

Subject Mandatory departures for certain firearm offenses

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Overview

An aggravated durational departure is a sentence in which the total prison time imposed by a court is longer than the presumptive sentence under the Minnesota Sentencing Guidelines. Current law allows a court to impose a sentence that is an aggravated durational departure when an offender has committed multiple prior felonies and meets one of the two following sets of conditions.

First, the court may impose such a sentence if: (1) the person is convicted of a violent crime that is a felony; (2) the guidelines call for a prison sentence; (3) the person was 18 years of age or older at the time of the offense; (4) the court determines that the person has prior convictions for two or more violent crimes; and (5) the fact finder (typically a jury) finds that the person is a danger to public safety.

Second, the court may impose such a sentence if: (1) the person has been convicted of a felony; (2) the guidelines call for a prison sentence; (3) the person has five or more prior felony convictions; and (4) the court determines that the current offense was committed as part of a pattern of criminal conduct.

This bill would require the judge to impose an aggravated durational departure if the person being sentenced meets all of the current conditions and the offender or an accomplice used or possessed a firearm at the time of the current offense. To impose an aggravated sentence based on two or more prior violent felonies, at least two of those offenses must also have involved the use or possession of a firearm.

Summary

Section	Description
1	<p>Ineligibility for earned incentive release credit.</p> <p>Establishes that individuals sentenced under section 609.1095 (Increased sentences for certain dangerous and repeat felony offenders) are ineligible for earned incentive release credit.</p>
2	<p>Increased sentences for dangerous offender who commits third violent crime; mandatory increase for crimes involving a firearm.</p> <p>Requires a judge to impose an aggravated durational departure when the person being sentenced was convicted of a violent crime that is a felony, the judge is imposing an executed sentence based on a presumptive imprisonment sentence under the Sentencing Guidelines, the person is at least 18 years of age, the person has two or more prior convictions for violent crimes, the fact finder determines that the person is a danger to public safety, the person or an accomplice had in possession or used a firearm in the current offense, and the person or an accomplice possessed or used a firearm in at least two of the prior offenses.</p>
3	<p>Mandatory sentence for dangerous offender who commits third violent felony.</p> <p>Makes a conforming change that removes requirements related to eligibility for release from custody. The bill moves the provision to subdivision 5.</p>
4	<p>Increased sentence for offender who commits sixth felony.</p> <p>Requires a judge to impose an aggravated durational departure when an offender meets the requirements to support an optional departure, including having been convicted of five or more prior felonies, and the offender or an accomplice used or possessed a firearm in the most recent offense.</p>
5	<p>Consecutive sentences; release.</p> <p>Establishes that a person convicted of a sentence that results in a mandatory aggravated departure must serve any imposed sentence consecutively to a previously imposed sentence unless the total period of incarceration would be longer if the court imposed concurrent sentences. Also establishes that a person convicted under the section is not eligible for early release from imprisonment.</p>



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