

Office of the Revisor of Statutes

Administrative Rules



TITLE: Adopted Exempt Permanent Rules Relating to Restrictive Procedures and Searches in Juvenile Detention Facilities

AGENCY: Department of Corrections

REVISOR ID: R-4862

MINNESOTA RULES: Chapter 2960

The attached rules are approved as to form

Karen L Lenertz

Karen L. Lenertz
Deputy Revisor

1.1 **Department of Corrections**

1.2 **Adopted Exempt Permanent Rules Relating to Restrictive Procedures and Searches**
1.3 **in Juvenile Detention Facilities**

1.4 **2960.0020 DEFINITIONS.**

1.5 *[For text of subpart 1, see Minnesota Rules]*

1.6 Subp. 1a. **Administrative separation.** "Administrative separation" means when a
1.7 resident is separated from other residents because of the seriousness of the resident's behavior
1.8 or because the resident's behavior cannot be addressed by placing the resident in
1.9 safety-stabilization period, as prescribed under part 2960.0740, subpart 1.

1.10 *[For text of subparts 2 to 29, see Minnesota Rules]*

1.11 Subp. 30. [See repealer.]

1.12 *[For text of subparts 31 to 46, see Minnesota Rules]*

1.13 Subp. 46a. [Renumbered subp 46c]

1.14 Subp. 46b. **Medical separation.** "Medical separation" means when a resident is
1.15 separated from other residents because facility staff must respond to a medical event that
1.16 threatens the safety of the resident, other residents, or facility staff.

1.17 Subp. 46c. **Medically licensed person.** "Medically licensed person" means a person
1.18 who is licensed or permitted by a Minnesota health-related board to practice in Minnesota
1.19 and is practicing within the scope of the person's health-related license. [Renumbered from
1.20 subpart 46a.]

1.21 *[For text of subparts 47 to 59, see Minnesota Rules]*

1.22 Subp. 59a. **Resident-assisted search.** "Resident-assisted search" means a search in
1.23 a facility that is licensed by the commissioner of corrections in which a resident undresses

2.1 behind a half door or curtain so that staff are unable to see the resident's unclothed breasts,
2.2 buttocks, or genitalia.

2.3 *[For text of subparts 60 to 62, see Minnesota Rules]*

2.4 Subp. 63. **Restrictive procedure.** "Restrictive procedure" means:

2.5 A. for a facility licensed by the commissioner of human services, a procedure
2.6 used by the license holder to limit the movement of a resident, including ~~disciplinary room~~
2.7 ~~time~~, mechanical restraint, physical escort, physical holding, and seclusion-; and

2.8 B. for a facility licensed by the commissioner of corrections, a procedure used by
2.9 the license holder to limit a resident's movement, including mechanical restraint, physical
2.10 escort, physical holding, and safety-based separation.

2.11 Subp. 63a. **Safety-based separation.** Unless the context indicates otherwise,
2.12 "safety-based separation" includes administrative separation, medical separation, and
2.13 safety-stabilization period.

2.14 Subp. 63b. **Safety-stabilization period or SSP.** "Safety-stabilization period" or "SSP"
2.15 means when a resident is separated, in a locked or unlocked room, from other residents to
2.16 ensure the safety of the resident, other residents, or facility staff.

2.17 *[For text of subparts 64 to 70, see Minnesota Rules]*

2.18 Subp. 70a. [Renumbered subp 70d]

2.19 Subp. 70b. [Renumbered subp 70e]

2.20 Subp. 70c. **Strip search.** "Strip search" has the meaning given in Minnesota Statutes,
2.21 section 241.0215, subdivision 2, paragraph (c), and applies only to a facility licensed by
2.22 the commissioner of corrections.

2.23 Subp. 70d. **Substance.** "Substance" means "chemical" as defined in subpart 11.
2.24 [Renumbered from subpart 70a.]

3.1 Subp. 70e. Substance use disorder. "Substance use disorder" means a pattern of
 3.2 substance use as defined in the most current edition of the Diagnostic and Statistical Manual
 3.3 of Mental Disorders-IV-TR (DSM), et seq. The DSM-IV-TR, et seq. is incorporated by
 3.4 reference. The DSM-IV-TR was published by the American Psychiatric Association in
 3.5 1994, in Washington, D.C., and is not subject to frequent change. The DSM-IV-TR is
 3.6 available through the Minitex interlibrary loan system. [Renumbered from subpart 70b.]

3.7 *[For text of subparts 71 to 79, see Minnesota Rules]*

3.8 **2960.0050 RESIDENT RIGHTS AND BASIC SERVICES.**

3.9 Subpart 1. **Basic rights.** A resident has basic rights, including, but not limited to, the
 3.10 rights in this subpart. The license holder must ensure that the rights in items A to ~~R~~ S are
 3.11 protected:

3.12 *[For text of items A to P, see Minnesota Rules]*

3.13 Q. right to be informed of and to use a grievance procedure; ~~and~~

3.14 R. for a facility licensed by the commissioner of human services, right to be free
 3.15 from restraint or seclusion used for a purpose other than to protect the resident from imminent
 3.16 danger to self or others, ~~except for the use of disciplinary room time as it is allowed in the~~
 3.17 ~~correctional facility's discipline plan;~~ and

3.18 S. for a facility licensed by the commissioner of corrections, right to be free from:

3.19 (1) restraint used for a purpose other than to protect the resident from
 3.20 imminent danger to self or others; and

3.21 (2) safety-based separation used for a purpose other than in accordance with
 3.22 this chapter and Minnesota Statutes, section 241.0215, subdivision 4.

3.23 *[For text of subparts 2 and 3, see Minnesota Rules]*

4.1 **2960.0080 FACILITY OPERATIONAL SERVICE POLICIES AND PRACTICES.**4.2 *[For text of subparts 1 to 4, see Minnesota Rules]*

4.3 Subp. 5. **Discipline policy and procedures required.** The license holder must have
4.4 discipline policies and procedure that require the resident's abuse history and developmental,
4.5 cultural, disability, and gender needs be taken into consideration when deciding the
4.6 disciplinary action to be taken with a resident. The policy must include the requirements in
4.7 items A to E.

