

This act shall apply to cities now having a home rule charter adopted under and pursuant to section 36 of article 4 of the constitution of the state of Minnesota.

Sec. 4. This act shall take effect and be in force from and after its passage.

Approved April 17, 1909.

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CHAPTER 232—S. F. No. 339.

*An Act for the appointment of guardians for dependent, neglected and delinquent children and for the proceeding against persons at fault for such dependency, neglect or delinquency.*

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

**Construction of delinquent child—Age, etc.**—Section 1. This act shall apply only to children under the age of seventeen (17) years. For the purpose of this act the words "dependent child" and "neglected child" shall mean any child who for any reason is destitute or homeless or abandoned; or dependent upon the public for support; or has not proper parental care or guardianship; or who habitually begs or receives alms; or who is found living in any house of ill-fame or with any vicious or disreputable persons, or whose home, by reason of neglect, cruelty or depravity on the part of its parents, guardian or other person in whose care it may be, is an unfit place for such child; and any child under the age of ten (10) years who is found begging, peddling or selling any article or singing or playing any musical instrument upon the street, or giving any public entertainment, or who accompanies or is used in aid of any person so doing. The words "delinquent child" shall include any child under the age of seventeen (17) years who violates any law of this state or any city or village ordinance; or who is incorrigible, or who knowingly associates with thieves, vicious or immoral persons, or who without just cause and without the consent of its parents or custodian absents itself from its home or place of abode; or who is growing up in idleness; or who knowingly frequents a house of ill-fame; or who knowingly patronizes any policy shop or place where any gaming device is or shall be operated; or who frequents any saloon or dram shop where intoxicating liquors are sold; or who patronizes or visits any public pool room or bucket shop; or who wanders about the streets in the night time without being in any lawful business or occupation; or who habitually wanders about any railroad yard or tracks or jumps or hooks on to any moving train, or enters any car or engine without lawful

authority; or who habitually uses vile, obscene, vulgar, profane, or indecent language; or who is guilty of immoral conduct in any public place or about any school house. Any child committing any of the acts herein mentioned shall be deemed a delinquent child, and shall be liable to guardianship as hereinafter provided. The word "child" or "children" may mean one or more children, and the word "parent" or "parents" may be held to mean one or both parents, when consistent with the intent of this act. The word "association" shall include any corporation which includes in its purpose the care or disposition of children coming within the meaning of this act. That a child is dependent, neglected or delinquent shall be a ground for the appointment of a guardian for such child.

**Judge of probate to have jurisdiction.**—Sec. 2. The judge of probate shall have jurisdiction over the appointment of guardians for dependent, neglected and delinquent children. He shall provide himself with a suitable book in which to record all proceedings taken under the provisions of this act, at the expense of the county, and he shall record in said book all proceedings taken in each case coming before him under this act, but need not record any evidence taken except as it shall seem to him proper and necessary. The reasons for appointing such a guardian shall be entered therein and any parent or the attorney for any child may appeal from the final disposition of the guardianship matter by complying with the law regulating appeals from probate courts.

**Petition to be filed by any reputable person.**—Sec. 3. Any reputable person resident in the county, having knowledge of a child in his county, who appears to be either neglected, dependent or delinquent, may file with the probate court of the county where such child resides, a petition in writing, setting forth the facts verified by affidavit. The petition shall set forth the name and residence of each parent, if known, and if both are dead or the residence unknown, then the name and residence of the legal guardian, if known, or if not known, then the name and residence of some near relative, if there be one, and his residence is known. It shall be sufficient that the affidavit is upon information and belief.

