CHAPTER 260

JUVENILES

GENERAL PROVISIONS

260.01 [Repealed, 1959 c 685 s 53]

260.011 TITLE, INTENT, AND CONSTRUCTION.

Subdivision 1. Sections 260.011 to 260.301 may be cited as the juvenile court act.

Subd. 2. (a) The paramount consideration in all proceedings concerning a child alleged or found to be in need of protection or services is the best interests of the child. In proceedings involving an American Indian child, as defined in section 257.351, subdivision 6, the best interests of the child must be determined consistent with sections 257.35 to 257.3579 and the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923. The purpose of the laws relating to juvenile courts is to secure for each child alleged or adjudicated in need of protection or services and under the jurisdiction of the court, the care and guidance, preferably in the child's own home, as will best serve the spiritual, emotional, mental, and physical welfare of the child; to provide judicial procedures which protect the welfare of the child; to preserve and strengthen the child's family ties whenever possible and in the child's best interests, removing the child from the custody of parents only when the child's welfare or safety cannot be adequately safeguarded without removal; and, when removal from the child's own family is necessary and in the child's best interests, to secure for the child custody, care and discipline as nearly as possible equivalent to that which should have been given by the parents.

(b) The purpose of the laws relating to termination of parental rights is to ensure that:

(1) reasonable efforts have been made by the social service agency to reunite the child with the child's parents in a placement that is safe and permanent; and

(2) if placement with the parents is not reasonably foreseeable, to secure for the child a safe and permanent placement, preferably with adoptive parents.

The paramount consideration in all proceedings for the termination of parental rights is the best interests of the child. In proceedings involving an American Indian child, as defined in section 257.351, subdivision 6, the best interests of the child must be determined consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, et seq.

(c) 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.

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

History: *1959 c 685 s 1; 1980 c 580 s 3; 1985 c 286 s 1; 1986 c 444; 1988 c 514 s 3; 1988 c 673 s 2; 1990 c 542 s 10*

260.012 DUTY TO ENSURE PLACEMENT PREVENTION AND FAMILY REUNIFICATION; REASONABLE EFFORTS.

(a) If a child in need of protection or services is under the court's jurisdiction, the court shall ensure that reasonable efforts including culturally appropriate services by the social service agency are made to prevent placement or to eliminate the need for removal and to reunite the child with the child's family at the earliest possible time, consistent with the best interests, safety, and protection of the child. In the case of an Indian child, in proceedings under sections 260.172, 260.191, and 260.221 the juvenile court must make findings and conclusions consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901 et seq., as to the provision of active efforts. If a child is under the court's delinquency jurisdiction, it shall be the duty of the court to ensure that reasonable efforts are made to reunite the child with the child's family at the earliest possible time, consistent with the best interests of the child and the safety of the public.

(b) "Reasonable efforts" means the exercise of due diligence by the responsible social service agency to use appropriate and available services to meet the needs of the child and the child's family in order to prevent removal of the child from the child's family; or upon removal, services to eliminate the need for removal and reunite the family. Services may include those listed under section 256F.07, subdivision 3, and other appropriate services available in the community. The social service agency has the burden of demonstrating that it has made reasonable efforts.

(c) The juvenile court, in proceedings under sections 260.172, 260.191, and 260.221 shall make findings and conclusions as to the provision of reasonable efforts. When determining whether reasonable efforts have been made, the court shall consider whether services to the child and family were:

(1) relevant to the safety and protection of the child;

(2) adequate to meet the needs of the child and family;

(3) culturally appropriate;

(4) available and accessible;

(5) consistent and timely; and

(6) realistic under the circumstances.

(d) This section does not prevent out-of-home placement for treatment of a child with a mental disability when the child's diagnostic assessment or individual treatment plan indicates that appropriate and necessary treatment cannot be effectively provided outside of a residential or inpatient treatment program.

History: *1986 c 448 s 1; 1988 c 514 s 4; 1989 c 235 s 1*

260.013 SCOPE OF VICTIM RIGHTS.

The rights granted to victims of crime in sections 611A.01 to 611A.06 are applicable to adult criminal cases, juvenile delinquency proceedings, juvenile traffic proceedings involving driving under the influence of alcohol or drugs, and proceedings involving any other act committed by a juvenile that would be a crime as defined in section 609.02, if committed by an adult.

History: *1993 c 326 art 6 s 2*

260.015 DEFINITIONS.

Subdivision 1. As used in sections 260.011 to 260.301, the terms defined in this section have the same meanings given to them.

Subd. 1a. **Agency.** "Agency" means the local social service agency or a licensed child-placing agency.

Subd. 2. "Child" means an individual under 18 years of age and includes any minor alleged to have been delinquent or a juvenile traffic offender prior to having become 18 years of age.

Subd. 2a. **Child in need of protection or services.** "Child in need of protection or services" means a child who is in need of protection or services because the child:

(1) is abandoned or without parent, guardian, or custodian;

(2)(i) has been a victim of physical or sexual abuse, or (ii) resides with or has resided with a victim of domestic child abuse as defined in subdivision 24, (iii) resides with or would reside with a perpetrator of domestic child abuse or child abuse as defined in subdivision 28, or (iv) is a victim of emotional maltreatment as defined in subdivision 5a;

(3) is without necessary food, clothing, shelter, education, or other required care for the child's physical or mental health or morals because the child's parent, guardian, or custodian is unable or unwilling to provide that care;

(4) is without the special care made necessary by a physical, mental, or emotional condition because the child's parent, guardian, or custodian is unable or unwilling to provide that care;

(5) 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:

(i) the infant is chronically and irreversibly comatose;

(ii) 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

(iii) 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;

(6) is one whose parent, guardian, or other custodian for good cause desires to be relieved of the child's care and custody;

(7) has been placed for adoption or care in violation of law;

(8) is without proper parental care because of the emotional, mental, or physical disability, or state of immaturity of the child's parent, guardian, or other custodian;

(9) is one whose behavior, condition, or environment is such as to be injurious or dangerous to the child or others. An injurious or dangerous environment may include, but is not limited to, the exposure of a child to criminal activity in the child's home;

(10) has committed a delinquent act before becoming ten years old;

(11) is a runaway;

(12) is an habitual truant; or

(13) is one whose custodial parent's parental rights to another child have been involuntarily terminated within the past five years.

Subd. 3. "Child-placing agency" means anyone licensed under sections 245A.01 to 245A.16 and 252.28, subdivision 2.

Subd. 4. "Court" means juvenile court unless otherwise specified in this section.

Subd. 5. **Delinquent child.** (a) Except as otherwise provided in paragraph (b), "delinquent child" means a child:

(1) who has violated any state or local law, except as provided in section 260.193, subdivision 1, and except for juvenile offenders as described in subdivisions 19 to 23;

(2) who has violated a federal law or a law of another state and whose case has been referred to the juvenile court if the violation would be an act of delinquency if committed in this state or a crime or offense if committed by an adult;

(3) who has escaped from confinement to a state juvenile correctional facility after being committed to the custody of the commissioner of corrections; or

(4) who has escaped from confinement to a local juvenile correctional facility after being committed to the facility by the court.

(b) The term delinquent child does not include a child alleged to have committed murder in the first degree after becoming 16 years of age, but the term delinquent child does include a child alleged to have committed attempted murder in the first degree.

Subd. 5a. **Emotional maltreatment.** "Emotional maltreatment" means the consistent, deliberate infliction of mental harm on a child by a person responsible for the child's care, that has an observable, sustained, and adverse effect on the child's physical, mental, or emotional development. "Emotional maltreatment" does not include reasonable training or discipline administered by the person responsible for the child's care or the reasonable exercise of authority by that person.

Subd. 6. [Repealed, 1988 c 673 s 40]

Subd. 7. "Foster care" means the 24 hour a day care of a child in any facility which for gain or otherwise regularly provides one or more children, when unaccompanied by their parents, with a substitute for the care, food, lodging, training, education, supervision or treatment they need but which for any reason cannot be furnished by their parents or legal guardians in their homes.

Subd. 8. "Legal custody" means the right to the care, custody, and control of a child who has been taken from a parent by the court in accordance with the provisions of section 260.185, 260.191, or 260.241. The expenses of legal custody are paid in accordance with the provisions of section 260.251.

Subd. 9. "Minor" means an individual under 18 years of age.

Subd. 10. [Repealed, 1988 c 673 s 40]

Subd. 11. **Parent.** "Parent" means the birth or adoptive parent of a minor. For an Indian child, parent includes any Indian person who has adopted a child by tribal law or custom, as provided in section 257.351, subdivision 11.

Subd. 12. "Person" includes any individual, association, corporation, partnership, and the state or any of its political subdivisions, departments, or agencies.

Subd. 13. **Relative.** "Relative" means a parent, stepparent, grandparent, brother, sister, uncle, or aunt of the minor. This relationship may be by blood or marriage. For an Indian child, relative includes members of the extended family as defined by the law or custom of the Indian child's tribe or, in the absence of laws or custom, nieces, nephews, or first or second cousins, as provided in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1903. For purposes of dispositions, relative has the meaning given in section 260.181, subdivision 3.

Subd. 14. **Custodian.** "Custodian" means any person who is under a legal obligation to provide care and support for a minor or who is in fact providing care and support for a minor. This subdivision does not impose upon persons who are not otherwise legally responsible for providing a child with necessary food, clothing, shelter, education, or medical care a duty to provide that care. For an Indian child, custodian means any Indian person who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody, and control has been transferred by the parent of the child, as provided in section 257.351, subdivision 8.

Subd. 15. [Repealed, 1982 c 469 s 10]

Subd. 16. "Secure detention facility" means a physically restricting facility, including but not limited to a jail, a hospital, a state institution, a residential treatment center, or a detention home used for the temporary care of a child pending court action.

Subd. 17. "Shelter care facility" means a physically unrestricting facility, such as but not limited to, a hospital, a group home or a licensed facility for foster care, used for the temporary care of a child pending court action.

Subd. 18. "Neglected and in foster care" means a child

(a) Who has been placed in foster care by court order; and

(b) Whose parents' circumstances, condition, or conduct are such that the child cannot be returned to them; and

(c) Whose parents, despite the availability of needed rehabilitative services, have failed to make reasonable efforts to adjust their circumstances, condition or conduct, or have willfully failed to meet reasonable expectations with regard to visiting the child or providing financial support for the child.

Subd. 19. **Habitual truant.** "Habitual truant" means a child under the age of 16 years who is absent from attendance at school without lawful excuse for seven school days if the child is in elementary school or for one or more class periods on seven school days if the child is in middle school, junior high school, or high school.

Subd. 20. **Runaway.** "Runaway" means an unmarried child under the age of 18 years who is absent from the home of a parent or other lawful placement without the consent of the parent, guardian, or lawful custodian.

Subd. 21. **Juvenile petty offender; juvenile petty offense.** (a) "Juvenile petty offense" includes a juvenile alcohol offense, a juvenile controlled substance offense, a violation of section 609.685, or a violation of a local ordinance, which by its terms prohibits conduct by a child under the age of 18 years which would be lawful conduct if committed by an adult.

(b) Except as otherwise provided in paragraph (c), "juvenile petty offense" also includes an offense that would be a misdemeanor if committed by an adult.

(c) "Juvenile petty offense" does not include any of the following:

(1) a misdemeanor–level violation of section 588.20, 609.224, 609.2242, 609.324, 609.563, 609.576, 609.66, or 617.23;

(2) a major traffic offense or an adult court traffic offense, as described in section 260.193;

(3) a misdemeanor–level offense committed by a child whom the juvenile court previously has found to have committed a misdemeanor, gross misdemeanor, or felony offense; or

(4) a misdemeanor–level offense committed by a child whom the juvenile court has found to have committed a misdemeanor–level juvenile petty offense on two or more prior occasions, unless the county attorney designates the child on the petition as a juvenile petty offender notwithstanding this prior record. As used in this clause, "misdemeanor–level juvenile petty offense" includes a misdemeanor–level offense that would have been a juvenile petty offense if it had been committed on or after July 1, 1995.

(d) A child who commits a juvenile petty offense is a "juvenile petty offender."

Subd. 22. **Juvenile alcohol offense.** "Juvenile alcohol offense" means a violation by a child of any provision of section 340A.503 or an equivalent local ordinance.

Subd. 23. **Juvenile controlled substance offense.** "Juvenile controlled substance offense" means a violation by a child of section 152.027, subdivision 4, with respect to a small amount of marijuana or an equivalent local ordinance.

Subd. 24. **Domestic child abuse.** "Domestic child abuse" means:

(1) any physical injury to a minor family or household member inflicted by an adult family or household member other than by accidental means; or

(2) subjection of a minor family or household member by an adult family or household member to any act which constitutes a violation of sections 609.321 to 609.324, 609.342, 609.343, 609.344, 609.345, or 617.246.

Subd. 25. **Family or household members.** "Family or household members" means spouses, former spouses, parents and children, persons related by blood, and persons who are presently residing together or who have resided together in the past, and persons who have a child in common regardless of whether they have been married or have lived together at any time.

Subd. 26. **Indian.** "Indian," consistent with section 257.351, subdivision 5, means a person who is a member of an Indian tribe or who is an Alaskan native and a member of a regional corporation as defined in section 7 of the Alaska Native Claims Settlement Act, United States Code, title 43, section 1606.

Subd. 27. **Indian child.** "Indian child," consistent with section 257.351, subdivision 6, means an unmarried person who is under age 18 and is:

(1) a member of an Indian tribe; or

(2) eligible for membership in an Indian tribe.

Subd. 28. **Child abuse.** "Child abuse" means an act that involves a minor victim and that constitutes a violation of section 609.221, 609.222, 609.223, 609.224, 609.2242, 609.322, 609.323, 609.324, 609.342, 609.343, 609.344, 609.345, 609.377, 609.378, or 617.246.

Subd. 29. **Egregious harm.** "Egregious harm" means the infliction of bodily harm to a child or neglect of a child which demonstrates a grossly inadequate ability to provide minimally adequate parental care. The egregious harm need not have occurred in the state or in the county where a termination of parental rights action is otherwise properly venued. Egregious harm includes, but is not limited to:

(1) conduct towards a child that constitutes a violation of sections 609.185 to 609.21, or any other similar law of the United States or any other state;

(2) the infliction of "substantial bodily harm" to a child, as defined in section 609.02, subdivision 8;

(3) conduct towards a child that constitutes felony malicious punishment of a child under section 609.377;

(4) conduct towards a child that constitutes felony unreasonable restraint of a child under section 609.255, subdivision 3;

(5) conduct towards a child that constitutes felony neglect or endangerment of a child under section 609.378;

(6) conduct towards a child that constitutes assault under section 609.221, 609.222, or 609.223;

(7) conduct towards a child that constitutes solicitation, inducement, or promotion of prostitution under section 609.322; or

(8) conduct towards a child that constitutes receiving profit derived from prostitution under section 609.323.

History: *1959 c 685 s 2; 1961 c 576 s 1; 1963 c 516 s 1; 1969 c 503 s 1,2; 1971 c 25 s 48; 1973 c 725 s 50; 1974 c 469 s 1; 1976 c 318 s 5–7; 1977 c 330 s 2; 1978 c 602 s 3; 1981 c 290 s 4; 1982 c 469 s 1,2; 1982 c 544 s 1–6; 1984 c 573 s 1,2; 1985 c 283 s 1; 1985 c 305 art 12 s 1; 1986 c 351 s 2; 1986 c 435 s 2; 1986 c 444; 1Sp1986 c 3 art 1 s 67; 1987 c 384 art 2 s 65; 1988 c 514 s 5; 1988 c 673 s 3–6; 1988 c 718 art 7 s 55; 1989 c 113 s 1; 1989 c 208 s 1; 1989 c 209 art 2 s 1; 1989 c 235 s 2–7; 1989 c 285 s 5,6; 1990 c 499 s 1; 1990 c 542 s 11; 1991 c 199 art 2 s 1; 1991 c 265 art 7 s 33; 1991 c 279 s 8; 1992 c 464 art 2 s 1; 1993 c 33 s 1,2; 1994 c 465 art 1 s 62; art 3 s 15; 1994 c 576 s 9; 1994 c 631 s 31; 1995 c 226 art 3 s 15; 1995 c 259 art 3 s 3; 1996 c 408 art 6 s 1; 1996 c 416 s 14; 1996 c 421 s 5*

ORGANIZATION OF THE COURT

260.019 JUVENILE COURT; HENNEPIN AND RAMSEY COUNTIES.

Subdivision 1. In Hennepin and Ramsey counties, the district court is the juvenile court.

Subd. 2. In each county, the chief judge of the district shall designate one or more judges to hear cases arising under sections 260.011 to 260.301.

Subd. 3. The chief judge shall designate any judge to hear cases arising under sections 260.011 to 260.301 as a principal or exclusive assignment for no more than six years out of any 12–year period.

Subd. 4. The incumbent "District Court Judge, Juvenile Court Division" in Hennepin county is a judge of district court subject to the administrative authority and assignment power of the chief judge of the district as provided in section 484.69, subdivision 3.

History: *1978 c 750 s 7; 1981 c 292 s 2; 1986 c 444*

260.0191 [Repealed, 1985 c 278 s 2; 1989 c 262 s 5]

260.02 [Repealed, 1959 c 685 s 53]

260.021 JUVENILE COURTS.

Subdivision 1. [Repealed, 1978 c 750 s 9]

Subd. 2. [Repealed, 1978 c 750 s 9]

Subd. 3. [Repealed, 1978 c 750 s 9]

Subd. 4. **Juvenile court.** In counties now or hereafter having a population of not more than 200,000, the probate court is the juvenile court. At the primary or general election, the office of probate judge shall also be designated on the ballot as "Judge of the Juvenile Court."

History: *1959 c 685 s 3; 1965 c 316 s 1,2; 1971 c 25 s 49,50*

260.022 ST. LOUIS COUNTY JUVENILE COURT, DESIGNATION; JUDGES; LOCATION.

Subdivision 1. In the county of Saint Louis the probate court is the juvenile court.

Subd. 2. There are two judges of the probate court in Saint Louis county each of whom shall meet the requirements of Minnesota Statutes 1967, section 525.04.

Subd. 3. Upon January 1, 1970 an additional probate judge shall be appointed by the governor from among those persons who are referees in the probate court of Saint Louis

county who are learned in the law and who have served as a referee not less than five years. If no such referee is available then the governor shall appoint the additional probate judge from among those persons resident of the county of Saint Louis who are learned in the law. The additional judge appointed shall serve until a successor is elected at the next general election occurring more than one year after such appointment. The judge of the probate court of the county of Saint Louis having the greatest number of years of service is the chief judge of such court.

Subd. 4. The chief judge of the probate court of the county of Saint Louis shall designate one of the judges of such court to serve as the judge of the juvenile court division to hear all cases arising thereunder pursuant to Minnesota Statutes 1967, chapter 260, and any other law relating to juveniles. Such assignment shall be for one year unless otherwise ordered. The judge designated as the judge of the juvenile court division shall devote all time required to the business of that division and work in connection therewith shall be disposed of before the judge engages in any other work of the probate court.

Subd. 5. The judge of the juvenile court division shall hold hearings and conduct court at Duluth, Virginia, and Hibbing, and the terms thereof including special terms shall be prescribed by rule.

History: *1969 c 549 s 1; 1986 c 444*

260.023 COURT ADMINISTRATOR OF ST. LOUIS COUNTY JUVENILE COURT.

The court administrator of the probate court of Saint Louis county is also the court administrator of the juvenile court. The court administrator may appoint deputy court administrators to serve at Duluth, Virginia, and Hibbing with the approval of the juvenile judge.

History: *1969 c 549 s 2; 1986 c 444; 1Sp1986 c 3 art 1 s 82*

260.024 JURISDICTION OF ST. LOUIS COUNTY JUVENILE COURT.

Subdivision 1. Notwithstanding any indication to the contrary in the statutory provisions enumerated herein, the juvenile court judges in the county of Saint Louis shall act in lieu of the district court judges in matters concerning county home schools under Minnesota Statutes 1967, section 260.094, and detention homes under Minnesota Statutes 1967, section 260.101.

Subd. 2. Notwithstanding an indication to the contrary in Minnesota Statutes 1967, section 260.311, subdivision 4, a majority of the judges of both the district court and the juvenile court in the county of Saint Louis may direct the payment of salaries to probation officers as otherwise provided for in said subdivision.

Subd. 3. Notwithstanding an indication to the contrary in Laws 1961, chapter 302, section 1, in the county of Saint Louis a majority of the judges of district court and juvenile court shall appoint a chief probation officer in the manner provided in said section. The probation officer so appointed and such additional personnel as may be required shall render to the judges of the district court and the juvenile court such services as have customarily been rendered in connection with their past employment under Laws 1961, chapter 302, and prior to January 1, 1970. The chief probation officer and any incumbent personnel shall continue in office upon January 1, 1970, but this subdivision shall apply in filling vacancies which may occur.

Probation officers of the county of Saint Louis shall make investigations as may be directed by the juvenile court of Saint Louis county as well as the district court and in the manner provided by Laws 1961, chapter 302, section 2. It is contemplated by this subdivision that the judges of the juvenile court shall have the same jurisdiction over probation officers as have the judges of the district court.

History: *1969 c 549 s 3*

260.025 PLACE OF HEARING.

The judge of the juvenile court may hold hearings in the county seat of the county, or in any other city in the county. The county shall provide suitable quarters at the county seat for the hearing of cases and the use of judges and other employees of the court.

History: *1959 c 685 s 4; 1973 c 123 art 5 s 7*

260.03 [Repealed, 1959 c 685 s 53]

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.

Subd. 2. The judge may direct that any case or class of cases shall be heard in the first instance by the referee in the manner provided for the hearing of cases by the court.

Subd. 3. Upon the conclusion of the hearing in each case, the referee shall transmit to the judge all papers relating to the case, together with findings and recommendations in writing. Notice of the findings of the referee together with a statement relative to the right of rehearing shall be given to the minor, parents, guardian, or custodian of the minor whose case has been heard by the referee, and to any other person that the court may direct. This notice may be given at the hearing, or by certified mail or other service directed by the court.

Subd. 4. The minor and the minor's parents, guardians, or custodians are entitled to a hearing by the judge of the juvenile court if, within three days after receiving notice of the findings of the referee, they file a request with the court for a hearing. The court may allow such a hearing at any time.

Subd. 5. In case no hearing before the judge is requested, or when the right to a hearing is waived, the findings and recommendations of the referee become the decree of the court when confirmed by an order of the judge. The final order of the court shall, in any event, be proof of such confirmation, and also of the fact that the matter was duly referred to the referee.

History: *1959 c 685 s 5; 1981 c 272 s 1; 1Sp1981 c 4 art 4 s 25; 1983 c 370 s 1; 1986 c 444*

260.04 [Repealed, 1959 c 685 s 53]

260.041 COURT ADMINISTRATOR; COURT REPORTER.

Subdivision 1. The court administrator of the juvenile court shall keep necessary books and records, issue summons and process, attend to the correspondence of the court, and in general perform such duties in the administration of the business of the court as the judge may direct.

Subd. 2. In counties having a population of not more than 200,000, the court administrator of the probate court shall serve as court administrator of the juvenile court.

Subd. 3. The judge of juvenile court, in counties not having a court reporter for the juvenile court, may appoint one or more qualified persons to serve as court reporters for the juvenile court in any matter or proceeding, whenever the court considers it necessary. The compensation of the court reporter shall be fixed by the judge and approved by the county board and shall be payable from general revenue funds not otherwise appropriated.

History: *1959 c 685 s 6; 1961 c 576 s 2; 1965 c 316 s 3; 1Sp1986 c 3 art 1 s 82*

260.042 ORIENTATION AND EDUCATIONAL PROGRAM.

The court shall make an orientation and educational program available for juveniles and their families in accordance with the program established, if any, by the supreme court.

History: *1995 c 226 art 3 s 16*

260.05 [Renumbered 260.305]

260.06 [Repealed, 1959 c 685 s 53]

260.065 [Repealed, 1959 c 685 s 53]

260.07 [Repealed, 1959 c 685 s 53]

260.08 [Repealed, 1959 c 685 s 53]

260.09 [Renumbered 260.311]

EXPERT ASSISTANCE

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: *1959 c 685 s 7; 1985 c 21 s 60*

COUNTY HOME SCHOOLS

260.094 COUNTY HOME SCHOOLS.

In any county or group of counties the county boards may purchase, lease, erect, equip, and maintain a county home school for boys and girls, or a separate home school for boys and a separate home school for girls. The juvenile court may transfer legal custody of a delinquent child to the home school in the manner provided in section 260.185. The county home school may, with the approval of the district court judges in counties now or hereafter having a population of more than 200,000, or of the juvenile court judges in all other counties, be a separate institution, or it may be established and operated in connection with any other organized charitable or educational institution. However, the plans, location, equipment, and operation of the county home school shall in all cases have the approval of the said judges. There shall be a superintendent or matron, or both, for such school, who shall be appointed and removed by the said judges. The salaries of the superintendent, matron, and other employees shall be fixed by the said judges, subject to the approval of the county board. The county board of each county to which this section applies is hereby authorized, empowered, and required to provide the necessary funds to make all needful appropriations to carry out the provisions of this section. The board of education, commissioner of children, families, and learning, or other persons having charge of the public schools in any city of the first or second class in a county where a county home school is maintained pursuant to the provisions of this section may furnish all necessary instructors, school books, and school supplies for the boys and girls placed in any such home school.

