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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 167

01/19/2021 Authored by Stephenson and Huot

The bill was read for the first time and referred to the Committee on Judiciary Finance and Civil Law

03/08/2021 Adoption of Report: Amended and re-referred to the Committee on Public Safety and Criminal Justice Reform Finance and Policy

1.1

A bill for an act

1.2 relating to judiciary; modifying requirement for presentence investigation and
1.3 written report; amending Minnesota Statutes 2020, sections 244.10, subdivision
1.4 1; 609.115, subdivisions 1, 2, 8.

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

1.6 Section 1. Minnesota Statutes 2020, section 244.10, subdivision 1, is amended to read:

1.7 Subdivision 1. **Sentencing hearing.** Whenever a person is convicted of a felony, the
1.8 court, upon motion of either the defendant or the state, shall hold a sentencing hearing. The
1.9 hearing shall be scheduled so that the parties have adequate time to prepare and present
1.10 arguments regarding the issue of sentencing. The parties may submit written arguments to
1.11 the court prior to the date of the hearing and may make oral arguments before the court at
1.12 the sentencing hearing. Prior to the hearing, the court shall transmit to the defendant or the
1.13 defendant's attorney and the prosecuting attorney copies of the presentence investigation
1.14 report, if a presentence investigation and report are ordered under section 609.115.

1.15 At the conclusion of the sentencing hearing or within 20 days thereafter, the court shall
1.16 issue written findings of fact and conclusions of law regarding the issues submitted by the
1.17 parties, and shall enter an appropriate order.

1.18 **EFFECTIVE DATE.** This section is effective August 1, 2021, and applies to presentence
1.19 investigations conducted on or after that date.

1.20 Sec. 2. Minnesota Statutes 2020, section 609.115, subdivision 1, is amended to read:

1.21 Subdivision 1. **Presentence investigation.** (a) When a defendant has been convicted of
1.22 a misdemeanor or gross misdemeanor, the court may, and when the defendant has been

2.1 convicted of a felony, the court shall, ordered by the court before sentence is imposed, cause
2.2 a presentence investigation and written report to shall be made to the court concerning the
2.3 defendant's individual characteristics, circumstances, needs, potentialities, criminal record
2.4 and social history, the circumstances of the offense and the harm caused by it to others and
2.5 to the community. At the request of the prosecutor in a gross misdemeanor case, The court
2.6 shall order that a presentence investigation and report be prepared.:

2.7 (1) when a defendant has been convicted of a felony violation of section 609.2242
2.8 (domestic assault); 609.2247 (domestic assault by strangulation); 609.322 (sex trafficking);
2.9 609.324, subdivision 1 (hiring a minor to engage in prostitution); 609.342 (first-degree
2.10 criminal sexual conduct); 609.343 (second-degree criminal sexual conduct); 609.344
2.11 (third-degree criminal sexual conduct); 609.345 (fourth-degree criminal sexual conduct);
2.12 609.352 (solicitation of children to engage in sexual conduct); 609.713 (threats of violence);
2.13 609.748, subdivision 6 (violation of harassment restraining order); 609.749 (harassment or
2.14 stalking); 609.78, subdivision 2 (interference with an emergency call); or 629.75 (violation
2.15 of domestic abuse no contact order);

2.16 (2) when a defendant intends to present evidence and argument in support of a mitigated
2.17 departure during a sentencing hearing, the prosecuting attorney gives notice under section
2.18 244.10, subdivision 4, of the intent to bring a motion for an aggravated sentence, or the
2.19 court intends to consider a mitigated departure from the sentencing guidelines; or

2.20 (3) at the request of a prosecutor or defendant in a felony or gross misdemeanor case.

2.21 The court may order that a presentence investigation and report be prepared when a defendant
2.22 has been convicted of a misdemeanor, gross misdemeanor, or any felony not listed in clause
2.23 (1). The investigation shall be made by a probation officer of the court, if there is one;
2.24 otherwise it shall be made by the commissioner of corrections. The officer conducting the
2.25 presentence or predispositional investigation shall make reasonable and good faith efforts
2.26 to contact and provide the victim with the information required under section 611A.037,
2.27 subdivision 2. Presentence investigations shall be conducted and summary hearings held
2.28 upon reports and upon the sentence to be imposed upon the defendant in accordance with
2.29 this section, section 244.10, and the Rules of Criminal Procedure.

