

**SENATE**  
**STATE OF MINNESOTA**  
**EIGHTY-SEVENTH LEGISLATURE**      **S.F. No. 2084**

(SENATE AUTHORS: LIMMER, Latz and Harrington)

DATE	D-PG	OFFICIAL STATUS
02/27/2012	3956	Introduction and first reading Referred to Judiciary and Public Safety
03/01/2012	4049a	Comm report: To pass as amended and re-refer to Finance
03/14/2012	4372	Comm report: To pass
	4409	Second reading
03/20/2012	4654	Author added Latz
03/21/2012	4670	Author added Harrington
03/28/2012	5244a	Special Order: Amended
	5244	Third reading Passed
04/03/2012	5567	Returned from House Presentment date 04/03/12
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04/16/2012	5848	Secretary of State Chapter 155 04/04/12 Effective date Sec. 1, 4-5 04/05/12; Sec. 2-3, 6-10 08/01/12

A bill for an act

relating to public safety; eliminating a Department of Corrections report on performance measures and targets; authorizing the fugitive apprehension unit to apply for search warrants; establishing a gardening program for inmates at each correctional facility; restoring the commissioner of corrections' discretion in selecting inmates to participate in the challenge incarceration program and requiring the commissioner to report to the legislature on how close to capacity the program is being operated; permitting victim notification regarding offenders by Department of Corrections to include electronic notification in addition to written notification; amending Minnesota Statutes 2010, sections 241.016, subdivision 1; 241.025, subdivision 2; 244.17, subdivisions 1, 2; 253B.18, subdivision 5a; 253B.185, subdivision 10; 611A.06, subdivisions 1, 2; 626.05, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 241.

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

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

Subdivision 1. **Biennial report.** (a) The Department of Corrections shall submit a performance report to the chairs and ranking minority members of the senate and house of representatives committees and divisions having jurisdiction over criminal justice funding by January 15 of each odd-numbered 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;

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

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

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

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

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

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

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

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

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

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

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

2.28 **EFFECTIVE DATE.** This section is effective the day following final enactment.

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

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

3.1 ~~apprehension unit members are not authorized to apply for a search warrant as prescribed~~  
3.2 ~~in section 626.05.~~

3.3 Sec. 3. [241.241] PRISON GARDENING PROGRAM.

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

3.10 Sec. 4. Minnesota Statutes 2010, section 244.17, subdivision 1, is amended to read:

3.11 Subdivision 1. **Generally.** (a) The commissioner ~~shall~~ may select offenders who  
3.12 meet the eligibility requirements of subdivisions 2 and 3 to participate in a challenge  
3.13 incarceration program described in sections 244.171 and 244.172 for all or part of the  
3.14 offender's sentence if the offender agrees to participate in the program and signs a written  
3.15 contract with the commissioner agreeing to comply with the program's requirements.

3.16 (b) The commissioner shall strive to select sufficient numbers of eligible offenders  
3.17 to ensure that the program operates as close to capacity as possible. The commissioner  
3.18 shall include specific information on how close to capacity the program is operating in the  
3.19 department's performance report described in section 241.016.

3.20 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.21 Sec. 5. Minnesota Statutes 2010, section 244.17, subdivision 2, is amended to read:

3.22 Subd. 2. **Eligibility.** (a) ~~Unless a person is ineligible under subdivision 3, The~~  
3.23 ~~commissioner must offer a bed in~~ limit the challenge incarceration program to the  
3.24 following persons:

3.25 (1) offenders who are committed to the commissioner's custody following revocation  
3.26 of a stayed sentence; and

3.27 (2) offenders who are committed to the commissioner's custody, who have 48  
3.28 months or less in or remaining in their term of imprisonment, and who did not receive a  
3.29 dispositional departure under the Sentencing Guidelines.

3.30 (b) If there is insufficient space for an eligible person, the commissioner ~~shall~~ may  
3.31 place the person's name on a waiting list and offer the person the chance to participate  
3.32 when space becomes available if the person is still eligible under this section.

4.1 EFFECTIVE DATE. This section is effective the day following final enactment.

4.2 Sec. 6. Minnesota Statutes 2010, section 253B.18, subdivision 5a, is amended to read:

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

4.4 (a) As used in this subdivision:

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

4.10 (2) "victim" means a person who has incurred loss or harm as a result of a crime  
4.11 the behavior for which forms the basis for a commitment under this section or section  
4.12 253B.185; and

4.13 (3) "convicted" and "conviction" have the meanings given in section 609.02,  
4.14 subdivision 5, and also include juvenile court adjudications, findings under Minnesota  
4.15 Rules of Criminal Procedure, rule 20.02, that the elements of a crime have been proved,  
4.16 and findings in commitment cases under this section or section 253B.185 that an act or  
4.17 acts constituting a crime occurred.

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

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

5.1 (d) This subdivision applies only to victims who have requested notification through  
5.2 the Department of Corrections electronic victim notification system, or by contacting, in  
5.3 writing, the county attorney in the county where the conviction for the crime occurred.  
5.4 A request for notice under this subdivision received by the commissioner of corrections  
5.5 through the Department of Corrections electronic victim notification system shall be  
5.6 promptly forwarded to the prosecutorial authority with jurisdiction over the offense to  
5.7 which the notice relates or, following commitment, the head of the treatment facility. A  
5.8 county attorney who receives a request for notification under this paragraph following  
5.9 commitment shall promptly forward the request to the commissioner of human services.