History: *1959 c 685 s 8; 1965 c 316 s 4; 1Sp1995 c 3 art 16 s 13*

NOTE: Hennepin county, see Laws 1965, Chapter 864.

260.096 EXISTING HOME SCHOOLS CONTINUED.

All juvenile detention homes, farms, and industrial schools heretofore established under the provisions of Laws 1905, chapter 285, section 5, as amended by Laws 1907, chapter 172, and Laws 1911, chapter 353, or Laws 1913, chapter 83, Laws 1915, chapter 228, or Laws 1917, chapter 317, as amended, are hereby declared to be county home schools within the meaning of sections 260.011 to 260.301 and all the provisions of those sections relating to county home schools shall apply thereto.

History: *1959 c 685 s 9*

260.10 [Repealed, 1959 c 685 s 53]

DETENTION HOMES

260.101 DETENTION HOMES.

In any county or group of counties the county boards may purchase, lease, erect, equip, and maintain a detention home for boys and girls, or a separate detention home for boys and

girls, or a separate detention home for boys or a separate detention home for girls. The detention home may, with the approval of the district court judges in counties now or hereafter having a population of more than 200,000 or of the juvenile court judges in all other counties be a separate institution, or it may be established and operated in connection with a county home school or any organized charitable or educational institution. However, the plans, location, equipment, and operation of the detention home shall in all cases have the approval of the judges. Necessary staff shall be appointed and removed by the judges. The salaries of the staff shall be fixed by the judges, subject to the approval of the county boards. The county board of each county to which this section applies shall provide the necessary funds to carry out the provisions of this section.

History: *1959 c 685 s 10; 1965 c 316 s 5; 1976 c 318 s 8*

260.103 [Repealed, 1988 c 673 s 40]

SALARIES

260.105 SALARIES.

All salaries and expenses to be paid by the county under the provisions of sections 260.021 to 260.101 shall be paid upon certification of the judge of juvenile court or upon such other authorization provided by law.

History: *1959 c 685 s 12; 1991 c 199 art 2 s 1*

260.106 [Repealed, 1977 c 200 s 1]

JURISDICTION OF COURT OVER CHILDREN AND MINORS

260.11 [Repealed, 1959 c 685 s 53]

260.111 JURISDICTION.

Subdivision 1. **Children who are delinquent, in need of protection or services, or neglected and in foster care.** Except as provided in sections 260.125 and 260.193, the juvenile court has original and exclusive jurisdiction in proceedings concerning any child who is alleged to be delinquent, a juvenile traffic offender, a juvenile petty offender, in need of protection or services, or neglected and in foster care, and in proceedings concerning any minor alleged to have been a delinquent, a juvenile petty offender, or a juvenile traffic offender prior to having become 18 years of age. The juvenile court shall deal with such a minor as it deals with any other child who is alleged to be delinquent or a juvenile traffic offender.

Subd. 1a. **No juvenile court jurisdiction over certain offenders.** Notwithstanding any other law to the contrary, the juvenile court lacks jurisdiction over proceedings concerning a child excluded from the definition of delinquent child under section 260.015, subdivision 5, paragraph (b). The district court has original and exclusive jurisdiction in criminal proceedings concerning a child excluded from the definition of delinquent child under section 260.015, subdivision 5, paragraph (b).

Subd. 2. **Jurisdiction over other matters relating to children.** Except as provided in clause (d), the juvenile court has original and exclusive jurisdiction in proceedings concerning:

(a) The termination of parental rights to a child in accordance with the provisions of sections 260.221 to 260.245.

(b) The appointment and removal of a juvenile court guardian of the person for a child, where parental rights have been terminated under the provisions of sections 260.221 to 260.245.

(c) Judicial consent to the marriage of a child when required by law.

(d) Adoptions. The juvenile court in those counties in which the judge of the probate–juvenile court has been admitted to the practice of law in this state shall proceed under the laws

relating to adoptions in all adoption matters. In those counties in which the judge of the probate–juvenile court has not been admitted to the practice of law in this state the district court shall proceed under the laws relating to adoptions in all adoption matters.

(e) The review of the foster care status of a child who has been placed in a residential facility, as defined in section 257.071, subdivision 1, pursuant to a voluntary release by the child's parent or parents.

Subd. 3. **Jurisdiction over matters relating to domestic child abuse.** The juvenile court has jurisdiction in proceedings concerning any alleged acts of domestic child abuse. In a jurisdiction which utilizes referees in child in need of protection or services matters, the court or judge may refer actions under this subdivision to a referee to take and report the evidence in the action. If the respondent does not appear after service is duly made and proved, the court may hear and determine the proceeding as a default matter. Proceedings under this subdivision shall be given docket priority by the court.

Subd. 4. **Jurisdiction over parents and guardians.** A parent, guardian, or custodian of a child who is subject to the jurisdiction of the court is also subject to the jurisdiction of the court in any matter in which that parent, guardian, or custodian has a right to notice under section 260.135 or 260.141, or the right to participate under section 260.155. In any proceeding concerning a child alleged to be in need of protection or services, the court has jurisdiction over a parent, guardian, or custodian for the purposes of a disposition order issued under section 260.191, subdivision 1e.

Subd. 5. **Jurisdiction over Indian children.** In a child in need of protection or services proceeding, when an Indian child is a ward of a tribal court with federally recognized child welfare jurisdiction, the Indian tribe retains exclusive jurisdiction notwithstanding the residence or domicile of an Indian child, as provided in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1911.

History: *1959 c 685 s 13; 1961 c 576 s 6; 1978 c 602 s 4; 1980 c 580 s 4; 1981 c 290 s 6; 1982 c 544 s 7; 1984 c 573 s 3; 1986 c 444; 1988 c 673 s 7–9; 1989 c 235 s 8; 1994 c 576 s 10*

260.115 TRANSFERS FROM OTHER COURTS.

Subdivision 1. **Transfers required.** Except where a juvenile court has certified an alleged violation in accordance with the provisions of section 260.125, the child is alleged to have committed murder in the first degree after becoming 16 years of age, or a court has original jurisdiction of a child who has committed an adult court traffic offense, as defined in section 260.193, subdivision 1, clause (c), a court other than a juvenile court shall immediately transfer to the juvenile court of the county the case of a minor who appears before the court on a charge of violating any state or local law or ordinance and who is under 18 years of age or who was under 18 years of age at the time of the commission of the alleged offense.

Subd. 2. The court transfers the case by filing with the judge or court administrator of juvenile court a certificate showing the name, age, and residence of the minor, the names and addresses of the minor's parent or guardian, if known, and the reasons for appearance in court, together with all the papers, documents, and testimony connected therewith. The certificate has the effect of a petition filed in the juvenile court, unless the judge of the juvenile court directs the filing of a new petition, which shall supersede the certificate of transfer.

Subd. 3. The transferring court shall order the minor to be taken immediately to the juvenile court and in no event shall detain the minor for longer than 48 hours after the appearance of the minor in the transferring court. The transferring court may release the minor to the custody of a parent, guardian, custodian, or other person designated by the court on the condition that the minor will appear in juvenile court as directed. The transferring court may require the person given custody of the minor to post such bail or bond as may be approved by the court which shall be forfeited to the juvenile court if the minor does not appear as directed. The transferring court may also release the minor on the minor's own promise to appear in juvenile court.

History: *1959 c 685 s 14; 1980 c 580 s 5; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1994 c 576 s 11; 1995 c 226 art 3 s 17*

260.12 [Repealed, 1959 c 685 s 53]

260.121 VENUE.

Subdivision 1. **Venue.** Except where otherwise provided, venue for any proceedings under section 260.111 shall be in the county where the child is found, or the county of the child's residence. When it is alleged that a child is in need of protection or services, venue may be in the county where the child is found, in the county of residence, or in the county where the alleged conditions causing the child's need for protection or services occurred. If delinquency, a juvenile petty offense, or a juvenile traffic offense is alleged, proceedings shall be brought in the county of residence or the county where the alleged delinquency, juvenile petty offense, or juvenile traffic offense occurred.

Subd. 2. **Transfer.** The judge of the juvenile court may transfer any proceedings brought under section 260.111, except adoptions, to the juvenile court of a county having venue as provided in subdivision 1, at any stage of the proceedings and in the following manner. When it appears that the best interests of the child, society, or the convenience of proceedings will be served by a transfer, the court may transfer the case to the juvenile court of the county of the child's residence. With the consent of the receiving court, the court may also transfer the case to the juvenile court of the county where the child is found or, if delinquency, a juvenile petty offense, or a juvenile traffic offense is alleged, to the county where the alleged delinquency, juvenile petty offense, or juvenile traffic offense occurred. The court transfers the case by ordering a continuance and by forwarding to the court administrator of the appropriate juvenile court a certified copy of all papers filed, together with an order of transfer. The judge of the receiving court may accept the findings of the transferring court or may direct the filing of a new petition or notice under section 260.015, subdivision 23, or 260.132 and hear the case anew.

Subd. 3. Except when a child is alleged to have committed an adult court 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 the child's parent, guardian, or custodian, if the parent, guardian, or custodian agrees to accept custody of the child and return the child to their state.

History: *1959 c 685 s 15; 1961 c 576 s 7,8; 1977 c 330 s 1; 1980 c 580 s 6; 1982 c 544 s 8,9; 1985 c 248 s 42; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1988 c 673 s 10,11; 1994 c 576 s 12*

CERTIFICATION TO DISTRICT COURT

260.125 MS 1949 Subdivision 1. [Renumbered 242.01]

Subd. 2. [Renumbered 242.02]
Subd. 3. [Renumbered 242.03]
Subd. 4. [Renumbered 242.04]
Subd. 5. [Renumbered 242.05]
Subd. 6. [Renumbered 242.06]
Subd. 7. [Renumbered 242.07]
Subd. 8. [Renumbered 242.08]
Subd. 9. [Renumbered 242.09]
Subd. 10. [Renumbered 242.10]
Subd. 11. [Renumbered 242.11]
Subd. 12. [Renumbered 242.12]
Subd. 13. [Renumbered 242.13]
Subd. 14. [Renumbered 242.14]
Subd. 15. [Renumbered 242.15]
Subd. 16. [Renumbered 242.16]
Subd. 17. [Renumbered 242.17]

Subd. 18. [Renumbered 242.18]
Subd. 19. [Renumbered 242.19]
Subd. 20. [Renumbered 242.20]
Subd. 21. [Renumbered 242.21]
Subd. 22. [Renumbered 242.22]
Subd. 23. [Renumbered 242.23]
Subd. 24. [Renumbered 242.24]
Subd. 25. [Renumbered 242.25]
Subd. 26. [Renumbered 242.26]
Subd. 27. [Renumbered 242.27]
Subd. 28. [Renumbered 242.28]
Subd. 29. [Renumbered 242.29]
Subd. 30. [Renumbered 242.30]
Subd. 31. [Renumbered 242.31]
Subd. 32. [Renumbered 242.32]
Subd. 33. [Renumbered 242.33]
Subd. 34. [Renumbered 242.34]
Subd. 35. [Renumbered 242.35]
Subd. 36. [Renumbered 242.36]
Subd. 37. [Renumbered 242.37]

260.125 CERTIFICATION.

Subdivision 1. When a child is alleged to have committed, after becoming 14 years of age, an offense that would be a felony if committed by an adult, the juvenile court may enter an order certifying the proceeding for action under the laws and court procedures controlling adult criminal violations.

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

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

(2) a motion for certification has been filed by the prosecuting authority;

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

(4) a hearing has been held in accordance with the provisions of section 260.155 within 30 days of the filing of the certification motion, unless good cause is shown by the prosecution or the child as to why the hearing should not be held within this period in which case the hearing shall be held within 90 days of the filing of the motion;

(5) the court finds that 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

(6) the court finds either:

(i) that the presumption of certification created by subdivision 2a applies and the child has not rebutted the presumption by clear and convincing evidence demonstrating that retaining the proceeding in the juvenile court serves public safety; or

(ii) that the presumption of certification does not apply and the prosecuting authority has demonstrated by clear and convincing evidence that retaining the proceeding in the juvenile court does not serve public safety. If the court finds that the prosecutor has not demonstrated by clear and convincing evidence that retaining the proceeding in juvenile court does not serve public safety, the court shall retain the proceeding in juvenile court.

Subd. 2a. **Presumption of certification.** It is presumed that a proceeding involving an offense committed by a child will be certified if:

(1) the child was 16 or 17 years old at the time of the offense; and

(2) the delinquency petition alleges that the child committed an offense that would result in a presumptive commitment to prison under the sentencing guidelines and applicable

statutes, or that the child committed any felony offense while using, whether by brandishing, displaying, threatening with, or otherwise employing, a firearm.

If the court determines that probable cause exists to believe the child committed the alleged offense, the burden is on the child to rebut this presumption by demonstrating by clear and convincing evidence that retaining the proceeding in the juvenile court serves public safety. If the court finds that the child has not rebutted the presumption by clear and convincing evidence, the court shall certify the proceeding.

Subd. 2b. **Public safety.** In determining whether the public safety is served by certifying the matter, the court shall consider the following factors:

(1) the seriousness of the alleged offense in terms of community protection, including the existence of any aggravating factors recognized by the sentencing guidelines, the use of a firearm, and the impact on any victim;

(2) the culpability of the child in committing the alleged offense, including the level of the child's participation in planning and carrying out the offense and the existence of any mitigating factors recognized by the sentencing guidelines;

(3) the child's prior record of delinquency;

(4) the child's programming history, including the child's past willingness to participate meaningfully in available programming;

(5) the adequacy of the punishment or programming available in the juvenile justice system; and

(6) the dispositional options available for the child.

In considering these factors, the court shall give greater weight to the seriousness of the alleged offense and the child's prior record of delinquency than to the other factors listed in this subdivision.

Subd. 3. [Repealed by amendment, 1994 c 576 s 13]

Subd. 3a. **Prior certification; exception.** Notwithstanding the provisions of subdivisions 2, 2a, and 2b, the court shall order a certification in any felony case if the prosecutor shows that the child has been previously prosecuted on a felony charge by an order of certification 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 certification in the same case.

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

This subdivision does not apply to juvenile offenders who are subject to criminal court jurisdiction under section 609.055.

Subd. 3b. **Adult charged with juvenile offense.** The juvenile court has jurisdiction to hold a certification hearing on motion of the prosecuting authority to certify the matter if:

(1) an adult is alleged to have committed an offense before the adult's 18th birthday; and

(2) a petition is filed under section 260.131 before expiration of the time for filing under section 628.26.

The court may not certify the matter under this subdivision if the adult demonstrates that the delay was purposefully caused by the state in order to gain an unfair advantage.

Subd. 4. **Effect of order.** When the juvenile court enters an order certifying an alleged violation, the prosecuting authority shall proceed with the case as if the jurisdiction of the juvenile court had never attached.

Subd. 5. **Written findings; options.** The court shall decide whether to order certification within 15 days after the certification hearing was completed, unless additional time is needed, in which case the court may extend the period up to another 15 days. If the juvenile court orders certification, and the presumption described in subdivision 2a does not apply, the order shall contain in writing, findings of fact and conclusions of law as to why public safety is not served by retaining the proceeding in the juvenile court. If the juvenile court, after a hearing conducted pursuant to subdivision 2, decides not to order certification, the decision shall contain, in writing, findings of fact and conclusions of law as to why certification is not ordered. If the juvenile court decides not to order certification in a case in which the

presumption described in subdivision 2a applies, the court shall designate the proceeding an extended jurisdiction juvenile prosecution and include in its decision written findings of fact and conclusions of law as to why the retention of the proceeding in juvenile court serves public safety, with specific reference to the factors listed in subdivision 2b. If the court decides not to order certification in a case in which the presumption described in subdivision 2a does not apply, the court may designate the proceeding an extended jurisdiction juvenile prosecution, pursuant to the hearing process described in section 260.126, subdivision 2.

Subd. 6. [Repealed, 1989 c 209 art 1 s 27]

Subd. 6. **First-degree murder.** When a motion for certification has been filed in a case in which the petition alleges that the child committed murder in the first degree, the prosecuting authority shall present the case to the grand jury for consideration of indictment under chapter 628 within 14 days after the petition was filed.

Subd. 7. **Inapplicability to certain offenders.** This section does not apply to a child excluded from the definition of delinquent child under section 260.015, subdivision 5, paragraph (b).

History: *1959 c 685 s 16; 1963 c 516 s 2; 1980 c 580 s 7; 1981 c 201 s 1; 1982 c 544 s 10; 1983 c 25 s 1,2; 1986 c 435 s 3; 1986 c 444; 1988 c 515 s 1; 1989 c 290 art 3 s 26; 1989 c 356 s 53; 1990 c 499 s 2; 1991 c 279 s 9; 1992 c 571 art 7 s 1; 1994 c 576 s 13; 1995 c 226 art 3 s 18*

EXTENDED JURISDICTION JUVENILE PROSECUTIONS

260.126 EXTENDED JURISDICTION JUVENILE PROSECUTIONS.

Subdivision 1. **Designation.** A proceeding involving a child alleged to have committed a felony offense is an extended jurisdiction juvenile prosecution if:

(1) the child was 14 to 17 years old at the time of the alleged offense, a certification hearing was held, and the court designated the proceeding an extended jurisdiction juvenile prosecution;

(2) the child was 16 or 17 years old at the time of the alleged offense; the child is alleged to have committed an offense for which the sentencing guidelines and applicable statutes presume a commitment to prison or to have committed any felony in which the child allegedly used a firearm; and the prosecutor designated in the delinquency petition that the proceeding is an extended jurisdiction juvenile prosecution; or

(3) the child was 14 to 17 years old at the time of the alleged offense, the prosecutor requested that the proceeding be designated an extended jurisdiction juvenile prosecution, a hearing was held on the issue of designation, and the court designated the proceeding an extended jurisdiction juvenile prosecution.

Subd. 2. **Hearing on prosecutor's request.** When a prosecutor requests that a proceeding be designated an extended jurisdiction juvenile prosecution, the court shall hold a hearing under section 260.155 to consider the request. The hearing must be held within 30 days of the filing of the request for designation, unless good cause is shown by the prosecution or the child as to why the hearing should not be held within this period in which case the hearing shall be held within 90 days of the filing of the request. If the prosecutor shows by clear and convincing evidence that designating the proceeding an extended jurisdiction juvenile prosecution serves public safety, the court shall grant the request for designation. In determining whether public safety is served, the court shall consider the factors specified in section 260.125, subdivision 2b. The court shall decide whether to designate the proceeding an extended jurisdiction juvenile prosecution within 15 days after the designation hearing is completed, unless additional time is needed, in which case the court may extend the period up to another 15 days.

Subd. 3. **Proceedings.** A child who is the subject of an extended jurisdiction juvenile prosecution has the right to a trial by jury and to the effective assistance of counsel, as described in section 260.155, subdivision 2.

Subd. 4. **Disposition.** (a) If an extended jurisdiction juvenile prosecution results in a guilty plea or finding of guilt, the court shall:

(1) impose one or more juvenile dispositions under section 260.185; and

(2) impose an adult criminal sentence, the execution of which shall be stayed on the condition that the offender not violate the provisions of the disposition order and not commit a new offense.

(b) If a child prosecuted as an extended jurisdiction juvenile after designation by the prosecutor in the delinquency petition is convicted of an offense after trial that is not an offense described in subdivision 1, clause (2), the court shall adjudicate the child delinquent and order a disposition under section 260.185. If the extended jurisdiction juvenile proceeding results in a guilty plea for an offense not described in subdivision 1, clause (2), the court may impose a disposition under paragraph (a) if the child consents.

Subd. 5. **Execution of adult sentence.** When it appears that a person convicted as an extended jurisdiction juvenile has violated the conditions of the stayed sentence, or is alleged to have committed a new offense, the court may, without notice, revoke the stay and probation and direct that the offender be taken into immediate custody. The court shall notify the offender in writing of the reasons alleged to exist for revocation of the stay of execution of the adult sentence. If the offender challenges the reasons, the court shall hold a summary hearing on the issue at which the offender is entitled to be heard and represented by counsel. After the hearing, if the court finds that reasons exist to revoke the stay of execution of sentence, the court shall treat the offender as an adult and order any of the adult sanctions authorized by section 609.14, subdivision 3. If the offender was convicted of an offense described in subdivision 1, clause (2), and the court finds that reasons exist to revoke the stay, the court must order execution of the previously imposed sentence unless the court makes written findings regarding the mitigating factors that justify continuing the stay. Upon revocation, the offender's extended jurisdiction status is terminated and juvenile court jurisdiction is terminated. The ongoing jurisdiction for any adult sanction, other than commitment to the commissioner of corrections, is with the adult court.

Subd. 6. **Inapplicability to certain offenders.** This section does not apply to a child excluded from the definition of delinquent child under section 260.015, subdivision 5, paragraph (b).

History: *1994 c 576 s 14; 1995 c 226 art 3 s 19*

PROCEDURES

260.13 [Repealed, 1959 c 685 s 53]

260.131 PETITION.

Subdivision 1. Any reputable person, including but not limited to any agent of the commissioner of human services, having knowledge of a child in this state or of a child who is a resident of this state, who appears to be delinquent, in need of protection or services, or neglected and in foster care, may petition the juvenile court in the manner provided in this section.

Subd. 1a. **Review of foster care status.** The social service agency responsible for the placement of a child in a residential facility, as defined in section 257.071, subdivision 1, pursuant to a voluntary release by the child's parent or parents may bring a petition in juvenile court to review the foster care status of the child in the manner provided in this section.

Subd. 1b. **Child in need of protection or services; habitual truant.** If there is a school attendance review board or county attorney mediation program operating in the child's school district, a petition alleging that a child is in need of protection or services as a habitual truant under section 260.015, subdivision 2a, clause (12), may not be filed until the applicable procedures under section 260A.06 or 260A.07 have been exhausted.

Subd. 2. The petition shall be verified by the person having knowledge of the facts and may be on information and belief. Unless otherwise provided by rule or order of the court, the county attorney shall draft the petition upon the showing of reasonable grounds to support the petition.

Subd. 3. The petition and all subsequent court documents shall be entitled substantially as follows:

"Juvenile Court, County of .....

In the matter of the welfare of ....."

The petition shall set forth plainly:

(a) The facts which bring the child within the jurisdiction of the court;

(b) The name, date of birth, residence, and post office address of the child;

(c) The names, residences, and post office addresses of the child's parents;

(d) The name, residence, and post office address of the child's guardian if there be one, of the person having custody or control of the child, and of the nearest known relative if no parent or guardian can be found;

(e) The spouse of the child, if there be one. If any of the facts required by the petition are not known or cannot be ascertained by the petitioner, the petition shall so state.

Subd. 4. **Delinquency petition; extended jurisdiction juvenile.** When a prosecutor files a delinquency petition alleging that a child committed a felony offense for which there is a presumptive commitment to prison according to the sentencing guidelines and applicable statutes or in which the child used a firearm, after reaching the age of 16 years, the prosecutor shall indicate in the petition whether the prosecutor designates the proceeding an extended jurisdiction juvenile prosecution. When a prosecutor files a delinquency petition alleging that a child aged 14 to 17 years committed a felony offense, the prosecutor may request that the court designate the proceeding an extended jurisdiction juvenile prosecution.

History: *1959 c 685 s 17; 1961 c 576 s 9,10; 1963 c 516 s 3; 1978 c 602 s 5; 1981 c 290 s 7; 1984 c 654 art 5 s 58; 1986 c 444; 1988 c 673 s 12; 1994 c 576 s 15; 1995 c 226 art 3 s 20,21*

260.132 PROCEDURE; HABITUAL TRUANTS, RUNAWAYS, JUVENILE PETTY AND MISDEMEANOR OFFENDERS.

Subdivision 1. **Notice.** When a peace officer, or attendance officer in the case of a habitual truant, has probable cause to believe that a child:

(1) is in need of protection or services under section 260.015, subdivision 2a, clause (11) or (12);

(2) is a juvenile petty offender; or

(3) has committed a delinquent act that would be a petty misdemeanor or misdemeanor if committed by an adult;

the officer may issue a notice to the child to appear in juvenile court in the county in which the child is found or in the county of the child's residence or, in the case of a juvenile petty offense, or a petty misdemeanor or misdemeanor delinquent act, the county in which the offense was committed. If there is a school attendance review board or county attorney mediation program operating in the child's school district, a notice to appear in juvenile court for a habitual truant may not be issued until the applicable procedures under section 260A.06 or 260A.07 have been exhausted. The officer shall file a copy of the notice to appear with the juvenile court of the appropriate county. If a child fails to appear in response to the notice, the court may issue a summons notifying the child of the nature of the offense alleged and the time and place set for the hearing. If the peace officer finds it necessary to take the child into custody, sections 260.165 and 260.171 shall apply.

