

Sec. 8. Minnesota Statutes 1994, section 3.9226, subdivision 5, is amended to read:

Subd. 5. **POWERS.** (a) The council may contract in its own name but may not accept or receive a loan or incur indebtedness except as otherwise provided by law. Contracts must be approved by a majority of the members of the council and executed by the chair and the executive director. The council may apply for, receive, and expend in its own name grants and gifts of money consistent with the powers and duties specified in this section.

(b) The council shall appoint an executive director who is experienced in administrative activities and familiar with the problems and needs of Asian-Pacific people. The council may delegate to the executive director powers and duties under this section that do not require council approval. The executive director serves in the unclassified service and may be removed at any time by the council. The executive director shall recommend to the council, and the council may appoint the appropriate staff necessary to carry out the duties of the council. All staff members serve in the unclassified service. The commissioner of administration shall provide the council with necessary administrative services.

Sec. 9. EFFECTIVE DATE.

Sections 1 to 8 are effective the day following final enactment.

Presented to the governor March 30, 1996

Signed by the governor April 2, 1996, 12:50 p.m.

CHAPTER 421—S.F.No. 2123

An act relating to children; clarifying the procedures peace officers must follow when deciding where to place a child placed on a health and welfare hold; requiring certain notices; clarifying the duties of related persons receiving a child on a 72-hour health and welfare hold; clarifying the reporting procedures and requirements for the placing officer to notify the county agency and the court; changing certain emergency licensing procedures; authorizing certain petitions and appearances; specifying review in certain cases; amending Minnesota Statutes 1994, sections 257.02; 257.03; 260.015, subdivision 14; 260.165, subdivision 3; 260.171, subdivision 2; and 260.173, subdivision 2; Minnesota Statutes 1995 Supplement, section 245A.035, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 257.

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

Section 1. Minnesota Statutes 1995 Supplement, section 245A.035, subdivision 2, is amended to read:

Subd. 2. **COOPERATION WITH EMERGENCY LICENSING PROCESS.** (a) A county agency that places a child with a relative who is not licensed to provide foster care must begin the process of securing an emergency license for the relative as soon as possible and must conduct the initial inspection required by subdivision 3, clause (1), whenever possible, prior to placing the child in the relative's home, but no later than three working days after placing the child in the home. A child placed in the home of a relative

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who is not licensed to provide foster care must be removed from that home if the relative fails to cooperate with the county agency in securing an emergency foster care license. The commissioner may only issue an emergency foster care license to a relative with whom the county agency wishes to place or has placed a child for foster care, or to a relative with whom a child has been placed by court order.

(b) If a child is to be placed in the home of a relative not licensed to provide foster care, either the placing agency or the county agency in the county in which the relative lives shall conduct the emergency licensing process as required in this section.

Sec. 2. Minnesota Statutes 1994, section 257.02, is amended to read:

257.02 SURRENDER OF PARENTAL RIGHTS.

No person other than the parents or relatives may assume the permanent care and custody of a child under 14 years of age unless authorized so to do by an order or decree of court. However, if a parent of a child who is being cared for by a relative dies, or if the parent is not or cannot fulfill parental duties with respect to the child, the relative may bring a petition under section 260.131. Except in proceedings for adoption, no parent may assign or otherwise transfer to another parental rights or duties with respect to the permanent care and custody of a child under 14 years of age. Any such transfer shall be void.

Sec. 3. Minnesota Statutes 1994, section 257.03, is amended to read:

257.03 NOTICE TO COMMISSIONER OF HUMAN SERVICES.

Any person not exempted from the requirement for licensure under chapter 245A receiving a child in the person's home:

(1) because of the death, injury, or illness of the child's parent if the person intends to keep the child for more than 30 days; or

(2) with intent to adopt the child or keep the child permanently, except a person receiving a child from an authorized agency, must notify the commissioner of human services in writing within 30 days after the child is received. Notice shall state the true name of the child; the child's last previous address; the name and address of the child's parents or legal guardian and of persons with whom the child last resided; and the names and addresses of persons who placed the child in the home, arranged for, or assisted with arrangements for the child's placement there; and such other facts about the child or the home as the commissioner may require. It is the duty of the commissioner or a designated agent to investigate the circumstances surrounding the child's entry into the home and to take appropriate action to assure for the child, the biological parents, and the foster parents the full protection of all laws of Minnesota relating to custody and foster care of children. Except as provided by section 317A.907, no person shall solicit, receive, or accept any payment, promise of payment, or compensation, for placing a child in foster care or for assisting to place a child in foster care. Nor shall any person pay or promise to pay or in any way compensate any person, for placing or for assisting to place a child in foster care.

Sec. 4. [257.035] EMERGENCY.

A relative who acts to protect a child in an emergency or when a parent dies is not a custodian as defined under section 260.015. If the relative is unable or unwilling to provide for the ongoing care, custody, and control of the child, the child may be considered a child in need of protection or services under section 260.015. The relative may report the

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death or emergency to the local social service agency. Upon receiving the report, the local social service agency shall assess the circumstances and the needs of the child. The agency may place the child in foster care with a relative who meets the licensing standards under chapter 245A, and may pursue court action on behalf of the child.

