

CHAPTER 158—H. F. No. 221

An act relating to juvenile courts and amending Mason's Minnesota Statutes of 1927, Sections 8645, 8647, and 8652, and Mason's Supplement 1940, Sections 8643-1, 8646-1, 8664-1, 8664-2, and 8664-3.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Law amended.—Mason's Supplement 1940, Section 8643-1, is hereby amended to read as follows:

"8643-1. Setting petition for hearing—summons—service—guardian ad litem—warrant—hearing—custody of child.—Upon the presentation of the petition if it appears that a child may be dependent, neglected or delinquent and that it is for the best interests of the child that the matter be heard in said county, the petition shall be filed and a date set for hearing thereon. A summons may be issued by the judge or clerk of the court requiring the person having custody or control of the child, or with whom the child may be, to appear with the child at a place and time stated in the summons, which time shall be not less than 24 hours after service. Such place may be in the county seat of the county, or in any other city or village in the county, at the discretion of the court. It shall be sufficient to confer jurisdiction if service is made at any time before the day fixed in the summons for the return thereof; but in such case the court if so requested shall not proceed with the hearing earlier than the second day after the service. The summons shall be served as provided by law for the service of summons in civil actions, and may be served by a probation officer. The parents of the child, if living, and their residence is known, or its legal guardian, if one there be, or if there be neither parent or guardian, or if his residence is not known, then some relative, if there be one and his residence is known, shall be notified of the proceedings, and in any case the judge may appoint some suitable person to act in behalf of the child. *Except in counties containing a city of the first class if the petition presented is made by a person other than a representative of the division of social welfare or county welfare board, notice as provided by the court shall be given to the county welfare board.* Where the person to be notified, *other than a member of the county welfare board or its staff,* resides within the county, service of notice shall be the same as service of the summons, but in any other case service of notice shall be made in such manner as the court may direct. If the person summoned as herein provided shall fail without reasonable cause to appear and abide the order of the court or bring the child, he may be pro-

ceeded against as in case of contempt of court. In case the summons cannot be served or the party served fails to obey the same, and in any case when it shall be made to appear to the court that such summons will be ineffectual, or that the welfare of the child requires that he shall be brought forthwith into the custody of the court, a warrant may be issued by the court, either against the parent or guardian or the person having custody of the child or with whom the child may be, or against the child himself. On the date set for the hearing and on the return of the summons if any has been issued or other process, or on the appearance of the child with or without summons or other process in person before the court, and on the return of the service of notice, if there be any person to be notified, or a personal appearance or written consent to the proceedings of the person or persons, if any to be notified, or as soon thereafter as may be, the court shall proceed to hear the case, and may proceed in a summary manner. The county attorney or an assistant designated by him shall assist in the presentation of cases when directed by the judge of the juvenile court. The child shall have the right to appear and be represented by counsel at all hearings in said court.

Except as hereinafter in this act provided, whenever any officer takes a child into custody he *may* accept the promise of the parent, guardian or custodian to be responsible for the presence of the child in the court at the time fixed. Thereupon such child may be released in the custody of the parent, guardian or custodian, or in the custody of a probation officer or other person designated by the court. If not so released, such child shall be taken immediately to a place of detention designated by the court, at the expense of the county, and the officer taking him shall immediately notify the court and shall file a petition when directed to do so by the court."

Sec. 2. Law amended.—Mason's Supplement 1940, Section 8646-1, is hereby amended to read as follows:

"8646-1. Commitment to state board of control or state public school or association—hospital and medical care—consent of parents—continuance—final commitment, notice.—When any child shall be found to be dependent or neglected within the meaning of this act the court may make an order committing the child to the care of the *director of social welfare* or of the state public school or some other suitable state institution, or to the care of some reputable citizens of good moral character, or to the care of some association willing to receive it, embracing in its objects the purpose of caring for or obtaining homes for dependent or neglected children, which

association shall have been accredited as provided by law. In appropriate cases the child may be left with the parents subject to such remedial supervision as the court may direct. The court may *continue the hearing from time to time without making an order of final commitment as above provided for and may make an order placing the child in the temporary care or custody of the county welfare board or an association accredited as provided by law. The court may, when the health or condition of the child shall require it, authorize the county welfare board to provide special medical or remedial care or treatment for the child, including care in a public or private hospital, if necessary, at the expense of the county.* In no case shall a dependent child be taken from its parents without their consent unless, after diligent effort has been made to avoid such separation, the same shall be found needful in order to prevent serious detriment to the welfare of such child. Before making an order of final commitment to the *director of social welfare* or the state public school for dependent children at Owatonna, provided for by this section, consider such evidence, report or recommendation as the *county welfare board* may make concerning the case. Upon making an order of commitment to the *director of social welfare*, the judge or clerk shall mail or deliver a copy thereof to the *director of social welfare* and the child shall be delivered by order of the court to the *county welfare board*, as the representative of the *director of social welfare*, to be cared for as directed by the *director of social welfare*. If the child is committed to the guardianship of an association, accredited by law to receive children for care and place them in private homes, the child shall be transported at the expense of the county by order of the court to the place designated by such association for the care of the child."