Subd. 2. **Effect of notice.** Filing with the court a notice to appear containing the name and address of the child, specifying the offense alleged and the time and place it was committed, has the effect of a petition giving the juvenile court jurisdiction. In the case of running away, the place where the offense was committed may be stated in the notice as either the child's custodial parent's or guardian's residence or lawful placement or where the child was found by the officer. In the case of truancy, the place where the offense was committed may be stated as the school or the place where the child was found by the officer.

Subd. 3. **Notice to parent.** Whenever a notice to appear or petition is filed alleging that a child is in need of protection or services under section 260.015, subdivision 2a, clause (11) or (12), is a juvenile petty offender, or has committed a delinquent act that would be a petty misdemeanor or misdemeanor if committed by an adult, the court shall summon and notify the person or persons having custody or control of the child of the nature of the offense alleged

and the time and place of hearing. This summons and notice shall be served in the time and manner provided in section 260.135, subdivision 1.

Subd. 3a. **No right to counsel at public expense.** Except as otherwise provided in section 260.155, subdivision 2, a child alleged to be a juvenile petty offender may be represented by counsel, but does not have a right to appointment of a public defender or other counsel at public expense.

Subd. 4. **Truant.** When a peace officer or probation officer has probable cause to believe that a child is currently under age 16 and absent from school without lawful excuse, the officer may transport the child to the child's home and deliver the child to the custody of the child's parent or guardian, transport the child to the child's school of enrollment and deliver the child to the custody of a school superintendent or teacher or transport the child to a truancy service center under section 260A.04, subdivision 3.

History: *1982 c 544 s 11; 1986 c 444; 1988 c 673 s 13,14; 1994 c 576 s 16; 1994 c 636 art 4 s 9; 1995 c 226 art 3 s 22–24; 1996 c 408 art 6 s 2*

260.133 PROCEDURE; DOMESTIC CHILD ABUSE.

Subdivision 1. **Petition.** The local welfare agency may bring an emergency petition on behalf of minor family or household members seeking relief from acts of domestic child abuse. The petition shall allege the existence of or immediate and present danger of domestic child abuse, and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought.

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 petition with the court pursuant to section 260.131, alleging that the child is in need of protection or services 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 petition alleging that the child is in need of protection or services has been filed with the court and if the court determines, upon informal review of the case file, that the renewal is appropriate.

Subd. 3. **Service and execution of order.** Any order issued under this section or section 260.191, subdivision 1b, shall be served personally upon the respondent. Where necessary, the court shall order the sheriff or constable to assist in service or execution of the order.

Subd. 4. **Modification of order.** Upon application, notice to all parties, and hearing, the court may modify the terms of an existing order for protection issued under this section or section 260.191, subdivision 1b.

Subd. 5. **Right to apply for relief.** The local welfare agency's right to apply for relief on behalf of a child shall not be affected by the child's leaving the dwelling or household to avoid abuse.

Subd. 6. **Real estate.** Nothing in this section or section 260.191, subdivision 1b, shall affect the title to real estate.

Subd. 7. **Other remedies available.** Any relief ordered under this section or section 260.191, subdivision 1b, shall be in addition to other available civil or criminal remedies.

Subd. 8. **Copy to law enforcement agency.** An order for protection granted pursuant to this section or section 260.191, subdivision 1b, shall be forwarded by the court administrator within 24 hours to the local law enforcement agency with jurisdiction over the residence of the child.

Each appropriate law enforcement agency shall make available to other law enforcement officers through a system of verification, information as to the existence and status of any order for protection issued pursuant to this section or section 260.191, subdivision 1b.

History: *1984 c 573 s 4; 1985 c 286 s 2; 1Sp1986 c 3 art 1 s 82; 1988 c 673 s 15*

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 child in need of protection or services, 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.

Subd. 2. The court shall have notice of the pendency of the case and of the time and place of the hearing served upon a parent, guardian, or spouse of the child, who has not been summoned as provided in subdivision 1. For an Indian child, notice of all proceedings must comply with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, et seq., and section 257.353.

Subd. 3. If a petition alleging a child's need for protection or services, or a petition to terminate parental rights is initiated by a person other than a representative of the department of human services or local social services agency, the court administrator shall notify the local social services agency of the pendency of the case and of the time and place appointed.

Subd. 4. The court may issue a subpoena requiring the appearance of any other person whose presence, in the opinion of the court, is necessary.

Subd. 5. If it appears from the notarized petition or by sworn affidavit that there are reasonable grounds to believe the child is in surroundings or conditions which endanger the child's health, safety or welfare and require that the child's custody be immediately assumed by the court, the court may order, by endorsement upon the summons, that the officer serving the summons shall take the child into immediate custody.

History: *1959 c 685 s 18; 1963 c 516 s 4; 1980 c 580 s 8–10; 1984 c 654 art 5 s 58; 1985 c 286 s 3; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1988 c 673 s 16,17; 1989 c 235 s 9; 1994 c 631 s 31*

260.14 [Repealed, 1959 c 685 s 53]

260.141 SERVICE OF SUMMONS, NOTICE.

Subdivision 1. [Repealed, 1996 c 408 art 6 s 12]

Subd. 1a. **Notice in lieu of summons; personal service.** The service of a summons or a notice in lieu of summons shall be as provided in the rules of juvenile procedure.

Subd. 2. Service of summons, notice, or subpoena required by sections 260.135 to 260.231 shall be made by any suitable person under the direction of the court, and upon request of the court shall be made by a probation officer or any peace officer. The fees and mileage of witnesses shall be paid by the county if the subpoena is issued by the court on its own motion or at the request of the county attorney. All other fees shall be paid by the party requesting the subpoena unless otherwise ordered by the court.

Subd. 2a. In any proceeding regarding a child in need of protection or services in a state court, where the court knows or has reason to know that an Indian child is involved, the prose-

cuting authority seeking the foster care placement of, or termination of parental rights to an Indian child, shall notify the parent or Indian custodian and the Indian child's tribe of the pending proceedings and of their right of intervention. The notice must be provided by registered mail with return receipt requested unless personal service is accomplished. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, the notice shall be given to the Secretary of the Interior of the United States in like manner, according to the Indian Child Welfare Act of 1978, United States Code, title 25, section 1912. No foster care placement proceeding or termination of parental rights proceeding shall be held until at least ten days after receipt of notice by the parent or Indian custodian and the tribe or the Secretary. However, the parent or Indian custodian or the tribe shall, upon request, be granted up to 20 additional days to prepare for the proceeding.

Subd. 3. Proof of the service required by this section shall be made by the person having knowledge thereof.

History: *1959 c 685 s 19; 1963 c 516 s 5,6; 1980 c 580 s 11; 1986 c 444; 1989 c 235 s 10; 1994 c 598 s 6; 1994 c 631 s 31; 1996 c 408 art 6 s 3*

260.145 FAILURE TO OBEY SUMMONS OR SUBPOENA; CONTEMPT, ARREST.

If any person personally served with summons or subpoena fails, without reasonable cause, to appear or bring the child, or if the court has reason to believe the person is avoiding personal service, or if any custodial parent or guardian fails, without reasonable cause, to accompany the child to a hearing as required under section 260.155, subdivision 4b, the person may be proceeded against for contempt of court or the court may issue a warrant for the person's arrest, or both. In any case when it appears to the court that the service will be ineffectual, or that the welfare of the child requires that the child be brought forthwith into the custody of the court, the court may issue a warrant for immediate custody of the child.

History: *1959 c 685 s 20; 1986 c 444; 1994 c 576 s 17; 1996 c 408 art 6 s 4*

260.15 [Repealed, 1959 c 685 s 53]

260.151 INVESTIGATION; PHYSICAL AND MENTAL EXAMINATION.

Subdivision 1. Upon request of the court the local social services agency 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.

The court shall have a chemical use assessment conducted when a child is (1) found to be delinquent for violating a provision of chapter 152, or for committing a felony-level violation of a provision of chapter 609 if the probation officer determines that alcohol or drug use was a contributing factor in the commission of the offense, or (2) alleged to be delinquent for violating a provision of chapter 152, if the child is being held in custody under a detention order. The assessor's qualifications and the assessment criteria shall comply with Minnesota Rules, parts 9530.6600 to 9530.6655. If funds under chapter 254B are to be used to pay for the recommended treatment, the assessment and placement must comply with all provisions of Minnesota Rules, parts 9530.6600 to 9530.6655 and 9530.7000 to 9530.7030. The commissioner of human services shall reimburse the court for the cost of the chemical use assessment, up to a maximum of $100.

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 commis-

sioner of corrections as reimbursement of the costs of providing these services to the juvenile courts.

Subd. 2. The court may proceed as described in subdivision 1 only after a petition has been filed and, in delinquency cases, after the child has appeared before the court or a court appointed referee and has been informed of the allegations contained in the petition. However, when the child denies being delinquent before the court or court appointed referee, the investigation or examination shall not be conducted before a hearing has been held as provided in section 260.155.

Subd. 3. **Juvenile treatment screening team.** (a) The local social services agency, at its option, may establish a juvenile treatment screening team to conduct screenings and prepare case plans under this subdivision. The team, which may be the team constituted under section 245.4885 or 256B.092 or Minnesota Rules, parts 9530.6600 to 9530.6655, shall consist of social workers, juvenile justice professionals, and persons with expertise in the treatment of juveniles who are emotionally disabled, chemically dependent, or have a developmental disability. The team shall involve parents or guardians in the screening process as appropriate.

(b) This paragraph applies only in counties that have established a juvenile treatment screening team under paragraph (a). If the court, prior to, or as part of, a final disposition, proposes to place a child for the primary purpose of treatment for an emotional disturbance, a developmental disability, or chemical dependency in a residential treatment facility out of state or in one which is within the state and licensed by the commissioner of human services under chapter 245A, the court shall notify the county welfare agency. The county's juvenile treatment screening team must either: (1) screen and evaluate the child and file its recommendations with the court within 14 days of receipt of the notice; or (2) elect not to screen a given case, and notify the court of that decision within three working days.

(c) If the screening team has elected to screen and evaluate the child, the child may not be placed for the primary purpose of treatment for an emotional disturbance, a developmental disability, or chemical dependency, in a residential treatment facility out of state nor in a residential treatment facility within the state that is licensed under chapter 245A, unless one of the following conditions applies:

(1) a treatment professional certifies that an emergency requires the placement of the child in a facility within the state;

(2) the screening team has evaluated the child and recommended that a residential placement is necessary to meet the child's treatment needs and the safety needs of the community, that it is a cost–effective means of meeting the treatment needs, and that it will be of therapeutic value to the child; or

(3) the court, having reviewed a screening team recommendation against placement, determines to the contrary that a residential placement is necessary. The court shall state the reasons for its determination in writing, on the record, and shall respond specifically to the findings and recommendation of the screening team in explaining why the recommendation was rejected. The attorney representing the child and the prosecuting attorney shall be afforded an opportunity to be heard on the matter.

History: *1959 c 685 s 21; 1969 c 502 s 2; 1973 c 654 s 15; 1974 c 156 s 2; 1975 c 434 s 27; 1986 c 444; 1987 c 384 art 2 s 66; 1990 c 568 art 5 s 33; 1990 c 602 art 2 s 8; 1992 c 571 art 7 s 2; 1994 c 465 art 1 s 33; 1994 c 501 s 11; 1994 c 631 s 31*

260.152 MENTAL HEALTH SCREENING OF CHILDREN.

Subdivision 1. **Establishment.** The commissioner of human services, in cooperation with the commissioner of corrections, shall establish pilot projects in counties to reduce the recidivism rates of juvenile offenders, by identifying and treating underlying mental health problems that contribute to delinquent behavior and can be addressed through nonresidential services. At least one of the pilot projects must be in the seven–county metropolitan area and at least one must be in greater Minnesota.

Subd. 2. **Program components.** (a) The commissioner of human services shall, in consultation with the Indian affairs council, the council on affairs of Spanish–speaking people, the council on Black Minnesotans, and the council on Asian–Pacific Minnesotans, provide grants to the counties for the pilot projects. The projects shall build upon the existing service

capabilities in the community and must include availability of screening for mental health problems of children who are alleged or found to be delinquent and children who are reported as being or found to be in need of protection or services.

(b) The projects must include referral for mental health assessment of all children for whom the screening indicates a need. This assessment is to be provided by the appropriate mental health professional. If the child is of a minority race or minority ethnic heritage, the mental health professional must be skilled in and knowledgeable about the child's racial and ethnic heritage, or must consult with a special mental health consultant who has such knowledge so that the assessment is relevant, culturally specific, and sensitive to the child's cultural needs.

(c) Upon completion of the assessment, the project must provide or ensure access to nonresidential mental health services identified as needed in the assessment.

Subd. 3. **Screening tool.** The commissioner of human services and the commissioner of corrections, in consultation with the Indian affairs council, the council on affairs of Spanish-speaking people, the council on Black Minnesotans, and the council on Asian-Pacific Minnesotans, shall jointly develop a model screening tool to screen children to determine if a mental health assessment is needed. This tool must contain specific questions to identify potential mental health problems. In implementing a pilot project, a county must either use this model tool or another screening tool approved by the commissioner of human services which meets the requirements of this section.

Subd. 4. **Program requirements.** To receive funds, the county program proposal shall be a joint proposal with all affected local agencies, resulting in part from consultation with the local coordinating council established under section 245.4873, subdivision 3, and the local mental health advisory council established under section 245.4875, subdivision 5, and shall contain the following:

(1) evidence of interagency collaboration by all publicly funded agencies serving children with emotional disturbances, including evidence of consultation with the agencies listed in this section;

(2) a signed agreement by the local court services and local mental health and county social service agencies to work together on the following: development of a program; development of written interagency agreements and protocols to ensure that the mental health needs of juvenile offenders and children in need of protection or services are identified, addressed, and treated; and development of a procedure for joint evaluation of the program;

(3) a description of existing services that will be used in this program;

(4) a description of additional services that will be developed with program funds, including estimated costs and numbers of children to be served; and

(5) assurances that funds received by a county under this section will not be used to supplant existing mental health funding for which the child is eligible.

The commissioner of human services and the commissioner of corrections shall jointly determine the application form, information needed, deadline for application, criteria for awards, and a process for providing technical assistance and training to counties. The technical assistance shall include information about programs that have been successful in reducing recidivism by juvenile offenders.

Subd. 5. **Interagency agreements.** To receive funds, the county must agree to develop written interagency agreements between local court services agencies and local county mental health agencies within six months of receiving the initial program funds. These agreements shall include a description of each local agency's responsibilities, with a detailed assignment of the tasks necessary to implement the program. The agreement shall state how they will comply with the confidentiality requirements of the participating local agencies.

Subd. 6. **Evaluation.** The commissioner of human services and the commissioner of corrections shall, in consultation with the Indian affairs council, the council on affairs of Spanish-speaking people, the council on Black Minnesotans, and the council on Asian-Pacific Minnesotans, develop systems and procedures for evaluating the pilot projects. The departments must develop an interagency management information system to track children who receive mental health services. The system must be designed to meet the information needs of the agencies involved and to provide a basis for evaluating outcome data. The sys-

tem must be designed to track the mental health treatment of children released from custody and to improve the planning, delivery, and evaluation of services and increase interagency collaboration. The evaluation protocol must be designed to measure the impact of the program on juvenile recidivism, school performance, and state and county budgets.

Subd. 7. **Report.** By January 1 each year, the commissioner of corrections and the commissioner of human services shall present a joint report to the legislature on the pilot projects funded under this section. The report shall include information on the following:

(1) the number of children screened and assessed who are juvenile offenders and the number who were reported as children in need of protection or services;

(2) the number of children referred for mental health services, the types of services provided, and the costs;

(3) the number of subsequently adjudicated juveniles that received mental health services under this program; and

(4) the estimated cost savings of the program and the impact on crime and family reintegration.

History: *1992 c 571 art 10 s 19; 1994 c 576 s 18*

260.155 HEARING.

Subdivision 1. **General.** (a) 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, except that a child who is prosecuted as an extended jurisdiction juvenile has the right to a jury trial on the issue of guilt. 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, an extended jurisdiction juvenile, or a juvenile petty offender, and hearings conducted pursuant to section 260.125 except to the extent that the rules themselves provide that they do not apply. In all adjudicatory proceedings involving a child alleged to be in need of protection or services, the court shall admit only evidence that would be admissible in a civil trial. To be proved at trial, allegations of a petition alleging a child to be in need of protection or services must be proved by clear and convincing evidence.

(b) Except for proceedings involving a child alleged to be in need of protection or services and petitions for the termination of parental rights, hearings may be continued or adjourned from time to time. In proceedings involving a child alleged to be in need of protection or services and petitions for the termination of parental rights, hearings may not be continued or adjourned for more than one week unless the court makes specific findings that the continuance or adjournment is in the best interests of the child. If a hearing is held on a petition involving physical or sexual abuse of a child who is alleged to be in need of protection or services or neglected and in foster care, the court shall file the decision with the court administrator as soon as possible but no later than 15 days after the matter is submitted to the court. When a continuance or adjournment is ordered in any proceeding, the court may make any interim orders as it deems in the best interests of the minor in accordance with the provisions of sections 260.011 to 260.301.

(c) Except as otherwise provided in this paragraph, the court shall exclude the general public from hearings under this chapter 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. The court shall open the hearings to the public in delinquency or extended jurisdiction juvenile 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 offense, except that the court may exclude the public from portions of a certification hearing to discuss psychological material or other evidence that would not be accessible to the public in an adult proceeding.

(d) 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 certification or adjudicatory hearings, and (2) the disposition of the case.

(e) 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.

Subd. 1b. **Right of alleged victim to presence of supportive person.** Notwithstanding any provision of subdivision 1 to the contrary, in any delinquency proceedings in which the alleged victim of the delinquent act is testifying in court, the victim may choose to have a supportive person who is not scheduled to be a witness in the proceedings, present during the testimony of the victim.

Subd. 2. **Appointment of counsel.** (a) The child, parent, guardian or custodian has the right to effective assistance of counsel in connection with a proceeding in juvenile court. This right does not apply to a child who is charged with a juvenile petty offense as defined in section 260.015, subdivision 21, unless the child is charged with a third or subsequent juvenile alcohol or controlled substance offense and may be subject to the alternative disposition described in section 260.195, subdivision 4.

(b) The court shall appoint counsel, or stand-by counsel if the child waives the right to counsel, for a child who is:

(1) charged by delinquency petition with a gross misdemeanor or felony offense; or

(2) the subject of a delinquency proceeding in which out-of-home placement has been proposed.

(c) If they desire counsel but are unable to employ it, the court shall appoint counsel to represent the child or the parents or guardian in any case in which it feels that such an appointment is desirable, except a juvenile petty offender who does not have the right to counsel under paragraph (a).

Subd. 3. **County attorney.** Except in adoption proceedings, the county attorney shall present the evidence upon request of the court.

Subd. 4. **Guardian ad litem.** (a) The court shall appoint a guardian ad litem to protect the interests of the minor when it appears, at any stage of the proceedings, that the minor is without a parent or guardian, or that the minor's parent is a minor or incompetent, or that the parent or guardian is indifferent or hostile to the minor's interests, and in every proceeding alleging a child's need for protection or services under section 260.015, subdivision 2a, clauses (1) to (10). In any other case the court may appoint a guardian ad litem to protect the interests of the minor when the court feels that such an appointment is desirable. The court shall appoint the guardian ad litem on its own motion or in the manner provided for the appointment of a guardian ad litem in the district court.

(b) A guardian ad litem shall carry out the following responsibilities:

(1) conduct an independent investigation to determine the facts relevant to the situation of the child and the family, which must include, unless specifically excluded by the court, reviewing relevant documents; meeting with and observing the child in the home setting and considering the child's wishes, as appropriate; and interviewing parents, caregivers, and others with knowledge relevant to the case;

(2) advocate for the child's best interests by participating in appropriate aspects of the case and advocating for appropriate community services when necessary;

(3) maintain the confidentiality of information related to a case, with the exception of sharing information as permitted by law to promote cooperative solutions that are in the best interests of the child;

(4) monitor the child's best interests throughout the judicial proceeding; and

(5) present written reports on the child's best interests that include conclusions and recommendations and the facts upon which they are based.

(c) The court may waive the appointment of a guardian ad litem pursuant to clause (a), whenever counsel has been appointed pursuant to subdivision 2 or is retained otherwise, and the court is satisfied that the interests of the minor are protected.

(d) In appointing a guardian ad litem pursuant to clause (a), the court shall not appoint the party, or any agent or employee thereof, filing a petition pursuant to section 260.131.

(e) The following factors shall be considered when appointing a guardian ad litem in a case involving an Indian or minority child:

(1) whether a person is available who is the same racial or ethnic heritage as the child or, if that is not possible;

(2) whether a person is available who knows and appreciates the child's racial or ethnic heritage.

Subd. 4a. **Examination of child.** In any child in need of protection or services proceeding, neglected and in foster care, or termination of parental rights 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.

Subd. 4b. **Parent or guardian must accompany child at hearing.** The custodial parent or guardian of a child who is alleged or found to be delinquent, or is prosecuted as an extended jurisdiction juvenile, must accompany the child at each hearing held during the delinquency or extended jurisdiction juvenile proceedings, unless the court excuses the parent or guardian from attendance for good cause shown. The failure of a parent or guardian to comply with this duty may be punished as provided in section 260.145.

Subd. 5. **Waiving the presence of child, parent.** Except in delinquency proceedings, the court may waive the presence of the minor in court at any stage of the proceedings when it is in the best interests of the minor to do so. In a delinquency proceeding, after the child is found to be delinquent, the court may excuse the presence of the child from the hearing when it is in the best interests of the child to do so. In any proceeding the court may temporarily excuse the presence of the parent or guardian of a minor from the hearing when it is in the best interests of the minor to do so. The attorney or guardian ad litem, if any, has the right to continue to participate in proceedings during the absence of the minor, parent, or guardian.

Subd. 6. **Rights of the parties at the hearing.** The minor and the minor's parent, guardian, or custodian are entitled to be heard, to present evidence material to the case, and to cross examine witnesses appearing at the hearing.

Subd. 7. **Factors in determining neglect.** In determining whether a child is neglected and in foster care, the court shall consider, among other factors, the following:

(1) the length of time the child has been in foster care;

(2) the effort the parent has made to adjust circumstances, conduct, or condition that necessitates the removal of the child to make it in the child's best interest to be returned to the parent's home in the foreseeable future, including the use of rehabilitative services offered to the parent;

(3) whether the parent has visited the child within the three months preceding the filing of the petition, unless extreme financial or physical hardship or treatment for mental disability or chemical dependency or other good cause prevented the parent from visiting the child or it was not in the best interests of the child to be visited by the parent;

(4) the maintenance of regular contact or communication with the agency or person temporarily responsible for the child;

(5) the appropriateness and adequacy of services provided or offered to the parent to facilitate a reunion;

(6) whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parent within an ascertainable period of time,

whether the services have been offered to the parent, or, if services were not offered, the reasons they were not offered; and

(7) the nature of the efforts made by the responsible social service agency to rehabilitate and reunite the family, and whether the efforts were reasonable.

Subd. 8. **Waiver.** (a) Waiver of any right which a child has under this chapter must be an express waiver voluntarily and intelligently made by the child after the child has been fully and effectively informed of the right being waived. If a child is under 12 years of age, the child's parent, guardian or custodian shall give any waiver or offer any objection contemplated by this chapter.

(b) Waiver of a child's right to be represented by counsel provided under the juvenile court rules must be an express waiver voluntarily and intelligently made by the child after the child has been fully and effectively informed of the right being waived. In determining whether a child has voluntarily and intelligently waived the right to counsel, the court shall look to the totality of the circumstances which includes but is not limited to the child's age, maturity, intelligence, education, experience, and ability to comprehend, and the presence and competence of the child's parents, guardian, or guardian ad litem. If the court accepts the child's waiver, it shall state on the record the findings and conclusions that form the basis for its decision to accept the waiver.

Subd. 9. **Presumptions regarding truancy or educational neglect.** A child's absence from school is presumed to be due to the parent's, guardian's, or custodian's failure to comply with compulsory instruction laws if the child is under 12 years old and the school has made appropriate efforts to resolve the child's attendance problems; this presumption may be rebutted based on a showing by clear and convincing evidence that the child is habitually truant. A child's absence from school without lawful excuse, when the child is 12 years old or older, is presumed to be due to the child's intent to be absent from school; this presumption may be rebutted based on a showing by clear and convincing evidence that the child's absence is due to the failure of the child's parent, guardian, or custodian to comply with compulsory instruction laws, sections 120.101 and 120.102.

