

1.1 **ARTICLE 4**

1.2 **SEX OFFENDERS**

1.3 Section 1. Minnesota Statutes 2016, section 260.012, is amended to read:

1.4 **260.012 DUTY TO ENSURE PLACEMENT PREVENTION AND FAMILY**
1.5 **REUNIFICATION; REASONABLE EFFORTS.**

1.6 (a) Once a child alleged to be in need of protection or services is under the court's
1.7 jurisdiction, the court shall ensure that reasonable efforts, including culturally appropriate
1.8 services, by the social services agency are made to prevent placement or to eliminate the
1.9 need for removal and to reunite the child with the child's family at the earliest possible time,
1.10 and the court must ensure that the responsible social services agency makes reasonable
1.11 efforts to finalize an alternative permanent plan for the child as provided in paragraph (e).
1.12 In determining reasonable efforts to be made with respect to a child and in making those
1.13 reasonable efforts, the child's best interests, health, and safety must be of paramount concern.
1.14 Reasonable efforts to prevent placement and for rehabilitation and reunification are always
1.15 required except upon a determination by the court that a petition has been filed stating a
1.16 prima facie case that:

1.17 (1) the parent has subjected a child to egregious harm as defined in section 260C.007,
1.18 subdivision 14;

1.19 (2) the parental rights of the parent to another child have been terminated involuntarily;

1.20 (3) the child is an abandoned infant under section 260C.301, subdivision 2, paragraph
1.21 (a), clause (2);

1.22 (4) the parent's custodial rights to another child have been involuntarily transferred to a
1.23 relative under Minnesota Statutes 2010, section 260C.201, subdivision 11, paragraph (d),
1.24 clause (1), section 260C.515, subdivision 4, or a similar law of another jurisdiction;

1.25 (5) the parent has committed sexual abuse as defined in section 626.556, subdivision 2,
1.26 against the child or another child of the parent;

1.27 (6) the parent has committed an offense that requires registration as a predatory offender
1.28 under section 243.166, subdivision 1b, paragraph (a) or (b); or

1.29 (7) the provision of services or further services for the purpose of reunification is futile
1.30 and therefore unreasonable under the circumstances.

1.31 (b) When the court makes one of the prima facie determinations under paragraph (a),
1.32 either permanency pleadings under section 260C.505, or a termination of parental rights

2.1 petition under sections 260C.141 and 260C.301 must be filed. A permanency hearing under
2.2 sections 260C.503 to 260C.521 must be held within 30 days of this determination.

2.3 (c) In the case of an Indian child, in proceedings under sections 260B.178, 260C.178,
2.4 260C.201, 260C.202, 260C.204, 260C.301, or 260C.503 to 260C.521, the juvenile court
2.5 must make findings and conclusions consistent with the Indian Child Welfare Act of 1978,
2.6 United States Code, title 25, section 1901 et seq., as to the provision of active efforts. In
2.7 cases governed by the Indian Child Welfare Act of 1978, United States Code, title 25, section
2.8 1901, the responsible social services agency must provide active efforts as required under
2.9 United States Code, title 25, section 1911(d).

2.10 (d) "Reasonable efforts to prevent placement" means:

2.11 (1) the agency has made reasonable efforts to prevent the placement of the child in foster
2.12 care by working with the family to develop and implement a safety plan; or

2.13 (2) given the particular circumstances of the child and family at the time of the child's
2.14 removal, there are no services or efforts available which could allow the child to safely
2.15 remain in the home.

