

Repeat violent-offender mandatory minimum proposal

Draft statutory language, intended to effect citizen-submitted repeat violent offender proposal, used for prison-bed impact analysis

1 **609.1095 INCREASED SENTENCES FOR CERTAIN DANGEROUS AND REPEAT FELONY** 2 **OFFENDERS.**

3 Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the meanings given.

4 (b) "Conviction" means any of the following accepted and recorded by the court: a plea of guilty, a
5 verdict of guilty by a jury, or a finding of guilty by the court. The term includes a conviction by any court
6 in Minnesota or another jurisdiction.

7 (c) "Prior conviction" means a conviction that occurred before the offender committed the next felony
8 resulting in a conviction and before the offense for which the offender is being sentenced under this section.

9 (d) "Violent crime" means a violation of or an attempt or conspiracy to violate any of the following
10 laws of this state or any similar laws of the United States or any other state: sections 152.137; 609.165;
11 609.185; 609.19; 609.195; 609.20; 609.205; 609.2112; 609.2113; 609.2114; 609.221; 609.222; 609.223;
12 609.228; 609.235; 609.24; 609.245; 609.25; 609.255; 609.2661; 609.2662; 609.2663; 609.2664; 609.2665;
13 609.267; 609.2671; 609.268; 609.342; 609.343; 609.344; 609.345; 609.498, subdivision 1; 609.561;
14 609.562; 609.582, subdivision 1; 609.66, subdivision 1e; 609.687; and 609.855, subdivision 5; any
15 provision of sections 609.229; 609.377; 609.378; 609.749; and 624.713 that is punishable by a felony
16 penalty; or any provision of chapter 152 that is punishable by a maximum sentence of 15 years or more; or
17 Minnesota Statutes 2012, section 609.21.

18 (e) "Severe violent crime" means a violation of any of the following laws of this state or any similar
19 laws of the United States or any other state: sections 609.185; 609.19; 609.195; 609.20; 609.205; 609.221;
20 609.222; 609.223; 609.24; 609.245; 609.342; 609.343; and 609.344 that is punishable by a felony penalty.

21 Subd. 2. **Increased sentences for dangerous offender who commits third violent crime.** Whenever
22 a person is convicted of a violent crime that is a felony, and the judge is imposing an executed sentence
23 based on a Sentencing Guidelines presumptive imprisonment sentence, the judge may impose an aggravated
24 durational departure from the presumptive imprisonment sentence up to the statutory maximum sentence if
25 the offender was at least 18 years old at the time the felony was committed, and:

26 (1) the court determines on the record at the time of sentencing that the offender has two or more prior
27 convictions for violent crimes; and

28 (2) the fact finder determines that the offender is a danger to public safety. The fact finder may base its
29 determination that the offender is a danger to public safety on the following factors:

30 (i) the offender's past criminal behavior, such as the offender's high frequency rate of criminal activity
31 or juvenile adjudications, or long involvement in criminal activity including juvenile adjudications; or

32 (ii) the fact that the present offense of conviction involved an aggravating factor that would justify a
33 durational departure under the Sentencing Guidelines.

"Severe
violent crime":
murder, man-
slaughter,
assault 1-3,
robbery, crim.
sex. 1-3

34 Subd. 3. **Mandatory sentence for dangerous offender who commits third violent felony.** (a) Unless
35 a longer mandatory minimum sentence is otherwise required by law or the court imposes a longer aggravated
36 durational departure under subdivision 2, a person who is convicted of a violent crime that is a felony must
37 be committed to the commissioner of corrections for a mandatory sentence of at least the length of the
38 presumptive sentence under the Sentencing Guidelines if the court determines on the record at the time of
39 sentencing that the person has two or more prior felony convictions for violent crimes. The court shall
40 impose and execute the prison sentence regardless of whether the guidelines presume an executed prison
41 sentence.

42 Any person convicted and sentenced as required by this subdivision is not eligible for probation, parole,
43 discharge, or work release, until that person has served the full term of imprisonment imposed by the court,
44 notwithstanding sections 241.26, 242.19, 243.05, 244.04, 609.12, and 609.135.

45 (b) For purposes of this subdivision, "violent crime" does not include a violation of section 152.023 or
46 152.024.

47 **Subd. 3a. Mandatory sentence for offender who commits third felony and second severe violent**
48 **crime.** (a) Unless a longer mandatory minimum term of imprisonment is required by law or the court
49 imposes an aggravated durational departure that results in a longer term of imprisonment, a person who is
50 convicted of a severe violent crime must be committed to the commissioner of corrections for a sentence
51 that includes a mandatory minimum term of imprisonment of at least 25 years, if the if the court determines
52 on the record at the time of sentencing that the offender has two or more prior felony convictions, one of
53 which is for a severe violent crime. The court shall impose and execute the sentence regardless of whether
54 the guidelines presume an executed prison sentence. Sections 244.05 and 244.101 shall apply only to the
55 extent that they do not conflict with this subdivision.

56 (b) If this subdivision applies to a person who is convicted of a violation of section 609.20, 609.205,
57 609.221, 609.222, 609.223, 609.24, 609.245, 609.343, or 609.344, the maximum sentence of imprisonment
58 that may be imposed for that violation shall be 25 years, notwithstanding the shorter maximum sentence of
59 imprisonment permitted by the section violated.

60 (c) Any person convicted and sentenced as required by this subdivision is not eligible for supervised
61 release, probation, parole, discharge, or work release, until that person has served the full, executed term of
62 imprisonment imposed by the court, notwithstanding sections 241.26, 242.19, 243.05, 244.04, 244.05,
63 244.101, 609.12, and 609.135.

64 Subd. 4. **Increased sentence for offender who commits sixth felony.** Whenever a person is convicted
65 of a felony, and the judge is imposing an executed sentence based on a Sentencing Guidelines presumptive
66 imprisonment sentence, the judge may impose an aggravated durational departure from the presumptive
67 sentence up to the statutory maximum sentence if the factfinder determines that the offender has five or
68 more prior felony convictions and that the present offense is a felony that was committed as part of a pattern
69 of criminal conduct.

70 **History:** 1998 c 367 art 6 s 7; 2005 c 136 art 7 s 16; art 16 s 11,12; 2014 c 180 s 9

Minimum 25-
year term of
imprisonment
for second
"severe violent
crime" if it is
the offender's
third felony
conviction. No
supervised
release or
other early
release.