5.10 (e) The rights under this subdivision are in addition to rights available to a victim  
5.11 under chapter 611A. This provision does not give a victim all the rights of a "notified  
5.12 person" or a person "entitled to statutory notice" under subdivision 4a, 4b, or 5 or section  
5.13 253B.185, subdivision 10.

5.14 Sec. 7. Minnesota Statutes 2010, section 253B.185, subdivision 10, is amended to read:

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

5.16 (a) As used in this subdivision:

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

5.22 (2) "victim" means a person who has incurred loss or harm as a result of a crime,  
5.23 the behavior for which forms the basis for a commitment under this section or section  
5.24 253B.18; and

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

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

5.34 (c) Before provisionally discharging, discharging, granting pass-eligible status,  
5.35 approving a pass plan, or otherwise permanently or temporarily releasing a person

6.1 committed under this section from a treatment facility, the head of the treatment facility  
6.2 shall make a reasonable effort to notify any victim of a crime for which the person was  
6.3 convicted that the person may be discharged or released and that the victim has a right  
6.4 to submit a written statement regarding decisions of the head of the treatment facility or  
6.5 designee, or special review board, with respect to the person. To the extent possible, the  
6.6 notice must be provided at least 14 days before any special review board hearing or before  
6.7 a determination on a pass plan. Notwithstanding section 611A.06, subdivision 4, the  
6.8 commissioner shall provide the judicial appeal panel with victim information in order to  
6.9 comply with the provisions of this section. The judicial appeal panel shall ensure that the  
6.10 data on victims remains private as provided for in section 611A.06, subdivision 4.

6.11 (d) This subdivision applies only to victims who have requested notification through  
6.12 the Department of Corrections electronic victim notification system, or by contacting, in  
6.13 writing, the county attorney in the county where the conviction for the crime occurred or  
6.14 where the civil commitment was filed or, following commitment, the head of the treatment  
6.15 facility. A request for notice under this subdivision received by the commissioner of  
6.16 corrections through the Department of Corrections electronic victim notification system  
6.17 shall be promptly forwarded to the prosecutorial authority with jurisdiction over the  
6.18 offense to which the notice relates or, following commitment, the head of the treatment  
6.19 facility. A county attorney who receives a request for notification under this paragraph  
6.20 following commitment shall promptly forward the request to the commissioner of human  
6.21 services.

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

6.26 Sec. 8. Minnesota Statutes 2010, section 611A.06, subdivision 1, is amended to read:

6.27 Subdivision 1. **Notice of release required.** The commissioner of corrections or  
6.28 other custodial authority shall make a good faith effort to notify the victim that the  
6.29 offender is to be released from imprisonment or incarceration, including release on  
6.30 extended furlough and for work release; released from a juvenile correctional facility;  
6.31 released from a facility in which the offender was confined due to incompetency, mental  
6.32 illness, or mental deficiency, or commitment under section 253B.18 or 253B.185; or if  
6.33 the offender's custody status is reduced, if the victim has mailed to the commissioner of  
6.34 corrections or to the head of the facility in which the offender is confined a written request  
6.35 for this notice, or the victim has made a request for this notice to the commissioner of

7.1 corrections through the Department of Corrections electronic victim notification system.

7.2 The good faith effort to notify the victim must occur prior to the offender's release or when  
7.3 the offender's custody status is reduced. For a victim of a felony crime against the person  
7.4 for which the offender was sentenced to imprisonment for more than 18 months, the good  
7.5 faith effort to notify the victim must occur 60 days before the offender's release.

7.6 Sec. 9. Minnesota Statutes 2010, section 611A.06, subdivision 2, is amended to read:

7.7 Subd. 2. **Contents of notice.** The notice given to a victim of a crime against a  
7.8 person must include the conditions governing the offender's release, and either the identity  
7.9 of the corrections agent who will be supervising the offender's release or a means to  
7.10 identify the court services agency that will be supervising the offender's release. The  
7.11 commissioner or other custodial authority complies with this section upon mailing the  
7.12 notice of impending release to the victim at the address which the victim has most recently  
7.13 provided to the commissioner or authority in writing, or by providing electronic notice to  
7.14 the victim who requested this notice through the Department of Corrections electronic  
7.15 victim notification system.

7.16 Sec. 10. Minnesota Statutes 2010, section 626.05, subdivision 2, is amended to read:

7.17 Subd. 2. **Peace officer.** The term "peace officer," as used in sections 626.04 to  
7.18 626.17, means a person who is licensed as a peace officer in accordance with section  
7.19 626.84, subdivision 1, and who serves as a sheriff, deputy sheriff, police officer,  
7.20 conservation officer, agent of the Bureau of Criminal Apprehension, agent of the  
7.21 Division of Alcohol and Gambling Enforcement, University of Minnesota peace officer,  
7.22 Metropolitan Transit police officer, Minnesota Department of Corrections Fugitive  
7.23 Apprehension Unit member, or State Patrol trooper as authorized by section 299D.03.