

M.S.A. § 609.125

Minnesota Statutes Annotated [Currentness](#)

Crimes, Criminals (Ch. 609-624)

☞ [Chapter 609](#). Criminal Code ([Refs & Annos](#))

☞ Sentences ([Refs & Annos](#))

➔ **609.125. Sentence for misdemeanor or gross misdemeanor**

Subdivision 1. Sentences available. Upon conviction of a misdemeanor or gross misdemeanor the court, if sentence is imposed, may, to the extent authorized by law, sentence the defendant:

- (1) to imprisonment for a definite term; or
- (2) to payment of a fine, or to imprisonment for a specified term if the fine is not paid; or
- (3) to both imprisonment for a definite term and payment of a fine; or
- (4) to payment of court-ordered restitution in addition to either imprisonment or payment of a fine, or both; or
- (5) to payment of a local correctional fee as authorized under [section 609.102](#) in addition to any other sentence imposed by the court; or
- (6) to perform work service in a restorative justice program in addition to any other sentence imposed by the court.

Subd. 2. Restitution. (a) As used in this section, “restitution” includes:

- (1) payment of compensation to the victim or the victim's family; and
- (2) if the victim is deceased or already has been fully compensated, payment of money to a victim assistance program or other program directed by the court.

“Restitution” includes payment of compensation to a government entity that incurs loss as a direct result of a crime.

(b) When the defendant does not pay the entire amount of court-ordered restitution and the fine at the same time, the court may order that all restitution shall be paid before the fine is paid.

CREDIT(S)

Laws 1963, c. 753. Amended by Laws 1971, c. 25, § 91, eff. March 5, 1971; Laws 1984, c. 610, § 2; [Laws 1992, c. 571, art. 11, § 14](#); [Laws 1995, c. 244, § 11](#); [Laws 1996, c. 408,](#)

[art. 7, § 3, eff. Aug. 1, 1996](#); [Laws 1997, c. 239, art. 3, § 6](#); [Laws 1997, c. 239 art. 7, § 17](#).

RULES OF CRIMINAL PROCEDURE

<Section 480.059, subd. 7, provides in part that statutes which relate to substantive criminal law found in chapter 609, except for sections 609.115 and 609.145, remain in full force and effect notwithstanding the Rules of Criminal Procedure.>

ADVISORY COMMITTEE COMMENT [1963]

2009 Main Volume

Under § 609.105 only commitments to imprisonment for more than one year may be to the Commissioner of Corrections. Crimes which carry a maximum sentence of less than one year are either misdemeanors or gross misdemeanors as defined in § 609.02. Sentences of this length must be to local institutions.

HISTORICAL AND STATUTORY NOTES

2009 Main Volume

The 1971 amendment deleted “In the case of conviction of a gross misdemeanor” from the beginning of clause (3).

The 1984 amendment added cl. (4).

The 1992 amendment added cl. (5) relating to payment of a local correctional fee.

The 1995 amendment added the second paragraph, defining “restitution”.

Laws 1995, c. 244, § 43 provides in part that § 11 (amending this section) is effective August 1, 1995 and applies to crimes committed on or after that date.

The 1996 amendment added a provision providing that in controlled substance crime cases, “restitution” also includes payment of compensation to a government entity that incurs loss as a direct result of the crime.

Laws 1997, c. 239, art. 3, § 6, added cl. (6), authorizing the court to sentence the defendant to perform work service in a restorative justice program in addition to any other sentence imposed by the court.

Laws 1997, c. 239, art. 3, § 26, provide in part that § 6 (amending this section) is effective August 1, 1997, and applies to crimes committed on or after that date.

Laws 1997, c. 239, art. 7, § 17, designated existing text as subsd. 1 and 2; and within new subd. 2, designated existing text as par. (a), redesignated cls. (i) and (ii) as cls. (1) and

(2), deleted the former last paragraph, defining “restitution” and added a new paragraph defining the term, and added par. (b), relating to when the defendant does not pay the entire amount of the restitution and the fine at the same time. Prior to revision, the former last paragraph read:

“In controlled substance crime cases, ‘restitution’ also includes payment of compensation to a government entity that incurs loss as a direct result of the controlled substance crime.”

Laws 1997, c. 239, art. 7, § 41, provides in part that § 17 (amending this section) is effective August 1, 1997, and applies to offenses committed on or after that date.

CROSS REFERENCES

Misdemeanors and gross misdemeanors, punishment when not otherwise fixed by law, see [§ 609.03](#).

Restitution, see [§§ 611A.04](#), [611A.64](#).

LAW REVIEW AND JOURNAL COMMENTARIES

Coercive sentencing. Steven S. Nemerson. 1980, 64 Minn.L.Rev. 669.

Right to counsel: The unkept promise to our juvenile accused. John M. Stuart, 48 Bench & B.Minn. 27 (Aug. 1991).

LIBRARY REFERENCES

[Fines](#) ~~¶~~ [1.5](#), [11](#).

Westlaw Topic No. [174](#).

[C.J.S. Fines §§ 1 to 2, 8, 10 to 12, 21 to 22](#).

RESEARCH REFERENCES

2009 Electronic Update

Treatises and Practice Aids

[9 Minnesota Practice Series § 36.1](#), Introduction.

[9 Minnesota Practice Series § 36.35](#), Conditions of Probation.

NOTES OF DECISIONS

In general [1](#)

Construction with other law [2](#)

Restitution [3](#)

1. In general

Even if trial court improperly classified defendant's role in deershining operation prohibited by § 97A.331 and § 97B.081 as that of mastermind of whole operation, sentence of one year in jail, with all but 120 days of sentence stayed and imposition of two years' probation, was not unduly harsh; improper classification in no way diminished defendant's guilt, and defendant was six-time felon. [State v. Hayes, App.1988, 428 N.W.2d 871](#), review granted, affirmed [431 N.W.2d 533](#). [Game 8](#)

2. Construction with other law

Defendant's 30-month total sentence for two felonies and one gross misdemeanor was improper, where total presumptive sentence under Sentencing Guidelines would have been only 21 months had the gross misdemeanor been felony; total sentence should have been 21 months. [State v. Perkins, 1996, 554 N.W.2d 80](#). [Sentencing And Punishment 644](#)

3. Restitution

Statutes governing instances in which a district court may order restitution provide no authority to a district court to modify previously imposed restitution. [State v. Meredyk, App.2008, 754 N.W.2d 596](#). [Sentencing And Punishment 2225](#)

M. S. A. § 609.125, MN ST § 609.125

Current with laws of the 2009 Regular Session, Chapters 1 through 58

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