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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. **856**

02/08/2021 Authored by Hollins, Reyer, Keeler, Berg, Frederick and others  
The bill was read for the first time and referred to the Committee on Public Safety and Criminal Justice Reform Finance and Policy  
02/18/2021 Adoption of Report: Amended and re-referred to the Committee on Judiciary Finance and Civil Law

1.1 A bill for an act  
1.2 relating to public safety; authorizing presentence investigation reports to include  
1.3 information related to brain injury; amending Minnesota Statutes 2020, section  
1.4 609.115, by adding a subdivision.

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

1.6 Section 1. Minnesota Statutes 2020, section 609.115, is amended by adding a subdivision  
1.7 to read:

1.8 Subd. 11. **Traumatic brain injury.** (a) When a defendant appears in court and is  
1.9 convicted of a felony, the court shall inquire whether the defendant has a history of stroke,  
1.10 traumatic brain injury, or fetal alcohol spectrum disorder.

1.11 (b) If the defendant has a history of stroke, traumatic brain injury, or fetal alcohol  
1.12 spectrum disorder and the court believes that the offender may have a mental impairment  
1.13 that caused the offender to lack substantial capacity for judgment when the offense was  
1.14 committed, the court shall order that the offender undergo a neuropsychological examination  
1.15 unless the offender has had a recent examination as described in paragraph (c). The report  
1.16 prepared under subdivision 1 shall contain the results of the examination ordered by the  
1.17 court or the recent examination and the officer preparing the report may consult with any  
1.18 medical provider, mental health professional, or other agency or person with suitable  
1.19 knowledge or experience for the purpose of providing the court with information regarding  
1.20 treatment and case management options available to the defendant.

1.21 (c) An updated neuropsychological examination is not required under this subdivision  
1.22 if:

1.23 (1) the person had a previous examination when the person was at least 25 years of age;

2.1 (2) the examination took place at least 18 months after the person's most recent stroke  
2.2 or traumatic brain injury; and

2.3 (3) the examination took place within the previous three years.

2.4 (d) At sentencing, the court may consider any relevant information including but not  
2.5 limited to the information provided pursuant to paragraph (b) and the recommendations of  
2.6 any diagnosing or treating medical providers or mental health professionals to determine  
2.7 whether the offender, because of mental impairment resulting from a stroke, traumatic brain  
2.8 injury, or fetal alcohol spectrum disorder, lacked substantial capacity for judgment when  
2.9 the offense was committed.