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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 1267

02/18/2021 Authored by Long, Edelson, Lee and Lillie
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; providing for safety in licensed facilities; amending
1.3 Minnesota Statutes 2020, sections 241.021, subdivision 1, by adding subdivisions;
1.4 243.52.

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

1.6 Section 1. Minnesota Statutes 2020, section 241.021, subdivision 1, is amended to read:

1.7 Subdivision 1. Correctional facilities; inspection; licensing. (a) Except as provided
1.8 in paragraph (b), the commissioner of corrections shall inspect and license all correctional
1.9 facilities throughout the state, whether public or private, established and operated for the
1.10 detention and confinement of persons ~~detained or confined~~ or incarcerated therein according
1.11 to law except to the extent that they are inspected or licensed by other state regulating
1.12 agencies. The commissioner shall promulgate pursuant to chapter 14, rules establishing
1.13 minimum standards for these facilities with respect to their management, operation, physical
1.14 condition, and the security, safety, health, treatment, and discipline of persons ~~detained or~~
1.15 ~~confined or incarcerated~~ therein. Commencing September 1, 1980, These minimum standards
1.16 shall include but are not limited to specific guidance pertaining to:

1.17 (1) mental health, including but not limited to assessment following admission, medication
1.18 administration, and requirements for discharge planning;

1.19 (2) self-auditing of compliance with minimum standards;

1.20 (3) information sharing with medical personnel and when medical assessment must be
1.21 facilitated;

1.22 (4) a code of conduct policy for facility staff and annual training;

2.1 (5) a policy on death review of all circumstances surrounding the death of an individual
2.2 committed to the custody of the facility; and

2.3 (6) dissemination of a rights statement made available to persons confined or incarcerated
2.4 in licensed correctional facilities.

2.5 No individual, corporation, partnership, voluntary association, or other private
2.6 organization legally responsible for the operation of a correctional facility may operate the
2.7 facility unless licensed by it possesses a current license from the commissioner of corrections.
2.8 Private adult correctional facilities shall have the authority of section 624.714, subdivision
2.9 13, if the Department of Corrections licenses the facility with ~~such~~ the authority and the
2.10 facility meets requirements of section 243.52.

2.11 The commissioner shall review the correctional facilities described in this subdivision
2.12 at least once every ~~biennium~~ two years, except as otherwise provided ~~herein~~, to determine
2.13 compliance with the minimum standards established ~~pursuant~~ according to this subdivision
2.14 or other law related to minimum standards and conditions of confinement.

2.15 The commissioner shall grant a license to any facility found to conform to minimum
2.16 standards or to any facility which, in the commissioner's judgment, is making satisfactory
2.17 progress toward substantial conformity and the interests and well-being of the persons
2.18 ~~detained or confined therein~~ or incarcerated in the facility are protected. The commissioner
2.19 may grant licensure up to two years. Unless otherwise specified by statute, all licenses issued
2.20 under this chapter expire at 12:01 a.m. on the day after the expiration date stated on the
2.21 license.

2.22 The commissioner shall have access to the buildings, grounds, books, records, staff, and
2.23 to persons ~~detained or confined~~ or incarcerated in these facilities. The commissioner may
2.24 require the officers in charge of these facilities to furnish all information and statistics the
2.25 commissioner deems necessary, at a time and place designated by the commissioner.

2.26 All facility administrators of correctional facilities defined under subdivision 1f are
2.27 required to report all deaths of individuals who died while committed to the custody of the
2.28 facility, regardless of whether the death occurred at the facility or after removal from the
2.29 facility for medical care stemming from an incident or need for medical care at the
2.30 correctional facility, within 24 hours of receiving knowledge of the death, including any
2.31 demographic information as required by the commissioner.

