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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 1761

03/01/2021 Authored by Hollins

The bill was read for the first time and referred to the Committee on Public Safety and Criminal Justice Reform Finance and Policy

03/22/2021 Adoption of Report: Amended and re-referred to the Committee on Judiciary Finance and Civil Law

1.1 A bill for an act

1.2 relating to courts; prohibiting revocation of probation for certain violations unless  
1.3 the person poses a risk to public safety; amending Minnesota Statutes 2020, sections  
1.4 244.195, subdivision 2; 401.025, subdivision 1; 609.14, subdivision 1, by adding  
1.5 a subdivision.

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

1.7 Section 1. Minnesota Statutes 2020, section 244.195, subdivision 2, is amended to read:

1.8 Subd. 2. **Detention pending hearing.** When it appears necessary to enforce discipline  
1.9 or to prevent a person on conditional release from escaping or absconding from supervision,  
1.10 a court services director has the authority to issue a written order directing any peace officer  
1.11 or any probation officer in the state serving the district and juvenile courts to detain and  
1.12 bring the person before the court or the commissioner, whichever is appropriate, for  
1.13 disposition. If the person on conditional release commits a violation described in section  
1.14 609.14, subdivision 1a, paragraph (a), the court services director must have a reasonable  
1.15 belief that the order is necessary to prevent the person from escaping or absconding from  
1.16 supervision or that the continued presence of the person in the community presents a risk  
1.17 to public safety before issuing a written order. This written order is sufficient authority for  
1.18 the peace officer or probation officer to detain the person for not more than 72 hours,  
1.19 excluding Saturdays, Sundays, and holidays, pending a hearing before the court or the  
1.20 commissioner.

1.21 Sec. 2. Minnesota Statutes 2020, section 401.025, subdivision 1, is amended to read:

1.22 Subdivision 1. **Peace officers and probation officers serving CCA counties.** (a) When  
1.23 it appears necessary to enforce discipline or to prevent a person on conditional release from

2.1 escaping or absconding from supervision, the chief executive officer or designee of a  
2.2 community corrections agency in a CCA county has the authority to issue a written order  
2.3 directing any peace officer or any probation officer in the state serving the district and  
2.4 juvenile courts to detain and bring the person before the court or the commissioner, whichever  
2.5 is appropriate, for disposition. If the person on conditional release commits a violation  
2.6 described in section 609.14, subdivision 1a, paragraph (a), the chief executive officer or  
2.7 designee must have a reasonable belief that the order is necessary to prevent the person  
2.8 from escaping or absconding from supervision or that the continued presence of the person  
2.9 in the community presents a risk to public safety before issuing a written order. This written  
2.10 order is sufficient authority for the peace officer or probation officer to detain the person  
2.11 for not more than 72 hours, excluding Saturdays, Sundays, and holidays, pending a hearing  
2.12 before the court or the commissioner.

2.13 (b) The chief executive officer or designee of a community corrections agency in a CCA  
2.14 county has the authority to issue a written order directing a peace officer or probation officer  
2.15 serving the district and juvenile courts to release a person detained under paragraph (a)  
2.16 within 72 hours, excluding Saturdays, Sundays, and holidays, without an appearance before  
2.17 the court or the commissioner. This written order is sufficient authority for the peace officer  
2.18 or probation officer to release the detained person.

2.19 (c) The chief executive officer or designee of a community corrections agency in a CCA  
2.20 county has the authority to issue a written order directing any peace officer or any probation  
2.21 officer serving the district and juvenile courts to detain any person on court-ordered pretrial  
2.22 release who absconds from pretrial release or fails to abide by the conditions of pretrial  
2.23 release. A written order issued under this paragraph is sufficient authority for the peace  
2.24 officer or probation officer to detain the person.

2.25 **EFFECTIVE DATE.** This section is effective August 1, 2021, and applies to violations  
2.26 that occur on or after that date.

2.27 Sec. 3. Minnesota Statutes 2020, section 609.14, subdivision 1, is amended to read:

2.28 Subdivision 1. **Grounds.** (a) When it appears that the defendant has violated any of the  
2.29 conditions of probation or intermediate sanction, or has otherwise been guilty of misconduct  
2.30 which warrants the imposing or execution of sentence, the court may without notice revoke  
2.31 the stay and direct that the defendant be taken into immediate custody. Revocation should  
2.32 only be used as a last resort when rehabilitation has failed.

