

Subject Brain injury information provided to courts

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Date February 12, 2021

Overview

Under current law, there are three primary ways in which a defendant's mental health is relevant to a criminal proceeding. First, under Rule 20.01 of the Minnesota Rules of Criminal Procedure, a defendant must understand the proceedings well enough to participate in them. Second, under Rule 20.02 of the Minnesota Rules of Criminal Procedure and section 611.026, a defendant must understand the nature of a criminal act, and that it was wrong, in order to be criminally liable. Third, the Minnesota Sentencing Guidelines permit a court to depart from a presumptive sentence if "the offender, because of physical or mental impairment, lacked substantial capacity for judgment when the offense was committed." The supreme court has held that "in order to constitute a mitigating factor in sentencing, a defendant's impairment must be 'extreme' to the point that it deprives the defendant of control over his actions." *State v. McLaughlin*, 725 N.W.2d 703, 716 (Minn. 2007). This bill directs courts to determine whether a defendant suffered a stroke or traumatic brain injury that may have resulted in the defendant lacking substantial capacity for judgment and, if so, direct the defendant to undergo a neuropsychological assessment before sentencing.

Summary

Section	Description
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1	Traumatic brain injury.
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	Requires courts to inquire whether a defendant in a felony case has a history of stroke, traumatic brain injury, or fetal alcohol spectrum disorder. If the court believes that a history of one of those conditions resulted in the defendant lacking substantial capacity for judgment at the time the defendant committed an offense, the court must order a neuropsychological examination unless the person underwent an examination: (1) when the person was at least 25 years old, (2) after the most recent stroke or traumatic brain injury, and (3) within the prior three years. The results of the examination must be presented in the presentence investigation report. A court
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Section **Description**

may consider the results of an examination in determining the appropriate sentence for a defendant.



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