

State of Minnesota

H. F. No. **3435**

Sec. 2. Minnesota Statutes 2016, section 244.05, subdivision 5, is amended to read:

Subd. 5. **Supervised release, life sentence.** (a) The commissioner of corrections may, under rules promulgated by the commissioner, give supervised release to an inmate serving a mandatory life sentence under section 609.185, paragraph (a), clause (3), (5), or (6); 609.106, subdivision 3; 609.3455, subdivision 2, paragraph (c), 3, or 4; 609.385; or Minnesota Statutes 2004, section 609.109, subdivision 3, after the inmate has served the minimum term of imprisonment specified in subdivision 4.

(b) The commissioner shall require the preparation of a community investigation report and shall consider the findings of the report when making a supervised release decision under this subdivision. The report shall reflect the sentiment of the various elements of the community toward the inmate, both at the time of the offense and at the present time. The report shall include the views of the sentencing judge, the prosecutor, any law enforcement personnel who may have been involved in the case, and any successors to these individuals who may have information relevant to the supervised release decision. The report shall also include the views of the victim and the victim's family unless the victim or the victim's family chooses not to participate.

(c) The commissioner shall make reasonable efforts to notify the victim, in advance, of the time and place of the inmate's supervised release review hearing. The victim has a right to submit an oral or written statement at the review hearing. The statement may summarize the harm suffered by the victim as a result of the crime and give the victim's recommendation on whether the inmate should be given supervised release at this time. The commissioner must consider the victim's statement when making the supervised release decision.

(d) When considering whether to give supervised release to an inmate serving a life sentence under section 609.3455, subdivision 3 or 4, the commissioner shall consider, at a minimum, the following: the risk the inmate poses to the community if released, the inmate's progress in treatment, the inmate's behavior while incarcerated, psychological or other diagnostic evaluations of the inmate, the inmate's criminal history, and any other relevant conduct of the inmate while incarcerated or before incarceration. The commissioner may not give supervised release to the inmate unless:

(1) while in prison:

(i) the inmate has successfully completed appropriate sex offender treatment;

(ii) the inmate has been assessed for chemical dependency needs and, if appropriate, has successfully completed chemical dependency treatment; and

(iii) the inmate has been assessed for mental health needs and, if appropriate, has successfully completed mental health treatment; and

(2) a comprehensive individual release plan is in place for the inmate that ensures that, after release, the inmate will have suitable housing and receive appropriate aftercare and community-based treatment. The comprehensive plan also must include a postprison employment or education plan for the inmate.

(e) As used in this subdivision, "victim" means the individual who suffered harm as a result of the inmate's crime or, if the individual is deceased, the deceased's surviving spouse or next of kin.

Sec. 3. Minnesota Statutes 2016, section 609.106, subdivision 2, is amended to read:

Subd. 2. **Life without release.** Except as provided in subdivision 3, the court shall sentence a person to life imprisonment without possibility of release under the following circumstances:

(1) the person is convicted of first-degree murder under section 609.185, paragraph (a), clause (1), (2), (4), or (7);

(2) the person is convicted of committing first-degree murder in the course of a kidnapping under section 609.185, paragraph (a), clause (3); or

(3) the person is convicted of first-degree murder under section 609.185, paragraph (a), clause (3), (5), or (6), and the court determines on the record at the time of sentencing that the person has one or more previous convictions for a heinous crime.

Sec. 4. Minnesota Statutes 2016, section 609.106, is amended by adding a subdivision to read:

Subd. 3. **Offender under age 18; life imprisonment with possibility of release.** If the defendant was under 18 years of age at the time of the commission of an offense that would require a life without release sentence under subdivision 2, and the child has been certified under section 260B.125 or designated an extended jurisdiction juvenile under section 260B.130, the court shall sentence the defendant to imprisonment for life.

Sec. 5. Minnesota Statutes 2016, section 609.3455, subdivision 2, is amended to read:

Subd. 2. **Mandatory life sentence without release; egregious first-time and repeat offenders.** (a) Except as provided in paragraph (c), notwithstanding the statutory maximum penalty otherwise applicable to the offense, the court shall sentence a person convicted

4.1 under section 609.342, subdivision 1, paragraph (c), (d), (e), (f), or (h); or 609.343,
4.2 subdivision 1, paragraph (c), (d), (e), (f), or (h), to life without the possibility of release if:

4.3 (1) the fact finder determines that two or more heinous elements exist; or

4.4 (2) the person has a previous sex offense conviction for a violation of section 609.342,
4.5 609.343, or 609.344, and the fact finder determines that a heinous element exists for the
4.6 present offense.

4.7 (b) A fact finder may not consider a heinous element if it is an element of the underlying
4.8 specified violation of section 609.342 or 609.343. In addition, when determining whether
4.9 two or more heinous elements exist, the fact finder may not use the same underlying facts
4.10 to support a determination that more than one element exists.

4.11 (c) If the defendant was under 18 years of age at the time of the commission of an offense
4.12 that would require a life without release sentence under paragraph (a), and the child has
4.13 been certified under section 260B.125 or designated an extended jurisdiction juvenile under
4.14 section 260B.130, the court shall sentence the defendant to imprisonment for life.

4.15 Sec. 6. **EFFECTIVE DATE.**

4.16 Sections 1 to 5 are effective the day following final enactment and apply to offenders
4.17 sentenced on or after that date, and also retroactively to offenders sentenced to life without
4.18 release before that date.