

CHAPTER 631

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631.01 [Repealed, 1979 c 233 s 42]

631.015 [Repealed, 1979 c 233 s 42]

631.02 ALLOWING CONTINUANCES FOR SUFFICIENT CAUSE.

A continuance may be granted by the court when a case is called for trial, or at any time during pretrial proceedings, upon motion of either the prosecution or defense. The moving party must show sufficient cause for the continuance. Affidavits in support of the motion for continuance must be filed with the court administrator. When a defendant who has given bail appears for trial, the court may at any time after the appearance order the defendant committed to the custody of the proper officer of the county, pending judgment or further order of the court.

History: (10706) *RL s 5359; 1985 c 265 art 11 s 1; ISp1986 c 3 art 1 s 82*

631.021 SPEEDY CRIMINAL TRIALS; CASE DISPOSITION OBJECTIVES.

The judges of each judicial district must adopt and administer rules or procedures to ensure that, on and after July 1, 1994, the following timing objectives for the disposition of criminal cases are met by judges within the district:

- (1) 90 percent of all criminal cases must be disposed of within 120 days;
- (2) 97 percent of all criminal cases must be disposed of within 180 days; and

(3) 99 percent of all criminal cases must be disposed of within 365 days.

The time periods referred to in clauses (1) to (3) must be measured from the date the criminal complaint is filed, to the date the defendant is either found not guilty or is sentenced. If the criminal case begins by indictment rather than by criminal complaint, the time period must be measured from the date the indictment is returned.

History: 1989 c 335 art 3 s 39

631.03 [Repealed, 1979 c 233 s 42]

631.035 JOINTLY CHARGED DEFENDANTS; SEPARATE OR JOINT TRIALS.

When two or more defendants are jointly charged with a felony, they may be tried separately or jointly in the discretion of the court. In making its determination on whether to order joinder or separate trials, the court shall consider the nature of the offense charged, the impact on the victim, the potential prejudice to the defendant, and the interests of justice.

History: 1987 c 395 s. 1

631.04 EXCLUDING MINORS FROM ATTENDANCE AT CRIMINAL TRIALS; DUTY OF OFFICER; PENALTY.

A minor under the age of 17 who is not a party to, witness in, or directly interested in a criminal prosecution or trial before a district, county, or municipal court, may not be present at the trial. A police officer, constable, sheriff, or other officer in charge of a court and attending upon the trial of a criminal case in the court, shall exclude a minor under age of 17 from the room in which the trial is being held. This section does not apply when the minor is permitted to attend by order of the court before which the trial is being held. A police officer, constable, sheriff, or deputy sheriff who knowingly neglects or refuses to carry out the provisions of this section is guilty of a misdemeanor and shall be punished by a fine of not less than \$10 nor more than \$25.

History: (10708) RL s 5361; 1983 c 359 s 145; 1985 c 265 art 11 s 1

631.045 EXCLUDING SPECTATORS FROM THE COURTROOM.

At the trial of a complaint or indictment for a violation of sections 609.341 to 609.346, or 617.246, subdivision 2, when a minor under 18 years of age is the person upon, with, or against whom the crime is alleged to have been committed, the judge may exclude the public from the courtroom during the victim's testimony or during all or part of the remainder of the trial upon a showing that closure is necessary to protect a witness or ensure fairness in the trial. The judge shall give the prosecutor, defendant and members of the public the opportunity to object to the closure before a closure order. The judge shall specify the reasons for closure in an order closing all or part of the trial. Upon closure the judge shall only admit persons who have a direct interest in the case.

