CHAPTER 244

CRIMINAL SENTENCES, CONDITIONS, DURATION, APPEALS

DEFINITIONS AND GENERAL PROVISIONS

244.01 DEFINITIONS.

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

Subd. 2. **Inmate.** "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 facility or released from a state correctional facility pursuant to section 244.065 or 244.07.

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

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

Subd. 5. **Good time.** "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.** "Commission" means the Minnesota Sentencing Guidelines Commission established pursuant to section 244.09.

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

Subd. 8. **Term of imprisonment.** "Term of imprisonment," as applied to inmates whose crimes were committed before August 1, 1993, is the period of time for which an inmate is committed to the custody of the commissioner of corrections minus earned good time. "Term of imprisonment," as applied to inmates whose crimes were committed on or after August 1, 1993, is the period of time equal to two-thirds of the inmate's executed sentence.

Subd. 9. **Executed sentence.** "Executed sentence" means the total period of time for which an inmate is committed to the custody of the commissioner of corrections.

History: *1978 c 723 art 1 s 1; 1979 c 102 s 13; 1980 c 417 s 12,13; 1984 c 589 s 1,2; 1986 c 444; 1992 c 571 art 2 s 1; 1993 c 326 art 9 s 3,4*

244.02 [Repealed, 1999 c 126 s 13]

244.03 REHABILITATIVE PROGRAMS.

The commissioner shall provide appropriate mental health programs and vocational and educational programs with employment-related goals for inmates. The selection, design and implementation of programs under this section shall be the sole responsibility of the commissioner, acting within the limitations imposed 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, including employee assignments, may be maintained by an inmate in any court in this state.

The commissioner may impose disciplinary sanctions upon any inmate who refuses to participate in rehabilitative programs.

History: *1978 c 723 art 1 s 3; 1986 c 444; 1992 c 571 art 2 s 2; 1999 c 126 s 8; 1999 c 208 s 1*

244.035 SANCTIONS RELATED TO LITIGATION.

(a) As used in this section, "board" means a licensing or certification board.

(b) The commissioner shall develop disciplinary sanctions to provide infraction penalties for an inmate who submits a frivolous or malicious claim to a court or board, or who is determined by the court or board to have testified falsely or to have submitted false evidence to a court or board. Infraction penalties may include loss of privileges, punitive segregation, loss of good time, or adding discipline confinement time. The determination of the commissioner regarding disciplinary sanctions under this section is limited to the nature and extent of the infraction penalty to be imposed. The commissioner is bound by the finding of the court or board that the inmate submitted a frivolous or malicious claim, testified falsely, or submitted false evidence.

(c) The court or board shall determine whether a claim is frivolous or malicious under section 563.02, subdivision 3.

History: *1995 c 226 art 6 s 5; 1997 c 33 s 1; 1999 c 208 s 2*

244.04 GOOD TIME.

Subdivision 1. **Reduction of sentence; inmates sentenced for crimes committed before 1993.** Notwithstanding the provisions of section 609.11, subdivision 6, and section 609.109, subdivision 1, the term of imprisonment of any inmate sentenced to a presumptive fixed sentence after May 1, 1980, and whose crime was committed before August 1, 1993, 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 609.108, subdivision 5, is governed by that provision.

Except as otherwise provided in subdivision 2, if an inmate whose crime was committed before August 1, 1993, 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.

Subd. 1a. **Reduction of sentence; inmates sentenced before 1980.** Every inmate sentenced before May 1, 1980, for any term other than life, confined in a state adult correctional facility or on parole therefrom, may diminish the maximum term of sentence one day for each two days during which the inmate has not violated any facility rule or discipline.

The commissioner of corrections, in view of the aggravated nature and frequency of offenses, may take away any or all of the good time previously gained, and, in consideration of mitigating circumstances or ignorance on the part of the inmate, may afterwards restore the inmate, in whole or in part, to the standing the inmate possessed before such good time was taken away.

Subd. 2. **Loss of good time.** 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, including provision for restoration of good time. In no case shall an individual disciplinary offense result in the loss of more than 90 days of good time; except that no inmate confined in segregation for violation of a disciplinary rule shall be placed on supervised release until discharged or released from punitive segregation confinement, nor shall an inmate in segregation for violation of a disciplinary rule for which the inmate could also be prosecuted under the criminal laws earn good time while in segregation. 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. **Provisions not applicable to certain inmates.** The provisions of this section do not apply to an inmate serving a mandatory life sentence or to persons whose crimes were committed on or after August 1, 1993.

History: *1978 c 723 art 1 s 4; 1980 c 417 s 14; 1983 c 274 s 6; 1984 c 381 s 1,2; 1986 c 444; 1989 c 290 art 4 s 3; 1992 c 571 art 2 s 3,4; 1994 c 636 art 6 s 33; 1998 c 367 art 6 s 15*

244.05 SUPERVISED RELEASE TERM.

Subdivision 1. **Supervised release required.** Except as provided in subdivisions 1b, 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 609.108, 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. 1a. **Release on certain days.** Notwithstanding the amount of good time earned by an inmate whose crime was committed before August 1, 1992, if the inmate's scheduled release date occurs on a Friday, Saturday, Sunday, or holiday, the inmate's supervised release term shall begin on the last day before the inmate's scheduled release date that is not a Friday, Saturday, Sunday, or holiday. For an inmate whose crime was committed on or after August 1, 1992, if the inmate's scheduled release date occurs on a Friday, Saturday, Sunday, or holiday, the inmate's supervised release term shall begin on the first day after the inmate's scheduled release date that is not a Friday, Saturday, Sunday, or holiday.

Subd. 1b. **Supervised release; offenders who commit crimes on or after August 1, 1993.** (a) Except as provided in subdivisions 4 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 disciplin-

ary 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 in effect for the imposition of other disciplinary sanctions at each state correctional institution.

Subd. 1c. **Release to residential program; escort required.** The commissioner shall provide an escort for any inmate on parole or supervised release status who is released to a halfway house or other residential community program. The escort shall be an employee of the commissioner or a person acting as the commissioner's agent for this purpose.

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 if a sex offender is sentenced and conditionally released under section 609.108, subdivision 5, the period of time for which conditional release may be revoked may not exceed the balance of the conditional release term.

Subd. 4. **Minimum imprisonment, life sentence.** An inmate serving a mandatory life sentence under section 609.106 must not be given supervised release under this section. An inmate serving a mandatory life sentence under section 609.185, clause (1), (3), (5), or (6); or 609.109, subdivision 2a, 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.** (a) 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, clause (1), (3), (5), or (6); 609.109, subdivision 2a; or 609.385 after the inmate has served the minimum term of imprisonment specified in subdivision 4.

(b) The commissioner shall require the preparation of a community investigation report and shall consider the findings of the report when making a supervised release decision under this subdivision. The report shall 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. The report shall 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 also include the views of the victim and the victim's family unless the victim or the victim's family chooses not to participate.

(c) The commissioner shall 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 must consider the victim's statement when making the supervised release decision.

(d) As used in this subdivision, "victim" means the individual who suffered harm as a result of the inmate's crime or, if the individual is deceased, the deceased's surviving spouse or next of kin.

Subd. 6. **Intensive supervised release.** The commissioner may order that an inmate be placed on intensive supervised release for all or part of the inmate's supervised release or parole term if the commissioner determines that the action will further the goals described in section 244.14, subdivision 1, clauses (2), (3), and (4). In addition, the commissioner may order that an inmate be placed on intensive supervised release for all of the inmate's conditional or supervised release term if the inmate was convicted of a sex offense under sections 609.342 to 609.345 or was sentenced under the provisions of section 609.108. The commissioner may impose appropriate conditions of release on the inmate including but not limited to unannounced searches of the inmate's person, vehicle, or premises by an intensive supervision agent; compliance with court-ordered restitution, if any; random drug testing; house arrest; daily curfews; frequent face-to-face contacts with an assigned intensive supervision agent; work, education, or treatment requirements; and electronic surveillance. In addition, any sex offender placed on intensive supervised release may be ordered to participate in an appropriate sex offender program as a condition of release. If the inmate violates the conditions of the intensive supervised release, the commissioner shall impose sanctions as provided in subdivision 3 and section 609.108.

Subd. 7. **Sex offenders; civil commitment determination.** (a) Before the commissioner releases from prison any inmate convicted under sections 609.342 to 609.345 or sentenced as a patterned offender under section 609.108, and determined by the commissioner to be in a high risk category, the commissioner shall make a preliminary determination whether, in the commissioner's opinion, a petition under section 253B.185 may be appropriate.

(b) In making this decision, the commissioner shall have access to the following data only for the purposes of the assessment and referral decision:

(1) private medical data under section 13.384 or 144.335, or welfare data under section 13.46 that relate to medical treatment of the offender;

(2) private and confidential court services data under section 13.84;

(3) private and confidential corrections data under section 13.85; and

(4) private criminal history data under section 13.87.

(c) If the commissioner determines that a petition may be appropriate, the commissioner shall forward this determination, along with a summary of the reasons for the determination, to the county attorney in the county where the inmate was convicted no later than 12 months before the inmate's release date. If the inmate is received for incarceration with fewer than 12 months remaining in the inmate's term of imprisonment, or if the commissioner receives additional information less than 12 months before release which makes the inmate's case appropriate for referral, the commissioner shall forward the determination as soon as is practicable. Upon receiving the commissioner's preliminary determination, the county attorney shall proceed in the manner provided in section 253B.185. The commissioner shall release to the county attorney all requested documentation maintained by the department.

Subd. 8. **Conditional medical release.** Notwithstanding subdivisions 4 and 5, the commissioner may order that any offender be placed on conditional medical release before the offender's scheduled supervised release date or target release date if the offender suffers from a grave illness or medical condition and the release poses no threat to the public. In making the decision to release an offender on this status, the

commissioner must consider the offender's age and medical condition, the health care needs of the offender, the offender's custody classification and level of risk of violence, the appropriate level of community supervision, and alternative placements that may be available for the offender. An inmate may not be released under this provision unless the commissioner has determined that the inmate's health costs are likely to be borne by medical assistance, Medicaid, general assistance medical care, veteran's benefits, or by any other federal or state medical assistance programs or by the inmate. Conditional medical release is governed by provisions relating to supervised release except that it may be rescinded without hearing by the commissioner if the offender's medical condition improves to the extent that the continuation of the conditional medical release presents a more serious risk to the public.

History: *1978 c 723 art 1 s 5; 1983 c 274 s 7; 1984 c 381 s 3; 1986 c 444; 1989 c 290 art 2 s 5-7; art 4 s 4,5; 1990 c 568 art 2 s 32; 1991 c 258 s 1; 1992 c 571 art 1 s 3-7; art 2 s 5,6; art 3 s 3; art 11 s 3; 1993 c 326 art 4 s 5,6; art 8 s 9; art 9 s 5; 1994 c 636 art 6 s 13; 1Sp1994 c 1 art 2 s 22; 1997 c 239 art 9 s 25; 1998 c 367 art 3 s 4; art 6 s 15; 1999 c 126 s 9; 2002 c 273 s 1*

244.051 EARLY REPORTS OF MISSING OFFENDERS.

All programs serving inmates on supervised release following a prison sentence shall notify the appropriate probation officer, appropriate law enforcement agency, and the Department of Corrections within two hours after an inmate in the program fails to make a required report or after program officials receive information indicating that an inmate may have left the area in which the inmate is required to remain or may have otherwise violated conditions of the inmate's supervised release. The Department of Corrections and county corrections agencies shall ensure that probation offices are staffed on a 24-hour basis or make available a 24-hour telephone number to receive the reports.

