

utilizing the most reasonably recent available data, on the following:

Routes and corridors enumerated above and all feasible and prudent alternate routes and corridors, giving the fullest possible consideration to each, without regard to prior authorization or to whether legislative approval or other action is necessary. In the preparation of such environmental impact statements the commissioner shall analyze and evaluate:

(a) Design modifications which may mitigate any adverse environmental impact; and

(b) The recommendations of the metropolitan council, transportation advisory board, and interstate study committee as reported to the legislature pursuant to Laws 1975, Chapter 203, Section 16; and

(c) All other matters required of an environmental impact statement by applicable state and federal laws.

Any highway facility authorized by this section shall be compatible with the immediate residential areas through which it passes. Upon the completion of any highway facility authorized herein, any right of way previously acquired within the utilized corridor and not needed for the construction and maintenance of such facility, shall be transferred to the city within which such excess right of way is located, for public purposes, or sold for utilization in a manner compatible with the immediate residential area through which it passes, such excess right of way being determined by order of the commissioner. The transfer shall be evidenced by a quit claim deed, in such form as the attorney general approves, executed by the governor in the name of the state of Minnesota to such city.

The commissioner of highways shall consider a parkway or other alternatives for that portion of the trunk highway designated as I-35 or Route No. 390 in the city of Duluth.

Sec. 2. This act is effective the day following its final enactment.

Approved April 13, 1976.

CHAPTER 318—S.F.No.175

[Coded in Part]

An act relating to corrections and juveniles; increasing the scope of the jurisdiction and power of the ombudsman; preserving the rights of complainants; providing limitations on procedures for juvenile detention; providing definitions; setting standards; removing an expiration date; appropriating money; amending Minnesota Statutes 1974, Sections 241.42, Subdivision 2; 241.44, Subdivisions 1 and 3, and by

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adding a subdivision; 260.015, by adding subdivisions; 260.101; 260.171, Subdivisions 1, 2, and by adding subdivisions; 641.14; and Chapter 260, by adding sections; repealing Minnesota Statutes 1974, Sections 241.42, Subdivision 4; 260.171, Subdivision 3; 260.175; and Laws 1973, Chapter 553, Section 7.

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

Section 1. Minnesota Statutes 1974, Section 241.42, Subdivision 2, is amended to read:

Subd. 2. **CORRECTIONS; JUVENILES.** "Administrative agency" or "agency" means any division, official, or employee of the Minnesota department of corrections, the Minnesota corrections authority, and the board of pardons and regional correction or detention facilities or agencies for correction or detention programs including those programs or facilities operating under chapter 401, but does not include:

- (a) any court or judge;
- (b) any member of the senate or house of representatives of the state of Minnesota;
- (c) the governor or his personal staff;
- (d) any instrumentality of the federal government of the United States;
- (e) any political subdivision of the state of Minnesota;
- (f) any interstate compact.

Sec. 2. Minnesota Statutes 1974, Section 241.44, Subdivision 1, is amended to read:

241.44 POWERS OF OMBUDSMAN; INVESTIGATIONS; ACTION ON COMPLAINTS; RECOMMENDATIONS. Subdivision 1. **POWERS.** The ombudsman shall have the following powers:

- (a) He may prescribe the methods by which complaints are to be made, reviewed, and acted upon; provided, however, that he may not levy a complaint fee;
- (b) He may determine the scope and manner of investigations to be made;
- (c) Except as otherwise provided, he may determine the form, frequency, and distribution of his conclusions, recommendations, and proposals; provided, however, that the governor or his representative may, at any time the governor deems it necessary, request and receive information from the ombudsman. Neither the ombudsman nor any

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member of his staff shall be compelled to testify in any court with respect to any matter involving the exercise of his official duties except as may be necessary to enforce the provisions of sections 241.41 to 241.45 ;

(d) He may investigate, upon a complaint **in writing** or upon his own initiative, any action of an administrative agency;

(e) He may request and shall be given access to information in the possession of an administrative agency which he deems necessary for the discharge of his responsibilities;

(f) He may examine the records and documents of an administrative agency;

(g) He may enter and inspect, at any time, premises within the control of an administrative agency;

(h) He may ~~order subpoena~~ any person to appear, give testimony, or produce documentary or other evidence which the ombudsman deems relevant to a matter under his inquiry , and may petition the appropriate state court to seek enforcement with the subpoena ; provided, however, that any witness at a hearing or before an investigation as herein provided, shall possess the same privileges reserved to such a witness in the courts or under the laws of this state;