4.8 A. The license holder must not subject residents to:

4.9 *[For text of subitems (1) to (3), see Minnesota Rules]*

4.10 (4) withholding of basic needs, including; but not limited to: a nutritious diet,
4.11 drinking water, clothing, hygiene facilities, normal sleeping conditions, proper lighting,
4.12 educational services, exercise activities, ventilation and proper temperature, mail, family
4.13 visits, positive reinforcement, nurturing, or medical care. However, a resident who destroys
4.14 bedding or clothing, or uses these or other items to hurt the resident or others, may be
4.15 deprived of such articles according to the resident's case plan or, for a facility licensed by
4.16 the commissioner of corrections, according to part 2960.0270, subpart 6;

4.17 *[For text of subitems (5) to (9), see Minnesota Rules]*4.18 *[For text of items B to D, see Minnesota Rules]*

4.19 E. The license holder must be certified to use restrictive procedures according to
4.20 ~~part~~ parts 2960.0710 prior to the use of 2960.0750 before using a restrictive procedure with
4.21 a resident.

4.22 Subp. 5a. Department of Corrections; discipline policies and procedures; social
4.23 isolation prohibited.

4.24 A. This subpart applies to facilities licensed by the commissioner of corrections.

5.1 B. A facility's discipline policies and procedures and due process system must be
 5.2 updated to reflect:

5.3 (1) safety-based separation under parts 2960.0270, subpart 6; and 2960.0720
 5.4 to 2960.0750; and

5.5 (2) Minnesota Statutes, section 241.0215, subdivision 4.

5.6 C. Facility staff are prohibited from socially isolating a resident as discipline by
 5.7 restricting the resident's right to:

5.8 (1) talk to other residents or staff; or

5.9 (2) interact with other residents or staff during facility programming or
 5.10 activities.

5.11 *[For text of subparts 6 to 19, see Minnesota Rules]*

5.12 **2960.0180 FACILITY OPERATIONAL POLICIES AND PRACTICES.**

5.13 *[For text of subparts 1 and 2, see Minnesota Rules]*

5.14 Subp. 3. **Records and reports.** The license holder must have a record retention
 5.15 schedule. The license holder must:

5.16 *[For text of item A, see Minnesota Rules]*

5.17 B. maintain the records in subitems (1) to ~~(11)~~ (13) according to state law:

5.18 *[For text of subitems (1) to (9), see Minnesota Rules]*

5.19 (10) special and regular education records; ~~and~~

5.20 (11) resident, family, and referring agency satisfaction survey; ~~and~~

5.21 (12) for facilities licensed by the commissioner of corrections, records on
 5.22 strip searches and resident-assisted searches; and

6.1 (13) for facilities licensed by the commissioner of corrections, records on
 6.2 safety-based separation under parts 2960.0720 to 2960.0750; and

6.3 *[For text of item C, see Minnesota Rules]*

6.4 *[For text of subpart 4, see Minnesota Rules]*

6.5 **2960.0230 PURPOSE AND APPLICABILITY.**

6.6 Subpart 1. **Purpose.** Parts 2960.0230 to 2960.0290 establish additional minimum
 6.7 standards that facilities providing detention services must meet to qualify for licensure by
 6.8 the ~~Department~~ commissioner of corrections. The license holder must also ~~meet the~~
 6.9 ~~requirements of~~ comply with parts 2960.0010 to 2960.0120, ~~except that part 2960.0050,~~
 6.10 ~~subpart 1, item R, does not apply to detention settings.~~

6.11 *[For text of subpart 2, see Minnesota Rules]*

6.12 **2960.0240 PERSONNEL POLICIES.**

6.13 *[For text of subparts 1 and 2, see Minnesota Rules]*

6.14 Subp. 3. **Staffing plan.** The license holder must prepare and obtain approval from the
 6.15 commissioner of corrections of a written staffing plan that shows staff assignments and
 6.16 meets the needs of the residents in placement. The license holder must use the criteria in
 6.17 items A to J to develop the facility's staffing plan.

6.18 *[For text of items A to C, see Minnesota Rules]*

6.19 D. The license holder must not assign staff in a manner that invades the privacy
 6.20 of residents or embarrasses or diminishes the dignity of residents by requiring staff of ~~the~~
 6.21 ~~opposite sex~~ a different gender to perform the duties in subitems (1) to (4):

6.22 (1) strip searches and resident-assisted searches;

6.23 *[For text of subitems (2) to (4), see Minnesota Rules]*

7.1 [For text of items E to J, see Minnesota Rules]

7.2 [For text of subpart 4, see Minnesota Rules]

7.3 **Subp. 5. Strip searches and resident-assisted searches; training.**

7.4 **A. Staff conducting a strip search or resident-assisted search must receive annual**
7.5 **training on trauma-informed techniques as follows:**

7.6 **(1) learning basic information on trauma as follows:**

7.7 **(a) what trauma is and how it affects the brain and body;**

7.8 **(b) trauma-related symptoms; and**

7.9 **(c) conducting trauma-informed practices under subpart 6, item B;**

7.10 **(2) practicing de-escalation techniques; and**

7.11 **(3) communicating with residents respectfully and using verbal cues.**

7.12 **B. The commissioner of corrections must provide training guidance on**
7.13 **trauma-informed techniques and post the guidance on the department's website.**

7.14 **C. The training under item A must be documented according to part 2960.0100,**
7.15 **subpart 5.**

7.16 **Subp. 6. Strip searches and resident-assisted searches; requirements.**

7.17 **A. All strip searches and resident-assisted searches in facilities licensed by the**
7.18 **commissioner of corrections must be conducted according to this subpart.**

7.19 **B. Staff conducting a strip search or resident-assisted search must:**

7.20 **(1) tell the resident why staff must conduct the search;**

7.21 **(2) briefly describe what will happen in the search;**

7.22 **(3) ask the resident if they have any questions about the search;**

- 8.1 (4) ask the resident if staff can begin the search;
- 8.2 (5) use verbal cues during the search and discuss each step of the search;
- 8.3 (6) tell the resident when the search is done; and
- 8.4 (7) ask the resident if they have any concerns and thank them for cooperating.

