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State of Minnesota
HOUSE OF REPRESENTATIVES
NINETIETH SESSION

H. F. No. 2964

02/22/2018 Authored by Clark and Allen
The bill was read for the first time and referred to the Committee on Public Safety and Security Policy and Finance

1.1 A bill for an act
1.2 relating to criminal justice; requiring predatory offender registration for soliciting
1.3 a prostitute; enhancing penalties for soliciting a prostitute; amending Minnesota
1.4 Statutes 2016, sections 243.166, subdivision 1b; 609.131, subdivision 2; 609.324,
1.5 subdivisions 3, 4; 609.3241; 609.3242, subdivision 2; proposing coding for new
1.6 law in Minnesota Statutes, chapter 609; repealing Minnesota Statutes 2016, section
1.7 609.324, subdivision 2.

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

1.9 Section 1. Minnesota Statutes 2016, section 243.166, subdivision 1b, is amended to read:

1.10 Subd. 1b. **Registration required.** (a) A person shall register under this section if:

1.11 (1) the person was charged with or petitioned for a felony violation of or attempt to
1.12 violate, or aiding, abetting, or conspiracy to commit, any of the following, and convicted
1.13 of or adjudicated delinquent for that offense or another offense arising out of the same set
1.14 of circumstances:

1.15 (i) murder under section 609.185, paragraph (a), clause (2);

1.16 (ii) kidnapping under section 609.25;

1.17 (iii) criminal sexual conduct under section 609.342; 609.343; 609.344; 609.345; 609.3451,
1.18 subdivision 3; or 609.3453; or

1.19 (iv) indecent exposure under section 617.23, subdivision 3;

1.20 (2) the person was charged with or petitioned for a violation of, or attempt to violate, or
1.21 aiding, abetting, or conspiring to commit criminal abuse in violation of section 609.2325,
1.22 subdivision 1, paragraph (b); false imprisonment in violation of section 609.255, subdivision
1.23 2; solicitation, inducement, or promotion of the prostitution of a minor or engaging in the

2.1 sex trafficking of a minor in violation of section 609.322; a prostitution offense in violation
2.2 of section 609.324, subdivision 1, ~~paragraph (a)~~ or 3; soliciting a minor to engage in sexual
2.3 conduct in violation of section 609.352, subdivision 2 or 2a, clause (1); using a minor in a
2.4 sexual performance in violation of section 617.246; or possessing pornographic work
2.5 involving a minor in violation of section 617.247, and convicted of or adjudicated delinquent
2.6 for that offense or another offense arising out of the same set of circumstances;

2.7 (3) the person was sentenced as a patterned sex offender under section 609.3455,
2.8 subdivision 3a; or

2.9 (4) the person was charged with or petitioned for, including pursuant to a court martial,
2.10 violating a law of the United States, including the Uniform Code of Military Justice, similar
2.11 to the offenses described in clause (1), (2), or (3), and convicted of or adjudicated delinquent
2.12 for that offense or another offense arising out of the same set of circumstances.

2.13 (b) A person also shall register under this section if:

2.14 (1) the person was charged with or petitioned for an offense in another state that would
2.15 be a violation of a law described in paragraph (a) if committed in this state and convicted
2.16 of or adjudicated delinquent for that offense or another offense arising out of the same set
2.17 of circumstances;

2.18 (2) the person enters this state to reside, work, or attend school, or enters this state and
2.19 remains for 14 days or longer; and

2.20 (3) ten years have not elapsed since the person was released from confinement or, if the
2.21 person was not confined, since the person was convicted of or adjudicated delinquent for
2.22 the offense that triggers registration, unless the person is subject to a longer registration
2.23 period under the laws of another state in which the person has been convicted or adjudicated,
2.24 or is subject to lifetime registration.

2.25 If a person described in this paragraph is subject to a longer registration period in another
2.26 state or is subject to lifetime registration, the person shall register for that time period
2.27 regardless of when the person was released from confinement, convicted, or adjudicated
2.28 delinquent.

