

SENATE
STATE OF MINNESOTA
NINETIETH SESSION

S.F. No. 1604

(SENATE AUTHORS: CHAMBERLAIN)

DATE
03/01/2017

D-PG

OFFICIAL STATUS
Introduction and first reading
Referred to Judiciary and Public Safety Finance and Policy

1.1 A bill for an act
 1.2 relating to public safety; modifying length of probation for certain offenses;
 1.3 clarifying that court can grant early termination and discharge of probation;
 1.4 amending Minnesota Statutes 2016, section 609.135, subdivision 2.

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

1.6 Section 1. Minnesota Statutes 2016, 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~~ five years ~~or the maximum period for which the sentence of imprisonment might~~
 1.11 ~~have 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~~ five years. The court
 1.15 shall provide for unsupervised probation for the last year of the stay unless the court finds
 1.16 that 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 the time periods for stays of sentences under paragraphs (a) to (f),
2.28 a court may discharge a defendant from probation before the expiration of the maximum
2.29 period prescribed for the probation except for probation for murder under sections 609.185,
2.30 609.19, and 609.195, and criminal sexual conduct under sections 609.342, 609.343, 609.344,
2.31 609.345, and 609.3451. The probation time period for murder and criminal sexual conduct

3.1 is the maximum time period for which the sentence of imprisonment might have been
3.2 imposed by the court.

3.3 **EFFECTIVE DATE.** This section is effective August 1, 2018, and applies to stays of
3.4 sentence granted on or after that date.