

CHAPTER 260

DEPENDENT, NEGLECTED, AND DELINQUENT CHILDREN

260.01 DEPENDENT, NEGLECTED, AND DELINQUENT CHILD ASSOCIATIONS.

HISTORY. 1897 c. 210 ss. 3, 6; 1905 c. 285 s. 1; 1909 c. 232 s. 1; G.S. 1913 ss. 7162, 7178; 1917 c. 397 s. 1; G.S. 1923 s. 8636; 1927 c. 192 s. 1; M.S. 1927 s. 8636.

This chapter is constitutional. Dependent, neglected, or delinquent children are proper subjects to be placed under guardianship by the probate court. *State ex rel v Patterson*, 188 M 492, 247 NW 573.

Juvenile delinquents are not criminals. No appeal lies from a decision of a juvenile court (district court) under this chapter. *State v Zenzen*, 178 M 394, 227 NW 356.

Certiorari may be available. *State ex rel v Juvenile Court*, 163 M 312, 204 NW 21.

Habeas corpus available. *Peterson v McAuliffe*, 151 M 467, 187 NW 226.

The intent and purpose of section 260.01, read in connection with section 260.11, construed and held to exclude from the operation of this chapter, as a dependent, a child having a parent able to provide for its support, and who does not consent to separation from it, whether such child be illegitimate or legitimate. *State ex rel v Juvenile Court*, 147 M 222, 179 NW 1006.

A nine-year-old child whose father is temporarily disabled and unable to support her, but who is suitably maintained by her stepmother, is not dependent. Juvenile court act does not permit adjudication of dependency of child found in the state for temporary purposes only but domiciled in another state. *State ex rel v Juvenile Court*, 163 M 312, 204 NW 21.

The district court may grant the petition for adoption though the child is under control of the state agency and the agency refuses to consent. Adoption of Kure, 197 M 235, 266 NW 746.

The law placing dependent, neglected, or delinquent children under jurisdiction of juvenile courts covers and applies to all such children under the age of 18 years, whether single or married. *State ex rel v Wiecklink*, 200 M 490, 274 NW 585.

Habeas corpus may be resorted to in order to enforce an order of the juvenile court. 1942 OAG 23, Feb. 26, 1942 (840a-6).

Effect of marriage on jurisdiction over minor. 22 MLR 285.

Proposed youth correction act. 28 MLR 330.

A parent refusing to provide, or permit to be provided, proper medical attention or glasses for his child or children may be brought into juvenile court on the ground of neglect of such child. OAG Oct. 13, 1920.

260.02 JURISDICTION; DISTRICT COURT; PROBATE COURT.

HISTORY. 1905 c. 285 s. 2; G.S. 1913 s. 7163; 1917 c. 397 s. 2; G.S. 1923 s. 8637; 1927 c. 192 s. 2; M.S. 1927 s. 8637; 1931 c. 250 s. 1; 1933 c. 184; M. Supp. s. 8637; 1941 c. 110 s. 1; 1945 c. 517 s. 1.

Where an illegitimate child is in lawful custody of a person other than its parents, by virtue of an order of the district court in habeas corpus proceedings, a juvenile court has no power to interfere with the custody of such child. *State ex rel v Juvenile Court*, 147 M 222, 179 NW1006.

Juvenile court has jurisdiction over a delinquent girl under 18 years of age though married with consent of parents. OAG Aug. 29, 1921.

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Section 260.02 applies only to girls under the age of 18 years. 1938 OAG 22, Aug. 9, 1937 (840a-5).

A delinquent girl may be held in custody until she is 21 years old. 1938 OAG 23, April 24, 1937 (840a-5).

260.03 JUDGES OF JUVENILE COURT.

HISTORY. 1905 c. 285 s. 3; 1909 c. 418 s. 1; 1913 c. 369 s. 1; G.S. 1913 s. 7164; 1917 c. 397 s. 3; G.S. 1923 s. 8638; 1927 c. 192 s. 3; M.S. 1927 s. 8638; 1931 c. 250 s. 2; M. Supp. s. 8638; 1941 c. 110 s. 2.

260.04 CLERK TO ASSIGN DEPUTY; SALARIES.

HISTORY. 1905 c. 285 s. 3; 1907 c. 394 s. 1; G.S. 1913 s. 7164; 1917 c. 397 s. 4; G.S. 1923 s. 8639; M.S. 1927 ss. 8639.

