

HOUSE RESEARCH

Bill Summary

FILE NUMBER: H.F. 6
Version: Second engrossment

DATE: May 5, 2011

Authors: Cornish

Subject: Sex Offender Sentencing

Analyst: Jeff Diebel

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: www.house.mn/hrd.

Overview

This bill creates an indeterminate sentencing structure for predatory sex offenders. A person convicted of criminal sexual conduct, 1st- 4th degree, who is also proven to be a predatory sex offender shall serve an indeterminate prison sentence of up to 60 years followed by a minimum 10-year conditional release period. An offender sentenced under this provision may only be released prior to serving 60 years upon the approval of the Commissioner of Corrections.

1 Indeterminate sentence for predatory sex offenders.

Subd. 1. Definitions. Defines the following terms:

- "sex offense" means a violation of criminal sexual conduct 1-4;
- "predatory sex offender" is a person who is unable to control the person's sexual impulses, is dangerous to other persons, and has a pattern of harmful sexual conduct; and
- "harmful sexual conduct" is sexual conduct that creates a substantial likelihood of serious physical or emotional harm to another.

Subd. 2. Applicability. An offender may be prosecuted under this section if the county attorney determines there is probable cause that the person committed a sex offense and is a predatory sex offender.

Subd. 3. Procedures. Requires a bifurcated trial, with the first phase determining guilt or innocence on the sex offense, and the second phase determining whether the person is a predatory sex offender, with the standard of proof in both phases being beyond a reasonable doubt.

Subd. 4. Indeterminate sentence; minimum and maximum term specified. Provides minimum and maximum sentences for persons proven to be predatory sex offenders. The minimum sentence shall be **twice** the presumptive sentence under the sentencing guidelines, unless the presumptive sentence is a stayed one, in which case the court shall determine an appropriate minimum sentence. The maximum sentence for all offenders so convicted shall be 60 years. In addition to the sentence of imprisonment, the offender upon release shall be placed on conditional release status described in

subdivision 9. The court may not stay the imposition or the execution of a sentence under this section.

Subd. 5. Sentence of persons not found to be predatory sex offenders. Provides that if an offender is found guilty of the underlying crime of criminal sexual conduct, but is not found to be a predatory sex offender, the court shall sentence the offender as otherwise provided by law.

Subd. 6. Release authority. Establishes the Commissioner of Corrections as the sole release authority for offenders sentenced to indeterminate sentences under this section.

Subd. 7. Petition for release; hearing. Establishes procedures for predatory sex offenders to petition for release. After serving their minimum sentence, offenders may petition the Commissioner of Corrections for release. Within 45 days of the hearing, the commissioner shall notify the following parties of the time and place of the release hearing: the petitioner, the sentencing court, the county attorney's office that prosecuted the case, and any victims of the crime who requested notification. The hearing shall be held on the record and the petitioner may subpoena witnesses to appear. If the board votes to release the offender, the release shall occur within 14 days after the hearing. If the board rejects the petition for release, it must do so in writing, and the inmate may not petition for release again for 24 months.

Subd. 8. Criteria for release. Establishes the following release criteria the commissioner must use to determine if a predatory sex offender is suitable for conditional release:

- (1) no longer poses a threat to public safety;
- (2) no longer in need of programming in a secure facility; and
- (3) is capable of reintegration with the general public.

The burden of proof is on the petitioner and the evidentiary standard is clear and convincing evidence.

Subd. 9. Conditional release. Requires the commissioner to place a predatory sex offender released from incarceration on conditional release with a minimum term of ten years. The Commissioner of Corrections shall set the conditions of release. The county attorney in the county of conviction, the offender's conditional release agent or probation officer, or any other interested party may petition the court regarding the offender's failure to meet any condition of release. If the court determines that the offender violated the conditions of release, the court may order sanctions, including, but not limited to, incarcerating the offender for any or all of the duration of the offender's conditional release term.

Effective date: July 1, 2013.