2.32 All facility administrators of correctional facilities defined under subdivision 1f are
2.33 required to report all other emergency or unusual occurrences as defined by rule, including
2.34 uses of force by facility staff that result in substantial bodily harm, to the commissioner of

3.1 corrections within ten days from the occurrence, including any demographic information
3.2 as required by the commissioner. The commissioner of corrections shall consult with the
3.3 Minnesota Sheriffs' Association to define "use of force" that results in substantial bodily
3.4 harm for reporting purposes.

3.5 The commissioner may require that any or all such information be provided through the
3.6 Department of Corrections detention information system. The commissioner shall post each
3.7 inspection report publicly within 30 days of completing the inspection. The education
3.8 program offered in a correctional facility for the ~~detention or confinement~~ or incarceration
3.9 of juvenile offenders must be approved by the commissioner of education before the
3.10 commissioner of corrections may grant a license to the facility.

3.11 (b) For juvenile facilities licensed by the commissioner of human services, the
3.12 commissioner may inspect and certify programs based on certification standards set forth
3.13 in Minnesota Rules. For the purpose of this paragraph, "certification" has the meaning given
3.14 it in section 245A.02.

3.15 (c) Any state agency which regulates, inspects, or licenses certain aspects of correctional
3.16 facilities shall, insofar as is possible, ensure that the minimum standards it requires are
3.17 substantially the same as those required by other state agencies which regulate, inspect, or
3.18 license the same aspects of similar types of correctional facilities, although at different
3.19 correctional facilities.

3.20 (d) Nothing in this section shall be construed to limit the commissioner of corrections'
3.21 authority to promulgate rules establishing standards of eligibility for counties to receive
3.22 funds under sections 401.01 to 401.16, or to require counties to comply with operating
3.23 standards the commissioner establishes as a condition precedent for counties to receive that
3.24 funding.

3.25 ~~(e) When the commissioner finds that any facility described in paragraph (a), except~~
3.26 ~~foster care facilities for delinquent children and youth as provided in subdivision 2, does~~
3.27 ~~not substantially conform to the minimum standards established by the commissioner and~~
3.28 ~~is not making satisfactory progress toward substantial conformance, the commissioner shall~~
3.29 ~~promptly notify the chief executive officer and the governing board of the facility of the~~
3.30 ~~deficiencies and order that they be remedied within a reasonable period of time. The~~
3.31 ~~commissioner may by written order restrict the use of any facility which does not substantially~~
3.32 ~~conform to minimum standards to prohibit the detention of any person therein for more than~~
3.33 ~~72 hours at one time. When, after due notice and hearing, the commissioner finds that any~~
3.34 ~~facility described in this subdivision, except county jails and lockups as provided in sections~~

4.1 ~~641.26, 642.10, and 642.11, does not conform to minimum standards, or is not making~~
 4.2 ~~satisfactory progress toward substantial compliance therewith, the commissioner may issue~~
 4.3 ~~an order revoking the license of that facility. After revocation of its license, that facility~~
 4.4 ~~shall not be used until its license is renewed. When the commissioner is satisfied that~~
 4.5 ~~satisfactory progress towards substantial compliance with minimum standard is being made,~~
 4.6 ~~the commissioner may, at the request of the appropriate officials of the affected facility~~
 4.7 ~~supported by a written schedule for compliance, grant an extension of time for a period not~~
 4.8 ~~to exceed one year.~~

4.9 ~~(f) As used in this subdivision, "correctional facility" means any facility, including a~~
 4.10 ~~group home, having a residential component, the primary purpose of which is to serve~~
 4.11 ~~persons placed therein by a court, court services department, parole authority, or other~~
 4.12 ~~correctional agency having dispositional power over persons charged with, convicted, or~~
 4.13 ~~adjudicated to be guilty or delinquent.~~

4.14 Sec. 2. Minnesota Statutes 2020, section 241.021, is amended by adding a subdivision to
 4.15 read:

4.16 Subd. 1a. **Correction order; conditional license.** (a) When the commissioner finds that
 4.17 any facility described in subdivision 1, except foster care facilities for delinquent children
 4.18 and youth as provided in subdivision 2, does not substantially conform to the minimum
 4.19 standards established by the commissioner and is not making satisfactory progress toward
 4.20 substantial conformance and the nonconformance does not present an imminent risk of
 4.21 life-threatening harm or serious physical injury to the persons confined or incarcerated in
 4.22 the facility, the commissioner shall promptly notify the facility administrator and the
 4.23 governing board of the facility of the deficiencies and may issue a correction order or a
 4.24 conditional license order that they be remedied within a reasonable and specified period of
 4.25 time.

