

Youth and the Law: A Guide for Legislators



About this Publication

This publication describes Minnesota laws and court cases that establish rights, responsibilities, and protections for youth. It deals with economic protection, education, families, health and social services, motor vehicles, unlawful acts by and against youth, and juveniles in court.

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Contents

Introduction.....	1
Glossary of Terms	2
Part 1: The Laws	5
Economic Protection	7
Educational Rights and Responsibilities.....	15
Family Relations	59
Health and Social Services.....	67
Motor Vehicles	85
Unlawful Acts by Youths.....	91
Unlawful Acts Against Youths	95
Miscellaneous Age Provisions	107
Part 2: The Courts	111
Civil Adult Court.....	113
Criminal Adult Court.....	117
Juvenile Court.....	121
Index.....	136

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Introduction

Youth and the Law describes Minnesota statutes, rules, and cases that establish rights, responsibilities, and protections for young people different from those applicable to adults. The purpose of the guidebook is to give legislators an overview of all laws affecting young people and to provide a reference aid on current state policies that apply to youth. The guidebook also should prove useful for evaluating any proposals for changing these policies.

This is intended as a guide to Minnesota state law. Federal statutes and cases are included only in a few areas where they dictate state policy or where state policy has been closely linked with federal law for some other reason. **Youth and the Law** does not attempt to cover federal statutes, cases, or programs in general.

Legal distinctions are generally made between adults, who are statutorily defined as persons age 18 and over, and minors, who are statutorily defined as persons under age 18. **Youth and the Law** uses the terms “minor” and “child” synonymously. Exceptions occur if the text clearly indicates that “child” means a minor of a particular age or means an individual of any age in relation to his or her parents.

Youth and the Law is divided into two parts: Part 1, **The Laws**, consists of substantive laws organized by subject categories, including economic protection for youth, educational rights and responsibilities, family relations, health and social services, motor vehicles, and unlawful acts by and against youths. Part 2, **The Courts**, explains the courts and procedures that deal with youths. A glossary of terms used throughout both parts 1 and 2 is provided at the beginning of the guidebook. There is also an index at the end of the publication.

Unless otherwise noted, all citations are to Minnesota Statutes as amended through December 2023, or Minnesota Rules, as of December 2023.

Glossary of Terms

Age of Majority

Eighteen years of age. (Minn. Stat. § 645.451, subd. 5)

CHIPS

An acronym for a category of juvenile court jurisdiction. “CHIPS” means Child in Need of Protection or Services.

Civil Action

A lawsuit to establish or enforce certain rights. It can be based on a statutory right or a legal rule developed in court cases. It can involve seeking payment of money (damages) or a court order compelling someone to act (specific performance) or refrain from an action (injunction). The lawsuit itself involves no possible criminal punishment (imprisonment, criminal fine, developing a record of a criminal conviction, etc.) although criminal penalties can result if a person involved with the lawsuit does not follow the court’s ruling and orders. Civil action examples: personal injury, breach of contract, marriage dissolution.

Contract

An agreement between two or more persons that creates a legal obligation to do or not to do a particular thing, such as to perform a service or to buy or sell goods or real estate.

Crime

Conduct prohibited by statute and for which the actor may be sentenced to imprisonment, with or without a fine.

Delinquent

A minor ten years old or older who has committed an act that would be a crime if committed by an adult, except for certain misdemeanors classified as juvenile petty offenses.

Felony

A crime punishable by a sentence of more than one year imprisonment in a state prison. Fines for felony offenses are equal to or greater than \$3,000, depending on the offense.

Gross Misdemeanor

A crime punishable by a sentence of imprisonment for more than 90 days but not more than one year, and/or up to a \$3,000 fine.

Juvenile

A person who is younger than 18 years old.

Juvenile Petty Offender

A minor who has committed a juvenile alcohol offense, a juvenile controlled substance offense, a tobacco offense, or a violation of a local ordinance prohibiting conduct by a minor that would be lawful if committed by an adult, except for certain designated misdemeanors and other offenses.

Legal Age or Full Age

Eighteen years of age or older. (Minn. Stat. § 645.451, subd. 6)

Misdemeanor

A crime punishable by a sentence of up to 90 days imprisonment and/or up to a \$1,000 fine.

Petty Misdemeanor

An offense that is not a crime, which carries no possibility of imprisonment, but for which a fine of up to \$300 may be imposed.

Status Offense

Conduct that is unlawful for children, but lawful for adults (e.g., smoking tobacco).

Statute of Limitations

A deadline set by statute for beginning a particular kind of lawsuit or criminal prosecution.

Tort

The area of law that involves the breach of one person's legal duty to another that results in an injury or damage of some kind. It is sometimes defined as the law of legal wrongs committed by private individuals against each other, not based on contracts. Some torts are provided for in statute, while many others are the result of legal rules developed over time in case law. Examples include personal injury and defamation.

Part 1: The Laws

Minnesota law makes many distinctions between the rights and responsibilities of adults and young persons. Part 1 describes the major statutory, regulatory, and case laws that differentiate between youths and adults. These provisions are divided into the areas of economic regulations, education, family relations, health and social services, motor vehicles, and criminal law. There is a miscellaneous section for other age-based provisions.

Usually, legal distinctions are drawn at the age of majority, which is statutorily defined as 18 years of age. Persons under age 18 are minors. They are deemed less able than adults to take responsibility for themselves or to carry out obligations to others. Similarly, they are considered more in need of protection both from their own inexperienced judgments and from the actions of others.

Minnesota law makes some distinctions between adults and youth at points other than 18 years. For example, a few rights are withheld and a few protections are extended until age 19 or 21 in the belief that 18-year-olds are not ready to be entirely on their own in particular areas. On the other hand, not all minors are treated identically under the law. In some instances, younger children are considered in need of greater protection or unable to carry out the greater responsibilities of older children. As a result, certain statutes treat minors under such ages as 16, 14, or 10 differently from minors over those ages.

Economic Protection

Minors’ economic rights and activities are heavily regulated by statute under the belief that minors are much less able than adults to support themselves, to make decisions about managing property, or to bargain as equals in employment and other business situations.

Child Support

All Parents	8
Divorced Parents.....	8
Support Guidelines	8
Unmarried Parents.....	8
Enforcement	8
Stepparents.....	8

Property Rights

Control of a Minor’s Earnings or Property.....	9
Minor’s Contracts.....	9
Wills.....	9
Inheritance from Parents.....	9
Uniform Transfers to Minors Act	9

Employment

Age Discrimination in Employment	10
Child Labor Standards	10
Minimum Wage	12
Unemployment Insurance Benefits	12
Workers’ Compensation	12
Income Tax Treatment of Dependents with Earned Income	13

Child Support

All Parents

If a parent consents to have a child reside with an individual or entity other than the parent, or if the child does so by court order, the parent can be required to pay support for the child. (Minn. Stat. § 256.87, subd. 5)

A parent who has been ordered by a court to pay child support and has the financial ability to pay support but continually fails to do so without good cause may have his or her parental rights terminated by the juvenile court. (Minn. Stat. § 260C.301, subd. 1, para. (b), cl. (3))

Divorced Parents

The court may order either or both parents to pay child support. A parent may also be required to provide health insurance or pay medical or child care expenses for a child. "Child" means an individual who is (1) under age 18; (2) under age 20 and still attending secondary school; or (3) because of his or her physical or mental condition, unable to support himself or herself. (Minn. Stat. §§ 518A.26, subds. 5, 20; 518A.40; 518A.41)

Support Guidelines

Statutory guidelines and other specified factors affect the amount of parental support that courts will award to children of divorced parents, unless the parents reach an alternate agreement that is approved by the court. (Minn. Stat. §§ 518A.34; 518A.35; 518A.36; 518A.43)

Unmarried Parents

If an individual acknowledges that the individual is a child's parent or if parentage is established in a court action, the individual is legally obligated to support the child and will be ordered to pay the amount indicated in the statutory guidelines. (Minn. Stat. §§ 257.51 to 257.75; 518A.44)

Enforcement

If a court orders a parent to pay child support, including health insurance or medical or child care costs, legal mechanisms can be used to enforce the order in Minnesota or against a parent who moves to another state. (Minn. Stat. §§ 256.87; 257.67; 548.091; ch. 518; ch. 518A; ch. 518C)

Stepparents

When a divorced parent seeks a change in court-ordered child support, the income of both parents' new spouses, if any, will not be considered in raising or lowering the support amount. (Minn. Stat. §§ 518A.29(f); 518A.39, subd. 2, para. (e), cl. (1))

For further information, see *Child Support: Basic Questions*, House Research Department, November 2022, and *Minnesota's Child Support Laws*, House Research Department, November 2015.

Property Rights

Control of a Minor's Earnings or Property

A parent or guardian may claim a minor's wages by notifying the minor's employer. Otherwise, the minor has control of his or her own wages. (Minn. Stat. § 181.01)

A minor may control his or her own savings account. (Minn. Stat. § 48.30)

Minor's Contracts

A minor may make a contract but may choose not to complete it or disaffirm it within a reasonable time after reaching the age of majority, unless it involves the purchase of necessities, like food or shelter. *Miller v. Smith*, 2 N.W. 942 (Minn. 1879); *Kelly, Jr. v. Furlong* 261 N.W. 460 (Minn. 1935). In most cases, any benefits or value received through a contract must be restored to the other party before the minor is released from the obligations of the contract.

Wills

A minor may not make a will. (Minn. Stat. § 524.2-501)

Inheritance from Parents

If there is no will, an adopted individual has a legal right to a share of the adopted parents' estate but not to the birth parents' estate. Special provisions exist to determine inheritance where a child is adopted by certain relatives of a genetic parent or conceived by means of assisted reproduction. (Minn. Stat. §§ 524.2-118; 524.2-119; 524.2-120)

If a person does not make a will, his or her children share the estate with the surviving spouse, if that spouse was married to the children's other parent. If no spouse survives, the children share the estate among themselves. (Minn. Stat. §§ 524.2-102; 524.2-103)

If parents were not married to each other and did not leave wills, the children inherit from either parent. Parentage may be established under the Parentage Act. (Minn. Stat. §§ 524.2-101; 524.2-116; 524.2-117)

A parent who makes a will may intentionally disinherit a child. If it seems a child was omitted from a will by error or because of being born after the parent's death, the child may still be entitled to an inheritance as provided in this statute. (Minn. Stat. §§ 524.2-108; 524.2-302)

Uniform Transfers to Minors Act

Any kind of property (money, real estate, stocks, etc.) may be transferred to a custodian for a minor's benefit. This kind of custodianship lasts until the beneficiary turns 21. (Minn. Stat. §§ 527.21 to 527.44)

Employment

Age Discrimination in Employment

The prohibition against unfair employment practices based on a person's age applies to persons who have reached the age of 18. The law permits different treatment in privileges, benefits, services, or facilities for employees under age 21. (Minn. Stat. §§ 363A.03, subd. 2; 363A.20, subd. 9)

Child Labor Standards

The Minnesota Child Labor Standards Act restricts the age, days and hours, and occupations of working minors. (Minn. Stat. §§ 181A.01 to 181A.12) The Commissioner of Labor and Industry may grant exemptions from these restrictions according to established rules if the commissioner finds that the exemption is in the minor's best interests. (Minn. Stat. § 181A.07, subd. 5) Employment of minors is also governed by federal law, which may differ from the Minnesota law described here.

Age Restrictions. No minor under the age of 14 may be employed, except: (1) a minor may be an actor, performer, or model; (2) those 11 and older may be newspaper carriers; (3) those 11 to 13 years of age may be employed as a youth athletic program referee, umpire, or official for an age bracket younger than the minor's own age with adult supervision present and a parent's or guardian's written consent; and (4) those 12 and older may work in agricultural operations. (Minn. Stat. §§ 181A.04, subd. 1; 181A.07, subds. 1, 2, 3, and 4a)

Day and Hour Restrictions. On school days, during school hours, no minor under 16 years may be employed except a 14- or 15-year-old with a valid employment certificate, which may be issued by a school district superintendent to a minor for a specific nonhazardous position if a parent or guardian consents, the minor can physically perform the job, and it is in the minor's best interests. (Minn. Stat. §§ 181A.04, subd. 2; 181A.05)

No minor under 16 may work any day before 7:00 a.m. or after 9:00 p.m. except as a newspaper carrier. (Minn. Stat. §§ 181A.04, subd. 3; 181A.07, subd. 3) However, while school is in session, federal law provides that minors 14 or 15 years of age cannot work later than 7:00 p.m. (29 C.F.R. § 570.35(a))

No one may employ a minor under 16 more than 40 hours per week or more than eight hours in any 24-hour period, except for minors working in agricultural operations with their parents' or guardian's permission. (Minn. Stat. §§ 181A.04, subd. 4; 181A.07, subd. 1) However, during the school year, federal law provides that 14- and 15-year-olds performing nonagricultural, nonexempt work cannot work more than three hours on a school day, or more than 18 hours in a school week. (29 C.F.R. § 570.35(a))

No one may employ a high school student under age 18 after 11:00 p.m. on a night before a school day or before 5:00 a.m. on a school day unless an exemption applies. With written permission of a parent or guardian, a student may work until 11:30 p.m. or begin at 4:30 a.m. (Minn. Stat. § 181A.04, subd. 6)

Occupation Restrictions. All minors under age 18 may be excluded from employment in any occupation that the Commissioner of Labor and Industry finds by rule hazardous or detrimental to their well-being. (Minn. Stat. § 181A.04, subd. 5) The commissioner must establish a list of hazardous occupations by rule. (Minn. Stat. § 181A.09, subd. 2) The commissioner also has the power to exempt an individual minor from this restriction under established rules. (Minn. Stat. § 181A.07, subd. 5)

Exceptions apply to the following hazardous occupations provided that certain safety standards and training requirements are met:

- A minor at least 16 years of age can be employed to operate an amusement ride or to load and unload passengers on one ride at a time at a fixed amusement park with adult supervision. (Minn. Stat. § 181A.04, subd. 7)
- A minor at least 16 years of age can be employed to operate lawn care equipment at a golf course, resort, municipality, or rental property if directly employed to perform lawn care. (Minn. Stat. § 181A.116)

Minors under age 18 are prohibited from employment in any rooms in which intoxicating liquor or 3.2 percent malt liquor is served or consumed or in any tasks that involve serving, dispensing, or handling of those liquors that are consumed on the premises except under the following conditions:

- A minor at least 16 years of age can be employed to perform busing, dishwashing, or hosting services in rooms or areas of restaurants, hotels, motels, or resorts where the presence of intoxicating liquor is incidental to food service or preparation.
- A minor at least 16 years of age can be employed to perform busing, dishwashing, or hosting services or to provide waiter or waitress service in rooms or areas where the presence of 3.2 percent malt liquor is incidental to food service or preparation.
- A minor at least 16 years of age can be employed to provide musical entertainment in those rooms or areas where the presence of intoxicating liquor and 3.2 percent malt liquor is incidental to food service or preparation.

Minors are not prevented from working at tasks not prohibited by law in establishments where liquor is sold, served, dispensed, or handled in those rooms or areas where no liquor is consumed or served. (Minn. Stat. § 181A.115)

Child Labor Exemptions. Minors employed to do home chores, babysitting, or by their parents are exempt from the above child labor restrictions. (Minn. Stat. § 181A.07, subd. 4) The commissioner may also grant exemptions to minors participating in approved training or apprenticeship programs. (Minn. Stat. § 181A.07, subd. 7)

Federal law provides that minors under age 16 working in particularly hazardous agricultural work for their parents are exempt only if they work on a farm owned or operated by the parent. (29 U.S.C. § 213(c)(2); Minn. Stat. § 181A.11)

Minimum Wage

Minnesota employers are subject to the following minimum wage rate requirements for minors and young adults. (Minn. Stat. § 177.24, subd. 1, paras. (c), (e), and (f)) Youth and training wage rates have existed in Minnesota’s minimum wage law for many years.

Effective Date	Training Wage and Youth Wage
January 1, 2023	\$8.63
January 1, 2024	\$8.85

The training wage is a special rate that may be paid during the first 90 consecutive days of employment to a person under the age of 20 regardless of the size of the employer. The training wage rate is the same as the youth wage rate. (Minn. Stat. § 177.24, subd. 1, para. (c))

A youth wage may be paid to employees under the age of 18. The youth wage rate for large employers is the same as the minimum wage rate for small employers regardless of age. (Minn. Stat. § 177.24, subd. 1, paras. (b)(2), (e))

The minimum wage does not apply to persons under the age of 18 who are: (1) employed in certain agricultural work; (2) working as a corn detasseler; or (3) working less than 20 hours per workweek for a municipality as part of a recreational program. The minimum wage also does not apply to any person engaged in babysitting as a sole practitioner. (Minn. Stat. § 177.23, subd. 7, cls. (3), (4), (12), (14))

Unemployment Insurance Benefits

Minors, including high school students, are eligible for state unemployment benefits as long as they satisfy all other eligibility requirements. (Minn. Stat. § 268.085) A minor’s covered wages are taxable for employers subject to unemployment insurance tax law. (Minn. Stat. § 268.035, subd. 24)

The following employment areas are not eligible for unemployment compensation: (1) agricultural employment by a child under 16 for an employer not covered by federal unemployment tax law; (2) employment of a child under 18 by their parent; (3) work performed at a school, college, or university by a student enrolled there; (4) work performed by a full-time student for academic credit as part of an academic program; and (5) newspaper delivery by anyone under 18. (Minn. Stat. § 268.035, subds. 11; 20, cls. (18), (20), (21), (32), (34))

Workers’ Compensation

The workers’ compensation system compensates minor employees as well as adult employees who are injured in the course and scope of their employment. (Minn. Stat. §§ 176.011, subd. 9, para. (a), cl. (2); 176.091) A guardian or conservator is appointed to represent the interests of a minor who has a covered workers’ compensation injury or who is a dependent eligible for survivor benefits. (Minn. Stat. § 176.092)

A minor with a workers' compensation-covered injury that results in permanent total disability receives the maximum temporary total disability benefit available, regardless of their wage at the time of injury. (Minn. Stat. § 176.101, subds. 1, para. (b), cl. (1); 4; 6, para. (b))

Income Tax Treatment of Dependents with Earned Income

Minors who earn income may be subject to income tax on their earnings. If they are not eligible to be claimed as a "dependent" on someone else's return, they will be subject to tax on the same basis as an ordinary taxpayer. If they are eligible to be claimed as a dependent (typically by a parent who partially pays for their support), special rules apply. These rules also apply to adults who are claimed as dependents on another's tax return, but they apply most often to teenagers and young adults (usually students) who rely on their parents or others for financial support.

Individuals who are eligible to be claimed as a dependent on someone else's return receive a reduced standard deduction. For tax year 2024, the standard deduction for such individuals is limited to the greater of:

- \$1,300, or
- the individual's earned income for the year plus \$400, but not more than the regular standard deduction amount (\$14,575).

For tax year 2024, a dependent youth who earns more than \$14,575 may be subject to federal income tax on their earnings.

Educational Rights and Responsibilities

The state of Minnesota is required by its constitution to provide a free public education to all children in the state. This section provides an overview of some of the rights and responsibilities of students attending elementary and secondary schools.

Compulsory Attendance and School Choice Options

Age of Attendance and Compulsory Attendance	20
Truancy.....	20
Legitimate Exemptions	21
Instruction Requirements	21
Penalty	21
Residency Requirements	21
Immunization Requirements	22
Effective Teachers.....	22
School Conferences.....	22
Enrollment Options (“Open Enrollment”)	22
Postsecondary Enrollment Options (PSEO) and Transfer Curriculum	23
Concurrent Enrollment	23
Advanced Placement, International Baccalaureate, and College-Level Exam Programs. 23	
Graduation Incentives Program.....	23
Area Learning Centers.....	24
Adult Basic Education	24
Online Learning.....	24
Shared Time Programs.....	24
Charter Schools	24
Homeschools.....	25
Single-Sex Education	25
Particular District Schools	25

State Graduation, Statewide Testing, and K-12 Curriculum Requirements

Graduation Requirements	25
K-12 Academic Standards	26
Required Areas of Instruction.....	26
Statewide Testing Requirements.....	26
Nationally Recognized College Entrance Exam.....	26
English Language Proficiency.....	26
No Required Score or Level of Proficiency	27
Circumstances for Not Participating in Testing	27
Career and College Readiness Assessments.....	27
Alternative Assessment for Students With Disabilities	27
Adult Basic Education Students	27
Health-related Education.....	27

Physical Education	27
CPR Instruction.....	28
Early Graduation	28
Review of Instructional Materials.....	28
Bilingual and Multilingual Certificates and Seals.....	28

Discipline, Harassment and Bullying, Violence in Schools, and Bus Privileges

Corporal Punishment and Reasonable Force	28
Dismissal Generally	28
Preschool and Prekindergarten Students	29
Suspension	29
Expulsion and Exclusion	30
Recess Detention	31
Firearms in School.....	31
Removal from Class or School.....	31
Physical Holding or Seclusion.....	31
Discipline off School Grounds	31
Tennessee Warning	32
Student Disciplinary Records	32
Revocation of Bus Riding Privileges	32
Sexual Harassment in Schools Prohibited.....	32
Victims' Remedies.....	32
Student-on-Student Harassment.....	33
Student Bullying.....	33
Malicious and Sadistic Conduct	33
Student Hazing.....	33
Possession of Dangerous Weapons on School Property	34
Reports of Dangerous Weapon Incidents on School Property.....	34
Use of Force Against School Officials.....	34
Violence Prevention Education Programs	34
Notice of Violent Students.....	34
Crisis Management; School Safety and Active Shooter Drills.....	34

Controlled Substances, Medications, and Health

Tobacco and Electronic Cigarettes.....	35
Asthma Inhalers	35
EpiPens.....	35
Nonprescription Pain Relievers in School.....	35
Sunscreen.....	36
Medical Cannabis.....	36
Menstrual Products	36
Opiate Antagonists.....	36

Children with Disabilities

Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act of 1973	36
Availability of Services and Procedural Requirements under State Law.....	37
Level of Service	37
Related Services	38
Early Childhood Choice	38
Early Intervention	38
Dyslexia	38
Children Not Yet Eligible for Special Education	38
Alternative Dispute Resolution.....	38
Participation in Statewide Assessments.....	39
Supplementary Services for Extracurricular Activities.....	39
Restrictive Procedures	39
Inclusion and Least Restrictive Environment (LRE)	39
Suspension, Exclusion, and Expulsion.....	39
Firearms or Illegal Drugs in School and Alternative Placements	40
Education Records	40
Sympathomimetic Medications.....	40
Transfer of Parental Rights at Age of Majority	40

Participation in Athletics and Title IX

State Discrimination Law and Opportunity to Use Ice Arenas	40
Federal Discrimination Law.....	40
Transgender Students.....	41
Equal Protection Clause	41
Right to Participate	42
Minnesota State High School League (MSHSL) Activities	42
Ban on Recruiting Student Athletes.....	42
Transfer Students.....	42
Homeschool Students.....	43
Student Athlete Concussions	43

Public School Fee Law

Prohibited Fees	43
Authorized Fees	43
Withholding Grades or Diploma	44

Access to Students' Education Records and Student Surveys

Limit on Disclosure.....	44
Right to Inspect and Review	44
Right to Request That a School Correct Records.....	44
Access by Parents to Student Records.....	45
Student Transfers.....	45

Directory Information	45
Student Surveys	45
Juvenile Justice System	46
Military Recruiters	46
Student Employee Criminal History Background Check	46
Welfare System	46

Law Enforcement and Court Records on Students

Controlled Substances	46
Court Disposition Order	46
Law Enforcement Records	47
In-School Interviews.....	47

Rights of Nonpublic School Students

Educational Materials and Student Support Services	47
Children with Disabilities	48
Separate School District.....	48
Transportation	49
Education Tax Deduction and Credit	49
Extracurricular Activities	49
Education Records	49
Health-Related Education	49

First Amendment Rights

Freedom of Speech	50
Pledge of Allegiance.....	50
Postsecondary Enrollment Options Act.....	50
Internet Access and Use	51
True Threat Speech	51
Prayer in the Schools	51
Religious Observances	52
Release Time	52
Student Dress Code.....	52
Science Course Requirements	53
Equal Access to School Facilities for Religious and other Purposes	53
Exemption from Compulsory Attendance	53

Fourth Amendment Rights

Expectation of Privacy.....	53
Reasonable Search and Seizure	54
Locker Searches	54
Drug Testing	54
Cell Phones.....	55
Electronic Surveillance	55
Students with Disabilities.....	55

Fourteenth Amendment Rights

Right to an Education..... 56
School Desegregation/Integration..... 56
Due Process..... 56
Minnesota Constitution 56

Other Civil Rights and English Learner Laws

Civil Rights and Student Discipline..... 57
Minnesota Human Rights Act 57
English Language Learners..... 57

Compulsory Attendance and School Choice Options

Age of Attendance and Compulsory Attendance

Every child between the ages of seven and 17 must attend school. (Minn. Stat. § 120A.22, subd. 5) A school board's annual school calendar must include at least 165 days of instruction for students in grades 1 to 11 unless the commissioner approves a four-day week schedule.

Minimum hours of instruction are specified for kindergarten students (425), students in grades 1 to 6 (935), and students in grades 7 through 12 (1,020). All-day kindergarten must include at least 850 hours of instruction. (Minn. Stat. § 120A.41) A student who is 17 must attend school unless the student formally withdraws from school. (Minn. Stat. § 120A.22, subd. 8) A minor parent or an 18- or 19-year-old parent who has not completed high school must attend school in order to remain eligible for the Minnesota Family Investment Program (MFIP). (Minn. Stat. § 256J.54, subd. 5)

A child must receive developmental screening before enrolling in kindergarten or first grade in a public school. (Minn. Stat. § 121A.17)

A school-age child may be excused from mandatory attendance requirements under certain circumstances. (Minn. Stat. § 120A.22, subd. 12) See also Exemption from Compulsory Attendance under First Amendment Rights, page 53.

