which is set aside and is thereafter convicted of a crime growing out of the same act or omission, the period of imprisonment to which he is sentenced is reduced by the period of the prior imprisonment and the time earned thereby in diminution of sentence.

Subd. 2. A sentence of imprisonment upon conviction of a felony is reduced by the period of confinement of the defendant following his conviction and before his commitment to the commissioner of corrections for execution of sentence unless the court otherwise directs.

[1963 c 753 art 1 s 609.145; 1978 c 723 art 1 s 14]

NOTE: The amendment to section 609.145, subdivision 1 by Laws 1978, Chapter 723, Article 1, Section 14 is effective May 1, 1980. See Laws 1978, Chapter 723, Article 1, Section 20.

609.15 MULTIPLE SENTENCES. Subdivision 1. When separate sentences of imprisonment are imposed on a defendant for two or more crimes, whether charged in a single indictment or information or separately, or when a person who is under sentence of imprisonment in this state is being sentenced to imprisonment for another crime committed prior to or while subject to such former sentence, the court in the later sentences shall specify whether the sentences shall run concurrently or consecutively. If the court does not so specify, the sentences shall run concurrently.

Subd. 2. If the court specifies that the sentence shall run consecutively, the total of the terms of imprisonment imposed, other than a term of imprisonment for life, shall not exceed 40 years. If all of the sentences are for misdemeanors the total of the terms of imprisonment shall not exceed one year; if for gross misdemeanors the total of such terms shall not exceed three years.

[1963 c 753 art 1 s 609.15]

609.155 EXTENDED TERM FOR DANGEROUS OFFENDERS. Subdivision 1. **Definition.** "Extended term of imprisonment" means a term of imprisonment the maximum of which may be for the maximum term authorized by law for the crime for which the defendant is being sentenced multiplied by the number of his prior felony convictions, but not to exceed 40 years.

Subd. 2. **When applicable.** Whoever, having previously been convicted of one or more felonies, commits another felony other than murder in the first degree may upon conviction thereof be sentenced to an extended term of imprisonment if:

(1) A presentence investigation and report has been made pursuant to section 609.115; and

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(2) Findings are made by the court as required by section 609.16.

Subd. 3. **Felony.** For purpose of this section a felony shall be that as defined in section 609.02, subdivision 2, notwithstanding the provisions of section 609.13.

Subd. 4. **Limitations.** Subdivision 2 does not apply unless:

(1) The prior convictions occurred within ten years prior to the commission of the crime of which the defendant presently stands convicted; and

(2) The prior convictions occurred:

(a) In this state; or

(b) In another state and were for crimes which would have been felonies if they had been committed in this state; or

(c) In a federal court.

[1963 c 753 art 1 s 609.155]

NOTE: Section 609.155 is repealed effective May 1, 1980. See Laws 1978, Chapter 723, Article 1, Section 20.

609.16 EXTENDED TERM FOR DANGEROUS OFFENDERS; HEARING. A sentence to an extended term of imprisonment under section 609.155 shall not be imposed unless:

(1) At the instance of the prosecuting attorney or by order of the court on its own motion, written notice is served by the prosecuting attorney on the defendant or his attorney personally setting forth the prior convictions and advising the defendant that the court may sentence him to an extended term of imprisonment for the crime of which he has been convicted and that he is entitled to be heard thereon if he denies such prior convictions or brings in issue any matter in the presentence report, and fixing a time not less than five days after service of such notice for such hearing and sentence.

(2) A summary hearing is thereafter held pursuant to such notice at which evidence for and against the imposition of a sentence for an extended term may be received and at which the defendant is entitled to be heard on the issues raised and to be represented by counsel.

(3) The court finds on the basis of such hearings, the defendant's admissions, the evidence at the trial and the presentence report:

(a) That the defendant was previously convicted of one or more of the crimes specified in section 609.155; and

(b) That the defendant is disposed to the commission of criminal acts of violence and that an extended term of imprisonment is required for his rehabilitation or for the public safety.

[1963 c 753 art 1 s 609.16]

NOTE: Section 609.16 is repealed effective May 1, 1980. See Laws 1978, Chapter 723, Article 1, Section 20.

609.165 RESTORATION OF CIVIL RIGHTS. Subdivision 1. When a person has been deprived of his civil rights by reason of conviction of a crime and is thereafter discharged, such discharge shall restore him to all his civil rights and to full citizenship, with full right to vote and hold office, the same as if such conviction had not taken place, and the order of discharge shall so provide.

Subd. 2. The discharge may be:

(1) By order of the court following stay of sentence or stay of execution of sentence; or

(2) Upon expiration of sentence.

Subd. 3. This section does not apply to a forfeiture of and disqualification for public office as provided in section 609.42, subdivision 2.

[1963 c 753 art 1 s 609.165; 1973 c 654 s 15; 1975 c 271 s 6; 1978 c 723 art 1 s 15]

NOTE: The amendment to section 609.165, subdivision 2 by Laws 1978, Chapter 723, Article 1, Section 15 is effective May 1, 1980. See Laws 1978, Chapter 723, Article 1, Section 20.

609.166 CONVICTIONS, SETTING ASIDE IN CERTAIN INSTANCES. Any person who is convicted of or pleads guilty to a felony, gross misdemeanor or misdemeanor may move the convicting court for the entry of an order setting aside the conviction where:

- (a) the offense was committed before he was 21 years of age;
- (b) five years have lapsed since the person has served the sentence imposed upon him or has been discharged from probation, and during the five year period the person has not been convicted of a felony or gross misdemeanor; and
- (c) the offense is not one for which a sentence of life imprisonment may be imposed.

[1971 c 779 s 1; 1974 c 331 s 1]

609.167 PROCEDURE IN ENTERING ORDER. Subdivision 1. A copy of the motion and supporting affidavits shall be served upon the office of the prosecuting attorney who prosecuted the offense 30 days prior to hearing on the motion.

Subd. 2. At hearing on the motion the court may require the filing of such further affidavits and the taking of such evidence as it deems necessary and proper.

Subd. 3. Where the court determines that the circumstances and behavior of the person from the date of his conviction warrant setting aside the conviction, it may enter such an order.

[1971 c 779 s 2]

609.168 EFFECT OF ORDER. Where an order is entered by the court setting aside the conviction the person shall be deemed not to have been previously convicted.

[1971 c 779 s 3]

ANTICIPATORY CRIMES

609.17 ATTEMPTS. Subdivision 1. Whoever, with intent to commit a crime, does an act which is a substantial step toward, and more than preparation for, the commission of the crime is guilty of an attempt to commit that crime, and may be punished as provided in subdivision 4.

Subd. 2. An act may be an attempt notwithstanding the circumstances under which it was performed or the means employed to commit the crime intended or the act itself were such that the commission of the crime was not possible, unless such impossibility would have been clearly evident to a person of normal understanding.

Subd. 3. It is a defense to a charge of attempt that the crime was not committed because the accused desisted voluntarily and in good faith and abandoned his intention to commit the crime.

Subd. 4. Whoever attempts to commit a crime may be sentenced as follows:

- (1) If the maximum sentence provided for the crime is life imprisonment, to not more than 20 years; or
- (2) For any other attempt, to not more than one-half of the maximum imprisonment or fine or both provided for the crime attempted, but such maximum in any case shall not be less than imprisonment for 90 days or a fine of \$100.

[1963 c 753 art 1 s 609.17]

609.175 CONSPIRACY. Subdivision 1. **To cause arrest or prosecution.** Whoever conspires with another to cause a third person to be arrested or prosecuted on a criminal charge knowing the charge to be false is guilty of a misdemeanor.

Subd. 2. **To commit crime.** Whoever conspires with another to commit a crime and in furtherance of the conspiracy one or more of the parties does some overt act in furtherance of such conspiracy may be sentenced as follows:

- (1) If the crime intended is a misdemeanor, by a sentence 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 crime intended is murder in the first degree or treason, to imprisonment for not more than 20 years; or
- (3) If the crime intended is any other felony or a gross misdemeanor, to imprisonment or to payment of a fine of not more than one-half the imprisonment or fine provided for that felony or gross misdemeanor or both.

Subd. 3. **Application of section jurisdiction.** This section applies if:

- (1) The defendant in this state conspires with another outside of this state; or
- (2) The defendant outside of this state conspires with another in this state; or
- (3) The defendant outside of this state conspires with another outside of this state and an overt act in furtherance of the conspiracy is committed within this state by either of them; or
- (4) The defendant in this state conspires with another in this state.
[1963 c 753 art 1 s 609.175; 1971 c 23 s 37,38; 1975 c 279 s 1]

HOMICIDE AND SUICIDE

609.18 DEFINITION. For the purposes of sections 609.185 and 609.19, "premeditation" means to consider, plan or prepare for, or determine to commit, the act referred to prior to its commission.

[1963 c 753 art 1 s 609.18]

609.185 MURDER IN THE FIRST DEGREE. Whoever does either of the following is guilty of murder in the first degree and shall be sentenced to imprisonment for life:

- (1) Causes the death of a human being with premeditation and with intent to effect the death of such person or of another; or
- (2) Causes the death of a human being while committing or attempting to commit criminal sexual conduct in the first or second degree with force or violence, either upon or affecting such person or another.

[1963 c 753 art 1 s 609.185; 1975 c 374 s 1]

609.19 MURDER IN THE SECOND DEGREE. Whoever causes the death of a human being with intent to effect the death of such person or another, but without premeditation, is guilty of murder in the second degree and may be sentenced to imprisonment for not more than 40 years.

[1963 c 753 art 1 s 609.19]

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.

[1963 c 753 art 1 s 609.195; 1977 c 130 s 3]

609.20 MANSLAUGHTER IN THE FIRST DEGREE. Whoever does any of the following is guilty of manslaughter in the first degree and may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than \$15,000, or both:

- (1) Intentionally causes the death of another person in the heat of passion provoked by such words or acts of another as would provoke a person of ordinary self-control under like circumstances; or
- (2) Causes the death of another in committing or attempting to commit a crime with such force and violence that death of or great bodily harm to any person was reasonably foreseeable, and murder in the first or second degree was not committed thereby; or
- (3) Intentionally causes the death of another person because the actor is coerced by threats made by someone other than his co-conspirator and which cause him reasonably to believe that his act is the only means of preventing imminent death to himself or another.

[1963 c 753 art 1 s 609.20]

609.205 MANSLAUGHTER IN THE SECOND DEGREE. Whoever causes the death of another by any of the following means is guilty of manslaughter in the second degree and may be sentenced to imprisonment for not more than seven years or

to payment of a fine of not more than \$7,000, or both:

(1) By his culpable negligence whereby he creates an unreasonable risk, and consciously takes chances of causing death or great bodily harm to another; or

(2) By shooting another with a firearm or other dangerous weapon as a result of negligently believing him to be a deer or other animal; or

(3) By setting a spring gun, pit fall, deadfall, snare, or other like dangerous weapon or device; or

(4) By negligently or intentionally permitting any animal, known by him to have vicious propensities, to go at large, or negligently failing to keep it properly confined, and the victim was not at fault.

[1963 c 753 art 1 s 609.205]

609.21 CRIMINAL NEGLIGENCE RESULTING IN DEATH. Whoever operates a vehicle as defined in section 169.01, subdivision 2, or an aircraft or watercraft, in a grossly negligent manner and thereby causes the death of a human being not constituting murder or manslaughter is guilty of criminal negligence in the operation of a vehicle resulting in death and 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.

