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HOUSE RESEARCH

Background Materials

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Selected Laws Relating to Violence in Schools

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ACQUISITIONS

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Definition of "Dangerous Weapon"

(Minn. Stat. §609.02, subd. 6)

- ▶ any firearm, whether loaded or unloaded;

- ▶ any device:
 - designed as a weapon, and
 - capable of producing death or great bodily harm;

- ▶ any combustible or flammable liquid or other device or instrumentality that:
 - in the manner it is used or intended to be used
 - is calculated or likely to produce death or great bodily harm;

- ▶ any fire that is used to produce death or great bodily harm.

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"Gun-Free" and "Drug-Free" School Zones

(Minn. Stat. §§152.021 to 152.024; and 609.66, subs. 1 and 1a)

Definition of "School Zone"

A "school zone" includes:

- ▶ any property owned, leased, or controlled by a school district or an organization operating a nonpublic school, where an elementary, middle, secondary school, secondary vocational center or other school providing educational services in grade one through grade 12 is located, or used for educational purposes, or where extracurricular or cocurricular activities are regularly provided;
- ▶ the area surrounding school property to a distance of 300 feet or one city block, whichever distance is greater, beyond the school property; and
- ▶ the area within a school bus when that bus is being used to transport one or more elementary or secondary school students.

Penalty Enhancements

Minnesota law provides a criminal penalty enhancement when certain dangerous weapons crimes and drug crimes are committed within a "school zone". The crimes affected and their penalty enhancements are as follows:

Dangerous weapons crimes; gross misdemeanors. A person who commits any of the following acts in a school zone is guilty of a gross misdemeanor:

- ▶ recklessly handles or uses a gun, explosive, or other dangerous weapon so as to endanger the safety of another;
- ▶ intentionally points a gun at another, whether loaded or unloaded;
- ▶ manufactures or sells for an unlawful purpose a slungshot or sand club;
- ▶ manufactures, transfers, or possesses metal knuckles or automatic switch blade;
or
- ▶ outside a municipality, permits a minor under age 14 to handle or use a firearm, ammunition, or explosive without parental or guardian consent.

(These acts, if committed outside a school zone, are misdemeanor crimes.)

Dangerous weapons crimes; felonies. A person who commits any of the following acts in a school zone is guilty of a felony and subject to a maximum penalty of five years imprisonment and/or a \$10,000 fine:

- ▶ sells or possesses a firearm silencer or muffler;
- ▶ intentionally discharges a firearm under dangerous circumstances; or
- ▶ recklessly discharges a firearm within a municipality.

(These acts, if committed outside a school zone, are felony crimes with a maximum penalty of two years imprisonment and/or a \$5,000 fine.)

Controlled substance crime in the first degree. A person who unlawfully sells in a school zone 25 kilograms or more of marijuana is subject to a maximum felony penalty of 30 years imprisonment and/or a \$1,000,000 fine. (This includes a penalty enhancement of five years imprisonment and \$500,000.)

Controlled substance crime in the second degree. A person who unlawfully sells in an school zone any amount of narcotics, LSD, methamphetamine, or amphetamine, or at least five kilograms of marijuana is subject to a maximum felony penalty of 25 years imprisonment and/or a \$500,000 fine. (This includes a penalty enhancement of between five and ten years and between \$250,000 and \$400,000, depending on the type of drugs involved.)

Controlled substance crime in the third degree. A person who unlawfully possesses in a school zone any amount of narcotic drugs, methamphetamine, or amphetamine, or at least five dosage units of LSD is subject to a maximum felony penalty of 20 years imprisonment and/or a \$250,000 fine. (This includes a penalty enhancement of 15 years imprisonment and \$150,000.)

Controlled substance crime in the fourth degree. A person who unlawfully sells in a school zone any amount of marijuana (except a petty amount for no money) is subject to a maximum felony penalty of 15 years imprisonment and/or a \$100,000 fine. (This includes a penalty enhancement of ten years imprisonment and \$90,000.)

