CHAPTER 260

JUVENILES

GENERAL PROVISIONS

260.01 [Repealed, 1959 c 685 s 53]

260.011 TITLE, INTENT, AND CONSTRUCTION.

Subdivision 1. Sections 260.011 to 260.301 may be cited as the juvenile court act.

Subd. 2. (a) The paramount consideration in all proceedings concerning a child alleged or found to be in need of protection or services is the best interests of the child. In proceedings involving an American Indian child, as defined in section 257.351, subdivision 6, the best interests of the child must be determined consistent with sections 257.35 to 257.3579 and the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923. The purpose of the laws relating to juvenile courts is to secure for each child alleged or adjudicated in need of protection or services and under the jurisdiction of the court, the care and guidance, preferably in the child's own home, as will best serve the spiritual, emotional, mental, and physical welfare of the child; to provide judicial procedures which protect the welfare of the child; to preserve and strengthen the child's family ties whenever possible and in the child's best interests, removing the child from the custody of parents only when the child's welfare or safety cannot be adequately safeguarded without removal; and, when removal from the child's own family is necessary and in the child's best interests, to secure for the child custody, care and discipline as nearly as possible equivalent to that which should have been given by the parents.

(b) The purpose of the laws relating to termination of parental rights is to ensure that:

(1) reasonable efforts have been made by the social service agency to reunite the child with the child's parents in a placement that is safe and permanent; and

(2) if placement with the parents is not reasonably foreseeable, to secure for the child a safe and permanent placement, preferably with adoptive parents.

The paramount consideration in all proceedings for the termination of parental rights is the best interests of the child. In proceedings involving an American Indian child, as defined in section 257.351, subdivision 6, the best interests of the child must be determined consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, et seq.

(c) The purpose of the laws relating to children alleged or adjudicated to be delinquent is to promote the public safety and reduce juvenile delinquency by maintaining the integrity of the substantive law prohibiting certain behavior and by developing individual responsibility for lawful behavior. This purpose should be pursued through means that are fair and just, that recognize the unique characteristics and needs of children, and that give children access to opportunities for personal and social growth.

(d) The laws relating to juvenile courts shall be liberally construed to carry out these purposes.

History: *1959 c 685 s 1; 1980 c 580 s 3; 1985 c 286 s 1; 1986 c 444; 1988 c 514 s 3; 1988 c 673 s 2; 1990 c 542 s 10*

260.012 DUTY TO ENSURE PLACEMENT PREVENTION AND FAMILY REUNIFICATION; REASONABLE EFFORTS.

(a) If a child in need of protection or services is under the court's jurisdiction, the court shall ensure that reasonable efforts including culturally appropriate services by the social service agency are made to prevent placement or to eliminate the need for removal and to reunite the child with the child's family at the earliest possible time, consistent with the best interests, safety, and protection of the child. In the case of an Indian child, in proceedings under sections 260.172, 260.191, and 260.221 the juvenile court must make findings and conclusions consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901 et seq., as to the provision of active efforts. If a child is under the court's delinquency jurisdiction, it shall be the duty of the court to ensure that reasonable efforts are made to reunite the child with the child's family at the earliest possible time, consistent with the best interests of the child and the safety of the public.

(b) "Reasonable efforts" means the exercise of due diligence by the responsible social service agency to use appropriate and available services to meet the needs of the child and the child's family in order to prevent removal of the child from the child's

family; or upon removal, services to eliminate the need for removal and reunite the family. Services may include those listed under section 256F.07, subdivision 3, and other appropriate services available in the community. The social service agency has the burden of demonstrating that it has made reasonable efforts.

(c) The juvenile court, in proceedings under sections 260.172, 260.191, and 260.221 shall make findings and conclusions as to the provision of reasonable efforts. When determining whether reasonable efforts have been made, the court shall consider whether services to the child and family were:

(1) relevant to the safety and protection of the child;

(2) adequate to meet the needs of the child and family;

(3) culturally appropriate;

(4) available and accessible;

(5) consistent and timely; and

(6) realistic under the circumstances.

(d) This section does not prevent out-of-home placement for treatment of a child with a mental disability when the child's diagnostic assessment or individual treatment plan indicates that appropriate and necessary treatment cannot be effectively provided outside of a residential or inpatient treatment program.

History: *1986 c 448 s 1; 1988 c 514 s 4; 1989 c 235 s 1*

260.015 DEFINITIONS.

Subdivision 1. As used in sections 260.011 to 260.301, the terms defined in this section have the same meanings given to them.

Subd. 1a. **Agency.** "Agency" means the local social service agency or a licensed child placing agency.

Subd. 2. "Child" means an individual under 18 years of age and includes any minor alleged to have been delinquent or a juvenile traffic offender prior to having become 18 years of age.

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)(i) has been a victim of physical or sexual abuse, or (ii) resides with or has resided with a victim of domestic child abuse as defined in subdivision 24, (iii) resides with or would reside with a perpetrator of domestic child abuse, or (iv) is a victim of emotional maltreatment as defined in subdivision 5a;

(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;

(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 behavior, condition, or environment 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;

(12) is an habitual truant; or

(13) is one whose custodial parent's parental rights to another child have been involuntarily terminated within the past five years.

Subd. 3. "Child placing agency" means anyone licensed under sections 245A.01 to 245A.16 and 252.28, subdivision 2.

Subd. 4. "Court" means juvenile court unless otherwise specified in this section.

Subd. 5. **Delinquent child.** "Delinquent child" means a child:

(a) who has violated any state or local law, except as provided in section 260.193, subdivision 1, and except for juvenile offenders as described in subdivisions 19 to 23;

(b) who has violated a federal law or a law of another state and whose case has been referred to the juvenile court if the violation would be an act of delinquency if committed in this state or a crime or offense if committed by an adult;

(c) who has escaped from confinement to a state juvenile correctional facility after being committed to the custody of the commissioner of corrections; or

(d) who has escaped from confinement to a local juvenile correctional facility after being committed to the facility by the court.

Subd. 5a. **Emotional maltreatment.** "Emotional maltreatment" means the consistent, deliberate infliction of mental harm on a child by a person responsible for the child's care, that has an observable, sustained, and adverse effect on the child's physical, mental, or emotional development. "Emotional maltreatment" does not include reasonable training or discipline administered by the person responsible for the child's care or the reasonable exercise of authority by that person.

Subd. 6. [Repealed, 1988 c 673 s 40]

Subd. 7. "Foster care" means the 24 hour a day care of a child in any facility which for gain or otherwise regularly provides one or more children, when unaccompanied by their parents, with a substitute for the care, food, lodging, training, education, supervision or treatment they need but which for any reason cannot be furnished by their parents or legal guardians in their homes.

Subd. 8. "Legal custody" means the right to the care, custody, and control of a child who has been taken from a parent by the court in accordance with the provisions of section 260.185, 260.191, or 260.241. The expenses of legal custody are paid in accordance with the provisions of section 260.251.

Subd. 9. "Minor" means an individual under 18 years of age.

Subd. 10. [Repealed, 1988 c 673 s 40]

Subd. 11. **Parent.** "Parent" means the natural or adoptive parent of a minor. For an Indian child, parent includes any Indian person who has adopted a child by tribal law or custom, as provided in section 257.351, subdivision 11.

Subd. 12. "Person" includes any individual, association, corporation, partnership, and the state or any of its political subdivisions, departments, or agencies.

Subd. 13. **Relative.** "Relative" means a parent, stepparent, grandparent, brother, sister, uncle, or aunt of the minor. This relationship may be by blood or marriage. For an Indian child, relative includes members of the extended family as defined by the law

or custom of the Indian child's tribe or, in the absence of laws or custom, nieces, nephews, or first or second cousins, as provided in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1903. For purposes of dispositions, relative has the meaning given in section 260.181, subdivision 3.

Subd. 14. **Custodian.** "Custodian" means any person who is under a legal obligation to provide care and support for a minor or who is in fact providing care and support for a minor. For an Indian child, custodian means any Indian person who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody, and control has been transferred by the parent of the child, as provided in section 257.351, subdivision 8.

Subd. 15. [Repealed, 1982 c 469 s 10]

Subd. 16. "Secure detention facility" means a physically restricting facility, including but not limited to a jail, a hospital, a state institution, a residential treatment center, or a detention home used for the temporary care of a child pending court action.

Subd. 17. "Shelter care facility" means a physically unrestricting facility, such as but not limited to, a hospital, a group home or a licensed facility for foster care, used for the temporary care of a child pending court action.

Subd. 18. "Neglected and in foster care" means a child

(a) Who has been placed in foster care by court order; and

(b) Whose parents' circumstances, condition, or conduct are such that the child cannot be returned to them; and

(c) Whose parents, despite the availability of needed rehabilitative services, have failed to make reasonable efforts to adjust their circumstances, condition or conduct, or have willfully failed to meet reasonable expectations with regard to visiting the child or providing financial support for the child.

Subd. 19. **Habitual truant.** "Habitual truant" means a child under the age of 16 years through the 1999-2000 school year and under the age of 18 beginning with the 2000-2001 school year who is absent from attendance at school without lawful excuse for seven school days if the child is in elementary school or for one or more class periods on seven school days if the child is in middle school, junior high school, or high school.

Subd. 20. **Runaway.** "Runaway" means an unmarried child under the age of 18 years who is absent from the home of a parent or other lawful placement without the consent of the parent, guardian, or lawful custodian.

Subd. 21. **Juvenile petty offender; juvenile petty offense.** "Juvenile petty offense" includes a juvenile alcohol offense, a juvenile controlled substance offense, a violation of section 609.685, or a violation of a local ordinance, which by its terms prohibits conduct by a child under the age of 18 years which would be lawful conduct if committed by an adult. A child who commits a juvenile petty offense is a "juvenile petty offender."

Subd. 22. **Juvenile alcohol offense.** "Juvenile alcohol offense" means a violation by a child of any provision of section 340A.503 or an equivalent local ordinance.

Subd. 23. **Juvenile controlled substance offense.** "Juvenile controlled substance offense" means a violation by a child of section 152.09, subdivision 1, clause (2), with respect to a small amount of marijuana or an equivalent local ordinance.

Subd. 24. **Domestic child abuse.** "Domestic child abuse" means:

(1) any physical injury to a minor family or household member inflicted by an adult family or household member other than by accidental means; or

(2) subjection of a minor family or household member by an adult family or household member to any act which constitutes a violation of sections 609.321 to 609.324, 609.342, 609.343, 609.344, 609.345, or 617.246.

Subd. 25. **Family or household members.** "Family or household members" means spouses, former spouses, parents and children, persons related by blood, and persons who are presently residing together or who have resided together in the past, and persons who have a child in common regardless of whether they have been married or have lived together at any time.

Subd. 26. **Indian.** "Indian," consistent with section 257.351, subdivision 5, means a person who is a member of an Indian tribe or who is an Alaskan native and a member of a regional corporation as defined in section 7 of the Alaska Native Claims Settlement Act, United States Code, title 43, section 1606.

Subd. 27. **Indian child.** "Indian child," consistent with section 257.351, subdivision 6, means an unmarried person who is under age 18 and is:

(1) a member of an Indian tribe; or

(2) eligible for membership in an Indian tribe.

History: *1959 c 685 s 2; 1961 c 576 s 1; 1963 c 516 s 1; 1969 c 503 s 1,2; 1971 c 25 s 48; 1973 c 725 s 50; 1974 c 469 s 1; 1976 c 318 s 5-7; 1977 c 330 s 2; 1978 c 602 s 3; 1981 c 290 s 4; 1982 c 469 s 1,2; 1982 c 544 s 1-6; 1984 c 573 s 1,2; 1985 c 283 s 1; 1985 c 305 art 12 s 1; 1986 c 351 s 2; 1986 c 435 s 2; 1986 c 444; 1Sp1986 c 3 art 1 s 67; 1987 c 384 art 2 s 65; 1988 c 673 s 3-6; 1988 c 718 art 7 s 55; 1989 c 113 s 1; 1989 c 208 s 1; 1989 c 209 art 2 s 1; 1989 c 235 s 2-7; 1989 c 285 s 5,6; 1990 c 499 s 1; 1990 c 542 s 11*

NOTE: Subdivision 10 was also amended by Laws 1988, chapter 514, subdivision 5, to read as follows:

"Subd. 10. "Neglected child" means a child:

(a) who is abandoned by a parent, guardian, or other custodian; or

(b) who is without proper parental care because of the faults or habits of a parent, guardian, or other custodian; or

(c) who is without necessary subsistence, education or other care necessary for physical or mental health or morals because the parent, guardian or other custodian neglects or refuses to provide it; or

(d) who is without the special care made necessary by a physical or mental condition because the parent, guardian, or other custodian neglects or refuses to provide it; or

(e) who 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:

(1) the infant is chronically and irreversibly comatose;

(2) 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

(3) 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; or

(f) whose occupation, behavior, condition, environment or associations are such as to be injurious or dangerous to the child or others; or

(g) who is living in a facility for foster care which is not licensed as required by law, unless the child is living in the facility under court order; or

(h) whose parent, guardian, or custodian has made arrangements for the child's placement in a manner detrimental to the welfare of the child or in violation of law; or

(i) who comes within the provisions of subdivision 5, but whose conduct results in whole or in part from parental neglect; or

(j) who is a victim of domestic child abuse as defined in section 260.015, subdivision 24."

ORGANIZATION OF THE COURT

260.019 JUVENILE COURT; HENNEPIN AND RAMSEY COUNTIES.

Subdivision 1. In Hennepin and Ramsey counties, the district court is the juvenile court.

Subd. 2. In each county, the chief judge of the district shall designate one or more judges to hear cases arising under sections 260.011 to 260.301.

Subd. 3. The chief judge shall designate any judge to hear cases arising under sections 260.011 to 260.301 as a principal or exclusive assignment for no more than six years out of any 12 year period.

Subd. 4. The incumbent "District Court Judge, Juvenile Court Division" in Hennepin county is a judge of district court subject to the administrative authority and assignment power of the chief judge of the district as provided in section 484.69, subdivision 3.

History: *1978 c 750 s 7; 1981 c 292 s 2; 1986 c 444*

260.0191 [Repealed, 1985 c 278 s 2; 1989 c 262 s 5]

260.02 [Repealed, 1959 c 685 s 53]

260.021 JUVENILE COURTS.

Subdivision 1. [Repealed, 1978 c 750 s 9]

Subd. 2. [Repealed, 1978 c 750 s 9]

Subd. 3. [Repealed, 1978 c 750 s 9]

Subd. 4. **Juvenile court.** In counties now or hereafter having a population of not more than 200,000, the probate court is the juvenile court. At the primary or general election, the office of probate judge shall also be designated on the ballot as "Judge of the Juvenile Court."

History: *1959 c 685 s 3; 1965 c 316 s 1,2; 1971 c 25 s 49,50*

260.022 ST. LOUIS COUNTY JUVENILE COURT, DESIGNATION; JUDGES; LOCATION.

Subdivision 1. In the county of Saint Louis the probate court is the juvenile court.

Subd. 2. There are two judges of the probate court in Saint Louis county each of whom shall meet the requirements of Minnesota Statutes 1967, section 525.04.

Subd. 3. Upon January 1, 1970 an additional probate judge shall be appointed by the governor from among those persons who are referees in the probate court of Saint Louis county who are learned in the law and who have served as a referee not less than five years. If no such referee is available then the governor shall appoint the additional probate judge from among those persons resident of the county of Saint Louis who are learned in the law. The additional judge appointed shall serve until a successor is elected at the next general election occurring more than one year after such appointment. The judge of the probate court of the county of Saint Louis having the greatest number of years of service is the chief judge of such court.

Subd. 4. The chief judge of the probate court of the county of Saint Louis shall designate one of the judges of such court to serve as the judge of the juvenile court division to hear all cases arising thereunder pursuant to Minnesota Statutes 1967, chapter 260, and any other law relating to juveniles. Such assignment shall be for one year unless otherwise ordered. The judge designated as the judge of the juvenile court division shall devote all time required to the business of that division and work in connection therewith shall be disposed of before the judge engages in any other work of the probate court.

Subd. 5. The judge of the juvenile court division shall hold hearings and conduct court at Duluth, Virginia, and Hibbing, and the terms thereof including special terms shall be prescribed by rule.

History: *1969 c 549 s 1; 1986 c 444*

260.023 COURT ADMINISTRATOR OF ST. LOUIS COUNTY JUVENILE COURT.

The court administrator of the probate court of Saint Louis county is also the court administrator of the juvenile court. The court administrator may appoint deputy court administrators to serve at Duluth, Virginia, and Hibbing with the approval of the juvenile judge.

History: *1969 c 549 s 2; 1986 c 444; 1Sp1986 c 3 art 1 s 82*

260.024 JURISDICTION OF ST. LOUIS COUNTY JUVENILE COURT.

Subdivision 1. Notwithstanding any indication to the contrary in the statutory provisions enumerated herein, the juvenile court judges in the county of Saint Louis shall act in lieu of the district court judges in matters concerning county home schools under Minnesota Statutes 1967, section 260.094, and detention homes under Minnesota Statutes 1967, section 260.101.

Subd. 2. Notwithstanding an indication to the contrary in Minnesota Statutes 1967, section 260.311, subdivision 4, a majority of the judges of both the district court and the juvenile court in the county of Saint Louis may direct the payment of salaries to probation officers as otherwise provided for in said subdivision.

Subd. 3. Notwithstanding an indication to the contrary in Laws 1961, chapter 302, section 1, in the county of Saint Louis a majority of the judges of district court and juvenile court shall appoint a chief probation officer in the manner provided in said section. The probation officer so appointed and such additional personnel as may be required shall render to the judges of the district court and the juvenile court such services as have customarily been rendered in connection with their past employment under Laws 1961, chapter 302, and prior to January 1, 1970. The chief probation officer and any incumbent personnel shall continue in office upon January 1, 1970, but this subdivision shall apply in filling vacancies which may occur.

Probation officers of the county of Saint Louis shall make investigations as may be directed by the juvenile court of Saint Louis county as well as the district court and in the manner provided by Laws 1961, chapter 302, section 2. It is contemplated by this subdivision that the judges of the juvenile court shall have the same jurisdiction over probation officers as have the judges of the district court.

History: *1969 c 549 s 3*

260.025 PLACE OF HEARING.

The judge of the juvenile court may hold hearings in the county seat of the county, or in any other city in the county. The county shall provide suitable quarters at the county seat for the hearing of cases and the use of judges and other employees of the court.

History: *1959 c 685 s 4; 1973 c 123 art 5 s 7*

260.03 [Repealed, 1959 c 685 s 53]

260.031 REFEREE.

Subdivision 1. **Appointment.** The chief judge of the judicial district may appoint one or more suitable persons to act as referees. All referees are subject to the administrative authority and assignment power of the chief judge of the district as provided in section 484.69, subdivision 3, and are not limited to assignment to juvenile court. Referees shall hold office at the pleasure of the judges of the district court and shall be learned in the law, except that persons holding the office of referee on January 1, 1983, may continue to serve under the terms and conditions of their appointment. The compensation of a referee shall be fixed by the judge, approved by the county board and payable from the general revenue funds of the county not otherwise appropriated. Part time referees holding office in the second judicial district pursuant to this subdivision shall cease to hold office on July 31, 1984.

Subd. 2. The judge may direct that any case or class of cases shall be heard in the first instance by the referee in the manner provided for the hearing of cases by the court.

Subd. 3. Upon the conclusion of the hearing in each case, the referee shall transmit to the judge all papers relating to the case, together with findings and recommendations in writing. Notice of the findings of the referee together with a statement relative to the right of rehearing shall be given to the minor, parents, guardian, or custodian of the minor whose case has been heard by the referee, and to any other person that the court may direct. This notice may be given at the hearing, or by certified mail or other service directed by the court.

Subd. 4. The minor and the minor's parents, guardians, or custodians are entitled to a hearing by the judge of the juvenile court if, within three days after receiving notice of the findings of the referee, they file a request with the court for a hearing. The court may allow such a hearing at any time.

Subd. 5. In case no hearing before the judge is requested, or when the right to a

hearing is waived, the findings and recommendations of the referee become the decree of the court when confirmed by an order of the judge. The final order of the court shall, in any event, be proof of such confirmation, and also of the fact that the matter was duly referred to the referee.

History: *1959 c 685 s 5; 1981 c 272 s 1; 1Sp1981 c 4 art 4 s 25; 1983 c 370 s 1; 1986 c 444*

260.04 [Repealed, 1959 c 685 s 53]

260.041 COURT ADMINISTRATOR; COURT REPORTER.

Subdivision 1. The court administrator of the juvenile court shall keep necessary books and records, issue summons and process, attend to the correspondence of the court, and in general perform such duties in the administration of the business of the court as the judge may direct.

Subd. 2. In counties having a population of not more than 200,000, the court administrator of the probate court shall serve as court administrator of the juvenile court.

