

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH LEGISLATURE

S.F. No. 865

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DATE	D-PG	OFFICIAL STATUS
02/28/2013	446	Introduction and first reading Referred to Judiciary

A bill for an act

relating to corrections; establishing a parole board; prescribing its membership, duties, and powers; prescribing when an individual is eligible to be considered for parole; appropriating money; proposing coding for new law as Minnesota Statutes, chapter 244A.

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

Section 1. **[244A.01] PAROLE BOARD.**

Subdivision 1. **Creation.** There is created a Parole Board consisting of five full-time members; four members shall be appointed by the governor, with the advice and consent of the senate. No more than two members appointed by the governor shall belong to the same political party. An appointment to a vacancy shall be made in the same manner as other appointments and shall be for the unexpired term. The fifth member shall be chair and shall be an officer of the Department of Corrections in the unclassified service and shall be appointed by the commissioner of corrections to serve at the commissioner's pleasure.

Subd. 2. **Qualifications.** A candidate for appointment to the Parole Board is not required to have specific academic or professional attainment, but shall have knowledge or experience in corrections or related fields and be selected on the basis of sound judgment and the ability to consider both the needs of individuals over whom the board has jurisdiction and the safety of the public. Among the members appointed by the governor, at least one shall be a woman, one a man, and one a member of a racial minority.

Subd. 3. **Terms of office; reappointment.** Members of the board shall serve six year staggered terms. A member is eligible for reappointment.

Subd. 4. **Compensation; expenses.** Each member of the board other than the chair shall receive as compensation 85 percent of a district court judge's salary per year, payable in the same manner as other employees of the state. The chair of the board shall receive

2.1 as compensation the chair's salary as an officer of the Department of Corrections, which
2.2 shall not be less than the salary of the other members of the board. In addition to the
2.3 compensation provided in this subdivision, each member of the board shall be reimbursed
2.4 for expenses paid or incurred in the performance of official duties in the same manner as
2.5 other employees of the state. This compensation and these expenses shall be paid out of
2.6 the general fund in the same manner as the salaries and expenses of other state officers,
2.7 except that the salary and expenses of the chair of the board shall be paid out of funds
2.8 appropriated to the commissioner of corrections.

2.9 Subd. 5. **Quorum.** (a) The board may sit in units of three as designated by the chair
2.10 under rules prescribed by the board, and each unit constitutes a quorum.

2.11 (b) The chair may, with the approval of the commissioner of corrections, appoint
2.12 employees of the Department of Corrections to perform administrative duties as assigned
2.13 by the chair.

2.14 Sec. 2. **[244A.02] BOARD POWERS; LIMITATIONS.**

2.15 Subdivision 1. **Powers.** Except as provided in subdivisions 2 and 3, the Parole
2.16 Board, giving due consideration to public safety, may parole an individual sentenced to
2.17 confinement in an adult correctional facility:

2.18 (1) if the individual has served two-thirds of the individual's sentence-to-serve as
2.19 defined in subdivision 3;

2.20 (2) if the individual has served three years or more on the current sentence and is
2.21 more than 60 years old;

2.22 (3) if the individual committed the offense when a minor, as defined in section
2.23 260B.007, subdivision 9, and was certified for prosecution as an adult or designated as an
2.24 extended jurisdiction juvenile and has served five years or more of the sentence;

2.25 (4) if the individual was sentenced:

2.26 (i) for a drug offense;

2.27 (ii) for a conspiracy, if another conspirator dominated the individual or was the
2.28 individual's domestic partner;

2.29 (iii) for a crime based on consequences that were not proved to be intentional; or

2.30 (iv) for a commercial crime; or

2.31 (5) if there has been a profound change in the individual's character and conduct
2.32 since the time of the offense.

2.33 Subd. 2. **Sex offenders; parole eligibility.** (a) The Parole Board is not authorized to
2.34 parole an offender convicted of a sex offense.

3.1 (b) As used in this section, "sex offense" means a violation of section 609.342,
3.2 609.343, 609.344, 609.345, 609.3451, 609.3453, 609.3455, 609.352, 609.365, 617.23,
3.3 617.246, or 617.247, or another offense arising out of a charge based on one or more of
3.4 those sections.

