Crimes, Criminals

CHAPTER 609

CRIMINAL CODE

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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 postconviction procedures.

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 [Repealed, 1983 c 216 art 1 s 76]

History: *1963 c 753 art 1 s 609.01*

609.015 SCOPE AND EFFECT.

Subdivision 1. **Common law crimes abolished.** 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 September 1, 1963, are not affected thereby.

Subd. 2. **Applicability.** 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.

History: *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. 2a. [Repealed, 1999 c 194 s 11]

Subd. 3. **Misdemeanor.** "Misdemeanor" means a crime for which a sentence of not more than 90 days or a fine of not more than $1,000, 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.

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 $300 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, any combustible or flammable liquid or other device or instrumentality that, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm, or any fire that is used to produce death or great bodily harm.

As used in this subdivision, "flammable liquid" means any liquid having a flash point below 100 degrees Fahrenheit and having a vapor pressure not exceeding 40 pounds per square inch (absolute) at 100 degrees Fahrenheit but does not include intoxicating liquor as defined in section 340A.101. As used in this subdivision, "combustible liquid" is a liquid having a flash point at or above 100 degrees Fahrenheit.

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

Subd. 7a. **Substantial bodily harm.** "Substantial bodily harm" means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member.

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 the act performed by the actor, 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 the actor's 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 the 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 the actor 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.

Subd. 10. **Assault.** "Assault" is:

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

(2) The intentional infliction of or attempt to inflict bodily harm upon another.

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.

Subd. 12. [Repealed, 1993 c 326 art 2 s 34]

Subd. 13. [Repealed, 1993 c 326 art 2 s 34]

Subd. 14. **Electronic monitoring device.** As used in sections 609.135, subdivision 5a, 611A.07, and 629.72, subdivision 2a, "electronic monitoring device" means a radio frequency transmitter unit that is worn at all times on the person of a defendant in conjunction with a receiver unit that is located in the victim's residence or on the victim's person. The receiver unit emits an audible and visible signal whenever the

defendant with a transmitter unit comes within a designated distance from the receiver unit.

Subd. 15. **Probation.** "Probation" means a court-ordered sanction imposed upon an offender for a period of supervision no greater than that set by statute. It is imposed as an alternative to confinement or in conjunction with confinement or intermediate sanctions. The purpose of probation is to deter further criminal behavior, punish the offender, help provide reparation to crime victims and their communities, and provide offenders with opportunities for rehabilitation.

Subd. 16. **Qualified domestic violence-related offense.** "Qualified domestic violence-related offense" includes the following offenses: sections 518B.01, subdivision 14 (violation of domestic abuse order for protection); 609.221 (first-degree assault); 609.222 (second-degree assault); 609.223 (third-degree assault); 609.2231 (fourth-degree assault); 609.224 (fifth-degree assault); 609.2242 (domestic assault); 609.342 (first-degree criminal sexual conduct); 609.343 (second-degree criminal sexual conduct); 609.344 (third-degree criminal sexual conduct); 609.345 (fourth-degree criminal sexual conduct); 609.377 (malicious punishment of a child); 609.713 (terroristic threats); 609.748, subdivision 6 (violation of harassment restraining order); and 609.749 (harassment/stalking); and similar laws of other states, the United States, the District of Columbia, tribal lands, and United States territories.

History: *1963 c 753 art 1 s 609.02; 1969 c 735 s 3; Ex1971 c 27 s 42,43; 1977 c 355 s 2; 1979 c 258 s 2,3; 1983 c 274 s 14; 1983 c 331 s 4,5; 1985 c 167 s 1; 1986 c 444; 1987 c 307 s 1,2; 1987 c 329 s 3; 1987 c 384 art 2 s 1; 1989 c 5 s 1,2; 1992 c 571 art 6 s 10; 1993 c 326 art 5 s 6; 1997 c 239 art 9 s 34; 1Sp1997 c 2 s 59,60; 1999 c 194 s 5; 2000 c 488 art 5 s 2,3; 1Sp2001 c 8 art 10 s 7*

609.025 JURISDICTION OF STATE.

A person may be convicted and sentenced under the law of this state if the person:

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

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

(3) Being without the state, 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.

History: *1963 c 753 art 1 s 609.025; Ex1971 c 27 s 44; 1986 c 444*

609.03 PUNISHMENT WHEN NOT OTHERWISE FIXED.

If a person is convicted of a crime for which no punishment is otherwise provided the person 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 $1,000, 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: *1963 c 753 art 1 s 609.03; 1969 c 735 s 4; 1977 c 355 s 3; 1983 c 331 s 6; 1986 c 444; 2000 c 488 art 5 s 4*

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 $700 as a penalty for a misdemeanor shall, on or after August 1, 2000, be deemed to provide for a maximum fine of $1,000.

History: *1983 c 331 s 7; 2000 c 488 art 5 s 5*

609.0331 INCREASED MAXIMUM PENALTIES FOR PETTY MISDEMEANORS.

A law of this state that provides, on or after August 1, 2000, for a maximum penalty of $200 for a petty misdemeanor is considered to provide for a maximum fine of $300.

History: *1987 c 329 s 4; 1992 c 464 art 1 s 49; 1994 c 636 art 2 s 13; 2000 c 488 art 5 s 6*

609.0332 INCREASED MAXIMUM PENALTY FOR PETTY MISDEMEANOR ORDINANCE VIOLATIONS.

Subdivision 1. **Increased fine.** From August 1, 2000, if a state law or municipal charter sets a limit of $200 or less on the fines that a statutory or home rule charter city, town, county, or other political subdivision may prescribe for an ordinance violation that is defined as a petty misdemeanor, that law or charter is considered to provide that the political subdivision has the power to prescribe a maximum fine of $300 for the petty misdemeanor violation.

Subd. 2. [Repealed, 1994 c 636 art 2 s 69]

History: *1987 c 329 s 5; 1991 c 199 art 2 s 1; 1994 c 636 art 2 s 14; 2000 c 488 art 5 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 $700 or less for an ordinance shall on or after August 1, 2000, 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 $1,000.

History: *1983 c 331 s 8; 2000 c 488 art 5 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 sentence 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 sentence 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. [Repealed, 1984 c 628 art 3 s 10]

History: *1983 c 331 s 9; 1993 c 326 art 13 s 19*

609.035 CRIME PUNISHABLE UNDER DIFFERENT PROVISIONS.

Subdivision 1. **Conduct; multiple crimes; chargeable for one offense.** Except as provided in subdivisions 2, 3, 4, and 5, and in sections 609.251, 609.585, 609.21, subdivisions 3 and 4, 609.2691, 609.486, 609.494, and 609.856, if a person's conduct constitutes more than one offense under the laws of this state, the person 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.

Subd. 2. **Consecutive sentences.** (a) When a person is being sentenced for a violation of a provision listed in paragraph (e), the court may sentence the person to a consecutive term of imprisonment for a violation of any other provision listed in paragraph (e), notwithstanding the fact that the offenses arose out of the same course of conduct, subject to the limitation on consecutive sentences contained in section 609.15, subdivision 2, and except as provided in paragraphs (b), (c), and (f) of this subdivision.

(b) When a person is being sentenced for a violation of section 171.09, 171.20, 171.24, or 171.30, the court may not impose a consecutive sentence for another violation of a provision in chapter 171.

(c) When a person is being sentenced for a violation of section 169.791 or 169.797, the court may not impose a consecutive sentence for another violation of a provision of sections 169.79 to 169.7995.

(d) This subdivision does not limit the authority of the court to impose consecutive sentences for crimes arising on different dates or to impose a consecutive sentence when a person is being sentenced for a crime and is also in violation of the conditions of a stayed or otherwise deferred sentence under section 609.135.

(e) This subdivision applies to misdemeanor and gross misdemeanor violations of the following if the offender has two or more prior impaired driving convictions as defined in section 169A.03 within the past ten years:

(1) section 169A.20, subdivision 1, driving while impaired;

(2) section 169A.20, subdivision 2, test refusal;

(3) section 169.791, failure to provide proof of insurance;

(4) section 169.797, failure to provide vehicle insurance;

(5) section 171.09, violation of condition of restricted license;

(6) section 171.20, subdivision 2, operation after revocation, suspension, cancellation, or disqualification;

(7) section 171.24, driving without valid license; and

(8) section 171.30, violation of condition of limited license.

(f) When a court is sentencing an offender for a violation of section 169A.20 and a violation of an offense listed in paragraph (e), and the offender has five or more qualified prior impaired driving incidents, as defined in section 169A.03, within the past ten years, the court shall sentence the offender to serve consecutive sentences for the offenses, notwithstanding the fact that the offenses arose out of the same course of conduct.

Subd. 3. **Exception; firearms offenses.** Notwithstanding section 609.04, a prosecution for or conviction of a violation of section 609.165 or 624.713, subdivision 1, clause (b), is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Subd. 4. **Exception; arson offenses.** Notwithstanding section 609.04, a prosecution for or conviction of a violation of sections 609.561 to 609.563 or 609.5641 is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct when the defendant is shown to have violated sections 609.561 to 609.563 or 609.5641 for the purpose of concealing any other crime.

For purposes of the Sentencing Guidelines, a violation of sections 609.561 to 609.563 or 609.5641 is a crime against the person.

Subd. 5. **Exception; fleeing a peace officer.** Notwithstanding subdivision 1, a prosecution or conviction for violating section 609.487 is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct. If an offender is punished for more than one crime as authorized by this subdivision and the court imposes consecutive sentences for the crimes, the consecutive sentences are not a departure from the Sentencing Guidelines.

Subd. 6. **Exception; criminal sexual conduct offenses.** Notwithstanding subdivision 1, a prosecution or conviction for committing a violation of sections 609.342 to 609.345 with force or violence is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct. If an offender is punished for more than one crime as authorized by this subdivision and the court imposes consecutive sentences for the crimes, the consecutive sentences are not a departure from the Sentencing Guidelines.

History: *1963 c 753 art 1 s 609.035; 1983 c 139 s 1; 1986 c 388 s 1; 1986 c 444; 1987 c 111 s 1; 1993 c 326 art 4 s 13; 1994 c 615 s 23; 1996 c 408 art 4 s 2,3; 1997 c 239 art 8 s 28,29; 1999 c 194 s 6; 1999 c 216 art 3 s 4-6; 2000 c 311 art 4 s 1; 2000 c 478 art 2 s 4; 1Sp2001 c 8 art 12 s 16*

609.04 CONVICTION OF LESSER OFFENSE.

Subdivision 1. **Lesser offense prosecution.** 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. **Conviction; bar to prosecution.** A conviction or acquittal of a crime is a bar to further prosecution of any included offense, or other degree of the same crime.

History: *1963 c 753 art 1 s 609.04; Ex1971 c 27 s 45*

609.041 PROOF OF PRIOR CONVICTIONS.

In a criminal prosecution in which the degree of the crime or the penalty for the crime depends, in whole or in part, on proof of the existence of a prior conviction, if the defendant contests the existence of or factual basis for a prior conviction, proof of it is established by competent and reliable evidence, including a certified court record of the conviction.

History: *1988 c 520 s 2*

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: *1963 c 753 art 1 s 609.045; 1983 c 152 s 1*

609.05 LIABILITY FOR CRIMES OF ANOTHER.

Subdivision 1. **Aiding, abetting; liability.** A person is criminally liable for a crime committed by another if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures the other to commit the crime.

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

Subd. 3. **Abandonment of criminal purpose.** A person who intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit a crime and thereafter abandons that 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. **Circumstances of conviction.** 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, or if the person is a juvenile who has not been found delinquent for the act.

Subd. 5. **Definition.** For purposes of this section, a crime also includes an act committed by a juvenile that would be a crime if committed by an adult.

History: *1963 c 753 art 1 s 609.05; 1986 c 444; 1991 c 279 s 22,23*

609.055 LIABILITY OF CHILDREN.

Subdivision 1. **General rule.** Children under the age of 14 years are incapable of committing crime.

Subd. 2. **Adult prosecution.** (a) Except as otherwise provided in paragraph (b), children of the age of 14 years or over but under 18 years may be prosecuted for a felony offense if the alleged violation is duly certified for prosecution under the laws and court procedures controlling adult criminal violations or may be designated an extended jurisdiction juvenile in accordance with the provisions of chapter 260B. A child who is 16 years of age or older but under 18 years of age is capable of committing a crime and may be prosecuted for a felony if:

(1) the child has been previously certified on a felony charge pursuant to a hearing under section 260B.125, subdivision 2, or pursuant to the waiver of the right to such a hearing, or prosecuted pursuant to this subdivision; and

(2) the child was convicted of the felony offense or offenses for which the child was prosecuted or of a lesser included felony offense.

(b) A child who is alleged to have committed murder in the first degree after becoming 16 years of age is capable of committing a crime and may be prosecuted for the felony. This paragraph does not apply to a child alleged to have committed attempted murder in the first degree after becoming 16 years of age.

History: *1963 c 753 art 1 s 609.055; 1992 c 571 art 7 s 12; 1994 c 576 s 45; 1995 c 226 art 3 s 47; 1999 c 139 art 4 s 2*

609.06 AUTHORIZED USE OF FORCE.

Subdivision 1. **When authorized.** Except as otherwise provided in subdivision 2, reasonable force may be used upon or toward the person of another without the other's consent when the following circumstances exist or the actor reasonably believes them to exist:

(1) when used by a public officer or one assisting a public officer under the public officer's 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 the public officer 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 the other to an officer competent to receive the other 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 the person in lawful possession, 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 school employee or school bus driver, in the exercise of lawful authority, to restrain a child or pupil, or to prevent bodily harm or death to another; or

(8) 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 the passenger's personal safety; or

(9) when used to restrain a person who is mentally ill or mentally defective from self-injury or injury to another or when used by one with authority to do so to compel compliance with reasonable requirements for the person's control, conduct, or treatment; or

(10) 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 the control, conduct, or treatment of the committed person.

Subd. 2. **Deadly force used against peace officers.** Deadly force may not be used against peace officers who have announced their presence and are performing official duties at a location where a person is committing a crime or an act that would be a crime if committed by an adult.

History: *1963 c 753 art 1 s 609.06; 1986 c 444; 1993 c 326 art 1 s 4; 1996 c 408 art 3 s 12; 2002 c 221 s 46*

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 the actor or another to great bodily harm or death, or preventing the commission of a felony in the actor's place of abode.

History: *1963 c 753 art 1 s 609.065; 1978 c 736 s 1; 1986 c 444*

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, other than a firearm loaded with less lethal munitions and used by a peace officer within the scope of official duties, in the direction of another person, or at a vehicle in which another person is believed to be, constitutes deadly force. "Less lethal munitions" means projectiles which are designed to stun, temporarily incapacitate, or cause temporary discomfort to a person. "Peace officer" has the meaning given in section 626.84, subdivision 1.

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 the peace officer 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 the person's apprehension is delayed.

Subd. 3. **No defense.** 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.

History: *1978 c 736 s 2; 1986 c 444; 2001 c 127 s 1*

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.

History: *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 that participator is liable to instant death, such threats and apprehension constitute duress which will excuse such participator from criminal liability.

History: *1963 c 753 art 1 s 609.08; 1986 c 444*

609.085 SENDING WRITTEN COMMUNICATION.

Subdivision 1. **Definition of offense.** 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. **Venue.** 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.

History: *1963 c 753 art 1 s 609.085*

609.09 COMPELLING TESTIMONY; IMMUNITY FROM PROSECUTION.

Subdivision 1. **Conditions of immunity.** In any criminal proceeding, including a grand jury proceeding, paternity proceeding, or proceeding in juvenile court, if it appears a person may be entitled to refuse to answer a question or produce evidence of any other kind on the ground that the person may be incriminated thereby, and if the prosecuting attorney, in writing, requests the chief judge of the district or 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 the judge finds that to do so would not be contrary to the public interest and would not be likely to expose the witness to prosecution in another state or in the federal courts.

After complying, and if, but for this section, the witness would have been privileged to withhold the answer given or the evidence produced by the witness, no

testimony or other information compelled under the order, or any information directly or indirectly derived from such testimony or other information may be used against the witness in any criminal case, but the witness 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. **Testimony required; no use of testimony for prosecution.** 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 be self-incriminating, no person shall be excused from testifying or producing any papers or documents on the ground that doing so may tend to criminate the person or subject the person to a penalty or forfeiture; but no testimony or other information directly or indirectly derived from such testimony or other information may be used against the witness in any criminal case, except for perjury committed in such testimony.

History: *1963 c 753 art 1 s 609.09; 1969 c 661 s 1; 1981 c 293 s 1; 1986 c 444*

SENTENCES

609.095 LIMITS OF SENTENCES.

(a) The legislature has the exclusive authority to define crimes and offenses and the range of the sentences or punishments for their violation. 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.

(b) Except as provided in section 152.18 or 609.375, or upon agreement of the parties, a court may not refuse to adjudicate the guilt of a defendant who tenders a guilty plea in accordance with Minnesota Rules of Criminal Procedure, rule 15, or who has been found guilty by a court or jury following a trial.

(c) Paragraph (b) does not supersede Minnesota Rules of Criminal Procedure, rule 26.04.

History: *1963 c 753 art 1 s 609.095; 1998 c 367 art 6 s 1; 2001 c 158 s 6*

609.10 SENTENCES AVAILABLE.

Subdivision 1. **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; or

(5) to payment of court-ordered restitution in addition to either imprisonment or payment of a fine, or both; or

(6) to payment of a local correctional fee as authorized under section 609.102 in addition to any other sentence imposed by the court.

Subd. 2. **Restitution.** (a) As used in this section, "restitution" includes:

(1) payment of compensation to the victim or the victim's family; and

(2) if the victim is deceased or already has been fully compensated, payment of money to a victim assistance program or other program directed by the court.

"Restitution" includes payment of compensation to a government entity that incurs loss as a direct result of a crime.

(b) When the defendant does not pay the entire amount of court-ordered restitution and the fine at the same time, the court may order that all restitution shall be paid before the fine is paid.

History: *1963 c 753 art 1 s 609.10; 1978 c 723 art 1 s 13; 1984 c 610 s 1; 1992 c 571 art 11 s 12; 1995 c 244 s 10; 1996 c 408 art 7 s 2; 1997 c 239 art 7 s 16*

609.101 SURCHARGE ON FINES, ASSESSMENTS; MINIMUM FINES.

Subdivision 1. [Repealed, 1998 c 367 art 8 s 26]

Subd. 2. **Minimum fines.** Notwithstanding any other law, when a court sentences a person convicted of violating section 609.221, 609.222, 609.223, 609.2231, 609.224, 609.2242, 609.267, 609.2671, 609.2672, 609.342, 609.343, 609.344, or 609.345, it must impose a fine of not less than 30 percent of the maximum fine authorized by law nor more than the maximum fine authorized by law.

The court shall collect the portion of the fine mandated by this subdivision and forward 70 percent of it to a local victim assistance program that provides services locally in the county in which the crime was committed. The court shall forward the remaining 30 percent to the commissioner of finance to be credited to the general fund. If more than one victim assistance program serves the county in which the crime was committed, the court may designate on a case-by-case basis which program will receive the fine proceeds, giving consideration to the nature of the crime committed, the types of victims served by the program, and the funding needs of the program. If no victim assistance program serves that county, the court shall forward 100 percent of the fine proceeds to the commissioner of finance to be credited to the general fund. Fine proceeds received by a local victim assistance program must be used to provide direct services to crime victims.

The minimum fine required by this subdivision is in addition to the surcharge or assessment required by section 357.021, subdivision 6, and is in addition to any sentence of imprisonment or restitution imposed or ordered by the court.

As used in this subdivision, "victim assistance program" means victim witness programs within county attorney offices or any of the following programs: crime victim crisis centers, victim-witness programs, battered women shelters and nonshelter programs, and sexual assault programs.

Subd. 3. **Controlled substance offenses; minimum fines.** (a) Notwithstanding any other law, when a court sentences a person convicted of a controlled substance crime under sections 152.021 to 152.025, it must impose a fine of not less than 30 percent of the maximum fine authorized by law nor more than the maximum fine authorized by law.

(b) The minimum fine required by this subdivision is in addition to the surcharge or assessment required by section 357.021, subdivision 6, and is in addition to any sentence of imprisonment or restitution imposed or ordered by the court.

(c) The court shall collect the fine mandated by this subdivision and forward 70 percent of it to a local drug abuse prevention program existing or being implemented in the county in which the crime was committed. The court shall forward the remaining 30 percent to the commissioner of finance to be credited to the general fund. If more than one drug abuse prevention program serves the county in which the crime was committed, the court may designate on a case-by-case basis which program will receive the fine proceeds, giving consideration to the community in which the crime was committed, the funding needs of the program, the number of peace officers in each community certified to teach the program, and the number of children served by the program in each community. If no drug abuse prevention program serves communities in that county, the court shall forward 100 percent of the fine proceeds to the commissioner of finance to be credited to the general fund.

(d) The minimum fines required by this subdivision shall be collected as are other fines. Fine proceeds received by a local drug abuse prevention program must be used to support that program, and may be used for salaries of peace officers certified to teach the program. The drug abuse resistance education program must report receipt and use of money generated under this subdivision as prescribed by the Drug Abuse Resistance Education Advisory Council.

(e) As used in this subdivision, "drug abuse prevention program" and "program" include:

(1) the drug abuse resistance education program described in sections 299A.33 and 299A.331; and

(2) any similar drug abuse education and prevention program that includes the following components:

(A) instruction for students enrolled in kindergarten through grade six that is designed to teach students to recognize and resist pressures to experiment with controlled substances and alcohol;

(B) provisions for parental involvement;

(C) classroom instruction by uniformed law enforcement personnel;

(D) the use of positive student leaders to influence younger students not to use drugs; and

(E) an emphasis on activity-oriented techniques designed to encourage student-generated responses to problem-solving situations.

Subd. 4. **Minimum fines; other crimes.** Notwithstanding any other law:

(1) when a court sentences a person convicted of a felony that is not listed in subdivision 2 or 3, it must impose a fine of not less than 30 percent of the maximum fine authorized by law nor more than the maximum fine authorized by law; and

(2) when a court sentences a person convicted of a gross misdemeanor or misdemeanor that is not listed in subdivision 2, it must impose a fine of not less than 30 percent of the maximum fine authorized by law nor more than the maximum fine authorized by law, unless the fine is set at a lower amount on a uniform fine schedule established by the conference of chief judges in consultation with affected state and local agencies. This schedule shall be promulgated not later than September 1 of each year and shall become effective on January 1 of the next year unless the legislature, by law, provides otherwise.

The minimum fine required by this subdivision is in addition to the surcharge or assessment required by section 357.021, subdivision 6, and is in addition to any sentence of imprisonment or restitution imposed or ordered by the court.

The court shall collect the fines mandated in this subdivision and, except for fines for traffic and motor vehicle violations governed by section 169.871 and section 299D.03 and fish and game violations governed by section 97A.065, forward 20 percent of the revenues to the commissioner of finance for deposit in the general fund.

Subd. 5. **Waiver prohibited; reduction and installment payments.** (a) The court may not waive payment of the minimum fine required by this section.

(b) If the defendant qualifies for the services of a public defender or the court finds on the record that the convicted person is indigent or that immediate payment of the fine would create undue hardship for the convicted person or that person's immediate family, the court may reduce the amount of the minimum fine to not less than $50. Additionally, the court may permit the defendant to perform community work service in lieu of a fine.

(c) The court also may authorize payment of the fine in installments.

History: *1981 c 360 art 2 s 50; 1983 c 262 art 1 s 6; 1Sp1985 c 13 s 366; 1986 c 442 s 15; 1986 c 444; 1986 c 463 s 2; 1Sp1986 c 1 art 8 s 15; 1987 c 244 s 1; 1987 c 404 s 189; 1989 c 264 s 2; 1989 c 335 art 4 s 99; 1991 c 279 s 24,41; 1991 c 345 art 1 s 106; 1992 c 571 art 4 s 2,3; 1993 c 192 s 105; 1993 c 326 art 4 s 14; art 12 s 8-12,18; art 13 s 20-22; 1995 c 226 art 2 s 8-10; 1996 c 305 art 1 s 119; 1997 c 7 art 2 s 61; 1997 c 239 art 3 s 4; 1998 c 367 art 8 s 10; 2001 c 71 s 1-4; 2003 c 112 art 2 s 50; 1Sp2003 c 2 art 2 s 6*

609.102 LOCAL CORRECTIONAL FEES; IMPOSITION BY COURT.

Subdivision 1. **Definition.** As used in this section, "local correctional fee" means a fee for local correctional services established by a local correctional agency under section 244.18.

Subd. 2. **Imposition of fee.** When a court sentences a person convicted of a crime, and places the person under the supervision and control of a local correctional agency,

that agency may collect a local correctional fee based on the local correctional agency's fee schedule adopted under section 244.18.

Subd. 2a. **Imposition of correctional fee.** When a person convicted of a crime is supervised by the commissioner of corrections, the commissioner may collect a correctional fee under section 241.272.

Subd. 3. [Repealed, 1999 c 111 s 6]

Subd. 4. [Repealed, 1999 c 111 s 6]

History: *1992 c 571 art 11 s 13; 1999 c 111 s 4; 1999 c 216 art 4 s 10*

609.103 PAYMENT BY CREDIT CARD.

The court may permit the defendant to pay any fine, assessment, surcharge, attorney reimbursement obligation, or restitution obligation by credit card. The discount fees assessed by the credit card company shall be borne by the county, except that in a judicial district under section 480.181, subdivision 1, paragraph (b), the cost shall be borne by the state.

History: *1993 c 192 s 106; 2001 c 78 s 1*

609.105 SENTENCE OF IMPRISONMENT.

Subdivision 1. **Sentence to less than 180 days.** In a felony sentence to imprisonment, when the remaining term of imprisonment is for 180 days or less, the defendant shall be committed to the custody of the commissioner of corrections and must serve the remaining term of imprisonment at a workhouse, work farm, county jail, or other place authorized by law.

Subd. 1a. **Definitions.** (a) The terms in this subdivision apply to this section.

(b) "Remaining term of imprisonment" as applied to inmates whose crimes were committed before August 1, 1993, is the period of time for which an inmate is committed to the custody of the commissioner of corrections minus earned good time and jail credit, if any.

(c) "Remaining term of imprisonment" as applied to inmates whose crimes were committed on or after August 1, 1993, is the period of time equal to two-thirds of the inmate's executed sentence, minus jail credit, if any.

Subd. 1b. **Sentence to more than 180 days.** A felony sentence to imprisonment when the warrant of commitment has a remaining term of imprisonment for more than 180 days shall commit the defendant to the custody of the commissioner of corrections.

Subd. 2. **Place of confinement.** 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 and rules for their employment, conduct, instruction, and discipline within or without the facility.

Subd. 3. **Sentence to one year or less.** 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.

History: *1963 c 753 art 1 s 609.105; 1985 c 248 s 70; 1Sp1997 c 2 s 61; 1999 c 126 s 10; 1999 c 194 s 7,8; 1Sp2003 c 2 art 5 s 7-9*

609.1055 OFFENDERS WITH SERIOUS AND PERSISTENT MENTAL ILLNESS; ALTERNATIVE PLACEMENT.

When a court intends to commit an offender with a serious and persistent mental illness, as defined in section 245.462, subdivision 20, paragraph (c), to the custody of the commissioner of corrections for imprisonment at a state correctional facility, either when initially pronouncing a sentence or when revoking an offender's probation, the court, when consistent with public safety, may instead place the offender on probation or continue the offender's probation and require as a condition of the probation that the offender successfully complete an appropriate supervised alternative living program having a mental health treatment component. This section applies only to offenders

who would have a remaining term of imprisonment after adjusting for credit for prior imprisonment, if any, of more than one year.

History: *1Sp2003 c 2 art 5 s 10*

609.106 HEINOUS CRIMES.

Subdivision 1. **Terms.** (a) As used in this section, "heinous crime" means:

(1) a violation or attempted violation of section 609.185 or 609.19;

(2) a violation of section 609.195 or 609.221; or

(3) a violation of section 609.342, 609.343, or 609.344, if the offense was committed with force or violence.

(b) "Previous conviction" means a conviction in Minnesota for a heinous crime or a conviction elsewhere for conduct that would have been a heinous crime under this chapter if committed in Minnesota. The term includes any conviction that occurred before the commission of the present offense of conviction, but does not include a conviction if 15 years have elapsed since the person was discharged from the sentence imposed for the offense.

Subd. 2. **Life without release.** The court shall sentence a person to life imprisonment without possibility of release under the following circumstances:

(1) the person is convicted of first degree murder under section 609.185, paragraph (a), clause (2), (4), or (7);

(2) the person is convicted of committing first degree murder in the course of a kidnapping under section 609.185, clause (3); or

(3) the person is convicted of first degree murder under section 609.185, clause (1), (3), (5), or (6), and the court determines on the record at the time of sentencing that the person has one or more previous convictions for a heinous crime.

History: *1998 c 367 art 2 s 6; art 6 s 3,15; 2002 c 401 art 1 s 13*

609.107 MANDATORY PENALTY FOR CERTAIN MURDERERS.

When a person is convicted of violating section 609.19 or 609.195, the court shall sentence the person to the statutory maximum sentence for the offense if the person was previously convicted of a heinous crime as defined in section 609.106 and 15 years have not elapsed since the person was discharged from the sentence imposed for that conviction. The court may not stay the imposition or execution of the sentence, notwithstanding section 609.135.

History: *1998 c 367 art 6 s 4*

609.108 MANDATORY INCREASED SENTENCES FOR CERTAIN PATTERNED AND PREDATORY SEX OFFENDERS; NO PRIOR CONVICTION REQUIRED.

Subdivision 1. **Mandatory increased sentence.** (a) A court shall commit a person to the commissioner of corrections for a period of time that is not less than double the presumptive sentence under the Sentencing Guidelines and not more than the statutory maximum, or if the statutory maximum is less than double the presumptive sentence, for a period of time that is equal to the statutory maximum, if:

(1) the court is imposing an executed sentence, based on a Sentencing Guidelines presumptive imprisonment sentence or a dispositional departure for aggravating circumstances or a mandatory minimum sentence, on a person convicted of committing or attempting to commit a violation of section 609.342, 609.343, 609.344, or 609.345, or on a person convicted of committing or attempting to commit any other crime listed in subdivision 3 if it reasonably appears to the court that the crime was motivated by the offender's sexual impulses or was part of a predatory pattern of behavior that had criminal sexual conduct as its goal;

(2) the court finds that the offender is a danger to public safety; and

(3) the court finds that the offender needs long-term treatment or supervision beyond the presumptive term of imprisonment and supervised release. The finding

must be based on a professional assessment by an examiner experienced in evaluating sex offenders that concludes that the offender is a patterned sex offender. The assessment must contain the facts upon which the conclusion is based, with reference to the offense history of the offender or the severity of the current offense, the social history of the offender, and the results of an examination of the offender's mental status unless the offender refuses to be examined. The conclusion may not be based on testing alone. A patterned sex offender is one whose criminal sexual behavior is so engrained that the risk of reoffending is great without intensive psychotherapeutic intervention or other long-term controls.

(b) The court shall consider imposing a sentence under this section whenever a person is convicted of violating section 609.342 or 609.343.

Subd. 2. **Increased statutory maximum.** If the factfinder determines, at the time of the trial or the guilty plea, that a predatory offense was motivated by, committed in the course of, or committed in furtherance of sexual contact or penetration, as defined in section 609.341, and the court is imposing a sentence under subdivision 1, the statutory maximum imprisonment penalty for the offense is 40 years, notwithstanding the statutory maximum imprisonment penalty otherwise provided for the offense.

Subd. 3. **Predatory crime.** A predatory crime is a felony violation of section 609.185, 609.19, 609.195, 609.20, 609.205, 609.221, 609.222, 609.223, 609.24, 609.245, 609.25, 609.255, 609.342, 609.343, 609.344, 609.345, 609.365, 609.498, 609.561, or 609.582, subdivision 1.

Subd. 4. **Danger to public safety.** The court shall base its finding that the offender is a danger to public safety on any of the following factors:

(1) the crime involved an aggravating factor that would justify a durational departure from the presumptive sentence under the Sentencing Guidelines;

(2) the offender previously committed or attempted to commit a predatory crime or a violation of section 609.224 or 609.2242, including:

(i) an offense committed as a juvenile that would have been a predatory crime or a violation of section 609.224 or 609.2242 if committed by an adult; or

(ii) a violation or attempted violation of a similar law of any other state or the United States; or

(3) the offender planned or prepared for the crime prior to its commission.

Subd. 5. **Departure from guidelines.** A sentence imposed under subdivision 1 is a departure from the Sentencing Guidelines.

Subd. 6. **Conditional release.** At the time of sentencing under subdivision 1, the court shall provide that after the offender has completed the sentence imposed, less any good time earned by an offender whose crime was committed before August 1, 1993, the commissioner of corrections shall place the offender on conditional release for the remainder of the statutory maximum period, or for ten years, whichever is longer.

The conditions of release may include successful completion of treatment and aftercare in a program approved by the commissioner, satisfaction of the release conditions specified in section 244.05, subdivision 6, and any other conditions the commissioner considers appropriate. Before the offender is released, the commissioner shall notify the sentencing court, the prosecutor in the jurisdiction where the offender was sentenced, and the victim of the offender's crime, where available, of the terms of the offender's conditional release. If the offender fails to meet any condition of release, the commissioner may revoke the offender's conditional release and order that the offender serve all or a part of the remaining portion of the conditional release term in prison. The commissioner shall not dismiss the offender from supervision before the conditional release term expires.

Conditional release granted under this subdivision is governed by provisions relating to supervised release, except as otherwise provided in this subdivision, section 244.04, subdivision 1, or 244.05.

Subd. 7. **Commissioner of corrections.** The commissioner shall pay the cost of treatment of a person released under subdivision 6. This section does not require the commissioner to accept or retain an offender in a treatment program.

History: *1998 c 367 art 6 s 5*

609.109 PRESUMPTIVE AND MANDATORY SENTENCES FOR REPEAT SEX OFFENDERS.

Subdivision 1. **Definition; conviction of offense.** For purposes of this section, "offense" means a completed offense or an attempt to commit an offense.

Subd. 2. **Presumptive executed sentence.** Except as provided in subdivision 3 or 4, if a person is convicted under sections 609.342 to 609.345, within 15 years of a previous sex offense conviction, the court shall commit the defendant to the commissioner of corrections for 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. The court may stay the execution of the sentence imposed under this subdivision only if it finds that a professional assessment indicates the offender is accepted by and can respond to treatment at a long-term inpatient program exclusively treating sex offenders and approved by the commissioner of corrections. If the court stays the execution of a sentence, it shall include the following as conditions of probation:

(1) incarceration in a local jail or workhouse; and

(2) a requirement that the offender successfully complete the treatment program and aftercare as directed by the court.

Subd. 3. **Mandatory life sentence.** (a) The court shall sentence a person to imprisonment for life, notwithstanding the statutory maximum sentence under section 609.342, if:

(1) the person has been indicted by a grand jury under this subdivision;

(2) the person is convicted under section 609.342; and

(3) the court determines on the record at the time of sentencing that any of the following circumstances exists:

(i) the person has previously been sentenced under section 609.1095;

(ii) the person has one previous sex offense conviction for a violation of section 609.342, 609.343, or 609.344 that occurred before August 1, 1989, for which the person was sentenced to prison in an upward durational departure from the Sentencing Guidelines that resulted in a sentence at least twice as long as the presumptive sentence; or

(iii) the person has two previous sex offense convictions under section 609.342, 609.343, or 609.344.

(b) Notwithstanding subdivision 2 and section 609.342, subdivision 3, the court may not stay imposition of the sentence required by this subdivision.

Subd. 4. **Mandatory 30-year sentence.** (a) The court shall commit a person to the commissioner of corrections for not less than 30 years, notwithstanding the statutory maximum sentence under section 609.343, if:

(1) the person is convicted under section 609.342, subdivision 1, clause (c), (d), (e), or (f); or 609.343, subdivision 1, clause (c), (d), (e), or (f); and

(2) the court determines on the record at the time of sentencing that:

(i) the crime involved an aggravating factor that would provide grounds for an upward departure under the Sentencing Guidelines other than the aggravating factor applicable to repeat criminal sexual conduct convictions; and

(ii) the person has a previous sex offense conviction under section 609.342, 609.343, or 609.344.

(b) Notwithstanding subdivision 2 and sections 609.342, subdivision 3; and 609.343, subdivision 3, the court may not stay imposition or execution of the sentence required by this subdivision.

Subd. 5. **Previous sex offense convictions.** For the purposes of this section, a conviction is considered a previous sex offense conviction if the person was convicted of a sex offense before the commission of the present offense of conviction. A person has two previous sex offense convictions only if the person was convicted and sentenced for a sex offense committed after the person was earlier convicted and sentenced for a sex offense, both convictions preceded the commission of the present offense of conviction, and 15 years have not elapsed since the person was discharged from the sentence imposed for the second conviction. A "sex offense" is a violation of sections 609.342 to 609.345 or any similar statute of the United States, this state, or any other state.

Subd. 6. **Minimum departure for sex offenders.** The court shall sentence a person to at least twice the presumptive sentence recommended by the Sentencing Guidelines if:

(1) the person is convicted under section 609.342, subdivision 1, clause (c), (d), (e), or (f); 609.343, subdivision 1, clause (c), (d), (e), or (f); or 609.344, subdivision 1, clause (c) or (d); and

(2) the court determines on the record at the time of sentencing that the crime involved an aggravating factor that would provide grounds for an upward departure under the Sentencing Guidelines.

Subd. 7. **Conditional release of sex offenders.** (a) Notwithstanding the statutory maximum sentence otherwise applicable to the offense or any provision of the Sentencing Guidelines, when a court sentences a person to prison for a violation of section 609.342, 609.343, 609.344, or 609.345, the court shall provide that after the person has completed the sentence imposed, the commissioner of corrections shall place the person on conditional release. If the person was convicted for a violation of section 609.342, 609.343, 609.344, or 609.345, the person shall be placed on conditional release for five years, minus the time the person served on supervised release. If the person was convicted for a violation of one of those sections after a previous sex offense conviction as defined in subdivision 5, or sentenced under subdivision 6 to a mandatory departure, the person shall be placed on conditional release for ten years, minus the time the person served on supervised release.

(b) The conditions of release may include successful completion of treatment and aftercare in a program approved by the commissioner, satisfaction of the release conditions specified in section 244.05, subdivision 6, and any other conditions the commissioner considers appropriate. If the offender fails to meet any condition of release, the commissioner may revoke the offender's conditional release and order that the offender serve the remaining portion of the conditional release term in prison. The commissioner shall not dismiss the offender from supervision before the conditional release term expires.

Conditional release under this subdivision is governed by provisions relating to supervised release, except as otherwise provided in this subdivision, section 244.04, subdivision 1, or 244.05.

(c) The commissioner shall pay the cost of treatment of a person released under this subdivision. This section does not require the commissioner to accept or retain an offender in a treatment program.

History: *1998 c 367 art 6 s 6; 2002 c 385 s 4*

609.1095 INCREASED SENTENCES FOR CERTAIN DANGEROUS AND REPEAT FELONY OFFENDERS.

Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the meanings given.

(b) "Conviction" means any of the following accepted and recorded by the court: a plea of guilty, a verdict of guilty by a jury, or a finding of guilty by the court. The term includes a conviction by any court in Minnesota or another jurisdiction.

(c) "Prior conviction" means a conviction that occurred before the offender committed the next felony resulting in a conviction and before the offense for which the offender is being sentenced under this section.

(d) "Violent crime" means a violation of or an attempt or conspiracy to violate any of the following laws of this state or any similar laws of the United States or any other state: section 609.165; 609.185; 609.19; 609.195; 609.20; 609.205; 609.21; 609.221; 609.222; 609.223; 609.228; 609.235; 609.24; 609.245; 609.25; 609.255; 609.2661; 609.2662; 609.2663; 609.2664; 609.2665; 609.267; 609.2671; 609.268; 609.342; 609.343; 609.344; 609.345; 609.498, subdivision 1; 609.561; 609.562; 609.582, subdivision 1; 609.66, subdivision 1e; 609.687; 609.855, subdivision 5; any provision of sections 609.229; 609.377; 609.378; 609.749; and 624.713 that is punishable by a felony penalty; or any provision of chapter 152 that is punishable by a maximum sentence of 15 years or more.

Subd. 2. **Increased sentences for dangerous offender who commits a third violent crime.** Whenever a person is convicted of a violent crime that is a felony, and the judge is imposing an executed sentence based on a Sentencing Guidelines presumptive imprisonment sentence, the judge may impose an aggravated durational departure from the presumptive imprisonment sentence up to the statutory maximum sentence if the offender was at least 18 years old at the time the felony was committed, and:

(1) the court determines on the record at the time of sentencing that the offender has two or more prior convictions for violent crimes; and

(2) the court finds that the offender is a danger to public safety and specifies on the record the basis for the finding, which may include:

(i) the offender's past criminal behavior, such as the offender's high frequency rate of criminal activity or juvenile adjudications, or long involvement in criminal activity including juvenile adjudications; or

(ii) the fact that the present offense of conviction involved an aggravating factor that would justify a durational departure under the Sentencing Guidelines.

Subd. 3. **Mandatory sentence for dangerous offender who commits a third violent felony.** (a) Unless a longer mandatory minimum sentence is otherwise required by law or the court imposes a longer aggravated durational departure under subdivision 2, a person who is convicted of a violent crime that is a felony must be committed to the commissioner of corrections for a mandatory sentence of at least the length of the presumptive sentence under the Sentencing Guidelines if the court determines on the record at the time of sentencing that the person has two or more prior felony convictions for violent crimes. The court shall impose and execute the prison sentence regardless of whether the guidelines presume an executed prison sentence.

Any person convicted and sentenced as required by this subdivision is not eligible for probation, parole, discharge, or work release, until that person has served the full term of imprisonment imposed by the court, notwithstanding sections 241.26, 242.19, 243.05, 244.04, 609.12, and 609.135.

(b) For purposes of this subdivision, "violent crime" does not include a violation of section 152.023 or 152.024.

Subd. 4. **Increased sentence for offender who commits a sixth felony.** Whenever a person is convicted of a felony, and the judge is imposing an executed sentence based on a Sentencing Guidelines presumptive imprisonment sentence, the judge may impose an aggravated durational departure from the presumptive sentence up to the statutory maximum sentence if the judge finds and specifies on the record that the offender has five or more prior felony convictions and that the present offense is a felony that was committed as part of a pattern of criminal conduct.

History: *1998 c 367 art 6 s 7*

609.11 MINIMUM SENTENCES OF IMPRISONMENT.

Subdivision 1. **Commitments without minimums.** All commitments to the commissioner of corrections for imprisonment of the defendant are without minimum terms

except when the sentence is to life imprisonment as required by law and except as otherwise provided in this chapter.

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

Subd. 3. [Repealed, 1981 c 227 s 13]

Subd. 4. **Dangerous weapon.** Any defendant convicted of an offense listed in subdivision 9 in which the defendant or an accomplice, at the time of the offense, used, whether by brandishing, displaying, threatening with, or otherwise employing, a dangerous weapon other than a firearm, shall be committed to the commissioner of corrections for not less than one year plus one day, nor more than the maximum sentence provided by law. Any defendant convicted of a second or subsequent offense in which the defendant or an accomplice, at the time of the offense, used a dangerous weapon other than a firearm, shall be committed to the commissioner of corrections for not less than three years nor more than the maximum sentence provided by law.

Subd. 5. **Firearm.** (a) Except as otherwise provided in paragraph (b), any defendant convicted of an offense listed in subdivision 9 in which the defendant or an accomplice, at the time of the offense, had in possession or used, whether by brandishing, displaying, threatening with, or otherwise employing, a firearm, shall be committed to the commissioner of corrections for not less than three years, nor more than the maximum sentence provided by law. Any defendant convicted of a second or subsequent offense in which the defendant or an accomplice, at the time of the offense, had in possession or used a firearm shall be committed to the commissioner of corrections for not less than five years, nor more than the maximum sentence provided by law.

(b) Any defendant convicted of violating section 609.165 or 624.713, subdivision 1, clause (b), shall be committed to the commissioner of corrections for not less than five years, nor more than the maximum sentence provided by law.

Subd. 5a. **Drug offenses.** Notwithstanding section 609.035, whenever a defendant is subject to a mandatory minimum sentence for a felony violation of chapter 152 and is also subject to this section, the minimum sentence imposed under this section shall be consecutive to that imposed under chapter 152.

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 term of imprisonment as provided by law, notwithstanding the provisions of sections 242.19, 243.05, 244.04, 609.12 and 609.135.

Subd. 7. **Prosecutor shall establish.** Whenever reasonable grounds exist to believe that the defendant or an accomplice used a firearm or other dangerous weapon or had in possession a firearm, at the time of commission of an offense listed in subdivision 9, the prosecutor shall, at the time of trial or at the plea of guilty, present on the record all evidence tending to establish that fact unless it is otherwise admitted on the record. The question of whether the defendant or an accomplice, at the time of commission of an offense listed in subdivision 9, used a firearm or other dangerous weapon or had in possession a firearm shall be determined by the court on the record at the time of a verdict or finding of guilt at trial or the entry of a plea of guilty based upon the record of the trial or the plea of guilty. The court shall determine on the record at the time of sentencing whether the defendant has been convicted of a second or subsequent offense in which the defendant or an accomplice, at the time of commission of an offense listed in subdivision 9, used a firearm or other dangerous weapon or had in possession a firearm.

Subd. 8. **Motion by prosecutor.** (a) Except as otherwise provided in paragraph (b), prior to the time of sentencing, the prosecutor may file a motion to have the defendant sentenced without regard to the mandatory minimum sentences established by this section. The motion shall be accompanied by a statement on the record of the reasons for it. When presented with the motion, or on its own motion, the court may sentence the defendant without regard to the mandatory minimum sentences established by this section if the court finds substantial and compelling reasons to do so. A sentence imposed under this subdivision is a departure from the Sentencing Guidelines.

(b) The court may not, on its own motion or the prosecutor's motion, sentence a defendant without regard to the mandatory minimum sentences established by this section if the defendant previously has been convicted of an offense listed in subdivision 9 in which the defendant used or possessed a firearm or other dangerous weapon.

Subd. 9. **Applicable offenses.** The crimes for which mandatory minimum sentences shall be served as provided in this section are: murder in the first, second, or third degree; assault in the first, second, or third degree; burglary; kidnapping; false imprisonment; manslaughter in the first or second degree; aggravated robbery; simple robbery; first-degree or aggravated first-degree witness tampering; criminal sexual conduct under the circumstances described in sections 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision 1, clauses (a) to (f); and 609.344, subdivision 1, clauses (a) to (e) and (h) to (j); escape from custody; arson in the first, second, or third degree; drive-by shooting under section 609.66, subdivision 1e; harassment and stalking under section 609.749, subdivision 3, clause (3); possession or other unlawful use of a firearm in violation of section 609.165, subdivision 1b, or 624.713, subdivision 1, clause (b), a felony violation of chapter 152; or any attempt to commit any of these offenses.

Subd. 10. **Report on criminal cases involving a firearm.** Beginning on July 1, 1994, every county attorney shall collect and maintain the following information on criminal complaints and prosecutions within the county attorney's office in which the defendant is alleged to have committed an offense listed in subdivision 9 while possessing or using a firearm:

(1) whether the case was charged or dismissed;

(2) whether the defendant was convicted of the offense or a lesser offense; and

(3) whether the mandatory minimum sentence required under this section was imposed and executed or was waived by the prosecutor or court.

No later than July 1 of each year, beginning on July 1, 1995, the county attorney shall forward this information to the Sentencing Guidelines commission upon forms prescribed by the commission.

History: *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; 1979 c 258 s 1; 1981 c 227 s 1-7; 1983 c 274 s 15; 1986 c 351 s 5; 1989 c 290 art 3 s 27,28; 1991 c 279 s 25; 1993 c 326 art 13 s 23; 1994 c 576 s 46; 1994 c 636 art 3 s 5-8; 1996 c 408 art 4 s 4,5; 1997 c 96 s 4; 1998 c 367 art 2 s 4,5*

609.113 [Repealed, 1999 c 216 art 3 s 10]

609.115 PRESENTENCE INVESTIGATION.

Subdivision 1. **Presentence investigation.** (a) 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. At the request of the prosecutor in a gross misdemeanor case, the court shall order that a presentence investigation and report be prepared. The investigation shall be made by a probation officer of the court, if there is one; otherwise it shall be made by the commissioner of corrections. The officer conducting the presentence or predispositional investigation shall make reasonable and good faith efforts to contact and provide the victim with the information required under section 611A.037, subdivision 2. 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.

(b) When the crime is a violation of sections 609.561 to 609.563, 609.5641, or 609.576 and involves a fire, the report shall include a description of the financial and physical harm the offense has had on the public safety personnel who responded to the fire. For purposes of this paragraph, "public safety personnel" means the state fire

marshal; employees of the Division of the State Fire Marshal; firefighters, regardless of whether the firefighters receive any remuneration for providing services; peace officers, as defined in section 626.05, subdivision 2; individuals providing emergency management services; and individuals providing emergency medical services.

(c) When the crime is a felony violation of chapter 152 involving the sale or distribution of a controlled substance, the report shall include a description of any adverse social or economic effects the offense has had on persons who reside in the neighborhood where the offense was committed.

(d) The report shall also include the information relating to crime victims required under section 611A.037, subdivision 1. 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.

(e) 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.

(f) When a person is convicted of a felony for which the Sentencing Guidelines presume that the defendant will be committed to the commissioner of corrections under an executed sentence and no motion for a sentencing departure has been made by counsel, the court may, when there is no space available in the local correctional facility, commit the defendant to the custody of the commissioner of corrections, pending completion of the presentence investigation and report. When a defendant is convicted of a felony for which the Sentencing Guidelines do not presume that the defendant will be committed to the commissioner of corrections, or for which the Sentencing Guidelines presume commitment to the commissioner but counsel has moved for a sentencing departure, the court may commit the defendant to the commissioner with the consent of the commissioner, pending completion of the presentence investigation and report. The county of commitment shall return the defendant to the court when the court so orders.

Subd. 1a. **Contents of worksheet.** The Supreme Court shall promulgate rules uniformly applicable to all district courts for the form and contents of sentencing worksheets. These rules shall be promulgated by and effective on January 2, 1982.

Subd. 1b. [Repealed, 1987 c 331 s 13]

Subd. 1c. [Repealed, 1987 c 331 s 13]

Subd. 2. **Life imprisonment report.** 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 postsentence investigation and make a written report as provided by subdivision 1.

Subd. 3. **Criminal justice agency disclosure requirements.** All criminal justice agencies shall make available at no cost 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. **Confidential sources of information.** Any report made pursuant to subdivision 1 shall be, if written, provided to counsel for all parties before sentence. The written report shall not disclose confidential sources of information unless the court otherwise directs. On the request of the prosecuting attorney or the defendant's attorney 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. If the presentence report is given orally the defendant or the defendant's attorney shall be permitted to hear the report.

Subd. 5. **Report to commissioner or local correctional agency.** 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. If the defendant is sentenced to a local correctional agency or facility, a copy of the report must be provided to that agency or facility.

Subd. 6. **Report disclosure prohibited.** 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. **Stay of imposition of sentence.** 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.

Subd. 8. **Chemical use assessment required.** (a) If a person is convicted of a felony, the probation officer shall determine in the report prepared under subdivision 1 whether or not alcohol or drug use was a contributing factor to the commission of the offense. If so, the report shall contain the results of a chemical use assessment conducted in accordance with this subdivision. The probation officer shall make an appointment for the defendant to undergo the chemical use assessment if so indicated.

(b) The chemical use assessment report must include a recommended level of care for the defendant in accordance with the criteria contained in rules adopted by the commissioner of human services under section 254A.03, subdivision 3. The assessment must be conducted by an assessor qualified under rules adopted by the commissioner of human services under section 254A.03, subdivision 3. An assessor providing a chemical use assessment may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider. If an independent assessor is not available, the probation officer may use the services of an assessor authorized to perform assessments for the county social services agency under a variance granted under rules adopted by the commissioner of human services under section 254A.03, subdivision 3.

Subd. 9. **Compulsive gambling assessment required.** (a) If a person is convicted of theft under section 609.52, embezzlement of public funds under section 609.54, or forgery under section 609.625, 609.63, or 609.631, the probation officer shall determine in the report prepared under subdivision 1 whether or not compulsive gambling contributed to the commission of the offense. If so, the report shall contain the results of a compulsive gambling assessment conducted in accordance with this subdivision. The probation officer shall make an appointment for the offender to undergo the assessment if so indicated.

(b) The compulsive gambling assessment report must include a recommended level of treatment for the offender if the assessor concludes that the offender is in need of compulsive gambling treatment. The assessment must be conducted by an assessor qualified under section 245.98, subdivision 2a, to perform these assessments or to provide compulsive gambling treatment. An assessor providing a compulsive gambling assessment may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider. If an independent assessor is not available, the probation officer may use the services of an assessor with a financial interest or referral relationship as authorized under rules adopted by the commissioner of human services under section 245.98, subdivision 2a.

(c) The commissioner of human services shall reimburse the assessor for the costs associated with a compulsive gambling assessment at a rate established by the commissioner up to a maximum of $100 for each assessment. The commissioner shall reimburse these costs after receiving written verification from the probation officer that the assessment was performed and found acceptable.

History: *1963 c 753 art 1 s 609.115; 1978 c 723 art 2 s 3; 1979 c 233 s 23,24; 1981 c 312 s 1,2; 1983 c 262 art 2 s 3-5; 1986 c 444; 1987 c 331 s 8; 1988 c 669 s 1; 1989 c 117 s 1; 1990 c 602 art 8 s 1; 1991 c 279 s 26; 1991 c 336 art 2 s 42; 1993 c 339 s 23; 1994 c 636 art 6 s 25; 1997 c 239 art 8 s 30; 1998 c 407 art 8 s 7; 1999 c 126 s 11; 2000 c 468 s 28*

609.116 Subdivision 1. [Repealed, 1979 c 258 s 25]

Subd. 2. [Repealed, 1969 c 997 s 3; 1979 c 258 s 25]

609.117 DNA ANALYSIS OF CERTAIN OFFENDERS REQUIRED.

Subdivision 1. **Upon sentencing.** The court shall order an offender to provide a biological specimen for the purpose of DNA analysis as defined in section 299C.155 when:

(1) the court sentences a person charged with violating or attempting to violate any of the following, and the person is convicted of that offense or of any offense arising out of the same set of circumstances:

(i) murder under section 609.185, 609.19, or 609.195;

(ii) manslaughter under section 609.20 or 609.205;

(iii) assault under section 609.221, 609.222, or 609.223;

(iv) robbery under section 609.24 or aggravated robbery under section 609.245;

(v) kidnapping under section 609.25;

(vi) false imprisonment under section 609.255;

(vii) criminal sexual conduct under section 609.342, 609.343, 609.344, 609.345, or 609.3451, subdivision 3;

(viii) incest under section 609.365;

(ix) burglary under section 609.582, subdivision 1; or

(x) indecent exposure under section 617.23, subdivision 3;

(2) the court sentences a person as a patterned sex offender under section 609.108; or

(3) the juvenile court adjudicates a person a delinquent child who is the subject of a delinquency petition for violating or attempting to violate any of the following, and the delinquency adjudication is based on a violation of one of those sections or of any offense arising out of the same set of circumstances:

(i) murder under section 609.185, 609.19, or 609.195;

(ii) manslaughter under section 609.20 or 609.205;

(iii) assault under section 609.221, 609.222, or 609.223;

(iv) robbery under section 609.24 or aggravated robbery under section 609.245;

(v) kidnapping under section 609.25;

(vi) false imprisonment under section 609.255;

(vii) criminal sexual conduct under section 609.342, 609.343, 609.344, 609.345, or 609.3451, subdivision 3;

(viii) incest under section 609.365;

(ix) burglary under section 609.582, subdivision 1; or

(x) indecent exposure under section 617.23, subdivision 3.

The biological specimen or the results of the analysis shall be maintained by the Bureau of Criminal Apprehension as provided in section 299C.155.

Subd. 2. **Before release.** The commissioner of corrections or local corrections authority shall order a person to provide a biological specimen for the purpose of DNA analysis before completion of the person's term of imprisonment when the person has not provided a biological specimen for the purpose of DNA analysis and the person:

(1) is currently serving a term of imprisonment for or has a past conviction for violating or attempting to violate any of the following or a similar law of another state or the United States or initially charged with violating one of the following sections or a similar law of another state or the United States and convicted of another offense arising out of the same set of circumstances:

(i) murder under section 609.185, 609.19, or 609.195;

(ii) manslaughter under section 609.20 or 609.205;

(iii) assault under section 609.221, 609.222, or 609.223;

(iv) robbery under section 609.24 or aggravated robbery under section 609.245;

(v) kidnapping under section 609.25;

(vi) false imprisonment under section 609.255;

(vii) criminal sexual conduct under section 609.342, 609.343, 609.344, 609.345, or 609.3451, subdivision 3;

(viii) incest under section 609.365;

(ix) burglary under section 609.582, subdivision 1; or

(x) indecent exposure under section 617.23, subdivision 3; or

(2) was sentenced as a patterned sex offender under section 609.108, and committed to the custody of the commissioner of corrections; or

(3) is serving a term of imprisonment in this state under a reciprocal agreement although convicted in another state of an offense described in this subdivision or a similar law of the United States or any other state. The commissioner of corrections or local corrections authority shall forward the sample to the Bureau of Criminal Apprehension.

Subd. 3. **Offenders from other states.** When the state accepts an offender from another state under the interstate compact authorized by section 243.16, the acceptance is conditional on the offender providing a biological specimen for the purposes of DNA analysis as defined in section 299C.155, if the offender was convicted of an offense described in subdivision 1 or a similar law of the United States or any other state. The specimen must be provided under supervision of staff from the Department of Corrections or a Community Corrections Act county within 15 business days after the offender reports to the supervising agent. The cost of obtaining the biological specimen is the responsibility of the agency providing supervision.

History: *1989 c 290 art 4 s 16; 1991 c 232 s 2; 1991 c 285 s 11; 1993 c 326 art 10 s 15; art 13 s 32; 1998 c 367 art 3 s 12,13; art 6 s 15; 1999 c 216 art 3 s 7-9; 1Sp2001 c 8 art 9 s 6*

609.118 FINGERPRINTING REQUIRED.

(a) When a person is convicted of a felony, gross misdemeanor, or targeted misdemeanor, as defined in section 299C.10, subdivision 1, or is adjudicated delinquent for a felony or gross misdemeanor, the court shall order the offender to immediately report to the law enforcement agency responsible for the collection of fingerprint and other identification data required under section 299C.10, regardless of the sentence imposed or executed.

(b) Paragraph (a) does not apply if the person is remanded to the custody of a law enforcement agency or if the identification data was collected prior to the conviction or adjudication for the offense.

(c) A person who fails to obey a court order under paragraph (a) is subject to probation revocation, contempt of court, or any other appropriate remedy.

(d) This section does not limit or restrict any other statutory requirements or local policies regarding the collection of identification data.

History: *1Sp2001 c 8 art 6 s 7*

609.119 ADDITIONAL COLLECTION OF BIOLOGICAL SPECIMENS FOR DNA TESTING.

(a) From July 1, 2003, to June 30, 2005, the court shall order an offender to provide a biological specimen for the purpose of future DNA analysis as described in section 299C.155 when:

(1) the court sentences a person charged with committing or attempting to commit a felony offense not described in section 609.117, subdivision 1, and the person is convicted of that offense or of any felony offense arising out of the same set of circumstances; or

(2) the juvenile court adjudicates a person a delinquent child who is petitioned for committing or attempting to commit a felony offense not described in section 609.117,

subdivision 1, and is adjudicated delinquent for that offense or any felony-level offense arising out of the same set of circumstances.

The biological specimen shall be maintained by the Bureau of Criminal Apprehension as provided in section 299C.155.

(b) From July 1, 2003, to June 30, 2005, the commissioner of corrections or local corrections authority shall order a person to provide a biological specimen for the purpose of future DNA analysis as described in section 299C.155 before completion of the person's term of imprisonment when the person has not provided a biological specimen for the purpose of DNA analysis, and the person:

(1) was initially charged with committing or attempting to commit a felony offense not described in section 609.117, subdivision 1, and was convicted of that offense or of any felony offense arising out of the same set of circumstances; or

(2) is serving a term of imprisonment in this state under a reciprocal agreement although convicted in another state of committing or attempting to commit a felony offense not described in section 609.117, subdivision 1, or of any felony offense arising out of the same set of circumstances if the person was initially charged with committing or attempting to commit a felony offense not described in section 609.117, subdivision 1.

The commissioner of corrections or local corrections authority shall forward the sample to the Bureau of Criminal Apprehension.

(c) From July 1, 2003, to June 30, 2005, when the state accepts an offender from another state under the interstate compact authorized by section 243.16 or 243.1605, the acceptance is conditional on the offender providing a biological specimen for the purposes of future DNA analysis as described in section 299C.155, if the offender was initially charged with committing or attempting to commit a felony offense not described in section 609.117, subdivision 1, and was convicted of that offense or of any felony offense arising out of the same set of circumstances. The specimen must be provided under supervision of staff from the Department of Corrections or a Community Corrections Act county within 15 business days after the offender reports to the supervising agent. The cost of obtaining the biological specimen is the responsibility of the agency providing supervision.

