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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 4225

03/05/2020 Authored by Johnson, Lucero, Novotny, Nash and Poston
The bill was read for the first time and referred to the Public Safety and Criminal Justice Reform Finance and Policy Division

1.1 A bill for an act
1.2 relating to public safety; rejecting certain proposed modifications to the Sentencing
1.3 Guidelines relating to lengths of probation; removing authority for Sentencing
1.4 Guidelines Commission to establish guidelines on nonprison sanctions; requiring
1.5 Sentencing Guidelines Commission to submit proposal to the legislature regarding
1.6 lengths of probation; providing for collection of probation data; requiring a report
1.7 on probation sentences; amending Minnesota Statutes 2018, section 244.09,
1.8 subdivisions 5, 6, by adding a subdivision.

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

1.10 Section 1. Minnesota Statutes 2018, section 244.09, subdivision 5, is amended to read:

1.11 Subd. 5. Promulgation of Sentencing Guidelines. The commission shall promulgate
1.12 Sentencing Guidelines for the district court. The guidelines shall be based on reasonable
1.13 offense and offender characteristics. The guidelines promulgated by the commission shall
1.14 be advisory to the district court and shall establish:

1.15 (1) the circumstances under which imprisonment of an offender is proper; and

1.16 (2) a presumptive, fixed sentence for offenders for whom imprisonment is proper, based
1.17 on each appropriate combination of reasonable offense and offender characteristics. The
1.18 guidelines shall provide for an increase of 20 percent and a decrease of 15 percent in the
1.19 presumptive, fixed sentence.

1.20 The Sentencing Guidelines promulgated by the commission may also establish appropriate
1.21 sanctions for offenders for whom imprisonment is not proper. Any guidelines promulgated
1.22 by the commission establishing sanctions for offenders for whom imprisonment is not proper
1.23 shall make specific reference to noninstitutional sanctions, including but not limited to the
1.24 following: payment of fines, day fines, restitution, community work orders, work release

2.1 ~~programs in local facilities, community based residential and nonresidential programs,~~
 2.2 ~~incarceration in a local correctional facility, and probation and the conditions thereof.~~

2.3 Although the Sentencing Guidelines are advisory to the district court, the court shall
 2.4 follow the procedures of the guidelines when it pronounces sentence in a proceeding to
 2.5 which the guidelines apply by operation of statute. Sentencing pursuant to the Sentencing
 2.6 Guidelines is not a right that accrues to a person convicted of a felony; it is a procedure
 2.7 based on state public policy to maintain uniformity, proportionality, rationality, and
 2.8 predictability in sentencing.

2.9 In establishing and modifying the Sentencing Guidelines, the primary consideration of
 2.10 the commission shall be public safety. The commission shall also consider current sentencing
 2.11 and release practices; correctional resources, including but not limited to the capacities of
 2.12 local and state correctional facilities; and the long-term negative impact of the crime on the
 2.13 community.

2.14 The provisions of sections 14.001 to 14.69 do not apply to the promulgation of the
 2.15 Sentencing Guidelines, and the Sentencing Guidelines, including severity levels and criminal
 2.16 history scores, are not subject to review by the legislative commission to review
 2.17 administrative rules. However, the commission shall adopt rules pursuant to sections 14.001
 2.18 to 14.69 which establish procedures for the promulgation of the Sentencing Guidelines,
 2.19 including procedures for the promulgation of severity levels and criminal history scores,
 2.20 and these rules shall be subject to review by the Legislative Coordinating Commission.

2.21 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.22 Sec. 2. Minnesota Statutes 2018, section 244.09, subdivision 6, is amended to read:

2.23 Subd. 6. **Clearinghouse and information center.** The commission, in addition to
 2.24 establishing Sentencing Guidelines, shall serve as a clearinghouse and information center
 2.25 for the collection, preparation, analysis and dissemination of information on state and local
 2.26 sentencing and probation practices, and shall conduct ongoing research regarding Sentencing
 2.27 Guidelines, use of imprisonment and alternatives to imprisonment, probation terms,
 2.28 conditions of probation, probation revocations, early discharge of probation, plea bargaining,
 2.29 and other matters relating to the improvement of the criminal justice system. The commission
 2.30 shall from time to time make recommendations to the legislature regarding changes in the
 2.31 Criminal Code, criminal procedures, and other aspects of sentencing and probation.

3.1 This information shall include information regarding the impact of statutory changes to
3.2 the state's criminal laws related to controlled substances, including those changes enacted
3.3 by the legislature in Laws 2016, chapter 160.

3.4 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.5 Sec. 3. Minnesota Statutes 2018, section 244.09, is amended by adding a subdivision to
3.6 read:

3.7 Subd. 15. **Report on probation.** The commission shall include in its annual report to
3.8 the legislature a summary and analysis of the average time offenders serve on probation.
3.9 The report must disaggregate data for each judicial district by the announced duration of
3.10 probation, rate of departure from presumptive prison sentences, rate of revocation of
3.11 probation, period of probation served before revocation, rate of early discharge of probation,
3.12 period of probation served before early discharge, and average length of probation actually
3.13 served by offenders who successfully complete probation.

3.14 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.15 Sec. 4. **MODIFICATIONS TO SENTENCING GUIDELINES REJECTED.**

3.16 The modifications to the Sentencing Guidelines relating to probation terms proposed in
3.17 the Minnesota Sentencing Guidelines Commission's 2020 report to the legislature and
3.18 contained in appendix 2.3 are rejected and do not take effect.

3.19 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.20 Sec. 5. **PROBATION PROPOSAL REQUIRED.**

3.21 (a) The Minnesota Sentencing Guidelines Commission shall comprehensively review
3.22 issues involving conditions and lengths of stayed sentences and probation and develop a
3.23 proposal to modify the Sentencing Guidelines that includes presumptive lengths by range
3.24 for stayed sentences in a grid format based on reasonable offense and offender characteristics.
3.25 This proposal must ensure public safety and proportionality in sentencing based on the
3.26 severity of the offense and the offender's history. In addition, the proposal must provide for
3.27 departures in appropriate circumstances and enumerate permissible grounds for departures,
3.28 including by agreement of the parties. The proposal must also allow for the extension of
3.29 the length of a stayed sentence for situations involving public safety, treatment completion,
3.30 and payment of restitution.

4.1 (b) By January 15, 2022, the commission shall submit the proposal to the chairs and
4.2 ranking minority members of the legislative committees with jurisdiction over criminal
4.3 justice policy and finance.

4.4 (c) If the commission determines that statutory amendments and modifications to the
4.5 Sentencing Guidelines are necessary to best effectuate the proposal, the proposal must
4.6 include draft legislation to make the recommended statutory changes.

4.7 (d) Any modifications to the Sentencing Guidelines in the proposal do not take effect
4.8 unless the legislature approves the modifications by law.

4.9 **EFFECTIVE DATE.** This section is effective the day following final enactment.