CHAPTER 257D

GUARDIANSHIP OF AT-RISK JUVENILES

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257D.01 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of this chapter, the terms defined in this section have the meanings given.

Subd. 2. **Abandonment.** "Abandonment" means the parent's failure to maintain contact with an at-risk juvenile on a regular basis or to demonstrate consistent interest in an at-risk juvenile's well-being beginning at least six months prior to the at-risk juvenile reaching the age of 18, or the death of an at-risk juvenile's parent.

Subd. 3. **Abuse.** "Abuse" means, at any time in an at-risk juvenile's life, the infliction or threat of:

(1) psychological or emotional harm;

(2) physical injury that was not due to an accident; or

(3) sexual abuse, which includes sex trafficking as defined in section 609.321, subdivision 7a.

Subd. 4. **At-risk juvenile.** "At-risk juvenile" means an unmarried person who is between the ages of 18 and 21 and is potentially eligible for classification under United States Code, title 8, section 1101(a)(27)(J), as amended through December 31, 2021.

Subd. 5. **Best interests.** "Best interests" has the meaning given in section 260C.511, paragraph (a).

Subd. 6. **Guardian.** "Guardian" means an adult who has been appointed by the court as the guardian of an at-risk juvenile under this chapter. A guardian includes but is not limited to a parent.

Subd. 7. **Mental injury.** "Mental injury" has the meaning given in section 260E.03, subdivision 13.

Subd. 8. **Neglect.** "Neglect" means, at any time prior to an at-risk juvenile reaching the age of 18, the failure to give an at-risk juvenile proper care that causes the juvenile's health or welfare to be harmed or placed at substantial risk of harm or causes mental injury or a substantial risk of mental injury.

Subd. 9. **Petitioner.** "Petitioner" means the at-risk juvenile who is the subject of the petition.

History: *2022 c 45 s 1*

257D.02 GUARDIANSHIP; PURPOSE.

The purpose of the guardianship under this chapter is to provide an at-risk juvenile with guidance, assistance, financial and emotional support, and referrals to resources necessary to either or both:

(1) meet the at-risk juvenile's needs, which include but are not limited to shelter, nutrition, and access to and receipt of psychiatric, psychological, medical, dental, educational, occupational, or other services; or

(2) protect the at-risk juvenile from sex or labor trafficking or domestic or sexual violence.

History: *2022 c 45 s 2*

257D.03 JURISDICTION; PETITION.

Subdivision 1. **Jurisdiction.** The juvenile court has exclusive jurisdiction over all petitions for guardianship brought under this chapter.

Subd. 2. **Petition.** An at-risk juvenile may petition the juvenile court for the appointment of a guardian. The petition must state the name of the proposed guardian and allege that:

(1) the appointment of a guardian is in the best interests of the at-risk juvenile;

(2) the proposed guardian is capable and reputable;

(3) both the petitioner and the proposed guardian agree to the appointment of a guardianship under this chapter;

(4) reunification of the at-risk juvenile with one or both parents is not viable because of abandonment, abuse, neglect, or a similar basis that has an effect on the at-risk juvenile comparable to abandonment, abuse, or neglect under Minnesota law; and

(5) it is not in the best interests of the at-risk juvenile to be returned to the at-risk juvenile's or at-risk juvenile's parent's previous country of nationality or last habitual residence.

History: *2022 c 45 s 3*

257D.04 RIGHT TO COUNSEL.

The at-risk juvenile petitioning for a guardianship and the proposed guardian named in the petition each have the right to be represented by counsel of the at-risk juvenile's or guardian's choosing and at the at-risk juvenile's or guardian's own expense.

History: *2022 c 45 s 4*

257D.05 SERVICE.

The proposed guardian and, if an appointment of a new guardian is sought, the existing guardian for the at-risk juvenile previously appointed under this chapter are entitled to service in the manner specified in the Minnesota Rules of Juvenile Protection Procedure.

History: *2022 c 45 s 5*

257D.06 NOTICE TO PARENTS.

