

bicyclists inadequate guidelines where such traffic conflicts or which may be inconsistent or ambiguous when applied to traffic situations involving special bicycle facilities within or adjacent to public streets and highways.

No later than January 15, 1977 the commissioner shall report the results of this review and analysis and his recommendations for any necessary action to the legislative committees having jurisdiction over the subject.

Following the completion of the study the advisory committee on bicycling formed by the commissioner under this subdivision shall continue to function under that name in an advisory capacity to make recommendations to the commissioners of transportation and public safety and the legislature on bicycle safety and bicycle education and development programs.

Sec. 4. APPROPRIATIONS.

Subdivision 1. BICYCLE COORDINATION AND ADVISORY COMMITTEE. There is appropriated from the general fund to the commissioner of transportation the sum of \$75,000 for the creation and support of a state bicycle coordinator's office in the program management division and for the expenses of the advisory committee on bicycling formed by the commissioner under section 3. This appropriation is available until June 30, 1985.

Subd. 2. COMMUNITY BICYCLE SAFETY PROGRAMS. There is appropriated from the general fund to the commissioner of public safety the sum of \$99,500 for the support and coordination of community bicycle safety programs. This appropriation is available until June 30, 1985, provided that it may be expended by the commissioner only if insufficient federal funds are available to him for this purpose.

Sec. 5. EFFECTIVE DATE.

Sections 2 and 3 are effective the day following final enactment.

Approved April 26, 1984

CHAPTER 573 — H.F.No. 1386

An act relating to children; authorizing intervention by the juvenile court to protect children from abuse committed by family or household members; providing for prosecution by the county attorney of certain gross misdemeanors; prohibiting public inspection of certain court records relating to the identity of criminal sexual conduct victims; clarifying a term in the child abuse reporting law; amending Minnesota Statutes 1982, sections 260.015, by adding subdivisions; 260.111, by adding a subdivision; 260.191, by adding subdivisions; and Minnesota Statutes 1983 Supplement, sections 388.051, subdivision 2; and 626.556, subdivision 2; proposing new law coded in Minnesota Statutes, chapters 260 and 609.

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

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

Section 1. Minnesota Statutes 1982, section 260.015, is amended by adding a subdivision to read:

Subd. 24. DOMESTIC CHILD ABUSE. "Domestic child abuse" means:

(1) any physical injury to a minor family or household member inflicted by an adult family or household member other than by accidental means; or

(2) subsection of a minor family or household member by an adult family or household member to any act which constitutes a violation of sections 609.321 to 609.324, 609.342, 609.343, 609.344, 609.345, 609.364 to 609.3644, or 617.246.

Sec. 2. Minnesota Statutes 1982, section 260.015, is amended by adding a subdivision to read:

Subd. 25. FAMILY OR HOUSEHOLD MEMBERS. "Family or household members" means spouses, former spouses, parents and children, persons related by blood, and persons who are presently residing together or who have resided together in the past, and persons who have a child in common regardless of whether they have been married or have lived together at any time.

Sec. 3. Minnesota Statutes 1982, section 260.111, is amended by adding a subdivision to read:

Subd. 3. JURISDICTION OVER MATTERS RELATING TO DOMESTIC CHILD ABUSE. The juvenile court has jurisdiction in proceedings concerning any alleged acts of domestic child abuse. In a jurisdiction which utilizes referees in dependency and neglect actions, the court or judge may refer actions under this subdivision to a referee to take and report the evidence in the action. If the respondent does not appear after service is duly made and proved, the court may hear and determine the proceeding as a default matter. Proceedings under this subdivision shall be given docket priority by the court.

Sec. 4. [260.133] PROCEDURE; DOMESTIC CHILD ABUSE.

Subdivision 1. PETITION. The local welfare agency may bring an emergency petition on behalf of minor family or household members seeking relief from acts of domestic child abuse. The petition shall allege the existence of or immediate and present danger of domestic child abuse, and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought.

Subd. 2. TEMPORARY ORDER. If it appears from the notarized petition or by sworn affidavit that there are reasonable grounds to believe the child is in immediate and present danger of domestic child abuse, the court may grant an ex parte temporary order for protection, pending a full hearing. The court may grant relief as it deems proper, including an order:

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- (1) restraining any party from committing acts of domestic child abuse; or
- (2) excluding the alleged abusing party from the dwelling which the family or household members share or from the residence of the child.

However, no order excluding the alleged abusing party from the dwelling may be issued unless the court finds that:

- (1) the order is in the best interests of the child or children remaining in the dwelling;
- (2) a remaining adult family or household member is able to care adequately for the child or children in the absence of the excluded party; and
- (3) the local welfare agency has developed a plan to provide appropriate social services to the remaining family or household members.

An ex parte temporary order for protection shall be effective for a fixed period not to exceed 14 days. Within five days of the issuance of the temporary order, the petitioner shall file a dependency and neglect petition with the court pursuant to section 260.131, and the court shall give docket priority to the petition.

