

## HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 2415

02/22/2012 Authored by Cornish

The bill was read for the first time and referred to the Committee on Public Safety and Crime Prevention Policy and Finance

02/29/2012 Adoption of Report: Pass as Amended and re-referred to the Committee on Ways and Means

03/20/2012 Adoption of Report: Pass as Amended and Read Second Time

1.1 A bill for an act  
 1.2 relating to public safety; authorizing fugitive apprehension unit to apply for  
 1.3 search warrants; directing commissioner of corrections to implement a gardening  
 1.4 program at state correctional facilities; narrowing selection criteria for challenge  
 1.5 incarceration program; permitting victim notification to include electronic  
 1.6 and written notification; adding information to a report; eliminating a report;  
 1.7 amending Minnesota Statutes 2010, sections 241.016, subdivision 1; 241.025,  
 1.8 subdivision 2; 244.17, subdivision 3; 253B.18, subdivision 5a; 253B.185,  
 1.9 subdivision 10; 611A.06, subdivisions 1, 2; 626.05, subdivision 2; proposing  
 1.10 coding for new law in Minnesota Statutes, chapter 241.

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

1.12 Section 1. Minnesota Statutes 2010, section 241.016, subdivision 1, is amended to read:

1.13 Subdivision 1. **Biennial report.** (a) The Department of Corrections shall submit a  
 1.14 performance report to the chairs and ranking minority members of the senate and house  
 1.15 of representatives committees and divisions having jurisdiction over criminal justice  
 1.16 funding by January 15 of each odd-numbered year. The issuance and content of the report  
 1.17 must include the following:

1.18 (1) department strategic mission, goals, and objectives;

1.19 (2) the department-wide per diem, adult facility-specific per diems, and an average  
 1.20 per diem, reported in a standard calculated method as outlined in the departmental policies  
 1.21 and procedures;

1.22 (3) department annual statistics as outlined in the departmental policies and  
 1.23 procedures; and

1.24 (4) information about prison-based mental health programs, including, but not  
 1.25 limited to, the availability of these programs, participation rates, and completion rates.

1.26 (b) The department shall maintain recidivism rates for adult facilities on an annual  
 1.27 basis. In addition, each year the department shall, on an alternating basis, complete a

2.1 recidivism analysis of adult facilities, juvenile services, and the community services  
 2.2 divisions and include a three-year recidivism analysis in the report described in paragraph  
 2.3 (a). The recidivism analysis must: (1) assess education programs, vocational programs,  
 2.4 treatment programs, including mental health programs, industry, and employment; and (2)  
 2.5 assess statewide re-entry policies and funding, including postrelease treatment, education,  
 2.6 training, and supervision. In addition, when reporting recidivism for the department's  
 2.7 adult and juvenile facilities, the department shall report on the extent to which offenders it  
 2.8 has assessed as chemically dependent commit new offenses, with separate recidivism rates  
 2.9 reported for persons completing and not completing the department's treatment programs.

2.10 ~~(c) By August 31 of each odd-numbered year, the commissioner must present to the~~  
 2.11 ~~individuals identified in paragraph (a) a report that lists and describes the performance~~  
 2.12 ~~measures and targets the department will include in the biennial performance report. The~~  
 2.13 ~~measures and targets must include a budget target for the next two years and a history of~~  
 2.14 ~~the department's performance for the previous five years. At a minimum, the report must~~  
 2.15 ~~include measures and targets for the data and information identified in paragraphs (a) and~~  
 2.16 ~~(b) regarding per diem, statistics, inmate programming, and recidivism, and the following:~~

2.17 ~~(1) average statutory per diem for adult offenders, female offenders, and juvenile~~  
 2.18 ~~offenders;~~

2.19 ~~(2) the Department of Corrections field services;~~

2.20 ~~(3) staffing and salaries for both department divisions and institutions;~~

2.21 ~~(4) the use of private and local institutions to house persons committed to the~~  
 2.22 ~~commissioner;~~

2.23 ~~(5) the cost of inmate health and dental care;~~

2.24 ~~(6) implementation and use of corrections best practices; and~~

2.25 ~~(7) the challenge incarceration program.~~

2.26 Sec. 2. Minnesota Statutes 2010, section 241.025, subdivision 2, is amended to read:

2.27 Subd. 2. **Limitations.** The initial processing of a person arrested by the fugitive  
 2.28 apprehension unit for an offense within the agency's jurisdiction is the responsibility of  
 2.29 the fugitive apprehension unit unless otherwise directed by the law enforcement agency  
 2.30 with primary jurisdiction. A subsequent investigation is the responsibility of the law  
 2.31 enforcement agency of the jurisdiction in which a new crime is committed. ~~The fugitive~~  
 2.32 ~~apprehension unit members are not authorized to apply for a search warrant as prescribed~~  
 2.33 ~~in section 626.05.~~

