

REVISED LAWS MINNESOTA 1905

ENACTED APRIL 18, 1905 TO TAKE EFFECT MARCH 1, 1906

EDITED AND ANNOTATED BY
MARK B. DUNNELL

PUBLISHED UNDER CHAPTER 185, LAWS 1905

ST. PAUL
PUBLISHED BY THE STATE
1906

sumed not to be malicious, and shall be termed a privileged communication. (6505)

82-452, 85+217; 84-347, 87+937.

4923. Threatening to publish libel—Every person who shall threaten another with the publication of a libel concerning the latter or his spouse, parent, child, or other member of his family, and every person who offers to prevent the publication of a libel upon another person on condition of the payment of, or with intent to extort, money or other valuable consideration from any person, shall be guilty of a gross misdemeanor. (6506)

4924. Slander of women—Every person who, in the presence and hearing of another, other than the female slandered, whether she be present or not, shall maliciously speak of or concerning any female of the age of twelve years or upwards, not a public prostitute, any false or defamatory words or language which shall injure or impair the reputation of such female for virtue or chastity, or which shall expose her to hatred, contempt, or ridicule, shall be guilty of a misdemeanor. Every slander herein mentioned shall be deemed malicious if no justification therefor be shown, and shall be justified when the language charged as slanderous, false, or defamatory is true, and was spoken with good motives and for justifiable ends. (6507, 6508)

69-30, 71+326; 92-171, 99+800.

4925. Testimony necessary to convict—No conviction shall be had under the provisions of § 4924 upon the testimony of the woman slandered, unsupported by other evidence, but must be proved by the evidence of at least two persons other than such woman, who heard and understood the language charged as slanderous, or by the admission of the defendant. (6509)

CHAPTER 98

CRIMES AGAINST MORALITY, DECENCY, ETC.

RAPE—ABDUCTION—CARNAL ABUSE, ETC.

4926
99-M - 131
103-M - 430

4926. Rape—Rape is an act of sexual intercourse with a female not the wife of the perpetrator, committed against her will or without her consent. Every person who shall perpetrate such an act of sexual intercourse with a female of ten years or upwards, not his wife—

1. When through idiocy, imbecility, or any unsoundness of mind, either temporary or permanent, she is incapable of giving consent;
2. When her resistance is forcibly overcome;
3. When her resistance is prevented by fear of immediate and great bodily harm, which she has reasonable cause to believe will be inflicted upon her;
4. When her resistance is prevented by stupor or by weakness of mind produced by an intoxicating, narcotic, or anaesthetic agent administered by or with the privity of the defendant; or
5. When she is at the time unconscious of the nature of the act, and this is known to the defendant—

Shall be punished by imprisonment in the state prison for not less than seven nor more than thirty years. (6523; '99 c. 72)

1. **What constitutes**—39-277, 39+497, 796; 41-285, 43+5.

2. **Indictment**—41-134, 43+324; 73-140, 76+33. Under former statute, 6-279, 190.

3. **Assault with intent to commit rape**—35-182, 28+192; 41-285, 43+5.

4927. Carnal knowledge of children—Every person who shall carnally know and abuse any female child under the age of sixteen years shall be punished as follows:

4927
09 - - 92

1. When such child is under the age of ten years, by imprisonment in the state prison for life.

2. When such child is ten and under the age of fourteen years, by imprisonment in the state prison for not less than seven nor more than thirty years.

3. When such child is fourteen and under the age of sixteen years, by imprisonment in the state prison not less than one nor more than seven years, or by imprisonment in the county jail not less than three months nor more than one year. (6524)

1. **Validity and scope of statute**—80-216, 83+141; 76-526, 79+518.

2. **What constitutes**—93-393, 101+499. See 83-78, 82, 85+911.

3. **Indictment**—81-134, 83+512.

4. **Assault with intent to commit**—90-526, 97+131.

4928. Physical ability, etc.—No conviction for rape shall be had against one under the age of fourteen years at the time of the alleged act, unless his physical ability to accomplish penetration is proved as an independent fact, beyond a reasonable doubt. In all cases of rape any sexual penetration, however slight, is sufficient to complete the crime. (6526, 6527)

80-216, 83+141; 93-393, 101+499.

4929. Compelling woman to marry—Every person who, by force, menace, or duress, shall compel a woman against her will to marry him, or to marry any other person, or to be defiled, shall be punished by imprisonment in the state prison for not less than three nor more than thirty years, or by a fine of not more than one thousand dollars, or by both. (6528)

4930. Abduction—Evidence—Every person who—

1. Shall take a female under the age of sixteen years, for the purpose of prostitution or sexual intercourse, or, without the consent of her father, mother, guardian, or other person having legal charge of her person, for the purpose of marriage;

2. Shall inveigle or entice an unmarried female under the age of twenty-five years, of previous chaste character, into a house of ill fame or assignation, or elsewhere, for the purpose of prostitution or sexual intercourse;

3. Shall take or detain a woman unlawfully against her will, with intent to compel her by force, menace, or duress to marry him or any other person, or to be defiled; or,

4. Being parent, guardian, or other person having legal charge of the person of a female under the age of sixteen years, shall consent to her taking or detention by any person for the purpose of prostitution or sexual intercourse—

Shall be guilty of abduction and punished by imprisonment in the state prison for not more than five years, or by a fine of not more than one thousand dollars, or by both. But no conviction shall be had for abduction or compulsory marriage upon the unsupported testimony of the female abducted or compelled. (6529, 6530)

1. **What constitutes**—38-21, 35+712; 38-154, 36+102; 47-559, 50+691.

