

CHAPTER 2940
DEPARTMENT OF CORRECTIONS
HEARINGS AND RELEASE UNIT

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2940.0100 DEFINITIONS.

[For text of subps 1 to 7, see M R]

Subp 8 **Executive officer of hearings and release.** "Executive officer of hearings and release" means the person to whom the commissioner of corrections has delegated the authority for granting parole and work release; for revoking parole, work release, and supervised release, and for granting discharge from an indeterminate sentence

[For text of subps 9 and 10, see M R.]

Subp 11 [Repealed, 23 SR 808]

[For text of subps 12 to 14, see M.R]

Subp 15 [Repealed, 23 SR 808]

[For text of subps 16 to 29, see M R]

Subp 30 [Repealed, 23 SR 808]

[For text of subps 31 to 34, see M R]

Statutory Authority: *MS s 14 388*

History: *23 SR 808*

2940.0200 PURPOSE.

The purpose of this chapter is to establish the policies, procedures, rules, regulations, and guidelines which will govern the operation of the hearings and release unit established within the Department of Corrections by the commissioner in order to discharge the responsibilities established by law

Statutory Authority: *MS s 14 388*

History: *23 SR 808*

2940.0300 ADMINISTRATION.

For the purpose of coordinating, monitoring, and assuring uniformity and objectivity in the decisions of parole, supervised release, and work release, the commissioner has established the hearings and release unit and appointed an executive officer of hearings and release. The commissioner has delegated to the executive officer of hearings and release the authority to grant parole and work release, to revoke parole, work release, and supervised release, to discharge persons under indeterminate sentences, and to approve the conditions of parole, work release, and supervised release

The executive officer of hearings and release shall be independent from the administration of the institutions and community services division.

One or more Department of Corrections staff approved by the commissioner may assist the executive officer of hearings and release in carrying out the officer's responsibilities

Statutory Authority: *MS s 14 388*

History: 23 SR 808

2940.0400 EXECUTIVE OFFICER OF HEARINGS AND RELEASE.

The executive officer of hearings and release shall have the authority, under the guidelines prescribed in this chapter, with the exception of those inmates under life sentences, to

A grant parole and work release and discharge inmates with indeterminate sentences,

B approve or modify conditions of parole or supervised release as developed by the program review teams;

[For text of items C to G, see M R]

Statutory Authority: *MS s 14 388*

History: 23 SR 808

2940.0600 TEAM FUNCTIONS.

A program review team shall perform the following functions regarding each inmate

[For text of items A to H, see M R]

I develop conditions of parole or supervised release jointly with the inmate's assigned field agent, and

J. conduct reentry reviews.

Statutory Authority: *MS s 14 388*

History: 23 SR 808

2940.0700 PLANS.

All needs assessments, program, and projected release plans must be in writing and the central office file copy must be forwarded to the hearings and release unit for informational purposes. All conditions of parole or supervised release shall be imposed by the executive officer of hearings and release

Statutory Authority: *MS s 14 388*

History: 23 SR 808

2940.0800 NEEDS ASSESSMENTS, PROGRAM, AND PROJECTED RELEASE PLANS.

[For text of subps 1 and 2, see M R]

Subp 3 **Developed by team.** The needs assessment, program plan, and projected release plan shall be developed by the program review team, and the central office copy shall be forwarded to the hearings and release unit for information purposes.

Statutory Authority: *MS s 14 388*

History: 23 SR 808

2940.0900 PROGRESS REVIEWS.

[For text of subparts 1 and 2, see M R]

Subp 3 **Copies forwarded.** The central office copy of the inmate's progress reviews shall be forwarded to the hearings and release unit for information purposes.

Statutory Authority: *MS s 14 388*

History: 23 SR 808

2940.1000 WORK RELEASE FOR PRERELEASE PURPOSES.

[For text of subpart 1, see M R]

Subp. 2 **Recommendations reviewed.** The recommendations of the program review teams shall be reviewed by the executive officer for granting prerelease status. The executive

officer of hearings and release shall make the decision to grant or deny work release status for placement in the prerelease program

Statutory Authority: *MS s 14 388*

History: *23 SR 808*

2940.1100 WORK RELEASE.

Applications for work release must be forwarded to the director of work release for approval. If approved by the director of work release, the application must be considered by the program review team. If approved by the program review team, the recommendation of the program review team must be reviewed by the executive officer of hearings and release for the granting or denial of work release.