History: 1982 c 558 s 4; 1985 c 265 art 11 s 1; 1986 c 351 s 22

631.046 AUTHORIZING PRESENCE OF SUPPORT PERSON FOR MINOR PROSECUTING WITNESS.

Subdivision 1. **Child abuse cases.** Notwithstanding any other law, a prosecuting witness under 18 years of age in a case involving child abuse as defined in section 630.36, subdivision 2, may choose to have in attendance a parent, guardian, or other supportive person, whether or not a witness, at the omnibus hearing or at the trial, during testimony of the prosecuting witness. If the person so chosen is also a prosecuting witness, the prosecution shall present on noticed motion, evidence that the person's attendance is both desired by the prosecuting witness for support and will be helpful to the prosecuting witness. Upon that showing the court shall grant the request unless information presented by the defendant or noticed by the court establishes that the support person's attendance during the testimony of the prosecuting witness would pose a substantial risk of influencing or affecting the content of that testimony.

Subd. 2. **Other cases.** Notwithstanding any other law, a prosecuting witness in any case involving criminal sexual conduct as defined in sections 609.342, 609.343, 609.344, and 609.345 may choose to be accompanied by a supportive person, whether or not a witness, at the omnibus or other pretrial hearing. If the supportive person is also a witness, the prosecution and the court shall follow the motion procedure outlined in subdivision 1 to determine whether or not the supportive person's presence will be permitted.

History: 1985 c 286 s 23; 1986 c 463 s 21

631.05 REQUIRING A JUROR TO TESTIFY WHEN THE JUROR HAS PERSONAL KNOWLEDGE RESPECTING FACT IN CONTROVERSY; VIEW.

If a juror has personal knowledge respecting a fact in controversy in a cause, the juror shall declare it in open court during the trial. If during the retirement of a jury, a juror declares a fact which could be evidence in the cause, as of the juror's own knowledge, the jury shall return into court. In either of these cases, the juror making the statement shall be sworn as a witness and examined in the presence of the parties. The court may order a view by a jury impaneled to try a criminal case in accordance with rule 26.03, subdivision 10, of the rules of criminal procedure.

History: (10709) *RL s 5362; 1979 c 233 s 41; 1985 c 265 art 11 s 1; 1986 c 444*

631.06 QUESTIONS OF LAW AND FACT; ALLOCATION OF DECISION MAKING TO COURT AND JURY.

In criminal trials, the court shall decide questions of law, except in cases of criminal defamation, and the jury shall decide questions of fact. The defendant may object to a decision of the court on a matter of law. Although the jury may return a general verdict including questions of law as well as fact, it shall receive as law the court's instructions.

History: (10710) *RL s 5363; 1971 c 25 s 99; 1985 c 265 art 11 s 1*

631.07 ORDER OF FINAL ARGUMENT.

When the giving of evidence is concluded in a criminal trial, unless the case is submitted on both sides without argument, the prosecution may make a closing argument to the jury. The defense may then make its closing argument to the jury. On the motion of the prosecution, the court may permit the prosecution to reply in rebuttal if the court determines that the defense has made in its closing argument a misstatement of law or fact or a statement that is inflammatory or prejudicial. The rebuttal must be limited to a direct response to the misstatement of law or fact or the inflammatory or prejudicial statement.

History: (10711) *RL s 5364; 1985 c 265 art 11 s 1; 1987 c 395 s 2*

631.08 [Repealed, 1979 c 233 s 42]

631.09 HOW AND WHERE THE JURY MUST BE KEPT WHILE DELIBERATING; REQUIRING SEPARATE ACCOMMODATIONS FOR JURORS.

At the close of the evidence and after the court has charged the jury, the jury may decide the case in court or retire for deliberation. If the jury cannot agree on a verdict without retiring, the court shall swear one or more officers to take charge of the jury. The jury must be kept together in some private and convenient place without food or drink except water unless ordered by the court. No person may be permitted to speak or communicate with any juror, unless by order of court, nor may a person listen to its deliberations. The jury must be returned to court upon agreeing on a verdict or when so ordered by the court. In case of mixed juries counties shall provide adequate, separate quarters for male and female jurors with proper accommodations. If the county fails to provide proper accommodations, the court shall order the jurors to be housed in a suitable hotel for the night.

This section applies only if the jury has failed to agree.

