

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 3657

03/29/2016 Authored by Smith, Howe, Zerwas, Hertauss and Lohmer

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

1.1 A bill for an act
1.2 relating to corrections; establishing a program for the release of certain inmates;
1.3 requiring a report; appropriating money; amending Minnesota Statutes 2014,
1.4 sections 244.09, subdivision 7; 244.101, subdivision 2; proposing coding for new
1.5 law in Minnesota Statutes, chapter 244.

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

1.7 Section 1. **[244.0515] RELEASE OF INMATES.**

1.8 Subdivision 1. **Establishment.** A program for release of inmates under the custody
1.9 of the commissioner of corrections is established. The goal of the program is to release
1.10 inmates who no longer need to be incarcerated to protect the public.

1.11 Subd. 2. **Petitions.** (a) An inmate may petition for release by submitting to the
1.12 commissioner of corrections an application for release. The commissioner shall forward
1.13 to a release panel of three judges the petition of an inmate whose petition is not vetoed
1.14 by the commissioner. The commissioner may veto a petition for any reason and is not
1.15 required to state a reason for the veto.

1.16 (b) A forwarded petition shall be reviewed by a panel of three retired or sitting district
1.17 or appellate judges. The chief justice shall designate judges to serve on release panels, at
1.18 random and based on availability, taking advantage of the availability of retired judges.

1.19 (c) Before reviewing a petition, a panel shall give written notice of the petition to
1.20 all interested parties including law enforcement and correctional personnel involved
1.21 in the case, the sentencing court, the county attorney's office that prosecuted the
1.22 case, and any victims of the crime who have indicated a desire to be notified. When
1.23 making its determination, the panel must consider any written statement addressing the
1.24 appropriateness of the inmate's release from the county attorney who prosecuted the case,

the sentencing judge, law enforcement and correctional personnel involved in the case, the victim and the victim's family members, and any other interested party.

(d) A panel, by majority vote, may approve a petition and, if approved, the inmate shall be released from incarceration within six weeks of the date of approval of the petition. The commissioner shall impose appropriate conditions of release and provide appropriate supervision for the inmate in the same manner as inmates given supervised release.

(e) If an inmate's first petition is vetoed by the commissioner or rejected by a panel, the inmate may re-petition one time after 12 months have elapsed from the date of veto or rejection.

(f) An inmate is eligible for release under this section only after serving 60 percent of the inmate's term of imprisonment. An inmate serving a life sentence is eligible for release under this section after serving a minimum of 18 years.

(g) Notwithstanding paragraph (f), an inmate serving a life without the possibility of release sentence is not eligible for release under this section.

Subd. 3. **Standards.** (a) The commissioner and panel judges shall consider the following standards when reviewing a petition:

(1) the safety of the public;

(2) the readiness of the inmate to live lawfully if released;

(3) the quality of the inmate's participation in Department of Corrections programs while incarcerated and changes in self-control achieved during incarceration;

(4) the severity of the underlying crime for which release is being sought and the severity and duration of the crime's consequences on any victims; and

(5) other standards considered relevant for judging the likelihood of lawful behavior after release.

(b) An inmate is not disqualified for release under this section based on the inmate not having strong family ties in the community, an immediate job, or housing arrangements, if these issues can be adequately addressed in the inmate's discharge plan.

Subd. 4. **Records.** The commissioner shall provide to the release panel reviewing a petition the record of:

(1) the petitioner during incarceration;

(2) the petitioner's offense; and

(3) any psychological or other test of the petitioner designed to measure factors relevant to the readiness of the petitioner for release, including self-control.

The commissioner shall administer to a petitioner any tests requested by a release panel.

3.1 Subd. 5. **Compensation.** A panel judge shall be reimbursed for expenses and a
3.2 retired judge shall be compensated at the rate of compensation provided as if designated
3.3 to sit as a retired judge on a district court.

3.4 Subd. 6. **Conflicting provisions; other applicable law.** (a) This section supersedes
3.5 any conflicting section of law relating to the release of inmates from a correctional facility.

3.6 (b) Inmates not released under this section are subject to other applicable laws
3.7 relating to release from a correctional facility.

3.8 Subd. 7. **Administrative support.** The Department of Corrections shall provide
3.9 office space and administrative support to the release panels under this section.

3.10 Subd. 8. **Reports.** By February 1 of each year, the commissioner, in consultation
3.11 with the Sentencing Guidelines Commission, shall report to the chairs and ranking minority
3.12 members of the senate and house of representatives committees having jurisdiction over
3.13 criminal justice on the early release program. At a minimum, the report must specify for
3.14 the preceding calendar year the number of inmates who applied for release, the number
3.15 of inmates whose petition was initially vetoed by the commissioner, and the number of
3.16 inmates whose petition was approved by a panel. The report must include information
3.17 related to the race, ethnicity, gender, and crime for which the inmate was seeking release,
3.18 along with the reason for approval or rejection, if known. In addition, the report must
3.19 include data on recidivism for inmates previously released under this section.

3.20 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.21 Sec. 2. Minnesota Statutes 2014, section 244.09, subdivision 7, is amended to read:

3.22 Subd. 7. **Study.** ~~After the implementation of the Sentencing Guidelines promulgated~~
3.23 ~~by the commission~~ On an ongoing basis, the commission shall study ~~their~~ the impact of
3.24 the Sentencing Guidelines and review the powers and duties of the commissioner of
3.25 corrections and any release panels under section 244.0515.

3.26 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.27 Sec. 3. Minnesota Statutes 2014, section 244.101, subdivision 2, is amended to read:

3.28 Subd. 2. **Explanation of sentence.** When a court pronounces an executed sentence
3.29 under this section, it shall explain: (1) the total length of the executed sentence; (2) the
3.30 amount of time the defendant will serve in prison; and (3) the amount of time the defendant
3.31 will serve on supervised release, assuming the defendant commits no disciplinary offense
3.32 in prison that results in the imposition of a disciplinary confinement period; and (4) the
3.33 possibility of release under section 244.0515. The court shall also explain that the amount

4.1 of time the defendant actually serves in prison may be extended by the commissioner if the
4.2 defendant commits any disciplinary offenses in prison and that this extension could result
4.3 in the defendant's serving the entire executed sentence in prison. The court's explanation
4.4 shall be included in a written summary of the sentence.

4.5 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.6 Sec. 4. **APPROPRIATION.**

4.7 \$..... is appropriated in fiscal year 2017 from the general fund to the commissioner
4.8 of corrections for the program established under Minnesota Statutes, section 244.0515.
4.9 Of this amount, \$..... is to compensate retired judges and to pay expenses of the release
4.10 panels, and \$..... is for the increased costs for supervised release agents under the
4.11 Department of Corrections and for grants to counties to pay for county agents to supervise
4.12 inmates released under Minnesota Statutes, section 244.0515.