

has to measure its success in achieving these goals, including any comparative data the organization may have regarding differences between individuals who did and did not receive training; and

(11) the number and types of employment and training vendors used in the program and the method used by the program to evaluate the vendors' effectiveness.

Presented to the governor May 6, 1999

Signed by the governor May 10, 1999, 1:07 p.m.

CHAPTER 139—S.F.No. 184

An act relating to juvenile justice; recodifying, clarifying, and relocating provisions relating to juvenile delinquency and child protection; providing separate areas of law dealing with child protection and delinquency; amending Minnesota Statutes 1998, section 260.011, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 260; proposing coding for new law as Minnesota Statutes, chapters 260B; and 260C; repealing Minnesota Statutes 1998, sections 257.069; 257.071; 257.0711; 257.072; 257.35; 257.351; 257.352; 257.353; 257.354; 257.355; 257.356; 257.3571; 257.3572; 257.3573; 257.3574; 257.3575; 257.3576; 257.3577; 257.3578; 257.3579; 257.40; 257.41; 257.42; 257.43; 257.44; 257.45; 257.46; 257.47; 257.48; 260.011, subdivision 2; 260.013; 260.015; 260.092; 260.094; 260.096; 260.101; 260.111; 260.115; 260.121; 260.125; 260.126; 260.131; 260.132; 260.133; 260.135; 260.141; 260.145; 260.151; 260.155; 260.157; 260.161; 260.162; 260.165; 260.171; 260.172; 260.173; 260.1735; 260.174; 260.181; 260.185; 260.191; 260.192; 260.193; 260.195; 260.211; 260.215; 260.221; 260.241; 260.242; 260.245; 260.251; 260.255; 260.261; 260.271; 260.281; 260.291; 260.301; 260.315; 260.35; 260.36; 260.39; and 260.40.

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

ARTICLE 1

ORGANIZATIONAL PROVISIONS

Section 1. Minnesota Statutes 1998, section 260.011, subdivision 1, is amended to read:

Subdivision 1. **CITATION.** Sections 260.011 to ~~260.301~~ 260.91 may be cited as general provisions of the Juvenile Court Act.

Sec. 2. **[260.751] CITATION.**

Sections 260.751 to 260.835 may be cited as the "Minnesota Indian Family Preservation Act." ~~[257.35]~~

Sec. 3. **[260.755] DEFINITIONS.**

Subdivision 1. SCOPE. As used in sections 260.751 to 260.835, the following terms have the meanings given them. [257.351, subd. 1]

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2. **ADMINISTRATIVE REVIEW.** “Administrative review” means review under section 260C.212. [257.351, subd. 2]

Subd. 3. **CHILD PLACEMENT PROCEEDING.** “Child placement proceeding” includes a judicial proceeding which could result in the following:

(a) “Adoptive placement” means the permanent placement of an Indian child for adoption, including an action resulting in a final decree of adoption.

(b) “Involuntary foster care placement” means an action removing an Indian child from its parents or Indian custodian for temporary placement in a foster home, institution, or the home of a guardian. The parent or Indian custodian cannot have the child returned upon demand, but parental rights have not been terminated.

(c) “Preadoptive placement” means the temporary placement of an Indian child in a foster home or institution after the termination of parental rights, before or instead of adoptive placement.

(d) “Termination of parental rights” means an action resulting in the termination of the parent-child relationship under section 260C.301.

The terms include placements based upon juvenile status offenses, but do not include a placement based upon an act which if committed by an adult would be deemed a crime, or upon an award of custody in a divorce proceeding to one of the parents. [257.351, subd. 3]

Subd. 4. **COMMISSIONER.** “Commissioner” means the commissioner of human services. [257.351, subd. 3a]

Subd. 5. **DEMAND.** “Demand” means a written and notarized statement signed by a parent or Indian custodian of a child which requests the return of the child who has been voluntarily placed in foster care. [257.351, subd. 4]

Subd. 6. **FAMILY-BASED SERVICES.** “Family-based services” means intensive family-centered services to families primarily in their own home and for a limited time. [257.351, subd. 4a]

Subd. 7. **INDIAN.** “Indian” means a person who is a member of an Indian tribe or an Alaskan native and a member of a regional corporation as defined in section 7 of the Alaska Native Claims Settlement Act, United States Code, title 43, section 1606. [257.351, subd. 5]

Subd. 8. **INDIAN CHILD.** “Indian child” means an unmarried person who is under age 18 and is:

(1) a member of an Indian tribe; or

(2) eligible for membership in an Indian tribe. [257.351, subd. 6]

Subd. 9. **INDIAN CHILD'S TRIBE.** “Indian child's tribe” means the Indian tribe in which an Indian child is a member or eligible for membership. In the case of an Indian child who is a member of or eligible for membership in more than one tribe, the Indian child's tribe is the tribe with which the Indian child has the most significant contacts. If that tribe does not express an interest in the outcome of the actions taken under sections 260.751 to 260.835 with respect to the child, any other tribe in which the child is eligible

New language is indicated by underline, deletions by ~~strikeout~~.

for membership that expresses an interest in the outcome may act as the Indian child's tribe. [257.351, subd. 7]

Subd. 10. INDIAN CUSTODIAN. "Indian custodian" means an 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. [257.351, subd. 8]

Subd. 11. INDIAN ORGANIZATION. "Indian organization" means an organization providing child welfare services that is legally incorporated as a nonprofit organization, is registered with the secretary of state, and is governed by a board of directors having at least a majority of Indian directors. [257.351, subd. 8a]

Subd. 12. INDIAN TRIBE. "Indian tribe" means an Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the secretary because of their status as Indians, including any band under the Alaska Native Claims Settlement Act, United States Code, title 43, section 1602, and exercising tribal governmental powers. [257.351, subd. 9]

Subd. 13. LOCAL SOCIAL SERVICE AGENCY. "Local social service agency" means the local agency under the authority of the county welfare or human services board or county board of commissioners which is responsible for human services. [257.351, subd. 10]

Subd. 14. PARENT. "Parent" means the biological parent of an Indian child, or any Indian person who has lawfully adopted an Indian child, including a person who has adopted a child by tribal law or custom. It does not include an unmarried father whose paternity has not been acknowledged or established. [257.351, subd. 11]

Subd. 15. PERMANENCY PLANNING. "Permanency planning" means the systematic process of carrying out, within a short time, a set of goal-oriented activities designed to help children live in families that offer continuity of relationships with nurturing parents or caretakers, and the opportunity to establish lifetime relationships. [257.351, subd. 11a]

Subd. 16. PLACEMENT PREVENTION AND FAMILY REUNIFICATION SERVICES. "Placement prevention and family reunification services" means services designed to help children remain with their families or to reunite children with their parents. [257.351, subd. 11b]

Subd. 17. PRIVATE CHILD-PLACING AGENCY. "Private child-placing agency" means a private organization, association, or corporation providing assistance to children and parents in their own homes and placing children in foster care or for adoption. [257.351, subd. 12]

Subd. 18. RESERVATION. "Reservation" means Indian country as defined in United States Code, title 18, section 1151 and any lands which are either held by the United States in trust for the benefit of an Indian tribe or individual, or held by an Indian tribe or individual subject to a restriction by the United States against alienation. [257.351, subd. 13]

Subd. 19. SECRETARY. "Secretary" means the secretary of the United States Department of the Interior. [257.351, subd. 14]

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 20. **TRIBAL COURT.** “Tribal court” means a court with federally recognized jurisdiction over child custody proceedings which is either a court of Indian offenses, or a court established and operated under the code or custom of an Indian tribe, or the administrative body of a tribe which is vested with authority over child custody proceedings. Except as provided in section 260.771, subdivision 5, nothing in this chapter shall be construed as conferring jurisdiction on an Indian tribe. [257.351, subd. 15]

Subd. 21. **TRIBAL SOCIAL SERVICE AGENCY.** “Tribal social service agency” means the unit under authority of the governing body of the Indian tribe which is responsible for human services. [257.351, subd. 16]

Subd. 22. **VOLUNTARY FOSTER CARE PLACEMENT.** “Voluntary foster care placement” means a decision in which there has been participation by a local social service agency or private child-placing agency resulting in the temporary placement of an Indian child away from the home of the child’s parents or Indian custodian in a foster home, institution, or the home of a guardian, and the parent or Indian custodian may have the child returned upon demand. [257.351, subd. 17]

Sec. 4. [260.761] **SOCIAL SERVICE AGENCY AND PRIVATE LICENSED CHILD-PLACING AGENCY NOTICE TO TRIBES.**

Subdivision 1. **DETERMINATION OF INDIAN CHILD’S TRIBE.** The local social service agency or private licensed child-placing agency shall determine whether a child brought to its attention for the purposes described in this section is an Indian child and the identity of the Indian child’s tribe. [257.352, subd. 1]

Subd. 2. **AGENCY NOTICE OF POTENTIAL OUT-OF-HOME PLACEMENT.** When a local social service agency or private child-placing agency determines that an Indian child is in a dependent or other condition that could lead to an out-of-home placement and requires the continued involvement of the agency with the child for a period in excess of 30 days, the agency shall send notice of the condition and of the initial steps taken to remedy it to the Indian child’s tribal social service agency within seven days of the determination. At this and any subsequent stage of its involvement with an Indian child, the agency shall, upon request, give the tribal social service agency full cooperation including access to all files concerning the child. If the files contain confidential or private data, the agency may require execution of an agreement with the tribal social service agency that the tribal social service agency shall maintain the data according to statutory provisions applicable to the data. This subdivision applies whenever the court transfers legal custody of an Indian child under section 260B.198, subdivision 1, paragraph (c), clause (1), (2), or (3) following an adjudication for a misdemeanor-level delinquent act. [257.352, subd. 2]

Subd. 3. **NOTICE OF POTENTIAL PREADOPTIVE OR ADOPTIVE PLACEMENT.** In any voluntary adoptive or preadoptive placement proceeding in which a local social service agency, private child-placing agency, petitioner in the adoption, or any other party has reason to believe that a child who is the subject of an adoptive or preadoptive placement proceeding is or may be an “Indian child,” as defined in section 260.755, subdivision 8, and United States Code, title 25, section 1903(4), the agency or person shall notify the Indian child’s tribal social service agency by registered mail with return receipt requested of the pending proceeding and of the right of intervention under subdivision 6. If the identity or location of the child’s tribe cannot be determined, the no-

New language is indicated by underline, deletions by strikeout.

tice must be given to the United States secretary of interior in like manner, who will have 15 days after receipt of the notice to provide the requisite notice to the tribe. No preadoptive or adoptive placement proceeding may be held until at least ten days after receipt of the notice by the tribe or secretary. Upon request, the tribe must be granted up to 20 additional days to prepare for the proceeding. The agency or notifying party shall include in the notice the identity of the birth parents and child absent written objection by the birth parents. The private child-placing agency shall inform the birth parents of the Indian child of any services available to the Indian child through the child's tribal social service agency, including child placement services, and shall additionally provide the birth parents of the Indian child with all information sent from the tribal social service agency in response to the notice. [257.352, subd. 3]

Subd. 4. UNKNOWN FATHER. If the local social service agency, private child-placing agency, the court, petitioner, or any other party has reason to believe that a child who is the subject of an adoptive placement proceeding is or may be an Indian child but the father of the child is unknown and has not registered with the fathers' adoption registry pursuant to section 259.52, the agency or person shall provide to the tribe believed to be the Indian child's tribe information sufficient to enable the tribe to determine the child's eligibility for membership in the tribe, including, but not limited to, the legal and maiden name of the birth mother, her date of birth, the names and dates of birth of her parents and grandparents, and, if available, information pertaining to the possible identity, tribal affiliation, or location of the birth father. [257.352, subd. 3a]

Subd. 5. PROOF OF SERVICE OF NOTICE UPON TRIBE OR SECRETARY. In cases where an agency or party to an adoptive placement knows or has reason to believe that a child is or may be an Indian child, proof of service upon the child's tribe or the secretary of interior must be filed with the adoption petition. [257.352, subd. 3b]

Subd. 6. INDIAN TRIBE'S RIGHT OF INTERVENTION. In any state court proceeding for the voluntary adoptive or preadoptive placement of an Indian child, the Indian child's tribe shall have a right to intervene at any point in the proceeding. [257.352, subd. 3c]

Subd. 7. IDENTIFICATION OF EXTENDED FAMILY MEMBERS. Any agency considering placement of an Indian child shall make reasonable efforts to identify and locate extended family members. [257.352, subd. 4]

Sec. 5. [260.765] VOLUNTARY FOSTER CARE PLACEMENT.

Subdivision 1. DETERMINATION OF INDIAN CHILD'S TRIBE. The local social service agency or private licensed child-placing agency shall determine whether a child brought to its attention for the purposes described in this section is an Indian child and the identity of the Indian child's tribe. [257.353, subd. 1]

Subd. 2. NOTICE. When an Indian child is voluntarily placed in foster care, the local social service agency involved in the decision to place the child shall give notice of the placement to the child's parents, tribal social service agency, and the Indian custodian within seven days of placement, excluding weekends and holidays.

If a private licensed child-placing agency makes a temporary voluntary foster care placement pending a decision on adoption by a parent, notice of the placement shall be

New language is indicated by underline, deletions by ~~strikeout~~.

given to the child's parents, tribal social service agency, and the Indian custodian upon the filing of a petition for termination of parental rights or three months following the temporary placement, whichever occurs first.

At this and any subsequent stage of its involvement with an Indian child, the agency shall, upon request, give the tribal social service agency full cooperation including access to all files concerning the child. If the files contain confidential or private data, the agency may require execution of an agreement with the tribal social service agency that the tribal social service agency shall maintain the data according to statutory provisions applicable to the data. [257.353, subd. 2]

Subd. 3. NOTICE OF ADMINISTRATIVE REVIEW. In an administrative review of a voluntary foster care placement, the tribal social service agency of the child, the Indian custodian, and the parents of the child shall have notice and a right of participation in the review. [257.353, subd. 3]

Subd. 4. RETURN OF CHILD IN VOLUNTARY PLACEMENT. Upon demand by the parent or Indian custodian of an Indian child, the local social service agency or private licensed child-placing agency shall return the child in voluntary foster care placement to the parent or Indian custodian within 24 hours of the receipt of the demand. If the request for return does not satisfy the requirement of section 260.755, subdivision 5, the local social service agency or private child-placing agency shall immediately inform the parent or Indian custodian of the Indian child of the requirement. [257.353, subd. 4]

Subd. 5. IDENTIFICATION OF EXTENDED FAMILY MEMBERS. Any agency considering placement of an Indian child shall make reasonable efforts to identify and locate extended family members. [257.353, subd. 5]

Sec. 6. [260.771] CHILD PLACEMENT PROCEEDINGS.

Subdivision 1. INDIAN TRIBE JURISDICTION. An Indian tribe with a tribal court has exclusive jurisdiction over a child placement proceeding involving an Indian child who resides within the reservation of such tribe at the commencement of the proceedings. When an Indian child is in the legal custody of a person or agency pursuant to an order of a tribal court, the Indian tribe retains exclusive jurisdiction, notwithstanding the residence or domicile of the child. [257.354, subd. 1]

Subd. 2. COURT DETERMINATION OF TRIBAL AFFILIATION OF CHILD. In any child placement proceeding, the court shall establish whether an Indian child is involved and the identity of the Indian child's tribe. [257.354, subd. 2]

Subd. 3. TRANSFER OF PROCEEDINGS. In a proceeding for the termination of parental rights or involuntary foster care placement of an Indian child not within the jurisdiction of subdivision 1, the court, in the absence of good cause to the contrary, shall transfer the proceeding to the jurisdiction of the tribe absent objection by either parent, upon the petition of either parent or the Indian custodian or the Indian child's tribe. The transfer shall be subject to declination by the tribal court of such tribe. [257.354, subd. 3]

Subd. 4. EFFECT OF TRIBAL COURT PLACEMENT ORDERS. To the extent that any child subject to sections 260.755 to 260.835 is otherwise eligible for social services, orders of a tribal court concerning placement of such child shall have the same force and effect as orders of a court of this state. In any case where the tribal court orders

New language is indicated by underline, deletions by strikeout.

placement through a local social service agency, the court shall provide to the local agency notice and an opportunity to be heard regarding the placement. Determination of county of financial responsibility for the placement shall be determined by the local social service agency in accordance with section 256G.02, subdivision 4. Disputes concerning the county of financial responsibility shall be settled in the manner prescribed in section 256G.09. [257.354, subd. 4]

Subd. 5. INDIAN TRIBE AGREEMENTS. The commissioner is hereby authorized to enter into agreements with Indian tribes pursuant to United States Code, title 25, section 1919, respecting care and custody of Indian children and jurisdiction over child custody proceedings, including agreements which may provide for orderly transfer of jurisdiction on a case-by-case basis and agreements which provide for concurrent jurisdiction between the state and an Indian tribe. [257.354, subd. 5]

Sec. 7. [260.775] PLACEMENT RECORDS.

The commissioner of human services shall publish annually an inventory of all Indian children in residential facilities. The inventory shall include, by county and statewide, information on legal status, living arrangement, age, sex, tribe in which the child is a member or eligible for membership, accumulated length of time in foster care, and other demographic information deemed appropriate concerning all Indian children in residential facilities. The report must also state the extent to which authorized child-placing agencies comply with the order of preference described in United States Code, title 25, section 1901, et seq. [257.355]

Sec. 8. [260.781] RECORDS; INFORMATION AVAILABILITY.

Subdivision 1. COURT DECREE INFORMATION. A state court entering a final decree or order in an Indian child adoptive placement shall provide the department of human services and the child's tribal social service agency with a copy of the decree or order together with such other information to show:

- (1) the name and tribal affiliation of the child;
- (2) the names and addresses of the biological parents;
- (3) the names and addresses of the adoptive parents; and
- (4) the identity of any agency having files or information relating to the adoptive placement.

If the court records contain an affidavit of the biological or adoptive parent or parents requesting anonymity, the court shall delete the name and address of the biological or adoptive parents from the information sent to the child's tribal social service agency. [257.356, subd. 1]

Subd. 2. DISCLOSURE OF RECORDS. Upon the request of an adopted Indian person over the age of 18, the adoptive or foster parents of an Indian person, or an Indian tribal social service agency, the department of human services shall disclose to the Indian person's tribe information necessary for membership of an Indian person in the tribe in which the person may be eligible for membership or for determining any rights or benefits associated with that membership. When the documents relating to the person contain an affidavit from the biological or adoptive parent or parents requesting anonymity, the

New language is indicated by underline, deletions by ~~strikeout~~.

department must use the procedures described in United States Code, title 25, section 1951, paragraph (b). [257.356, subd. 2]

Sec. 9. [260.785] **INDIAN CHILD WELFARE GRANTS.**

Subdivision 1. **PRIMARY SUPPORT GRANTS.** The commissioner shall establish direct grants to Indian tribes, Indian organizations, and tribal social service agency programs located off-reservation that serve Indian children and their families to provide primary support for Indian child welfare programs to implement the Indian Family Preservation Act. [257.3571, subd. 1]

Subd. 2. **SPECIAL FOCUS GRANTS.** The commissioner shall establish direct grants to local social service agencies, tribes, Indian organizations, and other organizations for placement prevention and family reunification services for Indian children. [257.3571, subd. 2]

Subd. 3. **COMPLIANCE GRANTS.** The commissioner shall establish direct grants to an Indian child welfare defense corporation, as defined in section 611.216, subdivision 1a, to promote statewide compliance with the Indian family preservation act and the Indian Child Welfare Act, United States Code, title 25, section 1901 et seq. The commissioner shall give priority consideration to applicants with demonstrated capability of providing legal advocacy services statewide. [257.3571, subd. 2a]

Subd. 4. **REQUEST FOR PROPOSALS.** The commissioner shall request proposals for grants under subdivisions 1, 2, and 2a, and specify the information and criteria required. [257.3571, subd. 3]

Sec. 10. [260.791] **GRANT APPLICATIONS.**

A tribe, Indian organization, or tribal social service agency program located off-reservation may apply for primary support grants under section 260.785, subdivision 1. A local social service agency, tribe, Indian organization, or other social service organization may apply for special focus grants under section 260.785, subdivision 2. Civil legal service organizations eligible for grants under section 257.3571, subdivision 2a, may apply for grants under that section. Application may be made alone or in combination with other tribes or Indian organizations. [257.3572]

Sec. 11. [260.795] **ELIGIBLE SERVICES.**

Subdivision 1. **TYPES OF SERVICES.** (a) Eligible Indian child welfare services provided under primary support grants include:

- (1) placement prevention and reunification services;
- (2) family-based services;
- (3) individual and family counseling;
- (4) access to professional individual, group, and family counseling;
- (5) crisis intervention and crisis counseling;
- (6) development of foster and adoptive placement resources, including recruitment, licensing, and support;
- (7) court advocacy;

New language is indicated by underline, deletions by strikeout.

(8) training and consultation to county and private social service agencies regarding the Indian Child Welfare Act and the Minnesota Indian Family Preservation Act;

(9) advocacy in working with the county and private social service agencies, and activities to help provide access to agency services, including but not limited to 24-hour caretaker and homemaker services, day care, emergency shelter care up to 30 days in 12 months, access to emergency financial assistance, and arrangements to provide temporary respite care to a family for up to 72 hours consecutively or 30 days in 12 months;

(10) transportation services to the child and parents to prevent placement or reunite the family; and

(11) other activities and services approved by the commissioner that further the goals of the Indian Child Welfare Act and the Indian Family Preservation Act, including but not limited to recruitment of Indian staff for local social service agencies and licensed child-placing agencies. The commissioner may specify the priority of an activity and service based on its success in furthering these goals.

(b) Eligible services provided under special focus grants include;

(1) permanency planning activities that meet the special needs of Indian families;

(2) teenage pregnancy;

(3) independent living skills;

(4) family and community involvement strategies to combat child abuse and chronic neglect of children;

(5) coordinated child welfare and mental health services to Indian families;

(6) innovative approaches to assist Indian youth to establish better self-image, decrease isolation, and decrease the suicide rate;

(7) expanding or improving services by packaging and disseminating information on successful approaches or by implementing models in Indian communities relating to the development or enhancement of social structures that increase family self-reliance and links with existing community resources;

(8) family retrieval services to help adopted individuals reestablish legal affiliation with the Indian tribe; and

(9) other activities and services approved by the commissioner that further the goals of the Indian Child Welfare Act and the Indian Family Preservation Act. The commissioner may specify the priority of an activity and service based on its success in furthering these goals.

(c) The commissioner shall give preference to programs that use Indian staff, contract with Indian organizations or tribes, or whose application is a joint effort between the Indian and non-Indian community to achieve the goals of the Indian Child Welfare Act and the Minnesota Indian Family Preservation Act. Programs must have input and support from the Indian community. [257.3573, subd. 1]

Subd. 2. INAPPROPRIATE EXPENDITURES. Indian child welfare grant money must not be used for:

New language is indicated by underline, deletions by ~~strikeout~~.

(1) child day care necessary solely because of employment or training for employment of a parent or other relative with whom the child is living;

(2) foster care maintenance or difficulty of care payments;

(3) residential facility payments;

(4) adoption assistance payments;

(5) public assistance payments for aid to families with dependent children, Minnesota family investment program—statewide, supplemental aid, medical assistance, general assistance, general assistance medical care, or community health services authorized by sections 145A.01 to 145A.14; or

(6) administrative costs for income maintenance staff. [257.3573, subd. 2]

Subd. 3. REVENUE ENHANCEMENT. The commissioner shall submit claims for federal reimbursement earned through the activities and services supported through Indian child welfare grants. The commissioner may set aside a portion of the federal funds earned under this subdivision to establish and support a new Indian child welfare position in the department of human services to provide program development. The commissioner shall use any federal revenue not set aside to expand services under section 260.785. The federal revenue earned under this subdivision is available for these purposes until the funds are expended. [257.3573, subd. 3]

Sec. 12. [260.805] CONTINUED LEGAL RESPONSIBILITY OF LOCAL SOCIAL SERVICE AGENCIES.

The legal responsibility of local social service agencies to provide Indian child welfare services continues, and existing services must not be reduced because of the availability of these funds. [257.3574]

Sec. 13. [260.810] PAYMENTS; REQUIRED REPORTS.

Subdivision 1. PAYMENTS. The commissioner shall make grant payments to each approved program in four quarterly installments a year. The commissioner may certify an advance payment for the first quarter of the state fiscal year. Later payments must be made upon receipt by the state of a quarterly report on finances and program activities. [257.3575, subd. 1]

Subd. 2. QUARTERLY REPORT. The commissioner shall specify requirements for reports, including quarterly fiscal reports, according to section 256.01, subdivision 2, paragraph (17). Each quarter, an approved program receiving an Indian child welfare grant shall submit a report to the commissioner that includes:

(1) a detailed accounting of grant money expended during the preceding quarter, specifying expenditures by line item and year to date; and

(2) a description of Indian child welfare activities conducted during the preceding quarter, including the number of clients served and the type of services provided.

The quarterly reports must be submitted no later than 30 days after the end of each quarter of the state fiscal year. [257.3575, subd. 2]

Subd. 3. FINAL REPORT. A final evaluation report must be submitted by each approved program. It must include client outcomes, cost and effectiveness in meeting the

New language is indicated by underline, deletions by strikeout.

goals of the Indian Family Preservation Act and permanency planning goals. [257.3575, subd. 3]

Sec. 14. [260.815] MONITORING AND EVALUATION.

The commissioner shall design and implement methods for monitoring the delivery and evaluating the effectiveness of Indian child welfare services funded through these grants. [257.3576]

Sec. 15. [260.821] GRANT FORMULA.

Subdivision 1. PRIMARY SUPPORT GRANTS. (a) The amount available for grants established under section 260.785, subdivision 1, to tribes, Indian organizations, and tribal social service agency programs located off-reservation is four-fifths of the total annual appropriation for Indian child welfare grants.

(b) The commissioner shall award tribes at least 70 percent of the amount set in paragraph (a) for primary support grants. Each tribe shall be awarded a base amount of five percent of the total amount set in this paragraph. In addition, each tribe shall be allocated a proportion of the balance of the amount set in this paragraph, less the total base amounts for all reservations. This proportion must equal the ratio of the tribe's on-reservation population to the state's total on-reservation population. Population data must be based on the most recent federal census data according to the state demographer's office.

(c) The commissioner shall award Indian organizations and tribal social service agency programs located off-reservation that serve Indian children and families up to 30 percent of the amount set in paragraph (a) for primary support grants. A maximum of four multiservice Indian organizations and tribal social service agency programs located off-reservation may be awarded grants under this paragraph. "Multiservice Indian organizations" means Indian organizations recognized by the Indian community as providing a broad continuum of social, educational, or cultural services, including Indian child welfare services designed to meet the unique needs of the Indian communities in Minneapolis, St. Paul, and Duluth. Grants may be awarded to programs that submit acceptable proposals, comply with the goals and the application process of the program, and have budgets that reflect appropriate and efficient use of funds. To maintain continuity of service in Indian communities, primary support grants awarded under this paragraph which meet the grant criteria and have demonstrated satisfactory performance as established by the commissioner may be awarded on a noncompetitive basis. The commissioner may revoke or deny funding for Indian organizations or tribal social service agencies failing to meet the grant criteria established by the commissioner, and the commissioner may request new proposals from Indian organizations or tribal social service agencies to the extent that funding is available. [257.3577, subd. 1]

Subd. 2. SPECIAL FOCUS GRANTS. The amount available for grants established under section 260.785, subdivision 2, for local social service agencies, tribes, Indian organizations, and other social services organizations is one-fifth of the total annual appropriation for Indian child welfare grants. The maximum award under this subdivision is \$100,000 a year for programs approved by the commissioner. [257.3577, subd. 2]

Sec. 16. [260.831] UNDISTRIBUTED FUNDS.

Undistributed funds must be reallocated by the department of human services to any other grant categories established under section 260.785, subdivision 1 or 2, for the goals of this grant process. Undistributed funds are available until expended. [257.3578]

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 17. [260.835] AMERICAN INDIAN CHILD WELFARE ADVISORY COUNCIL.

The commissioner shall appoint an American Indian advisory council to help formulate policies and procedures relating to Indian child welfare services and to make recommendations regarding approval of grants provided under section 260.785, subdivisions 1, 2, and 3. The council shall consist of 17 members appointed by the commissioner and must include representatives of each of the 11 Minnesota reservations who are authorized by tribal resolution, one representative from the Duluth Urban Indian Community, three representatives from the Minneapolis Urban Indian Community, and two representatives from the St. Paul Urban Indian Community. Representatives from the urban Indian communities must be selected through an open appointments process under section 15.0597. The terms, compensation, and removal of American Indian child welfare advisory council members shall be as provided in section 15.059. [257.3579]

Sec. 18. [260.851] INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN.

The interstate compact on the placement of children is hereby enacted into law and entered into with all other jurisdictions legally joining therein in form substantially as follows:

ARTICLE 1**PURPOSE AND POLICY**

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

(a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

(b) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(c) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis on which to evaluate a projected placement before it is made.

(d) Appropriate jurisdictional arrangements for the care of children will be promoted. [257.40]

ARTICLE 2**DEFINITIONS**

As used in this compact:

(a) "Child" means a person who, by reason of minority, is legally subject to parental guardianship or similar control.

(b) "Sending agency" means a party state, officer or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corpora-

New language is indicated by underline, deletions by strikeout.

tion, association, charitable agency or other entity which sends, brings, or causes to be sent or brought any child to another party state.

(c) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

(d) "Placement" means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective or persons having epilepsy or any institution primarily educational in character, and any hospital or other medical facility.
[257.40]

ARTICLE 3

CONDITIONS FOR PLACEMENT

(a) No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

(b) Prior to sending, bringing or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

(1) The name, date and place of birth of the child.

(2) The identity and address or addresses of the parents or legal guardian.

(3) The name and address of the person, agency or institution to or with which the sending agency proposes to send, bring, or place the child.

(4) A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(c) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to paragraph (b) of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

(d) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child. [257.40]

ARTICLE 4

PENALTY FOR ILLEGAL PLACEMENT

The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws re-

New language is indicated by underline, deletions by ~~strikeout~~.

pecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for children. [257.40]

ARTICLE 5

RETENTION OF JURISDICTION

(a) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

(b) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of such case by the latter as agent for the sending agency.

(c) Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state; nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in paragraph (a) hereof. [257.40]

ARTICLE 6

INSTITUTIONAL CARE OF DELINQUENT CHILDREN

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to his being sent to such other party jurisdiction for institutional care and the court finds that:

1. Equivalent facilities for the child are not available in the sending agency's jurisdiction; and

2. Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship. [257.40]

New language is indicated by underline, deletions by strikeout.

ARTICLE 7COMPACT ADMINISTRATOR

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in his jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact. [257.40]

ARTICLE 8LIMITATIONS

This compact shall not apply to:

(a) The sending or bringing of a child into a receiving state by his parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and leaving the child with any such relative or nonagency guardian in the receiving state.

(b) Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law. [257.40]

ARTICLE 9ENACTMENT AND WITHDRAWAL

This compact shall be open to joinder by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of Congress, the Government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until two years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal. [257.40]

ARTICLE 10CONSTRUCTION AND SEVERABILITY

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. [257.40]

New language is indicated by underline, deletions by ~~strikeout~~.

Section 19. [260.855] FINANCIAL RESPONSIBILITY.

Financial responsibility for any child placed pursuant to the provisions of the interstate compact on the placement of children shall be determined in accordance with the provisions of article 5 thereof in the first instance. However, in the event of partial or complete default of performance thereunder, the provisions of sections 518C.101 to 518C.902 also may be invoked. [257.41]

Sec. 20. [260.861] APPROPRIATE PUBLIC AUTHORITY DEFINED.

The "appropriate public authorities" as used in article 3 of the Interstate Compact on the Placement of Children shall, with reference to this state, mean the commissioner of human services. The commissioner of human services or the commissioner's delegate shall receive and act with reference to notices required by said article 3. [257.42]

Sec. 21. [260.865] APPROPRIATE AUTHORITY IN RECEIVING STATE DEFINED.

As used in paragraph (a) of article 5 of the Interstate Compact on the Placement of Children, the phrase "appropriate authority in the receiving state" with reference to this state shall mean the commissioner of human services or the commissioner's delegate. [257.43]

Sec. 22. [260.871] AGREEMENTS.

The officers and agencies of this state and its subdivisions having authority to place children are hereby empowered to enter into agreements with appropriate officers or agencies of or in other party states pursuant to paragraph (b) of article 5 of the interstate compact on the placement of children. Any such agreement which contains a financial commitment or imposes a financial obligation on this state or subdivision or agency thereof shall not be binding unless it has the approval in writing of the commissioner of human services in the case of the state and of the chief local fiscal officer in the case of a subdivision of the state. [257.44]

Sec. 23. [260.875] REQUIREMENTS FOR VISITATION; SUPERVISION.

Any requirements for visitation, inspection or supervision of children, homes, institutions or other agencies in another party state which may apply under section 260C.212 shall be deemed to be met if performed pursuant to an agreement entered into by appropriate officers or agencies of this state or a subdivision thereof as contemplated by paragraph (b) of article 5 of the interstate compact on the placement of children. [257.45]

Sec. 24. [260.881] CERTAIN LAWS NOT APPLICABLE.

The provisions of section 257.06 shall not apply to placements made pursuant to the interstate compact on the placement of children. [257.46]

Sec. 25. [260.885] COURT JURISDICTION RETAINED.

Any court having jurisdiction to place delinquent children may place such a child in an institution or in another state pursuant to article 6 of the interstate compact on the placement of children and shall retain jurisdiction as provided in article 5 thereof. [257.47]

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 26. [260.91] EXECUTIVE HEAD DEFINED.

As used in article 7 of the interstate compact on the placement of children, the term "executive head" means the governor. The governor is hereby authorized to appoint a compact administrator in accordance with the terms of said article 7. [257.48]

ARTICLE 2**DELINQUENCY PROVISIONS****Section 1. [260B.001] TITLE, INTENT, AND CONSTRUCTION.**

Subdivision 1. CITATION. Sections 260B.001 to 260B.446 may be cited as the delinquency provisions of the Juvenile Court Act. [260.011, subd. 1]

Subd. 2. DELINQUENCY. The purpose of the laws relating to children alleged or adjudicated to be delinquent is to promote the public safety and reduce juvenile delinquency by maintaining the integrity of the substantive law prohibiting certain behavior and by developing individual responsibility for lawful behavior. This purpose should be pursued through means that are fair and just, that recognize the unique characteristics and needs of children, and that give children access to opportunities for personal and social growth. [260.011, subd. 2(c)]

Subd. 3. CONSTRUCTION. The laws relating to juvenile courts shall be liberally construed to carry out the purpose specified in subdivision 2. [260.011, subd. 2(d)]

Sec. 2. [260B.005] SCOPE OF VICTIM RIGHTS.

The rights granted to victims of crime in sections 611A.01 to 611A.06 are applicable to adult criminal cases, juvenile delinquency proceedings, juvenile traffic proceedings involving driving under the influence of alcohol or drugs, and proceedings involving any other act committed by a juvenile that would be a crime as defined in section 609.02, if committed by an adult. [260.013]

Sec. 3. [260B.007] DEFINITIONS.

Subdivision 1. SCOPE. As used in this chapter, the terms defined in this section have the same meanings given to them. [260.015, subd. 1]

Subd. 2. AGENCY. "Agency" means the local social service agency or a licensed child-placing agency. [260.015, subd. 1a]

Subd. 3. CHILD. "Child" means an individual under 18 years of age and includes any minor alleged to have been delinquent or a juvenile traffic offender prior to having become 18 years of age. [260.015, subd. 2]

Subd. 4. CHILD-PLACING AGENCY. "Child-placing agency" means anyone licensed under sections 245A.01 to 245A.16 and 252.28, subdivision 2. [260.015, subd. 3]

Subd. 5. COURT. "Court" means juvenile court unless otherwise specified in this section. [260.015, subd. 4]

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 6. DELINQUENT CHILD. (a) Except as otherwise provided in paragraph (b), "delinquent child" means a child:

(1) who has violated any state or local law, except as provided in section 260B.225, subdivision 1, and except for juvenile offenders as described in subdivisions 19 to 23;

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

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

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

(b) The term delinquent child does not include a child alleged to have committed murder in the first degree after becoming 16 years of age, but the term delinquent child does include a child alleged to have committed attempted murder in the first degree. [260.015, subd. 5]

Subd. 7. FOSTER CARE. "Foster care" means the 24 hour a day care of a child in any facility which for gain or otherwise regularly provides one or more children, when unaccompanied by their parents, with a substitute for the care, food, lodging, training, education, supervision or treatment they need but which for any reason cannot be furnished by their parents or legal guardians in their homes. [260.015, subd. 7]

Subd. 8. LEGAL CUSTODY. "Legal custody" means the right to the care, custody, and control of a child who has been taken from a parent by the court in accordance with the provisions of sections 260B.198 and 260B.235. The expenses of legal custody are paid in accordance with the provisions of section 260B.331. [260.015, subd. 8 (omitting child protection-related text)]

Subd. 9. MINOR. "Minor" means an individual under 18 years of age. [260.015, subd. 9]

Subd. 10. PARENT. "Parent" means the birth or adoptive parent of a minor. For an Indian child, parent includes any Indian person who has adopted a child by tribal law or custom, as provided in section 260.755, subdivision 14. [260.015, subd. 11]

Subd. 11. PERSON. "Person" includes any individual, association, corporation, partnership, and the state or any of its political subdivisions, departments, or agencies. [260.015, subd. 12]

Subd. 12. RELATIVE. "Relative" means a parent, stepparent, grandparent, brother, sister, uncle, or aunt of the minor. This relationship may be by blood or marriage. For an Indian child, relative includes members of the extended family as defined by the law or custom of the Indian child's tribe or, in the absence of laws or custom, nieces, nephews, or first or second cousins, as provided in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1903. [260.015, subd. 13]

Subd. 13. 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

New language is indicated by underline, deletions by ~~strikeout~~.