History: *1959 c 685 s 22; 1975 c 210 s 1; 1978 c 602 s 6; 1980 c 580 s 12–15; 1982 c 544 s 12; 1985 c 286 s 4; 1986 c 361 s 1; 1986 c 444; 1986 c 446 s 1,2; 1Sp1986 c 3 art 1 s 82; 1987 c 331 s 1,2; 1988 c 514 s 6,7; 1988 c 673 s 18–20; 1989 c 235 s 11,12; 1990 c 542 s 12; 1992 c 571 art 5 s 2; art 7 s 3; 1993 c 296 s 1,2; 1994 c 576 s 19–21; 1995 c 226 art 3 s 25; art 6 s 6; 1996 c 408 art 6 s 5*

260.156 CERTAIN OUT–OF–COURT STATEMENTS ADMISSIBLE.

An out–of–court statement not otherwise admissible by statute or rule of evidence, is admissible in evidence in any child in need of protection or services, neglected and in foster care, or domestic child abuse proceeding or any proceeding for termination of parental rights if:

(a) the statement was made by a child under the age of ten years or by a child ten years of age or older who is mentally impaired, as defined in section 609.341, subdivision 6;

(b) the statement alleges, explains, denies, or describes:

(1) any act of sexual penetration or contact performed with or on the child;

(2) any act of sexual penetration or contact with or on another child observed by the child making the statement;

(3) any act of physical abuse or neglect of the child by another; or

(4) any act of physical abuse or neglect of another child observed by the child making the statement;

(c) 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

(d) 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: *1984 c 588 s 2; 1985 c 24 s 1; 1985 c 286 s 5; 1986 c 361 s 2; 1986 c 444; 1987 c 331 s 3; 1988 c 673 s 21; 1989 c 113 s 2*

260.157 COMPLIANCE WITH INDIAN CHILD WELFARE ACT.

The provisions of this chapter must be construed consistently with the Indian Child Welfare Act of 1978, United States Code, title 25, sections 1901 to 1963.

History: *1993 c 291 s 15*

260.16 [Repealed, 1959 c 685 s 53]

RECORDS

260.161 RECORDS.

Subdivision 1. **Records required to be kept.** (a) The juvenile court judge shall keep such minutes and in such manner as the court deems necessary and proper. Except as provided in paragraph (b), the court shall keep and maintain records pertaining to delinquent adjudications until the person reaches the age of 28 years and shall release the records on an individual to another juvenile court that has jurisdiction of the juvenile, 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 also may provide copies of records concerning delinquency adjudications, on request, to law enforcement agencies, probation officers, and corrections agents if the court finds that providing these records serves public safety or is in the best interests of the child. The records have the same data classification in the hands of the agency receiving them as they had in the hands of the court.

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. Unless otherwise provided by law, all court records 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.

(b) The court shall retain records of the court finding that a juvenile committed an act that would be a felony or gross misdemeanor level offense until the offender reaches the age of 28. If the offender commits a felony as an adult, or the court convicts a child as an extended jurisdiction juvenile, the court shall retain the juvenile records for as long as the records would have been retained if the offender had been an adult at the time of the juvenile offense. This paragraph does not apply unless the juvenile was provided counsel as required by section 260.155, subdivision 2.

Subd. 1a. **Record of findings.** (a) The juvenile court shall forward to the Bureau of Criminal Apprehension the following data in juvenile petitions involving felony– or gross misdemeanor–level offenses:

(1) the name and birthdate of the juvenile, including any of the juvenile's known aliases or street names;

(2) the act for which the juvenile was petitioned and date of the offense; and

(3) the date and county where the petition was filed.

(b) Upon completion of the court proceedings, the court shall forward the court's finding and case disposition to the bureau. Notwithstanding section 138.17, if the petition was

dismissed or the juvenile was not found to have committed a gross misdemeanor or felony–level offense, the bureau and a person who received the data from the bureau shall destroy all data relating to the petition collected under paragraph (a). The bureau shall notify a person who received the data that the data must be destroyed.

(c) The bureau shall retain data on a juvenile found to have committed a felony– or gross misdemeanor–level offense until the offender reaches the age of 28. If the offender commits a felony violation as an adult, the bureau shall retain the data for as long as the data would have been retained if the offender had been an adult at the time of the juvenile offense.

(d) The juvenile court shall forward to the bureau, the sentencing guidelines commission, and the department of corrections the following data on individuals convicted as extended jurisdiction juveniles:

(1) the name and birthdate of the offender, including any of the juvenile's known aliases or street names;

(2) the crime committed by the offender and the date of the crime;

(3) the date and county of the conviction; and

(4) the case disposition.

The court shall notify the bureau, the sentencing guidelines commission, and the department of corrections whenever it executes an extended jurisdiction juvenile's adult sentence under section 260.126, subdivision 5.

(e) The bureau, sentencing guidelines commission, and the department of corrections shall retain the extended jurisdiction juvenile data for as long as the data would have been retained if the offender had been an adult at the time of the offense. Data retained on individuals under this subdivision are private data under section 13.02, except that extended jurisdiction juvenile data becomes public data under section 13.87, subdivision 2, when the juvenile court notifies the bureau that the individual's adult sentence has been executed under section 260.126, subdivision 5.

Subd. 1b. **Disposition order; copy to school.** (a) If a juvenile is enrolled in school, the juvenile's probation officer shall transmit a copy of the court's disposition order to the principal or chief administrative officer of the juvenile's school if the juvenile has been adjudicated delinquent for committing an act on the school's property or an act:

(1) that would be a violation of section 609.185 (first–degree murder); 609.19 (second–degree murder); 609.195 (third–degree murder); 609.20 (first–degree manslaughter); 609.205 (second–degree manslaughter); 609.21 (criminal vehicular homicide and injury); 609.221 (first–degree assault); 609.222 (second–degree assault); 609.223 (third–degree assault); 609.2231 (fourth–degree assault); 609.224 (fifth–degree assault); 609.2242 (domestic assault); 609.24 (simple robbery); 609.245 (aggravated robbery); 609.25 (kidnapping); 609.255 (false imprisonment); 609.342 (first–degree criminal sexual conduct); 609.343 (second–degree criminal sexual conduct); 609.344 (third–degree criminal sexual conduct); 609.345 (fourth–degree criminal sexual conduct); 609.3451 (fifth–degree criminal sexual conduct); 609.498 (tampering with a witness); 609.561 (first–degree arson); 609.582, subdivision 1 or 2 (burglary); 609.713 (terroristic threats); or 609.749 (harassment and stalking), if committed by an adult;

(2) that would be a violation of section 152.021 (first–degree controlled substance crime); 152.022 (second–degree controlled substance crime); 152.023 (third–degree controlled substance crime); 152.024 (fourth–degree controlled substance crime); 152.025 (fifth–degree controlled substance crime); 152.0261 (importing a controlled substance); or 152.027 (other controlled substance offenses), if committed by an adult; or

(3) that involved the possession or use of a dangerous weapon as defined in section 609.02, subdivision 6.

When a disposition order is transmitted under this paragraph, the probation officer shall notify the juvenile's parent or legal guardian that the disposition order has been shared with the juvenile's school.

(b) The disposition order must be accompanied by a notice to the school that the school may obtain additional information from the juvenile's probation officer with the consent of the juvenile or the juvenile's parents, as applicable. The disposition order must be maintained

in the student's permanent education record but may not be released outside of the school district or educational entity, other than to another school district or educational entity to which the juvenile is transferring. Notwithstanding section 138.17, the disposition order must be destroyed when the juvenile graduates from the school or at the end of the academic year when the juvenile reaches age 23, whichever date is earlier.

(c) The juvenile's probation officer shall maintain a record of disposition orders released under this subdivision and the basis for the release.

(d) The criminal and juvenile justice information policy group, in consultation with representatives of probation officers and educators, shall prepare standard forms for use by juvenile probation officers in forwarding information to schools under this subdivision and in maintaining a record of the information that is released.

(e) As used in this subdivision, "school" means a public or private elementary, middle, or secondary school.

Subd. 2. **Public inspection of records.** Except as otherwise provided in this section, and except for legal records arising from proceedings or portions of 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 245A.04, 611A.03, 611A.04, 611A.06, and 629.73. The records of juvenile probation officers and county home schools are records of the court for the purposes of this subdivision. Court services data relating to delinquent acts that are contained in records of the juvenile court may be released as allowed under section 13.84, subdivision 5a. 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 officer records of children.** (a) Except for records relating to an offense where proceedings are public under section 260.155, subdivision 1, peace officers' records of children who are or may be delinquent or who may be engaged in criminal acts shall be kept separate from records of persons 18 years of age or older and are private data but shall be disseminated: (1) by order of the juvenile court, (2) as required by section 126.036, (3) as authorized under section 13.82, subdivision 2, (4) to the child or the child's parent or guardian unless disclosure of a record would interfere with an ongoing investigation, or (5) as otherwise provided in this subdivision. Except as provided in paragraph (c), 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. Peace officers' records containing data about children who are victims of crimes or witnesses to crimes must be administered consistent with section 13.82, subdivisions 2, 3, 4, and 10. Any person violating any of the provisions of this subdivision shall be guilty of a misdemeanor.

In the case of computerized records maintained about juveniles by peace officers, the requirement of this subdivision that records about juveniles must be kept separate from adult records does not mean that a law enforcement agency must keep its records concerning juveniles on a separate computer system. Law enforcement agencies may keep juvenile records on the same computer as adult records and may use a common index to access both juvenile and adult records so long as the agency has in place procedures that keep juvenile records in a

separate place in computer storage and that comply with the special data retention and other requirements associated with protecting data on juveniles.

(b) Nothing in this subdivision prohibits the exchange of information by law enforcement agencies if the exchanged information is pertinent and necessary to the requesting agency in initiating, furthering, or completing a criminal investigation.

(c) A photograph may be taken of a child taken into custody pursuant to section 260.165, subdivision 1, clause (b), provided that the photograph must be destroyed when the child reaches the age of 19 years. The commissioner of corrections may photograph juveniles whose legal custody is transferred to the commissioner. Photographs of juveniles authorized by this paragraph may be used only for institution management purposes, case supervision by parole agents, and to assist law enforcement agencies to apprehend juvenile offenders. The commissioner shall maintain photographs of juveniles in the same manner as juvenile court records and names under this section.

(d) Traffic investigation reports are open to inspection by a person who has sustained physical harm or economic loss as a result of the traffic accident. Identifying information on juveniles who are parties to traffic accidents may be disclosed as authorized under section 13.82, subdivision 4, and accident reports required under section 169.09 may be released under section 169.09, subdivision 13, unless the information would identify a juvenile who was taken into custody or who is suspected of committing an offense that would be a crime if committed by an adult, or would associate a juvenile with the offense, and the offense is not a minor traffic offense under section 260.193.

(e) A law enforcement agency shall notify the principal or chief administrative officer of a juvenile's school of an incident occurring within the agency's jurisdiction if:

(1) the agency has probable cause to believe that the juvenile has committed an offense that would be a crime if committed as an adult, that the victim of the offense is a student or staff member of the school, and that notice to the school is reasonably necessary for the protection of the victim; or

(2) the agency has probable cause to believe that the juvenile has committed an offense described in subdivision 1b, paragraph (a), clauses (1) to (3), that would be a crime if committed by an adult, regardless of whether the victim is a student or staff member of the school.

A law enforcement agency is not required to notify the school under this paragraph if the agency determines that notice would jeopardize an ongoing investigation. Notwithstanding section 138.17, data from a notice received from a law enforcement agency under this paragraph must be destroyed when the juvenile graduates from the school or at the end of the academic year when the juvenile reaches age 23, whichever date is earlier. For purposes of this paragraph, "school" means a public or private elementary, middle, or secondary school.

(f) In any county in which the county attorney operates or authorizes the operation of a juvenile prepetition or pretrial diversion program, a law enforcement agency or county attorney's office may provide the juvenile diversion program with data concerning a juvenile who is a participant in or is being considered for participation in the program.

(g) Upon request of a local social service agency, peace officer records of children who are or may be delinquent or who may be engaged in criminal acts may be disseminated to the agency to promote the best interests of the subject of the data.

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.

Subd. 5. **Further release of records.** A person who receives access to juvenile court or peace officer records of children that are not accessible to the public may not release or dis-

close the records to any other person except as authorized by law. This subdivision does not apply to the child who is the subject of the records or the child's parent or guardian.

History: *1959 c 685 s 23; 1961 c 576 s 11; 1963 c 516 s 7; 1967 c 75 s 1; 1980 c 580 s 16; 1985 c 161 s 1; 1986 c 444; 1987 c 123 s 4; 1987 c 295 s 6; 1987 c 331 s 4; 1988 c 670 s 12; 1988 c 691 s 5; 1989 c 224 s 1; 1989 c 278 s 2; 1989 c 351 s 17; 1990 c 542 s 13; 1990 c 573 s 22; 1990 c 579 s 2; 1991 c 319 s 17; 1992 c 571 art 7 s 4,5; art 13 s 3; 1993 c 351 s 30,31; 1994 c 576 s 22–24; 1994 c 618 art 1 s 31–34; 1994 c 636 art 4 s 10–13; 1995 c 226 art 3 s 26; 1995 c 259 art 3 s 4; 1996 c 408 art 6 s 6; 1996 c 440 art 1 s 45,46*

DETENTION

260.165 TAKING CHILD INTO CUSTODY.

Subdivision 1. No child may be taken into immediate custody except:

(a) With an order issued by the court in accordance with the provisions of section 260.135, subdivision 5, or by a warrant issued in accordance with the provisions of section 260.145; or

(b) In accordance with the laws relating to arrests; or

(c) By a peace officer

(1) when a child has run away from a parent, guardian, or custodian, or when the peace officer reasonably believes the child has run away from a parent, guardian, or custodian; or

(2) when a child is found in surroundings or conditions which endanger the child's health or welfare or which such peace officer reasonably believes will endanger the child's health or welfare. If an Indian child is a resident of a reservation or is domiciled on a reservation but temporarily located off the reservation, the taking of the child into custody under this clause shall be consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1922;

(d) By a peace officer or probation or parole officer when it is reasonably believed that the child has violated the terms of probation, parole, or other field supervision; or

(e) By a peace officer or probation officer under section 260.132, subdivision 4.

Subd. 2. The taking of a child into custody under the provisions of this section shall not be considered an arrest.

Subd. 3. **Notice to parent or custodian.** Whenever a peace officer takes a child into custody for shelter care or relative placement pursuant to subdivision 1; section 260.135, subdivision 5; or section 260.145, the officer shall give the parent or custodian of the child a list of names, addresses, and telephone numbers of social service agencies that offer child welfare services. If the parent or custodian was not present when the child was removed from the residence, the list shall be left with an adult on the premises or left in a conspicuous place on the premises if no adult is present. If the officer has reason to believe the parent or custodian is not able to read and understand English, the officer must provide a list that is written in the language of the parent or custodian. The list shall be prepared by the commissioner of human services. The commissioner shall prepare lists for each county and provide each county with copies of the list without charge. The list shall be reviewed annually by the commissioner and updated if it is no longer accurate. Neither the commissioner nor any peace officer or the officer's employer shall be liable to any person for mistakes or omissions in the list. The list does not constitute a promise that any agency listed will in fact assist the parent or custodian.

History: *1959 c 685 s 24; 1963 c 516 s 8; 1986 c 444; 1989 c 235 s 13; 1991 c 292 art 5 s 70; 1994 c 636 art 4 s 14; 1996 c 421 s 6*

260.17 [Repealed, 1959 c 685 s 53]

260.171 RELEASE OR DETENTION.

Subdivision 1. If a child is taken into custody as provided in section 260.165, the parent, guardian, or custodian of the child shall be notified as soon as possible. Unless there is reason

to believe that the child would endanger self or others, not return for a court hearing, run away from the child's parent, guardian, or custodian or otherwise not remain in the care or control of the person to whose lawful custody the child is released, or that the child's health or welfare would be immediately endangered, the child shall be released to the custody of a parent, guardian, custodian, or other suitable person. When a child is taken into custody by a peace officer under section 260.165, subdivision 1, clause (c)(2), release from detention may be authorized by the detaining officer, the detaining officer's supervisor, or the county attorney. If the social service agency has determined that the child's health or welfare will not be endangered and the provision of appropriate and available services will eliminate the need for placement, the agency shall request authorization for the child's release from detention. The person to whom the child is released shall promise to bring the child to the court, if necessary, at the time the court may direct. If the person taking the child into custody believes it desirable, that person may request the parent, guardian, custodian, or other person designated by the court to sign a written promise to bring the child to court as provided above. The intentional violation of such a promise, whether given orally or in writing, shall be punishable as contempt of court.

The court may require the parent, guardian, custodian, or other person to whom the child is released, to post any reasonable bail or bond required by the court which shall be forfeited to the court if the child does not appear as directed. The court may also release the child on the child's own promise to appear in juvenile court.

Subd. 2. (a) If the child is not released as provided in subdivision 1, the person taking the child into custody shall notify the court as soon as possible of the detention of the child and the reasons for detention.

(b) No child may be detained in a juvenile secure detention facility or shelter care facility longer than 36 hours, excluding Saturdays, Sundays, and holidays, after being taken into custody for a delinquent act as defined in section 260.015, subdivision 5, unless a petition has been filed and the judge or referee determines pursuant to section 260.172 that the child shall remain in detention.

(c) No child may be detained in an adult jail or municipal lockup longer than 24 hours, excluding Saturdays, Sundays, and holidays, or longer than six hours in an adult jail or municipal lockup in a standard metropolitan statistical area, after being taken into custody for a delinquent act as defined in section 260.015, subdivision 5, unless:

(1) a petition has been filed under section 260.131; and

(2) a judge or referee has determined under section 260.172 that the child shall remain in detention.

After August 1, 1991, no child described in this paragraph may be detained in an adult jail or municipal lockup longer than 24 hours, excluding Saturdays, Sundays, and holidays, or longer than six hours in an adult jail or municipal lockup in a standard metropolitan statistical area, unless the requirements of this paragraph have been met and, in addition, a motion to refer the child for adult prosecution has been made under section 260.125. Notwithstanding this paragraph, continued detention of a child in an adult detention facility outside of a standard metropolitan statistical area county is permissible if:

(i) the facility in which the child is detained is located where conditions of distance to be traveled or other ground transportation do not allow for court appearances within 24 hours. A delay not to exceed 48 hours may be made under this clause; or

(ii) the facility is located where conditions of safety exist. Time for an appearance may be delayed until 24 hours after the time that conditions allow for reasonably safe travel. "Conditions of safety" include adverse life-threatening weather conditions that do not allow for reasonably safe travel.

The continued detention of a child under clause (i) or (ii) must be reported to the commissioner of corrections.

(d) No child taken into custody and placed in a shelter care facility or relative's home by a peace officer pursuant to section 260.165, subdivision 1, clause (a) or (c)(2) may be held in custody longer than 72 hours, excluding Saturdays, Sundays and holidays, unless a petition has been filed and the judge or referee determines pursuant to section 260.172 that the child shall remain in custody.

(e) If a child described in paragraph (c) is to be detained in a jail beyond 24 hours, excluding Saturdays, Sundays, and holidays, the judge or referee, in accordance with rules and procedures established by the commissioner of corrections, shall notify the commissioner of the place of the detention and the reasons therefor. The commissioner shall thereupon assist the court in the relocation of the child in an appropriate juvenile secure detention facility or approved jail within the county or elsewhere in the state, or in determining suitable alternatives. The commissioner shall direct that a child detained in a jail be detained after eight days from and including the date of the original detention order in an approved juvenile secure detention facility with the approval of the administrative authority of the facility. If the court refers the matter to the prosecuting authority pursuant to section 260.125, notice to the commissioner shall not be required.

Subd. 3. [Repealed, 1976 c 318 s 18]

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, that person 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 the child is being placed in a juvenile secure detention facility or a shelter care facility; and

(b) of the location of the juvenile 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 juvenile 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 parents and an attorney or guardian ad litem from the juvenile 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 juvenile 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 for acts defined in section 260.015, subdivision 5, at an adult jail or municipal lockup longer than 24 hours, excluding Saturdays, Sundays, and holidays, or longer than six hours if the adult jail or municipal lockup is in a standard metropolitan statistical area, unless a petition has been filed and the court orders the child's continued detention under section 260.172; and

(g) 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

(h) of the date, time, and place of the detention hearing, if this information is available to the person who has taken the child into custody; and

(i) 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 child in need of protection or services, neglected and in foster care, or termination of parental rights matter.

After August 1, 1991, the child's parent, guardian, or custodian shall also be informed under clause (f) that the child may not be detained in an adult jail or municipal lockup longer than 24 hours, excluding Saturdays, Sundays, and holidays, or longer than six hours if the adult jail or municipal lockup is in a standard metropolitan statistical area, unless a motion to refer the child for adult prosecution has been made within that time period.

Subd. 5. If a child is to be detained in a secure detention facility or shelter care facility, the child shall be promptly transported to the facility in a manner approved by the facility or

by securing a written transportation order from the court authorizing transportation by the sheriff or other qualified person. The person who has determined that the child should be detained shall deliver to the court and the supervisor of the secure detention facility or shelter care facility where the child is placed, a signed report, setting forth:

(a) the time the child was taken into custody; and

(b) the time the child was delivered for transportation to the secure detention facility or shelter care facility; and

(c) the reasons why the child was taken into custody; and

(d) the reasons why the child has been placed in detention; and

(e) a statement that the child and the child's parent have received the notification required by subdivision 4 or the reasons why they have not been so notified; and

(f) any instructions required by subdivision 5a.

Subd. 5a. **Shelter care; notice to parent.** When a child is to be placed in a shelter care facility the person taking the child into custody or the court shall determine whether or not there is reason to believe that disclosure of the shelter care facility's location to the child's parent, guardian, or custodian would immediately endanger the health and welfare of the child. If there is reason to believe that the child's health and welfare would be immediately endangered, disclosure of the location shall not be made. This determination shall be included in the report required by subdivision 5, along with instructions to the shelter care facility to notify or withhold notification.

Subd. 6. (a) When a child has been delivered to a secure detention facility, the supervisor of the facility shall deliver to the court a signed report acknowledging receipt of the child stating the time of the child's arrival. The supervisor of the facility shall ascertain from the report of the person who has taken the child into custody whether the child and a parent, guardian, or custodian have received the notification required by subdivision 4. If the child or a parent, guardian or custodian, or both, have not been so notified, the supervisor of the facility shall immediately make the notification, and shall include in the report to the court a statement that notification has been received or the reasons why it has not.

(b) When a child has been delivered to a shelter care facility, the supervisor of the facility shall deliver to the court a signed report acknowledging receipt of the child stating the time of the child's arrival. The supervisor of the facility shall ascertain from the report of the person who has taken the child into custody whether the child's parent, guardian or custodian has been notified of the placement of the child at the shelter care facility and its location, and the supervisor shall follow any instructions concerning notification contained in that report.

History: *1959 c 685 s 25; 1969 c 556 s 1; 1971 c 590 s 1; 1976 c 318 s 9–13; 1977 c 330 s 3–5; 1977 c 347 s 41; 1978 c 637 s 1; 1982 c 469 s 3–7; 1985 c 286 s 6; 1986 c 444; 1988 c 673 s 22,23; 1989 c 147 s 1,2; 1989 c 235 s 14; 1990 c 542 s 14; 1996 c 408 art 6 s 7; 1996 c 421 s 7*

260.172 DETENTION HEARING.

Subdivision 1. **Hearing and release requirements.** (a) If a child was taken into custody under section 260.165, subdivision 1, clause (a) or (c)(2), the court shall hold a hearing within 72 hours of the time the child was taken into custody, excluding Saturdays, Sundays, and holidays, to determine whether the child should continue in custody.

(b) In all other cases, the court shall hold a detention hearing:

(1) within 36 hours of the time the child was taken into custody, excluding Saturdays, Sundays, and holidays, if the child is being held at a juvenile secure detention facility or shelter care facility; or

(2) within 24 hours of the time the child was taken into custody, excluding Saturdays, Sundays, and holidays, if the child is being held at an adult jail or municipal lockup.

(c) Unless there is reason to believe that the child would endanger self or others, not return for a court hearing, run away from the child's parent, guardian, or custodian or otherwise not remain in the care or control of the person to whose lawful custody the child is released, or that the child's health or welfare would be immediately endangered, the child shall be released to the custody of a parent, guardian, custodian, or other suitable person, subject to

reasonable conditions of release including, but not limited to, a requirement that the child undergo a chemical use assessment as provided in section 260.151, subdivision 1. In determining whether the child's health or welfare would be immediately endangered, the court shall consider whether the child would reside with a perpetrator of domestic child abuse. In a proceeding regarding a child in need of protection or services, the court, before determining whether a child should continue in custody, shall also make a determination, consistent with section 260.012 as to whether reasonable efforts, or in the case of an Indian child, active efforts, according to the Indian Child Welfare Act of 1978, United States Code, title 25, section 1912(d), were made to prevent placement or to reunite the child with the child's family, or that reasonable efforts were not possible. The court shall also determine whether there are available services that would prevent the need for further detention.

If the court finds the social services agency's preventive or reunification efforts have not been reasonable but further preventive or reunification efforts could not permit the child to safely remain at home, the court may nevertheless authorize or continue the removal of the child.

Subd. 2. If the court determines that the child should continue in detention, it may order detention continued for eight days, excluding Saturdays, Sundays and holidays, from and including the date of the order. Unless a motion to refer the child for adult prosecution is pending, a child who has been detained in an adult jail or municipal lockup and for whom continued detention is ordered, must be transferred to a juvenile secure detention facility or shelter care facility. The court shall include in its order the reasons for continued detention and the findings of fact which support these reasons.

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 as an alleged 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.