[1963 c 753 art 1 s 609.21]

609.215 SUICIDE. Subdivision 1. **Aiding suicide.** Whoever intentionally advises, encourages, or assists another in taking his own life may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than \$15,000, or both.

Subd. 2. **Aiding attempted suicide.** Whoever intentionally advises, encourages, or assists another who attempts but fails to take his own life may be sentenced to imprisonment for not more than seven years or to payment of a fine of not more than \$7,000, or both.

[1963 c 753 art 1 s 609.215]

CRIMES AGAINST THE PERSON

609.22 ASSAULT. Whoever does any of the following commits an assault and is guilty of a misdemeanor:

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

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

[1963 c 753 art 1 s 609.22; 1971 c 23 s 39]

609.225 AGGRAVATED ASSAULT. Subdivision 1. Whoever assaults another and inflicts great bodily harm may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$10,000, or both.

Subd. 2. Whoever assaults another with a dangerous weapon but without inflicting great bodily harm may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$5,000, or both.

[1963 c 753 art 1 s 609.225; 1969 c 738 s 1]

609.23 MISTREATMENT OF PERSONS CONFINED. Whoever, being in charge of or employed in any institution, whether public or private, intentionally abuses or ill-treats any person confined therein who is mentally or physically disabled or who is involuntarily confined therein by order of court or other duly constituted authority 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.

[1963 c 753 art 1 s 609.23]

609.231 MISTREATMENT OF RESIDENTS OR PATIENTS. Whoever, being in charge of or employed in any facility required to be licensed under the provisions of sections 144.50 to 144.58, or 144A.02, intentionally abuses, ill-treats, or culpably neglects any patient or resident therein to his physical detriment 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.

[1973 c 688 s 9; 1976 c 173 s 60]

609.235 USE OF DRUGS TO INJURE OR FACILITATE CRIME. Whoever administers to another or causes another to take any poisonous, stupefying, overpowering, narcotic or anesthetic substance with intent thereby to injure or to facilitate the commission of a crime 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.

[1963 c 753 art 1 s 609.235]

609.24 SIMPLE ROBBERY. Whoever, knowing he is not entitled thereto, takes personal property from the person or in the presence of another and uses or threatens the imminent use of force against any person to overcome his resistance or powers of resistance to, or to compel acquiescence in, the taking or carrying away of the property is guilty of robbery and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$10,000, or both.

[1963 c 753 art 1 s 609.24]

609.245 AGGRAVATED ROBBERY. Whoever, while committing a robbery, is armed with a dangerous weapon or inflicts bodily harm upon another is guilty of aggravated robbery and may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than \$20,000, or both.

[1963 c 753 art 1 s 609.245]

609.25 KIDNAPPING. Subdivision 1. **Acts constituting.** Whoever, for any of the following purposes, confines or removes from one place to another, any person without his consent or, if he is under the age of 16 years, without the consent of his parents or other legal custodian, is guilty of kidnapping and may be sentenced as provided in subdivision 2:

- (1) To hold for ransom or reward for release, or as shield or hostage; or
- (2) To facilitate commission of any felony or flight thereafter; or
- (3) To commit great bodily harm or to terrorize the victim or another; or
- (4) To hold in involuntary servitude.

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

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

(2) Otherwise to imprisonment for not more than 40 years or to payment of a fine of not more than \$40,000, or both.

[1963 c 753 art 1 s 609.25]

609.255 FALSE IMPRISONMENT. Whoever, knowing he has no lawful authority to do so, intentionally confines or restrains a child not his own under the age of 18 years without his parent's or legal custodian's consent, or any other person without his consent, is guilty of false imprisonment and 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.

[1963 c 753 art 1 s 609.255]

609.26 DETAINING OWN CHILD. Whoever intentionally detains his own child under the age of 18 years outside the state of Minnesota, with intent to deny another's rights under an existing court order may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$2,000, or both.

[1963 c 753 art 1 s 609.26; 1967 c 570 s 1]

609.265 ABDUCTION. Whoever, for the purpose of marriage, takes a person under the age of 18 years, without the consent of the parents, guardian or other person having legal custody of such person is guilty of abduction and 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.

[1963 c 753 art 1 s 609.265]

CRIMES OF COMPULSION

609.27 COERCION. Subdivision 1. **Acts constituting.** Whoever orally or in writing makes any of the following threats and thereby causes another against his will to do any act or forbear doing a lawful act is guilty of coercion and may be sentenced as provided in subdivision 2:

(1) A threat to unlawfully inflict bodily harm upon, or hold in confinement, the person threatened or another, when robbery or attempt to rob is not committed thereby; or

(2) A threat to unlawfully inflict damage to the property of the person threatened or another; or

(3) A threat to unlawfully injure a trade, business, profession or calling; or

(4) A threat to expose a secret or deformity, publish a defamatory statement or otherwise to expose any person to disgrace or ridicule; or

(5) A threat to make or cause to be made a criminal charge, whether true or false; provided, that a warning of the consequences of a future violation of law given in good faith by a magistrate, peace officer, or prosecuting attorney to any person shall not be deemed a threat for the purposes of this section.

Subd. 2. **Sentence.** Whoever violates subdivision 1 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 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.

[1963 c 753 art 1 s 609.27; 1971 c 23 s 40; 1977 c 355 s 7]

609.275 ATTEMPT TO COERCE. Whoever makes a threat within the meaning of section 609.27, subdivision 1, clauses (1) to (5), but fails to cause the intended act or forbearance, commits an attempt to coerce and may be punished as provided in section 609.17.

[1963 c 753 art 1 s 609.275]

609.28 INTERFERING WITH RELIGIOUS OBSERVANCE. Whoever, by threats or violence, intentionally prevents another person from performing any lawful act enjoined upon or recommended to him by the religion which he professes is guilty of a misdemeanor.

[1963 c 753 art 1 s 609.28; 1971 c 23 s 41]

SEX CRIMES

609.29 [Repealed, 1975 c 374 s 13]

609.291 [Repealed, 1975 c 374 s 13]

609.292 [Repealed, 1975 c 374 s 13]

609.293 SODOMY. Subdivision 1. **Definition.** "Sodomy" means carnally knowing any person by the anus or by or with the mouth.

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.

[1967 c 507 s 4; 1977 c 130 s 4]

609.294 BESTIALITY. Whoever carnally knows a dead body or an animal or bird is guilty of bestiality, which is a misdemeanor. If knowingly done in the presence of another he 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.

[1967 c 507 s 5; 1971 c 23 s 42]

609.295 [Repealed, 1975 c 374 s 13]

609.296 [Repealed, 1975 c 374 s 13]

609.31 LEAVING THE STATE TO EVADE ESTABLISHMENT OF PATERNITY. Whoever with intent to evade proceedings to establish his paternity leaves the state knowing that a woman with whom he has had sexual intercourse is pregnant or has given birth within the previous 60 days to a living child may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$2,000, or both.

[1967 c 507 s 8]

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.

Subd. 2. **Acts prohibited.** Whoever intentionally does any of the following may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$10,000, or both:

(1) Solicits or induces another under the age of 18 years to practice prostitution;
or

(2) Being a parent, guardian, or other custodian of the person of a child under the age of 18 years consents to his being taken or detained for the purposes of prostitution.

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

(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.

[1967 c 507 s 9; 1974 c 507 s 1,2; 1977 c 130 s 5-7]

609.33 DISORDERLY HOUSE OR PLACE OF PUBLIC RESORT. Whoever does either 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) Keeps a disorderly house, or place of public resort, whereby the peace, comfort or decency of a neighborhood is habitually disturbed; or

(2) Being the owner or in control of any premises, intentionally permits them to be so used.

[1967 c 507 s 10]

609.34 FORNICATION. When any man and single woman have sexual intercourse with each other, each is guilty of fornication, which is a misdemeanor.

[1967 c 507 s 11; 1971 c 23 s 43]

609.341 DEFINITIONS. Subdivision 1. For the purposes of sections 609.341 to 609.351, the terms in this section have the meanings given them.

Subd. 2. "Actor" means a person accused of criminal sexual conduct.

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

Subd. 4. "Consent" means a voluntary uncoerced manifestation of a present agreement to perform a particular sexual act.

Subd. 5. "Intimate parts" includes the primary genital area, groin, inner thigh, buttocks, or breast of a human being.

Subd. 6. "Mentally defective" means that a person suffers from a mental disease or defect which renders that person temporarily or permanently incapable of appraising the nature of his conduct.

Subd. 7. "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his conduct due to the influence of alcohol, a narcotic, anesthetic, or any other substance administered to that person without his agreement, or due to any other act committed upon that person without his agreement.

Subd. 8. "Personal injury" means bodily harm as defined in section 609.02, subdivision 7, or severe mental anguish or pregnancy.

Subd. 9. "Physically helpless" means that a person is unconscious, asleep, or for any other reason is physically unable to communicate unwillingness to act and the condition is known or reasonably should have been known to the actor.

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.

Subd. 11. "Sexual contact" includes any of the following acts committed without the complainant's consent, if the acts can reasonably be construed as being for the purpose of satisfying the actor's sexual or aggressive impulses, except in those cases where consent is not a defense:

- (i) The intentional touching by the actor of the complainant's intimate parts, or
- (ii) The coerced touching by the complainant of the actor's, the complainant's, or another's intimate parts, or
- (iii) The coerced touching by another of the complainant's intimate parts, or
- (iv) In any of the cases above, of the clothing covering the immediate area of the intimate parts.

Subd. 12. "Sexual penetration" means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion however slight into the genital or anal openings of the complainant's body of any part of the actor's body or any object used by the actor for this purpose, where the act is committed without the complainant's consent, except in those cases where consent is not a defense. Emission of semen is not necessary.

Subd. 13. "Complainant" means a person alleging to have been subjected to criminal sexual conduct.

[1975 c 374 s 2; 1977 c 130 s 8]

609.342 CRIMINAL SEXUAL CONDUCT IN THE FIRST DEGREE. A person is guilty of criminal sexual conduct in the first degree and may be sentenced to imprisonment for not more than 20 years, if he engages in sexual penetration with another person and if any of the following circumstances exists:

(a) The complainant is under 13 years of age and the actor is more than 36 months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense; or

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

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

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

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

(i) The actor uses force or coercion to accomplish sexual penetration; or

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

(f) The actor is aided or abetted by one or more accomplices within the meaning of section 609.05, and either of the following circumstances exists:

(i) An accomplice uses force or coercion to cause the complainant to submit; or

(ii) An accomplice is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant reasonably to believe it to be a dangerous weapon and uses or threatens to use the weapon or article to cause the complainant to submit.

[1975 c 374 s 3]

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

(a) The complainant is under 13 years of age and the actor is more than 36 months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense; or

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

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

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

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

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

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

(f) The actor is aided or abetted by one or more accomplices within the meaning of section 609.05, and either of the following circumstances exists:

(i) An accomplice uses force or coercion to cause the complainant to submit; or

(ii) An accomplice is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a danger-

ous weapon and uses or threatens to use the weapon or article to cause the complainant to submit.

