

CHAPTER 159 — S.F.No. 583

An act relating to crimes; making certain trespasses and assaults a gross misdemeanor; providing for the admissibility of certain evidence in domestic abuse prosecutions; amending Minnesota Statutes 1984, sections 609.224 and 609.605; proposing coding for new law in Minnesota Statutes, chapter 634.

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

Section 1. Minnesota Statutes 1984, section 609.224, is amended to read:

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) ~~Does~~ 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 the provisions of subdivision 1 against the same victim within five years of a previous conviction under subdivision 1 or sections 609.221 to 609.223 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.

Sec. 2. Minnesota Statutes 1984, section 609.605, is amended to read:

609.605 TRESPASSES AND OTHER ACTS.

Subdivision 1. **MISDEMEANOR.** Whoever intentionally does any of the following is guilty of a misdemeanor:

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

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

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

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

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

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

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

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

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

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

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

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

(12) Without authorization of the adjutant general enters or is present upon the Camp Ripley military reservation.

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.

Sec. 3. [634.20] EVIDENCE OF PRIOR CONDUCT.

Evidence of similar prior conduct by the accused against the victim of domestic abuse, as defined under section 518B.01, subdivision 2, is admissible unless the probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issue, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

Sec. 4. EFFECTIVE DATE.

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

Sections 1 and 2 are effective August 1, 1985, and apply to crimes committed on or after that date. Section 3 is effective August 1, 1985, and applies to cases commenced on or after that date.

Approved May 20, 1985

CHAPTER 160 — S.F.No. 693

An act relating to crimes; providing for forfeitures of communications devices and proceeds derived from commission of designated offenses; regulating the use, possession and sale of electronic incapacitation devices; imposing penalties; amending Minnesota Statutes 1984, sections 152.19, subdivision 5; 609.531; and 624.731.

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

Section 1. Minnesota Statutes 1984, section 152.19, subdivision 5, is amended to read:

Subd. 5. Property shall be forfeited after a conviction deemed to be a felony according to the following procedure:

(1) A separate complaint shall be filed against the property describing it, charging its use in the specified violation, and specifying the time and place of its unlawful use.

(2) If the person arrested is acquitted, the court shall dismiss the complaint against any property seized pursuant to the preceding subdivisions and order the property returned to the persons legally entitled to it.

(3) If after conviction the court finds that the property, or any part thereof, was used in any violation as specified in the complaint, it shall order that the property unlawfully used be sold, destroyed, or disposed of by the appropriate agency in the following manner:

(a) The appropriate agency and prosecuting agency that handled the forfeiture may retain the property for official use but shall not use any motor vehicle required to be registered pursuant to chapter 168A until title is properly transferred pursuant to chapter 168A;

(b) Sell that which is not required to be destroyed by law and which is not harmful to the public;

(c) Require the commissioner of administration to take custody of the property and remove it for disposition in accordance with law; or

(d) Forward it to the federal drug enforcement administration.

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