

preexisting conditions. Every application for medicare supplement insurance shall require a listing of all health and accident insurance maintained by the applicant as of the date the application is taken.

Subd. 2. REFUNDS. Notwithstanding the provisions of section 62A.38, an insurer which issues a medicare supplement plan to any person who has one plan then in effect, except as permitted in subdivision 1, shall, at the request of the insured, either refund the premiums or pay any claims on the policy, whichever is greater.

Subd. 3. ACTION BY COMMISSIONER. If the commissioner determines after an investigation that an insurer has issued a medicare supplement plan to a person who already has one plan, except as permitted in subdivision 1, the commissioner shall notify the insurer in writing of his or her determination. If the insurer thereafter fails to take reasonable action to prevent overselling, the commissioner may, in the manner prescribed in chapter 14, revoke or suspend the insurer's authority to sell accident and health insurance in this state or impose a civil penalty not to exceed \$10,000, or both.

#### Sec. 14. [62A.44] APPLICATIONS.

No individual medicare supplement plan shall be issued or delivered in this state unless a signed and completed copy of the application for insurance is left with the applicant at the time application is made.

Approved June 6, 1983

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### CHAPTER 264 — H.F.No. 582

*An act relating to corrections; clarifying the powers of the commissioner of corrections; limiting certain inmate functions; authorizing the use of necessary force to prevent escape; providing for the costs of transporting juvenile delinquents committed to the commissioner of corrections; providing for supervision of gross misdemeanor probationers; removing archaic language; amending Minnesota Statutes 1982, sections 241.01, subdivision 3a; 241.23; 242.31, subdivisions 1 and 3; 243.17, subdivision 1; 243.52; 243.58; 243.62; 609.135, subdivision 1; and 624.714, subdivision 13.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1982, section 241.01, subdivision 3a, is amended to read:

Subd. 3a. **COMMISSIONER, POWERS AND DUTIES.** The commissioner of corrections ~~shall have~~ has the following powers and duties:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(a) To accept persons committed to him by the courts of this state for care, custody, and rehabilitation.

(b) To determine the place of confinement of committed persons in a correctional facility or other facility of the department of corrections and to prescribe reasonable conditions, ~~and~~ rules, ~~and~~ regulations for their employment, conduct, instruction, and discipline within or ~~without~~ outside the facility. Inmates shall not exercise custodial functions or have authority over other inmates ~~or~~. Inmates may serve on the board of directors or hold any an executive position subordinate to correctional staff in any corporation, private industry or educational program located on the grounds of, or conducted within, a state correctional facility with written permission from the chief executive officer of the facility.

(c) To administer the money and property of the department.

(d) To administer, maintain, and inspect all state correctional facilities.

(e) To transfer authorized positions and personnel between state correctional facilities as necessary to properly staff facilities and programs.

(f) To utilize state correctional facilities in the manner ~~he determines~~ deemed to be most efficient and beneficial in the accomplishment of these to accomplish the purposes of this section, but not to close the Minnesota correctional facility-Stillwater or the Minnesota correctional facility-St. Cloud without legislative approval. The commissioner may place juveniles and adults at the same state minimum security correctional facilities, if there is total separation of and no regular contact between juveniles and adults, except contact incidental to admission, classification, and mental and physical health care.

(g) To organize the department and employ personnel he deems necessary to discharge the functions of the department, including a chief executive officer for each facility under his control who shall serve in the unclassified civil service and may, under the provisions of section 43A.33, be removed only for cause, and two internal affairs officers for security who shall be in the unclassified civil service.

(h) To define the duties of these employees and to delegate to them any of his powers, duties and responsibilities, subject to his control and the conditions he prescribes.

(i) To annually develop a comprehensive set of goals and objectives designed to clearly establish the priorities of the department of corrections. This report shall be submitted to the governor and the state legislature commencing January 1, 1976. The commissioner ~~shall have the power to~~ may establish ad hoc advisory committees.

Sec. 2. Minnesota Statutes 1982, section 241.23, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

241.23 ~~WARDEN~~ CHIEF EXECUTIVE OFFICER TO MAKE SELECTION.

