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State of Minnesota

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HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 947

- 02/10/2021 Authored by Pinto, Edelson, Klevorn, Keeler, Feist 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
- 03/04/2021 Adoption of Report: Amended and re-referred to the Committee on Human Services Finance and Policy
- 03/11/2021 Adoption of Report: Placed on the General Register
- Read for the Second Time
- 05/17/2021 Pursuant to Rule 4.20, returned to the Committee on Human Services Finance and Policy

1.1 A bill for an act

1.2 relating to juvenile justice; prohibiting visual inspection of delinquent children

1.3 and youth in detention facilities; prohibiting disciplinary room time for delinquent

1.4 children and youth in detention facilities; raising the age of delinquency and

1.5 detention to 13 years old; amending Minnesota Statutes 2020, sections 241.021,

1.6 subdivisions 2a, 2b, by adding subdivisions; 260B.176, subdivision 2; 260C.007,

1.7 subdivision 6.

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

1.9 Section 1. Minnesota Statutes 2020, section 241.021, subdivision 2a, is amended to read:

1.10 Subd. 2a. **Affected municipality; notice.** The commissioner must not ~~issue~~ grant a

1.11 license without giving 30 calendar days' written notice to any affected municipality or other

1.12 political subdivision unless the facility has a licensed capacity of six or fewer persons and

1.13 is occupied by either the licensee or the group foster home parents. The notification must

1.14 be given before the license is first issuance of a license granted and annually after that time

1.15 if annual notification is requested in writing by any affected municipality or other political

1.16 subdivision. State funds must not be made available to or be spent by an agency or department

1.17 of state, county, or municipal government for payment to a foster care facility licensed under

1.18 subdivision 2 until the provisions of this subdivision have been complied with in full.

1.19 Sec. 2. Minnesota Statutes 2020, section 241.021, subdivision 2b, is amended to read:

1.20 Subd. 2b. **Licensing; facilities; juveniles from outside state.** The commissioner may

1.21 not:

1.22 (1) ~~issue~~ grant a license under this section to operate a correctional facility for the

1.23 detention or confinement of juvenile offenders if the facility accepts juveniles who reside

2.1 outside of Minnesota without an agreement with the entity placing the juvenile at the facility
2.2 that obligates the entity to pay the educational expenses of the juvenile; or

2.3 (2) renew a license under this section to operate a correctional facility for the detention
2.4 or confinement of juvenile offenders if the facility accepts juveniles who reside outside of
2.5 Minnesota without an agreement with the entity placing the juvenile at the facility that
2.6 obligates the entity to pay the educational expenses of the juvenile.

2.7 Sec. 3. Minnesota Statutes 2020, section 241.021, is amended by adding a subdivision to
2.8 read:

2.9 Subd. 2c. **Searches.** The commissioner shall not grant a license to any county,
2.10 municipality, or agency to operate a facility for the detention, care, and training of delinquent
2.11 children and youth unless the county, municipality, or agency institutes a policy strictly
2.12 prohibiting the visual inspection of breasts, buttocks, or genitalia of children and youth
2.13 received by the facility except during a health care procedure conducted by a medically
2.14 licensed person.

2.15 Sec. 4. Minnesota Statutes 2020, section 241.021, is amended by adding a subdivision to
2.16 read:

2.17 Subd. 2d. **Disciplinary room time.** The commissioner shall not grant a license to any
2.18 county, municipality, or agency to operate a facility for the detention, care, and training of
2.19 delinquent children and youth unless the county, municipality, or agency institutes a policy
2.20 strictly prohibiting the use of disciplinary room time for children and youth received by the
2.21 facility.

2.22 Sec. 5. Minnesota Statutes 2020, section 260B.176, subdivision 2, is amended to read:

2.23 Subd. 2. **Reasons for detention.** (a) If the child is not released as provided in subdivision
2.24 1, the person taking the child into custody shall notify the court as soon as possible of the
2.25 detention of the child and the reasons for detention.

2.26 (b) No child may be detained in a secure detention facility after being taken into custody
2.27 for a delinquent act as defined in section 260B.007, subdivision 6, unless the child is over
2.28 the age of 12.

