

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-1742**

State of Minnesota,
Respondent,

vs.

Joshua David Tollefson,
Appellant.

**Filed June 15, 2026
Reversed and remanded
Cochran, Judge**

Clearwater County District Court
File No. 15-CR-17-397

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Karin Hughes, Clearwater County Attorney, Bagley, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Gina D. Schulz, Assistant Public
Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Larkin, Presiding Judge; Cochran, Judge; and
Rasmusson, Judge.

NONPRECEDENTIAL OPINION

COCHRAN, Judge

Appellant challenges the revocation of his probation and execution of his stayed
prison sentence, arguing that the district court lacked authority to revoke his probation in
2025 because his probation automatically expired on October 1, 2023. Appellant

alternatively argues that the district court deprived him of due process during the probation-revocation hearing and failed to make the required particularized findings in support of revocation. We conclude that the district court lacked authority to revoke appellant's probation because his probationary period expired on October 1, 2023, as a result of the enactment of a 2023 session law. We therefore reverse and remand.

FACTS

After a traffic accident in October 2017, respondent State of Minnesota charged appellant Joshua David Tollefson by amended complaint with, among other offenses, first-degree impaired driving. A month later, Tollefson pleaded guilty to first-degree impaired driving, a felony, and the state agreed to dismiss the remaining charges. Tollefson provided a factual basis for his plea and testified that he had been driving while intoxicated. The district court accepted Tollefson's plea and convicted him of first-degree driving while impaired. Consistent with the plea agreement, the district court dismissed the remaining charges, sentenced Tollefson to 42 months' imprisonment, stayed execution of the prison sentence for seven years, and imposed 120 days of jail time with credit for 24 days. The district court also imposed several probationary conditions and ordered Tollefson to pay restitution for damages caused as a result of the accident.

Between 2018 and 2020, the state filed four probation-violation reports alleging that Tollefson had violated the terms of his probation. Tollefson admitted to each of these violations. In each instance, the district court imposed a jail sanction and reinstated Tollefson on probation.

In May 2023, the legislature passed—and the governor signed—a law capping probationary terms for felony offenses at five years. 2023 Minn. Laws ch. 52, art. 6, § 13, subd. 2, at 110. The law became effective on August 1, 2023, and included language making the five-year cap retroactive subject to limited exceptions. 2023 Minn. Laws ch. 52, art. 6, § 14, at 111 .

On August 17, 2023, probation filed a progress report. The report stated:

Due to new legislation, the maximum probation terms set in Minnesota Statute 609.135 have been modified, and the law is retroactive. Exceptions remain where the defendant has not paid court-ordered restitution. The change is time sensitive and cases will have to be reviewed by the court by October 1, 2023. Due to the subject having outstanding restitution, it is respectfully recommended [Tollefson's] probation be extended for a period of 1 year with a new expiration date set for 8/17/2024. It should be noted a payment contract was signed by the subject on July 28, 2023, however, will need to be modified in order for the entirety of restitution to be paid within 1 year.

The report did not allege that Tollefson committed any new probation violations.

In response to this report, the district court ordered Tollefson to appear at a hearing on September 21, 2023. Tollefson failed to appear at the hearing and the district court issued a warrant for his arrest. The arrest warrant stated that Tollefson failed to appear for a court hearing but did not indicate that the district court was seeking to revoke his probation on the basis of his failure to appear.

Tollefson was taken into custody on October 1, 2023—the deadline established by the new legislation to extend Tollefson's probation. *See* 2023 Minn. Laws ch. 52, art. 6, § 14 (d), at 111. The district court held a hearing the following day, October 2, at which

the state recommended that the court extend Tollefson's probation for one year based on the outstanding requirement to pay restitution. The district court continued the hearing for two days to allow Tollefson to speak with probation. On October 4, Tollefson appeared without counsel and agreed with the state's recommendation to extend his probation for one year. Following the hearing, the district court amended the warrant of commitment to reflect that Tollefson's probation was extended one year to October 4, 2024.

In January 2024, probation filed its fifth probation-violation report alleging that Tollefson was in violation of his probation for failing to fully pay the court-ordered restitution and for failing to meet with his probation officer as scheduled. Probation later filed an addendum asserting two additional probation violations. The probation agent urged the district court to execute Tollefson's 42-month prison sentence. Tollefson appeared with counsel for a hearing in July 2025, at which he admitted to the probation violations set forth in the fifth probation-violation report and the addendum. The district court accepted his admissions and executed his 42-month prison sentence.

