

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 1187

03/04/2013 Authored by Allen, Paymar, Huntley, Cornish and Lenczewski

The bill was read for the first time and referred to the Committee on Early Childhood and Youth Development Policy

03/11/2013 By motion, recalled and re-referred to the Committee on Judiciary Finance and Policy

03/14/2013 Adoption of Report: Pass and Read Second Time

1.1 A bill for an act
1.2 relating to sexually exploited youth; expanding safe harbor provisions to include
1.3 16 and 17 year olds involved in prostitution; amending Minnesota Statutes 2012,
1.4 sections 260B.007, subdivisions 6, 16; 260C.007, subdivisions 6, 31; repealing
1.5 Minnesota Statutes 2012, section 609.093.

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

1.7 Section 1. Minnesota Statutes 2012, section 260B.007, subdivision 6, is amended to
1.8 read:

1.9 Subd. 6. **Delinquent child.** (a) Except as otherwise provided in paragraphs (b)
1.10 and (c), "delinquent child" means a child:

1.11 (1) who has violated any state or local law, except as provided in section 260B.225,
1.12 subdivision 1, and except for juvenile offenders as described in subdivisions 16 to 18;

1.13 (2) who has violated a federal law or a law of another state and whose case has been
1.14 referred to the juvenile court if the violation would be an act of delinquency if committed
1.15 in this state or a crime or offense if committed by an adult;

1.16 (3) who has escaped from confinement to a state juvenile correctional facility after
1.17 being committed to the custody of the commissioner of corrections; or

1.18 (4) who has escaped from confinement to a local juvenile correctional facility after
1.19 being committed to the facility by the court.

1.20 (b) The term delinquent child does not include a child alleged to have committed
1.21 murder in the first degree after becoming 16 years of age, but the term delinquent child
1.22 does include a child alleged to have committed attempted murder in the first degree.

1.23 (c) The term delinquent child does not include a child ~~under the age of 16 years~~
1.24 alleged to have engaged in conduct which would, if committed by an adult, violate any

2.1 federal, state, or local law relating to being hired, offering to be hired, or agreeing to be
2.2 hired by another individual to engage in sexual penetration or sexual conduct.

2.3 **EFFECTIVE DATE.** This section is effective August 1, 2014, and applies to
2.4 offenses committed on or after that date.

2.5 Sec. 2. Minnesota Statutes 2012, section 260B.007, subdivision 16, is amended to read:

2.6 Subd. 16. **Juvenile petty offender; juvenile petty offense.** (a) "Juvenile petty
2.7 offense" includes a juvenile alcohol offense, a juvenile controlled substance offense,
2.8 a violation of section 609.685, or a violation of a local ordinance, which by its terms
2.9 prohibits conduct by a child under the age of 18 years which would be lawful conduct if
2.10 committed by an adult.

2.11 (b) Except as otherwise provided in paragraph (c), "juvenile petty offense" also
2.12 includes an offense that would be a misdemeanor if committed by an adult.

2.13 (c) "Juvenile petty offense" does not include any of the following:

2.14 (1) a misdemeanor-level violation of section 518B.01, 588.20, 609.224, 609.2242,
2.15 609.324, subdivision 2 or 3, 609.5632, 609.576, 609.66, 609.746, 609.748, 609.79,
2.16 or 617.23;

2.17 (2) a major traffic offense or an adult court traffic offense, as described in section
2.18 260B.225;

2.19 (3) a misdemeanor-level offense committed by a child whom the juvenile court
2.20 previously has found to have committed a misdemeanor, gross misdemeanor, or felony
2.21 offense; or

2.22 (4) a misdemeanor-level offense committed by a child whom the juvenile court
2.23 has found to have committed a misdemeanor-level juvenile petty offense on two or
2.24 more prior occasions, unless the county attorney designates the child on the petition
2.25 as a juvenile petty offender notwithstanding this prior record. As used in this clause,
2.26 "misdemeanor-level juvenile petty offense" includes a misdemeanor-level offense that
2.27 would have been a juvenile petty offense if it had been committed on or after July 1, 1995.

2.28 (d) A child who commits a juvenile petty offense is a "juvenile petty offender." The
2.29 term juvenile petty offender does not include a child ~~under the age of 16 years~~ alleged
2.30 to have violated any law relating to being hired, offering to be hired, or agreeing to be
2.31 hired by another individual to engage in sexual penetration or sexual conduct which, if
2.32 committed by an adult, would be a misdemeanor.

2.33 **EFFECTIVE DATE.** This section is effective August 1, 2014, and applies to
2.34 offenses committed on or after that date.

