

ARTICLE 7
SENTENCING

114.27 Section 1. Minnesota Statutes 2022, section 244.09, subdivision 2, is amended to read:

114.28 Subd. 2. **Members.** The Sentencing Guidelines Commission shall consist of the
114.29 following:

114.30 (1) the chief justice of the supreme court or a designee;

115.1 (2) one judge of the court of appeals, appointed by the chief justice of the supreme court
115.2 judge of the appellate court;

115.3 (3) one district court judge appointed by the ~~chief justice of the supreme court~~ Judicial
115.4 Council upon recommendation of the Minnesota District Judges Association;

115.5 (4) one public defender appointed by the governor upon recommendation of the state
115.6 public defender;

115.7 (5) one county attorney appointed by the governor upon recommendation of the board
115.8 of directors of the Minnesota County Attorneys Association;

115.9 (6) the commissioner of corrections or a designee;

115.10 (7) one peace officer as defined in section 626.84 appointed by the governor;

115.11 (8) one probation officer or ~~parole~~ supervised release officer appointed by the governor;
115.12 ~~and~~

115.13 (9) one person who works for an organization that provides treatment or rehabilitative
115.14 services for individuals convicted of felony offenses appointed by the governor;

115.15 (10) one person who is an academic with a background in criminal justice or corrections
115.16 appointed by the governor; and

115.17 (11) three public members appointed by the governor, one of whom shall be a person
115.18 who has been the victim of a crime defined as a felony or a victims' advocate, and one of
115.19 whom shall be a person who has been formerly convicted of and discharged from a
115.20 felony-level sentence.

115.21 When an appointing authority selects individuals for membership on the commission,
115.22 the authority shall make reasonable efforts to appoint qualified members of protected groups,
115.23 as defined in section 43A.02, subdivision 33.

115.24 One of the members shall be designated by the governor as chair of the commission.

115.25 Sec. 2. Minnesota Statutes 2022, section 244.09, subdivision 3, is amended to read:

115.26 Subd. 3. **Appointment terms.** (a) Except as provided in paragraph (b), each appointed
 115.27 member shall be appointed for four years and shall continue to serve during that time as
 115.28 long as the member occupies the position which made the member eligible for the
 115.29 appointment. Each member shall continue in office until a successor is duly appointed.
 115.30 Members shall be eligible for reappointment, and appointment may be made to fill an
 115.31 unexpired term.

116.1 (b) The term of any member appointed or reappointed by the governor before the first
 116.2 Monday in January 1991 2027 expires on that date. ~~The term of any member appointed or~~
 116.3 ~~reappointed by the governor after the first Monday in January 1991 is coterminous with the~~
 116.4 ~~governor.~~ The terms of members appointed or reappointed by the governor to fill the
 116.5 vacancies that occur on the first Monday in January 2027 shall be staggered so that five
 116.6 members shall be appointed for initial terms of four years and four members shall be
 116.7 appointed for initial terms of two years.

116.8 (c) The members of the commission shall elect any additional officers necessary for the
 116.9 efficient discharge of their duties.

116.10 Sec. 3. Minnesota Statutes 2022, section 244.09, is amended by adding a subdivision to
 116.11 read:

116.12 Subd. 15. **Report on sentencing adjustments.** The Sentencing Guidelines Commission
 116.13 shall include in its annual report to the legislature a summary and analysis of sentence
 116.14 adjustments issued under section 609.133. At a minimum, the summary and analysis must
 116.15 include information on the counties where a sentencing adjustment was granted and on the
 116.16 race, sex, and age of individuals who received a sentence adjustment.

116.17 Sec. 4. Minnesota Statutes 2022, section 609.02, subdivision 2, is amended to read:

116.18 Subd. 2. **Felony.** "Felony" means a crime for which a sentence of imprisonment for
 116.19 ~~more than~~ one year or more may be imposed.

