

**SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION**

S.F. No. 4236

(SENATE AUTHORS: DZIEDZIC, Tomassoni, Pappas and Ingebrigtsen)

DATE
03/11/2020

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Introduction and first reading
Referred to Judiciary and Public Safety Finance and Policy

OFFICIAL STATUS

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

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

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

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

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

1.12 (1) the use of restraints is necessary:

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

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

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

1.19 The finding in clause (1), item (i), may be based, among other things, on the child having
1.20 a history of disruptive courtroom behavior or behavior while in custody for any current or
1.21 prior offense that has placed others in potentially harmful situations, or presenting a
1.22 substantial risk of inflicting physical harm on the child or others as evidenced by past

2.1 behavior. The court may take into account the physical structure of the courthouse in
2.2 assessing the applicability of the above factors to the individual child.

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

2.6 (d) By April 1, 2021, each judicial district shall develop a protocol to address how to
2.7 implement and comply with this section. In developing the protocol, a district shall consult
2.8 with law enforcement agencies, prosecutors, public defenders within the district, and any
2.9 other entity deemed necessary by the district's chief judge.

2.10 **EFFECTIVE DATE.** Paragraphs (a), (b), and (c) are effective April 15, 2021. Paragraph
2.11 (d) is effective the day following final enactment.

2.12 Sec. 2. Minnesota Statutes 2018, section 260B.176, is amended by adding a subdivision
2.13 to read:

2.14 Subd. 1a. **Risk assessment instrument.** If a peace officer or probation or parole officer
2.15 who took a child into custody does not release the child as provided in subdivision 1, the
2.16 peace officer or probation or parole officer shall communicate with or deliver the child to
2.17 a juvenile secure detention facility to determine whether the child should be released or
2.18 detained. Before detaining a child, the supervisor of the facility shall use an objective and
2.19 racially, ethnically, and gender-responsive juvenile detention risk assessment instrument
2.20 developed by the commissioner, county, group of counties, or judicial district, in consultation
2.21 with the state coordinator or coordinators of the Minnesota Juvenile Detention Alternative
2.22 Initiative. The risk assessment instrument must assess the likelihood that a child released
2.23 from preadjudication detention under this section or section 260B.178 would endanger
2.24 others or not return for a court hearing. The instrument must identify the appropriate setting
2.25 for a child who might endanger others or not return for a court hearing pending adjudication,
2.26 with either continued detention or placement in a noncustodial community-based supervision
2.27 setting. The instrument must also identify the type of noncustodial community-based
2.28 supervision setting necessary to minimize the risk that a child who is released from custody
2.29 will endanger others or not return for a court hearing. If, after using the instrument, a
2.30 determination is made that the child should be released, the person taking the child into
2.31 custody or the supervisor of the facility shall release the child as provided in subdivision 1.

2.32 **EFFECTIVE DATE.** This section is effective August 15, 2021.