

corporation files a written election with the commissioner of labor and industry to have those persons excluded from this chapter. This chapter does not apply to a nonprofit association which does not pay more than \$500 in salary or wages in a year.

Sec. 3. Minnesota Statutes 1976, Section 268.04, Subdivision 31, is amended to read:

Subd. 31. "Family farm corporation" has the meaning given to it in section 500.24, subdivision + 2.

Sec. 4. Minnesota Statutes 1976, Section 308.11, is amended to read:

308.11 **DIRECTORS; OFFICERS.** Every cooperative association organized under sections 308.05 to 308.18 shall be governed by a board of not less than five directors, who shall be members of the association. If any member of an association is a family farm corporation within the meaning of section 500.24, subdivision + 2, clause (c), or an authorized farm corporation within the meaning of section 500.24, subdivision + 2, clause (d), the member may elect or appoint any one stockholder of such corporation residing on or actively operating the farm who shall be eligible for election to the board of directors. If any member of an association be other than a natural person, family farm corporation, or an authorized farm corporation, and if the bylaws of the association do not provide otherwise, the member may appoint or elect one or, in the case of associations wholly constituted of other cooperative associations, one or more natural persons who shall be eligible for election to the board of directors. Directors shall be elected for the term, at the time, and in the manner provided in sections 308.05 to 308.18 and the bylaws of the association. The directors shall elect from their number a president and one or more vice-presidents. They shall also elect a secretary and a treasurer, who need not be directors or stockholders. The offices of secretary and treasurer may be combined and when so combined the person filling the office shall be termed secretary-treasurer. If the bylaws so provide, the board of directors may also elect from their number a chairman and one or more vice-chairmen, and in such case the president and vice-presidents need not be directors or stockholders. The board of directors may also elect such additional officers as the articles or bylaws may authorize or require, and unless otherwise required by the articles or bylaws, said additional officers need not be directors or stockholders. The stockholders shall have the power, at any regular or special stockholders' meeting regularly called in the manner above provided, to remove any director or officer for cause and to fill the vacancy caused by such removal.

Approved April 4, 1978.

CHAPTER 723-S.F.No.65

[Coded in Part]

An act relating to crimes; establishing a commission on sentencing guidelines; prescribing its membership, duties and powers; requiring the promulgation of sentencing guidelines; prescribing the use of the guidelines; establishing procedures for the management

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and supervision of inmates of state correctional institutions; prescribing the duties of the commissioner of corrections and the board of corrections; appropriating money; amending Minnesota Statutes 1976, Sections 241.26, Subdivision 1; 609.10; 609.11, by adding a subdivision; 609.115, Subdivision 1; 609.135, by adding a subdivision; 609.145, Subdivision 1; 609.165, Subdivision 2; and 609.346, Subdivision 1; and Minnesota Statutes, 1977 Supplement, Section 241.045, Subdivision 4; repealing Minnesota Statutes 1976, Sections 243.14; 243.18; 246.43, as amended; 609.11, Subdivision 2; 609.155 and 609.16.

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

ARTICLE I

Section 1. **[244.01] DEFINITIONS.** Subdivision 1. For purposes of sections 1 to 11, the following terms shall have the meanings given them.

Subd. 2. "Inmate" means any person who is convicted of a felony, is committed to the custody of the commissioner of corrections and is confined in a state correctional institution or released from a state correctional institution pursuant to sections 5, 7 or 12.

Subd. 3. "Commissioner" means the commissioner of corrections or his designee.

Subd. 4. "Correctional institution" means any state institution under the operational authority of the commissioner of corrections.

Subd. 5. "Good time" means the period of time by which an inmate's term of imprisonment is reduced pursuant to section 4.

Subd. 6. "Commission" means the Minnesota sentencing guidelines commission established pursuant to section 9.

Subd. 7. "Supervised release" means the release of an inmate pursuant to section 5.