History: *1992 c 571 art 11 s 4*

PREDATORY OFFENDERS

244.052 PREDATORY OFFENDERS; NOTICE.

Subdivision 1. **Definitions.** As used in this section:

(1) "confinement" means confinement in a state correctional facility or a state treatment facility;

(2) "immediate household" means any and all individuals who live in the same household as the offender;

(3) "law enforcement agency" means the law enforcement agency having primary jurisdiction over the location where the offender expects to reside upon release;

(4) "residential facility" means a facility that is licensed as a residential program, as defined in section 245A.02, subdivision 14, by the commissioner of human services under chapter 245A, or the commissioner of corrections under section 241.021, whose staff are trained in the supervision of sex offenders; and

(5) "predatory offender" and "offender" mean a person who is required to register as a predatory offender under section 243.166. However, the terms do not include persons required to register based solely on a delinquency adjudication.

Subd. 2. **Risk assessment scale.** By January 1, 1997, the commissioner of corrections shall develop a risk assessment scale which assigns weights to the various risk factors listed in subdivision 3, paragraph (g), and specifies the risk level to which offenders with various risk assessment scores shall be assigned. In developing this scale, the commissioner shall consult with county attorneys, treatment professionals, law enforcement officials, and probation officers.

Subd. 3. **End-of-confinement review committee.** (a) The commissioner of corrections shall establish and administer end-of-confinement review committees at each state correctional facility and at each state treatment facility where predatory offenders are

confined. The committees shall assess on a case-by-case basis the public risk posed by predatory offenders who are about to be released from confinement.

(b) Each committee shall be a standing committee and shall consist of the following members appointed by the commissioner:

(1) the chief executive officer or head of the correctional or treatment facility where the offender is currently confined, or that person's designee;

(2) a law enforcement officer;

(3) a treatment professional who is trained in the assessment of sex offenders;

(4) a caseworker experienced in supervising sex offenders; and

(5) a victim's services professional.

Members of the committee, other than the facility's chief executive officer or head, shall be appointed by the commissioner to two-year terms. The chief executive officer or head of the facility or designee shall act as chair of the committee and shall use the facility's staff, as needed, to administer the committee, obtain necessary information from outside sources, and prepare risk assessment reports on offenders.

(c) The committee shall have access to the following data on a predatory offender only for the purposes of its assessment and to defend the committee's risk assessment determination upon administrative review under this section:

(1) private medical data under section 13.384 or 144.335, or welfare data under section 13.46 that relate to medical treatment of the offender;

(2) private and confidential court services data under section 13.84;

(3) private and confidential corrections data under section 13.85; and

(4) private criminal history data under section 13.87.

Data collected and maintained by the committee under this paragraph may not be disclosed outside the committee, except as provided under section 13.05, subdivision 3 or 4. The predatory offender has access to data on the offender collected and maintained by the committee, unless the data are confidential data received under this paragraph.

(d)(i) Except as otherwise provided in item (ii), at least 90 days before a predatory offender is to be released from confinement, the commissioner of corrections shall convene the appropriate end-of-confinement review committee for the purpose of assessing the risk presented by the offender and determining the risk level to which the offender shall be assigned under paragraph (e). The offender and the law enforcement agency that was responsible for the charge resulting in confinement shall be notified of the time and place of the committee's meeting. The offender has a right to be present and be heard at the meeting. The law enforcement agency may provide material in writing that is relevant to the offender's risk level to the chair of the committee. The committee shall use the risk factors described in paragraph (g) and the risk assessment scale developed under subdivision 2 to determine the offender's risk assessment score and risk level. Offenders scheduled for release from confinement shall be assessed by the committee established at the facility from which the offender is to be released.

(ii) If an offender is received for confinement in a facility with less than 90 days remaining in the offender's term of confinement, the offender's risk shall be assessed at the first regularly scheduled end of confinement review committee that convenes after the appropriate documentation for the risk assessment is assembled by the committee. The commissioner shall make reasonable efforts to ensure that offender's risk is assessed and a risk level is assigned or reassigned at least 30 days before the offender's release date.

(e) The committee shall assign to risk level I a predatory offender whose risk assessment score indicates a low risk of reoffense. The committee shall assign to risk level II an offender whose risk assessment score indicates a moderate risk of reoffense. The committee shall assign to risk level III an offender whose risk assessment score indicates a high risk of reoffense.

(f) Before the predatory offender is released from confinement, the committee shall prepare a risk assessment report which specifies the risk level to which the offender has been assigned and the reasons underlying the committee's risk assessment decision. The committee shall give the report to the offender and to the law enforcement agency at least 60 days before an offender is released from confinement. If the risk assessment is performed under the circumstances described in paragraph (d), item (ii), the report shall be given to the offender and the law enforcement agency as soon as it is available. The committee also shall inform the offender of the availability of review under subdivision 6.

(g) As used in this subdivision, "risk factors" includes, but is not limited to, the following factors:

(1) the seriousness of the offense should the offender reoffend. This factor includes consideration of the following:

(i) the degree of likely force or harm;

(ii) the degree of likely physical contact; and

(iii) the age of the likely victim;

(2) the offender's prior offense history. This factor includes consideration of the following:

(i) the relationship of prior victims to the offender;

(ii) the number of prior offenses or victims;

(iii) the duration of the offender's prior offense history;

(iv) the length of time since the offender's last prior offense while the offender was at risk to commit offenses; and

(v) the offender's prior history of other antisocial acts;

(3) the offender's characteristics. This factor includes consideration of the following:

(i) the offender's response to prior treatment efforts; and

(ii) the offender's history of substance abuse;

(4) the availability of community supports to the offender. This factor includes consideration of the following:

(i) the availability and likelihood that the offender will be involved in therapeutic treatment;

(ii) the availability of residential supports to the offender, such as a stable and supervised living arrangement in an appropriate location;

(iii) the offender's familial and social relationships, including the nature and length of these relationships and the level of support that the offender may receive from these persons; and

(iv) the offender's lack of education or employment stability;

(5) whether the offender has indicated or credible evidence in the record indicates that the offender will reoffend if released into the community; and

(6) whether the offender demonstrates a physical condition that minimizes the risk of reoffense, including but not limited to, advanced age or a debilitating illness or physical condition.

(h) Upon the request of the law enforcement agency or the offender's corrections agent, the commissioner may reconvene the end-of-confinement review committee for the purpose of reassessing the risk level to which an offender has been assigned under paragraph (e). In a request for a reassessment, the law enforcement agency which was responsible for the charge resulting in confinement or agent shall list the facts and circumstances arising after the initial assignment or facts and circumstances known to law enforcement or the agent but not considered by the committee under paragraph (e) which support the request for a reassessment. The request for reassessment by the law enforcement agency must occur within 30 days of receipt of the report indicating the offender's risk level assignment. The offender's corrections agent, in consultation with

the chief law enforcement officer in the area where the offender resides or intends to reside, may request a review of a risk level at any time if substantial evidence exists that the offender's risk level should be reviewed by an end-of-confinement review committee. This evidence includes, but is not limited to, evidence of treatment failures or completions, evidence of exceptional crime-free community adjustment or lack of appropriate adjustment, evidence of substantial community need to know more about the offender or mitigating circumstances that would narrow the proposed scope of notification, or other practical situations articulated and based in evidence of the offender's behavior while under supervision. Upon review of the request, the end-of-confinement review committee may reassign an offender to a different risk level. If the offender is reassigned to a higher risk level, the offender has the right to seek review of the committee's determination under subdivision 6.

(i) An offender may request the end-of-confinement review committee to reassess the offender's assigned risk level after three years have elapsed since the committee's initial risk assessment and may renew the request once every two years following subsequent denials. In a request for reassessment, the offender shall list the facts and circumstances which demonstrate that the offender no longer poses the same degree of risk to the community. In order for a request for a risk level reduction to be granted, the offender must demonstrate full compliance with supervised release conditions, completion of required post-release treatment programming, and full compliance with all registration requirements as detailed in section 243.166. The offender must also not have been convicted of any felony, gross misdemeanor, or misdemeanor offenses subsequent to the assignment of the original risk level. The committee shall follow the process outlined in paragraphs (a) to (c) in the reassessment. An offender who is incarcerated may not request a reassessment under this paragraph.

(j) Offenders returned to prison as release violators shall not have a right to a subsequent risk reassessment by the end-of-confinement review committee unless substantial evidence indicates that the offender's risk to the public has increased.

(k) The commissioner shall establish an end-of-confinement review committee to assign a risk level to offenders who are released from a federal correctional facility in Minnesota or another state and who intend to reside in Minnesota, and to offenders accepted from another state under a reciprocal agreement for parole supervision under the interstate compact authorized by section 243.16. The committee shall make reasonable efforts to conform to the same timelines as applied to Minnesota cases. Offenders accepted from another state under a reciprocal agreement for probation supervision are not assigned a risk level, but are considered downward dispositional departures. The probation or court services officer and law enforcement officer shall manage such cases in accordance with section 244.10, subdivision 2a. The policies and procedures of the committee for federal offenders and interstate compact cases must be in accordance with all requirements as set forth in this section, unless restrictions caused by the nature of federal or interstate transfers prevents such conformance.

(l) If the committee assigns a predatory offender to risk level III, the committee shall determine whether residency restrictions shall be included in the conditions of the offender's release based on the offender's pattern of offending behavior.

Subd. 4. **Law enforcement agency; disclosure of information to public.** (a) The law enforcement agency in the area where the predatory offender resides, expects to reside, is employed, or is regularly found, shall disclose to the public any information regarding the offender contained in the report forwarded to the agency under subdivision 3, paragraph (f), that is relevant and necessary to protect the public and to counteract the offender's dangerousness, consistent with the guidelines in paragraph (b). The extent of the information disclosed and the community to whom disclosure is made must relate to the level of danger posed by the offender, to the offender's pattern of offending behavior, and to the need of community members for information to enhance their individual and collective safety.

(b) The law enforcement agency shall employ the following guidelines in determining the scope of disclosure made under this subdivision:

(1) if the offender is assigned to risk level I, the agency may maintain information regarding the offender within the agency and may disclose it to other law enforcement agencies. Additionally, the agency may disclose the information to any victims of or witnesses to the offense committed by the offender. The agency shall disclose the information to victims of the offense committed by the offender who have requested disclosure and to adult members of the offender's immediate household;

(2) if the offender is assigned to risk level II, the agency also may disclose the information to agencies and groups that the offender is likely to encounter for the purpose of securing those institutions and protecting individuals in their care while they are on or near the premises of the institution. These agencies and groups include the staff members of public and private educational institutions, day care establishments, and establishments and organizations that primarily serve individuals likely to be victimized by the offender. The agency also may disclose the information to individuals the agency believes are likely to be victimized by the offender. The agency's belief shall be based on the offender's pattern of offending or victim preference as documented in the information provided by the department of corrections or human services;

(3) if the offender is assigned to risk level III, the agency shall disclose the information to the persons and entities described in clauses (1) and (2) and to other members of the community whom the offender is likely to encounter, unless the law enforcement agency determines that public safety would be compromised by the disclosure or that a more limited disclosure is necessary to protect the identity of the victim.

