

A bill for an act
relating to public safety; eliminating various unfunded mandates affecting local
governmental units; amending Minnesota Statutes 2008, sections 245C.05,
subdivision 7; 260B.171, subdivision 3; 609.115, subdivision 1.

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

Section 1. Minnesota Statutes 2008, section 245C.05, subdivision 7, is amended to read:

Subd. 7. **Probation officer and corrections agent.** (a) A probation officer or
corrections agent ~~shall~~ may notify the commissioner of an individual's conviction if the
individual is:

(1) affiliated with a program or facility regulated by the Department of Human
Services or Department of Health, a facility serving children or youth licensed by the
Department of Corrections, or any type of home care agency or provider of personal care
assistance services; and

(2) convicted of a crime constituting a disqualification under section 245C.14.

(b) For the purpose of this subdivision, "conviction" has the meaning given it
in section 609.02, subdivision 5.

(c) The commissioner, in consultation with the commissioner of corrections, shall
develop forms and information necessary to implement this subdivision and shall provide
the forms and information to the commissioner of corrections for distribution to local
probation officers and corrections agents.

(d) The commissioner shall inform individuals subject to a background study that
criminal convictions for disqualifying crimes ~~will~~ may be reported to the commissioner
by the corrections system.

(e) A probation officer, corrections agent, or corrections agency is not civilly or criminally liable for disclosing or failing to disclose the information required by this subdivision.

(f) Upon receipt of disqualifying information, the commissioner shall provide the notice required under section 245C.17, as appropriate, to agencies on record as having initiated a background study or making a request for documentation of the background study status of the individual.

(g) This subdivision does not apply to family child care programs.

(h) The commissioner of corrections shall ensure that information on convictions described in paragraph (a) is electronically accessible to the commissioner of human services.

Sec. 2. Minnesota Statutes 2008, section 260B.171, subdivision 3, is amended to read:

Subd. 3. **Disposition order; copy to school.** (a) If a juvenile is enrolled in school, the juvenile's probation officer shall ~~transmit a~~ ensure that an electronic copy of the court's disposition order be transmitted to the superintendent of the juvenile's school district or the chief administrative officer of the juvenile's school if the juvenile has been adjudicated delinquent for committing an act on the school's property or an act:

(1) that would be a violation of section 609.185 (first-degree murder); 609.19 (second-degree murder); 609.195 (third-degree murder); 609.20 (first-degree manslaughter); 609.205 (second-degree manslaughter); 609.21 (criminal vehicular homicide and injury); 609.221 (first-degree assault); 609.222 (second-degree assault); 609.223 (third-degree assault); 609.2231 (fourth-degree assault); 609.224 (fifth-degree assault); 609.2242 (domestic assault); 609.24 (simple robbery); 609.245 (aggravated robbery); 609.25 (kidnapping); 609.255 (false imprisonment); 609.342 (first-degree criminal sexual conduct); 609.343 (second-degree criminal sexual conduct); 609.344 (third-degree criminal sexual conduct); 609.345 (fourth-degree criminal sexual conduct); 609.3451 (fifth-degree criminal sexual conduct); 609.498 (tampering with a witness); 609.561 (first-degree arson); 609.582, subdivision 1 or 2 (burglary); 609.713 (terroristic threats); or 609.749 (harassment and stalking), if committed by an adult;

(2) that would be a violation of section 152.021 (first-degree controlled substance crime); 152.022 (second-degree controlled substance crime); 152.023 (third-degree controlled substance crime); 152.024 (fourth-degree controlled substance crime); 152.025 (fifth-degree controlled substance crime); 152.0261 (importing a controlled substance); 152.0262 (possession of substances with intent to manufacture methamphetamine); or 152.027 (other controlled substance offenses), if committed by an adult; or

(3) that involved the possession or use of a dangerous weapon as defined in section 609.02, subdivision 6.

When a disposition order is transmitted under this subdivision, the probation officer shall notify the juvenile's parent or legal guardian that the disposition order has been shared with the juvenile's school.