4.26 The conditional license order may restrict the use of any facility which does not
 4.27 substantially conform to minimum standards, including imposition of conditions limiting
 4.28 operation of the facility or parts of the facility, reducing facility capacity, limiting intake,
 4.29 limiting length of detention for individuals, or imposing detention limitations based on the
 4.30 needs of the individuals being confined or incarcerated therein.

4.31 The correction order or conditional license order must clearly state the following:

4.32 (1) the specific minimum standards violated, noting the implicated rule or law;

4.33 (2) the findings that constitute a violation of minimum standards;

5.1 (3) the corrective action needed;

5.2 (4) time allowed to correct each violation; and

5.3 (5) if a license is made conditional, the length and terms of the conditional license, any
5.4 conditions limiting operation of the facility, and the reasons for making the license
5.5 conditional.

5.6 (b) The facility administrator may request review of the findings noted in the conditional
5.7 license order after satisfactory progress toward substantial compliance with minimum
5.8 standards has been made, supported by evidence of correction, and, if appropriate, may
5.9 include a written schedule for compliance. The commissioner shall review the evidence of
5.10 correction and the progress made toward substantial compliance with minimum standards
5.11 within a reasonable period of time, not to exceed ten business days. When the commissioner
5.12 has assurance that satisfactory progress toward substantial compliance with minimum
5.13 standards is being made, the commissioner shall lift any conditions limiting operation of
5.14 the facility or parts of the facility or remove the conditional license order.

5.15 (c) Nothing in this section prohibits the commissioner from ordering a revocation under
5.16 subdivision 1b prior to issuing a correction order or conditional license order.

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

5.19 Subd. 1b. **License revocation order.** (a) When, after due notice to the facility
5.20 administrator of the commissioner's intent to issue a revocation order, the commissioner
5.21 finds that any facility described in this subdivision, except county jails and lockups subject
5.22 to active condemnation proceedings or orders as provided in sections 641.26, 642.10, and
5.23 642.11, does not conform to minimum standards, or is not making satisfactory progress
5.24 toward substantial compliance with minimum standards, the commissioner may issue an
5.25 order revoking the license of that facility.

5.26 The notice of intent to issue a revocation order shall include:

5.27 (1) the citation to minimum standards that have been violated;

5.28 (2) the nature and severity of each violation;

5.29 (3) whether the violation is recurring or nonrecurring;

5.30 (4) the effect of the violation on persons confined or incarcerated by the correctional
5.31 facility;

6.1 (5) an evaluation of the risk of harm to persons confined or incarcerated in the correctional
6.2 facility;

6.3 (6) relevant facts, conditions, and circumstances concerning the operation of the licensed
6.4 facility, including at a minimum:

6.5 (i) specific facility deficiencies that endanger the health or safety of persons confined
6.6 or incarcerated in the correctional facility;

6.7 (ii) substantiated complaints relating to the correctional facility; or

6.8 (iii) any other evidence that the correctional facility is not in compliance with minimum
6.9 standards.

6.10 (b) The facility administrator must submit a written response within 60 days of receipt
6.11 of the notice of intent to issue a revocation order with any information related to errors in
6.12 the notice, ability to conform to minimum standards within a set period of time including
6.13 but not limited to a written schedule for compliance, and any other information the facility
6.14 administrator deems relevant for consideration in revocation. The written response must
6.15 also include a written plan indicating how the correctional facility will ensure the transfer
6.16 of confined or incarcerated individuals and records if the correctional facility closes. Plans
6.17 must specify arrangements the correctional facility will make to transfer confined or
6.18 incarcerated individuals to another licensed correctional facility for continuation of detention.