[1975 c 374 s 4]

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

(a) The complainant is under 13 years of age and the actor is no more than 36 months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant shall be a defense; or

(b) The complainant is at least 13 but less than 16 years of age and the actor is more than 24 months older than the complainant and not in a position of authority over the complainant. In any such case it shall be an affirmative defense, which must be proved by a preponderance of the evidence, that the actor believes the complainant to be 16 years of age or older. If the actor in such a case is no more than 48 months but more than 24 months older than the complainant, he may be sentenced to imprisonment for not more than five years. Consent by the complainant is not a defense; or

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

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

[1975 c 374 s 5]

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

(a) The complainant is under 13 years of age and the actor is no more than 36 months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense; or

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

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

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

[1975 c 374 s 6; 1976 c 124 s 9]

609.346 SUBSEQUENT OFFENSES. Subdivision 1. If a person is convicted of a second or subsequent offense under sections 609.342 to 609.346 within 15 years of the prior conviction, the court shall commit the defendant to the commissioner of corrections for imprisonment for a term of not less than three years, nor more than the maximum sentence provided by law for the offense for which convicted, notwithstanding the provisions of sections 242.19, 243.05, 609.11, 609.12 and 609.135.

Subd. 2. For the purposes of this section, an offense is considered a second or subsequent offense if, prior to conviction of the second or subsequent offense, the actor has been at any time convicted under sections 609.342 to 609.346 or under any similar statute of the United States, or this or any other state.

[1975 c 374 s 7; 1978 c 723 art 1 s 16]

NOTE: The amendment to section 609.346, subdivision 1 by Laws 1978, Chapter 723, Article 1, Section 16 is effective May 1, 1980. See Laws 1978, Chapter 723, Article 1, Section 20.

609.347 EVIDENCE. Subdivision 1. In a prosecution under sections 609.342 to 609.346, the testimony of a complainant need not be corroborated.

Subd. 2. In a prosecution under sections 609.342 to 609.346, there is no need to show that the complainant resisted the actor.

Subd. 3. In a prosecution under sections 609.342 to 609.346, evidence of the complainant's previous sexual conduct shall not be admitted nor shall any reference to such conduct be made in the presence of the jury, except by court order under the procedure provided in subdivision 4, and only to the extent that the court finds that any of the following proposed evidence is material to the fact at issue in the case and that its inflammatory or prejudicial nature does not outweigh its probative value:

(a) When consent or fabrication by the complainant is the defense in the case, evidence of such conduct tending to establish a common scheme or plan of similar sexual conduct under circumstances similar to the case at issue on the part of the complainant, relevant and material to the issue of consent or fabrication. Evidence of such conduct engaged in more than one year prior to the date of alleged offense is inadmissible;

(b) Evidence of specific instances of sexual activity showing the source of semen, pregnancy, or disease at the time of the incident or, in the case of pregnancy, between the time of the incident and trial;

(c) Evidence of the complainant's past sexual conduct with the defendant;

(d) For purposes of impeachment, when such evidence is offered to rebut specific testimony of the complainant.

Subd. 4. The defendant may not offer evidence described in subdivision 3 except pursuant to the following procedure:

(a) A motion shall be made by the defendant prior to trial, unless later for good cause shown, stating to the court and prosecutor that the defendant has an offer of proof of the relevancy of the evidence of the sexual conduct of the complainant which is proposed to be presented;

(b) If the court finds that the offer of proof is sufficient, the court shall order a hearing out of the presence of the jury, if any, and in such hearing shall allow the defendant to make a full presentation of his offer of proof;

(c) At the conclusion of the hearing, if the court finds that the evidence proposed to be offered by the defendant regarding the sexual conduct of the complainant is relevant and material to the fact of consent, and is not so prejudicial as to be inadmissible, the court shall make an order stating the extent to which evidence is admissible under subdivision 3 and prescribing the nature of questions to be permitted at trial. The defendant may then offer evidence pursuant to the order of the court;

(d) If new information is discovered after the date of the hearing or during the course of trial, which may make evidence described in subdivision 3 admissible, the defendant shall make the disclosures under clause (a) of this subdivision and the court shall order an in camera hearing to determine whether the proposed evidence is admissible by the standards herein.

Subd. 5. In a prosecution under sections 609.342 to 609.346, the court shall not instruct the jury to the effect that:

(a) It may be inferred that a complainant who has previously consented to sexual intercourse with persons other than the defendant would be therefore more likely to consent to sexual intercourse again; or

(b) The complainant's previous or subsequent sexual conduct in and of itself may be considered in determining the credibility of the complainant; or

(c) Criminal sexual conduct is a crime easily charged by a complainant but very difficult to disprove by a defendant because of the heinous nature of the crime; or

(d) The jury should scrutinize the testimony of the complainant any more closely than it should scrutinize the testimony of any witness in any felony prosecution.

[1975 c 374 s 8]

609.348 MEDICAL PURPOSES; EXCLUSION. Laws 1975, Chapter 374 shall not apply to sexual penetration or sexual contact when done for a bona fide medical purpose.

[1975 c 374 s 9]

609.349 VOLUNTARY RELATIONSHIPS. A person does not commit criminal sexual conduct under Laws 1975, Chapter 374 if the actor and complainant were adults cohabiting in an ongoing voluntary sexual relationship at the time of the alleged offense, or if the complainant is the actor's legal spouse, unless the couple is liv-

ing apart and one of them has filed for legal separation or dissolution of the marriage. Nothing in this section shall be construed to prohibit or restrain the prosecution for any other offense committed by any person against his legal spouse.

[1975 c 374 s 10; 1978 c 772 s 62]

609.35 COSTS OF MEDICAL EXAMINATION. No costs incurred by a county, city, or private hospital or other emergency medical facility or by a private physician for the examination of a complainant of criminal sexual conduct, when the examination is performed for the purpose of gathering evidence for possible prosecution, shall be charged directly or indirectly to the complainant. The reasonable costs of such examination shall be paid by the county in which the alleged offense was committed. Nothing in this section shall be construed to limit the duties, responsibilities, or liabilities of any insurer, whether public or private.

[1975 c 374 s 11]

609.351 APPLICABILITY TO PAST AND PRESENT PROSECUTIONS. Except for section 609.347, crimes committed prior to August 1, 1975, are not affected by its provisions.

[1975 c 374 s 12]

CRIMES AGAINST THE FAMILY

609.355 BIGAMY. Subdivision 1. **Definition.** In this section "cohabit" means to live together under the representation or appearance of being married.

Subd. 2. **Acts constituting.** Whoever does any of the following is guilty of bigamy and 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) Contracts a marriage in this state with knowledge that his prior marriage is not dissolved; or

(2) Contracts a marriage in this state with knowledge that the prior marriage of the person he marries is not dissolved; or

(3) Cohabits in this state with a person whom he married outside this state with knowledge that his own prior marriage has not been dissolved or with knowledge that the prior marriage of the person he married had not been dissolved.

[1963 c 753 art 1 s 609.355]

609.36 ADULTERY. Subdivision 1. **Acts constituting.** When a married woman has sexual intercourse with a man other than her husband, whether married or not, both are guilty of adultery and 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.

Subd. 2. **Limitations.** No prosecution shall be commenced under this section except on complaint of the husband or the wife, except when such husband or wife is insane, nor after one year from the commission of the offense.

Subd. 3. **Defense.** It is a defense to violation of this section if the marital status of the woman was not known to the defendant at the time of the act of adultery.

[1963 c 753 art 1 s 609.36]

609.365 INCEST. Whoever has sexual intercourse with another nearer of kin to him than first cousin, computed by rules of the civil law, whether of the half or the whole blood, with knowledge of the relationship, is guilty of incest and may be sentenced to imprisonment for not more than ten years.

[1963 c 753 art 1 s 609.365]

609.37 DEFINITION. As used in section 609.375, "child" means a child under the age of 16 years who is in necessitous circumstances and includes such child born out of wedlock whose paternity has been duly established.

[1963 c 753 art 1 s 609.37; 1965 c 41 s 3]

609.375 NON-SUPPORT OF WIFE OR CHILD. Subdivision 1. Whoever is legally obligated to provide care and support to his wife who is in necessitous circumstances, or his child, whether or not its custody has been granted to another, and knowingly omits and fails without lawful excuse to do so is guilty of non-support of said wife or child, as the case may be, and upon conviction thereof may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than \$300.

Subd. 2. If the knowing omission and failure without lawful excuse to provide care and support to a minor child or a pregnant wife continues for a period in excess of 90 days such person is guilty of a felony and may be sentenced to imprisonment for not more than five years.

Subd. 3. Upon conviction, the court may provide by order for the care and support of such child or wife for a period not to exceed five years, require bond or other security to the state to secure performance thereof, and suspend sentence or execution thereof, conditioned upon compliance with such order.

Subd. 4. If, upon order to show cause duly made, the court finds that an order made pursuant to subdivision 3 has been violated, the suspension may be revoked and sentence imposed or executed, and the obligors of such bond or security shall become liable pursuant to the terms thereof, and, with leave of the court, the wife, or child, or any public agency which furnished care or support to such wife or child while such order for care and support was in force, may recover thereon.

[1963 c 753 art 1 s 609.375; 1971 c 23 s 44; 1971 c 507 s 1; 1976 c 2 s 151]

CRIMES AGAINST THE GOVERNMENT

609.385 TREASON. Subdivision 1. **Definition.** "Levying war" includes an act of war or an insurrection of several persons with intent to prevent, by force and intimidation, the execution of a statute of the state, or to force its repeal. It does not include either a conspiracy to commit an act of war or a single instance of resistance for a private purpose to the execution of a law.

Subd. 2. **Acts constituting.** Any person owing allegiance to this state who does either of the following is guilty of treason against this state and shall be sentenced to life imprisonment:

- (1) Levies war against this state; or
- (2) Adheres to the enemies of this state, giving them aid and comfort.

Subd. 3. **Testimony required.** No person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or on his confession in open court.

[1963 c 753 art 1 s 609.385]

609.39 MISPRISION OF TREASON. Whoever, owing allegiance to this state and having knowledge of the commission of treason against this state, does not, as soon as may be, disclose and make known the same to the governor or a judge of the supreme court or of the district court, is guilty of misprision of treason against this state and 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.

[1963 c 753 art 1 s 609.39]

609.395 STATE MILITARY FORCES; INTERFERING WITH, OBSTRUCTING, OR OTHER. Whoever, when the United States is at war, does either of the following may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than \$20,000, or both:

- (1) Intentionally makes or conveys false reports or statements with intent to interfere with the operation or success of the military or naval forces of this state; or
- (2) Intentionally causes or incites insubordination, disloyalty, mutiny, or refusal of duty in the military or naval forces of this state, or obstructs the recruiting or enlistment service of this state.

[1963 c 753 art 1 s 609.395]

609.40 FLAGS. Subdivision 1. **Definition.** In this section "flag" means anything which is or purports to be the Stars and Stripes, the United States shield, the United States coat of arms, the Minnesota state flag, or a copy, picture, or representation of any of them.

Subd. 2. **Acts prohibited.** Whoever does any of the following is guilty of a misdemeanor:

- (1) Intentionally and publicly mutilates, defiles, or casts contempt upon the flag;
- or

(2) Places on or attaches to the flag any word, mark, design, or advertisement not properly a part of such flag or exposes to public view a flag so altered; or

(3) Manufactures or exposes to public view an article of merchandise or a wrapper or receptacle for merchandise upon which the flag is depicted; or

(4) Uses the flag for commercial advertising purposes.

