

## CHAPTER 609

## CRIMINAL CODE OF 1963

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## 609.01 NAME AND CONSTRUCTION.

*[For text of subd 1, see M.S.1982]*

Subd. 2. [Repealed, 1983 c 216 art 1 s 76]

## 609.02 DEFINITIONS.

*[For text of subds 1 and 2, see M.S.1982]*

Subd. 3. **Misdemeanor.** "Misdemeanor" means a crime for which a sentence of not more than 90 days or a fine of not more than \$700, or both, may be imposed.

Subd. 4. **Gross misdemeanor.** "Gross misdemeanor" means any crime which is not a felony or misdemeanor. The maximum fine which may be imposed for a gross misdemeanor is \$3,000.

*[For text of subds 4a to 10, see M.S.1982]*

Subd. 11. **Second or subsequent violation or offense.** "Second or subsequent violation" or "second or subsequent offense" means that prior to the commission of the violation or offense, the actor has been adjudicated guilty of a specified similar violation or offense.

**History:** 1983 c 274 s 14; 1983 c 331 s 4,5

## 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 \$10,000, 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 \$3,000, 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 \$700, 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 \$1,000, or to imprisonment for a specified term of not more than six months if the fine is not paid.

*History: 1983 c 331 s 6*

**609.031** [Repealed, 1983 c 331 s 11]

**609.032** [Repealed, 1983 c 331 s 11]

**609.033 INCREASED MAXIMUM PENALTIES FOR MISDEMEANORS.**

Any law of this state which provides for a maximum fine of \$500 as a penalty for a violation shall, on or after August 1, 1983, be deemed to provide for a maximum fine of \$700.

*History: 1983 c 331 s 7*

**609.034 INCREASED MAXIMUM PENALTY FOR ORDINANCE VIOLATIONS.**

Any law of this state or municipal charter which limits the power of any statutory or home rule charter city, town, county, or other political subdivision to prescribe a maximum fine of \$500 or less for an ordinance shall on or after August 1, 1983, be deemed to provide that the statutory or home rule charter city, town, county, or other political subdivision has the power to prescribe a maximum fine of \$700.

*History: 1983 c 331 s 8*

**609.0341 INCREASED MAXIMUM FINES FOR GROSS MISDEMEANORS; FELONIES; OTHER FINES.**

Subdivision 1. **Gross misdemeanors.** Any law of this state which provides for a maximum fine of \$1,000 or for a maximum term of imprisonment of one year or which is defined as a gross misdemeanor shall, on or after August 1, 1983, be deemed to provide for a maximum fine of \$3,000 and for a maximum term of imprisonment of one year.

Subd. 2. **Felonies.** (a) Any law of this state which provides for a maximum fine of \$2,000 shall, on or after August 1, 1983, be deemed to provide for a maximum fine of \$4,000.

(b) Any law of this state which provides for a maximum fine of \$3,000 shall, on or after August 1, 1983, be deemed to provide for a maximum fine of \$5,000.

(c) Any law of this state which provides for a maximum fine of \$5,000 shall, on or after August 1, 1983, be deemed to provide for a maximum fine of \$10,000.

(d) Any law of this state which provides for a maximum fine of \$7,000 shall, on or after August 1, 1983, be deemed to provide for a maximum fine of \$14,000.

(e) Any law of this state which provides for a maximum fine of \$10,000 shall, on or after August 1, 1983, be deemed to provide for a maximum fine of \$20,000.

(f) Any law of this state which provides for a maximum fine of \$15,000 shall, on or after August 1, 1983, be deemed to provide for a maximum fine of \$30,000.

(g) Any law of this state which provides for a maximum fine of \$20,000 shall, on or after August 1, 1983, be deemed to provide for a maximum fine of \$35,000.

(h) Any law of this state which provides for a maximum fine of \$25,000 shall, on or after August 1, 1983, be deemed to provide for a maximum fine of \$40,000.

(i) Any law of this state which provides for a maximum fine of \$30,000 shall, on or after August 1, 1983, be deemed to provide for a maximum fine of \$45,000.

(j) Any law of this state which provides for a maximum fine of \$40,000 shall, on or after August 1, 1983, be deemed to provide for a maximum fine of \$50,000.

Subd. 3. **Exceptions.** The provisions of subdivision 2 do not apply to any felony for which the fine was established or increased in 1983 by a legislative enactment other than this section.

**History:** 1983 c 331 s 9

#### **609.035 CRIME PUNISHABLE UNDER DIFFERENT PROVISIONS.**

Except as provided in section 609.251 and 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 the offenses and a conviction or acquittal of any one of them is a bar to prosecution for any other of them. All the offenses, if prosecuted, shall be included in one prosecution which shall be stated in separate counts.

