

voting at the next succeeding and all subsequent town elections. The resolution shall remain in force until revoked by the town board. Towns covered by this subdivision shall certify their election hours to the county auditor in January of each year.

Sec. 23. Minnesota Statutes 1982, section 209.02, subdivision 4, is amended to read:

Subd. 4. **NOTICE OF CONTEST, HOW SERVED.** Service of the notice of contest shall be made in the same manner as provided for the service of summons in civil actions. In all cases ~~two copies~~ one copy of the notice shall be furnished the official authorized to issue the certificate of election at the time of service upon him, and ~~the official shall send one copy thereof~~ shall be sent by certified mail to the contestee at his last known address. ~~If the sheriff is unable to make personal or substituted service upon the contestee, then the affidavit of the sheriff to that effect and the affidavit of the official authorized to issue the certificate of election that he sent a copy to the contestee by certified mail to his last known address shall be sufficient to confer jurisdiction upon the proper court to hear and determine the contest.~~

Sec. 24. **REPEALER.**

Minnesota Statutes 1982, sections 201.091, subdivisions 6 and 7; and 204B.12, subdivision 2; are repealed.

Sec. 25. **EFFECTIVE DATE.**

This act is effective the day following final enactment.

Approved June 9, 1983

CHAPTER 304 — S.F.No. 87

An act relating to public welfare; exempting determinations of eligibility for day care and foster care licenses from application of the Minnesota criminal offenders rehabilitation law; requiring arrest information and reports to be made available to the commissioner of public welfare for the purpose of investigating applicants for a day care or residential facility license; establishing the burden of proof in certain appeals; providing for appointment of guardianship of children whose parents are deceased; amending Minnesota Statutes 1982, sections 245.783, subdivision 3; 245.801, subdivision 4; 260.242, subdivision 2, and by adding a subdivision; and 364.09.

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

Section 1. Minnesota Statutes 1982, section 245.783, subdivision 3, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 3. **STUDY OF APPLICANT.** Before issuing a license or renewing a license, the commissioner shall conduct a study of the applicant and the agency or the day care or residential facility. The bureau of criminal apprehension, a county attorney, a county sheriff, and a chief of a local police department with the informed consent of, after notice to the subject of the data, shall assist in this study by providing to the commissioner, the director of any local agency responsible for licensing, or their representatives all criminal conviction data, arrest information, reports regarding abuse or neglect of children, and investigation results available from local, state, and national criminal history record repositories, including the criminal justice data communications network, pertaining to the following individuals connected with the application for or renewal of a license: applicants, operators, all persons living in the household, all staff of any day care or residential facility and all staff of agencies placing children for care. If the commissioner is satisfied that the provisions of sections 245.781 to 245.812 and 252.28, subdivision 2 and the applicable rules and regulations promulgated by him are substantially met, a license shall be issued. If the results of the study indicate that all of the applicable laws, and rules and regulations cannot be met immediately, but can and will be met within one year or less, and the deviations do not threaten the health, rights, or safety of persons to be served, a provisional license may be issued for a period not to exceed one year from the date of issuance.

The commissioner may request advice from persons using the facility, agency, or service, operators of a similar facility, agency, or service, and relevant professionals as part of the evaluation of an applicant.

Sec. 2. Minnesota Statutes 1982, section 245.801, subdivision 4, is amended to read:

Subd. 4. **SUSPENSION; APPEAL.** An operator whose license the commissioner proposes to suspend, revoke, or make probationary shall be given notice by certified mail addressed to the location shown on the license. The notice shall contain a statement of, and the reasons for, the proposed action and shall inform the operator of his right to appeal the decision to the commissioner, in writing, within ten days after receipt of the notice of the proposed action. Upon receiving a timely written appeal, the commissioner shall give the operator reasonable notice and an opportunity for a prompt hearing before an impartial hearing examiner. The local welfare agency may demonstrate reasonable cause to revoke, suspend, not renew, or make probationary a family foster care or family day care license by submitting reports, statements, affidavits, or other reliable hearsay to substantiate the allegations of noncompliance with rules promulgated by the commissioner pursuant to section 245.802 governing family foster care licensing and family day care licensing. Upon demonstration by the agency that reasonable cause exists to take the proposed action with respect to a family foster care or family day care license, the burden of proof shifts to the licensee to demonstrate compliance with the rule by a preponderance of the

