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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 3070

01/31/2020 Authored by Pinto and Miller The bill was referred to the Public Safety and Criminal Justice Reform Finance and Policy Division

1.1 A bill for an act
1.2 relating to public safety; increasing penalties for certain human trafficking offenses;
1.3 increasing penalties for patrons of prostitutes; amending Minnesota Statutes 2018,
1.4 sections 609.1095, subdivision 1; 609.131, subdivision 2; 609.322, subdivisions
1.5 1, 1a; 609.324, subdivisions 2, 4; 609.3241; 609.352, subdivision 4; repealing
1.6 Minnesota Statutes 2018, section 609.324, subdivision 3.

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

1.8 Section 1. Minnesota Statutes 2018, section 609.1095, subdivision 1, is amended to read:

1.9 Subdivision 1. Definitions. (a) As used in this section, the following terms have the
1.10 meanings given.

1.11 (b) "Conviction" means any of the following accepted and recorded by the court: a plea
1.12 of guilty, a verdict of guilty by a jury, or a finding of guilty by the court. The term includes
1.13 a conviction by any court in Minnesota or another jurisdiction.

1.14 (c) "Prior conviction" means a conviction that occurred before the offender committed
1.15 the next felony resulting in a conviction and before the offense for which the offender is
1.16 being sentenced under this section.

1.17 (d) "Violent crime" means a violation of or an attempt or conspiracy to violate any of
1.18 the following laws of this state or any similar laws of the United States or any other state:
1.19 sections 152.137; 609.165; 609.185; 609.19; 609.195; 609.20; 609.205; 609.2112; 609.2113;
1.20 609.2114; 609.221; 609.222; 609.223; 609.228; 609.235; 609.24; 609.245; 609.25; 609.255;
1.21 609.2661; 609.2662; 609.2663; 609.2664; 609.2665; 609.267; 609.2671; 609.268; 609.322;
1.22 609.342; 609.343; 609.344; 609.345; 609.498, subdivision 1; 609.561; 609.562; 609.582,
1.23 subdivision 1; 609.66, subdivision 1e; 609.687; and 609.855, subdivision 5; any provision

2.1 of sections 609.229; 609.377; 609.378; 609.749; and 624.713 that is punishable by a felony
 2.2 penalty; or any provision of chapter 152 that is punishable by a maximum sentence of 15
 2.3 years or more; or Minnesota Statutes 2012, section 609.21.

2.4 **EFFECTIVE DATE.** This section is effective August 1, 2020, and applies to crimes
 2.5 committed on or after that date.

2.6 Sec. 2. Minnesota Statutes 2018, section 609.131, subdivision 2, is amended to read:

2.7 Subd. 2. **Certain violations excepted.** Subdivision 1 does not apply to a misdemeanor
 2.8 violation of section 169A.20; 171.09, subdivision 1, paragraph (g); 171.306, subdivision
 2.9 6; 609.224; 609.2242; 609.226; ~~609.324, subdivision 3~~; 609.52; or 617.23, or an ordinance
 2.10 that conforms in substantial part to any of those sections. A violation described in this
 2.11 subdivision must be treated as a misdemeanor unless the defendant consents to the
 2.12 certification of the violation as a petty misdemeanor.

2.13 **EFFECTIVE DATE.** This section is effective August 1, 2020, and applies to crimes
 2.14 committed on or after that date.

2.15 Sec. 3. Minnesota Statutes 2018, section 609.322, subdivision 1, is amended to read:

2.16 Subdivision 1. **Solicitation, inducement, and promotion of prostitution; sex trafficking**
 2.17 **in the first degree.** (a) Whoever, while acting other than as a prostitute or patron,
 2.18 intentionally does any of the following may be sentenced to imprisonment for not more
 2.19 than ~~20~~ 25 years or to payment of a fine of not more than \$50,000, or both:

2.20 (1) solicits or induces an individual under the age of 18 years to practice prostitution;

2.21 (2) promotes the prostitution of an individual under the age of 18 years;

2.22 (3) receives profit, knowing or having reason to know that it is derived from the
 2.23 prostitution, or the promotion of the prostitution, of an individual under the age of 18 years;
 2.24 or

2.25 (4) engages in the sex trafficking of an individual under the age of 18 years.

2.26 (b) Whoever violates paragraph (a) or subdivision 1a may be sentenced to imprisonment
 2.27 for not more than ~~25~~ 30 years or to payment of a fine of not more than \$60,000, or both, if
 2.28 one or more of the following aggravating factors are present:

2.29 (1) the offender has committed a prior qualified human trafficking-related offense;

2.30 (2) the offense involved a sex trafficking victim who suffered bodily harm during the
 2.31 commission of the offense;

3.1 (3) the time period that a sex trafficking victim was held in debt bondage or forced labor
 3.2 or services exceeded 180 days; or

3.3 (4) the offense involved more than one sex trafficking victim.

3.4 **EFFECTIVE DATE.** This section is effective August 1, 2020, and applies to crimes
 3.5 committed on or after that date.

3.6 Sec. 4. Minnesota Statutes 2018, section 609.322, subdivision 1a, is amended to read:

3.7 Subd. 1a. **Solicitation, inducement, and promotion of prostitution; sex trafficking**
 3.8 **in the second degree.** Whoever, while acting other than as a prostitute or patron, intentionally
 3.9 does any of the following may be sentenced to imprisonment for not more than ~~15~~ 20 years
 3.10 or to payment of a fine of not more than \$40,000, or both:

3.11 (1) solicits or induces an individual to practice prostitution;

3.12 (2) promotes the prostitution of an individual;

3.13 (3) receives profit, knowing or having reason to know that it is derived from the
 3.14 prostitution, or the promotion of the prostitution, of an individual; or

3.15 (4) engages in the sex trafficking of an individual.

