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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. **4022**

02/19/2024 Authored by Novotny
The bill was read for the first time and referred to the Committee on Public Safety Finance and Policy

1.1 A bill for an act
1.2 relating to corrections; repealing the Minnesota Rehabilitation and Reinvestment
1.3 Act; repealing Minnesota Statutes 2023 Supplement, sections 244.40; 244.41;
1.4 244.42; 244.43; 244.44; 244.45; 244.46; 244.47; 244.48; 244.49; 244.50; 244.51;
1.5 Laws 2023, chapter 52, article 12, sections 1; 2; 15.

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

1.7 Section 1. **REPEALER.**

1.8 (a) Minnesota Statutes 2023 Supplement, sections 244.40; 244.41; 244.42; 244.43;
1.9 244.44; 244.45; 244.46; 244.47; 244.48; 244.49; 244.50; and 244.51, are repealed.

1.10 (b) Laws 2023, chapter 52, article 12, sections 1; 2; and 15, are repealed.

244.40 MINNESOTA REHABILITATION AND REINVESTMENT ACT.

Sections 244.40 to 244.51 may be cited as the "Minnesota Rehabilitation and Reinvestment Act."

244.41 DEFINITIONS.

Subdivision 1. **Scope.** For purposes of the act, the terms defined in this section have the meanings given.

Subd. 2. **Act.** "Act" means the Minnesota Rehabilitation and Reinvestment Act.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of corrections.

Subd. 4. **Correctional facility.** "Correctional facility" means a state facility under the direct operational authority of the commissioner but does not include a commissioner-licensed local detention facility.

Subd. 5. **Direct-cost per diem.** "Direct-cost per diem" means the actual nonsalary expenditures, including encumbrances as of July 31 following the end of the fiscal year, from the Department of Corrections expense budgets for food preparation; food provisions; personal support for incarcerated persons, including clothing, linen, and other personal supplies; transportation; and professional technical contracted health care services.

Subd. 6. **Earned compliance credit.** "Earned compliance credit" means a one-month reduction from the period during active supervision of the supervised release term for every two months that a supervised individual exhibits compliance with the conditions and goals of the individual's supervision plan.

Subd. 7. **Earned incentive release credit.** "Earned incentive release credit" means credit that is earned and included in calculating an incarcerated person's term of imprisonment for completing objectives established by their individualized rehabilitation plan under section 244.42.

Subd. 8. **Earned incentive release savings.** "Earned incentive release savings" means the calculation of the direct-cost per diem multiplied by the number of incarcerated days saved for the period of one fiscal year.

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

Subd. 10. **Incarcerated days saved.** "Incarcerated days saved" means the number of days of an incarcerated person's original term of imprisonment minus the number of actual days served, excluding days not served due to death or as a result of time earned in the challenge incarceration program under sections 244.17 to 244.173.

Subd. 11. **Incarcerated person.** "Incarcerated person" has the meaning given "inmate" in section 244.01, subdivision 2.

Subd. 12. **Supervised release.** "Supervised release" means the release of an incarcerated person according to section 244.05.

Subd. 13. **Supervised release term.** "Supervised release term" means the period equal to one-third of the individual's fixed executed sentence, less any disciplinary confinement period or punitive restrictive-housing confinement imposed under section 244.05, subdivision 1b.

Subd. 14. **Supervision abatement status.** "Supervision abatement status" means an end to active correctional supervision of a supervised individual without effect on the legal expiration date of the individual's executed sentence less any earned incentive release credit.

Subd. 15. **Term of imprisonment.** "Term of imprisonment" has the meaning given in section 244.01, subdivision 8.

244.42 COMPREHENSIVE ASSESSMENT AND INDIVIDUALIZED REHABILITATION PLAN REQUIRED.

Subdivision 1. **Comprehensive assessment.** (a) The commissioner must develop a comprehensive assessment process for each person who:

(1) is committed to the commissioner's custody and confined in a state correctional facility on or after January 1, 2025; and

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(2) has 365 or more days remaining until the person's scheduled supervised release date or parole eligibility date.

(b) As part of the assessment process, the commissioner must take into account appropriate rehabilitative programs under section 244.03.