Notwithstanding the assignment of a predatory offender to risk level II or III, a law enforcement agency may not make the disclosures permitted or required by clause (2) or (3), if: the offender is placed or resides in a residential facility. However, if an offender is placed or resides in a residential facility, the offender and the head of the facility shall designate the offender's likely residence upon release from the facility and the head of the facility shall notify the commissioner of corrections or the commissioner of human services of the offender's likely residence at least 14 days before the offender's scheduled release date. The commissioner shall give this information to the law enforcement agency having jurisdiction over the offender's likely residence. The head of the residential facility also shall notify the commissioner of corrections or human services within 48 hours after finalizing the offender's approved relocation plan to a permanent residence. Within five days after receiving this notification, the appropriate commissioner shall give to the appropriate law enforcement agency all relevant information the commissioner has concerning the offender, including information on the risk factors in the offender's history and the risk level to which the offender was assigned. After receiving this information, the law enforcement agency shall make the disclosures permitted or required by clause (2) or (3), as appropriate.

(c) As used in paragraph (b), clauses (2) and (3), "likely to encounter" means that:

(1) the organizations or community members are in a location or in close proximity to a location where the offender lives or is employed, or which the offender visits or is likely to visit on a regular basis, other than the location of the offender's outpatient treatment program; and

(2) the types of interaction which ordinarily occur at that location and other circumstances indicate that contact with the offender is reasonably certain.

(d) A law enforcement agency or official who discloses information under this subdivision shall make a good faith effort to make the notification within 14 days of receipt of a confirmed address from the Department of Corrections indicating that the offender will be, or has been, released from confinement, or accepted for supervision, or has moved to a new address and will reside at the address indicated. If a change occurs in the release plan, this notification provision does not require an extension of the release date.

(e) A law enforcement agency or official who discloses information under this subdivision shall not disclose the identity or any identifying characteristics of the victims of or witnesses to the offender's offenses.

(f) A law enforcement agency shall continue to disclose information on an offender as required by this subdivision for as long as the offender is required to register under section 243.166.

(g) A law enforcement agency that is disclosing information on an offender assigned to risk level III to the public under this subdivision shall inform the commissioner of corrections what information is being disclosed and forward this information to the commissioner within two days of the agency's determination. The commissioner shall post this information on the Internet as required in subdivision 4b.

(h) A city council may adopt a policy that addresses when information disclosed under this subdivision must be presented in languages in addition to English. The policy may address when information must be presented orally, in writing, or both in additional languages by the law enforcement agency disclosing the information. The policy may provide for different approaches based on the prevalence of non-English languages in different neighborhoods.

Subd. 4a. **Level III offenders; location of residence.** (a) When an offender assigned to risk level III is released from confinement or a residential facility to reside in the community or changes residence while on supervised or conditional release, the agency responsible for the offender's supervision shall take into consideration the proximity of the offender's residence to that of other level III offenders and proximity to schools and, to the greatest extent feasible, shall mitigate the concentration of level III offenders and concentration of level III offenders near schools.

(b) If the owner or property manager of a hotel, motel, lodging establishment, or apartment building has an agreement with an agency that arranges or provides shelter for victims of domestic abuse, the owner or property manager may not knowingly rent rooms to both level III offenders and victims of domestic abuse at the same time. If the owner or property manager has an agreement with an agency to provide housing to domestic abuse victims and discovers or is informed that a tenant is a level III offender after signing a lease or otherwise renting to the offender, the owner or property manager may evict the offender.

Subd. 4b. **Level III offenders; mandatory posting of information on Internet.** The commissioner of corrections shall create and maintain an Internet Web site and post on the site the information about offenders assigned to risk level III forwarded by law enforcement agencies under subdivision 4, paragraph (g). This information must be updated in a timely manner to account for changes in the offender's address and maintained for the period of time that the offender remains subject to community notification as a level III offender.

Subd. 5. **Relevant information provided to law enforcement.** At least 60 days before a predatory offender is released from confinement, the Department of Corrections or the Department of Human Services, in the case of a person who was committed under section 253B.185 or Minnesota Statutes 1992, section 526.10, shall give to the law enforcement agency that investigated the offender's crime of conviction or, where relevant, the law enforcement agency having primary jurisdiction where the offender was committed, all relevant information that the departments have concerning the offender, including information on risk factors in the offender's history. Within five days after receiving the offender's approved release plan from the hearings and release unit, the appropriate department shall give to the law enforcement agency having primary jurisdiction where the offender plans to reside all relevant information the department has concerning the offender, including information on risk factors in the offender's history and the risk level to which the offender was assigned. If the offender's risk level was assigned under the circumstances described in subdivision 3, paragraph (d), item (ii), the appropriate department shall give the law enforcement agency all relevant information that the department has concerning the offender, including information on the risk factors in the offender's history and the offender's risk level within five days of the risk level assignment or reassignment.

Subd. 6. **Administrative review.** (a) An offender assigned or reassigned to risk level II or III under subdivision 3, paragraph (e) or (h), has the right to seek administrative

review of an end-of-confinement review committee's risk assessment determination. The offender must exercise this right within 14 days of receiving notice of the committee's decision by notifying the chair of the committee. Upon receiving the request for administrative review, the chair shall notify: (1) the offender; (2) the victim or victims of the offender's offense who have requested disclosure or their designee; (3) the law enforcement agency that investigated the offender's crime of conviction or, where relevant, the law enforcement agency having primary jurisdiction where the offender was committed; (4) the law enforcement agency having jurisdiction where the offender expects to reside, providing that the release plan has been approved by the hearings and release unit of the department of corrections; and (5) any other individuals the chair may select. The notice shall state the time and place of the hearing. A request for a review hearing shall not interfere with or delay the notification process under subdivision 4 or 5, unless the administrative law judge orders otherwise for good cause shown.

(b) An offender who requests a review hearing must be given a reasonable opportunity to prepare for the hearing. The review hearing shall be conducted on the record before an administrative law judge. The review hearing shall be conducted at the correctional facility in which the offender is currently confined. If the offender no longer is incarcerated, the administrative law judge shall determine the place where the review hearing will be conducted. The offender has the burden of proof to show, by a preponderance of the evidence, that the end-of-confinement review committee's risk assessment determination was erroneous. The attorney general or a designee shall defend the end-of-confinement review committee's determination. The offender has the right to be present and be represented by counsel at the hearing, to present evidence in support of the offender's position, to call supporting witnesses and to cross-examine witnesses testifying in support of the committee's determination. Counsel for indigent offenders shall be provided by the Legal Advocacy Project of the state public defender's office.

(c) After the hearing is concluded, the administrative law judge shall decide whether the end-of-confinement review committee's risk assessment determination was erroneous and, based on this decision, shall either uphold or modify the review committee's determination. The judge's decision shall be in writing and shall include the judge's reasons for the decision. The judge's decision shall be final and a copy of it shall be given to the offender, the victim, the law enforcement agency, and the chair of the end-of-confinement review committee.

(d) The review hearing is subject to the contested case provisions of chapter 14.

(e) The administrative law judge may seal any portion of the record of the administrative review hearing to the extent necessary to protect the identity of a victim of or witness to the offender's offense.

Subd. 7. **Immunity from liability.** (a) A state or local agency or official, or a private organization or individual authorized to act on behalf of a state or local agency or official, is not criminally liable for disclosing or failing to disclose information as permitted by this section.

(b) A state or local agency or official, or a private organization or individual authorized to act on behalf of a state or local agency or official, is not civilly liable for failing to disclose information under this section.

(c) A state or local agency or official, or a private organization or individual authorized to act on behalf of a state or local agency or official, is not civilly liable for disclosing information as permitted by this section. However, this paragraph applies only to disclosure of information that is consistent with the offender's conviction history. It does not apply to disclosure of information relating to conduct for which the offender was not convicted.

Subd. 8. **Limitation on scope.** Nothing in this section imposes a duty upon a person licensed under chapter 82, or an employee of the person, to disclose information

regarding an offender who is required to register under section 243.166, or about whom notification is made under this section.

History: *1996 c 408 art 5 s 4; 1997 c 239 art 5 s 4-7; 1998 c 396 s 3-6; 1999 c 86 art 1 s 82; 1999 c 216 art 6 s 2-5; 1999 c 227 s 22; 1999 c 233 s 4,5; 2000 c 311 art 2 s 12; 2001 c 210 s 15; 2002 c 385 s 1-3*

RELEASE AND DISCHARGE

244.053 NOTICE OF RELEASE OF CERTAIN OFFENDERS.

Subdivision 1. **Notice of impending release.** At least 60 days before the release of any inmate convicted of an offense requiring registration under section 243.166, the commissioner of corrections shall send written notice of the impending release to the sheriff of the county and the police chief of the city in which the inmate will reside or in which placement will be made in a work release program. The sheriff of the county where the offender was convicted also shall be notified of the inmate's impending release.

Subd. 2. **Additional notice.** The same notice shall be sent to the following persons concerning a specific inmate convicted of an offense requiring registration under section 243.166:

(1) the victim of the crime for which the inmate was convicted or a deceased victim's next of kin if the victim or deceased victim's next of kin requests the notice in writing;

(2) any witnesses who testified against the inmate in any court proceedings involving the offense, if the witness requests the notice in writing; and

(3) any person specified in writing by the prosecuting attorney.

The notice sent to victims under clause (1) must inform the person that the person has the right to request and receive information about the offender authorized for disclosure under the community notification provisions of section 244.052.

If the victim or witness is under the age of 16, the notice required by this section shall be sent to the parents or legal guardian of the child. The commissioner shall send the notices required by this provision to the last address provided to the commissioner by the requesting party. The requesting party shall furnish the commissioner with a current address. Information regarding witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are private data on individuals, as defined in section 13.02, subdivision 12, and are not available to the inmate.

The notice to victims provided under this subdivision does not limit the victim's right to request notice of release under section 611A.06.

Subd. 3. **No extension of release date.** The existence of the notice requirements contained in this section shall in no event require an extension of the release date.

History: *1996 c 408 art 5 s 5*

244.054 DISCHARGE PLANS; OFFENDERS WITH SERIOUS AND PERSISTENT MENTAL ILLNESS.

Subdivision 1. **Offer to develop plan.** The commissioner of human services, in collaboration with the commissioner of corrections, shall offer to develop a discharge plan for community-based services for every offender with serious and persistent mental illness, as defined in section 245.462, subdivision 20, paragraph (c), who is being released from a correctional facility. If an offender is being released pursuant to section 244.05, the offender may choose to have the discharge plan made one of the conditions of the offender's supervised release and shall follow the conditions to the extent that services are available and offered to the offender.