2.34 Sec. 3. **[241.241] PRISON GARDENING PROGRAM.**

3.1 Subdivision 1. **Establishment.** The commissioner shall establish a gardening  
3.2 program for inmates at each correctional facility where space and security allows for  
3.3 operation of a garden. The garden shall be primarily tended by inmates. The commissioner  
3.4 shall strive to raise produce that can be used to feed inmates in state correctional facilities.  
3.5 The commissioner shall donate any portion of the harvest that cannot be used to feed  
3.6 inmates to food shelves and charities located near the correctional facility where the  
3.7 produce was grown.

3.8 Subd. 2. **Report.** The commissioner shall include the following information in the  
3.9 annual report to the legislature required under section 241.016:

3.10 (1) the type and amount of produce raised in the gardening program;

3.11 (2) the amount of the harvest used to feed inmates and the amount used for other  
3.12 purposes;

3.13 (3) the amount of inmate time dedicated to the gardening program;

3.14 (4) the cost savings to the department from using prison-grown food to feed inmates;  
3.15 and

3.16 (5) the cost of operating the program.

3.17 **EFFECTIVE DATE.** This section is effective January 1, 2012.

3.18 Sec. 4. Minnesota Statutes 2010, section 244.17, subdivision 3, is amended to read:

3.19 Subd. 3. **Offenders not eligible.** (a) The following offenders are not eligible to be  
3.20 placed in the challenge incarceration program:

3.21 (1) offenders who are committed to the commissioner's custody or any state or  
3.22 federal prison following a conviction for murder, manslaughter, criminal sexual conduct,  
3.23 assault, kidnapping, robbery, arson, drive-by shooting, criminal vehicular homicide or  
3.24 operation, or any other offense that includes characteristics involving death or intentional  
3.25 personal injury great bodily harm to the victim or victims as defined under section 609.02,  
3.26 or discharge of a firearm;

3.27 (2) offenders who were ~~convicted within the preceding ten years of an offense~~  
3.28 ~~described in clause (1) and were committed to the custody of the commissioner~~ released  
3.29 from the commissioner's custody or the custody of a state or federal prison unless five  
3.30 years have elapsed from the date of discharge or expiration of the sentence for an offense  
3.31 described under clause (1);

3.32 (3) offenders who have been convicted or adjudicated delinquent within the past five  
3.33 years for a violation of section 609.485;

3.34 (4) offenders who are ~~committed to the commissioner's custody for an offense that~~  
3.35 ~~requires~~ required to complete predatory offender registration under section 243.166;

4.1 (5) offenders who have been reviewed by the commissioner and referred to the  
 4.2 county for review for civil commitment as a sexual psychopathic personality, a sexually  
 4.3 dangerous person, mentally ill, or mentally ill and dangerous to the public;

4.4 ~~(5)~~ (6) offenders who are the subject of a current arrest warrant or detainer;

4.5 ~~(6)~~ (7) offenders who have fewer than 180 days remaining until their supervised  
 4.6 release date;

4.7 ~~(7)~~ (8) offenders who have had ~~disciplinary confinement time added to their sentence~~  
 4.8 institution discipline resulting in extended incarceration or who have been placed in  
 4.9 segregation, unless 90 days have elapsed from the imposition of the ~~additional disciplinary~~  
 4.10 ~~confinement time~~ extended incarceration or the last day of segregation;

4.11 ~~(8)~~ (9) offenders who have received a suspended formal disciplinary sanction, ~~unless~~  
 4.12 ~~the suspension~~ or imposed formal loss of privileges sanction until the sanction has expired;

4.13 ~~(9)~~ (10) offenders whose governing sentence is for an offense from another state  
 4.14 or the United States; and

4.15 ~~(10)~~ (11) offenders who have a medical condition included on the list of ineligible  
 4.16 conditions described in paragraph (b).

4.17 (b) The commissioner of corrections shall develop a list of medical conditions that  
 4.18 will disqualify an offender from participating in the challenge incarceration program.  
 4.19 The commissioner shall submit the list and any changes to it to the chairs and ranking  
 4.20 minority members of the senate and house committees having jurisdiction over criminal  
 4.21 justice policy and funding.