2. **Indictment**—38-21, 35+712; 47-559, 50+691.

3. **Corroboration**—47-559, 50+691.

4931. Seduction under promise of marriage—Evidence—Every person who, under promise of marriage, shall seduce and have sexual intercourse with an unmarried female of previous chaste character, shall be punished by imprisonment in the state prison for not more than five years, or by a fine of not more than one thousand dollars, or by both. But no conviction shall be had for the offence specified herein upon the unsupported testimony of the female seduced. The subsequent intermarriage of the parties, or the lapse of two years after the commission of the offence before the finding of an indictment, shall be a bar to a prosecution for a violation of this section. (6531-6533)

1. **Indictment**—27-52, 6+404; 41-41, 42+543; 41-196, 42+933.

2. **Corroboration**—4-325, 241; 34-285, 25+642; 41-196, 42+933; 50-363, 52+958.

3. **Proof of chaste character**—41-196, 42+933; 4-325, 241; 50-363, 52+958; 34-285, 25+642.

4. **Proof of promise**—34-285, 25+642; 4-325, 241.

5. **Proof of intercourse**—4-325, 241; 41-196, 42+933.

6. **Want of chastity**—4-325, 241; 34-285, 25+642; 50-363, 52+958.

7. **Offer of marriage**—50-363, 52+958.

4932. Indecent assault—Every person who shall take any indecent liberties with or on the person of any female, not a public prostitute, without her consent expressly given, and which acts do not in law amount to rape, an attempt to commit a rape, or an assault with intent to commit a rape, and every person who shall take such indecent liberties with or on the person of any female under the age of fourteen years, without regard to whether she shall consent to the same or not, shall be guilty of a felony. (6534)

39-321, 40+249; 90-526, 97+131.

CRIMES AGAINST CHILDREN, ETC.

4933. Abandonment of wife or child—Every parent or other person having the care or custody, for nurture or education, of a child under the age of ten years, who shall desert such child in any place with intent wholly to abandon it, shall be punished by imprisonment in the state prison for not more than one year; and a husband who, without lawful excuse and against her will, shall so desert his wife, shall be guilty of a misdemeanor. (6535)

4933
06 - 285
07 - 92

4934. Failure to support wife or child—Every man who, without lawful excuse, wilfully fails to furnish proper food, shelter, clothing, or medical attendance to his wife, or to his child under fifteen years of age, shall be guilty of a misdemeanor. But if any person convicted under this section shall give bond to the state, in such amount and with such sureties as the court shall prescribe and approve, conditioned to furnish such wife or child with proper food, shelter, clothing, and medical attendance for a period of three months, or such longer time as it shall direct, judgment may be suspended until some condition of such bond is violated. Upon complaint of such violation to the court before which the conviction was had, the accused shall be heard upon an order to show cause, and, if the charge be sustained, the court shall forthwith proceed as if judgment had not been suspended. Such wife or child, and any person furnishing necessary food, shelter, clothing, or medical attendance to either, may sue upon such bond for a breach of any condition thereof. (6535, 6536; '99 c. 74; '03 c. 222)

4934
05 - 285
07 - 92

91-165, 97+671.

See 1905 c. 217

4935. Endangering life, health, or morals of minors—Every person having the care or custody of a minor who—

4935
05 - 285
07 - 92

1. Shall wilfully cause or permit his life to be endangered, his health to be injured, or his morals to become depraved; or who

2. Shall wilfully cause or permit such minor to be placed in a situation, or to engage in an occupation, which will be likely to endanger his life, injure his health, or impair his morals—

Shall be guilty of a gross misdemeanor. (6537)

4936. Keepers of public places to exclude minors—Whoever permits any person under the age of twenty-one years to be or remain in any dancehouse, concert saloon, place where intoxicating liquors are sold or given away, or any place of entertainment injurious to the morals, owned, kept, or managed by him in whole or in part, or shall permit any person under the age of twenty-one years to play any game of skill or chance in any such place, shall be guilty of a misdemeanor, and be punished by a fine of not less than twenty-five dollars. (6538; '97 c. 115)