The court may renew the temporary order for protection one time for a fixed period not to exceed 14 days if a dependency and neglect petition has been filed with the court and if the court determines, upon informal review of the case file, that the renewal is appropriate.

Subd. 3. SERVICE AND EXECUTION OF ORDER. Any order issued under this section or section 5 shall be served personally upon the respondent. Where necessary, the court shall order the sheriff or constable to assist in service or execution of the order.

Subd. 4. MODIFICATION OF ORDER. Upon application, notice to all parties, and hearing, the court may modify the terms of an existing order for protection issued under this section or section 5.

Subd. 5. RIGHT TO APPLY FOR RELIEF. The local welfare agency's right to apply for relief on behalf of a child shall not be affected by the child's leaving the dwelling or household to avoid abuse.

Subd. 6. REAL ESTATE. Nothing in this section or section 5 shall affect the title to real estate.

Subd. 7. OTHER REMEDIES AVAILABLE. Any relief ordered under this section or section 5 shall be in addition to other available civil or criminal remedies.

Subd. 8. COPY TO LAW ENFORCEMENT AGENCY. An order for protection granted pursuant to this section or section 5 shall be forwarded by the

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clerk of court within 24 hours to the local law enforcement agency with jurisdiction over the residence of the child.

Each appropriate law enforcement agency shall make available to other law enforcement officers through a system of verification, information as to the existence and status of any order for protection issued pursuant to this section or section 5.

Sec. 5. Minnesota Statutes 1982, section 260.191, is amended by adding a subdivision to read:

Subd. 1b. DOMESTIC CHILD ABUSE. If the court finds that the child is a victim of domestic child abuse, as defined in section 1, it may order any of the following dispositions of the case in addition to or as alternatives to the dispositions authorized under subdivision 1:

(1) restrain any party from committing acts of domestic child abuse;

(2) exclude the abusing party from the dwelling which the family or household members share or from the residence of the child;

(3) on the same basis as is provided in chapter 518, establish temporary visitation with regard to minor children of the adult family or household members;

(4) on the same basis as is provided in chapter 518, establish temporary support or maintenance for a period of 30 days for minor children or a spouse;

(5) provide counseling or other social services for the family or household members; or

(6) order the abusing party to participate in treatment or counseling services.

Any relief granted by the order for protection shall be for a fixed period not to exceed one year.

However, no order excluding the abusing party from the dwelling may be issued unless the court finds that:

(1) the order is in the best interests of the child or children remaining in the dwelling;

(2) a remaining adult family or household member is able to care adequately for the child or children in the absence of the excluded party; and

(3) the local welfare agency has developed a plan to provide appropriate social services to the remaining family or household members.

Sec. 6. Minnesota Statutes 1982, section 260.191, is amended by adding a subdivision to read:

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Subd. 1c. SUPPORT ORDERS. If the court issues an order for protection pursuant to section 5 excluding an abusing party from the dwelling who is the parent of a minor family or household member, it shall transfer the case file to the court which has jurisdiction over proceedings under chapter 518 for the purpose of establishing support or maintenance for minor children or a spouse, as provided in chapter 518, during the effective period of the order for protection. The court to which the case file is transferred shall schedule and hold a hearing on the establishment of support or maintenance within 30 days of the issuance of the order for protection. After an order for support or maintenance has been granted or denied, the case file shall be returned to the juvenile court, and the order for support or maintenance, if any, shall be incorporated into the order for protection.

Sec. 7. [260.271] VIOLATION OF AN ORDER FOR PROTECTION.

Subdivision 1. VIOLATION; PENALTY. Whenever an order for protection is granted pursuant to section 4 or 5 restraining the person or excluding the person from the residence, and the respondent or person to be restrained knows of the order, violation of the order for protection is a misdemeanor.

Subd. 2. ARREST. A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order granted pursuant to section 4 or 5 restraining the person or excluding the person from the residence, if the existence of the order can be verified by the officer.

Subd. 3. CONTEMPT. A violation of an order for protection shall also constitute contempt of court and the person violating the order shall be subject to the penalties for contempt.

Subd. 4. ORDER TO SHOW CAUSE. Upon the filing of an affidavit by the agency or any peace officer, alleging that the respondent has violated an order for protection granted pursuant to section 4 or 5, the court may issue an order to the respondent, requiring the respondent to appear and show cause within 14 days why he should not be found in contempt of court. The hearing may be held by the court in any county in which the child or respondent temporarily or permanently resides at the time of the alleged violation.

A peace officer is not liable under section 609.43, clause (1), for failure to perform a duty required by subdivision 2 of this section.

