

CONFERENCE COMMITTEE REPORT ON H. F. No. 1851

A bill for an act
relating to public safety; enhancing penalties for certain repeat criminal sexual
conduct offenders; amending Minnesota Statutes 2012, sections 243.167,
subdivision 1; 609.135, subdivision 2; 609.3451, subdivision 3.

May 8, 2014

The Honorable Paul Thissen
Speaker of the House of Representatives

The Honorable Sandra L. Pappas
President of the Senate

We, the undersigned conferees for H. F. No. 1851 report that we have agreed upon
the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H. F. No. 1851 be further
amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2012, section 609.135, subdivision 2, is amended to read:

Subd. 2. **Stay of sentence maximum periods.** (a) If the conviction is for a felony
other than section 609.21, subdivision 1a, paragraph (b) or (c), the stay shall be for not
more than four years or the maximum period for which the sentence of imprisonment
might have been imposed, whichever is longer.

(b) If the conviction is for a gross misdemeanor violation of section 169A.20 or
609.21, subdivision 1a, paragraph (d), or 609.3451, or for a felony described in section
609.21, subdivision 1a, paragraph (b) or (c), the stay shall be for not more than six years.
The court shall provide for unsupervised probation for the last year of the stay unless the
court finds that the defendant needs supervised probation for all or part of the last year.

(c) If the conviction is for a gross misdemeanor not specified in paragraph (b), the
stay shall be for not more than two years.

(d) If the conviction is for any misdemeanor under section 169A.20; 609.746,
subdivision 1; 609.79; or 617.23; or for a misdemeanor under section 609.2242 or

609.224, subdivision 1, in which the victim of the crime was a family or household member as defined in section 518B.01, the stay shall be for not more than two years. The court shall provide for unsupervised probation for the second year of the stay unless the court finds that the defendant needs supervised probation for all or part of the second year.

(e) If the conviction is for a misdemeanor not specified in paragraph (d), the stay shall be for not more than one year.

(f) The defendant shall be discharged six months after the term of the stay expires, unless the stay has been revoked or extended under paragraph (g), or the defendant has already been discharged.

(g) Notwithstanding the maximum periods specified for stays of sentences under paragraphs (a) to (f), a court may extend a defendant's term of probation for up to one year if it finds, at a hearing conducted under subdivision 1a, that:

(1) the defendant has not paid court-ordered restitution in accordance with the payment schedule or structure; and

(2) the defendant is likely to not pay the restitution the defendant owes before the term of probation expires.

This one-year extension of probation for failure to pay restitution may be extended by the court for up to one additional year if the court finds, at another hearing conducted under subdivision 1a, that the defendant still has not paid the court-ordered restitution that the defendant owes.

Nothing in this subdivision limits the court's ability to refer the case to collections under section 609.104.

(h) Notwithstanding the maximum periods specified for stays of sentences under paragraphs (a) to (f), a court may extend a defendant's term of probation for up to three years if it finds, at a hearing conducted under subdivision 1c, that:

(1) the defendant has failed to complete court-ordered treatment successfully; and

(2) the defendant is likely not to complete court-ordered treatment before the term of probation expires.

EFFECTIVE DATE. This section is effective August 1, 2014, and applies to crimes committed on or after that date.

Sec. 2. Minnesota Statutes 2012, section 609.3451, is amended to read:

609.3451 CRIMINAL SEXUAL CONDUCT IN THE FIFTH DEGREE.

Subdivision 1. **Crime defined.** A person is guilty of criminal sexual conduct in the fifth degree:

(1) if the person engages in nonconsensual sexual contact; or
(2) the person engages in masturbation or lewd exhibition of the genitals in the presence of a minor under the age of 16, knowing or having reason to know the minor is present.

For purposes of this section, "sexual contact" has the meaning given in section 609.341, subdivision 11, paragraph (a), clauses (i) and (iv), but does not include the intentional touching of the clothing covering the immediate area of the buttocks. Sexual contact also includes the intentional removal or attempted removal of clothing covering the complainant's intimate parts or undergarments, and the nonconsensual touching by the complainant of the actor's intimate parts, effected by the actor, if the action is performed with sexual or aggressive intent.

Subd. 2. **Penalty Gross misdemeanor.** A person convicted under subdivision 1 may be sentenced to imprisonment for not more than one year or to a payment of a fine of not more than \$3,000, or both.

Subd. 3. **Felony.** (a) A person is guilty of a felony and may be sentenced to imprisonment for not more than ~~five~~ seven years or to payment of a fine of not more than ~~\$10,000~~ \$14,000, or both, if the person violates ~~subdivision 1, clause (2), after having been previously convicted of or adjudicated delinquent for this section within seven years of:~~

(1) a previous conviction for violating subdivision 1, clause (2); a crime described in paragraph (b), or a statute from another state in conformity with any of these offenses; or

(2) the first of two or more previous convictions for violating subdivision 1, clause (1), or a statute from another state in conformity with this offense.

(b) A previous conviction for violating section 609.342, 609.343, 609.344, 609.345, 609.3453, 617.23, subdivision 2, clause (1); or a statute from another state in conformity with subdivision 1, clause (2), or section 617.23, subdivision 2, clause (1) (2), or subdivision 3, or 617.247 may be used to enhance a criminal penalty as provided in paragraph (a).

EFFECTIVE DATE. This section is effective August 1, 2014, and applies to crimes committed on or after that date.

Delete the title and insert:

"A bill for an act
relating to public safety; enhancing penalties for certain repeat criminal sexual
conduct offenders; amending Minnesota Statutes 2012, sections 609.135,
subdivision 2; 609.3451."

4.1 We request the adoption of this report and repassage of the bill.

4.2 House Conferees:

4.3
4.4	Andrea Kieffer	Michael Paymar

4.5
4.6	Paul Rosenthal

4.7 Senate Conferees:

4.8
4.9	Matt Schmit	Susan Kent

4.10
4.11	Karin Housley