Subd. 2. Individualized rehabilitation plan. After completing the assessment process, the commissioner must ensure the development of an individualized rehabilitation plan, along with identified goals, for every person committed to the commissioner's custody. The individualized rehabilitation plan must be holistic in nature by identifying intended outcomes for addressing:

- (1) the incarcerated person's needs and risk factors;
- (2) the person's identified strengths; and

(3) available and needed community supports, including victim safety considerations as required under section 244.47, if applicable.

Subd. 3. Victim input. (a) If an individual is committed to the commissioner's custody for a crime listed in section 609.02, subdivision 16, the commissioner must make reasonable efforts to notify a victim of the opportunity to provide input during the assessment and rehabilitation plan process. Victim input may include:

- (1) a summary of victim concerns relative to release;
 - (2) concerns related to victim safety during the committed individual's term of imprisonment;
- or
- (3) requests for imposing victim safety protocols as additional conditions of imprisonment or supervised release.

(b) The commissioner must consider all victim input statements when developing an individualized rehabilitation plan and establishing conditions governing confinement or release.

Subd. 4. Transition and release plan. For an incarcerated person with less than 365 days remaining until the person's supervised release date, the commissioner, in consultation with the incarcerated person, must develop a transition and release plan.

Subd. 5. Scope of act. This act is separate and distinct from other legislatively authorized release programs, including the challenge incarceration program, work release, conditional medical release, or the program for the conditional release of nonviolent controlled substance offenders.

244.43 EARNED INCENTIVE RELEASE CREDIT.

Subdivision 1. Policy for earned incentive release credit; stakeholder consultation. (a) To encourage and support rehabilitation when consistent with the public interest and public safety, the commissioner must establish a policy providing for earned incentive release credit as a part of the term of imprisonment. The policy must be established in consultation with the following organizations:

- (1) Minnesota County Attorneys Association;
 - (2) Minnesota Board of Public Defense;
 - (3) Minnesota Association of Community Corrections Act Counties;
 - (4) Minnesota Indian Women's Sexual Assault Coalition;
 - (5) Violence Free Minnesota;
 - (6) Minnesota Coalition Against Sexual Assault;
 - (7) Minnesota Alliance on Crime;
 - (8) Minnesota Sheriffs' Association;
 - (9) Minnesota Chiefs of Police Association;
 - (10) Minnesota Police and Peace Officers Association; and
 - (11) faith-based organizations that reflect the demographics of the incarcerated population.
- (b) The policy must:

(1) provide circumstances upon which an incarcerated person may receive earned incentive release credits, including participation in rehabilitative programming under section 244.03; and

(2) address circumstances where:

(i) the capacity to provide rehabilitative programming in the correctional facility is diminished but the programming is available in the community; and

(ii) the conditions under which the incarcerated person could be released to the community-based resource but remain subject to commitment to the commissioner and could be considered for earned incentive release credit.

Subd. 2. Policy on disparities. The commissioner must develop a policy establishing a process for assessing and addressing any systemic and programmatic gender and racial disparities that may be identified when awarding earned incentive release credits.

244.44 APPLYING EARNED INCENTIVE RELEASE CREDIT.

Earned incentive release credits are included in calculating the term of imprisonment but are not added to the person's supervised release term, the total length of which remains unchanged. The maximum amount of earned incentive release credit that can be earned and subtracted from the term of imprisonment is 17 percent of the total executed sentence. Earned credit cannot reduce the term of imprisonment to less than one-half of the incarcerated person's executed sentence. Once earned, earned incentive release credits are nonrevocable.

244.45 INELIGIBILITY FOR EARNED INCENTIVE RELEASE CREDIT.

The following individuals are ineligible for earned incentive release credit:

(1) those serving life sentences;

(2) those given indeterminate sentences for crimes committed on or before April 30, 1980; or

(3) those subject to good time under section 244.04 or similar laws.

244.46 EARNED COMPLIANCE CREDIT AND SUPERVISION ABATEMENT STATUS.

Subdivision 1. Adopting policy for earned compliance credit; supervision abatement status. (a) The commissioner must adopt a policy providing for earned compliance credit.

(b) Except as otherwise provided in the act, once the time served on active supervision plus earned compliance credits equals the total length of the supervised release term, the commissioner must place the individual on supervision abatement status for the remainder of the supervised release term.

