

CHAPTER 252—H.F.No. 375

An act relating to corrections; clarifying the authority of the commissioner of corrections in licensing and supervising institutions and facilities; providing for restitution by inmates for destruction of state property; clarifying terminology; authorizing the commissioner to adopt rules relating to payment of restitution by inmates; authorizing the forfeiture of contraband money or property; clarifying provisions relating to county probation reimbursement; providing a penalty for assaults on correctional employees; amending Minnesota Statutes 1986, sections 241.021, subdivision 1; 241.08, subdivision 1; 241.26, subdivision 5; 241.69, subdivision 2; 243.23, subdivision 3; 243.24, subdivision 1, and by adding a subdivision; 260.311, subdivision 4; 609.2231, by adding a subdivision; and 641.264, subdivision 2.

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

Section 1, Minnesota Statutes 1986, section 241.021, subdivision 1, is amended to read:

Subdivision 1. **SUPERVISION OVER CORRECTIONAL INSTITUTIONS.** (1) The commissioner of corrections shall inspect and license all correctional facilities throughout the state, whether public or private, established and operated for the detention and confinement of persons detained or confined therein according to law except to the extent that they are inspected or licensed by other state regulating agencies. The commissioner shall promulgate pursuant to chapter 14, rules establishing minimum standards for these facilities with respect to their management, operation, physical condition, and the security, safety, health, treatment and discipline of persons detained or confined therein. Commencing September 1, 1980, no individual, corporation, partnership, voluntary association or other private organization legally responsible for the operation of a correctional facility may operate the facility unless licensed by the commissioner of corrections. The commissioner shall annually review the correctional facilities described in this subdivision, except as otherwise provided herein, to determine compliance with the minimum standards established pursuant to this subdivision. The commissioner shall grant a license to any facility found to conform to minimum standards or to any facility which, in the commissioner's judgment, is making satisfactory progress toward substantial conformity and the interests and well-being of the persons detained or confined therein are protected. The commissioner shall have access to the buildings, grounds, books, records, staff and to persons detained or confined in these facilities. The commissioner may require the officers in charge of these facilities to furnish all information and statistics the commissioner deems necessary, upon forms furnished by the commissioner at a time and place designated by the commissioner.

(2) Any state agency which regulates, inspects, or licenses certain aspects of correctional facilities shall, insofar as is possible, ensure that the minimum standards it requires are substantially the same as those required by other state agencies which regulate, inspect, or license the same aspects of similar types of correctional facilities, although at different correctional facilities.

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(3) Nothing in this section shall be construed to limit the commissioner of corrections' authority to promulgate rules establishing standards of eligibility for counties to receive funds under sections 401.01 to 401.16, or to require counties to comply with operating standards the commissioner establishes as a condition precedent for counties to receive that funding.

(4) When the commissioner finds that any facility described in clause (1), except foster care facilities for delinquent children and youth as provided in subdivision 2, does not substantially conform to the minimum standards established by the commissioner and is not making satisfactory progress toward substantial conformance, the commissioner shall promptly notify the chief executive officer and the governing board of the facility of the deficiencies and order that they be remedied within a reasonable period of time. The commissioner may by written order restrict the use of any facility which does not substantially conform to minimum standards to prohibit the detention of any person therein for more than 72 hours at one time. When, after due notice and hearing, the commissioner finds that any facility described in this subdivision, except county jails and lockups as provided in sections 641.26, 642.10, and 642.11, does not conform to minimum standards, or is not making satisfactory progress toward substantial compliance therewith, the commissioner may issue an order revoking the license of that facility. After revocation of its license, that facility shall not be used until its license is renewed. When the commissioner is satisfied that satisfactory progress towards substantial compliance with minimum standard is being made, the commissioner may, at the request of the appropriate officials of the affected facility supported by a written schedule for compliance, grant an extension of time for a period not to exceed one year.

(5) As used in this subdivision, "correctional facility" means any facility, including a group home, having a residential component, the primary purpose of which is to serve persons placed therein by a court, court services department, parole authority, or other correctional agency having dispositional power over persons charged with, convicted or adjudicated to be guilty or delinquent.