4936-4937
09 - 133

4937. Minors—Gaming by prohibited, where—How punished—All persons under the age of twenty-one years are prohibited from playing pool or billiards or cards in any saloon or room connected therewith, or in any restaurant or public place of amusement in which tobacco, confectionery, or drinks of any kind, except water, are in any manner disposed of; and every keeper or person in charge of any such place who shall permit or suffer any person under the age of twenty-one years to play pool, billiards, or cards therein shall be guilty of a misdemeanor, and be punished by a fine of not less than twenty-five dollars, or by imprisonment in the county jail not exceeding thirty days. ('01 c. 313 ss. 1, 2)

4938
07 - 378
07 - 386

4938. Use of tobacco by minors—Every person under the age of eighteen years, and every minor pupil in any school, college, or university, who shall smoke or use cigarettes, cigars, or tobacco in any form on any public road, street, alley, park, or other lands used for public purposes, or in any public place of business, shall be guilty of a misdemeanor, and punished for each offence by a fine of not more than ten dollars, or by imprisonment in the county jail for not more than five days; and every person who shall furnish any cigarettes, cigars, or tobacco in any form to any such minor person, or who shall permit any such minor person to frequent any premises owned, held, or managed by him, for the purpose of indulging in the use of cigarettes, cigars, or tobacco in any form, shall be guilty of a misdemeanor, and punished by a fine of not more than fifty dollars, or by imprisonment in the county jail not exceeding thirty days, for each offence. ('95 c. 192; '97 c. 116)

4939
07 320

4939. Employment of minors prohibited—Every person who shall employ or cause to be employed, exhibit, or have in his custody for exhibition or employment, any minor actually or apparently under the age of eighteen years; and every parent, relative, guardian, employer, or other person having the care, custody, or control of any such minor, who shall sell, let out, give away, or in any way procure or consent to the employment of such minor—

1. As a rope or wire walker, dancer, gymnast, contortionist, rider, or acrobat;

2. In begging, receiving alms, or in any mendicant occupation;

3. In any indecent or immoral exhibition or practice;

4. In any practice or exhibition dangerous or injurious to life, limb, health, or morals;

5. In labor of any kind outside the family of his residence before 7 o'clock a. m. or after 6 o'clock p. m.; or

6. As a messenger for delivering letters, telegrams, packages, or bundles to any known house of prostitution or assignation—

Shall be guilty of a misdemeanor, and be punished by a fine of not less than fifty dollars, or by imprisonment in the county jail for not less than thirty days, or by both. (6539; '99 c. 313)

4940. Cruelty towards children—Every person who shall torture, torment, or cruelly or unlawfully punish any child under the age of sixteen years, or shall compel any such child to labor more than ten hours in any day in a factory, workshop, or mercantile or manufacturing business, or who shall commit any act of cruelty toward such child, shall be guilty of a misdemeanor. (6540-6542)

4941. Unlawful confinement of idiots, etc.—Every person who shall confine an idiot, lunatic, or insane person in any other manner or in any other place than as authorized by law, or who shall be guilty of harsh, cruel, or unkind treatment of, or neglect of duty toward, any idiot, lunatic, or insane person under confinement, whether lawfully or unlawfully confined, shall be guilty of a misdemeanor. (6610)

ABORTION, ETC.

4942
99-M - 70

4942. Abortion, how punished—Every person who, with intent thereby to produce the miscarriage of a woman, unless the same is necessary to preserve her life, or that of the child with which she is pregnant, shall—

1. Prescribe, supply, or administer to a woman, whether pregnant or not, or advise or cause her to take, any medicine, drug, or substance; or,

2. Shall use, or cause to be used, any instrument or other means—

Shall be guilty of abortion, and punished by imprisonment in the state prison for not more than four years, or in a county jail for not more than one year. (6545)

22-238; 56-226, 57-652, 1065; 85-101, 88+417.

4943. Pregnant woman attempting abortion—A pregnant woman who takes any medicine, drug, or substance, or uses or submits to the use of any instrument or other means, with intent thereby to produce her own miscar-

riage, unless the same is necessary to preserve her life, or that of the child whereof she is pregnant, shall be punished by imprisonment in the state prison for not less than one nor more than four years. (6546)

4944. Selling drugs, etc.—Whoever shall manufacture, give, or sell an instrument, drug, or medicine, or any other substance, with intent that the same may be unlawfully used in producing the miscarriage of a woman, shall be guilty of a felony. (6549)

4945. Evidence—In any prosecution for abortion or attempting abortion, no person shall be excused from testifying as a witness on the ground that his testimony would tend to criminate himself. (6547)

4946. Concealing birth—Second offence—Every person who shall endeavor to conceal the birth of a child by any disposition of its dead body, whether the child died before or after its birth, shall be guilty of a misdemeanor; and every woman who, having been convicted of endeavoring to conceal the stillbirth of any issue of her body, which if born alive would be a bastard, or the death of such issue under the age of two years, shall, subsequent to such conviction, endeavor to conceal any such birth or death, shall be punished by imprisonment in the state prison for not more than five years. (6548, 6828)

BIGAMY—ADULTERY, ETC.

