

**325E.1251 PENALTY ENFORCEMENT.**

Subdivision 1. PENALTY. Violation of sections 115A.9155 and 325E.125 is a misdemeanor. A manufacturer who violates section 115A.9155 or 325E.125 is also subject to a minimum fine of \$100 per violation.

Subd. 2. RECOVERY OF COSTS. In an enforcement action under this section in which the state prevails, the state may recover reasonable administrative expenses, court costs, and attorney fees incurred to take the enforcement action, in an amount to be determined by the court.

**Sec. 8. EFFECTIVE DATES.**

(a) Section 3, paragraphs (a), (b), and (d), are effective February 1, 1992, and apply to batteries manufactured on or after that date.

(b) For zinc air batteries that exceed 100 milligrams in weight, section 3, paragraph (c), is effective February 1, 1993, and applies to batteries manufactured on or after that date.

(c) For all other batteries, section 3, paragraph (c), is effective August 1, 1991, and applies to batteries manufactured on or after that date. Section 3, paragraph (e), applies to batteries manufactured on or after January 1, 1996.

Presented to the governor May 28, 1991

Signed by the governor May 31, 1991, 5:00 p.m.

**CHAPTER 258—S.F.No. 526**

*An act relating to crime; sentencing; clarifying and revising the intensive community supervision program; providing for the composition of the sentencing guidelines commission; amending Minnesota Statutes 1990, sections 244.05, subdivision 6; 244.09, subdivision 2; 244.12; 244.13; 244.14; and 244.15.*

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

Section 1. Minnesota Statutes 1990, section 244.05, subdivision 6, is amended to read:

**Subd. 6. INTENSIVE COMMUNITY SUPERVISION SUPERVISED RELEASE.** The commissioner may order that an inmate be placed on intensive community supervision, as described in sections 244.14 and 244.15; supervised release for all or part of the inmate's supervised release or parole term if the commissioner determines that the action will further the goals described in section 244.14, subdivision 1, clauses (2), (3), and (4). The commissioner may impose appropriate conditions of release on the inmate including but

New language is indicated by underline, deletions by ~~strikeout~~.

not limited to unannounced searches of the inmate's person, vehicle, or premises by an intensive supervision agent; compliance with court-ordered restitution, if any; random drug testing; house arrest; daily curfews; frequent face-to-face contacts with an assigned intensive supervision agent; work, education, or treatment requirements; and electronic surveillance. If the inmate violates the conditions of the intensive ~~community supervision supervised release~~, the commissioner shall impose sanctions as provided in subdivision 3 ~~and section 244.14.~~

Sec. 2. Minnesota Statutes 1990, section 244.12, is amended to read:

#### 244.12 INTENSIVE COMMUNITY SUPERVISION.

Subdivision 1. **GENERALLY.** ~~The commissioner may order that an inmate be placed on intensive community supervision, as described in sections 244.14 and 244.15, for all or part of the inmate's supervised release term. Additionally,~~ The commissioner may order that an offender who meets the eligibility requirements of subdivisions 2 and 3 be placed on intensive community supervision, as described in sections 244.14 and 244.15, for all or part of the offender's ~~prison~~ sentence if the offender agrees to participate in the program and if the sentencing court approves in writing of the offender's participation in the program.

Subd. 2. **ELIGIBILITY.** The commissioner must limit the intensive community supervision program to the following persons:

(1) ~~inmates who are serving a supervised release term;~~

(2) offenders who are committed to the commissioner's custody following revocation of a stayed sentence; and

(3) ~~(2)~~ offenders who are committed to the commissioner's custody for a ~~prison~~ sentence of 27 months or less, who did not receive a dispositional departure under the ~~sentence~~ sentencing guidelines, and who have already served a period of incarceration as a result of the offense for which they are committed.

Subd. 3. **OFFENDERS NOT ELIGIBLE.** The following are not eligible to be placed on intensive community supervision, under subdivision 2, clause ~~(3)~~ (2):

(1) offenders who were committed to the commissioner's custody under a statutory mandatory minimum sentence;

(2) offenders who were committed to the commissioner's custody following a conviction for murder, manslaughter, criminal sexual conduct in the first or second degree, or criminal vehicular homicide or operation resulting in death; and

(3) offenders whose presence in the community would present a danger to public safety.

Sec. 3. Minnesota Statutes 1990, section 244.13, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

**244.13 INTENSIVE COMMUNITY SUPERVISION AND INTENSIVE SUPERVISED RELEASE; ESTABLISHMENT OF PROGRAMS.**

Subdivision 1. **ESTABLISHMENT.** The commissioner of corrections shall establish programs for those designated by the commissioner to serve all or part of a ~~prison sentence or a supervised release term~~ on intensive community supervision or all or part of a supervised release or parole term on intensive supervised release. The adoption and modification of policies and procedures to implement sections 244.05, subdivision 6, and 244.12 to 244.15 are not subject to the rulemaking procedures of chapter 14. The commissioner shall locate the programs so that at least one-half of the money appropriated for the programs in each year is used for programs in community corrections act counties. In awarding contracts for intensive supervision programs in community corrections act counties, the commissioner shall give first priority to programs that utilize county employees as intensive supervision agents and shall give second priority to programs that utilize state employees as intensive supervision agents. The commissioner may award contracts to other providers in community corrections act counties only if doing so will result in a significant cost savings or a significant increase in the quality of services provided, and only after notifying the chairs of the judiciary committees in the senate and house of representatives.

