

imprisonment for not more than five years or to payment of a fine of not more than \$5,000, or both.

Subd. 4. BURGLARY IN THE FOURTH DEGREE. Whoever enters a building without consent and with intent to commit a misdemeanor other than to steal commits burglary in the fourth degree and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$1,000, or both.

Sec. 3. [609.583] SENTENCING; FIRST BURGLARY OF A DWELLING.

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

Sec. 4. REPEALER.

Minnesota Statutes 1982, section 609.58, is repealed.

Sec. 5. EFFECTIVE DATE.

Sections 1 to 4 are effective August 1, 1983, and apply to all crimes committed on or after that date.

Approved June 14, 1983

CHAPTER 322 — H.F.No. 537

An act relating to education; providing for the inclusion of certain community college and state university faculty members in the definition of an employee under the Public Employment Labor Relations Act; continuing final offer arbitration for certain public employees; amending Minnesota Statutes 1982, section 179.63, subdivision 7; amending Laws 1979, chapter 332, article I, section 116, as amended.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1982, section 179.63, subdivision 7, is amended to read:

Subd. 7. "Public employee" or "employee" means any person appointed or employed by a public employer except:

- (a) elected public officials;
- (b) election officers;
- (c) commissioned or enlisted personnel of the Minnesota national guard;
- (d) emergency employees who are employed for emergency work caused by natural disaster;
- (e) part-time employees whose service does not exceed the lesser of 14 hours per week or 35 percent of the normal work week in the employee's bargaining unit;
- (f) employees who hold positions of a basically temporary or seasonal character for a period not in excess of 100 working days in any calendar year;

The exclusions of clauses (e) and (f) shall not apply to:

(1) an employee hired by a school district, the community college board, or the state university board, except at the university established in section 136.017, or for community services or community education instruction offered on a noncredit basis to replace an absent teacher or faculty member who at the time of his absence is a "public employee" not within the other exclusions of this subdivision where the replacement employee is employed more than 30 working days as a replacement for that teacher or faculty member; and

(2) an employee hired by a school district, the community college board, or the state university board, except at the university established in section 136.017, or for community services or community education instruction offered on a noncredit basis for a teaching position created by increased enrollment, curriculum expansion, courses which are a part of the curriculum whether offered annually or not, or other appropriate reasons.

The provisions of paragraphs (1) and (2) above do not apply to an individual hired to teach one course for up to four credits for one quarter in a year.

Employees Community college and state university faculty members included as "public employees" pursuant to clauses (1) and (2) shall not be included under master contracts expiring June 30, 1981, for purposes of salary or fringe benefits commencing on or after July 1, 1983;

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(g) employees providing services for not more than two consecutive quarters to the state university board or the community college board under the terms of a professional or technical services contract as defined in section 16.098;

(h) graduate assistants employed by the school in which they are enrolled in a graduate degree program;

(i) employees of charitable hospitals as defined by section 179.35, subdivision 3;

(h) (j) full-time undergraduate students employed by the school which they attend under a work study program or in connection with the receipt of any financial aid, irrespective of number of hours of service per week;

(i) (k) an individual who renders part-time teaching service for less than 300 hours in a fiscal year as an instructor in an adult vocational education program.

Sec. 2. Laws 1979, chapter 332, article I, section 116, as amended by Laws 1980, chapter 617, section 44, and Laws 1982, chapter 568, section 6, is amended to read:

Sec. 116. **EFFECTIVE DATE.**

The effective dates for Article I are as follows: sections 2, 4, 8, 40, 45, 46, 47, 58, 61, 65, 82 to 91, and 113 are effective upon final enactment. Section 64, is effective June 30, 1980. Sections 3, 5, 6 and 7 are effective July 1, 1981. The remaining provisions of Article I are effective July 1, 1979. The provisions of section 47 shall apply to all disciplinary actions taken on or after the effective date of section 47. The provisions of section 63 shall expire on July 1, 1981, but shall apply to all arbitration proceedings which are to determine contractual provisions for the 1981-1983 biennium. The provisions of section 64 shall expire on July 1, ~~1983~~ 1984, but shall apply to all arbitration proceedings which are to determine contractual provisions for the next contract period. The provisions of sections 93 to 111 and 113 shall expire on July 1, 1981. The provisions of section 137.02, subdivision 4, shall not apply to sections 93 to 111.

Sec. 3. **EFFECTIVE DATE.**

This act is effective July 1, 1983.

Approved June 14, 1983

CHAPTER 323 — H.F.No. 549

An act relating to education; establishing a lending program to fund school energy conservation investments; authorizing the issuance of state bonds pursuant to article XI of the Minnesota Constitution; appropriating money; amending Minnesota Statutes 1982, section 275.125, subdivisions 11a, 11b, and by adding a subdivision; and proposing new law coded in Minnesota Statutes, chapter 116J.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.