

**CHAPTER 2940**  
**DEPARTMENT OF CORRECTIONS**  
**HEARINGS AND RELEASE UNIT**

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**DEFINITIONS AND GENERAL PROVISIONS**

**2940.0100 DEFINITIONS.**

Subpart 1. **Scope.** As used in this chapter, the following terms have the meanings given them in this part.

Subp. 2. **Availability.** "Availability" means the date on which the offender has made bail, bond, or has been released on personal recognizance or no bail required; or completed any local incarceration time which results from a misdemeanor, gross misdemeanor, or felony stayed sentence.

Subp. 3. [Repealed, 50 SR 1091]

Subp. 4. [Repealed, 50 SR 1091]

Subp. 5. [Repealed, 50 SR 1091]

Subp. 6. **Commissioner.** "Commissioner" means the commissioner of corrections.

Subp. 7. **District supervisor.** "District supervisor" means a Department of Corrections field supervisor.

Subp. 8. **Executive officer of hearings and release.** "Executive officer of hearings and release" means the person to whom the commissioner of corrections has delegated the authority for granting parole and work release; for revoking parole, work release, and supervised release; and for granting discharge from an indeterminate sentence.

Subp. 9. [Repealed, 50 SR 1091]

Subp. 10. [Repealed, 50 SR 1091]

Subp. 11. [Repealed, 23 SR 808]

Subp. 12. [Repealed, 50 SR 1091]

Subp. 13. **Inmate.** "Inmate" means a person committed to the jurisdiction of the commissioner who is imprisoned in a correctional facility or other place designated by the commissioner.

Subp. 14. [Repealed, 50 SR 1091]

Subp. 15. [Repealed, 23 SR 808]

Subp. 16. **Near the site.** "Near the site" means a place not to exceed 50 miles from the site of the alleged violation.

Subp. 17. **Parole.** "Parole" means that portion of an indeterminate sentence served by an inmate in the community under supervision and subject to prescribed rules.

Subp. 18. **Probable cause.** "Probable cause" means a finding by a court in an omnibus hearing or by a hearing officer in a probable cause hearing.

Subp. 19. **Probable cause hearing.** "Probable cause hearing" means a hearing held to determine if there are reasonable grounds for belief that one or more conditions of release may have been violated.

Subp. 20. [Repealed, 50 SR 1091]

Subp. 21. [Repealed, 50 SR 1091]

Subp. 22. [Repealed, 50 SR 1091]

Subp. 23. [Repealed, 50 SR 1091]

Subp. 24. [Repealed, 50 SR 1091]

Subp. 25. [Repealed, 50 SR 1091]

Subp. 26. **Releasee.** "Releasee" means a person on parole, work release, or supervised release status from a correctional facility who is under sentence to the commissioner.

Subp. 27. [Repealed, 50 SR 1091]

Subp. 28. **Revocation hearing.** "Revocation hearing" means a hearing held for the purpose of determining whether cause exists for the revocation of parole, work release, or supervised release and for determining whether parole, work release, or supervised release should be revoked and for setting the term of reimprisonment to be served by the violator.

Subp. 29. **Risk to the public.** "Risk to the public" means the degree to which an individual is likely to cause injury, damage, loss, pain, or peril to the public or to engage in unlawful sexual behavior involving a victim.

Subp. 30. [Repealed, 23 SR 808]

Subp. 31. **Supervised release.** "Supervised release" means that portion of a determinate sentence served by an inmate in the community under supervision and subject to prescribed rules, adopted in accordance with Minnesota Statutes, section 244.05.

Subp. 32. **Supervising agent.** "Supervising agent" means the parole and probation agent who is assigned to the individual on parole, work release, or supervised release status.

Subp. 33. **Working days.** "Working days" means all working days exclusive of legal holidays and weekends.

Subp. 34. **Work release.** "Work release" means an extension of confinement in which inmates are conditionally released to work at gainful employment, seek employment, or participate in vocational or educational training in the community while serving their sentence in accordance with Minnesota Statutes, section 241.26.

**Statutory Authority:** *MS s 14.388; 14.3895; 241.26; 243.05*

**History:** *L 1983 c 274 s 18; 8 SR 2298; 23 SR 808; 50 SR 1091*

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## **WARRANTS AND ORDERS**

### **2940.3000 GROUND FOR WARRANTS.**

Warrants may be issued for the apprehension and detention of parolees, supervised releasees, and work releasees who are:

- A. alleged to have violated the conditions of their release;
- B. convicted of a new felony and who represent a risk either by absconding or who have a probability of committing acts which are dangerous to the community; or
- C. the subject of detainers in appropriate cases.

When warrants have been issued as detainers for releasees who are being prosecuted for new charges, including violations which are misdemeanors, gross misdemeanors, or felonies, the revocation process shall not begin until the court process has concluded. The court process will be considered concluded by dismissal of charges, a finding of not guilty, or the completion of any local incarceration time imposed by the court.