4.22 Sec. 5. Minnesota Statutes 2010, section 253B.18, subdivision 5a, is amended to read:

4.23 Subd. 5a. **Victim notification of petition and release; right to submit statement.**

4.24 (a) As used in this subdivision:

4.25 (1) "crime" has the meaning given to "violent crime" in section 609.1095, and  
 4.26 includes criminal sexual conduct in the fifth degree and offenses within the definition of  
 4.27 "crime against the person" in section 253B.02, subdivision 4a, and also includes offenses  
 4.28 listed in section 253B.02, subdivision 7a, paragraph (b), regardless of whether they are  
 4.29 sexually motivated;

4.30 (2) "victim" means a person who has incurred loss or harm as a result of a crime  
 4.31 the behavior for which forms the basis for a commitment under this section or section  
 4.32 253B.185; and

4.33 (3) "convicted" and "conviction" have the meanings given in section 609.02,  
 4.34 subdivision 5, and also include juvenile court adjudications, findings under Minnesota  
 4.35 Rules of Criminal Procedure, rule 20.02, that the elements of a crime have been proved,

5.1 and findings in commitment cases under this section or section 253B.185 that an act or  
5.2 acts constituting a crime occurred.

5.3 (b) A county attorney who files a petition to commit a person under this section  
5.4 or section 253B.185 shall make a reasonable effort to provide prompt notice of filing  
5.5 the petition to any victim of a crime for which the person was convicted. In addition,  
5.6 the county attorney shall make a reasonable effort to promptly notify the victim of the  
5.7 resolution of the petition.

5.8 (c) Before provisionally discharging, discharging, granting pass-eligible status,  
5.9 approving a pass plan, or otherwise permanently or temporarily releasing a person  
5.10 committed under this section from a treatment facility, the head of the treatment facility  
5.11 shall make a reasonable effort to notify any victim of a crime for which the person was  
5.12 convicted that the person may be discharged or released and that the victim has a right  
5.13 to submit a written statement regarding decisions of the medical director, special review  
5.14 board, or commissioner with respect to the person. To the extent possible, the notice  
5.15 must be provided at least 14 days before any special review board hearing or before  
5.16 a determination on a pass plan. Notwithstanding section 611A.06, subdivision 4, the  
5.17 commissioner shall provide the judicial appeal panel with victim information in order to  
5.18 comply with the provisions of this section. The judicial appeal panel shall ensure that the  
5.19 data on victims remains private as provided for in section 611A.06, subdivision 4.

5.20 (d) This subdivision applies only to victims who have requested notification through  
5.21 the Department of Corrections electronic victim notification system, or by contacting, in  
5.22 writing, the county attorney in the county where the conviction for the crime occurred.  
5.23 A request for notice under this subdivision received by the commissioner of corrections  
5.24 through the Department of Corrections electronic victim notification system shall be  
5.25 promptly forwarded to the prosecutorial authority with jurisdiction over the offense to  
5.26 which the notice relates or, following commitment, the head of the treatment facility. A  
5.27 county attorney who receives a request for notification under this paragraph following  
5.28 commitment shall promptly forward the request to the commissioner of human services.

5.29 (e) The rights under this subdivision are in addition to rights available to a victim  
5.30 under chapter 611A. This provision does not give a victim all the rights of a "notified  
5.31 person" or a person "entitled to statutory notice" under subdivision 4a, 4b, or 5 or section  
5.32 253B.185, subdivision 10.

5.33 Sec. 6. Minnesota Statutes 2010, section 253B.185, subdivision 10, is amended to read:

5.34 Subd. 10. **Victim notification of petition and release; right to submit statement.**

5.35 (a) As used in this subdivision:

6.1 (1) "crime" has the meaning given to "violent crime" in section 609.1095, and  
6.2 includes criminal sexual conduct in the fifth degree and offenses within the definition of  
6.3 "crime against the person" in section 253B.02, subdivision 4a, and also includes offenses  
6.4 listed in section 253B.02, subdivision 7a, paragraph (b), regardless of whether they are  
6.5 sexually motivated;

6.6 (2) "victim" means a person who has incurred loss or harm as a result of a crime,  
6.7 the behavior for which forms the basis for a commitment under this section or section  
6.8 253B.18; and

6.9 (3) "convicted" and "conviction" have the meanings given in section 609.02,  
6.10 subdivision 5, and also include juvenile court adjudications, findings under Minnesota  
6.11 Rules of Criminal Procedure, rule 20.02, that the elements of a crime have been proved,  
6.12 and findings in commitment cases under this section or section 253B.18, that an act or  
6.13 acts constituting a crime occurred.

6.14 (b) A county attorney who files a petition to commit a person under this section shall  
6.15 make a reasonable effort to provide prompt notice of filing the petition to any victim of a  
6.16 crime for which the person was convicted. In addition, the county attorney shall make a  
6.17 reasonable effort to promptly notify the victim of the resolution of the petition.