Sec. 5. Minnesota Statutes 1994, section 260.015, subdivision 14, is amended to read:

Subd. 14. **CUSTODIAN.** "Custodian" means any person who is under a legal obligation to provide care and support for a minor or who is in fact providing care and support for a minor. This subdivision does not impose upon persons who are not otherwise legally responsible for providing a child with necessary food, clothing, shelter, education, or medical care a duty to provide that care. For an Indian child, custodian means any Indian person who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody, and control has been transferred by the parent of the child, as provided in section 257.351, subdivision 8.

Sec. 6. Minnesota Statutes 1994, section 260.165, subdivision 3, is amended to read:

Subd. 3. **NOTICE TO PARENT OR CUSTODIAN.** Whenever a peace officer takes a child into custody for shelter care or relative placement pursuant to subdivision 1; section 260.135, subdivision 5; or section 260.145, the officer shall give the parent or custodian of the child a list of names, addresses, and telephone numbers of social service agencies that offer child welfare services. If the parent or custodian was not present when the child was removed from the residence, the list shall be left with an adult on the premises or left in a conspicuous place on the premises if no adult is present. If the officer has reason to believe the parent or custodian is not able to read and understand English, the officer must provide a list that is written in the language of the parent or custodian. The list shall be prepared by the commissioner of human services. The commissioner shall prepare lists for each county and provide each county with copies of the list without charge. The list shall be reviewed annually by the commissioner and updated if it is no longer accurate. Neither the commissioner nor any peace officer or the officer's employer shall be liable to any person for mistakes or omissions in the list. The list does not constitute a promise that any agency listed will in fact assist the parent or custodian.

Sec. 7. Minnesota Statutes 1994, section 260.171, subdivision 2, is amended to read:

Subd. 2. (a) If the child is not released as provided in subdivision 1, the person taking the child into custody shall notify the court as soon as possible of the detention of the child and the reasons for detention.

(b) No child may be detained in a juvenile secure detention facility or shelter care facility longer than 36 hours, excluding Saturdays, Sundays, and holidays, after being taken into custody for a delinquent act as defined in section 260.015, subdivision 5, unless a petition has been filed and the judge or referee determines pursuant to section 260.172 that the child shall remain in detention.

(c) No child may be detained in an adult jail or municipal lockup longer than 24 hours, excluding Saturdays, Sundays, and holidays, or longer than six hours in an adult jail or municipal lockup in a standard metropolitan statistical area, after being taken into custody for a delinquent act as defined in section 260.015, subdivision 5, unless:

(1) a petition has been filed under section 260.131; and

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(2) a judge or referee has determined under section 260.172 that the child shall remain in detention.

After August 1, 1991, no child described in this paragraph may be detained in an adult jail or municipal lockup longer than 24 hours, excluding Saturdays, Sundays, and holidays, or longer than six hours in an adult jail or municipal lockup in a standard metropolitan statistical area, unless the requirements of this paragraph have been met and, in addition, a motion to refer the child for adult prosecution has been made under section 260.125.

(d) No child taken into custody and placed in a shelter care facility or relative's home by a peace officer pursuant to section 260.165, subdivision 1, clause (a) or (c)(2) may be held in a shelter care facility custody longer than 72 hours, excluding Saturdays, Sundays and holidays, unless a petition has been filed and the judge or referee determines pursuant to section 260.172 that the child shall remain in custody.

(e) If a child described in paragraph (c) is to be detained in a jail beyond 24 hours, excluding Saturdays, Sundays, and holidays, the judge or referee, in accordance with rules and procedures established by the commissioner of corrections, shall notify the commissioner of the place of the detention and the reasons therefor. The commissioner shall thereupon assist the court in the relocation of the child in an appropriate juvenile secure detention facility or approved jail within the county or elsewhere in the state, or in determining suitable alternatives. The commissioner shall direct that a child detained in a jail be detained after eight days from and including the date of the original detention order in an approved juvenile secure detention facility with the approval of the administrative authority of the facility. If the court refers the matter to the prosecuting authority pursuant to section 260.125, notice to the commissioner shall not be required.

Sec. 8. Minnesota Statutes 1994, section 260.173, subdivision 2, is amended to read:

Subd. 2. Notwithstanding the provisions of subdivision 1, if the child had been taken into custody pursuant to section 260.165, subdivision 1, clause (a) or clause (c)(2), and is not alleged to be delinquent, the child shall be detained in the least restrictive setting consistent with the child's health and welfare and in closest proximity to the child's family as possible. Placement may be with a child's relative, or in a shelter care facility. The placing officer shall comply with this section and shall document why a less restrictive setting will or will not be in the best interests of the child for placement purposes.

Presented to the governor March 30, 1996

Signed by the governor April 2, 1996, 12:50 p.m.

CHAPTER 422—S.F.No. 2255

An act relating to local government; providing for certain vacancies in the elected offices of mayor or council member in statutory cities and county commissioner; amending Minnesota Statutes 1994, sections 375.101; and 412.02, subdivision 2a, and by adding a subdivision.

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

Section 1. Minnesota Statutes 1994, section 375.101, is amended to read:

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