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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 2027

03/08/2021

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The bill was read for the first time and referred to the Committee on Public Safety and Criminal Justice Reform Finance and Policy

1.1 A bill for an act

1.2 relating to public safety; establishing eligibility for release for individuals sentenced

1.3 to life in prison for crimes committed while under the age of 18; establishing

1.4 eligibility for early supervised release for certain individuals sentenced for crimes

1.5 committed while under the age of 18; establishing a Juvenile Release Board;

1.6 providing for review by the court of appeals; amending Minnesota Statutes 2020,

1.7 sections 244.05, subdivisions 1b, 4, 5, by adding a subdivision; 244.101, subdivision

1.8 1; 480A.06, subdivision 4; 609.106, subdivision 2, by adding a subdivision;

1.9 609.3455, subdivisions 2, 5; proposing coding for new law in Minnesota Statutes,

1.10 chapter 244.

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

1.12 Section 1. Minnesota Statutes 2020, section 244.05, subdivision 1b, is amended to read:

1.13 Subd. 1b. **Supervised release; offenders who commit crimes on or after August 1,**

1.14 **1993.** (a) Except as provided in subdivisions 4, 4a, and 5, every inmate sentenced to prison

1.15 for a felony offense committed on or after August 1, 1993, shall serve a supervised release

1.16 term upon completion of the inmate's term of imprisonment and any disciplinary confinement

1.17 period imposed by the commissioner due to the inmate's violation of any disciplinary rule

1.18 adopted by the commissioner or refusal to participate in a rehabilitative program required

1.19 under section 244.03. The amount of time the inmate serves on supervised release shall be

1.20 equal in length to the amount of time remaining in the inmate's executed sentence after the

1.21 inmate has served the term of imprisonment and any disciplinary confinement period imposed

1.22 by the commissioner.

1.23 (b) No inmate who violates a disciplinary rule or refuses to participate in a rehabilitative

1.24 program as required under section 244.03 shall be placed on supervised release until the

1.25 inmate has served the disciplinary confinement period for that disciplinary sanction or until

1.26 the inmate is discharged or released from punitive segregation confinement, whichever is

2.1 later. The imposition of a disciplinary confinement period shall be considered to be a
2.2 disciplinary sanction imposed upon an inmate, and the procedure for imposing the
2.3 disciplinary confinement period and the rights of the inmate in the procedure shall be those
2.4 in effect for the imposition of other disciplinary sanctions at each state correctional institution.

2.5 Sec. 2. Minnesota Statutes 2020, section 244.05, subdivision 4, is amended to read:

2.6 Subd. 4. **Minimum imprisonment, life sentence.** (a) An inmate serving a mandatory
2.7 life sentence under section 609.106, subdivision 2, or 609.3455, subdivision 2, paragraph
2.8 (a), must not be given supervised release under this section.

2.9 (b) Except as provided in paragraph (f), an inmate serving a mandatory life sentence
2.10 under section 609.185, paragraph (a), clause (3), (5), or (6); or Minnesota Statutes 2004,
2.11 section 609.109, subdivision 3, must not be given supervised release under this section
2.12 without having served a minimum term of 30 years.

2.13 (c) Except as provided in paragraph (f), an inmate serving a mandatory life sentence
2.14 under section 609.385 must not be given supervised release under this section without having
2.15 served a minimum term of imprisonment of 17 years.

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

2.19 (e) An inmate serving a mandatory life sentence under section 609.106, subdivision 3,
2.20 or 609.3455, subdivision 2, paragraph (c), must not be given supervised release under this
2.21 section without having served a minimum term of imprisonment of 15 years.

2.22 (f) An inmate serving a mandatory life sentence for a crime described in paragraph (b)
2.23 or (c) who was under 18 years of age at the time of the commission of the offense must not
2.24 be given supervised release under this section without having served a minimum term of
2.25 imprisonment of 15 years.

