

may provide that the trustee shall pay the reasonable expenses necessarily incurred by the attorney general in the investigation and prosecution of such action, including attorneys' fees, if it shall also be determined in such proceeding that the trustee has been guilty of an intentional or grossly negligent breach of trust as defined in section 501.79, subdivision 5, or as otherwise provided by law.

Sec. 26. Minnesota Statutes 1976, Section 501.81, Subdivision 4, is amended to read:

Subd. 4. All moneys received by the attorney general and the secretary of state pursuant to this section shall be deposited in the state treasury and shall be credited to the general fund.

Sec. 27. Minnesota Statutes 1976, Chapter 524, is amended by adding a section to read:

[524.1-404.] NOTICE TO CHARITABLE BENEFICIARIES. If a will includes a gift, devise or bequest to a named charitable beneficiary, the initial written notice of the probate proceedings given to the beneficiary shall state that the beneficiary may request notice of the probate proceedings be given to the attorney general pursuant to section 501.79, subdivision 5.

Sec. 28. Minnesota Statutes 1976, Chapter 525, is amended by adding a section to read:

[525.831] NOTICE TO ATTORNEY GENERAL OF DEVISES FOR CHARITABLE PURPOSES. Whenever a will provides for a devise for a charitable purpose, as defined in section 501.73, subdivision 2, the personal representative shall provide the attorney general with the notices or documents, if any, required by section 501.79, subdivision 5.

Sec. 29. **REPEALER.** Minnesota Statutes 1976, Sections 309.52, Subdivisions 5, 6, and 8; 309.53, Subdivision 5; and 501.81, Subdivisions 1 and 2, are repealed.

Sec. 30. Sections 1 to 12 and sections 14, 24 and 29 are effective the day after final enactment; section 13 is effective June 30, 1979.

Approved March 28, 1978.

CHAPTER 602-H.F.No.1317

[Coded in Part]

An act relating to children; requiring the preparation of case plans for children placed in foster care; permitting termination of parental rights as to children who are neglected and in foster care; amending Minnesota Statutes 1976, Sections 259.29; 260.015, by adding a subdivision; 260.111, Subdivision 1; 260.131, Subdivision 1; 260.155, by adding a subdivision;

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260.191, Subdivisions 1 and 4; 260.181, Subdivision 3; 260.221; 260.235; and 260.291, Subdivision 1; and Chapter 257, by adding a section; repealing Minnesota Statutes 1976, Section 257.07.

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

Section 1. Minnesota Statutes 1976, Chapter 257, is amended by adding a section to read:

[257.071] CHILDREN IN FOSTER HOMES; PLACEMENT; REVIEW. Subdivision 1. PLACEMENT; PLAN. A case plan shall be prepared within 30 days after any child is placed in a foster home by court order or by the voluntary release of the child by his parent or parents. By July 1, 1979, a case plan shall be prepared for each child who was residing in a foster home on July 1, 1978 and who has not been returned to the home of his parent or parents.

For the purposes of this section, a case plan means a written document which is ordered by the court or which is prepared by the social service agency responsible for the foster home placement and is signed by the parent or parents, or other custodian, of the child, the child's legal guardian, the social service agency responsible for the foster home placement, and, if possible, the child. The document shall be explained to all persons involved in its implementation, including the child who has signed the document, and shall set forth:

(1) The specific reasons for the placement of the child in a foster home, including a description of the problems or conditions in the home of the parent or parents which necessitated removal of the child from his home;

(2) The specific actions to be taken by the parent or parents of the child to eliminate or correct the problems or conditions identified in clause (1), and the time period during which the actions are to be taken;

(3) The financial responsibilities and obligations, if any, of the parents for the support of the child during the period the child is in the foster home;

(4) The visitation rights and obligations of the parent or parents during the period the child is in the foster home;

(5) The social and other supportive services to be provided to the parent or parents of the child, the child, and the foster parents during the period the child is in the foster home;

(6) The date on which the child is expected to be returned to the home of his parent or parents;

(7) The nature of the effort to be made by the social service agency responsible for the placement to reunite the family; and

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(8) Notice to the parent or parents that placement of the child in foster care may result in termination of parental rights but only after notice and a hearing as provided in chapter 260.

The parent or parents and the child shall have the right to legal counsel in the preparation of the case plan. If unable to employ counsel from their own resources, the court shall appoint counsel upon the request of the parent or parents or the child or his legal guardian. The parent or parents may also receive assistance from any person or social service agency in preparation of the case plan.

After the plan has been agreed upon by the parties involved, the foster parents shall be fully informed of the provisions of the case plan.

Subd. 2. SIX MONTH REVIEW OF VOLUNTARY PLACEMENTS. If the child has been placed in a foster home pursuant to a voluntary release by his parent or parents, the case plan shall be reviewed by the persons involved in its preparation 180 days after the initial placement of the child in a foster home if the child is not returned to the home of his parent or parents within that time.

