

HOUSE RESEARCH

Bill Summary

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Version: As Introduced, with author's amendment

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Subject: DWI

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Overview

As introduced, this bill would enhance the criminal penalty for an impaired driving violation (DWI) to the felony level, if the person has previously been convicted of a felony crime under MS §609.21, subdivision 1 - Criminal Vehicular Homicide (CVH).

The author's amendment would:

- 1. broaden the prerequisite crime to also include a conviction under 609.21, subdivision 3 - Death to an Unborn Child;
- 2. stipulate that the previous CVH-type conviction must have occurred *within the previous 10 years* (rather than any earlier time period); and
- 3. stipulate that the previous CVH-type conviction must have involved impaired-driving (i.e., clauses (2) to (6) only).

Background: Criminal Vehicular Homicide and Injury Law

Section

Subdivisions. M.S. § 609.21 proscribes and assigns criminal penalties for six categories of negligent or gross negligent driving behavior all of which are felony crimes (except subd. 2b - bodily harm, which is a gross misdemeanor). They are:

- Subd. 1 Criminal Vehicular Homicide** (i.e., negligent or gross negligent driving resulting in death to another person - a felony)
- Subd. 2. Great Bodily Harm (e.g., serious permanent disfigurement;
- Subd. 2a. Substantial Bodily Harm (e.g., a broken bone; temporary but substantial disfigurement; or temporary impairment of any bodily organ)
- Subd. 2b. Bodily Harm (e.g., resulting in bruising; pulled muscles; physical pain - a gross misdemeanor)
- Subd. 3. Death to an Unborn Child** (a felony)
- Subd. 4. Injury to an Unborn Child (a felony)

Clauses. Note that each of the above six subdivisions of CVH/CVO law contains the same seven clauses of prohibited driving behavior. The author's amendment references only those clauses that involve impaired driving (clauses (2) to (6)). For each subdivision of CVH/CVO law, the clauses are (*driving . . .*):

- (1) in a grossly negligent manner;
- (2) in a negligent manner while under the influence of:
 - (i) alcohol;
 - (ii) a controlled substance; or
 - (iii) any combination of those elements;
- (3) while having an alcohol concentration of 0.08 or more;
- (4) while having an alcohol concentration of 0.08 or more, as measured within two hours of the time of driving;
- (5) in a negligent manner while knowingly under the influence of a hazardous substance;
- (6) in a negligent manner while any amount of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols, is present in the person's body; or
- (7) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6.