Subd. 3. The judge of juvenile court, in counties not having a court reporter for the juvenile court, may appoint one or more qualified persons to serve as court reporters for the juvenile court in any matter or proceeding, whenever the court considers it necessary. The compensation of the court reporter shall be fixed by the judge and approved by the county board and shall be payable from general revenue funds not otherwise appropriated.

History: *1959 c 685 s 6; 1961 c 576 s 2; 1965 c 316 s 3; 1Sp1986 c 3 art 1 s 82*

260.05 [Renumbered 260.305]
260.06 [Repealed, 1959 c 685 s 53]
260.065 [Repealed, 1959 c 685 s 53]
260.07 [Repealed, 1959 c 685 s 53]
260.08 [Repealed, 1959 c 685 s 53]
260.09 [Renumbered 260.311]

260.092 EXPERT ASSISTANCE.

In any county the court may provide for the physical and mental diagnosis of cases of minors who are believed to be physically handicapped, mentally ill, or mentally retarded, and for such purpose may appoint professionally qualified persons, whose compensation shall be fixed by the judge with the approval of the county board.

History: *1959 c 685 s 7; 1985 c 21 s 60*

260.094 COUNTY HOME SCHOOLS.

In any county or group of counties the county boards may purchase, lease, erect, equip, and maintain a county home school for boys and girls, or a separate home school for boys and a separate home school for girls. The juvenile court may transfer legal custody of a delinquent child to the home school in the manner provided in section 260.185. The county home school may, with the approval of the district court judges in counties now or hereafter having a population of more than 200,000, or of the juvenile court judges in all other counties, be a separate institution, or it may be established and operated in connection with any other organized charitable or educational institution. However, the plans, location, equipment, and operation of the county home school shall in all cases have the approval of the said judges. There shall be a superintendent or matron, or both, for such school, who shall be appointed and removed by the said judges. The salaries of the superintendent, matron, and other employees shall be fixed by the said judges, subject to the approval of the county board. The county board of each county to which this section applies is hereby authorized, empowered, and

required to provide the necessary funds to make all needful appropriations to carry out the provisions of this section. The board of education, commissioner of education, or other persons having charge of the public schools in any city of the first or second class in a county where a county home school is maintained pursuant to the provisions of this section may furnish all necessary instructors, school books, and school supplies for the boys and girls placed in any such home school.

History: *1959 c 685 s 8; 1965 c 316 s 4*

NOTE: Hennepin county, see Laws 1965, Chapter 864.

260.096 EXISTING HOME SCHOOLS CONTINUED.

All juvenile detention homes, farms, and industrial schools heretofore established under the provisions of Laws 1905, chapter 285, section 5, as amended by Laws 1907, chapter 172, and Laws 1911, chapter 353, or Laws 1913, chapter 83, Laws 1915, chapter 228, or Laws 1917, chapter 317, as amended, are hereby declared to be county home schools within the meaning of sections 260.011 to 260.301 and all the provisions of those sections relating to county home schools shall apply thereto.

History: *1959 c 685 s 9*

260.10 [Repealed, 1959 c 685 s 53]

260.101 DETENTION HOMES.

In any county or group of counties the county boards may purchase, lease, erect, equip, and maintain a detention home for boys and girls, or a separate detention home for boys and girls, or a separate detention home for boys or a separate detention home for girls. The detention home may, with the approval of the district court judges in counties now or hereafter having a population of more than 200,000 or of the juvenile court judges in all other counties be a separate institution, or it may be established and operated in connection with a county home school or any organized charitable or educational institution. However, the plans, location, equipment, and operation of the detention home shall in all cases have the approval of the judges. Necessary staff shall be appointed and removed by the judges. The salaries of the staff shall be fixed by the judges, subject to the approval of the county boards. The county board of each county to which this section applies shall provide the necessary funds to carry out the provisions of this section.

History: *1959 c 685 s 10; 1965 c 316 s 5; 1976 c 318 s 8*

260.103 [Repealed, 1988 c 673 s 40]

260.105 SALARIES.

All salaries and expenses to be paid by the county under the provisions of sections 260.021 to 260.103 shall be paid upon certification of the judge of juvenile court or upon such other authorization provided by law.

History: *1959 c 685 s 12*

260.106 [Repealed, 1977 c 200 s 1]

JURISDICTION OF COURT OVER CHILDREN AND MINORS

260.11 [Repealed, 1959 c 685 s 53]

260.111 JURISDICTION.

Subdivision 1. **Children who are delinquent, in need of protection or services, or neglected and in foster care.** Except as provided in sections 260.125 and 260.193, the juvenile court has original and exclusive jurisdiction in proceedings concerning any

child who is alleged to be delinquent, a juvenile traffic offender, a juvenile petty offender, in need of protection or services, or neglected and in foster care, and in proceedings concerning any minor alleged to have been a delinquent, a juvenile petty offender, or a juvenile traffic offender prior to having become 18 years of age. The juvenile court shall deal with such a minor as it deals with any other child who is alleged to be delinquent or a juvenile traffic offender.

Subd. 2. **Jurisdiction over other matters relating to children.** Except as provided in clause (d), the juvenile court has original and exclusive jurisdiction in proceedings concerning:

(a) The termination of parental rights to a child in accordance with the provisions of sections 260.221 to 260.245.

(b) The appointment and removal of a juvenile court guardian of the person for a child, where parental rights have been terminated under the provisions of sections 260.221 to 260.245.

(c) Judicial consent to the marriage of a child when required by law.

(d) Adoptions. The juvenile court in those counties in which the judge of the probate-juvenile court has been admitted to the practice of law in this state shall proceed under the laws relating to adoptions in all adoption matters. In those counties in which the judge of the probate-juvenile court has not been admitted to the practice of law in this state the district court shall proceed under the laws relating to adoptions in all adoption matters.

(e) The review of the foster care status of a child who has been placed in a residential facility, as defined in section 257.071, subdivision 1, pursuant to a voluntary release by the child's parent or parents.

Subd. 3. **Jurisdiction over matters relating to domestic child abuse.** The juvenile court has jurisdiction in proceedings concerning any alleged acts of domestic child abuse. In a jurisdiction which utilizes referees in child in need of protection or services matters, the court or judge may refer actions under this subdivision to a referee to take and report the evidence in the action. If the respondent does not appear after service is duly made and proved, the court may hear and determine the proceeding as a default matter. Proceedings under this subdivision shall be given docket priority by the court.

Subd. 4. **Jurisdiction over parents and guardians.** A parent, guardian, or custodian of a child who is subject to the jurisdiction of the court is also subject to the jurisdiction of the court in any matter in which that parent, guardian, or custodian has a right to notice under section 260.135 or 260.141, or the right to participate under section 260.155. In any proceeding concerning a child alleged to be in need of protection or services, the court has jurisdiction over a parent, guardian, or custodian for the purposes of a disposition order issued under section 260.191, subdivision 1e.

Subd. 5. **Jurisdiction over Indian children.** In a child in need of protection or services proceeding, when an Indian child is a ward of a tribal court with federally recognized child welfare jurisdiction, the Indian tribe retains exclusive jurisdiction notwithstanding the residence or domicile of an Indian child, as provided in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1911.

History: *1959 c 685 s 13; 1961 c 576 s 6; 1978 c 602 s 4; 1980 c 580 s 4; 1981 c 290 s 6; 1982 c 544 s 7; 1984 c 573 s 3; 1986 c 444; 1988 c 673 s 7-9; 1989 c 235 s 8*

260.115 TRANSFERS FROM OTHER COURTS.

Subdivision 1. Except where a juvenile court has referred an alleged violation to a prosecuting authority in accordance with the provisions of section 260.125 or a court has original jurisdiction of a child who has committed a minor traffic offense, as defined in section 260.193, subdivision 1, clause (c), a court other than a juvenile court shall immediately transfer to the juvenile court of the county the case of a minor who appears before the court on a charge of violating any state or local law or ordinance and who is under 18 years of age or who was under 18 years of age at the time of the commission of the alleged offense.

Subd. 2. The court transfers the case by filing with the judge or court administrator of juvenile court a certificate showing the name, age, and residence of the minor, the names and addresses of the minor's parent or guardian, if known, and the reasons for appearance in court, together with all the papers, documents, and testimony connected therewith. The certificate has the effect of a petition filed in the juvenile court, unless the judge of the juvenile court directs the filing of a new petition, which shall supersede the certificate of transfer.

NOTE: This subdivision is repealed by Laws 1965, Chapter 869, Section 18, as to any judicial district establishing a public defender system. See section 611.28.

Subd. 3. The transferring court shall order the minor to be taken immediately to the juvenile court and in no event shall detain the minor for longer than 48 hours after the appearance of the minor in the transferring court. The transferring court may release the minor to the custody of a parent, guardian, custodian, or other person designated by the court on the condition that the minor will appear in juvenile court as directed. The transferring court may require the person given custody of the minor to post such bail or bond as may be approved by the court which shall be forfeited to the juvenile court if the minor does not appear as directed. The transferring court may also release the minor on the minor's own promise to appear in juvenile court.

History: *1959 c 685 s 14; 1980 c 580 s 5; 1986 c 444; 1Sp1986 c 3 art 1 s 82*

260.12 [Repealed, 1959 c 685 s 53]

260.121 VENUE.

Subdivision 1. **Venue.** Except where otherwise provided, venue for any proceedings under section 260.111 shall be in the county where the child is found, or the county of the child's residence. When it is alleged that a child is in need of protection or services, venue may be in the county where the child is found, in the county of residence, or in the county where the alleged conditions causing the child's need for protection or services occurred. If delinquency, a juvenile petty offense, or a juvenile traffic offense is alleged, proceedings shall be brought in the county of residence or the county where the alleged delinquency, juvenile petty offense, or juvenile traffic offense occurred.

Subd. 2. **Transfer.** The judge of the juvenile court may transfer any proceedings brought under section 260.111, except adoptions, to the juvenile court of a county having venue as provided in subdivision 1, at any stage of the proceedings and in the following manner. When it appears that the best interests of the child, society, or the convenience of proceedings will be served by a transfer, the court may transfer the case to the juvenile court of the county of the child's residence. With the consent of the receiving court, the court may also transfer the case to the juvenile court of the county where the child is found or, if delinquency, a juvenile petty offense, or a juvenile traffic offense is alleged, to the county where the alleged delinquency, juvenile petty offense, or juvenile traffic offense occurred. The court transfers the case by ordering a continuance and by forwarding to the court administrator of the appropriate juvenile court a certified copy of all papers filed, together with an order of transfer. The judge of the receiving court may accept the findings of the transferring court or may direct the filing of a new petition or notice under section 260.015, subdivision 23, or 260.132 and hear the case anew.

Subd. 3. Except when a child is alleged to have committed a minor traffic offense, as defined in section 260.193, subdivision 1, clause (c), if it appears at any stage of the proceeding that a child before the court is a resident of another state, the court may invoke the provisions of the interstate compact on juveniles or, if it is in the best interests of the child or the public to do so, the court may place the child in the custody of the child's parent, guardian, or custodian, if the parent, guardian, or custodian agrees to accept custody of the child and return the child to their state.

History: *1959 c 685 s 15; 1961 c 576 s 7,8; 1977 c 330 s 1; 1980 c 580 s 6; 1982 c 544 s 8,9; 1985 c 248 s 42; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1988 c 673 s 10,11*

260.125 MS 1949 Subdivision 1. [Renumbered 242.01]
Subd. 2. [Renumbered 242.02]
Subd. 3. [Renumbered 242.03]
Subd. 4. [Renumbered 242.04]
Subd. 5. [Renumbered 242.05]
Subd. 6. [Renumbered 242.06]
Subd. 7. [Renumbered 242.07]
Subd. 8. [Renumbered 242.08]
Subd. 9. [Renumbered 242.09]
Subd. 10. [Renumbered 242.10]
Subd. 11. [Renumbered 242.11]
Subd. 12. [Renumbered 242.12]
Subd. 13. [Renumbered 242.13]
Subd. 14. [Renumbered 242.14]
Subd. 15. [Renumbered 242.15]
Subd. 16. [Renumbered 242.16]
Subd. 17. [Renumbered 242.17]
Subd. 18. [Renumbered 242.18]
Subd. 19. [Renumbered 242.19]
Subd. 20. [Renumbered 242.20]
Subd. 21. [Renumbered 242.21]
Subd. 22. [Renumbered 242.22]
Subd. 23. [Renumbered 242.23]
Subd. 24. [Renumbered 242.24]
Subd. 25. [Renumbered 242.25]
Subd. 26. [Renumbered 242.26]
Subd. 27. [Renumbered 242.27]
Subd. 28. [Renumbered 242.28]
Subd. 29. [Renumbered 242.29]
Subd. 30. [Renumbered 242.30]
Subd. 31. [Renumbered 242.31]
Subd. 32. [Renumbered 242.32]
Subd. 33. [Renumbered 242.33]
Subd. 34. [Renumbered 242.34]
Subd. 35. [Renumbered 242.35]
Subd. 36. [Renumbered 242.36]
Subd. 37. [Renumbered 242.37]

260.125 REFERENCE FOR PROSECUTION.

Subdivision 1. When a child is alleged to have violated a state or local law or ordinance after becoming 14 years of age the juvenile court may enter an order referring the alleged violation to the appropriate prosecuting authority for action under laws in force governing the commission of and punishment for violations of statutes or local laws or ordinances. The prosecuting authority to whom the matter is referred shall within the time specified in the order of reference, which time shall not exceed 90 days, file with the court making the order of reference notice of intent to prosecute or not to prosecute. If the prosecuting authority files notice of intent not to prosecute or fails to act within the time specified, the court shall proceed as if no order of reference had been made. If such prosecuting authority files with the court notice of intent to prosecute the jurisdiction of the juvenile court in the matter is terminated.

Subd. 2. **Order of reference; requirements.** Except as provided in subdivision 3a the juvenile court may order a reference only if:

(a) A petition has been filed in accordance with the provisions of section 260.131;

(b) Notice has been given in accordance with the provisions of sections 260.135 and 260.141;

(c) A hearing has been held in accordance with the provisions of section 260.155 within 30 days of the filing of the reference motion, unless good cause is shown by the prosecution or the child as to why the hearing should not be held within this period; and

(d) The court finds that

(1) there is probable cause, as defined by the rules of criminal procedure promulgated pursuant to section 480.059, to believe the child committed the offense alleged by delinquency petition and

(2) the prosecuting authority has demonstrated by clear and convincing evidence that the child is not suitable to treatment or that the public safety is not served under the provisions of laws relating to juvenile courts.

Subd. 3. A prima facie case that the public safety is not served or that the child is not suitable for treatment shall have been established if the child was at least 16 years of age at the time of the alleged offense and:

(1) is alleged by delinquency petition to have committed an aggravated felony against the person and (a) in committing the offense, the child acted with particular cruelty or disregard for the life or safety of another; or (b) the offense involved a high degree of sophistication or planning by the juvenile; or

(2) is alleged by delinquency petition to have committed murder in the first degree; or

(3) is alleged by delinquency petition (a) to have committed the delinquent act of escape from confinement to a state juvenile correctional facility or a local juvenile correctional facility and (b) to have committed an offense as part of, or subsequent to, escape from custody that would be a felony listed in section 609.11, subdivision 9, if committed by an adult; or

(4) has been found by the court, pursuant to an admission in court or after trial, to have committed an offense within the preceding 24 months which would be a felony if committed by an adult, and is alleged by delinquency petition to have committed murder in the second or third degree, manslaughter in the first degree, criminal sexual conduct in the first degree or assault in the first degree; or

(5) has been found by the court, pursuant to an admission in court or after trial, to have committed two offenses, not in the same behavioral incident, within the preceding 24 months which would be felonies if committed by an adult, and is alleged by delinquency petition to have committed manslaughter in the second degree, kidnapping, criminal sexual conduct in the second degree, arson in the first degree, aggravated robbery, or assault in the second degree; or

(6) has been found by the court, pursuant to an admission in court or after trial, to have committed two offenses, not in the same behavioral incident, within the preceding 24 months, one or both of which would be the felony of burglary of a dwelling if committed by an adult, and the child is alleged by the delinquency petition to have committed another burglary of a dwelling. For purposes of this subdivision, "dwelling" means a building which is, in whole or in part, usually occupied by one or more persons living there at night; or

(7) has previously been found by the court, pursuant to an admission in court or after trial, to have committed three offenses, none in the same behavioral incident, within the preceding 24 months which would be felonies if committed by an adult, and is alleged by delinquency petition to have committed any felony other than those described in clause (2), (4), or (5); or

(8) is alleged by delinquency petition to have committed an aggravated felony

against the person, other than a violation of section 609.713, in furtherance of criminal activity by an organized gang; or

(9) has previously been found by the court, pursuant to an admission in court or after trial, to have committed an offense which would be a felony if committed by an adult, and is alleged by delinquency petition to have committed a felony-level violation of chapter 152 involving the unlawful sale or possession of a schedule I or II controlled substance, while in a park zone or a school zone as defined in section 152.01, subdivisions 12a and 14a. This clause does not apply to a juvenile alleged to have unlawfully possessed a controlled substance in a private residence located within the school zone or park zone.

For the purposes of this subdivision, "aggravated felony against the person" means a violation of any of the following provisions: section 609.185; 609.19; 609.195; 609.20, subdivision 1 or 2; 609.221; 609.222; 609.223; 609.245; 609.25; 609.342; 609.343; 609.344, subdivision 1, clause (c) or (d); 609.345, subdivision 1, clause (c) or (d); 609.561; 609.582, subdivision 1, clause (b) or (c); or 609.713.

For the purposes of this subdivision, an "organized gang" means an association of five or more persons, with an established hierarchy, formed to encourage members of the association to perpetrate crimes or to provide support to members of the association who do commit crimes.

Subd. 3a. **Prior reference; exception.** Notwithstanding the provisions of subdivisions 2 and 3, the court shall order a reference in any case where the prosecutor shows that the child has been previously referred for prosecution on a felony charge by an order of reference issued pursuant to either a hearing held under subdivision 2 or pursuant to the waiver of the right to such a hearing, other than a prior reference in the same case.

This subdivision only applies if the child is convicted of the offense or offenses for which the child was prosecuted pursuant to the order of reference or of a lesser included offense which is a felony.

Subd. 4. When the juvenile court enters an order referring an alleged violation to a prosecuting authority, the prosecuting authority shall proceed with the case as if the jurisdiction of the juvenile court had never attached.

Subd. 5. If the juvenile court orders a reference for prosecution, the order shall contain in writing, findings of fact and conclusions of law as to why the child is not suitable to treatment or the public safety is not served under the provisions of laws relating to the juvenile courts. If the juvenile court, after a hearing conducted pursuant to subdivision 2, decides not to order a reference for prosecution, the decision shall contain, in writing, findings of fact and conclusions of law as to why a reference for prosecution is not ordered.

Subd. 6. [Repealed, 1989 c 209 art 1 s 27]

History: *1959 c 685 s 16; 1963 c 516 s 2; 1980 c 580 s 7; 1981 c 201 s 1; 1982 c 544 s 10; 1983 c 25 s 1,2; 1986 c 435 s 3; 1986 c 444; 1988 c 515 s 1; 1989 c 290 art 3 s 26; 1989 c 356 s 53; 1990 c 499 s 2*

PROCEDURES

260.13 [Repealed, 1959 c 685 s 53]

260.131 PETITION.

Subdivision 1. Any reputable person, including but not limited to any agent of the commissioner of human services, having knowledge of a child in this state or of a child who is a resident of this state, who appears to be delinquent, in need of protection or services, or neglected and in foster care, may petition the juvenile court in the manner provided in this section.

Subd. 1a. **Review of foster care status.** The social service agency responsible for the placement of a child in a residential facility, as defined in section 257.071, subdivision

1, pursuant to a voluntary release by the child's parent or parents may bring a petition in juvenile court to review the foster care status of the child in the manner provided in this section.

Subd. 2. The petition shall be verified by the person having knowledge of the facts and may be on information and belief. Unless otherwise provided by rule or order of the court, the county attorney shall draft the petition upon the showing of reasonable grounds to support the petition.

Subd. 3. The petition and all subsequent court documents shall be entitled substantially as follows:

"Juvenile Court, County of .....

In the matter of the welfare of ....."

The petition shall set forth plainly:

(a) The facts which bring the child within the jurisdiction of the court;

(b) The name, date of birth, residence, and post office address of the child;

(c) The names, residences, and post office addresses of the child's parents;

(d) The name, residence, and post office address of the child's guardian if there be one, of the person having custody or control of the child, and of the nearest known relative if no parent or guardian can be found;

(e) The spouse of the child, if there be one. If any of the facts required by the petition are not known or cannot be ascertained by the petitioner, the petition shall so state.