(i) The ombudsman may bring an action in an appropriate state court to provide the operation of the powers provided in this subdivision. The ombudsman may use the services of legal assistance to Minnesota prisoners for legal counsel. The provisions of sections 241.41 to 241.45 are in addition to other provisions of law under which any remedy or right of appeal or objection is provided for any person, or any procedure provided for inquiry or investigation concerning any matter. Nothing in sections 241.41 to 241.45 shall be construed to limit or affect any other remedy or right of appeal or objection nor shall it be deemed part of an exclusionary process - ; and

(j) He may be present at Minnesota correction authority parole and parole revocation hearings and deliberations.

Sec. 3. Minnesota Statutes 1974, Section 241.44, is amended by adding a subdivision to read:

Subd. 1a. ACTIONS AGAINST OMBUDSMAN. No proceeding or civil action except removal from office or a proceeding brought pursuant to sections 15.162 to 15.168 shall be commenced against the ombudsman for actions taken pursuant to the provisions of sections 241.41 to 241.45, unless the act or omission is actuated by malice or is grossly negligent.

Sec. 4. Minnesota Statutes 1974, Section 241.44, Subdivision 3, is **Changes or additions indicated by underline deletions by strikeout**

amended to read:

Subd. 3. COMPLAINTS. The ombudsman may receive a complaint from any source concerning an action of an administrative agency. He may, on his own motion or at the request of another, investigate any action of an administrative agency.

The ombudsman may exercise his powers without regard to the finality of any action of an administrative agency; however, he may require a complainant to pursue other remedies or channels of complaint open to the complainant before accepting or investigating the complaint.

After completing his investigation of a complaint, the ombudsman shall inform the complainant, the administrative agency, and the official or employee, of the action taken.

A letter to the ombudsman from a person in an institution under the control of an administrative agency shall be forwarded immediately and unopened to the ombudsman's office. A reply from the ombudsman to the person shall be delivered unopened to the person, promptly after its receipt by the institution.

No complainant shall be punished nor shall the general condition of his confinement or treatment be unfavorably altered as a result of his having made a complaint to the ombudsman.

Sec. 5. Minnesota Statutes 1974, Section 260.015, is amended by adding a subdivision to read:

Subd. 15. "Detention facility" means a facility used for the temporary care of a child in a shelter care or secure detention facility, pending court disposition.

Sec. 6. Minnesota Statutes 1974, Section 260.015, is amended by adding a subdivision to read:

Subd. 16. "Secure detention facility" means a physically restricting detention facility, including a detention home.

Sec. 7. Minnesota Statutes 1974, Section 260.015, is amended by adding a subdivision to read:

Subd. 17. "Shelter care facility" means a physically unrestricting detention facility, such as a group home or a licensed facility for foster care, excluding a detention home.

Sec. 8. Minnesota Statutes 1974, Section 260.101, is amended to read:

260.101 DETENTION HOMES. In any county or group of counties
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the county boards may purchase, lease, erect, equip, and maintain a detention home for boys and girls, or a separate detention home for boys and girls, or a separate detention home for boys or a separate detention home for girls. ~~Any child alleged to be delinquent may be detained in the detention home in the manner provided in section 260.171, subdivision 2.~~ The detention home may, with the approval of the district court judges in counties now or hereafter having a population of more than 200,000 or of the juvenile court judges in all other counties be a separate institution, or it may be established and operated in connection with a county home school or any organized charitable or educational institution. However, the plans, location, equipment, and operation of the detention home shall in all cases have the approval of the judges. Necessary staff shall be appointed and removed by the judges. The salaries of the staff shall be fixed by the judges, subject to the approval of the county boards. The county board of each county to which this section applies shall provide the necessary funds to carry out the provisions of this section.

Sec. 9. Minnesota Statutes 1974, Section 260.171, Subdivision 1, is amended to read:

260.171 RELEASE OR DETENTION. Subdivision 1. ~~When~~ If a child is taken into custody as provided in section 260.165, the parent, guardian, or custodian of the child shall be notified as soon as possible. ~~Except where the immediate welfare of the child or the protection of the community require that the child be detained—Unless there is reason to believe that the child would physically endanger himself or others, not return for a court hearing, not remain in the care or control of the person to whose lawful custody he is released, or that the child's health or welfare would be immediately endangered~~, the child shall be released to the custody of his parent, guardian, custodian, or other suitable person ~~on the promise of~~. That such person shall promise to bring the child to the court, if necessary, at such—the time as the court may direct. If the person taking the child into custody believes it desirable he may request the parent, guardian, custodian, or other person designated by the court to sign a written promise to bring the child to court as provided above. The intentional violation of such a promise, whether given orally or in writing, shall be punishable as contempt of court.

