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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 1607

02/13/2023 Authored by Long, Moller, Frazier and Smith
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; establishing a limit of five years on the length of probation
1.3 in most felony sentences; providing for retroactive application; amending Minnesota
1.4 Statutes 2022, section 609.135, subdivisions 1a, 1c, 2.

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

1.6 Section 1. Minnesota Statutes 2022, section 609.135, subdivision 1a, is amended to read:

1.7 Subd. 1a. Failure to pay restitution. If the court orders payment of restitution as a
1.8 condition of probation and if the defendant fails to pay the restitution in accordance with
1.9 the payment schedule or structure established by the court or the probation officer, the
1.10 prosecutor or the defendant's probation officer may, on the prosecutor's or the officer's own
1.11 motion or at the request of the victim, ask the court to hold a hearing to determine whether
1.12 or not the conditions of probation should be changed or probation should be revoked. The
1.13 defendant's probation officer shall ask for the hearing if the restitution ordered has not been
1.14 paid prior to 60 days before the term of probation expires. The court shall schedule and hold
1.15 this hearing and take appropriate action, including action under subdivision 2, paragraph
1.16 (g) (h), before the defendant's term of probation expires.

1.17 Nothing in this subdivision limits the court's ability to refer the case to collections under
1.18 section 609.104 when a defendant fails to pay court-ordered restitution.

1.19 Sec. 2. Minnesota Statutes 2022, section 609.135, subdivision 1c, is amended to read:

1.20 Subd. 1c. Failure to complete court-ordered treatment. If the court orders a defendant
1.21 to undergo treatment as a condition of probation and if the defendant fails to successfully
1.22 complete treatment at least 60 days before the term of probation expires, the prosecutor or

2.1 the defendant's probation officer may ask the court to hold a hearing to determine whether
 2.2 the conditions of probation should be changed or probation should be revoked. The court
 2.3 shall schedule and hold this hearing and take appropriate action, including action under
 2.4 subdivision 2, paragraph ~~(h)~~ (i), before the defendant's term of probation expires.

2.5 Sec. 3. Minnesota Statutes 2022, section 609.135, subdivision 2, is amended to read:

2.6 Subd. 2. **Stay of sentence maximum periods.** (a) Except as provided in paragraph (b),
 2.7 if the conviction is for a felony ~~other than section 609.2113, subdivision 1 or 2, 609.2114,~~
 2.8 ~~subdivision 2, or section 609.3451, subdivision 1 or 1a, or Minnesota Statutes 2012, section~~
 2.9 ~~609.21, subdivision 1a, paragraph (b) or (c),~~ the stay shall be for not more than ~~four~~ five
 2.10 years or the maximum period for which the sentence of imprisonment might have been
 2.11 imposed, whichever is ~~longer~~ less.

2.12 (b) If the conviction is for a felony described in section 609.19, 609.195, 609.20,
 2.13 609.2112, 609.2662, 609.2663, 609.2664, 609.268, 609.342, 609.343, 609.344, 609.345,
 2.14 609.3451, or 609.3458, the stay shall be for not more than the maximum period for which
 2.15 the sentence of imprisonment might have been imposed.

2.16 ~~(b)~~ (c) If the conviction is for a gross misdemeanor violation of section 169A.20,
 2.17 609.2113, subdivision 3, or 609.3451, ~~or for a felony described in section 609.2113,~~
 2.18 ~~subdivision 1 or 2, 609.2114, subdivision 2, or 609.3451, subdivision 1 or 1a,~~ the stay shall
 2.19 be for not more than six years. The court shall provide for unsupervised probation for the
 2.20 last year of the stay unless the court finds that the defendant needs supervised probation for
 2.21 all or part of the last year.

2.22 ~~(c)~~ (d) If the conviction is for a gross misdemeanor not specified in paragraph (b), the
 2.23 stay shall be for not more than two years.

2.24 ~~(d)~~ (e) If the conviction is for any misdemeanor under section 169A.20; 609.746,
 2.25 subdivision 1; 609.79; or 617.23; or for a misdemeanor under section 609.2242 or 609.224,
 2.26 subdivision 1, in which the victim of the crime was a family or household member as defined
 2.27 in section 518B.01, the stay shall be for not more than two years. The court shall provide
 2.28 for unsupervised probation for the second year of the stay unless the court finds that the
 2.29 defendant needs supervised probation for all or part of the second year.

2.30 ~~(e)~~ (f) If the conviction is for a misdemeanor not specified in paragraph (d), the stay
 2.31 shall be for not more than one year.

3.1 ~~(f)~~ (g) The defendant shall be discharged six months after the term of the stay expires,
 3.2 unless the stay has been revoked or extended under paragraph ~~(g)~~ (h), or the defendant has
 3.3 already been discharged.

3.4 ~~(g)~~ (h) Notwithstanding the maximum periods specified for stays of sentences under
 3.5 paragraphs (a) to ~~(f)~~ (g), a court may extend a defendant's term of probation for up to one
 3.6 year if it finds, at a hearing conducted under subdivision 1a, that:

3.7 (1) the defendant has not paid court-ordered restitution in accordance with the payment
 3.8 schedule or structure; and

3.9 (2) the defendant is likely to not pay the restitution the defendant owes before the term
 3.10 of probation expires.

3.11 This one-year extension of probation for failure to pay restitution may be extended by the
 3.12 court for up to one additional year if the court finds, at another hearing conducted under
 3.13 subdivision 1a, that the defendant still has not paid the court-ordered restitution that the
 3.14 defendant owes.

3.15 Nothing in this subdivision limits the court's ability to refer the case to collections under
 3.16 section 609.104.

3.17 ~~(h)~~ (i) Notwithstanding the maximum periods specified for stays of sentences under
 3.18 paragraphs (a) to ~~(f)~~ (g), a court may extend a defendant's term of probation for up to three
 3.19 years if it finds, at a hearing conducted under subdivision 1c, that:

3.20 (1) the defendant has failed to complete court-ordered treatment successfully; and

3.21 (2) the defendant is likely not to complete court-ordered treatment before the term of
 3.22 probation expires.

3.23 **EFFECTIVE DATE.** This section is effective August 1, 2023, and applies to sentences
 3.24 announced on or after that date.

3.25 Sec. 4. **PROBATION LIMITS; RETROACTIVE APPLICATION.**

3.26 (a) Any person placed on probation before August 1, 2023, is eligible for resentencing
 3.27 if:

3.28 (1) the person was placed on probation for a felony violation;

3.29 (2) the court placed the person on probation for a length of time that exceeded five years;

4.1 (3) under Minnesota Statutes, section 609.135, subdivision 2, the maximum length of
4.2 probation the court could have ordered the person to serve on or after August 1, 2023, is
4.3 five years; and

4.4 (4) the sentence of imprisonment has not been executed.

4.5 (b) Resentencing shall be treated as a correction or reduction of sentence pursuant to
4.6 rule 27.03, subdivision 9, of the Rules of Criminal Procedure.

4.7 (c) The term of the stay of probation for any person who is eligible for resentencing
4.8 under paragraph (a) and who has served five or more years of probation as of August 1,
4.9 2023, shall be considered to have expired on October 1, 2023, unless:

4.10 (1) the term of the stay of probation would have expired before that date under the
4.11 original sentence; or

4.12 (2) the length of probation is extended pursuant to Minnesota Statutes, section 609.135,
4.13 subdivision 2, paragraph (h) or (i).

4.14 **EFFECTIVE DATE.** This section is effective August 1, 2023, and applies to sentences
4.15 announced before that date.