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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. **2073**

02/01/2012 Authored by Kelly and Slocum

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

1.1 A bill for an act
1.2 relating to corrections; authorizing the medical director for the Department of
1.3 Corrections to act for juveniles without a parent or guardian for medical and
1.4 mental health care; amending Minnesota Statutes 2010, section 241.75.

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

1.6 Section 1. Minnesota Statutes 2010, section 241.75, is amended to read:

1.7 **241.75 INMATE HEALTH CARE DECISIONS.**

1.8 Subdivision 1. **Definitions.** (a) Except as provided in paragraph (b), the definitions
1.9 in chapter 145C apply to this section.

1.10 (b) "Health care" means any care, treatment, service, or procedure to maintain,
1.11 diagnose, or otherwise affect a person's physical or mental condition.

1.12 Subd. 2. **Health care decisions.** The medical director of the Department of
1.13 Corrections may make a health care decision for:

1.14 (1) an adult inmate incarcerated in a state correctional facility if the inmate's
1.15 attending physician determines that the inmate lacks decision-making capacity and:

1.16 ~~(1)~~ (i) there is not a documented health care agent designated by the inmate or the
1.17 health care agent is not reasonably available to make the health care decision;

1.18 ~~(2)~~ (ii) if there is a documented health care directive, the decision is consistent
1.19 with that directive;

1.20 ~~(3)~~ (iii) the decision is consistent with reasonable medical practice and other
1.21 applicable law; and

1.22 ~~(4)~~ (iv) the medical director has made a good faith attempt to consult with the
1.23 inmate's next of kin or emergency contact person in making the decision, to the extent
1.24 those persons are reasonably available; and

2.1 (2) a juvenile inmate incarcerated in a state correctional facility when there is no
2.2 parent or legal guardian or during the time that an inmate's parent or legal guardian is
2.3 not reasonably available.

2.4 Subd. 3. **Disagreement regarding health care; guardianship petition.** If the
2.5 medical director consults with an inmate's next of kin under subdivision 2, clause ~~(4)~~(1),
2.6 item (iv), and the inmate's next of kin and the medical director are not in agreement with
2.7 respect to a health care decision, the commissioner may bring a petition under section
2.8 524.5-303 for appointment of a guardian with authority to make health care decisions
2.9 for the inmate.