2.29 (c) A person also shall register under this section if the person was committed pursuant
2.30 to a court commitment order under Minnesota Statutes 2012, section 253B.185, chapter
2.31 253D, Minnesota Statutes 1992, section 526.10, or a similar law of another state or the
2.32 United States, regardless of whether the person was convicted of any offense.

2.33 (d) A person also shall register under this section if:

3.1 (1) the person was charged with or petitioned for a felony violation or attempt to violate
 3.2 any of the offenses listed in paragraph (a), clause (1), or a similar law of another state or
 3.3 the United States, or the person was charged with or petitioned for a violation of any of the
 3.4 offenses listed in paragraph (a), clause (2), or a similar law of another state or the United
 3.5 States;

3.6 (2) the person was found not guilty by reason of mental illness or mental deficiency
 3.7 after a trial for that offense, or found guilty but mentally ill after a trial for that offense, in
 3.8 states with a guilty but mentally ill verdict; and

3.9 (3) the person was committed pursuant to a court commitment order under section
 3.10 253B.18 or a similar law of another state or the United States.

3.11 **EFFECTIVE DATE.** This section is effective August 1, 2018, and applies to violations
 3.12 committed on or after that date.

3.13 Sec. 2. Minnesota Statutes 2016, section 609.131, subdivision 2, is amended to read:

3.14 Subd. 2. **Certain violations excepted.** Subdivision 1 does not apply to a misdemeanor
 3.15 violation of section 169A.20; 171.09, subdivision 1, paragraph (g); 171.306, subdivision
 3.16 6; 609.224; 609.2242; 609.226; ~~609.324, subdivision 3~~; 609.52; or 617.23, or an ordinance
 3.17 that conforms in substantial part to any of those sections. A violation described in this
 3.18 subdivision must be treated as a misdemeanor unless the defendant consents to the
 3.19 certification of the violation as a petty misdemeanor.

3.20 Sec. 3. Minnesota Statutes 2016, section 609.324, subdivision 3, is amended to read:

3.21 Subd. 3. **General prostitution crimes; penalties for patrons.** (a) Whoever, while acting
 3.22 as a patron, intentionally does any of the following is guilty of a ~~misdemeanor~~ felony:

3.23 (1) engages in prostitution with an individual 18 years of age or older; or

3.24 (2) hires, offers to hire, or agrees to hire an individual 18 years of age or older to engage
 3.25 in sexual penetration or sexual contact. Except as otherwise provided in subdivision 4, a
 3.26 person who is convicted of violating this paragraph must, at a minimum, be sentenced to
 3.27 pay a fine of at least \$500.

3.28 ~~(b) Whoever violates the provisions of this subdivision within two years of a previous~~
 3.29 ~~prostitution conviction for violating this section or section 609.322 is guilty of a gross~~
 3.30 ~~misdemeanor.~~ Except as otherwise provided in subdivision 4, a person who is convicted of
 3.31 violating this ~~paragraph~~ subdivision must, at a minimum, be sentenced as follows:

- 4.1 (1) to pay a fine of at least \$1,500; and
 4.2 (2) to serve 20 hours of community work service.

4.3 The court may waive the mandatory community work service if it makes specific, written
 4.4 findings that the community work service is not feasible or appropriate under the
 4.5 circumstances of the case.

4.6 (c) Where the offense took place in a community with a restorative justice program
 4.7 created pursuant to section 611A.775, and the court stays adjudication, imposition, or
 4.8 execution of sentence, the court shall require the offender to participate in the restorative
 4.9 justice program.

4.10 **EFFECTIVE DATE.** This section is effective August 1, 2018, and applies to violations
 4.11 committed on or after that date.