Undocumented children who are not legal residents of the United States are entitled to attend public school through grade 12. *Plyler v. Doe*, 457 U.S. 202, 102 S. Ct. 2382 (1982).

School districts must facilitate the enrollment, placement, participation, and graduation of children in military families whose parents experience frequent moves and deployment. (Minn. Stat. § 127A.85)

Truancy

A child subject to compulsory instruction requirements is considered a “**continuing truant**” if the child is in elementary school and absent three school days without a valid excuse or if the child is in middle, junior high, or high school and absent three or more class periods on three school days without a valid excuse. (Minn. Stat. § 260A.02, subd. 3)

School officials must notify a child's parent that the child is a continuing truant. (Minn. Stat. § 260A.03)

A child under age 17 is considered a “**habitual truant**” if the child is in elementary school and absent seven school days without a lawful excuse or if the child is in middle, junior high, or high school and absent one or more class periods on seven school days without a lawful excuse. A child who is 17 is considered a habitual truant if the child is absent one or more class periods on seven school days without a lawful excuse and has not formally withdrawn from school. (Minn. Stat. § 260C.007, subd. 19)

A school may not use exclusionary discipline to address attendance and truancy issues. (Minn. Stat. § 121A.61, subd. 3, cl. (u))

Legitimate Exemptions

A parent may apply to a district to have a child excused from attending school for reasons of physical or mental health, including illness, medical or dental appointments, family emergencies, the death or serious illness or funeral of an immediate family member, active duty in the military, ongoing mental health treatment, other district exemptions, completed graduation requirements, or if the child is attending a school for religious instruction. (Minn. Stat. § 120A.22, subd. 12) A student may be excused from a physical education class if a physician indicates physical education will jeopardize the student's health or if a parent requests an exemption on religious grounds. (Minn. Stat. § 120B.026)

Instruction Requirements

Instruction must occur either in a public school, a nonpublic school, church or religious organization, or a homeschool. (Minn. Stat. § 120A.22, subd. 4)

Instruction is required in specific subject areas and must be provided by a person who meets the specific requirements for instructors. (Minn. Stat. §§ 120A.22, subds. 9, 10)

The performance of every child not enrolled in a public school must be assessed each year. All persons in charge of providing instruction to a child must document that the child received instruction and was assessed as required by law. This reporting requirement does not apply to a child receiving instruction from an accredited or state-recognized nonpublic school, person, or other institution. (Minn. Stat. § 120A.24, subds. 1 to 3)

Depending on their qualifications as instructors, parents instructing their children in a homeschool may be required to provide additional assessment and document their children's instruction. (Minn. Stat. §§ 120A.22, subd. 11, para. (b))

Penalty

It is a misdemeanor for a person responsible for instruction in an unaccredited nonpublic school, home, or other institution to fail to comply with compulsory instruction requirements. (Minn. Stat. § 120A.26)

It is a petty misdemeanor for a person who is legally responsible for a school-age child to fail or refuse to provide instruction for that child. (Minn. Stat. § 120A.34)

Residency Requirements

School-age children who reside within a district that operates public schools may attend those schools without charge. (Minn. Stat. § 120A.20, subd. 1)

The district of residence for a homeless school-age student is the district in which the parent or guardian resides unless parental rights were terminated, the parent doesn't reside in Minnesota, or the parent is subject to the supervision of the Commissioner of Corrections, in which case the district of residence is the district in which the student resided when the student became homeless. (Minn. Stat. § 120A.20, subd. 2)

The district of residence of a school-age student whose divorced or legally separated parents share joint physical custody and reside in different school districts is designated by the student's parents. (Minn. Stat. § 127A.47, subd. 3)

Immunization Requirements

No child over two months old may enroll or remain enrolled in any elementary or secondary school or child care facility unless an immunization statement is submitted to the school or facility. (Minn. Stat. § 121A.15, subd. 1) A child need not be immunized if immunization conflicts with a parent's conscientiously held beliefs. (Minn. Stat. § 121A.15, subd. 3, para. (d))

Effective Teachers

In certain circumstances, school administrators must not place students in the classroom of a teacher who is in an improvement process or who has not had a summative evaluation. (Minn. Stat. §§ 122A.40, subd.8, para. (d); 122A.41, subd. 5, para. (d))

School Conferences

An employer must give an employee up to 16 hours leave during a 12-month period to attend school conferences or school-related activities involving the employee's child if the conferences or school-related activities cannot be scheduled during nonwork hours. (Minn. Stat. § 181.9412, subd. 2) A child's parent or guardian may designate one additional adult to attend school conferences and school-related events. (Minn. Stat. § 13.32, subd. 10a)

Enrollment Options ("Open Enrollment")

Students in kindergarten through grade 12 may opt to attend a school or program in a nonresident district. (Minn. Stat. § 124D.03) A district may limit nonresident enrollment to the lesser of 1 percent of the district's total enrollment at each grade level or the number of district residents at that grade level enrolled in a nonresident district. A student in a voluntary prekindergarten (VPK) or school readiness plus program may be automatically enrolled for kindergarten, while a student in a different prekindergarten program may be required to follow normal enrollment procedures. (Minn. Stat. § 124D.03, subd. 3(b)) If applications exceed available seats, the district must hold a lottery to determine the students that will receive seats. A school board must adopt specific standards for accepting and rejecting timely applications; the standards may not include a student's previous academic achievement, athletic or other extracurricular ability, disabling conditions, English proficiency, previous disciplinary proceedings, or district of residence.

A district may terminate the enrollment of a nonresident student at the end of the school year if the student is a habitual truant and other conditions are met. A district also may terminate the enrollment of a nonresident student over 17 who is absent without lawful excuse for one or more periods on 15 school days and has not withdrawn from school. (Minn. Stat. § 124D.03, subd. 12)

A district may refuse to enroll a student expelled for possessing a dangerous weapon, possessing or using an illegal drug, selling or soliciting the sale of a controlled substance at school or a school function, or committing a third-degree assault. (Minn. Stat. § 124D.03, subd. 1)

Postsecondary Enrollment Options (PSEO) and Transfer Curriculum

Eligible 10th, 11th, or 12th grade public school students and 11th or 12th grade nonpublic or homeschooled students may apply to enroll in a course or program provided by a postsecondary institution. Tenth grade public school students, with the requisite 8th grade reading test score, may apply to enroll in a career and technical education course offered by a Minnesota state college or university. (Minn. Stat. § 124D.09, subd. 5a)

A student enrolled in a graduation incentives program under Minnesota Statutes, section 124D.68, may enroll full-time in a middle or early college program and earn developmental college credit for completing remedial or developmental college courses. (Minn. Stat. § 124D.09, subd. 9)

Students may receive secondary or postsecondary credit for successfully completing a PSEO or concurrent enrollment course. All Minnesota State institutions must give full credit to a high school student who completes postsecondary credit at a Minnesota State institution and enrolls in a Minnesota State institution after graduating. (Minn. Stat. §§ 124D.09, subd. 12; 135A.101, subd. 3)

Concurrent Enrollment

Eligible students in 10th, 11th, or 12th grade may enroll in a nonsectarian course taught by a qualified secondary school teacher or a postsecondary faculty member that is offered at a secondary school or another location under an agreement between a public school board and a public or private postsecondary institution. (Minn. Stat. § 124D.09, subd. 10) Students in 9th and 10th grade may apply to enroll in a world language course currently available to the 11th and 12th grade students or in a concurrent enrollment course under an agreement between the district and the postsecondary institution. (Minn. Stat. § 124D.09, subd. 5b)

Advanced Placement, International Baccalaureate, and College-Level Exam Programs

Students are eligible to receive Minnesota State college credit for earning a satisfactory score on a College-level Exam Program (CLEP) exam, a score of three or higher on an Advanced Placement (AP) exam, or a score of four or higher on an International Baccalaureate (IB) exam. (Minn. Stat. §§ 120B.13; 120B.131)

Graduation Incentives Program

Eligible at-risk students who have experienced or are experiencing difficulty in the traditional education system may enroll in a state-approved alternative program. (Minn. Stat. § 124D.68)

Area Learning Centers

Students 16 years or older who are eligible to participate in the graduation incentives program or receive special education services may attend or be assigned to an area learning center (ALC) or alternative learning program to receive academic instruction leading to a high school diploma. (Minn. Stat. §§ 120A.22, subd. 5, para. (c); 123A.05 to 123A.09)

Adult Basic Education

Students over age 17 who are not enrolled in school and students ages 19 to 21 who have not yet graduated from a Minnesota high school and, but for their age, are eligible to participate in an adult basic education (ABE) program may enroll in a day or evening ABE program to earn a high school diploma, an equivalency certificate, or a standard adult high school diploma. (Minn. Stat. §§ 120B.02, subd. 2, para. (b); 124D.52)

Online Learning

A student may enroll in digital instruction either at the student's enrolling district, or by enrolling in a course offered by another district or charter school. An enrolling district may provide its students digital instruction, including instruction that combines in-person and online instruction. (Minn. Stat. § 124D.094, subd. 2) The enrolling district may not stop a student from applying to take online courses offered by other districts but may find that the online course does not meet the enrolling district's graduation requirements. (Minn. Stat. § 124D.094, subd. 4) A student may apply to take an online course offered by another district after submitting an application for the proposed online course. (Minn. Stat. § 124D.094, subd. 3)

Shared Time Programs

Students in regular and special education programs may fulfill state compulsory attendance requirements by attending public school programs for part of the regular school day and nonpublic school programs for the remainder of the school day. (Minn. Stat. §§ 126C.01, subd. 8; 126C.19; 125A.18)

Charter Schools

Students may attend charter schools, which are public schools independently operated by teachers, parents, and community members. (Minn. Stat. ch. 124E) See *Charter Schools*, House Research Department, October 2023.

A charter school must not limit admission based on achievement, aptitude, or athletic ability. (Minn. Stat. § 124E.11) A charter school must be free to any eligible pupil who resides in the state and must give enrollment preference to a Minnesota resident over nonresidents. (Minn. Stat. § 124E.11, para. (c)) A charter school for deaf and hard-of-hearing students may enroll pre-kindergarten students with that disability, and may give enrollment preference to students who have a primary disability of deaf, deafblind, or hard-of-hearing. (Minn. Stat. §§ 124E.03, subd. 3; 124E.11, paras. (h) and (i))

All federal civil rights laws apply to charter schools and traditional schools equally. (Office for Civil Rights, U.S. Department of Education, “*Dear Colleague*” letter, May 14, 2014.) Some state requirements, including requirements relating to student discipline and academic standards, apply to charter schools in the same manner as school districts. (Minn. Stat. § 124E.03) A charter school must also comply with the Education for English Learners Act as if it were a district. (Minn. Stat. § 124E.03 subd. 9)

Homeschools

Students may attend a homeschool where parent educators provide instruction in required subject areas and periodically report student achievement and other information to the district superintendent. (Minn. Stat. §§ 120A.22, subds. 10, 11; 120A.24)

Single-Sex Education

Federal Title IX regulations allow public and private coeducational elementary and secondary schools to offer single-sex classes and extracurricular activities under certain circumstances, and allow school districts to operate single-sex schools if student enrollment is voluntary and other conditions are met. Vocational schools that receive federal funds may not offer single-sex programs. (Title IX of the Education Amendments of 1972)

Particular District Schools

Attending a particular public school is a privilege and not a right for a student. (Minn. Stat. § 120A.36)

State Graduation, Statewide Testing, and K-12 Curriculum Requirements

Graduation Requirements

State law requires students to complete credit requirements and meet state academic standards in order to graduate from high school. A school district must adopt graduation requirements that meet or exceed state requirements. (Minn. Stat. § 120B.02, subd. 2)

Students must complete the following high school credit requirements:

- four language arts credits
- three math credits
- three science credits
- three and a half social studies credits
- one arts credit
- enough credits to satisfy physical education standards
- at least seven elective credits

Students may use a career and technical education course to fulfill a science, math, or arts credit requirement; an agriculture science course to fulfill a science credit requirement; a

computer science credit to fulfill a math credit; a Project Lead the Way credit to fulfill a science or math credit requirement; and an ethnic studies course to fulfill a social studies, language arts, arts, math, or science credit. (Minn. Stat. § 120B.024, subds. 1 and 2, paras. (b), (c), (e), (f), and (g)) Districts decide whether students meet course credit requirements by successfully completing an academic year of study or by demonstrating mastery of the applicable subject matter. (Minn. Stat. § 120B.018, subd. 4)

K-12 Academic Standards

The Department of Education adopts state standards in language arts, math, science, social studies, physical education, and the arts. The department reviews and revises the state standards on a ten-year cycle. School districts must adopt their own health standards. (Minn. Stat. § 120B.021) Districts must also adopt and review elective standards in career and technical education, and world languages. (Minn. Stat. § 120B.022)

Required Areas of Instruction

All children, including children in homeschools or other nonpublic schools, must receive instruction in:

- basic communication skills including reading and writing, literature, and fine arts;
- math and science;
- social studies including history, geography, economics, government, and citizenship; and
- health and physical education.

(Minn. Stat. § 120A.22, subd. 9)

Statewide Testing Requirements

Federal and state law requires statewide assessments; in Minnesota, these tests are known as the Minnesota Comprehensive Assessments (MCAs). States must test students annually in reading and math in grades 3 through 8 and in high school, and in science in specific grade bands. In Minnesota, students take the science assessments in grades 6, 8, and once in high school. (Elementary and Secondary Education Act, 20 U.S.C. ch. 70; Minn. Stat. § 120B.302) School districts may administer additional districtwide or schoolwide assessments, up to ten hours per school year for students in grades one through six, and up to 11 hours for students in grades seven through 12. (Minn. Stat. § 120B.306)

Nationally Recognized College Entrance Exam

Students are encouraged to take a nationally recognized college entrance exam. Districts must pay exam fees for students in grade 11 or 12 who qualify for free or reduced-price meals one time, to the extent funding is available for this purpose. (Minn. Stat. § 120B.30, subd. 16)

English Language Proficiency

English learners take the ACCESS, an assessment used to measure English learners' progress toward meeting Minnesota standards for English language development. English learners who

receive special education services and meet participation guidelines may take the Alternative ACCESS for ELLs.

No Required Score or Level of Proficiency

Students are not required to achieve a specified score or level of proficiency on statewide assessments in order to graduate from high school. All students receive individual student reports on the student's performance. The reports indicate whether the student does not meet, partially meets, meets, or exceeds, the state standards. A student who receives a college-ready ACT or SAT score or meets a career and college-ready Minnesota Comprehensive Assessment benchmark is not required to take a remedial, noncredit course at a Minnesota State institution in that subject area. (Minn. Stat. § 136F.302)

Circumstances for Not Participating in Testing

The Minnesota Department of Education must list the circumstances under which a student may be unable to take a required statewide test without being penalized. (Minn. Stat. § 120B.30, subd. 10) The department must also publish a form that notifies parents of their right not to have their child participate in required assessments, and asks parents the basis for the decision. (Minn. Stat. § 120B.31, subd. 4a) Students who do not take a required statewide test are counted as nonproficient for purposes of reporting student performance.

Career and College Readiness Assessments

The Department of Education, in consultation with Minnesota State, must establish benchmarks on the high school assessments that show a path toward career and college readiness. (Minn. Stat. § 120B.305, subd. 2)

Alternative Assessment for Students With Disabilities

Students with an individualized education program (IEP) may take the Minnesota Test of Academic Skills (MTAS), an alternative assessment to the MCA. (Minn. Stat. § 120B.30, subd. 9)

Adult Basic Education Students

Adult basic education students must be given diagnostic information about the targeted interventions they need to seek postsecondary education or employment without need for postsecondary remediation. (Minn. Stat. § 120B.307, subd. 3)

Health-related Education

School districts must develop and implement a program targeted to adolescents to prevent and reduce the risk of sexually transmitted infections and diseases. (Minn. Stat. § 121A.23, subd. 1)

Physical Education

Students must satisfactorily complete statewide physical education standards. (Minn. Stat. § 120B.021, subd. 1, para. (c))

CPR Instruction

Students must receive onetime CPR and automatic external defibrillator instruction as part of the grade 7 to 12 curriculum. (Minn. Stat. § 120B.236)

Early Graduation

A high school student who completes all required courses and meets all required standards may graduate early if the student, the student's parent, and school officials approve. (Minn. Stat. § 120B.07)

Review of Instructional Materials

A school district must adopt a procedure for parents and adult students to review instructional materials given to students. School personnel must make reasonable arrangements for alternative instruction if a parent or adult student objects to the content of the materials. Parents and adult students may provide alternative instruction if the school board fails to satisfy their concerns, but may not receive payment for their costs. School personnel may evaluate the quality of a student's work, but must not penalize the student merely because the student arranges alternative instruction. (Minn. Stat. § 120B.20)

Bilingual and Multilingual Certificates and Seals

School districts, charter schools, and nonpublic schools may award bilingual and multilingual certificates and seals to K-12 students who demonstrate a requisite level of proficiency in languages other than English, including American Sign Language and indigenous languages. Students who are eligible to receive a state seal may also receive elective world language credits, community services credits, and college foreign language credits. (Minn. Stat. § 120B.022, subd. 1b; Laws 2014, ch. 272, art. 1, § 42)

Discipline, Harassment and Bullying, Violence in Schools, and Bus Privileges

Corporal Punishment and Reasonable Force

A teacher, principal, school employee, school bus driver, or district agent may use reasonable force in certain circumstances. A school official who uses reasonable force within the exercise of lawful authority has a defense against criminal prosecution and civil liability. (Minn. Stat. §§ 121A.582; 609.06, subd. 1, cl. (6); 123B.25, para. (c))

School employees or agents may not use corporal punishment to discipline a child. (Minn. Stat. § 121A.58) Corporal punishment means hitting or spanking a person with or without an object, or using unreasonable physical force that causes bodily harm or substantial emotional harm.

Dismissal Generally

Dismissals from public school are generally governed by the Pupil Fair Dismissal Act. (Minn. Stat. §§ 121A.40 to 121A.56) A dismissal is the denial of the current educational program to any pupil

and includes an exclusion, expulsion, and suspension. (Minn. Stat. § 121A.41, subd. 2) The compulsory attendance law does not apply to regular education students during a dismissal. (Minn. Stat. § 121A.52)

State law also limits the use of pupil withdrawal agreements, which are written or verbal agreements between a school and a student's parents to withdraw the student from the district to avoid expulsion or exclusion dismissal proceedings. These agreements may last no longer than 12 months. (Minn. Stat. § 121A.41, subd. 13)

Schools must attempt nonexclusionary discipline before dismissing a student or entering into a pupil withdrawal agreement unless the student creates an immediate and substantial danger to self or to surrounding persons or property. (Minn. Stat. § 121A.45, subd. 1) Nonexclusionary discipline includes social and emotional services, school-linked mental health services, counseling services, and other interventions and services. (Minn. Stat. § 121A.41, subd. 12)

A school may dismiss a student for willful violation of reasonable, clearly defined school board regulations, significant disruptive conduct, or endangering persons or property. (Minn. Stat. § 121A.45, subd. 2) A "willful violation" occurs when the student is aware of a school policy and makes a deliberate, intentional decision to violate the policy. *In the Matter of the Expulsion of A.D. from United South Central Pub. Sch. No. 2134*, 883 N.W.2d 251 (Minn. 2016).

A public school student is entitled to due process and equal protection guarantees when facing dismissal proceedings. Possible outcomes of a dismissal proceeding include exclusion, expulsion, or suspension. (Minn. Stat. § 121A.42) A school must have a discipline complaint procedure for anyone in the community that wishes to file a complaint about the application of discipline policies and seek corrective action. (Minn. Stat. § 121A.61, subs. 1 and 4)

A school's discipline policy must include nonexclusionary discipline, emphasize preventing dismissals through early detection of policies, and be designed to address students' inappropriate behavior. School policies must also recognize the district's continuing responsibility for the education of the student during the dismissal period. (Minn. Stat. § 121A.55)

Preschool and Prekindergarten Students

A student in a public school-based preschool or prekindergarten program, or kindergarten through grade 3 may be dismissed only after the school has used nonexclusionary discipline and only if there is an ongoing safety threat to the child or others. This prohibition on dismissal does not apply to a dismissal for less than one school day, except as provided under laws governing students with disabilities. (Minn. Stat. § 121A.425)

Suspension

A student is suspended when the school administration prohibits a student from attending school for no more than ten days. A dismissal that lasts one day or less is not a suspension, except as provided in federal law for a student with a disability. (Minn. Stat. § 121A.41, subd. 10)

The U.S. Supreme Court declared that suspending a student from a public school requires procedural due process, including written or oral notice of the charges, an explanation of the evidence the authorities have, and an opportunity for the student to present his or her side of the story. These requirements do not include the right to counsel, a right to confront and cross-examine witnesses, or a right to call the student's own witnesses. *Goss v. Lopez*, 419 U.S. 565, 95 S. Ct. 729 (1975).

Under Minnesota law, a student is entitled to notice and a meeting with an administrator who will notify the student of the grounds for the suspension. A district must also give a student written notice of the grounds and other information, and make reasonable efforts to notify the parents of the suspension as soon as possible. (Minn. Stat. § 121A.46) A school district may suspend a student for up to ten days, or 15 days if the student poses an immediate and substantial danger or the district is in the process of expelling the student.

A suspension may include a readmission plan. A readmission plan must include, where appropriate, a provision to implement alternative educational services upon readmission. (Minn. Stat. § 121A.41, subd. 10) A school must provide a student who is suspended for more than five consecutive school days with alternative education services. During a suspension, a student must have the opportunity to complete assigned school work and receive full credit for the assignment. (Minn. Stat. § 121A.46, subds. 4 and 6)

Expulsion and Exclusion

An expulsion prohibits an enrolled student from attending school for up to 12 months from the date of expulsion, while an exclusion prevents a student from enrolling in school during that school year. (Minn. Stat. § 121A.41, subds. 4 and 5) The school must notify the student of his or her right of reinstatement within ten days of the end of the dismissal period. (Minn. Stat. § 121A.54)

A school district may not impose an exclusion or expulsion without giving a student a notice of intent to take action, including a complete statement of facts and appeal procedures, and an opportunity for a hearing. (Minn. Stat. § 121A.47)

A school must prepare an admission or readmission plan for a student who is expelled or excluded. The plan must include measures to improve the student's behavior and reasonable attempts to obtain parental involvement in the admissions or readmissions process. While a student is enrolled in the district or is waiting to enroll in a new district, schools must ensure that students who are excluded, expelled, or subject to pupil withdrawal agreements are on track for readmission with the student's peers. (Minn. Stat. § 121A.47, subd. 14)

The readmission plan must not obligate a parent to provide Ritalin or other similar medication to a child as a condition of readmission unless a health or safety emergency applies. (Minn. Stat. § 125A.091, subd. 5; 260A.01, para. (b))

Recess Detention

Public schools may use recess detention in limited circumstances. Recess detention means excluding or excessively delaying a student from participating in a scheduled recess period as a punishment. It may be used only if a student causes or is likely to cause serious physical harm to other students and staff, the student's parent consented to it, or for students receiving special education services, the student's individualized education program team determined it is appropriate. Schools also may not withhold recess from a student based on incomplete homework, or withhold or excessively delay a student's participation in scheduled mealtimes. (Minn. Stat. § 121A.611)

Firearms in School

A school board must expel for one year any student who brings a firearm to school. The board may modify this expulsion requirement on a case-by-case basis. (Minn. Stat. § 121A.44) A school official must refer to the criminal justice or juvenile delinquency system any pupil who unlawfully brings a firearm to school. (Minn. Stat. §§ 121A.05; 609.66, subd. 1d)

Removal from Class or School

A student is removed from class when a teacher, principal, or other school district employee prohibits the student from attending a class or other activity period for up to five days. (Minn. Stat. § 121A.61, subd. 3, para. (e)) A district must adopt a policy stating the grounds and procedures for removal from class. (Minn. Stat. § 121A.61, subd. 1)

If a student willfully engages in disruptive, dangerous, or unsanctioned conduct, a school official may remove the student from class. A student who engages in assault or violent behavior must be removed from class immediately. (Minn. Stat. § 121A.61, subs. 2 and 3)

Removal from class is not considered a dismissal under the Pupil Fair Dismissal Act. (Minn. Stat. §§ 121A.41, subd. 2; 121A.60; 121A.61) School officials must meet with the parent of a student who has been removed from school more than ten times in one school year to determine the student's need for assessment or other services or whether the student should be assessed for a mental health disorder. (Minn. Stat. § 121A.45, subd. 3)

Physical Holding or Seclusion

School employees or agents may not use prone restraints or use certain physical holds on students. (Minn. Stat. § 121A.58) Trained school staff may use physical holding or seclusion to restrain a student with a disability only in an emergency. (Minn. Stat. §§ 125A.0941; 125A.0942, subd. 3)

Discipline off School Grounds

A school district may impose reasonable discipline on a student for misconduct on a bus, in a school parking lot, on a field trip, or at an extracurricular activity if the misconduct is a continuation of or has a connection with improper conduct that occurred on school grounds, or affects school discipline or the general safety and welfare of the students. *In re Expulsion of Z.K.*

and S.K., 695 N.W.2d 656 (Minn. App. 2005) (citing *In re Expulsion of J.M. MDCFL* (Feb. 18, 1997)) (two students lured a third student away from the school and shot the student with a BB gun).

