

SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION

S.F. No. 4457

(SENATE AUTHORS: INGEBRIGTSEN)

DATE
04/07/2020

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OFFICIAL STATUS
Introduction and first reading
Referred to Judiciary and Public Safety Finance and Policy

- 1.1 A bill for an act
- 1.2 relating to public safety; requiring sex offenders to serve 25-year conditional
- 1.3 release or probation terms; establishing intensive probation for certain sex offenders;
- 1.4 amending Minnesota Statutes 2018, sections 609.342, subdivision 2; 609.343,
- 1.5 subdivision 2; 609.344, subdivision 2; 609.345, subdivision 2; 609.3451,
- 1.6 subdivision 3; 609.3455, subdivisions 6, 8, by adding subdivisions.
- 1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.8 Section 1. Minnesota Statutes 2018, section 609.342, subdivision 2, is amended to read:
- 1.9 Subd. 2. **Penalty.** (a) Except as otherwise provided in section 609.3455; or Minnesota
- 1.10 Statutes 2004, section 609.109, a person convicted under subdivision 1 may be sentenced
- 1.11 to imprisonment for not more than 30 years or to a payment of a fine of not more than
- 1.12 \$40,000, or both.
- 1.13 (b) Unless a longer mandatory minimum sentence is otherwise required by law or the
- 1.14 Sentencing Guidelines provide for a longer presumptive executed sentence, the court shall
- 1.15 presume that an executed sentence of 144 months must be imposed on an offender convicted
- 1.16 of violating this section. Sentencing a person in a manner other than that described in this
- 1.17 paragraph is a departure from the Sentencing Guidelines.
- 1.18 (c) A person convicted under this section is also subject to conditional release, extended
- 1.19 probation, and intensive probation under section 609.3455.
- 1.20 **EFFECTIVE DATE.** This section is effective August 1, 2020, and applies to offenses
- 1.21 committed on or after that date.

2.1 Sec. 2. Minnesota Statutes 2018, section 609.343, subdivision 2, is amended to read:

2.2 Subd. 2. **Penalty.** (a) Except as otherwise provided in section 609.3455; or Minnesota
2.3 Statutes 2004, section 609.109, a person convicted under subdivision 1 may be sentenced
2.4 to imprisonment for not more than 25 years or to a payment of a fine of not more than
2.5 \$35,000, or both.

2.6 (b) Unless a longer mandatory minimum sentence is otherwise required by law or the
2.7 Sentencing Guidelines provide for a longer presumptive executed sentence, the court shall
2.8 presume that an executed sentence of 90 months must be imposed on an offender convicted
2.9 of violating subdivision 1, clause (c), (d), (e), (f), or (h). Sentencing a person in a manner
2.10 other than that described in this paragraph is a departure from the Sentencing Guidelines.

2.11 (c) A person convicted under this section is also subject to conditional release, extended
2.12 probation, and intensive probation under section 609.3455.

2.13 **EFFECTIVE DATE.** This section is effective August 1, 2020, and applies to offenses
2.14 committed on or after that date.

2.15 Sec. 3. Minnesota Statutes 2018, section 609.344, subdivision 2, is amended to read:

2.16 Subd. 2. **Penalty.** Except as otherwise provided in section 609.3455, a person convicted
2.17 under subdivision 1 may be sentenced:

2.18 (1) to imprisonment for not more than 15 years or to a payment of a fine of not more
2.19 than \$30,000, or both; or

2.20 (2) if the person was convicted under subdivision 1, paragraph (b), and if the actor was
2.21 no more than 48 months but more than 24 months older than the complainant, to
2.22 imprisonment for not more than five years or a fine of not more than \$30,000, or both.

2.23 A person convicted under this section is also subject to conditional release, extended
2.24 probation, and intensive probation under section 609.3455.

2.25 **EFFECTIVE DATE.** This section is effective August 1, 2020, and applies to offenses
2.26 committed on or after that date.

2.27 Sec. 4. Minnesota Statutes 2018, section 609.345, subdivision 2, is amended to read:

2.28 Subd. 2. **Penalty.** Except as otherwise provided in section 609.3455, a person convicted
2.29 under subdivision 1 may be sentenced to imprisonment for not more than ten years or to a
2.30 payment of a fine of not more than \$20,000, or both. A person convicted under this section

is also subject to conditional release, extended probation, and intensive probation under section 609.3455.

EFFECTIVE DATE. This section is effective August 1, 2020, and applies to offenses committed on or after that date.