4.12 Sec. 4. Minnesota Statutes 2016, section 609.324, subdivision 4, is amended to read:

4.13 Subd. 4. **Community service in lieu of minimum fine.** The court may order a person
 4.14 convicted of violating subdivision 2 or 3 to perform community work service in lieu of all
 4.15 or a portion of the minimum fine required under those subdivisions if the court makes
 4.16 specific, written findings that the convicted person is indigent or that payment of the fine
 4.17 would create undue hardship for the convicted person or that person's immediate family.
 4.18 Community work service ordered under this subdivision is in addition to any mandatory
 4.19 community work service ordered under subdivision 3.

4.20 Sec. 5. Minnesota Statutes 2016, section 609.3241, is amended to read:

4.21 **609.3241 PENALTY ASSESSMENT AUTHORIZED.**

4.22 (a) When a court sentences an adult convicted of violating section 609.322 or 609.324,
 4.23 while acting other than as a prostitute, the court shall impose an assessment of ~~not less than~~
 4.24 ~~\$500 and not more than \$750 for a violation of section 609.324, subdivision 2, or a~~
 4.25 ~~misdemeanor violation of section 609.324, subdivision 3; otherwise the court shall impose~~
 4.26 ~~an assessment~~ of not less than \$750 and not more than \$1,000. The assessment shall be
 4.27 distributed as provided in paragraph (c) and is in addition to the surcharge required by
 4.28 section 357.021, subdivision 6.

4.29 (b) The court may not waive payment of the minimum assessment required by this
 4.30 section. If the defendant qualifies for the services of a public defender or the court finds on
 4.31 the record that the convicted person is indigent or that immediate payment of the assessment
 4.32 would create undue hardship for the convicted person or that person's immediate family,

5.1 the court may reduce the amount of the minimum assessment to not less than \$100. The
 5.2 court also may authorize payment of the assessment in installments.

5.3 (c) The assessment collected under paragraph (a) must be distributed as follows:

5.4 (1) 40 percent of the assessment shall be forwarded to the political subdivision that
 5.5 employs the arresting officer for use in enforcement, training, and education activities related
 5.6 to combating sexual exploitation of youth, or if the arresting officer is an employee of the
 5.7 state, this portion shall be forwarded to the commissioner of public safety for those purposes
 5.8 identified in clause (3);

5.9 (2) 20 percent of the assessment shall be forwarded to the prosecuting agency that handled
 5.10 the case for use in training and education activities relating to combating sexual exploitation
 5.11 activities of youth; and

5.12 (3) 40 percent of the assessment must be forwarded to the commissioner of health to be
 5.13 deposited in the safe harbor for youth account in the special revenue fund and are
 5.14 appropriated to the commissioner for distribution to crime victims services organizations
 5.15 that provide services to sexually exploited youth, as defined in section 260C.007, subdivision
 5.16 31.

5.17 (d) A safe harbor for youth account is established as a special account in the state treasury.

5.18 Sec. 6. Minnesota Statutes 2016, section 609.3242, subdivision 2, is amended to read:

5.19 Subd. 2. **Increased penalties.** ~~Any person who commits~~ The statutory maximum for a
 5.20 violation of section 609.324 while acting other than as a prostitute while in a school or park
 5.21 zone ~~may be sentenced as follows:~~

5.22 ~~(1) if the crime committed is a felony, the statutory maximum for the crime is three years~~
 5.23 longer than the statutory maximum for the underlying crime;

5.24 ~~(2) if the crime committed is a gross misdemeanor, the person is guilty of a felony and~~
 5.25 ~~may be sentenced to imprisonment for not more than two years or to payment of a fine of~~
 5.26 ~~not more than \$4,000, or both; and~~

5.27 ~~(3) if the crime committed is a misdemeanor, the person is guilty of a gross misdemeanor.~~

5.28 Sec. 7. **[609.3244] PRETRIAL DIVERSION PROGRAM FOR PATRONS.**

5.29 Subdivision 1. Definitions. As used in this section:

6.1 (1) a person is an "offender" if the person is charged with, or probable cause exists to
6.2 arrest or charge the person with, a violation of section 609.324, subdivision 3, but the person
6.3 has not yet entered a plea in the proceedings;

6.4 (2) "pretrial diversion" means the decision of a prosecutor to refer an offender to a
6.5 diversion program on condition that the criminal charges against the offender will be
6.6 dismissed after a specified period of time, or the case will not be charged, if the offender
6.7 successfully completes the program; and

6.8 (3) "prosecutor" means a city or county attorney.

