

CHAPTER 609

CRIMINAL CODE

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609.02 DEFINITIONS.

[For text of subd 1, see M.S.1996]

Subd. 2. **Felony.** "Felony" means a crime, other than an enhanced gross misdemeanor, for which a sentence of imprisonment for more than one year may be imposed.

Subd. 2a. **Enhanced gross misdemeanor.** "Enhanced gross misdemeanor" means a crime for which a sentence of not more than two years imprisonment in a correctional facility or a fine of not more than \$3,000, or both, may be imposed.

[For text of subs 3 to 14, see M.S.1996]

Subd. 15. **Probation.** "Probation" means a court-ordered sanction imposed upon an offender for a period of supervision no greater than that set by statute. It is imposed as an alternative to confinement or in conjunction with confinement or intermediate sanctions. The purpose of probation is to deter further criminal behavior, punish the offender, help provide reparation to crime victims and their communities, and provide offenders with opportunities for rehabilitation.

History: 1997 c 239 art 9 s 34; 1Sp1997 c 2 s 59,60

609.035 CRIME PUNISHABLE UNDER DIFFERENT PROVISIONS.

Subdivision 1. Except as provided in subdivisions 2, 3, and 4, and in sections 609.251, 609.585, 609.21, subdivisions 3 and 4, 609.2691, 609.486, 609.494, and 609.856, if a person's conduct constitutes more than one offense under the laws of this state, the person may be punished for only one of the offenses and a conviction or acquittal of any one of them is a bar to prosecution for any other of them. All the offenses, if prosecuted, shall be included in one prosecution which shall be stated in separate counts.

[For text of subs 2 and 3, see M.S.1996]

Subd. 4. **Exception; arson offenses.** Notwithstanding section 609.04, a prosecution for or conviction of a violation of sections 609.561 to 609.563 or 609.5641 is not a bar to conviction or punishment for any other crime committed by the defendant as part of the same conduct when the defendant is shown to have violated sections 609.561 to 609.563 or 609.5641 for the purpose of concealing any other crime.

For purposes of the sentencing guidelines, a violation of sections 609.561 to 609.563 or 609.5641 is a crime against the person.

History: 1997 c 239 art 8 s 28,29

609.10 SENTENCES AVAILABLE.

Subdivision 1. Sentences available. Upon conviction of a felony and compliance with the other provisions of this chapter the court, if it imposes sentence, may sentence the defendant to the extent authorized by law as follows:

- (1) to life imprisonment; or
- (2) to imprisonment for a fixed term of years set by the court; or
- (3) to both imprisonment for a fixed term of years and payment of a fine; or
- (4) to payment of a fine without imprisonment or to imprisonment for a fixed term of years if the fine is not paid; or
- (5) to payment of court-ordered restitution in addition to either imprisonment or payment of a fine, or both; or
- (6) to payment of a local correctional fee as authorized under section 609.102 in addition to any other sentence imposed by the court.

Subd. 2. Restitution. (a) As used in this section, "restitution" includes:

- (1) payment of compensation to the victim or the victim's family; and
- (2) if the victim is deceased or already has been fully compensated, payment of money to a victim assistance program or other program directed by the court.

"Restitution" includes payment of compensation to a government entity that incurs loss as a direct result of a crime.

(b) When the defendant does not pay the entire amount of court-ordered restitution and the fine at the same time, the court may order that all restitution shall be paid before the fine is paid.

History: 1997 c 239 art 7 s 16

609.101 SURCHARGE ON FINES, ASSESSMENTS; MINIMUM FINES.

[For text of subs 1 to 3, see M.S.1996]

Subd. 4. Minimum fines; other crimes. Notwithstanding any other law:

(1) when a court sentences a person convicted of a felony that is not listed in subdivision 2 or 3, it must impose a fine of not less than 30 percent of the maximum fine authorized by law nor more than the maximum fine authorized by law; and

(2) when a court sentences a person convicted of a gross misdemeanor or misdemeanor that is not listed in subdivision 2, it must impose a fine of not less than 30 percent of the maximum fine authorized by law nor more than the maximum fine authorized by law, unless the fine is set at a lower amount on a uniform fine schedule established by the conference of chief judges in consultation with affected state and local agencies. This schedule shall be promulgated not later than January 1 of each year and shall become effective on August 1 of that year unless the legislature, by law, provides otherwise.

The minimum fine required by this subdivision is in addition to the surcharge or assessment required by subdivision 1 and is in addition to any sentence of imprisonment or restitution imposed or ordered by the court.

The court shall collect the fines mandated in this subdivision and, except for fines for traffic and motor vehicle violations governed by section 169.871 and section 299D.03 and fish and game violations governed by section 97A.065, forward 20 percent of the revenues to the state treasurer for deposit in the general fund.

Subd. 5. Waiver prohibited; reduction and installment payments. (a) The court may not waive payment of the minimum fine, surcharge, or assessment required by this section.

(b) If the defendant qualifies for the services of a public defender or the court finds on the record that the convicted person is indigent or that immediate payment of the fine, sur-

charge, or assessment would create undue hardship for the convicted person or that person's immediate family, the court may reduce the amount of the minimum fine to not less than \$50.

(c) The court also may authorize payment of the fine, surcharge, or assessment in installments.

History: 1997 c 7 art 2 s 61; 1997 c 239 art 3 s 4

609.105 SENTENCE OF IMPRISONMENT.

Subdivision 1. Except as otherwise provided in subdivision 3, a sentence to imprisonment for more than one year shall commit the defendant to the custody of the commissioner of corrections.

Subd. 2. The commissioner of corrections shall determine the place of confinement in a prison, reformatory, or other facility of the department of corrections established by law for the confinement of convicted persons and prescribe reasonable conditions and rules for their employment, conduct, instruction, and discipline within or without the facility.

Subd. 3. A sentence to imprisonment for an enhanced gross misdemeanor or for a period of one year or any lesser period shall be to a workhouse, work farm, county jail, or other place authorized by law.

History: 1Sp1997 c 2 s 61

609.11 MINIMUM SENTENCES OF IMPRISONMENT.

[For text of subs 1 to 8, see M.S.1996]

Subd. 9. **Applicable offenses.** The crimes for which mandatory minimum sentences shall be served as provided in this section are: murder in the first, second, or third degree; assault in the first, second, or third degree; burglary; kidnapping; false imprisonment; manslaughter in the first or second degree; aggravated robbery; simple robbery; criminal sexual conduct under the circumstances described in sections 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision 1, clauses (a) to (f); and 609.344, subdivision 1, clauses (a) to (e) and (h) to (j); escape from custody; arson in the first, second, or third degree; drive-by shooting under section 609.66, subdivision 1e; harassment and stalking under section 609.749, subdivision 3, clause (3); possession or other unlawful use of a firearm in violation of section 609.165, subdivision 1b, or 624.713, subdivision 1, clause (b), a felony violation of chapter 152; or any attempt to commit any of these offenses.

[For text of subd 10, see M.S.1996]

History: 1997 c 96 s 4

609.113 SENTENCE TO WORK PROGRAM FOR CERTAIN OFFENDERS.

Subdivision 1. **Mandatory sentence.** (a) Except as provided in paragraph (b), if a court stays the imposition or execution of sentence under section 609.135 for an adult male who is convicted of a first- or second-time nonviolent felony offense, and who has never been previously convicted of or adjudicated for committing an offense against the person, the court, in addition to any other intermediate sanctions ordered and as a condition of probation, shall order the person to satisfactorily complete the work program for the period of time specified in subdivision 4, paragraph (a).