**History:** 1983 c 139 s 1

#### **609.045 FOREIGN CONVICTION OR ACQUITTAL.**

If an act or omission in this state constitutes a crime under both the laws of this state and the laws of another jurisdiction, a conviction or acquittal of the crime in the other jurisdiction shall not bar prosecution for the crime in this state unless the elements of both law and fact are identical.

**History:** 1983 c 152 s 1

#### **609.11 MINIMUM TERMS OF IMPRISONMENT.**

*[For text of subds 1 to 5, see M.S.1982]*

Subd. 6. **No early release.** Any defendant convicted and sentenced as required by this section is not eligible for probation, parole, discharge, or supervised release until that person has served the full mandatory minimum term of imprisonment as provided by law, notwithstanding the provisions of sections 242.19, 243.05, 244.04, 609.12 and 609.135.

*[For text of subds 7 to 9, see M.S.1982]*

**History:** 1983 c 274 s 15

#### **609.115 PRESENTENCE INVESTIGATION.**

Subdivision 1. **Presentence investigation.** When a defendant has been convicted of a misdemeanor or gross misdemeanor, the court may, and when the 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 by it to others and to the community. If the court 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. In misdemeanor cases the report may be oral.

When a defendant has been convicted of a felony, and before sentencing, the court shall cause a sentencing worksheet to be completed to facilitate the application of the Minnesota sentencing guidelines. The worksheet shall be submitted as part of the presentence investigation report.

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.

Presentence investigations shall be conducted and summary hearings held upon reports and upon the sentence to be imposed upon the defendant in accordance with this section, section 244.10, and the rules of criminal procedure.

*[For text of subd 1a, see M.S.1982]*

**Subd. 1b. Additional contents.** The presentence investigation report shall also include the following information relating to victims:

(a) a summary of the damages or harm and any other problems generated by the criminal occurrence;

(b) a concise statement of what disposition the victim deems appropriate for the defendant or juvenile court respondent, including reasons given, if any, by the victim in support of his opinion; and

(c) an attachment to the report, consisting of the victim's written objections, if any, to the proposed disposition if the victim provides the officer conducting the presentence investigation with this written material within a reasonable time prior to the disposition.

For the purposes of this section, "victim" has the meaning given to it in section 611A.01.

**Subd. 1c. Notice to victim.** The officer conducting the presentence or dispositional report shall make reasonable and good faith efforts to contact the victim of that crime and to provide that victim with the following information: (i) the charge or juvenile court petition to which the defendant has been convicted or pleaded guilty, or the juvenile respondent has admitted in court or has been found to have committed by the juvenile court, and of any plea agreement between the prosecution and the defense counsel; (ii) his right to request restitution pursuant to section 611A.04; (iii) the time and place of the sentencing or juvenile court disposition and his right to be present; and (iv) his right to object in writing to the court, prior to the time of sentencing or juvenile court disposition, to the proposed sentence or juvenile dispositional alternative, or to the terms of the proposed plea agreement. To assist the victim in making a recommendation under clause (iv), the officer shall provide the victim with information about the court's options for sentencing and other dispositions. Failure of the officer to comply with this subdivision does not give any rights or grounds for post-conviction or post-juvenile disposition relief to the defendant or juvenile court respondent, nor does it entitle a defendant or a juvenile court respondent to withdraw a plea of guilty.

*[For text of subds 2 to 7, see M.S.1982]*

**History:** 1983 c 262 art 2 s 3-5

**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 mandatory minimum term of imprisonment is required by section 609.11, any court may stay imposition or execution of sentence and place the defendant on probation with or without supervision and on the terms the court prescribes, 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 or gross misdemeanor, by the commissioner of corrections, or in any case by some other suitable and consenting person.

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

*[For text of subds 2 to 5, see M.S.1982]*

**History:** 1983 c 264 s 9

**609.21 CRIMINAL VEHICULAR OPERATION.**

Subdivision 1. **Resulting in death.** Whoever, as a result of operating a vehicle as defined in section 169.01, subdivision 2, or an aircraft or watercraft, in a grossly negligent manner, or in a negligent manner while under the influence of alcohol or a controlled substance as defined in section 169.121, subdivision 1, causes the death of a human being not constituting murder or manslaughter is guilty of criminal vehicular operation 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.

Subd. 2. **Resulting in injury.** Whoever, as a result of operating a vehicle defined in section 169.01, subdivision 2, or an aircraft or watercraft, in a grossly negligent manner, or in a negligent manner while under the influence of alcohol or a controlled substance as defined in section 169.121, subdivision 1, causes great bodily harm to another, as defined in section 609.02, subdivision 8, not constituting attempted murder or assault is guilty of criminal vehicular operation resulting in injury and may be sentenced to imprisonment for not more than three years or the payment of a fine of not more than \$3,000 or both.