6.19 (c) When revoking a license, the commissioner shall consider the nature, chronicity, or
6.20 severity of the violation of law or rule and the effect of the violation on the health, safety,
6.21 or rights of persons confined or incarcerated in the correctional facility.

6.22 (d) If the facility administrator does not respond within 60 days to the notice of intent
6.23 to issue a revocation order or if the commissioner does not have assurance that satisfactory
6.24 progress toward substantial compliance with minimum standards will be made, the
6.25 commissioner shall issue a revocation order. The revocation order must be sent to the facility
6.26 administrator and the governing board of the facility, clearly stating:

6.27 (1) the specific minimum standards violated, noting the implicated rule or law;

6.28 (2) the findings that constitute a violation of minimum standards and the nature,
6.29 chronicity, or severity of those violations;

6.30 (3) the corrective action needed;

6.31 (4) any prior correction or conditional license orders issued to correct violations; and

6.32 (5) the date at which the license revocation shall take place.

7.1 A revocation order may authorize use until a certain date, not to exceed the duration of the
7.2 current license, unless a new license is issued by the commissioner for purposes of
7.3 effectuating a facility closure and continued operation does not present an imminent risk
7.4 of life-threatening harm or is not likely to result in serious physical injury to the persons
7.5 confined or incarcerated in the facility.

7.6 (e) After revocation of the facility's licensure, that facility shall not be used until the
7.7 license is renewed. When the commissioner is satisfied that satisfactory progress toward
7.8 substantial compliance with minimum standards is being made, the commissioner may, at
7.9 the request of the appropriate officials of the affected facility supported by a written schedule
7.10 for compliance, reinstate the license for a period not to exceed one year.

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

7.13 Subd. 1c. **Temporary license suspension.** The commissioner shall act immediately to
7.14 temporarily suspend a license issued under this chapter if:

7.15 (1) the correctional facility's failure to comply with applicable minimum standards or
7.16 the conditions in the correctional facility pose an imminent risk of life-threatening harm or
7.17 serious physical injury to persons confined or incarcerated in the facility, staff, law
7.18 enforcement, visitors, or the public; and

7.19 (i) if the imminent risk of life-threatening harm or serious physical injury cannot be
7.20 promptly corrected through a different type of order under this section; and

7.21 (ii) the correctional facility cannot or has not corrected the violation giving rise to the
7.22 imminent risk of life-threatening harm or serious physical injury; or

7.23 (2) while the correctional facility continues to operate pending due notice and opportunity
7.24 for written response to the commissioner's notice of intent to issue an order of revocation,
7.25 the commissioner identifies one or more subsequent violations of minimum standards which
7.26 may adversely affect the health or safety of persons confined or incarcerated in the facility,
7.27 staff, law enforcement, visitors, or the public.

7.28 A notice stating the reasons for the immediate suspension informing the facility
7.29 administrator must be delivered by personal service to the correctional facility administrator
7.30 and the governing board of the facility.

8.1 Sec. 5. Minnesota Statutes 2020, section 241.021, is amended by adding a subdivision to
8.2 read:

8.3 Subd. 1d. **Reconsideration of orders; appeals.** (a) If the facility administrator believes
8.4 the correction order, conditional license order, or revocation order is in error, the facility
8.5 administrator may ask the Department of Corrections to reconsider the parts of the order or
8.6 action that are alleged to be in error. The request for reconsideration must:

8.7 (1) be made in writing;

8.8 (2) be postmarked and sent to the commissioner no later than 30 calendar days after
8.9 receipt of the correction order, conditional license order, or revocation order;

8.10 (3) specify the parts of the order that are alleged to be in error;

8.11 (4) explain why the correction order, conditional license order, or revocation order is in
8.12 error; and

8.13 (5) include documentation to support the allegation of error.

