

**HF 3930 (Frederick); SF 3761 (Frentz):  
MSRS Correctional State Employees Retirement Plan;  
Adding “Music Therapist” to List of Covered Positions,  
Permitting Service Credit Transfer**

Prepared by: Sean Kelly, Deputy Director

Date: February 29, 2024

**Introduction**

- Affected Plan:** Minnesota State Retirement System (MSRS) Correctional State Employees Retirement Plan (Correctional Plan)
- Laws Amended:** Minnesota Statutes, section 352.91, subdivision 3f;
- Laws Added:** Uncoded session law
- Brief Description:** The bill adds the position of “music therapist” to the list of Department of Human Services (DHS) positions covered by the MSRS Correctional Plan.

**Background**

**MSRS Correctional Plan**

The MSRS Correctional Plan covers state correctional officers, supervisors, and other specified Department of Corrections (DOC) and Department of Human Services (DHS) employees if at least 75 percent of the employee's working time is spent in direct contact with inmates or patients in a correctional facility, the state-operated forensic services program, the Minnesota Sex Offender Program, or the Minnesota Specialty Health System-Cambridge. The Correctional Plan provides greater benefits to vested employees than is provided by the MSRS General State Employees Retirement Plan (General Plan) but is also more expensive to employees and employers as shown in the chart below.

|                              | <b>MSRS General Plan</b>                              | <b>MSRS Correctional Plan</b>                         |
|------------------------------|---|---|
| <i>Benefit Formula</i>       | 1.7% of average high five salary per years of service | 2.2% of average high five salary per years of service |
| <i>Normal Retirement Age</i> | 66  | 55  |
| <i>Early Retirement Age</i>  | 55  | 50  |

|                                   | MSRS General Plan | MSRS Correctional Plan |
|-----------------------------------|-------------------|------------------------|
| <i>Employee Contribution Rate</i> | 5.5%              | 9.6%                   |
| <i>Employer Contribution Rate</i> | 6.25%             | 18.85%                 |

The legislature recognizes, under current law for the Correctional Plan,<sup>1</sup> that special retirement benefits are provided to correctional employees. Correctional employees may need to retire earlier than other public employees due to the demands of working in state correctional facilities or other settings where employees covered by the Correctional Plan work, such as the state-operated forensic services program.

### Coverage of DHS Employees

DHS administers several programs to provide care for those in the custody of the state due to a criminal proceeding or who have been civilly committed. An example of one such program is the state-operated forensic services program at the Minnesota Security Hospital located in St. Peter. The statutes list the positions at DHS eligible to participate in the Correctional Plan.<sup>2</sup> To be covered by the Correctional Plan, the statutes require that (1) the DHS employee be employed in one of the listed positions and spend at least 75% of the employee’s working time in direct contact with patients; and (2) the Commissioner of Human Services has certified to the MSRS executive director that the employee has met the required level of direct contact.

## Section- by- Section Summary

Section 1 amends section 352.91, subdivision 3f, to add “music therapist” to the list of positions covered by the Correctional Plan. The subsequent clauses are renumbered. Section 1 is effective on the first day of the first payroll period occurring after the date of enactment.

Section 2 is an authorization to permit employees working as a music therapist to transfer past service credit from the General Plan to the Correctional Plan, if elected by the employee. To transfer past service credit, the employee must follow the process outlined in section 352.955, subdivision 1.

The employee can elect a service credit transfer if the employee’s prior service would have been considered Correctional Plan service had the employee been covered by the plan at the time. In addition, the employee must pay the difference between the General Plan and Correctional Plan employee contributions for the period. If the employee makes the payment, then the employer must pay the difference between the plans’ employer contributions for the period.

Section 2 is effective the day following final enactment.

<sup>1</sup> Minn. Stat. §352.90

<sup>2</sup> Minn. Stat. §352.91, subd. 3f.

## Analysis

### DHS Procedure for Adding Covered Positions

Section 352.91, subdivision 4a, sets forth a process for adding to the positions eligible for Correctional Plan coverage listed in the statute. Under the law, DHS must use an established procedure and a standing review committee to evaluate requests from employees and determine whether an employment position satisfies specific requirements under section 352.91, subdivision 4a. The procedure must provide for an evaluation of the position to determine if the employee:

1. routinely spends 75% of the employee's time in direct contact with inmates or patients; and
2. is regularly engaged in the rehabilitation, treatment, custody, or supervision of inmates or patients.

If the employee satisfies the two requirements and the standing review committee recommends that the position be covered, the DHS commissioner may recommend that the employment position be included in Correctional Plan coverage. The commissioner must submit the recommendation, along with supporting documentation, to the chair and executive director of the Legislative Commission on Pensions and Retirement, and the chairs of the state government committees in the House and Senate by January 15.

### Compliance with Procedure, Appropriateness of Adding Music Therapist Position

The DHS procedure under section 352.91, subdivision 4a, was not followed for this bill. However, DHS conducted a review of the music therapist position description after the bill was introduced. DHS, in an email to LCPR staff, stated that the music therapist position, based on the position description, meets the statutory requirements for retirement coverage by the Correctional Plan.

### Transfer of Past Service from the General Plan to the Correctional Plan

Section 352.995, subdivision 1, permits an employee to transfer eligible service from the General Plan to the Correctional Plan if the employee's position is added to the Correctional Plan using the procedure under section 352.91, subdivision 4a, as described above. Since that procedure was not followed in this case, it is possible that DHS or MSRS would not permit employees in the newly added music therapist position to transfer service credit to the Correctional Plan.

For employees in the music therapist position to transfer service credit to the Correctional Plan, authorization is needed. This authorization is provided by section 2 of the bill. Previous legislation has included a similar authorization when adding other DHS positions to the Correctional Plan without a recommendation from DHS under section 352.91, subdivision 4a.

As mentioned in the Section-by-Section Summary, if the employee elects to transfer past service credit under section 352.995, a payment is required by the employee and employer before the transfer may occur. LCPR staff does not have information on the number of employees that might be affected by the

bill and given the opportunity to transfer past service credit. As a result, LCPR staff are not aware of the potential cost to employees or DHS.

### **Higher Contribution Rates and Cost to Purchase Past Service Credit**

Adding the music therapist position to the Correctional Plan will result in additional costs to both the employer and employee. DHS employees who work in the state-operated forensic services program or the Minnesota Sex Offender Program are either covered by the General Plan or the Correctional Plan. MSRS General employee and employer contribution rates are currently set at 5.5% and 6.25% of pay, respectively. These rates are lower than the current Correctional Plan employee and employer contribution rates of 9.6% and 18.85% of pay, respectively.

LCPR staff does not have information on the number of employees that might be affected by the bill. The cost to the employer is an additional 12.6% of the covered payroll of the affected employees.

As mentioned above, if an employee elects to transfer past service credit under section 352.995, a payment is required by the employee and the employer. The employee must pay the difference between the General Plan and Correctional Plan employee contributions for the period. If the employee makes the payment, then the employer must pay the difference between the plans' employer contributions for the period. LCPR staff are not aware of the potential costs of these payments.

The addition of this position is not likely to have a meaningful financial impact on the Correctional Plan. Adding additional employees to a pension plan can have an impact on both the liabilities and assets. Although more people in a pension plan result in more benefits being paid out, which adds to the liability, the employee and employer contribution rates are intended to pay for that additional liability, aiming for a cost neutral outcome.