Subd. 3. 18 MONTH REVIEW OF VOLUNTARY PLACEMENTS. If the child has been placed in a foster home pursuant to a voluntary release by his parent or parents, and is not returned to his home within 18 months after his initial placement in the foster home, the social service agency responsible for the placement shall:

- (a) Return the child to the home of his parent or parents; or
- (b) File an appropriate petition pursuant to sections 260.131 or 260.231.

Sec. 2. Minnesota Statutes 1976, Section 259.29, is amended to read:

259.29 **EFFECT OF ADOPTION.** Subdivision 1. Upon adoption, ~~such~~ the child shall become the legal child of the persons adopting him, and they shall become his legal parents with all the rights and duties between them of natural parents and legitimate child. By virtue of ~~such~~ the adoption he shall inherit from his adoptive parents or their relatives the same as though he were the legitimate child of ~~such~~ the parents, and in case of his death intestate the adoptive parents and their relatives shall inherit his estate as if they had been his natural parents and relatives ~~in fact~~. After a decree of adoption is entered the natural parents of an adopted child shall be relieved of all parental responsibilities for ~~such~~ the child, and they shall not exercise or have any rights over ~~such~~ the adopted child or his property. The child shall not owe his natural parents or their relatives any legal duty nor shall he inherit from his natural parents or kindred. Notwithstanding any other provisions to the contrary in this section, the adoption of a child by his step-parent shall not in any way change the status of the relationship between the child and his natural parent who is the spouse of the petitioning step-parent.

Subd. 2. Notwithstanding the provisions of subdivision 1, the adoption of a child whose natural parent or parents are enrolled in an American Indian tribe shall not change the child's enrollment in that tribe.

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Sec. 3. Minnesota Statutes 1976, Section 260.015, is amended by adding a subdivision to read:

Subd. 18. "Neglected and in foster care" means a child

(a) Who has been placed in foster care by court order; and

(b) Whose parents' circumstances, condition, or conduct are such that the child cannot be returned to them; and

(c) Whose parents, despite the availability of needed rehabilitative services, have failed to make reasonable efforts to adjust their circumstances, condition or conduct, or have willfully failed to meet reasonable expectations with regard to visiting the child or providing financial support for the child.

Sec. 4. Minnesota Statutes 1976, Section 260.111, Subdivision 1, is amended to read:

260.111 JURISDICTION. Subdivision 1. **CHILDREN WHO ARE DELINQUENT, NEGLECTED, DEPENDENT OR NEGLECTED AND IN FOSTER CARE.** Except as provided in section 260.125, the juvenile court has original and exclusive jurisdiction in proceedings concerning any child who is alleged to be delinquent, a juvenile traffic offender, neglected, neglected and in foster care, or dependent, and in proceedings concerning any minor alleged to have been a delinquent or a juvenile traffic offender prior to having become eighteen years of age. The juvenile court shall deal with such a minor as it deals with any other child who is alleged to be delinquent or a juvenile traffic offender.

Sec. 5. Minnesota Statutes 1976, Section 260.131, Subdivision 1, is amended to read:

260.131 PETITION. Subdivision 1. Any reputable person, including but not limited to any agent of the commissioner of public welfare, having knowledge of a child in this state or of a child who is a resident of this state, who appears to be delinquent, neglected, ~~or~~ dependent, or neglected and in foster care, may petition the juvenile court in the manner provided in this section.

Sec. 6. Minnesota Statutes 1976, Section 260.155, is amended by adding a subdivision to read:

Subd. 7. FACTORS IN DETERMINING NEGLECT. In determining whether a child is neglected and in foster care, the court shall consider, among other factors, the following:

(1) The length of time the child has been in foster care;

(2) The effort the parent has made to adjust his circumstances, conduct, or condition to make it in the child's best interest to return him to his home in the

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foreseeable future, including the use of rehabilitative services offered to the parent;

(3) Whether the parent has visited the child within the nine months preceding the filing of the petition, unless it was physically or financially impossible for the parent to visit or not in the best interests of the child to be visited by the parent;

(4) The maintenance of regular contact or communication with the agency or person temporarily responsible for the child;

(5) The appropriateness and adequacy of services provided or offered to the parent to facilitate a reunion;

(6) Whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parent within an ascertainable period of time; and

(7) The nature of the effort made by the responsible social service agency to rehabilitate and reunite the family.

Sec. 7, Minnesota Statutes 1976, Section 260.191, Subdivision 1, is amended to read:

260.191 DISPOSITIONS; CHILDREN WHO ARE NEGLECTED, DEPENDENT, OR NEGLECTED AND IN FOSTER CARE. Subdivision 1. If the court finds that the child is neglected, or dependent, or neglected and in foster care, it shall enter an order making any of the following dispositions of the case:

(a) Place the child under the protective supervision of the county welfare board or child placing agency in his own home under conditions prescribed by the court directed to the correction of the neglect or dependency of the child;

(b) Transfer legal custody to one of the following:

(1) A child placing agency; or

(2) The county welfare board;

(c) If the child is in need of special treatment and care for his physical or mental health, the court may order the child's parent, guardian, or custodian to provide it. If the parent, guardian, or custodian fails to provide this treatment or care, the court may order it provided.

