

Subd. 2. **ACTS CONSTITUTING A NUISANCE.** For purposes of sections 617.80 to 617.87 a public nuisance exists upon proof of ~~any of the following:~~

~~(1) three or more misdemeanor convictions or two or more convictions, of which at least one is a gross misdemeanor or felony, within the previous two years for;~~

~~(1) acts of prostitution or prostitution-related offenses committed within the building;~~

~~(2) three or more misdemeanor convictions or two or more convictions, of which at least one is a gross misdemeanor or felony, within the previous two years for acts of gambling or gambling-related offenses committed within the building; or~~

~~(3) two or more convictions within the previous two years for keeping or permitting a disorderly house within the building;~~

~~(4) unlawful sale or possession of controlled substances committed within the building;~~

~~(5) unlicensed sales of alcoholic beverages committed within the building in violation of section 340A.401; or~~

~~(6) unlawful sales or gifts of alcoholic beverages by an unlicensed person committed within the building in violation of section 340A.503, subdivision 2, clause (1).~~

Presented to the governor May 9, 1989

Signed by the governor May 10, 1989, 10:30 a.m.

CHAPTER 113—S.F.No. 493

An act relating to juvenile court; expanding the definition of child in need of protection or services; expanding the child hearsay exception to include statements regarding the abuse or neglect of another child witnessed by the child making the statement; clarifying the authority of the court to order the temporary removal of a child due to immediate endangerment; amending Minnesota Statutes 1988, sections 260.015, subdivision 2a; 260.156; and 260.172, subdivision 1.

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

Section 1. Minnesota Statutes 1988, section 260.015, subdivision 2a, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2a. **CHILD IN NEED OF PROTECTION OR SERVICES.** "Child in need of protection or services" means a child who is in need of protection or services because the child:

(1) is abandoned or without parent, guardian, or custodian;

(2) (i) has been a victim of physical or sexual abuse, or (ii) resides with or has resided with a victim of domestic child abuse as defined in subdivision 24, or (iii) resides with or would reside with a perpetrator of domestic child abuse;

(3) is without necessary food, clothing, shelter, education, or other required care for the child's physical or mental health or morals because the child's parent, guardian, or custodian is unable or unwilling to provide that care;

(4) is without the special care made necessary by a physical, mental, or emotional condition because the child's parent, guardian, or custodian is unable or unwilling to provide that care;

(5) is medically neglected, which includes, but is not limited to, the withholding of medically indicated treatment from a disabled infant with a life-threatening condition. The term "withholding of medically indicated treatment" means the failure to respond to the infant's life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication which, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all conditions, except that the term does not include the failure to provide treatment other than appropriate nutrition, hydration, or medication to an infant when, in the treating physician's or physicians' reasonable medical judgment:

(i) the infant is chronically and irreversibly comatose;

(ii) the provision of the treatment would merely prolong dying, not be effective in ameliorating or correcting all of the infant's life-threatening conditions, or otherwise be futile in terms of the survival of the infant; or

(iii) the provision of the treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane;

(6) is one whose parent, guardian, or other custodian for good cause desires to be relieved of the child's care and custody;

(7) has been placed for adoption or care in violation of law;

(8) is without proper parental care because of the emotional, mental, or physical disability, or state of immaturity of the child's parent, guardian, or other custodian;

(9) is one whose occupation, behavior, condition, environment, or associations are such as to be injurious or dangerous to the child or others;

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(10) has committed a delinquent act before becoming ten years old;

(11) is a runaway; or

(12) is an habitual truant.

Sec. 2. Minnesota Statutes 1988, section 260.156, is amended to read:

260.156 CERTAIN OUT-OF-COURT STATEMENTS ADMISSIBLE.

An out-of-court statement ~~made by a child under the age of ten years, or a child ten years of age or older who is mentally impaired, as defined under section 609.341, subdivision 6, alleging, explaining, denying, or describing any act of sexual contact or penetration performed with or on the child or any act of physical abuse or neglect of the child by another, not otherwise admissible by statute or rule of evidence, is admissible in evidence in any child in need of protection or services, neglected and in foster care, or domestic child abuse proceeding or any proceeding for termination of parental rights if:~~

(a) the statement was made by a child under the age of ten years or by a child ten years of age or older who is mentally impaired, as defined in section 609.341, subdivision 6;

(b) the statement alleges, explains, denies, or describes:

(1) any act of sexual penetration or contact performed with or on the child;

(2) any act of sexual penetration or contact with or on another child observed by the child making the statement;

(3) any act of physical abuse or neglect of the child by another; or

(4) any act of physical abuse or neglect of another child observed by the child making the statement;

(c) the court finds that the time, content, and circumstances of the statement and the reliability of the person to whom the statement is made provide sufficient indicia of reliability; and

(b) (d) the proponent of the statement notifies other parties of an intent to offer the statement and the particulars of the statement sufficiently in advance of the proceeding at which the proponent intends to offer the statement into evidence, to provide the parties with a fair opportunity to meet the statement.

For purposes of this section, an out-of-court statement includes a video, audio, or other recorded statement.

Sec. 3. Minnesota Statutes 1988, section 260.172, subdivision 1, is amended to read:

Subdivision 1. Except a child taken into custody pursuant to section 260.165,

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subdivision 1, clause (a) or (c)(2), a hearing shall be held within 36 hours of a child's being taken into custody, excluding Saturdays, Sundays, and holidays, to determine whether the child should continue in detention. Within 72 hours of a child being taken into custody pursuant to section 260.165, subdivision 1, clause (a) or (c)(2), excluding Saturdays, Sundays, and holidays, a hearing shall be held to determine whether the child should continue in custody. Unless there is reason to believe that the child would endanger self or others, not return for a court hearing, run away from the child's parent, guardian, or custodian or otherwise not remain in the care or control of the person to whose lawful custody the child is released, or that the child's health or welfare would be immediately endangered, the child shall be released to the custody of a parent, guardian, custodian, or other suitable person. In determining whether the child's health or welfare would be immediately endangered, the court shall consider whether the child would reside with a perpetrator of domestic child abuse.

Presented to the governor May 9, 1989

Signed by the governor May 10, 1989, 10:31 a.m.

CHAPTER 114—H.F.No. 1387

An act relating to education; prohibiting certain punishment in schools; proposing coding for new law in Minnesota Statutes, chapter 127.

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

Section 1. **[127.45] CORPORAL PUNISHMENT PROHIBITED.**

Subdivision 1. DEFINITION. For the purpose of this section, "corporal punishment" means conduct involving:

- (1) hitting or spanking a person with or without an object; or
- (2) unreasonable physical force that causes bodily harm or substantial emotional harm.

Subd. 2. PROHIBITION. An employee or agent of a public school district shall not inflict corporal punishment or cause corporal punishment to be inflicted upon a pupil to reform unacceptable conduct or as a penalty for unacceptable conduct.

Presented to the governor May 9, 1989

Signed by the governor May 10, 1989, 10:34 a.m.

New language is indicated by underline, deletions by ~~strikeout~~.