Subd. 8. "Term of imprisonment" is a period of time equal to the period of time to which the inmate is committed to the custody of the commissioner of corrections following a conviction for a felony.

Sec. 2. **[244.02] MUTUAL AGREEMENT PROGRAMS.** Subdivision 1. Within seven days after the commissioner assumes custody of an inmate, he shall inform the inmate of the availability and scope of mutual agreement programs and of the fact that participation by the inmate is optional and has no effect on the length of his sentence. If the inmate decides to enter into a mutual agreement program, the commissioner shall draft one for the inmate within 90 days after receiving a request to do so from the inmate. The mutual agreement program shall be drafted after a classification study of the inmate has been made by the commissioner. In drafting a mutual agreement program, the commissioner shall also refer to the presentence investigation which has been made of the inmate. The agreement shall provide the following:

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(a) A program of vocational or educational training with specific chronological and achievement objectives, including completion of specified educational and vocational programs;

(b) Frequent and regular evaluation of the inmate by the commissioner; and

(c) A consideration of any educational qualifications or skills of the inmate when specifying certain types of work expectations.

The participation of inmates in the mutual agreement program shall be limited by the appropriations made for that purpose.

Subd. 2. The inmate may decline to enter into the agreement drafted by the commissioner. Failure to enter into an agreement shall not affect the earning of good time by an inmate, nor shall violation of the terms of the agreement constitute a disciplinary offense which may result in the loss of good time.

Sec. 3. [244.03] VOLUNTARY PROGRAMS. The commissioner shall provide appropriate mental health programs and vocational and educational programs with employment-related goals for inmates who desire to voluntarily participate in such programs. The selection, design and implementation of programs under this section shall be the sole responsibility of the commissioner, acting within the limitations imposed on him by the funds appropriated for such programs.

No action challenging the level of expenditures for programs authorized under this section, nor any action challenging the selection, design or implementation of these programs, may be maintained by an inmate in any court in this state.

Sec. 4. [244.04] GOOD TIME. Subdivision 1. An inmate's term of imprisonment shall be reduced in duration by one day for each two days during which the inmate violates none of the disciplinary offense rules promulgated by the commissioner. The reduction shall accrue to the period of supervised release to be served by the inmate.

If an inmate violates a disciplinary offense rule promulgated by the commissioner, good time earned prior to the violation may not be taken away, but the inmate may be required to serve an appropriate portion of his term of imprisonment after the violation without earning good time.

Subd. 2. By May 1, 1980, the commissioner shall promulgate rules specifying disciplinary offenses which may result in the loss of good time and the amount of good time which may be lost as a result of each disciplinary offense. In no case shall an individual disciplinary offense result in the loss of more than 90 days of good time. The loss of good time shall be considered to be a disciplinary sanction imposed upon an inmate, and the procedure for the loss of good time and the rights of the inmate in the procedure shall be those in effect for the imposition of other disciplinary sanctions at each state correctional institution.

Subd. 3. The provisions of this section do not apply to an inmate serving a
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mandatory life sentence.

Sec. 5. [244.05] **SUPERVISED RELEASE TERM.** Subdivision 1. Except as provided in subdivisions 4 and 5, every inmate shall serve a supervised release term upon completion of his term of imprisonment as reduced by any good time earned by the inmate. The supervised release term shall be equal to the period of good time the inmate has earned, and shall not exceed the length of time remaining in the inmate's sentence.

Subd. 2. The Minnesota corrections board shall promulgate rules for the placement and supervision of inmates serving a supervised release term. The rules shall also provide standards and procedures for the revocation of supervised release, and shall specify the period of revocation for each violation of supervised release. Procedures for the revocation of supervised release shall provide due process of law for the inmate.

Subd. 3. If an inmate violates the conditions of his supervised release imposed by the Minnesota corrections board, the board may:

(1) Continue the inmate's supervised release term, with or without modifying or enlarging the conditions imposed on the inmate; or

(2) Revoke the inmate's supervised release and reimprison him for the appropriate period of time.