Tennessee Warning

The government must give individuals notice when collecting private or confidential information from them. This is called a Tennessee warning notice. A school official must give a student a Tennessee warning when asking the student for private or confidential information as part of a disciplinary investigation. Failing to give the warning prevents school officials from using that information to discipline the student, although the student can still be disciplined. (Minn. Stat. §§ 13.04, subd. 2; 13.05, subd. 4)

Student Disciplinary Records

A school must include disciplinary information when transmitting the education records of a student transferring to another school and must notify the student and the student's parent that it is transmitting the student's disciplinary records. (Minn. Stat. § 120A.22, subd. 7, para. (c); 34 C.F.R. § 99.34)

Revocation of Bus Riding Privileges

A district may revoke the bus riding privileges of any student who violates the district's school bus safety or student conduct policy. This is not considered an exclusion, expulsion, or suspension under the Pupil Fair Dismissal Act. (Minn. Stat. § 121A.59)

Sexual Harassment in Schools Prohibited

Sexual harassment is a form of sex discrimination, and is prohibited by state and federal law. Educational sexual harassment is unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature that (1) is a term or condition of receiving education, (2) is used as a factor in decisions affecting a person's education, or (3) has the purpose or effect of substantially interfering with a person's education. Educational sexual harassment can occur when school district employees, independent contractors, visitors to the school, or volunteers sexually harass students or when students sexually harass other students. (Minn. Stat. §§ 363A.03, subd. 43; 363A.13, subd. 1; Title IX of the Education Amendments of 1972)

Victims' Remedies

Under the U.S. Supreme Court decision in *Franklin v. Gwinnet County Pub. Sch.*, 503 U.S. 60, 112 S. Ct. 1028 (1992), private individuals have the right to file lawsuits under Title IX of the Education Amendments of 1972 claiming they have been victims of sex discrimination in school. Courts may award monetary damages as a remedy.

A student may not recover money damages for teacher-student sexual harassment unless a school district official with authority to institute corrective measures has actual notice of, and is

deliberately indifferent to, the teacher's misconduct. *Gebser v. Lago Vista Indep. Sch. Dist.*, 524 U.S. 274, 118 S. Ct. 1989 (1998).

A school district was liable for failing to protect a student from years of bullying, including verbal, physical, and sexual harassment. *Patterson v. Hudson Area Sch.*, 551 F.3d 438 (6th Cir. 2009), cert. denied, 558 U.S. 880, 130 S. Ct. 299 (2009).

Student-on-Student Harassment

A student may recover money for student-on-student harassment if (1) school officials are deliberately indifferent to sexual harassment, (2) school officials have actual knowledge of the student-on-student harassment, and (3) the harassment is so severe, pervasive, and objectively offensive that it denies the harassed student access to educational opportunities or benefits provided by the school. *Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629, 119 S. Ct. 1661 (1999).

Student Bullying

Public schools, including charter schools, must have a comprehensive student bullying policy. Student-on-student bullying is prohibited at school, at school functions and activities, and on school transportation, and covers students' use of electronic technology and communications at school, and elsewhere if such use materially and substantially disrupts student learning or the school environment. The law does not apply to homeschool and nonpublic school students unless the students voluntarily participate in public school activities, where they are subject to the same bullying policy as public school students participating in the activity. (Minn. Stat. § 121A.031) See *Minnesota Student Bullying Law*, House Research Department, November 2023.

Malicious and Sadistic Conduct

Public schools must adopt written policies to address malicious and sadistic conduct and sexual exploitation. "Malicious and sadistic conduct" means creating a hostile learning environment by acting with the intent to cause harm by intentionally injuring another without just cause or reason or engaging in extreme or excessive cruelty or delighting in cruelty. The policy must prohibit sexual exploitation, and malicious and sadistic conduct involving race, color, creed, national origin, sex, age, marital status, status with regard to public assistance, disability, religion, sexual harassment, and sexual orientation and gender identity. The policy must apply to students, independent contractors, teachers, administrators, and other school personnel. (Minn. Stat. § 121A.0312)

Student Hazing

Each school board must adopt a written hazing policy that applies to student behavior on and off school property and during and after school hours and includes reporting procedures and disciplinary consequences. (Minn. Stat. § 121A.69, subd. 3)

Possession of Dangerous Weapons on School Property

It is unlawful for any person to possess, store, keep, use, or brandish a dangerous weapon, a replica firearm, or a BB gun on elementary, middle, or secondary school property or on a school bus while students are being transported. The offense is punishable by either gross misdemeanor or felony penalties depending on the type of weapon and activity involved and whether the person is knowingly on school property. The law exempts certain activities from its scope, such as firearm safety courses and the possession of a weapon with the permission of the school principal. (Minn. Stat. § 609.66, subd. 1d)

Reports of Dangerous Weapon Incidents on School Property

The Commissioner of Education must provide an electronic format for schools to report aggregate data on dangerous weapon incidents occurring on school property, the area surrounding school property, and in school buses while students are being transported. The form must include certain specified information about the incident, including the offender and victim involved in the incident, the cost of the incident to the school and the victim, and the school's response to the incident. The commissioner must compile and forward the information annually to the legislature and the public safety commissioner. (Minn. Stat. § 121A.06)

Use of Force Against School Officials

It is a gross misdemeanor to assault and inflict demonstrable bodily harm on a school official while the official is performing official duties. A similar assault against a nonschool official would be a misdemeanor-level offense. "School official" means a teacher, administrator, or other employee of a public or private school. (Minn. Stat. § 609.2231, subd. 5)

Violence Prevention Education Programs

Minnesota law encourages all school districts to integrate a violence prevention program into their existing K-12 curricula. The law also directs the Commissioner of Education to assist school districts, on request, in developing and implementing such programs. (Minn. Stat. § 120B.22)

Notice of Violent Students

Teachers must be notified before a student with a history of violent behavior is placed in the teacher's classroom. Violent behavior includes documented physical assault of a district employee by a student. (Minn. Stat. § 121A.64) A probation officer must notify the school principal if a student/juvenile is adjudicated delinquent for acts committed on school property, acts that would be criminal acts if committed by an adult, or acts that involve the possession or use of a dangerous weapon. (Minn. Stat. § 260B.171, subd. 3)

Crisis Management; School Safety and Active Shooter Drills

School districts and charter schools must have a crisis management policy to address potential violent situations. (Minn. Stat. § 121A.035)

Public and private schools must have at least five school lockdown drills, five school fire drills, and one tornado drill. (Minn. Stat. §§ 121A.035; 121A.037)

Schools may require students to participate in active shooter drills that meet certain requirements, but may not require them to participate in active shooter simulations. Active shooter drills are designed to teach students, teachers, school personnel, and staff how to respond in the event of an armed intruder on campus or an armed assailant in the immediate vicinity of the school. These drills must be accessible, developmentally appropriate and age appropriate, culturally aware, trauma-informed, and inclusive of students with disabilities and mobility restrictions. Schools must provide notice of a pending active shooter drill to parents before the drill is conducted. An active shooter simulation is an emergency exercise designed to teach adult school staff how to respond in the event of an armed intruder on campus or an armed assailant in the immediate vicinity of the school. (Minn. Stat. §§ 121A.038)

A public school that conducts an active shooter drill must provide students in middle and high school at least one hour, or one standard class period, of violence prevention training annually. (Minn. Stat. § 121A.038, subd. 7) This training must teach students (1) how to observe warning signs and signals of someone who could cause harm, (2) to take threats seriously and seek help, and (3) the steps to report this type of activity. (Minn. Stat. § 121A.038, subd. 7)

Controlled Substances, Medications, and Health

Tobacco and Electronic Cigarettes

No one may smoke or use tobacco or carry or use an activated electronic cigarette (also called an electronic delivery device) in a public school or charter school. The prohibition extends to all school facilities that a district owns, rents, or leases and all district vehicles. An exception exists for an adult member of an Indian tribe who lights tobacco as part of a traditional Indian ceremony. (Minn. Stat. § 144.4165) In addition, an American Indian student may carry a medicine pouch containing loose tobacco intended as an observance of traditional spiritual or cultural practices.

Asthma Inhalers

An asthmatic student may possess and use an asthma inhaler in school after demonstrating that the student can do so safely. (Minn. Stat. § 121A.221)

EpiPens

A student who is prescribed epinephrine auto-injectors for severe allergic reactions may possess or have immediate access to an EpiPen during the school day. (Minn. Stat. § 121A.2205)

Districts and schools may keep a supply of undesignated epinephrine. (Minn. Stat. § 121A.2207)

Nonprescription Pain Relievers in School

A secondary student may possess and use nonprescription pain relievers in school with a parent's written permission. (Minn. Stat. § 121A.222)

Sunscreen

A student may possess and apply topical sunscreen during the school day, while on school property, or at a school-sponsored event without a prescription. (Minn. Stat. § 121A.223)

Medical Cannabis

State laws authorizing the use and possession of medical cannabis do not allow smoking or vaping on a school bus or van or on the grounds of any preschool, primary school, or secondary school, and do not require any preschool, primary school, or secondary school to allow the use or possession of any other form of medical cannabis on school grounds. (Minn. Stat. §§ 152.23; 342.09, subd. 1)

Menstrual Products

Public schools must provide students with access to menstrual products at no charge. Schools must have a plan to make the products available in restrooms regularly used by students in grades 4 to 12. (Minn. Stat. § 121A.212)

Opiate Antagonists

Each public school building must have two doses of nasal naloxone, an opiate antagonist, available on-site. (Minn. Stat. § 121A.224) All school nurses and school personnel may administer naloxone in a school setting. (Minn. Stat. § 151.37, subd. 12)

Children with Disabilities

Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act of 1973

A child may be eligible for special education services under the federal IDEA, which relies upon procedural safeguards to ensure appropriate educational services, or under Section 504, a federal law that bars discrimination on the basis of disability in federally funded programs. IDEA provides federal funding to states and school districts for expenses incurred in providing special education and related services to those children with disabilities covered by the act. To be eligible for this funding, states must provide a “free appropriate public education” (FAPE) for all children with certain disabilities. Section 504 of the Rehabilitation Act is a broader, less prescriptive civil rights statute that covers some children with disabilities not served under IDEA who have a physical or mental impairment that substantially limits one or more major life activities. All districts must identify, locate, and evaluate all children with disabilities. This “child find” mandate applies to public and private school children, highly mobile children, migrant children, homeless children, and children who are wards of the state. (20 U.S.C. § 1412 (a)(3)) Federal law requires school districts to provide educational services to all children regardless of the severity of their handicap. *Timothy W. v. Rochester, N.H. Sch. Dist.*, 875 F.2d 954 (1st Cir. 1989), cert. denied, 493 U.S. 983, 110 S. Ct. 519 (1989).

Availability of Services and Procedural Requirements under State Law

Each school district must provide appropriate nondiscriminatory instruction and services for children with disabilities from birth through age 22 or until the child completes secondary school, whichever comes first. (Minn. Stat. § 125A.03) Students with disabilities who complete secondary school or its equivalent must be granted a high school diploma. (Minn. Stat. § 125A.04)

State and federal law guarantees procedural safeguards and parental participation in the assessment and educational placement of children with disabilities. (Minn. Stat. § 125A.08, para. (b), cl. (3); 34 C.F.R. part 300) To receive such services, a child must be found (1) eligible for special education services according to statewide eligibility criteria, and (2) in need of such services. (Minn. Stat. § 125A.02; 34 C.F.R. § 300.8) If school district personnel find that a child meets the eligibility criteria and is in need of special education services, a team that includes the child's parents and appropriately trained school personnel will, after a comprehensive evaluation, develop an Individualized Education Program (IEP) that contains, among other things, annual educational goals for the child. Each district, at the beginning of each school year, must have in effect an IEP for each child with a disability. The child's IEP team may authorize certain Medical Assistance services for the child. (Minn. Stat. §§ 125A.03; 125A.08; 256B.0625, subd. 26; 34 C.F.R. § 300.704(c)(8))

Level of Service

The IDEA requires that a special education student receive a free appropriate public education (FAPE), as enunciated in *Board of Education v. Rowley*, 458 U.S. 176, 102 S. Ct. 3034 (1982), (requiring that an IEP be reasonably calculated to enable the child to receive educational benefits). The 8th Circuit Court of Appeals has ruled that the IDEA requires only that children benefit from an education, allows educators to determine appropriate teaching methods, and does not require specific results. *Minnetonka Pub. Schs., Indep. Dist. No. 276 v. M.L.K.*, 42 F.4th 847 (8th Cir. 2022); *E.S. v. Indep. Sch. Dist. No. 196*, 135 F.3d 566 (8th Cir. 1998).

A FAPE means special education and related services that:

- 1) are provided at public expense, under public supervision and direction, and without charge;
- 2) meet the standards of the state, including the requirements of the IDEA, Part B or C;
- 3) include an appropriate preschool, elementary, or secondary school education; and
- 4) are provided to children ages three through 21 in conformity with an individualized education program that meets the requirements of the IDEA, subpart A, sections 300.320 to 300.324, and provided to infants and toddlers in conformity with an individualized family service plan that meets the requirements of the IDEA, subpart A, sections 303.300 to 303.346.

(Minn. Stat. § 125A.03)

Related Services

A district must provide children with related services, which encompass supportive services that “may be required to assist a child with a disability to benefit from special education.” (20 U.S.C. § 1401 (26)) Services provided by a physician (other than for diagnostic and evaluation purposes) are subject to the medical services exclusion, but services that can be provided by a nurse or qualified layperson are not. *Cedar Rapids Cmty. Sch. Dist. v. Garret F.*, 526 U.S. 66, 119 S. Ct. 992 (1999); *Irving Indep. Sch. Dist. v. Tatro*, 468 U.S. 883, 104 S. Ct. 3371 (1984). A school district may be obligated to pay for a residential treatment setting as a related service in order to ensure that an emotionally disturbed child receives the educational benefit to which the child is entitled under the IDEA. *Wayzata Indep. Sch. Dist. No. 284 v. A.C.* 258 F.3d 769 (8th Cir. 2001).

Early Childhood Choice

A parent of a child with a disability not yet enrolled in kindergarten and not open-enrolled in another district may receive early childhood special education services from a school in the nonresident district where the child is enrolled in a Head Start program or a licensed child care setting if certain conditions are met. (Minn. Stat. § 125A.13, para. (b))

Early Intervention

Academic and behavioral interventions in general education are available to help students at academic or behavioral risk and to prevent inappropriate referrals to special education. A K-12 student identified as being unable to read at grade level must be provided reading interventions to accelerate student growth and reach the goal of reading at or above grade level by the end of the current grade and school year. Reading intervention programs must meet particular requirements. (Minn. Stat. §§ 120B.12; 125A.56)

Dyslexia

Students with dyslexia must meet state and federal eligibility criteria in order to qualify for special education services. (Minn. Stat. § 125A.01, subd. 2)

Children Not Yet Eligible for Special Education

In certain circumstances, children who are in the regular education program and have not been determined to need special education may still be covered by IDEA procedural protections relating to suspensions and expulsions. (34 C.F.R. § 300.534)

Alternative Dispute Resolution

Parents are encouraged to use alternative dispute resolution processes to resolve disputes related to educating a child with disabilities. (Minn. Stat. § 125A.091, subd. 6)

Participation in Statewide Assessments

Children with disabilities must be included in state- and district-wide assessment programs, with appropriate accommodations where necessary. Accommodations may include variations in the setting, timing, response, and scheduling that take into account a child's disabilities. (34 C.F.R. § 300.160) Some students with disabilities take alternative assessments.

Supplementary Services for Extracurricular Activities

School districts must provide supplementary aids and services to students with disabilities for extracurricular and nonacademic activities included in an IEP, regardless of whether the activity is required for the student's education. *Indep. Sch. Dist. No. 12, Centennial v. Minnesota Dept. of Educ.*, 788 N.W.2d 907 (Minn. 2010). See also Section 504 of the federal Rehabilitation Act of 1973, 34 C.F.R § 104.37 (districts must offer qualified students with disabilities access to extracurricular athletic activities equal to that of students without disabilities).

Restrictive Procedures

"Restrictive procedures" is the use of physical holding or seclusion in an emergency. (Minn. Stat. § 125A.0941, para. (f)) Qualified and trained professionals may use restrictive procedures on a child with disabilities only in response to behavior that constitutes an emergency and only if the procedures are consistent with applicable statutory requirements governing the use of such procedures. (Minn. Stat. § 125A.0942, subd. 2)

Inclusion and Least Restrictive Environment (LRE)

Children with disabilities must be educated in the least restrictive environment to the maximum extent appropriate. (34 C.F.R. § 300.114) Criteria for determining whether the regular classroom is the LRE include the potential benefits to the child, potential disruption to the classroom, and the cost of aids and services. *Ogden v. Belton Sch. Dist. No. 124*, 40 F.4th 887 (8th Cir. 2022); *A.W. v. Northwest R-1 Sch. Dist.*, 813 F.2d 158 (8th Cir. 1987)

Suspension, Exclusion, and Expulsion

When a child with an IEP is suspended from school for misbehavior that is unrelated to the pupil's disabilities, the district must provide the child with special education and related services. A district must begin reviewing a child's IEP and the relationship between the child's disability and behavior and determine the appropriateness of the child's education plan before expelling or excluding the child. (Minn. Stat. § 121A.43)

The IDEA prohibits school districts from cutting off services to any child with a disability for disciplinary reasons. This requirement applies to children with disabilities excluded from school for more than ten days. A suspension of fewer than ten days is a removal from the current placement rather than a change of placement. (34 C.F.R. § 300.530)

The district must review the child's IEP when a child has been suspended for more than five consecutive school days of suspension or ten cumulative school days in the same school year. *Honig v. Doe*, 484 U.S. 305, 108 S. Ct. 592 (1988). (Minn. Stat. § 121A.43)

Firearms or Illegal Drugs in School and Alternative Placements

A district may unilaterally place a child with disabilities in an alternative setting for up to 45 days if the child carries a weapon to school or a school function; uses, possesses, sells, or solicits illegal drugs at school or a school function; or inflicts serious bodily injury on another person at school or on school premises. In addition, a court may order a change of placement. (Minn. Stat. §§ 121A.43; 121A.44; 34 C.F.R. § 300.530(g))

Education Records

A district may not limit the frequency with which a disabled child's parent or guardian inspects the child's education records. A district may charge a fee for reproducing the education records unless the fee impairs the ability of the parent or guardian to inspect or review the records. (Minn. Stat. § 13.32, subd. 10)

Sympathomimetic Medications

A parent, after consulting with professional providers, may agree or disagree to provide a child with sympathomimetic drugs (Ritalin or other similar drugs) unless a health or safety emergency applies. (Minn. Stat. §§ 125A.091, subd. 5, para. (b); 144.344)

Transfer of Parental Rights at Age of Majority

By federal law, when a student reaches age 18, the procedural rights for special education transfer to the student. (34 C.F.R. § 300.520)

Participation in Athletics and Title IX

State Discrimination Law and Opportunity to Use Ice Arenas

All educational institutions must provide equal opportunity for both sexes to participate in athletic programs. Depending upon the grade level, past circumstances, extent of interest, and the particular sport, sports programs may offer single-sex teams in some cases. (Minn. Stat. § 121A.04) Any school district that operates and maintains an ice arena must offer equal sports opportunities for male and female students to use the ice arena. (Minn. Stat. § 126C.45)

Federal Discrimination Law

Title IX of the Education Amendments of 1972, which prohibits sex discrimination in federally assisted interscholastic athletic programs, specifies what educational institutions must do to avoid losing federal funds. (20 U.S.C. § 1681) Factors used to determine whether equal athletic opportunities are available for members of both sexes include: accommodation of athletic interests and abilities of both sexes; equipment and supplies; schedule of game and practice time; coaching and academic tutoring opportunities; and locker rooms and other facilities. (34 C.F.R. § 106.41) Third-party school employees, including students' athletic coaches, who report gender discrimination on students' behalf, may have a private right of action under Title IX. *Jackson v. Birmingham Bd. of Educ.*, 544 U.S. 167, 125 S. Ct. 1497 (2005).

Title IX specifically prohibits discrimination based on pregnancy. (Office of Civil Rights, U.S. Department of Education, “Dear Colleague” letter, June 25, 2013.)

Districts may provide nonvocational voluntary single-sex classes or extracurricular activities under Title IX if the education is substantially related to an important governmental or educational objective. (34 C.F.R. § 106.34(b))

Transgender Students

The Minnesota Human Rights Act (MHRA) prohibits discrimination in the “full utilization of or benefit from any educational institution” on the basis of gender identity. (Minn. Stat. § 363A.13) The Minnesota Court of Appeals has held that the “full utilization” of schools includes use of school facilities, including locker rooms. In that case, a school district required a transgender student to use a different locker-room facility than the one used by students of the gender with which the student identified. The court allowed the student to sue the school district for violating the MHRA and the equal protection clause of the Minnesota Constitution. *N.H. v. Anoka-Hennepin Sch. Dist.*, 950 N.W.2d 553 (Minn. Ct. App. 2020).

Discrimination based on transgender status may also violate Title IX. Federal Courts of Appeals have disagreed on whether school policies that prohibit transgender students from using bathroom facilities consistent with their gender identity violate Title IX. *Adams v. School Bd. of St. Johns Cnty.*, 57 F.4th 791 (11th Cir. 2022) (restroom policy did not violate Title IX); *Grimm v. Gloucester Cnty. Sch. Bd.*, 972 F.3d 586 (4th Cir. 2020) (restroom policy violated Title IX). The U.S. Department of Education issued proposed regulations on Title IX’s application to discrimination based on gender identity and transgender students’ eligibility for athletic teams; as of December 2023, the regulations were not final.

Equal Protection Clause

Courts have applied the Equal Protection Clause of the Fourteenth Amendment to allow females to try out for male teams in contact and noncontact sports, but have not found a right for females to participate on male teams when there is a separate female team available. See, *Brendan v. Indep. Sch. Dist. 742*, 477 F.2d 1292 (8th Cir. 1973); *Leffel v. Wisconsin Interscholastic Athletic Ass’n.*, 444 F.Supp. 1117 (E.D. Wis. 1978); *O’Connor v. Bd. of Educ., Dist. #23*, 645 F.2d 578 (7th Cir. 1981).

Schools must show an “exceedingly persuasive” justification for treating males and females differently, meaning the differential treatment must serve important government objectives and the discriminatory means employed are substantially related to achieving those objectives. The Eighth Circuit has found that restricting participation on a dance team to girls only is unconstitutional. The all-girls team was intended to remedy the historic underrepresentation of girls in high school athletics, a problem that the court found no longer existed. *D.M. v. Minnesota High School League*, 917 F.3d 994 (8th Cir. 2019).

Right to Participate

Students generally have no claim of entitlement to participate in extracurricular activities. *Brown v. Wells*, 181 N.W.2d 708 (Minn. 1970). Participation in extracurricular activities is not a constitutionally protected property interest and is not of equal importance with the right to an education. Without a protected property interest, there are generally no due process requirements in dismissing a student from a team; however, some courts have said that the minimal due process standards in *Goss v. Lopez* must be met. *Palmer v. Merluzzi*, 868 F.2d 90 (3d Cir. 1989). A federal court in Minnesota found that although a student's interest in participating in interscholastic sports is a substantial and cognizable one, there is no clearly established right of parents to have their children compete in interscholastic events and that Minnesota law does not create a property right in eligibility for interscholastic varsity athletic competition. *A.K. v. Minnesota State High School League*, 2023 WL 5348866 (D. Minn. Aug. 21, 2023).

Athletic programs not offered for credit are not included in the statutory protections under the Pupil Fair Dismissal Act. (Minn. Stat. § 121A.56, subd. 2)

Minnesota State High School League (MSHSL) Activities

The Minnesota State High School League is a nonprofit corporation that is a voluntary association of high schools whose governing boards have delegated their control of extracurricular activities to the League. (Minn. Stat. § 128C.01, subd. 1) The League's bylaws and policies govern the extracurricular activities, covering issues such as student eligibility to participate, tournaments, and scheduling of contests. In 2022, the League adopted a policy that allows students to engage in commercial activities using their name, image, and likeness without losing their amateur status and eligibility to participate in League-sponsored activities. (MSHSL Board Policy, Name, Image & Likeness, June 7, 2022)

Any student in grades 7 to 12 who wishes to participate in a high school league-sponsored activity must be under 20 years old or 22 years old for students in an adapted athletics program, attend school regularly, and be fully enrolled in the school and attending schools and classes regularly. Homeschools need not become MSHSL members to participate in MSHSL events. (MSHSL Bylaws 101.00, 102.00, 104.00)

Ban on Recruiting Student Athletes

A state-sponsored high school athletic league may prohibit school officials and coaches from contacting prospective student athletes to recruit them for their athletic programs. *Tennessee Secondary Sch. Athletic Ass'n v. Brentwood Acad.*, 551 U.S. 291, 127 S. Ct. 2489 (2007).

Transfer Students

A transfer student is eligible for varsity competition if the student withdraws from the previous school in good standing and: (1) the student enrolls in 9th grade for the first time; (2) the student's parents move to a different district; (3) a court orders a change in a student's residence; (4) a student of divorced parents sharing joint custody moves once to reside with the

other parent; or (5) a student's parents move to Minnesota for the first time. (MSHSL Bylaws 111.00) The student's school initially determines eligibility and the student may appeal under the high school league's fair hearing procedures.