History: (10713,10713-1) *RL s 5366; 1927 c 210 s 1,2; 1981 c 31 s 21; 1985 c 265 art 11 s 1; 1Sp1985 c 16 art 1 s 4*

631.10 [Repealed, 1979 c 233 s 42]

631.11 [Repealed, 1979 c 233 s 42]

631.12 CONDITIONS UNDER WHICH A JURY MAY BE DISCHARGED WITHOUT VERDICT.

After the retirement of the jury, the court may discharge it if:

(1) one of the jurors becomes so sick as to be unable to continue to serve on the jury;

(2) the jury is unable to agree upon a verdict; or

(3) any other accident or cause occurs to prevent the jury from being kept together for deliberation.

History: (10716) *RL s 5369; 1985 c 265 art 11 s 1; 1986 c 444*

631.13 CONDITIONS UNDER WHICH A SECOND TRIAL IS PERMITTED.

If a jury is discharged or prevented from giving a verdict because of accident, disagreement, or other cause, the case may be again tried at the same or another term, unless the defendant is discharged during the trial or after the case has been submitted to the jury.

History: (10717) *RL s 5370; 1985 c 265 art 11 s 1*

631.14 ALLOWING VERDICT FOR LESSER INCLUDED OFFENSE.

Upon an indictment or complaint for an offense consisting of different degrees, the jury may find the defendant not guilty of the degree charged in the indictment or complaint, and guilty of any degree inferior to that. Upon an indictment or complaint for an offense, the jury may find the defendant not guilty of committing it, and guilty of an attempt to commit it. Upon an indictment or complaint for murder, if the jury finds the defendant not guilty, it may, upon the same indictment or complaint, find the defendant guilty of manslaughter in any degree. In all other cases, the defendant may be found guilty of any offense necessarily included in that offense with which the defendant is charged in the indictment or complaint.

History: (10718) *RL s 5371; 1985 c 265 art 11 s 1*

631.15 ALLOWING VERDICT AS TO SOME DEFENDANTS, AND DISAGREEMENT AS TO OTHERS.

If the jury cannot agree upon a verdict with respect to all defendants in a trial involving multiple defendants, it may render a verdict as to those defendants in regard to whom it does agree, on which a judgment shall be entered accordingly. The defendants not receiving a verdict may be tried by another jury.

History: (10719) *RL s 5372; 1985 c 265 art 11 s 1*

631.16 [Repealed, 1979 c 233 s 42]

631.17 REQUIRING COURT ADMINISTRATOR TO READ VERDICT TO JURY.

When a verdict such as the court may receive is returned, the court administrator shall immediately file it in open court and read it to the jury, and ask the jurors if it is their verdict. If a juror disagrees, that fact shall be entered upon the minutes, and the court shall send the jury out to deliberate further. If no disagreement is expressed by the jury, the verdict is complete, and the court shall discharge the jury from the case. The court administrator shall immediately record the verdict in full in the court minutes.

History: (10721) *RL s 5374; 1955 c 32 s 1; 1985 c 265 art 11 s 1; 1Sp1986 c 3 art 1 s 82*

631.18 [Repealed, 1979 c 233 s 42]

631.19 [Repealed, 1979 c 233 s 42]

631.20 HEARING ON PUNISHMENT.

After a plea or verdict of guilty, if the court has discretion as to the extent of the punishment, and if either party suggests that there are aggravating or mitigating circumstances which may be properly considered in imposing sentence, the court may hear the issue summarily, at a specified time, and upon notice to the adverse party as it may direct. The aggravating or mitigating circumstances must be presented by the testimony of witnesses examined in open court.

History: (10724) *RL s 5377; 1985 c 265 art 11 s 1*

631.21 ALLOWING DISMISSAL OF CAUSE UPON COURT'S OR PROSECUTOR'S MOTION.

The court may order a criminal action, whether prosecuted upon indictment or complaint, to be dismissed. The court may order dismissal of an action either on its own motion or upon motion of the prosecuting attorney and in furtherance of justice. If the court dismisses an action, the reasons for the dismissal must be set forth in the order and entered upon the minutes. The recommendations of the prosecuting officer in reference to dismissal, with reasons for dismissal, must be stated in writing and filed as a public record with the official files of the case.

