FREQUENTLY ASKED QUESTIONS

Conditional Release of Individuals Convicted of Nonviolent Controlled Substance Offenses
Minn. Stat. §244.0513 (2023)
Policy 205.150

When should cases be screened, identified and reviewed?

All individuals incarcerated for one or more qualifying crimes must be screened using the screening form found on the Case Manager Information iShare site under "CRP Screening Form" as soon as possible after admission. The caseworker must explain the program to the individual and ask if they wish to be considered for participation in the CRP. The individual's answer is documented on the screening form. If the individual does not wish to be considered, *Steps 1, 2, and 4 of the screening form must be completed*. Individuals who wish to be considered and appear to be eligible after completion of Steps 1 and 2 on the screening form must have all the reviews completed and be offered CRP within 160 days after their term of imprisonment begins, or as soon thereafter as possible. The caseworker should review the Conditional Release Agreement with the individual and obtain their signature if they wish to be considered for CRP.

Individuals sentenced pursuant to a mandatory minimum sentencing statute will not be approved for CRP. Please contact *SentenceAdministrationUnit.DOC@state.mn.us* if you need assistance determining whether an individual has a mandatory sentence.

CIP Phase 2 and 3 failures are not eligible for CRP.

Can a person who is not recommended for SUD treatment be eligible for CRP?

Yes. The statute was changed in 2023 and SUD treatment is no longer a required component of CRP. The requirement to participate in treatment is based on the recommendation of a comprehensive substance use assessment. If SUD treatment is not recommended, a person still must meet all other eligibility criteria. If approved for CRP, they would be eligible for release on their CRP eligibility date, but not before.

Step 1.1

Which Controlled Substance Crimes qualify an incarcerated person for this program?

152.021 Subd. 2 (1st degree possession)
152.021 Subd. 2a (methamphetamine manufacture)
152.022 Subd. 2 (2nd degree possession)
152.023 Subd. 2 (3rd degree possession)
152.024 Subds. 1 and 2 (4th degree possession and sale)
152.025 Subds. 1 and 2 (5th degree possession and sale)

Step1.2

How is it determined whether an individual "committed the crime as a result of a controlled substance use disorder"?

If, during the initial substance use disorder (SUD) assessment done at the time of intake, the individual has been recommended for SUD treatment, the caseworker should consider this sufficient to meet the statutory requirement. If the individual was not recommended for SUD treatment, the caseworker should determine if new information is now available that could change the diagnosis. If so, the individual should be referred for a new SUD assessment if they meet other criteria for CRP.

Step 1.3

What is the eligibility date for Conditional Release and how is it determined?

The CRP eligibility date is the *earliest* date the individual could be released on CRP status – it is the point at which the individual has served the minimum required amount of time. For these offenses the minimum time is 36 months or half of their term of imprisonment whichever is less:

152.021 Subd. 2 (1st degree possession)
152.021 Subd. 2a (methamphetamine manufacture)
152.022 Subd. 2 (2nd degree possession)
152.023 Subd. 2 (3rd degree possession)

For these offenses the minimum time is 18 months or half of their term of imprisonment, whichever is less:

152.024 (4th degree possession and sale)
152.025 (5th degree possession and sale)

Keep in mind other issues related to eligibility for release such as detainers which will be satisfied, or classification reductions with enough time remaining for the individual to be released on CRP after this earliest eligibility date.

The CRP eligibility date is contingent on completion of SUD treatment recommendations.

Step1.4

What are the criteria for admission to the substance use treatment program?

The individual must have a comprehensive SUD assessment that recommends treatment.

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All MN DOC facility treatment programs qualify as CRP treatment programs.

Individuals approved for CRP will start treatment no later than ten months prior to their CRP release eligibility date.

Step 1.5

What if an individual was previously released under the prior CRP statute?

This question refers to the current CRP. Check the "No" box for this question.

Step 1.6

What crimes are defined in section 609.1095 as violent crimes?

A violation of or an attempt or conspiracy to violate any of the following Minnesota laws or any similar laws of the United States or any other state:

152.137 Methamphetamine-Related Crimes Involving Children and Vulnerable Adults
609.165 Possession of Firearms and Ammunition
609.498, Subd. 1 Tampering with a Witness in the First Degree
609.498, Subd. 1b Aggravated First Degree Witness Tampering

609.185 Murder in the First Degree
609.19 Murder in the Second Degree
609.195 Murder in the Third Degree
609.20 Manslaughter in the First Degree
609.205 Manslaughter in the Second Degree
609.2112 Criminal Vehicular Homicide
609.2113 Criminal Vehicular Operation; Bodily Injury
609.2114 Criminal Vehicular Operation; Unborn Child

Additional Exclusionary PRIOR Offenses for CRP

152.021 Controlled Substance Crime 1st Degree
152.022 Controlled Substance Crime 2nd Degree
152.023 Controlled Substance Crime 3rd Degree
152.024 Controlled Substance Crime 4th Degree
Including all subdivisions of these statutes

