

STATEMENT OF NEED AND REASONABLENESS

Rules Governing the Office of Adult Release - Minnesota Department of Corrections

History and Background

On July 1, 1982, the Minnesota Corrections Board was abolished by an act of the legislature. This action also transferred the duties and responsibilities of the MCB to the Commissioner of Corrections.

In March of 1982, the Commissioner formed a Steering Committee made up of the department's administrative staff to develop the policies and procedures which would be utilized to discharge this new responsibility. The Steering Committee received and evaluated suggestions from both internal department staff and persons who were external to the Department of Corrections but would interact with the department in the area of adult release and revocation. The work of the Steering Committee and the approval of the Commissioner resulted in the Department of Corrections Adult Release and Revocation policies and procedures.

Administration

The administration of the adult release activities is coordinated through a separate Office of Adult Release. The activities are managed by the Executive Officer of Adult Release who has been delegated the authority to:

1. Grant parole and discharge to persons serving indeterminate sentence;
2. Approve conditions of parole and supervised release;
3. Grant work release;
4. Issue warrants, and
5. Revoke work release, parole and supervised release.

Institutional Process

Within each Minnesota Correctional Facility there is a Program Review Committee. These committees are comprised of the institution's administrative staff and include representatives from the security staff, educational and rehabilitational staff, and the psychological services departments. The program committees have assumed the inmate review function of the Minnesota Corrections Board. These committees conduct new admission reviews, annual progress reviews, work release consideration reviews, and reentry reviews. From a practical standpoint, the Program Review Committee serves as the major decision making component for an inmate's institutional activities and release plan development process.

The program committees, utilizing the adult release policies and procedures, make recommendations to the executive Office of Adult Release regarding the granting of work release, parole, and the conditions of parole and supervised release. The Executive Officer of Adult Release has been delegated the authority to grant work release status, grant parole, and set the conditions of release for all inmates under the jurisdiction of the Department of Corrections. The only exceptions are those inmates who are serving life sentences for murder first and murder second degree.

o Life Sentence. Inmates

The Commissioner of Corrections retains the sole authority to grant parole and supervised release to persons serving life sentences. An Advisory Panel comprised of the department's administrative staff and the institution head provides advisory assistance to the Commissioner relative to these decisions.

The procedure involves a formal hearing in which the inmate is present and represented by legal counsel or an advocate of his choice.

The Commissioner has the option to grant immediate release for those who are eligible and/or set a release date which occurs some time in the future.

Revocation Procedures

The revocation of work release, parole, and supervised release is the responsibility of the Office of Adult Release. With the exception of releasees who have committed new felony crimes, revocation hearings are conducted in the community by the Executive Officer or a Deputy Executive Officer. These hearings are conducted within 15 working days of a releasee's detention based upon the Department of Corrections warrant. All decisions regarding the revocation process are made during the community revocation hearing.

Indeterminate Sentence Inmates

All release dates established by the Minnesota Corrections Board have been left in full force and effect. The post conviction remedy process is viewed as the most appropriate method to challenge the decisions made by the MCB. The only exceptions to this are in the case of sentence changes, errors in computation or data entry, and/or policy changes which effect the term of imprisonment of all offenders.

11 MCAR § 2.601 - Definitions and Purpose

RATIONALE: Definitions are required to provide clarity and full understanding to the language and terms of these proposed rules. It is important that all concerned individuals, agencies, and significant groups have clear knowledge of terms used in the proposed rules.

EVIDENCE: Minnesota Statutes, Chapters 241.045, 242 (juvenile), and 244 (Minnesota Sentencing Guidelines) statutorily mandate authority to do so.

The American Correctional Association, 2nd Edition, Standards for Adult Parole Authorities, Introduction pp. xvii to xxi and Glossary pp. 38-39.

11 MCAR § 2.603 and 2.604 - Administration and Executive Officer of Adult Release

RATIONALE: This section describes the administration of the department's adult release process. This section is needed to provide an exact description of how the adult release system is managed by the Department of Corrections and the chain of responsibility for staff, inmates, and the public.

EVIDENCE: Minnesota Statutes 244

The American Correctional Association, 2nd Edition, Standards for Adult Parole Authorities, pp. 3-5.

