

Minnesota Department of Public Safety



Criminal Sexual Conduct Statutory Reform Working Group

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Formation

- In 2019, the Legislature directed the commissioner of public safety to convene a working group.

Laws of Minnesota 2019, chapter 5, article 4, section 21.

- DPS was the convener/facilitator
- Composition/membership
 - Multidisciplinary
 - Reflects broad spectrum of viewpoints
 - Inclusive of marginalized communities
 - Inclusive of victim and survivor voices

Formation

Working group – 74 members

- First meeting – August 2013

Subcommittees

- Six subcommittees
 - Age
 - Force/Coercion and break off to Restructuring
 - Capacity
 - Professions/Occupations
 - Outcomes
 - Consent
- Subcommittees met from September 2019 to August 2020

Structure and Process

- All meetings open to the public
- Proposals from subcommittees distributed to all CSC Statutory Reform Working Group members
- Six proposal review meetings
- Final set of recommendations identified

Recommendations – Incapacitation

Incapacity due to voluntary intoxication – Two options

- Expand definition of incapacitation to include voluntary intoxication
- Create a new crime addressing voluntary intoxication

Note: Pending case on appeal: State. v. Francois Momulu Khalil, (Minn. Ct. App. A19-1281, petition for review granted 9-29-20).

Recommendations – New Crimes

Sexual extortion

Create a new crime of sexual extortion, allowing for prosecution of cases where actor uses threats to the complainant that do not involve threats of physical harm.

Fifth degree Criminal Sexual Conduct

Amend CSC 5 to create a felony-level fifth degree CSC that does not require a showing of force or coercion.

Recommendations – Age Related

Defining age

Raising the defining age in certain age-based offenses from “under 13” to “under 14.”

Consistent age differentials

Make the age differentials consistent throughout CSC 1-4 to 36 months between the age of the actor and the age of the complainant.

Mistake of age

Reduce the age span for which the mistake of age defense is available to 60 months between the actor and complainant.

Recommendations – Restructuring (two step)

Revision approach

The “revision” approach keeps much of the current framework intact, but makes refinements and reorganizes the statute to improve understandability, for example, by separating out adult cases and child cases and including subheadings.

Wholesale restructuring

The “wholesale” approach contemplates a complete rebuild of the statute. The recommendation is to form another working group solely to work on a complete revision of the current scheme.

Recommendations – Amend current language

Definition of coercion

Revise the definition of “coercion” (section 609.341, subd 14). This proposal clarifies the language of coercion and provides for the situation where the complainant may fear infliction of bodily harm by someone other than the actor, such as an accomplice.

Remove “force” from CSC 3

Modify CSC 3 to address issue of the overlap with CSC 1 due to circularity of definitions of force, bodily harm, and personal injury.

Recommendations – Prohibited Occupational Relationships

- Move the list of prohibited occupational relationships to the definitions section.
- Clarify the language of some prohibited occupational relationships for greater understandability.
- Expand the definition of prohibited occupational relationship to include certain employees in educational settings.
- Include certain caregiver/facility situations within prohibited occupational relationships by moving a portion of criminal sexual abuse (Minn. Stat. § 609.2325) to definitions.

Recommendations - other

Definition of significant relationship

Amend definition of significant relationship to include parent's partner/boyfriend/girlfriend who does not live in the household.

Remove archaic provisions

Repeal Minn. Stat. sections 609.293 (sodomy), 609.36 (adultery), and 609.34 (fornication), which are archaic and unconstitutional.

Outside the Scope Discussion Items

Victim and survivor voices

- Need to improve criminal justice system response to sexual assault.

Predatory Offender Registration

- Working group recommended.



Questions?

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