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 260.755, subdivision 11. [260.015, subd. 14]

Subd. 14. SECURE DETENTION FACILITY. "Secure detention facility" means a physically restricting facility, including but not limited to a jail, a hospital, a state institution, a residential treatment center, or a detention home used for the temporary care of a child pending court action. [260.015, subd. 16]

Subd. 15. SHELTER CARE FACILITY. "Shelter care facility" means a physical-ly unrestricting facility, such as, but not limited to, a hospital, a group home, or a licensed facility for foster care, used for the temporary care of a child pending court action. [260.015, subd. 17]

Subd. 16. JUVENILE PETTY OFFENDER; JUVENILE PETTY OFFENSE. (a) "Juvenile petty offense" includes a juvenile alcohol offense, a juvenile controlled substance offense, a violation of section 609.685, or a violation of a local ordinance, which by its terms prohibits conduct by a child under the age of 18 years which would be lawful conduct if committed by an adult.

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

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

(1) a misdemeanor-level violation of section 588.20, 609.224, 609.2242, 609.324, 609.563, 609.576, 609.66, or 617.23;

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

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

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

(d) A child who commits a juvenile petty offense is a "juvenile petty offender." [260.015, subd. 21]

Subd. 17. JUVENILE ALCOHOL OFFENSE. "Juvenile alcohol offense" means a violation by a child of any provision of section 340A.503 or an equivalent local ordinance. [260.015, subd. 22]

Subd. 18. JUVENILE CONTROLLED SUBSTANCE OFFENSE. "Juvenile controlled substance offense" means a violation by a child of section 152.027, subdivi-

New language is indicated by underline, deletions by ~~strikeout~~.

sion 4, with respect to a small amount of marijuana or an equivalent local ordinance. [260.015, subd. 23]

Subd. 19. INDIAN. "Indian," consistent with section 260.755, subdivision 7, means a person who is a member of an Indian tribe or who is an Alaskan native and a member of a regional corporation as defined in section 7 of the Alaska Native Claims Settlement Act, United States Code, title 43, section 1606. [260.015, subd. 26]

Subd. 20. INDIAN CHILD. "Indian child," consistent with section 257.755, subdivision 8, means an unmarried person who is under age 18 and is:

(1) a member of an Indian tribe; or

(2) eligible for membership in an Indian tribe. [260.015, subd. 27]

Sec. 4. [260B.050] EXPERT ASSISTANCE.

In any county the court may provide for the physical and mental diagnosis of cases of minors who are believed to be physically handicapped, mentally ill, or mentally retarded, and for such purpose may appoint professionally qualified persons, whose compensation shall be fixed by the judge with the approval of the county board. [260.092]

Sec. 5. [260B.060] COUNTY HOME SCHOOLS.

In any county or group of counties the county boards may purchase, lease, erect, equip, and maintain a county home school for boys and girls, or a separate home school for boys and a separate home school for girls. The juvenile court may transfer legal custody of a delinquent child to the home school in the manner provided in section 260B.198. The county home school may, with the approval of the district court judges in counties now or hereafter having a population of more than 200,000, or of the juvenile court judges in all other counties, be a separate institution, or it may be established and operated in connection with any other organized charitable or educational institution. However, the plans, location, equipment, and operation of the county home school shall in all cases have the approval of the said judges. There shall be a superintendent or matron, or both, for such school, who shall be appointed and removed by the said judges. The salaries of the superintendent, matron, and other employees shall be fixed by the said judges, subject to the approval of the county board. The county board of each county to which this section applies is hereby authorized, empowered, and required to provide the necessary funds to make all needful appropriations to carry out the provisions of this section. The board of education, commissioner of children, families, and learning, or other persons having charge of the public schools in any city of the first or second class in a county where a county home school is maintained pursuant to the provisions of this section may furnish all necessary instructors, school books, and school supplies for the boys and girls placed in any such home school. [260.094]

Sec. 6. [260B.070] EXISTING HOME SCHOOLS CONTINUED.

All juvenile detention homes, farms, and industrial schools heretofore established under the provisions of Laws 1905, chapter 285, section 5, as amended by Laws 1907, chapter 172, and Laws 1911, chapter 353, or Laws 1913, chapter 83, Laws 1915, chapter 228, or Laws 1917, chapter 317, as amended, are hereby declared to be county home schools within the meaning of sections 260B.001 to 260B.421 and all the provisions of those sections relating to county home schools shall apply thereto. [260.096]

New language is indicated by underline, deletions by strikeout.

Sec. 7. [260B.080] DETENTION HOMES.

In any county or group of counties the county boards may purchase, lease, erect, equip, and maintain a detention home for boys and girls, or a separate detention home for boys and girls, or a separate detention home for boys or a separate detention home for girls. The detention home may, with the approval of the district court judges in counties now or hereafter having a population of more than 200,000 or of the juvenile court judges in all other counties be a separate institution, or it may be established and operated in connection with a county home school or any organized charitable or educational institution. However, the plans, location, equipment, and operation of the detention home shall in all cases have the approval of the judges. Necessary staff shall be appointed and removed by the judges. The salaries of the staff shall be fixed by the judges, subject to the approval of the county boards. The county board of each county to which this section applies shall provide the necessary funds to carry out the provisions of this section. [260.101]

Sec. 8. [260B.101] JURISDICTION.

Subdivision 1. CHILDREN WHO ARE DELINQUENT. Except as provided in sections 260B.125 and 260B.225, the juvenile court has original and exclusive jurisdiction in proceedings concerning any child who is alleged to be delinquent, a juvenile traffic offender, a juvenile petty offender, and in proceedings concerning any minor alleged to have been a delinquent, a juvenile petty offender, or a juvenile traffic offender prior to having become 18 years of age. The juvenile court shall deal with such a minor as it deals with any other child who is alleged to be delinquent or a juvenile traffic offender. [260.111, subd. 1 (omitting child protection-related text)]

Subd. 2. NO JUVENILE COURT JURISDICTION OVER CERTAIN OFFENDERS. Notwithstanding any other law to the contrary, the juvenile court lacks jurisdiction over proceedings concerning a child excluded from the definition of delinquent child under section 260B.007, subdivision 6, paragraph (b). The district court has original and exclusive jurisdiction in criminal proceedings concerning a child excluded from the definition of delinquent child under section 260B.007, subdivision 6, paragraph (b). [260.111, subd. 1a]

Subd. 3. JURISDICTION OVER PARENTS AND GUARDIANS. A parent, guardian, or custodian of a child who is subject to the jurisdiction of the court is also subject to the jurisdiction of the court in any matter in which that parent, guardian, or custodian has a right to notice under section 260B.151 or 260B.152, or the right to participate under section 260B.163. [260.111, subd. 4 (omitting child protection-related text)]

Sec. 9. [260B.103] TRANSFERS FROM OTHER COURTS.

Subdivision 1. TRANSFERS REQUIRED. Except where a juvenile court has certified an alleged violation in accordance with the provisions of section 260B.125, the child is alleged to have committed murder in the first degree after becoming 16 years of age, or a court has original jurisdiction of a child who has committed an adult court traffic offense, as defined in section 260B.225, subdivision 1, clause (c), a court other than a juvenile court shall immediately transfer to the juvenile court of the county the case of a minor who appears before the court on a charge of violating any state or local law or ordinance and who is under 18 years of age or who was under 18 years of age at the time of the commission of the alleged offense. [260.115, subd. 1]

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2. **CERTIFICATE.** The court transfers the case by filing with the judge or court administrator of juvenile court a certificate showing the name, age, and residence of the minor, the names and addresses of the minor's parent or guardian, if known, and the reasons for appearance in court, together with all the papers, documents, and testimony connected therewith. The certificate has the effect of a petition filed in the juvenile court, unless the judge of the juvenile court directs the filing of a new petition, which shall supersede the certificate of transfer. [260.115, subd. 2]

Subd. 3. **ORDER TO BE TAKEN.** The transferring court shall order the minor to be taken immediately to the juvenile court and in no event shall detain the minor for longer than 48 hours after the appearance of the minor in the transferring court. The transferring court may release the minor to the custody of a parent, guardian, custodian, or other person designated by the court on the condition that the minor will appear in juvenile court as directed. The transferring court may require the person given custody of the minor to post such bail or bond as may be approved by the court which shall be forfeited to the juvenile court if the minor does not appear as directed. The transferring court may also release the minor on the minor's own promise to appear in juvenile court. [260.115, subd. 3]

Sec. 10. [260B.105] VENUE.

Subdivision 1. **VENUE.** Except where otherwise provided, venue for any proceedings under section 260B.101 shall be in the county where the child is found, or the county of the child's residence. If delinquency, a juvenile petty offense, or a juvenile traffic offense is alleged, proceedings shall be brought in the county of residence or the county where the alleged delinquency, juvenile petty offense, or juvenile traffic offense occurred. [260.121, subd. 1 (omitting child protection-related text)]

Subd. 2. **TRANSFER.** The judge of the juvenile court may transfer any proceedings brought under section 260B.101, to the juvenile court of a county having venue as provided in subdivision 1, at any stage of the proceedings and in the following manner. When it appears that the best interests of the child, society, or the convenience of proceedings will be served by a transfer, the court may transfer the case to the juvenile court of the county of the child's residence. With the consent of the receiving court, the court may also transfer the case to the juvenile court of the county where the child is found or, if delinquency, a juvenile petty offense, or a juvenile traffic offense is alleged, to the county where the alleged delinquency, juvenile petty offense, or juvenile traffic offense occurred. The court transfers the case by ordering a continuance and by forwarding to the court administrator of the appropriate juvenile court a certified copy of all papers filed, together with an order of transfer. The judge of the receiving court may accept the findings of the transferring court or may direct the filing of a new petition or notice under section 260B.007, subdivision 18, or 260B.143 and hear the case anew. [260.121, subd. 2 (omitting child protection-related text)]

Subd. 3. **INVOLVING INTERSTATE COMPACT.** Except when a child is alleged to have committed an adult court traffic offense, as defined in section 260B.225, subdivision 1, clause (c), if it appears at any stage of the proceeding that a child before the court is a resident of another state, the court may invoke the provisions of the interstate compact on juveniles or, if it is in the best interests of the child or the public to do so, the court may place the child in the custody of the child's parent, guardian, or custodian, if the

New language is indicated by underline, deletions by strikeout.

parent, guardian, or custodian agrees to accept custody of the child and return the child to their state. [260.121, subd. 3]

Sec. 11. [260B.125] CERTIFICATION.

Subdivision 1. ORDER. When a child is alleged to have committed, after becoming 14 years of age, an offense that would be a felony if committed by an adult, the juvenile court may enter an order certifying the proceeding for action under the laws and court procedures controlling adult criminal violations. [260.125, subd. 1]

Subd. 2. ORDER OF CERTIFICATION; REQUIREMENTS. Except as provided in subdivision 5 or 6, the juvenile court may order a certification only if:

- (1) a petition has been filed in accordance with the provisions of section 260B.141;
- (2) a motion for certification has been filed by the prosecuting authority;
- (3) notice has been given in accordance with the provisions of sections 260B.151 and 260B.152;
- (4) a hearing has been held in accordance with the provisions of section 260B.163 within 30 days of the filing of the certification motion, unless good cause is shown by the prosecution or the child as to why the hearing should not be held within this period in which case the hearing shall be held within 90 days of the filing of the motion;
- (5) the court finds that there is probable cause, as defined by the rules of criminal procedure promulgated pursuant to section 480.059, to believe the child committed the offense alleged by delinquency petition; and
- (6) the court finds either:
 - (i) that the presumption of certification created by subdivision 3 applies and the child has not rebutted the presumption by clear and convincing evidence demonstrating that retaining the proceeding in the juvenile court serves public safety; or
 - (ii) that the presumption of certification does not apply and the prosecuting authority has demonstrated by clear and convincing evidence that retaining the proceeding in the juvenile court does not serve public safety. If the court finds that the prosecutor has not demonstrated by clear and convincing evidence that retaining the proceeding in juvenile court does not serve public safety, the court shall retain the proceeding in juvenile court. [260.125, subd. 2]

Subd. 3. PRESUMPTION OF CERTIFICATION. It is presumed that a proceeding involving an offense committed by a child will be certified if:

- (1) the child was 16 or 17 years old at the time of the offense; and
- (2) the delinquency petition alleges that the child committed an offense that would result in a presumptive commitment to prison under the sentencing guidelines and applicable statutes, or that the child committed any felony offense while using, whether by brandishing, displaying, threatening with, or otherwise employing, a firearm.

If the court determines that probable cause exists to believe the child committed the alleged offense, the burden is on the child to rebut this presumption by demonstrating by clear and convincing evidence that retaining the proceeding in the juvenile court serves

New language is indicated by underline, deletions by ~~strikeout~~.

public safety. If the court finds that the child has not rebutted the presumption by clear and convincing evidence, the court shall certify the proceeding. [260.125, subd. 2a]

Subd. 4. PUBLIC SAFETY. In determining whether the public safety is served by certifying the matter, the court shall consider the following factors:

(1) the seriousness of the alleged offense in terms of community protection, including the existence of any aggravating factors recognized by the sentencing guidelines, the use of a firearm, and the impact on any victim;

(2) the culpability of the child in committing the alleged offense, including the level of the child's participation in planning and carrying out the offense and the existence of any mitigating factors recognized by the sentencing guidelines;

(3) the child's prior record of delinquency;

(4) the child's programming history, including the child's past willingness to participate meaningfully in available programming;

(5) the adequacy of the punishment or programming available in the juvenile justice system; and

(6) the dispositional options available for the child.

In considering these factors, the court shall give greater weight to the seriousness of the alleged offense and the child's prior record of delinquency than to the other factors listed in this subdivision. [260.125, subd. 2b]

Subd. 5. PRIOR CERTIFICATION; EXCEPTION. Notwithstanding the provisions of subdivisions 2, 3, and 4, the court shall order a certification in any felony case if the prosecutor shows that the child has been previously prosecuted on a felony charge by an order of certification issued pursuant to either a hearing held under subdivision 2 or pursuant to the waiver of the right to such a hearing, other than a prior certification in the same case.

This subdivision only applies if the child is convicted of the offense or offenses for which the child was prosecuted pursuant to the order of certification or of a lesser-included offense which is a felony.

This subdivision does not apply to juvenile offenders who are subject to criminal court jurisdiction under section 609.055. [260.125, subd. 3a]

Subd. 6. ADULT CHARGED WITH JUVENILE OFFENSE. The juvenile court has jurisdiction to hold a certification hearing on motion of the prosecuting authority to certify the matter if:

(1) an adult is alleged to have committed an offense before the adult's 18th birthday; and

(2) a petition is filed under section 260B.141 before expiration of the time for filing under section 628.26.

The court may not certify the matter under this subdivision if the adult demonstrates that the delay was purposefully caused by the state in order to gain an unfair advantage. [260.125, subd. 3b]

New language is indicated by underline, deletions by strikeout.

Subd. 7. EFFECT OF ORDER. When the juvenile court enters an order certifying an alleged violation, the prosecuting authority shall proceed with the case as if the jurisdiction of the juvenile court had never attached. [260.125, subd. 4]

Subd. 8. WRITTEN FINDINGS; OPTIONS. The court shall decide whether to order certification within 15 days after the certification hearing was completed, unless additional time is needed, in which case the court may extend the period up to another 15 days. If the juvenile court orders certification, and the presumption described in subdivision 3 does not apply, the order shall contain in writing, findings of fact and conclusions of law as to why public safety is not served by retaining the proceeding in the juvenile court. If the juvenile court, after a hearing conducted pursuant to subdivision 2, decides not to order certification, the decision shall contain, in writing, findings of fact and conclusions of law as to why certification is not ordered. If the juvenile court decides not to order certification in a case in which the presumption described in subdivision 3 applies, the court shall designate the proceeding an extended jurisdiction juvenile prosecution and include in its decision written findings of fact and conclusions of law as to why the retention of the proceeding in juvenile court serves public safety, with specific reference to the factors listed in subdivision 4. If the court decides not to order certification in a case in which the presumption described in subdivision 3 does not apply, the court may designate the proceeding an extended jurisdiction juvenile prosecution, pursuant to the hearing process described in section 260B.130, subdivision 2. [260.125, subd. 5]

Subd. 9. FIRST-DEGREE MURDER. When a motion for certification has been filed in a case in which the petition alleges that the child committed murder in the first degree, the prosecuting authority shall present the case to the grand jury for consideration of indictment under chapter 628 within 14 days after the petition was filed. [260.125, subd. 6]

Subd. 10. INAPPLICABILITY TO CERTAIN OFFENDERS. This section does not apply to a child excluded from the definition of delinquent child under section 260B.007, subdivision 6, paragraph (b). [260.125, subd. 7]

Sec. 12. [260B.130] EXTENDED JURISDICTION JUVENILE PROSECUTIONS.

Subdivision 1. DESIGNATION. A proceeding involving a child alleged to have committed a felony offense is an extended jurisdiction juvenile prosecution if:

(1) the child was 14 to 17 years old at the time of the alleged offense, a certification hearing was held, and the court designated the proceeding an extended jurisdiction juvenile prosecution;

(2) the child was 16 or 17 years old at the time of the alleged offense; the child is alleged to have committed an offense for which the sentencing guidelines and applicable statutes presume a commitment to prison or to have committed any felony in which the child allegedly used a firearm; and the prosecutor designated in the delinquency petition that the proceeding is an extended jurisdiction juvenile prosecution; or

(3) the child was 14 to 17 years old at the time of the alleged offense, the prosecutor requested that the proceeding be designated an extended jurisdiction juvenile prosecution, a hearing was held on the issue of designation, and the court designated the proceeding an extended jurisdiction juvenile prosecution. [260.126, subd. 1]

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2. HEARING ON PROSECUTOR'S REQUEST. When a prosecutor requests that a proceeding be designated an extended jurisdiction juvenile prosecution, the court shall hold a hearing under section 260B.163 to consider the request. The hearing must be held within 30 days of the filing of the request for designation, unless good cause is shown by the prosecution or the child as to why the hearing should not be held within this period in which case the hearing shall be held within 90 days of the filing of the request. If the prosecutor shows by clear and convincing evidence that designating the proceeding an extended jurisdiction juvenile prosecution serves public safety, the court shall grant the request for designation. In determining whether public safety is served, the court shall consider the factors specified in section 260B.125, subdivision 4. The court shall decide whether to designate the proceeding an extended jurisdiction juvenile prosecution within 15 days after the designation hearing is completed, unless additional time is needed, in which case the court may extend the period up to another 15 days. [260.126, subd. 2]

Subd. 3. PROCEEDINGS. A child who is the subject of an extended jurisdiction juvenile prosecution has the right to a trial by jury and to the effective assistance of counsel, as described in section 260B.163, subdivision 4. [260.126, subd. 3]

Subd. 4. DISPOSITION. (a) If an extended jurisdiction juvenile prosecution results in a guilty plea or finding of guilt, the court shall:

- (1) impose one or more juvenile dispositions under section 260B.198; and
- (2) impose an adult criminal sentence, the execution of which shall be stayed on the condition that the offender not violate the provisions of the disposition order and not commit a new offense.

(b) If a child prosecuted as an extended jurisdiction juvenile after designation by the prosecutor in the delinquency petition is convicted of an offense after trial that is not an offense described in subdivision 1, clause (2), the court shall adjudicate the child delinquent and order a disposition under section 260B.198. If the extended jurisdiction juvenile proceeding results in a guilty plea for an offense not described in subdivision 1, clause (2), the court may impose a disposition under paragraph (a) if the child consents. [260.126, subd. 4]

Subd. 5. EXECUTION OF ADULT SENTENCE. When it appears that a person convicted as an extended jurisdiction juvenile has violated the conditions of the stayed sentence, or is alleged to have committed a new offense, the court may, without notice, revoke the stay and probation and direct that the offender be taken into immediate custody. The court shall notify the offender in writing of the reasons alleged to exist for revocation of the stay of execution of the adult sentence. If the offender challenges the reasons, the court shall hold a summary hearing on the issue at which the offender is entitled to be heard and represented by counsel. After the hearing, if the court finds that reasons exist to revoke the stay of execution of sentence, the court shall treat the offender as an adult and order any of the adult sanctions authorized by section 609.14, subdivision 3. If the offender was convicted of an offense described in subdivision 1, clause (2), and the court finds that reasons exist to revoke the stay, the court must order execution of the previously imposed sentence unless the court makes written findings regarding the mitigating factors that justify continuing the stay. Upon revocation, the offender's extended jurisdiction status is terminated and juvenile court jurisdiction is terminated. The ongoing juris-

New language is indicated by underline, deletions by ~~strikeout~~.

diction for any adult sanction, other than commitment to the commissioner of corrections, is with the adult court. [260.126, subd. 5]

Subd. 6. INAPPLICABILITY TO CERTAIN OFFENDERS. This section does not apply to a child excluded from the definition of delinquent child under section 260B.007, subdivision 6, paragraph (b). [260.126, subd. 6]

Sec. 13. [260B.141] PETITION.

Subdivision 1. WHO MAY FILE; REQUIRED FORM. Any reputable person, including but not limited to any agent of the commissioner of human services, having knowledge of a child in this state or of a child who is a resident of this state, who appears to be delinquent, may petition the juvenile court in the manner provided in this section. [260.131, subd. 1(a) (omitting child protection-related text)]

Subd. 2. VERIFICATION OF PETITION. The petition shall be verified by the person having knowledge of the facts and may be on information and belief. Unless otherwise provided by this section or by rule or order of the court, the county attorney shall draft the petition upon the showing of reasonable grounds to support the petition. [260.131, subd. 2]

Subd. 3. FORM OF PETITION. The petition and all subsequent court documents shall be entitled substantially as follows:

"Juvenile Court, County of"

In the matter of the welfare of"

The petition shall set forth plainly:

(a) The facts which bring the child within the jurisdiction of the court;

(b) The name, date of birth, residence, and post office address of the child;

(c) The names, residences, and post office addresses of the child's parents;

(d) The name, residence, and post office address of the child's guardian if there be one, of the person having custody or control of the child, and of the nearest known relative if no parent or guardian can be found;

(e) The spouse of the child, if there be one. If any of the facts required by the petition are not known or cannot be ascertained by the petitioner, the petition shall so state. [260.131, subd. 3]

Subd. 4. DELINQUENCY PETITION; EXTENDED JURISDICTION JUVENILE. When a prosecutor files a delinquency petition alleging that a child committed a felony offense for which there is a presumptive commitment to prison according to the sentencing guidelines and applicable statutes or in which the child used a firearm, after reaching the age of 16 years, the prosecutor shall indicate in the petition whether the prosecutor designates the proceeding an extended jurisdiction juvenile prosecution. When a prosecutor files a delinquency petition alleging that a child aged 14 to 17 years committed a felony offense, the prosecutor may request that the court designate the proceeding an extended jurisdiction juvenile prosecution. [260.131, subd. 4]

Subd. 5. CONCURRENT JURISDICTION. When a petition is filed alleging that a child has engaged in prostitution as defined in section 609.321, subdivision 9, the

New language is indicated by underline, deletions by strikeout.

county attorney shall determine whether concurrent jurisdiction is necessary to provide appropriate intervention and, if so, proceed to file a petition alleging the child to be both delinquent and in need of protection or services. [260.131, subd. 5]

Sec. 14. [260B.143] PROCEDURE; JUVENILE PETTY AND MISDEMEANOR OFFENDERS.

Subdivision 1. NOTICE. When a peace officer has probable cause to believe that a child:

(1) is a juvenile petty offender; or

(2) has committed a delinquent act that would be a petty misdemeanor or misdemeanor if committed by an adult;

the officer may issue a notice to the child to appear in juvenile court in the county in which the child is found or in the county of the child's residence or, in the case of a juvenile petty offense, or a petty misdemeanor or misdemeanor delinquent act, the county in which the offense was committed. The officer shall file a copy of the notice to appear with the juvenile court of the appropriate county. If a child fails to appear in response to the notice, the court may issue a summons notifying the child of the nature of the offense alleged and the time and place set for the hearing. If the peace officer finds it necessary to take the child into custody, sections 260B.175 and 260B.176 shall apply. [260.132, subd. 1 (omitting child protection-related text)]

Subd. 2. EFFECT OF NOTICE. Filing with the court a notice to appear containing the name and address of the child, specifying the offense alleged and the time and place it was committed, has the effect of a petition giving the juvenile court jurisdiction. [260.132, subd. 2 (omitting child protection-related text)]

Subd. 3. NOTICE TO PARENT. Whenever a notice to appear or petition is filed alleging that a child is a juvenile petty offender or has committed a delinquent act that would be a petty misdemeanor or misdemeanor if committed by an adult, the court shall summon and notify the person or persons having custody or control of the child of the nature of the offense alleged and the time and place of hearing. This summons and notice shall be served in the time and manner provided in section 260B.151, subdivision 1. [260.132, subd. 3 (omitting child protection-related text)]

Subd. 4. NO RIGHT TO COUNSEL AT PUBLIC EXPENSE. Except as otherwise provided in section 260B.163, subdivision 4, a child alleged to be a juvenile petty offender may be represented by counsel, but does not have a right to appointment of a public defender or other counsel at public expense. [260.132, subd. 3a]

Sec. 15. [260B.151] SUMMONS; NOTICE.

Subdivision 1. ISSUANCE OF SUMMONS. After a petition has been filed and unless the parties hereinafter named voluntarily appear, the court shall set a time for a hearing and shall issue a summons requiring the person who has custody or control of the child to appear with the child before the court at a time and place stated. The summons shall have a copy of the petition attached, and shall advise the parties of the right to counsel and of the consequences of failure to obey the summons. The court shall give docket priority to any delinquency petition that contains allegations of child abuse over any oth-

New language is indicated by underline, deletions by strikeout.

er case except those delinquency matters where a child is being held in a secure detention facility. As used in this subdivision, "child abuse" has the meaning given it in section 630.36, subdivision 2. [260.135, subd. 1 (omitting child protection-related text)]

Subd. 2. NOTICE OF PENDENCY OF CASE. The court shall have notice of the pendency of the case and of the time and place of the hearing served upon a parent, guardian, or spouse of the child, who has not been summoned as provided in subdivision 1. For an Indian child, notice of all proceedings must comply with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, et seq., and section 260.765. [260.135, subd. 2]

Subd. 3. SUBPOENA ISSUANCE. The court may issue a subpoena requiring the appearance of any other person whose presence, in the opinion of the court, is necessary. [260.135, subd. 4]

Sec. 16. [260B.152] SERVICE OF SUMMONS, NOTICE.

Subdivision 1. NOTICE IN LIEU OF SUMMONS; PERSONAL SERVICE. The service of a summons or a notice in lieu of summons shall be as provided in the rules of juvenile procedure. [260.141, subd. 1a]

Subd. 2. SERVICE; FEES. Service of summons, notice, or subpoena required by sections 260B.151 to 260B.255 shall be made by any suitable person under the direction of the court, and upon request of the court shall be made by a probation officer or any peace officer. The fees and mileage of witnesses shall be paid by the county if the subpoena is issued by the court on its own motion or at the request of the county attorney. All other fees shall be paid by the party requesting the subpoena unless otherwise ordered by the court. [260.141, subd. 2]

Subd. 3. PROOF OF SERVICE. Proof of the service required by this section shall be made by the person having knowledge thereof. [260.141, subd. 3]

Sec. 17. [260B.154] FAILURE TO OBEY SUMMONS OR SUBPOENA; CONTEMPT, ARREST.

If any person personally served with summons or subpoena fails, without reasonable cause, to appear or bring the child, or if the court has reason to believe the person is avoiding personal service, or if any custodial parent or guardian fails, without reasonable cause, to accompany the child to a hearing as required under section 260B.163, subdivision 8, the person may be proceeded against for contempt of court or the court may issue a warrant for the person's arrest, or both. In any case when it appears to the court that the service will be ineffectual, or that the welfare of the child requires that the child be brought forthwith into the custody of the court, the court may issue a warrant for immediate custody of the child. [260.145]

Sec. 18. [260B.157] INVESTIGATION; PHYSICAL AND MENTAL EXAMINATION.

Subdivision 1. INVESTIGATION. Upon request of the court the local social services agency or probation officer shall investigate the personal and family history and environment of any minor coming within the jurisdiction of the court under section 260B.101 and shall report its findings to the court. The court may order any minor coming within its jurisdiction to be examined by a duly qualified physician, psychiatrist, or psychologist appointed by the court.

New language is indicated by underline, deletions by ~~strikeout~~.

The court shall have a chemical use assessment conducted when a child is (1) found to be delinquent for violating a provision of chapter 152, or for committing a felony-level violation of a provision of chapter 609 if the probation officer determines that alcohol or drug use was a contributing factor in the commission of the offense, or (2) alleged to be delinquent for violating a provision of chapter 152, if the child is being held in custody under a detention order. The assessor's qualifications and the assessment criteria shall comply with Minnesota Rules, parts 9530.6600 to 9530.6655. If funds under chapter 254B are to be used to pay for the recommended treatment, the assessment and placement must comply with all provisions of Minnesota Rules, parts 9530.6600 to 9530.6655 and 9530.7000 to 9530.7030. The commissioner of human services shall reimburse the court for the cost of the chemical use assessment, up to a maximum of \$100.

With the consent of the commissioner of corrections and agreement of the county to pay the costs thereof, the court may, by order, place a minor coming within its jurisdiction in an institution maintained by the commissioner for the detention, diagnosis, custody and treatment of persons adjudicated to be delinquent, in order that the condition of the minor be given due consideration in the disposition of the case. Any funds received under the provisions of this subdivision shall not cancel until the end of the fiscal year immediately following the fiscal year in which the funds were received. The funds are available for use by the commissioner of corrections during that period and are hereby appropriated annually to the commissioner of corrections as reimbursement of the costs of providing these services to the juvenile courts. [260.151, subd. 1 (omitting child protection-related text)]

Subd. 2. PETITION REQUIREMENT. The court may proceed as described in subdivision 1 only after a petition has been filed and, in delinquency cases, after the child has appeared before the court or a court appointed referee and has been informed of the allegations contained in the petition. However, when the child denies being delinquent before the court or court appointed referee, the investigation or examination shall not be conducted before a hearing has been held as provided in section 260B.163. [260.151, subd. 2]

Subd. 3. JUVENILE TREATMENT SCREENING TEAM. (a) The local social services agency, at its option, may establish a juvenile treatment screening team to conduct screenings and prepare case plans under this subdivision. The team, which may be the team constituted under section 245.4885 or 256B.092 or Minnesota Rules, parts 9530.6600 to 9530.6655, shall consist of social workers, juvenile justice professionals, and persons with expertise in the treatment of juveniles who are emotionally disabled, chemically dependent, or have a developmental disability. The team shall involve parents or guardians in the screening process as appropriate. The team may be the same team as defined in section 260C.157, subdivision 3.

(b) This paragraph applies only in counties that have established a juvenile treatment screening team under paragraph (a). If the court, prior to, or as part of, a final disposition, proposes to place a child for the primary purpose of treatment for an emotional disturbance, a developmental disability, or chemical dependency in a residential treatment facility out of state or in one which is within the state and licensed by the commissioner of human services under chapter 245A, the court shall notify the county welfare agency. The county's juvenile treatment screening team must either:

New language is indicated by underline, deletions by ~~strikeout~~.

(1) screen and evaluate the child and file its recommendations with the court within 14 days of receipt of the notice; or

(2) elect not to screen a given case, and notify the court of that decision within three working days.

(c) If the screening team has elected to screen and evaluate the child, the child may not be placed for the primary purpose of treatment for an emotional disturbance, a developmental disability, or chemical dependency, in a residential treatment facility out of state nor in a residential treatment facility within the state that is licensed under chapter 245A, unless one of the following conditions applies:

(1) a treatment professional certifies that an emergency requires the placement of the child in a facility within the state;

(2) the screening team has evaluated the child and recommended that a residential placement is necessary to meet the child's treatment needs and the safety needs of the community, that it is a cost-effective means of meeting the treatment needs, and that it will be of therapeutic value to the child; or

(3) the court, having reviewed a screening team recommendation against placement, determines to the contrary that a residential placement is necessary. The court shall state the reasons for its determination in writing, on the record, and shall respond specifically to the findings and recommendation of the screening team in explaining why the recommendation was rejected. The attorney representing the child and the prosecuting attorney shall be afforded an opportunity to be heard on the matter. [260.151, subd. 3]

Sec. 19. [260B.163] HEARING.

Subdivision 1. GENERAL. (a) Except for hearings arising under section 260B.425, hearings on any matter shall be without a jury and may be conducted in an informal manner, except that a child who is prosecuted as an extended jurisdiction juvenile has the right to a jury trial on the issue of guilt. The rules of evidence promulgated pursuant to section 480.0591 and the law of evidence shall apply in adjudicatory proceedings involving a child alleged to be delinquent, an extended jurisdiction juvenile, or a juvenile petty offender, and hearings conducted pursuant to section 260.125 except to the extent that the rules themselves provide that they do not apply.

(b) When a continuance or adjournment is ordered in any proceeding, the court may make any interim orders as it deems in the best interests of the minor in accordance with the provisions of sections 260B.001 to 260B.421.

(c) Except as otherwise provided in this paragraph, the court shall exclude the general public from hearings under this chapter and shall admit only those persons who, in the discretion of the court, have a direct interest in the case or in the work of the court. The court shall permit the victim of a child's delinquent act to attend any related delinquency proceeding, except that the court may exclude the victim:

(1) as a witness under the Rules of Criminal Procedure; and

(2) from portions of a certification hearing to discuss psychological material or other evidence that would not be accessible to the public.

The court shall open the hearings to the public in delinquency or extended jurisdiction juvenile proceedings where the child is alleged to have committed an offense or has been

New language is indicated by underline, deletions by ~~strikeout~~.

proven to have committed an offense that would be a felony if committed by an adult and the child was at least 16 years of age at the time of the offense, except that the court may exclude the public from portions of a certification hearing to discuss psychological material or other evidence that would not be accessible to the public in an adult proceeding.

(d) In all delinquency cases a person named in the charging clause of the petition as a person directly damaged in person or property shall be entitled, upon request, to be notified by the court administrator in writing, at the named person's last known address, of (1) the date of the certification or adjudicatory hearings, and (2) the disposition of the case. [260.155, subd. 1 (omitting child protection-related text)]

Subd. 2. RIGHT TO PARTICIPATE IN PROCEEDINGS. A child who is the subject of a petition, and the parents, guardian, or legal custodian of the child have the right to participate in all proceedings on a petition. Official tribal representatives have the right to participate in any proceeding that is subject to the Indian Child Welfare Act of 1978, United States Code, title 25, sections 1901 to 1963.

Any grandparent of the child has a right to participate in the proceedings to the same extent as a parent, if the child has lived with the grandparent within the two years preceding the filing of the petition. At the first hearing following the filing of a petition, the court shall ask whether the child has lived with a grandparent within the last two years, except that the court need not make this inquiry if the petition states that the child did not live with a grandparent during this time period. Failure to notify a grandparent of the proceedings is not a jurisdictional defect. [260.155, subd. 1a (omitting child protection-related text)]

Subd. 3. RIGHT OF ALLEGED VICTIM TO PRESENCE OF SUPPORTIVE PERSON. Notwithstanding any provision of subdivision 1 to the contrary, in any delinquency proceedings in which the alleged victim of the delinquent act is testifying in court, the victim may choose to have a supportive person who is not scheduled to be a witness in the proceedings, present during the testimony of the victim. [260.155, subd. 1b]

Subd. 4. APPOINTMENT OF COUNSEL. (a) The child, parent, guardian or custodian has the right to effective assistance of counsel in connection with a proceeding in juvenile court. This right does not apply to a child who is charged with a juvenile petty offense as defined in section 260B.007, subdivision 15, unless the child is charged with a third or subsequent juvenile alcohol or controlled substance offense and may be subject to the alternative disposition described in section 260B.235, subdivision 6.

(b) The court shall appoint counsel, or stand-by counsel if the child waives the right to counsel, for a child who is:

- (1) charged by delinquency petition with a gross misdemeanor or felony offense; or
- (2) the subject of a delinquency proceeding in which out-of-home placement has been proposed.

(c) If they desire counsel but are unable to employ it, the court shall appoint counsel to represent the child or the parents or guardian in any case in which it feels that such an appointment is appropriate, except a juvenile petty offender who does not have the right to counsel under paragraph (a).

New language is indicated by underline, deletions by ~~strikeout~~.

(d) Counsel for the child shall not also act as the child's guardian ad litem. [260.155, subd. 2 (omitting child protection-related text)]

Subd. 5. COUNTY ATTORNEY. The county attorney shall present the evidence upon request of the court. [260.155, subd. 3 (omitting child protection-related text)]

Subd. 6. GUARDIAN AD LITEM. (a) The court shall appoint a guardian ad litem to protect the interests of the minor when it appears, at any stage of the proceedings, that the minor is without a parent or guardian, or that the minor's parent is a minor or incompetent, or that the parent or guardian is indifferent or hostile to the minor's interests. In any other case the court may appoint a guardian ad litem to protect the interests of the minor when the court feels that such an appointment is desirable. The court shall appoint the guardian ad litem on its own motion or in the manner provided for the appointment of a guardian ad litem in the district court. The court may appoint separate counsel for the guardian ad litem if necessary.

