

239.18 WEIGHTS, MEASURES

No surety bond shall be required of any agent or employee of a livestock commission merchant, person, firm, or corporation, licensed under this section. Unless otherwise canceled by the department or the licensee, the license of all agents or employees shall terminate with the expiration of the principal's license. An agent's or employee's license may be canceled by the principal when such cancellation has been approved by the department.

[1973 c 766 s 4]

239.34 Standard weight of coal and charcoal

In all contracts for the sale of coal, charcoal, and ice, the term "ton" shall mean 2,000 pounds. A sale of coal and charcoal, except by weight, is hereby prohibited.

[1973 c 89 s 1]

CORRECTIONS

CHAPTER 241. DEPARTMENT OF CORRECTIONS

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241.01 Creation of department

[For text of subd. 1, see M.S.1971]

Subd. 2. Divisions; deputies. The commissioner of corrections may appoint and employ no more than four deputy commissioners who shall serve at the pleasure of the commissioner in the unclassified service of the state civil service. Each deputy may perform and exercise every duty, power and responsibility imposed by law upon the commissioner when authorized to so do by the commissioner. Appointments to exercise delegated power shall be by written order filed with the secretary of state. Each deputy may perform and exercise every duty, power, and responsibility imposed by law upon the commissioner when authorized so to do by the commissioner. The commissioner may also appoint a personal secretary, who shall serve at his pleasure in the unclassified service of the state, and fix the salary of said secretary commensurate with salaries for similar services in the classified service.

[1973 c 94 s 1]

Subd. 3. Officers, employees and agents. Subject to the provisions of this chapter, and to other applicable laws, the commissioner of corrections is authorized to organize the department and to employ such officers, employees, and agents as he may deem necessary to discharge the functions of his department, define the duties of such officers, employees, and agents and to delegate to them any of his powers, duties, and responsibilities, subject to his control and under such conditions as he may prescribe.

The commissioner shall also appoint a chief executive officer for each institution under his exclusive control and may, under the provisions of section 43.24, remove him for cause. Every such executive officer shall have the qualifications and perform the duties now or hereafter required by law, or by rules prescribed by the commissioner. He may appoint an acting chief executive officer during such interim period as is necessary to select and appoint a

chief executive officer. In case of an apparent conflict between the powers conferred by law upon any executive officer of a state correctional institution and those conferred by this chapter upon the commissioner of corrections, it shall be conclusively presumed that the power belongs to the latter. The commissioner may require that a chief executive officer reside upon the institution grounds.

When not prohibited by law, and when special circumstances warrant, the commissioner of corrections may direct that personnel, agents and facilities, of one division shall be utilized in carrying out the duties of the other division. The commissioner may assign correctional officers to transport inmates among the several state correctional institutions, apprehend escapees from such institutions, and to assist corrections agents in the apprehension of parole and probation violators. Such correctional officers may, upon the written order of the youth conservation commission or the adult corrections commission, retake and place in actual custody persons who have violated the terms and conditions of their parole or probation. He may obtain institutional consultant services from the commissioner of public welfare by agreement with the said commissioner. Appointments to exercise delegated power shall be by written order filed with the secretary of state.

[1973 c 94 s 2]

[For text of subds. 4 and 5, see M.S.1971]

Subd. 6. Corrections; uncompensated and voluntary services; expenses. To assist in the discharge of the functions of his department the commissioner of corrections shall have authority to accept uncompensated and voluntary services and to enter into contracts or agreements with private or public agencies or persons for such uncompensated and voluntary services as he may deem practicable. Persons rendering voluntary uncompensated services as herein authorized may be reimbursed for travel expenses paid or incurred in the performance of such official duties as may be assigned them at the same rate per mile as state employees. It is the purpose of this subdivision to provide travel expenses only to those volunteers who would otherwise be unable to afford to perform volunteer services.

[1973 c 500 s 1]

Subd. 7. Use of facilities of institution by outside agencies. The commissioner of corrections may authorize and permit public or private social service, educational or rehabilitation agencies or organizations and their clients to enter upon and utilize the facilities, staff and other resources of institutions under his control and may require the participating agencies or organizations to pay all or part of the costs thereof. All sums of money received pursuant to the agreements herein authorized are hereby appropriated annually to the commissioner of corrections for the purposes of this subdivision.

