

SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION

S.F. No. 2188

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DATE	D-PG	OFFICIAL STATUS
03/07/2019	708	Introduction and first reading Referred to Judiciary and Public Safety Finance and Policy
03/18/2019	995a	Comm report: To pass as amended
	999	Second reading
05/06/2019	4221a	Special Order: Amended
	4221	Third reading Passed
05/07/2019		Author added Bigham

1.1 A bill for an act

1.2 relating to corrections; authorizing county probation officers to supervise adult

1.3 felons; clarifying Department of Corrections billing to counties for juvenile

1.4 confinements; clarifying authority of Fugitive Apprehension Units to do general

1.5 law enforcement; repealing the special law for the Ramsey County Community

1.6 Corrections Department; establishing a local correctional officers discipline

1.7 procedures act; amending Minnesota Statutes 2018, sections 241.025, subdivisions

1.8 1, 2; 241.026, subdivisions 1, 2; 242.192; 244.19, subdivision 1; 244.20; proposing

1.9 coding for new law in Minnesota Statutes, chapter 641; repealing Minnesota

1.10 Statutes 2018, sections 383A.404; 401.13.

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

1.12 Section 1. Minnesota Statutes 2018, section 241.025, subdivision 1, is amended to read:

1.13 Subdivision 1. **Authorization.** The commissioner of corrections may appoint peace

1.14 officers, as defined in section 626.84, subdivision 1, paragraph (c), who shall serve in the

1.15 classified service subject to the provisions of section 43A.01, subdivision 2, and establish

1.16 a law enforcement agency, as defined in section 626.84, subdivision 1, paragraph (f), known

1.17 as the Department of Corrections Fugitive Apprehension Unit, to perform the duties necessary

1.18 to make statewide arrests under sections 629.30 and 629.34. The jurisdiction of the law

1.19 enforcement agency is limited to the activities related to the arrest of Department of

1.20 Corrections' discretionary and statutory released violators and Department of Corrections'

1.21 escapees. The Department of Corrections Fugitive Apprehension Unit may exercise general

1.22 law enforcement duties upon request for assistance from a law enforcement agency and is

1.23 subject to availability and resources of the Department of Corrections Fugitive Apprehension

1.24 Unit.

2.1 Sec. 2. Minnesota Statutes 2018, section 241.025, subdivision 2, is amended to read:

2.2 Subd. 2. **Limitations.** The initial processing of a person arrested by the fugitive
2.3 apprehension unit for an offense ~~within the agency's jurisdiction~~ is the responsibility of the
2.4 fugitive apprehension unit unless otherwise directed by the law enforcement agency with
2.5 primary jurisdiction. A subsequent investigation is the responsibility of the law enforcement
2.6 agency of the jurisdiction in which a new crime is committed.

2.7 Sec. 3. Minnesota Statutes 2018, section 241.026, subdivision 1, is amended to read:

2.8 Subdivision 1. **Definitions.** (a) For purposes of this section, the terms defined in this
2.9 subdivision have the meanings given them.

2.10 (b) "Correctional officer" and "officer" mean a person employed by the state, or a state
2.11 correctional facility, ~~or a local correctional or detention facility~~ in a security capacity.

2.12 (c) "Formal statement" means the questioning of an officer in the course of obtaining a
2.13 recorded, stenographic, or signed statement to be used as evidence in a disciplinary
2.14 proceeding against the officer.

2.15 Sec. 4. Minnesota Statutes 2018, section 241.026, subdivision 2, is amended to read:

2.16 Subd. 2. **Applicability.** The procedures and provisions of this section apply to state ~~and~~
2.17 ~~local~~ correctional authorities.

2.18 Sec. 5. Minnesota Statutes 2018, section 242.192, is amended to read:

2.19 **242.192 CHARGES TO COUNTIES.**

2.20 The commissioner shall charge counties or other appropriate jurisdictions 65 percent of
2.21 the per diem cost of confinement, excluding educational costs and nonbillable service, of
2.22 juveniles at the Minnesota Correctional Facility-Red Wing and of juvenile females committed
2.23 to the commissioner of corrections. This charge applies to juveniles committed to the
2.24 commissioner of corrections and juveniles admitted to the Minnesota Correctional
2.25 Facility-Red Wing under established admissions criteria. This charge applies to both counties
2.26 that participate in the Community Corrections Act and those that do not. The commissioner
2.27 shall determine the per diem cost of confinement based on projected population, pricing
2.28 incentives, and market conditions, ~~and the requirement that expense and revenue balance~~
2.29 ~~out over a period of two years.~~ All money received under this section must be deposited in
2.30 the state treasury and credited to the general fund.

