

House Research Act Summary

CHAPTER: 210

SESSION: 2001 Regular Session

TOPIC: Department of Corrections; Sex Offender Provisions

Date: July 1, 2001

Analyst: Judie Zollar, 651-296-1554

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: www.house.mn/hrd.

Overview

This act contains a number of changes to the laws dealing with the department of corrections. It requires the department of corrections to contract with the department of human services for background studies on individuals providing certain services and establishes a peer review committee to evaluate health care of offenders. The act also creates a new criminal sexual conduct penalty for sex crimes against a person in custody by the person's custodian. This act also makes changes to the reassessment of a predatory offender's risk level. Further, this act requires felony level sex offenders who have been convicted of a previous sex crime to undergo a sex offender assessment.

1. **Public entities; purchases from corrections entities.** Specifies that, notwithstanding the general provision regarding expiration of task forces, the task force to determine additional methods to achieve performance goals for public entity purchasing does not expire until June 30, 2003.
2. **Annual report.** Makes changes to the annual report due from the department of corrections each year. Specifies that this report is due by January 15 of each year instead of November 30 of each year. Also clarifies that the report is submitted to the chairs and ranking minority members of the senate and house committees and divisions with jurisdiction over criminal justice funding. Strikes references that would require the report to conform to the performance reports due under a repealed section of law (section 15.91). Specifies that the report must include the following:
 - department strategic mission, goals, and objectives;
 - the department-wide per diem and adult facility-specific per diems and an average per diem, reported in a standard calculated method as outlined in the departmental policies and procedures;
 - department annual statistics as outlined in the departmental policies and procedures; and
 - on an alternating basis, the department shall complete a detailed recidivism analysis of

the adult facility, juvenile services, and the community services divisions, reporting on one of these three each year.

3. **Per diem calculation.** Requires the commissioner to use the per diem methods specified by law for all performance reports to the legislature and in the department's biennial budget document. Strikes an outdated reporting requirement.
4. **Supervision over correctional institutions.** Allows the commissioner of human services to inspect and certify programs for juvenile facilities licensed by the commissioner of human services.
5. **Health care.** Strikes obsolete language that references health care for inmates through the secure treatment unit operated by the St. Paul Ramsey Hospital.
6. **Chemical dependency treatment programs.** Amends the law on the standards that apply to residential chemical dependency treatment programs operated by the commissioner of corrections. Strikes reference requiring juvenile residential chemical dependency treatment programs to comply with these standards. Provides that, when the commissioners of corrections and human services agree that the established standards for community-based programs cannot reasonably apply to correctional facilities, alternative equivalent standards shall be developed by the commissioners through an interagency agreement.
7. **Peer review committee.** Requires the commissioner of corrections to establish a health care peer review committee. Requires the committee to gather, review, and evaluate information related to on-site and off-site quality of care and treatment of offenders. Specifies the membership of the committee.
8. **Background studies.** Requires the commissioner of corrections to contract with the commissioner of human services to conduct background studies on individuals providing services in secure and nonsecure residential facilities and detention facilities who have direct contact with persons served in the facilities, as defined by human services law. Specifies that disqualification of an individual under this section also disqualifies the individual from positions allowing direct contact or access to persons and residents receiving services in programs licensed by the department of health and human services.

Adds the commissioner of human services to the list of entities the judicial system or criminal justice agencies must provide information to for the purpose of conducting a background study.

Requires the department of human services to conduct the background studies in compliance with the provisions of the human services law. Specifies that, for the purposes of this subdivision "secure and nonsecure residential facility and detention facility" includes programs licensed or certified under the DOC licensing law. Requires the department of human services to provide forms and instructions, conduct the background studies, and provide notification of the study results to the facilities, individuals, and commissioner of corrections. Requires the department of human services to notify the facility and individual if the individual is disqualified. Also requires the department of human services to notify the individual of the right to request reconsideration by submitting the request to the department of corrections.

Requires the commissioner of corrections to review and decide reconsideration requests and states that the commissioner's decision is the final administrative agency action. Provides that the commissioner's decision shall be provided to the individual and department of human services.

Requires facilities covered by this law to cooperate with the departments in implementing this provision. Specifies that the provisions in the human services law that apply to applicants, licensees, or an individual's refusal to cooperate with the completion of background studies also apply here.

