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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 714

02/09/2015 Authored by Dehn, R., and Ward

The bill was read for the first time and referred to the Committee on Health and Human Services Reform

1.1 A bill for an act
1.2 relating to juvenile justice; addressing numerous issues relating to juveniles
1.3 including diversion, use of restraints, public hearings, Department of Human
1.4 Services collateral sanctions, and alternatives to detention; appropriating money;
1.5 amending Minnesota Statutes 2014, sections 244.05, subdivisions 4, 5; 245C.14,
1.6 subdivision 1; 245C.24, subdivision 2; 260B.001, subdivision 2; 260B.125,
1.7 by adding a subdivision; 260B.130, subdivision 4; 260B.163, subdivision 1;
1.8 609.106, subdivision 2, by adding a subdivision; 609.3455, subdivision 2;
1.9 proposing coding for new law in Minnesota Statutes, chapter 260B.

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

1.11 ARTICLE 1
1.12 JUVENILE PROCEEDINGS

1.13 Section 1. Minnesota Statutes 2014, section 260B.001, subdivision 2, is amended to
1.14 read:

1.15 Subd. 2. **Delinquency.** The purpose of the laws relating to children alleged or
1.16 adjudicated to be delinquent is to promote the public safety ~~and reduce~~ by reducing
1.17 juvenile delinquency by maintaining the integrity of the substantive law prohibiting
1.18 certain behavior and by developing individual responsibility for lawful behavior. This
1.19 purpose should be pursued through means that are fair and just, that recognize the unique
1.20 characteristics and needs of children, and that give children access to opportunities for
1.21 personal and social growth.

1.22 Sec. 2. **[260B.008] USE OF RESTRAINTS.**

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

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

2.3 (1) the use of restraints is necessary:

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

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

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

2.10 The finding in clause (1), item (i), may be based, among other things, on the child having
 2.11 a history of disruptive courtroom behavior that has placed others in potentially harmful
 2.12 situations, or presenting a substantial risk of inflicting physical harm on the child or others
 2.13 as evidenced by recent behavior.

2.14 (c) The court shall provide the child an opportunity to be heard before ordering
 2.15 the use of restraints. If restraints are ordered, the court shall make findings of fact in
 2.16 support of the order.

2.17 Sec. 3. Minnesota Statutes 2014, section 260B.163, subdivision 1, is amended to read:

2.18 Subdivision 1. **General.** (a) Except for hearings arising under section 260B.425,
 2.19 hearings on any matter shall be without a jury and may be conducted in an informal
 2.20 manner, except that a child who is prosecuted as an extended jurisdiction juvenile has the
 2.21 right to a jury trial on the issue of guilt. The rules of evidence promulgated pursuant
 2.22 to section 480.0591 and the law of evidence shall apply in adjudicatory proceedings
 2.23 involving a child alleged to be delinquent, an extended jurisdiction juvenile, or a juvenile
 2.24 petty offender, and hearings conducted pursuant to section 260B.125 except to the extent
 2.25 that the rules themselves provide that they do not apply.

2.26 (b) When a continuance or adjournment is ordered in any proceeding, the court may
 2.27 make any interim orders as it deems in the best interests of the minor in accordance with
 2.28 the provisions of sections 260B.001 to 260B.421.

2.29 (c) Except as otherwise provided in this ~~paragraph~~ subdivision, the court shall
 2.30 exclude the general public from hearings under this chapter and shall admit only those
 2.31 persons who, in the discretion of the court, have a direct interest in the case or in the work
 2.32 of the court. The court shall permit the victim of a child's delinquent act to attend any
 2.33 related delinquency proceeding, except that the court may exclude the victim:

2.34 (1) as a witness under the Rules of Criminal Procedure; ~~and~~ or

3.1 (2) from portions of a ~~certification~~ hearing to discuss psychological material or other
3.2 evidence that would not be accessible to the public in an adult proceeding.

