

HOUSE RESEARCH

Bill Summary

FILE NUMBER: H. F. 3613/S. F. 3172

DATE: April 17, 2002

Version: UES3172-1

Authors: Tuma and Others

Subject: Sex Offender

Analyst: Judie Zollar, 651-296-1554 Joe Cox, 651-296-5044

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: www.house.mn/hrd.

Overview

This bill makes several changes to the laws regarding sex offender registration and community notification. It establishes new requirements and restrictions for when an offender out on conditional release changes primary residence. It also establishes new restrictions for where a level III sex offender may reside.

This bill expands Minnesota's ten-year conditional release period for repeat sex offenders to cover those whose previous sex offense conviction was for a violation of United States law or the law of another state. The bill creates a new felony penalty for engaging in harassing conduct against a victim under 18 if the actor is more than 36 months older than the victim and the conduct is carried out with sexual or aggressive intent. The bill also adds criminal sexual conduct crimes in the first through fourth degree and certain attempt crimes to the list of offenses that may be used to find a pattern of harassing conduct, thereby triggering an increased penalty. Finally, the bill provides a new penalty for situations where the offender has engaged in a domestic violence-related offense a third or subsequent time.

- 1 **Registration procedure.** Provides that a sex offender who is required to register with a local law enforcement agency must give 21-days advance notice before moving into a new primary residence. Current law requires a five day notice. Provides that notice must be given immediately if circumstances do not permit 21-days notice. Requires the offender's probation officer to notify the owner or property manager of the new residence as soon as possible.
- 2 **Definitions.** Adds a definition of "immediate household" to the sex offender community notification laws. "Immediate household" means all people living in the same household as the offender.
- 3 **Law enforcement agency; disclosure of information to public.** Provides that adult members of a level I sex offender's immediate household must be notified of the offender's status by the local law enforcement agency.

Provides that when community notification is required, the information must be presented using up to three major languages, as identified by the city council, for the neighborhood where the offender is likely to reside.

- 4 **Level III offenders; location of residence.** (a) Requires sex offender's supervising agencies to attempt to mitigate the concentration of level III offenders near schools.
(b) Requires the supervised release order for a level III sex offender to provide that the offender may not reside in a building or facility used to house domestic abuse victims.
(c) Prohibits the owner or property manager of a building from renting to a level III sex offender if the owner has an agreement to provide shelter for domestic abuse victims.
(d) Provides that a level III sex offender on supervised release may not reside within 1,500 feet of another level III sex offender unless (1) the residence is a home owned by the offender prior to conviction, (2) the offender is living in a house with family members, or (3) the offender is in a licensed treatment facility.
(e) Provides that a level III sex offender on supervised release may not reside within 1,500 feet of a school or park unless the location is a previously owned home or the home of a family member.
- 5 **Home detention period upon changing primary residence.** Requires a conditional release order for a level III sex offender to provide that the offender is restricted to home detention upon changing residence until community notification is completed. Certain exceptions may be authorized by the offender's corrections agent.
- 6 **Conditional release of sex offenders.** Provides that a court must place a sex offender on conditional release for ten years, minus the time the person served on conditional release, if the person was convicted for a violation of first, second, third, or fourth degree criminal sexual conduct after a conviction for a previous sex offense. The definition of previous sex offense includes a violation of first, second, third, or fourth degree criminal sexual conduct or any similar statute of the United States, this state, or any other state, thereby applying Minnesota's ten-year conditional release period to offenders whose previous sex offense conviction may have been under United States law or another state's law.
- 7 **Penalty; criminal sexual conduct in the second degree.** Provides that, unless a longer mandatory minimum sentence is otherwise required by law or the sentencing guidelines provide for a longer presumptive executed sentence, the court shall presume an executed sentence of 90 months for an offender who engages in criminal sexual contact with a person and:
 - ~*~circumstances exist at the time of the act that cause the complainant to have a reasonable fear of imminent great bodily harm to the person or another;
 - ~*~the actor is armed with a dangerous weapon or any item fashioned in a manner to lead a person to reasonably believe it to be a dangerous weapon and uses or threatens to use the dangerous weapon to cause the person to submit;
 - ~*~the actor causes personal injury to the person and certain other circumstances exist;
 - ~*~the actor is aided or abetted by one or more accomplices and specific other circumstances exist; or
 - ~*~the actor has a significant relationship to the person, the person was under 16 years of age, and specific other circumstances exist (force or coercion, personal injury, or multiple acts over extended period of time).

Current law specifies a maximum penalty of 25 years, but does not specify a mandatory minimum sentence or a presumptive sentence.

- 8 **No proof of specific intent required; harassment/stalking.** Provides a cross-reference indicating

that the state must prove the intent aspect of the new category of offense under section 9.

- 9 **Aggravated violations.** Amends the anti-harassment/stalking law to provide that a ten-year felony penalty applies to a person who commits the offense against a victim under the age of 18, if the actor is more than 36 months older than the victim, and the act was committed with sexual or aggressive intent. Clarifies that the other felony violations of the anti-harassment/stalking law are five-year felonies. The bill retains the five-year felony penalty that applies when the victim is under 18 and the actor is more than 36 months older than the victim; in these cases, sexual or aggressive intent is not an element of the crime.
- 10 **Second or subsequent violations; felony.** Amends the anti-harassment/stalking law to provide that a person is guilty of a ten-year felony if the person violates the law a third or subsequent time during the time period between the first of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency and the end of ten years following discharge from sentence or disposition for that offense.
- 11 **Pattern of harassing conduct.** Amends the provision in the anti-harassment/stalking law that provides an increased penalty for offenders who engage in a pattern of harassing conduct. Current law allows the penalty to be increased when the offender violates two or more of certain designated crimes within a five-year period. This section allows the penalty to be increased for an attempt to violate any one of these designated crimes. It also includes the crimes of first through fourth degree criminal sexual conduct within the list of designated crimes that may be used to find a pattern of harassing conduct.
- 12 **Effective date.** August 1, 2002, for sections 6 and 8 to 11. August 1, 2003 for sections 2 and 3.