ARTICLE 8

SUPERVISED RELEASE BOARD; CHANGES TO RELEASE DETERMINATIONS AND ELIGIBILITY FOR CERTAIN OFFENDERS

Section 1. [244.049] SUPERVISED RELEASE BOARD.

Subdivision 1. Establishment; membership. (a) The Supervised Release Board is established to review eligible cases and make release and final discharge decisions for:

1. inmates serving life sentences with the possibility of parole or supervised release under sections 243.05, subdivision 1, and 244.05, subdivision 5;
2. inmates serving indeterminate sentences for crimes committed on or before April 30, 1980; and
3. inmates eligible for early supervised release under section 244.05, subdivision 4a.

(b) The authority to grant discretionary release and final discharge previously vested in the commissioner under sections 243.05, subdivisions 1, paragraph (a), and 3; 244.08; and 609.12 is transferred to the board.

(c) The board consists of seven members as follows:
1. four individuals appointed by the governor from which each of the majority leaders and minority leaders of the house of representatives and senate provide two candidate recommendations for consideration;
2. two members appointed by the governor who have expertise in the neurological development of juveniles; and
3. the commissioner, who serves as chair.

(d) The members defined in paragraph (c), clause (1), must meet the following qualifications, at a minimum:
1. a law degree or a bachelor's degree in criminology, corrections, social work, or a related social science;
2. five years of experience in corrections, a criminal justice or community corrections field, rehabilitation programming, behavioral health, or criminal law; and
3. demonstrated knowledge of victim issues and correctional processes.

Subd. 2. Terms; compensation. (a) Appointed board members serve four-year staggered terms, but the terms of the initial members are as follows:
1. three members must be appointed for terms that expire January 1, 2026; and
2. three members must be appointed for terms that expire January 1, 2028.
(b) An appointed member is eligible for reappointment and a vacancy must be filled according to subdivision 1.

(c) For appointed members, compensation and removal are as provided in section 15.0575.

Subd. 3. Quorum; compensation; administrative duties. (a) Subject to the requirements in paragraph (b), the majority of members constitutes a quorum.

(b) When reviewing cases involving people who were 18 or older at the time of the offense, the board must comprise a quorum of the five members identified in subdivision 1, paragraph (c), clauses (1) and (3). When reviewing cases involving people who were under 18 at the time of the offense, the board must comprise a quorum of all seven members and include at least one member identified in subdivision 1, paragraph (c), clause (2).

(c) An appointed board member must visit at least one state correctional facility every 12 months.

(d) The commissioner must provide the board with personnel, supplies, equipment, office space, and other administrative services necessary and incident to fulfilling the board's functions.

Subd. 4. Limitation. Nothing in this section:

(1) supersedes the commissioner's authority to set conditions of release or revoke an inmate's release for violating any of the conditions; or

(2) impairs the power of the Board of Pardons to grant a pardon or commutation in any case.

Subd. 5. Report. (a) On or before February 15 each year, the board must submit to the chairs and ranking minority members of the legislative committees with jurisdiction over criminal justice policy a written report that:

(1) details the number of inmates reviewed;

(2) identifies inmates granted release or final discharge in the preceding year; and

(3) provides demographic data of inmates who were granted release or final discharge and inmates who were denied release or final discharge, including whether any of the individuals were under 18 years of age at the time of committing the offense;

(b) The report must also include the board's recommendations to the commissioner for policy modifications that influence the board's duties.

Sec. 2. Minnesota Statutes 2022, section 244.05, subdivision 1b, is amended to read:

Subd. 1b. Supervised release; offenders who commit crimes on or after August 1, 1993. (a) Except as provided in subdivisions 4, 4a, and 5, every inmate sentenced to prison for a felony offense committed on or after August 1, 1993, shall serve a supervised release term upon completion of the inmate's term of imprisonment and any disciplinary confinement.
period imposed by the commissioner due to the inmate's violation of any disciplinary rule
adopted by the commissioner or refusal to participate in a rehabilitative program required
under section 244.03. The amount of time the inmate serves on supervised release shall be
equal in length to the amount of time remaining in the inmate's executed sentence after the
inmate has served the term of imprisonment and any disciplinary confinement period imposed
by the commissioner.

(b) No inmate who violates a disciplinary rule or refuses to participate in a rehabilitative
program as required under section 244.03 shall be placed on supervised release until the
inmate has served the disciplinary confinement period for that disciplinary sanction or until
the inmate is discharged or released from punitive segregation confinement, whichever is
later. The imposition of a disciplinary confinement period shall be considered to be a
disciplinary sanction imposed upon an inmate, and the procedure for imposing the
disciplinary confinement period and the rights of the inmate in the procedure shall be those
effective for the imposition of other disciplinary sanctions at each state correctional institution.