3.3 (d) The court shall open the hearings to the public in delinquency or extended
3.4 jurisdiction juvenile proceedings where if the child is alleged to have committed an offense
3.5 or has been proven to have committed an offense that would be a felony if committed by an
3.6 adult and, the child was at least 16 years of age at the time of the offense, except that and:

3.7 (1) the hearing is a certification proceeding; or

3.8 (2) the hearing is an extended juvenile jurisdiction proceeding and the prosecutor
3.9 has requested that the hearing be open.

3.10 The court may exclude the public from portions of a ~~certification~~ hearing to discuss
3.11 psychological material or other evidence that would not be accessible to the public in
3.12 an adult proceeding.

3.13 ~~(d)~~ (e) In all delinquency cases a person named in the charging clause of the petition
3.14 as a person directly damaged in person or property shall be entitled, upon request, to be
3.15 notified by the court administrator in writing, at the named person's last known address, of
3.16 (1) the date of the certification or adjudicatory hearings, and (2) the disposition of the case.

3.17 Sec. 4. **[260B.1755] LAW ENFORCEMENT DIVERSION OF NONVIOLENT**
3.18 **JUVENILE OFFENDERS AUTHORIZED.**

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

3.22 (b) This section applies only to nonviolent offenses and does not apply to peace
3.23 officers acting pursuant to an order or warrant described in section 260B.175, subdivision
3.24 1, paragraph (a), or other court order to take a child into custody.

3.25 (c) A diversion program authorized by this section may defer prosecution of
3.26 juvenile offenders who agree to complete appropriate conditions. Upon completion of the
3.27 conditions, the charge shall be dismissed. Both petty offenders and delinquents may be
3.28 diverted.

3.29 Sec. 5. **RULE SUPERSEDED.**

3.30 Minnesota Rule of Juvenile Procedure, rule 2.03, subdivision 1, is superseded to the
3.31 extent it conflicts with section 2.

4.1 **ARTICLE 2**4.2 **SENTENCES**4.3 Section 1. **LEGISLATIVE FINDINGS AND INTENT.**

4.4 The legislature finds that emerging research on brain development indicates that
4.5 adolescent brains, and thus adolescent intellectual and emotional capabilities, differ
4.6 significantly from those of mature adults. It is appropriate to take these differences into
4.7 consideration when sentencing extended jurisdiction juveniles and juveniles tried as
4.8 adults. The legislature further finds that requiring mandatory minimum sentences for these
4.9 juveniles prevents judges from taking these differences into consideration in appropriate
4.10 circumstances. The legislature intends to eliminate the nondiscretionary application of
4.11 mandatory minimum sentences to extended jurisdiction juveniles and to juveniles tried as
4.12 adults, while continuing to apply all other adult sentencing provisions to these juveniles.

4.13 Sec. 2. Minnesota Statutes 2014, section 244.05, subdivision 4, is amended to read:

4.14 Subd. 4. **Minimum imprisonment, life sentence.** (a) An inmate serving a
4.15 mandatory life sentence under section 609.106, subdivision 2, or 609.3455, subdivision 2,
4.16 paragraph (a), must not be given supervised release under this section.

4.17 (b) An inmate serving a mandatory life sentence under section 609.185, clause (3),
4.18 (5), or (6); or Minnesota Statutes 2004, section 609.109, subdivision 3, must not be given
4.19 supervised release under this section without having served a minimum term of 30 years.

4.20 (c) An inmate serving a mandatory life sentence under section 609.385 must not
4.21 be given supervised release under this section without having served a minimum term of
4.22 imprisonment of 17 years.

4.23 (d) An inmate serving a mandatory life sentence under section 609.3455, subdivision
4.24 3 or 4, must not be given supervised release under this section without having served the
4.25 minimum term of imprisonment specified by the court in its sentence.

