

CHAPTER 260

JUVENILES

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260.011 TITLE, INTENT, AND CONSTRUCTION.

[For text of subd 1, see M.S.1984]

Subd. 2. The purpose of the laws relating to juvenile courts is to secure for each child alleged or adjudicated neglected or dependent and under the jurisdiction of the court, the care and guidance, preferably in his own home, as will serve the spiritual, emotional, mental, and physical welfare of the child and the best interests of the state; to provide judicial procedures which protect the welfare of the child; to preserve and strengthen the child's family ties whenever possible, removing him from the custody of his parents only when his welfare or safety cannot be adequately safeguarded without removal; and, when the child is removed from his own family, to secure for him custody, care and discipline as nearly as possible equivalent to that which should have been given by his parents.

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.

The laws relating to juvenile courts shall be liberally construed to carry out these purposes.

History: 1985 c 286 s 1

260.015 DEFINITIONS.

[For text of subs 1 to 9, see M.S.1984]

Subd. 10. "Neglected child" means a child:

- (a) who is abandoned by his parent, guardian, or other custodian; or
- (b) who is without proper parental care because of the faults or habits of his parent, guardian, or other custodian; or
- (c) who is without necessary subsistence, education or other care necessary for his physical or mental health or morals because his parent, guardian or other custodian neglects or refuses to provide it; or
- (d) who is without the special care made necessary by his physical or mental condition because his parent, guardian, or other custodian neglects or refuses to provide it; or
- (e) who 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' reasonable 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:

- (1) the infant is chronically and irreversibly comatose;
- (2) 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
- (3) 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; or
- (f) whose occupation, behavior, condition, environment or associations are such as to be injurious or dangerous to himself or others; or
- (g) who is living in a facility for foster care which is not licensed as required by law, unless the child is living in the facility under court order; or
- (h) whose parent, guardian, or custodian has made arrangements for his placement in a manner detrimental to the welfare of the child or in violation of law; or
- (i) who comes within the provisions of subdivision 5, but whose conduct results in whole or in part from parental neglect.

[For text of subds 11 to 21, see M.S.1984]

Subd. 22. **Juvenile alcohol offender.** "Juvenile alcohol offender" means a child who violates any provision of section 340A.503 or an equivalent local ordinance.

[For text of subds 23 to 25, see M.S.1984]

History: 1985 c 283 s 1; 1985 c 305 art 12 s 1

260.0191 DESIGNATION OF JUVENILE COURT JUDGE.

Notwithstanding the provisions of section 260.019, subdivision 3, the chief judge in Hennepin and Ramsey counties may designate any judge to hear cases under sections 260.011 to 260.301 as a principal assignment regardless of how long the judge has served on that assignment.

History: 1985 c 278 s 1

NOTE: This section is repealed effective August 1, 1989. See Laws 1985, chapter 278, section 2.

260.092 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.

History: 1985 c 21 s 60

260.121 VENUE.*[For text of subds 1 and 2, see M.S.1984]*

Subd. 3. Except when a child is alleged to have committed a minor traffic offense, as defined in section 260.193, 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 his parent, guardian, or custodian, if the parent, guardian, or custodian agrees to accept custody of the child and return him to their state.

History: 1985 c 248 s 42**260.133 PROCEDURE; DOMESTIC CHILD ABUSE.***[For text of subd 1, see M.S.1984]*

Subd. 2. **Temporary order.** 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.

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 dependency and neglect petition with the court pursuant to section 260.131, 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 dependency and neglect petition has been filed with the court and if the court determines, upon informal review of the case file, that the renewal is appropriate.

*[For text of subds 3 to 8, see M.S.1984]***History:** 1985 c 286 s 2**260.135 SUMMONS; NOTICE.**

Subdivision 1. 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 dependency, neglect, neglected and in foster care, or delinquency petition that contains allegations of child abuse over any other 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.