**History:** 1983 c 12 s 1

**609.2231 ASSAULT IN THE FOURTH DEGREE.**

Whoever assaults a peace officer when that officer is effecting a lawful arrest or executing any other duty imposed upon him by law and inflicts demonstrable bodily harm is guilty of a felony and may be sentenced to imprisonment for not more than one year and a day or to payment of a fine of not more than \$1,000, or both.

**History:** 1983 c 169 s 1

**609.224 ASSAULT IN THE FIFTH DEGREE.**

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.

**History:** 1983 c 169 s 2

**609.251 DOUBLE JEOPARDY; KIDNAPPING.**

A prosecution for or conviction of the crime of kidnapping is not a bar to conviction of any other crime committed during the time of the kidnapping.

**History:** 1983 c 139 s 2

**609.255 FALSE IMPRISONMENT.**

Subdivision 1. **Definition.** As used in this section, the following term has the meaning given it unless specific content indicates otherwise.

“Caretaker” means an individual who has responsibility for the care of a child as a result of a family relationship, or who has assumed responsibility for all or a portion of the care of a child.

**Subd. 2. Intentional restraint.** 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.

**Subd. 3. Unreasonable restraint of children.** A parent, legal guardian, or caretaker who intentionally subjects a child under the age of 18 years to unreasonable physical confinement or restraint by means including but not limited to, tying, locking, caging, or chaining for a prolonged period of time and in a cruel manner which is excessive under the circumstances and which results in substantial emotional harm, is guilty of unreasonable restraint of a child 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. If the confinement or restraint results in substantial bodily harm, that person may be sentenced to imprisonment for not more than three years or to payment of not more than \$3,000, or both.

**History:** 1983 c 217 s 2

**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 forebear 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 peace officer or prosecuting attorney to any person shall not be deemed a threat for the purposes of this section.

*[For text of subd 2, see M.S.1982]*

**History:** 1983 c 359 s 87

**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 or to payment of a fine of not more than \$20,000, or both, 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 cause 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.

**History:** 1983 c 204 s 1

**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 or to payment of a fine of not more than \$15,000, or both, 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. In a prosecution under this clause, the state is not required to prove that the sexual contact was coerced; 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 cause 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 dangerous weapon and uses or threatens to use the weapon or article to cause the complainant to submit.

**History:** 1983 c 204 s 2

## **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, or to payment of a fine of not more than \$10,000, or both, 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. 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.

**History:** 1983 c 204 s 3

## **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, or to payment of a fine of not more than \$5,000, or both, 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

or consent to the act by the complainant is a defense. In a prosecution under this clause, the state is not required to prove that the sexual contact was coerced; 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 cause 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 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.

**History:** 1983 c 204 s 4

#### **609.3641 INTRAFAMILIAL SEXUAL ABUSE IN THE FIRST DEGREE.**

*[For text of subd 1, see M.S.1982]*

**Subd. 2. Penalty.** A person convicted under subdivision 1, clause (1), 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. Except when imprisonment is required by section 609.346, the court may stay imposition or execution of sentence if it finds that a stay is in the best interest of the complainant or the family unit. A person convicted under subdivision 1, clause (2), 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.

**History:** 1983 c 204 s 5

#### **609.3642 INTRAFAMILIAL SEXUAL ABUSE IN THE SECOND DEGREE.**

*[For text of subd 1, see M.S.1982]*

**Subd. 2. Penalty.** A person convicted under subdivision 1, clause (1), 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. Except when imprisonment is required by section 609.346, the court may stay imposition or execution of the sentence if it finds that a stay is in the best interest of the complainant or the family unit. A person convicted under subdivision 1, clause (2), 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.

**History:** 1983 c 204 s 6

#### **609.3643 INTRAFAMILIAL SEXUAL ABUSE IN THE THIRD DEGREE.**

*[For text of subd 1, see M.S.1982]*

**Subd. 2. Penalty.** A person convicted under subdivision 1, clause (1), 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. Except when imprisonment is required by section 609.346, the court may stay imposition or execution of the sentence if it finds that a stay is in the best interest of the complainant or the family unit. A person convicted under subdivision 1, clause (2), 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.

**History:** 1983 c 204 s 7

**609.3644 INTRAFAMILIAL SEXUAL ABUSE IN THE FOURTH DEGREE.**

*[For text of subd 1, see M.S.1982]*

**Subd. 2. Penalty.** A person convicted under subdivision 1, clause (1), 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. Except when imprisonment is required by section 609.346, the court may stay imposition or execution of the sentence if it finds that a stay is in the best interest of the complainant or the family unit. A person convicted under subdivision 1, clause (2), 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.