Subd. 3. Exceptions. This section does not apply to flags depicted on written or printed documents or periodicals or on stationery, ornaments, pictures, or jewelry, provided there are not unauthorized words or designs on such flags and provided the flag is not connected with any advertisement.

[1963 c 753 art 1 s 609.40; 1971 c 23 s 45]

609.405 CRIMINAL SYNDICALISM. Subdivision 1. **Definition.** "Criminal syndicalism" is the doctrine which advocates crime, malicious damage or injury to the property of an employer, violence, or other unlawful methods of terrorism as a means of accomplishing industrial or political ends.

Subd. 2. Acts prohibited. Whoever 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) Orally or by means of writing advocates or promotes the doctrine of criminal syndicalism; or

(2) Intentionally organizes or becomes a member of any assembly, group, or organization which he knows is advocating or promoting the doctrine of criminal syndicalism; or

(3) For or on behalf of another person, distributes, sells, publishes, or publicly displays any writing, which is intended by that person to be used to, and which does, advocate or promote the doctrine of criminal syndicalism.

Subd. 3. Permitting assemblage for. Whoever, being the owner or in possession or control of any premises intentionally permits any assemblage of persons to use such premises for the purpose of advocating or promoting the doctrine of criminal syndicalism 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.

[1963 c 753 art 1 s 609.405]

609.41 FALSE TAX STATEMENT. Whoever, in making any statement, oral or written, which is required or authorized by law to be made as a basis of imposing, reducing, or abating any tax or assessment, intentionally makes any statement as to any material matter which he knows is false may be sentenced, unless otherwise provided by law, to imprisonment for not more than one year or to payment of a fine of not more than \$1,000, or both.

[1963 c 753 art 1 s 609.41]

CRIMES AFFECTING PUBLIC OFFICER OR EMPLOYEE

609.415 DEFINITIONS. Subdivision 1. As used in sections 609.415 to 609.465, and 609.515,

(1) "Public officer" means:

(a) An executive or administrative officer of the state or of a county, municipality or other subdivision or agency of the state.

(b) A member of the legislature or of a governing board of a county, municipality, or other subdivision of the state, or other governmental instrumentality within the state.

(c) A judicial officer.

(d) A hearing officer.

(e) A law enforcement officer.

(f) Any other person exercising the functions of a public officer.

(2) A "public employee" is a person employed by or acting for the state or by or for a county, municipality, or other subdivision or governmental instrumentality of the state for the purpose of exercising their respective powers and performing their respective duties, and who is not a "public officer."

(3) A "judicial officer" includes a judge, justice of the peace or other magistrate, juror, court commissioner, referee, or any other person appointed by a judge or court to hear or determine a cause or controversy.

(4) A "hearing officer" includes any person authorized by law or private agreement to hear or determine a cause or controversy and who is not a judicial officer.

Subd. 2. A person who has been elected, appointed, or otherwise designated as a public officer or public employee is deemed such officer or employee although he has not yet qualified therefor or entered upon the duties thereof.

[1963 c 753 art 1 s 609.415]

609.42 BRIBERY. Subdivision 1. **Acts constituting.** Whoever does any of the following is guilty of bribery and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$10,000, or both:

(1) Offers, gives, or promises to give, directly or indirectly, to any public officer or employee any benefit, reward or consideration to which he is not legally entitled with intent thereby to influence such officer or employee with respect to the performance of his powers or duties as such officer or employee; or

(2) Being a public officer or employee, requests, receives or agrees to receive, directly or indirectly, any such benefit, reward or consideration upon the understanding that he will be so influenced; or

(3) Offers, gives, or promises to give, directly or indirectly any such benefit, reward, or consideration to a witness or one who is about to become a witness in a proceeding before a judicial or hearing officer, with intent that his testimony be influenced thereby, or that he will absent himself from the proceeding; or

(4) Is, or is about to become such witness and requests, receives, or agrees to receive, directly or indirectly, any such benefit, reward, or consideration upon the understanding that his testimony will be so influenced, or that he will absent himself from the proceeding; or

(5) Accepts directly or indirectly a benefit, reward or consideration upon an agreement or understanding, express or implied, that he will refrain from giving information that may lead to the prosecution of a crime or purported crime or that he will abstain from, discontinue, or delay prosecution therefor, except in a case where a compromise is allowed by law.

Subd. 2. **Forfeiture of office.** Any public officer who is convicted of violating or attempting to violate subdivision 1 shall forfeit his office and be forever disqualified from holding public office under the state.

[1963 c 753 art 1 s 609.42; 1976 c 178 s 2]

609.425 CORRUPTLY INFLUENCING LEGISLATOR. Whoever by menace, deception, concealment of facts, or other corrupt means, attempts to influence the vote or other performance of duty of any member of the legislature or person elected thereto 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.

[1963 c 753 art 1 s 609.425]

609.43 MISCONDUCT OF PUBLIC OFFICER OR EMPLOYEE. A public officer or employee who does any of the following, for which no other sentence is specifically provided by law, 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) Intentionally fails or refuses to perform a known mandatory, nondiscretionary, ministerial duty of his office or employment within the time or in the manner required by law; or

(2) In his capacity as such officer or employee, does an act which he knows is in excess of his lawful authority or which he knows he is forbidden by law to do in his official capacity; or

(3) Under pretense or color of official authority intentionally and unlawfully injures another in his person, property, or rights; or

(4) In his capacity as such officer or employee, makes a return, certificate, offi-

cial report, or other like document which to his knowledge is false in any material respect.

[1963 c 753 art 1 s 609.43]

609.435 OFFICER NOT FILING SECURITY. Whoever intentionally performs the functions of a public officer without having executed and duly filed the required security is guilty of a misdemeanor.

[1963 c 753 art 1 s 609.435; 1971 c 23 s 46]

609.44 PUBLIC OFFICE; ILLEGALLY ASSUMING; NON-SURRENDER. Whoever intentionally and without lawful right thereto, exercises a function of a public office or, having held such office and his right thereto having ceased, refuses to surrender the office or its seal, books, papers, or other incidents to his successor or other authority entitled thereto 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.

[1963 c 753 art 1 s 609.44]

609.445 FAILURE TO PAY OVER STATE FUNDS. Whoever receives money on behalf of or for the account of the state or any of its agencies or subdivisions and intentionally refuses or omits to pay the same to the state or its agency or subdivision entitled thereto, or to an officer or agent authorized to receive the same, 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.

[1963 c 753 art 1 s 609.445]

609.45 PUBLIC OFFICER; UNAUTHORIZED COMPENSATION. Whoever is a public officer or public employee and under color of his office or employment intentionally asks, receives or agrees to receive a fee or other compensation in excess of that allowed by law or where no such fee or compensation is allowed, is guilty of a misdemeanor.

[1963 c 753 art 1 s 609.45; 1971 c 23 s 47]

609.455 PERMITTING FALSE CLAIMS AGAINST GOVERNMENT. A public officer or employee who audits, allows, or pays any claim or demand made upon the state or subdivision thereof or other governmental instrumentality within the state which he knows is false or fraudulent in whole or in part, 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.

[1963 c 753 art 1 s 609.455]

609.46 JUSTICE OF THE PEACE OR CONSTABLE BUYING CLAIM OR INDUCING SUIT. Every justice of the peace or constable who shall, directly or indirectly, buy, or be interested in buying, any thing in action, for the purpose of commencing a suit thereon before a justice, or who shall give or promise any valuable consideration to any person as an inducement to bring, or in consideration of having brought, a suit thereon before a justice, is guilty of a misdemeanor.

[1963 c 753 art 1 s 609.46; 1971 c 23 s 48]

609.465 PRESENTING FALSE CLAIMS TO PUBLIC OFFICER OR BODY. Whoever, with intent to defraud, presents a claim or demand, which to his knowledge is false in whole or in part, for audit, allowance or payment to a public officer or body authorized to make such audit, allowance or payment is guilty of an attempt to commit theft of public funds and may be sentenced accordingly.

[1963 c 753 art 1 s 609.465]

609.466 MEDICAL ASSISTANCE FRAUD. Any person who, with the intent to defraud, presents a claim for reimbursement, a cost report or a rate application, relating to the payment of medical assistance funds pursuant to chapter 256B, to the state agency, which is false in whole or in part, is guilty of an attempt to commit theft of public funds and may be sentenced accordingly.

[1976 c 188 s 5]

609.47 INTERFERENCE WITH PROPERTY IN OFFICIAL CUSTODY. Whoever intentionally takes, damages, or destroys any personal property held in custody by an

officer or other person under process of law 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.

[1963 c 753 art 1 s 609.47]

609.475 IMPERSONATING OFFICER. Whoever falsely impersonates a police or military officer or public official with intent to mislead another into believing that he is actually such officer or official is guilty of a misdemeanor.

[1963 c 753 art 1 s 609.475; 1971 c 23 s 49]

CRIMES AGAINST THE ADMINISTRATION OF JUSTICE

609.48 PERJURY. Subdivision 1. **Acts constituting.** Whoever makes a false material statement which he does not believe to be true in any of the following cases is guilty of perjury and may be sentenced as provided in subdivision 4:

(1) In or for an action, hearing or proceeding of any kind in which the statement is required or authorized by law to be made under oath or affirmation; or

(2) In any writing which is required or authorized by law to be under oath or affirmation; or

(3) In any other case in which the penalties for perjury are imposed by law and no specific sentence is otherwise provided.

Subd. 2. **Defenses not available.** It is not a defense to a violation of this section that:

(1) The oath or affirmation was taken or administered in an irregular manner; or

(2) The declarant was not competent to give the statement; or

(3) The declarant did not know that his statement was material or believed it to be immaterial; or

(4) The statement was not used or, if used, did not affect the proceeding for which it was made; or

(5) The statement was inadmissible under the law of evidence.

Subd. 3. **Inconsistent statements.** When the declarant has made two inconsistent statements under such circumstances that one or the other must be false and not believed by him when made, it shall be sufficient for conviction under this section to charge and the jury to find that, without determining which, one or the other of such statements was false and not believed by the declarant. The period of limitations for prosecution under this subdivision runs from the first such statement.

Subd. 4. **Sentence.** Whoever violates this section may be sentenced as follows:

(1) If the false statement was made upon the trial of a felony charge, or upon an application for an explosives license or use permit, to imprisonment for not more than five years or to payment of a fine of not more than \$5,000, or both; or

(2) In all other cases, to imprisonment for not more than three years or to payment of a fine of not more than \$3,000, or both.

[1963 c 753 art 1 s 609.48; 1971 c 845 s 16]

609.485 ESCAPE FROM CUSTODY. Subdivision 1. **Definition.** "Escape" includes departure without lawful authority and failure to return to custody following temporary leave granted for a specific purpose or limited period.

Subd. 2. **Acts prohibited.** Whoever does any of the following may be sentenced as provided in subdivision 4:

(1) Escapes while held in lawful custody on a charge or conviction of a crime; or

(2) Transfers to another, who is in lawful custody on a charge or conviction of a crime, or introduces into an institution in which the latter is confined, anything useable in making such escape, with intent that it shall be so used; or

(3) Having another in his lawful custody on a charge or conviction of a crime, intentionally permits him to escape.