[For text of subds 2 to 5, see M.S.1984]

History: 1985 c 286 s 3

260.155 HEARING.

[For text of subds 1 to 4, see M.S.1984]

Subd. 4a. **Examination of child.** In any dependency, neglect, or neglected and in foster care 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 5.

[For text of subds 5 to 8, see M.S.1984]

History: 1985 c 286 s 4

260.156 CERTAIN OUT-OF-COURT STATEMENTS ADMISSIBLE.

An out-of-court statement made by a child under the age of ten years, or a child over the age of ten years who is mentally impaired, as defined under section 609.341, subdivision 6, alleging, explaining, denying, or describing any act of sexual contact or penetration performed with or on the child or any act of physical abuse or neglect of the child by another, not otherwise admissible by statute or rule of evidence, is admissible in evidence in any dependency or neglect proceeding or any proceeding for termination of parental rights if:

(a) 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

(b) the proponent of the statement notifies other parties of his intention to offer the statement and the particulars of the statement sufficiently in advance of the proceeding at which he intends to offer the statement into evidence, to provide the parties with a fair opportunity to meet the statement.

History: 1985 c 24 s 1; 1985 c 286 s 5

260.161 RECORDS.

[For text of subd 1, see M.S.1984]

Subd. 2. Except as provided in this subdivision and in subdivision 1, none of the records of the juvenile court, including legal records, shall be open to public inspection or their contents disclosed except (a) by order of the court or (b) as

required by sections 611A.03, 611A.04, and 611A.06. The records of juvenile probation officers and county home schools are records of the court for the purposes of this subdivision. This subdivision does not apply to proceedings under sections 260.255 and 260.261. 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 a reasonable time before it is used in connection with any proceeding before the court.

[For text of subd 3, see M.S.1984]

History: 1985 c 161 s 1

260.171 RELEASE OR DETENTION.

[For text of subds 1 and 2, see M.S.1984]

Subd. 4. 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, he 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 he is being placed in a secure detention facility or a shelter care facility; and

(b) of the location of the 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 his parents and an attorney or guardian ad litem from the 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 260.015, subdivision 5 at a 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 260.172; and

(f) that the child may not be detained pursuant to section 260.165, 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 260.172; and

(g) of the date, time, and place of the detention hearing; 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 afford counsel, counsel will be appointed at public expense for the child,

if it is a delinquency matter, or for any party, if it is a dependency, neglect, neglected and in foster care, or termination of parental rights matter.

[For text of subds 5 to 6, see M.S.1984]

History: 1985 c 286 s 6

260.172 DETENTION HEARING.

[For text of subds 1 and 2, see M.S.1984]

Subd. 2a. **Parental visitation.** If a child has been taken into custody under section 260.135, subdivision 5, or 260.165, 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.

Subd. 2b. **Mental health treatment.** (a) Except as provided in paragraph (b), a child who is held in detention because he or she is alleged to be a 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 260.191, subdivision 1.

[For text of subd 3, see M.S.1984]

Subd. 4. 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.

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 that he wishes to present to the court new evidence concerning whether the child should be continued in detention.

In addition, if a child was taken into detention under section 260.135, subdivision 5, or 260.165, 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 unless good cause is shown by a party to the proceeding why the hearing should not be held within that time period.

History: 1985 c 286 s 7-9

260.191 DISPOSITIONS; CHILDREN WHO ARE ABUSED, 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.

In placing a child whose custody has been transferred under this paragraph, the agency and board shall follow the order of preference stated in section 260.181, subdivision 3;

(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. 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.

[For text of subds 1a to 1c, see M.S.1984]

Subd. 1d. **Parental 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.

[For text of subd 2, see M.S.1984]

Subd. 2a. **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.

