

Subject Presumptive departure for offenders who have been the victim of certain crimes

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Overview

The Minnesota Sentencing Guidelines establish presumptive sentences for felony convictions. A court must follow the guidelines unless a law requires a different sentence (such as a mandatory minimum sentence) or the court finds that there are substantial and compelling reasons to depart from the guidelines. If a presumptive sentence calls for imprisonment and the court places a person on probation, that is known as a “mitigated dispositional departure.” Such a departure should typically be based on the character of the defendant and a conclusion that the defendant would respond favorably to remaining in the community and would cooperate with probation. If the sentence calls for a certain period of imprisonment and the court imposes a shorter sentence, that is known as a “mitigated durational departure.” Such a departure should typically be based on the nature of the offense and a conclusion that the defendant’s conduct was less culpable than the typical defendant sentenced for the same offense.

This bill creates a presumption that a person who has been the victim of domestic abuse, sexual assault, or sex trafficking and committed a crime as the result of being a victim is an appropriate candidate for a reduced sentence. The bill also creates a petition process for a person who has already been sentenced and was the victim of domestic abuse, sexual assault, or sex trafficking to permit that person to seek resentencing under the terms of the proposed law.

Summary

Section	Description
1	<p>Crimes committed by domestic abuse and sexual assault victims; departure authorized.</p> <p>Subd. 1. Definitions. Defines terms for the purposes of this new section of law, including definitions of “domestic abuse,” “sexual assault,” and “sex trafficking” with references to existing definitions and standards.</p> <p>Subd. 2. Offenses committed by domestic abuse, sexual assault, and sex trafficking victims. Directs a court that is sentencing a defendant to consider whether the defendant was the victim of domestic abuse, sexual assault, or sex trafficking. Permits the court to consider whether the domestic abuse, sexual assault, or sex trafficking caused or exacerbated a mental health condition. Permits the court to consider statements and records, and to issue an order permitting certain records to be filed as confidential.</p> <p>Subd. 3. Stay of imposition or execution. Directs courts to presume that defendants are particularly amenable to probation if (1) the defendant has been the victim of domestic abuse, sexual assault, or sex trafficking, (2) the presumptive sentence is imprisonment, and (3) the court finds that the defendant committed the offense as the result of being a victim. Requires the court to impose a sentence of probation unless there is clear and convincing evidence that such a sentence would pose a risk to a specific individual or the public. Requires the court to consider the statement of any victim in making its decision. Permits the court to impose a probation sentence based on any other applicable grounds.</p> <p>Subd. 4. Duration of confinement. Permits the court to determine that a defendant who has been the victim of domestic abuse, sexual assault, or sex trafficking is less culpable than the ordinary offender and impose a prison sentence below the presumptive sentence under the Sentencing Guidelines.</p> <p>Subd. 5. Supportive services. Permits the court to require a defendant who has been the victim of domestic abuse, sexual assault, or sex trafficking to participate in appropriate programming to address behaviors and mental health conditions connected to the domestic abuse, sexual assault, or sex trafficking.</p> <p>Subd. 6. Sentences imposed before August 1, 2022; petition for resentencing. Permits a person who has been the victim of domestic abuse, sexual assault, or sex trafficking and was convicted of an offense before August 1, 2022, to file a petition to be resentenced under the standards established in this section. Permits the person to be represented by a public defender; provides that the petition, cost, and filing are identical to the requirements for a petition for postconviction relief; and requires prosecutors to respond in a manner similar to</p>

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	<p>the requirements for response to a petition for postconviction relief. Directs a prosecutor to make a good faith effort to notify any victim of an offender seeking resentencing. Directs the court to hold a hearing and specifies that a victim can submit a written or oral statement. Directs the court to determine whether (1) the defendant has been the victim of domestic abuse, sexual assault, or sex trafficking, and (2) whether the defendant committed the offense as the result of being a victim. Requires the court to presume that resentencing the offender is in the public interest unless resentencing would increase the risk the offender poses to an individual or the public, and directs the court to consider the input of any victim in making that determination. Permits the court to modify a sentence in any way that does not increase the sentence. Requires the court to make written findings. Provides that an appeal must be treated as an order imposing a sentence, limiting the issues that could be raised in an appeal.</p>
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