Sec. 5. Minnesota Statutes 2018, section 609.3451, subdivision 3, is amended to read:

Subd. 3. **Felony.** (a) A person is guilty of a felony and may be sentenced to imprisonment for not more than seven years or to payment of a fine of not more than \$14,000, or both, if the person violates this section within seven years of:

(1) a previous conviction for violating subdivision 1, clause (2), a crime described in paragraph (b), or a statute from another state in conformity with any of these offenses; or

(2) the first of two or more previous convictions for violating subdivision 1, clause (1), or a statute from another state in conformity with this offense.

(b) A previous conviction for violating section 609.342; 609.343; 609.344; 609.345; 609.3453; 617.23, subdivision 2, clause (2), or subdivision 3; or 617.247 may be used to enhance a criminal penalty as provided in paragraph (a).

(c) A person convicted under this subdivision is also subject to conditional release, extended probation, and intensive probation under section 609.3455.

EFFECTIVE DATE. This section is effective August 1, 2020, and applies to offenses committed on or after that date.

Sec. 6. Minnesota Statutes 2018, section 609.3455, subdivision 6, is amended to read:

Subd. 6. **Mandatory ~~ten-year~~ 25-year conditional release term.** (a) Notwithstanding the statutory maximum sentence otherwise applicable to the offense and unless a longer conditional release term is required in subdivision 7, when a court commits an offender to the custody of the commissioner of corrections for a violation of section 609.342, 609.343, 609.344, 609.345, or 609.3453, the court shall provide that, after the offender has been released from prison, the commissioner shall place the offender on conditional release for ~~ten~~ at least 25 years.

(b) An offender on conditional release pursuant to paragraph (a) may petition the sentencing court for an order terminating the conditional release term. The petition can be filed no sooner than ten years after the commissioner places the offender on conditional release, the offender has been convicted of a crime, or the commissioner has revoked the

offender's conditional release, whichever is later. A copy of the petition must be served on the prosecuting attorney. The prosecuting attorney must provide notice of a petition to terminate conditional release to victims who requested notification under section 611A.06. The court must hold a hearing on a petition. Terminating conditional release is an extraordinary remedy to be granted only upon clear and convincing evidence that terminating the offender's conditional release is consistent with public safety. The court must consider the testimony of the offender's victims before ruling on the offender's petition. If the court denies an offender's petition to terminate conditional release, the offender may not file a new petition for five years from the date of the court's order.

Sec. 7. Minnesota Statutes 2018, section 609.3455, is amended by adding a subdivision to read:

Subd. 7a. **Extended probation.** (a) Notwithstanding the statutory maximum sentence otherwise applicable to the offense and otherwise provided in section 609.135, subdivision 2, paragraph (a), when the court does not commit an offender to the commissioner of corrections for a felony violation of section 609.342, 609.343, 609.344, 609.345, 609.3451, or 609.3453, the court shall, after the offender has been released from any term of confinement imposed by the court, place the offender on probation for at least 25 years.

(b) An offender on extended probation pursuant to paragraph (a) may petition the sentencing court for an order terminating the extended probation term. The petition can be filed no sooner than ten years after the court places the offender on extended probation, the offender has been convicted of a crime, or the court has revoked the offender's extended probation, whichever is later. A copy of the petition must be served on the prosecuting attorney. The prosecuting attorney must provide notice of a petition to terminate extended probation to victims who requested notification under section 611A.06. The court must hold a hearing on a petition. Terminating extended probation is an extraordinary remedy to be granted only upon clear and convincing evidence that terminating the offender's extended probation is consistent with public safety. The court must consider the testimony of the offender's victims before ruling on the offender's petition. If the court denies an offender's petition to terminate extended probation, the offender may not file a new petition for five years from the date of the court's order.

EFFECTIVE DATE. This section is effective August 1, 2020, and applies to offenses committed on or after that date.

5.1 Sec. 8. Minnesota Statutes 2018, section 609.3455, subdivision 8, is amended to read:

5.2 Subd. 8. **Terms of conditional release; applicable to all sex offenders.** (a) The
5.3 provisions of this subdivision relating to conditional release apply to all sex offenders
5.4 sentenced to prison for a violation of section 609.342, 609.343, 609.344, 609.345, 609.3451,
5.5 or 609.3453. Except as provided in this subdivision, conditional release of sex offenders is
5.6 governed by provisions relating to supervised release. The commissioner of corrections
5.7 may not dismiss an offender on conditional release from supervision until the offender's
5.8 conditional release term expires.