260.05 SALARY OF BAILIFF IN JUVENILE COURT IN RAMSEY COUNTY.

HISTORY. 1911 c. 149 s. 1; G.S. 1913 s. 7193; 1917 c. 397 s. 5; G.S. 1923 s. 8640; 1927 c. 420 s. 6; M.S. 1927 s. 8640; 1929 c. 405 s. 1; M. Supp. s. 8640.

260.06 PROBATE COURT AS JUVENILE COURT; RECORD; APPEAL.

HISTORY. 1909 c. 232 s. 2; G.S. 1913 s. 7179; 1917 c. 397 s. 6; G.S. 1923 s. 8641; M.S. 1927 s. 8641; 1931 c. 82 s. 1; 1931 c. 250 s. 3; 1933 c. 204 s. 1; M. Supp. s. 8641; 1941 c. 110 s. 3; 1945 c. 517 s. 2.

Jurisdiction of probate court. State ex rel v Probate Court, 205 M 549, 287 NW 297.

Probate court acting as juvenile court is confined to its constitutional jurisdiction, that of appointing a guardian. 1920 OAG 327.

Jury trial is not a matter of right in an appeal from the final disposition of a guardianship matter by a probate court in proceedings under Laws 1917, Chapter 397.

In case of an appeal from the decision of a probate court in a matter of guardianship of a child, the judgment and order of commitment is suspended until the final disposition of the matter by district court, and the right of the director of social welfare to guardianship is suspended. 1920 OAG 41.

Where a probate judge acts as judge of juvenile court, records of that court in cases brought while district judge was juvenile judge should remain in the office of the clerk of the district court and new files in the office of the probate judge. OAG Aug. 16, 1931.

Where a judge of probate court is made judge of juvenile court in place of one of the judges of the district court so acting, the clerk of the district court no longer acts as clerk of the juvenile court. OAG Aug. 19, 1931.

260.07 WHO MAY FILE PETITION; REQUISITES.

HISTORY. 1897 c. 210 s. 4; 1905 c. 285 s. 4; 1909 c. 232 s. 3; G.S. 1913 ss. 7165, 7180; 1917 c. 397 s. 7; G.S. 1923 s. 8642; Ex. 1937 c. 79 s. 1; M. Supp. s. 8642-1.

Jurisdiction of juvenile courts, extends only to such children as are within the county. It is not necessary that the child actually be in court to confer jurisdiction. OAG June 11, 1931.

Juvenile court of county of legal residence may assume jurisdiction of child returned to the county even though the child was first found and the dependency, neglect, or delinquency arose in another county. OAG March 9, 1932.

260.08 SETTING PETITION FOR HEARING; SUMMONS; SERVICE; GUARDIAN AD LITEM; WARRANT; HEARING; CUSTODY OF CHILD.

HISTORY. 1897 c. 210 s. 5; 1905 c. 285 s. 5; 1907 c. 172 s. 1; 1909 c. 232 s. 4; 1911 c. 353 s. 1; G.S. 1913 ss. 7166, 7181; 1917 c. 397 s. 8; G.S. 1923 s. 8643; Ex. 1937 c. 79 s. 2; M. Supp. s. 8643-1; 1941 c. 158 s. 1; 1945 c. 517 s. 3.

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Laws 1917, Chapter 397, is designed, not to punish but to rescue a delinquent child, and it is not repugnant to constitutional objections that it does not provide for due process of law. *Peterson v McAuliffe*, 151 M 467, 187 NW 226.

Warrant issued by juvenile court to apprehend a delinquent child in any part of the state and bring him before the court.

The juvenile court has no jurisdiction of a delinquent child over 18 years of age, even though the delinquency occurred prior to the age of 18. 1920 OAG 314, Nov. 20, 1920.

Not "juvenile court" but "writ of habeas corpus" is proper proceeding for mother to regain custody of her illegitimate child who is in the possession of strangers. OAG Sept. 30, 1924.

Where a petition was filed in probate court to have certain children committed as dependent and, pending investigation, the children were removed to another county, the probate court could not go to such other county and hold hearings and commit the children. OAG March 27, 1931.

It is the duty of the county attorney to appear in connection with proceedings in juvenile court for the commitment of children as dependent, neglected, or delinquent. OAG Sept. 7, 1932.

260.09 PROBATION OFFICERS; DUTIES; COMPENSATION.

HISTORY. 1905 c. 285 s. 6; 1909 c. 232 s. 5; G.S. 1913 ss. 7167, 7182; 1917 c. 397 s. 9; G.S. 1923 s. 8644; M.S. 1927 s. 8644; 1933 c. 204 s. 1; M. Supp. 8644; 1945 c. 517 s. 4.

