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State of Minnesota

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HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 1233

02/02/2023 Authored by Pinto, Moller, Novotny, Feist, Hollins and others
The bill was read for the first time and referred to the Committee on Public Safety Finance and Policy
03/27/2023 Adoption of Report: Placed on the General Register as Amended
Read for the Second Time

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 discipline by physically or socially
1.4 isolating delinquent children and youth in detention facilities; providing for reports;
1.5 providing for rulemaking; amending Minnesota Statutes 2022, section 241.021,
1.6 subdivisions 2a, 2b; proposing coding for new law in Minnesota Statutes, chapter
1.7 241.

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

1.9 Section 1. Minnesota Statutes 2022, section 241.021, subdivision 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 2022, 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. [241.0215] JUVENILE DETENTION FACILITIES; RESTRICTIONS ON**
2.8 **STRIP SEARCHES AND DISCIPLINE.**

2.9 Subdivision 1. **Applicability.** This section applies to juvenile facilities licensed by the
2.10 commissioner of corrections under section 241.021, subdivision 2.

2.11 Subd. 2. **Definitions.** (a) As used in this section, the following terms have the meanings
2.12 given.

2.13 (b) "Health care professional" means an individual who is licensed or permitted by a
2.14 Minnesota health-related licensing board, as defined in section 214.01, subdivision 2, to
2.15 perform health care services in Minnesota within the professional's scope of practice.

2.16 (c) "Strip search" means a visual inspection of a juvenile's unclothed breasts, buttocks,
2.17 or genitalia.

2.18 Subd. 3. **Searches restricted.** (a) A staff person working in a facility may not conduct
2.19 a strip search unless:

2.20 (1) a specific, articulable, and immediate contraband concern is present;

2.21 (2) other search techniques and technology cannot be used or have failed to identify the
2.22 contraband; and

2.23 (3) the facility's chief administrator or designee has reviewed the situation and approved
2.24 the strip search.

2.25 (b) A strip search must be conducted by:

2.26 (1) a health care professional; or

2.27 (2) a staff person working in a facility who has received training on trauma-informed
2.28 search techniques and other applicable training under Minnesota Rules, chapter 2960.

2.29 (c) A strip search must be documented in writing and describe the contraband concern,
2.30 summarize other inspection techniques used or considered, and verify the approval from
2.31 the facility's chief administrator or, in the temporary absence of the chief administrator, the

3.1 staff person designated as the person in charge of the facility. A copy of the documentation
3.2 must be provided to the commissioner within 24 hours of the strip search.

3.3 (d) Nothing in this section prohibits or limits a strip search as part of a health care
3.4 procedure conducted by a health care professional.

3.5 Subd. 4. **Discipline restricted.** (a) A staff person working in a facility may not discipline
3.6 a juvenile by physically or socially isolating the juvenile.

3.7 (b) Nothing in this subdivision restricts a facility from isolating a juvenile for the
3.8 juvenile's safety, staff safety, or the safety of other facility residents when the isolation is
3.9 consistent with rules adopted by the commissioner.

3.10 Subd. 5. **Commissioner action.** The commissioner may take any action authorized under
3.11 section 241.021, subdivisions 2 and 3, to address a violation of this section.

3.12 Subd. 6. **Report.** (a) By February 15 each year, the commissioner must report to the
3.13 chairs and ranking minority members of the legislative committees and divisions with
3.14 jurisdiction over public safety finance and policy on the use of strip searches and isolation.

3.15 (b) The report must consist of summary data from the previous calendar year and must,
3.16 at a minimum, include:

3.17 (1) how often strip searches were performed;

3.18 (2) how often juveniles were isolated;

3.19 (3) the length of each period of isolation used and, for juveniles isolated in the previous
3.20 year, the total cumulative amount of time that the juvenile was isolated that year; and

3.21 (4) any injury to a juvenile related to a strip search or isolation, or both, that was
3.22 reportable as a critical incident.

3.23 (c) Data in the report must provide information on the demographics of juveniles who
3.24 were subject to a strip search and juveniles who were isolated. At a minimum, data must
3.25 be disaggregated by age, race, and gender.

3.26 (d) The report must identify any facility that performed a strip search or used isolation,
3.27 or both, in a manner that did not comply with this section or rules adopted by the
3.28 commissioner in conformity with this section.

3.29 **EFFECTIVE DATE.** This section is effective January 1, 2024.

4.1 Sec. 4. **REVISED FACILITY PLANS.**

4.2 The commissioner of corrections must direct any juvenile facility licensed by the
4.3 commissioner to revise its plan under Minnesota Rules, part 2960.0270, subpart 6, and its
4.4 restrictive-procedures plan under Minnesota Rules, part 2960.0710, subpart 2, to be consistent
4.5 with Minnesota Statutes, section 241.0215. After receiving notice from the commissioner,
4.6 a facility must submit the revised plans to the commissioner within 60 days.

4.7 **EFFECTIVE DATE.** This section is effective January 1, 2024.

4.8 Sec. 5. **RULEMAKING.**

4.9 (a) The commissioner of corrections must amend Minnesota Rules, chapter 2960, to
4.10 enforce the requirements under Minnesota Statutes, section 241.0215, including but not
4.11 limited to training, facility audits, strip searches, disciplinary room time, time-outs, and
4.12 seclusion. The commissioner may amend the rules to make technical changes and ensure
4.13 consistency with Minnesota Statutes, section 241.0215.

4.14 (b) In amending or adopting rules according to paragraph (a), the commissioner must
4.15 use the exempt rulemaking process under Minnesota Statutes, section 14.386.
4.16 Notwithstanding Minnesota Statutes, section 14.386, paragraph (b), a rule adopted under
4.17 this section is permanent. After the rule is adopted, the authorization to use the exempt
4.18 rulemaking process expires.

4.19 (c) Notwithstanding Laws 1995, chapter 226, article 3, sections 50, 51, and 60, or any
4.20 other law to the contrary, the joint rulemaking authority with the commissioner of human
4.21 services does not apply to rule amendments applicable only to the Department of Corrections.
4.22 A rule that is amending jointly administered rule parts must be related to requirements on
4.23 strip searches, disciplinary room time, time-outs, and seclusion and be necessary for
4.24 consistency with this section.

4.25 **EFFECTIVE DATE.** This section is effective January 1, 2024.