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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 1678

02/25/2019 Authored by Edelson and Dehn The bill was read for the first time and referred to the Public Safety and Criminal Justice Reform Finance and Policy Division

1.1 A bill for an act
1.2 relating to juvenile justice; addressing numerous issues relating to juveniles
1.3 including risk assessments, alternatives to arrest, and use of restraints; amending
1.4 Minnesota Statutes 2018, section 260B.176, by adding a subdivision; proposing
1.5 coding for new law in Minnesota Statutes, chapter 260B.

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

1.7 ARTICLE 1
1.8 JUVENILE PROCEEDINGS

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

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

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

1.14 (1) the use of restraints is necessary:

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

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

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

1.21 The finding in clause (1), item (i), may be based, among other things, on the child having
1.22 a history of disruptive courtroom behavior or behavior while in custody for any current or

2.1 prior offense that has placed others in potentially harmful situations, or presenting a
2.2 substantial risk of inflicting physical harm on the child or others as evidenced by past
2.3 behavior. The court may take into account the physical structure of the courthouse in
2.4 assessing the applicability of the above factors to the individual child.

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

2.8 **Sec. 2. [260B.1755] ALTERNATIVE TO ARREST OF CERTAIN JUVENILE**
2.9 **OFFENDERS AUTHORIZED.**

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

2.13 (b) This section does not apply to violent felony offenses or to peace officers acting
2.14 pursuant to an order or warrant described in section 260B.175, subdivision 1, paragraph
2.15 (a), or other court order to take a child into custody.

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

2.20 **Sec. 3. RULE SUPERSEDED.**

2.21 Minnesota Rules of Juvenile Delinquency Procedure, rule 2.03, subdivision 1, is
2.22 superseded to the extent it conflicts with section 1.

2.23 **Sec. 4. COMPLIANCE WITH JUVENILE RESTRAINT PROVISION.**

2.24 By July 1, 2020, each judicial district shall develop a protocol to address how to
2.25 implement and comply with section 1. In developing the protocol, a district shall consult
2.26 with law enforcement agencies, prosecutors, and public defenders within the district, as
2.27 well as any other entity deemed necessary by the district's chief judge.

ARTICLE 2**RISK ASSESSMENTS**

Section 1. Minnesota Statutes 2018, section 260B.176, is amended by adding a subdivision to read:

Subd. 1a. **Risk assessment instrument.** A person making a release decision under subdivision 1 shall use an objective and racially, ethnically, and gender-responsive juvenile detention risk assessment instrument developed by the commissioner, county, group of counties, or judicial district, in consultation with the state coordinator or coordinators of the Minnesota Juvenile Detention Alternative Initiative. The risk assessment instrument must assess the likelihood that a child released from preadjudication detention under this section or section 260B.178 would endanger others or not return for a court hearing. The instrument must identify the appropriate setting for a child who might endanger others or not return for a court hearing pending adjudication, with either continued detention or placement in a noncustodial community-based supervision setting. The instrument must also identify the type of noncustodial community-based supervision setting necessary to minimize the risk that a child who is released from custody will endanger others or not return for a court hearing.

EFFECTIVE DATE. This section is effective January 1, 2020.

Sec. 2. ADOPTION OF JUVENILE DETENTION RISK ASSESSMENT INSTRUMENT.

Subdivision 1. **Adoption required.** By September 15, 2019, the commissioner of corrections shall adopt an objective and racially, ethnically, and gender-responsive juvenile detention risk assessment instrument.

Subd. 2. **Consultation required.** In adopting the risk assessment instrument required in subdivision 1, the commissioner shall consult and collaborate with the commissioners of public safety and human services, state coordinator or coordinators of the Minnesota Juvenile Detention Alternative Initiative, and individuals throughout the state who are knowledgeable in matters relating to the detention and treatment of juvenile offenders and at-risk juveniles including but not limited to individuals from the courts, probation, law enforcement, prosecutorial offices, public defender's offices, communities of color, social services, juvenile detention and shelter care facilities, and juvenile residential treatment and correctional facilities. The commissioner shall also review similar risk assessment instruments in use both inside and outside of the state.