

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 294

(SENATE AUTHORS: GUSTAFSON, Hauschild, Mohamed, Kreun and Seeberger)		
DATE	D-PG	OFFICIAL STATUS
01/17/2023	194	Introduction and first reading
		Referred to Judiciary and Public Safety
02/13/2023		Comm report: To pass as amended
		Second reading

- 1.1 A bill for an act
- 1.2 relating to public safety; establishing the crime of surreptitious intrusion that does
- 1.3 not take place through a window or aperture; establishing the crime of surreptitious
- 1.4 intrusion under or around a person's clothing; amending the statute of limitations
- 1.5 for the crime of surreptitious intrusion; making technical and conforming changes;
- 1.6 amending Minnesota Statutes 2022, sections 243.166, subdivision 1b; 609.746,
- 1.7 subdivision 1; 609A.02, subdivision 3; 628.26.
- 1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.9 Section 1. Minnesota Statutes 2022, section 243.166, subdivision 1b, is amended to read:
- 1.10 Subd. 1b. **Registration required.** (a) A person shall register under this section if:
- 1.11 (1) the person was charged with or petitioned for a felony violation of or attempt to
- 1.12 violate, or aiding, abetting, or conspiracy to commit, any of the following, and convicted
- 1.13 of or adjudicated delinquent for that offense or another offense arising out of the same set
- 1.14 of circumstances:
- 1.15 (i) murder under section 609.185, paragraph (a), clause (2);
- 1.16 (ii) kidnapping under section 609.25;
- 1.17 (iii) criminal sexual conduct under section 609.342; 609.343; 609.344; 609.345; 609.3451,
- 1.18 subdivision 3, paragraph (b); or 609.3453;
- 1.19 (iv) indecent exposure under section 617.23, subdivision 3; or
- 1.20 (v) surreptitious intrusion under the circumstances described in section 609.746,
- 1.21 subdivision 1, paragraph ~~(h)~~ (h);

2.1 (2) the person was charged with or petitioned for a violation of, or attempt to violate, or
2.2 aiding, abetting, or conspiring to commit any of the following and convicted of or adjudicated
2.3 delinquent for that offense or another offense arising out of the same set of circumstances:

2.4 (i) criminal abuse in violation of section 609.2325, subdivision 1, paragraph (b);

2.5 (ii) false imprisonment in violation of section 609.255, subdivision 2;

2.6 (iii) solicitation, inducement, or promotion of the prostitution of a minor or engaging in
2.7 the sex trafficking of a minor in violation of section 609.322;

2.8 (iv) a prostitution offense in violation of section 609.324, subdivision 1, paragraph (a);

2.9 (v) soliciting a minor to engage in sexual conduct in violation of section 609.352,
2.10 subdivision 2 or 2a, clause (1);

2.11 (vi) using a minor in a sexual performance in violation of section 617.246; or

2.12 (vii) possessing pornographic work involving a minor in violation of section 617.247;

2.13 (3) the person was sentenced as a patterned sex offender under section 609.3455,
2.14 subdivision 3a; or

2.15 (4) the person was charged with or petitioned for, including pursuant to a court martial,
2.16 violating a law of the United States, including the Uniform Code of Military Justice, similar
2.17 to an offense or involving similar circumstances to an offense described in clause (1), (2),
2.18 or (3), and convicted of or adjudicated delinquent for that offense or another offense arising
2.19 out of the same set of circumstances.

2.20 (b) A person also shall register under this section if:

2.21 (1) the person was charged with or petitioned for an offense in another state similar to
2.22 an offense or involving similar circumstances to an offense described in paragraph (a),
2.23 clause (1), (2), or (3), and convicted of or adjudicated delinquent for that offense or another
2.24 offense arising out of the same set of circumstances;

2.25 (2) the person enters this state to reside, work, or attend school, or enters this state and
2.26 remains for 14 days or longer or for an aggregate period of time exceeding 30 days during
2.27 any calendar year; and

2.28 (3) ten years have not elapsed since the person was released from confinement or, if the
2.29 person was not confined, since the person was convicted of or adjudicated delinquent for
2.30 the offense that triggers registration, unless the person is subject to a longer registration
2.31 period under the laws of another state in which the person has been convicted or adjudicated,
2.32 or is subject to lifetime registration.

3.1 If a person described in this paragraph is subject to a longer registration period in another
3.2 state or is subject to lifetime registration, the person shall register for that time period
3.3 regardless of when the person was released from confinement, convicted, or adjudicated
3.4 delinquent.

3.5 (c) A person also shall register under this section if the person was committed pursuant
3.6 to a court commitment order under Minnesota Statutes 2012, section 253B.185, chapter
3.7 253D, Minnesota Statutes 1992, section 526.10, or a similar law of another state or the
3.8 United States, regardless of whether the person was convicted of any offense.