2.33 (b) When it appears that the defendant violated any of the conditions of probation during  
2.34 the term of the stay, but the term of the stay has since expired, the defendant's probation

3.1 officer or the prosecutor may ask the court to initiate probation revocation proceedings  
3.2 under the Rules of Criminal Procedure at any time within six months after the expiration  
3.3 of the stay. The court also may initiate proceedings under these circumstances on its own  
3.4 motion. If proceedings are initiated within this six-month period, the court may conduct a  
3.5 revocation hearing and take any action authorized under rule 27.04 at any time during or  
3.6 after the six-month period.

3.7 (c) Notwithstanding the provisions of section 609.135 or any law to the contrary, after  
3.8 proceedings to revoke the stay have been initiated by a court order revoking the stay and  
3.9 directing either that the defendant be taken into custody or that a summons be issued in  
3.10 accordance with paragraph (a), the proceedings to revoke the stay may be concluded and  
3.11 the summary hearing provided by subdivision 2 may be conducted after the expiration of  
3.12 the stay or after the six-month period set forth in paragraph (b). The proceedings to revoke  
3.13 the stay shall not be dismissed on the basis that the summary hearing is conducted after the  
3.14 term of the stay or after the six-month period. The ability or inability to locate or apprehend  
3.15 the defendant prior to the expiration of the stay or during or after the six-month period shall  
3.16 not preclude the court from conducting the summary hearing unless the defendant  
3.17 demonstrates that the delay was purposefully caused by the state in order to gain an unfair  
3.18 advantage.

3.19 EFFECTIVE DATE. This section is effective August 1, 2021, and applies to violations  
3.20 that occur on or after that date.

3.21 Sec. 4. Minnesota Statutes 2020, section 609.14, is amended by adding a subdivision to  
3.22 read:

3.23 Subd. 1a. **Violations where policies favor continued rehabilitation.** (a) Correctional  
3.24 treatment is better provided through a community resource than through confinement, it  
3.25 would not unduly depreciate the seriousness of the violation if probation was not revoked,  
3.26 and the policies favoring probation outweigh the need for confinement if a person has not  
3.27 previously violated a condition of probation or intermediate sanction and does any of the  
3.28 following in violation of a condition imposed by the court:

3.29 (1) fails to abstain from the use of controlled substances without a valid prescription,  
3.30 unless the person is under supervision for a violation of:

3.31 (i) section 169A.20;

3.32 (ii) 609.2112, subdivision 1, paragraph (a), clauses (2) to (6); or

4.1 (iii) 609.2113, subdivision 1, clauses (2) to (6), subdivision 2, clauses (2) to (6), or  
4.2 subdivision 3, clauses (2) to (6);

4.3 (2) fails to abstain from the use of alcohol, unless the person is under supervision for a  
4.4 violation of:

4.5 (i) section 169A.20;

4.6 (ii) 609.2112, subdivision 1, paragraph (a), clauses (2) to (6); or

4.7 (iii) 609.2113, subdivision 1, clauses (2) to (6), subdivision 2, clauses (2) to (6), or  
4.8 subdivision 3, clauses (2) to (6);

4.9 (3) possesses drug paraphernalia in violation of section 152.092;

4.10 (4) fails to obtain or maintain employment;

4.11 (5) fails to pursue a course of study or vocational training;

4.12 (6) fails to report a change in employment, unless the person is prohibited from having  
4.13 contact with minors and the employment would involve such contact;

4.14 (7) violates a curfew;

4.15 (8) fails to report contact with a law enforcement agency, unless the person was charged  
4.16 with a misdemeanor, gross misdemeanor, or felony; or

4.17 (9) commits any offense for which the penalty is a petty misdemeanor.

4.18 (b) A violation by a person described in paragraph (a) does not warrant the imposition  
4.19 or execution of sentence and the court may not direct that the person be taken into immediate  
4.20 custody unless the court receives a written report, signed under penalty of perjury pursuant  
4.21 to section 358.116, showing probable cause to believe the person violated probation and  
4.22 establishing by a preponderance of the evidence that the continued presence of the person  
4.23 in the community would present a risk to public safety. If the court does not direct that the  
4.24 person be taken into custody, the court may request a supplemental report from the  
4.25 supervising agent containing:

4.26 (1) the specific nature of the violation;

4.27 (2) the response of the person under supervision to the violation, if any; and

4.28 (3) the actions the supervising agent has taken or will take to address the violation.

4.29 **EFFECTIVE DATE.** This section is effective August 1, 2021, and applies to violations  
4.30 that occur on or after that date.