

**Senate Counsel, Research,
and Fiscal Analysis**

G-17 STATE CAPITOL
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Senate

State of Minnesota

S.F. No. 123 - Interference with Privacy

Author: Senator Paul Koering

Prepared by: Chris Turner, Senate Research (651/296-4350) CT

Date: March 14, 2005

Section 1 increases the gross misdemeanor "interference with privacy" crime (applicable to repeat offenders and crimes involving victims under the age of 16) to a felony.

Section 2 creates a felony crime for engaging in a pattern of interfering with the privacy of a single victim or one or more members of a single household. Defines "pattern of interference with privacy" as two or more acts within a five-year period which violate any of the following:

Minnesota Statutes, sections:

- 609.746 (Interference With Privacy);
- 518B.01, subdivision 14 (Violation of an Order for Protection);
- 609.224 (Assault in the Fifth Degree);
- 609.2242 (Domestic Assault);
- 609.342 to 609.3451 (Criminal Sexual Conduct in the First through Fifth Degree);
- 609.582 (Burglary);
- 609.595 (Damage to Property);
- 609.605, subdivision 1, paragraph (b), clauses (3), (4) and (7) (Trespass);
- 609.713 (Terroristic Threats);
- 609.748, subdivision 6 (Violation of a Restraining Order);
- 609.749, subdivision 2, 3, 4 or 5 (Harassment and Stalking);
- 609.765 (Criminal Defamation);
- 609.79 (Obscene or Harassing Telephone Calls); or
- 609.795 (Harassment by Letter, Telegram, or Package).

Allows cross-jurisdictional prosecution when offenses occur in two or more counties.

CT:vs

Senators Koering, Foley, Berglin and Sams introduced--

S.F. No. 123: Referred to the Committee on Crime Prevention and Public Safety.

1

A bill for an act

2

relating to judiciary; increasing the penalty for
3 certain interference with privacy offenses; providing
4 a penalty for engaging in a pattern of conduct
5 involving interference with privacy; amending
6 Minnesota Statutes 2004, section 609.746, subdivision
7 1, by adding a subdivision.

8

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

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Section 1. Minnesota Statutes 2004, section 609.746,

10

subdivision 1, is amended to read:

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Subdivision 1. [SURREPTITIOUS INTRUSION; OBSERVATION

12

DEVICE.] (a) A person is guilty of a misdemeanor who:

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(1) enters upon another's property;

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(2) surreptitiously gazes, stares, or peeps in the window

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or any other aperture of a house or place of dwelling of

16

another; and

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(3) does so with intent to intrude upon or interfere with

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the privacy of a member of the household.

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

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(1) enters upon another's property;

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(2) surreptitiously installs or uses any device for

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observing, photographing, recording, amplifying, or broadcasting

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sounds or events through the window or any other aperture of a

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house or place of dwelling of another; and

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(3) does so with intent to intrude upon or interfere with

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the privacy of a member of the household.

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

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

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

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

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

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

23 (e) A person is guilty of a ~~gross-misdemeanor~~ felony if the
24 person:

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

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

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

1 the owner's employees.

2 [EFFECTIVE DATE.] This section is effective August 1, 2005,
3 and applies to crimes committed on or after that date.

4 Sec. 2. Minnesota Statutes 2004, section 609.746, is
5 amended by adding a subdivision to read:

6 Subd. 1a. [PATTERN OF INTERFERENCE WITH PRIVACY.] (a) A
7 person who engages in a pattern of interfering with the privacy,
8 as described in subdivision 1, of a single victim or one or more
9 members of a single household is guilty of a felony and may be
10 sentenced to imprisonment for not more than ten years or to
11 payment of a fine of not more than \$20,000, or both.