4947. Bigamy defined—How punished—Exceptions—Every person who, having a husband or wife living, marries another person, or continues to cohabit with such second husband or wife in this state, shall be guilty of bigamy, and be punished by imprisonment in the state prison for not more than five years, provided that this section shall not extend—

1. To a person whose former husband or wife has been absent for five years successively then last past, without being known to him or her to be living, and believed to be dead; or

2. To a person whose former marriage has been pronounced void, or annulled or dissolved, by a court of competent jurisdiction. (6550, 6551)

25-29; 43-385, 45+848.

4948. Punishment of consort—Every person who knowingly enters into a marriage with another which is prohibited to the latter by § 4947 shall be punished by imprisonment in the state prison for not more than five years, or by a fine of not more than one thousand dollars, or by both. (6552)

4949. Incest—Whenever any male and female persons, nearer of kin to each other than first cousins, computing by the rules of the civil law, whether of the half or the whole blood, shall have sexual intercourse together, each shall be guilty of incest, and be punished by imprisonment in the state prison for not more than ten years. (6553)

55-464, 57+205.

4950. Crime against nature—Every person who shall commit the crime against nature with mankind or beast, or attempt sexual intercourse with a dead body, shall be punished by imprisonment in the state prison for not less than five nor more than twenty years, and any sexual penetration, however slight, shall be sufficient to complete the crime. (6554, 6555)

4951. Adultery—Whenever any married woman shall have sexual intercourse with a man, other than her husband, whether married or not, both shall be guilty of adultery, and punished by imprisonment in the state prison for not more than two years, or by a fine of not more than three hundred dollars; but no prosecution shall be commenced except on complaint of the husband or the wife, save when such husband or wife shall be insane, nor after one year from the commission of the offence. (6556)

41-50, 42+602; 57-225, 58+878. Under different statute (4-335, 251).

4952. Fornication—Whenever any man and a single woman cohabit with each other, both shall be guilty of fornication, and punished by imprisonment

4950
09 - - 270

4952
07 - - 320

4952
103-M - 431

in the county jail for not more than ninety days, or by a fine of not more than one hundred dollars. (6557)

23-352; 27-52, 6+404; 94-319, 102+722.

4953. Exposure of person—Public indecency—Every person who shall wilfully and lewdly expose his person, or the private parts thereof, in any public place, or in any place where others are present, or shall procure another to so expose himself, and every person who shall be guilty of any open or gross lewdness or lascivious behavior, or any public indecency other than hereinbefore specified, shall be guilty of a misdemeanor, and punished by a fine of not less than five dollars, or by imprisonment in a county jail for not less than ten days. (6569, 6570)

4954. Obscene literature—Sale, etc.—Every person who—

1. Shall sell, lend, give away, or offer to give away, show, have in his possession with intent to sell, give away, show, advertise, or otherwise offer for loan, gift, sale, or distribution, any obscene or indecent book, magazine, pamphlet, newspaper, story paper, writing, picture, drawing, photograph, or any article or instrument of indecent or immoral character; or who shall design, copy, draw, photograph, print, utter, publish, or otherwise prepare such a book, picture, drawing, paper, or other article; or write or print, or cause to be written or printed, a circular, advertisement, or notice of any kind, or give oral information stating when, where, how, or of whom or by what means such an indecent or obscene article or thing can be purchased or obtained; or

2. Shall sell, lend, give away, show, or have in his possession with intent to sell, lend, give away, show, advertise, or otherwise offer for loan, gift, sale, or distribution to any minor, any book, pamphlet, magazine, newspaper, or other printed paper devoted to the publication, or largely made up, of criminal news, police reports, accounts of criminal deeds, or pictures and stories of deeds of bloodshed, lust, or crime; or

3. Shall exhibit upon any public road, street, or other place within view of any minor any of the books, papers, or other things hereinbefore enumerated; or

4. Shall hire, use, or employ any minor to sell or give away, or in any manner distribute, or shall permit any minor in his custody or control to sell, give away, or in any manner distribute, any of the articles hereinbefore mentioned—

Shall be guilty of a gross misdemeanor, and be punished by imprisonment in the county jail for not more than one year nor less than ninety days, or by a fine of not less than one hundred dollars nor more than five hundred dollars, or by both. (6571, 6973)

4955. Indecent articles, etc.—Every person who shall sell, lend, or give away, or in any manner exhibit, or offer to sell, lend, or give away, or have in his possession with intent to sell, lend, give away, or advertise or offer for sale, loan, or distribution, any instrument or article, or any drug or medicine, for the prevention of conception or for causing unlawful abortion; or shall write or print, or cause to be written or printed, a card, circular, pamphlet, advertisement, or notice of any kind, or shall give oral information, stating when, where, how, of whom, or by what means such article or medicine can be obtained or who manufactures it—shall be guilty of a gross misdemeanor, and punished by imprisonment in the county jail for not more than one year, or by a fine of not more than five hundred dollars, or by both. (6572)