A student with an IEP or Section 504 plan who seeks to transfer between schools to overcome barriers to academic success is eligible to participate at the new school. Special rules also apply for a student who enrolls in or is readmitted to a recovery-focused high school after successfully completing a program to treat alcohol or substance abuse, mental illness, or emotional disturbance. (Minn. Stat. § 128C.02, subd. 5)

Homeschool Students

School districts must provide resident homeschool students with an equal opportunity to participate in the extracurricular activities of the district. (Minn. Stat. § 123B.49, subd. 4) All students participating in extracurricular activities must meet the same eligibility criteria. (MSHSL Bylaws 104.00)

Student Athlete Concussions

Among other requirements, a qualified health care provider must evaluate and grant written authorization before a student athlete who is diagnosed with or suspected of sustaining a concussion is allowed to return to play. (Minn. Stat. § 121A.38)

Public School Fee Law

Prohibited Fees

Public school education is free to all eligible students. School boards may not charge fees for necessary goods and services such as instructional materials and supplies, required library books, required school activities, lockers, graduation caps and gowns, and bus fees to students who live more than two miles from school. A school board may require payment of transportation services not required by law if guidelines are established to guarantee that no one is denied transportation based on inability to pay. (Minn. Stat. §§ 123B.35; 123B.36; 123B.37) See *Minnesota's Public School Fee Law*, House Research Department, July 2019.

Authorized Fees

School districts may require students to pay for certain school-related costs specified in statute, such as fees for school uniforms, extracurricular activities, security deposits, personal athletic equipment, supplementary field trips, musical instruments, driver education, and personal stationery supplies. A board may charge fees for books a student loses or destroys. School districts must charge the same admission fees for extracurricular activities to public school students and students attending a homeschool with five or fewer students. School districts must hold a public hearing before imposing a fee that is not authorized or prohibited by statute. (Minn. Stat. §§ 123B.36; 123B.38)

The U.S. Supreme Court ruled against a family's equal protection challenge to a North Dakota law allowing some school districts to charge a busing fee while providing students in other

districts with free transportation. *Kadmas v. Dickinson Pub. Sch.*, 487 U.S. 450, 108 S. Ct. 2481 (1988).

Withholding Grades or Diploma

A school district may not withhold the grades or diploma of a student who fails to pay student fees. (Minn. Stat. § 123B.37, subd. 2)

Access to Students' Education Records and Student Surveys

The two main laws that affect the privacy and disclosure of education records are the federal Family Educational Rights and Privacy Act ("FERPA") and its associated regulations (20 U.S.C. § 1232g; 34 CFR Part 99), and section 13.32 of the Minnesota Government Data Practices Act (Minn. Stat. § 13.32).

Limit on Disclosure

Schools must obtain written permission from a parent or a student over 18 before disclosing information in education records unless a statutory exception applies. For example, an outbreak of H1N1 in a school may constitute a "health and safety emergency" that would allow school officials to disclose personally identifiable information about students on a case-by-case basis, consistent with the circumstances of the threat to students' health. (20 U.S.C. § 1232g (b)(1) and (2); 34 CFR § 99.36; Minn. Stat. § 13.32, subd. 3) See *Federal and State Laws Governing Access to Student Records*, House Research Department, December 2015.

State law also restricts the disclosure of student data by a "technology provider," that is, an entity that contracts with a school to provide technological devices (e.g., laptops) for individual student use. (Minn. Stat. § 13.32, subd. 13)

Right to Inspect and Review

School districts annually must publish and distribute or post the procedures by which individuals may access a student's records. Parents and students have the right to inspect and review education records within ten working days. Schools are not required to provide copies of materials in education records unless parents or students cannot inspect the records personally. Schools may charge a fee for providing copies of education records and remote access to data. (34 C.F.R. § 99.10(a); Minn. Stat. §§ 13.03; 13.04; 13.32, subd. 1)

Right to Request That a School Correct Records

Parents and students have the right to request that a school correct education records they believe to be inaccurate or misleading. If a school refuses to change the records, parents and students have the right to a formal hearing. If the school still refuses to correct the records after the hearing, the parent or student may place written comments about the contested information in the records. (20 U.S.C. § 1232g (a)(2)) Parents and students may also challenge the accuracy of their educational records under the Minnesota Government Data Practices Act. (Minn. Stat. § 13.04, subd. 4.)

Access by Parents to Student Records

A minor student may request that a school deny the student's parents access to educational data about the student. If a school official reasonably concludes that disclosing the information to the parent or guardian could lead to physical or emotional harm to the minor, the official may withhold the data. (Minn. Stat. §§ 13.02, subd. 8; 13.32, subd. 2) Education data include the health services of a school nurse working in a public school setting. If the data concern certain medical, dental, mental, or other health services, the school official may release the data if failing to inform the parent would seriously jeopardize the minor's health. (Minn. Stat. §§ 144.341 to 144.347) Under state rule, school officials must not deny parents access to a student's education records unless the student is a full-time college student or is 18 years old. (Minn. Rules, part 1205.0500, subp. 4) The Family Education Rights and Privacy Act (FERPA) gives parents access to a student's college records if the student is a dependent for federal tax purposes. (34 CFR § 99.31(a)(8))

Student Transfers

School districts, charter schools, and nonpublic schools that receive public services or aid must transmit a transfer student's educational records within ten business days, upon request, to the school district, charter school, or nonpublic school enrolling the student. The district or school transmitting the records must include in the records information about formal disciplinary actions taken against the student and inform the student and the student's parents that the student's disciplinary records are being transferred. A principal must remove and destroy a probable cause notice included in a student's records if certain conditions are met. (Minn. Stat. § 120A.22, subd. 7)

Directory Information

Directory information is defined in federal privacy law (FERPA, 34 C.F.R. § 99.3) and refers to certain education data available to the public. Common examples of directory information include a student's name, participation in officially recognized activities and sports, and dates of attendance. In other states, a student's address and telephone number are frequently designated as directory information, but Minnesota law prohibits a school from making personal contact information publicly available in this way. Schools must tell parents and students that they have the right to refuse to let the school designate information about the student as directory information. (Minn. Stat. § 13.32, subd. 5) See *Access to Student Records*, House Research Department, December 2015.

Student Surveys

Districts must notify parents and students over 18 that their prior written consent is required before a student participates in a survey that concerns one or more of eight protected areas if the survey is partially or wholly federally funded. Other surveys require an annual notice to parents. (20 U.S.C. § 1232h; 34 C.F.R. Part 99)

Parents may opt their students out of surveys conducted to collect personal information on students. Districts and charter schools must not penalize students who opt out of participating in a survey. (Minn. Stat. § 121A.065)

Juvenile Justice System

School districts may disclose private educational data to appropriate juvenile justice authorities if: (1) the data concern the ability of the juvenile justice system to effectively serve the student before adjudication, and the authorities' written request for the data certifies that the data will not be disclosed without the parent's written consent except as authorized by law; or (2) the information about the behavior of the student who poses a risk of harm is reasonably necessary to protect the health or safety of the student or other individuals. The district must keep the request and a record of the release in the student's file. (Minn. Stat. § 13.32, subd. 3, paras. (i), (l))

Military Recruiters

Secondary schools must release to military recruiting officers the names, addresses, and home telephone numbers of 11th and 12th grade students within 60 days of receiving a request for the information unless parents or students refuse to consent to release the information. (Minn. Stat. § 13.32, subd. 5a)

Student Employee Criminal History Background Check

A school hiring authority may request a Bureau of Criminal Apprehension (BCA) criminal history background check on a person who seeks to work as a student employee. (Minn. Stat. § 123B.03, subd. 1, para. (c))

Welfare System

With the informed consent of a parent or legal guardian, and upon request to the chief administrative officer of the school, county personnel in the welfare system may access education data in order to coordinate services for a student or family. (Minn. Stat. § 13.32, subd. 12.)

Law Enforcement and Court Records on Students

Controlled Substances

A law enforcement agency must notify the chemical preassessment team in a school within two weeks of a drug incident in which the agency has probable cause to believe that an enrolled student committed a controlled substance crime. (Minn. Stat. § 121A.28)

Court Disposition Order

Principals receive the court disposition order on any public or private elementary or secondary school student who is adjudicated delinquent for (1) an act committed on school property, or

(2) an act that would be one of a list of specified felonies if committed by an adult. (Minn. Stat. § 121A.75, subd. 2)

The order must be kept in the student's record, may not be released outside the school district other than to another school district to which the student is transferring, and must be destroyed when the juvenile graduates or at the end of the school year after she or he turns 23, whichever is earlier. The school may obtain additional information from the probation officer with parental consent. (Minn. Stat. §§ 121A.75; 260B.171)

Law Enforcement Records

A law enforcement agency must notify the principal or chief administrative officer of a juvenile's school if there is probable cause to believe the juvenile has committed an offense, the victim is a student or staff member of the school, and notice is reasonably necessary to protect the victim. Notice is not required if it would jeopardize an investigation.

The court must keep and maintain records relating to the delinquent actions until the person turns 28. In a county where the county attorney operates a diversion program, a law enforcement agency or county attorney may provide information on participants or juveniles being considered as participants, to school officials and to public or private social service agencies participating in the program. (Minn. Stat. § 260B.171)

In-School Interviews

Law enforcement and child protective services personnel may need a warrant, court order, or parent consent to interview a student on school grounds about suspected child abuse. *Camreta v. Greene*, 563 U.S. 692, 131 S. Ct. 2020 (2011). Police must factor the age of the student they intend to question into their decision about giving Miranda warnings. *J.D.B. v. North Carolina*, 564 U.S. 261, 131 S. Ct. 2394 (2011).

Rights of Nonpublic School Students

Educational Materials and Student Support Services

School districts must provide all students not attending public schools, including those in homeschools, with textbooks, individualized instructional or cooperative learning materials, and standardized tests. All material must be secular in nature and cannot be used for religious instruction or worship. A district must provide the same health services to students of nonpublic schools as it provides to public school students. Public secondary schools must offer nonpublic secondary students guidance and counseling services. Allotments for nonpublic school costs must not exceed average expenditures for the same public school services. (Minn. Stat. §§ 123B.40 to 123B.48)

Public school teachers may provide Title I instructional services to eligible nonpublic school students on nonpublic school premises when the program contains adequate safeguards to prevent violating the First Amendment ban on establishing a state religion (Title I of the Elementary and Secondary Education Act provides federal financial assistance to state and local

education agencies to help at-risk students meet state academic requirements). *Agostini v. Felton*, 521 U.S. 203, 117 S. Ct. 1997 (1997).

A school district may provide an interpreter to a deaf student attending a parochial school without violating First Amendment limits on government support for religion. *Zobrest v. Catalina Foothills Sch. Dist.*, 509 U.S. 1, 113 S. Ct. 2462 (1993). The U.S. Supreme Court did not say whether the Individuals with Disabilities Education Act (IDEA) requires public schools to pay for such assistance.

Nonpublic schools may use federal funds for computer equipment and other instructional materials. *Mitchell v. Helms*, 530 U.S. 793, 120 S. Ct. 2530 (2000).

Children with Disabilities

A child with a disability may enroll in a nonpublic school when either the child's parents place the child there, or both the child's parents and the child's resident district agree to place the child in the nonpublic school. If the district agrees to place the child in a nonpublic school, the district pays the cost of the placement.

Under federal law, children with disabilities enrolled in nonpublic schools are not entitled to special education services. Minnesota law, however, does provide nonpublic school students a right to a free appropriate public education (FAPE). (Minn. Stat. § 125A.18) *Special Sch. Dist. No. 1, Minneapolis Pub. Schs. v. R.M.M.*, 861 F.3d 769 (8th Cir. 2017). A school district must provide services to nonpublic school students who are residents of the district and attend a nonpublic school located in the district. (Minn. Stat. § 125A.03, para. (a))

If the student's parents place the student in a nonpublic school, the district may provide special instruction and services at the nonpublic school building, a public school, or at a neutral site other than the nonpublic school. The school district determines where it will provide services on a student-by-student basis, consistent with federal law. (Minn. Stat. § 126C.19, subd. 4, para. (b)) Federal law may require that assistive technology be available in the child's home and other settings. *In re Compl. Decision File 21-010C and 1-031C*, 2022 WL 17135 (Minn. Ct. App. Jan. 3, 2022).

A parent may unilaterally place a child in a nonpublic school and seek tuition reimbursement from the school district. School districts may be required to reimburse parents for the cost of private special education services if the district fails to provide a FAPE and the private school placement is appropriate, regardless of whether the child previously received special education or related services through the public school. *Forest Grove Sch. Dist. v. T.A.*, 557 U.S. 230, 129 S. Ct. 2484 (2009).

Separate School District

Having the state create a separate school district to serve a religious enclave is tantamount to allocating political power on a religious criterion and violates the Establishment Clause of the First Amendment. *Bd. of Educ. of Kiryas Joel Village Sch. Dist. v. Grumet*, 512 U.S. 687, 114 S. Ct. 2481 (1994). However, opening a school primarily attended by religious students and granting

parents' request to forego using technology in the classroom is permitted where the school is open to all students, the curriculum is the same curriculum used in other schools, the district ordinarily grants parents' requests for an accommodation, and the decision to open the school is based on financial concerns. *Stark v. Indep. Sch. Dist. No. 640*, 123 F.3d 1068 (8th Cir. 1997).

Transportation

School districts are required to provide "equal transportation" for nonpublic school students within the district's boundaries to the same extent they are required to provide transportation for public school students. A district may provide transportation to a nonpublic school located in another district, but the nonpublic school must pay the cost of the transportation. A district and a nonpublic school may mutually agree to a transportation plan, which may provide for the nonpublic school to transport the nonpublic students and retain the applicable state transportation aid, or for the district to provide additional transportation services not required under statute. (Minn. Stat. §§ 123B.84; 123B.86)

Education Tax Deduction and Credit

A taxpayer may deduct up to \$1,625 for the costs of tuition, textbooks, transportation, and other education expenses, for each qualifying child in kindergarten to grade six and \$2,500 for each qualifying child in grades seven to 12. The costs of religious books and materials and the expenses of participating in extracurricular activities at nonpublic schools may not be deducted. (Minn. Stat. §§ 290.0132, subd. 4; 290.0674)

If the family's adjusted gross income is under \$70,000, a taxpayer may claim a credit of \$1,500 per qualifying child for 75 percent of all education expenses allowed under the deduction except nonpublic school tuition. The credit phases out for families with adjusted gross income over \$70,000, depending on the number of qualifying children. The income amounts are annually adjusted for inflation. (Minn. Stat. § 290.0674) See House Research Department *Minnesota's K-12 Education Subtraction and Credit*, October 2022.

Extracurricular Activities

School districts must charge public school students and homeschool students the same admission fees for extracurricular activities. (Minn. Stat. §§ 123B.36, subd. 1, para. (b), cl. (2); 123B.49, subd. 4)

Education Records

A nonpublic school that receives state aid must transmit the education records of a transferring student within ten business days, upon request, to the school enrolling the student. (Minn. Stat. § 120A.22, subd. 7, para. (a))

Health-Related Education

Nonpublic schools may participate in a district program to prevent and reduce the risk of sexually transmitted infections and diseases. (Minn. Stat. § 121A.23)

First Amendment Rights

Freedom of Speech

Students retain their First Amendment right to freedom of speech in school, but speech “materially disrupts classwork or involves substantial disorder or invasion of the rights of others” is not protected. *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 89 S. Ct. 733 (1969). In later Supreme Court cases, the Court found that school officials may discipline students for offensively lewd or indecent speech; speech at a school-sponsored event that promotes illegal drug use; and speech that others may reasonably view as being approved by the school, such as appearing in a school-sponsored newspaper. *Bethel Sch. Dist. No. 403 v. Fraser*, 478 U.S. 675, 106 S. Ct. 3159 (1986); *Morse v. Frederick*, 551 U.S. 393, 127 S. Ct. 2618 (2007); *Hazelwood Sch. Dist. v. Kuhlmeier*, 484 U.S. 260, 108 S. Ct. 562 (1988).

The Supreme Court’s most recent opinion on student speech under the First Amendment was issued in 2021. *Mahanoy Area Sch. Dist. v. B.L.*, 594 U.S. --, 141 S. Ct. 2038 (2021). In that case, a student challenged her suspension from an extracurricular activity based on her use of profanity in a social media post made off school grounds and outside of school hours. The Supreme Court ruled that while schools may regulate student speech that takes place off campus, in this case, the school violated the student’s First Amendment rights, and that the school’s interest in regulating the student’s speech was too weak to meet the *Tinker* standard. The Court recognized several types of off-campus behavior that may call for school regulation: serious or severe bullying or harassment targeting particular individuals; threats aimed at teachers or other students; failure to follow rules about lessons, writing papers, computer use, or participation in other online school activities; and breaches of school security devices. The Court did not announce a bright line test for determining what kinds of off-campus speech are protected by the First Amendment.

Pledge of Allegiance

All public school students must recite the pledge of allegiance at least once per week; a student may decline to participate in the recitation. A school board may annually vote to waive this requirement. (Minn. Stat. § 121A.11, subd. 3)

Postsecondary Enrollment Options Act

Students may earn high school and college credit through enrollment in a college-level course taught at a postsecondary institution by college faculty. The course must be nonsectarian and may be offered in person at the postsecondary institution’s campus or online. In 2023, the Minnesota Legislature amended the statute governing the Postsecondary Enrollment Options Act to prohibit participating postsecondary institutions from requiring a secondary student applying to enroll in a course to provide a faith statement, or base any part of the admissions decision on a student’s race, creed, ethnicity, disability, gender, or sexual orientation or religious beliefs or affiliations. (Minn. Stat. § 124D.09, subd. 3) A federal court has issued an injunction, prohibiting the change from being enforced while a lawsuit challenging the change proceeds.

Internet Access and Use

To regulate students' access to and use of the Internet, school districts must show that they have the authority to regulate students' Internet use and that district actions satisfy constitutional standards for free speech. See *Tinker*, 393 U.S. 503 (1969); *Fraser* 478 U.S. 675 (1986); *Hazelwood*, 484 U.S. 260 (1988).

Public schools that receive federal technology aid must adopt Internet safety policies that include using filters to protect children against obscene, pornographic, or harmful material. (Children's Internet Protection Act (CIPA) Pub. L. No. 106-554 (2000))

True Threat Speech

True threat speech is not protected by the First Amendment. A "true threat" is a "statement that a reasonable recipient would have interpreted as a serious expression of an intent to harm or cause injury to another." *Riehm v. Engelking*, 538 F.3d 952 (8th Cir. 2008) To determine what constitutes a true threat, school officials may consider, among other things, the listener's reaction to the threat, whether the threat was conditional, whether the speaker made the threat directly to the victim, whether the speaker had previously threatened the victim, and whether the recipient reasonably believed the speaker to be violent. In *Riehm*, the Eighth Circuit Court of Appeals ruled that a student essay describing a student's murder of a teacher and a suicide was a "true threat" and not protected speech. A student who sent an instant message on his home computer to a classmate on her home computer saying he was going to get a gun and kill certain students made a true threat. *D.J.M. v. Hannibal Pub. Sch. Dist. No. 60*, 647 F.3d 754 (8th Cir. 2011).

Prayer in the Schools

The U.S. Supreme Court declared that a district-sanctioned recitation of a nondenominational prayer at the beginning of each school day violated the First Amendment prohibition against establishment of religion. *Engel v. Vitale*, 370 U.S. 421, 82 S. Ct. 1261 (1962). The Court ruled that a law authorizing a short period for "voluntary or silent prayer" is also unconstitutional, but indicated that allowing a moment of silence probably would not violate the U.S. Constitution. *Wallace v. Jaffree*, 472 U.S. 38, 105 S. Ct. 2479 (1985). The Court held that an invocation and a benediction at public school graduation ceremonies violate the Establishment Clause. *Lee v. Weisman*, 505 U.S. 577, 112 S. Ct. 2649 (1992). The Court has also held that a school district could not suspend a football coach for praying at midfield after games without players, finding that the prayers were private speech and did not coerce students to pray. *Kennedy v. Bremerton*, 597 U.S. --, 142 S. Ct. 2407 (2022). The U.S. Department of Education has issued guidance on prayer and religious expression in schools. (U.S. Dep't of Educ., "Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools," May 15, 2023, available at https://www2.ed.gov/policy/gen/guid/religionandschools/prayer_guidance.html)

A moment of silence may be observed in school. (Minn. Stat. § 121A.10)

Religious Observances

A school may observe holidays that have both a religious and secular basis without violating the First Amendment's ban on establishing a state religion. The Eighth Circuit found permissible those music, art, literature, and drama programs having religious themes, and the temporary display of religious symbols associated with religious holidays. *Florey v. Sioux Falls Sch. Dist.* 49-5, 619 F.2d 1311 (8th Cir. 1980).

A fifth grade student distributed flyers inviting her classmates to a Christmas party at her church. The court did not find evidence that distributing the invitations would substantially disrupt the school environment or interfere with the rights of others. *K.A. v. Pocono Mountain Sch. Dist.*, 710 F.3d 99 (3rd Cir. 2013)

A district must make reasonable efforts to accommodate a student who wishes to be absent from school for a religious observance. A school board must provide annual notice to parents of the district's policy on student absences for religious observance. (Minn. Stat. § 120A.35)

Release Time

In *Zorach v. Clauson*, 343 U.S. 306, 72 S. Ct. 679 (1952), the U.S. Supreme Court upheld a "release-time" program in which public school students were allowed to leave school for religious purposes. The court found that no religious instruction occurred on school property, no public funds were expended to support the program, and students had parental permission to attend the program.

A school board may approve a parent's request that a student be released from school for up to three hours per week for purposes of receiving religious instruction. (Minn. Stat. § 120A.22, subd. 12, para. (a), cl. (3))

Student Dress Code

The Supreme Court held in *Tinker* that a school's regulation prohibiting wearing armbands to school and suspending students for refusing to remove the armbands violated the First Amendment. To impose such a restriction, a school would have to show that the speech would materially and substantially interfere with the operation of the school. *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503 (1969). Since *Tinker*, courts have found that a dress code that is viewpoint- and content-neutral does not violate the First Amendment. *Jacobs v. Clark Cty. Sch. Dist.*, 526 F.3d 419 (9th Cir. 2008). The Eighth Circuit has upheld a school ban on clothes depicting the Confederate flag, based on evidence of racially motivated violence, racial tension, and other altercations related to adverse race relations in the community. *B.W.A. v. Farmington R-7 Sch. Dist.*, 554 F.3d 734 (8th Cir. 2009).

A student may also challenge a dress code as discriminatory under the Fourteenth Amendment. *Arnold v. Barbers Hill Indep. Sch. Dist.*, 479 F. Supp. 3d 511 (S.D. Tex. 2020) (student wearing locs as part of Black culture and heritage punished for violating school's hair-length policy that applied only to male students).

The U.S. Supreme Court has not addressed the constitutionality of banning religious attire in public schools.

State law allows school districts to require students to wear a school uniform. (Minn. Stat. § 123B.36, subd. 4.)

Science Course Requirements

The U.S. Supreme Court held that a statute forbidding the teaching of evolution unless “creation science” is also taught violated the constitutional ban on state establishment of religion. *Edwards v. Aguillard*, 482 U.S. 578, 107 S. Ct. 2573 (1987).

Equal Access to School Facilities for Religious and Other Purposes

The Equal Access Act forbids secondary schools receiving federal funds from barring student religious groups from meeting at school if the school has a general policy of allowing student meetings. (20 U.S.C. § 4071) The U.S. Supreme Court ruled that a school district that allows “noncurriculum-related” student groups access to school facilities must give access on equal terms to all student groups, regardless of the religious or other content of members’ speech. *Bd. of Educ. of the Westside Cmty. Sch. v. Mergens*, 496 U.S. 226, 110 S. Ct. 2356 (1990); *Good News Club v. Milford Central Sch.*, 533 U.S. 98, 121 S. Ct. 2093 (2001) (district must provide space for after-school Bible club for elementary students). A Minnesota federal district court ruled that a school district violated a gay student club’s rights when it denied the club access to school facilities on the same basis as other noncurricular student groups. *SAGE v. Osseo Area Sch. Dist. No. 279*, 2007 WL 2885810 (D. Minn. 2007), *aff’d*, 540 F.3d 911 (8th Cir. 2008).

Exemption from Compulsory Attendance

The U.S. Supreme Court ruled that certain pupils may be exempt from the state compulsory attendance law if they can show the law imposes an unnecessary burden on the right to free exercise of religion under the First Amendment. *Wisconsin v. Yoder*, 406 U.S. 205, 92 S. Ct. 1526 (1972).

Fourth Amendment Rights

Expectation of Privacy

Students have a legitimate expectation of privacy at school but their privacy interests are balanced with the substantial need of teachers and administrators to maintain order in the schools. *New Jersey v. T.L.O.*, 469 U.S. 325 (1985).

The Fourth Amendment protects individuals’ privacy and security from arbitrary invasion by government officials. In the school context, school officials do not need a warrant or probable cause to conduct a search. Instead, the Fourth Amendment permits school officials to search students if there are “reasonable grounds” for suspecting that a student has violated the law or school rules.

When a search or seizure takes place at school, originated by law enforcement officials rather than school officials, students are entitled to the full protection of the Fourth Amendment, rather than the relaxed standard under *TLO*. Law enforcement officials working as liaison officers or School Resource Officers, have not been treated as school officials for purposes of the Fourth Amendment. *Thomas v. Barze*, 57 F. Supp. 3d 1040 (D. Minn. 2014).

A government official, including a public school employee, who peeks, pokes, or pries into a place or item shielded from public view, including a locker, desk, purse, knapsack, backpack, briefcase, folder, book, or article of clothing, is conducting a search.