History: (10725) *RL s 5378; 1927 c 296; 1985 c 265 art 11 s 1; 1986 c 444*

CHALLENGING JURORS

631.22 CHALLENGES CLASSIFIED; REQUIRING SEVERAL DEFENDANTS TO JOIN IN CHALLENGE.

A challenge is an objection made to a trial jury, and is of two kinds:

- (1) to the panel; and
- (2) to an individual juror.

When several defendants are tried together, they cannot sever the challenge, but shall join in making the challenge.

History: (10729) *RL s 5382; 1985 c 265 art 11 s 1*

631.23 [Repealed, 1979 c 233 s 42]

631.24 [Repealed, 1979 c 233 s 42]

631.25 [Repealed, 1979 c 233 s 42]

631.26 [Repealed, 1979 c 233 s 42]

631.27 [Repealed, 1979 c 233 s 42]

631.28 [Repealed, 1979 c 233 s 42]

631.29 [Repealed, 1979 c 233 s 42]

631.30 [Repealed, 1979 c 233 s 42]

631.31 [Repealed, 1979 c 233 s 42]

631.32 [Repealed, 1979 c 233 s 42]

631.33 [Repealed, 1977 c 286 s 21]

631.34 [Repealed, 1979 c 233 s 42]

631.35 [Repealed, 1979 c 233 s 42]

631.36 EXAMINATION OF CHALLENGED JUROR AT VOIR DIRE.

At a voir dire examination, a challenged juror may be examined as a witness to prove or disprove the challenge. The juror shall answer every question pertinent to the inquiry. When challenged on the ground that the juror is not a citizen of the United

States, the juror's own testimony is competent evidence of the fact of naturalization, without other evidence. The juror's testimony on the issue of citizenship may be disputed by the challenger. At a voir dire examination either party may examine other witnesses on either side. The rules of evidence applicable to the trial of other issues govern the admission or exclusion of testimony at a voir dire examination.

History: (10743) *RL s 5396; 1985 c 265 art 11 s 1; 1986 c 444*

631.37 [Repealed, 1979 c 233 s 42]

631.38 [Repealed, 1979 c 233 s 42]

631.39 [Repealed, 1979 c 233 s 42]

JUDGMENTS, EXECUTION THEREOF

631.40 JUDGMENT ON CONVICTION; JUDGMENT ROLL DEFINED.

When judgment upon a conviction is rendered, the court administrator shall enter the judgment upon the minutes, stating briefly the offense for which the conviction was had. The court administrator shall then immediately attach together and file the papers specified in clauses (1) to (5). The judgment roll consists of the papers specified in clauses (1) to (5):

(1) a copy of the minutes of challenge made by the defendant to the panel of the grand jury, or to an individual grand juror, and the proceedings and decisions on the challenges;

(2) the indictment or complaint and a copy of the minutes of the plea or motion to dismiss or to grant appropriate relief;

(3) a copy of the minutes of a challenge made to the panel of the trial jury or to an individual juror, and the proceedings and decision on the challenge;

(4) a copy of the minutes of the trial; and

(5) a copy of the minutes of the judgment.

History: (10757) *RL s 5410; 1985 c 265 art 11 s 1; 1Sp1986 c 3 art 1 s 82*

631.41 REQUIRING THE COURT ADMINISTRATOR TO DELIVER TRANSCRIPT OF MINUTES OF SENTENCE TO SHERIFF.

When a person convicted of an offense is sentenced to pay a fine or costs, or to be imprisoned in the county jail or the Minnesota correctional facility-Stillwater, the court administrator shall, as soon as possible, make out and deliver to the sheriff or a deputy a transcript from the minutes of the court of the conviction and sentence. A duly certified transcript is sufficient authority for the sheriff to execute the sentence. Upon receiving the transcript, the sheriff shall execute the sentence.

