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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FOURTH SESSION

H. F. No. 2976

04/01/2025

Authored by Hollins

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; providing for mitigated departures for certain offenders

1.3 who have been victims; requiring presentence investigation reports to include

1.4 certain information; allowing certain offenders who have been victims to apply

1.5 for a pardon or for clemency; directing the Minnesota Sentencing Guidelines

1.6 Commission to include an additional mitigating factor; amending Minnesota

1.7 Statutes 2024, sections 609.115, subdivision 1; 609.133, subdivision 7; 638.12,

1.8 subdivision 2; 638.15, subdivision 1; 638.19, subdivision 1; proposing coding for

1.9 new law in Minnesota Statutes, chapter 609.

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

1.11 Section 1. **[609.1057] CRIMES COMMITTED BY DOMESTIC ABUSE AND**

1.12 **SEXUAL ASSAULT VICTIMS; DEPARTURE AUTHORIZED.**

1.13 Subdivision 1. Definitions. (a) For purposes of this section, the following terms have

1.14 the meanings given.

1.15 (b) "Domestic abuse" has the meaning given in section 518B.01, subdivision 2, paragraph

1.16 (a).

1.17 (c) "Prosecutor" means the attorney general, county attorney, or city attorney responsible

1.18 for the prosecution of individuals charged with a crime.

1.19 (d) "Sex trafficking" has the meaning given in section 609.321, subdivision 7a.

1.20 (e) "Sexual assault" means an act that would constitute a violation of section 609.342,

1.21 609.343, 609.344, 609.345, 609.3451, or 609.3458.

1.22 Subd. 2. Mitigated departure for certain domestic abuse, sexual assault, and sex

1.23 trafficking victims. (a) Before sentencing an offender for a felony offense, the court shall

2.1 consider whether the person has been the victim of domestic abuse, sexual assault, or sex
 2.2 trafficking.

2.3 (b) A court may order a mitigated departure from the presumptive sentence under the
 2.4 Sentencing Guidelines if the court determines:

2.5 (1) the offender has been the victim of domestic abuse, sexual assault, or sex trafficking;

2.6 (2) that experience was a contributing factor in the offense the person committed; and

2.7 (3) a mitigated departure from the presumptive sentence under the Sentencing Guidelines
 2.8 is in the public interest.

2.9 (c) If the court considers court records, military service records, social services records,
 2.10 medical records, or any other relevant records or testimony that are not otherwise public in
 2.11 making the determination under paragraph (b), the court may issue an order permitting the
 2.12 filing of those records under seal or as confidential and may issue any other order to maintain
 2.13 the confidentiality of records including excising any part of the records or requiring that
 2.14 review be made in camera.

2.15 (d) The court may order a mitigated dispositional departure, a mitigated durational
 2.16 departure, or both under this subdivision.

2.17 (e) Nothing in this subdivision prohibits the court from announcing a sentence that is a
 2.18 mitigated departure based on any other mitigating factor.

2.19 Subd. 3. **Supportive services.** If the court places an offender who was the victim of
 2.20 domestic abuse, sexual assault, or sex trafficking on probation, the court may require as a
 2.21 condition of probation that the offender participate in treatment or programming to support
 2.22 the offender in addressing behaviors and mental health conditions arising from or exacerbated
 2.23 by experiences of domestic abuse, sexual assault, or sex trafficking.

2.24 **EFFECTIVE DATE.** This section is effective August 1, 2025, and applies to sentencing
 2.25 hearings held on or after that date.

2.26 Sec. 2. Minnesota Statutes 2024, section 609.115, subdivision 1, is amended to read:

2.27 Subdivision 1. **Presentence investigation.** (a) When a defendant has been convicted of
 2.28 a misdemeanor or gross misdemeanor, the court may, and when the defendant has been
 2.29 convicted of a felony, the court shall, before sentence is imposed, cause a presentence
 2.30 investigation and written report to be made to the court concerning the defendant's individual
 2.31 characteristics, circumstances, needs, potentialities, criminal record and social history, the
 2.32 circumstances of the offense and the harm caused by it to others and to the community. At

3.1 the request of the prosecutor in a gross misdemeanor case, the court shall order that a
3.2 presentence investigation and report be prepared. The investigation shall be made by a
3.3 probation officer of the court, if there is one; otherwise it shall be made by the commissioner
3.4 of corrections. The officer conducting the presentence or predispositional investigation shall
3.5 make reasonable and good faith efforts to contact and provide the victim with the information
3.6 required under section 611A.037, subdivision 2. Presentence investigations shall be conducted
3.7 and summary hearings held upon reports and upon the sentence to be imposed upon the
3.8 defendant in accordance with this section, section 244.10, and the Rules of Criminal
3.9 Procedure.