If the work program is full at the time of sentencing, the court may sentence the person to any sentence authorized in section 609.10 or 609.135. The court may sentence the person to the program and require that the person be placed in the program when an opening occurs.

(b) If the court determines, based on substantial and compelling reasons, that a person described in paragraph (a) would receive a more appropriate sanction and level of care through an alternative disposition using local correctional resources, the court may sentence the person to a disposition not involving the work program notwithstanding paragraph (a). This sentence must include a sanction of equivalent or greater severity as the work program.

If a court sentences a person under this paragraph, the court shall make written findings as to the reasons for not using the work program. The court shall forward these findings, including the alternative sentence imposed, to the sentencing guidelines commission.

Subd. 2. Permissive sentence. A court may sentence a person who has never previously been convicted of or adjudicated for committing an offense against the person to satisfactorily complete the work program for a period of time authorized in subdivision 4, paragraph (b), if the person:

(1) is convicted of a nonviolent felony offense other than a first- or second-time nonviolent felony offense and the court is staying the imposition or execution of sentence under section 609.135; or

(2) is convicted of a nonviolent gross misdemeanor offense.

This sentence may be in addition to any other sanctions ordered by the court.

Subd. 3. Offenders ineligible for program. A person is ineligible to be sentenced to the work program if:

(1) the court determines that the person has a debilitating chemical dependency or serious mental health problem; or

(2) the person has been convicted of a nonviolent felony or gross misdemeanor offense after having initially been charged with committing a crime against the person.

Subd. 4. Length of sentence. (a) If the court determines that the offense is the person's first nonviolent felony offense, the court shall sentence the person to the work program for 60 days. If the court determines that the offense is the person's second nonviolent felony offense, the court shall sentence the person to the work program for 90 days.

(b) The court may sentence a person described in subdivision 2 as follows:

(1) if the person is convicted of a nonviolent felony offense, the court may sentence the person to the work program for up to 90 days; or

(2) if the person is convicted of a nonviolent gross misdemeanor offense, the court may sentence the person to the work program for up to 30 days.

(c) The person shall be placed in the work program as soon as possible after the sentencing to ensure swift consequences for the offense.

Subd. 5. Report. By January 15, 1999, and each year thereafter, the sentencing guidelines commission shall issue a report to the chairs of the senate and house committees and divisions having jurisdiction over criminal justice policy and funding summarizing the information received from courts under subdivision 1, paragraph (b).

Subd. 6. Definitions. For purposes of this section, "nonviolent felony offense" and "nonviolent gross misdemeanor offense" do not include crimes against the person.

History: 1997 c 239 art 3 s 5

609.115 PRESENTENCE INVESTIGATION.

Subdivision 1. Presentence investigation. (a) When a defendant has been convicted of a misdemeanor or gross misdemeanor, the court may, and when the defendant has been convicted of a felony, the court shall, before sentence is imposed, cause a presentence investigation and written report to be made to the court concerning the defendant's individual characteristics, circumstances, needs, potentialities, criminal record and social history, the circumstances of the offense and the harm caused by it to others and to the community. At the request of the prosecutor in a gross misdemeanor case, the court shall order that a presentence investigation and report be prepared. The investigation shall be made by a probation officer of the court, if there is one; otherwise it shall be made by the commissioner of corrections. The officer conducting the presentence or predispositional investigation shall make reasonable and good faith efforts to contact and provide the victim with the information required under section 611A.037, subdivision 2. Presentence investigations shall be conducted and summary hearings held upon reports and upon the sentence to be imposed upon the defendant in accordance with this section, section 244.10, and the Rules of Criminal Procedure.

(b) When the crime is a violation of sections 609.561 to 609.563, 609.5641, or 609.576 and involves a fire, the report shall include a description of the financial and physical harm the offense has had on the public safety personnel who responded to the fire. For purposes of this paragraph, "public safety personnel" means the state fire marshal; employees of the division of the state fire marshal; firefighters, regardless of whether the firefighters receive any

remuneration for providing services; peace officers, as defined in section 626.05, subdivision 2; individuals providing emergency management services; and individuals providing emergency medical services.

(c) When the crime is a felony violation of chapter 152 involving the sale or distribution of a controlled substance, the report shall include a description of any adverse social or economic effects the offense has had on persons who reside in the neighborhood where the offense was committed.

(d) The report shall also include the information relating to crime victims required under section 611A.037, subdivision 1. If the court directs, the report shall include an estimate of the prospects of the defendant's rehabilitation and recommendations as to the sentence which should be imposed. In misdemeanor cases the report may be oral.

(e) When a defendant has been convicted of a felony, and before sentencing, the court shall cause a sentencing worksheet to be completed to facilitate the application of the Minnesota sentencing guidelines. The worksheet shall be submitted as part of the presentence investigation report.

(f) When a person is convicted of a felony for which the sentencing guidelines presume that the defendant will be committed to the commissioner of corrections under an executed sentence and no motion for a sentencing departure has been made by counsel, the court may, when there is no space available in the local correctional facility, commit the defendant to the custody of the commissioner of corrections, pending completion of the presentence investigation and report. When a defendant is convicted of a felony for which the sentencing guidelines do not presume that the defendant will be committed to the commissioner of corrections, or for which the sentencing guidelines presume commitment to the commissioner but counsel has moved for a sentencing departure, the court may commit the defendant to the commissioner with the consent of the commissioner, pending completion of the presentence investigation and report. The county of commitment shall return the defendant to the court when the court so orders.

[For text of subs 1a to 9, see M.S.1996]

History: 1997 c 239 art 8 s 30

609.125 SENTENCE FOR MISDEMEANOR OR GROSS MISDEMEANOR.

Subdivision 1. **Sentences available.** Upon conviction of a misdemeanor or gross misdemeanor the court, if sentence is imposed, may, to the extent authorized by law, sentence the defendant:

- (1) to imprisonment for a definite term; or
- (2) to payment of a fine, or to imprisonment for a specified term if the fine is not paid; or
- (3) to both imprisonment for a definite term and payment of a fine; or
- (4) to payment of court-ordered restitution in addition to either imprisonment or payment of a fine, or both; or
- (5) to payment of a local correctional fee as authorized under section 609.102 in addition to any other sentence imposed by the court; or
- (6) to perform work service in a restorative justice program in addition to any other sentence imposed by the court.

Subd. 2. **Restitution.** (a) As used in this section, "restitution" includes:

- (1) payment of compensation to the victim or the victim's family; and
- (2) if the victim is deceased or already has been fully compensated, payment of money to a victim assistance program or other program directed by the court.

"Restitution" includes payment of compensation to a government entity that incurs loss as a direct result of a crime.

(b) When the defendant does not pay the entire amount of court-ordered restitution and the fine at the same time, the court may order that all restitution shall be paid before the fine is paid.

History: 1997 c 239 art 3 s 6; art 7 s 17

609.135 STAY OF IMPOSITION OR EXECUTION OF SENTENCE.

Subdivision 1. **Terms and conditions.** (a) Except when a sentence of life imprisonment is required by law, or when a mandatory minimum sentence is required by section 609.11, any court may stay imposition or execution of sentence and:

(1) may order intermediate sanctions without placing the defendant on probation; or

(2) may place the defendant on probation with or without supervision and on the terms the court prescribes, including intermediate sanctions when practicable. The court may order the supervision to be under the probation officer of the court, or, if there is none and the conviction is for a felony or gross misdemeanor, by the commissioner of corrections, or in any case by some other suitable and consenting person. No intermediate sanction may be ordered performed at a location that fails to observe applicable requirements or standards of chapter 181A or 182, or any rule promulgated under them.