The period of time for which a supervised release may be revoked may not exceed the period of time remaining in the inmate's sentence.

Subd. 4. An inmate serving a mandatory life sentence shall not be given supervised release under this section unless he has served a minimum term of imprisonment of 17 years.

Subd. 5. The Minnesota corrections board may, under rules promulgated by it, give supervised release to an inmate serving a mandatory life sentence after he has served the minimum term of imprisonment specified in subdivision 4.

Sec. 6. [244.06] **EXTRAORDINARY DISCHARGE.** The Minnesota corrections board may give extraordinary discharge to an inmate for reasons of serious health problems, senility, advanced age or other extraordinary circumstances. The board shall promulgate rules specifying the circumstances under which extraordinary discharge may be approved by the board and the appropriate procedures for approving the same. No extraordinary discharge shall be effective unless also approved by the Minnesota board of pardons.

Sec. 7. [244.07] **FURLOUGHS.** Subdivision 1. If consistent with the public interest, the commissioner may, under rules prescribed by him, furlough any inmate in his custody to any point within the state for up to five days. A furlough may be granted to assist the inmate with family needs, personal health needs, or his reintegration into society. No inmate may receive more than three furloughs under this section within any 12 month period.

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Subd. 2. Notwithstanding the provisions of subdivision 1, if the commissioner determines that the inmate requires health care not available at the state correctional institution, he may grant the inmate the furloughs necessary to provide appropriate noninstitutional or extra-institutional health care.

Sec. 8. [244.08] MINNESOTA CORRECTIONS BOARD; COMMISSIONER.
Subdivision 1. Effective May 1, 1980, the Minnesota corrections board shall have only those powers and duties vested in and imposed upon it in sections 1 to 16 with relation to persons sentenced for crimes committed on or after May 1, 1980.

The Minnesota corrections board shall retain all powers and duties presently vested in and imposed upon it with relation to persons sentenced for crimes committed on or before April 30, 1980.

The Minnesota corrections board shall take into consideration, but not be bound by, the sentence terms embodied in the sentencing guidelines promulgated by the Minnesota sentencing guidelines commission and the penal philosophy embodied in sections 1 to 16 in its deliberations relative to parole, probation, release, or other disposition of inmates who commit the crimes giving rise to their sentences on or before April 30, 1980.

Subd. 2. Nothing in sections 1 to 16 shall be deemed to limit the powers and duties otherwise provided by law to the commissioner of corrections with regard to the management of correctional institutions or the disposition of inmates unless those powers and duties are inconsistent with the provisions of sections 1 to 16, in which case those powers and duties shall be superseded by sections 1 to 16.

Sec. 9. [244.09] MINNESOTA SENTENCING GUIDELINES COMMISSION.
Subdivision 1. There is hereby established the Minnesota sentencing guidelines commission which shall be comprised of nine members.

Subd. 2. The sentencing guidelines commission shall consist of the following:

(1) The chief justice of the supreme court or his designee;

(2) Two district court judges appointed by the chief justice of the supreme court;

(3) One public defender appointed by the governor upon recommendation of the state public defender;

(4) One county attorney appointed by the governor upon recommendation of the board of governors of the county attorneys council;

(5) The commissioner of corrections or his designee;

(6) The chairman of the Minnesota corrections board or his designee; and

(7) Two public members appointed by the governor.

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One of the members shall be designated by the governor as chairman of the commission.

Subd. 3. Each appointed member shall be appointed for four years and shall continue to serve during that time as long as he occupies the position which made him eligible for the appointment. Each member shall continue in office until his successor is duly appointed. Members shall be eligible for reappointment, and appointment may be made to fill an unexpired term. The members of the commission shall elect any additional officers necessary for the efficient discharge of their duties.