Subd. 3. **Exceptions.** This section does not apply to a person who is free on bail or who is on parole or probation, or subject to a stayed sentence or stayed execution of sentence, unless he has been taken into actual custody upon revocation of the parole, probation, or stay of the sentence or execution of sentence.

Subd. 4. **Sentence.** Whoever violates this section may be sentenced as follows:

(1) If the person who escapes is in lawful custody on a charge or conviction of a felony, to imprisonment for not more than five years or to payment of a fine of not more than \$5,000, or both.

(2) If such charge or conviction is for 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.

(3) If such charge or conviction is for a misdemeanor, to imprisonment for not more than 90 days or to payment of a fine of not more than \$300, or both.

(4) If the escape was effected by violence or threat of violence against a person, the sentence may be increased to not more than twice those permitted in clauses (1), (2), and (3).

(5) Unless a concurrent term is specified by the court, a sentence under this section shall be consecutive to any sentence previously imposed or which may be imposed for any crime or offense for which the person was in custody when he escaped.

[1963 c 753 art 1 s 609.485; 1969 c 248 s 1; 1971 c 23 s 50]

NOTE: See section 629.362.

609.49 RELEASE, FAILURE TO APPEAR. Whoever, being charged with or convicted of a felony and held in lawful custody therefor, is released from custody, with or without bail or recognizance, on condition that he personally appear when required with respect to such charge or conviction, and intentionally fails, without lawful excuse, to so appear when required or surrender himself within three days thereafter, 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.

[1963 c 753 art 1 s 609.49]

609.495 AIDING AN OFFENDER TO AVOID ARREST. Subdivision 1. Whoever harbors, conceals or aids another known by him to have committed a felony under the laws of this or another state or of the United States with intent that such offender shall avoid or escape from arrest, trial, conviction, or punishment, 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.

Subd. 2. This section does not apply if the actor at the time of harboring, concealing, or aiding is related to the offender as husband, wife, parent, or child.

[1963 c 753 art 1 s 609.495]

609.498 TAMPERING WITH A WITNESS. Subdivision 1. **Tampering with a witness in the first degree.** Whoever intentionally prevents or dissuades or intentionally attempts to prevent or dissuade by means of force or threats of injury to person, family, or property, a person who is or may become a witness from attending or testifying at any trial, proceeding, or inquiry authorized by law, is guilty of tampering with a witness in the first degree and may be sentenced to imprisonment for not more than five years or to payment of a fine not to exceed \$5,000.

Subd. 2. **Tampering with a witness in the second degree.** Whoever intentionally prevents or dissuades or intentionally attempts to prevent or dissuade by means of any act described in section 609.27, subdivision 1, clauses (3), (4), or (5), a person who is or may become a witness from attending or testifying at any trial, proceeding, or inquiry authorized by law, is guilty of tampering with a witness in the second degree and may be sentenced to imprisonment for not more than one year or to payment of a fine not to exceed \$1,000.

[1976 c 178 s 1]

609.50 OBSTRUCTING LEGAL PROCESS OR ARREST. Whoever intentionally obstructs, hinders or prevents the lawful execution of any legal process, civil or criminal, or apprehension of another on a charge or conviction of a criminal offense or interferes with a peace officer while the officer is engaged in the performance of his official duties may be sentenced as follows:

(1) If the act was accompanied by force or violence or the threat thereof, to imprisonment for not more than one year or to payment of a fine of not more than \$1,000, or both; or

(2) In other cases to imprisonment for not more than 90 days or to payment of a fine of not more than \$300, or both.

[1963 c 753 art 1 s 609.50; 1969 c 1013 s 1; 1971 c 23 s 51]

609.502 INTERFERENCE WITH DEAD BODY OR SCENE OF DEATH, PENALTY. Whoever interferes with the body or scene of death with intent to mislead the coroner or conceal evidence is guilty of a gross misdemeanor.

[1976 c 257 s 2]

609.505 FALSELY REPORTING CRIME. Whoever informs a law enforcement officer that a crime has been committed, knowing that it is false and intending that the officer shall act in reliance upon it, is guilty of a misdemeanor.

[1963 c 753 art 1 s 609.505; 1971 c 23 s 52]

609.51 SIMULATING LEGAL PROCESS. Subdivision 1. **Acts prohibited.** Whoever does any of the following is guilty of a misdemeanor:

(1) Sends or delivers to another any document which simulates a summons, complaint, or court process with intent thereby to induce payment of a claim; or

(2) Prints, distributes, or offers for sale any such document knowing or intending that it shall be so used.

Subd. 2. **Exceptions.** This section does not prohibit the printing, distribution or sale of blank forms of legal documents for use in judicial proceedings.

[1963 c 753 art 1 s 609.51; 1971 c 23 s 53]

609.515 MISCONDUCT OF JUDICIAL OR HEARING OFFICER. Whoever does any of the following, when the act is not in violation of section 609.42, is guilty of a misdemeanor:

(1) Being a judicial or hearing officer, does either of the following:

(a) Agrees with or promises another to determine a cause or controversy or issue pending or to be brought before him for or against any party; or

(b) Intentionally obtains or receives and uses information relating thereto contrary to the regular course of the proceeding.

(2) Induces a judicial or hearing officer to act contrary to the provisions of this section.

[1963 c 753 art 1 s 609.515; 1971 c 23 s 54]

THEFT AND RELATED CRIMES

609.52 THEFT. 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 such 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 he 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, micro-organism, 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 the whole or any portion of any formula, pattern, device or compilation of any scientific or technical information which is secret, is of value and has not been published or otherwise become a matter of general public knowledge; and an article representing a trade secret shall be presumed to be secret and not to have been published or otherwise become a matter of general public knowledge when the owner marks it as a trade secret and takes measures to preserve its secrecy and to prevent it from becoming available to persons other than those selected by the owner to have controlled access thereto for purposes of the owner's business.

(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 such article.

(8) "Property of another" includes property in which the actor is co-owner 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 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.

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:

(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 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 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 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.

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

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

(2) To imprisonment for not more than five years or to payment of a fine of not more than \$5,000, or both, if the value of the property or services is more than \$100 but not more than \$2,500; or

(3) To imprisonment for not more than five years or to payment of a fine of not more than \$5,000, or both, notwithstanding the value of the property or services is not more than \$100, if any of the following circumstances exist:

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

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

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

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

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

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

[1963 c 753 art 1 s 609.52; 1967 c 178 s 1; Ex1967 c 15 s 1-3; 1971 c 23 s 55; 1971 c 25 s 92; 1971 c 697 s 1; 1971 c 717 s 1; 1971 c 796 s 1; 1971 c 845 s 14; 1975 c 244 s 1; 1976 c 112 s 1; 1976 c 188 s 6; 1977 c 396 s 1; 1978 c 674 s 60]

609.521 POSSESSION OF SHOPLIFTING GEAR. Whoever has in his possession any device, gear, or instrument specially designed to assist in shoplifting with intent to use the same to shoplift and thereby commit theft 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.

[1975 c 314 s 1]

609.525 BRINGING STOLEN GOODS INTO STATE. Subdivision 1. Whoever brings property into the state which he has stolen outside the state, or received outside of the state knowing it to have been stolen, may be sentenced in accordance with the provisions of section 609.52, subdivision 3. He may be charged, indicted, and tried in any county, but not more than one county, into or through which he has brought such property.

Subd. 2. Property is stolen within the meaning of this section if the act by which the owner was deprived of his property was a criminal offense under the laws of the state in which the act was committed and would constitute a theft under this chapter if the act had been committed in this state.

[1963 c 753 art 1 s 609.525]

609.53 RECEIVING STOLEN GOODS. Subdivision 1. Any person who receives, buys or conceals any stolen property or property obtained by robbery, knowing the same to be stolen or obtained by robbery, may be sentenced as follows:

(1) If the value of the property received, bought or concealed is \$100 or more, to imprisonment for not more than ten years or to payment of a fine of not more than \$10,000, or both;

(2) If the value of the property received, bought or concealed is less than \$100, to punishment as a misdemeanor.

Subd. 2. Any person who receives, buys or conceals any stolen property or property obtained by robbery, believing the same to be so stolen or obtained by robbery, may be sentenced to punishment as a misdemeanor.

Subd. 3. Any person convicted of a second or subsequent violation under subdivision 2 within a period of one year may be sentenced as provided in subdivision 1, clause (1).

Subd. 4. Any person who has been injured by a violation of subdivision 1 may bring an action for three times the amount of actual damages, if any, sustained by the plaintiff, costs of suit and reasonable attorney's fees.

Subd. 5. In this section, "value" has the meaning defined in section 609.52, subdivision 1, clause (3).

[1963 c 753 art 1 s 609.53; 1973 c 669 s 1]

609.535 ISSUANCE OF WORTHLESS CHECK. Subdivision 1. **Definition.** "Credit" means an arrangement or understanding with the drawee for the payment of the check or other order for the payment of money to which this section applies.

Subd. 2. **Acts constituting.** Whoever issues any check or other order for the payment of money which, at the time of issuance, he intends shall not be paid, is guilty of a misdemeanor. In addition, restitution may be ordered by the court.

Subd. 3. **Proof of intent.** Any of the following is evidence sufficient to sustain a finding that the person at the time he issued the check or other order for the payment of money, intended it should not be paid:

(1) Proof that, at the time of issuance, he did not have an account with the drawee; or

(2) Proof that, at the time of issuance, he did not have sufficient funds or credit with the drawee and that he failed to pay the check or other order within five business days after mailing of notice of nonpayment or dishonor as provided in this subdivision; or

(3) Proof that, when presentment was made within a reasonable time, the issuer did not have sufficient funds or credit with the drawee and that he failed to pay the check or other order within five business days after mailing of notice of nonpayment or dishonor as provided in this subdivision.

Notice of nonpayment or dishonor shall be sent by the payee or holder of the check to the maker or drawer by certified mail, return receipt requested, to the address of record. Refusal by the maker or drawer of the check to accept certified mail notice shall not constitute a defense that notice was not received.

Subd. 4. **Proof of lack of funds or credit.** If the check or other order for the payment of money has been protested, the notice of protest thereof is admissible as proof of presentation, nonpayment, and protest, and is evidence sufficient to sustain a finding that there was a lack of funds or credit with the drawee.

Subd. 5. **Exceptions.** This section does not apply to a postdated check or to a check given for a past consideration, except a payroll check or a check issued to a fund for employee benefits.

[1963 c 753 art 1 s 609.535; 1967 c 466 s 1; 1971 c 23 s 56; 1974 c 106 s 1,2]

609.54 EMBEZZLEMENT OF PUBLIC FUNDS. Whoever does an act which constitutes embezzlement under the provisions of Minnesota Constitution, Article 11, Section 13 may be sentenced as follows:

(1) If the value of the funds so embezzled is \$2,500, or less, 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 such value is more than \$2,500, to imprisonment for not more than ten years or to payment of a fine of not more than \$10,000, or both.

[1963 c 753 art 1 s 609.54; 1976 c 2 s 172]

609.545 MISUSING CREDIT CARD TO SECURE SERVICES. Whoever obtains the services of another by the intentional unauthorized use of a credit card issued or purporting to be issued by an organization for use as identification in purchasing services is guilty of a misdemeanor.

