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State of Minnesota
HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 707

02/04/2021 Authored by Moller; O'Neill; Hanson, J.; Stephenson; Bahner and others
The bill was read for the first time and referred to the Committee on Public Safety and Criminal Justice Reform Finance and Policy
02/25/2021 Adoption of Report: Amended and re-referred to the Committee on Judiciary Finance and Civil Law

1.1 A bill for an act
1.2 relating to public safety; modifying and clarifying criminal sexual conduct
1.3 provisions; creating a new crime of sexual extortion; amending Minnesota Statutes
1.4 2020, sections 609.2325; 609.341, subdivisions 3, 7, 14, 15, by adding subdivisions;
1.5 609.342; 609.343; 609.344; 609.345; 609.3451; 609.3455; proposing coding for
1.6 new law in Minnesota Statutes, chapter 609; repealing Minnesota Statutes 2020,
1.7 sections 609.293, subdivisions 1, 5; 609.34; 609.36.

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

1.9 Section 1. Minnesota Statutes 2020, section 609.2325, is amended to read:

1.10 **609.2325 CRIMINAL ABUSE.**

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

1.15 This ~~paragraph~~ subdivision does not apply to therapeutic conduct.

1.16 ~~(b) A caregiver, facility staff person, or person providing services in a facility who~~
1.17 ~~engages in sexual contact or penetration, as defined in section 609.341, under circumstances~~
1.18 ~~other than those described in sections 609.342 to 609.345, with a resident, patient, or client~~
1.19 ~~of the facility is guilty of criminal abuse and may be sentenced as provided in subdivision~~
1.20 ~~3.~~

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

2.1 (1) the vulnerable adult or a person with authority to make health care decisions for the
2.2 vulnerable adult under sections 144.651, 144A.44, chapter 145B, 145C, or 252A, or sections
2.3 253B.03 or 524.5-101 to 524.5-502, refuses consent or withdraws consent, consistent with
2.4 that authority and within the boundary of reasonable medical practice, to any therapeutic
2.5 conduct, including any care, service, or procedure to diagnose, maintain, or treat the physical
2.6 or mental condition of the vulnerable adult or, where permitted under law, to provide nutrition
2.7 and hydration parenterally or through intubation; this paragraph does not enlarge or diminish
2.8 rights otherwise held under law by:

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

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

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

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

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

2.25 (1) if the act results in the death of a vulnerable adult, imprisonment for not more than
2.26 15 years or payment of a fine of not more than \$30,000, or both;

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

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

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

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

3.3 Sec. 2. Minnesota Statutes 2020, section 609.341, subdivision 3, is amended to read:

3.4 Subd. 3. **Force.** "Force" means either: (1) the infliction, by the actor of bodily harm; or
3.5 (2) the attempted infliction, or threatened infliction by the actor of bodily harm or commission
3.6 or threat of any other crime by the actor against the complainant or another, which (a) causes
3.7 the complainant to reasonably believe that the actor has the present ability to execute the
3.8 threat and (b) if the actor does not have a significant relationship to the complainant, also
3.9 causes the complainant to submit.

3.10 Sec. 3. Minnesota Statutes 2020, section 609.341, subdivision 7, is amended to read:

3.11 Subd. 7. **Mentally incapacitated.** "Mentally incapacitated" means:

3.12 (1) that a person under the influence of alcohol, a narcotic, anesthetic, or any other
3.13 substance, administered to that person without the person's agreement, lacks the judgment
3.14 to give a reasoned consent to sexual contact or sexual penetration; or

3.15 (2) that a person is under the influence of an intoxicating substance to a degree that
3.16 renders them incapable of consenting or incapable of appreciating, understanding, or
3.17 controlling the person's conduct.

3.18 Sec. 4. Minnesota Statutes 2020, section 609.341, subdivision 14, is amended to read:

3.19 Subd. 14. **Coercion.** "Coercion" means the use by the actor of words or circumstances
3.20 that cause the complainant reasonably to fear ~~that the actor will inflict~~ the infliction of bodily
3.21 harm upon the complainant or another, or the use by the actor of confinement, or superior
3.22 size or strength, against the complainant that causes the complainant to submit to sexual
3.23 penetration or contact against the complainant's will to accomplish the act. Proof of coercion
3.24 does not require proof of a specific act or threat.

3.25 Sec. 5. Minnesota Statutes 2020, section 609.341, subdivision 15, is amended to read:

3.26 Subd. 15. **Significant relationship.** "Significant relationship" means a situation in which
3.27 the actor is:

3.28 (1) the complainant's parent, stepparent, or guardian;

4.1 (2) any of the following persons related to the complainant by blood, marriage, or
4.2 adoption: brother, sister, stepbrother, stepsister, first cousin, aunt, uncle, nephew, niece,
4.3 grandparent, great-grandparent, great-uncle, great-aunt; ~~or~~

4.4 (3) an adult who jointly resides intermittently or regularly in the same dwelling as the
4.5 complainant and who is not the complainant's spouse; or

4.6 (4) an adult who is or was involved in a significant romantic or sexual relationship with
4.7 the parent of a complainant.

4.8 Sec. 6. Minnesota Statutes 2020, section 609.341, is amended by adding a subdivision to
4.9 read:

4.10 Subd. 24. **Prohibited occupational relationship.** A "prohibited occupational
4.11 relationship" exists when the actor is in one of the following occupations and the act takes
4.12 place under the specified circumstances:

4.13 (1) the actor performed massage or other bodywork for hire, the sexual penetration or
4.14 sexual contact occurred during or immediately before or after the actor performed or was
4.15 hired to perform one of those services for the complainant, and the sexual penetration or
4.16 sexual contact was nonconsensual; or

4.17 (2) the actor and the complainant were in one of the following occupational relationships
4.18 at the time of the act. Consent by the complainant is not a defense:

4.19 (i) the actor was a psychotherapist, the complainant was the actor's patient, and the sexual
4.20 penetration or sexual contact occurred during a psychotherapy session or during a period
4.21 of time when the psychotherapist-patient relationship was ongoing;

4.22 (ii) the actor was a psychotherapist and the complainant was the actor's former patient
4.23 who was emotionally dependent on the actor;

4.24 (iii) the actor was or falsely impersonated a psychotherapist, the complainant was the
4.25 actor's patient or former patient, and the sexual penetration or sexual contact occurred by
4.26 means of therapeutic deception;

4.27 (iv) the actor was or falsely impersonated a provider of medical services to the
4.28 complainant and the sexual penetration or sexual contact occurred by means of deception
4.29 or false representation that the sexual penetration or sexual contact was for a bona fide
4.30 medical purpose;

4.31 (v) the actor was or falsely impersonated a member of the clergy, the complainant was
4.32 not married to the actor, the complainant met with the actor in private seeking or receiving

5.1 religious or spiritual advice, aid, or comfort from the actor, and the sexual penetration or
5.2 sexual contact occurred during the course of the meeting or during a period of time when
5.3 the meetings were ongoing;

5.4 (vi) the actor provided special transportation service to the complainant and the sexual
5.5 penetration or sexual contact occurred during or immediately before or after the actor
5.6 transported the complainant;

5.7 (vii) the actor was or falsely impersonated a peace officer, as defined in section 626.84,
5.8 the actor physically or constructively restrained the complainant or the complainant did not
5.9 reasonably feel free to leave the actor's presence, and the sexual penetration or sexual contact
5.10 was not pursuant to a lawful search or lawful use of force;

5.11 (viii) the actor was an employee, independent contractor, or volunteer of a state, county,
5.12 city, or privately operated adult or juvenile correctional system, or secure treatment facility,
5.13 or treatment facility providing services to clients civilly committed as mentally ill and
5.14 dangerous, sexually dangerous persons, or sexual psychopathic personalities, including but
5.15 not limited to jails, prisons, detention centers, or work release facilities, and the complainant
5.16 was a resident of a facility or under supervision of the correctional system;

5.17 (ix) the complainant was enrolled in a secondary school and:

5.18 (A) the actor was a licensed educator employed or contracted to provide service for the
5.19 school at which the complainant was a student;

5.20 (B) the actor was age 18 or older and at least four years older than the complainant and
5.21 was employed or contracted to provide service for the secondary school at which the
5.22 complainant was a student; or

5.23 (C) the actor was age 18 or older and at least four years older than the complainant, and
5.24 was a licensed educator employed or contracted to provide services for an elementary,
5.25 middle, or secondary school;

5.26 (x) the actor was a caregiver, facility staff person, or person providing services in a
5.27 facility, as defined under section 609.232, subdivision 3, and the complainant was a
5.28 vulnerable adult who was a resident, patient, or client of the facility who was impaired in
5.29 judgment or capacity by mental or emotional dysfunction or undue influence; or

5.30 (xi) the actor was a caregiver, facility staff person, or person providing services in a
5.31 facility, and the complainant was a resident, patient, or client of the facility. This clause
5.32 does not apply if a consensual sexual personal relationship existed prior to the caregiving
5.33 relationship or if the actor was a personal care attendant.

