

Sec. 4. **REPEALER.**

Minnesota Statutes 1986, section 152.15, subdivision 4, is repealed.

Sec. 5. **EFFECTIVE DATE.**

Sections 1 to 4 are effective August 1, 1987, and apply to crimes committed on or after that date.

Approved May 29, 1987

CHAPTER 331—H.F.No. 706

An act relating to juveniles; clarifying certain recent changes to the juvenile court act; clarifying the hearing and records procedures of the juvenile court; providing for the enforcement of juvenile court restitution orders; permitting administrative docketing of certain unpaid county reimbursements; clarifying certain crime victim notification and protection laws; amending Minnesota Statutes 1986, sections 260.155, subdivisions 1 and 1a; 260.156; 260.161; 260.185, by adding a subdivision; 548.091, subdivision 1; 595.02, subdivision 4; 609.115, subdivision 1; 609.3471; 611A.031; and 611A.035; proposing coding for new law in Minnesota Statutes, chapter 611A; repealing Minnesota Statutes 1986, sections 609.115, subdivisions 1b and 1c; and 636.08.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1986, section 260.155, subdivision 1, is amended to read:

Subdivision 1. **GENERAL.** Except for hearings arising under section 260.261, hearings on any matter shall be without a jury and may be conducted in an informal manner. The rules of evidence promulgated pursuant to section 480.0591 and the law of evidence shall apply in adjudicatory proceedings involving a child alleged to be delinquent, a habitual truant, a runaway, a juvenile petty offender, or a juvenile alcohol or controlled substance offender, and hearings conducted pursuant to section 260.125 except to the extent that the rules themselves provide that they do not apply. Hearings may be continued or adjourned from time to time and, in the interim, the court may make any orders as it deems in the best interests of the minor in accordance with the provisions of sections 260.011 to 260.301. The court shall exclude the general public from these hearings and shall admit only those persons who, in the discretion of the court, have a direct interest in the case or in the work of the court; except that, the court shall open the hearings to the public in delinquency proceedings where the child is alleged to have committed an offense or has been proven to have committed an offense that would be a felony if committed by an adult and the child was at least 16 years of age at the time of the hearing. In all delinquency cases a person named in the charging clause of the petition as a person directly damaged in person or

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property shall be entitled, upon request, to be notified by the court administrator in writing, at the named person's last known address, of (1) the date of the reference or adjudicatory hearings, and (2) the disposition of the case. Adoption hearings shall be conducted in accordance with the provisions of laws relating to adoptions.

Sec. 2. Minnesota Statutes 1986, section 260.155, subdivision 1a, is amended to read:

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; ~~and any grandparent of the child with whom the child has resided within the past two years;~~ 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.

Sec. 3. Minnesota Statutes 1986, section 260.156, is amended to read:

260.156 CERTAIN OUT-OF-COURT STATEMENTS ADMISSIBLE.

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

(a) the court finds that the time, content, and circumstances of the statement and the reliability of the person to whom the statement is made provide sufficient indicia of reliability; and

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

For purposes of this section, an out-of-court statement includes a video, audio, or other recorded statement.

Sec. 4. Minnesota Statutes 1986, section 260.161, is amended to read:

260.161 RECORDS.

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Subdivision 1. The juvenile court judge shall keep such minutes and in such manner as the judge court deems necessary and proper. The court shall keep and maintain records pertaining to delinquent adjudications until the person reaches the age of 23 years and shall release the records on an individual to a requesting adult court for purposes of sentencing, or to an adult court or juvenile court as required by the right of confrontation of either the United States Constitution or the Minnesota Constitution. The juvenile court shall provide, upon the request of any other juvenile court, copies of the records concerning adjudications involving the particular child. The court shall also keep an index in which files pertaining to juvenile matters shall be indexed under the name of the juvenile 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 juvenile child all documents filed pertaining ~~thereto~~ to the child and in the order filed. The list shall show the name of the document and the date of filing thereof. The juvenile court legal records shall be deposited in files and shall include the petition, summons, notice, findings, orders, decrees, judgments, and motions and such other matters as the court deems necessary and proper. The legal records maintained in this file shall be open at all reasonable times to the inspection of any minor child to whom the records relate, and to the minor's child's parent and guardian.

