

OVERVIEW OF RECENT SEX OFFENDER INDETERMINATE SENTENCING BILLS

Bill No., Status	Scope/Applicability	Nature/Duration of Sentence	Release Authority and Process	Miscellaneous
<p>H.F. No. 6, 2nd Engrossment (Cornish) (2011)</p> <p>Passed out of two committees, currently in Ways and Means. The bill's language also passed the House in the omnibus funding bill.</p>	<p>Applies to first through fourth degree criminal sexual conduct cases where the prosecutor determines that the offender committed the underlying sex offense <u>and</u> there is probable cause that the offender is a predatory sex offender (i.e., offender is unable to control sexual impulses, is dangerous to other persons, and has a pattern of harmful sexual conduct). The offender is entitled to a bifurcated trial, the first phase of which determines guilt on the underlying sex offense, while the second phase determines whether the offender is a predatory sex offender. The state has the burden of proof in both phases and the standard is beyond a reasonable doubt.</p>	<p>Provides for mandatory commitment to the Commissioner of Corrections. The minimum sentence is twice the presumptive sentence under the sentencing guidelines. If the presumptive sentence is a stayed one, the court must specify a minimum sentence. The maximum sentence is 60 years.</p> <p>If the offender is released from prison, the offender shall be placed on conditional release for a term of 60 years less the amount of time actually served in prison, but in no event less than ten years. Makes the court (not the commissioner) responsible for deciding sanctions for conditional release violations.</p>	<p>The Commissioner of Corrections makes the release decision. Allows an offender to petition for release once the offender has served the minimum period of incarceration. A hearing shall be held upon notice to interested parties. Prohibits release unless the commissioner finds that the person no longer poses a threat to the public, is no longer in need of programming in a secure facility, and is capable of reintegration with the general public. Requires the offender seeking release to show this by clear and convincing evidence.</p>	<p>Delayed effective date of two years.</p>
<p>H.F. No. 1731 (Cornish) (MN County Attorney's Assoc. Proposal) (2011)</p> <p>Introduced but not heard.</p>	<p>Applies to first through fifth degree criminal sexual conduct cases. Increases (ranging from doubling to quadrupling) statutory maximum sentences for those offenses and expands the scope of the fifth degree felony crime. Provides for mandatory indeterminate sentences for first through fourth degree offenses involving force or violence and all first through fourth degree offenses committed by offenders with prior or previous sex offense or predatory crime convictions. Provides for a mandatory indeterminate sentence for felony fifth degree offenses if the offender has two or more prior or previous sex offense or predatory crime convictions.</p> <p>Of note, the bill includes a new concept for determining whether an offender is a repeat sex offender (thus triggering a mandatory indeterminate sentence) of a previous conviction for a predatory crime. This term is a broad one and includes a number of sex related crimes.</p>	<p>Provides for mandatory commitment to the Commissioner of Corrections. The sentences are as follows:</p> <p>for first degree offenders, a mandatory minimum term of incarceration of 288 months with a 60 year maximum;</p> <p>for second degree offenders, a mandatory minimum term of incarceration of 180 months with a 50 year maximum;</p> <p>for third degree offenders, a mandatory minimum term of incarceration of 96 months with a 40 year maximum;</p> <p>for fourth degree offenders, a mandatory minimum term of incarceration of 48 months with a 30 year maximum; and</p> <p>for fifth degree offenders, a mandatory minimum term of incarceration of 30 months with a 20 year maximum.</p> <p>If an offender is released from prison, the offender must be placed on conditional release for a term of the statutory maximum for the offense, less the amount of time actually served in prison. (Note, current law will impact some of the conditional release terms for some of these offenders. For example, requiring a ten-year minimum term for first through fourth degree offenders and a lifetime term for repeat first through fourth degree offenders.) Makes the Sex Offender Indeterminate Sentence Review Board (not the commissioner) responsible for deciding sanctions for violations of conditional release.</p>	<p>Creates a five-member Sex Offender Indeterminate Sentence Review Board to make release decisions. Three members are to be appointed by the Governor and two members are to be appointed by the Chief Justice of the Supreme Court. Provides detailed information on staffing and administrative services related to the board. Authorizes an offender serving an indeterminate sentence to petition the board for release just prior to completing the minimum period of incarceration. Requires the offender to demonstrate to the board by clear and convincing evidence that the offender no longer poses a threat to the public, has successfully completed sex offender programming in a secure facility, is no longer in need of treatment in a secure facility, and is capable of reintegration with the general public. Provides detailed information on the nature and scope of the offender's hearing before the board.</p>	

