

CHAPTER 244

CRIMINAL SENTENCES,
CONDITIONS, DURATION, APPEALS

Sec.		Sec.	
244.01	Definitions.	244.08	Minnesota corrections board; commissioner.
244.02	Mutual agreement programs.	244.09	Minnesota sentencing guidelines commission.
244.03	Voluntary programs.	244.10	Sentencing hearing; deviation from guidelines.
244.04	Good time.	244.11	Appellate review of sentence.
244.05	Supervised release term.		
244.06	Extraordinary discharge.		
244.07	Furloughs.		

244.01 DEFINITIONS. Subdivision 1. For purposes of sections 244.01 to 244.11, the following terms shall have the meanings given them.

Subd. 2. "Inmate" means any person who is convicted of a felony, is committed to the custody of the commissioner of corrections and is confined in a state correctional institution or released from a state correctional institution pursuant to sections 241.26, subdivision 1, 244.05, and 244.07.

Subd. 3. "Commissioner" means the commissioner of corrections or his designee.

Subd. 4. "Correctional institution" means any state institution under the operational authority of the commissioner of corrections.

Subd. 5. "Good time" means the period of time by which an inmate's term of imprisonment is reduced pursuant to section 244.04.

Subd. 6. "Commission" means the Minnesota sentencing guidelines commission established pursuant to section 244.09.

Subd. 7. "Supervised release" means the release of an inmate pursuant to section 244.05.

Subd. 8. "Term of imprisonment" is a period of time equal to the period of time to which the inmate is committed to the custody of the commissioner of corrections following a conviction for a felony.

[1978 c 723 art 1 s 1]

NOTE: This section is effective May 1, 1980. See Laws 1978, Chapter 723, Article 1, Section 20.

244.02 MUTUAL AGREEMENT PROGRAMS. Subdivision 1. Within seven days after the commissioner assumes custody of an inmate, he shall inform the inmate of the availability and scope of mutual agreement programs and of the fact that participation by the inmate is optional and has no effect on the length of his sentence. If the inmate decides to enter into a mutual agreement program, the commissioner shall draft one for the inmate within 90 days after receiving a request to do so from the inmate. The mutual agreement program shall be drafted after a classification study of the inmate has been made by the commissioner. In drafting a mutual agreement program, the commissioner shall also refer to the presentence investigation which has been made of the inmate. The agreement shall provide the following:

(a) A program of vocational or educational training with specific chronological and achievement objectives, including completion of specified educational and vocational programs;

(b) Frequent and regular evaluation of the inmate by the commissioner; and

(c) A consideration of any educational qualifications or skills of the inmate when specifying certain types of work expectations.

The participation of inmates in the mutual agreement program shall be limited by the appropriations made for that purpose.

Subd. 2. The inmate may decline to enter into the agreement drafted by the commissioner. Failure to enter into an agreement shall not affect the earning of good time

by an inmate, nor shall violation of the terms of the agreement constitute a disciplinary offense which may result in the loss of good time.

[1978 c 723 art 1 s 2]

NOTE: This section is effective May 1, 1980. See Laws 1978, Chapter 723, Article 1, Section 20.

244.03 VOLUNTARY PROGRAMS. The commissioner shall provide appropriate mental health programs and vocational and educational programs with employment-related goals for inmates who desire to voluntarily participate in such programs. The selection, design and implementation of programs under this section shall be the sole responsibility of the commissioner, acting within the limitations imposed on him by the funds appropriated for such programs.

No action challenging the level of expenditures for programs authorized under this section, nor any action challenging the selection, design or implementation of these programs, may be maintained by an inmate in any court in this state.

[1978 c 723 art 1 s 3]

NOTE: This section is effective May 1, 1980. See Laws 1978, Chapter 723, Article 1, Section 20.

244.04 GOOD TIME. Subdivision 1. An inmate's term of imprisonment shall be reduced in duration by one day for each two days during which the inmate violates none of the disciplinary offense rules promulgated by the commissioner. The reduction shall accrue to the period of supervised release to be served by the inmate.

If an inmate violates a disciplinary offense rule promulgated by the commissioner, good time earned prior to the violation may not be taken away, but the inmate may be required to serve an appropriate portion of his term of imprisonment after the violation without earning good time.