History: *2002 c 401 art 1 s 14; 1Sp2003 c 2 art 4 s 24*

609.12 PAROLE OR DISCHARGE.

Subdivision 1. **Authority; conditions.** 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 commissioner of corrections, and under the conditions the commissioner imposes, the granting of parole or discharge would be most conducive to rehabilitation and would be in the public interest.

Subd. 2. **Parole required after certain term.** 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 commissioner of corrections shall grant the defendant parole no later than the expiration of five years of imprisonment, less time granted for good behavior, unless the commissioner determines with or without hearing that the defendant's parole would not be conducive to rehabilitation or would not be in the public interest.

Subd. 3. **Parole; commissioner powers.** 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 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.

History: *1963 c 753 art 1 s 609.12; 1973 c 654 s 15; 1975 c 271 s 6; 1983 c 274 s 18; 1986 c 444*

609.125 SENTENCE FOR MISDEMEANOR OR GROSS MISDEMEANOR.

Subdivision 1. **Sentences available.** 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; or

(4) to payment of court-ordered restitution in addition to either imprisonment or payment of a fine, or both; or

(5) to payment of a local correctional fee as authorized under section 609.102 in addition to any other sentence imposed by the court; or

(6) to perform work service in a restorative justice program in addition to any other sentence imposed by the court.

Subd. 2. **Restitution.** (a) As used in this section, "restitution" includes:

(1) payment of compensation to the victim or the victim's family; and

(2) if the victim is deceased or already has been fully compensated, payment of money to a victim assistance program or other program directed by the court.

"Restitution" includes payment of compensation to a government entity that incurs loss as a direct result of a crime.

(b) When the defendant does not pay the entire amount of court-ordered restitution and the fine at the same time, the court may order that all restitution shall be paid before the fine is paid.

History: *1963 c 753 art 1 s 609.125; 1971 c 25 s 91; 1984 c 610 s 2; 1992 c 571 art 11 s 14; 1995 c 244 s 11; 1996 c 408 art 7 s 3; 1997 c 239 art 3 s 6; art 7 s 17*

609.13 CONVICTIONS OF FELONY OR GROSS MISDEMEANOR; WHEN DEEMED MISDEMEANOR OR GROSS MISDEMEANOR.

Subdivision 1. **Felony.** 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 prison sentence is stayed, the defendant is placed on probation, and the defendant is thereafter discharged without a prison sentence.

Subd. 2. **Gross misdemeanor.** 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 the defendant is thereafter discharged without sentence.

Subd. 3. **Misdemeanors.** If a defendant is convicted of a misdemeanor and is sentenced, or if the imposition of sentence is stayed, and the defendant is thereafter discharged without sentence, the conviction is deemed to be for a misdemeanor for purposes of determining the penalty for a subsequent offense.

History: *1963 c 753 art 1 s 609.13; 1971 c 937 s 21; 1986 c 435 s 6; 1986 c 444; 1993 c 326 art 2 s 10*

609.131 CERTIFICATION OF MISDEMEANOR AS PETTY MISDEMEANOR.

Subdivision 1. **General rule.** Except as provided in subdivision 2, an alleged misdemeanor violation must be treated as a petty misdemeanor if the prosecuting attorney believes that it is in the interest of justice that the defendant not be imprisoned if convicted and certifies that belief to the court at or before the time of

arraignment or pretrial hearing, and the court approves of the certification motion. The defendant's consent to the certification is not required. When an offense is certified as a petty misdemeanor under this section, the defendant's eligibility for court-appointed counsel must be evaluated as though the offense were a misdemeanor.

Subd. 1a. [Repealed, 1993 c 326 art 4 s 40]

Subd. 2. **Certain violations excepted.** Subdivision 1 does not apply to a misdemeanor violation of section 169A.20; 609.224; 609.2242; 609.226; 609.324, subdivision 3; 609.52; or 617.23, or an ordinance that conforms in substantial part to any of those sections. A violation described in this subdivision must be treated as a misdemeanor unless the defendant consents to the certification of the violation as a petty misdemeanor.

Subd. 3. **Use of conviction for enhancement.** Notwithstanding any other law, a conviction for a violation that was originally charged as a misdemeanor and was treated as a petty misdemeanor under subdivision 1 or the Rules of Criminal Procedure may not be used as the basis for charging a subsequent violation as a gross misdemeanor rather than a misdemeanor.

History: *1987 c 329 s 6; 1992 c 513 art 4 s 48; 1995 c 259 art 3 s 8; 2000 c 478 art 2 s 7*

609.132 CONTINUANCE FOR DISMISSAL.

The decision to offer or agree to a continuance of a criminal prosecution is an exercise of prosecutorial discretion resting solely with the prosecuting attorney.

History: *1994 c 636 art 2 s 15*

609.135 STAY OF IMPOSITION OR EXECUTION OF SENTENCE.

Subdivision 1. **Terms and conditions.** (a) Except when a sentence of life imprisonment is required by law, or when a mandatory minimum sentence is required by section 609.11, any court may stay imposition or execution of sentence and:

(1) may order intermediate sanctions without placing the defendant on probation; or

(2) may place the defendant on probation with or without supervision and on the terms the court prescribes, including intermediate sanctions 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. Unless the court directs otherwise, state parole and probation agents and probation officers may impose community work service or probation violation sanctions, consistent with section 243.05, subdivision 1; sections 244.196 to 244.199; or 401.02, subdivision 5.

No intermediate sanction may be ordered performed at a location that fails to observe applicable requirements or standards of chapter 181A or 182, or any rule promulgated under them.

(b) For purposes of this subdivision, subdivision 6, and section 609.14, the term "intermediate sanctions" includes but is not limited to incarceration in a local jail or workhouse, home detention, electronic monitoring, intensive probation, sentencing to service, reporting to a day reporting center, chemical dependency or mental health treatment or counseling, restitution, fines, day-fines, community work service, work service in a restorative justice program, work in lieu of or to work off fines and, with the victim's consent, work in lieu of or to work off restitution.

(c) A court may not stay the revocation of the driver's license of a person convicted of violating the provisions of section 169A.20.

Subd. 1a. **Failure to pay restitution or fine.** If the court orders payment of restitution or a fine as a condition of probation and if the defendant fails to pay the restitution or a fine in accordance with the payment schedule or structure established by the court or the probation officer, the prosecutor or the defendant's probation

officer may, on the prosecutor's or the officer's own motion or at the request of the victim, ask the court to hold a hearing to determine whether or not the conditions of probation should be changed or probation should be revoked. The defendant's probation officer shall ask for the hearing if the restitution or fine ordered has not been paid prior to 60 days before the term of probation expires. The court shall schedule and hold this hearing and take appropriate action, including action under subdivision 2, paragraph (g), before the defendant's term of probation expires.

Subd. 1b. [Repealed, 1987 c 384 art 1 s 52]

Subd. 1c. **Failure to complete court-ordered treatment.** If the court orders a defendant to undergo treatment as a condition of probation and if the defendant fails to successfully complete treatment at least 60 days before the term of probation expires, the prosecutor or the defendant's probation officer may ask the court to hold a hearing to determine whether the conditions of probation should be changed or probation should be revoked. The court shall schedule and hold this hearing and take appropriate action, including action under subdivision 2, paragraph (h), before the defendant's term of probation expires.

Subd. 2. **Stay of sentence maximum periods.** (a) If the conviction is for a felony other than section 609.21, subdivision 2, 2a, or 4, the stay shall be for not more than four years or the maximum period for which the sentence of imprisonment might have been imposed, whichever is longer.

(b) If the conviction is for a gross misdemeanor violation of section 169A.20 or 609.21, subdivision 2b, or for a felony described in section 609.21, subdivision 2, 2a, or 4, the stay shall be for not more than six years. The court shall provide for unsupervised probation for the last year of the stay unless the court finds that the defendant needs supervised probation for all or part of the last year.

(c) If the conviction is for a gross misdemeanor not specified in paragraph (b), the stay shall be for not more than two years.

(d) If the conviction is for any misdemeanor under section 169A.20; 609.746, subdivision 1; 609.79; or 617.23; or for a misdemeanor under section 609.2242 or 609.224, subdivision 1, in which the victim of the crime was a family or household member as defined in section 518B.01, the stay shall be for not more than two years. The court shall provide for unsupervised probation for the second year of the stay unless the court finds that the defendant needs supervised probation for all or part of the second year.

(e) If the conviction is for a misdemeanor not specified in paragraph (d), the stay shall be for not more than one year.

(f) The defendant shall be discharged six months after the term of the stay expires, unless the stay has been revoked or extended under paragraph (g), or the defendant has already been discharged.

(g) Notwithstanding the maximum periods specified for stays of sentences under paragraphs (a) to (f), a court may extend a defendant's term of probation for up to one year if it finds, at a hearing conducted under subdivision 1a, that:

(1) the defendant has not paid court-ordered restitution or a fine in accordance with the payment schedule or structure; and

(2) the defendant is likely to not pay the restitution or fine the defendant owes before the term of probation expires.

This one-year extension of probation for failure to pay restitution or a fine may be extended by the court for up to one additional year if the court finds, at another hearing conducted under subdivision 1a, that the defendant still has not paid the court-ordered restitution or fine that the defendant owes.

(h) Notwithstanding the maximum periods specified for stays of sentences under paragraphs (a) to (f), a court may extend a defendant's term of probation for up to three years if it finds, at a hearing conducted under subdivision 1c, that:

(1) the defendant has failed to complete court-ordered treatment successfully; and

(2) the defendant is likely not to complete court-ordered treatment before the term of probation expires.

Subd. 3. **Motor vehicle offense report.** 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. **Jail as condition of probation.** 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, or require the defendant to pay a fine, or both. The court may allow the defendant the work release privileges of section 631.425 during the period of incarceration.

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

Subd. 5a. **Domestic abuse victims; electronic monitoring.** (a) Until the commissioner of corrections has adopted standards governing electronic monitoring devices used to protect victims of domestic abuse, the court, as a condition of a stay of imposition or execution of a sentence, may not order an offender convicted of a crime described in paragraph (b) to use an electronic monitoring device to protect a victim's safety.

(b) This subdivision applies to the following crimes, if committed by the defendant against a family or household member as defined in section 518B.01, subdivision 2:

(1) violations of orders for protection issued under chapter 518B;

(2) assault in the first, second, third, or fifth degree under section 609.221, 609.222, 609.223, or 609.224; or domestic assault under section 609.2242;

(3) criminal damage to property under section 609.595;

(4) disorderly conduct under section 609.72;

(5) harassing telephone calls under section 609.79;

(6) burglary under section 609.582;

(7) trespass under section 609.605;

(8) criminal sexual conduct in the first, second, third, fourth, or fifth degree under section 609.342, 609.343, 609.344, 609.345, or 609.3451; and

(9) terroristic threats under section 609.713.

(c) Notwithstanding paragraph (a), the judges in the Tenth Judicial District may order, as a condition of a stay of imposition or execution of a sentence, a defendant convicted of a crime described in paragraph (b), to use an electronic monitoring device to protect the victim's safety. The judges shall make data on the use of electronic monitoring devices to protect a victim's safety in the Tenth Judicial District available to the commissioner of corrections to evaluate and to aid in development of standards for the use of devices to protect victims of domestic abuse.

Subd. 6. **Preference for intermediate sanctions.** A court staying imposition or execution of a sentence that does not include a term of incarceration as a condition of the stay shall order other intermediate sanctions where practicable.

Subd. 7. **Demand of execution of sentence.** An offender may not demand execution of sentence in lieu of a stay of imposition or execution of sentence if the offender will serve less than nine months at the state institution. This subdivision does not apply to an offender who will be serving the sentence consecutively or concurrently with a previously imposed executed felony sentence.

Subd. 8. **Fine and surcharge collection.** A defendant's obligation to pay court-ordered fines, surcharges, court costs, and fees shall survive for a period of six years from the date of the expiration of the defendant's stayed sentence for the offense for

which the fines, surcharges, court costs, and fees were imposed, or six years from the imposition or due date of the fines, surcharges, court costs, and fees, whichever is later. Nothing in this subdivision extends the period of a defendant's stay of sentence imposition or execution.

History: *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; 1981 c 9 s 2; 1981 c 227 s 8; 1983 c 264 s 9; 1984 c 610 s 3,4; 1985 c 242 s 4; 1986 c 372 s 5; 1986 c 435 s 7-9; 1986 c 444; 1986 c 463 s 3; 1987 c 220 s 1; 1989 c 21 s 3; 1989 c 253 s 1; 1990 c 579 s 3,4; 1991 c 272 s 6; 1991 c 279 s 27,28; 1992 c 570 art 1 s 25; 1992 c 571 art 1 s 10; art 6 s 11,12; 1993 c 326 art 10 s 12,13; art 13 s 24; 1994 c 615 s 24; 1995 c 226 art 2 s 11; 1995 c 259 art 3 s 9,10; 1996 c 408 art 7 s 4; 1997 c 239 art 3 s 7; art 5 s 8,9; 1Sp1997 c 2 s 62; 1998 c 367 art 7 s 10; 1999 c 194 s 9; 2000 c 478 art 2 s 7; 1Sp2003 c 2 art 6 s 5; art 9 s 18*

609.1351 PETITION FOR CIVIL COMMITMENT.

When a court sentences a person under section 609.108, 609.342, 609.343, 609.344, or 609.345, the court shall make a preliminary determination whether in the court's opinion a petition under section 253B.185 may be appropriate and include the determination as part of the sentencing order. If the court determines that a petition may be appropriate, the court shall forward its preliminary determination along with supporting documentation to the county attorney.

History: *1989 c 290 art 4 s 9; 1992 c 571 art 3 s 7; 1Sp1994 c 1 art 2 s 32; 1998 c 367 art 6 s 15*

609.1352 [Repealed, 1998 c 367 art 6 s 16]

609.14 REVOCATION OF STAY.

Subdivision 1. **Grounds.** (a) When it appears that the defendant has violated any of the conditions of probation or intermediate sanction, or has otherwise been guilty of misconduct which warrants the imposing or execution of sentence, the court may without notice revoke the stay and direct that the defendant be taken into immediate custody.

(b) When it appears that the defendant violated any of the conditions of probation during the term of the stay, but the term of the stay has since expired, the defendant's probation officer or the prosecutor may ask the court to initiate probation revocation proceedings under the Rules of Criminal Procedure at any time within six months after the expiration of the stay. The court also may initiate proceedings under these circumstances on its own motion. If proceedings are initiated within this six-month period, the court may conduct a revocation hearing and take any action authorized under rule 27.04 at any time during or after the six-month period.

(c) Notwithstanding the provisions of section 609.135 or any law to the contrary, after proceedings to revoke the stay have been initiated by a court order revoking the stay and directing either that the defendant be taken into custody or that a summons be issued in accordance with paragraph (a), the proceedings to revoke the stay may be concluded and the summary hearing provided by subdivision 2 may be conducted after the expiration of the stay or after the six-month period set forth in paragraph (b). The proceedings to revoke the stay shall not be dismissed on the basis that the summary hearing is conducted after the term of the stay or after the six-month period. The ability or inability to locate or apprehend the defendant prior to the expiration of the stay or during or after the six-month period shall not preclude the court from conducting the summary hearing unless the defendant demonstrates that the delay was purposefully caused by the state in order to gain an unfair advantage.

Subd. 2. **Notification of grounds for revocation.** 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 the defendant is entitled to be heard and to be represented by counsel.

Subd. 3. **Sentence.** 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 or order intermediate sanctions 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 or order intermediate sanctions in accordance with the provisions of section 609.135, or order execution of the sentence previously imposed.

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

History: *1963 c 753 art 1 s 609.14; 1984 c 610 s 5,6; 1986 c 444; 1990 c 579 s 5; 1993 c 326 art 10 s 14; 1994 c 636 art 2 s 17*

609.145 CREDIT FOR PRIOR IMPRISONMENT.

Subdivision 1. **Prior imprisonment reduction.** 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 the person is sentenced is reduced by the period of the prior imprisonment and the time earned thereby in diminution of sentence.

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

Subd. 3. **Credit.** When a person is to be committed to the commissioner, the person's probation officer must provide to the court, prior to the sentencing hearing, the amount of time the person has in credit for prior imprisonment. The court must pronounce credit for prior imprisonment at the time of sentencing.

History: *1963 c 753 art 1 s 609.145; 1978 c 723 art 1 s 14; 1986 c 444; 1Sp2003 c 2 art 5 s 11*

609.15 MULTIPLE SENTENCES.

Subdivision 1. **Concurrent, consecutive sentences; specification requirement.** (a) Except as provided in paragraph (c), 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.

(b) When a court imposes sentence for a misdemeanor or gross misdemeanor offense and specifies that the sentence shall run consecutively to any other sentence, the court may order the defendant to serve time in custody for the consecutive sentence in addition to any time in custody the defendant may be serving for any other offense, including probationary jail time or imprisonment for any felony offense.

(c) An inmate of a state prison who is convicted of committing an assault within the correctional facility is subject to the consecutive sentencing provisions of section 609.2232.

Subd. 2. **Limit on sentences; misdemeanor and gross misdemeanor.** If the court specifies that the sentence shall run consecutively and all of the sentences are for misdemeanors, the total of the sentences shall not exceed one year. If the sentences are for a gross misdemeanor and one or more misdemeanors, the total of the sentences

shall not exceed two years. If all of the sentences are for gross misdemeanors, the total of the sentences shall not exceed four years.

History: *1963 c 753 art 1 s 609.15; 1992 c 571 art 2 s 8; 1993 c 326 art 13 s 26; 1994 c 615 s 25; 1997 c 239 art 3 s 8; art 9 s 35; 1Sp1997 c 2 s 63; 1999 c 194 s 10*

609.152 [Repealed, 1998 c 367 art 6 s 16]

609.153 INCREASED PENALTIES FOR CERTAIN MISDEMEANORS.

Subdivision 1. **Application.** This section applies to the following misdemeanor-level crimes: sections 609.324 (prostitution); 609.546 (motor vehicle tampering); 609.595 (damage to property); and 609.66 (dangerous weapons); and violations of local ordinances prohibiting the unlawful sale or possession of controlled substances.

Subd. 2. **Custodial arrest.** Notwithstanding Rule 6.01 of the Rules of Criminal Procedure, a peace officer acting without a warrant who has decided to proceed with the prosecution of a person for committing a crime described in subdivision 1 may arrest and take the person into custody if the officer has reason to believe the person has a prior conviction for any crime described in subdivision 1.

Subd. 3. **Increased penalty.** Notwithstanding the statutory maximum penalty otherwise applicable to the offense, a person who commits a misdemeanor-level crime described in subdivision 1 is guilty of a gross misdemeanor if the court determines at the time of sentencing that the person has two or more prior convictions in this or any other state for any of the crimes described in subdivision 1.

Subd. 4. **Notice to complaining witness.** A prosecuting authority who is responsible for filing charges against or prosecuting a person arrested under the circumstances described in subdivision 2 shall make reasonable efforts to notify the complaining witness of the final outcome of the criminal proceeding that resulted from the arrest including, where appropriate, the decision to dismiss or not file charges against the arrested person.

History: *1997 c 239 art 3 s 9*

609.155 [Repealed, 1978 c 723 art 1 s 19]

609.16 [Repealed, 1978 c 723 art 1 s 19]

609.165 RESTORATION OF CIVIL RIGHTS; POSSESSION OF FIREARMS.

Subdivision 1. **Restoration.** When a person has been deprived of civil rights by reason of conviction of a crime and is thereafter discharged, such discharge shall restore the person to all 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. 1a. **Certain convicted felons ineligible to possess firearms.** The order of discharge must provide that a person who has been convicted of a crime of violence, as defined in section 624.712, subdivision 5, is not entitled to ship, transport, possess, or receive a firearm for the remainder of the person's lifetime. Any person who has received such a discharge and who thereafter has received a relief of disability under United States Code, title 18, section 925, or whose ability to possess firearms has been restored under subdivision 1d, shall not be subject to the restrictions of this subdivision.

Subd. 1b. **Violation and penalty.** (a) Any person who has been convicted of a crime of violence, as defined in section 624.712, subdivision 5, and who ships, transports, possesses, or receives a firearm, commits a felony and may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than $30,000, or both.

(b) A conviction and sentencing under this section shall be construed to bar a conviction and sentencing for a violation of section 624.713, subdivision 2.

(c) The criminal penalty in paragraph (a) does not apply to any person who has received a relief of disability under United States Code, title 18, section 925, or whose ability to possess firearms has been restored under subdivision 1d.

Subd. 1c. [Repealed, 1999 c 61 s 2]

Subd. 1d. **Judicial restoration of ability to possess a firearm by a felon.** A person prohibited by state law from shipping, transporting, possessing, or receiving a firearm because of a conviction or a delinquency adjudication for committing a crime of violence may petition a court to restore the person's ability to possess, receive, ship, or transport firearms and otherwise deal with firearms.

The court may grant the relief sought if the person shows good cause to do so and the person has been released from physical confinement.

If a petition is denied, the person may not file another petition until three years have elapsed without the permission of the court.

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

History: *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; 1986 c 444; 1987 c 276 s 1; 1994 c 636 art 3 s 9; 1996 c 408 art 4 s 7; 1998 c 376 s 5; 2003 c 28 art 3 s 3-5*

609.166 [Repealed, 1996 c 408 art 9 s 10]

609.167 [Repealed, 1996 c 408 art 9 s 10]

609.168 [Repealed, 1996 c 408 art 9 s 10]

ANTICIPATORY CRIMES

609.17 ATTEMPTS.

Subdivision 1. **Crime defined.** 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. **Act defined.** 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. **Defense.** 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 the intention to commit the crime.

Subd. 4. **Penalties.** 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.

History: *1963 c 753 art 1 s 609.17; 1986 c 444*

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.

History: *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, 609.19, 609.2661, and 609.2662, "premeditation" means to consider, plan or prepare for, or determine to commit, the act referred to prior to its commission.

History: *1963 c 753 art 1 s 609.18; 1986 c 388 s 2*

609.184 [Repealed, 1998 c 367 art 6 s 16]

609.185 MURDER IN THE FIRST DEGREE.

(a) Whoever does any 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 the person or of another;

(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 the person or another;

(3) causes the death of a human being with intent to effect the death of the person or another, while committing or attempting to commit burglary, aggravated robbery, kidnapping, arson in the first or second degree, a drive-by shooting, tampering with a witness in the first degree, escape from custody, or any felony violation of chapter 152 involving the unlawful sale of a controlled substance;

(4) causes the death of a peace officer or a guard employed at a Minnesota state or local correctional facility, with intent to effect the death of that person or another, while the peace officer or guard is engaged in the performance of official duties;

(5) causes the death of a minor while committing child abuse, when the perpetrator has engaged in a past pattern of child abuse upon the child and the death occurs under circumstances manifesting an extreme indifference to human life;

(6) causes the death of a human being while committing domestic abuse, when the perpetrator has engaged in a past pattern of domestic abuse upon the victim or upon another family or household member and the death occurs under circumstances manifesting an extreme indifference to human life; or

(7) causes the death of a human being while committing, conspiring to commit, or attempting to commit a felony crime to further terrorism and the death occurs under circumstances manifesting an extreme indifference to human life.

(b) For purposes of paragraph (a), clause (5), "child abuse" means an act committed against a minor victim that constitutes a violation of the following laws of this state or any similar laws of the United States or any other state: section 609.221; 609.222; 609.223; 609.224; 609.2242; 609.342; 609.343; 609.344; 609.345; 609.377; 609.378; or 609.713.

(c) For purposes of paragraph (a), clause (6), "domestic abuse" means an act that:

(1) constitutes a violation of section 609.221, 609.222, 609.223, 609.224, 609.2242, 609.342, 609.343, 609.344, 609.345, 609.713, or any similar laws of the United States or any other state; and

(2) is committed against the victim who is a family or household member as defined in section 518B.01, subdivision 2, paragraph (b).

(d) For purposes of paragraph (a), clause (7), "further terrorism" has the meaning given in section 609.714, subdivision 1.

History: *1963 c 753 art 1 s 609.185; 1975 c 374 s 1; 1981 c 227 s 9; 1986 c 444; 1988 c 662 s 2; 1989 c 290 art 2 s 11; 1990 c 583 s 4; 1992 c 571 art 4 s 5; 1994 c 636 art 2 s 19; 1995 c 244 s 12; 1995 c 259 art 3 s 12; 1998 c 367 art 2 s 7; 2000 c 437 s 5; 2002 c 401 art 1 s 15*

609.19 MURDER IN THE SECOND DEGREE.

Subdivision 1. **Intentional murder; drive-by shootings.** Whoever does either of the following is guilty of murder in the second degree and may be sentenced to imprisonment for not more than 40 years:

(1) causes the death of a human being with intent to effect the death of that person or another, but without premeditation or

(2) causes the death of a human being while committing or attempting to commit a drive-by shooting in violation of section 609.66, subdivision 1e, under circumstances other than those described in section 609.185, clause (3).

Subd. 2. **Unintentional murders.** Whoever does either of the following is guilty of unintentional murder in the second degree and may be sentenced to imprisonment for not more than 40 years:

(1) causes the death of a human being, without intent to effect the death of any person, while committing or attempting to commit a felony offense other than criminal sexual conduct in the first or second degree with force or violence or a drive-by shooting; or

(2) causes the death of a human being without intent to effect the death of any person, while intentionally inflicting or attempting to inflict bodily harm upon the victim, when the perpetrator is restrained under an order for protection and the victim is a person designated to receive protection under the order. As used in this clause, "order for protection" includes an order for protection issued under chapter 518B; a harassment restraining order issued under section 609.748; a court order setting conditions of pretrial release or conditions of a criminal sentence or juvenile court disposition; a restraining order issued in a marriage dissolution action; and any order issued by a court of another state or of the United States that is similar to any of these orders.

History: *1963 c 753 art 1 s 609.19; 1981 c 227 s 10; 1992 c 571 art 4 s 6; 1995 c 226 art 2 s 16; 1996 c 408 art 4 s 8; 1998 c 367 art 2 s 8*

609.195 MURDER IN THE THIRD DEGREE.

(a) Whoever, without intent to effect the death of any person, causes the death of another by perpetrating an act eminently dangerous to others and evincing a depraved mind, without regard for human life, is guilty of murder in the third degree and may be sentenced to imprisonment for not more than 25 years.

(b) Whoever, without intent to cause death, proximately causes the death of a human being by, directly or indirectly, unlawfully selling, giving away, bartering, delivering, exchanging, distributing, or administering a controlled substance classified in schedule I or II, is guilty of murder in the third degree and may be sentenced to imprisonment for not more than 25 years or to payment of a fine of not more than $40,000, or both.

History: *1963 c 753 art 1 s 609.195; 1977 c 130 s 3; 1981 c 227 s 11; 1987 c 176 s 1*

609.196 [Repealed, 1998 c 367 art 6 s 16]

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 $30,000, 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, provided that the crying of a child does not constitute provocation;

(2) violates section 609.224 and causes the death of another or causes the death of another in committing or attempting to commit a misdemeanor or gross misdemeanor offense 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;

(3) intentionally causes the death of another person because the actor is coerced by threats made by someone other than the actor's coconspirator and which cause the actor reasonably to believe that the act performed by the actor is the only means of preventing imminent death to the actor or another;

(4) proximately causes the death of another, without intent to cause death by, directly or indirectly, unlawfully selling, giving away, bartering, delivering, exchanging, distributing, or administering a controlled substance classified in schedule III, IV, or V; or

(5) causes the death of another in committing or attempting to commit a violation of section 609.377 (malicious punishment of a child), and murder in the first, second, or third degree is not committed thereby.

As used in this section, a "person of ordinary self-control" does not include a person under the influence of intoxicants or a controlled substance.

History: *1963 c 753 art 1 s 609.20; 1981 c 227 s 12; 1984 c 628 art 3 s 3; 1986 c 444; 1987 c 176 s 2; 1988 c 604 s 1; 1995 c 244 s 13; 1996 c 408 art 3 s 13*

609.205 MANSLAUGHTER IN THE SECOND DEGREE.

A person who 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 ten years or to payment of a fine of not more than $20,000, or both:

(1) by the person's culpable negligence whereby the person 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 the other 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 the person to have vicious propensities or to have caused great or substantial bodily harm in the past, to run uncontrolled off the owner's premises, or negligently failing to keep it properly confined; or

(5) by committing or attempting to commit a violation of section 609.378 (neglect or endangerment of a child), and murder in the first, second, or third degree is not committed thereby.

If proven by a preponderance of the evidence, it shall be an affirmative defense to criminal liability under clause (4) that the victim provoked the animal to cause the victim's death.

History: *1963 c 753 art 1 s 609.205; 1984 c 628 art 3 s 11; 1985 c 294 s 6; 1986 c 444; 1989 c 290 art 6 s 5; 1995 c 244 s 14*

609.21 CRIMINAL VEHICULAR HOMICIDE AND INJURY.

Subdivision 1. **Criminal vehicular homicide.** A person is guilty of criminal vehicular homicide resulting in death and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both, if the person causes the death of a human being not constituting murder or manslaughter as a result of operating a motor vehicle:

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of:

(i) alcohol;

(ii) a controlled substance; or

(iii) any combination of those elements;

(3) while having an alcohol concentration of 0.08 or more;

(4) while having an alcohol concentration of 0.08 or more, as measured within two hours of the time of driving;

(5) in a negligent manner while knowingly under the influence of a hazardous substance;

(6) in a negligent manner while any amount of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols, is present in the person's body; or

(7) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6.

Subd. 2. **Resulting in great bodily harm.** A person is guilty of criminal vehicular operation resulting in great bodily harm and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if the person causes great bodily harm to another, not constituting attempted murder or assault, as a result of operating a motor vehicle:

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of:

(i) alcohol;

(ii) a controlled substance; or

(iii) any combination of those elements;

(3) while having an alcohol concentration of 0.08 or more;

(4) while having an alcohol concentration of 0.08 or more, as measured within two hours of the time of driving;

(5) in a negligent manner while knowingly under the influence of a hazardous substance;

(6) in a negligent manner while any amount of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols, is present in the person's body; or

(7) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6.

Subd. 2a. **Resulting in substantial bodily harm.** A person is guilty of criminal vehicular operation resulting in substantial bodily harm and may be sentenced to imprisonment of not more than three years or to payment of a fine of not more than

$10,000, or both, if the person causes substantial bodily harm to another, as a result of operating a motor vehicle;

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of:

(i) alcohol;

(ii) a controlled substance; or

(iii) any combination of those elements;

(3) while having an alcohol concentration of 0.08 or more;

(4) while having an alcohol concentration of 0.08 or more, as measured within two hours of the time of driving;

(5) in a negligent manner while knowingly under the influence of a hazardous substance;

(6) in a negligent manner while any amount of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols, is present in the person's body; or

(7) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6.

Subd. 2b. **Resulting in bodily harm.** A person is guilty of criminal vehicular operation resulting in bodily harm and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both, if the person causes bodily harm to another, as a result of operating a motor vehicle:

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of:

(i) alcohol;

(ii) a controlled substance; or

(iii) any combination of those elements;

(3) while having an alcohol concentration of 0.08 or more;

(4) while having an alcohol concentration of 0.08 or more, as measured within two hours of the time of driving;

(5) in a negligent manner while knowingly under the influence of a hazardous substance;

(6) in a negligent manner while any amount of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols, is present in the person's body; or

(7) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6.

Subd. 3. **Resulting in death to an unborn child.** A person is guilty of criminal vehicular operation resulting in death to an unborn child and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both, if the person causes the death of an unborn child as a result of operating a motor vehicle:

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of:

(i) alcohol;

(ii) a controlled substance; or

(iii) any combination of those elements;

(3) while having an alcohol concentration of 0.08 or more;

(4) while having an alcohol concentration of 0.08 or more, as measured within two hours of the time of driving;

(5) in a negligent manner while knowingly under the influence of a hazardous substance;

(6) in a negligent manner while any amount of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols, is present in the person's body; or

(7) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6.

A prosecution for or conviction of a crime under this subdivision is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Subd. 4. **Resulting in injury to unborn child.** A person is guilty of criminal vehicular operation resulting in injury to an unborn child and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if the person causes great bodily harm to an unborn child who is subsequently born alive, as a result of operating a motor vehicle:

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of:

(i) alcohol;

(ii) a controlled substance; or

(iii) any combination of those elements;

(3) while having an alcohol concentration of 0.08 or more;

(4) while having an alcohol concentration of 0.08 or more, as measured within two hours of the time of driving;

(5) in a negligent manner while knowingly under the influence of a hazardous substance;

(6) in a negligent manner while any amount of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols, is present in the person's body; or

(7) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6.

A prosecution for or conviction of a crime under this subdivision is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Subd. 4a. **Affirmative defense.** It shall be an affirmative defense to a charge under subdivision 1, clause (6); 2, clause (6); 2a, clause (6); 2b, clause (6); 3, clause (6); or 4, clause (6), that the defendant used the controlled substance according to the terms of a prescription issued for the defendant in accordance with sections 152.11 and 152.12.

Subd. 5. **Definitions.** For purposes of this section, the terms defined in this subdivision have the meanings given them.

(a) "Motor vehicle" has the meaning given in section 609.52, subdivision 1.

(b) "Controlled substance" has the meaning given in section 152.01, subdivision 4.

(c) "Hazardous substance" means any chemical or chemical compound that is listed as a hazardous substance in rules adopted under chapter 182.

History: *1963 c 753 art 1 s 609.21; 1983 c 12 s 1; 1984 c 622 s 24,25; 1984 c 628 art 3 s 4,11; 1986 c 388 s 3,4; 1989 c 290 art 6 s 6,7; art 10 s 7; 1990 c 602 art 4 s 1; 1996 c 408 art 3 s 14-18; 1996 c 442 s 33; 2004 c 283 s 13*

NOTE: The amendment to this section by Laws 2004, chapter 283, section 13, is effective August 1, 2005. Laws 2004, chapter 283, section 15.

609.215 SUICIDE.

Subdivision 1. **Aiding suicide.** Whoever intentionally advises, encourages, or assists another in taking the other's own life may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than $30,000, or both.

Subd. 2. **Aiding attempted suicide.** Whoever intentionally advises, encourages, or assists another who attempts but fails to take the other's own life may be sentenced to

imprisonment for not more than seven years or to payment of a fine of not more than $14,000, or both.

Subd. 3. **Acts or omissions not considered aiding suicide or aiding attempted suicide.** (a) A health care provider, as defined in section 145B.02, subdivision 6, who administers, prescribes, or dispenses medications or procedures to relieve another person's pain or discomfort, even if the medication or procedure may hasten or increase the risk of death, does not violate this section unless the medications or procedures are knowingly administered, prescribed, or dispensed to cause death.

(b) A health care provider, as defined in section 145B.02, subdivision 6, who withholds or withdraws a life-sustaining procedure in compliance with chapter 145B or 145C or in accordance with reasonable medical practice does not violate this section.

Subd. 4. **Injunctive relief.** A cause of action for injunctive relief may be maintained against any person who is reasonably believed to be about to violate or who is in the course of violating this section by any person who is:

(1) the spouse, parent, child, or sibling of the person who would commit suicide;

(2) an heir or a beneficiary under a life insurance policy of the person who would commit suicide;

(3) a health care provider of the person who would commit suicide;

(4) a person authorized to prosecute or enforce the laws of this state; or

(5) a legally appointed guardian or conservator of the person who would have committed suicide.

Subd. 5. **Civil damages.** A person given standing by subdivision 4, clause (1), (2), or (5), or the person who would have committed suicide, in the case of an attempt, may maintain a cause of action against any person who violates or who attempts to violate subdivision 1 or 2 for compensatory damages and punitive damages as provided in section 549.20. A person described in subdivision 4, clause (4), may maintain a cause of action against a person who violates or attempts to violate subdivision 1 or 2 for a civil penalty of up to $50,000 on behalf of the state. An action under this subdivision may be brought whether or not the plaintiff had prior knowledge of the violation or attempt.

Subd. 6. **Attorney fees.** Reasonable attorney fees shall be awarded to the prevailing plaintiff in a civil action brought under subdivision 4 or 5.

History: *1963 c 753 art 1 s 609.215; 1984 c 628 art 3 s 11; 1986 c 444; 1992 c 577 s 6-9; 1998 c 399 s 37*

CRIMES AGAINST THE PERSON

609.22 [Repealed, 1979 c 258 s 25]

609.221 ASSAULT IN THE FIRST DEGREE.

Subdivision 1. **Great bodily harm.** Whoever assaults another and inflicts great bodily harm may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than $30,000, or both.

Subd. 2. **Use of deadly force against peace officer or correctional employee.** (a) Whoever assaults a peace officer or correctional employee by using or attempting to use deadly force against the officer or employee while the officer or employee is engaged in the performance of a duty imposed by law, policy, or rule may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than $30,000, or both.

(b) A person convicted of assaulting a peace officer or correctional employee as described in paragraph (a) shall be committed to the commissioner of corrections for not less than ten years, nor more than 20 years. A defendant convicted and sentenced as required by this paragraph is not eligible for probation, parole, discharge, work release, or supervised release, until that person has served the full term of imprisonment as provided by law, notwithstanding the provisions of sections 241.26, 242.19,

243.05, 244.04, 609.12, and 609.135. Notwithstanding section 609.135, the court may not stay the imposition or execution of this sentence.

(c) As used in this subdivision:

(1) "correctional employee" means an employee of a public or private prison, jail, or workhouse;

(2) "deadly force" has the meaning given in section 609.066, subdivision 1; and

(3) "peace officer" has the meaning given in section 626.84, subdivision 1.

History: *1979 c 258 s 4; 1984 c 628 art 3 s 11; 1989 c 290 art 6 s 8; 1997 c 239 art 3 s 10*

609.222 ASSAULT IN THE SECOND DEGREE.

Subdivision 1. **Dangerous weapon.** Whoever assaults another with a dangerous weapon may be sentenced to imprisonment for not more than seven years or to payment of a fine of not more than $14,000, or both.

Subd. 2. **Dangerous weapon; substantial bodily harm.** Whoever assaults another with a dangerous weapon and inflicts substantial bodily harm may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

History: *1979 c 258 s 5; 1984 c 628 art 3 s 11; 1985 c 53 s 1; 1989 c 290 art 6 s 9; 1992 c 571 art 4 s 7*

609.223 ASSAULT IN THE THIRD DEGREE.

Subdivision 1. **Substantial bodily harm.** Whoever assaults another and inflicts substantial bodily harm may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

Subd. 2. **Past pattern of child abuse.** Whoever assaults a minor may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if the perpetrator has engaged in a past pattern of child abuse against the minor. As used in this subdivision, "child abuse" has the meaning given it in section 609.185, clause (5).

Subd. 3. **Felony; victim under four.** Whoever assaults a victim under the age of four, and causes bodily harm to the child's head, eyes, or neck, or otherwise causes multiple bruises to the body, is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

History: *1979 c 258 s 6; 1984 c 628 art 3 s 11; 1989 c 290 art 6 s 10; 1990 c 542 s 17; 1994 c 636 art 2 s 20*

609.2231 ASSAULT IN THE FOURTH DEGREE.

Subdivision 1. **Peace officers.** Whoever physically assaults a peace officer licensed under section 626.845, subdivision 1, when that officer is effecting a lawful arrest or executing any other duty imposed by law is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both. If the assault inflicts demonstrable bodily harm or the person intentionally throws or otherwise transfers bodily fluids or feces at or onto the officer, the person is guilty of a felony and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $6,000, or both.

Subd. 2. **Firefighters and emergency medical personnel.** Whoever assaults any of the following persons and inflicts demonstrable bodily harm is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than $4,000, or both:

(1) a member of a municipal or volunteer fire department or emergency medical services personnel unit in the performance of the member's duties; or

(2) a physician, nurse, or other person providing health care services in a hospital emergency department.

Subd. 2a. **Certain Department of Natural Resources employees.** Whoever assaults and inflicts demonstrable bodily harm on an employee of the Department of Natural Resources who is engaged in forest fire activities is guilty of a gross misdemeanor.

Subd. 3. **Correctional employees; probation officers.** Whoever commits either of the following acts against an employee of a correctional facility as defined in section 241.021, subdivision 1, paragraph (f), or against a probation officer or other qualified person employed in supervising offenders while the employee, officer, or person is engaged in the performance of a duty imposed by law, policy, or rule is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than $4,000, or both:

(1) assaults the employee and inflicts demonstrable bodily harm; or

(2) intentionally throws or otherwise transfers bodily fluids or feces at or onto the employee.

Subd. 4. **Assaults motivated by bias.** (a) Whoever assaults another because of the victim's or another's actual or perceived race, color, religion, sex, sexual orientation, disability as defined in section 363A.03, age, or national origin may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

(b) Whoever violates the provisions of paragraph (a) within five years of a previous conviction under paragraph (a) 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 $3,000, or both.

Subd. 5. **School official.** Whoever assaults a school official while the official is engaged in the performance of the official's duties, and inflicts demonstrable bodily harm, is guilty of a gross misdemeanor. As used in this subdivision, "school official" includes teachers, school administrators, and other employees of a public or private school.

Subd. 6. **Public employees with mandated duties.** A person is guilty of a gross misdemeanor who:

(1) assaults an agricultural inspector, occupational safety and health investigator, child protection worker, public health nurse, or probation or parole officer while the employee is engaged in the performance of a duty mandated by law, court order, or ordinance;

(2) knows that the victim is a public employee engaged in the performance of the official public duties of the office; and

(3) inflicts demonstrable bodily harm.

Subd. 7. **Community crime prevention group members.** (a) A person is guilty of a gross misdemeanor who:

(1) assaults a community crime prevention group member while the member is engaged in neighborhood patrol;

(2) should reasonably know that the victim is a community crime prevention group member engaged in neighborhood patrol; and

(3) inflicts demonstrable bodily harm.

(b) As used in this subdivision, "community crime prevention group" means a community group focused on community safety and crime prevention that:

(1) is organized for the purpose of discussing community safety and patrolling community neighborhoods for criminal activity;

(2) is designated and trained by the local law enforcement agency as a community crime prevention group; or

(3) interacts with local law enforcement regarding community safety issues.

History: *1983 c 169 s 1; 1984 c 628 art 3 s 11; 1985 c 185 s 1; 1986 c 444; 1987 c 252 s 9; 1989 c 261 s 1; 1989 c 290 art 6 s 11; 1991 c 121 s 1; 1991 c 279 s 29; 1992 c 571 art 4 s 8; 1994 c 636 art 2 s 21; 1996 c 408 art 3 s 19,20; 1997 c 180 s 5; 1997 c 239 art 9 s 36; 2000 c 441 s 1; 1Sp2003 c 2 art 8 s 8; 2004 c 184 s 1;2*

609.2232 CONSECUTIVE SENTENCES FOR ASSAULTS COMMITTED BY STATE PRISON INMATES.

If an inmate of a state correctional facility is convicted of violating section 609.221, 609.222, 609.223, 609.2231, or 609.224, while confined in the facility, the sentence imposed for the assault shall be executed and run consecutively to any unexpired portion of the offender's earlier sentence. The inmate is not entitled to credit against the sentence imposed for the assault for time served in confinement for the earlier sentence. The inmate shall serve the sentence for the assault in a state correctional facility even if the assault conviction was for a misdemeanor or gross misdemeanor.

History: *1997 c 239 art 9 s 37*

609.224 ASSAULT IN THE FIFTH DEGREE.

Subdivision 1. **Misdemeanor.** Whoever does any of the following commits an assault and is guilty of a misdemeanor:

(1) commits 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.

Subd. 2. **Gross misdemeanor.** (a) Whoever violates the provisions of subdivision 1 against the same victim during the time period between a previous qualified domestic violence-related offense conviction or adjudication of delinquency and the end of the five years following discharge from sentence or disposition for that offense, is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

(b) Whoever violates the provisions of subdivision 1 within two years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

(c) A caregiver, as defined in section 609.232, who is an individual and who violates the provisions of subdivision 1 against a vulnerable adult, as defined in section 609.232, is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

Subd. 3. **Firearms.** (a) When a person is convicted of a violation of this section or section 609.221, 609.222, or 609.223, the court shall determine and make written findings on the record as to whether:

(1) the defendant owns or possesses a firearm; and

(2) the firearm was used in any way during the commission of the assault.

(b) Except as otherwise provided in section 609.2242, subdivision 3, paragraph (c), a person is not entitled to possess a pistol if the person has been convicted after August 1, 1992, of assault in the fifth degree if the offense was committed within three years of a previous conviction under sections 609.221 to 609.224, unless three years have elapsed from the date of conviction and, during that time, the person has not been convicted of any other violation of section 609.224. Property rights may not be abated but access may be restricted by the courts. A person who possesses a pistol in violation of this paragraph is guilty of a gross misdemeanor.

Subd. 4. **Felony.** (a) Whoever violates the provisions of subdivision 1 against the same victim during the time period between the first of any combination of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency and the end of the five years following discharge from sentence or

disposition for that offense is guilty of a felony and may be sentenced to imprisonment for not more than five years or payment of a fine of not more than $10,000, or both.

(b) Whoever violates the provisions of subdivision 1 within three years of the first of any combination of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

History: *1979 c 258 s 7; 1983 c 169 s 2; 1985 c 159 s 1; 1987 c 329 s 7; 1992 c 537 s 1,2; 1992 c 571 art 6 s 13; 1993 c 326 art 2 s 11,12; 1Sp1993 c 5 s 2,3; 1994 c 636 art 3 s 10; 1995 c 229 art 2 s 1; 1995 c 259 art 3 s 13,14; 1996 c 408 art 3 s 21,22; 2000 c 437 s 6,7; 1Sp2001 c 8 art 10 s 8,9*

609.2241 KNOWING TRANSFER OF COMMUNICABLE DISEASE.

Subdivision 1. **Definitions.** As used in this section, the following terms have the meanings given:

(a) "Communicable disease" means a disease or condition that causes serious illness, serious disability, or death; the infectious agent of which may pass or be carried from the body of one person to the body of another through direct transmission.

(b) "Direct transmission" means predominately sexual or bloodborne transmission.

(c) "A person who knowingly harbors an infectious agent" refers to a person who receives from a physician or other health professional:

(1) advice that the person harbors an infectious agent for a communicable disease;

(2) educational information about behavior which might transmit the infectious agent; and

(3) instruction of practical means of preventing such transmission.

(d) "Transfer" means to engage in behavior that has been demonstrated epidemiologically to be a mode of direct transmission of an infectious agent which causes the communicable disease.

(e) "Sexual penetration" means any of the acts listed in section 609.341, subdivision 12, when the acts described are committed without the use of a latex or other effective barrier.

Subd. 2. **Crime.** It is a crime, which may be prosecuted under section 609.17, 609.185, 609.19, 609.221, 609.222, 609.223, 609.2231, or 609.224, for a person who knowingly harbors an infectious agent to transfer, if the crime involved:

(1) sexual penetration with another person without having first informed the other person that the person has a communicable disease;

(2) transfer of blood, sperm, organs, or tissue, except as deemed necessary for medical research or if disclosed on donor screening forms; or

(3) sharing of nonsterile syringes or needles for the purpose of injecting drugs.

Subd. 3. **Affirmative defense.** It is an affirmative defense to prosecution, if it is proven by a preponderance of the evidence, that:

(1) the person who knowingly harbors an infectious agent for a communicable disease took practical means to prevent transmission as advised by a physician or other health professional; or

(2) the person who knowingly harbors an infectious agent for a communicable disease is a health care provider who was following professionally accepted infection control procedures.

Nothing in this section shall be construed to be a defense to a criminal prosecution that does not allege a violation of subdivision 2.

Subd. 4. **Health Department data.** Data protected by section 13.3805, subdivision 1, and information collected as part of a Health Department investigation under

sections 144.4171 to 144.4186 may not be accessed or subpoenaed by law enforcement authorities or prosecutors without the consent of the subject of the data.

History: *1995 c 226 art 2 s 17; 1999 c 227 s 22*

609.2242 DOMESTIC ASSAULT.

Subdivision 1. **Misdemeanor.** Whoever does any of the following against a family or household member as defined in section 518B.01, subdivision 2, commits an assault and is guilty of a misdemeanor:

(1) commits 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.

Subd. 2. **Gross misdemeanor.** Whoever violates subdivision 1 during the time period between a previous qualified domestic violence-related offense conviction or adjudication of delinquency against a family or household member as defined in section 518B.01, subdivision 2, and the end of the five years following discharge from sentence or disposition for that offense is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

Subd. 3. **Domestic assaults; firearms.** (a) When a person is convicted of a violation of this section or section 609.221, 609.222, 609.223, or 609.224, the court shall determine and make written findings on the record as to whether:

(1) the assault was committed against a family or household member, as defined in section 518B.01, subdivision 2;

(2) the defendant owns or possesses a firearm; and

(3) the firearm was used in any way during the commission of the assault.

(b) If the court determines that the assault was of a family or household member, and that the offender owns or possesses a firearm and used it in any way during the commission of the assault, it shall order that the firearm be summarily forfeited under section 609.5316, subdivision 3.

(c) When a person is convicted of assaulting a family or household member and is determined by the court to have used a firearm in any way during commission of the assault, the court may order that the person is prohibited from possessing any type of firearm for any period longer than three years or for the remainder of the person's life. A person who violates this paragraph is guilty of a gross misdemeanor. At the time of the conviction, the court shall inform the defendant whether and for how long the defendant is prohibited from possessing a firearm and that it is a gross misdemeanor to violate this paragraph. The failure of the court to provide this information to a defendant does not affect the applicability of the firearm possession prohibition or the gross misdemeanor penalty to that defendant.

(d) Except as otherwise provided in paragraph (c), when a person is convicted of a violation of this section or section 609.224 and the court determines that the victim was a family or household member, the court shall inform the defendant that the defendant is prohibited from possessing a pistol for three years from the date of conviction and that it is a gross misdemeanor offense to violate this prohibition. The failure of the court to provide this information to a defendant does not affect the applicability of the pistol possession prohibition or the gross misdemeanor penalty to that defendant.

(e) Except as otherwise provided in paragraph (c), a person is not entitled to possess a pistol if the person has been convicted after August 1, 1992, of domestic assault under this section or assault in the fifth degree under section 609.224 and the assault victim was a family or household member as defined in section 518B.01, subdivision 2, unless three years have elapsed from the date of conviction and, during that time, the person has not been convicted of any other violation of this section or section 609.224. Property rights may not be abated but access may be restricted by the courts. A person who possesses a pistol in violation of this paragraph is guilty of a gross misdemeanor.

Subd. 4. **Felony.** Whoever violates the provisions of this section or section 609.224, subdivision 1, against the same victim during the time period between the first of any combination of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency and the end of the five years following discharge from sentence or disposition for that offense is guilty of a felony and may be sentenced to imprisonment for not more than five years or payment of a fine of not more than $10,000, or both.

History: *1995 c 259 art 3 s 15; 2000 c 437 s 8,9; 1Sp2001 c 8 art 10 s 10,11*

609.2243 SENTENCING; REPEAT DOMESTIC ASSAULT.

Subdivision 1. **Gross misdemeanor.** A person convicted of gross misdemeanor domestic assault under section 609.2242, subdivision 2, shall be sentenced to a minimum of 20 days imprisonment, at least 96 hours of which must be served consecutively. The court may stay execution of the minimum sentence required under this subdivision on the condition that the person sentenced complete anger therapy or counseling and fulfill any other condition, as ordered by the court; provided, however, that the court shall revoke the stay of execution and direct the person to be taken into immediate custody if it appears that the person failed to attend or complete the ordered therapy or counseling, or violated any other condition of the stay of execution. If the court finds at the revocation hearing required under section 609.14, subdivision 2, that the person failed to attend or complete the ordered therapy, or violated any other condition of the stay of execution, the court shall order execution of the sentence previously imposed.

Subd. 2. **Felony.** (a) Except as otherwise provided in paragraph (b), in determining an appropriate disposition for felony domestic assault under section 609.2242, subdivision 4, the court shall presume that a stay of execution with at least a 45-day period of incarceration as a condition of probation shall be imposed. If the court imposes a stay of execution with a period of incarceration as a condition of probation, at least 15 days must be served consecutively.

(b) If the defendant's criminal history score, determined according to the Sentencing Guidelines, indicates a presumptive executed sentence, that sentence shall be imposed unless the court departs from the Sentencing Guidelines pursuant to section 244.10. A stay of imposition of sentence under this paragraph may be granted only if accompanied by a statement on the record of the reasons for it.

History: *1996 c 408 art 3 s 23*

609.2244 PRESENTENCE DOMESTIC ABUSE INVESTIGATIONS.

Subdivision 1. **Investigation.** A presentence domestic abuse investigation must be conducted and a report submitted to the court by the corrections agency responsible for conducting the investigation when:

(1) a defendant is convicted of an offense described in section 518B.01, subdivision 2;

(2) a defendant is arrested for committing an offense described in section 518B.01, subdivision 2, but is convicted of another offense arising out of the same circumstances surrounding the arrest; or

(3) a defendant is convicted of a violation against a family or household member of: (a) an order for protection under section 518B.01; (b) a harassment restraining order under section 609.748; (c) section 609.79, subdivision 1; or (d) section 609.713, subdivision 1.

Subd. 2. **Report.** (a) The Department of Corrections shall establish minimum standards for the report, including the circumstances of the offense, impact on the victim, the defendant's prior record, characteristics and history of alcohol and chemical use problems, and amenability to domestic abuse programs. The report is classified as private data on individuals as defined in section 13.02, subdivision 12. Victim impact statements are confidential.

(b) The report must include:

(1) a recommendation on any limitations on contact with the victim and other measures to ensure the victim's safety;

(2) a recommendation for the defendant to enter and successfully complete domestic abuse programming and any aftercare found necessary by the investigation, including a specific recommendation for the defendant to complete a domestic abuse counseling program or domestic abuse educational program under section 518B.02;

(3) a recommendation for chemical dependency evaluation and treatment as determined by the evaluation whenever alcohol or drugs were found to be a contributing factor to the offense;

(4) recommendations for other appropriate remedial action or care or a specific explanation why no level of care or action is recommended; and

(5) consequences for failure to abide by conditions set up by the court.

Subd. 3. **Corrections agents standards; rules; investigation time limits.** A domestic abuse investigation required by this section must be conducted by the local Corrections Department or the commissioner of corrections. The corrections agent shall have access to any police reports or other law enforcement data relating to the current offense or previous offenses that are necessary to complete the evaluation. A corrections agent conducting an investigation under this section may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider. An appointment for the defendant to undergo the investigation must be made by the court, a court services probation officer, or court administrator as soon as possible.

Subd. 4. [Repealed, 1Sp2001 c 8 art 10 s 20]

History: *1996 c 408 art 3 s 24; 1997 c 239 art 7 s 18; 1998 c 367 art 5 s 6,7; 1Sp2001 c 8 art 10 s 12*

609.2245 FEMALE GENITAL MUTILATION; PENALTIES.

Subdivision 1. **Crime.** Except as otherwise permitted in subdivision 2, whoever knowingly circumcises, excises, or infibulates, in whole or in part, the labia majora, labia minora, or clitoris of another is guilty of a felony. Consent to the procedure by a minor on whom it is performed or by the minor's parent is not a defense to a violation of this subdivision.

Subd. 2. **Permitted activities.** A surgical procedure is not a violation of subdivision 1 if the procedure:

(1) is necessary to the health of the person on whom it is performed and is performed by: (i) a physician licensed under chapter 147; (ii) a physician in training under the supervision of a licensed physician; or (iii) a certified nurse midwife practicing within the nurse midwife's legal scope of practice; or

(2) is performed on a person who is in labor or who has just given birth and is performed for medical purposes connected with that labor or birth: (i) by a physician licensed under chapter 147; (ii) a physician in training under the supervision of a licensed physician; or (iii) a certified nurse midwife practicing within the nurse midwife's legal scope of practice.

History: *1994 c 636 art 2 s 22; 1997 c 239 art 3 s 11*

609.2246 TATTOOS; MINORS.

Subdivision 1. **Requirements.** No person under the age of 18 may receive a tattoo unless the person provides written parental consent to the tattoo. The consent must include both the custodial and noncustodial parents, where applicable.

Subd. 2. **Definition.** For the purposes of this section, "tattoo" means an indelible mark or figure fixed on the body by insertion of pigment under the skin or by production of scars.

Subd. 3. **Penalty.** A person who provides a tattoo to a minor in violation of this section is guilty of a misdemeanor.

History: *1996 c 408 art 3 s 25*

609.225 [Repealed, 1979 c 258 s 25]

609.226 HARM CAUSED BY A DOG.

Subdivision 1. **Great or substantial bodily harm.** A person who causes great or substantial bodily harm to another by negligently or intentionally permitting any dog to run uncontrolled off the owner's premises, or negligently failing to keep it properly confined is guilty of a misdemeanor. A person who is convicted of a second or subsequent violation of this section involving the same dog is guilty of a gross misdemeanor.

Subd. 2. **Dangerous dogs.** If the owner of a dangerous dog, as defined under section 347.50, subdivision 2, has been convicted of a misdemeanor under section 347.55, and the same dog causes bodily injury to a person other than the owner, the owner is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

Subd. 3. **Defense.** If proven by a preponderance of the evidence, it shall be an affirmative defense to liability under subdivision 1 or 2 that the victim provoked the dog to cause the victim's bodily harm.

Subd. 4. **Harm to service animal caused by dog; crime, mandatory restitution.** (a) As used in this subdivision, "service animal" means an animal individually trained or being trained to do work or perform tasks for the benefit of an individual with a disability.

(b) A person who negligently or intentionally (1) permits the person's dog to run uncontrolled off the person's premises, or (2) fails to keep the person's dog properly confined or controlled; and as a result the dog causes bodily harm to a service animal or otherwise renders a service animal unable to perform its duties, is guilty of a misdemeanor.

(c) The court shall order a person convicted of violating this subdivision to pay restitution for the costs and expenses resulting from the crime. Costs and expenses include, but are not limited to, the service animal user's loss of income, veterinary expenses, transportation costs, and other expenses of temporary replacement assistance services, and service animal replacement or retraining costs incurred by a school, agency, or individual. If the court finds that the convicted person is indigent, the court may reduce the amount of restitution to a reasonable level or order it paid in installments.

(d) This subdivision does not preclude a person from seeking any available civil remedies for an act that violates this subdivision.

History: *1985 c 294 s 7; 1988 c 711 s 8; 1989 c 37 s 13; 2004 c 159 s 1,2*

609.227 DANGEROUS ANIMALS DESTROYED.

When a person has been charged with a violation of section 609.205, clause (4), or 609.226, subdivision 2 or 3, or a gross misdemeanor violation of section 609.226, subdivision 1, the court shall order that the animal which caused the death or injury be seized by the appropriate local law enforcement agency. The animal shall be killed in a proper and humane manner if the person has been convicted of the crime for which the animal was seized. The owner of the animal shall pay the cost of confining and killing the animal. This section shall not preempt local ordinances with more restrictive provisions.

History: *1985 c 294 s 8; 1988 c 711 s 9*

609.228 GREAT BODILY HARM CAUSED BY DISTRIBUTION OF DRUGS.

Whoever proximately causes great bodily harm by, directly or indirectly, unlawfully selling, giving away, bartering, delivering, exchanging, distributing, or administering a controlled substance classified in schedule I or II may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

History: *1987 c 176 s 3*

609.229 CRIME COMMITTED FOR BENEFIT OF A GANG.

Subdivision 1. **Definition.** As used in this section, "criminal gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, that:

(1) has, as one of its primary activities, the commission of one or more of the offenses listed in section 609.11, subdivision 9;

(2) has a common name or common identifying sign or symbol; and

(3) includes members who individually or collectively engage in or have engaged in a pattern of criminal activity.

Subd. 2. **Crimes.** A person who commits a crime for the benefit of, at the direction of, in association with, or motivated by involvement with a criminal gang, with the intent to promote, further, or assist in criminal conduct by gang members is guilty of a crime and may be sentenced as provided in subdivision 3.

Subd. 3. **Penalty.** (a) If the crime committed in violation of subdivision 2 is a felony, the statutory maximum for the crime is five years longer than the statutory maximum for the underlying crime.

(b) If the crime committed in violation of subdivision 2 is a misdemeanor, the person is guilty of a gross misdemeanor.

(c) If the crime committed in violation of subdivision 2 is a gross misdemeanor, the person is guilty of a felony and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $15,000, or both.

Subd. 4. **Mandatory minimum sentence.** (a) Unless a longer mandatory minimum sentence is otherwise required by law, or the court imposes a longer aggravated durational departure, or a longer prison sentence is presumed under the Sentencing Guidelines and imposed by the court, a person convicted of a crime described in subdivision 3, paragraph (a), shall be committed to the custody of the commissioner of corrections for not less than one year plus one day.

(b) Any person convicted and sentenced as required by paragraph (a) is not eligible for probation, parole, discharge, work release, or supervised release until that person has served the full term of imprisonment as provided by law, notwithstanding the provisions of sections 242.19, 243.05, 244.04, 609.12, and 609.135.

