

CHAPTER 208—H.F.No. 135

An act relating to juvenile court; limiting the court's authority to transfer legal custody of a child for the purpose of obtaining special treatment or care; clarifying the grounds for terminating parental rights to a child; clarifying the liability of persons who provide outreach services to runaways; amending Minnesota Statutes 1988, sections 260.015, subdivision 2a; 260.191, subdivision 1; 260.221, subdivisions 1 and 3; and 260.315.

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

Section 1. Minnesota Statutes 1988, section 260.015, subdivision 2a, is amended to read:

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) has been a victim of physical or sexual abuse or resides with a victim of domestic child abuse as defined in subdivision 24;
- (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;

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(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 ~~occupation, behavior, condition, or environment, or associations~~ are ~~is~~ such as to be injurious or dangerous to the child or others;

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

(11) is a runaway; or

(12) is an habitual truant.

Sec. 2. Minnesota Statutes 1988, section 260.191, subdivision 1, is amended to read:

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 county welfare board 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 county welfare board.

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

(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

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(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 be canceled, the court may recommend to the commissioner of public safety that the child's license be canceled for any period up to the child's 18th birthday. The commissioner is authorized to cancel the license without a hearing. At any time before the expiration of the period of cancellation, the court may, for good cause, recommend to the com-

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missioner of public safety that the child be authorized to apply for a new license, and the commissioner may so authorize; or

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

Sec. 3. Minnesota Statutes 1988, section 260.221, subdivision 1, is amended to read:

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 or merely incidental contact with the child for six months in the case of a child under six years of age, or for 12 months in the case of a child ages six to 11; 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

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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; 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 under the age of 12 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 section 260.015, subdivision 2a, clause (1), (2), (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; 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; or

(6) That in the case of a child born to a mother who was not married to the child's father when the child was conceived nor when the child was born the person is not entitled to notice of an adoption hearing under section 259.26 and either the person has not filed a notice of intent to retain parental rights under section 259.261 or that the notice has been successfully challenged; or

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

Sec. 4. Minnesota Statutes 1988, section 260.221, subdivision 3, is amended to read:

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).

Sec. 5. Minnesota Statutes 1988, section 260.315, is amended to read:

260.315 CONTRIBUTING TO NEED FOR PROTECTION OR SERVICES OR DELINQUENCY.

Any person who by act, word, or omission encourages, causes, or contrib-

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utes 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.

Sec. 6. **EFFECTIVE DATE.**

Sections 3 and 4 are effective the day following final enactment.

Presented to the governor May 19, 1989

Signed by the governor May 19, 1989, 11:21 p.m.

CHAPTER 209—H.F.No. 1197

An act relating to Minnesota Statutes; correcting erroneous, ambiguous, and omitted text and obsolete references; eliminating certain redundant, conflicting, and superseded provisions; making miscellaneous technical corrections to statutes and other laws; amending Minnesota Statutes 1988, sections 10A.01, subdivisions 5 and 18; 10A.32, subdivision 3a; 13.46, subdivision 2; 13.75, subdivision 2; 16A.26; 16B.28, subdivision 3; 18B.25, subdivision 4; 45.028, subdivision 1; 69.32; 105.81; 115A.195; 115C.08, subdivision 3; 116.44, subdivision 1; 122.23, subdivision 18; 122.96, subdivision 3; 124.646, subdivision 1; 124A.24; 124A.27, subdivision 1; 127.35; 136C.61, subdivision 1; 136D.27, subdivision 3; 136D.71; 136D.74, subdivision 2b; 136D.741, subdivision 4; 136D.87, subdivision 3; 141.35; 144.122; 144.335, subdivision 2; 145A.07, subdivision 1; 145A.13; 157.03; 168.33, subdivision 2; 168A.24, subdivision 2; 168A.29, subdivision 3; 169.345, subdivision 2; 176.081, subdivision 1; 176.101, subdivision 3e; 176.131, subdivision 1; 176.421, subdivision 7; 205.065, subdivision 1; 205.18, subdivision 2; 211B.15, subdivision 4; 214.01, subdivision 2; 245.77; 256.01, subdivision 2; 256.991; 256B.69, subdivision 16; 256D.03, subdivision 4; 256G.02, subdivision 4; 256G.06; 257.354, subdivision 4; 268.04, subdivision 32; 268.10, subdivision 1; 272.02, subdivision 1; 273.124, subdivision 6; 290.05, subdivision 3; 297.07, subdivision 3; 297.35, subdivision 3; 298.2211, subdivision 1; 308.11; 340A.414, subdivision 6; 349.213, subdivision 2; 352.01, subdivision 2b; 353.01, subdivision 2a; 363.06, subdivision 4; 383B.229; 383B.77; 383C.331; 383C.334; 469.0721; 469.121, subdivision 1; 469.129, subdivision 1; 471.562, subdivision 4; 471.563; 473.605, subdivision 2; 473.845, subdivision 1; 474A.02, subdivision 18; 480A.02, subdivision 7; 485.018, subdivision 2; 515A.3-115; 525.94, subdivision 3; 548.09, subdivision 2; 604.02, subdivision 1; 609.506, subdivision 1; and 611A.53, subdivision 1; reenacting Minnesota Statutes 1988, section 80A.14, subdivision 18; repealing Minnesota Statutes 1988, sections 260.125, subdivision 6; 326.01, subdivision 21; and 362A.08; amending Laws 1976, chapter 134, section 79; Laws 1988, chapter 640, section 5; and chapter 719, article 12, section 29; repealing Laws 1965, chapter 267, section 1; Laws 1971, chapter 830, section 7; Laws 1976, chapter 2, section 62; chapter 134, section 2; chapter 163, section 10; and chapter 173, section 53; Laws 1977, chapter 35, section 8; Laws 1978, chapter 496, section 1; and chapter 706, section 31; Laws 1979, chapter 48, section 2; and chapter 184, section 3; Laws

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