2.16 (e) "Reasonable efforts to finalize a permanent plan for the child" means due diligence
2.17 by the responsible social services agency to:

2.18 (1) reunify the child with the parent or guardian from whom the child was removed;

2.19 (2) assess a noncustodial parent's ability to provide day-to-day care for the child and,
2.20 where appropriate, provide services necessary to enable the noncustodial parent to safely
2.21 provide the care, as required by section 260C.219;

2.22 (3) conduct a relative search to identify and provide notice to adult relatives as required
2.23 under section 260C.221;

2.24 (4) place siblings removed from their home in the same home for foster care or adoption,
2.25 or transfer permanent legal and physical custody to a relative. Visitation between siblings
2.26 who are not in the same foster care, adoption, or custodial placement or facility shall be
2.27 consistent with section 260C.212, subdivision 2; and

2.28 (5) when the child cannot return to the parent or guardian from whom the child was
2.29 removed, to plan for and finalize a safe and legally permanent alternative home for the child,
2.30 and considers permanent alternative homes for the child inside or outside of the state,
2.31 preferably through adoption or transfer of permanent legal and physical custody of the child.

3.1 (f) Reasonable efforts are made upon the exercise of due diligence by the responsible
3.2 social services agency to use culturally appropriate and available services to meet the needs
3.3 of the child and the child's family. Services may include those provided by the responsible
3.4 social services agency and other culturally appropriate services available in the community.
3.5 At each stage of the proceedings where the court is required to review the appropriateness
3.6 of the responsible social services agency's reasonable efforts as described in paragraphs (a),
3.7 (d), and (e), the social services agency has the burden of demonstrating that:

3.8 (1) it has made reasonable efforts to prevent placement of the child in foster care;

3.9 (2) it has made reasonable efforts to eliminate the need for removal of the child from
3.10 the child's home and to reunify the child with the child's family at the earliest possible time;

3.11 (3) it has made reasonable efforts to finalize an alternative permanent home for the child,
3.12 and considers permanent alternative homes for the child inside or outside of the state; or

3.13 (4) reasonable efforts to prevent placement and to reunify the child with the parent or
3.14 guardian are not required. The agency may meet this burden by stating facts in a sworn
3.15 petition filed under section 260C.141, by filing an affidavit summarizing the agency's
3.16 reasonable efforts or facts the agency believes demonstrate there is no need for reasonable
3.17 efforts to reunify the parent and child, or through testimony or a certified report required
3.18 under juvenile court rules.

3.19 (g) Once the court determines that reasonable efforts for reunification are not required
3.20 because the court has made one of the prima facie determinations under paragraph (a), the
3.21 court may only require reasonable efforts for reunification after a hearing according to
3.22 section 260C.163, where the court finds there is not clear and convincing evidence of the
3.23 facts upon which the court based its prima facie determination. In this case when there is
3.24 clear and convincing evidence that the child is in need of protection or services, the court
3.25 may find the child in need of protection or services and order any of the dispositions available
3.26 under section 260C.201, subdivision 1. Reunification of a child with a parent is not required
3.27 if the parent has been convicted of:

3.28 (1) a violation of, or an attempt or conspiracy to commit a violation of, sections 609.185
3.29 to 609.20; 609.222, subdivision 2; or 609.223 in regard to another child of the parent;

3.30 (2) a violation of section 609.222, subdivision 2; or 609.223, in regard to the child;

3.31 (3) a violation of, or an attempt or conspiracy to commit a violation of, United States
3.32 Code, title 18, section 1111(a) or 1112(a), in regard to another child of the parent;

4.1 (4) committing an offense that constitutes sexual abuse as defined in section 626.556,
4.2 subdivision 2, against the child or another child of the parent; or

4.3 (5) an offense that requires registration as a predatory offender under section 243.166,
4.4 subdivision 1b, paragraph (a) or (b).

4.5 Reunification is also not required when a parent receives a stay of adjudication pursuant to
4.6 section 609.095, paragraph (b), for an offense that constitutes sexual abuse under clause
4.7 (4).

4.8 (h) The juvenile court, in proceedings under sections 260B.178, 260C.178, 260C.201,
4.9 260C.202, 260C.204, 260C.301, or 260C.503 to 260C.521, shall make findings and
4.10 conclusions as to the provision of reasonable efforts. When determining whether reasonable
4.11 efforts have been made, the court shall consider whether services to the child and family
4.12 were:

4.13 (1) relevant to the safety and protection of the child;

4.14 (2) adequate to meet the needs of the child and family;

4.15 (3) culturally appropriate;

4.16 (4) available and accessible;

4.17 (5) consistent and timely; and

4.18 (6) realistic under the circumstances.