History: *1991 c 279 s 30; 1993 c 326 art 13 s 29; 1998 c 367 art 2 s 9-11*

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 $3,000, or both.

History: *1963 c 753 art 1 s 609.23; 1984 c 628 art 3 s 11*

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 the patient's or resident's

physical detriment may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

History: *1973 c 688 s 9; 1976 c 173 s 60; 1984 c 628 art 3 s 11; 1986 c 444*

609.232 CRIMES AGAINST VULNERABLE ADULTS; DEFINITIONS.

Subdivision 1. **Scope.** As used in sections 609.2325, 609.233, 609.2335, and 609.234, the terms defined in this section have the meanings given.

Subd. 2. **Caregiver.** "Caregiver" means an individual or facility who has responsibility for the care of a vulnerable adult as a result of a family relationship, or who has assumed responsibility for all or a portion of the care of a vulnerable adult voluntarily, by contract, or by agreement.

Subd. 3. **Facility.** (a) "Facility" means a hospital or other entity required to be licensed under sections 144.50 to 144.58; a nursing home required to be licensed to serve adults under section 144A.02; a home care provider licensed or required to be licensed under section 144A.46; a residential or nonresidential facility required to be licensed to serve adults under sections 245A.01 to 245A.16; or a person or organization that exclusively offers, provides, or arranges for personal care assistant services under the medical assistance program as authorized under sections 256B.04, subdivision 16, 256B.0625, subdivision 19a, and 256B.0627.

(b) For home care providers and personal care attendants, the term "facility" refers to the provider or person or organization that exclusively offers, provides, or arranges for personal care services, and does not refer to the client's home or other location at which services are rendered.

Subd. 4. **Immediately.** "Immediately" means as soon as possible, but no longer than 24 hours from the time of initial knowledge that the incident occurred has been received.

Subd. 5. **Legal authority.** "Legal authority" includes, but is not limited to:

(1) a fiduciary obligation recognized elsewhere in law, including pertinent regulations;

(2) a contractual obligation; or

(3) documented consent by a competent person.

Subd. 6. **Maltreatment.** "Maltreatment" means any of the following:

(1) abuse under section 609.2325;

(2) neglect under section 609.233; or

(3) financial exploitation under section 609.2335.

Subd. 7. **Operator.** "Operator" means any person whose duties and responsibilities evidence actual control of administrative activities or authority for the decision making of or by a facility.

Subd. 8. **Person.** "Person" means any individual, corporation, firm, partnership, incorporated and unincorporated association, or any other legal, professional, or commercial entity.

Subd. 9. **Report.** "Report" means a statement concerning all the circumstances surrounding the alleged or suspected maltreatment, as defined in this section, of a vulnerable adult which are known to the reporter at the time the statement is made.

Subd. 10. **Therapeutic conduct.** "Therapeutic conduct" means the provision of program services, health care, or other personal care services done in good faith in the interests of the vulnerable adult by: (1) an individual, facility or employee, or person providing services in a facility under the rights, privileges, and responsibilities conferred by state license, certification, or registration; or (2) a caregiver.

Subd. 11. **Vulnerable adult.** "Vulnerable adult" means any person 18 years of age or older who:

(1) is a resident inpatient of a facility;

(2) receives services at or from a facility required to be licensed to serve adults under sections 245A.01 to 245A.15, except that a person receiving outpatient services

for treatment of chemical dependency or mental illness, or one who is committed as a sexual psychopathic personality or as a sexually dangerous person under chapter 253B, is not considered a vulnerable adult unless the person meets the requirements of clause (4);

(3) receives services from a home care provider required to be licensed under section 144A.46; or from a person or organization that exclusively offers, provides, or arranges for personal care assistant services under the medical assistance program as authorized under sections 256B.04, subdivision 16, 256B.0625, subdivision 19a, and 256B.0627; or

(4) regardless of residence or whether any type of service is received, possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction:

(i) that impairs the individual's ability to provide adequately for the individual's own care without assistance, including the provision of food, shelter, clothing, health care, or supervision; and

(ii) because of the dysfunction or infirmity and the need for assistance, the individual has an impaired ability to protect the individual from maltreatment.

History: *1995 c 229 art 2 s 2*

609.2325 CRIMINAL ABUSE.

Subdivision 1. **Crimes.** (a) A caregiver who, with intent to produce physical or mental pain or injury to a vulnerable adult, subjects a vulnerable adult to any aversive or deprivation procedure, unreasonable confinement, or involuntary seclusion, is guilty of criminal abuse and may be sentenced as provided in subdivision 3.

This paragraph does not apply to therapeutic conduct.

(b) A caregiver, facility staff person, or person providing services in a facility who engages in sexual contact or penetration, as defined in section 609.341, under circumstances other than those described in sections 609.342 to 609.345, with a resident, patient, or client of the facility is guilty of criminal abuse and may be sentenced as provided in subdivision 3.

Subd. 2. **Exemptions.** For the purposes of this section, a vulnerable adult is not abused for the sole reason that:

(1) the vulnerable adult or a person with authority to make health care decisions for the vulnerable adult under sections 144.651, 144A.44, chapter 145B, 145C, or 252A, or sections 253B.03 or 524.5-101 to 524.5-502, refuses consent or withdraws consent, consistent with that authority and within the boundary of reasonable medical practice, to any therapeutic conduct, including any care, service, or procedure to diagnose, maintain, or treat the physical or mental condition of the vulnerable adult or, where permitted under law, to provide nutrition and hydration parenterally or through intubation; this paragraph does not enlarge or diminish rights otherwise held under law by:

(i) a vulnerable adult or a person acting on behalf of a vulnerable adult, including an involved family member, to consent to or refuse consent for therapeutic conduct; or

(ii) a caregiver to offer or provide or refuse to offer or provide therapeutic conduct;

(2) the vulnerable adult, a person with authority to make health care decisions for the vulnerable adult, or a caregiver in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the vulnerable adult in lieu of medical care, provided that this is consistent with the prior practice or belief of the vulnerable adult or with the expressed intentions of the vulnerable adult; or

(3) the vulnerable adult, who is not impaired in judgment or capacity by mental or emotional dysfunction or undue influence, engages in consensual sexual contact with: (i) a person, including a facility staff person, when a consensual sexual personal relationship existed prior to the caregiving relationship; or (ii) a personal care

attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship.

Subd. 3. **Penalties.** (a) A person who violates subdivision 1, paragraph (a), may be sentenced as follows:

(1) if the act results in the death of a vulnerable adult, imprisonment for not more than 15 years or payment of a fine of not more than $30,000, or both;

(2) if the act results in great bodily harm, imprisonment for not more than ten years or payment of a fine of not more than $20,000, or both;

(3) if the act results in substantial bodily harm or the risk of death, imprisonment for not more than five years or payment of a fine of not more than $10,000, or both; or

(4) in other cases, imprisonment for not more than one year or payment of a fine of not more than $3,000, or both.

(b) A person who violates subdivision 1, paragraph (b), may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

History: *1995 c 229 art 2 s 3; 1996 c 408 art 10 s 11; 2004 c 146 art 3 s 43*

609.233 CRIMINAL NEGLECT.

Subdivision 1. **Crime.** A caregiver or operator who intentionally neglects a vulnerable adult or knowingly permits conditions to exist that result in the abuse or neglect of a vulnerable adult is guilty of a gross misdemeanor. For purposes of this section, "abuse" has the meaning given in section 626.5572, subdivision 2, and "neglect" means a failure to provide a vulnerable adult with necessary food, clothing, shelter, health care, or supervision.

Subd. 2. **Exemptions.** A vulnerable adult is not neglected for the sole reason that:

(1) the vulnerable adult or a person with authority to make health care decisions for the vulnerable adult under sections 144.651, 144A.44, 253B.03, or 524.5-101 to 524.5-502, or chapter 145B, 145C, or 252A, refuses consent or withdraws consent, consistent with that authority and within the boundary of reasonable medical practice, to any therapeutic conduct, including any care, service, or procedure to diagnose, maintain, or treat the physical or mental condition of the vulnerable adult or, where permitted under law, to provide nutrition and hydration parenterally or through intubation; this paragraph does not enlarge or diminish rights otherwise held under law by:

(i) a vulnerable adult or a person acting on behalf of a vulnerable adult, including an involved family member, to consent to or refuse consent for therapeutic conduct; or

(ii) a caregiver to offer or provide or refuse to offer or provide therapeutic conduct;

(2) the vulnerable adult, a person with authority to make health care decisions for the vulnerable adult, or a caregiver in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the vulnerable adult in lieu of medical care, provided that this is consistent with the prior practice or belief of the vulnerable adult or with the expressed intentions of the vulnerable adult; or

(3) the vulnerable adult, who is not impaired in judgment or capacity by mental or emotional dysfunction or undue influence, engages in consensual sexual contact with: (i) a person including a facility staff person when a consensual sexual personal relationship existed prior to the caregiving relationship; or (ii) a personal care attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship.

History: *1995 c 229 art 2 s 4; 2004 c 146 art 3 s 44*

609.2335 FINANCIAL EXPLOITATION OF A VULNERABLE ADULT.

Subdivision 1. **Crime.** Whoever does any of the following acts commits the crime of financial exploitation:

(1) in breach of a fiduciary obligation recognized elsewhere in law, including pertinent regulations, contractual obligations, documented consent by a competent person, or the obligations of a responsible party under section 144.6501 intentionally fails to use the financial resources of the vulnerable adult to provide food, clothing, shelter, health care, therapeutic conduct, or supervision for the vulnerable adult; or

(2) in the absence of legal authority:

(i) acquires possession or control of an interest in funds or property of a vulnerable adult through the use of undue influence, harassment, or duress; or

(ii) forces, compels, coerces, or entices a vulnerable adult against the vulnerable adult's will to perform services for the profit or advantage of another.

Subd. 2. **Defenses.** Nothing in this section requires a facility or caregiver to provide financial management or supervise financial management for a vulnerable adult except as otherwise required by law.

Subd. 3. **Criminal penalties.** A person who violates subdivision 1, clause (1) or (2), item (i), may be sentenced as provided in section 609.52, subdivision 3. A person who violates subdivision 1, clause (2), item (ii), may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

History: *1995 c 229 art 2 s 5*

609.2336 DECEPTIVE OR UNFAIR TRADE PRACTICES; ELDERLY OR HANDICAPPED VICTIMS.

Subdivision 1. **Definitions.** As used in this section:

(1) "charitable solicitation law violation" means a violation of sections 309.50 to 309.61;

(2) "consumer fraud law violation" means a violation of sections 325F.68 to 325F.70;

(3) "deceptive trade practices law violation" means a violation of sections 325D.43 to 325D.48;

(4) "false advertising law violation" means a violation of section 325F.67;

(5) "handicapped person" means a person who has an impairment of physical or mental function or emotional status that substantially limits one or more major life activities;

(6) "major life activities" means functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working; and

(7) "senior citizen" means a person who is 65 years of age or older.

Subd. 2. **Crime.** It is a gross misdemeanor for any person to commit a charitable solicitation law violation, a consumer fraud law violation, a deceptive trade practices law violation, or a false advertising law violation if the person knows or has reason to know that the person's conduct:

(1) is directed at one or more handicapped persons or senior citizens; and

(2) will cause or is likely to cause a handicapped person or a senior citizen to suffer loss or encumbrance of a primary residence, principal employment or other major source of income, substantial loss of property set aside for retirement or for personal or family care and maintenance, substantial loss of pension, retirement plan, or government benefits, or substantial loss of other assets essential to the victim's health or welfare.

Subd. 3. **Prosecutorial jurisdiction.** The attorney general has statewide jurisdiction to prosecute violations of this section. This jurisdiction is concurrent with that of the

local prosecuting authority responsible for prosecuting gross misdemeanors in the place where the violation was committed.

History: *1997 c 239 art 3 s 12*

609.234 FAILURE TO REPORT.

Subdivision 1. **Crime.** Any mandated reporter who is required to report under section 626.557, who knows or has reason to believe that a vulnerable adult is being or has been maltreated, as defined in section 626.5572, subdivision 15, and who does any of the following is guilty of a misdemeanor:

(1) intentionally fails to make a report;

(2) knowingly provides information which is false, deceptive, or misleading; or

(3) intentionally fails to provide all of the material circumstances surrounding the incident which are known to the reporter when the report is made.

Subd. 2. **Increased penalty.** It is a gross misdemeanor for a person who is mandated to report under section 626.557, who knows or has reason to believe that a vulnerable adult is being or has been maltreated, as defined in section 626.5572, subdivision 15, to intentionally fail to make a report if:

(1) the person knows the maltreatment caused or contributed to the death or great bodily harm of a vulnerable adult; and

(2) the failure to report causes or contributes to the death or great bodily harm of a vulnerable adult or protects the mandated reporter's interests.

History: *1995 c 229 art 2 s 6*

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 $10,000, or both.

History: *1963 c 753 art 1 s 609.235; 1984 c 628 art 3 s 11*

609.24 SIMPLE ROBBERY.

Whoever, having knowledge of not being 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 the person's 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 $20,000, or both.

History: *1963 c 753 art 1 s 609.24; 1984 c 628 art 3 s 11; 1986 c 444*

609.245 AGGRAVATED ROBBERY.

Subdivision 1. **First degree.** Whoever, while committing a robbery, is armed with a dangerous weapon or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a dangerous weapon, or inflicts bodily harm upon another, is guilty of aggravated robbery 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 $35,000, or both.

Subd. 2. **Second degree.** Whoever, while committing a robbery, implies, by word or act, possession of a dangerous weapon, is guilty of aggravated robbery 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 $30,000, or both.

History: *1963 c 753 art 1 s 609.245; 1984 c 628 art 3 s 11; 1988 c 712 s 5; 1994 c 636 art 2 s 23*

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 the person's consent or, if the person is under the age of 16 years, without the consent of the person's 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 $35,000, or both; or

(2) if the victim is not released in a safe place, or if the victim suffers great bodily harm during the course of the kidnapping, or if the person kidnapped is under the age of 16, to imprisonment for not more than 40 years or to payment of a fine of not more than $50,000, or both.

History: *1963 c 753 art 1 s 609.25; 1979 c 258 s 8; 1984 c 628 art 3 s 11; 1986 c 444; 1994 c 636 art 2 s 24*

609.251 DOUBLE JEOPARDY; KIDNAPPING.

Notwithstanding section 609.04, a prosecution for or conviction of the crime of kidnapping is not a bar to conviction of or punishment for any other crime committed during the time of the kidnapping.

History: *1983 c 139 s 2; 1993 c 326 art 4 s 16*

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, knowingly lacking lawful authority to do so, intentionally confines or restrains someone else's child under the age of 18 years without consent of the child's parent or legal custodian, or any other person without the person's 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 $5,000, 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, 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 $3,000, or both. If the confinement or restraint results in substantial bodily harm, that person may be sentenced to imprisonment for not more than five years or to payment of not more than $10,000, or both.

History: *1963 c 753 art 1 s 609.255; 1983 c 217 s 2; 1984 c 628 art 3 s 11; 1986 c 444; 1988 c 655 s 1; 1989 c 290 art 6 s 12*

609.26 DEPRIVING ANOTHER OF CUSTODIAL OR PARENTAL RIGHTS.

Subdivision 1. **Prohibited acts.** Whoever intentionally does any of the following acts may be charged with a felony and, upon conviction, may be sentenced as provided in subdivision 6:

(1) conceals a minor child from the child's parent where the action manifests an intent substantially to deprive that parent of parental rights or conceals a minor child from another person having the right to parenting time or custody where the action manifests an intent to substantially deprive that person of rights to parenting time or custody;

(2) takes, obtains, retains, or fails to return a minor child in violation of a court order which has transferred legal custody under chapter 260, 260B, or 260C to the commissioner of human services, a child-placing agency, or the local social services agency;

(3) takes, obtains, retains, or fails to return a minor child from or to the parent in violation of a court order, where the action manifests an intent substantially to deprive that parent of rights to parenting time or custody;

(4) takes, obtains, retains, or fails to return a minor child from or to a parent after commencement of an action relating to child parenting time or custody but prior to the issuance of an order determining custody or parenting time rights, where the action manifests an intent substantially to deprive that parent of parental rights;

(5) retains a child in this state with the knowledge that the child was removed from another state in violation of any of the above provisions;

(6) refuses to return a minor child to a parent or lawful custodian and is at least 18 years old and more than 24 months older than the child;

(7) causes or contributes to a child being a habitual truant as defined in section 260C.007, subdivision 19, and is at least 18 years old and more than 24 months older than the child;

(8) causes or contributes to a child being a runaway as defined in section 260C.007, subdivision 28, and is at least 18 years old and more than 24 months older than the child; or

(9) is at least 18 years old and resides with a minor under the age of 16 without the consent of the minor's parent or lawful custodian.

Subd. 2. **Defenses.** It is an affirmative defense if a person charged under subdivision 1 proves that:

(1) the person reasonably believed the action taken was necessary to protect the child from physical or sexual assault or substantial emotional harm;

(2) the person reasonably believed the action taken was necessary to protect the person taking the action from physical or sexual assault;

(3) the action taken is consented to by the parent, stepparent, or legal custodian seeking prosecution, but consent to custody or specific parenting time is not consent to the action of failing to return or concealing a minor child; or

(4) the action taken is otherwise authorized by a court order issued prior to the violation of subdivision 1.

The defenses provided in this subdivision are in addition to and do not limit other defenses available under this chapter or chapter 611.

Subd. 2a. **Original intent clarified.** To the extent that it states that subdivision 2 creates affirmative defenses to a charge under this section, subdivision 2 clarifies the original intent of the legislature in enacting Laws 1984, chapter 484, section 2, and does not change the substance of this section. Subdivision 2 does not modify or alter any convictions entered under this section before August 1, 1988.

Subd. 3. **Venue.** A person who violates this section may be prosecuted and tried either in the county in which the child was taken, concealed, or detained or in the county of lawful residence of the child.

Subd. 4. **Return of child; costs.** A child who has been concealed, obtained, or retained in violation of this section shall be returned to the person having lawful custody of the child or shall be taken into custody pursuant to section 260C.175, subdivision 1, paragraph (b), clause (2). In addition to any sentence imposed, the court may assess any expense incurred in returning the child against any person convicted of violating this section. The court may direct the appropriate county welfare agency to provide counseling services to a child who has been returned pursuant to this subdivision.

Subd. 5. **Dismissal of charge.** A felony charge brought under this section shall be dismissed if:

(a) the person voluntarily returns the child within 48 hours after taking, detaining, or failing to return the child in violation of this section; or

(b)(1) the person taking the action and the child have not left the state of Minnesota; and (2) within a period of seven days after taking the action, (i) a motion or proceeding under chapter 518, 518B, 518C, or 518D is commenced by the person taking the action, or (ii) the attorney representing the person taking the action has consented to service of process by the party whose rights are being deprived, for any motion or action pursuant to chapter 518, 518A, 518B, or 518C.

Clause (a) does not apply if the person returns the child as a result of being located by law enforcement authorities.

This subdivision does not prohibit the filing of felony charges or an offense report before the expiration of the 48 hours.

Subd. 6. **Penalty.** (a) Except as otherwise provided in paragraph (b) and subdivision 5, whoever violates this section may be sentenced as follows:

(1) to imprisonment for not more than two years or to payment of a fine of not more than $4,000, or both; or

(2) to imprisonment for not more than four years or to payment of a fine of not more than $8,000, or both, if the court finds that:

(i) the defendant committed the violation while possessing a dangerous weapon or caused substantial bodily harm to effect the taking;

(ii) the defendant abused or neglected the child during the concealment, detention, or removal of the child;

(iii) the defendant inflicted or threatened to inflict physical harm on a parent or lawful custodian of the child or on the child with intent to cause the parent or lawful custodian to discontinue criminal prosecution;

(iv) the defendant demanded payment in exchange for return of the child or demanded to be relieved of the financial or legal obligation to support the child in exchange for return of the child; or

(v) the defendant has previously been convicted under this section or a similar statute of another jurisdiction.

(b) A violation of subdivision 1, clause (7), is a gross misdemeanor. The county attorney shall prosecute violations of subdivision 1, clause (7).

Subd. 7. **Reporting of deprivation of parental rights.** Any violation of this section shall be reported pursuant to section 626.556, subdivision 3a.

History: *1963 c 753 art 1 s 609.26; 1967 c 570 s 1; 1979 c 263 s 1; 1984 c 484 s 2; 1984 c 654 art 5 s 58; 1985 c 227 s 1,2; 1986 c 444; 1986 c 445 s 1,2; 1986 c 463 s 4,5; 1987 c 246 s 1-3; 1988 c 523 s 1; 1989 c 290 art 7 s 3,4; 1991 c 285 s 10; 1994 c 631 s 31; 1994 c 636 art 2 s 25,26; 1999 c 86 art 1 s 78; 1999 c 139 art 4 s 2; 2000 c 444 art 2 s 45,46; 2001 c 178 art 1 s 44; 2002 c 379 art 1 s 105*

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 $3,000, or both.

History: *1963 c 753 art 1 s 609.265; 1984 c 628 art 3 s 11*

CRIMES AGAINST UNBORN CHILDREN

609.266 DEFINITIONS.

The definitions in this subdivision apply to sections 609.21, subdivisions 3 and 4, and 609.2661 to 609.2691:

(a) "Unborn child" means the unborn offspring of a human being conceived, but not yet born.

(b) "Whoever" does not include the pregnant woman.

History: *1986 c 388 s 5*

609.2661 MURDER OF AN UNBORN CHILD IN THE FIRST DEGREE.

Whoever does any of the following is guilty of murder of an unborn child in the first degree and must be sentenced to imprisonment for life:

(1) causes the death of an unborn child with premeditation and with intent to effect the death of the unborn child or of another;

(2) causes the death of an unborn child while committing or attempting to commit criminal sexual conduct in the first or second degree with force or violence, either upon or affecting the mother of the unborn child or another; or

(3) causes the death of an unborn child with intent to effect the death of the unborn child or another while committing or attempting to commit burglary, aggravated robbery, kidnapping, arson in the first or second degree, tampering with a witness in the first degree, or escape from custody.

History: *1986 c 388 s 6*

609.2662 MURDER OF AN UNBORN CHILD IN THE SECOND DEGREE.

Whoever does either of the following is guilty of murder of an unborn child in the second degree and may be sentenced to imprisonment for not more than 40 years:

(1) causes the death of an unborn child with intent to effect the death of that unborn child or another, but without premeditation; or

(2) causes the death of an unborn child, without intent to effect the death of any unborn child or person, while committing or attempting to commit a felony offense other than criminal sexual conduct in the first or second degree with force or violence.

History: *1986 c 388 s 7*

609.2663 MURDER OF AN UNBORN CHILD IN THE THIRD DEGREE.

Whoever, without intent to effect the death of any unborn child or person, causes the death of an unborn child by perpetrating an act eminently dangerous to others and evincing a depraved mind, without regard for human or fetal life, is guilty of murder of an unborn child in the third degree and may be sentenced to imprisonment for not more than 25 years.

History: *1986 c 388 s 8*

609.2664 MANSLAUGHTER OF AN UNBORN CHILD IN THE FIRST DEGREE.

Whoever does any of the following is guilty of manslaughter of an unborn child 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 $30,000, or both:

(1) intentionally causes the death of an unborn child 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;

(2) causes the death of an unborn child in committing or attempting to commit a misdemeanor or gross misdemeanor offense with such force or violence that death of or great bodily harm to any person or unborn child was reasonably foreseeable, and murder of an unborn child in the first or second degree was not committed thereby; or

(3) intentionally causes the death of an unborn child because the actor is coerced by threats made by someone other than the actor's coconspirator and which cause the actor to reasonably believe that the act performed by the actor is the only means of preventing imminent death to the actor or another.

History: *1986 c 388 s 9; 1986 c 444*

609.2665 MANSLAUGHTER OF AN UNBORN CHILD IN THE SECOND DEGREE.

A person who causes the death of an unborn child by any of the following means is guilty of manslaughter of an unborn child 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 $20,000, or both:

(1) by the actor's culpable negligence whereby the actor creates an unreasonable risk and consciously takes chances of causing death or great bodily harm to an unborn child or a person;

(2) by shooting the mother of the unborn child with a firearm or other dangerous weapon as a result of negligently believing her to be a deer or other animal;

(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 the person to have vicious propensities or to have caused great or substantial bodily harm in the past, to run uncontrolled off the owner's premises, or negligently failing to keep it properly confined.

If proven by a preponderance of the evidence, it shall be an affirmative defense to criminal liability under clause (4) that the mother of the unborn child provoked the animal to cause the unborn child's death.

History: *1986 c 388 s 10; 1989 c 290 art 6 s 13*

609.267 ASSAULT OF AN UNBORN CHILD IN THE FIRST DEGREE.

Whoever assaults a pregnant woman and inflicts great bodily harm on an unborn child who is subsequently born alive may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than $30,000, or both.

History: *1986 c 388 s 11; 1989 c 290 art 6 s 14*

609.2671 ASSAULT OF AN UNBORN CHILD IN THE SECOND DEGREE.

Whoever assaults a pregnant woman and inflicts substantial bodily harm on an unborn child who is subsequently born alive may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

As used in this section, "substantial bodily harm" includes the birth of the unborn child prior to 37 weeks gestation if the child weighs 2,500 grams or less at the time of birth. "Substantial bodily harm" does not include the inducement of the unborn child's birth when done for bona fide medical purposes.

History: *1986 c 388 s 12; 1989 c 20 s 1*

609.2672 ASSAULT OF AN UNBORN CHILD IN THE THIRD DEGREE.

Whoever does any of the following commits an assault of an unborn child in the third degree and is guilty of a misdemeanor:

(1) commits an act with intent to cause fear in a pregnant woman of immediate bodily harm or death to the unborn child; or

(2) intentionally inflicts or attempts to inflict bodily harm on an unborn child who is subsequently born alive.

History: *1986 c 388 s 13*

609.268 INJURY OR DEATH OF AN UNBORN CHILD IN COMMISSION OF CRIME.

Subdivision 1. **Death of an unborn child.** Whoever, in the commission of a felony or in a violation of section 609.224, 609.2242, 609.23, 609.231, 609.2325, or 609.233, causes the death of an unborn child is guilty of a felony and may be sentenced to imprisonment for not more than 15 years or to payment of a fine not more than $30,000, or both. As used in this subdivision, "felony" does not include a violation of sections 609.185 to 609.21, 609.221 to 609.2231, or 609.2661 to 609.2665.

Subd. 2. **Injury to an unborn child.** Whoever, in the commission of a felony or in a violation of section 609.23, 609.231, 609.2325 or 609.233, causes great or substantial bodily harm to an unborn child who is subsequently born alive, is guilty of a felony and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both. As used in this subdivision, "felony" does not include a violation of sections 609.21, 609.221 to 609.2231, or 609.267 to 609.2672.

History: *1986 c 388 s 14; 1995 c 229 art 4 s 17,18; 1995 c 259 art 3 s 16*

609.269 EXCEPTION.

Sections 609.2661 to 609.268 do not apply to any act described in section 145.412.

History: *1986 c 388 s 15*

609.2691 OTHER CONVICTIONS NOT BARRED.

Notwithstanding section 609.04, a prosecution for or conviction under sections 609.2661 to 609.268 is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

History: *1986 c 388 s 16*

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 the other's 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 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 $1,000, 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 $10,000, 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 $20,000, or both, if such pecuniary gain or loss is $2,500, or more.

History: *1963 c 753 art 1 s 609.27; 1971 c 23 s 40; 1977 c 355 s 7; 1983 c 359 s 87; 1984 c 628 art 3 s 11; 1986 c 444; 2004 c 228 art 1 s 72*

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.

History: *1963 c 753 art 1 s 609.275*

609.28 INTERFERING WITH RELIGIOUS OBSERVANCE.

Subdivision 1. **Interference.** Whoever, by threats or violence, intentionally prevents another person from performing any lawful act enjoined upon or recommended to the person by the religion which the person professes is guilty of a misdemeanor.

Subd. 2. **Physical interference prohibited.** A person is guilty of a gross misdemeanor who intentionally and physically obstructs any individual's access to or egress from a religious establishment. This subdivision does not apply to the exclusion of a person from the establishment at the request of an official of the religious organization.

Subd. 3. **Definition.** For purposes of subdivision 2, a "religious establishment" is a building used for worship services by a religious organization and clearly identified as such by a posted sign or other means.

History: *1963 c 753 art 1 s 609.28; 1971 c 23 s 41; 1986 c 444; 1994 c 636 art 2 s 27*

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 $3,000, or both.

History: *1967 c 507 s 4; 1977 c 130 s 4; 1984 c 628 art 3 s 11*

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 the person may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000 or both.

History: *1967 c 507 s 5; 1971 c 23 s 42; 1984 c 628 art 3 s 11; 1986 c 444*

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 $4,000, or both.

History: *1967 c 507 s 8; 1984 c 628 art 3 s 11*

609.32 [Repealed, 1979 c 255 s 9]

609.321 PROSTITUTION; DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of sections 609.321 to 609.324, the following terms have the meanings given.

Subd. 2. **Business of prostitution.** "Business of prostitution" means any arrangement between or organization of two or more persons, acting other than as prostitutes or patrons, who commit acts punishable under sections 609.321 to 609.324.

Subd. 3. [Repealed, 1998 c 367 art 2 s 33]

Subd. 4. **Patron.** "Patron" means an individual who hires or offers or agrees to hire another individual to engage in sexual penetration or sexual contact.

Subd. 5. **Place of prostitution.** "Place of prostitution" means a house or other place where prostitution is practiced.

Subd. 6. [Repealed, 1998 c 367 art 2 s 33]

Subd. 7. **Promotes the prostitution of an individual.** "Promotes the prostitution of an individual" means any of the following wherein the person knowingly:

(1) solicits or procures patrons for a prostitute; or

(2) provides, leases or otherwise permits premises or facilities owned or controlled by the person to aid the prostitution of an individual; or

(3) owns, manages, supervises, controls, keeps or operates, either alone or with others, a place of prostitution to aid the prostitution of an individual; or

(4) owns, manages, supervises, controls, operates, institutes, aids or facilitates, either alone or with others, a business of prostitution to aid the prostitution of an individual; or

(5) admits a patron to a place of prostitution to aid the prostitution of an individual; or

(6) transports an individual from one point within this state to another point either within or without this state, or brings an individual into this state to aid the prostitution of the individual.

Subd. 8. **Prostitute.** "Prostitute" means an individual who engages in prostitution.

Subd. 9. **Prostitution.** "Prostitution" means engaging or offering or agreeing to engage for hire in sexual penetration or sexual contact.

Subd. 10. **Sexual contact.** "Sexual contact" means any of the following acts, if the acts can reasonably be construed as being for the purpose of satisfying the actor's sexual impulses:

(i) the intentional touching by an individual of a prostitute's intimate parts; or

(ii) the intentional touching by a prostitute of another individual's intimate parts.

Subd. 11. **Sexual penetration.** "Sexual penetration" means any of the following acts, if for the purpose of satisfying sexual impulses: sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion however slight into the genital or anal openings of an individual's body by any part of another individual's body or any object used for the purpose of satisfying sexual impulses. Emission of semen is not necessary.

Subd. 12. **Public place.** A "public place" means a public street or sidewalk, a pedestrian skyway system as defined in section 469.125, subdivision 4, a hotel, motel, or other place of public accommodation, or a place licensed to sell intoxicating liquor, wine, nonintoxicating malt beverages, or food.

History: *1979 c 255 s 1; 1986 c 444; 1987 c 291 s 242*

609.322 SOLICITATION, INDUCEMENT, AND PROMOTION OF PROSTITUTION.

Subdivision 1. **Individuals under age 18.** Whoever, while acting other than as a prostitute or patron, intentionally does any of the following may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than $40,000, or both:

(1) solicits or induces an individual under the age of 18 years to practice prostitution;

(2) promotes the prostitution of an individual under the age of 18 years; or

(3) receives profit, knowing or having reason to know that it is derived from the prostitution, or the promotion of the prostitution, of an individual under the age of 18 years.

Subd. 1a. **Other offenses.** Whoever, while acting other than as a prostitute or patron, intentionally does any of the following may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than $30,000, or both:

(1) solicits or induces an individual to practice prostitution; or

(2) promotes the prostitution of an individual; or

(3) receives profit, knowing or having reason to know that it is derived from the prostitution, or the promotion of the prostitution, of an individual.

Subd. 1b. **Exceptions.** Subdivisions 1, clause (3), and 1a, clause (3), do not apply to:

(1) a minor who is dependent on an individual acting as a prostitute and who may have benefited from or been supported by the individual's earnings derived from prostitution; or

(2) a parent over the age of 55 who is dependent on an individual acting as a prostitute, who may have benefited from or been supported by the individual's earnings derived from prostitution, and who did not know that the earnings were derived from prostitution; or

(3) the sale of goods or services to a prostitute in the ordinary course of a lawful business.

Subd. 1c. **Aggregation of cases.** Acts by the defendant in violation of any one or more of the provisions in this section within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this section; provided that when two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this paragraph.

Subd. 2. [Repealed, 1998 c 367 art 2 s 33]

Subd. 3. [Repealed, 1998 c 367 art 2 s 33]

History: *1979 c 255 s 2; 1984 c 628 art 3 s 11; 1986 c 448 s 2; 1992 c 571 art 4 s 9; 1998 c 367 art 2 s 12-14; 2000 c 431 s 2; 1Sp2003 c 2 art 10 s 1*

609.323 [Repealed, 1998 c 367 art 2 s 33]

609.3232 PROTECTIVE ORDER AUTHORIZED; PROCEDURES; PENALTIES.

Subdivision 1. **Order for protection.** Any parent or guardian who knows or has reason to believe that a person, while acting as other than a prostitute or patron, is inducing, coercing, soliciting, or promoting the prostitution of the parent or guardian's minor child, or is offering or providing food, shelter, or other subsistence for the

purpose of enabling the parent or guardian's minor child to engage in prostitution, may seek an order for protection in the manner provided in this section.

Subd. 2. **Court jurisdiction.** An application for relief under this section shall be filed in the juvenile court. Actions under this section shall be given docket priority by the court.

Subd. 3. **Contents of petition.** A petition for relief shall allege the existence of a circumstance or circumstances described in subdivision 1, and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought. The court shall provide simplified forms and clerical assistance to help with the writing and filing of a petition under this section.

Subd. 4. **Hearing on application; notice.** (a) Upon receipt of the petition, the court shall order a hearing which shall be held no later than 14 days from the date of the order. Personal service shall be made upon the respondent not less than five days before the hearing. In the event that personal service cannot be completed in time to give the respondent the minimum notice required under this paragraph, the court may set a new hearing date.

(b) Notwithstanding the provisions of paragraph (a), service may be made by one week published notice, as provided under section 645.11, provided the petitioner files with the court an affidavit stating that an attempt at personal service made by a sheriff was unsuccessful because the respondent is avoiding service by concealment or otherwise, and that a copy of the petition and notice of hearing has been mailed to the respondent at the respondent's residence or that the residence is not known to the petitioner. Service under this paragraph is complete seven days after publication. The court shall set a new hearing date if necessary to allow the respondent the five-day minimum notice required under paragraph (a).

Subd. 5. **Relief by the court.** Upon notice and hearing, the court may order the respondent to return the minor child to the residence of the child's parents or guardian, and may order that the respondent cease and desist from committing further acts described in subdivision 1 and cease to have further contact with the minor child. Any relief granted by the court in the order for protection shall be for a fixed period of time determined by the court.

Subd. 6. **Service of order.** Any order issued under this section shall be served personally on the respondent. Upon the request of the petitioner, the court shall order the sheriff to assist in the execution or service of the order for protection.

Subd. 7. **Violation of order for protection.** (a) A violation of an order for protection shall constitute contempt of court and be subject to the penalties provided under chapter 588.

(b) Any person who willfully fails to return a minor child as required by an order for protection issued under this section commits an act which manifests an intent substantially to deprive the parent or guardian of custodial rights within the meaning of section 609.26, clause (3).

History: *1986 c 448 s 4*

609.324 OTHER PROSTITUTION CRIMES; PATRONS, PROSTITUTES, AND INDIVIDUALS HOUSING INDIVIDUALS ENGAGED IN PROSTITUTION; PENALTIES.

Subdivision 1. **Engaging in, hiring, or agreeing to hire a minor to engage in prostitution; penalties.** (a) Whoever intentionally does any of the following may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than $40,000, or both:

(1) engages in prostitution with an individual under the age of 13 years; or

(2) hires or offers or agrees to hire an individual under the age of 13 years to engage in sexual penetration or sexual contact.

(b) 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 $20,000, or both:

(1) engages in prostitution with an individual under the age of 16 years but at least 13 years; or

(2) hires or offers or agrees to hire an individual under the age of 16 years but at least 13 years to engage in sexual penetration or sexual contact.

(c) 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 $10,000, or both:

(1) engages in prostitution with an individual under the age of 18 years but at least 16 years; or

(2) hires or offers or agrees to hire an individual under the age of 18 years but at least 16 years to engage in sexual penetration or sexual contact.

Subd. 1a. **Housing an unrelated minor engaged in prostitution; penalties.** Any person, other than one related by blood, adoption, or marriage to the minor, who permits a minor to reside, temporarily or permanently, in the person's dwelling without the consent of the minor's parents or guardian, knowing or having reason to know that the minor is engaging in prostitution may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both; except that, this subdivision does not apply to residential placements made, sanctioned, or supervised by a public or private social service agency.

Subd. 2. **Solicitation or acceptance of solicitation to engage in prostitution; penalty.** Whoever solicits or accepts a solicitation to engage for hire in sexual penetration or sexual contact while in a public place may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000 or both. Except as otherwise provided in subdivision 4, a person who is convicted of violating this subdivision while acting as a patron must, at a minimum, be sentenced to pay a fine of at least $1,500.

Subd. 3. **Engaging in, hiring, or agreeing to hire an adult to engage in prostitution; penalties.** Whoever intentionally does any of the following may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than $1,000, or both:

(1) engages in prostitution with an individual 18 years of age or above; or

(2) hires or offers or agrees to hire an individual 18 years of age or above to engage in sexual penetration or sexual contact. Except as otherwise provided in subdivision 4, a person who is convicted of violating clause (1) or (2) while acting as a patron must, at a minimum, be sentenced to pay a fine of at least $500.

Whoever violates the provisions of this subdivision within two years of a previous conviction may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both. Except as otherwise provided in subdivision 4, a person who is convicted of a gross misdemeanor violation of this subdivision while acting as a patron, must, at a minimum, be sentenced as follows:

(1) to pay a fine of at least $1,500; and

(2) to serve 20 hours of community work service.

The court may waive the mandatory community work service if it makes specific, written findings that the community work service is not feasible or appropriate under the circumstances of the case.

Subd. 4. **Community service in lieu of minimum fine.** The court may order a person convicted of violating subdivision 2 or 3 to perform community work service in lieu of all or a portion of the minimum fine required under those subdivisions if the court makes specific, written findings that the convicted person is indigent or that payment of the fine would create undue hardship for the convicted person or that person's immediate family. Community work service ordered under this subdivision is in addition to any mandatory community work service ordered under subdivision 3.

Subd. 5. **Use of motor vehicle to patronize prostitutes; driving record notation.** When a court sentences a person convicted of violating this section while acting as a patron, the court shall determine whether the person used a motor vehicle during the

commission of the offense. If the court finds that the person used a motor vehicle during the commission of the offense, it shall forward its finding to the commissioner of public safety who shall record the finding on the person's driving record. The finding is classified as private data on individuals, as defined in section 13.02, subdivision 12.

History: *1979 c 255 s 4; 1984 c 628 art 3 s 11; 1986 c 448 s 5,6; 1990 c 463 s 1-4; 1Sp2003 c 2 art 10 s 5; 2004 c 228 art 1 s 72*

609.3241 PENALTY ASSESSMENT AUTHORIZED.

When a court sentences an adult convicted of violating section 609.322 or 609.324, while acting other than as a prostitute, the court shall impose an assessment of not less than $250 and not more than $500 for a violation of section 609.324, subdivision 2, or a misdemeanor violation of section 609.324, subdivision 3; otherwise the court shall impose an assessment of not less than $500 and not more than $1,000. The mandatory minimum portion of the assessment is to be used for the purposes described in section 626.558, subdivision 2a, and is in addition to the surcharge required by section 357.021, subdivision 6. Any portion of the assessment imposed in excess of the mandatory minimum amount shall be forwarded to the general fund and is appropriated annually to the commissioner of public safety. The commissioner, with the assistance of the General Crime Victims Advisory Council, shall use money received under this section for grants to agencies that provide assistance to individuals who have stopped or wish to stop engaging in prostitution. Grant money may be used to provide these individuals with medical care, child care, temporary housing, and educational expenses.

History: *1986 c 448 s 7; 1990 c 463 s 5; 1994 c 636 art 2 s 28; 1998 c 367 art 2 s 32; art 8 s 11; 1Sp2003 c 2 art 10 s 2*

609.3242 PROSTITUTION CRIMES COMMITTED IN SCHOOL OR PARK ZONES; INCREASED PENALTIES.

Subdivision 1. **Definitions.** As used in this section:

(1) "park zone" has the meaning given in section 152.01, subdivision 12a; and

(2) "school zone" has the meaning given in section 152.01, subdivision 14a, and also includes school bus stops established by a school board under section 123B.88, while school children are waiting for the bus.

Subd. 2. **Increased penalties.** Any person who commits a violation of section 609.324 while acting other than as a prostitute while in a school or park zone may be sentenced as follows:

(1) if the crime committed is a felony, the statutory maximum for the crime is three years longer than the statutory maximum for the underlying crime;

(2) if the crime committed is a gross misdemeanor, the person is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than $4,000, or both; and

(3) if the crime committed is a misdemeanor, the person is guilty of a gross misdemeanor.

History: *1998 c 367 art 2 s 15; 1998 c 397 art 11 s 3*

609.325 DEFENSES.

Subdivision 1. **No defense; solicited; not engaged.** It shall be no defense to a prosecution under section 609.322 that an individual solicited or induced to practice prostitution or whose prostitution was promoted, did not actually engage in prostitution.

Subd. 2. **Consent no defense.** Consent or mistake as to age shall be no defense to prosecutions under section 609.322 or 609.324.

Subd. 3. **No defense; prior prostitution.** It shall be no defense to actions under section 609.322 that the individual solicited or induced to practice prostitution, or

whose prostitution was promoted, had engaged in prostitution prior to that solicitation, inducement, or promotion.

History: *1979 c 255 s 5; 1994 c 636 art 2 s 29; 1998 c 367 art 2 s 32*

609.326 EVIDENCE.

The marital privilege provided for in section 595.02 shall not apply in any proceeding under section 609.322.

History: *1979 c 255 s 6; 1998 c 367 art 2 s 32*

609.33 DISORDERLY HOUSE.

Subdivision 1. **Definition.** For the purpose of this section, "disorderly house" means a building, dwelling, place, establishment, or premises in which actions or conduct habitually occur in violation of laws relating to:

(1) the sale of intoxicating liquor or 3.2 percent malt liquor;

(2) gambling;

(3) prostitution as defined in section 609.321, subdivision 9, or acts relating to prostitution; or

(4) the sale or possession of controlled substances as defined in section 152.01, subdivision 4.

Subd. 2. **Prohibiting owning or operating a disorderly house.** No person may own, lease, operate, manage, maintain, or conduct a disorderly house, or invite or attempt to invite others to visit or remain in the disorderly house. A violation of this subdivision is a gross misdemeanor.

Subd. 3. **Mandatory minimum penalties.** (a) If a person is convicted of a first violation of subdivision 2, in addition to any sentence of imprisonment authorized by subdivision 2 which the court may impose, the court shall impose a fine of not less than $300 nor more than $3,000.

(b) If a person is convicted of a second violation of subdivision 2, in addition to any sentence of imprisonment authorized by subdivision 2 which the court may impose, the court shall impose a fine of not less than $500 nor more than $3,000.

(c) If a person is convicted of a third or subsequent violation of subdivision 2, in addition to any sentence of imprisonment authorized by subdivision 2 which the court may impose, the court shall impose a fine of not less than $1,000 nor more than $3,000.

Subd. 4. **Evidence.** Evidence of unlawful sales of intoxicating liquor or 3.2 percent malt liquor, of unlawful possession or sale of controlled substances, of prostitution or acts relating to prostitution, or of gambling or acts relating to gambling, is prima facie evidence of the existence of a disorderly house. Evidence of sales of intoxicating liquor or 3.2 percent malt liquor between the hours of 1:00 a.m. and 8:00 a.m., while a person is within a disorderly house, is prima facie evidence that the person knew it to be a disorderly house.

Subd. 5. **Local regulation.** Subdivisions 1 to 4 do not prohibit or restrict a local governmental unit from imposing more restrictive provisions.

Subd. 6. **Pretrial release.** When a person is charged under this section with owning or leasing a disorderly house, the court may require as a condition of pretrial release that the defendant bring an eviction action against a lessee who has violated the covenant not to allow drugs established by section 504B.171.

History: *1967 c 507 s 10; 1984 c 628 art 3 s 11; 1985 c 277 s 1; 1989 c 77 s 1; 1991 c 193 s 3; 1991 c 249 s 31; 1999 c 199 art 2 s 33; 2003 c 2 art 2 s 18*

609.34 FORNICATION.

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

History: *1967 c 507 s 11; 1971 c 23 s 43*

609.341 DEFINITIONS.

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

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

Subd. 3. **Force.** "Force" means the infliction, attempted infliction, or threatened infliction by the actor of bodily harm or commission or threat of any other crime by the actor against the complainant or another, which (a) causes the complainant to reasonably believe that the actor has the present ability to execute the threat and (b) if the actor does not have a significant relationship to the complainant, also causes the complainant to submit.

Subd. 4. **Consent.** (a) "Consent" means words or overt actions by a person indicating a freely given present agreement to perform a particular sexual act with the actor. Consent does not mean the existence of a prior or current social relationship between the actor and the complainant or that the complainant failed to resist a particular sexual act.

(b) A person who is mentally incapacitated or physically helpless as defined by this section cannot consent to a sexual act.

(c) Corroboration of the victim's testimony is not required to show lack of consent.

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

Subd. 6. **Mentally impaired.** "Mentally impaired" means that a person, as a result of inadequately developed or impaired intelligence or a substantial psychiatric disorder of thought or mood, lacks the judgment to give a reasoned consent to sexual contact or to sexual penetration.

Subd. 7. **Mentally incapacitated.** "Mentally incapacitated" means that a person under the influence of alcohol, a narcotic, anesthetic, or any other substance, administered to that person without the person's agreement, lacks the judgment to give a reasoned consent to sexual contact or sexual penetration.

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

Subd. 9. **Physically helpless.** "Physically helpless" means that a person is (a) asleep or not conscious, (b) unable to withhold consent or to withdraw consent because of a physical condition, or (c) unable to communicate nonconsent and the condition is known or reasonably should have been known to the actor.

Subd. 10. **Position of authority.** "Position of authority" includes but is not limited to any person who is a parent or acting in the place of a parent and charged with any of a parent's rights, duties or responsibilities to a child, or a person who is charged with any duty or responsibility for the health, welfare, or supervision of a child, either independently or through another, no matter how brief, at the time of the act. For the purposes of subdivision 11, "position of authority" includes a psychotherapist.

Subd. 11. **Sexual contact.** (a) "Sexual contact," for the purposes of sections 609.343, subdivision 1, clauses (a) to (f), and 609.345, subdivision 1, clauses (a) to (e), and (h) to (m), includes any of the following acts committed without the complainant's consent, except in those cases where consent is not a defense, and committed with sexual or aggressive intent:

(i) the intentional touching by the actor of the complainant's intimate parts, or

(ii) the touching by the complainant of the actor's, the complainant's, or another's intimate parts effected by a person in a position of authority, or by coercion, or by inducement if the complainant is under 13 years of age or mentally impaired, or

(iii) the touching by another of the complainant's intimate parts effected by coercion or by a person in a position of authority, or

(iv) in any of the cases above, the touching of the clothing covering the immediate area of the intimate parts.

(b) "Sexual contact," for the purposes of sections 609.343, subdivision 1, clauses (g) and (h), and 609.345, subdivision 1, clauses (f) and (g), includes any of the following acts committed with sexual or aggressive intent:

(i) the intentional touching by the actor of the complainant's intimate parts;

(ii) the touching by the complainant of the actor's, the complainant's, or another's intimate parts;

(iii) the touching by another of the complainant's intimate parts; or

(iv) in any of the cases listed above, touching of the clothing covering the immediate area of the intimate parts.

(c) "Sexual contact with a person under 13" means the intentional touching of the complainant's bare genitals or anal opening by the actor's bare genitals or anal opening with sexual or aggressive intent or the touching by the complainant's bare genitals or anal opening of the actor's or another's bare genitals or anal opening with sexual or aggressive intent.

Subd. 12. **Sexual penetration.** "Sexual penetration" means any of the following acts committed without the complainant's consent, except in those cases where consent is not a defense, whether or not emission of semen occurs:

(1) sexual intercourse, cunnilingus, fellatio, or anal intercourse; or

(2) any intrusion however slight into the genital or anal openings:

(i) of the complainant's body by any part of the actor's body or any object used by the actor for this purpose;

(ii) of the complainant's body by any part of the body of the complainant, by any part of the body of another person, or by any object used by the complainant or another person for this purpose, when effected by a person in a position of authority, or by coercion, or by inducement if the child is under 13 years of age or mentally impaired; or

(iii) of the body of the actor or another person by any part of the body of the complainant or by any object used by the complainant for this purpose, when effected by a person in a position of authority, or by coercion, or by inducement if the child is under 13 years of age or mentally impaired.

Subd. 13. **Complainant.** "Complainant" means a person alleged to have been subjected to criminal sexual conduct, but need not be the person who signs the complaint.

Subd. 14. **Coercion.** "Coercion" means words or circumstances that cause the complainant reasonably to fear that the actor will inflict bodily harm upon, or hold in confinement, the complainant or another, or force the complainant to submit to sexual penetration or contact, but proof of coercion does not require proof of a specific act or threat.

Subd. 15. **Significant relationship.** "Significant relationship" means a situation in which the actor is:

(1) the complainant's parent, stepparent, or guardian;

(2) any of the following persons related to the complainant by blood, marriage, or adoption: brother, sister, stepbrother, stepsister, first cousin, aunt, uncle, nephew, niece, grandparent, great-grandparent, great-uncle, great-aunt; or

(3) an adult who jointly resides intermittently or regularly in the same dwelling as the complainant and who is not the complainant's spouse.

Subd. 16. **Patient.** "Patient" means a person who seeks or obtains psychotherapeutic services.

Subd. 17. **Psychotherapist.** "Psychotherapist" means a person who is or purports to be a physician, psychologist, nurse, chemical dependency counselor, social worker, marriage and family therapist, licensed professional counselor, or other mental health service provider; or any other person, whether or not licensed by the state, who performs or purports to perform psychotherapy.

Subd. 18. **Psychotherapy.** "Psychotherapy" means the professional treatment, assessment, or counseling of a mental or emotional illness, symptom, or condition.

Subd. 19. **Emotionally dependent.** "Emotionally dependent" means that the nature of the former patient's emotional condition and the nature of the treatment provided by the psychotherapist are such that the psychotherapist knows or has reason to know that the former patient is unable to withhold consent to sexual contact or sexual penetration by the psychotherapist.

Subd. 20. **Therapeutic deception.** "Therapeutic deception" means a representation by a psychotherapist that sexual contact or sexual penetration by the psychotherapist is consistent with or part of the patient's treatment.

Subd. 21. **Special transportation.** "Special transportation service" means motor vehicle transportation provided on a regular basis by a public or private entity or person that is intended exclusively or primarily to serve individuals who are vulnerable adults, handicapped, or disabled. Special transportation service includes, but is not limited to, service provided by buses, vans, taxis, and volunteers driving private automobiles.

History: *1975 c 374 s 2; 1977 c 130 s 8; 1979 c 258 s 9-11; 1981 c 51 s 1; 1982 c 385 s 1; 1982 c 469 s 9; 1984 c 525 s 3; 1984 c 588 s 5,6; 1985 c 24 s 3,4; 1985 c 286 s 14; 1985 c 297 s 1-5; 1986 c 351 s 6,7; 1986 c 444; 1987 c 198 s 1-3; 1987 c 347 art 1 s 22; 1988 c 413 s 1; 1989 c 290 art 4 s 11; 1993 c 326 art 4 s 17-19; 1994 c 636 art 2 s 30-33; 1995 c 226 art 2 s 18; 1998 c 367 art 3 s 5,6; 2001 c 210 s 21; 2002 c 379 art 1 s 106; 2002 c 381 s 1; 2003 c 118 s 22*

609.342 CRIMINAL SEXUAL CONDUCT IN THE FIRST DEGREE.

Subdivision 1. **Crime defined.** A person who engages in sexual penetration with another person, or in sexual contact with a person under 13 years of age as defined in section 609.341, subdivision 11, paragraph (c), is guilty of criminal sexual conduct in the first degree 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;

(b) the complainant is at least 13 years of age 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. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(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;

(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;

(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 impaired, mentally incapacitated, or physically helpless;

(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;

(g) the actor has a significant relationship to the complainant and the complainant was under 16 years of age at the time of the sexual penetration. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense; or

(h) the actor has a significant relationship to the complainant, the complainant was under 16 years of age at the time of the sexual penetration, and:

(i) the actor or an accomplice used force or coercion to accomplish the penetration;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense.

Subd. 2. **Penalty.** (a) Except as otherwise provided in section 609.109, a person convicted under subdivision 1 may be sentenced to imprisonment for not more than 30 years or to a payment of a fine of not more than $40,000, or both.

(b) Unless a longer mandatory minimum sentence is otherwise required by law or the Sentencing Guidelines provide for a longer presumptive executed sentence, the court shall presume that an executed sentence of 144 months must be imposed on an offender convicted of violating this section. Sentencing a person in a manner other than that described in this paragraph is a departure from the Sentencing Guidelines.

Subd. 3. **Stay.** Except when imprisonment is required under section 609.109, if a person is convicted under subdivision 1, clause (g), the court may stay imposition or execution of the sentence if it finds that:

(a) a stay is in the best interest of the complainant or the family unit; and

(b) a professional assessment indicates that the offender has been accepted by and can respond to a treatment program.

If the court stays imposition or execution of sentence, it shall include the following as conditions of probation:

(1) incarceration in a local jail or workhouse;

(2) a requirement that the offender complete a treatment program; and

(3) a requirement that the offender have no unsupervised contact with the complainant until the offender has successfully completed the treatment program unless approved by the treatment program and the supervising correctional agent.

History: *1975 c 374 s 3; 1981 c 51 s 2; 1983 c 204 s 1; 1984 c 628 art 3 s 11; 1985 c 24 s 5; 1985 c 286 s 15; 1986 c 444; 1989 c 290 art 4 s 12; 1992 c 571 art 1 s 14; 1994 c 636 art 2 s 34; 1995 c 186 s 99; 1998 c 367 art 3 s 7; art 6 s 15; 2000 c 311 art 4 s 2; 2000 c 437 s 10*

609.343 CRIMINAL SEXUAL CONDUCT IN THE SECOND DEGREE.

Subdivision 1. **Crime defined.** A person who engages in sexual contact with another person is guilty of criminal sexual conduct in the second degree 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;

(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. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(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;

(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;

(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 impaired, mentally incapacitated, or physically helpless;

(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;

(g) the actor has a significant relationship to the complainant and the complainant was under 16 years of age at the time of the sexual contact. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense; or

(h) the actor has a significant relationship to the complainant, the complainant was under 16 years of age at the time of the sexual contact, and:

(i) the actor or an accomplice used force or coercion to accomplish the contact;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense.

Subd. 2. **Penalty.** (a) Except as otherwise provided in section 609.109, a person convicted under subdivision 1 may be sentenced to imprisonment for not more than 25 years or to a payment of a fine of not more than $35,000, or both.

(b) Unless a longer mandatory minimum sentence is otherwise required by law or the Sentencing Guidelines provide for a longer presumptive executed sentence, the court shall presume that an executed sentence of 90 months must be imposed on an offender convicted of violating subdivision 1, clause (c), (d), (e), (f), or (h). Sentencing a person in a manner other than that described in this paragraph is a departure from the Sentencing Guidelines.

Subd. 3. **Stay.** Except when imprisonment is required under section 609.109, if a person is convicted under subdivision 1, clause (g), the court may stay imposition or execution of the sentence if it finds that:

(a) a stay is in the best interest of the complainant or the family unit; and

(b) a professional assessment indicates that the offender has been accepted by and can respond to a treatment program.

If the court stays imposition or execution of sentence, it shall include the following as conditions of probation:

(1) incarceration in a local jail or workhouse;

(2) a requirement that the offender complete a treatment program; and

(3) a requirement that the offender have no unsupervised contact with the complainant until the offender has successfully completed the treatment program unless approved by the treatment program and the supervising correctional agent.

History: *1975 c 374 s 4; 1979 c 258 s 12; 1981 c 51 s 3; 1983 c 204 s 2; 1984 c 628 art 3 s 11; 1985 c 24 s 6; 1985 c 286 s 16; 1986 c 444; 1989 c 290 art 4 s 13; 1992 c 571 art 1 s 15; 1998 c 367 art 3 s 8; art 6 s 15; 2000 c 437 s 11; 2002 c 381 s 2*

609.344 CRIMINAL SEXUAL CONDUCT IN THE THIRD DEGREE.

Subdivision 1. **Crime defined.** A person who engages in sexual penetration with another person is guilty of criminal sexual conduct in the third degree 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 shall be a defense;

(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, the actor may be sentenced to imprisonment for not more than five years. Consent by the complainant is not a defense;

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

(d) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(e) the complainant is at least 16 but less than 18 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(f) the actor has a significant relationship to the complainant and the complainant was at least 16 but under 18 years of age at the time of the sexual penetration. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(g) the actor has a significant relationship to the complainant, the complainant was at least 16 but under 18 years of age at the time of the sexual penetration, and:

(i) the actor or an accomplice used force or coercion to accomplish the penetration;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(h) the actor is a psychotherapist and the complainant is a patient of the psychotherapist and the sexual penetration occurred:

(i) during the psychotherapy session; or

(ii) outside the psychotherapy session if an ongoing psychotherapist-patient relationship exists.

Consent by the complainant is not a defense;

(i) the actor is a psychotherapist and the complainant is a former patient of the psychotherapist and the former patient is emotionally dependent upon the psychotherapist;

(j) the actor is a psychotherapist and the complainant is a patient or former patient and the sexual penetration occurred by means of therapeutic deception. Consent by the complainant is not a defense;

(k) the actor accomplishes the sexual penetration by means of deception or false representation that the penetration is for a bona fide medical purpose. Consent by the complainant is not a defense;

(l) the actor is or purports to be a member of the clergy, the complainant is not married to the actor, and:

(i) the sexual penetration occurred during the course of a meeting in which the complainant sought or received religious or spiritual advice, aid, or comfort from the actor in private; or

(ii) the sexual penetration occurred during a period of time in which the complainant was meeting on an ongoing basis with the actor to seek or receive religious or spiritual advice, aid, or comfort in private. Consent by the complainant is not a defense;

(m) the actor is an employee, independent contractor, or volunteer of a state, county, city, or privately operated adult or juvenile correctional system, including, but not limited to, jails, prisons, detention centers, or work release facilities, and the complainant is a resident of a facility or under supervision of the correctional system. Consent by the complainant is not a defense; or

(n) the actor provides or is an agent of an entity that provides special transportation service, the complainant used the special transportation service, and the sexual penetration occurred during or immediately before or after the actor transported the complainant. Consent by the complainant is not a defense.

Subd. 2. **Penalty.** A person convicted under subdivision 1 may be sentenced to imprisonment for not more than 15 years or to a payment of a fine of not more than $30,000, or both.

Subd. 3. **Stay.** Except when imprisonment is required under section 609.109, if a person is convicted under subdivision 1, clause (f), the court may stay imposition or execution of the sentence if it finds that:

(a) a stay is in the best interest of the complainant or the family unit; and

(b) a professional assessment indicates that the offender has been accepted by and can respond to a treatment program.

If the court stays imposition or execution of sentence, it shall include the following as conditions of probation:

(1) incarceration in a local jail or workhouse;

(2) a requirement that the offender complete a treatment program; and

(3) a requirement that the offender have no unsupervised contact with the complainant until the offender has successfully completed the treatment program unless approved by the treatment program and the supervising correctional agent.