8.5 C. A strip search and resident-assisted search must be conducted:

- 8.6 (1) by a staff member of the same gender as the resident; and
- 8.7 (2) to protect the resident's privacy from other residents and from staff not
- 8.8 conducting the search.

8.9 D. A staff member must consult with a mental health professional or, if a mental

8.10 health professional is unavailable, a medically licensed person before conducting a strip

8.11 search if a resident with a known or suspected mental health diagnosis, history of sexual

8.12 abuse, or other mental-health-related history identified in the resident's screening objects

8.13 to the search.

8.14 E. A strip search must be conducted one body half at a time, allowing a resident

8.15 to choose whether to have the top or bottom half of their body searched first without having

8.16 to be fully unclothed at any point during the search.

8.17 **2960.0250 ADMISSION AND RELEASE POLICY AND PROCESS.**

8.18 *[For text of subparts 1 to 3, see Minnesota Rules]*

8.19 **Subp. 4. Search, strip search, and resident-assisted search.**

8.20 A. Upon admission, a resident's personal belongings of a resident must be examined

8.21 in a manner and in a location that ensures the resident's personal privacy of the resident.

8.22 Items taken from the resident during the search must be included in the resident's personal

9.1 property inventory. ~~The search of the resident must be done by a staff person of the same~~
9.2 ~~gender as the resident.~~

9.3 B. Each strip search must be conducted according to part 2960.0240, subpart 6;
9.4 and Minnesota Statutes, section 241.0215, subdivision 3. Internal body searches of the anus
9.5 or genitalia are prohibited.

9.6 C. Before a staff member may conduct a strip search or resident-assisted search,
9.7 the staff member must receive training on trauma-informed techniques according to part
9.8 2960.0240, subpart 5.

9.9 *[For text of subparts 5 to 8, see Minnesota Rules]*

9.10 **2960.0270 FACILITY OPERATION SERVICES, POLICIES, AND PRACTICES.**

9.11 *[For text of subparts 1 to 5, see Minnesota Rules]*

9.12 Subp. 6. **~~Discipline plan~~ Safety-based separation.**

9.13 A. The A license holder must have a discipline written plan that includes the
9.14 requirements in items A to F for safety-based separation according to this subpart.

9.15 ~~A. A facility must have a resident discipline plan that explains:~~

9.16 ~~(1) the consequences or administrative sanctions for specific behaviors or~~
9.17 ~~omissions;~~

9.18 ~~(2) the administrative process for handling major and minor violations;~~

9.19 ~~(3) the right of written notice of major charges made against the resident;~~

9.20 ~~(4) the right to internal review; and~~

9.21 ~~(5) the appeal process.~~

9.22 B. The license holder must include in the disciplinary plan a system of due process
9.23 that has been reviewed by the commissioner of corrections.

10.1 ~~C. B.~~ The license holder must post and explain the resident rules of conduct ~~and~~
10.2 ~~related,~~ consequences for negative behavior, and incentives for positive behavior to a resident
10.3 in a way and in a language that the resident ~~will~~ can understand.

10.4 ~~D. Disciplinary room time must be used according to due process procedures~~
10.5 ~~reflected in the facility's discipline plan.~~

10.6 ~~The status of a resident placed in disciplinary room time after a due process hearing~~
10.7 ~~must be reviewed by the facility administrator or the administrator's designee at least once~~
10.8 ~~every eight hours. Each review of the need for continued disciplinary room time must be~~
10.9 ~~done according to the facility's due process system and must be documented. A resident~~
10.10 ~~placed in disciplinary room time prior to a due process hearing must have a due process~~
10.11 ~~hearing within 24 hours, unless documented cause is shown to delay the hearing. Examples~~
10.12 ~~of cause for delay of a due process hearing include resident requests for a delay or that a~~
10.13 ~~due process hearing is logistically impossible as in the case of mass disturbances.~~

10.14 ~~E. Other limitations on disciplinary actions include the limitations in subitems (1)~~
10.15 ~~to (4).~~

10.16 C. (1) Disciplinary Rooms for safety-based separation must have the minimum
10.17 furnishings and space specified in the Department of Corrections construction standards
10.18 under chapter 2900.

10.19 D. (2) When a resident persists in ~~the destruction of~~ destroying clothing or
10.20 bedding, or harms the resident's self with the clothing or bedding while in ~~disciplinary room~~
10.21 time safety-based separation, ~~the facility staff~~ may deprive the resident of clothing and
10.22 bedding. The decision to deprive ~~residents~~ a resident of clothing and bedding must be:

10.23 (1) documented under parts 2960.0720 to 2960.0750;

10.24 (2) reported as a critical incident under subpart 12;

10.25 (3) kept on file at the facility for two licensing periods; and

11.1 (4) reviewed by the shift supervisor during each eight-hour period, unless
 11.2 ~~specific orders to the contrary have been issued~~ otherwise directed by:

11.3 (a) the facility administrator or a designee; or

11.4 (b) ~~on the advice of a licensed physician or psychologist~~ mental health
 11.5 professional.

11.6 E. (3) ~~The delegation of~~ It is prohibited to delegate authority to a resident or group
 11.7 of residents to punish another resident or group of residents ~~is prohibited~~.

11.8 F. (4) ~~The license holder must not deprive the resident of the use of~~ A resident
 11.9 must not be deprived of materials necessary to maintain an acceptable level of personal
 11.10 hygiene while ~~on disciplinary status~~ in safety-based separation.

11.11 F. ~~The license holder must keep a record of a resident's disciplinary infractions~~
 11.12 ~~and the punishment administered. The license holder must retain copies of rule violation~~
 11.13 ~~reports and reports of the disposition of each infraction and record of any resident's appeals~~
 11.14 ~~for one licensing period.~~

11.15 *[For text of subparts 7 to 16, see Minnesota Rules]*

11.16 **2960.0360 SECURITY POLICIES AND PROCEDURES.**

11.17 Subpart 1. **Content of policies and procedures.** A license holder ~~who~~ that offers
 11.18 correctional program services must develop security policies and procedures ~~regarding on~~
 11.19 the following:

11.20 *[For text of items A to C, see Minnesota Rules]*

11.21 D. search procedures, including strip searches and resident-assisted searches;

11.22 *[For text of item E, see Minnesota Rules]*

12.1 F. ~~one-half hour interval well-being checks~~, when residents are not under direct
12.2 supervision, conducting well-being checks at least once every 30 minutes, as direct
12.3 supervision and well-being checks are defined under part 2960.0720, subpart 3.