3.9 (d) A person also shall register under this section if:

3.10 (1) the person was charged with or petitioned for a felony violation or attempt to violate
3.11 any of the offenses listed in paragraph (a), clause (1), or a similar law of another state or
3.12 the United States, or the person was charged with or petitioned for a violation of any of the
3.13 offenses listed in paragraph (a), clause (2), or a similar law of another state or the United
3.14 States;

3.15 (2) the person was found not guilty by reason of mental illness or mental deficiency
3.16 after a trial for that offense, or found guilty but mentally ill after a trial for that offense, in
3.17 states with a guilty but mentally ill verdict; and

3.18 (3) the person was committed pursuant to a court commitment order under section
3.19 253B.18 or a similar law of another state or the United States.

3.20 **EFFECTIVE DATE.** This section is effective August 1, 2023.

3.21 Sec. 2. Minnesota Statutes 2022, section 609.746, subdivision 1, is amended to read:

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

3.24 (1) enters upon another's property;

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

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

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

3.30 (1) enters upon another's property;

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

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

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

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

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

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

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

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

4.21 (e) A person is guilty of a gross misdemeanor who:

4.22 (1) uses any device for photographing, recording, or broadcasting an image of an
4.23 individual in a house or place of dwelling, a sleeping room of a hotel as defined in section
4.24 327.70, subdivision 3, a tanning booth, a bathroom, a locker room, a changing room, an
4.25 indoor shower facility, or any place where a reasonable person would have an expectation
4.26 of privacy; and

4.27 (2) does so with the intent to photograph, record, or broadcast an image of the individual's
4.28 intimate parts, as defined in section 609.341, subdivision 5, without the consent of the
4.29 individual.

4.30 (f) A person is guilty of a misdemeanor who:

5.1 (1) surreptitiously installs or uses any device for observing, photographing, recording,
 5.2 or broadcasting an image of an individual's intimate parts, as defined in section 609.341,
 5.3 subdivision 5, or the clothing covering the immediate area of the intimate parts;

5.4 (2) observes, photographs, or records the image under or around the individual's clothing;
 5.5 and

5.6 (3) does so with intent to intrude upon or interfere with the privacy of the individual.

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

5.9 (1) violates ~~this subdivision~~ paragraph (a), (b), (c), (d), or (e) after a previous conviction
 5.10 under this subdivision or section 609.749; or

5.11 (2) violates ~~this subdivision~~ paragraph (a), (b), (c), (d), or (e) against a minor under the
 5.12 age of 18, knowing or having reason to know that the minor is present.

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

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

5.20 (1) violates paragraph (f) after a previous conviction under this subdivision or section
 5.21 609.749; or

5.22 (2) violates paragraph (f) against a minor under the age of 18, knowing or having reason
 5.23 to know that the victim is a minor.

5.24 (j) A person is guilty of a felony if the person violates paragraph (f) after two or more
 5.25 convictions under this subdivision or section 609.749.

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

6.1 **EFFECTIVE DATE.** This section is effective August 1, 2023, and applies to crimes
6.2 committed on or after that date.

6.3 Sec. 3. Minnesota Statutes 2022, section 609A.02, subdivision 3, is amended to read:

6.4 Subd. 3. **Certain criminal proceedings.** (a) A petition may be filed under section
6.5 609A.03 to seal all records relating to an arrest, indictment or information, trial, or verdict
6.6 if the records are not subject to section 299C.11, subdivision 1, paragraph (b), and if:

6.7 (1) all pending actions or proceedings were resolved in favor of the petitioner. For
6.8 purposes of this chapter, a verdict of not guilty by reason of mental illness is not a resolution
6.9 in favor of the petitioner. For the purposes of this chapter, an action or proceeding is resolved
6.10 in favor of the petitioner, if the petitioner received an order under section 590.11 determining
6.11 that the petitioner is eligible for compensation based on exoneration;

6.12 (2) the petitioner has successfully completed the terms of a diversion program or stay
6.13 of adjudication and has not been charged with a new crime for at least one year since
6.14 completion of the diversion program or stay of adjudication;

6.15 (3) the petitioner was convicted of or received a stayed sentence for a petty misdemeanor
6.16 or misdemeanor and has not been convicted of a new crime for at least two years since
6.17 discharge of the sentence for the crime;

6.18 (4) the petitioner was convicted of or received a stayed sentence for a gross misdemeanor
6.19 and has not been convicted of a new crime for at least four years since discharge of the
6.20 sentence for the crime; or

6.21 (5) the petitioner was convicted of or received a stayed sentence for a felony violation
6.22 of an offense listed in paragraph (b), and has not been convicted of a new crime for at least
6.23 five years since discharge of the sentence for the crime.