Subd. 3. Copies of the court's order shall be served upon the parties, including the supervisor of the detention facility, who shall release the child or continue to hold the child as the court orders.

When the court's order is served upon these parties, notice shall also be given to the parties of the subsequent reviews provided by subdivision 4. The notice shall also inform each party of the right to submit to the court for informal review any new evidence regarding whether the child should be continued in detention and to request a hearing to present the evidence to the court.

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 of a wish to present to the court new evidence concerning whether the child should be continued in detention or notifies the court of a wish to present an alternate placement arrangement to provide for the safety and protection of the child.

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 un-

der 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. However, if good cause is shown by a party to the proceeding why the hearing should not be held within that time period, the hearing shall be held within 90 days, unless the parties agree otherwise and the court so orders.

History: *1976 c 318 s 14; 1977 c 330 s 6–9; 1982 c 469 s 8; 1985 c 286 s 7–9; 1986 c 444; 1988 c 673 s 24; 1989 c 113 s 3; 1989 c 147 s 3,4; 1989 c 235 s 15,16; 1992 c 571 art 7 s 6*

260.173 PLACE OF TEMPORARY CUSTODY; SHELTER CARE FACILITY.

Subdivision 1. A child taken into custody pursuant to section 260.165 may be detained for up to 24 hours in a shelter care facility, secure detention facility, or, if there is no secure detention facility available for use by the county having jurisdiction over the child, in a jail or other facility for the confinement of adults who have been charged with or convicted of a crime in quarters separate from any adult confined in the facility which has been approved for the detention of juveniles by the commissioner of corrections. At the end of the 24 hour detention any child requiring further detention may be detained only as provided in this section.

Subd. 2. Notwithstanding the provisions of subdivision 1, if the child had been taken into custody pursuant to section 260.165, subdivision 1, clause (a) or clause (c)(2), and is not alleged to be delinquent, the child shall be detained in the least restrictive setting consistent with the child's health and welfare and in closest proximity to the child's family as possible. Placement may be with a child's relative, a designated parent under chapter 257A, or in a shelter care facility. The placing officer shall comply with this section and shall document why a less restrictive setting will or will not be in the best interests of the child for placement purposes.

Subd. 3. **Placement.** If the child had been taken into custody and detained as one who is alleged to be delinquent, in need of protection or services under section 260.015, subdivision 2a, clause (11) or (12), or a juvenile petty offender by reason of:

(a) Having committed an offense which would not constitute a violation of a state law or local ordinance if the child were an adult; or

(b) Having been previously adjudicated delinquent, in need of protection or services under section 260.015, subdivision 2a, clause (11) or (12), or a juvenile petty offender, or conditionally released by the juvenile court without adjudication, has violated probation, parole, or other field supervision under which the child had been placed as a result of behavior described in this subdivision; the child may be placed only in a shelter care facility.

Subd. 4. If a child is taken into custody as one who:

(a) has allegedly committed an act which would constitute a violation of a state law or a local ordinance if the child were an adult; or

(b) is reasonably believed to have violated the terms of probation, parole, or other field supervision under which the child had been placed as a result of behavior described under clause (a);

the child may be detained in a shelter care or secure juvenile detention facility. If the child cannot be detained in another type of detention facility, and if there is no secure juvenile detention facility or existing acceptable detention alternative available for juveniles within the county, a child described in this subdivision may be detained up to 24 hours, excluding Saturdays, Sundays, and holidays, or up to six hours in a standard metropolitan statistical area, in a jail, lockup or other facility used for the confinement of adults who have been charged with or convicted of a crime, in quarters separate from any adult confined in the facility which has been approved for the detention of juveniles by the commissioner of corrections. If continued detention in an adult jail is approved by the court under section 260.172, subdivision 2, and there is no juvenile secure detention facility available for use by the county having jurisdiction over the child, such child may be detained for no more than eight days from and including the date of the original detention order in separate quarters in any jail or other adult facility for the confinement of persons charged with or convicted of crime which has been approved by the commissioner of corrections to be suitable for the detention

of juveniles for up to eight days. Except for children who have been referred for prosecution pursuant to section 260.125, and as hereinafter provided, any child requiring secure detention for more than eight days from and including the date of the original detention order must be removed to an approved secure juvenile detention facility. A child 16 years of age or older against whom a motion to refer for prosecution is pending before the court may be detained for more than eight days in separate quarters in a jail or other facility which has been approved by the commissioner of corrections for the detention of juveniles for up to eight days after a hearing and subject to the periodic reviews provided in section 260.172. No child under the age of 14 may be detained in a jail, lockup or other facility used for the confinement of adults who have been charged with or convicted of a crime.

Subd. 5. In order for a child to be detained at a state correctional institution for juveniles, the commissioner of corrections must first consent thereto, and the county must agree to pay the costs of the child's detention.

Where the commissioner directs that a child be detained in an approved juvenile facility with the approval of the administrative authority of the facility as provided in section 260.171, subdivision 2, or subdivision 4 of this section, the costs of such detention shall be a charge upon the county for which the child is being detained.

History: *1976 c 318 s 15; 1978 c 637 s 2; 1982 c 544 s 13; 1982 c 596 s 1; 1986 c 444; 1988 c 673 s 25; 1989 c 147 s 5; 1989 c 235 s 17; 1996 c 421 s 8; 1996 c 455 art 6 s 14*

260.1735 EXTENSION OF DETENTION PERIOD.

Before July 1, 1997, and pursuant to a request from an eight–day temporary holdover facility, as defined in section 241.0221, the commissioner of corrections, or the commissioner's designee, may grant a one–time extension per child to the eight–day limit on detention under this chapter. This extension may allow such a facility to detain a child for up to 30 days including weekends and holidays. Upon the expiration of the extension, the child may not be transferred to another eight–day temporary holdover facility. The commissioner shall develop criteria for granting extensions under this section. These criteria must ensure that the child be transferred to a long–term juvenile detention facility as soon as such a transfer is possible. Nothing in this section changes the requirements in section 260.172 regarding the necessity of detention hearings to determine whether continued detention of the child is proper.

History: *1995 c 226 art 3 s 27*

260.174 CHILDREN IN CUSTODY; RESPONSIBILITY FOR MEDICAL CARE.

Subdivision 1. **Medical aid.** If a child is taken into custody as provided in section 260.165 and detained in a local juvenile secure detention facility or shelter care facility, or if a child is sentenced by the juvenile court to a local correctional facility as defined in section 241.021, subdivision 1, paragraph (5), the child's county of residence shall pay the costs of medical services provided to the child during the period of time the child is residing in the facility. The county of residence is entitled to reimbursement from the child or the child's family for payment of medical bills to the extent that the child or the child's family has the ability to pay for the medical services. If there is a disagreement between the county and the child or the child's family concerning the ability to pay or whether the medical services were necessary, the court with jurisdiction over the child shall determine the extent, if any, of the child's or the family's ability to pay for the medical services or whether the services are necessary. If the child is covered by health or medical insurance or a health plan when medical services are provided, the county paying the costs of medical services has a right of subrogation to be reimbursed by the insurance carrier or health plan for all amounts spent by it for medical services to the child that are covered by the insurance policy or health plan, in accordance with the benefits, limitations, exclusions, provider restrictions, and other provisions of the policy or health plan. The county may maintain an action to enforce this subrogation right. The county does not have a right of subrogation against the medical assistance program, the MinnesotaCare program, or the general assistance medical care program.

Subd. 2. **Intake procedure; health coverage.** As part of its intake procedure for children, the official having custody over the child shall ask the child or the child's family, as

appropriate, whether the child has health coverage. If the child has coverage under a policy of accident and health insurance regulated under chapter 62A, a health maintenance contract regulated under chapter 62D, a group subscriber contract regulated under chapter 62C, a health benefit certificate regulated under chapter 64B, a self–insured plan, or other health coverage, the child or the child's family, as appropriate, shall provide to the official having custody over the child the name of the carrier or administrator and other information and authorizations necessary for the official having custody over the child to obtain specific information about coverage.

Subd. 3. **Obtaining health care in compliance with coverage.** A county board may authorize the officials having custody over children to fulfill the county board's obligation to provide the medical aid required by subdivision 1 in accordance with the terms of the health plan covering the child, where possible, subject to any rules and exceptions provided by the county board. The official having custody over a child has no obligation to the child or to the child's family to obtain the child's health care in accordance with the child's health coverage.

Subd. 4. **Scope.** Subdivisions 1, 2, and 3 apply to any medical aid, including dental care, provided to children held in custody by the county as described in subdivision 1.

History: *1991 c 310 s 1; 1995 c 234 art 8 s 56*

260.175 [Repealed, 1976 c 318 s 18]

DISPOSITIONS

260.18 [Repealed, 1959 c 685 s 53]

260.181 DISPOSITIONS; GENERAL PROVISIONS.

Subdivision 1. **Dismissal of petition.** Whenever the court finds that the minor is not within the jurisdiction of the court or that the facts alleged in the petition have not been proved, it shall dismiss the petition.

Subd. 2. **Consideration of reports.** Before making a disposition in a case, or terminating parental rights, or appointing a guardian for a child the court may consider any report or recommendation made by the local social services agency, probation officer, licensed child–placing agency, foster parent, guardian ad litem, tribal representative, or other authorized advocate for the child or child's family, a school district concerning the effect on student transportation of placing a child in a school district in which the child is not a resident, or any other information deemed material by the court.

Subd. 3. **Protection of heritage or background.** The policy of the state is to ensure that the best interests of children are met by requiring due, not sole, consideration of the child's race or 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 related to the child by blood, marriage, or adoption, or if that would be detrimental to the child or a relative is not available, who (b) is an important friend with whom the child has resided or had significant contact, or if that is not possible, who (c) is of the same racial or ethnic heritage as the child, or if that is not possible, who (d) is knowledgeable and appreciative of the child's racial or ethnic heritage.

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

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

Subd. 3a. **Reports; juveniles placed out of state.** (a) Whenever a child is placed in a residential program located outside of this state pursuant to a disposition order issued under

section 260.185 or 260.191, the juvenile court administrator shall report the following information to the state court administrator:

(1) the fact that the placement is out of state;

(2) the type of placement; and

(3) the reason for the placement.

(b) By July 1, 1994, and each year thereafter, the state court administrator shall file a report with the legislature containing the information reported under paragraph (a) during the previous calendar year.

Subd. 4. **Termination of jurisdiction.** (a) The court may dismiss the petition or otherwise terminate its jurisdiction on its own motion or on the motion or petition of any interested party at any time. Unless terminated by the court, and except as otherwise provided in this subdivision, the jurisdiction of the court shall continue until the individual becomes 19 years of age if the court determines it is in the best interest of the individual to do so. Court jurisdiction under section 260.015, subdivision 2a, clause (12), may not continue past the child's 17th birthday.

(b) The jurisdiction of the court over an extended jurisdiction juvenile, with respect to the offense for which the individual was convicted as an extended jurisdiction juvenile, extends until the offender becomes 21 years of age, unless the court terminates jurisdiction before that date.

(c) The juvenile court has jurisdiction to designate the proceeding an extended jurisdiction juvenile prosecution, to hold a certification hearing, or to conduct a trial, receive a plea, or impose a disposition under section 260.126, subdivision 4, if:

(1) an adult is alleged to have committed an offense before the adult's 18th birthday; and

(2) a petition is filed under section 260.131 before expiration of the time for filing under section 628.26 and before the adult's 21st birthday.

The juvenile court lacks jurisdiction under this paragraph if the adult demonstrates that the delay was purposefully caused by the state in order to gain an unfair advantage.

(d) The district court has original and exclusive jurisdiction over a proceeding:

(1) that involves an adult who is alleged to have committed an offense before the adult's 18th birthday; and

(2) in which a criminal complaint is filed before expiration of the time for filing under section 628.26 and after the adult's 21st birthday.

The juvenile court retains jurisdiction if the adult demonstrates that the delay in filing a criminal complaint was purposefully caused by the state in order to gain an unfair advantage.

(e) The juvenile court has jurisdiction over a person who has been adjudicated delinquent until the person's 21st birthday if the person fails to appear at any juvenile court hearing or fails to appear at or absconds from any placement under a juvenile court order. The juvenile court has jurisdiction over a convicted extended jurisdiction juvenile who fails to appear at any juvenile court hearing or fails to appear at or absconds from any placement under section 260.126, subdivision 4. The juvenile court lacks jurisdiction under this paragraph if the adult demonstrates that the delay was purposefully caused by the state in order to gain an unfair advantage.

History: *1959 c 685 s 27; 1963 c 516 s 9; 1974 c 544 s 1; 1978 c 602 s 9; 1982 c 615 s 4; 1983 c 278 s 12; 1988 c 673 s 26; 1988 c 689 art 2 s 218; 1989 c 235 s 18; 1992 c 557 s 7; 1992 c 571 art 7 s 7; 1993 c 291 s 16; 1994 c 576 s 25; 1994 c 631 s 31; 1994 c 647 art 2 s 5; 1995 c 226 art 3 s 28; 1996 c 416 s 15*

260.185 DISPOSITIONS; DELINQUENT CHILD.

Subdivision 1. **Court order, findings, remedies, treatment.** 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 the parents, guardian, or custodian;

(b) Place the child under the supervision of a probation officer or other suitable person in the child's own home under conditions prescribed by the court including reasonable rules

for the child's conduct and the conduct of the child's 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 local social services agency; or

(3) a reputable individual of good moral character. No person may receive custody of two or more unrelated children unless licensed as a residential facility pursuant to sections 245A.01 to 245A.16; or

(4) 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) 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 person or 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 $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;

(g) If the child is in need of special treatment and care for reasons of 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 the child's 18th birthday, the court may recommend to the commissioner of public safety 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 public safety that the child be authorized to apply for a new license, and the commissioner may so authorize.

If the child is petitioned and found by the court to have committed a controlled substance offense under sections 152.021 to 152.027, the court shall determine whether the child unlawfully possessed or sold the controlled substance while driving a motor vehicle. If so, the court shall notify the commissioner of public safety of its determination and order the commissioner to revoke the child's driver's license for the applicable time period specified in section 152.0271. If the child does not have a driver's license or if the child's driver's license is suspended or revoked at the time of the delinquency finding, the commissioner shall, upon the child's application for driver's license issuance or reinstatement, delay the issuance or reinstatement of the child's driver's license for the applicable time period specified in section 152.0271. Upon receipt of the court's order, the commissioner is authorized to take the licensing action without a hearing.

If the child is petitioned and found by the court to have committed or attempted to commit an act in violation of section 609.342; 609.343; 609.344; 609.345; 609.3451; 609.746, subdivision 1; 609.79; or 617.23, or another offense arising out of a delinquency petition based on one or more of those sections, the court shall order an independent professional assessment of the child's need for sex offender treatment. An assessor providing an assessment for the court must be experienced in the evaluation and treatment of juvenile sex offenders. If the assessment indicates that the child is in need of and amenable to sex offender treatment, the court shall include in its disposition order a requirement that the child undergo treatment. Notwithstanding section 13.42, 13.85, 144.335, 260.161, or 626.556, the assessor has access to the following private or confidential data on the child if access is relevant and necessary for the assessment:

(1) medical data under section 13.42;

(2) corrections and detention data under section 13.85;

(3) health records under section 144.335;

(4) juvenile court records under section 260.161; and

(5) local welfare agency records under section 626.556.

Data disclosed under this paragraph may be used only for purposes of the assessment and may not be further disclosed to any other person, except as authorized by law.

If the child is found delinquent due to the commission of an offense that would be a felony if committed by an adult, the court shall make a specific finding on the record regarding the juvenile's mental health and chemical dependency treatment needs.

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.

Subd. 1a. **Possession of firearm or dangerous weapon.** If the child is petitioned and found delinquent by the court, and the court also finds that the child was in possession of a firearm at the time of the offense, in addition to any other disposition the court shall order that the firearm be immediately seized and shall order that the child be required to serve at least 100 hours of community work service unless the child is placed in a residential treatment program or a juvenile correctional facility. If the child is petitioned and found delinquent by the court, and the court finds that the child was in possession of a dangerous weapon in a school zone, as defined in section 152.01, subdivision 14a, clauses (1) and (3), at the time of the offense, the court also shall order that the child's driver's license be canceled or driving privileges denied until the child's 18th birthday. The court shall send a copy of its order to the commissioner of public safety and, upon receipt of the order, the commissioner is authorized to cancel the child's driver's license or deny the child's driving privileges without a hearing.

Subd. 1b. **Commitment to secure facility; length of stay; transfers.** An adjudicated juvenile may not be placed in a licensed juvenile secure treatment facility unless the placement is approved by the juvenile court. However, the program administrator may determine the juvenile's length of stay in the secure portion of the facility. The administrator shall notify the court of any movement of juveniles from secure portions of facilities. However, the court may, in its discretion, order that the juveniles be moved back to secure portions of the facility.

Subd. 1c. **Placement of juveniles in secure facilities; requirements.** Before a postadjudication placement of a juvenile in a secure treatment facility either inside or outside the state, the court may:

(1) consider whether the juvenile has been adjudicated for a felony offense against the person or that in addition to the current adjudication, the juvenile has failed to appear in court on one or more occasions or has run away from home on one or more occasions;

(2) conduct a subjective assessment to determine whether the child is a danger to self or others or would abscond from a nonsecure facility or if the child's health or welfare would be endangered if not placed in a secure facility;

(3) conduct a culturally appropriate psychological evaluation which includes a functional assessment of anger and abuse issues; and

(4) conduct an educational and physical assessment of the juvenile.

In determining whether to order secure placement, the court shall consider the necessity of:

(1) protecting the public;

(2) protecting program residents and staff; and

(3) preventing juveniles with histories of absconding from leaving treatment programs.

Subd. 2. Except when legal custody is transferred under the provisions of subdivision 1, clause (d), the court may expunge the adjudication of delinquency at any time that it deems advisable.

Subd. 3. **Continuance.** When it is in the best interests of the child to do so and when the child has admitted the allegations contained in the petition before the judge or referee, or

when a hearing has been held as provided for in section 260.155 and the allegations contained in the petition have been duly proven but, in either case, before a finding of delinquency has been entered, the court may continue the case for a period not to exceed 90 days on any one order. Such a continuance may be extended for one additional successive period not to exceed 90 days and only after the court has reviewed the case and entered its order for an additional continuance without a finding of delinquency. During this continuance the court may enter an order in accordance with the provisions of subdivision 1, clause (a) or (b) or enter an order to hold the child in detention for a period not to exceed 15 days on any one order for the purpose of completing any consideration, or any investigation or examination ordered in accordance with the provisions of section 260.151. This subdivision does not apply to an extended jurisdiction juvenile proceeding.

Subd. 3a. **Enforcement of restitution orders.** If the court orders payment of restitution and the child fails to pay the restitution in accordance with the payment schedule or structure established by the court or the probation officer, the child's probation officer may, on the officer's own motion or at the request of the victim, file a petition for violation of probation or ask the court to hold a hearing to determine whether the conditions of probation should be changed. The child's probation officer shall ask for the hearing if the restitution ordered has not been paid prior to 60 days before the term of probation expires. The court shall schedule and hold this hearing before the child's term of probation expires.

Subd. 4. **Orders for supervision.** All orders for supervision under subdivision 1, clause (b) shall be for an indeterminate period unless otherwise specified by the court, and shall be reviewed by the court at least annually. All orders under subdivision 1, clause (c) shall be for a specified length of time set by the court. However, before an order has expired and upon the court's own motion or that of any interested party, the court has continuing jurisdiction to renew the order or, after notice to the parties and a hearing, make some other disposition of the case, until the individual becomes 19 years of age. Any person to whom legal custody is transferred shall report to the court in writing at such periods as the court may direct.

Subd. 5. **Transfer of legal custody orders.** When the court transfers legal custody of a child to any licensed child-placing agency, county home school, local social services agency, or the commissioner of corrections, it shall transmit with the order transferring legal custody a copy of its findings and a summary of its information concerning the child.

Subd. 6. **Out-of-state placements.** (a) A court may not place a preadjudicated delinquent, an adjudicated delinquent, or a convicted extended jurisdiction juvenile in a residential or detention facility outside Minnesota unless the commissioner of corrections has certified that the facility:

(1) meets or exceeds the standards for Minnesota residential treatment programs set forth in rules adopted by the commissioner of human services or the standards for juvenile residential facilities set forth in rules adopted by the commissioner of corrections or the standards for juvenile detention facilities set forth in rules adopted by the commissioner of corrections, as provided under paragraph (b); and

(2) provides education, health, dental, and other necessary care equivalent to that which the child would receive if placed in a Minnesota facility licensed by the commissioner of corrections or commissioner of human services.

(b) The interagency licensing agreement between the commissioners of corrections and human services shall be used to determine which rule shall be used for certification purposes under this subdivision.

(c) The commissioner of corrections may charge each facility evaluated a reasonable amount. Money received is annually appropriated to the commissioner of corrections to defray the costs of the certification program.

Subd. 7. **Placement in juvenile facility.** A person who has reached the age of 20 may not be kept in a residential facility licensed by the commissioner of corrections together with

persons under the age of 20. The commissioner may adopt criteria for allowing exceptions to this prohibition.

History: *1959 c 685 s 28; 1961 c 576 s 12,13; 1969 c 769 s 1; 1969 c 1019 s 1; 1973 c 654 s 15; 1974 c 469 s 2; 1975 c 271 s 6; 1976 c 150 s 1; 1976 c 166 s 7; 1978 c 657 s 1; 1978 c 778 s 2; 1980 c 580 s 17; 1983 c 216 art 1 s 40; 1983 c 274 s 18; 1984 c 628 art 3 s 11; 1984 c 655 art 1 s 43; 1986 c 444; 1987 c 331 s 5; 1989 c 21 s 1,2; 1989 c 209 art 2 s 1; 1989 c 290 art 4 s 6; 1990 c 426 art 1 s 35; 1992 c 571 art 1 s 9; art 7 s 8,9; 1993 c 326 art 1 s 2; art 8 s 13; 1993 c 347 s 20; 1994 c 576 s 26–28; 1994 c 631 s 31; 1995 c 185 s 4; 1995 c 226 art 3 s 29,30*

260.19 [Repealed, 1959 c 685 s 53]

260.191 DISPOSITIONS; CHILDREN WHO ARE IN NEED OF PROTECTION OR SERVICES OR NEGLECTED AND IN FOSTER CARE.

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

(1) place the child under the protective supervision of the local social services agency or child–placing agency in the child's own home under conditions prescribed by the court directed to the correction of the child's need for protection or services;

(2) transfer legal custody to one of the following:

(i) a child–placing agency; or

(ii) the local social services agency.

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

(3) if the child is in need of special treatment and care for reasons of 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 or is unable to provide this treatment or care, the court may order it provided. The court shall not transfer legal custody of the child for the purpose of obtaining special treatment or care solely because the parent is unable to provide the treatment or care. 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; or

(4) if the court believes that the child has sufficient maturity and judgment and that it is in the best interests of the child, the court may order a child 16 years old or older to be allowed to live independently, either alone or with others as approved by the court under supervision the court considers appropriate, if the county board, after consultation with the court, has specifically authorized this dispositional alternative for a child.

(b) If the child was adjudicated in need of protection or services because the child is a runaway or habitual truant, the court may order any of the following dispositions in addition to or as alternatives to the dispositions authorized under paragraph (a):

(1) counsel the child or the child's parents, guardian, or custodian;

(2) place the child under the supervision of a probation officer or other suitable person in the child's own home under conditions prescribed by the court, including reasonable rules for the child's conduct and the conduct of the 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, place the child in a group foster care facility which is under the commissioner's management and supervision;

(3) subject to the court's supervision, transfer legal custody of the child to one of the following:

(i) a reputable person of good moral character. No person may receive custody of two or more unrelated children unless licensed to operate a residential program under sections 245A.01 to 245A.16; or

(ii) 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;

(4) require the child to pay a fine of up to $100. The court shall order payment of the fine in a manner that will not impose undue financial hardship upon the child;

(5) require the child to participate in a community service project;

(6) order the child to undergo a chemical dependency evaluation and, if warranted by the evaluation, order participation by the child in a drug awareness program or an inpatient or outpatient chemical dependency treatment program;

(7) if the court believes that it is in the best interests of the child and of public safety that the child's driver's license or instruction permit be canceled, the court may order the commissioner of public safety to cancel the child's license or permit for any period up to the child's 18th birthday. If the child does not have a driver's license or permit, the court may order a denial of driving privileges for any period up to the child's 18th birthday. The court shall forward an order issued under this clause to the commissioner, who shall cancel the license or permit or deny driving privileges without a hearing for the period specified by the court. At any time before the expiration of the period of cancellation or denial, the court may, for good cause, order the commissioner of public safety to allow the child to apply for a license or permit, and the commissioner shall so authorize;

(8) order that the child's parent or legal guardian deliver the child to school at the beginning of each school day for a period of time specified by the court; or

(9) require the child to perform any other activities or participate in any other treatment programs deemed appropriate by the court.

(c) If a child who is 14 years of age or older is adjudicated in need of protection or services because the child is a habitual truant and truancy procedures involving the child were previously dealt with by a school attendance review board or county attorney mediation program under section 260A.06 or 260A.07, the court shall order a cancellation or denial of driving privileges under paragraph (b), clause (7), for any period up to the child's 18th birthday.