Sec. 2. Minnesota Statutes 1986, section 241.08, subdivision 1, is amended to read:

Subdivision 1. The chief executive officer of each institution under the jurisdiction of the commissioner of corrections shall have the care and custody of all money belonging to inmates thereof which may come into the chief executive officer's hands, keep accurate accounts thereof, and pay them out under rules prescribed by law under section 243.23, subdivision 3, or by the commissioner of corrections, taking vouchers therefor. The chief executive officer shall give such additional bond as the commissioner may require, conditioned to safely keep and account for such funds. All such money received by any officer or employee shall be paid to the chief executive officer forthwith. Every such executive officer, at the close of each month, or oftener if required by the commissioner, shall forward to the commissioner a statement of the amount of all money so received and the names of the inmates from whom received,

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accompanied by a check for the amount, payable to the state treasurer. On receipt of such statement, the commissioner shall transmit the same to the commissioner of finance, together with such check, who shall deliver the same to the state treasurer. Upon the payment of such check, the amount shall be credited to a fund to be known as "Correctional Inmates Fund," for the institution from which the same was received. All such funds shall be paid out by the state treasurer upon vouchers duly approved by the commissioner of corrections as in other cases. The commissioner may permit a contingent fund to remain in the hands of the executive officer of any such institution from which necessary expenditure may from time to time be made.

Sec. 3. Minnesota Statutes 1986, section 241.26, subdivision 5, is amended to read:

Subd. 5. **EARNINGS; WORK RELEASE ACCOUNT.** The net earnings of each inmate participating in the work release program provided by this section may be collected by or forwarded to the commissioner of corrections for deposit to the account of the inmate in the work release account in the state treasury, or the inmate may be permitted to collect, retain, and expend the net earnings from the inmate's employment under rules established by the commissioner of corrections. The money collected by or forwarded to the commissioner under the rules shall remain under the control of the commissioner for the sole benefit of the inmate. Wages under the control of the commissioner and wages retained by the inmate may be disbursed by the commissioner or expended by the inmate for the following purposes and in the following order:

(1) The cost of the inmate's keep as determined by subdivision 7, which money shall be deposited in the general fund of the state treasury if the inmate is housed in a state correctional facility, or shall be paid directly to the place of confinement as designated by the commissioner pursuant to subdivision 1;

(2) Necessary travel expense to and from work and other incidental expenses of the inmate;

(3) Support of inmate's dependents, if any;

(4) Court-ordered restitution, if any;

(5) Contribution to any programs established by law to aid victims of crime, provided that the contribution must not be more than 20 percent of the inmate's gross wages;

(6) Restitution to the commissioner of corrections ordered by a prison disciplinary hearing officer for damage to property caused by an inmate's conduct;

(7) After the above expenditures, the inmate shall have discretion to direct payment of the balance, if any, upon proper proof of personal legal debts;

~~(7)~~ (8) The balance, if any, shall be disbursed to the inmate as provided in section 243.24, subdivision 1.

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All money in the work release account are appropriated annually to the commissioner of corrections for the purposes of the work release program.

Sec. 4. Minnesota Statutes 1986, section 241.69, subdivision 2, is amended to read:

Subd. 2. **EXAMINATION.** When any person confined in an adult correctional institution under the control of the commissioner of corrections is alleged to be a mentally ill person, the chief executive officer or other person in charge of the institution shall cause the person to be examined by a licensed physician especially qualified in the diagnosis of mental illness, or, if none is available, by any licensed physician or licensed ~~certified~~ consulting psychologist available to the institution.

Sec. 5. Minnesota Statutes 1986, section 243.23, subdivision 3, is amended to read:

Subd. 3. **EXCEPTIONS.** Notwithstanding sections 241.26, subdivision 5, and 243.24, subdivision 1, the commissioner may promulgate rules for the disbursement of funds earned under subdivision 1, or other funds in an inmate account, and section 243.88, subdivision 2 for the support of families and dependent relatives of the respective inmates, for the payment of court-ordered restitution, contribution to any programs established by law to aid victims of crime, provided that the contribution shall not be more than 20 percent of an inmate's gross wages, for the payment of restitution to the commissioner ordered by prison disciplinary hearing officers for damage to property caused by an inmate's conduct, and for the discharge of any legal obligations arising out of litigation under this subdivision. An inmate of an adult correctional facility under the control of the commissioner is subject to actions for the enforcement of support obligations and reimbursement of any public assistance rendered the dependent family and relatives. The commissioner may conditionally release an inmate who is a party to an action under this subdivision and provide for the inmate's detention in a local detention facility convenient to the place of the hearing when the inmate is not engaged in preparation and defense.

Sec. 6. Minnesota Statutes 1986, section 243.24, subdivision 1, is amended to read:

Subdivision 1. **SOLE BENEFIT OF INMATE.** Any money arising under section 243.23 shall be and remain under the control of the commissioner of corrections and shall be for the sole benefit of the inmate, unless by special order of the commissioner of corrections it shall be used as designated in section 243.23, subdivision 3, or for rendering assistance to the inmate's family or dependent relatives, under such rules as to time, manner and amount of disbursements as the commissioner of corrections may prescribe. Unless ordered disbursed as hereinbefore prescribed or for an urgency determined in each case by the chief executive officer of the facility, a portion of such earnings in an amount to be determined by the commissioner shall be set aside and kept by the facility in the public welfare fund of the state for the benefit of the inmate and

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for the purpose of assisting the inmate when leaving the facility and if released on parole said sum to be disbursed to the inmate in such amounts and at such times as the commissioner of corrections may authorize and on final discharge, if any portion remains undisbursed, it shall be transmitted to the inmate.