Under this section a physician may, when duly appointed as a probation officer, make mental and physical examinations of children referred to him and report to the court. OAG Aug. 29, 1927.

Respective functions of parties and court as applied to juvenile court. 20 MLR 196.

260.10 EXPERT ASSISTANCE.

HISTORY. 1885 c. 146 s. 16; G.S. 1878 Vol 2 (1888 Supp.) c. 36 s. 198; 1889 c. 167 s. 7; 1891 c. 124 s. 1; 1893 c. 117 s. 1; G.S. 1894 s. 3514; R.L. 1905 s. 1944; 1917 c. 397 s. 10; G.S. 1923 s. 8645; M.S. 1927 s. 8645; 1941 c. 158 s. 7.

260.11 COMMITMENT TO DIRECTOR OF SOCIAL WELFARE OR STATE PUBLIC SCHOOL OR ASSOCIATION; HOSPITAL AND MEDICAL CARE; CONSENT OF PARENTS; CONTINUANCE; FINAL COMMITMENT, NOTICE.

HISTORY. 1897 c. 210 ss. 6, 7; 1905 c. 285 s. 7; 1909 c. 232 s. 6; G.S. 1913 ss. 7168, 7183; 1917 c. 397 s. 11; G.S. 1923 s. 8646; 1935 c. 82 s. 1; Ex. 1937 c. 79 s. 3; M. Supp. s. 8646-1; 1941 c. 158 s. 2; 1945 c. 517 s. 5.

In proceedings to commit an illegitimate child to the care of the director of social welfare the consent of the mother is essential in the absence of a showing that the commitment is needful in order to prevent serious detriment to the child. *State ex rel v Juvenile Court*, 147 M 222, 179 NW 1006.

This chapter construed to give the juvenile court, committing a dependent or neglected child to guardianship of the director of social welfare, the power to terminate such guardianship at any time before the child is legally adopted, when the parent proves to the satisfaction of the court that he or she is able and willing to properly support, care for, and educate the child. *State ex rel v Probate Court*, 150 M 16, 184 NW 27.

Only the court of the state in which a minor is domiciled can fix or change his status. The domicile of an unemancipated minor, where his parents are divorced, follows that of the parent to whose custody he is given. As a part of the divorce proceedings the Iowa court awarded the custody of a minor child to each parent alternately for six months of each year. The mother subsequently established her domicile in Minnesota. While in Minnesota the minor's domicile is the mother's domicile and the Minnesota court has jurisdiction to determine the custody of the

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child and is not bound by the full faith and credit clause of the federal constitution to give effect to the Iowa decree. State ex rel v Larson, 190 M 489, 252 NW 329.

The court may commit a child to a private charitable institution accredited as provided by law and require the county to pay for its care as long as the court in its discretion directs. OAG March 18, 1929.

The director of social welfare is the legal guardian of children immediately upon their commitment to his care, or to the state public school or other institution under his management. OAG Aug. 1932.

Resort may be had to habeas corpus proceedings to enforce an order of the juvenile court. 1942 OAG 23, Feb. 26, 1942 (840a-6).

260.12 GUARDIANSHIP; ADOPTION.

HISTORY. 1897 c. 210 s. 12; 1905 c. 285 s. 8; 1909 c. 232 s. 7; G.S. 1913 ss. 7169, 7184; 1917 c. 397 s. 12; G.S. 1923 s. 8647; M.S. 1927 s. 8647; 1941 c. 158 s. 3.

The prime consideration on habeas corpus to recover custody of a dependent child, committed to an eleemosynary association of a certain religious faith, is the child's welfare and not the right to legal custody. State ex rel v White, 123 M 508, 144 NW 157.

Where the court appoints a guardian of a dependent child it retains jurisdiction even though the child is removed from the county. OAG June 4, 1924.

The director of social welfare is not such guardian that he can consent to the marriage of his minor wards committed to the state training school. 1918 OAG 425, Feb. 5, 1918.

260.13 HEARING; CONTINUANCE; COMMITMENT BY COURT; PAROLE; DISCHARGE.

HISTORY. 1897 c. 210 s. 9; 1905 c. 285 s. 9; 1909 c. 204 s. 1; 1909 c. 232 s. 9; G.S. 1913 ss. 7170, 7186; 1917 c. 397 s. 13; G.S. 1923 s. 8648; 1927 c. 192 s. 5; M.S. 1927 s. 8648; 1945 c. 517 s. 6.