3.5 Subd. 3. **Limitations.** An individual sentenced under the sentencing guidelines
3.6 is not eligible for parole until the individual has served one-half of the individual's
3.7 sentence-to-serve. "Sentence-to-serve" as applied to individuals whose crimes were
3.8 committed before August 1, 1993, is the period of time for which the individual was
3.9 committed to the custody of the commissioner of corrections minus good time allowed.
3.10 Sentence-to-serve as applied to individuals whose crimes were committed on or after
3.11 August 1, 1993, is the period of time equal to two-thirds of the individual's executed
3.12 sentence. Parole is not authorized if proscribed by United States Code, title 42, section
3.13 13704. The limitations specified in this subdivision shall not affect parole eligibility
3.14 for individuals 60 years or older as specified in subdivision 1, clause (2), and minors
3.15 as specified in subdivision 1, clause (3).

3.16 Subd. 4. **Legal custody of parolees.** Upon being paroled and released, an individual
3.17 remains in the legal custody and under the control of the Parole Board, subject to be
3.18 returned at any time to a facility of the Department of Corrections. If the individual is
3.19 returned, the legal custody of the individual reverts to the commissioner of corrections.
3.20 A written order of the Parole Board, certified by the chair of the board, is sufficient to
3.21 authorize a peace officer or state parole or probation agent to retake and place in the
3.22 custody of the Parole Board any parolee, but a state parole or probation agent may, without
3.23 order of warrant, when it appears necessary to prevent escape or enforce discipline, take
3.24 and detain a parolee to the custody of the Parole Board for its action. A written order
3.25 of the commissioner of corrections is sufficient for a peace officer or state parole or
3.26 probation agent to retake and place in actual custody an individual on probation under
3.27 the supervision of the commissioner pursuant to section 609.135, but any state parole or
3.28 probation agent may, when it appears necessary to prevent escape or enforce discipline,
3.29 retake and detain the probationer without an order and bring a paroled individual before
3.30 the court for further proceedings under section 609.14. Paroled individuals, and those on
3.31 probation under the supervision of the commissioner of corrections pursuant to section
3.32 609.135 may be placed within or without the boundaries of the state at the discretion of
3.33 the board or the commissioner of corrections, and the limits fixed for the individuals may
3.34 be enlarged or reduced according to the individuals' conduct.

3.35 Subd. 5. **Parole hearings.** In considering applications for parole or final release, the
3.36 board is not required to hear oral argument from any attorney or other person not connected

4.1 with a facility of the Department of Corrections, but the board may institute inquiries by
4.2 correspondence, taking testimony or otherwise, as to the previous history, physical or
4.3 mental condition, and character of an applicant, and to that end it has authority to require
4.4 the attendance of the chief executive officer of the relevant Minnesota correctional facility
4.5 and the production of the records of the facility, and to compel the attendance of witnesses.
4.6 Each member of the board is authorized to administer oaths to witnesses.

4.7 Subd. 6. **Report.** On or before January 1 each year, the board shall submit to the
4.8 legislative committees with jurisdiction over criminal justice policy a written report
4.9 identifying persons granted parole in the preceding year and the cost savings, if any, to
4.10 the Department of Corrections that resulted from the parole of these persons. The report
4.11 shall also include the board's recommendations for policy modifications that influence
4.12 the board's duties.

4.13 **Sec. 3. [244A.03] CREDITS FOR PRISONERS.**

4.14 Each inmate shall be credited for good prison demeanor, diligence in labor and study
4.15 and results accomplished, and be charged for derelictions, negligences, and offenses
4.16 under a uniform system of marks or other methods prescribed by the commissioner of
4.17 corrections. The commissioner of corrections shall inform the Parole Board of the work
4.18 progress, derelictions, negligences, demeanor, and future program of each inmate a month
4.19 before the inmate's appearance before the Parole Board.

4.20 **Sec. 4. [244A.04] DUTY OF BOARD; FINAL DISCHARGE.**

4.21 The Parole Board shall keep in communication with all individuals on parole and
4.22 also with the parolees' employers, and when any parolee has kept the conditions of parole
4.23 in a manner and for a period of time that satisfies the board that the parolee is rehabilitated,
4.24 trustworthy, will remain at liberty without violating the law, and that final release is not
4.25 incompatible with the welfare of society, then the board has power in its discretion to
4.26 grant to that individual a final discharge from confinement. If final discharge is granted,
4.27 the board shall issue to the individual a certificate of final discharge, and shall also cause a
4.28 record of the acts of the individual to be made showing the date of commitment, record
4.29 while in prison, the date of parole, record while on parole, and its reasons for determining
4.30 final discharge, together with any other facts that the board deems relevant. Nothing in
4.31 sections 244A.01 to 244A.08 impairs the power of the Board of Pardons to grant a pardon
4.32 or commutation in any case.