2.26 Sec. 3. Minnesota Statutes 2020, section 244.05, is amended by adding a subdivision to
2.27 read:

2.28 Subd. 4a. **Eligibility for early supervised release; offenders who were under 18 at**
2.29 **the time of offense.** (a) Notwithstanding any other provision of law, any person who was
2.30 under the age of 18 at the time of the commission of an offense is eligible for early supervised
2.31 release if the person is serving an executed sentence that includes a term of imprisonment

3.1 of more than 15 years or separate, consecutive executed sentences for two or more crimes
3.2 that include combined terms of imprisonment that total more than 15 years.

3.3 (b) A person eligible for early supervised release under paragraph (a) must be considered
3.4 for early supervised release pursuant to section 244.0515 after serving 15 years of
3.5 imprisonment.

3.6 (c) Where the person is serving separate, consecutive executed sentences for two or
3.7 more crimes, the person may be granted early supervised release on all sentences.

3.8 Sec. 4. Minnesota Statutes 2020, section 244.05, subdivision 5, is amended to read:

3.9 Subd. 5. **Supervised release, life sentence.** (a) Except as provided in section 244.0515,
3.10 the commissioner of corrections may, under rules promulgated by the commissioner, give
3.11 supervised release to an inmate serving a mandatory life sentence under section 609.185,
3.12 paragraph (a), clause (3), (5), or (6); 609.3455, subdivision 3 or 4; 609.385; or Minnesota
3.13 Statutes 2004, section 609.109, subdivision 3, after the inmate has served the minimum
3.14 term of imprisonment specified in subdivision 4.

3.15 (b) The commissioner shall require the preparation of a community investigation report
3.16 and shall consider the findings of the report when making a supervised release decision
3.17 under this subdivision. The report shall reflect the sentiment of the various elements of the
3.18 community toward the inmate, both at the time of the offense and at the present time. The
3.19 report shall include the views of the sentencing judge, the prosecutor, any law enforcement
3.20 personnel who may have been involved in the case, and any successors to these individuals
3.21 who may have information relevant to the supervised release decision. The report shall also
3.22 include the views of the victim and the victim's family unless the victim or the victim's
3.23 family chooses not to participate.

3.24 (c) The commissioner shall make reasonable efforts to notify the victim, in advance, of
3.25 the time and place of the inmate's supervised release review hearing. The victim has a right
3.26 to submit an oral or written statement at the review hearing. The statement may summarize
3.27 the harm suffered by the victim as a result of the crime and give the victim's recommendation
3.28 on whether the inmate should be given supervised release at this time. The commissioner
3.29 must consider the victim's statement when making the supervised release decision.

3.30 (d) When considering whether to give supervised release to an inmate serving a life
3.31 sentence under section 609.3455, subdivision 3 or 4, the commissioner shall consider, at a
3.32 minimum, the following: the risk the inmate poses to the community if released, the inmate's
3.33 progress in treatment, the inmate's behavior while incarcerated, psychological or other

4.1 diagnostic evaluations of the inmate, the inmate's criminal history, and any other relevant
 4.2 conduct of the inmate while incarcerated or before incarceration. The commissioner may
 4.3 not give supervised release to the inmate unless:

4.4 (1) while in prison:

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

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

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

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

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

4.17 **EFFECTIVE DATE.** This section is effective July 1, 2021.

4.18 **Sec. 5. [244.0515] JUVENILE REVIEW BOARD.**

4.19 **Subdivision 1. Board.** The Juvenile Review Board is created with the power and duties
 4.20 established by subdivision 4.

4.21 **Subd. 2. Members.** (a) The board consists of seven members as follows:

4.22 **(1) the commissioner of corrections or the commissioner's designee;**

4.23 **(2) the commissioner of human services or the commissioner's designee;**

4.24 **(3) the commissioner of public safety or the commissioner's designee;**

4.25 **(4) the attorney general or the attorney general's designee; and**

4.26 **(5) three at-large members with expertise in the neurodevelopment of youth, appointed**
 4.27 **by the governor.**

4.28 **(b) The board shall select one of its members to serve as chair.**

5.1 Subd. 3. **Terms, compensation, and removal.** The membership terms, compensation,
5.2 and removal of members and the filling of membership vacancies is as provided in section
5.3 15.0575.