6.24 (b) Paragraph (a), clause (5), applies to the following offenses:

6.25 (1) section 35.824 (altering livestock certificate);

6.26 (2) section 62A.41 (insurance regulations);

6.27 (3) section 86B.865, subdivision 1 (certification for title on watercraft);

6.28 (4) section 152.025 (controlled substance in the fifth degree); or 152.097 (sale of
6.29 simulated controlled substance);

6.30 (5) section 168A.30, subdivision 1 (certificate of title false information); or 169.09,
6.31 subdivision 14, paragraph (a), clause (2) (accident resulting in great bodily harm);

- 7.1 (6) chapter 201; 203B; or 204C (voting violations);
- 7.2 (7) section 228.45; 228.47; 228.49; 228.50; or 228.51 (false bill of lading);
- 7.3 (8) section 256.984 (false declaration in assistance application);
- 7.4 (9) section 296A.23, subdivision 2 (willful evasion of fuel tax);
- 7.5 (10) section 297D.09, subdivision 1 (failure to affix stamp on scheduled substances);
- 7.6 (11) section 297G.19 (liquor taxation); or 340A.701 (unlawful acts involving liquor);
- 7.7 (12) section 325F.743 (precious metal dealers); or 325F.755, subdivision 7 (prize notices
7.8 and solicitations);
- 7.9 (13) section 346.155, subdivision 10 (failure to control regulated animal);
- 7.10 (14) section 349.2127; or 349.22 (gambling regulations);
- 7.11 (15) section 588.20 (contempt);
- 7.12 (16) section 609.27, subdivision 1, clauses (2) to (5) (coercion);
- 7.13 (17) section 609.31 (leaving state to evade establishment of paternity);
- 7.14 (18) section 609.485, subdivision 4, paragraph (a), clause (2) or (4) (escape from civil
7.15 commitment for mental illness);
- 7.16 (19) section 609.49 (failure to appear in court);
- 7.17 (20) section 609.52, subdivision 3, clause (3)(a) (theft of \$5,000 or less), or other theft
7.18 offense that is sentenced under this provision; or 609.52, subdivision 3a, clause (1) (theft
7.19 of \$1,000 or less with risk of bodily harm);
- 7.20 (21) section 609.525 (bringing stolen goods into state);
- 7.21 (22) section 609.526, subdivision 2, clause (2) (metal dealer receiving stolen goods);
- 7.22 (23) section 609.527, subdivision 5b (possession or use of scanning device or reencoder);
7.23 609.528, subdivision 3, clause (3) (possession or sale of stolen or counterfeit check); or
7.24 609.529 (mail theft);
- 7.25 (24) section 609.53 (receiving stolen goods);
- 7.26 (25) section 609.535, subdivision 2a, paragraph (a), clause (1) (dishonored check over
7.27 \$500);
- 7.28 (26) section 609.54, clause (1) (embezzlement of public funds \$2,500 or less);
- 7.29 (27) section 609.551 (rustling and livestock theft);

- 8.1 (28) section 609.5641, subdivision 1a, paragraph (a) (wildfire arson);
- 8.2 (29) section 609.576, subdivision 1, clause (3), item (iii) (negligent fires);
- 8.3 (30) section 609.595, subdivision 1, clauses (3) to (5), and subdivision 1a, paragraph
- 8.4 (a) (criminal damage to property);
- 8.5 (31) section 609.597, subdivision 3, clause (3) (assaulting or harming police horse);
- 8.6 (32) section 609.625 (aggravated forgery); 609.63 (forgery); 609.631, subdivision 4,
- 8.7 clause (3)(a) (check forgery \$2,500 or less); 609.635 (obtaining signature by false pretense);
- 8.8 609.64 (recording, filing forged instrument); or 609.645 (fraudulent statements);
- 8.9 (33) section 609.65, clause (1) (false certification by notary); or 609.651, subdivision
- 8.10 4, paragraph (a) (lottery fraud);
- 8.11 (34) section 609.652 (fraudulent driver's license and identification card);
- 8.12 (35) section 609.66, subdivision 1a, paragraph (a) (discharge of firearm; silencer); or
- 8.13 609.66, subdivision 1b (furnishing firearm to minor);
- 8.14 (36) section 609.662, subdivision 2, paragraph (b) (duty to render aid);
- 8.15 (37) section 609.686, subdivision 2 (tampering with fire alarm);
- 8.16 (38) section 609.746, subdivision 1, paragraph ~~(e)~~ (g) (interference with privacy;
- 8.17 subsequent violation or minor victim);
- 8.18 (39) section 609.80, subdivision 2 (interference with cable communications system);
- 8.19 (40) section 609.821, subdivision 2 (financial transaction card fraud);
- 8.20 (41) section 609.822 (residential mortgage fraud);
- 8.21 (42) section 609.825, subdivision 2 (bribery of participant or official in contest);
- 8.22 (43) section 609.855, subdivision 2, paragraph (c), clause (1) (interference with transit
- 8.23 operator);
- 8.24 (44) section 609.88 (computer damage); or 609.89 (computer theft);
- 8.25 (45) section 609.893, subdivision 2 (telecommunications and information services fraud);
- 8.26 (46) section 609.894, subdivision 3 or 4 (cellular counterfeiting);
- 8.27 (47) section 609.895, subdivision 3, paragraph (a) or (b) (counterfeited intellectual
- 8.28 property);
- 8.29 (48) section 609.896 (movie pirating);