5.1 Sec. 5. **[244A.05] SUPERVISION BY COMMISSIONER OF CORRECTIONS;**
5.2 **AGENTS.**

5.3 Subdivision 1. **Parole supervision.** Other than in Community Corrections Act
5.4 counties, the commissioner of corrections shall exercise supervision over individuals
5.5 released on parole or probation pursuant to sections 244A.01 to 244A.08. The
5.6 responsibilities and powers granted to the commissioner of corrections under sections
5.7 241.26, 242.10, 242.19, 242.46, 243.05, and 244.05, shall be exercised with regard to an
5.8 individual paroled by the board under sections 244A.01 to 244A.08.

5.9 Subd. 2. **Agents.** For the purposes of subdivisions 1 and 2, and sections 609.115 and
5.10 609.135, subdivision 1, the commissioner shall appoint state agents who shall be in the
5.11 classified service of the state civil service. The commissioner may also appoint suitable
5.12 persons in any part of the state or enter into agreements with individuals and public or
5.13 private agencies, for the same purposes, and pay the costs incurred under the agreements.
5.14 Every agent shall perform the duties the commissioner prescribes on behalf of or in the
5.15 supervision of individuals released on parole or probation. In addition, every agent or
5.16 person shall act under the orders of the Parole Board or the commissioner in the supervision
5.17 of individuals conditionally released. Agents shall provide assistance to conditionally
5.18 released individuals in obtaining employment, and shall conduct relevant investigations
5.19 and studies of individuals under supervision upon the request of the commissioner or
5.20 the board. Regional supervisors may also supervise state parole or probation agents
5.21 as directed by the commissioner of corrections. This duty shall not interfere with the
5.22 supervisor's responsibility under the County Probation Act, Laws 1959, chapter 698.

5.23 Subd. 3. **Administrative services.** The commissioner of corrections shall
5.24 provide the board with all other personnel, supplies, equipment, office space, and other
5.25 administrative services necessary and incident to the discharge of the functions of the board.

5.26 Sec. 6. **[244A.06] DEPUTIZATION OF OUT-OF-STATE AGENTS.**

5.27 Subdivision 1. **Out-of-state deputies.** The Parole Board may deputize a person
5.28 regularly employed by another state to act as an agent of this state in effecting the return
5.29 of an individual who has violated the terms and conditions of parole or probation granted
5.30 by this state. In any matter relating to the return of an individual, an agent so deputized
5.31 has the powers of a police officer of this state.

5.32 Subd. 2. **In writing.** A deputization pursuant to subdivision 1 shall be in writing
5.33 and a person so authorized to act as an agent of this state shall carry formal evidence of
5.34 the deputization and shall produce the same upon demand.

6.1 Subd. 3. **Sharing costs.** Subject to the approval of the commissioner of management
6.2 and budget, the Parole Board may enter into contracts with similar officials of another
6.3 state for the purpose of sharing an equitable portion of the cost of effecting the return of an
6.4 individual who has violated the terms and conditions of parole or probation granted by
6.5 this state.

6.6 Sec. 7. **[244A.07] RULES GOVERNING PAROLES.**

6.7 Subdivision 1. **Rules.** The Parole Board is authorized to make, amend, and publish
6.8 rules governing the granting of paroles and final discharges, the procedure of granting
6.9 paroles and final discharges, the conditions of parole, the conduct and employment of
6.10 individuals on parole, and other matters related to the exercise of the powers and duties of
6.11 the board under sections 244A.01 to 244A.07.

6.12 Subd. 2. **Prospective effect.** Any new rule or policy adopted by the board that has the
6.13 effect of postponing eligibility for parole has prospective effect only and applies only with
6.14 respect to individuals committing offenses after the effective date of the new rule or policy.

6.15 Sec. 8. **INITIAL TERMS FOR BOARD MEMBERS.**

6.16 Two of the four members appointed by the governor to the Board of Corrections
6.17 shall serve initial terms of six years. The other two members appointed by the governor
6.18 shall serve initial terms of four years.

6.19 Sec. 9. **APPROPRIATION.**

6.20 \$..... is appropriated in fiscal year 2014 from the general fund to the commissioner of
6.21 corrections to implement sections 1 to 8. This appropriation is available until June 30, 2015.

6.22 Sec. 10. **EFFECTIVE DATE.**

6.23 Sections 1 to 8 are effective the day following final enactment.