

CHAPTER 241

DEPARTMENT OF CORRECTIONS

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241.016 ANNUAL PERFORMANCE REPORT REQUIRED.

Subdivision 1. **Annual report.** (a) The department of corrections shall submit a performance report to the chairs and ranking minority members of the senate and house committees and divisions having jurisdiction over criminal justice funding by January 15 of each year. The issuance and content of the report must include the following:

- (1) department strategic mission, goals, and objectives;
- (2) the department-wide per diem, adult facility-specific per diems, and an average per diem, reported in a standard calculated method as outlined in the departmental policies and procedures; and
- (3) department annual statistics as outlined in the departmental policies and procedures.

(b) The department shall maintain recidivism rates for adult facilities on an annual basis. In addition, each year the department shall, on an alternating basis, complete a recidivism analysis of adult facilities, juvenile services, and the community services divisions and include a three-year recidivism analysis in the report described in paragraph (a). When appropriate, the recidivism analysis must include education programs, vocational programs, treatment programs, industry, and employment.

Subd. 2. [Repealed, 2001 c 210 s 30]

History: 2001 c 210 s 2

241.018 PER DIEM CALCULATION.

(a) The commissioner of corrections shall develop a uniform method to calculate the average department-wide per diem cost of incarcerating offenders at state adult correctional facilities. In addition to other costs currently factored into the per diem, it must include an appropriate percentage of capitol costs for all adult correctional facilities and 65 percent of the department's management services budget.

(b) The commissioner also shall use this method of calculating per diem costs for offenders in each state adult correctional facility. When calculating the per diem cost of incarcerating offenders at a particular facility, the commissioner shall include an appropriate percentage of capital costs for the facility and an appropriate prorated amount, given the facility's population, of 65 percent of the department's management services budget.

(c) The commissioner shall ensure that these new per diem methods are used in all future annual performance reports to the legislature and are also reflected in the department's biennial budget document.

History: 2001 c 210 s 3

241.021 LICENSING AND SUPERVISION OF INSTITUTIONS AND FACILITIES.

Subdivision 1. **Supervision over correctional institutions.** (a) Except as provided in paragraph (b), 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. Private adult correctional facilities shall have the authority of section 624.714, subdivision 13, if the department of corrections licenses the facility with such authority and the facility meets requirements of section 243.52. The commissioner shall review the correctional facilities described in this subdivision at least once every biennium, 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 may grant licensure up to two years. 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, at a time and place designated by the commissioner. The commissioner may require that any or all such information be provided through the department of corrections detention information system. The education program offered in a correctional facility for the detention or confinement of juvenile offenders must be approved by the commissioner of children, families, and learning before the commissioner of corrections may grant a license to the facility.

(b) For juvenile facilities licensed by the commissioner of human services, the commissioner may inspect and certify programs based on certification standards set forth in Minnesota Rules. For the purpose of this paragraph, "certification" has the meaning given it in section 245A.02.

(c) 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.

(d) 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.

(e) When the commissioner finds that any facility described in paragraph (a), 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.

(f) 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.

[For text of subs 2 to 3, see M.S.2000]

Subd. 4. Health care. The commissioner of corrections shall provide professional health care to persons confined in institutions under the control of the commissioner of corrections and pay the costs of their care in hospitals and other medical facilities not under the control of the commissioner of corrections. All reimbursements for these health care services shall be deposited in the general fund. The commissioner of corrections is authorized to contract with entities, including health care management companies, to provide health care to inmates. With respect to these contracts, these entities shall not be regulated as, or otherwise considered to be, health plan companies as defined in section 62Q.01, subdivision 4.

Subd. 4a. Chemical dependency treatment programs. All residential chemical dependency treatment programs operated by the commissioner of corrections to treat adults committed to the commissioner's custody shall comply with the standards mandated in Minnesota Rules, parts 9530.4100 to 9530.6500, or successor rule parts, for treatment programs operated by community-based treatment facilities. When the commissioners of corrections and human services agree that these established standards for community-based programs cannot reasonably apply to correctional facilities, alternative equivalent standards shall be developed by the commissioners and established through an interagency agreement.

