

2008 LEGISLATIVE CHANGES AFFECTING CORRECTION PROFESSIONALS



BY

**LES SCHULTZ
BROWN COUNTY PROBATION DIRECTOR**

Note: *This document includes the legislative changes that occurred in the 2008 Regular Session. The statute numbers, effective dates, bill information and web site location to the actual bill are included. Please refer to the entire 2008 Minnesota Session Laws at: <http://ros.leg.mn/data/revisor/slaws/2008/0/> for complete bill information.*

Due to limited law changes this year, I have added two pages of links, one for corrections professionals and another for public use. You will find these on the last two pages.

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Acts Constituting a Nuisance. (a) For purposes of sections 617.80 to 617.87 , a public nuisance exists (i) upon proof of one or more separate behavioral incidents described in clause (1), (5), or (8), or (ii) upon proof of two or more separate behavioral incidents of one or more of the following described in clause (2), (3), (4), (6), (7), or (9), committed within the previous 12 months within the building: (1) prostitution or prostitution-related activity committed within the building; (2) gambling or gambling-related activity committed within the building; (3) maintaining a public nuisance in violation of section 609.74, clause (1) or (3); (4) permitting a public nuisance in violation of section 609.745; (5) unlawful sale, possession, storage, delivery, giving, manufacture, cultivation, or use of controlled substances committed within the building; (6) unlicensed sales of alcoholic beverages committed within the building in violation of section 340A.401; (7) unlawful sales or gifts of alcoholic beverages by an unlicensed person committed within the building in violation of section 340A.503, subdivision 2, clause (1); (8) unlawful use or possession of a ~~firearm in violation of section 609.66, subdivision 1a , 609.67, or 624.713~~ dangerous weapon as defined in section 609.02, subdivision 6, committed within the building; or (9) violation by a commercial enterprise of local or state business licensing regulations, ordinances, or statutes prohibiting the maintenance of a public nuisance as defined in section 609.74 or the control of a public nuisance as defined in section 609.745. (b) If the building contains more than one rental unit, two or more behavioral incidents must consist of conduct: (1) anywhere in the building by the same tenant or lessee, or persons acting in conjunction with or under the control of the same tenant or lessee; (2) by any persons within the same rental unit while occupied by the same tenant or lessee or within two or more rental units while occupied by the same tenant or lessee; or (3) by the owner of the building or persons acting in conjunction with or under the control of the owner (c) Proof of a nuisance exists if each of the elements of the conduct constituting the nuisance is established by ~~clear and convincing~~ preponderance of evidence.

Link: <https://www.revisor.leg.state.mn.us/bin/bldbill.php?bill=H2627.0.html&session=ls85>

EFFECTIVE DATE. Section 1 applies to crimes committed on or after August 1, 2008.

Fingerprinting for Adults/Juveniles in Jail or Detention Centers

Minnesota Statutes 2006, section 13.871, is amended by adding a subdivision to read: Subd. 11. E-charging. Data in e-charging is governed by section 299C.41. Sec. 2. Minnesota Statutes 2006, section 299C.10, subdivision 1, is amended to read: Subdivision 1. **Required fingerprinting.** (a) Sheriffs, peace officers, and community corrections agencies operating secure juvenile detention facilities shall take or cause to be taken immediately finger and thumb prints, photographs, distinctive physical mark identification data, information on any known aliases or street names, and other identification data requested or required by the superintendent of the bureau, of the following: (1) persons arrested for, appearing in court on a charge of, or convicted of a felony, gross misdemeanor, or targeted misdemeanor; (2) juveniles arrested for, appearing in court on a charge of, adjudicated delinquent for, or alleged to have committed felonies or gross misdemeanors as distinguished from those committed by adult offenders; (3) adults and juveniles admitted to jails or detention facilities; ~~(3)~~ (4) persons reasonably believed by the arresting officer to be fugitives from justice;~~(4)~~ (5) persons in whose possession, when arrested, are found

concealed firearms or other dangerous weapons, burglar tools or outfits, high-power explosives, or articles, machines, or appliances usable for an unlawful purpose and reasonably believed by the arresting officer to be intended for such purposes;~~(5)~~ (6) juveniles referred by a law enforcement agency to a diversion program for a felony or gross misdemeanor offense; and ~~(6)~~ (7) persons currently involved in the criminal justice process, on probation, on parole, or in custody for the offenses in suspense whom the superintendent of the bureau identifies as being the subject of a court disposition record which cannot be linked to an arrest record, and whose fingerprints are necessary in order to maintain and ensure the accuracy of the bureau's criminal history files, to reduce the number of suspense files, or to comply with the mandates of section 299C.111, relating to the reduction of the number of suspense files.