12.4 *[For text of subparts 2 and 3, see Minnesota Rules]*

12.5 **2960.0410 RESTRICTIVE PROCEDURES AND SEARCHES.**

12.6 Subpart 1. Restrictive procedures. Detention facilities that want to use restrictive
12.7 procedures may use restrictive procedures according to the program's statement of intended
12.8 use if the license holder is certified to use restrictive procedures according to ~~part~~ parts
12.9 2960.0710 to 2960.0750.

12.10 Subp. 2. Strip searches and resident-assisted searches.

12.11 A. Each strip search must be conducted according to part 2960.0240, subpart 6;
12.12 and Minnesota Statutes, section 241.0215, subdivision 3. Internal body searches of the anus
12.13 or genitalia are prohibited.

12.14 B. Before a staff member may conduct a strip search or resident-assisted search,
12.15 the staff member must receive training on trauma-informed techniques according to part
12.16 2960.0240, subpart 5.

12.17 **2960.0560 PERSONNEL STANDARDS.**

12.18 *[For text of subparts 1 to 3, see Minnesota Rules]*

12.19 **Subp. 4. Initial staff orientation training.**

12.20 A. A staff person who provides correctional program services must complete
12.21 orientation training related to the specific job functions for which the staff person was hired
12.22 and the needs of the residents the person is serving. During the first 45 calendar days of
12.23 employment, and before assuming sole responsibility for care of residents, staff who provide

13.1 correctional program services must complete training in the topics in ~~items A to G~~ subitems
 13.2 (1) to (7):

13.3 ~~A.~~ (1) the license holder's policies and procedures related to correctional program
 13.4 services;

13.5 ~~B.~~ (2) resident rights;

13.6 ~~C.~~ (3) emergency procedures;

13.7 ~~D.~~ (4) policies and procedures ~~concerning~~ on approved restrictive procedures,
 13.8 strip searches, and resident-assisted searches;

13.9 ~~E.~~ (5) rules of conduct and policies and procedures related to ~~discipline of the~~
 13.10 ~~residents~~ resident behavior;

13.11 ~~F.~~ (6) emergency and crisis services; and

13.12 ~~G.~~ (7) problems and needs of residents and their families.

13.13 ~~B.~~ No A staff person may not participate in the use of ~~physical holding, seclusion,~~
 13.14 ~~or other~~ restrictive procedures with a resident before completing approved training according
 13.15 to item ~~D~~ A, subitem (4).

13.16 *[For text of subpart 5, see Minnesota Rules]*

13.17 **2960.0570 FACILITY OPERATIONAL POLICIES AND PROCEDURES.**

13.18 Subpart 1. ~~Use of~~ Using restrictive procedures, strip searches, and resident-assisted
 13.19 searches.

13.20 ~~A.~~ Correctional Facilities licensed by the commissioner of corrections that want
 13.21 to use restrictive procedures may use restrictive procedures according to the program's
 13.22 statement of intended use if the license holder is certified to use restrictive procedures
 13.23 according to ~~part~~ parts 2960.0710 to 2960.0750.

14.1 B. Each strip search must be conducted according to part 2960.0240, subpart 6;
14.2 and Minnesota Statutes, section 241.0215, subdivision 3. Internal body searches of the anus
14.3 or genitalia are prohibited.

14.4 C. Before a staff member may conduct a strip search or resident-assisted search,
14.5 the staff member must receive training on trauma-informed techniques according to part
14.6 2960.0240, subpart 5.

14.7 *[For text of subpart 2, see Minnesota Rules]*

14.8 Subp. 3. **Security policies and procedures.** The license holder must have security
14.9 policies and procedures that include the topics in items A to K:

14.10 *[For text of items A to C, see Minnesota Rules]*

14.11 D. search procedures, including strip searches and resident-assisted searches;

14.12 *[For text of item E, see Minnesota Rules]*

14.13 F. ~~one-half hour interval security inspection routines~~ when residents are not under
14.14 direct supervision, conducting well-being checks at least once every 30 minutes, as direct
14.15 supervision and well-being checks are defined under part 2960.0720, subpart 3;

14.16 *[For text of items G to K, see Minnesota Rules]*

14.17 *[For text of subpart 4, see Minnesota Rules]*

14.18 **2960.0710 RESTRICTIVE PROCEDURES CERTIFICATION.**

14.19 *[For text of subpart 1, see Minnesota Rules]*

14.20 Subp. 1a. **Department of Corrections; seclusion prohibited.** Facilities licensed by
14.21 the commissioner of corrections are prohibited from using seclusion as a restrictive procedure.

15.1 Subp. 2. **Restrictive procedures plan required.** The license holder must have a
15.2 restrictive procedures plan for residents that is approved by the commissioner of human
15.3 services or corrections, and the plan must provide at least the following:

15.4 A. the plan must list the restrictive procedures, including listing and describing
15.5 all safety-based separations that may be used, and describe the physical holding techniques
15.6 which that the program will be used by the program use;

15.7 *[For text of items B to E, see Minnesota Rules]*

15.8 *[For text of subpart 3, see Minnesota Rules]*

15.9 Subp. 4. **Department of ~~Corrections licensed~~ Corrections-licensed facilities.** License
15.10 holders ~~who~~ that are licensed by the ~~Department~~ commissioner of corrections may seek
15.11 certification to use one or more of the following restrictive procedures:

15.12 *[For text of items A and B, see Minnesota Rules]*

15.13 ~~C. seclusion;~~

15.14 ~~D. C. mechanical restraints; and~~

15.15 ~~E. D. disciplinary room time safety-based separation. Disciplinary room time may~~
15.16 ~~be secure or nonsecure. Disciplinary room time may be used as a consequence for resident~~
15.17 ~~behavior as permitted in the facility's restrictive procedures plan. If disciplinary room time~~
15.18 ~~is used at the facility, the facility restrictive procedures plan must:~~

