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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 1373

03/02/2015 Authored by Mullery

The bill was read for the first time and referred to the Committee on Public Safety and Crime Prevention Policy and Finance

1.1 A bill for an act
1.2 relating to public safety; authorizing sentence of life imprisonment for juveniles
1.3 certified as adults and convicted of first-degree murder; authorizing sentence
1.4 review hearings for juveniles certified as adults; amending Minnesota Statutes
1.5 2014, sections 244.05, subdivisions 4, 5; 609.106, subdivision 2, by adding a
1.6 subdivision; proposing coding for new law in Minnesota Statutes, chapter 244.

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

1.8 Section 1. Minnesota Statutes 2014, section 244.05, subdivision 4, is amended to read:

1.9 Subd. 4. **Minimum imprisonment, life sentence.** (a) An inmate serving a
1.10 mandatory life sentence under section 609.106, subdivision 2, ~~or~~ 609.3455, subdivision
1.11 2, or Minnesota Statutes 2014, section 609.106, must not be given supervised release
1.12 under this section.

1.13 (b) An inmate serving a mandatory life sentence under section 609.185, clause (3),
1.14 (5), or (6); or Minnesota Statutes 2004, section 609.109, subdivision 3, must not be given
1.15 supervised release under this section without having served a minimum term of 30 years.

1.16 (c) An inmate serving a mandatory life sentence under section 609.385 must not
1.17 be given supervised release under this section without having served a minimum term of
1.18 imprisonment of 17 years.

1.19 (d) An inmate serving a mandatory life sentence under section 609.3455, subdivision
1.20 3 or 4, must not be given supervised release under this section without having served the
1.21 minimum term of imprisonment specified by the court in its sentence.

1.22 (e) An inmate serving a mandatory life sentence under section 609.106, subdivision
1.23 3, must not be given supervised release under this section without having served a
1.24 minimum term of:

2.1 (1) 50 years, if the inmate was under the age of 18 at the time of the offense and
2.2 convicted under section 609.185, paragraph (a), clause (4);

2.3 (2) 20 years, if the inmate was 16 or 17 years old at the time of the offense and
2.4 clause (1) does not apply; or

2.5 (3) 15 years, if the inmate was 14 or 15 years old at the time of the offense and
2.6 clause (1) does not apply.

2.7 **EFFECTIVE DATE.** This section is effective the day following final enactment,
2.8 and applies to offenses committed on or after that date.

2.9 Sec. 2. Minnesota Statutes 2014, section 244.05, subdivision 5, is amended to read:

2.10 Subd. 5. **Supervised release, life sentence.** (a) The commissioner of corrections
2.11 may, under rules promulgated by the commissioner, give supervised release to an inmate
2.12 serving a mandatory life sentence under section 609.106, subdivision 3, 609.185, clause
2.13 (3), (5), or (6); 609.3455, subdivision 3 or 4; 609.385; or Minnesota Statutes 2004, section
2.14 609.109, subdivision 3, after the inmate has served the minimum term of imprisonment
2.15 specified in subdivision 4.

2.16 (b) The commissioner shall require the preparation of a community investigation
2.17 report and shall consider the findings of the report when making a supervised release
2.18 decision under this subdivision. The report shall reflect the sentiment of the various
2.19 elements of the community toward the inmate, both at the time of the offense and at the
2.20 present time. The report shall include the views of the sentencing judge, the prosecutor,
2.21 any law enforcement personnel who may have been involved in the case, and any
2.22 successors to these individuals who may have information relevant to the supervised
2.23 release decision. The report shall also include the views of the victim and the victim's
2.24 family unless the victim or the victim's family chooses not to participate.

2.25 (c) The commissioner shall make reasonable efforts to notify the victim, in advance,
2.26 of the time and place of the inmate's supervised release review hearing. The victim has
2.27 a right to submit an oral or written statement at the review hearing. The statement may
2.28 summarize the harm suffered by the victim as a result of the crime and give the victim's
2.29 recommendation on whether the inmate should be given supervised release at this time.
2.30 The commissioner must consider the victim's statement when making the supervised
2.31 release decision.