Statutory Authority: *MS s 14 388*

History: *23 SR 808*

2940.1300 FINAL PLAN RECOMMENDATIONS.

[For text of subpart 1, see M R.]

Subp. 2 **Final decision.** The executive officer of hearings and release shall make the final decision regarding the conditions of parole, supervised release, or work release, with the exception of those inmates under life sentences.

Statutory Authority: *MS s 14 388*

History: *23 SR 808*

2940.1500 INMATES WITH INDETERMINATE SENTENCES.

[For text of subpart 1, see M R.]

Subp. 2 **Review of release dates.** Incarcerated inmates with indeterminate sentences governing their release dates which were established prior to July 1, 1982, shall be handled as follows in items A to C.

[For text of item A, see M R.]

B Special reviews for the purpose of modifying release dates established by the Minnesota corrections board shall be considered by the executive officer of hearings and release for the following reasons:

(1) correcting mathematical, data entry, or computational errors; and

(2) policy changes established by the commissioner which affect the term of imprisonment.

C The program review team shall determine if the criteria for a special review have been met. If the criteria have been met, the program review team shall forward the information and a recommendation to the executive officer of hearings and release. The executive officer of hearings and release shall make the final decision regarding the requested adjustment in the release date.

Subp. 3 **Application of guidelines.** Minnesota sentencing guidelines policies and procedures must be utilized in determining the term of imprisonment and projected release date of each inmate with an indeterminate sentence whose new admission review occurs after July 1, 1982.

The criminal history score shall be based on the inmate's status on the date the indeterminate offense occurred.

[For text of items A and B, see M R.]

C The only misdemeanor, gross misdemeanor, or felony convictions which shall be utilized to compute the criminal history score shall be those for which the offender had received a stayed or imposed sentence prior to the date on which the indeterminate offense occurred.

The program review team shall complete a Minnesota sentencing guidelines worksheet on such inmates and forward the worksheet to the executive officer of hearings and release for approval. If the program review team recommends departure from the guidelines grid, the written reasons for the departure must accompany the worksheet.

Statutory Authority: *MS s 14 388*

History: *23 SR 808*

2940.1600 GOOD TIME LOST; EXTENSION OF TERM OF IMPRISONMENT.

All inmates shall be subject to the loss of good time or extension of term of imprisonment for institutional disciplinary infractions as follows in items A to E

[For text of items A and B, see M R]

C All inmates with guidelines sentences shall have their supervised release date extended by one day for each day of good time lost or disciplinary confinement time added.

[For text of items D and E, see M R]

Statutory Authority: *MS s 14 388*

History: *23 SR 808*

2940.1800 INMATES WITH LIFE SENTENCES.

[For text of subpart 1, see M R]

Subp 2 **Duties of panel.** The advisory panel shall review each inmate who is serving a life sentence three years prior to the inmate's parole or supervised release eligibility date in order to establish a projected release date or a future review date. The advisory panel shall assist the commissioner in thoroughly considering the inmate's entire case history, including the facts and circumstances of the offense for which the life sentence is being served, past criminal history, institutional adjustment, program team reports, psychological and psychiatric reports where pertinent, and the results of community investigations.

The program review team of the inmate's residence shall prepare appropriate reports and recommendations as requested by the institution superintendent or warden.

[For text of subp 3, see M R.]

Subp 4 **Duties of officials.** The commissioner may initiate inquiries and take testimony as authorized by Minnesota Statutes, section 243 05

The executive officer of hearings and release shall assist the commissioner in interviewing interested parties and prepare a summary of community input for presentation to the advisory panel.

During the deliberative process only members of the advisory panel shall be present unless determined otherwise by the commissioner.

[For text of subp 5, see M R]

Statutory Authority: *MS s 14 388*

History: *23 SR 808*

2940.2300 APPROVAL OF CONDITIONS OF RELEASE.

All conditions of parole or supervised release shall be subject to the approval of the executive officer of hearings and release

Statutory Authority: *MS s 14 388*

History: *23 SR 808*

2940.2700 RESTRUCTURE OF CONDITIONS OF PAROLE OR SUPERVISED RELEASE.

Subpart 1 **Request by offender.** Offenders on parole or supervised release may at any time during their term of release request that the standard or special conditions of release be modified. Their request must be made in writing through their supervising agent who shall submit the request and the supervising agent's recommendation to the hearings and release unit within ten days of its receipt. The executive officer of hearings and release shall review the request and respond in writing within 30 days of the receipt of the request for the modification of the standard or special conditions of release.

