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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. **951**

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The bill was read for the first time and referred to the Committee on Public Safety and Civil Justice

A bill for an act

relating to criminal justice; establishing policies relating to geographic restrictions for offenders who commit controlled substance sales crimes; providing for increased sentences for offenders who commit further drug sale crimes in a restricted area; providing criminal penalties; amending Minnesota Statutes 2006, sections 244.05, by adding a subdivision; 609.1095, by adding a subdivision; 609.135, subdivision 1, by adding a subdivision.

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

Section 1. **FINDINGS; PURPOSE.**

In order to protect public safety, aid in rehabilitating offenders, aid in deterrence, and reduce the risk of recidivism, it is the public policy of this state to impose intermediate sanctions that include certain geographic restrictions on offenders convicted of controlled substance sales crimes while on probation or supervised release. There is an overriding government interest in protecting the public from the criminal and antisocial nature of drug trafficking, limiting an offender's opportunities to return to criminal behavior, isolating offenders from bad influences, and protecting and furthering normal, noncriminal family and neighborhood life. Certain geographic restrictions on controlled substance sales crime offenders are necessary to further these interests. The prevalence of controlled substance sales, especially as conducted by repeat offenders, is substantially reduced by placing geographic restrictions on offenders. Geographic restrictions are less restrictive and burdensome than the authorized alternative of extended incarceration.

Sec. 2. Minnesota Statutes 2006, section 244.05, is amended by adding a subdivision to read:

2.1 Subd. 9. **Geographic restrictions.** If the sentencing court orders that a
2.2 geographic restriction be placed on an offender under section 609.135, subdivision 9, the
2.3 commissioner must order the restriction as a condition of supervised release.

2.4 Sec. 3. Minnesota Statutes 2006, section 609.1095, is amended by adding a subdivision
2.5 to read:

2.6 Subd. 5. **Increased sentence for offender who commits a drug sale crime in a**
2.7 **restricted area.** If an offender commits a controlled substance sales crime in an area from
2.8 which the offender is banned or in an area in which the offender is restricted under section
2.9 609.135, subdivision 9, the court must at least double the presumptive sentence under the
2.10 sentencing guidelines, up to the statutory maximum.

2.11 Sec. 4. Minnesota Statutes 2006, section 609.135, subdivision 1, is amended to read:

2.12 Subdivision 1. **Terms and conditions.** (a) Except when a sentence of life
2.13 imprisonment is required by law, or when a mandatory minimum sentence is required by
2.14 section 609.11, any court may stay imposition or execution of sentence and:

2.15 (1) may order intermediate sanctions without placing the defendant on probation; or

2.16 (2) may place the defendant on probation with or without supervision and on the
2.17 terms the court prescribes, including intermediate sanctions when practicable. The court
2.18 may order the supervision to be under the probation officer of the court, or, if there is
2.19 none and the conviction is for a felony or gross misdemeanor, by the commissioner of
2.20 corrections, or in any case by some other suitable and consenting person. Unless the court
2.21 directs otherwise, state parole and probation agents and probation officers may impose
2.22 community work service or probation violation sanctions, consistent with section 243.05,
2.23 subdivision 1; sections 244.196 to 244.199; or 401.02, subdivision 5.

2.24 No intermediate sanction may be ordered performed at a location that fails to
2.25 observe applicable requirements or standards of chapter 181A or 182, or any rule
2.26 promulgated under them.

2.27 (b) For purposes of this subdivision, subdivision 6, and section 609.14, the term
2.28 "intermediate sanctions" includes but is not limited to incarceration in a local jail or
2.29 workhouse, home detention, electronic monitoring, geographic restrictions, intensive
2.30 probation, sentencing to service, reporting to a day reporting center, chemical dependency
2.31 or mental health treatment or counseling, restitution, fines, day-fines, community work
2.32 service, work service in a restorative justice program, work in lieu of or to work off fines
2.33 and, with the victim's consent, work in lieu of or to work off restitution.

3.1 (c) A court may not stay the revocation of the driver's license of a person convicted
3.2 of violating the provisions of section 169A.20.

3.3 Sec. 5. Minnesota Statutes 2006, section 609.135, is amended by adding a subdivision
3.4 to read:

3.5 Subd. 9. **Geographic limitations; drug sale crimes.** (a) This subdivision applies
3.6 to offenders convicted of controlled substance sales crimes under chapter 152. If the
3.7 prosecutor sets forth any basis indicating it may protect the public or help rehabilitation, as
3.8 a condition of probation or supervised release, the court must order an offender to remain
3.9 outside a four-mile radius from any location where the offender illegally sold a controlled
3.10 substance. The court must make a finding as to the specific location or locations where a
3.11 controlled substance was sold. The court may increase the geographic limitation area up
3.12 to a 50-mile radius. Additionally, the court may restrict the offender from any other area
3.13 in the interest of public safety. A geographic restriction imposed by the court is presumed
3.14 valid and the court does not need to state specific reasons for a restriction. If the offender
3.15 objects to any restrictions in an area greater than a four-mile radius, the offender must
3.16 clearly and convincingly establish that the restriction is without any possible rational basis.

3.17 (b) A court order imposing restrictions under this subdivision may provide that an
3.18 offender's probation officer may grant exceptions to the geographic restrictions.

3.19 (c) The restrictions in paragraph (a) apply whether or not a sentence is imposed and
3.20 whether or not the offender is originally required to serve a term of incarceration.

3.21 (d) Notwithstanding the mandatory and permissive restrictions in paragraph (a),
3.22 the court may, in the case of a first-time controlled substance sales offender, permit the
3.23 offender to retain access to property the offender owns in a restricted area. If an offender
3.24 owns property in a restricted area, the court may permit an offender to travel through the
3.25 restricted area to go to and from work, court-related appointments, treatment or other
3.26 medical appointments, or other necessary destinations specifically designated by the court.
3.27 Travel through a restricted area must always be in the most direct route possible and must
3.28 be accomplished without delay or loitering. The offender has the burden of proving, by
3.29 clear and convincing evidence, that the offender was traveling in a place and manner
3.30 consistent with the court order and this subdivision.

3.31 (e) Failure to abide by any restriction is a violation of probation or supervised
3.32 release. If the court finds that an offender violated the terms of a geographic restriction
3.33 imposed under this subdivision, the court or commissioner must revoke probation and
3.34 impose and execute the offender's sentence. If the commissioner of corrections finds that
3.35 an offender violated the terms of a geographic restriction imposed under this subdivision,

4.1 the commissioner must revoke supervised release and reimprison the offender for at least
4.2 half the period remaining in the offender's sentence.

4.3 (f) This subdivision does not limit or restrict geographic restrictions that may be
4.4 imposed for other crimes or under other authority.

4.5 **Sec. 6. EFFECTIVE DATE.**

4.6 Sections 1 to 5 are effective August 1, 2007, and apply to crimes committed on or
4.7 after that date.