4.26 (e) An inmate serving a mandatory life sentence under section 609.106, subdivision
4.27 3, or 609.3455, subdivision 2, paragraph (c), must not be given supervised release under
4.28 this section without having served a minimum term of imprisonment of 20 years.

4.29 Sec. 3. Minnesota Statutes 2014, section 244.05, subdivision 5, is amended to read:

4.30 Subd. 5. **Supervised release, life sentence.** (a) The commissioner of corrections
4.31 may, under rules promulgated by the commissioner, give supervised release to an inmate
4.32 serving a mandatory life sentence under section 609.185, clause (3), (5), or (6); 609.106,
4.33 subdivision 3; 609.3455, subdivision 2, paragraph (c), 3, or 4; 609.385; or Minnesota

5.1 Statutes 2004, section 609.109, subdivision 3, after the inmate has served the minimum
5.2 term of imprisonment specified in subdivision 4.

5.3 (b) The commissioner shall require the preparation of a community investigation
5.4 report and shall consider the findings of the report when making a supervised release
5.5 decision under this subdivision. The report shall reflect the sentiment of the various
5.6 elements of the community toward the inmate, both at the time of the offense and at the
5.7 present time. The report shall include the views of the sentencing judge, the prosecutor,
5.8 any law enforcement personnel who may have been involved in the case, and any
5.9 successors to these individuals who may have information relevant to the supervised
5.10 release decision. The report shall also include the views of the victim and the victim's
5.11 family unless the victim or the victim's family chooses not to participate.

5.12 (c) The commissioner shall make reasonable efforts to notify the victim, in advance,
5.13 of the time and place of the inmate's supervised release review hearing. The victim has
5.14 a right to submit an oral or written statement at the review hearing. The statement may
5.15 summarize the harm suffered by the victim as a result of the crime and give the victim's
5.16 recommendation on whether the inmate should be given supervised release at this time.
5.17 The commissioner must consider the victim's statement when making the supervised
5.18 release decision.

5.19 (d) When considering whether to give supervised release to an inmate serving a life
5.20 sentence under section 609.3455, subdivision 3 or 4, the commissioner shall consider, at
5.21 a minimum, the following: the risk the inmate poses to the community if released, the
5.22 inmate's progress in treatment, the inmate's behavior while incarcerated, psychological
5.23 or other diagnostic evaluations of the inmate, the inmate's criminal history, and any
5.24 other relevant conduct of the inmate while incarcerated or before incarceration. The
5.25 commissioner may not give supervised release to the inmate unless:

5.26 (1) while in prison:

5.27 (i) the inmate has successfully completed appropriate sex offender treatment;

5.28 (ii) the inmate has been assessed for chemical dependency needs and, if appropriate,
5.29 has successfully completed chemical dependency treatment; and

5.30 (iii) the inmate has been assessed for mental health needs and, if appropriate, has
5.31 successfully completed mental health treatment; and

5.32 (2) a comprehensive individual release plan is in place for the inmate that ensures
5.33 that, after release, the inmate will have suitable housing and receive appropriate aftercare
5.34 and community-based treatment. The comprehensive plan also must include a postprison
5.35 employment or education plan for the inmate.

6.1 (e) As used in this subdivision, "victim" means the individual who suffered harm as
6.2 a result of the inmate's crime or, if the individual is deceased, the deceased's surviving
6.3 spouse or next of kin.

6.4 Sec. 4. Minnesota Statutes 2014, section 260B.125, is amended by adding a
6.5 subdivision to read:

6.6 Subd. 11. **Applicability of mandatory minimum sentences.** Notwithstanding
6.7 any other law to the contrary, when a person who has been convicted of an offense that
6.8 has been certified under this section is sentenced, the sentencing court is not required
6.9 to sentence the person under the terms of a mandatory minimum sentence that would
6.10 otherwise be applicable to the offense.

