

Sec. 13. EFFECTIVE DATE.

Sections 3, 7, and 8 are effective August 1, 1984, and apply to crimes committed on or after that date. Sections 2, 4, and 12 are effective the day following final enactment.

Approved April 26, 1984

CHAPTER 589 — H.F.No. 1382

An act relating to crimes; clarifying the definition of "inmate" and "term of imprisonment"; providing for the manner of modifying sentencing guidelines and resentencing affected inmates; amending Minnesota Statutes 1982, section 244.01, subdivisions 2 and 8; 244.09, subdivision 5, and by adding subdivisions; and Minnesota Statutes 1983 Supplement, section 244.09, subdivision 11.

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

Section 1. Minnesota Statutes 1982, section 244.01, subdivision 2, is amended to read:

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 facility or released from a state correctional facility pursuant to sections 244.05, section 244.065, and or 244.07.

Sec. 2. Minnesota Statutes 1982, section 244.01, subdivision 8, is amended to read:

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

Sec. 3. Minnesota Statutes 1982, section 244.09, subdivision 5, is amended to read:

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

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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 14.01 to 14.70 do not apply to the promulgation of the sentencing guidelines, and the sentencing guidelines, including severity levels and criminal history scores, are not subject to review by the legislative commission to review administrative rules. However, on or before January 1, 1986, the commission shall adopt rules pursuant to sections 14.01 to 14.70 which establish procedures for the promulgation of the sentencing guidelines, including procedures for the promulgation of severity levels and criminal history scores, and these rules shall be subject to review by the legislative commission to review administrative rules.

Sec. 4. Minnesota Statutes 1983 Supplement, section 244.09, subdivision 11, is amended to read:

Subd. 11. **MODIFICATION; RETROACTIVE EFFECT.** The commission shall meet as necessary for the purpose of modifying and improving the guidelines. Any modification which amends the sentencing guidelines grid, including severity levels and criminal history scores, or which would result in the reduction of any sentence or in the early release of any inmate, with the exception of a modification mandated or authorized by the legislature or relating to a crime created or amended by the legislature in the preceding session, shall be submitted to the legislature by January 1 of any year in which the commission wishes to make the change and shall be effective on August 1 of that year, unless the legislature by law provides otherwise. All other modifications shall take effect according to the procedural rules of the commission. On or before November 1 of each year, the commission shall submit a written report to the judiciary committees of the senate and the house of representatives that identifies and explains all modifications made during the preceding 12 months and all proposed modifications that will be submitted to the legislature on January 1. Any modification of the guidelines that causes a duration change shall be retroactive

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for all inmates serving sentences imposed pursuant to the Minnesota sentencing guidelines if the durational change reduces the appropriate term of imprisonment.

Sec. 5. Minnesota Statutes 1982, section 244.09, is amended by adding a subdivision to read:

Subd. 11a. RETROACTIVITY. Any person who is serving a sentence for which there is a modification in the numbers in the cells of the guidelines grid may institute a proceeding applying for retroactive application of the modification and the court may grant a petition for retroactivity subject to the same procedures, standards and conditions as set forth for post conviction remedies in section 590.01, subdivision 3. The right to petition for relief pursuant to this subdivision does not apply to modifications in the sentencing guidelines other than modification of the numbers in the cells of the guidelines grid. The right to petition for relief pursuant to this subdivision does not apply to offenders on supervised release or to offenders who have had their supervised release revoked and who have been reimprisoned.

Sec. 6. Minnesota Statutes 1982, section 244.09, is amended by adding a subdivision to read:

Subd. 13. RULEMAKING POWER. The commission shall have authority to promulgate temporary and permanent rules to carry out the purposes of section 3.

Sec. 7. **EFFECTIVE DATE.**

Sections 1 to 6 are effective the day following final enactment.

Approved April 26, 1984

CHAPTER 590 — H.F.No. 1507

An act relating to taxation; deed tax; exempting certain partitions; amending Minnesota Statutes 1982, section 287.22.

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

Section 1. Minnesota Statutes 1982, section 287.22, is amended to read:

287.22 **EXCEPTIONS.**

The tax imposed by section 287.21 shall not apply to:

A. Any executory contract for the sale of land under which the vendee is entitled to or does take possession thereof, or any assignment or cancellation thereof.

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