The legislature may fix the age at which a delinquent child shall attain majority different from that fixed by other children. State ex rel v Patterson, 188 M 492, 247 NW 573.

The director of social welfare has authority to retain custody of a delinquent child committed to his guardianship until the child reaches the age of 21 years without interference by the committing court. OAG Dec. 23, 1931.

Proposed youth correction act, 28 MLR 330.

260.14 COUNTY HOME SCHOOLS.

HISTORY. 1913 c. 83 ss. 1 to 3; G.S. 1913 ss. 7194 to 7196; 1917 c. 397 s. 14; G.S. 1923 s. 8649; M.S. 1927 s. 8649.

260.15 EXISTING HOME SCHOOLS CONTINUED.

HISTORY. 1905 c. 285 s. 4; 1913 c. 83 ss. 1 to 3; G.S. 1913 ss. 7165, 7194 to 7196; 1917 c. 397 s. 15; G.S. 1923 s. 8650; M.S. 1927 s. 8650.

260.16 GUARDIANS FOR DELINQUENTS IN PROBATE COURT.

HISTORY. 1897 c. 210 ss. 7, 8; 1917 c. 397 s. 16; G.S. 1923 s. 8651; M.S. 1927 s. 8651.

The appointment of a guardian by a probate court is not a criminal proceeding. 1920 OAG 329, Jan. 28, 1920.

260.17 PROPERTY OF CHILD USED FOR CHILD'S EDUCATION.

HISTORY. 1909 c. 232 s. 8; G.S. 1913 s. 7185; 1917 c. 397 s. 17; G.S. 1923 s. 8652; M.S. 1927 s. 8652; 1941 c. 158 s. 8.

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260.18 INFORMATION WITH COMMITMENT.

HISTORY. 1917 c. 397 s. 18; G.S. 1923 s. 8653; M.S. 1927 s. 8653.

260.19 EVIDENCE IN DELINQUENCY CASES PROTECTED.

HISTORY. 1917 c. 397 s. 19; G.S. 1923 s. 8654; M.S. 1927 s. 8654.

260.20 RELIGIOUS BELIEF OF PARENTS.

HISTORY. 1905 c. 285 s. 13; 1909 c. 232 s. 12; G.S. 1913 ss. 7174, 7189; 1917 c. 397 s. 20; G.S. 1923 s. 8655; M.S. 1927 s. 8566.

260.21 CRIMINAL PROCEEDINGS.

HISTORY. 1917 c. 397 s. 21; G.S. 1923 s. 8656; M.S. 1927 s. 8656.

Juvenile court may order the county attorney to prosecute a delinquent child over 12 years of age in the district court. *State v Peterson*, 153 M 310, 190 NW 345; 1945 c. 517 s. 7.

The legislature may fix the age at which a delinquent child shall attain majority different from that fixed for other children. *State ex rel v Patterson*, 188 M 495, 249 NW 187.

Probate court does not have jurisdiction of a criminal offense as such committed by a child under 18 years. A child may be adjudged delinquent by a probate court for the purpose of appointing a custodial guardian. Such a proceeding is not a criminal proceeding. 1920 OAG 312, Feb. 15, 1919.

260.22 TRANSFER OF CASES.

HISTORY. 1917 c. 397 s. 22; G.S. 1923 s. 8657; 1927 c. 192 s. 6; M.S. 1927 s. 8657.

A juvenile court hearing may be had in the county where the child resides; cannot be transferred to the county of settlement; the expense of hearing is upon the county where the hearing is had; and the support of the child rests upon the county of the settlement. OAG Dec. 8, 1944 (840a-6).

260.23 ARREST; WARRANTS.

HISTORY. 1917 c. 397 c. 23; G.S. 1923 s. 8658; M.S. 1927 s. 8658.

260.24 PRIVACY OF HEARINGS AND RECORDS.

HISTORY. 1917 c. 397 s. 24; G.S. 1923 s. 8659; M.S. 1927 s. 8659.

260.25 SUPPORT BY PARENTS.

HISTORY. 1885 c. 146 s. 15; G.S. 1878 Vol. 2 (1888 Supp.) c. 36 s. 197; 1889 c. 167 s. 6; G.S. 1894 s. 3514; 1905 c. 285 s. 10; R.L. 1905 s. 1943; G.S. 1913 s. 7171; 1917 c. 397 s. 25; G.S. 1923 s. 8660; M.S. 1927 s. 8660; 1933 c. 204 s. 1; M. Supp. s. 8660.