15.19 ~~(1) provide for a system of due process for residents who violate facility~~
15.20 ~~rules;~~

15.21 ~~(2) contain a written set of facility rules of conduct which includes a~~
15.22 ~~description of the consequences or penalties for infractions of facility rules; and~~

16.1 ~~(3) require that the written facility rules must be given to each resident and~~
16.2 ~~explained and made available to each resident at the time of admission. The facility rules~~
16.3 ~~must be explained to a resident in a language that the resident understands.~~

16.4 *[For text of subparts 5 to 7, see Minnesota Rules]*

16.5 Subp. 8. [See repealer.]

16.6 *[For text of subpart 9, see Minnesota Rules]*

16.7 Subp. 9a. **Training for safety-based separation.** Before a staff member may
16.8 participate in safety-based separation, the staff member must complete training according
16.9 to part 2960.0720, subpart 9. The training must be documented according to part 2960.0100,
16.10 subpart 5.

16.11 *[For text of subparts 10 and 11, see Minnesota Rules]*

16.12 **2960.0720 SAFETY-BASED SEPARATION.**

16.13 Subpart 1. **Applicability.** Parts 2960.0720 to 2960.0750 apply to facilities licensed
16.14 by the commissioner of corrections.

16.15 Subp. 2. **Purpose.** As prescribed under Minnesota Statutes, section 241.0215,
16.16 subdivision 4, safety-based separation is appropriate only when needed to ensure the safety
16.17 of the resident, other residents, or facility staff.

16.18 Subp. 3. **Definitions.**

16.19 A. The terms used in parts 2960.0720 to 2960.0750 have the meanings given in
16.20 this subpart and part 2960.0020.

16.21 B. "Awake hours" means hours other than sleeping hours.

16.22 C. "Chief administrator" includes the administrator's designee.

16.23 D. "Commissioner" means the commissioner of corrections.

17.1 E. "Direct supervision" means when a staff member can see a resident and can
17.2 immediately intervene to protect the resident's health or safety.

17.3 F. "Family" includes the resident's family or household members identified under
17.4 part 2960.0070, subpart 5, item D.

17.5 G. "Sleeping hours" means the hours when residents are required to be in their
17.6 rooms to sleep, as specified by facility policy and procedure.

17.7 H. "Well-being check" means when a staff member stops and directly observes
17.8 a resident in the facility who is not under direct supervision to:

17.9 (1) ensure that the resident is present and alive; and

17.10 (2) identify whether the resident is experiencing visible or audible distress.

17.11 Subp. 4. **When used; requirements.**

17.12 A. All safety-based separations must be:

17.13 (1) initiated by staff; and

17.14 (2) used according to parts 2960.0720 to 2960.0750.

17.15 B. Notwithstanding item A, subitem (2), safety-based separation may be used
17.16 when:

17.17 (1) a spontaneous event threatens the safety of the resident, other residents,
17.18 or facility staff; and

17.19 (2) the event does not allow time for other behavioral interventions.

17.20 C. Safety-based separation must:

17.21 (1) be related to the safety risks caused by the resident's behavior;

17.22 (2) address the behavior's cause; and

18.1 (3) be proportional to the behavior to minimize any negative effect from the
18.2 behavioral intervention.

18.3 D. Staff must end safety-based separation and reintegrate a resident into facility
18.4 operations once staff determine that the resident no longer requires safety-based separation
18.5 because the resident exhibits stable, calm behavior and can safely engage with other residents
18.6 and staff.

18.7 Subp. 5. **Locked or unlocked area.** Safety-based separation may occur in either a
18.8 locked or unlocked area. A resident who is separated may not leave the locked or unlocked
18.9 area until the applicable requirements for ending safety-based separation under parts
18.10 2960.0720 to 2960.0750 are met.

18.11 Subp. 6. **Time-out interventions.**

18.12 A. Staff may use a time-out as a behavioral intervention, not to exceed 30 minutes.
18.13 If a time-out lasts longer than 30 minutes, the time-out must transition to safety-stabilization
18.14 period under part 2960.0730.

18.15 B. Notwithstanding part 2960.0080, subpart 5, item D, subitem (2), a time-out
18.16 must be under the direction of the facility's chief administrator.

18.17 C. If staff use a time-out for a resident more than three times in 24 hours, the
18.18 resident's case manager or treatment team must develop a plan to help staff reduce the use
18.19 of time-outs as a behavioral intervention. The plan must be documented and approved by
18.20 the facility's chief administrator.

18.21 Subp. 7. **Resident rights; grievance procedure.**

18.22 A. Unless a resident poses imminent danger to self or others, nothing under parts
18.23 2960.0720 to 2960.0750 restricts the resident's rights under part 2960.0050, subpart 1, and
18.24 other rights that a resident is entitled to under law.

19.1 B. The grievance procedure under part 2960.0080, subpart 18, applies to parts
19.2 2960.0720 to 2960.0750.

19.3 Subp. 8. When not applicable.

19.4 A. Safety-based separation does not include the following situations:

19.5 (1) when a resident asks to go to their room and may leave their room;

19.6 (2) when a resident meets with a counselor; or

19.7 (3) when a resident in a secure facility is participating in a non-staff-initiated
19.8 activity regulating the resident's behavior.

19.9 B. When a resident is not participating in daily programming for a reason under
19.10 item A, subitems (1) and (3), staff must document:

19.11 (1) why the resident is not participating in daily programming; and

19.12 (2) the length of each incident, excluding sleeping hours.

19.13 C. When a resident is not participating in daily programming for a reason under
19.14 item A, subitems (1) and (3), staff must, every 30 minutes:

19.15 (1) conduct a well-being check; and

19.16 (2) assess the resident for reintegration into daily programming.

19.17 Subp. 9. Training.

19.18 A. All staff who participate in safety-based separation must be trained in:

19.19 (1) behavioral intervention principles for juveniles;

19.20 (2) well-being checks;

19.21 (3) the documentation requirements under parts 2960.0720 to 2960.0750;

19.22 and

20.1 (4) reintegrating residents into facility operations.