**History:** 1983 c 204 s 8

**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 a child born to a mother who was not married to the child's father when the child was conceived nor when the child was born if the child's paternity has been duly established.

**History:** 1983 c 7 s 15; 1983 c 243 s 5 subd 13

**609.376 DEFINITIONS.**

**Subdivision 1. Terms defined.** For the purposes of sections 609.255 and 609.376 to 609.38, the following terms have the meanings given unless specific content indicates otherwise.

**Subd. 2. Child.** "Child" means any person under the age of 18 years.

**Subd. 3. Caretaker.** "Caretaker" means an individual who has responsibility for the care of a child as a result of a family relationship or who has assumed responsibility for all or a portion of the care of a child.

**Subd. 4. Complainant.** "Complainant" means a person alleged to have been a victim of a violation of sections 609.255, subdivision 3, 609.377, or 609.378, but need not be the person who signs the complaint.

**History:** 1983 c 217 s 3

**609.377 MALICIOUS PUNISHMENT OF A CHILD.**

A parent, legal guardian, or caretaker who, by an intentional act or a series of intentional acts, evidences unreasonable force or cruelty which causes substantial emotional harm to a child is guilty of malicious punishment of a child 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. If the punishment results in substantial bodily harm, that person may be sentenced to imprisonment for not more than 3 years or to payment of not more than \$3,000, or both.

**History:** 1983 c 217 s 4

**609.378 NEGLECT OF A CHILD.**

(a) A parent, legal guardian, or caretaker who willfully deprives a child of necessary food, clothing, shelter, health care, or supervision appropriate to the child's age, when the parent, guardian, or caretaker is reasonably able to make the necessary provisions and which deprivation substantially harms the child's physical or emotional health, or (b) a parent, legal guardian, or foster parent who

knowingly permits the continuing physical or sexual abuse of a child is guilty of neglect of a child 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. It is a defense to a prosecution under clause (b) that at the time of the neglect there was a reasonable apprehension in the mind of the defendant that acting to stop or prevent the neglect would result in substantial bodily harm to the defendant or the child in retaliation.

If a parent, guardian, or caretaker responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child, this treatment shall constitute "health care" as used in clause (a) of this section.

**History:** 1983 c 217 s 5

## **609.379 PERMITTED ACTIONS.**

Subdivision 1. **Reasonable force.** Reasonable force may be used upon or toward the person of a child without the child's consent when the following circumstance exists or the actor reasonably believes it to exist:

When used by a parent, legal guardian, teacher, or other caretaker of a child or pupil, in the exercise of lawful authority, to restrain or correct the child or pupil.

Subd. 2. **Applicability.** This section applies to sections 260.315, 609.255, 609.376, 609.377, 609.378, and 626.556, subdivision 12.

**History:** 1983 c 217 s 6

## **609.38 STAYED SENTENCE.**

For any violation of sections 609.255, subdivision 3, 609.377, or 609.378 for which the sentencing guidelines establish a presumptive executed sentence, the court may stay imposition or execution of the sentence if it finds that a stay is in the best interest of the complainant or the family unit and that the defendant is willing to participate in any necessary or appropriate treatment. In determining an appropriate sentence when there is a family relationship between the complainant and the defendant, the court shall be guided by the policy of preserving and strengthening the family unit whenever possible.

**History:** 1983 c 217 s 7

## **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 it known to the governor or a judge of the supreme court, court of appeals, or 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.

**History:** 1983 c 247 s 208

## **609.415 DEFINITIONS.**

Subdivision 1. **Definitions.** 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; or

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

(2) "Public employee" means a person employed by or acting for the state or 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) "Judicial officer" means a judge, court commissioner, referee, or any other person appointed by a judge or court to hear or determine a cause or controversy.

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

*[For text of subd 2, see M.S.1982]*

**History:** 1983 c 359 s 88

**609.46** [Repealed, 1983 c 359 s 151]

**609.498 TAMPERING WITH A WITNESS.**

Subdivision 1. **Tampering with a witness in the first degree.** Whoever does any of the following is guilty of tampering with a witness in the first degree and may be sentenced as provided in subdivision 1a:

(a) 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;

(b) intentionally threatens to cause injury to person, family, or property in retaliation against a person who was summoned as a witness at any trial, proceeding, or inquiry authorized by law, within a year following that trial, proceeding, or inquiry;

(c) intentionally prevents or dissuades or attempts to prevent or dissuade, by means of force or threats of injury to person, family, or property, a person from providing information to law enforcement authorities concerning a crime; or

(d) intentionally threatens to cause injury to person, family, or property in retaliation against a person who has provided information to law enforcement authorities concerning a crime within a year of that person providing the information.

