

299G.03; 299G.05; 299G.06; 299G.07; 299G.08; 299H.03; 299H.04; 299H.05; 299H.06; 299H.07; 299H.08; 299H.09; 299H.10; 299H.11; 299H.12; 299H.13; 299H.14; 299H.15; 299H.16; 299H.17; 299H.18; 299H.19; 299H.20; 299H.21; 299I.01, Subdivisions 6, 7, 8 and 9; 299I.09; 299I.11; 299I.12; 299I.13; 299I.14; 299I.15; 299I.16; 299I.17; 299I.18; and 299I.19, are repealed.

Sec. 21. This act is effective on the day following final enactment except that section 1, subdivision 4, is effective July 1, 1979.

Approved April 5, 1978.

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#### CHAPTER 778-H.F.No.2124

*An act relating to corrections; providing for the licensing of correctional facilities; prohibiting the introduction of contraband or weapons into correctional facilities; providing penalties; amending Minnesota Statutes 1976, Sections 241.021, Subdivision 1; 260.185, Subdivision 1; 641.09; 641.165; and 641.18.*

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

Section 1. Minnesota Statutes 1976, Section 241.021, Subdivision 1, is amended to read:

**241.021 LICENSING AND SUPERVISION OF INSTITUTIONS AND FACILITIES.** Subdivision 1. **SUPERVISION OVER CORRECTIONAL INSTITUTIONS; ADVISORY TASK FORCE.** (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. He shall promulgate, by January 1, 1977, pursuant to chapter 15, 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 may provide by rule for provisional licenses which authorize the operation of a correctional facility on a temporary basis where the operator is temporarily unable to comply with all of the requirements for a license. Notwithstanding the provisions of sections 15.0412 and 15.0413, these rules setting standards for group homes established under the direction of the juvenile courts shall not take effect until June 15, 1977. To assist in the development of standards for jails and lockups the commissioner shall pursuant to section 15.059, subdivision 6, appoint a citizens advisory task force of nine persons, including five persons who have been elected to the office of county sheriff and four persons who have been elected to the office of county board of commissioners September 1, 1979. The commissioner shall have access to the buildings, grounds, books,

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records, staff and to persons detained or confined in these facilities. He may require the officers in charge of these facilities to furnish all information and statistics he deems necessary, upon forms furnished by him.

(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.

(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) of this subdivision, except foster care facilities for delinquent children and youth as provided in subdivision 2, does not conform to the minimum standards established by law or by the commissioner, he 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, he may issue his 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, he 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 1976, Section 260.185, Subdivision 1, is amended to read:

260.185 **DISPOSITIONS; DELINQUENT CHILD.** Subdivision 1. If the court finds that the child is delinquent, it shall enter an order making any of the following dispositions of the case which are deemed necessary to the rehabilitation of the child:

(a) Counsel the child or his parents, guardian, or custodian;

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(b) Place the child under the supervision of a probation officer or other suitable person in his own home under conditions prescribed by the court including reasonable rules for his conduct and the conduct of his parents, guardian, or custodian, designed for the physical, mental, and moral well-being and behavior of the child, or with the consent of the commissioner of corrections, in a group foster care facility which is under the management and supervision of said commissioner;

(c) Subject to the supervision of the court, transfer legal custody of the child to one of the following:

(1) A child placing agency; or

(2) The county welfare board; or

(3) A reputable individual of good moral character, No person may receive custody of two or more unrelated children unless he is licensed as a residential facility pursuant to sections 245.781 to 245.813; or

(4) Except for children found to be delinquent as defined in section 260.015, subdivision 5, clauses (c) and (d), unless the child has previously appeared before a juvenile court on the same charge, and in the judgment of the court, community resources have been exhausted, a county home school, if the county maintains a home school or enters into an agreement with a county home school; or

(5) A county probation officer for placement in a group foster home established under the direction of the juvenile court ~~in accordance with standards established by the commissioner of corrections and licensed pursuant to section 241.021;~~

(d) Except for children found to be delinquent as defined in section 260.015, subdivision 5, clauses (c) and (d), unless the child has previously appeared before a juvenile court on the same charge, and in the judgment of the court, community resources have been exhausted, transfer legal custody by commitment to the commissioner of corrections;

(e) If the child is found to have violated a state or local law or ordinance which has resulted in damage to the property of another, the court may order the child to make reasonable restitution for such damage;

(f) If the child is in need of special treatment and care for his physical or mental health, the court may order the child's parent, guardian, or custodian to provide it. If the parent, guardian, or custodian fails to provide this treatment or care, the court may order it provided.