History: *1959 c 685 s 17; 1961 c 576 s 9,10; 1963 c 516 s 3; 1978 c 602 s 5; 1981 c 290 s 7; 1984 c 654 art 5 s 58; 1986 c 444; 1988 c 673 s 12*

260.132 PROCEDURE; HABITUAL TRUANTS, RUNAWAYS, JUVENILE PETTY OFFENDERS.

Subdivision 1. **Notice.** When a peace officer, or attendance officer in the case of a habitual truant, has probable cause to believe that a child is in need of protection or services under section 260.015, subdivision 2a, clause (11) or (12), or a juvenile petty offender, the officer may issue a notice to the child to appear in juvenile court in the county in which the child is found or in the county of the child's residence or, in the case of a juvenile petty offense, the county in which the offense was committed. The officer shall file a copy of the notice to appear with the juvenile court of the appropriate county. If a child fails to appear in response to the notice, the court may issue a summons notifying the child of the nature of the offense alleged and the time and place set for the hearing. If the peace officer finds it necessary to take the child into custody, sections 260.165 and 260.171 shall apply.

Subd. 2. **Effect of notice.** Filing with the court a notice to appear containing the name and address of the child, specifying the offense alleged and the time and place it was committed, has the effect of a petition giving the juvenile court jurisdiction. In the case of running away, the place where the offense was committed may be stated in the notice as either the child's custodial parent's or guardian's residence or lawful placement or where the child was found by the officer. In the case of truancy, the place where the offense was committed may be stated as the school or the place where the child was found by the officer.

Subd. 3. **Notice to parent.** Whenever a notice to appear or petition is filed alleging that a child is in need of protection or services under section 260.015, subdivision 2a, clause (11) or (12), or a juvenile petty offender, the court shall summon and notify the person or persons having custody or control of the child of the nature of the offense alleged and the time and place of hearing. This summons and notice shall be served in the time and manner provided in section 260.135, subdivision 1.

History: *1982 c 544 s 11; 1986 c 444; 1988 c 673 s 13,14*

260.133 PROCEDURE; DOMESTIC CHILD ABUSE.

Subdivision 1. **Petition.** The local welfare agency may bring an emergency petition

on behalf of minor family or household members seeking relief from acts of domestic child abuse. The petition shall allege the existence of or immediate and present danger of domestic child abuse, and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought.

Subd. 2. **Temporary order.** If it appears from the notarized petition or by sworn affidavit that there are reasonable grounds to believe the child is in immediate and present danger of domestic child abuse, the court may grant an ex parte temporary order for protection, pending a full hearing. The court may grant relief as it deems proper, including an order:

(1) restraining any party from committing acts of domestic child abuse; or

(2) excluding the alleged abusing party from the dwelling which the family or household members share or from the residence of the child.

However, no order excluding the alleged abusing party from the dwelling may be issued unless the court finds that:

(1) the order is in the best interests of the child or children remaining in the dwelling; and

(2) a remaining adult family or household member is able to care adequately for the child or children in the absence of the excluded party.

Before the temporary order is issued, the local welfare agency shall advise the court and the other parties who are present that appropriate social services will be provided to the family or household members during the effective period of the order.

An ex parte temporary order for protection shall be effective for a fixed period not to exceed 14 days. Within five days of the issuance of the temporary order, the petitioner shall file a petition with the court pursuant to section 260.131, alleging that the child is in need of protection or services and the court shall give docket priority to the petition.

The court may renew the temporary order for protection one time for a fixed period not to exceed 14 days if a petition alleging that the child is in need of protection or services has been filed with the court and if the court determines, upon informal review of the case file, that the renewal is appropriate.

Subd. 3. **Service and execution of order.** Any order issued under this section or section 260.191, subdivision 1b, shall be served personally upon the respondent. Where necessary, the court shall order the sheriff or constable to assist in service or execution of the order.

Subd. 4. **Modification of order.** Upon application, notice to all parties, and hearing, the court may modify the terms of an existing order for protection issued under this section or section 260.191, subdivision 1b.

Subd. 5. **Right to apply for relief.** The local welfare agency's right to apply for relief on behalf of a child shall not be affected by the child's leaving the dwelling or household to avoid abuse.

Subd. 6. **Real estate.** Nothing in this section or section 260.191, subdivision 1b, shall affect the title to real estate.

Subd. 7. **Other remedies available.** Any relief ordered under this section or section 260.191, subdivision 1b, shall be in addition to other available civil or criminal remedies.

Subd. 8. **Copy to law enforcement agency.** An order for protection granted pursuant to this section or section 260.191, subdivision 1b, shall be forwarded by the court administrator within 24 hours to the local law enforcement agency with jurisdiction over the residence of the child.

Each appropriate law enforcement agency shall make available to other law enforcement officers through a system of verification, information as to the existence and status of any order for protection issued pursuant to this section or section 260.191, subdivision 1b.

History: *1984 c 573 s 4; 1985 c 286 s 2; 1Sp1986 c 3 art 1 s 82; 1988 c 673 s 15*

260.135 SUMMONS; NOTICE.

Subdivision 1. After a petition has been filed and unless the parties hereinafter named voluntarily appear, the court shall set a time for a hearing and shall issue a summons requiring the person who has custody or control of the child to appear with the child before the court at a time and place stated. The summons shall have a copy of the petition attached, and shall advise the parties of the right to counsel and of the consequences of failure to obey the summons. The court shall give docket priority to any child in need of protection or services, neglected and in foster care, or delinquency petition that contains allegations of child abuse over any other case except those delinquency matters where a child is being held in a secure detention facility. As used in this subdivision, "child abuse" has the meaning given it in section 630.36, subdivision 2.

Subd. 2. The court shall have notice of the pendency of the case and of the time and place of the hearing served upon a parent, guardian, or spouse of the child, who has not been summoned as provided in subdivision 1. For an Indian child, notice of all proceedings must comply with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, et seq., and section 257.353.

Subd. 3. If a petition alleging a child's need for protection or services, or a petition to terminate parental rights is initiated by a person other than a representative of the department of human services or county welfare board, the court administrator shall notify the county welfare board of the pendency of the case and of the time and place appointed.

Subd. 4. The court may issue a subpoena requiring the appearance of any other person whose presence, in the opinion of the court, is necessary.

Subd. 5. If it appears from the notarized petition or by sworn affidavit that there are reasonable grounds to believe the child is in surroundings or conditions which endanger the child's health, safety or welfare and require that the child's custody be immediately assumed by the court, the court may order, by endorsement upon the summons, that the officer serving the summons shall take the child into immediate custody.

History: *1959 c 685 s 18; 1963 c 516 s 4; 1980 c 580 s 8-10; 1984 c 654 art 5 s 58; 1985 c 286 s 3; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1988 c 673 s 16,17; 1989 c 235 s 9*

260.14 [Repealed, 1959 c 685 s 53]

260.141 SERVICE OF SUMMONS, NOTICE.

Subdivision 1. (a) Service of summons or notice required by section 260.135 shall be made upon the following persons in the same manner in which personal service of summons in civil actions is made:

(1) in all delinquency matters, upon the person having custody or control of the child and upon the child; and

(2) in all other matters, upon the person having custody or control of the child, and upon the child if more than 12 years of age.

Personal service shall be effected at least 24 hours before the time of the hearing; however, it shall be sufficient to confer jurisdiction if service is made at any time before the day fixed in the summons or notice for the hearing, except that the court, if so requested, shall not proceed with the hearing earlier than the second day after the service. If personal service cannot well be made within the state, a copy of the summons or notice may be served on the person to whom it is directed by delivering a copy thereof to such person personally outside the state. Such service if made personally outside the state shall be sufficient to confer jurisdiction; providing however it be made at least five days before the date fixed for hearing in such summons or notice.

(b) If the court is satisfied that personal service of the summons or notice cannot well be made, it shall make an order providing for the service of summons or notice by certified mail addressed to the last known addresses of such persons, and by one weeks published notice as provided in section 645.11. A copy of the notice shall be sent by certified mail at least five days before the time of the hearing or 14 days if mailed to addresses outside the state.

(c) Notification to the county welfare board required by section 260.135, subdivision 3, shall be in such manner as the court may direct.

Subd. 2. Service of summons, notice, or subpoena required by sections 260.135 to 260.231 shall be made by any suitable person under the direction of the court, and upon request of the court shall be made by a probation officer or any peace officer. The fees and mileage of witnesses shall be paid by the county if the subpoena is issued by the court on its own motion or at the request of the county attorney. All other fees shall be paid by the party requesting the subpoena unless otherwise ordered by the court.

Subd. 2a. In any proceeding regarding a child in need of protection or services in a state court, where the court knows or has reason to know that an Indian child is involved, the prosecuting authority seeking the foster care placement of, or termination of parental rights to an Indian child, shall notify the parent or Indian custodian and the Indian child's tribe of the pending proceedings and of their right of intervention. The notice must be provided by registered mail with return receipt requested unless personal service is accomplished. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, the notice shall be given to the Secretary of the Interior of the United States in like manner, according to the Indian Child Welfare Act of 1978, United States Code, title 25, section 1912. No foster care placement proceeding or termination of parental rights proceeding shall be held until at least ten days after receipt of notice by the parent or Indian custodian and the tribe or the Secretary. However, the parent or Indian custodian or the tribe shall, upon request, be granted up to 20 additional days to prepare for the proceeding.

Subd. 3. Proof of the service required by this section shall be made by the person having knowledge thereof.

History: *1959 c 685 s 19; 1963 c 516 s 5,6; 1980 c 580 s 11; 1986 c 444; 1989 c 235 s 10*

260.145 FAILURE TO OBEY SUMMONS OR SUBPOENA; CONTEMPT, ARREST.

If any person personally served with summons or subpoena fails, without reasonable cause, to appear or bring the minor, the person may be proceeded against for contempt of court or the court may issue a warrant for the person's arrest, or both. In any case when it appears to the court that the service will be ineffectual, or that the welfare of the minor requires that the minor be brought forthwith into the custody of the court, the court may issue a warrant for the minor.

History: *1959 c 685 s 20; 1986 c 444*

260.15 [Repealed, 1959 c 685 s 53]

260.151 INVESTIGATION; PHYSICAL AND MENTAL EXAMINATION.

Subdivision 1. Upon request of the court the county welfare board or probation officer shall investigate the personal and family history and environment of any minor coming within the jurisdiction of the court under section 260.111 and shall report its findings to the court. The court may order any minor coming within its jurisdiction to be examined by a duly qualified physician, psychiatrist, or psychologist appointed by the court.

The court shall have a chemical use assessment conducted when a child is (1) found to be delinquent for violating a provision of chapter 152, or (2) alleged to be delinquent for violating a provision of chapter 152, if the child is being held in custody under a detention order. The assessor's qualifications and the assessment criteria shall comply with Minnesota Rules, parts 9530.6600 to 9530.6655. If funds under chapter 254B are to be used to pay for the recommended treatment, the assessment and placement must comply with all provisions of Minnesota Rules, parts 9530.6600 to 9530.6655 and 9530.7000 to 9530.7030. The commissioner of public safety shall reimburse the court for the cost of the chemical use assessment, up to a maximum of $100.

With the consent of the commissioner of corrections and agreement of the county to pay the costs thereof, the court may, by order, place a minor coming within its jurisdiction in an institution maintained by the commissioner for the detention, diagnosis, custody and treatment of persons adjudicated to be delinquent, in order that the condition of the minor be given due consideration in the disposition of the case. Adoption investigations shall be conducted in accordance with the laws relating to adoptions. Any funds received under the provisions of this subdivision shall not cancel until the end of the fiscal year immediately following the fiscal year in which the funds were received. The funds are available for use by the commissioner of corrections during that period and are hereby appropriated annually to the commissioner of corrections as reimbursement of the costs of providing these services to the juvenile courts.

Subd. 2. The court may proceed as described in subdivision 1 only after a petition has been filed and, in delinquency cases, after the child has appeared before the court or a court appointed referee and has been informed of the allegations contained in the petition. However, when the child denies being delinquent before the court or court appointed referee, the investigation or examination shall not be conducted before a hearing has been held as provided in section 260.155.

Subd. 3. **Juvenile treatment screening team.** (a) The county welfare board, at its option, may establish a juvenile treatment screening team to conduct screenings and prepare case plans under this subdivision. The team, which may be the team constituted under section 245.4885 or 256B.092 or Minnesota Rules, parts 9530.6600 to 9530.6655, shall consist of social workers, juvenile justice professionals, and persons with expertise in the treatment of juveniles who are emotionally disabled, chemically dependent, or have a developmental disability. The team shall involve parents or guardians in the screening process as appropriate.

(b) This paragraph applies only in counties that have established a juvenile treatment screening team under paragraph (a). If the court, prior to, or as part of, a final disposition, proposes to place a child for the primary purpose of treatment for an emotional disturbance, a developmental disability, or chemical dependency in a residential treatment facility out of state or in one which is within the state and licensed by the commissioner of human services under chapter 245A, the court shall notify the county welfare agency. The county's juvenile treatment screening team must either: (1) screen and evaluate the child and file its recommendations with the court within 14 days of receipt of the notice; or (2) elect not to screen a given case, and notify the court of that decision within three working days.

(c) If the screening team has elected to screen and evaluate the child, the child may not be placed for the primary purpose of treatment for an emotional disturbance, a developmental disability, or chemical dependency, in a residential treatment facility out of state nor in a residential treatment facility within the state that is licensed under chapter 245A, unless one of the following conditions applies:

(1) a treatment professional certifies that an emergency requires the placement of the child in a facility within the state;

(2) the screening team has evaluated the child and recommended that a residential placement is necessary to meet the child's treatment needs and the safety needs of the community, that it is a cost-effective means of meeting the treatment needs, and that it will be of therapeutic value to the child; or

(3) the court, having reviewed a screening team recommendation against placement, determines to the contrary that a residential placement is necessary. The court shall state the reasons for its determination in writing, on the record, and shall respond specifically to the findings and recommendation of the screening team in explaining why the recommendation was rejected. The attorney representing the child and the prosecuting attorney shall be afforded an opportunity to be heard on the matter.

History: *1959 c 685 s 21; 1969 c 502 s 2; 1973 c 654 s 15; 1974 c 156 s 2; 1975 c 434 s 27; 1986 c 444; 1987 c 384 art 2 s 66; 1990 c 568 art 5 s 33; 1990 c 602 art 2 s 8*

260.155 HEARING.

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, in need of protection or services under section 260.015, subdivision 2a, clause (11) or (12), or a juvenile petty offender, and hearings conducted pursuant to section 260.125 except to the extent that the rules themselves provide that they do not apply. Except for proceedings involving a child alleged to be in need of protection or services and petitions for the termination of parental rights, hearings may be continued or adjourned from time to time. In proceedings involving a child alleged to be in need of protection or services and petitions for the termination of parental rights, hearings may not be continued or adjourned for more than one week unless the court makes specific findings that the continuance or adjournment is in the best interests of the child. When a continuance or adjournment is ordered in any proceeding, the court may make any interim 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 offense. In all delinquency cases a person named in the charging clause of the petition as a person directly damaged in person or 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.

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 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.

Subd. 2. **Appointment of counsel.** The minor, parent, guardian or custodian have the right to effective assistance of counsel. If they desire counsel but are unable to employ it, the court shall appoint counsel to represent the minor or the parents or guardian in any other case in which it feels that such an appointment is desirable.

Subd. 3. **County attorney.** Except in adoption proceedings, the county attorney shall present the evidence upon request of the court.

Subd. 4. **Guardian ad litem.** (a) The court shall appoint a guardian ad litem to protect the interests of the minor when it appears, at any stage of the proceedings, that the minor is without a parent or guardian, or that the minor's parent is a minor or incompetent, or that the parent or guardian is indifferent or hostile to the minor's interests, and in every proceeding alleging a child's need for protection or services under section 260.015, subdivision 2a, clauses (1) to (10). In any other case the court may appoint a guardian ad litem to protect the interests of the minor when the court feels that such an appointment is desirable. The court shall appoint the guardian ad litem on its own motion or in the manner provided for the appointment of a guardian ad litem in the district court.

(b) The court may waive the appointment of a guardian ad litem pursuant to clause (a), whenever counsel has been appointed pursuant to subdivision 2 or is

retained otherwise, and the court is satisfied that the interests of the minor are protected.

(c) In appointing a guardian ad litem pursuant to clause (a), the court shall not appoint the party, or any agent or employee thereof, filing a petition pursuant to section 260.131.

(d) The following factors shall be considered when appointing a guardian ad litem in a case involving an Indian or minority child:

(1) whether a person is available who is the same racial or ethnic heritage as the child or, if that is not possible;

(2) whether a person is available who knows and appreciates the child's racial or ethnic heritage.

Subd. 4a. **Examination of child.** In any child in need of protection or services proceeding, neglected and in foster care, or termination of parental rights proceeding the court may, on its own motion or the motion of any party, take the testimony of a child witness informally when it is in the child's best interests to do so. Informal procedures that may be used by the court include taking the testimony of a child witness outside the courtroom. The court may also require counsel for any party to the proceeding to submit questions to the court before the child's testimony is taken, and to submit additional questions to the court for the witness after questioning has been completed. The court may excuse the presence of the child's parent, guardian, or custodian from the room where the child is questioned in accordance with subdivision 5.

Subd. 5. **Waiving the presence of child, parent.** Except in delinquency proceedings, the court may waive the presence of the minor in court at any stage of the proceedings when it is in the best interests of the minor to do so. In a delinquency proceeding, after the child is found to be delinquent, the court may excuse the presence of the child from the hearing when it is in the best interests of the child to do so. In any proceeding the court may temporarily excuse the presence of the parent or guardian of a minor from the hearing when it is in the best interests of the minor to do so. The attorney or guardian ad litem, if any, has the right to continue to participate in proceedings during the absence of the minor, parent, or guardian.

Subd. 6. **Rights of the parties at the hearing.** The minor and the minor's parent, guardian, or custodian are entitled to be heard, to present evidence material to the case, and to cross examine witnesses appearing at the hearing.

Subd. 7. **Factors in determining neglect.** In determining whether a child is neglected and in foster care, the court shall consider, among other factors, the following:

(1) the length of time the child has been in foster care;

(2) the effort the parent has made to adjust circumstances, conduct, or condition that necessitates the removal of the child to make it in the child's best interest to be returned to the parent's home in the foreseeable future, including the use of rehabilitative services offered to the parent;

(3) whether the parent has visited the child within the three months preceding the filing of the petition, unless extreme financial or physical hardship or treatment for mental disability or chemical dependency or other good cause prevented the parent from visiting the child or it was not in the best interests of the child to be visited by the parent;

(4) the maintenance of regular contact or communication with the agency or person temporarily responsible for the child;

(5) the appropriateness and adequacy of services provided or offered to the parent to facilitate a reunion;

(6) whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parent within an ascertainable period of time, whether the services have been offered to the parent, or, if services were not offered, the reasons they were not offered; and

(7) the nature of the efforts made by the responsible social service agency to rehabilitate and reunite the family, and whether the efforts were reasonable.

Subd. 8. **Waiver.** (a) Waiver of any right which a child has under this chapter must be an express waiver voluntarily and intelligently made by the child after the child has been fully and effectively informed of the right being waived. If a child is under 12 years of age, the child's parent, guardian or custodian shall give any waiver or offer any objection contemplated by this chapter.

(b) Waiver of a child's right to be represented by counsel provided under the juvenile court rules must be an express waiver voluntarily and intelligently made by the child after the child has been fully and effectively informed of the right being waived. In determining whether a child has voluntarily and intelligently waived the right to counsel, the court shall look to the totality of the circumstances which includes but is not limited to the child's age, maturity, intelligence, education, experience, and ability to comprehend, and the presence and competence of the child's parents, guardian, or guardian ad litem. If the court accepts the child's waiver, it shall state on the record the findings and conclusions that form the basis for its decision to accept the waiver.

History: *1959 c 685 s 22; 1975 c 210 s 1; 1978 c 602 s 6; 1980 c 580 s 12-15; 1982 c 544 s 12; 1985 c 286 s 4; 1986 c 361 s 1; 1986 c 444; 1986 c 446 s 1,2; 1Sp1986 c 3 art 1 s 82; 1987 c 331 s 1,2; 1988 c 514 s 6,7; 1988 c 673 s 18-20; 1989 c 235 s 11,12; 1990 c 542 s 12*

260.156 CERTAIN OUT-OF-COURT STATEMENTS ADMISSIBLE.

An out-of-court statement not otherwise admissible by statute or rule of evidence, is admissible in evidence in any child in need of protection or services, neglected and in foster care, or domestic child abuse proceeding or any proceeding for termination of parental rights if:

(a) the statement was made by a child under the age of ten years or by a child ten years of age or older who is mentally impaired, as defined in section 609.341, subdivision 6;

(b) the statement alleges, explains, denies, or describes:

(1) any act of sexual penetration or contact performed with or on the child;

(2) any act of sexual penetration or contact with or on another child observed by the child making the statement;

(3) any act of physical abuse or neglect of the child by another; or

(4) any act of physical abuse or neglect of another child observed by the child making the statement;

(c) 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

(d) 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.