Subd. 1a. **Penalty.** Whoever violates subdivision 1 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 does any of the following is guilty of tampering with a witness in the second degree and may be sentenced as provided in subdivision 3:

(a) intentionally prevents or dissuades or intentionally attempts to prevent or dissuade by means of any act described in section 609.27, subdivision 1, clause (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; or

(b) intentionally prevents or dissuades or attempts to prevent or dissuade by means of any act described in section 609.27, subdivision 1, clause (3), (4), or (5), a person from providing information to law enforcement authorities concerning a crime.

Subd. 3. **Sentence.** Whoever violates subdivision 2 may be sentenced to imprisonment for not more than one year or to payment of a fine not to exceed \$1,000.

**History:** 1983 c 262 art 2 s 6

## 609.52 THEFT.

*[For text of subds 1 and 2, see M.S.1982]*

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 if the property stolen was a controlled substance listed in schedule 1 or 2 pursuant to section 152.02 with the exception of marijuana; or

(2) To imprisonment for not more than five years or to payment of a fine of not more than \$5,000, or both, if the value of the property or services stolen is more than \$250 but not more than \$2,500, or if the property stolen was a controlled substance listed in schedule 3, 4, or 5 pursuant to section 152.02; 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 stolen is not more than \$250, 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 stolen is \$250 or less, to imprisonment for not more than 90 days or to payment of a fine of not more than \$500, or both, provided, however, in any prosecution under clause (1), clause (2), clause (3)(a), (b) and (c), clause (4), and clause (13) 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.

**History:** 1983 c 238 s 1; 1983 c 331 s 10

**609.535 ISSUANCE OF DISHONORED CHECKS.**

Subdivision 1. **Definitions.** For the purpose of this section, the following terms have the meanings given them.

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

(b) "Credit" means an arrangement or understanding with the drawee for the payment of a check.

Subd. 2. **Acts constituting.** Whoever issues a check 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 intended it should not be paid:

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

(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 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 within five business days after mailing of notice of nonpayment or dishonor as provided in this subdivision.

Notice of nonpayment or dishonor and a copy of this section shall be sent by the payee or holder of the check to the maker or drawer by certified mail, return receipt requested, or by regular mail, supported by an affidavit of service by mailing, to the address printed on the check. Refusal by the maker or drawer of the check to accept certified mail notice or failure to claim certified or regular mail notice is not a defense that notice was not received.

The notice may state that unless the check is paid in full within five business days after mailing of the notice of nonpayment or dishonor, the payee or holder of the check will or may refer the matter to proper authorities for prosecution under this section.

An affidavit of service by mailing shall be retained by the payee or holder of the check.

Subd. 4. **Proof of lack of funds or credit.** If the check has been protested, the notice of protest 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.

Subd. 6. **Release of account information to law enforcement authorities.** A drawee shall release the information specified below to any state, county, or local law enforcement or prosecuting authority which certifies in writing that it is investigating or prosecuting a complaint against the drawer under this section or section 609.52, subdivision 2, clause (3)(a), and that 15 days have elapsed since the mailing of the notice of dishonor required by subdivisions 3 and 8. This subdivision applies to the following information relating to the drawer's account:

(1) Documents relating to the opening of the account by the drawer;

(2) Notices regarding nonsufficient funds, overdrafts, and the dishonor of any check drawn on the account within a period of six months of the date of request;

(3) Periodic statements mailed to the drawer by the drawee for the periods immediately prior to, during, and subsequent to the issuance of any check which is the subject of the investigation or prosecution; or

(4) The last known home and business addresses and telephone numbers of the drawer.

The drawee shall release all of the information described in clauses (1) to (4) that it possesses within ten days after receipt of a request conforming to all of the provisions of this subdivision. The drawee may impose a reasonable fee for the cost for furnishing this information to law enforcement or prosecuting authorities, not to exceed 15 cents per page.

A drawee is not liable in a criminal or civil proceeding for releasing information in accordance with this subdivision.

**Subd. 7. Release of account information to payee or holder.** A drawee shall release the information specified in clauses (1) and (2) to the payee or holder of a check that has been dishonored who makes a written request for this information and states in writing that the check has been dishonored and that 30 days have elapsed since the mailing of the notice described in subdivision 8 and who accompanies this request with a copy of the dishonored check and a copy of the notice of dishonor.

The requesting payee or holder shall notify the drawee immediately to cancel this request if payment is made before the drawee has released this information.