(b) A guardian ad litem shall carry out the following responsibilities:

(1) conduct an independent investigation to determine the facts relevant to the situation of the child and the family, which must include, unless specifically excluded by the court, reviewing relevant documents; meeting with and observing the child in the home setting and considering the child's wishes, as appropriate; and interviewing parents, care-givers, and others with knowledge relevant to the case;

(2) advocate for the child's best interests by participating in appropriate aspects of the case and advocating for appropriate community services when necessary;

(3) maintain the confidentiality of information related to a case, with the exception of sharing information as permitted by law to promote cooperative solutions that are in the best interests of the child;

(4) monitor the child's best interests throughout the judicial proceeding; and

(5) present written reports on the child's best interests that include conclusions and recommendations and the facts upon which they are based.

(c) The court may waive the appointment of a guardian ad litem pursuant to clause (a), whenever counsel has been appointed pursuant to subdivision 2 or is retained otherwise, and the court is satisfied that the interests of the minor are protected.

(d) In appointing a guardian ad litem pursuant to clause (a), the court shall not appoint the party, or any agent or employee thereof, filing a petition pursuant to section 260.131.

(e) The following factors shall be considered when appointing a guardian ad litem in a case involving an Indian or minority child:

(1) whether a person is available who is the same racial or ethnic heritage as the child or, if that is not possible;

(2) whether a person is available who knows and appreciates the child's racial or ethnic heritage. [260.155, subd. 4 (omitting child protection-related text)]

Subd. 7. PARENT OR GUARDIAN MUST ACCOMPANY CHILD AT HEARING. The custodial parent or guardian of a child who is alleged or found to be

New language is indicated by underline, deletions by strikethrough

delinquent, or is prosecuted as an extended jurisdiction juvenile, must accompany the child at each hearing held during the delinquency or extended jurisdiction juvenile proceedings, unless the court excuses the parent or guardian from attendance for good cause shown. The failure of a parent or guardian to comply with this duty may be punished as provided in section 260B.154. [260.155, subd. 4b]

Subd. 8. WAIVING THE PRESENCE OF CHILD, PARENT. Except in delinquency proceedings, the court may waive the presence of the minor in court at any stage of the proceedings when it is in the best interests of the minor to do so. In a delinquency proceeding, after the child is found to be delinquent, the court may excuse the presence of the child from the hearing when it is in the best interests of the child to do so. In any proceeding the court may temporarily excuse the presence of the parent or guardian of a minor from the hearing when it is in the best interests of the minor to do so. The attorney or guardian ad litem, if any, has the right to continue to participate in proceedings during the absence of the minor, parent, or guardian. [260.155, subd. 5]

Subd. 9. RIGHTS OF PARTIES AT HEARING. The minor and the minor's parent, guardian, or custodian are entitled to be heard, to present evidence material to the case, and to cross examine witnesses appearing at the hearing. [260.155, subd. 6]

Subd. 10. WAIVER. (a) Waiver of any right which a child has under this chapter must be an express waiver voluntarily and intelligently made by the child after the child has been fully and effectively informed of the right being waived. If a child is not represented by counsel, any waiver must be given or any objection must be offered by the child's guardian ad litem.

(b) Waiver of a child's right to be represented by counsel provided under the juvenile court rules must be an express waiver voluntarily and intelligently made by the child after the child has been fully and effectively informed of the right being waived. In determining whether a child has voluntarily and intelligently waived the right to counsel, the court shall look to the totality of the circumstances which includes but is not limited to the child's age, maturity, intelligence, education, experience, and ability to comprehend, and the presence and competence of the child's parents, guardian, or guardian ad litem. If the court accepts the child's waiver, it shall state on the record the findings and conclusions that form the basis for its decision to accept the waiver. [260.155, subd. 8]

Sec. 20. [260B.168] COMPLIANCE WITH INDIAN CHILD WELFARE ACT.

The provisions of this chapter must be construed consistently with the Indian Child Welfare Act of 1978, United States Code, title 25, sections 1901 to 1963. [260.157]

Sec. 21. [260B.171] RECORDS.

Subdivision 1. RECORDS REQUIRED TO BE KEPT. (a) The juvenile court judge shall keep such minutes and in such manner as the court deems necessary and proper. Except as provided in paragraph (b), the court shall keep and maintain records pertaining to delinquent adjudications until the person reaches the age of 28 years and shall release the records on an individual to another juvenile court that has jurisdiction of the juvenile, to a requesting adult court for purposes of sentencing, or to an adult court or juvenile court as required by the right of confrontation of either the United States Constitution or the Minnesota Constitution. The juvenile court shall provide, upon the request of any

New language is indicated by underline, deletions by strikeout.

other juvenile court, copies of the records concerning adjudications involving the particular child. The court also may provide copies of records concerning delinquency adjudications, on request, to law enforcement agencies, probation officers, and corrections agents if the court finds that providing these records serves public safety or is in the best interests of the child. Until July 1, 1999, juvenile court delinquency proceeding records of adjudications, court transcripts, and delinquency petitions, including any probable cause attachments that have been filed or police officer reports relating to a petition, must be released to requesting law enforcement agencies and prosecuting authorities for purposes of investigating and prosecuting violations of section 609.229, provided that psychological or mental health reports may not be included with those records. The agency receiving the records may release the records only as permitted under this section or authorized by law.

The court shall also keep an index in which files pertaining to juvenile matters shall be indexed under the name of the child. After the name of each file shall be shown the file number and, if ordered by the court, the book and page of the register in which the documents pertaining to such file are listed. The court shall also keep a register properly indexed in which shall be listed under the name of the child all documents filed pertaining to the child and in the order filed. The list shall show the name of the document and the date of filing thereof. The juvenile court legal records shall be deposited in files and shall include the petition, summons, notice, findings, orders, decrees, judgments, and motions and such other matters as the court deems necessary and proper. Unless otherwise provided by law, all court records shall be open at all reasonable times to the inspection of any child to whom the records relate, and to the child's parent and guardian.

(b) The court shall retain records of the court finding that a juvenile committed an act that would be a felony or gross misdemeanor level offense until the offender reaches the age of 28. If the offender commits a felony as an adult, or the court convicts a child as an extended jurisdiction juvenile, the court shall retain the juvenile records for as long as the records would have been retained if the offender had been an adult at the time of the juvenile offense. This paragraph does not apply unless the juvenile was provided counsel as required by section 260B.163, subdivision 2. [260.161, subd. 1]

Subd. 2. RECORD OF FINDINGS. (a) The juvenile court shall forward to the bureau of criminal apprehension the following data in juvenile petitions involving felony- or gross misdemeanor-level offenses:

- (1) the name and birthdate of the juvenile, including any of the juvenile's known aliases or street names;
- (2) the act for which the juvenile was petitioned and date of the offense; and
- (3) the date and county where the petition was filed.

(b) Upon completion of the court proceedings, the court shall forward the court's finding and case disposition to the bureau. The court shall specify whether:

- (1) the juvenile was referred to a diversion program;
- (2) the petition was dismissed, continued for dismissal, or continued without adjudication; or
- (3) the juvenile was adjudicated delinquent.

New language is indicated by underline, deletions by ~~strikeout~~.

(c) The juvenile court shall forward to the bureau, the sentencing guidelines commission, and the department of corrections the following data on individuals convicted as extended jurisdiction juveniles:

(1) the name and birthdate of the offender, including any of the juvenile's known aliases or street names;

(2) the crime committed by the offender and the date of the crime;

(3) the date and county of the conviction; and

(4) the case disposition.

The court shall notify the bureau, the sentencing guidelines commission, and the department of corrections whenever it executes an extended jurisdiction juvenile's adult sentence under section 260B.130, subdivision 5.

(d) The bureau, sentencing guidelines commission, and the department of corrections shall retain the extended jurisdiction juvenile data for as long as the data would have been retained if the offender had been an adult at the time of the offense. Data retained on individuals under this subdivision are private data under section 13.02, except that extended jurisdiction juvenile data becomes public data under section 13.87, subdivision 2, when the juvenile court notifies the bureau that the individual's adult sentence has been executed under section 260B.130, subdivision 5. [260.161, subd. 1a]

Subd. 3. DISPOSITION ORDER; COPY TO SCHOOL. (a) If a juvenile is enrolled in school, the juvenile's probation officer shall transmit a copy of the court's disposition order to the principal or chief administrative officer of the juvenile's school if the juvenile has been adjudicated delinquent for committing an act on the school's property or an act:

(1) that would be a violation of section 609.185 (first-degree murder); 609.19 (second-degree murder); 609.195 (third-degree murder); 609.20 (first-degree manslaughter); 609.205 (second-degree manslaughter); 609.21 (criminal vehicular homicide and injury); 609.221 (first-degree assault); 609.222 (second-degree assault); 609.223 (third-degree assault); 609.2231 (fourth-degree assault); 609.224 (fifth-degree assault); 609.2242 (domestic assault); 609.24 (simple robbery); 609.245 (aggravated robbery); 609.25 (kidnapping); 609.255 (false imprisonment); 609.342 (first-degree criminal sexual conduct); 609.343 (second-degree criminal sexual conduct); 609.344 (third-degree criminal sexual conduct); 609.345 (fourth-degree criminal sexual conduct); 609.3451 (fifth-degree criminal sexual conduct); 609.498 (tampering with a witness); 609.561 (first-degree arson); 609.582, subdivision 1 or 2 (burglary); 609.713 (terroristic threats); or 609.749 (harassment and stalking), if committed by an adult;

(2) that would be a violation of section 152.021 (first-degree controlled substance crime); 152.022 (second-degree controlled substance crime); 152.023 (third-degree controlled substance crime); 152.024 (fourth-degree controlled substance crime); 152.025 (fifth-degree controlled substance crime); 152.0261 (importing a controlled substance); or 152.027 (other controlled substance offenses), if committed by an adult; or

(3) that involved the possession or use of a dangerous weapon as defined in section 609.02, subdivision 6.

New language is indicated by underline, deletions by ~~strikeout~~.

When a disposition order is transmitted under this paragraph, the probation officer shall notify the juvenile's parent or legal guardian that the disposition order has been shared with the juvenile's school.

(b) The disposition order must be accompanied by a notice to the school that the school may obtain additional information from the juvenile's probation officer with the consent of the juvenile or the juvenile's parents, as applicable. The disposition order must be maintained in the student's permanent education record but may not be released outside of the school district or educational entity, other than to another school district or educational entity to which the juvenile is transferring. Notwithstanding section 138.17, the disposition order must be destroyed when the juvenile graduates from the school or at the end of the academic year when the juvenile reaches age 23, whichever date is earlier.

(c) The juvenile's probation officer shall maintain a record of disposition orders released under this subdivision and the basis for the release.

(d) The criminal and juvenile justice information policy group, in consultation with representatives of probation officers and educators, shall prepare standard forms for use by juvenile probation officers in forwarding information to schools under this subdivision and in maintaining a record of the information that is released.

(e) As used in this subdivision, "school" means a public or private elementary, middle, or secondary school. [260.161, subd. 1b]

Subd. 4. PUBLIC INSPECTION OF RECORDS. (a) Legal records arising from proceedings or portions of proceedings that are public under section 260B.163, subdivision 1, are open to public inspection.

(b) Except as otherwise provided by this section, none of the records of the juvenile court and none of the records relating to an appeal from a nonpublic juvenile court proceeding, except the written appellate opinion, shall be open to public inspection or their contents disclosed except:

(1) by order of a court; or

(2) as required by sections 245A.04, 611A.03, 611A.04, 611A.06, and 629.73.

(c) The victim of any alleged delinquent act may, upon the victim's request, obtain the following information, unless it reasonably appears that the request is prompted by a desire on the part of the requester to engage in unlawful activities:

(1) the name and age of the juvenile;

(2) the act for which the juvenile was petitioned and date of the offense; and

(3) the disposition, including but not limited to, dismissal of the petition, diversion, probation and conditions of probation, detention, fines, or restitution.

(d) The records of juvenile probation officers and county home schools are records of the court for the purposes of this subdivision. Court services data relating to delinquent acts that are contained in records of the juvenile court may be released as allowed under section 13.84, subdivision 5a. This subdivision applies to all proceedings under this chapter, including appeals from orders of the juvenile court, except that this subdivision does not apply to proceedings under section 260B.335 or 260B.425 when the proceeding

New language is indicated by underline, deletions by strikeout.

involves an adult defendant. The court shall maintain the confidentiality of adoption files and records in accordance with the provisions of laws relating to adoptions. In juvenile court proceedings any report or social history furnished to the court shall be open to inspection by the attorneys of record and the guardian ad litem a reasonable time before it is used in connection with any proceeding before the court.

(e) When a judge of a juvenile court, or duly authorized agent of the court, determines under a proceeding under this chapter that a child has violated a state or local law, ordinance, or regulation pertaining to the operation of a motor vehicle on streets and highways, except parking violations, the judge or agent shall immediately report the violation to the commissioner of public safety. The report must be made on a form provided by the department of public safety and must contain the information required under section 169.95.

(f) A county attorney may give a law enforcement agency that referred a delinquency matter to the county attorney a summary of the results of that referral, including the details of any juvenile court disposition. [260.161, subd. 2 (omitting child protection-related text)]

Subd. 5. PEACE OFFICER RECORDS OF CHILDREN. (a) Except for records relating to an offense where proceedings are public under section 260B.163, subdivision 1, peace officers' records of children who are or may be delinquent or who may be engaged in criminal acts shall be kept separate from records of persons 18 years of age or older and are private data but shall be disseminated: (1) by order of the juvenile court, (2) as required by section 121A.28, (3) as authorized under section 13.82, subdivision 2, (4) to the child or the child's parent or guardian unless disclosure of a record would interfere with an ongoing investigation, (5) to the Minnesota crime victims reparations board as required by section 611A.56, subdivision 2, clause (f), for the purpose of processing claims for crime victims reparations, or (6) as otherwise provided in this subdivision. Except as provided in paragraph (c), no photographs of a child taken into custody may be taken without the consent of the juvenile court unless the child is alleged to have violated section 169.121 or 169.129. Peace officers' records containing data about children who are victims of crimes or witnesses to crimes must be administered consistent with section 13.82, subdivisions 2, 3, 4, and 10. Any person violating any of the provisions of this subdivision shall be guilty of a misdemeanor.

In the case of computerized records maintained about juveniles by peace officers, the requirement of this subdivision that records about juveniles must be kept separate from adult records does not mean that a law enforcement agency must keep its records concerning juveniles on a separate computer system. Law enforcement agencies may keep juvenile records on the same computer as adult records and may use a common index to access both juvenile and adult records so long as the agency has in place procedures that keep juvenile records in a separate place in computer storage and that comply with the special data retention and other requirements associated with protecting data on juveniles.

(b) Nothing in this subdivision prohibits the exchange of information by law enforcement agencies if the exchanged information is pertinent and necessary for law enforcement purposes.

(c) A photograph may be taken of a child taken into custody pursuant to section 260B.175, subdivision 1, clause (b), provided that the photograph must be destroyed

New language is indicated by underline, deletions by ~~strikeout~~.

when the child reaches the age of 19 years. The commissioner of corrections may photograph juveniles whose legal custody is transferred to the commissioner. Photographs of juveniles authorized by this paragraph may be used only for institution management purposes, case supervision by parole agents, and to assist law enforcement agencies to apprehend juvenile offenders. The commissioner shall maintain photographs of juveniles in the same manner as juvenile court records and names under this section.

(d) Traffic investigation reports are open to inspection by a person who has sustained physical harm or economic loss as a result of the traffic accident. Identifying information on juveniles who are parties to traffic accidents may be disclosed as authorized under section 13.82, subdivision 4, and accident reports required under section 169.09 may be released under section 169.09, subdivision 13, unless the information would identify a juvenile who was taken into custody or who is suspected of committing an offense that would be a crime if committed by an adult, or would associate a juvenile with the offense, and the offense is not an adult court traffic offense under section 260B.225.

(e) A law enforcement agency shall notify the principal or chief administrative officer of a juvenile's school of an incident occurring within the agency's jurisdiction if:

(1) the agency has probable cause to believe that the juvenile has committed an offense that would be a crime if committed as an adult, that the victim of the offense is a student or staff member of the school, and that notice to the school is reasonably necessary for the protection of the victim; or

(2) the agency has probable cause to believe that the juvenile has committed an offense described in subdivision 1b, paragraph (a), clauses (1) to (3), that would be a crime if committed by an adult, regardless of whether the victim is a student or staff member of the school.

A law enforcement agency is not required to notify the school under this paragraph if the agency determines that notice would jeopardize an ongoing investigation. Notwithstanding section 138.17, data from a notice received from a law enforcement agency under this paragraph must be destroyed when the juvenile graduates from the school or at the end of the academic year when the juvenile reaches age 23, whichever date is earlier. For purposes of this paragraph, "school" means a public or private elementary, middle, or secondary school.

(f) In any county in which the county attorney operates or authorizes the operation of a juvenile prepetition or pretrial diversion program, a law enforcement agency or county attorney's office may provide the juvenile diversion program with data concerning a juvenile who is a participant in or is being considered for participation in the program.

(g) Upon request of a local social service agency, peace officer records of children who are or may be delinquent or who may be engaged in criminal acts may be disseminated to the agency to promote the best interests of the subject of the data.

(h) Upon written request, the prosecuting authority shall release investigative data collected by a law enforcement agency to the victim of a criminal act or alleged criminal act or to the victim's legal representative, except as otherwise provided by this paragraph. Data shall not be released if:

(1) the release to the individual subject of the data would be prohibited under section 13.391; or

New language is indicated by underline, deletions by ~~strikeout~~.

(2) the prosecuting authority reasonably believes:

(i) that the release of that data will interfere with the investigation; or

(ii) that the request is prompted by a desire on the part of the requester to engage in unlawful activities. [260.161, subd. 3]

Subd. 6. ATTORNEY ACCESS TO RECORDS. An attorney representing a child, parent, or guardian ad litem in a proceeding under this chapter shall be given access to records, local social service agency files, and reports which form the basis of any recommendation made to the court. An attorney does not have access under this subdivision to the identity of a person who made a report under section 626.556. The court may issue protective orders to prohibit an attorney from sharing a specified record or portion of a record with a client other than a guardian ad litem. [260.161, subd. 3a]

Subd. 7. COURT RECORD RELEASED TO PROSECUTOR. If a prosecutor has probable cause to believe that a person has committed a gross misdemeanor violation of section 169.121 or has violated section 169.129, and that a prior juvenile court adjudication forms, in part, the basis for the current violation, the prosecutor may file an application with the court having jurisdiction over the criminal matter attesting to this probable cause determination and seeking the relevant juvenile court records. The court shall transfer the application to the juvenile court where the requested records are maintained, and the juvenile court shall release to the prosecutor any records relating to the person's prior juvenile traffic adjudication, including a transcript, if any, of the court's advisory of the right to counsel and the person's exercise or waiver of that right. [260.161, subd. 4]

Subd. 8. FURTHER RELEASE OF RECORDS. A person who receives access to juvenile court or peace officer records of children that are not accessible to the public may not release or disclose the records to any other person except as authorized by law. This subdivision does not apply to the child who is the subject of the records or the child's parent or guardian. [260.161, subd. 5]

Sec. 22. [260B.173] REPORT ON JUVENILE DELINQUENCY PETITIONS.

The state court administrator shall annually prepare and present to the chairs and ranking minority members of the house judiciary committee and the senate crime prevention committee aggregate data by judicial district on juvenile delinquency petitions. The report must include, but need not be limited to, information on the act for which a delinquency petition is filed, the age of the juvenile, the county where the petition was filed, the outcome of the petition, such as dismissal, continuance for dismissal, continuance without adjudication, and the disposition of the petition such as diversion, detention, probation, restitution, or fine. The report must be prepared on a calendar year basis and be submitted annually beginning July 1, 1999. [260.162]

Sec. 23. [260B.175] TAKING CHILD INTO CUSTODY.

Subdivision 1. IMMEDIATE CUSTODY. No child may be taken into immediate custody except:

(a) With an order issued by the court in accordance with the provisions of section 260B.151, subdivision 5, or Laws 1997, chapter 239, article 10, section 10, paragraph (a), clause (3), or 12, paragraph (a), clause (3), or by a warrant issued in accordance with the provisions of section 260B.154;

New language is indicated by underline, deletions by strikeout.

(b) In accordance with the laws relating to arrests; or

(c) By a peace officer or probation or parole officer when it is reasonably believed that the child has violated the terms of probation, parole, or other field supervision. [260.165, subd. 1 (omitting child protection-related text)]

Subd. 2. NOT AN ARREST. The taking of a child into custody under the provisions of this section shall not be considered an arrest. [260.165, subd. 2]

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 or section 260B.154, the officer shall notify the parent or custodian that under section 260B.181, subdivision 2, the parent or custodian may request that the child be placed with a relative or a designated caregiver under chapter 257A instead of in a shelter care facility. The officer also 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. [260.165, subd. 3 (omitting child protection-related text)]

Subd. 4. PROTECTIVE PAT-DOWN SEARCH OF CHILD AUTHORIZED.

(a) A peace officer who takes a child of any age or gender into custody under the provisions of this section is authorized to perform a protective pat-down search of the child in order to protect the officer's safety.

(b) A peace officer also may perform a protective pat-down search of a child in order to protect the officer's safety in circumstances where the officer does not intend to take the child into custody, if this section authorizes the officer to take the child into custody.

(c) Evidence discovered in the course of a lawful search under this section is admissible. [260.165, subd. 2a]

Sec. 24. [260B.176] RELEASE OR DETENTION.

Subdivision 1. NOTIFICATION; RELEASE. If a child is taken into custody as provided in section 260B.175, the parent, guardian, or custodian of the child shall be notified as soon as possible. Unless there is reason to believe that the child would endanger self or others, not return for a court hearing, run away from the child's parent, guardian, or custodian or otherwise not remain in the care or control of the person to whose lawful custody the child is released, or that the child's health or welfare would be immediately endangered, the child shall be released to the custody of a parent, guardian, custodian, or other suitable person. The person to whom the child is released shall promise to bring the

New language is indicated by underline, deletions by ~~strikeout~~.

child to the court, if necessary, at the time the court may direct. If the person taking the child into custody believes it desirable, that person may request the parent, guardian, custodian, or other person designated by the court to sign a written promise to bring the child to court as provided above. The intentional violation of such a promise, whether given orally or in writing, shall be punishable as contempt of court.

The court may require the parent, guardian, custodian, or other person to whom the child is released, to post any reasonable bail or bond required by the court which shall be forfeited to the court if the child does not appear as directed. The court may also release the child on the child's own promise to appear in juvenile court. [260.171, subd. 1 (omitting child protection-related text)]

Subd. 2. REASONS FOR DETENTION. (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 260B.007, subdivision 6, unless a petition has been filed and the judge or referee determines pursuant to section 260B.178 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 260B.007, subdivision 6, unless:

(1) a petition has been filed under section 260B.141; and

(2) a judge or referee has determined under section 260B.178 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 260B.125. Notwithstanding this paragraph, continued detention of a child in an adult detention facility outside of a standard metropolitan statistical area county is permissible if:

(i) the facility in which the child is detained is located where conditions of distance to be traveled or other ground transportation do not allow for court appearances within 24 hours. A delay not to exceed 48 hours may be made under this clause; or

(ii) the facility is located where conditions of safety exist. Time for an appearance may be delayed until 24 hours after the time that conditions allow for reasonably safe travel. "Conditions of safety" include adverse life-threatening weather conditions that do not allow for reasonably safe travel.

The continued detention of a child under clause (i) or (ii) must be reported to the commissioner of corrections.

New language is indicated by underline, deletions by strikeout.

(d) 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 260B.125, notice to the commissioner shall not be required. [260.171, subd. 2 (omitting child protection-related text)]

Subd. 3. SHELTER CARE FACILITY; SECURE DETENTION FACILITY. If the person who has taken the child into custody determines that the child should be placed in a secure detention facility or a shelter care facility, that person shall advise the child and as soon as is possible, the child's parent, guardian, or custodian:

(a) of the reasons why the child has been taken into custody and why the child is being placed in a juvenile secure detention facility or a shelter care facility; and

(b) of the location of the juvenile secure detention facility or shelter care facility. If there is reason to believe that disclosure of the location of the shelter care facility would place the child's health and welfare in immediate endangerment, disclosure of the location of the shelter care facility shall not be made; and

(c) that the child's parent, guardian, or custodian and attorney or guardian ad litem may make an initial visit to the secure detention facility or shelter care facility at any time. Subsequent visits by a parent, guardian, or custodian may be made on a reasonable basis during visiting hours and by the child's attorney or guardian ad litem at reasonable hours; and

(d) that the child may telephone parents and an attorney or guardian ad litem from the juvenile secure detention facility or shelter care facility immediately after being admitted to the facility and thereafter on a reasonable basis to be determined by the director of the facility; and

(e) that the child may not be detained for acts as defined in section 260B.007, subdivision 6, at a juvenile secure detention facility or shelter care facility longer than 36 hours, excluding Saturdays, Sundays, and holidays, unless a petition has been filed within that time and the court orders the child's continued detention, pursuant to section 260B.178; and

(f) that the child may not be detained for acts defined in section 260B.007, subdivision 6, at an adult jail or municipal lockup longer than 24 hours, excluding Saturdays, Sundays, and holidays, or longer than six hours if the adult jail or municipal lockup is in a standard metropolitan statistical area, unless a petition has been filed and the court orders the child's continued detention under section 260B.178; and

(g) of the date, time, and place of the detention hearing, if this information is available to the person who has taken the child into custody; and

(h) that the child and the child's parent, guardian, or custodian have the right to be present and to be represented by counsel at the detention hearing, and that if they cannot

New language is indicated by underline, deletions by strikeout.

afford counsel, counsel will be appointed at public expense for the child, if it is a delinquency matter.

After August 1, 1991, the child's parent, guardian, or custodian shall also be informed under clause (f) that the child may not be detained in an adult jail or municipal lockup longer than 24 hours, excluding Saturdays, Sundays, and holidays, or longer than six hours if the adult jail or municipal lockup is in a standard metropolitan statistical area, unless a motion to refer the child for adult prosecution has been made within that time period. [260.171, subd. 4 (omitting child protection-related text)]

Subd. 4. TRANSPORTATION. If a child is to be detained in a secure detention facility or shelter care facility, the child shall be promptly transported to the facility in a manner approved by the facility or by securing a written transportation order from the court authorizing transportation by the sheriff or other qualified person. The person who has determined that the child should be detained shall deliver to the court and the supervisor of the secure detention facility or shelter care facility where the child is placed, a signed report, setting forth:

- (a) the time the child was taken into custody; and
- (b) the time the child was delivered for transportation to the secure detention facility or shelter care facility; and
- (c) the reasons why the child was taken into custody; and
- (d) the reasons why the child has been placed in detention; and
- (e) a statement that the child and the child's parent have received the notification required by subdivision 3 or the reasons why they have not been so notified; and
- (f) any instructions required by subdivision 5. [260.171, subd. 5]

Subd. 5. SHELTER CARE; NOTICE TO PARENT. When a child is to be placed in a shelter care facility the person taking the child into custody or the court shall determine whether or not there is reason to believe that disclosure of the shelter care facility's location to the child's parent, guardian, or custodian would immediately endanger the health and welfare of the child. If there is reason to believe that the child's health and welfare would be immediately endangered, disclosure of the location shall not be made. This determination shall be included in the report required by subdivision 4, along with instructions to the shelter care facility to notify or withhold notification. [260.171, subd. 5a]

Subd. 6. REPORT. (a) When a child has been delivered to a secure detention facility, the supervisor of the facility shall deliver to the court a signed report acknowledging receipt of the child stating the time of the child's arrival. The supervisor of the facility shall ascertain from the report of the person who has taken the child into custody whether the child and a parent, guardian, or custodian have received the notification required by subdivision 3. If the child or a parent, guardian or custodian, or both, have not been so notified, the supervisor of the facility shall immediately make the notification, and shall include in the report to the court a statement that notification has been received or the reasons why it has not.

(b) When a child has been delivered to a shelter care facility, the supervisor of the facility shall deliver to the court a signed report acknowledging receipt of the child stating

New language is indicated by underline, deletions by strikeout.

the time of the child's arrival. The supervisor of the facility shall ascertain from the report of the person who has taken the child into custody whether the child's parent, guardian or custodian has been notified of the placement of the child at the shelter care facility and its location, and the supervisor shall follow any instructions concerning notification contained in that report. [260.171, subd. 6]

Sec. 25. [260B.178] DETENTION HEARING.

Subdivision 1. HEARING AND RELEASE REQUIREMENTS. (a) The court shall hold a detention hearing:

(1) within 36 hours of the time the child was taken into custody, excluding Saturdays, Sundays, and holidays, if the child is being held at a juvenile secure detention facility or shelter care facility; or

(2) within 24 hours of the time the child was taken into custody, excluding Saturdays, Sundays, and holidays, if the child is being held at an adult jail or municipal lockup.

(b) Unless there is reason to believe that the child would endanger self or others, not return for a court hearing, run away from the child's parent, guardian, or custodian or otherwise not remain in the care or control of the person to whose lawful custody the child is released, or that the child's health or welfare would be immediately endangered, the child shall be released to the custody of a parent, guardian, custodian, or other suitable person, subject to reasonable conditions of release including, but not limited to, a requirement that the child undergo a chemical use assessment as provided in section 260B.157, subdivision 1. In determining whether the child's health or welfare would be immediately endangered, the court shall consider whether the child would reside with a perpetrator of domestic child abuse. [260.172, subd. 1 (omitting child protection-related text)]

Subd. 2. CONTINUATION OF DETENTION. If the court determines that the child should continue in detention, it may order detention continued for eight days, excluding Saturdays, Sundays and holidays, from and including the date of the order. Unless a motion to refer the child for adult prosecution is pending, a child who has been detained in an adult jail or municipal lockup and for whom continued detention is ordered, must be transferred to a juvenile secure detention facility or shelter care facility. The court shall include in its order the reasons for continued detention and the findings of fact which support these reasons. [260.172, subd. 2]

Subd. 3. SERVICE OF ORDERS. Copies of the court's order shall be served upon the parties, including the supervisor of the detention facility, who shall release the child or continue to hold the child as the court orders.

When the court's order is served upon these parties, notice shall also be given to the parties of the subsequent reviews provided by subdivision 4. The notice shall also inform each party of the right to submit to the court for informal review any new evidence regarding whether the child should be continued in detention and to request a hearing to present the evidence to the court. [260.172, subd. 3]

Subd. 4. REVIEW OF CASE. If a child held in detention under a court order issued under subdivision 2 has not been released prior to expiration of the order, the court or referee shall informally review the child's case file to determine, under the standards provided by subdivision 1, whether detention should be continued. If detention is continued thereafter, informal reviews such as these shall be held within every eight days, excluding Saturdays, Sundays and holidays, of the child's detention.

New language is indicated by underline, deletions by strikethrough.

A hearing, rather than an informal review of the child's case file, shall be held at the request of any one of the parties notified pursuant to subdivision 3, if that party notifies the court of a wish to present to the court new evidence concerning whether the child should be continued in detention or notifies the court of a wish to present an alternate placement arrangement to provide for the safety and protection of the child. [260.172, subd. 4 (omitting child protection-related text)]

Sec. 26. [260B.181] PLACE OF TEMPORARY CUSTODY; SHELTER CARE FACILITY.

Subdivision 1. TEMPORARY CUSTODY. A child taken into custody pursuant to section 260.165 may be detained for up to 24 hours in a shelter care facility, secure detention facility, or, if there is no secure detention facility available for use by the county having jurisdiction over the child, in a jail or other facility for the confinement of adults who have been charged with or convicted of a crime in quarters separate from any adult confined in the facility which has been approved for the detention of juveniles by the commissioner of corrections. At the end of the 24 hour detention any child requiring further detention may be detained only as provided in this section. [260.173, subd. 1]

Subd. 2. LEAST RESTRICTIVE SETTING. Notwithstanding the provisions of subdivision 1, if the child had been taken into custody pursuant to section 260B.175, subdivision 1, clause (a), 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, a designated caregiver under chapter 257A, 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. [260.173, subd. 2]

Subd. 3. PLACEMENT. If the child had been taken into custody and detained as one who is alleged to be delinquent or a juvenile petty offender by reason of:

(a) Having committed an offense which would not constitute a violation of a state law or local ordinance if the child were an adult; or

(b) Having been previously adjudicated delinquent or a juvenile petty offender, or conditionally released by the juvenile court without adjudication, has violated probation, parole, or other field supervision under which the child had been placed as a result of behavior described in this subdivision; the child may be placed only in a shelter care facility. [260.173, subd. 3 (omitting child protection-related text)]

Subd. 4. DETENTION IN FACILITIES; TYPE; DURATION. If a child is taken into custody as one who:

(a) has allegedly committed an act which would constitute a violation of a state law or a local ordinance if the child were an adult; or

(b) is reasonably believed to have violated the terms of probation, parole, or other field supervision under which the child had been placed as a result of behavior described under clause (a);

the child may be detained in a shelter care or secure juvenile detention facility. If the child cannot be detained in another type of detention facility, and if there is no secure juvenile detention facility or existing acceptable detention alternative available for juveniles

New language is indicated by underline, deletions by ~~strikeout~~.

within the county, a child described in this subdivision may be detained up to 24 hours, excluding Saturdays, Sundays, and holidays, or up to six hours in a standard metropolitan statistical area, in a jail, lockup or other facility used for the confinement of adults who have been charged with or convicted of a crime, in quarters separate from any adult confined in the facility which has been approved for the detention of juveniles by the commissioner of corrections. If continued detention in an adult jail is approved by the court under section 260B.178, subdivision 2, and there is no juvenile secure detention facility available for use by the county having jurisdiction over the child, such child may be detained for no more than eight days from and including the date of the original detention order in separate quarters in any jail or other adult facility for the confinement of persons charged with or convicted of crime which has been approved by the commissioner of corrections to be suitable for the detention of juveniles for up to eight days. Except for children who have been referred for prosecution pursuant to section 260B.125, and as hereinafter provided, any child requiring secure detention for more than eight days from and including the date of the original detention order must be removed to an approved secure juvenile detention facility. A child 16 years of age or older against whom a motion to refer for prosecution is pending before the court may be detained for more than eight days in separate quarters in a jail or other facility which has been approved by the commissioner of corrections for the detention of juveniles for up to eight days after a hearing and subject to the periodic reviews provided in section 260B.178. No child under the age of 14 may be detained in a jail, lockup or other facility used for the confinement of adults who have been charged with or convicted of a crime. [260.173, subd. 4]

Subd. 5. STATE CORRECTIONAL INSTITUTION. In order for a child to be detained at a state correctional institution for juveniles, the commissioner of corrections must first consent thereto, and the county must agree to pay the costs of the child's detention.

Where the commissioner directs that a child be detained in an approved juvenile facility with the approval of the administrative authority of the facility as provided in section 260B.176, subdivision 2, or subdivision 4 of this section, the costs of such detention shall be a charge upon the county for which the child is being detained. [260.173, subd. 5]

Sec. 27. [260B.185] EXTENSION OF DETENTION PERIOD.

Subdivision 1. DETENTION. Before July 1, 1999, and pursuant to a request from an eight-day temporary holdover facility, as defined in section 241.0221, the commissioner of corrections, or the commissioner's designee, may grant a one-time extension per child to the eight-day limit on detention under this chapter. This extension may allow such a facility to detain a child for up to 30 days including weekends and holidays. Upon the expiration of the extension, the child may not be transferred to another eight-day temporary holdover facility. The commissioner shall develop criteria for granting extensions under this section. These criteria must ensure that the child be transferred to a long-term juvenile detention facility as soon as such a transfer is possible. Nothing in this section changes the requirements in section 260B.178 regarding the necessity of detention hearings to determine whether continued detention of the child is proper. [260.1735, subd. 1]

Subd. 2. CONTINUED DETENTION. (a) A delay not to exceed 48 hours may be made if the facility in which the child is detained is located where conditions of distance

New language is indicated by underline, deletions by strikeout.

to be traveled or other ground transportation do not allow for court appearances within 24 hours.

(b) A delay may be made if the facility is located where conditions of safety exist. Time for an appearance may be delayed until 24 hours after the time that conditions allow for reasonably safe travel. "Conditions of safety" include adverse life-threatening weather conditions that do not allow for reasonably safe travel.

The continued detention of a child under paragraph (a) or (b) must be reported to the commissioner of corrections. [260.1735, subd. 2]

Sec. 28. [260B.188] CHILDREN IN CUSTODY; RESPONSIBILITY FOR MEDICAL CARE.

