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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 1096

03/04/2013 Authored by Rosenthal; Ward, J.E., and Kelly

The bill was read for the first time and referred to the Committee on Public Safety Finance and Policy

1.1 A bill for an act
1.2 relating to public safety; reenacting an expired program authorizing the release
1.3 from prison of certain nonviolent controlled substance offenders; proposing
1.4 coding for new law in Minnesota Statutes, chapter 244.

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

1.6 Section 1. [244.0551] CONDITIONAL RELEASE OF NONVIOLENT
1.7 CONTROLLED SUBSTANCE OFFENDERS; TREATMENT.

1.8 Subdivision 1. Conditional release authority. The commissioner of corrections has
1.9 the authority to release offenders committed to the commissioner's custody who meet the
1.10 requirements of this section and of any rules adopted by the commissioner.

1.11 Subd. 2. Conditional release of certain nonviolent controlled substance
1.12 offenders. An offender who has been committed to the commissioner's custody may
1.13 petition the commissioner for conditional release from prison before the offender's
1.14 scheduled supervised release date or target release date if:

1.15 (1) the offender is serving a sentence for violating section 152.021, subdivision 2 or
1.16 2a; 152.022, subdivision 2; 152.023; 152.024; or 152.025;

1.17 (2) the offender committed the crime as a result of a controlled substance addiction,
1.18 and not primarily for profit;

1.19 (3) the offender has served at least 36 months or one-half of the offender's term of
1.20 imprisonment, whichever is less;

1.21 (4) the offender successfully completed a chemical dependency treatment program
1.22 of the type described in this section while in prison;

1.23 (5) the offender has not previously been conditionally released under this section; and

(6) the offender has not within the past ten years been convicted or adjudicated delinquent for a violent crime as defined in section 609.1095 other than the current conviction for the controlled substance offense.

Subd. 3. **Offer of chemical dependency treatment.** The commissioner shall offer all offenders meeting the criteria described in subdivision 2, clauses (1), (2), (5), and (6), the opportunity to begin a suitable chemical dependency treatment program of the type described in this section within 160 days after the offender's term of imprisonment begins or as soon after 160 days as possible.

Subd. 4. **Chemical dependency treatment program components.** (a) The chemical dependency treatment program described in subdivisions 2 and 3 must:

(1) contain a highly structured daily schedule for the offender;

(2) contain individualized educational programs designed to improve the basic educational skills of the offender and to provide vocational training, if appropriate;

(3) contain programs designed to promote the offender's self-worth and the offender's acceptance of responsibility for the consequences of the offender's own decisions;

(4) be licensed by the Department of Human Services and designed to serve the inmate population; and

(5) require that each offender submit to a chemical use assessment and that the offender receive the appropriate level of treatment as indicated by the assessment.

(b) The commissioner shall expel from the chemical dependency treatment program any offender who:

(1) commits a material violation of or repeatedly fails to follow the rules of the program;

(2) commits any criminal offense while in the program; or

(3) presents any risk to other inmates based on the offender's behavior or attitude.

Subd. 5. **Additional requirements.** To be eligible for release under this section, an offender shall sign a written contract with the commissioner agreeing to comply with the requirements of this section and the conditions imposed by the commissioner. In addition to other items, the contract must specifically refer to the term of imprisonment extension in subdivision 6. In addition, the offender shall agree to submit to random drug and alcohol tests and electronic or home monitoring as determined by the commissioner or the offender's supervising agent. The commissioner may impose additional requirements on the offender that are necessary to carry out the goals of this section.

Subd. 6. **Extension of term of imprisonment for offenders who fail in treatment.** When an offender fails to successfully complete the chemical dependency treatment program under this section, the commissioner shall add the time that the offender was

participating in the program to the offender's term of imprisonment. However, the offender's term of imprisonment may not be extended beyond the offender's executed sentence.

Subd. 7. Release procedures. The commissioner may deny conditional release to an offender under this section if the commissioner determines that the offender's release may reasonably pose a danger to the public or an individual. In making this determination, the commissioner shall follow the procedures contained in section 244.05, subdivision 5, and the rules adopted by the commissioner under that subdivision. The commissioner shall consider whether the offender was involved in criminal gang activity during the offender's prison term. The commissioner shall also consider the offender's custody classification and level of risk of violence and the availability of appropriate community supervision for the offender. Conditional release granted under this section continues until the offender's sentence expires, unless release is rescinded under subdivision 8. The commissioner may not grant conditional release unless a release plan is in place for the offender that addresses, at a minimum, plans for aftercare, community-based chemical dependency treatment, gaining employment, and securing housing.

Subd. 8. Conditional release. The conditions of release granted under this section are governed by the statutes and rules governing supervised release under this chapter, except that release may be rescinded without hearing by the commissioner if the commissioner determines that continuation of the conditional release poses a danger to the public or to an individual. If the commissioner rescinds an offender's conditional release, the offender shall be returned to prison and shall serve the remaining portion of the offender's sentence.

Subd. 9. Offenders serving other sentences. An offender who is serving both a sentence for an offense described in subdivision 2 and an offense not described in subdivision 2 is not eligible for release under this section unless the offender has completed the offender's full term of imprisonment for the other offense.

Subd. 10. Notice. Upon receiving an offender's petition for release under subdivision 2, the commissioner shall notify the prosecuting authority responsible for the offender's conviction and the sentencing court. The commissioner shall give the authority and court a reasonable opportunity to comment on the offender's potential release. If the authority or court elects to comment, the comments must specify the reasons for the authority or court's position.

EFFECTIVE DATE. This section is effective July 1, 2013, and applies to persons in prison on or after that date.