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State of Minnesota

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HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH SESSION

HOUSE FILE No. 3137

February 22, 2010

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The bill was read for the first time and referred to the Committee on Public Safety Policy and Oversight

March 15, 2010

By motion, recalled and re-referred to the Committee on Civil Justice

March 18, 2010

Committee Recommendation and Adoption of Report:

To Pass and re-referred to the Committee on Public Safety Policy and Oversight

March 23, 2010

Committee Recommendation and Adoption of Report:

To Pass as Amended

Read Second Time

1.1 A bill for an act
1.2 relating to public safety; requiring chemical use screen of juvenile offenders;
1.3 amending Minnesota Statutes 2008, sections 260B.157, subdivision 1; 260B.176,
1.4 subdivision 2.

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

1.6 Section 1. Minnesota Statutes 2008, section 260B.157, subdivision 1, is amended to
1.7 read:

1.8 Subdivision 1. Investigation. Upon request of the court the local social services
1.9 agency or probation officer shall investigate the personal and family history and
1.10 environment of any minor coming within the jurisdiction of the court under section
1.11 260B.101 and shall report its findings to the court. The court may order any minor coming
1.12 within its jurisdiction to be examined by a duly qualified physician, psychiatrist, or
1.13 psychologist appointed by the court.

1.14 The court shall order a chemical use assessment conducted when a child is (1) found
1.15 to be delinquent for violating a provision of chapter 152, or for committing a felony-level
1.16 violation of a provision of chapter 609 if the probation officer determines that alcohol or
1.17 drug use was a contributing factor in the commission of the offense, or (2) alleged to be
1.18 delinquent for violating a provision of chapter 152, if the child is being held in custody
1.19 under a detention order. The assessor's qualifications and the assessment criteria shall
1.20 comply with Minnesota Rules, parts 9530.6600 to 9530.6655. If funds under chapter
1.21 254B are to be used to pay for the recommended treatment, the assessment and placement
1.22 must comply with all provisions of Minnesota Rules, parts 9530.6600 to 9530.6655 and
1.23 9530.7000 to 9530.7030. The commissioner of human services shall reimburse the court
1.24 for the cost of the chemical use assessment, up to a maximum of \$100.

2.1 The court shall order a children's mental health screening and a chemical use
2.2 screening conducted when a child is found to be delinquent. The screening shall be
2.3 conducted with a screening instrument approved by the commissioner of human services
2.4 and shall be conducted by a mental health practitioner as defined in section 245.4871,
2.5 subdivision 26, or a probation officer who is trained in the use of the screening instrument.
2.6 If the screening indicates a need for a mental health assessment, the local social services
2.7 agency, in consultation with the child's family, shall have a diagnostic assessment
2.8 conducted, including a functional assessment, as defined in section 245.4871. If the
2.9 screening indicates a need for a chemical use assessment, the local social service agency,
2.10 in consultation with the child's family, shall have a chemical use assessment conducted, as
2.11 defined in section 254A.03, subdivision 3.

2.12 With the consent of the commissioner of corrections and agreement of the county to
2.13 pay the costs thereof, the court may, by order, place a minor coming within its jurisdiction
2.14 in an institution maintained by the commissioner for the detention, diagnosis, custody and
2.15 treatment of persons adjudicated to be delinquent, in order that the condition of the minor
2.16 be given due consideration in the disposition of the case. Any funds received under the
2.17 provisions of this subdivision shall not cancel until the end of the fiscal year immediately
2.18 following the fiscal year in which the funds were received. The funds are available for
2.19 use by the commissioner of corrections during that period and are hereby appropriated
2.20 annually to the commissioner of corrections as reimbursement of the costs of providing
2.21 these services to the juvenile courts.

2.22 Sec. 2. Minnesota Statutes 2008, section 260B.176, subdivision 2, is amended to read:

2.23 Subd. 2. **Reasons for detention.** (a) If the child is not released as provided in
2.24 subdivision 1, the person taking the child into custody shall notify the court as soon as
2.25 possible of the detention of the child and the reasons for detention.

2.26 (b) No child may be detained in a juvenile secure detention facility or shelter care
2.27 facility longer than 36 hours, excluding Saturdays, Sundays, and holidays, after being
2.28 taken into custody for a delinquent act as defined in section 260B.007, subdivision 6,
2.29 unless a petition has been filed and the judge or referee determines pursuant to section
2.30 260B.178 that the child shall remain in detention.