Subd. 2. By May 1, 1980, the commissioner shall promulgate rules specifying disciplinary offenses which may result in the loss of good time and the amount of good time which may be lost as a result of each disciplinary offense. In no case shall an individual disciplinary offense result in the loss of more than 90 days of good time. The loss of good time shall be considered to be a disciplinary sanction imposed upon an inmate, and the procedure for the loss of good time and the rights of the inmate in the procedure shall be those in effect for the imposition of other disciplinary sanctions at each state correctional institution.

Subd. 3. The provisions of this section do not apply to an inmate serving a mandatory life sentence.

[1978 c 723 art 1 s 4]

NOTE: This section is effective May 1, 1980. See Laws 1978, Chapter 723, Article 1, Section 20.

244.05 SUPERVISED RELEASE TERM. Subdivision 1. Except as provided in subdivisions 4 and 5, every inmate shall serve a supervised release term upon completion of his term of imprisonment as reduced by any good time earned by the inmate. The supervised release term shall be equal to the period of good time the inmate has earned, and shall not exceed the length of time remaining in the inmate's sentence.

Subd. 2. The Minnesota corrections board shall promulgate rules for the placement and supervision of inmates serving a supervised release term. The rules shall also provide standards and procedures for the revocation of supervised release, and shall specify the period of revocation for each violation of supervised release. Procedures for the revocation of supervised release shall provide due process of law for the inmate.

Subd. 3. If an inmate violates the conditions of his supervised release imposed by the Minnesota corrections board, the board may:

(1) Continue the inmate's supervised release term, with or without modifying or enlarging the conditions imposed on the inmate; or

(2) Revoke the inmate's supervised release and reimprison him for the appropriate period of time.

The period of time for which a supervised release may be revoked may not exceed the period of time remaining in the inmate's sentence.

Subd. 4. An inmate serving a mandatory life sentence shall not be given supervised release under this section unless he has served a minimum term of imprisonment of 17 years.

Subd. 5. The Minnesota corrections board may, under rules promulgated by it, give supervised release to an inmate serving a mandatory life sentence after he has served the minimum term of imprisonment specified in subdivision 4.

[1978 c 723 art 1 s 5]

NOTE: This section is effective May 1, 1980. See Laws 1978, Chapter 723, Article 1, Section 20.

244.06 EXTRAORDINARY DISCHARGE. The Minnesota corrections board may give extraordinary discharge to an inmate for reasons of serious health problems, senility, advanced age or other extraordinary circumstances. The board shall promulgate rules specifying the circumstances under which extraordinary discharge may be approved by the board and the appropriate procedures for approving the same. No extraordinary discharge shall be effective unless also approved by the Minnesota board of pardons.

[1978 c 723 art 1 s 6]

NOTE: This section is effective May 1, 1980. See Laws 1978, Chapter 723, Article 1, Section 20.

244.07 FURLOUGHS. Subdivision 1. If consistent with the public interest, the commissioner may, under rules prescribed by him, furlough any inmate in his custody to any point within the state for up to five days. A furlough may be granted to assist the inmate with family needs, personal health needs, or his reintegration into society. No inmate may receive more than three furloughs under this section within any 12 month period.

Subd. 2. Notwithstanding the provisions of subdivision 1, if the commissioner determines that the inmate requires health care not available at the state correctional institution, he may grant the inmate the furloughs necessary to provide appropriate noninstitutional or extra-institutional health care.

[1978 c 723 art 1 s 7]

NOTE: This section is effective May 1, 1980. See Laws 1978, Chapter 723, Article 1, Section 20.

244.08 MINNESOTA CORRECTIONS BOARD; COMMISSIONER. Subdivision 1. Effective May 1, 1980, the Minnesota corrections board shall have only those powers and duties vested in and imposed upon it in sections 241.26, subdivision 1, 244.01 to 244.11, 609.10, 609.145, subdivision 1, 609.165, subdivision 2, and 609.346, subdivision 1, with relation to persons sentenced for crimes committed on or after May 1, 1980.

The Minnesota corrections board shall retain all powers and duties presently vested in and imposed upon it with relation to persons sentenced for crimes committed on or before April 30, 1980.

