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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 4923

03/13/2024 Authored by Frazier
The bill was read for the first time and referred to the Committee on Public Safety Finance and Policy

1.1 A bill for an act
1.2 relating to corrections; establishing standards of basic medical care for confined
1.3 or incarcerated persons; providing for information release forms; requiring a
1.4 portable recording system for correctional facility and jail staff and correctional
1.5 officers; appropriating money; amending Minnesota Statutes 2022, section 241.021,
1.6 subdivisions 1i, 7, by adding a subdivision; proposing coding for new law in
1.7 Minnesota Statutes, chapter 241.

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

1.9 Section 1. Minnesota Statutes 2022, section 241.021, subdivision 1i, is amended to read:

1.10 Subd. 1i. ~~Definition~~ Definitions. (a) As used in this section, the terms in this subdivision
1.11 have the meanings given.

1.12 (b) "Basic medical care" means care which is medically necessary to maintain the good
1.13 health of persons confined or incarcerated in correctional facilities or jails. The care includes
1.14 but is not limited to:

1.15 (1) emergency care, including but not limited to hospitalization;

1.16 (2) ongoing treatment for health conditions a person had prior to being confined or
1.17 incarcerated and continues to have while confined or incarcerated;

1.18 (3) treatment for conditions arising while confined or incarcerated;

1.19 (4) treatment for mental illness and substance use disorders;

1.20 (5) the provision of required prescriptions, including but not limited to medications the
1.21 person was taking prior to being confined or incarcerated; and

2.1 (6) the provision of required medical devices, including but not limited to mobility
 2.2 devices and sleep apnea devices.

2.3 (c) "Correctional facility" means any facility, including a group home, having a residential
 2.4 component, the primary purpose of which is to serve persons placed in facilities by a court,
 2.5 court services department, parole authority, or other correctional agency having dispositional
 2.6 power over persons charged with, convicted, or adjudicated guilty or delinquent.

2.7 (d) "Jail" means a county jail, workhouse, and lockup.

2.8 Sec. 2. Minnesota Statutes 2022, section 241.021, is amended by adding a subdivision to
 2.9 read:

2.10 Subd. 3a. **Basic health care.** (a) Only licensed medical personnel with the appropriate
 2.11 scope of practice shall make decisions relating to the medical care of persons confined or
 2.12 incarcerated in correctional facilities or jails, including but not limited to determining whether
 2.13 a confined or incarcerated person requires medical care. Failure to facilitate or provide basic
 2.14 medical care for a person under the care of a correctional facility or jail in the state poses
 2.15 a substantial risk of serious harm and constitutes deliberate indifference to the medical needs
 2.16 of the person.

2.17 (b) A person who is harmed by a violation of this subdivision or if the person is deceased,
 2.18 the surviving heirs, next of kin, or appointed trustee has a cause of action for injury caused
 2.19 by the violation.

2.20 (c) A correctional facility or jail that violates this subdivision is subject to a correction
 2.21 order or conditional license and other restrictions provided under this section. In addition
 2.22 to the remedies provided under this section, if a correctional facility or jail has a third
 2.23 violation or more of this subdivision, the commissioner may impose a fine of at least \$5,000
 2.24 but not more than \$25,000 for each violation. The fine shall be collected by the commissioner
 2.25 for deposit in the account for the Office of Ombudsperson for the Department of Corrections.

2.26 Sec. 3. Minnesota Statutes 2022, section 241.021, subdivision 7, is amended to read:

2.27 Subd. 7. **Intake release of information.** All correctional facilities and jails that confine
 2.28 or incarcerate adults are required at intake to provide each person an authorization form to
 2.29 release information related to that person's health or mental health condition and when that
 2.30 information should be shared. This release form shall be a standardized form used by all
 2.31 correctional facilities and jails in the state and shall be uniformly titled The Hardel Sherrell
 2.32 Act Release of Medical Information Form. This release form shall allow the individual to

3.1 select if the individual wants to require the correctional facility to make attempts to contact
3.2 the designated person to facilitate the sharing of health condition information upon
3.3 incapacitation or if the individual becomes unable to communicate or direct the sharing of
3.4 this information, so long as contact information was provided and the incapacitated individual
3.5 or individual who is unable to communicate or direct the sharing of this information is not
3.6 subject to a court order prohibiting contact with the designated person. This release form
3.7 shall also specify the medical rights of persons confined or incarcerated in correctional
3.8 facilities and jails.

3.9 Sec. 4. **[241.027] PORTABLE RECORDING SYSTEM.**

3.10 Subdivision 1. **Correctional officers.** All correctional officers and staff employed by
3.11 correctional facilities or jails shall be equipped with a portable recording system and record
3.12 all interactions with persons incarcerated in a correctional facility or jail, or while responding
3.13 to an institution emergency.

3.14 Subd. 2. **Policy.** The policies for the use of a portable recording system in correctional
3.15 facilities and jails must comply with the requirements in section 626.8473 regarding portable
3.16 recording system adoption and a written policy. These policies shall address the activation,
3.17 deactivation, storage, retention, access, and review of recordings captured by portable
3.18 recording system devices.

3.19 Subd. 3. **Funding.** The Department of Corrections shall provide funding to correctional
3.20 facilities and jails to cover the costs associated with the acquisition, maintenance, and
3.21 training related to portable recording systems.

3.22 Sec. 5. **APPROPRIATION; MEDICAL CARE.**

3.23 \$370,000 in fiscal year 2025 is appropriated from the general fund to the commissioner
3.24 of corrections for a grant to a 501(c)(3) nonprofit community organization that has the
3.25 mission to prevent neglect or maltreatment of persons who are confined or incarcerated,
3.26 advocate for proper medical care for confined or incarcerated persons, provide healing
3.27 circles for communities, and provide connections between confined or incarcerated persons,
3.28 family, and correctional staff. The organization must use the appropriation to provide training
3.29 on the Hardel Sherrell Act for staff working in correctional facilities and jails and for persons
3.30 confined or incarcerated in correctional facilities and jails.