When ~~convicts may be required~~ inmates are to be used in any work as provided for in authorized by sections 241.20 to 241.23, they shall be selected, with the approval of the commissioner of corrections, by the chief executive officer of the ~~Minnesota correctional facility-Stillwater or the Minnesota correctional facility-St. Cloud~~ any state adult correctional facility, in the following manner and order of preference:

(1) ~~Suitable paroled convicts who are being detained awaiting private employment~~ inmates of state adult minimum security facilities;

(2) ~~Convicts~~ Inmates who are not habitual offenders or guilty of heinous crimes and who, in the opinion of the chief executive officers of the facilities, are not incorrigible and who are physically capable and otherwise suitable for the character of the work provided for in sections 241.20 to 241.23.

Sec. 3. Minnesota Statutes 1982, section 242.31, subdivision 1, is amended to read:

Subdivision 1. Whenever a person who has been committed to the custody of the commissioner of corrections upon conviction of a crime following reference for prosecution under the provisions of section 260.125 is finally discharged from his control by order of the ~~Minnesota corrections board commissioner~~, that discharge shall restore ~~that the person to all civil rights and, if so ordered by the Minnesota corrections board commissioner of corrections~~, also shall have the effect of setting aside the conviction, nullifying the same and of purging that person thereof. The ~~Minnesota corrections board commissioner~~ shall file a copy of the order with the district court of the county in which the conviction occurred, ~~whereupon~~; upon receipt, the court shall order the conviction set aside.

Sec. 4. Minnesota Statutes 1982, section 242.31, subdivision 3, is amended to read:

Subd. 3. The ~~Minnesota corrections board commissioner of corrections~~ shall file a copy thereof of the order with the district court of the county in which the conviction occurred, ~~whereupon~~; upon receipt, the court shall order the conviction set aside and all records pertinent to the conviction sealed. These records shall only be reopened in the case of a judicial criminal proceeding thereafter instituted at a later date.

The term "records" ~~shall include~~ includes, but is not limited to, all matters, files, documents and papers incident to the arrest, indictment, information, complaint, trial, appeal, dismissal and discharge, which relate to the conviction for which the order was issued.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 5. Minnesota Statutes 1982, section 243.17, subdivision 1, is amended to read:

Subdivision 1. **ALLOWED EXPENSES.** The necessary expenses of sheriffs and other peace officers incurred in conveying convicts convicted persons and children adjudicated delinquent and committed to the custody of the commissioner of corrections to the Minnesota correctional facility-Stillwater or the Minnesota correctional facility-St. Cloud the appropriate adult or juvenile correctional facility as designated by the commissioner of corrections, including per diem and expenses of guards, shall be ~~approved~~ allowed by the commissioner of finance and paid out of the state treasury. The commissioner of finance may allow for such expenses and pay for the necessary expenses incurred by the sheriff or, deputy, or other peace officer in going to and returning from the Minnesota correctional facility-Stillwater or the Minnesota correctional facility-St. Cloud correctional facility and \$10 per day for each guard, and such sum as is necessary for railroad fare and actual traveling expenses. Not more than one guard shall be allowed for one prisoner, but one additional guard shall be allowed for every two additional prisoners. In any county wherein the sheriff is paid upon a fee basis, he shall also receive \$10 for each day necessarily spent in conveying prisoners to the Minnesota correctional facility-Stillwater or the Minnesota correctional facility-St. Cloud facility for the delivery of such convict or convicts the convicted or adjudicated persons, in a form prescribed by the commissioner of finance.

Sec. 6. Minnesota Statutes 1982, section 243.52, is amended to read:  
243.52 **DISCIPLINE; PREVENTION OF ESCAPE.**

If any convict shall offer violence to inmate of any state adult correctional facility assaults any officer, guard, or any other person or convict inmate, he the assaulted person may defend himself in any manner and by any means which may appear to be necessary under the circumstances by the use of force. If any such convict shall attempt inmate attempts to injure damage the buildings or appurtenances, or to resist resists the lawful authority of any officer or guard, or shall refuse refuses to obey his reasonable demands, such or attempts to escape, the officer or guard may enforce obedience and discipline in such manner as may appear necessary; and, or prevent escape by the use of force. If in so doing, any convict so inmate resisting lawful authority shall be necessarily is wounded or killed by such the use of force by the officer, guard, or assistants, he shall be held justified that conduct is authorized under this section.

As used in this section, "use of force" means conduct which is authorized by sections 609.06 to 609.066. An officer or guard may use force in the same manner as authorized for peace officers under sections 609.06 to 609.066.