**Statutory Authority:** *MS s 241.26; 243.05*

**History:** *8 SR 2298*

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**2940.3100** [Repealed, 50 SR 1091]

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### **2940.3200 ISSUANCE OF WARRANTS.**

The executive officer of hearings and release shall have the authority to issue nationwide or statewide warrants on a case-by-case basis in accordance with the procedures in items A to D.

- A. After consultation with his or her supervisor, the supervising agent shall submit a violation report to the executive officer of hearings and release who shall make the final decision regarding the issuance of a warrant.

B. In emergency situations, the supervising agent shall request authorization for the warrant by telephone. The supervising agent shall call the hearings and release unit and provide the necessary information for warrant authorization.

C. Upon approval of the emergency warrant, the hearings and release unit shall provide the fugitive unit with the necessary information, and instruct the fugitive unit to issue the warrant.

D. If an emergency warrant is issued, a written violation report must be received by the hearings and release unit within five working days.

**Statutory Authority:** *MS s 14.388; 241.26; 243.05*

**History:** *8 SR 2298; 23 SR 808; L 1999 c 86 art 1 s 82*

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### **2940.3300 OTHER ORDERS.**

The executive officer of hearings and release shall have the authority to issue orders revoking parole, supervised release, or work release; to stop the time from running on the sentences of releasees who have absconded, and to start the running of the time on the inmate's sentence.

**Statutory Authority:** *MS s 14.388; 241.26; 243.05*

**History:** *8 SR 2298; 23 SR 808*

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### **2940.3400 HOLD ORDERS.**

Apprehension and detention orders may be issued by the executive officer of the hearings and release unit or a district supervisor upon written reasons submitted by a supervising agent under authority of Minnesota Statutes, section 243.05. No releasee shall be detained under an apprehension and detention order for more than 72 hours unless revocation proceedings have been initiated by the supervising agent.

**Statutory Authority:** *MS s 241.26; 243.05*

**History:** *8 SR 2298; L 1999 c 86 art 1 s 82*

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## **REVOCATION**

### **2940.3500 REVOCATION HEARING.**

Subpart 1. **Location.** Revocation hearings whenever possible must be held in the community where the conviction of the violation of a standard or condition occurred. Separate probable cause hearings may be held if circumstances warrant.

Subp. 2. **When held.** All revocation or separate probable cause hearings must be held within 12 working days of the releasee's availability to Department of Corrections.

Subp. 3. **Outside metropolitan area.** Outside the metropolitan area, as defined by Minnesota Statutes, section 473.121, revocation or separate probable cause hearings shall be conducted by a Department of Corrections district supervisor other than the supervising agent's supervisor. In cases of special need, the executive officer of hearings and release may conduct the revocation or separate probable cause hearings outside the metropolitan area.

Subp. 4. **Within metropolitan area.** Within the metropolitan area the hearings shall be conducted by the executive officer of hearings and release.

**Statutory Authority:** *MS s 14.388; 241.26; 243.05*

**History:** *8 SR 2298; 23 SR 808*

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### **2940.3600 REVOCATION GROUNDS.**

Grounds for the revocation of parole, work release, or supervised release are as follows in items A to C.

A. Conviction of a felony, gross misdemeanor, any misdemeanor punishable by imprisonment as defined in Minnesota Statutes, section 609.02, or repeated traffic offenses other than parking violations. Acknowledgment in the form of a confession under oath in open court before a judge may be considered a conviction for the purpose of revocation.

B. A finding of probable cause by a court of competent jurisdiction or a grand jury indictment shall be considered grounds to hold the offender in custody unless and until the releasee is found not guilty.

C. Violation of any standard or special condition of parole or supervised release.

**Statutory Authority:** *MS s 241.26; 243.05*

**History:** *8 SR 2298*

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### **2940.3700 ACTIONS.**

If the executive officer of hearings and release or a district supervisor finds that releasees are in violation of their parole, work release, or supervised release, the following actions may be taken:

A. counsel the releasee and continue parole, work release, supervised release without modification;

B. modify and enlarge the conditions of release; or

C. revoke parole, work release, or supervised release and return the releasee to imprisonment for an appropriate period of time not to exceed the time remaining on the releasee's sentence.

**Statutory Authority:** *MS s 14.388; 241.26; 243.05*

**History:** 8 SR 2298; 23 SR 808

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### **2940.3800 REIMPRISONMENT.**

Offenders who have violated the conditions of parole or supervised release and who have been returned to institutional status shall be assigned a release date and a term of reimprisonment, as follows:

A. up to six months inclusive of any time spent in jail in connection with the violation, for violations of conditions of parole or supervised release other than convictions of or involvement in criminal activity;

B. up to six months for convictions of misdemeanors or gross misdemeanors;

C. six months to expiration of sentence for conviction of a felony; and

D. depending on the time remaining to be served on the sentence, the type of violation, and the needs of the offender, up to expiration of the sentence may be assigned as the term of reimprisonment if there is a finding of risk to the public or if repeated violations of the conditions of release occur and the releasee is determined to be unamenable to supervision by the executive officer of hearings and release.

