

160.3

ARTICLE 8

160.4

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

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Section 1. [244.049] SUPERVISED RELEASE BOARD.

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

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(1) inmates serving life sentences with the possibility of parole or supervised release under sections 243.05, subdivision 1, and 244.05, subdivision 5;

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(2) inmates serving indeterminate sentences for crimes committed on or before April 30, 1980; and

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(3) inmates eligible for early supervised release under section 244.05, subdivision 4a.

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(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.

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(c) The board consists of seven members as follows:

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(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;

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(2) two members appointed by the governor who have expertise in the neurological development of juveniles; and

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(3) the commissioner, who serves as chair.

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(d) The members defined in paragraph (c), clause (1), must meet the following qualifications, at a minimum:

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(1) a law degree or a bachelor's degree in criminology, corrections, social work, or a related social science;

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(2) five years of experience in corrections, a criminal justice or community corrections field, rehabilitation programming, behavioral health, or criminal law; and

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(3) demonstrated knowledge of victim issues and correctional processes.

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Subd. 2. **Terms; compensation.** (a) Appointed board members serve four-year staggered terms, but the terms of the initial members are as follows:

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(1) three members must be appointed for terms that expire January 1, 2026; and

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(2) three members must be appointed for terms that expire January 1, 2028.

- 161.5 (b) An appointed member is eligible for reappointment and a vacancy must be filled
161.6 according to subdivision 1.
- 161.7 (c) For appointed members, compensation and removal are as provided in section 15.0575.
- 161.8 Subd. 3. **Quorum; compensation; administrative duties.** (a) Subject to the requirements
161.9 in paragraph (b), the majority of members constitutes a quorum.
- 161.10 (b) When reviewing cases involving people who were 18 or older at the time of the
161.11 offense, the board must comprise a quorum of the five members identified in subdivision
161.12 1, paragraph (c), clauses (1) and (3). When reviewing cases involving people who were
161.13 under 18 at the time of the offense, the board must comprise a quorum of all seven members
161.14 and include at least one member identified in subdivision 1, paragraph (c), clause (2).
- 161.15 (c) An appointed board member must visit at least one state correctional facility every
161.16 12 months.
- 161.17 (d) The commissioner must provide the board with personnel, supplies, equipment,
161.18 office space, and other administrative services necessary and incident to fulfilling the board's
161.19 functions.
- 161.20 Subd. 4. **Limitation.** Nothing in this section:
- 161.21 (1) supersedes the commissioner's authority to set conditions of release or revoke an
161.22 inmate's release for violating any of the conditions; or
- 161.23 (2) impairs the power of the Board of Pardons to grant a pardon or commutation in any
161.24 case.
- 161.25 Subd. 5. **Report.** (a) On or before February 15 each year, the board must submit to the
161.26 chairs and ranking minority members of the legislative committees with jurisdiction over
161.27 criminal justice policy a written report that:
- 161.28 (1) details the number of inmates reviewed;
- 161.29 (2) identifies inmates granted release or final discharge in the preceding year; and
- 162.1 (3) provides demographic data of inmates who were granted release or final discharge
162.2 and inmates who were denied release or final discharge, including whether any of the
162.3 individuals were under 18 years of age at the time of committing the offense.
- 162.4 (b) The report must also include the board's recommendations to the commissioner for
162.5 policy modifications that influence the board's duties.
- 162.6 Sec. 2. Minnesota Statutes 2022, section 244.05, subdivision 1b, is amended to read:
- 162.7 Subd. 1b. **Supervised release; offenders who commit crimes on or after August 1,**
162.8 **1993.** (a) Except as provided in subdivisions 4, 4a, and 5, every inmate sentenced to prison
162.9 for a felony offense committed on or after August 1, 1993, shall serve a supervised release
162.10 term upon completion of the inmate's term of imprisonment and any disciplinary confinement

162.11 period imposed by the commissioner due to the inmate's violation of any disciplinary rule
162.12 adopted by the commissioner or refusal to participate in a rehabilitative program required
162.13 under section 244.03. The amount of time the inmate serves on supervised release shall be
162.14 equal in length to the amount of time remaining in the inmate's executed sentence after the
162.15 inmate has served the term of imprisonment and any disciplinary confinement period imposed
162.16 by the commissioner.

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

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

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

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

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

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

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

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

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

163.12 (d) An inmate serving a mandatory life sentence under section 609.3455, subdivision 3
163.13 or 4, must not be given supervised release under this section without having served the
163.14 minimum term of imprisonment specified by the court in its sentence.