4.19 In the alternative, the court may determine that provision of services or further services
4.20 for the purpose of rehabilitation is futile and therefore unreasonable under the circumstances
4.21 or that reasonable efforts are not required as provided in paragraph (a).

4.22 (i) This section does not prevent out-of-home placement for treatment of a child with a
4.23 mental disability when it is determined to be medically necessary as a result of the child's
4.24 diagnostic assessment or individual treatment plan indicates that appropriate and necessary
4.25 treatment cannot be effectively provided outside of a residential or inpatient treatment
4.26 program and the level or intensity of supervision and treatment cannot be effectively and
4.27 safely provided in the child's home or community and it is determined that a residential
4.28 treatment setting is the least restrictive setting that is appropriate to the needs of the child.

4.29 (j) If continuation of reasonable efforts to prevent placement or reunify the child with
4.30 the parent or guardian from whom the child was removed is determined by the court to be
4.31 inconsistent with the permanent plan for the child or upon the court making one of the prima
4.32 facie determinations under paragraph (a), reasonable efforts must be made to place the child

5.1 in a timely manner in a safe and permanent home and to complete whatever steps are
 5.2 necessary to legally finalize the permanent placement of the child.

5.3 (k) Reasonable efforts to place a child for adoption or in another permanent placement
 5.4 may be made concurrently with reasonable efforts to prevent placement or to reunify the
 5.5 child with the parent or guardian from whom the child was removed. When the responsible
 5.6 social services agency decides to concurrently make reasonable efforts for both reunification
 5.7 and permanent placement away from the parent under paragraph (a), the agency shall disclose
 5.8 its decision and both plans for concurrent reasonable efforts to all parties and the court.
 5.9 When the agency discloses its decision to proceed on both plans for reunification and
 5.10 permanent placement away from the parent, the court's review of the agency's reasonable
 5.11 efforts shall include the agency's efforts under both plans.

5.12 Sec. 2. Minnesota Statutes 2016, section 609.095, is amended to read:

5.13 **609.095 LIMITS OF SENTENCES.**

5.14 (a) The legislature has the exclusive authority to define crimes and offenses and the
 5.15 range of the sentences or punishments for their violation. No other or different sentence or
 5.16 punishment shall be imposed for the commission of a crime than is authorized by this chapter
 5.17 or other applicable law.

5.18 (b) Except as provided in section 152.18 or 609.375, or upon agreement of the parties,
 5.19 a court may not refuse to adjudicate the guilt of a defendant who tenders a guilty plea in
 5.20 accordance with Minnesota Rules of Criminal Procedure, rule 15, or who has been found
 5.21 guilty by a court or jury following a trial. A decision by the court to issue a stay of
 5.22 adjudication under this paragraph for a charge of violating section 243.166, 609.342, 609.343,
 5.23 609.344, 609.345, 609.3451, subdivision 3, or 609.3453, must be justified in writing and
 5.24 on the record.

5.25 (c) Paragraph (b) does not supersede Minnesota Rules of Criminal Procedure, rule 26.04.

5.26 **EFFECTIVE DATE.** This section is effective August 1, 2018, and applies to crimes
 5.27 committed on or after that date.

5.28 Sec. 3. Minnesota Statutes 2016, section 609.341, subdivision 10, is amended to read:

5.29 Subd. 10. **Current or recent position of authority.** "Current or recent position of
 5.30 authority" includes but is not limited to any person who is a parent or acting in the place of
 5.31 a parent and charged with or assumes any of a parent's rights, duties or responsibilities to
 5.32 a child, or a person who is charged with or assumes any duty or responsibility for the health,

6.1 welfare, or supervision of a child, either independently or through another, no matter how
6.2 brief, at the time of or within 120 days immediately preceding the act. For the purposes of
6.3 subdivision 11, "position of authority" includes a psychotherapist.

6.4 **EFFECTIVE DATE.** This section is effective August 1, 2018, and applies to crimes
6.5 committed on or after that date.