Reasonable Search and Seizure

For a search to be constitutional, it must be both “justified at its inception” and reasonable in scope. A search is initially justified if there are reasonable grounds for suspecting “the search will turn up evidence that the student has violated or is violating either the law or the rules of the school.” The scope of the search is permissible if search measures are “reasonably related to the objectives of the search and not excessively intrusive in light of the age and sex of the student and the nature of the infraction.” *New Jersey v. T.L.O.*, 469 U.S. 325, 105 S. Ct. 733 (1985); *Terry v. Ohio*, 392 U.S. 1, 88 S. Ct. 1868 (1968).

A strip search of a middle school student by school officials looking for ibuprofen tablets was excessive and violated the student’s right to be free from unreasonable search and seizure. *Safford Unified Sch. Dist. No. 1 v. Redding*, 557 U.S. 364, 129 S. Ct. 2633 (2009).

A school policy that subjects students to random, suspicionless searches of their persons and personal belongings violates students’ Fourth Amendment rights, unreasonably violating their legitimate expectations of privacy. *Doe v. Little Rock Sch. Dist.*, 380 F.3d 349 (8th Cir. 2004).

Locker Searches

The *New Jersey v. T.L.O.* decision did not address whether students have a legitimate expectation of privacy in their lockers. Under state law, school lockers belong to the school district, and school authorities may inspect the inside of the lockers. School authorities may search students’ personal possessions in a school locker only if the school authorities have a reasonable suspicion that the search will uncover evidence of a violation of law or school rules. School districts must give parents and students a copy of the locker policy. (Minn. Stat. § 121A.72, subd. 1)

Drug Testing

A drug test is considered a “search” under the Fourth Amendment. The Supreme Court held that a policy requiring student athletes to provide a urine sample for drug testing was a reasonable means furthering the district’s important interest in preventing and deterring drug use given the history of drug abuse by athletes in the school. *Vernonia Sch. Dist. 47J v. Acton*, 515 U.S. 646, 115 S. Ct. 2386 (1995). The Court later held that schools may test students, including nonathletes, who participate in extracurricular activities in order to prevent, deter, and detect drug use; the school did not need to show a pervasive drug problem existed to

conduct suspicionless drug testing. *Board of Educ. of Indep. Sch. Dist. No. 92 of Pottawatomie Cnty. v. Earls*, 536 U.S. 822, 122 S. Ct. 2559 (2002).

Cell Phones

Police must obtain a warrant before searching the cell phone of a person placed under arrest unless “exigent circumstances” exist. *Riley v. California*, 573 U.S. 373, 134 S. Ct. 2473 (2014).

It is unclear whether the Fourth Amendment requires a school to have a more compelling justification to search the student’s cell phone than other personal belongings. *Jackson v. McCurry*, 762 Fed. Appx. 919 (11th Cir. 2019). Like other searches, a cell phone search must be justified at the inception, and must be reasonable in scope. *G.C. v. Owensboro Publ. Schs.*, 711 F.3d 623 (6th Cir. 2019) (student’s documented drug abuse and suicidal thoughts did not justify search of student’s cell phone for evidence of criminal activity or evidence he might hurt himself); *Klump v. Nazareth Area Sch. Dist.*, 425 F. Supp. 2d 622 (E.D. Pa. 2006) (confiscation of cell phone was justified but search of phone violated student’s Fourth Amendment rights).

Electronic Surveillance

Electronic surveillance using a video camera, audio recording, wiretapping, or computer monitoring may constitute a search. Students’ greater expectation of privacy in a locker room or restroom may affect where a school district may place such a device. *Brannum v. Overton Cnty. Sch. Bd.*, 516 F.3d 489 (6th Cir. 2008) (cameras recording students in locker rooms were not justified by concerns about student safety).

School districts may conduct video or audio surveillance on school buses if students are given appropriate notice. (Minn. Stat. § 121A.585)

By statute, school districts and other government entities are prohibited from certain forms of surveillance of a technological device (e.g., a laptop computer) that a school provides to an individual student for that student’s dedicated personal use. Such surveillance is permissible with a judicial warrant or under other enumerated exceptions. (Minn. Stat. § 13.32, subd. 14)

Students with Disabilities

A student with a disability must disclose information about the disability, but does not thereby forfeit all expectations of privacy. Participation in special education services is not a waiver of privacy akin to participation in extracurricular activities. *Hough v. Shakopee Publ. Schs.*, 608 F. Supp. 2d 1087 (D. Minn. 2009).

Fourteenth Amendment Rights

Right to an Education

The U.S. Supreme Court has held that education is not a fundamental right or liberty under the Fourteenth Amendment. *San Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1 (1973).

School Desegregation/Integration

Racial segregation or other race-based discrimination in public schools and other educational institutions denies minority students the “equal protection” of the laws and is prohibited under the Fourteenth Amendment. *Brown v. Bd. of Educ.*, 347 U.S. 483, 74 S. Ct. 686 (1954). In order to use racial classifications, the government must show that it is using narrowly tailored means to achieve a compelling government interest.

Schools may use racial classifications to remedy past intentional discrimination but not to achieve diversity. The Supreme Court struck down school district plans that used race to assign children to schools to achieve diversity. *Parents Involved in Cmty. Schs. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 127 S. Ct. 2738 (2007).

Due Process

The U.S. Supreme Court has held that suspending a student from a public school requires procedural due process, including oral or written notice of the charges, an explanation of the evidence the authorities have, and an opportunity for the student to present his or her side of the story. These rights do not include the right to counsel, a right to confront and cross-examine witnesses, or a right to call the student’s own witnesses. *Goss v. Lopez*, 419 U.S. 565 (1975). See Discipline section on page 28.

Minnesota Constitution

The Education Clause of the Minnesota Constitution states:

The stability of a republican form of government depending mainly upon the intelligence of the people, it is the duty of the legislature to establish a general and uniform system of public schools. The legislature shall make such provisions by taxation or otherwise as will secure a thorough and efficient system of public schools throughout the state. (Minn. Const. art. XIII, § 1)

The Minnesota Supreme Court has ruled that this language creates a fundamental right to an adequate education. *Skeen v. State*, 505 N.W.2d 299 (Minn. 1993); *Cruz-Guzman v. State*, 916 N.W.2d 1 (Minn. 2018). In a case where plaintiffs allege that racially imbalanced public schools violate the Education Clause, the Minnesota Supreme Court held that the plaintiffs must prove that racial imbalances are a substantial factor in causing an inadequate education. *Cruz-Guzman v. State*, -- N.W.2d --, 2023 WL 8613511 (Minn. Dec. 13, 2023).

Other Civil Rights and English Learner Laws

Civil Rights and Student Discipline

Title VI of the 1964 Civil Rights Act bars discrimination based on race, sex, national origin, or disability by educational institutions that receive federal funds for academic, athletic, or extracurricular activities. The U.S. Department of Education, Office for Civil Rights (OCR), enforces Title VI. It investigates and resolves complaints, and conducts compliance review for selected recipients of federal funds. Most complaints filed with OCR relate to disparate treatment, retaliation, or harassment. The OCR has published a summary of its investigations involving student discipline policies or practices under the nondiscrimination laws and regulations enforced by OCR. (U.S. Dep’t of Educ. Office of Civil Rights and U.S. Dep’t of Justice Civil Rights Division, “Resource on Confronting Racial Discrimination in Student Discipline” (May 2023) available at <https://www2.ed.gov/about/offices/list/ocr/docs/tvi-student-discipline-resource-202305.pdf>).

Minnesota Human Rights Act

The Minnesota Human Rights Act prohibits an educational institution from discriminating in the “full utilization of or benefit from any educational institution or the services rendered thereby to any person” on the basis of race, color, creed, religion, national origin, sex, gender identity, age, marital status, status with regard to public assistance, sexual orientation, or disability, or to fail to ensure access for persons with disabilities. (Minn. Stat. § 363A.13) Each school district must adopt a written sexual, religious, and racial harassment and sexual, religious, and racial violence policy that conforms to the Minnesota Human Rights Act. (Minn. Stat. § 121A.03, subd. 2)

English Language Learners

Title VI requires public schools to take affirmative steps to ensure that students with limited English language proficiency can meaningfully participate in the school’s educational program. *Lau v. Nichols*, 414 U.S. 563 (1974); 42 U.S.C. § 2000d et seq. In addition, Title VI requires that English language learners be included in school and district assessment programs unless an educational or psychometric reason justifies excluding the students.

A separate federal law, the Equal Educational Opportunities Act, prohibits deliberate segregation based on national origin and requires schools to take “appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs.” (20 U.S.C. § 1703 (a), (f)) School officials should consider whether programs for English language learners are based on a sound educational philosophy, whether there are sufficient resources to ensure programs can be properly implemented, and whether the programs actually enable students to overcome language barriers that impede their educational progress. Equal Educational Opportunities Act, 20 U.S.C. § 1701, et seq. (1974); *Castaneda v. Pickard*, 648 F.2d 989 (5th Cir. 1989); Joint U.S. Department of Justice, Civil Rights Division, and U.S. Department of Education, Office for Civil Rights, “Dear Colleague” letter, January 7, 2015.

In Minnesota, the Learning English for Academic Proficiency and Success (LEAPS) Act established a number of reporting, teacher training, and family engagement requirements relating to English learners. See Laws of Minnesota 2014, chapter 272, article 1. It also included students with limited and interrupted formal education (SLIFE) within the definition of “English learners.” (Minn. Stat. § 124D.59, subd. 2a)

Family Relations

With a few exceptions noted in this section and elsewhere in the guidebook, the statutes do not regulate relations between married parents and their children who live together. Statutes exist primarily to deal with needs that arise when a new family is being created—for example, by marriage or adoption—or when a family is changing form—for example, due to events like divorce, death, or a minor’s marriage. For provisions regulating circumstances arising from neglect or abuse of children by family members see **Unlawful Acts against Youths**, page 95 in this part and the **Juvenile Court**, page 121 in Part 2.

All Families

Child’s Residence	61
Child’s Surname	61
Housing Discrimination Against Families with Children	61
Emancipation of a Minor	61
Marriage by a Minor	62
Custody Consent Decree.....	62
De Facto or Third Party Custody	62
Visitation	62
Standby or Temporary Custodian	62
Effect of Certain Convictions	62

Divorced Parents

Child Custody	63
Changing Child’s Residence	63
Parenting Time	63
Parenting Plans	63
Other Parental Rights.....	63
Grandparent’s Visitation Rights	64

Deceased Parents

Appointing a Guardian for an Orphan	64
Grandparent’s Visitation Rights	64

Unmarried Parents

Child Custody and Visitation	64
Establishing Parentage.....	64

Adoption

Required Consents	65
Order of Preference	65
Communication or Contact Agreements	65
Adoptee’s Access to Other Information	65
Adoptee’s Access to Original Birth Certificate.....	65

Adoption Assistance..... 66
Adoption of Indian Children..... 66

All Families

Child's Residence

Parents or a guardian or legal custodian choose the residence of an unmarried child under age 18. A child who leaves that residence without permission is considered a runaway and can be taken into custody. (Minn. Stat. §§ 260C.007, subd. 28; 260C.175)

Child's Surname

Neither parent has a superior right to choose a child's surname. There are five factors the court will consider to determine if a name change is in the child's best interest, including how long the child has had the name, potential for embarrassment by the change, the child's preference, the effect of the change on the relationship with the parents, and the degree of respect associated with the present and proposed names. (Minn. Stat. § 259.11) *Application of Saxton*, 309 N.W.2d 298 (Minn. 1981), cert. denied, *Saxton v. Dennis*, 455 U.S. 1034, 102 S. Ct. 1737 (1981).

Housing Discrimination Against Families with Children

The Human Rights Act prohibits (1) refusal to rent or sell real estate to persons with children, and (2) any unlawful restrictions against children in a real estate sale or rental advertisement. These protections also cover women who are pregnant and persons in the process of securing legal custody of a minor. Various exceptions exist for owner-occupied, cooperative, and elderly housing units, and other laws may still restrict the maximum number of individuals permitted to occupy any one dwelling unit. (Minn. Stat. §§ 363A.03, subd. 18; 363A.09; 363A.21, subd. 2)

Emancipation of a Minor

Minnesota Statutes do not provide grounds or a procedure for emancipation. However, court cases in Minnesota have found that a minor can be emancipated by a legal marriage or by parental consent. *Lundstrom v. Mample*, 285 N.W. 83 (Minn. 1939) (marriage); *In re Fiihr*, 184 N.W.2d 22 (Minn. 1971) (parental consent or act). For a child age 16 or older who is the subject of a "child in need of protection" petition, the juvenile court may authorize an independent living situation for the child that is the equivalent of emancipation. (Minn. Stat. § 260C.201, subd. 1, para. (a), cl. (5))

Based on these previous cases, emancipation could be expected to occur (1) by reaching the age of 18, (2) by lawful marriage, or (3) by court order.

Minnesota Statutes reflect an assumption that minors may be emancipated. Examples include the following:

- an emancipated minor may forego immunization because of conscientiously held belief (Minn. Stat. § 121A.15, subd. 3, para. (d))
- an emancipated minor is allowed to own a passenger auto or truck (Minn. Stat. § 168.101, subd. 1)

- a legally emancipated minor is eligible for General Assistance (Minn. Stat. § 256D.05, subd. 1, para. (a), cl. (10))

“Emancipation” means that a minor has the same legal rights and obligations as an 18-year-old adult. It can also be “partial, conditional...or limited as to time or purpose.” *Sonnenberg v. County of Hennepin*, 99 N.W.2d 444, 447-448 (Minn. 1959). For example, an emancipation could be limited to allowing the minor to live independently, or to apply for and receive public assistance for themselves or their children, but not for other purposes.

Marriage by a Minor

Marriage by minors is prohibited in Minnesota. Any individual may marry at age 18, as long as the individual is otherwise legally competent. (Minn. Stat. § 517.02)

Custody Consent Decree

A parent may transfer temporary or permanent legal and physical custody of a child to another person by a consent decree. The parent must pay support. The court will approve the transfer of custody if the transfer is in the child’s best interests and all parties agree. (Minn. Stat. § 257C.07)

De Facto or Third Party Custody

If a child has resided with an individual without a parent present for at least 12 months of the preceding 24 months if age three or older, or at least six months of the preceding 24 months if under age three, and a parent during that time has lacked consistent participation in the child’s life, the individual may initiate a custody proceeding. (Minn. Stat. §§ 257C.01 to 257C.06)

Visitation

If an unmarried minor has lived with (1) a grandparent or great-grandparent for at least 12 months, or (2) an individual other than a foster parent for at least two years, the grandparent, great-grandparent, or other individual may obtain a visitation order if statutory requirements are met. (Minn. Stat. § 257C.08)

Standby or Temporary Custodian

A parent who has legal and physical custody of a minor child may designate another adult as a standby or temporary custodian to care for the child upon the occurrence of a specified triggering event (such as the incapacity or death of the parent) if statutory requirements are met. (Minn. Stat. ch. 257B)

Effect of Certain Convictions

An individual convicted of specified crimes faces a higher standard for gaining legal custody or parenting time with a child. An individual who exercises custody or parenting time with a child and resides with someone convicted of any of those crimes must so notify the child’s other

parent, the county social services agency, and the court that granted custody or parenting time. (Minn. Stat. §§ 257.026; 518.179)

Divorced Parents

Child Custody

After an annulment, dissolution, or legal separation, the court must order either sole or joint legal and physical custody of minor children. In deciding custody, the court must consider the child's best interests and not prefer one parent over the other on the basis of the parent's sex. There is a presumption that joint legal custody is in the child's best interests. (Minn. Stat. § 518.17)

Changing Child's Residence

The child resides with each parent based on the parenting time agreed to by the parties or ordered by the court. If a parent has parenting time rights, the parent with whom the child resides may move the child out of state only with a court order or the other parent's consent. The court must apply a specified best interest test to a request to move a child out of state. The burden of proof is on the parent requesting a move, unless there is a history of domestic abuse. (Minn. Stat. § 518.175, subd. 3)

Parenting Time

In dissolution or legal separation proceedings, on request of either parent, the court must grant parenting time rights in the child's best interests. There is a presumption that a parent gets at least 25 percent of the time with the child. The court may restrict parenting time or deny it entirely if it would endanger or impair the child. A parent's failure to pay support because of inability to do so is not sufficient cause to deny parenting time. If one parent wrongfully denies the other's parenting time rights, various remedies are available. The court may also refer a parenting time dispute to a parenting time expeditor or mediation. (Minn. Stat. §§ 518.175; 518.1751; 518.612; 518.619)

Parenting Plans

Upon the request of both parents or a court's own motion, a parenting plan must be created, unless the court finds that the plan is not in the child's best interests. A parenting plan must include: (1) a schedule for the time each parent spends with the child; (2) a designation of decision-making responsibilities; and (3) a method to resolve disputes. A plan may also include other issues and matters that the parents agree to regarding the child. (Minn. Stat. § 518.1705)

Other Parental Rights

Notice must be given to both parents of various rights they retain after divorce, especially that they have the right to (1) obtain certain education, health, police, and religious records of the child, and (2) attend school conferences and be notified of an illness or if the child is a victim of a crime. The court may waive these rights in order to protect the parent's or child's welfare. (Minn. Stat. §§ 120A.22, subd. 1a; 518.17, subds. 3, 3a)

Grandparent’s Visitation Rights

A child’s grandparent or great-grandparent may ask the court for reasonable visitation rights to an unmarried minor child in the following circumstances:

- during or after a proceeding for a dissolution, separation, custody, annulment, adoption, or parentage determination
- after the death of a parent
- when a child has resided with the grandparent for 12 months or more

The rights may be granted if they (1) are in the child’s best interests, and (2) do not interfere with the parent and child relationship. Visitation rights end if the child is adopted by someone other than a stepparent or grandparent. (Minn. Stat. § 257C.08)

Deceased Parents

Appointing a Guardian for an Orphan

The parent of an unmarried minor may appoint a guardian by will, by designating a standby guardian under chapter 257B, or by a signed, executed writing like a health care directive under chapter 145C. A minor 14 years or older or certain other adults interested in the minor’s welfare may object to the choice. (Minn. Stat. §§ 524.5-202; 524.5-203)

If parents do not name a guardian by will, the court may put the child under the guardianship of the Commissioner of Human Services, a licensed child-placing agency, or an individual willing and able to take responsibility. (Minn. Stat. § 260C.325, subd. 3)

Guardianship ends when the child dies, is adopted, legally marries, turns 18, or as otherwise ordered by a court. (Minn. Stat. § 524.5-210)

Grandparent’s Visitation Rights

If a parent dies while a child is a minor, a grandparent or great-grandparent may obtain a court order for visitation if visitation would not interfere with the parent and child relationship. Rights end if the child marries or is adopted by anyone other than a step-parent or grandparent. (Minn. Stat. § 257C.08)

Unmarried Parents

Child Custody and Visitation

The mother has sole custody until paternity is established, either by the father’s legally effective admission or by court action. Once paternity is established, the father may petition the court for custody or parenting time. (Minn. Stat. § 257.541)

Establishing Parentage

The child, parent, or welfare agency may bring an action to establish the child’s parentage. The parties may be required to have blood or genetic tests. (Minn. Stat. §§ 257.51 to 257.74)

An alternative to legal action: A man is legally presumed to be the biological father of the child if he and the child's mother acknowledge his paternity in writing signed by both of them and filed with the state registrar of vital statistics. The form, which is prepared by the Commissioner of Human Services, is called a Recognition of Parentage form and is available on the state Department of Human Services website. (Minn. Stat. § 257.75)

Adoption

Required Consents

An individual over 14 years of age may be adopted only if the individual consents. (Minn. Stat. § 259.24, subd. 3)

If an unmarried parent under age 18 wants to place a child for adoption, the minor parent must be offered consultation with an attorney, clergy, physician, or advanced practice registered nurse before consenting to the adoption. The consent of the minor's parents or guardian, if any, is also required. If the minor has no parent or guardian to give consent, the Commissioner of Human Services may do so. (Minn. Stat. § 259.24, subd. 2)

Order of Preference

Child-placing agencies and courts involved in adoption or foster placement proceedings must consider placing a child according to the following order of preference, consistent with the child's best interests: (1) with relatives or (2) with an important friend with whom the child has resided or had significant contact. (Minn. Stat. §§ 259.57, subd. 2; 260C.212, subd. 2)

Communication or Contact Agreements

At the time of an adoption, the birth parents and adoptive parents may make a legal agreement that while the child is growing up they will share information or have contact. Adoptive parents may also make agreements with other birth relatives or foster parents with whom the child resided prior to adoption, or with any other birth relative, if both birth parents are deceased. This agreement must be incorporated in a court order to be enforceable. (Minn. Stat. § 259.58; 260C.619)

Adoptee's Access to Other Information

Adopted persons age 18 and older may ask an adoption agency to help determine whether a biological parent or adult sibling wants to have contact or share information. The agency also will transmit nonidentifying health information relevant to any genetically related parties to an adoption. A reimbursement fee may be charged for these services. (Minn. Stat. § 259.83)

Adoptee's Access to Original Birth Certificate

An adopted person age 19 or older may request the information on their original birth certificate from the Commissioner of Health. The agent of the Commissioner of Human Services or a licensed child-placement agency must try to notify each parent identified on the certificate

of the request. If the birth parents file a consent to disclosure with the Commissioner of Health, the information is disclosed.

If the agent of the Commissioner of Human Services or the licensed child-placement agency cannot notify a birth parent and if the parent has not filed a consent to disclosure, the Commissioner of Health may disclose information as follows:

- If the person was adopted before August 1, 1977, the person may petition a court for disclosure, which will be granted if the court determines that disclosure is more beneficial than nondisclosure
- If the person was adopted on or after August 1, 1977, the information must be released

If a parent has filed an unrevoked affidavit of nondisclosure, the information shall not be disclosed until the affidavit is revoked.

If a birth parent dies without revoking a nondisclosure request, the adopted person may petition the court for disclosure. The petition will be granted if the court determines that disclosure would be more beneficial than nondisclosure. (Minn. Stat. § 259.89; 260C.637)

Adoption Assistance

See Adoption, Foster Care, and Kindship Assistance on page 78.

Adoption of Indian Children

For information, see *American Indians, Indian Tribes, and State Government*, House Research Department, February 2023.

Health and Social Services

Minors' access to health care services is dependent upon the parents or guardians, who are expected to act in the best interest of the child. Exceptions are made for older children who are financially independent, who have married or who have borne children themselves, and for certain specific health services. Minors' access to social services is specifically authorized by a number of state laws that require counties to provide day care subsidies for currently eligible children, and child welfare and protective services for children at risk.

Health Coverage

Medical Assistance.....	69
Children's Health Insurance Program.....	70
MinnesotaCare.....	70
MNsure	70
Insurance.....	70

Health Programs

Community Solutions for Healthy Child Development.....	71
Fetal Alcohol Syndrome Prevention and Intervention	71
Healthy Beginnings, Healthy Families Programs	71
Help Me Connect Resource and Referral System.....	71
Home Visiting Programs	72
Lead Poisoning Prevention	72
Mental Health Services	73
Newborn Screening Programs	73
Tobacco Use Prevention	73
WIC Program.....	73

Consent for Health Services

Circumstances in Which Minors May Consent to Health Care Services.....	74
Health Care Services to Which Minors May Consent.....	74
Effects of Minor Consent to Health Care Services.....	75

Social Services

Child Welfare	76
County of Financial Responsibility	76
Vulnerable Children and Adults Act.....	76
Children's Trust Fund for the Prevention of Child Abuse.....	76
Maltreatment of Minors Act.....	76
Medical Neglect	77
Voluntary Foster Care for Treatment, Reviews, and Permanency Plans	77
Out-of-Home Placement Plans, Reviews, and Permanency Plans	78
Adoption, Foster Care, and Kinship Assistance	78
Social Services Plan for Minor Mother and Child	79

Public Assistance..... 79
Child Care Assistance 79

Early Childhood Programs

Early Childhood Family Education 79
School Readiness..... 80
Head Start 80
Early Learning Scholarship Program 81
Voluntary Prekindergarten Program and School Readiness Plus 81
Early Childhood Developmental Screening 81
Part C – Infants and Toddlers with Disabilities 82
Kindergarten Entry Assessment..... 82

Health and Safety Regulation of Child Care Settings

License Required..... 83
Permitted Exceptions to Licensure Requirement 83
Mandated Reporters..... 83
Right of Access 83

Health Coverage

Medical Assistance

Medical Assistance (MA), Minnesota's Medicaid program, is a joint federal/state program providing certain health care services to low-income adults and children who meet the eligibility requirements. MA has higher income limits for children and pregnant women. Children under age 21, pregnant women, and certain other groups do not need to meet MA asset standards. (Minn. Stat. § 256B.056, subd. 3c)

To qualify for MA, infants up to age two can have family incomes up to 283 percent of the federal poverty guidelines.¹ Children two through 18 years of age are eligible for MA if family income does not exceed 275 percent of the federal poverty guidelines. Children ages 19 through 20 are eligible if family income does not exceed 133 percent of the federal poverty guidelines. (Minn. Stat. §§ 256B.056, subd. 4; 256B.057, subd. 1)

For certain children with disabilities, special eligibility criteria exist. First, under the TEFRA (Tax Equity and Fiscal Responsibility Act of 1982) option a child under age 19 who is disabled and who requires the level of care provided in a hospital, nursing facility, or intermediate care facility, is eligible for MA without regard to parental income if it is cost-effective for the child to remain at home. Second, the early intensive developmental and behavioral intervention (EIDBI) benefit is available to a child who is under age 21 and enrolled in MA, has a diagnosis of autism spectrum disorder or a related condition, and meets the criteria for medical necessity for this benefit. (Minn. Stat. §§ 252.27; 256B.055, subd. 12; 256B.0949)

The MA program, prior to January 1, 2024, required certain groups of enrollees to pay cost-sharing for the health care services they received. Children under age 21 and pregnant women were two of the groups exempt from this cost-sharing requirement. Beginning January 1, 2024, cost-sharing was eliminated for all groups of MA enrollees. (Minn. Stat. § 256B.0631, subds. 1, 1a, and 2)

The 2023 Legislature allowed children to remain eligible for MA for a specified time period, even if changes in their income or in other factors related to eligibility would have made them ineligible for the program (this is referred to as "continuous eligibility"). Effective January 1, 2024, or upon federal approval and the implementation of required administrative and systems changes, whichever is later, children under age 19 will remain eligible for MA for a period of 12 months. Effective January 1, 2025, or upon federal approval, whichever is later, children age 19 or older but under age 21 will remain eligible for a period of 12 months, and children under age six will remain eligible through the month in which the child turns age six. (Laws 2023, ch. 70, art. 16, § 11; codified as Minn. Stat. § 256B.056, subd. 7)

¹ The federal Department of Health and Human Services (DHHS) publishes federal poverty guidelines annually, and adjusts them based on the Consumer Price Index for All Urban Consumers (CPI-U). The federal poverty guidelines are used in establishing eligibility for a number of health and social services programs, and each update is published in the Federal Register.