Subd. 4b. Peer review committee. The commissioner of corrections shall establish a health care peer review committee. Sections 145.61 to 145.67 apply to the committee. The committee shall gather, review, and evaluate information relating to the on-site and off-site quality of care and treatment of offenders. The committee shall consist of:

- (1) the director of health services;
- (2) the department medical director;
- (3) the regional medical director of the contracted health care vendor;
- (4) the department director of nursing;
- (5) a physician from the contracting hospital provider; and
- (6) another physician who provides health care to offenders on site at a correctional facility.

[For text of subd 5, see M.S.2000]

Subd. 6. Background studies. (a) The commissioner of corrections is authorized to do background studies on personnel employed by any facility serving children or youth that is licensed under this section. The commissioner of corrections shall contract with the commissioner of human services to conduct background studies of individuals providing services in secure and nonsecure residential facilities and detention facilities who have direct contact, as defined under section 245A.04, subdivision 3, with persons served in the facilities. A disqualification of an individual in this section shall disqualify the individual from positions allowing direct contact or access to persons and residents receiving services in programs licensed by the departments of health and human services.

(b) A clerk or administrator of any court, the bureau of criminal apprehension, a prosecuting attorney, a county sheriff, or a chief of a local police department, shall assist in these studies by providing to the commissioner of human services, or the commissioner's representative, all criminal conviction data available from local, state, and national criminal history record repositories, including the criminal justice data

communications network, pertaining to the following individuals: applicants, operators, all persons living in the household, and all staff of any facility subject to background studies under this subdivision.

(c) The department of human services shall conduct the background studies required by paragraph (a) in compliance with the provisions of chapter 245A. For the purpose of this subdivision, the term "secure and nonsecure residential facility and detention facility" shall include programs licensed or certified under subdivision 2. The department of human services shall provide necessary forms and instructions, shall conduct the necessary background studies of individuals, and shall provide notification of the results of the studies to the facilities, individuals, and the commissioner of corrections. Individuals shall be disqualified under the provisions of chapter 245A.

If an individual is disqualified, the department of human services shall notify the facility and the individual and shall inform the individual of the right to request a reconsideration of the disqualification by submitting the request to the department of corrections.

(d) The commissioner of corrections shall review and decide reconsideration requests, including the granting of variances, in accordance with the procedures and criteria contained in chapter 245A. The commissioner's decision shall be provided to the individual and to the department of human services. The commissioner's decision to grant or deny a reconsideration of disqualification is the final administrative agency action.

(e) Facilities described in paragraph (a) shall be responsible for cooperating with the departments in implementing the provisions of this subdivision. The responsibilities imposed on applicants and licensees under chapter 245A shall apply to these facilities. The provisions of section 245A.04, subdivision 3, paragraph (e), shall apply to applicants, licensees, and individuals.

History: 2001 c 197 s 2; 2001 c 210 s 4-8

241.19 [Repealed, 2001 c 210 s 30]

241.272 FEE COLLECTION.

[For text of subds 1 to 5, see M.S.2000]

Subd. 6. **Use of fees.** Excluding correctional fees collected from offenders supervised by department agents under the authority of section 244.19, subdivision 1, paragraph (a), clause (3), all correctional fees collected under this section go to the general fund. Fees collected by agents under the authority of section 244.19, subdivision 1, paragraph (a), clause (3), shall go to the county treasurer in the county where supervision is provided. These fees may only be used in accordance with section 244.18, subdivision 6.

[For text of subd 7, see M.S.2000]

History: 1Sp2001 c 9 art 18 s 9

241.32 ESTABLISHMENT AND OPERATION BY STATE.

[For text of subds 1 to 3, see M.S.2000]

Subd. 4. **Emergency housing rental agreements.** The commissioner of corrections may enter into rental agreements per industry standards for emergency housing for inmates.

History: 1Sp2001 c 9 art 18 s 10

241.45 PUBLICATION OF RECOMMENDATIONS; REPORTS.

Subdivision 1. The ombudsman may publish conclusions and suggestions by transmitting them to the office of the governor. Before announcing a conclusion or recommendation that expressly or impliedly criticizes an administrative agency, or any

person, the ombudsman shall consult with that agency or person. When publishing an opinion adverse to an administrative agency, or any person, the ombudsman shall include in such publication any statement of reasonable length made to the ombudsman by that agency or person in defense or mitigation of the action.