5.4 Subd. 4. **Powers and duties.** (a) Consistent with the requirements of this section, the
5.5 board has authority to grant supervised release to an inmate who was under 18 years of age
5.6 at the time of the commission of the offense and is serving a mandatory life sentence; an
5.7 executed sentence that includes a term of imprisonment of more than 15 years; or separate,
5.8 consecutive executed sentences for two or more crimes that include combined terms of
5.9 imprisonment that total more than 15 years.

5.10 (b) The board may give supervised release to an inmate described in paragraph (a) after
5.11 the inmate has served the minimum term of imprisonment specified by the court or 15 years,
5.12 whichever is earlier.

5.13 (c) Where an inmate is serving multiple sentences that are concurrent to one another,
5.14 the board must grant or deny supervised release on all sentences. Notwithstanding any law
5.15 to the contrary, where an inmate is serving multiple sentences that are consecutive to one
5.16 another, the court may grant or deny supervised release on one or more sentences.

5.17 (d) The board shall conduct an initial supervised release review hearing as soon as
5.18 practicable after the inmate has served the applicable minimum term of imprisonment.
5.19 Hearings for inmates eligible for a review hearing on or before July 1, 2021, shall take place
5.20 before July 1, 2022.

5.21 (e) If the inmate is not released at the initial supervised release review hearing, the board
5.22 shall conduct subsequent review hearings until the inmate's release. Review hearings shall
5.23 not be scheduled to take place within six months of a previous hearing or more than three
5.24 years after a previous hearing.

5.25 (f) The board may order that an inmate be placed on intensive supervised release for all
5.26 or part of the inmate's supervised release pursuant to section 244.05, subdivision 6.

5.27 Subd. 5. **Administrative services.** The commissioner of corrections shall provide
5.28 adequate office space and administrative services for the board and the board shall reimburse
5.29 the commissioner for the space and services provided. The board may also utilize, with their
5.30 consent, the services, equipment, personnel, information, and resources of other state
5.31 agencies; and may accept voluntary and uncompensated services, contract with individuals
5.32 and public and private agencies, and request information, reports, and data from any agency
5.33 of the state or any of its political subdivisions to the extent authorized by law.

6.1 Subd. 6. **Development report.** (a) Except as provided in paragraph (b), the board shall
6.2 require the preparation of a development report and shall consider the findings of the report
6.3 when making a supervised release decision under this section. The report shall be prepared
6.4 by a mental health professional as defined in section 245.462, subdivision 18, clauses (1)
6.5 to (4) or (6), and shall address the cognitive, emotional, and social maturity of the inmate.

6.6 (b) If a development report was prepared within the 12 months immediately proceeding
6.7 the hearing, the board may rely on that report.

6.8 Subd. 7. **Victim statement.** The board shall make reasonable efforts to notify the victim,
6.9 in advance, of the time and place of the inmate's supervised release review hearing. The
6.10 victim has a right to submit an oral or written statement at the review hearing. The statement
6.11 may summarize the harm suffered by the victim as a result of the crime and give the victim's
6.12 recommendation on whether the inmate should be given supervised release at this time. The
6.13 board must consider the victim's statement when making the supervised release decision.

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

6.17 Subd. 8. **Review hearing; notice.** (a) At least 90 days before a supervised release review
6.18 hearing, the commissioner of corrections shall notify the inmate of the time and place of
6.19 the hearing and that the inmate has the right to be present at the hearing, request appointment
6.20 of counsel, access the inmate's prison file prior to the hearing, and submit written arguments
6.21 to the board prior to the hearing.

6.22 (b) The inmate may make oral arguments to the board at the hearing.