Sec. 3. Law amended.—Mason's Minnesota Statutes of 1927, Section 8647, is hereby amended to read as follows:

"8647. Guardianship—adoption.—In any case where the court shall award a dependent or neglected child to the care of the *director of social welfare*, or of any association or individual in accordance with the provisions of this act, the child shall, unless otherwise ordered, become a ward, and be subject to the guardianship of the *director of social welfare* or of the association or individual to whose care he is committed; but such guardianship shall not include the guardianship of any estate of the child, except as provided in *Section 17 of this act, Mason's Minnesota Statutes of 1927, Section 8652.* The *director of social welfare*, association or individual shall have authority to place such child in a family home and may be

made a party to any proceedings for the legal adoption of the child, and may by *his or its* attorney or *representative* appear in any court where such proceedings are pending and consent to such adoption.

Sec. 4. Law amended.—Mason's Supplement 1940, Section 8664-1, is hereby amended to read as follows:

"8664-1. Expenses payable by counties.—The expenses in probate courts acting as juvenile court for the proceedings of dependent, neglected, and delinquent children including the care of children when in the custody of the court and during continuance when not with the parents, medical and hospital care that may be necessary at the hearing or while the child is in the custody of the court, the *fees and necessary mileage, not to exceed five cents per mile, of witnesses and of officers serving notices and subpoenas ordered by the court,* the expenses for travel and board incurred by the probate judge when holding court in places other than the county seat, and 15 cents for each folio for all records in said matters additional to his salary, shall be paid by the county upon the certificate of the probate judge."

Sec. 5. Law amended.—Mason's Supplement 1940, Section 8664-2, is hereby amended to read as follows:

"8664-2. Same—findings—certification.—In any proceeding relating to a dependent, neglected or delinquent child, if it appears that the child has a legal settlement in another county, the court may continue the case and forward to the clerk of the juvenile court of the county in which it appears the child has a legal settlement a certified copy of all papers filed together with an order of transfer of the case to the county of legal settlement. Whenever the judge of the juvenile court of the county to which the case has been transferred denies that such child has a legal settlement in his county, he shall send such order of transfer with his statement of facts as to settlement of the child to the director of social welfare who shall immediately investigate and determine the question of legal settlement and certify his findings to the juvenile judge of each of said counties. Such decision shall be final and complied with unless within 30 days thereafter action is taken in the district court as provided in Mason's Minnesota Statutes of 1927, Section 3161-1 and 3161-2 as amended.

When the legal settlement of the child has been determined the judge of the juvenile court of the county of legal settlement shall proceed to hear and determine the disposition of the case. The judge may accept the findings of the juvenile

court where the petition was filed or he may in his discretion direct the filing of a new petition and hear the case de novo."

Sec. 6. Law amended.—Mason's Supplement 1940, Section 8664-3, is hereby amended to read as follows:

"8664-3. Same—certification of rejection of claim by county auditor—determination by director of social welfare.—*When it has been determined that the legal settlement of such child is in another county by the admission of the juvenile court judge of such county or by the director of social welfare or the district court, the necessary costs and expenses of such proceedings together with the cost of caring for such child during continuances when not with the parents, shall be certified by the court to the auditor of the county in which the proceedings are held who shall certify the same to the county auditor of the county where the child is found to have a legal settlement and shall be paid as other claims against said county."*

Sec. 7. Law amended.—Mason's Minnesota Statutes of 1927, Section 8645, is hereby amended to read as follows:

"8645. Juvenile probation system established in certain counties.—In any county of more than 150,000 population the court may establish a department of the juvenile probation system of such county for the physical and mental diagnosis of cases of children who are believed to be physically or mentally diseased or defective, and may appoint as special probation officers a competent nurse and a duly qualified physician, whose salaries shall be fixed by the judge with the approval of the county board. *Provided, that in any county under 150,000 population when the juvenile court has obtained jurisdiction of a dependent, neglected or delinquent child the court may require that a physical or mental examination, or both, be made of such child by a duly qualified physician or mental examiner."*

Sec. 8. Law amended.—Mason's Minnesota Statutes of 1927, Section 8652, is hereby amended to read as follows:

"8652. Guardian to use property for education of child.—If any child placed under guardianship by a juvenile court pursuant to the provisions of this act has any property, the income thereof shall, unless more than is necessary, be applied to the education of such child; and upon cause shown to the court *having jurisdiction of the estate of such child* the principal or any part thereof may be used for the same purpose."

Approved April 9, 1941.