Subd. 2. **TRAINING.** The commissioner shall develop specialized training programs for ~~probation officers~~ intensive supervision agents assigned to the intensive community supervision ~~program~~ and intensive supervised release programs. The ~~probation officer agent~~ caseload shall not exceed the ratio of 30 offenders to two ~~probation officers~~ intensive supervision agents. An intensive supervision agent must have qualifications comparable to those for a state corrections agent.

Subd. 3. **EVALUATION.** The commissioner shall develop a system for gathering and analyzing information concerning the value and effectiveness of the intensive community supervision and intensive supervised release programs and shall compile a report to the chairs of the senate and house judiciary committees by January 1 of each odd-numbered year.

Subd. 4. DEFINITION. For purposes of section 244.05, subdivision 6, and sections 244.12 to 244.15, "intensive supervision agent" means a probation officer, a corrections agent, or any other qualified person employed in supervising offenders serving a period of intensive community supervision or intensive supervised release.

Sec. 4. Minnesota Statutes 1990, section 244.14, is amended to read:

**244.14 INTENSIVE COMMUNITY SUPERVISION; BASIC ELEMENTS.**

Subdivision 1. **REQUIREMENTS.** This section governs the intensive com-

New language is indicated by underline, deletions by ~~strikeout~~.

munity supervision programs established under section 244.13. The commissioner shall operate the programs in conformance with this section. The commissioner shall administer the programs to further the following goals:

- (1) to punish the offender;
- (2) to protect the safety of the public;
- (3) to facilitate employment of the offender during the intensive community supervision and afterward; and
- (4) to require the payment of restitution ordered by the court to compensate the victims of the offender's crime.

Subd. 2. **GOOD TIME NOT AVAILABLE.** An offender serving a ~~prison~~ sentence on intensive community supervision does not earn good time, notwithstanding section 244.04.

Subd. 3. **SANCTIONS.** The commissioner shall impose severe and meaningful sanctions for violating the conditions of an intensive community supervision program. The commissioner shall provide for revocation of intensive community supervision of an offender who:

- (1) commits a material violation of or repeatedly fails to follow the rules of the program;
- (2) commits any misdemeanor, gross misdemeanor, or felony offense; or
- (3) presents a risk to the public, based on the offender's behavior, attitude, or abuse of alcohol or controlled substances. The revocation of intensive community supervision is governed by the procedures in the commissioner's rules adopted under section 244.05, subdivision 2.

An offender whose intensive community supervision is revoked shall be imprisoned for a time period equal to the offender's original term of imprisonment, but in no case for longer than the time remaining in the offender's sentence. "Original term of imprisonment" means a time period equal to two-thirds of the ~~prison~~ sentence originally executed by the sentencing court, minus jail credit, if any.

Subd. 4. **ALL PHASES.** Throughout all phases of an intensive community supervision program, the offender shall submit at any time to an unannounced search of the offender's person, vehicle, or premises by a ~~probation officer~~ an intensive supervision agent. If the offender received a restitution order as part of the sentence, the offender shall make weekly payments as scheduled by the ~~probation officer~~ agent until the full amount is paid.

Sec. 5. Minnesota Statutes 1990, section 244.15, is amended to read:

**244.15 INTENSIVE COMMUNITY SUPERVISION; PHASES I TO IV.**

New language is indicated by underline, deletions by ~~strikeout~~.

Subdivision 1. **DURATION.** Phase I of an intensive community supervision program is six months, or one-half the ~~presumptive imprisonment sentence under the sentencing guidelines~~ time remaining in the offender's original term of imprisonment, whichever is less. Phase II lasts for at least ~~four months~~ one-third of the time remaining in the offender's original term of imprisonment at the beginning of Phase II. Phase III lasts for at least ~~two months~~ one-third of the time remaining in the offender's original term of imprisonment at the beginning of Phase III. Phase IV continues ~~indefinitely~~ until the commissioner determines that the offender has successfully completed the program or until the offender's sentence, minus jail credit, expires, whichever occurs first. If an offender successfully completes the intensive community supervision program before the offender's sentence expires, the offender shall be placed on supervised release for the remainder of the sentence.

Subd. 2. **RANDOM DRUG TESTING.** (a) During phase I, the offender will be subjected at least weekly to ~~weekly~~ urinalysis and breath tests to detect the presence of controlled substances or alcohol. The tests will be random and unannounced.

(b) During phase II, the tests will be done at least twice monthly.

(c) During phases III and IV, the tests will be done at random at the frequency determined by the ~~probation officer~~ intensive supervision agent.