[For text of subp 2, see M R]

Subp 3 **Granting of modification.** The executive officer of hearings and release may authorize the supervising agent to modify the standard or special conditions of release or cause the releasee to be brought before the executive officer of hearings and release for a review of the matter of modification. Any modification of the standard or special conditions of release shall be in writing and executed with the same formality as the original conditions

Statutory Authority: *MS s 14 388*

History: *23 SR 808*

2940.2800 WORK RELEASE STATUS.

Subpart 1 **Participation.** Participation in the work release program is voluntary on the part of the inmate. Consideration for work release status shall be given to those offenders who have met the Department of Corrections eligibility requirements, have been accepted by the director of work release and recommended by the program review team. The executive officer of hearings and release shall make the decision for the granting or denial of work release.

Subp 2 **Violations; revocations.** All violations of work release rules shall be handled according to the approved discipline plan. Revocation of work release status shall be the decision of the executive officer of hearings and release after an appropriate due process hearing.

Statutory Authority: *MS s 14 388*

History: *23 SR 808*

2940.3100 WARRANTS; FORMAL RECOMMENDATION REQUIREMENT.

At any time the releasee is prepared to make bail or has been sentenced by the court, the supervising agent shall submit a written formal recommendation to the executive officer of hearings and release regarding whether to:

[For text of items A and B, see MR]

Statutory Authority: *MS s 14 388*

History: *23 SR 808*

2940.3200 ISSUANCE OF WARRANTS.

The executive officer of hearings and release shall have the authority to issue nationwide or statewide warrants on a case-by-case basis in accordance with the procedures in items A to D.

A After consultation with his or her supervisor, the supervising agent shall submit a violation report to the executive officer of hearings and release who shall make the final decision regarding the issuance of a warrant.

B In emergency situations, the supervising agent shall request authorization for the warrant by telephone. The supervising agent shall call the hearings and release unit and provide the necessary information for warrant authorization.

C Upon approval of the emergency warrant, the hearings and release unit shall provide the fugitive unit with the necessary information, and instruct the fugitive unit to issue the warrant.

D If an emergency warrant is issued, a written violation report must be received by the office of adult release within five working days.

Statutory Authority: *MS s 14 388*

History: *23 SR 808*

2940.3300 OTHER ORDERS.

The executive officer of hearings and release shall have the authority to issue orders revoking parole, supervised release, or work release, to stop the time from running on the sentences of releasees who have absconded, and to start the running of the time on the inmate's sentence.

Statutory Authority: *MS s 14 388*

History: *23 SR 808*

2940.3500 REVOCATION HEARING.

[For text of subpart 1, see MR]

Subp 2 **When held.** All revocation or separate probable cause hearings must be held within 12 working days of the releasee's availability to Department of Corrections.

Subp 3 **Outside metropolitan area.** Outside the metropolitan area, as defined by Minnesota Statutes, section 473.121 revocation or separate probable cause hearings shall be conducted by a Department of Corrections district supervisor other than the supervising

agent's supervisor. In cases of special need, the executive officer of hearings and release may conduct the revocation or separate probable cause hearings outside the metropolitan area.

Subp 4 Within metropolitan area. Within the metropolitan area the hearings shall be conducted by the executive officer of hearings and release.

Statutory Authority: *MS s 14 388*

History: *23 SR 808*

2940.3700 ACTIONS.

If the executive officer of hearings and release or a district supervisor finds that releasees are in violation of their parole, work release, or supervised release, the following actions may be taken

[For text of items A to C, see M.R.]

Statutory Authority: *MS s 14 388*

History: *23 SR 808*

2940.3800 REIMPRISONMENT.

Offenders who have violated the conditions of parole or supervised release and who have been returned to institutional status shall be assigned a release date and a term of reimprisonment, as follows

[For text of items A to C, see M.R.]