4956. Mailing and carrying obscene matter—Every person who shall deposit or cause to be deposited in any postoffice in the state, or place in charge of any express company or other common carrier or person for transportation, any of the articles or things specified in §§ 4954, 4955, or any circular, book, pamphlet, advertisement, or notice relating thereto, with the intent of having the same conveyed by mail, express, or in any other manner; or who shall knowingly or wilfully receive the same with intent to carry or convey it, or shall knowingly carry or convey the same by express, or in any

other manner except by United States mail—shall be guilty of a misdemeanor. But the provisions of this section and § 4955 shall not be construed to apply to an article or instrument used by physicians lawfully practicing, or by their direction or prescription, for the cure or prevention of disease. (6573, 6574)

4957. Search warrant—Destruction of property—Every municipal court and justice of the peace, upon complaint under oath that any person has in his possession or under his control any of the obscene books, papers, or other matter specified in §§ 4954-4956, shall issue a warrant directed to the sheriff or any constable of the county, therein directing him to search for, seize, and take possession of such obscene matter; and, upon conviction of the person in whose possession the same shall be found, shall cause such matter to be destroyed, and the fact to be entered upon the records of the court. (6974)

4958. Keeper of disorderly resort—Every person who shall keep a house of ill fame or assignation, or a house, tent, vehicle, resort, or place of any description for persons to visit for unlawful sexual intercourse, or for any other lewd, obscene, or indecent purpose, shall be guilty of felony. And every person who shall keep a disorderly house, or any place of public resort by which the peace, comfort, or decency of a neighborhood is habitually disturbed, or who, as agent or owner, lets a building or any portion thereof, knowing that it is intended to be used for any purpose specified in this section, or who permits a building or any portion thereof to be used for any of the aforesaid purposes, shall be guilty of a gross misdemeanor. (6575; '99 c. 158)

21-47; 29-193, 12+524; 59-281, 61+450; 89-340, 94+1078; 89-343, 94+1077.

07 4958 - 320
09 4958 - 461

LOTTERIES

4959. Defined—A nuisance—Drawing—How punished—A lottery is a scheme for the distribution of property by chance, among persons who have paid or agreed to pay a valuable consideration for the chance, whether it shall be called a lottery, raffle, gift enterprise, or by any other name, and is hereby declared unlawful and a public nuisance.

Every person who shall contrive, propose, or draw a lottery, or shall assist in contriving, proposing, or drawing a lottery, shall be punished by imprisonment in the state prison for not more than two years, or by a fine of not more than one thousand dollars, or by both. (6576-6578)

48-555, 51+618; 104+556.

4960. Selling tickets, advertising—Every person who shall sell, give, or in any way whatever furnish or transfer to or for another a ticket, chance, share, or interest, or any paper, certificate, or instrument purporting to be or to represent a ticket, chance, share, or interest, in or dependent upon the event of a lottery, to be drawn within or without the state; or who, by writing, printing, circular, or letter, or in any other way, shall advertise or publish an account of a lottery, in or out of the state, stating how, when, or where the same is to be or has been drawn, or what are the prizes therein, or any of them, or the price of a ticket, or any share or interest therein, or where or how it may be obtained—shall be guilty of a misdemeanor. (6579, 6580)

4961. Disposal of property by lottery—Keeping office—Letting building—Every person who shall offer for sale or distribution in any way real or personal property, or any interest therein, to be determined by lot or chance dependent upon the drawing of a lottery in or out of the state; or who shall sell, furnish, or procure, or cause to be sold, furnished, or procured, in any manner, a chance or share or any interest in property offered for sale or distribution in violation of this subdivision, or a ticket or other evidence of such chance, share, or interest; or who shall open, set up, or keep, by himself or another, an office or place for registering the numbers of tickets in a lottery in or out of the state, or for making, receiving, or registering any bets or stakes, for the drawing or result of such lottery; or who shall advertise or in any way publish any account of an opening, setting up, or keeping of such

an office or place; or who shall let or permit to be used any building or portion thereof, knowing that it is intended to be used for any of the purposes specified in this subdivision—shall be guilty of a misdemeanor. (6581, 6582, 6585)

4962. Insuring lottery tickets—Advertising offers to insure—Every person who shall insure, or receive any consideration for insuring, for or against the drawing of a ticket, share, or interest in a lottery, or of a number of such ticket, share, or interest, or who shall receive any valuable consideration upon an agreement to pay money, or deliver property, in the event that a ticket, share, or interest, or a number of such a ticket, share, or interest, in a lottery shall prove fortunate or unfortunate, or shall be drawn or not drawn in a particular way or in a particular order; or who shall promise or agree or offer to pay money or deliver property, or do or forbear to do any act, for the benefit of any person, with or without consideration, upon any accident or contingency dependent on the drawing thereof, or of any number or ticket therein; or who, by writing, printing, circular, or letter, or in any other way, advertises or publishes an offer, notice, or proposition in violation of the provisions of this section—shall be guilty of a misdemeanor. (6583, 6584)