(b) For purposes of this subdivision, subdivision 6, and section 609.14, the term "intermediate sanctions" includes but is not limited to incarceration in a local jail or workhouse, home detention, electronic monitoring, intensive probation, sentencing to service, reporting to a day reporting center, chemical dependency or mental health treatment or counseling, restitution, fines, day-fines, community work service, work service in a restorative justice program, work in lieu of or to work off fines and, with the victim's consent, work in lieu of or to work off restitution.

(c) A court may not stay the revocation of the driver's license of a person convicted of violating the provisions of section 169.121.

[For text of subd 1a, see M.S.1996]

Subd. 1c. Failure to complete court-ordered treatment. If the court orders a defendant to undergo treatment as a condition of probation and if the defendant fails to successfully complete treatment at least 60 days before the term of probation expires, the prosecutor or the defendant's probation officer may ask the court to hold a hearing to determine whether the conditions of probation should be changed or probation should be revoked. The court shall schedule and hold this hearing and take appropriate action, including action under subdivision 2, paragraph (h), before the defendant's term of probation expires.

Subd. 2. Stay of sentence maximum periods. (a) If the conviction is for a felony the stay shall be for not more than four years or the maximum period for which the sentence of imprisonment might have been imposed, whichever is longer.

(b) If the conviction is for an enhanced gross misdemeanor violation of section 169.121 or 169.129, the stay shall be for not more than six years. The court shall provide for unsupervised probation for the last year of the stay unless the court finds that the defendant needs supervised probation for all or part of the last year.

(c) If the conviction is for a gross misdemeanor violation of section 169.121 or 169.129, the stay shall be for not more than four years. The court shall provide for unsupervised probation for the last year of the stay unless the court finds that the defendant needs supervised probation for all or part of the last year.

(d) If the conviction is for a gross misdemeanor not specified in paragraph (c), the stay shall be for not more than two years.

(e) If the conviction is for any misdemeanor under section 169.121; 609.746, subdivision 1; 609.79; or 617.23; or for a misdemeanor under section 609.2242 or 609.224, subdivision 1, in which the victim of the crime was a family or household member as defined in section 518B.01, the stay shall be for not more than two years. The court shall provide for unsupervised probation for the second year of the stay unless the court finds that the defendant needs supervised probation for all or part of the second year.

(f) If the conviction is for a misdemeanor not specified in paragraph (e), the stay shall be for not more than one year.

(g) The defendant shall be discharged six months after the term of the stay expires, unless the stay has been revoked or extended under paragraph (h), or the defendant has already been discharged.

(h) Notwithstanding the maximum periods specified for stays of sentences under paragraphs (a) to (g), a court may extend a defendant's term of probation for up to one year if it finds, at a hearing conducted under subdivision 1a, that:

(1) the defendant has not paid court-ordered restitution or a fine in accordance with the payment schedule or structure; and

(2) the defendant is likely to not pay the restitution or fine the defendant owes before the term of probation expires.

This one-year extension of probation for failure to pay restitution or a fine may be extended by the court for up to one additional year if the court finds, at another hearing conducted under subdivision 1a, that the defendant still has not paid the court-ordered restitution or fine that the defendant owes.

(i) Notwithstanding the maximum periods specified for stays of sentences under paragraphs (a) to (g), a court may extend a defendant's term of probation for up to three years if it finds, at a hearing conducted under subdivision 1c, that:

(1) the defendant has failed to complete court-ordered treatment successfully; and

(2) the defendant is likely not to complete court-ordered treatment before the term of probation expires.

[For text of subs 3 to 8, see M.S.1996]

History: 1997 c 239 art 3 s 7; art 5 s 8,9; 1Sp1997 c 2 s 62

609.15 MULTIPLE SENTENCES.

Subdivision 1. Concurrent, consecutive sentences; specification requirement. (a) Except as provided in paragraph (c), when separate sentences of imprisonment are imposed on a defendant for two or more crimes, whether charged in a single indictment or information or separately, or when a person who is under sentence of imprisonment in this state is being sentenced to imprisonment for another crime committed prior to or while subject to such former sentence, the court in the later sentences shall specify whether the sentences shall run concurrently or consecutively. If the court does not so specify, the sentences shall run concurrently.

(b) When a court imposes sentence for a misdemeanor or gross misdemeanor offense and specifies that the sentence shall run consecutively to any other sentence, the court may order the defendant to serve time in custody for the consecutive sentence in addition to any time in custody the defendant may be serving for any other offense, including probationary jail time or imprisonment for any felony offense.

(c) An inmate of a state prison who is convicted of committing an assault within the correctional facility is subject to the consecutive sentencing provisions of section 609.2232.

Subd. 2. Limit on sentences; misdemeanor and gross misdemeanor. If the court specifies that the sentence shall run consecutively and all of the sentences are for misdemeanors, the total of the sentences shall not exceed one year. If the sentences are for a gross misdemeanor or enhanced gross misdemeanor and one or more misdemeanors, the total of the sentences shall not exceed two years. If all of the sentences are for gross misdemeanors and enhanced gross misdemeanors, the total of the sentences shall not exceed four years.

History: 1997 c 239 art 3 s 8; art 9 s 35; 1Sp1997 c 2 s 63

609.153 INCREASED PENALTIES FOR CERTAIN MISDEMEANORS.

Subdivision 1. Application. This section applies to the following misdemeanor-level crimes: sections 609.324 (prostitution); 609.546 (motor vehicle tampering); 609.595 (damage to property); and 609.66 (dangerous weapons); and violations of local ordinances prohibiting the unlawful sale or possession of controlled substances.

Subd. 2. Custodial arrest. Notwithstanding Rule 6.01 of the Rules of Criminal Procedure, a peace officer acting without a warrant who has decided to proceed with the prosecution of a person for committing a crime described in subdivision 1 may arrest and take the person into custody if the officer has reason to believe the person has a prior conviction for any crime described in subdivision 1.

Subd. 3. Increased penalty. Notwithstanding the statutory maximum penalty otherwise applicable to the offense, a person who commits a misdemeanor-level crime described in subdivision 1 is guilty of a gross misdemeanor if the court determines at the time of sentencing that the person has two or more prior convictions in this or any other state for any of the crimes described in subdivision 1.

Subd. 4. Notice to complaining witness. A prosecuting authority who is responsible for filing charges against or prosecuting a person arrested under the circumstances described in subdivision 2 shall make reasonable efforts to notify the complaining witness of the final outcome of the criminal proceeding that resulted from the arrest including, where appropriate, the decision to dismiss or not file charges against the arrested person.

History: 1997 c 239 art 3 s 9

609.221 ASSAULT IN THE FIRST DEGREE.

Subdivision 1. Great bodily harm. Whoever assaults another and inflicts great bodily harm may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than \$30,000, or both.

Subd. 2. Use of deadly force against peace officer or correctional employee. (a) Whoever assaults a peace officer or correctional employee by using or attempting to use deadly force against the officer or employee while the officer or employee is engaged in the performance of a duty imposed by law, policy, or rule may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than \$30,000, or both.