Subd. 4. Each member of the commission shall be reimbursed for all reasonable expenses actually paid or incurred by him in the performance of his official duties in the same manner as other employees of the state. The public members of the commission shall be compensated at the rate of \$50 for each day or part thereof spent on commission activities.

Subd. 5. The commission shall, on or before January 1, 1980, promulgate sentencing guidelines for the district court. The guidelines shall be based on reasonable offense and offender characteristics. The guidelines promulgated by the commission shall be advisory to the district court and shall establish:

(1) The circumstances under which imprisonment of an offender is proper; and

(2) A presumptive, fixed sentence for offenders for whom imprisonment is proper, based on each appropriate combination of reasonable offense and offender characteristics. The guidelines may provide for an increase or decrease of up to 15 percent in the presumptive, fixed sentence.

The sentencing guidelines promulgated by the commission may also establish appropriate sanctions for offenders for whom imprisonment is not proper. Any guidelines promulgated by the commission establishing sanctions for offenders for whom imprisonment is not proper shall make specific reference to noninstitutional sanctions, including but not limited to the following: payment of fines, day fines, restitution, community work orders, work release programs in local facilities, community based residential and nonresidential programs, incarceration in a local correctional facility, and probation and the conditions thereof.

In establishing the sentencing guidelines, the commission shall take into substantial consideration current sentencing and release practices and correctional resources, including but not limited to the capacities of local and state correctional facilities.

The provisions of sections 15.0411 to 15.052 do not apply to the promulgation of the sentencing guidelines.

Subd. 6. The commission, in addition to establishing sentencing guidelines, shall serve as a clearing house and information center for the collection, preparation, analysis and dissemination of information on state and local sentencing practices, and shall conduct ongoing research regarding sentencing guidelines, use of imprisonment and

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alternatives to imprisonment, plea bargaining, and other matters relating to the improvement of the criminal justice system. The commission shall from time to time make recommendations to the legislature regarding changes in the criminal code, criminal procedures, and other aspects of sentencing.

Subd. 7. The commission shall study the impact of the sentencing guidelines promulgated by the commission after their implementation. The commission shall also, after implementation of the guidelines, review the powers and duties of the Minnesota corrections board and make recommendations to the legislature on the appropriate role, if any, of the board under the guidelines.

Subd. 8. The commissioner of corrections shall provide adequate office space and administrative services for the commission, and the commission shall reimburse the commissioner for the space and services provided. The commission may also utilize, with their consent, the services, equipment, personnel, information and resources of other state agencies; and may accept voluntary and uncompensated services, contract with individuals, public and private agencies, and request information, reports and data from any agency of the state, or any of its political subdivisions, to the extent authorized by law.

Subd. 9. When any person, corporation, the United States government, or any other entity offers funds to the sentencing guidelines commission to carry out its purposes and duties, the commission may accept the offer by majority vote and upon acceptance the chairman shall receive the funds subject to the terms of the offer, but no money shall be accepted or received as a loan nor shall any indebtedness be incurred except in the manner and under the limitations otherwise provided by law.

Subd. 10. The commission may select and employ a research director who shall perform the duties the commission directs, including the hiring of any clerical help and other employees as the commission shall approve. The research director and other staff shall be in the unclassified service of the state and their salary shall be established by the commission. They shall be reimbursed for the expenses necessarily incurred in the performance of their official duties in the same manner as other state employees.

Subd. 11. The commission shall meet as necessary for the purpose of modifying and improving the guidelines.

Subd. 12. The guidelines shall be submitted to the legislature on January 1, 1980, and shall be effective May 1, 1980, unless the legislature provides otherwise.

Sec. 10. [244.10] SENTENCING HEARING; DEVIATION FROM GUIDELINES.
Subdivision 1. SENTENCING HEARING. Whenever a person is convicted of a felony, the court, upon motion of either the defendant or the state, shall hold a sentencing hearing. The hearing shall be scheduled so that the parties have adequate time to prepare and present arguments regarding the issue of sentencing. The parties may submit written arguments to the court prior to the date of the hearing and may make oral arguments before the court at the sentencing hearing. Prior to the hearing, the court shall transmit to the defendant or his attorney and the prosecuting attorney copies of the presentence

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investigation report.