Possession of Dangerous Weapons on School Property

(Minn. Stat. §609.66, subd. 1d)

Elements of Crime

Whoever:

- ▶ possesses, stores, or keeps
- ▶ a dangerous weapon
- ▶ on school property; and
- ▶ does not fall within one of the statutory exceptions.

Definition of "School Property"

"School property" includes:

- ▶ a public or private elementary, middle or secondary school building and its grounds (whether leased or owned by the school); and
- ▶ the area within a school bus while it is transporting one or more elementary, middle, or secondary school students.

Penalties

- ▶ Not more than two years imprisonment and/or not more than \$5,000 fine (felony).
- ▶ A juvenile court must order revocation or denial of juvenile offender's driver's license or driving privileges until the juvenile's 18th birthday. (Minn. Stat. §260.285, subd. 1a.)

Exclusions

The following persons/activities are excluded from the coverage of this offense:

- ▶ Licensed peace officers, military personnel, or students participating in military training, while performing official duties;
- ▶ persons carrying a pistol under terms of a permit;
- ▶ persons keeping or storing firearms in motor vehicle in the manner authorized by law;
- ▶ firearm safety or marksmanship courses or activities conducted on school property;
- ▶ a gun or knife show held on school property; and
- ▶ possession of dangerous weapon with written permission of school principal.

Reports of Dangerous Weapons Incidents on School Property

(Minn. Stat. §121.207)

Minnesota law requires the Commissioner of Education, in consultation with others, to develop a standardized form to be used by schools to report dangerous weapon incidents occurring on school property and in school buses while they are transporting students.

The form must be developed by January 1, 1994, and must include certain specified information about the incident, the offender and victim involved in the incident (without reference to their identity), the cost of the incident to the school and the victim, and the school's response to the incident.

The law also requires schools to report dangerous weapon incidents to the Commissioner of Education by February 1 and July 1 of each year. In turn, the Commissioner must compile the information and report it annually to the Commissioner of Public Safety, the criminal and juvenile information policy group, and the legislature.

Trespass in a School Building

(Minn. Stat. §609.605, subd. 4)

Elements of crime

Whoever:

- ▶ enters or is found
- ▶ in a public or nonpublic elementary, middle, or secondary school building; and
- ▶ does not fall within one of the statutory exceptions.

Exceptions

The following persons are excluded from the coverage of this crime:

- ▶ an enrolled student in or a parent or guardian of an enrolled student in the school or school district;
- ▶ an employee of the school or school district;
- ▶ a person who has permission or an invitation from a school official to be in the building;
- ▶ a person who is attending a school event, class, or meeting to which the person, the public, or a student's family is invited; and
- ▶ a person who has reported his or her presence in the school in the manner required of visitors to the school.

Penalty

Misdemeanor.

Manner of detention and/or arrest

- ▶ School principal or designated school official may detain suspected violator for a reasonable time period pending arrival of peace officer. Such actions, when based on reasonable cause, are immune from criminal and civil liability.
- ▶ Peace officer may effect warrantless probable cause arrest if alleged violation occurred within preceding four hours.

Trespass on School Property

(Minn. Stat. §609.605, subd. 4)

Elements of crime

Whoever:

- ▶ enters or is found
- ▶ on school property
- ▶ within six months after being told by the school principal or principal's designee to leave the property and not to return; unless
- ▶ the principal has since given the person permission to return to the property.

Definition of school property

"School property" includes:

- ▶ any property owned, leased, or controlled by a school district or an organization operating a nonpublic school, where an elementary, middle, secondary school, secondary vocational center or other school providing educational services in grade one through grade 12 is located, or used for educational purposes, or where extracurricular or cocurricular activities are regularly provided; and
- ▶ the area within a school bus when that bus is being used to transport one or more elementary or secondary school students.