[1973 c 82 s 1]

241.03 [Repealed, 1973 c 654 s 14]

241.04 [Repealed, 1973 c 654 s 14]

241.045 Minnesota corrections authority

Subdivision 1. Creation. There is hereby created the Minnesota corrections authority consisting of five full time members; four of whom shall be appointed by the governor, with the advice and consent of the senate. To assist in the selection of suitable persons to be members of the Minnesota corrections authority there is created an advisory committee consisting of the following persons or their designees: the attorney general, the corrections ombudsman, the commissioners of corrections, public welfare, and human rights, and the following persons to be appointed by the governor: one representative each from a private social agency and a Minnesota institution of higher learning, and two citizens from the community at large. The committee, whose recommendations are advisory only, shall prepare and submit to

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the governor one or more recommendations for each appointment to the authority. No more than two members appointed by the governor shall belong to the same political party. Appointments to a vacancy shall be made in the same manner as other appointments, and shall be for the unexpired term. The chairman of the authority shall be an officer of the department of corrections in the unclassified service of the state appointed by the commissioner of corrections to serve at his pleasure.

Subd. 2. Qualifications. Candidates for appointment to the Minnesota corrections authority shall not be required to have specific academic or professional attainment, but shall have knowledge or experience in corrections or related fields and be selected on the basis of sound judgment and the ability to consider both the needs of persons over whom the authority has jurisdiction and the safety of the public. Among the members appointed by the governor, there shall be at least one woman, one man, and one member of a racial minority.

Subd. 3. Term of office. The members of the authority first appointed by the governor shall be appointed to serve for the following terms: one member for two years; one member for four years; and two members for six years. Thereafter, each gubernatorial appointment shall be for six years. Members shall be eligible for reappointment. Each term shall terminate on the first day of January; except that it shall continue until his successor has been duly appointed and qualified.

Subd. 4. Compensation; expenses. Each member of the authority other than the chairman shall receive as compensation the sum of \$20,000 per year, payable in the same manner as other employees of the state. The chairman of the authority shall receive as compensation his salary as an officer of the department of corrections, which shall not be less than the salary of the other members of the authority. In addition to the compensation herein provided, each member of the authority shall be reimbursed for all expenses paid or incurred by him in the performance of his official duties in the same manner as other employees of the state. This compensation and these expenses shall be paid out of the general fund in the same manner as the salaries and expenses of other state officers are paid, except that the salary and expenses of the chairman of the authority shall be paid out of funds appropriated to the commissioner of corrections.

Subd. 5. Removal. The governor may remove any member of the authority appointed by him for good cause shown after the submission of written charges and an opportunity to be heard.

Subd. 6. Quorum. Except for the parole of persons serving life sentences under the provisions of section 609.185, persons serving extended terms of imprisonment as dangerous offenders under section 609.16, a transfer of a person in the care and custody of the authority under the provisions of section 242.27, or the discharge of such person pursuant to section 242.31, the authority may sit in units of two or three as designated by the chairman under rules prescribed by the authority, and such a unit shall constitute a quorum.

Subd. 7. Transfer of powers and duties. All the powers and duties now vested in and imposed upon the youth conservation commission and the adult corrections commission as now constituted, including but not limited to those relating to the disposition of persons committed to the youth conservation commission by the district courts of this state, the granting or revoking of probation or parole, issuing final discharge, and the power to grant or revoke parole and issue final discharge to persons convicted of crime and committed to the adult corrections commission as now constituted are hereby vested in and imposed upon the corrections authority, and the youth conservation commission and the adult corrections commission are hereby abolished. The authority may not delegate the making of such decisions to another body or person.

Subd. 8. References. All references in Minnesota Statutes to the youth conservation commission relating to persons committed to the commission by

the district courts of this state shall, after the effective date of Laws 1973, Chapter 654, be deemed to refer to the Minnesota corrections authority established by Laws 1973, Chapter 654.

All references in Minnesota Statutes to the youth conservation commission or its director relating to juveniles adjudicated delinquent by the juvenile courts of this state shall, after the effective date of Laws 1973, Chapter 654 be deemed to refer to the commissioner of corrections.