Tollefson appeals.¹

DECISION

Tollefson argues that the district court lacked statutory authority to revoke his probation and execute his sentence in July 2025 because his stay of execution expired by operation of law on October 1, 2023, as a result of the 2023 legislation. Tollefson also raises two alternative arguments, asserting that: (1) the district court violated his

¹ The state did not file a brief in this appeal and we ordered that the appeal proceed under Minn. R. Civ. App. P. 142.03.

due-process rights by not obtaining a valid waiver of counsel at the October 4, 2023 hearing, and (2) the district court failed to make the required particularized findings before revoking his probation in 2025. For the reasons discussed below, we conclude that Tollefson’s probation automatically expired by operation of law and therefore the district court erred by revoking his probation and executing his sentence in 2025. Because this issue is dispositive, we need not reach his alternative arguments.

A district court may revoke a stay of execution upon a determination that a defendant violated the conditions of probation. Minn. Stat. § 609.14, subd. 1(a) (2024). Additionally, probation-revocation proceedings may be initiated within six months after a stay expires, if the violation occurred during the stay. *Id.*, subd. 1(b) (2024). However, once a defendant’s sentence has expired, the court “has no authority to amend or modify the sentence to impose further sanctions.” *State v. Hannam*, 792 N.W.2d 862, 865 (Minn. App. 2011). Resolving whether the district court’s extension of Tollefson’s probation was authorized by law requires us to engage in statutory interpretation, which presents a question of law that we review de novo. *State v. Colvin*, 645 N.W.2d 449, 452 (Minn. 2002).

The goal of statutory interpretation is to ascertain and effectuate the intent of the legislature. Minn. Stat. § 645.16 (2024). In doing so, appellate courts “must first determine whether the statute is ambiguous on its face.” *Fordyce v. State*, 994 N.W.2d 893, 897 (Minn. 2023) (quotation omitted). “If the language of a statute is clear on its face, then the statute is unambiguous, and we apply its plain meaning.” *State v. Plancarte*, 20 N.W.3d 30, 37 (Minn. 2025). “The language of a statute is unambiguous when there is

only one reasonable way to read the text.” *Nash v. Comm’r of Pub. Safety*, 4 N.W.3d 812, 816 (Minn. 2024) (quotation omitted). We also “read and construe the statute as a whole, and we must interpret each section in light of the surrounding sections, so as to give effect to all of the provisions.” *State v. Barrientos*, 837 N.W.2d 294, 300 (Minn. 2013).

Here, we are tasked with interpreting Minnesota Statutes section 609.135 (2022), which governs extensions of probation, and the 2023 session law amending that section. Prior to August 1, 2023, if an individual was convicted of a felony and placed on probation, the length of a stay of execution was authorized to “be for not more than four years or the maximum period for which the sentence of imprisonment might have been imposed, *whichever is longer*.” See Minn. Stat. § 609.135, subd. 2(a) (emphasis added). The legislature amended the statute in 2023 to provide that, except in certain situations not present here, “if the conviction is for a felony, the stay shall be for not more than five years or the maximum period for which the sentence of imprisonment might have been imposed, *whichever is less*.” Minn. Stat. § 609.135, subd. 2(a) (Supp. 2023) (emphasis added); see also 2023 Minn. Laws ch. 52, art. 6, § 13, at 110. In other words, the 2023 law imposes a five-year cap on probationary terms for felony sentences.

The legislature also made the five-year cap on probationary terms retroactive. 2023 Minn. Laws ch. 52, art. 6, § 14, at 111. The 2023 law specifies that individuals placed on probation prior to August 1, 2023, are eligible for resentencing and that resentencing may occur without a hearing. *Id.*, § 14(a)-(c), at 111. The amended legislation further provides that, “The term of the stay of probation for any person who is eligible for resentencing . . . and who has served five or more years of probation for a felony

violation . . . as of August 1, 2023, *shall be considered to have expired on October 1, 2023.*” *Id.*, § 14(d), at 111 (emphasis added). The law includes two exceptions that allow for a limited extension of probation beyond the October 1, 2023, expiration date. *Id.* Relevant to this appeal, one exception applies when a defendant has not paid court-ordered restitution. *Id.*, § 14(d)(2), at 111. But that exception requires the district court to extend probation in accordance with section 609.135, subdivision 2(h), prior to October 1, 2023.² *Id.*, § 14(d), at 111; Minn. Stat. § 609.135, subds. 1a, 2(h).

Under subdivision 2(h) of section 609.135, a court may extend probation for up to one year if the court finds 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.” Minn. Stat. § 609.135, subd. 2(h). But to extend probation under subdivision 2(h), the district court must hold a hearing in accordance with subdivision 1a of section 609.135. *Id.* Under subdivision 1a, the district court “shall . . . hold this hearing and take appropriate action . . . *before the defendant’s term of probation expires.*” Minn. Stat. § 609.135, subd. 1(a) (emphasis added); *see also* Minn. Stat. § 645.44, subd. 16 (2024) (“‘Shall’ is mandatory.”). Consequently, under the plain language of section 609.135, subdivision 2(h), if a district court seeks to extend a defendant’s term of probation for

² The other exception provides for a limited extension if the defendant had not completed court-ordered treatment. Minn. Laws ch. 52, art. 6, § 14(d)(2), at 111. This exception was not at issue in 2023 when probation alerted the court to the law change.

failing to pay court-ordered restitution, it must do so before the probationary term expires. Minn. Stat. § 609.135, subds. 1a, 2(h).