History: *1975 c 374 s 5; 1979 c 258 s 13; 1983 c 204 s 3; 1984 c 588 s 7; 1984 c 628 art 3 s 11; 1985 c 24 s 7; 1985 c 286 s 17; 1985 c 297 s 6; 1986 c 351 s 8; 1986 c 444; 1Sp1986 c 3 art 1 s 80; 1987 c 94 s 1; 1989 c 290 art 4 s 14; 1992 c 571 art 1 s 16,17; 1993 c 326 art 4 s 20; 1994 c 636 art 2 s 35; 1998 c 367 art 3 s 9; art 6 s 15; 2000 c 437 s 12; 2001 c 210 s 22; 2002 c 381 s 3*

609.345 CRIMINAL SEXUAL CONDUCT IN THE FOURTH DEGREE.

Subdivision 1. **Crime defined.** A person who engages in sexual contact with another person is guilty of criminal sexual conduct in the fourth degree 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;

(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. Consent by the complainant to the act is not a defense. 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;

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

(d) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(e) the complainant is at least 16 but less than 18 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(f) the actor has a significant relationship to the complainant and the complainant was at least 16 but under 18 years of age at the time of the sexual contact. Neither

mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(g) the actor has a significant relationship to the complainant, the complainant was at least 16 but under 18 years of age at the time of the sexual contact, and:

(i) the actor or an accomplice used force or coercion to accomplish the contact;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(h) the actor is a psychotherapist and the complainant is a patient of the psychotherapist and the sexual contact occurred:

(i) during the psychotherapy session; or

(ii) outside the psychotherapy session if an ongoing psychotherapist-patient relationship exists. Consent by the complainant is not a defense;

(i) the actor is a psychotherapist and the complainant is a former patient of the psychotherapist and the former patient is emotionally dependent upon the psychotherapist;

(j) the actor is a psychotherapist and the complainant is a patient or former patient and the sexual contact occurred by means of therapeutic deception. Consent by the complainant is not a defense;

(k) the actor accomplishes the sexual contact by means of deception or false representation that the contact is for a bona fide medical purpose. Consent by the complainant is not a defense;

(l) the actor is or purports to be a member of the clergy, the complainant is not married to the actor, and:

(i) the sexual contact occurred during the course of a meeting in which the complainant sought or received religious or spiritual advice, aid, or comfort from the actor in private; or

(ii) the sexual contact occurred during a period of time in which the complainant was meeting on an ongoing basis with the actor to seek or receive religious or spiritual advice, aid, or comfort in private. Consent by the complainant is not a defense;

(m) the actor is an employee, independent contractor, or volunteer of a state, county, city, or privately operated adult or juvenile correctional system, including, but not limited to, jails, prisons, detention centers, or work release facilities, and the complainant is a resident of a facility or under supervision of the correctional system. Consent by the complainant is not a defense; or

(n) the actor provides or is an agent of an entity that provides special transportation service, the complainant used the special transportation service, the complainant is not married to the actor, and the sexual contact occurred during or immediately before or after the actor transported the complainant. Consent by the complainant is not a defense.

Subd. 2. **Penalty.** A person convicted under subdivision 1 may be sentenced to imprisonment for not more than ten years or to a payment of a fine of not more than $20,000, or both.

Subd. 3. **Stay.** Except when imprisonment is required under section 609.109, if a person is convicted under subdivision 1, clause (f), the court may stay imposition or execution of the sentence if it finds that:

(a) a stay is in the best interest of the complainant or the family unit; and

(b) a professional assessment indicates that the offender has been accepted by and can respond to a treatment program.

If the court stays imposition or execution of sentence, it shall include the following as conditions of probation:

(1) incarceration in a local jail or workhouse;

(2) a requirement that the offender complete a treatment program; and

(3) a requirement that the offender have no unsupervised contact with the complainant until the offender has successfully completed the treatment program unless approved by the treatment program and the supervising correctional agent.

History: *1975 c 374 s 6; 1976 c 124 s 9; 1979 c 258 s 14; 1981 c 51 s 4; 1983 c 204 s 4; 1984 c 588 s 8; 1984 c 628 art 3 s 11; 1985 c 24 s 8; 1985 c 286 s 18; 1985 c 297 s 7; 1986 c 351 s 9; 1986 c 444; 1Sp1986 c 3 art 1 s 81; 1987 c 94 s 2; 1989 c 290 art 4 s 15; 1992 c 571 art 1 s 18,19; 1993 c 326 art 4 s 21; 1994 c 636 art 2 s 36; 1998 c 367 art 3 s 10; art 6 s 15; 2000 c 437 s 13; 2001 c 210 s 23; 2002 c 381 s 4*

609.3451 CRIMINAL SEXUAL CONDUCT IN THE FIFTH DEGREE.

Subdivision 1. **Crime defined.** A person is guilty of criminal sexual conduct in the fifth degree:

(1) if the person engages in nonconsensual sexual contact; or

(2) the person engages in masturbation or lewd exhibition of the genitals in the presence of a minor under the age of 16, knowing or having reason to know the minor is present.

For purposes of this section, "sexual contact" has the meaning given in section 609.341, subdivision 11, paragraph (a), clauses (i) and (iv), but does not include the intentional touching of the clothing covering the immediate area of the buttocks. Sexual contact also includes the intentional removal or attempted removal of clothing covering the complainant's intimate parts or undergarments, and the nonconsensual touching by the complainant of the actor's intimate parts, effected by the actor, if the action is performed with sexual or aggressive intent.

Subd. 2. **Penalty.** A person convicted under subdivision 1 may be sentenced to imprisonment for not more than one year or to a payment of a fine of not more than $3,000, or both.

Subd. 3. **Felony.** A person is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if the person violates subdivision 1, clause (2), after having been previously convicted of or adjudicated delinquent for violating subdivision 1, clause (2); section 617.23, subdivision 2, clause (1); or a statute from another state in conformity with subdivision 1, clause (2), or section 617.23, subdivision 2, clause (1).

History: *1988 c 529 s 2; 1990 c 492 s 1; 1995 c 226 art 2 s 19; 1996 c 408 art 3 s 26,27; 1998 c 367 art 3 s 11*

609.3452 SEX OFFENDER ASSESSMENT.

Subdivision 1. **Assessment required.** When a person is convicted of a sex offense, the court shall order an independent professional assessment of the offender's need for sex offender treatment. The court may waive the assessment if: (1) the Sentencing Guidelines provide a presumptive prison sentence for the offender, or (2) an adequate assessment was conducted prior to the conviction. An assessor providing an assessment for the court must be experienced in the evaluation and treatment of sex offenders.

Subd. 1a. **Repeat offenders; mandatory assessment.** When a person is convicted of a felony-level sex offense, and the person has previously been convicted of a sex offense regardless of the penalty level, the court shall order a sex offender assessment to be completed by the Minnesota security hospital. The assessment must contain the facts upon which the assessment conclusion is based, with reference to the offense history of the offender or the severity of the current offense, the social history of the offender, and the results of an examination of the offender's mental status unless the offender refuses to be examined. The assessment conclusion may not be based on testing alone. Upon completion, the assessment must be forwarded to the court and the commissioner of corrections. The court shall consider the assessment when sentencing the offender

and, if applicable, when making the preliminary determination regarding the appropriateness of a civil commitment petition under section 609.1351.

Subd. 2. **Access to data.** Notwithstanding section 13.384, 13.85, 144.335, 260B.171, 260C.171, or 626.556, the assessor has access to the following private or confidential data on the person if access is relevant and necessary for the assessment:

(1) medical data under section 13.384;

(2) corrections and detention data under section 13.85;

(3) health records under section 144.335;

(4) juvenile court records under sections 260B.171 and 260C.171; and

(5) local welfare agency records under section 626.556.

Data disclosed under this section may be used only for purposes of the assessment and may not be further disclosed to any other person, except as authorized by law.

Subd. 3. **Treatment order.** If the assessment indicates that the offender is in need of and amenable to sex offender treatment, the court shall include in the sentence a requirement that the offender undergo treatment, unless the court sentences the offender to prison.

Subd. 4. **Definition.** As used in this section, "sex offense" means a violation of section 609.342; 609.343; 609.344; 609.345; 609.3451; 609.746, subdivision 1; 609.79; or 617.23; or another offense arising out of a charge based on one or more of those sections.

History: *1992 c 571 art 1 s 20; 1999 c 139 art 4 s 2; 1999 c 227 s 22; 2001 c 210 s 24-26; 2004 c 228 art 1 s 66*

609.346 [Repealed, 1998 c 367 art 6 s 16]

609.3461 [Renumbered 609.117]

609.347 EVIDENCE.

Subdivision 1. **Victim testimony; corroboration unnecessary.** In a prosecution under sections 609.109 or 609.342 to 609.3451, the testimony of a victim need not be corroborated.

Subd. 2. **Showing of resistance unnecessary.** In a prosecution under sections 609.109 or 609.342 to 609.3451, there is no need to show that the victim resisted the accused.

Subd. 3. **Previous sexual conduct.** In a prosecution under sections 609.109, 609.342 to 609.3451, or 609.365, evidence of the victim'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. The evidence can be admitted only if the probative value of the evidence is not substantially outweighed by its inflammatory or prejudicial nature and only in the circumstances set out in paragraphs (a) and (b). For the evidence to be admissible under paragraph (a), subsection (i), the judge must find by a preponderance of the evidence that the facts set out in the accused's offer of proof are true. For the evidence to be admissible under paragraph (a), subsection (ii) or paragraph (b), the judge must find that the evidence is sufficient to support a finding that the facts set out in the accused's offer of proof are true, as provided under Rule 901 of the Rules of Evidence.

(a) When consent of the victim is a defense in the case, the following evidence is admissible:

(i) evidence of the victim's previous sexual conduct tending to establish a common scheme or plan of similar sexual conduct under circumstances similar to the case at issue. In order to find a common scheme or plan, the judge must find that the victim made prior allegations of sexual assault which were fabricated; and

(ii) evidence of the victim's previous sexual conduct with the accused.

(b) When the prosecution's case includes evidence 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, evidence of specific instances of the victim's previous sexual conduct is admissible solely to show the source of the semen, pregnancy, or disease.

Subd. 4. **Accused offer of evidence.** The accused may not offer evidence described in subdivision 3 except pursuant to the following procedure:

(a) A motion shall be made by the accused at least three business days prior to trial, unless later for good cause shown, setting out with particularity the offer of proof of the evidence that the accused intends to offer, relative to the previous sexual conduct of the victim;

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

(c) At the conclusion of the hearing, if the court finds that the evidence proposed to be offered by the accused regarding the previous sexual conduct of the victim is admissible under subdivision 3 and that its probative value is not substantially outweighed by its inflammatory or prejudicial nature, the court shall make an order stating the extent to which evidence is admissible. The accused 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 accused may make an offer of proof pursuant to clause (a) and the court shall order an in camera hearing to determine whether the proposed evidence is admissible by the standards herein.

Subd. 5. **Prohibiting instructing jury on certain points.** In a prosecution under sections 609.109 or 609.342 to 609.3451, the court shall not instruct the jury to the effect that:

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

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

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

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

Subd. 6. **Psychotherapy evidence.** (a) In a prosecution under sections 609.109 or 609.342 to 609.3451 involving a psychotherapist and patient, evidence of the patient's personal or medical history is not admissible except when:

(1) the accused requests a hearing at least three business days prior to trial and makes an offer of proof of the relevancy of the history; and

(2) the court finds that the history is relevant and that the probative value of the history outweighs its prejudicial value.

(b) The court shall allow the admission only of specific information or examples of conduct of the victim that are determined by the court to be relevant. The court's order shall detail the information or conduct that is admissible and no other evidence of the history may be introduced.

(c) Violation of the terms of the order is grounds for mistrial but does not prevent the retrial of the accused.

Subd. 7. **Effect of statute on rules.** Rule 412 of the Rules of Evidence is superseded to the extent of its conflict with this section.

History: *1975 c 374 s 8; 1984 c 588 s 10; 1985 c 297 s 8; 1986 c 351 s 12; 1986 c 444; 1Sp1986 c 3 art 1 s 72; 1987 c 114 s 1; 1997 c 239 art 5 s 10; 1998 c 367 art 6 s 8-12*

609.3471 RECORDS PERTAINING TO VICTIM IDENTITY CONFIDENTIAL.

Notwithstanding any provision of law to the contrary, no data contained in records or reports relating to petitions, complaints, or indictments issued pursuant to section 609.342; 609.343; 609.344; or 609.345 which specifically identifies a victim who is a minor shall be accessible to the public, except by order of the court. Nothing in this section authorizes denial of access to any other data contained in the records or reports, including the identity of the defendant.

History: *1984 c 573 s 9; 1985 c 119 s 1; 1986 c 351 s 13; 1Sp1986 c 3 art 1 s 73; 1987 c 331 s 9; 1992 c 571 art 1 s 26; 1993 c 13 art 1 s 49*

609.348 MEDICAL PURPOSES; EXCLUSION.

Sections 609.109 and 609.342 to 609.3451 do not apply to sexual penetration or sexual contact when done for a bona fide medical purpose.

History: *1975 c 374 s 9; 1981 c 273 s 5; 1986 c 351 s 14; 1998 c 367 art 6 s 13*

609.349 VOLUNTARY RELATIONSHIPS.

A person does not commit criminal sexual conduct under sections 609.342, clauses (a) and (b), 609.343, clauses (a) and (b), 609.344, clauses (a), (b), (d), (e), and (n), and 609.345, clauses (a), (b), (d), (e), and (n), 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 living 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 one legal spouse against the other.

History: *1975 c 374 s 10; 1978 c 772 s 62; 1980 c 544 s 2; 1986 c 351 s 15; 1986 c 444; 2002 c 381 s 5*

609.35 COSTS OF MEDICAL EXAMINATION.

(a) Costs incurred by a county, city, or private hospital or other emergency medical facility or by a private physician for the examination of a victim of criminal sexual conduct when the examination is performed for the purpose of gathering evidence shall be paid by the county in which the criminal sexual conduct occurred. These costs include, but are not limited to, full cost of the rape kit examination, associated tests relating to the complainant's sexually transmitted disease status, and pregnancy status.

(b) Nothing in this section shall be construed to limit the duties, responsibilities, or liabilities of any insurer, whether public or private. However, a county may seek insurance reimbursement from the victim's insurer only if authorized by the victim. This authorization may only be sought after the examination is performed. When seeking this authorization, the county shall inform the victim that if the victim does not authorize this, the county is required by law to pay for the examination and that the victim is in no way liable for these costs or obligated to authorize the reimbursement.

(c) The applicability of this section does not depend upon whether the victim reports the offense to law enforcement or the existence or status of any investigation or prosecution.

History: *1975 c 374 s 11; 1981 c 273 s 6; 1986 c 351 s 16; 1Sp1986 c 3 art 1 s 75; 2002 c 381 s 6; 2003 c 116 s 3*

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.

History: *1975 c 374 s 12*

609.352 SOLICITATION OF CHILDREN TO ENGAGE IN SEXUAL CONDUCT.

Subdivision 1. **Definitions.** As used in this section:

(a) "child" means a person 15 years of age or younger;

(b) "sexual conduct" means sexual contact of the individual's primary genital area, sexual penetration as defined in section 609.341, or sexual performance as defined in section 617.246; and

(c) "solicit" means commanding, entreating, or attempting to persuade a specific person in person, by telephone, by letter, or by computerized or other electronic means.

Subd. 2. **Prohibited act.** A person 18 years of age or older who solicits a child or someone the person reasonably believes is a child to engage in sexual conduct with intent to engage in sexual conduct is guilty of a felony and may be sentenced to imprisonment for not more than three years, or to payment of a fine of not more than $5,000, or both.

Subd. 3. **Defenses.** Mistake as to age is not a defense to a prosecution under this section.

History: *1986 c 445 s 3; 2000 c 311 art 4 s 3,4*

609.353 JURISDICTION.

A violation or attempted violation of section 609.342, 609.343, 609.344, 609.345, 609.3451, or 609.352 may be prosecuted in any jurisdiction in which the violation originates or terminates.

History: *2000 c 311 art 4 s 5*

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 $10,000, or both:

(1) knowingly having a prior marriage that is not dissolved, contracts a marriage in this state; or

(2) contracts a marriage with another in this state with knowledge that the prior marriage of the other is not dissolved; or

(3) marries another outside this state with knowledge that either of them has a prior marriage that has not been dissolved, and then cohabits with the other in this state.

History: *1963 c 753 art 1 s 609.355; 1984 c 628 art 3 s 11; 1986 c 444*

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 $3,000, 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.

History: *1963 c 753 art 1 s 609.36; 1984 c 628 art 3 s 11*

609.364 [Repealed, 1985 c 286 s 24]

609.3641 [Repealed, 1985 c 286 s 24]

609.3642 [Repealed, 1985 c 286 s 24]

609.3643 [Repealed, 1985 c 286 s 24]

609.3644 [Repealed, 1985 c 286 s 24]

609.365 INCEST.

Whoever has sexual intercourse with another nearer of kin to the actor 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.

History: *1963 c 753 art 1 s 609.365; 1986 c 444*

609.37 [Repealed, 1993 c 340 s 60]

609.375 NONSUPPORT OF SPOUSE OR CHILD.

Subdivision 1. **Crime defined.** Whoever is legally obligated to provide care and support to a spouse or child, whether or not the child's custody has been granted to another, and knowingly omits and fails to do so is guilty of a misdemeanor, and upon conviction may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than $1,000, or both.

Subd. 2. **Gross misdemeanor violation.** A person who violates subdivision 1 is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both, if:

(1) the violation continues for a period in excess of 90 days but not more than 180 days; or

(2) the person is in arrears in court-ordered child support or maintenance payments, or both, in an amount equal to or greater than six times but less than nine times the person's total monthly support and maintenance payments.

Subd. 2a. **Felony violation.** A person who violates subdivision 1 is guilty of a felony and upon conviction may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than $5,000, or both, if:

(1) the violation continues for a period in excess of 180 days; or

(2) the person is in arrears in court-ordered child support or maintenance payments, or both, in an amount equal to or greater than nine times the person's total monthly support and maintenance payments.

Subd. 2b. **Attempt to obtain contempt order as prerequisite to prosecution.** A person may not be charged with violating this section unless there has been an attempt to obtain a court order holding the person in contempt for failing to pay support or maintenance under chapter 518. This requirement is satisfied by a showing that reasonable attempts have been made at service of the order.

Subd. 3. [Repealed, 1997 c 203 art 6 s 93; 1997 c 245 art 1 s 34]

Subd. 4. [Repealed, 1997 c 203 art 6 s 93; 1997 c 245 art 1 s 34]

Subd. 5. **Venue.** A person who violates this section may be prosecuted and tried in the county in which the support obligor resides or in the county in which the obligee or the child resides.

Subd. 6. [Repealed, 1997 c 203 art 6 s 93; 1997 c 245 art 1 s 34]

Subd. 7. **Conditions of work release; probation violation.** Upon conviction under this section, a defendant may obtain work release only upon the imposition of an automatic income withholding order, and may be required to post a bond in avoidance of jail time and conditioned upon payment of all child support owed. Nonpayment of child support is a violation of any probation granted following conviction under subdivision 2a.

Subd. 8. **Defense.** It is an affirmative defense to criminal liability under this section if the defendant proves by a preponderance of the evidence that the omission and failure to provide care and support were with lawful excuse.

History: *1963 c 753 art 1 s 609.375; 1971 c 23 s 44; 1971 c 507 s 1; 1976 c 2 s 151; 1981 c 31 s 19; 1993 c 340 s 54,55; 1994 c 630 art 11 s 17-20; 1995 c 257 art 3 s 15; 1997 c 245 art 1 s 31; 2001 c 158 s 7-11; 2004 c 228 art 1 s 72*

609.3751 DISCHARGE AND DISMISSAL.

Subdivision 1. **Applicability.** A person is eligible for a discharge and dismissal under this section, if the person:

(1) has not been previously convicted of a felony under the laws of this state or elsewhere;

(2) has not been previously convicted of a violation of section 609.375 or of a similar offense in this state or elsewhere;

(3) has not previously participated in or completed a diversion program relating to a charge of violating section 609.375; and

(4) has not previously been placed on probation without a judgment of guilty for violation of section 609.375.

Subd. 2. **Procedure.** For a person eligible under subdivision 1 who is charged with violating section 609.375, the court may after trial or upon a plea of guilty, without entering a judgment of guilty and with the consent of the person, defer further proceedings and place the person on probation upon such reasonable conditions as it may require and for a period not to exceed the maximum sentence provided for the violation. At a minimum, the conditions must require the defendant to:

(1) provide the public authority responsible for child support enforcement with an affidavit attesting to the defendant's present address, occupation, employer, current income, assets, and account information, as defined in section 13B.06; and

(2) execute a written payment agreement regarding both current support and arrearages that is approved by the court.

In determining whether to approve a payment agreement under clause (2), the court shall apply the provisions of chapter 518 consistent with the obligor's ability to pay.

Subd. 3. **Violation.** Upon violation of a condition of the probation, including a failure to comply with the written payment agreement approved by the court under subdivision 2, clause (2), the court may enter an adjudication of guilt and proceed as otherwise provided in law.

Subd. 4. **Early dismissal.** The court may, in its discretion, dismiss the proceedings against the person and discharge the person from probation before the expiration of the maximum period prescribed for the person's probation but may do so only if the full amount of any arrearages has been brought current.

Subd. 5. **Dismissal; record.** (a) For purposes of this subdivision, "not public" has the meaning given in section 13.02, subdivision 8a.

(b) If during the period of probation the person does not violate any of the conditions of the probation, then upon expiration of the period the court shall discharge the person and dismiss the proceedings against that person. Discharge and dismissal under this subdivision shall be without court adjudication of guilt, but a not public record of it shall be retained by the Bureau of Criminal Apprehension for the purpose of use by the courts in determining the merits of subsequent proceedings against the person. The not public record may also be opened only upon court order for purposes of a criminal investigation, prosecution, or sentencing. Upon request by law enforcement, prosecution, or corrections authorities, the bureau shall notify the requesting party of the existence of the not public record and the right to seek a court order to open it pursuant to this section. The court shall forward a record of any discharge and dismissal under this section to the bureau which shall make and maintain the not public record of it as provided under this section. The discharge or dismissal

shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime or for any other purpose.

History: *2001 c 158 s 12*

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 section 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.

Subdivision 1. **Malicious punishment.** A parent, legal guardian, or caretaker who, by an intentional act or a series of intentional acts with respect to a child, evidences unreasonable force or cruel discipline that is excessive under the circumstances is guilty of malicious punishment of a child and may be sentenced as provided in subdivisions 2 to 6.

Subd. 2. **Gross misdemeanor.** If the punishment results in less than substantial bodily harm, the person may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

Subd. 3. **Enhancement to a felony.** Whoever violates the provisions of subdivision 2 during the time period between a previous conviction or adjudication for delinquency under this section or sections 609.221 to 609.2231, 609.224, 609.2242, 609.342 to 609.345, or 609.713, and the end of five years following discharge from sentence or disposition for that conviction or adjudication may be sentenced to imprisonment for not more than five years or a fine of $10,000, or both.

Subd. 4. **Felony; child under age four.** If the punishment is to a child under the age of four and causes bodily harm to the head, eyes, neck, or otherwise causes multiple bruises to the body, the person may be sentenced to imprisonment for not more than five years or a fine of $10,000, or both.

Subd. 5. **Felony; substantial bodily harm.** If the punishment results in substantial bodily harm, the person may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

Subd. 6. **Felony; great bodily harm.** If the punishment results in great bodily harm, the person may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

History: *1983 c 217 s 4; 1984 c 628 art 3 s 11; 1988 c 655 s 2; 1989 c 290 art 6 s 16; 1990 c 542 s 18; 1994 c 636 art 2 s 37; 2000 c 437 s 14*

609.378 NEGLECT OR ENDANGERMENT OF A CHILD.

Subdivision 1. **Persons guilty of neglect or endangerment.** (a) **Neglect.** (1) 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 the deprivation harms or is likely to substantially harm the child's physical, mental, or emotional health 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 $3,000, or both. If the deprivation results in substantial harm to the child's physical, mental, or emotional health, the person may be sentenced to imprisonment for not more than five years or

to payment of a fine of not more than $10,000, or both. If 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 or care is "health care," for purposes of this clause.

(2) A parent, legal guardian, or caretaker 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 $3,000, or both.

(b) **Endangerment.** A parent, legal guardian, or caretaker who endangers the child's person or health by:

(1) intentionally or recklessly causing or permitting a child to be placed in a situation likely to substantially harm the child's physical, mental, or emotional health or cause the child's death; or

(2) knowingly causing or permitting the child to be present where any person is selling, manufacturing, possessing immediate precursors or chemical substances with intent to manufacture, or possessing a controlled substance, as defined in section 152.01, subdivision 4, in violation of section 152.021, 152.022, 152.023, or 152.024; is guilty of child endangerment and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

If the endangerment results in substantial harm to the child's physical, mental, or emotional health, the person may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

This paragraph does not prevent a parent, legal guardian, or caretaker from causing or permitting a child to engage in activities that are appropriate to the child's age, stage of development, and experience, or from selecting health care as defined in subdivision 1, paragraph (a).

(c) **Endangerment by firearm access.** A person who intentionally or recklessly causes a child under 14 years of age to be placed in a situation likely to substantially harm the child's physical health or cause the child's death as a result of the child's access to a loaded firearm is guilty of child endangerment and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

If the endangerment results in substantial harm to the child's physical health, the person may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

Subd. 2. **Defenses.** It is a defense to a prosecution under subdivision 1, paragraph (a), clause (2), or paragraph (b), that at the time of the neglect or endangerment there was a reasonable apprehension in the mind of the defendant that acting to stop or prevent the neglect or endangerment would result in substantial bodily harm to the defendant or the child in retaliation.

History: *1983 c 217 s 5; 1984 c 628 art 3 s 11; 1989 c 282 art 2 s 199; 1992 c 571 art 4 s 11; 1993 c 326 art 4 s 22; 2002 c 314 s 6*

609.3785 UNHARMED NEWBORNS LEFT AT HOSPITALS; AVOIDANCE OF PROSECUTION.

A person may leave a newborn with a hospital employee at a hospital in this state without being subjected to prosecution for that act, provided that:

(1) the newborn was born within 72 hours of being left at the hospital, as determined within a reasonable degree of medical certainty;

(2) the newborn is left in an unharmed condition; and

(3) in cases where the person leaving the newborn is not the newborn's mother, the person has the mother's approval to do so.

History: *2000 c 421 s 3*

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:

(a) 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; or

(b) when used by a teacher or other member of the instructional, support, or supervisory staff of a public or nonpublic school upon or toward a child when necessary to restrain the child from self-injury or injury to any other person or property.

Subd. 2. **Applicability.** This section applies to sections 260B.425, 260C.425, 609.255, 609.376, 609.378, and 626.556.

History: *1983 c 217 s 6; 1985 c 266 s 4; 1986 c 444; 1990 c 542 s 19; 1999 c 139 art 4 s 2*

609.38 STAYED SENTENCE.

For any violation of section 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*

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 the person's confession in open court.

History: *1963 c 753 art 1 s 609.385; 1986 c 444*

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 $10,000, or both.

History: *1963 c 753 art 1 s 609.39; 1983 c 247 s 208; 1984 c 628 art 3 s 11*

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 $35,000, 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.

History: *1963 c 753 art 1 s 609.395; 1984 c 628 art 3 s 11*

609.396 UNAUTHORIZED PRESENCE AT CAMP RIPLEY.

Subdivision 1. **Misdemeanor.** A person is guilty of a misdemeanor if the person intentionally and without authorization of the adjutant general enters or is present on the Camp Ripley Military Reservation.

Subd. 2. **Felony.** A person is guilty of a felony and may be sentenced to not more than five years imprisonment or to payment of a fine of not more than $10,000, or both, if:

(1) the person intentionally enters or is present in an area at the Camp Ripley Military Reservation that is posted by order of the adjutant general as restricted for weapon firing or other hazardous military activity; and

(2) the person knows that doing so creates a risk of death, bodily harm, or serious property damage.

History: *1989 c 5 s 3; 1989 c 290 art 7 s 12*

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.

History: *1963 c 753 art 1 s 609.40; 1971 c 23 s 45*

609.405 [Repealed, 1987 c 10 s 1]

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 the maker of the statement 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 $3,000, or both.

History: *1963 c 753 art 1 s 609.41; 1984 c 628 art 3 s 11; 1986 c 444*

CRIMES AFFECTING PUBLIC OFFICER OR EMPLOYEE

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. Public employee includes a member of a charter commission.

(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.

(5) "Political subdivision" means a county, town, statutory or home rule charter city, school district, special service district, or other municipal corporation of the state of Minnesota.

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

History: *1963 c 753 art 1 s 609.415; 1983 c 359 s 88; 1986 c 444; 1992 c 592 s 16; 2002 c 352 s 13*

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 $20,000, or both:

(1) offers, gives, or promises to give, directly or indirectly, to any person who is a public officer or employee any benefit, reward or consideration to which the person is not legally entitled with intent thereby to influence the person's performance of the 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 it will have such an influence; or

(3) offers, gives, or promises to give, directly or indirectly any such benefit, reward, or consideration to a person who is a witness or about to become a witness in a proceeding before a judicial or hearing officer, with intent that the person's testimony be influenced thereby, or that the person will not appear at the proceeding; or

(4) as a person who is, or is about to become such witness requests, receives, or agrees to receive, directly or indirectly, any such benefit, reward, or consideration upon the understanding that the person's testimony will be so influenced, or that the person will not appear at the proceeding; or

(5) accepts directly or indirectly a benefit, reward or consideration upon an agreement or understanding, express or implied, that the acceptor will refrain from giving information that may lead to the prosecution of a crime or purported crime or that the acceptor 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 the public officer's office and be forever disqualified from holding public office under the state.

History: *1963 c 753 art 1 s 609.42; 1976 c 178 s 2; 1984 c 628 art 3 s 11; 1986 c 444*

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 $10,000, or both.

History: *1963 c 753 art 1 s 609.425; 1984 c 628 art 3 s 11*

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 $3,000, or both:

(1) intentionally fails or refuses to perform a known mandatory, nondiscretionary, ministerial duty of the office or employment within the time or in the manner required by law; or

(2) in the capacity of such officer or employee, does an act knowing it is in excess of lawful authority or knowing it is forbidden by law to be done in that capacity; or

(3) under pretense or color of official authority intentionally and unlawfully injures another in the other's person, property, or rights; or

(4) in the capacity of such officer or employee, makes a return, certificate, official report, or other like document having knowledge it is false in any material respect.

History: *1963 c 753 art 1 s 609.43; 1984 c 628 art 3 s 11; 1986 c 444*

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.

History: *1963 c 753 art 1 s 609.435; 1971 c 23 s 46*

609.44 PUBLIC OFFICE; ILLEGALLY ASSUMING; NONSURRENDER.

Whoever intentionally and without lawful right thereto, exercises a function of a public office or, having held such office and the right thereto having ceased, refuses to surrender the office or its seal, books, papers, or other incidents to a 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 $3,000, or both.

History: *1963 c 753 art 1 s 609.44; 1984 c 628 art 3 s 11; 1986 c 444*

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 five years or to payment of a fine of not more than $10,000, or both.

History: *1963 c 753 art 1 s 609.445; 1984 c 628 art 3 s 11; 1989 c 290 art 6 s 17*

609.45 PUBLIC OFFICER; UNAUTHORIZED COMPENSATION.

Whoever is a public officer or public employee and under color of 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.

History: *1963 c 753 art 1 s 609.45; 1971 c 23 s 47; 1986 c 444*

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 the public officer or employee 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 $10,000, or both.

History: *1963 c 753 art 1 s 609.455; 1984 c 628 art 3 s 11; 1986 c 444*

609.456 REPORTING TO STATE AUDITOR AND LEGISLATIVE AUDITOR REQUIRED.

Subdivision 1. **State auditor.** Whenever a public employee or public officer of a political subdivision or charter commission discovers evidence of theft, embezzlement, unlawful use of public funds or property, or misuse of public funds by a charter commission or any person authorized to expend public funds, the employee or officer shall promptly report to law enforcement and shall promptly report in writing to the state auditor a detailed description of the alleged incident or incidents. Notwithstanding chapter 13 or any other statute related to the classification of government data, the public employee or public officer shall provide data or information related to the alleged incident or incidents to the state auditor and law enforcement, including data classified as not public.

Subd. 2. **Legislative auditor.** Whenever an employee or officer of the state, University of Minnesota, or other organization listed in section 3.971, subdivision 6, discovers evidence of theft, embezzlement, or unlawful use of public funds or property, the employee or officer shall, except when to do so would knowingly impede or otherwise interfere with an ongoing criminal investigation, promptly report in writing to the legislative auditor a detailed description of the alleged incident or incidents.

History: *1992 c 592 s 17; 1999 c 99 s 21,23; 2002 c 352 s 14*

609.46 [Repealed, 1983 c 359 s 151]

609.465 PRESENTING FALSE CLAIMS TO PUBLIC OFFICER OR BODY.

Whoever, with intent to defraud, presents a claim or demand, with knowledge that it 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.

History: *1963 c 753 art 1 s 609.465; 1986 c 444*

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.

History: *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 $3,000, or both.

History: *1963 c 753 art 1 s 609.47; 1984 c 628 art 3 s 11*

609.475 IMPERSONATING OFFICER.

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

History: *1963 c 753 art 1 s 609.475; 1971 c 23 s 49; 1986 c 444*

CRIMES AGAINST THE ADMINISTRATION OF JUSTICE

609.48 PERJURY.

Subdivision 1. **Acts constituting.** Whoever makes a false material statement not believing it 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 the 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 the declarant 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 seven years or to payment of a fine of not more than $14,000, or both; or

(2) in all other cases, to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

History: *1963 c 753 art 1 s 609.48; 1971 c 845 s 16; 1984 c 628 art 3 s 11; 1986 c 444; 1989 c 290 art 6 s 18*

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 pursuant to a lawful arrest, in lawful custody on a charge or conviction of a crime, or while held in lawful custody on an allegation or adjudication of a delinquent act;

(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 usable in making such escape, with intent that it shall be so used;

(3) having another in lawful custody on a charge or conviction of a crime, intentionally permits the other to escape;

(4) escapes while in a facility designated under section 253B.18, subdivision 1, pursuant to a court commitment order after a finding of not guilty by reason of mental illness or mental deficiency of a crime against the person, as defined in section 253B.02, subdivision 4a. Notwithstanding section 609.17, no person may be charged with or convicted of an attempt to commit a violation of this clause; or

(5) escapes while in a facility designated under section 253B.18, subdivision 1, pursuant to a court commitment order under section 253B.185 or Minnesota Statutes 1992, section 526.10.

For purposes of clause (1), "escapes while held in lawful custody" includes absconding from electronic monitoring or absconding after removing an electronic monitoring device from the person's body.

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 the person (1) has been taken into actual custody upon revocation of the parole, probation, or stay of the sentence or execution of sentence, (2) is in custody in a county jail or workhouse as a condition of a stayed sentence, or (3) is subject to electronic monitoring as a condition of parole, probation, or supervised release.

Subd. 3a. **Dismissal of charge.** A felony charge brought under subdivision 2, clause (4) shall be dismissed if the person charged voluntarily returns to the facility within 30 days after a reasonable effort has been made to provide written notice to the person that failure to return within 30 days may result in felony charges being filed.

Subd. 4. **Sentence.** (a) Except as otherwise provided in subdivision 3a, whoever violates this section may be sentenced as follows:

(1) if the person who escapes is in lawful custody for a felony, to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both;

(2) if the person who escapes is in lawful custody after a finding of not guilty by reason of mental illness or mental deficiency of a crime against the person, as defined in section 253B.02, subdivision 4a, or pursuant to a court commitment order under section 253B.185 or Minnesota Statutes 1992, section 526.10, to imprisonment for not more than one year and one day or to payment of a fine of not more than $3,000, or both; or

(3) if the person who escapes is in lawful custody for a gross misdemeanor or misdemeanor, or if the person who escapes is in lawful custody on an allegation or adjudication of a delinquent act, to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

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

(c) 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 the person escaped.

(d) Notwithstanding paragraph (c), if a person who was committed to the commissioner of corrections under section 260B.198 escapes from the custody of the commissioner while 18 years of age, the person's sentence under this section shall commence on the person's 19th birthday or on the person's date of discharge by the commissioner of corrections, whichever occurs first. However, if the person described

in this clause is convicted under this section after becoming 19 years old and after having been discharged by the commissioner, the person's sentence shall commence upon imposition by the sentencing court.

(e) Notwithstanding paragraph (c), if a person who is in lawful custody on an allegation or adjudication of a delinquent act while 18 years of age escapes from a local juvenile correctional facility, the person's sentence under this section begins on the person's 19th birthday or on the person's date of discharge from the jurisdiction of the juvenile court, whichever occurs first. However, if the person described in this paragraph is convicted after becoming 19 years old and after discharge from the jurisdiction of the juvenile court, the person's sentence begins upon imposition by the sentencing court.

(f) Notwithstanding paragraph (a), any person who escapes or absconds from electronic monitoring or removes an electric monitoring device from the person's body is guilty of a crime and shall be sentenced to imprisonment for not more than one year or to a payment of a fine of not more than $3,000, or both. A person in lawful custody for a violation of section 609.185, 609.19, 609.195, 609.20, 609.205, 609.21, 609.221, 609.222, 609.223, 609.2231, 609.342, 609.343, 609.344, 609.345, or 609.3451 who escapes or absconds from electronic monitoring or removes an electronic monitoring device while under sentence may be sentenced to imprisonment for not more than five years or to a payment of a fine of not more than $10,000, or both.

History: *1963 c 753 art 1 s 609.485; 1969 c 248 s 1; 1971 c 23 s 50; 1982 c 557 s 10; 1984 c 628 art 3 s 11; 1986 c 385 s 1-3; 1986 c 444; 1988 c 515 s 2,3; 1990 c 499 s 7,8; 1994 c 636 art 2 s 38,39; 1995 c 226 art 2 s 20,21; 1996 c 305 art 1 s 120,121; 1996 c 408 art 3 s 28,29; 1999 c 139 art 4 s 2; 2000 c 441 s 2,3; 2002 c 314 s 7,8*

609.486 COMMISSION OF CRIME WHILE WEARING OR POSSESSING A BULLET-RESISTANT VEST.

A person who commits or attempts to commit a gross misdemeanor or felony while wearing or possessing a bullet-resistant vest is guilty of a felony and, upon conviction, shall be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both. Notwithstanding section 609.04, a prosecution for or conviction under this section is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

As used in this section, "bullet-resistant vest" means a bullet-resistant garment that provides ballistic and trauma protection.

History: *1990 c 439 s 1*

609.487 FLEEING A PEACE OFFICER IN A MOTOR VEHICLE.

Subdivision 1. **Flee; definition.** For purposes of this section, the term "flee" means to increase speed, extinguish motor vehicle headlights or taillights, refuse to stop the vehicle, or use other means with intent to attempt to elude a peace officer following a signal given by any peace officer to the driver of a motor vehicle.

Subd. 2. **Peace officer; definition.** For purposes of this section, "peace officer" means:

(1) an employee of a political subdivision or state law enforcement agency who is licensed by the Minnesota Board of Peace Officer Standards and Training, charged with the prevention and detection of crime and the enforcement of the general criminal laws of the state and who has the full power of arrest, and shall also include the Minnesota State Patrol and Minnesota conservation officers;

(2) an employee of a law enforcement agency of a federally recognized tribe, as defined in United States Code, title 25, section 450b(e), who is licensed by the Minnesota Board of Peace Officer Standards and Training; or

(3) a member of a duly organized state, county, or municipal law enforcement unit of another state charged with the duty to prevent and detect crime and generally enforce criminal laws, and granted full powers of arrest.

Subd. 2a. **Motor vehicle; definition.** For purposes of this section, "motor vehicle" has the meaning given it in section 169.01, subdivision 3, and includes a snowmobile, as defined in section 84.81, off-road recreational vehicles as defined in section 169A.03, subdivision 16, and motorboats as defined in section 169A.03, subdivision 13.

Subd. 3. **Fleeing an officer.** Whoever by means of a motor vehicle flees or attempts to flee a peace officer who is acting in the lawful discharge of an official duty, and the perpetrator knows or should reasonably know the same to be a peace officer, is guilty of a felony and may be sentenced to imprisonment for not more than three years and one day or to payment of a fine of not more than $5,000, or both.

Subd. 4. **Fleeing an officer; death; bodily injury.** Whoever flees or attempts to flee by means of a motor vehicle a peace officer who is acting in the lawful discharge of an official duty, and the perpetrator knows or should reasonably know the same to be a peace officer, and who in the course of fleeing causes the death of a human being not constituting murder or manslaughter or any bodily injury to any person other than the perpetrator may be sentenced to imprisonment as follows:

(a) if the course of fleeing results in death, to imprisonment for not more than 40 years or to payment of a fine of not more than $80,000, or both; or

(b) if the course of fleeing results in great bodily harm, to imprisonment for not more than seven years or to payment of a fine of not more than $14,000, or both; or

(c) if the course of fleeing results in substantial bodily harm, to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

Subd. 5. **Revocation; fleeing peace officer offense.** When a person is convicted of operating a motor vehicle in violation of subdivision 3 or 4, or an ordinance in conformity with those subdivisions, the court shall notify the commissioner of public safety and order the commissioner to revoke the driver's license of the person.

History: *1981 c 37 s 2; 1981 c 312 s 4; 1984 c 445 s 2,3; 1984 c 628 art 3 s 11; 1984 c 655 art 1 s 78; 1986 c 444; 1988 c 712 s 6; 1989 c 290 art 6 s 19; 1990 c 449 s 1; 1996 c 408 art 3 s 30; 1997 c 226 s 44; 1997 c 239 art 3 s 13; 1Sp1997 c 2 s 64; 2000 c 411 s 1,2; 2000 c 478 art 2 s 7; 1Sp2001 c 8 art 8 s 23*

609.49 RELEASE, FAILURE TO APPEAR.

Subdivision 1. **Felony offenders.** (a) A person charged with or convicted of a felony and released from custody, with or without bail or recognizance, who intentionally fails to appear when required after having been notified that a failure to appear for a court appearance is a criminal offense, or after having been released on an order or condition that the releasee personally appear when required with respect to the charge or conviction, is guilty of a crime for failure to appear and may be sentenced to not more than one-half of the maximum term of imprisonment or fine, or both, provided for the underlying crime for which the person failed to appear, but this maximum sentence shall, in no case, be less than a term of imprisonment of one year and one day or a fine of $1,500, or both.

(b) A felony charge under this subdivision may be filed upon the person's nonappearance. However, the charge must be dismissed if the person who fails to appear voluntarily surrenders within 48 hours after the time required for appearance. This paragraph does not apply if the offender appears as a result of being apprehended by law enforcement authorities.

Subd. 1a. **Juvenile offenders.** (a) A person who intentionally fails to appear for a juvenile court disposition is guilty of a felony if:

(1) the person was prosecuted in juvenile court for an offense that would have been a felony if committed by an adult;

(2) the juvenile court made findings pursuant to an admission in court or after trial;

(3) the person was released from custody on condition that the person appear in the juvenile court for a disposition in connection with the offense; and

(4) the person was notified that failure to appear is a criminal offense.

(b) A person who violates the provisions of this subdivision is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

Subd. 2. **Gross misdemeanor and misdemeanor offenders.** A person charged with a gross misdemeanor or misdemeanor who intentionally fails to appear in court for trial on the charge after having been notified that a failure to appear for a court appearance is a criminal offense, or after having been released on an order or condition that the releasee personally appear for trial when required with respect to the charge, is guilty of a misdemeanor.

Subd. 3. **Affirmative defense.** If proven by a preponderance of the evidence, it is an affirmative defense to a violation of subdivision 1, 1a, or 2 that the person's failure to appear in court as required was due to circumstances beyond the person's control.

Subd. 4. **Prosecution.** A violation of this section is prosecuted by the prosecuting authority who was responsible for prosecuting the offense in connection with which the person failed to appear in court.

Subd. 5. **Reimbursement for costs.** Upon conviction of a defendant for a violation of subdivision 1 or 2, the court may order as part of the sentence that the defendant pay the costs incurred by the prosecuting authority or governmental agency due to the defendant's failure to appear. The court may order this payment in addition to any other penalty authorized by law which it may impose. A defendant shall pay the entire amount of any restitution ordered and fine imposed before paying costs ordered under this subdivision. The order for payment of these costs may be enforced in the same manner as the sentence, or by execution against property. When collected, the costs must be paid into the treasury of the county of conviction.

History: *1963 c 753 art 1 s 609.49; 1984 c 628 art 3 s 11; 1986 c 444; 1989 c 333 s 4; 1994 c 576 s 47,48; 1998 c 367 art 2 s 16; 1999 c 28 s 1-3*

609.491 FAILURE TO APPEAR; PETTY MISDEMEANOR.

Subdivision 1. **Considered guilty plea.** If a person fails to appear in court on a charge that is a petty misdemeanor, the failure to appear is considered a plea of guilty and waiver of the right to trial, unless the person appears in court within ten days and shows that the person's failure to appear was due to circumstances beyond the person's control.

Subd. 2. **Notice.** A complaint charging a person with a petty misdemeanor must include a conspicuous notice of the provisions of subdivision 1.

History: *1989 c 333 s 5*

609.493 SOLICITATION OF MENTALLY IMPAIRED PERSONS.

Subdivision 1. **Crime.** A person is guilty of a crime and may be sentenced as provided in subdivision 2 if the person solicits a mentally impaired person to commit a criminal act.

Subd. 2. **Sentence.** (a) A person who violates subdivision 1 is guilty of a misdemeanor if the intended criminal act is a misdemeanor, and is guilty of a gross misdemeanor if the intended criminal act is a gross misdemeanor.

(b) A person who violates subdivision 1 is guilty of a felony if the intended criminal act is a felony, and may be sentenced to imprisonment for not more than one-half the statutory maximum term for the intended criminal act or to payment of a fine of not more than one-half the maximum fine for the intended criminal act, or both.

Subd. 3. **Definitions.** As used in this section:

(1) "mentally impaired person" means a person who, as a result of inadequately developed or impaired intelligence or a substantial psychiatric disorder of thought or mood, lacks the judgment to give a reasoned consent to commit the criminal act; and

(2) "solicit" means commanding, entreating, or attempting to persuade a specific person.

History: *1993 c 326 art 4 s 23*

609.494 SOLICITATION OF JUVENILES.

Subdivision 1. **Crime.** A person is guilty of a crime and may be sentenced as provided in subdivision 2 if the person is an adult and solicits or conspires with a minor to commit a crime or delinquent act or is an accomplice to a minor in the commission of a crime or delinquent act.

Subd. 2. **Sentence.** (a) A person who violates subdivision 1 is guilty of a misdemeanor if the intended criminal act is a misdemeanor or would be a misdemeanor if committed by an adult, and is guilty of a gross misdemeanor if the intended criminal act is a gross misdemeanor or would be a gross misdemeanor if committed by an adult.

(b) A person who violates subdivision 1 is guilty of a felony if the intended criminal act is a felony or would be a felony if committed by an adult, and may be sentenced to imprisonment for not more than one-half the statutory maximum term for the intended criminal act or to payment of a fine of not more than one-half the maximum fine for the intended criminal act, or both.

Subd. 3. **Multiple sentences.** Notwithstanding section 609.04, a prosecution for or conviction under this section is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Subd. 4. **Consecutive sentences.** Notwithstanding any provision of the Sentencing Guidelines, the court may provide that a sentence imposed for a violation of this section shall run consecutively to any sentence imposed for the intended criminal act. A decision by the court to impose consecutive sentences under this subdivision is not a departure from the Sentencing Guidelines.

Subd. 5. **Definition.** "Solicit" means commanding, entreating, or attempting to persuade a specific person.

History: *1991 c 279 s 31; 1993 c 326 art 4 s 24*

609.495 AIDING AN OFFENDER.

Subdivision 1. **Definition of crime.** (a) Whoever harbors, conceals, aids, or assists by word or acts another whom the actor knows or has reason to know has committed a crime 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 $5,000, or both if the crime committed or attempted by the other person is a felony.

(b) Whoever knowingly harbors, conceals, or aids a person who is on probation, parole, or supervised release because of a felony level conviction and for whom an arrest and detention order has been issued, with intent that the person evade or escape being taken into custody under the order, may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $5,000, or both. As used in this paragraph, "arrest and detention order" means a written order to take and detain a probationer, parolee, or supervised releasee that is issued under section 243.05, subdivision 1; 244.19, subdivision 4; or 401.02, subdivision 4.

Subd. 2. [Repealed, 1996 c 408 art 3 s 40]

Subd. 3. **Obstructing investigation.** Whoever intentionally aids another person whom the actor knows or has reason to know has committed a criminal act, by destroying or concealing evidence of that crime, providing false or misleading information about that crime, receiving the proceeds of that crime, or otherwise obstructing the investigation or prosecution of that crime is an accomplice after the fact and may be sentenced to not more than one-half of the statutory maximum sentence of imprisonment or to payment of a fine of not more than one-half of the maximum fine that could

be imposed on the principal offender for the crime of violence. For purposes of this subdivision, "criminal act" means an act that is a crime listed in section 609.11, subdivision 9, under the laws of this or another state, or of the United States, and also includes an act that would be a criminal act if committed by an adult.

Subd. 4. **Taking responsibility for criminal acts.** (a) Unless the person is convicted of the underlying crime, a person who assumes responsibility for a criminal act with the intent to obstruct, impede, or prevent a criminal investigation may be sentenced to not more than one-half of the statutory maximum sentence of imprisonment or to payment of a fine of not more than one-half of the maximum fine that could be imposed on the principal offender for the criminal act.

(b) Nothing in this subdivision shall be construed to impair the right of any individual or group to engage in speech protected by the United States Constitution or the Minnesota Constitution.

History: *1963 c 753 art 1 s 609.495; 1984 c 628 art 3 s 11; 1986 c 444; 1993 c 326 art 4 s 25; 1997 c 239 art 3 s 14; art 9 s 51; 1Sp2001 c 8 art 8 s 24,25; 2002 c 348 s 2*

609.496 CONCEALING CRIMINAL PROCEEDS.

Subdivision 1. **Crime.** A person is guilty of a felony and may be sentenced under subdivision 2 if the person:

(1) conducts a transaction involving a monetary instrument or instruments with a value exceeding $5,000; and

(2) knows or has reason to know that the monetary instrument or instruments represent the proceeds of, or are derived from the proceeds of, the commission of a felony under this chapter or chapter 152 or an offense in another jurisdiction that would be a felony under this chapter or chapter 152 if committed in Minnesota.

Subd. 2. **Penalty.** A person convicted under subdivision 1 may be sentenced to imprisonment for not more than ten years, or to payment of a fine of not more than $100,000, or both.

Subd. 3. **Monetary instrument.** For purposes of this section, "monetary instrument" means United States currency and coin; the currency and coin of a foreign country; a bank check, cashier's check, traveler's check, money order, stock, investment security, or negotiable instrument in bearer form or otherwise in the form by which title to the instrument passes upon delivery; gold, silver, or platinum bullion or coins; and diamonds, emeralds, rubies, or sapphires.

Subd. 4. **Payment of reasonable attorney fees.** Subdivision 1 does not preclude the payment or receipt of reasonable attorney fees.

History: *1989 c 286 s 3*

609.497 ENGAGING IN A BUSINESS OF CONCEALING CRIMINAL PROCEEDS.

Subdivision 1. **Crime.** A person is guilty of a felony and may be sentenced under subdivision 2 if the person knowingly initiates, organizes, plans, finances, directs, manages, supervises, or otherwise engages in a business that has as a primary or secondary purpose concealing money or property that was gained as a direct result of the commission of a felony under this chapter or chapter 152, or of an offense committed in another jurisdiction that would be a felony under this chapter or chapter 152 if committed in Minnesota.

Subd. 2. **Penalty.** A person convicted under subdivision 1 may be sentenced to imprisonment for not more than 20 years, or to payment of a fine of not more than $1,000,000, or both.

History: *1989 c 286 s 4*

609.4971 WARNING SUBJECT OF INVESTIGATION.

Whoever, having knowledge that a subpoena has been issued under sections 8.16 and 388.23, and with intent to obstruct, impede, or prevent the investigation for which the subpoena was issued, gives notice or attempts to give notice of the issuance of the

subpoena or the production of the documents to a person, may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

History: *1989 c 336 art 2 s 4*

609.4975 WARNING SUBJECT OF SURVEILLANCE OR SEARCH.

Subdivision 1. **Electronic communication.** Whoever, having knowledge that an investigative or law enforcement officer has been authorized or has applied for authorization under chapter 626A to intercept a wire, oral, or electronic communication, and with intent to obstruct, impede, or prevent interception, gives notice or attempts to give notice of the possible interception to a person, may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

Subd. 2. **Pen register.** Whoever, having knowledge that an investigative or law enforcement officer has been authorized or has applied for authorization under chapter 626A to install and use a pen register or a trap and trace device, and with intent to obstruct, impede, or prevent the purposes for which the installation and use is being made, gives notice or attempts to give notice of the installation or use to any person, may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

Subd. 3. **Search warrant.** Whoever, having knowledge that a peace officer has been issued or has applied for the issuance of a search warrant, and with intent to obstruct, impede, or prevent the search, gives notice or attempts to give notice of the search or search warrant to any person, may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

History: *1989 c 336 art 2 s 3; 1990 c 426 art 2 s 1*

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 any person 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) by means of force or threats of injury to any person or property, intentionally coerces or attempts to coerce a person who is or may become a witness to testify falsely at any trial, proceeding, or inquiry authorized by law;

(c) intentionally causes injury or threatens to cause injury to any person 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 or within a year following the actor's release from incarceration, whichever is later;

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

(e) by means of force or threats of injury to any person or property, intentionally coerces or attempts to coerce a person to provide false information concerning a crime to law enforcement authorities; or

(f) intentionally causes injury or threatens to cause injury to any person 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 or within a year of the actor's release from incarceration, whichever is later.

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 $10,000.

Subd. 1b. **Aggravated first-degree witness tampering.** (a) A person is guilty of aggravated first-degree witness tampering if the person causes or, by means of an implicit or explicit credible threat, threatens to cause great bodily harm or death to another in the course of committing any of the following acts intentionally:

(1) preventing or dissuading or attempting to prevent or dissuade a person who is or may become a witness from attending or testifying at any criminal trial or proceeding;

(2) coercing or attempting to coerce a person who is or may become a witness to testify falsely at any criminal trial or proceeding;

(3) retaliating against a person who was summoned as a witness at any criminal trial or proceeding within a year following that trial or proceeding or within a year following the actor's release from incarceration, whichever is later;

(4) preventing or dissuading or attempting to prevent or dissuade a person from providing information to law enforcement authorities concerning a crime;

(5) coercing or attempting to coerce a person to provide false information concerning a crime to law enforcement authorities; or

(6) retaliating against any person who has provided information to law enforcement authorities concerning a crime within a year of that person providing the information or within a year of the actor's release from incarceration, whichever is later.

(b) A person convicted of committing any act prohibited by paragraph (a) may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than $30,000, or both.

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;

(b) by means of any act described in section 609.27, subdivision 1, clause (3), (4), or (5), intentionally coerces or attempts to coerce a person who is or may become a witness to testify falsely at any trial, proceeding, or inquiry authorized by law;

(c) 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; or

(d) by means of any act described in section 609.27, subdivision 1, clause (3), (4), or (5), intentionally coerces or attempts to coerce a person to provide false information concerning a crime to law enforcement authorities.

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 $3,000.

Subd. 4. **No bar to conviction.** Notwithstanding section 609.035 or 609.04, a prosecution for or conviction of the crime of aggravated first-degree witness tampering is not a bar to conviction of or punishment for any other crime.

History: *1976 c 178 s 1; 1983 c 262 art 2 s 6; 1984 c 628 art 3 s 11; 1987 c 194 s 1,2; 1995 c 244 s 18; 1997 c 239 art 3 s 15,16*

609.50 OBSTRUCTING LEGAL PROCESS, ARREST, OR FIREFIGHTING.

Subdivision 1. **Crime.** Whoever intentionally does any of the following may be sentenced as provided in subdivision 2:

(1) 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;

(2) obstructs, resists, or interferes with a peace officer while the officer is engaged in the performance of official duties;

(3) interferes with or obstructs the prevention or extinguishing of a fire, or disobeys the lawful order of a firefighter present at the fire; or

(4) by force or threat of force endeavors to obstruct any employee of the Department of Revenue while the employee is lawfully engaged in the performance of official duties for the purpose of deterring or interfering with the performance of those duties.

Subd. 2. **Penalty.** A person convicted of violating subdivision 1 may be sentenced as follows:

(1) if (i) the person knew or had reason to know that the act created a risk of death, substantial bodily harm, or serious property damage; or (ii) the act caused death, substantial bodily harm, or serious property damage; or (iii) the act involved the intentional disarming of a peace officer by taking or attempting to take the officer's firearm from the officer's possession without the officer's consent; to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both;

(2) if the act was accompanied by force or violence or the threat thereof, and is not otherwise covered by clause (1), to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both; or

(3) in other cases, to imprisonment for not more than 90 days or to payment of a fine of not more than $1,000, or both.

History: *1963 c 753 art 1 s 609.50; 1969 c 1013 s 1; 1971 c 23 s 51; 1984 c 628 art 3 s 11; 1986 c 444; 1986 c 470 s 18; 1988 c 584 s 1; 1989 c 5 s 4; 1991 c 103 s 1; 1998 c 367 art 2 s 17; 2004 c 228 art 1 s 72*

609.502 INTERFERENCE WITH DEAD BODY; REPORTING.

Subdivision 1. **Concealing evidence.** Whoever interferes with the body or scene of death with intent to mislead the coroner or conceal evidence is guilty of a gross misdemeanor.

Subd. 2. **Failure to report.** (a) A person in charge of a cemetery who has knowledge that the body of a deceased person interred in the cemetery has been unlawfully removed shall:

(1) immediately report the occurrence to local law enforcement authorities; and

(2) inform the next of kin of the deceased person, if known, within three business days of the discovery of the body's removal unless the person making the report has been instructed in writing by law enforcement authorities that informing the next of kin would compromise an active law enforcement investigation.

(b) A person who violates either clause (1) or (2) is guilty of a misdemeanor.

History: *1976 c 257 s 2; 1990 c 402 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. A person who is convicted a second or subsequent time under this section is guilty of a gross misdemeanor.

History: *1963 c 753 art 1 s 609.505; 1971 c 23 s 52; 1993 c 326 art 4 s 26*

609.5051 CRIMINAL ALERT NETWORK; DISSEMINATION OF FALSE OR MISLEADING INFORMATION PROHIBITED.

Whoever uses the criminal alert network under section 299A.61 to disseminate information regarding the commission of a crime knowing that it is false or misleading, is guilty of a misdemeanor.

History: *1995 c 226 art 4 s 22; 1995 c 244 s 19*

609.506 PROHIBITING GIVING PEACE OFFICER FALSE NAME.

Subdivision 1. **Misdemeanor.** Whoever with intent to obstruct justice gives a fictitious name other than a nickname, or gives a false date of birth, or false or fraudulently altered identification card to a peace officer, as defined in section 626.84, subdivision 1, paragraph (c), when that officer makes inquiries incident to a lawful investigatory stop or lawful arrest, or inquiries incident to executing any other duty imposed by law, is guilty of a misdemeanor.

Subd. 2. **Gross misdemeanor.** Whoever with intent to obstruct justice gives the name and date of birth of another person to a peace officer, as defined in subdivision 1, when the officer makes inquiries incident to a lawful investigatory stop or lawful arrest, or inquiries incident to executing any other duty imposed by law, is guilty of a gross misdemeanor.

Subd. 3. **Gross misdemeanor.** Whoever in any criminal proceeding with intent to obstruct justice gives a fictitious name, other than a nickname, or gives a false date of birth to a court official is guilty of a misdemeanor. Whoever in any criminal proceeding with intent to obstruct justice gives the name and date of birth of another person to a court official is guilty of a gross misdemeanor. "Court official" includes a judge, referee, court administrator, or any employee of the court.

History: *1987 c 127 s 1; 1988 c 681 s 17; 1989 c 209 art 1 s 45; 1994 c 636 art 2 s 40*

609.507 FALSELY REPORTING CHILD ABUSE.

A person is guilty of a misdemeanor who:

(1) informs another person that a person has committed sexual abuse, physical abuse, or neglect of a child, as defined in section 626.556, subdivision 2;

(2) knows that the allegation is false or is without reason to believe that the alleged abuser committed the abuse or neglect; and

(3) has the intent that the information influence a child custody hearing.

History: *1988 c 662 s 3*

609.508 FALSE INFORMATION TO FINANCIAL INSTITUTION.

A person is guilty of a misdemeanor if the person informs a financial institution, orally or in writing, that one or more of the person's blank checks or debit cards have been lost or stolen, knowing or having reason to know that the information is false.

History: *2000 c 354 s 2*

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.

History: *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 the officer 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.

History: *1963 c 753 art 1 s 609.515; 1971 c 23 s 54; 1986 c 444*

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 the article.

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

(3) "Value" means the retail market value at the time of the theft, or if the retail market value cannot be ascertained, the cost of replacement of the property within a reasonable time after the theft, or in the case of a theft or the making of a copy of an article representing a trade secret, where the retail market value or replacement cost cannot be ascertained, any reasonable value representing the damage to the owner which the owner has suffered by reason of losing an advantage over those who do not know of or use the trade secret. For a check, draft, or other order for the payment of money, "value" means the amount of money promised or ordered to be paid under the terms of the check, draft, or other order. For a theft committed within the meaning of subdivision 2, clause (5), items (i) and (ii), 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. For a theft committed within the meaning of subdivision 2, clause (9), if the property has been restored to the owner, "value" means the rental value of the property, determined at the rental rate contracted by the defendant or, if no rental rate was contracted, the rental rate customarily charged by the owner for use of the property, plus any damage that occurred to the property while the owner was deprived of its possession, but not exceeding the total retail value of the property at the time of rental.