The court may require the parent, guardian, custodian or other person to whom the child is released, to post any reasonable bail or bond required by the court which shall be forfeited to the court if the child does not appear as directed. The court may also release the child on his own promise to appear in juvenile court.

Sec. 10. Minnesota Statutes 1974, Section 260.171, Subdivision 2, is amended to read:

Subd. 2. If the child is not released as provided in subdivision 1, the person taking the child into custody shall notify the court as soon

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as possible of the detention of the child and the reasons for detention. ~~The No~~ child may be detained in a ~~place of detention specified in section 260.175 for not-~~facility longer than 24 hours, excluding ~~Saturdays,~~ Sundays and holidays, after the taking into custody unless an order for detention, specifying the reason for detention, is signed by the judge or referee. No child may be held longer than ~~48-36~~ hours, excluding ~~Saturdays,~~ Sundays or holidays, after the taking into custody unless a petition has been filed and the judge or referee determines pursuant to section 14 that the child shall remain in ~~eustody-~~detention .

~~Where~~ If a child described in section 15, subdivision 4, is to be detained in a jail ~~beyond-up to~~ 48 hours, the judge or referee, in accordance with rules and procedures established by the commissioner of corrections, shall notify the commissioner of the place of ~~such continued-~~the detention and the reasons therefor. The commissioner shall thereupon ~~offer the services of his department to~~ assist the court in the relocation of ~~such-~~the child in an appropriate detention facilities-facility within the county or elsewhere in the state, or in determining suitable alternatives. If approved regional juvenile detention facilities exist, the commissioner ~~shall have the power to may~~ direct that the child be detained in the nearest approved regional juvenile detention facility. If the court refers the matter to the prosecuting authority ~~in accordance with the provisions of-~~pursuant to section 260.125, notice to the commissioner shall not be required. ~~The parent, guardian, or eustodian of the child shall be notified of the place of detention as soon as possible.~~

Sec. 11. Minnesota Statutes 1974, Section 260.171, is amended by adding a subdivision to read:

Subd. 4. If the person who has taken the child into custody determines that the child should be placed in a detention facility, he shall advise the child and as soon as is possible, the child's parent, guardian, or custodian:

(a) of the reasons why the child has been taken into custody and why he is being placed in a detention facility; and

(b) of the location of the detention facility; and

(c) that the child's parent, guardian, or custodian and attorney may make an initial visit to the detention facility at any time. Subsequent visits by a parent, guardian, or custodian may be made on a reasonable basis during visiting hours and by the child's attorney at reasonable hours; and

(d) that the child may telephone his parents and an attorney from the detention facility immediately after being admitted to the detention facility and thereafter on a reasonable basis to be determined by the director of the facility; and

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(e) that the child may not be held at the detention facility longer than 36 hours, excluding Sundays and holidays, unless a petition has been filed within that time and the court orders the child's continued detention.

Sec. 12. Minnesota Statutes 1974, Section 260.171, is amended by adding a subdivision to read:

Subd. 5. If a child is to be detained, the detention facility where the child is to be placed shall promptly provide for transportation of the child to the facility or secure a written transportation order from the court authorizing transportation by the sheriff or other qualified person. The person who has determined that the child should be detained shall deliver to the court and the supervisor of the detention facility where the child is placed, a signed report, setting forth:

(a) the time the child was taken into custody; and

(b) the time the child was delivered for transportation to the detention facility; and

(c) the reasons why the child was taken into custody; and

(d) the reasons why the child has been placed in detention; and

(e) a statement that the child and his parent have received the notification required by section 11 or the reasons why they have not been so notified.

Sec. 13. Minnesota Statutes 1974, Section 260.171, is amended by adding a subdivision to read:

Subd. 6. When a child has been delivered to a detention facility, the supervisor of the facility shall deliver to the court a signed report acknowledging receipt of the child stating the time of the child's arrival. The supervisor of the facility shall ascertain from the report of the person who has taken the child into custody whether the child and his parent, guardian, or custodian have the received notification required by section 11. If the child or his parent, guardian or custodian, or both, have not been so notified, the supervisor of the facility shall immediately make the notification, and shall include in his report to the court a statement that notification has been received or the reasons why it has not.