History: (10758) *RL s 5411; 1979 c 102 s 13; 1985 c 265 art 11 s 1; 1Sp1986 c 3 art 1 s 82*

631.412 SAME SEX ESCORT FOR INMATES BEING TRANSFERRED.

When a sheriff or other correctional officer has custody of a person charged with or convicted of a crime and transfers that person more than 25 miles, that sheriff or other correctional officer shall provide the transferee with a custodial escort of the same sex as the transferee. A sheriff may employ, when the occasion exists, a suitable person to carry out this section. The expenses of the person's employment must be paid out of county funds not otherwise appropriated.

History: (9950-4) *1927 c 213 s 1; 1985 c 265 art 11 s 1; 1987 c 49 s 16*

631.42 [Repealed, 1963 c 753 art 2 s 17]

631.425 RELEASING OFFENDERS FOR EMPLOYMENT AT THEIR CUSTOMARY WORK.

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Court" means a court having criminal jurisdiction.

(c) "Sheriff" includes a chief of police and workhouse superintendent.

(d) "Jail" includes a county jail, workhouse, and lockup.

Subd. 2. **Discretion of court.** A convicted person at the time of sentencing to jail, or at any time before commitment, may in the discretion of the sentencing court be committed under this section. The court shall cite this section in the sentence if a person is committed under this section.

Subd. 3. **Continuation of employment.** If the person committed under this section has been regularly employed, the sheriff shall arrange for a continuation of the employment insofar as possible without interruption. If the person is not employed, the sheriff or any suitable person or agency designated by the court shall make every effort to secure some suitable employment for that person. An inmate employed under this section must be paid a fair and reasonable wage for work performed and must work at fair and reasonable hours per day and per week.

Subd. 4. **Confinement when not employed.** Unless the court otherwise directs, each inmate must be confined in jail during the time the inmate is not employed, or, if the inmate is employed, between the times of employment.

Subd. 5. **Earnings.** The earnings of an inmate may be collected by the sheriff, probation department, welfare board or suitable person or agency designated by the court. From the earnings, the person or agency designated to collect them may pay:

(1) the cost of the inmate's maintenance, both inside and outside the jail, but the charge for maintenance inside the jail may not exceed the legal daily allowance for board allowed the sheriff for ordinary inmates;

(2) to the extent directed by the court, pay the support of dependents, if any;

(3) court costs and fines; and

(4) court-ordered restitution, if any. Any balance must be retained until the inmate's discharge and then paid to the inmate.

Subd. 6. **Reduction of sentence.** The term of the inmate's sentence may be reduced by one-fourth, if in the opinion of the court the inmate's conduct, diligence, and general attitude merit reduction.

Subd. 7. **Violation of sentence; procedure.** If the inmate violates a condition of work release relating to conduct, custody or employment, the inmate must be returned to the court. The court then (1) may require that the balance of the inmate's sentence be spent in actual confinement, (2) may cancel any earned reduction of the inmate's term, and (3) may find the inmate in contempt of court.

Subd. 8. **Sheriff; extra compensation.** The county board or local governing board shall determine how much extra compensation and mileage the sheriff is entitled to under this section.

Subd. 9. **Employment in another county.** The court may by order authorize the sheriff to whom the inmate is committed to arrange with another sheriff for the employment of the inmate in the other sheriff's jurisdiction. When the inmate is employed in the other jurisdiction, the inmate is in the custody of that jurisdiction's sheriff, but in other respects is subject to the commitment.

Subd. 10. **County welfare board; duties.** A committing court or sheriff may request the county welfare board or any other welfare agency, public or private, to provide appropriate services to an inmate or the inmate's family.

Subd. 11. **Applicable in contempt cases.** The provisions of this section apply to a person committed to the county jail by a court of record upon an adjudication of contempt of court.

Subd. 12. **Report by court.** On December 31 of each year, each court that has committed a prisoner in accordance with this section shall file with the department of corrections, in a form prescribed by the department (1) the number of persons committed, (2) the offenses for which they were committed, (3) the number who had previously been sentenced under this section, and (4) other statistical information prescribed by the department.