Sec. 7. Minnesota Statutes 1982, section 243.58, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

**243.58 REWARD FOR ESCAPED INMATE ESCAPED INMATES;  
WARRANT; REWARD.**

Upon the escape of If an inmate escapes from any state correctional facility under the control of the commissioner of corrections, the commissioner shall issue a warrant directed to any peace officer requiring that the fugitive be taken into immediate custody and returned to any state correctional facility designated by the commissioner. The chief executive officer of the facility from which the escape occurred shall use all proper means to apprehend and return the escapee, which may include the offer of a reward of not more than \$100 to be paid from the state treasury, for information leading to the arrest and return to custody of the escapee.

Sec. 8. Minnesota Statutes 1982, section 243.62, is amended to read:

**243.62 SELLING OF LABOR OF CONVICTS INMATES PROHIBITED.**

It shall be is unlawful for the commissioner of corrections, or the chief executive officer of the Minnesota correctional facility Stillwater of any state adult correctional facility, or any person exercising control of or supervision over any convict inmate sentenced to and confined in the facility to enter into any contract or agreement, or any arrangement, whereby in which the labor or service of the convict inmate is either sold or leased or otherwise disposed of for hire to any person or to any party.

Sec. 9. Minnesota Statutes 1982, section 609.135, subdivision 1, is amended to read:

Subdivision 1. Except when a sentence of life imprisonment is required by law, or when a mandatory minimum term of imprisonment is required by section 609.11, any court may stay imposition or execution of sentence and place the defendant on probation with or without supervision and on the terms the court prescribes, including restitution when practicable. The court may order the supervision to be under the probation officer of the court, or, if there is none and the conviction is for a felony or gross misdemeanor, by the commissioner of corrections, or in any case by some other suitable and consenting person.

A court may not stay the revocation of the driver's license of a person convicted of violating the provisions of section 169.121.

Sec. 10. Minnesota Statutes 1982, section 624.714, subdivision 13, is amended to read:

Subd. 13. **EXEMPTIONS, PRISON GUARDS; ADULT CORRECTIONAL FACILITY OFFICERS.** A permit to carry a pistol is not required of a guard at any officer of a state adult correctional institution facility when on guard duty or otherwise engaged in an assigned duty.

Sec. 11. **EFFECTIVE DATE.**

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sections 1 to 10 are effective the day following final enactment.

Approved June 6, 1983

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**CHAPTER 265 — H.F.No. 636**

*An act relating to local government; authorizing sewer and water commissions to obtain accountant services; permitting the sale of certain county property; amending Minnesota Statutes 1982, section 116A.24, subdivision 2.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1982, section 116A.24, subdivision 2, is amended to read:

Subd. 2. Subject to the approval of the board or boards except to the extent that approval is waived by the board or boards in an order filed with and confirmed by order of the district court, the water or sewer or water and sewer commission or when a multicounty system is involved a county board may do all things necessary to establish, construct, operate and maintain a system including but not limited to the following:

(a) Employ on such terms as it deems advisable, persons or firms performing engineering, legal or other services of a professional nature; require any employee to obtain and file with it an individual bond or fidelity insurance policy; and procure insurance in such amounts as it deems necessary against liability of the board or its officers and employees or both, for personal injury or death and property damage or destruction, with the force and effect stated in chapter 466, and against risks of damage to or destruction of any of its facilities, equipment, or other property as it deems necessary.

(b) Construct or maintain its systems or facilities in, along, on, under, over, or through public streets, bridges, viaducts, and other public rights-of-way without first obtaining a franchise from any local government unit having jurisdiction over them; but such facilities shall be constructed and maintained in accordance with the ordinances and resolutions of any such government unit relating to construction, installation, and maintenance of similar facilities in such public properties and shall not obstruct the public use of such rights-of-way.

(c) Enter into any contract necessary or proper for the exercise of its powers or the accomplishment of its purposes.

(d) Have the power to adopt rules and regulations relating to the establishment of water or sewer rentals or user fees as may be deemed advisable and the operation of any system operated by it, and may provide penalties for the violation thereof not exceeding the maximum which may be specified for a misdemeanor. Any rule or regulation prescribing a penalty for violation shall be published at least once in a newspaper having general circulation in the area.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.