6.1 Sec. 7. Minnesota Statutes 2020, section 609.341, is amended by adding a subdivision to
6.2 read:

6.3 Subd. 25. **Caregiver.** "Caregiver" has the meaning given in section 609.232, subdivision
6.4 2.

6.5 Sec. 8. Minnesota Statutes 2020, section 609.341, is amended by adding a subdivision to
6.6 read:

6.7 Subd. 26. **Facility.** "Facility" has the meaning given in section 609.232, subdivision 3.

6.8 Sec. 9. Minnesota Statutes 2020, section 609.341, is amended by adding a subdivision to
6.9 read:

6.10 Subd. 27. **Vulnerable adult.** "Vulnerable adult" has the meaning given in section
6.11 609.232, subdivision 11.

6.12 Sec. 10. Minnesota Statutes 2020, section 609.342, is amended to read:

6.13 **609.342 CRIMINAL SEXUAL CONDUCT IN THE FIRST DEGREE.**

6.14 Subdivision 1. **Adult victim; crime defined.** A person who engages in sexual penetration
6.15 with another person, ~~or in sexual contact with a person under 13 years of age as defined in~~
6.16 ~~section 609.341, subdivision 11, paragraph (e),~~ is guilty of criminal sexual conduct in the
6.17 first degree if any of the following circumstances exists:

6.18 ~~(a) the complainant is under 13 years of age and the actor is more than 36 months older~~
6.19 ~~than the complainant. Neither mistake as to the complainant's age nor consent to the act by~~
6.20 ~~the complainant is a defense;~~

6.21 ~~(b) the complainant is at least 13 years of age but less than 16 years of age and the actor~~
6.22 ~~is more than 48 months older than the complainant and in a current or recent position of~~
6.23 ~~authority over the complainant. Neither mistake as to the complainant's age nor consent to~~
6.24 ~~the act by the complainant is a defense;~~

6.25 ~~(e)~~ (a) circumstances existing at the time of the act cause the complainant to have a
6.26 reasonable fear of imminent great bodily harm to the complainant or another;

6.27 ~~(d)~~ (b) the actor is armed with a dangerous weapon or any article used or fashioned in
6.28 a manner to lead the complainant to reasonably believe it to be a dangerous weapon and
6.29 uses or threatens to use the weapon or article to cause the complainant to submit;

7.1 ~~(e)~~ (c) the actor causes personal injury to the complainant, and either of the following
7.2 circumstances exist:

7.3 ~~(i)~~ the actor uses ~~force or coercion~~ to accomplish the act; ~~or~~

7.4 (ii) the actor uses force, as defined in section 609.341, subdivision 3, clause (2); or

7.5 ~~(ii)~~ (iii) the actor knows or has reason to know that the complainant is mentally impaired,
7.6 mentally incapacitated, or physically helpless;

7.7 (d) the actor uses force as defined in section 609.341, subdivision 3, clause (1); or

7.8 ~~(f)~~ (e) the actor is aided or abetted by one or more accomplices within the meaning of
7.9 section 609.05, and either of the following circumstances exists:

7.10 (i) the actor or an accomplice uses force or coercion to cause the complainant to submit;
7.11 or

7.12 (ii) the actor or an accomplice is armed with a dangerous weapon or any article used or
7.13 fashioned in a manner to lead the complainant reasonably to believe it to be a dangerous
7.14 weapon and uses or threatens to use the weapon or article to cause the complainant to
7.15 submit;

7.16 ~~(g) the actor has a significant relationship to the complainant and the complainant was~~
7.17 ~~under 16 years of age at the time of the act. Neither mistake as to the complainant's age nor~~
7.18 ~~consent to the act by the complainant is a defense; or~~

7.19 ~~(h) the actor has a significant relationship to the complainant, the complainant was under~~
7.20 ~~16 years of age at the time of the act, and:~~

7.21 ~~(i) the actor or an accomplice used force or coercion to accomplish the act;~~

7.22 ~~(ii) the complainant suffered personal injury; or~~

7.23 ~~(iii) the sexual abuse involved multiple acts committed over an extended period of time.~~

7.24 ~~Neither mistake as to the complainant's age nor consent to the act by the complainant is~~
7.25 ~~a defense.~~

7.26 Subd. 1a. **Child victim; crime defined.** A person who engages in penetration with
7.27 anyone under 18 years of age or sexual contact with a person under 14 years of age as
7.28 defined in section 609.341, subdivision 11, paragraph (c), is guilty of criminal sexual conduct
7.29 in the first degree if any of the following circumstances exists:

7.30 (a) circumstances existing at the time of the act cause the complainant to have a
7.31 reasonable fear of imminent great bodily harm to the complainant or another;

8.1 (b) the actor is armed with a dangerous weapon or any article used or fashioned in a
8.2 manner to lead the complainant to reasonably believe it to be a dangerous weapon and uses
8.3 or threatens to use the weapon or article to cause the complainant to submit;

8.4 (c) the actor causes personal injury to the complainant, and either of the following
8.5 circumstances exist:

8.6 (i) the actor uses coercion to accomplish the act;

8.7 (ii) the actor uses force, as defined in section 609.341, subdivision 3, clause (2); or

8.8 (iii) the actor knows or has reason to know that the complainant is mentally impaired,
8.9 mentally incapacitated, or physically helpless;

8.10 (d) the actor is aided or abetted by one or more accomplices within the meaning of
8.11 section 609.05, and either of the following circumstances exists:

8.12 (i) the actor or an accomplice uses force or coercion to cause the complainant to submit;
8.13 or

8.14 (ii) the actor or an accomplice is armed with a dangerous weapon or any article used or
8.15 fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous
8.16 weapon and uses or threatens to use the weapon or article to cause the complainant to submit;

8.17 (e) the complainant is under 14 years of age and the actor is more than 36 months older
8.18 than the complainant. Neither mistake as to the complainant's age nor consent to the act by
8.19 the complainant is a defense;

8.20 (f) the complainant is at least 14 years of age but less than 16 years of age and:

8.21 (i) the actor is more than 36 months older than the complainant; and

8.22 (ii) the actor is in a current or recent position of authority over the complainant.

8.23 Neither mistake as to the complainant's age nor consent to the act by the complainant is a
8.24 defense;

8.25 (g) the complainant was under 16 years of age at the time of the act and the actor has a
8.26 significant relationship to the complainant. Neither mistake as to the complainant's age nor
8.27 consent to the act by the complainant is a defense;

8.28 (h) the complainant was under 16 years of age at the time of the act, and the actor has
8.29 a significant relationship to the complainant and any of the following circumstances exist:

8.30 (i) the actor or an accomplice used force or coercion to accomplish the act;

8.31 (ii) the complainant suffered personal injury; or

9.1 (iii) the sexual abuse involved multiple acts committed over an extended period of time.