History: *1984 c 588 s 2; 1985 c 24 s 1; 1985 c 286 s 5; 1986 c 361 s 2; 1986 c 444; 1987 c 331 s 3; 1988 c 673 s 21; 1989 c 113 s 2*

260.16 [Repealed, 1959 c 685 s 53]

260.161 RECORDS.

Subdivision 1. The juvenile court judge shall keep such minutes and in such manner as the 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 confronta-

tion 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 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 child all documents filed pertaining 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 child to whom the records relate, and to the 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 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 a court or (b) as required by sections 245A.04, 611A.03, 611A.04, 611A.06, and 629.73. The records of juvenile probation officers and county home schools are records of the court for the purposes of this subdivision. Court services data relating to delinquent acts that are contained in records of the juvenile court may be released as allowed under section 13.84, subdivision 5a. 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 section 260.255, 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.

When a judge of a juvenile court, or duly authorized agent of the court, determines under a proceeding under this chapter that a child has violated a state or local law, ordinance, or regulation pertaining to the operation of a motor vehicle on streets and highways, except parking violations, the judge or agent shall immediately report the violation to the commissioner of public safety. The report must be made on a form provided by the department of public safety and must contain the information required under section 169.95.

Subd. 3. (a) 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 (1) by order of the juvenile court, (2) as required by section 126.036, (3) as authorized under section 13.82, subdivision 2, or (4) to the child's parent or guardian unless disclosure of a record would interfere with an ongoing investigation; 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. Except as provided in paragraph (c), no photographs of a child taken into custody may be taken without the consent of the 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.

(b) Nothing in this subdivision prohibits the exchange of information by law enforcement agencies if the exchanged information is pertinent and necessary to the requesting agency in initiating, furthering, or completing a criminal investigation.

(c) The commissioner of corrections may photograph juveniles whose legal custody is transferred to the commissioner. Photographs of juveniles authorized by this paragraph may be used only for institution management purposes and to assist law

enforcement agencies to apprehend juvenile offenders. The commissioner shall maintain photographs of juveniles in the same manner as juvenile court records and names under this section.

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.

History: *1959 c 685 s 23; 1961 c 576 s 11; 1963 c 516 s 7; 1967 c 75 s 1; 1980 c 580 s 16; 1985 c 161 s 1; 1986 c 444; 1987 c 123 s 4; 1987 c 295 s 6; 1987 c 331 s 4; 1988 c 670 s 12; 1988 c 691 s 5; 1989 c 224 s 1; 1989 c 278 s 2; 1989 c 351 s 17; 1990 c 542 s 13; 1990 c 573 s 22; 1990 c 579 s 2*

DETENTION

260.165 TAKING CHILD INTO CUSTODY.

Subdivision 1. No child may be taken into immediate custody except:

(a) With an order issued by the court in accordance with the provisions of section 260.135, subdivision 5, or by a warrant issued in accordance with the provisions of section 260.145; or

(b) In accordance with the laws relating to arrests; or

(c) By a peace officer

(1) when a child has run away from a parent, guardian, or custodian, or when the peace officer reasonably believes the child has run away from a parent, guardian, or custodian; or

(2) when a child is found in surroundings or conditions which endanger the child's health or welfare or which such peace officer reasonably believes will endanger the child's health or welfare. If an Indian child is a resident of a reservation or is domiciled on a reservation but temporarily located off the reservation, the taking of the child into custody under this clause shall be consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1922; or

(d) By a peace officer or probation or parole officer when it is reasonably believed that the child has violated the terms of probation, parole, or other field supervision.

Subd. 2. The taking of a child into custody under the provisions of this section shall not be considered an arrest.

History: *1959 c 685 s 24; 1963 c 516 s 8; 1986 c 444; 1989 c 235 s 13*

260.17 [Repealed, 1959 c 685 s 53]

260.171 RELEASE OR DETENTION.

Subdivision 1. If a child is taken into custody as provided in section 260.165, the parent, guardian, or custodian of the child shall be notified as soon as possible. Unless there is reason to believe that the child would endanger self or others, not return for a court hearing, run away from the child's parent, guardian, or custodian or otherwise not remain in the care or control of the person to whose lawful custody the child is released, or that the child's health or welfare would be immediately endangered, the child shall be released to the custody of a parent, guardian, custodian, or other suitable person. When a child is taken into custody by a peace officer under section 260.165, subdivision 1, clause (c)(2), release from detention may be authorized by the detaining

officer, the detaining officer's supervisor, or the county attorney. If the social service agency has determined that the child's health or welfare will not be endangered and the provision of appropriate and available services will eliminate the need for placement, the agency shall request authorization for the child's release from detention. The person to whom the child is released shall promise to bring the child to the court, if necessary, at the time the court may direct. If the person taking the child into custody believes it desirable, that person may request the parent, guardian, custodian, or other person designated by the court to sign a written promise to bring the child to court as provided above. The intentional violation of such a promise, whether given orally or in writing, shall be punishable as contempt of court.

The court may require the parent, guardian, custodian, or other person to whom the child is released, to post any reasonable bail or bond required by the court which shall be forfeited to the court if the child does not appear as directed. The court may also release the child on the child's own promise to appear in juvenile court.

Subd. 2. (a) If the child is not released as provided in subdivision 1, the person taking the child into custody shall notify the court as soon as possible of the detention of the child and the reasons for detention.

(b) No child may be detained in a juvenile secure detention facility or shelter care facility longer than 36 hours, excluding Saturdays, Sundays, and holidays, after being taken into custody for a delinquent act as defined in section 260.015, subdivision 5, unless a petition has been filed and the judge or referee determines pursuant to section 260.172 that the child shall remain in detention.

(c) No child may be detained in an adult jail or municipal lockup longer than 24 hours, excluding Saturdays, Sundays, and holidays, or longer than six hours in an adult jail or municipal lockup in a standard metropolitan statistical area, after being taken into custody for a delinquent act as defined in section 260.015, subdivision 5, unless:

(1) a petition has been filed under section 260.131; and

(2) a judge or referee has determined under section 260.172 that the child shall remain in detention.

After August 1, 1991, no child described in this paragraph may be detained in an adult jail or municipal lockup longer than 24 hours, excluding Saturdays, Sundays, and holidays, or longer than six hours in an adult jail or municipal lockup in a standard metropolitan statistical area, unless the requirements of this paragraph have been met and, in addition, a motion to refer the child for adult prosecution has been made under section 260.125.

(d) No child taken into custody pursuant to section 260.165, subdivision 1, clause (a) or (c)(2) may be held in a shelter care facility longer than 72 hours, excluding Saturdays, Sundays and holidays, unless a petition has been filed and the judge or referee determines pursuant to section 260.172 that the child shall remain in custody.

(e) If a child described in paragraph (c) is to be detained in a jail beyond 24 hours, excluding Saturdays, Sundays, and holidays, the judge or referee, in accordance with rules and procedures established by the commissioner of corrections, shall notify the commissioner of the place of the detention and the reasons therefor. The commissioner shall thereupon assist the court in the relocation of the child in an appropriate juvenile secure detention facility or approved jail within the county or elsewhere in the state, or in determining suitable alternatives. The commissioner shall direct that a child detained in a jail be detained after eight days from and including the date of the original detention order in an approved juvenile secure detention facility with the approval of the administrative authority of the facility. If the court refers the matter to the prosecuting authority pursuant to section 260.125, notice to the commissioner shall not be required.

Subd. 3. [Repealed, 1976 c 318 s 18]

Subd. 4. If the person who has taken the child into custody determines that the child should be placed in a secure detention facility or a shelter care facility, that person shall advise the child and as soon as is possible, the child's parent, guardian, or custodian:

(a) of the reasons why the child has been taken into custody and why the child is being placed in a juvenile secure detention facility or a shelter care facility; and

(b) of the location of the juvenile secure detention facility or shelter care facility. If there is reason to believe that disclosure of the location of the shelter care facility would place the child's health and welfare in immediate endangerment, disclosure of the location of the shelter care facility shall not be made; and

(c) that the child's parent, guardian, or custodian and attorney or guardian ad litem may make an initial visit to the juvenile secure detention facility or shelter care facility at any time. Subsequent visits by a parent, guardian, or custodian may be made on a reasonable basis during visiting hours and by the child's attorney or guardian ad litem at reasonable hours; and

(d) that the child may telephone parents and an attorney or guardian ad litem from the juvenile secure detention facility or shelter care facility immediately after being admitted to the facility and thereafter on a reasonable basis to be determined by the director of the facility; and

(e) that the child may not be detained for acts as defined in section 260.015, subdivision 5, at a juvenile secure detention facility or shelter care facility longer than 36 hours, excluding Saturdays, Sundays, and holidays, unless a petition has been filed within that time and the court orders the child's continued detention, pursuant to section 260.172; and

(f) that the child may not be detained for acts defined in section 260.015, subdivision 5, at an adult jail or municipal lockup longer than 24 hours, excluding Saturdays, Sundays, and holidays, or longer than six hours if the adult jail or municipal lockup is in a standard metropolitan statistical area, unless a petition has been filed and the court orders the child's continued detention under section 260.172; and

(g) that the child may not be detained pursuant to section 260.165, subdivision 1, clause (a) or (c)(2), at a shelter care facility longer than 72 hours, excluding Saturdays, Sundays, and holidays, unless a petition has been filed within that time and the court orders the child's continued detention, pursuant to section 260.172; and

(h) of the date, time, and place of the detention hearing, if this information is available to the person who has taken the child into custody; and

(i) that the child and the child's parent, guardian, or custodian have the right to be present and to be represented by counsel at the detention hearing, and that if they cannot afford counsel, counsel will be appointed at public expense for the child, if it is a delinquency matter, or for any party, if it is a child in need of protection or services, neglected and in foster care, or termination of parental rights matter.

After August 1, 1991, the child's parent, guardian, or custodian shall also be informed under clause (f) that the child may not be detained in an adult jail or municipal lockup longer than 24 hours, excluding Saturdays, Sundays, and holidays, or longer than six hours if the adult jail or municipal lockup is in a standard metropolitan statistical area, unless a motion to refer the child for adult prosecution has been made within that time period.

Subd. 5. If a child is to be detained in a secure detention facility or shelter care facility, the child shall be promptly transported to the facility in a manner approved by the facility or by securing a written transportation order from the court authorizing transportation by the sheriff or other qualified person. The person who has determined that the child should be detained shall deliver to the court and the supervisor of the secure detention facility or shelter care facility where the child is placed, a signed report, setting forth:

(a) the time the child was taken into custody; and

(b) the time the child was delivered for transportation to the secure detention facility or shelter care facility; and

(c) the reasons why the child was taken into custody; and

(d) the reasons why the child has been placed in detention; and

(e) a statement that the child and the child's parent have received the notification required by subdivision 4 or the reasons why they have not been so notified; and

(f) any instructions required by subdivision 5a.

Subd. 5a. **Shelter care; notice to parent.** When a child is to be placed in a shelter care facility the person taking the child into custody or the court shall determine whether or not there is reason to believe that disclosure of the shelter care facility's location to the child's parent, guardian, or custodian would immediately endanger the health and welfare of the child. If there is reason to believe that the child's health and welfare would be immediately endangered, disclosure of the location shall not be made. This determination shall be included in the report required by subdivision 5, along with instructions to the shelter care facility to notify or withhold notification.

Subd. 6. (a) When a child has been delivered to a secure detention facility, the supervisor of the facility shall deliver to the court a signed report acknowledging receipt of the child stating the time of the child's arrival. The supervisor of the facility shall ascertain from the report of the person who has taken the child into custody whether the child and a parent, guardian, or custodian have received the notification required by subdivision 4. If the child or a parent, guardian or custodian, or both, have not been so notified, the supervisor of the facility shall immediately make the notification, and shall include in the report to the court a statement that notification has been received or the reasons why it has not.

(b) When a child has been delivered to a shelter care facility, the supervisor of the facility shall deliver to the court a signed report acknowledging receipt of the child stating the time of the child's arrival. The supervisor of the facility shall ascertain from the report of the person who has taken the child into custody whether the child's parent, guardian or custodian has been notified of the placement of the child at the shelter care facility and its location, and the supervisor shall follow any instructions concerning notification contained in that report.

History: *1959 c 685 s 25; 1969 c 556 s 1; 1971 c 590 s 1; 1976 c 318 s 9-13; 1977 c 330 s 3-5; 1977 c 347 s 41; 1978 c 637 s 1; 1982 c 469 s 3-7; 1985 c 286 s 6; 1986 c 444; 1988 c 673 s 22,23; 1989 c 147 s 1,2; 1989 c 235 s 14; 1990 c 542 s 14*

260.172 DETENTION HEARING.

Subdivision 1. (a) If a child was taken into custody under section 260.165, subdivision 1, clause (a) or (c)(2), the court shall hold a hearing within 72 hours of the time the child was taken into custody, excluding Saturdays, Sundays, and holidays, to determine whether the child should continue in custody.

(b) In all other cases, the court shall hold a detention hearing:

(1) within 36 hours of the time the child was taken into custody, excluding Saturdays, Sundays, and holidays, if the child is being held at a juvenile secure detention facility or shelter care facility; or

(2) within 24 hours of the time the child was taken into custody, excluding Saturdays, Sundays, and holidays, if the child is being held at an adult jail or municipal lockup.

(c) Unless there is reason to believe that the child would endanger self or others, not return for a court hearing, run away from the child's parent, guardian, or custodian or otherwise not remain in the care or control of the person to whose lawful custody the child is released, or that the child's health or welfare would be immediately endangered, the child shall be released to the custody of a parent, guardian, custodian, or other suitable person. In determining whether the child's health or welfare would be immediately endangered, the court shall consider whether the child would reside with a perpetrator of domestic child abuse. In a proceeding regarding a child in need of protection or services, the court, before determining whether a child should continue in custody, shall also make a determination, consistent with section 260.012 as to whether reasonable efforts, or in the case of an Indian child, active efforts, according to the Indian Child Welfare Act of 1978, United States Code, title 25, section 1912(d), were

made to prevent placement or to reunite the child with the child's family, or that reasonable efforts were not possible. The court shall also determine whether there are available services that would prevent the need for further detention.

If the court finds the social services agency's preventive or reunification efforts have not been reasonable but further preventive or reunification efforts could not permit the child to safely remain at home, the court may nevertheless authorize or continue the removal of the child.

Subd. 2. If the court determines that the child should continue in detention, it may order detention continued for eight days, excluding Saturdays, Sundays and holidays, from and including the date of the order. Unless a motion to refer the child for adult prosecution is pending, a child who has been detained in an adult jail or municipal lockup and for whom continued detention is ordered, must be transferred to a juvenile secure detention facility or shelter care facility. The court shall include in its order the reasons for continued detention and the findings of fact which support these reasons.

Subd. 2a. **Parental visitation.** If a child has been taken into custody under section 260.135, subdivision 5, or 260.165, subdivision 1, clause (c)(2), and the court determines that the child should continue in detention, the court shall include in its order reasonable rules for supervised or unsupervised parental visitation of the child in the shelter care facility unless it finds that visitation would endanger the child's physical or emotional well-being.

Subd. 2b. **Mental health treatment.** (a) Except as provided in paragraph (b), a child who is held in detention as an alleged victim of child abuse as defined in section 630.36, subdivision 2, may not be given mental health treatment specifically for the effects of the alleged abuse until the court finds that there is probable cause to believe the abuse has occurred.

(b) A child described in paragraph (a) may be given mental health treatment prior to a probable cause finding of child abuse if the treatment is either agreed to by the child's parent or guardian in writing, or ordered by the court according to the standard contained in section 260.191, subdivision 1.

Subd. 3. Copies of the court's order shall be served upon the parties, including the supervisor of the detention facility, who shall release the child or continue to hold the child as the court orders.

When the court's order is served upon these parties, notice shall also be given to the parties of the subsequent reviews provided by subdivision 4. The notice shall also inform each party of the right to submit to the court for informal review any new evidence regarding whether the child should be continued in detention and to request a hearing to present the evidence to the court.

Subd. 4. If a child held in detention under a court order issued under subdivision 2 has not been released prior to expiration of the order, the court or referee shall informally review the child's case file to determine, under the standards provided by subdivision 1, whether detention should be continued. If detention is continued thereafter, informal reviews such as these shall be held within every eight days, excluding Saturdays, Sundays and holidays, of the child's detention.

A hearing, rather than an informal review of the child's case file, shall be held at the request of any one of the parties notified pursuant to subdivision 3, if that party notifies the court of a wish to present to the court new evidence concerning whether the child should be continued in detention or notifies the court of a wish to present an alternate placement arrangement to provide for the safety and protection of the child.

In addition, if a child was taken into detention under section 260.135, subdivision 5, or 260.165, subdivision 1, clause (c)(2), and is held in detention under a court order issued under subdivision 2, the court shall schedule and hold an adjudicatory hearing on the petition within 60 days of the detention hearing upon the request of any party to the proceeding. However, if good cause is shown by a party to the proceeding why the hearing should not be held within that time period, the hearing shall be held within 90 days, unless the parties agree otherwise and the court so orders.

History: *1976 c 318 s 14; 1977 c 330 s 6-9; 1982 c 469 s 8; 1985 c 286 s 7-9; 1986 c 444; 1988 c 673 s 24; 1989 c 113 s 3; 1989 c 147 s 3,4; 1989 c 235 s 15,16*

NOTE: Subdivision 2, as amended by Laws 1989, chapter 147, section 4, is effective August 1, 1991. See Laws 1989, chapter 147, section 6.

260.173 PLACE OF TEMPORARY CUSTODY; SHELTER CARE FACILITY.

Subdivision 1. A child taken into custody pursuant to section 260.165 may be detained for up to 24 hours in a shelter care facility, secure detention facility, or, if there is no secure detention facility available for use by the county having jurisdiction over the child, in a jail or other facility for the confinement of adults who have been charged with or convicted of a crime in quarters separate from any adult confined in the facility which has been approved for the detention of juveniles by the commissioner of corrections. At the end of the 24 hour detention any child requiring further detention may be detained only as provided in this section.

Subd. 2. Notwithstanding the provisions of subdivision 1, if the child had been taken into custody pursuant to section 260.165, subdivision 1, clause (a) or clause (c)(2), and is not alleged to be delinquent, the child shall be detained in the least restrictive setting consistent with the child's health and welfare and in closest proximity to the child's family as possible. Placement may be with a child's relative, or in a shelter care facility.

Subd. 3. **Placement.** If the child had been taken into custody and detained as one who is alleged to be delinquent, in need of protection or services under section 260.015, subdivision 2a, clause (11) or (12), or a juvenile petty offender by reason of:

(a) Having committed an offense which would not constitute a violation of a state law or local ordinance if the child were an adult; or

(b) Having been previously adjudicated delinquent, in need of protection or services under section 260.015, subdivision 2a, clause (11) or (12), or a juvenile petty offender, or conditionally released by the juvenile court without adjudication, has violated probation, parole, or other field supervision under which the child had been placed as a result of behavior described in this subdivision; the child may be placed only in a shelter care facility.

Subd. 4. If a child is taken into custody as one who:

(a) has allegedly committed an act which would constitute a violation of a state law or a local ordinance if the child were an adult; or

(b) is reasonably believed to have violated the terms of probation, parole, or other field supervision under which the child had been placed as a result of behavior described under clause (a);

the child may be detained in a shelter care or secure juvenile detention facility. If the child cannot be detained in another type of detention facility, and if there is no secure juvenile detention facility or existing acceptable detention alternative available for juveniles within the county, a child described in this subdivision may be detained up to 24 hours, excluding Saturdays, Sundays, and holidays, or up to six hours in a standard metropolitan statistical area, in a jail, lockup or other facility used for the confinement of adults who have been charged with or convicted of a crime, in quarters separate from any adult confined in the facility which has been approved for the detention of juveniles by the commissioner of corrections. If continued detention in an adult jail is approved by the court under section 260.172, subdivision 2, and there is no juvenile secure detention facility available for use by the county having jurisdiction over the child, such child may be detained for no more than eight days from and including the date of the original detention order in separate quarters in any jail or other adult facility for the confinement of persons charged with or convicted of crime which has been approved by the commissioner of corrections to be suitable for the detention of juveniles for up to eight days. Except for children who have been referred for prosecution pursuant to section 260.125, and as hereinafter provided, any child requiring secure detention for more than eight days from and including the date of the original detention order must be removed to an approved secure juvenile detention facility. A child 16

years of age or older against whom a motion to refer for prosecution is pending before the court may be detained for more than eight days in separate quarters in a jail or other facility which has been approved by the commissioner of corrections for the detention of juveniles for up to eight days after a hearing and subject to the periodic reviews provided in section 260.172. No child under the age of 14 may be detained in a jail, lockup or other facility used for the confinement of adults who have been charged with or convicted of a crime.

Subd. 5. In order for a child to be detained at a state correctional institution for juveniles, the commissioner of corrections must first consent thereto, and the county must agree to pay the costs of the child's detention.