Sec. 3. Minnesota Statutes 2022, section 244.05, subdivision 2, is amended to read:

Subd. 2. Rules. (a) Notwithstanding section 14.03, subdivision 3, paragraph (b), clause
(1), the commissioner of corrections shall adopt by rule standards and procedures for the
revocation of supervised or conditional release, and shall specify the period of revocation
for each violation of release except in accordance with subdivision 5, paragraph (l).

(b) Procedures for the revocation of revoking release must provide due process of
law for the inmate.

EFFECTIVE DATE. This section is effective July 1, 2023.

Sec. 4. Minnesota Statutes 2022, section 244.05, subdivision 4, is amended to read:

Subd. 4. Minimum imprisonment, life sentence. (a) An inmate serving a mandatory
life sentence under section 609.106, subdivision 2, or 609.3455, subdivision 2, paragraph
(a), must not be given supervised release under this section.

(b) Except as provided in paragraph (f), an inmate serving a mandatory life sentence
under section 609.185, paragraph (a), clause (3), (5), or (6); or Minnesota Statutes 2004,
section 609.109, subdivision 3, must not be given supervised release under this section
without having served a minimum term of 30 years.

(c) Except as provided in paragraph (f), an inmate serving a mandatory life sentence
under section 609.385 must not be given supervised release under this section without having
served a minimum term of imprisonment of 17 years.

(d) An inmate serving a mandatory life sentence under section 609.3455, subdivision 3
or 4, must not be given supervised release under this section without having served the
minimum term of imprisonment specified by the court in its sentence.
(e) An inmate serving a mandatory life sentence under section 609.106, subdivision 3, 609.3455, subdivision 2, paragraph (c), must not be given supervised release under this section without having served a minimum term of imprisonment of 15 years.

(f) An inmate serving a mandatory life sentence for a crime described in paragraph (b) or (c) who was under 18 years of age at the time of the commission of the offense must not be given supervised release under this section without having served a minimum term of imprisonment of 15 years.

Sec. 5. Minnesota Statutes 2022, section 244.05, is amended by adding a subdivision to read:

Subd. 4a. Eligibility for early supervised release; offenders who were under 18 at the time of offense.

(a) Notwithstanding any other provision of law, any person who was under the age of 18 at the time of the commission of an offense is eligible for early supervised release if the person is serving an executed sentence that includes a term of imprisonment of more than 15 years or separate, consecutive executed sentences for two or more crimes that include combined terms of imprisonment that total more than 15 years.

(b) A person eligible for early supervised release under paragraph (a) must be considered for early supervised release pursuant to section 244.049 after serving 15 years of imprisonment.

(c) Where the person is serving separate, consecutive executed sentences for two or more crimes, the person may be granted early supervised release on all sentences.

Sec. 6. Minnesota Statutes 2022, section 244.05, subdivision 5, is amended to read:

Subd. 5. Supervised release, life sentence and indeterminate sentences.

(a) The commissioner of corrections board may, under rules promulgated by the commissioner, grant supervised release or parole as follows:

(1) to an inmate serving a mandatory life sentence under section 609.185, paragraph (a), clause (3), (5), or (6); 609.345 or 609.3455, subdivision 3 or 4; 609.109, subdivision 3, or Minnesota Statutes 2004, section 609.106, subdivision 3, after the inmate has served the minimum term of imprisonment specified in subdivision 4 or section 243.05, subdivision 1, paragraph (a);

(2) at any time for an inmate serving a nonlife indeterminate sentence for a crime committed on or before April 30, 1980; or

(3) to an inmate eligible for early supervised release under subdivision 4a after the inmate has served the minimum term of imprisonment.

(b) For cases involving multiple sentences, the board must grant or deny supervised release as follows:
(1) if an inmate is serving multiple sentences that are concurrent to one another, the board must grant or deny supervised release on all sentences; and

(2) notwithstanding any other law to the contrary, if an inmate eligible for early supervised release under section 244.05, subdivision 4a, is serving multiple sentences that are consecutive to one another, the board may grant or deny supervised release on one or more sentences.

(c) The commissioner shall board must require the preparation of a community investigation report and shall consider the findings of the report when making a supervised release or parole decision under this subdivision. The report shall:

(1) reflect the sentiment of the various elements of the community toward the inmate, both at the time of the offense and at the present time.

(2) include the views of the sentencing judge, the prosecutor, any law enforcement personnel who may have been involved in the case, and any successors to these individuals who may have information relevant to the supervised release decision. The report shall:

and

(3) include the views of the victim and the victim's family unless the victim or the victim's family chooses not to participate.