12 (b) For purposes of this subdivision, a "pattern of
13 interference with privacy" means two or more acts within a
14 five-year period that violate or attempt to violate the
15 provisions of any of the following or a similar law of another
16 state, the United States, the District of Columbia, tribal
17 lands, or United States territories:

- 18 (1) this section;
19 (2) section 518B.01, subdivision 14;
20 (3) section 609.224;
21 (4) section 609.2242;
22 (5) sections 609.342 to 609.3451;
23 (6) section 609.582;
24 (7) section 609.595;
25 (8) section 609.605, subdivision 1, paragraph (b), clauses
26 (3), (4), and (7);
27 (9) section 609.713;
28 (10) section 609.748, subdivision 6;
29 (11) section 609.749, subdivision 2, 3, 4, or 5;
30 (12) section 609.765;
31 (13) section 609.79; or
32 (14) section 609.795.

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

1 [EFFECTIVE DATE.] This section is effective August 1, 2005,
2 and applies to crimes committed on or after that date.

- 1 Senator moves to amend S.F. No. 123 as follows:
- 2 Page 1, lines 12 and 19, before "misdemeanor" insert "gross"
- 3 Page 2, lines 1 and 11, before "misdemeanor" insert "gross"
- 4 Page 2, line 23, after "felony" insert "and may be
- 5 sentenced to imprisonment for not more than two years or to
- 6 payment of a fine of not more than \$5,000, or both,"
- 7 Page 2, line 28, strike "16" and insert "18"

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State of Minnesota

**S.F. No. 657 -Civil Commitment of Sexual Psychopathic
Personalities and Sexually Dangerous Persons**

Author: Senator Don Betzold

Prepared by: Chris Turner, Senate Research (651/296-4350) CT

Date: March 14, 2005

The bill provides that civil commitment hearings for sexual psychopathic personalities and sexually dangerous persons must be held within 90 days from the date of the filing of the petition. Current law requires that hearings be held within 14 days of the filing of the petition.

CT:vs

Senators Betzold and Neuville introduced--

S.F. No. 657: Referred to the Committee on Judiciary.

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A bill for an act

relating to civil commitment; providing additional time for hearings on commitment of sexual psychopathic personalities and sexually dangerous persons; amending Minnesota Statutes 2004, section 253B.08, subdivision 1.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2004, section 253B.08, subdivision 1, is amended to read:

Subdivision 1. [TIME FOR COMMITMENT HEARING.] The hearing on the commitment petition shall be held within 14 days from the date of the filing of the petition, except that the hearing on a commitment petition pursuant to section 253B.185 shall be held within 90 days from the date of the filing of the petition. For good cause shown, the court may extend the time of hearing up to an additional 30 days. The proceeding shall be dismissed if the proposed patient has not had a hearing on a commitment petition within the allowed time. The proposed patient, or the head of the treatment facility in which the person is held, may demand in writing at any time that the hearing be held immediately. Unless the hearing is held within five days of the date of the demand, exclusive of Saturdays, Sundays and legal holidays, the petition shall be automatically discharged if the patient is being held in a treatment facility pursuant to court order. For good cause shown, the court may extend the time of hearing on the demand for an additional ten days.

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S.F. No. 1230 -Escape from Custody Crime Expansion

Author: Senator Don Betzold

Prepared by: Chris Turner, Senate Research (651/296-4350) CT

Date: March 14, 2005

Section 1 expands Minnesota Statutes, section 609.485 (Escape from Custody), to include persons civilly committed as sexual psychopathic personalities and sexually dangerous persons who abscond following the revocation of provisional discharge.

Section 2 provides that such an escape is a felony offense, punishable by imprisonment for up to a year and one day.

CT:vs

Senator Betzold introduced--

S.F. No. 1230: Referred to the Committee on Judiciary.