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

116.21 Sec. 5. Minnesota Statutes 2022, section 609.03, is amended to read:

116.22 **609.03 PUNISHMENT WHEN NOT OTHERWISE FIXED.**

116.23 If a person is convicted of a crime for which no punishment is otherwise provided the
 116.24 person may be sentenced as follows:

116.25 (1) If the crime is a felony, to imprisonment for not more than five years or to payment
 116.26 of a fine of not more than \$10,000, or both; or

116.27 (2) If the crime is a gross misdemeanor, to imprisonment for not more than ~~one year~~
 116.28 364 days or to payment of a fine of not more than \$3,000, or both; or

116.29 (3) If the crime is a misdemeanor, to imprisonment for not more than 90 days or to
 116.30 payment of a fine of not more than \$1,000, or both; or

117.1 (4) If the crime is other than a misdemeanor and a fine is imposed but the amount is not
 117.2 specified, to payment of a fine of not more than \$1,000, or to imprisonment for a specified
 117.3 term of not more than six months if the fine is not paid.

117.4 **EFFECTIVE DATE.** This section is effective the day following final enactment and
 117.5 applies to offenders receiving a gross misdemeanor sentence on or after that date and
 117.6 retroactively to offenders who received a gross misdemeanor sentence before that date.

117.7 **Sec. 6. [609.0342] MAXIMUM PUNISHMENT FOR GROSS MISDEMEANORS.**

117.8 (a) Any law of this state that provides for a maximum sentence of imprisonment of one
 117.9 year or is defined as a gross misdemeanor shall be deemed to provide for a maximum fine
 117.10 of \$3,000 and a maximum sentence of imprisonment of 364 days.

117.11 (b) Any sentence of imprisonment for one year or 365 days imposed or executed before
 117.12 July 1, 2023, shall be deemed to be a sentence of imprisonment for 364 days. A court may
 117.13 at any time correct or reduce such a sentence pursuant to rule 27.03, subdivision 9, of the
 117.14 Rules of Criminal Procedure and shall issue a corrected sentencing order upon motion of
 117.15 any eligible defendant.

117.16 **EFFECTIVE DATE.** This section is effective the day following final enactment and
 117.17 applies to offenders receiving a gross misdemeanor sentence on or after that date and
 117.18 retroactively to offenders who received a gross misdemeanor sentence before that date.

117.19 Sec. 7. Minnesota Statutes 2022, section 609.105, subdivision 1, is amended to read:

117.20 Subdivision 1. **Sentence to ~~more than one year or more~~.** A felony sentence to
 117.21 imprisonment for ~~more than one year or more~~ shall commit the defendant to the custody of
 117.22 the commissioner of corrections.

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

117.24 Sec. 8. Minnesota Statutes 2022, section 609.105, subdivision 3, is amended to read:

117.25 Subd. 3. **Sentence to less than one year ~~or less~~.** A sentence to imprisonment for a period
117.26 of less than one year ~~or any lesser period~~ shall be to a workhouse, work farm, county jail,
117.27 or other place authorized by law.

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

118.1 Sec. 9. Minnesota Statutes 2022, section 609.1055, is amended to read:

118.2 **609.1055 OFFENDERS WITH SERIOUS AND PERSISTENT MENTAL ILLNESS;**
118.3 **ALTERNATIVE PLACEMENT.**

118.4 When a court intends to commit an offender with a serious and persistent mental illness,
118.5 as defined in section 245.462, subdivision 20, paragraph (c), to the custody of the
118.6 commissioner of corrections for imprisonment at a state correctional facility, either when
118.7 initially pronouncing a sentence or when revoking an offender's probation, the court, when
118.8 consistent with public safety, may instead place the offender on probation or continue the
118.9 offender's probation and require as a condition of the probation that the offender successfully
118.10 complete an appropriate supervised alternative living program having a mental health
118.11 treatment component. This section applies only to offenders who would have a remaining
118.12 term of imprisonment after adjusting for credit for prior imprisonment, if any, of ~~more than~~
118.13 one year or more.

