

CHAPTER 244

CRIMINAL SENTENCES, CONDITIONS, DURATION,
APPEALS

244.04 Good time.
 244.05 Supervised release term.
 244.09 Minnesota sentencing guidelines
 commission.

244.095 Sentencing guidelines modification;
 upward departure for certain drug
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244.04 GOOD TIME.

Subdivision 1. Reduction of sentence. Notwithstanding the provisions of section 609.11, subdivision 6, and section 609.346, subdivision 1, the term of imprisonment of any inmate sentenced to a presumptive fixed sentence after May 1, 1980, 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, except that the period of supervised release for a sex offender sentenced and conditionally released by the commissioner under section 609.1352, subdivision 5, is governed by that provision.

Except as otherwise provided in subdivision 2, 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 the term of imprisonment after the violation without earning good time.

[For text of subs 2 and 3, see M.S.1988]

History: 1989 c 290 art 4 s 3

244.05 SUPERVISED RELEASE TERM.

Subdivision 1. Supervised release required. Except as provided in subdivisions 4 and 5, every inmate shall serve a supervised release term upon completion of the inmate's term of imprisonment as reduced by any good time earned by the inmate or extended by confinement in punitive segregation pursuant to section 244.04, subdivision 2. Except for a sex offender conditionally released under section 609.1352, subdivision 5, 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. Rules. The commissioner of corrections shall adopt by rule 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. Sanctions for violation. If an inmate violates the conditions of the inmate's supervised release imposed by the commissioner, the commissioner 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 the inmate 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, except that for a sex offender sentenced and conditionally released under section 609.1352, subdivision 5, the period of time for which conditional release may be revoked may not exceed the balance of the original sentence imposed less good time earned under section 244.04, subdivision 1.

Subd. 4. Minimum imprisonment, life sentence. An inmate serving a mandatory life sentence under section 609.184 must not be given supervised release under this

section. An inmate serving a mandatory life sentence for conviction of murder in the first degree under section 609.185 must not be given supervised release under this section without having served a minimum term of 30 years. 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.

Subd. 5. Supervised release, life sentence. The commissioner of corrections may, under rules promulgated by the commissioner, give supervised release to an inmate serving a mandatory life sentence under section 609.185 or 609.385 after the inmate has served the minimum term of imprisonment specified in subdivision 4.

History: 1989 c 290 art 2 s 5-7; art 4 s 4,5

244.09 MINNESOTA SENTENCING GUIDELINES COMMISSION.

[For text of subds 1 to 4, see M.S.1988]

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 and modifying the sentencing guidelines, the primary consideration of the commission shall be public safety. The commission shall also consider 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 14.01 to 14.69 do not apply to the promulgation of the sentencing guidelines, and the sentencing guidelines, including severity levels and criminal history scores, are not subject to review by the legislative commission to review administrative rules. However, on or before January 1, 1986, the commission shall adopt rules pursuant to sections 14.01 to 14.69 which establish procedures for the promulgation of the sentencing guidelines, including procedures for the promulgation of severity levels and criminal history scores, and these rules shall be subject to review by the legislative commission to review administrative rules.

[For text of subds 6 to 13, see M.S.1988]

History: 1989 c 290 art 2 s 8

244.095 SENTENCING GUIDELINES MODIFICATION; UPWARD DEPARTURE FOR CERTAIN DRUG OFFENSES.

Subdivision 1. Definitions. (a) As used in this section, "park zone" and "school zone" have the meanings given them in section 152.01, subdivisions 12a and 14a.

(b) As used in this section, "controlled substance" has the meaning given in section 152.01, subdivision 4, but does not include a narcotic drug listed in schedule I or II.

Subd. 2. Aggravating factor for drug offenses committed in park zones and in school zones. The commission shall modify the list of aggravating factors contained in the

sentencing guidelines so as to authorize the sentencing judge to depart from the presumptive sentence with respect to either disposition or duration when the following circumstances are present:

(1) the defendant was convicted of unlawfully selling or possessing controlled substances in violation of chapter 152; and

(2) the crime was committed in a park zone or in a school zone.

This aggravating factor shall not apply to a person convicted of unlawfully possessing controlled substances in a private residence located within a school zone or a park zone if no person under the age of 18 was present in the residence when the offense was committed.

Subd. 3. Report to legislature. The commission shall collect data on the number and types of cases involving a sentencing departure based on the aggravating factor created in subdivision 2, and shall report its findings to the legislature on or before February 1, 1991.

History: 1989 c 290 art 3 s 25