

## CHAPTER 260B

### DELINQUENCY

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#### 260B.060 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 260B.198. 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 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:** 2003 c 130 s 12

#### 260B.105 VENUE.

Subdivision 1. **Venue.** Except where otherwise provided, venue for any proceedings under section 260B.101 shall be in the county where the child is found, or the county of the child's residence. If delinquency, a juvenile petty offense, or a juvenile traffic offense is alleged, proceedings shall be brought in the county where the alleged delinquency or juvenile traffic offense occurred.

Subd. 2. **Transfer.** The judge of the juvenile court may transfer any proceedings brought under section 260B.101, to the juvenile court of a county having venue as provided in subdivision 1 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. If delinquency, a juvenile petty offense, or a juvenile traffic offense is alleged, the court shall first hear the case and then may transfer the case to the juvenile court of the county of the child's residence for disposition after a finding or admission of guilt. 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.

[For text of subd 3, see M.S.2002]

**History:** *1Sp2003 c 2 art 7 s 1,2*

#### **260B.143 PROCEDURE; JUVENILE PETTY AND MISDEMEANOR OFFENDERS.**

Subdivision 1. **Notice.** When a peace officer has probable cause to believe that a child:

- (1) is a juvenile petty offender; or
- (2) has committed a delinquent act that would be a petty misdemeanor or misdemeanor if committed by an adult,

the officer may issue a notice to the child to appear in juvenile court in the county in which the child is alleged to have committed the offense. 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 260B.175 and 260B.176 shall apply.

[For text of subds 2 to 4, see M.S.2002]

**History:** *1Sp2003 c 2 art 7 s 3*

#### **260B.157 INVESTIGATION; PHYSICAL AND MENTAL EXAMINATION.**

Subdivision 1. **Investigation.** Upon request of the court the local social services agency or probation officer shall investigate the personal and family history and environment of any minor coming within the jurisdiction of the court under section 260B.101 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 for committing a felony-level violation of a provision of chapter 609 if the probation officer determines that alcohol or drug use was a contributing factor in the commission of the offense, 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 human services shall reimburse the court for the cost of the chemical use assessment, up to a maximum of \$100.

The court shall have a children's mental health screening conducted when a child is found to be delinquent. The screening shall be conducted with a screening instrument approved by the commissioner of human services and shall be conducted by a mental health practitioner as defined in section 245.4871, subdivision 26, or a probation officer who is trained in the use of the screening instrument. If the screening indicates a need for assessment, the local social services agency, in consultation with the child's family, shall have a diagnostic assessment conducted, including a functional assessment, as defined in section 245.4871.

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. 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.

*[For text of subs 2 and 3, see M.S.2002]*

**History:** *1Sp2003 c 14 art 4 s 14*

**NOTE:** The amendment to subdivision 1 by Laws 2003, First Special Session chapter 14, article 4, section 14, is effective July 1, 2004. Laws 2003, First Special Session chapter 14, article 4, section 14, the effective date.

### 260B.163 HEARING.

*[For text of subs 1 to 3, see M.S.2002]*

Subd. 4. **Appointment of counsel.** (a) The child, parent, guardian or custodian has the right to effective assistance of counsel in connection with a proceeding in juvenile court. This right does not apply to a child who is charged with a juvenile petty offense as defined in section 260B.007, subdivision 16, unless the child is charged with a third or subsequent juvenile alcohol or controlled substance offense and may be subject to the alternative disposition described in section 260B.235, subdivision 6.

(b) The court shall appoint counsel, or stand-by counsel if the child waives the right to counsel, for a child who is:

(1) charged by delinquency petition with a gross misdemeanor or felony offense; or

(2) the subject of a delinquency proceeding in which out-of-home placement has been proposed.

(c) If they desire counsel but are unable to employ it, the court shall appoint counsel to represent the child or the parents or guardian in any case in which it feels that such an appointment is appropriate, except a juvenile petty offender who does not have the right to counsel under paragraph (a).

(d) Counsel for the child shall not also act as the child's guardian ad litem.

*[For text of subs 5 to 10, see M.S.2002]*

**History:** *2003 c 2 art 1 s 25*

### 260B.171 RECORDS.

*[For text of subs 1 to 3, see M.S.2002]*

Subd. 4. **Public inspection of records.** (a) Legal records arising from proceedings or portions of proceedings that are public under section 260B.163, subdivision 1, are open to public inspection.