1 A bill for an act

2 relating to public safety; expanding the escape from
3 custody crime to include civilly committed sexually
4 dangerous persons and persons with sexual psychopathic
5 personalities who abscond while under provisional
6 discharge; amending Minnesota Statutes 2004, section
7 609.485, subdivisions 2, 4.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

9 Section 1. Minnesota Statutes 2004, section 609.485,
10 subdivision 2, is amended to read:

11 Subd. 2. [ACTS PROHIBITED.] Whoever does any of the
12 following may be sentenced as provided in subdivision 4:

13 (1) escapes while held pursuant to a lawful arrest, in
14 lawful custody on a charge or conviction of a crime, or while
15 held in lawful custody on an allegation or adjudication of a
16 delinquent act;

17 (2) transfers to another, who is in lawful custody on a
18 charge or conviction of a crime, or introduces into an
19 institution in which the latter is confined, anything usable in
20 making such escape, with intent that it shall be so used;

21 (3) having another in lawful custody on a charge or
22 conviction of a crime, intentionally permits the other to
23 escape;

4 (4) escapes while in a facility designated under section
25 253B.18, subdivision 1, pursuant to a court commitment order
26 after a finding of not guilty by reason of mental illness or

1 mental deficiency of a crime against the person, as defined in
2 section 253B.02, subdivision 4a. Notwithstanding section
3 609.17, no person may be charged with or convicted of an attempt
4 to commit a violation of this clause; or

5 (5) escapes while in a facility designated under section
6 253B.18, subdivision 1, pursuant to a court commitment order
7 under section 253B.185 or Minnesota Statutes 1992, section
8 526.10; or

9 (6) knowingly absconds or fails to return to custody
10 following the revocation of provisional discharge under section
11 253B.15 of a person committed under section 253B.185 or
12 Minnesota Statutes 1992, section 526.10.

13 For purposes of clause (1), "escapes while held in lawful
14 custody" includes absconding from electronic monitoring or
15 absconding after removing an electronic monitoring device from
16 the person's body.

17 [EFFECTIVE DATE.] This section is effective August 1, 2005,
18 and applies to crimes committed on or after that date.

19 Sec. 2. Minnesota Statutes 2004, section 609.485,
20 subdivision 4, is amended to read:

21 Subd. 4. [SENTENCE.] (a) Except as otherwise provided in
22 subdivision 3a, whoever violates this section may be sentenced
23 as follows:

24 (1) if the person who escapes is in lawful custody for a
25 felony, to imprisonment for not more than five years or to
26 payment of a fine of not more than \$10,000, or both;

27 (2) if the person who escapes is in lawful custody after a
28 finding of not guilty by reason of mental illness or mental
29 deficiency of a crime against the person, as defined in section
30 253B.02, subdivision 4a, or pursuant to a court commitment order
31 under section 253B.185 or Minnesota Statutes 1992, section
32 526.10, or violates subdivision 2, clause (6), to imprisonment
33 for not more than one year and one day or to payment of a fine
34 of not more than \$3,000, or both; or

35 (3) if the person who escapes is in lawful custody for a
36 gross misdemeanor or misdemeanor, or if the person who escapes

1 is in lawful custody on an allegation or adjudication of a
2 delinquent act, to imprisonment for not more than one year or to
3 payment of a fine of not more than \$3,000, or both.

4 (b) If the escape was a violation of subdivision 2, clause
5 (1), (2), or (3), and was effected by violence or threat of
6 violence against a person, the sentence may be increased to not
7 more than twice those permitted in paragraph (a), clauses (1)
8 and (3).

9 (c) Unless a concurrent term is specified by the court, a
10 sentence under this section shall be consecutive to any sentence
11 previously imposed or which may be imposed for any crime or
12 offense for which the person was in custody when the person
13 escaped.

14 (d) Notwithstanding paragraph (c), if a person who was
15 committed to the commissioner of corrections under section
16 260B.198 escapes from the custody of the commissioner while 18
17 years of age, the person's sentence under this section shall
18 commence on the person's 19th birthday or on the person's date
19 of discharge by the commissioner of corrections, whichever
20 occurs first. However, if the person described in this clause
21 is convicted under this section after becoming 19 years old and
22 after having been discharged by the commissioner, the person's
23 sentence shall commence upon imposition by the sentencing court.