Sec. 14. Minnesota Statutes 1974, Chapter 260, is amended by adding a section to read:

[260.172] DETENTION HEARING. Subdivision 1. Within 36 hours of a child's being taken into custody, excluding Sundays and holidays, a hearing shall be held to determine whether the child should continue in detention. Unless there is reason to believe that the child

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would be dangerous to himself or others, not return for a court hearing, not remain in the care or control of the person to whose lawful custody he is released, or that the child's health or welfare would be immediately endangered, the child shall be released to the custody of his parent, guardian, custodian or other suitable person.

Subd. 2. If the court determines that the child should continue in detention, it may order detention continued for eight days, excluding Sundays and holidays, from and including the date of the order. The court shall include in its order the reasons for continued detention and the findings of fact which support these reasons.

Subd. 3. Copies of the court's order shall be served upon the parties, including the supervisor of the detention facility, who shall release the child or continue to hold him as the court orders.

Subd. 4. If a child held in detention under a court order issued under subdivision 2 has not been released prior to expiration of the order, an additional hearing to determine under the standards provided by subdivision 1, shall be held to determine whether detention should be continued. If detention is continued thereafter, hearings such as these shall be held within every eight days, excluding Sundays and holidays, of the child's detention.

Sec. 15. Minnesota Statutes 1974, Chapter 260, is amended by adding a section to read:

[260.173] PLACE OF TEMPORARY CARE. Subdivision 1. If a child is taken into custody pursuant to section 260.165, subdivision 1, clause (a) or is found in surroundings or conditions reasonably believed to endanger his health or welfare and the child is not alleged to be delinquent, he may be detained only in a shelter care facility. These children may not be detained in a shelter care facility in which children described under subdivision 4 are detained.

Subd. 2. If a child is taken into custody as one who is:

(a) alleged to be uncontrolled by his parent, guardian, or other custodian by reason of being wayward or habitually disobedient; or

(b) alleged to have committed an offense which would not constitute a violation of state law or a local ordinance if he were an adult; or

(c) reasonably believed to have violated probation, parole, or other field supervision under which he has been placed as a result of behavior described under this subdivision; he may be placed in a shelter care facility.

Subd. 3. If a child described under subdivision 2 has previously escaped from a shelter care facility, or is from another state and absent from his home for more than 24 hours without the permission of

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his parent, guardian or other custodian, he may be placed in a secure detention facility.

Subd. 4. If a child is taken into custody as one who:

(a) has allegedly committed an act which would constitute a violation of a state law or a local ordinance if he were an adult; or

(b) is reasonably believed to have violated the terms of his probation, parole, or other field supervision under which he had been placed as a result of behavior described under clause (a);

he may be detained in a shelter care or secure detention facility. If the child cannot be detained in another type of detention facility, a child described in this subdivision may be detained up to 48 hours in a jail, lock-up or other facility used for the confinement of adults who have been charged with or convicted of a crime, in quarters separate from any adult confined in the facility. No child under the age of 14 may be detained in a jail, lock-up or other facility used for the confinement of adults who have been charged with or convicted of a crime.

Subd. 5. In order for a child to be detained at a state correctional institution for juveniles, the commissioner of corrections must first consent thereto, and the county must agree to pay the costs of the child's detention.

Sec. 16. Minnesota Statutes 1974, Section 641.14, is amended to read:

641.14 JAILS, HOW KEPT. The sheriff of each county, by himself or deputy, shall have charge of the jail, and be responsible for its condition. No female prisoner shall be kept in the same room with a male prisoner, and no minor under ~~16-18~~ years shall be kept in the same room with ~~other~~ adult prisoners ~~;~~. No insane prisoner shall be kept in the same room with any other prisoner unless ~~such that~~ person ~~shall be-is~~ detailed as a nurse; and, so far as the construction of the jail will permit, strict separation of prisoners shall be maintained. No person awaiting trial shall be kept in a room with any other prisoner.

Sec. 17. APPROPRIATIONS. The sum of \$10,000 is appropriated to the corrections ombudsman from the general fund for the purposes of this act.

Sec. 18. REPEALER. Minnesota Statutes 1974, Sections 241.42, Subdivision 4; 260.171, Subdivision 3; 260.175; and Laws 1973, Chapter 553, Section 7, are repealed.

Approved April 20, 1976.

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