

# MINNESOTA STATUTES 1947 ANNOTATIONS

591

DEPENDENT, NEGLECTED DELINQUENT CHILDREN 260.07

## CHAPTER 260

### DEPENDENT, NEGLECTED, AND DELINQUENT CHILDREN

#### **260.01 DEPENDENT, NEGLECTED, AND DELINQUENT CHILD; ASSOCIATION.**

An illegitimate child cannot be adopted without the consent of the mother. State ex rel v Beardsley, 149 M 435, 183 NW 956.

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

Statutes which determine the responsibility for care and support apply to the insane or feeble-minded as well as to other persons and if the relatives responsible for such support neglect or refuse to provide the same, the county, town, city, or village of the person's settlement is responsible for such support. A feeble-minded, illegitimate, dependent child, committed to the state board of control for specialized care and thereafter adjudged to be feeble-minded and ordered committed to the custody of the state but not as yet admitted to a state institution, is not a charge of the state. Co. of Stearns v Township of Fairhaven, 203 M 11, 279 NW 707.

The juvenile court has power to authorize specialized care needed by a child while the child is within his jurisdiction and the power may be exercised both before and after commitment. OAG April 18, 1946 (840-A-2).

With respect to a child whom the court has found neglected, the order of the juvenile court prevails over the order of the district court sitting in divorce proceedings between the child's parents. OAG Aug. 21, 1946 (268-H).

Laws for Minnesota children. 1 MLR 48.

Constitutional guaranties and constitutionality of the law relating to juvenile courts. 8 MLR 167.

#### **260.02 JURISDICTION; DISTRICT COURT; PROBATE COURT.**

While a child is, by order of the juvenile court, in temporary care of the welfare board, and the district court in granting a divorce to the child's parents grants custody of the child to one of the parents, the disposition of the child by the juvenile court is preferred. OAG Aug. 21, 1946 (268-H).

#### **260.06 PROBATE COURT AS JUVENILE COURT; RECORD; APPEAL.**

Juvenile delinquents are not criminals. The proceedings involving juvenile delinquents fail to provide a provision for repeal. Unless such right is given expressly or by implication it does not exist. State v Zenzen, 178 M 394, 227 NW 356.

#### **260.07 WHO MAY FILE PETITION; REQUISITES.**

Where father and mother reside in Rice county and the child in a home for adoption in Waseca county, where it lives, Waseca county is the county of its residence and Rice county juvenile court has no jurisdiction in dependency proceedings. OAG March 3, 1947 (268-H).

An illegitimate child takes the settlement of the mother. If she marries she has the settlement of her husband and that the mother's settlement is derivative does not preclude that settlement from being vested in the child. OAG Aug. 26, 1947 (840c).

# MINNESOTA STATUTES 1947 ANNOTATIONS

## 260.08 DEPENDENT, NEGLECTED DELINQUENT CHILDREN

592

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

Laws 1917, c. 397, is not designed to punish but to rescue a delinquent child and is not repugnant to constitutional objections that it does not provide for due process of law. A delinquent child is not a criminal nor are the proceedings before the juvenile court criminal proceedings. *Peterson v McAuliffe*, 151 M 467, 187 NW 226.

A city attorney has no official duty before a juvenile court. OAG Nov. 2, 1943 (59-A-5).

A drunken father may be prosecuted under the provisions of section 617.56, or may be made to contribute to the support of his children while temporarily in the custody of the child welfare board. OAG Sept. 25, 1945 (133-b-1).

### **260.09 PROBATION OFFICERS; DUTIES; COMPENSATION.**

The juvenile court may appoint the sheriff or any private person or probation officer to accompany a delinquent child to the place where he is to be transported. Such probation officer has the powers of a police officer and is compensated as provided under the provisions of section 260.32. OAG Sept. 19, 1946 (268-F).

When appointed by the court to transport juveniles to public institutions a sheriff is not acting in his official capacity as a sheriff but is acting as a probation officer and is entitled to draw fee conformable with section 357.12. OAG May 23, 1947 (390-C-12).

### **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.**

Amended by L. 1947 c. 81 s. 1.

Where a father is unable to support a nine-year-old child but the child is being suitably maintained in a proper environment by a stepmother, or other member of the family who is keeping the family intact, such child is not a dependent child within the meaning of the juvenile court act. *State ex rel v Juvenile Court*, 163 M 312, 204 NW 21.

Where the intent to abandon children is wholly lacking, a drunken father cannot be prosecuted under section 617.55. OAG Sept. 25, 1945 (133-b-1).

While a child is, by order of the juvenile court, in temporary care of the welfare board, and the district court in granting a divorce to the child's parents grants custody of the child to one of the parents, the disposition of the child by the juvenile court is preferred. OAG Aug. 21, 1946 (268-H).

### **260.125 YOUTH CONSERVATION ACT.**

HISTORY. 1947 c. 595 s. 1.

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

Amended by L. 1947 c. 595 s. 2.

### **260.20 RELIGIOUS BELIEF OF PARENTS.**

Where a child adjudged by juvenile court to be dependent and committed to the care of eleemosynary association leaves the home of such persons for sufficient cause, and finds a home with other persons, the prime consideration on habeas corpus by the association to recover custody is the child's welfare and not the legal right to custody; and while considerations involving religious beliefs are grave and weighty and constitute an important element in the final determination, it is not controlling and may in the discretion of the court be disregarded. *State ex rel v White*, 123 M 508, 144 NW 157.

# MINNESOTA STATUTES 1947 ANNOTATIONS

593

## DEPENDENT, NEGLECTED DELINQUENT CHILDREN 260.38

### 260.21 CRIMINAL PROCEEDINGS.

Under statutes as they existed in 1923 a boy over 12 and under 16 years of age convicted of the crime of murder in the third degree may be sentenced to the state prison. State v Olson, 156 M 181, 194 NW 942.

Where an application to plead guilty of second degree assault is made by a child under 16 years of age, the court may defer action for a few days until he passes his 16th birthday. OAG Feb. 8, 1946 (341-K-8).

Misdemeanors committed by minors under 18 years should be referred to the juvenile court if violations of the state law, but violation of an ordinance is triable in the municipal court. OAG Oct. 2, 1946 (268-H).

Youth correction act. 28 MLR 300.

### 260.22 TRANSFER OF CASES.

Offenses against the traffic laws of children under 18 years of age is primarily for the determination of the juvenile court. It is only where the court believes that fine or imprisonment is the proper disposition in the instant case that the criminal courts should be allowed to function, whether the prosecution is under the statute or under the ordinance. OAG Oct. 30, 1945 (268-F).

### 260.27 RESPONSIBILITY OF PARENTS, GUARDIANS; PENALTY.

A mother is guilty of a misdemeanor who fails to provide proper maternal care for her children. OAG Feb. 5, 1945 (133-B-1).

### 260.29 EXPENSES PAYABLE BY COUNTY.

Amended by L. 1947 c. 287 s. 1.

The county in which a juvenile court acts is the county liable for the expenses incurred. OAG April 26, 1945 (268-H).

If the director of social welfare so orders, the county of commitment is responsible for specialized care of a child even though the child has been committed to the director of social welfare and the child has thereafter been placed with private charity. OAG April 18, 1946 (840-A:2).

### 260.38 NECESSARY COSTS TO BE PAID BY COUNTY.

Amended by L. 1947 c. 81 s. 2.