This duty to obtain fingerprints for the offenses in suspense at the request of the bureau shall include the requirement that fingerprints be taken in post-arrest interviews, while making court appearances, while in custody, or while on any form of probation, diversion, or supervised release.(b) Unless the superintendent of the bureau requires a shorter period, within 24 hours the fingerprint records and other identification data specified under paragraph (a) must be forwarded to the bureau on such forms and in such manner as may be prescribed by the superintendent.(c) Prosecutors, courts, and probation officers and their agents, employees, and subordinates shall attempt to ensure that the required identification data is taken on a person described in paragraph (a). Law enforcement may take fingerprints of an individual who is presently on probation.(d) Finger and thumb prints must be obtained no later than:(1) release from booking; or(2) if not booked prior to acceptance of a plea of guilty or not guilty. Prior to acceptance of a plea of guilty or not guilty, an individual's finger and thumb prints must be submitted to the Bureau of Criminal Apprehension for the offense. If finger and thumb prints have not been successfully received by the bureau, an individual may, upon order of the court, be taken into custody for no more than eight hours so that the taking of prints can be completed. Upon notice and motion of the prosecuting attorney, this time period may be extended upon a showing that additional time in custody is essential for the successful taking of prints.~~(d)~~ (e) For purposes of this section, a targeted misdemeanor is a misdemeanor violation of section 169A.20 (driving while impaired), 518B.01 (order for protection violation), 609.224 (fifth degree assault), 609.2242 (domestic assault), 609.746 (interference with privacy), 609.748 (harassment or restraining order violation), or 617.23 (indecent exposure).

New Criminal Definitions, Classifications, Data Requests MSA 299C.41

E-CHARGING. Definitions. (a) The definitions in this subdivision apply to this section.(b) "Auditing data" means data in e-charging that document:(1) who took a particular action;(2) when the action took place;(3) the Internet Protocol address of the computer used to take the action;(4) the identification number of the organization employing the individual taking action;(5) what action was taken;(6) the unique identification for the document against which the action was taken;(7) the purpose for taking the action;(8) the date and time the request was received by the e-charging system; and(9) the identification number of the system from which the request originated.(c) "Credentialed individual" means an individual who has provided credentialing data to a government entity or a court and has been authorized to use e-charging.(d) "Credentialing data" means data in e-charging that document for an individual who is or was authorized to use e-charging:(1) user identification;(2) password; and(3) jurisdiction

identification. For law enforcement officers, credentialing data also includes a biometric identifier. For notaries public, credentialing data also includes an e-notary digital certificate.(e) "E-charging" means a service operated by the Bureau of Criminal Apprehension to provide communication and workflow tools for law enforcement, prosecutors, and the courts to use during the process of charging a person with a crime.(f) "Government entity" has the meaning given in section 13.02, subdivision 7a.(g) "Individual" has the meaning given in section 13.02, subdivision 8.(h) "Workflow and routing data" means data in e-charging that document:(1) the assignment or reassignment of a document to a person or place;(2) any deadline for the action on the assignment; and(3) validation that the needed action has been completed.

Subd. 2. **Data classification.** (a) Credentialing data held by a government entity are classified as private data on individuals as defined in section 13.02, subdivision 12, or nonpublic data as defined in section 13.02, subdivision 9.(b) Auditing data and workflow and routing data maintained by the Bureau of Criminal Apprehension are classified as confidential data on individuals as defined in section 13.02, subdivision 3, or protected nonpublic data as defined in section 13.02, subdivision 13. The same data maintained by any other government entity are classified as provided by other law.