260.26 UNLAWFUL REMOVAL OF CHILD.

HISTORY. 1917 c. 397 s. 26; G.S. 1923 s. 8661; M.S. 1927 s. 8661.

260.27 RESPONSIBILITY OF PARENTS; GUARDIANS; PENALTY.

HISTORY. 1907 c. 92 s. 1; G.S. 1913 s. 7176; 1917 c. 397 s. 27; G.S. 1923 s. 8662; 1927 c. 192 s. 7; M.S. 1927 s. 8662.

Upon the facts it is held as a matter of law, that the acts and commissions of defendant's servants therein referred to contributed to the minor's delinquency, and the court did not err in refusing to submit that question as a fact issue. *State v Sobelman*, 199 M 234, 271 NW 484.

Before a prosecution will lie for contributing to delinquency there must be a formal adjudication that the child is neglected or delinquent. 1940 OAG 36, March 19, 1940 (840a-5).

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Practice outlined in cases of prosecution for contributing to the delinquency of a minor child. OAG Nov. 17, 1944 (840a-5).

260.28 JURISDICTION.

HISTORY. 1907 c. 92 s. 2; 1909 c. 305 s. 1; G.S. 1913 s. 7177; 1917 c. 397 s. 28; G.S. 1923 s. 8663; M.S. 1927 s. 8663.

A probate judge acting as judge of juvenile court has no jurisdiction in the prosecution of an adult. OAG March 13, 1932.

260.29 EXPENSES PAYABLE BY COUNTY.

HISTORY. 1909 c. 232 s. 14; G.S. 1913 s. 7191; Ex. 1937 c. 79 s. 4; M. Supp. s. 8664-1; 1941 c. 158 s. 4.

Sheriff's fees and mileage in juvenile court matters. 1942 OAG 210, Oct. 21, 1942 (390A-11); 1942 OAG 212, Aug. 5, 1941 (390A-1); OAG Dec. 2, 1944 (390a-12).

Fees per folio for certified copies. OAG March 21, 1944 (347e).

260.30 FINDINGS; CERTIFICATION.

HISTORY. Ex. 1937 c. 79 s. 5; M. Supp. s. 8664-2; 1941 c. 158 s. 5.

The delinquency proceedings should be heard in B. county, the place of the parents' legal settlement, because they have not as yet acquired a new settlement in A. county. 1942 OAG 263, Sept. 24, 1941 (840D-5).

260.31 CERTIFICATION OF REJECTION OF CLAIM BY COUNTY AUDITOR; DETERMINATION BY DIRECTOR OR SOCIAL WELFARE.

HISTORY. Ex. 1937 c. 79 s. 6; M. Supp. s. 8664-3; 1941 c. 158 s. 6.

260.32 PAYMENT OF SALARIES.

HISTORY. 1917 c. 397 ss. 29, 30; G.S. 1923 ss. 8664, 8665; M.S. 1927 s. 8665.

The county must stand the expenses of transporting a minor committed to the state training school at Red Wing. OAG Sept. 1, 1931.

260.33 LIBERAL CONSTRUCTION.

HISTORY. 1905 c. 285 s. 14; 1909 c. 232 s. 13; G.S. 1913 ss. 7175, 7190; 1917 c. 397 s. 32; G.S. 1923 s. 8667; M.S. 1927 s. 8667.

It is expressly provided this act shall be liberally construed to the end its purpose may be carried out. 1942 OAG 23, Feb. 26, 1942 (840a-6).

260.34 LAWS NOT AFFECTED.

HISTORY. 1917 c. 397 s. 34; G.S. 1923 s. 8669; M.S. 1927 s. 8669.

260.35 DIRECTOR TO MAKE TESTS, EXAMINATIONS.

HISTORY. 1941 c. 159 s. 1.

260.36 MAY MAKE SPECIAL PROVISIONS IN CERTAIN CASES.

HISTORY. 1941 c. 159 s. 2.

260.37 GUARDIANSHIP TO CEASE WHEN MINOR REACHES MAJORITY.

HISTORY. 1885 c. 146 s. 12; G.S. 1878 Vol. 2 (1888 Supp.) c. 36 s. 194; 1889 c. 167 s. 3; G.S. 1894 s. 3510; R.L. 1905 s. 1945; G.S. 1913 s. 4161; 1917 c. 214 s. 2; G.S. 1923 s. 4620; M.S. 1927 s. 4620; 1941 s. 159 s. 4.

260.38 NECESSARY COSTS TO BE PAID BY COUNTY.

HISTORY. 1941 c. 159 c. 5.