Where the commissioner directs that a child be detained in an approved juvenile facility with the approval of the administrative authority of the facility as provided in section 260.171, subdivision 2, or subdivision 4 of this section, the costs of such detention shall be a charge upon the county for which the child is being detained.

History: *1976 c 318 s 15; 1978 c 637 s 2; 1982 c 544 s 13; 1982 c 596 s 1; 1986 c 444; 1988 c 673 s 25; 1989 c 147 s 5; 1989 c 235 s 17*

NOTE: Subdivision 4, as amended by Laws 1989, chapter 147, section 5, is effective August 1, 1991. See Laws 1989, chapter 147, section 6.

260.175 [Repealed, 1976 c 318 s 18]

DISPOSITIONS

260.18 [Repealed, 1959 c 685 s 53]

260.181 DISPOSITIONS; GENERAL PROVISIONS.

Subdivision 1. **Dismissal of petition.** Whenever the court finds that the minor is not within the jurisdiction of the court or that the facts alleged in the petition have not been proved, it shall dismiss the petition.

Subd. 2. **Consideration of reports.** Before making a disposition in a case, or terminating parental rights, or appointing a guardian for a child the court may consider any report or recommendation made by the county welfare board, probation officer, licensed child placing agency, foster parent, guardian ad litem, tribal representative, or other authorized advocate for the child or child's family, or any other information deemed material by the court.

Subd. 3. **Protection of racial or ethnic heritage, or religious affiliation.** The policy of the state is to ensure that the best interests of children are met by requiring due consideration of the child's minority race or minority ethnic heritage in foster care placements.

The court, in transferring legal custody of any child or appointing a guardian for the child under the laws relating to juvenile courts, shall place the child, in the following order of preference, in the absence of good cause to the contrary, in the legal custody or guardianship of an individual who (a) is the child's relative, or if that would be detrimental to the child or a relative is not available, who (b) is of the same racial or ethnic heritage as the child, or if that is not possible, who (c) is knowledgeable and appreciative of the child's racial or ethnic heritage. The court may require the county welfare agency to continue efforts to find a guardian of the child's minority racial or minority ethnic heritage when such a guardian is not immediately available. For purposes of this subdivision, "relative" includes members of a child's extended family and important friends with whom the child has resided or had significant contact.

If the child's genetic parent or parents explicitly request that the preference described in clause (a) or in clauses (a) and (b) not be followed, the court shall honor that request consistent with the best interests of the child.

If the child's genetic parent or parents express a preference for placing the child in a foster or adoptive home of the same or a similar religious background to that of the genetic parent or parents, in following the preferences in clause (a) or (b), the court

shall order placement of the child with an individual who meets the genetic parent's religious preference. Only if no individual is available who is described in clause (a) or (b) may the court give preference to an individual described in clause (c) who meets the parent's religious preference.

Subd. 4. **Termination of jurisdiction.** The court may dismiss the petition or otherwise terminate its jurisdiction on its own motion or on the motion or petition of any interested party at any time. Unless terminated by the court, and except as otherwise provided in this subdivision, the jurisdiction of the court shall continue until the individual becomes 19 years of age if the court determines it is in the best interest of the individual to do so. Court jurisdiction under section 260.015, subdivision 2a, clause (12), may not continue past the child's 17th birthday.

History: *1959 c 685 s 27; 1963 c 516 s 9; 1974 c 544 s 1; 1978 c 602 s 9; 1982 c 615 s 4; 1983 c 278 s 12; 1988 c 673 s 26; 1988 c 689 art 2 s 218; 1989 c 235 s 18*

260.185 DISPOSITIONS; DELINQUENT CHILD.

Subdivision 1. If the court finds that the child is delinquent, it shall enter an order making any of the following dispositions of the case which are deemed necessary to the rehabilitation of the child:

(a) Counsel the child or the parents, guardian, or custodian;

(b) 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 child's 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, in a group foster care facility which is under the management and supervision of said commissioner;

(c) Subject to the supervision of the court, transfer legal custody of the child to one of the following:

(1) a child placing agency; or

(2) the county welfare board; or

(3) a reputable individual of good moral character. No person may receive custody of two or more unrelated children unless licensed as a residential facility pursuant to sections 245A.01 to 245A.16; or

(4) a county home school, if the county maintains a home school or enters into an agreement with a county home school; or

(5) 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;

(d) Transfer legal custody by commitment to the commissioner of corrections;

(e) If the child is found to have violated a state or local law or ordinance which has resulted in damage to the person or property of another, the court may order the child to make reasonable restitution for such damage;

(f) Require the child to pay a fine of up to $700; the court shall order payment of the fine in accordance with a time payment schedule which shall not impose an undue financial hardship on the child;

(g) 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 to provide this treatment or care, the court may order it provided;

(h) If the court believes that it is in the best interests of the child and of public safety that the driver's license of the child be canceled until the child's 18th birthday, the court may recommend to the commissioner of public safety the cancellation of the child's license for any period up to the child's 18th birthday, and the commissioner is hereby authorized to cancel such license without a hearing. At any time before the termination of the period of cancellation, the court may, for good cause, recommend to the commissioner of public safety that the child be authorized to apply for a new license, and the commissioner may so authorize.

If the child is petitioned and found by the court to have committed or attempted to commit an act in violation of section 609.342, 609.343, 609.344, or 609.345, the court shall order an independent professional assessment of the child's need for sex offender treatment. An assessor providing an assessment for the court may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider. If the assessment indicates that the child is in need of and amenable to sex offender treatment, the court shall include in its disposition order a requirement that the child undergo treatment.

Any order for a disposition authorized under this section shall contain written findings of fact to support the disposition ordered, and shall also set forth in writing the following information:

(a) why the best interests of the child are served by the disposition ordered; and

(b) what alternative dispositions were considered by the court and why such dispositions were not appropriate in the instant case.

Subd. 2. Except when legal custody is transferred under the provisions of subdivision 1, clause (d), the court may expunge the adjudication of delinquency at any time that it deems advisable.

Subd. 3. When it is in the best interests of the child to do so and when child has admitted the allegations contained in the petition before the judge or referee, or when a hearing has been held as provided for in section 260.155 and the allegations contained in the petition have been duly proven but, in either case, before a finding of delinquency has been entered, the court may continue the case for a period not to exceed 90 days on any one order. Such a continuance may be extended for one additional successive period not to exceed 90 days and only after the court has reviewed the case and entered its order for an additional continuance without a finding of delinquency. During this continuance the court may enter an order in accordance with, the provisions of subdivision 1, clauses (a) or (b) or enter an order to hold the child in detention for a period not to exceed 15 days on any one order for the purpose of completing any consideration, or any investigation or examination ordered in accordance with the provisions of section 260.151.

Subd. 3a. **Enforcement of restitution orders.** If the court orders payment of restitution and the child fails to pay the restitution in accordance with the payment schedule or structure established by the court or the probation officer, the child's probation officer may, on the officer's own motion or at the request of the victim, file a petition for violation of probation or ask the court to hold a hearing to determine whether the conditions of probation should be changed. The child's probation officer shall ask for the hearing if the restitution ordered has not been paid prior to 60 days before the term of probation expires. The court shall schedule and hold this hearing before the child's term of probation expires.

Subd. 4. All orders for supervision under subdivision 1, clause (b) shall be for an indeterminate period unless otherwise specified by the court, and shall be reviewed by the court at least annually. All orders under subdivision 1, clause (c) shall be for a specified length of time set by the court. However, before an order has expired and upon the court's own motion or that of any interested party, the court has continuing jurisdiction to renew the order or, after notice to the parties and a hearing, make some other disposition of the case, until the individual is no longer a minor. Any person to whom legal custody is transferred shall report to the court in writing at such periods as the court may direct.

Subd. 5. When the court transfers legal custody of a child to any licensed child placing agency, county home school, county welfare board, or the commissioner of corrections, it shall transmit with the order transferring legal custody a copy of its findings and a summary of its information concerning the child.

History: *1959 c 685 s 28; 1961 c 576 s 12,13; 1969 c 769 s 1; 1969 c 1019 s 1; 1973 c 654 s 15; 1974 c 469 s 2; 1975 c 271 s 6; 1976 c 150 s 1; 1976 c 166 s 7; 1978 c 657 s 1; 1978 c 778 s 2; 1980 c 580 s 17; 1983 c 216 art 1 s 40; 1983 c 274 s 18; 1984 c 628*

art 3 s 11; 1984 c 655 art 1 s 43; 1986 c 444; 1987 c 331 s 5; 1989 c 21 s 1,2; 1989 c 209 art 2 s 1; 1989 c 290 art 4 s 6; 1990 c 426 art 1 s 35

260.19 [Repealed, 1959 c 685 s 53]

260.191 DISPOSITIONS; CHILDREN WHO ARE IN NEED OF PROTECTION OR SERVICES OR NEGLECTED AND IN FOSTER CARE.

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

(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 commissioner 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.

Subd. 1a. **Written findings.** Any order for a disposition authorized under this section shall contain written findings of fact to support the disposition ordered, and shall also set forth in writing the following information:

(a) Why the best interests of the child are served by the disposition ordered;

(b) What alternative dispositions were considered by the court and why such dispositions were not appropriate in the instant case;

(c) In the case of a child of minority racial or minority ethnic heritage, how the court's disposition complies with the requirements of section 260.181, subdivision 3; and

(d) Whether reasonable efforts consistent with section 260.012 were made to prevent or eliminate the necessity of the child's removal and to reunify the family after removal. The court's findings must include a brief description of what preventive and reunification efforts were made and why further efforts could not have prevented or eliminated the necessity of removal.

If the court finds that the social services agency's preventive or reunification efforts have not been reasonable but that further preventive or reunification efforts could not permit the child to safely remain at home, the court may nevertheless authorize or continue the removal of the child.

Subd. 1b. **Domestic child abuse.** If the court finds that the child is a victim of domestic child abuse, as defined in section 260.015, subdivision 24, it may order any of the following dispositions of the case in addition to or as alternatives to the dispositions authorized under subdivision 1:

(1) restrain any party from committing acts of domestic child abuse;

(2) exclude the abusing party from the dwelling which the family or household members share or from the residence of the child;

(3) on the same basis as is provided in chapter 518, establish temporary visitation with regard to minor children of the adult family or household members;

(4) on the same basis as is provided in chapter 518, establish temporary support or maintenance for a period of 30 days for minor children or a spouse;

(5) provide counseling or other social services for the family or household members; or

(6) order the abusing party to participate in treatment or counseling services.

Any relief granted by the order for protection shall be for a fixed period not to exceed one year.

However, no order excluding the abusing party from the dwelling may be issued unless the court finds that:

(1) the order is in the best interests of the child or children remaining in the dwelling;

(2) a remaining adult family or household member is able to care adequately for the child or children in the absence of the excluded party; and

(3) the local welfare agency has developed a plan to provide appropriate social services to the remaining family or household members.

Subd. 1c. **Support orders.** If the court issues an order for protection pursuant to section 260.191, subdivision 1b, excluding an abusing party from the dwelling who is the parent of a minor family or household member, it shall transfer the case file to the court which has jurisdiction over proceedings under chapter 518 for the purpose of establishing support or maintenance for minor children or a spouse, as provided in chapter 518, during the effective period of the order for protection. The court to which the case file is transferred shall schedule and hold a hearing on the establishment of support or maintenance within 30 days of the issuance of the order for protection. After an order for support or maintenance has been granted or denied, the case file shall be returned to the juvenile court, and the order for support or maintenance, if any, shall be incorporated into the order for protection.

Subd. 1d. **Parental visitation.** If the court orders that the child be placed outside of the child's home or present residence, it shall set reasonable rules for supervised or unsupervised parental visitation that contribute to the objectives of the court order and the maintenance of the familial relationship. No parent may be denied visitation unless the court finds at the disposition hearing that the visitation would act to prevent the achievement of the order's objectives or that it would endanger the child's physical or emotional well-being.

Subd. 1e. **Case plan.** For each disposition ordered, the court shall order the appropriate agency to prepare a written case plan developed after consultation with any foster parents, and consultation with and participation by the child and the child's parent, guardian, or custodian, guardian ad litem, and tribal representative if the tribe has intervened. The case plan shall comply with the requirements of section 257.071, where applicable. The case plan shall, among other matters, specify the actions to be taken by the child and the child's parent, guardian, foster parent, or custodian to comply with the court's disposition order, and the services to be offered and provided by the agency to the child and the child's parent, guardian, or custodian. The court shall review the case plan and, upon approving it, incorporate the plan into its disposition order. The court may review and modify the terms of the case plan in the manner provided in subdivision 2. For each disposition ordered, the written case plan shall specify what reasonable efforts shall be provided to the family. The case plan must include a discussion of:

(1) the availability of appropriate prevention and reunification services for the family to prevent the removal of the child from the home or to reunify the child with the family after removal;

(2) any services or resources that were requested by the child or the child's parent, guardian, foster parent, or custodian since the date of initial adjudication, and whether those services or resources were provided or the basis for denial of the services or resources;

(3) the need of the child and family for care, treatment, or rehabilitation;

(4) the need for participation by the parent, guardian, or custodian in the plan of care for the child; and

(5) a description of any services that could prevent placement or reunify the family if such services were available.

A party has a right to request a court review of the reasonableness of the case plan upon a showing of a substantial change of circumstances.

Subd. 2. **Order duration.** All orders under this section shall be for a specified length of time set by the court not to exceed one year. However, before the order has expired and upon its own motion or that of any interested party, the court shall, after notice to the parties and a hearing, renew the order for another year or make some other disposition of the case, until the individual is no longer a minor. Any person to whom legal custody is transferred shall report to the court in writing at such periods as the court may direct.

Subd. 2a. **Service of order.** Any person who provides services to a child under a disposition order, or who is subject to the conditions of a disposition order shall be served with a copy of the order in the manner provided in the rules for juvenile courts.

Subd. 3. When the court transfers legal custody of a child to any licensed child placing agency or the county welfare board, it shall transmit with the order transferring legal custody a copy of its findings and a summary of its information concerning the child.

Subd. 4. When it is in the best interests of the child or the child's parents to do so and when either the allegations contained in the petition have been admitted, or when a hearing has been held as provided in section 260.155 and the allegations contained in the petition have been duly proven, before a finding of need for protection or services or a finding that a child is neglected and in foster care has been entered the court may continue the case for a period not to exceed 90 days on any one order. Such a continuance may be extended for one additional successive period not to exceed 90 days and only after the court has reviewed the case and entered its order for an additional continuance without a finding that the child is in need of protection or services or neglected and in foster care. During this continuance the court may enter any order otherwise permitted under the provisions of this section.

History: *1959 c 685 s 29; 1969 c 1019 s 2; 1976 c 150 s 2; 1978 c 602 s 7,8; 1983 c 278 s 13; 1983 c 312 art 5 s 34; 1984 c 573 s 5,6; 1985 c 286 s 10-12; 1986 c 444; 1987 c 384 art 2 s 1; 1988 c 673 s 27-29; 1989 c 208 s 2; 1989 c 235 s 19,20*

260.192 DISPOSITIONS; VOLUNTARY FOSTER CARE PLACEMENTS.

Upon a petition for review of the foster care status of a child, the court may:

(a) Find that the child's needs are being met and that the child's placement in foster care is in the best interests of the child, in which case the court shall approve the voluntary arrangement. The court shall order the social service agency responsible for the placement to bring a petition pursuant to either section 260.131, subdivision 1 or section 260.131, subdivision 1a, as appropriate, within two years if court review was pursuant to section 257.071, subdivision 3 or 4, or within one year if court review was pursuant to section 257.071, subdivision 2.

(b) Find that the child's needs are not being met, in which case the court shall order the social service agency or the parents to take whatever action is necessary and feasible to meet the child's needs, including, when appropriate, the provision by the social service agency of services to the parents which would enable the child to live at home, and shall order an administrative review of the case again within six months and a review by the court within one year.

(c) Find that the child has been abandoned by parents financially or emotionally, or that the developmentally disabled child does not require out-of-home care because of the handicapping condition, in which case the court shall order the social service agency to file an appropriate petition pursuant to sections 260.131, subdivision 1, or 260.231.

Nothing in this section shall be construed to prohibit bringing a petition pursuant to section 260.131, subdivision 1 or 2, sooner than required by court order pursuant to this section.

History: *1981 c 290 s 8; 1983 c 278 s 14; 1986 c 444*

260.193 JUVENILE TRAFFIC OFFENDER; PROCEDURES; DISPOSITIONS.

Subdivision 1. (a) For purposes of this section, the following terms have the meanings given them.

(b) "Major traffic offense" includes any violation of a state or local traffic law, ordinance, or regulation, or a federal, state, or local water traffic law not included within the provisions of clause (c).

(c) "Minor traffic offense" means a violation of a state or local traffic law, ordinance, or regulation, or a federal, state, or local water traffic law constituting an offense punishable only by fine of not more than $100.

Subd. 2. A child who commits a major traffic offense shall be adjudicated a "juvenile highway traffic offender" or a "juvenile water traffic offender," as the case may

be, and shall not be adjudicated delinquent, unless, as in the case of any other child alleged to be delinquent, a petition is filed in the manner provided in section 260.131, summons issued, notice given, a hearing held, and the court finds as a further fact that the child is also delinquent within the meaning and purpose of the laws relating to juvenile courts.

Subd. 3. Except as provided in subdivision 4, a child who commits a minor traffic offense and at the time of the offense was at least 16 years old shall be subject to the laws and court procedures controlling adult traffic violators and shall not be under the jurisdiction of the juvenile court. When a child is alleged to have committed a minor traffic offense and is at least 16 years old at the time of the offense, the peace officer making the charge shall follow the arrest procedures prescribed in section 169.91 and shall make reasonable effort to notify the child's parent or guardian of the nature of the charge.

Subd. 4. The juvenile court shall have original jurisdiction if the child is alleged to have committed both major and minor traffic offenses in the same behavioral incident.

Subd. 5. When a child is alleged to have committed a major traffic offense, the peace officer making the charge shall file a signed copy of the notice to appear, as provided in section 169.91, with the juvenile court of the county in which the violation occurred, and the notice to appear has the effect of a petition and gives the juvenile court jurisdiction. Filing with the court a notice to appear containing the name and address of the child allegedly committing a major traffic offense and specifying the offense charged, the time and place of the alleged violation shall have the effect of a petition and give the juvenile court jurisdiction. Any reputable person having knowledge of a child who commits a major traffic offense may petition the juvenile court in the manner provided in section 260.131. Whenever a notice to appear or petition is filed alleging that a child is a juvenile highway traffic offender or a juvenile water traffic offender, the court shall summon and notify the persons required to be summoned or notified as provided in sections 260.135 and 260.141. However, it is not necessary to (1) notify more than one parent, or (2) publish any notice, or (3) personally serve outside the state.

Subd. 6. Before making a disposition of any child found to be a juvenile major traffic offender, the court shall obtain from the department of public safety information of any previous traffic violation by this juvenile. In the case of a juvenile water traffic offender, the court shall obtain from the office where the information is now or hereafter may be kept information of any previous water traffic violation by the juvenile.

Subd. 7. If after a hearing the court finds that the welfare of a juvenile major traffic offender or a juvenile water traffic offender or the public safety would be better served under the laws controlling adult traffic violators, the court may transfer the case to any court of competent jurisdiction presided over by a salaried judge if there is one in the county. The juvenile court transfers the case by forwarding to the appropriate court the documents in the court's file together with an order to transfer. The court to which the case is transferred shall proceed with the case as if the jurisdiction of the juvenile court had never attached.

Subd. 8. If the juvenile court finds that the child is a juvenile major highway or water traffic offender, it may make any one or more of the following dispositions of the case:

(a) Reprimand the child and counsel with the child and the parents;

(b) Continue the case for a reasonable period under such conditions governing the child's use and operation of any motor vehicles or boat as the court may set;

(c) Require the child to attend a driver improvement school if one is available within the county;

(d) Recommend to the department of public safety suspension of the child's driver's license as provided in section 171.16;

(e) If the child is found to have committed two moving highway traffic violations

or to have contributed to a highway accident involving death, injury, or physical damage in excess of $100, the court may recommend to the commissioner of public safety or to the licensing authority of another state the cancellation of the child's license until the child reaches the age of 18 years, and the commissioner of public safety is hereby authorized to cancel the license without hearing. At any time before the termination of the period of cancellation, the court may, for good cause, recommend to the commissioner of public safety, or to the licensing authority of another state, that the child's license be returned, and the commissioner of public safety is authorized to return the license;

(f) Place the child under the supervision of a probation officer in the child's own home under conditions prescribed by the court including reasonable rules relating to operation and use of motor vehicles or boats directed to the correction of the child's driving habits;

(g) Require the child to pay a fine of up to $700. The court shall order payment of the fine in accordance with a time payment schedule which shall not impose an undue financial hardship on the child;

(h) If the court finds that the child committed an offense described in section 169.121, the court shall order that a chemical use assessment be conducted and a report submitted to the court in the manner prescribed in section 169.126. If the assessment concludes that the child meets the level of care criteria for placement under rules adopted under section 254A.03, subdivision 3, the report must recommend a level of care for the child. The court may require that level of care in its disposition order. In addition, the court may require any child ordered to undergo an assessment to pay a chemical dependency assessment charge of $75. The court shall forward the assessment charge to the commissioner of finance to be credited to the general fund. The state shall reimburse counties for the total cost of the assessment in the manner provided in section 169.126, subdivision 4c.