Subdivision 1. MEDICAL AID. If a child is taken into custody as provided in section 260B.175 and detained in a local juvenile secure detention facility or shelter care facility, or if a child is sentenced by the juvenile court to a local correctional facility as defined in section 241.021, subdivision 1, paragraph (5), the child's county of residence shall pay the costs of medical services provided to the child during the period of time the child is residing in the facility. The county of residence is entitled to reimbursement from the child or the child's family for payment of medical bills to the extent that the child or the child's family has the ability to pay for the medical services. If there is a disagreement between the county and the child or the child's family concerning the ability to pay or whether the medical services were necessary, the court with jurisdiction over the child shall determine the extent, if any, of the child's or the family's ability to pay for the medical services or whether the services are necessary. If the child is covered by health or medical insurance or a health plan when medical services are provided, the county paying the costs of medical services has a right of subrogation to be reimbursed by the insurance carrier or health plan for all amounts spent by it for medical services to the child that are covered by the insurance policy or health plan, in accordance with the benefits, limitations, exclusions, provider restrictions, and other provisions of the policy or health plan. The county may maintain an action to enforce this subrogation right. The county does not have a right of subrogation against the medical assistance program, the MinnesotaCare program, or the general assistance medical care program. [260.174, subd. 1]

Subd. 2. INTAKE PROCEDURE; HEALTH COVERAGE. As part of its intake procedure for children, the official having custody over the child shall ask the child or the child's family, as appropriate, whether the child has health coverage. If the child has coverage under a policy of accident and health insurance regulated under chapter 62A, a health maintenance contract regulated under chapter 62D, a group subscriber contract regulated under chapter 62C, a health benefit certificate regulated under chapter 64B, a self-insured plan, or other health coverage, the child or the child's family, as appropriate, shall provide to the official having custody over the child the name of the carrier or administrator and other information and authorizations necessary for the official having custody over the child to obtain specific information about coverage. [260.174, subd. 2]

Subd. 3. OBTAINING HEALTH CARE IN COMPLIANCE WITH COVERAGE. A county board may authorize the officials having custody over children to fulfill the county board's obligation to provide the medical aid required by subdivision 1 in accordance with the terms of the health plan covering the child, where possible, subject to any rules and exceptions provided by the county board. The official having custody over

New language is indicated by underline, deletions by strikeout.

a child has no obligation to the child or to the child's family to obtain the child's health care in accordance with the child's health coverage. [260.174, subd. 3]

Subd. 4. **SCOPE.** Subdivisions 1, 2, and 3 apply to any medical aid, including dental care, provided to children held in custody by the county as described in subdivision 1. [260.174, subd. 4]

Sec. 29. [260B.193] **DISPOSITIONS; GENERAL PROVISIONS.**

Subdivision 1. **DISMISSAL OF PETITION.** Whenever the court finds that the minor is not within the jurisdiction of the court or that the facts alleged in the petition have not been proved, it shall dismiss the petition. [260.181, subd. 1]

Subd. 2. **CONSIDERATION OF REPORTS.** Before making a disposition in a case, or appointing a guardian for a child, the court may consider any report or recommendation made by the local social services agency, probation officer, licensed child-placing agency, foster parent, guardian ad litem, tribal representative, or other authorized advocate for the child or child's family, a school district concerning the effect on student transportation of placing a child in a school district in which the child is not a resident, or any other information deemed material by the court. [260.181, subd. 2 (omitting child protection-related text)]

Subd. 3. **REPORTS; JUVENILES PLACED OUT OF STATE.** Whenever a child is placed in a residential program located outside of this state pursuant to a disposition order issued under section 260B.198, the juvenile court administrator shall report the following information to the state court administrator:

- (1) the fact that the placement is out of state;
- (2) the type of placement; and
- (3) the reason for the placement. [260.181, subd. 3a]

Subd. 4. **TERMINATION OF JURISDICTION.** (a) The court may dismiss the petition or otherwise terminate its jurisdiction on its own motion or on the motion or petition of any interested party at any time. Unless terminated by the court, and except as otherwise provided in this subdivision, the jurisdiction of the court shall continue until the individual becomes 19 years of age if the court determines it is in the best interest of the individual to do so.

(b) The jurisdiction of the court over an extended jurisdiction juvenile, with respect to the offense for which the individual was convicted as an extended jurisdiction juvenile, extends until the offender becomes 21 years of age, unless the court terminates jurisdiction before that date.

(c) The juvenile court has jurisdiction to designate the proceeding an extended jurisdiction juvenile prosecution, to hold a certification hearing, or to conduct a trial, receive a plea, or impose a disposition under section 260B.130, subdivision 4, if:

- (1) an adult is alleged to have committed an offense before the adult's 18th birthday;
- and

New language is indicated by underline, deletions by ~~strikeout~~.

(2) a petition is filed under section 260B.141 before expiration of the time for filing under section 628.26 and before the adult's 21st birthday.

The juvenile court lacks jurisdiction under this paragraph if the adult demonstrates that the delay was purposefully caused by the state in order to gain an unfair advantage.

(d) The district court has original and exclusive jurisdiction over a proceeding:

(1) that involves an adult who is alleged to have committed an offense before the adult's 18th birthday; and

(2) in which a criminal complaint is filed before expiration of the time for filing under section 628.26 and after the adult's 21st birthday.

The juvenile court retains jurisdiction if the adult demonstrates that the delay in filing a criminal complaint was purposefully caused by the state in order to gain an unfair advantage.

(e) The juvenile court has jurisdiction over a person who has been adjudicated delinquent until the person's 21st birthday if the person fails to appear at any juvenile court hearing or fails to appear at or absconds from any placement under a juvenile court order. The juvenile court has jurisdiction over a convicted extended jurisdiction juvenile who fails to appear at any juvenile court hearing or fails to appear at or absconds from any placement under section 260B.130, subdivision 4. The juvenile court lacks jurisdiction under this paragraph if the adult demonstrates that the delay was purposefully caused by the state in order to gain an unfair advantage. [260.181, subd. 4]

Sec. 30. [260B.198] DISPOSITIONS; DELINQUENT CHILD.

Subdivision 1. COURT ORDER, FINDINGS, REMEDIES, TREATMENT. If the court finds that the child is delinquent, it shall enter an order making any of the following dispositions of the case which are deemed necessary to the rehabilitation of the child:

(a) Counsel the child or the parents, guardian, or custodian;

(b) Place the child under the supervision of a probation officer or other suitable person in the child's own home under conditions prescribed by the court including reasonable rules for the child's conduct and the conduct of the child's parents, guardian, or custodian, designed for the physical, mental, and moral well-being and behavior of the child, or with the consent of the commissioner of corrections, in a group foster care facility which is under the management and supervision of said commissioner;

(c) Subject to the supervision of the court, transfer legal custody of the child to one of the following:

(1) a child-placing agency; or

(2) the local social services agency; or

(3) a reputable individual of good moral character. No person may receive custody of two or more unrelated children unless licensed as a residential facility pursuant to sections 245A.01 to 245A.16; or

(4) a county home school, if the county maintains a home school or enters into an agreement with a county home school; or

New language is indicated by underline, deletions by ~~strikeout~~.

(5) a county probation officer for placement in a group foster home established under the direction of the juvenile court and licensed pursuant to section 241.021;

(d) Transfer legal custody by commitment to the commissioner of corrections;

(e) If the child is found to have violated a state or local law or ordinance which has resulted in damage to the person or property of another, the court may order the child to make reasonable restitution for such damage;

(f) Require the child to pay a fine of up to \$700; the court shall order payment of the fine in accordance with a time payment schedule which shall not impose an undue financial hardship on the child;

(g) If the child is in need of special treatment and care for reasons of physical or mental health, the court may order the child's parent, guardian, or custodian to provide it. If the parent, guardian, or custodian fails to provide this treatment or care, the court may order it provided;

(h) If the court believes that it is in the best interests of the child and of public safety that the driver's license of the child be canceled until the child's 18th birthday, the court may recommend to the commissioner of public safety the cancellation of the child's license for any period up to the child's 18th birthday, and the commissioner is hereby authorized to cancel such license without a hearing. At any time before the termination of the period of cancellation, the court may, for good cause, recommend to the commissioner of public safety that the child be authorized to apply for a new license, and the commissioner may so authorize;

(i) If the court believes that it is in the best interest of the child and of public safety that the child is enrolled in school, the court may require the child to remain enrolled in a public school until the child reaches the age of 18 or completes all requirements needed to graduate from high school. Any child enrolled in a public school under this paragraph is subject to the provisions of the Pupil Fair Dismissal Act in chapter 127.

(j) If the child is petitioned and found by the court to have committed a controlled substance offense under sections 152.021 to 152.027, the court shall determine whether the child unlawfully possessed or sold the controlled substance while driving a motor vehicle. If so, the court shall notify the commissioner of public safety of its determination and order the commissioner to revoke the child's driver's license for the applicable time period specified in section 152.0271. If the child does not have a driver's license or if the child's driver's license is suspended or revoked at the time of the delinquency finding, the commissioner shall, upon the child's application for driver's license issuance or reinstatement, delay the issuance or reinstatement of the child's driver's license for the applicable time period specified in section 152.0271. Upon receipt of the court's order, the commissioner is authorized to take the licensing action without a hearing.

(k) If the child is petitioned and found by the court to have committed or attempted to commit an act in violation of section 609.342; 609.343; 609.344; 609.345; 609.3451; 609.746, subdivision 1; 609.79; or 617.23, or another offense arising out of a delinquency petition based on one or more of those sections, the court shall order an independent professional assessment of the child's need for sex offender treatment. An assessor providing an assessment for the court must be experienced in the evaluation and treatment of juvenile sex offenders. If the assessment indicates that the child is in need of and amena-

New language is indicated by underline, deletions by ~~strikeout~~.

ble to sex offender treatment, the court shall include in its disposition order a requirement that the child undergo treatment. Notwithstanding section 13.42, 13.85, 144.335, 260B.171, or 626.556, the assessor has access to the following private or confidential data on the child if access is relevant and necessary for the assessment:

- (1) medical data under section 13.42;
- (2) corrections and detention data under section 13.85;
- (3) health records under section 144.335;
- (4) juvenile court records under section 260B.171; and
- (5) local welfare agency records under section 626.556.

Data disclosed under this paragraph may be used only for purposes of the assessment and may not be further disclosed to any other person, except as authorized by law.

(l) If the child is found delinquent due to the commission of an offense that would be a felony if committed by an adult, the court shall make a specific finding on the record regarding the juvenile's mental health and chemical dependency treatment needs.

(m) Any order for a disposition authorized under this section shall contain written findings of fact to support the disposition ordered, and shall also set forth in writing the following information:

- (1) why the best interests of the child are served by the disposition ordered; and
- (2) what alternative dispositions were considered by the court and why such dispositions were not appropriate in the instant case. [260.185, subd. 1]

Subd. 2. POSSESSION OF FIREARM OR DANGEROUS WEAPON. If the child is petitioned and found delinquent by the court, and the court also finds that the child was in possession of a firearm at the time of the offense, in addition to any other disposition the court shall order that the firearm be immediately seized and shall order that the child be required to serve at least 100 hours of community work service unless the child is placed in a residential treatment program or a juvenile correctional facility. If the child is petitioned and found delinquent by the court, and the court finds that the child was in possession of a dangerous weapon in a school zone, as defined in section 152.01, subdivision 14a, clauses (1) and (3), at the time of the offense, the court also shall order that the child's driver's license be canceled or driving privileges denied until the child's 18th birthday. The court shall send a copy of its order to the commissioner of public safety and, upon receipt of the order, the commissioner is authorized to cancel the child's driver's license or deny the child's driving privileges without a hearing. [260.185, subd. 1a]

Subd. 3. COMMITMENT TO SECURE FACILITY; LENGTH OF STAY; TRANSFERS. An adjudicated juvenile may not be placed in a licensed juvenile secure treatment facility unless the placement is approved by the juvenile court. However, the program administrator may determine the juvenile's length of stay in the secure portion of the facility. The administrator shall notify the court of any movement of juveniles from secure portions of facilities. However, the court may, in its discretion, order that the juveniles be moved back to secure portions of the facility. [260.185, subd. 1b]

Subd. 4. PLACEMENT OF JUVENILES IN SECURE FACILITIES; REQUIREMENTS. Before a postadjudication placement of a juvenile in a secure treatment facility either inside or outside the state, the court may:

New language is indicated by underline, deletions by strikeout.

(1) consider whether the juvenile has been adjudicated for a felony offense against the person or that in addition to the current adjudication, the juvenile has failed to appear in court on one or more occasions or has run away from home on one or more occasions;

(2) conduct a subjective assessment to determine whether the child is a danger to self or others or would abscond from a nonsecure facility or if the child's health or welfare would be endangered if not placed in a secure facility;

(3) conduct a culturally appropriate psychological evaluation which includes a functional assessment of anger and abuse issues; and

(4) conduct an educational and physical assessment of the juvenile.

In determining whether to order secure placement, the court shall consider the necessity of:

(i) protecting the public;

(ii) protecting program residents and staff; and

(iii) preventing juveniles with histories of absconding from leaving treatment programs. [260.185, subd. 1c]

Subd. 5. EXPUNGEMENT. Except when legal custody is transferred under the provisions of subdivision 1, clause (d), the court may expunge the adjudication of delinquency at any time that it deems advisable. [260.185, subd. 2]

Subd. 6. CONTINUANCE. When it is in the best interests of the child to do so and when the child has admitted the allegations contained in the petition before the judge or referee, or when a hearing has been held as provided for in section 260B.163 and the allegations contained in the petition have been duly proven but, in either case, before a finding of delinquency has been entered, the court may continue the case for a period not to exceed 90 days on any one order. Such a continuance may be extended for one additional successive period not to exceed 90 days and only after the court has reviewed the case and entered its order for an additional continuance without a finding of delinquency. During this continuance the court may enter an order in accordance with the provisions of subdivision 1, clause (a) or (b) or enter an order to hold the child in detention for a period not to exceed 15 days on any one order for the purpose of completing any consideration, or any investigation or examination ordered in accordance with the provisions of section 260B.157. This subdivision does not apply to an extended jurisdiction juvenile proceeding. [260.185, subd. 3]

Subd. 7. ENFORCEMENT OF RESTITUTION ORDERS. If the court orders payment of restitution and the child fails to pay the restitution in accordance with the payment schedule or structure established by the court or the probation officer, the child's probation officer may, on the officer's own motion or at the request of the victim, file a petition for violation of probation or ask the court to hold a hearing to determine whether the conditions of probation should be changed. The child's probation officer shall ask for the hearing if the restitution order has not been paid prior to 60 days before the term of probation expires. The court shall schedule and hold this hearing before the child's term of probation expires. [260.185, subd. 3a]

Subd. 8. ORDERS FOR SUPERVISION. All orders for supervision under subdivision 1, clause (b) shall be for an indeterminate period unless otherwise specified by the

New language is indicated by underline, deletions by ~~strikeout~~.

court, and shall be reviewed by the court at least annually. All orders under subdivision 1, clause (c) shall be for a specified length of time set by the court. However, before an order has expired and upon the court's own motion or that of any interested party, the court has continuing jurisdiction to renew the order or, after notice to the parties and a hearing, make some other disposition of the case, until the individual becomes 19 years of age. Any person to whom legal custody is transferred shall report to the court in writing at such periods as the court may direct. [260.185, subd. 4]

Subd. 9. TRANSFER OF LEGAL CUSTODY ORDERS. When the court transfers legal custody of a child to any licensed child-placing agency, county home school, local social services agency, or the commissioner of corrections, it shall transmit with the order transferring legal custody a copy of its findings and a summary of its information concerning the child. [260.185, subd. 5]

Subd. 10. OUT-OF-STATE PLACEMENTS. (a) A court may not place a preadjudicated delinquent, an adjudicated delinquent, or a convicted extended jurisdiction juvenile in a residential or detention facility outside Minnesota unless the commissioner of corrections has certified that the facility:

(1) meets or exceeds the standards for Minnesota residential treatment programs set forth in rules adopted by the commissioner of human services or the standards for juvenile residential facilities set forth in rules adopted by the commissioner of corrections or the standards for juvenile detention facilities set forth in rules adopted by the commissioner of corrections, as provided under paragraph (b); and

(2) provides education, health, dental, and other necessary care equivalent to that which the child would receive if placed in a Minnesota facility licensed by the commissioner of corrections or commissioner of human services.

(b) The interagency licensing agreement between the commissioners of corrections and human services shall be used to determine which rule shall be used for certification purposes under this subdivision.

(c) The commissioner of corrections may charge each facility evaluated a reasonable amount. Money received is annually appropriated to the commissioner of corrections to defray the costs of the certification program. [260.185, subd. 6]

Subd. 11. PLACEMENT IN JUVENILE FACILITY. A person who has reached the age of 20 may not be kept in a residential facility licensed by the commissioner of corrections together with persons under the age of 20. The commissioner may adopt criteria for allowing exceptions to this prohibition. [260.185, subd. 7]

Sec. 31. [260B.225] JUVENILE TRAFFIC OFFENDER; PROCEDURES; DISPOSITIONS.

Subdivision 1. DEFINITIONS. (a) For purposes of this section, the following terms have the meanings given them.

(b) "Major traffic offense" includes any violation of a state or local traffic law, ordinance, or regulation, or a federal, state, or local water traffic law not included within the provisions of clause (c).

(c) "Adult court traffic offense" means:

New language is indicated by underline, deletions by strikeout.

(1) a petty misdemeanor violation of a state or local traffic law, ordinance, or regulation, or a petty misdemeanor violation of a federal, state, or local water traffic law; or

(2) a violation of section 169.121, 169.129, or any other misdemeanor- or gross misdemeanor-level traffic violation committed as part of the same behavioral incident as a violation of section 169.121 or 169.129. [260.193, subd. 1]

Subd. 2. JUVENILE HIGHWAY TRAFFIC OFFENDER. A child who commits a major traffic offense shall be adjudicated a "juvenile highway traffic offender" or a "juvenile water traffic offender," as the case may be, and shall not be adjudicated delinquent, unless, as in the case of any other child alleged to be delinquent, a petition is filed in the manner provided in section 260B.141, summons issued, notice given, a hearing held, and the court finds as a further fact that the child is also delinquent within the meaning and purpose of the laws relating to juvenile courts. [260.193, subd. 2]

Subd. 3. ADULT TRAFFIC OFFENSE. Except as provided in subdivision 4, a child who commits an adult court traffic offense and at the time of the offense was at least 16 years old shall be subject to the laws and court procedures controlling adult traffic violators and shall not be under the jurisdiction of the juvenile court. When a child is alleged to have committed an adult court traffic offense and is at least 16 years old at the time of the offense, the peace officer making the charge shall follow the arrest procedures prescribed in section 169.91 and shall make reasonable effort to notify the child's parent or guardian of the nature of the charge. [260.193, subd. 3]

Subd. 4. ORIGINAL JURISDICTION; JUVENILE COURT. The juvenile court shall have original jurisdiction over:

(1) all juveniles age 15 and under alleged to have committed any traffic offense; and

(2) 16- and 17-year-olds alleged to have committed any major traffic offense, except that the adult court has original jurisdiction over:

(i) petty traffic misdemeanors not a part of the same behavioral incident of a misdemeanor being handled in juvenile court; and

(ii) violations of sections 169.121 (drivers under the influence of alcohol or controlled substance) and 169.129 (aggravated driving while intoxicated), and any other misdemeanor or gross misdemeanor level traffic violations committed as part of the same behavioral incident of a violation of section 169.121 or 169.129. [260.193, subd. 4]

Subd. 5. MAJOR TRAFFIC OFFENSE PROCEDURES. When a child is alleged to have committed a major traffic offense, the peace officer making the charge shall file a signed copy of the notice to appear, as provided in section 169.91, with the juvenile court of the county in which the violation occurred, and the notice to appear has the effect of a petition and gives the juvenile court jurisdiction. Filing with the court a notice to appear containing the name and address of the child allegedly committing a major traffic offense and specifying the offense charged, the time and place of the alleged violation shall have the effect of a petition and give the juvenile court jurisdiction. Any reputable person having knowledge of a child who commits a major traffic offense may petition the juvenile court in the manner provided in section 260B.141. Whenever a notice to appear or petition is filed alleging that a child is a juvenile highway traffic offender or a juvenile water traffic offender, the court shall summon and notify the persons required to be summoned or notified as provided in sections 260B.151 and 260B.152. However, it is not

New language is indicated by underline, deletions by ~~strikeout~~.

necessary to (1) notify more than one parent, or (2) publish any notice, or (3) personally serve outside the state. [260.193, subd. 5]

Subd. 6. DISPOSITION. Before making a disposition of any child found to be a juvenile major traffic offender or to have violated a misdemeanor— or gross misdemeanor—level traffic law, the court shall obtain from the department of public safety information of any previous traffic violation by this juvenile. In the case of a juvenile water traffic offender, the court shall obtain from the office where the information is now or hereafter may be kept information of any previous water traffic violation by the juvenile. [260.193, subd. 6]

Subd. 7. TRANSFER OF CASES. If after a hearing the court finds that the welfare of a juvenile major traffic offender or a juvenile water traffic offender or the public safety would be better served under the laws controlling adult traffic violators, the court may transfer the case to any court of competent jurisdiction presided over by a salaried judge if there is one in the county. The juvenile court transfers the case by forwarding to the appropriate court the documents in the court's file together with an order to transfer. The court to which the case is transferred shall proceed with the case as if the jurisdiction of the juvenile court had never attached. [260.193, subd. 7]

Subd. 8. CRIMINAL COURT DISPOSITIONS; ADULT COURT TRAFFIC OFFENDERS. (a) A juvenile who is charged with an adult court traffic offense in district court shall be treated as an adult before trial, except that the juvenile may be held in secure, pretrial custody only in a secure juvenile detention facility.

(b) A juvenile who is convicted of an adult court traffic offense in district court shall be treated as an adult for sentencing purposes, except that the court may order the juvenile placed out of the home only in a residential treatment facility or in a juvenile correctional facility.

(c) The disposition of an adult court traffic offender remains with the county in which the adjudication occurred. [260.193, subd. 7a]

Subd. 9. JUVENILE MAJOR HIGHWAY OR WATER TRAFFIC OFFENDER. If the juvenile court finds that the child is a juvenile major highway or water traffic offender, it may make any one or more of the following dispositions of the case:

(a) Reprimand the child and counsel with the child and the parents;

(b) Continue the case for a reasonable period under such conditions governing the child's use and operation of any motor vehicles or boat as the court may set;

(c) Require the child to attend a driver improvement school if one is available within the county;

(d) Recommend to the department of public safety suspension of the child's driver's license as provided in section 171.16;

(e) If the child is found to have committed two moving highway traffic violations or to have contributed to a highway accident involving death, injury, or physical damage in excess of \$100, the court may recommend to the commissioner of public safety or to the licensing authority of another state the cancellation of the child's license until the child reaches the age of 18 years, and the commissioner of public safety is hereby authorized to

New language is indicated by underline, deletions by strikeout.

cancel the license without hearing. At any time before the termination of the period of cancellation, the court may, for good cause, recommend to the commissioner of public safety, or to the licensing authority of another state, that the child's license be returned, and the commissioner of public safety is authorized to return the license;

(f) Place the child under the supervision of a probation officer in the child's own home under conditions prescribed by the court including reasonable rules relating to operation and use of motor vehicles or boats directed to the correction of the child's driving habits;

(g) If the child is found to have violated a state or local law or ordinance and the violation resulted in damage to the person or property of another, the court may order the child to make reasonable restitution for the damage;

(h) Require the child to pay a fine of up to \$700. The court shall order payment of the fine in accordance with a time payment schedule which shall not impose an undue financial hardship on the child;

(i) If the court finds that the child committed an offense described in section 169.121, the court shall order that a chemical use assessment be conducted and a report submitted to the court in the manner prescribed in section 169.126. If the assessment concludes that the child meets the level of care criteria for placement under rules adopted under section 254A.03, subdivision 3, the report must recommend a level of care for the child. The court may require that level of care in its disposition order. In addition, the court may require any child ordered to undergo an assessment to pay a chemical dependency assessment charge of \$75. The court shall forward the assessment charge to the commissioner of finance to be credited to the general fund. The state shall reimburse counties for the total cost of the assessment in the manner provided in section 169.126, subdivision 4c. [260.193, subd. 8]

Subd. 10. RECORDS. The juvenile court records of juvenile highway traffic offenders and juvenile water traffic offenders shall be kept separate from delinquency matters. [260.193, subd. 10]

Sec. 32. [260B.235] PETTY OFFENDERS; PROCEDURES; DISPOSITIONS.

Subdivision 1. ADJUDICATION. A petty offender who has committed a juvenile alcohol or controlled substance offense shall be adjudicated a "petty offender," and shall not be adjudicated delinquent, unless, as in the case of any other child alleged to be delinquent, a petition is filed in the manner provided in section 260B.141, summons issued, notice given, a hearing held, and the court finds as a further fact that the child is also delinquent within the meaning and purpose of the laws related to juvenile courts. [260.195, subd. 1]

Subd. 2. PROCEDURE. When a peace officer has probable cause to believe that a child is a petty offender, the officer may issue a notice to the child to appear in juvenile court in the county in which the alleged violation occurred. The officer shall file a copy of the notice to appear with the juvenile court of the county in which the alleged violation occurred. Filing with the court a notice to appear containing the name and address of the child who is alleged to be a petty offender, specifying the offense charged, and the time and place of the alleged violation has the effect of a petition giving the juvenile court ju-

New language is indicated by underline, deletions by ~~strikeout~~.

risdiction. Any reputable person having knowledge that a child is a petty offender may petition the juvenile court in the manner provided in section 260B.141. Whenever a notice to appear or petition is filed alleging that a child is a petty offender, the court shall summon and notify the person or persons having custody or control of the child of the nature of the offense charged and the time and place of hearing. This summons and notice shall be served in the time and manner provided in section 260B.151, subdivision 1. If a child fails to appear in response to the notice provided by this subdivision, the court may issue a summons notifying the child of the nature of the offense alleged and the time and place set for the hearing. If the peace officer finds it necessary to take the child into custody, sections 260B.175 and 260B.176 shall apply. [260.195, subd. 2]

Subd. 3. NO RIGHT TO COUNSEL AT PUBLIC EXPENSE. Except as otherwise provided in section 260B.163, subdivision 4, a child alleged to be a juvenile petty offender may be represented by counsel, but does not have a right to appointment of a public defender or other counsel at public expense. [260.195, subd. 2a]

Subd. 4. DISPOSITIONS. If the juvenile court finds that a child is a petty offender, the court may:

- (a) require the child to pay a fine of up to \$100;
- (b) require the child to participate in a community service project;
- (c) require the child to participate in a drug awareness program;
- (d) place the child on probation for up to six months;
- (e) order the child to undergo a chemical dependency evaluation and if warranted by this evaluation, order participation by the child in an outpatient chemical dependency treatment program;
- (f) order the child to make restitution to the victim; or
- (g) perform any other activities or participate in any other outpatient treatment programs deemed appropriate by the court.

In all cases where the juvenile court finds that a child has purchased or attempted to purchase an alcoholic beverage in violation of section 340A.503, if the child has a driver's license or permit to drive, and if the child used a driver's license, permit or Minnesota identification card to purchase or attempt to purchase the alcoholic beverage, the court shall forward its finding in the case and the child's driver's license or permit to the commissioner of public safety. Upon receipt, the commissioner shall suspend the child's license or permit for a period of 90 days.

In all cases where the juvenile court finds that a child has purchased or attempted to purchase tobacco in violation of section 609.685, subdivision 3, if the child has a driver's license or permit to drive, and if the child used a driver's license, permit, or Minnesota identification card to purchase or attempt to purchase tobacco, the court shall forward its finding in the case and the child's driver's license or permit to the commissioner of public safety. Upon receipt, the commissioner shall suspend the child's license or permit for a period of 90 days.

None of the dispositional alternatives described in clauses (a) to (f) shall be imposed by the court in a manner which would cause an undue hardship upon the child. [260.195, subd. 3]

New language is indicated by underline, deletions by strikeout.

Subd. 5. ENHANCED DISPOSITIONS. If the juvenile court finds that a child has committed a second or subsequent juvenile alcohol or controlled substance offense, the court may impose any of the dispositional alternatives described in paragraphs (a) to (c). If the juvenile court finds that a child has committed a second or subsequent juvenile tobacco offense, the court may impose any of the dispositional alternatives described in paragraphs (a) to (c).

(a) The court may impose any of the dispositional alternatives described in subdivision 3, clauses (a) to (f).

(b) If the adjudicated petty offender has a driver's license or permit, the court may forward the license or permit to the commissioner of public safety. The commissioner shall revoke the petty offender's driver's license or permit until the offender reaches the age of 18 years or for a period of one year, whichever is longer.

(c) If the adjudicated petty offender has a driver's license or permit, the court may suspend the driver's license or permit for a period of up to 90 days, but may allow the offender driving privileges as necessary to travel to and from work.

(d) If the adjudicated petty offender does not have a driver's license or permit, the court may prepare an order of denial of driving privileges. The order must provide that the petty offender will not be granted driving privileges until the offender reaches the age of 18 years or for a period of one year, whichever is longer. The court shall forward the order to the commissioner of public safety. The commissioner shall deny the offender's eligibility for a driver's license under section 171.04, for the period stated in the court order. [260.195, subd. 3a]

Subd. 6. ALTERNATIVE DISPOSITION. In addition to dispositional alternatives authorized by subdivision 3, in the case of a third or subsequent finding by the court pursuant to an admission in court or after trial that a child has committed a juvenile alcohol or controlled substance offense, the juvenile court shall order a chemical dependency evaluation of the child and if warranted by the evaluation, the court may order participation by the child in an inpatient or outpatient chemical dependency treatment program, or any other treatment deemed appropriate by the court. [260.195, subd. 4]

Subd. 7. FINDINGS REQUIRED. Any order for disposition authorized by this section shall contain written findings of fact to support the disposition ordered, and shall also set forth in writing the following information:

(a) Why the best interests of the child are served by the disposition ordered; and

(b) What alternative dispositions were considered by the court and why they were not appropriate in the instant case. [260.195, subd. 5]

Subd. 8. REPORT. The juvenile court shall report to the office of state court administrator each disposition made under this section and section 260B.198 where placement is made outside of this state's jurisdictional boundaries. Each report shall contain information as to date of placement, length of anticipated placement, program costs, reasons for out of state placement, and any other information as the office requires to determine the number of out of state placements, the reasons for these placements, and the costs involved. The report shall not contain the name of the child. Any information contained in the reports relating to factors identifying a particular child is confidential and may be disclosed only by order of the juvenile court. Any person violating this subdivi-

New language is indicated by underline, deletions by ~~strikeout~~.

sion as to release of this confidential information is guilty of a misdemeanor. [260.195, subd. 6]

Subd. 9. EXPUNGEMENT. The court may expunge the adjudication of a child as a petty offender at any time it deems advisable. [260.195, subd. 7]

Sec. 33. [260B.245] EFFECT OF JUVENILE COURT PROCEEDINGS.

Subdivision 1. EFFECT. (a) No adjudication upon the status of any child in the jurisdiction of the juvenile court shall operate to impose any of the civil disabilities imposed by conviction, nor shall any child be deemed a criminal by reason of this adjudication, nor shall this adjudication be deemed a conviction of crime, except as otherwise provided in this section or section 260B.255. An extended jurisdiction juvenile conviction shall be treated in the same manner as an adult felony criminal conviction for purposes of the sentencing guidelines. The disposition of the child or any evidence given by the child in the juvenile court shall not be admissible as evidence against the child in any case or proceeding in any other court, except that an adjudication may later be used to determine a proper sentence, nor shall the disposition or evidence disqualify the child in any future civil service examination, appointment, or application.

(b) A person who was adjudicated delinquent for, or convicted as an extended jurisdiction juvenile of, a crime of violence as defined in section 624.712, subdivision 5, is not entitled to ship, transport, possess, or receive a firearm until ten years have elapsed since the person was discharged and during that time the person was not convicted of any other crime of violence. A person who has received a relief of disability under United States Code, title 18, section 925, is not subject to the restrictions of this subdivision. [260.211, subd. 1]

Subd. 2. CONSTRUCTION. Nothing contained in this section shall be construed to relate to subsequent proceedings in juvenile court, nor shall preclude the juvenile court, under circumstances other than those specifically prohibited in subdivision 1, from disclosing information to qualified persons if the court considers such disclosure to be in the best interests of the child or of the administration of justice. [260.211, subd. 2]

Sec. 34. [260B.255] JUVENILE COURT DISPOSITION BARS CRIMINAL PROCEEDING.

Subdivision 1. CERTAIN VIOLATIONS NOT CRIMES. A violation of a state or local law or ordinance by a child before becoming 18 years of age is not a crime unless the juvenile court:

- (1) certifies the matter in accordance with the provisions of section 260.125;
- (2) transfers the matter to a court in accordance with the provisions of section 260B.225; or
- (3) convicts the child as an extended jurisdiction juvenile and subsequently executes the adult sentence under section 260B.130, subdivision 5. [260.215, subd. 1]

Subd. 2. PENALTY. Except for matters referred to the prosecuting authority under the provisions of this section or to a court in accordance with the provisions of section 260B.225, any peace officer knowingly bringing charges against a child in a court other than a juvenile court for violating a state or local law or ordinance is guilty of a misde-

New language is indicated by underline, deletions by ~~strikeout~~.

meanor. This subdivision does not apply to complaints brought for the purposes of extradition. [260.215, subd. 2]

Sec. 35. [260B.331] COSTS OF CARE.

Subdivision 1. CARE, EXAMINATION, OR TREATMENT. (a) (1) Whenever legal custody of a child is transferred by the court to a local social services agency, or

(2) whenever legal custody is transferred to a person other than the local social services agency, but under the supervision of the local social services agency,

(3) whenever a child is given physical or mental examinations or treatment under order of the court, and no provision is otherwise made by law for payment for the care, examination, or treatment of the child, these costs are a charge upon the welfare funds of the county in which proceedings are held upon certification of the judge of juvenile court.

(b) The court shall order, and the local social services agency shall require, the parents or custodian of a child, while the child is under the age of 18, to use the total income and resources attributable to the child for the period of care, examination, or treatment, except for clothing and personal needs allowance as provided in section 256B.35, to reimburse the county for the cost of care, examination, or treatment. Income and resources attributable to the child include, but are not limited to, social security benefits, supplemental security income (SSI), veterans benefits, railroad retirement benefits and child support. When the child is over the age of 18, and continues to receive care, examination, or treatment, the court shall order, and the local social services agency shall require, reimbursement from the child for the cost of care, examination, or treatment from the income and resources attributable to the child less the clothing and personal needs allowance.

(c) If the income and resources attributable to the child are not enough to reimburse the county for the full cost of the care, examination, or treatment, the court shall inquire into the ability of the parents to support the child and, after giving the parents a reasonable opportunity to be heard, the court shall order, and the local social services agency shall require, the parents to contribute to the cost of care, examination, or treatment of the child. Except in delinquency cases where the victim is a member of the child's immediate family, when determining the amount to be contributed by the parents, the court shall use a fee schedule based upon ability to pay that is established by the local social services agency and approved by the commissioner of human services. In delinquency cases where the victim is a member of the child's immediate family, the court shall use the fee schedule, but may also take into account the seriousness of the offense and any expenses which the parents have incurred as a result of the offense. The income of a stepparent who has not adopted a child shall be excluded in calculating the parental contribution under this section.

(d) The court shall order the amount of reimbursement attributable to the parents or custodian, or attributable to the child, or attributable to both sources, withheld under chapter 518 from the income of the parents or the custodian of the child. A parent or custodian who fails to pay without good reason may be proceeded against for contempt, or the court may inform the county attorney, who shall proceed to collect the unpaid sums, or both procedures may be used.

(e) If the court orders a physical or mental examination for a child, the examination is a medically necessary service for purposes of determining whether the service is cov-

New language is indicated by underline, deletions by ~~strikeout~~.

ered by a health insurance policy, health maintenance contract, or other health coverage plan. Court-ordered treatment shall be subject to policy, contract, or plan requirements for medical necessity. Nothing in this paragraph changes or eliminates benefit limits, conditions of coverage, copayments or deductibles, provider restrictions, or other requirements in the policy, contract, or plan that relate to coverage of other medically necessary services. [260.251, subd. 1]

Subd. 2. COST OF GROUP FOSTER CARE. Whenever a child is placed in a group foster care facility as provided in section 260B.198, subdivision 1, clause (b) or (c), item (5), the cost of providing the care shall, upon certification by the juvenile court, be paid from the welfare fund of the county in which the proceedings were held. To reimburse the counties for the costs of providing group foster care for delinquent children and to promote the establishment of suitable group foster homes, the state shall quarterly, from funds appropriated for that purpose, reimburse counties 50 percent of the costs not paid by federal and other available state aids and grants. Reimbursement shall be prorated if the appropriation is insufficient.

The commissioner of corrections shall establish procedures for reimbursement and certify to the commissioner of finance each county entitled to receive state aid under the provisions of this subdivision. Upon receipt of a certificate the commissioner of finance shall issue a state warrant to the county treasurer for the amount due, together with a copy of the certificate prepared by the commissioner of corrections. [260.251, subd. 1a (omitting child protection-related text)]

Subd. 3. COURT EXPENSES. The following expenses are a charge upon the county in which proceedings are held upon certification of the judge of juvenile court or upon such other authorization provided by law:

(a) The fees and mileage of witnesses, and the expenses and mileage of officers serving notices and subpoenas ordered by the court, as prescribed by law.

(b) The expenses for travel and board of the juvenile court judge when holding court in places other than the county seat.

(c) The expense of transporting a child to a place designated by a child-placing agency for the care of the child if the court transfers legal custody to a child-placing agency.

(d) The expense of transporting a minor to a place designated by the court.