(b) Except as otherwise provided by this section, 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:

(1) by order of a court; or

(2) as required by chapter 245C or sections 245A.04, 611A.03, 611A.04, 611A.06, and 629.73.

(c) The victim of any alleged delinquent act may, upon the victim's request, obtain the following information, unless it reasonably appears that the request is prompted by a desire on the part of the requester to engage in unlawful activities:

(1) the name and age of the juvenile;

(2) the act for which the juvenile was petitioned and date of the offense; and

(3) the disposition, including, but not limited to, dismissal of the petition, diversion, probation and conditions of probation, detention, fines, or restitution.

(d) 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 6. 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 260B.335 or 260B.425 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.

(e) 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.

(f) A county attorney may give a law enforcement agency that referred a delinquency matter to the county attorney a summary of the results of that referral, including the details of any juvenile court disposition.

*[For text of subds 5 to 8, see M.S.2002]*

**History:** 2003 c 15 art 1 s 33

#### **260B.176 RELEASE OR DETENTION.**

*[For text of subd 1, see M.S.2002]*

**Subd. 2. Reasons for detention.** (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 260B.007, subdivision 6, unless a petition has been filed and the judge or referee determines pursuant to section 260B.178 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 260B.007, subdivision 6, unless:

(1) a petition has been filed under section 260B.141; and

(2) a judge or referee has determined under section 260B.178 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 260B.125. Notwithstanding this paragraph, continued detention of a child in an adult detention facility outside of a standard metropolitan statistical area county is permissible if:

(i) the facility in which the child is detained is located where conditions of distance to be traveled or other ground transportation do not allow for court appearances within 24 hours. A delay not to exceed 48 hours may be made under this clause; or

(ii) the facility is located where conditions of safety exist. Time for an appearance may be delayed until 24 hours after the time that conditions allow for reasonably safe travel. "Conditions of safety" include adverse life-threatening weather conditions that do not allow for reasonably safe travel.

The continued detention of a child under clause (i) or (ii) must be reported to the commissioner of corrections.

(d) 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 260B.125, notice to the commissioner shall not be required.

(e) When a child is detained for an alleged delinquent act in a state licensed juvenile facility or program, or when a child is detained in an adult jail or municipal lockup as provided in paragraph (c), the supervisor of the facility shall, if the child's parent or legal guardian consents, have a children's mental health screening conducted with a screening instrument approved by the commissioner of human services, unless a screening has been performed within the previous 180 days or the child is currently under the care of a mental health professional. The screening shall be conducted by a mental health practitioner as defined in section 245.4871, subdivision 26, or a probation officer who is trained in the use of the screening instrument. The screening shall be conducted after the initial detention hearing has been held and the court has ordered the child continued in detention. The results of the screening may only be presented to the court at the dispositional phase of the court proceedings on the matter unless the parent or legal guardian consents to presentation at a different time. If the screening indicates a need for assessment, the local social services agency or probation officer, with the approval of the child's parent or legal guardian, shall have a diagnostic assessment conducted, including a functional assessment, as defined in section 245.4871.

*[For text of subs 3 to 6, see M.S.2002]*

**History:** *1Sp2003 c 14 art 4 s 15*

**NOTE:** The amendment to subdivision 2 by Laws 2003, First Special Session chapter 14, article 4, section 15, is effective July 1, 2004. Laws 2003, First Special Session chapter 14, article 4, section 15, the effective date.

## **260B.178 DETENTION HEARING.**

Subdivision 1. **Hearing and release requirements.** (a) 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.

(b) 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, subject to reasonable conditions of release including, but not limited to, a requirement that the child undergo a chemical use assessment as provided in section 260B.157, subdivision 1, and a children's mental health screening as provided in section 260B.176, subdivision 2, paragraph (e). 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.

*[For text of subs 2 to 4, see M.S.2002]*

**History:** *1Sp2003 c 14 art 4 s 16*

NOTE: The amendment to subdivision 1 by Laws 2003, First Special Session chapter 14, article 4, section 16, is effective July 1, 2004. Laws 2003, First Special Session chapter 14, article 4, section 16, the effective date.