24 (e) Notwithstanding paragraph (c), if a person who is in
25 lawful custody on an allegation or adjudication of a delinquent
26 act while 18 years of age escapes from a local juvenile
27 correctional facility, the person's sentence under this section
28 begins on the person's 19th birthday or on the person's date of
29 discharge from the jurisdiction of the juvenile court, whichever
30 occurs first. However, if the person described in this
31 paragraph is convicted after becoming 19 years old and after
32 discharge from the jurisdiction of the juvenile court, the
33 person's sentence begins upon imposition by the sentencing court.

34 (f) Notwithstanding paragraph (a), any person who escapes
35 or absconds from electronic monitoring or removes an electric
36 monitoring device from the person's body is guilty of a crime

1 and shall be sentenced to imprisonment for not more than one
2 year or to a payment of a fine of not more than \$3,000, or
3 both. A person in lawful custody for a violation of section
4 609.185, 609.19, 609.195, 609.20, 609.205, 609.21, 609.221,
5 609.222, 609.223, 609.2231, 609.342, 609.343, 609.344, 609.345,
6 or 609.3451 who escapes or absconds from electronic monitoring
7 or removes an electronic monitoring device while under sentence
8 may be sentenced to imprisonment for not more than five years or
9 to a payment of a fine of not more than \$10,000, or both.

10 [EFFECTIVE DATE.] This section is effective August 1, 2005,
11 and applies to crimes committed on or after that date.

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State of Minnesota

S.F. No. 87 - Trespass Crime Expansion

Author: Senator Davd Kleis

Prepared by: Chris Turner, Senate Research (651/296-4350) CT

Date: March 14, 2005

Section 1 expands the misdemeanor trespass crime to include persons who return to the property of another at any time after being told to leave and not return. Current law only prohibits return to the property for 30 days.

Section 2 expands the misdemeanor trespass crime on school property to include persons who return to school property at any time after being told by the school principal to leave and not return. Current law only prohibits return to the property for six months.

Section 3 provides an August 1, 2005 effective date, which applies to crimes committed on or after that date.

CT:vs

Senator Kleis introduced--

S.F. No. 87: Referred to the Committee on Crime Prevention and Public Safety.

1 A bill for an act

2 relating to crime prevention; public safety; expanding
3 the trespass law; amending Minnesota Statutes 2004,
4 section 609.605, subdivisions 1, 4.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

6 Section 1. Minnesota Statutes 2004, section 609.605,
7 subdivision 1, is amended to read:

8 Subdivision 1. [MISDEMEANOR.] (a) The following terms have
9 the meanings given them for purposes of this section.

10 (i) "Premises" means real property and any appurtenant
11 building or structure.

12 (ii) "Dwelling" means the building or part of a building
13 used by an individual as a place of residence on either a
14 full-time or a part-time basis. A dwelling may be part of a
15 multidwelling or multipurpose building, or a manufactured home
16 as defined in section 168.011, subdivision 8.

17 (iii) "Construction site" means the site of the
18 construction, alteration, painting, or repair of a building or
19 structure.

20 (iv) "Owner or lawful possessor," as used in paragraph (b),
21 clause (9), means the person on whose behalf a building or
22 dwelling is being constructed, altered, painted, or repaired and
23 the general contractor or subcontractor engaged in that work.

24 (v) "Posted," as used in clause (9), means the placement of
25 a sign at least 11 inches square in a conspicuous place on the

1 exterior of the building that is under construction, alteration,
2 or repair, and additional signs in at least two conspicuous
3 places for each ten acres being protected. The sign must carry
4 an appropriate notice and the name of the person giving the
5 notice, followed by the word "owner" if the person giving the
6 notice is the holder of legal title to the land on which the
7 construction site is located or by the word "occupant" if the
8 person giving the notice is not the holder of legal title but is
9 a lawful occupant of the land.

10 (vi) "Business licensee," as used in paragraph (b), clause
11 (9), includes a representative of a building trades labor or
12 management organization.

13 (vii) "Building" has the meaning given in section 609.581,
14 subdivision 2.

