

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 4093

(SENATE AUTHORS: OUMOU VERBETEN and Gustafson)		
DATE	D-PG	OFFICIAL STATUS
02/22/2024	11709	Introduction and first reading Referred to Judiciary and Public Safety
03/18/2024	12420a	Comm report: To pass as amended
	12421	Second reading
03/21/2024	12534	Author added Gustafson See HF5216

1.1

A bill for an act

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relating to corrections; providing victim notice and input in end-of-confinement

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review process; amending Minnesota Statutes 2022, sections 244.052, subdivision

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3; 611A.06, by adding a subdivision.

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

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Section 1. Minnesota Statutes 2022, section 244.052, subdivision 3, is amended to read:

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Subd. 3. **End-of-confinement review committee.** (a) The commissioner of corrections

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shall establish and administer end-of-confinement review committees at each state

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correctional facility and at each state treatment facility where predatory offenders are

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confined. The committees shall assess on a case-by-case basis the public risk posed by

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predatory offenders who are about to be released from confinement.

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(b) Each committee shall be a standing committee and shall consist of the following

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members appointed by the commissioner:

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(1) the chief executive officer or head of the correctional or treatment facility where the

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offender is currently confined, or that person's designee;

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(2) a law enforcement officer;

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(3) a treatment professional who is trained in the assessment of sex offenders;

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(4) a caseworker experienced in supervising sex offenders; and

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(5) a victim's services professional.

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Members of the committee, other than the facility's chief executive officer or head, shall

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be appointed by the commissioner to two-year terms. The chief executive officer or head

of the facility or designee shall act as chair of the committee and shall use the facility's staff, as needed, to administer the committee, obtain necessary information from outside sources, and prepare risk assessment reports on offenders.

(c) The committee shall have access to the following data on a predatory offender only for the purposes of its assessment and to defend the committee's risk assessment determination upon administrative review under this section:

(1) private medical data under section 13.384 or sections 144.291 to 144.298, or welfare data under section 13.46 that relate to medical treatment of the offender;

(2) private and confidential court services data under section 13.84;

(3) private and confidential corrections data under section 13.85; and

(4) private criminal history data under section 13.87.

Data collected and maintained by the committee under this paragraph may not be disclosed outside the committee, except as provided under section 13.05, subdivision 3 or 4. The predatory offender has access to data on the offender collected and maintained by the committee, unless the data are confidential data received under this paragraph.

(d)(i) Except as otherwise provided in items (ii), (iii), and (iv), at least 90 days before a predatory offender is to be released from confinement, the commissioner of corrections shall convene the appropriate end-of-confinement review committee for the purpose of assessing the risk presented by the offender and determining the risk level to which the offender shall be assigned under paragraph (e). The offender and the law enforcement agency that was responsible for the charge resulting in confinement shall be notified of the time and place of the committee's meeting. The offender has a right to be present and be heard at the meeting. The law enforcement agency, agent, and victim may provide material in writing that is relevant to the offender's risk level to the chair of the committee. The committee shall use the risk factors described in paragraph (g) and the risk assessment scale developed under subdivision 2 to determine the offender's risk assessment score and risk level. Offenders scheduled for release from confinement shall be assessed by the committee established at the facility from which the offender is to be released.

(ii) If an offender is received for confinement in a facility with less than 90 days remaining in the offender's term of confinement, the offender's risk shall be assessed at the first regularly scheduled end of confinement review committee that convenes after the appropriate documentation for the risk assessment is assembled by the committee. The commissioner

shall make reasonable efforts to ensure that offender's risk is assessed and a risk level is assigned or reassigned at least 30 days before the offender's release date.

(iii) If the offender is subject to a mandatory life sentence under section 609.3455, subdivision 3 or 4, the commissioner of corrections shall convene the appropriate end-of-confinement review committee at least nine months before the offender's minimum term of imprisonment has been served. If the offender is received for confinement in a facility with less than nine months remaining before the offender's minimum term of imprisonment has been served, the committee shall conform its procedures to those outlined in item (ii) to the extent practicable.

(iv) If the offender is granted supervised release, the commissioner of corrections shall notify the appropriate end-of-confinement review committee that it needs to review the offender's previously determined risk level at its next regularly scheduled meeting. The commissioner shall make reasonable efforts to ensure that the offender's earlier risk level determination is reviewed and the risk level is confirmed or reassigned at least 60 days before the offender's release date. The committee shall give the report to the offender and to the law enforcement agency, and the commissioner shall provide notice of the risk level assignment to the victim, if requested, at least 60 days before an offender is released from confinement.

(e) The committee shall assign to risk level I a predatory offender whose risk assessment score indicates a low risk of reoffense. The committee shall assign to risk level II an offender whose risk assessment score indicates a moderate risk of reoffense. The committee shall assign to risk level III an offender whose risk assessment score indicates a high risk of reoffense.

(f) Before the predatory offender is released from confinement, the committee shall prepare a risk assessment report which specifies the risk level to which the offender has been assigned and the reasons underlying the committee's risk assessment decision. Except for an offender subject to a mandatory life sentence under section 609.3455, subdivision 3 or 4, who has not been granted supervised release, the committee shall give the report to the offender and to the law enforcement agency, and the commissioner shall provide notice of the risk level assignment to the victim, if requested, at least 60 days before an offender is released from confinement. If the offender is subject to a mandatory life sentence and has not yet served the entire minimum term of imprisonment, the committee shall give the report to the offender and to the commissioner at least six months before the offender is first eligible for release. If the risk assessment is performed under the circumstances described in paragraph (d), item (ii), the report shall be given to the offender and the law enforcement

agency as soon as it is available. The committee also shall inform the offender of the availability of review under subdivision 6.