The Minnesota corrections board shall take into consideration, but not be bound by, the sentence terms embodied in the sentencing guidelines promulgated by the Minnesota sentencing guidelines commission and the penal philosophy embodied in sections 241.26, subdivision 1, 244.01 to 244.11, 609.10, 609.145, subdivision 1, 609.165, subdivision 2, and 609.346, subdivision 1, in its deliberations relative to parole, probation, release, or other disposition of inmates who commit the crimes giving rise to their sentences on or before April 30, 1980.

Subd. 2. Nothing in sections 241.26, subdivision 1, 244.01 to 244.11, 609.10, 609.145, subdivision 1, 609.165, subdivision 2, and 609.346, subdivision 1, shall be deemed to limit the powers and duties otherwise provided by law to the commissioner of corrections with regard to the management of correctional institutions or the disposition of inmates unless those powers and duties are inconsistent with the provisions of sections 241.26, subdivision 1, 244.01 to 244.11, 609.10, 609.145, subdivision 1, 609.165, subdivision 2, and 609.346, subdivision 1, in which case those powers and duties shall be superseded by sections 241.26, subdivision 1, 244.01 to 244.11, 609.10,

609.145, subdivision 1, 609.165, subdivision 2, and 609.346, subdivision 1.
 [1978 c 723 art 1 s 8]

NOTE: This section is effective May 1, 1980. See Laws 1978, Chapter 723, Article 1, Section 20.

244.09 MINNESOTA SENTENCING GUIDELINES COMMISSION. Subdivision 1. There is hereby established the Minnesota sentencing guidelines commission which shall be comprised of nine members.

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

- (1) The chief justice of the supreme court or his designee;
- (2) Two district court judges appointed by the chief justice of the supreme court;
- (3) One public defender appointed by the governor upon recommendation of the state public defender;
- (4) One county attorney appointed by the governor upon recommendation of the board of governors of the county attorneys council;
- (5) The commissioner of corrections or his designee;
- (6) The chairman of the Minnesota corrections board or his designee; and
- (7) Two public members appointed by the governor.

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

Subd. 3. Each appointed member shall be appointed for four years and shall continue to serve during that time as long as he occupies the position which made him eligible for the appointment. Each member shall continue in office until his successor is duly appointed. Members shall be eligible for reappointment, and appointment may be made to fill an unexpired term. The members of the commission shall elect any additional officers necessary for the efficient discharge of their duties.

Subd. 4. Each member of the commission shall be reimbursed for all reasonable expenses actually paid or incurred by him in the performance of his official duties in the same manner as other employees of the state. The public members of the commission shall be compensated at the rate of \$50 for each day or part thereof spent on commission activities.

Subd. 5. The commission shall, on or before January 1, 1980, promulgate sentencing guidelines for the district court. The guidelines shall be based on reasonable offense and offender characteristics. The guidelines promulgated by the commission shall be advisory to the district court and shall establish:

- (1) The circumstances under which imprisonment of an offender is proper; and
- (2) A presumptive, fixed sentence for offenders for whom imprisonment is proper, based on each appropriate combination of reasonable offense and offender characteristics. The guidelines may provide for an increase or decrease of up to 15 percent in the presumptive, fixed sentence.

The sentencing guidelines promulgated by the commission may also establish appropriate sanctions for offenders for whom imprisonment is not proper. Any guidelines promulgated by the commission establishing sanctions for offenders for whom imprisonment is not proper shall make specific reference to noninstitutional sanctions, including but not limited to the following: payment of fines, day fines, restitution, community work orders, work release programs in local facilities, community based residential and nonresidential programs, incarceration in a local correctional facility, and probation and the conditions thereof.

In establishing the sentencing guidelines, the commission shall take into substantial consideration current sentencing and release practices and correctional resources, including but not limited to the capacities of local and state correctional facilities.

The provisions of sections 15.0411 to 15.052 do not apply to the promulgation of the sentencing guidelines.

Subd. 6. The commission, in addition to establishing sentencing guidelines, shall serve as a clearing house and information center for the collection, preparation, analysis and dissemination of information on state and local sentencing practices, and shall conduct ongoing research regarding sentencing guidelines, use of imprisonment and alternatives to imprisonment, plea bargaining, and other matters relating to the im-

provement of the criminal justice system. The commission shall from time to time make recommendations to the legislature regarding changes in the criminal code, criminal procedures, and other aspects of sentencing.