Penalty

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Use of Force by or Against Teachers and Other School Officials

(Minn. Stat. §§609.2231, subd. 5; 609.06; 609.065; 127.45; and 127.03, subd. 3)

Use of force against teachers

It is a gross misdemeanor to:

- ▶ assault a school official
- ▶ while the official is performing official duties and
- ▶ inflict demonstrable bodily harm.

"School official" includes teachers, school administrators, and other employees of a public or private school.

(A similar assault against a non-school official would be a misdemeanor.)

Minn. Stat. §609.2231, subd. 5.

Use of force by teachers; criminal liability

Minnesota's criminal code states that **reasonable force** may be used upon or toward the person of another without the other's consent when certain circumstances exist or when the actor reasonably believes them to exist. Included in the list of circumstances are the following:

- ▶ reasonable force used by a teacher or other lawful custodian of a child or pupil, in the exercise of lawful authority, to **restrain or correct** such child or pupil; and
- ▶ reasonable force used by a school employee or school bus driver, in the exercise of lawful authority, to **restrain** a child or pupil or to prevent bodily harm or death to another.

Minn. Stat. §609.06.

However, the intentional taking of the life of another is not authorized under this law unless necessary in resisting or preventing an offense which the actor reasonably believes exposes the actor or another to great bodily harm or death, or preventing the commission of a felony in the actor's home.

Minn. Stat. §609.065.

(A showing in a criminal case that the use of force was authorized under either of these statutes is a defense to criminal liability for the force used.)

Corporal Punishment

Minnesota law prohibits any employee or agent of a public school district from inflicting corporal punishment or causing corporal punishment to be inflicted upon a pupil to reform unacceptable conduct or as a penalty for unacceptable conduct.

"Corporal punishment" means:

- ▶ hitting or spanking a person with or without an object; or
- ▶ unreasonable physical force that causes bodily harm or substantial emotional harm.

Conduct in violation of this law may be criminal conduct if it violates any provision of the Minnesota Criminal Code.

Minn. Stat. §127.45.

Use of force by teachers; civil liability

Minnesota law provides a defense to a civil action for damages against a teacher if it is shown that:

- ▶ the use of force was reasonable;
- ▶ was in the exercise of lawful authority; and
- ▶ was necessary under the circumstances to restrain the pupil.

Minn. Stat. §127.03, subd. 3.

School Harassment and Violence Policy

(Minn. Stat. §127.46 and 127.455)

Minnesota law requires every school board to adopt a written policy on sexual, religious, and racial harassment and violence that conforms with the state Human Rights Act. The policy must apply to students, teachers, administrators, and other school personnel and must include reporting procedures and disciplinary actions for violations of the policy.

The school's policy must be posted conspicuously throughout the each school building and must be included in the student handbook. The school must also develop a process for discussing the policy with students and school employees.

Minnesota law also requires the Commissioner of Education to make a model school harassment and violence policy available to school boards. Every school board must give to the Commissioner a copy of the school harassment and violence policy it adopts.

Violence Prevention Education Programs

(Minn. Stat. §§126.77 and 126.78)

Minnesota law (Minn. Stat. §126.77) encourages all school districts to integrate a violence prevention program into their existing K-12 curricula. The law also directs the Commissioner of Education, in consultation with a number of groups and agencies, to assist school districts on request in developing and implementing such a program.

The violence prevention program envisioned by this statute includes the following:

- ▶ curriculum on violence prevention, nonviolent conflict resolution, and sexual, racial and cultural harassment;
- ▶ materials and information about violence, harassment, and reducing child abuse and neglect;
- ▶ a parent education component of ECFE programs to prevent child abuse and neglect and promote positive parenting skills, especially for at-risk families;
- ▶ collaboration with local community services, agencies and organizations that assist in violence intervention and prevention; and
- ▶ targeting early adolescents for prevention efforts.

Additionally, Minnesota law (Minn. Stat. §126.78) establishes a grant program to help school districts develop and implement a K-12 violence prevention program. Districts that elect to develop and implement a violence prevention program under section 126.77 are eligible for such grants. The amount of the grant award is equal to \$3 per actual pupil unit.

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