

**SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION**

S.F. No. 838

(SENATE AUTHORS: KORAN)

DATE
02/04/2019

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OFFICIAL STATUS
Introduction and first reading
Referred to Judiciary and Public Safety Finance and Policy

1.1 A bill for an act
1.2 relating to public safety; increasing penalties for child pornography offenses;
1.3 creating mandatory minimum sentences; directing Sentencing Guidelines
1.4 Commission to modify the sex offender grid; amending Minnesota Statutes 2018,
1.5 sections 617.246, subdivisions 2, 3, 4, 7, by adding a subdivision; 617.247,
1.6 subdivisions 3, 4, 9, by adding a subdivision.

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

1.8 Section 1. Minnesota Statutes 2018, section 617.246, subdivision 2, is amended to read:

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

1.13 Any person who violates this subdivision is guilty of a felony and may be sentenced to
1.14 imprisonment for not more than ~~ten~~ 15 years or to payment of a fine of not more than \$20,000
1.15 for the first offense and \$40,000 for a second or subsequent offense, or both.

1.16 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to offenses
1.17 committed on or after that date.

1.18 Sec. 2. Minnesota Statutes 2018, section 617.246, subdivision 3, is amended to read:

1.19 Subd. 3. **Operation or ownership of business.** A person who owns or operates a business
1.20 in which a pornographic work, as defined in this section, is disseminated to an adult or a
1.21 minor or is reproduced, and who knows the content and character of the pornographic work
1.22 disseminated or reproduced, is guilty of a felony and may be sentenced to imprisonment

2.1 for not more than ~~ten~~ 15 years, or to payment of a fine of not more than \$20,000 for the first
2.2 offense and \$40,000 for a second or subsequent offense, or both.

2.3 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to offenses
2.4 committed on or after that date.

2.5 Sec. 3. Minnesota Statutes 2018, section 617.246, subdivision 4, is amended to read:

2.6 Subd. 4. **Dissemination.** A person who, knowing or with reason to know its content and
2.7 character, disseminates for profit to an adult or a minor a pornographic work, as defined in
2.8 this section, is guilty of a felony and may be sentenced to imprisonment for not more than
2.9 ~~ten~~ 15 years, or to payment of a fine of not more than \$20,000 for the first offense and
2.10 \$40,000 for a second or subsequent offense, or both.

2.11 Sec. 4. Minnesota Statutes 2018, section 617.246, subdivision 7, is amended to read:

2.12 Subd. 7. **Conditional release term.** Notwithstanding the statutory maximum sentence
2.13 otherwise applicable to the offense or any provision of the sentencing guidelines, when a
2.14 court commits a person to the custody of the commissioner of corrections for violating this
2.15 section, the court shall provide that after the person has been released from prison, the
2.16 commissioner shall place the person on conditional release for ~~five~~ ten years. If the person
2.17 has previously been convicted of a violation of this section, section 609.342, 609.343,
2.18 609.344, 609.345, 609.3451, 609.3453, or 617.247, or any similar statute of the United
2.19 States, this state, or any state, the commissioner shall place the person on conditional release
2.20 for ~~ten~~ at least 50 years. The terms of conditional release are governed by section 609.3455,
2.21 subdivision 8.

2.22 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to offenses
2.23 committed on or after that date.

2.24 Sec. 5. Minnesota Statutes 2018, section 617.246, is amended by adding a subdivision to
2.25 read:

2.26 Subd. 8. **Mandatory minimum sentence.** A person convicted under this section must
2.27 serve a minimum of six months of incarceration. If the person (1) has a prior conviction
2.28 under this section or section 617.247, or (2) is required to register as a predatory offender,
2.29 the person must serve a minimum of 12 months of incarceration.

2.30 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to offenses
2.31 committed on or after that date.

3.1 Sec. 6. Minnesota Statutes 2018, section 617.247, subdivision 3, is amended to read:

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

3.7 (b) A person who violates paragraph (a) is guilty of a felony and may be sentenced to
3.8 imprisonment for not more than ~~15~~ 20 years if the violation occurs when the person is a
3.9 registered predatory offender under section 243.166.

3.10 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to offenses
3.11 committed on or after that date.

3.12 Sec. 7. Minnesota Statutes 2018, section 617.247, subdivision 4, is amended to read:

3.13 Subd. 4. **Possession prohibited.** (a) A person who possesses a pornographic work or a
3.14 computer disk or computer or other electronic, magnetic, or optical storage system or a
3.15 storage system of any other type, containing a pornographic work, knowing or with reason
3.16 to know its content and character, is guilty of a felony and may be sentenced to imprisonment
3.17 for not more than ~~five~~ seven years and a fine of not more than ~~\$5,000~~ \$7,500 for a first
3.18 offense and for not more than ~~ten~~ 15 years and a fine of not more than ~~\$10,000~~ \$15,000 for
3.19 a second or subsequent offense.

3.20 (b) A person who violates paragraph (a) is guilty of a felony and may be sentenced to
3.21 imprisonment for not more than ~~ten~~ 15 years if the violation occurs when the person is a
3.22 registered predatory offender under section 243.166.

3.23 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to offenses
3.24 committed on or after that date.

3.25 Sec. 8. Minnesota Statutes 2018, section 617.247, subdivision 9, is amended to read:

3.26 Subd. 9. **Conditional release term.** Notwithstanding the statutory maximum sentence
3.27 otherwise applicable to the offense or any provision of the sentencing guidelines, when a
3.28 court commits a person to the custody of the commissioner of corrections for violating this
3.29 section, the court shall provide that after the person has been released from prison, the
3.30 commissioner shall place the person on conditional release for ~~five~~ ten years. If the person
3.31 has previously been convicted of a violation of this section, section 609.342, 609.343,
3.32 609.344, 609.345, 609.3451, 609.3453, or 617.246, or any similar statute of the United

4.1 States, this state, or any state, the commissioner shall place the person on conditional release
4.2 for ~~ten~~ at least 50 years. The terms of conditional release are governed by section 609.3455,
4.3 subdivision 8.

4.4 Sec. 9. Minnesota Statutes 2018, section 617.247, is amended by adding a subdivision to
4.5 read:

4.6 Subd. 10. **Mandatory minimum sentence.** A person convicted under this section must
4.7 serve a minimum of six months of incarceration. If the person (1) has a prior conviction
4.8 under this section or section 617.246, or (2) is required to register as a predatory offender,
4.9 the person must serve a minimum of 12 months of incarceration.

4.10 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to offenses
4.11 committed on or after that date.

4.12 Sec. 10. **SENTENCING GUIDELINES MODIFICATION.**

4.13 The Sentencing Guidelines Commission shall modify the sex offender grid by ranking
4.14 violations of Minnesota Statutes, section 617.247, subdivision 3 (dissemination of child
4.15 pornography - subsequent or by predatory offender), in severity level C; violations of
4.16 Minnesota Statutes, sections 617.246 (use of minors in sexual performance), 617.247,
4.17 subdivision 3 (dissemination of child pornography - first time, nonpredatory offender), and
4.18 617.247, subdivision 4 (possession of child pornography - subsequent or by predatory
4.19 offender), in severity level D; and violations of Minnesota Statutes, section 617.247,
4.20 subdivision 4 (possession of child pornography - first time, nonpredatory offender), in
4.21 severity level E.

4.22 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to offenses
4.23 committed on or after that date.