9.2 Neither mistake as to the complainant's age nor consent to the act by the complainant is a
9.3 defense; or

9.4 (i) the actor uses force, as defined in section 609.341, subdivision 3, clause (1).

9.5 Subd. 2. **Penalty.** (a) Except as otherwise provided in section 609.3455; or Minnesota
9.6 Statutes 2004, section 609.109, a person convicted under subdivision 1 or subdivision 1a
9.7 may be sentenced to imprisonment for not more than 30 years or to a payment of a fine of
9.8 not more than \$40,000, or both.

9.9 (b) Unless a longer mandatory minimum sentence is otherwise required by law or the
9.10 Sentencing Guidelines provide for a longer presumptive executed sentence, the court shall
9.11 presume that an executed sentence of 144 months must be imposed on an offender convicted
9.12 of violating this section. Sentencing a person in a manner other than that described in this
9.13 paragraph is a departure from the Sentencing Guidelines.

9.14 (c) A person convicted under this section is also subject to conditional release under
9.15 section 609.3455.

9.16 Subd. 3. **Stay.** Except when imprisonment is required under section 609.3455; or
9.17 Minnesota Statutes 2004, section 609.109, if a person is convicted under subdivision 1 1a,
9.18 clause (g), the court may stay imposition or execution of the sentence if it finds that:

9.19 (a) a stay is in the best interest of the complainant or the family unit; and

9.20 (b) a professional assessment indicates that the offender has been accepted by and can
9.21 respond to a treatment program.

9.22 If the court stays imposition or execution of sentence, it shall include the following as
9.23 conditions of probation:

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

9.25 (2) a requirement that the offender complete a treatment program; and

9.26 (3) a requirement that the offender have no unsupervised contact with the complainant
9.27 until the offender has successfully completed the treatment program unless approved by
9.28 the treatment program and the supervising correctional agent.

10.1 Sec. 11. Minnesota Statutes 2020, section 609.343, is amended to read:

10.2 **609.343 CRIMINAL SEXUAL CONDUCT IN THE SECOND DEGREE.**

10.3 Subdivision 1. **Adult victim; crime defined.** A person who engages in sexual contact
10.4 with another person is guilty of criminal sexual conduct in the second degree if any of the
10.5 following circumstances exists:

10.6 ~~(a) the complainant is under 13 years of age and the actor is more than 36 months older~~
10.7 ~~than the complainant. Neither mistake as to the complainant's age nor consent to the act by~~
10.8 ~~the complainant is a defense. In a prosecution under this clause, the state is not required to~~
10.9 ~~prove that the sexual contact was coerced;~~

10.10 ~~(b) the complainant is at least 13 but less than 16 years of age and the actor is more than~~
10.11 ~~48 months older than the complainant and in a current or recent position of authority over~~
10.12 ~~the complainant. Neither mistake as to the complainant's age nor consent to the act by the~~
10.13 ~~complainant is a defense;~~

10.14 ~~(e)~~ (a) circumstances existing at the time of the act cause the complainant to have a
10.15 reasonable fear of imminent great bodily harm to the complainant or another;

10.16 ~~(d)~~ (b) the actor is armed with a dangerous weapon or any article used or fashioned in
10.17 a manner to lead the complainant to reasonably believe it to be a dangerous weapon and
10.18 uses or threatens to use the dangerous weapon to cause the complainant to submit;

10.19 ~~(e)~~ (c) the actor causes personal injury to the complainant, and either of the following
10.20 circumstances exist:

10.21 (i) the actor uses ~~force or~~ coercion to accomplish the sexual contact; ~~or~~

10.22 (ii) the actor uses force, as defined in section 609.341, subdivision 3, clause (2); or

10.23 ~~(ii)~~ (iii) the actor knows or has reason to know that the complainant is mentally impaired,
10.24 mentally incapacitated, or physically helpless;

10.25 (d) the actor uses force as defined in section 609.341, subdivision 3, clause (1); or

10.26 ~~(f)~~ (e) the actor is aided or abetted by one or more accomplices within the meaning of
10.27 section 609.05, and either of the following circumstances exists:

10.28 (i) the actor or an accomplice uses force or coercion to cause the complainant to submit;
10.29 or

10.30 (ii) the actor or an accomplice is armed with a dangerous weapon or any article used or
10.31 fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous

11.1 weapon and uses or threatens to use the weapon or article to cause the complainant to
 11.2 submit;

11.3 ~~(g) the actor has a significant relationship to the complainant and the complainant was~~
 11.4 ~~under 16 years of age at the time of the sexual contact. Neither mistake as to the complainant's~~
 11.5 ~~age nor consent to the act by the complainant is a defense; or~~

11.6 ~~(h) the actor has a significant relationship to the complainant, the complainant was under~~
 11.7 ~~16 years of age at the time of the sexual contact, and:~~

11.8 ~~(i) the actor or an accomplice used force or coercion to accomplish the contact;~~

11.9 ~~(ii) the complainant suffered personal injury; or~~

11.10 ~~(iii) the sexual abuse involved multiple acts committed over an extended period of time.~~

11.11 ~~Neither mistake as to the complainant's age nor consent to the act by the complainant is~~
 11.12 ~~a defense.~~

11.13 Subd. 1a. **Child victim; crime defined.** A person who engages in sexual contact with
 11.14 another person is guilty of criminal sexual conduct in the second degree if any of the
 11.15 following circumstances exists:

11.16 (a) circumstances existing at the time of the act cause the complainant to have a
 11.17 reasonable fear of imminent great bodily harm to the complainant or another;

11.18 (b) the actor is armed with a dangerous weapon or any article used or fashioned in a
 11.19 manner to lead the complainant to reasonably believe it to be a dangerous weapon and uses
 11.20 or threatens to use the dangerous weapon to cause the complainant to submit;

11.21 (c) the actor causes personal injury to the complainant, and either of the following
 11.22 circumstances exist:

11.23 (i) the actor uses coercion to accomplish the sexual contact;

11.24 (ii) the actor uses force, as defined in section 609.341, subdivision 3, clause (2); or

11.25 (iii) the actor knows or has reason to know that the complainant is mentally impaired,
 11.26 mentally incapacitated, or physically helpless;

11.27 (d) the actor is aided or abetted by one or more accomplices within the meaning of
 11.28 section 609.05, and either of the following circumstances exists:

11.29 (i) an accomplice uses force or coercion to cause the complainant to submit; or

12.1 (ii) an accomplice is armed with a dangerous weapon or any article used or fashioned
12.2 in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and
12.3 uses or threatens to use the weapon or article to cause the complainant to submit;

12.4 (e) the complainant is under 14 years of age and the actor is more than 36 months older
12.5 than the complainant. Neither mistake as to the complainant's age nor consent to the act by
12.6 the complainant is a defense. In a prosecution under this clause, the state is not required to
12.7 prove that the sexual contact was coerced;

12.8 (f) the complainant is at least 14 but less than 16 years of age and the actor is more than
12.9 36 months older than the complainant and in a current or recent position of authority over
12.10 the complainant. Neither mistake as to the complainant's age nor consent to the act by the
12.11 complainant is a defense;

12.12 (g) the complainant was under 16 years of age at the time of the sexual contact and the
12.13 actor has a significant relationship to the complainant. Neither mistake as to the complainant's
12.14 age nor consent to the act by the complainant is a defense;

12.15 (h) the actor has a significant relationship to the complainant, the complainant was under
12.16 16 years of age at the time of the sexual contact, and:

12.17 (i) the actor or an accomplice used force or coercion to accomplish the contact;

12.18 (ii) the complainant suffered personal injury; or

12.19 (iii) the sexual abuse involved multiple acts committed over an extended period of time.

12.20 Neither mistake as to the complainant's age nor consent to the act by the complainant is a
12.21 defense; or

12.22 (i) the actor uses force, as defined in section 609.341, subdivision 3, clause (1).