163.15 (e) An inmate serving a mandatory life sentence under section 609.106, subdivision 3,
163.16 or 609.3455, subdivision 2, paragraph (c), must not be given supervised release under this
163.17 section without having served a minimum term of imprisonment of 15 years.

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

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

163.24 Subd. 4a. **Eligibility for early supervised release; offenders who were under 18 at**
163.25 **the time of offense.** (a) Notwithstanding any other provision of law, any person who was
163.26 under the age of 18 at the time of the commission of an offense is eligible for early supervised
163.27 release if the person is serving an executed sentence that includes a term of imprisonment
163.28 of more than 15 years or separate, consecutive executed sentences for two or more crimes
163.29 that include combined terms of imprisonment that total more than 15 years.

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

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

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

164.4 Subd. 5. **Supervised release, life sentence and indeterminate sentences.** (a) The
164.5 commissioner of corrections board may, under rules promulgated adopted by the
164.6 commissioner, give grant supervised release or parole as follows:

164.7 (1) to an inmate serving a mandatory life sentence under section 609.185, paragraph (a);
164.8 clause (3), (5), or (6); 609.3455, subdivision 3 or 4; 609.385; or Minnesota Statutes 2004,
164.9 section 609.109, subdivision 3, after the inmate has served the minimum term of
164.10 imprisonment specified in subdivision 4 or section 243.05, subdivision 1, paragraph (a);

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

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

164.15 (b) For cases involving multiple sentences, the board must grant or deny supervised
164.16 release as follows:

164.17 (1) if an inmate is serving multiple sentences that are concurrent to one another, the
164.18 board must grant or deny supervised release on all sentences; and

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

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

164.26 (1) reflect the sentiment of the various elements of the community toward the inmate,
164.27 ~~both at the time of the offense and at the present time. The report shall;~~

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

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

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

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

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

165.22 (1) the risk the inmate poses to the community if released;

- 165.23 (2) the inmate's progress in treatment;
165.24 (3) the inmate's behavior while incarcerated;
165.25 (4) psychological or other diagnostic evaluations of the inmate;
165.26 (5) the inmate's criminal history;
165.27 (6) a victim statement under paragraph (c), if submitted;
165.28 (7) for an inmate who was under 18 years of age when they committed their offense;
165.29 (i) the development report under paragraph (d); and
165.30 (ii) relevant science on the neurological development of juveniles and information on
165.31 the inmate's maturity and rehabilitation while incarcerated; and
165.32 (8) any other relevant conduct of the inmate while incarcerated or before incarceration.
166.1 (g) The commissioner board may not give grant supervised release or parole to the an
166.2 inmate unless:
166.3 (1) while in prison:
166.4 (i) the inmate has successfully completed appropriate sex offender treatment, if applicable;
166.5 (ii) the inmate has been assessed for substance use disorder needs and, if appropriate,
166.6 has successfully completed substance use disorder treatment; and
166.7 (iii) the inmate has been assessed for mental health needs and, if appropriate, has
166.8 successfully completed mental health treatment; and
166.9 (2) a comprehensive individual release plan is in place for the inmate that:
166.10 (i) ensures that, after release, the inmate will have suitable housing and receive appropriate
166.11 aftercare and community-based treatment. The comprehensive plan also must include; and
166.12 (ii) includes a postprison employment or education plan for the inmate.
166.13 (h) No earlier than three years before an inmate reaches their minimum term of
166.14 imprisonment, the commissioner must conduct a formal review and make programming
166.15 recommendations relevant to the inmate's release review. The board must conduct a
166.16 supervised release review hearing as soon as practicable before an inmate reaches their
166.17 minimum term of imprisonment. If an inmate is not released after a hearing, the board must
166.18 conduct a subsequent review hearing no more than once every three years.
166.19 (i) Within 30 days after a supervised release review hearing, the board must issue a
166.20 decision on granting release, including an explanation for the decision. If the board does
166.21 not grant supervised release, the explanation must identify specific steps that the inmate
166.22 can take to increase the likelihood that release will be granted at a future hearing.