History: 1957 c 715 s 1; 1961 c 617 s 1-4; 1983 c 262 art 2 s 7; 1985 c 265 art 11 s 1

631.43 SENTENCE WHEN PUNISHMENT NOT PRESCRIBED.

When no punishment is provided by statute, the court shall sentence the convicted person to a term of imprisonment that, in view of the degree and aggravation of the offense, is not cruel, unusual, or repugnant to the person's constitutional rights.

History: (10760) *RL s 5414; 1985 c 265 art 11 s 1*

631.44 RECOGNIZANCE TO KEEP PEACE.

When a person is convicted of an offense not punishable by imprisonment in the Minnesota correctional facility-Stillwater or county jail, the sentencing court may require the person to recognize, to keep the peace and be of good behavior for a term of not more than two years. The court may require the person to be detained in custody until that person agrees to recognize. The recognizance is in addition to the punishment prescribed by law. It must be with sufficient sureties and in a reasonable sum.

History: (10761) *RL s 5415; 1979 c 102 s 13; 1985 c 265 art 11 s 1*

631.45 PROCEEDINGS REQUIRED IF BREACH OF RECOGNIZANCE TO KEEP PEACE.

In case of the breach of the conditions of a recognizance entered into under section 631.44, the same proceedings must be had that are by law prescribed for recognizances to keep the peace.

History: (10762) *RL s 5416; 1985 c 265 art 11 s 1*

631.46 REQUIRING AN OFFENDER TO SERVE JAIL SENTENCE IN ANOTHER COUNTY WHEN NO JAIL IS AVAILABLE IN COUNTY OF OFFENSE.

If a sentence requires imprisonment at a local correctional facility and there is no suitable facility in the county in which the offense was committed, the court may order the sentence to be executed in any other county where there is a suitable facility. The county in which the offense was committed shall pay the expense of supporting the inmate.

History: (10763) *RL s 5417; 1985 c 265 art 11 s 1*

631.461 ALLOWING SENTENCE OF OFFENDER TO A WORKHOUSE OR CORRECTIONAL OR WORK FARM.

When a sentence for an offense includes imprisonment in a county jail, the court may sentence the offender to imprisonment in a workhouse or correctional or work farm if there is one in the county where the offender is tried or where the offense was committed. If not, the court may sentence the offender to imprisonment in a workhouse or correctional or work farm in any county in this state. However, the county board of the county where the offender is tried shall have some agreement for the receipt, maintenance, and confinement of inmates with the county where the offender has been sentenced to imprisonment. The place of imprisonment must be specified in the sentence. Inmates may be removed from one place of confinement to another as provided by statute.

History: (9934) *RL s 4775; 1933 c 329; 1963 c 130 s 1; 1963 c 753 art 2 s 8; 1985 c 265 art 11 s 1*

631.47 [Repealed, 1963 c 753 art 2 s 17]

631.471 PROTECTING INMATES; CERTAIN FORFEITURES ABOLISHED.

An inmate sentenced to imprisonment is under the protection of the law, and an unauthorized injury to the inmate's person is punishable just as if the inmate were not convicted or sentenced. A conviction for a crime does not work a forfeiture of real or personal property or of any right or interest in property. Forfeitures in the nature of deodands, or in a case of suicide, or where a person flees from justice, are abolished.

History: (9939) RL s 4777; 1985 c 265 art 11 s 1; 1986 c 444

631.48 PENALTY MAY INCLUDE COSTS OF PROSECUTION.

In a criminal action, upon conviction of the defendant, the court may order as part of the sentence that defendant shall pay the whole or any part of the disbursements of the prosecution, including disbursements made to extradite a defendant. The court may order this payment in addition to any other penalty authorized by law which it may impose. The payment of the disbursements of prosecution may be enforced in the same manner as the sentence, or by execution against property. When collected, the disbursements must be paid into the treasury of the county of conviction, but this payment may not interfere with the payment of officers', witnesses', or jurors' fees.