[1963 c 753 art 1 s 609.545; 1971 c 23 s 57]

609.55 UNAUTHORIZED USE OF MOTOR VEHICLE. Subdivision 1. **Definition.** For the purposes of this section, "motor vehicle" means any self-propelled device for moving persons or property or pulling implements from one place to another, whether such device is operated on land, rails, water, or in the air.

Subd. 2. **Acts constituting.** Whoever intentionally takes or drives a motor vehicle without the consent of the owner or his authorized agent 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.

[1963 c 753 art 1 s 609.55; 1969 c 241 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.

Subd. 2. Whoever knowingly buys, sells, transports or otherwise handles cattle, swine or sheep illegally acquired under subdivision 1 or knowingly aids or abets another in the violation of subdivision 1 shall be sentenced as in subdivision 1, clauses (a), (b), and (c).

Subd. 3. In any prosecution under this section the value of the animals which are shot, killed, taken, used, transferred, concealed, or retained within any six month period may be aggregated and the defendant charged accordingly in applying the provisions of this section.

Subd. 4. Any person who has been injured by violation of this section may bring an action for three times the amount of actual damages sustained by the plaintiff, costs of suit and reasonable attorney's fees.

[1975 c 314 s 2; 1977 c 355 s 8]

DAMAGE OR TRESPASS TO PROPERTY

609.555 [Repealed, 1976 c 124 s 10]

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.

Subd. 2. "Property of another" means a building or other property, whether real or personal, in which a person other than the accused has an interest which the accused has no authority to defeat or impair even though the accused may also have an interest in the building or property.

Subd. 3. "Building" in addition to its ordinary meaning includes any tent, watercraft, structure or vehicle that is customarily used for overnight lodging of a person or persons. If a building consists of two or more units separately secured or occupied, each unit shall be deemed a separate building.

[1976 c 124 s 3; 1977 c 347 s 63]

609.56 [Repealed, 1976 c 124 s 10]

609.561 ARSON IN THE FIRST DEGREE. Subdivision 1. Whoever unlawfully by means of fire or explosives, intentionally destroys or damages any building that is used as a dwelling at the time the act is committed, whether the inhabitant is present therein at the time of the act or not, or any building appurtenant to or connected with a dwelling whether the property of himself or of another, commits arson in the first degree and may be sentenced to imprisonment for not more than 20 years or to a fine of not more than \$20,000, or both.

Subd. 2. Whoever unlawfully by means of fire or explosives, intentionally destroys or damages any building not included in subdivision 1, whether the property of himself or another commits arson in the first degree and may be sentenced to imprisonment for not more than 20 years or to a fine of not more than \$20,000, or both if:

(a) Another person who is not a participant in the crime is present in the building at the time and the defendant knows that; or

(b) The circumstances are such as to render the presence of such a person therein a reasonable possibility.

[1976 c 124 s 4]

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

[1976 c 124 s 5]

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.

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

[1976 c 124 s 6; 1977 c 355 s 9]

609.565 [Repealed, 1976 c 124 s 10]

609.57 [Repealed, 1976 c 124 s 10]

609.575 [Repealed, 1976 c 124 s 10]

609.576 NEGLIGENCE 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.

[1976 c 124 s 7; 1977 c 355 s 10]

609.58 BURGLARY. Subdivision 1. **Definitions.** For the purposes of this section:

(1) Whoever enters a building while open to the general public does so with consent except when, prior thereto, consent was expressly withdrawn.

(2) "Building" includes a dwelling or other structure suitable for affording shelter for human beings or appurtenant to or connected with a structure so adapted, and includes portions of such structure as are separately occupied.

Subd. 2. **Acts constituting.** Whoever enters a building without the consent of the person in lawful possession, with intent to commit a crime therein, or whoever remains within a building without the consent of the person in lawful authority, with intent to commit a crime therein, commits burglary and may be sentenced as follows:

(1) To imprisonment for not more than 20 years or to payment of a fine of not more than \$20,000, or both, if:

(a) When entering or while in the building, he possesses an explosive or tool to gain access to money or property; or

(b) The building entered is a dwelling and he possesses a dangerous weapon when entering or while in the building or he commits an assault upon a person present therein; or

(c) The portion of the building entered contains a banking business or other business of receiving securities or other valuable papers for deposit or safekeeping, the entry is with force or threat of force, the intent is to steal or commit a felony therein.

(2) To imprisonment for not more than ten years or to payment of a fine of not more than \$10,000, or both, if the building entered is a dwelling and another person not an accomplice is present therein.

(3) In any other case, to imprisonment for not more than five years or to payment of a fine of not more than \$5,000, or both, if the intent is to steal or commit a felony or gross misdemeanor or to imprisonment for not more than one year or to payment of a fine of not more than \$1,000, or both, if the intent is to commit a misdemeanor.

[1963 c 753 art 1 s 609.58; 1969 c 140 s 1]

609.585 DOUBLE JEOPARDY. A prosecution for or conviction of the crime of burglary is not a bar to conviction of any other crime committed on entering or while in the building entered.

[1963 c 753 art 1 s 609.585]

609.59 POSSESSION OF BURGLARY TOOLS. Whoever has in his possession any device, explosive, or other instrumentality with intent to use or permit the use of the same to commit burglary 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.

[1963 c 753 art 1 s 609.59]

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

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

Subd. 2. **Criminal damage to property.** Whoever intentionally so causes such damage under any other circumstances is guilty of a misdemeanor.

[1963 c 753 art 1 s 609.595; 1971 c 23 s 60; 1977 c 355 s 11]

609.60 DANGEROUS TRESPASSES AND OTHER ACTS. Whoever intentionally does any of the following is guilty of a misdemeanor; except, if to his knowledge a risk of death or bodily harm or serious property damage is thereby created, he 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) Smokes in the presence of explosives or inflammable materials; or

(2) Interferes with or obstructs the prevention or extinguishing of any fire, or disobeys the lawful orders of a law enforcement officer or firefighter present at the fire; or

(3) Shows a false light or signal or interferes with any light, signal, or sign controlling or guiding traffic upon a highway, railway track, navigable waters, or in the air; or

(4) Places an obstruction upon a railroad track; or

(5) Exposes another or his property to an obnoxious or harmful gas, fluid or substance, with intent to injure, molest, or coerce.

[1963 c 753 art 1 s 609.60; 1971 c 23 s 61; 1977 c 429 s 63]

609.605 TRESPASSES AND OTHER ACTS. Whoever intentionally does any of the following is guilty of a misdemeanor:

(1) Smokes in a building, area, or common carrier in which "no smoking" notices have been prominently posted, or when requested not to by the operator of the common carrier; or

(2) Trespasses or permits animals under his control to trespass upon a railroad track; or

(3) Permits domestic animals or fowls under his control to go upon the lands of another within a city; or

(4) Interferes unlawfully with any monument, sign, or pointer erected or marked to designate a point of a boundary, line or a political subdivision, or of a tract of land; or

(5) Trespasses upon the premises of another and, without claim of right, refuses to depart therefrom on demand of the lawful possessor thereof; or

(6) Occupies or enters the dwelling of another, without claim of right or consent of the owner or the consent of one who has the right to give consent, except in an emergency situation. As used in this clause, "dwelling" means the building or part of the building used by an individual as a place of residence on either a full-time or a part-time basis. The dwelling may be part of a multi-dwelling or multi-purpose building, or a mobile home as defined in section 168.011, subdivision 8; or

(7) Enters the premises of another with intent to take or injure any fruit, fruit trees, or vegetables growing thereon without the permission of the owner or occupant; or

(8) Refuses the request of the operator of a public conveyance to either pay the required fare or leave the conveyance; or

(9) Takes any animal on a public conveyance without the consent of the operator; or

(10) Without the permission of the owner, tampers with or gets into or upon a motor vehicle as defined in section 609.55, subdivision 1, or rides in or upon such motor vehicle knowing it was taken and is being driven by another without the permission of the owner; or

(11) Enters or is found upon the premises of a public or private cemetery without authorization during hours the cemetery is posted as closed to the public.

[1963 c 753 art 1 s 609.605; 1971 c 23 s 62; 1973 c 123 art 5 s 7; 1976 c 251 s 1; 1978 c 512 s 1]

609.61 [Repealed, 1976 c 124 s 10]

609.611 DEFRAUDING INSURER. Whoever with intent to injure or defraud an insurer, damages any property real or personal, whether his own or that of another, which is at the time insured by any person, firm or corporation against loss or damage;

(a) May be sentenced to imprisonment for not more than three years or to payment of fine of not more than \$3,000, or both if the value insured for is less than \$20,000; or

(b) May be sentenced to imprisonment for not more than five years or to payment of fine of not more than \$5,000, or both if the value insured for is \$20,000 or greater;

(c) Proof that the actor recovered or attempted to recover on a policy of insurance by reason of the fire is relevant but not essential to establish his intent to defraud the insurer.

[1976 c 124 s 8]

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.

[1963 c 753 art 1 s 609.615; 1971 c 23 s 63; 1977 c 355 s 12]

609.62 DEFEATING SECURITY ON PERSONALTY. Subdivision 1. **Definition.** In this section "security interest" means an interest in property which secures payment or other performance of an obligation.

Subd. 2. **Acts constituting.** Whoever, with intent to defraud, does any of the following may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$2,000, or both:

(1) Conceals, removes, or transfers any personal property in which he knows that another has a security interest; or

(2) Being an obligor and knowing the location of the property refuses to disclose the same to an obligee entitled to possession thereof.

[1963 c 753 art 1 s 609.62]

609.621 PROOF OF CONCEALMENT OF PROPERTY BY OBLIGOR OF SECURED PROPERTY. Subdivision 1. When in any prosecution under section 609.62, it appears that there is a default in the payment of the debts secured and it further appears that the obligor has failed or refused to reveal the location of the security, this shall be considered sufficient evidence to sustain a finding that the obligor has removed, concealed, or disposed of the property.

Subd. 2. In any prosecution under section 609.62, it is a sufficient allegation and description of the security and the property secured to state generally that such property was duly mortgaged or sold under a conditional sales contract, or as the case may be, giving the date thereof and the names of the obligor and obligee.

[1963 c 753 art 2 s 15]

FORGERY AND RELATED CRIMES

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 himself 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 \$10,000, or both:

(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; 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.

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 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, knowing it to have been so forged, may be sentenced as provided in subdivision 1.

[1963 c 753 art 1 s 609.625]

609.63 FORGERY. Subdivision 1. Whoever, with intent to injure or defraud, does any of the following is guilty of forgery and 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:

(1) Uses a false writing, knowing it to be false, for the purpose of identification or recommendation; or

(2) Without consent, places, or possesses with intent to place, upon any merchandise an identifying label or stamp which is or purports to be that of another craftsman, tradesman, packer, or manufacturer, or disposes or possesses with intent to dispose of any merchandise so labeled or stamped; or

(3) Falsely makes or alters a membership card purporting to be that of a fraternal, business, professional, or other association, or of any labor union, or possesses any such card knowing it to have been thus falsely made or altered; or

(4) Falsely makes or alters a writing, or possesses a falsely made or altered writing, evidencing a right to transportation on a common carrier; or

(5) Destroys, mutilates, or by alteration, false entry or omission, falsifies any record, account, or other document relating to a private business; or

(6) Without authority of law, destroys, mutilates, or by alteration, false entry, or omission, falsifies any record, account, or other document relating to a person, corporation, or business, or filed in the office of, or deposited with, any public office or officer; or

(7) Destroys a writing or object to prevent it from being produced at a trial, hearing, or other proceeding authorized by law.