Sec. 3. Minnesota Statutes 2012, section 260C.007, subdivision 6, is amended to read:

Subd. 6. **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 as defined in section 626.556, subdivision 2, (ii) resides with or has resided with a victim of child abuse as defined in subdivision 5 or domestic child abuse as defined in subdivision 13, (iii) resides with or would reside with a perpetrator of domestic child abuse as defined in subdivision 13 or child abuse as defined in subdivision 5 or 13, or (iv) is a victim of emotional maltreatment as defined in subdivision 15;

(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, including a child who entered foster care under a voluntary placement agreement between the parent and the responsible social services agency under section 260C.227;

(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 behavior, condition, or environment is such as to be injurious or dangerous to the child or others. An injurious or dangerous environment may include, but is not limited to, the exposure of a child to criminal activity in the child's home;

(10) is experiencing growth delays, which may be referred to as failure to thrive, that have been diagnosed by a physician and are due to parental neglect;

(11) ~~has engaged in prostitution as defined in section 609.321, subdivision 9~~ is a sexually exploited youth;

(12) has committed a delinquent act or a juvenile petty offense before becoming ten years old;

(13) is a runaway;

(14) is a habitual truant;

(15) has been found incompetent to proceed or has been found not guilty by reason of mental illness or mental deficiency in connection with a delinquency proceeding, a certification under section 260B.125, an extended jurisdiction juvenile prosecution, or a proceeding involving a juvenile petty offense; or

(16) has a parent whose parental rights to one or more other children were involuntarily terminated or whose custodial rights to another child have been involuntarily transferred to a relative and there is a case plan prepared by the responsible social services agency documenting a compelling reason why filing the termination of parental rights petition under section 260C.301, subdivision 3, is not in the best interests of the child; ~~or~~

~~(17) is a sexually exploited youth.~~

EFFECTIVE DATE. This section is effective August 1, 2014.

Sec. 4. Minnesota Statutes 2012, section 260C.007, subdivision 31, is amended to read:

Subd. 31. **Sexually exploited youth.** "Sexually exploited youth" means an individual who:

(1) is alleged to have engaged in conduct which would, if committed by an adult, violate any federal, state, or local law relating to being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual conduct;

(2) is a victim of a crime described in section 609.342, 609.343, 609.344, 609.345, 609.3451, 609.3453, 609.352, 617.246, or 617.247;

(3) is a victim of a crime described in United States Code, title 18, section 2260; 2421; 2422; 2423; 2425; 2425A; or 2256; or

(4) is a sex trafficking victim as defined in section 609.321, subdivision 7b.

5.1 **EFFECTIVE DATE.** This section is effective the day following final enactment.

5.2 Sec. 5. **REPEALER.**

5.3 Minnesota Statutes 2012, section 609.093, is repealed.

5.4 **EFFECTIVE DATE.** This section is effective the day following final enactment.

609.093 JUVENILE PROSTITUTES; DIVERSION OR CHILD PROTECTION PROCEEDINGS.

Subdivision 1. **First-time prostitution offense; applicability; procedure.** (a) This section applies to a 16 or 17 year old child alleged to have engaged in prostitution as defined in section 609.321, subdivision 9, who:

(1) has not been previously adjudicated delinquent for engaging in prostitution as defined in section 609.321, subdivision 9;

(2) has not previously participated in or completed a diversion program for engaging in prostitution as defined in section 609.321, subdivision 9;

(3) has not previously been placed on probation without an adjudication or received a continuance under section 260B.198, subdivision 7, for engaging in prostitution as defined in section 609.321, subdivision 9;

(4) has not previously been found to be a child in need of protection or services for engaging in prostitution as defined in section 609.321, subdivision 9, or because the child is a sexually exploited youth as defined in section 260C.007, subdivision 31, clause (1); and

(5) agrees to successfully complete a diversion program under section 388.24 or fully comply with a disposition order under sections 260C.201, 260C.202, and 260C.204.

(b) The prosecutor shall refer a child described in paragraph (a) to a diversion program under section 388.24 or file a petition under section 260C.141 alleging the child to be in need of protection or services.

Subd. 2. **Failure to comply.** If a child fails to successfully complete diversion or fails to fully comply with a disposition order under sections 260C.201, 260C.202, and 260C.204, the child may be referred back to the court for further proceedings under chapter 260B.

Subd. 3. **Dismissal of charge.** The court shall dismiss the charge against the child if any of the following apply:

(1) the prosecutor referred the child to a diversion program and the prosecutor notifies the court that the child successfully completed the program;

(2) the prosecutor filed a petition under section 260C.141 and the court does not find that the child is in need of protection or services; or

(3) the prosecutor filed a petition under section 260C.141, the court entered an order under sections 260C.201, 260C.202, and 260C.204, and the child fully complied with the order.