(e) Reasonable compensation for an attorney appointed by the court to serve as counsel or guardian ad litem. [260.251, subd. 2]

Subd. 4. LEGAL SETTLEMENT. The county charged with the costs and expenses under subdivisions 1 and 2 may recover these costs and expenses from the county where the minor has legal settlement for general assistance purposes by filing verified claims which shall be payable as are other claims against the county. A detailed statement of the facts upon which the claim is based shall accompany the claim. If a dispute relating to general assistance settlement arises, the local social services agency of the county denying legal settlement shall send a detailed statement of the facts upon which the claim is denied together with a copy of the detailed statement of the facts upon which the claim is based to the commissioner of human services. The commissioner shall immediately investigate and determine the question of general assistance settlement and shall certify

New language is indicated by underline, deletions by strikeout.

findings to the local social services agency of each county. The decision of the commissioner is final and shall be complied with unless, within 30 days thereafter, action is taken in district court as provided in section 256.045. [260.251, subd. 3]

Subd. 5. ATTORNEYS FEES. In proceedings in which the court has appointed counsel pursuant to section 260B.163, subdivision 4, for a minor unable to employ counsel, the court may inquire into the ability of the parents to pay for such counsel's services and, after giving the parents a reasonable opportunity to be heard, may order the parents to pay attorneys fees. [260.251, subd. 4]

Subd. 6. GUARDIAN AD LITEM FEES. In proceedings in which the court appoints a guardian ad litem pursuant to section 260B.163, subdivision 6, clause (a), the court may inquire into the ability of the parents to pay for the guardian ad litem's services and, after giving the parents a reasonable opportunity to be heard, may order the parents to pay guardian fees. [260.251, subd. 5]

Sec. 36. [260B.335] CIVIL JURISDICTION OVER PERSONS CONTRIBUTING TO DELINQUENCY OR STATUS AS A JUVENILE PETTY OFFENDER; COURT ORDERS.

Subdivision 1. JURISDICTION. The juvenile court has civil jurisdiction over persons contributing to the delinquency or status as a juvenile petty offender under the provisions of this section. [260.255, subd. 1 (omitting child protection-related text)]

Subd. 2. PETITION; ORDER TO SHOW CAUSE. A request for jurisdiction over a person described in subdivision 1 shall be initiated by the filing of a verified petition by the county attorney having jurisdiction over the place where the child is found, resides, or where the alleged act of contributing occurred. A prior or pending petition alleging that the child is delinquent or a juvenile petty offender is not a prerequisite to a petition under this section. The petition shall allege the factual basis for the claim that the person is contributing to the child's delinquency or status as a juvenile petty offender. If the court determines, upon review of the verified petition, that probable cause exists to believe that the person has contributed to the child's delinquency or status as a juvenile petty offender, the court shall issue an order to show cause why the person should not be subject to the jurisdiction of the court. The order to show cause and a copy of the verified petition shall be served personally upon the person and shall set forth the time and place of the hearing to be conducted under subdivision 3. [260.255, subd. 1a (omitting child protection-related text)]

Subd. 3. HEARING. (a) The court shall conduct a hearing on the petition in accordance with the procedures contained in paragraph (b).

(b) Hearings under this subdivision shall be without a jury. The rules of evidence promulgated pursuant to section 480.0591 shall apply. In all proceedings under this section, the court shall admit only evidence that would be admissible in a civil trial. When the respondent is an adult, hearings under this subdivision shall be open to the public. Hearings shall be conducted within five days of personal service of the order to show cause and may be continued for a reasonable period of time if a continuance is in the best interest of the child or in the interests of justice.

(c) At the conclusion of the hearing, if the court finds by a fair preponderance of the evidence that the person has contributed to the child's delinquency or status as a juvenile

New language is indicated by underline, deletions by ~~strikeout~~.

petty offender as defined in section 260B.425, the court may make any of the following orders:

(1) restrain the person from any further act or omission in violation of section 260B.425;

(2) prohibit the person from associating or communicating in any manner with the child;

(3) require the person to participate in evaluation or services determined necessary by the court to correct the conditions that contributed to the child's delinquency or status as a juvenile petty offender;

(4) require the person to provide supervision, treatment, or other necessary care;

(5) require the person to pay restitution to a victim for pecuniary damages arising from an act of the child relating to the child's delinquency or status as a juvenile petty offender;

(6) require the person to pay the cost of services provided to the child or for the child's protection; or

(7) require the person to provide for the child's maintenance or care if the person is responsible for the maintenance or care, and direct when, how, and where money for the maintenance or care shall be paid. If the person is receiving public assistance for the child's maintenance or care, the court shall authorize the public agency responsible for administering the public assistance funds to make payments directly to vendors for the cost of food, shelter, medical care, utilities, and other necessary expenses.

(d) An order issued under this section shall be for a fixed period of time, not to exceed one year. The order may be renewed or modified prior to expiration upon notice and motion when there has not been compliance with the court's order or the order continues to be necessary to eliminate the contributing behavior or to mitigate its effect on the child. [260.255, subd. 2 (omitting child protection-related text)]

Subd. 4. CRIMINAL PROCEEDINGS. The county attorney may bring both a criminal proceeding under section 260B.425 and a civil action under this section. [260.255, subd. 3]

Sec. 37. [260B.411] NEW EVIDENCE.

A child whose status has been adjudicated by a juvenile court, or the child's parent, guardian, custodian or spouse may, at any time within 15 days of the filing of the court's order, petition the court for a rehearing on the ground that new evidence has been discovered affecting the advisability of the court's original adjudication or disposition. Upon a showing that such evidence does exist the court shall order that a new hearing be held within 30 days, unless the court extends this time period for good cause shown within the 30-day period, and shall make such disposition of the case as the facts and the best interests of the child warrant. [260.281]

Sec. 38. [260B.415] APPEAL.

Subdivision 1. PERSONS ENTITLED TO APPEAL; PROCEDURE. (a) An appeal may be taken by the aggrieved person from a final order of the juvenile court af-

New language is indicated by underline, deletions by strikeout.

fecting a substantial right of the aggrieved person, including, but not limited to, an order adjudging a child to be delinquent or a juvenile traffic offender. The appeal shall be taken within 30 days of the filing of the appealable order. The court administrator shall notify the person having legal custody of the minor of the appeal. Failure to notify the person having legal custody of the minor shall not affect the jurisdiction of the appellate court. The order of the juvenile court shall stand, pending the determination of the appeal, but the reviewing court may in its discretion and upon application stay the order.

(b) An appeal may be taken by an aggrieved person from an order of the juvenile court on the issue of certification of a matter for prosecution under the laws and court procedures controlling adult criminal violations. Certification appeals shall be expedited as provided by applicable rules. [260.291, subd. 1 (omitting child protection-related text)]

Subd. 2. APPEAL. The appeal from a juvenile court is taken to the court of appeals as in civil cases, except as provided in subdivision 1. [260.291, subd. 2]

Sec. 39. [260B.421] CONTEMPT.

Any person knowingly interfering with an order of the juvenile court is in contempt of court. However, a child who is under the continuing jurisdiction of the court for reasons other than having committed a delinquent act or a juvenile petty offense may not be adjudicated as a delinquent solely on the basis of having knowingly interfered with or disobeyed an order of the court. [260.301]

Sec. 40. [260B.425] CRIMINAL JURISDICTION FOR CONTRIBUTING TO STATUS AS A JUVENILE PETTY OFFENDER OR DELINQUENCY.

Subdivision 1. CRIMES. (a) Any person who by act, word, or omission encourages, causes, or contributes to delinquency of a child or to a child's status as a juvenile petty offender, is guilty of a gross misdemeanor.

(b) This section does not apply to licensed social service agencies and outreach workers who, while acting within the scope of their professional duties, provide services to runaway children. [260.315, subd. 1 (omitting child protection-related text)]

Subd. 2. COMPLAINT; VENUE. A complaint under this section may be filed by the county attorney having jurisdiction where the child is found, resides, or where the alleged act of contributing occurred. The complaint may be filed in either the juvenile or criminal divisions of the district court. A prior or pending petition alleging that the child is delinquent, a juvenile petty offender, or in need of protection or services is not a prerequisite to a complaint or a conviction under this section. [260.315, subd. 2]

Subd. 3. AFFIRMATIVE DEFENSE. If the child is alleged to be delinquent or a juvenile petty offender, it is an affirmative defense to a prosecution under subdivision 1 if the defendant proves, by a preponderance of the evidence, that the defendant took reasonable steps to control the child's conduct. [260.315, subd. 3 (omitting child protection-related text)]

Sec. 41. [260B.441] COST, PAYMENT.

In addition to the usual care and services given by public and private agencies, the necessary cost incurred by the commissioner of human services in providing care for

New language is indicated by underline, deletions by ~~strikeout~~.

such child shall be paid by the county committing such child which, subject to uniform rules established by the commissioner of human services, may receive a reimbursement not exceeding one-half of such costs from funds made available for this purpose by the legislature during the period beginning July 1, 1985, and ending December 31, 1985. Beginning January 1, 1986, the necessary cost incurred by the commissioner of human services in providing care for the child must be paid by the county committing the child. Where such child is eligible to receive a grant of aid to families with dependent children, Minnesota family investment program—statewide or supplemental security income for the aged, blind, and disabled, or a foster care maintenance payment under title IV—E of the Social Security Act, United States Code, title 42, sections 670 to 676, the child's needs shall be met through these programs. [260.38]

Sec. 42. [260B.446] DISTRIBUTION OF FUNDS RECOVERED FOR ASSISTANCE FURNISHED.

When any amount shall be recovered from any source for assistance furnished under the provisions of sections 260B.001 to 260B.446, there shall be paid into the treasury of the state or county in the proportion in which they have respectively contributed toward the total assistance paid. [260.39]

ARTICLE 3

CHILD PROTECTION PROVISIONS

Section 1. [260C.001] TITLE, INTENT, AND CONSTRUCTION.

Subdivision 1. CITATION. Sections 260C.001 to 260C.451 may be cited as the child protection provisions of the Juvenile Court Act. [260.011, subd. 1]

Subd. 2. CHILD IN NEED OF PROTECTION SERVICES. The paramount consideration in all proceedings concerning a child alleged or found to be in need of protection or services is the health, safety, and best interests of the child. In proceedings involving an American Indian child, as defined in section 260.755, subdivision 8, the best interests of the child must be determined consistent with sections 260.751 to 260.835 and the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923. The purpose of the laws relating to juvenile courts is to secure for each child alleged or adjudicated in need of protection or services and under the jurisdiction of the court, the care and guidance, preferably in the child's own home, as will best serve the spiritual, emotional, mental, and physical welfare of the child; to provide judicial procedures which protect the welfare of the child; to preserve and strengthen the child's family ties whenever possible and in the child's best interests, removing the child from the custody of parents only when the child's welfare or safety cannot be adequately safeguarded without removal; and, when removal from the child's own family is necessary and in the child's best interests, to secure for the child custody, care and discipline as nearly as possible equivalent to that which should have been given by the parents. [260.011, subd. 2, para (a)]

Subd. 3. TERMINATION OF PARENTAL RIGHTS. The purpose of the laws relating to termination of parental rights is to ensure that:

New language is indicated by underline, deletions by ~~strikeout~~.

(1) reasonable efforts have been made by the social service agency to reunite the child with the child's parents in a placement that is safe and permanent; and

(2) if placement with the parents is not reasonably foreseeable, to secure for the child a safe and permanent placement, preferably with adoptive parents.

Nothing in this section requires reasonable efforts to be made in circumstances where the court has determined that the child has been subjected to egregious harm or the parental rights of the parent to a sibling have been involuntarily terminated.

The paramount consideration in all proceedings for the termination of parental rights is the best interests of the child. In proceedings involving an American Indian child, as defined in section 257.351, subdivision 6, the best interests of the child must be determined consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, et seq. [260.011, subd. 2, para (b)]

Subd. 4. CONSTRUCTION. The laws relating to the child protection provisions of the juvenile courts shall be liberally construed to carry out these purposes. [260.011, subd. 2, para (d)]

Sec. 2. [260C.007] DEFINITIONS.

Subdivision 1. SCOPE. As used in this chapter, the terms defined in this section have the same meanings given to them. [260.015, subd. 1]

Subd. 2. AGENCY. "Agency" means the local social service agency or a licensed child-placing agency. [260.015, subd. 1a]

Subd. 3. CHILD. "Child" means an individual under 18 years of age. [260.015, subd. 2 (omitting delinquency-related text)]

Subd. 4. 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, (ii) resides with or has resided with a victim of domestic child abuse as defined in subdivision 25, (iii) resides with or would reside with a perpetrator of domestic child abuse or child abuse as defined in subdivision 25, or (iv) is a victim of emotional maltreatment as defined in subdivision 8;

(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' rea-

New language is indicated by underline, deletions by strikeout.

sonable 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;
- (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;
- (12) has committed a delinquent act or a juvenile petty offense before becoming ten years old;
- (13) is a runaway;
- (14) is an 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 260.125, an extended jurisdiction juvenile prosecution, or a proceeding involving a juvenile petty offense;
- (16) is one whose custodial parent's parental rights to another child have been involuntarily terminated within the past five years; or
- (17) has been found by the court to have committed domestic abuse perpetrated by a minor under Laws 1997, chapter 239, article 10, sections 2 to 26, has been ordered excluded from the child's parent's home by an order for protection/minor respondent, and the parent or guardian is either unwilling or unable to provide an alternative safe living arrangement for the child. [260.015, subd. 2a]

Subd. 5. CHILD-PLACING AGENCY. "Child-placing agency" means anyone licensed under sections 245A.01 to 245A.16 and 252.28, subdivision 2. [260.015, subd. 3]

Subd. 6. COURT. "Court" means juvenile court unless otherwise specified in this section. [260.015, subd. 4]

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 7. DELINQUENT CHILD. "Delinquent child" means a child:

(1) who has violated any state or local law, except as provided in section 260B.225, subdivision 1, and except for juvenile offenders as described in subdivisions 19 and 20;
or

(2) who has violated a federal law or a law of another state and whose case has been referred to the juvenile court if the violation would be an act of delinquency if committed in this state or a crime or offense if committed by an adult. [260.015, subd. 5 (omitting delinquency-related text)]

Subd. 8. EMOTIONAL MALTREATMENT. "Emotional maltreatment" means the consistent, deliberate infliction of mental harm on a child by a person responsible for the child's care, that has an observable, sustained, and adverse effect on the child's physical, mental, or emotional development. "Emotional maltreatment" does not include reasonable training or discipline administered by the person responsible for the child's care or the reasonable exercise of authority by that person. [260.015, subd. 5a]

Subd. 9. FOSTER CARE. "Foster care" means the 24 hour a day care of a child in any facility which for gain or otherwise regularly provides one or more children, when unaccompanied by their parents, with a substitute for the care, food, lodging, training, education, supervision or treatment they need but which for any reason cannot be furnished by their parents or legal guardians in their homes. [260.015, subd. 7]

Subd. 10. LEGAL CUSTODY. "Legal custody" means the right to the care, custody, and control of a child who has been taken from a parent by the court in accordance with the provisions of section 260C.201 or 260C.317. The expenses of legal custody are paid in accordance with the provisions of section 260C.331. [260.015, subd. 8 (omitting delinquency-related text)]

Subd. 11. MINOR. "Minor" means an individual under 18 years of age. [260.015, subd. 9]

Subd. 12. PARENT. "Parent" means the birth or adoptive parent of a minor. For an Indian child, parent includes any Indian person who has adopted a child by tribal law or custom, as provided in section 260.755, subdivision 14. [260.015, subd. 11]

Subd. 13. PERSON. "Person" includes any individual, association, corporation, partnership, and the state or any of its political subdivisions, departments, or agencies. [260.015, subd. 12]

Subd. 14. RELATIVE. "Relative" means a parent, stepparent, grandparent, brother, sister, uncle, or aunt of the minor. This relationship may be by blood or marriage. For an Indian child, relative includes members of the extended family as defined by the law or custom of the Indian child's tribe or, in the absence of laws or custom, nieces, nephews, or first or second cousins, as provided in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1903. For purposes of dispositions, relative has the meaning given in section 260C.193, subdivision 3. [260.015, subd. 13]

Subd. 15. 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, educa-

New language is indicated by underline, deletions by ~~strikeout~~.

tion, 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 260.755, subdivision 10. [260.015, subd. 14]

Subd. 16. SECURE DETENTION FACILITY. “Secure detention facility” means a physically restricting facility, including but not limited to a jail, a hospital, a state institution, a residential treatment center, or a detention home used for the temporary care of a child pending court action.

Subd. 17. SHELTER CARE FACILITY. “Shelter care facility” means a physically unrestricting facility, such as but not limited to, a hospital, a group home or a licensed facility for foster care, used for the temporary care of a child pending court action. [260.015, subd. 17]

Subd. 18. NEGLECTED AND IN FOSTER CARE. “Neglected and in foster care” means a child

(a) Who has been placed in foster care by court order; and

(b) Whose parents' circumstances, condition, or conduct are such that the child cannot be returned to them; and

(c) Whose parents, despite the availability of needed rehabilitative services, have failed to make reasonable efforts to adjust their circumstances, condition or conduct, or have willfully failed to meet reasonable expectations with regard to visiting the child or providing financial support for the child. [260.015, subd. 18]

Subd. 19. HABITUAL TRUANT. “Habitual truant” means a child under the age of 16 years who is absent from attendance at school without lawful excuse for seven school days if the child is in elementary school or for one or more class periods on seven school days if the child is in middle school, junior high school, or high school, or a child who is 16 or 17 years of age who is absent from attendance at school without lawful excuse for one or more class periods on seven school days and who has not lawfully withdrawn from school under section 120A.22, subdivision 6. [260.015, subd. 19]

Subd. 20. RUNAWAY. “Runaway” means an unmarried child under the age of 18 years who is absent from the home of a parent or other lawful placement without the consent of the parent, guardian, or lawful custodian. [260.015, subd. 20]

Subd. 21. 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) subjection 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, or 617.246. [260.015, subd. 24]

Subd. 22. 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. [260.015, subd. 25]

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 23. INDIAN. "Indian," consistent with section 260.755, subdivision 7, means a person who is a member of an Indian tribe or who is an Alaskan native and a member of a regional corporation as defined in section 7 of the Alaska Native Claims Settlement Act, United States Code, title 43, section 1606. [260.015, subd. 26]

Subd. 24. INDIAN CHILD. "Indian child," consistent with section 260.755, subdivision 8, means an unmarried person who is under age 18 and is:

- (1) a member of an Indian tribe; or
- (2) eligible for membership in an Indian tribe. [260.015, subd. 27]

Subd. 25. CHILD ABUSE. "Child abuse" means an act that involves a minor victim and that constitutes a violation of section 609.221, 609.222, 609.223, 609.224, 609.2242, 609.322, 609.323, 609.324, 609.342, 609.343, 609.344, 609.345, 609.377, 609.378, or 617.246. [260.015, subd. 28]

Subd. 26. EGREGIOUS HARM. "Egregious harm" means the infliction of bodily harm to a child or neglect of a child which demonstrates a grossly inadequate ability to provide minimally adequate parental care. The egregious harm need not have occurred in the state or in the county where a termination of parental rights action is otherwise properly venued. Egregious harm includes, but is not limited to:

- (1) conduct towards a child that constitutes a violation of sections 609.185 to 609.21, 609.222, subdivision 2, 609.223, or any other similar law of any other state;
- (2) the infliction of "substantial bodily harm" to a child, as defined in section 609.02, subdivision 7a;
- (3) conduct towards a child that constitutes felony malicious punishment of a child under section 609.377;
- (4) conduct towards a child that constitutes felony unreasonable restraint of a child under section 609.255, subdivision 3;
- (5) conduct towards a child that constitutes felony neglect or endangerment of a child under section 609.378;
- (6) conduct towards a child that constitutes assault under section 609.221, 609.222, or 609.223;
- (7) conduct towards a child that constitutes solicitation, inducement, or promotion of, or receiving profit derived from prostitution under section 609.322;
- (8) conduct toward a child that constitutes murder or voluntary manslaughter as defined by United States Code, title 18, section 1111(a) or 1112(a); or
- (9) conduct toward a child that constitutes aiding or abetting, attempting, conspiring, or soliciting to commit a murder or voluntary manslaughter that constitutes a violation of United States Code, title 18, section 1111(a) or 1112(a). [260.015, subd. 29]

Sec. 3. [260C.050] EXPERT ASSISTANCE.

In any county the court may provide for the physical and mental diagnosis of cases of minors who are believed to be physically handicapped, mentally ill, or mentally retarded, and for such purpose may appoint professionally qualified persons, whose compensation shall be fixed by the judge with the approval of the county board. [260.092]

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 4. [260C.101] JURISDICTION.

Subdivision 1. CHILDREN IN NEED OF PROTECTION OR SERVICES, OR NEGLECTED AND IN FOSTER CARE. The juvenile court has original and exclusive jurisdiction in proceedings concerning any child who is alleged to be in need of protection or services, or neglected and in foster care. [260.111, subd. 1 (omitting delinquency-related text)]

Subd. 2. JURISDICTION OVER OTHER MATTERS RELATING TO CHILDREN. Except as provided in clause (d), the juvenile court has original and exclusive jurisdiction in proceedings concerning:

(a) The termination of parental rights to a child in accordance with the provisions of sections 260C.301 to 260C.328.

(b) The appointment and removal of a juvenile court guardian of the person for a child, where parental rights have been terminated under the provisions of sections 260C.301 to 260C.328.

(c) Judicial consent to the marriage of a child when required by law.

(d) The juvenile court in those counties in which the judge of the probate-juvenile court has been admitted to the practice of law in this state shall proceed under the laws relating to adoptions in all adoption matters. In those counties in which the judge of the probate-juvenile court has not been admitted to the practice of law in this state the district court shall proceed under the laws relating to adoptions in all adoption matters.

(e) The review of the foster care status of a child who has been placed in a residential facility, as defined in section 260C.212, subdivision 1, pursuant to a voluntary release by the child's parent or parents. [260.111, subd. 2 (omitting delinquency-related text)]

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 child in need of protection or services matters, 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. [260.111, subd. 3]

Subd. 4. JURISDICTION OVER PARENTS AND GUARDIANS. A parent, guardian, or custodian of a child who is subject to the jurisdiction of the court is also subject to the jurisdiction of the court in any matter in which that parent, guardian, or custodian has a right to notice under section 260C.151 or 260C.152, or the right to participate under section 260.155. In any proceeding concerning a child alleged to be in need of protection or services, the court has jurisdiction over a parent, guardian, or custodian for the purposes of a disposition order issued under section 260C.201, subdivision 6. [260.111, subd. 4]

Subd. 5. JURISDICTION OVER INDIAN CHILDREN. In a child in need of protection or services proceeding, when an Indian child is a ward of a tribal court with federally recognized child welfare jurisdiction, the Indian tribe retains exclusive jurisdiction notwithstanding the residence or domicile of an Indian child, as provided in the In-

New language is indicated by underline, deletions by strikethrough.

dian Child Welfare Act of 1978, United States Code, title 25, section 1911. [260.111, subd. 5]

Sec. 5. [260C.121] VENUE.

Subdivision 1. VENUE. When it is alleged that a child is in need of protection or services, venue may be in the county where the child is found, in the county of residence, or in the county where the alleged conditions causing the child's need for protection or services occurred. [260.121, subd. 1 (omitting delinquency-related text)]

Subd. 2. TRANSFER. The judge of the juvenile court may transfer any proceedings brought under section 260C.101, except adoptions, to the juvenile court of a county having venue as provided in subdivision 1, at any stage of the proceedings and in the following manner. When it appears that the best interests of the child, society, or the convenience of proceedings will be served by a transfer, the court may transfer the case to the juvenile court of the county of the child's residence. With the consent of the receiving court, the court may also transfer the case to the juvenile court of the county where the child is found. The court transfers the case by ordering a continuance and by forwarding to the court administrator of the appropriate juvenile court a certified copy of all papers filed, together with an order of transfer. The judge of the receiving court may accept the findings of the transferring court or may direct the filing of a new petition or notice under section 260C.143 and hear the case anew. [260.121, subd. 2 (omitting delinquency-related text)]

Subd. 3. RESIDENT OF ANOTHER STATE. If it appears at any stage of the proceeding that a child before the court is a resident of another state, the court may invoke the provisions of the interstate compact on juveniles or, if it is in the best interests of the child or the public to do so, the court may place the child in the custody of the child's parent, guardian, or custodian, if the parent, guardian, or custodian agrees to accept custody of the child and return the child to their state. [260.121, subd. 3 (omitting delinquency-related text)]

Sec. 6. [260C.141] PETITION.

Subdivision 1. WHO MAY FILE; REQUIRED FORM. (a) Any reputable person, including but not limited to any agent of the commissioner of human services, having knowledge of a child in this state or of a child who is a resident of this state, who appears to be in need of protection or services or neglected and in foster care, may petition the juvenile court in the manner provided in this section.

(b) A petition for a child in need of protection filed by an individual who is not a county attorney or an agent of the commissioner of human services shall be filed on a form developed by the state court administrator and provided to court administrators. Copies of the form may be obtained from the court administrator in each county. The court administrator shall review the petition before it is filed to determine that it is completed. The court administrator may reject the petition if it does not indicate that the petitioner has contacted the local social service agency.

An individual may file a petition under this subdivision without seeking internal review of the local social service agency's decision. The court shall determine whether there is probable cause to believe that a need for protection or services exists before the matter is set for hearing. If the matter is set for hearing, the court administrator shall notify the local social service agency by sending notice to the county attorney.

New language is indicated by underline, deletions by ~~strikeout~~.

The petition must contain:

(1) a statement of facts that would establish, if proven, that there is a need for protection or services for the child named in the petition;

(2) a statement that petitioner has reported the circumstances underlying the petition to the local social service agency, and protection or services were not provided to the child;

(3) a statement whether there are existing juvenile or family court custody orders or pending proceedings in juvenile or family court concerning the child; and

(4) a statement of the relationship of the petitioner to the child and any other parties.

The court may not allow a petition to proceed under this paragraph if it appears that the sole purpose of the petition is to modify custody between the parents. [260.131, subd. 1 (omitting delinquency-related text)]

Subd. 2. REVIEW OF FOSTER CARE STATUS. The social service agency responsible for the placement of a child in a residential facility, as defined in section 260C.212, subdivision 1, pursuant to a voluntary release by the child's parent or parents may bring a petition in juvenile court to review the foster care status of the child in the manner provided in this section. [260.131, subd. 1a]

Subd. 3. CHILD IN NEED OF PROTECTION OR SERVICES; HABITUAL TRUANT. If there is a school attendance review board or county attorney mediation program operating in the child's school district, a petition alleging that a child is in need of protection or services as a habitual truant under section 260.015, subdivision 2a, clause (12), may not be filed until the applicable procedures under section 260A.06 or 260A.07 have been followed. [260.131, subd. 1b]

Subd. 4. VERIFICATION OF PETITION. The petition shall be verified by the person having knowledge of the facts and may be on information and belief. Unless otherwise provided by this section or by rule or order of the court, the county attorney shall draft the petition upon the showing of reasonable grounds to support the petition. [260.131, subd. 2]

Subd. 5. FORM OF PETITION. The petition and all subsequent court documents shall be entitled substantially as follows:

"Juvenile Court, County of

In the matter of the welfare of"

The petition shall set forth plainly:

(a) The facts which bring the child within the jurisdiction of the court;

(b) The name, date of birth, residence, and post office address of the child;

(c) The names, residences, and post office addresses of the child's parents;

(d) The name, residence, and post office address of the child's guardian if there be one, of the person having custody or control of the child, and of the nearest known relative if no parent or guardian can be found;

New language is indicated by underline, deletions by ~~strikeout~~.

(e) The spouse of the child, if there be one. If any of the facts required by the petition are not known or cannot be ascertained by the petitioner, the petition shall so state. [260.131, subd. 3]

Subd. 6. CONCURRENT JURISDICTION. When a petition is filed alleging that a child has engaged in prostitution as defined in section 609.321, subdivision 9, the county attorney shall determine whether concurrent jurisdiction is necessary to provide appropriate intervention and, if so, proceed to file a petition alleging the child to be both delinquent and in need of protection or services. [260.131, subd. 5]

Sec. 7. [260C.143] PROCEDURE; HABITUAL TRUANTS, RUNAWAYS, OFFENDERS.

Subdivision 1. NOTICE. When a peace officer, or attendance officer in the case of a habitual truant, has probable cause to believe that a child is in need of protection or services under section 260C.007, subdivision 4, clause (13) or (14), the officer may issue a notice to the child to appear in juvenile court in the county in which the child is found or in the county of the child's residence. If there is a school attendance review board or county attorney mediation program operating in the child's school district, a notice to appear in juvenile court for a habitual truant may not be issued until the applicable procedures under section 260A.06 or 260A.07 have been followed. The officer shall file a copy of the notice to appear with the juvenile court of the appropriate county. If a child fails to appear in response to the notice, the court may issue a summons notifying the child of the nature of the offense alleged and the time and place set for the hearing. If the peace officer finds it necessary to take the child into custody, sections 260C.175 and 260C.176 shall apply. [260.132, subd. 1 (omitting delinquency-related text)]

Subd. 2. EFFECT OF NOTICE. Filing with the court a notice to appear containing the name and address of the child, specifying the offense alleged and the time and place it was committed, has the effect of a petition giving the juvenile court jurisdiction. In the case of running away, the place where the offense was committed may be stated in the notice as either the child's custodial parent's or guardian's residence or lawful placement or where the child was found by the officer. In the case of truancy, the place where the offense was committed may be stated as the school or the place where the child was found by the officer. [260.132, subd. 2]

Subd. 3. NOTICE TO PARENT. Whenever a notice to appear or petition is filed alleging that a child is in need of protection or services under section 260C.007, subdivision 4, clause (13) or (14), the court shall summon and notify the person or persons having custody or control of the child of the nature of the offense alleged and the time and place of hearing. This summons and notice shall be served in the time and manner provided in section 260C.151, subdivision 1. [260.132, subd. 3 (omitting delinquency-related text)]

Subd. 4. TRUANT. When a peace officer or probation officer has probable cause to believe that a child is currently under age 16 and absent from school without lawful excuse, the officer may transport the child to the child's home and deliver the child to the custody of the child's parent or guardian, transport the child to the child's school of enrollment and deliver the child to the custody of a school superintendent or teacher or transport the child to a truancy service center under section 260A.04, subdivision 3. [260.132, subd. 4]

New language is indicated by underline, deletions by strikeout.

Sec. 8. [260C.148] 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. [260.133, subd. 1]

Subd. 2. **TEMPORARY ORDER.** (a) 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:

- (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.

(b) 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; and

(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.

Before the temporary order is issued, the local welfare agency shall advise the court and the other parties who are present that appropriate social services will be provided to the family or household members during the effective period of the order.

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 petition with the court pursuant to section 260C.141, alleging that the child is in need of protection or services 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 petition alleging that the child is in need of protection or services has been filed with the court and if the court determines, upon informal review of the case file, that the renewal is appropriate. [260.133, subd. 2]

Subd. 3. **SERVICE AND EXECUTION OF ORDER.** Any order issued under this section or section 260C.201, subdivision 3, 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. [260.133, subd. 3]

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 260C.201, subdivision 3. [260.133, subd. 4]

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. [260.133, subd. 5]

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 6. REAL ESTATE. Nothing in this section or section 260C.201, subdivision 3, shall affect the title to real estate. [260.133, subd. 6]

Subd. 7. OTHER REMEDIES AVAILABLE. Any relief ordered under this section or section 260C.201, subdivision 3, shall be in addition to other available civil or criminal remedies. [260.133, subd. 7]

Subd. 8. COPY TO LAW ENFORCEMENT AGENCY. An order for protection granted pursuant to this section or section 260C.201, subdivision 3, shall be forwarded by the court administrator 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 260C.201, subdivision 3. [260.133, subd. 8]

Sec. 9. [260C.151] SUMMONS; NOTICE.

Subdivision 1. ISSUANCE OF SUMMONS. After a petition has been filed and unless the parties hereinafter named voluntarily appear, the court shall set a time for a hearing and shall issue a summons requiring the person who has custody or control of the child to appear with the child before the court at a time and place stated. The summons shall have a copy of the petition attached, and shall advise the parties of the right to counsel and of the consequences of failure to obey the summons. The court shall give docket priority to any child in need of protection or services or neglected and in foster care, that contains allegations of child abuse over any other case. As used in this subdivision, "child abuse" has the meaning given it in section 630.36, subdivision 2. [260.135, subd. 1 (omitting delinquency-related text)]

Subd. 2. NOTICE OF PENDENCY OF CASE. The court shall have notice of the pendency of the case and of the time and place of the hearing served upon a parent, guardian, or spouse of the child, who has not been summoned as provided in subdivision 1. For an Indian child, notice of all proceedings must comply with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, et seq., and section 260.765. [260.135, subd. 2]

Subd. 3. TERMINATION OF PARENTAL RIGHTS. If a petition alleging a child's need for protection or services, or a petition to terminate parental rights is initiated by a person other than a representative of the department of human services or local social services agency, the court administrator shall notify the local social services agency of the pendency of the case and of the time and place appointed. [260.135, subd. 3]

Subd. 4. ISSUANCE OF SUBPOENA. The court may issue a subpoena requiring the appearance of any other person whose presence, in the opinion of the court, is necessary. [260.135, subd. 4]

Subd. 5. IMMEDIATE CUSTODY. If it appears from the notarized petition or by sworn affidavit that there are reasonable grounds to believe the child is in surroundings or conditions which endanger the child's health, safety or welfare and require that the child's custody be immediately assumed by the court, the court may order, by endorsement upon the summons, that the officer serving the summons shall take the child into immediate custody. [260.135, subd. 5]

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 10. [260C.152] SERVICE OF SUMMONS, NOTICE.**Subdivision 1. NOTICE IN LIEU OF SUMMONS; PERSONAL SERVICE.**

The service of a summons or a notice in lieu of summons shall be as provided in the rules of juvenile procedure. [260.141, subd. 1a]

Subd. 2. SERVICE; FEES. Service of summons, notice, or subpoena required by sections 260C.151 to 260C.307 shall be made by any suitable person under the direction of the court, and upon request of the court shall be made by a probation officer or any peace officer. The fees and mileage of witnesses shall be paid by the county if the subpoena is issued by the court on its own motion or at the request of the county attorney. All other fees shall be paid by the party requesting the subpoena unless otherwise ordered by the court. [260.141, subd. 2]

Subd. 3. NOTIFICATION. In any proceeding regarding a child in need of protection or services in a state court, where the court knows or has reason to know that an Indian child is involved, the prosecuting authority seeking the foster care placement of, or termination of parental rights to an Indian child, shall notify the parent or Indian custodian and the Indian child's tribe of the pending proceedings and of their right of intervention. The notice must be provided by registered mail with return receipt requested unless personal service is accomplished. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, the notice shall be given to the Secretary of the Interior of the United States in like manner, according to the Indian Child Welfare Act of 1978, United States Code, title 25, section 1912. No foster care placement proceeding or termination of parental rights proceeding shall be held until at least ten days after receipt of notice by the parent or Indian custodian and the tribe or the Secretary. However, the parent or Indian custodian or the tribe shall, upon request, be granted up to 20 additional days to prepare for the proceeding. [260.141, subd. 2a]

Subd. 4. PROOF OF SERVICE. Proof of the service required by this section shall be made by the person having knowledge thereof. [260.141, subd. 3]

Subd. 5. NOTICE TO FOSTER PARENTS AND PREADOPTIVE PARENTS AND RELATIVES. The foster parents, if any, of a child and any preadoptive parent or relative providing care for the child must be provided notice of and an opportunity to be heard in any review or hearing to be held with respect to the child. Any other relative may also request, and must be granted, a notice and the opportunity to be heard under this section. This subdivision does not require that a foster parent, preadoptive parent, or relative providing care for the child be made a party to a review or hearing solely on the basis of the notice and opportunity to be heard. [260.141, subd. 4]

Sec. 11. [260C.154] FAILURE TO OBEY SUMMONS OR SUBPOENA; CONTEMPT, ARREST.

If any person personally served with summons or subpoena fails, without reasonable cause, to appear or bring the child, or if the court has reason to believe the person is avoiding personal service, the person may be proceeded against for contempt of court or the court may issue a warrant for the person's arrest, or both. In any case when it appears to the court that the service will be ineffectual, or that the welfare of the child requires that the child be brought forthwith into the custody of the court, the court may issue a warrant for immediate custody of the child. [260.145 (omitting delinquency-related text)]

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 12. [260C.157] INVESTIGATION; PHYSICAL AND MENTAL EXAMINATION.

Subdivision 1. INVESTIGATION. Upon request of the court the local social services agency or probation officer shall investigate the personal and family history and environment of any minor coming within the jurisdiction of the court under section 260C.101 and shall report its findings to the court. The court may order any minor coming within its jurisdiction to be examined by a duly qualified physician, psychiatrist, or psychologist appointed by the court.

Adoption investigations shall be conducted in accordance with the laws relating to adoptions. Any funds received under the provisions of this subdivision shall not cancel until the end of the fiscal year immediately following the fiscal year in which the funds were received. The funds are available for use by the commissioner of corrections during that period and are hereby appropriated annually to the commissioner of corrections as reimbursement of the costs of providing these services to the juvenile courts. [260.151, subd. 1 (omitting delinquency-related text)]

Subd. 2. PETITION REQUIREMENT. The court may proceed as described in subdivision 1 only after a petition has been filed. [260.151, subd. 2 (omitting delinquency-related text)]

Subd. 3. JUVENILE TREATMENT SCREENING TEAM. (a) The local social services agency, at its option, may establish a juvenile treatment screening team to conduct screenings and prepare case plans under this subdivision. The team, which may be the team constituted under section 245.4885 or 256B.092 or Minnesota Rules, parts 9530.6600 to 9530.6655, shall consist of social workers, juvenile justice professionals, and persons with expertise in the treatment of juveniles who are emotionally disabled, chemically dependent, or have a developmental disability. The team shall involve parents or guardians in the screening process as appropriate. The team may be the same team as defined in section 260B.157, subdivision 3.