Subd. 2. Except as provided in this subdivision and in subdivision 1, and except for legal records arising from proceedings that are public under section 260.155, subdivision 1, none of the records of the juvenile court, including legal records 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 ~~the a~~ court or (b) as required by sections 611A.03, 611A.04, and 611A.06. The records of juvenile probation officers and county home schools are records of the court for the purposes of this subdivision. This subdivision applies to all proceedings under this chapter, including appeals from orders of the juvenile court, except that this subdivision does not apply to proceedings under sections section 260.255 and, 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.

Subd. 3. Peace officers' records of children shall be kept separate from records of persons 18 years of age or older and shall not be open to public inspection or their contents disclosed to the public except by order of the juvenile court or as authorized under chapter 13; except that traffic investigation reports may be open to inspection by a person who has sustained physical harm or economic loss as a result of the traffic accident. No photographs of a child taken into custody for any purpose may be taken without the consent of the

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juvenile court unless the child is alleged to have violated section 169.121 or 169.129. Any person violating any of the provisions of this subdivision shall be guilty of a misdemeanor.

Subd. 4. COURT RECORD RELEASED TO PROSECUTOR. If a prosecutor has probable cause to believe that a person has committed a gross misdemeanor violation of section 169.121 or has violated section 169.129, and that a prior juvenile court adjudication forms, in part, the basis for the current violation, the prosecutor may file an application with the court having jurisdiction over the criminal matter attesting to this probable cause determination and seeking the relevant juvenile court records. The court shall transfer the application to the juvenile court where the requested records are maintained, and the juvenile court shall release to the prosecutor any records relating to the person's prior juvenile traffic adjudication, including a transcript, if any, of the court's advisory of the right to counsel and the person's exercise or waiver of that right.

Sec. 5. Minnesota Statutes 1986, section 260.185, is amended by adding a subdivision to read:

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

Sec. 6. Minnesota Statutes 1986, section 548.091, subdivision 1, is amended to read:

Subdivision 1. **DOCKETING OF JUDGMENT.** A judgment for unpaid amounts under a judgment or decree of dissolution or legal separation, determination of parentage, an order under chapter 518C, ~~or~~ an order under section 256.87, or an order under section 260.251, any of which provide for installment or periodic payments of child support, maintenance, or ~~both reimbursement to~~ a county for the cost of care, examination, or treatment of a child, or any combination of those items, shall be entered and docketed by the court administrator only when ordered by the court or when the following conditions are met:

(a) The obligee or the public authority determines that the obligor is at least 30 days in arrears;

(b) The obligee or public authority serves a copy of an affidavit of default and notice of intent to enter judgment on the obligor by mail at the obligor's last known post office address. Service shall be deemed complete upon mailing in the manner designated. The affidavit shall state the full name, occupation, place of residence, and last known post office address of the obligor, the name and post office address of the obligee, the date of the first unpaid amount, the date of the last unpaid amount, and the total amount unpaid;

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(c) The obligor fails within 20 days after mailing of the notice either to pay all unpaid amounts or to request a hearing on the issue of whether arrears claimed owing have been paid and to seek, ex parte, a stay of entry of judgment; and

(d) Not less than 20 days after service on the obligor in the manner provided, the obligee or public authority files with the court administrator the affidavit of default together with proof of service and, if payments have been received by the obligee or public authority since execution of the affidavit of default, a supplemental affidavit setting forth the amount of payment received.

Sec. 7. Minnesota Statutes 1986, section 595.02, subdivision 4, is amended to read:

Subd. 4. **COURT ORDER.** (a) In a proceeding in which a child less than ten years of age is alleging, denying, or describing an act of physical abuse or an act of sexual contact or penetration performed with or on the child by another, the court may, upon its own motion or upon the motion of any party, order that the testimony of the child be taken in a room other than the courtroom or in the courtroom and televised at the same time by closed-circuit equipment, or recorded for later showing to be viewed by the jury in the proceeding.

(b) At the taking of testimony under this subdivision, only the judge, the attorneys for the defendant and for the state, any person whose presence would contribute to the welfare and well-being of the child, and persons necessary to operate the recording or closed-circuit equipment and, in a child protection proceeding under chapter 260 or a dissolution or custody proceeding under chapter 518, the attorneys for those parties with a right to participate may be present with the child during the child's testimony.