2.29 ~~(b)~~ (c) No child may be detained in a juvenile secure detention facility or shelter care
2.30 facility longer than 36 hours, excluding Saturdays, Sundays, and holidays, after being taken
2.31 into custody for a delinquent act as defined in section 260B.007, subdivision 6, unless a

3.1 petition has been filed and the judge or referee determines pursuant to section 260B.178
3.2 that the child shall remain in detention.

3.3 ~~(e)~~ (d) No child may be detained in an adult jail or municipal lockup longer than 24
3.4 hours, excluding Saturdays, Sundays, and holidays, or longer than six hours in an adult jail
3.5 or municipal lockup in a standard metropolitan statistical area, after being taken into custody
3.6 for a delinquent act as defined in section 260B.007, subdivision 6, unless:

3.7 (1) a petition has been filed under section 260B.141; and

3.8 (2) a judge or referee has determined under section 260B.178 that the child shall remain
3.9 in detention.

3.10 After August 1, 1991, no child described in this paragraph may be detained in an adult
3.11 jail or municipal lockup longer than 24 hours, excluding Saturdays, Sundays, and holidays,
3.12 or longer than six hours in an adult jail or municipal lockup in a standard metropolitan
3.13 statistical area, unless the requirements of this paragraph have been met and, in addition, a
3.14 motion to refer the child for adult prosecution has been made under section 260B.125.
3.15 Notwithstanding this paragraph, continued detention of a child in an adult detention facility
3.16 outside of a standard metropolitan statistical area county is permissible if:

3.17 (i) the facility in which the child is detained is located where conditions of distance to
3.18 be traveled or other ground transportation do not allow for court appearances within 24
3.19 hours. A delay not to exceed 48 hours may be made under this clause; or

3.20 (ii) the facility is located where conditions of safety exist. Time for an appearance may
3.21 be delayed until 24 hours after the time that conditions allow for reasonably safe travel.
3.22 "Conditions of safety" include adverse life-threatening weather conditions that do not allow
3.23 for reasonably safe travel.

3.24 The continued detention of a child under clause (i) or (ii) must be reported to the
3.25 commissioner of corrections.

3.26 ~~(d)~~ (e) If a child described in paragraph ~~(e)~~ (d) is to be detained in a jail beyond 24 hours,
3.27 excluding Saturdays, Sundays, and holidays, the judge or referee, in accordance with rules
3.28 and procedures established by the commissioner of corrections, shall notify the commissioner
3.29 of the place of the detention and the reasons therefor. The commissioner shall thereupon
3.30 assist the court in the relocation of the child in an appropriate juvenile secure detention
3.31 facility or approved jail within the county or elsewhere in the state, or in determining suitable
3.32 alternatives. The commissioner shall direct that a child detained in a jail be detained after
3.33 eight days from and including the date of the original detention order in an approved juvenile

4.1 secure detention facility with the approval of the administrative authority of the facility. If
4.2 the court refers the matter to the prosecuting authority pursuant to section 260B.125, notice
4.3 to the commissioner shall not be required.

4.4 ~~(e)~~ (f) When a child is detained for an alleged delinquent act in a state licensed juvenile
4.5 facility or program, or when a child is detained in an adult jail or municipal lockup as
4.6 provided in paragraph ~~(e)~~ (d), the supervisor of the facility shall, if the child's parent or legal
4.7 guardian consents, have a children's mental health screening conducted with a screening
4.8 instrument approved by the commissioner of human services, unless a screening has been
4.9 performed within the previous 180 days or the child is currently under the care of a mental
4.10 health professional. The screening shall be conducted by a mental health practitioner as
4.11 defined in section 245.4871, subdivision 26, or a probation officer who is trained in the use
4.12 of the screening instrument. The screening shall be conducted after the initial detention
4.13 hearing has been held and the court has ordered the child continued in detention. The results
4.14 of the screening may only be presented to the court at the dispositional phase of the court
4.15 proceedings on the matter unless the parent or legal guardian consents to presentation at a
4.16 different time. If the screening indicates a need for assessment, the local social services
4.17 agency or probation officer, with the approval of the child's parent or legal guardian, shall
4.18 have a diagnostic assessment conducted, including a functional assessment, as defined in
4.19 section 245.4871.