8.14 The commissioner shall issue a disposition within 60 days of receipt of the facility
8.15 administrator's response to correction, conditional license, or revocation order violations.

8.16 A request for reconsideration does not stay any provisions or requirements of the order.

8.17 (b) The facility administrator may request reconsideration of an order immediately
8.18 suspending a license. The request for reconsideration of an order immediately suspending
8.19 a license must be made in writing and sent by certified mail, personal service, or other means
8.20 expressly stated in the commissioner's order. If mailed, the request for reconsideration must
8.21 be postmarked and sent to the commissioner no later than five business days after the facility
8.22 administrator receives notice that the license has been immediately suspended. If a request
8.23 is made by personal service, it must be received by the commissioner no later than five
8.24 business days after the facility administrator received the order. The request for
8.25 reconsideration must:

8.26 (1) specify the parts of the order that are alleged to be in error;

8.27 (2) explain why they are in error; and

8.28 (3) include documentation to support the allegation of error.

8.29 A facility administrator and any controlling board or individual shall discontinue operation
8.30 of the correctional facility upon receipt of the commissioner's order to immediately suspend
8.31 the license.

9.1 (c) Within five business days of receipt of the facility administrator's timely request for
9.2 reconsideration of a temporary immediate suspension, the commissioner shall review the
9.3 request for reconsideration. The scope of the review shall be limited solely to the issue of
9.4 whether the temporary immediate suspension should remain in effect pending the written
9.5 response to commissioner's notice of intent to issue a revocation order.

9.6 The commissioner's disposition of a request for reconsideration of correction, conditional
9.7 license, temporary immediate suspension, or revocation order is final and subject to appeal.
9.8 The facility administrator must request reconsideration as required by this section of any
9.9 correction, conditional license, temporary immediate suspension, or revocation order prior
9.10 to appeal.

9.11 No later than 60 days after the postmark date of the mailed notice of the commissioner's
9.12 decision, the facility administrator may appeal the decision by filing a writ of certiorari with
9.13 the court of appeals under section 606.01 and Minnesota Rules of Civil Appellate Procedure,
9.14 Rule 115. Failure by the facility administrator to appeal to the court of appeals no later than
9.15 the 60-day period precludes the person from later raising, in any subsequent administrative
9.16 hearing or court proceeding, those substantive and procedural issues that reasonably should
9.17 have been raised upon a timely appeal.

9.18 Sec. 6. Minnesota Statutes 2020, section 241.021, is amended by adding a subdivision to
9.19 read:

9.20 Subd. 1e. **Report.** By February 15, 2022, and by February 15 each year thereafter, the
9.21 commissioner of corrections shall report to the chairs and ranking minority members of the
9.22 house of representatives and senate committees and divisions with jurisdiction over public
9.23 safety and judiciary on the status of the implementation of the provisions in this section
9.24 over the prior year, particularly the health and safety of individuals confined or incarcerated
9.25 in a state correctional facility and a facility licensed by the commissioner. This report shall
9.26 include but not be limited to data regarding:

9.27 (1) the number of confined or incarcerated persons who died while committed to the
9.28 custody of the facility, regardless of whether the death occurred at the facility or after
9.29 removal from the facility for medical care stemming from an incident or need for medical
9.30 care at the correctional facility, including aggregated demographic information and the
9.31 correctional facilities' most recent inspection reports and any corrective orders or conditional
9.32 licenses issued;

9.33 (2) the aggregated results of the death reviews by facility as required by subdivision 8,
9.34 including any implemented policy changes;

10.1 (3) the number of uses of force by facility staff on persons confined or incarcerated in
10.2 the correctional facility, including but not limited to whether those uses of force were
10.3 determined to be justified by the facility, for which the commissioner of corrections shall
10.4 consult with the Minnesota Sheriffs' Association to develop criteria for reporting and define
10.5 reportable uses of force;