(d) For an individual who was under 18 years of age when they committed their offense, the board must require the preparation of a development report and consider the report's findings when making a supervised release decision under this subdivision. The report must be prepared by a mental health professional under section 245I.04, subdivision 2, clause (1) to (4) or (6), and must address the inmate's cognitive, emotional, and social maturity. The board may use a previous report that was prepared within 12 months immediately preceding the hearing.

(e) The commissioner shall board must make reasonable efforts to notify the victim, in advance, of the time and place of the inmate's supervised release review hearing. The victim has a right to submit an oral or written statement at the review hearing. The statement may summarize the harm suffered by the victim as a result of the crime and give the victim's recommendation on whether the inmate should be given supervised release at this time. The commissioner board must consider the victim's statement when making the supervised release or parole decision.

(f) Supervised release or parole must be granted with a majority vote of the board members. When considering whether to grant supervised release or parole to an inmate serving a life or indeterminate sentence under section 609.3455, subdivision 3 or 4, or early supervised release to an inmate under subdivision 4a, the commissioner shall board must consider, at a minimum, the following:

(1) the risk the inmate poses to the community if released,

(2) the potential for rehabilitation of the inmate,

(3) the length, nature, and completion of the inmate's sentence, and

(4) any other factors that the court shall consider.
the inmate's progress in treatment;
(3) the inmate's behavior while incarcerated;
(4) psychological or other diagnostic evaluations of the inmate;
(5) the inmate's criminal history;
(6) a victim statement under paragraph (e), if submitted;
(7) for an inmate who was under 18 years of age when they committed their offense:
(i) the development report under paragraph (d); and
(ii) relevant science on the neurological development of juveniles and information on the inmate's maturity and rehabilitation while incarcerated; and
(8) any other relevant conduct of the inmate while incarcerated or before incarceration.

The commissioner board may not grant supervised release or parole to an inmate unless:

(1) while in prison:
(i) the inmate has successfully completed appropriate sex offender treatment, if applicable;
(ii) the inmate has been assessed for substance use disorder needs and, if appropriate, has successfully completed substance use disorder treatment; and
(iii) the inmate has been assessed for mental health needs and, if appropriate, has successfully completed mental health treatment; and
(2) a comprehensive individual release plan is in place for the inmate that ensures that, after release, the inmate will have suitable housing and receive appropriate aftercare and community-based treatment. The comprehensive plan also must include, and
(ii) includes a postprison employment or education plan for the inmate.

No earlier than three years before an inmate reaches their minimum term of imprisonment, the commissioner must conduct a formal review and make programming recommendations relevant to the inmate's release review. The board must conduct a supervised release review hearing as soon as practicable before an inmate reaches their minimum term of imprisonment. If an inmate is not released after a hearing, the board must conduct a subsequent review hearing no more than once every three years.

Within 30 days after a supervised release review hearing, the board must issue a decision on granting release, including an explanation for the decision. If the board does not grant supervised release, the explanation must identify specific steps that the inmate can take to increase the likelihood that release will be granted at a future hearing.
When granting supervised release under this subdivision, the board must set prerelease conditions to be followed by the inmate, if time permits, before their actual release or before constructive parole becomes effective. If the inmate violates any of the prerelease conditions, the commissioner may rescind the grant of supervised release without a hearing at any time before the inmate's release or before constructive parole becomes effective. A grant of constructive parole becomes effective once the inmate begins serving the consecutive sentence.

If the commissioner rescinds a grant of supervised release or parole, the board:

1. must set a release review date that occurs within 90 days of the commissioner's rescission; and
2. by majority vote, may set a new supervised release date or set another review date.

If the commissioner revokes supervised release or parole for an inmate serving a life sentence, the revocation is not subject to the limitations under section 244.30 and the board:

1. must set a release review date that occurs within one year of the commissioner's final revocation decision; and
2. by majority vote, may set a new supervised release date or set another review date.

The board may, by a majority vote, grant a person on supervised release or parole for a life or indeterminate sentence a final discharge from their sentence in accordance with section 243.05, subdivision 3. In no case, however, may a person subject to a mandatory lifetime conditional release term under section 609.3455, subdivision 7, be discharged from that term.

For purposes of this subdivision:

1. "board" means the Supervised Release Board under section 244.049;
2. "constructive parole" means the status of an inmate who has been paroled from an indeterminate sentence to begin serving a consecutive sentence in prison; and
3. "victim" means the an individual who has directly suffered loss or harm as a result of the inmate's crime or, if the individual or deceased, the deceased's a murder victim's surviving spouse or, next of kin, or family kin.

EFFECTIVE DATE. This section is effective July 1, 2023.
sentence. The amount of time the inmate actually serves in prison and on supervised release is subject to the provisions of section 244.05, subdivision 1b.