(b) A person convicted of assaulting a peace officer or correctional employee as described in paragraph (a) shall be committed to the commissioner of corrections for not less than ten years, nor more than 20 years. A defendant convicted and sentenced as required by this paragraph is not eligible for probation, parole, discharge, work release, or supervised release, until that person has served the full term of imprisonment as provided by law, notwithstanding the provisions of sections 241.26, 242.19, 243.05, 244.04, 609.12, and 609.135. Notwithstanding section 609.135, the court may not stay the imposition or execution of this sentence.

(c) As used in this subdivision:

- (1) "correctional employee" means an employee of a public or private prison, jail, or workhouse;
- (2) "deadly force" has the meaning given in section 609.066, subdivision 1; and
- (3) "peace officer" has the meaning given in section 626.84, subdivision 1.

History: 1997 c 239 art 3 s 10

609.2231 ASSAULT IN THE FOURTH DEGREE.

[For text of subs 1 to 2a, see M.S.1996]

Subd. 3. Correctional employees. Whoever commits either of the following acts against an employee of a correctional facility as defined in section 241.021, subdivision 1, clause (5), while the employee is engaged in the performance of a duty imposed by law, policy, or rule is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$4,000, or both:

- (1) assaults the employee and inflicts demonstrable bodily harm; or
- (2) intentionally throws or otherwise transfers bodily fluids or feces at or onto the employee.

[For text of subs 4 and 5, see M.S.1996]

Subd. 6. Public employees with mandated duties. A person is guilty of a gross misdemeanor who:

- (1) assaults an agricultural inspector, occupational safety and health investigator, child protection worker, public health nurse, or probation or parole officer while the employee is engaged in the performance of a duty mandated by law, court order, or ordinance;

(2) knows that the victim is a public employee engaged in the performance of the official public duties of the office; and

(3) inflicts demonstrable bodily harm.

History: 1997 c 180 s 5; 1997 c 239 art 9 s 36

609.2232 CONSECUTIVE SENTENCES FOR ASSAULTS COMMITTED BY STATE PRISON INMATES.

If an inmate of a state correctional facility is convicted of violating section 609.221, 609.222, 609.223, 609.2231, or 609.224, while confined in the facility, the sentence imposed for the assault shall be executed and run consecutively to any unexpired portion of the offender's earlier sentence. The inmate is not entitled to credit against the sentence imposed for the assault for time served in confinement for the earlier sentence. The inmate shall serve the sentence for the assault in a state correctional facility even if the assault conviction was for a misdemeanor or gross misdemeanor.

History: 1997 c 239 art 9 s 37

609.2244 PRESENTENCE DOMESTIC ABUSE INVESTIGATIONS.

Subdivision 1. Investigation. A presentence domestic abuse investigation must be conducted and a report submitted to the court by the corrections agency responsible for conducting the investigation when:

(1) a defendant is convicted of an offense described in section 518B.01, subdivision 2;

or

(2) a defendant is arrested for committing an offense described in section 518B.01, subdivision 2, but is convicted of another offense arising out of the same circumstances surrounding the arrest.

Subd. 2. Report. (a) The department of corrections shall establish minimum standards for the report, including the circumstances of the offense, impact on the victim, the defendant's prior record, characteristics and history of alcohol and chemical use problems, and amenability to domestic abuse programs. The report is classified as private data on individuals as defined in section 13.02, subdivision 12. Victim impact statements are confidential.

(b) The report must include:

(1) a recommendation on any limitations on contact with the victim and other measures to ensure the victim's safety;

(2) a recommendation for the defendant to enter and successfully complete domestic abuse programming and any aftercare found necessary by the investigation;

(3) a recommendation for chemical dependency evaluation and treatment as determined by the evaluation whenever alcohol or drugs were found to be a contributing factor to the offense;

(4) recommendations for other appropriate remedial action or care or a specific explanation why no level of care or action is recommended; and

(5) consequences for failure to abide by conditions set up by the court.

Subd. 3. Corrections agents standards; rules; investigation time limits. A domestic abuse investigation required by this section must be conducted by the local corrections department or the commissioner of corrections. The corrections agent shall have access to any police reports or other law enforcement data relating to the current offense or previous offenses that are necessary to complete the evaluation. A corrections agent conducting an investigation under this section may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider. An appointment for the defendant to undergo the investigation must be made by the court, a court services probation officer, or court administrator as soon as possible.

Subd. 4. Domestic abuse investigation fee. When the court sentences a person convicted of an offense described in section 518B.01, subdivision 2, the court shall impose a domestic abuse investigation fee of at least \$50 but not more than \$125. This fee must be imposed whether the sentence is executed, stayed, or suspended. The court may not waive

payment or authorize payment of the fee in installments unless it makes written findings on the record that the convicted person is indigent or that the fee would create undue hardship for the convicted person or that person's immediate family. The person convicted of the offense and ordered to pay the fee shall pay the fee to the county corrections department or other designated agencies conducting the investigation.

History: 1997 c 239 art 7 s 18

609.2245 FEMALE GENITAL MUTILATION; PENALTIES.

[For text of subd 1, see M.S.1996]

Subd. 2. Permitted activities. A surgical procedure is not a violation of subdivision 1 if the procedure:

(1) is necessary to the health of the person on whom it is performed and is performed by: (i) a physician licensed under chapter 147; (ii) a physician in training under the supervision of a licensed physician; or (iii) a certified nurse midwife practicing within the nurse midwife's legal scope of practice; or

(2) is performed on a person who is in labor or who has just given birth and is performed for medical purposes connected with that labor or birth: (i) by a physician licensed under chapter 147; (ii) a physician in training under the supervision of a licensed physician; or (iii) a certified nurse midwife practicing within the nurse midwife's legal scope of practice.

History: 1997 c 239 art 3 s 11

609.2336 DECEPTIVE OR UNFAIR TRADE PRACTICES; ELDERLY OR HANDICAPPED VICTIMS.

Subdivision 1. Definitions. As used in this section:

(1) "charitable solicitation law violation" means a violation of sections 309.50 to 309.61;

(2) "consumer fraud law violation" means a violation of sections 325F.68 to 325F.70;

(3) "deceptive trade practices law violation" means a violation of sections 325D.43 to 325D.48;

(4) "false advertising law violation" means a violation of section 325F.67;

(5) "handicapped person" means a person who has an impairment of physical or mental function or emotional status that substantially limits one or more major life activities;

(6) "major life activities" means functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working; and

(7) "senior citizen" means a person who is 65 years of age or older.

Subd. 2. Crime. It is a gross misdemeanor for any person to commit a charitable solicitation law violation, a consumer fraud law violation, a deceptive trade practices law violation, or a false advertising law violation if the person knows or has reason to know that the person's conduct:

(1) is directed at one or more handicapped persons or senior citizens; and

(2) will cause or is likely to cause a handicapped person or a senior citizen to suffer loss or encumbrance of a primary residence, principal employment or other major source of income, substantial loss of property set aside for retirement or for personal or family care and maintenance, substantial loss of pension, retirement plan, or government benefits, or substantial loss of other assets essential to the victim's health or welfare.

Subd. 3. Prosecutorial jurisdiction. The attorney general has statewide jurisdiction to prosecute violations of this section. This jurisdiction is concurrent with that of the local prosecuting authority responsible for prosecuting gross misdemeanors in the place where the violation was committed.