10.6 (4) the number of persons committed to the commissioner of corrections' authority that
10.7 the commissioner is housing in facilities licensed under subdivision 1f, including but not
10.8 limited to:

10.9 (i) aggregated demographic data of those individuals;

10.10 (ii) length of time spent housed in a licensed correctional facility; and

10.11 (iii) any contracts the Department of Corrections has with correctional facilities to provide
10.12 housing; and

10.13 (5) summary data from state correctional facilities regarding complaints involving alleged
10.14 on-duty staff misconduct, including but not limited to the:

10.15 (i) total number of misconduct complaints and investigations;

10.16 (ii) total number of complaints by each category of misconduct, as defined by the
10.17 commissioner of corrections;

10.18 (iii) number of allegations dismissed as unfounded;

10.19 (iv) number of allegations dismissed on grounds that the allegation was unsubstantiated;
10.20 and

10.21 (v) number of allegations substantiated, any resulting disciplinary action, and the nature
10.22 of the discipline.

10.23 Sec. 7. Minnesota Statutes 2020, section 241.021, is amended by adding a subdivision to
10.24 read:

10.25 Subd. 1f. **Definition.** As used in this section, "correctional facility" means any facility,
10.26 including a group home, having a residential component, the primary purpose of which is
10.27 to serve persons placed therein by a court, court services department, parole authority, or
10.28 other correctional agency having dispositional power over persons charged with, convicted,
10.29 or adjudicated guilty or delinquent.

11.1 Sec. 8. Minnesota Statutes 2020, section 241.021, is amended by adding a subdivision to
11.2 read:

11.3 Subd. 7. **Intake release of information.** All correctional facilities that confine or
11.4 incarcerate adults are required at intake to provide every person an authorization form to
11.5 release information related to their health condition and when that information should be
11.6 shared. This release form shall allow the individual to select if they want to require the
11.7 correctional facility to make attempts to contact the designated person to facilitate the sharing
11.8 of health condition information upon incapacitation or if the individual becomes unable to
11.9 communicate or direct the sharing of this information, so long as contact information was
11.10 provided and the incapacitated person or individual who is unable to communicate or direct
11.11 the sharing of this information is not subject to a court order prohibiting contact with the
11.12 designated person.

11.13 Sec. 9. Minnesota Statutes 2020, section 241.021, is amended by adding a subdivision to
11.14 read:

11.15 Subd. 8. **Death review teams.** In the event a correctional facility as defined in subdivision
11.16 1f receives information of the death of an individual while committed to the custody of the
11.17 facility, regardless of whether the death occurred at the facility or after removal from the
11.18 facility for medical care stemming from an incident or need for medical care at the
11.19 correctional facility, the administrator of the facility, minimally including a medical expert
11.20 of the facility's choosing who did not provide medical services to the individual, and, if
11.21 appropriate, a mental health expert, shall review the circumstances of the death and assess
11.22 for preventable mortality and morbidity, including recommendations for policy or procedure
11.23 change, within 90 days of death. The investigating law enforcement agency may provide
11.24 documentation, participate in, or provide documentation and participate in the review in
11.25 instances where criminal charges were not brought. A preliminary autopsy report must be
11.26 provided as part of the review and any subsequent autopsy findings as available. The facility
11.27 administrator shall provide notice to the commissioner of corrections via the Department
11.28 of Corrections detention information system that the correctional facility has conducted a
11.29 review and identify any recommendations for changes in policy, procedure, or training that
11.30 will be implemented. Any report or other documentation created for purposes of a facility
11.31 death review is confidential as defined in section 13.02, subdivision 3. Nothing in this
11.32 section relieves the facility administrator from complying with the notice of death to the
11.33 commissioner as required by subdivision 1, paragraph (a).