Tollefson argues that the district court did not comply with the procedures set forth in section 609.135, subdivisions 1a and 2(h), because it did not hold a hearing on extension of his probation for failure to pay restitution before his stay expired and therefore lacked authority to extend his probation on October 4, 2023. *See* Minn. Laws ch. 52, art. 6, § 14(d), at 111. We agree.

Here, the record shows that the district court did not extend Tollefson's probation in accordance with section 609.135, subdivisions 1a and 2(h), before his probation expired on October 1, 2023, under the 2023 session law. We reach this conclusion for the following reasons. First, the record shows that the five-year cap under the 2023 law applies to Tollefson because Tollefson was originally sentenced to a seven-year probationary term in 2017 for a felony offense. *Id.*, § 14(b), at 111. Second, when the 2023 law took effect, Tollefson had already served more than five years of probation. Consequently, under the 2023 law, Tollefson's stay "expired on October 1, 2023" unless the length of his probation was extended under subdivision 2(h) prior to that date. *Id.*, § 14(d)(2), at 111. Third, the record reflects that the district court did not hold a hearing on the state's request to extend Tollefson's probation for nonpayment of restitution until October 4, 2023. And, the district court did not extend Tollefson's probation until that same date, which was after the expiration of his stay on October 1, 2023.

We acknowledge that Tollefson failed to appear at the scheduled hearing on September 21 and was not taken into custody until October 1, 2023, and we are mindful

that a defendant should not be permitted to avoid the consequences of a plea “by simply staying away or hiding.” *State v. Redford*, 986 N.W.2d 257, 262 (Minn. App. 2023). Yet the plain language of section 609.135 does not contain any exceptions to the October 1, 2023 expiration date based on a defendant’s failure to appear. *See State v. Hoskins*, 943 N.W.2d 203, 212 (Minn. App. 2020) (“We cannot add words to a statute that the legislature omitted.”). We also note that the district court did not initiate probation-revocation proceedings based on Tollefson’s failure to appear at the September 21 hearing. And the existence of the arrest warrant issued after Tollefson’s failure to appear did not, on its own, prevent the expiration of his probationary term on October 1, 2023. Therefore, Tollefson’s stay expired on October 1, 2023, by operation of law, and the district court’s extension of the stay under section 609.135, subdivision 2(h), on October 4, 2023, was ineffective.

In addition, on October 4, 2023, the district court did not pursue another procedural avenue that was still available on October 4—initiation of probation-revocation proceedings for failing to appear at the September 21 court hearing and failing to pay court-ordered restitution, both of which occurred before the stay expired on October 1. Under Minnesota Statutes section 609.14 (2024), a district court can initiate a probation-revocation proceeding even after a stay expires based on alleged probation violations that occurred while the stay was still in effect so long as the proceeding is commenced *within 6 months* of expiration of the stay. *See* Minn. Stat. § 609.14, subd. 1(b) (noting that, “[w]hen it appears that the defendant violated any of the conditions of probation during the term of the stay, but the term of the stay has since expired,” the court may “initiate

probation revocation proceedings under the Rules of Criminal Procedure at any time within six months after the expiration of the stay”). To initiate such revocation proceedings, the district court must “issue an order revoking the stay of execution” of sentence and “direct that the defendant be taken into immediate custody.” *Redford*, 986 N.W.2d at 261-62 (“The district court’s authority to revoke a stayed sentence is governed by Minn. Stat. § 609.14, subd. 1.”). And a district court can initiate probation-revocation proceedings “outside the defendant’s presence.” *Id.* at 263. But where the district court does not comply with these requirements, it loses statutory authority to conduct a revocation hearing. *Id.* Here, the district court could have initiated revocation proceedings within six months after Tollefson’s stay expired on October 1, 2023, but the district court did not do so.

In sum, we conclude that the district court did not have authority to extend Tollefson’s probation after his stay expired on October 1, 2023, by operation of law. Because Tollefson’s probation was not extended before that date, the district court’s extension of his probation on October 4, 2023, was invalid and the district court erred by revoking his probation in 2025 after the stay expired. *See Hannam*, 792 N.W.2d at 865 (noting that if an alleged probation violation occurs after probation ends, the district court lacks the authority to revoke probation).

Reversed and remanded.