Subd. 9. [Repealed, 1987 c 123 s 5]

Subd. 10. The juvenile court records of juvenile highway traffic offenders and juvenile water traffic offenders shall be kept separate from delinquency matters.

History: *1959 c 685 s 30; 1961 c 576 s 14-17; 1963 c 516 s 10; 1971 c 491 s 42,43; 1976 c 166 s 7; 1980 c 580 s 18; 1983 c 216 art 1 s 41; 1984 c 628 art 3 s 11; 1986 c 444; 1987 c 315 s 13; 1989 c 335 art 4 s 68; 1990 c 602 art 2 s 9*

260.194 [Repealed, 1988 c 673 s 40]

260.195 PETTY OFFENDERS; PROCEDURES; DISPOSITIONS.

Subdivision 1. **Adjudication.** A petty offender who has committed a juvenile alcohol or controlled substance offense shall be adjudicated a "petty offender," and shall not be adjudicated delinquent, unless, as in the case of any other child alleged to be delinquent, a petition is filed in the manner provided in section 260.131, summons issued, notice given, a hearing held, and the court finds as a further fact that the child is also delinquent within the meaning and purpose of the laws related to juvenile courts.

Subd. 2. **Procedure.** When a peace officer has probable cause to believe that a child is a petty offender, the officer may issue a notice to the child to appear in juvenile court in the county in which the alleged violation occurred. The officer shall file a copy of the notice to appear with the juvenile court of the county in which the alleged violation occurred. Filing with the court a notice to appear containing the name and address of the child who is alleged to be a petty offender, specifying the offense charged, and the time and place of the alleged violation has the effect of a petition giving the juvenile court jurisdiction. Any reputable person having knowledge that a child is a petty offender may petition the juvenile court in the manner provided in section 260.131. Whenever a notice to appear or petition is filed alleging that a child is a petty offender, the court shall summon and notify the person or persons having custody or control of the child of the nature of the offense charged and the time and place of hearing. This

summons and notice shall be served in the time and manner provided in section 260.135, subdivision 1. If a child fails to appear in response to the notice provided by this subdivision, the court may issue a summons notifying the child of the nature of the offense alleged and the time and place set for the hearing. If the peace officer finds it necessary to take the child into custody, sections 260.165 and 260.171 shall apply.

Subd. 3. **Dispositions.** If the juvenile court finds that a child is a petty offender, the court may:

(a) require the child to pay a fine of up to $100;

(b) require the child to participate in a community service project;

(c) require the child to participate in a drug awareness program;

(d) place the child on probation for up to six months;

(e) order the child to undergo a chemical dependency evaluation and if warranted by this evaluation, order participation by the child in an inpatient or outpatient chemical dependency treatment program; or

(f) perform any other activities or participate in any other treatment programs deemed appropriate by the court.

In all cases where the juvenile court finds that a child has purchased or attempted to purchase an alcoholic beverage in violation of section 340A.503, if the child has a driver's license or permit to drive, and if the child used a driver's license, permit or Minnesota identification card to purchase or attempt to purchase the alcoholic beverage, the court shall forward its finding in the case and the child's driver's license or permit to the commissioner of public safety. Upon receipt, the commissioner shall suspend the child's license or permit for a period of 90 days.

None of the dispositional alternatives described in clauses (a) to (e) shall be imposed by the court in a manner which would cause an undue hardship upon the child.

Subd. 3a. **Enhanced dispositions.** If the juvenile court finds that a child has committed a second or subsequent juvenile alcohol or controlled substance offense, the court may impose any of the dispositional alternatives described in paragraphs (a) to (c).

(a) The court may impose any of the dispositional alternatives described in subdivision 3, clauses (a) to (f).

(b) If the adjudicated petty offender has a driver's license or permit, the court may forward the license or permit to the commissioner of public safety. The commissioner shall revoke the petty offender's driver's license or permit until the offender reaches the age of 18 years or for a period of one year, whichever is longer.

(c) If the adjudicated petty offender has a driver's license or permit, the court may suspend the driver's license or permit for a period of up to 90 days, but may allow the offender driving privileges as necessary to travel to and from work.

(d) If the adjudicated petty offender does not have a driver's license or permit, the court may prepare an order of denial of driving privileges. The order must provide that the petty offender will not be granted driving privileges until the offender reaches the age of 18 years or for a period of one year, whichever is longer. The court shall forward the order to the commissioner of public safety. The commissioner shall deny the offender's eligibility for a driver's license under section 171.04, for the period stated in the court order.

Subd. 4. **Alternative disposition.** In addition to dispositional alternatives authorized by subdivision 3, in the case of a third or subsequent finding by the court pursuant to an admission in court or after trial that a child has committed a juvenile alcohol or controlled substance offense, the juvenile court shall order a chemical dependency evaluation of the child and if warranted by the evaluation, the court may order participation by the child in an inpatient or outpatient chemical dependency treatment program, or any other treatment deemed appropriate by the court.

Subd. 5. **Findings required.** Any order for disposition authorized by this section shall contain written findings of fact to support the disposition ordered, and shall also set forth in writing the following information:

(a) Why the best interests of the child are served by the disposition ordered; and

(b) What alternative dispositions were considered by the court and why they were not appropriate in the instant case.

Subd. 6. **Report.** The juvenile court shall report to the office of state court administrator each disposition made under this section and sections 260.185, 260.191, and 260.192 where placement is made outside of this state's jurisdictional boundaries. Each report shall contain information as to date of placement, length of anticipated placement, program costs, reasons for out of state placement, and any other information as the office requires to determine the number of out of state placements, the reasons for these placements, and the costs involved. The report shall not contain the name of the child. Any information contained in the reports relating to factors identifying a particular child is confidential and may be disclosed only by order of the juvenile court. Any person violating this subdivision as to release of this confidential information is guilty of a misdemeanor.

Subd. 7. **Expungement.** The court may expunge the adjudication of a child as a petty offender at any time it deems advisable.

History: *1982 c 544 s 15; 1984 c 622 s 20; 1987 c 384 art 2 s 1; 1988 c 673 s 30; 1989 c 262 s 2,3; 1989 c 301 s 12*

260.20 [Repealed, 1959 c 685 s 53]

260.21 [Repealed, 1959 c 685 s 53]

260.211 EFFECT OF JUVENILE COURT PROCEEDINGS.

Subdivision 1. No adjudication upon the status of any child in the jurisdiction of the juvenile court shall operate to impose any of the civil disabilities imposed by conviction, nor shall any child be deemed a criminal by reason of this adjudication, nor shall this adjudication be deemed a conviction of crime. The disposition of the child or any evidence given by the child in the juvenile court shall not be admissible as evidence against the child in any case or proceeding in any other court, except that an adjudication may later be used to determine a proper sentence, nor shall the disposition or evidence disqualify the child in any future civil service examination, appointment, or application.

Subd. 2. Nothing contained in this section shall be construed to relate to subsequent proceedings in juvenile court, nor shall preclude the juvenile court, under circumstances other than those specifically prohibited in subdivision 1, from disclosing information to qualified persons if the court considers such disclosure to be in the best interests of the child or of the administration of justice.

History: *1959 c 685 s 31; 1963 c 516 s 11; 1980 c 580 s 19; 1986 c 444*

260.215 JUVENILE COURT DISPOSITION BARS CRIMINAL PROCEEDING.

Subdivision 1. A violation of a state or local law or ordinance by a child before becoming 18 years of age is not a crime unless the juvenile court refers the matter to the appropriate prosecuting authority in accordance with the provisions of section 260.125 or to a court in accordance with the provisions of section 260.193.

Subd. 2. Except for matters referred to the prosecuting authority under the provisions of this section or to a court in accordance with the provisions of section 260.193, any peace officer knowingly bringing charges against a child in a court other than a juvenile court for violating a state or local law or ordinance is guilty of a misdemeanor. This subdivision does not apply to complaints brought for the purposes of extradition.

History: *1959 c 685 s 32*

TERMINATION OF PARENTAL RIGHTS

260.22 [Repealed, 1959 c 685 s 53]

260.221 GROUNDS FOR TERMINATION OF PARENTAL RIGHTS.

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 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. It is presumed that a parent is palpably unfit to be a party to the parent and child relationship upon a showing that:

(i) the child was adjudicated in need of protection or services due to circumstances described in section 260.015, subdivision 2a, clause (1), (2), (3), (5), or (8); and

(ii) within the three-year period immediately prior to that adjudication, the parent's parental rights to one or more other children were involuntarily terminated under clause (1), (2), (4), or (7) of this paragraph, or under clause (5) of this paragraph if the child was initially determined to be in need of protection or services due to circumstances described in section 260.015, subdivision 2a, clause (1), (2), (3), (5), or (8); 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.

It is also presumed that reasonable efforts have failed under this clause upon a showing that:

(i) the parent has been diagnosed as chemically dependent by a professional certified to make the diagnosis;

(ii) the parent has been required by a case plan to participate in a chemical dependency treatment program;

(iii) the treatment programs offered to the parent were culturally, linguistically, and clinically appropriate;

(iv) the parent has either failed two or more times to successfully complete a treatment program or has refused at two or more separate meetings with a caseworker to participate in a treatment program; and

(v) the parent continues to abuse chemicals.

Provided, that this presumption applies only to parents required by a case plan to participate in a chemical dependency treatment program on or after July 1, 1990; or

(6) That the parent has been convicted of causing the death of another of the parent's children; or

(7) 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

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

In an action involving an American Indian child, sections 257.35 to 257.3579 and the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923, control to the extent that the provisions of this section are inconsistent with those laws.

Subd. 2. **Adoptive parent.** For purposes of subdivision 1, clause (a), an adoptive parent may not terminate parental rights to an adopted child for a reason that would not apply to a birth parent seeking termination of parental rights to a child under subdivision 1, clause (a).

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).

Subd. 4. **Best interests of child paramount.** In any proceeding under this section, the best interests of the child must be the paramount consideration, provided that the conditions in subdivision 1, clause (a), or at least one condition in subdivision 1, clause (b), are found by the court. In proceedings involving an American Indian child, as defined in section 257.351, subdivision 6, the best interests of the child must be determined consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, et seq. Where the interests of parent and child conflict, the interests of the child are paramount.

Subd. 5. **Findings regarding reasonable efforts.** In any proceeding under this section, the court shall make specific findings regarding the nature and extent of efforts made by the social service agency to rehabilitate the parent and reunite the family.

History: *1959 c 685 s 33; 1974 c 66 s 8; 1978 c 602 s 10; 1980 c 561 s 10; 1983 c 7 s 8; 1983 c 243 s 5 subd 8; 1986 c 444; 1987 c 187 s 5; 1988 c 514 s 8; 1988 c 673 s 31; 1989 c 208 s 3,4; 1990 c 542 s 15*

260.225 VENUE.

Venue for proceedings for the termination of parental rights is either the county where the child resides or is found. However, if a court has made an order under the provisions of section 260.185 or 260.191, and the order is in force at the time a petition

for termination of parental rights is filed, the court making the order shall hear the termination of parental rights proceeding unless it transfers the proceeding in the manner provided in section 260.121, subdivision 2.

History: *1959 c 685 s 34*

260.23 [Repealed, 1959 c 685 s 53]

260.231 PROCEDURES IN TERMINATING PARENTAL RIGHTS.

Subdivision 1. Any reputable person, including but not limited to any agent of the commissioner of human services, having knowledge of circumstances which indicate that the rights of a parent to a child should be terminated, may petition the juvenile court in the manner provided in section 260.131, subdivisions 2 and 3.

Subd. 2. The termination of parental rights under the provisions of section 260.221, shall be made only after a hearing before the court, in the manner provided in section 260.155.

Subd. 3. The court shall have notice of the time, place, and purpose of the hearing served on the parents, as defined in sections 257.51 to 257.74 or 259.26, subdivision 1, clause (2), and upon the child's grandparent if the child has lived with the grandparent within the two years immediately preceding the filing of the petition. Notice must be served in the manner provided in sections 260.135 and 260.141, except that personal service shall be made at least ten days before the day of the hearing. Published notice shall be made for three weeks, the last publication to be at least ten days before the day of the hearing; and notice sent by certified mail shall be mailed at least 20 days before the day of the hearing. A parent who consents to the termination of parental rights under the provisions of section 260.221, clause (a), may waive in writing the notice required by this subdivision; however, if the parent is a minor or incompetent the waiver shall be effective only if the parent's guardian ad litem concurs in writing.

Subd. 4. No parental rights of a minor or incompetent parent may be terminated on consent of the parents under the provisions of section 260.221, clause (a), unless the guardian ad litem, in writing, joins in the written consent of the parent to the termination of parental rights.

History: *1959 c 685 s 35; 1974 c 66 s 9; 1980 c 589 s 37; 1984 c 654 art 5 s 58; 1986 c 444; 1989 c 235 s 21*

260.235 DISPOSITION; PARENTAL RIGHTS NOT TERMINATED.

If, after a hearing, the court does not terminate parental rights but determines that the child is in need of protection or services, or that the child is neglected and in foster care, the court may find the child is in need of protection or services or neglected and in foster care and may enter an order in accordance with the provisions of section 260.191.

History: *1959 c 685 s 36; 1978 c 602 s 11; 1988 c 673 s 32*

260.24 [Repealed, 1959 c 685 s 53]

260.241 TERMINATION OF PARENTAL RIGHTS; EFFECT.

Subdivision 1. If, after a hearing, the court finds by clear and convincing evidence that one or more of the conditions set out in section 260.221 exist, it may terminate parental rights. Upon the termination of parental rights all rights, powers, privileges, immunities, duties, and obligations, including any rights to custody, control, visitation, or support existing between the child and parent shall be severed and terminated and the parent shall have no standing to appear at any further legal proceeding concerning the child. Provided, however, that a parent whose parental rights are terminated shall remain liable for the unpaid balance of any support obligation owed under a court order upon the effective date of the order terminating parental rights.

Subd. 2. An order terminating the parent and child relationship shall not disentitle

a child to any benefit due the child from any third person, agency, state, or the United States, nor shall any action under this section be deemed to affect any rights and benefits that a child derives from the child's descent from a member of a federally recognized Indian tribe.

Subd. 3. A certified copy of the findings and the order terminating parental rights, and a summary of the court's information concerning the child shall be furnished by the court to the commissioner or the agency to which guardianship is transferred. The orders shall be on a document separate from the findings. The court shall furnish the individual to whom guardianship is transferred a copy of the order terminating parental rights.

Subd. 4. Upon entry of an order terminating the parental rights of any person who is identified as a parent on the original birth certificate of the child as to whom the parental rights are terminated, the court shall cause written notice to be made to that person setting forth:

(a) The right of the person to file at any time with the state registrar of vital statistics a consent to disclosure, as defined in section 144.212, subdivision 11;

(b) The right of the person to file at any time with the state registrar of vital statistics an affidavit stating that the information on the original birth certificate shall not be disclosed as provided in section 144.1761;

(c) The effect of a failure to file either a consent to disclosure, as defined in section 144.212, subdivision 11, or an affidavit stating that the information on the original birth certificate shall not be disclosed.

History: *1959 c 685 s 37; 1969 c 1014 s 1; 1977 c 181 s 4; 1980 c 561 s 11,12; 1Sp1981 c 4 art 1 s 129*

260.242 GUARDIAN.

Subdivision 1. If the court terminates parental rights of both parents or of the only known living parent, the court shall order the guardianship and the legal custody of the child transferred to:

(a) The commissioner of human services; or

(b) A licensed child placing agency; or

(c) An individual who is willing and capable of assuming the appropriate duties and responsibilities to the child.

Subd. 1a. **Protection of heritage or background.** In ordering guardianship and transferring legal custody of the child to an individual under this section, the court shall comply with the provisions of section 260.181, subdivision 3.

Subd. 1b. **Both parents deceased.** If upon petition to the juvenile court by a reputable person, including but not limited to an agent of the commissioner of human services, and upon hearing in the manner provided in section 260.155, the court finds that both parents are deceased and no appointment has been made or petition for appointment filed pursuant to sections 525.615 to 525.6185, the court shall order the guardianship and legal custody of the child transferred to:

(a) the commissioner of human services;

(b) a licensed child placing agency; or

(c) an individual who is willing and capable of assuming the appropriate duties and responsibilities to the child.

Subd. 2. **Guardian's responsibilities.** (a) A guardian appointed under the provisions of this section has legal custody of a ward unless the court which appoints the guardian gives legal custody to some other person. If the court awards custody to a person other than the guardian, the guardian nonetheless has the right and responsibility of reasonable visitation, except as limited by court order.

(b) The guardian may make major decisions affecting the person of the ward, including but not limited to giving consent (when consent is legally required) to the marriage, enlistment in the armed forces, medical, surgical, or psychiatric treatment,

or adoption of the ward. When, pursuant to this section, the commissioner of human services is appointed guardian, the commissioner may delegate to the welfare board of the county in which, after the appointment, the ward resides, the authority to act for the commissioner in decisions affecting the person of the ward, including but not limited to giving consent to the marriage, enlistment in the armed forces, medical, surgical, or psychiatric treatment of the ward.

(c) A guardianship created under the provisions of this section shall not of itself include the guardianship of the estate of the ward.

(d) If the ward is in foster care, the court shall, upon its own motion or that of the guardian, conduct a dispositional hearing within 18 months of the foster care placement and once every two years thereafter to determine the future status of the ward including, but not limited to, whether the child should be continued in foster care for a specified period, should be placed for adoption, or should, because of the child's special needs or circumstances, be continued in foster care on a permanent or long-term basis. When the court has determined that the special needs of the ward are met through a permanent or long-term foster care placement, no subsequent dispositional hearings are required.

History: *1980 c 561 s 13; 1983 c 278 s 15; 1983 c 304 s 3,4; 1983 c 312 art 5 s 35; 1984 c 654 art 5 s 58; 1986 c 444*

260.245 CHANGE OF GUARDIAN; TERMINATION OF GUARDIANSHIP.

Upon its own motion or upon petition of an interested party, the juvenile court having jurisdiction of the child may, after notice to the parties and a hearing, remove the guardian appointed by the juvenile court and appoint a new guardian in accordance with the provisions of section 260.242, subdivision 1, clause (a), (b), or (c). Upon a showing that the child is emancipated, the court may discharge the guardianship. Any child 14 years of age or older who is not adopted but who is placed in a satisfactory foster home, may, with the consent of the foster parents, join with the guardian appointed by the juvenile court in a petition to the court having jurisdiction of the child to discharge the existing guardian and appoint the foster parents as guardians of the child. The authority of a guardian appointed by the juvenile court terminates when the individual under guardianship is no longer a minor or when guardianship is otherwise discharged.

History: *1959 c 685 s 38; 1971 c 186 s 1; 1Sp1986 c 3 art 1 s 32*

COSTS AND EXPENSES

260.25 [Repealed, 1959 c 685 s 53]

260.251 COSTS OF CARE.

Subdivision 1. **Care, examination, or treatment.** (a) Except where parental rights are terminated,

(1) whenever legal custody of a child is transferred by the court to a county welfare board, or

(2) whenever legal custody is transferred to a person other than the county welfare board, but under the supervision of the county welfare board,

(3) whenever a child is given physical or mental examinations or treatment under order of the court, and no provision is otherwise made by law for payment for the care, examination, or treatment of the child, these costs are a charge upon the welfare funds of the county in which proceedings are held upon certification of the judge of juvenile court.

(b) The court shall order, and the county welfare board shall require, the parents or custodian of a child, while the child is under the age of 18, to use the total income and resources attributable to the child for the period of care, examination, or treatment, except for clothing and personal needs allowance as provided in section 256B.35, to

reimburse the county for the cost of care, examination, or treatment. Income and resources attributable to the child include, but are not limited to, social security benefits, supplemental security income (SSI), veterans benefits, railroad retirement benefits and child support. When the child is over the age of 18, and continues to receive care, examination, or treatment, the court shall order, and the county welfare board shall require, reimbursement from the child for the cost of care, examination, or treatment from the income and resources attributable to the child less the clothing and personal needs allowance.

(c) If the income and resources attributable to the child are not enough to reimburse the county for the full cost of the care, examination, or treatment, the court shall inquire into the ability of the parents to support the child and, after giving the parents a reasonable opportunity to be heard, the court shall order, and the county welfare board shall require, the parents to contribute to the cost of care, examination, or treatment of the child. When determining the amount to be contributed by the parents, the court shall use a fee schedule based upon ability to pay that is established by the county welfare board and approved by the commissioner of human services. The income of a stepparent who has not adopted a child shall be excluded in calculating the parental contribution under this section.