This subdivision applies to the following information relating to the drawer's account:

(1) Whether at the time the check was issued or presented for payment the drawer had sufficient funds or credit with the drawee, and whether at that time the account was open, closed, or restricted for any reason and the date it was closed or restricted; and

(2) The last known home address and telephone number of the drawer. A drawee may be liable in a civil or criminal proceeding for releasing the business address or business telephone number of the drawer to the payee or holder.

The drawee shall release all of the information described in clauses (1) and (2) that it possesses within ten days after receipt of a request conforming to all of the provisions of this subdivision. The drawee may require the person requesting the information to pay the reasonable costs, not to exceed 15 cents per page, of reproducing and mailing the requested information.

A drawee is not liable in a criminal or civil proceeding for releasing information in accordance with this subdivision.

**Subd. 8. Notice.** The provisions of subdivisions 6 and 7 are not applicable unless the notice to the maker or drawer required by subdivision 3 states that if the check is not paid in full within five business days after mailing of the notice, the drawee will be authorized to release information relating to the account to the payee or holder of the check and may also release this information to law enforcement or prosecuting authorities.

**History:** 1983 c 225 s 10

#### **609.541 PROTECTION OF LIBRARY PROPERTY.**

**Subdivision 1. Damage to library materials.** A person who intentionally, and without permission from library personnel damages any books, maps, pictures,

manuscripts, films, or other property of any public library or library belonging to the state or to any political subdivision is guilty of a petty misdemeanor.

**Subd. 2. Removal of library property.** A person who intentionally, and without permission from library personnel removes any books, maps, pictures, manuscripts, films, or other property of any public library or library belonging to the state or to any political subdivision is guilty of a misdemeanor.

**Subd. 3. Detention of library materials.** A person who detains a book, periodical, pamphlet, film, or other property belonging to any public library, or to a library belonging to the state or any political subdivision, for more than 60 days after notice in writing to return it, given after the expiration of the library's stated loan period for the material, is guilty of a petty misdemeanor. The written notice shall be sent by mail to the last known address of the person detaining the material. The notice shall state the type of material borrowed, the title of the material, the author's name, the library from which the material was borrowed, and the date by which the material was to have been returned to the library. The notice shall include a statement indicating that if the material is not returned within 60 days after the written notice the borrower will be in violation of this section.

**Subd. 4. Responsibility for prosecution for regional libraries.** For regional libraries the county attorney for the county in which the offense occurred shall prosecute violations of subdivisions 1 to 3.

**History:** 1983 c 280 s 3

**609.58 [Repealed, 1983 c 321 s 4]**

## **609.581 DEFINITIONS.**

**Subdivision 1. Terms defined.** For purpose of sections 609.582 and 609.583 the terms defined in this section have the meanings given them.

**Subd. 2. Building.** "Building" means a structure suitable for affording shelter for human beings including any appurtenant or connected structure.

**Subd. 3. Dwelling.** "Dwelling" means a building used as a permanent or temporary residence.

**Subd. 4. Enters a building without consent.** "Enters a building without consent" means:

(a) to enter a building without the consent of the person in lawful possession;

(b) to enter a building by using artifice, trick, or misrepresentation to obtain consent to enter from the person in lawful possession; or

(c) to remain within a building without the consent of the person in lawful possession.

Whoever enters a building while open to the general public does so with consent except when consent was expressly withdrawn before entry.

**History:** 1983 c 321 s 1

## **609.582 BURGLARY.**

**Subdivision 1. Burglary in the first degree.** Whoever enters a building without consent and with intent to commit a crime commits burglary in the first degree 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, if:

(a) the building is a dwelling and another person not an accomplice is present in it;

(b) the burglar possesses a dangerous weapon or explosive when entering or at any time while in the building; or

(c) the burglar assaults a person within the building.

Subd. 2. **Burglary in the second degree.** Whoever enters a building without consent and with intent to commit a crime commits burglary in the second degree 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, if:

(a) the building is a dwelling;

(b) the portion of the building entered contains a banking business or other business of receiving securities or other valuable papers for deposit or safekeeping and the entry is with force or threat of force;

(c) the portion of the building entered contains a pharmacy or other lawful business or practice in which controlled substances are routinely held or stored, and the entry is forcible; or

(d) when entering or while in the building, the burglar possesses a tool to gain access to money or property.

Subd. 3. **Burglary in the third degree.** Whoever enters a building without consent and with intent to steal or commit any felony or gross misdemeanor commits burglary in the third degree 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.

Subd. 4. **Burglary in the fourth degree.** Whoever enters a building without consent and with intent to commit a misdemeanor other than to steal commits burglary in the fourth degree 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.