20.2 B. A license holder must develop in their written policies and procedures training
20.3 requirements on safety-based separation as follows:

20.4 (1) how often staff members should receive training;

20.5 (2) what types of training staff members should receive; and

20.6 (3) any other training-related guidance that ensures that staff can comply with
20.7 requirements on safety-based separation under this chapter.

20.8 **Subp. 10. Policy, documentation, and review required.**

20.9 A. A license holder must develop in their written policies and procedures:

20.10 (1) behavioral, nonphysical interventions for staff to use with residents; and

20.11 (2) processes to reintegrate a resident into facility operations when
20.12 transitioning from safety-based separation.

20.13 B. Each incident of safety-based separation must be documented, tracked,
20.14 reviewed, and reported according to parts 2960.0720 to 2960.0750. A license holder or the
20.15 facility's chief administrator may develop and use forms to comply with the documentation
20.16 requirements but must make the forms available to Department of Corrections inspectors
20.17 upon request.

20.18 C. After a safety-based separation:

20.19 (1) the resident's records under part 2960.0080, subpart 16, must be updated
20.20 to reflect the incident; and

20.21 (2) the resident's case and treatment plans must be updated, if needed.

21.1 D. All required documentation under parts 2960.0720 to 2960.0750 must be in
21.2 writing and maintained according to a facility's record retention schedule under part
21.3 2960.0180, subpart 3.

21.4 E. At least monthly, a facility's chief administrator must review all safety-based
21.5 separations.

21.6 Subp. 11. **Notification.** A resident's case manager or treatment team, placing agency,
21.7 legal guardian, and family must be notified within four hours after each incident of
21.8 safety-based separation has begun. The notification must be documented.

21.9 **2960.0730 SAFETY-STABILIZATION PERIOD (SSP).**

21.10 Subpart 1. **When used; definition.**

21.11 A. Staff must place a resident in SSP when:

21.12 (1) a resident exhibits unsafe or unstable behavior; and

21.13 (2) staff cannot address the behavior with less-restrictive behavioral
21.14 interventions.

21.15 B. A resident cannot remain in SSP for more than 24 hours.

21.16 C. For purposes of this part, "hours" means awake hours.

21.17 Subp. 2. **Initial placement in SSP; well-being checks and reintegration.**

21.18 A. When a resident is placed in SSP, staff must notify a staff supervisor or lead
21.19 staff member as soon as possible but no later than 30 minutes after placement. Staff must
21.20 document when SSP began and whether the supervisor or lead staff member was notified.

21.21 B. While a resident is in SSP, staff must, every 30 minutes and including sleeping
21.22 hours, conduct a well-being check and assess the resident for reintegration.

22.1 Subp. 3. **Documentation.** All documentation must be signed by all staff overseeing
22.2 SSP, including staff conducting the well-being checks and reintegration assessments, and
22.3 by all staff whose notification and approval are needed under this part. Staff must document
22.4 the following information at the following intervals:

22.5 A. at one hour in SSP:

22.6 (1) the reason for SSP, including the behavior that led to SSP;

22.7 (2) how the behavior threatened the safety of the resident, other residents, or
22.8 facility staff;

22.9 (3) why continued SSP is needed to alleviate the ongoing safety risk;

22.10 (4) why reintegration is not possible; and

22.11 (5) the behavioral interventions that were tried but did not alleviate the
22.12 continued need for SSP;

22.13 B. at two hours and three hours in SSP:

22.14 (1) why continued SSP is needed to alleviate the ongoing safety risk;

22.15 (2) why reintegration is not possible; and

22.16 (3) the behavioral interventions that were tried but did not alleviate the
22.17 continued need for SSP;

22.18 C. each hour, at four hours through 15 hours in SSP:

22.19 (1) why continued SSP is needed to alleviate the ongoing safety risk;

22.20 (2) why reintegration is not possible;

22.21 (3) the behavioral interventions that were tried but did not alleviate the
22.22 continued need for SSP; and

23.1 (4) a reintegration plan, created with resident input if the resident was willing
23.2 to participate, that:

23.3 (a) lists which behaviors the resident must demonstrate to transition from
23.4 SSP;

23.5 (b) identifies any necessary restorative activities; and

23.6 (c) corresponds with the resident's behavior and the resident's cognitive
23.7 and developmental ability; and

23.8 D. each hour, at 16 hours through 24 hours:

23.9 (1) why continued SSP is needed to alleviate the ongoing safety risk;

23.10 (2) why reintegration is not possible;

23.11 (3) the behavioral interventions that were tried but did not alleviate the
23.12 continued need for SSP; and

23.13 (4) any updates to the reintegration plan.

23.14 Subp. 4. **Notification.** In addition to the initial SSP notification under subpart 2, staff
23.15 must notify the following individuals at the following intervals:

23.16 A. each hour, at four hours through 15 hours in SSP, the staff supervisor or a
23.17 higher-level supervisor;

23.18 B. each hour, at 16 hours through 23 hours, a higher-level supervisor not involved
23.19 in the resident's behavioral incident that resulted in SSP and the facility's chief administrator;
23.20 and

23.21 C. at 24 hours, the higher-level supervisor; the facility's chief administrator; the
23.22 resident's case manager or treatment team, placing agency, legal guardian, and family; and,
23.23 as provided under subpart 6, the commissioner.

24.1 Subp. 5. **Review and approval.** Except as provided under subpart 8, staff must receive
24.2 approval to continue a resident's placement in SSP from the following individuals at the
24.3 following intervals:

24.4 A. at one hour in SSP, a staff supervisor or lead staff member not involved in the
24.5 resident's behavioral incident that resulted in SSP; and

24.6 B. each hour, at four hours through 23 hours, a staff supervisor or higher-level
24.7 supervisor not involved in the resident's behavioral incident that resulted in SSP.