6.11 Sec. 5. Minnesota Statutes 2014, section 260B.130, subdivision 4, is amended to read:

6.12 Subd. 4. **Disposition.** (a) If an extended jurisdiction juvenile prosecution results in a
6.13 guilty plea or finding of guilt, the court shall:

- 6.14 (1) impose one or more juvenile dispositions under section 260B.198; and
6.15 (2) impose an adult criminal sentence, the execution of which shall be stayed on
6.16 the condition that the offender not violate the provisions of the disposition order and
6.17 not commit a new offense.

6.18 (b) If a child prosecuted as an extended jurisdiction juvenile after designation by
6.19 the prosecutor in the delinquency petition is convicted of an offense after trial that is not
6.20 an offense described in subdivision 1, clause (2), the court shall adjudicate the child
6.21 delinquent and order a disposition under section 260B.198. If the extended jurisdiction
6.22 juvenile proceeding results in a guilty plea for an offense not described in subdivision 1,
6.23 clause (2), the court may impose a disposition under paragraph (a) if the child consents.

6.24 (c) Notwithstanding any other law to the contrary, when imposing an adult sentence
6.25 under paragraph (a), clause (2), the court is not required to sentence the child under the
6.26 terms of a mandatory minimum sentence that would otherwise be applicable to the offense.

6.27 Sec. 6. Minnesota Statutes 2014, section 609.106, subdivision 2, is amended to read:

6.28 Subd. 2. **Life without release.** Except as provided in subdivision 3, the court shall
6.29 sentence a person to life imprisonment without possibility of release under the following
6.30 circumstances:

- 6.31 (1) the person is convicted of first-degree murder under section 609.185, paragraph
6.32 (a), clause (1), (2), (4), or (7);

7.1 (2) the person is convicted of committing first-degree murder in the course of a
7.2 kidnapping under section 609.185, clause (3); or

7.3 (3) the person is convicted of first-degree murder under section 609.185, clause (3),
7.4 (5), or (6), and the court determines on the record at the time of sentencing that the person
7.5 has one or more previous convictions for a heinous crime.

7.6 Sec. 7. Minnesota Statutes 2014, section 609.106, is amended by adding a subdivision
7.7 to read:

7.8 Subd. 3. **Offender under age 18; life imprisonment with possibility of release.** If
7.9 the defendant was under 18 years of age at the time of the commission of an offense that
7.10 would require a life without release sentence under subdivision 2, and the child has been
7.11 certified under section 260B.125 or designated an extended jurisdiction juvenile under
7.12 section 260B.130, the court shall sentence the defendant to imprisonment for life.

7.13 Sec. 8. Minnesota Statutes 2014, section 609.3455, subdivision 2, is amended to read:

7.14 Subd. 2. **Mandatory life sentence without release; egregious first-time and**
7.15 **repeat offenders.** (a) Except as provided in paragraph (c), notwithstanding the statutory
7.16 maximum penalty otherwise applicable to the offense, the court shall sentence a person
7.17 convicted under section 609.342, subdivision 1, paragraph (c), (d), (e), (f), or (h); or
7.18 609.343, subdivision 1, paragraph (c), (d), (e), (f), or (h), to life without the possibility of
7.19 release if:

7.20 (1) the fact finder determines that two or more heinous elements exist; or

7.21 (2) the person has a previous sex offense conviction for a violation of section
7.22 609.342, 609.343, or 609.344, and the fact finder determines that a heinous element exists
7.23 for the present offense.

7.24 (b) A fact finder may not consider a heinous element if it is an element of the
7.25 underlying specified violation of section 609.342 or 609.343. In addition, when
7.26 determining whether two or more heinous elements exist, the fact finder may not use the
7.27 same underlying facts to support a determination that more than one element exists.

7.28 (c) If the defendant was under 18 years of age at the time of the commission of an
7.29 offense that would require a life without release sentence under paragraph (a), and the child
7.30 has been certified under section 260B.125 or designated an extended jurisdiction juvenile
7.31 under section 260B.130, the court shall sentence the defendant to imprisonment for life.