6.9 Subd. 2. **Establishment of program.** A prosecutor may establish a pretrial diversion
6.10 program for offenders. The program may be conducted by the prosecutor or by a private
6.11 entity under contract with the prosecutor.

6.12 Subd. 3. **Diversion of offender.** In determining whether to accept an offender for pretrial
6.13 diversion, the prosecutor shall consider:

6.14 (1) whether the offender has a criminal record or has previously been diverted under
6.15 this section or any other diversion program;

6.16 (2) the number of violations of section 609.324, subdivision 3, for which probable cause
6.17 exists to arrest or charge the offender; and

6.18 (3) the wishes of the victim regarding placement in the program.

6.19 Subd. 4. **Program components.** At a minimum, a pretrial diversion program must require
6.20 offenders to:

6.21 (1) where the offense took place in a community with a restorative justice program
6.22 created pursuant to section 611A.775, participate in the restorative justice program;

6.23 (2) make full restitution to the victim of the offense;

6.24 (3) pay appropriate penalties under section 609.324, subdivision 3; and

6.25 (4) pay the penalty assessment authorized under section 609.3241.

6.26 Subd. 5. **Reporting of data to Bureau of Criminal Apprehension.** Every county
6.27 attorney who has established a pretrial diversion program under this section shall report the
6.28 following information to the Bureau of Criminal Apprehension:

6.29 (1) the name and date of birth of each diversion program participant, and any other
6.30 identifying information the superintendent considers necessary;

6.31 (2) the date on which the individual began to participate in the diversion program;

7.1 (3) the date on which the individual is expected to complete the diversion program;

7.2 (4) the date on which the individual successfully completed the diversion program, where
7.3 applicable; and

7.4 (5) the date on which the individual was removed from the diversion program for failure
7.5 to successfully complete the individual's goals, where applicable.

7.6 The superintendent shall cause the information described in this subdivision to be entered
7.7 into and maintained in the criminal history file as defined in section 13.87.

7.8 Subd. 6. **Reports.** By January 15 of each odd-numbered year, each prosecutor shall
7.9 report to the Supreme Court and the chairs of the senate and house of representatives
7.10 committees having jurisdiction over criminal justice policy on the operation of any pretrial
7.11 diversion program established under this section. The report must include a description of
7.12 the program, the number of offenders participating in the program, the number and
7.13 characteristics of the offenders who successfully complete the program, the number and
7.14 characteristics of the offenders who fail to complete the program, and an evaluation of the
7.15 program's effect on the operation of the criminal justice system within the prosecutor's
7.16 jurisdiction.

7.17 **EFFECTIVE DATE.** This section is effective the day following final enactment.

7.18 Sec. 8. **REPEALER.**

7.19 Minnesota Statutes 2016, section 609.324, subdivision 2, is repealed.

609.324 PATRONS; PROSTITUTES; HOUSING INDIVIDUALS ENGAGED IN PROSTITUTION; PENALTIES.

Subd. 2. **Prostitution in public place; penalty for patrons.** Whoever, while acting as a patron, intentionally does any of the following while in a public place is guilty of a gross misdemeanor:

(1) engages in prostitution with an individual 18 years of age or older; or

(2) hires, offers to hire, or agrees to hire an individual 18 years of age or older to engage in sexual penetration or sexual contact.

Except as otherwise provided in subdivision 4, a person who is convicted of violating this subdivision must, at a minimum, be sentenced to pay a fine of at least \$1,500.