

This Document can be made available
in alternative formats upon request

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. **3050**

February 18, 2010

Authored by Hilstrom

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

1.1 A bill for an act
1.2 relating to public safety; defining attorney for consultation with persons in
1.3 custody; including calls to attorney cellular telephones from persons in custody;
1.4 amending Minnesota Statutes 2008, section 481.10.

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

1.6 Section 1. Minnesota Statutes 2008, section 481.10, is amended to read:

1.7 **481.10 CONSULTATION WITH PERSONS RESTRAINED.**

1.8 Subdivision 1. **Consultation.** (a) For the purposes of this section, "attorney"
1.9 means a private attorney, a public defender, or an attorney working for a public defense
1.10 corporation, and a law clerk, an investigator, a paralegal, or a dispositional advisor who is
1.11 working for the attorney.

1.12 (b) All officers or persons having in their custody a person restrained of liberty,
1.13 except in cases where imminent danger of escape or injury exists, shall admit any attorney
1.14 retained by or on behalf of the person restrained, or whom the restrained person may
1.15 desire to consult, to a private, in-person, contact interview at the place of custody. Such
1.16 custodians, upon request of the person restrained, as soon as practicable, and before other
1.17 proceedings shall be had, shall notify the attorney of the request for a consultation with the
1.18 attorney.

1.19 Subd. 2. **Telephone access in local correctional facilities.** Except as provided in
1.20 subdivision 3 and except in cases where imminent danger of escape or injury exists,
1.21 all officers or persons having in their custody a person restrained of liberty whether or
1.22 not the person restrained has been charged, tried, or convicted, shall provide private
1.23 telephone access to any attorney retained by or on behalf of the person restrained, or
1.24 whom the restrained person may desire to consult at no charge to the attorney or to the

2.1 person restrained. Reasonable telephone access under this subdivision shall be provided
2.2 following the request of the person restrained and before other proceedings shall be had
2.3 regarding the alleged offense causing custody and includes calls to the wireless cellular
2.4 telephone of an attorney, as well as to landline telephones.

2.5 Subd. 3. **Telephone access in state correctional facilities.** Except in cases where
2.6 imminent danger of escape or injury exists, all officers or persons having in their custody
2.7 a person restrained of liberty while serving an executed sentence in a state correctional
2.8 facility, shall provide private telephone access to any attorney retained by or on behalf of
2.9 the person restrained, or whom the restrained person may desire to consult at no charge to
2.10 the attorney or to the person restrained. Telephone access under this subdivision shall be
2.11 provided following the request of the person restrained and in accordance with policies
2.12 adopted by the institution that meet constitutional requirements and includes calls to the
2.13 wireless cellular telephone of an attorney, as well as to landline telephones.

2.14 Subd. 4. **Criminal penalty.** (a) Except as provided in paragraph (b), whoever
2.15 violates subdivision 1 or 2 is guilty of a misdemeanor and shall also forfeit \$100 to the
2.16 person aggrieved, to be recovered in a civil action.

2.17 (b) The penalties described in paragraph (a) do not apply to officers or persons
2.18 having in their custody persons restrained of liberty while serving an executed sentence in
2.19 a state correctional facility.