Children’s Health Insurance Program

The Children’s Health Insurance Program (CHIP) provides federal funding, at an enhanced matching rate, for state initiatives to expand insurance coverage for children. Minnesota uses CHIP dollars to pay for: (1) the cost of raising the MA income limit for children under age two from 275 percent to 283 percent of the federal poverty guidelines; (2) health care services provided to MA enrollees who are children with family incomes greater than or equal to 133 percent but not exceeding 275 percent of the federal poverty guidelines; and (3) for prenatal care, labor and delivery, postpartum care, and other services provided to pregnant women with incomes not exceeding 278 percent of the federal poverty guidelines who are uninsured and ineligible for MA with federal funding due to immigration status. The CHIP federal match for Minnesota is 66.04 percent for federal fiscal year 2024. (Minn. Stat. §§ 256B.057, subd. 1; 256B.06, subd. 4, para. (i); Laws 1998, ch. 407, art. 5, § 46)

MinnesotaCare

The MinnesotaCare program provides subsidized health coverage to persons not eligible for MA, if their household income is greater than 133 percent but does not exceed 200 percent of the federal poverty guidelines, and other eligibility requirements are met. Certain children who normally would not be eligible for either MA or MinnesotaCare, due to differences in how those programs calculate income, may, depending on their income as calculated under MinnesotaCare, be eligible for MA, or be eligible for MinnesotaCare even if their income is below the MinnesotaCare income floor. (Minn. Stat. §§ 256L.01 to 256L.18)

Children under age 21 and certain other groups are exempt from MinnesotaCare cost-sharing. (Minn. Stat. § 256L.03, subd. 5)

MNsure

Children with household incomes over the MA and MinnesotaCare income limits may be eligible for premium tax credits and cost-sharing subsidies for health coverage offered through MNsure, the state’s health insurance exchange established under the federal Affordable Care Act.

Insurance

Minors’ rights to private health insurance benefits usually depend upon the purchase of family coverage by a parent or guardian, or in some cases by a grandparent. Family coverage usually insures unmarried children under age 26 and dependent children of any age with disabilities. Insurers are required to cover adopted children, children placed for adoption, and children who do not reside with the health plan participant, on the same basis as they cover other children. Coverage for newborns must be available from the moment of birth. Checkups, immunizations, screenings, and certain other preventive services are required to be covered for adults and children without deductibles, copayments, or coinsurance. Federal law preempts the power of a state to regulate the self-insured health plans often offered by large employers or by multiple-employer union plans, so these plans may, but do not have to, comply with any of these state insurance laws. (Minn. Stat. §§ 62A.03; 62A.042; 62A.047; 62A.048; 62A.14;

62A.141; 62A.151; 62A.20; 62A.21; 62A.27; 62A.302; 62A.3021; 62C.14, subd. 14; 62C.142; 62D.101; 62D.102; 62D.105; 62K.14; 62L.02, subd. 11; 62Q.675)

Health Programs

Community Solutions for Healthy Child Development

MDH distributes grants under the community solutions for the healthy child development grant program for initiatives to improve child development outcomes for children of color and American Indian children from prenatal to grade 3 and to reduce racial disparities in child health and development. (Minn. Stat. § 145.9285)

Fetal Alcohol Syndrome Prevention and Intervention

MDH, in cooperation with the other relevant agencies, coordinates several initiatives designed to prevent future alcohol-related birth defects and treat children with fetal alcohol syndrome (FAS) or fetal alcohol effects (FAE). These programs include developing professional training materials, providing grants to a community organization for prevention and intervention activities, and conducting a statewide public information and media campaign. (Minn. Stat. §§ 145.9265; 145.9266)

Healthy Beginnings, Healthy Families Programs

Under the Healthy Beginnings, Healthy Families Act, MDH administers the following programs:

- the Minnesota perinatal quality collaborative, to improve pregnancy outcomes for pregnant people and newborns;
- the Minnesota partnership to prevent infant mortality, by engaging communities, sharing best practices and infant health data, and promoting policies to improve birth outcomes and prevent infant mortality;
- the developmental and social-emotional screening with follow-up program, by identifying young children at risk for developmental or behavioral issues and connecting families with resources and programs; and
- model jail practices programs to support the maintenance of relationships between incarcerated parents and their children.

(Minn. Stat. §§ 145.9571 to 145.9576)

Help Me Connect Resource and Referral System

MDH administers the Help Me Connect Resource and Referral System to connect pregnant people and families with children up to age 8 to early detection and intervention services, early childhood and family support navigation specialists, and community-based services. (Minn. Stat. § 145.988)

Home Visiting Programs

MDH distributes state and federal funds to community health boards, Tribal governments, and nonprofit organizations to support family home visiting programs. A home visiting program is a voluntary program in which trained home visitors visit pregnant women and families with young children in their homes and provide social, emotional, and health-related services, parenting support and information, and referrals to other services. Home visiting funding recipients use the money for programs that employ one or more service models, chosen to address community needs. The program model used determines program eligibility, the length of time in which families receive home visits, qualifications of home visitors, and specific services provided.

The family home visiting program in Minnesota Statutes, section 145A.17, is funded with Temporary Assistance for Needy Families (TANF) funds, distributed based on a formula, and provides preventive and early intervention services to families with incomes at or below 200 percent of the federal poverty guidelines and to other families with specific risk factors. MDH also distributes state-funded grants to create or expand nurse-family partnership programs, and to start up or expand programs that employ an evidence-based or evidence-informed home visiting model. (Minn. Stat. §§ 145.87, 145A.145, and 145A.17)

A school district with an early childhood family education program (ECFE) may offer a home visiting program to support the healthy growth and development of children. ECFE home visiting programs prioritize visits to isolated or at-risk families with highest needs. Programs are encouraged to employ licensed parenting educators, certified family life educators, or other professionals with an equivalent license. The trained home visitor assesses the family's risk factors, addresses parenting skills and child development, and identifies community-based programs and services that may benefit the child's development. ECFE programs are funded through state aid and local property taxes. In addition to a small property tax levy specifically earmarked for home visiting programs, many school districts use regular ECFE revenue and other district revenue to supplement funding for their home visiting programs. (Minn. Stat. §§ 124D.13; 124D.135)

Lead Poisoning Prevention

Minnesota's Lead Poisoning Prevention Act addresses a potentially serious health hazard affecting children caused by exposure to lead from soil, dust, water, or paint. The act does not require testing of children for elevated blood lead levels. Many children, however, are tested voluntarily for lead as part of routine well-child care. The act requires health care facilities performing blood lead analyses to report findings of these analyses to MDH. Using this information, MDH operates a lead surveillance system to identify trends and populations at risk and to ensure that services are provided to children with elevated blood lead levels. The act details how to prevent elevated blood lead levels in children, ways to mitigate the health effects on children with elevated blood lead levels, and standards for lead hazard reduction activities. MDH also distributes grants to community health boards and nonprofit organizations for lead abatement and healthy housing activities. (Minn. Stat. §§ 144.9501 to 144.9513)

Mental Health Services

Under the Children’s Mental Health Act, county social service agencies must plan for and coordinate the development and delivery of local children’s mental health services. Counties coordinate a variety of mental health services for children under age 18, including education and prevention services, early identification and intervention services, screening, case management and family community support services, emergency services, outpatient treatment services, day treatment services, residential treatment services, acute care hospital inpatient treatment, mental health crisis services, transition services, therapeutic support of foster care, and professional home-based family treatment. Counties may apply for state grant funds to help them carry out some of their duties. (Minn. Stat. §§ 245.487 to 245.4889)

Newborn Screening Programs

Minnesota’s Newborn Screening Programs are public health programs through which all infants born in the state may be screened for a variety of disorders. Through the Newborn Screening Program, MDH tests blood spots from each infant born in the state to screen for more than 50 heritable and congenital disorders. Parents must be informed they have the right to elect not to have the screening performed and a right to obtain private testing, or elect to have the screening performed but not have the blood samples and test results stored. A critical congenital heart disease screening program screens newborns using pulse oximetry. Also, through Early Hearing Detection and Intervention programs, hospitals screen infants for hearing loss. These programs allow for early intervention or treatment of conditions for which the infants are screened. (Minn. Stat. §§ 144.125-144.128; 144.966)

Tobacco Use Prevention

MDH administers tobacco use prevention and other public health activities to reduce the prevalence of tobacco use by youth, using general fund dollars and certain funds received from litigation related to youth nicotine use. (Minn. Stat. § 144.396)

WIC Program

The Special Supplemental Nutrition Program for Women, Infants, and Children (WIC program) is a federally funded nutrition and education program administered by MDH through local public and private nonprofit health or human service agencies. WIC provides supplemental food vouchers, nutrition education, breastfeeding support, and health assessments and referrals to low-income pregnant, breastfeeding, or post-partum women; infants; and children up to age five. To be eligible for food and services, a person or family must have a family income at or below 185 percent of the federal poverty guidelines or receive public assistance; be at nutritional risk; and live in Minnesota. (Minn. Stat. §§ 145.891 to 145.897; 145.899)

Consent for Health Services

A minor may consent to health care services in certain circumstances and may consent to certain health care services.

Circumstances in Which Minors May Consent to Health Care Services

Emergency treatment. Medical, dental, mental, and other health services may be provided to a minor without the consent of a parent or legal guardian when, in a health professional's judgment, treatment should be given without delay and obtaining consent would result in delay or denial of treatment. (Minn. Stat. § 144.344)

Minor who has been married or has given birth. Any minor who has been married or has given birth may give effective consent for personal medical, mental, dental, or other health services, and for services for the minor's child. (Minn. Stat. § 144.342)

Minor who is living apart from parents and managing own financial affairs. Any minor (1) who is living apart from the minor's parents or legal guardian, with or without consent to do so and regardless of the duration of the separate residence, and (2) who is managing personal financial affairs, regardless of the source or extent of the minor's income, may give effective consent for personal medical, dental, mental, or other health services. (Minn. Stat. § 144.341)

Health Care Services to Which Minors May Consent

Abortion. A minor seeking an abortion in Minnesota must either notify both parents or a guardian of the intended abortion and wait 48 hours, or seek judicial approval for the procedure. A court may authorize an abortion if it finds either (1) that the pregnant minor is mature and capable of giving informed consent, or (2) that authorizing the abortion without notification would be in her best interest. The law does not require notice if an attending physician certifies the abortion is needed to prevent the minor's death and there is not time to provide the required notice, if the persons entitled to notice authorize the abortion in writing, or if the minor is a victim of sexual abuse, neglect, or physical abuse. (Minn. Stat. § 144.343, subds. 2 to 7)

Note: In 2022, a Ramsey County District Court held that section 144.343, subdivisions 2 to 6 are unconstitutional and issued an injunction prohibiting their enforcement. (*Doe v. Minnesota*, No. 62-CV-19-3868 (Minn. Dist. Ct. July 11, 2022))

Anatomical gifts. Emancipated minors and minors who are at least 16 years of age, as well as the minor's parent if the minor is unemancipated, may make an anatomical gift during the life of the donor. However, upon the death of an unemancipated minor, the minor's parent may revoke or amend an anatomical gift. Also, upon the death of an unemancipated minor who signed a refusal to donate, a parent of the minor may revoke the minor's refusal. (Minn. Stat. §§ 525A.04 and 525A.08)

Upon the death of an unemancipated minor donor or an unemancipated minor who had signed a refusal, the procurement organization must conduct a reasonable search for the minor's

parents and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal. (Minn. Stat. § 525A.14)

Blood donation. Any person age 17 or older may donate blood in a voluntary noncompensatory blood program without obtaining parental consent. Any person age 16 may donate blood with written permission from the person's parent or guardian. (Minn. Stat. § 145.41)

Hepatitis B vaccination. A minor may give effective consent for a hepatitis B vaccination. (Minn. Stat. § 144.3441)

Inpatient mental health or chemical dependency treatment. Any person 16 years of age or older may consent to hospitalization for observation or treatment of mental illness, chemical dependency, or developmental disability and may give valid consent for hospitalization, routine diagnostic evaluation, and emergency or short-term acute care. For chemical dependency or mental illness treatment, a 16- or 17-year-old who refuses to consent to admission as a patient may be admitted with the consent of a parent or guardian, provided it is determined in an independent examination that the proposed patient is chemically dependent or has a mental illness and is suitable for treatment. Any person under age 16 may be admitted as a patient with the consent of a parent or guardian, so long as there is some independent review of the placement in accordance with *Parham v. J.R.*, 442 U.S. 584, 99 S. Ct. 2493 (1979). (Minn. Stat. §§ 253B.03, subd. 6, para. (b); 253B.04, subd. 1)

Medical, mental, and other health services for certain conditions. Any minor may give effective consent for medical, mental, or other health services to determine the presence of or to treat pregnancy, venereal disease, and alcohol and other drug abuse. (Minn. Stat. § 144.343, subd. 1)

Nonresidential mental health services. A minor who is age 16 or older may give effective consent for nonresidential mental health services. (Minn. Stat. § 144.3431)

Effects of Minor Consent to Health Care Services

Effect of minor's consent for person rendering services. If a minor represents that the minor is able to give effective consent for health services but in fact is not able to do so, the minor's consent is effective if relied upon in good faith by the person rendering the health service. (Minn. Stat. § 144.345)

Financial responsibility. A minor who gives legally effective consent for health services is financially responsible for the health services rendered. (Minn. Stat. § 144.347)

Parent or guardian access to information and health records. A health professional may inform a minor's parent or legal guardian of any medical treatment given to or needed by the minor where, in the professional's judgment, failure to inform the parent or guardian would seriously jeopardize the minor's health. (Minn. Stat. § 144.346)

For purposes of access to health records of a minor, the term "patient" includes a parent or guardian, or a person acting as a parent or guardian in the absence of a parent or guardian. The

parent, guardian, or other person may access the minor's health records except where the minor has received services to which the minor consented under Minnesota Statutes, sections 144.341 to 144.347. In those cases, parents or guardians do not have access to the minor's health records without the minor's consent. (Minn. Stat. § 144.291, subd. 2, para. (g))

Social Services

Child Welfare

Counties are required to provide child welfare services to ensure protection and financial assistance for children confronted with social, physical, or emotional problems requiring assistance and protection. Counties must make child welfare services available as required by law, by the Commissioner of Human Services, or by the courts. (Minn. Stat. § 393.07) Child welfare services are primarily funded through county property tax revenues. Counties also receive federal and state funds through the Vulnerable Children and Adults Act, allocated by the Commissioner of Human Services. (Minn. Stat. §§ 256M.01 to 256M.80)

County of Financial Responsibility

Under the state's unitary residence and financial responsibility statute for public assistance and social services, the county of financial responsibility for a minor is generally the county in which her or his parents reside at the time of application for services. (Minn. Stat. § 256G.02, subd. 4; 256G.07; 256G.10) *In re Matter of the Financial Responsibility for the Out-of-Home Placement Costs for S.M.*, 812 N.W.2d 826 (Minn. 2012)

Vulnerable Children and Adults Act

The Vulnerable Children and Adults Act consolidates various state and federal social services grants to counties into a single consolidated grant that counties must use to address the needs of vulnerable children and adults. It specifies how children and community services grants will be allocated to the counties, and the various duties of the Commissioner of Human Services and the counties with regard to the administration of the consolidated grant. (Minn. Stat. §§ 256M.01 to 256M.80)

Children's Trust Fund for the Prevention of Child Abuse

Private and public organizations at the local level may develop and offer services and education programs designed to help prevent child abuse before it occurs. Many such offerings are financed through grants obtained from the state Children's Trust Fund for the Prevention of Child Abuse. The trust fund, which is administered by the Department of Human Services (DHS), is supported primarily by a surcharge on birth certificate filings. It is also supported by federal, state, and private contributions. (Minn. Stat. §§ 256E.20 to 256E.27)

Maltreatment of Minors Act

Any person may report maltreatment of a child, but state law requires certain professionals ("mandatory reporters") to report information if they know or have reason to believe a child is being maltreated, or has been maltreated within the preceding three years. The term

“maltreatment” includes neglect, sexual abuse, physical abuse, threatened injury, mental injury, egregious harm, and substantial child endangerment. Employees or supervisors of private or public youth recreation programs are also required to report abuse, which includes egregious harm, physical abuse, sexual abuse, substantial child endangerment, or threatened injury. Reports are made to the local welfare agency, applicable state agency, or law enforcement personnel. A mandatory reporter’s failure to report is prosecuted by the county attorney.

Local county welfare agencies are required to investigate or assess all reports, unless the report alleges maltreatment in a child care, residential, or health care facility licensed by MDH or DHS, or in a school. Reports of maltreatment in a facility licensed by DHS or MDH are investigated by those agencies. Reports of maltreatment in a school are investigated by the Department of Education.

The act sets out procedures that local welfare, state, and law enforcement agencies must follow in regard to conducting an investigation or a family assessment to determine if maltreatment has occurred. Welfare agencies must also provide protective services where necessary. “Protective services” can range from maintaining the child at home while providing services to the family to removing the child from the home and placing him or her in an out-of-home foster care placement. (Minn. Stat. ch. 260E) See *Reporting Maltreatment of Minors*, House Research Department, July 2022.

Medical Neglect

State law defines withholding medically indicated treatment from a disabled infant with a life-threatening condition as a form of neglect that must be reported under the Maltreatment of Minors Act. It also specifies what types of treatment are medically indicated and lists circumstances in which the infant’s treatment can be limited. (Minn. Stat. § 260C.007, subd. 6)

If a local welfare agency receives a report of medical neglect, the agency must consult the hospital staff and parents and, if necessary, obtain a court order for an independent medical examination and to prevent the withholding of the indicated treatment from the child. (Minn. Stat. §§ 260E.20, subd. 4; 260E.25)

Voluntary Foster Care for Treatment, Reviews, and Permanency Plans

The social service or child-placing agency may enter into a voluntary foster care agreement with a child’s parent when the child requires treatment due to emotional disturbance, developmental disability, or related condition. (Minn. Stat. § 260D.03)

The social service or child-placing agency must obtain a judicial review within 165 days of a child’s placement in voluntary foster care for treatment due to emotional disturbance or developmental disability. An administrative review must be conducted prior to the judicial review. (Minn. Stat. §§ 260D.05; 260D.06, subd. 1)

If a child remains in care for 13 months from the date of the voluntary placement agreement or has been in placement for 15 of the last 22 months, and the agency determines there are

compelling reasons to continue the placement, the agency must seek judicial approval in order to continue the placement. At the hearing, the court must review the permanency plan with the family and the child, if the child is age 12 or older. (Minn. Stat. § 260D.07)

The matter must be reviewed by the court at least every 12 months if the child continues in voluntary foster care for treatment. (Minn. Stat. § 260D.08)

Out-of-Home Placement Plans, Reviews, and Permanency Plans

Social service agencies must prepare an out-of-home placement plan within 30 days after a child enters an out-of-home placement, file the out-of-home placement plan with the court, and update out-of-home placement plans when a child moves to a different foster care setting. Agencies are also required to conduct administrative reviews of out-of-home placements no later than 180 days after initial placement and at least every six months thereafter to monitor and update the out-of-home placement plan. As an alternative to the administrative review, the social service agency may seek court review, where applicable, in order to assure that children have been appropriately placed and that their out-of-home placement plans are being implemented. (Minn. Stat. §§ 260C.203; 260C.212)

Social service agencies must file pleadings with the juvenile court to establish the basis for the permanent placement determination of a child in an out-of-home placement. For more detail, see sections on juvenile court procedures, beginning on page 121. The court must conduct a permanency progress review hearing to determine the child's permanent status. Generally, this hearing must occur no later than six months after the child has entered the out-of-home placement. (Minn. Stat. § 260C.204)

Adoption, Foster Care, and Kinship Assistance

Using a combination of state and federal monies, under the Northstar Care for Children program, DHS makes foster care benefits and kinship and adoption assistance payments available to eligible families. A child is eligible for foster care benefits if the child is in out-of-home placement through a voluntary placement agreement, placed with a licensed foster parent, or placed in an unlicensed foster care setting that meets certain criteria. Payment amounts vary based on the age of the child and the child's assessed needs. (Minn. Stat. §§ 256N.21 and 256N.26)

If a court order transfers permanent legal and physical custody of a child to a relative, the local agency must determine whether the relative is eligible for a monthly cash grant, called "kinship assistance," to assist the relative in caring for the child. In order to be eligible, the child must have been placed with the relative custodian for at least six consecutive months prior to the transfer of custody, while the relative custodian was a licensed foster parent. The amount of the kinship assistance payment varies with the needs of the child. (Minn. Stat. § 256N.22)

Adoption assistance payments are available for eligible families desiring to adopt a child determined to have a special need. Prospective adoptive parents of a child with special needs must, if adoption assistance is desired, negotiate an adoption assistance agreement with the financially responsible agency or agency designated by the Commissioner of Human Services,

before the adoption is finalized. An adoption assistance agreement may provide the family with monthly financial assistance, assistance with onetime or periodic supplemental maintenance expenses, MA eligibility for the child, or some combination of these. Adoption assistance agreements are revised as appropriate. (Minn. Stat. §§ 256N.23 to 256N.26; ch. 259A)

Social Services Plan for Minor Mother and Child

Counties are required to determine whether, after the birth of her child, a minor mother has a plan to care for herself and her child. If one is needed, the county must work with the minor mother to develop the plan, and the county must provide case management services as needed. (Minn. Stat. § 257.33, subd. 2)

Public Assistance

A child's eligibility for MFIP and the other major publicly funded assistance programs is generally tied to his or her family's eligibility for the program. However, a child with disabilities who meets certain income and asset criteria may be eligible in his or her own right for MA or MinnesotaCare (see page 69).

For a full description of the special eligibility requirements and benefits of the major public programs providing assistance to families, see *Minnesota Family Assistance*, House Research Department, January 2022.

Child Care Assistance

Counties provide child care subsidies on a sliding fee scale to eligible low-income families through the Basic Sliding Fee child care program, and to families receiving assistance under the Minnesota Family Investment Program (MFIP) and the transition year child care programs. Participating families may choose any legal child care provider to care for children under the age of 13 or 15 if the child has disabilities (see Health and Safety Regulation of Child Care Settings, page 83). A family's copayment for the child's care depends upon the family's total income and the size of the family. The minimum required copayment is \$2.00 per week for families with incomes starting at 75 percent and below 100 percent of the federal poverty level (\$22,500 - \$29,700 for a family of four in 2023). The copayment amount increases as a family's income increases. Counties use federal, state, and county funds to pay for child care assistance. (Minn. Stat. §§ 119B.011 to 119B.16)

Early Childhood Programs

Early Childhood Family Education

Minnesota families with young children are eligible to enroll in early childhood family education (ECFE) programs operated by school districts. ECFE programs serve children from birth to the start of kindergarten and their families. An ECFE program with budget constraints may focus on families with children who are younger than four years old. A typical ECFE model provides two-hour classes twice a week to parents and children. Larger school districts may offer ECFE classes to families with specific demographics (English language learners, dad's classes, etc.).

ECFE activities require parent involvement and are designed to improve parents' skills and the health, development, and learning readiness of children. ECFE funds may not be used for traditional child care, nursery, or preschool programs. Many ECFE programs include a home visiting component for at-risk or isolated families (see page 72).

ECFE programs are funded through state aid, local property taxes, and in many school districts, parent-paid sliding fees. For the 2023-2024 school year, state aid and local property tax levies total approximately \$60.7 million for ECFE activities. (Minn. Stat. §§ 124D.13; 124D.135)

School Readiness

Parents with children aged three and four years old may apply to school districts operating school readiness programs. A school readiness program is often combined with other prekindergarten initiatives and funding streams and the program may operate under a locally chosen name. Not all children who seek to enroll in school readiness programs are accepted. School districts give priority to children who are developmentally disadvantaged or have risk factors that could impede their learning. A child's participation in a school readiness program is voluntary, and services are free or available on a sliding fee schedule that may be waived.

A school readiness program includes developmental and learning components, health referral services, nutrition, parental involvement, and outreach. Services may be site- or home-based. State law requires coordination with social service providers and other agencies.

