

House Research Act Summary

CHAPTER: 194

SESSION: 1999 Regular Session

TOPIC: Penalties for DWI offenders

Date: May 25, 1999

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Overview

This act eliminates all references to "enhanced gross misdemeanors" in the DWI law and the Criminal Code and reclassifies these offenses as gross misdemeanors. The bill's repeal of the enhanced gross misdemeanor crime responds to the Minnesota Supreme Court's ruling in *Baker v. State*, 590 N.W.2d 636 (Minn. 1999), that the crime violates the Minnesota Constitution. In *Baker*, the court ruled that it was unconstitutional for the legislature to attach a felony-level imprisonment penalty to a non-felony crime and to deprive persons accused of such a crime of the right to a trial by a 12-person jury.

This act also: (1) requires certain DWI defendants to pay for court-imposed pretrial electronic alcohol monitoring to the extent they are able, even if they are not convicted of the DWI offense; (2) requires consecutive sentencing on the sixth or subsequent DWI offense if the offender commits multiple offenses during the DWI incident; and (3) permits courts to place offenders convicted of a DWI-related gross misdemeanor on probation for up to six years.

Section

- 1 Conditional release.** Requires certain DWI defendants to pay for court-imposed pretrial electronic alcohol monitoring to the extent they are able, even if they are not convicted of the DWI offense.
- 2 Criminal penalties.** Eliminates the enhanced gross misdemeanor penalty provided in current law for certain repeat DWI offenders and makes these offenders subject to a gross misdemeanor penalty instead. Also requires the court to impose consecutive sentences for multiple traffic crimes committed during a DWI incident if the offender has a prior record of five or more DWI convictions or license revocations.
- 3 Gross misdemeanor; mandatory penalties.** Recodifies the mandatory penalties that currently apply to DWI offenders convicted of an enhanced gross misdemeanor. Moves these penalties, without change, into the subdivision that currently contains the mandatory penalties for DWI

offenders convicted of a gross misdemeanor.

- 4 **Crime.** Eliminates the enhanced gross misdemeanor penalty currently provided for certain repeat violators of the aggravated DWI law (*i.e.* impaired driving while under license revocation). Makes these offenders subject to a gross misdemeanor penalty instead.
- 5 **Felony.** Eliminates a reference to enhanced gross misdemeanors in the Criminal Code.
- 6 **Consecutive sentencing.** Requires a court to impose consecutive sentences for multiple traffic crimes committed during a DWI incident if the offender has a prior record of five or more DWI convictions or alcohol-related license revocations.
- 7 Technical conforming change.
- 8 **Sentences of imprisonment.** Eliminates a reference to enhanced gross misdemeanors in the Criminal Code.
- 9 **Stay of sentence maximum periods.** Eliminates a reference to enhanced gross misdemeanors in the Criminal Code. Also lengthens the maximum probationary period for DWI gross misdemeanors from four to six years.
- 10 **Limit on sentences; misdemeanor and gross misdemeanor.** Eliminates references to enhanced gross misdemeanors in the Criminal Code.
- 11 **Repealer.** Repeals the definition of enhanced gross misdemeanor in the Criminal Code. Also repeals the provision in the DWI law providing mandatory minimum sentences for persons convicted of an enhanced gross misdemeanor. These penalties are recodified in section 3. Repeals a subdivision in the aggravated DWI law concerning persons convicted of an enhanced gross misdemeanor.
- 12 **Effective date.** The day following final enactment for crimes committed on or after that date. However, acts committed before that date may be considered as prior convictions or prior license revocations under the act.