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

118.15 Sec. 10. **[609.133] SENTENCE ADJUSTMENT.**

118.16 **Subdivision 1. Definitions.** As used in this section:

118.17 (1) "prosecutor" means the attorney general, county attorney, or city attorney responsible
118.18 for the prosecution of individuals charged with a crime; and

118.19 (2) "victim" has the meaning given in section 611A.01.

118.20 **Subd. 2. Prosecutor-initiated sentence adjustment.** The prosecutor responsible for
118.21 the prosecution of an individual convicted of a crime may commence a proceeding to adjust
118.22 the sentence of that individual at any time after the initial sentencing provided the prosecutor
118.23 does not seek to increase the period of confinement or, if the individual is serving a stayed
118.24 sentence, increase the period of supervision.

118.25 **Subd. 3. Review by prosecutor.** (a) A prosecutor may review individual cases at the
118.26 prosecutor's discretion.

118.27 (b) Prior to filing a petition under this section, a prosecutor shall make a reasonable and
118.28 good faith effort to seek input from any identifiable victim and shall consider the impact
118.29 an adjusted sentence would have on the victim.

118.30 (c) The commissioner of corrections, a supervising agent, or an offender may request
118.31 that a prosecutor review an individual case. A prosecutor is not required to respond to a
118.32 request. Inaction by a prosecutor shall not be considered by any court as grounds for an
119.1 offender, a supervising agent, or the commissioner of corrections to petition for a sentence
119.2 adjustment under this section or for a court to adjust a sentence without a petition.

119.3 Subd. 4. **Petition; contents; fee.** (a) A prosecutor's petition for sentence adjustment
119.4 shall be filed in the district court where the individual was convicted and include the
119.5 following:

119.6 (1) the full name of the individual on whose behalf the petition is being brought and, to
119.7 the extent possible, all other legal names or aliases by which the individual has been known
119.8 at any time;

119.9 (2) the individual's date of birth;

119.10 (3) the individual's address;

119.11 (4) a brief statement of the reason the prosecutor is seeking a sentence adjustment for
119.12 the individual;

119.13 (5) the details of the offense for which an adjustment is sought, including:

119.14 (i) the date and jurisdiction of the occurrence;

119.15 (ii) either the names of any victims or that there were no identifiable victims;

119.16 (iii) whether there is a current order for protection, restraining order, or other no contact
119.17 order prohibiting the individual from contacting the victims or whether there has ever been
119.18 a prior order for protection or restraining order prohibiting the individual from contacting
119.19 the victims;

119.20 (iv) the court file number; and

119.21 (v) the date of conviction;

119.22 (6) what steps the individual has taken since the time of the offense toward personal
119.23 rehabilitation, including treatment, work, good conduct within correctional facilities, or
119.24 other personal history that demonstrates rehabilitation;

119.25 (7) the individual's criminal conviction record indicating all convictions for
119.26 misdemeanors, gross misdemeanors, or felonies in this state, and for all comparable
119.27 convictions in any other state, federal court, or foreign country, whether the convictions
119.28 occurred before or after the conviction for which an adjustment is sought;

119.29 (8) the individual's criminal charges record indicating all prior and pending criminal
119.30 charges against the individual in this state or another jurisdiction, including all criminal
120.1 charges that have been continued for dismissal, stayed for adjudication, or were the subject
120.2 of pretrial diversion; and

120.3 (9) to the extent known, all prior requests by the individual, whether for the present
120.4 offense or for any other offenses in this state or any other state or federal court, for pardon,
120.5 return of arrest records, or expungement or sealing of a criminal record, whether granted
120.6 or not, and all stays of adjudication or imposition of sentence involving the petitioner.

120.7 (b) The filing fee for a petition brought under this section shall be waived.

120.8 Subd. 5. **Service of petition.** (a) The prosecutor shall serve the petition for sentence
120.9 adjustment on the individual on whose behalf the petition is being brought.