24.8 Subp. 6. **Notification to commissioner required.** Once a resident has been in SSP
24.9 for 24 hours:

24.10 A. the facility's chief administrator must notify the commissioner according to
24.11 part 2960.0270, subpart 12;

24.12 B. staff must attempt reintegration; and

24.13 C. if reintegration is unsuccessful, staff must:

24.14 (1) transition the resident to administrative separation; or

24.15 (2) place the resident in administrative separation while waiting for the
24.16 resident to be placed in another facility.

24.17 Subp. 7. **Evaluation referral.** A resident who has been in SSP for 24 hours must be
24.18 immediately referred to a mental health professional or, if a mental health professional is
24.19 unavailable, a medically licensed person. The mental health professional or medically
24.20 licensed person must determine whether the resident needs additional treatment services.

24.21 Subp. 8. **Staffing limitations; documentation required.** Staff must document if a
24.22 facility's staffing limitations do not allow for the review and approval under subpart 5.

25.1 Subp. 9. Reporting.

25.2 A. Each quarter and annually at the end of the calendar year, a license holder must
25.3 report to the commissioner the following data:

25.4 (1) every SSP incident, including:

25.5 (a) the length of each incident, excluding sleeping hours; and

25.6 (b) the cumulative time that all residents were removed from their units
25.7 and programming; and

25.8 (2) the number of residents who were placed in SSP, including demographic
25.9 data disaggregated by age, race, and gender.

25.10 B. For each SSP incident, staff must document how many hours that a resident
25.11 spends in a locked space, excluding sleeping hours and when the resident may leave without
25.12 staff approval. This data must be provided in the facility's quarterly and annual reporting
25.13 under item A.

25.14 **2960.0740 ADMINISTRATIVE SEPARATION.**

25.15 Subpart 1. When used. Administrative separation must be used by staff when a
25.16 resident:

25.17 A. is engaging in behavior that requires law enforcement to determine whether
25.18 criminal charges or delinquency proceedings should be brought;

25.19 B. is participating in gang activity that would threaten the resident, other residents,
25.20 or facility staff if the resident were not separated;

25.21 C. according to the vulnerability assessment under part 2960.0070, subpart 5, item
25.22 A, is vulnerable on the basis of actions or comments and the vulnerability creates a threat
25.23 to the resident's safety;

26.1 D. on the basis of actions or comments, creates a threat to another resident's safety
26.2 and requires a different environment better suited to the resident's needs until staff can create
26.3 a modified treatment plan; or

26.4 E. is being chronically disruptive and the disruption:

26.5 (1) presents an ongoing threat to the safety of the resident, other residents,
26.6 or facility staff; and

26.7 (2) cannot be addressed with safety-stabilization period.

26.8 Subp. 2. Requirements.

26.9 A. Before a resident may be placed in administrative separation, the facility's chief
26.10 administrator must approve the placement. Staff must document daily why administrative
26.11 separation is necessary and why other behavioral interventions were unavailable or
26.12 unsuccessful. The documentation must describe:

26.13 (1) any modifications to the resident's daily programming; and

26.14 (2) the resident's behavioral problems, including:

26.15 (a) the circumstances leading to being placed in administrative separation;

26.16 (b) staff safety concerns, including resident assaultive behavior;

26.17 (c) any mental health concerns; and

26.18 (d) any victimization concerns.

26.19 B. Once a resident is placed in administrative separation, staff must conduct
26.20 well-being checks every 30 minutes, including during sleeping hours.

26.21 C. Within 12 awake hours of a resident being placed in administrative separation,
26.22 staff must develop an administrative separation plan for the resident. The administrative

27.1 separation plan must be developed by the resident's case manager or treatment team. The
27.2 plan must:

27.3 (1) address modifications to the resident's daily programming, including
27.4 identifying ways to provide the resident with more structure or support with additional
27.5 program services;

27.6 (2) address modifications to the resident's treatment plan;

27.7 (3) list incentives that staff will use to promote positive behavior, including
27.8 how staff will use positive behavior interventions and supports;

27.9 (4) describe how staff will attempt to deter the resident from planning and
27.10 engaging in negative behaviors; and

27.11 (5) provide for the resident to self-reflect and focus on restoring any harm
27.12 caused to other residents or staff.

27.13 D. The administrative separation plan must be documented. Staff and the chief
27.14 administrator must:

27.15 (1) review the plan daily and modify it as needed;

27.16 (2) assess a resident's progress toward transitioning out of administrative
27.17 separation; and

27.18 (3) after reviewing the plan, either transition the resident out of administrative
27.19 separation or approve and document continued placement in administrative separation.

27.20 Subp. 3. **Notification.**

27.21 A. A facility's chief administrator must notify the commissioner according to part
27.22 2960.0270, subpart 12, if a resident is expected to be, or has been, in administrative separation
27.23 for more than 48 awake hours.

28.1 B. The notification must be within ten days of the resident's placement, or expected
28.2 placement, in administrative separation for more than 48 awake hours.

28.3 C. Every seven calendar days that a resident remains in administrative separation,
28.4 the facility's chief administrator must notify the commissioner and the resident's case manager
28.5 or treatment team, placing agency, legal guardian, and family of the following:

28.6 (1) the resident's administrative separation plan;

28.7 (2) the resident's progress toward transitioning out of administrative
28.8 separation; and

28.9 (3) why the resident requires continued placement in administrative separation.

28.10 D. The facility's chief administrator must document whether they provided the
28.11 notification under item C.

28.12 **Subp. 4. Reintegrating the resident into facility operations.**

28.13 A. When staff determine that the resident's behavior no longer requires safety-based
28.14 separation and the resident can be reintegrated into facility operations:

28.15 (1) staff must follow the facility's reintegration processes under part
28.16 2960.0720, subpart 10, item A;

28.17 (2) the following individuals must approve reintegration:

28.18 (a) the resident's case manager or treatment team;

28.19 (b) if the resident's behavioral problems included mental health or
28.20 victimization concerns, a mental health professional or, if a mental health professional is
28.21 unavailable, a medically licensed person; and

28.22 (c) the facility's chief administrator; and

29.1 (3) staff must document the reintegration process and approval from all
29.2 individuals under subitem (2).

29.3 B. Within four hours after the resident has been reintegrated into facility operations,
29.4 the facility's chief administrator must notify the commissioner and the resident's case manager
29.5 or treatment team, placing agency, legal guardian, and family.