7.32 Sec. 9. **EFFECTIVE DATE; RETROACTIVITY.**

8.1 Sections 2, 3, 6, 7, and 8 are effective the day following final enactment and apply to
8.2 offenders sentenced on or after that date, and also retroactively to offenders sentenced to
8.3 life without release before that date.

8.4 ARTICLE 3

8.5 DEPARTMENT OF HUMAN SERVICES DISQUALIFICATIONS

8.6 Section 1. Minnesota Statutes 2014, section 245C.14, subdivision 1, is amended to read:

8.7 Subdivision 1. **Disqualification from direct contact.** (a) The commissioner shall
8.8 disqualify an individual who is the subject of a background study from any position
8.9 allowing direct contact with persons receiving services from the license holder or entity
8.10 identified in section 245C.03, upon receipt of information showing, or when a background
8.11 study completed under this chapter shows any of the following:

8.12 (1) a conviction of, admission to, or Alford plea to one or more crimes listed in
8.13 section 245C.15, regardless of whether the conviction or admission is a felony, gross
8.14 misdemeanor, or misdemeanor level crime;

8.15 (2) a preponderance of the evidence indicates the individual has committed an act
8.16 or acts that meet the definition of any of the crimes listed in section 245C.15, regardless
8.17 of whether the preponderance of the evidence is for a felony, gross misdemeanor, or
8.18 misdemeanor level crime; or

8.19 (3) an investigation results in an administrative determination listed under section
8.20 245C.15, subdivision 4, paragraph (b).

8.21 (b) No individual who is disqualified following a background study under section
8.22 245C.03, subdivisions 1 and 2, may be retained in a position involving direct contact
8.23 with persons served by a program or entity identified in section 245C.03, unless the
8.24 commissioner has provided written notice under section 245C.17 stating that:

8.25 (1) the individual may remain in direct contact during the period in which the
8.26 individual may request reconsideration as provided in section 245C.21, subdivision 2;

8.27 (2) the commissioner has set aside the individual's disqualification for that program
8.28 or entity identified in section 245C.03, as provided in section 245C.22, subdivision 4; or

8.29 (3) the license holder has been granted a variance for the disqualified individual
8.30 under section 245C.30.

8.31 (c) No offense that occurred when the individual was a minor shall be the basis for
8.32 a disqualification if five or more years have passed since the date of the offense. This
8.33 paragraph does not apply to an individual who was convicted of the disqualifying crime
8.34 following certification under section 260B.125.

9.1 Sec. 2. Minnesota Statutes 2014, section 245C.24, subdivision 2, is amended to read:

9.2 Subd. 2. **Permanent bar to set aside a disqualification.** (a) Except as provided in
 9.3 paragraph (b), the commissioner may not set aside the disqualification of any individual
 9.4 disqualified pursuant to this chapter, regardless of how much time has passed, if the
 9.5 individual was disqualified for a crime or conduct listed in section 245C.15, subdivision 1.

9.6 (b) For an individual in the chemical dependency or corrections field who was
 9.7 disqualified for a crime or conduct listed under section 245C.15, subdivision 1, and whose
 9.8 disqualification was set aside prior to July 1, 2005, the commissioner must consider
 9.9 granting a variance pursuant to section 245C.30 for the license holder for a program
 9.10 dealing primarily with adults. A request for reconsideration evaluated under this paragraph
 9.11 must include a letter of recommendation from the license holder that was subject to the
 9.12 prior set-aside decision addressing the individual's quality of care to children or vulnerable
 9.13 adults and the circumstances of the individual's departure from that service.