9.1 (49) section 624.7132, subdivision 15, paragraph (b) (transfer pistol to minor); 624.714,
9.2 subdivision 1a (pistol without permit; subsequent violation); or 624.7141, subdivision 2
9.3 (transfer of pistol to ineligible person); or

9.4 (50) section 624.7181 (rifle or shotgun in public by minor).

9.5 **EFFECTIVE DATE.** This section is effective August 1, 2023.

9.6 Sec. 4. Minnesota Statutes 2022, section 628.26, is amended to read:

9.7 **628.26 LIMITATIONS.**

9.8 (a) Indictments or complaints for any crime resulting in the death of the victim may be
9.9 found or made at any time after the death of the person killed.

9.10 (b) Indictments or complaints for a violation of section 609.25 may be found or made
9.11 at any time after the commission of the offense.

9.12 (c) Indictments or complaints for violation of section 609.282 may be found or made at
9.13 any time after the commission of the offense if the victim was under the age of 18 at the
9.14 time of the offense.

9.15 (d) Indictments or complaints for violation of section 609.282 where the victim was 18
9.16 years of age or older at the time of the offense, or 609.42, subdivision 1, clause (1) or (2),
9.17 shall be found or made and filed in the proper court within six years after the commission
9.18 of the offense.

9.19 (e) Indictments or complaints for violation of sections 609.322, 609.342 to 609.345, and
9.20 609.3458 may be found or made at any time after the commission of the offense.

9.21 (f) Indictments or complaints for violation of sections 609.466 and 609.52, subdivision
9.22 2, paragraph (a), clause (3), item (iii), shall be found or made and filed in the proper court
9.23 within six years after the commission of the offense.

9.24 (g) Indictments or complaints for violation of section 609.2335, 609.52, subdivision 2,
9.25 paragraph (a), clause (3), items (i) and (ii), (4), (15), or (16), 609.631, or 609.821, where
9.26 the value of the property or services stolen is more than \$35,000, or for violation of section
9.27 609.527 where the offense involves eight or more direct victims or the total combined loss
9.28 to the direct and indirect victims is more than \$35,000, shall be found or made and filed in
9.29 the proper court within five years after the commission of the offense.

9.30 (h) Except for violations relating to false material statements, representations or
9.31 omissions, indictments or complaints for violations of section 609.671 shall be found or
9.32 made and filed in the proper court within five years after the commission of the offense.

10.1 (i) Indictments or complaints for violation of sections 609.561 to 609.563, shall be found
10.2 or made and filed in the proper court within five years after the commission of the offense.

10.3 (j) Indictments or complaints for violation of section 609.746 shall be found or made
10.4 and filed in the proper court within the later of three years after the commission of the
10.5 offense or three years after the offense was reported to law enforcement authorities.

10.6 ~~(k)~~ (k) In all other cases, indictments or complaints shall be found or made and filed in
10.7 the proper court within three years after the commission of the offense.

10.8 ~~(l)~~ (l) The limitations periods contained in this section shall exclude any period of time
10.9 during which the defendant was not an inhabitant of or usually resident within this state.

10.10 ~~(m)~~ (m) The limitations periods contained in this section for an offense shall not include
10.11 any period during which the alleged offender participated under a written agreement in a
10.12 pretrial diversion program relating to that offense.

10.13 ~~(n)~~ (n) The limitations periods contained in this section shall not include any period of
10.14 time during which physical evidence relating to the offense was undergoing DNA analysis,
10.15 as defined in section 299C.155, unless the defendant demonstrates that the prosecuting or
10.16 law enforcement agency purposefully delayed the DNA analysis process in order to gain
10.17 an unfair advantage.

10.18 **EFFECTIVE DATE.** This section is effective August 1, 2023, and applies to crimes
10.19 committed on or after that date and to crimes committed before that date if the limitations
10.20 period for the crime did not expire before August 1, 2023.