4963. Lotteries out of state—Advertisements by non-residents—The provisions of this subdivision are applicable to lotteries drawn or to be drawn out of the state, whether authorized or not by the laws of the state where they are drawn or to be drawn, in the same manner as to those in the state, and every provision of law relating to advertising lotteries or offers to insure lottery tickets shall be applicable whenever the advertisement was published, or the letter or circular sent or delivered, through or in the state, though the person causing or procuring the same to be published, sent, or delivered was out of the state at the time of so doing. (6586, 6587)

GAMING

4964. Gambling—Gambling with cards, dice, gaming tables, or any other gambling device whatever is hereby prohibited. Every person who deals cards at the game called "faro," "pharo," or "forty-eight," whether the same is dealt with fifty-two or any other number of cards, and every person who shall keep any gambling device whatsoever designed to be used in gambling; shall be punished by imprisonment in the county jail for not more than six months, or by a fine of not more than two hundred dollars, or by both; and every person who shall bet any money or other property at or upon a gaming table, game, or device shall be punished by a fine of not less than five dollars nor more than twenty dollars. (6588-6590)

1. **What is gambling device—**39-153, 39+305; 49-443, 52+42; 74-257, 77+4; 84-357, 87+935.

2. **What constitutes gambling—**39-153, 39+305; 74-257, 77+4.

3. **Indictment—**84-357, 87+935.

4965. Gambling devices on premises—Every person who shall suffer any gaming table, faro bank, or gambling device to be set up or used for the purpose of gambling in any house, building, steamboat, raft, keelboat, or boom, lot, yard, or garden, owned, occupied, or controlled by him, shall be punished by imprisonment in the county jail for not more than six months, or by a fine of not more than two hundred dollars, or by both. (6591)

79-388, 82+650; 84-357, 87+935. At common law (17-72, 50; 39-153, 39+305). Under city ordinance (74-257, 77+4). See § 4964.

4966. Evidence—Testimony of player—No person shall be excused from testifying touching an offence committed by another against any provision of this subdivision relating to gambling, by reason of his having bet or played at the prohibited game or gambling device. (6592)

4967. Recovery of money, etc., lost—Every person who, by playing at cards, dice, or other game, or by betting on the hands or sides of such as are gambling, shall lose to any person so playing or betting any sum of money or any goods, and pays or delivers the same, or any part thereof, to the winner,

may sue for and recover such money by a civil action before any court of competent jurisdiction. (6593)

34-247, 25+400; 94-416, 103+163.

4968. Notes, etc., for gambling debt void—Every note, bill, bond, mortgage, or other security or conveyance in which the whole or any part of the consideration shall be for any money or goods won by gambling or playing at cards, dice, or any other game whatever, or by betting on the sides or hands of any person gambling, or for reimbursing or repaying any money knowingly lent or advanced at the time and place of such gambling or betting, or lent and advanced for any gambling or betting to any person so gambling or betting, shall be void and of no effect as between the parties to the same, and as to all persons except such as hold or claim under them in good faith, without notice of the illegality of the consideration of such contract or conveyance. (6594)

75-68, 77+558.

4969. Swindling by cards, etc.—Every person who, by means of three-card monte, so called, or of any other form or device, sleight of hand, or other means, by use of cards or instruments of like character, or by any other instrument, trick, or device, obtains from another person any money or other property of any description, shall be deemed guilty of the crime of swindling, and be punished by imprisonment in the state prison for not less than two nor more than five years, or by a fine of not less than two hundred dollars nor more than two thousand dollars; and every person aiding, encouraging, advising, or confederating with or knowingly harboring or concealing, any such person, or in any manner being accessory to the commission of the above-described offence, and all persons who shall confederate together for the purpose of playing such games, shall be deemed principals therein and punished as such. (6595)

1. **What constitutes**—29-142, 12+455; 72-522, 75+715; 82-342, 85+12.

2. **Indictment**—29-142, 12+455; 88-262, 92+976.

3. **Evidence admissible**—72-522, 75+715; 88-262, 92+976.

4. **Sufficiency of the evidence**—29-142, 12+455; 82-342, 85+12; 88-262, 92+976; 104+295.

4970. Arrests—Every person may, and every conductor or other employee on any railway car or train, captain, clerk, or other employee on any boat, station agent at any depot, officer of any fair or fair ground, proprietor or employee of any place of public resort, with or without warrant, shall arrest any person found in the act of committing any of the offences mentioned in § 4969, or any person whom he has good reason to believe has been guilty of any such offence, and take him before a magistrate or court having jurisdiction, and make written complaint under oath against him. Every person so making such arrest shall have the same power and authority in all respects as an officer with a warrant, including the power to summon assistance, and shall also arrest the person injured by reason of such offence, and take him before such magistrate or court, who shall require him to give security for his appearance as a witness on trial of the case; and he shall receive for such services the same compensation as is provided for sheriffs. (6596)