Sec. 7. Minnesota Statutes 1986, section 243.24, is amended by adding a subdivision to read:

Subd. 3. FORFEITURE OF CONTRABAND MONEY OR PROPERTY. Money or property received by or in the possession of an inmate that is determined by the head of the institution after an institutional disciplinary hearing to be contraband within the meaning of rules adopted by the commissioner of corrections may be seized by the institution head or by the head's designee. Property seized under this subdivision may be sold or destroyed if the property is not claimed by its rightful owner within 30 days. Proceeds from a sale or money seized pursuant to this subdivision must be deposited in the inmate social welfare fund for the benefit of the inmates of the facility. The commissioner of corrections shall adopt rules consistent with this section. The state or an official, employee, or agent of the state is not liable for any damages due to the disposal of personal property or use of money in accordance with this section.

Sec. 8. Minnesota Statutes 1986, section 260.311, subdivision 4, is amended to read:

Subd. 4. COMPENSATION. In counties of more than 200,000 population, a majority of the judges of the district court may direct the payment of such salary to probation officers as may be approved by the county board, and in addition thereto shall be reimbursed for all necessary expenses incurred in the performance of their official duties. In all counties which obtain probation services from the commissioner of corrections the commissioner shall, out of appropriations provided therefor, pay probation officers the salary and all benefits fixed by the state ~~civil service~~ law or applicable bargaining unit and all necessary expenses, including secretarial service, office equipment and supplies, postage, telephone and telegraph services, and travel and subsistence. Each county receiving probation services from the commissioner of corrections shall reimburse the department of corrections for the total cost and expenses of such services as incurred by the commissioner of corrections. Total annual costs for each county shall be that portion of the total costs and expenses for the services of one probation officer represented by the ratio which the county's population bears to the total population served by one officer. For the purposes of this section, the population of any county shall be the most recent estimate made by the department of health. At least every six months the commissioner of corrections shall ~~certify to the state treasurer~~ bill for the total cost and expenses incurred by the commissioner on behalf of each county ~~to which~~ has received probation services ~~have been provided.~~ The ~~treasurer~~ commissioner of corrections shall notify each county of the cost and expenses ~~so certified~~ and the county shall pay to the ~~treasurer~~ commissioner the amount ~~certified~~ due for reimbursement.

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All such reimbursements shall be deposited in the general fund. Objections by a county to all allocation of such cost and expenses shall be presented to and determined by the commissioner of ~~administration~~ corrections. Each county providing probation services under this section is hereby authorized to use unexpended funds and to levy additional taxes for this purpose.

The county commissioners of any county of not more than 200,000 population shall, when requested to do so by the juvenile judge, provide probation officers with suitable offices, and may provide equipment, and secretarial help needed to render the required services.

Sec. 9. Minnesota Statutes 1986, section 609.2231, is amended by adding a subdivision to read:

Subd. 3. CORRECTIONAL EMPLOYEES. Whoever assaults an employee of a correctional facility as defined in section 241.021, subdivision 1, clause (5), while the employee is engaged in the performance of a duty imposed by law, policy or rule, and inflicts demonstrable bodily harm, is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

Sec. 10. Minnesota Statutes 1986, section 641.264, subdivision 2, is amended to read:

Subd. 2. TAX LEVIES; APPORTIONMENT OF COSTS. The county board of each cooperating county shall annually levy a tax in an amount necessary to defray its proportion of the net costs of maintenance and operation of the regional jail after deduction of payments for the care of inmates, and in addition shall levy a tax to repay the cost of construction or acquisition, equipping, and any subsequent improvement of the regional jail and for the retirement of any bonds issued for these purposes. The county board may levy these taxes without limitation as to the rate or amount, and the levy of these taxes shall not cause the amount of other taxes levied or to be levied by the county, which are subject to any such limitation, to be reduced in any amount whatsoever. The regional jail board shall apportion the costs of maintenance and operation, and of construction or acquisition, equipping, and improvement of the jail to each county (1) on the basis of the proportion that the population in that county bears to the total population in all of the cooperating counties, the population figures to be determined by the last previous federal census; or (2) according to a formula mutually agreed upon by all the cooperating counties.

Sec. 11. **EFFECTIVE DATE.**

Section 9 is effective August 1, 1987, and applies to crimes committed on or after that date.

Approved May 27, 1987

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