(b) This paragraph applies only in counties that have established a juvenile treatment screening team under paragraph (a). If the court, prior to, or as part of, a final disposition, proposes to place a child for the primary purpose of treatment for an emotional disturbance, a developmental disability, or chemical dependency in a residential treatment facility out of state or in one which is within the state and licensed by the commissioner of human services under chapter 245A, the court shall notify the county welfare agency. The county's juvenile treatment screening team must either: (1) screen and evaluate the child and file its recommendations with the court within 14 days of receipt of the notice; or (2) elect not to screen a given case, and notify the court of that decision within three working days.

(c) If the screening team has elected to screen and evaluate the child, the child may not be placed for the primary purpose of treatment for an emotional disturbance, a developmental disability, or chemical dependency, in a residential treatment facility out of state nor in a residential treatment facility within the state that is licensed under chapter 245A, unless one of the following conditions applies:

(1) a treatment professional certifies that an emergency requires the placement of the child in a facility within the state;

New language is indicated by underline, deletions by ~~strikeout~~.

(2) the screening team has evaluated the child and recommended that a residential placement is necessary to meet the child's treatment needs and the safety needs of the community, that it is a cost-effective means of meeting the treatment needs, and that it will be of therapeutic value to the child; or

(3) the court, having reviewed a screening team recommendation against placement, determines to the contrary that a residential placement is necessary. The court shall state the reasons for its determination in writing, on the record, and shall respond specifically to the findings and recommendation of the screening team in explaining why the recommendation was rejected. The attorney representing the child and the prosecuting attorney shall be afforded an opportunity to be heard on the matter. [260.151, subd. 3]

Sec. 13. [260C.163] HEARING.

Subdivision 1. GENERAL. (a) Except for hearings arising under section 260C.425, hearings on any matter shall be without a jury and may be conducted in an informal manner. In all adjudicatory proceedings involving a child alleged to be in need of protection or services, the court shall admit only evidence that would be admissible in a civil trial. To be proved at trial, allegations of a petition alleging a child to be in need of protection or services must be proved by clear and convincing evidence.

(b) Except for proceedings involving a child alleged to be in need of protection or services and petitions for the termination of parental rights, hearings may be continued or adjourned from time to time. In proceedings involving a child alleged to be in need of protection or services and petitions for the termination of parental rights, hearings may not be continued or adjourned for more than one week unless the court makes specific findings that the continuance or adjournment is in the best interests of the child. If a hearing is held on a petition involving physical or sexual abuse of a child who is alleged to be in need of protection or services or neglected and in foster care, the court shall file the decision with the court administrator as soon as possible but no later than 15 days after the matter is submitted to the court. When a continuance or adjournment is ordered in any proceeding, the court may make any interim orders as it deems in the best interests of the minor in accordance with the provisions of sections 260C.001 to 260C.421.

(c) Except as otherwise provided in this paragraph, the court shall exclude the general public from hearings under this chapter and shall admit only those persons who, in the discretion of the court, have a direct interest in the case or in the work of the court.

(d) Adoption hearings shall be conducted in accordance with the provisions of laws relating to adoptions. [260.155, subd. 1 (omitting delinquency-related text)]

Subd. 2. RIGHT TO PARTICIPATE IN PROCEEDINGS. A child who is the subject of a petition, and the parents, guardian, or legal custodian of the child have the right to participate in all proceedings on a petition. Official tribal representatives have the right to participate in any proceeding that is subject to the Indian Child Welfare Act of 1978, United States Code, title 25, sections 1901 to 1963.

Any grandparent of the child has a right to participate in the proceedings to the same extent as a parent, if the child has lived with the grandparent within the two years preceding the filing of the petition. At the first hearing following the filing of a petition, the court shall ask whether the child has lived with a grandparent within the last two years, except that the court need not make this inquiry if the petition states that the child did not live

New language is indicated by underline, deletions by strikeout.

with a grandparent during this time period. Failure to notify a grandparent of the proceedings is not a jurisdictional defect.

If, in a proceeding involving a child in need of protection or services, the local social service agency recommends transfer of permanent legal and physical custody to a relative, the relative has a right to participate as a party, and thereafter shall receive notice of any hearing in the proceedings. [260.155, subd. 1a]

Subd. 3. APPOINTMENT OF COUNSEL. (a) The child, parent, guardian or custodian has the right to effective assistance of counsel in connection with a proceeding in juvenile court.

(b) If they desire counsel but are unable to employ it, the court shall appoint counsel to represent the child or the parents or guardian in any case in which it feels that such an appointment is appropriate.

(c) Counsel for the child shall not also act as the child's guardian ad litem.

(d) In any proceeding where the subject of a petition for a child in need of protection or services is not represented by an attorney, the court shall determine the child's preferences regarding the proceedings, if the child is of suitable age to express a preference. [260.155, subd. 2 (omitting delinquency-related text)]

Subd. 4. COUNTY ATTORNEY. Except in adoption proceedings, the county attorney shall present the evidence upon request of the court. In representing the agency, the county attorney shall also have the responsibility for advancing the public interest in the welfare of the child. [260.155, subd. 3]

Subd. 5. GUARDIAN AD LITEM. (a) The court shall appoint a guardian ad litem to protect the interests of the minor when it appears, at any stage of the proceedings, that the minor is without a parent or guardian, or that the minor's parent is a minor or incompetent, or that the parent or guardian is indifferent or hostile to the minor's interests, and in every proceeding alleging a child's need for protection or services under section 260C.007, subdivision 4. In any other case the court may appoint a guardian ad litem to protect the interests of the minor when the court feels that such an appointment is desirable. The court shall appoint the guardian ad litem on its own motion or in the manner provided for the appointment of a guardian ad litem in the district court. The court may appoint separate counsel for the guardian ad litem if necessary.

(b) A guardian ad litem shall carry out the following responsibilities:

(1) conduct an independent investigation to determine the facts relevant to the situation of the child and the family, which must include, unless specifically excluded by the court, reviewing relevant documents; meeting with and observing the child in the home setting and considering the child's wishes, as appropriate; and interviewing parents, caregivers, and others with knowledge relevant to the case;

(2) advocate for the child's best interests by participating in appropriate aspects of the case and advocating for appropriate community services when necessary;

(3) maintain the confidentiality of information related to a case, with the exception of sharing information as permitted by law to promote cooperative solutions that are in the best interests of the child;

New language is indicated by underline, deletions by ~~strikeout~~.

(4) monitor the child's best interests throughout the judicial proceeding; and

(5) present written reports on the child's best interests that include conclusions and recommendations and the facts upon which they are based.

(c) The court may waive the appointment of a guardian ad litem pursuant to clause (a), whenever counsel has been appointed pursuant to subdivision 2 or is retained otherwise, and the court is satisfied that the interests of the minor are protected.

(d) In appointing a guardian ad litem pursuant to clause (a), the court shall not appoint the party, or any agent or employee thereof, filing a petition pursuant to section 260C.141.

(e) The following factors shall be considered when appointing a guardian ad litem in a case involving an Indian or minority child:

(1) whether a person is available who is the same racial or ethnic heritage as the child or, if that is not possible;

(2) whether a person is available who knows and appreciates the child's racial or ethnic heritage. [260.155, subd. 4]

Subd. 6. EXAMINATION OF CHILD. In any child in need of protection or services proceeding, neglected and in foster care, or termination of parental rights proceeding the court may, on its own motion or the motion of any party, take the testimony of a child witness informally when it is in the child's best interests to do so. Informal procedures that may be used by the court include taking the testimony of a child witness outside the courtroom. The court may also require counsel for any party to the proceeding to submit questions to the court before the child's testimony is taken, and to submit additional questions to the court for the witness after questioning has been completed. The court may excuse the presence of the child's parent, guardian, or custodian from the room where the child is questioned in accordance with subdivision 7. [260.155, subd. 4a]

Subd. 7. WAIVING THE PRESENCE OF CHILD, PARENT. The court may waive the presence of the minor in court at any stage of the proceedings when it is in the best interests of the minor to do so. In any proceeding, the court may temporarily excuse the presence of the parent or guardian of a minor from the hearing when it is in the best interests of the minor to do so. The attorney or guardian ad litem, if any, has the right to continue to participate in proceedings during the absence of the minor, parent, or guardian. [260.155, subd. 5 (omitting delinquency-related text)]

Subd. 8. RIGHTS OF THE PARTIES AT THE HEARING. The minor and the minor's parent, guardian, or custodian are entitled to be heard, to present evidence material to the case, and to cross examine witnesses appearing at the hearing. [260.155, subd. 6]

Subd. 9. FACTORS IN DETERMINING NEGLECT. In determining whether a child is neglected and in foster care, the court shall consider, among other factors, the following:

(1) the length of time the child has been in foster care;

(2) the effort the parent has made to adjust circumstances, conduct, or condition that necessitates the removal of the child to make it in the child's best interest to be returned to

New language is indicated by underline, deletions by ~~strikeout~~.

the parent's home in the foreseeable future, including the use of rehabilitative services offered to the parent;

(3) whether the parent has visited the child within the three months preceding the filing of the petition, unless extreme financial or physical hardship or treatment for mental disability or chemical dependency or other good cause prevented the parent from visiting the child or it was not in the best interests of the child to be visited by the parent;

(4) the maintenance of regular contact or communication with the agency or person temporarily responsible for the child;

(5) the appropriateness and adequacy of services provided or offered to the parent to facilitate a reunion;

(6) whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parent within an ascertainable period of time, whether the services have been offered to the parent, or, if services were not offered, the reasons they were not offered; and

(7) the nature of the efforts made by the responsible social service agency to rehabilitate and reunite the family, and whether the efforts were reasonable. [260.155, subd. 7]

Subd. 10. WAIVER. (a) Waiver of any right which a child has under this chapter must be an express waiver voluntarily and intelligently made by the child after the child has been fully and effectively informed of the right being waived. If a child is not represented by counsel, any waiver must be given or any objection must be offered by the child's guardian ad litem.

(b) Waiver of a child's right to be represented by counsel provided under the juvenile court rules must be an express waiver voluntarily and intelligently made by the child after the child has been fully and effectively informed of the right being waived. In determining whether a child has voluntarily and intelligently waived the right to counsel, the court shall look to the totality of the circumstances which includes but is not limited to the child's age, maturity, intelligence, education, experience, and ability to comprehend, and the presence and competence of the child's parents, guardian, or guardian ad litem. If the court accepts the child's waiver, it shall state on the record the findings and conclusions that form the basis for its decision to accept the waiver. [260.155, subd. 8]

Subd. 11. PRESUMPTIONS REGARDING TRUANCY OR EDUCATIONAL NEGLECT. A child's absence from school is presumed to be due to the parent's, guardian's, or custodian's failure to comply with compulsory instruction laws if the child is under 12 years old and the school has made appropriate efforts to resolve the child's attendance problems; this presumption may be rebutted based on a showing by clear and convincing evidence that the child is habitually truant. A child's absence from school without lawful excuse, when the child is 12 years old or older, is presumed to be due to the child's intent to be absent from school; this presumption may be rebutted based on a showing by clear and convincing evidence that the child's absence is due to the failure of the child's parent, guardian, or custodian to comply with compulsory instruction laws, sections 120.101 and 120.102. [260.15, subd. 9]

Sec. 14. [260C.165] CERTAIN OUT-OF-COURT STATEMENTS ADMISSIBLE.

An out-of-court statement not otherwise admissible by statute or rule of evidence, is admissible in evidence in any child in need of protection or services, neglected and in

New language is indicated by underline, deletions by ~~strikeout~~.

foster care, or domestic child abuse proceeding or any proceeding for termination of parental rights if:

(a) the statement was made by a child under the age of ten years or by a child ten years of age or older who is mentally impaired, as defined in section 609.341, subdivision 6;

(b) the statement alleges, explains, denies, or describes:

(1) any act of sexual penetration or contact performed with or on the child;

(2) any act of sexual penetration or contact with or on another child observed by the child making the statement;

(3) any act of physical abuse or neglect of the child by another; or

(4) any act of physical abuse or neglect of another child observed by the child making the statement;

(c) the court finds that the time, content, and circumstances of the statement and the reliability of the person to whom the statement is made provide sufficient indicia of reliability; and

(d) the proponent of the statement notifies other parties of an intent to offer the statement and the particulars of the statement sufficiently in advance of the proceeding at which the proponent intends to offer the statement into evidence, to provide the parties with a fair opportunity to meet the statement.

For purposes of this section, an out-of-court statement includes a video, audio, or other recorded statement. [260.156]

Sec. 15. [260C.168] COMPLIANCE WITH INDIAN CHILD WELFARE ACT.

The provisions of this chapter must be construed consistently with the Indian Child Welfare Act of 1978, United States Code, title 25, sections 1901 to 1963. [260.157]

Sec. 16. [260C.171] RECORDS.

Subdivision 1. RECORDS REQUIRED TO BE KEPT. The juvenile court judge shall keep such minutes and in such manner as the court deems necessary and proper. The juvenile court shall provide, upon the request of any other juvenile court, copies of the records concerning adjudications involving the particular child.

The court shall also keep an index in which files pertaining to juvenile matters shall be indexed under the name of the child. After the name of each file shall be shown the file number and, if ordered by the court, the book and page of the register in which the documents pertaining to such file are listed. The court shall also keep a register properly indexed in which shall be listed under the name of the child all documents filed pertaining to the child and in the order filed. The list shall show the name of the document and the date of filing thereof. The juvenile court legal records shall be deposited in files and shall include the petition, summons, notice, findings, orders, decrees, judgments, and motions and such other matters as the court deems necessary and proper. Unless otherwise provided by law, all court records shall be open at all reasonable times to the inspection of any child to whom the records relate, and to the child's parent and guardian. [260.161, subd. 1 (omitting delinquency-related text)]

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2. PUBLIC INSPECTION OF RECORDS. (a) The following records from proceedings or portions of proceedings involving a child in need of protection or services that are open to the public as authorized by supreme court order and court rules are accessible to the public unless the court determines that access should be restricted because of the intensely personal nature of the information:

- (1) the summons and petition;
- (2) affidavits of publication and service;
- (3) certificates of representation;
- (4) court orders;
- (5) hearing and trial notices, witness lists, and subpoenas;
- (6) motions and legal memoranda;
- (7) exhibits introduced at hearings or trial that are not inaccessible under paragraph (b);
- (8) birth certificates; and
- (9) all other documents not listed as inaccessible to the public under paragraph (b).

(b) The following records are not accessible to the public under paragraph (a):

- (1) written, audiotaped, or videotaped information from the social service agency, except to the extent the information appears in the petition, court orders, or other documents that are accessible under paragraph (a);
- (2) child protection intake or screening notes;
- (3) documents identifying reporters of maltreatment, unless the names and other identifying information are redacted;
- (4) guardian ad litem reports;
- (5) victim statements and addresses and telephone numbers;
- (6) documents identifying nonparty witnesses under the age of 18, unless the names and other identifying information are redacted;
- (7) transcripts of testimony taken during closed hearing;
- (8) fingerprinting materials;
- (9) psychological, psychiatric, and chemical dependency evaluations;
- (10) presentence evaluations of juveniles and probation reports;
- (11) medical records and test results;
- (12) reports issued by sexual predator programs;
- (13) diversion records of juveniles;
- (14) any document which the court, upon its own motion or upon motion of a party, orders inaccessible to serve the best interests of the child; and

New language is indicated by underline, deletions by strikeout.

(15) any other records that are not accessible to the public under rules developed by the courts.

In addition, records that are accessible to the public under paragraph (a) become inaccessible to the public if one year has elapsed since either the proceeding was dismissed or the court's jurisdiction over the matter was terminated.

(c) Except as otherwise provided by this section, none of the records of the juvenile court and none of the records relating to an appeal from a nonpublic juvenile court proceeding, except the written appellate opinion, shall be open to public inspection or their contents disclosed except by order of a court.

(d) The records of juvenile probation officers are records of the court for the purposes of this subdivision. This subdivision applies to all proceedings under this chapter, including appeals from orders of the juvenile court. The court shall maintain the confidentiality of adoption files and records in accordance with the provisions of laws relating to adoptions. In juvenile court proceedings any report or social history furnished to the court shall be open to inspection by the attorneys of record and the guardian ad litem a reasonable time before it is used in connection with any proceeding before the court.

(e) When a judge of a juvenile court, or duly authorized agent of the court, determines under a proceeding under this chapter that a child has violated a state or local law, ordinance, or regulation pertaining to the operation of a motor vehicle on streets and highways, except parking violations, the judge or agent shall immediately report the violation to the commissioner of public safety. The report must be made on a form provided by the department of public safety and must contain the information required under section 169.95. [260.161, subd. 2 (omitting delinquency-related text)]

Subd. 3. ATTORNEY ACCESS TO RECORDS. An attorney representing a child, parent, or guardian ad litem in a proceeding under this chapter shall be given access to records, local social service agency files, and reports which form the basis of any recommendation made to the court. An attorney does not have access under this subdivision to the identity of a person who made a report under section 626.556. The court may issue protective orders to prohibit an attorney from sharing a specified record or portion of a record with a client other than a guardian ad litem. [260.161, subd. 3a]

Subd. 4. COUNTY ATTORNEY REFERRAL OF CHILD IN NEED OF PROTECTION OR SERVICES. In a county in which the county attorney refers children who are in need of protection or services to community programs, the county attorney may provide a community program with data on a child who is a participant or being considered for participation in the program. [260.161, subd. 3b]

Subd. 5. FURTHER RELEASE OF RECORDS. A person who receives access to juvenile court or peace officer records of children that are not accessible to the public may not release or disclose the records to any other person except as authorized by law. This subdivision does not apply to the child who is the subject of the records or the child's parent or guardian. [260.161, subd. 5]

Sec. 17. [260C.175] TAKING CHILD INTO CUSTODY.

Subdivision 1. IMMEDIATE CUSTODY. No child may be taken into immediate custody except:

New language is indicated by underline, deletions by ~~strikeout~~.

(a) with an order issued by the court in accordance with the provisions of section 260C.151, subdivision 5, or Laws 1997, chapter 239, article 10, section 10, paragraph (a), clause (3), or 12, paragraph (a), clause (3), or by a warrant issued in accordance with the provisions of section 260C.154;

(b) by a peace officer:

(1) when a child has run away from a parent, guardian, or custodian, or when the peace officer reasonably believes the child has run away from a parent, guardian, or custodian; or

(2) when a child is found in surroundings or conditions which endanger the child's health or welfare or which such peace officer reasonably believes will endanger the child's health or welfare. If an Indian child is a resident of a reservation or is domiciled on a reservation but temporarily located off the reservation, the taking of the child into custody under this clause shall be consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1922;

(c) by a peace officer or probation or parole officer when it is reasonably believed that the child has violated the terms of probation, parole, or other field supervision; or

(d) by a peace officer or probation officer under section 260C.143, subdivision 1 or 4. [260.165, subd. 1 (omitting delinquency-related text)]

Subd. 2. 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 260C.151, subdivision 5; or section 260C.154, the officer shall notify the parent or custodian that under section 260C.181, subdivision 2, the parent or custodian may request that the child be placed with a relative or a designated caregiver under chapter 257A instead of in a shelter care facility. The officer also 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. [260.165, subd. 3]

Subd. 3. PROTECTIVE PAT-DOWN SEARCH OF CHILD AUTHORIZED.

(a) A peace officer who takes a child of any age or gender into custody under the provisions of this section is authorized to perform a protective pat-down search of the child in order to protect the officer's safety.

(b) A peace officer also may perform a protective pat-down search of a child in order to protect the officer's safety in circumstances where the officer does not intend to take the child into custody, if this section authorizes the officer to take the child into custody.

New language is indicated by underline, deletions by ~~strikethrough~~.

(c) Evidence discovered in the course of a lawful search under this section is admissible. [260.165, subd. 2a]

Sec. 18. [260C.176] RELEASE OR DETENTION.

Subdivision 1. NOTICE; RELEASE. If a child is taken into custody as provided in section 260C.175, the parent, guardian, or custodian of the child shall be notified as soon as possible. Unless there is reason to believe that the child would endanger self or others, not return for a court hearing, run away from the child's parent, guardian, or custodian or otherwise not remain in the care or control of the person to whose lawful custody the child is released, or that the child's health or welfare would be immediately endangered, the child shall be released to the custody of a parent, guardian, custodian, or other suitable person. When a child is taken into custody by a peace officer under section 260C.175, subdivision 1, clause (c)(2), release from detention may be authorized by the detaining officer, the detaining officer's supervisor, or the county attorney. If the social service agency has determined that the child's health or welfare will not be endangered and the provision of appropriate and available services will eliminate the need for placement, the agency shall request authorization for the child's release from detention. The person to whom the child is released shall promise to bring the child to the court, if necessary, at the time the court may direct. If the person taking the child into custody believes it desirable, that person may request the parent, guardian, custodian, or other person designated by the court to sign a written promise to bring the child to court as provided above. The intentional violation of such a promise, whether given orally or in writing, shall be punishable as contempt of court.

The court may require the parent, guardian, custodian, or other person to whom the child is released, to post any reasonable bail or bond required by the court which shall be forfeited to the court if the child does not appear as directed. The court may also release the child on the child's own promise to appear in juvenile court. [260.171, subd. 1]

Subd. 2. REASONS FOR DETENTION. (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 taken into custody and placed in a shelter care facility or relative's home by a peace officer pursuant to section 260C.175, subdivision 1, clause (a) or (c)(2), may be held in 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 260C.178 that the child shall remain in custody or unless the court has made a finding of domestic abuse perpetrated by a minor after a hearing under Laws 1997, chapter 239, article 10, sections 2 to 26, in which case the court may extend the period of detention for an additional seven days, within which time the social service agency shall conduct an assessment and shall provide recommendations to the court regarding voluntary services or file a child in need of protection or services petition. [260.171, subd. 2 (omitting delinquency-related text)]

Subd. 3. ADVISEMENT IF DETAINED. If the person who has taken the child into custody determines that the child should be placed in a secure detention facility or a shelter care facility, that person shall advise the child and as soon as is possible, the child's parent, guardian, or custodian:

New language is indicated by underline, deletions by strikeout.

(a) of the reasons why the child has been taken into custody and why the child is being placed in a juvenile secure detention facility or a shelter care facility;

(b) of the location of the juvenile secure detention facility or a shelter care facility. If there is reason to believe that disclosure of the location of the shelter care facility would place the child's health and welfare in immediate endangerment, disclosure of the location of the shelter care facility shall not be made;

(c) that the child's parent, guardian, or custodian and attorney or guardian ad litem may make an initial visit to the juvenile secure detention facility or shelter care facility at any time. Subsequent visits by a parent, guardian, or custodian may be made on a reasonable basis during visiting hours and by the child's attorney or guardian ad litem at reasonable hours;

(d) that the child may telephone parents and an attorney or guardian ad litem from the juvenile secure detention facility or shelter care facility immediately after being admitted to the facility and thereafter on a reasonable basis to be determined by the director of the facility;

(e) that the child may not be detained pursuant to section 260C.175, subdivision 1, clause (a) or (c)(2), at a shelter care facility longer than 72 hours, excluding Saturdays, Sundays, and holidays, unless a petition has been filed within that time and the court orders the child's continued detention, pursuant to section 260C.178;

(f) of the date, time, and place of the detention hearing, if this information is available to the person who has taken the child into custody; and

(g) that the child and the child's parent, guardian, or custodian have the right to be present and to be represented by counsel at the detention hearing, and that if they cannot afford counsel, counsel will be appointed at public expense for the child, or for any party, if it is a child in need of protection or services, neglected and in foster care, or termination of parental rights matter. [260.171, subd. 4 (omitting delinquency-related text)]

Subd. 4. TRANSPORTATION. If a child is to be detained in a secure detention facility or a shelter care facility, the child shall be promptly transported to the facility in a manner approved by the facility or by securing a written transportation order from the court authorizing transportation by the sheriff or other qualified person. The person who has determined that the child should be detained shall deliver to the court and the supervisor of the secure detention facility or shelter care facility where the child is placed, a signed report, setting forth:

(a) the time the child was taken into custody;

(b) the time the child was delivered for transportation to the secure detention facility or shelter care facility;

(c) the reasons why the child was taken into custody;

(d) the reasons why the child has been placed in detention;

(e) a statement that the child and the child's parent have received the notification required by subdivision 3 or the reasons why they have not been so notified; and

(f) any instructions required by subdivision 5. [260.171, subd. 5 (omitting delinquency-related text)]

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 5. SHELTER CARE; NOTICE TO PARENT. When a child is to be placed in a shelter care facility the person taking the child into custody or the court shall determine whether or not there is reason to believe that disclosure of the shelter care facility's location to the child's parent, guardian, or custodian would immediately endanger the health and welfare of the child. If there is reason to believe that the child's health and welfare would be immediately endangered, disclosure of the location shall not be made. This determination shall be included in the report required by subdivision 4, along with instructions to the shelter care facility to notify or withhold notification. [260.171, subd. 5a]

Subd. 6. REPORT. (a) When a child has been delivered to a secure detention facility, the supervisor of the facility shall deliver to the court a signed report acknowledging receipt of the child stating the time of the child's arrival. The supervisor of the facility shall ascertain from the report of the person who has taken the child into custody whether the child and a parent, guardian, or custodian has received the notification required by subdivision 3. If the child or a parent, guardian, or custodian, or both, have not been so notified, the supervisor of the facility shall immediately make the notification, and shall include in the report to the court a statement that notification has been received or the reasons why it has not.

(b) When a child has been delivered to a shelter care facility, the supervisor of the facility shall deliver to the court a signed report acknowledging receipt of the child stating the time of the child's arrival. The supervisor of the facility shall ascertain from the report of the person who has taken the child into custody whether the child's parent, guardian or custodian has been notified of the placement of the child at the shelter care facility and its location, and the supervisor shall follow any instructions concerning notification contained in that report. [260.171, subd. 6]

Sec. 19. [260C.178] DETENTION HEARING.

Subdivision 1. HEARING AND RELEASE REQUIREMENTS. (a) If a child was taken into custody under section 260C.175, subdivision 1, clause (a) or (b)(2), the court shall hold a hearing within 72 hours of the time the child was taken into custody, excluding Saturdays, Sundays, and holidays, to determine whether the child should continue in custody.

(b) Unless there is reason to believe that the child would endanger self or others, not return for a court hearing, run away from the child's parent, guardian, or custodian or otherwise not remain in the care or control of the person to whose lawful custody the child is released, or that the child's health or welfare would be immediately endangered, the child shall be released to the custody of a parent, guardian, custodian, or other suitable person, subject to reasonable conditions of release including, but not limited to, a requirement that the child undergo a chemical use assessment as provided in section 260C.157, subdivision 1. In determining whether the child's health or welfare would be immediately endangered, the court shall consider whether the child would reside with a perpetrator of domestic child abuse. In a proceeding regarding a child in need of protection or services, the court, before determining whether a child should continue in custody, shall also make a determination, consistent with section 260.012 as to whether reasonable efforts, or in the case of an Indian child, active efforts, according to the Indian Child Welfare Act of 1978, United States Code, title 25, section 1912(d), were made to prevent placement or to reunite the child with the child's family, or that reasonable efforts were not possible.

New language is indicated by underline, deletions by strikeout.

The court shall also determine whether there are available services that would prevent the need for further detention.

If the court finds the social services agency's preventive or reunification efforts have not been reasonable but further preventive or reunification efforts could not permit the child to safely remain at home, the court may nevertheless authorize or continue the removal of the child.

The court may determine at the detention hearing, or at any time prior to an adjudicatory hearing, that reasonable efforts are not required because the facts, if proved, will demonstrate that the parent has subjected the child to egregious harm as defined in section 260C.007, subdivision 25, or the parental rights of the parent to a sibling of the child have been terminated involuntarily. [260.172, subd. 1 (omitting delinquency-related text)]

Subd. 2. DURATION. If the court determines that the child should continue in detention, it may order detention continued for eight days, excluding Saturdays, Sundays and holidays, from and including the date of the order. The court shall include in its order the reasons for continued detention and the findings of fact which support these reasons. [260.172, subd. 2 (omitting delinquency-related text)]

Subd. 3. PARENTAL VISITATION. If a child has been taken into custody under section 260C.151, subdivision 5, or 260C.175, subdivision 1, clause (c)(2), and the court determines that the child should continue in detention, the court shall include in its order reasonable rules for supervised or unsupervised parental visitation of the child in the shelter care facility unless it finds that visitation would endanger the child's physical or emotional well-being. [260.172, subd. 2a]

Subd. 4. MENTAL HEALTH TREATMENT. (a) Except as provided in paragraph (b), a child who is held in detention as an alleged victim of child abuse as defined in section 630.36, subdivision 2, may not be given mental health treatment specifically for the effects of the alleged abuse until the court finds that there is probable cause to believe the abuse has occurred.

(b) A child described in paragraph (a) may be given mental health treatment prior to a probable cause finding of child abuse if the treatment is either agreed to by the child's parent or guardian in writing, or ordered by the court according to the standard contained in section 260C.201, subdivision 1. [260.172, subd. 2b]

Subd. 5. COPIES OF ORDER. Copies of the court's order shall be served upon the parties, including the supervisor of the detention facility, who shall release the child or continue to hold the child as the court orders.

When the court's order is served upon these parties, notice shall also be given to the parties of the subsequent reviews provided by subdivision 6. The notice shall also inform each party of the right to submit to the court for informal review any new evidence regarding whether the child should be continued in detention and to request a hearing to present the evidence to the court. [260.172, subd. 3]

Subd. 6. REVIEW. If a child held in detention under a court order issued under subdivision 2 has not been released prior to expiration of the order, the court or referee shall informally review the child's case file to determine, under the standards provided by subdivision 1, whether detention should be continued. If detention is continued thereafter,

New language is indicated by underline, deletions by strikeout.

informal reviews such as these shall be held within every eight days, excluding Saturdays, Sundays and holidays, of the child's detention.

A hearing, rather than an informal review of the child's case file, shall be held at the request of any one of the parties notified pursuant to subdivision 5, if that party notifies the court of a wish to present to the court new evidence concerning whether the child should be continued in detention or notifies the court of a wish to present an alternate placement arrangement to provide for the safety and protection of the child.

In addition, if a child was taken into detention under section 260C.151, subdivision 5, or 260C.175, subdivision 1, clause (c)(2), and is held in detention under a court order issued under subdivision 2, the court shall schedule and hold an adjudicatory hearing on the petition within 60 days of the detention hearing upon the request of any party to the proceeding. However, if good cause is shown by a party to the proceeding why the hearing should not be held within that time period, the hearing shall be held within 90 days, unless the parties agree otherwise and the court so orders. [260.172, subd. 4]

Sec. 20. [260C.181] PLACE OF TEMPORARY CUSTODY; SHELTER CARE FACILITY.

Subdivision 1. TEMPORARY CUSTODY. A child taken into custody pursuant to section 260C.175 may be detained for up to 24 hours in a shelter care facility, secure detention facility, or, if there is no secure detention facility available for use by the county having jurisdiction over the child, in a jail or other facility for the confinement of adults who have been charged with or convicted of a crime in quarters separate from any adult confined in the facility which has been approved for the detention of juveniles by the commissioner of corrections. At the end of the 24 hour detention any child requiring further detention may be detained only as provided in this section. [260.173, subd. 1]

Subd. 2. LEAST RESTRICTIVE SETTING. Notwithstanding the provisions of subdivision 1, if the child had been taken into custody pursuant to section 260C.175, 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, a designated caregiver under chapter 257A, 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. [260.173, subd. 2]

Subd. 3. PLACEMENT. If the child had been taken into custody and detained as one who is alleged to be in need of protection or services under section 260C.007, subdivision 4, clause (13) or (14), by reason of having been adjudicated, in need of protection or services under section 260C.007, subdivision 4, clause (13) or (14), or conditionally released by the juvenile court without adjudication, has violated probation, parole, or other field supervision under which the child had been placed as a result of behavior described in this subdivision; the child may be placed only in a shelter care facility. [260.173, subd. 3 (omitting delinquency-related text)]

Sec. 21. [260C.188] CHILDREN IN CUSTODY; RESPONSIBILITY FOR MEDICAL CARE.

Subdivision 1. MEDICAL AID. If a child is taken into custody as provided in section 260C.175 and detained in a local juvenile secure detention facility or a shelter care

New language is indicated by underline, deletions by strikeout.

facility, the child's county of residence shall pay the costs of medical services provided to the child during the period of time the child is residing in the facility. The county of residence is entitled to reimbursement from the child or the child's family for payment of medical bills to the extent that the child or the child's family has the ability to pay for the medical services. If there is a disagreement between the county and the child or the child's family concerning the ability to pay or whether the medical services were necessary, the court with jurisdiction over the child shall determine the extent, if any, of the child's or the family's ability to pay for the medical services or whether the services are necessary. If the child is covered by health or medical insurance or a health plan when medical services are provided, the county paying the costs of medical services has a right of subrogation to be reimbursed by the insurance carrier or health plan for all amounts spent by it for medical services to the child that are covered by the insurance policy or health plan, in accordance with the benefits, limitations, exclusions, provider restrictions, and other provisions of the policy or health plan. The county may maintain an action to enforce this subrogation right. The county does not have a right of subrogation against the medical assistance program, the MinnesotaCare program, or the general assistance medical care program. [260.174, subd. 1 (omitting delinquency-related text)]

Subd. 2. INTAKE PROCEDURE; HEALTH COVERAGE. As part of its intake procedure for children, the official having custody over the child shall ask the child or the child's family, as appropriate, whether the child has health coverage. If the child has coverage under a policy of accident and health insurance regulated under chapter 62A, a health maintenance contract regulated under chapter 62D, a group subscriber contract regulated under chapter 62C, a health benefit certificate regulated under chapter 64B, a self-insured plan, or other health coverage, the child or the child's family, as appropriate, shall provide to the official having custody over the child the name of the carrier or administrator and other information and authorizations necessary for the official having custody over the child to obtain specific information about coverage. [260.174, subd. 2]

Subd. 3. OBTAINING HEALTH CARE IN COMPLIANCE WITH COVERAGE. A county board may authorize the officials having custody over children to fulfill the county board's obligation to provide the medical aid required by subdivision 1 in accordance with the terms of the health plan covering the child, where possible, subject to any rules and exceptions provided by the county board. The official having custody over a child has no obligation to the child or to the child's family to obtain the child's health care in accordance with the child's health coverage. [260.174, subd. 3]

Subd. 4. SCOPE. Subdivisions 1, 2, and 3 apply to any medical aid, including dental care, provided to children held in custody by the county as described in subdivision 1. [260.174, subd. 4]

Sec. 22. [260C.193] DISPOSITIONS; GENERAL PROVISIONS.

Subdivision 1. DISMISSAL OF PETITION. Whenever the court finds that the minor is not within the jurisdiction of the court or that the facts alleged in the petition have not been proved, it shall dismiss the petition. [260.181, subd. 1]

Subd. 2. CONSIDERATION OF REPORTS. Before making a disposition in a case, or terminating parental rights, or appointing a guardian for a child the court may consider any report or recommendation made by the local social services agency, probation officer, licensed child-placing agency, foster parent, guardian ad litem, tribal repre-

New language is indicated by underline, deletions by ~~strikeout~~.

sentative, or other authorized advocate for the child or child's family, a school district concerning the effect on student transportation of placing a child in a school district in which the child is not a resident, or any other information deemed material by the court.
[260.181, subd. 2]

Subd. 3. PROTECTION OF THE CHILD'S BEST INTERESTS. (a) The policy of the state is to ensure that the best interests of children are met by requiring individualized determinations of the needs of the child and of how the selected placement will serve the needs of the child in foster care placements.

(b) Among the factors to be considered in determining the needs of the child are:

(1) the child's current functioning and behaviors;

(2) the medical, educational, and developmental needs of the child;

(3) the child's history and past experience;

(4) the child's religious and cultural needs;

(5) the child's connection with a community, school, and church;

(6) the child's interests and talents;

(7) the child's relationship to current caretakers, parents, siblings, and relatives; and

(8) the reasonable preference of the child, if the court, or in the case of a voluntary placement the child-placing agency, deems the child to be of sufficient age to express preferences.

(c) The court, in transferring legal custody of any child or appointing a guardian for the child under the laws relating to juvenile courts, shall consider placement, consistent with the child's best interests and in the following order, in the legal custody or guardianship of an individual who (1) is related to the child by blood, marriage, or adoption, or (2) is an important friend with whom the child has resided or had significant contact. Placement of a child cannot be delayed or denied based on race, color, or national origin of the foster parent or the child. Whenever possible, siblings should be placed together unless it is determined not to be in the best interests of a sibling.

(d) If the child's birth parent or parents explicitly request that a relative or important friend not be considered, the court shall honor that request if it is consistent with the best interests of the child.

If the child's birth parent or parents express a preference for placing the child in a foster or adoptive home of the same or a similar religious background to that of the birth parent or parents, the court shall order placement of the child with an individual who meets the birth parent's religious preference.

(e) This subdivision does not affect the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923, and the Minnesota Indian Family Preservation Act, sections 260.751 to 260.835. [260.181, subd. 3]

Subd. 4. REPORTS; JUVENILES PLACED OUT OF STATE. Whenever a child is placed in a residential program located outside of this state pursuant to a disposition order issued under section 260C.201, the juvenile court administrator shall report the following information to the state court administrator:

New language is indicated by underline, deletions by ~~strikeout~~.

- (1) the fact that the placement is out of state;
- (2) the type of placement; and
- (3) the reason for the placement. [260.181, subd. 3a]

Subd. 5. TERMINATION OF JURISDICTION. The court may dismiss the petition or otherwise terminate its jurisdiction on its own motion or on the motion or petition of any interested party at any time. Unless terminated by the court, and except as otherwise provided in this subdivision, the jurisdiction of the court shall continue until the individual becomes 19 years of age if the court determines it is in the best interest of the individual to do so. Court jurisdiction under section 260C.007, subdivision 4, clause (12), may not continue past the child's 17th birthday. [260.181, subd. 4 (omitting delinquency-related text)]

Sec. 23. [260C.201] DISPOSITIONS; CHILDREN WHO ARE IN NEED OF PROTECTION OR SERVICES OR NEGLECTED AND IN FOSTER CARE.