Sec. 8. Minnesota Statutes 2022, section 609.106, subdivision 2, is amended to read:

Subd. 2. Life without release. Except as provided in subdivision 3, the court shall sentence a person to life imprisonment without possibility of release under the following circumstances:

1. (1) the person is convicted of first-degree murder under section 609.185, paragraph (a), clause (1), (2), (4), or (7);
2. (2) the person is convicted of committing first-degree murder in the course of a kidnapping under section 609.185, paragraph (a), clause (3); or
3. (3) the person is convicted of first-degree murder under section 609.185, paragraph (a), clause (3), (5), or (6), and the court determines on the record at the time of sentencing that the person has one or more previous convictions for a heinous crime.

Sec. 9. Minnesota Statutes 2022, section 609.106, is amended by adding a subdivision to read:

Subd. 3. Offender under age 18; life imprisonment. The court shall sentence a person who was under 18 years of age at the time of the commission of an offense under the circumstances described in subdivision 2 to imprisonment for life.

Sec. 10. Minnesota Statutes 2022, section 609.3455, subdivision 2, is amended to read:

Subd. 2. Mandatory life sentence without release; egregious first-time and repeat offenders. (a) Except as provided in paragraph (c), notwithstanding the statutory maximum penalty otherwise applicable to the offense, the court shall sentence a person convicted under section 609.342, subdivision 1, paragraph (a), (b), (c), (d), or (e), or subdivision 1a, clause (a), (b), (c), (d), (h), or (i); or 609.343, subdivision 1, paragraph (a), (b), (c), (d), or (e), or subdivision 1a, clause (a), (b), (c), (d), (h), or (i), to life without the possibility of release if:

1. (1) the fact finder determines that two or more heinous elements exist; or
2. (2) the person has a previous sex offense conviction for a violation of section 609.342, 609.343, 609.344, or 609.3458, subdivision 1, paragraph (b), and the fact finder determines that a heinous element exists for the present offense.

(b) A fact finder may not consider a heinous element if it is an element of the underlying specified violation of section 609.342 or 609.343. In addition, when determining whether two or more heinous elements exist, the fact finder may not use the same underlying facts to support a determination that more than one element exists.
(c) The court shall sentence a person who was under 18 years of age at the time of the commission of an offense described in paragraph (a) to imprisonment for life.

Sec. 11. Minnesota Statutes 2022, section 609.3455, subdivision 5, is amended to read:

Subd. 5. Life sentences; minimum term of imprisonment. At the time of sentencing under subdivision 3 or 4, the court shall specify a minimum term of imprisonment, based on the sentencing guidelines or any applicable mandatory minimum sentence, that must be served before the offender may be considered for supervised release. If the offender was under 18 years of age at the time of the commission of the offense, the minimum term of imprisonment specified by the court shall not exceed 15 years.

Sec. 12. REVISOR INSTRUCTION.

When necessary to reflect the transfer under Minnesota Statutes, section 244.049, subdivision 1, the revisor of statutes must change the term "commissioner" or "commissioner of corrections" to "Supervised Release Board" or "board" in Minnesota Statutes, sections 243.05, subdivisions 1, paragraph (a), and 3; 244.08; and 609.12 and make any other necessary grammatical changes.

Sec. 13. EFFECTIVE DATE.

Sections 2, 4, 5, 7, and 8 to 11 are effective July 1, 2023, and apply to offenders sentenced on or after that date and retroactively to offenders:

1. sentenced to life imprisonment without possibility of release following a conviction under Minnesota Statutes, section 609.185, paragraph (a), for an offense committed when the offender was under 18 years of age and when a sentence was imposed pursuant to Minnesota Statutes, section 609.106, subdivision 2;

2. sentenced to life imprisonment without possibility of release following a conviction under Minnesota Statutes, section 609.3455, subdivision 2, for an offense committed when the offender was under 18 years of age;

3. sentenced to life imprisonment under Minnesota Statutes, section 609.185, paragraph (a), clause (3), (5), or (6), or Minnesota Statutes 2004, section 609.106, subdivision 3, for an offense committed when the offender was under 18 years of age;

4. sentenced to life imprisonment under Minnesota Statutes, section 609.385, for an offense committed when the offender was under 18 years of age;

5. sentenced to life imprisonment under Minnesota Statutes, section 609.3455, subdivision 3 or 4, if the minimum term of imprisonment specified by the court in its sentence exceeds 15 years for an offense committed when the offender was under 18 years of age;

or

6. sentenced to an executed sentence that includes a term of imprisonment of more than 15 years or separate, consecutive executed sentences for two or more crimes that include
combined terms of imprisonment that total more than 15 years for an offense committed when the offender was under 18 years of age.