Subd. 2. **Content of plan.** If an offender chooses to have a discharge plan developed, the commissioner of human services shall develop and implement a discharge plan, which must include at least the following:

(1) at least 90 days before the offender is due to be discharged, the commissioner of human services shall designate an agent of the Department of Human Services with mental health training to serve as the primary person responsible for carrying out discharge planning activities;

(2) at least 75 days before the offender is due to be discharged, the offender's designated agent shall:

(i) obtain informed consent and releases of information from the offender that are needed for transition services;

(ii) contact the county human services department in the community where the offender expects to reside following discharge, and inform the department of the offender's impending discharge and the planned date of the offender's return to the community; determine whether the county or a designated contracted provider will provide case management services to the offender; refer the offender to the case management services provider; and confirm that the case management services provider will have opened the offender's case prior to the offender's discharge; and

(iii) refer the offender to appropriate staff in the county human services department in the community where the offender expects to reside following discharge, for enrollment of the offender if eligible in medical assistance or general assistance medical care, using special procedures established by process and Department of Human Services bulletin;

(3) at least 2-1/2 months before discharge, the offender's designated agent shall secure timely appointments for the offender with a psychiatrist no later than 30 days following discharge, and with other program staff at a community mental health provider that is able to serve former offenders with serious and persistent mental illness;

(4) at least 30 days before discharge, the offender's designated agent shall convene a predischarge assessment and planning meeting of key staff from the programs in which the offender has participated while in the correctional facility, the offender, the supervising agent, and the mental health case management services provider assigned to the offender. At the meeting, attendees shall provide background information and continuing care recommendations for the offender, including information on the offender's risk for relapse; current medications, including dosage and frequency; therapy and behavioral goals; diagnostic and assessment information, including results of a chemical dependency evaluation; confirmation of appointments with a psychiatrist and other program staff in the community; a relapse prevention plan; continuing care needs; needs for housing, employment, and finance support and assistance; and recommendations for successful community integration, including chemical dependency treatment or support if chemical dependency is a risk factor. Immediately following this meeting, the offender's designated agent shall summarize this background information and continuing care recommendations in a written report;

(5) immediately following the predischarge assessment and planning meeting, the provider of mental health case management services who will serve the offender following discharge shall offer to make arrangements and referrals for housing, financial support, benefits assistance, employment counseling, and other services required in sections 245.461 to 245.486;

(6) at least ten days before the offender's first scheduled postdischarge appointment with a mental health provider, the offender's designated agent shall transfer the following records to the offender's case management services provider and psychiatrist: the predischarge assessment and planning report, medical records, and pharmacy records. These records may be transferred only if the offender provides informed consent for their release;

(7) upon discharge, the offender's designated agent shall ensure that the offender leaves the correctional facility with at least a ten-day supply of all necessary medications; and

(8) upon discharge, the prescribing authority at the offender's correctional facility shall telephone in prescriptions for all necessary medications to a pharmacy in the

community where the offender plans to reside. The prescriptions must provide at least a 30-day supply of all necessary medications, and must be able to be refilled once for one additional 30-day supply.

History: *1Sp2001 c 9 art 9 s 4; 2002 c 220 art 6 s 9; 2002 c 379 art 1 s 113*

244.06 [Repealed, 1997 c 239 art 9 s 52]

PRIVATE EMPLOYMENT AND FURLOUGHS

244.065 PRIVATE EMPLOYMENT OF INMATES OF STATE CORRECTIONAL INSTITUTIONS IN COMMUNITY.

When consistent with the public interest and the public safety, the commissioner of corrections may conditionally release an inmate to work at paid employment, seek employment, or participate in a vocational training or educational program, as provided in section 241.26, if the inmate has served at least one half of the term of imprisonment.

History: *1980 c 417 s 11; 1983 c 274 s 9; 1986 c 444; 1993 c 326 art 13 s 14*

244.07 FURLOUGHS.

Subdivision 1. **Authority.** If consistent with the public interest, the commissioner may, under rules prescribed by the commissioner, furlough any inmate in 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 reintegration into society. No inmate may receive more than three furloughs under this section within any 12-month period. The provisions of this section shall also apply to those inmates convicted of offenses prior to May 1, 1980.

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

History: *1978 c 723 art 1 s 7; 1981 c 192 s 19; 1986 c 444*

244.08 COMMISSIONER OF CORRECTIONS.

Subdivision 1. **Authority; duties; powers.** Effective May 1, 1980, the commissioner of corrections shall have only those powers and duties in sections 244.01 to 244.11, 609.10, 609.145, subdivision 1, 609.165, subdivision 2, and 609.109, subdivision 1, with relation to persons sentenced for crimes committed on or after May 1, 1980.

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

The commissioner of corrections 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 244.01 to 244.11, 609.10, 609.145, subdivision 1, 609.165, subdivision 2, and 609.109, 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. **No limitation intent.** Nothing in sections 244.01 to 244.11, 609.10, 609.145, subdivision 1, 609.165, subdivision 2, and 609.109, 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 244.01 to 244.11, 609.10, 609.145, subdivision 1, 609.165, subdivision 2, and 609.109, subdivision 1, in which case those powers and duties shall be superseded by

sections 244.01 to 244.11, 609.10, 609.145, subdivision 1, 609.165, subdivision 2, and 609.109, subdivision 1.

History: *1978 c 723 art 1 s 8; 1980 c 417 s 15; 1983 c 274 s 18; 1986 c 444; 1998 c 367 art 6 s 15*

SENTENCING GUIDELINES COMMISSION

244.09 MINNESOTA SENTENCING GUIDELINES COMMISSION.

Subdivision 1. **Commission; establishment.** There is hereby established the Minnesota Sentencing Guidelines Commission which shall be comprised of 11 members.

Subd. 2. **Members.** The Sentencing Guidelines Commission shall consist of the following:

(1) the chief justice of the Supreme Court or a designee;

(2) one judge of the Court of Appeals, appointed by the chief justice of the Supreme Court;

(3) one district court judge appointed by the chief justice of the Supreme Court;

(4) one public defender appointed by the governor upon recommendation of the state public defender;

(5) one county attorney appointed by the governor upon recommendation of the board of directors of the Minnesota County Attorneys Association;

(6) the commissioner of corrections or a designee;

(7) one peace officer as defined in section 626.84 appointed by the governor;

(8) one probation officer or parole officer appointed by the governor; and

(9) three public members appointed by the governor, one of whom shall be a victim of a crime defined as a felony.

When an appointing authority selects individuals for membership on the commission, the authority shall make reasonable efforts to appoint qualified members of protected groups, as defined in section 43A.02, subdivision 33.

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

Subd. 3. **Appointment terms.** Each appointed member shall be appointed for four years and shall continue to serve during that time as long as the member occupies the position which made the member eligible for the appointment. Each member shall continue in office until a successor is duly appointed. Members shall be eligible for reappointment, and appointment may be made to fill an unexpired term. The term of any member appointed or reappointed by the governor before the first Monday in January 1991 expires on that date. The term of any member appointed or reappointed by the governor after the first Monday in January 1991 is coterminous with the governor. The members of the commission shall elect any additional officers necessary for the efficient discharge of their duties.

Subd. 4. **Reimbursement.** Each member of the commission shall be reimbursed for all reasonable expenses actually paid or incurred by that member in the performance of 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. **Promulgation of Sentencing Guidelines.** The commission shall 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.

Although the Sentencing Guidelines are advisory to the district court, the court shall follow the procedures of the guidelines when it pronounces sentence in a proceeding to which the guidelines apply by operation of statute. Sentencing pursuant to the Sentencing Guidelines is not a right that accrues to a person convicted of a felony; it is a procedure based on state public policy to maintain uniformity, proportionality, rationality, and predictability in sentencing.

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; correctional resources, including but not limited to the capacities of local and state correctional facilities; and the long-term negative impact of the crime on the community.

The provisions of sections 14.001 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, the commission shall adopt rules pursuant to sections 14.001 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 coordinating commission.

Subd. 6. **Clearinghouse and information center.** The commission, in addition to establishing Sentencing Guidelines, shall serve as a clearinghouse 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 improvement 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. **Study.** After the implementation of the Sentencing Guidelines promulgated by the commission, the commission shall study their impact and review the powers and duties of the commissioner of corrections.

Subd. 8. **Administrative services.** 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. **Funds acceptance.** 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 chair 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. **Research director.** 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 compensation shall be established pursuant to chapter 43A. 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. **Modification.** The commission shall meet as necessary for the purpose of modifying and improving the guidelines. Any modification which amends the Sentencing Guidelines grid, including severity levels and criminal history scores, or which would result in the reduction of any sentence or in the early release of any inmate, with the exception of a modification mandated or authorized by the legislature or relating to a crime created or amended by the legislature in the preceding session, shall be submitted to the legislature by January 1 of any year in which the commission wishes to make the change and shall be effective on August 1 of that year, unless the legislature by law provides otherwise. All other modifications shall take effect according to the procedural rules of the commission. On or before January 1 of each year, the commission shall submit a written report to the committees of the senate and the house of representatives with jurisdiction over criminal justice policy that identifies and explains all modifications made during the preceding 12 months and all proposed modifications that are being submitted to the legislature that year.

Subd. 11a. [Repealed, 1997 c 239 art 3 s 25; 1Sp1997 c 5 s 5]

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

Subd. 13. **Rulemaking power.** The commission shall have authority to promulgate rules to carry out the purposes of subdivision 5.

Subd. 14. **Report on mandatory minimum sentences.** The Sentencing Guidelines Commission shall include in its annual report to the legislature a summary and analysis of reports received from county attorneys under section 609.11, subdivision 10.

History: *1978 c 723 art 1 s 9; 1982 c 424 s 130; 1982 c 536 s 1-3; 1982 c 642 s 3; 1983 c 216 art 1 s 35; 1983 c 274 s 10,18; 1983 c 299 s 24; 1984 c 589 s 3-6; 1984 c 640 s 32; 1986 c 444; 1987 c 377 s 1-3; 1987 c 384 art 2 s 1; 1988 c 618 s 1; 1989 c 290 art 2 s 8; 1990 c 422 s 10; 1991 c 258 s 6; 1994 c 636 art 3 s 1; art 6 s 14; 1996 c 408 art 3 s 11; 1997 c 7 art 2 s 31; art 5 s 21; 1997 c 96 s 1; 1998 c 254 art 1 s 66*

244.095 [Repealed, 1991 c 279 s 41]

SENTENCING

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 the defendant's 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.

Subd. 2a. **Notice of information regarding predatory offenders.** (a) Subject to paragraph (b), in any case in which a person is convicted of an offense and the

presumptive sentence under the Sentencing Guidelines is commitment to the custody of the commissioner of corrections, if the court grants a dispositional departure and stays imposition or execution of sentence, the probation or court services officer who is assigned to supervise the offender shall provide in writing to the following the fact that the offender is on probation and the terms and conditions of probation:

(1) a victim of and any witnesses to the offense committed by the offender, if the victim or the witness has requested notice; and

(2) the chief law enforcement officer in the area where the offender resides or intends to reside.

