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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. **1126**

February 26, 2009

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The bill was read for the first time and referred to the Committee on Public Safety Policy and Oversight

1.1 A bill for an act
1.2 relating to public safety; modifying and expanding the conditional release
1.3 program for nonviolent drug offenders; extending the program's sunset;
1.4 modifying the mandatory minimum sentence for repeat fifth-degree controlled
1.5 substance offenders; amending Minnesota Statutes 2008, sections 152.025,
1.6 subdivision 3; 244.055, subdivisions 2, 3, 5, 11, by adding a subdivision;
1.7 repealing Minnesota Statutes 2008, section 244.055, subdivision 6.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. Minnesota Statutes 2008, section 152.025, subdivision 3, is amended to read:

1.10 Subd. 3. **Penalty.** (a) A person convicted under subdivision 1 or 2 may be sentenced
1.11 to imprisonment for not more than five years or to payment of a fine of not more than
1.12 \$10,000, or both.

1.13 (b) If the conviction is a subsequent controlled substance conviction, a person
1.14 convicted under subdivision 1 or 2 shall be committed to the commissioner of corrections
1.15 or to a local correctional authority for not less than six months nor more than ten years and,
1.16 in addition, may be sentenced to payment of a fine of not more than \$20,000. Prior to the
1.17 time of sentencing, the prosecutor may file a motion to have the person sentenced without
1.18 regard to the mandatory minimum sentence established by this paragraph. The motion
1.19 must be accompanied by a statement on the record of the reasons for it. When presented
1.20 with the motion, or on its own motion, the court may sentence the person without regard
1.21 to the mandatory minimum sentence if the court finds substantial and compelling reasons
1.22 to do so. Sentencing a person in this manner is a departure from the sentencing guidelines.

1.23 **EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to crimes
1.24 committed on or after that date.

2.1 Sec. 2. Minnesota Statutes 2008, section 244.055, subdivision 2, is amended to read:

2.2 Subd. 2. **Conditional release of certain nonviolent controlled substance**
2.3 **offenders and nonviolent nondrug offenders.** An offender who has been committed to

2.4 the commissioner's custody may petition the commissioner for conditional release from
2.5 prison before the offender's scheduled supervised release date or target release date if:

2.6 (1) the offender is serving a sentence for violating section 152.021, subdivision 2
2.7 or 2a; 152.022, ~~subdivision 2~~; 152.023; 152.024; or 152.025, or serving a sentence for a
2.8 nonviolent nondrug offense;

2.9 (2) the offender committed the crime as a result of a controlled substance addiction;
2.10 ~~and not primarily for profit~~;

2.11 (3) the offender has served at least 36 months or one-half of the offender's term of
2.12 imprisonment, whichever is less;

2.13 (4) the offender successfully completed a chemical dependency treatment program
2.14 of the type described in this section while in prison;

2.15 (5) the offender has not previously been conditionally released under this section; and

2.16 (6) the offender has not within the past ten years been convicted or adjudicated
2.17 delinquent for a violent crime as defined in section 609.1095 other than the current
2.18 conviction for the controlled substance offense or nonviolent nondrug offense.

2.19 Sec. 3. Minnesota Statutes 2008, section 244.055, subdivision 3, is amended to read:

2.20 Subd. 3. **Offer of chemical dependency treatment.** The commissioner shall offer
2.21 all offenders meeting the criteria described in subdivision 2, clauses (1), (2), (5), and (6),
2.22 the opportunity to begin a suitable chemical dependency treatment program of the type
2.23 described in this section within 160 days after the offender's term of imprisonment begins
2.24 or as soon after 160 days as possible. In making the determination under subdivision 2,
2.25 clause (2), that the offender has a controlled substance addiction, the commissioner shall
2.26 consider the chemical dependency assessment completed at intake, and that the offender is
2.27 more suitable for early release, the commissioner shall consider validated risk assessment
2.28 tools such as the Level of Service Inventory-Revised (LSI-R).

2.29 Sec. 4. Minnesota Statutes 2008, section 244.055, subdivision 5, is amended to read:

2.30 Subd. 5. **Additional requirements.** To be eligible for release under this section,
2.31 an offender shall sign a written contract with the commissioner agreeing to comply with
2.32 the requirements of this section and the conditions imposed by the commissioner. ~~In~~
2.33 ~~addition to other items, the contract must specifically refer to the term of imprisonment~~
2.34 ~~extension in subdivision 6.~~ In addition, the offender shall agree to submit to random drug

3.1 and alcohol tests and electronic or home monitoring as determined by the commissioner or
3.2 the offender's supervising agent. The commissioner may impose additional requirements
3.3 on the offender that are necessary to carry out the goals of this section.

3.4 Sec. 5. Minnesota Statutes 2008, section 244.055, is amended by adding a subdivision
3.5 to read:

3.6 Subd. 10a. **Savings used for drug treatment.** The commissioner shall use any
3.7 savings realized from the early release of offenders under this section for chemical
3.8 dependency treatment programs in state correctional facilities.

3.9 Sec. 6. Minnesota Statutes 2008, section 244.055, subdivision 11, is amended to read:

3.10 Subd. 11. **Sunset.** This section expires July 1, ~~2009~~ 2011.

3.11 Sec. 7. **REPEALER.**

3.12 Minnesota Statutes 2008, section 244.055, subdivision 6, is repealed.

**244.055 CONDITIONAL RELEASE OF NONVIOLENT CONTROLLED
SUBSTANCE OFFENDERS; TREATMENT.**

Subd. 6. Extension of term of imprisonment for offenders who fail in treatment.

When an offender fails to successfully complete the chemical dependency treatment program under this section, the commissioner shall add the time that the offender was participating in the program to the offender's term of imprisonment. However, the offender's term of imprisonment may not be extended beyond the offender's executed sentence.