15 (b) A person is guilty of a misdemeanor if the person
16 intentionally:

17 (1) permits domestic animals or fowls under the actor's
18 control to go on the land of another within a city;

19 (2) interferes unlawfully with a monument, sign, or pointer
20 erected or marked to designate a point of a boundary, line or a
21 political subdivision, or of a tract of land;

22 (3) trespasses on the premises of another and, without
23 claim of right, refuses to depart from the premises on demand of
24 the lawful possessor;

25 (4) occupies or enters the dwelling or locked or posted
26 building of another, without claim of right or consent of the
27 owner or the consent of one who has the right to give consent,
28 except in an emergency situation;

29 (5) enters the premises of another with intent to take or
30 injure any fruit, fruit trees, or vegetables growing on the
31 premises, without the permission of the owner or occupant;

32 (6) enters or is found on the premises of a public or
33 private cemetery without authorization during hours the cemetery
34 is posted as closed to the public;

35 (7) returns to the property of another with the intent to
36 abuse, disturb, or cause distress in or threaten another, after

1 being told to leave the property and not to return, if the actor
2 is without claim of right to the property or consent of one with
3 authority to consent;

4 (8) returns to the property of another ~~within-30-days~~ at
5 any time after being told to leave the property and not to
6 return, if the actor is without claim of right to the property
7 or consent of one with authority to consent; or

8 (9) enters the locked or posted construction site of
9 another without the consent of the owner or lawful possessor,
10 unless the person is a business licensee.

11 Sec. 2. Minnesota Statutes 2004, section 609.605,
12 subdivision 4, is amended to read:

13 Subd. 4. [TRESPASSES ON SCHOOL PROPERTY.] (a) It is a
14 misdemeanor for a person to enter or be found in a public or
15 nonpublic elementary, middle, or secondary school building
16 unless the person:

17 (1) is an enrolled student in, a parent or guardian of an
18 enrolled student in, or an employee of the school or school
19 district;

20 (2) has permission or an invitation from a school official
21 to be in the building;

22 (3) is attending a school event, class, or meeting to which
23 the person, the public, or a student's family is invited; or

24 (4) has reported the person's presence in the school
25 building in the manner required for visitors to the school.

26 (b) It is a gross misdemeanor for a group of three or more
27 persons to enter or be found in a public or nonpublic
28 elementary, middle, or secondary school building unless one of
29 the persons:

30 (1) is an enrolled student in, a parent or guardian of an
31 enrolled student in, or an employee of the school or school
32 district;

33 (2) has permission or an invitation from a school official
34 to be in the building;

35 (3) is attending a school event, class, or meeting to which
36 the person, the public, or a student's family is invited; or

1 (4) has reported the person's presence in the school
2 building in the manner required for visitors to the school.

3 (c) It is a misdemeanor for a person to enter or be found
4 on school property ~~within-six-months~~ at any time after being
5 told by the school principal or the principal's designee to
6 leave the property and not to return, unless the principal or
7 the principal's designee has given the person permission to
8 return to the property. As used in this paragraph, "school
9 property" has the meaning given in section 152.01, subdivision
10 14a, clauses (1) and (3).

11 (d) A school principal or a school employee designated by
12 the school principal to maintain order on school property, who
13 has reasonable cause to believe that a person is violating this
14 subdivision may detain the person in a reasonable manner for a
15 reasonable period of time pending the arrival of a peace
16 officer. A school principal or designated school employee is
17 not civilly or criminally liable for any action authorized under
18 this paragraph if the person's action is based on reasonable
19 cause.

20 (e) A peace officer may arrest a person without a warrant
21 if the officer has probable cause to believe the person violated
22 this subdivision within the preceding four hours. The arrest
23 may be made even though the violation did not occur in the peace
24 officer's presence.