**Judge of probate to issue summons—How returnable.**—Sec. 4. Upon the filing of the petition a summons shall be issued by the judge of probate of such county, requiring the person having custody or control of the child, or with whom the child may be, to appear with the child at a place and time stated in the summons, which time shall not be less than twenty-four (24) hours after service. Such summons shall be served as provided by law for the service of summons in civil actions. The parents of the child, if living, and their residence is known, or its legal guar-

dian, if one there be, or if there is neither parent nor guardian, or if his or her residence is not known, then some relative, if there be one and his residence is known, shall be notified of the proceedings. In every case the judge shall appoint some suitable person to act in behalf of the child. Where the person to be notified resides within the county, service of notice shall be the same as service of the summons, but in any other case service of notice shall be made in such manner as the court may direct. Notice by registered mail proven by receipt of letter containing same, shall be sufficient. If the person summoned as herein provided shall fail without reasonable cause to appear and abide the order of the court, or bring the child, he may be proceeded against as in case of contempt of court. In case the party served fails to obey the summons, and in any case when it shall be made to appear to the court that such summons will be ineffectual, a warrant may issue on the order of the court, either against the parent or guardian or the person having custody of the child or with whom the child may be, or against the child itself. On the return of the summons or other process, or on the appearance of the child with or without summons or other process in person before the court, and on return of the service of notice, if there be any person to be notified or a personal appearance or written consent to the proceedings of the person or persons, if any to be notified, or as soon thereafter as may be, the court shall proceed to hear and dispose of the case. Pending the final disposition of any case, the child may be retained in the possession of the person having the charge of the same, or may be kept in some suitable place designated by the judge of probate, at the expense of the county.

**The Court to appoint probation officers—Duty of latter.—**

Sec. 5. The court shall have authority to appoint or designate one or more discreet persons of good character to serve as probation officers during the pleasure of the court; such probation officers shall act under the orders of the court in reference to any child or children committed to his care, and it shall be the duty of said probation officers to make such investigations with regard to any child or children as may be required by the court before or during the hearing of the application for a guardian, and to furnish to the court such information and assistance as the judge may require, and to take charge of any child or children before hearing, during the continuance of the hearing, and after hearing until the guardian shall assume the custody of the child, whenever he may be so directed by the court, and to keep such records and to make such reports to the court as the court may order or direct. Probation officers appointed under authority of this act shall serve without compensation from the county save only that they may have the same fees as constables for similar service.

including all travel, when the judge of probate court shall so direct.

**Court may appoint guardian.**—Sec. 6. When any child under the age of seventeen (17) years, shall be found to be dependent or neglected, within the meaning of this act, the court may make any order appointing a suitable guardian for such child, and such guardian may be any state institution or association willing to receive it, embracing in its objects the purpose of caring for or obtaining homes for dependent or neglected children, which association shall have been accredited as hereinafter provided.

**Child to become a ward—Authority to place such child.**—Sec. 7. In any case where the court shall appoint as guardian of any child, any association or individual in accordance with the provisions of this act, the child shall, unless otherwise ordered, become a ward, and be subject to the guardianship of the association or individual to whose care it is committed. Such association shall have authority to place such child in a family home of the same religious belief as the parents of such child, with or without indenture, and may be made party to any proceedings for the legal adoption of the child, and may by its attorney or agent appear in any court where such proceedings are pending and assent to such adoption. And such assent shall be sufficient to authorize the court to enter the proper order or decree of adoption. When adoption proceedings for any such child or children are commenced, a copy of the petition in such adoption proceedings shall be filed in the court which appointed the guardian for such child, at least thirty (30) days before any final decree of adoption shall be entered. Such guardianship shall not include the guardianship of any estate of the child.

**Care of property of child.**—Sec. 8. If any child so put under guardianship have any property, the income of said property shall, unless more than is necessary, be applied to the education of such child, and upon cause shown to the probate court appointing such guardian, the principal or any part thereof may be used for the same purpose. Any parent may, after the expiration of any year of such guardianship, apply to the probate court which has created such guardianship for the termination thereof; and if it appears by clear and convincing evidence that the causes which produced or contributed to the dependency, neglect or delinquency of such child no longer exist, the child, unless previously adopted, shall be restored to its parents. Ten days' notice by registered mail, or by personal service, of the hearing upon said application, shall be given to such child and the guardian thereof, and such guardian shall produce such child at such hearing.