The petitioner must provide a copy of the petition to any living parent in any manner and format reasonably calculated to give the parent adequate notice at least 14 days prior to the hearing under section 257D.07. Prior to or at the hearing, the petitioner must file proof that the copy of the petition was provided to any living parents of the petitioner. The court may waive notice to a parent:

(1) if the identity or location of the petitioner's parent is unknown; or

(2) for any other reason that the court may deem appropriate.

History: *2022 c 45 s 6*

257D.07 PROCEEDING.

Subdivision 1. **Timing; venue.** The court shall hear and issue an order on any petition as soon as administratively feasible and prior to the at-risk juvenile reaching 21 years of age. Venue must be in the county where the at-risk juvenile or the proposed guardian resides.

Subd. 2. **Rights of at-risk juvenile.** Nothing in this section authorizes the guardian to abrogate any rights or privileges to which the at-risk juvenile is entitled under law.

History: *2022 c 45 s 7*

257D.08 ORDER.

Subdivision 1. **Issuance.** The court must issue an order awarding a guardianship for the purposes identified in section 257D.02 if the court finds that:

(1) the proposed guardian is capable and reputable;

(2) the guardianship is in the best interests of the at-risk juvenile;

(3) both the petitioner and the proposed guardian agree to the establishment of a guardianship under this chapter;

(4) reunification of the at-risk juvenile with one or both parents is not viable because of abandonment, abuse, neglect, or a similar basis that has an effect on the at-risk juvenile comparable to abandonment, abuse, or neglect under Minnesota law; and

(5) it is not in the best interests of the at-risk juvenile to be returned to the previous country of nationality or last habitual residence of the juvenile or the juvenile's parent or parents.

Subd. 2. **Contents of the order.** (a) The order must, where the identity is known, specifically identify the parent or parents whom the court finds have abused, abandoned, or neglected the at-risk juvenile.

(b) The order must contain the following three judicial determinations, each supported by relevant state statutory citations and written findings of fact:

(1) the at-risk juvenile is dependent on the juvenile court, and has been placed under the custody of an individual appointed by the juvenile court, through the appointment of a guardian, for the purposes of this chapter;

(2) reunification of the at-risk juvenile with one or both parents is not viable because of abandonment, abuse, or neglect or a similar basis that has an effect on the at-risk juvenile comparable to abandonment, abuse, or neglect under Minnesota law; and

(3) it is not in the best interests of the at-risk juvenile to be returned to the at-risk juvenile's or at-risk juvenile's parent's country of nationality or last habitual residence.

History: *2022 c 45 s 8*

257D.09 APPOINTMENT OF A NEW GUARDIAN.

At any time after the approval of a guardian under section 257D.08, an at-risk juvenile or the currently appointed at-risk juvenile's guardian may petition the juvenile court for appointment of a new guardian. The petition must state the name of the proposed new guardian and set forth the facts supporting the request. The court may appoint a new guardian if the court finds that:

(1) the proposed new guardian is capable and reputable;

(2) the appointment of a new guardian is in the best interests of the at-risk juvenile; and

(3) both the at-risk juvenile and the proposed new guardian agree to the establishment of the guardianship.

History: *2022 c 45 s 9*

257D.10 AUTOMATIC TERMINATION OF GUARDIANSHIP.

A guardianship awarded under this chapter terminates when the at-risk juvenile attains the age of 21. The juvenile court's jurisdiction continues until termination of the guardianship.

History: *2022 c 45 s 10*

257D.11 VOLUNTARY TERMINATION OF GUARDIANSHIP.

The at-risk juvenile may request the termination of the guardianship at any time and, upon request, the juvenile court shall terminate the guardianship.

History: *2022 c 45 s 11*

257D.12 RELATION TO OTHER GUARDIANSHIP LAW.

The provisions of sections 260C.325, 260C.328, and 524.5-101 to 524.5-317 do not apply to petitions for the appointment of a guardianship for an at-risk juvenile under this chapter.

History: *2022 c 45 s 12*