The law enforcement officer, in consultation with the offender's probation officer, may provide all or part of this information to any of the following agencies or groups the offender is likely to encounter: public and private educational institutions, day care establishments, and establishments or organizations that primarily serve individuals likely to be victimized by the offender.

The probation officer is not required under this subdivision to provide any notice while the offender is placed or resides in a residential facility that is licensed under section 245A.02, subdivision 14, or 241.021, if the facility staff is trained in the supervision of sex offenders.

(b) Paragraph (a) applies only to offenders required to register under section 243.166, as a result of the conviction.

(c) The notice authorized by paragraph (a) shall be limited to data classified as public under section 13.84, subdivision 6, unless the offender provides informed consent to authorize the release of nonpublic data or unless a court order authorizes the release of nonpublic data.

(d) Nothing in this subdivision shall be interpreted to impose a duty on any person to use any information regarding an offender about whom notification is made under this subdivision.

Subd. 3. **Computation of criminal history score.** If the defendant contests the existence of or factual basis for a prior conviction in the calculation of the defendant's criminal history score, proof of it is established by competent and reliable evidence, including a certified court record of the conviction.

History: *1978 c 723 art 1 s 10; 1986 c 444; 1988 c 520 s 1; 1996 c 408 art 5 s 6; 2000 c 311 art 2 s 13*

244.101 SENTENCING OF FELONY OFFENDERS WHO COMMIT OFFENSES ON AND AFTER AUGUST 1, 1993.

Subdivision 1. **Executed sentences.** When a felony offender is sentenced to a fixed executed sentence for an offense committed on or after August 1, 1993, the executed sentence consists of two parts: (1) a specified minimum term of imprisonment that is equal to two-thirds of the executed sentence; and (2) a specified maximum supervised release term that is equal to one-third of the executed 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.

Subd. 2. **Explanation of sentence.** When a court pronounces an executed sentence under this section, it shall explain: (1) the total length of the executed sentence; (2) the amount of time the defendant will serve in prison; and (3) the amount of time the defendant will serve on supervised release, assuming the defendant commits no disciplinary offense in prison that results in the imposition of a disciplinary confinement period. The court shall also explain that the amount of time the defendant actually serves in prison may be extended by the commissioner if the defendant commits any disciplinary offenses in prison and that this extension could result in the defendant's serving the entire executed sentence in prison. The court's explanation shall be included in a written summary of the sentence.

Subd. 3. **No right to supervised release.** Notwithstanding the court's explanation of the potential length of a defendant's supervised release term, the court's explanation

creates no right of a defendant to any specific, minimum length of a supervised release term.

Subd. 4. **Application of statutory mandatory minimum sentences.** If the defendant is convicted of any offense for which a statute imposes a mandatory minimum sentence of imprisonment, the statutory mandatory minimum sentence governs the length of the entire executed sentence pronounced by the court under this section.

History: *1992 c 571 art 2 s 7; art 9 s 6*

APPELLATE REVIEW

244.11 APPELLATE REVIEW OF SENTENCE.

Subdivision 1. **Generally.** An appeal to the Court of Appeals 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. Except as otherwise provided in subdivision 3, a dismissal or a resolution of an appeal brought under this section shall not prejudice an appeal brought under any other section or rule.

Subd. 2. **Procedure.** (a) When an appeal taken under this section is filed, the court administrator of the district court shall certify 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.

(b) On an appeal pursuant to this section, the 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 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 court may direct.

Subd. 3. **Limitation on defendant's right to seek sentence modification.** (a) As used in this subdivision, "appeal" means:

(1) an appeal of a sentence under Rule 28 of the Rules of Criminal Procedure; and

(2) an appeal from a denial of a sentence modification motion brought under Rule 27.03, subdivision 9, of the Rules of Criminal Procedure.

(b) If a defendant agrees to a plea agreement and is given a stayed sentence, which is a dispositional departure from the presumptive sentence under the Minnesota Sentencing Guidelines, the defendant may appeal the sentence only if the appeal is taken:

(1) within 90 days of the date sentence was pronounced; or

(2) before the date of any act committed by the defendant resulting in revocation of the stay of sentence;

whichever occurs first.

(c) A defendant who is subject to paragraph (b) who has failed to appeal as provided in that paragraph may not file a petition for postconviction relief under chapter 590 regarding the sentence.

(d) Nothing in this subdivision shall be construed to:

(1) alter the time period provided for the state to appeal a sentence under Rule 28 of the Rules of Criminal Procedure; or

(2) affect the court's authority to correct errors under Rule 27.03, subdivision 8, of the Rules of Criminal Procedure.

Subd. 4. **Release pending appeal.** This section shall not be construed to confer or enlarge any right of a defendant to be released pending an appeal.

History: *1978 c 723 art 1 s 11; 1983 c 247 s 103; 1Sp1986 c 3 art 1 s 82; 1997 c 96 s 2*

INTENSIVE COMMUNITY SUPERVISION

244.12 INTENSIVE COMMUNITY SUPERVISION.

Subdivision 1. **Generally.** The commissioner may order that an offender who meets the eligibility requirements of subdivisions 2 and 3 be placed on intensive community supervision, as described in sections 244.14 and 244.15, for all or part of the offender's sentence if the offender agrees to participate in the program and the commissioner notifies the sentencing court.

Subd. 2. **Eligibility.** The commissioner must limit the intensive community supervision program to the following persons:

(1) offenders who are committed to the commissioner's custody following revocation of a stayed sentence; and

(2) offenders who are committed to the commissioner's custody for a sentence of 30 months or less, who did not receive a dispositional departure under the Sentencing Guidelines, and who have already served a period of incarceration as a result of the offense for which they are committed.

Subd. 3. **Offenders not eligible.** The following are not eligible to be placed on intensive community supervision, under subdivision 2, clause (2):

(1) offenders who were committed to the commissioner's custody under a statutory mandatory minimum sentence;

(2) offenders who were committed to the commissioner's custody following a conviction for murder, manslaughter, criminal sexual conduct, or criminal vehicular homicide or operation resulting in death; and

(3) offenders whose presence in the community would present a danger to public safety.

History: *1990 c 568 art 2 s 33; 1991 c 258 s 2; 1992 c 571 art 1 s 8; 1994 c 636 art 6 s 15,16*

244.13 INTENSIVE COMMUNITY SUPERVISION AND INTENSIVE SUPERVISED RELEASE; ESTABLISHMENT OF PROGRAMS.

Subdivision 1. **Establishment.** The commissioner of corrections shall establish programs for those designated by the commissioner to serve all or part of a sentence on intensive community supervision or all or part of a supervised release or parole term on intensive supervised release. The adoption and modification of policies and procedures to implement sections 244.05, subdivision 6, and 244.12 to 244.15 are not subject to the rulemaking procedures of chapter 14 because these policies and procedures are excluded from the definition of a rule under section 14.03, subdivision 3, paragraph (b), clause (1). The commissioner shall locate the programs so that at least one-half of the money appropriated for the programs in each year is used for programs in Community Corrections Act counties. In awarding contracts for intensive supervision programs in Community Corrections Act counties, the commissioner shall give first priority to programs that utilize county employees as intensive supervision agents and shall give second priority to programs that utilize state employees as intensive supervision agents. The commissioner may award contracts to other providers in Community Corrections Act counties only if doing so will result in a significant cost savings or a significant increase in the quality of services provided, and only after notifying the chairs of the committees in the senate and house of representatives with jurisdiction over criminal justice policy.

Subd. 2. **Training.** The commissioner shall develop specialized training programs for intensive supervision agents assigned to the intensive community supervision and

intensive supervised release programs. The agent caseload shall not exceed the ratio of 30 offenders to two intensive supervision agents. An intensive supervision agent must have qualifications comparable to those for a state corrections agent.

Subd. 3. **Evaluation.** The commissioner shall develop a system for gathering and analyzing information concerning the value and effectiveness of the intensive community supervision and intensive supervised release programs.

Subd. 4. **Definition.** For purposes of section 244.05, subdivision 6, and sections 244.12 to 244.15, "intensive supervision agent" means a probation officer, a corrections agent, or any other qualified person employed in supervising offenders serving a period of intensive community supervision or intensive supervised release.

History: *1990 c 568 art 2 s 34; 1991 c 258 s 3; 1994 c 636 art 6 s 17,18; 1997 c 7 art 2 s 32; 1997 c 187 art 2 s 9; 2003 c 2 art 1 s 24*

244.14 INTENSIVE COMMUNITY SUPERVISION; BASIC ELEMENTS.

Subdivision 1. **Requirements.** This section governs the intensive community supervision programs established under section 244.13. The commissioner shall operate the programs in conformance with this section. The commissioner shall administer the programs to further the following goals:

(1) to punish the offender;

(2) to protect the safety of the public;

(3) to facilitate employment of the offender during the intensive community supervision and afterward; and

(4) to require the payment of restitution ordered by the court to compensate the victims of the offender's crime.

Subd. 2. **Good time not available.** An offender serving a sentence on intensive community supervision for a crime committed before August 1, 1993, does not earn good time, notwithstanding section 244.04.

Subd. 3. **Sanctions.** The commissioner shall impose severe and meaningful sanctions for violating the conditions of an intensive community supervision program. The commissioner shall provide for revocation of intensive community supervision of an offender who:

(1) commits a material violation of or repeatedly fails to follow the rules of the program;

(2) commits any misdemeanor, gross misdemeanor, or felony offense; or

(3) presents a risk to the public, based on the offender's behavior, attitude, or abuse of alcohol or controlled substances. The revocation of intensive community supervision is governed by the procedures in the commissioner's rules adopted under section 244.05, subdivision 2.

An offender whose intensive community supervision is revoked shall be imprisoned for a time period equal to the offender's term of imprisonment, but in no case for longer than the time remaining in the offender's sentence. "Term of imprisonment" means a time period equal to two-thirds of the sentence originally executed by the sentencing court, minus jail credit, if any.

Subd. 4. **All phases.** Throughout all phases of an intensive community supervision program, the offender shall submit at any time to an unannounced search of the offender's person, vehicle, or premises by an intensive supervision agent. If the offender received a restitution order as part of the sentence, the offender shall make weekly payments as scheduled by the agent until the full amount is paid.

History: *1990 c 568 art 2 s 35; 1991 c 258 s 4; 1993 c 326 art 9 s 7; art 13 s 15*

244.15 INTENSIVE COMMUNITY SUPERVISION; PHASES I TO IV.

Subdivision 1. **Duration.** Phase I of an intensive community supervision program is six months, or one-half the time remaining in the offender's term of imprisonment, whichever is less. Phase II lasts for at least one-third of the time remaining in the

offender's term of imprisonment at the beginning of Phase II. Phase III lasts for at least one-third of the time remaining in the offender's term of imprisonment at the beginning of Phase III. Phase IV continues until the commissioner determines that the offender has successfully completed the program or until the offender's sentence, minus jail credit, expires, whichever occurs first. If an offender successfully completes the intensive community supervision program before the offender's sentence expires, the offender shall be placed on supervised release for the remainder of the sentence.

Subd. 2. **Random drug testing.** (a) During phase I, the offender will be subjected at least weekly to urinalysis and breath tests to detect the presence of controlled substances or alcohol. The tests will be random and unannounced.