6.6 Sec. 4. Minnesota Statutes 2016, section 609.342, subdivision 1, is amended to read:

6.7 Subdivision 1. **Crime defined.** A person who engages in sexual penetration with another
6.8 person, or in sexual contact with a person under 13 years of age as defined in section 609.341,
6.9 subdivision 11, paragraph (c), is guilty of criminal sexual conduct in the first degree if any
6.10 of the following circumstances exists:

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

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

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

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

6.23 (e) the actor causes personal injury to the complainant, and either of the following
6.24 circumstances exist:

6.25 (i) the actor uses force or coercion to accomplish sexual penetration; or

6.26 (ii) the actor knows or has reason to know that the complainant is mentally impaired,
6.27 mentally incapacitated, or physically helpless;

6.28 (f) the actor is aided or abetted by one or more accomplices within the meaning of section
6.29 609.05, and either of the following circumstances exists:

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

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

7.4 (g) the actor has a significant relationship to the complainant and the complainant was
7.5 under 16 years of age at the time of the sexual penetration. Neither mistake as to the
7.6 complainant's age nor consent to the act by the complainant is a defense; or

7.7 (h) the actor has a significant relationship to the complainant, the complainant was under
7.8 16 years of age at the time of the sexual penetration, and:

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

7.10 (ii) the complainant suffered personal injury; or

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

7.12 Neither mistake as to the complainant's age nor consent to the act by the complainant is
7.13 a defense.

7.14 **EFFECTIVE DATE.** This section is effective August 1, 2018, and applies to crimes
7.15 committed on or after that date.

7.16 Sec. 5. Minnesota Statutes 2016, section 609.343, subdivision 1, is amended to read:

7.17 Subdivision 1. **Crime defined.** A person who engages in sexual contact with another
7.18 person is guilty of criminal sexual conduct in the second degree if any of the following
7.19 circumstances exists:

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

7.24 (b) the complainant is at least 13 but less than 16 years of age and the actor is more than
7.25 48 months older than the complainant and in a current or recent position of authority over
7.26 the complainant. Neither mistake as to the complainant's age nor consent to the act by the
7.27 complainant is a defense;

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

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

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

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

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

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

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

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

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

8.18 (h) the actor has a significant relationship to the complainant, the complainant was under
8.19 16 years of age at the time of the sexual contact, and:

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

8.21 (ii) the complainant suffered personal injury; or

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

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

8.25 **EFFECTIVE DATE.** This section is effective August 1, 2018, and applies to crimes
8.26 committed on or after that date.

8.27 Sec. 6. Minnesota Statutes 2016, section 609.344, subdivision 1, is amended to read:

8.28 Subdivision 1. **Crime defined.** A person who engages in sexual penetration with another
8.29 person is guilty of criminal sexual conduct in the third degree if any of the following
8.30 circumstances exists:

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

9.4 (b) the complainant is at least 13 but less than 16 years of age and the actor is more than
9.5 24 months older than the complainant. In any such case if the actor is no more than 120
9.6 months older than the complainant, it shall be an affirmative defense, which must be proved
9.7 by a preponderance of the evidence, that the actor reasonably believes the complainant to
9.8 be 16 years of age or older. In all other cases, mistake as to the complainant's age shall not
9.9 be a defense. Consent by the complainant is not a defense;

9.10 (c) the actor uses force or coercion to accomplish the penetration;

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

9.13 (e) the complainant is at least 16 but less than 18 years of age and the actor is more than
9.14 48 months older than the complainant and in a current or recent position of authority over
9.15 the complainant. Neither mistake as to the complainant's age nor consent to the act by the
9.16 complainant is a defense;

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

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

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

9.23 (ii) the complainant suffered personal injury; or

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

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

9.27 (h) the actor is a psychotherapist and the complainant is a patient of the psychotherapist
9.28 and the sexual penetration occurred:

9.29 (i) during the psychotherapy session; or

9.30 (ii) outside the psychotherapy session if an ongoing psychotherapist-patient relationship
9.31 exists.