12.23 Subd. 2. **Penalty.** (a) Except as otherwise provided in section 609.3455; or Minnesota
12.24 Statutes 2004, section 609.109, a person convicted under subdivision 1 or subdivision 1a
12.25 may be sentenced to imprisonment for not more than 25 years or to a payment of a fine of
12.26 not more than \$35,000, or both.

12.27 (b) Unless a longer mandatory minimum sentence is otherwise required by law or the
12.28 Sentencing Guidelines provide for a longer presumptive executed sentence, the court shall
12.29 presume that an executed sentence of 90 months must be imposed on an offender convicted
12.30 of violating subdivision 1, clause (a), (b), (c), or (d), ~~(e), (f),~~ or subdivision 1a, clause (a),
12.31 (b), (c), (d), (g), or (h). Sentencing a person in a manner other than that described in this
12.32 paragraph is a departure from the Sentencing Guidelines.

13.1 (c) A person convicted under this section is also subject to conditional release under
13.2 section 609.3455.

13.3 Subd. 3. **Stay.** Except when imprisonment is required under section 609.3455; or
13.4 Minnesota Statutes 2004, section 609.109, if a person is convicted under subdivision ~~1~~ 1a,
13.5 clause (g), the court may stay imposition or execution of the sentence if it finds that:

13.6 (a) a stay is in the best interest of the complainant or the family unit; and

13.7 (b) a professional assessment indicates that the offender has been accepted by and can
13.8 respond to a treatment program.

13.9 If the court stays imposition or execution of sentence, it shall include the following as
13.10 conditions of probation:

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

13.12 (2) a requirement that the offender complete a treatment program; and

13.13 (3) a requirement that the offender have no unsupervised contact with the complainant
13.14 until the offender has successfully completed the treatment program unless approved by
13.15 the treatment program and the supervising correctional agent.

13.16 Sec. 12. Minnesota Statutes 2020, section 609.344, is amended to read:

13.17 **609.344 CRIMINAL SEXUAL CONDUCT IN THE THIRD DEGREE.**

13.18 Subdivision 1. **Adult victim; crime defined.** A person who engages in sexual penetration
13.19 with another person is guilty of criminal sexual conduct in the third degree if any of the
13.20 following circumstances exists:

13.21 ~~(a) the complainant is under 13 years of age and the actor is no more than 36 months
13.22 older than the complainant. Neither mistake as to the complainant's age nor consent to the
13.23 act by the complainant shall be a defense;~~

13.24 ~~(b) the complainant is at least 13 but less than 16 years of age and the actor is more than
13.25 24 months older than the complainant. In any such case if the actor is no more than 120
13.26 months older than the complainant, it shall be an affirmative defense, which must be proved
13.27 by a preponderance of the evidence, that the actor reasonably believes the complainant to
13.28 be 16 years of age or older. In all other cases, mistake as to the complainant's age shall not
13.29 be a defense. Consent by the complainant is not a defense;~~

13.30 ~~(c)~~ (a) the actor uses force or coercion to accomplish the penetration;

14.1 ~~(d)~~ (b) the actor knows or has reason to know that the complainant is mentally impaired,
14.2 mentally incapacitated, or physically helpless;

14.3 (c) the actor uses force, as defined in section 609.341, subdivision 3, clause (2); or

14.4 (d) at the time of the act, the actor is in a prohibited occupational relationship with the
14.5 complainant.

14.6 Subd. 1a. **Child victim; crime defined.** A person who engages in sexual penetration
14.7 with another person is guilty of criminal sexual conduct in the third degree if any of the
14.8 following circumstances exists:

14.9 (a) the complainant is under 14 years of age and the actor is no more than 36 months
14.10 older than the complainant. Neither mistake as to the complainant's age nor consent to the
14.11 act by the complainant shall be a defense;

14.12 (b) the complainant is at least 14 but less than 16 years of age and the actor is more than
14.13 36 months older than the complainant. In any such case if the actor is no more than 60
14.14 months older than the complainant, it shall be an affirmative defense, which must be proved
14.15 by a preponderance of the evidence, that the actor reasonably believes the complainant to
14.16 be 16 years of age or older. In all other cases, mistake as to the complainant's age shall not
14.17 be a defense. Consent by the complainant is not a defense;

14.18 (c) the actor uses coercion to accomplish the penetration;

14.19 (d) the actor knows or has reason to know that the complainant is mentally impaired,
14.20 mentally incapacitated, or physically helpless;

14.21 (e) the complainant is at least 16 but less than 18 years of age and the actor is more than
14.22 48 36 months older than the complainant and in a current or recent position of authority
14.23 over the complainant. Neither mistake as to the complainant's age nor consent to the act by
14.24 the complainant is a defense;

14.25 (f) the actor has a significant relationship to the complainant and the complainant was
14.26 at least 16 but under 18 years of age at the time of the sexual penetration. Neither mistake
14.27 as to the complainant's age nor consent to the act by the complainant is a defense;

14.28 (g) the actor has a significant relationship to the complainant, the complainant was at
14.29 least 16 but under 18 years of age at the time of the sexual penetration, and:

14.30 (i) the actor or an accomplice used ~~force~~ or coercion to accomplish the penetration;

14.31 (ii) the complainant suffered personal injury; or

14.32 (iii) the sexual abuse involved multiple acts committed over an extended period of time.

15.1 Neither mistake as to the complainant's age nor consent to the act by the complainant is
15.2 a defense; or

15.3 ~~(h) the actor is a psychotherapist and the complainant is a patient of the psychotherapist~~
15.4 ~~and the sexual penetration occurred: the actor uses force, as defined in section 609.341,~~
15.5 ~~subdivision 3, clause (2).~~

15.6 ~~(i) during the psychotherapy session; or~~

15.7 ~~(ii) outside the psychotherapy session if an ongoing psychotherapist-patient relationship~~
15.8 ~~exists.~~

15.9 Consent by the complainant is not a defense;

15.10 ~~(i) the actor is a psychotherapist and the complainant is a former patient of the~~
15.11 ~~psychotherapist and the former patient is emotionally dependent upon the psychotherapist;~~

15.12 ~~(j) the actor is a psychotherapist and the complainant is a patient or former patient and~~
15.13 ~~the sexual penetration occurred by means of therapeutic deception. Consent by the~~
15.14 ~~complainant is not a defense;~~

15.15 ~~(k) the actor accomplishes the sexual penetration by means of deception or false~~
15.16 ~~representation that the penetration is for a bona fide medical purpose. Consent by the~~
15.17 ~~complainant is not a defense;~~

15.18 ~~(l) the actor is or purports to be a member of the clergy, the complainant is not married~~
15.19 ~~to the actor, and:~~

15.20 ~~(i) the sexual penetration occurred during the course of a meeting in which the~~
15.21 ~~complainant sought or received religious or spiritual advice, aid, or comfort from the actor~~
15.22 ~~in private; or~~

15.23 ~~(ii) the sexual penetration occurred during a period of time in which the complainant~~
15.24 ~~was meeting on an ongoing basis with the actor to seek or receive religious or spiritual~~
15.25 ~~advice, aid, or comfort in private. Consent by the complainant is not a defense;~~

15.26 ~~(m) the actor is an employee, independent contractor, or volunteer of a state, county,~~
15.27 ~~city, or privately operated adult or juvenile correctional system, or secure treatment facility,~~
15.28 ~~or treatment facility providing services to clients civilly committed as mentally ill and~~
15.29 ~~dangerous, sexually dangerous persons, or sexual psychopathic personalities, including, but~~
15.30 ~~not limited to, jails, prisons, detention centers, or work release facilities, and the complainant~~
15.31 ~~is a resident of a facility or under supervision of the correctional system. Consent by the~~
15.32 ~~complainant is not a defense;~~