History: 1997 c 239 art 3 s 12

609.347 EVIDENCE.

[For text of subs 1 to 6, see M.S.1996]

Subd. 7. **Effect of statute on rules.** Rule 412 of the Rules of Evidence is superseded to the extent of its conflict with this section.

History: 1997 c 239 art 5 s 10

609.375 NONSUPPORT OF SPOUSE OR CHILD.

[For text of subs 1 to 2a, see M.S.1996]

Subd. 3. [Repealed, 1997 c 203 art 6 s 93; 1997 c 245 art 1 s 34]

Subd. 4. [Repealed, 1997 c 203 art 6 s 93; 1997 c 245 art 1 s 34]

[For text of subd 5, see M.S.1996]

Subd. 6. [Repealed, 1997 c 203 art 6 s 93; 1997 c 245 art 1 s 34]

Subd. 7. **Conditions of work release; probation violation.** Upon conviction under this section, a defendant may obtain work release only upon the imposition of an automatic income withholding order, and may be required to post a bond in avoidance of jail time and conditioned upon payment of all child support owed. Nonpayment of child support is a violation of any probation granted following conviction under subdivision 2a.

History: 1997 c 245 art 1 s 31

609.487 FLEEING A PEACE OFFICER IN A MOTOR VEHICLE.

[For text of subs 1 and 2, see M.S.1996]

Subd. 2a. **Motor vehicle; definition.** For purposes of this section, "motor vehicle" has the meaning given it in section 169.01, subdivision 3, and includes a snowmobile, as defined in section 84.81, off-road recreational vehicles as defined in section 169.01, subdivision 86, and motorboats as defined in section 169.01, subdivision 87.

Subd. 3. **Fleeing an officer.** Whoever by means of a motor vehicle flees or attempts to flee a peace officer who is acting in the lawful discharge of an official duty, and the perpetrator knows or should reasonably know the same to be a peace officer, is guilty of a felony and may be sentenced to imprisonment for not more than three years and one day or to payment of a fine of not more than \$5,000, or both.

[For text of subs 4 and 5, see M.S.1996]

History: 1997 c 226 s 44; 1997 c 239 art 3 s 13; 1Sp1997 c 2 s 64

609.495 AIDING AN OFFENDER.

Subdivision 1. (a) Whoever harbors, conceals, or aids another known by the actor to have committed a felony under the laws of this or another state or of the United States with intent that such offender shall avoid or escape from arrest, trial, conviction, or punishment, may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than \$5,000, or both.

(b) Whoever knowingly harbors, conceals, or aids a person who is on probation, parole, or supervised release because of a felony level conviction and for whom an arrest and detention order has been issued, with intent that the person evade or escape being taken into custody under the order, may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than \$5,000, or both. As used in this paragraph, "arrest and detention order" means a written order to take and detain a probationer, parolee, or supervised releasee that is issued under section 243.05, subdivision 1; 244.19, subdivision 4; or 401.02, subdivision 4.

[For text of subd 3, see M.S.1996]

History: 1997 c 239 art 3 s 14; art 9 s 51

609.498 TAMPERING WITH A WITNESS.

[For text of subs 1 and 1a, see M.S.1996]

Subd. 1b. Aggravated first-degree witness tampering. (a) A person is guilty of aggravated first-degree witness tampering if the person causes or, by means of an implicit or explicit credible threat, threatens to cause great bodily harm or death to another in the course of committing any of the following acts intentionally:

(1) preventing or dissuading or attempting to prevent or dissuade a person who is or may become a witness from attending or testifying at any criminal trial or proceeding;

(2) coercing or attempting to coerce a person who is or may become a witness to testify falsely at any criminal trial or proceeding;

(3) retaliating against a person who was summoned as a witness at any criminal trial or proceeding within a year following that trial or proceeding or within a year following the actor's release from incarceration, whichever is later;

(4) preventing or dissuading or attempting to prevent or dissuade a person from providing information to law enforcement authorities concerning a crime;

(5) coercing or attempting to coerce a person to provide false information concerning a crime to law enforcement authorities; or

(6) retaliating against any person who has provided information to law enforcement authorities concerning a crime within a year of that person providing the information or within a year of the actor's release from incarceration, whichever is later.

(b) A person convicted of committing any act prohibited by paragraph (a) may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than \$30,000, or both.

[For text of subs 2 and 3, see M.S.1996]

Subd. 4. No bar to conviction. Notwithstanding section 609.035 or 609.04, a prosecution for or conviction of the crime of aggravated first-degree witness tampering is not a bar to conviction of or punishment for any other crime.

History: 1997 c 239 art 3 s 15,16

609.52 THEFT.

[For text of subd 1, see M.S.1996]

Subd. 2. Acts constituting theft. Whoever does any of the following commits theft and may be sentenced as provided in subdivision 3:

(1) intentionally and without claim of right takes, uses, transfers, conceals or retains possession of movable property of another without the other's consent and with intent to deprive the owner permanently of possession of the property; or

(2) having a legal interest in movable property, intentionally and without consent, takes the property out of the possession of a pledgee or other person having a superior right of possession, with intent thereby to deprive the pledgee or other person permanently of the possession of the property; or

(3) obtains for the actor or another the possession, custody, or title to property of or performance of services by a third person by intentionally deceiving the third person with a false representation which is known to be false, made with intent to defraud, and which does defraud the person to whom it is made. "False representation" includes without limitation:

(i) the issuance of a check, draft, or order for the payment of money, except a forged check as defined in section 609.631, or the delivery of property knowing that the actor is not entitled to draw upon the drawee therefor or to order the payment or delivery thereof; or

(ii) a promise made with intent not to perform. Failure to perform is not evidence of intent not to perform unless corroborated by other substantial evidence; or

(iii) the preparation or filing of a claim for reimbursement, a rate application, or a cost report used to establish a rate or claim for payment for medical care provided to a recipient of medical assistance under chapter 256B, which intentionally and falsely states the costs of or actual services provided by a vendor of medical care; or

(iv) the preparation or filing of a claim for reimbursement for providing treatment or supplies required to be furnished to an employee under section 176.135 which intentionally and falsely states the costs of or actual treatment or supplies provided; or

(v) the preparation or filing of a claim for reimbursement for providing treatment or supplies required to be furnished to an employee under section 176.135 for treatment or supplies that the provider knew were medically unnecessary, inappropriate, or excessive; or

(4) by swindling, whether by artifice, trick, device, or any other means, obtains property or services from another person; or

(5) intentionally commits any of the acts listed in this subdivision but with intent to exercise temporary control only and:

(i) the control exercised manifests an indifference to the rights of the owner or the restoration of the property to the owner; or

(ii) the actor pledges or otherwise attempts to subject the property to an adverse claim; or

(iii) the actor intends to restore the property only on condition that the owner pay a reward or buy back or make other compensation; or

(6) finds lost property and, knowing or having reasonable means of ascertaining the true owner, appropriates it to the finder's own use or to that of another not entitled thereto without first having made reasonable effort to find the owner and offer and surrender the property to the owner; or

(7) intentionally obtains property or services, offered upon the deposit of a sum of money or tokens in a coin or token operated machine or other receptacle, without making the required deposit or otherwise obtaining the consent of the owner; or