Subd. 2. Violating conditions of release; commissioner action. If an individual violates the conditions of release while on supervision abatement status, the commissioner may:

(1) return the individual to active supervision for the remainder of the supervised release term, with or without modifying the conditions of release; or

(2) revoke the individual's supervised release in accordance with section 244.05, subdivision 3.

Subd. 3. Supervision abatement status; requirements. A person who is placed on supervision abatement status under this section must not be required to regularly report to a supervised release agent or pay a supervision fee but must continue to:

(1) obey all laws;

(2) report any new criminal charges; and

(3) abide by section 243.1605 before seeking written authorization to relocate to another state.

Subd. 4. Applicability. This section does not apply to individuals:

(1) serving life sentences;

(2) given indeterminate sentences for crimes committed on or before April 30, 1980; or

(3) subject to good time under section 244.04 or similar laws.

244.47 VICTIM INPUT.

Subdivision 1. **Notifying victim; victim input.** (a) If an individual is committed to the custody of the commissioner for a crime listed in section 609.02, subdivision 16, and is eligible for earned incentive release credit, the commissioner must make reasonable efforts to notify the victim that the committed individual is eligible for earned incentive release credit.

(b) Victim input may include:

(1) a summary of victim concerns relative to eligibility of earned incentive release credit;

(2) concerns related to victim safety during the committed individual's term of imprisonment;
or

(3) requests for imposing victim safety protocols as additional conditions of imprisonment or supervised release.

Subd. 2. **Victim input statements.** The commissioner must consider victim input statements when establishing requirements governing conditions of release. The commissioner must provide the name and telephone number of the local victim agency serving the jurisdiction of release to any victim providing input on earned incentive release credit.

244.48 VICTIM NOTIFICATION.

Nothing in this act limits any victim notification obligations of the commissioner required by statute related to a change in custody status, committing offense, end-of-confinement review, or notification registration.

244.49 INTERSTATE COMPACT.

(a) This section applies to a person serving a Minnesota sentence while being supervised in another state according to the Interstate Compact for Adult Supervision.

(b) As may be allowed under section 243.1605, a person may be eligible for supervision abatement status according to the act only if they meet eligibility criteria for earned compliance credit as established under section 244.46.

244.50 REALLOCATING EARNED INCENTIVE RELEASE SAVINGS.

Subdivision 1. **Establishing reallocation revenue account.** The reallocation of earned incentive release savings account is established in the special revenue fund in the state treasury. Funds in the account are appropriated to the commissioner and must be expended in accordance with the allocation established in subdivision 4 after the requirements of subdivision 2 are met. Funds in the account are available until expended.

Subd. 2. **Certifying earned incentive release savings.** On or before the final closeout date of each fiscal year, the commissioner must certify to Minnesota Management and Budget the earned incentive release savings from the previous fiscal year. The commissioner must provide the detailed calculation substantiating the savings amount, including accounting-system-generated data where possible, supporting the direct-cost per diem and the incarcerated days saved.

Subd. 3. **Savings to be transferred to reallocation revenue account.** After the certification in subdivision 2 is completed, the commissioner must transfer funds from the appropriation from which the savings occurred to the reallocation revenue account according to the allocation in subdivision 4. Transfers must occur by September 1 each year.

Subd. 4. **Distributing reallocation funds.** The commissioner must distribute funds as follows:

(1) 25 percent must be transferred to the Office of Justice Programs in the Department of Public Safety for crime victim services;

(2) 25 percent must be transferred to the Community Corrections Act subsidy appropriation and to the Department of Corrections for supervised release and intensive supervision services, based upon a three-year average of the release jurisdiction of supervised releasees and intensive supervised releasees across the state;

(3) 25 percent must be transferred to the Department of Corrections for:

(i) grants to develop and invest in community-based services that support the identified needs of correctionally involved individuals or individuals at risk of becoming involved in the criminal justice system; and

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(ii) sustaining the operation of evidence-based programming in state and local correctional facilities; and

(4) 25 percent must be transferred to the general fund.

244.51 REPORTING REQUIRED.

Subdivision 1. **Annual report required.** (a) Beginning January 15, 2026, and by January 15 each year thereafter for ten years, the commissioner must provide a report to the chairs and ranking minority members of the house of representatives and senate committees and divisions with jurisdiction over public safety and judiciary.