(b) During phase II, the tests will be done at least twice monthly.

(c) During phases III and IV, the tests will be done at random at the frequency determined by the intensive supervision agent.

Subd. 3. **House arrest.** (a) During phase I, the offender will be under house arrest in a residence approved by the offender's intensive supervision agent and may not move to another residence without permission. "House arrest" means that the offender's movements will be severely restricted and continually monitored by the assigned agent.

(b) During phase II, modified house arrest is imposed.

(c) During phases III and IV, the offender is subjected to a daily curfew instead of house arrest.

Subd. 4. **Face-to-face contacts.** (a) During phase I, the assigned intensive supervision agent shall have at least four face-to-face contacts with the offender each week.

(b) During phase II, two face-to-face contacts a week are required.

(c) During phase III, one face-to-face contact a week is required.

(d) During phase IV, two face-to-face contacts a month are required.

(e) When an offender is an inmate of a jail or a resident of a facility which is staffed full time, the assigned agent may reduce face-to-face contacts to one per week during all phases.

Subd. 5. **Work required.** During phases I, II, III, and IV, the offender must spend at least 40 hours a week performing approved work, undertaking constructive activity designed to obtain employment, or attending a treatment or education program as directed by the commissioner. An offender may not spend more than six months in a residential treatment program that does not require the offender to spend at least 40 hours a week performing approved work or undertaking constructive activity designed to obtain employment.

Subd. 6. **Electronic surveillance.** During any phase, the offender may be placed on electronic surveillance if the intensive supervision agent so directs.

Subd. 7. **Other requirements.** The commissioner may include any other conditions in the various phases of the intensive community supervision program that the commissioner finds necessary and appropriate.

History: *1990 c 568 art 2 s 36; 1991 c 258 s 5; 1993 c 326 art 13 s 16; 1994 c 636 art 6 s 19*

DAY-FINES

244.16 DAY-FINES.

Subdivision 1. **Model system.** The Sentencing Guidelines Commission shall develop a model day-fine system. The commission shall report its model system to the legislature by February 1, 1993. Upon request of a judicial district, the commission may establish one pilot project for the development of a day-fine system.

Subd. 2. **Components.** A day-fine system adopted under this section must provide for a two-step sentencing procedure for those receiving a fine as part of a probationary felony, gross misdemeanor, or misdemeanor sentence. In the first step, the court

determines how many punishment points a person will receive, taking into account the severity of the offense and the criminal history of the offender. The second step is to multiply the punishment points by a factor that accounts for the offender's financial circumstances. The goal of the system is to provide a fine that is proportional to the seriousness of the offense and largely equal in impact among offenders with different financial circumstances. The system may provide for community service in lieu of fines for offenders whose means are so limited that the payment of a fine would be unlikely.

History: *1990 c 568 art 2 s 102; 1991 c 292 art 8 s 6*

CHALLENGE INCARCERATION PROGRAM

244.17 CHALLENGE INCARCERATION PROGRAM.

Subdivision 1. **Generally.** The commissioner may select offenders who meet the eligibility requirements of subdivisions 2 and 3 to participate in a challenge incarceration program described in sections 244.171 and 244.172 for all or part of the offender's sentence if the offender agrees to participate in the program and signs a written contract with the commissioner agreeing to comply with the program's requirements.

Subd. 2. **Eligibility.** The commissioner must limit the challenge incarceration program to the following persons:

(1) offenders who are committed to the commissioner's custody following revocation of a stayed sentence; and

(2) offenders who are committed to the commissioner's custody, who have 48 months or less in or remaining in their term of imprisonment, and who did not receive a dispositional departure under the Sentencing Guidelines.

Subd. 3. **Offenders not eligible.** The following offenders are not eligible to be placed in the challenge incarceration program:

(1) offenders who are committed to the commissioner's custody following a conviction for murder, manslaughter, criminal sexual conduct, assault, kidnapping, robbery, arson, or any other offense involving death or intentional personal injury; and

(2) offenders who were convicted within the preceding ten years of an offense described in clause (1) and were committed to the custody of the commissioner.

History: *1992 c 513 art 9 s 3; 1992 c 571 art 11 s 5,17; 1993 c 326 art 8 s 10; 1996 c 408 art 8 s 6; 1997 c 7 art 1 s 93; 1997 c 239 art 9 s 26*

244.171 CHALLENGE INCARCERATION PROGRAM; BASIC ELEMENTS.

Subdivision 1. **Requirements.** The commissioner shall administer an intensive, structured, and disciplined program with a high level of offender accountability and control and direct and related consequences for failure to meet behavioral expectations. The program shall have the following goals:

(1) to punish and hold the offender accountable;

(2) to protect the safety of the public;

(3) to treat offenders who are chemically dependent; and

(4) to prepare the offender for successful reintegration into society.

Subd. 2. **Program components.** The program shall contain all of the components described in paragraphs (a) to (e).

(a) The program shall contain a highly structured daily schedule for the offender.

(b) The program shall contain a rigorous physical program designed to teach personal discipline and improve the physical and mental well-being of the offender. It shall include skills designed to teach the offender how to reduce and cope with stress.

(c) The program shall contain individualized educational programs designed to improve the basic educational skills of the offender and to provide vocational training.

(d) The program shall contain programs designed to promote the offender's self-worth and the offender's acceptance of responsibility for the consequences of the offender's own decisions.

(c) The program shall contain culturally sensitive chemical dependency programs, licensed by the Department of Human Services and designed to serve the inmate population. It shall require that each offender submit to a chemical use assessment and that the offender receive the appropriate level of treatment as indicated by the assessment.

Subd. 3. **Good time not available.** An offender in the challenge incarceration program whose crime was committed before August 1, 1993, does not earn good time during phases I and II of the program, notwithstanding section 244.04.

Subd. 4. **Sanctions.** The commissioner shall impose severe and meaningful sanctions for violating the conditions of the challenge incarceration program. The commissioner shall remove an offender from the challenge incarceration program if the offender:

(1) commits a material violation of or repeatedly fails to follow the rules of the program;

(2) commits any misdemeanor, gross misdemeanor, or felony offense; or

(3) presents a risk to the public, based on the offender's behavior, attitude, or abuse of alcohol or controlled substances. The removal of an offender from the challenge incarceration program is governed by the procedures in the commissioner's rules adopted under section 244.05, subdivision 2.

An offender who is removed from the challenge incarceration program shall be imprisoned for a time period equal to the offender's term of imprisonment, minus earned good time if any, but in no case for longer than the time remaining in the offender's sentence. "Term of imprisonment" means a time period equal to two-thirds of the sentence originally executed by the sentencing court, minus jail credit, if any.

Subd. 5. **Training.** The commissioner shall develop specialized training for correctional employees who supervise and are assigned to the challenge incarceration program.

History: *1992 c 513 art 9 s 4; 1992 c 571 art 11 s 6,17; 1993 c 326 art 9 s 8; art 13 s 17*

244.172 CHALLENGE INCARCERATION PROGRAM; PHASES I TO III.

Subdivision 1. **Phase I.** Phase I of the program lasts at least six months. The offender must be confined in a state correctional facility designated by the commissioner and must successfully participate in all intensive treatment, education and work programs required by the commissioner. The offender must also submit on demand to random drug and alcohol testing at time intervals set by the commissioner. Throughout phase I, the commissioner must severely restrict the offender's telephone and visitor privileges.

Subd. 2. **Phase II.** Phase II of the program lasts at least six months. The offender shall serve this phase of the offender's sentence in an intensive supervision and surveillance program established by the commissioner. The commissioner may impose such requirements on the offender as are necessary to carry out the goals of the program. Throughout phase II, the offender must be required to submit to drug and alcohol tests randomly or for cause, on demand of the supervising agent. The commissioner shall also require the offender to report daily to a challenge incarceration agent or program staff.

Subd. 3. **Phase III.** Phase III continues until the commissioner determines that the offender has successfully completed the program or until the offender's sentence, minus jail credit, expires, whichever comes first. If an offender successfully completes phase III of the challenge incarceration program before the offender's sentence expires, the offender shall be placed on supervised release for the remainder of the sentence. The commissioner shall set the level of the offender's supervision based on the public risk presented by the offender.

History: *1992 c 513 art 9 s 5; 1992 c 571 art 11 s 7,17; 1993 c 326 art 8 s 11,12; 1994 c 636 art 6 s 20; 1996 c 408 art 8 s 7; 2000 c 299 s 5*

244.173 CHALLENGE INCARCERATION PROGRAM; EVALUATION AND REPORT.

The commissioner shall develop a system for gathering and analyzing information concerning the value and effectiveness of the challenge incarceration program.

History: *1992 c 513 art 9 s 6; 1992 c 571 art 11 s 8,17; 1994 c 636 art 6 s 21; 2001 c 210 s 16*

OFFENDER FEES

244.18 LOCAL CORRECTIONAL FEES; IMPOSITION ON OFFENDERS.

Subdivision 1. **Definition.** As used in this section, "local correctional fees" include fees for the following correctional services:

(1) community service work placement and supervision;

(2) restitution collection;

(3) supervision;

(4) court ordered investigations;

(5) any other court ordered service;

(6) postprison supervision or other form of release; or

(7) supervision or other services provided to probationers or parolees under section 243.16 to be provided by a local probation and parole agency established under section 244.19 or community corrections agency established under chapter 401.

Subd. 2. **Local correctional fees.** A local correctional agency may establish a schedule of local correctional fees to charge persons convicted of a crime and under the supervision and control of the local correctional agency to defray costs associated with correctional services. The local correctional fees on the schedule must be reasonably related to defendants' abilities to pay and the actual cost of correctional services.

Subd. 3. **Fee collection.** The chief executive officer of a local correctional agency may impose and collect local correctional fees. The local correctional agency may collect the fee at any time while the offender is under sentence or after the sentence has been discharged. A local probation and parole agency established under section 244.19 or community corrections agency established under section 401.02 may not impose a fee under this section if the offender is supervised by the commissioner of corrections and the commissioner of corrections imposes and collects a fee under section 241.272. The agency may use any available civil means of debt collection in collecting a local correctional fee.

Subd. 4. **Exemption from fee.** The chief executive officer of the local correctional agency may waive payment of the fee if the officer determines that the offender does not have the ability to pay the fee, the prospects for payment are poor, or there are extenuating circumstances justifying waiver of the fee. Instead of waiving the fee, the local correctional agency may require the offender to perform community work service as a means of paying the fee.

Subd. 5. **Restitution payment priority.** If a defendant has been ordered by a court to pay restitution, the defendant shall be obligated to pay the restitution ordered before paying the local correctional fee. However, if the defendant is making reasonable payments to satisfy the restitution obligation, the local correctional agency may also collect a local correctional fee.

Subd. 6. **Use of fees.** The local correctional fees shall be used by the local correctional agency to pay the costs of local correctional services. Local correctional fees may not be used to supplant existing local funding for local correctional services.

