
2023 Minnesota State Legislative Update

Judge Kerry Meyer, Fourth Judicial District

Guidelines for this presentation

- This session will provide a high-level overview of legislation that may impact treatment courts; it may not be exhaustive and is not an in-depth analysis
- Judicial branch employees may contact Karen Jaszewski in Legal Counsel Division with questions
- Other team members should contact their agency counsel with questions

Veterans Restorative Justice Act (2022)

Minn. Stat. § 609.1056

- Stay of Adjudication granted *IF* Defendant was or currently is a member of the United States Armed Forces and the Court determines by *clear & convincing* evidence that:
 1. Defendant suffers from an applicable condition,
 2. Such condition stems from his or her service in the military, and
 3. Offense was committed as a result of the military-related condition.
- Applicable condition = sexual trauma, traumatic brain injury, post-traumatic stress disorder, substance abuse, or mental health
- Eligible Offenses – ANY misdemeanor, gross misdemeanor, and any Felony that is ranked at a severity level 7/D7 or lower.
 - Excludes those charged with an offense that requires registration.
 - If DWI, Defense must waive administrative or judicial review of a license revocation or cancellation if it results from the same incident.

VRJA Updates (ch. 19, § § 1 and 2) & Reminders

- Eligibility may be determined at any time before a guilty plea/sentencing. No other substantive changes to the statute. (Effective 8/1/23)
- An end of probation hearing is still required.
- MNCIS disposition is Statutory Stay of Adjudication.
- Treatment courts have specific eligibility criteria and not all defendants eligible under VRJA will be a good fit for treatment court.
- Judges, prosecutors, and defense counsel should work with the veterans treatment court to ensure appropriate referrals.

Treatment Court Funding

- Funding provided in appropriations bill to fund 4 treatment courts cycling off federal funding:
 - Beltrami County Drug Court
 - Goodhue County Drug Court
 - St. Louis County Veterans Court
 - Third District Veterans Court
- Funds were provided in the Cannabis Bill. Allocation of those funds is under consideration by Judicial Council and will be discussed at the June meeting.

Fentanyl Changes (ch. 52, art. 15; ch. 61)

- New charges for fentanyl sales/possession amounts
- Paraphernalia (needles/syringes) possession and sharing decriminalized
 - Manufacturing of paraphernalia still illegal
 - Syringe services providers authorized to provide needle exchanges and safe injection sites

Adult-Use Cannabis

Chapter 63 – Minn. Stat. ch. 342

- Authorizes use for those 21 and over- August 1, 2023
 - There is still illegal cannabis
- Provides for licensing for manufacture and retail sales
 - Possession and use mirrors alcohol laws
- Establishes an Office of Cannabis Management ([Cannabis.mn.gov](https://cannabis.mn.gov)) and a Cannabis Expungement Board
- Provides for expungements and resentencing. The Minnesota Judicial Branch will work with the BCA on expungement processes.
- Roadside oral fluids pilot

Adult-Use Cannabis & Treatment Courts

- Legalization does not mean that treatment court participants are allowed to use cannabis. Courts should still test for cannabis/THC.
 - But medical registry still exists
- Minn. Stat. § 609.135 amended to state that a judge can still order no use if consistent with assessment recommendation, but a judge cannot impose an intermediate sanction that has the effect of prohibiting a person from participating in the medical cannabis program (ch. 63, art. 4, § 37)

Voting Rights (ch. 12; ch. 34, art. 1)

- Effective June 1, 2023 defendants convicted of a felony have their right to vote restored during any period the defendant is not incarcerated for the offense.
- MNCIS Sentencing Orders will no longer include a statement on voting rights in the standard conditions of probation.
- Soon the court record will no longer include information about the court sending felony conviction or discharge/voting rights restoration information to the Secretary of State's office.
- Judges are not required to address voting rights at sentencing.

Gross Misdemeanor Sentencing Changes (ch. 52, art. 6)

- Limit 364 days for gross misdemeanor sentence
- Effective May 20, 2023, 365 days/1 year is a felony sentence (also retroactive)
- Guilty plea petition and statement of rights forms have been updated on SCAO forms webpage
- MNCIS updates are in process to correct the level of sentence calculations. **Until MNCIS updates are made:**
 - Sentences of 365 days should not be imposed as under law they are felony sentences but in MNCIS will calculate as gross misdemeanor sentences.
 - Sentence to no more than 364 days for a gross misdemeanor.
 - Sentence to at least 1 year and 1 day for a felony.

Potential Resentencing Issues

- Voting rights changes
 - Older sentencing orders still say do not vote until discharged from probation
- Retroactive 5-year cap on length of probation for felonies; 4 years for GM DWIs (ch. 52, art. 6, §§ 13, 14)
 - Can still extend probation for fail to complete treatment
 - Exception if the conviction is for a felony described in section 609.19; 609.195; 609.20; 609.2112; 609.2113, subdivision 2; 609.2662; 609.2663; 609.2664; 609.268; 609.342; 609.343; 609.344; 609.345; 609.3451; 609.3458; or 609.749, then the stay shall be for not more than 4 years or the maximum period of imprisonment, whichever is longer
- Marijuana convictions
- Aid and abet felony murder convictions (ch. 52, art. 4, § 24)

Other Chapter 52 Provisions

- Article 1 sec. 14 Delays effective date of 2022 competency legislation to April 1, 2024
- Article 5
 - Sec. 3 Requires only certain DWI offenders (first degree, or if driver's license is cancelled IPS) to be detained until first appearance
 - Sec. 6 Amends section 169A.44 conditional release regarding ignition interlock acting as alcohol monitoring
- Article 6 sec. 10 Authorizes prosecutor-initiated sentence adjustments

Other Chapter 52 Provisions (Continued)

- Article 7 Clean Slate Act – more “automatic” expungements. The Judicial Branch will work with the BCA on implementation.
- Article 14 Extreme Risk Protection Orders to prevent gun sales to person
 - Suicidal/present danger to harm others
 - Family, police or prosecutor
- Article 17 Risk Assessments required for all people on probation (Minn. Stat. § 244.24)
- Article 20 Carjacking and Article 4 Organized Retail Theft

Wrap Up

- Any questions?
- **Thank you!**