11 MCAR § 2.605 - Case Management

RATIONALE: Section A, B and C outline and establish the structure of Program teams, their functions and the plan. Only by first establishing a structure can the rules outline a process which will be key to evaluation and appropriate disposition.

EVIDENCE: Minnesota Statutes 244.05, Subdivision 2 and Minnesota Laws (1983) Chapter 274.

The American Corrections Association, 2nd Ed., Standards for Adult Parole Authorities, Conditions of Parole, pp. 28-29.

11 MCAR § 2.606 - Case Management

RATIONALE: 11 MCAR § 2.605 establishes a structure for evaluation and disposition. 11 MCAR § 2.606 describes the process within the structure, i.e. needs assessment, progress review, work release for prerelease programs, work release and reentry reviews.

EVIDENCE: Minnesota Statutes 244.05 and Minnesota Laws (1983) Chapter 274

The American Corrections Association, 2nd Edition, Standards for Adult Parole Authority, Conditions of Parole, pp. 28-29.

11 MCAR § 2.607 - Notification to Inmates

RATIONALE: Inmates should have a right to notice when being reviewed for reentry. This rule mandates notice of review, the purpose, the date and time and other rights related to the review.

EVIDENCE: Past practice of the DOC. Recommended by the steering committee.

11 MCAR § 2.608 - Inmates with Indeterminate Sentence

RATIONALE: Minnesota is under two distinct sets of sentencing laws- indeterminate and determinate. In addition, the Minnesota Corrections Board established presumptive release dates for inmates with indeterminate sentences using the parole decision-making guidelines. It is essential for the Department of Corrections to establish rules which protect the presumptive release dates of inmates in this case. These rules establish the conditions under which a previous release date can be modified.

EVIDENCE: Minnesota Statutes, Sec. 243.05 and 243.12

The American Correctional Association, 2nd Edition, Standards for Adult Parole Authorities, Hearing Process, pp. 22-24; Parole Release Hearings, pp. 24-28; Conditions of Parole, pp. 28-29.

11 MCAR § 2.609 - Good Time Lost: Extension of Term of Imprisonment

RATIONALE: Good time is regulated by law. All inmates are subject to the loss of good time. Since loss of good time affects sentences and release dates, the conditions of loss of good time are included in these rules.

EVIDENCE: Minnesota Statutes, Sec. 244.05, Subd. 4 and 5.

Minnesota Statutes, Sec. 243.05.

The American Correctional Association, 2nd Edition, Standards for Adult Parole Authorities, Hearing Process, pp. 22-23.

11 MCAR § 2.610 - Offenders on Parole or Supervised Release Status

RATIONALE: This rule is needed to spell out the standard conditions of supervised release in order that the releasee and the department know the exact expectations for everyone concerned.

EVIDENCE: Minnesota Statutes, Sec. 244.05, Subd. 2.

The American Correctional Association, 2nd Edition, Standards for Adult Parole Authorities, Conditions of Parole, pp. 28-29.

11 MCAR § 2.611 - Inmates with Life Sentences

RATIONALE: The basic concept of an incarcerated individual to have exact knowledge of his length of stay in confinement is very important. These Rules address the length of stay concern for persons under a mandatory life sentence. Also crucial in the setting of a presumptive release date is the idea of the use of a general release criteria.

EVIDENCE: Minnesota Statutes, Sec. 244.05, Subd. 4 and 5.

Minnesota Statutes, Sec. 243.05.

The American Correctional Association, 2nd Edition, Standards for Adult Parole Authorities, Hearing Process, pp. 22-23.

11 MCAR § 2.612 - Conditions of Parole or Supervised Release

RATIONALE: The rules of a releasing authority must be flexible to encompass the restructure of supervised releases by the Department, a releasee, and supervising agents. This section permits the possibility of restructure.

EVIDENCE: Minnesota Statutes, Sec. 244.05, Subd. 2 and 3
The American Correctional Association, 2nd Edition, Standards for Adult Parole Authorities, Conditions of Parole, pp. 28-29.
Also, Minnesota Sentencing Guidelines.

11 MCAR § 2.613 - Restructure of Conditions of Parole or Supervised Release

RATIONALE: Conditions, situations and circumstances change and the supervised release needs to have a system to meet these changes when appropriate.