Subd. 2. In addition to whatever reports the ombudsman may make on an ad hoc basis, the ombudsman shall at the end of each year report to the governor concerning the exercise of the ombudsman's functions during the preceding year.

History: *1Sp2001 c 9 art 18 s 11*

241.67 SEX OFFENDER TREATMENT; PROGRAMS; STANDARDS; DATA.

[For text of subs 1 to 7, see M.S.2000]

Subd. 8. **Community-based sex offender program evaluation project.** (a) For the purposes of this project, a sex offender is an adult who has been convicted, or a juvenile who has been adjudicated, for a sex offense or a sex-related offense which would require registration under section 243.166.

(b) The commissioner shall develop a long-term project to accomplish the following:

(1) provide follow-up information on each sex offender for a period of three years following the offender's completion of or termination from treatment;

(2) provide treatment programs in several geographical areas in the state;

(3) provide the necessary data to form the basis to recommend a fiscally sound plan to provide a coordinated statewide system of effective sex offender treatment programming; and

(4) provide an opportunity to local and regional governments, agencies, and programs to establish models of sex offender programs that are suited to the needs of that region.

(c) The commissioner shall establish an advisory task force consisting of county probation officers from Community Corrections Act counties and other counties, court services providers, and other interested officials. The commissioner shall consult with the task force concerning the establishment and operation of the project.

[For text of subd 9, see M.S.2000]

History: *2001 c 210 s 9*

241.69 MENTAL HEALTH UNIT; ESTABLISHMENT.

Subdivision 1. **Authority; rules.** The commissioner of corrections shall, in accordance with applicable rules and standards prescribed by the department of human services, establish, staff, equip, maintain, and operate at one of the adult correctional institutions under the commissioner's control a mental health unit for the care and treatment of those inmates of state correctional institutions who become mentally ill.

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 director of psychological services, or warden 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 mental health professional available to the institution.

Subd. 3. **Transfer.** If the licensed mental health professional finds the person to be mentally ill and in need of short term care, the examining health care professional may recommend transfer by the commissioner of corrections to the mental health unit established pursuant to subdivision 1.

Subd. 4. **Commitment.** If the examining health care professional or licensed mental health professional finds the person to be mentally ill and in need of long term care in a hospital, or if an inmate transferred pursuant to subdivision 3 refuses to voluntarily participate in the treatment program at the mental health unit, the director of

psychological services of the institution or the mental health professional shall initiate proceedings for judicial commitment as provided in section 253B.07. Upon the recommendation of the licensed mental health professional and upon completion of the hearing and consideration of the record, the court may commit the person to the mental health unit established in subdivision 1 or to another hospital. A person confined in a state correctional institution for adults who has been adjudicated to be mentally ill and in need of treatment may be committed to the commissioner of corrections and placed in the mental health unit established in subdivision 1.

Subd. 5. **Discharge.** The director of psychological services of the mental health unit established under this section may, subject to the provisions of chapter 253B, provisionally discharge any inmate patient admitted as mentally ill without discharging the commitment and order the inmate patient's release into the general population of the institution from which admitted, subject to return to the facility for further treatment.

When the director of psychological services of the facility certifies that a patient is no longer in need of institutional care for mental illness the director of psychological services shall discharge the patient to the institution from which committed, and the discharge shall also discharge the mental illness commitment.

A copy of the certification that the inmate is no longer in need of care for mental illness shall be transmitted to the commissioner of corrections. The commissioner of corrections shall give serious consideration to the aforementioned certification for purposes of their supervision over the inmate upon the inmate's release.

Subd. 6. **Transfer upon expiration of sentence.** If the sentence of a person who has been adjudicated to be mentally ill and committed to the mental health unit established under this section should expire before the person recovers and is discharged therefrom, and, in the judgment of the director of psychological services of the unit, the person requires further hospitalization for mental illness, the person shall be transferred by the commissioner of corrections to a state hospital designated by the commissioner of human services, there to be detained as in the case of other mentally ill persons under judicial commitment.

Subd. 7. **Costs.** The costs of the commitment proceedings under this section shall be borne by the state.

Subd. 8. **Definitions.** For the purposes of this section, the words defined in section 253B.02 have the meanings given them in that section.

History: 2001 c 210 s 10