3.1 Sec. 6. Minnesota Statutes 2018, section 244.19, subdivision 1, is amended to read:

3.2 Subdivision 1. **Appointment; joint services; state services.** (a) If a county or group of
3.3 counties has established a human services board pursuant to chapter 402, the district court
3.4 may appoint one or more county probation officers as necessary to perform court services,
3.5 and the human services board shall appoint persons as necessary to provide correctional
3.6 services within the authority granted in chapter 402. In all counties of more than 200,000
3.7 population, which have not organized pursuant to chapter 402, the district court shall appoint
3.8 one or more persons of good character to serve as county probation officers during the
3.9 pleasure of the court. All other counties shall provide adult misdemeanor and juvenile
3.10 probation services, and may provide additional adult felon probation services, to district
3.11 courts in one of the following ways:

3.12 (1) the court, with the approval of the county boards, may appoint one or more salaried
3.13 county probation officers to serve during the pleasure of the court;

3.14 (2) when two or more counties offer probation services the district court through the
3.15 county boards may appoint common salaried county probation officers to serve in the several
3.16 counties;

3.17 (3) a county or a district court may request the commissioner of corrections to furnish
3.18 probation services in accordance with the provisions of this section, and the commissioner
3.19 of corrections shall furnish such services to any county or court that fails to provide its own
3.20 probation officer by one of the two procedures listed above;

3.21 (4) if a county or district court providing probation services under clause (1) or (2) asks
3.22 the commissioner of corrections or the legislative body for the state of Minnesota mandates
3.23 the commissioner of corrections to furnish probation services to the district court, the
3.24 probation officers and other employees displaced by the changeover shall be employed by
3.25 the commissioner of corrections. Years of service in the county probation department are
3.26 to be given full credit for future sick leave and vacation accrual purposes;

3.27 (5) all probation officers serving the juvenile courts on July 1, 1972, shall continue to
3.28 serve in the county or counties they are now serving.

3.29 (b) The commissioner of management and budget shall place employees transferred to
3.30 state service under paragraph (a), clause (4), in the proper classifications in the classified
3.31 service. Each employee is appointed without examination at no loss in salary or accrued
3.32 vacation or sick leave benefits, but no additional accrual of vacation or sick leave benefits
3.33 may occur until the employee's total accrued vacation or sick leave benefits fall below the
3.34 maximum permitted by the state for the employee's position. An employee appointed under

4.1 paragraph (a), clause (4), shall serve a probationary period of six months. After exhausting
 4.2 labor contract remedies, a noncertified employee may appeal for a hearing within ten days
 4.3 to the commissioner of management and budget, who may uphold the decision, extend the
 4.4 probation period, or certify the employee. The decision of the commissioner of management
 4.5 and budget is final. The state shall negotiate with the exclusive representative for the
 4.6 bargaining unit to which the employees are transferred regarding their seniority. For purposes
 4.7 of computing seniority among those employees transferring from one county unit only, a
 4.8 transferred employee retains the same seniority position as the employee had within that
 4.9 county's probation office.

4.10 (c) State employees shall not be displaced by a county's election to provide probation
 4.11 services under this subdivision.

4.12 Sec. 7. Minnesota Statutes 2018, section 244.20, is amended to read:

4.13 **244.20 PROBATION SUPERVISION.**

4.14 ~~Notwithstanding~~ Except as provided in sections 244.19, subdivision 1, and 609.135,
 4.15 subdivision 1, the Department of Corrections shall have exclusive responsibility for providing
 4.16 probation services for adult felons in counties that do not take part in the Community
 4.17 Corrections Act. In counties that do not take part in the Community Corrections Act, the
 4.18 responsibility for providing probation services for individuals convicted of gross
 4.19 misdemeanor offenses shall be discharged according to local judicial policy.

4.20 Sec. 8. **[641.061] LOCAL CORRECTIONAL OFFICERS DISCIPLINE**
 4.21 **PROCEDURES.**

4.22 Subdivision 1. Definitions. (a) For purposes of this section, the terms defined in this
 4.23 subdivision have the meanings given them.

4.24 (b) "Correctional officer" or "officer" means a person employed in a security capacity
 4.25 by a local correctional or detention facility.

4.26 (c) "Exclusive representative" means an employee organization which has been certified
 4.27 by the commissioner of the Bureau of Mediation Services to meet and negotiate with an
 4.28 employer on behalf of all employees in the appropriate unit.

