

Chapter 96

2020 Regular Session

Subject Requiring intent in the crime of harassment

Analyst Ben Johnson (561-296-8957)

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Overview

In November 2019, the Minnesota Supreme Court issued a decision in *Matter of Welfare of A.J.B.*, 929 N.W.2d 840 (Minn. 2019). The court determined that a portion of Minnesota’s harassment statute, section 609.749, subdivision 2, clause (6), is unconstitutional because it prohibits a substantial amount of speech protected by the First Amendment. The court emphasized concerns with the broad mental state in the statute, noting that the law does not require proof of specific intent and has the potential to criminalize negligent conduct. The court also raised concerns about the low level of harm to another required to constitute harassment. This act adopts the standards for a mental state and causation of the conduct that are in current federal law.

Summary

| Section | Description |
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| 1 | Right to terminate procedure. Makes a conforming change. |
| 2 | Harassment crimes. Defines “family or household members” and “substantial emotional distress” for the purposes of the subdivision and combines all terms currently defined in the subdivision into a single paragraph. Establishes the mental state of intending to kill, injure, harass, or intimidate another person as an element of the crime of harassment. Establishes a causation element in the crime of harassment requiring that harassing conduct either place another in reasonable fear of substantial bodily harm or cause substantial emotional distress. |
| 3 | Aggravated violations. Makes a conforming change. |

| Section | Description |
|---------|---|
| 4 | Crime defined; obscene call. Establishes elements related to the actor's mental state and the causation of the conduct in the crime of placing repeated phone call. |
| 5 | Misdemeanors. Establishes elements related to the actor's mental state and the causation of the conduct in the crime of repeatedly mailing another. |
| 6 | Repealer. Repeals Minnesota Statutes, section 609.749, subdivisions 1 (Definition) and 1a (No proof of specific intent required). |



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