Subdivision 1. DISPOSITIONS. (a) If the court finds that the child is in need of protection or services or neglected and in foster care, it shall enter an order making any of the following dispositions of the case:

(1) place the child under the protective supervision of the local social services agency or child-placing agency in the child's own home under conditions prescribed by the court directed to the correction of the child's need for protection or services;

(2) transfer legal custody to one of the following:

(i) a child-placing agency; or

(ii) the local social services agency.

In placing a child whose custody has been transferred under this paragraph, the agencies shall follow the order of preference stated in section 260C.193, subdivision 3;

(3) if the child is in need of special treatment and care for reasons of physical or mental health, the court may order the child's parent, guardian, or custodian to provide it. If the parent, guardian, or custodian fails or is unable to provide this treatment or care, the court may order it provided. The court shall not transfer legal custody of the child for the purpose of obtaining special treatment or care solely because the parent is unable to provide the treatment or care. If the court's order for mental health treatment is based on a diagnosis made by a treatment professional, the court may order that the diagnosing professional not provide the treatment to the child if it finds that such an order is in the child's best interests; or

(4) if the court believes that the child has sufficient maturity and judgment and that it is in the best interests of the child, the court may order a child 16 years old or older to be allowed to live independently, either alone or with others as approved by the court under supervision if the court considers appropriate, if the county board, after consultation with the court, has specifically authorized this dispositional alternative for a child.

(b) If the child was adjudicated in need of protection or services because the child is a runaway or habitual truant, the court may order any of the following dispositions in addition to or as alternatives to the dispositions authorized under paragraph (a):

New language is indicated by underline, deletions by strikeout.

(1) counsel the child or the child's parents, guardian, or custodian;

(2) place the child under the supervision of a probation officer or other suitable person in the child's own home under conditions prescribed by the court, including reasonable rules for the child's conduct and the conduct of the parents, guardian, or custodian, designed for the physical, mental, and moral well-being and behavior of the child; or with the consent of the commissioner of corrections, place the child in a group foster care facility which is under the commissioner's management and supervision;

(3) subject to the court's supervision, transfer legal custody of the child to one of the following:

(i) a reputable person of good moral character. No person may receive custody of two or more unrelated children unless licensed to operate a residential program under sections 245A.01 to 245A.16; or

(ii) a county probation officer for placement in a group foster home established under the direction of the juvenile court and licensed pursuant to section 241.021;

(4) require the child to pay a fine of up to \$100. The court shall order payment of the fine in a manner that will not impose undue financial hardship upon the child;

(5) require the child to participate in a community service project;

(6) order the child to undergo a chemical dependency evaluation and, if warranted by the evaluation, order participation by the child in a drug awareness program or an inpatient or outpatient chemical dependency treatment program;

(7) if the court believes that it is in the best interests of the child and of public safety that the child's driver's license or instruction permit be canceled, the court may order the commissioner of public safety to cancel the child's license or permit for any period up to the child's 18th birthday. If the child does not have a driver's license or permit, the court may order a denial of driving privileges for any period up to the child's 18th birthday. The court shall forward an order issued under this clause to the commissioner, who shall cancel the license or permit or deny driving privileges without a hearing for the period specified by the court. At any time before the expiration of the period of cancellation or denial, the court may, for good cause, order the commissioner of public safety to allow the child to apply for a license or permit, and the commissioner shall so authorize;

(8) order that the child's parent or legal guardian deliver the child to school at the beginning of each school day for a period of time specified by the court; or

(9) require the child to perform any other activities or participate in any other treatment programs deemed appropriate by the court.

To the extent practicable, the court shall enter a disposition order the same day it makes a finding that a child is in need of protection or services or neglected and in foster care, but in no event more than 15 days after the finding unless the court finds that the best interests of the child will be served by granting a delay. If the child was under eight years of age at the time the petition was filed, the disposition order must be entered within ten days of the finding and the court may not grant a delay unless good cause is shown and the court finds the best interests of the child will be served by the delay.

(c) If a child who is 14 years of age or older is adjudicated in need of protection or services because the child is a habitual truant and truancy procedures involving the child

New language is indicated by underline, deletions by strikeout.

were previously dealt with by a school attendance review board or county attorney mediation program under section 260A.06 or 260A.07, the court shall order a cancellation or denial of driving privileges under paragraph (b), clause (7), for any period up to the child's 18th birthday.

(d) In the case of a child adjudicated in need of protection or services because the child has committed domestic abuse and been ordered excluded from the child's parent's home, the court shall dismiss jurisdiction if the court, at any time, finds the parent is able or willing to provide an alternative safe living arrangement for the child, as defined in Laws 1997, chapter 239, article 10, section 2. [260.191, subd. 1]

Subd. 2. WRITTEN FINDINGS. Any order for a disposition authorized under this section shall contain written findings of fact to support the disposition ordered, and shall also set forth in writing the following information:

(a) Why the best interests of the child are served by the disposition ordered;

(b) What alternative dispositions were considered by the court and why such dispositions were not appropriate in the instant case;

(c) How the court's disposition complies with the requirements of section 260C.193, subdivision 3; and

(d) Whether reasonable efforts consistent with section 260.012 were made to prevent or eliminate the necessity of the child's removal and to reunify the family after removal. The court's findings must include a brief description of what preventive and reunification efforts were made and why further efforts could not have prevented or eliminated the necessity of removal or that reasonable efforts were not required under section 260.012 or 260C.178, subdivision 1.

If the court finds that the social services agency's preventive or reunification efforts have not been reasonable but that further preventive or reunification efforts could not permit the child to safely remain at home, the court may nevertheless authorize or continue the removal of the child. [260.191, subd. 1a]

Subd. 3. DOMESTIC CHILD ABUSE. If the court finds that the child is a victim of domestic child abuse, as defined in section 260C.007, subdivision 20, 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.

New language is indicated by underline, deletions by ~~strikeout~~.

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. [260.191, subd. 1b]

Subd. 4. SUPPORT ORDERS. If the court issues an order for protection pursuant to section 260C.201, subdivision 3, 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. [260.191, subd. 1c]

Subd. 5. VISITATION. If the court orders that the child be placed outside of the child's home or present residence, it shall set reasonable rules for supervised or unsupervised parental visitation that contribute to the objectives of the court order and the maintenance of the familial relationship. No parent may be denied visitation unless the court finds at the disposition hearing that the visitation would act to prevent the achievement of the order's objectives or that it would endanger the child's physical or emotional well-being. The court shall set reasonable rules for visitation for any relatives as defined in section 260C.193, subdivision 3, if visitation is consistent with the best interests of the child. [260.191, subd. 1d]

Subd. 6. CASE PLAN. For each disposition ordered, the court shall order the appropriate agency to prepare a written case plan developed after consultation with any foster parents, and consultation with and participation by the child and the child's parent, guardian, or custodian, guardian ad litem, and tribal representative if the tribe has intervened. The case plan shall comply with the requirements of section 260C.212, where applicable. The case plan shall, among other matters, specify the actions to be taken by the child and the child's parent, guardian, foster parent, or custodian to ensure the child's safety and to comply with the court's disposition order, and the services to be offered and provided by the agency to the child and the child's parent, guardian, or custodian. The court shall review the case plan and, upon approving it, incorporate the plan into its disposition order. The court may review and modify the terms of the case plan in the manner provided in subdivision 2. For each disposition ordered, the written case plan shall specify what reasonable efforts shall be provided to the family. The case plan must include a discussion of:

New language is indicated by underline, deletions by strikeout.

(1) the availability of appropriate prevention and reunification services for the family to safely prevent the removal of the child from the home or to safely reunify the child with the family after removal;

(2) any services or resources that were requested by the child or the child's parent, guardian, foster parent, or custodian since the date of initial adjudication, and whether those services or resources were provided or the basis for denial of the services or resources;

(3) the need of the child and family for care, treatment, or rehabilitation;

(4) the need for participation by the parent, guardian, or custodian in the plan of care for the child;

(5) the visitation rights and obligations of the parent or other relatives, as defined in section 260C.193, subdivision 3, during any period when the child is placed outside the home;

(6) a description of any services that could safely prevent placement or reunify the family if such services were available; and

(7) the need for continued monitoring of the child and family by the appropriate local social services agency once the family has completed all services required in the case plan.

A party has a right to request a court review of the reasonableness of the case plan upon a showing of a substantial change of circumstances. [260.191, subd. 1e]

Subd. 7. ORDER DURATION. Subject to subdivisions 10 and 11, all orders under this section shall be for a specified length of time set by the court not to exceed one year. However, before the order has expired and upon its own motion or that of any interested party, the court shall, after notice to the parties and a hearing, renew the order for another year or make some other disposition of the case, until the individual is no longer a minor. Any person to whom legal custody is transferred shall report to the court in writing at such periods as the court may direct. [260.191, subd. 2]

Subd. 8. SERVICE OF ORDER. Any person who provides services to a child under a disposition order, or who is subject to the conditions of a disposition order shall be served with a copy of the order in the manner provided in the rules for juvenile courts. [260.191, subd. 2a]

Subd. 9. TRANSFER OF LEGAL CUSTODY ORDERS. When the court transfers legal custody of a child to any licensed child-placing agency or the local social services agency, it shall transmit with the order transferring legal custody a copy of its findings and a summary of its information concerning the child. [260.191, subd. 3]

Subd. 10. COURT REVIEW OF OUT-OF-HOME PLACEMENTS. (a) If the court places a child in a residential facility, as defined in section 260C.212, subdivision 1, the court shall review the out-of-home placement at least every six months to determine whether continued out-of-home placement is necessary and appropriate or whether the child should be returned home. The court shall review agency efforts pursuant to section 260C.215, subdivision 1, and order that the efforts continue if the agency has failed to perform the duties under that section. The court shall review the case plan and may

New language is indicated by underline, deletions by ~~strikeout~~.

modify the case plan as provided under subdivisions 6 and 7. If the court orders continued out-of-home placement, the court shall notify the parents of the provisions of subdivision 11.

(b) When the court determines that a permanent placement hearing is necessary because there is a likelihood that the child will not return to a parent's care, the court may authorize the agency with custody of the child to send the notice provided in section 257.071, subdivision 1d, paragraph (b), or may modify the requirements of the agency under section 257.071, subdivision 1d, paragraph (b), or may completely relieve the responsible social service agency of the requirements of section 257.071, subdivision 1d, paragraph (b), when the child is placed with an appropriate relative who wishes to provide a permanent home for the child. The actions ordered by the court under this section must be consistent with the best interests, safety, and welfare of the child. [260.191, subd. 3a]

Subd. 11. REVIEW OF COURT-ORDERED PLACEMENTS; PERMANENT PLACEMENT DETERMINATION. (a) The court shall conduct a hearing to determine the permanent status of a child not later than 12 months after the child is placed out of the home of the parent, except that if the child was under eight years of age at the time the petition was filed, the hearing must be conducted no later than six months after the child is placed out of the home of the parent.

For purposes of this subdivision, the date of the child's placement out of the home of the parent is the earlier of the first court-ordered placement or 60 days after the date on which the child has been voluntarily placed out of the home.

For purposes of this subdivision, 12 months is calculated as follows:

(1) during the pendency of a petition alleging that a child is in need of protection or services, all time periods when a child is placed out of the home of the parent are cumulated;

(2) if a child has been placed out of the home of the parent within the previous five years in connection with one or more prior petitions for a child in need of protection or services, the lengths of all prior time periods when the child was placed out of the home within the previous five years and under the current petition, are cumulated. If a child under this clause has been out of the home for 12 months or more, the court, if it is in the best interests of the child, may extend the total time the child may continue out of the home under the current petition up to an additional six months before making a permanency determination.

(b) Not later than ten days prior to this hearing, the responsible social service agency shall file pleadings to establish the basis for the permanent placement determination. Notice of the hearing and copies of the pleadings must be provided pursuant to section 260C.152. If a termination of parental rights petition is filed before the date required for the permanency planning determination, no hearing need be conducted under this subdivision. The court shall determine whether the child is to be returned home or, if not, what permanent placement is consistent with the child's best interests. The "best interests of the child" means all relevant factors to be considered and evaluated.

(c) At a hearing under this subdivision, if the child was under eight years of age at the time the petition was filed alleging the child in need of protection or services, the court

New language is indicated by underline, deletions by strikeout.

shall review the progress of the case and the case plan, including the provision of services. The court may order the local social service agency to show cause why it should not file a termination of parental rights petition. Cause may include, but is not limited to, the following conditions:

(1) the parents or guardians have maintained regular contact with the child, the parents are complying with the court-ordered case plan, and the child would benefit from continuing this relationship;

(2) grounds for termination under section 260C.301 do not exist; or

(3) the permanent plan for the child is transfer of permanent legal and physical custody to a relative.

(d) If the child is not returned to the home, the dispositions available for permanent placement determination are:

(1) permanent legal and physical custody to a relative in the best interests of the child. In transferring permanent legal and physical custody to a relative, the juvenile court shall follow the standards and procedures applicable under chapter 260, 260C, or 518. An order establishing permanent legal or physical custody under this subdivision must be filed with the family court. A transfer of legal and physical custody includes responsibility for the protection, education, care, and control of the child and decision making on behalf of the child. The social service agency may petition on behalf of the proposed custodian;

(2) termination of parental rights and adoption; the social service agency shall file a petition for termination of parental rights under section 260C.307 and all the requirements of sections 260C.301 to 260C.328 remain applicable. An adoption completed subsequent to a determination under this subdivision may include an agreement for communication or contact under section 259.58; or

(3) long-term foster care; transfer of legal custody and adoption are preferred permanency options for a child who cannot return home. The court may order a child into long-term foster care only if it finds that neither an award of legal and physical custody to a relative, nor termination of parental rights nor adoption is in the child's best interests. Further, the court may only order long-term foster care for the child under this section if it finds the following:

(i) the child has reached age 12 and reasonable efforts by the responsible social service agency have failed to locate an adoptive family for the child; or

(ii) the child is a sibling of a child described in clause (i) and the siblings have a significant positive relationship and are ordered into the same long-term foster care home; or

(4) foster care for a specified period of time may be ordered only if:

(i) the sole basis for an adjudication that a child is in need of protection or services is that the child is a runaway, is an habitual truant, or committed a delinquent act before age ten; and

(ii) the court finds that foster care for a specified period of time is in the best interests of the child.

New language is indicated by underline, deletions by ~~strikeout~~.

(e) In ordering a permanent placement of a child, the court must be governed by the best interests of the child, including a review of the relationship between the child and relatives and the child and other important persons with whom the child has resided or had significant contact.

(f) Once a permanent placement determination has been made and permanent placement has been established, further court reviews and dispositional hearings are only necessary if the placement is made under paragraph (d), clause (4), review is otherwise required by federal law, an adoption has not yet been finalized, or there is a disruption of the permanent or long-term placement.

(g) An order under this subdivision must include the following detailed findings:

(1) how the child's best interests are served by the order;

(2) the nature and extent of the responsible social service agency's reasonable efforts, or, in the case of an Indian child, active efforts, to reunify the child with the parent or parents;

(3) the parent's or parents' efforts and ability to use services to correct the conditions which led to the out-of-home placement;

(4) whether the conditions which led to the out-of-home placement have been corrected so that the child can return home; and

(5) if the child cannot be returned home, whether there is a substantial probability of the child being able to return home in the next six months.

(h) An order for permanent legal and physical custody of a child may be modified under sections 518.18 and 518.185. The social service agency is a party to the proceeding and must receive notice. An order for long-term foster care is reviewable upon motion and a showing by the parent of a substantial change in the parent's circumstances such that the parent could provide appropriate care for the child and that removal of the child from the child's permanent placement and the return to the parent's care would be in the best interest of the child. [260.191, subd. 3b]

Subd. 12. CONTINUANCE OF CASE. If it is in the best interests of the child to do so and if the allegations contained in the petition have been admitted, or when a hearing has been held as provided in section 260C.163 and the allegations contained in the petition have been duly proven, before the entry of a finding of need for protection or services or a finding that a child is neglected and in foster care, the court may continue the case for a period not to exceed 90 days on any one order. Following the 90-day continuance:

(1) if both the parent and child have complied with the terms of the continuance, the case must be dismissed without an adjudication that the child is in need of protection or services or that the child is neglected and in foster care; or

(2) if either the parent or child has not complied with the terms of the continuance, the court shall adjudicate the child in need of protection or services or neglected and in foster care. [260.191, subd. 4]

Sec. 24. [260C.205] DISPOSITIONS; VOLUNTARY FOSTER CARE PLACEMENTS.

Upon a petition for review of the foster care status of a child, the court may:

New language is indicated by underline, deletions by strikeout.

(a) In the case of a petition required to be filed under section 260C.212, subdivision 8, find that the child's needs are being met, that the child's placement in foster care is in the best interests of the child, and that the child will be returned home in the next six months, in which case the court shall approve the voluntary arrangement and continue the matter for six months to assure the child returns to the parent's home.

(b) In the case of a petition required to be filed under section 260C.212, subdivision 9, find that the child's needs are being met and that the child's placement in foster care is in the best interests of the child, in which case the court shall approve the voluntary arrangement. The court shall order the social service agency responsible for the placement to bring a petition under section 260C.141, subdivision 1 or 2, as appropriate, within 12 months.

(c) Find that the child's needs are not being met, in which case the court shall order the social service agency or the parents to take whatever action is necessary and feasible to meet the child's needs, including, when appropriate, the provision by the social service agency of services to the parents which would enable the child to live at home, and order a disposition under section 260C.201.

(d) Find that the child has been abandoned by parents financially or emotionally, or that the developmentally disabled child does not require out-of-home care because of the handicapping condition, in which case the court shall order the social service agency to file an appropriate petition pursuant to sections 260C.141, subdivision 1, or 260C.307.

Nothing in this section shall be construed to prohibit bringing a petition pursuant to section 260C.141, subdivision 1 or 4, sooner than required by court order pursuant to this section. [260.192]

Sec. 25. [260C.208] INFORMATION FOR CHILD PLACEMENT.

Subdivision 1. AGENCY WITH PLACEMENT AUTHORITY. An agency with legal responsibility for the placement of a child may request and shall receive all information pertaining to the child that it considers necessary to appropriately carry out its duties. That information must include educational, medical, psychological, psychiatric, and social or family history data retained in any form by any individual or entity. The agency may gather appropriate data regarding the child's parents in order to develop and implement a case plan required by section 260C.212. Upon request of the court responsible for overseeing the provision of services to the child and family and for implementing orders that are in the best interest of the child, the responsible local social service agency or tribal social service agency shall provide appropriate written or oral reports from any individual or entity that has provided services to the child or family. The reports must include the nature of the services being provided the child or family; the reason for the services; the nature, extent, and quality of the child's or parent's participation in the services, where appropriate; and recommendations for continued services, where appropriate. The individual or entity shall report all observations and information upon which it bases its report as well as its conclusions. If necessary to facilitate the receipt of the reports, the court may issue appropriate orders. [257.069, subd. 1]

Subd. 2. ACCESS TO SPECIFIC DATA. A social service agency responsible for the residential placement of a child under this section and the residential facility in which the child is placed shall have access to the following data on the child:

New language is indicated by underline, deletions by ~~strikeout~~.

- (1) medical data under section 13.42;
- (2) corrections and detention data under section 13.85;
- (3) juvenile court data under section 260C.171; and
- (4) health records under section 144.335. [257.069, subd. 2]

Sec. 26. [260C.212] CHILDREN IN FOSTER HOMES; PLACEMENT; REVIEW.

Subdivision 1. PLACEMENT; PLAN. A case plan shall be prepared within 30 days after any child is placed in a residential facility by court order or by the voluntary release of the child by the parent or parents.

For purposes of this section, a residential facility means any group home, family foster home or other publicly supported out-of-home residential facility, including any out-of-home residential facility under contract with the state, county or other political subdivision, or any agency thereof, to provide those services or foster care as defined in section 260C.007, subdivision 9.

For the purposes of this section, a case plan means a written document which is ordered by the court or which is prepared by the social service agency responsible for the residential facility placement and is signed by the parent or parents, or other custodian, of the child, the child's legal guardian, the social service agency responsible for the residential facility placement, and, if possible, the child. The document shall be explained to all persons involved in its implementation, including the child who has signed the document, and shall set forth:

(1) The specific reasons for the placement of the child in a residential facility, including a description of the problems or conditions in the home of the parent or parents which necessitated removal of the child from home;

(2) The specific actions to be taken by the parent or parents of the child to eliminate or correct the problems or conditions identified in clause (1), and the time period during which the actions are to be taken;

(3) The financial responsibilities and obligations, if any, of the parents for the support of the child during the period the child is in the residential facility;

(4) The visitation rights and obligations of the parent or parents or other relatives as defined in section 260C.193, if such visitation is consistent with the best interest of the child, during the period the child is in the residential facility;

(5) The social and other supportive services to be provided to the parent or parents of the child, the child, and the residential facility during the period the child is in the residential facility;

(6) The date on which the child is expected to be returned to the home of the parent or parents;

(7) The nature of the effort to be made by the social service agency responsible for the placement to reunite the family; and

(8) Notice to the parent or parents that placement of the child in foster care may result in termination of parental rights but only after notice and a hearing as provided in chapter 260C.

New language is indicated by underline, deletions by ~~strikeout~~.

The parent or parents and the child each shall have the right to legal counsel in the preparation of the case plan and shall be informed of the right at the time of placement of the child. The child shall also have the right to a guardian ad litem. If unable to employ counsel from their own resources, the court shall appoint counsel upon the request of the parent or parents or the child or the child's legal guardian. The parent or parents may also receive assistance from any person or social service agency in preparation of the case plan.

After the plan has been agreed upon by the parties involved, the foster parents shall be fully informed of the provisions of the case plan.

When an agency accepts a child for placement, the agency shall determine whether the child has had a physical examination by or under the direction of a licensed physician within the 12 months immediately preceding the date when the child came into the agency's care. If there is documentation that the child has had such an examination within the last 12 months, the agency is responsible for seeing that the child has another physical examination within one year of the documented examination and annually in subsequent years. If the agency determines that the child has not had a physical examination within the 12 months immediately preceding placement, the agency shall ensure that the child has the examination within 30 days of coming into the agency's care and once a year in subsequent years. [257.071, subd. 1]

Subd. 2. PLACEMENT DECISIONS BASED ON BEST INTEREST OF THE CHILD. (a) The policy of the state of Minnesota is to ensure that the child's best interests are met by requiring an individualized determination of the needs of the child and of how the selected placement will serve the needs of the child being placed. The authorized child-placing agency shall place a child, released by court order or by voluntary release by the parent or parents, in a family foster home selected by considering placement with relatives and important friends consistent with section 260C.193, subdivision 3.

(b) Among the factors the agency shall consider in determining the needs of the child are those specified under section 260C.193, subdivision 3, paragraph (b).

(c) Placement of a child cannot be delayed or denied based on race, color, or national origin of the foster parent or the child. Whenever possible, siblings should be placed together unless it is determined not to be in the best interests of a sibling. [257.071, subd. 1a]

Subd. 3. LIMIT ON MULTIPLE PLACEMENTS. If a child has been placed in a residential facility pursuant to a court order under section 260C.178 or 260C.201, the social service agency responsible for the residential facility placement for the child may not change the child's placement unless the agency specifically documents that the current placement is unsuitable or another placement is in the best interests of the child. This subdivision does not apply if the new placement is in an adoptive home or other permanent placement. [257.071, subd. 1b]

Subd. 4. NOTICE BEFORE VOLUNTARY PLACEMENT. The local social service agency shall inform a parent considering voluntary placement of a child who is not developmentally disabled or emotionally handicapped of the following:

(1) the parent and the child each has a right to separate legal counsel before signing a voluntary placement agreement, but not to counsel appointed at public expense;

New language is indicated by underline, deletions by strikeout.

(2) the parent is not required to agree to the voluntary placement, and a parent who enters a voluntary placement agreement may at any time request that the agency return the child. If the parent so requests, the child must be returned within 24 hours of the receipt of the request;

(3) evidence gathered during the time the child is voluntarily placed may be used at a later time as the basis for a petition alleging that the child is in need of protection or services or as the basis for a petition seeking termination of parental rights;

(4) if the local social service agency files a petition alleging that the child is in need of protection or services or a petition seeking the termination of parental rights, the parent would have the right to appointment of separate legal counsel and the child would have a right to the appointment of counsel and a guardian ad litem as provided by law, and that counsel will be appointed at public expense if they are unable to afford counsel; and

(5) the timelines and procedures for review of voluntary placements under subdivision 3, and the effect the time spent in voluntary placement on the scheduling of a permanent placement determination hearing under section 260C.201, subdivision 11. [257.071, subd. 1c]

Subd. 5. RELATIVE SEARCH; NATURE. (a) Within six months after a child is initially placed in a residential facility, the local social services agency shall identify any relatives of the child and notify them of the need for a foster care home for the child and of the possibility of the need for a permanent out-of-home placement of the child. Relatives should also be notified that a decision not to be a placement resource at the beginning of the case may affect the relative being considered for placement of the child with that relative later. The relatives must be notified that they must keep the local social services agency informed of their current address in order to receive notice that a permanent placement is being sought for the child. A relative who fails to provide a current address to the local social services agency forfeits the right to notice of the possibility of permanent placement.

(b) Unless relieved of this duty by the court because the child is placed with an appropriate relative who wishes to provide a permanent home for the child, when the agency determines that it is necessary to prepare for the permanent placement determination hearing, or in anticipation of filing a termination of parental rights petition, the agency shall send notice to the relatives, any adult with whom the child is currently residing, any adult with whom the child has resided for one year or longer in the past, and any adults who have maintained a relationship or exercised visitation with the child as identified in the agency case plan. The notice must state that a permanent home is sought for the child and that the individuals receiving the notice may indicate to the agency their interest in providing a permanent home. The notice must state that within 30 days of receipt of the notice an individual receiving the notice must indicate to the agency the individual's interest in providing a permanent home for the child or that the individual may lose the opportunity to be considered for a permanent placement. This notice need not be sent if the child is placed with an appropriate relative who wishes to provide a permanent home for the child. [257.071, subd. 1d]

Subd. 6. CHANGE IN PLACEMENT. If a child is removed from a permanent placement disposition authorized under section 260C.201, subdivision 11, within one year after the placement was made:

New language is indicated by underline, deletions by strikeout.

(1) the child must be returned to the residential facility where the child was placed immediately preceding the permanent placement; or

(2) the court shall hold a hearing within ten days after the child is taken into custody to determine where the child is to be placed. A guardian ad litem must be appointed for the child for this hearing. [257.071, subd. 1e]

Subd. 7. SIX-MONTH REVIEW OF PLACEMENTS. There shall be an administrative review of the case plan of each child placed in a residential facility no later than 180 days after the initial placement of the child in a residential facility and at least every six months thereafter if the child is not returned to the home of the parent or parents within that time. The case plan must be monitored and updated at each administrative review. As an alternative to the administrative review, the social service agency responsible for the placement may bring a petition as provided in section 260C.141, subdivision 2, to the court for review of the foster care to determine if placement is in the best interests of the child. This petition must be brought to the court within the applicable six months and is not in lieu of the requirements contained in subdivision 3 or 4. A court review conducted pursuant to section 260C.201, subdivision 11, shall satisfy the requirement for an administrative review so long as the other requirements of this section are met. [257.071, subd. 2]

Subd. 8. REVIEW OF VOLUNTARY PLACEMENTS. Except as provided in subdivision 4, if the child has been placed in a residential facility pursuant to a voluntary release by the parent or parents, and is not returned home within 90 days after initial placement in the residential facility, the social service agency responsible for the placement shall:

- (1) return the child to the home of the parent or parents; or
- (2) file a petition to extend the placement for 90 days.

The case plan must be updated when a petition is filed and must include a specific plan for permanency.

If the court approves the extension, at the end of the second 90-day period, the child must be returned to the parent's home, unless a petition is filed for a child in need of protection or services. [257.071, subd. 3]

Subd. 9. REVIEW OF DEVELOPMENTALLY DISABLED AND EMOTIONALLY HANDICAPPED CHILD PLACEMENTS. If a developmentally disabled child, as that term is defined in United States Code, title 42, section 6001 (7), as amended through December 31, 1979, or a child diagnosed with an emotional handicap as defined in section 252.27, subdivision 1a, has been placed in a residential facility pursuant to a voluntary release by the child's parent or parents because of the child's handicapping conditions or need for long-term residential treatment or supervision, the social service agency responsible for the placement shall bring a petition for review of the child's foster care status, pursuant to section 260C.141, subdivision 2, rather than a petition as required by section 260C.201, subdivision 11, after the child has been in foster care for six months or, in the case of a child with an emotional handicap, after the child has been in a residential facility for six months. Whenever a petition for review is brought pursuant to this subdivision, a guardian ad litem shall be appointed for the child. [257.071, subd. 4]

New language is indicated by underline, deletions by strikeout.

Subd. 10. **RULES; CHILDREN IN RESIDENTIAL FACILITIES.** The commissioner of human services shall promulgate all rules necessary to carry out the provisions of Public Law Number 96-272 as regards the establishment of a state goal for the reduction of the number of children in residential facilities beyond 24 months. [257.071, subd. 5]

Subd. 11. **RULES.** The commissioner shall revise Minnesota Rules, parts 9545.0010 to 9545.0260, the rules setting standards for family and group family foster care. The commissioner shall:

(1) require that, as a condition of licensure, foster care providers attend training on understanding and validating the cultural heritage of all children in their care, and on the importance of the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923, and the Minnesota Indian Family Preservation Act, sections 260.751 to 260.835; and

(2) review and, where necessary, revise foster care rules to reflect sensitivity to cultural diversity and differing lifestyles. Specifically, the commissioner shall examine whether space and other requirements discriminate against single-parent, minority, or low-income families who may be able to provide quality foster care reflecting the values of their own respective cultures. [257.071, subd. 7]

Subd. 12. **RULES ON REMOVAL OF CHILDREN.** The commissioner shall adopt rules establishing criteria for removal of children from their homes and return of children to their homes. [257.071, subd. 8]

Subd. 13. **FAIR HEARING REVIEW.** Any person whose claim for foster care payment pursuant to the placement of a child resulting from a child protection assessment under section 626.556 is denied or not acted upon with reasonable promptness may appeal the decision under section 256.045, subdivision 3. The application and fair hearing procedures set forth in the administration of community social services rule, Minnesota Rules, parts 9550.0070 to 9550.0092, do not apply to foster care payment issues appealable under this subdivision. [257.071, subd. 9]

Subd. 14. **RULES; FOSTER CARE FAIR HEARINGS.** The commissioner shall review and, where necessary, revise foster care rules to ensure that the rules provide adequate guidance for implementation of foster care fair hearings, pursuant to section 256.045, subdivision 3, clause (5), that comply with all applicable federal requirements and the requirements of section 256.045. [257.071, subd. 10]

Sec. 27. [260C.213] CONCURRENT PERMANENCY PLANNING.

Subdivision 1. **PROGRAM; GOALS.** (a) The commissioner of human services shall establish a program for concurrent permanency planning for child protection services.

(b) Concurrent permanency planning involves a planning process for children who are placed out of the home of their parents pursuant to a court order, or who have been voluntarily placed out of the home by the parents for 60 days or more and who are not developmentally disabled or emotionally handicapped under section 212C.212, subdivision 9. The local social service agency shall develop an alternative permanency plan while making reasonable efforts for reunification of the child with the family, if required by section 260.012. The goals of concurrent permanency planning are to:

New language is indicated by underline, deletions by ~~strikeout~~.

(1) achieve early permanency for children;

(2) decrease children's length of stay in foster care and reduce the number of moves children experience in foster care; and

(3) develop a group of families who will work towards reunification and also serve as permanent families for children.

Subd. 2. DEVELOPMENT OF GUIDELINES AND PROTOCOLS. The commissioner shall establish guidelines and protocols for social service agencies involved in concurrent permanency planning, including criteria for conducting concurrent permanency planning based on relevant factors such as:

(1) age of the child and duration of out-of-home placement;

(2) prognosis for successful reunification with parents;

(3) availability of relatives and other concerned individuals to provide support or a permanent placement for the child; and

(4) special needs of the child and other factors affecting the child's best interests.

In developing the guidelines and protocols, the commissioner shall consult with interest groups within the child protection system, including child protection workers, child protection advocates, county attorneys, law enforcement, community service organizations, the councils of color, and the ombudsperson for families.

Subd. 3. PARENTAL INVOLVEMENT AND DISCLOSURE. Concurrent permanency planning programs must include involvement of parents and full disclosure of their rights and responsibilities; goals of concurrent permanency planning; support services that are available for families; permanency options; and the consequences of not complying with case plans.

Subd. 4. TECHNICAL ASSISTANCE. The commissioner of human services shall provide ongoing technical assistance, support, and training for local social service agencies and other individuals and agencies involved in concurrent permanency planning.

Subd. 5. AVAILABILITY OF FUNDING. The requirements of this section relating to concurrent permanency planning are effective only for state fiscal years when aid is distributed under section 256F.05 for concurrent permanency planning. [257.0711]

Sec. 28. [260C.215] WELFARE OF CHILDREN.

Subdivision 1. RECRUITMENT OF FOSTER FAMILIES. Each authorized child-placing agency shall make special efforts to recruit a foster family from among the child's relatives, except as authorized in section 260C.193, subdivision 3. In recruiting placements for each child, the agency must focus on that child's particular needs and the capacities of the particular prospective foster parents to meet those needs. Each agency shall provide for diligent recruitment of potential foster families that reflect the ethnic and racial diversity of the children in the state for whom foster homes are needed. Special efforts include contacting and working with community organizations and religious organizations and may include contracting with these organizations, utilizing local media and other local resources, conducting outreach activities, and increasing the number of

New language is indicated by underline, deletions by ~~strikeout~~.

minority recruitment staff employed by the agency. The requirement of special efforts to locate relatives in this section is satisfied on the earlier of the following occasions:

(1) when the child is placed with a relative who is interested in providing a permanent placement for the child; or

(2) when the responsible child-placing agency has made special efforts for six months following the child's placement in a residential facility and the court approves the agency's efforts pursuant to section 260C.201, subdivision 10. The agency may accept any gifts, grants, offers of services, and other contributions to use in making special recruitment efforts. [257.072, subd. 1]

Subd. 2. **DUTIES OF COMMISSIONER.** The commissioner of human services shall:

(1) in cooperation with child-placing agencies, develop a cost-effective campaign using radio and television to recruit adoptive and foster families that reflect the ethnic and racial diversity of children in the state for whom adoptive and foster homes are needed; and

(2) require that agency staff people who work in the area of adoption and foster family recruitment participate in cultural competency training. [257.072, subd. 2]

Subd. 3. **RECRUITMENT SPECIALIST.** The commissioner shall designate a permanent professional staff position for recruitment of foster and adoptive families. The recruitment specialist shall provide services to child-placing agencies seeking to recruit adoptive and foster care families and qualified professional staff. The recruitment specialist shall:

(1) develop materials for use by the agencies in training staff;

(2) conduct in-service workshops for agency personnel;

(3) provide consultation, technical assistance, and other appropriate services to agencies to strengthen and improve service delivery to diverse populations; and

(4) conduct workshops for foster care and adoption recruiters to evaluate the effectiveness of techniques for recruiting foster and adoptive families; and

(5) perform other duties as assigned by the commissioner to implement the Minnesota Indian Family Preservation Act, sections 260.751 to 260.835.

The commissioner may contract for portions of these services. [257.072, subd. 3]

Subd. 4. **CONSULTATION WITH REPRESENTATIVES.** The commissioner of human services, after seeking and considering advice from representatives reflecting diverse populations from the councils established under sections 3.922, 3.9223, 3.9225, and 3.9226, and other state, local, and community organizations shall:

(1) review, and where necessary, revise the department of human services social service manual and practice guide to reflect federal and state policy direction on placement of children;

(2) develop criteria for determining whether a prospective adoptive or foster family has the ability to understand and validate the child's cultural background;

New language is indicated by underline, deletions by ~~strikeout~~.

(3) develop a standardized training curriculum for adoption and foster care workers, family-based providers, and administrators who work with children. Training must address the following objectives:

(a) developing and maintaining sensitivity to all cultures;

(b) assessing values and their cultural implications; and

(c) making individualized decisions that advance the best interests of a particular child under section 260C.212, subdivision 2;

(4) develop a training curriculum for family and extended family members of adoptive and foster children. The curriculum must address issues relating to cross-cultural placements as well as issues that arise after a foster or adoptive placement is made; and

(5) develop and provide to agencies an assessment tool to be used in combination with group interviews and other preplacement activities to evaluate prospective adoptive and foster families. The tool must assess problem-solving skills; identify parenting skills; and evaluate the degree to which the prospective family has the ability to understand and validate the child's cultural background. [257.072, subd. 4]

Subd. 5. PLACEMENT REPORTS. Beginning December 1, 1996, the commissioner shall provide to the Indian affairs council, the council on affairs of Chicano/Latino people, the council on Black Minnesotans, and the council on Asian-Pacific Minnesotans the annual report required under section 257.0725. [257.072, subd. 5]

Subd. 6. DUTIES OF CHILD-PLACING AGENCIES. (a) Each authorized child-placing agency must:

(1) develop and follow procedures for implementing the requirements of section 260C.193, subdivision 3, and the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923;

(2) have a written plan for recruiting adoptive and foster families that reflect the ethnic and racial diversity of children who are in need of foster and adoptive homes. The plan must include (a) strategies for using existing resources in diverse communities, (b) use of diverse outreach staff wherever possible, (c) use of diverse foster homes for placements after birth and before adoption, and (d) other techniques as appropriate;

(3) have a written plan for training adoptive and foster families;

(4) have a written plan for employing staff in adoption and foster care who have the capacity to assess the foster and adoptive parents' ability to understand and validate a child's cultural needs, and to advance the best interests of the child. The plan must include staffing goals and objectives;

(5) ensure that adoption and foster care workers attend training offered or approved by the department of human services regarding cultural diversity and the needs of special needs children; and

(6) develop and implement procedures for implementing the requirements of the Indian Child Welfare Act and the Minnesota Indian Family Preservation Act.