At the conclusion of the sentencing hearing or within 20 days thereafter, the court shall issue written findings of fact and conclusions of law regarding the issues submitted by the parties, and shall enter an appropriate order.

Subd. 2. DEVIATION FROM GUIDELINES. Whether or not a sentencing hearing is requested pursuant to subdivision 1, the district court shall make written findings of fact as to the reasons for departure from the sentencing guidelines in each case in which the court imposes or stays a sentence that deviates from the sentencing guidelines applicable to the case.

Sec. 11. [244.11] APPELLATE REVIEW OF SENTENCE. An appeal to the supreme court may be taken by the defendant or the state from any sentence imposed or stayed by the district court according to the rules of criminal procedure for the district court of Minnesota. A dismissal of an appeal brought under this section shall not prejudice an appeal brought under any other section or rule.

When an appeal taken under this section is filed, the clerk of the district court shall certify to the supreme court the transcript of the proceedings and any files or records relating to the defendant, the offense, and the sentence imposed or stayed, that the supreme court by rule or order may require.

On an appeal pursuant to this section, the supreme court may review the sentence imposed or stayed to determine whether the sentence is inconsistent with statutory requirements, unreasonable, inappropriate, excessive, unjustifiably disparate, or not warranted by the findings of fact issued by the district court. This review shall be in addition to all other powers of review presently existing. The supreme court may dismiss or affirm the appeal, vacate or set aside the sentence imposed or stayed and direct entry of an appropriate sentence or order further proceedings to be had as the supreme court may direct.

This section shall not be construed to confer or enlarge any right of a defendant to be released pending an appeal.

Sec. 12. Minnesota Statutes 1976, Section 241.26, Subdivision 1, is amended to read:

241.26 PRIVATE EMPLOYMENT OF INMATES OF STATE CORRECTIONAL INSTITUTIONS IN COMMUNITY. Subdivision 1. BOARD. The corrections board upon recommendation of the commissioner of corrections may conditionally release selected inmates of state correctional institutions who are subject to their control, who have been convicted of a gross misdemeanor or a felony, and who are eligible and being considered for parole under section 243.05, to work at paid employment, seek employment, or to participate in vocational training programs in any community or area of the state, provided that (a) representatives of local union central bodies or similar labor union organizations are consulted; and (b) such paid employment will not result in the displacement of employed workers When consistent with the public

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interest and the public safety, the board may, with the recommendation of the commissioner, conditionally release an inmate to work at paid employment, seek employment, or participate in a vocational training or educational program, if the inmate has served at least one-half of his term of imprisonment as reduced by good time earned by the inmate. Such Release under this subdivision constitutes an extension of the limits of confinement and each inmate so released shall be confined in the institution from which released or in some other suitable place of confinement designated by the commissioner of corrections during such time as such inmate the hours he is not employed, seeking employment, or engaged in a vocational training or educational program, or, if employed, seeking employment, or engaged in a vocational training or educational program, between the times hours of such activity. A reasonable allowance for travel time and meals shall be permitted.

Sec. 13. Minnesota Statutes 1976, Section 609.10, is amended to read:

609.10 **SENTENCES AVAILABLE.** Upon conviction of a felony and compliance with the other provisions of this chapter the court, if it imposes sentence, may sentence the defendant to the extent authorized by law as follows:

- (1) To life imprisonment; or
- (2) To imprisonment for a ~~maximum fixed~~ term of years ~~fixed set~~ by the court; or
- ~~(3) To an indeterminate term of imprisonment which shall be deemed to be for the maximum term authorized by law; or~~
- ~~(4) (3)~~ To both imprisonment for a fixed term of years and payment of a fine; or
- ~~(5) (4)~~ To payment of a fine without imprisonment or to imprisonment for a fixed term of years if the fine is not paid.