120.10 (b) The prosecutor shall make a good faith and reasonable effort to notify any person
120.11 determined to be a victim of the offense for which adjustment is sought of the existence of
120.12 a petition. Notification under this paragraph does not constitute a violation of an existing
120.13 order for protection, restraining order, or other no contact order.

120.14 (c) Notice to victims of the offense under this subdivision must:

120.15 (1) specifically inform the victim of the right to object, orally or in writing, to the
120.16 proposed adjustment of sentence; and

120.17 (2) inform the victims of the right to be present and to submit an oral or written statement
120.18 at the hearing described in subdivision 6.

120.19 (d) If a victim notifies the prosecutor of an objection to the proposed adjustment of
120.20 sentence and is not present when the court considers the sentence adjustment, the prosecutor
120.21 shall make these objections known to the court.

120.22 Subd. 6. **Hearing.** (a) The court shall hold a hearing on the petition no sooner than 60
120.23 days after service of the petition. The hearing shall be scheduled so that the parties have
120.24 adequate time to prepare and present arguments regarding the issue of sentence adjustment.
120.25 The parties may submit written arguments to the court prior to the date of the hearing and
120.26 may make oral arguments before the court at the hearing. The individual on whose behalf

120.27 the petition has been brought must be present at the hearing, unless excused under Minnesota
120.28 Rules of Criminal Procedure, rule 26.03, subdivision 1, clause (3).

120.29 (b) A victim of the offense for which sentence adjustment is sought has a right to submit
120.30 an oral or written statement to the court at the time of the hearing describing the harm
120.31 suffered by the victim as a result of the crime and the victim's recommendation on whether
120.32 adjustment should be granted or denied. The judge shall consider the victim's statement
120.33 when making a decision.

121.1 (c) Representatives of the Department of Corrections, supervising agents, community
121.2 treatment providers, and any other individual with relevant information may submit an oral
121.3 or written statement to the court at the time of the hearing.

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

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

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

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

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

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

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

121.19 (7) significant changes in law or sentencing practice since the date of offense.

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

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

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

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

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

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

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

122.4 Subd. 8. Appeals. An order issued under this section shall not be considered a final
122.5 judgment, but shall be treated as an order imposing or staying a sentence.

122.6 **EFFECTIVE DATE.** This section is effective August 1, 2023.

122.7 Sec. 11. Minnesota Statutes 2022, section 609.135, subdivision 1a, is amended to read:

122.8 Subd. 1a. **Failure to pay restitution.** If the court orders payment of restitution as a
122.9 condition of probation and if the defendant fails to pay the restitution in accordance with
122.10 the payment schedule or structure established by the court or the probation officer, the
122.11 prosecutor or the defendant's probation officer may, on the prosecutor's or the officer's own
122.12 motion or at the request of the victim, ask the court to hold a hearing to determine whether
122.13 or not the conditions of probation should be changed or probation should be revoked. The
122.14 defendant's probation officer shall ask for the hearing if the restitution ordered has not been
122.15 paid prior to 60 days before the term of probation expires. The court shall schedule and hold
122.16 this hearing and take appropriate action, including action under subdivision 2, paragraph
122.17 ~~(g)~~ (h), before the defendant's term of probation expires.

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

122.20 **EFFECTIVE DATE.** This section is effective August 1, 2023.

122.21 Sec. 12. Minnesota Statutes 2022, section 609.135, subdivision 1c, is amended to read:

122.22 Subd. 1c. **Failure to complete court-ordered treatment.** If the court orders a defendant
122.23 to undergo treatment as a condition of probation and if the defendant fails to successfully
122.24 complete treatment at least 60 days before the term of probation expires, the prosecutor or
122.25 the defendant's probation officer may ask the court to hold a hearing to determine whether
122.26 the conditions of probation should be changed or probation should be revoked. The court

122.27 shall schedule and hold this hearing and take appropriate action, including action under
 122.28 subdivision 2, paragraph ~~(h)~~ (i), before the defendant's term of probation expires.

122.29 **EFFECTIVE DATE.** This section is effective August 1, 2023.