3.10 (b) When the crime is a violation of sections 609.561 to 609.563, 609.5641, or 609.576
3.11 and involves a fire, the report shall include a description of the financial and physical harm
3.12 the offense has had on the public safety personnel who responded to the fire. For purposes
3.13 of this paragraph, "public safety personnel" means the state fire marshal; employees of the
3.14 Division of the State Fire Marshal; firefighters, regardless of whether the firefighters receive
3.15 any remuneration for providing services; peace officers, as defined in section 626.05,
3.16 subdivision 2; individuals providing emergency management services; and individuals
3.17 providing emergency medical services.

3.18 (c) When the crime is a felony violation of chapter 152 involving the sale or distribution
3.19 of a controlled substance, the report may include a description of any adverse social or
3.20 economic effects the offense has had on persons who reside in the neighborhood where the
3.21 offense was committed.

3.22 (d) The report shall also include the information relating to crime victims required under
3.23 section 611A.037, subdivision 1. If the court directs, the report shall include an estimate of
3.24 the prospects of the defendant's rehabilitation and recommendations as to the sentence which
3.25 should be imposed. In misdemeanor cases the report may be oral.

3.26 (e) The report shall also include information about whether the defendant has been the
3.27 victim of domestic abuse, sexual assault, or sex trafficking and, if so, any connection between
3.28 that experience and the offense the offender committed.

3.29 ~~(e)~~ (f) When a defendant has been convicted of a felony, and before sentencing, the court
3.30 shall cause a sentencing worksheet to be completed to facilitate the application of the
3.31 Minnesota Sentencing Guidelines. The worksheet shall be submitted as part of the
3.32 presentence investigation report.

3.33 ~~(f)~~ (g) When a person is convicted of a felony for which the Sentencing Guidelines
3.34 presume that the defendant will be committed to the commissioner of corrections under an

4.1 executed sentence and no motion for a sentencing departure has been made by counsel, the
4.2 court may, when there is no space available in the local correctional facility, commit the
4.3 defendant to the custody of the commissioner of corrections, pending completion of the
4.4 presentence investigation and report. When a defendant is convicted of a felony for which
4.5 the Sentencing Guidelines do not presume that the defendant will be committed to the
4.6 commissioner of corrections, or for which the Sentencing Guidelines presume commitment
4.7 to the commissioner but counsel has moved for a sentencing departure, the court may commit
4.8 the defendant to the commissioner with the consent of the commissioner, pending completion
4.9 of the presentence investigation and report. The county of commitment shall return the
4.10 defendant to the court when the court so orders.

4.11 **EFFECTIVE DATE.** This section is effective August 1, 2025, and applies to presentence
4.12 investigations conducted and written reports made on or after that date.

4.13 Sec. 3. Minnesota Statutes 2024, section 609.133, subdivision 7, is amended to read:

4.14 Subd. 7. **Nature of remedy; standard.** (a) The court shall determine whether there are
4.15 substantial and compelling reasons to adjust the individual's sentence. In making this
4.16 determination, the court shall consider what impact, if any, a sentence adjustment would
4.17 have on public safety, including whether an adjustment would promote the rehabilitation
4.18 of the individual, properly reflect the severity of the underlying offense, or reduce sentencing
4.19 disparities. In making this determination, the court may consider factors relating to both the
4.20 offender and the offense, including but not limited to:

4.21 (1) the presentence investigation report used at sentencing, if available;

4.22 (2) the individual's performance on probation or supervision;

4.23 (3) the individual's disciplinary record during any period of incarceration;

4.24 (4) records of any rehabilitation efforts made by the individual since the date of offense
4.25 and any plan to continue those efforts in the community;

4.26 (5) evidence that remorse, age, diminished physical condition, or any other factor has
4.27 significantly reduced the likelihood that the individual will commit a future offense;

4.28 (6) the amount of time the individual has served in custody or under supervision; ~~and~~

4.29 (7) whether the individual has been the victim of domestic abuse, sexual assault, or sex
4.30 trafficking and that experience was a contributing factor in the crime for which the individual
4.31 was convicted; and

4.32 (8) significant changes in law or sentencing practice since the date of offense.