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;

(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; and

(d) Whether reasonable efforts consistent with section 260.012 were made to prevent or eliminate the necessity of the child's removal and to reunify the family after removal. The court's findings must include a brief description of what preventive and reunification efforts were made and why further efforts could not have prevented or eliminated the necessity of removal.

If the court finds that the social services agency's preventive or reunification efforts have not been reasonable but that further preventive or reunification efforts could not permit the child to safely remain at home, the court may nevertheless authorize or continue the removal of the child.

Subd. 1b. **Domestic child abuse.** If the court finds that the child is a victim of domestic child abuse, as defined in section 260.015, subdivision 24, it may order any of the following dispositions of the case in addition to or as alternatives to the dispositions authorized under subdivision 1:

(1) restrain any party from committing acts of domestic child abuse;

(2) exclude the abusing party from the dwelling which the family or household members share or from the residence of the child;

(3) on the same basis as is provided in chapter 518, establish temporary visitation with regard to minor children of the adult family or household members;

(4) on the same basis as is provided in chapter 518, establish temporary support or maintenance for a period of 30 days for minor children or a spouse;

(5) provide counseling or other social services for the family or household members; or

(6) order the abusing party to participate in treatment or counseling services.

Any relief granted by the order for protection shall be for a fixed period not to exceed one year.

However, no order excluding the 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;

(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; and

(3) the local welfare agency has developed a plan to provide appropriate social services to the remaining family or household members.

Subd. 1c. **Support orders.** If the court issues an order for protection pursuant to section 260.191, subdivision 1b, excluding an abusing party from the dwelling who is the parent of a minor family or household member, it shall transfer the case file to the court which has jurisdiction over proceedings under chapter 518 for the purpose of establishing support or maintenance for minor children or a spouse, as provided in chapter 518, during the effective period of the order for protection. The court to which the case file is transferred shall schedule and hold a hearing on the establishment of support or maintenance within 30 days of the issuance of the order for protection. After an order for support or maintenance has been granted or denied, the case file shall be returned to the juvenile court, and the order for support or maintenance, if any, shall be incorporated into the order for protection.

Subd. 1d. **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. The court shall set reasonable rules for visitation for any relatives as defined in section 260.181, subdivision 3, if visitation is consistent with the best interests of the child.

Subd. 1e. **Case plan.** For each disposition ordered, the court shall order the appropriate agency to prepare a written case plan developed after consultation with any foster parents, and consultation with and participation by the child and the child's parent, guardian, or custodian, guardian ad litem, and tribal representative if the tribe has intervened. The case plan shall comply with the requirements of section 257.071, where applicable. The case plan shall, among other matters, specify the actions to be taken by the child and the child's parent, guardian, foster parent, or custodian to comply with the court's disposition order, and the services to be offered and provided by the agency to the child and the child's parent, guardian, or custodian. The court shall review the case plan and, upon approving it, incorporate the plan into its disposition order. The court may review and modify the terms of the case plan in the manner provided in subdivision 2. For each disposition ordered, the written case plan shall specify what reasonable efforts shall be provided to the family. The case plan must include a discussion of:

(1) the availability of appropriate prevention and reunification services for the family to prevent the removal of the child from the home or to reunify the child with the family after removal;

(2) any services or resources that were requested by the child or the child's parent, guardian, foster parent, or custodian since the date of initial adjudication, and whether those services or resources were provided or the basis for denial of the services or resources;

(3) the need of the child and family for care, treatment, or rehabilitation;

(4) the need for participation by the parent, guardian, or custodian in the plan of care for the child;

(5) the visitation rights and obligations of the parent or other relatives, as defined in section 260.181, subdivision 3, during any period when the child is placed outside the home; and

(6) a description of any services that could prevent placement or reunify the family if such services were available.

A party has a right to request a court review of the reasonableness of the case plan upon a showing of a substantial change of circumstances.

Subd. 2. **Order duration.** Subject to subdivisions 3a and 3b, 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.

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.

Subd. 3. **Transfer of legal custody orders.** When the court transfers legal custody of a child to any licensed child–placing agency or the local social services agency, it shall transmit with the order transferring legal custody a copy of its findings and a summary of its information concerning the child.

Subd. 3a. **Court review of out–of–home placements.** If the court places a child in a residential facility, as defined in section 257.071, subdivision 1, the court shall review the out–of–home placement at least every six months to determine whether continued out–of–home placement is necessary and appropriate or whether the child should be returned home. The court shall review agency efforts pursuant to section 257.072, subdivision 1, and order that the efforts continue if the agency has failed to perform the duties under that section. The court shall review the case plan and may modify the case plan as provided under subdivisions 1e and 2. If the court orders continued out–of–home placement, the court shall notify the parents of the provisions of subdivision 3b.

Subd. 3b. **Review of court ordered placements; permanent placement determination.** (a) If the court places a child in a residential facility, as defined in section 257.071, subdivision 1, the court shall conduct a hearing to determine the permanent status of the child not later than 12 months after the child was placed out of the home of the parent. Not later than ten days prior to this hearing, the responsible social service agency shall file pleadings to establish the basis for the permanent placement determination. Notice of the hearing and copies of the pleadings must be provided pursuant to section 260.141. If a termination of parental rights petition is filed before the date required for the permanency planning determination, no hearing need be conducted under this section. The court shall determine whether the child is to be returned home or, if not, what permanent placement is consistent with the child's best interests. The "best interests of the child" means all relevant factors to be considered and evaluated.

If the child is not returned to the home, the dispositions available for permanent placement determination are:

(1) permanent legal and physical custody to a relative pursuant to the standards and procedures applicable under chapter 257 or 518. The social service agency may petition on behalf of the proposed custodian;

(2) termination of parental rights and adoption; the social service agency shall file a petition for termination of parental rights under section 260.231 and all the requirements of sections 260.221 to 260.245 remain applicable; or

(3) long–term foster care; transfer of legal custody and adoption are preferred permanency options for a child who cannot return home. The court may order a child into long–term foster care only if it finds that neither an award of legal and physical custody to a relative, nor termination of parental rights nor adoption is in the child's best interests. Further, the court may only order long–term foster care for the child under this section if it finds the following:

(i) the child has reached age 12 and reasonable efforts by the responsible social service agency have failed to locate an adoptive family for the child; or

(ii) the child is a sibling of a child described in clause (i) and the siblings have a significant positive relationship and are ordered into the same long–term foster care home.

(b) The court may extend the time period for determination of permanent placement to 18 months after the child was placed in a residential facility if:

(1) there is a substantial probability that the child will be returned home within the next six months;

(2) the agency has not made reasonable, or, in the case of an Indian child, active efforts, to correct the conditions that form the basis of the out–of–home placement; or

(3) extraordinary circumstances exist precluding a permanent placement determination, in which case the court shall make written findings documenting the extraordinary circumstances and order one subsequent review after six months to determine permanent placement. A court finding that extraordinary circumstances exist precluding a permanent placement determination must be supported by detailed factual findings regarding those circumstances.

(c) In ordering a permanent placement of a child, the court must be governed by the best interests of the child, including a review of the relationship between the child and relatives and the child and other important persons with whom the child has resided or had significant contact.

(d) Once a permanent placement determination has been made and permanent placement has been established, further reviews are only necessary if otherwise required by federal law, an adoption has not yet been finalized, or there is a disruption of the permanent or long–term placement. If required, reviews must take place no less frequently than every six months.

(e) An order under this subdivision must include the following detailed findings:

(1) how the child's best interests are served by the order;

(2) the nature and extent of the responsible social service agency's reasonable efforts, or, in the case of an Indian child, active efforts, to reunify the child with the parent or parents;

(3) the parent's or parents' efforts and ability to use services to correct the conditions which led to the out–of–home placement;

(4) whether the conditions which led to the out–of–home placement have been corrected so that the child can return home; and

(5) if the child cannot be returned home, whether there is a substantial probability of the child being able to return home in the next six months.

(f) An order for permanent legal and physical custody of a child may be modified under sections 518.18 and 518.185. The social service agency is a party to the proceeding and must receive notice. An order for long–term foster care is reviewable upon motion and a showing by the parent of a substantial change in the parent's circumstances such that the parent could provide appropriate care for the child and that removal of the child from the child's permanent placement and the return to the parent's care would be in the best interest of the child.

Subd. 4. **Continuance of case.** When it is in the best interests of the child or the child's parents to do so and when either the allegations contained in the petition have been admitted, or when a hearing has been held as provided in section 260.155 and the allegations contained in the petition have been duly proven, before a finding of need for protection or services or a finding that a child is neglected and in foster care has been entered the court may continue the case for a period not to exceed 90 days on any one order. Such a continuance may be extended for one additional successive period not to exceed 90 days and only after the court has reviewed the case and entered its order for an additional continuance without a finding that the child is in need of protection or services or neglected and in foster care. During this continuance the court may enter any order otherwise permitted under the provisions of this section.

History: *1959 c 685 s 29; 1969 c 1019 s 2; 1976 c 150 s 2; 1978 c 602 s 7,8; 1983 c 278 s 13; 1983 c 312 art 5 s 34; 1984 c 573 s 5,6; 1985 c 286 s 10–12; 1986 c 444; 1987 c 384 art 2 s 1; 1988 c 673 s 27–29; 1989 c 208 s 2; 1989 c 235 s 19,20; 1993 c 291 s 17–21; 1Sp1993 c 6 s 17,18; 1994 c 598 s 7; 1994 c 631 s 31; 1995 c 226 art 3 s 31*

260.192 DISPOSITIONS; VOLUNTARY FOSTER CARE PLACEMENTS.

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

(a) In the case of a petition required to be filed under section 257.071, subdivision 3, find that the child's needs are being met, that the child's placement in foster care is in the best interests of the child, and that the child will be returned home in the next six months, in which

case the court shall approve the voluntary arrangement and continue the matter for six months to assure the child returns to the parent's home.

(b) In the case of a petition required to be filed under section 257.071, subdivision 4, 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 under section 260.131, subdivision 1 or 1a, as appropriate, within two years.

(c) 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 order a disposition under section 260.191.

(d) Find that the child has been abandoned by 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: *1981 c 290 s 8; 1983 c 278 s 14; 1986 c 444; 1993 c 291 s 22*

260.193 JUVENILE TRAFFIC OFFENDER; PROCEDURES; DISPOSITIONS.

Subdivision 1. (a) For purposes of this section, the following terms have the meanings given them.

(b) "Major traffic offense" includes any violation of a state or local traffic law, ordinance, or regulation, or a federal, state, or local water traffic law not included within the provisions of clause (c).

(c) "Adult court traffic offense" means:

(1) a petty misdemeanor violation of a state or local traffic law, ordinance, or regulation, or a petty misdemeanor violation of a federal, state, or local water traffic law; or

(2) a violation of section 169.121, 169.129, or any other misdemeanor- or gross misdemeanor-level traffic violation committed as part of the same behavioral incident as a violation of section 169.121 or 169.129.

Subd. 2. A child who commits a major traffic offense shall be adjudicated a "juvenile highway traffic offender" or a "juvenile water traffic offender," as the case may be, and shall not be adjudicated delinquent, unless, as in the case of any other child alleged to be delinquent, a petition is filed in the manner provided in section 260.131, summons issued, notice given, a hearing held, and the court finds as a further fact that the child is also delinquent within the meaning and purpose of the laws relating to juvenile courts.

Subd. 3. Except as provided in subdivision 4, a child who commits an adult court traffic offense and at the time of the offense was at least 16 years old shall be subject to the laws and court procedures controlling adult traffic violators and shall not be under the jurisdiction of the juvenile court. When a child is alleged to have committed an adult court traffic offense and is at least 16 years old at the time of the offense, the peace officer making the charge shall follow the arrest procedures prescribed in section 169.91 and shall make reasonable effort to notify the child's parent or guardian of the nature of the charge.

Subd. 4. **Original jurisdiction; juvenile court.** The juvenile court shall have original jurisdiction over:

(1) all juveniles age 15 and under alleged to have committed any traffic offense; and

(2) 16- and 17-year-olds alleged to have committed any major traffic offense, except that the adult court has original jurisdiction over:

(i) petty traffic misdemeanors not a part of the same behavioral incident of a misdemeanor being handled in juvenile court; and

(ii) violations of sections 169.121 (drivers under the influence of alcohol or controlled substance) and 169.129 (aggravated driving while intoxicated), and any other misdemeanor

or gross misdemeanor level traffic violations committed as part of the same behavioral incident of a violation of section 169.121 or 169.129.

Subd. 5. When a child is alleged to have committed a major traffic offense, the peace officer making the charge shall file a signed copy of the notice to appear, as provided in section 169.91, with the juvenile court of the county in which the violation occurred, and the notice to appear has the effect of a petition and gives the juvenile court jurisdiction. Filing with the court a notice to appear containing the name and address of the child allegedly committing a major traffic offense and specifying the offense charged, the time and place of the alleged violation shall have the effect of a petition and give the juvenile court jurisdiction. Any reputable person having knowledge of a child who commits a major traffic offense may petition the juvenile court in the manner provided in section 260.131. Whenever a notice to appear or petition is filed alleging that a child is a juvenile highway traffic offender or a juvenile water traffic offender, the court shall summon and notify the persons required to be summoned or notified as provided in sections 260.135 and 260.141. However, it is not necessary to (1) notify more than one parent, or (2) publish any notice, or (3) personally serve outside the state.

Subd. 6. Before making a disposition of any child found to be a juvenile major traffic offender or to have violated a misdemeanor– or gross misdemeanor–level traffic law, 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, the court 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.

Subd. 7. If after a hearing the court finds that the welfare of a juvenile major traffic offender or a juvenile water traffic offender or the public safety would be better served under the laws controlling adult traffic violators, the court may transfer the case to any court of competent jurisdiction presided over by a salaried judge if there is one in the county. The juvenile court transfers the case by forwarding to the appropriate court the documents in the court's file together with an order to transfer. The court to which the case is transferred shall proceed with the case as if the jurisdiction of the juvenile court had never attached.

Subd. 7a. **Criminal court dispositions; adult court traffic offenders.** (a) A juvenile who is charged with an adult court traffic offense in district court shall be treated as an adult before trial, except that the juvenile may be held in secure, pretrial custody only in a secure juvenile detention facility.

(b) A juvenile who is convicted of an adult court traffic offense in district court shall be treated as an adult for sentencing purposes, except that the court may order the juvenile placed out of the home only in a residential treatment facility or in a juvenile correctional facility.

(c) The disposition of an adult court traffic offender remains with the county in which the adjudication occurred.

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) If the child is found to have violated a state or local law or ordinance and the violation resulted in damage to the person or property of another, the court may order the child to make reasonable restitution for the damage;

(h) 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;

(i) If the court finds that the child committed an offense described in section 169.121, the court shall order that a chemical use assessment be conducted and a report submitted to the court in the manner prescribed in section 169.126. If the assessment concludes that the child meets the level of care criteria for placement under rules adopted under section 254A.03, subdivision 3, the report must recommend 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 an 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 general fund. The state shall reimburse counties for the total cost of the assessment in the manner provided in section 169.126, subdivision 4c.

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

Subd. 10. The juvenile court records of juvenile highway traffic offenders and juvenile water traffic offenders shall be kept separate from delinquency matters.

History: *1959 c 685 s 30; 1961 c 576 s 14–17; 1963 c 516 s 10; 1971 c 491 s 42,43; 1976 c 166 s 7; 1980 c 580 s 18; 1983 c 216 art 1 s 41; 1984 c 628 art 3 s 11; 1986 c 444; 1987 c 315 s 13; 1989 c 335 art 4 s 68; 1990 c 602 art 2 s 9; 1993 c 326 art 6 s 3; 1994 c 576 s 29–33; 1995 c 226 art 3 s 32*

260.194 [Repealed, 1988 c 673 s 40]

260.195 PETTY OFFENDERS; PROCEDURES; DISPOSITIONS.

Subdivision 1. **Adjudication.** A petty offender who has committed a juvenile alcohol or controlled substance offense shall be adjudicated a "petty offender," and shall not be adjudicated delinquent, unless, as in the case of any other child alleged to be delinquent, a petition is filed in the manner provided in section 260.131, summons issued, notice given, a hearing held, and the court finds as a further fact that the child is also delinquent within the meaning and purpose of the laws related to juvenile courts.

Subd. 2. **Procedure.** When a peace officer has probable cause to believe that a child is a petty offender, the officer may issue a notice to the child to appear in juvenile court in the county in which the alleged violation occurred. The officer shall file a copy of the notice to appear with the juvenile court of the county in which the alleged violation occurred. Filing with the court a notice to appear containing the name and address of the child who is alleged to be a petty offender, specifying the offense charged, and the time and place of the alleged violation has the effect of a petition giving the juvenile court jurisdiction. Any reputable person having knowledge that a child is a petty offender may petition the juvenile court in the manner provided in section 260.131. Whenever a notice to appear or petition is filed alleging that a child is a petty offender, the court shall summon and notify the person or persons having custody or control of the child of the nature of the offense charged and the time and place of hearing. This summons and notice shall be served in the time and manner provided in section 260.135, subdivision 1. If a child fails to appear in response to the notice provided by this subdivision, the court may issue a summons notifying the child of the nature of the offense alleged and the time and place set for the hearing. If the peace officer finds it necessary to take the child into custody, sections 260.165 and 260.171 shall apply.

Subd. 2a. **No right to counsel at public expense.** Except as otherwise provided in section 260.155, subdivision 2, a child alleged to be a juvenile petty offender may be represented

by counsel, but does not have a right to appointment of a public defender or other counsel at public expense.

Subd. 3. **Dispositions.** If the juvenile court finds that a child is a petty offender, the court may:

(a) require the child to pay a fine of up to $100;

(b) require the child to participate in a community service project;

(c) require the child to participate in a drug awareness program;

(d) place the child on probation for up to six months;

(e) order the child to undergo a chemical dependency evaluation and if warranted by this evaluation, order participation by the child in an outpatient chemical dependency treatment program;

(f) order the child to make restitution to the victim; or

(g) perform any other activities or participate in any other outpatient treatment programs deemed appropriate by the court.

In all cases where the juvenile court finds that a child has purchased or attempted to purchase an alcoholic beverage in violation of section 340A.503, if the child has a driver's license or permit to drive, and if the child used a driver's license, permit or Minnesota identification card to purchase or attempt to purchase the alcoholic beverage, the court shall forward its finding in the case and the child's driver's license or permit to the commissioner of public safety. Upon receipt, the commissioner shall suspend the child's license or permit for a period of 90 days.

None of the dispositional alternatives described in clauses (a) to (f) shall be imposed by the court in a manner which would cause an undue hardship upon the child.

Subd. 3a. **Enhanced dispositions.** If the juvenile court finds that a child has committed a second or subsequent juvenile alcohol or controlled substance offense, the court may impose any of the dispositional alternatives described in paragraphs (a) to (c).

(a) The court may impose any of the dispositional alternatives described in subdivision 3, clauses (a) to (f).

(b) If the adjudicated petty offender has a driver's license or permit, the court may forward the license or permit to the commissioner of public safety. The commissioner shall revoke the petty offender's driver's license or permit until the offender reaches the age of 18 years or for a period of one year, whichever is longer.

(c) If the adjudicated petty offender has a driver's license or permit, the court may suspend the driver's license or permit for a period of up to 90 days, but may allow the offender driving privileges as necessary to travel to and from work.

(d) If the adjudicated petty offender does not have a driver's license or permit, the court may prepare an order of denial of driving privileges. The order must provide that the petty offender will not be granted driving privileges until the offender reaches the age of 18 years or for a period of one year, whichever is longer. The court shall forward the order to the commissioner of public safety. The commissioner shall deny the offender's eligibility for a driver's license under section 171.04, for the period stated in the court order.

Subd. 4. **Alternative disposition.** In addition to dispositional alternatives authorized by subdivision 3, in the case of a third or subsequent finding by the court pursuant to an admission in court or after trial that a child has committed a juvenile alcohol or controlled substance offense, the juvenile court shall order a chemical dependency evaluation of the child and if warranted by the evaluation, the court may order participation by the child in an inpatient or outpatient chemical dependency treatment program, or any other treatment deemed appropriate by the court.

Subd. 5. **Findings required.** Any order for disposition authorized by 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 they were not appropriate in the instant case.

Subd. 6. **Report.** The juvenile court shall report to the office of state court administrator each disposition made under this section and sections 260.185, 260.191, and 260.192 where placement is made outside of this state's jurisdictional boundaries. Each report shall contain information as to date of placement, length of anticipated placement, program costs, reasons for out of state placement, and any other information as the office requires to determine the number of out of state placements, the reasons for these placements, and the costs involved. The report shall not contain the name of the child. Any information contained in the reports relating to factors identifying a particular child is confidential and may be disclosed only by order of the juvenile court. Any person violating this subdivision as to release of this confidential information is guilty of a misdemeanor.

Subd. 7. **Expungement.** The court may expunge the adjudication of a child as a petty offender at any time it deems advisable.

History: *1982 c 544 s 15; 1984 c 622 s 20; 1987 c 384 art 2 s 1; 1988 c 673 s 30; 1989 c 262 s 2,3; 1989 c 301 s 12; 1995 c 226 art 3 s 33,34; 1996 c 408 art 6 s 8*

260.20 [Repealed, 1959 c 685 s 53]

260.21 [Repealed, 1959 c 685 s 53]

260.211 EFFECT OF JUVENILE COURT PROCEEDINGS.

Subdivision 1. (a) No adjudication upon the status of any child in the jurisdiction of the juvenile court shall operate to impose any of the civil disabilities imposed by conviction, nor shall any child be deemed a criminal by reason of this adjudication, nor shall this adjudication be deemed a conviction of crime, except as otherwise provided in this section or section 260.215. An extended jurisdiction juvenile conviction shall be treated in the same manner as an adult felony criminal conviction for purposes of the sentencing guidelines. The disposition of the child or any evidence given by the child in the juvenile court shall not be admissible as evidence against the child in any case or proceeding in any other court, except that an adjudication may later be used to determine a proper sentence, nor shall the disposition or evidence disqualify the child in any future civil service examination, appointment, or application.

(b) A person who was adjudicated delinquent for, or convicted as an extended jurisdiction juvenile of, a crime of violence as defined in section 624.712, subdivision 5, is not entitled to ship, transport, possess, or receive a firearm until ten years have elapsed since the person was discharged and during that time the person was not convicted of any other crime of violence. A person who has received a relief of disability under United States Code, title 18, section 925, is not subject to the restrictions of this subdivision.

Subd. 2. Nothing contained in this section shall be construed to relate to subsequent proceedings in juvenile court, nor shall preclude the juvenile court, under circumstances other than those specifically prohibited in subdivision 1, from disclosing information to qualified persons if the court considers such disclosure to be in the best interests of the child or of the administration of justice.

History: *1959 c 685 s 31; 1963 c 516 s 11; 1980 c 580 s 19; 1986 c 444; 1994 c 576 s 34*

260.215 JUVENILE COURT DISPOSITION BARS CRIMINAL PROCEEDING.

Subdivision 1. **Certain violations not crimes.** A violation of a state or local law or ordinance by a child before becoming 18 years of age is not a crime unless the juvenile court:

(1) certifies the matter in accordance with the provisions of section 260.125;

(2) transfers the matter to a court in accordance with the provisions of section 260.193; or

(3) convicts the child as an extended jurisdiction juvenile and subsequently executes the adult sentence under section 260.126, subdivision 5.

Subd. 2. Except for matters referred to the prosecuting authority under the provisions of this section or to a court in accordance with the provisions of section 260.193, any peace officer knowingly bringing charges against a child in a court other than a juvenile court for vio-

lating a state or local law or ordinance is guilty of a misdemeanor. This subdivision does not apply to complaints brought for the purposes of extradition.

History: *1959 c 685 s 32; 1994 c 576 s 35; 1995 c 226 art 3 s 35*

TERMINATION OF PARENTAL RIGHTS

260.22 [Repealed, 1959 c 685 s 53]

260.221 GROUNDS FOR TERMINATION OF PARENTAL RIGHTS.

Subdivision 1. **Voluntary and involuntary.** 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. Abandonment is presumed when:

(i) the parent has had no contact with the child on a regular basis and no demonstrated, consistent interest in the child's well–being for six months; and

(ii) the social service agency has made reasonable efforts to facilitate contact, unless the parent establishes that an extreme financial or physical hardship or treatment for mental disability or chemical dependency or other good cause prevented the parent from making contact with the child. This presumption does not apply to children whose custody has been determined under chapter 257 or 518. The court is not prohibited from finding abandonment in the absence of this presumption; 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, and reasonable efforts by the social service agency have failed to correct the conditions that formed the basis of the petition; 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 of a duration or nature that renders the parent unable, for the reasonably foreseeable future, to care appropriately for the ongoing physical, mental, or emotional needs of the child. It is presumed that a parent is palpably unfit to be a party to the parent and child relationship upon a showing that:

(i) the child was adjudicated in need of protection or services due to circumstances described in section 260.015, subdivision 2a, clause (1), (2), (3), (5), or (8); and

(ii) within the three–year period immediately prior to that adjudication, the parent's parental rights to one or more other children were involuntarily terminated under clause (1), (2), (4), or (7), or under clause (5) if the child was initially determined to be in need of protection or services due to circumstances described in section 260.015, subdivision 2a, clause (1), (2), (3), (5), or (8); or

(5) That following upon a determination of neglect or dependency, or of a child's need for protection or services, reasonable efforts, under the direction of the court, have failed to correct the conditions leading to the determination. It is presumed that reasonable efforts under this clause have failed upon a showing that:

(i) a child has resided out of the parental home under court order for more than one year following an adjudication of dependency, neglect, need for protection or services under sec-

tion 260.015, subdivision 2a, clause (1), (2), (3), (6), (8), or (9), or neglected and in foster care, and an order for disposition under section 260.191, including adoption of the case plan required by section 257.071;

(ii) conditions leading to the determination will not be corrected within the reasonably foreseeable future. It is presumed that conditions leading to a child's out-of-home placement will not be corrected in the reasonably foreseeable future upon a showing that the parent or parents have not substantially complied with the court's orders and a reasonable case plan, and the conditions which led to the out-of-home placement have not been corrected; and

(iii) reasonable efforts have been made by the social service agency to rehabilitate the parent and reunite the family.