History: *1992 c 571 art 11 s 9; 1997 c 239 art 9 s 51; 1999 c 111 s 1-3; 1999 c 216 art 4 s 9; 2001 c 210 s 17*

PROBATION OFFICERS

244.19 PROBATION OFFICERS.

Subdivision 1. **Appointment; joint services; state services.** (a) If a county or group of counties has established a human services board pursuant to chapter 402, the district court may appoint one or more county probation officers as necessary to perform court services, and the human services board shall appoint persons as necessary to provide correctional services within the authority granted in chapter 402. In all counties of more than 200,000 population, which have not organized pursuant to chapter 402, the district court shall appoint one or more persons of good character to serve as county probation officers during the pleasure of the court. All other counties shall provide adult misdemeanant and juvenile probation services to district courts in one of the following ways:

(1) the court, with the approval of the county boards, may appoint one or more salaried county probation officers to serve during the pleasure of the court;

(2) when two or more counties offer probation services the district court through the county boards may appoint common salaried county probation officers to serve in the several counties;

(3) a county or a district court may request the commissioner of corrections to furnish probation services in accordance with the provisions of this section, and the commissioner of corrections shall furnish such services to any county or court that fails to provide its own probation officer by one of the two procedures listed above;

(4) if a county or district court providing probation services under clause (1) or (2) asks the commissioner of corrections or the legislative body for the state of Minnesota mandates the commissioner of corrections to furnish probation services to the district court, the probation officers and other employees displaced by the changeover shall be employed by the commissioner of corrections. Years of service in the county probation department are to be given full credit for future sick leave and vacation accrual purposes;

(5) all probation officers serving the juvenile courts on July 1, 1972, shall continue to serve in the county or counties they are now serving.

(b) The commissioner of employee relations shall place employees transferred to state service under paragraph (a), clause (4), in the proper classifications in the classified service. Each employee is appointed without examination at no loss in salary or accrued vacation or sick leave benefits, but no additional accrual of vacation or sick leave benefits may occur until the employee's total accrued vacation or sick leave benefits fall below the maximum permitted by the state for the employee's position. An employee appointed under paragraph (a), clause (4), shall serve a probationary period of six months. After exhausting labor contract remedies, a noncertified employee may appeal for a hearing within ten days to the commissioner of employee relations, who may uphold the decision, extend the probation period, or certify the employee. The decision of the commissioner of employee relations is final. The state shall negotiate with the exclusive representative for the bargaining unit to which the employees are transferred regarding their seniority. For purposes of computing seniority among those employees transferring from one county unit only, a transferred employee retains the same seniority position as the employee had within that county's probation office.

Subd. 2. **Sufficiency of services.** Probation services shall be sufficient in amount to meet the needs of the district court in each county. County probation officers serving district courts in all counties of not more than 200,000 population shall also, pursuant to subdivision 3, provide probation and parole services to wards of the commissioner of corrections resident in their counties. To provide these probation services counties containing a city of 10,000 or more population shall, as far as practicable, have one probation officer for not more than 35,000 population; in counties that do not contain a city of such size, the commissioner of corrections shall, after consultation with the chief judge of the district court and the county commissioners and in the light of experience, establish probation districts to be served by one officer.

All probation officers appointed for any district court or community corrections agency shall be selected from a list of eligible candidates who have minimally qualified according to the same or equivalent examining procedures as used by the commissioner of employee relations to certify eligibles to the commissioner of corrections in appointing parole agents, and the department of employee relations shall furnish the names of such candidates on request. This subdivision shall not apply to a political subdivision having a civil service or merit system unless the subdivision elects to be covered by this subdivision.

Subd. 3. **Powers and duties.** All county probation officers serving a district court shall act under the orders of the court in reference to any person committed to their care by the court, and in the performance of their duties shall have the general powers of a peace officer; and it shall be their duty to make such investigations with regard to any person as may be required by the court before, during, or after the trial or hearing, and to furnish to the court such information and assistance as may be required; to take charge of any person before, during or after trial or hearing when so directed by the court, and to keep such records and to make such reports to the court as the court may order.

All county probation officers serving a district court shall, in addition, provide probation and parole services to wards of the commissioner of corrections resident in the counties they serve, and shall act under the orders of said commissioner of corrections in reference to any ward committed to their care by the commissioner of corrections.

All probation officers serving a district court shall, under the direction of the authority having power to appoint them, initiate programs for the welfare of persons coming within the jurisdiction of the court to prevent delinquency and crime and to rehabilitate within the community persons who come within the jurisdiction of the court and are properly subject to efforts to accomplish prevention and rehabilitation. They shall, under the direction of the court, cooperate with all law enforcement agencies, schools, child welfare agencies of a public or private character, and other groups concerned with the prevention of crime and delinquency and the rehabilitation of persons convicted of crime and delinquency.

All probation officers serving a district court shall make monthly and annual reports to the commissioner of corrections, on forms furnished by the commissioner, containing such information on number of cases cited to the juvenile division of district court, offenses, adjudications, dispositions, and related matters as may be required by the commissioner of corrections.

Subd. 3a. [Repealed, 1Sp2003 c 2 art 6 s 7]

Subd. 4. [Repealed, 1998 c 367 art 7 s 15; 1998 c 408 s 11]

Subd. 5. **Compensation.** In counties of more than 200,000 population, a majority of the judges of the district court may direct the payment of such salary to probation officers as may be approved by the county board, and in addition thereto shall be reimbursed for all necessary expenses incurred in the performance of their official duties. In all counties which obtain probation services from the commissioner of corrections the commissioner shall, out of appropriations provided therefor, pay probation officers the salary and all benefits fixed by the state law or applicable bargaining unit and all necessary expenses, including secretarial service, office equipment and supplies, postage, telephone and telegraph services, and travel and subsistence. Each county receiving probation services from the commissioner of corrections shall reimburse the department of corrections for the total cost and expenses of such services as incurred by the commissioner of corrections. Total annual costs for each county shall be that portion of the total costs and expenses for the services of one probation officer represented by the ratio which the county's population bears to the total population served by one officer. For the purposes of this section, the population of any county shall be the most recent estimate made by the Department of Health. At least every six months the commissioner of corrections shall bill for the total cost and expenses incurred by the commissioner on behalf of each county which has received probation services. The commissioner of corrections shall notify each county of the cost

and expenses and the county shall pay to the commissioner the amount due for reimbursement. All such reimbursements shall be deposited in the general fund. Objections by a county to all allocation of such cost and expenses shall be presented to and determined by the commissioner of corrections. Each county providing probation services under this section is hereby authorized to use unexpended funds and to levy additional taxes for this purpose.

The county commissioners of any county of not more than 200,000 population shall, when requested to do so by the juvenile judge, provide probation officers with suitable offices, and may provide equipment, and secretarial help needed to render the required services.

Subd. 6. **Reimbursement of counties.** In order to reimburse the counties for the cost which they assume under this section of providing probation and parole services to wards of the commissioner of corrections and to aid the counties in achieving the purposes of this section, the commissioner of corrections shall annually, from funds appropriated for that purpose, pay 50 percent of the costs of probation officers' salaries to all counties of not more than 200,000 population. Nothing in this section will invalidate any payments to counties made pursuant to this section before May 15, 1963. Salary costs include fringe benefits, but only to the extent that fringe benefits do not exceed those provided for state civil service employees. On or before July 1 of each even-numbered year each county or group of counties which provide their own probation services to the district court under subdivision 1, clause (1) or (2), shall submit to the commissioner of corrections an estimate of its costs under this section. Reimbursement to those counties shall be made on the basis of the estimate or actual expenditures incurred, whichever is less. Reimbursement for those counties which obtain probation services from the commissioner of corrections pursuant to subdivision 1, clause (3), must be made on the basis of actual expenditures. Salary costs shall not be reimbursed unless county probation officers are paid salaries commensurate with the salaries paid to comparable positions in the classified service of the state civil service. The salary range to which each county probation officer is assigned shall be determined by the authority having power to appoint probation officers, and shall be based on the officer's length of service and performance. The appointing authority shall annually assign each county probation officer to a position on the salary scale commensurate with the officer's experience, tenure, and responsibilities. The judge shall file with the county auditor an order setting each county probation officer's salary. Time spent by a county probation officer as a court referee shall not qualify for reimbursement. Reimbursement shall be prorated if the appropriation is insufficient. A new position eligible for reimbursement under this section may not be added by a county without the written approval of the commissioner of corrections. When a new position is approved, the commissioner shall include the cost of the position in calculating each county's share.

Subd. 7. **Certificate of counties entitled to state aid.** On or before January 1 of each year, until 1970 and on or before April 1 thereafter, the commissioner of corrections shall deliver to the commissioner of finance a certificate in duplicate for each county of the state entitled to receive state aid under the provisions of this section. Upon the receipt of such certificate, the commissioner of finance shall draw a warrant in favor of the county treasurer for the amount shown by each certificate to be due to the county specified. The commissioner of finance shall transmit such warrant to the county treasurer together with a copy of the certificate prepared by the commissioner of corrections.

Subd. 8. **Exception.** This section shall not apply to Ramsey County.

History: *1917 c 397 s 9; 1933 c 204 s 1; 1945 c 517 s 4; 1959 c 698 s 3; 1961 c 430 s 2-4; 1963 c 694 s 1; 1965 c 316 s 7-11; 1965 c 697 s 1; 1969 c 278 s 1; 1969 c 399 s 1; 1971 c 25 s 51; 1971 c 951 s 41-43; 1973 c 492 s 14; 1973 c 507 s 45; 1973 c 654 s 15; 1975 c 258 s 5; 1975 c 271 s 6; 1975 c 381 s 21; 1976 c 163 s 58; 1977 c 281 s 1-3; 1977 c 392 s 8; 1980 c 617 s 47; 1981 c 192 s 20; 1983 c 274 s 18; 1985 c 220 s 5,6; 1Sp1985 c 9 art 2 s 76; 1986 c 444; 1987 c 252 s 8; 1988 c 505 s 1-4; 1992 c 571 art 11 s 10; 1996 c 408 art 8 s 8; 1997 c 239 art 9 s 32,51; 1998 c 367 art 7 s 2,15; 1998 c 408 s 10; 2003 c 112 art 2 s 31*

DETENTION AND RELEASE

244.195 DETENTION AND RELEASE; PROBATIONERS, CONDITIONAL RELEASEES, AND PRETRIAL RELEASEES.

Subdivision 1. **Definitions.** (a) As used in this subdivision, the following terms have the meanings given them.

(b) "Commissioner" means the commissioner of corrections.

(c) "Conditional release" means parole, supervised release, conditional release as authorized by section 609.108, subdivision 6, or 609.109, subdivision 7, work release as authorized by sections 241.26, 244.065, and 631.425, probation, furlough, and any other authorized temporary release from a correctional facility.

(d) "Court services director" means the director or designee of a county probation agency that is not organized under chapter 401.

(e) "Detain" means to take into actual custody, including custody within a local correctional facility.

(f) "Local correctional facility" has the meaning given in section 241.021, subdivision 1.

(g) "Release" means to release from actual custody.