(b) In addition, the juvenile's probation officer may transmit a copy of the court's disposition order to the superintendent of the juvenile's school district or the chief administrative officer of the juvenile's school if the juvenile has been adjudicated delinquent for offenses not listed in paragraph (a) and placed on probation. The probation officer shall notify the superintendent or chief administrative officer when the juvenile is discharged from probation.

(c) The disposition order must be accompanied by a notice to the school that the school may obtain additional information from the juvenile's probation officer with the consent of the juvenile or the juvenile's parents, as applicable. The disposition order must be maintained, shared, or released only as provided in section 121A.75.

(d) The juvenile's probation officer shall maintain a record of disposition orders released under this subdivision and the basis for the release.

(e) No later than September 1, 2002, the criminal and juvenile justice information policy group, in consultation with representatives of probation officers and educators, shall prepare standard forms for use by juvenile probation officers in forwarding information to schools under this subdivision and in maintaining a record of the information that is released. The group shall provide a copy of any forms or procedures developed under this paragraph to the legislature by January 15, 2003.

(f) As used in this subdivision, "school" means a charter school or a school as defined in section 120A.22, subdivision 4, except a home school.

Sec. 3. Minnesota Statutes 2008, section 609.115, subdivision 1, is amended to read:

Subdivision 1. Presentence investigation. (a) When a defendant has been convicted of a misdemeanor or gross misdemeanor, the court may, and when the defendant has been convicted of a felony, the court shall, before sentence is imposed, cause a presentence investigation and written report to be made to the court concerning the defendant's individual characteristics, circumstances, needs, potentialities, criminal record and social history, the circumstances of the offense and the harm caused by it to others and to the community. At the request of the prosecutor in a gross misdemeanor case, the court shall order that a presentence investigation and report be prepared. The investigation shall be made by a probation officer of the court, if there is one; otherwise it shall be made by the

commissioner of corrections. The officer conducting the presentence or predispositional investigation shall make reasonable and good faith efforts to contact and provide the victim with the information required under section 611A.037, subdivision 2. Presentence investigations shall be conducted and summary hearings held upon reports and upon the sentence to be imposed upon the defendant in accordance with this section, section 244.10, and the Rules of Criminal Procedure.

(b) When the crime is a violation of sections 609.561 to 609.563, 609.5641, or 609.576 and involves a fire, the report shall include a description of the financial and physical harm the offense has had on the public safety personnel who responded to the fire. For purposes of this paragraph, "public safety personnel" means the state fire marshal; employees of the Division of the State Fire Marshal; firefighters, regardless of whether the firefighters receive any remuneration for providing services; peace officers, as defined in section 626.05, subdivision 2; individuals providing emergency management services; and individuals providing emergency medical services.

(c) When the crime is a felony violation of chapter 152 involving the sale or distribution of a controlled substance in an area that has a high crime rate for controlled substance offenses, the report shall include a description of any adverse social or economic effects the offense has had on persons who reside in the neighborhood where the offense was committed.

(d) The report shall also include the information relating to crime victims required under section 611A.037, subdivision 1. If the court directs, the report shall include an estimate of the prospects of the defendant's rehabilitation and recommendations as to the sentence which should be imposed. In misdemeanor cases the report may be oral.

(e) When a defendant has been convicted of a felony, and before sentencing, the court shall cause a sentencing worksheet to be completed to facilitate the application of the Minnesota Sentencing Guidelines. The worksheet shall be submitted as part of the presentence investigation report.

(f) When a person is convicted of a felony for which the Sentencing Guidelines presume that the defendant will be committed to the commissioner of corrections under an executed sentence and no motion for a sentencing departure has been made by counsel, the court may, when there is no space available in the local correctional facility, commit the defendant to the custody of the commissioner of corrections, pending completion of the presentence investigation and report. When a defendant is convicted of a felony for which the Sentencing Guidelines do not presume that the defendant will be committed to the commissioner of corrections, or for which the Sentencing Guidelines presume commitment to the commissioner but counsel has moved for a sentencing departure,

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- 5.1 the court may commit the defendant to the commissioner with the consent of the
- 5.2 commissioner, pending completion of the presentence investigation and report. The
- 5.3 county of commitment shall return the defendant to the court when the court so orders.