6.23 Subd. 9. **Considerations.** (a) When considering whether to give supervised release to
6.24 an inmate serving a mandatory life sentence the board shall consider, at a minimum, the
6.25 following:

6.26 (1) the development report;

6.27 (2) the victim statement, if any;

6.28 (3) the risk the inmate poses to the community if released;

6.29 (4) the inmate's progress in treatment;

6.30 (5) the inmate's behavior while incarcerated;

6.31 (6) any additional psychological or other diagnostic evaluations of the inmate;

6.32 (7) the inmate's criminal history;

7.1 (8) whether the inmate is serving consecutive sentences; and

7.2 (9) any other relevant conduct of the inmate while incarcerated or before incarceration.

7.3 (b) In making its decision, the board must consider relevant science regarding the
7.4 neurological development of juveniles and shall prioritize information regarding the inmate's
7.5 maturity and rehabilitation while incarcerated.

7.6 (c) Except as provided in paragraph (d), the board may not give supervised release to
7.7 the inmate unless:

7.8 (1) while in prison:

7.9 (i) if applicable, the inmate has successfully completed appropriate sex offender treatment;

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

7.12 (iii) the inmate has been assessed for mental health needs and, if appropriate, has been
7.13 provided mental health treatment; and

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

7.18 (d) The board shall not deny supervised release to an inmate pursuant to paragraph (c)
7.19 if the appropriate assessments, treatment, or planning were not made available to the inmate.

7.20 Subd. 10. **Findings of the board.** Within 30 days after a supervised release hearing, the
7.21 board shall issue its decision on granting release, including a statement of reasons for that
7.22 decision. If the board does not grant supervised release, the statement of the reasons for that
7.23 denial must identify specific steps the inmate can take to increase the likelihood that release
7.24 will be granted at a future hearing.

7.25 Subd. 11. **Review by court of appeals.** When the board has issued its findings, an inmate
7.26 who acts within 30 days from the date the inmate received the findings may have the order
7.27 reviewed by the court of appeals upon either of the following grounds:

7.28 (1) the order does not conform with this section; or

7.29 (2) the findings of fact and order were unsupported by substantial evidence in view of
7.30 the entire record as submitted.

7.31 **EFFECTIVE DATE.** This section is effective July 1, 2021.

8.1 Sec. 6. Minnesota Statutes 2020, section 244.101, subdivision 1, is amended to read:

8.2 Subdivision 1. **Executed sentences.** Except as provided in section 244.05, subdivision
8.3 4a, when a felony offender is sentenced to a fixed executed sentence for an offense committed
8.4 on or after August 1, 1993, the executed sentence consists of two parts: (1) a specified
8.5 minimum term of imprisonment that is equal to two-thirds of the executed sentence; and
8.6 (2) a specified maximum supervised release term that is equal to one-third of the executed
8.7 sentence. The amount of time the inmate actually serves in prison and on supervised release
8.8 is subject to the provisions of section 244.05, subdivision 1b.

8.9 Sec. 7. Minnesota Statutes 2020, section 480A.06, subdivision 4, is amended to read:

8.10 Subd. 4. **Administrative review.** The court of appeals shall have jurisdiction to review
8.11 on the record the validity of administrative rules, as provided in sections 14.44 and 14.45,
8.12 ~~and~~ the decisions of administrative agencies in contested cases, as provided in sections
8.13 14.63 to 14.69, and the decisions of the Juvenile Review Board as provided in section
8.14 244.0515.

8.15 **EFFECTIVE DATE.** This section is effective July 1, 2021.

8.16 Sec. 8. Minnesota Statutes 2020, section 609.106, subdivision 2, is amended to read:

8.17 Subd. 2. **Life without release.** Except as provided in subdivision 3, the court shall
8.18 sentence a person to life imprisonment without possibility of release under the following
8.19 circumstances:

8.20 (1) the person is convicted of first-degree murder under section 609.185, paragraph (a),
8.21 clause (1), (2), (4), or (7);

8.22 (2) the person is convicted of committing first-degree murder in the course of a
8.23 kidnapping under section 609.185, paragraph (a), clause (3); or

8.24 (3) the person is convicted of first-degree murder under section 609.185, paragraph (a),
8.25 clause (3), (5), or (6), and the court determines on the record at the time of sentencing that
8.26 the person has one or more previous convictions for a heinous crime.

