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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 922

02/10/2021 Authored by Long, Novotny, Edelson, Mueller, Klevorn and others
The bill was read for the first time and referred to the Committee on Public Safety and Criminal Justice Reform Finance and Policy

1.1 A bill for an act
1.2 relating to corrections; establishing guidelines for the use of restraints on juveniles;
1.3 excluding the general public from delinquency hearings; providing alternatives to
1.4 arrest for juveniles; providing for juvenile risk assessments; amending Minnesota
1.5 Statutes 2020, sections 260B.163, subdivision 1; 260B.176, by adding a subdivision;
1.6 proposing coding for new law in Minnesota Statutes, chapter 260B.

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

1.8 Section 1. 260B.008] USE OF RESTRAINTS.

1.9 (a) As used in this section, "restraints" means a mechanical or other device that constrains
1.10 the movement of a person's body or limbs.

1.11 (b) Restraints may not be used on a child appearing in court in a proceeding under this
1.12 chapter unless the court finds that:

1.13 (1) the use of restraints is necessary:

1.14 (i) to prevent physical harm to the child or another; or

1.15 (ii) to prevent the child from fleeing in situations in which the child presents a substantial
1.16 risk of flight from the courtroom; and

1.17 (2) there are no less restrictive alternatives to restraints that will prevent flight or physical
1.18 harm to the child or another, including but not limited to the presence of court personnel,
1.19 law enforcement officers, or bailiffs.

1.20 The finding in clause (1), item (i), may be based, among other things, on the child having
1.21 a history of disruptive courtroom behavior or behavior while in custody for any current or
1.22 prior offense that has placed others in potentially harmful situations, or presenting a

2.1 substantial risk of inflicting physical harm on the child or others as evidenced by past
2.2 behavior. The court may take into account the physical structure of the courthouse in
2.3 assessing the applicability of the above factors to the individual child.

2.4 (c) The court shall be provided the child's behavior history and shall provide the child
2.5 an opportunity to be heard in person or through counsel before ordering the use of restraints. If
2.6 restraints are ordered, the court shall make findings of fact in support of the order.

2.7 (d) By April 1, 2022, each judicial district shall develop a protocol to address how to
2.8 implement and comply with this section. In developing the protocol, a district shall consult
2.9 with law enforcement agencies, prosecutors, public defenders within the district, and any
2.10 other entity deemed necessary by the district's chief judge.

2.11 **EFFECTIVE DATE.** Paragraphs (a), (b), and (c) are effective April 15, 2022. Paragraph
2.12 (d) is effective the day following final enactment.

2.13 Sec. 2. Minnesota Statutes 2020, section 260B.163, subdivision 1, is amended to read:

2.14 Subdivision 1. **General.** (a) Except for hearings arising under section 260B.425, hearings
2.15 on any matter shall be without a jury and may be conducted in an informal manner, except
2.16 that a child who is prosecuted as an extended jurisdiction juvenile has the right to a jury
2.17 trial on the issue of guilt. The rules of evidence promulgated pursuant to section 480.0591
2.18 and the law of evidence shall apply in adjudicatory proceedings involving a child alleged
2.19 to be delinquent, an extended jurisdiction juvenile, or a juvenile petty offender, and hearings
2.20 conducted pursuant to section 260B.125 except to the extent that the rules themselves provide
2.21 that they do not apply.

2.22 (b) When a continuance or adjournment is ordered in any proceeding, the court may
2.23 make any interim orders as it deems in the best interests of the minor in accordance with
2.24 the provisions of sections 260B.001 to 260B.421.

2.25 (c) Except as otherwise provided in this paragraph, the court shall exclude the general
2.26 public from hearings under this chapter and shall admit only those persons who, in the
2.27 discretion of the court, have a direct interest in the case or in the work of the court. The
2.28 court shall permit the victim of a child's delinquent act to attend any related delinquency
2.29 proceeding, except that the court may exclude the victim:

2.30 (1) as a witness under the Rules of Criminal Procedure; and

2.31 (2) from portions of a certification hearing to discuss psychological material or other
2.32 evidence that would not be accessible to the public.

3.1 The court shall open the hearings to the public in ~~delinquency or~~ extended jurisdiction
 3.2 juvenile proceedings where the child is alleged to have committed an offense or has been
 3.3 proven to have committed an offense that would be a felony if committed by an adult and
 3.4 the child was at least 16 years of age at the time of the offense, except that the court may
 3.5 exclude the public from portions of a certification hearing to discuss psychological material
 3.6 or other evidence that would not be accessible to the public in an adult proceeding.

3.7 (d) In all delinquency cases a person named in the charging clause of the petition as a
 3.8 person directly damaged in person or property shall be entitled, upon request, to be notified
 3.9 by the court administrator in writing, at the named person's last known address, of (1) the
 3.10 date of the certification or adjudicatory hearings, and (2) the disposition of the case.

3.11 Sec. 3. **[260B.1755] ALTERNATIVE TO ARREST OF CERTAIN JUVENILE**
 3.12 **OFFENDERS AUTHORIZED.**

3.13 (a) A peace officer may refer a child that the officer has the lawful authority to arrest or
 3.14 has arrested to a program that the law enforcement agency with jurisdiction over the child
 3.15 deems appropriate.

3.16 (b) This section does not apply to peace officers acting pursuant to an order or warrant
 3.17 described in section 260B.175, subdivision 1, paragraph (a), or other court order to take a
 3.18 child into custody.

3.19 (c) A program authorized by this section may defer prosecution of juvenile offenders
 3.20 who agree to complete appropriate conditions. Upon completion of the conditions, the
 3.21 charge shall be dismissed. Both petty offenders and delinquents are eligible for referrals
 3.22 under this section.

3.23 Sec. 4. Minnesota Statutes 2020, section 260B.176, is amended by adding a subdivision
 3.24 to read:

3.25 Subd. 1a. **Risk assessment instrument.** If a peace officer or probation or parole officer
 3.26 who took a child into custody does not release the child as provided in subdivision 1, the
 3.27 peace officer or probation or parole officer shall communicate with or deliver the child to
 3.28 a juvenile secure detention facility to determine whether the child should be released or
 3.29 detained. Before detaining a child, the supervisor of the facility shall use an objective and
 3.30 racially, ethnically, and gender-responsive juvenile detention risk assessment instrument
 3.31 developed by the commissioner of corrections, county, group of counties, or judicial district,
 3.32 in consultation with the state coordinator or coordinators of the Minnesota Juvenile Detention
 3.33 Alternatives Initiative. The risk assessment instrument must assess the likelihood that a

- 4.1 child released from preadjudication detention under this section or section 260B.178 would
4.2 endanger others or not return for a court hearing. The instrument must identify the appropriate
4.3 setting for a child who might endanger others or not return for a court hearing pending
4.4 adjudication, with either continued detention or placement in a noncustodial
4.5 community-based supervision setting. The instrument must also identify the type of
4.6 noncustodial community-based supervision setting necessary to minimize the risk that a
4.7 child who is released from custody will endanger others or not return for a court hearing.
4.8 If, after using the instrument, a determination is made that the child should be released, the
4.9 person taking the child into custody or the supervisor of the facility shall release the child
4.10 as provided in subdivision 1.
- 4.11 **EFFECTIVE DATE.** This section is effective August 15, 2022.