[1973 c 654 s 1]

241.08 Money of inmates of correctional institutions

Subdivision 1. The chief executive officer of each institution under the jurisdiction of the commissioner of corrections shall have the care and custody of all moneys belonging to inmates thereof which may come into his hands, keep accurate accounts thereof, and pay them out under rules and regulations prescribed by law or by the commissioner of corrections, taking vouchers therefor. He shall give such additional bond as the commissioner may require, conditioned to safely keep and account for such funds. All such moneys received by any officer or employee shall be paid to the chief executive officer forthwith. Every such executive officer, at the close of each month, or oftener if required by the commissioner, shall forward to the commissioner a statement of the amount of all moneys so received and the names of the inmates from whom received, accompanied by his check for the amount, payable to the state treasurer. On receipt of such statement, the commissioner shall transmit the same to the state auditor, together with such check, who shall deliver the same to the state treasurer. Upon the payment of such check, the amount shall be credited to a fund to be known as "Correctional Inmates Fund", for the institution from which the same was received. All such funds shall be paid out by the state treasurer upon vouchers duly approved by the commissioner of corrections as in other cases. The commissioner may permit a contingent fund to remain in the hands of the executive officer of any such institution from which necessary expenditure may from time to time be made.

Subd. 2. Notwithstanding the provisions of subdivision 1 and section 242.38 or other law to the contrary, the commissioner of corrections may permit the inmates of the institutions under his control to deposit money in a bank or other financial institution. The commissioner shall establish rules governing the deposits and shall require each inmate to maintain at the institution in which confined an amount adequate for his needs during the period of his confinement and to assist him upon his release therefrom on parole or by discharge.

[1973 c 69 s 1]

241.12 [Repealed, 1973 c 400 s 2]

COMMUNITY CORRECTIONS PROGRAMS

241.31 Establishment and operation by municipality

Subdivision 1. Notwithstanding any provisions of Minnesota Statutes to the contrary, any city, county, town, or village, or any non-profit corporation approved by the commissioner of corrections, or any combination thereof may establish and operate a community corrections program for the purpose of providing housing, supervision, treatment, counseling or other correctional services;

(a) to persons convicted of crime in the courts of this state and placed on probation by such courts pursuant to section 609.135;

(b) to persons not yet convicted of a crime but under criminal accusation who voluntarily accept such treatment;

(c) to persons adjudicated a delinquent under chapter 260;

(d) with the approval of the youth conservation commission, to persons paroled under chapter 242; and

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(e) with the approval of the adults corrections commission, to persons paroled under section 243.05 or released under section 241.26.

Subd. 2. Community corrections programs established under this section may be administered by a non-profit corporation, by the political subdivision establishing same, or by a community corrections board organized and composed in the same manner that a community mental health board is composed and organized under sections 245.66 to 245.67.

Subd. 3. The premises and facilities for any community correctional program may be acquired by purchase, lease, or gift, and may be established and operated in connection with existing public or private institutions or agencies.

Subd. 4. Any political subdivision, as described in subdivision 1, may use unexpended funds, levy additional taxes, accept gifts, grants and subsidies from any lawful source, or make application for federal funds in order to provide the necessary funds for the establishment and operation of a community corrections program.

Subd. 5. The commissioner of corrections shall establish minimum standards for the size, area to be served, qualifications of staff, ratio of staff to client population, and treatment programs for community corrections programs established pursuant to this section. Plans and specifications for such programs, including proposed budgets must first be submitted to the commissioner for his approval prior to the establishment.

Subd. 6. With the approval of the commissioner of public welfare any city, county, town, village, or any non-profit corporation approved by the commissioner of corrections, or any combination thereof, may obtain by lease the use of any building or unit thereof located upon the grounds of a state hospital, and may contract with such state hospital and with community mental health centers for consultative and clinical services.

Subd. 7. For the purpose of demonstrating the effectiveness of the community corrections programs authorized by this section and to promote the development of such programs the commissioner of corrections may, out of funds appropriated for such purposes, make grants not to exceed 65 percent of the costs of operating such programs, provided however, that the commissioner may make grants of 100 percent of the operating costs of such programs operated by the Indian reservation business committees exercising governmental functions pursuant to congressional charters. Community corrections programs established under the provisions of Laws 1971, Chapter 782 must comply with the provisions of subdivision 5 to be eligible to apply for and receive the assistance provided by this subdivision.