16.1 ~~(n) the actor provides or is an agent of an entity that provides special transportation~~
16.2 ~~service, the complainant used the special transportation service, and the sexual penetration~~
16.3 ~~occurred during or immediately before or after the actor transported the complainant. Consent~~
16.4 ~~by the complainant is not a defense;~~

16.5 ~~(o) the actor performs massage or other bodywork for hire, the complainant was a user~~
16.6 ~~of one of those services, and nonconsensual sexual penetration occurred during or~~
16.7 ~~immediately before or after the actor performed or was hired to perform one of those services~~
16.8 ~~for the complainant; or~~

16.9 ~~(p) the actor is a peace officer, as defined in section 626.84, and the officer physically~~
16.10 ~~or constructively restrains the complainant or the complainant does not reasonably feel free~~
16.11 ~~to leave the officer's presence. Consent by the complainant is not a defense. This paragraph~~
16.12 ~~does not apply to any penetration of the mouth, genitals, or anus during a lawful search.~~

16.13 Subd. 2. **Penalty.** Except as otherwise provided in section 609.3455, a person convicted
16.14 under subdivision 1 or subdivision 1a may be sentenced:

16.15 (1) to imprisonment for not more than 15 years or to a payment of a fine of not more
16.16 than \$30,000, or both; or

16.17 (2) if the person was convicted under subdivision ~~1~~ 1a, paragraph (b), and if the actor
16.18 was no more than 48 months but more than 24 months older than the complainant, to
16.19 imprisonment for not more than five years or a fine of not more than \$30,000, or both.

16.20 A person convicted under this section is also subject to conditional release under section
16.21 609.3455.

16.22 Subd. 3. **Stay.** Except when imprisonment is required under section 609.3455; or
16.23 Minnesota Statutes 2004, section 609.109, if a person is convicted under subdivision ~~1~~ 1a,
16.24 clause (f), the court may stay imposition or execution of the sentence if it finds that:

16.25 (a) a stay is in the best interest of the complainant or the family unit; and

16.26 (b) a professional assessment indicates that the offender has been accepted by and can
16.27 respond to a treatment program.

16.28 If the court stays imposition or execution of sentence, it shall include the following as
16.29 conditions of probation:

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

16.31 (2) a requirement that the offender complete a treatment program; and

17.1 (3) a requirement that the offender have no unsupervised contact with the complainant
17.2 until the offender has successfully completed the treatment program unless approved by
17.3 the treatment program and the supervising correctional agent.

17.4 Sec. 13. Minnesota Statutes 2020, section 609.345, is amended to read:

17.5 **609.345 CRIMINAL SEXUAL CONDUCT IN THE FOURTH DEGREE.**

17.6 Subdivision 1. **Adult victim; crime defined.** A person who engages in sexual contact
17.7 with another person is guilty of criminal sexual conduct in the fourth degree if any of the
17.8 following circumstances exists:

17.9 ~~(a) the complainant is under 13 years of age and the actor is no more than 36 months~~
17.10 ~~older than the complainant. Neither mistake as to the complainant's age or consent to the~~
17.11 ~~act by the complainant is a defense. In a prosecution under this clause, the state is not~~
17.12 ~~required to prove that the sexual contact was coerced;~~

17.13 ~~(b) the complainant is at least 13 but less than 16 years of age and the actor is more than~~
17.14 ~~48 months older than the complainant or in a current or recent position of authority over~~
17.15 ~~the complainant. Consent by the complainant to the act is not a defense. In any such case,~~
17.16 ~~if the actor is no more than 120 months older than the complainant, it shall be an affirmative~~
17.17 ~~defense which must be proved by a preponderance of the evidence that the actor reasonably~~
17.18 ~~believes the complainant to be 16 years of age or older. In all other cases, mistake as to the~~
17.19 ~~complainant's age shall not be a defense;~~

17.20 ~~(e) (a) the actor uses force or coercion to accomplish the sexual contact;~~

17.21 ~~(d) (b) the actor knows or has reason to know that the complainant is mentally impaired,~~
17.22 ~~mentally incapacitated, or physically helpless;~~

17.23 (c) the actor uses force, as defined in section 609.341, subdivision 3, clause (2); or

17.24 (d) at the time of the act, the actor is in a prohibited occupational relationship with the
17.25 complainant.

17.26 Subd. 1a. **Child victim; crime defined.** A person who engages in sexual contact with
17.27 another person is guilty of criminal sexual conduct in the fourth degree if any of the following
17.28 circumstances exists:

17.29 (a) the complainant is under 14 years of age and the actor is no more than 36 months
17.30 older than the complainant. Neither mistake as to the complainant's age or consent to the
17.31 act by the complainant is a defense. In a prosecution under this clause, the state is not
17.32 required to prove that the sexual contact was coerced;

18.1 (b) the complainant is at least 14 but less than 16 years of age and the actor is more than
18.2 36 months older than the complainant or in a current or recent position of authority over
18.3 the complainant. Consent by the complainant to the act is not a defense.

18.4 Mistake of age is not a defense unless actor is less than 60 months older. In any such case,
18.5 if the actor is no more than 60 months older than the complainant, it shall be an affirmative
18.6 defense which must be proved by a preponderance of the evidence that the actor reasonably
18.7 believes the complainant to be 16 years of age or older. In all other cases, mistake as to the
18.8 complainant's age shall not be a defense;

18.9 (c) the actor uses coercion to accomplish the sexual contact;

18.10 (d) The actor knows or has reason to know that the complainant is mentally impaired,
18.11 mentally incapacitated, or physically helpless;

18.12 (e) the complainant is at least 16 but less than 18 years of age and the actor is more than
18.13 ~~48~~ 36 months older than the complainant and in a current or recent position of authority
18.14 over the complainant. Neither mistake as to the complainant's age nor consent to the act by
18.15 the complainant is a defense;

18.16 (f) the actor has a significant relationship to the complainant and the complainant was
18.17 at least 16 but under 18 years of age at the time of the sexual contact. Neither mistake as to
18.18 the complainant's age nor consent to the act by the complainant is a defense;

18.19 (g) the actor has a significant relationship to the complainant, the complainant was at
18.20 least 16 but under 18 years of age at the time of the sexual contact, and:

18.21 (i) the actor or an accomplice used ~~force or~~ coercion to accomplish the contact;

18.22 (ii) the complainant suffered personal injury; or

18.23 (iii) the sexual abuse involved multiple acts committed over an extended period of time.

18.24 Neither mistake as to the complainant's age nor consent to the act by the complainant is
18.25 a defense; or

18.26 ~~(h) the actor is a psychotherapist and the complainant is a patient of the psychotherapist~~
18.27 ~~and the sexual contact occurred;~~ the actor uses force, as defined in section 609.341,
18.28 subdivision 3, clause (2).

18.29 ~~(i) during the psychotherapy session; or~~

18.30 ~~(ii) outside the psychotherapy session if an ongoing psychotherapist-patient relationship~~
18.31 ~~exists. Consent by the complainant is not a defense;~~

19.1 ~~(i) the actor is a psychotherapist and the complainant is a former patient of the~~
19.2 ~~psychotherapist and the former patient is emotionally dependent upon the psychotherapist;~~

19.3 ~~(j) the actor is a psychotherapist and the complainant is a patient or former patient and~~
19.4 ~~the sexual contact occurred by means of therapeutic deception. Consent by the complainant~~
19.5 ~~is not a defense;~~

19.6 ~~(k) the actor accomplishes the sexual contact by means of deception or false representation~~
19.7 ~~that the contact is for a bona fide medical purpose. Consent by the complainant is not a~~
19.8 ~~defense;~~

19.9 ~~(l) the actor is or purports to be a member of the clergy, the complainant is not married~~
19.10 ~~to the actor, and:~~

19.11 ~~(i) the sexual contact occurred during the course of a meeting in which the complainant~~
19.12 ~~sought or received religious or spiritual advice, aid, or comfort from the actor in private; or~~