(8) intentionally and without claim of right converts any article representing a trade secret, knowing it to be such, to the actor's own use or that of another person or makes a copy of an article representing a trade secret, knowing it to be such, and intentionally and without claim of right converts the same to the actor's own use or that of another person. It shall be a complete defense to any prosecution under this clause for the defendant to show that information comprising the trade secret was rightfully known or available to the defendant from a source other than the owner of the trade secret; or

(9) leases or rents personal property under a written instrument and who with intent to place the property beyond the control of the lessor conceals or aids or abets the concealment of the property or any part thereof, or any lessee of the property who sells, conveys, or encumbers the property or any part thereof without the written consent of the lessor, without informing the person to whom the lessee sells, conveys, or encumbers that the same is subject to such lease and with intent to deprive the lessor of possession thereof. Evidence that a lessee used a false or fictitious name or address in obtaining the property or fails or refuses to return the property to lessor within five days after written demand for the return has been served personally in the manner provided for service of process of a civil action or sent by certified mail to the last known address of the lessee, whichever shall occur later, shall be evidence of intent to violate this clause. Service by certified mail shall be deemed to be complete upon deposit in the United States mail of such demand, postpaid and addressed to the person at the address for the person set forth in the lease or rental agreement, or, in the absence of the address, to the person's last known place of residence; or

(10) alters, removes, or obliterates numbers or symbols placed on movable property for purpose of identification by the owner or person who has legal custody or right to possession thereof with the intent to prevent identification, if the person who alters, removes, or obliterates the numbers or symbols is not the owner and does not have the permission of the owner to make the alteration, removal, or obliteration; or

(11) with the intent to prevent the identification of property involved, so as to deprive the rightful owner of possession thereof, alters or removes any permanent serial number, permanent distinguishing number or manufacturer's identification number on personal property or possesses, sells or buys any personal property knowing or having reason to know that the permanent serial number, permanent distinguishing number or manufacturer's identification number has been removed or altered; or

(12) intentionally deprives another of a lawful charge for cable television service by:

(i) making or using or attempting to make or use an unauthorized external connection outside the individual dwelling unit whether physical, electrical, acoustical, inductive, or other connection; or by

(ii) attaching any unauthorized device to any cable, wire, microwave, or other component of a licensed cable communications system as defined in chapter 238. Nothing herein shall be construed to prohibit the electronic video rerecording of program material transmitted on the cable communications system by a subscriber for fair use as defined by Public Law Number 94-553, section 107; or

(13) except as provided in paragraphs (12) and (14), obtains the services of another with the intention of receiving those services without making the agreed or reasonably expected payment of money or other consideration; or

(14) intentionally deprives another of a lawful charge for telecommunications service by:

(i) making, using, or attempting to make or use an unauthorized connection whether physical, electrical, by wire, microwave, radio, or other means to a component of a local telecommunication system as provided in chapter 237; or

(ii) attaching an unauthorized device to a cable, wire, microwave, radio, or other component of a local telecommunication system as provided in chapter 237.

The existence of an unauthorized connection is prima facie evidence that the occupier of the premises:

(i) made or was aware of the connection; and

(ii) was aware that the connection was unauthorized; or

(15) with intent to defraud, diverts corporate property other than in accordance with general business purposes or for purposes other than those specified in the corporation's articles of incorporation; or

(16) with intent to defraud, authorizes or causes a corporation to make a distribution in violation of section 302A.551, or any other state law in conformity with it; or

(17) takes or drives a motor vehicle without the consent of the owner or an authorized agent of the owner, knowing or having reason to know that the owner or an authorized agent of the owner did not give consent.

Subd. 3. Sentence. Whoever commits theft may be sentenced as follows:

(1) to imprisonment for not more than 20 years or to payment of a fine of not more than \$100,000, or both, if the property is a firearm, or the value of the property or services stolen is more than \$35,000 and the conviction is for a violation of subdivision 2, clause (3), (4), (15), or (16); or

(2) to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both, if the value of the property or services stolen exceeds \$2,500, or if the property stolen was an article representing a trade secret, an explosive or incendiary device, or a controlled substance listed in schedule I or II pursuant to section 152.02 with the exception of marijuana; or

(3) to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if:

(a) the value of the property or services stolen is more than \$500 but not more than \$2,500; or

(b) the property stolen was a controlled substance listed in schedule III, IV, or V pursuant to section 152.02; or

(c) the value of the property or services stolen is more than \$200 but not more than \$500 and the person has been convicted within the preceding five years for an offense under this section, section 256.98; 268.182; 609.24; 609.245; 609.53; 609.582, subdivision 1, 2, or 3; 609.625; 609.63; 609.631; or 609.821, or a statute from another state in conformity with any of those sections, and the person received a felony or gross misdemeanor sentence for the offense, or a sentence that was stayed under section 609.135 if the offense to which a plea was entered would allow imposition of a felony or gross misdemeanor sentence; or

(d) the value of the property or services stolen is not more than \$500, and any of the following circumstances exist:

- (i) the property is taken from the person of another or from a corpse, or grave or coffin containing a corpse; or
- (ii) the property is a record of a court or officer, or a writing, instrument or record kept, filed or deposited according to law with or in the keeping of any public officer or office; or
- (iii) the property is taken from a burning, abandoned, or vacant building or upon its removal therefrom, or from an area of destruction caused by civil disaster, riot, bombing, or the proximity of battle; or
- (iv) the property consists of public funds belonging to the state or to any political subdivision or agency thereof; or
- (v) the property stolen is a motor vehicle; or
- (4) to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both, if the value of the property or services stolen is more than \$200 but not more than \$500; or
- (5) in all other cases where the value of the property or services stolen is \$200 or less, to imprisonment for not more than 90 days or to payment of a fine of not more than \$700, or both, provided, however, in any prosecution under subdivision 2, clauses (1), (2), (3), (4), and (13), the value of the money or property or services received by the defendant in violation of any one or more of the above provisions within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this subdivision; provided that when two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this paragraph.

[For text of subd 4, see M.S.1996]

History: 1997 c 66 s 79; 1997 c 239 art 3 s 17

609.5314 ADMINISTRATIVE FORFEITURE OF CERTAIN PROPERTY SEIZED IN CONNECTION WITH A CONTROLLED SUBSTANCES SEIZURE.

[For text of subs 1 and 2, see M.S.1996]

Subd. 3. Judicial determination. (a) Within 60 days following service of a notice of seizure and forfeiture under this section, a claimant may file a demand for a judicial determination of the forfeiture. The demand must be in the form of a civil complaint and must be filed with the court administrator in the county in which the seizure occurred, together with proof of service of a copy of the complaint on the county attorney for that county, and the standard filing fee for civil actions unless the petitioner has the right to sue in forma pauperis under section 563.01. If the value of the seized property is less than \$500, the claimant may file an action in conciliation court for recovery of the seized property without paying the conciliation court filing fee. No responsive pleading is required of the county attorney and no court fees may be charged for the county attorney's appearance in the matter. The proceedings are governed by the Rules of Civil Procedure.

(b) The complaint must be captioned in the name of the claimant as plaintiff and the seized property as defendant, and must state with specificity the grounds on which the claimant alleges the property was improperly seized and the plaintiff's interest in the property seized. Notwithstanding any law to the contrary, an action for the return of property seized under this section may not be maintained by or on behalf of any person who has been served with a notice of seizure and forfeiture unless the person has complied with this subdivision.

(c) If the claimant makes a timely demand for judicial determination under this subdivision, the appropriate agency must conduct the forfeiture under section 609.531, subdivision 6a.