2.32 (d) When considering whether to give supervised release to an inmate serving a life
2.33 sentence under section 609.3455, subdivision 3 or 4, the commissioner shall consider, at
2.34 a minimum, the following: the risk the inmate poses to the community if released, the
2.35 inmate's progress in treatment, the inmate's behavior while incarcerated, psychological

3.1 or other diagnostic evaluations of the inmate, the inmate's criminal history, and any
 3.2 other relevant conduct of the inmate while incarcerated or before incarceration. The
 3.3 commissioner may not give supervised release to the inmate unless:

3.4 (1) while in prison:

3.5 (i) the inmate has successfully completed appropriate sex offender treatment;

3.6 (ii) the inmate has been assessed for chemical dependency needs and, if appropriate,
 3.7 has successfully completed chemical dependency treatment; and

3.8 (iii) the inmate has been assessed for mental health needs and, if appropriate, has
 3.9 successfully completed mental health treatment; and

3.10 (2) a comprehensive individual release plan is in place for the inmate that ensures
 3.11 that, after release, the inmate will have suitable housing and receive appropriate aftercare
 3.12 and community-based treatment. The comprehensive plan also must include a postprison
 3.13 employment or education plan for the inmate.

3.14 (e) As used in this subdivision, "victim" means the individual who suffered harm as
 3.15 a result of the inmate's crime or, if the individual is deceased, the deceased's surviving
 3.16 spouse or next of kin.

3.17 **EFFECTIVE DATE.** This section is effective the day following final enactment,
 3.18 and applies to offenses committed on or after that date.

3.19 **Sec. 3. [244.115] SENTENCING REVIEW FOR JUVENILE CERTIFIED AS**
 3.20 **ADULT.**

3.21 **Subdivision 1. Petition for resentencing.** (a) Notwithstanding any other provision
 3.22 of law and except as provided in paragraph (b), a person convicted for an offense
 3.23 committed prior to the person's 18th birthday may file a petition in the district court in the
 3.24 county in which the conviction was had to vacate and set aside the original sentence and
 3.25 resentence the person, if:

3.26 (1) the person has served a minimum of:

3.27 (i) ten years for nonhomicide offenses;

3.28 (ii) 15 years for homicide offenses if the inmate was 14 or 15 years old at the time of
 3.29 the offense; or

3.30 (iii) 20 years for homicide offenses if the inmate was 16 or 17 years old at the
 3.31 time of the offense; and

3.32 (2) the person has not submitted a motion pursuant to this section within the last
 3.33 five years.

3.34 (b) A person convicted under section 609.185, paragraph (a), clause (4), may not
 3.35 file a petition under this section.

4.1 Subd. 2. **Contents of petition.** A copy of the petition shall be served on the agency
4.2 that prosecuted the case and shall include the information required under subdivision 1.
4.3 The motion shall also include the petitioner's statement describing any work towards
4.4 rehabilitation, including rehabilitative, educational, or vocational programs, if those
4.5 programs have been available; using self-study for self-improvement; or showing
4.6 evidence of remorse.

4.7 Subd. 3. **Hearing.** If the petition meets the requirements of subdivisions 1 and 2,
4.8 the court shall hold a hearing to consider whether to grant the petition, provided that a
4.9 new sentence, if any, is not greater than the original sentence. The petitioner and the
4.10 petitioner's counsel must be given an opportunity to speak on the petitioner's behalf during
4.11 the hearing. Victims or victims' family members, if a victim is deceased, retain the right to
4.12 participate in the hearing.

4.13 Subd. 4. **Factors.** The court, in determining whether to grant the petition and
4.14 resentence the petitioner, shall consider the following factors:

4.15 (1) age of petitioner at the time of the offenses;

4.16 (2) the circumstances surrounding the offenses;

4.17 (3) the extent of the petitioner's role in the offense and whether and to what extent an
4.18 adult was involved in the offense;

4.19 (4) peer or familial pressure at the time of the offense;

4.20 (5) intellectual capacity of the petitioner at the time of the offense;

4.21 (6) ability of the petitioner to participate meaningfully in the original defense;

4.22 (7) prior involvement of the petitioner in the juvenile justice or child protection
4.23 system;

4.24 (8) medical and mental health conditions of petitioner;

4.25 (9) family and community environment at the time of the offense;

4.26 (10) educational history of petitioner;

4.27 (11) petitioner's experiences of trauma or abuse;

4.28 (12) the diminished culpability of juveniles as compared to that of adults;

4.29 (13) the hallmark features of youth, including immaturity, impetuosity, and failure to
4.30 appreciate risks and consequences;

4.31 (14) any statement by any victim of the offenses for which the petitioner is
4.32 imprisoned or by a family member of the victim, if the victim is deceased;

4.33 (15) the petitioner's participation in rehabilitative, educational, or vocational
4.34 programs, if those programs have been made available, using self-study for
4.35 self-improvement, or evidence of remorse;

5.1 (16) whether the petitioner has demonstrated maturity, rehabilitation, and a fitness to
5.2 reenter society sufficient to justify a sentence reduction; and

5.3 (17) any other factors the court deems relevant to its decision.