25 Sec. 3. [EFFECTIVE DATE.]

26 Sections 1 and 2 are effective August 1, 2005, and apply to
27 crimes committed on or after that date.

- 1 Senator moves to amend S.F. No. 87 as follows:
- 2 Page 3, line 4, reinstate the stricken "within" and delete "
- 3 at"
- 4 Page 3, line 5, delete "any time" and insert "one year"
- 5 Page 4, line 4, reinstate the stricken "within" and delete "
- 6 at any time" and insert "one year"

1 Senator moves to amend S.F. No. 87 as follows:

2 Page 3, line 26, after "(b)" insert "It is a misdemeanor
3 for a person to be on the roof of a public or nonpublic
4 elementary, middle, or secondary school building unless the
5 person has permission from a school official to be on the roof
6 of the building.

7 (c)"

8 Page 4, line 3, strike "(c)" and insert "(d)"

9 Page 4, line 11, strike "(d)" and insert "(e)"

10 Page 4, line 20, strike "(e)" and insert "(f)"

- 1 Senator moves to amend S.F. No. 87 as follows:
- 2 Page 3, line 8, after "site" insert "or locked or posted
- 3 aggregate mining site"

3/14/05

To: Senate Crime Prevention Committee

From: R. Neumeister

Re: SF 87 - Kleis

S.F. 87 I have problems with. They are
as follows:

- ① Sets up to where "businesses" open to the public can ban people for a year or more. (depending if an amendment is offered) without accountability or documentation.
- ② There can be abuse by "businesses" based on race, religion, etc., i.e. Civil Rights Act of 1964 and our state human rights statutes. Businesses may outright discriminate and violate these laws.

What the bill does is give "businesses open to the public" a broad and unchecked license to discriminate without accountability and documentation in areas of Civil and Human rights.

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State of Minnesota

S.F. No. 676 -Interference with Ambulance Service Personnel

Author: Senator Wes Skoglund

Prepared by: Chris Turner, Senate Research (651/296-4350) CT

Date: March 14, 2005

Section 1 expands Minnesota Statutes, section 609.50 (Obstructing Legal Process; Arrest, or Firefighting), by making it a crime to interfere with or obstruct a member of an ambulance service personnel crew in the performance of their official duties.

CT:vs

Senators Skoglund, Sams and Murphy introduced--

S.F. No. 676: Referred to the Committee on Crime Prevention and Public Safety.

1 A bill for an act

2 relating to criminal justice; establishing a crime for
3 interfering with ambulance service personnel who are
4 providing emergency care; amending Minnesota Statutes
5 2004, section 609.50, subdivision 1.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

7 Section 1. Minnesota Statutes 2004, section 609.50,
8 subdivision 1, is amended to read:

9 Subdivision 1. [CRIME.] Whoever intentionally does any of
10 the following may be sentenced as provided in subdivision 2:

11 (1) obstructs, hinders, or prevents the lawful execution of
12 any legal process, civil or criminal, or apprehension of another
13 on a charge or conviction of a criminal offense;

14 (2) obstructs, resists, or interferes with a peace officer
15 while the officer is engaged in the performance of official
16 duties;

17 (3) interferes with or obstructs the prevention or
18 extinguishing of a fire, or disobeys the lawful order of a
19 firefighter present at the fire; or

20 (4) interferes with or obstructs a member of an ambulance
21 service personnel crew, as defined in section 144E.001,
22 subdivision 3a, who is providing, or attempting to provide,
23 emergency care; or

24 (5) by force or threat of force endeavors to obstruct any
25 employee of the Department of Revenue while the employee is

1 lawfully engaged in the performance of official duties for the
2 purpose of deterring or interfering with the performance of
3 those duties.

4 [EFFECTIVE DATE.] This section is effective August 1, 2005,
5 and applies to crimes committed on or after that date.

**Senate Counsel, Research,
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Senate

State of Minnesota

**S.F. No. 1207 -Postconviction Relief Petition Limits, First
Engrossment**

Author: Senator Leo T. Foley

Prepared by: Chris Turner, Senate Research (651/296-4350) CT

Date: March 14, 2005

Section 1 provides that a petition for postconviction relief following a direct appeal may not raise grounds that could have been raised on the appeal.