6.18 (c) Before provisionally discharging, discharging, granting pass-eligible status,  
6.19 approving a pass plan, or otherwise permanently or temporarily releasing a person  
6.20 committed under this section from a treatment facility, the head of the treatment facility  
6.21 shall make a reasonable effort to notify any victim of a crime for which the person was  
6.22 convicted that the person may be discharged or released and that the victim has a right  
6.23 to submit a written statement regarding decisions of the head of the treatment facility or  
6.24 designee, or special review board, with respect to the person. To the extent possible, the  
6.25 notice must be provided at least 14 days before any special review board hearing or before  
6.26 a determination on a pass plan. Notwithstanding section 611A.06, subdivision 4, the  
6.27 commissioner shall provide the judicial appeal panel with victim information in order to  
6.28 comply with the provisions of this section. The judicial appeal panel shall ensure that the  
6.29 data on victims remains private as provided for in section 611A.06, subdivision 4.

6.30 (d) This subdivision applies only to victims who have requested notification through  
6.31 the Department of Corrections electronic victim notification system, or by contacting, in  
6.32 writing, the county attorney in the county where the conviction for the crime occurred or  
6.33 where the civil commitment was filed or, following commitment, the head of the treatment  
6.34 facility. A request for notice under this subdivision received by the commissioner of  
6.35 corrections through the Department of Corrections electronic victim notification system  
6.36 shall be promptly forwarded to the prosecutorial authority with jurisdiction over the

7.1 offense to which the notice relates or, following commitment, the head of the treatment  
7.2 facility. A county attorney who receives a request for notification under this paragraph  
7.3 following commitment shall promptly forward the request to the commissioner of human  
7.4 services.

7.5 (e) Rights under this subdivision are in addition to rights available to a victim under  
7.6 chapter 611A. This provision does not give a victim all the rights of a "notified person"  
7.7 or a person "entitled to statutory notice" under subdivision 12 or 13 or section 253B.18,  
7.8 subdivision 4a, 4b, or 5.

7.9 Sec. 7. Minnesota Statutes 2010, section 611A.06, subdivision 1, is amended to read:

7.10 Subdivision 1. **Notice of release required.** The commissioner of corrections or  
7.11 other custodial authority shall make a good faith effort to notify the victim that the  
7.12 offender is to be released from imprisonment or incarceration, including release on  
7.13 extended furlough and for work release; released from a juvenile correctional facility;  
7.14 released from a facility in which the offender was confined due to incompetency, mental  
7.15 illness, or mental deficiency, or commitment under section 253B.18 or 253B.185; or if  
7.16 the offender's custody status is reduced, if the victim has mailed to the commissioner of  
7.17 corrections or to the head of the facility in which the offender is confined a written request  
7.18 for this notice, or the victim has made a request for this notice to the commissioner of  
7.19 corrections through the Department of Corrections electronic victim notification system.  
7.20 The good faith effort to notify the victim must occur prior to the offender's release or when  
7.21 the offender's custody status is reduced. For a victim of a felony crime against the person  
7.22 for which the offender was sentenced to imprisonment for more than 18 months, the good  
7.23 faith effort to notify the victim must occur 60 days before the offender's release.

7.24 Sec. 8. Minnesota Statutes 2010, section 611A.06, subdivision 2, is amended to read:

7.25 Subd. 2. **Contents of notice.** The notice given to a victim of a crime against a  
7.26 person must include the conditions governing the offender's release, and either the identity  
7.27 of the corrections agent who will be supervising the offender's release or a means to  
7.28 identify the court services agency that will be supervising the offender's release. The  
7.29 commissioner or other custodial authority complies with this section upon mailing the  
7.30 notice of impending release to the victim at the address which the victim has most recently  
7.31 provided to the commissioner or authority in writing, or by providing electronic notice to  
7.32 the victim who requested this notice through the Department of Corrections electronic  
7.33 victim notification system.

8.1 Sec. 9. Minnesota Statutes 2010, section 626.05, subdivision 2, is amended to read:

8.2 Subd. 2. **Peace officer.** The term "peace officer," as used in sections 626.04 to  
8.3 626.17, means a person who is licensed as a peace officer in accordance with section  
8.4 626.84, subdivision 1, and who serves as a sheriff, deputy sheriff, police officer,  
8.5 conservation officer, agent of the Bureau of Criminal Apprehension, agent of the  
8.6 Division of Alcohol and Gambling Enforcement, University of Minnesota peace officer,  
8.7 Metropolitan Transit police officer, Minnesota Department of Corrections Fugitive  
8.8 Apprehension Unit member, or State Patrol trooper as authorized by section 299D.03.