(d) If a demand for judicial determination of an administrative forfeiture is filed under this subdivision and the court orders the return of the seized property, the court shall order that filing fees be reimbursed to the person who filed the demand. In addition, the court may order sanctions under section 549.211. If the court orders payment of these costs, they must be paid from forfeited money or proceeds from the sale of forfeited property from the ap-

propriate law enforcement and prosecuting agencies in the same proportion as they would be distributed under section 609.5315, subdivision 5.

History: 1997 c 213 art 2 s 5

609.684 SALE OF TOXIC SUBSTANCES TO CHILDREN; ABUSE OF TOXIC SUBSTANCES.

[For text of subd 1, see M.S.1996]

Subd. 2. [Repealed, 1997 c 239 art 3 s 25]

[For text of subd 3, see M.S.1996]

Subd. 4. **Notice required.** (a) A business establishment that offers for sale at retail any toxic substance must display a conspicuous sign that contains the following, or substantially similar, language:

“NOTICE

It is a misdemeanor for a person to use or possess glue, cement, aerosol paint, with the intent of inducing intoxication, excitement, or stupefaction of the central nervous system. This use can be harmful or fatal.”

(b) A business establishment may omit from the required notice references to any toxic substance that is not offered for sale by that business establishment.

(c) A business establishment that does not sell any toxic substance listed in subdivision 1 other than butane or butane lighters is not required to post a notice under paragraph (a).

History: 1997 c 239 art 3 s 18

609.746 INTERFERENCE WITH PRIVACY.

Subdivision 1. **Surreptitious intrusion; observation device.** (a) A person is guilty of a misdemeanor who:

(1) enters upon another's property;

(2) surreptitiously gazes, stares, or peeps in the window or any other aperture of a house or place of dwelling of another; and

(3) does so with intent to intrude upon or interfere with the privacy of a member of the household.

(b) A person is guilty of a misdemeanor who:

(1) enters upon another's property;

(2) surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events through the window or any other aperture of a house or place of dwelling of another; and

(3) does so with intent to intrude upon or interfere with the privacy of a member of the household.

(c) A person is guilty of a misdemeanor who:

(1) surreptitiously gazes, stares, or peeps in the window or other aperture of a sleeping room in a hotel, as defined in section 327.70, subdivision 3, a tanning booth, or other place where a reasonable person would have an expectation of privacy and has exposed or is likely to expose their intimate parts, as defined in section 609.341, subdivision 5, or the clothing covering the immediate area of the intimate parts; and

(2) does so with intent to intrude upon or interfere with the privacy of the occupant.

(d) A person is guilty of a misdemeanor who:

(1) surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events through the window or other aperture of a sleeping room in a hotel, as defined in section 327.70, subdivision 3, a tanning booth, or other place where a reasonable person would have an expectation of privacy and has exposed or is likely to expose their intimate parts, as defined in section 609.341, subdivision 5, or the clothing covering the immediate area of the intimate parts; and

(2) does so with intent to intrude upon or interfere with the privacy of the occupant.

(e) A person is guilty of a gross misdemeanor if the person:

(1) violates this subdivision after a previous conviction under this subdivision or section 609.749; or

(2) violates this subdivision against a minor under the age of 16, knowing or having reason to know that the minor is present.

(f) Paragraphs (b) and (d) do not apply to law enforcement officers or corrections investigators, or to those acting under their direction, while engaged in the performance of their lawful duties. Paragraphs (c) and (d) do not apply to conduct in: (1) a medical facility; or (2) a commercial establishment if the owner of the establishment has posted conspicuous signs warning that the premises are under surveillance by the owner or the owner's employees.

History: 1997 c 239 art 5 s 11

609.748 HARASSMENT; RESTRAINING ORDER.

Subdivision 1. **Definition.** For the purposes of this section, the following terms have the meanings given them in this subdivision.

(a) "Harassment" includes:

(1) repeated, intrusive, or unwanted acts, words, or gestures that are intended to adversely affect the safety, security, or privacy of another, regardless of the relationship between the actor and the intended target;

(2) targeted residential picketing; and

(3) a pattern of attending public events after being notified that the actor's presence at the event is harassing to another.

(b) "Respondent" includes any adults or juveniles alleged to have engaged in harassment or organizations alleged to have sponsored or promoted harassment.

(c) "Targeted residential picketing" includes the following acts when committed on more than one occasion:

(1) marching, standing, or patrolling by one or more persons directed solely at a particular residential building in a manner that adversely affects the safety, security, or privacy of an occupant of the building; or

(2) marching, standing, or patrolling by one or more persons which prevents an occupant of a residential building from gaining access to or exiting from the property on which the residential building is located.

[For text of subs 2 to 5, see M.S.1996]

Subd. 6. **Violation of restraining order.** (a) A person who violates a restraining order issued under this section is subject to the penalties provided in paragraphs (b) to (d).

(b) Except as otherwise provided in paragraphs (c) and (d), when a temporary restraining order or a restraining order is granted under this section and the respondent knows of the order, violation of the order is a misdemeanor.

(c) A person is guilty of a gross misdemeanor who knowingly violates the order during the time period between a previous conviction under this subdivision; sections 609.221 to 609.224; 609.2242; 518B.01, subdivision 14; 609.713, subdivisions 1 or 3; or 609.749; and the end of the five years following discharge from sentence for that conviction.

(d) A person is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if the person knowingly violates the order:

(1) during the time period between the first of two or more previous convictions under this subdivision or sections 518B.01, subdivision 14; 609.221 to 609.224; 609.2242; 609.713, subdivision 1 or 3; 609.749; and the end of the five years following discharge from sentence for that conviction;

(2) because of the victim's or another's actual or perceived race, color, religion, sex, sexual orientation, disability as defined in section 363.01, age, or national origin;

(3) by falsely impersonating another;

(4) while possessing a dangerous weapon;

(5) with an intent to influence or otherwise tamper with a juror or a judicial proceeding or with intent to retaliate against a judicial officer, as defined in section 609.415, or a prosecutor, defense attorney, or officer of the court, because of that person's performance of official duties in connection with a judicial proceeding; or

(6) against a victim under the age of 18, if the respondent is more than 36 months older than the victim.

(e) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order issued under subdivision 4 or 5 if the existence of the order can be verified by the officer.

(f) A violation of a temporary restraining order or restraining order shall also constitute contempt of court.

(g) Upon the filing of an affidavit by the petitioner, any peace officer, or an interested party designated by the court, alleging that the respondent has violated an order issued under subdivision 4 or 5, the court may issue an order to the respondent requiring the respondent to appear within 14 days and show cause why the respondent should not be held in contempt of court. The court also shall refer the violation of the order to the appropriate prosecuting authority for possible prosecution under paragraph (b), (c), or (d).

[For text of subs 7 to 9, see M.S.1996]

History: 1997 c 96 s 5; 1997 c 239 art 11 s 5

NOTE: The amendment to subdivision 1 by Laws 1997, chapter 239, article 11, section 5, is effective June 1, 1998. Laws 1997, chapter 239, article 11, section 6.

609.749 HARASSMENT; STALKING; PENALTIES.

Subdivision 1. Definition. As used in this section, "harass" means to engage in intentional conduct which:

(1) the actor knows or has reason to know would cause the victim under the circumstances to feel frightened, threatened, oppressed, persecuted, or intimidated; and

(2) causes this reaction on the part of the victim.