- 10.1 Consent by the complainant is not a defense;
- 10.2 (i) the actor is a psychotherapist and the complainant is a former patient of the
10.3 psychotherapist and the former patient is emotionally dependent upon the psychotherapist;
- 10.4 (j) the actor is a psychotherapist and the complainant is a patient or former patient and
10.5 the sexual penetration occurred by means of therapeutic deception. Consent by the
10.6 complainant is not a defense;
- 10.7 (k) the actor accomplishes the sexual penetration by means of deception or false
10.8 representation that the penetration is for a bona fide medical purpose. Consent by the
10.9 complainant is not a defense;
- 10.10 (l) the actor is or purports to be a member of the clergy, the complainant is not married
10.11 to the actor, and:
- 10.12 (i) the sexual penetration occurred during the course of a meeting in which the
10.13 complainant sought or received religious or spiritual advice, aid, or comfort from the actor
10.14 in private; or
- 10.15 (ii) the sexual penetration occurred during a period of time in which the complainant
10.16 was meeting on an ongoing basis with the actor to seek or receive religious or spiritual
10.17 advice, aid, or comfort in private. Consent by the complainant is not a defense;
- 10.18 (m) the actor is an employee, independent contractor, or volunteer of a state, county,
10.19 city, or privately operated adult or juvenile correctional system, or secure treatment facility,
10.20 or treatment facility providing services to clients civilly committed as mentally ill and
10.21 dangerous, sexually dangerous persons, or sexual psychopathic personalities, including, but
10.22 not limited to, jails, prisons, detention centers, or work release facilities, and the complainant
10.23 is a resident of a facility or under supervision of the correctional system. Consent by the
10.24 complainant is not a defense;
- 10.25 (n) the actor provides or is an agent of an entity that provides special transportation
10.26 service, the complainant used the special transportation service, and the sexual penetration
10.27 occurred during or immediately before or after the actor transported the complainant. Consent
10.28 by the complainant is not a defense; ~~or~~
- 10.29 (o) the actor performs massage or other bodywork for hire, the complainant was a user
10.30 of one of those services, and nonconsensual sexual penetration occurred during or
10.31 immediately before or after the actor performed or was hired to perform one of those services
10.32 for the complainant; or

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

11.5 **EFFECTIVE DATE.** This section is effective August 1, 2018, and applies to crimes
11.6 committed on or after that date.

11.7 Sec. 7. Minnesota Statutes 2016, section 609.345, subdivision 1, is amended to read:

11.8 Subdivision 1. **Crime defined.** A person who engages in sexual contact with another
11.9 person is guilty of criminal sexual conduct in the fourth degree if any of the following
11.10 circumstances exists:

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

11.15 (b) the complainant is at least 13 but less than 16 years of age and the actor is more than
11.16 48 months older than the complainant or in a current or recent position of authority over
11.17 the complainant. Consent by the complainant to the act is not a defense. In any such case,
11.18 if the actor is no more than 120 months older than the complainant, it shall be an affirmative
11.19 defense which must be proved by a preponderance of the evidence that the actor reasonably
11.20 believes the complainant to be 16 years of age or older. In all other cases, mistake as to the
11.21 complainant's age shall not be a defense;

11.22 (c) the actor uses force or coercion to accomplish the sexual contact;

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

11.25 (e) the complainant is at least 16 but less than 18 years of age and the actor is more than
11.26 48 months older than the complainant and in a current or recent position of authority over
11.27 the complainant. Neither mistake as to the complainant's age nor consent to the act by the
11.28 complainant is a defense;

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

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

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

12.4 (ii) the complainant suffered personal injury; or

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

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

12.8 (h) the actor is a psychotherapist and the complainant is a patient of the psychotherapist
12.9 and the sexual contact occurred:

12.10 (i) during the psychotherapy session; or

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

12.13 (i) the actor is a psychotherapist and the complainant is a former patient of the
12.14 psychotherapist and the former patient is emotionally dependent upon the psychotherapist;