3.16 **EFFECTIVE DATE.** This section is effective August 1, 2020, and applies to crimes
 3.17 committed on or after that date.

3.18 Sec. 5. Minnesota Statutes 2018, section 609.324, subdivision 2, is amended to read:

3.19 Subd. 2. **Patrons of prostitution in public place; penalty for patrons.** (a) Whoever,
 3.20 while acting as a patron, intentionally does any of the following ~~while in a public place~~ is
 3.21 guilty of a gross misdemeanor:

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

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

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

3.27 (b) Whoever violates the provisions of this subdivision within ten years of a previous
 3.28 conviction for violating this section or section 609.322 is guilty of a felony and may be
 3.29 sentenced to imprisonment for not more than five years or to payment of a fine of not more
 3.30 than \$10,000, or both.

4.1 **EFFECTIVE DATE.** This section is effective August 1, 2020, and applies to crimes
 4.2 committed on or after that date.

4.3 Sec. 6. Minnesota Statutes 2018, section 609.324, subdivision 4, is amended to read:

4.4 Subd. 4. **Community service in lieu of minimum fine.** The court may order a person
 4.5 convicted of violating subdivision 2 ~~or 3~~ to perform community work service in lieu of all
 4.6 or a portion of the minimum fine required under those subdivisions if the court makes
 4.7 specific, written findings that the convicted person is indigent or that payment of the fine
 4.8 would create undue hardship for the convicted person or that person's immediate family.
 4.9 Community work service ordered under this subdivision is in addition to any mandatory
 4.10 community work service ordered under subdivision 3.

4.11 **EFFECTIVE DATE.** This section is effective August 1, 2020, and applies to crimes
 4.12 committed on or after that date.

4.13 Sec. 7. Minnesota Statutes 2018, section 609.3241, is amended to read:

4.14 **609.3241 PENALTY ASSESSMENT AUTHORIZED.**

4.15 (a) When a court sentences an adult convicted of violating section 609.27, 609.282,
 4.16 609.283, 609.322, 609.324, 609.33, 609.352, 617.246, 617.247, or 617.293, while acting
 4.17 other than as a prostitute, the court shall impose an assessment of not less than \$500 and
 4.18 not more than \$750 for a misdemeanor violation of section 609.27, a violation of section
 4.19 609.324, subdivision 2, ~~a misdemeanor violation of section 609.324, subdivision 3~~, a violation
 4.20 of section 609.33, or a violation of section 617.293; otherwise the court shall impose an
 4.21 assessment of not less than \$750 and not more than \$1,000. The assessment shall be
 4.22 distributed as provided in paragraph (c) and is in addition to the surcharge required by
 4.23 section 357.021, subdivision 6.

4.24 (b) The court may not waive payment of the minimum assessment required by this
 4.25 section. If the defendant qualifies for the services of a public defender or the court finds on
 4.26 the record that the convicted person is indigent or that immediate payment of the assessment
 4.27 would create undue hardship for the convicted person or that person's immediate family,
 4.28 the court may reduce the amount of the minimum assessment to not less than \$100. The
 4.29 court also may authorize payment of the assessment in installments.

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

4.31 (1) 40 percent of the assessment shall be forwarded to the political subdivision that
 4.32 employs the arresting officer for use in enforcement, training, and education activities related

5.1 to combating sexual exploitation of youth, or if the arresting officer is an employee of the
5.2 state, this portion shall be forwarded to the commissioner of public safety for those purposes
5.3 identified in clause (3);

5.4 (2) 20 percent of the assessment shall be forwarded to the prosecuting agency that handled
5.5 the case for use in training and education activities relating to combating sexual exploitation
5.6 activities of youth; and

5.7 (3) 40 percent of the assessment must be forwarded to the commissioner of health to be
5.8 deposited in the safe harbor for youth account in the special revenue fund and are
5.9 appropriated to the commissioner for distribution to crime victims services organizations
5.10 that provide services to sexually exploited youth, as defined in section 260C.007, subdivision
5.11 31.

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

5.13 **EFFECTIVE DATE.** This section is effective August 1, 2020, and applies to crimes
5.14 committed on or after that date.

5.15 Sec. 8. Minnesota Statutes 2018, section 609.352, subdivision 4, is amended to read:

5.16 Subd. 4. **Penalty.** A person convicted under subdivision 2 or 2a is guilty of a felony and
5.17 may be sentenced to imprisonment for not more than ~~three~~ five years, or to payment of a
5.18 fine of not more than ~~\$5,000~~ \$10,000, or both.

5.19 **EFFECTIVE DATE.** This section is effective August 1, 2020, and applies to crimes
5.20 committed on or after that date.

5.21 Sec. 9. **SENTENCING GUIDELINES MODIFICATION.**

5.22 The Sentencing Guidelines Commission shall comprehensively review and consider
5.23 modifying how the Sentencing Guidelines and the sex offender grid address the crimes
5.24 described in Minnesota Statutes, section 609.322.

5.25 **EFFECTIVE DATE.** This section is effective August 1, 2020.

5.26 Sec. 10. **REPEALER.**

5.27 Minnesota Statutes 2018, section 609.324, subdivision 3, is repealed.

5.28 **EFFECTIVE DATE.** This section is effective August 1, 2020, and applies to crimes
5.29 committed on or after that date.

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

Subd. 3. **General prostitution crimes; penalties for patrons.** (a) Whoever, while acting as a patron, intentionally does any of the following is guilty of a 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 paragraph must, at a minimum, be sentenced to pay a fine of at least \$500.

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

(1) to pay a fine of at least \$1,500; and

(2) to serve 20 hours of community work service.

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