Approximately 16,800 children participated in school readiness programs during fiscal year 2021. This program is funded with an annual appropriation of \$33.7 million. (Minn. Stat. §§ 124D.15; 124D.16)

Head Start

Low-income parents may apply to local Head Start programs (grantees) to enroll their children in Head Start (including Early Head Start) programs. Federal regulations require that at least 90 percent of students enrolled in a Head Start program have family incomes at or below the federal poverty guidelines (\$30,000 for a family of four in 2023) or receive welfare assistance. Grantees must reserve 10 percent of program seats for children with disabilities.

Head Start programs provide an array of services, including preschool education, parenting classes, jobs programs, nutrition and health-related services, and other assistance to children and their families. Grantees must coordinate the Head Start program with other community child care providers and preschool programs to increase the availability of full-day, full-year child care services. All Head Start programs must meet federal performance standards and comply with applicable state child care licensing requirements. Head Start programs generally serve students aged three to five in four half-day, center-based programs per week. Early Head Start programs serve infants and toddlers.

In state fiscal year 2023, 34 Head Start grantees served about 13,600 families using \$153.9 million in federal funds and \$25.1 million in state funds.

(Minn. Stat. §§ 119A.50 to 119A.53; 45 C.F.R. parts 1301-1311)

Early Learning Scholarship Program

Low-income parents of children who are age five and younger may apply for an early learning scholarship to help with the cost of early care and learning (i.e., child care and preschool). A parent may apply for a Pathway I scholarship through a regional administrator. Pathway I scholarships are awarded directly to eligible children, and the scholarship is paid to an eligible program chosen by the child's family. An "eligible program" for purposes of Pathway I is any early care and learning program that has obtained or is in the process of obtaining a star rating from the state's quality rating and improvement system (also known as Parent Aware). A parent may also apply directly to a qualifying program with a 4-star Parent Aware rating for a Pathway II early learning scholarship.

In fiscal year 2022, early learning scholarships were awarded to 11,597 children in Minnesota. About 52.6 percent of the scholarships were Pathway I and 47.4 percent were Pathway II, which are awarded directly to child care providers. In each of fiscal years 2022 and 2023, the legislature appropriated \$70.7 million for early learning scholarships.

(Minn. Stat. § 124D.165)

Voluntary Prekindergarten Program and School Readiness Plus

A parent may apply to a qualifying school district or charter school to enroll a four-year-old child in the school's voluntary prekindergarten (VPK) or school readiness plus (SRP) program.

Both programs must provide at least 350 hours of annual service to each qualifying child. The programs must employ qualified instructors and class sizes must be no larger than ten students to each adult, and no more than 20 students for each qualified instructor. The programs may be offered in conjunction with other early learning programs. A primary difference between the VPK and SRP programs is that schools that receive SRP funding can choose to use the money for additional funding for VPK or for enhanced school readiness programs.

State law provides that roughly 7,160 VPK/SRP seats are allocated to school districts and charter schools each year, and the number of seats increases to 12,360 beginning in fiscal year 2026. The seats are proportionately distributed among public schools divided into four regions: (1) Minneapolis and St. Paul school districts; (2) suburban school districts; (3) Greater Minnesota school districts; and (4) charter schools. Within each region, each school site is prioritized for funding based on that school's free and reduced-price lunch count of kindergarten students. Sites in Greater Minnesota are also prioritized by the distance from qualifying early learning scholarship sites. (Minn. Stat. § 124D.151 and Laws 2017, 1st Spec. Sess. ch. 5, art. 8, § 9)

Early Childhood Developmental Screening

A parent who intends to enroll a student in a public school is required to have the child screened. The early childhood screening may be done by a school district or charter school, a

public or private health organization, or an individual health care provider. An exception to the screening requirement is made for a child whose parent provides the school with a signed statement that screening is precluded by conscientiously held beliefs.

Every school district must provide early childhood developmental screening targeting three- and four-year-old children. Public schools are reimbursed for a portion of the costs associated with each child screened, and about \$4.35 million is appropriated for this purpose in fiscal year 2024. A student must provide proof of screening to the public school within 30 days of enrolling in a kindergarten or prekindergarten program or the child may not continue to attend the school. A record of the screening is kept by the school district and must also be sent to the parent or guardian of each child who has been screened. All data collected on the child in the screening process are private data. Data on an identifiable child may only be disclosed with parental consent.

Early childhood screening must include developmental assessments, hearing and vision screening, immunization review and referral, measures of height and weight, assessment of risk factors that could influence learning, a parent interview, and referrals for identified needs. A school may offer additional components, including nutritional, physical, and dental assessments. Mandatory screening components must be consistent with standards established by the Commissioner of Health. Parents must be notified of any condition that requires diagnosis and treatment, and the school district must ensure appropriate follow-up. (Minn. Stat. § 121A.17)

Part C – Infants and Toddlers with Disabilities

Minnesota provides special education services to infants and toddlers under the federal Individuals with Disabilities Education Act (IDEA) and state law. Federal funds, in combination with state special education aid, are used for services for eligible young children with disabilities from birth to age two and their families. A child with a hearing impairment, visual disability, speech impairment, or other disability is eligible for services. An individualized family service plan (IFSP) sets out the necessary interagency services for an eligible child. The interagency early childhood intervention project is an effort of the Minnesota Departments of Education, Health, and Human Services, funded by a federal grant through Part C of the IDEA. An initial evaluation and assessment determines a child's eligibility and developmental needs. An IFSP is developed to meet the eligible child's needs and skills. Core intervention services are free to participants. Core services include identification and referral, screening, evaluation, assessment, service coordination, and age-appropriate special instruction and services. (Minn. Stat. §§ 125A.26-125A.48)

A child under age three who is involved in a substantiated case of child abuse or neglect is eligible for referral to early intervention services funded under Part C of IDEA. (Pub. L. No. 105-17, IDEA (Part C))

Kindergarten Entry Assessment

For the 2023-2024 school year, the Commissioner of Education supports a voluntary kindergarten entry assessment. To that end, the commissioner has approved several

assessments for schools to use to determine a child's readiness for kindergarten. (Minn. Stat. § 124D.162)

Health and Safety Regulation of Child Care Settings

License Required

To protect the health, safety, and welfare of children in child care settings, state law requires that any individual, corporation, partnership, voluntary association, other organization, or controlling individual providing child care services must be licensed or specifically excluded from licensure. The licensing process ensures that child care services meet certain minimum standards. Operating a child care program without a license and without having a license-exempt status is a misdemeanor. (Minn. Stat. §§ 245A.03; 245A.04; Minn. Rules, parts 9502.0315 to 9502.0445 (family day care) and 9503.0005 to 9503.0170 (child care centers))

Permitted Exceptions to Licensure Requirement

Minnesota statute specifies certain exceptions to the general requirement that child care providers must be licensed. Under these exceptions, some types of child care may be provided without a license. (Minn. Stat. § 245A.03, subd. 2)

In order for certain types of license-exempt providers to receive child care assistance payments, the providers must meet the state's requirements to be a legal, nonlicensed child care provider or a certified, license-exempt provider. (Minn. Stat. § 119B.011, subd. 16, and ch. 245H)

Mandated Reporters

All licensed and certified, license-exempt child care providers are mandated reporters under the state's Maltreatment of Minors Act. (See also page 76) (Minn. Stat. § 260E.06, subd. 1)

Right of Access

The Commissioner of Human Services, or the commissioner's designated representative, must be given access to a licensed or certified, license-exempt child care program whenever the program is in operation. Child care centers must also permit parents of enrolled children to visit the center at any time during the center's hours of operation. (Minn. Stat. § 245A.04, subd. 5; Minn. Stat. § 245H.04; Minn. Rules, part 9503.0095)

Motor Vehicles

Minnesota laws stipulate different provisions for operating motor vehicles for people under 18. Special provisions apply in order for youth to operate cars, motorized bicycles and scooters, motorcycles, snowmobiles, and personal watercraft.

Instruction Permit	86
Provisional Driver’s License	86
Full License	87
Farm Work License.....	87
Motorized Bicycle (Moped) Permits	87
Motorized Foot Scooters	87
Two-Wheeled Vehicle Instruction Permit.....	88
Two-Wheeled Vehicle License Endorsement	88
Mandatory Use of Protective Headgear	88
Snowmobile Operation	88
Personal Watercraft Operation	88
Automobile Insurance.....	88
Driving While Using a Cell Phone or Wireless Device.....	89

Instruction Permit

Minnesota has a graduated driver's license system in which driving privileges expand over time (presumably as new drivers gain experience). A minor who is at least 15 years old and is enrolled in a driver's education program can receive an instruction permit once specific conditions have been met. Conditions include parental approval, completing either the classroom portion of a driver's instruction program or at least 15 hours of classroom instruction in a program offering concurrent classroom and behind-the-wheel instruction, taking a vision test, and passing a knowledge test on traffic laws. The instruction permit is valid for two years. It authorizes the holder to drive only when accompanied by a driver's education instructor, parent, guardian, or other licensed driver over the age of 21.

The permit holder may not use a cellular phone or wireless communication device (both handheld and hands free) while the vehicle is in motion, except when calling for emergency assistance about a crime or if someone's life is in danger. Under a separate general prohibition, a phone or wireless device cannot be used handheld when a vehicle is part of traffic (with some exceptions).

If a minor is convicted of a moving violation or of some violations related to alcohol, the permit can be revoked. If a minor has ever been convicted of driving while impaired, violated the open bottle law, refused to take a chemical test for intoxication, or had a crash-related moving violation, he or she won't be issued a permit. (Minn. Stat. §§ 169.475; 171.05, subds. 2 and 2b)

Provisional Driver's License

A minor can apply for a provisional license if the person is at least 16 years old, has held an instruction permit for at least six months, provides a log of supervised driving, and has finished a driver's education program. The application must be approved by a parent or guardian, who must certify that the minor has completed at least 50 hours of supervised driving while holding the permit (or 40 hours if the main driving supervisor had completed supplemental curriculum), including at least 15 hours of driving at night.

A minor may use a provisional license in the same manner as a holder of a standard license except that: (1) the minor may not use a cellular phone hands free while the vehicle is in motion (handheld use is prohibited for all drivers), except when calling for emergency assistance about a crime or if someone's life is in danger; (2) limitations are imposed on the allowed number of passengers;² and (3) for the first six months the provisional license holder may only drive between midnight and 5:00 a.m. under limited circumstances, including for work or school-related activities or if a licensed driver at least 25 years of age is present.

The minor won't be issued a provisional license if in the previous six months the person has been convicted of driving while impaired, violated the open bottle law, refused to take a

² Outside of immediate family, the passenger limitations are no more than one passenger age 19 or younger during the first six months of provisional licensure, and no more than three passengers age 19 or younger during the next six months.

chemical test for intoxication, or had a crash or noncrash-related moving violation. (Minn. Stat. § 171.055)

Full License

A minor can obtain a standard under-21 driver's license if, among other requirements, the person:

- has held a provisional license for 12 months without (1) incurring any moving violations in connection with a crash; (2) incurring more than one moving violation that is unrelated to a crash; or (3) a conviction for driving while impaired, an open bottle violation, or refusal to take a chemical test for intoxication;
- has parental approval; and
- has completed at least ten additional hours of driving under the supervision of a licensed driver age 21 or over.

(Minn. Stat. § 171.04, subd. 1)

Farm Work License

A minor who is at least 15 years old, holds an instruction permit, and is otherwise qualified to hold a driver's license may get a restricted license for farm work. A farm work license holder may operate a vehicle unaccompanied only if (1) performing farm-related work, (2) driving within 40 miles of the farmhouse on the farm where the person is working, and (3) driving during daylight hours. Otherwise, the driver must be accompanied by a licensed driver age 21 or older. (Minn. Stat. § 171.041)

Motorized Bicycle (Moped) Permits

A motorized bicycle (also known as a moped) can be operated by minors who hold a driver's license or a specialized permit. A youth who is at least 15 years old may obtain a motorized bicycle instruction permit upon completion of a safety course and the written portion of an exam, or a motorized bicycle operator's permit upon passage of an exam. An instruction permit holder may only operate the moped within one mile of the person's residence for the purpose of practice. (Minn. Stat. §§ 169.223, subd. 2; 171.02, subd. 3; 171.05, subd. 3)

Motorized Foot Scooters

Motorized foot scooters may be operated by a minor who is at least 12 years old and wears a helmet. The operator generally has the same rights and responsibilities as a bicyclist. The motorized foot scooter may not be operated on the sidewalk, but it can be used on a bicycle lane or path unless (1) the pathway is reserved for nonmotorized use, or (2) operation is restricted by a local government. (Minn. Stat. § 169.225)

Two-Wheeled Vehicle Instruction Permit

A two-wheeled instruction permit allows operation of motorcycles as well as motor scooters. A minor over the age of 16 may obtain the permit if the person holds a driver's license, is taking a two-wheeled vehicle safety course, passes a written test, and pays the permit fee. A permit holder faces some operation restrictions, including carrying no passengers and not driving at night. (Minn. Stat. § 169.974, subd. 2)

Two-Wheeled Vehicle License Endorsement

To obtain a two-wheeled vehicle endorsement on a driver's license, a person under age 18 must have a two-wheeled vehicle instruction permit, pass a written exam, pass a road test, and complete a safety course. The license endorsement allows operation of motorcycles as well as motor scooters. (Minn. Stat. § 169.974, subd. 2)

Mandatory Use of Protective Headgear

Persons under the age of 18 must wear protective headgear while operating or riding a motorcycle, motor scooter, motorized bicycle (moped), or motorized foot scooter on public roadways. A violation is a petty misdemeanor. (Minn. Stat. §§ 169.223; 169.225; 169.974)

Snowmobile Operation

No person under the age of 18 may operate or ride a snowmobile without wearing a helmet. Various other provisions apply, including adult accompaniment requirements and restrictions where the snowmobile may be operated. (Minn. Stat. § 84.872)

Personal Watercraft Operation

Minors under age 13 are not permitted to operate personal watercraft, regardless of horsepower, except in an emergency. (Minn. Stat. § 86B.313, subd. 2) A minor who is at least 13 but less than 18 years old may not operate a personal watercraft without an operator's permit unless someone at least 21 years old is on board the craft. If the minor is 13 years old, the minor must also be visually supervised by someone at least 21 years old, in addition to obtaining a permit. (Minn. Stat. § 86B.313, subd. 3) In order to obtain a permit, a minor must pass an educational course and a test. (Minn. Stat. § 86B.101, subd. 2)

Note: In 2023, a law was passed modifying youth watercraft operation requirements and restrictions beginning July 1, 2025. The changes will impact the operation of personal watercraft.

Automobile Insurance

A minor may enter into a contract to purchase automobile insurance. The contract is binding on the minor as if the minor were an adult. An insurer is not required to issue insurance coverage to the minor, however. (Minn. Stat. § 65B.136)

Driving While Using a Cell Phone or Wireless Device

A person under the age of 18 who has an instruction permit or a provisional license may not drive a vehicle while (1) using a cell phone in either handheld and hands-free mode, (2) holding a wireless communications devices (regardless of actual use), or (3) using a wireless communication device to make a call, engage in electronic messaging, or access various content on the device.³ A violation is a petty misdemeanor. (Minn. Stat. §§ 169.475; 171.05, subd. 2b; 171.055, subd. 2)

³ The prohibitions on holding a wireless communications device as well as on texting or accessing a device while the vehicle is part of traffic applies to all individuals operating a motor vehicle, whereas the prohibition on hands-free cell phone use to make a phone call applies only to drivers under the age of 18.

Unlawful Acts by Youths

Minnesota law prohibits young people from performing certain activities that adults are allowed to do and imposes penalties for such conduct. Minnesota law also requires young people to do certain things in order to protect their welfare. The rationale behind these laws is that, due to the harmful nature of the activity and the immature judgment of young people, it is necessary to place stricter controls on youths than adults.

Purchase and Consumption of Alcoholic Beverages	92
Driving after Consuming Alcoholic Beverages	92
Purchase of Tobacco, Tobacco-related Devices, or Nicotine Delivery Products	92
Possession of Kratom	92
Sale, Use, and Possession of Cannabis and Related Products	93
Possession of Ammunition or a Pistol or Assault Weapon	93
Possession of a Firearm	93
Possession of an Assault Weapon in a Public Place	93
Possession or Use of Tear Gas	93
Possession or Use of Electronic Incapacitation Device (“Stun Gun”)	93
Curfew Ordinances	94
Gambling	94
Violent Video Games	94

Purchase and Consumption of Alcoholic Beverages

(Misdemeanor; Gross Misdemeanor)

No person under 21 years of age may purchase alcoholic beverages or possess or consume alcoholic beverages at a place other than his or her parent's home. This prohibition does not apply if the underage person's activity is undertaken for training, education, or research purposes and is supervised by a responsible person who is over the age of 21. Increased penalties apply to underage purchasers who misrepresent that their age is 21 or older if they have been convicted previously of such an offense. For purposes of these provisions, a person is not 21 years of age until 8:00 a.m. on the day of the person's 21st birthday.

The law provides immunity from prosecution for underage possession or consumption if a person contacts 911 to seek medical assistance. (Minn. Stat. §§ 340A.503; 340A.702; 340A.703)

Driving after Consuming Alcoholic Beverages

(Misdemeanor; Driver's License Suspension)

No person under 21 years of age may drive or operate a motor vehicle, including an off-road vehicle or motorboat, while consuming or after having consumed any amount of alcohol while there is physical evidence of the consumption in the person's body. In addition to criminal penalties, an underage person may lose his or her driver's license, privilege to operate a snowmobile or ATV, and privilege to operate a motorboat for between 30 and 180 days. (Minn. Stat. §§ 84.765; 86B.33; 169A.33)

Purchase of Tobacco, Tobacco-related Devices, or Nicotine Delivery Products

(Civil Penalty)

No minor may use false identification that misrepresents the minor's age to purchase or attempt to purchase tobacco; tobacco-related devices, such as cigarette papers or pipes; or electronic delivery devices, such as e-cigarettes. Violations are subject to a civil penalty. Local governments can adopt ordinances that impose penalties for the use or possession of tobacco, tobacco-related devices, or nicotine delivery products. (Minn. Stat. §§ 609.685; 609.6855)

Possession of Kratom

(Misdemeanor)

No minor may possess any amount of Kratom or a substance that contains Kratom's active ingredient. Violation of this provision is a misdemeanor. (Minn. Stat. § 152.027, subd. 7)

Sale, Use, and Possession of Cannabis and Related Products

(Petty Misdemeanor; Misdemeanor)

No minor may sell, use, possess, or transport cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products. Violation of this provision is a petty misdemeanor. (Minn. Stat. §§ 152.0264, subd. 5; 342.09; 645.241)

Possession of Ammunition or a Pistol or Assault Weapon

(Felony)

No minor may possess ammunition, or a pistol or semiautomatic military-style assault weapon, unless the minor: (1) is in the actual presence or under the direct supervision of a parent or guardian; (2) is possessing it for military drill purposes; (3) is using it in an approved and supervised target practice range; or (4) has completed a state-approved marksmanship and safety course. (Minn. Stat. § 624.713)

Possession of a Firearm

(Misdemeanor)

No child under 16 years of age may possess a firearm unless he or she is (1) accompanied by a parent or guardian; (2) on the parent or guardian's residential property; (3) participating in an organized target shooting or firearms safety program; or (4) is 14 or 15 and has obtained a firearms safety certificate from the Department of Natural Resources. (Minn. Stat. § 97B.021)

Possession of an Assault Weapon in a Public Place

(Felony)

A person under the age of 21 who illegally carries a semiautomatic military-style assault weapon in a public place is subject to increased criminal penalties. (Minn. Stat. § 624.7181)

Possession or Use of Tear Gas

(Misdemeanor)

No person under the age of 16 may use or possess tear gas except by written permission of a parent or guardian. (Minn. Stat. § 624.731)

Possession or Use of Electronic Incapacitation Device ("Stun Gun")

(Gross Misdemeanor)

No person under the age of 18 may use or possess an electronic incapacitation device ("stun gun"). (Minn. Stat. § 624.731)

Curfew Ordinances

Although there are no statewide curfew restrictions for minors, state law authorizes local governments to enact local curfew ordinances and specifically authorizes county boards to adopt countywide curfews applicable to all unmarried minors. Any countywide curfew ordinance adopted in the seven-county metropolitan area must contain an earlier curfew for children under age 12 than for older children. (Minn. Stat. § 145A.05, subd. 7a)

Gambling

(Misdemeanor; Petty Misdemeanor)

A person under age 18 may not: (1) buy a lottery ticket; (2) make a bet or cash a winning ticket at a racetrack; or (3) participate in lawful gambling (except for certain bingo games). Violation of the lawful gambling and pari-mutuel betting prohibitions is a misdemeanor. Violation of the lottery ticket prohibition is a petty misdemeanor. (Minn. Stat. §§ 240.25, subd. 8; 240.26; 349.181; 349A.12)

Violent Video Games

(Civil Penalty)

A person under age 17 may not knowingly rent or purchase a restricted video game. A restricted video game means a game rated AO (adults only) or M (mature). Violation of this provision results in a civil penalty of \$25. (Minn. Stat. § 325I.06)

Note: On July 31, 2006, the federal district court prohibited the implementation and enforcement of this statute based on its finding that the statute violates the First and Fourteenth amendments of the U.S. Constitution. *Entm't Software Ass'n v. Hatch*, 443 F. Supp.2d 1065 (D. Minn. 2006), *aff'd*, 519 F.3d 768 (8th Cir. 2008).

Unlawful Acts Against Youths

There are a number of Minnesota laws that make it a crime or a petty misdemeanor to commit certain acts with or upon children. These criminal laws seek to protect young people in a variety of situations where, due to youth and immaturity, children are considered particularly vulnerable to physical or emotional harm.

Pornography Laws

Child Pornography	97
Dissemination of Pornographic Works to Minors	97

Sexual Abuse Laws

Criminal Sexual Conduct	97
Interference with Privacy.....	98
Indecent Exposure	98
Prostitution	98
Prostitution Crimes Committed in School and Park Zones.....	98
Sexual Solicitation and Communication	98
Human and Sex Trafficking	99

Physical and Emotional Abuse Laws

Death Caused by Child Abuse	99
Death Caused by Malicious Punishment of a Child	99
Death Caused by Neglect or Endangerment of a Child	99
Malicious Punishment.....	99
Assault and Past Pattern of Abuse.....	100
Assault or Malicious Punishment of Child under the Age of Four.....	100
Neglect or Endangerment.....	100
Newborns Left at a Safe Place and Immunity.....	100
Nonsupport.....	100
False Imprisonment	101
Kidnapping	101
Deprivation of Parental or Custodial Rights	101

Safety Laws

DWI and Child Endangerment	102
Child Restraint System	102
Alcoholic Beverage Sales.....	102
Tobacco Sales.....	102
Cannabis and Related Products Sales	102
Tear Gas Sales	103
Firearms Sales	103
Ammunition Displays	103
Negligent Storage of a Firearm.....	103
Electronic Incapacitation Device (“Stun Gun”) Sales.....	103

Unused Refrigerator or Container	103
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Controlled Substance (“Drug”) Laws

Drug Sale or Distribution to or by Means of a Minor	104
Drug Crimes Committed in School Zones	104
Sale of Kratom.....	104
Sale of Cannabis and Related Products	104
Drug Paraphernalia Sales	104

Miscellaneous Criminal Laws

Junk or Secondhand Dealers.....	104
Pawnbrokers	105
Abduction for Marriage	105
Female Genital Mutilation	105
Solicitation of Juveniles to Commit Crime	105
Contributing to Delinquency.....	105
Gambling.....	105
Providing a Tattoo or Body Piercing to a Minor	106
Tanning.....	106

Pornography Laws

Child Pornography

(Felony)

It is a crime to employ, use, or permit a minor to pose or model for a sexual performance, or to disseminate or distribute for profit pictures or works depicting minors in a sexual performance. If the violation involves a minor who is under the age of 14, the offense is subject to increased penalties. (Minn. Stat. § 617.246)

(Felony)

It is a crime to disseminate or possess photographic representations of sexual conduct involving a minor. If the violation involves a minor who is under the age of 14, the offense is subject to increased penalties. (Minn. Stat. § 617.247)

Dissemination of Pornographic Works to Minors

(Gross Misdemeanor)

No person may knowingly sell or rent to a minor pornographic pictures or films containing material harmful to minors or show or admit minors, whether or not for monetary consideration, to see such films or other presentations in a place of public accommodation. (Minn. Stat. §§ 617.293 to 617.294)

(Misdemeanor)

Places of public accommodation may not display pornographic materials containing material harmful to minors unless minors are physically segregated from the display or an opaque cover blocks from view those materials that may be harmful to minors. (Minn. Stat. §§ 617.293 to 617.294)

Sexual Abuse Laws

Criminal Sexual Conduct

(Felony)

It is a crime for any person who is more than 36 months older than the victim to engage in sexual conduct with a minor who is under 14 years of age. It is also a crime to engage in sexual contact with a minor between the ages of 14 and 18 who is a certain number of years younger than the actor and/or is, or within the past 120 days was, under the actor's authority and control, or a minor who is under 18 and with whom the actor has a "significant relationship" as defined by law.