**Court may continue hearing.**—Sec. 9. In the case of a dependent, neglected or delinquent child the court may continue the hearing from time to time for the purpose of doing more exact justice according to the fact, including such facts as may thereby become known to him, and may commit the child to the care or custody of a probation officer as a temporary guardian, or may allow said child to remain in its own home, subject to the visitation of the probation officer, to be returned to the court for further proceedings at the time to which the case may have been continued, in case provision is made by voluntary contribution or otherwise for the payment of the board of such child, until a guardian is appointed and assumes his duties, such provision shall be considered by the court in determining what shall be done with the child during the continuance of the hearing, or the court may commit the child to any institution incorporated under the laws of this state, that may care for delinquent children, and become their guardian. The probation officer, when the court is of the opinion that guardianship would be ineffectual because of the serious delinquency of the child, may cause such delinquent child or the parent of any such delinquent child, or other person guilty of any offense against the laws of the state, which offense is likely to have affected such child's conduct or character, to be proceeded against in accordance with the laws that may be in force governing the commission of crimes and misdemeanors.

**Associations subject to visitation of state board of control.**—Sec. 10. All associations receiving children under this act shall be subject to the same visitation, inspection and supervision by the state board of control as are the public charitable institutions of this state, and it shall be the duty of said board to pass annually upon the fitness of every such association as may receive, or desire to receive, children under the provisions of this act, and every such association shall annually, at such time as said board shall direct, make report thereto, showing its condition, management and competency to adequately care for such children as are or may be committed to it, and such other facts as said board may require, and upon said board being satisfied that such association is competent and has adequate facilities to care for such children, it shall issue to the same a certificate to that effect, which certificate shall continue in force for one (1) year, unless sooner revoked by said board, and no child shall be committed to any such association, which shall not have received a certificate within (15) months next preceding the commitment. The court may at any time require from any association receiving or desiring to receive children under the provisions of this act, such reports, information and statements as the judge shall deem proper or necessary for his action and the court shall in no case be required to appoint as guardian of a child any association

whose standing, conduct or care of children, or ability to care for the same, is not satisfactory to the court.

**Surrender of child.**—Sec. 11. It shall be lawful for persons having the right to dispose of a dependent or neglected child to enter into an agreement with any association or institution incorporated under any public or private law of this state for the purpose of aiding, caring for or placing in homes such children, and being approved as herein provided, for the surrender of such child to such association or institution, to be taken and cared for by such association or institution or put into a family home. Such agreement may contain any and all proper stipulations to that end, and may authorize the association or institution, by its attorney or agent, to appear in any proceedings for the legal adoption of such child, and consent to its adoption and the order of the court made upon such consent shall be binding upon the child and its parents or guardian or other person, the same as if such person were personally in court and consented thereto whether made party to the proceeding or not.

**Guardian to be of same religious belief as parents of child.**—Sec. 12. The court, in appointing a guardian for children, shall select one holding the same religious belief as the parents of said child, or some association which is controlled by persons of like religious faith of the parents of the said child. Such association shall have all control over such child given it by law over any child surrendered to it.

**Act to be liberally construed.**—Sec. 13. This act shall be liberally construed to the end that its purpose may be carried out, to-wit: That the care, custody and discipline of a child shall approximate as nearly as may be that which should be given by its parents.

**Expenses—How paid.**—Sec. 14. The expenses of the proceedings provided for by this act, including the care of children during continuances, when not with relatives, and fifteen cents a folio to the judge of probate for all records made by him, additional to his salary, shall be paid by the parents of the child, if of sufficient means, and if not, so paid by the county upon the certificate of the judge of probate. Suit to recover the same from the parents shall be brought by the county attorney when a judgment therefor could probably be collected.

**To apply to counties of less than 50,000.**—Sec. 15. This act shall apply to all counties having a population of less than 50,000, according to the last state or national census.

Sec. 16. This act shall take effect and be in force from and after the first of June, 1909.

Approved April 17, 1909.