(b) For the 2026 report, the commissioner must report on implementing the requirements in this act. Starting with the 2027 report, the commissioner must report on the status of the requirements in this act for the previous fiscal year.

(c) Each report must be provided to the sitting president of the Minnesota Association of Community Corrections Act Counties and the executive directors of the Minnesota Sentencing Guidelines Commission, the Minnesota Indian Women's Sexual Assault Coalition, the Minnesota Alliance on Crime, Violence Free Minnesota, the Minnesota Coalition Against Sexual Assault, and the Minnesota County Attorneys Association.

(d) The report must include but not be limited to:

(1) a qualitative description of policy development; implementation status; identified implementation or operational challenges; strategies identified to mitigate and ensure that the act does not create or exacerbate gender, racial, and ethnic disparities; and proposed mechanisms for projecting future savings and reallocation of savings;

(2) the number of persons who were granted earned incentive release credit, the total number of days of incentive release earned, a summary of committing offenses for those persons who earned incentive release credit, a summary of earned incentive release savings, and the demographic data for all persons eligible for earned incentive release credit and the reasons and demographic data of those eligible persons for whom earned incentive release credit was unearned or denied;

(3) the number of persons who earned supervision abatement status, the total number of days of supervision abatement earned, the committing offenses for those persons granted supervision abatement status, the number of revocations for reoffense while on supervision abatement status, and the demographic data for all persons eligible for, considered for, granted, or denied supervision abatement status and the reasons supervision abatement status was unearned or denied;

(4) the number of persons deemed ineligible to receive earned incentive release credits and supervise abatement and the demographic data for the persons; and

(5) the number of victims who submitted input, the number of referrals to local victim-serving agencies, and a summary of the kinds of victim services requested.

Subd. 2. **Soliciting feedback.** (a) The commissioner must solicit feedback on victim-related operational concerns from the Minnesota Indian Women's Sexual Assault Coalition, Minnesota Alliance on Crime, Minnesota Coalition Against Sexual Assault, and Violence Free Minnesota.

(b) The feedback should relate to applying earned incentive release credit and supervision abatement status options. A summary of the feedback from the organizations must be included in the annual report.

Subd. 3. **Evaluating earned incentive release credit and act.** The commissioner must direct the Department of Corrections' research unit to regularly evaluate earned incentive release credits and other provisions of the act. The findings must be published on the Department of Corrections' website and in the annual report.

Laws 2023, chapter 52, article 12, section 1

Section 1. Minnesota Statutes 2022, section 244.03, is amended to read:

244.03 REHABILITATIVE PROGRAMS.

Subdivision 1. Commissioner responsibility. (a) For individuals committed to the commissioner's authority, 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. must develop, implement, and provide, as appropriate:

- (1) substance use disorder treatment programs;
- (2) sexual offender treatment programming;
- (3) domestic abuse programming;
- (4) medical and mental health services;
- (5) spiritual and faith-based programming;
- (6) culturally responsive programming;
- (7) vocational, employment and career, and educational programming; and
- (8) other rehabilitative programs.

(b) While evidence-based programs must be prioritized, selecting, designing, and implementing programs under this section are the sole responsibility of the commissioner, acting within the limitations imposed by the funds appropriated for the programs under this section.

Subd. 2. Challenge prohibited. No action challenging the level of expenditures for rehabilitative 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.

Subd. 3. Disciplinary sanctions. The commissioner may impose disciplinary sanctions upon on any inmate who refuses to participate in rehabilitative programs.

Laws 2023, chapter 52, article 12, section 15

Sec. 15. **EFFECTIVE DATE.**

Sections 1 to 14 are effective August 1, 2023.

Laws 2023, chapter 52, article 12, section 2

Sec. 2. Minnesota Statutes 2022, section 244.05, subdivision 1b, is amended to read:

Subd. 1b. Supervised release; offenders inmates 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 is equal in length to the amount of time remaining in to one-third of the inmate's fixed executed sentence after the inmate has served the term of imprisonment and any disciplinary confinement period imposed by the commissioner, less any disciplinary confinement period imposed by the commissioner and regardless of any earned incentive release credit applied toward the individual's term of imprisonment under section 244.44.

(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 restrictive-housing 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

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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.

(c) For purposes of this subdivision, "earned incentive release credit" has the meaning given in section 244.41, subdivision 7.