(c) The court shall permit the defendant in a criminal or delinquency matter to observe and hear the testimony of the child in person. If the court, upon its own motion or the motion of any party, determines that the presence of the defendant during testimony taken pursuant to this subdivision would psychologically traumatize the witness so as to render the witness unavailable to testify, the court may order that the testimony be taken in a manner that:

(1) the defendant can see and hear the testimony of the child in person and communicate with counsel, but the child cannot see or hear the defendant; or

(2) the defendant and child can view each other by video or television monitor from separate rooms.

Sec. 8. Minnesota Statutes 1986, section 609.115, subdivision 1, is amended to read:

Subdivision 1. **PRESENTENCE INVESTIGATION.** When a defendant has been convicted of a misdemeanor or gross misdemeanor, the court may, and when the defendant has been convicted of a felony, the court shall, before

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sentence is imposed, cause a presentence investigation and written report to be made to the court concerning the defendant's individual characteristics, circumstances, needs, potentialities, criminal record and social history, the circumstances of the offense and the harm caused by it to others and to the community. The report shall also include the information relating to crime victims required under section 12, subdivision 1. If the court directs, the report shall include an estimate of the prospects of the defendant's rehabilitation and recommendations as to the sentence which should be imposed. In misdemeanor cases the report may be oral.

When a defendant has been convicted of a felony, and before sentencing, the court shall cause a sentencing worksheet to be completed to facilitate the application of the Minnesota sentencing guidelines. The worksheet shall be submitted as part of the presentence investigation report.

The investigation shall be made by a probation officer of the court, if there is one, otherwise by the commissioner of corrections. The officer conducting the presentence or predispositional investigation shall make reasonable and good faith efforts to contact the victim of that crime and to provide that victim with the information required under section 12, subdivision 2.

Pending the presentence investigation and report, the court with the consent of the commissioner may commit the defendant to the custody of the commissioner of corrections who shall return the defendant to the court when the court so orders.

Presentence investigations shall be conducted and summary hearings held upon reports and upon the sentence to be imposed upon the defendant in accordance with this section, section 244.10, and the rules of criminal procedure.

Sec. 9. Minnesota Statutes 1986, section 609.3471, is amended to read:

609.3471 RECORDS PERTAINING TO VICTIM IDENTITY CONFIDENTIAL.

Notwithstanding any provision of law to the contrary, no data contained in records or reports relating to petitions, complaints, or indictments issued pursuant to section 609.342, clause (a), (b), (g), or (h); 609.343, clause (a), (b), (g), or (h); 609.344, clause (a), (b), (e), (f), or (g); or 609.345, clause (a), (b), (e), (f), or (g) which specifically identifies the victim shall be accessible to the public, except by order of the court. Nothing in this section authorizes denial of access to any other data contained in the records or reports, including the identity of the defendant.

Sec. 10. Minnesota Statutes 1986, section 611A.031, is amended to read:

611A.031 VICTIM INPUT REGARDING PRETRIAL DIVERSION.

A prosecutor shall make every reasonable effort to notify and seek input

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from the victim prior to the ~~referral~~ referring a person into a pretrial diversion program in lieu of prosecution for a violation of sections 609.185, 609.19, 609.195, 609.20, 609.205, 609.221, 609.222, 609.223, 609.224, 609.24, 609.245, 609.25, 609.255, 609.342, 609.343, 609.344, 609.345, 609.365, 609.498, 609.561, 609.582, subdivision 1, and 609.687.

Sec. 11. Minnesota Statutes 1986, section 611A.035, is amended to read:

611A.035 CONFIDENTIALITY OF VICTIM'S ADDRESS.

No victim or witness providing testimony in court proceedings may be compelled to state ~~the victim's~~ his or her home or employment address on the record in open court unless the court finds that the testimony would be relevant evidence.

Sec. 12. **[611A.037] PRESENTENCE INVESTIGATION; VICTIM IMPACT; NOTICE.**

Subdivision 1. VICTIM IMPACT STATEMENT. A presentence investigation report prepared under section 609.115 shall include the following information relating to victims:

(a) a summary of the damages or harm and any other problems generated by the criminal occurrence;

(b) a concise statement of what disposition the victim deems appropriate for the defendant or juvenile court respondent, including reasons given, if any, by the victim in support of the victim's opinion; and

(c) an attachment to the report, consisting of the victim's written objections, if any, to the proposed disposition if the victim provides the officer conducting the presentence investigation with this written material within a reasonable time prior to the disposition.

