

ed. The hospital board shall, in the same manner as the council under section 412.271, subdivision 1, and to the same extent, audit claims to be paid from the fund. The secretary of the board shall draw an order upon the treasurer for the proper amount allowed by the board. Upon counter signature by the president of the board and presentation, orders shall be paid by the treasurer.

Sec. 2. Laws 1988, chapter 645, section 2, is amended to read:

Sec. 2. **OFFICERS.**

Notwithstanding Minnesota Statutes, section 447.32, subdivision 1, the hospital district created under this act shall be governed by a board composed of one member elected from each city and town in the district, two members ~~elected at large from~~ appointed by the St. Louis county board to represent the aggregate of the unorganized townships in St. Louis county listed in section 1, subdivision 1, and one member ~~elected at large from~~ appointed by the Koochiching county board to represent the aggregate of the unorganized townships in Koochiching county listed in section 1, subdivision 2.

Sec. 3. **CONTINUATION OF EFFECT.**

Notwithstanding Minnesota Statutes, section 645.021, subdivision 3, Laws 1988, chapter 645, is not deemed to be disapproved because of a failure by one or more governmental units to comply with the filing requirements of Minnesota Statutes, section 645.021, subdivision 3, if those requirements are met by January 8, 1991.

Sec. 4. **EFFECTIVE DATE.**

Sections 2 and 3 are effective the day following final enactment.

Presented to the governor April 24, 1990

Signed by the governor April 24, 1990, 9:42 p.m.

CHAPTER 494—S.F.No. 2132

An act relating to crimes; making it a crime to obtain telecommunication services by fraud; requiring forfeiture of telecommunication devices used for fraudulent purposes; prescribing penalties; amending Minnesota Statutes 1988, section 609.87, subdivisions 3 and 5; Minnesota Statutes 1989 Supplement, section 609.531, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 237 and 609; repealing Minnesota Statutes 1988, section 609.785.

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

· New language is indicated by underline, deletions by ~~strikeout~~.

Section 1. [237.73] OBTAINING SERVICES BY FRAUD; INJUNCTION.

Subdivision 1. EQUITABLE RELIEF. Whenever it appears that a person is engaged in an act that constitutes or will constitute a violation of section 6, a representative of a telecommunications provider or a person harmed by an alleged violation of section 6 may begin a civil proceeding in a district court to enjoin the violation and may petition the court to issue an order for the discontinuance of telephone service.

Subd. 2. VENUE. An action under this section must be brought in the county in which subject matter of the action, or some part of it, is located or found, and must be commenced by the filing of a complaint that must be verified by affidavit.

Subd. 3. TEMPORARY RESTRAINING ORDER. If it is shown to the satisfaction of the court, either by verified complaint or affidavit, that a person is engaged in an act that constitutes a violation of section 6, the court shall issue a temporary restraining order to abate and prevent the continuance or recurrence of the act. Notice of the complaint shall be given and a hearing on the issuance of a temporary restraining order shall be held under the rules of civil procedure. The court shall direct the county sheriff to seize and keep until further order of the court any device that is being used in violation of section 6. The temporary restraining order expires after ten days.

Subd. 4. PERMANENT INJUNCTION. The court may issue a permanent injunction to restrain, abate, or prevent the continuance or recurrence of the violation of section 6. The court may grant declaratory relief, mandatory orders, or any other relief it judges necessary to accomplish the purposes of the injunction. The court may keep jurisdiction of the case for the purpose of enforcing its orders.

Subd. 5. DISCONTINUANCE OF TELEPHONE SERVICE. If it is shown to the satisfaction of the court, by affidavit, that a person is engaged in an act that constitutes a violation of section 6, the court may issue an order that shall be promptly served upon the person in whose name the telecommunications device is listed, requiring the party, within a reasonable time to be fixed by the court but not exceeding 48 hours from the time of service of the petition on said party, to show cause before the judge why telephone service should not promptly be discontinued. At the hearing, the burden of proof is on the complainant.