Subd. 2. **Detention pending hearing.** When it appears necessary to enforce discipline or to prevent a person on conditional release from escaping or absconding from supervision, a court services director has the authority to issue a written order directing any peace officer in the county or any county probation officer serving the district and juvenile courts of the county to detain and bring the person before the court or the commissioner, whichever is appropriate, for disposition. This written order is sufficient authority for the peace officer or probation officer to detain the person for not more than 72 hours, excluding Saturdays, Sundays, and holidays, pending a hearing before the court or the commissioner.

Subd. 3. **Release before hearing.** A court services director has the authority to issue a written order directing a county probation officer serving the district and juvenile courts of the county to release a person detained under subdivision 2 within 72 hours, excluding Saturdays, Sundays, and holidays, without an appearance before the court or the commissioner. This written order is sufficient authority for the county probation officer to release the detained person.

Subd. 4. **Detention of pretrial releasee.** A court services director has the authority to issue a written order directing any peace officer in the county or any probation officer serving the district and juvenile courts of the county to detain any person on court-ordered pretrial release who absconds from pretrial release or fails to abide by the conditions of pretrial release. A written order issued under this subdivision is sufficient authority for the peace officer or probation officer to detain the person.

Subd. 5. **Detention by state correctional investigator, or by peace officer or probation officer from other county.** (a) A court services director has the authority to issue a written order directing any state correctional investigator or any peace officer, probation officer, or county probation officer from another county to detain a person under sentence or on probation who:

(1) fails to report to serve a sentence at a local correctional facility;

(2) fails to return from furlough or authorized temporary release from a local correctional facility;

(3) escapes from a local correctional facility; or

(4) absconds from court-ordered home detention.

(b) A court services director has the authority to issue a written order directing any state correctional investigator or any peace officer, probation officer, or county probation officer from another county to detain any person on court-ordered pretrial release who absconds from pretrial release or fails to abide by the conditions of pretrial release.

(c) A written order issued under paragraph (a) or (b) is sufficient authority for the state correctional investigator, peace officer, probation officer, or county probation officer to detain the person.

History: *1998 c 367 art 7 s 3*

PROBATION VIOLATION SANCTION CONFERENCES

244.196 DEFINITIONS.

Subdivision 1. **Definitions.** As used in sections 244.196 to 244.199, the following terms have the meanings given them.

Subd. 2. **Probation.** "Probation" has the meaning given in section 609.02, subdivision 15.

Subd. 3. **Probation violation sanction.** "Probation violation sanction" includes, but is not limited to, electronic monitoring, intensive probation, sentencing to service, reporting to a day reporting center, chemical dependency or mental health treatment or counseling, community work service, remote electronic alcohol monitoring, random drug testing, and participation in an educational or restorative justice program. A probation violation sanction does not include any type of custodial sanction, including, but not limited to, detention and incarceration.

Subd. 4. **Sanctions conference.** "Sanctions conference" means a voluntary conference at which the county probation officer, offender, and, if appropriate, other interested parties meet to discuss the probation violation sanction for the offender's technical violation of probation.

Subd. 5. **Sanctions conference form.** "Sanctions conference form" means a form developed by the chief executive officer of a local corrections agency with the approval of the district court that explains the sanctions conference and the offender's option to elect to participate in the sanctions conference or to proceed to a judicial hearing.

Subd. 6. **Technical violation.** "Technical violation" means any violation of a court order of probation, except an allegation of a subsequent criminal act that is alleged in a formal complaint, citation, or petition.

History: *1Sp2003 c 2 art 6 s 1*

244.197 INITIATION OF SANCTIONS CONFERENCE.

Subdivision 1. **Authority.** Unless the district court directs otherwise, a probation agency may use a sanctions conference to address an offender's technical violation of probation.

Subd. 2. **Notice of violation.** When a probation agency has reason to believe that an offender has committed a technical violation of probation, the agency shall notify the offender in writing of the specific nature of the technical violation and the scheduling of a sanctions conference, including the date, time, and location of the sanctions conference. The notice shall also state that if the offender fails to appear at the sanctions conference, the probation agency may apprehend and detain the offender under section 244.195 and ask the court to commence revocation proceedings under section 609.14 and rule 27.04 of the Rules of Criminal Procedure. To the extent feasible, the sanctions conference must take place within seven days of mailing of the notice to the offender.

Subd. 3. **Sanctions conference.** At the sanctions conference, the county probation officer shall provide the offender with a copy of a sanctions conference form explaining the sanctions conference and the offender's options for proceeding. The offender must stipulate, in writing, that the offender has received a copy of the sanctions conference form and that the offender understands the information contained in the form and the options available to the offender. The offender also must declare, in writing, the offender's decision to either participate in the sanctions conference or proceed with a judicial hearing.

History: *1Sp2003 c 2 art 6 s 2*

244.198 PARTICIPATION IN SANCTIONS CONFERENCE.

Subdivision 1. **Election to participate.** If the offender elects to participate in the sanctions conference, the county probation officer shall inform the offender, orally and in writing, of the probation violation sanction that the county probation officer is recommending for the technical violation of probation. The county probation officer shall inform the offender that the probation violation sanction becomes effective upon confirmation by a judge of the district court.

Subd. 2. **Report to district court.** If the offender elects to participate in the sanctions conference, the county probation officer conducting the sanctions conference shall provide a report to the district court containing:

(1) the specific nature of the technical violation of probation;

(2) the notice provided to the offender of the technical violation of probation and the scheduling of the sanctions conference;

(3) a copy of the offender's signed stipulation indicating that the offender received a copy of the sanctions conference form and understood it;

(4) a copy of the offender's written declaration to participate in the sanctions conference; and

(5) the recommended probation violation sanction.

The recommended probation violation sanction becomes effective when confirmed by a judge. The order of the court shall be proof of such confirmation.

Subd. 3. **Response to district court action.** (a) Upon the county probation officer's receipt of a confirmed order by the judge, the county probation officer shall notify the offender and the prosecuting authority in writing that the probation violation sanction has been approved by the court.

(b) If the court does not confirm the recommendation of the county probation officer, the probation violation sanction shall not go into effect. The county probation officer shall notify the offender that the court has not confirmed the sanction.

(c) If the court does not confirm the recommendation, the county probation officer may ask the court to commence revocation proceedings under section 609.14.

Subd. 4. **Appeal.** An offender may appeal the judge's confirmation of the probation violation sanction as provided in rule 28.05 of the Rules of Criminal Procedure.

History: *1Sp2003 c 2 art 6 s 3*

244.199 ELECTION NOT TO PARTICIPATE.

If the offender elects not to participate in the sanctions conference, the county probation officer may ask the court to initiate revocation proceedings or refer the matter to the appropriate prosecuting authority for action under section 609.14. The county probation officer also may take action to apprehend and detain the offender under section 244.195.

History: *1Sp2003 c 2 art 6 s 4*

244.1995 SANCTIONS CONFERENCE PROCEDURES.

The chief executive officer of a local corrections agency, with approval of the district court, shall develop procedures for the sanctions conference identified in sections 244.196 to 244.199, and develop a sanctions conference form that includes notice to the offender:

(1) of the specific court-ordered condition of release that the offender has allegedly violated, the probation officer's authority to ask the court to revoke the offender's probation for the technical violation, and the offender's right to elect to participate in a sanctions conference to address the technical violation in lieu of the probation officer asking the court to revoke the offender's probation;

(2) that participation in the sanctions conference is in lieu of a court hearing under section 609.14, and that, if the offender elects to participate in the sanctions confer-

ence, the offender must admit, or agree not to contest, the alleged technical violation and must waive the right to contest the violation at a judicial hearing, present evidence, call witnesses, cross-examine the state's witnesses, and be represented by counsel;

(3) that, if the offender chooses, the offender has a right to a hearing before the court under section 609.14, for a determination of whether the offender committed the alleged violation, including the right to be present at the hearing, to cross-examine witnesses, to have witnesses subpoenaed for the offender, to have an attorney present or to have an attorney appointed if the offender cannot afford one, and to require the state to prove the allegations against the offender;

(4) that if, after a hearing, the court finds the violations have been proven, the court may continue the sentence, subject to the same, modified, or additional conditions, or order a sanction that may include incarceration, additional fines, revocation of the stay of sentence, imposition of sentence, or other sanctions;

(5) that the decision to participate in the sanctions conference will not result in the probation officer recommending revocation of the offender's stay of sentence, unless the offender fails to successfully complete the probation violation sanction;

(6) that various types of probation violation sanctions may be imposed and that the probation violation sanctions imposed on the offender will depend on the nature of the technical violation, the offender's criminal history, and the offender's level of supervision;

(7) that the probation violation sanctions supplement any existing conditions of release; and

(8) that participation in the sanctions conference requires completion of all probation violation sanctions imposed by the probation agency, and that failure to successfully complete the imposed probation violation sanctions could result in additional sanctions or the commencement of revocation proceedings under section 609.14.

History: *1Sp2003 c 2 art 6 s 6*

PROBATION SERVICES AND CLASSIFICATION SYSTEM

244.20 PROBATION SUPERVISION.

Notwithstanding sections 244.19, subdivision 1, and 609.135, subdivision 1, the Department of Corrections shall have exclusive responsibility for providing probation services for adult felons in counties that do not take part in the Community Corrections Act. In counties that do not take part in the Community Corrections Act, the responsibility for providing probation services for individuals convicted of gross misdemeanor offenses shall be discharged according to local judicial policy.

History: *1997 c 239 art 9 s 27,51*

244.21 COLLECTION OF INFORMATION ON OFFENDERS; REPORTS REQUIRED.

Subdivision 1. **Collection of information by probation service providers; report required.** By January 1, 1998, probation service providers shall begin collecting and maintaining information on offenders under supervision. The commissioner of corrections shall specify the nature and extent of the information to be collected. By April 1 of every year, each probation service provider shall report a summary of the information collected to the commissioner.

Subd. 2. **Commissioner of corrections report.** By January 15, 1998, the commissioner of corrections shall report to the chairs of the senate crime prevention and house of representatives judiciary committees on recommended methods of coordinating the exchange of information collected on offenders under subdivision 1: (1) between probation service providers; and (2) between probation service providers and the Department of Corrections, without requiring service providers to acquire uniform computer software.

History: *1997 c 239 art 9 s 28*

244.22 REVIEW OF PLANNED EXPENDITURES OF PROBATION SERVICE PROVIDERS; DISTRIBUTION OF MONEY TO MULTIPLE PROBATION SERVICE PROVIDERS WITHIN A SINGLE COUNTY.

(a) The commissioner of corrections shall review the planned expenditures of probation service providers before allocating probation caseload reduction grants appropriated by the legislature. The review must determine whether the planned expenditures comply with applicable law.

(b) In counties where probation services are provided by both county and Department of Corrections employees, a collaborative plan addressing the local needs shall be developed. The commissioner of corrections shall specify the manner in which probation caseload reduction grant money shall be distributed between the providers according to the approved plan.

History: *1997 c 239 art 9 s 29*

244.24 CLASSIFICATION SYSTEM FOR ADULT OFFENDERS.

By February 1, 1998, all probation agencies shall adopt written policies for classifying adult offenders. The commissioner of corrections shall assist probation agencies in locating organizations that may provide training and technical assistance to the agencies concerning methods to develop and implement effective, valid classification systems.

History: *1997 c 239 art 9 s 30*