

**Subject** Providing for probationary sentences for caretakers of children

**Authors** Edelson and others

**Analyst** Ben Johnson (651-296-8957)

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## Overview

The Minnesota Sentencing Guidelines establish presumptive sentences for defendants. Courts may depart from those guidelines, but must make specific findings to support the departure. When a presumptive sentence calls for imprisonment, a court may place a defendant on probation when the risk is significantly outweighed by evidence that the defendant is motivated toward rehabilitation. A defendant with such a motivation is considered to be particularly amenable to probation. “Numerous factors, including the defendant's age, his prior record, his remorse, his cooperation, his attitude while in court, and the support of friends and/or family, are relevant to a determination whether a defendant is particularly suitable to individualized treatment in a probationary setting.” *State v. Trog*, 323 N.W.2d 28, 31 (Minn. 1982). In short, “social and economic factors are permissible factors to consider in granting dispositional departures.” *State v. Sherwood*, 341 N.W.2d 574, 577 (Minn. App. 1983). This bill clarifies that the fact a defendant is the primary caretaker of a child is a social and economic factor a court can consider when determining whether the defendant is particularly amenable to probation.

## Summary

Section	Description
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| 1 | <b>Sentencing primary caretaker of child.</b><br>Defines “primary caretaker of child” as a person who has custody of a minor child or parenting time with a minor child. Requires a court to determine whether a defendant is the primary caretaker of a child before the court sentences the defendant. Permits a court to find that the primary caretaker of a minor child is particularly amenable to probation. Permits the court to impose conditions of probation that require the defendant to focus on the relationship with a minor child. |
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