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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 1851

05/18/2013 Authored by Kieffer and Paymar

The bill was read for the first time and referred to the Committee on Public Safety Finance and Policy

1.1 A bill for an act
1.2 relating to public safety; enhancing penalties for certain repeat criminal sexual
1.3 conduct offenders; amending Minnesota Statutes 2012, sections 609.135,
1.4 subdivision 2; 609.3451.

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

1.6 Section 1. Minnesota Statutes 2012, section 609.135, subdivision 2, is amended to read:

1.7 Subd. 2. **Stay of sentence maximum periods.** (a) If the conviction is for a felony
1.8 other than section 609.21, subdivision 1a, paragraph (b) or (c), the stay shall be for not
1.9 more than four years or the maximum period for which the sentence of imprisonment
1.10 might have been imposed, whichever is longer.

1.11 (b) If the conviction is for a gross misdemeanor violation of section 169A.20 or,
1.12 609.21, subdivision 1a, paragraph (d), 609.3451, subdivision 2, paragraph (b), or for a
1.13 felony described in section 609.21, subdivision 1a, paragraph (b) or (c), the stay shall be
1.14 for not more than six years. The court shall provide for unsupervised probation for the last
1.15 year of the stay unless the court finds that the defendant needs supervised probation for
1.16 all or part of the last year.

1.17 (c) If the conviction is for a gross misdemeanor not specified in paragraph (b), the
1.18 stay shall be for not more than two years.

1.19 (d) If the conviction is for any misdemeanor under section 169A.20; 609.746,
1.20 subdivision 1; 609.79; or 617.23; or for a misdemeanor under section 609.2242 or
1.21 609.224, subdivision 1, in which the victim of the crime was a family or household
1.22 member as defined in section 518B.01, the stay shall be for not more than two years. The
1.23 court shall provide for unsupervised probation for the second year of the stay unless the
1.24 court finds that the defendant needs supervised probation for all or part of the second year.

2.1 (e) If the conviction is for a misdemeanor not specified in paragraph (d), the stay
2.2 shall be for not more than one year.

2.3 (f) The defendant shall be discharged six months after the term of the stay expires,
2.4 unless the stay has been revoked or extended under paragraph (g), or the defendant has
2.5 already been discharged.

2.6 (g) Notwithstanding the maximum periods specified for stays of sentences under
2.7 paragraphs (a) to (f), a court may extend a defendant's term of probation for up to one year
2.8 if it finds, at a hearing conducted under subdivision 1a, that:

2.9 (1) the defendant has not paid court-ordered restitution in accordance with the
2.10 payment schedule or structure; and

2.11 (2) the defendant is likely to not pay the restitution the defendant owes before the
2.12 term of probation expires.

2.13 This one-year extension of probation for failure to pay restitution may be extended by
2.14 the court for up to one additional year if the court finds, at another hearing conducted
2.15 under subdivision 1a, that the defendant still has not paid the court-ordered restitution
2.16 that the defendant owes.

2.17 Nothing in this subdivision limits the court's ability to refer the case to collections
2.18 under section 609.104.

2.19 (h) Notwithstanding the maximum periods specified for stays of sentences under
2.20 paragraphs (a) to (f), a court may extend a defendant's term of probation for up to three
2.21 years if it finds, at a hearing conducted under subdivision 1c, that:

2.22 (1) the defendant has failed to complete court-ordered treatment successfully; and

2.23 (2) the defendant is likely not to complete court-ordered treatment before the term of
2.24 probation expires.

2.25 Sec. 2. Minnesota Statutes 2012, section 609.3451, is amended to read:

2.26 **609.3451 CRIMINAL SEXUAL CONDUCT IN THE FIFTH DEGREE.**

2.27 Subdivision 1. **Crime defined.** A person is guilty of criminal sexual conduct
2.28 in the fifth degree:

2.29 (1) if the person engages in nonconsensual sexual contact; or

2.30 (2) the person engages in masturbation or lewd exhibition of the genitals in the
2.31 presence of a minor under the age of 16, with sexual or aggressive intent and knowing or
2.32 having reason to know the minor is present.

2.33 For purposes of this section, "sexual contact" has the meaning given in section
2.34 609.341, subdivision 11, paragraph (a), clauses (i) and (iv), but does not include the
2.35 intentional touching of the clothing covering the immediate area of the buttocks. Sexual

3.1 contact also includes the intentional removal or attempted removal of clothing covering
3.2 the complainant's intimate parts or undergarments, and the nonconsensual touching by the
3.3 complainant of the actor's intimate parts, effected by the actor, if the action is performed
3.4 with sexual or aggressive intent.

3.5 Subd. 2. **Penalty Gross misdemeanor.** (a) A person convicted under subdivision 1
3.6 may be sentenced to imprisonment for not more than one year or to a payment of a fine of
3.7 not more than \$3,000, or both.

3.8 (b) A person convicted under subdivision 1, clause (1), within ten years of a previous
3.9 conviction or adjudication of delinquency for violating this section; sections 609.342 to
3.10 609.345; 609.3453; 617.23, subdivision 2, clause (1); or 617.247; or a statute from another
3.11 state in conformity therewith, shall be sentenced to a stay of not more than six years.

3.12 Subd. 3. **Felony.** (a) A person is guilty of a felony and may be sentenced to
3.13 imprisonment for not more than five years or to payment of a fine of not more than
3.14 \$10,000, or both, if the person violates subdivision 1, clause (2), after having been
3.15 previously convicted of or adjudicated delinquent for violating ~~subdivision 1, clause~~
3.16 ~~(2)~~ this section; sections 609.342 to 609.345; or 609.3453; section 617.23, subdivision
3.17 2, clause (1); 617.247; or a statute from another state in conformity with subdivision 1,
3.18 clause (2), or section 617.23, subdivision 2, clause (1) therewith.

3.19 (b) A person is guilty of a felony and may be sentenced to imprisonment for not more
3.20 than ten years or to a payment of a fine of not more than \$20,000, or both, if the person
3.21 violates subdivision 1 within ten years of the first of two or more previous convictions or
3.22 delinquency adjudications, providing at least one is a conviction, for violating this section;
3.23 sections 609.342 to 609.345; 609.3453; 617.23, subdivision 2, clause (1); or 617.247; or a
3.24 statute from another state in conformity therewith.