19.13 ~~(ii) the sexual contact occurred during a period of time in which the complainant was~~
19.14 ~~meeting on an ongoing basis with the actor to seek or receive religious or spiritual advice,~~
19.15 ~~aid, or comfort in private. Consent by the complainant is not a defense;~~

19.16 ~~(m) the actor is an employee, independent contractor, or volunteer of a state, county,~~
19.17 ~~city, or privately operated adult or juvenile correctional system, or secure treatment facility,~~
19.18 ~~or treatment facility providing services to clients civilly committed as mentally ill and~~
19.19 ~~dangerous, sexually dangerous persons, or sexual psychopathic personalities, including, but~~
19.20 ~~not limited to, jails, prisons, detention centers, or work release facilities, and the complainant~~
19.21 ~~is a resident of a facility or under supervision of the correctional system. Consent by the~~
19.22 ~~complainant is not a defense;~~

19.23 ~~(n) the actor provides or is an agent of an entity that provides special transportation~~
19.24 ~~service, the complainant used the special transportation service, the complainant is not~~
19.25 ~~married to the actor, and the sexual contact occurred during or immediately before or after~~
19.26 ~~the actor transported the complainant. Consent by the complainant is not a defense;~~

19.27 ~~(o) the actor performs massage or other bodywork for hire, the complainant was a user~~
19.28 ~~of one of those services, and nonconsensual sexual contact occurred during or immediately~~
19.29 ~~before or after the actor performed or was hired to perform one of those services for the~~
19.30 ~~complainant; or~~

19.31 ~~(p) the actor is a peace officer, as defined in section 626.84, and the officer physically~~
19.32 ~~or constructively restrains the complainant or the complainant does not reasonably feel free~~
19.33 ~~to leave the officer's presence. Consent by the complainant is not a defense.~~

20.1 Subd. 2. **Penalty.** Except as otherwise provided in section 609.3455, a person convicted
20.2 under subdivision 1 or subdivision 1a may be sentenced to imprisonment for not more than
20.3 ten years or to a payment of a fine of not more than \$20,000, or both. A person convicted
20.4 under this section is also subject to conditional release under section 609.3455.

20.5 Subd. 3. **Stay.** Except when imprisonment is required under section 609.3455; or
20.6 Minnesota Statutes 2004, section 609.109, if a person is convicted under subdivision 1 1a,
20.7 clause (f), the court may stay imposition or execution of the sentence if it finds that:

20.8 (a) a stay is in the best interest of the complainant or the family unit; and

20.9 (b) a professional assessment indicates that the offender has been accepted by and can
20.10 respond to a treatment program.

20.11 If the court stays imposition or execution of sentence, it shall include the following as
20.12 conditions of probation:

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

20.14 (2) a requirement that the offender complete a treatment program; and

20.15 (3) a requirement that the offender have no unsupervised contact with the complainant
20.16 until the offender has successfully completed the treatment program unless approved by
20.17 the treatment program and the supervising correctional agent.

20.18 Sec. 14. Minnesota Statutes 2020, section 609.3451, is amended to read:

20.19 **609.3451 CRIMINAL SEXUAL CONDUCT IN THE FIFTH DEGREE.**

20.20 Subdivision 1. **Sexual penetration; crime defined.** A person is guilty of criminal sexual
20.21 conduct in the fifth degree: if the person engages in nonconsensual sexual penetration.

20.22 Subd. 1a. **Sexual contact; child present; crime defined.** A person is guilty of criminal
20.23 sexual conduct in the fifth degree if:

20.24 (1) ~~if~~ the person engages in nonconsensual sexual contact; or

20.25 (2) the person engages in masturbation or lewd exhibition of the genitals in the presence
20.26 of a minor under the age of 16, knowing or having reason to know the minor is present.

20.27 For purposes of this section, "sexual contact" has the meaning given in section 609.341,
20.28 subdivision 11, paragraph (a), clauses (i), (iv), and (v). Sexual contact also includes the
20.29 intentional removal or attempted removal of clothing covering the complainant's intimate
20.30 parts or undergarments, and the nonconsensual touching by the complainant of the actor's

21.1 intimate parts, effected by the actor, if the action is performed with sexual or aggressive
21.2 intent.

21.3 Subd. 2. **Gross misdemeanor.** A person convicted under subdivision ~~1~~ 1a may be
21.4 sentenced to imprisonment for not more than one year or to a payment of a fine of not more
21.5 than \$3,000, or both.

21.6 Subd. 3. **Felony.** (a) A person is guilty of a felony and may be sentenced to imprisonment
21.7 for not more than two years or to payment of a fine of not more than \$10,000, or both, if
21.8 the person violates subdivision 1.

21.9 (b) A person is guilty of a felony and may be sentenced to imprisonment for not more
21.10 than seven years or to payment of a fine of not more than \$14,000, or both, if the person
21.11 violates ~~this section~~ subdivision 1 or 1a within ~~seven~~ ten years of:

21.12 (1) conviction or adjudication under subdivision 1; or

21.13 (2) a previous conviction or adjudication for violating subdivision ~~1~~ 1a, clause (2), a
21.14 ~~crime described in paragraph (b)~~, or a statute from another state in conformity with any of
21.15 these offenses; or

21.16 ~~(2)~~ (3) the first of two or more previous convictions for violating subdivision ~~1~~ 1a, clause
21.17 (1), or a statute from another state in conformity with this offense.

21.18 (b) A previous conviction for violating section 609.342; 609.343; 609.344; 609.345;
21.19 609.3453; 617.23, subdivision 2, clause (2), or subdivision 3; or 617.247 may be used to
21.20 enhance a criminal penalty as provided in paragraph (a).

21.21 Sec. 15. Minnesota Statutes 2020, section 609.3455, is amended to read:

21.22 **609.3455 DANGEROUS SEX OFFENDERS; LIFE SENTENCES; CONDITIONAL**
21.23 **RELEASE.**

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

21.26 (b) "Conviction" includes a conviction as an extended jurisdiction juvenile under section
21.27 260B.130 for a violation of, or an attempt to violate, section 609.342, 609.343, 609.344, ~~or~~
21.28 609.3453, or 609.3458, if the adult sentence has been executed.

21.29 (c) "Extreme inhumane conditions" mean situations where, either before or after the
21.30 sexual penetration or sexual contact, the offender knowingly causes or permits the
21.31 complainant to be placed in a situation likely to cause the complainant severe ongoing
21.32 mental, emotional, or psychological harm, or causes the complainant's death.

22.1 (d) A "heinous element" includes:

22.2 (1) the offender tortured the complainant;

22.3 (2) the offender intentionally inflicted great bodily harm upon the complainant;

22.4 (3) the offender intentionally mutilated the complainant;

22.5 (4) the offender exposed the complainant to extreme inhumane conditions;

22.6 (5) the offender was armed with a dangerous weapon or any article used or fashioned

22.7 in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and

22.8 used or threatened to use the weapon or article to cause the complainant to submit;

22.9 (6) the offense involved sexual penetration or sexual contact with more than one victim;

22.10 (7) the offense involved more than one perpetrator engaging in sexual penetration or

22.11 sexual contact with the complainant; or

22.12 (8) the offender, without the complainant's consent, removed the complainant from one

22.13 place to another and did not release the complainant in a safe place.

22.14 (e) "Mutilation" means the intentional infliction of physical abuse designed to cause

22.15 serious permanent disfigurement or permanent or protracted loss or impairment of the

22.16 functions of any bodily member or organ, where the offender relishes the infliction of the

22.17 abuse, evidencing debasement or perversion.

22.18 (f) A conviction is considered a "previous sex offense conviction" if the offender was

22.19 convicted and sentenced for a sex offense before the commission of the present offense.

22.20 (g) A conviction is considered a "prior sex offense conviction" if the offender was

22.21 convicted of committing a sex offense before the offender has been convicted of the present

22.22 offense, regardless of whether the offender was convicted for the first offense before the

22.23 commission of the present offense, and the convictions involved separate behavioral

22.24 incidents.