Subd. 2. Whoever, with knowledge that it is forged, offers in evidence in any trial, hearing or other proceedings authorized by law, as genuine, any forged writing or object may be sentenced as follows:

(1) If the writing or object is offered in evidence in the trial of a felony charge, to imprisonment for not more than five years or to payment of a fine of not more than \$5,000, or both; or

(2) In all other cases, to imprisonment for not more than three years or to payment of a fine of not more than \$3,000, or both.

[1963 c 753 art 1 s 609.63]

609.635 OBTAINING SIGNATURE BY FALSE PRETENSE. Whoever, by false pretense, obtains the signature of another to a writing which is a subject of forgery under section 609.625, subdivision 1, may be punished as therein provided.

[1963 c 753 art 1 s 609.635]

609.64 RECORDING, FILING OF FORGED INSTRUMENT. Whoever intentionally presents for filing, registering, or recording, or files, registers, or records a false or forged instrument relating to or affecting real or personal property in a public office entitled to file, register, or record such instrument when genuine 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.

[1963 c 753 art 1 s 609.64]

609.645 FRAUDULENT STATEMENTS. Whoever, with intent to injure or defraud, does any of the following 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:

(1) Circulates or publishes a false statement, oral or written, relating to a corporation, association, or individual, intending thereby to give a false apparent value to securities issued or to be issued by, or to the property of, such corporation, association, or individual; or

(2) Makes a false ship's or airplane's manifest, invoice, register, or protest.

[1963 c 753 art 1 s 609.645]

609.65 FALSE CERTIFICATION BY NOTARY PUBLIC. Whoever, when acting or purporting to act as a notary public or other public officer, certifies falsely that an instrument has been acknowledged or that any other act was performed by a party appearing before him or that as such notary public or other public officer he performed any other official act may be sentenced as follows:

(1) If he so certifies with intent to injure or defraud, to imprisonment for not more than three years or to payment of a fine of not more than \$3,000, or both; or

(2) In any other case, to imprisonment for not more than 90 days or to payment of a fine of not more than \$300, or both.

[1963 c 753 art 1 s 609.65; 1971 c 23 s 64]

609.655 [Repealed, 1976 c 112 s 2]

CRIMES AGAINST PUBLIC
SAFETY AND HEALTH

609.66 DANGEROUS WEAPONS. Subdivision 1. **Acts prohibited.** Whoever does any of the following is guilty of a misdemeanor:

(1) Recklessly handles or uses a gun or other dangerous weapon or explosive so as to endanger the safety of another; or

(2) Intentionally points a gun of any kind, capable of injuring or killing a human being and whether loaded or unloaded, at or toward another; or

(3) Manufactures or sells for any unlawful purpose any weapon known as a slung-shot or sand club; or

(4) Manufactures, transfers, or possesses metal knuckles or a switch blade knife opening automatically; or

(5) Possesses any other dangerous article or substance for the purpose of being used unlawfully as a weapon against another; or

(6) Sells or has in his possession any device designed to silence or muffle the discharge of a firearm; or

(7) Without the parent's or guardian's consent, furnishes a child under 14 years of age, or as a parent or guardian permits such child to handle or use, outside of the parent's or guardian's presence, a firearm or airgun of any kind, or any ammunition or explosive; or

(8) In any municipality of this state, furnishes a minor under 18 years of age with a firearm, airgun, ammunition, or explosive without the written consent of his parent or guardian or of the police department or magistrate of such municipality.

Subd. 2. **Exceptions.** Nothing in this section prohibits the possession of the articles mentioned by museums or collectors of art or for other lawful purposes of public exhibition.

[1963 c 753 art 1 s 609.66; 1971 c 23 s 66]

609.665 SPRING GUNS. Whoever sets a spring gun, pitfall, deadfall, snare, or other like dangerous weapon or device, may be sentenced to imprisonment for not more than six months or to payment of a fine of not more than \$500, or both.

[1963 c 753 art 1 s 609.665]

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.

[1963 c 753 art 1 s 609.67; 1977 c 255 s 1,2]

609.675 EXPOSURE OF UNUSED REFRIGERATOR OR CONTAINER TO CHILDREN. Whoever, being the owner or in possession or control, permits an unused refrigerator or other container, sufficiently large to retain any child and with doors which fasten automatically when closed, to be exposed and accessible to children, without removing the doors, lids, hinges, or latches, is guilty of a misdemeanor.

[1963 c 753 art 1 s 609.675; 1971 c 23 s 67]

609.68 UNLAWFUL DEPOSIT OF GARBAGE, LITTER OR LIKE. Whoever unlawfully deposits garbage, rubbish, offal, or the body of a dead animal, or other litter in or upon any public highway, public waters or the ice thereon, public lands, or, without the consent of the owner, private lands or water or ice thereon, is guilty of a misdemeanor.

[1963 c 753 art 1 s 609.68; 1971 c 23 s 68]

609.685 USE OF TOBACCO BY CHILDREN. Whoever does any of the following may be sentenced to imprisonment for not more than 30 days or to payment of a fine of not more than \$50:

- (1) Being under the age of 18 years, uses tobacco in any form; or
- (2) Furnishes tobacco in any form to one not entitled thereto under clause (1).

[1963 c 753 art 1 s 609.685]

609.686 FALSE FIRE ALARMS; TAMPERING WITH OR INJURING A FIRE ALARM SYSTEM. Whoever intentionally gives a false alarm of fire, or unlawfully tampers or interferes with any station or signal box of any fire alarm system or any auxiliary fire appliance, or unlawfully breaks, injures, defaces, or removes any such box or station, or unlawfully breaks, injures, destroys, or disturbs any of the wires, poles, or other supports and appliances connected with or forming a part of any fire alarm system or any auxiliary fire appliance is guilty of a misdemeanor.

[1971 c 77 s 1]

PUBLIC MISCONDUCT OR NUISANCE

609.705 UNLAWFUL ASSEMBLY. When three or more persons assemble, each participant is guilty of unlawful assembly, which is a misdemeanor, if the assembly is:

- (1) With intent to commit any unlawful act by force; or
- (2) With intent to carry out any purpose in such manner as will disturb or threaten the public peace; or
- (3) Without unlawful purpose, but the participants so conduct themselves in a disorderly manner as to disturb or threaten the public peace.

[1963 c 753 art 1 s 609.705; 1971 c 23 s 69]

609.71 RIOT. When three or more persons assembled disturb the public peace by an intentional act or threat of unlawful force or violence to person or property, each participant therein is guilty of riot and 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, or, if the offender, or to his knowledge any other participant, is armed with a dangerous weapon or is disguised, to imprisonment for not more than five years or to payment of a fine of not more than \$5,000, or both.

[1963 c 753 art 1 s 609.71]

609.713 TERRORISTIC THREATS. Subdivision 1. Whoever threatens to commit any crime of violence with purpose to terrorize another or to cause evacuation of a building, place of assembly or facility of public transportation or otherwise to cause serious public inconvenience, or in a reckless disregard of the risk of causing such terror or inconvenience may be sentenced to imprisonment for not more than five years.

Subd. 2. Whoever communicates to another with purpose to terrorize another or in reckless disregard of the risk of causing such terror, that explosives or an explosive device or any incendiary device is present at a named place or location, whether or not the same is in fact present, may be sentenced to imprisonment for not more than three years.

[1971 c 845 s 19]

609.715 PRESENCE AT UNLAWFUL ASSEMBLY. Whoever without lawful purpose is present at the place of an unlawful assembly and refuses to leave when so directed by a law enforcement officer is guilty of a misdemeanor.

[1963 c 753 art 1 s 609.715; 1971 c 23 s 70]

609.72 DISORDERLY CONDUCT. Subdivision 1. Whoever does any of the following in a public or private place, knowing, or having reasonable grounds to know that it will, or will tend to, alarm, anger or disturb others or provoke an assault or breach of the peace, is guilty of disorderly conduct, which is a misdemeanor:

- (1) Engages in brawling or fighting; or
- (2) Disturbs an assembly or meeting, not unlawful in its character; or
- (3) Engages in offensive, obscene, or abusive language or in boisterous and noisy conduct tending reasonably to arouse alarm, anger, or resentment in others.

Subd. 2. [Repealed, 1969 c 226 s 1]

[1963 c 753 art 1 s 609.72; 1967 c 242 s 1; 1971 c 23 s 71]

609.725 VAGRANCY. Any of the following are vagrants and are guilty of a misdemeanor:

- (1) A person, with ability to work, who is without lawful means of support, does not seek employment, and is not under 18 years of age; or
- (2) A person found in or loitering near any structure, vehicle, or private grounds who is there without the consent of the owner and is unable to account for his presence; or
- (3) A prostitute who loiters on the streets or in a public place or in a place open to the public with intent to solicit for immoral purposes; or
- (4) A person who derives his support in whole or in part from begging or as a fortune teller or similar impostor.

[1963 c 753 art 1 s 609.725; 1971 c 23 s 72]

609.735 CONCEALING IDENTITY. Whoever conceals his identity in a public place by means of a robe, mask, or other disguise, unless incidental to amusement or entertainment, is guilty of a misdemeanor.

[1963 c 753 art 1 s 609.735; 1971 c 23 s 73]

609.74 PUBLIC NUISANCE. Whoever by his act or failure to perform a legal duty intentionally does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:

- (1) Maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public; or

(2) Interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; or

(3) Is guilty of any other act or omission declared by law to be a public nuisance and for which no sentence is specifically provided.

[1963 c 753 art 1 s 609.74; 1971 c 23 s 74]

609.745 PERMITTING PUBLIC NUISANCE. Whoever permits real property under his control to be used to maintain a public nuisance or lets the same knowing it will be so used is guilty of a misdemeanor.

[1963 c 753 art 1 s 609.745; 1971 c 23 s 75]

GAMBLING

609.75 GAMBLING; DEFINITIONS. Subdivision 1. **Lottery.** A lottery is a plan which provides for the distribution of money, property or other reward or benefit to persons selected by chance from among participants some or all of whom have given a consideration for the chance of being selected. Acts in this state in furtherance of a lottery conducted outside of this state are included notwithstanding its validity where conducted.

Subd. 2. **Bet.** A bet is a bargain whereby the parties mutually agree to a gain or loss by one to the other of specified money, property or benefit dependent upon chance although the chance is accompanied by some element of skill.

Subd. 3. **What are not bets.** The following are not bets:

(1) A contract to insure, indemnify, guarantee or otherwise compensate another for a harm or loss sustained, even though the loss depends upon chance.

(2) A contract for the purchase or sale at a future date of securities or other commodities.

(3) Offers of purses, prizes or premiums to the actual contestants in any bona fide contest for the determination of skill, speed, strength, endurance, or quality or to the bona fide owners of animals or other property entered in such a contest.

(4) The game of bingo when conducted in compliance with sections 349.11 to 349.23.

(5) A private social bet not part of or incidental to organized, commercialized, or systematic gambling.

(6) The operation of a gambling device or the conduct of a raffle as defined in section 349.26, by an organization licensed for such operation by a local unit of government pursuant to section 349.26.