Sec. 14. Minnesota Statutes 1976, Section 609.145, Subdivision 1, is amended to read:

609.145 **CREDIT FOR PRIOR IMPRISONMENT.** Subdivision 1. When a person has been imprisoned pursuant to a conviction which is set aside and is thereafter convicted of a crime growing out of the same act or omission, the ~~maximum~~ period of imprisonment to which he ~~may be is~~ sentenced is reduced by the period of the prior imprisonment and the time earned thereby in diminution of sentence. ~~If sentence is for less than this maximum, the prior imprisonment and time earned in diminution of sentence shall be credited toward the sentence unless the court otherwise directs.~~

Sec. 15. Minnesota Statutes 1976, Section 609.165, Subdivision 2, is amended to read:

Subd. 2. The discharge may be:

- (1) By order of the court following stay of sentence or stay of execution of ~~Changes or additions indicated by underline deletions by strikeout~~

sentence; or

(2) ~~By order of the corrections board prior to expiration of sentence; or~~

(~~3~~) (2) Upon expiration of sentence.

Sec. 16. Minnesota Statutes 1976, Section 609.346, Subdivision 1, is amended to read:

609.346 **SUBSEQUENT OFFENSES.** Subdivision 1. If a person is convicted of a second or subsequent offense under sections 609.342 to 609.346 within 15 years of the prior conviction, the court shall commit the defendant to the commissioner of corrections for imprisonment for a term of not less than three years, nor more than the maximum sentence provided by law for the offense for which convicted; ~~provided, however, that the court may invoke the provisions of section 609.135, if a specific condition of the probationary term under section 609.135 includes the successful completion of a treatment program for anti-social sexual behavior, and such person shall not be eligible for parole from imprisonment until he shall either have served the full minimum sentence herein provided, or until he shall have successfully completed a treatment program for anti-social sexual behavior as herein provided notwithstanding the provisions of sections 242.19, 243.05, 609.11, 609.12 and 609.135.~~

Sec. 17. In the next and subsequent editions of the Minnesota Statutes, the revisor of statutes shall make such change in terminology as may be necessary to record the functions, powers and duties of the commissioner of corrections and the Minnesota corrections board as established by this article.

Sec. 18. **APPROPRIATION.** There is appropriated from the general fund to the Minnesota sentencing guidelines commission established pursuant to section 9, the sum of \$200,000 for the biennium ending June 30, 1979.

Sec. 19. **REPEALER.** Minnesota Statutes 1976, Sections 243.14; 243.18; 246.43, as amended by Laws 1977, Chapter 130, Section 1; 609.155 and 609.16 are repealed.

Sec. 20. **EFFECTIVE DATE.** Subdivision 1, Sections 9 and 18 are effective the day following final enactment.

Subd. 2, Sections 1 to 8, 10 to 17, and 19 are effective May 1, 1980, and apply to all offenses committed on or after that date and to all persons convicted of a felony committed on or after that date.

ARTICLE II

Section 1. Minnesota Statutes, 1977 Supplement, Section 241.045, Subdivision 4, is amended to read:

Subd. 4. **COMPENSATION; EXPENSES.** Each member of the board other than the chairman shall receive as compensation the sum of \$22,000 per year, payable in the ~~Changes or additions indicated by underline deletions by strikeout~~

same manner as other employees of the state. The chairman of the board shall receive as compensation his salary as an officer of the department of corrections, which shall not be less than the salary of the other members of the board. In addition to the compensation herein provided, each member of the board shall be reimbursed for all expenses paid or incurred by him in the performance of his official duties in the same manner as other employees of the state. This compensation and these expenses shall be paid out of the general fund in the same manner as the salaries and expenses of other state officers are paid, except that the salary and expenses of the chairman of the board shall be paid out of funds appropriated to the commissioner of corrections.

