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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

March 19, 2009

Committee Recommendation and Adoption of Report:

To Pass as Amended and re-referred to the Committee on Finance

1.1 A bill for an act
1.2 relating to public safety; modifying the mandatory minimum sentence for repeat
1.3 fifth-degree controlled substance offenders; modifying the conditional release
1.4 program to include an advisory board for consultation with the commissioner of
1.5 public safety; amending Minnesota Statutes 2008, sections 152.025, subdivision
1.6 3; 244.055, subdivisions 7, 11, by adding a subdivision.

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

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

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

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

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

1.24 Sec. 2. Minnesota Statutes 2008, section 244.055, subdivision 7, is amended to read:

2.1 Subd. 7. **Release procedures.** After consulting with the advisory board created
2.2 under subdivision 7a, the commissioner may deny conditional release to an offender under
2.3 this section if the commissioner determines that the offender's release may reasonably pose
2.4 a danger to the public or an individual. In making this determination, the commissioner
2.5 shall follow the procedures contained in section 244.05, subdivision 5, and the rules
2.6 adopted by the commissioner under that subdivision. The commissioner shall consider
2.7 whether the offender was involved in criminal gang activity during the offender's prison
2.8 term. The commissioner shall also consider the offender's custody classification and
2.9 level of risk of violence and the availability of appropriate community supervision for
2.10 the offender. Conditional release granted under this section continues until the offender's
2.11 sentence expires, unless release is rescinded under subdivision 8. The commissioner
2.12 may not grant conditional release unless a release plan is in place for the offender that
2.13 addresses, at a minimum, plans for aftercare, community-based chemical dependency
2.14 treatment, gaining employment, and securing housing.

2.15 Sec. 3. Minnesota Statutes 2008, section 244.055, is amended by adding a subdivision
2.16 to read:

2.17 Subd. 7a. **Advisory board.** The Chief Justice of the Supreme Court shall appoint
2.18 three retired judges to advise the commissioner of corrections on release decisions made
2.19 pursuant to this section.

2.20 Sec. 4. Minnesota Statutes 2008, section 244.055, subdivision 11, is amended to read:

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