12.1 Sec. 10. Minnesota Statutes 2020, section 243.52, is amended to read:

12.2 **243.52 DISCIPLINE; PREVENTION OF ESCAPE; DUTY TO REPORT.**

12.3 Subdivision 1. Discipline and prevention of escape If any ~~inmate of~~ person confined
 12.4 or incarcerated in any adult correctional facility either under the control of the commissioner
 12.5 of corrections or licensed by the commissioner of corrections under section 241.021 assaults
 12.6 any correctional officer or any other person ~~or inmate~~, the assaulted person may use force
 12.7 in defense of the assault, except as limited in this section. If any ~~inmate~~ confined or
 12.8 incarcerated person attempts to damage the buildings or appurtenances, resists the lawful
 12.9 authority of any correctional officer, refuses to obey the correctional officer's reasonable
 12.10 demands, or attempts to escape, the correctional officer may enforce obedience and discipline
 12.11 or prevent escape by the use of force. If any ~~inmate~~ confined or incarcerated person resisting
 12.12 lawful authority is wounded or killed by the use of force by the correctional officer or
 12.13 assistants, that conduct is authorized under this section.

12.14 Subd. 2. Use of force. (a) Unless the use of deadly force is justified in this section, a
 12.15 correctional officer may not use any of the following restraints:

12.16 (1) a choke hold;

12.17 (2) tying all of a person's limbs together behind the person's back to render the person
 12.18 immobile; or

12.19 (3) securing a person in any way that results in transporting the person face down in a
 12.20 vehicle, except as directed by a medical professional.

12.21 (b) For the purposes of this subdivision, the following terms have the meanings given
 12.22 them:

12.23 (1) "choke hold" has the meaning given in section 609.06, subdivision 3, paragraph (b);
 12.24 and

12.25 ~~As used in this section,~~ (2) "use of force" means conduct which is defined by sections
 12.26 609.06 to 609.066.

12.27 (c) Use of deadly force is justified only if an objectively reasonable correctional officer
 12.28 would believe, based on the totality of the circumstances known to the officer at the time
 12.29 and without the benefit of hindsight, that deadly force is necessary:

12.30 (1) to protect the correctional officer (or another from death or great bodily harm, provided
 12.31 that the threat:

12.32 (i) can be articulated with specificity by the correctional officer;

13.1 (ii) is reasonably likely to occur absent action by the correctional officer; and
13.2 (iii) must be addressed through the use of deadly force without unreasonable delay; or
13.3 (2) to effect the capture, or prevent the escape, of a person whom the correctional officer
13.4 knows or has reasonable grounds to believe has committed or attempted to commit a felony
13.5 and the officer reasonably believes that the person will cause death or great bodily harm to
13.6 another person under the threat criteria in clause (1), unless immediately apprehended.

13.7 Subd. 3. **Duty to report.** (a) Regardless of tenure or rank, staff who observe another
13.8 employee engage in neglect or use force that exceeds the degree of force permitted by law
13.9 must report the incident in writing within 24 hours to the administrator of the correctional
13.10 facility that employs the reporting staff member.

13.11 (b) A staff member who fails to report neglect or excessive use of force within 24 hours
13.12 is subject to disciplinary action or sanction by the correctional facility that employs them.
13.13 Staff members shall suffer no reprisal for reporting another staff member engaged in
13.14 excessive use of force or neglect.

13.15 (c) For the purposes of this subdivision, neglect means:

13.16 (1) the knowing failure or omission to supply a person confined or incarcerated in the
13.17 facility with care or services, including but not limited to food, clothing, health care, or
13.18 supervision that is reasonable and necessary to obtain or maintain the person's physical or
13.19 mental health or safety; or

13.20 (2) the absence or likelihood of absence of care or services, including but not limited to
13.21 food, clothing, health care, or supervision necessary to maintain the physical and mental
13.22 health of the person that a reasonable person would deem essential for health, safety, or
13.23 comfort.

13.24 **EFFECTIVE DATE.** This section is effective March 1, 2021.