(d) The court shall order the amount of reimbursement attributable to the parents or custodian, or attributable to the child, or attributable to both sources, withheld under chapter 518 from the income of the parents or the custodian of the child. A parent or custodian who fails to pay without good reason may be proceeded against for contempt, or the court may inform the county attorney, who shall proceed to collect the unpaid sums, or both procedures may be used.

(e) If the court orders a physical or mental examination for a child, the examination is a medically necessary service for purposes of determining whether the service is covered by a health insurance policy, health maintenance contract, or other health coverage plan. Court-ordered treatment shall be subject to policy, contract, or plan requirements for medical necessity. Nothing in this paragraph changes or eliminates benefit limits, conditions of coverage, copayments or deductibles, provider restrictions, or other requirements in the policy, contract, or plan that relate to coverage of other medically necessary services.

Subd. 1a. **Cost of group foster care.** Whenever a child is placed in a group foster care facility as provided in section 260.185, subdivision 1, clause (b) or (c), item (5) or 260.191, subdivision 1, paragraph (b), clause (2) or (3), the cost of providing the care shall, upon certification by the juvenile court, be paid from the welfare fund of the county in which the proceedings were held. To reimburse the counties for the costs of providing group foster care for delinquent children and to promote the establishment of suitable group foster homes, the state shall quarterly, from funds appropriated for that purpose, reimburse counties 50 percent of the costs not paid by federal and other available state aids and grants. Reimbursement shall be prorated if the appropriation is insufficient.

The commissioner of corrections shall establish procedures for reimbursement and certify to the commissioner of finance each county entitled to receive state aid under the provisions of this subdivision. Upon receipt of a certificate the commissioner of finance shall issue a state warrant to the county treasurer for the amount due, together with a copy of the certificate prepared by the commissioner of corrections.

Subd. 2. **Court expenses.** The following expenses are a charge upon the county in which proceedings are held upon certification of the judge of juvenile court or upon such other authorization provided by law:

(a) The fees and mileage of witnesses, and the expenses and mileage of officers serving notices and subpoenas ordered by the court, as prescribed by law.

(b) The expenses for travel and board of the juvenile court judge when holding court in places other than the county seat.

(c) The expense of transporting a child to a place designated by a child placing

agency for the care of the child if the court transfers legal custody to a child placing agency.

(d) The expense of transporting a minor to a place designated by the court.

(e) Reasonable compensation for an attorney appointed by the court to serve as counsel or guardian ad litem.

Subd. 3. **Legal settlement.** The county charged with the costs and expenses under subdivisions 1 and 2 may recover these costs and expenses from the county where the minor has legal settlement for general assistance purposes by filing verified claims which shall be payable as are other claims against the county. A detailed statement of the facts upon which the claim is based shall accompany the claim. If a dispute relating to general assistance settlement arises, the county welfare board of the county denying legal settlement shall send a detailed statement of the facts upon which the claim is denied together with a copy of the detailed statement of the facts upon which the claim is based to the commissioner of human services. The commissioner shall immediately investigate and determine the question of general assistance settlement and shall certify findings to the county welfare board of each county. The decision of the commissioner is final and shall be complied with unless, within 30 days thereafter, action is taken in district court as provided in section 256.045.

Subd. 4. **Attorneys fees.** In proceedings in which the court has appointed counsel pursuant to section 260.155, subdivision 2, for a minor unable to employ counsel, the court may inquire into the ability of the parents to pay for such counsel's services and, after giving the parents a reasonable opportunity to be heard, may order the parents to pay attorneys fees.

Subd. 5. **Guardian ad litem fees.** In proceedings in which the court appoints a guardian ad litem pursuant to section 260.155, subdivision 4, clause (a), the court may inquire into the ability of the parents to pay for the guardian ad litem's services and, after giving the parents a reasonable opportunity to be heard, may order the parents to pay guardian fees.

History: *1959 c 685 s 39; 1969 c 769 s 2; 1973 c 492 s 14; 1974 c 270 s 1; 1974 c 406 s 46; 1975 c 131 s 1; 1975 c 210 s 2; 1976 c 2 s 86; 1976 c 163 s 57; 1980 c 509 s 105; 1983 c 274 s 11; 1984 c 606 s 2; 1984 c 654 art 5 s 58; 1986 c 444; 1989 c 209 art 2 s 1; 1989 c 282 art 2 s 168*

CONTRIBUTING TO DELINQUENCY OR NEGLECT

260.255 JURISDICTION OVER PERSONS CONTRIBUTING TO DELINQUENCY OR NEED FOR PROTECTION OR SERVICES; COURT ORDERS.

Subdivision 1. The juvenile court has jurisdiction over persons contributing to the delinquency or need for protection or services of a child under the provisions of subdivision 2 or 3.

Subd. 2. If in the hearing of a case of a child alleged to be delinquent or in need of protection or services it appears by a fair preponderance of the evidence that any person has violated the provisions of section 260.315, the court may make any of the following orders:

(a) Restrain the person from any further act or omission in violation of section 260.315; or

(b) Prohibit the person from associating or communicating in any manner with the child; or

(c) Provide for the maintenance or care of the child, if the person is responsible for such, and direct when, how, and where money for such maintenance or care shall be paid.

Subd. 3. Before making any order under subdivision 2 the court shall issue an order to show cause, either upon its own motion or upon a verified petition, specifying

the charges made against the person and fixing the time and place of the hearing. The order to show cause shall be served personally and shall be heard in the same manner as provided in other cases in the juvenile court.

History: *1959 c 685 s 40; 1988 c 673 s 33*

260.26 [Repealed, 1959 c 685 s 53]

260.261 JURISDICTION OF CERTAIN JUVENILE COURTS OVER OFFENSE OF CONTRIBUTING TO DELINQUENCY OR NEGLECT.

In counties having a population of over 200,000 the juvenile court has jurisdiction of the offenses described in section 260.315. Prosecutions hereunder shall be begun by complaint duly verified and filed in the juvenile court of the county. The court may impose conditions upon a defendant who is found guilty and, so long as the defendant complies with these conditions to the satisfaction of the court, the sentence imposed may be suspended.

History: *1959 c 685 s 41; 1965 c 316 s 6; 1986 c 444*

260.27 [Renumbered 260.315]

260.271 VIOLATION OF AN ORDER FOR PROTECTION.

Subdivision 1. **Violation; penalty.** Whenever an order for protection is granted pursuant to section 260.133 or 260.191, subdivision 1b, restraining the person or excluding the person from the residence, and the respondent or person to be restrained knows of the order, violation of the order for protection is a misdemeanor.

Subd. 2. **Arrest.** A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order granted pursuant to section 260.133 or 260.191, subdivision 1b, restraining the person or excluding the person from the residence, if the existence of the order can be verified by the officer.

Subd. 3. **Contempt.** A violation of an order for protection shall also constitute contempt of court and the person violating the order shall be subject to the penalties for contempt.

Subd. 4. **Order to show cause.** Upon the filing of an affidavit by the agency or any peace officer, alleging that the respondent has violated an order for protection granted pursuant to section 260.133 or 260.191, subdivision 1b, the court may issue an order to the respondent, requiring the respondent to appear and show cause within 14 days why the respondent should not be found in contempt of court. The hearing may be held by the court in any county in which the child or respondent temporarily or permanently resides at the time of the alleged violation.

A peace officer is not liable under section 609.43, clause (1), for failure to perform a duty required by subdivision 2 of this section.

History: *1984 c 573 s 7; 1986 c 444*

REHEARING AND APPEAL

260.28 [Repealed, 1959 c 685 s 53]

260.281 NEW EVIDENCE.

A child whose status has been adjudicated by a juvenile court, or the child's parent, guardian, custodian or spouse may, at any time within 90 days of the filing of the court's order, petition the court for a rehearing on the ground that new evidence has been discovered affecting the advisability of the court's original adjudication or disposition. Upon a showing that such evidence does exist the court shall order a new hearing and make such disposition of the case as the facts and the best interests of the child warrant.

History: *1959 c 685 s 42; 1986 c 444*

260.29 [Repealed, 1959 c 685 s 53]

260.291 APPEAL.

Subdivision 1. **Persons entitled to appeal; procedure.** An appeal may be taken by the aggrieved person from a final order affecting a substantial right of the aggrieved person, including but not limited to an order adjudging a child to be in need of protection or services, neglected and in foster care, delinquent, or a juvenile traffic offender. The appeal shall be taken within 30 days of the filing of the appealable order. The court administrator shall notify the person having legal custody of the minor of the appeal. Failure to notify the person having legal custody of the minor shall not affect the jurisdiction of the appellate court. The order of the juvenile court shall stand, pending the determination of the appeal, but the reviewing court may in its discretion and upon application stay the order.

Subd. 2. **Appeal.** The appeal from a juvenile court is taken to the court of appeals as in other civil cases.

History: *1959 c 685 s 43; Ex1959 c 40 s 1; 1978 c 602 s 12; 1983 c 247 s 111; 1Sp1986 c 3 art 1 s 82; 1988 c 673 s 34*

CONTEMPT

260.30 [Repealed, 1959 c 685 s 53]

260.301 CONTEMPT.

Any person knowingly interfering with an order of the juvenile court is in contempt of court. However, a child who is under the continuing jurisdiction of the court for reasons other than delinquency may not be adjudicated as a delinquent solely on the basis of having knowingly interfered with or disobeyed an order of the court.

History: *1959 c 685 s 44; 1988 c 673 s 35*

MISCELLANEOUS

260.305 [Repealed, 1974 c 322 s 26]

260.31 [Repealed, 1959 c 685 s 53]

260.311 PROBATION OFFICERS.

Subdivision 1. **Appointment; joint services; state services.** (a) If a county or group of counties has established a human services board pursuant to chapter 402, the district court may appoint one or more county probation officers as necessary to perform court services, and the human services board shall appoint persons as necessary to provide correctional services within the authority granted in chapter 402. In all counties of more than 200,000 population, which have not organized pursuant to chapter 402, the district court shall appoint one or more persons of good character to serve as county probation officers during the pleasure of the court. All other counties shall provide probation services to district courts in one of the following ways:

(1) the court, with the approval of the county boards, may appoint one or more salaried county probation officers to serve during the pleasure of the court;

(2) when two or more counties offer probation services the district court through the county boards may appoint common salaried county probation officers to serve in the several counties;

(3) a county or a district court may request the commissioner of corrections to furnish probation services in accordance with the provisions of this section, and the commissioner of corrections shall furnish such services to any county or court that fails to provide its own probation officer by one of the two procedures listed above;

(4) if a county or district court providing probation services under clause (1) or (2) asks the commissioner of corrections or the legislative body for the state of Minne-

sota mandates the commissioner of corrections to furnish probation services to the district court, the probation officers and other employees displaced by the changeover shall be employed by the commissioner of corrections. Years of service in the county probation department are to be given full credit for future sick leave and vacation accrual purposes;

(5) all probation officers serving the juvenile courts on July 1, 1972, shall continue to serve in the county or counties they are now serving.

(b) The commissioner of employee relations shall place employees transferred to state service under paragraph (a), clause (4), in the proper classifications in the classified service. Each employee is appointed without examination at no loss in salary or accrued vacation or sick leave benefits, but no additional accrual of vacation or sick leave benefits may occur until the employee's total accrued vacation or sick leave benefits fall below the maximum permitted by the state for the employee's position. An employee appointed under paragraph (a), clause (4), shall serve a probationary period of six months. After exhausting labor contract remedies, a noncertified employee may appeal for a hearing within ten days to the commissioner of employee relations, who may uphold the decision, extend the probation period, or certify the employee. The decision of the commissioner of employee relations is final. The state shall negotiate with the exclusive representative for the bargaining unit to which the employees are transferred regarding their seniority. For purposes of computing seniority among those employees transferring from one county unit only, a transferred employee retains the same seniority position as the employee had within that county's probation office.

Subd. 2. **Sufficiency of services.** Probation services shall be sufficient in amount to meet the needs of the district court in each county. County probation officers serving district courts in all counties of not more than 200,000 population shall also, pursuant to subdivision 3, provide probation and parole services to wards of the commissioner of corrections resident in their counties. To provide these probation services counties containing a city of 10,000 or more population shall, as far as practicable, have one probation officer for not more than 35,000 population; in counties that do not contain a city of such size, the commissioner of corrections shall, after consultation with the chief judge of the district court and the county commissioners and in the light of experience, establish probation districts to be served by one officer.

All probation officers appointed for any district court or community corrections agency shall be selected from a list of eligible candidates who have minimally qualified according to the same or equivalent examining procedures as used by the commissioner of employee relations to certify eligibles to the commissioner of corrections in appointing parole agents, and the department of employee relations shall furnish the names of such candidates on request. This subdivision shall not apply to a political subdivision having a civil service or merit system unless the subdivision elects to be covered by this subdivision.

Subd. 3. **Powers and duties.** All county probation officers serving a district court shall act under the orders of the court in reference to any person committed to their care by the court, and in the performance of their duties shall have the general powers of a peace officer; and it shall be their duty to make such investigations with regard to any person as may be required by the court before, during, or after the trial or hearing, and to furnish to the court such information and assistance as may be required; to take charge of any person before, during or after trial or hearing when so directed by the court, and to keep such records and to make such reports to the court as the court may order.

All county probation officers serving a district court shall, in addition, provide probation and parole services to wards of the commissioner of corrections resident in the counties they serve, and shall act under the orders of said commissioner of corrections in reference to any ward committed to their care by the commissioner of corrections.

All probation officers serving a district court shall, under the direction of the authority having power to appoint them, initiate programs for the welfare of persons coming within the jurisdiction of the court to prevent delinquency and crime and to

rehabilitate within the community persons who come within the jurisdiction of the court and are properly subject to efforts to accomplish prevention and rehabilitation. They shall, under the direction of the court, cooperate with all law enforcement agencies, schools, child welfare agencies of a public or private character, and other groups concerned with the prevention of crime and delinquency and the rehabilitation of persons convicted of crime and delinquency.

All probation officers serving a district court shall make monthly and annual reports to the commissioner of corrections, on forms furnished by the commissioner, containing such information on number of cases cited to the juvenile division of district court, offenses, adjudications, dispositions, and related matters as may be required by the commissioner of corrections.

Subd. 4. **Compensation.** In counties of more than 200,000 population, a majority of the judges of the district court may direct the payment of such salary to probation officers as may be approved by the county board, and in addition thereto shall be reimbursed for all necessary expenses incurred in the performance of their official duties. In all counties which obtain probation services from the commissioner of corrections the commissioner shall, out of appropriations provided therefor, pay probation officers the salary and all benefits fixed by the state law or applicable bargaining unit and all necessary expenses, including secretarial service, office equipment and supplies, postage, telephone and telegraph services, and travel and subsistence. Each county receiving probation services from the commissioner of corrections shall reimburse the department of corrections for the total cost and expenses of such services as incurred by the commissioner of corrections. Total annual costs for each county shall be that portion of the total costs and expenses for the services of one probation officer represented by the ratio which the county's population bears to the total population served by one officer. For the purposes of this section, the population of any county shall be the most recent estimate made by the department of health. At least every six months the commissioner of corrections shall bill for the total cost and expenses incurred by the commissioner on behalf of each county which has received probation services. The commissioner of corrections shall notify each county of the cost and expenses and the county shall pay to the commissioner the amount due for reimbursement. All such reimbursements shall be deposited in the general fund. Objections by a county to all allocation of such cost and expenses shall be presented to and determined by the commissioner of corrections. Each county providing probation services under this section is hereby authorized to use unexpended funds and to levy additional taxes for this purpose.

The county commissioners of any county of not more than 200,000 population shall, when requested to do so by the juvenile judge, provide probation officers with suitable offices, and may provide equipment, and secretarial help needed to render the required services.

Subd. 5. **Reimbursement of counties.** In order to reimburse the counties for the cost which they assume under this section of providing probation and parole services to wards of the commissioner of corrections and to aid the counties in achieving the purposes of this section, the commissioner of corrections shall annually, from funds appropriated for that purpose, pay 50 percent of the costs of probation officers' salaries to all counties of not more than 200,000 population. Nothing in this section will invalidate any payments to counties made pursuant to this section before May 15, 1963. Salary costs include fringe benefits, but only to the extent that fringe benefits do not exceed those provided for state civil service employees. On or before July 1 of each even-numbered year each county or group of counties which provide their own probation services to the district court under subdivision 1, clause (1) or (2), shall submit to the commissioner of corrections an estimate of its costs under this section. Reimbursement to those counties shall be made on the basis of the estimate or actual expenditures incurred, whichever is less. Reimbursement for those counties which obtain probation services from the commissioner of corrections pursuant to subdivision 1, clause (3), must be made on the basis of actual expenditures. Salary costs shall not be reimbursed

unless county probation officers are paid salaries commensurate with the salaries paid to comparable positions in the classified service of the state civil service. The salary range to which each county probation officer is assigned shall be determined by the authority having power to appoint probation officers, and shall be based on the officer's length of service and performance. The appointing authority shall annually assign each county probation officer to a position on the salary scale commensurate with the officer's experience, tenure, and responsibilities. The judge shall file with the county auditor an order setting each county probation officer's salary. Time spent by a county probation officer as a court referee shall not qualify for reimbursement. Reimbursement shall be prorated if the appropriation is insufficient. A new position eligible for reimbursement under this section may not be added by a county without the written approval of the commissioner of corrections. When a new position is approved, the commissioner shall include the cost of the position in calculating each county's share.

Subd. 6. **Certificate of counties entitled to state aid.** On or before January 1 of each year, until 1970 and on or before April 1 thereafter, the commissioner of corrections shall deliver to the commissioner of finance a certificate in duplicate for each county of the state entitled to receive state aid under the provisions of this section. Upon the receipt of such certificate, the commissioner of finance shall draw a warrant upon the state treasurer in favor of the county treasurer for the amount shown by each certificate to be due to the county specified. The commissioner of finance shall transmit such warrant to the county treasurer together with a copy of the certificate prepared by the commissioner of corrections.

Subd. 7. **Exception.** This section shall not apply to Ramsey county.

History: *(8644) 1917 c 397 s 9; 1933 c 204 s 1; 1945 c 517 s 4; 1959 c 698 s 3; 1961 c 430 s 2-4; 1963 c 694 s 1; 1965 c 316 s 7-11; 1965 c 697 s 1; 1969 c 278 s 1; 1969 c 399 s 1; 1971 c 25 s 51; 1971 c 951 s 41-43; 1973 c 492 s 14; 1973 c 507 s 45; 1973 c 654 s 15; 1975 c 258 s 5; 1975 c 271 s 6; 1975 c 381 s 21; 1976 c 163 s 58; 1977 c 281 s 1-3; 1977 c 392 s 8; 1980 c 617 s 47; 1981 c 192 s 20; 1983 c 274 s 18; 1985 c 220 s 5,6; 1Sp1985 c 9 art 2 s 76; 1986 c 444; 1987 c 252 s 8; 1988 c 505 s 1-4*

260.315 CONTRIBUTING TO NEED FOR PROTECTION OR SERVICES OR DELINQUENCY.

Any person who by act, word, or omission encourages, causes, or contributes 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.

History: *(8662) 1917 c 397 s 27; 1927 c 192 s 7; 1953 c 436 s 1; 1983 c 217 s 1; 1984 c 588 s 3; 1988 c 673 s 36; 1989 c 208 s 5*

260.32 [Repealed, 1959 c 685 s 53]

260.33 [Repealed, 1959 c 685 s 53]

260.34 [Repealed, 1959 c 685 s 53]

260.35 TESTS, EXAMINATIONS.

Thereafter it shall be the duty of the commissioner of human services through the bureau of child welfare and county welfare boards to arrange for such tests, examinations, and investigations as are necessary for the proper diagnosis, classification, treatment, care, and disposition of the child as necessity and the best interests of the child shall from time to time require. When it appears that a child found to be in need of protection or services is sound of mind, free from disease, and suitable for placement in a foster home for care or adoption, the commissioner may so place the child or delegate such duties to a child-placing agency accredited as provided by law, or authorize the child's care in the county by and under the supervision of the county welfare board.

History: *1941 c 159 s 2; 1984 c 654 art 5 s 58; 1986 c 444; 1988 c 673 s 37*

260.36 SPECIAL PROVISIONS IN CERTAIN CASES.

When the commissioner of human services shall find that a child transferred to the commissioner's guardianship after parental rights to the child are terminated or that a child committed to the commissioner's guardianship as a child in need of protection or services is handicapped physically or whose mentality has not been satisfactorily determined or who is affected by habits, ailments, or handicaps that produce erratic and unstable conduct, and is not suitable or desirable for placement in a home for permanent care or adoption, the commissioner of human services shall make special provision for the child's care and treatment designed to the child, if possible, for such placement or to become self-supporting. The facilities of the commissioner of human services and all state treatment facilities, the Minnesota general hospital, and the child guidance clinic of its psychopathic department, as well as the facilities available through reputable clinics, private child-caring agencies, and foster boarding homes, accredited as provided by law, may be used as the particular needs of the child may demand. When it appears that the child is suitable for permanent placement or adoption, the commissioner of human services shall cause the child to be placed as provided in section 260.35. If the commissioner of human services is satisfied that the child is mentally retarded the commissioner may bring the child before the probate court of the county where the child is found or the county of the child's legal settlement for examination and commitment as provided by law.