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evidence. The hearing examiner shall make a recommendation to the commissioner as to whether the license shall be suspended, revoked, or made probationary. However, if the commissioner finds that the health, safety or rights of the persons served by the facility or agency are in imminent danger, he shall order the immediate suspension of the license. The operator shall be given written notice of the order by personal service. The notice shall contain a statement of the reasons for the suspension and shall inform the operator of his right to petition the commissioner for reconsideration of the order. The petition shall be in writing and shall be made within five days after the personal service of the order. Upon receiving a timely written petition, the commissioner shall give the operator reasonable notice and an opportunity for a prompt hearing before an impartial hearing examiner with respect to the order of suspension of the license. The hearing examiner shall make a recommendation to the commissioner as to whether the order of suspension should be affirmed or reversed. The commissioner shall not be bound by the recommendation of the hearing examiner. The final decision of the commissioner shall be served on the operator by personal service, and shall inform the applicant of his rights under chapter 14 and as stated in this section.

Sec. 3. Minnesota Statutes 1982, section 260.242, is amended by adding a subdivision to read:

Subd. 1b. BOTH PARENTS DECEASED. If upon petition to the juvenile court by a reputable person, including but not limited to an agent of the commissioner of public welfare, and upon hearing in the manner provided in section 260.155, the court finds that both parents are deceased and no appointment has been made or petition for appointment filed pursuant to sections 525.615 to 525.6185, the court shall order the guardianship and legal custody of the child transferred to:

(a) the commissioner of public welfare;

(b) a licensed child placing agency; or

(c) an individual who is willing and capable of assuming the appropriate duties and responsibilities to the child.

Sec. 4. Minnesota Statutes 1982, section 260.242, subdivision 2, is amended to read:

Subd. 2. GUARDIAN'S POWERS. (a) A guardian appointed under the provisions of ~~subdivision 1~~ this section has legal custody of his ward unless the court which appoints him gives legal custody to some other person. If the court awards custody to a person other than the guardian, the guardian nonetheless has the right and responsibility of reasonable visitation, except as limited by court order.

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(b) The guardian may make major decisions affecting the person of his ward, including but not limited to giving consent (when consent is legally required) to the marriage, enlistment in the armed forces, medical, surgical, or psychiatric treatment, or adoption of the ward. When, pursuant to ~~subdivision 1, clause (a)~~ this section, the commissioner of public welfare is appointed guardian, he may delegate to the welfare board of the county in which, after the appointment, the ward resides, the authority to act for him in decisions affecting the person of his ward, including but not limited to giving consent to the marriage, enlistment in the armed forces, medical, surgical, or psychiatric treatment of the ward.

(c) A guardianship created under the provisions of ~~subdivision 1~~ this section shall not of itself include the guardianship of the estate of the ward.

Sec. 5. Minnesota Statutes 1982, section 364.09, is amended to read:

364.09 LAW ENFORCEMENT; EXCEPTION.

This chapter shall not apply to the practice of law enforcement; ~~but or to~~ eligibility for a family day care license or a family foster care license. Nothing in this section shall be construed to preclude the Minnesota police and peace officers training board from recommending policies set forth in this chapter to the attorney general for adoption in his discretion to apply to law enforcement.

Approved June 9, 1983

CHAPTER 305 — S.F.No. 164

An act relating to state government; removing the requirement of senate confirmation for appointment to certain state agencies; limiting terms of certain holdover appointees; formulating a procedure for senate and house confirmations; changing a time requirement for filing a statement of economic interest in certain cases; amending Minnesota Statutes 1982, sections 1.33; 3.9223, subdivision 1; 10A.09, subdivisions 1 and 3; 14.48; 15.0575, subdivision 2; 15.0597, subdivision 6; 15.06, subdivisions 2 and 5; 15.50, subdivision 1; 40.03, subdivision 1; 85A.01, subdivision 1; 105.401, subdivision 1; 115A.05, subdivision 2; 116E.02, subdivision 1; 116J.04; 121.82, subdivision 1; 121.844, subdivision 1; 179.72, subdivision 1; 182.664, subdivision 1; 250.05, subdivision 2; 299B.05, subdivision 1; 414.01, subdivision 2; 473.123, subdivision 4; 473.141, subdivision 3; 490.15, subdivision 1; proposing new law coded in Minnesota Statutes, chapter 15; repealing Minnesota Statutes 1982, section 11A.07, subdivision 3.

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

Section 1. Minnesota Statutes 1982, section 1.33, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.