12.15 (j) the actor is a psychotherapist and the complainant is a patient or former patient and
12.16 the sexual contact occurred by means of therapeutic deception. Consent by the complainant
12.17 is not a defense;

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

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

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

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

12.28 (m) the actor is an employee, independent contractor, or volunteer of a state, county,
12.29 city, or privately operated adult or juvenile correctional system, or secure treatment facility,
12.30 or treatment facility providing services to clients civilly committed as mentally ill and
12.31 dangerous, sexually dangerous persons, or sexual psychopathic personalities, including, but

13.1 not limited to, jails, prisons, detention centers, or work release facilities, and the complainant
 13.2 is a resident of a facility or under supervision of the correctional system. Consent by the
 13.3 complainant is not a defense;

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

13.8 (o) the actor performs massage or other bodywork for hire, the complainant was a user
 13.9 of one of those services, and nonconsensual sexual contact occurred during or immediately
 13.10 before or after the actor performed or was hired to perform one of those services for the
 13.11 complainant; or

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

13.15 **EFFECTIVE DATE.** This section is effective August 1, 2018, and applies to crimes
 13.16 committed on or after that date.

13.17 Sec. 8. Minnesota Statutes 2016, section 609.3451, subdivision 1, is amended to read:

13.18 Subdivision 1. **Crime defined.** A person is guilty of criminal sexual conduct in the fifth
 13.19 degree:

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

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

13.23 For purposes of this section, "sexual contact" has the meaning given in section 609.341,
 13.24 subdivision 11, paragraph (a), clauses (i), (iv), and (v), ~~but does not include the intentional~~
 13.25 ~~touching of the clothing covering the immediate area of the buttocks.~~ Sexual contact also
 13.26 includes the intentional removal or attempted removal of clothing covering the complainant's
 13.27 intimate parts or undergarments, and the nonconsensual touching by the complainant of the
 13.28 actor's intimate parts, effected by the actor, if the action is performed with sexual or
 13.29 aggressive intent.

13.30 **EFFECTIVE DATE.** This section is effective August 1, 2018, and applies to crimes
 13.31 committed on or after that date.

14.1 Sec. 9. Minnesota Statutes 2016, section 609.746, subdivision 1, is amended to read:

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

14.4 (1) enters upon another's property;

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

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

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

14.10 (1) enters upon another's property;

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

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

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

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

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

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

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

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

15.1 (e) A person is guilty of a felony and may be sentenced to imprisonment for not more
15.2 than two years or to payment of a fine of not more than \$5,000, or both, if the person:

15.3 (1) violates this subdivision after a previous conviction under this subdivision or section
15.4 609.749; or

15.5 (2) violates this subdivision against a minor under the age of 18, knowing or having
15.6 reason to know that the minor is present.

15.7 (f) A person is guilty of a felony and may be sentenced to imprisonment for not more
15.8 than four years or to payment of a fine of not more than \$5,000, or both, if: (1) the person
15.9 violates paragraph (b) or (d) against a minor victim under the age of 18; (2) the person is
15.10 more than 36 months older than the minor victim; (3) the person knows or has reason to
15.11 know that the minor victim is present; and (4) the violation is committed with sexual intent.

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

15.17 **EFFECTIVE DATE.** This section is effective August 1, 2018, and applies to crimes
15.18 committed on or after that date.

15.19 Sec. 10. Minnesota Statutes 2016, section 617.246, subdivision 2, is amended to read:

15.20 Subd. 2. **Use of minor.** (a) It is unlawful for a person to promote, employ, use or permit
15.21 a minor to engage in or assist others to engage minors in posing or modeling alone or with
15.22 others in any sexual performance or pornographic work if the person knows or has reason
15.23 to know that the conduct intended is a sexual performance or a pornographic work.

15.24 Any person who violates this ~~subdivision~~ paragraph is guilty of a felony and may be
15.25 sentenced to imprisonment for not more than ten years or to payment of a fine of not more
15.26 than \$20,000 ~~for the first offense and \$40,000 for a second or subsequent offense~~, or both.