Subd. 3. **Data sharing authorized.** (a) Auditing data, workflow and routing data, or credentialing data must be disclosed to a credentialed individual to resolve issues about the integrity of data at issue in a pending criminal matter. No use outside the pending criminal matter is authorized and no recipient can re-disclose the data that are received. To the extent that court rules make the data accessible to the public, they are accessible in the court records.(b) Auditing, workflow and routing data, or credentialing data must be disclosed to a defendant in a pending criminal matter when the data are relevant to the individual's defense as defined in the Rules of Criminal Procedure. Relevance must be determined by the court using the standard set in Rules of Criminal Procedure, rule 9.01, subdivision 2(1). If the data are found to be relevant, the court must issue an order directing disclosure and send it to the Bureau of Criminal Apprehension. Disclosure cannot be made unless the court's order provides the full name and date of birth of the defendant, the law enforcement agency number, the law enforcement case number connected to the charge, and specifies the data to be disclosed. The bureau shall provide the data to the defendant's attorney and the prosecutor. The data may not be used outside the pending criminal matter and a recipient may not re-disclose the data that are received. To the extent that court rules make the data accessible to the public, they are accessible in the court records.(c) Auditing data, workflow and routing data, or credentialing data may be disclosed to an employee of a government entity or court who has been accused of inappropriate access to, or use of data in, e-charging and to the employee's employer. The data may not be used outside the pending employee disciplining case and a recipient may not re-disclose the data that are received. To the extent that section 13.43 or court rules require the disclosure of the data as part of the final disposition of discipline against an employee, the data are 4.35as part of a criminal or civil matter against a person for unauthorized access to, or use of data in, e-charging. The data may not be used outside the civil or criminal case and a recipient may not re-disclose the data that are received. To the extent that the rules of public access to records of the judicial branch make the data accessible to the public, they are accessible in the court records.

Subd. 4. **Responding to data requests.** When the Bureau of Criminal Apprehension receives a request under chapter 13 for access to data in e-charging that are not auditing data, credentialing data, or workflow and routing data held by the Bureau of Criminal Apprehension, the Bureau of Criminal Apprehension shall direct the requester to all government entities that have created the requested data. As part of its response, the Bureau of Criminal Apprehension shall provide the requester with the name, address, and telephone number for the responsible authority for the government entity.

Effective Date: 8/1/08

Link: https://www.revisor.leg.state.mn.us/revisor/pages/search_status/status_detail.php?b=Senate&f=SF3342&y=2008&ssn=0

Commitment Hearing Time Limit Minnesota Statutes 2006, section 253B.08, subdivision 1, is amended to read: Subdivision 1. **Time for commitment hearing.** (a) The hearing on the commitment petition shall be held within 14 days from the date of the filing of the petition, except that the hearing on a commitment petition pursuant to section 253B.185 shall be held within 90 days from the date of the filing of the petition. For good cause shown, the court may extend the time of hearing up to an additional 30 days. The proceeding shall be dismissed if the proposed patient has not had a hearing on a commitment petition within the allowed time. (b) If a patient is being held in a treatment facility pursuant to a court order, the proposed patient, or the head of the treatment facility in which the person patient is held, may demand in writing at any time that the hearing be held immediately. Unless the hearing is held within five days of the date of the demand, exclusive of Saturdays, Sundays and legal holidays, the petition patient shall be automatically discharged if the patient is being held in a treatment facility pursuant to court order from the treatment facility. For good cause shown, the court may extend the time of hearing on the demand for an additional ten days. This paragraph does not apply to a commitment petition brought under section 253B.18 or 253B.185.

Effective Date: 8/1/08

Link: <https://www.revisor.leg.state.mn.us/bin/bldbill.php?bill=H3396.0.html&session=ls85>

Fake Call For Police, Fire or Medical Services

Section 1. Minnesota Statutes 2006, section 609.78, subdivision 1, is amended to read: Subdivision 1. **Misdemeanor offenses.** Whoever does the following is guilty of a misdemeanor: (1) refuses to relinquish immediately a coin-operated telephone or a telephone line consisting of two or more stations when informed that the line is needed to make an emergency call; (2) secures a relinquishment of a coin-operated telephone or a telephone line consisting of two or more stations by falsely stating that the line is needed for an emergency; (3) publishes telephone directories to be used for telephones or telephone lines and the directories do not contain a copy of this section; (4) intentionally makes a call for emergency police, fire, medical, or ambulance service, knowing that no police, fire, or medical emergency exists; or (5) interrupts, disrupts, impedes, or otherwise interferes with the transmission of a citizen's band radio

channel communication the purpose of which is to inform or inquire about a medical emergency or an emergency in which property is or is reasonably believed to be in imminent danger of damage or destruction.

EFFECTIVE DATE. This section is effective August 1, 2008, and applies to crimes committed on or after that date.

Link: <https://www.revisor.leg.state.mn.us/bin/bldbill.php?bill=H3217.1.html&session=ls85>

Police Presence of Attorney and/or Union Representative

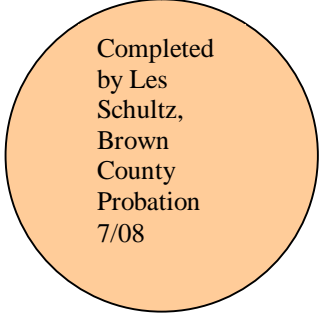
Minnesota Statutes 2006, section 626.89, subdivision 9, is amended to read: Subd. 9. **Presence of attorney ~~or~~ and union representative.** The officer whose formal statement is taken has the right to have ~~an attorney or~~ a union representative ~~of the officer's choosing~~ or an attorney retained by the officer, or both, present during the session. The officer may request the presence of ~~an~~ the attorney or the union representative, or both, at any time before or during the session. When a request under this subdivision is made, no formal statement may be taken until a reasonable opportunity is provided for the officer to obtain the presence of the attorney or the union representative.