4.29 (d) "Formal statement" means the questioning of an officer in the course of obtaining a
 4.30 recorded, stenographic, or signed statement to be used as evidence in a disciplinary
 4.31 proceeding against the officer.

4.32 Subd. 2. Applicability. This section applies to local correctional authorities.

5.1 Subd. 3. **Formal statement; procedures.** A formal statement of a correctional officer
5.2 must be taken according to subdivisions 4 to 15.

5.3 Subd. 4. **Place of formal statement.** A formal statement must be taken at a facility of
5.4 the employing or investigating agency or at a place agreed to by the investigating individual
5.5 and the investigated correctional officer and exclusive representative.

5.6 Subd. 5. **Complaint.** A correctional officer's formal statement may not be taken unless
5.7 a written complaint signed by the complainant stating the complainant's knowledge is filed
5.8 with the employing or investigating agency and the correctional officer and exclusive
5.9 representative have been given a summary of the allegations.

5.10 Subd. 6. **Witnesses; investigative reports.** Upon request, the investigating agency or
5.11 the correctional officer shall provide the other party with a list of witnesses the agency or
5.12 correctional officer expects to testify at an administrative hearing or arbitration authorized
5.13 to recommend, approve, or order discipline and the substance of the testimony. A party is
5.14 entitled to copies of any witness statements in the possession of the other party and an officer
5.15 is entitled to a copy of the investigating agency's investigative report, provided that any
5.16 references in a witness statement or investigative report that would reveal the identity of
5.17 confidential informants need not be disclosed except for good cause shown upon order of
5.18 the person presiding over the administrative hearing or arbitration.

5.19 Subd. 7. **Sessions.** Sessions at which a formal statement is taken must be of reasonable
5.20 duration and must give the correctional officer reasonable periods for rest and personal
5.21 necessities. When practicable, sessions must be held during the correctional officer's regularly
5.22 scheduled work shift. If the session is not held during the correctional officer's regularly
5.23 scheduled work shift, the correctional officer must be paid by the employing agency at the
5.24 officer's current compensation rate for time spent attending the session. Notification of a
5.25 formal statement must also be provided to the correctional officer's exclusive representative
5.26 and the exclusive representative shall be allowed to be present during the session.

5.27 Subd. 8. **Record.** A complete record of sessions at which a formal statement is taken
5.28 must be made by electronic recording or otherwise. A complete copy or transcript must be
5.29 provided to the correctional officer and the officer's exclusive representative without charge
5.30 or undue delay. The session may be recorded by the investigating officer and by the
5.31 correctional officer under investigation.

5.32 Subd. 9. **Presence of attorney and union representative.** The correctional officer
5.33 whose formal statement is taken has the right to have a union representative or an attorney
5.34 retained by the officer, or both, present during the session. The correctional officer may

6.1 request the presence of a union representative, attorney, or both, at any time before or during
6.2 the session. When a request under this subdivision is made, no formal statement may be
6.3 taken until a reasonable opportunity is provided for the correctional officer to obtain the
6.4 presence of a union representative or attorney.

6.5 Subd. 10. **Admissions.** Before an officer's formal statement is taken, the officer shall
6.6 be advised in writing or on the record that admissions made in the course of the formal
6.7 statement may be used as evidence of misconduct or as a basis for discipline.

6.8 Subd. 11. **Disclosure of financial records.** No employer may require an officer to
6.9 produce or disclose the officer's personal financial records except pursuant to a valid search
6.10 warrant or subpoena.

6.11 Subd. 12. **Release of photographs.** No local correctional facility or governmental unit
6.12 may publicly release photographs of an officer without the written permission of the officer,
6.13 except that the facility or unit may display a photograph of an officer to a prospective witness
6.14 as part of an agency or unit investigation.

6.15 Subd. 13. **Disciplinary letter.** No disciplinary letter or reprimand may be included in
6.16 an officer's personnel record unless the officer has been given a copy of the letter or
6.17 reprimand.

6.18 Subd. 14. **Retaliatory action prohibited.** No officer may be discharged, disciplined,
6.19 or threatened with discharge or discipline as retaliation for or solely by reason of the officer's
6.20 exercise of the rights provided by this section.

6.21 Subd. 15. **Rights not reduced.** The rights of officers provided by this section are in
6.22 addition to and do not diminish the rights and privileges of officers that are provided under
6.23 an applicable collective bargaining agreement or any other applicable law.