Subd. 7. The commission shall study the impact of the sentencing guidelines promulgated by the commission after their implementation. The commission shall also, after implementation of the guidelines, review the powers and duties of the Minnesota corrections board and make recommendations to the legislature on the appropriate role, if any, of the board under the guidelines.

Subd. 8. The commissioner of corrections shall provide adequate office space and administrative services for the commission, and the commission shall reimburse the commissioner for the space and services provided. The commission may also utilize, with their consent, the services, equipment, personnel, information and resources of other state agencies; and may accept voluntary and uncompensated services, contract with individuals, public and private agencies, and request information, reports and data from any agency of the state, or any of its political subdivisions, to the extent authorized by law.

Subd. 9. When any person, corporation, the United States government, or any other entity offers funds to the sentencing guidelines commission to carry out its purposes and duties, the commission may accept the offer by majority vote and upon acceptance the chairman shall receive the funds subject to the terms of the offer, but no money shall be accepted or received as a loan nor shall any indebtedness be incurred except in the manner and under the limitations otherwise provided by law.

Subd. 10. The commission may select and employ a research director who shall perform the duties the commission directs, including the hiring of any clerical help and other employees as the commission shall approve. The research director and other staff shall be in the unclassified service of the state and their salary shall be established by the commission. They shall be reimbursed for the expenses necessarily incurred in the performance of their official duties in the same manner as other state employees.

Subd. 11. The commission shall meet as necessary for the purpose of modifying and improving the guidelines.

Subd. 12. The guidelines shall be submitted to the legislature on January 1, 1980, and shall be effective May 1, 1980, unless the legislature provides otherwise.

[1978 c 723 art 1 s 9]

244.10 SENTENCING HEARING; DEVIATION FROM GUIDELINES. Subdivision 1. **Sentencing hearing.** Whenever a person is convicted of a felony, the court, upon motion of either the defendant or the state, shall hold a sentencing hearing. The hearing shall be scheduled so that the parties have adequate time to prepare and present arguments regarding the issue of sentencing. The parties may submit written arguments to the court prior to the date of the hearing and may make oral arguments before the court at the sentencing hearing. Prior to the hearing, the court shall transmit to the defendant or his attorney and the prosecuting attorney copies of the presentence investigation report.

At the conclusion of the sentencing hearing or within 20 days thereafter, the court shall issue written findings of fact and conclusions of law regarding the issues submitted by the parties, and shall enter an appropriate order.

Subd. 2. **Deviation from guidelines.** Whether or not a sentencing hearing is requested pursuant to subdivision 1, the district court shall make written findings of fact as to the reasons for departure from the sentencing guidelines in each case in which the court imposes or stays a sentence that deviates from the sentencing guidelines applicable to the case.

[1978 c 723 art 1 s 10]

NOTE: This section is effective May 1, 1980. See Laws 1978, Chapter 723, Article 1, Section 20.

244.11 APPELLATE REVIEW OF SENTENCE. An appeal to the supreme court may be taken by the defendant or the state from any sentence imposed or stayed by the district court according to the rules of criminal procedure for the district court of Minnesota. A dismissal of an appeal brought under this section shall not prejudice an appeal brought under any other section or rule.

When an appeal taken under this section is filed, the clerk of the district court shall certify to the supreme court the transcript of the proceedings and any files or records relating to the defendant, the offense, and the sentence imposed or stayed, that the supreme court by rule or order may require.

On an appeal pursuant to this section, the supreme court may review the sentence imposed or stayed to determine whether the sentence is inconsistent with statutory requirements, unreasonable, inappropriate, excessive, unjustifiably disparate, or not warranted by the findings of fact issued by the district court. This review shall be in addition to all other powers of review presently existing. The supreme court may dismiss or affirm the appeal, vacate or set aside the sentence imposed or stayed and direct entry of an appropriate sentence or order further proceedings to be had as the supreme court may direct.

This section shall not be construed to confer or enlarge any right of a defendant to be released pending an appeal.

[1978 c 723 art 1 s 11]

NOTE: This section is effective May 1, 1980. See Laws 1978, Chapter 723, Article 1, Section 20.