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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 1737

03/01/2021 Authored by Neu Brindley and Johnson

The bill was read for the first time and referred to the Committee on Public Safety and Criminal Justice Reform Finance and Policy

1.1 A bill for an act  
1.2 relating to public safety; clarifying the maximum length of stayed sentences for  
1.3 certain offenses; amending Minnesota Statutes 2020, section 609.135, subdivision  
1.4 2.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2020, section 609.135, subdivision 2, is amended to read:

1.7 Subd. 2. **Stay of sentence maximum periods.** (a) If the conviction is for a felony other  
1.8 than section 609.2113, subdivision 1 or 2, or 609.2114, subdivision 2, or Minnesota Statutes  
1.9 2012, section 609.21, subdivision 1a, paragraph (b) or (c), the stay shall be for not more  
1.10 than four years or the maximum period for which the sentence of imprisonment might have  
1.11 been imposed, whichever is longer.

1.12 (b) If the conviction is for a gross misdemeanor violation of section 169A.20, 609.2113,  
1.13 subdivision 3, or 609.3451, or for a felony described in section 609.2113, subdivision 1 or  
1.14 2, or 609.2114, subdivision 2, the stay shall be for not more than six years. The court shall  
1.15 provide for unsupervised probation for the last year of the stay unless the court finds that  
1.16 the defendant needs supervised probation for all or part of the last year.

1.17 (c) If the conviction is for a gross misdemeanor not specified in paragraph (b), the stay  
1.18 shall be for not more than two years.

1.19 (d) If the conviction is for any misdemeanor under section 169A.20; 609.746, subdivision  
1.20 1; 609.79; or 617.23; or for a misdemeanor under section 609.2242 or 609.224, subdivision  
1.21 1, in which the victim of the crime was a family or household member as defined in section  
1.22 518B.01, the stay shall be for not more than two years. The court shall provide for

2.1 unsupervised probation for the second year of the stay unless the court finds that the  
2.2 defendant needs supervised probation for all or part of the second year.

2.3 (e) If the conviction is for a misdemeanor not specified in paragraph (d), the stay shall  
2.4 be for not more than one year.

2.5 (f) The defendant shall be discharged six months after the term of the stay expires, unless  
2.6 the stay has been revoked or extended under paragraph (g), or the defendant has already  
2.7 been discharged.

2.8 (g) Notwithstanding the maximum periods specified for stays of sentences under  
2.9 paragraphs (a) to (f), a court may extend a defendant's term of probation for up to one year  
2.10 if it finds, at a hearing conducted under subdivision 1a, that:

2.11 (1) the defendant has not paid court-ordered restitution in accordance with the payment  
2.12 schedule or structure; and

2.13 (2) the defendant is likely to not pay the restitution the defendant owes before the term  
2.14 of probation expires.

2.15 This one-year extension of probation for failure to pay restitution may be extended by the  
2.16 court for up to one additional year if the court finds, at another hearing conducted under  
2.17 subdivision 1a, that the defendant still has not paid the court-ordered restitution that the  
2.18 defendant owes.

2.19 Nothing in this subdivision limits the court's ability to refer the case to collections under  
2.20 section 609.104.

2.21 (h) Notwithstanding the maximum periods specified for stays of sentences under  
2.22 paragraphs (a) to (f), a court may extend a defendant's term of probation for up to three  
2.23 years if it finds, at a hearing conducted under subdivision 1c, that:

2.24 (1) the defendant has failed to complete court-ordered treatment successfully; and

2.25 (2) the defendant is likely not to complete court-ordered treatment before the term of  
2.26 probation expires.

2.27 (i) Notwithstanding any law or provision of the Sentencing Guidelines to the contrary,  
2.28 when ordering a stay of imposition or execution of sentence for a felony offense described  
2.29 in this paragraph, the maximum length of the stay and the process for pronouncing it are  
2.30 governed exclusively by this section. This paragraph applies to violations of the following:  
2.31 sections 152.021 (controlled substance crime in the first degree); 152.022 (controlled  
2.32 substance crime in the second degree); 152.023, subdivision 1 (controlled substance crime

3.1 in the third degree, sales); 152.024, subdivision 1 (controlled substance crime in the fourth  
3.2 degree, sales); 152.0261 (importing controlled substances across state borders); 152.0262  
3.3 (possession of substances with intent to manufacture methamphetamine); 609.19 (murder  
3.4 in the second degree); 609.195 (murder in the third degree); 609.20 (manslaughter in the  
3.5 first degree); 609.205 (manslaughter in the second degree); 609.2112 (criminal vehicular  
3.6 homicide); 609.221 (assault in the first degree); 609.222 (assault in the second degree);  
3.7 609.229 (crimes committed for the benefit of a gang); 609.24 (simple robbery); 609.245  
3.8 (aggravated robbery); 609.25 (kidnapping); 609.2662 (murder of an unborn child in the  
3.9 second degree); 609.2663 (murder of an unborn child in the third degree); 609.2664  
3.10 (manslaughter of an unborn child in the first degree); 609.268 (death or injury of an unborn  
3.11 child in the commission of a crime); 609.322 (solicitation, inducement, and promotion of  
3.12 prostitution; sex trafficking); 609.342 (criminal sexual conduct in the first degree); 609.343  
3.13 (criminal sexual conduct in the second degree); 609.344 (criminal sexual conduct in the  
3.14 third degree); 609.345 (criminal sexual conduct in the fourth degree); 609.3451, subdivision  
3.15 3 (felony criminal sexual conduct in the fifth degree); 609.377, subdivision 6 (malicious  
3.16 punishment of a child, great bodily harm); 609.52 (involving theft of a firearm and theft  
3.17 involving the theft of a controlled substance, an explosive, or an incendiary device); 609.561  
3.18 (arson in the first degree); 609.562 (arson in the second degree); 609.582, subdivision 1 or  
3.19 2 (burglary in the first and second degrees); 609.66, subdivision 1e, paragraph (b) (drive-by  
3.20 shooting at or toward a person or occupied building); 609.71, subdivision 1 (riot in the first  
3.21 degree); and 609.749, subdivision 3, paragraph (b), subdivision 4, paragraph (b), and  
3.22 subdivision 5, paragraph (a) (certain harassment crimes); and an attempt to commit any of  
3.23 these offenses where the maximum penalty applicable for the attempt is longer than five  
3.24 years imprisonment.

3.25 **EFFECTIVE DATE.** This section is effective the day following final enactment and  
3.26 applies to crimes committed on or after that date.