2.31 (c) No child may be detained in an adult jail or municipal lockup longer than 24
2.32 hours, excluding Saturdays, Sundays, and holidays, or longer than six hours in an adult
2.33 jail or municipal lockup in a standard metropolitan statistical area, after being taken into
2.34 custody for a delinquent act as defined in section 260B.007, subdivision 6, unless:

2.35 (1) a petition has been filed under section 260B.141; and

3.1 (2) a judge or referee has determined under section 260B.178 that the child shall
3.2 remain in detention.

3.3 After August 1, 1991, no child described in this paragraph may be detained in an
3.4 adult jail or municipal lockup longer than 24 hours, excluding Saturdays, Sundays, and
3.5 holidays, or longer than six hours in an adult jail or municipal lockup in a standard
3.6 metropolitan statistical area, unless the requirements of this paragraph have been met and,
3.7 in addition, a motion to refer the child for adult prosecution has been made under section
3.8 260B.125. Notwithstanding this paragraph, continued detention of a child in an adult
3.9 detention facility outside of a standard metropolitan statistical area county is permissible if:

3.10 (i) the facility in which the child is detained is located where conditions of distance
3.11 to be traveled or other ground transportation do not allow for court appearances within 24
3.12 hours. A delay not to exceed 48 hours may be made under this clause; or

3.13 (ii) the facility is located where conditions of safety exist. Time for an appearance
3.14 may be delayed until 24 hours after the time that conditions allow for reasonably safe
3.15 travel. "Conditions of safety" include adverse life-threatening weather conditions that do
3.16 not allow for reasonably safe travel.

3.17 The continued detention of a child under clause (i) or (ii) must be reported to the
3.18 commissioner of corrections.

3.19 (d) If a child described in paragraph (c) is to be detained in a jail beyond 24 hours,
3.20 excluding Saturdays, Sundays, and holidays, the judge or referee, in accordance with
3.21 rules and procedures established by the commissioner of corrections, shall notify the
3.22 commissioner of the place of the detention and the reasons therefor. The commissioner
3.23 shall thereupon assist the court in the relocation of the child in an appropriate juvenile
3.24 secure detention facility or approved jail within the county or elsewhere in the state, or in
3.25 determining suitable alternatives. The commissioner shall direct that a child detained in a
3.26 jail be detained after eight days from and including the date of the original detention order
3.27 in an approved juvenile secure detention facility with the approval of the administrative
3.28 authority of the facility. If the court refers the matter to the prosecuting authority pursuant
3.29 to section 260B.125, notice to the commissioner shall not be required.

3.30 (e) When a child is detained for an alleged delinquent act in a state licensed juvenile
3.31 facility or program, or when a child is detained in an adult jail or municipal lockup as
3.32 provided in paragraph (c), the supervisor of the facility shall, if the child's parent or legal
3.33 guardian consents, have a children's mental health screening conducted with a screening
3.34 instrument approved by the commissioner of human services, unless a screening has been
3.35 performed within the previous 180 days or the child is currently under the care of a mental
3.36 health professional. The screening shall be conducted by a mental health practitioner

4.1 as defined in section 245.4871, subdivision 26, or a probation officer who is trained in
4.2 the use of the screening instrument. The screening shall be conducted after the initial
4.3 detention hearing has been held and the court has ordered the child continued in detention.
4.4 The results of the screening may only be presented to the court at the dispositional phase
4.5 of the court proceedings on the matter unless the parent or legal guardian consents to
4.6 presentation at a different time. If the screening indicates a need for assessment, the
4.7 local social services agency or probation officer, with the approval of the child's parent
4.8 or legal guardian, shall have a diagnostic assessment conducted, including a functional
4.9 assessment, as defined in section 245.4871.

4.10 (f) When a child is detained for an alleged delinquent act in a state licensed juvenile
4.11 facility or program, or when a child is detained in an adult jail or municipal lockup as
4.12 provided in paragraph (c), the supervisor of the facility shall, if the child's parent or legal
4.13 guardian consents, have a chemical use screen conducted with a screening instrument
4.14 approved by the commissioner of human services, unless a screening has been performed
4.15 within the previous 180 days or the child is currently under the care of a licensed alcohol
4.16 and drug counselor. The screening shall be conducted by a mental health practitioner as
4.17 defined in section 245.4871, subdivision 26, or a probation officer who is trained in the use
4.18 of the screening instrument. The screening shall be conducted after the initial detention
4.19 hearing has been held and the court has ordered the child continued in detention.