

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 Minnesota Statutes 2004, 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 disciplinary confinement period imposed by the commissioner due to the inmate's violation of any disciplinary rule adopted by the commissioner or refusal to participate in a rehabilitative program required under section 244.03. The amount of time the inmate serves on supervised release shall be equal in length to the amount of time remaining in the inmate's executed sentence after the inmate has served the term of imprisonment and any disciplinary confinement period imposed by the commissioner.

(b) No inmate who violates a disciplinary rule or refuses to participate in a rehabilitative program as required under section 244.03 shall be placed on supervised release until the inmate has served the disciplinary confinement period for that disciplinary sanction or until the inmate is discharged or released from punitive segregation confinement, whichever is later. The imposition of a disciplinary confinement period shall be considered to be a disciplinary sanction imposed upon an inmate, and the procedure for imposing the disciplinary confinement period and the rights of the inmate in the procedure shall be those 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. 1d. **Electronic surveillance.** (a) If the commissioner orders electronic surveillance of an inmate placed on supervised release, the commissioner may require that the inmate be kept in custody, or that the inmate's probation agent, or the agent's designee, directly supervise the offender until electronic surveillance is activated.

(b) It is the responsibility of the inmate placed on electronic surveillance to ensure that the inmate's residence is properly equipped and the inmate's telecommunications system is properly configured to support electronic surveillance prior to being released from custody or the direct supervision of a probation agent. An inmate who fails to comply with this paragraph may be found in violation of the inmate's conditions of release after a revocation hearing.

Subd. 2. **Rules.** The commissioner of corrections shall adopt by rule standards and procedures for the revocation of supervised or conditional release, and shall specify the period of revocation for each violation of release. Procedures for the revocation of 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.

Prior to revoking a nonviolent controlled substance offender's supervised release based on a technical violation, when the offender does not present a risk to the public and the offender is amenable to continued supervision in the community, the commissioner must identify community options to address and correct the violation including, but not limited to, inpatient chemical dependency treatment. If the commissioner determines that community options are appropriate, the commissioner shall restructure the inmate's terms of release to incorporate those options. If a nonviolent controlled substance offender's supervised release is revoked, the offender's agent must first attempt to place the offender in a local jail. For purposes of this subdivision, "nonviolent controlled substance offender" is a person who meets the criteria described under section 244.0513, subdivision 2, clauses (1), (2), and (5), and "technical violation" means a violation of a condition of supervised release, except an allegation of a subsequent criminal act that is alleged in a formal complaint, citation, or petition.

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 Minnesota Statutes 2004, 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.** (a) An inmate serving a mandatory life sentence under section 609.106 or 609.3455, subdivision 2, must not be given supervised release under this section.

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

(c) An inmate serving a mandatory life sentence under section 609.385 must not be given supervised release under this section without having served a minimum term of imprisonment of 17 years.

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

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, paragraph (a), clause (3), (5), or (6); 609.3455, subdivision 3 or 4; 609.385; or Minnesota Statutes 2004, section 609.109, subdivision 3, 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) When considering whether to give supervised release to an inmate serving a life sentence under section 609.3455, subdivision 3 or 4, the commissioner shall consider, at a minimum, the following: the risk the inmate poses to the community if released, the inmate's progress in treatment, the inmate's behavior while incarcerated, psychological or other diagnostic evaluations of the inmate, the inmate's criminal history, and any other relevant conduct of the inmate while incarcerated or before incarceration. The commissioner may not give supervised release to the inmate unless:

(1) while in prison:

(i) the inmate has successfully completed appropriate sex offender treatment;

(ii) the inmate has been assessed for chemical dependency needs and, if appropriate, has successfully completed chemical dependency treatment; and

(iii) the inmate has been assessed for mental health needs and, if appropriate, has successfully completed mental health treatment; and

(2) a comprehensive individual release plan is in place for the inmate that ensures that, after release, the inmate will have suitable housing and receive appropriate aftercare and community-based treatment. The comprehensive plan also must include a postprison employment or education plan for the inmate.

(e) 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. (a) 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 section 609.342, 609.343, 609.344, 609.345, or 609.3453 or was sentenced under the provisions of section 609.3455, subdivision 3a. The commissioner shall order that all level III predatory offenders be placed on intensive supervised release for the entire supervised release, conditional release, or parole term.

(b) The commissioner may impose appropriate conditions of release on the inmate including but not limited to unannounced searches of the inmate's person, vehicle, premises, computer, or other electronic devices capable of accessing the Internet 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.

(c) As a condition of release for an inmate required to register under section 243.166 who is placed on intensive supervised release under this subdivision, the commissioner shall prohibit the inmate from accessing, creating, or maintaining a personal web page, profile, account, password, or user name for: (1) a social networking website, or (2) an instant messaging or chat room program, which permits persons under the age of 18 to become a member or to create or maintain a personal web page. An intensive supervised release agent may modify the prohibition described in this paragraph if doing so does not jeopardize public safety and the modification is specifically described and agreed to in advance by the agent.

(d) If the inmate violates the conditions of the intensive supervised release, the commissioner shall impose sanctions as provided in subdivision 3 and section 609.3455.

Subd. 7. Sex offenders; civil commitment determination. (a) Before the commissioner releases from prison any inmate convicted under section 609.342, 609.343, 609.344, 609.345, or 609.3453, or sentenced as a patterned offender under section 609.3455, subdivision 3a, 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 chapter 253D may be appropriate. The commissioner's opinion must be based on a recommendation of a Department of Corrections screening committee and a legal review and recommendation from independent counsel knowledgeable in the legal requirements of the civil commitment process. The commissioner may retain a retired judge or other attorney to serve as independent counsel.

(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 sections 144.291 to 144.298, 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 that 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 chapter 253D. 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, 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.

Subd. 9. Public notice of release hearing for killers of peace officers. (a) At least 30 days before a hearing to consider the release of an inmate sentenced to life imprisonment for committing murder in the first degree involving the killing of a peace officer or a guard employed at a Minnesota or local correctional facility, the commissioner shall post on the department's website information about the hearing. The information posted may include only public information about the inmate, the circumstances of the case, and the scheduled hearing.

(b) A member of the public may submit a written statement at the review hearing. Nothing in this subdivision may be interpreted to circumvent or limit the rights of the victim, the victim's family, the inmate, or the criminal justice community specified elsewhere in law to notice of the hearing or the right to participate in it.

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; 2005 c 10 art 1 s 40,41; 2005 c 136 art 2 s 2-4; art 3 s 10,11; 2006 c 260 art 1 s 47; 2007 c 13 art 3 s 37; 2007 c 147 art 10 s 15; 2009 c 59 art 1 s 2; 2012 c 218 s 1; 2013 c 49 s 22; 2015 c 21 art 1 s 37; 2015 c 65 art 5 s 6; 2016 c 158 art 2 s 42; 2017 c 95 art 3 s 8; 2018 c 182 art 1 s 42