4971. Swindlers ejected, when—Law to be posted—Every conductor, captain, hotel or saloon keeper, proprietor or manager of any public conveyance or place of public resort, and the officer of any fair or fair grounds, shall eject from his car, train, boat, hotel, saloon, public conveyance, fair grounds, or place of public resort any person known to him, or whom he has good reason to believe, to be a three-card monte man, or who offers to wager or bet money or other valuable thing upon what is commonly known as "three-card monte," or on any trick or game with cards or other gaming device, and for such ejection no action for damages shall be maintained; and every person operating any public conveyance by which passengers are carried shall keep posted in such conveyance a copy of this subdivision. (6597)

4972. Neglect of conductor, etc., to arrest—Every conductor of a railway train, every station agent, captain of any steamboat, proprietor of any public

conveyance, officer of any fair or fair grounds or place of public resort, every hotel or saloon keeper, or any agent or employee thereof, who shall fail, neglect, or refuse to perform such duty, or who shall knowingly suffer or permit any violation of any provision of this subdivision, shall be guilty of a misdemeanor. (6598)

4973. Evidence of accomplice—Any person may be convicted for violation of this subdivision on his own confession out of court, or upon the testimony of an accomplice. (6599)

PAWNBROKERS

07 4974 228
4974. License—Refusal to exhibit stolen goods—Selling before time of redemption—Every person who shall carry on the business of a pawnbroker by receiving goods in pledge for loans at a rate of interest above that allowed by law, except by virtue of a license from a municipal corporation or other authority empowered to grant such license; every person carrying on the business of a pawnbroker or junk dealer who, having received any goods which have been embezzled or stolen, refuses or omits to exhibit them, upon demand, during the usual business hours, to the owner thereof, or his agent authorized to demand an inspection thereof, or to any public officer; and every pawnbroker who shall sell any article, received by him in pledge, before the time to redeem the same has expired, or who wilfully refuses to disclose the name of the purchaser, or the price received by him for any article so received by him in pledge and subsequently sold—shall be guilty of a misdemeanor. (6600–6602)

RIGHTS OF SEPULTURE

4975. Dissection—When permitted—The right to dissect the dead body of a human being shall be limited to cases specially provided by statute, or by the direction or will of the deceased; cases where a coroner is authorized to hold an inquest upon the body, and then only so far as he may authorize dissection; and cases where the husband, wife, or next of kin, charged by law with the duty of burial, shall authorize dissection for the purpose of ascertaining the cause of death, and then only to the extent so authorized. Every person who shall make, cause, or procure to be made any dissection of the body of a human being, except as hereinbefore provided, shall be guilty of a gross misdemeanor. (6561, 6562)

4976. Burial or cremation—Except in cases of dissection provided for in § 4975, and where a dead body shall rightfully be carried through or removed from the state for the purpose of burial elsewhere, every dead body of a human being lying within this state, and the remains of any dissected body after dissection, shall be decently buried, or cremated, within a reasonable time after death. (6559, 6560, 6563)

4977. Opening grave—Stealing body—Receiving same—Every person who shall remove the dead body of a human being, or any part thereof, from a grave, vault, or other place where the same has been buried, or deposited awaiting burial or cremation, without authority of law, with intent to sell the same, or for the purpose of procuring a reward for its return, or for dissection, or from malice or wantonness, shall be punished by imprisonment in the state prison for not more than five years, or by a fine of not more than one thousand dollars, or by both. Every person who shall purchase or receive, except for burial or cremation, any such dead body, or any part thereof, knowing that the same has been removed contrary to the foregoing provisions, shall be punished by imprisonment in the state prison for not more than three years. Every person who shall open a grave or other place of interment, temporary or otherwise, or a building where such dead body is deposited while awaiting burial or cremation, with intent to remove such body, or any part thereof, for the purpose of selling or demanding money for the same, for dissection, from malice or wantonness, or with intent to steal or remove the coffin, or any part thereof, or anything attached thereto, or any vestment

or other article interred or intended to be interred with the body, shall be punished by imprisonment in the state prison for not more than two years, or by a fine of not more than two hundred and fifty dollars, or by both. (6564-6566)

4978. Interfering with dead body or funeral—Every person who shall arrest or attach the dead body of a human being upon a debt or demand, or shall detain or claim to detain it for any debt or demand, or upon any pretended lien or charge, or who, without authority of law, shall obstruct or detain a person engaged in carrying or accompanying the dead body of a human being to a place of burial or cremation, shall be guilty of a misdemeanor. (6567, 6568)

4979. Opening road through cemetery—Every person who shall make or open any road, or construct any railway, turnpike, canal, or other public easement, over, through, in, or upon such part of any inclosure as may be used for the burial of the dead, without authority of law or the consent of the owner thereof, shall be punished by fine not exceeding three hundred dollars. (6967)

SABBATH BREAKING, ETC.

