

FILE NUMBER: H.F. 1235

DATE: March 13, 2009

Version: As introduced

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Subject: Aggravated sentencing departures

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Overview

This bill addresses recent Minnesota Supreme Court rulings on the issue of aggravated sentencing departures. It provides that when a court sentences an offender for a felony conviction, the court may impose an aggravated sentence based on an aggravating factor that is not an element of the crime. The aggravating factor may be considered even if the factor constitutes:

- an element of another crime of conviction in the same prosecution, or
- an uncharged act or behavior occurring in the same course of conduct.

In 2008, the Minnesota Supreme Court overturned an aggravated sentence in an aggravated robbery case. The defendant was convicted of first-degree aggravated robbery (armed with a dangerous weapon). The district court sentenced the defendant to 210 months, an double durational upward departure based on the severity of the victim's injuries (multiple blows to the head and an orbital laceration) and invasion into the victim's home. In rejecting the departure, the supreme court found that the victim's injuries constituted third-degree assault and the home invasion constituted first-degree burglary, and a departure could not be based on uncharged criminal conduct. *State v. Jackson*, 749 N.W.2d 353 (Minn. 2008).

The Minnesota Supreme Court also overturned a 102-month sentence for third-degree criminal sexual conduct conviction, which was an upward departure based on child neglect and endangerment verdicts that were not sentenced. In the case, the defendant had nonconsensual intercourse with a 16-year-old victim who was extremely ill from a meth overdose. The defendant never sought medical aid for the victim, even though later friends found her not breathing or moving. The victim died. The supreme court held that the conduct underlying the child neglect and endangerment convictions (refusing to seek help) could not be used to support the departure for the separate criminal sexual conduct conviction. *State v. Jones*, 745 N.W.2d 845 (Minn. 2008).