This clause does not prohibit the termination of parental rights prior to one year after a child has been placed out of the home.

It is also presumed that reasonable efforts have failed under this clause upon a showing that:

(i) the parent has been diagnosed as chemically dependent by a professional certified to make the diagnosis;

(ii) the parent has been required by a case plan to participate in a chemical dependency treatment program;

(iii) the treatment programs offered to the parent were culturally, linguistically, and clinically appropriate;

(iv) the parent has either failed two or more times to successfully complete a treatment program or has refused at two or more separate meetings with a caseworker to participate in a treatment program; and

(v) the parent continues to abuse chemicals.

Provided, that this presumption applies only to parents required by a case plan to participate in a chemical dependency treatment program on or after July 1, 1990; or

(6) That a child has experienced egregious harm in the parent's care which is of a nature, duration, or chronicity that indicates a lack of regard for the child's well-being, such that a reasonable person would believe it contrary to the best interest of the child or of any child to be in the parent's care; or

(7) 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 259.49 and either the person has not filed a notice of intent to retain parental rights under section 259.51 or that the notice has been successfully challenged; or

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

In an action involving an American Indian child, sections 257.35 to 257.3579 and the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923, control to the extent that the provisions of this section are inconsistent with those laws.

Subd. 2. **Adoptive parent.** For purposes of subdivision 1, 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 subdivision 1, clause (a).

Subd. 3. **When prior finding required.** For purposes of subdivision 1, clause (b), no prior judicial finding of dependency, neglect, need for protection or services, or neglected and in foster care is required, except as provided in subdivision 1, clause (b), item (5).

Subd. 4. **Best interests of child paramount.** In any proceeding under this section, the best interests of the child must be the paramount consideration, provided that the conditions in subdivision 1, clause (a), or at least one condition in subdivision 1, clause (b), are found by the court. In proceedings involving an American Indian child, as defined in section 257.351, subdivision 6, the best interests of the child must be determined consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, et seq. Where the interests of parent and child conflict, the interests of the child are paramount.

Subd. 5. **Findings regarding reasonable efforts.** In any proceeding under this section, the court shall make specific findings regarding the nature and extent of efforts made by the social service agency to rehabilitate the parent and reunite the family.

History: *1959 c 685 s 33; 1974 c 66 s 8; 1978 c 602 s 10; 1980 c 561 s 10; 1983 c 7 s 8; 1983 c 243 s 5 subd 8; 1986 c 444; 1987 c 187 s 5; 1988 c 514 s 8; 1988 c 673 s 31; 1989 c 208 s 3,4; 1990 c 542 s 15; 1993 c 291 s 23; 1994 c 631 s 31; 1995 c 242 s 1; 1996 c 416 s 16*

260.225 VENUE.

Venue for proceedings for the termination of parental rights is either the county where the child resides or is found. However, if a court has made an order under the provisions of section 260.185 or 260.191, and the order is in force at the time a petition for termination of parental rights is filed, the court making the order shall hear the termination of parental rights proceeding unless it transfers the proceeding in the manner provided in section 260.121, subdivision 2.

History: *1959 c 685 s 34*

260.23 [Repealed, 1959 c 685 s 53]

260.231 PROCEDURES IN TERMINATING PARENTAL RIGHTS.

Subdivision 1. Any reputable person, including but not limited to any agent of the commissioner of human services, having knowledge of circumstances which indicate that the rights of a parent to a child should be terminated, may petition the juvenile court in the manner provided in section 260.131, subdivisions 2 and 3.

Subd. 2. The termination of parental rights under the provisions of section 260.221, shall be made only after a hearing before the court, in the manner provided in section 260.155.

Subd. 3. The court shall have notice of the time, place, and purpose of the hearing served on the parents, as defined in sections 257.51 to 257.74 or 259.49, subdivision 1, clause (2), and upon the child's grandparent if the child has lived with the grandparent within the two years immediately preceding the filing of the petition. Notice must be served in the manner provided in sections 260.135 and 260.141, except that personal service shall be made at least ten days before the day of the hearing. Published notice shall be made for three weeks, the last publication to be at least ten days before the day of the hearing; and notice sent by certified mail shall be mailed at least 20 days before the day of the hearing. A parent who consents to the termination of parental rights under the provisions of section 260.221, clause (a), may waive in writing the notice required by this subdivision; however, if the parent is a minor or incompetent the waiver shall be effective only if the parent's guardian ad litem concurs in writing.

Subd. 4. No parental rights of a minor or incompetent parent may be terminated on consent of the parents under the provisions of section 260.221, clause (a), unless the guardian ad litem, in writing, joins in the written consent of the parent to the termination of parental rights.

History: *1959 c 685 s 35; 1974 c 66 s 9; 1980 c 589 s 37; 1984 c 654 art 5 s 58; 1986 c 444; 1989 c 235 s 21; 1994 c 631 s 31*

260.235 DISPOSITION; PARENTAL RIGHTS NOT TERMINATED.

If, after a hearing, the court does not terminate parental rights but determines that the child is in need of protection or services, or that the child is neglected and in foster care, the court may find the child is in need of protection or services or neglected and in foster care and may enter an order in accordance with the provisions of section 260.191.

History: *1959 c 685 s 36; 1978 c 602 s 11; 1988 c 673 s 32*

260.24 [Repealed, 1959 c 685 s 53]

260.241 TERMINATION OF PARENTAL RIGHTS; EFFECT.

Subdivision 1. If, after a hearing, the court finds by clear and convincing evidence that one or more of the conditions set out in section 260.221 exist, it may terminate parental

rights. Upon the termination of parental rights all rights, powers, privileges, immunities, duties, and obligations, including any rights to custody, control, visitation, or support existing between the child and parent shall be severed and terminated and the parent shall have no standing to appear at any further legal proceeding concerning the child. Provided, however, that a parent whose parental rights are terminated shall remain liable for the unpaid balance of any support obligation owed under a court order upon the effective date of the order terminating parental rights.

Subd. 2. An order terminating the parent and child relationship shall not disentitle a child to any benefit due the child from any third person, agency, state, or the United States, nor shall any action under this section be deemed to affect any rights and benefits that a child derives from the child's descent from a member of a federally recognized Indian tribe.

Subd. 3. A certified copy of the findings and the order terminating parental rights, and a summary of the court's information concerning the child shall be furnished by the court to the commissioner or the agency to which guardianship is transferred. The orders shall be on a document separate from the findings. The court shall furnish the individual to whom guardianship is transferred a copy of the order terminating parental rights.

Subd. 4. Upon entry of an order terminating the parental rights of any person who is identified as a parent on the original birth certificate of the child as to whom the parental rights are terminated, the court shall cause written notice to be made to that person setting forth:

(a) The right of the person to file at any time with the state registrar of vital statistics a consent to disclosure, as defined in section 144.212, subdivision 11;

(b) The right of the person to file at any time with the state registrar of vital statistics an affidavit stating that the information on the original birth certificate shall not be disclosed as provided in section 144.1761;

(c) The effect of a failure to file either a consent to disclosure, as defined in section 144.212, subdivision 11, or an affidavit stating that the information on the original birth certificate shall not be disclosed.

History: *1959 c 685 s 37; 1969 c 1014 s 1; 1977 c 181 s 4; 1980 c 561 s 11,12; 1Sp1981 c 4 art 1 s 129*

260.242 GUARDIAN.

Subdivision 1. If the court terminates parental rights of both parents or of the only known living parent, the court shall order the guardianship and the legal custody of the child transferred to:

(a) The commissioner of human services; or

(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. 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 human services, 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 human services;

(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 a ward unless the court which appoints the guardian 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 the 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 human services is appointed guardian, the commissioner may delegate to the local social services agency of the county in which, after the appointment, the ward resides, the authority to act for the commissioner in decisions affecting the person of the 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: *1980 c 561 s 13; 1983 c 278 s 15; 1983 c 304 s 3,4; 1983 c 312 art 5 s 35; 1984 c 654 art 5 s 58; 1986 c 444; 1994 c 631 s 31*

260.245 CHANGE OF GUARDIAN; TERMINATION OF GUARDIANSHIP.

Upon its own motion or upon petition of an interested party, the juvenile court having jurisdiction of the child may, after notice to the parties and a hearing, remove the guardian appointed by the juvenile court and appoint a new guardian in accordance with the provisions of section 260.242, subdivision 1, clause (a), (b), or (c). Upon a showing that the child is emancipated, the court may discharge the guardianship. Any child 14 years of age or older who is not adopted but who is placed in a satisfactory foster home, may, with the consent of the foster parents, join with the guardian appointed by the juvenile court in a petition to the court having jurisdiction of the child to discharge the existing guardian and appoint the foster parents as guardians of the child. The authority of a guardian appointed by the juvenile court terminates when the individual under guardianship is no longer a minor or when guardianship is otherwise discharged.

History: *1959 c 685 s 38; 1971 c 186 s 1; 1Sp1986 c 3 art 1 s 32*

COSTS AND EXPENSES

260.25 [Repealed, 1959 c 685 s 53]

260.251 COSTS OF CARE.

Subdivision 1. **Care, examination, or treatment.** (a) Except where parental rights are terminated,

(1) whenever legal custody of a child is transferred by the court to a local social services agency, or

(2) whenever legal custody is transferred to a person other than the local social services agency, but under the supervision of the local social services agency,

(3) whenever a child is given physical or mental examinations or treatment under order of the court, and no provision is otherwise made by law for payment for the care, examination, or treatment of the child, these costs are a charge upon the welfare funds of the county in which proceedings are held upon certification of the judge of juvenile court.

(b) The court shall order, and the local social services agency shall require, the parents or custodian of a child, while the child is under the age of 18, to use the total income and

resources attributable to the child for the period of care, examination, or treatment, except for clothing and personal needs allowance as provided in section 256B.35, to reimburse the county for the cost of care, examination, or treatment. Income and resources attributable to the child include, but are not limited to, social security benefits, supplemental security income (SSI), veterans benefits, railroad retirement benefits and child support. When the child is over the age of 18, and continues to receive care, examination, or treatment, the court shall order, and the local social services agency shall require, reimbursement from the child for the cost of care, examination, or treatment from the income and resources attributable to the child less the clothing and personal needs allowance.

(c) If the income and resources attributable to the child are not enough to reimburse the county for the full cost of the care, examination, or treatment, the court shall inquire into the ability of the parents to support the child and, after giving the parents a reasonable opportunity to be heard, the court shall order, and the local social services agency shall require, the parents to contribute to the cost of care, examination, or treatment of the child. Except in delinquency cases where the victim is a member of the child's immediate family, when determining the amount to be contributed by the parents, the court shall use a fee schedule based upon ability to pay that is established by the local social services agency and approved by the commissioner of human services. In delinquency cases where the victim is a member of the child's immediate family, the court shall use the fee schedule, but may also take into account the seriousness of the offense and any expenses which the parents have incurred as a result of the offense. The income of a stepparent who has not adopted a child shall be excluded in calculating the parental contribution under this section.

(d) The court shall order the amount of reimbursement attributable to the parents or custodian, or attributable to the child, or attributable to both sources, withheld under chapter 518 from the income of the parents or the custodian of the child. A parent or custodian who fails to pay without good reason may be proceeded against for contempt, or the court may inform the county attorney, who shall proceed to collect the unpaid sums, or both procedures may be used.

(e) If the court orders a physical or mental examination for a child, the examination is a medically necessary service for purposes of determining whether the service is covered by a health insurance policy, health maintenance contract, or other health coverage plan. Court-ordered treatment shall be subject to policy, contract, or plan requirements for medical necessity. Nothing in this paragraph changes or eliminates benefit limits, conditions of coverage, copayments or deductibles, provider restrictions, or other requirements in the policy, contract, or plan that relate to coverage of other medically necessary services.

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 (c), item (5) or 260.191, subdivision 1, paragraph (b), clause (2) or (3), 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.

Subd. 2. **Court expenses.** The following expenses are a charge upon the county in which proceedings are held upon certification of the judge of juvenile court or upon such other authorization provided by law:

(a) The fees and mileage of witnesses, and the expenses and mileage of officers serving notices and subpoenas ordered by the court, as prescribed by law.

(b) The expenses for travel and board of the juvenile court judge when holding court in places other than the county seat.

(c) The expense of transporting a child to a place designated by a child-placing agency for the care of the child if the court transfers legal custody to a child-placing agency.

(d) The expense of transporting a minor to a place designated by the court.

(e) Reasonable compensation for an attorney appointed by the court to serve as counsel or guardian ad litem.

Subd. 3. **Legal settlement.** The county charged with the costs and expenses under subdivisions 1 and 2 may recover these costs and expenses from the county where the minor has legal settlement for general assistance purposes by filing verified claims which shall be payable as are other claims against the county. A detailed statement of the facts upon which the claim is based shall accompany the claim. If a dispute relating to general assistance settlement arises, the local social services agency of the county denying legal settlement shall send a detailed statement of the facts upon which the claim is denied together with a copy of the detailed statement of the facts upon which the claim is based to the commissioner of human services. The commissioner shall immediately investigate and determine the question of general assistance settlement and shall certify findings to the local social services agency of each county. The decision of the commissioner is final and shall be complied with unless, within 30 days thereafter, action is taken in district court as provided in section 256.045.

Subd. 4. **Attorneys fees.** In proceedings in which the court has appointed counsel pursuant to section 260.155, subdivision 2, for a minor unable to employ counsel, the court may inquire into the ability of the parents to pay for such counsel's services and, after giving the parents a reasonable opportunity to be heard, may order the parents to pay attorneys fees.

Subd. 5. **Guardian ad litem fees.** In proceedings in which the court appoints a guardian ad litem pursuant to section 260.155, subdivision 4, clause (a), the court may inquire into the ability of the parents to pay for the guardian ad litem's services and, after giving the parents a reasonable opportunity to be heard, may order the parents to pay guardian fees.

History: *1959 c 685 s 39; 1969 c 769 s 2; 1973 c 492 s 14; 1974 c 270 s 1; 1974 c 406 s 46; 1975 c 131 s 1; 1975 c 210 s 2; 1976 c 2 s 86; 1976 c 163 s 57; 1980 c 509 s 105; 1983 c 274 s 11; 1984 c 606 s 2; 1984 c 654 art 5 s 58; 1986 c 444; 1989 c 209 art 2 s 1; 1989 c 282 art 2 s 168; 1993 c 326 art 6 s 4; 1994 c 631 s 31*

CONTRIBUTING TO DELINQUENCY OR NEGLECT

260.255 JURISDICTION OVER PERSONS CONTRIBUTING TO DELINQUENCY OR NEED FOR PROTECTION OR SERVICES; COURT ORDERS.

Subdivision 1. The juvenile court has jurisdiction over persons contributing to the delinquency or need for protection or services of a child under the provisions of subdivision 2 or 3.

Subd. 2. If in the hearing of a case of a child alleged to be delinquent or in need of protection or services it appears by a fair preponderance of the evidence that any person has violated the provisions of section 260.315, the court may make any of the following orders:

(a) Restrain the person from any further act or omission in violation of section 260.315; or

(b) Prohibit the person from associating or communicating in any manner with the child; or

(c) Provide for the maintenance or care of the child, if the person is responsible for such, and direct when, how, and where money for such maintenance or care shall be paid.

Subd. 3. Before making any order under subdivision 2 the court shall issue an order to show cause, either upon its own motion or upon a verified petition, specifying the charges made against the person and fixing the time and place of the hearing. The order to show cause shall be served personally and shall be heard in the same manner as provided in other cases in the juvenile court.

History: *1959 c 685 s 40; 1988 c 673 s 33*

260.26 [Repealed, 1959 c 685 s 53]

260.261 JURISDICTION OF CERTAIN JUVENILE COURTS OVER OFFENSE OF CONTRIBUTING TO DELINQUENCY OR NEGLECT.

In counties having a population of over 200,000 the juvenile court has jurisdiction of the offenses described in section 260.315. Prosecutions hereunder shall be begun by complaint duly verified and filed in the juvenile court of the county. The court may impose conditions upon a defendant who is found guilty and, so long as the defendant complies with these conditions to the satisfaction of the court, the sentence imposed may be suspended.

History: *1959 c 685 s 41; 1965 c 316 s 6; 1986 c 444*

260.27 [Renumbered 260.315]

ORDER FOR PROTECTION VIOLATION

260.271 VIOLATION OF AN ORDER FOR PROTECTION.

Subdivision 1. **Violation; penalty.** Whenever an order for protection is granted pursuant to section 260.133 or 260.191, subdivision 1b, restraining the person or excluding the person from the residence, and the respondent or person to be restrained knows of the order, violation of the order for protection is a misdemeanor.

Subd. 2. **Arrest.** A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order granted pursuant to section 260.133 or 260.191, subdivision 1b, restraining the person or excluding the person from the residence, if the existence of the order can be verified by the officer.

Subd. 3. **Contempt.** A violation of an order for protection shall also constitute contempt of court and the person violating the order shall be subject to the penalties for contempt.

Subd. 4. **Order to show cause.** Upon the filing of an affidavit by the agency or any peace officer, alleging that the respondent has violated an order for protection granted pursuant to section 260.133 or 260.191, subdivision 1b, the court may issue an order to the respondent, requiring the respondent to appear and show cause within 14 days why the respondent should not be found in contempt of court. The hearing may be held by the court in any county in which the child or respondent temporarily or permanently resides at the time of the alleged violation.

A peace officer is not liable under section 609.43, clause (1), for failure to perform a duty required by subdivision 2 of this section.

History: *1984 c 573 s 7; 1986 c 444*

REHEARING AND APPEAL

260.28 [Repealed, 1959 c 685 s 53]

260.281 NEW EVIDENCE.

A child whose status has been adjudicated by a juvenile court, or the child's parent, guardian, custodian or spouse may, at any time within 15 days of the filing of the court's order, petition the court for a rehearing on the ground that new evidence has been discovered affecting the advisability of the court's original adjudication or disposition. Upon a showing that such evidence does exist the court shall order that a new hearing be held within 30 days, unless the court extends this time period for good cause shown within the 30-day period, and shall make such disposition of the case as the facts and the best interests of the child warrant.

History: *1959 c 685 s 42; 1986 c 444; 1996 c 408 art 6 s 9*

260.29 [Repealed, 1959 c 685 s 53]

260.291 APPEAL.

Subdivision 1. **Persons entitled to appeal; procedure.** (a) An appeal may be taken by the aggrieved person from a final order of the juvenile court affecting a substantial right of

the aggrieved person, including but not limited to an order adjudging a child to be in need of protection or services, neglected and in foster care, delinquent, or a juvenile traffic offender. The appeal shall be taken within 30 days of the filing of the appealable order. The court administrator shall notify the person having legal custody of the minor of the appeal. Failure to notify the person having legal custody of the minor shall not affect the jurisdiction of the appellate court. The order of the juvenile court shall stand, pending the determination of the appeal, but the reviewing court may in its discretion and upon application stay the order.

(b) An appeal may be taken by an aggrieved person from an order of the juvenile court on the issue of certification of a matter for prosecution under the laws and court procedures controlling adult criminal violations. Certification appeals shall be expedited as provided by applicable rules.

Subd. 2. **Appeal.** The appeal from a juvenile court is taken to the court of appeals as in civil cases, except as provided in subdivision 1.

History: *1959 c 685 s 43; Ex1959 c 40 s 1; 1978 c 602 s 12; 1983 c 247 s 111; 1Sp1986 c 3 art 1 s 82; 1988 c 673 s 34; 1994 c 576 s 36; 1995 c 226 art 3 s 36*

CONTEMPT

260.30 [Repealed, 1959 c 685 s 53]

260.301 CONTEMPT.

Any person knowingly interfering with an order of the juvenile court is in contempt of court. However, a child who is under the continuing jurisdiction of the court for reasons other than having committed a delinquent act or a juvenile petty offense may not be adjudicated as a delinquent solely on the basis of having knowingly interfered with or disobeyed an order of the court.

History: *1959 c 685 s 44; 1988 c 673 s 35; 1996 c 408 art 6 s 10*

MISCELLANEOUS

260.305 [Repealed, 1974 c 322 s 26]

260.31 [Repealed, 1959 c 685 s 53]

260.311 PROBATION OFFICERS.

Subdivision 1. **Appointment; joint services; state services.** (a) If a county or group of counties has established a human services board pursuant to chapter 402, the district court may appoint one or more county 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 district court shall appoint one or more persons of good character to serve as county probation officers during the pleasure of the court. All other counties shall provide probation services to district courts in one of the following ways:

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

(2) when two or more counties offer probation services the district court through the county boards may appoint common salaried county probation officers to serve in the several counties;

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

(4) if a county or district court providing probation services under clause (1) or (2) asks the commissioner of corrections or the legislative body for the state of Minnesota mandates

the commissioner of corrections to furnish probation services to the district court, the probation officers and other employees displaced by the changeover shall be employed by the commissioner of corrections. Years of service in the county probation department are to be given full credit for future sick leave and vacation accrual purposes;

(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.

(b) The commissioner of employee relations shall place employees transferred to state service under paragraph (a), clause (4), in the proper classifications in the classified service. Each employee is appointed without examination at no loss in salary or accrued vacation or sick leave benefits, but no additional accrual of vacation or sick leave benefits may occur until the employee's total accrued vacation or sick leave benefits fall below the maximum permitted by the state for the employee's position. An employee appointed under paragraph (a), clause (4), shall serve a probationary period of six months. After exhausting labor contract remedies, a noncertified employee may appeal for a hearing within ten days to the commissioner of employee relations, who may uphold the decision, extend the probation period, or certify the employee. The decision of the commissioner of employee relations is final. The state shall negotiate with the exclusive representative for the bargaining unit to which the employees are transferred regarding their seniority. For purposes of computing seniority among those employees transferring from one county unit only, a transferred employee retains the same seniority position as the employee had within that county's probation office.

Subd. 2. **Sufficiency of services.** Probation services shall be sufficient in amount to meet the needs of the district court in each county. County probation officers serving district courts in all counties of not more than 200,000 population shall also, pursuant to subdivision 3, provide probation and parole services to wards of the commissioner of corrections resident in their counties. To provide these probation services counties containing a city of 10,000 or more population shall, as far as practicable, have one probation officer for not more than 35,000 population; in counties that do not contain a city of such size, the commissioner of corrections shall, after consultation with the chief judge of the district court and the county commissioners and in the light of experience, establish probation districts to be served by one officer.

All probation officers appointed for any district court or community corrections agency shall be selected from a list of eligible candidates who have minimally qualified according to the same or equivalent examining procedures as used by the commissioner of employee relations to certify eligibles to the commissioner of corrections in appointing parole agents, and the department of employee relations shall furnish the names of such candidates on request. This subdivision shall not apply to a political subdivision having a civil service or merit system unless the subdivision elects to be covered by this subdivision.

Subd. 3. **Powers and duties.** All county probation officers serving a district court shall act under the orders of the court in reference to any person committed to their care by the court, and in the performance of their duties shall have the general powers of a peace officer; and it shall be their duty to make such investigations with regard to any person as may be required by the court before, during, or after the trial or hearing, and to furnish to the court such information and assistance as may be required; to take charge of any person before, during or after trial or hearing when so directed by the court, and to keep such records and to make such reports to the court as the court may order.

All county probation officers serving a district court shall, in addition, provide probation and parole services to wards of the commissioner of corrections resident in the counties they serve, and shall act under the orders of said commissioner of corrections in reference to any ward committed to their care by the commissioner of corrections.

All probation officers serving a district court shall, under the direction of the authority having power to appoint them, initiate programs for the welfare of persons coming within the jurisdiction of the court to prevent delinquency and crime and to rehabilitate within the community persons who come within the jurisdiction of the court and are properly subject to efforts to accomplish prevention and rehabilitation. They shall, under the direction of the court, cooperate with all law enforcement agencies, schools, child welfare agencies of a public or

private character, and other groups concerned with the prevention of crime and delinquency and the rehabilitation of persons convicted of crime and delinquency.

