

CHAPTER 260

JUVENILES

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260.031 REFEREE.

Subdivision 1. **Appointment.** The chief judge of the judicial district may appoint one or more suitable persons to act as referees. All referees are subject to the administrative authority and assignment power of the chief judge of the district as provided in section 484.69, subdivision 3, and are not limited to assignment to juvenile court. Referees shall hold office at the pleasure of the judges of the district court and shall be learned in the law, except that persons holding the office of referee on January 1, 1983, may continue to serve under the terms and conditions of their appointment. The compensation of a referee shall be fixed by the judge, approved by the county board and payable from the general revenue funds of the county not otherwise appropriated. Part time referees holding office in the second judicial district pursuant to this subdivision shall cease to hold office on July 31, 1984.

[For text of subds 2 to 5, see M.S.1982]

History: 1983 c 370 s 1

260.125 REFERENCE FOR PROSECUTION.

[For text of subd 1, see M.S.1982]

Subd. 2. **Order of reference; requirements.** Except as provided in subdivision 3a the juvenile court may order a reference only if:

(a) A petition has been filed in accordance with the provisions of section 260.131;

(b) Notice has been given in accordance with the provisions of sections 260.135 and 260.141;

(c) A hearing has been held in accordance with the provisions of section 260.155 within 30 days of the filing of the reference motion, unless good cause is shown by the prosecution or the child as to why the hearing should not be held within this period; and

(d) The court finds that

(1) 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

(2) the prosecuting authority has demonstrated by clear and convincing evidence that the child is not suitable to treatment or that the public safety is not served under the provisions of laws relating to juvenile courts.

[For text of subd 3, see M.S.1982]

Subd. 3a. **Prior reference; exception.** Notwithstanding the provisions of subdivisions 2 and 3, the court shall order a reference in any case where the prosecutor shows that the child has been previously referred for prosecution on a felony charge by an order of reference 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 reference in the same case.

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

[For text of subds 4 to 6, see M.S.1982]

History: 1983 c 25 s 1,2

260.181 DISPOSITIONS; GENERAL PROVISIONS.

[For text of subds 1 and 2, see M.S.1982]

Subd. 3. **Protection of racial or ethnic heritage, or religious affiliation.** The policy of the state is to ensure that the best interests of children are met by requiring due consideration of the child's minority race or minority ethnic heritage in foster care placements.

The court, in transferring legal custody of any child or appointing a guardian for the child under the laws relating to juvenile courts, shall place the child, in the following order of preference, in the absence of good cause to the contrary, in the legal custody or guardianship of an individual who (a) is the child's relative, or if that would be detrimental to the child or a relative is not available, who (b) is of the same racial or ethnic heritage as the child, or if that is not possible, who (c) is knowledgeable and appreciative of the child's racial or ethnic heritage. The court may require the county welfare agency to continue efforts to find a guardian of the child's minority racial or minority ethnic heritage when such a guardian is not immediately available.

If the child's genetic parent or parents explicitly request that the preference described in clause (a) or in clauses (a) and (b) not be followed, the court shall honor that request consistent with the best interests of the child.

If the child's genetic 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 genetic parent or parents, in following the preferences in clause (a) or (b), the court shall order placement of the child with an individual who meets the genetic parent's religious preference. Only if no individual is available who is described in clause (a) or (b) may the court give preference to an individual described in clause (c) who meets the parent's religious preference.

[For text of subd 4, see M.S.1982]

History: 1983 c 278 s 12

260.185 DISPOSITIONS; DELINQUENT CHILD.

Subdivision 1. 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 his parents, guardian, or custodian;

(b) Place the child under the supervision of a probation officer or other suitable person in his own home under conditions prescribed by the court

including reasonable rules for his conduct and the conduct of his 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 county welfare board; or

(3) A reputable individual of good moral character. No person may receive custody of two or more unrelated children unless he is licensed as a residential facility pursuant to sections 245.781 to 245.812; or

(4) Except for children found to be delinquent as defined in section 260.015, subdivision 5, clauses (c) and (d), a county home school, if the county maintains a home school or enters into an agreement with a county home school; or

(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) Except for children found to be delinquent as defined in section 260.015, subdivision 5, clauses (c) and (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 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 \$500; 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 his 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 his 18th birthday, the court may recommend to the commissioner of transportation 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 transportation that the child be authorized to apply for a new license, and the commissioner may so authorize.

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; and

(b) What alternative dispositions were considered by the court and why such dispositions were not appropriate in the instant case.

This subdivision applies to dispositions of juveniles found to be delinquent as defined in section 260.015, subdivision 5, clause (c) or (d) made prior to, on, or after January 1, 1978.