5.9 (b) The conditions of release may include successful completion of treatment and aftercare
5.10 in a program approved by the commissioner, satisfaction of the release conditions specified
5.11 in section 244.05, subdivision 6, and any other conditions the commissioner considers
5.12 appropriate. The commissioner shall develop a plan to pay the cost of treatment of a person
5.13 released under this subdivision. The plan may include co-payments from offenders,
5.14 third-party payers, local agencies, or other funding sources as they are identified. This
5.15 section does not require the commissioner to accept or retain an offender in a treatment
5.16 program. Before the offender is placed on conditional release, the commissioner shall notify
5.17 the sentencing court and the prosecutor in the jurisdiction where the offender was sentenced
5.18 of the terms of the offender's conditional release. The commissioner also shall make
5.19 reasonable efforts to notify the victim of the offender's crime of the terms of the offender's
5.20 conditional release.

5.21 (c) If the offender fails to meet any condition of release, the commissioner may revoke
5.22 the offender's conditional release and order that the offender serve all or a part of the
5.23 remaining portion of the conditional release term in prison. An offender, while on supervised
5.24 release, is not entitled to credit against the offender's conditional release term for time served
5.25 in confinement for a violation of release.

5.26 **EFFECTIVE DATE.** This section is effective August 1, 2020, and applies to offenses
5.27 committed on or after that date.

5.28 Sec. 9. Minnesota Statutes 2018, section 609.3455, is amended by adding a subdivision
5.29 to read:

5.30 Subd. 8a. **Intensive probation.** (a) When the court does not commit an offender to the
5.31 commissioner of corrections after a conviction for a felony violation of section 609.342,
5.32 609.343, 609.344, 609.345, 609.3451, or 609.3453, the court shall place the offender on
5.33 intensive probation as provided in this subdivision.

6.1 (b) Phase I of intensive probation is six months and begins after the offender is released
6.2 from confinement, if ordered by the court. Phase II lasts for at least one-third of the time
6.3 remaining in the offender's imposed sentence at the beginning of phase II. Phase III lasts
6.4 for at least one-third of the time remaining in the offender's imposed sentence at the beginning
6.5 of phase III. Phase IV continues until the offender's imposed sentence expires.

6.6 (c) During phase I, the offender will be under house arrest in a residence approved by
6.7 the offender's probation agent and may not move to another residence without permission.
6.8 "House arrest" means that the offender's movements will be severely restricted and
6.9 continually monitored by the assigned agent. During phase II, modified house arrest is
6.10 imposed. During phases III and IV, the offender is subjected to a daily curfew instead of
6.11 house arrest.

6.12 (d) During phase I, the assigned probation agent shall have at least four face-to-face
6.13 contacts with the offender each week. During phase II, two face-to-face contacts a week
6.14 are required. During phase III, one face-to-face contact a week is required. During phase
6.15 IV, two face-to-face contacts a month are required. When an offender is an inmate of a jail
6.16 or a resident of a facility that is staffed full time, at least one face-to-face contact a week is
6.17 required.

6.18 (e) During phases I, II, III, and IV, the offender must spend at least 40 hours a week
6.19 performing approved work, undertaking constructive activity designed to obtain employment,
6.20 or attending a treatment or education program as directed by the agent. An offender may
6.21 not spend more than six months in a residential treatment program that does not require the
6.22 offender to spend at least 40 hours a week performing approved work or undertaking
6.23 constructive activity designed to obtain employment.

6.24 (f) During any phase, the offender may be placed on electronic surveillance if the
6.25 probation agent so directs. If electronic surveillance is directed during phase I, the court
6.26 must require that the offender be kept in custody, or that the offender's probation agent or
6.27 the agent's designee directly supervise the offender, until electronic surveillance is activated.
6.28 It is the responsibility of the offender placed on electronic surveillance to ensure that the
6.29 offender's residence is properly equipped and the offender's telecommunications system is
6.30 properly configured to support electronic surveillance prior to being released from custody
6.31 or the direct supervision of a probation agent. It is a violation of an offender's probation to
6.32 fail to comply with this paragraph.

7.1 (g) Throughout all phases of intensive probation, the offender shall submit at any time
7.2 to an unannounced search of the offender's person, vehicle, computer and other devices that
7.3 access the Internet or store data, or premises by a probation agent.

7.4 (h) The court may include any other conditions in the various phases of intensive
7.5 probation that the court finds necessary and appropriate.

7.6 **EFFECTIVE DATE.** This section is effective August 1, 2020, and applies to offenses
7.7 committed on or after that date.