166.23 (j) When granting supervised release under this subdivision, the board must set prerelease
166.24 conditions to be followed by the inmate, if time permits, before their actual release or before
166.25 constructive parole becomes effective. If the inmate violates any of the prerelease conditions,
166.26 the commissioner may rescind the grant of supervised release without a hearing at any time
166.27 before the inmate's release or before constructive parole becomes effective. A grant of
166.28 constructive parole becomes effective once the inmate begins serving the consecutive
166.29 sentence.

166.30 (k) If the commissioner rescinds a grant of supervised release or parole, the board:

166.31 (1) must set a release review date that occurs within 90 days of the commissioner's
166.32 rescission; and

167.1 (2) by majority vote, may set a new supervised release date or set another review date.

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

167.4 (1) must set a release review date that occurs within one year of the commissioner's final
167.5 revocation decision; and

167.6 (2) by majority vote, may set a new supervised release date or set another review date.

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

167.12 (n) For purposes of this subdivision:

167.13 (1) "board" means the Supervised Release Board under section 244.049;

167.14 (2) "constructive parole" means the status of an inmate who has been paroled from an
167.15 indeterminate sentence to begin serving a consecutive sentence in prison; and

167.16 ~~(e) As used in this subdivision, (3) "victim" means the an individual who has directly~~
167.17 ~~suffered loss or harm as a result of the from an inmate's crime or, if the individual is deceased,~~
167.18 ~~the deceased's a murder victim's surviving spouse or, next of kin, or family kin.~~

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

167.20 Sec. 7. Minnesota Statutes 2022, section 244.101, subdivision 1, is amended to read:

167.21 Subdivision 1. **Executed sentences.** Except as provided in section 244.05, subdivision
167.22 4a, when a felony offender is sentenced to a fixed executed sentence for an offense committed
167.23 on or after August 1, 1993, the executed sentence consists of two parts: (1) a specified
167.24 minimum term of imprisonment that is equal to two-thirds of the executed sentence; and
167.25 (2) a specified maximum supervised release term that is equal to one-third of the executed

167.26 sentence. The amount of time the inmate actually serves in prison and on supervised release
167.27 is subject to the provisions of section 244.05, subdivision 1b.

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

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

168.1 (1) the person is convicted of first-degree murder under section 609.185, paragraph (a),
168.2 clause (1), (2), (4), or (7);

168.3 (2) the person is convicted of committing first-degree murder in the course of a
168.4 kidnapping under section 609.185, paragraph (a), clause (3); or

168.5 (3) the person is convicted of first-degree murder under section 609.185, paragraph (a),
168.6 clause (3), (5), or (6), and the court determines on the record at the time of sentencing that
168.7 the person has one or more previous convictions for a heinous crime.

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

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

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

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

168.21 (1) the fact finder determines that two or more heinous elements exist; or

168.22 (2) the person has a previous sex offense conviction for a violation of section 609.342,
168.23 609.343, 609.344, or 609.3458, subdivision 1, paragraph (b), and the fact finder determines
168.24 that a heinous element exists for the present offense.

168.25 (b) A fact finder may not consider a heinous element if it is an element of the underlying
168.26 specified violation of section 609.342 or 609.343. In addition, when determining whether
168.27 two or more heinous elements exist, the fact finder may not use the same underlying facts
168.28 to support a determination that more than one element exists.

168.29 (c) The court shall sentence a person who was under 18 years of age at the time of the
168.30 commission of an offense described in paragraph (a) to imprisonment for life.

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

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

169.8 Sec. 12. **REVISOR INSTRUCTION.**

169.9 When necessary to reflect the transfer under Minnesota Statutes, section 244.049,
169.10 subdivision 1, the revisor of statutes must change the term "commissioner" or "commissioner
169.11 of corrections" to "Supervised Release Board" or "board" in Minnesota Statutes, sections
169.12 243.05, subdivisions 1, paragraph (a), and 3; 244.08; and 609.12 and make any other
169.13 necessary grammatical changes.

169.14 Sec. 13. **EFFECTIVE DATE.**

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

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

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

169.24 (3) sentenced to life imprisonment under Minnesota Statutes, section 609.185, paragraph
169.25 (a), clause (3), (5), or (6); or Minnesota Statutes 2004, section 609.109, subdivision 3, for
169.26 an offense committed when the offender was under 18 years of age;

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

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

170.1 (6) sentenced to an executed sentence that includes a term of imprisonment of more than
170.2 15 years or separate, consecutive executed sentences for two or more crimes that include

170.3 combined terms of imprisonment that total more than 15 years for an offense committed
170.4 when the offender was under 18 years of age.