609.221 Assault in the First Degree
609.222 Assault in the Second Degree
609.223 Assault in the Third Degree

609.228 Great Bodily Harm Caused by Distribution of Drugs
609.235 Use of Drugs to Injure or Facilitate Crime

609.24 Simple Robbery
609.245 Aggravated Robbery
609.247 Carjacking
609.25 Kidnapping
609.255 False Imprisonment

609.2661 Murder of an Unborn Child in the First Degree
609.2662 Murder of an Unborn Child in the Second Degree
609.2663 Murder of an Unborn Child in the Third Degree
609.2664 Manslaughter of an Unborn Child in the First Degree
609.2665 Manslaughter of an Unborn Child in the Second Degree
609.267 Assault of an Unborn Child in the First Degree
609.2671 Assault of an Unborn Child in the Second Degree
609.268 Injury or Death of an Unborn Child in Commission of Crime

609.322 Solicitation, Inducement, and Prostitution; Sex Trafficking
609.342 Criminal Sexual Conduct in the First Degree
609.343 Criminal Sexual Conduct in the Second Degree
609.344 Criminal Sexual Conduct in the Third Degree
609.345 Criminal Sexual Conduct in the Fourth Degree

609.561 Arson in the First Degree
609.562 Arson in the Second Degree
609.582 Subd. 1. Burglary in the First Degree
609.66 Subd. 1(e) Drive-By Shooting
609.687 Adulteration
609.855 Subd. 5. Shooting at or in Public Transit Vehicle or Facility

609.229 Crime Committed for Benefit of a Gang
609.377 Malicious Punishment of a Child
609.378 Neglect or Endangerment of a Child
624.713 Certain Persons Not To Possess Firearms
609.749 Harassment; Stalking

Step1.7
Are individuals serving more than one sentence eligible for release on CRP?
Yes, but only if the other sentence (s) is for a qualifying offense OR if it is not a qualifying offense, only after the individual has served the full term of imprisonment (reached SRD) for non-qualifying offenses. The individual could start the treatment phase of CRP if they will reach the release milestone of the non-qualifying offenses with sufficient time to be released early on CRP.

Step 2.1
Can a person with a prior predatory offense be considered for CRP?
Yes, if they are no longer required to register for a Predatory Offense. Predatory offender is defined as someone who is *currently* required to register.

Step 2.2
How much time is needed to complete the appropriate level of treatment?
Treatment length is determined by individual needs and the progress of the participant.

Step 2.3
What if an individual absconded from supervision or work release?
Check this question no. A *conviction* for escape or attempted escape is required to leave this question blank. Note information on absconding in Step 3, on questions 1, 5 or 6, as appropriate.

Step 2.4
Can a non-citizen be eligible for CRP?
Yes as long as they do not have an unresolved Immigration and Customs Enforcement detainer.

Step 2.5
How do I know if an individual has a upward dispositional or durational departure?
In COMS choose “Construction Summary” and refer to the section titled Construction Decisions. In that section, choose the entry category “sent” for the obligation you wish to

inquire about. About one-third of the way down on the display is “Dispositional Departure” and “Durational Departure”. Departure information will be entered here.

Step 2.6
<u>What if the individual’s classification will not be minimum or medium on the CRP eligibility date?</u>
Consider when the individual’s classification will reduce to at least medium. If there would be enough time to participate in the CRP after reduction to medium this question can be checked yes and an explanation provided in the comments for Step 3.

If the individual appears to be eligible after completing Steps 1 and 2, continue on to Step 3. If the individual is deemed ineligible in Steps 1 and/or 2, continue on to Step 4.

Step 3.1
<u>Under what circumstances should the yes box be checked?</u>
If the caseworker determines there is documentation that the individual poses a risk based on any item(s) in the checklist, then the yes box must be checked and documentation provided to substantiate the risk. The MnSTARR score must be referenced also.

Step 3.2
<u>Will gang affiliation disqualify individuals?</u>
Not necessarily. Document any evidence of gang activity in comments. Only check yes if the individual has discipline or a criminal conviction for gang activity during this incarceration.

Step 3.3
<u>At what point is the letter sent to the prosecutor and court for input?</u>
The letters should be sent to the prosecutor and court as soon as it is determined the individual meets the criteria in Steps 1 and 2 and wishes to be considered for CRP. A sample letter is attached to the policy. Please make sure you are using the most current example letter. Significant changes have been made to the letter. Wait 30 days for a response before completing this question.

Step 3.4
<u>Should active probation cases be included in the response to this question?</u>
Yes, they are a “tried matter”. Current detainers that will be satisfied prior to the CRP release date should also be included.

Step 3.5
<u>What if the individual participated in the “old” or initial CRP?</u>
If it was during *the current term of incarceration*, Answer Step 3, Question 5, “Yes.”

Step 3.6

What if the individual previously failed an early release program such as the "old" CRP, work release, or Challenge Incarceration Program (CIP)?

If it was during the current term of incarceration, answer question 6 in Step 3 "yes". If it was during another term of incarceration, leave this question blank but note the failure in Step 3.1 and add comments to explain.