15.27 (b) A person who violates paragraph (a) is guilty of a felony and may be sentenced to
15.28 imprisonment for not more than 15 years or to payment of a fine of not more than \$40,000,
15.29 or both, if:

15.30 (1) the person has a prior conviction or delinquency adjudication for violating this section
15.31 or section 617.247;

16.1 (2) the violation occurs when the person is a registered predatory offender under section
16.2 243.166; or

16.3 (3) the violation involved a minor under the age of 13 years.

16.4 **EFFECTIVE DATE.** This section is effective August 1, 2018, and applies to crimes
16.5 committed on or after that date.

16.6 Sec. 11. Minnesota Statutes 2016, section 617.246, subdivision 3, is amended to read:

16.7 Subd. 3. **Operation or ownership of business.** (a) A person who owns or operates a
16.8 business in which a pornographic work, as defined in this section, is disseminated to an
16.9 adult or a minor or is reproduced, and who knows the content and character of the
16.10 pornographic work disseminated or reproduced, is guilty of a felony and may be sentenced
16.11 to imprisonment for not more than ten years, or to payment of a fine of not more than
16.12 \$20,000 ~~for the first offense and \$40,000 for a second or subsequent offense~~, or both.

16.13 (b) A person who violates paragraph (a) is guilty of a felony and may be sentenced to
16.14 imprisonment for not more than 15 years or to payment of a fine of not more than \$40,000,
16.15 or both, if:

16.16 (1) the person has a prior conviction or delinquency adjudication for violating this section
16.17 or section 617.247;

16.18 (2) the violation occurs when the person is a registered predatory offender under section
16.19 243.166; or

16.20 (3) the violation involved a minor under the age of 13 years.

16.21 **EFFECTIVE DATE.** This section is effective August 1, 2018, and applies to crimes
16.22 committed on or after that date.

16.23 Sec. 12. Minnesota Statutes 2016, section 617.246, subdivision 4, is amended to read:

16.24 Subd. 4. **Dissemination.** (a) A person who, knowing or with reason to know its content
16.25 and character, disseminates for profit to an adult or a minor a pornographic work, as defined
16.26 in this section, is guilty of a felony and may be sentenced to imprisonment for not more
16.27 than ten years, or to payment of a fine of not more than \$20,000 ~~for the first offense and~~
16.28 ~~\$40,000 for a second or subsequent offense~~, or both.

16.29 (b) A person who violates paragraph (a) is guilty of a felony and may be sentenced to
16.30 imprisonment for not more than 15 years or to payment of a fine of not more than \$40,000,
16.31 or both, if:

17.1 (1) the person has a prior conviction or delinquency adjudication for violating this section
17.2 or section 617.247;

17.3 (2) the violation occurs when the person is a registered predatory offender under section
17.4 243.166; or

17.5 (3) the violation involved a minor under the age of 13 years.

17.6 **EFFECTIVE DATE.** This section is effective August 1, 2018, and applies to crimes
17.7 committed on or after that date.

17.8 Sec. 13. Minnesota Statutes 2016, section 617.246, subdivision 7, is amended to read:

17.9 Subd. 7. **Conditional release term.** Notwithstanding the statutory maximum sentence
17.10 otherwise applicable to the offense or any provision of the sentencing guidelines, when a
17.11 court commits a person to the custody of the commissioner of corrections for violating this
17.12 section, the court shall provide that after the person has been released from prison, the
17.13 commissioner shall place the person on conditional release for five years. If the person has
17.14 previously been convicted of a violation of this section, section 609.342, 609.343, 609.344,
17.15 609.345, 609.3451, 609.3453, or 617.247, or any similar statute of the United States, this
17.16 state, or any state, the commissioner shall place the person on conditional release for ~~ten~~
17.17 15 years. The terms of conditional release are governed by section 609.3455, subdivision
17.18 8.

17.19 **EFFECTIVE DATE.** This section is effective August 1, 2018, and applies to crimes
17.20 committed on or after that date.