**History:** 1983 c 321 s 2

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## 609.583 SENTENCING; FIRST BURGLARY OF A DWELLING.

In determining an appropriate sentence for a first offense of burglary of a dwelling, the court shall presume that a stay of execution with a 120-day period of incarceration as a condition of probation shall be imposed unless the defendant's criminal history score determined according to the sentencing guidelines indicates a presumptive executed sentence, in which case the presumptive executed sentence shall be imposed unless the court departs from the sentencing guidelines pursuant to section 244.10. A stay of imposition of sentence may be granted only if accompanied by a statement on the record of the reasons for it. The presumptive period of incarceration may be waived in whole or in part by the court if the defendant provides restitution or performs community work service.

**History:** 1983 c 321 s 3

## 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 the 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 of the municipality.

*[For text of subd 2, see M.S.1982]*

History: 1983 c 359 s 89

#### 609.687 ADULTERATION.

Subdivision 1. **Definition.** "Adulteration" is the intentional adding of any substance, which has the capacity to cause death, bodily harm or illness by ingestion, injection, inhalation or absorption, to a substance having a customary or reasonably foreseeable human use.

Subd. 2. **Acts constituting.** (a) Whoever, knowing or having reason to know that the adulteration will cause death, bodily harm or illness, adulterates any substance with the intent to cause death, bodily harm or illness is guilty of a crime and may be sentenced as provided in subdivision 3; or

(b) Whoever, knowing or having reason to know that a substance has been adulterated as defined in subdivision 1, distributes, disseminates, gives, sells, or otherwise transfers an adulterated substance with the intent to cause death, bodily harm or illness is guilty of a crime and may be sentenced as provided in subdivision 3.

Subd. 3. **Sentence.** Whoever violates subdivision 2 may be sentenced as follows:

(1) If the adulteration causes death, to imprisonment for not more than 40 years.

(2) If the adulteration causes any illness, pain, or other bodily harm, to imprisonment for not more than five years.

Subd. 4. **Charging discretion.** Criminal proceedings may be instituted under this section, notwithstanding the provisions of sections 24.141, 24.28, 29.24, 31.02, 31.405, 31.601, 34.01, 151.34, 340.142, or other law proscribing adulteration of substances intended for use by persons.

History: 1983 c 8 s 1

#### 609.75 GAMBLING; DEFINITIONS.

Subdivision 1. **Lottery.** (a) 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.

(b) An in-package chance promotion is not a lottery if all of the following are met:

(1) participation is available, free and without purchase of the package, from the retailer or by mail or toll-free telephone request to the sponsor for entry or for a game piece;

(2) the label of the promotional package and any related advertising clearly states any method of participation and the scheduled termination date of the promotion;

(3) the sponsor on request provides a retailer with a supply of entry forms or game pieces adequate to permit free participation in the promotion by the retailer's customers;

(4) the sponsor does not misrepresent a participant's chances of winning any prize;

(5) the sponsor randomly distributes all game pieces and maintains records of random distribution for at least one year after the termination date of the promotion;

(6) all prizes are randomly awarded if game pieces are not used in the promotion; and

(7) the sponsor provides on request of a state agency a record of the names and addresses of all winners of prizes valued at \$100 or more, if the request is made within one year after the termination date of the promotion.

(c) Except as provided by section 349.40, acts in this state in furtherance of a lottery conducted outside of this state are included notwithstanding its validity where conducted.

*[For text of subd 2, see M.S.1982]*

**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.

(7) Pari-mutuel betting on horse racing when the betting is conducted under chapter 240.

*[For text of subds 4 to 6, see M.S.1982]*

**Subd. 7. Sports bookmaking.** Sports bookmaking is the activity of intentionally receiving, recording or forwarding in any one day more than five bets or offers to bet totaling more than \$1,500 on the outcome of an organized sporting event.

**History:** 1983 c 214 s 34-36; 1983 c 216 art 2 s 17 subd 3

**609.76 OTHER ACTS RELATING TO GAMBLING.**

Subdivision 1. **Gross misdemeanors.** 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;
- (2) Intentionally participates in the income of a gambling place or bucket shop;
- (3) Conducts a lottery, or, with intent to conduct a lottery, possesses facilities for doing so;
- (4) Sets up for use for the purpose of gambling, or collects the proceeds of, any gambling device or bucket shop;
- (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 349.30, subdivision 2, and any facility for conducting a lottery, except as provided by section 349.40; 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.

Subd. 2. **Felony gambling.** Whoever engages in sports bookmaking is guilty of a felony.

