

**SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION**

S.F. No. 853

(SENATE AUTHORS: LUCERO)

DATE
01/27/2023

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Introduction and first reading
Referred to Judiciary and Public Safety

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to public safety; requiring aggravated sentences for certain violent
1.3 offenders; requiring consecutive sentences for certain violent offenders; requiring
1.4 certain offenders to serve the entire announced sentence in custody; amending
1.5 Minnesota Statutes 2022, section 609.1095, subdivisions 2, 3, 4, by adding a
1.6 subdivision.

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

1.8 Section 1. Minnesota Statutes 2022, section 609.1095, subdivision 2, is amended to read:

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

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

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

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

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

2.3 **EFFECTIVE DATE.** This section is effective August 1, 2023, and applies to crimes
 2.4 committed on or after that date.

2.5 Sec. 2. Minnesota Statutes 2022, section 609.1095, subdivision 3, is amended to read:

2.6 Subd. 3. **Mandatory sentence for dangerous offender who commits third violent**
 2.7 **felony.** (a) Unless a longer mandatory minimum sentence is otherwise required by law or
 2.8 ~~the court imposes a longer aggravated durational departure under subdivision 2,~~ a person
 2.9 who is convicted of a violent crime that is a felony must be committed to the commissioner
 2.10 of corrections for a mandatory sentence of at least the length of the presumptive sentence
 2.11 under the Sentencing Guidelines if:

2.12 (1) the court determines on the record at the time of sentencing that the person has two
 2.13 or more prior felony convictions for violent crimes; and

2.14 (2) either of the following are true:

2.15 (i) the Sentencing Guidelines presumptive sentence does not presume an executed prison
 2.16 sentence; or

2.17 (ii) the fact finder does not make the determination under subdivision 2, clause (2).

2.18 (b) The court shall impose and execute the prison sentence regardless of whether the
 2.19 guidelines presume an executed prison sentence.

2.20 ~~Any person convicted and sentenced as required by this subdivision is not eligible for~~
 2.21 ~~probation, parole, discharge, or work release, until that person has served the full term of~~
 2.22 ~~imprisonment imposed by the court, notwithstanding sections 241.26, 242.19, 243.05,~~
 2.23 ~~244.04, 609.12, and 609.135.~~

2.24 ~~(b)~~ (c) For purposes of this subdivision, "violent crime" does not include a violation of
 2.25 section 152.023 or 152.024.

2.26 **EFFECTIVE DATE.** This section is effective August 1, 2023, and applies to crimes
 2.27 committed on or after that date.

2.28 Sec. 3. Minnesota Statutes 2022, section 609.1095, subdivision 4, is amended to read:

2.29 Subd. 4. **Increased sentence for offender who commits sixth felony.** Whenever a
 2.30 person is convicted of a felony, and the judge is imposing an executed sentence based on a
 2.31 Sentencing Guidelines presumptive imprisonment sentence, the judge ~~may~~ must impose an

3.1 aggravated durational departure from the presumptive sentence up to the statutory maximum
3.2 sentence if the ~~factfinder~~ fact finder determines that the offender has five or more prior
3.3 felony convictions and that the present offense is a felony that was committed as part of a
3.4 pattern of criminal conduct.

3.5 **EFFECTIVE DATE.** This section is effective August 1, 2023, and applies to crimes
3.6 committed on or after that date.

3.7 Sec. 4. Minnesota Statutes 2022, section 609.1095, is amended by adding a subdivision
3.8 to read:

3.9 Subd. 5. **Consecutive sentences; release.** (a) Any person convicted and sentenced as
3.10 required by this section must serve any imposed sentences consecutively to any unexpired
3.11 portion of a previously imposed sentence unless the total time to serve in prison would be
3.12 longer if a concurrent sentence were imposed.

3.13 (b) Notwithstanding sections 241.26, 242.19, 243.05, 244.04, 609.12, and 609.135, any
3.14 person convicted and sentenced as required by this section is not eligible for probation,
3.15 parole, discharge, or work release until that person has served the entire announced sentence
3.16 imposed by the court.

3.17 **EFFECTIVE DATE.** This section is effective August 1, 2023, and applies to crimes
3.18 committed on or after that date.