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Schnell pitches early-release plan

Offenders could get out after serving half their time

By: Kevin Featherly March 31, 2021

It sets up like a joke, but to Corrections Commissioner Paul Schnell, the punchline is nothing to be amused about.



Paul Schnell

It goes like this: Two guys walk into a prison. Sixty-seven months later, they walk out again — together.

The fellows in this fictitious scenario, Schnell's creation, both got sentenced to 100 months in prison. By Minnesota's determinate sentencing scheme, both served 67 months in custody and were the released to 33 months' supervised release.

But here, for Schnell, is the rub.

One guy took the admonitions of his trial judge, prosecutors, clergy and family seriously. He wants to change, recover from his addictions, get some mental health help and find his way away from crime. He puts in considerable effort inside the walls, completing restorative justice programming and critical thinking skills training. By the time he gets released, he is primed to make something of himself.

The other guy couldn't care less. Worse, he makes trouble in prison, get into fights, gets himself stuck in isolation once or twice. He takes no training, completes no treatment. He just bides his time waiting to get out and start right back where he left off.

To Schnell, it's a problem that both those men would get released to probation on the same day — despite one clearly posing less risk to public safety than the other. But that is what happens every day in Minnesota's prisons. "This is the part that is nuts," the commissioner said.

Schnell, the reform-minded commissioner who — controversially — convinced the Sentencing Guidelines Commission to cap most felony probations at five years, now has new ambitions.

His Minnesota Rehabilitation and Reinvestment Act (MRRA) might sound like an economic development program, but it's all about rewarding inmates for good conduct.

Those who do well, strive to improve and work to become decent neighbors upon release could earn shorter sentences. They would even be able to nibble time off the end of their post-custody probations.

On the other hand, the guy who behaves poorly would get no benefit. He would simply serve out his normal term, Schnell said.

"This isn't soft on crime," Schnell said in a March 26 interview. "It's a smart-on-crime issue. Because ultimately, our sentencing is our sentencing — we lock people up. If they're not going to earn it, they should stay there."

The initiative, included as a fiscally neutral entry in Gov. Tim Walz's supplemental budget, went before House Public Safety on March 26. Its vehicle, House File 2349, is a bill authored by Rep. Jamie Becker-Finn, DFL-Roseville, the House Judiciary chair.

Four components

The initiative has four main features. They include:

- **Individualized rehabilitation plans.** Each incoming inmate would receive a complete assessment to help set concrete, personalized rehabilitation goals during their time in prison.
- **Earned early release.** Those in custody could earn earlier release — as much as 50% off their nominal prison sentence — by participating in the rehabilitation process identified during their assessments. Those programs could include substance abuse treatment, mental health counseling, vocational skills training and education.

While such programs are available now, Schnell hopes to "front-load" them. Inmates would participate in rehabilitative programming sooner, rather than wait until their final months in custody, which Schnell said is the norm today. He thinks all that can be accomplished with no additional budget.

- **Earned supervision abatement.** Once released, probationers could work their way toward shortened community supervision by meeting personalized goals. They would have to maintain employment, attend addiction aftercare or mental health treatment, or do whatever else their plans require. For every two months of successful compliance, probation would be shortened by one month. "Which essentially reduces the term by as much as one-third," Schnell said.
- **Justice Reinvestment Fund.** DOC estimates that between 40% and 60% of the prison population would be eligible for the program. Because of that, the program likely would empty some prison beds and Schnell expects it could save the state \$10 million a year.

"This is how we do the business of redemption," Schnell said.

The Walz administration says it would redistribute any savings realized through the program equally, across four areas: victim support services; crime prevention and intervention initiatives; community-based correctional programs; and the state's general fund.

In its updated budget documents, the administration wagers that effective programming pre- and post-release would reduce recidivism and ensure that "correctionally involved people have the opportunity to maintain connections with their families, including children."

That's an idea with resonance for the bill's author. Becker-Finn was in junior high school when her father, former Sen. Skip Finn, DFL-Cass Lake — the first Native American to serve in the post-territorial Minnesota Senate — was imprisoned after a fraud conviction.

Allegedly, he committed the offenses while he working as the Leech Lake Band's legal counsel, though Becker-Finn notes that he always maintained his innocence. He was released just as she was entering college. He died in 2018.

"I know firsthand what it means when a family member is incarcerated," Becker-Finn told committee members while presenting her bill. "The impact is not just on that individual but on their children, their siblings, their parents, their friends and their entire community."

To Becker-Finn, who is on leave from her county prosecutor's job while serving in the Legislature, incarceration "impacts a person's humanity." It should only be used when absolutely necessary, she said, not as the long-term, default solution for holding people accountable.

House Republicans during the March 26 hearing were relatively muted, either in praise or criticism for Schnell's proposal. Most of the GOP commentary dwelt on the bill's tardy introduction, well after the ostensible policy-bill deadline.

"I have some concerns on this bill," said Rep. Brian Johnson, R-Cambridge. "We do not have a lot of time to go through this or digest it, with all the committee meetings we've been having this week after deadline with a lot of policy issues."

Johnson noted the numerous crimes listed in the bill that would disqualify inmates from participation, including murder, major sex offenses and crimes committed to benefit gangs. But other crimes are not listed, some involving mandatory minimum sentences, Johnson said. He asked Schnell if those prisoners would qualify for early release under the program.

"Generally, that is not the case," Schnell said. "There are some mechanisms where certain offenses may be able to be involved or included because of those mandatory minimums, but generally speaking, no."

Rep. Marion O'Neill, R-Maple Lake, said she supports the plan's front-end-loading of treatment and programming. But she said she had not heard whether domestic violence treatment, which she regards as high priority, is involved. "What will you build out?" she asked.

Schnell said the DOC shares that concern and has already begun developing an intimate-partner violence treatment program among its behavioral health services. "We are now working with the [DOJ's] Office on Violence Against Women to develop some models that have been validated as evidence-based," he said.

If the Legislature adopts his plan and the governor signs it into law, Schnell said that Minnesota would become the 40th state to offer inmates similar early-release incentives to prisoners.

The effort's companion bill is being carried in the upper chamber by Sen. Ron Latz, DFL-St. Louis Park. That version, introduced on March 25, had not been given a hearing before the Legislature's holiday break.

Nor did House Public Safety take any action on the legislation. Instead, its chair, Rep. Carlos Mariani, DFL-St. Paul, laid it aside to be rolled into a forthcoming budget omnibus package.

ABOUT KEVIN FEATHERLY



Kevin Featherly, who joined BridgeTower Media in mid-2016, is a journalist and former freelance writer who has covered politics, law, business, technology and popular culture for publications and websites in the Twin Cities and nationally since the mid-1990s.