Subd. 1a. No proof of specific intent required. In a prosecution under this section, the state is not required to prove that the actor intended to cause the victim to feel frightened, threatened, oppressed, persecuted, or intimidated, or except as otherwise provided in subdivision 3, clause (4), that the actor intended to cause any other result.

Subd. 2. Harassment and stalking crimes. (a) A person who harasses another by committing any of the following acts is guilty of a gross misdemeanor:

(1) directly or indirectly manifests a purpose or intent to injure the person, property, or rights of another by the commission of an unlawful act;

(2) stalks, follows, or pursues another;

(3) returns to the property of another if the actor is without claim of right to the property or consent of one with authority to consent;

(4) repeatedly makes telephone calls, or induces a victim to make telephone calls to the actor, whether or not conversation ensues;

(5) makes or causes the telephone of another repeatedly or continuously to ring;

(6) repeatedly mails or delivers or causes the delivery of letters, telegrams, messages, packages, or other objects; or

(7) engages in any other harassing conduct that interferes with another person or intrudes on the person's privacy or liberty.

(b) The conduct described in paragraph (a), clauses (4) and (5), may be prosecuted at the place where any call is either made or received. The conduct described in paragraph (a), clause (6), may be prosecuted where any letter, telegram, message, package, or other object is either sent or received.

[For text of subs 3 and 4, see M.S.1996]

Subd. 5. Pattern of harassing conduct. (a) A person who engages in a pattern of harassing conduct with respect to a single victim or one or more members of a single household which the actor knows or has reason to know would cause the victim under the circumstances to feel terrorized or to fear bodily harm and which does cause this reaction on the part of the victim, is guilty of a felony and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both.

(b) For purposes of this subdivision, a "pattern of harassing conduct" means two or more acts within a five-year period that violate the provisions of any of the following:

- (1) this section;
- (2) section 609.713;
- (3) section 609.224;
- (4) section 609.2242;
- (5) section 518B.01, subdivision 14;
- (6) section 609.748, subdivision 6;
- (7) section 609.605, subdivision 1, paragraph (b), clauses (3), (4), and (7);
- (8) section 609.79;
- (9) section 609.795;
- (10) section 609.582;
- (11) section 609.595; or
- (12) section 609.765.

(c) When acts constituting a violation of this subdivision are committed in two or more counties, the accused may be prosecuted in any county in which one of the acts was committed for all acts constituting the pattern.

[For text of subs 6 to 8, see M.S.1996]

History: 1997 c 96 s 6-9

609.7495 PHYSICAL INTERFERENCE WITH SAFE ACCESS TO HEALTH CARE.

Subdivision 1. Definitions. For the purposes of this section, the following terms have the meanings given them.

(a) "Facility" means any of the following:

- (1) a hospital or other health institution licensed under sections 144.50 to 144.56;
- (2) a medical facility as defined in section 144.561;
- (3) an agency, clinic, or office operated under the direction of or under contract with the commissioner of health or a community health board, as defined in section 145A.02;
- (4) a facility providing counseling regarding options for medical services or recovery from an addiction;
- (5) a facility providing emergency shelter services for battered women, as defined in section 611A.31, subdivision 3, or a facility providing transitional housing for battered women and their children;
- (6) a residential care home or home as defined in section 144B.01, subdivision 5;
- (7) a facility as defined in section 626.556, subdivision 2, paragraph (f);
- (8) a facility as defined in section 626.5572, subdivision 6, where the services described in that paragraph are provided;
- (9) a place to or from which ambulance service, as defined in section 144E.001, is provided or sought to be provided; and
- (10) a hospice program licensed under section 144A.48.

(b) "Aggrieved party" means a person whose access to or egress from a facility is obstructed in violation of subdivision 2, or the facility.

[For text of subs 2 to 4, see M.S.1996]

History: 1997 c 199 s 14

609.761 OPERATIONS PERMITTED.

[For text of subs 1 and 2, see M.S.1996]

Subd. 3. **Social skill game.** Sections 609.755 and 609.76 do not prohibit tournaments or contests that satisfy all of the following requirements:

(1) the tournament or contest consists of the card games of chance commonly known as cribbage, skat, sheephead, bridge, euchre, pinochle, gin, 500, smear, or whist;

(2) the tournament or contest does not provide any direct financial benefit to the promoter or organizer; and

(3) the sum of all prizes awarded for each tournament or contest does not exceed \$200.

History: 1997 c 155 s 10

609.78 EMERGENCY TELEPHONE CALLS AND COMMUNICATIONS.

Subdivision 1. **Misdemeanor offenses.** Whoever does the following is guilty of a misdemeanor:

(1) Refuses to relinquish immediately a coin-operated telephone or a telephone line consisting of two or more stations when informed that the line is needed to make an emergency call for medical or ambulance service or for assistance from a police or fire department or for other service needed in an emergency to avoid serious harm to person or property, and an emergency exists;

(2) Secures a relinquishment of a coin-operated telephone or a telephone line consisting of two or more stations by falsely stating that the line is needed for an emergency;

(3) Publishes telephone directories to be used for telephones or telephone lines and the directories do not contain a copy of this section;

(4) Makes an emergency call for medical or ambulance service, knowing that no medical emergency exists; or

(5) Interrupts, disrupts, impedes, or otherwise interferes with the transmission of a citizen's band radio channel communication the purpose of which is to inform or inquire about a medical emergency or an emergency in which property is or is reasonably believed to be in imminent danger of damage or destruction.

Subd. 2. **Interference with a 911 call; gross misdemeanor offense.** A person who intentionally interrupts, disrupts, impedes, or otherwise interferes with a 911 call or who prevents or hinders another from placing a 911 call, and whose conduct does not result in a violation of section 609.498, is guilty of a gross misdemeanor 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.

History: 1997 c 239 art 3 s 19

609.902 DEFINITIONS.

[For text of subs 1 to 3, see M.S.1996]

Subd. 4. **Criminal act.** "Criminal act" means conduct constituting, or a conspiracy or attempt to commit, a felony violation of chapter 152, or a felony violation of section 297D.09; 299F.79; 299F.80; 299F.82; 609.185; 609.19; 609.195; 609.20; 609.205; 609.221; 609.222; 609.223; 609.2231; 609.228; 609.235; 609.245; 609.25; 609.27; 609.322; 609.323; 609.342; 609.343; 609.344; 609.345; 609.42; 609.48; 609.485; 609.495; 609.496; 609.497; 609.498; 609.52, subdivision 2, if the offense is punishable under subdivision 3, clause (3)(b) or clause 3(d)(v) or (vi); section 609.52, subdivision 2, clause (4); 609.53; 609.561; 609.562; 609.582, subdivision 1 or 2; 609.668, subdivision 6, paragraph (a); 609.67; 609.687; 609.713; 609.86; 609.894, subdivision 3 or 4; 624.713; 624.74; or 626A.02, subdivision 1, if the offense is punishable under section 626A.02, subdivision 4,

paragraph (a). "Criminal act" also includes conduct constituting, or a conspiracy or attempt to commit, a felony violation of section 609.52, subdivision 2, clause (3), (4), (15), or (16), if the violation involves an insurance company as defined in section 60A.02, subdivision 4, a nonprofit health service plan corporation regulated under chapter 62C, a health maintenance organization regulated under chapter 62D, or a fraternal benefit society regulated under chapter 64B.

[For text of subs 5 to 10, see M.S.1996]

History: 1997 c 239 art 3 s 20