(g) If the court believes that it is in the best interests of the child and of public safety that the driver's license of the child be cancelled until his eighteenth birthday, the court may recommend to the commissioner of transportation the cancellation of the child's license for any period up to the child's eighteenth birthday, and the commissioner is hereby authorized to cancel such license without a hearing. At any time before the

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termination of the period of cancellation, the court may, for good cause, recommend to the commissioner of transportation that the child be authorized to apply for a new license, and the commissioner may so authorize.

Any order for a disposition authorized under this section shall contain written findings of fact to support the disposition ordered, and shall also set forth in writing the following information:

- (a) Why the best interests of the child are served by the disposition ordered; and
- (b) What alternative dispositions were considered by the court and why such dispositions were not appropriate in the instant case.

Sec. 3. Minnesota Statutes 1976, Section 641.09, is amended to read:

**641.09 POWER OF OFFICERS.** The officer in charge of prisoners so sentenced to labor may use all reasonable means necessary to prevent escape or enforce obedience. For refusal to labor or obey necessary orders in reference thereto, a prisoner may be kept in solitary confinement ~~on bread and water, unless other food is required for the preservation of health,~~ but shall not be so confined more than ten days for any one offense, nor more than 90 days in all. Such punishment shall not be treated as any part of the sentence.

Sec. 4. Minnesota Statutes 1976, Section 641.165, is amended to read:

**641.165 CONTRABAND ARTICLES FORBIDDEN; PENALTY.** ~~Any person who, in any manner, causes the introduction into a jail, lockup or other place of confinement, or upon the grounds thereof, of any controlled substance as defined in section 152.01, subdivision 4, or any intoxicating or alcoholic liquor, or malt beverage, regardless of alcoholic content, or any weapon or explosive without the consent of the person in charge of the jail, lockup or place of confinement shall be guilty of a gross misdemeanor. Subdivision 1. DEFINITION. "Contraband" is any controlled substance as defined in section 152.01, subdivision 4, or any intoxicating or alcoholic liquor or malt beverage.~~

Subd. 2. ACTS PROHIBITED. (a) Whoever introduces or in any manner causes the introduction of contraband, as defined in subdivision 1, into any jail, lockup, or correctional facility, as defined in section 1 of this act, without the consent of the person in charge, is guilty of a gross misdemeanor.

(b) Whoever introduces or in any manner causes the introduction of a dangerous weapon, as defined in section 609.02, subdivision 6, into any jail, lockup, or correctional facility, as defined in section 1 of this act, without the consent of the person in charge, is guilty of a felony and, upon conviction, may be sentenced to imprisonment for not more than five years.

Subd. 3. The provisions of this section shall not apply to physicians carrying drugs into such institutions for use in the practice of their profession, nor to peace officers carrying revolvers or firearms in the discharge of their duties.

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Sec. 5. Minnesota Statutes 1976, Section 641.18, is amended to read:

641.18 **SOLITARY CONFINEMENT.** When any prisoner is unruly or disobeys any regulation for the management of jails, the sheriff or jailer may order him kept in solitary confinement ~~on bread and water for not more than 20 days for each offense as provided in section 641.09.~~

Sec. 6. The commissioner shall appoint an advisory task force, to serve for a period of three years after the effective date of this act, consisting of at least nine persons and including representation from the judiciary serving the juvenile court, county probation officers, and county board members to assist in the development of standards for the correctional facilities defined in section 241.021, subdivision 1 (5), including group foster homes established under the direction of the juvenile court. The provisions of section 15.059, subdivision 6, shall govern the terms, compensation and removal of the members of the advisory task force.

Sec. 7. Section 2 of this act is effective September 1, 1979. Section 6 shall expire August 1, 1981.

Approved April 5, 1978.

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#### CHAPTER 779-H.F.No.2137

[Coded in Part]

*An act relating to natural resources; concerning water resources; revising certain provisions concerning dams, reservoirs, control structures, and waterway obstructions; appropriating money; amending Minnesota Statutes 1976, Sections 105.42, Subdivision 2; 105.482, Subdivision 2, and by adding a subdivision; 105.52; 105.53; Chapter 105, by adding a section.*

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

Section 1. Minnesota Statutes 1976, Section 105.42, Subdivision 2, is amended to read:

Subd. 2. Nothing in this section shall prevent the owner of any dam, reservoir, control structure, or waterway obstruction from instituting repairs which are immediately necessary in case of emergency. However, the owner shall notify the commissioner at once of the emergency and of the emergency repairs being instituted and, as soon as practicable, shall apply for a permit for the emergency repairs and any necessary permanent repairs. Nothing in this section shall apply to routine maintenance, not affecting the safety of the structures.

In case of an emergency where the commissioner declares that repairs or remedial action is immediately necessary to safeguard life and property, the repairs, remedial action, or both, shall be started immediately by the owner.

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