[For text of subds 2 to 5, see M.S.1982]

History: 1983 c 216 art 1 s 40

260.191 DISPOSITIONS; CHILDREN WHO ARE NEGLECTED, DEPENDENT, OR NEGLECTED AND IN FOSTER CARE.

Subdivision 1. **Dispositions.** If the court finds that the child is neglected, dependent, or neglected and in foster care, it shall enter an order making any of the following dispositions of the case:

(a) Place the child under the protective supervision of the county welfare board or child placing agency in his own home under conditions prescribed by the court directed to the correction of the neglect or dependency of the child;

(b) Transfer legal custody to one of the following:

(1) a child placing agency; or

(2) the county welfare board;

(c) If the child is in need of special treatment and care for his 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.

Subd. 1a. **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; and

(c) In the case of a child of minority racial or minority ethnic heritage, how the court's disposition complies with the requirements of section 260.181, subdivision 3.

Subd. 2. **Order duration.** 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.

[For text of subds 3 and 4, see M.S.1982]

History: 1983 c 278 s 13; 1983 c 312 art 5 s 34

260.192 DISPOSITIONS; VOLUNTARY FOSTER CARE PLACEMENTS.

Upon a petition for review of the foster care status of a child, the court may:

(a) 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 pursuant to either section 260.131, subdivision 1 or section 260.131, subdivision 1a, as appropriate, within two years if court review was pursuant to section 257.071, subdivision 3 or 4, or within one year if court review was pursuant to section 257.071, subdivision 2.

(b) 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 shall order an administrative review of the case again within six months and a review by the court within one year.

(c) Find that the child has been abandoned by his 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 260.131, subdivision 1, or 260.231.

Nothing in this section shall be construed to prohibit bringing a petition pursuant to section 260.131, subdivision 1 or 2, sooner than required by court order pursuant to this section.

History: 1983 c 278 s 14

260.193 JUVENILE TRAFFIC OFFENDER; PROCEDURES; DISPOSITIONS.

[For text of subds 1 to 5, see M.S.1982]

Subd. 6. Before making a disposition of any child found to be a juvenile major traffic offender, 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, he 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.

[For text of subds 7 to 10, see M.S.1982]

History: 1983 c 216 art 1 s 41

260.221 GROUNDS FOR TERMINATION OF PARENTAL RIGHTS.

The juvenile court may, upon petition, terminate all rights of a parent to a child in the following cases:

(a) With the written consent of a parent who for good cause desires to terminate his parental rights; or

(b) If it finds that one or more of the following conditions exist:

(1) That the parent has abandoned the child; or

(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; or

(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 noncustodial 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; or

(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 conditions directly relating to the parent and child relationship either of which are determined by the court to be permanently detrimental to the physical or mental health of the child; or

(5) That following upon a determination of neglect or dependency, reasonable efforts, under the direction of the court, have failed to correct the conditions leading to the determination; or

(6) 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 259.26 and either the person has not filed a notice of his intention to retain parental rights under section 259.261 or that the notice has been successfully challenged; or

(7) That the child is neglected and in foster care.

History: 1983 c 7 s 8; 1983 c 243 s 5 subd 8

260.242 GUARDIAN.

[For text of subd 1, see M.S.1982]

Subd. 1a. **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 260.181, subdivision 3.

Subd. 1b. **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 public welfare, and upon hearing in the manner provided in section 260.155, 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 public welfare;

(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.

Subd. 2. **Guardian's responsibilities.** (a) A guardian appointed under the provisions of this section has legal custody of his ward unless the court which appoints him 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 his 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 public welfare is appointed guardian, he may delegate to the welfare board of the county in which, after the appointment, the ward resides, the authority to act for him in decisions affecting the person of his 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 foster care placement and once every two years 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 permanent or long-term basis. When the court has determined that the

special needs of the ward are met through a permanent or long-term foster care placement, no subsequent dispositional hearings are required.

History: 1983 c 278 s 15; 1983 c 304 s 3,4; 1983 c 312 art 5 s 35

260.251 COSTS OF CARE.

[For text of subd 1, see M.S.1982]

Subd. 1a. **Cost of group foster care.** Whenever a child is placed in a group foster care facility as provided in section 260.185, subdivision 1, clause (b) or clause (c), item (5) or in section 260.194, subdivision 1, clause (b) or clause (c), 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.

[For text of subds 2 to 5, see M.S.1982]

History: 1983 c 274 s 11.

260.291 APPEAL.

[For text of subd 1, see M.S.1982]

Subd. 2. **Appeal.** The appeal from a juvenile court is taken to the court of appeals as in other civil cases.

History: 1983 c 247 s 111

260.315 CONTRIBUTING TO NEGLECT OR DELINQUENCY.

Any person who by act, word or omission encourages, causes or contributes to the neglect or delinquency of a child is guilty of a misdemeanor.

History: 1983 c 217 s 1