Sec. 8. Minnesota Statutes 1983 Supplement, section 388.051, subdivision 2, is amended to read:

Subd. 2. SPECIAL PROVISION; GROSS MISDEMEANORS. In Anoka, Carver, Dakota, Hennepin, Scott, and Washington counties, only the county attorney shall only prosecute gross misdemeanor violations of sections 290.53, subdivisions 4 and 8; 290.92, subdivision 15; 290A.11, subdivision 2;

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297A.08; 297A.39, subdivisions 4 and 8; 297B.10; 609.255, subdivision 3; 609.377; 609.378; ~~and 609.41; and 617.247.~~

Sec. 9. [609.3471] RECORDS PERTAINING TO VICTIM IDENTITY CONFIDENTIAL.

Notwithstanding any provision of law to the contrary, none of the records or reports relating to complaints or indictments issued pursuant to sections 609.342, clauses (a) or (b); 609.343, clauses (a) or (b); 609.344, clauses (a) or (b); 609.345, clauses (a) or (b); or 609.3641 to 609.3644, pertaining to the identity of the victim shall be open to public inspection, except by order of the court.

Sec. 10. Minnesota Statutes 1983 Supplement, section 626.556, subdivision 2, is amended to read:

Subd. 2. **DEFINITIONS.** As used in this section, the following terms have the meanings given them unless the specific content indicates otherwise:

(a) "Sexual abuse" means the subjection by a person responsible for the child's care, or by a person in a position of authority, as defined in section 609.341, subdivision 10, to any act which constitutes a violation of sections 609.342, 609.343, 609.344, or 609.345, or sections 609.364 to 609.3644. Sexual abuse also includes any act which involves a minor which constitutes a violation of sections 609.321 to 609.324 or 617.246.

(b) "Person responsible for the child's care" means a parent, guardian, teacher, school administrator, or other lawful custodian of a child having either full-time or short-term care responsibilities including, but not limited to, day care, baby sitting whether paid or unpaid, counseling, teaching, and coaching.

(c) "Neglect" means failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter or medical care when reasonably able to do so or failure to protect a child from conditions or actions which imminently and seriously endanger the child's physical or mental health when reasonably able to do so. Nothing in this section shall be construed to (i) mean that a child is neglected solely because the child's parent, guardian or other person responsible for his care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child, or (ii) impose upon persons, not otherwise legally responsible for providing a child with necessary food, clothing, shelter or medical care, a duty to provide that care.

(d) "Physical abuse" means:

(i) Any physical injury inflicted by a person responsible for the child's care on a child other than by accidental means; or

(ii) Any physical injury that cannot reasonably be explained by the child's history of injuries.

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(e) "Report" means any report received by the local welfare agency, police department or county sheriff pursuant to this section.

(f) "Facility" means a day care facility, residential facility, agency, hospital, sanitorium, or other facility or institution required to be licensed pursuant to sections 144.50 to 144.58, 241.021, or 245.781 to 245.812.

(g) "Operator" means an operator or agency as defined in section 245.782.

(h) "Commissioner" means the commissioner of public welfare.

Sec. 11. EFFECTIVE DATE.

Sections 1 to 7 apply to acts of domestic child abuse committed on or after August 1, 1984. Sections 8 to 10 are effective August 1, 1984.

CHAPTER 574 — H.F.No. 1427

An act relating to retirement; altering the investment authority for police and firefighter's relief associations; making various changes in the benefits for various retirement funds and plans; making conforming changes in benefit calculations; amending Minnesota Statutes 1982, sections 3.082; 69.775; 136.82, subdivision 1; 352.113, subdivision 3; 352.95, subdivision 1a; 352D.02, by adding a subdivision; 353.34, by adding a subdivision; 354.62, subdivision 2; 422A.18, subdivision 3; 424.24, subdivision 2; 490.124, subdivision 3; and 490.129; Minnesota Statutes 1983 Supplement, sections 69.77, subdivision 2; 352.113, subdivision 2; 352.115, subdivision 8; and 356.61; Laws 1947, chapter 43, section 23, as amended; Laws 1963, chapter 643, section 20; Laws 1973, chapters 359, section 5, subdivision 2; and 432, section 4; Laws 1977, chapter 275, section 1; Laws 1980, chapter 600, section 17; and Laws 1981, chapter 68, section 43; proposing new law coded in Minnesota Statutes, chapter 423A; repealing Laws 1971, chapter 184; Laws 1973, chapter 283; Laws 1978, chapter 617; Laws 1981, chapter 224, sections 255 and 256; Laws 1982, chapter 578, article II, section 1, subdivision 7, and section 3.

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

Section 1. Minnesota Statutes 1982, section 3.082, is amended to read:

3.082 MEMBERS' EMPLOYMENT; CONTINUATION.

Any member of the legislature of the state of Minnesota who held a position, other than a temporary position, in the employ of any private employer in Minnesota at the commencement of his service in any legislative session, who makes application for reemployment not later than 30 days after the last legislative day in each calendar year, shall be continued in or restored to such position, or to a position of like seniority, status and pay. Retirement benefits under an employer-sponsored pension or retirement plan shall not be reduced by reason of time spent in legislative service.

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