(b) In implementing the requirement to consider relatives for placement, an authorized child-placing agency may disclose private or confidential data, as defined in sec-

New language is indicated by underline, deletions by ~~strikeout~~.

tion 13.02, to relatives of the child for the purpose of locating a suitable placement. The agency shall disclose only data that is necessary to facilitate implementing the preference. If a parent makes an explicit request that the relative preference not be followed, the agency shall bring the matter to the attention of the court to determine whether the parent's request is consistent with the best interests of the child and the agency shall not contact relatives unless ordered to do so by the juvenile court; and

(c) In determining the suitability of a proposed placement of an Indian child, the standards to be applied must be the prevailing social and cultural standards of the Indian child's community, and the agency shall defer to tribal judgment as to suitability of a particular home when the tribe has intervened pursuant to the Indian Child Welfare Act. [257.072, subd. 7]

Subd. 7. REPORTING REQUIREMENTS. Each authorized child-placing agency shall provide to the commissioner of human services all data needed by the commissioner for the report required by section 257.0725. The agency shall provide the data within 15 days of the end of the period for which the data is applicable. [257.072, subd. 8]

Subd. 8. RULES. The commissioner of human services shall adopt rules to establish standards for conducting relative searches, recruiting foster and adoptive families, evaluating the role of relative status in the reconsideration of disqualifications under section 245A.04, subdivision 3b, and granting variances of licensing requirements under section 245A.04, subdivision 9, in licensing or approving an individual related to a child. [257.072, subd. 9]

Sec. 29. [260C.301] TERMINATION OF PARENTAL RIGHTS.

Subdivision 1. VOLUNTARY AND INVOLUNTARY. The juvenile court may upon petition, terminate all rights of a parent to a child;

(a) with the written consent of a parent who for good cause desires to terminate parental rights; or

(b) if it finds that one or more of the following conditions exist:

(1) that the parent has abandoned the child;

(2) that the parent has substantially, continuously, or repeatedly refused or neglected to comply with the duties imposed upon that parent by the parent and child relationship, including but not limited to providing the child with necessary food, clothing, shelter, education, and other care and control necessary for the child's physical, mental, or emotional health and development, if the parent is physically and financially able, and reasonable efforts by the social service agency have failed to correct the conditions that formed the basis of the petition;

(3) that a parent has been ordered to contribute to the support of the child or financially aid in the child's birth and has continuously failed to do so without good cause. This clause shall not be construed to state a grounds for termination of parental rights of a non-custodial parent if that parent has not been ordered to or cannot financially contribute to the support of the child or aid in the child's birth;

(4) that a parent is palpably unfit to be a party to the parent and child relationship because of a consistent pattern of specific conduct before the child or of specific condi-

New language is indicated by underline, deletions by strikeout.

tions directly relating to the parent and child relationship either of which are determined by the court to be of a duration or nature that renders the parent unable, for the reasonably foreseeable future, to care appropriately for the ongoing physical, mental, or emotional needs of the child. It is presumed that a parent is palpably unfit to be a party to the parent and child relationship upon a showing that:

(i) the child was adjudicated in need of protection or services due to circumstances described in section 260.015, subdivision 2a, clause (1), (2), (3), (5), or (8); and

(ii) the parent's parental rights to one or more other children were involuntarily terminated under clause (1), (2), (4), or (7), or under clause (5) if the child was initially determined to be in need of protection or services due to circumstances described in section 260.015, subdivision 2a, clause (1), (2), (3), (5), or (8);

(5) that following upon a determination of neglect or dependency, or of a child's need for protection or services, reasonable efforts, under the direction of the court, have failed to correct the conditions leading to the determination. It is presumed that reasonable efforts under this clause have failed upon a showing that:

(i) a child has resided out of the parental home under court order for a cumulative period of more than one year within a five-year period following an adjudication of dependency, neglect, need for protection or services under section 260.015, subdivision 2a, clause (1), (2), (3), (6), (8), or (9), or neglected and in foster care, and an order for disposition under section 260C.201, including adoption of the case plan required by section 260C.212;

(ii) conditions leading to the determination will not be corrected within the reasonably foreseeable future. It is presumed that conditions leading to a child's out-of-home placement will not be corrected in the reasonably foreseeable future upon a showing that the parent or parents have not substantially complied with the court's orders and a reasonable case plan, and the conditions which led to the out-of-home placement have not been corrected; and

(iii) reasonable efforts have been made by the social service agency to rehabilitate the parent and reunite the family.

This clause does not prohibit the termination of parental rights prior to one year after a child has been placed out of the home.

It is also presumed that reasonable efforts have failed under this clause upon a showing that:

(i) the parent has been diagnosed as chemically dependent by a professional certified to make the diagnosis;

(ii) the parent has been required by a case plan to participate in a chemical dependency treatment program;

(iii) the treatment programs offered to the parent were culturally, linguistically, and clinically appropriate;

(iv) the parent has either failed two or more times to successfully complete a treatment program or has refused at two or more separate meetings with a caseworker to participate in a treatment program; and

New language is indicated by underline, deletions by ~~strikeout~~.

(v) the parent continues to abuse chemicals.

Provided, that this presumption applies only to parents required by a case plan to participate in a chemical dependency treatment program on or after July 1, 1990;

(6) that a child has experienced egregious harm in the parent's care which is of a nature, duration, or chronicity that indicates a lack of regard for the child's well-being, such that a reasonable person would believe it contrary to the best interest of the child or of any child to be in the parent's care;

(7) that in the case of a child born to a mother who was not married to the child's father when the child was conceived nor when the child was born the person is not entitled to notice of an adoption hearing under section 259.49 and the person has not registered with the fathers' adoption registry under section 259.52;

(8) that the child is neglected and in foster care; or

(9) that the parent has been convicted of a crime listed in section 260.012, paragraph (b), clauses (1) to (3).

In an action involving an American Indian child, sections 260.751 to 260.835 and the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923, control to the extent that the provisions of this section are inconsistent with those laws. [260.221, subd. 1]

Subd. 2. EVIDENCE OF ABANDONMENT. For purposes of subdivision 1, paragraph (b), clause (1):

(a) Abandonment is presumed when:

(1) the parent has had no contact with the child on a regular basis and not demonstrated consistent interest in the child's well-being for six months and the social service agency has made reasonable efforts to facilitate contact, unless the parent establishes that an extreme financial or physical hardship or treatment for mental disability or chemical dependency or other good cause prevented the parent from making contact with the child. This presumption does not apply to children whose custody has been determined under chapter 257 or 518; or

(2) the child is an infant under two years of age and has been deserted by the parent under circumstances that show an intent not to return to care for the child.

The court is not prohibited from finding abandonment in the absence of the presumptions in clauses (1) and (2).

(b) The following are prima facie evidence of abandonment where adoption proceedings are pending and there has been a showing that the person was not entitled to notice of an adoption proceeding under section 259.49:

(1) failure to register with the fathers' adoption registry under section 259.52; or

(2) if the person registered with the fathers' adoption registry under section 259.52:

(i) filing a denial of paternity within 30 days of receipt of notice under section 259.52, subdivision 8;

New language is indicated by underline, deletions by ~~strikeout~~.

(ii) failing to timely file an intent to claim parental rights with entry of appearance form within 30 days of receipt of notice under section 259.52, subdivision 10; or

(iii) timely filing an intent to claim parental rights with entry of appearance form within 30 days of receipt of notice under section 259.52, subdivision 10, but failing to initiate a paternity action within 30 days of receiving the fathers' adoption registry notice where there has been no showing of good cause for the delay. [260.221, subd. 1a]

Subd. 3. **ADOPTIVE PARENT.** For purposes of subdivision 1, clause (a), an adoptive parent may not terminate parental rights to an adopted child for a reason that would not apply to a birth parent seeking termination of parental rights to a child under subdivision 1, clause (a). [260.221, subd. 2]

Subd. 4. **WHEN PRIOR FINDING REQUIRED.** For purposes of subdivision 1, clause (b), no prior judicial finding of dependency, neglect, need for protection or services, or neglected and in foster care is required, except as provided in subdivision 1, clause (b), item (5). [260.221, subd. 3]

Subd. 5. **BEST INTERESTS OF CHILD PARAMOUNT.** In any proceeding under this section, the best interests of the child must be the paramount consideration, provided that the conditions in subdivision 1, clause (a), or at least one condition in subdivision 1, clause (b), are found by the court. In proceedings involving an American Indian child, as defined in section 260.755, subdivision 8, the best interests of the child must be determined consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, et seq. Where the interests of parent and child conflict, the interests of the child are paramount. [260.221, subd. 4]

Subd. 6. **FINDINGS REGARDING REASONABLE EFFORTS.** In any proceeding under this section, the court shall make specific findings:

(1) regarding the nature and extent of efforts made by the social service agency to rehabilitate the parent and reunite the family;

(2) that provision of services or further services for the purpose of rehabilitation and reunification is futile and therefore unreasonable under the circumstances; or

(3) that reunification is not required because the parent has been convicted of a crime listed in section 260.012, paragraph (b), clauses (1) to (3). [260.221, subd. 5]

Sec. 30. [260C.303] VENUE.

Venue for proceedings for the termination of parental rights is either the county where the child resides or is found. However, if a court has made an order under the provisions of section 260C.201, and the order is in force at the time a petition for termination of parental rights is filed, the court making the order shall hear the termination of parental rights proceeding unless it transfers the proceeding in the manner provided in section 260C.121, subdivision 2. [260.225]

Sec. 31. [260C.307] PROCEDURES IN TERMINATING PARENTAL RIGHTS.

Subdivision 1. **WHO MAY PETITION.** Any reputable person, including but not limited to any agent of the commissioner of human services, having knowledge of circumstances which indicate that the rights of a parent to a child should be terminated, may

New language is indicated by underline, deletions by ~~strikeout~~.

petition the juvenile court in the manner provided in section 260C.141, subdivisions 4 and 5. [260.231, subd. 1]

Subd. 2. **HEARING REQUIREMENT.** The termination of parental rights under the provisions of section 260C.301, shall be made only after a hearing before the court, in the manner provided in section 260C.163. [260.231, subd. 2]

Subd. 3. **NOTICE.** The court shall have notice of the time, place, and purpose of the hearing served on the parents, as defined in sections 257.51 to 257.74 or 259.49, subdivision 1, clause (2), and upon the child's grandparent if the child has lived with the grandparent within the two years immediately preceding the filing of the petition. Notice must be served in the manner provided in sections 260C.151 and 260C.152, except that personal service shall be made at least ten days before the day of the hearing. Published notice shall be made for three weeks, the last publication to be at least ten days before the day of the hearing; and notice sent by certified mail shall be mailed at least 20 days before the day of the hearing. A parent who consents to the termination of parental rights under the provisions of section 260C.301, subdivision 2, clause (a), may waive in writing the notice required by this subdivision; however, if the parent is a minor or incompetent the waiver shall be effective only if the parent's guardian ad litem concurs in writing. [260.231, subd. 3]

Subd. 4. **CONSENT.** No parental rights of a minor or incompetent parent may be terminated on consent of the parents under the provisions of section 260C.301, subdivision 2, clause (a), unless the guardian ad litem, in writing, joins in the written consent of the parent to the termination of parental rights. [260.231, subd. 4]

Sec. 32. [260C.312] DISPOSITION; PARENTAL RIGHTS NOT TERMINATED.

If, after a hearing, the court does not terminate parental rights but determines that the child is in need of protection or services, or that the child is neglected and in foster care, the court may find the child is in need of protection or services or neglected and in foster care and may enter an order in accordance with the provisions of section 260C.201. [260.235]

Sec. 33. [260C.317] TERMINATION OF PARENTAL RIGHTS; EFFECT.

Subdivision 1. **TERMINATION.** If, after a hearing, the court finds by clear and convincing evidence that one or more of the conditions set out in section 260C.301 exist, it may terminate parental rights. Upon the termination of parental rights all rights, powers, privileges, immunities, duties, and obligations, including any rights to custody, control, visitation, or support existing between the child and parent shall be severed and terminated and the parent shall have no standing to appear at any further legal proceeding concerning the child. Provided, however, that a parent whose parental rights are terminated:

(1) shall remain liable for the unpaid balance of any support obligation owed under a court order upon the effective date of the order terminating parental rights; and

(2) may be a party to a communication or contact agreement under section 259.58. [260.241, subd. 1]

Subd. 2. **ORDER.** An order terminating the parent and child relationship shall not disentitle a child to any benefit due the child from any third person, agency, state, or the

New language is indicated by underline, deletions by ~~strikeout~~.

United States, nor shall any action under this section be deemed to affect any rights and benefits that a child derives from the child's descent from a member of a federally recognized Indian tribe. [260.241, subd. 2]

Subd. 3. ORDER; RETENTION OF JURISDICTION. (a) A certified copy of the findings and the order terminating parental rights, and a summary of the court's information concerning the child shall be furnished by the court to the commissioner or the agency to which guardianship is transferred. The orders shall be on a document separate from the findings. The court shall furnish the individual to whom guardianship is transferred a copy of the order terminating parental rights.

(b) The court shall retain jurisdiction in a case where adoption is the intended permanent placement disposition. The guardian ad litem and counsel for the child shall continue on the case until an adoption decree is entered. A hearing must be held every 90 days following termination of parental rights for the court to review progress toward an adoptive placement and the specific recruitment efforts the agency has taken to find an adoptive family or other placement living arrangement for the child and to finalize the adoption or other permanency plan.

(c) The court shall retain jurisdiction in a case where long-term foster care is the permanent disposition. The guardian ad litem and counsel for the child must be dismissed from the case on the effective date of the permanent placement order. However, the foster parent and the child, if of sufficient age, must be informed how they may contact a guardian ad litem if the matter is subsequently returned to court. [260.241, subd. 3]

Subd. 4. RIGHTS OF TERMINATED PARENT. Upon entry of an order terminating the parental rights of any person who is identified as a parent on the original birth certificate of the child as to whom the parental rights are terminated, the court shall cause written notice to be made to that person setting forth:

(a) The right of the person to file at any time with the state registrar of vital statistics a consent to disclosure, as defined in section 144.212, subdivision 11;

(b) The right of the person to file at any time with the state registrar of vital statistics an affidavit stating that the information on the original birth certificate shall not be disclosed as provided in section 144.1761;

(c) The effect of a failure to file either a consent to disclosure, as defined in section 144.212, subdivision 11, or an affidavit stating that the information on the original birth certificate shall not be disclosed. [260.241, subd. 4]

Sec. 34. [260C.325] **GUARDIAN.**

Subdivision 1. TRANSFER OF CUSTODY. If the court terminates parental rights of both parents or of the only known living parent, the court shall order the guardianship and the legal custody of the child transferred to:

(a) The commissioner of human services; or

(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. [260.242, subd. 1]

New language is indicated by underline, deletions by strikeout.

Subd. 2. PROTECTION OF HERITAGE OR BACKGROUND. In ordering guardianship and transferring legal custody of the child to an individual under this section, the court shall comply with the provisions of section 260C.193, subdivision 3. [260.242, subd. 1a]

Subd. 3. 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 human services, and upon hearing in the manner provided in section 260C.163, 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 human services;

(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. [260.242, subd. 1b]

Subd. 4. GUARDIAN'S RESPONSIBILITIES. (a) A guardian appointed under the provisions of this section has legal custody of a ward unless the court which appoints the guardian 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.

(b) The guardian may make major decisions affecting the person of the 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 this section, the commissioner of human services is appointed guardian, the commissioner may delegate to the local social services agency of the county in which, after the appointment, the ward resides, the authority to act for the commissioner in decisions affecting the person of the 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 this section shall not of itself include the guardianship of the estate of the ward.

(d) If the ward is in foster care, the court shall, upon its own motion or that of the guardian, conduct a dispositional hearing within 18 months of the child's initial foster care placement and once every 12 months thereafter to determine the future status of the ward including, but not limited to, whether the child should be continued in foster care for a specified period, should be placed for adoption, or should, because of the child's special needs or circumstances, be continued in foster care on a long-term basis. [260.242, subd. 2]

Sec. 35. [260C.328] CHANGE OF GUARDIAN; TERMINATION OF GUARDIANSHIP.

Upon its own motion or upon petition of an interested party, the juvenile court having jurisdiction of the child may, after notice to the parties and a hearing, remove the guardian appointed by the juvenile court and appoint a new guardian in accordance with the provisions of section 260C.325, subdivision 1, clause (a), (b), or (c). Upon a showing

New language is indicated by underline, deletions by ~~strikeout~~.

that the child is emancipated, the court may discharge the guardianship. Any child 14 years of age or older who is not adopted but who is placed in a satisfactory foster home, may, with the consent of the foster parents, join with the guardian appointed by the juvenile court in a petition to the court having jurisdiction of the child to discharge the existing guardian and appoint the foster parents as guardians of the child. The authority of a guardian appointed by the juvenile court terminates when the individual under guardianship is no longer a minor or when guardianship is otherwise discharged. [260.245]

Sec. 36. [260C.331] COSTS OF CARE.

Subdivision 1. CARE, EXAMINATION, OR TREATMENT. (a) Except where parental rights are terminated,

(1) whenever legal custody of a child is transferred by the court to a local social services agency, or

(2) whenever legal custody is transferred to a person other than the local social services agency, but under the supervision of the local social services agency,

(3) whenever a child is given physical or mental examinations or treatment under order of the court, and no provision is otherwise made by law for payment for the care, examination, or treatment of the child, these costs are a charge upon the welfare funds of the county in which proceedings are held upon certification of the judge of juvenile court.

(b) The court shall order, and the local social services agency shall require, the parents or custodian of a child, while the child is under the age of 18, to use the total income and resources attributable to the child for the period of care, examination, or treatment, except for clothing and personal needs allowance as provided in section 256B.35, to reimburse the county for the cost of care, examination, or treatment. Income and resources attributable to the child include, but are not limited to, social security benefits, supplemental security income (SSI), veterans benefits, railroad retirement benefits and child support. When the child is over the age of 18, and continues to receive care, examination, or treatment, the court shall order, and the local social services agency shall require, reimbursement from the child for the cost of care, examination, or treatment from the income and resources attributable to the child less the clothing and personal needs allowance.

(c) If the income and resources attributable to the child are not enough to reimburse the county for the full cost of the care, examination, or treatment, the court shall inquire into the ability of the parents to support the child and, after giving the parents a reasonable opportunity to be heard, the court shall order, and the local social services agency shall require, the parents to contribute to the cost of care, examination, or treatment of the child. When determining the amount to be contributed by the parents, the court shall use a fee schedule based upon ability to pay that is established by the local social services agency and approved by the commissioner of human services. The income of a stepparent who has not adopted a child shall be excluded in calculating the parental contribution under this section.

(d) The court shall order the amount of reimbursement attributable to the parents or custodian, or attributable to the child, or attributable to both sources, withheld under chapter 518 from the income of the parents or the custodian of the child. A parent or custodian who fails to pay without good reason may be proceeded against for contempt, or the court may inform the county attorney, who shall proceed to collect the unpaid sums, or both procedures may be used.

New language is indicated by underline, deletions by ~~strikeout~~.

(e) If the court orders a physical or mental examination for a child, the examination is a medically necessary service for purposes of determining whether the service is covered by a health insurance policy, health maintenance contract, or other health coverage plan. Court-ordered treatment shall be subject to policy, contract, or plan requirements for medical necessity. Nothing in this paragraph changes or eliminates benefit limits, conditions of coverage, copayments or deductibles, provider restrictions, or other requirements in the policy, contract, or plan that relate to coverage of other medically necessary services. [260.251, subd.1 (omitting delinquency-related text)]

Subd. 2. COST OF GROUP FOSTER CARE. Whenever a child is placed in a group foster care facility as provided in section 260C.201, subdivision 1, paragraph (b), clause (2) or (3), the cost of providing the care shall, upon certification by the juvenile court, be paid from the welfare fund of the county in which the proceedings were held. To reimburse the counties for the costs of promoting the establishment of suitable group foster homes, the state shall quarterly, from funds appropriated for that purpose, reimburse counties 50 percent of the costs not paid by federal and other available state aids and grants. Reimbursement shall be prorated if the appropriation is insufficient.

The commissioner of corrections shall establish procedures for reimbursement and certify to the commissioner of finance each county entitled to receive state aid under the provisions of this subdivision. Upon receipt of a certificate the commissioner of finance shall issue a state warrant to the county treasurer for the amount due, together with a copy of the certificate prepared by the commissioner of corrections. [260.251, subd. 1a]

Subd. 3. COURT EXPENSES. The following expenses are a charge upon the county in which proceedings are held upon certification of the judge of juvenile court or upon such other authorization provided by law:

(a) The fees and mileage of witnesses, and the expenses and mileage of officers serving notices and subpoenas ordered by the court, as prescribed by law.

(b) The expenses for travel and board of the juvenile court judge when holding court in places other than the county seat.

(c) The expense of transporting a child to a place designated by a child-placing agency for the care of the child if the court transfers legal custody to a child-placing agency.

(d) The expense of transporting a minor to a place designated by the court.

(e) Reasonable compensation for an attorney appointed by the court to serve as counsel or guardian ad litem. [260.251, subd. 2]

Subd. 4. LEGAL SETTLEMENT. The county charged with the costs and expenses under subdivisions 1 and 3 may recover these costs and expenses from the county where the minor has legal settlement for general assistance purposes by filing verified claims which shall be payable as are other claims against the county. A detailed statement of the facts upon which the claim is based shall accompany the claim. If a dispute relating to general assistance settlement arises, the local social services agency of the county denying legal settlement shall send a detailed statement of the facts upon which the claim is denied together with a copy of the detailed statement of the facts upon which the claim is based to the commissioner of human services. The commissioner shall immediately investigate and determine the question of general assistance settlement and shall certify

New language is indicated by underline, deletions by strikeout.

findings to the local social services agency of each county. The decision of the commissioner is final and shall be complied with unless, within 30 days thereafter, action is taken in district court as provided in section 256.045. [260.251, subd. 3]

Subd. 5. ATTORNEYS FEES. In proceedings in which the court has appointed counsel pursuant to section 260C.163, subdivision 3, for a minor unable to employ counsel, the court may inquire into the ability of the parents to pay for such counsel's services and, after giving the parents a reasonable opportunity to be heard, may order the parents to pay attorneys fees. [260.251, subd. 4]

Subd. 6. GUARDIAN AD LITEM FEES. In proceedings in which the court appoints a guardian ad litem pursuant to section 260C.163, subdivision 5, clause (a), the court may inquire into the ability of the parents to pay for the guardian ad litem's services and, after giving the parents a reasonable opportunity to be heard, may order the parents to pay guardian fees. [260.251, subd. 5]

Sec. 37. [260C.335] CIVIL JURISDICTION OVER PERSONS CONTRIBUTING TO NEED FOR PROTECTION OR SERVICES; COURT ORDERS.

Subdivision 1. JURISDICTION. The juvenile court has civil jurisdiction over persons contributing to the need for protection or services of a child under the provisions of this section. [260.255, subd. 1 (omitting delinquency-related text)]

Subd. 2. PETITION; ORDER TO SHOW CAUSE. A request for jurisdiction over a person described in subdivision 1 shall be initiated by the filing of a verified petition by the county attorney having jurisdiction over the place where the child is found, resides, or where the alleged act of contributing occurred. A prior or pending petition alleging that the child is in need of protection or services is not a prerequisite to a petition under this section. The petition shall allege the factual basis for the claim that the person is contributing to the child's need for protection or services. If the court determines, upon review of the verified petition, that probable cause exists to believe that the person has contributed to the child's need for protection or services, the court shall issue an order to show cause why the person should not be subject to the jurisdiction of the court. The order to show cause and a copy of the verified petition shall be served personally upon the person and shall set forth the time and place of the hearing to be conducted under subdivision 3. [260.255, subd. 1a (omitting delinquency-related text)]

Subd. 3. HEARING. (a) The court shall conduct a hearing on the petition in accordance with the procedures contained in paragraph (b).

(b) Hearings under this subdivision shall be without a jury. The rules of evidence promulgated pursuant to section 480.0591 and the provisions under section 260.156 shall apply. In all proceedings under this section, the court shall admit only evidence that would be admissible in a civil trial. When the respondent is an adult, hearings under this subdivision shall be open to the public. Hearings shall be conducted within five days of personal service of the order to show cause and may be continued for a reasonable period of time if a continuance is in the best interest of the child or in the interests of justice.

(c) At the conclusion of the hearing, if the court finds by a fair preponderance of the evidence that the person has contributed to the child's need for protection or services, as defined in section 260C.425, the court may make any of the following orders:

New language is indicated by underline, deletions by ~~strikeout~~.

(1) restrain the person from any further act or omission in violation of section 260C.425;

(2) prohibit the person from associating or communicating in any manner with the child;

(3) require the person to participate in evaluation or services determined necessary by the court to correct the conditions that contributed to the child's need for protection or services;

(4) require the person to provide supervision, treatment, or other necessary care;

(5) require the person to pay restitution to a victim for pecuniary damages arising from an act of the child relating to the child's need for protection or services;

(6) require the person to pay the cost of services provided to the child or for the child's protection; or

(7) require the person to provide for the child's maintenance or care if the person is responsible for the maintenance or care, and direct when, how, and where money for the maintenance or care shall be paid. If the person is receiving public assistance for the child's maintenance or care, the court shall authorize the public agency responsible for administering the public assistance funds to make payments directly to vendors for the cost of food, shelter, medical care, utilities, and other necessary expenses.

(d) An order issued under this section shall be for a fixed period of time, not to exceed one year. The order may be renewed or modified prior to expiration upon notice and motion when there has not been compliance with the court's order or the order continues to be necessary to eliminate the contributing behavior or to mitigate its effect on the child. [260.255, subd. 2 (omitting delinquency-related text)]

Subd. 3. CRIMINAL PROCEEDINGS. The county attorney may bring both a criminal proceeding under section 260C.425 and a civil action under this section. [260.255, subd. 3]

Sec. 38. [260C.401] JURISDICTION OF CERTAIN JUVENILE COURTS OVER OFFENSE OF CONTRIBUTING TO NEGLECT.

In counties having a population of over 200,000 the juvenile court has jurisdiction of the offenses described in section 260C.425. Prosecutions hereunder shall be begun by complaint duly verified and filed in the juvenile court of the county. The court may impose conditions upon a defendant who is found guilty and, so long as the defendant complies with these conditions to the satisfaction of the court, the sentence imposed may be suspended. [260.261]

Sec. 39. [260C.405] VIOLATION OF AN ORDER FOR PROTECTION.

Subdivision 1. VIOLATION; PENALTY. Whenever an order for protection is granted pursuant to section 260C.148 or 260C.201, subdivision 3, 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. [260.271, subd. 1]

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

New language is indicated by underline, deletions by ~~strikeout~~.

granted pursuant to section 260C.148 or 260C.201, subdivision 3, restraining the person or excluding the person from the residence, if the existence of the order can be verified by the officer. [260.271, subd. 2]

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. [260.271, subd. 3]

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 260C.148 or 260C.201, subdivision 3, the court may issue an order to the respondent, requiring the respondent to appear and show cause within 14 days why the respondent 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. [260.271, subd. 4]

Sec. 40. [260C.411] NEW EVIDENCE.

A child whose status has been adjudicated by a juvenile court, or the child's parent, guardian, custodian or spouse may, at any time within 15 days of the filing of the court's order, petition the court for a rehearing on the ground that new evidence has been discovered affecting the advisability of the court's original adjudication or disposition. Upon a showing that such evidence does exist the court shall order that a new hearing be held within 30 days, unless the court extends this time period for good cause shown within the 30-day period, and shall make such disposition of the case as the facts and the best interests of the child warrant. [260.281]

Sec. 41. [260C.415] APPEAL.

Subdivision 1. PERSONS ENTITLED TO APPEAL; PROCEDURE. An appeal may be taken by the aggrieved person from a final order of the juvenile court affecting a substantial right of the aggrieved person, including but not limited to an order adjudging a child to be in need of protection or services, neglected and in foster care. The appeal shall be taken within 30 days of the filing of the appealable order. The court administrator shall notify the person having legal custody of the minor of the appeal. Failure to notify the person having legal custody of the minor shall not affect the jurisdiction of the appellate court. The order of the juvenile court shall stand, pending the determination of the appeal, but the reviewing court may in its discretion and upon application stay the order. [260.291, subd. 1 (omitting delinquency-related text)]

Subd. 2. APPEAL. The appeal from a juvenile court is taken to the court of appeals as in civil cases, except as provided in subdivision 1. [260.291, subd. 2]

Sec. 42. [260C.421] CONTEMPT.

Any person knowingly interfering with an order of the juvenile court is in contempt of court. However, a child who is under the continuing jurisdiction of the court for reasons other than having committed a delinquent act or a juvenile petty offense may not be adjudicated as a delinquent solely on the basis of having knowingly interfered with or disobeyed an order of the court. [260.301]

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 43. [260C.425] CRIMINAL JURISDICTION FOR CONTRIBUTING TO NEED FOR PROTECTION OR SERVICES.

Subdivision 1. CRIMES. (a) Any person who by act, word, or omission encourages, causes, or contributes to the need for protection or services is guilty of a gross misdemeanor.

(b) This section does not apply to licensed social service agencies and outreach workers who, while acting within the scope of their professional duties, provide services to runaway children. [260.315, subd. 1 (omitting delinquency-related text)]

Subd. 2. COMPLAINT; VENUE. A complaint under this section may be filed by the county attorney having jurisdiction where the child is found, resides, or where the alleged act of contributing occurred. The complaint may be filed in either the juvenile or criminal divisions of the district court. A prior or pending petition alleging that the child is delinquent, a juvenile petty offender, or in need of protection or services is not a prerequisite to a complaint or a conviction under this section. [260.315, subd. 2]

Subd. 3. AFFIRMATIVE DEFENSE. If the child's conduct is the basis for the child's need for protection services, it is an affirmative defense to a prosecution under subdivision 1 if the defendant proves, by a preponderance of the evidence, that the defendant took reasonable steps to control the child's conduct. [260.315, subd. 3 (omitting delinquency-related text)]

Sec. 44. [260C.431] TESTS, EXAMINATIONS.

Hereafter it shall be the duty of the commissioner of human services through the bureau of child welfare and local social services agencies to arrange for such tests, examinations, and investigations as are necessary for the proper diagnosis, classification, treatment, care, and disposition of the child as necessity and the best interests of the child shall from time to time require. When it appears that a child found to be in need of protection or services is sound of mind, free from disease, and suitable for placement in a foster home for care or adoption, the commissioner may so place the child or delegate such duties to a child-placing agency accredited as provided by law, or authorize the child's care in the county by and under the supervision of the local social services agency. [260.35]

Sec. 45. [260C.435] SPECIAL PROVISIONS IN CERTAIN CASES.

When the commissioner of human services shall find that a child transferred to the commissioner's guardianship after parental rights to the child are terminated or that a child committed to the commissioner's guardianship as a child in need of protection or services is handicapped physically or whose mentality has not been satisfactorily determined or who is affected by habits, ailments, or handicaps that produce erratic and unstable conduct, and is not suitable or desirable for placement in a home for permanent care or adoption, the commissioner of human services shall make special provision for the child's care and treatment designed to the child, if possible, for such placement or to become self-supporting. The facilities of the commissioner of human services and all state treatment facilities, the Minnesota general hospital, and the child guidance clinic of its psychopathic department, as well as the facilities available through reputable clinics, private child-caring agencies, and foster boarding homes, accredited as provided by law, may be used as the particular needs of the child may demand. When it appears that the child is suitable for permanent placement or adoption, the commissioner of human ser-

New language is indicated by underline, deletions by ~~strikeout~~.

vices shall cause the child to be placed as provided in section 260C.431. If the commissioner of human services is satisfied that the child is mentally retarded the commissioner may bring the child before the district court of the county where the child is found or the county of the child's legal settlement for examination and commitment as provided by law. [260.36]

Sec. 46. [260C.441] COST, PAYMENT.

In addition to the usual care and services given by public and private agencies, the necessary cost incurred by the commissioner of human services in providing care for such child shall be paid by the county committing such child which, subject to uniform rules established by the commissioner of human services, may receive a reimbursement not exceeding one-half of such costs from funds made available for this purpose by the legislature during the period beginning July 1, 1985, and ending December 31, 1985. Beginning January 1, 1986, the necessary cost incurred by the commissioner of human services in providing care for the child must be paid by the county committing the child. Where such child is eligible to receive a grant of aid to families with dependent children, Minnesota family investment program—statewide or supplemental security income for the aged, blind, and disabled, or a foster care maintenance payment under title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 676, the child's needs shall be met through these programs. [260.38]

Sec. 47. [260C.446] DISTRIBUTION OF FUNDS RECOVERED FOR ASSISTANCE FURNISHED.

When any amount shall be recovered from any source for assistance furnished under the provisions of sections 260C.001 to 260C.421, 260C.431, 260C.435, and 260C.441, there shall be paid into the treasury of the state or county in the proportion in which they have respectively contributed toward the total assistance paid. [260.39]

Sec. 48. [260C.451] AGE LIMIT FOR BENEFITS TO CHILDREN.

For purposes of any program for foster children or children under state guardianship for which benefits are made available on June 1, 1973, unless specifically provided therein, the age of majority shall be 21 years of age. [260.40]

ARTICLE 4

IMPLEMENTATION OF ACT

Section 1. EFFECT OF CHANGES IN THIS ACT.

The legislature intends this act to be a clarification and reorganization of laws relating to juvenile delinquency and child protection in Minnesota Statutes, chapters 257 and 260. The changes that have been made are not intended to alter those laws and shall not be construed by a court or other authority to alter them.

Sec. 2. INSTRUCTION TO REVISOR.

(a) The revisor shall publish the statutory derivations of the laws repealed and recorded in this act in Laws of Minnesota and in the statutory history of chapters 257 and 260 in Minnesota Statutes.

New language is indicated by underline, deletions by ~~strikeout~~.

(b) The revisor shall correct cross-references in Minnesota Statutes and Minnesota Rules to sections that are repealed and recodified by this act, and if Minnesota Statutes, chapter 257 or 260 is further amended in the 1999 legislative session, shall codify the amendments in a manner consistent with this act.

Sec. 3. REPEALER.

Minnesota Statutes 1998, sections 257.069; 257.071; 257.0711; 257.072; 257.35; 257.351; 257.352; 257.353; 257.354; 257.355; 257.356; 257.3571; 257.3572; 257.3573; 257.3574; 257.3575; 257.3576; 257.3577; 257.3578; 257.3579; 257.40; 257.41; 257.42; 257.43; 257.44; 257.45; 257.46; 257.47; 257.48; 260.011, subdivision 2; 260.013; 260.015; 260.092; 260.094; 260.096; 260.101; 260.111; 260.115; 260.121; 260.125; 260.126; 260.131; 260.132; 260.133; 260.135; 260.141; 260.145; 260.151; 260.155; 260.157; 260.161; 260.162; 260.165; 260.171; 260.172; 260.173; 260.1735; 260.174; 260.181; 260.185; 260.191; 260.192; 260.193; 260.195; 260.211; 260.215; 260.221; 260.241; 260.242; 260.245; 260.251; 260.255; 260.261; 260.271; 260.281; 260.291; 260.301; 260.315; 260.35; 260.36; 260.39; and 260.40, are repealed.

Presented to the governor May 7, 1999

Signed by the governor May 11, 1999, 1:35 p.m.

CHAPTER 140—S.F.No. 1357

An act relating to utilities; modifying conservation improvement provisions; amending Minnesota Statutes 1998, sections 216B.16, subdivision 6b; and 216B.241, subdivisions 1, 1a, 1b, 2, 2a, and 2b.

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

Section 1, Minnesota Statutes 1998, section 216B.16, subdivision 6b, is amended to read:

Subd. 6b. **ENERGY CONSERVATION IMPROVEMENT.** (a) Except as otherwise provided in this subdivision, all investments and expenses of a public utility as defined in section 216B.241, subdivision 1, paragraph (d) (e), incurred in connection with energy conservation improvements shall be recognized and included by the commission in the determination of just and reasonable rates as if the investments and expenses were directly made or incurred by the utility in furnishing utility service.

(b) After December 31, 1999, investments and expenses for energy conservation improvements shall not be included by the commission in the determination of just and reasonable electric and gas rates for retail electric and gas service provided to large electric customer facilities that have been exempted by the commissioner of the department of public service pursuant to section 216B.241, subdivision 1a, paragraph (b). However, no public utility shall be prevented from recovering its investment in energy conservation improvements from all customers that were made on or before December 31, 1999, in compliance with the requirements of section 216B.241.

(c) The commission may permit a public utility to file rate schedules providing for annual recovery of the costs of energy conservation improvements. These rate schedules

New language is indicated by underline, deletions by ~~strikeout~~.