48.13 Sec. 13. Minnesota Statutes 2022, section 609.135, subdivision 2, is amended to read:

48.14 Subd. 2. **Stay of sentence maximum periods.** (a) Except as provided in paragraph (b),
 48.15 if the conviction is for a felony ~~other than section 609.2113, subdivision 1 or 2, 609.2114,~~
 48.16 ~~subdivision 2, or section 609.3451, subdivision 1 or 1a, or Minnesota Statutes 2012, section~~
 48.17 ~~609.21, subdivision 1a, paragraph (b) or (e),~~ the stay shall be for not more than ~~four~~ five
 48.18 years or the maximum period for which the sentence of imprisonment might have been
 48.19 imposed, whichever is ~~longer~~ less.

48.20 (b) If the conviction is for a felony described in section 609.19; 609.195; 609.20;
 48.21 609.2112; 609.2113, subdivision 2; 609.2662; 609.2663; 609.2664; 609.268; 609.342;
 48.22 609.343; 609.344; 609.345; 609.3451; 609.3458; or 609.749, the stay shall be for not more
 48.23 than four years or the maximum period for which the sentence of imprisonment might have
 48.24 been imposed, whichever is longer.

48.25 ~~(b)~~ (c) If the conviction is for a gross misdemeanor violation of section 169A.20,
 48.26 609.2113, subdivision 3, or 609.3451, ~~or for a felony described in section 609.2113,~~
 48.27 ~~subdivision 1 or 2, 609.2114, subdivision 2, or 609.3451, subdivision 1 or 1a,~~ the stay shall
 48.28 be for not more than ~~six~~ four years. The court shall provide for unsupervised probation for
 48.29 the last year of the stay unless the court finds that the defendant needs supervised probation
 48.30 for all or part of the last year.

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

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

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

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

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

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

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

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

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

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

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

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

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

63.29 Sec. 24. **PROBATION LIMITS; RETROACTIVE APPLICATION.**

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

63.32 (1) the person was placed on probation for a gross misdemeanor or felony violation;

64.1 (2) the court placed the person on probation for a length of time for a felony violation
64.2 that exceeded five years or for a gross misdemeanor violation that exceeded four years;

64.3 (3) under Minnesota Statutes, section 609.135, subdivision 2, the maximum length of
 64.4 probation the court could have ordered the person to serve on or after August 1, 2023, is
 64.5 less than the period imposed; and

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

64.7 (b) Eligibility for resentencing within the maximum length of probation the court could
 64.8 have ordered the person to serve on or after August 1, 2023, applies to each period of
 64.9 probation ordered by the court. Upon resentencing, periods of probation must be served
 64.10 consecutively if a court previously imposed consecutive periods of probation on the person.
 64.11 The court may not increase a previously ordered period of probation under this section or
 64.12 order that periods of probation be served consecutively unless the court previously imposed
 64.13 consecutive periods of probation.

64.14 (c) Resentencing may take place without a hearing.

64.15 (d) The term of the stay of probation for any person who is eligible for resentencing
 64.16 under paragraph (a) and who has served five or more years of probation for a felony violation
 64.17 or four or more years of probation for a gross misdemeanor violation as of August 1, 2023,
 64.18 shall be considered to have expired on October 1, 2023, unless:

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

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

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

129.22 **Sec. 16. SENTENCING GUIDELINES COMMISSION; MODIFICATION.**

129.23 The Sentencing Guidelines Commission shall modify the Sentencing Guidelines to be
 129.24 consistent with changes to Minnesota Statutes, section 609.135, subdivision 2, governing
 129.25 the maximum length of probation a court may order.

129.26 **Sec. 17. REVISOR INSTRUCTION.**

129.27 In Minnesota Statutes, the revisor of statutes shall substitute "364 days" for "one year"
 129.28 consistent with the change in this act. The revisor shall also make other technical changes
 129.29 resulting from the change of term to the statutory language if necessary to preserve the
 129.30 meaning of the text.