(g) As used in this subdivision, "risk factors" includes, but is not limited to, the following factors:

(1) the seriousness of the offense should the offender reoffend. This factor includes consideration of the following:

(i) the degree of likely force or harm;

(ii) the degree of likely physical contact; and

(iii) the age of the likely victim;

(2) the offender's prior offense history. This factor includes consideration of the following:

(i) the relationship of prior victims to the offender;

(ii) the number of prior offenses or victims;

(iii) the duration of the offender's prior offense history;

(iv) the length of time since the offender's last prior offense while the offender was at risk to commit offenses; and

(v) the offender's prior history of other antisocial acts;

(3) the offender's characteristics. This factor includes consideration of the following:

(i) the offender's response to prior treatment efforts; and

(ii) the offender's history of substance abuse;

(4) the availability of community supports to the offender. This factor includes consideration of the following:

(i) the availability and likelihood that the offender will be involved in therapeutic treatment;

(ii) the availability of residential supports to the offender, such as a stable and supervised living arrangement in an appropriate location;

(iii) the offender's familial and social relationships, including the nature and length of these relationships and the level of support that the offender may receive from these persons; and

(iv) the offender's lack of education or employment stability;

5.1 (5) whether the offender has indicated or credible evidence in the record indicates that
5.2 the offender will reoffend if released into the community; and

5.3 (6) whether the offender demonstrates a physical condition that minimizes the risk of
5.4 reoffense, including but not limited to, advanced age or a debilitating illness or physical
5.5 condition.

5.6 (h) Upon the request of the law enforcement agency or the offender's corrections agent,
5.7 the commissioner may reconvene the end-of-confinement review committee for the purpose
5.8 of reassessing the risk level to which an offender has been assigned under paragraph (e). In
5.9 a request for a reassessment, the law enforcement agency which was responsible for the
5.10 charge resulting in confinement or agent shall list the facts and circumstances arising after
5.11 the initial assignment or facts and circumstances known to law enforcement or the agent
5.12 but not considered by the committee under paragraph (e) which support the request for a
5.13 reassessment. The request for reassessment by the law enforcement agency must occur
5.14 within 30 days of receipt of the report indicating the offender's risk level assignment. The
5.15 offender's corrections agent, in consultation with the chief law enforcement officer in the
5.16 area where the offender resides or intends to reside, may request a review of a risk level at
5.17 any time if substantial evidence exists that the offender's risk level should be reviewed by
5.18 an end-of-confinement review committee. This evidence includes, but is not limited to,
5.19 evidence of treatment failures or completions, evidence of exceptional crime-free community
5.20 adjustment or lack of appropriate adjustment, evidence of substantial community need to
5.21 know more about the offender or mitigating circumstances that would narrow the proposed
5.22 scope of notification, or other practical situations articulated and based in evidence of the
5.23 offender's behavior while under supervision. Upon review of the request, the
5.24 end-of-confinement review committee may reassign an offender to a different risk level. If
5.25 the offender is reassigned to a higher risk level, the offender has the right to seek review of
5.26 the committee's determination under subdivision 6.

5.27 (i) An offender may request the end-of-confinement review committee to reassess the
5.28 offender's assigned risk level after three years have elapsed since the committee's initial
5.29 risk assessment and may renew the request once every two years following subsequent
5.30 denials. In a request for reassessment, the offender shall list the facts and circumstances
5.31 which demonstrate that the offender no longer poses the same degree of risk to the
5.32 community. In order for a request for a risk level reduction to be granted, the offender must
5.33 demonstrate full compliance with supervised release conditions, completion of required
5.34 post-release treatment programming, and full compliance with all registration requirements
5.35 as detailed in section 243.166. The offender must also not have been convicted of any felony,

gross misdemeanor, or misdemeanor offenses subsequent to the assignment of the original risk level. The committee shall follow the process outlined in paragraphs (a) to (c) in the reassessment. An offender who is incarcerated may not request a reassessment under this paragraph.

(j) Offenders returned to prison as release violators shall not have a right to a subsequent risk reassessment by the end-of-confinement review committee unless substantial evidence indicates that the offender's risk to the public has increased.

(k) If the committee assigns a predatory offender to risk level III, the committee shall determine whether residency restrictions shall be included in the conditions of the offender's release based on the offender's pattern of offending behavior.

Sec. 2. Minnesota Statutes 2022, section 611A.06, is amended by adding a subdivision to read:

Subd. 2a. **Notice of end-of-confinement review committee process and opportunity to provide input.** If an individual scheduled to be released from imprisonment is subject to an end-of-confinement review under section 244.052, the commissioner of corrections shall make a good faith effort to notify the victim of the end-of-confinement review process and that the victim has a right to submit written input for consideration at the end-of-confinement review hearing. The victim has a continuing right to submit input if the end-of-confinement review committee receives a request to reassess the individual's assigned risk level. These notices shall only be provided to victims who have submitted a written request for this notice to the commissioner of corrections or an electronic request through the Department of Corrections electronic victim notification system. The good faith effort to notify the victim must occur before the offender's end-of-confinement review hearing and provide sufficient time for the input to be considered in the end-of-confinement determination.