EVIDENCE: Minnesota Sentencing Guidelines Policies and Procedures. Commentary regarding the use of revocation of probation/parole should occur only after repeated and serious isolation. This rule allows for alternative disposition.

11 MCAR § 2.614 - Work Release Status

RATIONALE: Work release is a key element of correctional programming. It is one of several release options which the Department of Corrections uses in providing an individualized return of an inmate to the community. This rule sets out the process of the Department in the granting of work release.

EVIDENCE: Minnesota Statutes, Sec. 244.065.

11 MCAR § 2.615 - Work Release for Pre Releasee Purposes

RATIONALE: This rule establishes the legal procedure for granting work release status to pre release inmates.

EVIDENCE: Minnesota Statutes, Sec. 244.065.

11 MCAR § 2.616 - Warrants, Stop Time and Hold Orders

RATIONALE: There are times when parolees are alleged to have violated the condition of their supervised release. This section establishes rules for issuing warrants, stop time, hold orders and other conditions related to holding parolees for status review.

EVIDENCE: Minnesota Statute 243.05.

11 MCAR § 2.617 - Revocation Hearing

RATIONALE: It is essential for supervised releases, supervising agents, and the Department to clearly understand the specific grounds for revocation of supervised release. This rule sets forth these grounds.

EVIDENCE: Minnesota Statutes, Sec. 244.05, Subd. 2 and 3.

The American Correctional Association, 2nd Edition, Standards for Adult Parole Authorities, Hearing Process, pp. 22-23; Arrest and Revocation, pp. 30-33.

11 MCAR § 2.618 - Revocation Procedure

RATIONALE: Revocation procedures of supervised releases which follow the due process standards laid out in the United States Supreme Court decision of Morrissey v. Brewer are a vital part of these rules.

EVIDENCE: Minnesota Statutes, Sec. 244.05, Subd. 2 and 3.

Minnesota Statutes, Sec. 243.05.

Morrissey v. Brewer, 408 U.S. St. C. 471, June 29, 1972.

The American Correctional Association, 2nd Edition, Standards for Adult Parole Authorities, Hearing Process, pp. 22-23; Arrest and Revocation, pp. 30-33.

11 MCAR § 2.619 - Extraordinary Discharge Recommendation to Board of Pardons

RATIONALE: Since the Department lacks the statutory power to grant discharges to these persons sentenced for crimes committed on or after May 1, 1980, it is likely that there will be an increase in applications for extraordinary discharge and the circumstances and reasons under which the Department will consider applications.

EVIDENCE: Minnesota Statutes, Sec. 244.06.

The American Correctional Association, 2nd Edition, Standards for Adult Parole Authorities, Standards 2-1010 and 2-1011, p. 3.

11 MCAR § 2.620 - Extraordinary Discharge Application Process

RATIONALE: This rule spells out the application process and will ensure that all applications are properly administratively handled.

EVIDENCE: Minnesota Statutes, Sec. 244.06.

The American Correctional Association, 2nd Edition, Standards for Adult Parole Authorities, Standards 2-1010 and 2-1011, p. 3.

11 MCAR § 2.620, 2.621-Youthful Offender 25th Birthday Review

RATIONALE: Minnesota Statute prior to 1977 require a review of all decisions regarding the discharge or transfer to adult status of offenders sentenced under this statute. Policy and procedure is needed to govern this process because there are still offenders in the system who were sentenced under pre 1977 state law.

EVIDENCE: Minnesota Statute Chapter 242 (Repealed, 1977 C 392 S 14).

11 MCAR § 2.623 - Request for Interstate Supervision of
Minnesota Release

RATIONALE:

Releasees have the option to serve community supervision portion of the sentence in a state other than Minnesota. There are national rules and standards which govern the interstate release supervision acceptance.

EVIDENCE:

Minnesota Statute 243.16

Interstate Compact National Contract Standards. See Handbook on the Interstate Compact for the Supervision of Parolees and Probationers published in 1979 by the Parole and Probation Compact Administrators' Association and the Texas Criminal Justice Center and the Parole and Probation Compact Manual revised in 1981.