[For text of subds 3 and 4, see M.S.1984]

History: 1985 c 286 s 10-12

260.311 PROBATION OFFICERS.

Subdivision 1. **Appointment; joint services; state services.** If a county or group of counties has established a human services board pursuant to chapter 402, the juvenile court may appoint one or more probation officers as necessary to perform court services, and the human services board shall appoint persons as necessary to provide correctional services within the authority granted in chapter 402. In all counties of more than 200,000 population, which have not organized pursuant to chapter 402, the juvenile court shall appoint one or more persons of good character to serve as probation officers during the pleasure of the court. All other counties shall provide probation services to county courts in one of the following ways:

(1) the court, with the approval of the county boards, may appoint one or more salaried probation officers to serve during the pleasure of the court;

(2) two or more county courts or county court districts through their county boards may jointly appoint common salaried probation officers to serve in the several counties;

(3) a county or county court district may request the commissioner of corrections to furnish probation services to its county court or county court district in accordance with the provisions of this section, and the commissioner of corrections shall furnish such services to any county or county court district that fails to provide its own probation officer by one of the two procedures listed above;

(4) if a county or county court district providing probation services under clause (2) asks the commissioner of corrections to furnish probation services to the county court, the probation officers and other employees displaced by the changeover may be given preference in employment by the commissioner of corrections. If employed by the commissioner, the employment, notwithstanding the provisions of other law to the contrary, is a transfer in grade with all of the benefits enjoyed by the employee while in the service of the county which do not exceed those provided for state civil service employees;

(5) all probation officers serving the juvenile courts on July 1, 1972 shall continue to serve in the county or counties they are now serving.

[For text of subds 2 to 4, see M.S.1984]

Subd. 5. Reimbursement of counties. In order to reimburse the counties for the cost which they assume under this section of providing probation and parole services to wards of the commissioner of corrections and to aid the counties in achieving the purposes of this section, the commissioner of corrections shall annually, from funds appropriated for that purpose, pay 50 percent of the costs of probation officers' salaries to all counties of not more than 200,000 population. Nothing in this section will invalidate any payments to counties made pursuant to this section before the effective date of Laws 1963, chapter 694. Salary costs include fringe benefits, but only to the extent that fringe benefits do not exceed those provided for state civil service employees. On or before July 1 of each even-numbered year each county or group of counties which provide their own probation services to the county court under subdivision 1, clause (2) shall submit to the commissioner of corrections an estimate of its costs under this section. Reimbursement to those counties shall be made on the basis of the estimate or actual expenditures incurred, whichever is less. Reimbursement for those counties which obtain probation services from the commissioner of corrections pursuant to subdivision 1, clause (3), must be made on the basis of actual expenditures. Salary costs shall not be reimbursed unless county probation officers are paid salaries commensurate with the salaries paid to comparable positions in the classified service of the state civil service. The salary range to which each county probation officer is assigned shall be determined by the authority having power to appoint probation officers, and shall be based on the officer's length of service and performance. The appointing authority shall annually assign each county probation officer to a position on the salary scale commensurate with the officer's experience, tenure, and responsibilities. The judge shall file with the county auditor an order setting each county probation officer's salary. Time spent by a county probation officer as a court referee shall not qualify for reimbursement. Reimbursement shall be prorated if the appropriation is insufficient. A new position eligible for reimbursement under this section may not be added by a county without the written approval of the commissioner of corrections. When a new position is approved, the commissioner shall include the cost of the position in calculating each county's share.

[For text of subds 6 and 7, see M.S.1984]

History: 1985 c 220 s 5,6; 1Sp1985 c 9 art 2 s 76

260.36 SPECIAL PROVISIONS IN CERTAIN CASES.

When the commissioner of human services shall find that a child transferred to his guardianship after parental rights to the child are terminated or that a child committed to his guardianship as a dependent or neglected child 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 his care and treatment designed to fit him, 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 services shall cause him to be placed as provided in section 260.35. If the commissioner of human services is satisfied that the child is mentally retarded he may bring him before the probate court of the county where he is found or the county of his legal settlement for examination and commitment as provided by law.

History: 1985 c 21 s 61

260.38 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 regulations 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 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, his needs shall be met through these programs.

History: 1Sp1985 c 9 art 2 s 77