5.4 Subd. 5. **Decision on record.** If, after considering the factors in subdivision 4, the
5.5 court finds by a preponderance of the evidence that the petitioner is not a danger to public
5.6 safety, is rehabilitated, and has remorse for the offenses committed, the court may grant
5.7 the petition and resentence the petitioner. The court shall state on the record and make
5.8 written findings as to the reasons for granting or denying the petition under this section.

5.9 Subd. 6. **Additional petitions.** If the petition is denied, the person may file another
5.10 petition for resentencing five years from the date of the original petition. If the second
5.11 petition is denied, the person may file a third petition for resentencing five years from the
5.12 date of the second petition. The court shall not entertain a fourth or successive petition.

5.13 Subd. 7. **Right to counsel.** The court shall appoint counsel to represent a person
5.14 under this section, including any appeal, if the person is financially unable to obtain
5.15 counsel under the guidelines set forth in section 611.17.

5.16 Subd. 8. **Purpose.** The provisions of this section and the hearing conducted
5.17 pursuant to subdivision 3, shall be conducted to provide persons who were under the age
5.18 of 18 at the time of the offenses with a meaningful opportunity to obtain release based on
5.19 demonstrated maturity and rehabilitation.

5.20 **EFFECTIVE DATE.** This section is effective the day following final enactment.

5.21 Sec. 4. Minnesota Statutes 2014, section 609.106, subdivision 2, is amended to read:

5.22 Subd. 2. **Life without release.** Except as provided in subdivision 3, the court shall
5.23 sentence a person to life imprisonment without possibility of release under the following
5.24 circumstances:

5.25 (1) the person is convicted of first-degree murder under section 609.185, paragraph
5.26 (a), clause (1), (2), (4), or (7);

5.27 (2) the person is convicted of committing first-degree murder in the course of a
5.28 kidnapping under section 609.185, clause (3); or

5.29 (3) the person is convicted of first-degree murder under section 609.185, clause (3),
5.30 (5), or (6), and the court determines on the record at the time of sentencing that the person
5.31 has one or more previous convictions for a heinous crime.

5.32 **EFFECTIVE DATE.** This section is effective the day following final enactment,
5.33 and applies to offenses committed on or after that date.

6.1 Sec. 5. Minnesota Statutes 2014, section 609.106, is amended by adding a subdivision
6.2 to read:

6.3 Subd. 3. **Life imprisonment; juveniles certified as adults.** If the defendant was
6.4 convicted under circumstances listed in subdivision 2, and the defendant was under 18 years
6.5 of age at the time of the commission of the offense, the court may sentence the defendant to
6.6 imprisonment for life if it is proven by a preponderance of the evidence that the defendant's
6.7 relative youth and potential for rehabilitation in prison outweighs the public's interest in a
6.8 sentence under subdivision 2. The court shall consider the following factors in its decision:

6.9 (1) the age, education, experience, and background, including mental and emotional
6.10 development, of the defendant at the time of the commission of the offense;

6.11 (2) the circumstances and nature and severity of the offense, including any
6.12 aggravating or mitigating factors in the commission of the offense;

6.13 (3) the impact on the victim and the community, including age and vulnerability
6.14 of the victim;

6.15 (4) the defendant's level of participation in the planning and carrying out of the
6.16 offense, including familial or peer influence in the commission of the crime;

6.17 (5) the defendant's juvenile delinquency and criminal history;

6.18 (6) the defendant's programming history, including traumatic history and
6.19 involvement in child protection, school and community-based programming, and
6.20 probation interventions, and the defendant's willingness to participate meaningfully in
6.21 programming, probation, or both; and

6.22 (7) any other aggravating or mitigating circumstances bearing on the defendant's
6.23 culpability or potential for rehabilitation.

6.24 **EFFECTIVE DATE.** This section is effective the day following final enactment,
6.25 and applies to offenses committed on or after that date.