Any order for a disposition authorized under this section shall contain written findings of fact to support the disposition ordered, and shall also set forth in writing the following information:

(a) Why the best interests of the child are served by the disposition ordered; and

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(b) What alternative dispositions were considered by the court and why such dispositions were not appropriate in the instant case.

Sec. 8. Minnesota Statutes 1976, Section 260.191, Subdivision 4, is amended to read:

Subd. 4. When it is in the best interests of the child or his parents to do so and when either the allegations contained in the petition have been admitted, or when a hearing has been held as provided in section 260.155 and the allegations contained in the petition have been duly proven, before a finding of neglect or dependency or a finding that a child is neglected and in foster care has been entered the court may continue the case for a period not to exceed 90 days on any one order. Such a continuance may be extended for one additional successive period not to exceed 90 days and only after the court has reviewed the case and entered its order for an additional continuance without a finding that the child is neglected, dependent, or neglected and in foster care of neglect or dependency. During this continuance the court may enter any order otherwise permitted under the provisions of this section.

Sec. 9. Minnesota Statutes 1976, Section 260.181, Subdivision 3, is amended to read:

Subd. 3. **PROTECTION OF RELIGIOUS AND ETHNIC AFFILIATION.** The court, in transferring legal custody of any child or appointing a guardian for him under the laws relating to juvenile courts, shall place him so far as it deems practicable in the legal custody or guardianship of some individual holding the same religious belief and the same ethnic origin as the parents of the child, or with some association which is controlled by persons of like religious faith and ethnic origin with as the parents. The court may require the county welfare agency to continue efforts to find a guardian of like religious faith or ethnic origin when such a guardian is not immediately available.

Sec. 10. Minnesota Statutes 1976, Section 260.221, is amended to read:

260.221 GROUNDS FOR TERMINATION OF PARENTAL RIGHTS. The juvenile court may, upon petition, terminate all rights of parents to a child in the following cases:

(a) With the written consent of parents who for good cause desire to terminate their parental rights; or

(b) If it finds that one or more of the following conditions exist:

(1) That the parents have abandoned the child; or

(2) That the parents have substantially and continuously or repeatedly refused to give the child necessary parental care and protection; or

(3) That, although the parents are financially able, they have substantially and continuously neglected to provide the child with necessary subsistence, education, or

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other care necessary for his physical or mental health or morals or have neglected to pay for such subsistence, education or other care when legal custody is lodged with others; or

(4) That the parents are unfit by reason of debauchery, intoxication or habitual use of narcotic drugs, or repeated lewd and lascivious behavior, or other conduct found by the court to be likely to be detrimental to the physical or mental health or morals of the child; or

(5) That following upon a determination of neglect or dependency, reasonable efforts, under the direction of the court, have failed to correct the conditions leading to the determination; or

(6) That in the case of an illegitimate child the person is not entitled to notice of an adoption hearing under section 259.26 and either the person has not filed a notice of his intention to retain parental rights under section 259.261 or that such notice has been successfully challenged; or

(7) That the child is neglected and in foster care.

Sec. 11. Minnesota Statutes 1976, Section 260.235, is amended to read:

260.235 DISPOSITION; PARENTAL RIGHTS NOT TERMINATED. If, after a hearing, the court does not terminate parental rights but determines that conditions of neglect or dependency exist, or that the child is neglected and in foster care, the court may find the child neglected, or dependent, or neglected and in foster care and may enter an order in accordance with the provisions of section 260.191.

Sec. 12. Minnesota Statutes 1976, Section 260.291, Subdivision 1, is amended to read:

260.291 APPEAL. Subdivision 1. **PERSONS ENTITLED TO APPEAL; PROCEDURE.** An appeal may be taken by the aggrieved person from a final order affecting a substantial right of the aggrieved person, including but not limited to an order adjudging a child to be dependent, neglected, neglected and in foster care, delinquent, or a juvenile traffic offender. The appeal shall be taken within 30 days of the filing of the appealable order. The clerk of court shall notify the person having legal custody of the minor of the appeal. Failure to notify the person having legal custody of the minor shall not affect the jurisdiction of the appellate court. The order of the juvenile court shall stand, pending the determination of the appeal, but the reviewing court may in its discretion and upon application stay the order.

Sec. 13. **REPEALER.** Minnesota Statutes 1976, Section 257.07, is repealed.

Sec. 14. **EFFECTIVE DATE.** This act is effective July 1, 1978.

Approved March 28, 1978.

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