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<p>S.F. 2736, 2nd Engrossment (Scheid) (2010)</p> <p>Passed out of two policy committees.</p> <p>Died in Finance Committee.</p>	<p>Applies to first through fourth degree criminal sexual conduct offenses if the act is committed with force or violence and to first and second degree offenses if the victim is under the age of 13 (even without force or violence).</p>	<p>Provides for mandatory commitment to the Commissioner of Corrections. Provides for both indeterminate life and indeterminate statutory maximum sentences.</p> <p>Requires a mandatory indeterminate life sentence for first and second degree offenders with victims under the age of 13 if the act is committed with force or violence. Requires a mandatory indeterminate statutory maximum sentence for first and second degree offenders with victims under the age of 13 (without force or violence) and for those who use force or violence where the victims are 13 or older, and for third and fourth degree offenders who use force or violence.</p> <p>Requires a mandatory indeterminate life sentence for offenders who would otherwise receive an indeterminate statutory maximum sentence if the offender was a repeat offender.</p> <p>The minimum sentence for these offenders would be set by the sentencing court based on the sentencing guidelines presumptive duration. If the presumptive sentence is a stayed one, the court must specify a minimum sentence.</p> <p>If an offender is released from prison, the offender must be placed on conditional release for the remainder of the offender's life. The Commissioner of Corrections is responsible for deciding sanctions for violations of conditional release.</p>	<p>Creates a three-member (appointed by the Governor with the advice and consent of the Senate) special review panel to make release decisions. Authorizes an offender upon reaching the minimum term of imprisonment to petition the panel for supervised release. Requires the panel to hold a hearing upon notice to interested parties. Lists factors for the panel to consider regarding release decision but does not address burden or standard of proof.</p>	<p>Precludes civil commitment for those offenders sentenced under the bill.</p>
<p>S.F. No. 734 (Neuville) (2003)</p> <p>Introduced but not heard.</p>	<p>Applies to first through fourth degree criminal sexual conduct cases where the prosecutor determines that the offender committed the underlying sex offense <u>and</u> there is probable cause to believe that the offender has a sexual psychopathic personality or is a sexually dangerous person. (These terms are defined via a cross-reference to the civil commitment law.) The offender is entitled to a bifurcated trial, the first phase of which determines the offender's guilt on the underlying sex offense, while the second phase determines whether the offender has a sexual psychopathic personality or is a sexually dangerous person. The state has the burden of proof in both phases and the standard is beyond a reasonable doubt.</p>	<p>Provides for mandatory commitment to the Commissioner of Corrections. An offender would receive a minimum sentence of the presumptive sentence under the sentencing guidelines and a maximum sentence of 60 years. If the presumptive sentence is a stayed one, the court must specify a minimum sentence.</p> <p>Provides that if an offender is released from prison, the offender must serve a conditional release term of 60 years less the amount of time actually served, but in no event may the conditional release term be less than ten years. Makes the court (not the commissioner) responsible for deciding sanctions for violations of conditional release.</p>	<p>Creates a special review board, consisting of the Commissioners of Corrections, Public Safety and Human Services or their designees, and two members of the public appointed by the Governor, to make release decisions. Authorizes an offender who has reached the minimum period of incarceration to petition the board for release. Requires the board to hold a hearing upon notice to interested parties. Requires that an offender seeking release prove to the board by clear and convincing evidence that the offender is no longer dangerous to the public, is no longer in need of programming or supervision, no longer has a sexual psychopathic personality or is a sexually dangerous person, and is capable of making an acceptable adjustment to open society.</p>	<p>Precludes civil commitment for first through fourth degree criminal sexual conduct offenders. (The intent was to force the use of the bill's sentencing provisions for offenders who have sexual psychopathic personalities or who are sexually dangerous persons.)</p>