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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 2540

02/27/2014 Authored by Mullery

The bill was read for the first time and referred to the Committee on Early Childhood and Youth Development Policy

1.1 A bill for an act
1.2 relating to judiciary; establishing a sentence of life with release when certain
1.3 juveniles commit a heinous crime; applying changes retroactively; amending
1.4 Minnesota Statutes 2012, sections 244.05, subdivisions 4, 5; 609.106, by adding
1.5 a subdivision.

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

1.7 Section 1. Minnesota Statutes 2012, section 244.05, subdivision 4, is amended to read:

1.8 Subd. 4. Minimum imprisonment, life sentence. (a) An inmate serving a
1.9 mandatory life sentence under Minnesota Statutes 2012, section 609.106, if the inmate
1.10 was 18 years or older at the time of the offense; section 609.106, subdivision 2; or section
1.11 609.3455, subdivision 2, must not be given supervised release under this section.

1.12 (b) An inmate serving a mandatory life sentence under section 609.185, clause (3),
1.13 (5), or (6); or Minnesota Statutes 2004, section 609.109, subdivision 3, must not be given
1.14 supervised release under this section without having served a minimum term of 30 years.

1.15 (c) An inmate serving a mandatory life sentence under section 609.385 must not
1.16 be given supervised release under this section without having served a minimum term of
1.17 imprisonment of 17 years.

1.18 (d) An inmate serving a mandatory life sentence under section 609.3455, subdivision
1.19 3 or 4, must not be given supervised release under this section without having served the
1.20 minimum term of imprisonment specified by the court in its sentence.

1.21 (e) An inmate serving a mandatory life sentence under section 609.106, subdivision
1.22 3, or Minnesota Statutes 2012, section 609.106, must not be given supervised release
1.23 under this section without having served a minimum term of:

1.24 (1) 25 years, if the inmate was 16 or 17 years old at the time of the offense; or

1.25 (2) 20 years, if the inmate was 14 or 15 years old at the time of the offense.

2.1 **EFFECTIVE DATE.** This section is effective the day following final enactment,  
2.2 and applies to offenders sentenced before, on, or after that date.

2.3 Sec. 2. Minnesota Statutes 2012, section 244.05, subdivision 5, is amended to read:

2.4 Subd. 5. **Supervised release, life sentence.** (a) The commissioner of corrections  
2.5 may, under rules promulgated by the commissioner, give supervised release to an inmate  
2.6 serving a mandatory life sentence under section 609.185, clause (3), (5), or (6); 609.106,  
2.7 subdivision 3; 609.3455, subdivision 3 or 4; 609.385; or Minnesota Statutes 2004, section  
2.8 609.109, subdivision 3; or Minnesota Statutes 2012, section 609.106, if the inmate was  
2.9 under the age of 18 at the time of the offense, after the inmate has served the minimum  
2.10 term of imprisonment specified in subdivision 4.

2.11 (b) The commissioner shall require the preparation of a community investigation  
2.12 report and shall consider the findings of the report when making a supervised release  
2.13 decision under this subdivision. The report shall reflect the sentiment of the various  
2.14 elements of the community toward the inmate, both at the time of the offense and at the  
2.15 present time. The report shall include the views of the sentencing judge, the prosecutor,  
2.16 any law enforcement personnel who may have been involved in the case, and any  
2.17 successors to these individuals who may have information relevant to the supervised  
2.18 release decision. The report shall also include the views of the victim and the victim's  
2.19 family unless the victim or the victim's family chooses not to participate.

2.20 (c) The commissioner shall make reasonable efforts to notify the victim, in advance,  
2.21 of the time and place of the inmate's supervised release review hearing. The victim has  
2.22 a right to submit an oral or written statement at the review hearing. The statement may  
2.23 summarize the harm suffered by the victim as a result of the crime and give the victim's  
2.24 recommendation on whether the inmate should be given supervised release at this time.  
2.25 The commissioner must consider the victim's statement when making the supervised  
2.26 release decision.

2.27 (d) When considering whether to give supervised release to an inmate serving a life  
2.28 sentence under section 609.3455, subdivision 3 or 4, the commissioner shall consider, at  
2.29 a minimum, the following: the risk the inmate poses to the community if released, the  
2.30 inmate's progress in treatment, the inmate's behavior while incarcerated, psychological  
2.31 or other diagnostic evaluations of the inmate, the inmate's criminal history, and any  
2.32 other relevant conduct of the inmate while incarcerated or before incarceration. The  
2.33 commissioner may not give supervised release to the inmate unless:

2.34 (1) while in prison:

2.35 (i) the inmate has successfully completed appropriate sex offender treatment;

3.1 (ii) the inmate has been assessed for chemical dependency needs and, if appropriate,  
3.2 has successfully completed chemical dependency treatment; and

3.3 (iii) the inmate has been assessed for mental health needs and, if appropriate, has  
3.4 successfully completed mental health treatment; and

3.5 (2) a comprehensive individual release plan is in place for the inmate that ensures  
3.6 that, after release, the inmate will have suitable housing and receive appropriate aftercare  
3.7 and community-based treatment. The comprehensive plan also must include a postprison  
3.8 employment or education plan for the inmate.

3.9 (e) As used in this subdivision, "victim" means the individual who suffered harm as  
3.10 a result of the inmate's crime or, if the individual is deceased, the deceased's surviving  
3.11 spouse or next of kin.

3.12 **EFFECTIVE DATE.** This section is effective the day following final enactment  
3.13 and applies to offenders sentenced before, on, or after that date.

3.14 Sec. 3. Minnesota Statutes 2012, section 609.106, is amended by adding a subdivision  
3.15 to read:

3.16 **Subd. 3. Life imprisonment.** Notwithstanding subdivision 2, if the defendant was  
3.17 under 18 years of age at the time of the commission of the offense, the court may sentence  
3.18 the defendant to imprisonment for life if it is proven by a preponderance of the evidence  
3.19 that the defendant's relative youth and potential for rehabilitation in prison outweighs  
3.20 the public's interest in a sentence of life without possibility of release. In making this  
3.21 determination, the court should consider the following factors:

3.22 (1) the age, education, experience, and background, including mental and emotional  
3.23 development, of the defendant at the time of commission of the offense;

3.24 (2) the circumstances and nature and severity of the offense, including any  
3.25 aggravating or mitigating factors in the commission of the offense;

3.26 (3) victim and community impact, including age and vulnerability of the victim;

3.27 (4) the defendant's level of participation in the planning and carrying out of the  
3.28 offense, including familial or peer influence in the commission of the crime;

3.29 (5) the defendant's juvenile delinquency and criminal history;

3.30 (6) the defendant's programming history, including child welfare, school and  
3.31 community-based, and probation interventions, and the defendant's willingness to  
3.32 participate meaningfully in programming, probation, or both; and

3.33 (7) any other aggravating or mitigating circumstance bearing on the defendant's  
3.34 culpability or potential for rehabilitation.

4.1            **EFFECTIVE DATE.** This section is effective the day following final enactment,  
4.2            and applies to crimes committed on or after that date.