

CHAPTER 72—H.F.No. 229

An act relating to public safety; providing for a child certified as an adult to be detained in a juvenile facility pending the outcome of criminal proceedings; authorizing judges to prohibit certain juvenile sex offenders from residing near their victims; amending Minnesota Statutes 2010, sections 260B.125, subdivision 8; 260B.198, subdivision 1, by adding a subdivision.

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

Section 1. Minnesota Statutes 2010, section 260B.125, subdivision 8, is amended to read:

Subd. 8. **Written findings; options.** (a) The court shall decide whether to order certification within 15 days after the certification hearing was completed, unless additional time is needed, in which case the court may extend the period up to another 15 days. If the juvenile court orders certification, and the presumption described in subdivision 3 does not apply, the order shall contain in writing, findings of fact and conclusions of law as to why public safety is not served by retaining the proceeding in the juvenile court. A child certified under this paragraph may be detained pending the outcome of criminal proceedings in a secure juvenile detention facility.

(b) If the juvenile court, after a hearing conducted pursuant to subdivision 2, decides not to order certification, the decision shall contain, in writing, findings of fact and conclusions of law as to why certification is not ordered. If the juvenile court decides not to order certification in a case in which the presumption described in subdivision 3 applies, the court shall designate the proceeding an extended jurisdiction juvenile prosecution and include in its decision written findings of fact and conclusions of law as to why the retention of the proceeding in juvenile court serves public safety, with specific reference to the factors listed in subdivision 4. If the court decides not to order certification in a case in which the presumption described in subdivision 3 does not apply, the court may designate the proceeding an extended jurisdiction juvenile prosecution, pursuant to the hearing process described in section 260B.130, subdivision 2.

Sec. 2. Minnesota Statutes 2010, section 260B.198, subdivision 1, is amended to read:

Subdivision 1. **Court order, findings, remedies, treatment.** 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:

- (1) counsel the child or the 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 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;

(3) if the court determines that the child is a danger to self or others, subject to the supervision of the court, transfer legal custody of the child to one of the following:

(i) a child-placing agency; or

(ii) the local social services agency; or

(iii) 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

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

(v) 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) transfer legal custody by commitment to the commissioner of corrections;

(5) 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;

(6) require the child to pay a fine of up to \$1,000. 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;

(7) 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;

(8) 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;

(9) if the court believes that it is in the best interest of the child and of public safety that the child is enrolled in school, the court may require the child to remain enrolled in a public school until the child reaches the age of 18 or completes all requirements needed to graduate from high school. Any child enrolled in a public school under this clause is subject to the provisions of the Pupil Fair Dismissal Act in chapter 127;

(10) if the child is petitioned and found by the court to have committed a controlled substance offense under sections 152.021 to 152.027, the court shall determine whether the child unlawfully possessed or sold the controlled substance while driving a motor vehicle. If so, the court shall notify the commissioner of public safety of its determination and order the commissioner to revoke the child's driver's license for the applicable time period specified in section 152.0271. If the child does not have a driver's license or if the child's driver's license is suspended or revoked at the time of the delinquency finding,

the commissioner shall, upon the child's application for driver's license issuance or reinstatement, delay the issuance or reinstatement of the child's driver's license for the applicable time period specified in section 152.0271. Upon receipt of the court's order, the commissioner is authorized to take the licensing action without a hearing;

(11) 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; 609.345; 609.3451; 609.746, subdivision 1; 609.79; or 617.23, or another offense arising out of a delinquency petition based on one or more of those sections, 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 must be experienced in the evaluation and treatment of juvenile sex offenders. 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. Notwithstanding sections 13.384, 13.85, 144.291 to 144.298, 260B.171, or 626.556, the assessor has access to the following private or confidential data on the child if access is relevant and necessary for the assessment:

- (i) medical data under section 13.384;
- (ii) corrections and detention data under section 13.85;
- (iii) health records under sections 144.291 to 144.298;
- (iv) juvenile court records under section 260B.171; and
- (v) local welfare agency records under section 626.556.

Data disclosed under this clause may be used only for purposes of the assessment and may not be further disclosed to any other person, except as authorized by law;

(12) if the child is found delinquent due to the commission of an offense that would be a felony if committed by an adult, the court shall make a specific finding on the record regarding the juvenile's mental health and chemical dependency treatment needs;

(13) 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:

- (i) why the best interests of the child are served by the disposition ordered; and
- (ii) what alternative dispositions were considered by the court and why such dispositions were not appropriate in the instant case. Item (i) does not apply to a disposition under subdivision 1a.

EFFECTIVE DATE. This section is effective August 1, 2011, and applies to offenses committed on or after that date.

Sec. 3. Minnesota Statutes 2010, section 260B.198, is amended by adding a subdivision to read:

Subd. 1a. **Juvenile sex offenders; residency restriction.** If the court finds that the child is 15 years of age or older, is delinquent due to a violation of section 609.342, 609.343, 609.344, 609.345, 609.3451, subdivision 3, or 609.3453, and does not reside in the same home as the victim, in addition to other dispositions authorized under this section, the court may prohibit the child from residing within 1,000 feet or three city

blocks, whichever distance is greater, from the victim for a portion or the entire period that the court has jurisdiction over the child.

EFFECTIVE DATE. This section is effective August 1, 2011, and applies to offenses committed on or after that date.

Presented to the governor May 23, 2011

Signed by the governor May 24, 2011, 5:00 p.m.