History: (9485) RL s 4352; 1985 c 265 art 11 s 1; 1990 c 579 s 6

631.49 [Repealed, 1963 c 753 art 2 s 17]

631.50 ALIEN INMATES OR MENTALLY ILL PERSONS; REQUIRING NOTICE TO UNITED STATES IMMIGRATION OFFICERS.

When a person convicted of a felony or found to be mentally ill is committed to the Minnesota correctional facility-Stillwater, the Minnesota correctional facility-St. Cloud, the county jail, or any other state or county institution which is supported, wholly or in part, by public funds, the chief executive officer, sheriff, or other officer in charge of the state or county institution shall at once inquire into the nationality of the person. If it appears that the person is an alien, the officer shall immediately notify the United States immigration officer in charge of the district in which the correctional facility, jail, or other institution is located, of (1) the date of and the reasons for the alien commitment, (2) the length of time for which committed, (3) the country of which the alien is a citizen, and (4) the date on which and the port at which the alien last entered the United States.

History: (9950-1) 1927 c 301 s 1; 1976 c 2 s 155; 1979 c 102 s 13; 1985 c 265 art 11 s 1

631.51 CERTIFIED COPIES OF INDICTMENT OR COMPLAINT FURNISHED TO IMMIGRATION OFFICERS.

Upon the official request of a United States immigration officer to a court committing an alien after conviction of a felony, the court administrator of the committing court shall furnish the officer without charge a certified copy of the complaint or indictment, the judgment, sentence, and any other record pertaining to the case of the convicted alien if:

(1) the immigration officer is in charge of the district or territory in which the court is located; and

(2) the state or county institution is supported, in whole or in part, by public funds.

History: (9950-2) 1927 c 301 s 2; 1985 c 265 art 11 s 1; 1Sp1986 c 3 art 1 s 82

631.52 EFFECT OF CERTAIN CONVICTIONS ON CUSTODY AND VISITATION RIGHTS.

Subdivision 1. **Suspension of visitation rights; transfer of custody.** (a) If a person who has court-ordered custody of a child or visitation rights is convicted of a crime

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listed in subdivision 2 and if no action is pending regarding custody or visitation, the sentencing court shall refer the matter to the appropriate family court for action under this section. The family court shall:

(1) grant temporary custody to the noncustodial parent, unless it finds that another custody arrangement is in the best interests of the child; or

(2) suspend visitation rights, unless it finds that visitation with the convicted person is in the best interests of the child.

The family court shall expedite proceedings under this section. The defendant has the burden of proving that continued custody or visitation with the defendant is in the best interests of the child. If the victim of the crime was a family or household member as defined in section 518B.01, subdivision 2, the standard of proof is clear and convincing evidence.

(b) If a person who has child custody or visitation rights was convicted of a crime listed in subdivision 2 before July 1, 1990, then any interested party may petition the sentencing court for relief under paragraph (a) if:

(1) the defendant is currently incarcerated, on probation, or under supervised release for the offense; or

(2) the victim of the crime was a family or household member as defined in section 518B.01, subdivision 2.

Subd. 2. Application. Subdivision 1 applies to the following crimes or similar crimes under the laws of the United States or any other state:

(1) murder in the first, second, or third degree under section 609.185, 609.19, or 609.195;

(2) manslaughter in the first degree under section 609.20;

(3) assault in the first, second, or third degree under section 609.221, 609.222, or 609.223;

(4) kidnapping under section 609.25;

(5) depriving another of custodial or parental rights under section 609.26;

(6) soliciting, inducing, or promoting prostitution involving a minor under section 609.322;

(7) receiving profit from prostitution involving a minor under section 609.323;

(8) criminal sexual conduct in the first degree under section 609.342;

(9) criminal sexual conduct in the second degree under section 609.343;

(10) criminal sexual conduct in the third degree under section 609.344, subdivision 1, paragraph (c), (f), or (g);

(11) solicitation of a child to engage in sexual conduct under section 609.352;

(12) incest under section 609.365;

(13) malicious punishment of a child under section 609.377; or

(14) neglect of a child under section 609.378.

History: 1990 c 574 s 23