Subd. 3. **HOUSE ARREST.** (a) During phase I, the offender will be under house arrest in a residence approved by the offender's ~~probation officer~~ intensive supervision agent and may not move to another residence without permission. "House arrest" means that the offender's movements will be severely restricted and continually monitored by the assigned ~~probation officer~~ agent.

(b) During phase II, modified house arrest is imposed.

(c) During phases III and IV, the offender is subjected to a daily curfew instead of house arrest.

Subd. 4. **FACE-TO-FACE CONTACTS.** (a) During phase I, the assigned ~~probation officer~~ intensive supervision agent shall have at least four face-to-face contacts with the offender each week.

(b) During phase II, two face-to-face contacts a week are required.

(c) During phase III, one face-to-face contact a week is required.

(d) During phase IV, two face-to-face contacts a month are required.

Subd. 5. **WORK REQUIRED.** During phases I, II, III, and IV, the offender must spend at least 40 hours a week performing approved work, undertaking constructive activity designed to obtain employment, or attending a treatment or education program as directed by the commissioner. An offender may not spend more than six months in a residential treatment program that does not

New language is indicated by underline, deletions by ~~strikeout~~.

require the offender to spend at least 40 hours a week performing approved work or undertaking constructive activity designed to obtain employment.

Subd. 6. **ELECTRONIC SURVEILLANCE.** During any phase, the offender may be placed on electronic surveillance if the ~~probation officer~~ intensive supervision agent so directs.

Subd. 7. **OTHER REQUIREMENTS.** The commissioner may include any other conditions in the various phases of the intensive community supervision program that the commissioner finds necessary and appropriate.

Sec. 6. Minnesota Statutes 1990, section 244.09, subdivision 2, is amended to read:

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

- (1) the chief justice of the supreme court or a designee;
- (2) one judge of the court of appeals, appointed by the chief justice of the supreme court;
- (3) one district court judge appointed by the chief justice of the supreme court;
- (4) one public defender appointed by the governor upon recommendation of the state public defender;
- (5) one county attorney appointed by the governor upon recommendation of the board of ~~governors~~ directors of the Minnesota county attorneys ~~council~~ association;
- (6) the commissioner of corrections or a designee;
- (7) one peace officer as defined in section 626.84 appointed by the governor;
- (8) one probation officer or parole officer appointed by the governor; and
- (9) three public members appointed by the governor, one of whom shall be a victim of a crime defined as a felony.

When an appointing authority selects individuals for membership on the commission, the authority shall make reasonable efforts to appoint qualified members of protected groups, as defined in section 43A.02, subdivision 33.

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

**Sec. 7. EFFECTIVE DATE.**

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

New language is indicated by underline, deletions by ~~strikeout~~.

Presented to the governor May 28, 1991

Signed by the governor May 31, 1991, 5:02 p.m.

### CHAPTER 259—S.F.No. 919

*An act relating to government operations; amending provisions to adopt emergency game and fish rules; providing alternative methods of publishing game and fish rules; deleting obsolete references to publication under the game and fish laws; authorizing the commissioner to protect wild animals by emergency rule; authorizing the commissioner to set seasons and limits for migratory birds and waterfowl; authorizing the commissioner to allow or prohibit hunting and fishing on certain state lands; amending Minnesota Statutes 1990, sections 3.846, subdivisions 1 and 4; 14.03, subdivision 3; 14.29, subdivision 2, and by adding a subdivision; 14.38, subdivision 6; 84.944, subdivision 1; 84A.02; 86A.06; 86B.211; 97A.045, subdivision 2; 97A.051, subdivisions 1, 2, and 4; 97A.081; 97A.141, by adding a subdivision; 97B.731, subdivision 1; and 97C.805, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 97A and 97B.*

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

Section 1. Minnesota Statutes 1990, section 3.846, subdivision 1, is amended to read:

Subdivision 1. **REQUIREMENT.** (a) Except as provided in paragraph (b), No rule, as defined in section 14.02, subdivision 4, that is exempt from the rule-making provisions of chapter 14, has the force and effect of law unless a notice has been published and filed under subdivision 2 before its effective date.

(b) Rules of the division of game and fish may have the force and effect of law up to seven days before publishing and filing under subdivision 2 if the commissioner of natural resources determines that an emergency exists and for a rule that affects more than three counties publishes the rule once in a legal newspaper in Minneapolis, St. Paul, and Duluth, or for a rule that affects three or fewer counties publishes the rule once in a legal newspaper in each of the affected counties. A rule of the division of game and fish that is published under this paragraph is not effective until seven days after the rule is published in the legal newspapers as provided in this paragraph or the rule is published and filed under subdivision 2, whichever is earlier.

Sec. 2. Minnesota Statutes 1990, section 3.846, subdivision 4, is amended to read:

Subd. 4. **NONAPPLICATION.** Except as provided in subdivision 1, paragraph (b), This section does not apply to section ~~14.02~~ 14.03, subdivision 4, clauses (a) to (h) 3.

New language is indicated by underline, deletions by ~~strikeout~~.