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

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

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

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

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

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

(8) "Property of another" includes property in which the actor is co-owner or has a lien, pledge, bailment, or lease or other subordinate interest, property transferred by the actor in circumstances which are known to the actor and which make the transfer

fraudulent as defined in section 513.44, property possessed pursuant to a short-term rental contract, 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, setoff, or counterclaim.

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

(10) "Motor vehicle" means a self-propelled device for moving persons or property or pulling implements from one place to another, whether the device is operated on land, rails, water, or in the air.

Subd. 2. **Acts constituting theft.** Whoever does any of the following commits theft and may be sentenced as provided in subdivision 3:

(1) intentionally and without claim of right takes, uses, transfers, conceals or retains possession of movable property of another without the other's consent and with intent to deprive the owner permanently of possession of the property; or

(2) having a legal interest in movable property, intentionally and without consent, takes the property out of the possession of a pledgee or other person having a superior right of possession, with intent thereby to deprive the pledgee or other person permanently of the possession of the property; or

(3) obtains for the actor or another the possession, custody, or title to property of or performance of services by a third person by intentionally deceiving the third person with a false representation which is known to be false, made with intent to defraud, and which does defraud the person to whom it is made. "False representation" includes without limitation:

(i) the issuance of a check, draft, or order for the payment of money, except a forged check as defined in section 609.631, or the delivery of property knowing that the actor is not entitled to draw upon the drawee therefor or to order the payment or delivery thereof; or

(ii) 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

(iii) 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

(iv) the preparation or filing of a claim for reimbursement for providing treatment or supplies required to be furnished to an employee under section 176.135 which intentionally and falsely states the costs of or actual treatment or supplies provided; or

(v) the preparation or filing of a claim for reimbursement for providing treatment or supplies required to be furnished to an employee under section 176.135 for treatment or supplies that the provider knew were medically unnecessary, inappropriate, or excessive; or

(4) by swindling, whether by artifice, trick, device, or any other means, obtains property or services from another person; or

(5) intentionally commits any of the acts listed in this subdivision but with intent to exercise temporary control only and:

(i) the control exercised manifests an indifference to the rights of the owner or the restoration of the property to the owner; or

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

(iii) the actor intends to restore the property only on condition that the owner pay a reward or buy back or make other compensation; or

(6) finds lost property and, knowing or having reasonable means of ascertaining the true owner, appropriates it to the finder's own use or to that of another not entitled thereto without first having made reasonable effort to find the owner and offer and surrender the property to the owner; or

(7) intentionally obtains property or services, offered upon the deposit of a sum of money or tokens in a coin or token operated machine or other receptacle, without making the required deposit or otherwise obtaining the consent of the owner; or

(8) intentionally and without claim of right converts any article representing a trade secret, knowing it to be such, to the actor's own use or that of another person or makes a copy of an article representing a trade secret, knowing it to be such, and intentionally and without claim of right converts the same to the actor's own use or that of another person. It shall be a complete defense to any prosecution under this clause for the defendant to show that information comprising the trade secret was rightfully known or available to the defendant from a source other than the owner of the trade secret; or

(9) leases or rents personal property under a written instrument and who:

(i) with intent to place the property beyond the control of the lessor conceals or aids or abets the concealment of the property or any part thereof; or

(ii) sells, conveys, or encumbers the property or any part thereof without the written consent of the lessor, without informing the person to whom the lessee sells, conveys, or encumbers that the same is subject to such lease or rental contract with intent to deprive the lessor of possession thereof; or

(iii) does not return the property to the lessor at the end of the lease or rental term, plus agreed upon extensions, with intent to wrongfully deprive the lessor of possession of the property; or

(iv) returns the property to the lessor at the end of the lease or rental term, plus agreed upon extensions, but does not pay the lease or rental charges agreed upon in the written instrument, with intent to wrongfully deprive the lessor of the agreed upon charges.

For the purposes of items (iii) and (iv), the value of the property must be at least $100. Evidence that a lessee used a false, fictitious, or not current name, address, or place of employment in obtaining the property or fails or refuses to return the property or pay the rental contract charges to lessor within five days after written demand for the return has been served personally in the manner provided for service of process of a civil action or sent by certified mail to the last known address of the lessee, whichever shall occur later, shall be evidence of intent to violate this clause. Service by certified mail shall be deemed to be complete upon deposit in the United States mail of such demand, postpaid and addressed to the person at the address for the person set forth in the lease or rental agreement, or, in the absence of the address, to the person's last known place of residence; or

(10) alters, removes, or obliterates numbers or symbols placed on movable property for purpose of identification by the owner or person who has legal custody or right to possession thereof with the intent to prevent identification, if the person who alters, removes, or obliterates the numbers or symbols is not the owner and does not have the permission of the owner to make the alteration, removal, or obliteration; or

(11) with the intent to prevent the identification of property involved, so as to deprive the rightful owner of possession thereof, alters or removes any permanent serial number, permanent distinguishing number or manufacturer's identification number on personal property or possesses, sells or buys any personal property knowing or having reason to know that the permanent serial number, permanent distinguishing number or manufacturer's identification number has been removed or altered; or

(12) intentionally deprives another of a lawful charge for cable television service by:

(i) making or using or attempting to make or use an unauthorized external connection outside the individual dwelling unit whether physical, electrical, acoustical, inductive, or other connection; or by

(ii) attaching any unauthorized device to any cable, wire, microwave, or other component of a licensed cable communications system as defined in chapter 238. Nothing herein shall be construed to prohibit the electronic video rerecording of program material transmitted on the cable communications system by a subscriber for fair use as defined by Public Law 94-553, section 107; or

(13) except as provided in paragraphs (12) and (14), obtains the services of another with the intention of receiving those services without making the agreed or reasonably expected payment of money or other consideration; or

(14) intentionally deprives another of a lawful charge for telecommunications service by:

(i) making, using, or attempting to make or use an unauthorized connection whether physical, electrical, by wire, microwave, radio, or other means to a component of a local telecommunication system as provided in chapter 237; or

(ii) attaching an unauthorized device to a cable, wire, microwave, radio, or other component of a local telecommunication system as provided in chapter 237.

The existence of an unauthorized connection is prima facie evidence that the occupier of the premises:

(i) made or was aware of the connection; and

(ii) was aware that the connection was unauthorized; or

(15) with intent to defraud, diverts corporate property other than in accordance with general business purposes or for purposes other than those specified in the corporation's articles of incorporation; or

(16) with intent to defraud, authorizes or causes a corporation to make a distribution in violation of section 302A.551, or any other state law in conformity with it; or

(17) takes or drives a motor vehicle without the consent of the owner or an authorized agent of the owner, knowing or having reason to know that the owner or an authorized agent of the owner did not give consent.

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

(1) to imprisonment for not more than 20 years or to payment of a fine of not more than $100,000, or both, if the property is a firearm, or the value of the property or services stolen is more than $35,000 and the conviction is for a violation of subdivision 2, clause (3), (4), (15), or (16); or

(2) to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both, if the value of the property or services stolen exceeds $2,500, or if the property stolen was an article representing a trade secret, an explosive or incendiary device, or a controlled substance listed in schedule I or II pursuant to section 152.02 with the exception of marijuana; or

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

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

(b) the property stolen was a controlled substance listed in schedule III, IV, or V pursuant to section 152.02; or

(c) the value of the property or services stolen is more than $250 but not more than $500 and the person has been convicted within the preceding five years for an offense under this section, section 256.98; 268.182; 609.24; 609.245; 609.53; 609.582, subdivision 1, 2, or 3; 609.625; 609.63; 609.631; or 609.821, or a statute from another state, the United States, or a foreign jurisdiction, in conformity with any of those sections, and the person received a felony or gross misdemeanor sentence for the

offense, or a sentence that was stayed under section 609.135 if the offense to which a plea was entered would allow imposition of a felony or gross misdemeanor sentence; or

(d) the value of the property or services stolen is not more than $500, and any of the following circumstances exist:

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

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

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

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

(v) the property stolen is a motor vehicle; or

(4) to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both, if the value of the property or services stolen is more than $250 but not more than $500; 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 $1,000, or both, provided, however, in any prosecution under subdivision 2, clauses (1), (2), (3), (4), and (13), the value of the money or property or services received by the defendant in violation of any one or more of the above provisions within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this subdivision; provided that when two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this paragraph.

Subd. 4. **Wrongfully obtained public assistance; consideration of disqualification.** When determining the sentence for a person convicted of theft by wrongfully obtaining public assistance, as defined in section 256.98, subdivision 1, the court shall consider the fact that, under section 256.98, subdivision 8, the person will be disqualified from receiving public assistance as a result of the person's conviction.

History: *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; 1979 c 258 s 15; 1981 c 120 s 1; 1981 c 299 s 1; 1983 c 238 s 1; 1983 c 331 s 10; 1984 c 419 s 1; 1984 c 466 s 1; 1984 c 483 s 1; 1984 c 628 art 3 s 5; 1985 c 243 s 7,8; 1986 c 378 s 1; 1986 c 435 s 10; 1986 c 444; 1987 c 254 s 9; 1987 c 329 s 8-10; 1988 c 712 s 7; 1989 c 290 art 7 s 5; 1991 c 279 s 32; 1991 c 292 art 5 s 80; 1992 c 510 art 2 s 14; 1994 c 636 art 2 s 41; 1995 c 244 s 20; 1996 c 408 art 3 s 31,32; 1997 c 66 s 79; 1997 c 239 art 3 s 17; 1998 c 367 art 2 s 18; 1999 c 76 s 1,2; 1999 c 218 s 2; 2004 c 228 art 1 s 72*

609.521 POSSESSION OF SHOPLIFTING GEAR.

(a) As used in this section, an "electronic article surveillance system" means any electronic device or devices that are designed to detect the unauthorized removal of marked merchandise from a store.

(b) Whoever has in possession any device, gear, or instrument designed to assist in shoplifting or defeating an electronic article surveillance system 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 $5,000, or both.

History: *1975 c 314 s 1; 1984 c 628 art 3 s 11; 1986 c 444; 1Sp2001 c 8 art 8 s 26*

609.523 RETURN OF STOLEN PROPERTY TO OWNERS.

Subdivision 1. **Photographic record.** Photographs of property, as defined in section 609.52, subdivision 1, over which a person is alleged to have exerted unauthorized control or to have otherwise obtained unlawfully, are competent evidence if the photographs are admissible into evidence under all rules of law governing the admissibility of photographs into evidence. The photographic record, when satisfactorily identified, is as admissible in evidence as the property itself.

Subd. 2. **Record of property.** The photographs may bear a written description of the property alleged to have been wrongfully taken, the name of the owner of the property taken, the name of the accused, the name of the arresting law enforcement officer, the date of the photograph, and the signature of the photographer.

Subd. 3. **Return of property.** A law enforcement agency which is holding property over which a person is alleged to have exerted unauthorized control or to have otherwise obtained unlawfully may return that property to its owner if:

(a) the appropriately identified photographs are filed and retained by the law enforcement agency;

(b) satisfactory proof of ownership of the property is shown by the owner;

(c) a declaration of ownership is signed under penalty of perjury; and

(d) a receipt for the property is obtained from the owner upon delivery by the law enforcement agency.

Subd. 4. **Examination of property.** If the recovered property has a value in excess of $150, then the owner shall retain possession for at least 14 days to allow the defense attorney to examine the property.

History: *1982 c 539 s 1*

609.525 BRINGING STOLEN GOODS INTO STATE.

Subdivision 1. **Crime.** Whoever brings property into the state which the actor 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. The actor may be charged, indicted, and tried in any county, but not more than one county, into or through which the actor has brought such property.

Subd. 2. **Defining stolen property.** Property is stolen within the meaning of this section if the act by which the owner was deprived of 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.

History: *1963 c 753 art 1 s 609.525; 1986 c 444*

609.526 PRECIOUS METAL DEALERS; RECEIVING STOLEN PROPERTY.

Any precious metal dealer as defined in section 325F.731, subdivision 2, or any person employed by a precious metal dealer as defined in section 325F.731, subdivision 2, who receives, possesses, transfers, buys, or conceals any stolen property or property obtained by robbery, knowing or having reason to know the property was stolen or obtained by robbery, may be sentenced as follows:

(1) if the value of the property received, bought, or concealed is $1,000 or more, to imprisonment for not more than ten years or to payment of a fine of not more than $50,000, or both;

(2) if the value of the property received, bought, or concealed is less than $1,000 but more than $300, to imprisonment for not more than five years or to payment of a fine of not more than $40,000, or both;

(3) if the value of the property received, bought, or concealed is $300 or less, to imprisonment for not more than 90 days or to payment of a fine of not more than $1,000, or both.

Any person convicted of violating this section a second or subsequent time within a period of one year may be sentenced as provided in clause (1).

History: *1989 c 290 art 7 s 6; 2004 c 228 art 1 s 72*

609.527 IDENTITY THEFT.

Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the meanings given them in this subdivision.

(b) "Direct victim" means any person or entity described in section 611A.01, paragraph (b), whose identity has been transferred, used, or possessed in violation of this section.

(c) "Identity" means any name, number, or data transmission that may be used, alone or in conjunction with any other information, to identify a specific individual, including any of the following:

(1) a name, Social Security number, date of birth, official government-issued driver's license or identification number, government passport number, or employer or taxpayer identification number;

(2) unique electronic identification number, address, account number, or routing code; or

(3) telecommunication identification information or access device.

(d) "Indirect victim" means any person or entity described in section 611A.01, paragraph (b), other than a direct victim.

(e) "Loss" means value obtained, as defined in section 609.52, subdivision 1, clause (3), and expenses incurred by a direct or indirect victim as a result of a violation of this section.

(f) "Unlawful activity" means:

(1) any felony violation of the laws of this state or any felony violation of a similar law of another state or the United States; and

(2) any nonfelony violation of the laws of this state involving theft, theft by swindle, forgery, fraud, or giving false information to a public official, or any nonfelony violation of a similar law of another state or the United States.

Subd. 2. **Crime.** A person who transfers, possesses, or uses an identity that is not the person's own, with the intent to commit, aid, or abet any unlawful activity is guilty of identity theft and may be punished as provided in subdivision 3.

Subd. 3. **Penalties.** A person who violates subdivision 2 may be sentenced as follows:

(1) if the offense involves a single direct victim and the total, combined loss to the direct victim and any indirect victims is $250 or less, the person may be sentenced as provided in section 609.52, subdivision 3, clause (5);

(2) if the offense involves a single direct victim and the total, combined loss to the direct victim and any indirect victims is more than $250 but not more than $500, the person may be sentenced as provided in section 609.52, subdivision 3, clause (4);

(3) if the offense involves two or three direct victims or the total, combined loss to the direct and indirect victims is more than $500 but not more than $2,500, the person may be sentenced as provided in section 609.52, subdivision 3, clause (3);

(4) if the offense involves more than three but not more than seven direct victims, or if the total combined loss to the direct and indirect victims is more than $2,500, the person may be sentenced as provided in section 609.52, subdivision 3, clause (2); and

(5) if the offense involves eight or more direct victims, or if the total, combined loss to the direct and indirect victims is more than $35,000, the person may be sentenced as provided in section 609.52, subdivision 3, clause (1).

Subd. 4. **Restitution.** A direct or indirect victim of an identity theft crime shall be considered a victim for all purposes, including any rights that accrue under chapter 611A and rights to court-ordered restitution.

Subd. 5. **Reporting.** (a) A person who has learned or reasonably suspects that a person is a direct victim of a crime under subdivision 2 may initiate a law enforcement investigation by contacting the local law enforcement agency that has jurisdiction where the person resides, regardless of where the crime may have occurred. The agency must prepare a police report of the matter, provide the complainant with a copy of that report, and may begin an investigation of the facts, or, if the suspected crime was committed in a different jurisdiction, refer the matter to the law enforcement agency where the suspected crime was committed for an investigation of the facts.

(b) If a law enforcement agency refers a report to the law enforcement agency where the crime was committed, it need not include the report as a crime committed in its jurisdiction for purposes of information that the agency is required to provide to the commissioner of public safety pursuant to section 299C.06.

Subd. 6. **Venue.** Notwithstanding anything to the contrary in section 627.01, an offense committed under subdivision 2 may be prosecuted in:

(1) the county where the offense occurred; or

(2) the county of residence or place of business of the direct victim or indirect victim.

Subd. 7. **Aggregation.** In any prosecution under subdivision 2, the value of the money or property or services the defendant receives or the number of direct or indirect victims within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of subdivision 3; 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 subdivision.

History: *1999 c 244 s 2; 2000 c 354 s 3; 2003 c 106 s 1-3; 1Sp2003 c 2 art 8 s 9*

609.528 POSSESSION OR SALE OF STOLEN OR COUNTERFEIT CHECK; PENALTIES.

Subdivision 1. **Definition.** (a) As used in this section, the following terms have the meanings given them in this subdivision.

(b) "Direct victim" means any person or entity described in section 611A.01, paragraph (b), from whom a check is stolen or whose name or other identifying information is contained in a counterfeit check.

(c) "Indirect victim" means any person or entity described in section 611A.01, paragraph (b), other than a direct victim.

(d) "Loss" means value obtained, as defined in section 609.52, subdivision 1, clause (3), and expenses incurred by a direct or indirect victim as a result of a violation of this section.

Subd. 2. **Crime.** A person who sells, possesses, receives, or transfers a check that is stolen or counterfeit, knowing or having reason to know the check is stolen or counterfeit, is guilty of a crime and may be punished as provided in subdivision 3.

Subd. 3. **Penalties.** A person who violates subdivision 2 may be sentenced as follows:

(1) if the offense involves a single direct victim and the total, combined loss to the direct victim and any indirect victims is $250 or less, the person may be sentenced as provided in section 609.52, subdivision 3, clause (5);

(2) if the offense involves a single direct victim and the total, combined loss to the direct victim and any indirect victims is more than $250 but not more than $500, the person may be sentenced as provided in section 609.52, subdivision 3, clause (4);

(3) if the offense involves two or three direct victims or the total, combined loss to the direct and indirect victims is more than $500 but not more than $2,500, the person may be sentenced as provided in section 609.52, subdivision 3, clause (3); and

(4) if the offense involves four or more direct victims, or if the total, combined loss to the direct and indirect victims is more than $2,500, the person may be sentenced as provided in section 609.52, subdivision 3, clause (2).

History: *2000 c 354 s 4*

609.529 MAIL THEFT.

Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the meanings given them in this subdivision.

(b) "Mail" means a letter, postal card, package, bag, or other sealed article addressed to another.

(c) "Mail depository" means a mail box, letter box, or mail receptacle; a post office or station of a post office; a mail route; or a postal service vehicle.

Subd. 2. **Crime.** Whoever does any of the following is guilty of mail theft and may be sentenced as provided in subdivision 3:

(1) intentionally and without claim of right removes mail from a mail depository;

(2) intentionally and without claim of right takes mail from a mail carrier;

(3) obtains custody of mail by intentionally deceiving a mail carrier, or other person who rightfully possesses or controls the mail, with a false representation which is known to be false, made with intent to deceive and which does deceive a mail carrier or other person who possesses or controls the mail;

(4) intentionally and without claim of right removes the contents of mail addressed to another;

(5) intentionally and without claim of right takes mail, or the contents of mail, that has been left for collection on or near a mail depository; or

(6) receives, possesses, transfers, buys, or conceals mail obtained by acts described in clauses (1) to (5), knowing or having reason to know the mail was obtained illegally.

Subd. 3. **Penalties.** A person convicted under subdivision 2 may be sentenced to imprisonment for not more than three years or to a payment of a fine of not more than $5,000, or both.

Subd. 4. **Venue.** Notwithstanding anything to the contrary in section 627.01, an offense committed under subdivision 2 may be prosecuted in:

(1) the county where the offense occurred; or

(2) the county of residence or place of business of the direct victim or indirect victim.

History: *2003 c 106 s 4*

609.53 RECEIVING STOLEN PROPERTY.

Subdivision 1. **Penalty.** Except as otherwise provided in section 609.526, any person who receives, possesses, transfers, buys or conceals any stolen property or property obtained by robbery, knowing or having reason to know the property was stolen or obtained by robbery, may be sentenced in accordance with the provisions of section 609.52, subdivision 3.

Subd. 1a. [Repealed, 1989 c 290 art 7 s 14]

Subd. 2. [Repealed, 1982 c 613 s 7]

Subd. 2a. [Repealed, 1982 c 613 s 7]

Subd. 3. [Repealed, 1989 c 290 art 7 s 14]

Subd. 3a. [Repealed, 1989 c 290 art 7 s 14]

Subd. 4. **Civil action; treble damages.** Any person who has been injured by a violation of subdivision 1 or section 609.526 may bring an action for three times the amount of actual damages sustained by the plaintiff or $1,500, whichever is greater, and the costs of suit and reasonable attorney's fees.

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

History: *1963 c 753 art 1 s 609.53; 1973 c 669 s 1; 1979 c 232 s 1,2; 1981 c 333 s 14-17; 1982 c 613 s 1-4; 1984 c 483 s 2; 1984 c 628 art 3 s 11; 1987 c 384 art 1 s 46,47; 1989 c 290 art 7 s 7,8*

609.531 FORFEITURES.

Subdivision 1. **Definitions.** For the purpose of sections 609.531 to 609.5318, the following terms have the meanings given them.

(a) "Conveyance device" means a device used for transportation and includes, but is not limited to, a motor vehicle, trailer, snowmobile, airplane, and vessel and any equipment attached to it. The term "conveyance device" does not include property which is, in fact, itself stolen or taken in violation of the law.

(b) "Weapon used" means a dangerous weapon as defined under section 609.02, subdivision 6, that the actor used or had in possession in furtherance of a crime.

(c) "Property" means property as defined in section 609.52, subdivision 1, clause (1).

(d) "Contraband" means property which is illegal to possess under Minnesota law.

(e) "Appropriate agency" means the Bureau of Criminal Apprehension, the Minnesota Division of Driver and Vehicle Services, the Minnesota State Patrol, a county sheriff's department, the Suburban Hennepin Regional Park District park rangers, the Department of Natural Resources Division of Enforcement, the University of Minnesota Police Department, or a city or airport police department.

(f) "Designated offense" includes:

(1) for weapons used: any violation of this chapter, chapter 152, or chapter 624;

(2) for driver's license or identification card transactions: any violation of section 171.22; and

(3) for all other purposes: a felony violation of, or a felony-level attempt or conspiracy to violate, section 325E.17; 325E.18; 609.185; 609.19; 609.195; 609.21; 609.221; 609.222; 609.223; 609.2231; 609.24; 609.245; 609.25; 609.255; 609.322; 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision 1, clauses (a) to (f); 609.344, subdivision 1, clauses (a) to (e), and (h) to (j); 609.345, subdivision 1, clauses (a) to (e), and (h) to (j); 609.42; 609.425; 609.466; 609.485; 609.487; 609.52; 609.525; 609.527; 609.528; 609.53; 609.54; 609.551; 609.561; 609.562; 609.563; 609.582; 609.59; 609.595; 609.631; 609.66, subdivision 1e; 609.671, subdivisions 3, 4, 5, 8, and 12; 609.687; 609.821; 609.825; 609.86; 609.88; 609.89; 609.893; 609.895; 617.246; or a gross misdemeanor or felony violation of section 609.891 or 624.7181; or any violation of section 609.324.

(g) "Controlled substance" has the meaning given in section 152.01, subdivision 4.

Subd. 1a. **Construction.** Sections 609.531 to 609.5318 must be liberally construed to carry out the following remedial purposes:

(1) to enforce the law;

(2) to deter crime;

(3) to reduce the economic incentive to engage in criminal enterprise;

(4) to increase the pecuniary loss resulting from the detection of criminal activity; and

(5) to forfeit property unlawfully used or acquired and divert the property to law enforcement purposes.

Subd. 2. [Repealed, 1988 c 665 s 17]

Subd. 3. [Repealed, 1988 c 665 s 17]

Subd. 4. **Seizure.** Property subject to forfeiture under sections 609.531 to 609.5318 may be seized by the appropriate agency upon process issued by any court having jurisdiction over the property. Property may be seized without process if:

(1) the seizure is incident to a lawful arrest or a lawful search;

(2) 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 under this chapter; or

(3) the appropriate agency has probable cause to believe that the delay occasioned by the necessity to obtain process would result in the removal or destruction of the property and that:

(i) the property was used or is intended to be used in commission of a felony; or

(ii) the property is dangerous to health or safety.

If property is seized without process under clause (3), subclause (i), the county attorney must institute a forfeiture action under section 609.5313 as soon as is reasonably possible.

Subd. 5. **Right to possession vests immediately; custody of seized property.** All right, title, and interest in property subject to forfeiture under sections 609.531 to 609.5318 vests in the appropriate agency upon commission of the act or omission giving rise to the forfeiture. Any property seized under sections 609.531 to 609.5318 is not subject to replevin, but is deemed to be in the custody of the appropriate agency subject to the orders and decrees of the court having jurisdiction over the forfeiture proceedings. When property is so seized, the appropriate agency may:

(1) place the property under seal;

(2) remove the property to a place designated by it;

(3) in the case of controlled substances, require the state Board of Pharmacy to take custody of the property and remove it to an appropriate location for disposition in accordance with law; and

(4) take other steps reasonable and necessary to secure the property and prevent waste.

Subd. 5a. **Bond by owner for possession.** (a) If the owner of property that has been seized under sections 609.531 to 609.5318 seeks possession of the property before the forfeiture action is determined, the owner may, subject to the approval of the appropriate agency, give security or post bond payable to the appropriate agency in an amount equal to the retail value of the seized property. On posting the security or bond, the seized property must be returned to the owner and the forfeiture action shall proceed against the security as if it were the seized property. This subdivision does not apply to contraband property.

(b) If the owner of a motor vehicle that has been seized under this section seeks possession of the vehicle before the forfeiture action is determined, the owner may surrender the vehicle's certificate of title in exchange for the vehicle. The motor vehicle must be returned to the owner within 24 hours if the owner surrenders the motor vehicle's certificate of title to the appropriate agency, pending resolution of the forfeiture action. If the certificate is surrendered, the owner may not be ordered to post security or bond as a condition of release of the vehicle. When a certificate of title is surrendered under this provision, the agency shall notify the Department of Public Safety and any secured party noted on the certificate. The agency shall also notify the department and the secured party when it returns a surrendered title to the motor vehicle owner.

Subd. 6. [Repealed, 1988 c 665 s 17]

Subd. 6a. **Forfeiture a civil procedure; conviction results in presumption.** (a) An action for forfeiture is a civil in rem action and is independent of any criminal prosecution, except as provided in this subdivision and section 609.5318. The appropriate agency handling the forfeiture has the benefit of the evidentiary presumption of section 609.5314, subdivision 1, but otherwise bears the burden of proving the act or omission giving rise to the forfeiture by clear and convincing evidence, except that in cases arising under section 609.5312, the designated offense may only be established by a criminal conviction.

(b) A court may not issue an order of forfeiture under section 609.5311 while the alleged owner of the property is in custody and related criminal proceedings are pending against the alleged owner. For forfeiture of a motor vehicle, the alleged owner is the registered owner according to records of the Department of Public Safety. For real property, the alleged owner is the owner of record. For other property, the alleged owner is the person notified by the prosecuting authority in filing the forfeiture action.

History: *1984 c 625 s 1; 1985 c 160 s 2; 1Sp1985 c 16 art 2 s 15; 1986 c 351 s 17; 1986 c 444; 1986 c 446 s 4; 1987 c 267 s 2; 1988 c 665 s 5-10; 1988 c 712 s 8; 1989 c 95 s 1; 1989 c 290 art 3 s 29; 1989 c 305 s 4; 1990 c 494 s 2; 1991 c 199 art 1 s 85; 1991 c 323 s 1; 1991 c 347 art 3 s 3; 1993 c 221 s 6; 1993 c 326 art 1 s 5; art 4 s 27,28; 1994 c 636 art 3 s 11; 1999 c 142 s 1; 1999 c 244 s 3; 2000 c 354 s 5; 2004 c 295 art 1 s 16*

609.5311 FORFEITURE OF PROPERTY ASSOCIATED WITH CONTROLLED SUBSTANCES.

Subdivision 1. **Controlled substances.** All controlled substances that were manufactured, distributed, dispensed, or acquired in violation of chapter 152 are subject to forfeiture under this section, except as provided in subdivision 3 and section 609.5316.

Subd. 2. **Associated property.** All property, real and personal, that has been used, or is intended for use, or has in any way facilitated, in whole or in part, the manufacturing, compounding, processing, delivering, importing, cultivating, exporting, transporting, or exchanging of contraband or a controlled substance that has not been lawfully manufactured, distributed, dispensed, and acquired is subject to forfeiture under this section, except as provided in subdivision 3.

Subd. 3. **Limitations on forfeiture of certain property associated with controlled substances.** (a) A conveyance device is subject to forfeiture under this section only if the retail value of the controlled substance is $25 or more and the conveyance device is associated with a felony-level controlled substance crime.

(b) Real property is subject to forfeiture under this section only if the retail value of the controlled substance or contraband is $1,000 or more.

(c) Property used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section only if the owner of the property is a consenting party to, or is privy to, the use or intended use of the property as described in subdivision 2.

(d) Property is subject to forfeiture under this section only if its owner was privy to the use or intended use described in subdivision 2, or the unlawful use or intended use of the property otherwise occurred with the owner's knowledge or consent.

(e) Forfeiture under this section of a conveyance device or real property encumbered by a bona fide security interest is subject to the interest of the secured party unless the secured party had knowledge of or consented to the act or omission upon which the forfeiture is based. A person claiming a security interest bears the burden of establishing that interest by clear and convincing evidence.

(f) Forfeiture under this section of real property is subject to the interests of a good faith purchaser for value unless the purchaser had knowledge of or consented to the act or omission upon which the forfeiture is based.

(g) Notwithstanding paragraphs (d), (e), and (f), property is not subject to forfeiture based solely on the owner's or secured party's knowledge of the unlawful use or intended use of the property if: (1) the owner or secured party took reasonable steps to terminate use of the property by the offender; or (2) the property is real property owned by the parent of the offender, unless the parent actively participated in, or knowingly acquiesced to, a violation of chapter 152, or the real property constitutes proceeds derived from or traceable to a use described in subdivision 2.

Subd. 4. **Records; proceeds.** (a) All books, records, and research products and materials, including formulas, microfilm, tapes, and data that are used, or intended for use in the manner described in subdivision 2 are subject to forfeiture.

(b) All property, real and personal, that represents proceeds derived from or traceable to a use described in subdivision 2 is subject to forfeiture.

History: *1988 c 665 s 11; 1989 c 290 art 3 s 30; 1989 c 305 s 5,6; 1992 c 533 s 2; 1993 c 6 s 5; 1993 c 326 art 1 s 6*

609.5312 FORFEITURE OF PROPERTY ASSOCIATED WITH DESIGNATED OFFENSES.

Subdivision 1. **Property subject to forfeiture.** All personal property is subject to forfeiture if it was used or intended for use to commit or facilitate the commission of a designated offense. All money and other property, real and personal, that represent proceeds of a designated offense, and all contraband property, are subject to forfeiture, except as provided in this section.

Subd. 2. **Limitations on forfeiture of property associated with designated offenses.** (a) Property used by a person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section only if the owner of the property is a consenting party to, or is privy to, the commission of a designated offense.

(b) Property is subject to forfeiture under this section only if the owner was privy to the act or omission upon which the forfeiture is based, or the act or omission occurred with the owner's knowledge or consent.

(c) Property encumbered by a bona fide security interest is subject to the interest of the secured party unless the party had knowledge of or consented to the act or omission upon which the forfeiture is based. A person claiming a security interest bears the burden of establishing that interest by clear and convincing evidence.

(d) Notwithstanding paragraphs (b) and (c), property is not subject to forfeiture based solely on the owner's or secured party's knowledge of the act or omission upon which the forfeiture is based if the owner or secured party took reasonable steps to terminate use of the property by the offender.

Subd. 3. **Vehicle forfeiture for prostitution offenses.** (a) A motor vehicle is subject to forfeiture under this subdivision if it was used to commit or facilitate, or used during the commission of, a violation of section 609.324 or a violation of a local ordinance substantially similar to section 609.324. A motor vehicle is subject to forfeiture under this subdivision only if the offense is established by proof of a criminal conviction for the offense. Except as otherwise provided in this subdivision, a forfeiture under this subdivision is governed by sections 609.531, 609.5312, and 609.5313.

(b) When a motor vehicle subject to forfeiture under this subdivision is seized in advance of a judicial forfeiture order, a hearing before a judge or referee must be held within 96 hours of the seizure. Notice of the hearing must be given to the registered owner within 48 hours of the seizure. The prosecuting authority shall certify to the court, at or in advance of the hearing, that it has filed or intends to file charges against the alleged violator for violating section 609.324 or a local ordinance substantially similar to section 609.324. After conducting the hearing, the court shall order that the motor vehicle be returned to the owner if:

(1) the prosecutor has failed to make the certification required by paragraph (b);

(2) the owner of the motor vehicle has demonstrated to the court's satisfaction that the owner has a defense to the forfeiture, including but not limited to the defenses contained in subdivision 2; or

(3) the court determines that seizure of the vehicle creates or would create an undue hardship for members of the owner's family.

(c) If the defendant is acquitted or prostitution charges against the defendant are dismissed, neither the owner nor the defendant is responsible for paying any costs associated with the seizure or storage of the vehicle.

(d) A vehicle leased or rented under section 168.27, subdivision 4, for a period of 180 days or less is not subject to forfeiture under this subdivision.

(e) For purposes of this subdivision, seizure occurs either:

(1) at the date at which personal service of process upon the registered owner is made; or

(2) at the date when the registered owner has been notified by certified mail at the address listed in the Minnesota Department of Public Safety computerized motor vehicle registration records.

Subd. 4. **Vehicle forfeiture for fleeing a peace officer.** (a) A motor vehicle is subject to forfeiture under this subdivision if it was used to commit a violation of section 609.487 and endanger life or property. A motor vehicle is subject to forfeiture under this subdivision only if the offense is established by proof of a criminal conviction for the offense. Except as otherwise provided in this subdivision, a forfeiture under this subdivision is governed by sections 609.531, 609.5312, 609.5313, and 609.5315, subdivision 6.

(b) When a motor vehicle subject to forfeiture under this subdivision is seized in advance of a judicial forfeiture order, a hearing before a judge or referee must be held within 96 hours of the seizure. Notice of the hearing must be given to the registered owner within 48 hours of the seizure. The prosecuting authority shall certify to the court, at or in advance of the hearing, that it has filed or intends to file charges against the alleged violator for violating section 609.487. After conducting the hearing, the court shall order that the motor vehicle be returned to the owner if:

(1) the prosecutor has failed to make the certification required by this paragraph;

(2) the owner of the motor vehicle has demonstrated to the court's satisfaction that the owner has a defense to the forfeiture, including but not limited to the defenses contained in subdivision 2; or

(3) the court determines that seizure of the vehicle creates or would create an undue hardship for members of the owner's family.

(c) If the defendant is acquitted or the charges against the defendant are dismissed, neither the owner nor the defendant is responsible for paying any costs associated with the seizure or storage of the vehicle.

(d) A vehicle leased or rented under section 168.27, subdivision 4, for a period of 180 days or less is not subject to forfeiture under this subdivision.

(e) A motor vehicle that is an off-road recreational vehicle as defined in section 169A.03, subdivision 16, or a motorboat as defined in section 169A.03, subdivision 13, is not subject to paragraph (b).

(f) For purposes of this subdivision, seizure occurs either:

(1) at the date at which personal service of process upon the registered owner is made; or

(2) at the date when the registered owner has been notified by certified mail at the address listed in the Minnesota Department of Public Safety computerized motor vehicle registration records.

History: *1988 c 665 s 12; 1993 c 326 art 1 s 7; art 4 s 29; 1994 c 465 art 1 s 59; 1995 c 244 s 21; 2000 c 466 s 5; 2000 c 478 art 2 s 7; 1Sp2003 c 2 art 4 s 25,26*

609.5313 FORFEITURE BY JUDICIAL ACTION; PROCEDURE.

The forfeiture of property under sections 609.5311 and 609.5312 is governed by this section. A separate complaint must be filed against the property stating the act, omission, or occurrence giving rise to the forfeiture and the date and place of the act or occurrence. The county attorney shall notify the owner or possessor of the property of the action, if known or readily ascertainable. The action must be captioned in the name of the county attorney or the county attorney's designee as plaintiff and the property as defendant.

History: *1988 c 665 s 13*

609.5314 ADMINISTRATIVE FORFEITURE OF CERTAIN PROPERTY SEIZED IN CONNECTION WITH A CONTROLLED SUBSTANCES SEIZURE.

Subdivision 1. **Property subject to administrative forfeiture; presumption.** (a) The following are presumed to be subject to administrative forfeiture under this section:

(1) all money, precious metals, and precious stones found in proximity to:

(i) controlled substances;

(ii) forfeitable drug manufacturing or distributing equipment or devices; or

(iii) forfeitable records of manufacture or distribution of controlled substances;

(2) all conveyance devices containing controlled substances with a retail value of $100 or more if possession or sale of the controlled substance would be a felony under chapter 152; and

(3) all firearms, ammunition, and firearm accessories found:

(i) in a conveyance device used or intended for use to commit or facilitate the commission of a felony offense involving a controlled substance;

(ii) on or in proximity to a person from whom a felony amount of controlled substance is seized; or

(iii) on the premises where a controlled substance is seized and in proximity to the controlled substance, if possession or sale of the controlled substance would be a felony under chapter 152.

(b) A claimant of the property bears the burden to rebut this presumption.

Subd. 2. **Administrative forfeiture procedure.** (a) Forfeiture of property described in subdivision 1 is governed by this subdivision. When seizure occurs, or within a reasonable time after that, all persons known to have an ownership, possessory, or security interest in seized property must be notified of the seizure and the intent to forfeit the property. In the case of a motor vehicle required to be registered under chapter 168, notice mailed by certified mail to the address shown in Department of Public Safety records is deemed sufficient notice to the registered owner. The notification to a person known to have a security interest in seized property required under this paragraph applies only to motor vehicles required to be registered under chapter 168 and only if the security interest is listed on the vehicle's title.

(b) Notice may otherwise be given in the manner provided by law for service of a summons in a civil action. The notice must be in writing and contain:

(1) a description of the property seized;

(2) the date of seizure;

(3) notice of the right to obtain judicial review of the forfeiture and of the procedure for obtaining that judicial review, printed in English, Hmong, and Spanish. Substantially the following language must appear conspicuously: "IF YOU DO NOT DEMAND JUDICIAL REVIEW EXACTLY AS PRESCRIBED IN MINNESOTA STATUTES, SECTION 609.5314, SUBDIVISION 3, YOU LOSE THE RIGHT TO A JUDICIAL DETERMINATION OF THIS FORFEITURE AND YOU LOSE ANY RIGHT YOU MAY HAVE TO THE ABOVE DESCRIBED PROPERTY. YOU MAY NOT HAVE TO PAY THE FILING FEE FOR THE DEMAND IF DETERMINED YOU ARE UNABLE TO AFFORD THE FEE. IF THE PROPERTY IS WORTH $7,500 OR LESS, YOU MAY FILE YOUR CLAIM IN CONCILIATION COURT. YOU DO NOT HAVE TO PAY THE CONCILIATION COURT FILING FEE IF THE PROPERTY IS WORTH LESS THAN $500."

Subd. 3. **Judicial determination.** (a) Within 60 days following service of a notice of seizure and forfeiture under this section, a claimant may file a demand for a judicial determination of the forfeiture. The demand must be in the form of a civil complaint and must be filed with the court administrator in the county in which the seizure occurred, together with proof of service of a copy of the complaint on the county attorney for that county, and the standard filing fee for civil actions unless the petitioner has the right to sue in forma pauperis under section 563.01. If the value of the seized property is $7,500 or less, the claimant may file an action in conciliation

court for recovery of the seized property. If the value of the seized property is less than $500, the claimant does not have to pay the conciliation court filing fee. No responsive pleading is required of the county attorney and no court fees may be charged for the county attorney's appearance in the matter. The proceedings are governed by the Rules of Civil Procedure.

(b) The complaint must be captioned in the name of the claimant as plaintiff and the seized property as defendant, and must state with specificity the grounds on which the claimant alleges the property was improperly seized and the plaintiff's interest in the property seized. Notwithstanding any law to the contrary, an action for the return of property seized under this section may not be maintained by or on behalf of any person who has been served with a notice of seizure and forfeiture unless the person has complied with this subdivision.

(c) If the claimant makes a timely demand for judicial determination under this subdivision, the appropriate agency must conduct the forfeiture under section 609.531, subdivision 6a. The limitations and defenses set forth in section 609.5311, subdivision 3, apply to the judicial determination.

(d) If a demand for judicial determination of an administrative forfeiture is filed under this subdivision and the court orders the return of the seized property, the court shall order that filing fees be reimbursed to the person who filed the demand. In addition, the court may order sanctions under section 549.211. If the court orders payment of these costs, they must be paid from forfeited money or proceeds from the sale of forfeited property from the appropriate law enforcement and prosecuting agencies in the same proportion as they would be distributed under section 609.5315, subdivision 5.

History: *1988 c 665 s 14; 1989 c 290 art 3 s 31; 1991 c 323 s 2,3; 1993 c 326 art 1 s 8,9; 1997 c 213 art 2 s 5; 1999 c 225 s 3,4*

609.5315 DISPOSITION OF FORFEITED PROPERTY.

Subdivision 1. **Disposition.** (a) Subject to paragraph (b), if the court finds under section 609.5313, 609.5314, or 609.5318 that the property is subject to forfeiture, it shall order the appropriate agency to do one of the following:

(1) unless a different disposition is provided under clause (3) or (4), either destroy firearms, ammunition, and firearm accessories that the agency decides not to use for law enforcement purposes under clause (8), or sell them to federally licensed firearms dealers, as defined in section 624.7161, subdivision 1, and distribute the proceeds under subdivision 5;

(2) sell property that is not required to be destroyed by law and is not harmful to the public and distribute the proceeds under subdivision 5;

(3) sell antique firearms, as defined in section 624.712, subdivision 3, to the public and distribute the proceeds under subdivision 5;

(4) destroy or use for law enforcement purposes semiautomatic military-style assault weapons, as defined in section 624.712, subdivision 7;

(5) take custody of the property and remove it for disposition in accordance with law;

(6) forward the property to the federal drug enforcement administration;

(7) disburse money as provided under subdivision 5; or

(8) keep property other than money for official use by the agency and the prosecuting agency.

(b) Notwithstanding paragraph (a), the Hennepin or Ramsey county sheriff may not sell firearms, ammunition, or firearms accessories if the policy is disapproved by the applicable county board.

Subd. 2. **Disposition of administratively forfeited property.** If property is forfeited administratively under section 609.5314 or 609.5318 and no demand for judicial determination is made, the appropriate agency may dispose of the property in any of the ways listed in subdivision 1.

Subd. 3. **Use by law enforcement.** (a) Property kept under this section may be used only in the performance of official duties of the appropriate agency or prosecuting agency and may not be used for any other purpose. If an appropriate agency keeps a forfeited motor vehicle for official use, it shall make reasonable efforts to ensure that the motor vehicle is available for use and adaptation by the agency's officers who participate in the drug abuse resistance education program.

(b) Proceeds from the sale of property kept under this subdivision must be disbursed as provided in subdivision 5.

Subd. 4. **Distribution of proceeds of the offense.** Property that consists of proceeds derived from or traced to the commission of a designated offense or a violation of section 609.66, subdivision 1e, must be applied first to payment of seizure, storage, forfeiture, and sale expenses, and to satisfy valid liens against the property; and second, to any court-ordered restitution before being disbursed as provided under subdivision 5.

Subd. 5. **Distribution of money.** The money or proceeds from the sale of forfeited property, after payment of seizure, storage, forfeiture, and sale expenses, and satisfaction of valid liens against the property, must be distributed as follows:

(1) 70 percent of the money or proceeds must be forwarded to the appropriate agency for deposit as a supplement to the agency's operating fund or similar fund for use in law enforcement;

(2) 20 percent of the money or proceeds must be forwarded to the county attorney or other prosecuting agency that handled the forfeiture for deposit as a supplement to its operating fund or similar fund for prosecutorial purposes; and

(3) the remaining ten percent of the money or proceeds must be forwarded within 60 days after resolution of the forfeiture to the state treasury and credited to the general fund. Any local police relief association organized under chapter 423 which received or was entitled to receive the proceeds of any sale made under this section before the effective date of Laws 1988, chapter 665, sections 1 to 17, shall continue to receive and retain the proceeds of these sales.

Subd. 5a. **Disposition of certain forfeited proceeds; prostitution.** The proceeds from the sale of motor vehicles forfeited under section 609.5312, subdivision 3, after payment of seizure, storage, forfeiture, and sale expenses, and satisfaction of valid liens against the vehicle, shall be distributed as follows:

(1) 40 percent of the proceeds must be forwarded to the appropriate agency for deposit as a supplement to the agency's operating fund or similar fund for use in law enforcement;

(2) 20 percent of the proceeds must be forwarded to the city attorney or other prosecuting agency that handled the forfeiture for deposit as a supplement to its operating fund or similar fund for prosecutorial purposes; and

(3) the remaining 40 percent of the proceeds must be forwarded to the city treasury for distribution to neighborhood crime prevention programs.

Subd. 6. **Reporting requirement.** The appropriate agency shall provide a written record of each forfeiture incident to the state auditor. The record shall include the amount forfeited, date, and a brief description of the circumstances involved. The record shall also list the number of firearms forfeited and the make, model, and serial number of each firearm forfeited. Reports shall be made on a monthly basis in a manner prescribed by the state auditor. The state auditor shall report annually to the legislature on the nature and extent of forfeitures.

Subd. 7. **Firearms.** The agency shall make best efforts for a period of 90 days after the seizure of an abandoned or stolen firearm to protect the firearm from harm and return it to the lawful owner.

History: *1988 c 665 s 15; 1989 c 290 art 3 s 32; 1989 c 335 art 4 s 100; 1990 c 499 s 9; 1992 c 513 art 4 s 49; 1993 c 326 art 1 s 10-12; art 4 s 30; 1994 c 636 art 3 s 12-15; art 4 s 29; 1999 c 148 s 1,2*

609.5316 SUMMARY FORFEITURES.

Subdivision 1. **Contraband.** Except as otherwise provided in this subdivision, if the property is contraband, the property must be summarily forfeited and either destroyed or used by the appropriate agency for law enforcement purposes. Upon summary forfeiture, weapons used must be destroyed by the appropriate agency unless the agency decides to use the weapons for law enforcement purposes.

Subd. 2. **Controlled substances.** (a) Controlled substances listed in schedule I that are possessed, transferred, sold, or offered for sale in violation of chapter 152, are contraband and must be seized and summarily forfeited. Controlled substances listed in schedule I that are seized or come into the possession of peace officers, the owners of which are unknown, are contraband and must be summarily forfeited.

(b) Species of plants from which controlled substances in schedules I and II may be derived that have been planted or cultivated in violation of chapter 152 or of which the owners or cultivators are unknown, or that are wild growths, may be seized and summarily forfeited to the state. The appropriate agency or its authorized agent may seize the plants if the person in occupancy or in control of land or premises where the plants are growing or being stored fails to produce an appropriate registration or proof that the person is the holder of appropriate registration.

Subd. 3. **Weapons, telephone cloning paraphernalia, and bullet-resistant vests.** Weapons used are contraband and must be summarily forfeited to the appropriate agency upon conviction of the weapon's owner or possessor for a controlled substance crime; for any offense of this chapter or chapter 624, or for a violation of an order for protection under section 518B.01, subdivision 14. Bullet-resistant vests, as defined in section 609.486, worn or possessed during the commission or attempted commission of a crime are contraband and must be summarily forfeited to the appropriate agency upon conviction of the owner or possessor for a controlled substance crime or for any offense of this chapter. Telephone cloning paraphernalia used in a violation of section 609.894 are contraband and must be summarily forfeited to the appropriate agency upon a conviction. Notwithstanding this subdivision, weapons used, bullet-resistant vests worn or possessed, and telephone cloning paraphernalia may be forfeited without a conviction under sections 609.531 to 609.5315.

History: *1988 c 665 s 16; 1990 c 439 s 2; 1994 c 636 art 3 s 16,17; 1996 c 331 s 1; 1996 c 408 art 4 s 9*

609.5317 REAL PROPERTY; SEIZURES.

Subdivision 1. **Rental property.** (a) When contraband or a controlled substance manufactured, distributed, or acquired in violation of chapter 152 is seized on residential rental property incident to a lawful search or arrest, the county attorney shall give the notice required by this subdivision to (1) the landlord of the property or the fee owner identified in the records of the county assessor, and (2) the agent authorized by the owner to accept service pursuant to section 504B.181. The notice is not required during an ongoing investigation. The notice shall state what has been seized and specify the applicable duties and penalties under this subdivision. The notice shall state that the landlord who chooses to assign the right to bring an eviction action retains all rights and duties, including removal of a tenant's personal property following issuance of the writ of restitution and delivery of the writ to the sheriff for execution. The notice shall also state that the landlord may contact the county attorney if threatened by the tenant. Notice shall be sent by certified letter, return receipt requested, within 30 days of the seizure. If receipt is not returned, notice shall be given in the manner provided by law for service of summons in a civil action.

(b) Within 15 days after notice of the first occurrence, the landlord shall bring, or assign to the county attorney of the county in which the real property is located, the right to bring an eviction action against the tenant. The assignment must be in writing on a form prepared by the county attorney. Should the landlord choose to assign the right to bring an eviction action, the assignment shall be limited to those rights and duties up to and including delivery of the writ of restitution to the sheriff for execution.

(c) Upon notice of a second occurrence on any residential rental property owned by the same landlord in the same county and involving the same tenant, and within one year after notice of the first occurrence, the property is subject to forfeiture under sections 609.531, 609.5311, 609.5313, and 609.5315, unless an eviction action has been commenced as provided in paragraph (b) or the right to bring an eviction action was assigned to the county attorney as provided in paragraph (b). If the right has been assigned and not previously exercised, or if the county attorney requests an assignment and the landlord makes an assignment, the county attorney may bring an eviction action rather than an action for forfeiture.

Subd. 2. **Additional remedies.** Nothing in subdivision 1 prevents the county attorney from proceeding under section 609.5311 whenever that section applies.

Subd. 3. **Defenses.** It is a defense against a proceeding under subdivision 1, paragraph (b), that the tenant had no knowledge or reason to know of the presence of the contraband or controlled substance or could not prevent its being brought onto the property.

It is a defense against a proceeding under subdivision 1, paragraph (c), that the landlord made every reasonable attempt to evict a tenant or to assign the county attorney the right to bring an eviction action against the tenant, or that the landlord did not receive notice of the seizure.

Subd. 4. **Limitations.** This section shall not apply if the retail value of the controlled substance is less than $100, but this section does not subject real property to forfeiture under section 609.5311 unless the retail value of the controlled substance is: (1) $1,000 or more; or (2) there have been two previous controlled substance seizures involving the same tenant.

History: *1989 c 305 s 7; 1991 c 193 s 4; 1992 c 533 s 3; 1999 c 199 art 2 s 34; 2003 c 2 art 2 s 19,20*

609.5318 FORFEITURE OF VEHICLES USED IN DRIVE-BY SHOOTINGS.

Subdivision 1. **Motor vehicles subject to forfeiture.** A motor vehicle is subject to forfeiture under this section if the prosecutor establishes by clear and convincing evidence that the vehicle was used in a violation of section 609.66, subdivision 1e. The prosecutor need not establish that any individual was convicted of the violation, but a conviction of the owner for a violation of section 609.66, subdivision 1e, creates a presumption that the vehicle was used in the violation.

Subd. 2. **Notice.** The registered owner of the vehicle must be notified of the seizure and intent to forfeit the vehicle within seven days after the seizure. Notice by certified mail to the address shown in Department of Public Safety records is deemed to be sufficient notice to the registered owner. Notice must be given in the manner required by section 609.5314, subdivision 2, paragraph (b), and must specify that a request for a judicial determination of the forfeiture must be made within 60 days following the service of the notice. If related criminal proceedings are pending, the notice must also state that a request for a judicial determination of the forfeiture must be made within 60 days following the conclusion of those proceedings.

Subd. 3. **Hearing.** (a) Within 60 days following service of a notice of seizure and forfeiture, a claimant may demand a judicial determination of the forfeiture. If a related criminal proceeding is pending, the 60-day period begins to run at the conclusion of those proceedings. The demand must be in the form of a civil complaint as provided in section 609.5314, subdivision 3, except as otherwise provided in this section.

(b) If the claimant makes a timely demand for judicial determination under this subdivision, the appropriate agency must conduct the forfeiture under subdivision 4.

Subd. 4. **Procedure.** (a) If a judicial determination of the forfeiture is requested, a separate complaint must be filed against the vehicle, stating the specific act giving rise to the forfeiture and the date, time, and place of the act. The action must be captioned in the name of the county attorney or the county attorney's designee as plaintiff and the property as defendant.

(b) If a demand for judicial determination of an administrative forfeiture is filed and the court orders the return of the seized property, the court shall order that filing fees be reimbursed to the person who filed the demand. In addition, the court may order the payment of reasonable costs, expenses, attorney fees, and towing and storage fees. If the court orders payment of these costs, they must be paid from forfeited money or proceeds from the sale of forfeited property from the appropriate law enforcement and prosecuting agencies in the same proportion as they would be distributed under section 609.5315, subdivision 5.

Subd. 5. **Limitations.** (a) A vehicle used by a person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section only if the owner is a consenting party to, or is privy to, the commission of the act giving rise to the forfeiture.

(b) A vehicle is subject to forfeiture under this section only if the registered owner was privy to the act upon which the forfeiture is based, the act occurred with the owner's knowledge or consent, or the act occurred due to the owner's gross negligence in allowing another to use the vehicle.

(c) A vehicle encumbered by a bona fide security interest is subject to the interest of the secured party unless the party had knowledge of or consented to the act upon which the forfeiture is based. A person claiming a security interest bears the burden of establishing that interest by clear and convincing evidence.

History: *1993 c 326 art 1 s 13; 1993 c 366 s 9*

609.5319 FINANCIAL INSTITUTION SECURED INTEREST.

Property that is subject to a bona fide security interest, based upon a loan or other financing arranged by a bank, credit union, or any other financial institution, is subject to the interest of the bank, credit union, or other financial institution in any forfeiture proceeding that is based upon a violation of any provision of this chapter or the commission of any other criminal act. The security interest must be established by clear and convincing evidence.

History: *1996 c 408 art 11 s 7*

609.532 ATTACHMENT OF DEPOSITED FUNDS.

Subdivision 1. **Attachment.** Upon application by the prosecuting authority, a court may issue an attachment order directing a financial institution to freeze some or all of the funds or assets deposited with or held by the financial institution by or on behalf of an account holder charged with the commission of a felony.

Subd. 2. **Application.** The application of the prosecuting authority required by this section must contain:

(1) a copy of a criminal complaint issued by a court of competent jurisdiction that alleges the commission of a felony by the account holder;

(2) a statement of the actual financial loss caused by the account holder in the commission of the alleged felony, if not already stated in the complaint; and

(3) identification of the account holder's name and financial institution account number.

Subd. 3. **Issuance of a court order.** If the court finds that (1) there is probable cause that the account holder was involved in the commission of a felony; (2) the accounts of the account holder are specifically identified; (3) there was a loss of $10,000 or more as a result of the commission of the alleged felony; and (4) it is necessary to freeze the account holder's funds or assets to ensure eventual restitution to victims of the alleged offense, the court may order the financial institution to freeze all or part of the account holder's deposited funds or assets so that the funds or assets may not be withdrawn or disposed of until further order of the court.

Subd. 4. **Duty of financial institutions.** Upon receipt of the order authorized by this section, a financial institution must not permit any funds or assets that were frozen by the order to be withdrawn or disposed of until further order of the court.

Subd. 5. **Release of funds.** (a) The account holder may, upon notice and motion, have a hearing to contest the freezing of funds or assets and to seek the release of all or part of them.

(b) The account holder is entitled to an order releasing the freeze by showing:

(1) that the account holder has posted a bond or other adequate surety, guaranteeing that, upon conviction, adequate funds or assets will be available to pay complete restitution to victims of the alleged offense;

(2) that there is no probable cause to believe that the account holder was involved in the alleged offense;

(3) that the amount of funds or assets frozen is more than is necessary to pay complete restitution to all victims of the alleged offense;

(4) that a joint account holder who is not involved in the alleged criminal activity has deposited all or part of the funds or assets; or

(5) that the funds or assets should be returned in the interests of justice.

(c) It is not grounds for the release of funds or assets that the particular accounts frozen do not contain funds or assets that were proceeds from or used in the commission of the alleged offense.

Subd. 6. **Disposition of funds.** (a) If the account holder is convicted of a felony or a lesser offense, the funds or assets may be used to pay complete restitution to victims of the offense. The court may order the financial institution to remit all or part of the frozen funds or assets to the court.

(b) If the account holder is acquitted or the charges are dismissed, the court must issue an order releasing the freeze on the funds or assets.

Subd. 7. **Time limit.** The freeze permitted by this section expires 24 months after the date of the court's initial attachment order unless the time limit is extended by the court in writing upon a showing of good cause by the prosecution.

Subd. 8. **Notice.** Within ten days after a court issues an attachment order under this section, the prosecutor shall send a copy of the order to the account holder's last known address or to the account holder's attorney, if known.

History: *1987 c 217 s 1*

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, the issuer intends shall not be paid, is guilty of issuing a dishonored check and may be sentenced as provided in subdivision 2a. In addition, restitution may be ordered by the court.

Subd. 2a. **Penalties.** (a) A person who is convicted of issuing a dishonored check under subdivision 2 may be sentenced as follows:

(1) to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if the value of the dishonored check, or checks aggregated under paragraph (b), is more than $500;

(2) to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both, if the value of the dishonored check, or checks aggregated under paragraph (b), is more than $250 but not more than $500; or

(3) to imprisonment for not more than 90 days or to payment of a fine of not more than $1,000, or both, if the value of the dishonored check, or checks aggregated under paragraph (b), is not more than $250.

(b) In a prosecution under this subdivision, the value of dishonored checks issued by the defendant in violation of this subdivision within any six-month period may be aggregated and the defendant charged accordingly in applying this section. When two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the dishonored checks was issued for all of the offenses aggregated under this paragraph.

Subd. 3. **Proof of intent.** Any of the following is evidence sufficient to sustain a finding that the person at the time the person issued the check intended it should not be paid:

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

(2) proof that, at the time of issuance, the issuer did not have sufficient funds or credit with the drawee and that the issuer 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 the issuer 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 that includes a citation to and a description of the penalties in 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 and to the closing of the account;

(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 not impose a fee for furnishing this information to law enforcement or prosecuting authorities.

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) A drawee shall release the information specified in paragraph (b), clauses (1) to (3) 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.

(b) 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;

(2) the last known home address and telephone number of the drawer. The drawee may not release the address or telephone number of the place of employment of the drawer unless the drawer is a business entity or the place of employment is the home; and

(3) a statement as to whether the aggregated value of dishonored checks attributable to the drawer within six months before or after the date of the dishonored check exceeds $250; for purposes of this clause, a check is not dishonored if payment was not made pursuant to a stop payment order.

The drawee shall release all of the information described in clauses (1) to (3) 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.

(c) 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: *1963 c 753 art 1 s 609.535; 1967 c 466 s 1; 1971 c 23 s 56; 1974 c 106 s 1,2; 1981 c 202 s 1; 1981 c 247 s 1-3; 1983 c 225 s 10; 1984 c 436 s 34; 1985 c 140 s 3; 1986 c 444; 1988 c 527 s 2,3; 1991 c 256 s 11-13; 1992 c 569 s 26; 1999 c 218 s 3; 2004 c 228 art 1 s 72*

609.54 EMBEZZLEMENT OF PUBLIC FUNDS.

Whoever does an act which constitutes embezzlement under the provisions of Minnesota Constitution, article XI, 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 $10,000, 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 $20,000, or both.

History: *1963 c 753 art 1 s 609.54; 1976 c 2 s 172; 1984 c 628 art 3 s 11*

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*

609.545 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.

History: *1963 c 753 art 1 s 609.545; 1971 c 23 s 57*

609.546 MOTOR VEHICLE TAMPERING.

A person is guilty of a misdemeanor who intentionally:

(1) rides in or on a motor vehicle knowing that the vehicle was taken and is being driven by another without the owner's permission; or

(2) tampers with or enters into or on a motor vehicle without the owner's permission.