The term of reimprisonment under items A to C may be either concurrent or consecutive to incarceration time imposed by a court of law and served locally.

**Statutory Authority:** *MS s 14.388; 241.26; 243.05*

**History:** 8 SR 2298; 23 SR 808

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### **2940.3900 REVOCATION PROCEDURES; INVESTIGATION AND REPORT.**

Supervising agents shall investigate all alleged violations of release and after consultation with their supervisor determine whether grounds exist to begin revocation procedures. If grounds are found to exist justifying the initiation of revocation procedures, a violation report must be submitted to the executive officer of hearings and release together with a recommendation as to the issuance of a warrant directing the apprehension and detention of the releasee pending a hearing.

**Statutory Authority:** *MS s 14.388; 241.26; 243.05*

**History:** 8 SR 2298; 23 SR 808

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### **2940.4000 [Repealed, 50 SR 1091]**

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**2940.4100 INITIATION OF REVOCATION PROCEEDINGS.**

If the executive officer of the hearings and release unit determines that revocation proceedings shall be initiated, the supervising agent shall be notified in writing. The executive officer of the hearings and release unit shall send a copy of the violation report to the State Public Defender's Office at the same time that agent is notified to begin revocation proceedings.

**Statutory Authority:** *MS s 241.26; 243.05*

**History:** *8 SR 2298; L 1999 c 86 art 1 s 82*

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**2940.4200 DUTIES OF SUPERVISING AGENT.**

Upon receipt of the notice to begin revocation proceedings, the supervising agent shall have the duties in items A to F.

A. The agent shall give the releasee a copy of the violation report.

B. The supervising agent shall advise the releasee of the purpose of the hearing; the right to a hearing; the right to the assistance of counsel of choice or the services of the State Public Defender; the right to present evidence and to confront and cross-examine witnesses; and the right to admit the violations of release.

C. If the releasee signs the admission of violations form, the supervising agent shall notify the fugitive unit to transport the violator to a correctional facility designated by the commissioner.

D. Upon return to the correctional facility, the releasee shall be provided with a dispositional hearing within 15 working days at which the supervising agent is not required to be present.

E. If the releasee requests a revocation hearing, the supervising agent shall call the hearings and release unit to coordinate a date and time for the hearing.

F. Upon receiving the date and time for the hearing, the supervising agent shall prepare a notice of hearing form, make six copies of the rules of release, six copies of any written evidence, and distribute one set of each according to the distribution indicated on the notice of revocation hearing form.

If the releasee is in custody pursuant to a warrant issued by the hearings and release unit, the hearing shall be held within 15 working days immediately after detention, unless good cause is shown for a continuance. At the time notice is given to the releasee, notice shall be sent to the State Public Defender or private counsel.

**Statutory Authority:** *MS s 14.388; 241.26; 243.05*

**History:** *8 SR 2298; 17 SR 1279; 23 SR 808*

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**2940.4300 REVOCATION HEARING.**

The revocation hearing shall be held near the site of the alleged violation, and conducted by the executive officer of hearings and release or a district supervisor who does not directly supervise the supervising agent alleging the violation. If parole, supervised release, or work release is revoked, the releasee shall be imprisoned in a place determined by the commissioner. Releasees may admit the alleged violations any time prior to the hearing. The admission must be in writing, and releasees must have been notified of the consequences of their admission, including that they may be returned to a correctional facility for a term of imprisonment specified by the executive officer of hearings and release or a district supervisor.

**Statutory Authority:** *MS s 14.388; 241.26; 243.05*

**History:** *8 SR 2298; 23 SR 808*

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**2940.4400 WARRANTS.**

Subpart 1. **General requirement.** Unless taken into custody by a supervising agent under the authority of Minnesota Statutes 1983 Supplement, section 243.05, a releasee shall not be taken into custody unless a warrant is issued by the executive officer of hearings and release.

Subp. 2. **Content.** Requests for hold orders or warrants must allege the specific facts upon which the alleged violation is based, indicate the sources of information, and cite reasons why detention pending the hearing is necessary.

Subp. 3. **Absconding from supervision.** Warrants may be issued in all cases where a releasee has absconded from supervision. Issuance of warrant under these circumstances and the revocation of parole, supervised release, or work release shall stop the time from running on the sentence until the releasee is returned to custody. In all cases where a releasee is returned from out of state, whether by extradition proceedings or waiver of extradition, the hearing shall be held at a location determined by the executive officer of hearings and release.

**Statutory Authority:** *MS s 14.388; 241.26; 243.05*

**History:** *8 SR 2298; 23 SR 808*

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