6.24 Sec. 9. **REPEALER.**

6.25 Minnesota Statutes 2018, sections 383A.404; and 401.13, are repealed.

383A.404 COMMUNITY CORRECTIONS DEPARTMENT.

Subdivision 1. **Establishment.** There is established, in Ramsey County, a Community Corrections Department in connection with the courts of the Second Judicial District. The department is in the charge of a director who shall be appointed by and serve at the pleasure of a Corrections Management Committee comprised of three judges of the Second Judicial District appointed by the chief judge of the district and three members of the board of county commissioners appointed by the chair of the board. The director shall have full authority and responsibility for the administration, operation, and supervision of all functions and services of the department, and shall carry out that authority and responsibility within the organizational structure and reporting relationship that is in accord with county board and judicial district administrative policies. Salary of the director shall be set by the county board of commissioners upon recommendation of the Corrections Management Committee.

Subd. 2. **Officers, employees.** The director may employ an assistant director, a superintendent, and assistant superintendent for each correctional facility in the county, and three principal assistants or division supervisors, all of whom shall serve at the pleasure of the director in the unclassified service. The director shall define the duties of these employees and may delegate powers, duties and responsibilities to them. Any officer or employee of the department shall exercise delegated powers under the control of and subject to conditions prescribed by the director. The salaries shall be set by the Ramsey County Board of Commissioners.

Subd. 3. **Office room and records.** Ramsey County shall provide the director and department personnel with suitable furnished office rooms, record books, stationery, postage, expenses of investigation and visitation ordered by the court, and the other actual expenses as are required for the proper execution of their duties.

Subd. 4. **Official attendance at court.** The director or a department person designated by the director shall be present in the juvenile court of the judge having chambers in the county at each regular session, and shall be present in the district court and any other court now or hereafter established in the county when so requested by a judge of that court.

Subd. 5. **Duties of department.** The duties of the department are:

(1) To supervise persons placed on probation by any of the judges of any of the courts of Ramsey County, to keep accurate records of this supervision, and to make reports thereon.

(2) To make investigations with regard to a child or person as may be ordered by the court before, during, or after the trial or hearing of the child or person, and shall furnish to the court the information, recommendations, and assistance as may be required.

(3) To inquire into the nature of every juvenile delinquency or criminal matter in any court where authorized to appear and have supervision of the child or person during the continuance or suspension of sentence or order of commitment, and in general, perform the acts with reference thereto as the court may direct. In the execution of official duties, the department personnel shall have all the power of a peace officer.

(4) To perform the duties required of probation officers by law, including but not limited to, chapter 260, and acts amendatory thereof, and the Criminal Code of 1963, and acts amendatory thereof.

(5) To provide for psychiatric, psychological, and medical diagnosis or services for a person when directed or ordered by a court of the county, or when the services are part of the probation and investigation process.

(6) To make collections of support money in divorce and other actions when ordered by a judge of a court of the county and to make collections of money and property when ordered to be paid as restitution or reimbursement and to turn over the money or property to the person or persons entitled thereto as directed by the court.

(7) To make investigations both as to custody and other matters and provide counseling in domestic relation cases as required and to exercise supervision over children and other persons in the cases that the court directs.

(8) To perform other duties for the protection of children and parents as a court of the county directs.

(9) To provide services as marital counseling, taking of wage assignments, financial reports, marriage consent investigations, and other duties as a court of the county directs.

APPENDIX
Repealed Minnesota Statutes: S2188-2

(10) To make all necessary inquiries and prepare petitions for withdrawals from minor trust funds when directed by the judge of the district court.

(11) To perform other acts in relation to the above listed duties and any other services as the courts of the district direct.

Subd. 6. **Annual report.** The director shall report, annually, to the District Court of the Second Judicial District with reference to the conditions and disposition and other pertinent facts relative to the work of the department and shall furnish a copy of the report to the board of county commissioners, the commissioner of human services, and to the commissioner of corrections.

Subd. 7. **Salaries payable out of Ramsey County treasury.** All annual salaries for the Community Corrections Department shall be payable out of the Ramsey County treasury.

401.13 COSTS OF CONFINEMENT; PAYMENT.

Each participating county will be charged a sum equal to the actual per diem cost of confinement, excluding educational costs, of those juveniles committed to the commissioner and confined in a state correctional facility. The commissioner shall annually determine costs making necessary adjustments to reflect the actual costs of confinement. The commissioner of corrections shall bill the counties and deposit the receipts from the counties in the general fund. All charges shall be a charge upon the county of commitment.