**History:** 1983 c 214 s 37

**609.761 OPERATIONS 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 under section 349.26, and a person may manufacture, sell or offer for sale a gambling device to the organization, and pari-mutuel betting on horse racing may be conducted under chapter 240.

**History:** 1983 c 214 s 38

**609.762 FORFEITURE OF GAMBLING DEVICES, PRIZES AND PROCEEDS.**

Subdivision 1. **Forfeiture.** The following are subject to forfeiture:

- (a) Devices used or intended for use, including those defined in section 349.30, subdivision 2, as a gambling device, except as authorized in sections 349.11 to 349.23 and 349.40;
- (b) All moneys, materials, and other property used or intended for use as payment to participate in gambling or a prize or receipt for gambling;
- (c) Books, records, and research products and materials, including formulas, microfilm, tapes, and data used or intended for use in gambling; and
- (d) Property used or intended to be used to illegally influence the outcome of a horse race.

Subd. 2. **Seizure.** Property subject to forfeiture under subdivision 1 may be seized by any law enforcement agency upon process issued by any court having jurisdiction over the property. Seizure without process may be made if:

- (a) the seizure is incident to an arrest or a search under a search warrant;
- (b) the property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding; or

(c) the law enforcement agency has probable cause to believe that the property was used or is intended to be used in a gambling violation and the delay occasioned by the necessity to obtain process would result in the removal, loss, or destruction of the property.

Subd. 3. **Not subject to replevin.** Property taken or detained under subdivision 2 is not subject to a replevin action, but is considered to be in the custody of the law enforcement agency subject only to the orders and decrees of the court having jurisdiction over the forfeiture proceedings.

Subd. 4. **Procedures.** Property must be forfeited after a conviction for a gambling violation according to the following procedure:

(a) a separate complaint must be filed against the property describing it, charging its use in the specified violation, and specifying the time and place of its unlawful use;

(b) if the person charged with a gambling offense is acquitted, the court shall dismiss the complaint and order the property returned to the persons legally entitled to it; and

(c) if after conviction the court finds the property, or any part of it, was used in violation as specified in the complaint, it shall order that the property be sold or retained by the law enforcement agency for official use. Proceeds from the sale of forfeited property may be retained for official use and shared equally between the law enforcement agency investigating the offense involved in the forfeiture and the prosecuting agency that prosecuted the offense involved in the forfeiture and handled the forfeiture proceedings.

Subd. 5. **Exception.** Property may not be seized or forfeited under this section if the owner shows to the satisfaction of the court that he had no notice or knowledge or reason to believe that the property was used or intended to be used in violation of this section.

**History:** 1983 c 214 s 39

## 609.78 EMERGENCY TELEPHONE CALLS.

Whoever does the following is guilty of a misdemeanor:

(1) Refuses to relinquish immediately a coin-operated telephone or a telephone line consisting of two or more stations when informed that the line is needed 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 in fact exists;

(2) Secures a relinquishment of a coin-operated telephone or a telephone line consisting of two or more stations by falsely stating that the line is needed for an emergency; or

(3) Publishes telephone directories to be used for telephones or telephone lines and the directories do not contain a copy of this section.

**History:** 1983 c 140 s 1

## 609.855 CRIMES AGAINST TRANSIT PROVIDERS AND OPERATORS.

Subdivision 1. **Unlawfully obtaining services.** Whoever intentionally obtains service from a provider of regular route transit as defined in section 174.22, subdivision 8, without making the required fare deposit or otherwise obtaining the consent of the transit operator or other authorized transit representative is guilty of unlawfully obtaining services and may be sentenced as provided in subdivision 4.

**Subd. 2. Unlawful interference with transit operator.** Whoever intentionally interferes with the transit operator or representative while the operator or representative is engaged in the performance of official duties is guilty of unlawful interference and may be sentenced as provided in subdivision 4.

**Subd. 3. Prohibited activities.** Whoever, while riding in a vehicle providing regular route transit service:

(1) operates a radio, television, tape player, electronic musical instrument, or other electronic device, other than a watch, which amplifies music, unless the sound emanates only from earphones or headphones and except that vehicle operators may operate electronic equipment for official business;

(2) smokes or carries lighted smoking paraphernalia;

(3) consumes food or beverages, except when authorized by the operator or other official of the transit system;

(4) throws or deposits litter; or

(5) acts in any other manner which disturbs the peace and quiet of another person;

is guilty of disruptive behavior and may be sentenced as provided in subdivision 4.

**Subd. 4. Penalty.** Whoever violates subdivision 1, 2, or 3 may be sentenced as follows:

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

(b) To the penalty imposed in section 169.89, subdivision 2, if the violation was not accompanied by force or violence or a communication of a threat of force or violence.

**History:** 1983 c 189 s 1