

HOUSE RESEARCH

Bill Summary

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Subject: Blakely reforms

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Overview

This bill modifies the career offender sentencing law, recodifies the patterned sex offender sentencing law, removes the sunset provision for Blakely hearing provisions, and applies Blakely provisions to other sentencing enhancements.

Section

- 1** **Procedures in cases where state intends to seek an aggravated departure.** Applies *Blakely* procedures to a state's request for an aggravated sentence under any sentencing enhancement statute or a state's request for a mandatory minimum under section 609.11. (In *State v. Barker*, the Minnesota Supreme Court held that section 609.11 was unconstitutional to the extent it authorized the court to make an upward departure upon finding of a sentencing factor without the aid of a jury or admission by the defendant.)

[Effective: Day following enactment and applies to sentencing hearings and sentencing departures sought on or after that date.]

- 2** **Defendants to present evidence and argument.** Permits a defendant to present evidence and argument to the factfinder regarding whether facts exist that would justify an aggravated departure, *enhanced sentence*, or a mandatory minimum sentence under section 609.11. Deletes reference to "durational" departures. (In *State v. Allen*, the Minnesota Supreme Court held that *Blakely* applies to durational and dispositional departures.)

[Effective: Day following enactment and applies to sentencing hearings and sentencing departures sought on or after that date.]

Section

- 3 Waiver of jury determination.** Authorizes the court to determine beyond a reasonable doubt whether factors exist in support of a state's motion for an aggravated sentence, *enhanced sentence*, or a *mandatory minimum sentence under section 609.11* when the defendant waives the right to a jury determination.
- [Effective: Day following enactment and applies to sentencing hearings and sentencing departures sought on or after that date.]
- 4 Increased sentences for offender who commits a sixth felony.** Eliminates the requirement that the state prove under the career offender sentencing law that the present offense is a felony that was committed as part of a pattern of criminal conduct.
- [Effective: August 1, 2006, and applies to crimes committed on or after that date.]
- 5 Prosecutor shall establish.** Eliminates the requirement that the state must, at the time of trial or at the plea of guilty, present on the record all evidence to establish that the defendant or an accomplice used a firearm or dangerous weapon during the commission of certain offenses. Changes references from "court" to "factfinder" to comply with *Blakely*. Clarifies language regarding "prior convictions."
- [Effective: August 1, 2006, and applies to crimes committed on or after that date.]
- 6 Mandatory sentences for certain engrained offenders.** Recodifies section 609.108, subdivisions 1, 3, and 4 (mandatory sentences for certain patterned and predatory sex offenders; no prior conviction needed).
- [Effective: August 1, 2006, and applies to crimes committed on or after that date.]
- 7 Mandatory life sentence; repeat offenders.** Applies *Blakely* provisions to the dangerous sex offender law.
- [Effective: August 1, 2006, and applies to crimes committed on or after that date.]
- 8 Terms of conditional release; applicable to all sex offenders.** Recodifies section 609.108, subdivision 7.
- [Effective: August 1, 2006, and applies to crimes committed on or after that date.]
- 9 - 12 Effective date.** Repeal the February 1, 2007 sunset provision for *Blakely* procedures enacted in 2005.
- 13 Revisor's instructions.** Instructs the Revisor to replace statutory references to section 609.108 with section 609.3455, subdivision 3a (section 6).
- 14 Repealer.** Repeals recodified provisions and provisions that were made obsolete by sex offender sentencing reform enacted in 2005.