History: *1989 c 290 art 7 s 9*

609.55 [Repealed, 1989 c 290 art 7 s 14]

609.551 RUSTLING AND LIVESTOCK THEFT; PENALTIES.

Subdivision 1. **Crime defined; stealing cattle; penalties.** 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 the other's 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 $20,000;

(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 $10,000;

(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. **Crime defined; selling stolen cattle.** 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. **Aggregation.** 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. **Amount of action.** 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.

History: *1975 c 314 s 2; 1977 c 355 s 8; 1984 c 628 art 3 s 11; 1986 c 444*

609.552 UNAUTHORIZED RELEASE OF ANIMALS.

A person who intentionally and without permission releases an animal lawfully confined for science, research, commerce, or education is guilty of a misdemeanor. A second or subsequent offense by the same person is a gross misdemeanor.

History: *1989 c 55 s 2*

DAMAGE OR TRESPASS TO PROPERTY

609.555 [Repealed, 1976 c 124 s 10]

609.556 DEFINITIONS.

Subdivision 1. **Scope.** 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.** "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.** "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.

History: *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. **First degree; dwelling.** 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 the actor 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. **First degree; other buildings.** Whoever unlawfully by means of fire or explosives, intentionally destroys or damages any building not included in subdivision 1, whether the property of the actor 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 $35,000, 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.

Subd. 3. **First degree; flammable material.** (a) Whoever unlawfully by means of fire or explosives, intentionally destroys or damages any building not included in subdivision 1, whether the property of the actor or another, commits arson in the first degree if a flammable material is used to start or accelerate the fire. A person who violates this paragraph may be sentenced to imprisonment for not more than 20 years or a fine of not more than $20,000, or both.

(b) As used in this subdivision:

(1) "combustible liquid" means a liquid having a flash point at or above 100 degrees Fahrenheit;

(2) "flammable gas" means any material which is a gas at 68 degrees Fahrenheit or less and 14.7 psi of pressure and which: (i) is ignitable when in a mixture of 13 percent or less by volume with air at atmospheric pressure; or (ii) has a flammable range with air at atmospheric pressure of at least 12 percent, regardless of the lower flammable limit;

(3) "flammable liquid" means any liquid having a flash point below 100 degrees Fahrenheit and having a vapor pressure not exceeding 40 pounds per square inch (absolute) at 100 degrees Fahrenheit, but does not include intoxicating liquor as defined in section 340A.101;

(4) "flammable material" means a flammable or combustible liquid, a flammable gas, or a flammable solid; and

(5) "flammable solid" means any of the following three types of materials:

(i) wetted explosives;

(ii) self-reactive materials that are liable to undergo heat-producing decomposition; or

(iii) readily combustible solids that may cause a fire through friction or that have a rapid burning rate as determined by specific flammability tests.

History: *1976 c 124 s 4; 1984 c 628 art 3 s 11; 1986 c 444; 1994 c 636 art 2 s 42; 1995 c 186 s 100; 1999 c 176 s 1*

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, no matter what its value, or any other real or personal property valued at more than $1,000, whether the property of the actor or another, may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

History: *1976 c 124 s 5; 1979 c 258 s 16; 1984 c 628 art 3 s 11; 1985 c 141 s 2; 1986 c 444; 1993 c 326 art 5 s 7*

609.563 ARSON IN THE THIRD DEGREE.

Subdivision 1. **Crime.** Whoever unlawfully by means of fire or explosives, intentionally destroys or damages any real or personal property may be sentenced to imprisonment for not more than five years or to payment of a fine of $10,000, or both, if:

(a) the property intended by the accused to be damaged or destroyed had a value of more than $300 but less than $1,000; 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. [Repealed, 1998 c 367 art 2 s 33]

History: *1976 c 124 s 6; 1977 c 355 s 9; 1979 c 258 s 17; 1984 c 628 art 3 s 11; 1985 c 141 s 3; 1993 c 326 art 5 s 8*

609.5631 ARSON IN THE FOURTH DEGREE.

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Multiple unit residential building" means a building containing two or more apartments.

(c) "Public building" means a building such as a hotel, hospital, motel, dormitory, sanitarium, nursing home, theater, stadium, gymnasium, amusement park building, school or other building used for educational purposes, museum, restaurant, bar, correctional institution, place of worship, or other building of public assembly.

Subd. 2. **Crime described.** Whoever intentionally by means of fire or explosives sets fire to or burns or causes to be burned any personal property in a multiple unit residential building or public building and arson in the first, second, or third degree was not committed is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

History: *1998 c 367 art 2 s 19; 1999 c 176 s 2*

609.5632 ARSON IN THE FIFTH DEGREE.

Whoever intentionally by means of fire or explosives sets fire to or burns or causes to be burned any real or personal property of value is guilty of a misdemeanor and may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than $1,000, or both.

History: *1998 c 367 art 2 s 20; 2004 c 228 art 1 s 72*

609.5633 USE OF IGNITION DEVICES; PETTY MISDEMEANOR.

A student who uses an ignition device, including a butane or disposable lighter or matches, inside an educational building and under circumstances where there is an obvious risk of fire, and arson in the first, second, third, or fourth degree was not committed, is guilty of a petty misdemeanor. This section does not apply if the student uses the device in a manner authorized by the school.

For the purposes of this section, "student" has the meaning given in section 123B.41, subdivision 11.

History: *1999 c 176 s 3*

609.564 EXCLUDED FIRES.

A person does not violate section 609.561, 609.562, 609.563, or 609.5641 if the person sets a fire pursuant to a validly issued license or permit or with written permission from the fire department of the jurisdiction where the fire occurs.

History: *1985 c 141 s 4; 1990 c 478 s 1*

609.5641 WILDFIRE ARSON.

Subdivision 1. **Setting wildfires.** A person is guilty of a felony who intentionally sets a fire to burn out of control on land of another containing timber, underbrush, grass, or other vegetative combustible material.

Subd. 2. **Possession of flammables to set wildfires.** A person is guilty of a gross misdemeanor who possesses a flammable, explosive, or incendiary device, substance, or material with intent to use the device, substance, or material to violate subdivision 1.

Subd. 3. **Penalty; restitution.** (a) A person who violates subdivision 1 may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

(b) A person who violates subdivision 2 may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

(c) In addition to the sentence otherwise authorized, the court may order a person who is convicted of violating this section to pay fire suppression costs and damages to the owner of the damaged land.

History: *1990 c 478 s 2*

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 NEGLIGENT FIRES; DANGEROUS SMOKING.

Subdivision 1. **Negligent fire resulting in injury or property damage.** Whoever is grossly negligent in causing a fire to burn or get out of control thereby causing damage or injury to another, and as a result of this:

(1) a human being is injured and great bodily harm incurred, is guilty of a crime and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both;

(2) a human being is injured and bodily harm incurred, is guilty of a crime and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both; or

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

(i) to imprisonment for not more than 90 days or to payment of a fine of not more than $1,000, or both, if the value of the property damage is under $300;

(ii) to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both, if the value of the property damaged is at least $300 but is less than $2,500; or

(iii) to imprisonment for not more than three years or to payment of a fine of not more than $5,000, or both, if the value of the property damaged is $2,500 or more.

Subd. 2. **Dangerous smoking.** A person is guilty of a misdemeanor if the person smokes in the presence of explosives or inflammable materials. If a person violates this subdivision and knows that doing so creates a risk of death or bodily harm or serious property damage, the person is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

History: *1976 c 124 s 7; 1977 c 355 s 10; 1981 c 107 s 1; 1984 c 628 art 3 s 11; 1985 c 141 s 5; 1989 c 5 s 8; 1989 c 290 art 6 s 20; 1993 c 326 art 5 s 9; 2001 c 155 s 1; 2003 c 82 s 1*

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, or enters a building without consent and commits a crime while in the building, either directly or as an accomplice, 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 $35,000, or both, if:

(a) the building is a dwelling and another person, not an accomplice, is present in it when the burglar enters or at any time while the burglar is in the building;

(b) the burglar possesses, when entering or at any time while in the building, any of the following: a dangerous weapon, any article used or fashioned in a manner to lead the victim to reasonably believe it to be a dangerous weapon, or an explosive; or

(c) the burglar assaults a person within the building or on the building's appurtenant property.

Subd. 1a. **Mandatory minimum sentence for burglary of occupied dwelling.** A person convicted of committing burglary of an occupied dwelling, as defined in subdivision 1, clause (a), must be committed to the commissioner of corrections or county workhouse for not less than six months.

Subd. 2. **Burglary in the second degree.** Whoever enters a building without consent and with intent to commit a crime, or enters a building without consent and commits a crime while in the building, either directly or as an accomplice, 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 $20,000, 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 while in the building, or enters a building without consent and steals or commits a felony or gross misdemeanor while in the building, either directly or as an accomplice, 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 $10,000, 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, or enters a building without consent and commits a misdemeanor other than to steal while in the building, either directly or as an accomplice, 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 $3,000, or both.

History: *1983 c 321 s 2; 1984 c 628 art 3 s 6; 1986 c 470 s 19; 1988 c 712 s 9-12; 1993 c 326 art 13 s 33; 1995 c 244 s 22; 1998 c 367 art 2 s 21*

609.583 SENTENCING; FIRST BURGLARY OF A DWELLING.

Except as provided in section 609.582, subdivision 1a, in determining an appropriate disposition for a first offense of burglary of a dwelling, the court shall presume that a stay of execution with at least a 90-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; 1984 c 497 s 1; 1986 c 470 s 20; 1996 c 408 art 3 s 33*

609.585 DOUBLE JEOPARDY.

Notwithstanding section 609.04, a prosecution for or conviction of the crime of burglary is not a bar to conviction of or punishment for any other crime committed on entering or while in the building entered.

History: *1963 c 753 art 1 s 609.585; 1993 c 326 art 4 s 31*

609.586 POSSESSION OF CODE GRABBING DEVICES; PENALTY.

Subdivision 1. **Definition.** As used in this section, "code grabbing device" means a device that can receive and record the coded signal sent by the transmitter of a security or other electronic system and can play back the signal to disarm or operate that system.

Subd. 2. **Crime.** Whoever possesses a code grabbing device with intent to use the device to commit an unlawful act may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $5,000, or both.

History: *1996 c 408 art 3 s 34*

609.59 POSSESSION OF BURGLARY OR THEFT TOOLS.

Whoever has in possession any device, explosive, or other instrumentality with intent to use or permit the use of the same to commit burglary or theft may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $5,000, or both.

History: *1963 c 753 art 1 s 609.59; 1984 c 628 art 3 s 11; 1986 c 444; 1988 c 712 s 13*

609.591 DAMAGE TO TIMBER OR WOOD PROCESSING AND RELATED EQUIPMENT.

Subdivision 1. **Definition.** As used in this section and section 609.592, "timber" means trees, whether standing or down, that will produce forest products of value including but not limited to logs, posts, poles, bolts, pulpwood, cordwood, lumber, and decorative material.

Subd. 2. **Crime.** Whoever, without claim of right or consent of the owner, drives, places, or fastens in timber any device of iron, steel, ceramic, or other substance sufficiently hard to damage saws or wood processing or manufacturing equipment, with the intent to hinder the logging or the processing of timber, is guilty of a crime and may be sentenced as provided in subdivisions 3 and 4.

Subd. 3. **Penalties.** A person convicted of violating subdivision 2 may be sentenced as follows:

(1) if the violation caused great bodily harm, to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both;

(2) otherwise, to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

Subd. 4. **Restitution.** In addition to any sentence imposed under subdivision 3, the sentencing court may order a person convicted of violating this section, or of violating section 609.595 by damaging timber or commercial wood processing, manufacturing, or transportation equipment to pay restitution to the owner of the damaged property.

History: *1991 c 180 s 1*

609.592 POSSESSION OF TIMBER DAMAGE DEVICES.

Whoever commits any of the following acts is guilty of a misdemeanor:

(1) possesses a device of iron, steel, ceramic, or other substance sufficiently hard to damage saws, wood processing, manufacturing, or transportation equipment, with the intent to use the device to hinder the logging or the processing of timber; or

(2) possesses a chemical or biological substance, mechanical equipment, or tool with the intent to use it or permit its use to damage timber processing, manufacturing, or transportation equipment.

History: *1991 c 180 s 2*

609.594 DAMAGE TO PROPERTY OF CRITICAL PUBLIC SERVICE FACILITIES, UTILITIES, AND PIPELINES.

Subdivision 1. **Definitions.** As used in this section:

(1) "critical public service facility" includes railroad yards and stations, bus stations, airports, and other mass transit facilities; oil refineries; storage areas or facilities for hazardous materials, hazardous substances, or hazardous wastes; and bridges;

(2) "pipeline" has the meaning given in section 609.6055, subdivision 1; and

(3) "utility" includes: (i) any organization defined as a utility in section 216C.06, subdivision 18; (ii) any telecommunications carrier or telephone company regulated under chapter 237; and (iii) any local utility or enterprise formed for the purpose of providing electrical or gas heating and power, telephone, water, sewage, wastewater, or other related utility service, which is owned, controlled, or regulated by a town, a statutory or home rule charter city, a county, a port development authority, the Metropolitan Council, a district heating authority, a regional commission or other regional government unit, or a combination of these governmental units.

Subd. 2. **Prohibited conduct; penalty.** Whoever causes damage to the physical property of a critical public service facility, utility, or pipeline with the intent to significantly disrupt the operation of or the provision of services by the facility, utility, or pipeline and without the consent of one authorized to give consent, is guilty of a felony and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

Subd. 3. **Detention authority; immunity.** An employee or other person designated by a critical public service facility, utility, or pipeline to ensure the provision of services by the critical public service facility or the safe operation of the equipment or facility of the utility or pipeline who has reasonable cause to believe that a person is violating this section may detain the person as provided in this subdivision. The person detained must be promptly informed of the purpose of the detention and may not be subjected to unnecessary or unreasonable force or interrogation. The employee or other designated person must notify a peace officer promptly of the detention and may only detain the person for a reasonable period of time. No employee or other designated person is criminally or civilly liable for any detention that the employee or person reasonably believed was authorized by and conducted in conformity with this subdivision.

History: *2002 c 401 art 1 s 16*

609.595 DAMAGE TO PROPERTY.

Subdivision 1. **Criminal damage to property in the first degree.** Whoever intentionally causes damage to physical property of another without the latter's consent may

be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if:

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

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

(3) the damage reduces the value of the property by more than $500 measured by the cost of repair and replacement; or

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

In any prosecution under clause (3), the value of any property damaged by the defendant in violation of that clause within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this section; provided that when two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this paragraph.

Subd. 1a. **Criminal damage to property in the second degree.** (a) Whoever intentionally causes damage described in subdivision 2, paragraph (a), because of the property owner's or another's actual or perceived race, color, religion, sex, sexual orientation, disability as defined in section 363A.03, age, or national origin 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 $3,000, or both.

(b) In any prosecution under paragraph (a), the value of property damaged by the defendant in violation of that paragraph within any six-month period may be aggregated and the defendant charged accordingly in applying this section. When two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this paragraph.

Subd. 2. **Criminal damage to property in the third degree.** (a) Except as otherwise provided in subdivision 1a, whoever intentionally causes damage to another person's physical property without the other person's consent may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both, if the damage reduces the value of the property by more than $250 but not more than $500 as measured by the cost of repair and replacement.

(b) Whoever intentionally causes damage to another person's physical property without the other person's consent because of the property owner's or another's actual or perceived race, color, religion, sex, sexual orientation, disability as defined in section 363A.03, age, or national origin may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both, if the damage reduces the value of the property by not more than $250.

(c) In any prosecution under paragraph (a), the value of property damaged by the defendant in violation of that paragraph within any six-month period may be aggregated and the defendant charged accordingly in applying this section. When two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this paragraph.

Subd. 3. **Criminal damage to property in the fourth degree.** Whoever intentionally causes damage described in subdivision 2 under any other circumstances is guilty of a misdemeanor.

History: *1963 c 753 art 1 s 609.595; 1971 c 23 s 60; 1977 c 355 s 11; 1979 c 258 s 18; 1984 c 421 s 1; 1984 c 628 art 3 s 11; 1987 c 329 s 11; 1989 c 261 s 2-4; 2002 c 401 art 1 s 17*

609.596 KILLING OR HARMING A PUBLIC SAFETY DOG.

Subdivision 1. **Felony.** It is a felony for any person to intentionally and without justification cause the death of a police dog, a search and rescue dog, or an arson dog when the dog is involved in law enforcement, fire, or correctional investigation or apprehension, search and rescue duties, or the dog is in the custody of or under the control of a peace officer, a trained handler, or an employee of a correctional facility. A person convicted under this subdivision may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than $5,000, or both. In lieu of a fine, the court may order the defendant to pay restitution to the owner to replace the police dog, search and rescue dog, or arson dog, in an amount not to exceed $5,000.

Subd. 2. **Gross misdemeanor.** It is a gross misdemeanor for any person to intentionally and without justification cause substantial or great bodily harm to a police dog, search and rescue dog, or an arson dog when the dog is involved in law enforcement, fire, or correctional investigation or apprehension, search and rescue duties, or the dog is in the custody of or under the control of a peace officer, a trained handler, or an employee of a correctional facility.

Subd. 3. **Definitions.** As used in this section:

(1) "arson dog" means a dog that has been certified as an arson dog by a state fire or police agency or by an independent testing laboratory;

(2) "correctional facility" has the meaning given in section 241.021, subdivision 1, paragraph (f);

(3) "peace officer" has the meaning given in section 626.84, subdivision 1, paragraph (c); and

(4) "search and rescue dog" means a dog that is trained to locate lost or missing persons, victims of natural or other disasters, and human bodies.

History: *1987 c 167 s 1; 1996 c 408 art 3 s 35; 1999 c 77 s 1; 2001 c 7 s 87*

609.597 ASSAULTING OR HARMING A POLICE HORSE; PENALTIES.

Subdivision 1. **Definition.** As used in this section, "police horse" means a horse that has been trained for crowd control and other law enforcement purposes and is used to assist peace officers in the performance of their official duties.

Subd. 2. **Crime.** Whoever assaults or intentionally harms a police horse while the horse is being used or maintained for use by a law enforcement agency is guilty of a crime and may be sentenced as provided in subdivision 3.

Subd. 3. **Penalties.** A person convicted of violating subdivision 2 may be sentenced as follows:

(1) if a peace officer, or any other person suffers great bodily harm or death as a result of the violation, the person may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both;

(2) if the police horse suffers death or great bodily harm as a result of the violation, or if a peace officer suffers demonstrable bodily harm as a result of the violation, the person may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than $4,000, or both;

(3) if the police horse suffers demonstrable bodily harm as a result of the violation, the person may be sentenced to imprisonment for not more than one year and one day or to payment of a fine of not more than $3,000, or both;

(4) if a peace officer is involuntarily unseated from the police horse or any person, other than the peace officer, suffers demonstrable bodily harm as a result of the violation, the person may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both;

(5) if a violation other than one described in clauses (1) to (4) occurs, the person may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than $1,000, or both.

History: *1995 c 179 s 1; 2004 c 228 art 1 s 72*

609.599 EXPOSING DOMESTIC ANIMALS TO DISEASE.

Subdivision 1. **Gross misdemeanor.** (a) A person who intentionally exposes a domestic animal to an animal disease contrary to reasonable veterinary practice, or intentionally puts a domestic animal at risk of quarantine or destruction by actions contrary to reasonable veterinary practice, is guilty of a gross misdemeanor.

(b) The provisions of paragraph (a) do not apply to a person performing academic or industry research on domestic animals under protocols approved by an institutional animal care and use committee.

Subd. 2. **Civil liability.** A person who violates subdivision 1 is liable in a civil action for damages in an amount three times the value of any domestic animal destroyed because it has the disease, has been exposed to the disease agent, or is at high risk of being exposed to the disease agent because of proximity to diseased animals.

Subd. 3. **Definition.** For purposes of this section, "domestic animal" means:

(1) those species of animals that live under the husbandry of humans;

(2) livestock within the meaning of section 35.01, subdivision 3;

(3) a farm-raised deer, farm-raised game bird, or farm-raised fish; or

(4) an animal listed as a domestic animal by a rule adopted by the Department of Agriculture.

History: *2004 c 254 s 45*

609.60 [Repealed, 1989 c 5 s 18]

609.605 TRESPASS.

Subdivision 1. **Misdemeanor.** (a) The following terms have the meanings given them for purposes of this section.

(i) "Premises" means real property and any appurtenant building or structure.

(ii) "Dwelling" means the building or part of a building used by an individual as a place of residence on either a full-time or a part-time basis. A dwelling may be part of a multidwelling or multipurpose building, or a manufactured home as defined in section 168.011, subdivision 8.

(iii) "Construction site" means the site of the construction, alteration, painting, or repair of a building or structure.

(iv) "Owner or lawful possessor," as used in paragraph (b), clause (9), means the person on whose behalf a building or dwelling is being constructed, altered, painted, or repaired and the general contractor or subcontractor engaged in that work.

(v) "Posted," as used in clause (9), means the placement of a sign at least 11 inches square in a conspicuous place on the exterior of the building that is under construction, alteration, or repair, and additional signs in at least two conspicuous places for each ten acres being protected. The sign must carry an appropriate notice and the name of the person giving the notice, followed by the word "owner" if the person giving the notice is the holder of legal title to the land on which the construction site is located or by the word "occupant" if the person giving the notice is not the holder of legal title but is a lawful occupant of the land.

(vi) "Business licensee," as used in paragraph (b), clause (9), includes a representative of a building trades labor or management organization.

(vii) "Building" has the meaning given in section 609.581, subdivision 2.

(b) A person is guilty of a misdemeanor if the person intentionally:

(1) permits domestic animals or fowls under the actor's control to go on the land of another within a city;

(2) interferes unlawfully with a 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;

(3) trespasses on the premises of another and, without claim of right, refuses to depart from the premises on demand of the lawful possessor;

(4) occupies or enters the dwelling or locked or posted building 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;

(5) enters the premises of another with intent to take or injure any fruit, fruit trees, or vegetables growing on the premises, without the permission of the owner or occupant;

(6) enters or is found on the premises of a public or private cemetery without authorization during hours the cemetery is posted as closed to the public;

(7) returns to the property of another with the intent to abuse, disturb, or cause distress in or threaten another, after being told to leave the property and not to return, if the actor is without claim of right to the property or consent of one with authority to consent;

(8) returns to the property of another within 30 days after being told to leave the property and not to return, if the actor is without claim of right to the property or consent of one with authority to consent; or

(9) enters the locked or posted construction site of another without the consent of the owner or lawful possessor, unless the person is a business licensee.

Subd. 2. **Gross misdemeanor.** Whoever trespasses upon the grounds of a facility providing emergency shelter services for battered women, as defined under section 611A.31, subdivision 3, or of a facility providing transitional housing for battered women and their children, without claim of right or consent of one who has right to give consent, and refuses to depart from the grounds of the facility on demand of one who has right to give consent, is guilty of a gross misdemeanor.

Subd. 3. [Repealed, 1993 c 326 art 2 s 34]

Subd. 4. **Trespasses on school property.** (a) It is a misdemeanor for a person to enter or be found in a public or nonpublic elementary, middle, or secondary school building unless the person:

(1) is an enrolled student in, a parent or guardian of an enrolled student in, or an employee of the school or school district;

(2) has permission or an invitation from a school official to be in the building;

(3) is attending a school event, class, or meeting to which the person, the public, or a student's family is invited; or

(4) has reported the person's presence in the school building in the manner required for visitors to the school.

(b) It is a gross misdemeanor for a group of three or more persons to enter or be found in a public or nonpublic elementary, middle, or secondary school building unless one of the persons:

(1) is an enrolled student in, a parent or guardian of an enrolled student in, or an employee of the school or school district;

(2) has permission or an invitation from a school official to be in the building;

(3) is attending a school event, class, or meeting to which the person, the public, or a student's family is invited; or

(4) has reported the person's presence in the school building in the manner required for visitors to the school.

(c) It is a misdemeanor for a person to enter or be found on school property within six months after being told by the school principal or the principal's designee to leave the property and not to return, unless the principal or the principal's designee has given the person permission to return to the property. As used in this paragraph, "school property" has the meaning given in section 152.01, subdivision 14a, clauses (1) and (3).

(d) A school principal or a school employee designated by the school principal to maintain order on school property, who has reasonable cause to believe that a person is violating this subdivision may detain the person in a reasonable manner for a reasonable period of time pending the arrival of a peace officer. A school principal or

designated school employee is not civilly or criminally liable for any action authorized under this paragraph if the person's action is based on reasonable cause.

(e) A peace officer may arrest a person without a warrant if the officer has probable cause to believe the person violated this subdivision within the preceding four hours. The arrest may be made even though the violation did not occur in the peace officer's presence.

Subd. 5. **Certain trespass on agricultural land.** (a) A person is guilty of a gross misdemeanor if the person enters the posted premises of another on which cattle, bison, sheep, goats, swine, horses, poultry, farmed cervidae, farmed ratitae, aquaculture stock, or other species of domestic animals for commercial production are kept, without the consent of the owner or lawful occupant of the land.

(b) "Domestic animal," for purposes of this section, has the meaning given in section 609.599.

(c) "Posted," as used in paragraph (a), means the placement of a sign at least 11 inches square in a conspicuous place at each roadway entry to the premises. The sign must provide notice of a biosecurity area and wording such as: "Biosecurity measures are in force. No entrance beyond this point without authorization." The sign may also contain a telephone number or a location for obtaining such authorization.

(d) The provisions of this subdivision do not apply to employees or agents of the state or county when serving in a regulatory capacity and conducting an inspection on posted premises where domestic animals are kept.

History: *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; 1981 c 365 s 9; 1982 c 408 s 2; 1985 c 159 s 2; 1986 c 444; 1987 c 307 s 3; 1989 c 5 s 9; 1989 c 261 s 5; 1990 c 426 art 1 s 54; 1993 c 326 art 1 s 14; art 2 s 13; art 4 s 32; 1993 c 366 s 13; 1994 c 465 art 1 s 60; 1995 c 226 art 3 s 48; 2004 c 254 s 46*

609.6055 TRESPASS ON CRITICAL PUBLIC SERVICE FACILITY; UTILITY; OR PIPELINE.

Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the meanings given.

(b) "Critical public service facility" includes buildings and other physical structures, and fenced in or otherwise enclosed property, of railroad yards and stations, bus stations, airports, and other mass transit facilities; oil refineries; and storage areas or facilities for hazardous materials, hazardous substances, or hazardous wastes. The term also includes nonpublic portions of bridges. The term does not include railroad tracks extending beyond a critical public service facility.

(c) "Pipeline" includes an aboveground pipeline and any equipment, facility, or building located in this state that is used to transport natural or synthetic gas, crude petroleum or petroleum fuels or oil or their derivatives, or hazardous liquids, to or within a distribution, refining, manufacturing, or storage facility that is located inside or outside of this state. Pipeline does not include service lines.

(d) "Utility" includes:

(1) any organization defined as a utility in section 216C.06, subdivision 18;

(2) any telecommunications carrier or telephone company regulated under chapter 237; and

(3) any local utility or enterprise formed for the purpose of providing electrical or gas heating and power, telephone, water, sewage, wastewater, or other related utility service, which is owned, controlled, or regulated by a town, a statutory or home rule charter city, a county, a port development authority, the Metropolitan Council, a district heating authority, a regional commission or other regional government unit, or a combination of these governmental units.

The term does not include property located above buried power or telecommunications lines or property located below suspended power or telecommunications lines, unless the property is fenced in or otherwise enclosed.

Subd. 2. **Prohibited conduct; penalty.** Whoever enters or is found upon property containing a critical public service facility, utility, or pipeline, without claim of right or consent of one who has the right to give consent to be on the property, is guilty of a gross misdemeanor, if:

(1) the person refuses to depart from the property on the demand of one who has the right to give consent;

(2) within the past six months, the person had been told by one who had the right to give consent to leave the property and not to return, unless a person with the right to give consent has given the person permission to return; or

(3) the property is posted.

Subd. 3. **Posting.** For purposes of this section, a critical public service facility, utility, or pipeline is posted if there are signs that:

(1) state "no trespassing" or similar terms;

(2) display letters at least two inches high;

(3) state that Minnesota law prohibits trespassing on the property; and

(4) are posted in a conspicuous place and at intervals of 500 feet or less.

Subd. 4. **Detention authority; immunity.** An employee or other person designated by a critical public service facility, utility, or pipeline to ensure the provision of services by the critical public service facility or the safe operation of the equipment or facility of the utility or pipeline who has reasonable cause to believe that a person is violating this section may detain the person as provided in this subdivision. The person detained must be promptly informed of the purpose of the detention and may not be subjected to unnecessary or unreasonable force or interrogation. The employee or other designated person must notify a peace officer promptly of the detention and may only detain the person for a reasonable period of time. No employee or other designated person is criminally or civilly liable for any detention that the employee or person reasonably believed was authorized by and conducted in conformity with this subdivision.

Subd. 5. **Arrest authority.** A peace officer may arrest a person without a warrant if the officer has probable cause to believe the person violated this section within the preceding four hours. The arrest may be made even though the violation did not occur in the presence of the peace officer.

History: *2002 c 401 art 1 s 18*

609.606 UNLAWFUL OUSTER OR EXCLUSION.

A landlord, agent of the landlord, or person acting under the landlord's direction or control who unlawfully and intentionally removes or excludes a tenant from lands or tenements or intentionally interrupts or causes the interruption of electrical, heat, gas, or water services to the tenant with intent to unlawfully remove or exclude the tenant from lands or tenements is guilty of a misdemeanor.

History: *1992 c 376 art 1 s 16*

609.61 [Repealed, 1976 c 124 s 10]

609.611 INSURANCE FRAUD.

Subdivision 1. **Insurance fraud prohibited.** Whoever with the intent to defraud for the purpose of depriving another of property or for pecuniary gain, commits, or permits its employees or its agents to commit any of the following acts, is guilty of insurance fraud and may be sentenced as provided in subdivision 3:

(a) Presents, causes to be presented, or prepares with knowledge or reason to believe that it will be presented, by or on behalf of an insured, claimant, or applicant to an insurer, insurance professional, or premium finance company in connection with an insurance transaction or premium finance transaction, any information that contains a false representation as to any material fact, or that conceals a material fact concerning any of the following:

(1) an application for, rating of, or renewal of, an insurance policy;

(2) a claim for payment or benefit under an insurance policy;

(3) a payment made according to the terms of an insurance policy;

(4) an application used in a premium finance transaction;

(b) Presents, causes to be presented, or prepares with knowledge or reason to believe that it will be presented, to or by an insurer, insurance professional, or a premium finance company in connection with an insurance transaction or premium finance transaction, any information that contains a false representation as to any material fact, or that conceals a material fact, concerning any of the following:

(1) a solicitation for sale of an insurance policy or purported insurance policy;

(2) an application for certificate of authority;

(3) the financial condition of an insurer; or

(4) the acquisition, formation, merger, affiliation, or dissolution of an insurer;

(c) Solicits or accepts new or renewal insurance risks by or for an insolvent insurer;

(d) Removes the assets or any record of assets, transactions, and affairs or any material part thereof, from the home office or other place of business of an insurer, or from the place of safekeeping of an insurer, or destroys or sequesters the same from the Department of Commerce.

(e) Diverts, misappropriates, converts, or embezzles funds of an insurer, insured, claimant, or applicant for insurance in connection with:

(1) an insurance transaction;

(2) the conducting of business activities by an insurer or insurance professional; or

(3) the acquisition, formation, merger, affiliation, or dissolution of any insurer.

Subd. 2. **Statute of limitations.** The applicable statute of limitations provision under section 628.26 shall not begin to run until the insurance company or law enforcement agency is aware of the fraud, but in no event may the prosecution be commenced later than seven years after the act has occurred.

Subd. 3. **Sentence.** Whoever violates this provision may be sentenced as provided in section 609.52, subdivision 3, based on the greater of (i) the value of property, services, or other benefit wrongfully obtained or attempted to obtain, or (ii) the aggregate economic loss suffered by any person as a result of the violation. A person convicted of a violation of this section must be ordered to pay restitution to persons aggrieved by the violation. Restitution must be ordered in addition to a fine or imprisonment but not in lieu of a fine or imprisonment.

Subd. 4. **Definitions.** (a) "Insurance policy" means the written instrument in which are set forth the terms of any certificate of insurance, binder of coverage, or contract of insurance (including a certificate, binder, or contract issued by a state-assigned risk plan); benefit plan; nonprofit hospital service plan; motor club service plan; or surety bond, cash bond, or any other alternative to insurance authorized by a state's Financial Responsibility Act.

(b) "Insurance professional" means sales agents, agencies, managing general agents, brokers, producers, claims representatives, adjusters, and third-party administrators.

(c) "Insurance transaction" means a transaction by, between, or among: (1) an insurer or a person who acts on behalf of an insurer; and (2) an insured, claimant, applicant for insurance, public adjuster, insurance professional, practitioner, or any person who acts on behalf of any of the foregoing, for the purpose of obtaining insurance or reinsurance, calculating insurance premiums, submitting a claim, negotiating or adjusting a claim, or otherwise obtaining insurance, self-insurance, or reinsurance or obtaining the benefits thereof or therefrom.

(d) "Insurer" means a person purporting to engage in the business of insurance or authorized to do business in the state or subject to regulation by the state, who undertakes to indemnify another against loss, damage, or liability arising from a contingent or unknown event. Insurer includes, but is not limited to, an insurance company; self-insurer; reinsurer; reciprocal exchange; interinsurer; risk retention group;

Lloyd's insurer; fraternal benefit society; surety; medical service, dental, optometric, or any other similar health service plan; and any other legal entity engaged or purportedly engaged in the business of insurance, including any person or entity that falls within the definition of insurer found within section 60A.951, subdivision 5.

(e) "Premium" means consideration paid or payable for coverage under an insurance policy. Premium includes any payment, whether due within the insurance policy term or otherwise, and any deductible payment, whether advanced by the insurer or insurance professional and subject to reimbursement by the insured or otherwise, any self-insured retention or payment, whether advanced by the insurer or insurance professional and subject to reimbursement by the insured or otherwise, and any collateral or security to be provided to collateralize obligations to pay any of the above.

(f) "Premium finance company" means a person engaged or purporting to engage in the business of advancing money, directly or indirectly, to an insurer or producer at the request of an insured under the terms of a premium finance agreement, including but not limited to, loan contracts, notes, agreements or obligations, wherein the insured has assigned the unearned premiums, accrued dividends, or loss payments as security for such advancement in payment of premiums on insurance policies only, but does not include the financing of insurance premiums purchased in connection with the financing of goods or services.

(g) "Premium finance transaction" means a transaction by, between, or among an insured, a producer or other party claiming to act on behalf of an insured and a third-party premium finance company, for the purposes of purportedly or actually advancing money directly or indirectly to an insurer or producer at the request of an insured under the terms of a premium finance agreement, wherein the insured has assigned the unearned premiums, accrued dividends, or loan payments as security for such advancement in payment of premiums on insurance policies only, but does not include the financing of insurance premiums purchased in connection with the financing of goods or services.

History: *1976 c 124 s 8; 1984 c 628 art 3 s 11; 1986 c 444; 1987 c 217 s 2; 1994 c 636 art 2 s 43; 1996 c 408 art 3 s 36*

609.612 EMPLOYMENT OF RUNNERS.

Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the meanings given.

(b) "Public media" means telephone directories, professional directories, newspapers and other periodicals, radio and television, billboards, and mailed or electronically transmitted written communications that do not involve in-person contact with a specific prospective patient or client.

(c) "Runner," "capper," or "steerer" means a person who for a pecuniary gain procures patients or clients at the direction of, or in cooperation with, a health care provider when the person knows or has reason to know that the provider's purpose is to fraudulently perform or obtain services or benefits under or relating to a contract of motor vehicle insurance. The term does not include a person who procures clients through public media.

Subd. 2. **Act constituting.** Whoever employs, uses, or acts as a runner, capper, or steerer is guilty of a felony and may be sentenced to imprisonment for not more than three years or to a payment of a fine of not more than $6,000, or both. Charges for any services rendered by a health care provider, who violated this section in regard to the person for whom such services were rendered, are noncompensable and unenforceable as a matter of law.

History: *2002 c 331 s 15*

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, including during the period of time allowed for

redemption, with intent to impair the value of the property, 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 $1,000, 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 $10,000, or both.

History: *1963 c 753 art 1 s 609.615; 1971 c 23 s 63; 1977 c 355 s 12; 1984 c 628 art 3 s 11; 1993 c 40 s 10; 2004 c 228 art 1 s 72*

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 three years or to payment of a fine of not more than $6,000, or both:

(1) conceals, removes, or transfers any personal property in which the actor 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.

History: *1963 c 753 art 1 s 609.62; 1984 c 628 art 3 s 11; 1986 c 444; 1989 c 290 art 6 s 21*

609.621 PROOF OF CONCEALMENT OF PROPERTY BY OBLIGOR OF SECURED PROPERTY.

Subdivision 1. **Crime defined; obligor conceals property.** 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. **Allegation.** 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.

History: *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 the maker or alterer under an assumed or fictitious name, or at another time, or with different provisions, or by authority of one who did not give such authority, is guilty of aggravated forgery and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both:

(1) a writing or object whereby, when genuine, legal rights, privileges, or obligations are created, terminated, transferred, or evidenced, or any writing normally relied upon as evidence of debt or property rights, other than a check as defined in section 609.631 or a financial transaction card as defined in section 609.821; or

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

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

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

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

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

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

Subd. 2. **Means for false reproduction.** Whoever, with intent to defraud, makes, engraves, possesses or transfers a plate or instrument for the false reproduction of a writing or object mentioned in subdivision 1, a check as defined in section 609.631, or a financial transaction card as defined in section 609.821, may be sentenced as provided in subdivision 1.

Subd. 3. **Uttering or possessing.** Whoever, with intent to defraud, utters or possesses with intent to utter any forged writing or object mentioned in subdivision 1, not including a check as defined in section 609.631 or a financial transaction card as defined in section 609.821, knowing it to have been so forged, may be sentenced as provided in subdivision 1.

History: *1963 c 753 art 1 s 609.625; 1984 c 628 art 3 s 11; 1985 c 243 s 9; 1986 c 444; 1987 c 329 s 12*

609.63 FORGERY.

Subdivision 1. **Crime defined; intent to defraud.** 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 $5,000, 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 craftsperson, tradesperson, 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. **Crime defined; forged document at trial.** 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 $10,000, 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 $5,000, or both.

History: *1963 c 753 art 1 s 609.63; 1984 c 628 art 3 s 11; 1986 c 444*

609.631 CHECK FORGERY; OFFERING A FORGED CHECK.

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

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

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

Subd. 2. **Check forgery; elements.** A person is guilty of check forgery and may be sentenced under subdivision 4 if the person, with intent to defraud, does any of the following:

(1) falsely makes or alters a check so that it purports to have been made by another or by the maker under an assumed or fictitious name, or at another time, or with different provisions, or by the authority of one who did not give authority; or

(2) falsely endorses or alters a check so that it purports to have been endorsed by another.

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

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

(1) to imprisonment for not more than 20 years or to payment of a fine of not more than $100,000, or both, if the forged check or checks are used to obtain or in an attempt to obtain, property or services of more than $35,000 or the aggregate amount of the forged check or checks is more than $35,000;

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

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

(a) the forged check or checks are used to obtain or in an attempt to obtain, property or services of more than $250 but not more than $2,500, or the aggregate face amount of the forged check or checks is more than $250 but not more than $2,500; or

(b) the forged check or checks are used to obtain or in an attempt to obtain, property or services of no more than $250, or have an aggregate face value of no more than $250, and the person has been convicted within the preceding five years for an offense under this section, section 609.24; 609.245; 609.52; 609.53; 609.582, subdivision 1, 2, or 3; 609.625; 609.63; or 609.821, or a statute from another state in conformity with any of those sections, and the person received a felony or gross misdemeanor sentence for the offense, or a sentence that was stayed under section 609.135 if the offense to which a plea was entered would allow imposition of a felony or gross misdemeanor sentence; and

(4) to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both, if the forged check or checks are used to obtain or in an attempt to obtain, property or services of no more than $250, or the aggregate face amount of the forged check or checks is no more than $250.

In any prosecution under this subdivision, the value of the checks forged or offered by the defendant in violation of this subdivision within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this section. When two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the checks was forged or offered for all of the offenses aggregated under this paragraph.

History: *1987 c 329 s 13; 1988 c 712 s 14; 1989 c 290 art 7 s 10; 1999 c 218 s 4*

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.

History: *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 $5,000, or both.

History: *1963 c 753 art 1 s 609.64; 1984 c 628 art 3 s 11*

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 $5,000, 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.

History: *1963 c 753 art 1 s 609.645; 1984 c 628 art 3 s 11*

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 the actor or that as such notary public or other public officer the actor performed any other official act may be sentenced as follows:

(1) if the actor 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 $5,000, 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 $1,000, or both.

History: *1963 c 753 art 1 s 609.65; 1971 c 23 s 64; 1984 c 628 art 3 s 11; 1986 c 444; 2004 c 228 art 1 s 72*

609.651 STATE LOTTERY FRAUD.

Subdivision 1. **Felony.** A person is guilty of a felony and may be sentenced under subdivision 4 if the person does any of the following with intent to defraud the State Lottery:

(1) alters or counterfeits a state lottery ticket;

(2) knowingly presents an altered or counterfeited state lottery ticket for payment;

(3) knowingly transfers an altered or counterfeited state lottery ticket to another person; or

(4) otherwise claims a lottery prize by means of fraud, deceit, or misrepresentation.

Subd. 2. **Computer access.** A person is guilty of a felony and may be sentenced under subdivision 4 if the person:

(1) obtains access to a computer database maintained by the director without the specific authorization of the director;

(2) obtains access to a computer database maintained by a person under contract with the director to maintain the database without the specific authorization of the director and the person maintaining the database.

Subd. 3. **False statements.** A person is guilty of a felony and may be sentenced under subdivision 4 if the person:

(1) makes a materially false or misleading statement, or a material omission, in a record required to be submitted under chapter 349A; or

(2) makes a materially false or misleading statement, or a material omission, in information submitted to the director of the State Lottery in a lottery retailer's application or a document related to a bid.

Subd. 4. **Penalty.** (a) A person who violates subdivision 1 or 2 may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $50,000, or both.

(b) A person who violates subdivision 1 or 2 and defrauds the State Lottery of $35,000 or more may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than $100,000, or both.

(c) A person who violates subdivision 3 may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $25,000, or both.

History: *1989 c 334 art 3 s 16; 1989 c 356 s 36*

609.652 FRAUDULENT DRIVERS' LICENSES AND IDENTIFICATION CARDS; PENALTY.

Subdivision 1. **Definitions.** For purposes of this section:

(1) "driver's license or identification card" means a driver's license or identification card issued by the Driver and Vehicle Services Division of the Department of Public Safety or receipts issued by its authorized agents or those of any state as defined in section 171.01 that issues licenses recognized in this state for the operation of a motor vehicle or that issues identification cards recognized in this state for the purpose of indicating a person's legal name and age;

(2) "fraudulent driver's license or identification card" means a document purporting to be a driver's license or identification card, but that is not authentic; and

(3) "sell" means to sell, barter, deliver, exchange, distribute, or dispose of to another.

Subd. 2. **Criminal acts.** (a) A person who does any of the following for consideration and with intent to manufacture, sell, issue, publish, or pass more than one fraudulent driver's license or identification card or to cause or permit any of the items listed in clauses (1) to (5) to be used in forging or making more than one false or counterfeit driver's license or identification card is guilty of a crime:

(1) has in control, custody, or possession any plate, block, press, stone, digital image, computer software program, encoding equipment, computer optical scanning equipment, or digital photo printer, or other implement, or any part of such an item, designed to assist in making a fraudulent driver's license or identification card;

(2) engraves, makes, or amends, or begins to engrave, make, or amend, any plate, block, press, stone, or other implement for the purpose of producing a fraudulent driver's license or identification card;

(3) uses a photocopier, digital camera, photographic image, or computer software to generate a fraudulent driver's license or identification card;

(4) has in control, custody, or possession or makes or provides paper or other material adapted and designed for the making of a fraudulent driver's license or identification card; or

(5) prints, photographs, or in any manner makes or executes an engraved photograph, print, or impression purporting to be a driver's license or identification card.

(b) Notwithstanding section 171.22, a person who manufacturers or possesses more than one fraudulent driver's license or identification card with intent to sell is guilty of a crime.

Subd. 3. **Penalties.** A person who commits any act described in subdivision 2 is guilty of a gross misdemeanor. A person convicted of a second or subsequent offense of this subdivision may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

History: *1Sp2001 c 8 art 8 s 27*

609.655 [Repealed, 1976 c 112 s 2]

CRIMES AGAINST PUBLIC SAFETY AND HEALTH

609.66 DANGEROUS WEAPONS.

Subdivision 1. **Misdemeanor and gross misdemeanor crimes.** (a) Whoever does any of the following is guilty of a crime and may be sentenced as provided in paragraph (b):

(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 slungshot 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) outside of a municipality and 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.

Possession of written evidence of prior consent signed by the minor's parent or guardian is a complete defense to a charge under clause (6).

(b) A person convicted under paragraph (a) may be sentenced as follows:

(1) if the act was committed in a public housing zone, as defined in section 152.01, subdivision 19, a school zone, as defined in section 152.01, subdivision 14a, or a park zone, as defined in section 152.01, subdivision 12a, to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both; or

(2) otherwise, including where the act was committed on residential premises within a zone described in clause (1) if the offender was at the time an owner, tenant, or invitee for a lawful purpose with respect to those residential premises, to imprisonment for not more than 90 days or to payment of a fine of not more than $1,000, or both.

Subd. 1a. **Felony crimes; silencers prohibited; reckless discharge.** (a) Except as otherwise provided in subdivision 1h, whoever does any of the following is guilty of a felony and may be sentenced as provided in paragraph (b):

(1) sells or has in possession any device designed to silence or muffle the discharge of a firearm;

(2) intentionally discharges a firearm under circumstances that endanger the safety of another; or

(3) recklessly discharges a firearm within a municipality.

(b) A person convicted under paragraph (a) may be sentenced as follows:

(1) if the act was a violation of paragraph (a), clause (2), or if the act was a violation of paragraph (a), clause (1) or (3), and was committed in a public housing zone, as defined in section 152.01, subdivision 19, a school zone, as defined in section 152.01, subdivision 14a, or a park zone, as defined in section 152.01, subdivision 12a, to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both; or

(2) otherwise, to imprisonment for not more than two years or to payment of a fine of not more than $5,000, or both.

Subd. 1b. **Felony; furnishing to minors.** Whoever, in any municipality of this state, furnishes a minor under 18 years of age with a firearm, airgun, ammunition, or explosive without the prior consent of the minor's parent or guardian or of the police

department of the municipality is guilty of a felony and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both. Possession of written evidence of prior consent signed by the minor's parent or guardian is a complete defense to a charge under this subdivision.

Subd. 1c. **Felony; furnishing a dangerous weapon.** Whoever recklessly furnishes a person with a dangerous weapon in conscious disregard of a known substantial risk that the object will be possessed or used in furtherance of a felony crime of violence is guilty of a felony and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

Subd. 1d. **Possession on school property; penalty.** (a) Except as provided under paragraphs (c) and (e), whoever possesses, stores, or keeps a dangerous weapon or uses or brandishes a replica firearm or a BB gun while knowingly on school property is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than $5,000, or both.

(b) Whoever possesses, stores, or keeps a replica firearm or a BB gun on school property is guilty of a gross misdemeanor.

(c) Notwithstanding paragraph (a) or (b), it is a misdemeanor for a person authorized to carry a firearm under the provisions of a permit or otherwise to carry a firearm on or about the person's clothes or person in a location the person knows is school property. Notwithstanding section 609.531, a firearm carried in violation of this paragraph is not subject to forfeiture.

(d) As used in this subdivision:

(1) "BB gun" means a device that fires or ejects a shot measuring .18 of an inch or less in diameter;

(2) "dangerous weapon" has the meaning given it in section 609.02, subdivision 6;

(3) "replica firearm" has the meaning given it in section 609.713; and

(4) "school property" means:

(i) a public or private elementary, middle, or secondary school building and its improved grounds, whether leased or owned by the school;

(ii) a child care center licensed under chapter 245A during the period children are present and participating in a child care program;

(iii) the area within a school bus when that bus is being used by a school to transport one or more elementary, middle, or secondary school students to and from school-related activities, including curricular, cocurricular, noncurricular, extracurricular, and supplementary activities; and

(iv) that portion of a building or facility under the temporary, exclusive control of a public or private school, a school district, or an association of such entities where conspicuous signs are prominently posted at each entrance that give actual notice to persons of the school-related use.

(e) This subdivision does not apply to:

(1) licensed peace officers, military personnel, or students participating in military training, who are on-duty, performing official duties;

(2) persons authorized to carry a pistol under section 624.714 while in a motor vehicle or outside of a motor vehicle to directly place a firearm in, or retrieve it from, the trunk or rear area of the vehicle;

(3) persons who keep or store in a motor vehicle pistols in accordance with section 624.714 or 624.715 or other firearms in accordance with section 97B.045;

(4) firearm safety or marksmanship courses or activities conducted on school property;

(5) possession of dangerous weapons, BB guns, or replica firearms by a ceremonial color guard;

(6) a gun or knife show held on school property;

(7) possession of dangerous weapons, BB guns, or replica firearms with written permission of the principal or other person having general control and supervision of the school or the director of a child care center; or

(8) persons who are on unimproved property owned or leased by a child care center, school, or school district unless the person knows that a student is currently present on the land for a school-related activity.

(f) Notwithstanding section 471.634, a school district or other entity composed exclusively of school districts may not regulate firearms, ammunition, or their respective components, when possessed or carried by nonstudents or nonemployees, in a manner that is inconsistent with this subdivision.

Subd. 1e. **Felony; drive-by shooting.** (a) Whoever, while in or having just exited from a motor vehicle, recklessly discharges a firearm at or toward another motor vehicle or a building is guilty of a felony and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $6,000, or both.

(b) Any person who violates this subdivision by firing at or toward a person, or an occupied building or motor vehicle, may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

(c) For purposes of this subdivision, "motor vehicle" has the meaning given in section 609.52, subdivision 1, and "building" has the meaning given in section 609.581, subdivision 2.

Subd. 1f. **Gross misdemeanor; transferring a firearm without background check.** A person, other than a federally licensed firearms dealer, who transfers a pistol or semiautomatic military-style assault weapon to another without complying with the transfer requirements of section 624.7132, is guilty of a gross misdemeanor if the transferee possesses or uses the weapon within one year after the transfer in furtherance of a felony crime of violence, and if:

(1) the transferee was prohibited from possessing the weapon under section 624.713 at the time of the transfer; or

(2) it was reasonably foreseeable at the time of the transfer that the transferee was likely to use or possess the weapon in furtherance of a felony crime of violence.

Subd. 1g. **Felony; possession in courthouse or certain state buildings.** (a) A person who commits either of the following acts is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both:

(1) possesses a dangerous weapon, ammunition, or explosives within any courthouse complex; or

(2) possesses a dangerous weapon, ammunition, or explosives in any state building within the Capitol Area described in chapter 15B, other than the National Guard Armory.

(b) Unless a person is otherwise prohibited or restricted by other law to possess a dangerous weapon, this subdivision does not apply to:

(1) licensed peace officers or military personnel who are performing official duties;

(2) persons who carry pistols according to the terms of a permit issued under section 624.714 and who so notify the sheriff or the commissioner of public safety, as appropriate;

(3) persons who possess dangerous weapons for the purpose of display as demonstrative evidence during testimony at a trial or hearing or exhibition in compliance with advance notice and safety guidelines set by the sheriff or the commissioner of public safety; or

(4) persons who possess dangerous weapons in a courthouse complex with the express consent of the county sheriff or who possess dangerous weapons in a state building with the express consent of the commissioner of public safety.

Subd. 1h. **Silencers; authorized for law enforcement purposes.** Notwithstanding subdivision 1a, paragraph (a), clause (1), licensed peace officers may use devices

designed to silence or muffle the discharge of a firearm for tactical emergency response operations. Tactical emergency response operations include execution of high risk search and arrest warrants, incidents of terrorism, hostage rescue, and any other tactical deployments involving high risk circumstances. The chief law enforcement officer of a law enforcement agency that has the need to use silencing devices must establish and enforce a written policy governing the use of the devices.

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.

History: *1963 c 753 art 1 s 609.66; 1971 c 23 s 66; 1983 c 359 s 89; 1986 c 444; 1990 c 439 s 3,4; 1991 c 279 s 33; 1993 c 326 art 1 s 15-17; 1994 c 576 s 49; 1994 c 636 art 3 s 18-21; 1995 c 186 s 101; 1996 c 408 art 4 s 10; 1998 c 367 art 2 s 22; 2003 c 17 s 2; 2003 c 28 art 2 s 2; 1Sp2003 c 2 art 8 s 10,11; 2004 c 228 art 1 s 72*

609.661 PENALTY FOR SET GUNS; SWIVEL GUNS.

A person who violates a provision relating to set guns or swivel guns is guilty of a gross misdemeanor.

History: *1986 c 386 art 4 s 31*

609.662 SHOOTING VICTIM; DUTY TO RENDER AID.

Subdivision 1. **Definition.** As used in this section, "reasonable assistance" means aid appropriate to the circumstances, and includes obtaining or attempting to obtain assistance from a conservation or law enforcement officer, or from medical personnel.

Subd. 2. **Duty to render aid.** (a) A person who discharges a firearm and knows or has reason to know that the discharge has caused bodily harm to another person, shall:

(1) immediately investigate the extent of the person's injuries; and

(2) render immediate reasonable assistance to the injured person.

(b) A person who violates this subdivision is guilty of a crime and may be sentenced as follows:

(1) if the injured person suffered death or great bodily harm as a result of the discharge, to imprisonment for not more than two years or to payment of a fine of not more than $4,000, or both;

(2) if the injured person suffered substantial bodily harm as a result of the discharge, to imprisonment for not more than one year and one day or to payment of a fine of not more than $3,000, or both;

(3) otherwise, to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

(c) Notwithstanding section 609.035 or 609.04, a prosecution for or conviction under this subdivision is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Subd. 3. **Duty of witness.** (a) A person who witnesses the discharge of a firearm and knows or has reason to know that the discharge caused bodily harm to a person shall:

(1) immediately investigate the extent of the injuries; and

(2) render immediate reasonable assistance to the injured person.

(b) A person who violates this subdivision is guilty of a crime and may be sentenced as follows:

(1) if the defendant was a companion of the person who discharged the firearm at the time of the discharge, to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both;

(2) otherwise, to imprisonment for not more than 90 days or to payment of a fine of not more than $1,000, or both.

Subd. 4. **Defense.** It is an affirmative defense to a charge under this section if the defendant proves by a preponderance of the evidence that the defendant failed to

investigate or render assistance as required under this section because the defendant reasonably perceived that these actions could not be taken without a significant risk of bodily harm to the defendant or others.

Subd. 5. [Repealed, 1994 c 623 art 5 s 3]

History: *1991 c 243 s 2; 2004 c 228 art 1 s 72*

609.663 DISPLAY OF HANDGUN AMMUNITION.

It is a petty misdemeanor to display centerfire metallic-case handgun ammunition for sale to the public in a manner that makes the ammunition directly accessible to persons under the age of 18 years, other than employees or agents of the seller, unless the display is under observation of the seller or the seller's employee or agent, or the seller takes reasonable steps to exclude underage persons from the immediate vicinity of the display. Ammunition displayed in an enclosed display case or behind a counter is not directly accessible. This section does not apply to ammunition suitable for big game hunting.

History: *1991 c 251 s 1*

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 $1,000, or both.

History: *1963 c 753 art 1 s 609.665; 1984 c 628 art 3 s 11; 2004 c 228 art 1 s 72*

609.666 NEGLIGENT STORAGE OF FIREARMS.

Subdivision 1. **Definitions.** For purposes of this section, the following words have the meanings given.

(a) "Firearm" means a device designed to be used as a weapon, from which is expelled a projectile by the force of any explosion or force of combustion.

(b) "Child" means a person under the age of 18 years.

(c) "Loaded" means the firearm has ammunition in the chamber or magazine, if the magazine is in the firearm, unless the firearm is incapable of being fired by a child who is likely to gain access to the firearm.

Subd. 2. **Access to firearms.** A person is guilty of a gross misdemeanor who negligently stores or leaves a loaded firearm in a location where the person knows, or reasonably should know, that a child is likely to gain access, unless reasonable action is taken to secure the firearm against access by the child.

Subd. 3. **Limitations.** Subdivision 2 does not apply to a child's access to firearms that was obtained as a result of an unlawful entry.

History: *1993 c 326 art 1 s 18; 1996 c 408 art 4 s 11*

609.667 FIREARMS; REMOVAL OR ALTERATION OF SERIAL NUMBER.

Whoever commits any of the following acts may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both:

(1) obliterates, removes, changes, or alters the serial number or other identification of a firearm;

(2) receives or possesses a firearm, the serial number or other identification of which has been obliterated, removed, changed, or altered; or

(3) receives or possesses a firearm that is not identified by a serial number.

As used in this section, "serial number or other identification" means the serial number and other information required under United States Code, title 26, section 5842, for the identification of firearms.

History: *1994 c 636 art 3 s 22*

609.668 EXPLOSIVE AND INCENDIARY DEVICES.

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

(a) "Explosive device" means a device so articulated that an ignition by fire, friction, concussion, chemical reaction, or detonation of any part of the device may cause such sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects. Explosive devices include, but are not limited to, bombs, grenades, rockets having a propellant charge of more than four ounces, mines, and fireworks modified for other than their intended purpose. The term includes devices that produce a chemical reaction that produces gas capable of bursting its container and producing destructive effects. The term does not include firearms ammunition.

(b) "Incendiary device" means a device so articulated that an ignition by fire, friction, concussion, detonation, or other method may produce destructive effects primarily through combustion rather than explosion. The term does not include a manufactured device or article in common use by the general public that is designed to produce combustion for a lawful purpose, including but not limited to matches, lighters, flares, or devices commercially manufactured primarily for the purpose of illumination, heating, or cooking. The term does not include firearms ammunition.

(c) "Crime of violence" has the meaning given in section 624.712, subdivision 5, and also includes a domestic assault conviction when committed within the last three years or while an order for protection is active against the person, whichever period is longer.

Subd. 2. **Possession by certain persons prohibited.** The following persons are prohibited from possessing or reporting an explosive device or incendiary device:

(a) a person under the age of 18 years;

(b) a person who has been convicted in this state or elsewhere of a crime of violence unless ten years have elapsed since the person's civil rights have been restored or the sentence has expired, whichever occurs first, and during that time the person has not been convicted of any other crime of violence. For purposes of this section, crime of violence includes crimes in other states or jurisdictions that would have been crimes of violence if they had been committed in this state;

(c) a person who is or has ever been confined or committed in Minnesota or elsewhere as a person who is mentally ill, mentally retarded, or mentally ill and dangerous to the public, as defined in section 253B.02, to a treatment facility, unless the person possesses a certificate of a medical doctor or psychiatrist licensed in Minnesota, or other satisfactory proof, that the person is no longer suffering from this disability;

(d) a person who has been convicted in Minnesota or elsewhere for the unlawful use, possession, or sale of a controlled substance other than conviction for possession of a small amount of marijuana, as defined in section 152.01, subdivision 16, or who is or has ever been hospitalized or committed for treatment for the habitual use of a controlled substance or marijuana, as defined in sections 152.01 and 152.02, unless the person possesses a certificate of a medical doctor or psychiatrist licensed in Minnesota, or other satisfactory proof, that the person has not abused a controlled substance or marijuana during the previous two years;

(e) a person who has been confined or committed to a treatment facility in Minnesota or elsewhere as chemically dependent, as defined in section 253B.02, unless the person has completed treatment; and

(f) a peace officer who is informally admitted to a treatment facility under section 253B.04 for chemical dependency, unless the officer possesses a certificate from the head of the treatment facility discharging or provisionally discharging the officer from the treatment facility.

A person who in good faith issues a certificate to a person described in this subdivision to possess or use an incendiary or explosive device is not liable for damages

resulting or arising from the actions or misconduct with an explosive or incendiary device committed by the individual who is the subject of the certificate.

Subd. 3. **Uses permitted.** (a) The following persons may own or possess an explosive device or incendiary device provided that subdivision 4 is complied with:

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

(2) fire department personnel for use in the course of their duties;

(3) corrections officers and other personnel at correctional facilities or institutions when used for the retention of persons convicted or accused of crime;

(4) persons possessing explosive devices or incendiary devices that although designed as devices have been determined by the commissioner of public safety or the commissioner's delegate, by reason of the date of manufacture, value, design, or other characteristics, to be a collector's item, relic, museum piece, or specifically used in a particular vocation or employment, such as the entertainment industry; and

(5) dealers and manufacturers who are federally licensed or registered.

(b) Persons listed in paragraph (a) shall also comply with the federal requirements for the registration and licensing of destructive devices.

Subd. 4. **Report required.** (a) Before owning or possessing an explosive device or incendiary device as authorized by subdivision 3, a person shall file a written report with the Department of Public Safety showing the person's name and address; the person's title, position, and type of employment; a description of the explosive device or incendiary device sufficient to enable identification of the device; the purpose for which the device will be owned or possessed; the federal license or registration number, if appropriate; and other information as the department may require.