### **260B.188 CHILDREN IN CUSTODY; RESPONSIBILITY FOR MEDICAL CARE.**

Subdivision 1. **Medical aid.** If a child is taken into custody as provided in section 260B.175 and detained in a local juvenile secure detention facility or shelter care facility, or if a child is sentenced by the juvenile court to a local correctional facility as defined in section 241.021, subdivision 1, paragraph (f), the child's county of residence shall pay the costs of medical services provided to the child during the period of time the child is residing in the facility. The county of residence is entitled to reimbursement from the child or the child's family for payment of medical bills to the extent that the child or the child's family has the ability to pay for the medical services. If there is a disagreement between the county and the child or the child's family concerning the ability to pay or whether the medical services were necessary, the court with jurisdiction over the child shall determine the extent, if any, of the child's or the family's ability to pay for the medical services or whether the services are necessary. If the child is covered by health or medical insurance or a health plan when medical services are provided, the county paying the costs of medical services has a right of subrogation to be reimbursed by the insurance carrier or health plan for all amounts spent by it for medical services to the child that are covered by the insurance policy or health plan, in accordance with the benefits, limitations, exclusions, provider restrictions, and other provisions of the policy or health plan. The county may maintain an action to enforce this subrogation right. The county does not have a right of subrogation against the medical assistance program, the MinnesotaCare program, or the general assistance medical care program.

*[For text of subs 2 to 4, see M.S.2002]*

### **260B.193 DISPOSITIONS; GENERAL PROVISIONS.**

*[For text of subd 1, see M.S.2002]*

Subd. 2. **Consideration of reports.** Before making a disposition in a case, or appointing a guardian for a child, the court may consider any report or recommendation made by the local social services agency, probation officer, licensed child-placing agency, foster parent, guardian ad litem, tribal representative, or other authorized advocate for the child or child's family, a school district concerning the effect on student transportation of placing a child in a school district in which the child is not a resident, or any other information deemed material by the court. In addition, the court may consider the results of the children's mental health screening provided in section 260B.157, subdivision 1.

*[For text of subs 4 and 5, see M.S.2002]*

**History:** *1Sp2003 c 14 art 4 s 17*

NOTE: The amendment to subdivision 2 by Laws 2003, First Special Session chapter 14, article 4, section 17, is effective July 1, 2004. Laws 2003, First Special Session chapter 14, article 4, section 17, the effective date.

### **260B.235 PETTY OFFENDERS; PROCEDURES; DISPOSITIONS.**

*[For text of subs 1 to 5, see M.S.2002]*

Subd. 6. **Alternative disposition.** In addition to dispositional alternatives authorized by subdivision 4, 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. In the case of a third or subsequent finding that a child has committed any juvenile petty offense, the court shall order a children's mental health screening be conducted as provided in section 260B.157, subdivision 1, and if indicated by the screening, to undergo a diagnostic assessment, including a functional assessment, as defined in section 245.4871.

*[For text of subs 7 to 9, see M.S.2002]*

**History:** *1Sp2003 c 14 art 4 s 18*

**NOTE:** The amendment to subdivision 6 by Laws 2003, First Special Session chapter 14, article 4, section 18, is effective July 1, 2004. Laws 2003, First Special Session chapter 14, article 4, section 18, the effective date.

### **260B.245 EFFECT OF JUVENILE COURT PROCEEDINGS.**

Subdivision 1. **Effect.** (a) 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, except as otherwise provided in this section or section 260B.255. An extended jurisdiction juvenile conviction shall be treated in the same manner as an adult felony criminal conviction for purposes of the sentencing guidelines. 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.

(b) A person who was adjudicated delinquent for, or convicted as an extended jurisdiction juvenile of, a crime of violence as defined in section 624.712, subdivision 5, is not entitled to ship, transport, possess, or receive a firearm for the remainder of the person's lifetime. A person who has received a relief of disability under United States Code, title 18, section 925, or whose ability to possess firearms has been restored under section 609.165, subdivision 1d, is not subject to the restrictions of this subdivision.

*[For text of subd 2, see M.S.2002]*

**History:** *2003 c 28 art 3 s 2*

### **260B.331 COSTS OF CARE.**

*[For text of subs 1 to 5, see M.S.2002]*

Subd. 6. **Guardian ad litem fees.** (a) In proceedings in which the court appoints a guardian ad litem pursuant to section 260B.163, subdivision 6, 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.

(b) In each fiscal year, the commissioner of finance shall deposit guardian ad litem reimbursements in the general fund and credit them to a separate account with the trial courts. The balance of this account is appropriated to the trial courts and does not cancel but is available until expended. Expenditures by the state court administrator's office from this account must be based on the amount of the guardian ad litem reimbursements received by the state from the courts in each judicial district.

**History:** *2003 c 112 art 2 s 50*