9.14 (c) When a licensed foster care provider adopts an individual who had received
 9.15 foster care services from the provider for over six months, and the adopted individual is
 9.16 required to receive a background study under section 245C.03, subdivision 1, paragraph
 9.17 (a), clause (2) or (6), the commissioner may grant a variance to the license holder under
 9.18 section 245C.30 to permit the adopted individual with a permanent disqualification
 9.19 to remain affiliated with the license holder under the conditions of the variance when
 9.20 the variance is recommended by the county of responsibility for each of the remaining
 9.21 individuals in placement in the home and the licensing agency for the home.

9.22 (d) This subdivision shall not apply to any crime or offense committed by a minor.

9.23 ARTICLE 4

9.24 ALTERNATIVES TO JUVENILE DETENTION

9.25 Section 1. **ALTERNATIVES TO JUVENILE DETENTION.**

9.26 Subdivision 1. **Grant.** The commissioner of public safety, through the Office
 9.27 of Justice Programs, may award a grant to an organization designated as a nonprofit
 9.28 by section 501(c)(3) of the Internal Revenue Code or a collaboration of organizations
 9.29 including one or more nonprofit organizations to conduct training, technical support, and
 9.30 peer learning opportunities for counties across the state interested in "Right on Crime"
 9.31 strategies, specifically juvenile detention reform and addressing disparities in the juvenile
 9.32 justice system to accomplish cost-effective interventions that leverage the strength of
 9.33 families and communities. The collaboration must include at least one organization that
 9.34 has a demonstrated history in working with Minnesota counties to address disparities in
 9.35 the juvenile justice system. The intent of the grant is to achieve the following objectives:

- 10.1 (1) eliminate the inappropriate or unnecessary use of secure detention;
 10.2 (2) minimize re-arrest and failure-to-appear rates pending adjudication;
 10.3 (3) ensure appropriate conditions of confinement in secure facilities; and
 10.4 (4) reduce racial and ethnic disparities.

10.5 Subd. 2. **Grant criteria.** (a) The grant recipient must:

10.6 (1) identify and support counties statewide in implementing the eight core strategies
 10.7 identified by the Annie E. Casey Foundation that are proven to address disparities in
 10.8 juvenile detention, including collaboration, use of accurate data, objective admissions
 10.9 criteria and instruments, new or enhanced nonsecure alternatives to detention, case
 10.10 processing reforms, special detention cases, reducing racial disparities, and improving
 10.11 conditions of confinement;

10.12 (2) provide training, technical support, and peer learning opportunities to counties as
 10.13 each county implements the eight core strategies under clause (1) throughout its county; and

10.14 (3) consistently collect, use, and report accurate data to diagnose system problems,
 10.15 adapt strategies, and assess the impact of various training and capacity-building activities.

10.16 (b) The grant recipient must match at least \$100,000 of the grant amount
 10.17 dollar-for-dollar with money from private sector funds.

10.18 (c) A portion of the grant must be designated for counties to implement juvenile
 10.19 detention reform.

10.20 (d) The commissioner shall ensure that most of the grant money distributed under
 10.21 this section be used to benefit greater Minnesota.

10.22 Subd. 3. **Program evaluation.** The grant recipient must evaluate the effectiveness
 10.23 of its intervention and work with subcontracted organizations to collect data. The grant
 10.24 recipient must submit an evaluation plan to the commissioner delineating progress in
 10.25 meeting the objectives of the grant.

10.26 Sec. 2. **APPROPRIATION.**

10.27 \$2,500,000 in fiscal year 2016 and \$2,500,000 in fiscal year 2017 are appropriated
 10.28 from the general fund to the commissioner of public safety for the grant program under
 10.29 section 1.

APPENDIX
Article locations in 15-1975

ARTICLE 1	JUVENILE PROCEEDINGS	Page.Ln 1.11
ARTICLE 2	SENTENCES	Page.Ln 4.1
ARTICLE 3	DEPARTMENT OF HUMAN SERVICES DISQUALIFICATIONS ...	Page.Ln 8.4
ARTICLE 4	ALTERNATIVES TO JUVENILE DETENTION	Page.Ln 9.23