(b) Before owning or possessing an explosive device or incendiary device, a dealer or manufacturer shall file a written report with the Department of Public Safety showing the name and address of the dealer or manufacturer; the federal license or registration number, if appropriate; the general type and disposition of the device; and other information as the department may require.

Subd. 5. **Exceptions.** This section does not apply to:

(1) members of the armed forces of either the United States or the state of Minnesota when for use in the course of duties;

(2) educational institutions when the devices are manufactured or used in conjunction with an official education course or program;

(3) propellant-actuated devices, or propellant-actuated industrial tools manufactured, imported, or distributed for their intended purpose;

(4) items that are neither designed or redesigned for use as explosive devices or incendiary devices;

(5) governmental organizations using explosive devices or incendiary devices for agricultural purposes or control of wildlife;

(6) governmental organizations using explosive devices or incendiary devices for official training purposes or as items retained as evidence; or

(7) arsenals, navy yards, depots, or other establishments owned by, or operated by or on behalf of, the United States.

Subd. 6. **Acts prohibited; penalties.** (a) Except as otherwise provided in this section, whoever possesses, manufactures, transports, or stores an explosive device or incendiary device in violation of this section may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

(b) Whoever legally possesses, manufactures, transports, or stores an explosive device or incendiary device, with intent to use the device to damage property or cause injury, may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

(c) Whoever, acting with gross disregard for human life or property, negligently causes an explosive device or incendiary device to be discharged, may be sentenced to

imprisonment for not more than 20 years or to payment of a fine of not more than $100,000, or both.

Subd. 7. [Repealed, 2003 c 2 art 1 s 45]

History: *1994 c 636 art 5 s 15; 2002 c 221 s 47*

609.669 CIVIL DISORDER.

Subdivision 1. **Prohibited acts.** (a) A person is guilty of a gross misdemeanor who:

(1) teaches or demonstrates to any other person how to use or make any firearm, or explosive or incendiary device capable of causing injury or death, knowing or having reason to know that it will be unlawfully employed for use in, or in furtherance of, a civil disorder; or

(2) assembles with one or more persons for the purpose of training with, practicing with, or being instructed in the use of any firearm, or explosive or incendiary device capable of causing injury or death, with the intent that it be unlawfully employed for use in, or in furtherance of, a civil disorder.

(b) This section does not apply to law enforcement officers engaged in the lawful performance of the officer's official duties.

Subd. 2. **Definitions.** For purposes of this section, the following terms have the meanings given them:

(1) "civil disorder" means any public disturbance involving acts of violence by assemblages of three or more persons, which causes an immediate danger of or results in damage or injury to the property or person of any other individual;

(2) "firearm" means any weapon which is designed to or may readily be converted to expel any projectile by the action of an explosive; or the frame or receiver of any such weapon;

(3) "explosive or incendiary device" has the meaning given in section 609.668, subdivision 1; and

(4) "law enforcement officer" means any officer or employee of the United States, the state, or any political subdivision of the state, and specifically includes members of the National Guard and members of the armed forces of the United States.

History: *1995 c 244 s 23*

609.67 MACHINE GUNS AND SHORT-BARRELED SHOTGUNS.

Subdivision 1. **Definitions.** (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.

(d) "Trigger activator" means a removable manual or power driven trigger activating device constructed and designed so that, when attached to a firearm, the rate at which the trigger may be pulled increases and the rate of fire of the firearm increases to that of a machine gun.

(e) "Machine gun conversion kit" means any part or combination of parts designed and intended for use in converting a weapon into a machine gun, and any combination of parts from which a machine gun can be assembled, but does not include a spare or replacement part for a machine gun that is possessed lawfully under section 609.67, subdivision 3.

Subd. 2. **Acts prohibited.** Except as otherwise provided herein, whoever owns, possesses, or operates a machine gun, any trigger activator or machine gun conversion

kit, 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 $10,000, 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) chief executive officers of correctional facilities 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;

(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 the superintendent's 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;

(4) manufacturers of ammunition who possess and use machine guns for the sole purpose of testing ammunition manufactured for sale to federal and state agencies or political subdivisions; and

(5) dealers and manufacturers who are federally licensed to buy and sell, or manufacture machine guns or short-barreled shotguns and who either use the machine guns or short-barreled shotguns in peace officer training under courses approved by the Board of Peace Officer Standards and Training, or are engaged in the sale of machine guns or short-barreled shotguns to federal and state agencies or political subdivisions.

Subd. 4. **Report required.** (a) A person owning or possessing a machine gun or short-barreled shotgun as authorized by subdivision 3, clause (1), (2), (3), or (4) shall, within ten days after acquiring such ownership or possession, file a written report with the Bureau of Criminal Apprehension, showing the person's name and address; the person's 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.

(b) A dealer or manufacturer owning or having a machine gun or short-barreled shotgun as authorized by subdivision 3, clause (5) shall, by the tenth day of each month, file a written report with the Bureau of Criminal Apprehension showing the name and address of the dealer or manufacturer and the serial number of each machine gun or short-barreled shotgun acquired or manufactured during the previous month.

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.

History: *1963 c 753 art 1 s 609.67; 1977 c 255 s 1,2; 1979 c 102 s 13; 1984 c 628 art 3 s 11; 1986 c 444; 1987 c 93 s 1,2; 1990 c 439 s 5; 1993 c 326 art 1 s 19,20; 1993 c 366 s 10*

609.671 ENVIRONMENT; CRIMINAL PENALTIES.

Subdivision 1. **Definitions.** The definitions in this subdivision apply to this section.

(a) "Agency" means the Pollution Control Agency.

(b) "Deliver" or "delivery" means the transfer of possession of hazardous waste, with or without consideration.

(c) "Dispose" or "disposal" has the meaning given it in section 115A.03, subdivision 9.

(d) "Hazardous air pollutant" means an air pollutant listed under United States Code, title 42, section 7412(b).

(e) "Hazardous waste" means any waste identified as hazardous under the authority of section 116.07, subdivision 4, except for those wastes exempted under Minnesota Rules, part 7045.0120, wastes generated under Minnesota Rules, part 7045.0213 or 7045.0304, and household appliances.

(f) "Permit" means a permit issued by the Pollution Control Agency under chapter 115 or 116 or the rules promulgated under those chapters including interim status for hazardous waste facilities.

(g) "Solid waste" has the meaning given in section 116.06, subdivision 22.

(h) "Toxic pollutant" means a toxic pollutant on the list established under United States Code, title 33, section 1317.

Subd. 2. **Definition of knowing.** (a) For purposes of this section, an act is committed knowingly if it is done voluntarily and is not the result of negligence, mistake, accident, or circumstances that are beyond the control of the defendant. Whether an act was knowing may be inferred from the person's conduct, from the person's familiarity with the subject matter in question, or from all of the facts and circumstances connected with the case. Knowledge may also be established by evidence that the person took affirmative steps to shield the person from relevant information. Proof of knowledge does not require that a person knew a particular act or failure to act was a violation of law or that the person had specific knowledge of the regulatory limits or testing procedures involved in a case.

(b) Knowledge of a corporate official may be established under paragraph (a) or by proof that the person is a responsible corporate official. To prove that a person is a responsible corporate official, it must be shown that:

(1) the person is an official of the corporation, not merely an employee;

(2) the person has direct control of or supervisory responsibility for the activities related to the alleged violation, but not solely that the person held a certain job or position in a corporation; and

(3) the person had information regarding the offense for which the defendant is charged that would lead a reasonable and prudent person in the defendant's position to learn the actual facts.

(c) Knowledge of a corporation may be established by showing that an illegal act was performed by an agent acting on behalf of the corporation within the scope of employment and in furtherance of the corporation's business interest, unless a high managerial person with direct supervisory authority over the agent demonstrated due diligence to prevent the crime's commission.

Subd. 3. **Knowing endangerment.** (a) A person is guilty of a felony if the person:

(1) commits an act described in subdivision 4, 5, 8, paragraph (a), or 12; and

(2) at the time of the violation knowingly places another person in imminent danger of death, great bodily harm, or substantial bodily harm.

(b) A person convicted under this subdivision may be sentenced to imprisonment for not more than ten years, or to payment of a fine of not more than $100,000, or both, except that a defendant that is an organization may be sentenced to payment of a fine of not more than $1,000,000.

Subd. 4. **Hazardous waste; unlawful disposal or abandonment.** A person who knowingly disposes of or abandons hazardous waste or arranges for the disposal of hazardous waste at a location other than one authorized by the Pollution Control Agency or the United States Environmental Protection Agency, or in violation of any material term or condition of a hazardous waste facility permit, is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $50,000, or both.

Subd. 5. **Hazardous waste; unlawful treatment, storage, transportation, or delivery.** (a) A person is guilty of a felony who knowingly does any of the following:

(1) delivers hazardous waste to any person other than a person who is authorized to receive the waste under rules adopted under section 116.07, subdivision 4, or under United States Code, title 42, sections 6921 to 6938;

(2) treats or stores hazardous waste without a permit if a permit is required, or in violation of a material term or condition of a permit held by the person, unless:

(i) the person notifies the agency prior to the time a permit would be required that the person will be treating or storing waste without a permit; or

(ii) for a violation of a material term or condition of a permit, the person immediately notifies the agency issuing the permit of the circumstances of the violation as soon as the person becomes aware of the violation;

(3) transports hazardous waste to any location other than a facility that is authorized to receive, treat, store, or dispose of the hazardous waste under rules adopted under section 116.07, subdivision 4, or under United States Code, title 42, sections 6921 to 6938;

(4) transports hazardous waste without a manifest as required by the rules under section 116.07, subdivision 4; or

(5) transports hazardous waste without a license required for the transportation of hazardous waste by chapter 221.

(b) A person convicted under this subdivision may be sentenced to imprisonment for not more than three years, or to payment of a fine of not more than $25,000, or both. A person convicted for a second or subsequent offense may be sentenced to imprisonment for not more than five years, or to payment of a fine of not more than $50,000, or both.

Subd. 6. **Negligent violation as gross misdemeanor.** A person who commits any of the acts set forth in subdivision 4, 5, or 12 as a result of the person's gross negligence is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year, or to payment of a fine of not more than $15,000, or both.

Subd. 7. **Prosecution.** When two or more offenses in violation of this section are committed by the same person in two or more counties within a two-year period, the accused may be prosecuted in any county in which one of the offenses was committed.

Subd. 8. **Water pollution.** (a) A person is guilty of a felony who knowingly:

(1) causes the violation of an effluent standard or limitation for a toxic pollutant in a National Pollutant Discharge Elimination System permit or State Disposal System permit;

(2) introduces into a sewer system or into a publicly owned treatment works a hazardous substance that the person knew or reasonably should have known is likely to cause personal injury or property damage; or

(3) except in compliance with all applicable federal, state, and local requirements and permits, introduces into a sewer system or into a publicly owned treatment works a hazardous substance that causes the treatment works to violate an effluent limitation or condition of the treatment works' National Pollutant Discharge Elimination System permit.

(b) For purposes of paragraph (a), "hazardous substance" means a substance on the list established under United States Code, title 33, section 1321(b).

(c) A person convicted under paragraph (a) may be sentenced to imprisonment for not more than three years, or to payment of a fine of not more than $50,000 per day of violation, or both.

(d) A person is guilty of a crime who knowingly:

(1) violates any effluent standard or limitation, or any water quality standard adopted by the agency;

(2) violates any material term or condition of a National Pollutant Discharge Elimination System permit or State Disposal System permit;

(3) fails to carry out any recording, reporting, monitoring, sampling, or information gathering requirement provided for under chapter 115 or 116; or

(4) fails to file a discharge monitoring report or other document required for compliance with a National Pollutant Discharge Elimination System or State Disposal System permit.

(e) A person convicted under paragraph (d) may be sentenced to imprisonment for not more than one year, or to payment of a fine of not less than $2,500 and not more than $25,000 per day of violation, or both. A person convicted for a second or subsequent offense may be sentenced to imprisonment for not more than two years, or to payment of a fine of not more than $50,000 per day of violation, or both.

Subd. 9. **False statements; tampering.** (a) A person is guilty of a felony who knowingly:

(1) makes any false material statement, representation, or certification in; omits material information from; or alters, conceals, or fails to file or maintain a notice, application, record, report, plan, manifest, permit, license, or other document required under sections 103F.701 to 103F.761; chapter 115 or 116; the hazardous waste transportation requirements of chapter 221; or rules adopted under these laws; or

(2) falsifies, tampers with, renders inaccurate, or fails to install any monitoring device or method required to be maintained or followed for the purpose of compliance with sections 103F.701 to 103F.761, chapter 115 or 116, or rules adopted under these laws.

(b) Except as provided in paragraph (c), a person convicted under this subdivision may be sentenced to imprisonment for not more than two years, or to payment of a fine of not more than $10,000, or both.

(c) A person convicted under this subdivision for a violation related to a notice or report required by an air permit issued by the agency as provided in United States Code, title 42, section 7661a(a), as amended through January 1, 1991, may be sentenced to payment of a fine of not more than $10,000 per day of violation.

Subd. 10. **Failure to report a release of a hazardous substance or an extremely hazardous substance.** (a) A person is, upon conviction, subject to a fine of up to $25,000 or imprisonment for up to two years, or both, who:

(1) is required to report the release of a hazardous substance under United States Code, title 42, section 9603, or the release of an extremely hazardous substance under United States Code, title 42, section 11004;

(2) knows that a hazardous substance or an extremely hazardous substance has been released; and

(3) fails to provide immediate notification of the release of a reportable quantity of a hazardous substance or an extremely hazardous substance to the state emergency response center, or a firefighting or law enforcement organization.

(b) For a second or subsequent conviction under this subdivision, the violator is subject to a fine of up to $50,000 or imprisonment for not more than five years, or both.

(c) For purposes of this subdivision, a "hazardous substance" means a substance on the list established under United States Code, title 42, section 9602.

(d) For purposes of this subdivision, an "extremely hazardous substance" means a substance on the list established under United States Code, title 42, section 11002.

(e) For purposes of this subdivision, a "reportable quantity" means a quantity that must be reported under United States Code, title 42, section 9602 or 11002.

Subd. 11. **Infectious waste.** A person who knowingly disposes of or arranges for the disposal of infectious waste as defined in section 116.76 at a location or in a manner that is prohibited by section 116.78 is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year, or to payment of a fine of not more than $10,000, or both. A person convicted a second or subsequent time under this subdivision is guilty of a felony and may be sentenced to imprisonment for not more than two years, or to payment of a fine of not more than $25,000, or both.

Subd. 12. **Air pollution.** (a) A person is guilty of a felony who knowingly:

(1) causes a violation of a national emission standard for a hazardous air pollutant adopted under United States Code, title 42, section 7412; or

(2) causes a violation of an emission standard, limitation, or operational limitation for a hazardous air pollutant established in a permit issued by the Pollution Control Agency.

A person convicted under this paragraph may be sentenced to imprisonment for not more than three years, or to payment of a fine of not more than $50,000 per day of violation, or both.

(b) A person is guilty of a misdemeanor who knowingly violates:

(1) a requirement of chapter 116, or a rule adopted under that chapter, that is an applicable requirement of the federal Clean Air Act, as defined in Federal Register, volume 57, page 32295;

(2) a condition of an air emission permit issued by the agency under chapter 116 or a rule adopted under that chapter; or

(3) a requirement to pay a fee based on air emissions under chapter 116 or a rule adopted under that chapter.

A person convicted under this paragraph may be sentenced to imprisonment for not more than 90 days, or to payment of a fine of not more than $10,000 per day of violation, or both.

Subd. 13. **Solid waste disposal.** (a) A person is guilty of a gross misdemeanor who:

(1) knowingly disposes of solid waste at, transports solid waste to, or arranges for disposal of solid waste at a location that does not have a required permit for the disposal of solid waste; and

(2) does so in exchange for or in expectation of money or other consideration.

(b) A person convicted under this subdivision may be sentenced to imprisonment for not more than one year, or to payment of a fine of not more than $15,000, or both.

Subd. 14. **Defense.** Except for intentional violations, a person is not guilty of a crime for air quality violations under subdivision 6 or 12, or for water quality violations under subdivision 8, if the person notified the Pollution Control Agency of the violation as soon as the person discovered the violation and took steps to promptly remedy the violation.

History: *1987 c 267 s 3; 1988 c 553 s 2; 1989 c 315 s 11; 1989 c 337 s 12; 1990 c 391 art 10 s 3; 1991 c 347 art 3 s 4; 1993 c 365 s 1,2; 1999 c 238 art 2 s 77*

609.672 PERMISSIVE INFERENCE; FIREARMS IN AUTOMOBILES.

The presence of a firearm in a passenger automobile permits the factfinder to infer knowing possession of the firearm by the driver or person in control of the automobile when the firearm was in the automobile. The inference does not apply:

(1) to a licensed operator of an automobile who is at the time operating it for hire in the lawful and proper pursuit of the operator's trade;

(2) to any person in the automobile if one of them legally possesses a firearm; or

(3) when the firearm is concealed on the person of one of the occupants.

History: *1993 c 326 art 1 s 21*

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.

History: *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, cigarette filters, debris from fireworks, offal, or the body of a dead animal, or other litter in or upon any public highway, public waters or the ice thereon, shoreland areas adjacent to rivers or streams

as defined by section 103F.205, public lands, or, without the consent of the owner, private lands or water or ice thereon, is guilty of a petty misdemeanor.

History: *1963 c 753 art 1 s 609.68; 1971 c 23 s 68; 1988 c 685 s 36; 1990 c 391 art 8 s 56; 2003 c 28 art 1 s 19; 1Sp2003 c 2 art 8 s 12*

609.681 UNLAWFUL SMOKING.

A person is guilty of a petty misdemeanor if the person intentionally 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.

History: *1989 c 5 s 10; 1Sp2003 c 2 art 8 s 13*

609.684 SALE OF TOXIC SUBSTANCES TO CHILDREN; ABUSE OF TOXIC SUBSTANCES.

Subdivision 1. **Toxic substances.** For purposes of this section, "toxic substance" means:

(1) glue, cement, or aerosol paint containing toluene, benzene, xylene, amyl nitrate, butyl nitrate, nitrous oxide, or containing other aromatic hydrocarbon solvents, but does not include glue, cement, or paint contained in a packaged kit for the construction of a model automobile, airplane, or similar item;

(2) butane or a butane lighter; or

(3) any similar substance declared to be toxic to the central nervous system and to have a potential for abuse, by a rule adopted by the commissioner of health under chapter 14.

Subd. 2. [Repealed, 1997 c 239 art 3 s 25]

Subd. 3. **Use for intoxication prohibited.** A person is guilty of a misdemeanor who uses or possesses any toxic substance with the intent of inducing intoxication, excitement, or stupefaction of the central nervous system, except under the direction and supervision of a medical doctor. A person is guilty of a misdemeanor who intentionally aids another in violation of this subdivision.

Subd. 4. **Notice required.** (a) A business establishment that offers for sale at retail any toxic substance must display a conspicuous sign that contains the following, or substantially similar, language:

"NOTICE

It is a misdemeanor for a person to use or possess glue, cement, aerosol paint, with the intent of inducing intoxication, excitement, or stupefaction of the central nervous system. This use can be harmful or fatal."

(b) A business establishment may omit from the required notice references to any toxic substance that is not offered for sale by that business establishment.

(c) A business establishment that does not sell any toxic substance listed in subdivision 1 other than butane or butane lighters is not required to post a notice under paragraph (a).

History: *1992 c 485 s 2; 1997 c 239 art 3 s 18*

609.685 SALE OF TOBACCO TO CHILDREN.

Subdivision 1. **Definitions.** For the purposes of this section, the following terms shall have the meanings respectively ascribed to them in this section.

(a) "Tobacco" means cigarettes; cigars; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or other tobacco-related devices.

(b) "Tobacco related devices" means cigarette papers or pipes for smoking.

Subd. 1a. **Penalty to sell.** (a) Whoever sells tobacco to a person under the age of 18 years is guilty of a misdemeanor for the first violation. Whoever violates this subdivision a subsequent time within five years of a previous conviction under this subdivision is guilty of a gross misdemeanor.

(b) It is an affirmative defense to a charge under this subdivision if the defendant proves by a preponderance of the evidence that the defendant reasonably and in good faith relied on proof of age as described in section 340A.503, subdivision 6.

Subd. 2. **Other offenses.** (a) Whoever furnishes tobacco or tobacco-related devices to a person under the age of 18 years is guilty of a misdemeanor for the first violation. Whoever violates this paragraph a subsequent time is guilty of a gross misdemeanor.

(b) A person under the age of 18 years who purchases or attempts to purchase tobacco or tobacco-related devices and who uses a driver's license, permit, Minnesota identification card, or any type of false identification to misrepresent the person's age, is guilty of a misdemeanor.

Subd. 3. **Petty misdemeanor.** Except as otherwise provided in subdivision 2, whoever possesses, smokes, chews, or otherwise ingests, purchases, or attempts to purchase tobacco or tobacco related devices and is under the age of 18 years is guilty of a petty misdemeanor.

Subd. 4. **Effect on local ordinances.** Nothing in subdivisions 1 to 3 shall supersede or preclude the continuation or adoption of any local ordinance which provides for more stringent regulation of the subject matter in subdivisions 1 to 3.

Subd. 5. **Exceptions.** (a) Notwithstanding subdivision 2, an Indian may furnish tobacco to an Indian under the age of 18 years if the tobacco is furnished as part of a traditional Indian spiritual or cultural ceremony. For purposes of this paragraph, an Indian is a person who is a member of an Indian tribe as defined in section 260.755, subdivision 12.

(b) The penalties in this section do not apply to a person under the age of 18 years who purchases or attempts to purchase tobacco or tobacco-related devices while under the direct supervision of a responsible adult for training, education, research, or enforcement purposes.

Subd. 6. **Seizure of false identification.** A retailer may seize a form of identification listed in section 340A.503, subdivision 6, if the retailer has reasonable grounds to believe that the form of identification has been altered or falsified or is being used to violate any law. A retailer that seizes a form of identification as authorized under this subdivision shall deliver it to a law enforcement agency within 24 hours of seizing it.

History: *1963 c 753 art 1 s 609.685; 1981 c 218 s 1,2; 1986 c 352 s 4; 1989 c 290 art 3 s 33,34; 1992 c 588 s 1; 1993 c 224 art 9 s 44,45; 1994 c 636 art 2 s 44; 1999 c 139 art 4 s 2; 2000 c 472 s 5-9*

609.686 FALSE FIRE ALARMS; TAMPERING WITH OR INJURING A FIRE ALARM SYSTEM.

Subdivision 1. **Misdemeanor.** Whoever intentionally gives a false alarm of fire, or unlawfully tampers or interferes with any fire alarm system, fire protection device, or the station or signal box of any fire alarm system or any auxiliary fire appliance, or unlawfully breaks, injures, defaces, or removes any such system, device, box or station, or unlawfully breaks, injures, destroys, disables, renders inoperable, or disturbs any of the wires, poles, or other supports and appliances connected with or forming a part of any fire alarm system or fire protection device or any auxiliary fire appliance is guilty of a misdemeanor.

Subd. 2. **Felony.** Whoever violates subdivision 1 by tampering and knows or has reason to know that the tampering creates the potential for bodily harm or the tampering results in bodily harm is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

Subd. 3. **Tampering.** For purpose of this section, tampering means to intentionally disable, alter, or change the fire alarm system, fire protective device, or the station or signal box of any fire alarm system of any auxiliary fire appliance, with knowledge that it will be disabled or rendered inoperable.

History: *1971 c 77 s 1; 1993 c 326 art 5 s 10*

PUBLIC MISCONDUCT OR NUISANCE

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 or is capable of causing 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 or to payment of a fine of not more than $100,000, or both;

(2) if the adulteration causes any illness, pain, or other bodily harm, to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both;

(3) otherwise, to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

Subd. 4. **Charging discretion.** Criminal proceedings may be instituted under this section, notwithstanding the provisions of section 29.24, 31.02, 31.601, 34.01, 151.34, 340A.508, subdivision 2, or other law proscribing adulteration of substances intended for use by persons.

History: *1983 c 8 s 1; 1987 c 384 art 2 s 110; 1999 c 64 s 1,2; 1Sp2001 c 2 s 148*

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.

History: *1963 c 753 art 1 s 609.705; 1971 c 23 s 69*

609.71 RIOT.

Subdivision 1. **Riot first degree.** 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 and a death results, and one of the persons is armed with a dangerous weapon, that person is guilty of riot first degree and may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than $35,000, or both.

Subd. 2. **Riot second degree.** 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 who is armed with a dangerous weapon or knows that any

other participant is armed with a dangerous weapon is guilty of riot second degree and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

Subd. 3. **Riot third degree.** 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 third 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: *1963 c 753 art 1 s 609.71; 1984 c 628 art 3 s 11; 1986 c 444; 1993 c 326 art 4 s 33*

609.712 REAL AND SIMULATED WEAPONS OF MASS DESTRUCTION.

Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the meanings given.

(b) "Biological agent" means any microorganism, virus, infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of a microorganism, virus, infectious substance, or biological product, that is capable of causing:

(1) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

(2) deterioration of food, water, equipment, supplies, or material of any kind; or

(3) deleterious alteration of the environment.

(c) "Simulated weapon of mass destruction" means any device, substance, or object that by its design, construction, content, or characteristics, appears to be or to contain, or is represented to be, constitute, or contain, a weapon of mass destruction, but that is, in fact, an inoperative facsimile, imitation, counterfeit, or representation of a weapon of mass destruction that does not meet the definition of a weapon of mass destruction or that does not actually contain or constitute a weapon, biological agent, toxin, vector, or delivery system prohibited by this section.

(d) "Toxin" means the toxic material of plants, animals, microorganisms, viruses, fungi, or infectious substances, or a recombinant molecule, whatever its origin or method of production, including:

(1) any poisonous substance or biological product that may be engineered as a result of biotechnology or produced by a living organism; or

(2) any poisonous isomer or biological product, homolog, or derivative of such a substance.

(e) "Vector" means a living organism or molecule, including a recombinant molecule or biological product that may be engineered as a result of biotechnology, capable of carrying a biological agent or toxin to a host.

(f) "Weapon of mass destruction" includes weapons, substances, devices, vectors, or delivery systems that:

(1) are designed or have the capacity to cause death or great bodily harm to a considerable number of people through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors, disease organisms, biological agents, or toxins; or

(2) are designed to release radiation or radioactivity at a level dangerous to human life.

Subd. 2. **Weapons of mass destruction.** (a) Whoever manufactures, acquires, possesses, or makes readily accessible to another a weapon of mass destruction with the intent to cause injury to another is guilty of a crime and may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than $100,000, or both.

(b) It is an affirmative defense to criminal liability under this subdivision if the defendant proves by a preponderance of the evidence that the conduct engaged in:

(1) was specifically authorized under state or federal law and conducted in accordance with that law; or

(2) was part of a legitimate scientific or medical research project, or constituted legitimate medical treatment.

Subd. 3. **Prohibited substances.** (a) Whoever knowingly manufactures, acquires, possesses, or makes readily accessible to another the following, or substances that are substantially similar in chemical makeup to the following, in levels dangerous to human life, is guilty of a crime:

(1) variola major (smallpox);

(2) bacillus anthracis (anthrax);

(3) yersinia pestis (plague);

(4) botulinum toxin (botulism);

(5) francisella tularensis (tularemia);

(6) viral hemorrhagic fevers;

(7) a mustard agent;

(8) lewisite;

(9) hydrogen cyanide;

(10) GA (Tabun);

(11) GB (Sarin);

(12) GD (Soman);

(13) GF (cyclohexymethyl phosphonofluoridate);

(14) VX (0-ethyl, supdiisopropylaminomethyl methylphosphonothiolate);

(15) radioactive materials; or

(16) any combination of the above.

(b) A person who violates this subdivision may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than $100,000, or both.

(c) This subdivision does not apply to conduct:

(1) specifically authorized under state or federal law and conducted in accordance with that law;

(2) that is part of a legitimate scientific or medical research project; or

(3) that constitutes legitimate medical treatment.

Subd. 4. **Simulated weapons of mass destruction; penalty.** Whoever manufactures, acquires, possesses, or makes readily accessible to another a simulated weapon of mass destruction with the intent of terrorizing another may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

Subd. 5. **Threats involving real or simulated weapons of mass destruction.** Whoever does the following with intent to terrorize another or cause evacuation of a place, whether a building or not, or disruption of another's activities, or with reckless disregard of the risk of causing terror, evacuation, or disruption, may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both:

(1) displays a weapon of mass destruction or a simulated weapon of mass destruction;

(2) threatens to use a weapon of mass destruction; or

(3) communicates, whether directly or indirectly, that a weapon of mass destruction is or will be present or introduced at a place or location, or will be used to cause death, disease, or injury to another or to another's property, whether or not the same is in fact present or introduced.

Subd. 6. **Civil action to recover.** A person who violates this section is liable in a civil action brought by:

(1) an individual for damages resulting from the violation; and

(2) a municipality, the state, or a rescue organization to recover expenses incurred to provide investigative, rescue, medical, or other services for circumstances or injuries which resulted from the violation.

History: *2002 c 401 art 1 s 19*

609.713 TERRORISTIC THREATS.

Subdivision 1. **Threaten violence; intent to terrorize.** Whoever threatens, directly or indirectly, to commit any crime of violence with purpose to terrorize another or to cause evacuation of a building, place of assembly, vehicle 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 or to payment of a fine of not more than $10,000, or both. As used in this subdivision, "crime of violence" has the meaning given "violent crime" in section 609.1095, subdivision 1, paragraph (d).

Subd. 2. **Communicates to terrorize.** 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 or to payment of a fine of not more than $3,000, or both.

Subd. 3. **Display replica of firearm.** (a) Whoever displays, exhibits, brandishes, or otherwise employs a replica firearm or a BB gun in a threatening manner, may be sentenced to imprisonment for not more than one year and one day or to payment of a fine of not more than $3,000, or both, if, in doing so, the person either:

(1) causes or attempts to cause terror in another person; or

(2) acts in reckless disregard of the risk of causing terror in another person.

(b) For purposes of this subdivision:

(1) "BB gun" means a device that fires or ejects a shot measuring .18 of an inch or less in diameter; and

(2) "replica firearm" means a device or object that is not defined as a dangerous weapon, and that is a facsimile or toy version of, and reasonably appears to be a pistol, revolver, shotgun, sawed-off shotgun, rifle, machine gun, rocket launcher, or any other firearm. The term replica firearm includes, but is not limited to, devices or objects that are designed to fire only blanks.

History: *1971 c 845 s 19; 1988 c 712 s 15; 1990 c 461 s 3; 1993 c 326 art 4 s 34; 1994 c 636 art 2 s 45; art 3 s 23; 1995 c 244 s 24,25; 1998 c 367 art 6 s 15*

609.714 CRIMES COMMITTED IN FURTHERANCE OF TERRORISM.

Subdivision 1. **Definition.** As used in this section, a crime is committed to "further terrorism" if the crime is a felony and is a premeditated act involving violence to persons or property that is intended to:

(1) terrorize, intimidate, or coerce a considerable number of members of the public in addition to the direct victims of the act; and

(2) significantly disrupt or interfere with the lawful exercise, operation, or conduct of government, lawful commerce, or the right of lawful assembly.

Subd. 2. **Furtherance of terrorism; crime described; penalty.** A person who commits a felony crime to further terrorism is guilty of a crime. The statutory maximum for the crime is 50 percent longer than the statutory maximum for the underlying crime.

History: *2002 c 401 art 1 s 20*

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.

History: *1963 c 753 art 1 s 609.715; 1971 c 23 s 70*

609.72 DISORDERLY CONDUCT.

Subdivision 1. **Crime.** Whoever does any of the following in a public or private place, including on a school bus, 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, abusive, boisterous, or noisy conduct or in offensive, obscene, or abusive language tending reasonably to arouse alarm, anger, or resentment in others.

A person does not violate this section if the person's disorderly conduct was caused by an epileptic seizure.

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

Subd. 3. **Caregiver; penalty for disorderly conduct.** A caregiver, as defined in section 609.232, who violates the provisions of subdivision 1 against a vulnerable adult, as defined in section 609.232, may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

History: *1963 c 753 art 1 s 609.72; 1967 c 242 s 1; 1971 c 23 s 71; 1988 c 689 art 2 s 236; 1991 c 279 s 34; 1994 c 636 art 2 s 46; 1995 c 229 art 2 s 7*

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 being there; 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 support in whole or in part from begging or as a fortune teller or similar impostor.

History: *1963 c 753 art 1 s 609.725; 1971 c 23 s 72; 1986 c 444*

609.735 CONCEALING IDENTITY.

A person whose identity is concealed by the person in a public place by means of a robe, mask, or other disguise, unless based on religious beliefs, or incidental to amusement, entertainment, protection from weather, or medical treatment, is guilty of a misdemeanor.

History: *1963 c 753 art 1 s 609.735; 1971 c 23 s 73; 1986 c 444; 1995 c 30 s 1*

609.74 PUBLIC NUISANCE.

Whoever by an 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.

History: *1963 c 753 art 1 s 609.74; 1971 c 23 s 74; 1986 c 444*

609.745 PERMITTING PUBLIC NUISANCE.

Whoever having control of real property permits it to be used to maintain a public nuisance or lets the same knowing it will be so used is guilty of a misdemeanor.

History: *1963 c 753 art 1 s 609.745; 1971 c 23 s 75; 1986 c 444*

609.746 INTERFERENCE WITH PRIVACY.

Subdivision 1. **Surreptitious intrusion; observation device.** (a) A person is guilty of a misdemeanor who:

(1) enters upon another's property;

(2) surreptitiously gazes, stares, or peeps in the window or any other aperture of a house or place of dwelling of another; and

(3) does so with intent to intrude upon or interfere with the privacy of a member of the household.

(b) A person is guilty of a misdemeanor who:

(1) enters upon another's property;

(2) surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events through the window or any other aperture of a house or place of dwelling of another; and

(3) does so with intent to intrude upon or interfere with the privacy of a member of the household.

(c) A person is guilty of a misdemeanor who:

(1) surreptitiously gazes, stares, or peeps in the window or other aperture of a sleeping room in a hotel, as defined in section 327.70, subdivision 3, a tanning booth, or other place where a reasonable person would have an expectation of privacy and has exposed or is likely to expose their intimate parts, as defined in section 609.341, subdivision 5, or the clothing covering the immediate area of the intimate parts; and

(2) does so with intent to intrude upon or interfere with the privacy of the occupant.

(d) A person is guilty of a misdemeanor who:

(1) surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events through the window or other aperture of a sleeping room in a hotel, as defined in section 327.70, subdivision 3, a tanning booth, or other place where a reasonable person would have an expectation of privacy and has exposed or is likely to expose their intimate parts, as defined in section 609.341, subdivision 5, or the clothing covering the immediate area of the intimate parts; and

(2) does so with intent to intrude upon or interfere with the privacy of the occupant.

(e) A person is guilty of a gross misdemeanor if the person:

(1) violates this subdivision after a previous conviction under this subdivision or section 609.749; or

(2) violates this subdivision against a minor under the age of 16, knowing or having reason to know that the minor is present.

(f) Paragraphs (b) and (d) do not apply to law enforcement officers or corrections investigators, or to those acting under their direction, while engaged in the performance of their lawful duties. Paragraphs (c) and (d) do not apply to conduct in: (1) a medical facility; or (2) a commercial establishment if the owner of the establishment has posted conspicuous signs warning that the premises are under surveillance by the owner or the owner's employees.

Subd. 2. [Repealed, 1993 c 326 art 2 s 34]

Subd. 3. [Repealed, 1993 c 326 art 2 s 34]

History: *1979 c 258 s 19; 1987 c 307 s 4; 1989 c 261 s 6; 1992 c 571 art 6 s 14; 1994 c 636 art 2 s 47; 1995 c 226 art 2 s 22; 1997 c 239 art 5 s 11*

609.747 [Repealed, 1993 c 326 art 2 s 34]

609.748 HARASSMENT; RESTRAINING ORDER.

Subdivision 1. **Definition.** For the purposes of this section, the following terms have the meanings given them in this subdivision.

(a) "Harassment" includes:

(1) a single incident of physical or sexual assault or repeated incidents of intrusive or unwanted acts, words, or gestures that have a substantial adverse effect or are intended to have a substantial adverse effect on the safety, security, or privacy of another, regardless of the relationship between the actor and the intended target;

(2) targeted residential picketing; and

(3) a pattern of attending public events after being notified that the actor's presence at the event is harassing to another.

(b) "Respondent" includes any adults or juveniles alleged to have engaged in harassment or organizations alleged to have sponsored or promoted harassment.

(c) "Targeted residential picketing" includes the following acts when committed on more than one occasion:

(1) marching, standing, or patrolling by one or more persons directed solely at a particular residential building in a manner that adversely affects the safety, security, or privacy of an occupant of the building; or

(2) marching, standing, or patrolling by one or more persons which prevents an occupant of a residential building from gaining access to or exiting from the property on which the residential building is located.

Subd. 2. **Restraining order; jurisdiction.** A person who is a victim of harassment may seek a restraining order from the district court in the manner provided in this section. The parent or guardian of a minor who is a victim of harassment may seek a restraining order from the district court on behalf of the minor.

Subd. 3. **Contents of petition; hearing; notice.** (a) A petition for relief must allege facts sufficient to show the following:

(1) the name of the alleged harassment victim;

(2) the name of the respondent; and

(3) that the respondent has engaged in harassment.

The petition shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought. The court shall provide simplified forms and clerical assistance to help with the writing and filing of a petition under this section and shall advise the petitioner of the right to sue in forma pauperis under section 563.01. The court shall advise the petitioner of the right to request a hearing. If the petitioner does not request a hearing, the court shall advise the petitioner that the respondent may request a hearing and that notice of the hearing date and time will be provided to the petitioner by mail at least five days before the hearing. Upon receipt of the petition and a request for a hearing by the petitioner, the court shall order a hearing. Personal service must be made upon the respondent not less than five days before the hearing. If personal service cannot be completed in time to give the respondent the minimum notice required under this paragraph, the court may set a new hearing date. Nothing in this section shall be construed as requiring a hearing on a matter that has no merit.

(b) Notwithstanding paragraph (a), the order for a hearing and a temporary order issued under subdivision 4 may be served on the respondent by means of a one-week published notice under section 645.11, if:

(1) the petitioner files an affidavit with the court stating that an attempt at personal service made by a sheriff was unsuccessful because the respondent is avoiding service by concealment or otherwise; and

(2) a copy of the petition and order for hearing and any temporary restraining order has been mailed to the respondent at the respondent's residence or place of

business, if the respondent is an organization, or the respondent's residence or place of business is not known to the petitioner.

(c) Regardless of the method of service, if the respondent is a juvenile, whenever possible, the court also shall have notice of the pendency of the case and of the time and place of the hearing served by mail at the last known address upon any parent or guardian of the juvenile respondent who is not the petitioner.

(d) A request for a hearing under this subdivision must be made within 45 days of the filing or receipt of the petition.

Subd. 3a. **Filing fee; cost of service.** The filing fees for a restraining order under this section are waived for the petitioner if the petition alleges acts that would constitute a violation of section 609.749, subdivision 2 or 3. The court administrator and the sheriff of any county in this state shall perform their duties relating to service of process without charge to the petitioner. The court shall direct payment of the reasonable costs of service of process if served by a private process server when the sheriff is unavailable or if service is made by publication. The court may direct a respondent to pay to the court administrator the petitioner's filing fees and reasonable costs of service of process if the court determines that the respondent has the ability to pay the petitioner's fees and costs.

Subd. 4. **Temporary restraining order.** (a) The court may issue a temporary restraining order ordering the respondent to cease or avoid the harassment of another person or to have no contact with that person if the petitioner files a petition in compliance with subdivision 3 and if the court finds reasonable grounds to believe that the respondent has engaged in harassment. When a petition alleges harassment as defined by subdivision 1, paragraph (a), clause (1), the petition must further allege an immediate and present danger of harassment before the court may issue a temporary restraining order under this section. When signed by a referee, the temporary order becomes effective upon the referee's signature.

(b) Notice need not be given to the respondent before the court issues a temporary restraining order under this subdivision. A copy of the restraining order must be served on the respondent along with the order for hearing and petition, as provided in subdivision 3. If the respondent is a juvenile, whenever possible, a copy of the restraining order, along with notice of the pendency of the case and the time and place of the hearing, shall also be served by mail at the last known address upon any parent or guardian of the juvenile respondent who is not the petitioner. A temporary restraining order may be entered only against the respondent named in the petition.

(c) The temporary restraining order is in effect until a hearing is held on the issuance of a restraining order under subdivision 5. The court shall hold the hearing on the issuance of a restraining order if the petitioner requests a hearing. The hearing may be continued by the court upon a showing that the respondent has not been served with a copy of the temporary restraining order despite the exercise of due diligence or if service is made by published notice under subdivision 3 and the petitioner files the affidavit required under that subdivision.

(d) If the temporary restraining order has been issued and the respondent requests a hearing, the hearing shall be scheduled by the court upon receipt of the respondent's request. Service of the notice of hearing must be made upon the petitioner not less than five days prior to the hearing. The court shall serve the notice of the hearing upon the petitioner by mail in the manner provided in the Rules of Civil Procedure for pleadings subsequent to a complaint and motions and shall also mail notice of the date and time of the hearing to the respondent. In the event that service cannot be completed in time to give the respondent or petitioner the minimum notice required under this subdivision, the court may set a new hearing date.

(e) A request for a hearing under this subdivision must be made within 45 days after the temporary restraining order is issued.

Subd. 5. **Restraining order.** (a) The court may grant a restraining order ordering the respondent to cease or avoid the harassment of another person or to have no contact with that person if all of the following occur:

(1) the petitioner has filed a petition under subdivision 3;

(2) the sheriff has served respondent with a copy of the temporary restraining order obtained under subdivision 4, and with notice of the right to request a hearing, or service has been made by publication under subdivision 3, paragraph (b); and

(3) the court finds at the hearing that there are reasonable grounds to believe that the respondent has engaged in harassment.

A restraining order may be issued only against the respondent named in the petition; except that if the respondent is an organization, the order may be issued against and apply to all of the members of the organization. Relief granted by the restraining order must be for a fixed period of not more than two years. When a referee presides at the hearing on the petition, the restraining order becomes effective upon the referee's signature.

(b) An order issued under this subdivision must be personally served upon the respondent.

Subd. 6. **Violation of restraining order.** (a) A person who violates a restraining order issued under this section is subject to the penalties provided in paragraphs (b) to (d).

(b) Except as otherwise provided in paragraphs (c) and (d), when a temporary restraining order or a restraining order is granted under this section and the respondent knows of the order, violation of the order is a misdemeanor.

(c) A person is guilty of a gross misdemeanor who knowingly violates the order during the time period between a previous qualified domestic violence-related offense conviction and the end of the five years following discharge from sentence for that offense.

(d) A person is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if the person knowingly violates the order:

(1) during the time period between the first of two or more previous qualified domestic violence-related offense convictions and the end of the five years following discharge from sentence for that offense;

(2) because of the victim's or another's actual or perceived race, color, religion, sex, sexual orientation, disability as defined in section 363A.03, age, or national origin;

(3) by falsely impersonating another;

(4) while possessing a dangerous weapon;

(5) with an intent to influence or otherwise tamper with a juror or a judicial proceeding or with intent to retaliate against a judicial officer, as defined in section 609.415, or a prosecutor, defense attorney, or officer of the court, because of that person's performance of official duties in connection with a judicial proceeding; or

(6) against a victim under the age of 18, if the respondent is more than 36 months older than the victim.

(e) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order issued under subdivision 4 or 5 if the existence of the order can be verified by the officer.

(f) A violation of a temporary restraining order or restraining order shall also constitute contempt of court.

(g) Upon the filing of an affidavit by the petitioner, any peace officer, or an interested party designated by the court, alleging that the respondent has violated an order issued under subdivision 4 or 5, the court may issue an order to the respondent requiring the respondent to appear within 14 days and show cause why the respondent should not be held in contempt of court. The court also shall refer the violation of the order to the appropriate prosecuting authority for possible prosecution under paragraph (b), (c), or (d).

Subd. 7. **Copy to law enforcement agency.** An order granted under this section shall be forwarded by the court administrator within 24 hours to the local law

enforcement agency with jurisdiction over the residence of the applicant. Each appropriate law enforcement agency shall make available to other law enforcement officers through a system for verification, information as to the existence and status of any order issued under this section.

Subd. 8. **Notice.** An order granted under this section must contain a conspicuous notice to the respondent:

(1) of the specific conduct that will constitute a violation of the order;

(2) that violation of an order is either (i) a misdemeanor punishable by imprisonment for up to 90 days or a fine of up to $1,000, or both, (ii) a gross misdemeanor punishable by imprisonment for up to one year or a fine of up to $3,000, or both, or (iii) a felony punishable by imprisonment for up to five years or a fine of up to $10,000, or both; and

(3) that a peace officer must arrest without warrant and take into custody a person if the peace officer has probable cause to believe the person has violated a restraining order.

Subd. 9. **Effect on local ordinances.** Nothing in this section shall supersede or preclude the continuation or adoption of any local ordinance which applies to a broader scope of targeted residential picketing conduct than that described in subdivision 1.

History: *1990 c 461 s 5; 1991 c 170 s 1,2; 1992 c 571 art 6 s 15-17; 1993 c 326 art 2 s 14-21; 1Sp1993 c 5 s 4; 1994 c 636 art 2 s 48; 1995 c 226 art 6 s 13; 1995 c 259 art 3 s 17; 1997 c 96 s 5; 1997 c 239 art 11 s 5; 1998 c 367 art 5 s 8,9; 2000 c 476 s 1-3; 1Sp2001 c 8 art 10 s 13,14; 1Sp2003 c 2 art 8 s 14-16; 2004 c 145 s 2; 2004 c 228 art 1 s 72*

609.749 HARASSMENT; STALKING; PENALTIES.

Subdivision 1. **Definition.** As used in this section, "harass" means to engage in intentional conduct which:

(1) the actor knows or has reason to know would cause the victim under the circumstances to feel frightened, threatened, oppressed, persecuted, or intimidated; and

(2) causes this reaction on the part of the victim.

Subd. 1a. **No proof of specific intent required.** In a prosecution under this section, the state is not required to prove that the actor intended to cause the victim to feel frightened, threatened, oppressed, persecuted, or intimidated, or except as otherwise provided in subdivision 3, paragraph (a), clause (4), or paragraph (b), that the actor intended to cause any other result.

Subd. 2. **Harassment and stalking crimes.** (a) A person who harasses another by committing any of the following acts is guilty of a gross misdemeanor:

(1) directly or indirectly manifests a purpose or intent to injure the person, property, or rights of another by the commission of an unlawful act;

(2) stalks, follows, or pursues another;

(3) returns to the property of another if the actor is without claim of right to the property or consent of one with authority to consent;

(4) repeatedly makes telephone calls, or induces a victim to make telephone calls to the actor, whether or not conversation ensues;

(5) makes or causes the telephone of another repeatedly or continuously to ring;

(6) repeatedly mails or delivers or causes the delivery by any means, including electronically, of letters, telegrams, messages, packages, or other objects; or

(7) knowingly makes false allegations against a peace officer concerning the officer's performance of official duties with intent to influence or tamper with the officer's performance of official duties.

(b) The conduct described in paragraph (a), clauses (4) and (5), may be prosecuted at the place where any call is either made or received. The conduct described in paragraph (a), clause (6), may be prosecuted where any letter, telegram, message, package, or other object is either sent or received.

(c) A peace officer may not make a warrantless, custodial arrest of any person for a violation of paragraph (a), clause (7).

Subd. 3. **Aggravated violations.** (a) A person who commits any of the following acts is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both:

(1) commits any offense described in subdivision 2 because of the victim's or another's actual or perceived race, color, religion, sex, sexual orientation, disability as defined in section 363A.03, age, or national origin;

(2) commits any offense described in subdivision 2 by falsely impersonating another;

(3) commits any offense described in subdivision 2 and possesses a dangerous weapon at the time of the offense;

(4) harasses another, as defined in subdivision 1, with intent to influence or otherwise tamper with a juror or a judicial proceeding or with intent to retaliate against a judicial officer, as defined in section 609.415, or a prosecutor, defense attorney, or officer of the court, because of that person's performance of official duties in connection with a judicial proceeding; or

(5) commits any offense described in subdivision 2 against a victim under the age of 18, if the actor is more than 36 months older than the victim.

(b) A person who commits any offense described in subdivision 2 against a victim under the age of 18, if the actor is more than 36 months older than the victim, and the act is committed with sexual or aggressive intent, is guilty of a felony and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

Subd. 4. **Second or subsequent violations; felony.** (a) A person is guilty of a felony who violates any provision of subdivision 2 during the time period between a previous qualified domestic violence-related offense conviction or adjudication of delinquency and the end of the ten years following discharge from sentence or disposition for that offense, and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

(b) A person is guilty of a felony who violates any provision of subdivision 2 during the time period between the first of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency and the end of ten years following discharge from sentence or disposition for that offense, and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

Subd. 5. **Pattern of harassing conduct.** (a) A person who engages in a pattern of harassing conduct with respect to a single victim or one or more members of a single household which the actor knows or has reason to know would cause the victim under the circumstances to feel terrorized or to fear bodily harm and which does cause this reaction on the part of the victim, is guilty of a felony and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

(b) For purposes of this subdivision, a "pattern of harassing conduct" means two or more acts within a five-year period that violate or attempt to violate the provisions of any of the following or a similar law of another state, the United States, the District of Columbia, tribal lands, or United States territories:

(1) this section;

(2) section 609.713;

(3) section 609.224;

(4) section 609.2242;

(5) section 518B.01, subdivision 14;

(6) section 609.748, subdivision 6;

(7) section 609.605, subdivision 1, paragraph (b), clauses (3), (4), and (7);

(8) section 609.79;

(9) section 609.795;

(10) section 609.582;

(11) section 609.595;

(12) section 609.765; or

(13) sections 609.342 to 609.3451.

(c) When acts constituting a violation of this subdivision are committed in two or more counties, the accused may be prosecuted in any county in which one of the acts was committed for all acts constituting the pattern.

Subd. 6. **Mental health assessment and treatment.** (a) When a person is convicted of a felony offense under this section, or another felony offense arising out of a charge based on this section, the court shall order an independent professional mental health assessment of the offender's need for mental health treatment. The court may waive the assessment if an adequate assessment was conducted prior to the conviction.

(b) Notwithstanding section 13.384, 13.85, 144.335, 260B.171, or 260C.171, the assessor has access to the following private or confidential data on the person if access is relevant and necessary for the assessment:

(1) medical data under section 13.384;

(2) welfare data under section 13.46;

(3) corrections and detention data under section 13.85;

(4) health records under section 144.335; and

(5) juvenile court records under sections 260B.171 and 260C.171.

Data disclosed under this section may be used only for purposes of the assessment and may not be further disclosed to any other person, except as authorized by law.

(c) If the assessment indicates that the offender is in need of and amenable to mental health treatment, the court shall include in the sentence a requirement that the offender undergo treatment.

(d) The court shall order the offender to pay the costs of assessment under this subdivision unless the offender is indigent under section 563.01.

Subd. 7. **Exception.** Conduct is not a crime under this section if it is performed under terms of a valid license, to ensure compliance with a court order, or to carry out a specific lawful commercial purpose or employment duty, is authorized or required by a valid contract, or is authorized, required, or protected by state or federal law or the state or federal constitutions. Subdivision 2, clause (2), does not impair the right of any individual or group to engage in speech protected by the federal Constitution, the state Constitution, or federal or state law, including peaceful and lawful handbilling and picketing.

Subd. 8. **Stalking; firearms.** (a) When a person is convicted of a harassment or stalking crime under this section and the court determines that the person used a firearm in any way during commission of the crime, the court may order that the person is prohibited from possessing any type of firearm for any period longer than three years or for the remainder of the person's life. A person who violates this paragraph is guilty of a gross misdemeanor. At the time of the conviction, the court shall inform the defendant whether and for how long the defendant is prohibited from possessing a firearm and that it is a gross misdemeanor to violate this paragraph. The failure of the court to provide this information to a defendant does not affect the applicability of the firearm possession prohibition or the gross misdemeanor penalty to that defendant.

(b) Except as otherwise provided in paragraph (a), when a person is convicted of a stalking or harassment crime under this section, the court shall inform the defendant that the defendant is prohibited from possessing a pistol for three years from the date of conviction and that it is a gross misdemeanor offense to violate this prohibition. The failure of the court to provide this information to a defendant does not affect the

applicability of the pistol possession prohibition or the gross misdemeanor penalty to that defendant.

(c) Except as otherwise provided in paragraph (a), a person is not entitled to possess a pistol if the person has been convicted after August 1, 1996, of a stalking or harassment crime under this section, unless three years have elapsed from the date of conviction and, during that time, the person has not been convicted of any other violation of this section. Property rights may not be abated but access may be restricted by the courts. A person who possesses a pistol in violation of this paragraph is guilty of a gross misdemeanor.

(d) If the court determines that a person convicted of a stalking or harassment crime under this section owns or possesses a firearm and used it in any way during the commission of the crime, it shall order that the firearm be summarily forfeited under section 609.5316, subdivision 3.

History: *1993 c 326 art 2 s 22; 1Sp1993 c 5 s 5; 1994 c 465 art 1 s 61; 1995 c 226 art 2 s 23; 1995 c 259 art 3 s 18,19; 1996 c 408 art 4 s 12; 1997 c 96 s 6-9; 1998 c 367 art 2 s 23,24; 1999 c 139 art 4 s 2; 1999 c 227 s 22; 2000 c 311 art 4 s 6; 2000 c 437 s 15,16; 1Sp2001 c 8 art 10 s 15,16; 2002 c 385 s 5-8*

609.7495 PHYSICAL INTERFERENCE WITH SAFE ACCESS TO HEALTH CARE.

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

(a) "Facility" means any of the following:

(1) a hospital or other health institution licensed under sections 144.50 to 144.56;

(2) a medical facility as defined in section 144.561;

(3) an agency, clinic, or office operated under the direction of or under contract with the commissioner of health or a community health board, as defined in section 145A.02;

(4) a facility providing counseling regarding options for medical services or recovery from an addiction;

(5) a facility providing emergency shelter services for battered women, as defined in section 611A.31, subdivision 3, or a facility providing transitional housing for battered women and their children;

(6) a facility as defined in section 626.556, subdivision 2, paragraph (f);

(7) a facility as defined in section 626.5572, subdivision 6, where the services described in that paragraph are provided;

(8) a place to or from which ambulance service, as defined in section 144E.001, is provided or sought to be provided; and

(9) a hospice provider licensed under section 144A.753.

(b) "Aggrieved party" means a person whose access to or egress from a facility is obstructed in violation of subdivision 2, or the facility.

Subd. 2. **Obstructing access prohibited.** A person is guilty of a gross misdemeanor who intentionally and physically obstructs any individual's access to or egress from a facility.

Subd. 3. **Not applicable.** Nothing in this section shall be construed to impair the right of any individual or group to engage in speech protected by the United States Constitution, the Minnesota Constitution, or federal or state law, including but not limited to peaceful and lawful handbilling and picketing.

Subd. 4. **Civil remedies.** (a) A party who is aggrieved by an act prohibited by this section, or by an attempt or conspiracy to commit an act prohibited by this section, may bring an action for damages, injunctive or declaratory relief, as appropriate, in district court against any person or entity who has violated or has conspired to violate this section.

(b) A party who prevails in a civil action under this subdivision is entitled to recover from the violator damages, costs, attorney fees, and other relief as determined

by the court. In addition to all other damages, the court may award to the aggrieved party a civil penalty of up to $1,000 for each violation. If the aggrieved party is a facility and the political subdivision where the violation occurred incurred law enforcement or prosecution expenses in connection with the same violation, the court shall award any civil penalty it imposes to the political subdivision instead of to the facility.

(c) The remedies provided by this subdivision are in addition to any other legal or equitable remedies the aggrieved party may have and are not intended to diminish or substitute for those remedies or to be exclusive.

History: *1993 c 284 s 2; 1995 c 229 art 4 s 19; 1997 c 199 s 14; 1998 c 254 art 1 s 102; 2002 c 252 s 22,24*

GAMBLING

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. A participant's payment for use of a 900 telephone number or another means of communication that results in payment to the sponsor of the plan constitutes consideration under this paragraph.

(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.

(d) The distribution of property, or other reward or benefit by an employer to persons selected by chance from among participants who have made a contribution through a payroll or pension deduction campaign to a registered combined charitable organization, within the meaning of section 309.501, as a precondition to the chance of being selected, is not a lottery if:

(1) all of the persons eligible to be selected are employed by or retirees of the employer; and

(2) the cost of the property or other reward or benefit distributed and all costs associated with the distribution are borne by the employer.

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 equipment or the conduct of a raffle under sections 349.11 to 349.22, by an organization licensed by the Gambling Control Board or an organization exempt from licensing under section 349.166.

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

(8) The purchase and sale of state lottery tickets under chapter 349A.

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. "Gambling device" also includes a video game of chance, as defined in subdivision 8.

Subd. 4a. **Associated equipment.** Associated equipment means any equipment used in connection with gambling that would not be classified as a gambling device, including but not limited to: cards, dice, computerized systems of betting at a race book or sports pool, computerized systems for monitoring slot machines or games of chance, devices for weighing or counting money, and links which connect progressive slot machines.

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.

Subd. 7. **Sports bookmaking.** Sports bookmaking is the activity of intentionally receiving, recording or forwarding within any 30-day period more than five bets, or offers to bet, that total more than $2,500 on any one or more sporting events.

Subd. 8. **Video game of chance.** A video game of chance is a game or device that simulates one or more games commonly referred to as poker, blackjack, craps, hi-lo, roulette, or other common gambling forms, though not offering any type of pecuniary award or gain to players. The term also includes any video game having one or more of the following characteristics:

(1) it is primarily a game of chance, and has no substantial elements of skill involved;

(2) it awards game credits or replays and contains a meter or device that records unplayed credits or replays.

Subd. 9. **900 telephone number.** A 900 telephone number is a ten-digit number, the first three numbers of which are from 900 to 999.

Subd. 10. **Game.** A game means any game played with cards, dice, equipment, or any mechanical or electronic device or machine for money or other value, whether or not approved by law, and includes, but is not limited to: card and dice games of chance,

slot machines, banking or percentage games, video games of chance, sports pools, parimutuel betting, and race book. "Game" does not include any private social bet.

Subd. 11. **Authorized gambling activity.** An authorized gambling activity means any form of gambling authorized by and operated in conformance with law.

Subd. 12. **Authorized gambling establishment.** An authorized gambling establishment means any premises where gambling authorized by law is occurring.

Subd. 13. **Applicability of definitions.** For the purposes of sections 609.75 to 609.762, the terms defined in this section have the meanings given, unless the context clearly indicates otherwise.

History: *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; 1981 c 126 s 3; 1983 c 214 s 34-36; 1983 c 216 art 2 s 17 subd 3; 1984 c 502 art 12 s 22; 1985 c 126 s 2; 1986 c 467 s 29; 1988 c 705 s 2; 1989 c 334 art 6 s 8; 1990 c 590 art 1 s 52; 1991 c 199 art 2 s 1; 1991 c 336 art 2 s 43-46; 2000 c 336 s 5-9; 1Sp2001 c 5 art 20 s 18*

609.755 ACTS OF OR RELATING TO GAMBLING.

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

(1) makes a bet;

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

(3) disseminates information about a lottery, except a lottery conducted by an adjoining state, with intent to encourage participation therein;

(4) permits a structure or location owned or occupied by the actor or under the actor's control to be used as a gambling place; or

(5) except where authorized by statute, possesses a gambling device.

Clause (5) does not prohibit possession of a gambling device in a person's dwelling for amusement purposes in a manner that does not afford players an opportunity to obtain anything of value.

History: *1963 c 753 art 1 s 609.755; 1971 c 23 s 76; 1986 c 444; 1991 c 336 art 2 s 47; 1994 c 633 art 4 s 10*

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 $3,000, 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) except as provided in section 299L.07, manufactures, sells, offers for sale, or otherwise provides, in whole or any part thereof, any gambling device including those defined in section 349.30, subdivision 2;

(6) with intent that it be so used, manufactures, sells, or offers for sale any facility for conducting a lottery, except as provided by section 349.40; or

(7) 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. **Sports bookmaking.** Whoever engages in sports bookmaking is guilty of a felony.

Subd. 3. **Cheating.** Whoever cheats in a game, as described in this subdivision, is subject to the following penalties:

(i) if the person holds a license related to gambling or is an employee of the licensee, the person is guilty of a felony; and

(ii) any other person is guilty of a gross misdemeanor. Any person who is a repeat offender is guilty of a felony.