2.30 (b) When the crime is a violation of sections 609.561 to 609.563, 609.5641, or 609.576
2.31 and involves a fire, the report shall include a description of the financial and physical harm
2.32 the offense has had on the public safety personnel who responded to the fire. For purposes
2.33 of this paragraph, "public safety personnel" means the state fire marshal; employees of the
2.34 Division of the State Fire Marshal; firefighters, regardless of whether the firefighters receive

3.1 any remuneration for providing services; peace officers, as defined in section 626.05,
3.2 subdivision 2; individuals providing emergency management services; and individuals
3.3 providing emergency medical services.

3.4 (c) When the crime is a felony violation of chapter 152 involving the sale or distribution
3.5 of a controlled substance, the report may include a description of any adverse social or
3.6 economic effects the offense has had on persons who reside in the neighborhood where the
3.7 offense was committed.

3.8 (d) The report shall also include the information relating to crime victims required under
3.9 section 611A.037, subdivision 1. If the court directs, the report shall include an estimate of
3.10 the prospects of the defendant's rehabilitation and recommendations as to the sentence which
3.11 should be imposed. In misdemeanor cases the report may be oral.

3.12 (e) When a defendant has been convicted of a felony, and before sentencing, the court
3.13 shall cause a sentencing worksheet to be completed to facilitate the application of the
3.14 Minnesota Sentencing Guidelines. The worksheet shall be prepared by a probation officer
3.15 of the court, if there is one, or by the commissioner of corrections and shall be submitted
3.16 as before sentencing. The worksheet may be made part of the presentence investigation
3.17 report, if a report is ordered.

3.18 (f) When a person is convicted of a felony for which the Sentencing Guidelines presume
3.19 that the defendant will be committed to the commissioner of corrections under an executed
3.20 sentence and no motion for a sentencing departure has been made by counsel, the court
3.21 may, when there is no space available in the local correctional facility, commit the defendant
3.22 to the custody of the commissioner of corrections, pending completion of the presentence
3.23 investigation and report, if a presentence investigation and report are ordered. When a
3.24 defendant is convicted of a felony for which the Sentencing Guidelines do not presume that
3.25 the defendant will be committed to the commissioner of corrections, or for which the
3.26 Sentencing Guidelines presume commitment to the commissioner but counsel has moved
3.27 for a sentencing departure, the court may commit the defendant to the commissioner with
3.28 the consent of the commissioner, pending completion of the presentence investigation and
3.29 report, if a presentence investigation and report are ordered. The county of commitment
3.30 shall return the defendant to the court when the court so orders.

3.31 **EFFECTIVE DATE.** This section is effective August 1, 2021, and applies to presentence
3.32 investigations conducted on or after that date.

4.1 Sec. 3. Minnesota Statutes 2020, section 609.115, subdivision 2, is amended to read:

4.2 Subd. 2. **Life imprisonment report.** If the defendant has been convicted of a crime for
4.3 which a mandatory sentence of life imprisonment is provided by law, the probation officer
4.4 of the court, if there is one, otherwise the commissioner of corrections, shall forthwith make
4.5 a postsentence investigation and make a written report if a presentence investigation and
4.6 report are ordered and as provided by subdivision 1.

4.7 **EFFECTIVE DATE.** This section is effective August 1, 2021, and applies to presentence
4.8 investigations conducted on or after that date.

4.9 Sec. 4. Minnesota Statutes 2020, section 609.115, subdivision 8, is amended to read:

4.10 Subd. 8. **Chemical use assessment required.** (a) If a person is convicted of a felony,
4.11 the probation officer shall determine in the report ordered and prepared under subdivision
4.12 1 whether or not alcohol or drug use was a contributing factor to the commission of the
4.13 offense. If so, the report shall contain the results of a chemical use assessment conducted
4.14 in accordance with this subdivision. The probation officer shall make an appointment for
4.15 the defendant to undergo the chemical use assessment if so indicated.

4.16 (b) The chemical use assessment report must include a recommended level of care for
4.17 the defendant in accordance with the criteria contained in rules adopted by the commissioner
4.18 of human services under section 254A.03, subdivision 3. The assessment must be conducted
4.19 by an assessor qualified under rules adopted by the commissioner of human services under
4.20 section 254A.03, subdivision 3. An assessor providing a chemical use assessment may not
4.21 have any direct or shared financial interest or referral relationship resulting in shared financial
4.22 gain with a treatment provider, except as authorized under section 254A.19, subdivision 3.
4.23 If an independent assessor is not available, the probation officer may use the services of an
4.24 assessor authorized to perform assessments for the county social services agency under a
4.25 variance granted under rules adopted by the commissioner of human services under section
4.26 254A.03, subdivision 3.

4.27 **EFFECTIVE DATE.** This section is effective August 1, 2021, and applies to presentence
4.28 investigations conducted on or after that date.