8.27 Sec. 9. Minnesota Statutes 2020, section 609.106, is amended by adding a subdivision to
8.28 read:

8.29 **Subd. 3. Offender under age 18; life imprisonment.** The court shall sentence a person
8.30 who was under 18 years of age at the time of the commission of an offense under the
8.31 circumstances described in subdivision 2 to imprisonment for life.

9.1 Sec. 10. Minnesota Statutes 2020, section 609.3455, subdivision 2, is amended to read:

9.2 Subd. 2. **Mandatory life sentence without release; egregious first-time and repeat**
 9.3 **offenders.** (a) Except as provided in paragraph (c), notwithstanding the statutory maximum
 9.4 penalty otherwise applicable to the offense, the court shall sentence a person convicted
 9.5 under section 609.342, subdivision 1, paragraph (c), (d), (e), (f), or (h); or 609.343,
 9.6 subdivision 1, paragraph (c), (d), (e), (f), or (h), to life without the possibility of release if:

9.7 (1) the fact finder determines that two or more heinous elements exist; or

9.8 (2) the person has a previous sex offense conviction for a violation of section 609.342,
 9.9 609.343, or 609.344, and the fact finder determines that a heinous element exists for the
 9.10 present offense.

9.11 (b) A fact finder may not consider a heinous element if it is an element of the underlying
 9.12 specified violation of section 609.342 or 609.343. In addition, when determining whether
 9.13 two or more heinous elements exist, the fact finder may not use the same underlying facts
 9.14 to support a determination that more than one element exists.

9.15 (c) The court shall sentence a person who was under 18 years of age at the time of the
 9.16 commission of an offense described in paragraph (a) to imprisonment for life.

9.17 Sec. 11. Minnesota Statutes 2020, section 609.3455, subdivision 5, is amended to read:

9.18 Subd. 5. **Life sentences; minimum term of imprisonment.** At the time of sentencing
 9.19 under subdivision 3 or 4, the court shall specify a minimum term of imprisonment, based
 9.20 on the sentencing guidelines or any applicable mandatory minimum sentence, that must be
 9.21 served before the offender may be considered for supervised release. If the offender was
 9.22 under 18 years of age at the time of the commission of the offense, the minimum term of
 9.23 imprisonment specified by the court shall not exceed 15 years.

9.24 Sec. 12. **EFFECTIVE DATE.**

9.25 Sections 1 to 3, 6, and 8 to 11 are effective the day following final enactment and apply
 9.26 to offenders sentenced on or after that date, and retroactively to offenders:

9.27 (1) sentenced to life imprisonment without possibility of release following a conviction
 9.28 under Minnesota Statutes, section 609.185, paragraph (a), for an offense committed when
 9.29 the offender was under 18 years of age and when a sentence was imposed pursuant to
 9.30 Minnesota Statutes, section 609.106, subdivision 2;

10.1 (2) sentenced to life imprisonment without possibility of release following a conviction
10.2 under Minnesota Statutes, section 609.3455, subdivision 2, for an offense committed when
10.3 the offender was under 18 years of age;

10.4 (3) sentenced to life imprisonment under Minnesota Statutes, section 609.185, paragraph
10.5 (a), clause (3), (5), or (6); or Minnesota Statutes 2004, section 609.109, subdivision 3, for
10.6 an offense committed when the offender was under 18 years of age;

10.7 (4) sentenced to life imprisonment under Minnesota Statutes, section 609.385, for an
10.8 offense committed when the offender was under 18 years of age;

10.9 (5) sentenced to life imprisonment under Minnesota Statutes, section 609.3455,
10.10 subdivision 3 or 4, if the minimum term of imprisonment specified by the court in its sentence
10.11 exceeds 15 years for an offense committed when the offender was under 18 years of age;
10.12 or

10.13 (6) sentenced to an executed sentence that includes a term of imprisonment of more than
10.14 15 years or separate, consecutive executed sentences for two or more crimes that include
10.15 combined terms of imprisonment that total more than 15 years for an offense committed
10.16 when the offender was under 18 years of age.