Subd. 6. DISCONNECT ORDER. Upon a finding by the court that the telecommunications device is being used or has been used in violation of section 6, the court shall issue an order requiring the telephone company that is rendering service over the device to disconnect the service. Upon receipt of the order, that shall be served upon an officer of the telephone company by the sheriff of the county in which the telecommunications device is installed or by a duly authorized deputy, the telephone company shall proceed promptly to disconnect and remove the service and discontinue all telephone service until further order of the court.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 7. NECESSARY PARTY. The telecommunications provider or person who petitions the court for the removal of a telecommunications device under this section shall be a necessary party to a proceeding or action arising out of or under section 6.

Subd. 8. IMMUNITY. No telephone company is liable for any damages, penalty, or forfeiture, whether civil or criminal, for an act performed in compliance with an order issued by the court.

Sec. 2. Minnesota Statutes 1989 Supplement, section 609.531, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** For the purpose of sections 609.531 to 609.5317, 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 weapon used in the furtherance of a crime and defined as a dangerous weapon under section 609.02, subdivision 6.

(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 state patrol, a county sheriff's department, the suburban Hennepin regional park district park rangers, or a city or airport police department.

(f) "Designated offense" includes:

(1) For weapons used: any violation of this chapter⁴;

(2) For all other purposes: a felony violation of, or a felony-level attempt or conspiracy to violate, section 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; 609.53; 609.54; 609.551; 609.561; 609.562; 609.563; 609.582; 609.59; 609.595; 609.631; 609.671, subdivisions 3, 4, and 5; 609.687; 609.821; 609.825; 609.86; 609.88; 609.89; section 1; 617.246; or a gross misdemeanor or felony violation of section 609.891.

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

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 3. Minnesota Statutes 1988, section 609.87, subdivision 3, is amended to read:

Subd. 3. **COMPUTER.** "Computer" means an electronic device which performs logical, arithmetic ~~and~~ or memory functions by the manipulations of signals, including but not limited to electronic or magnetic impulses.

Sec. 4. Minnesota Statutes 1988, section 609.87, subdivision 5, is amended to read:

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.

Sec. 5. **[609.892] DEFINITIONS.**

Subdivision 1. APPLICABILITY. The definitions in this section apply to sections 1 and 6 to 8.

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 6. 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

New language is indicated by underline, deletions by ~~strikeout~~.

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.

Sec. 6. [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 \$700, 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.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 7. REPEALER.

Minnesota Statutes 1988, section 609.785, is repealed.

Sec. 8. EFFECTIVE DATE.

Sections 1 to 7 are effective August 1, 1990, and apply to crimes committed on or after that date.

Presented to the governor April 24, 1990

Signed by the governor April 24, 1990, 9:47 p.m.

CHAPTER 495—S.F.No. 2318

An act relating to education; clarifying that statutes governing aversive and deprivation procedures apply to handicapped pupils; requiring that rules of the state board of education contain a list of prohibited procedures; amending Minnesota Statutes 1988, sections 127.43, subdivision 1; and 127.44.

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

Section 1. Minnesota Statutes 1988, section 127.43, subdivision 1, is amended to read:

Subdivision 1. **APPLICATION.** For the purposes of providing instruction to handicapped children under section 120.17, this section and section 127.44, the following terms have the meanings given them.

Sec. 2. Minnesota Statutes 1988, section 127.44, is amended to read:

127.44 AVERSIVE AND DEPRIVATION PROCEDURES.

The state board of education shall adopt rules governing the use of aversive and deprivation procedures by school district employees or persons under contract with a school district. The rules must:

- (1) promote the use of positive approaches and must not encourage or require the use of aversive or deprivation procedures;
- (2) require that planned application of aversive and deprivation procedures be a part of an individual education plan;
- (3) require parents or guardians to be notified after the use of aversive or deprivation procedures in an emergency; ~~and~~
- (4) establish health and safety standards for the use of time-out procedures

New language is indicated by underline, deletions by ~~strikeout~~.