4.20 Sec. 6. Minnesota Statutes 2020, section 260C.007, subdivision 6, is amended to read:

4.21 Subd. 6. **Child in need of protection or services.** "Child in need of protection or
4.22 services" means a child who is in need of protection or services because the child:

4.23 (1) is abandoned or without parent, guardian, or custodian;

4.24 (2)(i) has been a victim of physical or sexual abuse as defined in section 260E.03,
4.25 subdivision 18 or 20, (ii) resides with or has resided with a victim of child abuse as defined
4.26 in subdivision 5 or domestic child abuse as defined in subdivision 13, (iii) resides with or
4.27 would reside with a perpetrator of domestic child abuse as defined in subdivision 13 or child
4.28 abuse as defined in subdivision 5 or 13, or (iv) is a victim of emotional maltreatment as
4.29 defined in subdivision 15;

4.30 (3) is without necessary food, clothing, shelter, education, or other required care for the
4.31 child's physical or mental health or morals because the child's parent, guardian, or custodian
4.32 is unable or unwilling to provide that care;

5.1 (4) is without the special care made necessary by a physical, mental, or emotional
5.2 condition because the child's parent, guardian, or custodian is unable or unwilling to provide
5.3 that care;

5.4 (5) is medically neglected, which includes, but is not limited to, the withholding of
5.5 medically indicated treatment from an infant with a disability with a life-threatening
5.6 condition. The term "withholding of medically indicated treatment" means the failure to
5.7 respond to the infant's life-threatening conditions by providing treatment, including
5.8 appropriate nutrition, hydration, and medication which, in the treating physician's or advanced
5.9 practice registered nurse's reasonable medical judgment, will be most likely to be effective
5.10 in ameliorating or correcting all conditions, except that the term does not include the failure
5.11 to provide treatment other than appropriate nutrition, hydration, or medication to an infant
5.12 when, in the treating physician's or advanced practice registered nurse's reasonable medical
5.13 judgment:

5.14 (i) the infant is chronically and irreversibly comatose;

5.15 (ii) the provision of the treatment would merely prolong dying, not be effective in
5.16 ameliorating or correcting all of the infant's life-threatening conditions, or otherwise be
5.17 futile in terms of the survival of the infant; or

5.18 (iii) the provision of the treatment would be virtually futile in terms of the survival of
5.19 the infant and the treatment itself under the circumstances would be inhumane;

5.20 (6) is one whose parent, guardian, or other custodian for good cause desires to be relieved
5.21 of the child's care and custody, including a child who entered foster care under a voluntary
5.22 placement agreement between the parent and the responsible social services agency under
5.23 section 260C.227;

5.24 (7) has been placed for adoption or care in violation of law;

5.25 (8) is without proper parental care because of the emotional, mental, or physical disability,
5.26 or state of immaturity of the child's parent, guardian, or other custodian;

5.27 (9) is one whose behavior, condition, or environment is such as to be injurious or
5.28 dangerous to the child or others. An injurious or dangerous environment may include, but
5.29 is not limited to, the exposure of a child to criminal activity in the child's home;

5.30 (10) is experiencing growth delays, which may be referred to as failure to thrive, that
5.31 have been diagnosed by a physician and are due to parental neglect;

5.32 (11) is a sexually exploited youth;

6.1 (12) has committed a delinquent act or a juvenile petty offense before becoming ~~ten~~ 13
6.2 years old;

6.3 (13) is a runaway;

6.4 (14) is a habitual truant;

6.5 (15) has been found incompetent to proceed or has been found not guilty by reason of
6.6 mental illness or mental deficiency in connection with a delinquency proceeding, a
6.7 certification under section 260B.125, an extended jurisdiction juvenile prosecution, or a
6.8 proceeding involving a juvenile petty offense; or

6.9 (16) has a parent whose parental rights to one or more other children were involuntarily
6.10 terminated or whose custodial rights to another child have been involuntarily transferred to
6.11 a relative and there is a case plan prepared by the responsible social services agency
6.12 documenting a compelling reason why filing the termination of parental rights petition under
6.13 section 260C.503, subdivision 2, is not in the best interests of the child.