4980. Definitions—The law prohibits the doing on the first day of the week of the certain acts in § 4981 specified, which are serious interruptions of the repose and religious liberty of the community, and the doing of any of said acts on that day shall constitute Sabbath breaking. Under the term "day" as used in this section and § 4981 is included all the time from midnight to midnight. (6510-6512)

4981. Things prohibited—Exceptions—All hunting, shooting, fishing, playing, horse racing, gaming and other public sports, exercises, and shows; all noises disturbing the peace of the day; all trades, manufactures, and mechanical employments, except works of necessity performed in an orderly manner so as not to interfere with the repose and religious liberty of the community; all public selling or offering for sale of property, and all other labor except works of necessity and charity are prohibited on the Sabbath day: Provided, that meals to be served upon the premises or elsewhere by caterers, prepared tobacco in places other than where intoxicating liquors are kept for sale, fruits, confectionery, newspapers, drugs, medicines, and surgical appliances may be sold in a quiet and orderly manner. In works of necessity or charity is included whatever is needful during the day for good order, health or comfort of the community; but keeping open a barber shop or shaving and hair cutting shall not be deemed works of necessity, or charity, and nothing in this section shall be construed to permit the selling of uncooked meats, groceries, clothing, boots, or shoes. (6513, 6515-6517; '03 c. 362)

The casual execution of contracts on Sunday is not illegal (86-297, 90+531). The statute forbids public but not private sales (75-269, 77+965). G. S. 1866 c. 100 § 19 prohibiting work on Sunday held constitutional (21-202). The provisions as to barber shops and the sale of uncooked meats are constitutional (74-376, 77+225; 91-447, 98+325; 177 U. S. 164). Prior to the Penal Code the statutes were more strict in prohibiting business on Sunday (41-188, 42+872; 14-174, 134; 8-13, 1; 23-551; 9-194, 179; 8-41, 23; 26-362, 4+610; 20-419, 374; 65-135, 67+799; 38-395, 38+101; 43-149, 45+617).

4982. Punishment—Every person who breaks the Sabbath shall be guilty of a misdemeanor, and punished by a fine of not less than one dollar nor more than ten dollars, or by imprisonment in the county jail for not more than five days; but it shall be a sufficient defence to a prosecution for Sabbath breaking that the defendant uniformly keeps another day of the week as holy time, and that the act complained of was done in such manner as not to disturb others in the observance of the Sabbath. (6514, 6519)

State v. Weiss, Filed Jan. 12, 1906.

4983. Service of process on the Sabbath prohibited—Every service of legal process upon the Sabbath day, except in case of a breach or apprehended breach of the peace, or when sued out for the apprehension of a person

4981
09 - - 267

charged with crime, or where such service is expressly authorized by statute, is hereby prohibited. (6518)

4984. Preventing religious act—Every person who, by threats or violence, shall wilfully prevent another person performing any lawful act enjoined upon or recommended to him by the religion which he professes, shall be guilty of a misdemeanor. (6520)

4985. Disturbing religious meeting—Every person who shall wilfully disturb, interrupt, or disquiet any assemblage of people met for religious worship—

1. By noisy, rude, or indecent behavior, profane discourse, either within the place where such meeting is held or so near it as to disturb the order and solemnity of the meeting;

2. By exhibiting shows or plays, or promoting, within one mile of the place where such meeting is held, any racing of animals, or gaming of any description;

3. By obstructing in any manner, without authority of law, within the like distance, free passage along a highway to the place of such meeting; or

4. By maliciously cutting or otherwise injuring or destroying any harness, conveyance, tent, or other property belonging to any person in attendance upon any such meeting—

Shall be guilty of a misdemeanor; but no prosecution therefor shall be sustained unless commenced within sixty days after the commission of the offence. (6521, 6522)

90-72, 95+580.

4986. Trading near camp meeting—Prohibition—Exception—No person shall keep any shop, tent, booth, or carriage of any kind for the sale of, or sell, furnish, or expose for sale, any intoxicating liquors, or other goods or merchandise, within two miles of any public assembly, camp or grove meeting, convened for the purpose of religious worship. But this shall not be so construed as to prevent any person from continuing business where previously located, or from selling such liquors where he had been licensed to sell before the appointment of such meeting. Every person who shall violate any provision of this section shall be punished by a fine not exceeding thirty dollars, or by imprisonment in a county jail for not more than thirty days, or by both. (6968, 6969)

CHAPTER 99

CRIMES AGAINST PUBLIC HEALTH AND SAFETY

4987. Public nuisance defined—A public nuisance is a crime against the order and economy of the state, and consists in unlawfully doing an act or omitting to perform a duty, which act or omission—

1. Shall annoy, injure, or endanger the safety, health, comfort, or repose of any considerable number of persons;

2. Shall offend public decency;

3. Shall unlawfully interfere with, obstruct, or tend to obstruct or render dangerous for passage, a lake, navigable river, bay, stream, canal, or basin, or a public park, square, street, alley, or highway; or

4. Shall in any way render a considerable number of persons insecure in life or the use of property. (6613)

4988. Maintaining or permitting building as a nuisance—Every person who shall commit or maintain a public nuisance, for which no special punishment is prescribed; or who shall wilfully omit or refuse to perform any legal duty relating to the removal of such nuisance; and every person who shall let, or permit to be used, any building or portion thereof, knowing that it is