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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 3128

03/27/2023

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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; prohibiting courts from sentencing a person without regard

1.3 to the mandatory minimum sentence applicable to certain designated crimes;

1.4 amending Minnesota Statutes 2022, section 609.11, subdivision 8, by adding a

1.5 subdivision.

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

1.7 Section 1. Minnesota Statutes 2022, section 609.11, subdivision 8, is amended to read:

1.8 Subd. 8. **Motion by prosecutor; dangerous weapons cases.** (a) Except as otherwise

1.9 provided in ~~paragraphs~~ paragraph (b) and (e), prior to the time of sentencing, the prosecutor

1.10 may file a motion to have the defendant sentenced without regard to the mandatory minimum

1.11 ~~sentences~~ sentence established by ~~this section~~ in subdivision 4. The motion shall be

1.12 accompanied by a statement on the record of the reasons for it. When presented with the

1.13 motion, or on its own motion, the court may sentence the defendant without regard to the

1.14 mandatory minimum ~~sentences~~ sentence established by ~~this section~~ in subdivision 4 if the

1.15 court finds substantial and compelling reasons to do so. A sentence imposed under this

1.16 subdivision is a departure from the Sentencing Guidelines.

1.17 (b) The court may not, on its own motion or the prosecutor's motion, sentence a defendant

1.18 without regard to the mandatory minimum ~~sentences~~ sentence established by ~~this section~~

1.19 in subdivision 4 if the defendant previously has been convicted of an offense listed in

1.20 subdivision 9 in which the defendant used or possessed a firearm or other dangerous weapon.

1.21 ~~(c) The court may not, on its own motion or the prosecutor's motion, sentence a defendant~~

1.22 ~~without regard to the mandatory minimum sentences established by subdivision 5, if the~~

1.23 ~~defendant was convicted of a crime under section 152.021, subdivision 1, or 152.022,~~

2.1 ~~subdivision 1, and the person or an accomplice possessed on their person or within immediate~~
 2.2 ~~reach, or used, whether by brandishing, displaying, threatening with, or otherwise employing,~~
 2.3 ~~a firearm.~~

2.4 **EFFECTIVE DATE.** This section is effective August 1, 2023, and applies to crimes
 2.5 committed on or after that date.

2.6 Sec. 2. Minnesota Statutes 2022, section 609.11, is amended by adding a subdivision to
 2.7 read:

2.8 Subd. 8a. **Motion by prosecutor; firearms cases.** (a) Except as otherwise provided in
 2.9 paragraphs (c) and (d), prior to the time of sentencing, the prosecutor may file a motion to
 2.10 have the defendant sentenced without regard to the mandatory minimum sentence established
 2.11 in subdivision 5 for a case in which the basis for the mandatory sentence is that the
 2.12 defendant's accomplice had a firearm in possession at the time of the offense. The motion
 2.13 may be made only if the defendant was unaware that the accomplice possessed the firearm.
 2.14 No motion to sentence a defendant without regard to the mandatory sentence applicable in
 2.15 subdivision 5 may be made or granted for any other reason or in any other situation.

2.16 (b) The motion under paragraph (a) shall be accompanied by a statement on the record
 2.17 of the reasons for the motion. When presented with the motion, or on its own motion, the
 2.18 court may sentence the defendant without regard to the mandatory minimum sentence
 2.19 established in subdivision 5 if the court finds that the criteria in paragraph (a) have been
 2.20 met and there are substantial and compelling reasons to do so. A sentence imposed under
 2.21 this subdivision is a departure from the Sentencing Guidelines.

2.22 (c) The court may not, on its own motion or the prosecutor's motion, sentence a defendant
 2.23 described in paragraph (a) without regard to the mandatory minimum sentence established
 2.24 in subdivision 5 if the defendant previously had been convicted of an offense listed in
 2.25 subdivision 9 in which the defendant used or possessed a firearm or other dangerous weapon.

2.26 (d) The court may not, on its own motion or the prosecutor's motion, sentence a defendant
 2.27 described in paragraph (a) without regard to the mandatory minimum sentence established
 2.28 by subdivision 5 if the defendant was convicted of a crime under section 152.021, subdivision
 2.29 1, or 152.022, subdivision 1, and the person or an accomplice possessed on their person or
 2.30 within immediate reach, or used, whether by brandishing, displaying, threatening with, or
 2.31 otherwise employing, a firearm.

2.32 **EFFECTIVE DATE.** This section is effective August 1, 2023, and applies to crimes
 2.33 committed on or after that date.