D depending on the time remaining to be served on the sentence, the type of violation, and the needs of the offender, up to expiration of the sentence may be assigned as the term of reimprisonment if there is a finding of risk to the public or if repeated violations of the conditions of release occur and the releasee is determined to be unamenable to supervision by the executive officer of hearings and release

The term of reimprisonment under items A to C may be either concurrent or consecutive to incarceration time imposed by a court of law and served locally

Statutory Authority: *MS s 14 388*

History: *23 SR 808*

2940.3900 REVOCATION PROCEDURES; INVESTIGATION AND REPORT.

Supervising agents shall investigate all alleged violations of release and after consultation with their supervisor determine whether grounds exist to begin revocation procedures. If grounds are found to exist justifying the initiation of revocation procedures, a violation report must be submitted to the executive officer of hearings and release together with a recommendation as to the issuance of a warrant directing the apprehension and detention of the releasee pending a hearing.

Statutory Authority: *MS s 14.388*

History: *23 SR 808*

2940.4000 EMERGENCY SITUATIONS.

In emergency situations supervising agents after consultation with their supervisor, may call the hearings and release unit to request an emergency warrant. The procedure indicated in parts 2940 3000 to 2940 3400 governs the issuance of emergency warrants

Statutory Authority: *MS s 14.388*

History: *23 SR 808*

2940.4200 DUTIES OF SUPERVISING AGENT.

Upon receipt of the notice to begin revocation proceedings, the supervising agent shall have the duties in items A to F

[For text of items A to D, see M.R.]

E If the releasee requests a revocation hearing, the supervising agent shall call the hearings and release unit to coordinate a date and time for the hearing

F Upon receiving the date and time for the hearing, the supervising agent shall prepare a notice of hearing form, make six copies of the rules of release, six copies of any written

evidence, and distribute one set of each according to the distribution indicated on the notice of revocation hearing form.

If the releasee is in custody pursuant to a warrant issued by the hearings and release unit, the hearing shall be held within 15 working days immediately after detention, unless good cause is shown for a continuance. At the time notice is given to the releasee, notice shall be sent to the State Public Defender or private counsel.

Statutory Authority: *MS s 14 388*

History: *23 SR 808*

2940.4300 REVOCATION HEARING.

The revocation hearing shall be held near the site of the alleged violation, and conducted by the executive officer of hearings and release or a district supervisor who does not directly supervise the supervising agent alleging the violation. If parole, supervised release, or work release is revoked, the releasee shall be imprisoned in a place determined by the commissioner. Releasees may admit the alleged violations any time prior to the hearing. The admission must be in writing, and releasees must have been notified of the consequences of their admission, including that they may be returned to a correctional facility for a term of imprisonment specified by the executive officer of hearings and release or a district supervisor.

Statutory Authority: *MS s 14.388*

History: *23 SR 808*

2940.4400 WARRANTS.

Subpart 1 **General requirement.** Unless taken into custody by a supervising agent under the authority of Minnesota Statutes 1983 Supplement, section 243 05, a releasee shall not be taken into custody unless a warrant is issued by the executive officer of hearings and release.

[For text of subp 2, see M R]

Subp 3 **Absconding from supervision.** Warrants may be issued in all cases where a releasee has absconded from supervision. Issuance of warrant under these circumstances and the revocation of parole, supervised release, or work release shall stop the time from running on the sentence until the releasee is returned to custody. In all cases where a releasee is returned from out of state, whether by extradition proceedings or waiver of extradition, the hearing shall be held at a location determined by the executive officer of hearings and release.

Statutory Authority: *MS s 14 388*

History: *23 SR 808*

2940.4500 FAILURE TO APPEAR.

Failure of a releasee to appear at a revocation or probable cause hearing after having been duly notified will result in the issuance of a warrant for their apprehension and detention and return to custody pending a hearing at a place to be determined by the executive officer of hearings and release.

Statutory Authority: *MS s 14 388*

History: *23 SR 808*

2940.4600 [Repealed, 23 SR 808]

2940.4700 [Repealed, 23 SR 808]

2940.4800 [Repealed, 23 SR 808]

2940.4900 [Repealed, 23 SR 808]

2940.5000 [Repealed, 23 SR 808]

2940.5100 [Repealed, 23 SR 808]

2940.5200 [Repealed, 23 SR 808]

2940.5300 [Repealed, 23 SR 808]

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2940.5400 [Repealed, 23 SR 808]

2940.5500 [Repealed, 23 SR 808]

2940.5600 [Repealed, 23 SR 808]