17.21 Sec. 14. Minnesota Statutes 2016, section 617.247, subdivision 3, is amended to read:

17.22 Subd. 3. **Dissemination prohibited.** (a) A person who disseminates pornographic work
17.23 to an adult or a minor, knowing or with reason to know its content and character, is guilty
17.24 of a felony and may be sentenced to imprisonment for not more than seven years ~~and~~ or to
17.25 payment of a fine of not more than \$10,000 for a first offense and for not more than 15
17.26 years and a fine of not more than \$20,000 for a second or subsequent offense, or both.

17.27 (b) A person who violates paragraph (a) is guilty of a felony and may be sentenced to
17.28 imprisonment for not more than 15 years or to payment of a fine of not more than \$20,000,
17.29 or both, if:

17.30 (1) the person has a prior conviction or delinquency adjudication for violating this section
17.31 or section 617.246;

18.1 (2) the violation occurs when the person is a registered predatory offender under section
18.2 243.166; or

18.3 (3) the violation involved a minor under the age of 13 years.

18.4 **EFFECTIVE DATE.** This section is effective August 1, 2018, and applies to crimes
18.5 committed on or after that date.

18.6 Sec. 15. Minnesota Statutes 2016, section 617.247, subdivision 4, is amended to read:

18.7 Subd. 4. **Possession prohibited.** (a) A person who possesses a pornographic work or a
18.8 computer disk or computer or other electronic, magnetic, or optical storage system or a
18.9 storage system of any other type, containing a pornographic work, knowing or with reason
18.10 to know its content and character, is guilty of a felony and may be sentenced to imprisonment
18.11 for not more than five years ~~and~~ or to payment of a fine of not more than \$5,000 for a first
18.12 ~~offense and for not more than ten years and a fine of not more than \$10,000 for a second~~
18.13 ~~or subsequent offense, or both.~~

18.14 (b) A person who violates paragraph (a) is guilty of a felony and may be sentenced to
18.15 imprisonment for not more than ten years or to payment of a fine of not more than \$10,000,
18.16 or both, if:

18.17 (1) the person has a prior conviction or delinquency adjudication for violating this section
18.18 or section 617.246;

18.19 (2) the violation occurs when the person is a registered predatory offender under section
18.20 243.166; or

18.21 (3) the violation involved a minor under the age of 13 years.

18.22 **EFFECTIVE DATE.** This section is effective August 1, 2018, and applies to crimes
18.23 committed on or after that date.

18.24 Sec. 16. Minnesota Statutes 2016, section 617.247, subdivision 9, is amended to read:

18.25 Subd. 9. **Conditional release term.** Notwithstanding the statutory maximum sentence
18.26 otherwise applicable to the offense or any provision of the sentencing guidelines, when a
18.27 court commits a person to the custody of the commissioner of corrections for violating this
18.28 section, the court shall provide that after the person has been released from prison, the
18.29 commissioner shall place the person on conditional release for five years. If the person has
18.30 previously been convicted of a violation of this section, section 609.342, 609.343, 609.344,
18.31 609.345, 609.3451, 609.3453, or 617.246, or any similar statute of the United States, this

19.1 state, or any state, the commissioner shall place the person on conditional release for ~~ten~~
19.2 15 years. The terms of conditional release are governed by section 609.3455, subdivision
19.3 8.

19.4 **EFFECTIVE DATE.** This section is effective August 1, 2018, and applies to crimes
19.5 committed on or after that date.

19.6 Sec. 17. **SENTENCING GUIDELINES MODIFICATION.**

19.7 The Sentencing Guidelines Commission shall comprehensively review and consider
19.8 modifying how the Sentencing Guidelines and the sex offender grid address the crimes
19.9 described in Minnesota Statutes, sections 617.246 and 617.247, as compared to similar
19.10 crimes, including other sex offenses and other offenses with similar maximum penalties.

19.11 Sec. 18. **REPEALER.**

19.12 Minnesota Statutes 2016, section 609.349, is repealed.

19.13 **EFFECTIVE DATE.** This section is effective August 1, 2018, and applies to crimes
19.14 committed on or after that date.