22.25 (h) "Sex offense" means any violation of, or attempt to violate, section 609.342, 609.343,

22.26 609.344, 609.345, 609.3451, 609.3453, 609.3458, or any similar statute of the United States,

22.27 this state, or any other state.

22.28 (i) "Torture" means the intentional infliction of extreme mental anguish, or extreme

22.29 psychological or physical abuse, when committed in an especially depraved manner.

22.30 (j) An offender has "two previous sex offense convictions" only if the offender was

22.31 convicted and sentenced for a sex offense committed after the offender was earlier convicted

23.1 and sentenced for a sex offense and both convictions preceded the commission of the present
23.2 offense of conviction.

23.3 Subd. 2. **Mandatory life sentence without release; egregious first-time and repeat**
23.4 **offenders.** (a) Notwithstanding the statutory maximum penalty otherwise applicable to the
23.5 offense, the court shall sentence a person convicted under section 609.342, subdivision 1,
23.6 paragraph (c), (d), (e), (f), or (h); or 609.343, subdivision 1, paragraph (c), (d), (e), (f), or
23.7 (h), to life without the possibility of release if:

23.8 (1) the fact finder determines that two or more heinous elements exist; or

23.9 (2) the person has a previous sex offense conviction for a violation of section 609.342,
23.10 609.343, ~~609.344~~, 609.3458, and the fact finder determines that a heinous element
23.11 exists for the present offense.

23.12 (b) A fact finder may not consider a heinous element if it is an element of the underlying
23.13 specified violation of section 609.342 or 609.343. In addition, when determining whether
23.14 two or more heinous elements exist, the fact finder may not use the same underlying facts
23.15 to support a determination that more than one element exists.

23.16 Subd. 3. **Mandatory life sentence for egregious first-time offenders.** (a)
23.17 Notwithstanding the statutory maximum penalty otherwise applicable to the offense, the
23.18 court shall sentence a person to imprisonment for life if the person is convicted under section
23.19 609.342, subdivision 1, paragraph (c), (d), (e), (f), or (h), or 609.343, subdivision 1, paragraph
23.20 (c), (d), (e), (f), or (h); and the fact finder determines that a heinous element exists.

23.21 (b) The fact finder may not consider a heinous element if it is an element of the underlying
23.22 specified violation of section 609.342 or 609.343.

23.23 Subd. 3a. **Mandatory sentence for certain engrained offenders.** (a) A court shall
23.24 commit a person to the commissioner of corrections for a period of time that is not less than
23.25 double the presumptive sentence under the sentencing guidelines and not more than the
23.26 statutory maximum, or if the statutory maximum is less than double the presumptive sentence,
23.27 for a period of time that is equal to the statutory maximum, if:

23.28 (1) the court is imposing an executed sentence on a person convicted of committing or
23.29 attempting to commit a violation of section 609.342, 609.343, 609.344, 609.345, ~~609.3453~~,
23.30 609.3458;

23.31 (2) the fact finder determines that the offender is a danger to public safety; and

23.32 (3) the fact finder determines that the offender's criminal sexual behavior is so engrained
23.33 that the risk of reoffending is great without intensive psychotherapeutic intervention or other

24.1 long-term treatment or supervision extending beyond the presumptive term of imprisonment
24.2 and supervised release.

24.3 (b) The fact finder shall base its determination that the offender is a danger to public
24.4 safety on any of the following factors:

24.5 (1) the crime involved an aggravating factor that would justify a durational departure
24.6 from the presumptive sentence under the sentencing guidelines;

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

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

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

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

24.14 (c) As used in this section, "predatory crime" has the meaning given in section 609.341,
24.15 subdivision 22.

24.16 Subd. 4. **Mandatory life sentence; repeat offenders.** (a) Notwithstanding the statutory
24.17 maximum penalty otherwise applicable to the offense, the court shall sentence a person to
24.18 imprisonment for life if the person is convicted of violating section 609.342, 609.343,
24.19 609.344, 609.345, ~~or 609.3453~~, or 609.3458 and:

24.20 (1) the person has two previous sex offense convictions;

24.21 (2) the person has a previous sex offense conviction and:

24.22 (i) the fact finder determines that the present offense involved an aggravating factor that
24.23 would provide grounds for an upward durational departure under the sentencing guidelines
24.24 other than the aggravating factor applicable to repeat criminal sexual conduct convictions;

24.25 (ii) the person received an upward durational departure from the sentencing guidelines
24.26 for the previous sex offense conviction; or

24.27 (iii) the person was sentenced under this section or Minnesota Statutes 2004, section
24.28 609.108, for the previous sex offense conviction; or

24.29 (3) the person has two prior sex offense convictions, and the fact finder determines that
24.30 the prior convictions and present offense involved at least three separate victims, and:

25.1 (i) the fact finder determines that the present offense involved an aggravating factor that
25.2 would provide grounds for an upward durational departure under the sentencing guidelines
25.3 other than the aggravating factor applicable to repeat criminal sexual conduct convictions;

25.4 (ii) the person received an upward durational departure from the sentencing guidelines
25.5 for one of the prior sex offense convictions; or

25.6 (iii) the person was sentenced under this section or Minnesota Statutes 2004, section
25.7 609.108, for one of the prior sex offense convictions.

25.8 (b) Notwithstanding paragraph (a), a court may not sentence a person to imprisonment
25.9 for life for a violation of section 609.345, unless the person's previous or prior sex offense
25.10 convictions that are being used as the basis for the sentence are for violations of section
25.11 609.342, 609.343, 609.344, ~~or 609.3453~~, or 609.3458, or any similar statute of the United
25.12 States, this state, or any other state.

25.13 **Subd. 5. Life sentences; minimum term of imprisonment.** At the time of sentencing
25.14 under subdivision 3 or 4, the court shall specify a minimum term of imprisonment, based
25.15 on the sentencing guidelines or any applicable mandatory minimum sentence, that must be
25.16 served before the offender may be considered for supervised release.

25.17 **Subd. 6. Mandatory ten-year conditional release term.** Notwithstanding the statutory
25.18 maximum sentence otherwise applicable to the offense and unless a longer conditional
25.19 release term is required in subdivision 7, when a court commits an offender to the custody
25.20 of the commissioner of corrections for a violation of section 609.342, 609.343, 609.344,
25.21 609.345, ~~or 609.3453~~, or 609.3458, the court shall provide that, after the offender has been
25.22 released from prison, the commissioner shall place the offender on conditional release for
25.23 ten years.

25.24 **Subd. 7. Mandatory lifetime conditional release term.** (a) When a court sentences an
25.25 offender under subdivision 3 or 4, the court shall provide that, if the offender is released
25.26 from prison, the commissioner of corrections shall place the offender on conditional release
25.27 for the remainder of the offender's life.

25.28 (b) Notwithstanding the statutory maximum sentence otherwise applicable to the offense,
25.29 when the court commits an offender to the custody of the commissioner of corrections for
25.30 a violation of section 609.342, 609.343, 609.344, 609.345, ~~or 609.3453~~, or 609.3458, and
25.31 the offender has a previous or prior sex offense conviction, the court shall provide that, after
25.32 the offender has been released from prison, the commissioner shall place the offender on
25.33 conditional release for the remainder of the offender's life.

26.1 (c) Notwithstanding paragraph (b), an offender may not be placed on lifetime conditional
26.2 release for a violation of section 609.345, unless the offender's previous or prior sex offense
26.3 conviction is for a violation of section 609.342, 609.343, 609.344, ~~or 609.3453,~~ or 609.3458,
26.4 or any similar statute of the United States, this state, or any other state.