The commissioner shall review at least annually each program established under Laws 1971, Chapter 782 and review its projected annual operating costs to insure continued compliance with minimum standards, and may withhold funds for noncompliance.

[1973 c 622 s 1]

241.32 Establishment and operation by state

Subdivision 1. The commissioner of corrections may establish and operate community correctional programs or contract with existing public and private agencies for separate custody or specialized care and treatment of persons under his custody and control or under the custody and control of the youth conservation commission or the adult corrections commission or on conditional release under section 241.26.

Subd. 2. Any person admitted to a community correctional program by action of the youth conservation commission or the adult corrections commission shall be and remain under the control of the youth conservation commission or the adult corrections commission and may be conditionally released therefrom in the manner and for such periods of time as may be ordered by the appropriate commission.

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Subd. 3. To establish and operate community correctional programs or to provide such services through agreement with public and private agencies the commissioner is authorized to accept gifts, grants, and subsidies from any lawful source and to negotiate with the federal government, or any agency, bureau, or department thereof to obtain funds for the purposes of this subdivision, which gifts, grants, subsidies, and funds are hereby appropriated to the commissioner.

[1973 c 622 s 2]

OMBUDSMAN [NEW]

241.407 Office of ombudsman; creation; qualifications; function

The office of ombudsman for the Minnesota state department of corrections is hereby created. The ombudsman shall serve at the pleasure of the governor in the unclassified service, shall be selected without regard to political affiliation, and shall be a person highly competent and qualified to analyze questions of law, administration, and public policy. No person may serve as ombudsman while holding any other public office. The ombudsman for the department of corrections shall be accountable to the governor and shall have the authority to investigate decisions, acts, and other matters of the department of corrections so as to promote the highest attainable standards of competence, efficiency, and justice in the administration of corrections.

[1973 c 553 s 1]

241.42 Definitions

Subdivision 1. For the purposes of sections 241.407 and 241.42 to 241.45, the following terms shall have the meanings here given them.

Subd. 2. "Administrative agency" or "agency" means any division, official, or employee of the Minnesota department of corrections, the youth conservation commission, the adult corrections commission and the board of pardons, but does not include:

- (a) any court or judge;
- (b) any member of the senate or house of representatives of the state of Minnesota;
- (c) the governor or his personal staff;
- (d) any instrumentality of the federal government of the United States;
- (e) any political subdivision of the state of Minnesota;
- (f) any interstate compact.

Subd. 3. "Commission" means the ombudsman commission.

Subd. 4. "Correctional client" means any person under the jurisdiction of the Minnesota department of corrections, and includes all persons in state correctional institutions and all persons on parole or probation under the supervision of the commissioner of corrections, the youth conservation commission or the adult corrections commission.

[1973 c 553 s 2]

241.43 Organization of office of ombudsman

Subdivision 1. The ombudsman may select, appoint, and compensate out of available funds such assistants and employees as he may deem necessary to discharge his responsibilities. All employees, except the secretarial and clerical staff, shall serve at the pleasure of the ombudsman in the unclassified service. The ombudsman and his full-time staff shall be members of the Minnesota state retirement association.

Subd. 2. The ombudsman shall designate one of his assistants to be the deputy ombudsman.

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Subd. 3. The ombudsman may delegate to members of his staff any of his authority or duties except the duty of formally making recommendations to an administrative agency or reports to the office of the governor, or to the legislature.