History: *1941 c 159 s 3; 1959 c 685 s 51; 1984 c 654 art 5 s 58; 1985 c 21 s 61; 1986 c 444; 1988 c 673 s 38*

260.37 [Repealed, 1959 c 685 s 53]

260.38 COST, PAYMENT.

In addition to the usual care and services given by public and private agencies, the necessary cost incurred by the commissioner of human services in providing care for such child shall be paid by the county committing such child which, subject to uniform rules established by the commissioner of human services, may receive a reimbursement not exceeding one-half of such costs from funds made available for this purpose by the legislature during the period beginning July 1, 1985, and ending December 31, 1985. Beginning January 1, 1986, the necessary cost incurred by the commissioner of human services in providing care for the child must be paid by the county committing the child. Where such child is eligible to receive a grant of aid to families with dependent children or supplemental security income for the aged, blind, and disabled, or a foster care maintenance payment under Title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 676, the child's needs shall be met through these programs.

History: *1941 c 159 s 5; 1947 c 81 s 2; 1953 c 54 s 1; 1955 c 81 s 1; 1973 c 717 s 21; 1984 c 654 art 5 s 58; 1985 c 248 s 70; 1Sp1985 c 9 art 2 s 77; 1986 c 444*

260.39 DISTRIBUTION OF FUNDS RECOVERED FOR ASSISTANCE FURNISHED.

When any amount shall be recovered from any source for assistance furnished under the provisions of sections 260.011 to 260.301, 260.35, 260.36, and 260.38, there shall be paid into the treasury of the state or county in the proportion in which they have respectively contributed toward the total assistance paid.

History: *1953 c 95 s 1; 1961 c 560 s 23*

260.40 AGE LIMIT FOR BENEFITS TO CHILDREN.

For purposes of any program for foster children or children under state guardianship for which benefits are made available on June 1, 1973, unless specifically provided therein, the age of majority shall be 21 years of age.

History: *1973 c 725 s 89*

260.41 [Repealed, 1980 c 472 s 1]
260.42 [Repealed, 1980 c 472 s 1]
260.43 [Repealed, 1980 c 472 s 1]
260.44 [Repealed, 1980 c 472 s 1]
260.45 [Repealed, 1980 c 472 s 1]
260.46 [Repealed, 1980 c 472 s 1]

INTERSTATE COMPACT

260.51 INTERSTATE COMPACT ON JUVENILES.

The governor is authorized and directed to execute a compact on behalf of this state with any other state or states legally joining therein in the form substantially as follows:

INTERSTATE COMPACT ON JUVENILES

The contracting states solemnly agree:

ARTICLE I

That juveniles who are not under proper supervision and control, or who have absconded, escaped or run away, are likely to endanger their own health, morals and welfare, and the health, morals and welfare of others. The cooperation of the states party to this compact is therefore necessary to provide for the welfare and protection of juveniles and of the public with respect to

(1) cooperative supervision of delinquent juveniles on probation or parole;

(2) the return, from one state to another, of delinquent juveniles who have escaped or absconded;

(3) the return, from one state to another of nondelinquent juveniles who have run away from home; and

(4) additional measures for the protection of juveniles and of the public, which any two or more of the party states may find desirable to undertake cooperatively. In carrying out the provisions of this compact the party states shall be guided by the noncriminal, reformative and protective policies which guide their laws concerning delinquent, neglected or dependent juveniles generally. It shall be the policy of the states party to this compact to cooperate and observe their respective responsibilities for the prompt return and acceptance of juveniles and delinquent juveniles who become subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the foregoing purposes.

ARTICLE II

That all remedies and procedures provided by this compact shall be in addition to and not in substitution for other rights, remedies and procedures, and shall not be in derogation of parental rights and responsibilities.

ARTICLE III

That, for the purposes of this compact, "delinquent juvenile" means any juvenile who has been adjudged delinquent and who, at the time the provisions of this compact are invoked, is still subject to the jurisdiction of the court that has made such adjudication or to the jurisdiction or supervision of an agency or institution pursuant to an order of such court; "probation or parole" means any kind of conditional release of juveniles authorized under the laws of the states party hereto; "court" means any court having jurisdiction over delinquent, neglected or dependent children; "state" means any state,

territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and "residence" or any variant thereof means a place at which a home or regular place of abode is maintained.

ARTICLE IV

(a) That the parent, guardian, person or agency entitled to legal custody of a juvenile who has not been adjudged delinquent but who has run away without the consent of such parent, guardian, person or agency may petition the appropriate court in the demanding state for the issuance of a requisition for his return. The petition shall state the name and age of the juvenile, the name of the petitioner and the basis of entitlement to the juvenile's custody, the circumstances of his running away, his location if known at the time application is made, and such other facts as may tend to show that the juvenile who has run away is endangering his own welfare or the welfare of others and is not an emancipated minor. The petition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the document or documents on which the petitioner's entitlement to the juvenile's custody is based, such as birth certificates, letters of guardianship, or custody decrees. Such further affidavits and other documents as may be deemed proper may be submitted with such petition. The judge of the court to which this application is made may hold a hearing thereon to determine whether for the purposes of this compact the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not he is an emancipated minor, and whether or not it is in the best interest of the juvenile to compel his return to the state. If the judge determines, either with or without a hearing, that the juvenile should be returned, he shall present to the appropriate court or to the executive authority of the state where the juvenile is alleged to be located, a written requisition for the return of such juvenile. Such requisition shall set forth the name and age of the juvenile, the determination of the court that the juvenile has run away without the consent of a parent, guardian, person or agency entitled to his legal custody, and that it is in the best interest and for the protection of such juvenile that he be returned. In the event that a proceeding for the adjudication of the juvenile as a delinquent, neglected or dependent juvenile is pending in the court at the time when such juvenile runs away, the court may issue a requisition for the return of such juvenile upon its own motion, regardless of the consent of the parent, guardian, person or agency entitled to legal custody, reciting therein the nature and circumstances of the pending proceeding. The requisition shall in every case be executed in duplicate and shall be signed by the judge. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of such court. Upon the receipt of a requisition demanding the return of a juvenile who has run away, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No juvenile detained upon such order shall be delivered over to the officer whom the court demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of a court in the state, who shall inform him of the demand made for his return, and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such juvenile over to the officer whom the court demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a juvenile who has run away from another state party to this compact without the consent of a parent, guardian, person or agency entitled to his legal custody, such juvenile may be taken into custody without a requisition and brought forthwith before a judge of the appropriate court who may appoint counsel or guardian ad litem for such juvenile and who shall determine after a hearing whether sufficient cause exists to hold the person, subject to the order of the

court, for his own protection and welfare, for such a time not exceeding 90 days as will enable his return to another state party to this compact pursuant to a requisition for his return from a court of that state. If, at the time when a state seeks the return of a juvenile who has run away, there is pending in the state wherein he is found any criminal charge, or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a juvenile is returned under this Article shall be responsible for payment of the transportation costs of such return.

(c) That "juvenile" as used in this Article means any person who is a minor under the law of the state of residence of the parent, guardian, person or agency entitled to legal custody of such minor.

ARTICLE V

(a) That the appropriate person or authority from whose probation or parole supervision a delinquent juvenile has absconded or from whose institutional custody he has escaped shall present to the appropriate court or to the executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of such delinquent juvenile. Such requisition shall state the name and age of the delinquent juvenile, the particulars of his adjudication as a delinquent juvenile, the circumstances of the breach of the terms of his probation or parole or of his escape from an institution or agency vested with his legal custody or supervision, and the location of such delinquent juvenile, if known, at the time the requisition is made. The requisition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the judgment, formal adjudication, or order of commitment which subjects such delinquent juvenile to probation or parole or to the legal custody of the institution or agency concerned. Such further affidavits and other documents as may be deemed proper may be submitted with such requisition. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of the appropriate court. Upon the receipt of a requisition demanding the return of a delinquent juvenile who has absconded or escaped, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such delinquent juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No delinquent juvenile detained upon such order shall be delivered over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of an appropriate court in the state, who shall inform him of the demand made for his return and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such delinquent juvenile over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, such person may be taken into custody in any other state party to this compact without a requi-

sition. But in such event, he must be taken forthwith before a judge of the appropriate court, who may appoint counsel or guardian ad litem for such person and who shall determine, after a hearing, whether sufficient cause exists to hold the person subject to the order of the court for such a time, not exceeding 90 days, as will enable his detention under a detention order issued on a requisition pursuant to this Article. If, at the time when a state seeks the return of a delinquent juvenile who has either absconded while on probation or parole or escaped from an institution or agency vested with his legal custody or supervision, there is pending in the state wherein he is detained any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the delinquent juvenile being returned, shall be permitted to transport such delinquent juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he escaped or absconded, the delinquent juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a delinquent juvenile is returned under this Article shall be responsible for payment of the transportation costs of such return.

ARTICLE VI

That any delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, and any juvenile who has run away from any state party to this compact, who is taken into custody without a requisition in another state party to this compact under the provisions of Article IV(a) or of Article V(a), may consent to his immediate return to the state from which he absconded, escaped or run away. Such consent shall be given by the juvenile or delinquent juvenile and his counsel or guardian ad litem if any, by executing or subscribing a writing, in the presence of a judge of the appropriate court, which states that the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, consent to his return to the demanding state. Before such consent shall be executed or subscribed, however, the judge, in the presence of counsel or guardian ad litem, if any, shall inform the juvenile or delinquent juvenile of his rights under this compact. When the consent has been duly executed, it shall be forwarded to and filed with the compact administrator of the state in which the court is located and the judge shall direct the officer having the juvenile or delinquent juvenile in custody to deliver him to the duly accredited officer or officers of the state demanding his return, and shall cause to be delivered to such officer or officers a copy of the consent. The court may, however, upon the request of the state to which the juvenile or delinquent juvenile is being returned, order him to return unaccompanied to such state and shall provide him with a copy of such court order; in such event a copy of the consent shall be forwarded to the compact administrator of the state to which said juvenile or delinquent juvenile is ordered to return.

ARTICLE VII

(a) That the duly constituted judicial and administrative authorities of a state party to this compact (herein called "sending state") may permit any delinquent juvenile within such state, placed on probation or parole, to reside in any other state party to this compact (herein called "receiving state") while on probation or parole, and the receiving state shall accept such delinquent juvenile, if the parent, guardian or person entitled to the legal custody of such delinquent juvenile is residing or undertakes to reside within the receiving state. Before granting such permission, opportunity shall be given to the receiving state to make such investigations as it deems necessary. The

authorities of the sending state shall send to the authorities of the receiving state copies of pertinent court orders, social case studies and all other available information which may be of value to and assist the receiving state in supervising a probationer or parolee under this compact. A receiving state, in its discretion, may agree to accept supervision of a probationer or parolee in cases where the parent, guardian or person entitled to legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted the sending state may transfer supervision accordingly.

(b) That each receiving state will assume the duties of visitation and of supervision over any such delinquent juvenile and in the exercise of those duties will be governed by the same standards of visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.

(c) That, after consultation between the appropriate authorities of the sending state and of the receiving state as to the desirability and necessity of returning such a delinquent juvenile, the duly accredited officers of a sending state may enter a receiving state and there apprehend and retake any such delinquent juvenile on probation or parole. For that purpose, no formalities will be required, other than establishing the authority of the officer and the identity of the delinquent juvenile to be retaken and returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state seeks to retake a delinquent juvenile on probation or parole, there is pending against him within the receiving state any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for any act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states partly to this compact, without interference.

(d) That the sending state shall be responsible under this Article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state.

ARTICLE VIII

(a) That the provision of Articles IV(b), V(b), and VII(d) of this compact shall not be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

(b) That nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to cost for which such party state or subdivision thereof may be responsible pursuant to Article IV(b), V(b) or VII(d) of this compact.

ARTICLE IX

That, to every extent possible, it shall be the policy of states party to this compact that no juvenile or delinquent juvenile shall be placed or detained in any prison, jail or lockup nor be detained or transported in association with criminal, vicious or dissolute persons.

ARTICLE X

That the duly constituted administrative authorities of a state party to this compact may enter into supplementary agreements with any other state or states party hereto for the cooperative care, treatment and rehabilitation of delinquent juveniles

whenever they shall find that such agreements will improve the facilities or programs available for such care, treatment and rehabilitation. Such care, treatment and rehabilitation may be provided in an institution located within any state entering into such supplementary agreement. Such supplementary agreement shall (1) provide the rates to be paid for the care, treatment and custody of such delinquent juveniles, taking into consideration the character of facilities, services and subsistence furnished; (2) provide that the delinquent juvenile shall be given a court hearing prior to his being sent to another state for care, treatment and custody; (3) provide that the state receiving such a delinquent juvenile in one of its institutions shall act solely as agent for the state sending such delinquent juvenile; (4) provide that the sending state shall at all times retain jurisdiction over delinquent juveniles sent to an institution in another state; (5) provide for reasonable inspection of such institutions by the sending state; (6) provide that the consent of the parent, guardian, person or agency entitled to the legal custody of said delinquent juvenile shall be secured prior to his being sent to another state; and (7) make provision for such other matters and details as shall be necessary to protect the rights and equities of such delinquent juveniles and of the cooperating states.

ARTICLE XI

That any state party to this compact may accept any and all donations, gifts and grants of money, equipment and services from the federal or any local government, or any agency thereof and from any person, firm or corporation, for any of the purposes and functions of this compact, and may receive and utilize the same subject to the terms, conditions and regulations governing such donations, gifts and grants.

ARTICLE XII

That the governor of each state party to this compact shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE XIII

That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

ARTICLE XIV

That this compact shall continue in force and remain binding upon each executing state until renounced by it. Renunciation of this compact shall be by the same authority which executed it, by sending six months' notice in writing of its intention to withdraw from the compact to the other states party hereto. The duties and obligations of a renouncing state under Article VII hereof shall continue as to parolees and probationers residing therein at the time of withdrawal until retaken or finally discharged. Supplementary agreements entered into under Article X hereof shall be subject to renunciation as provided by such supplementary agreements, and shall not be subject to the six months' renunciation notice of the present Article.

ARTICLE XV

That the provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or cir-

cumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

ARTICLE XVI

(a) That this Article shall provide additional remedies, and shall be binding only as among and between those party states which specifically execute the same.

(b) For the purposes of this Article, "child," as used herein, means any minor within the jurisdictional age limits of any court in the home state.

(c) When any child is brought before a court of a state of which the child is not a resident, and the state is willing to permit the child's return to the home state of the child, the home state, upon being so advised by the state in which the proceeding is pending, shall immediately institute proceedings to determine the residence and jurisdictional facts as to the child in the home state, and upon finding that the child is in fact a resident of that state and subject to the jurisdiction of the court thereof, shall within five days authorize the return of the child to the home state, and to the parent or custodial agency legally authorized to accept the custody in the home state, and at the expense of the state, to be paid from the funds as the home state may procure, designate, or provide, prompt action being of the essence.

ARTICLE XVII

(a) This Article shall provide additional remedies, and shall be binding only as among and between those party states which specifically execute the same.

(b) All provisions and procedures of Articles V and VI of the Interstate Compact on Juveniles shall be construed to apply to any juvenile charged with being a delinquent by reason of a violation of any criminal law. Any juvenile, charged with being a delinquent by reason of violating any criminal law shall be returned to the requesting state upon a requisition to the state where the juvenile may be found. A petition in the case shall be filed in a court of competent jurisdiction in the requesting state where the violation of criminal law is alleged to have been committed. The petition may be filed regardless of whether the juvenile has left the state before or after the filing of the petition. The requisition described in Article V of the compact shall be forwarded by the judge of the court in which the petition has been filed.

History: *1957 c 892 s 1; 1982 c 371 s 1*

260.52 DEFINITIONS.

As used in the interstate compact on juveniles, the following words and phrases have the following meanings as to this state:

(1) "Executive authority" means the compact administrator.

(2) The "appropriate court" of this state to issue a requisition under Article IV of the compact is the juvenile court of the county of the petitioner's residence, or, if the petitioner is a child welfare agency, the juvenile court of the county where it has its principal office, or, if the petitioner is the state department of human services, any juvenile court in the state.

(3) The "appropriate court" of this state to receive a requisition under Article IV or V of the Compact is the juvenile court of the county where the juvenile is located.

History: *1957 c 892 s 2; 1984 c 654 art 5 s 58*

260.53 COMPACT ADMINISTRATOR.

(1) Pursuant to the interstate compact on juveniles, the governor is authorized to designate the commissioner of corrections to be the compact administrator, who, acting jointly with like officers of other party states, shall promulgate rules to carry out more

effectively the terms of the compact. The compact administrator shall serve subject to the pleasure of the governor. The compact administrator is authorized to cooperate with all departments, agencies and officers of and in the government of this state and its political subdivisions in facilitating the proper administration of the compact or of any supplementary agreement entered into by this state thereunder.

(2) The compact administrator shall determine for this state whether to receive juvenile probationers and parolees of other states pursuant to Article VII of the interstate compact on juveniles and shall arrange for the supervision of each such probationer or parolee so received, either by the commissioner of corrections or by a person appointed to perform supervision service for the juvenile court of the county where the juvenile is to reside, whichever is more convenient. Such persons shall in all such cases make periodic reports to the compact administrator regarding the conduct and progress of such juveniles.

History: *1957 c 892 s 3; 1974 c 125 s 1; 1986 c 444*

260.54 SUPPLEMENTARY AGREEMENTS.

The compact administrator is authorized to enter into supplementary agreements with appropriate officials of other states pursuant to Article X of the interstate compact on juveniles. In the event that such supplementary agreement requires or contemplates the use of any institution or facility of this state or the provision of any service by this state, said supplementary agreement shall have no effect until approved by the department or agency under whose jurisdiction the institution or facility is operated or which shall be charged with the rendering of such service.

History: *1957 c 892 s 4*

260.55 EXPENSE OF RETURNING JUVENILES TO STATE, PAYMENT.

The expense of returning juveniles to this state pursuant to the interstate compact on juveniles shall be paid as follows:

(1) In the case of a runaway under Article IV, the court making the requisition shall inquire summarily regarding the financial ability of the petitioner to bear the expense and if it finds the petitioner is able to do so, shall order that the petitioner pay all such expenses; otherwise the court shall arrange for the transportation at the expense of the county and order that the county reimburse the person, if any, who returns the juvenile, for actual and necessary expenses; and the court may order that the petitioner reimburse the county for so much of said expense as the court finds the petitioner is able to pay. If the petitioner fails, without good cause, or refuses to pay such sum, the petitioner may be proceeded against for contempt.

(2) In the case of an escapee or absconder under Article V or Article VI, if the juvenile is in the legal custody of the commissioner of corrections the commissioner shall bear the expense of the juvenile's return; otherwise the appropriate court shall, on petition of the person or agency entitled to the juvenile's custody or charged with the juvenile's supervision, arrange for the transportation at the expense of the county and order that the county reimburse the person, if any, who returns the juvenile, for actual and necessary expenses. In this subsection "appropriate court" means the juvenile court which adjudged the juvenile to be delinquent or, if the juvenile is under supervision for another state under Article VII of the compact, then the juvenile court of the county of the juvenile's residence during such supervision.

(3) In the case of a voluntary return of a runaway without requisition under Article VI, the person entitled to the juvenile's legal custody shall pay the expense of transportation and the actual and necessary expenses of the person, if any, who returns such juvenile; but if financially unable to pay all the expenses the person may petition the juvenile court of the county of the petitioner's residence for an order arranging for the transportation as provided in paragraph (1). The court shall inquire summarily into the financial ability of the petitioner and, if it finds the petitioner is unable to bear any or all of the expense, the court shall arrange for such transportation at the expense of the

county and shall order the county to reimburse the person, if any, who returns the juvenile, for actual and necessary expenses. The court may order that the petitioner reimburse the county for so much of said expense as the court finds the petitioner is able to pay. A petitioner who fails, without good cause, or refuses to pay such sum may be proceeded against for contempt.

History: *1957 c 892 s 5; 1974 c 125 s 2; 1986 c 444*

260.56 COUNSEL OR GUARDIAN AD LITEM FOR JUVENILE, FEES.

Any judge of this state who appoints counsel or a guardian ad litem pursuant to the provisions of the interstate compact on juveniles may allow a reasonable fee to be paid by the county on order of the court.

History: *1957 c 892 s 6; 1986 c 444*

260.57 ENFORCEMENT.

The courts, departments, agencies and officers of this state and its political subdivisions shall enforce the interstate compact on juveniles and shall do all things appropriate to the effectuation of its purposes which may be within their respective jurisdictions.

History: *1957 c 892 s 7*