All probation officers serving a district court shall make monthly and annual reports to the commissioner of corrections, on forms furnished by the commissioner, containing such information on number of cases cited to the juvenile division of district court, offenses, adjudications, dispositions, and related matters as may be required by the commissioner of corrections.

Subd. 3a. **Detaining person on conditional release or probation.** (a) The written order of the court services director or designee of a county probation agency not organized under chapter 401 is sufficient authority for peace officers and county probation officers serving the district or juvenile court of nonparticipating counties when it appears necessary to prevent escape or enforce discipline, to take and detain a probationer or any person on conditional release and bring that person before the court or the commissioner of corrections, whichever is appropriate, for disposition. No probationer or other person on conditional release shall be detained under this subdivision more than 72 hours, excluding Saturdays, Sundays and holidays, without being given an opportunity for a hearing before the court or the commissioner of corrections or a designee.

(b) The written order of the court services director or designee of a county probation agency not established under chapter 401 is sufficient authority for probation officers serving the district and juvenile courts of nonparticipating counties to release within 72 hours, exclusive of legal holidays, Saturdays, and Sundays, without appearance before the court or the commissioner of corrections or a designee, any person detained pursuant to paragraph (a).

(c) The written order of the chief executive officer or designee of a county corrections agency established under this section and not organized under chapter 401 is sufficient authority for any peace officer or county probation officer to take and place in actual custody any person under sentence or on probation who:

(1) fails to report to serve a sentence at a local correctional facility, as defined in section 241.021, subdivision 1;

(2) fails to return from furlough or authorized temporary release from a local correctional facility;

(3) escape from a local correctional facility; or

(4) absconds from court–ordered home detention.

(d) The written order of the court services director or designee of a county probation agency established under this section and not organized under chapter 401 is sufficient authority for any peace officer or county probation officer to take and place in actual custody any person on a court–authorized pretrial release who absconds from pretrial release or fails to abide by the conditions of pretrial release.

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 com-

missioner 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.

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 May 15, 1963. 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 district court under subdivision 1, clause (1) or (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.

Subd. 6. **Certificate of counties entitled to state aid.** On or before January 1 of each year, until 1970 and on or before April 1 thereafter, the commissioner of corrections shall deliver to the commissioner of finance a certificate in duplicate for each county of the state entitled to receive state aid under the provisions of this section. Upon the receipt of such certificate, the commissioner of finance shall draw a warrant upon the state treasurer in favor of the county treasurer for the amount shown by each certificate to be due to the county specified. The commissioner of finance shall transmit such warrant to the county treasurer together with a copy of the certificate prepared by the commissioner of corrections.

Subd. 7. **Exception.** This section shall not apply to Ramsey county.

History: *(8644) 1917 c 397 s 9; 1933 c 204 s 1; 1945 c 517 s 4; 1959 c 698 s 3; 1961 c 430 s 2–4; 1963 c 694 s 1; 1965 c 316 s 7–11; 1965 c 697 s 1; 1969 c 278 s 1; 1969 c 399 s 1; 1971 c 25 s 51; 1971 c 951 s 41–43; 1973 c 492 s 14; 1973 c 507 s 45; 1973 c 654 s 15; 1975 c 258 s 5; 1975 c 271 s 6; 1975 c 381 s 21; 1976 c 163 s 58; 1977 c 281 s 1–3; 1977 c 392 s 8; 1980 c 617 s 47; 1981 c 192 s 20; 1983 c 274 s 18; 1985 c 220 s 5,6; 1Sp1985 c 9 art 2 s 76; 1986 c 444; 1987 c 252 s 8; 1988 c 505 s 1–4; 1992 c 571 art 11 s 10; 1996 c 408 art 8 s 8*

260.315 CONTRIBUTING TO NEED FOR PROTECTION OR SERVICES OR DELINQUENCY.

Any person who by act, word, or omission encourages, causes, or contributes to the need for protection or services or delinquency of a child, or to a child's status as a juvenile petty offender, is guilty of a misdemeanor. This section does not apply to licensed social service agencies and outreach workers who, while acting within the scope of their professional duties, provide services to runaway children.

History: *(8662) 1917 c 397 s 27; 1927 c 192 s 7; 1953 c 436 s 1; 1983 c 217 s 1; 1984 c 588 s 3; 1988 c 673 s 36; 1989 c 208 s 5*

260.32 [Repealed, 1959 c 685 s 53]

260.33 [Repealed, 1959 c 685 s 53]

260.34 [Repealed, 1959 c 685 s 53]

260.35 TESTS, EXAMINATIONS.

Thereafter it shall be the duty of the commissioner of human services through the bureau of child welfare and local social services agencies to arrange for such tests, examinations, and investigations as are necessary for the proper diagnosis, classification, treatment, care, and disposition of the child as necessity and the best interests of the child shall from time to time require. When it appears that a child found to be in need of protection or services is sound of mind, free from disease, and suitable for placement in a foster home for care or adoption, the commissioner may so place the child or delegate such duties to a child-placing agency accredited as provided by law, or authorize the child's care in the county by and under the supervision of the local social services agency.

History: *1941 c 159 s 2; 1984 c 654 art 5 s 58; 1986 c 444; 1988 c 673 s 37; 1994 c 631 s 31*

260.36 SPECIAL PROVISIONS IN CERTAIN CASES.

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

History: *1941 c 159 s 3; 1959 c 685 s 51; 1984 c 654 art 5 s 58; 1985 c 21 s 61; 1986 c 444; 1988 c 673 s 38; 1995 c 189 s 8; 1996 c 277 s 1*

260.37 [Repealed, 1959 c 685 s 53]

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 rules 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, the child's needs shall be met through these programs.

History: *1941 c 159 s 5; 1947 c 81 s 2; 1953 c 54 s 1; 1955 c 81 s 1; 1973 c 717 s 21; 1984 c 654 art 5 s 58; 1985 c 248 s 70; 1Sp1985 c 9 art 2 s 77; 1986 c 444*

260.39 DISTRIBUTION OF FUNDS RECOVERED FOR ASSISTANCE FURNISHED.

When any amount shall be recovered from any source for assistance furnished under the provisions of sections 260.011 to 260.301, 260.35, 260.36, and 260.38, there shall be paid into the treasury of the state or county in the proportion in which they have respectively contributed toward the total assistance paid.

History: *1953 c 95 s 1; 1961 c 560 s 23*

260.40 AGE LIMIT FOR BENEFITS TO CHILDREN.

For purposes of any program for foster children or children under state guardianship for which benefits are made available on June 1, 1973, unless specifically provided therein, the age of majority shall be 21 years of age.

History: *1973 c 725 s 89*

260.41 [Repealed, 1980 c 472 s 1]

260.42 [Repealed, 1980 c 472 s 1]

260.43 [Repealed, 1980 c 472 s 1]

260.44 [Repealed, 1980 c 472 s 1]

260.45 [Repealed, 1980 c 472 s 1]

260.46 [Repealed, 1980 c 472 s 1]

INTERSTATE COMPACT

260.51 INTERSTATE COMPACT ON JUVENILES.

The governor is authorized and directed to execute a compact on behalf of this state with any other state or states legally joining therein in the form substantially as follows:

INTERSTATE COMPACT ON JUVENILES

The contracting states solemnly agree:

ARTICLE I

That juveniles who are not under proper supervision and control, or who have absconded, escaped or run away, are likely to endanger their own health, morals and welfare, and the health, morals and welfare of others. The cooperation of the states party to this compact is therefore necessary to provide for the welfare and protection of juveniles and of the public with respect to

(1) cooperative supervision of delinquent juveniles on probation or parole;

(2) the return, from one state to another, of delinquent juveniles who have escaped or absconded;

(3) the return, from one state to another of nondelinquent juveniles who have run away from home; and

(4) additional measures for the protection of juveniles and of the public, which any two or more of the party states may find desirable to undertake cooperatively. In carrying out the provisions of this compact the party states shall be guided by the noncriminal, reformative and protective policies which guide their laws concerning delinquent, neglected or dependent juveniles generally. It shall be the policy of the states party to this compact to cooperate and observe their respective responsibilities for the prompt return and acceptance of juveniles and delinquent juveniles who become subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the foregoing purposes.

ARTICLE II

That all remedies and procedures provided by this compact shall be in addition to and not in substitution for other rights, remedies and procedures, and shall not be in derogation of parental rights and responsibilities.

ARTICLE III

That, for the purposes of this compact, "delinquent juvenile" means any juvenile who has been adjudged delinquent and who, at the time the provisions of this compact are invoked, is still subject to the jurisdiction of the court that has made such adjudication or to the jurisdiction or supervision of an agency or institution pursuant to an order of such court; "probation or parole" means any kind of conditional release of juveniles authorized under the laws of the states party hereto; "court" means any court having jurisdiction over delinquent, neglected or dependent children; "state" means any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and "residence" or any variant thereof means a place at which a home or regular place of abode is maintained.

ARTICLE IV

(a) That the parent, guardian, person or agency entitled to legal custody of a juvenile who has not been adjudged delinquent but who has run away without the consent of such parent, guardian, person or agency may petition the appropriate court in the demanding state for the issuance of a requisition for his return. The petition shall state the name and age of the juvenile, the name of the petitioner and the basis of entitlement to the juvenile's custody, the circumstances of his running away, his location if known at the time application is made, and such other facts as may tend to show that the juvenile who has run away is endangering his own welfare or the welfare of others and is not an emancipated minor. The petition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the document or documents on which the petitioner's entitlement to the juvenile's custody is based, such as birth certificates, letters of guardianship, or custody decrees. Such further affidavits and other documents as may be deemed proper may be submitted with such petition. The judge of the court to which this application is made may hold a hearing thereon to determine whether for the purposes of this compact the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not he is an emancipated minor, and whether or not it is in the best interest of the juvenile to compel his return to the state. If the judge determines, either with or without a hearing, that the juvenile should be returned, he shall present to the appropriate court or to the executive authority of the state where the juvenile is alleged to be located, a written requisition for the return of such juvenile. Such requisition shall set forth the name and age of the juvenile, the determination of the court that the juvenile has run away without the consent of a parent, guardian, person or agency entitled to his legal custody, and that it is in the best interest and for the protection of such juvenile that he be returned. In the event that a proceeding for the adjudication of the juvenile as a delinquent, neglected or dependent juvenile is pending in the court at the time when such juvenile runs away, the court may issue a requisition for the return of such juvenile upon its own motion, regardless of the consent of the parent, guardian, person or agency entitled to legal custody, reciting therein

the nature and circumstances of the pending proceeding. The requisition shall in every case be executed in duplicate and shall be signed by the judge. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of such court. Upon the receipt of a requisition demanding the return of a juvenile who has run away, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No juvenile detained upon such order shall be delivered over to the officer whom the court demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of a court in the state, who shall inform him of the demand made for his return, and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such juvenile over to the officer whom the court demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a juvenile who has run away from another state party to this compact without the consent of a parent, guardian, person or agency entitled to his legal custody, such juvenile may be taken into custody without a requisition and brought forthwith before a judge of the appropriate court who may appoint counsel or guardian ad litem for such juvenile and who shall determine after a hearing whether sufficient cause exists to hold the person, subject to the order of the court, for his own protection and welfare, for such a time not exceeding 90 days as will enable his return to another state party to this compact pursuant to a requisition for his return from a court of that state. If, at the time when a state seeks the return of a juvenile who has run away, there is pending in the state wherein he is found any criminal charge, or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a juvenile is returned under this Article shall be responsible for payment of the transportation costs of such return.

(c) That "juvenile" as used in this Article means any person who is a minor under the law of the state of residence of the parent, guardian, person or agency entitled to legal custody of such minor.

ARTICLE V

(a) That the appropriate person or authority from whose probation or parole supervision a delinquent juvenile has absconded or from whose institutional custody he has escaped shall present to the appropriate court or to the executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of such delinquent juvenile. Such requisition shall state the name and age of the delinquent juvenile, the particulars of his adjudication as a delinquent juvenile, the circumstances of the breach of the terms of his probation or parole or of his escape from an institution or agency vested with his legal custody or supervision, and the location of such delinquent juvenile, if known, at the time the requisition is made. The requisition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the judgment, formal adjudication, or order of commitment which subjects such delinquent juvenile to probation or parole or to the legal custody of the institution or agency concerned. Such further affidavits and other documents as may be deemed proper may be submitted with such requisition. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of the appropriate court. Upon the receipt of a requisition demanding the return of a delinquent juvenile who has ab-

sconded or escaped, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such delinquent juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No delinquent juvenile detained upon such order shall be delivered over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of an appropriate court in the state, who shall inform him of the demand made for his return and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such delinquent juvenile over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, such person may be taken into custody in any other state party to this compact without a requisition. But in such event, he must be taken forthwith before a judge of the appropriate court, who may appoint counsel or guardian ad litem for such person and who shall determine, after a hearing, whether sufficient cause exists to hold the person subject to the order of the court for such a time, not exceeding 90 days, as will enable his detention under a detention order issued on a requisition pursuant to this Article. If, at the time when a state seeks the return of a delinquent juvenile who has either absconded while on probation or parole or escaped from an institution or agency vested with his legal custody or supervision, there is pending in the state wherein he is detained any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the delinquent juvenile being returned, shall be permitted to transport such delinquent juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he escaped or absconded, the delinquent juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a delinquent juvenile is returned under this Article shall be responsible for payment of the transportation costs of such return.

ARTICLE VI

That any delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, and any juvenile who has run away from any state party to this compact, who is taken into custody without a requisition in another state party to this compact under the provisions of Article IV(a) or of Article V(a), may consent to his immediate return to the state from which he absconded, escaped or run away. Such consent shall be given by the juvenile or delinquent juvenile and his counsel or guardian ad litem if any, by executing or subscribing a writing, in the presence of a judge of the appropriate court, which states that the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, consent to his return to the demanding state. Before such consent shall be executed or subscribed, however, the judge, in the presence of counsel or guardian ad litem, if any, shall inform the juvenile or delinquent juvenile of his rights under this compact. When the consent has been duly executed, it shall be forwarded to and filed with the compact administrator of the state in which the court is located and the judge shall direct the officer having the juvenile or delinquent juvenile in custody to deliver him to the duly accredited officer or officers of the state demanding his return, and shall cause to be delivered to such officer or officers a copy of the consent. The court may, however, upon the request of the state to which the juvenile or delinquent juvenile is being returned, order him to return unaccompanied to such state and shall provide him with a copy of such court order; in such event a copy of the consent shall be forwarded to the com-

pact administrator of the state to which said juvenile or delinquent juvenile is ordered to return.

ARTICLE VII

(a) That the duly constituted judicial and administrative authorities of a state party to this compact (herein called "sending state") may permit any delinquent juvenile within such state, placed on probation or parole, to reside in any other state party to this compact (herein called "receiving state") while on probation or parole, and the receiving state shall accept such delinquent juvenile, if the parent, guardian or person entitled to the legal custody of such delinquent juvenile is residing or undertakes to reside within the receiving state. Before granting such permission, opportunity shall be given to the receiving state to make such investigations as it deems necessary. The authorities of the sending state shall send to the authorities of the receiving state copies of pertinent court orders, social case studies and all other available information which may be of value to and assist the receiving state in supervising a probationer or parolee under this compact. A receiving state, in its discretion, may agree to accept supervision of a probationer or parolee in cases where the parent, guardian or person entitled to legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted the sending state may transfer supervision accordingly.

(b) That each receiving state will assume the duties of visitation and of supervision over any such delinquent juvenile and in the exercise of those duties will be governed by the same standards of visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.

(c) That, after consultation between the appropriate authorities of the sending state and of the receiving state as to the desirability and necessity of returning such a delinquent juvenile, the duly accredited officers of a sending state may enter a receiving state and there apprehend and retake any such delinquent juvenile on probation or parole. For that purpose, no formalities will be required, other than establishing the authority of the officer and the identity of the delinquent juvenile to be retaken and returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state seeks to retake a delinquent juvenile on probation or parole, there is pending against him within the receiving state any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for any act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states partly to this compact, without interference.

(d) That the sending state shall be responsible under this Article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state.

ARTICLE VIII

(a) That the provision of Articles IV(b), V(b), and VII(d) of this compact shall not be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

(b) That nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to cost for which such party state or subdivision thereof may be responsible pursuant to Article IV(b), V(b) or VII(d) of this compact.

ARTICLE IX

That, to every extent possible, it shall be the policy of states party to this compact that no juvenile or delinquent juvenile shall be placed or detained in any prison, jail or lockup nor be detained or transported in association with criminal, vicious or dissolute persons.

ARTICLE X

That the duly constituted administrative authorities of a state party to this compact may enter into supplementary agreements with any other state or states party hereto for the cooperative care, treatment and rehabilitation of delinquent juveniles whenever they shall find that such agreements will improve the facilities or programs available for such care, treatment and rehabilitation. Such care, treatment and rehabilitation may be provided in an institution located within any state entering into such supplementary agreement. Such supplementary agreement shall (1) provide the rates to be paid for the care, treatment and custody of such delinquent juveniles, taking into consideration the character of facilities, services and subsistence furnished; (2) provide that the delinquent juvenile shall be given a court hearing prior to his being sent to another state for care, treatment and custody; (3) provide that the state receiving such a delinquent juvenile in one of its institutions shall act solely as agent for the state sending such delinquent juvenile; (4) provide that the sending state shall at all times retain jurisdiction over delinquent juveniles sent to an institution in another state; (5) provide for reasonable inspection of such institutions by the sending state; (6) provide that the consent of the parent, guardian, person or agency entitled to the legal custody of said delinquent juvenile shall be secured prior to his being sent to another state; and (7) make provision for such other matters and details as shall be necessary to protect the rights and equities of such delinquent juveniles and of the cooperating states.

ARTICLE XI

That any state party to this compact may accept any and all donations, gifts and grants of money, equipment and services from the federal or any local government, or any agency thereof and from any person, firm or corporation, for any of the purposes and functions of this compact, and may receive and utilize the same subject to the terms, conditions and regulations governing such donations, gifts and grants.

ARTICLE XII

That the governor of each state party to this compact shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE XIII

That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

ARTICLE XIV

That this compact shall continue in force and remain binding upon each executing state until renounced by it. Renunciation of this compact shall be by the same authority which executed it, by sending six months' notice in writing of its intention to withdraw from the compact to the other states party hereto. The duties and obligations of a renouncing state under Article VII hereof shall continue as to parolees and probationers residing therein at the time of withdrawal until retaken or finally discharged. Supplementary agreements entered into under Article X hereof shall be subject to renunciation as provided by such supplementary agreements, and shall not be subject to the six months' renunciation notice of the present Article.

ARTICLE XV

That the provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

ARTICLE XVI

(a) That this Article shall provide additional remedies, and shall be binding only as among and between those party states which specifically execute the same.

(b) For the purposes of this Article, "child," as used herein, means any minor within the jurisdictional age limits of any court in the home state.

(c) When any child is brought before a court of a state of which the child is not a resident, and the state is willing to permit the child's return to the home state of the child, the home state, upon being so advised by the state in which the proceeding is pending, shall immediately institute proceedings to determine the residence and jurisdictional facts as to the child in the home state, and upon finding that the child is in fact a resident of that state and subject to the jurisdiction of the court thereof, shall within five days authorize the return of the child to the home state, and to the parent or custodial agency legally authorized to accept the custody in the home state, and at the expense of the state, to be paid from the funds as the home state may procure, designate, or provide, prompt action being of the essence.

ARTICLE XVII

(a) This Article shall provide additional remedies, and shall be binding only as among and between those party states which specifically execute the same.

(b) All provisions and procedures of Articles V and VI of the Interstate Compact on Juveniles shall be construed to apply to any juvenile charged with being a delinquent by reason of a violation of any criminal law. Any juvenile, charged with being a delinquent by reason of violating any criminal law shall be returned to the requesting state upon a requisition to the state where the juvenile may be found. A petition in the case shall be filed in a court of competent jurisdiction in the requesting state where the violation of criminal law is alleged to have been committed. The petition may be filed regardless of whether the juvenile has left the state before or after the filing of the petition. The requisition described in Article V of the compact shall be forwarded by the judge of the court in which the petition has been filed.

History: *1957 c 892 s 1; 1982 c 371 s 1*

260.52 DEFINITIONS.

As used in the interstate compact on juveniles, the following words and phrases have the following meanings as to this state:

(1) "Executive authority" means the compact administrator.

(2) The "appropriate court" of this state to issue a requisition under Article IV of the compact is the juvenile court of the county of the petitioner's residence, or, if the petitioner is a child welfare agency, the juvenile court of the county where it has its principal office, or, if the petitioner is the state department of human services, any juvenile court in the state.

(3) The "appropriate court" of this state to receive a requisition under Article IV or V of the Compact is the juvenile court of the county where the juvenile is located.

History: *1957 c 892 s 2; 1984 c 654 art 5 s 58*

260.53 COMPACT ADMINISTRATOR.

(1) Pursuant to the interstate compact on juveniles, the governor is authorized to designate the commissioner of corrections to be the compact administrator, who, acting jointly with like officers of other party states, shall promulgate rules to carry out more effectively the terms of the compact. The compact administrator shall serve subject to the pleasure of the governor. The compact administrator is authorized to cooperate with all departments, agencies and officers of and in the government of this state and its political subdivisions in facilitating the proper administration of the compact or of any supplementary agreement entered into by this state thereunder.

(2) The compact administrator shall determine for this state whether to receive juvenile probationers and parolees of other states pursuant to Article VII of the interstate compact on juveniles and shall arrange for the supervision of each such probationer or parolee so received, either by the commissioner of corrections or by a person appointed to perform supervision service for the juvenile court of the county where the juvenile is to reside, whichever is

more convenient. Such persons shall in all such cases make periodic reports to the compact administrator regarding the conduct and progress of such juveniles.

History: *1957 c 892 s 3; 1974 c 125 s 1; 1986 c 444*

260.54 SUPPLEMENTARY AGREEMENTS.

The compact administrator is authorized to enter into supplementary agreements with appropriate officials of other states pursuant to Article X of the interstate compact on juveniles. In the event that such supplementary agreement requires or contemplates the use of any institution or facility of this state or the provision of any service by this state, said supplementary agreement shall have no effect until approved by the department or agency under whose jurisdiction the institution or facility is operated or which shall be charged with the rendering of such service.

History: *1957 c 892 s 4*

260.55 EXPENSE OF RETURNING JUVENILES TO STATE, PAYMENT.

The expense of returning juveniles to this state pursuant to the interstate compact on juveniles shall be paid as follows:

(1) In the case of a runaway under Article IV, the court making the requisition shall inquire summarily regarding the financial ability of the petitioner to bear the expense and if it finds the petitioner is able to do so, shall order that the petitioner pay all such expenses; otherwise the court shall arrange for the transportation at the expense of the county and order that the county reimburse the person, if any, who returns the juvenile, for actual and necessary expenses; and the court may order that the petitioner reimburse the county for so much of said expense as the court finds the petitioner is able to pay. If the petitioner fails, without good cause, or refuses to pay such sum, the petitioner may be proceeded against for contempt.

(2) In the case of an escapee or absconder under Article V or Article VI, if the juvenile is in the legal custody of the commissioner of corrections the commissioner shall bear the expense of the juvenile's return; otherwise the appropriate court shall, on petition of the person or agency entitled to the juvenile's custody or charged with the juvenile's supervision, arrange for the transportation at the expense of the county and order that the county reimburse the person, if any, who returns the juvenile, for actual and necessary expenses. In this subsection "appropriate court" means the juvenile court which adjudged the juvenile to be delinquent or, if the juvenile is under supervision for another state under Article VII of the compact, then the juvenile court of the county of the juvenile's residence during such supervision.

(3) In the case of a voluntary return of a runaway without requisition under Article VI, the person entitled to the juvenile's legal custody shall pay the expense of transportation and the actual and necessary expenses of the person, if any, who returns such juvenile; but if financially unable to pay all the expenses the person may petition the juvenile court of the county of the petitioner's residence for an order arranging for the transportation as provided in paragraph (1). The court shall inquire summarily into the financial ability of the petitioner and, if it finds the petitioner is unable to bear any or all of the expense, the court shall arrange for such transportation at the expense of the county and shall order the county to reimburse the person, if any, who returns the juvenile, for actual and necessary expenses. The court may order that the petitioner reimburse the county for so much of said expense as the court finds the petitioner is able to pay. A petitioner who fails, without good cause, or refuses to pay such sum may be proceeded against for contempt.

History: *1957 c 892 s 5; 1974 c 125 s 2; 1986 c 444*

260.56 COUNSEL OR GUARDIAN AD LITEM FOR JUVENILE, FEES.

Any judge of this state who appoints counsel or a guardian ad litem pursuant to the provisions of the interstate compact on juveniles may allow a reasonable fee to be paid by the county on order of the court.

History: *1957 c 892 s 6; 1986 c 444*

260.57 ENFORCEMENT.

The courts, departments, agencies and officers of this state and its political subdivisions shall enforce the interstate compact on juveniles and shall do all things appropriate to the effectuation of its purposes which may be within their respective jurisdictions.

History: *1957 c 892 s 7*