Subd. 4. **Gambling device.** A gambling device is a contrivance which for a consideration affords the player an opportunity to obtain something of value, other than free plays, automatically from the machine or otherwise, the award of which is determined principally by chance.

Subd. 5. **Gambling place.** A gambling place is a location or structure, stationary or movable, or any part thereof, wherein, as one of its uses, betting is permitted or promoted, a lottery is conducted or assisted or a gambling device is operated.

Subd. 6. **Bucket shop.** A bucket shop is a place wherein the operator is engaged in making bets in the form of purchases or sales on public exchanges of securities, commodities or other personal property for future delivery to be settled at prices dependent on the chance of those prevailing at the public exchanges without a bona fide purchase or sale being in fact made on a board of trade or exchange.

[1963 c 753 art 1 s 609.75; 1971 c 947 s 1; 1976 c 2 s 152; 1976 c 239 s 126; 1976 c 261 s 14; 1978 c 507 s 4,5]

609.755 ACTS OF OR RELATING TO GAMBLING. Whoever does any of the following is guilty of a misdemeanor:

(1) Makes a bet; or

(2) Sells or transfers a chance to participate in a lottery; or

(3) Disseminates information about a lottery with intent to encourage participation therein; or

(4) Permits a structure or location owned or occupied by him or under his control to be used as a gambling place.

[1963 c 753 art 1 s 609.755; 1971 c 23 s 76]

609.76 OTHER ACTS RELATING TO GAMBLING. Whoever 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) Maintains or operates a gambling place or operates a bucket shop; or
 - (2) Intentionally participates in the income of a gambling place or bucket shop; or
 - (3) Conducts a lottery, or, with intent to conduct a lottery, possesses facilities for doing so; or
 - (4) Sets up for use for the purpose of gambling, or collects the proceeds of, any gambling device or bucket shop; or
 - (5) With intent that it shall be so used, manufactures, sells or offers for sale, in whole or any part thereof, any gambling device including those defined in section 325.53, subdivision 2, and any facility for conducting a lottery; or
 - (6) Receives, records, or forwards bets or offers to bet or, with intent to receive, record, or forward bets or offers to bet, possesses facilities to do so.
- [1963 c 753 art 1 s 609.76]

609.761 OPERATION PERMITTED. Notwithstanding sections 609.755 and 609.76, a fraternal, religious, veterans or other nonprofit organization may set up or operate a gambling device or conduct a raffle as defined in section 349.26, if licensed by the local unit of government and conducted pursuant to section 349.26, and a person may manufacture, sell or offer for sale a gambling device to the organization.

[1978 c 507 s 6]

CRIMES AGAINST REPUTATION

609.765 CRIMINAL DEFAMATION. Subdivision 1. **Definition.** Defamatory matter is anything which exposes a person or a group, class or association to hatred, contempt, ridicule, degradation or disgrace in society, or injury to his or its business or occupation.

Subd. 2. **Acts constituting.** Whoever with knowledge of its defamatory character orally, in writing or by any other means, communicates any defamatory matter to a third person without the consent of the person defamed is guilty of criminal defamation and 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.

Subd. 3. **Justification.** Violation of subdivision 2 is justified if:

- (1) The defamatory matter is true and is communicated with good motives and for justifiable ends; or
- (2) The communication is absolutely privileged; or
- (3) The communication consists of fair comment made in good faith with respect to persons participating in matters of public concern; or
- (4) The communication consists of a fair and true report or a fair summary of any judicial, legislative or other public or official proceedings; or
- (5) The communication is between persons each having an interest or duty with respect to the subject matter of the communication and is made with intent to further such interest or duty.

Subd. 4. **Testimony required.** No person shall be convicted on the basis of an oral communication of defamatory matter except upon the testimony of at least two other persons that they heard and understood the oral statement as defamatory or upon a plea of guilty.

[1963 c 753 art 1 s 609.765]

NOTE: See section 588.20.

609.77 FALSE INFORMATION TO NEWS MEDIA. Whoever, with intent that it be published or disseminated and that it defame another person, communicates to any newspaper, magazine or other news media, any statement, knowing it to be false, is guilty of a misdemeanor.

[1963 c 753 art 1 s 609.77; 1971 c 23 s 77]

CRIMES RELATING TO COMMUNICATIONS

609.775 DIVULGING TELEPHONE OR TELEGRAPH MESSAGE; NON-DELIVERY. Whoever does any of the following is guilty of a misdemeanor:

(1) Being entrusted as an employee of a telephone or telegraph company with the transmission or delivery of a telephonic or telegraphic message, intentionally or through culpable negligence discloses the contents or meaning thereof to a person other than the intended receiver; or

(2) Knowing he is not the intended receiver, obtains such disclosure from such employee; or

(3) Being such employee, intentionally or negligently fails duly to deliver such message.

[1963 c 753 art 1 s 609.775; 1971 c 23 s 78]

609.78 EMERGENCY TELEPHONE CALLS. Whoever does any of the following is guilty of a misdemeanor:

(1) Refuses to relinquish immediately a telephone line consisting of two or more stations when informed that the line is needed at another station to make an emergency call for medical or ambulance service or for assistance from a police or fire department or for other service needed in an emergency to avoid serious harm to person or property, and an emergency therefor in fact exists; or

(2) Secures a relinquishment of such telephone line by falsely stating that the line is needed for an emergency; or

(3) Publishes telephone directories to be used for such lines which do not contain a copy of this section.

[1963 c 753 art 1 s 609.78; 1971 c 23 s 79]

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.

[1963 c 753 art 1 s 609.785; 1969 c 175 s 1; 1971 c 23 s 80; 1977 c 14 s 1; 1977 c 355 s 13]

609.79 OBSCENE OR HARASSING TELEPHONE CALLS. Subdivision 1. Whoever,

(1) By means of a telephone,

(a) Makes any comment, request, suggestion or proposal which is obscene, lewd, lascivious, filthy or indecent,

(b) Makes a telephone call, whether or not conversation ensues, without disclosing his identity and with intent to annoy, abuse, threaten, or harass any person at the called number,

(c) Makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number, or

(2) Knowingly permits any telephone under his control to be used for any purpose prohibited by this section, shall be guilty of a misdemeanor.

Subd. 2. The offense may be prosecuted either at the place where the call is made or where it is received.

[1963 c 753 art 1 s 609.79; 1969 c 174 s 1]

609.795 OPENING SEALED LETTER, TELEGRAM, OR PACKAGE. Whoever does either of the following is guilty of a misdemeanor:

(1) Knowing that he does not have the consent of either the sender or the addressee, intentionally opens any sealed letter, telegram, or package addressed to another; or

(2) Knowing that a sealed letter, telegram, or package has been opened without the consent of either the sender or addressee, intentionally publishes any of the contents thereof.

[1963 c 753 art 1 s 609.795; 1971 c 23 s 81]

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]

CRIMES RELATING TO A BUSINESS

609.805 TICKET SCALPING. Subdivision 1. **Definition.** "Event" means a theater performance or show, circus, athletic contest or other entertainment or amusement to which the general public is admitted.

Subd. 2. **Acts constituting.** Whoever intentionally does any of the following is guilty of a misdemeanor:

(1) Issues or sells tickets to an event without printing thereon in a conspicuous place the price of the ticket and the seat number, if any; or

(2) Charges for admission to an event a price greater than that advertised or stated on tickets issued for the event; or

(3) Sells or offers to sell a ticket to an event at a price greater than that charged at the place of admission or printed on the ticket; or

(4) Having received a ticket to an event under conditions restricting its transfer, sells it in violation of such conditions; or

(5) Being in control of premises on or in which an event is conducted, permits the sale or exhibition for sale on or in such premises of a ticket to the event at a price greater than printed thereon.

Subd. 3. **Exception.** The provisions of subdivisions 1 and 2 shall not prohibit charging a fee for services rendered in connection with the sale of a ticket to an event if the fee is permitted pursuant to a contract between the ticket seller and the promoter of an event.

[1963 c 753 art 1 s 609.805; 1971 c 23 s 82; 1975 c 427 s 1]

609.81 MISCONDUCT OF PAWNBROKERS. Whoever in his business as a pawnbroker does any of the following is guilty of a misdemeanor:

(1) Lends money on a pledge at a rate of interest above that allowed by law; or

(2) Has stolen goods in his possession and refuses to permit a law enforcement officer to examine them during usual business hours; or

(3) Sells pledged goods before the time to redeem has expired; or

(4) Having sold pledged goods, refuses to disclose to the pledgor the name of the purchaser or the price for which sold; or

(5) Makes a loan on a pledge to a person under lawful age, without the written consent of his parent or guardian.

[1963 c 753 art 1 s 609.81; 1971 c 23 s 83]

609.815 MISCONDUCT OF JUNK OR SECOND-HAND DEALER. Whoever is a junk dealer or second-hand dealer and does any of the following is guilty of a misdemeanor:

(1) Has stolen goods in his possession and refuses to permit a law enforcement officer to examine them during usual business hours; or

(2) Purchases property from a person under lawful age, without the written consent of his parent or guardian.

[1963 c 753 art 1 s 609.815; 1971 c 23 s 84]

609.82 FRAUD IN OBTAINING CREDIT. Whoever, with intent to defraud, obtains credit for himself or another from a bank, trust company, savings or building and loan association, or credit union, by means of a present or past false representation as to his or another's financial ability may be sentenced as follows:

(1) If no money or property is obtained by the defendant by means of such credit, to imprisonment for not more than 90 days or to payment of a fine of not more than \$300, or both; or

(2) If money or property is so obtained, the value thereof shall be determined as provided in section 609.52, subdivision 1, clause (3) and he may be sentenced as provided in section 609.52, subdivision 3.

[1963 c 753 art 1 s 609.82; 1971 c 23 s 85]

MISCELLANEOUS CRIMES

609.825 BRIBERY OF PARTICIPANT OR OFFICIAL IN CONTEST. Subdivision 1. **Definition.** As used in this section, "official" means one who umpires, referees, judges, officiates or is otherwise designated to render decisions concerning the conduct or outcome of any contest included herein.

Subd. 2. **Acts prohibited.** Whoever 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) Offers, gives, or agrees to give, directly or indirectly, any benefit, reward or consideration to a participant, manager, director, or other official, or to one who intends to become such participant or official, in any sporting event, race or other contest of any kind whatsoever with intent thereby to influence such participant not to use his best effort to win or enable his team to win or to attain a maximum score or margin of victory, or to influence such official in his decisions with respect to such contest; or

(2) Requests, receives, or agrees to receive, directly or indirectly, any benefit, reward or consideration upon the understanding that he will be so influenced as such participant or official.

Subd. 3. **Duty to report.** Whoever is offered or promised such benefit, reward or consideration upon the understanding that he will be so influenced as such participant or official and fails promptly to report the same to his employer, manager, coach, or director, or to a county attorney may be punished by imprisonment for not more than one year or to payment of a fine of not more than \$1,000, or both.

[1963 c 753 art 1 s 609.825]

609.83 FALSELY IMPERSONATING ANOTHER. Whoever does either 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) Assumes to enter into a marriage relationship with another by falsely impersonating a third person; or

(2) By falsely impersonating another with intent to defraud him or a third person, appears, participates, or executes an instrument to be used in a judicial proceeding.

[1963 c 753 art 1 s 609.83]

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]