26.5 Subd. 8. **Terms of conditional release; applicable to all sex offenders.** (a) The
26.6 provisions of this subdivision relating to conditional release apply to all sex offenders
26.7 sentenced to prison for a violation of section 609.342, 609.343, 609.344, 609.345, ~~or~~
26.8 609.3453, or 609.3458. Except as provided in this subdivision, conditional release of sex
26.9 offenders is governed by provisions relating to supervised release. The commissioner of
26.10 corrections may not dismiss an offender on conditional release from supervision until the
26.11 offender's conditional release term expires.

26.12 (b) The conditions of release may include successful completion of treatment and aftercare
26.13 in a program approved by the commissioner, satisfaction of the release conditions specified
26.14 in section 244.05, subdivision 6, and any other conditions the commissioner considers
26.15 appropriate. The commissioner shall develop a plan to pay the cost of treatment of a person
26.16 released under this subdivision. The plan may include co-payments from offenders,
26.17 third-party payers, local agencies, or other funding sources as they are identified. This
26.18 section does not require the commissioner to accept or retain an offender in a treatment
26.19 program. Before the offender is placed on conditional release, the commissioner shall notify
26.20 the sentencing court and the prosecutor in the jurisdiction where the offender was sentenced
26.21 of the terms of the offender's conditional release. The commissioner also shall make
26.22 reasonable efforts to notify the victim of the offender's crime of the terms of the offender's
26.23 conditional release.

26.24 (c) If the offender fails to meet any condition of release, the commissioner may revoke
26.25 the offender's conditional release and order that the offender serve all or a part of the
26.26 remaining portion of the conditional release term in prison. An offender, while on supervised
26.27 release, is not entitled to credit against the offender's conditional release term for time served
26.28 in confinement for a violation of release.

26.29 Subd. 9. **Applicability.** The provisions of this section do not affect the applicability of
26.30 Minnesota Statutes 2004, section 609.108, to crimes committed before August 1, 2005, or
26.31 the validity of sentences imposed under Minnesota Statutes 2004, section 609.108.

26.32 Subd. 10. **Presumptive executed sentence for repeat sex offenders.** Except as provided
26.33 in subdivision 2, 3, 3a, or 4, if a person is convicted under sections 609.342 to 609.345 or
26.34 609.3453 within 15 years of a previous sex offense conviction, the court shall commit the

27.1 defendant to the commissioner of corrections for not less than three years, nor more than
27.2 the maximum sentence provided by law for the offense for which convicted, notwithstanding
27.3 sections 242.19, 243.05, 609.11, 609.12, and 609.135. The court may stay the execution of
27.4 the sentence imposed under this subdivision only if it finds that a professional assessment
27.5 indicates the offender is accepted by and can respond to treatment at a long-term inpatient
27.6 program exclusively treating sex offenders and approved by the commissioner of corrections.
27.7 If the court stays the execution of a sentence, it shall include the following as conditions of
27.8 probation:

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

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

27.12 Sec. 16. **[609.3458] SEXUAL EXTORTION.**

27.13 Subdivision 1. Crime defined. (a) A person who engages in sexual contact with another
27.14 person and compels the other person to submit to the contact by making any of the following
27.15 threats, directly or indirectly, is guilty of sexual extortion:

27.16 (1) a threat to withhold or harm the complainant's trade, business, profession, position,
27.17 employment, or calling;

27.18 (2) a threat to make or cause to be made a criminal charge against the complainant,
27.19 whether true or false;

27.20 (3) a threat to report the complainant's immigration status to immigration or law
27.21 enforcement authorities;

27.22 (4) a threat to disseminate private sexual images of the complainant as specified in
27.23 section 617.261, nonconsensual dissemination of private sexual images;

27.24 (5) a threat to expose information that the actor knows the complainant wishes to keep
27.25 confidential; or

27.26 (6) a threat to withhold complainant's housing, or to cause complainant a loss or
27.27 disadvantage in the complainant's housing, or a change in the cost of complainant's housing.

27.28 (b) A person who engages in sexual penetration with another person and compels the
27.29 other person to submit to such penetration by making any of the following threats, directly
27.30 or indirectly, is guilty of sexual extortion:

27.31 (1) a threat to withhold or harm the complainant's trade, business, profession, position,
27.32 employment, or calling;

28.1 (2) a threat to make or cause to be made a criminal charge against the complainant,
28.2 whether true or false;

28.3 (3) a threat to report the complainant's immigration status to immigration or law
28.4 enforcement authorities;

28.5 (4) a threat to disseminate private sexual images of the complainant as specified in
28.6 section 617.261, nonconsensual dissemination of private sexual images;

28.7 (5) a threat to expose information that the actor knows the complainant wishes to keep
28.8 confidential; or

28.9 (6) a threat to withhold complainant's housing, or to cause complainant a loss or
28.10 disadvantage in the complainant's housing, or a change in the cost of complainant's housing.

28.11 Subd. 2. **Penalty.** (a) A person is guilty of a felony and may be sentenced to imprisonment
28.12 for not more than ten years or to payment of a fine of not more than \$20,000, or both, if the
28.13 person violates subdivision 1, paragraph (a).

28.14 (b) A person is guilty of a felony and may be sentenced to imprisonment for not more
28.15 than 15 years or to payment of a fine of not more than \$30,000, or both, if the person violates
28.16 subdivision 1, paragraph (b).

28.17 (c) A person convicted under this section is also subject to conditional release under
28.18 section 609.3455.

28.19 Subd. 3. **No attempt charge.** Notwithstanding section 609.17, no person may be charged
28.20 with or convicted of an attempt to commit a violation of this section.

28.21 Sec. 17. **PREDATORY OFFENDER STATUTORY FRAMEWORK WORKING**
28.22 **GROUP; REPORT.**

28.23 Subdivision 1. **Direction.** By September 1, 2021, the commissioner of public safety
28.24 shall convene a working group to comprehensively assess the predatory offender statutory
28.25 framework. The commissioner shall invite representatives from city and county prosecuting
28.26 agencies, statewide crime victim coalitions, the Minnesota judicial branch, the Minnesota
28.27 Board of Public Defense, private criminal defense attorneys, the Department of Public
28.28 Safety, the Department of Human Services, the Sentencing Guidelines Commission, state
28.29 and local law enforcement agencies, and other interested parties to participate in the working
28.30 group. The commissioner shall ensure that the membership of the working group is balanced
28.31 among the various representatives and reflects a broad spectrum of viewpoints, and is
28.32 inclusive of marginalized communities as well as victim and survivor voices.

29.1 Subd. 2. **Duties.** The working group must examine and assess the predatory offender
29.2 registration (POR) laws, including, but not limited to, the requirements placed on offenders,
29.3 the crimes for which POR is required, the method by which POR requirements are applied
29.4 to offenders, and the effectiveness of the POR system in achieving its stated purpose.
29.5 Governmental agencies that hold POR data shall provide the working group with public
29.6 POR data upon request. The working group is encouraged to request the assistance of the
29.7 state court administrator's office to obtain relevant POR data maintained by the court system.

29.8 Subd. 3. **Report to legislature.** The commissioner shall file a report detailing the working
29.9 group's findings and recommendations with the chairs and ranking minority members of
29.10 the house of representatives and senate committees and divisions having jurisdiction over
29.11 public safety and judiciary policy and finance by January 15, 2022.

29.12 **Sec. 18. REVISOR INSTRUCTION.**

29.13 The revisor of statutes shall make necessary cross-reference changes and remove statutory
29.14 cross-references in Minnesota Statutes to conform with this act. The revisor may make
29.15 technical and other necessary changes to language and sentence structure to preserve the
29.16 meaning of the text.

29.17 **Sec. 19. REPEALER.**

29.18 Minnesota Statutes 2020, sections 609.293, subdivisions 1 and 5; 609.34; and 609.36,
29.19 are repealed.

609.293 SODOMY.

Subdivision 1. **Definition.** "Sodomy" means carnally knowing any person by the anus or by or with the mouth.

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.

609.34 FORNICATION.

When any man and single woman have sexual intercourse with each other, each is guilty of fornication, which is a misdemeanor.

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 lacks the mental capacity, 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.