Subd. 2. NOTICE TO VICTIM. The officer conducting a presentence or predispositional investigation shall make reasonable and good faith efforts to contact the victim of that crime and to provide that victim with the following information: (i) the charge or juvenile court petition to which the defendant has been convicted or pleaded guilty, or the juvenile respondent has admitted in court or has been found to have committed by the juvenile court, and of any plea agreement between the prosecution and the defense counsel; (ii) the victim's right to request restitution pursuant to section 611A.04; (iii) the time and place of the sentencing or juvenile court disposition and the victim's right to be present; and (iv) the victim's right to object in writing to the court, prior to the time of sentencing or juvenile court disposition, to the proposed sentence or juvenile dispositional alternative, or to the terms of the proposed plea agreement. To assist the victim in making a recommendation under clause (iv), the officer shall provide the victim with information about the court's options for sentencing and other dispositions. Failure of the officer to comply with this

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subdivision does not give any rights or grounds for postconviction or postjuvenile disposition relief to the defendant or juvenile court respondent, nor does it entitle a defendant or a juvenile court respondent to withdraw a plea of guilty.

Sec. 13. REPEALER.

Minnesota Statutes 1986, sections 609.115, subdivisions 1b and 1c; and 636.08, are repealed.

Approved May 29, 1987

CHAPTER 332—H.F.No. 913

An act relating to workers' compensation; providing a general administrative reform; providing for certain proceedings to be expedited; providing penalties; amending Minnesota Statutes 1986, sections 14.48; 175.007, subdivision 1; 175.101, subdivision 2; 176.011, subdivisions 2, 6, 7a, 9, and by adding a subdivision; 176.041, subdivision 1, 4, and by adding a subdivision; 176.081, subdivision 2; 176.102, subdivisions 2, 3, 3a, 4, 6, 8, 10, and 13; 176.103, subdivisions 2 and 3; 176.111, subdivision 17; 176.129, subdivisions 9, 11, and 13; 176.131, subdivisions 1 and 8; 176.133; 176.135, subdivisions 1, 1a, 2, 3, and by adding subdivisions; 176.136, subdivision 2; 176.1361; 176.139; 176.155, subdivisions 1, 3, and 5; 176.179; 176.181, subdivision 3; 176.182; 176.183, subdivisions 1a and 2; 176.185, by adding a subdivision; 176.191, subdivisions 1 and 2; 176.195, subdivision 3, 176.221, subdivisions 1, 3, and 7; 176.225, subdivisions 1, 2, and 4; 176.231, subdivisions 2, 10, and by adding a subdivision; 176.271, subdivision 1; 176.275; 176.291; 176.301, subdivision 1; 176.305, subdivisions 1, 2, and by adding subdivisions; 176.306, subdivision 1, and by adding a subdivision; 176.312; 176.321, subdivisions 2 and 3; 176.331; 176.341, subdivision 3, and by adding subdivisions; 176.351, subdivision 2a; 176.361, subdivisions 2, 5, and 7; 176.371; 176.411, subdivision 1; 176.421, subdivision 4, and by adding a subdivision; 176.442; 176.511, subdivisions 1, 2, and 3; 176.521; 176.541, subdivisions 2, 3, 4, and 6; 176.571, subdivisions 1 and 2; 176.572; 176.581; 176.591, subdivision 3; 176.603; 176.83, subdivisions 5, 7, and 11; 176.84; 176B.02; and 176B.05; proposing coding for new law in Minnesota Statutes, chapters 60A and 176; repealing Minnesota Statutes 1986, sections 176.012; 176.101, subdivision 3v; 176.102, subdivision 6a; 176.103, subdivision 4; 176.136, subdivision 4; 176.195, subdivisions 4, 5, and 6; 176.241; 176.242; 176.2421; 176.243; 176.244; 176.271, subdivision 2; 176.501; 176.571, subdivisions 3, 4, 5, 6, and 7; and 176.602.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1986, section 14.48, is amended to read:

14.48 CREATION OF OFFICE OF ADMINISTRATIVE HEARINGS; CHIEF ADMINISTRATIVE LAW JUDGE APPOINTED; OTHER ADMINISTRATIVE LAW JUDGES APPOINTED.

A state office of administrative hearings is created. The office shall be under

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