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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. **504**

02/02/2015 Authored by Johnson, B.; Scott and Hilstrom

The bill was read for the first time and referred to the Committee on Public Safety and Crime Prevention Policy and Finance

1.1 A bill for an act
1.2 relating to public safety; authorizing issuance of a criminal protection order as
1.3 part of a sentence; creating new criminal penalties; amending Minnesota Statutes
1.4 2014, sections 609.10, subdivision 1; 609.125, subdivision 1; proposing coding
1.5 for new law in Minnesota Statutes, chapter 609.

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

1.7 Section 1. Minnesota Statutes 2014, section 609.10, subdivision 1, is amended to read:

1.8 Subdivision 1. **Sentences available.** (a) Upon conviction of a felony and compliance
1.9 with the other provisions of this chapter the court, if it imposes sentence, may sentence
1.10 the defendant to the extent authorized by law as follows:

1.11 (1) to life imprisonment; or

1.12 (2) to imprisonment for a fixed term of years set by the court; or

1.13 (3) to both imprisonment for a fixed term of years and payment of a fine; or

1.14 (4) to payment of a fine without imprisonment or as an intermediate sanction on a
1.15 stayed sentence; or

1.16 (5) to payment of court-ordered restitution in addition to either imprisonment
1.17 or payment of a fine, or both; ~~or~~

1.18 (6) to payment of a local correctional fee as authorized under section 609.102 in
1.19 addition to any other sentence imposed by the court; or

1.20 (7) to issuance of a criminal protection order as authorized under section 609.1155 in
1.21 addition to any other sentence imposed by the court.

1.22 (b) If the court imposes a fine or orders restitution under paragraph (a), payment is
1.23 due on the date imposed unless the court otherwise establishes a due date or a payment plan.

EFFECTIVE DATE. This section is effective August 1, 2015, and applies to crimes committed on or after that date.

Sec. 2. [609.1155] CRIMINAL PROTECTION ORDER; SENTENCING.

Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms in this subdivision have the meanings given.

(b) "Person offense" includes a violation of or an attempt to violate sections 518B.01, subdivision 14; 609.185; 609.19; 609.195; 609.20; 609.205; 609.2112; 609.2113; 609.2114; 609.221; 609.222; 609.223; 609.2231; 609.224; 609.2242; 609.2245; 609.2247; 609.229; 609.23; 609.231; 609.2325; 609.233; 609.24; 609.245; 609.25; 609.255; 609.265; 609.2661; 609.2662; 609.2663; 609.2664; 609.2665; 609.267; 609.2671; 609.2672; 609.268; 609.27; 609.275; 609.282; 609.322; 609.324; 609.342; 609.343; 609.344; 609.345; 609.3451; 609.352; 609.377; 609.378; 609.713; 609.748, subdivision 6; 609.749; and 629.75; and similar laws of other states, the United States, the District of Columbia, tribal lands, and United States territories.

(c) "Victim" means a natural person who incurs loss or harm as a result of a person offense.

Subd. 2. **Criminal protection order.** In all cases in which a defendant has been convicted of a person offense, the court, at the time of sentencing, shall consider issuing a criminal protection order restraining the defendant from any contact with the victim or a family member of the victim, whether in person, by telephone, mail, electronic mail or messaging, through electronic devices or a third person, or through any other means identified by the court. Relief granted in a criminal protection order shall be for the term of the defendant's sentence, unless the court determines a different period is appropriate. The order shall specify the identity of any family member protected by the order.

Subd. 3. **Hearing; issuance.** The court may issue an order if the court finds that, based on the history, character, and criminal record of the defendant and the nature and circumstances of the crime, a criminal protection order is needed to protect the victim or the victim's family member from harm or harassment. The prosecutor and defendant or defendant's attorney may submit written arguments to the court prior to the sentencing hearing, or may make oral arguments at the sentencing hearing. The court may also consider the presentence investigation report, if any, prepared under section 609.115.

Subd. 4. **Criminal penalties.** (a) Except as otherwise provided in paragraphs (b) and (c), a person who knows of the existence of the criminal protection order and violates the order is guilty of a misdemeanor.

(b) A person who violates this subdivision within ten years of a previous person offense conviction or adjudication of delinquency is guilty of a gross misdemeanor. Upon a gross misdemeanor conviction under this paragraph, the defendant must be sentenced to a minimum of ten days' imprisonment. Notwithstanding section 609.135, the court must impose and execute the minimum sentence provided in this paragraph for gross misdemeanor convictions.

(c) A person is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if the person violates this subdivision:

(1) within ten years of the first of two or more previous person offense convictions or adjudications of delinquency; or

(2) while possessing a dangerous weapon, as defined in section 609.02, subdivision 6. Upon a felony conviction under this paragraph, in which the court stays imposition or execution of sentence, the court shall impose at least a 30-day period of incarceration as a condition of probation. Notwithstanding section 609.135, the court must impose and execute the minimum sentence provided in this paragraph for felony convictions.

Subd. 5. **Warrantless custodial arrest.** A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated a criminal protection order, even if the violation of the order did not take place in the presence of the peace officer, if the existence of the order can be verified by the officer. The person shall be held in custody for at least 36 hours, excluding the day of arrest, Sundays, and holidays, unless the person is released earlier by a judge or judicial officer. A peace officer acting in good faith and exercising due care in making an arrest pursuant to this subdivision is immune from civil liability that might result from the officer's actions.

EFFECTIVE DATE. This section is effective August 1, 2015, and applies to crimes committed on or after that date.

Sec. 3. Minnesota Statutes 2014, section 609.125, subdivision 1, is amended to read:

Subdivision 1. **Sentences available.** (a) Upon conviction of a misdemeanor or gross misdemeanor the court, if sentence is imposed, may, to the extent authorized by law, sentence the defendant:

(1) to imprisonment for a definite term; or

(2) to payment of a fine without imprisonment or as an intermediate sanction on a stayed sentence; or

(3) to both imprisonment for a definite term and payment of a fine; or

4.1 (4) to payment of court-ordered restitution in addition to either imprisonment
4.2 or payment of a fine, or both; or

4.3 (5) to payment of a local correctional fee as authorized under section 609.102 in
4.4 addition to any other sentence imposed by the court; ~~or~~

4.5 (6) to perform work service in a restorative justice program in addition to any other
4.6 sentence imposed by the court; or

4.7 (7) to issuance of a criminal protection order as authorized under section 609.1155 in
4.8 addition to any other sentence imposed by the court.

4.9 (b) If the court imposes a fine or orders restitution under paragraph (a), payment is
4.10 due on the date imposed unless the court otherwise establishes a due date or a payment plan.

4.11 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to crimes
4.12 committed on or after that date.