9. **Community-based sex offender program evaluation project.** Strikes the requirement for the department of corrections to report annually on data collected and the status of the community-based sex offender program evaluation project.
10. **Mental health unit; establishment.** Changes references to various terms of law where the old terms are obsolete or outdated. Changes include referring to a mental health unit instead of a psychiatric unit and referring to a mental health professional as opposed to a psychologist.
11. **Alternative residential programs; funding.** Current law specifies that the commissioner of corrections must require participating state or federal agencies and local units of government to pay the costs of alternative residential programming for juveniles. This provision clarifies that only participating state or federal agencies and local units of government that send participants to the program pay these costs.
12. **Supervision by commissioner of corrections; agents.** Strikes the requirement that parole agents reside in the various districts of the state where they are employed.
13. **Transfer of inmates to federal government.** Current law allows the commissioner of corrections to transfer custody of an inmate of the Stillwater or Shakopee correctional institutions to the custody of the United States Attorney General under certain conditions. This provision allows for the transfer of an inmate from any facility.
14. **Separate cells.** Strikes the requirement that the commissioner of corrections annually publish a list of custody levels for all correctional institutions.
15. **End-of-confinement review committee.** Clarifies that a request by a law enforcement agency for reassessment of a predatory offender's risk level upon release from an institution must occur within 30 days of receipt of the report identifying the offender's risk level. Allows the offender's corrections agent, in consultation with the chief law enforcement officer in the area where the offender resides or intends to reside, to request a review of an offender's risk level at any time if substantial evidence exists that the offender's risk level should be reviewed by an end-of-confinement review committee. Specifies the evidence that may support such a reconsideration. Clarifies that, for an offender's request for a risk level reduction to be granted, the offender must demonstrate full compliance with supervised release conditions, completion of required post-release programming, and full compliance with all predatory offender registration requirements. Also specifies that the offender cannot have been convicted of any felony, gross misdemeanor, or misdemeanor offenses subsequent to the initial assignment of risk level.
Prohibits offenders returned to prison as release violators from requesting reassessment of risk level unless substantial evidence determines that the offender's risk to the public has increased.
16. **Challenge incarceration program; evaluation and report.** Strikes the requirement that the commissioner of corrections annually file a report on the operation of the challenge incarceration program.
17. **Definition.** Adds to list of services for which correctional fees may be charged. The services added include post-prison supervision or other forms of release or supervision or other services provided to probationers or parolees.
- 18.-19 **Commissioner of corrections; investigation of deaths.** Allows the commissioner of corrections to require that all department of corrections incarcerated deaths be reviewed by a department of corrections contracted board certified forensic pathologist. Creates an exception to the general coroner law for these types of deaths.
20. **Commissioner of corrections; investigation of deaths.** Makes the same change contained in section 19 to the medical examiner law.
- 21.-23 **Sexual contact; crime defined; criminal sexual conduct in the third and fourth degree.** Creates the crime of third degree criminal sexual conduct in situations where a person engages in

sexual penetration with another person when the actor is an employee, contract personnel, or volunteer of a state, county, city, or privately operated adult or juvenile correctional system, including, but not limited to, jails, prisons, detention centers, or work release facilities, and the complainant is a resident of a facility or under supervision of the correctional system. Specifies that consent by the complainant is not a defense. Creates the same crime for fourth degree sexual conduct when the conduct involved is sexual contact as opposed to sexual penetration.

24. **Assessment required.** Condenses the list of existing offenses that trigger a sex offender assessment into "sex offenses" which is defined in section 26.
25. **Repeat offenders; mandatory assessment.** Requires felony level sex offenders who have been convicted of a previous sex crime to undergo a sex offender assessment. Lists several subjects that the assessment report must cover. Requires that the report be forwarded to the court and the commissioner of corrections. Requires the court to use the report in sentencing or making the preliminary determination regarding the appropriateness of a civil commitment petition.
26. **Definition.** Defines "sex offense" to include first through fifth degree criminal sexual conduct, interference with privacy, indecent exposure, "or another offense arising out of a charge based on one or more of" these crimes.
27. **Testing of sex offender for human immunodeficiency virus.** Creates an exception in the law that allows HIV testing of an offender to allow a reference to the test, the court motion requesting the test, the test order, and the test results to be included in the medical record maintained by the department of corrections. This information may not be maintained in any record of the court or court services under current law.
28. **New facility.** Strikes the requirement that the commissioner issue a report on the goal of achieving proportional representation of protected class employees in relation to the inmate population at the Rush City facility.
29. **Workforce reports.** Requires the department of corrections to continue to report on its efforts to recruit a diverse workforce.
30. **Repealer.** Repeals section 241.016, subdivision 2, and section 241.018. This language deals with annual performance reports and reports on per diem calculation. These reporting requirements, along with other reporting requirements are moved to one section (see section 2). Repeals section 241.19 relating to contracting with companies that can and freeze food to feed the inmate population. Repeals section 241.272, subdivision 7, which requires the commissioner of corrections to report annually on implementation and imposition of correctional fees. Repeals section 242.51 which established a correctional facility in Sauk Centre.
31. **Effective date.** Sections 21 to 23 are effective August 1, 2001, and apply to crimes committed on or after that date. Sections 24 to 26 are effective the day following final enactment.