29.6 C. The facility's chief administrator must document whether they provided the
29.7 notification under item B.

29.8 Subp. 5. **Reporting.**

29.9 A. For each incident of administrative separation, a facility must document how
29.10 many hours that a resident spends in a locked or unlocked space, excluding sleeping hours,
29.11 when the resident cannot leave without staff approval. This data must be provided in the
29.12 facility's quarterly and annual reporting under item B.

29.13 B. Each quarter and annually at the end of the calendar year, a license holder must
29.14 report to the commissioner the following data:

29.15 (1) the number of administrative separations, including:

29.16 (a) the reason for each administrative separation;

29.17 (b) the length of each incident, excluding sleeping hours; and

29.18 (c) the time that each resident was in administrative separation without
29.19 other individuals in the room; and

29.20 (2) the number of residents who experienced administrative separation,
29.21 including demographic data disaggregated by age, race, and gender.

30.1 **2960.0750 MEDICAL SEPARATION.**

30.2 **Subpart 1. When used.**

30.3 **A. Medical separation must be used by staff:**

30.4 **(1) when a resident is exhibiting self-injurious behavior; or**

30.5 **(2) when a resident has:**

30.6 **(a) a severe or persistent medical issue; or**

30.7 **(b) a communicable disease.**

30.8 **B. Medical separation may be used to manage an epidemic or pandemic.**

30.9 **Subp. 2. Requirements.**

30.10 **A. Before a resident may be placed in medical separation, the facility's chief**
30.11 **administrator must approve the placement. Medical separation must be overseen by a mental**
30.12 **health professional or, if a mental health professional is unavailable, a medically licensed**
30.13 **person.**

30.14 **B. Once a resident is placed in medical separation, staff must conduct well-being**
30.15 **checks, including during sleeping hours. The well-being checks must be conducted every**
30.16 **15 minutes unless a mental health professional or, if a mental health professional is**
30.17 **unavailable, a medically licensed person determines that 30-minute checks would not**
30.18 **jeopardize the resident's health or safety.**

30.19 **C. Staff must document daily why medical separation is necessary and describe:**

30.20 **(1) any modifications to the resident's daily programming; and**

30.21 **(2) the resident's medical problems, including:**

30.22 **(a) the circumstances leading to being placed in medical separation;**

30.23 **(b) staff safety concerns, including resident self-injurious behavior; and**

31.1 (c) any mental health concerns.

31.2 D. Staff, in consultation with a mental health professional or medically licensed
31.3 person, must develop a medical separation plan for a resident within eight awake hours of
31.4 a resident being placed in medical separation. The plan must address modifications to the
31.5 resident's daily programming and resident's treatment plan.

31.6 E. The medical separation plan must be documented. Staff, a mental health
31.7 professional or medically licensed person, and the chief administrator must:

31.8 (1) review the plan daily and modify it as needed;

31.9 (2) assess a resident's progress toward transitioning out of medical separation;

31.10 and

31.11 (3) after reviewing the plan, either transition the resident out of medical
31.12 separation or approve and document continued placement in medical separation.

31.13 Subp. 3. Notification.

31.14 A. A facility's chief administrator must notify the commissioner according to part
31.15 2960.0270, subpart 12, if a resident is expected to be, or has been, in medical separation
31.16 for more than 48 awake hours.

31.17 B. The notification must be within ten days of the resident's placement, or expected
31.18 placement, in medical separation for more than 48 awake hours.

31.19 C. Every seven calendar days that a resident remains in medical separation, the
31.20 facility's chief administrator must notify the commissioner and the resident's case manager
31.21 or treatment team, placing agency, legal guardian, and family of the following:

31.22 (1) the resident's medical separation plan;

31.23 (2) the resident's progress toward transitioning out of medical separation; and

32.1 (3) why the resident requires continued placement in medical separation.

32.2 D. The facility's chief administrator must document whether they provided the
32.3 notification under item C.

32.4 Subp. 4. Reintegrating the resident into facility operations.

32.5 A. When staff determine that the resident's behavior no longer requires safety-based
32.6 separation and the resident can be reintegrated into facility operations:

32.7 (1) staff must follow the facility's reintegration processes under part
32.8 2960.0720, subpart 10, item A;

32.9 (2) the following individuals must approve reintegration:

32.10 (a) the resident's case manager or treatment team;

32.11 (b) if the resident's behavioral problems included mental health or
32.12 victimization concerns, a mental health professional or, if a mental health professional is
32.13 unavailable, a medically licensed person; and

32.14 (c) the facility's chief administrator; and

32.15 (3) staff must document the reintegration process and approval from all
32.16 individuals under subitem (2).

32.17 B. Within four hours after the resident has been reintegrated into facility operations,
32.18 the facility's chief administrator must notify the commissioner and the resident's case manager
32.19 or treatment team, placing agency, legal guardian, and family.

32.20 C. The facility's chief administrator must document whether they provided the
32.21 notification under item B.

33.1 Subp. 5. Reporting.

33.2 A. For each incident of medical separation, staff must document how many hours
33.3 that a resident spends in a locked or unlocked space, excluding sleeping hours, when the
33.4 resident cannot leave without staff approval. This data must be provided in the facility's
33.5 quarterly and annual reporting under item B.

33.6 B. Each quarter and annually at the end of the calendar year, a license holder must
33.7 report to the commissioner the following data:

33.8 (1) the number of medical separations, including:

33.9 (a) the reason for each medical separation;

33.10 (b) the length of each incident, excluding sleeping hours; and

33.11 (c) the cumulative time that all residents were removed from their units
33.12 and programming; and

33.13 (2) the number of residents who experienced medical separation, including
33.14 demographic data disaggregated by age, race, and gender.

33.15 **REPEALER.** Minnesota Rules, parts 2960.0020, subpart 30; and 2960.0710, subpart 8,
33.16 are repealed.

33.17 **EFFECTIVE DATE.** Minnesota Rules, parts 2960.0020 to 2960.0750, and the repealer
33.18 are effective 60 calendar days after publication in the State Register.