

1940 Supplement
To
Mason's Minnesota Statutes
1927

(1927 to 1940)
(Superseding Mason's 1931, 1934, 1936 and 1938
Supplements)

Containing the text of the acts of the 1929, 1931, 1933, 1935, 1937 and 1939 General Sessions,
and the 1933-34, 1935-36, 1936 and 1937 Special Sessions of the Legislature, both new and
amendatory, and notes showing repeals, together with annotations from the
various courts, state and federal, and the opinions of the Attorney
General, construing the constitution, statutes, charters
and court rules of Minnesota together with digest
of all common law decisions.



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CHAPTER 73

Adoption and Change of Name

8624. Adoption—Petition and consent.

Evidence held to sustain oral contract to adopt a waif taken into home. *Firle's Estate*, 197M1, 265NW818. See Dun. Dig. 99a.

Guardianship of board of control over a feeble-minded ward can only be terminated in manner provided by §§992-103, and adoption does not terminate guardianship. Op. Atty. Gen. (679b-1), Jan. 17, 1938.

Adoption of ward of state public school is invalid where petition is not signed by superintendent of schools. Op. Atty. Gen. (88a-8), Jan. 18, 1938.

Superintendent of State Public School may join in a petition for adoption in a case where child is committed to the guardianship of the State Board of Control and that board transferred to State Public School for placement, and such joinder may constitute consent of director of division of social welfare if there exists a resolution sufficiently broad to cover it. Op. Atty. Gen. (840B-3), July 24, 1939.

Specific performance of oral contract to adopt. 16 MinnLawRev578.

8626. Consent, when necessary.

When a child has a guardian of the person appointed by the probate court, the consent of such guardian is necessary to permit an adoption by proceedings in the district court. In re *Martinson*, 184M29, 237NW596. See Dun. Dig. 99.

Decree of adoption reversed for lack of evidence sustaining finding that infant had been abandoned by mother, there being no consent to adoption by either parent. *Anderson*, 189M85, 248NW657. See Dun. Dig. 99.

Possible pecuniary advantage to child is immaterial as against natural rights of parents. Id.

Consent by parent may be withdrawn at any time before adoption. Id.

Where board of control unreasonably withholds its consent to adoption of a child under its control, district court may grant petition for adoption, notwithstanding refusal of board to consent. *McKenzie*, 197M234, 266NW 746. See Dun. Dig. 99.

A minor child's domicile follows that of his divorced parent to whom his custody was awarded by decree of divorce, and a judgment of a court of this state decreeing adoption of such child by his stepfather does not impair full faith and credit of divorce decree entered in court of another state, permitting father to see child. *Buckman v. H.*, 202M460, 278NW908. See Dun. Dig. 99.

8630. Status of adopted child.

When the name of an adopted child is omitted from the will of the parent, the presumption is that the omission was not intentional and was occasioned by accident or mistake. 175M193, 220NW601.

An oral contract to adopt, when executed creates same obligations and duties as an adoption legally executed. *Firle's Estate*, 197M1, 265NW818. See Dun. Dig. 99a.

An adopted child has rights of a natural child as next of kin for whose benefit an action for wrongful death may be brought. *McKeown v. A.*, 202M595, 279NW402. See Dun. Dig. 99a.

Death certificate of an adopted child should show the natural parent and also the same information as to adoptive parents. Op. Atty. Gen. (225j), Dec. 11, 1935.

Alien child adopted by citizens does not acquire citizenship. Op. Atty. Gen. (68f), Nov. 5, 1936.

Mother adopting a son 18 years old who later served in World War would be entitled to admission to soldiers' home, if the adopted son would be eligible to admission. Op. Atty. Gen. (394a), May 2, 1938.

Specific performance of pre-adoption contract in derogation of adoptive parents' rights. 15MinnLawRev 719.

Status of adopted children under wrongful death statutes. 23MinnLawRev83.

8633. Change of name—Procedure—Penalty.

A person may change his name without any legal proceedings whatever and may give himself a nickname and have it printed on official ballot. Op. Atty. Gen. (28b-2), May 22, 1934.

CHAPTER 73A

Dependent, Neglected and Delinquent Children

Juvenile court procedure. July 16, 1937, Sp. Sess., c. 79, §§1-6.

See §§208-1 to 208-9.

8636. Definitions.

Juvenile delinquents are not criminals. *State v. Zenzen*, 178M394, 227NW356.

No appeal lies from a decision of a juvenile court under this chapter. *State v. Zenzen*, 178M394, 227NW356.

Sections 8636 to 8670 are constitutional. *State v. Patterson*, 247NW573, 188M492, 249NW187. See Dun. Dig. 1646, 4460a.

Dependent, neglected, or delinquent children are proper subjects to be placed under guardianship by the probate court. Id. See Dun. Dig. 4460a, 4096.

Fact that maternal grandmother has money and would be able to support children does not negative a finding of dependency on the part of children and the right of mother to a pension. Op. Atty. Gen., Oct. 30, 1930.

Act does not contemplate any additional compensation by way of fees for making records per diem or for mileage to court. Op. Atty. Gen., Nov. 25, 1933.

8637. Jurisdiction of District Court—Jurisdiction of Probate Court.—The District Court in counties now or hereafter having a population of more than 40,000 inhabitants except in such counties of the Seventh Judicial District shall have original and exclusive jurisdiction in all cases coming within the terms of this act. In all trials in the district court under this act, except as hereinafter provided, any person interested therein may demand a jury, or a judge of his own motion may order a jury to try the case. In counties now or hereafter having a population of not more than 40,000 inhabitants and in all counties of the Seventh Judicial District the probate court shall have jurisdiction over the appointment of guardians of dependent, neglected or delinquent children for

the purpose of this act. The jurisdiction of both the district and probate courts over cases of dependency, neglect and delinquency arising under this act shall extend to all persons resident or found within the territorial limits of the court, although the evidentiary facts showing such dependency, neglect or delinquency may have occurred outside such territorial limits.

This Act shall apply to children under the age of eighteen years, except as hereinafter provided.

When jurisdiction shall have been obtained by the court in the case of any child, such child shall continue for the purposes of this Act under the jurisdiction of the court until he becomes twenty-one years of age, unless discharged prior thereto by the court. ('17, c. 397, §2; '27, c. 192, §2; Apr. 20, 1931, c. 250, §1; Apr. 8, 1933, c. 184.)

Laws 1931, c. 250, §1, amends the first paragraph of this section to read as above.

Fact that probate court committed neglected child to guardianship until she should reach age of 21 years did not warrant her release on habeas corpus before she attained age of 19 years. *State v. Patterson*, 247NW573, 188M492, 249NW187. See Dun. Dig. 4431.

Legislature may fix the age at which a delinquent child shall attain majority different from that fixed for other children. Id.

Law placing dependent, neglected, or delinquent children under jurisdiction of juvenile courts covers and applies to all such children under eighteen years, whether single or married. *State v. Wiecking*, 200M490, 274NW 585. See Dun. Dig. 4460a.

Probate judge, also acting as judge of juvenile court, has no jurisdiction of prosecution of adult. Op. Atty. Gen., Mar. 31, 1932.

Judge of probate obtaining jurisdiction of a child before he has reached age of 18 has jurisdiction over him until he reaches 21 years of age and he may commit