A person cheats in a game by intentionally:

(1) altering or misrepresenting the outcome of a game or event on which wagers have been made, after the outcome is determined, but before the outcome is revealed to the players;

(2) placing, canceling, increasing, or decreasing a bet after acquiring knowledge, not available to other players, of the outcome of the game or subject of the bet, or of events affecting the outcome of the game or subject of the bet;

(3) claiming or collecting money or anything of value from a game or authorized gambling establishment not won or earned from the game or authorized gambling establishment;

(4) manipulating a gambling device or associated equipment to affect the outcome of the game or the number of plays or credits available on the game; or

(5) otherwise altering the elements of chance or methods of selection or criteria which determine the result of the game or amount or frequency of payment of the game.

Subd. 4. **Certain devices prohibited.** (a) Whoever uses or possesses a probability-calculating or outcome-affecting device at an authorized gambling establishment is guilty of a felony. For purposes of this subdivision, a "probability-calculating" or "outcome-affecting" device is any device to assist in:

(1) projecting the outcome of a game other than pari-mutuel betting authorized by chapter 240;

(2) keeping track of or counting cards used in a game;

(3) analyzing the probability of the occurrence of an event relating to a game other than pari-mutuel betting authorized by chapter 240; or

(4) analyzing the strategy for playing or betting in a game other than pari-mutuel betting authorized by chapter 240.

For purposes of this section, a book, graph, periodical, chart, or pamphlet is not a "probability-calculating" or "outcome-affecting" device.

(b) Whoever uses, or possesses with intent to use, a key or other instrument for the purpose of opening, entering, and affecting the operation of any game or gambling device or for removing money, chips, tokens, or other contents from therein, is guilty of a felony. This paragraph does not apply to an agent or employee of an authorized gambling establishment acting within the scope of employment.

Subd. 5. **Counterfeit chips prohibited.** Whoever intentionally uses counterfeit chips or tokens to play a game at an authorized gambling establishment as defined in section 609.75, subdivision 5, designed to be played with or operated by chips or tokens is guilty of a felony. For purposes of this subdivision, counterfeit chips or tokens are chips or tokens not approved by the government regulatory agency for use in an authorized gambling activity.

Subd. 6. **Manufacture, sale, and modification prohibited.** (a) Whoever manufactures, sells, distributes, or otherwise provides cards, chips, tokens, dice, or other equipment or devices intended to be used to violate this section, is guilty of a felony.

(b) Whoever intentionally marks, alters, or otherwise modifies lawful associated equipment or gambling devices for the purpose of violating this section is guilty of a felony.

Subd. 7. **Instruction.** Whoever instructs another person to violate the provisions of this section, with the intent that the information or knowledge conveyed be used to violate this section, is guilty of a felony.

Subd. 8. **Value of chips or tokens.** The value of chips or tokens approved for use in a game designed to be played with or operated by chips or tokens, as the term "value" is used in section 609.52, is the amount or denomination shown on the face of the chip

or token representing United States currency. Chips used in tournament play at a card club at a class A facility have no United States currency value.

History: *1963 c 753 art 1 s 609.76; 1981 c 126 s 4; 1983 c 214 s 37; 1984 c 628 art 3 s 11; 1989 c 334 art 6 s 9; 1990 c 590 art 2 s 17; 1991 c 336 art 2 s 48; 2000 c 336 s 10-16*

609.761 OPERATIONS PERMITTED.

Subdivision 1. **Lawful gambling.** Notwithstanding sections 609.755 and 609.76, an organization may conduct lawful gambling as defined in section 349.12, if authorized under chapter 349, and a person may manufacture, sell, or offer for sale a gambling device to an organization authorized under chapter 349 to conduct lawful gambling, and pari-mutuel betting on horse racing may be conducted under chapter 240.

Subd. 2. **State lottery.** Sections 609.755 and 609.76 do not prohibit the operation of the state lottery or the sale, possession, or purchase of tickets for the state lottery under chapter 349A.

Subd. 3. **Social skill game.** Sections 609.755 and 609.76 do not prohibit tournaments or contests that satisfy all of the following requirements:

(1) the tournament or contest consists of the card games of chance commonly known as cribbage, skat, sheephead, bridge, euchre, pinochle, gin, 500, smear, or whist;

(2) the tournament or contest does not provide any direct financial benefit to the promoter or organizer; and

(3) the sum of all prizes awarded for each tournament or contest does not exceed $200.

Subd. 4. **Social dice games.** Sections 609.755 and 609.76 do not prohibit dice games conducted on the premises and adjoining rooms of a retail establishment licensed to sell alcoholic beverages if the following requirements are satisfied:

(1) the games consist of board games played with dice or commonly known dice games such as "shake-a-day," "3-2-1," "who buys," "last chance," "liar's poker," "6-5-4," "horse," and "aces";

(2) wagers or prizes for the games are limited to food or beverages; and

(3) the retail establishment does not organize or participate financially in the games.

Subd. 5. **High school raffles.** Sections 609.755 and 609.76 do not prohibit a raffle, as defined in section 349.12, subdivision 33, conducted by a school district or a nonprofit organization organized primarily to support programs of a school district, if the following conditions are complied with:

(1) tickets for the raffle may only be sold and the drawing conducted at a high school event sponsored by a school district. All tickets must be sold for the same price;

(2) tickets may only be sold to persons 18 years of age or older attending the event;

(3) the drawing must be held during or immediately after the conclusion of the event;

(4) one-half of the gross receipts from the sale of tickets must be awarded as prizes for the raffle, and the remaining one-half may only be expended to defray the school district's costs of sending event participants to high school activities held at other locations; and

(5) if a school district's or nonprofit organization's gross receipts from the conduct of raffles exceeds $12,000 in a calendar year or $5,000 in a single raffle, the school district or organization must report the following information to the Gambling Control Board annually: the total amount of gross receipts received, the total expenses for the raffles, the total prizes awarded, and an accounting of the expenditures from the gross receipts of the raffles.

History: *1978 c 507 s 6; 1983 c 214 s 38; 1984 c 502 art 12 s 23; 1986 c 467 s 30; 1989 c 334 art 6 s 10; 1997 c 155 s 10; 1999 c 187 s 2; 2002 c 378 s 2; 2003 c 110 s 43*

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 the owner 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; 1986 c 444*

609.763 LAWFUL GAMBLING FRAUD.

Subdivision 1. **Crime.** A person is guilty of a crime and may be sentenced as provided in subdivision 2 if the person does any of the following:

(1) knowingly claims a lawful gambling prize using altered or counterfeited gambling equipment;

(2) knowingly claims a lawful gambling prize by means of fraud, deceit, or misrepresentation;

(3) manipulates any form of lawful gambling or tampers with any gambling equipment with intent to influence the outcome of a game or the receipt of a prize; or

(4) knowingly places or uses false information on a prize receipt or on any other form approved for use by the Gambling Control Board or the Alcohol and Gambling Enforcement Division of the Department of Public Safety.

Subd. 2. **Penalty.** A person who violates subdivision 1 may be sentenced as follows:

(1) if the dollar amount involved is $500 or less, the person is guilty of a misdemeanor;

(2) if the dollar amount involved is more than $500 but not more than $2,500, the person is guilty of a gross misdemeanor; and

(3) if the dollar amount involved is more than $2,500, the person is guilty of a felony and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $6,000, or both.

Subd. 3. **Aggregation; jurisdiction.** In a prosecution under this section, the dollar amounts obtained in violation of subdivision 1 within any 12-month period may be aggregated and the defendant charged accordingly. When two or more offenses are committed by the same person in two or more counties, the defendant may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this subdivision.

History: *2000 c 318 s 1*

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 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 $3,000, 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.

History: *1963 c 753 art 1 s 609.765; 1984 c 628 art 3 s 11; 1986 c 444*

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.

History: *1963 c 753 art 1 s 609.77; 1971 c 23 s 77*

CRIMES RELATING TO COMMUNICATIONS

609.774 EMERGENCY COMMUNICATIONS; KIDNAPPINGS.

Subdivision 1. **Definitions.** For the purposes of this section, "supervising peace officer" means a person licensed pursuant to chapter 626, who has probable cause to believe that a person is being unlawfully confined, and who has lawful jurisdiction in the geographical area where the violation is believed to be occurring.

Subd. 2. **Authority.** A supervising peace officer may order a telephone company to cut, reroute, or divert telephone lines for the purpose of establishing and controlling communications with a violator.

Subd. 3. **Designation.** Each telephone company shall designate an employee to serve as a security official and to provide assistance as required by the supervising peace officer to carry out the purposes of this section.

Subd. 4. **Unauthorized communication prohibited.** Whoever initiates telephone communications with a violator with knowledge of an order issued pursuant to subdivision 2 and without prior police authorization, is guilty of a misdemeanor.

Subd. 5. **Defense.** Good faith reliance by telephone employees on an order issued pursuant to subdivision 2 shall constitute a complete defense to any legal action brought for an interruption of telephone communications occurring by reason of this section.

History: *1979 c 63 s 1; 1979 c 289 s 2*

609.775 DIVULGING TELEPHONE OR TELEGRAPH MESSAGE; NONDELIVERY.

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) having knowledge of not being the intended receiver, obtains such disclosure from such employee; or

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

History: *1963 c 753 art 1 s 609.775; 1971 c 23 s 78; 1986 c 444*

609.776 INTERFERENCE WITH EMERGENCY COMMUNICATIONS.

Whoever, without prior authorization, broadcasts or transmits on, interferes with, blocks, or cross-patches another frequency onto a law enforcement, firefighting, emergency medical services, emergency radio frequency or channel, any assigned or alternate emergency frequency or channel, or an official cellular telephone communication of a law enforcement agency, a fire department, or emergency medical services provider, knowing, or having reason to know that the act creates a risk of obstructing, preventing, or misdirecting official law enforcement, firefighting, or emergency medical services communications, is guilty of a felony and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $10,000, or both.

History: *1Sp2003 c 2 art 4 s 27*

609.78 EMERGENCY TELEPHONE CALLS AND COMMUNICATIONS.

Subdivision 1. **Misdemeanor offenses.** 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;

(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;

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

(4) makes a call for emergency medical or ambulance service, knowing that no medical emergency exists; or

(5) interrupts, disrupts, impedes, or otherwise interferes with the transmission of a citizen's band radio channel communication the purpose of which is to inform or inquire about a medical emergency or an emergency in which property is or is reasonably believed to be in imminent danger of damage or destruction.

Subd. 2. **Interference with an emergency call; gross misdemeanor offense.** A person who intentionally interrupts, disrupts, impedes, or interferes with an emergency call or who intentionally prevents or hinders another from placing an emergency call, and whose conduct does not result in a violation of section 609.498, is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

Subd. 3. **Definition.** For purposes of this section, "emergency call" means:

(1) a 911 call;

(2) any call for emergency medical or ambulance service; or

(3) any call for assistance from a police or fire department or for other assistance needed in an emergency to avoid serious harm to person or property,

and an emergency exists.

History: *1963 c 753 art 1 s 609.78; 1971 c 23 s 79; 1983 c 140 s 1; 1984 c 630 s 1; 1997 c 239 art 3 s 19; 1999 c 24 s 1*

609.785 [Repealed, 1990 c 494 s 7]

609.79 OBSCENE OR HARASSING TELEPHONE CALLS.

Subdivision 1. **Crime defined; obscene call.** Whoever,

(1) by means of a telephone,

(a) makes any comment, request, suggestion or proposal which is obscene, lewd, or lascivious,

(b) repeatedly makes telephone calls, whether or not conversation ensues, with intent to abuse, disturb, or cause distress,

(c) makes or causes the telephone of another repeatedly or continuously to ring, with intent to abuse, disturb, or cause distress in any person at the called number, or

(2) having control of a telephone, knowingly permits it to be used for any purpose prohibited by this section,

shall be guilty of a misdemeanor.

Subd. 1a. [Repealed, 1993 c 326 art 2 s 34]

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

History: *1963 c 753 art 1 s 609.79; 1969 c 174 s 1; 1986 c 444; 1987 c 307 s 5; 1989 c 261 s 7; 1993 c 326 art 2 s 23*

609.795 LETTER, TELEGRAM, OR PACKAGE; OPENING; HARASSMENT.

Subdivision 1. **Misdemeanors.** Whoever does any of the following is guilty of a misdemeanor:

(1) knowing that the actor 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; or

(3) with the intent to abuse, disturb, or cause distress, repeatedly mails or delivers or causes the delivery by any means, including electronically, of letters, telegrams, or packages.

Subd. 2. [Repealed, 1993 c 326 art 2 s 34]

History: *1963 c 753 art 1 s 609.795; 1971 c 23 s 81; 1986 c 444; 1987 c 307 s 6; 1989 c 261 s 8; 1993 c 326 art 2 s 24; 2000 c 311 art 4 s 7*

609.80 INTERFERING WITH CABLE COMMUNICATIONS SYSTEMS.

Subdivision 1. **Misdemeanor.** 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 prohibited by section 609.52, subdivision 2, clause (12), to a licensed cable communications system as defined in chapter 238 lends, offers, or gives to another any instrument, apparatus, equipment, or device designed to make an unauthorized connection, or plan, specification or instruction for making an unauthorized connection, without receiving or seeking to receive money or any other thing of value in exchange; 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.

Subd. 2. **Commercial activity; felony.** Whoever sells or rents, or offers or advertises for sale or rental, any instrument, apparatus, equipment, or device designed to make an unauthorized connection as prohibited by section 609.52, subdivision 2, clause (12), to a licensed cable communications system as defined in chapter 238, or a plan, specification, or instructions for making an unauthorized connection, is guilty of a felony and may be sentenced to not more than three years of imprisonment or a fine of not more than $5,000, or both.

History: *1977 c 396 s 2; 1988 c 410 s 1*

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.

History: *1963 c 753 art 1 s 609.805; 1971 c 23 s 82; 1975 c 427 s 1*

609.81 [Repealed, 1996 c 404 s 18]

609.815 MISCONDUCT OF JUNK OR SECONDHAND DEALER.

Whoever is a junk dealer or secondhand dealer and does any of the following is guilty of a misdemeanor:

(1) has stolen goods in 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 the person's parent or guardian.

History: *1963 c 753 art 1 s 609.815; 1971 c 23 s 84; 1986 c 444*

609.82 FRAUD IN OBTAINING CREDIT.

A person who, with intent to defraud, obtains personal credit or credit for another from a bank, trust company, savings association, or credit union, by means of a present or past false representation as to the person's 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 the person obtaining the credit may be sentenced as provided in section 609.52, subdivision 3.

History: *1963 c 753 art 1 s 609.82; 1971 c 23 s 85; 1986 c 444; 1995 c 202 art 1 s 25*

609.821 FINANCIAL TRANSACTION CARD FRAUD.

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

(a) "Financial transaction card" means any instrument or device, whether known as a credit card, credit plate, charge plate, courtesy card, bank services card, banking card, check guarantee card, debit card, electronic benefit system (EBS) card, electronic benefit transfer (EBT) card, assistance transaction card, or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining credit, money, goods, services, public assistance benefits, or anything else of value, and includes the account or identification number or symbol of a financial transaction card.

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

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

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

(e) "Public assistance benefit" means any money, goods or services, or anything else of value, issued under chapters 256, 256B, 256D, or section 393.07, subdivision 10.

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

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

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

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

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

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

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

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

(6) upon applying for a financial transaction card to an issuer, or for a public assistance benefit which is distributed by means of a financial transaction card:

(i) knowingly gives a false name or occupation;

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

(iii) knowingly makes a false statement or representation for the purpose of inducing an issuer to issue a financial transaction card used to obtain a public assistance benefit;

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

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

Subd. 3. **Sentence.** (a) A person who commits financial transaction card fraud may be sentenced as follows:

(1) for a violation of subdivision 2, clause (1), (2), (5), or (8):

(i) to imprisonment for not more than 20 years or to payment of a fine of not more than $100,000, or both, if the value of the property the person obtained or attempted to obtain was more than $35,000, or the aggregate amount of the transactions under this subdivision was more than $35,000; or

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

(iii) to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if the value of the property the person obtained or attempted to obtain was more than $250 but not more than $2,500, or the aggregate amount of the transactions under this subdivision was more than $250 but not more than $2,500; or

(iv) to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if the value of the property the person obtained or attempted to obtain was not more than $250, or the aggregate amount of the transactions under this subdivision was not more than $250, and the person has previously been convicted within the preceding five years for an offense under this section, section 609.24; 609.245; 609.52; 609.53; 609.582, subdivision 1, 2, or 3; 609.625; 609.63; or 609.631, or a statute from another state in conformity with any of those sections, and the person received a felony or gross misdemeanor sentence for the offense, or a sentence that was stayed under section 609.135 if the offense to which a plea was entered would allow imposition of a felony or gross misdemeanor sentence; or

(v) to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both, if the value of the property the person obtained or attempted to obtain was not more than $250, or the aggregate amount of the transactions under this subdivision was not more than $250;

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

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

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

(ii) if property, other than a financial transaction card, is so obtained, in the manner provided in clause (1).

(b) In any prosecution under paragraph (a), clause (1), the value of the transactions made or attempted within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this section. When two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the card transactions occurred for all of the transactions aggregated under this paragraph.

History: *1985 c 243 s 10; 1987 c 329 s 14-16; 1988 c 712 s 16; 1Sp1993 c 1 art 6 s 53,54; 1999 c 218 s 5*

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 $10,000, 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 the participant's best effort to win or enable the participant's team to win or to attain a maximum score or margin of victory, or to influence such official in 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 the actor 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 to be so influenced as such participant or official and fails promptly to report the same to the offeree's or promisee's 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 $3,000, or both.

History: *1963 c 753 art 1 s 609.825; 1984 c 628 art 3 s 11; 1986 c 444*

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 $10,000, 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 the other or a third person, appears, participates, or executes an instrument to be used in a judicial proceeding.

History: *1963 c 753 art 1 s 609.83; 1984 c 628 art 3 s 11; 1986 c 444*

609.85 CRIMES AGAINST RAILROAD EMPLOYEES AND PROPERTY; PENALTY.

Subdivision 1. **Intent to cause derailment.** Whoever throws or deposits any type of debris, waste material, or other obstruction 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.

Subd. 2. **Foreseeable risk.** Whoever intentionally throws or deposits any type of debris, waste material, or other obstruction 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.

Subd. 3. **Shooting at train.** 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.

Subd. 4. **Throwing objects at train.** 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.

Subd. 5. **Placing obstruction on track.** Whoever places an obstruction on a railroad track is guilty of a misdemeanor.

Subd. 6. **Allowing animals on track.** Whoever intentionally permits animals under the person's control to trespass on a railroad track is guilty of a misdemeanor.

History: *1977 c 179 s 1; 1989 c 5 s 11*

609.851 FALSE TRAFFIC SIGNAL.

Subdivision 1. **Misdemeanor.** A person is guilty of a misdemeanor if the person exhibits a false light or signal or interferes with a light, signal, or sign controlling or guiding traffic on a highway, railroad track, navigable waters, or in the air.

Subd. 2. **Felony.** A person who violates subdivision 1 and knows that doing so creates a risk of death or bodily harm or serious property damage is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

History: *1989 c 5 s 12*

609.855 CRIMES INVOLVING TRANSIT; SHOOTING AT TRANSIT VEHICLE.

Subdivision 1. **Unlawfully obtaining services; misdemeanor.** A person is guilty of a misdemeanor who intentionally obtains or attempts to obtain service for himself, herself, or another person from a provider of public transit or from a public conveyance by doing any of the following:

(1) occupies or rides in any public transit vehicle without paying the applicable fare or otherwise obtaining the consent of the transit provider including:

(i) the use of a reduced fare when a person is not eligible for the fare; or

(ii) the use of a fare medium issued solely for the use of a particular individual by another individual;

(2) presents a falsified, counterfeit, photocopied, or other deceptively manipulated fare medium as fare payment or proof of fare payment;

(3) sells, provides, copies, reproduces, or creates any version of any fare medium without the consent of the transit provider; or

(4) puts or attempts to put any of the following into any fare box, pass reader, ticket vending machine, or other fare collection equipment of a transit provider:

(i) papers, articles, instruments, or items other than fare media or currency; or

(ii) a fare medium that is not valid for the place or time at, or the manner in, which it is used.

Where self-service barrier-free fare collection is utilized by a public transit provider, it is a violation of this subdivision to intentionally fail to exhibit proof of fare payment upon the request of an authorized transit representative when entering, riding upon, or leaving a transit vehicle or when present in a designated paid fare zone located in a transit facility.

Subd. 2. **Unlawful interference with transit operator.** (a) Whoever intentionally commits an act that interferes with or obstructs, or tends to interfere with or obstruct, the operation of a transit vehicle is guilty of unlawful interference with a transit operator and may be sentenced as provided in paragraph (c).

(b) An act that is committed on a transit vehicle that distracts the driver from the safe operation of the vehicle or that endangers passengers is a violation of this subdivision if an authorized transit representative has clearly warned the person once to stop the act.

(c) A person who violates this subdivision may be sentenced as follows:

(1) to imprisonment for not more than three years or to payment of a fine of not more than $5,000, or both, if the violation was accompanied by force or violence or a communication of a threat of force or violence; or

(2) to imprisonment for not more than 90 days or to payment of a fine of not more than $1,000, or both, if the violation was not accompanied by force or violence or a communication of a threat of force or violence.

Subd. 3. **Prohibited activities; misdemeanor.** (a) A person is guilty of a misdemeanor who, while riding in a vehicle providing public 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) carries or is in control of an animal without the operator's consent.

(b) A person is guilty of a violation of this subdivision only if the person continues to act in violation of this subdivision after being warned once by an authorized transit representative to stop the conduct.

Subd. 4. [Repealed, 1994 c 636 art 2 s 69]

Subd. 5. **Shooting at or in public transit vehicle or facility.** Whoever recklessly discharges a firearm at or in any portion of a public transit vehicle or facility is guilty of a felony and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $6,000, or both. If the transit vehicle or facility is occupied by any person other than the offender, the person may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

Subd. 6. **Restraining orders.** (a) At the sentencing on a violation of this section, the district court shall consider the extent to which the person's conduct has negatively disrupted the delivery of transit services or has affected the utilization of public transit services by others. The district court may, in its discretion, include as part of any sentence for a violation of this section, an order restraining the person from using public transit vehicles and facilities for a fixed period, not to exceed two years or any term of probation, whichever is longer.

(b) The district court administrator shall forward copies of any orders, and any subsequent orders of the court rescinding or modifying the original order, promptly to the operator of the transit system on which the offense took place.

(c) A person who violates an order issued under this subdivision is guilty of a gross misdemeanor.

Subd. 7. **Definitions.** (a) The definitions in this subdivision apply in this section.

(b) "Public transit" or "transit" has the meaning given in section 174.22, subdivision 7.

(c) "Public transit vehicle" or "transit vehicle" means any vehicle used for the purpose of providing public transit, whether or not the vehicle is owned or operated by a public entity.

(d) "Public transit facilities" or "transit facilities" means any vehicles, equipment, property, structures, stations, improvements, plants, parking or other facilities, or rights that are owned, leased, held, or used for the purpose of providing public transit, whether or not the facility is owned or operated by a public entity.

(e) "Fare medium" means a ticket, smart card, pass, coupon, token, transfer, or other medium sold or distributed by a public transit provider, or its authorized agents, for use in gaining entry to or use of the public transit facilities or vehicles of the provider.

(f) "Proof of fare payment" means a fare medium valid for the place or time at, or the manner in, which it is used. If using a reduced-fare medium, proof of fare payment also includes proper identification demonstrating a person's eligibility for the reduced fare. If using a fare medium issued solely for the use of a particular individual, proof of fare payment also includes an identification document bearing a photographic likeness of the individual and demonstrating that the individual is the person to whom the fare medium is issued.

(g) "Authorized transit representative" means the person authorized by the transit provider to operate the transit vehicle, a peace officer, or any other person designated by the transit provider as an authorized transit provider under this section.

History: *1983 c 189 s 1; 1984 c 628 art 3 s 11; 1984 c 654 art 3 s 139,140; 1985 c 271 s 1; 1989 c 5 s 13,14; 1994 c 636 art 2 s 49; 1996 c 408 art 4 s 13; 2004 c 228 art 1 s 72; 2004 c 245 s 3,4*

609.856 USE OF POLICE RADIOS DURING COMMISSION OF CRIME; PENALTIES.

Subdivision 1. **Acts constituting.** Whoever has in possession or uses a radio or device capable of receiving or transmitting a police radio signal, message, or transmission of information used for law enforcement purposes, while in the commission of a felony or violation of section 609.487 or the attempt to commit a felony or violation of section 609.487, is guilty of a felony and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $5,000, or both. Notwithstanding section 609.04, a prosecution for or conviction under this section is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Subd. 2. **Forfeiture.** A radio or device defined in subdivision 1 that is used in the commission of a felony or violation of section 609.487 or attempt to commit a felony or violation of section 609.487 is contraband property and subject to the forfeiture provisions of section 609.531.

History: *1987 c 111 s 2; 1993 c 326 art 4 s 35*

CRIMES AGAINST COMMERCE

609.86 COMMERCIAL BRIBERY.

Subdivision 1. **Definition.** "Corruptly" means that the actor intends the action to injure or defraud:

(1) the actor's employer or principal; or

(2) the employer or principal of the person to whom the actor offers, gives or agrees to give the bribe or from whom the actor requests, receives or agrees to receive the bribe.

Subd. 2. **Acts constituting.** Whoever does any of the following, when not consistent with usually accepted business practices, is guilty of commercial bribery and may be sentenced as provided in subdivision 3:

(1) corruptly offers, gives, or agrees to give, directly or indirectly, any benefit, consideration, compensation, or reward to any employee, agent or fiduciary of a person with the intent to influence the person's performance of duties as an employee, agent, or fiduciary in relation to the person's employer's or principal's business; or

(2) being an employee, agent or fiduciary of a person, corruptly requests, receives or agrees to receive, directly or indirectly, from another person any benefit, consideration, compensation, or reward with the understanding or agreement to be influenced in the performance of duties as an employee, agent, or fiduciary in relation to the employer's or principal's business.

Subd. 3. **Sentence.** Whoever commits commercial bribery may be sentenced as follows:

(1) to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if the value of the benefit, consideration, compensation or reward is greater than $500;

(2) in all other cases where the value of the benefit, consideration, compensation or reward is $500 or less, to imprisonment for not more than 90 days or to payment of a fine of not more than $1,000; provided, however, in any prosecution of the value of the benefit, consideration, compensation or reward received by the defendant 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, or all of the offenses aggregated under this clause.

History: *1982 c 442 s 1; 1984 c 628 art 3 s 11; 1986 c 444; 1989 c 290 art 6 s 22; 2004 c 228 art 1 s 72*

609.87 COMPUTER CRIME; DEFINITIONS.

Subdivision 1. **Applicability.** For purposes of sections 609.87 to 609.89, and section 609.891, the terms defined in this section have the meanings given them.

Subd. 2. **Access.** "Access" means to instruct, communicate with, store data in, or retrieve data from a computer, computer system, or computer network.

Subd. 2a. **Authorization.** "Authorization" means with the permission of the owner of the computer, computer system, computer network, computer software, or other property. Authorization may be limited by the owner by:

(1) giving the user actual notice orally or in writing;

(2) posting a written notice in a prominent location adjacent to the computer being used; or

(3) using a notice displayed on or announced by the computer being used.

Subd. 3. **Computer.** "Computer" means an electronic device which performs logical, arithmetic or memory functions by the manipulations of signals, including but not limited to electronic or magnetic impulses.

Subd. 4. **Computer system.** "Computer system" means related, connected or unconnected, computers and peripheral equipment.

Subd. 5. **Computer network.** "Computer network" means the interconnection of a communication system with a computer through a remote terminal, or with two or more interconnected computers or computer systems, and includes private and public telecommunications networks.

Subd. 6. **Property.** "Property" includes, but is not limited to, electronically processed or produced data and information contained in a computer or computer software in either machine or human readable form.

Subd. 7. **Services.** "Services" includes but is not limited to, computer time, data processing, and storage functions.

Subd. 8. **Computer program.** "Computer program" means an instruction or statement or a series of instructions or statements, in a form acceptable to a computer, which directs the functioning of a computer system in a manner designed to provide appropriate products from the computer.

Subd. 9. **Computer software.** "Computer software" means a computer program or procedures, or associated documentation concerned with the operation of a computer.

Subd. 10. **Loss.** "Loss" means the greatest of the following:

(a) the retail market value of the property or services involved;

(b) the reasonable repair or replacement cost, whichever is less; or

(c) the reasonable value of the damage created by the unavailability or lack of utility of the property or services involved until repair or replacement can be effected.

Subd. 11. **Computer security system.** "Computer security system" means a software program or computer device that:

(1) is intended to protect the confidentiality and secrecy of data and information stored in or accessible through the computer system; and

(2) displays a conspicuous warning to a user that the user is entering a secure system or requires a person seeking access to knowingly respond by use of an authorized code to the program or device in order to gain access.

Subd. 12. **Destructive computer program.** "Destructive computer program" means a computer program that performs a destructive function or produces a destructive product. A program performs a destructive function if it degrades performance of the affected computer, associated peripherals or a computer program; disables the computer, associated peripherals or a computer program; or destroys or alters computer programs or data. A program produces a destructive product if it produces unauthorized data, including data that make computer memory space unavailable; results in the unauthorized alteration of data or computer programs; or produces a destructive computer program, including a self-replicating computer program.

History: *1982 c 534 s 1; 1989 c 95 s 2,3; 1989 c 159 s 1; 1990 c 494 s 3,4; 1994 c 636 art 2 s 50*

609.88 COMPUTER DAMAGE.

Subdivision 1. **Acts.** Whoever does any of the following is guilty of computer damage and may be sentenced as provided in subdivision 2:

(a) intentionally and without authorization damages or destroys any computer, computer system, computer network, computer software, or any other property specifically defined in section 609.87, subdivision 6;

(b) intentionally and without authorization or with intent to injure or defraud alters any computer, computer system, computer network, computer software, or any other property specifically defined in section 609.87, subdivision 6; or

(c) distributes a destructive computer program, without authorization and with intent to damage or destroy any computer, computer system, computer network, computer software, or any other property specifically defined in section 609.87, subdivision 6.

Subd. 2. **Penalty.** Whoever commits computer damage may be sentenced as follows:

(a) To imprisonment for not more than ten years or to payment of a fine of not more than $50,000, or both, if the damage, destruction or alteration results in a loss in excess of $2,500, to the owner, or the owner's agent, or lessee;

(b) To imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if the damage, destruction or alteration results in a loss of more than $500, but not more than $2,500 to the owner, or the owner's agent or lessee; or

(c) In all other cases to imprisonment for not more than 90 days or to payment of a fine of not more than $1,000, or both.

History: *1982 c 534 s 2; 1984 c 628 art 3 s 11; 1986 c 444; 1989 c 159 s 2; 1994 c 636 art 2 s 51; 2004 c 228 art 1 s 72*

609.89 COMPUTER THEFT.

Subdivision 1. **Acts.** Whoever does any of the following is guilty of computer theft and may be sentenced as provided in subdivision 2:

(a) intentionally and without authorization or claim of right accesses or causes to be accessed any computer, computer system, computer network or any part thereof for the purpose of obtaining services or property; or

(b) intentionally and without claim of right, and with intent to deprive the owner of use or possession, takes, transfers, conceals or retains possession of any computer, computer system, or any computer software or data contained in a computer, computer system, or computer network.

Subd. 2. **Penalty.** Anyone who commits computer theft may be sentenced as follows:

(a) to imprisonment for not more than ten years or to payment of a fine of not more than $50,000, or both, if the loss to the owner, or the owner's agent, or lessee is in excess of $2,500; or

(b) to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if the loss to the owner, or the owner's agent, or lessee is more than $500 but not more than $2,500; or

(c) in all other cases to imprisonment for not more than 90 days or to payment of a fine of not more than $1,000, or both.

History: *1982 c 534 s 3; 1984 c 628 art 3 s 11; 1986 c 444; 1994 c 636 art 2 s 52; 2004 c 228 art 1 s 72*

609.891 UNAUTHORIZED COMPUTER ACCESS.

Subdivision 1. **Crime.** A person is guilty of unauthorized computer access if the person intentionally and without authority attempts to or does penetrate a computer security system.

Subd. 2. **Felony.** (a) A person who violates subdivision 1 in a manner that creates a grave risk of causing the death of a person is guilty of a felony and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

(b) A person who is convicted of a second or subsequent gross misdemeanor violation of subdivision 1 is guilty of a felony and may be sentenced under paragraph (a).

Subd. 3. **Gross misdemeanor.** (a) A person who violates subdivision 1 in a manner that creates a risk to public health and safety is guilty of a gross misdemeanor and may be sentenced to imprisonment for a term of not more than one year or to payment of a fine of not more than $3,000, or both.

(b) A person who violates subdivision 1 in a manner that compromises the security of data that are protected under section 609.52, subdivision 2, clause (8), or are not public data as defined in section 13.02, subdivision 8a, is guilty of a gross misdemeanor and may be sentenced under paragraph (a).

(c) A person who is convicted of a second or subsequent misdemeanor violation of subdivision 1 within five years is guilty of a gross misdemeanor and may be sentenced under paragraph (a).

Subd. 4. **Misdemeanor.** A person who violates subdivision 1 is guilty of a misdemeanor and may be sentenced to imprisonment for a term of not more than 90 days or to payment of a fine of not more than $1,000, or both.

History: *1989 c 95 s 4; 1993 c 326 art 13 s 34; 2004 c 228 art 1 s 72*

609.8911 REPORTING VIOLATIONS.

A person who has reason to believe that any provision of section 609.88, 609.89, or 609.891 is being or has been violated shall report the suspected violation to the prosecuting authority in the county in which all or part of the suspected violation occurred. A person who makes a report under this section is immune from any criminal or civil liability that otherwise might result from the person's action, if the person is acting in good faith.

History: *1994 c 636 art 2 s 53*

609.892 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to sections 237.73, 609.892, and 609.893.

Subd. 2. **Access device.** "Access device" means a card, plate, code, account number, or other means of account access that can be used, alone or in conjunction with another access device, to obtain telecommunications service.

Subd. 3. **Credit card number.** "Credit card number" means the card number appearing on a credit card that is an identification card or plate issued to a person by a supplier of telecommunications service that permits the person to whom the card has been issued to obtain telecommunications service on credit. The term includes the number or description of the card or plate even if the card or plate itself is not produced when obtaining telecommunications service.

Subd. 4. **Telecommunications device.** "Telecommunications device" means an instrument, apparatus, equipment mechanism, operating procedure, or code designed or adapted for a particular use and that is intended or can be used in violation of section 609.893. The term includes but is not limited to computer hardware, software, programs, electronic mail system, voice mail system, identification validation system, private branch exchange, or any other means of facilitating telecommunications service.

Subd. 5. **Telecommunications provider.** "Telecommunications provider" means a person, firm, association, or a corporation, private or municipal, owning, operating, or managing facilities used to provide telecommunications service.

Subd. 6. **Telecommunications service.** "Telecommunications service" means a service that, in exchange for a pecuniary consideration, provides or offers to provide transmission of messages, signals, facsimiles, or other communication between persons who are physically separated from each other by telephone, telegraph, cable, wire, fiber optic cable, or the projection of energy without physical connection. This term applies when the telecommunications service originates or ends or both originates and ends in this state.

Subd. 7. **Telephone company.** "Telephone company" means a telecommunications provider that provides local exchange telecommunications service.

History: *1990 c 494 s 5; 1991 c 199 art 1 s 86*

609.893 TELECOMMUNICATIONS AND INFORMATION SERVICES FRAUD; CRIME DEFINED.

Subdivision 1. **Obtaining services by fraud.** A person commits telecommunications and information services fraud and may be sentenced as provided in subdivision 3 if the person, with intent to evade a lawful charge, obtains telecommunications service for the person's own use by any fraudulent means.

Subd. 2. **Facilitation of telecommunications fraud.** A person commits a felony and may be sentenced as provided in subdivision 4 who:

(1) makes available to another, or offers or advertises to make available, a telecommunications device or information in order to facilitate violation of subdivision 1 by another; or

(2) makes, assembles, or possesses a telecommunications device that is designed or adapted to violate subdivision 1 or to conceal from a provider of telecommunications service or from a lawful authority, the existence or place of origin or destination of telecommunications service.

Subd. 3. **Fraud.** (a) Whoever commits telecommunications and information services fraud in violation of subdivision 1 may be sentenced as follows:

(1) to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both, if the value of the services is in excess of $2,500;

(2) to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if the value of the services is more than $500 but not more than $2,500; or

(3) in all other cases, to imprisonment for not more than 90 days or to payment of a fine of not more than $1,000, or both.

(b) Amounts involved in a violation of paragraph (a) under one scheme or course of conduct, whether from the same credit card number or several credit card numbers, may be aggregated in determining the classification of the offense.

Subd. 4. **Facilitation of fraud.** Whoever violates subdivision 2 is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

History: *1990 c 494 s 6; 2004 c 228 art 1 s 72*

609.894 CELLULAR TELEPHONE COUNTERFEITING; CRIMES DEFINED.

Subdivision 1. **Definitions.** The definitions in this subdivision apply to this section.

(a) "Cellular telephone" means a radio telecommunications device that may be used to obtain access to the public and cellular switch telephone networks and that is programmed by the manufacturer with an electronic serial number.

(b) "Cellular telephone service" means all services and cellular telephone equipment and capabilities available from a provider to an end user for a fee.

(c) "Cloned cellular telephone" or "counterfeit cellular telephone" means a cellular telephone, the electronic serial number of which has been altered by someone other than the manufacturer.

(d) "Telephone cloning paraphernalia" means materials that, when possessed in combination, are capable of creating a cloned cellular telephone. Telephone cloning paraphernalia includes, but is not limited to:

(1) scanners to intercept electronic serial numbers and mobile identification numbers;

(2) cellular telephones;

(3) cables;

(4) EPROM chips;

(5) EPROM burners;

(6) software for programming the cellular telephone with a false electronic serial number, mobile identification number, other identifiable data, or a combination of those items;

(7) computers containing software described in clause (6); and

(8) lists of electronic serial number and mobile identification number combinations.

(e) "Electronic serial number" means a unique number that is programmed into a cellular telephone by the manufacturer, transmitted by the cellular telephone, and used by cellular telephone providers to validate radio transmissions to the system as having been made by an authorized device.

(f) "End user" is a person who pays a fee to subscribe to cellular telephone service from a provider or a person receiving a call from or sending a call to the person paying or subscribing for cellular telephone service.

(g) "Intercept" means to electronically capture, record, reveal, or otherwise access the signals emitted or received during the operation of a cellular telephone by any instrument, device, or equipment without the consent of the sender or receiver.

(h) "Mobile identification number" means the cellular telephone number assigned to the cellular telephone by the cellular telephone provider.

(i) "Provider" means a licensed seller of cellular telephone service or a reselling agent authorized by a licensed seller.

Subd. 2. **Cellular counterfeiting in the third degree.** (a) A person commits the crime of cellular counterfeiting in the third degree if the person knowingly possesses a cloned cellular telephone and knows that the telephone is unlawfully cloned.

(b) Cellular counterfeiting in the third degree is a gross misdemeanor.

Subd. 3. **Cellular counterfeiting in the second degree.** (a) A person commits the crime of cellular counterfeiting in the second degree if the person knowingly possesses, and knows the unlawful nature of using, any telephone cloning paraphernalia or any instrument capable of intercepting or manipulating electronic serial numbers, mobile identification numbers, other identifiable data, or a combination of those items.

(b) A person who violates paragraph (a) may be sentenced to imprisonment for not more than three years and may be fined up to $7,000, or both.

Subd. 4. **Cellular counterfeiting in the first degree.** (a) A person commits the crime of cellular counterfeiting in the first degree if the person knowingly possesses or distributes, and knows the unlawful nature of using, any telephone cloning paraphernalia or any instrument capable of intercepting or manipulating electronic serial numbers, mobile identification numbers, other identifiable data, or a combination of those items, and agrees with, encourages, solicits, or permits one or more other persons to engage in or cause, or obtain cellular telephone service through, cellular counterfeiting.

(b) A person who violates paragraph (a) may be sentenced to imprisonment for not more than five years and may be fined up to $10,000, or both.

Subd. 5. **Exclusions.** The provisions of subdivisions 2 to 4 do not apply to:

(1) officers, employees, or agents of cellular telephone service providers who engage in conduct prohibited by this section for the purpose of constructing, maintaining, or conducting the radio telecommunication service or for law enforcement purposes;

(2) law enforcement officers and public officials in charge of jails, police premises, sheriffs' offices, Department of Corrections institutions, and other penal or correctional institutions, or any other person under the color of law, who engages in conduct prohibited by this section for the purpose of law enforcement or in the normal course of the officer's or official's employment activities or duties; and

(3) officers, employees, or agents of federal or state agencies that are authorized to monitor or intercept cellular telephone service in the normal course of the officer's, employee's, or agent's employment.

Subd. 6. **Civil liability.** A prosecution under this section does not preclude civil liability under any applicable provision of law.

History: *1996 c 331 s 2*

609.895 COUNTERFEITED INTELLECTUAL PROPERTY; PENALTIES.

Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the meanings given them.

(b) "Counterfeit mark" means:

(1) any unauthorized reproduction or copy of intellectual property; or

(2) intellectual property affixed to any item without the authority of the owner of the intellectual property.

(c) "Counterfeited item or service" means an item or service bearing or identified by a counterfeit mark.

(d) "Intellectual property" means any trademark, service mark, or trade name.

(e) "Retail value" means:

(1) the usual selling price of the article or service bearing or identified by the counterfeit mark; or

(2) the usual selling price of a finished product on or in which components bearing or identified by a counterfeit mark are used.

(f) "Service mark" means a mark used by a person to identify services and to distinguish them from the services of others.

(g) "Trademark" means a mark used by a person to identify goods and to distinguish them from the goods of others.

(h) "Trade name" means a word, name, symbol, device, or any combination of the foregoing in any form or arrangement, used by a person to identify the person's business, vocation, or occupation and to distinguish it from the business, vocation, or occupation of others.

Subd. 2. **Crime.** A person who intentionally manufactures, produces, distributes, offers for sale, sells, or possesses with intent to sell or distribute any counterfeited item or service, knowing or having reason to know that the item or service is counterfeit, is guilty of counterfeiting intellectual property and may be punished as provided in subdivision 3.

Subd. 3. **Penalties.** (a) A person who is convicted of violating subdivision 2 may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $100,000, or both, if:

(1) the violation involves the manufacture or production of a counterfeited item or items;

(2) the violation involves the distribution, offer for sale, sale, or possession with intent to sell or distribute 1,000 or more counterfeited items;

(3) the violation involves the distribution, offer for sale, sale, or possession with intent to sell or distribute counterfeited items or services having a retail value of more than $10,000; or

(4) the defendant has two or more prior convictions for violating this section or a law of another state or the United States that provides criminal penalties for counterfeiting intellectual property.

(b) Except as otherwise provided in paragraph (a), a person who is convicted of violating subdivision 2 may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $50,000, or both, if:

(1) the violation involves more than 100 but fewer than 1,000 counterfeited items;

(2) the violation involves counterfeited items or services having a retail value of more than $1,000 but not more than $10,000; or

(3) the defendant has one prior conviction for violating this section or a law of another state or the United States that provides criminal penalties for counterfeiting intellectual property.

(c) A person may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both, if the person is convicted of violating subdivision 2, under circumstances not described in paragraph (a) or (b).

(d) If the defendant distributes, sells, offers for sale, or possesses with intent to sell or distribute more than one item or service bearing or identified by more than one counterfeit mark, the quantity or retail value of these items and services may be aggregated for purposes of determining penalties under this subdivision.

Subd. 4. **Alternative fine.** In lieu of the fine authorized by subdivision 3, a person convicted of violating this section who received economic gain from the act or caused economic loss during the act may be sentenced to pay a fine calculated in the manner provided in section 609.904, subdivision 2.

Subd. 5. **Forfeiture.** Property used to commit or facilitate the commission of a violation of this section, and all money and property representing proceeds of a violation of this section, shall be forfeited in accordance with sections 609.531 to 609.5316. Notwithstanding any provision of section 609.5315 to the contrary, forfeited items bearing or identified by a counterfeit mark must be destroyed unless the intellectual property owner consents to another disposition.

Subd. 6. **Prima facie evidence.** A Minnesota or federal certificate of registration of an intellectual property is prima facie evidence of the registrant's ownership and exclusive right to use the intellectual property in connection with the goods or services described in the certificate.

History: *1999 c 142 s 2*

RICO

609.901 CONSTRUCTION OF RACKETEERING PROVISIONS.

Sections 609.902 to 609.912 shall be liberally construed to achieve their remedial purposes of curtailing racketeering activity and controlled substance crime and lessening their economic and political power in Minnesota.

History: *1989 c 286 s 5*

609.902 DEFINITIONS.

Subdivision 1. **Definitions.** As used in sections 609.901 to 609.912, the following terms have the meanings given them.

Subd. 2. **Criminal proceeding.** "Criminal proceeding" means a criminal proceeding begun under section 609.903.

Subd. 3. **Enterprise.** "Enterprise" means a sole proprietorship, partnership, corporation, trust, or other legal entity, or a union, governmental entity, association, or group of persons, associated in fact although not a legal entity, and includes illicit as well as legitimate enterprises.

Subd. 4. **Criminal act.** "Criminal act" means conduct constituting, or a conspiracy or attempt to commit, a felony violation of chapter 152, or a felony violation of section 297D.09; 299F.79; 299F.80; 299F.82; 609.185; 609.19; 609.195; 609.20; 609.205; 609.221; 609.222; 609.223; 609.2231; 609.228; 609.235; 609.245; 609.25; 609.27; 609.322; 609.342; 609.343; 609.344; 609.345; 609.42; 609.48; 609.485; 609.495; 609.496; 609.497; 609.498; 609.52, subdivision 2, if the offense is punishable under subdivision 3, clause (3)(b) or clause 3(d)(v) or (vi); section 609.52, subdivision 2, clause (4); 609.527, if the crime is punishable under subdivision 3, clause (4); 609.528, if the crime is punishable under subdivision 3, clause (4); 609.53; 609.561; 609.562; 609.582, subdivision 1 or 2; 609.668, subdivision 6, paragraph (a); 609.67; 609.687; 609.713; 609.86; 609.894, subdivision 3 or 4; 609.895; 624.713; 624.74; or 626A.02, subdivision 1, if the offense is punishable under section 626A.02, subdivision 4, paragraph (a). "Criminal act" also includes conduct constituting, or a conspiracy or attempt to commit, a felony violation of section 609.52, subdivision 2, clause (3), (4), (15), or (16), if the violation involves an insurance company as defined in section 60A.02, subdivision 4, a nonprofit health service plan corporation regulated under chapter 62C, a health maintenance organization regulated under chapter 62D, or a fraternal benefit society regulated under chapter 64B.

Subd. 5. **Participation in a pattern of criminal activity.** A person "participates in a pattern of criminal activity" when the person is a principal with respect to conduct constituting at least three of the criminal acts included in the pattern and two of the acts constitute felonies other than conspiracy.

Subd. 6. **Pattern of criminal activity.** "Pattern of criminal activity" means conduct constituting three or more criminal acts that:

(1) were committed within ten years of the commencement of the criminal proceeding;

(2) are neither isolated incidents, nor so closely related and connected in point of time or circumstance of commission as to constitute a single criminal offense; and

(3) were either: (i) related to one another through a common scheme or plan or a shared criminal purpose or (ii) committed, solicited, requested, importuned, or intentionally aided by persons acting with the mental culpability required for the commission of the criminal acts and associated with or in an enterprise involved in those activities.

Subd. 7. **Personal property.** "Personal property" includes personal property, an interest in personal property, or a right, including a bank account, debt, corporate stock, patent, or copyright. Personal property and a beneficial interest in personal property are deemed to be located where the trustee is, the personal property is, or the instrument evidencing the right is.

Subd. 8. **Principal.** "Principal" means a person who personally engages in conduct constituting a violation or who is criminally liable under section 609.05 for the conduct of another constituting a violation.

Subd. 9. **Prosecuting authority.** "Prosecuting authority" means the office of a county attorney or office of the attorney general.

Subd. 10. **Real property.** "Real property" means any real property or an interest in real property, including a lease of, or mortgage on, real property. A beneficial interest in real property is deemed to be located where the real property is located.

History: *1989 c 286 s 6; 1991 c 325 art 17 s 1; 1992 c 564 art 1 s 54; 1993 c 326 art 5 s 11; 1994 c 636 art 5 s 16; 1997 c 239 art 3 s 20; 1998 c 367 art 2 s 32; 1999 c 142 s 3; 1999 c 244 s 4; 2000 c 354 s 6*

609.903 RACKETEERING.

Subdivision 1. **Crime.** A person is guilty of racketeering if the person:

(1) is employed by or associated with an enterprise and intentionally conducts or participates in the affairs of the enterprise by participating in a pattern of criminal activity;

(2) acquires or maintains an interest in or control of an enterprise, or an interest in real property, by participating in a pattern of criminal activity; or

(3) participates in a pattern of criminal activity and knowingly invests any proceeds derived from that conduct, or any proceeds derived from the investment or use of those proceeds, in an enterprise or in real property.

Subd. 2. **Permitted activities.** For purposes of this section, it is not unlawful to:

(1) purchase securities on the open market with intent to make an investment, and without the intent of controlling or participating in the control of the issuer, or of assisting another to do so, if the securities of the issuer held by the purchaser, the members of the purchaser's immediate family, and the purchaser's accomplices in a pattern of criminal activity do not amount in the aggregate to five percent of the outstanding securities of any one class and do not confer, either in the law or in fact, the power to elect one or more directors of the issuer;

(2) make a deposit in an account maintained in a savings association, or a deposit in any other financial institution, that creates an ownership interest in that association or institution; or

(3) purchase nonvoting shares in a limited partnership, with intent to make an investment, and without the intent of controlling or participating in the control of the partnership.

History: *1989 c 286 s 7; 1995 c 202 art 1 s 25*

609.904 CRIMINAL PENALTIES.

Subdivision 1. **Penalty.** A person convicted of violating section 609.903 may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than $1,000,000, or both.

Subd. 2. **Fine.** In lieu of the fine authorized by subdivision 1, a person convicted of violating section 609.903, who received economic gain from the act or caused economic loss or personal injury during the act, may be sentenced to pay a fine calculated under this subdivision. The maximum fine is three times the gross value gained or three times the gross loss caused, whichever is greater, plus court costs and the costs of investigation and prosecution reasonably incurred, less the value of any property forfeited under section 609.905. The district court shall hold a hearing to determine the amount of the fine authorized by this subdivision. In imposing a fine, the court shall consider the seriousness of the conduct, whether the amount of the fine is disproportionate to the conduct in which the person engaged, its impact on victims and any legitimate enterprise involved in that conduct, as well as the economic circumstances of the convicted person, including the effect of the imposition of the fine on the person's immediate family. For purposes of this subdivision, loss does not include pain and suffering.

Subd. 3. **Injunctive relief.** After the entry of a judgment that includes a fine or an order of criminal forfeiture under section 609.905, the district court may enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take other action, including the appointment of a receiver, that the court deems proper to protect the interests of the prosecuting authority in collecting the money or forfeiture or an innocent party.

Subd. 4. **Disposition of fine proceeds.** The court shall apply fines collected under this section to the costs and expenses of investigation and prosecution, including costs of resources and personnel incurred in investigation and prosecution and the balance, if any, as provided under section 574.34.

Subd. 5. **Restitution.** In a settlement discussion or before the imposition of a sentence under this section, the prosecuting authority shall vigorously advocate full and complete restitution to an aggrieved person. Before the acceptance of a plea or after a verdict but before the imposition of a sentence under this section, the district court must ensure that full and complete restitution has been duly effected or that a satisfactory explanation of why it is impractical has been made to the court.

History: *1989 c 286 s 8*

609.905 CRIMINAL FORFEITURE.

Subdivision 1. **Forfeiture.** When a person is convicted of violating section 609.903, the court may order the person to forfeit to the prosecuting authority any real or personal property subject to forfeiture under this section. Property subject to forfeiture is real and personal property that was used in the course of, intended for use in the course of, derived from, or realized through conduct in violation of section 609.903. A court may not order the forfeiture of property that has been used to pay reasonable attorney fees in connection with a criminal proceeding under section 609.903. The term includes property constituting an interest in or means of control or influence over the enterprise involved in the violation of section 609.902 and any property constituting proceeds derived from the violation of section 609.902, including:

(1) a position, office, appointment, tenure, commission, or employment contract that was acquired or maintained in violation of section 609.903 or through which the person conducted or participated in the conduct of the affairs of an enterprise in violation of section 609.903 or that afforded the person a source of influence or control over the affairs of an enterprise that the person exercised in violation of section 609.903;

(2) any compensation, right, or benefit derived from a position, office, appointment, tenure, commission, or employment contract described in this section that accrued to the person during the period of conduct in violation of section 609.903;

(3) any interest in, security of, claim against, or property or contractual right affording the person a source of influence or control over the affairs of an enterprise that the person exercised in violation of section 609.903; and

(4) any amount payable or paid under any contract for goods or services that was awarded or performed in violation of section 609.903.

Subd. 2. **Other property of defendant.** The district court may order criminal forfeiture of any other property of the defendant up to the value of the property that is unreachable if any property subject to criminal forfeiture under subdivision 1:

(1) cannot be located;

(2) has been sold to a bona fide purchaser for value;

(3) has been placed beyond the jurisdiction of the court;

(4) has been substantially diminished in value by the conduct of the defendant;

(5) has been commingled with other property that cannot be divided without difficulty or undue injury to innocent persons; or

(6) is otherwise unreachable without undue injury to an innocent person.

History: *1989 c 286 s 9*

609.907 PRESERVATION OF PROPERTY SUBJECT TO FORFEITURE.

Subdivision 1. **Temporary restraining order.** (a) When an indictment or complaint is filed under section 609.903, the district court may take any of the following actions if the prosecuting authority shows by a preponderance of the evidence that the action is necessary to preserve the reachability of property subject to criminal forfeiture:

(1) enter a restraining order or injunction;

(2) require the execution of a satisfactory performance bond; or

(3) take any other reasonable action, including the appointment of a receiver.

(b) Before granting the remedies provided by this subdivision, the court shall hold a hearing, after notice to all affected persons, giving them a reasonable opportunity to respond. At the hearing, the rules of evidence do not apply.

Subd. 2. **Preindictment order.** (a) If no indictment or complaint has been filed, the district court may take actions provided in subdivision 1 if the prosecuting authority makes the showing required by subdivision 1 and also shows that:

(1) there is probable cause to believe that the property with respect to which the order is sought would, in the event of a conviction, be subject to criminal forfeiture under section 609.904; and

(2) the requested order would not result in substantial and irreparable harm or injury to the party against whom the order is to be entered, or to other affected persons, that outweighs the need to preserve the reachability of the property.

(b) An order entered under this subdivision is effective for a maximum of 90 days unless:

(1) extended by the district court for good cause; or

(2) terminated by the filing of an indictment or complaint alleging that the property is subject to forfeiture.

Subd. 3. **Restraining order without notice.** (a) On application by the prosecuting authority, the district court may grant, without notice to any party, a temporary restraining order to preserve the reachability of property subject to criminal forfeiture under section 609.905 if:

(1) an indictment or complaint alleging that property is subject to criminal forfeiture has been filed or the district court determines that there is probable cause to believe that property with respect to which the order is sought would, in the event of a conviction, be subject to criminal forfeiture under section 609.905;

(2) the property is in the possession or control of the party against whom the order is to be entered; and

(3) the district court makes a specific finding in writing that the property can be concealed, disposed of, or placed beyond the jurisdiction of the court before any party may be heard in opposition.

(b) A temporary restraining order granted without notice to any party under this subdivision expires within the time fixed by the court, not to exceed ten days. The court may extend the order for good cause shown, or if the party against whom it is entered consents to an extension. After a temporary restraining order is granted under this subdivision, a hearing concerning the entry of an order under this section shall be held at the earliest practicable time and before the temporary order expires.

History: *1989 c 286 s 10*

609.908 DISPOSITION OF FORFEITURE PROCEEDS.

Subdivision 1. **Disposition alternatives.** After making due provisions for the rights of innocent persons, the prosecuting authority shall, as soon as feasible, dispose of all property ordered forfeited under section 609.905 by:

(1) public sale;

(2) transfer to a state governmental agency for official use;

(3) sale or transfer to an innocent person; or

(4) destruction, if the property is not needed for evidence in a pending criminal or civil proceeding.

Subd. 2. **No reversion to defendant.** An interest in personal or real property not exercisable by or transferable for value by the prosecuting authority expires and does not revert to the defendant. Forfeited property may not be purchased by the defendant, relative of the defendant, or any person acting in concert with the defendant or on the defendant's behalf.

Subd. 3. **Sale proceeds.** The proceeds of a sale or other disposition of forfeited property under this section whether by final judgment, settlement, or otherwise, must be applied as follows:

(1) to the fees and costs of the forfeiture and sale including expenses of seizure, maintenance, and custody of the property pending its disposition, advertising, and court costs;

(2) to all costs and expenses of investigation and prosecution including costs of resources and personnel incurred in investigation and prosecution; and

(3) the balance to the appropriate agencies under section 609.5315, subdivision 5.

History: *1989 c 286 s 11*

609.909 ADDITIONAL RELIEF AVAILABLE.

With respect to property ordered forfeited, fine imposed, or civil penalty imposed in a criminal proceeding under section 609.903 or civil proceeding under section 609.911, the district court may, on petition of the prosecuting authority or any other person within 60 days of a final order:

(1) authorize the compromise of claims;

(2) award compensation to persons providing information that results in a forfeiture under section 609.905;

(3) grant petitions for mitigation or remission of forfeiture or fines;

(4) restore forfeited property or imposed fines to victims of a violation of section 609.903; and

(5) take any other action to protect the rights of innocent persons that is in the interest of justice and is consistent with the purposes of sections 609.901 to 609.912.

History: *1989 c 286 s 12*

609.910 RELATION TO OTHER SANCTIONS.

Subdivision 1. **Remedy not exclusive.** Except as provided in this section, a criminal penalty, forfeiture, or fine imposed under section 609.903, 609.904, 609.905, or 609.911 does not preclude the application of any other criminal penalty or civil remedy for the separate criminal acts. A prosecuting authority may not file a civil action under section 609.911 if any prosecuting authority has filed a previous criminal proceeding under

section 609.903 against the same person based on the same criminal conduct and the charges were dismissed after jeopardy attached or the person acquitted.

Subd. 2. **Restitution.** A restitution payment to a victim under section 609.904 does not limit the liability for damages in a civil action or proceeding for an amount greater than the restitution payment.

History: *1989 c 286 s 13*

609.911 CIVIL REMEDIES.

Subdivision 1. **Relief available.** The prosecuting authority may institute civil proceedings in district court against a person seeking relief from conduct constituting a violation of section 609.903 or to prevent or restrain future violations. If the prosecuting authority proves the alleged violation by a preponderance of the evidence, and the court has made due provision for the rights of innocent persons, the court may:

(1) order a defendant to divest an interest in an enterprise or in real property;

(2) impose reasonable restrictions on the future activities or investments of a defendant, including prohibiting a defendant from engaging in the same type of endeavor as the enterprise in which the defendant was engaged in violation of section 609.903;

(3) order the dissolution or reorganization of an enterprise;

(4) order the suspension or revocation of a license, permit, or prior approval granted to an enterprise by a state agency; or

(5) order the surrender of the charter of a corporation organized under Minnesota law, dissolution of an enterprise, or the revocation of a certificate authorizing a foreign corporation to conduct business in Minnesota, if the court finds that:

(i) the board of directors or a managerial agent acting on behalf of the corporation, in conducting the affairs of the corporation, authorized or engaged in conduct prohibited by section 609.903; and

(ii) the public interest in preventing future criminal conduct requires the action.

Subd. 2. **Injunctive relief.** In a proceeding under this section, the court may grant injunctive relief.

Subd. 3. **Civil penalty.** The prosecuting authority may institute proceedings against an enterprise or an individual to recover a civil penalty. The penalty may be imposed in the discretion of the district court for conduct constituting a violation of section 609.903. The civil penalty may not exceed $1,000,000 less a fine imposed under section 609.903. Penalties collected under this section must be applied to the costs and expenses of investigation and prosecution, including costs of resources and personnel incurred in investigation and prosecution, and the balance, if any, to the state general fund.

Subd. 4. **Attorney fees.** If the district court issues an injunction, or grants other relief under this section, or the prosecuting authority otherwise substantially prevails, the prosecuting authority shall also recover reasonable attorney fees in the trial and appellate courts and costs of investigation and litigation reasonably incurred.

Subd. 5. **Personal jurisdiction.** Personal service of process in a proceeding under this section may be made on any person outside of Minnesota if the person was a principal in any conduct constituting a violation of section 609.903 in this state. The person is deemed to have submitted to the jurisdiction of the courts of this state for the purposes of this section.

History: *1989 c 286 s 14*

609.912 NOTICE TO OTHER PROSECUTING AUTHORITIES.

When a county attorney begins an investigation involving sections 609.901 to 609.911, the county attorney shall notify the attorney general. When the attorney general begins an investigation involving sections 609.901 to 609.911, the attorney general shall notify the county attorney of each county in which a substantial part of the investigation is likely to be conducted.

History: *1989 c 286 s 15*