5.1 (b) Notwithstanding any law to the contrary, if the court determines by a preponderance
 5.2 of the evidence that there are substantial and compelling reasons to adjust the individual's
 5.3 sentence, the court may modify the sentence in any way provided the adjustment does not:

5.4 (1) increase the period of confinement or, if the individual is serving a stayed sentence,
 5.5 increase the period of supervision;

5.6 (2) reduce or eliminate the amount of court-ordered restitution; or

5.7 (3) reduce or eliminate a term of conditional release required by law when a court
 5.8 commits an offender to the custody of the commissioner of corrections.

5.9 The court may stay imposition or execution of sentence pursuant to section 609.135.

5.10 (c) A sentence adjustment is not a valid basis to vacate the judgment of conviction, enter
 5.11 a judgment of conviction for a different offense, or impose sentence for any other offense.

5.12 (d) The court shall state in writing or on the record the reasons for its decision on the
 5.13 petition. If the court grants a sentence adjustment, the court shall provide the information
 5.14 in section 244.09, subdivision 15, to the Sentencing Guidelines Commission.

5.15 **EFFECTIVE DATE.** This section is effective August 1, 2025.

5.16 Sec. 4. Minnesota Statutes 2024, section 638.12, subdivision 2, is amended to read:

5.17 Subd. 2. **Pardon eligibility; waiver.** (a) Except as provided in ~~paragraphs~~ paragraph
 5.18 (b) ~~and~~, (c), or (d), an individual convicted of a crime in a court of this state may apply for
 5.19 a pardon of the individual's conviction on or after five years from the sentence's expiration
 5.20 or discharge date.

5.21 (b) An individual convicted before August 1, 2023, of a violation of section 609.19,
 5.22 subdivision 1, clause (1), under the theory of liability for crimes of another may apply for
 5.23 a pardon upon the sentence's expiration or discharge date if the individual:

5.24 (1) was charged with a violation of section 609.185, paragraph (a), clause (3), and:

5.25 (i) thereafter pled guilty to a violation of section 609.19, subdivision 1, clause (1);

5.26 (ii) did not cause the death of a human being; and

5.27 (iii) did not intentionally aid, advise, hire, counsel, or conspire with or otherwise procure
 5.28 another with the intent to cause the death of a human being; or

5.29 (2) was charged with a violation of section 609.19, subdivision 2, and:

5.30 (i) thereafter pled guilty to a violation of section 609.19, subdivision 1, clause (1);

6.1 (ii) did not cause the death of a human being; and

6.2 (iii) was not a major participant, as defined in section 609.05, subdivision 2a, paragraph
6.3 (c), in the underlying felony or did not act with extreme indifference to human life.

6.4 (c) An individual sentenced before August 1, 2025, may apply for a pardon upon the
6.5 sentence's expiration or discharge date if the individual has been the victim of domestic
6.6 abuse, sexual assault, or sex trafficking and that experience was a contributing factor in the
6.7 crime for which the applicant was convicted.

6.8 ~~(e)~~ (d) An individual may request the board to waive the waiting period if there is a
6.9 showing of unusual circumstances and special need.

6.10 ~~(d)~~ (e) The commission must review a waiver request and recommend to the board
6.11 whether to grant the request. When considering a waiver request, the commission is exempt
6.12 from the meeting requirements under section 638.14 and chapter 13D.

6.13 ~~(e)~~ (f) The board must grant a waiver request unless the governor or a board majority
6.14 opposes the waiver.

6.15 **EFFECTIVE DATE.** This section is effective August 1, 2025.

6.16 Sec. 5. Minnesota Statutes 2024, section 638.15, subdivision 1, is amended to read:

6.17 Subdivision 1. **Grounds for recommending clemency.** (a) When recommending whether
6.18 to grant clemency, the commission must consider any factors that the commission deems
6.19 appropriate, including but not limited to:

6.20 (1) the nature, seriousness, and circumstances of the applicant's crime; the applicant's
6.21 age at the time of the crime; and the time that has elapsed between the crime and the
6.22 application;

6.23 (2) the successful completion or revocation of previous probation, parole, supervised
6.24 release, or conditional release;

6.25 (3) the number, nature, and circumstances of the applicant's other criminal convictions;

6.26 (4) the extent to which the applicant has demonstrated rehabilitation through
6.27 postconviction conduct, character, and reputation;

6.28 (5) the extent to which the applicant has accepted responsibility, demonstrated remorse,
6.29 and made restitution to victims;