Step 3.7

What if the individual has formal discipline in the last 6 months?

Check the yes box for this question and provide the notice of rule violation when submitting the screening form for further review. Include information for minor or major discipline if it was dealt with in the formal discipline system.

Step 3.8

How and when is the behavioral health review initiated and what is behavioral health's role?

Once the caseworker determines that the incarcerated person meets criteria in Steps 1 and 2, the caseworker notifies behavioral health at the facility at which the individual is currently housed. The role of behavioral health staff is to notify the caseworker if there are any concerns with the individual participating in CRP.

Step 4

What is the role of the CRP Review Team?

The CRP Review Team reviews ***all*** CRP screening forms. This team consists of the case management supervisor, one other supervisor or one career case manager, and the assigned caseworker. The team confirms that the individual is either eligible or ineligible based on Steps 1 and 2. They also confirm that individuals who decline consideration for participation made a fully informed decision. If the individual is determined by the CRP Review Team to be ineligible based on Steps 1 and/or 2, no further review is required. The CRP Review Team notifies the individual that the individual is not eligible and completes Step 6 on the screening form in iShare. The caseworker enters a case note indicating the outcome of the CRP Review Team review.

If the individual is eligible per Steps 1 and 2, the CRP Review Team reviews the documentation for Step 3 considerations to determine completeness. Once the documentation is deemed complete, the CRP Review Team documents this on the screening form, completes a Case Review, and forwards those and all supporting information, including the release agreement, to the office of the deputy commissioner of client services and supports for review.

Step 5

What happens after the assistant commissioner's office reviews the CRP screening form and documentation?

The assistant commissioner reviews the CRP screening form and supporting documents. They notify the facility CRP Review Team and caseworker of their decision. The caseworker then notifies the applicant of the decision. If the person has been approved and is recommended for substance use treatment, the caseworker must make a referral to the SUD treatment program no later than 12 months prior to the CRP release date (time permitting) and notify them of the CRP release date. The SUD treatment program must schedule the individual to begin treatment no later than ten months prior to the CRP release eligibility date, time permitting.

What agreement is the individual required to sign in order to be admitted to the treatment program?

The individual must sign an SUD Treatment Program Agreement in addition to the Conditional Release Agreement.

What happens if the individual fails to satisfactorily complete treatment while participating in treatment in preparation for early release on CRP status?

The individual is subject to the same rules and sanctions as any other individual who is participating in treatment, including the ability to appeal the termination.

How will the individual be supervised in the community on CRP status?

Community supervision will be much the same as Intensive Supervised Release. See policy 201.010, "Adult Community Supervision." There are two phases: Phase II and Phase III. Phase II is six months, divided into three levels of 60 days each. Phase II level 1 requires three face-to-face contacts per week with the agent. Each level reduces the number of contacts with the agent. Phase III is six months and requires two contacts per month. The individual must submit a schedule to the agent. Free time in the community is gradually increased from four hours per week to unlimited at the agent's discretion with a 10:30 p m curfew.

The individual will be transferred to standard supervision (although they will still be on CRP status) when they reach their release milestone or after six months on Phase III. If the individual fails at any point while under supervision, they are at risk for returning to incarceration up to the expiration of their sentence. The term of imprisonment may not extend past the original expiration (termination) date.

Can an individual's release be rescinded without a hearing?

Yes, if the commissioner of corrections determines that continuation of the conditional release poses a danger the public or to an individual, the individual's release can be rescinded without a hearing. If rescinded, the individual must serve the remaining portion of their sentence.

If the individual violates their conditions of release, a hearings and release unit (HRU) hearing may be held to determine whether or not to revoke release and how much time the individual must serve. Revocation may require the individual to serve all or a portion of their remaining sentence.

When does conditional release end for those who successfully complete?
At sentence expiration. Although they may be transferred to regular supervised release supervision, they are still on conditional release until the termination date of their sentence.

What about individuals who apply to several early release programs, such as CRP, CIP, work release (WR), minimum, etc.?
Individuals may apply for several programs at the same time – we cannot deny them that right. The individual must make the final decision as to which program would best fit their needs.

What is required in terms of Release Planning?
The deputy commissioner of client services and supports may not grant conditional release unless a release plan is in place for the individual that addresses, at a minimum, plans for aftercare, community-based SUD treatment, gaining employment and securing housing. The SUD release planner will work with the caseworker to develop the plan. If the individual is not required to do treatment, an SUD release planner is not assigned and release planning would instead follow the normal processed.

Where can additional information on the CRP be located?
In policies 205.150 and 201.010.

If an interstate case appears to meet criteria, can the individual be considered for the CRP?
Yes. Before proceeding, contact the central office transfer coordinator, to determine whether a return to Minnesota is feasible.

Are individuals who are housed in other facilities (HOF) eligible?
Yes. If they meet statutory and department criteria they should be screened using the CRP screening form. If they appear to be eligible, contact the central office transfer coordinator for further direction.