

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

S.F. No. 2836

(SENATE AUTHORS: MOHAMED, McEwen, Seeberger, Latz and Oumou Verbeten)

DATE
03/13/2023

D-PG

Introduction and first reading
Referred to Judiciary and Public Safety

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to judiciary; excluding certain statements made by juveniles from being
1.3 admitted as evidence in delinquency or criminal proceedings; proposing coding
1.4 for new law in Minnesota Statutes, chapter 634.

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

1.6 Section 1. **[634.048] STATEMENTS OF JUVENILES.**

1.7 Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the
1.8 meanings given.

1.9 (b) "Child" has the meaning given in section 260B.007, subdivision 3.

1.10 (c) "Corrections staff member" means any of the following:

1.11 (1) a person employed by the Department of Corrections, contracted to provide services
1.12 in a facility operated by the Department of Corrections, or volunteering in a facility operated
1.13 by the Department of Corrections; or

1.14 (2) a person working in a facility licensed by the Department of Corrections pursuant
1.15 to section 241.021, contracted to provide services in the facility, or volunteering in the
1.16 facility.

1.17 (d) "Pupil" has the meaning given in section 121A.41, subdivision 7.

1.18 (e) "School" means a public school under section 120A.22, subdivision 4, or a nonpublic
1.19 school, excluding a home school, under section 120A.22, subdivision 4.

1.20 (f) "School staff member" means any of the following:

1.21 (1) a person employed by a school;

2.1 (2) a person performing work for a school whose contractual duties require the person
2.2 to be present on school grounds, transport pupils to and from school, or have regular contact
2.3 with pupils; or

2.4 (3) a person working as a school volunteer whose activities, duties, or responsibilities
2.5 involve having contact with pupils.

2.6 (g) "Social services provider" means a person working in a facility licensed by the
2.7 Department of Human Services to provide services to children or youth, contracted to
2.8 provide services in the facility, or volunteering in the facility.

2.9 (h) "Statement" means any oral assertion, written assertion, or nonverbal conduct intended
2.10 by the person as an assertion.

2.11 Subd. 2. **Evidence.** (a) Unless a child who is being interviewed or questioned in a manner
2.12 that is reasonably likely to elicit an incriminating response and under circumstances in which
2.13 a reasonable child would not feel free to leave or terminate the interview or questioning
2.14 first consults with an attorney, statements by a child are not admissible in any criminal or
2.15 delinquency proceedings against the child to prove the truth of the matter asserted if the
2.16 statement was made:

2.17 (1) to a school staff member, corrections staff member, or social services provider while
2.18 that person was performing actions that arise out of and in the course of employment,
2.19 contractual duties, or role as a volunteer; or

2.20 (2) in any conference, hearing, or other proceeding under the Pupil Fair Dismissal Act
2.21 in sections 121A.40 to 121A.56, or in any conference, hearing, or other proceeding under
2.22 section 125A.091.

2.23 (b) In assessing a statement made under paragraph (a), the court must determine whether
2.24 a reasonable child would feel free to leave or terminate the interview or questioning from
2.25 the perspective of the child, considering any warning given, the child's age, intelligence,
2.26 education, and experience with the law, and the presence or absence of the child's parents.

2.27 (c) The child's consultation with an attorney shall be confidential and may take place in
2.28 person or by telephone or other electronic means.

2.29 Subd. 3. **Exception.** Subdivision 2 does not apply to a threat to a school staff member,
2.30 corrections staff member, or social services provider or to a statement made by a child while
2.31 committing an act that would be a crime if committed by an adult.

2.32 Subd. 4. **Mandatory reporters.** Nothing in this section prohibits reporting information
2.33 as required under chapter 260E or section 626.557.

- 3.1 **EFFECTIVE DATE.** This section is effective August 1, 2023, and applies to statements
- 3.2 made on or after that date.