Effective Date: 8/1/08

Link: <https://www.revisor.leg.state.mn.us/bin/bldbill.php?bill=H3483.1.html&session=ls85>

Correctional Web Sites

- ? Blood Alcohol Calculator <http://www.channel4000.com/sh/news/blood-alcohol-calc.html>
- Classic SSS <https://www.probation.state.mn.us/login.asp>
- ? Court web access <http://cws.courts.state.mn.us/>
- ? CrIMNet <https://search.crimnet.state.mn.us/CrIMNet/login.jsp?jsessionid=4868326D56626D43BFA7BA08DEA0DEC3>
- ? DNA Status: <https://bcalab.dps.state.mn.us/codnaweb/CODNAWEB.dll>
- ? DPS Home Page <http://www.dps.state.mn.us/dvs/index.html>
- ? DVI Assessment <http://www.online-testing.com/index.asp>
- ? DVS <https://www.dvslesupport.org/>
- ? Federal Prison Locator <http://www.bop.gov/iloc2/LocateInmate.jsp>
- ? Iowa Court Search <http://www.iowacourts.state.ia.us/ESAWebApp/DefaultFrame?in=1>
- ? JV Bed Search <https://search.s3.state.mn.us/search/general/PublicJuvenileBedsAvailableSearch.aspx>
- ? Level 3 Sex Offender Search <http://www.doc.state.mn.us/level3/search.asp>
- ? Military Locator <http://www.defenselink.mil/faq/pis/PC03MLTR.html>
- ? MNCIS MPA <http://cws.courts.state.mn.us/mpa/Login.aspx>
- ? MN Offender Locator <http://www.ancestorhunt.com/county-jail-inmates-search.htm#County%20Jail%20Inmates%20Search%20by%20State>
- ? MN Statutes https://www.revisor.leg.state.mn.us/revisor/pages/statute/statute_toc.php
- ? MRAP <https://mrapp.x.state.mn.us/>
- ? Multi-state Offender Locator <http://www.corrections.com/links/viewlinks.asp?Cat=20>
- ? National Jail Prison Search <http://www.ancestorhunt.com/county-jail-inmates-search.htm#County%20Jail%20Inmates%20Search%20by%20State>
- ? National Sex Offender Registry <http://www.nsopr.gov/>
- ? New Statewide Sup System <https://search.s3.state.mn.us/s3/logon.aspx>
- ? Portal https://portalweb.x.state.mn.us/Portal%20100/psplog_in.htm
- ? Preditory Offender Registration <https://por.x.state.mn.us/POR/PORLogin.aspx>
- ? Public Defenders <https://www.time.pubdef.state.mn.us/directory/PrintableDirectory.aspx?d=5>
- ? Wisc Court Search <http://wcca.wicourts.gov/index.xsl>



Completed
by Les
Schultz,
Brown
County
Probation
7/08

PUBLIC CORRECTIONAL INTERNET SITES

Web Sites of Interest: This is a listing of public websites that the general public can access:

? **Check to see if someone has a felony criminal history:**

www.mncriminals.com

(Note: A person could have multiple low-level non-assault crimes as they will NOT show up on this site)

? **Minnesota's Department of Corrections Fugitives:**

<http://info.doc.state.mn.us/publicviewer/FugitiveAll.asp>



? **Check to see if someone has been in a Minnesota Prison:**

<http://info.doc.state.mn.us/publicviewer/main.asp>

? **Check to see if someone is a MN Level III (most serious) sex offender:**

<http://www.doc.state.mn.us/level3/search.asp>

? **Check to see if someone is a sex offender anywhere in the nation:**

<http://www.nsopr.gov/>

? **Check to see if someone is a non-compliant predatory sex offender in Minnesota:**

<https://por.state.mn.us/>

? **FBI's Most Wanted:**

<http://www.fbi.gov/wanted.htm>



? **Information if you are a victim of crime:**

<http://www.ojp.state.mn.us/mccvs/>

? **Check to see if someone has a valid driver's license:**

<https://dutchelm.dps.state.mn.us/dvsinfo/mainframepublic.asp>

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