Sec. 2. Minnesota Statutes 1976, Section 609.11, is amended by adding a subdivision to read:

Subd. 3. If during the commission of any of the crimes set forth in subdivision 1, the defendant possessed a firearm or used a dangerous weapon, the prosecution shall allege that matter in the complaint or indictment.

Sec. 3. Minnesota Statutes 1976, Section 609.115, Subdivision 1, is amended to read:

609.115 PRESENTENCE INVESTIGATION. Subdivision 1. When a defendant has been convicted of a felony; ~~and a sentence of life imprisonment is not required by law,~~ the court ~~may shall~~, before sentence is imposed, cause a presentence investigation and written report to be made to the court concerning the defendant's individual characteristics, circumstances, needs, potentialities, criminal record and social history, the circumstances of the offense and the harm caused thereby to others and to the community. If the court so directs, the report shall include an estimate of the prospects of the defendant's rehabilitation and recommendations as to the sentence which should be imposed.

The investigation shall be made by a probation officer of the court, if there is one, otherwise by the commissioner of corrections.

Pending the presentence investigation and report, the court with the consent of the commissioner may commit the defendant to the custody of the commissioner of corrections who shall return the defendant to the court when the court so orders.

Sec. 4. Minnesota Statutes 1976, Section 609.135, is amended by adding a subdivision to read:

Subd. 4. The court may, as a condition of probation, require the defendant to serve up to one year incarceration in a county jail, a county regional jail, a county workfarm, county workhouse or other local correctional facility. The court may allow the defendant the work release privileges of section 631.425 during the period of incarceration.

Sec. 5. **REPEALER.** Minnesota Statutes 1976, Section 609.11, Subdivision 2, is repealed.

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Sec. 6. **EFFECTIVE DATE.** Sections 1 to 5 are effective the day following final enactment, and apply to all offenses committed on or after that date.

Approved April 5, 1978.

CHAPTER 724-S.F.No.318

[Coded]

An act relating to criminal procedure; permitting peace officers to make arrests upon probable cause in cases of domestic assault; requiring detention and review of bail for persons charged with domestic assault; permitting the judge to stay execution and imposition of sentence conditioned upon the defendant seeking appropriate counseling; amending Minnesota Statutes 1976, Section 609.135, by adding a subdivision; and Chapter 629, by adding sections.

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

Section 1. Minnesota Statutes 1976, Section 609.135, is amended by adding a subdivision to read:

Subd. 5. DOMESTIC VIOLENCE; PROBATION AND COUNSELING. If a person is convicted of assaulting his spouse or other person with whom he resides, and the court stays imposition or execution of sentence and places the defendant on probation, the court may condition the stay upon the defendant's participation in counseling or other appropriate programs selected by the court.

Sec. 2. Minnesota Statutes 1976, Chapter 629, is amended by adding a section to read:

[629.34] PROBABLE CAUSE ARRESTS; DOMESTIC VIOLENCE. Notwithstanding the provisions of section 629.34 or any other law or rule to the contrary, a peace officer may arrest without a warrant a person at his place of residence if the peace officer has probable cause to believe the person within the preceding four hours has assaulted his spouse or other person with whom he resides, although the assault did not take place in the presence of the peace officer. A peace officer may not arrest a person pursuant to this section without first observing recent physical injury to, or impairment of physical condition of the alleged victim.

Sec. 3. Minnesota Statutes 1976, Chapter 629, is amended by adding a section to read:

[629.72] BAIL IN CASES OF DOMESTIC ASSAULT. Subdivision 1. DETENTION IN LIEU OF CITATION; RELEASE. Notwithstanding any other law or rule to the contrary, an arresting officer may not issue a citation in lieu of arrest and detention to an individual charged with assaulting his spouse or other individual with whom he resides.

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