[1973 c 553 s 3]

241.44 Powers of ombudsman; investigations; action on complaints; recommendations

Subdivision 1. Powers. The ombudsman shall have the following powers:

(a) He may prescribe the methods by which complaints are to be made, reviewed, and acted upon; provided, however, that he may not levy a complaint fee;

(b) He may determine the scope and manner of investigations to be made;

(c) Except as otherwise provided, he may determine the form, frequency, and distribution of his conclusions, recommendations, and proposals; provided, however, that the governor or his representative may, at any time the governor deems it necessary, request and receive information from the ombudsman;

(d) He may investigate, upon a complaint in writing or upon his own initiative, any action of an administrative agency;

(e) He may request and shall be given access to information in the possession of an administrative agency which he deems necessary for the discharge of his responsibilities;

(f) He may examine the records and documents of an administrative agency;

(g) He may enter and inspect, at any time, premises within the control of an administrative agency;

(h) He may order any person to appear, give testimony, or produce documentary or other evidence which the ombudsman deems relevant to a matter under his inquiry; provided, however, that any witness at a hearing or before an investigation as herein provided, shall possess the same privileges reserved to such a witness in the courts or under the laws of this state;

(i) The ombudsman may bring an action in an appropriate state court to provide the operation of the powers provided in this subdivision. The ombudsman may use the services of legal assistance to Minnesota prisoners for legal counsel. The provisions of sections 241.407 and 241.42 to 241.45 are in addition to other provisions of law under which any remedy or right of appeal or objection is provided for any person, or any procedure provided for inquiry or investigation concerning any matter. Nothing in sections 241.407 and 241.42 to 241.45 shall be construed to limit or affect any other remedy or right of appeal or objection nor shall it be deemed part of an exclusionary process.

Subd. 2. Matters appropriate for investigation. (a) In selecting matters for his attention, the ombudsman should address himself particularly to actions of an administrative agency which might be:

(1) contrary to law or regulation;

(2) unreasonable, unfair, oppressive, or inconsistent with any policy or judgment of an administrative agency;

(3) mistaken in law or arbitrary in the ascertainment of facts;

(4) unclear or inadequately explained when reasons should have been revealed;

(5) inefficiently performed;

(b) The ombudsman may also concern himself with strengthening procedures and practices which lessen the risk that objectionable actions of the administrative agency will occur.

Subd. 3. Complaints. The ombudsman may receive a complaint from any source concerning an action of an administrative agency. He may, on his own motion or at the request of another, investigate any action of an administrative agency.

The ombudsman may exercise his powers without regard to the finality of any action of an administrative agency; however, he may require a complainant to pursue other remedies or channels of complaint open to the complainant before accepting or investigating the complaint.

After completing his investigation of a complaint, the ombudsman shall inform the complainant, the administrative agency, and the official or employee of the action taken.

A letter to the ombudsman from a person in an institution under the control of an administrative agency shall be forwarded immediately and unopened to the ombudsman's office.

Subd. 4. Recommendations. (a) If, after duly considering a complaint and whatever material he deems pertinent, the ombudsman is of the opinion that the complaint is valid, he may recommend that an administrative agency should:

- (1) consider the matter further;
- (2) modify or cancel its actions;
- (3) alter a regulation or ruling;
- (4) explain more fully the action in question; or
- (5) take any other step which the ombudsman states as his recommendation to the administrative agency involved.

If the ombudsman so requests, the agency shall within the time he specifies, inform the ombudsman about the action taken on his recommendation or the reasons for not complying with it.

(b) If the ombudsman has reason to believe that any public official or employee has acted in a manner warranting criminal or disciplinary proceedings, he may refer the matter to the appropriate authorities.

(c) If the ombudsman believes that an action upon which a valid complaint is founded has been dictated by a statute, and that the statute produces results or effects which are unfair or otherwise objectionable, the ombudsman shall bring to the attention of the governor and the legislature his view concerning desirable statutory change.

[1973 c 553 s 4]

241.45 Publication of recommendations; reports

Subdivision 1. The ombudsman may publish his conclusions and suggestions by transmitting them to the office of the governor. Before announcing a conclusion or recommendation that expressly or impliedly criticizes an administrative agency, or any person, the ombudsman shall consult with that agency or person. When publishing an opinion adverse to an administrative agency, or any person, the ombudsman shall include in such publication any statement of reasonable length made to him by that agency or person in defense or mitigation of the action.

Subd. 2. In addition to whatever reports the ombudsman may make on an ad hoc basis, the ombudsman shall at the end of each year report to the governor concerning the exercise of his functions during the preceding year.

[1973 c 553 s 5]

(NOTE: Laws 1973, Chapter 553 shall expire July 1, 1977.)