

CHAPTER 260

JUVENILES

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260.015 DEFINITIONS.

[For text of subds 1 and 2, see M.S.1986]

Subd. 3. "Child placing agency" means anyone licensed under sections 245.781 to 245.812 and 252.28, subdivision 2.

[For text of subds 4 to 25, see M.S.1986]

History: 1987 c 384 art 2 s 65

260.151 INVESTIGATION; PHYSICAL AND MENTAL EXAMINATION.

Subdivision 1. Upon request of the court the county welfare board or probation officer shall investigate the personal and family history and environment of any minor coming within the jurisdiction of the court under section 260.111 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. 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. 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.

[For text of subd 2, see M.S.1986]

History: 1987 c 384 art 2 s 66

260.155 HEARING.

Subdivision 1. **General.** Except for hearings arising under section 260.261, hearings on any matter shall be without a jury and may be conducted in an informal manner. 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, a habitual truant, a runaway, a juvenile petty offender, or a juvenile alcohol or controlled substance offender, and hearings conducted pursuant to section 260.125 except to the extent that the rules themselves provide that they do not apply. Hearings may be continued or adjourned from time to time and, in the interim, the court may make any orders as it deems in the best interests of the minor in accordance with the provisions of sections 260.011 to 260.301. The court shall exclude the general public from these hearings 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; except that, the court

shall open the hearings to the public in delinquency proceedings where the child is alleged to have committed an offense or has been 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 hearing. 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 reference or adjudicatory hearings, and (2) the disposition of the case. Adoption hearings shall be conducted in accordance with the provisions of laws relating to adoptions.

Subd. 1a. **Right to participate in proceedings.** A child who is the subject of a petition, and the parents, guardian, or lawful custodian of the child have the right to participate in all proceedings on a petition. 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.

[For text of subds 2 to 8, see M.S.1986]

History: 1987 c 331 s 1,2

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 ten years of age or older 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, neglect, neglected and in foster care, or domestic child abuse 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 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.

History: 1987 c 331 s 3

260.161 RECORDS.

Subdivision 1. The juvenile court judge shall keep such minutes and in such manner as the court deems necessary and proper. The court shall keep and maintain records pertaining to delinquent adjudications until the person reaches the age of 23 years and shall release the records on an individual 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 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. The legal records maintained in this file 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.

Subd. 2. Except as provided in this subdivision and in subdivision 1, and except for legal records arising from proceedings that are public under section 260.155, subdivision 1, 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 (a) by order of a 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 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 260.255, 260.261, or 260.315 when the proceeding 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.

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.

Subd. 3. Peace officers' records of children shall be kept separate from records of persons 18 years of age or older and shall not be open to public inspection or their contents disclosed to the public except by order of the juvenile court or except as required by a written memorandum of understanding adopted under section 126.035 or as authorized under chapter 13; except that traffic investigation reports may be open to inspection by a person who has sustained physical harm or economic loss as a result of the traffic accident. 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. Any person violating any of the provisions of this subdivision shall be guilty of a misdemeanor.

Subd. 4. **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.

History: 1987 c 123 s 4; 1987 c 295 s 6; 1987 c 331 s 4

260.185 DISPOSITIONS; DELINQUENT CHILD.

[For text of subs 1 to 3, see M.S.1986]

Subd. 3a. **Enforcement of restitution orders.** If the court orders payment of restitution as a condition of probation and the child fails to pay the restitution ordered before 60 days before the term of probation expires, the child's probation officer shall file a petition for violation of probation or shall ask the court to hold a hearing to determine whether the conditions of probation should be changed. The court shall schedule and hold this hearing before the child's term of probation expires.

[For text of subds 4 and 5, see M.S.1986]

History: 1987 c 331 s 5

260.193 JUVENILE TRAFFIC OFFENDER; PROCEDURES; DISPOSITIONS.

[For text of subds 1 to 7, see M.S.1986]

Subd. 8. 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 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) 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;
- (h) If the court finds that the child committed an offense described in section 169.121, the court shall order that an alcohol problem screening be conducted and a screening report submitted to the court in the manner prescribed in section 169.126. Except as otherwise provided in section 169.126, subdivision 4, paragraph (d), if the alcohol problem screening shows that the child has an identifiable chemical use problem, the court shall require the child to undergo a comprehensive chemical use assessment in accordance with section 169.126, subdivision 4. If the chemical use assessment recommends 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 a chemical use 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 special account created in section 169.126, subdivision 4a. The state shall reimburse counties for the total cost of the chemical use assessment in the manner provided in section 169.126, subdivision 4.

Subd. 9. **[Repealed, 1987 c 123 s 5]**

[For text of subd 10, see M.S.1986]

History: 1987 c 315 s 13

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 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 intent 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.

For purposes of 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 clause (a).

History: 1987 c 187 s 5

260.311 PROBATION OFFICERS.

[For text of subds 1 to 3, see M.S.1986]

Subd. 4. Compensation. In counties of more than 200,000 population, a majority of the judges of the district court may direct the payment of such salary to probation officers as may be approved by the county board, and in addition thereto shall be reimbursed for all necessary expenses incurred in the performance of their official duties. In all counties which obtain probation services from the commissioner of corrections the commissioner shall, out of appropriations provided therefor, pay probation officers the salary and all benefits fixed by the state law or applicable bargaining unit and all necessary expenses, including secretarial service, office equipment and supplies, postage, telephone and telegraph services, and travel and subsistence. Each county receiving probation services from the commissioner of corrections shall reimburse the department of corrections for the total cost and expenses of such services as

incurred by the commissioner of corrections. Total annual costs for each county shall be that portion of the total costs and expenses for the services of one probation officer represented by the ratio which the county's population bears to the total population served by one officer. For the purposes of this section, the population of any county shall be the most recent estimate made by the department of health. At least every six months the commissioner of corrections shall bill for the total cost and expenses incurred by the commissioner on behalf of each county which has received probation services. The commissioner of corrections shall notify each county of the cost and expenses and the county shall pay to the commissioner the amount due for reimbursement. All such reimbursements shall be deposited in the general fund. Objections by a county to all allocation of such cost and expenses shall be presented to and determined by the commissioner of corrections. Each county providing probation services under this section is hereby authorized to use unexpended funds and to levy additional taxes for this purpose.

The county commissioners of any county of not more than 200,000 population shall, when requested to do so by the juvenile judge, provide probation officers with suitable offices, and may provide equipment, and secretarial help needed to render the required services.

[For text of subds 5 to 7, see M.S.1986]

History: 1987 c 252 s 8