Section 2 requires that petitions for postconviction relief be brought within two years from conviction or sentence or the disposition of an appeal, subject to exceptions for disability, mental disease, new evidence, new interpretations of law, violations of constitutional law, or the interests of justice. Petitions invoking exceptions must be brought within two years of the date the claim arises.

CT:vs

1 A bill for an act

2 relating to courts; limiting postconviction relief;
3 setting conditions for petitions; amending Minnesota
4 Statutes 2004, section 590.01, subdivision 1, by
5 adding a subdivision.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

7 Section 1. Minnesota Statutes 2004, section 590.01,
8 subdivision 1, is amended to read:

9 Subdivision 1. [PETITION.] Except at a time when direct
10 appellate relief is available, a person convicted of a crime,
11 who claims that:

12 (1) the conviction obtained or the sentence or other
13 disposition made violated the person's rights under the
14 Constitution or laws of the United States or of the state; or

15 (2) scientific evidence not available at trial, obtained
16 pursuant to a motion granted under subdivision 1a, establishes
17 the petitioner's actual innocence;
18 may commence a proceeding to secure relief by filing a petition
19 in the district court in the county in which the conviction was
20 had to vacate and set aside the judgment and to discharge the
21 petitioner or to resentence the petitioner or grant a new trial
22 or correct the sentence or make other disposition as may be
23 appropriate. A petition for postconviction relief after a
24 direct appeal may not be based on grounds that could have been
25 raised on direct appeal of the conviction or sentence. Nothing

1 contained herein shall prevent the Supreme Court or the Court of
2 Appeals, upon application by a party, from granting a stay of a
3 case on appeal for the purpose of allowing an appellant to apply
4 to the district court for an evidentiary hearing under the
5 provisions of this chapter. The proceeding shall conform with
6 sections 590.01 to 590.06.

7 Sec. 2. Minnesota Statutes 2004, section 590.01, is
8 amended by adding a subdivision to read:

9 Subd. 4. [TIME LIMIT.] (a) No petition for postconviction
10 relief may be filed more than two years after the later of:

11 (1) the entry of judgment of conviction or sentence if no
12 direct appeal is filed; or

13 (2) an appellate court's disposition of petitioner's direct
14 appeal.

15 (b) Notwithstanding paragraph (a), a court may hear a
16 petition for postconviction relief if:

17 (1) the petitioner establishes that a physical disability
18 or mental disease precluded a timely assertion of the claim;

19 (2) the petitioner alleges the existence of newly
20 discovered evidence, including scientific evidence, that could
21 not have been ascertained by the exercise of due diligence by
22 the petitioner or petitioner's attorney within the two-year time
23 period for filing a postconviction petition, and the evidence is
24 not cumulative to evidence presented at trial, is not for
25 impeachment purposes, and establishes by a clear and convincing
26 standard that the petitioner is innocent of the offense or
27 offenses for which the petitioner was convicted;

28 (3) the petitioner asserts a new interpretation of federal
29 or state constitutional or statutory law by either the United
30 States Supreme Court or Minnesota Supreme Court, and the
31 petitioner establishes that this interpretation is retroactively
32 applicable to the petitioner's case;

33 (4) the petition is brought pursuant to subdivision 3; or

34 (5) the petitioner establishes to the satisfaction of the
35 court that the petition is not frivolous and is in the interests
36 of justice.

1 (c) Any petition invoking an exception provided in
2 paragraph (b) must be filed within two years of the date the
3 claim arises.

4 Sec. 3. [EFFECTIVE DATE.]

5 Sections 1 and 2 are effective August 1, 2005. Any person
6 whose conviction became final before August 1, 2005, shall have
7 two years after the effective date of this act to file a
8 petition for postconviction relief.

- 1 Senator moves to amend S.F. No. 1207 as follows:
- 2 Page 1, line 24, after "appeal" insert "has been completed"
- 3 Page 2, line 30, delete "Minnesota Supreme Court" and
- 4 insert "a Minnesota appellate court"