6.30 (6) whether the sentence is clearly excessive in light of the applicant's crime and criminal
6.31 history and any sentence received by an accomplice and with due regard given to:

- 7.1 (i) any plea agreement;
- 7.2 (ii) the sentencing judge's views; and
- 7.3 (iii) the sentencing ranges established by law;
- 7.4 (7) whether the applicant was convicted before August 1, 2023, of a violation of section
- 7.5 609.19, subdivision 1, clause (1), under the theory of liability for crimes of another and, if
- 7.6 so, whether the applicant:
- 7.7 (i) was charged with a violation of section 609.185, paragraph (a), clause (3), and:
- 7.8 (A) thereafter pled guilty to a violation of section 609.19, subdivision 1, clause (1);
- 7.9 (B) did not cause the death of a human being; and
- 7.10 (C) did not intentionally aid, advise, hire, counsel, or conspire with or otherwise procure
- 7.11 another with the intent to cause the death of a human being; or
- 7.12 (ii) was charged with a violation of section 609.19, subdivision 2, and:
- 7.13 (A) thereafter pled guilty to a violation of section 609.19, subdivision 1, clause (1);
- 7.14 (B) did not cause the death of a human being; and
- 7.15 (C) was not a major participant, as defined in section 609.05, subdivision 2a, paragraph
- 7.16 (c), in the underlying felony or did not act with extreme indifference to human life;
- 7.17 (8) whether the applicant's age or medical status indicates that it is in the best interest
- 7.18 of society that the applicant receive clemency;
- 7.19 (9) the applicant's asserted need for clemency, including family needs and barriers to
- 7.20 housing or employment created by the conviction;
- 7.21 (10) for an applicant under the department's custody, the adequacy of the applicant's
- 7.22 reentry plan;
- 7.23 (11) the amount of time already served by the applicant and the availability of other
- 7.24 forms of judicial or administrative relief;
- 7.25 (12) the extent to which there is credible evidence indicating that the applicant is or may
- 7.26 be innocent of the crime for which they were convicted; ~~and~~
- 7.27 (13) whether the applicant has been the victim of domestic abuse, sexual assault, or sex
- 7.28 trafficking and, if so, the extent to which that experience was a contributing factor in the
- 7.29 crime for which the applicant was convicted; and

8.1 (14) if provided by the applicant, the applicant's demographic information, including
8.2 race, ethnicity, gender, disability status, and age.

8.3 (b) Unless an applicant knowingly omitted past criminal convictions on the application,
8.4 the commission or the board must not prejudice an applicant for failing to identify past
8.5 criminal convictions.

8.6 **EFFECTIVE DATE.** This section is effective August 1, 2025.

8.7 Sec. 6. Minnesota Statutes 2024, section 638.19, subdivision 1, is amended to read:

8.8 Subdivision 1. **Time-barred from reapplying; exception.** (a) After the board has
8.9 considered and denied a clemency application on the merits, an applicant may not file a
8.10 subsequent application for five years after the date of the most recent denial. This paragraph
8.11 applies if an application is denied according to section 638.17, subdivision 1, paragraph
8.12 (b).

8.13 (b) An individual may request permission to reapply before the five-year period expires
8.14 based only on new and substantial information that was not and could not have been
8.15 previously considered by the board or commission.

8.16 (c) If a waiver request contains new and substantial information, the commission must
8.17 review the request and recommend to the board whether to waive the time restriction.
8.18 Information related to a factor listed in section 638.15, subdivision 1, paragraph (a), that
8.19 was added or amended after the date of the denial of a prior application constitutes new and
8.20 substantial information. When considering a waiver request, the commission is exempt from
8.21 the meeting requirements under section 638.14 and chapter 13D.

8.22 (d) The board must grant a waiver request unless the governor or a board majority
8.23 opposes the waiver.

8.24 Sec. 7. **SENTENCING GUIDELINES DIRECTED TO AMEND THE LIST OF**
8.25 **MITIGATING FACTORS.**

8.26 The Sentencing Guidelines Commission is directed to amend the nonexclusive list of
8.27 mitigating factors that may be used as reasons for departure to include situations where the
8.28 person has been the victim of domestic abuse, sexual assault, or sex trafficking; that
8.29 experience was a contributing factor in the offense the person committed; and departure is
8.30 in the public interest as described in Minnesota Statutes, section 609.1057, subdivision 2.

8.31 **EFFECTIVE DATE.** This section is effective August 1, 2025.