It is a crime for an adult to engage in sexual conduct with a minor when that person has a significant relationship to the minor or is the minor's guardian. "Significant relationship" includes relationships by blood, marriage, adoption, living arrangement, or romantic relationship with the minor's parent, but excludes relationships more distant than first cousins. (Minn. Stat. §§ 609.341 to 609.345)

(Gross Misdemeanor; Felony)

It is a gross misdemeanor for a person to (1) engage in nonconsensual sexual contact with a minor, or (2) knowingly engage in masturbation or lewd exhibition of the genitals in the presence of a minor under the age of 16. A violation of the conduct described in clause (2) is subject to felony penalties if the offender has previous criminal sexual conduct convictions. (Minn. Stat. § 609.3451)

Interference with Privacy*(Gross Misdemeanor; Felony)*

A person who surreptitiously interferes with the privacy of a minor under the age of 18 (i.e., commits a “peeping tom” offense) is subject to increased penalties. (Minn. Stat. § 609.746)

Indecent Exposure*(Gross Misdemeanor)*

It is a gross misdemeanor for a person to willfully and lewdly expose his or her body, to procure another to expose private parts, or to engage in any other open or gross lewdness or lascivious behavior, in the presence of a minor under the age of 16. (Minn. Stat. § 617.23)

Prostitution*(Felony; Gross Misdemeanor)*

It is a crime for any person to solicit, induce, promote, or receive profit from the practice of prostitution by a minor. It is also a crime for a person acting as a patron to engage in prostitution or hire an individual to engage in prostitution with a minor, or someone believed to be a minor, with the penalty varying depending on the age of the minor.

It is also a gross misdemeanor for a nonrelative to permit a minor to reside with him or her without parental consent when the nonrelative knows or has reason to know that the minor is engaging in prostitution. (Minn. Stat. §§ 609.321 to 609.324)

Prostitution Crimes Committed in School and Park Zones*(Felony; Gross Misdemeanor)*

Enhanced penalties apply when a person commits certain prostitution offenses on or near a public park or school property (excluding postsecondary schools) or at a school bus stop while students are waiting for the bus. (Minn. Stat. § 609.3242)

Sexual Solicitation and Communication*(Felony)*

An adult who solicits (i.e., commands, entreats, or attempts to persuade by telephone, letter, or computerized or other electronic means) a child under the age of 16, or reasonably believed to be under age 16, to engage in sexual conduct commits a crime. It is also a crime for an adult

to use the Internet or other electronic device or communication system to communicate or distribute sexually explicit material to a child under the age of 16 or reasonably believed to be under age 16. Mistake as to age is not a defense to these crimes. (Minn. Stat. § 609.352)

Human and Sex Trafficking

(Felony)

Enhanced penalties apply to a person who knowingly engages in a trafficking crime involving an individual who is under 18. (Minn. Stat. §§ 609.282; 609.283; 609.321, subd. 7a; 609.322)

Physical and Emotional Abuse Laws

Death Caused by Child Abuse

(Felony; Life Imprisonment)

A person who causes the death of a child while committing or attempting to commit child abuse is guilty of first-degree murder if (1) there is a past pattern of child abuse, and (2) death occurs under circumstances manifesting an extreme indifference to human life. (Minn. Stat. § 609.185, para. (a), cl. (5))

Death Caused by Malicious Punishment of a Child

(Felony)

A person who causes the death of a child while committing or attempting to commit malicious punishment of a child is guilty of first-degree manslaughter. (Minn. Stat. § 609.20, cl. (5))

Death Caused by Neglect or Endangerment of a Child

(Felony)

A person who causes the death of a child while committing or attempting to commit neglect or endangerment of a child is guilty of second-degree manslaughter. (Minn. Stat. § 609.205, cl. (5))

Malicious Punishment

(Gross Misdemeanor)

No parent, guardian, or caretaker may, through an intentional act or series of acts against a minor, use unreasonable force or cruel discipline against the minor.

(Felony)

The offense becomes a felony if substantial or great bodily harm results from the person's actions or if the offender has been convicted of this crime previously within the past five years. (Minn. Stat. § 609.377)

Assault and Past Pattern of Abuse

(Felony)

A person who assaults a minor and causes any amount of bodily harm is guilty of a felony if the person has engaged in a past pattern of child abuse against that minor. (Minn. Stat. § 609.223, subd. 2)

Assault or Malicious Punishment of Child under the Age of Four

(Felony)

A person who assaults or maliciously punishes a child under the age of four is guilty of a felony if the act causes any physical harm to the child's head, eyes, or neck, or causes multiple bruises to any other part of the child's body. (Minn. Stat. §§ 609.223, subd. 3; 609.377)

Neglect or Endangerment

(Gross Misdemeanor; Felony)

A parent, guardian, or caretaker may not: (1) willfully deprive a minor child of necessary food, clothing, shelter, or health care when reasonably able to provide these necessities, if the deprivation substantially harms or is likely to substantially harm the child's physical, mental, or emotional health; (2) knowingly permit the continuing physical or sexual abuse of the child; (3) endanger a child's health by intentionally causing or permitting the child to be placed in a dangerous situation or to be present where illegal drugs are possessed, sold, or manufactured; or (4) endanger a child under the age of 14 by intentionally or recklessly allowing the child to have access to a loaded firearm. The acts are punishable as gross misdemeanors; however, if the neglect or endangerment results in substantial harm to the child, the act is punishable as a felony. (Minn. Stat. § 609.378)

Newborns Left at a Safe Place and Immunity

A mother may not be prosecuted for leaving an unharmed newborn (not more than seven days old) with an employee at a hospital, health care provider who provides urgent care services, or ambulance service. A person who is not the mother may leave the newborn with the mother's permission. (Minn. Stat. § 609.3785)

Nonsupport

(Misdemeanor)

No person legally obligated to provide court-ordered support to a child may knowingly fail to do so without lawful excuse. (Minn. Stat. § 609.375, subd. 1)

(Gross Misdemeanor)

The offense becomes a gross misdemeanor if (1) the nonsupport continues for more than 90 days, or (2) the arrears amount to more than six times the monthly obligation. (Minn. Stat. § 609.375, subd. 2)

(Felony)

The offense becomes a felony if (1) the nonsupport continues for more than 180 days, or (2) the arrears amount to more than nine times the monthly obligation. (Minn. Stat. § 609.375, subd. 2a)

Contempt proceedings must precede prosecution for nonpayment of child support. Procedures for discharge and dismissal may apply to persons who execute a written payment agreement and comply with it. (Minn. Stat. § 609.375, subd. 2b)

False Imprisonment

(Felony)

No person who knowingly lacks legal authority may intentionally confine or restrain someone else's minor child without the consent of the minor's parent or legal custodian. (Minn. Stat. § 609.255, subd. 2)

(Gross Misdemeanor)

No parent, guardian, or caretaker may subject a minor to unreasonable physical confinement or restraint, if done in a cruel manner and if excessive under the circumstances. (Minn. Stat. § 609.255, subd. 3)

(Felony)

If demonstrable or substantial bodily harm results from the unreasonable confinement or restraint, the offense becomes a felony. (Minn. Stat. § 609.255, subd. 3)

Kidnapping

(Felony)

No child under 16 years of age may be confined or taken from one place to another without the consent of the child's parents or legal custodial guardian. Unlike the situation with adult kidnapping victims, consent of the child victim to the kidnapping is not a defense. (Minn. Stat. § 609.25)

Deprivation of Parental or Custodial Rights

(Gross Misdemeanor; Felony)

No person may conceal a minor child for the purpose of depriving a parent or other custodian of his or her parental, custodial, or parenting time rights to the child, nor may a person abduct a minor child for the purpose of depriving a parent of his or her parental rights, unless a person reasonably believes the action is necessary to prevent physical or sexual assault or substantial emotional harm. Additionally, no person who is at least 18 years old and more than two years older than a minor child may refuse to return the child to a parent or lawful custodian, and no adult may contribute to the child's truancy or running away, or reside with a child under the age of 16, without parental consent. (Minn. Stat. § 609.26)

Safety Laws

DWI and Child Endangerment

(Gross Misdemeanor)

A person who violates “driving while intoxicated” laws is subject to increased criminal and administrative penalties if the person commits the offense with a child in the vehicle who is under the age of 16 and is more than three years younger than the driver. (Minn. Stat. §§ 169A.03, subd. 3; 169A.25; 169A.26; 169A.60; 169A.63)

Child Restraint System

(Petty Misdemeanor)

When transporting a child who is both under the age of eight and shorter than four feet, nine inches in a motor vehicle, the vehicle operator must install and use a federally approved child restraint system. (Minn. Stat. § 169.685, subd. 5)⁴

Alcoholic Beverage Sales

(Gross Misdemeanor or Felony)

No one may sell or give alcoholic beverages to a person under 21 years of age. If an unlicensed or unpermitted person furnishes alcohol to someone who is underage and that person becomes intoxicated and either suffers or causes great bodily harm or death, the furnisher is guilty of a felony. (Minn. Stat. §§ 340A.503; 340A.701; 340A.702)

Tobacco Sales

(Petty Misdemeanor or Misdemeanor; Civil Penalty)

It is unlawful to sell or furnish tobacco; tobacco-related devices, such as cigarette papers or pipes; electronic delivery devices, such as e-cigarettes; or other nicotine delivery products to a person under 21 years of age. A violation of this prohibition is punishable by both criminal and administrative penalties. Repeat violations are subject to increased penalties. The administrative penalties may be assessed against the retailer employing the individual as well as the individual making the unlawful sale. (Minn. Stat. §§ 609.685; 609.6855; 461.12)

Cannabis and Related Products Sales

(Gross Misdemeanor or Felony)

No one may sell or give cannabis or related products to a person under 21 years of age. A violation is subject to civil penalties; criminal penalties; and loss of a license to sell cannabis and related products, alcohol, or tobacco. (Minn. Stat. §§ 151.72; 152.0264; 340A.402; 342.09, subd. 6; 342.19; 342.21; 342.22; 461.12.)

⁴ All drivers and passengers must wear a seatbelt. (Minn. Stat. § 169.686)

Tear Gas Sales*(Misdemeanor)*

No one may knowingly sell or furnish tear gas to a child under 16 years of age without the written permission of the child's parent or guardian. (Minn. Stat. § 624.731)

Firearms Sales*(Felony or Misdemeanor)*

No one within any municipality may furnish a minor with a firearm, air gun, ammunition, or explosive without the prior consent of the minor's parent or the municipality's police department. Outside municipalities, no one may furnish such items to a minor under 14 years of age without parental consent nor may a parent or guardian permit such a minor to handle or use a firearm outside the parent or guardian's presence. (Minn. Stat. § 609.66)

Ammunition Displays*(Petty Misdemeanor)*

It is unlawful to display centerfire handgun ammunition for sale to the public in a manner that makes the ammunition accessible to minors unless the ammunition is in an enclosed display case, under observation by store employees, or otherwise inaccessible to minors. (Minn. Stat. § 609.663)

Negligent Storage of a Firearm*(Gross Misdemeanor)*

No person may negligently store or leave a loaded firearm in a location where the person knows or reasonably should know a child under the age of 18 is likely to gain access, unless reasonable action is taken to secure the firearm against access by the child. (Minn. Stat. § 609.666)

Electronic Incapacitation Device ("Stun Gun") Sales*(Misdemeanor)*

No one may knowingly sell or furnish an electronic incapacitation device ("stun gun") to a child under 18 years of age. (Minn. Stat. § 624.731)

Unused Refrigerator or Container*(Misdemeanor)*

It is unlawful to allow an unused refrigerator or other container to be exposed and accessible to children, if it is large enough to contain a child and has doors that fasten automatically when closed. (Minn. Stat. § 609.675)

Controlled Substance (“Drug”) Laws

Drug Sale or Distribution to or by Means of a Minor

(Felony)

A person who unlawfully sells or distributes controlled substances to a minor, or uses a minor to unlawfully sell, import, or distribute controlled substances, is subject to increased criminal penalties. (Minn. Stat. §§ 152.022 to 152.024; 152.0261)

Drug Crimes Committed in School Zones

(Felony)

Enhanced penalties apply to a person who commits certain controlled substance crimes on or near school property (excluding postsecondary schools) or on a school bus while it is transporting students. (Minn. Stat. §§ 152.022 to 152.023; 152.0264)

Sale of Kratom

(Gross Misdemeanor)

No person may sell any amount of Kratom or a substance containing Kratom’s active ingredient to a minor. (Minn. Stat. § 152.027, subd. 7)

Sale of Cannabis and Related Products

(Gross Misdemeanor or Felony)

No one may sell or give cannabis or related products to a person under 21 years of age. A person who commits a violation is subject to an increased penalty if the person is more than 36 months older than the minor. (Minn. Stat. §§ 151.72; 152.0264)

Drug Paraphernalia Sales

(Gross Misdemeanor)

An adult may not knowingly deliver drug paraphernalia to a minor who is at least three years his or her junior. (Minn. Stat. § 152.094)

Miscellaneous Criminal Laws

Junk or Secondhand Dealers

(Misdemeanor)

No junk dealer or secondhand dealer is allowed to purchase property from a minor without the written consent of the minor’s parent or guardian. (Minn. Stat. § 609.815)

Pawnbrokers

(Misdemeanor)

No pawnbroker is allowed to accept a pledge or purchase property from a person under the age of 18. (Minn. Stat. §§ 325J.08; 325J.11)

Abduction for Marriage

(Gross Misdemeanor)

No person may take a minor for the purpose of marriage without the consent of the minor's parents or legal custodian. (Minn. Stat. § 609.265)

Female Genital Mutilation

(Felony)

No person may knowingly circumcise, excise, or infibulate, in whole or in part, the labia majora, labia minora, or clitoris of another, and consent to the procedure by a minor or the minor's parent is not a defense.

Solicitation of Juveniles to Commit Crime

(Misdemeanor; Gross Misdemeanor; or Felony)

It is a crime for any adult to solicit or conspire with a minor to commit a criminal or delinquent act. The penalty for this crime varies depending on the severity of the solicited criminal act. (Minn. Stat. § 609.494)

Contributing to Delinquency

(Civil Sanctions; Gross Misdemeanor)

No person may encourage, cause, or contribute (1) to the need for protective services or delinquency of a minor, or (2) to the minor's status as a petty offender. (Minn. Stat. §§ 260B.335; 260B.425; 260C.425)

Gambling

(Misdemeanor)

It is illegal for racetracks, lottery ticket retailers, and organizations that conduct lawful gambling to allow persons under age 18 to gamble. It is also illegal for anyone to give a lottery ticket to a person under age 18. (Minn. Stat. §§ 240.13, subd. 8; 240.26; 349.181)

There is no prohibition in state law against persons under age 18 entering casinos or gambling in them. However, tribal-state compacts prohibit Indian casinos from allowing a person under age 18 to play blackjack or video gambling machines. A casino that allows a person under age 18 to gamble is not violating state law but may be subject to tribal court action for violating the compact.

Providing a Tattoo or Body Piercing to a Minor

(Petty Misdemeanor or Gross Misdemeanor)

Except as noted below, a licensed technician may perform body piercings on a minor if a parent or guardian is present and has signed consent and authorization forms. Both the parent or guardian and minor must have photo identification, and there must be documentation establishing parentage or guardianship.

No person may provide a tattoo or any of the following body piercings to a minor: a nipple or genital piercing, branding, scarification, suspension, subdermal implantation, microdermal, or tongue bifurcation. Tattooing is a gross misdemeanor. Violation of the piercing provisions is a petty misdemeanor. Any violation may result in disciplinary actions against the technician, including licensing actions and civil penalties. (Minn. Stat. §§ 146B.07; 645.241)

Tanning

(Petty Misdemeanor)

A minor is prohibited from using any tanning equipment that uses lamps intended to tan skin with ultraviolet radiation, regardless of parental consent. The operator of the tanning facility is guilty of a petty misdemeanor for violation of this section. A minor is permitted to use nonultraviolet radiation tanning methods. (Minn. Stat. §§ 325H.01 to 325H.10)

Miscellaneous Age Provisions

This section describes rights granted on the basis of age, in addition to those covered in other sections of the guidebook.

Access to Government Records	108
Fishing and Hunting Licenses	108
Office Holding	109
Voting.....	109

Access to Government Records

A minor and his or her parent or guardian may examine private or public government data on the minor, except that a government entity will withhold access to data on the minor from the minor's parents or guardians if the minor has requested to do so and the government entity determines that withholding the data is in the minor's best interest. (Minn. Stat. § 13.02, subd. 8) Three other exceptions to this general rule allowing access are:

- Parental financial data maintained by a school are not available to the minor student. (Minn. Stat. § 13.32, subd. 4)
- Copies of child abuse victim videotape interviews can only be obtained by court order. (Minn. Stat. §§ 13.821; 611A.90)
- In investigations of abuse or neglect, interviews with a minor are not accessible to the minor's parent or guardian if the parent or guardian is the alleged perpetrator of the abuse or neglect. (Minn. Stat. § 260E.35, subd. 8)

For information on access to a minor's educational records, see Access to Students' Educational Records under Educational Rights and Responsibilities.

For information on issues related to a minor's criminal court records, see Criminal Adult Court and Juvenile Court.

Fishing and Hunting Licenses

Residents under age 16 may fish without a license. (Minn. Stat. § 97A.451, subd. 2)

Residents and nonresidents under age 16 may hunt small game, under certain conditions, without a small game license. If they are under age 13, they must be accompanied by a parent or guardian. If they are 13 years old, they must be accompanied by a parent or guardian and have a firearms safety certificate. Residents and nonresidents age 13, 14, or 15 also have the option to hunt small game if they possess an apprentice hunter validation, which requires hunting with a licensed adult. If they are age 14 or 15, they must have a firearms safety certificate. Residents under age 16 may also trap small game, excluding wolves, under certain conditions, without a small game license. Residents between 13 and 15 years old must have a trapping license to do so, but residents younger than that do not need a license. (Minn. Stat. § 97A.451, subd. 3)

Residents and nonresidents age 10, 11, 12, 13, 14, or 15 may obtain a license to hunt big game under certain conditions. Residents and nonresidents age 12, 13, 14, or 15 must possess a firearms safety certificate or an apprentice hunter validation and nonresidents age 12 or 13 must be accompanied by a parent or guardian. Residents and nonresidents age 10 or 11 must be under the direct supervision of a parent or guardian where the parent or guardian is within immediate reach. (Minn. Stat. § 97A.451, subd. 4)

Office Holding

An individual must be 21 years old in order to hold state or local office. (Minn. Const. art. VII, § 6)

Voting

An individual may vote in a state or local primary, general, or special election at age 18, provided that other eligibility and registration requirements are met. (Minn. Stat. § 201.014; Minn. Const. art. VII, § 1; U.S. Const. amend. XXVI)

An individual who is 17, but will be 18 by the time of the next state general election, may vote and be elected a delegate or officer at a political party's precinct caucus. (Minn. Stat. § 202A.16)

An individual who is 16 or 17 and is enrolled in a Minnesota high school or is homeschooled may serve as a trainee election judge in the county where the individual resides, with certain conditions. (Minn. Stat. § 204B.19, subd. 6)

Part 2: The Courts

Minnesota law makes distinctions between adults and minors not only with regard to substantive rights and responsibilities, as described in Part 1, but also with respect to the type of procedures under which courts decide these rights and responsibilities. Part 2 explains these court procedures in three sections.

Civil Adult Court describes procedures applicable to minors who are parties or witnesses to civil lawsuits in adult court.

Criminal Adult Court describes procedures applicable to minors who are involved in criminal cases in adult court as witnesses or parties. It also explains certain procedural protections pertaining to the care and custody of minors found to have committed criminal acts.

Juvenile Court describes the purposes and procedures of the juvenile court, which hears most cases involving unlawful acts committed by minors and cases involving children in need of protection or services from the state.

Civil Adult Court

This section describes the rights and restrictions affecting minors as parties or witnesses in civil lawsuits in adult court.

Parental Liability for Children’s Torts and Contracts	114
Parents’ Liability to Children	114
Injury to Minors	114
Statute of Limitations.....	114
Minors as Witnesses	115

Parental Liability for Children's Torts and Contracts

Under common law, parents are not generally liable for the torts of their children simply because of the parent-child relationship. Nevertheless, where the parents cause a tort to occur through their own negligence, they may be held liable for the damages. *See Republic Vanguard Ins. Co. v. Buehl*, 204 N.W.2d 426, 428 (Minn. 1973). Generally, parental liability requires showing that the parents: know that the child has a specific propensity to cause harm; knew or should have known that the child needed to be controlled in the particular circumstance; and had the ability to control the child and did not do so. *See id.* A parent or other party may also be liable for negligent entrustment to a minor of a dangerous instrument if the negligence on the part of the person entrusting the instrumentality is accompanied by negligence on the part of the person to whom the instrumentality is entrusted. *See Axelson v. Williamson*, 324 N.W.2d 241 (Minn. 1982) (negligent entrustment of a motor vehicle to a minor).

The parent or guardian of a minor who willfully or maliciously causes personal injury or property damage, including damage from graffiti, is jointly and severally liable for up to \$1,000 in damage if the child would be liable for damages if he or she had been an adult when the damage occurred. A parent or guardian may be liable for up to \$5,000 in a civil action for conduct that would be a bias crime if the parent or guardian did not make reasonable efforts to exercise control over the minor's behavior. In some cases, the minor or the minor's parent or guardian will also be responsible for the attorney's fees and costs of the injured party. (Minn. Stat. §§ 540.18; 611A.79, subd. 4; 617.90)

The general rule is that minors are not bound by contracts that they enter if the minor disaffirms the contract's provisions within a reasonable time of reaching the age of majority. *Kelly, Jr. v. Furlong*, 261 N.W. 460 (Minn. 1935). Accordingly, unless a minor's parent cosigned the contract, a court generally cannot compel a parent to fulfill a minor's contractual obligations. A court may impose contractual liability on a parent if the child is not emancipated and the contract is for a "necessity" (e.g., food, clothing, shelter).

Parents' Liability to Children

Children may sue their parents for torts. Parents are judged by a "reasonable parent" standard in determining whether they are negligent. *Anderson v. Stream*, 295 N.W.2d 595 (Minn. 1980).

Injury to Minors

A parent or court-appointed guardian may sue to recover for injury done to a minor child. If a parent does not bring a suit, a guardian ad litem is eligible to do so. (Minn. Stat. § 540.08)

Statute of Limitations

The statute of limitations does not run while a person is a minor. A statute of limitation does not begin to run on a minor's legal right of action until he or she is 18 unless parents file suit before then, with two exceptions. The suspension of the statute of limitations ceases in a medical malpractice case either seven years after the action arises or one year after the plaintiff turns 18. In cases of sexual abuse against a minor there is no statute of limitations, unless the

offender was under 14 or the claim is against a school, church, or organization, in which case the claim against that defendant must be brought before the victim is 24 years old. (Minn. Stat. §§ 541.073; 541.15)

Minors as Witnesses

A child under the age of ten is a competent witness unless he or she lacks the capacity to remember or to relate facts truthfully. When a child under the age of 12 is a victim of a crime, the child may be able to provide testimony in an alternative format. (Minn. Stat. §§ 595.02, subd. 1, para. (n), and subd. 4)

Criminal Adult Court

This section describes procedures applicable to minors who are parties or witnesses in criminal cases in adult court, or who are confined in a correctional facility.

Criminal Responsibility.....	118
Admissibility of a Child’s Hearsay Statements in Child Abuse Cases.....	118
Testimony by Closed Circuit TV or Videotape	118
Minors as Witnesses	118
Child Sex Abuse or Trafficking Victim	118
Exclusion of Public from Trials Involving Children	118
Exclusion of Children from Criminal and Scandalous Trials.....	119
Care and Custody of Juvenile Offenders.....	119
Expungement of Certain Criminal Records.....	119

Criminal Responsibility

Children under the age of 14 are considered legally incapable of committing crimes.

Children between the ages of 14 and 18 accused of criminal acts may be certified for adult criminal prosecution or designated as extended jurisdiction juveniles in the manner provided in the juvenile code and under the rules of juvenile procedure.

If a child 16 years old or older is certified to adult court and is convicted of a felony offense, he or she may be charged and tried in adult court for any subsequent felony without going through the juvenile court's certification process.

A child who is alleged to have committed first-degree murder after becoming 16 years old may be charged and convicted in adult court without going through the juvenile court's certification process, and without regard to the child's previous criminal or juvenile court record. (Minn. Stat. § 609.055)

Admissibility of a Child's Hearsay Statements in Child Abuse Cases

Hearsay statements made by a child sex or physical abuse victim under ten years of age may be admitted into evidence in abuse cases if (1) the statement is shown to be reliable, and (2) the child either testifies in person or is unavailable as a witness and there is corroboration of the abuse. (Minn. Stat. § 595.02, subd. 3)

Testimony by Closed Circuit TV or Videotape

A child under 12 years old who is a victim of physical or sexual abuse or another violent crime, or who is a witness to the physical or sexual abuse of another, may be allowed to give testimony over closed-circuit TV or on videotape, if the court decides that use of these devices is necessary to allow the child to testify without undue psychological trauma. (Minn. Stat. § 595.02, subd. 4)

Minors as Witnesses

A child under the age of ten is a competent witness unless he or she lacks the capacity to remember or to relate facts truthfully. (Minn. Stat. § 595.02, subd. 1, para. (n))

Child Sex Abuse or Trafficking Victim

No data in records or reports relating to criminal child sex abuse or sex trafficking petitions, complaints, or indictments that specifically identify the child are accessible to the public, except by court order. (Minn. Stat. § 609.3471)

Exclusion of Public from Trials Involving Children

A judge may bar the public from the courtroom during all or part of a child sex abuse trial if necessary to ensure fairness or to protect the child. (Minn. Stat. § 631.045)

Exclusion of Children from Criminal and Scandalous Trials

No person under age 17 may be present at a criminal prosecution unless involved or directly interested in the case. (Minn. Stat. § 631.04)

Note: Section 631.04 was found unconstitutional as a violation of the separation of powers doctrine. *State v. Lindsey*, 632 N.W.2d 652 (Minn. 2001).

The court is permitted to exclude minors whose presence is not necessary if a trial involves obscene or scandalous matters. (Minn. Stat. § 546.37)

Care and Custody of Juvenile Offenders

A minor may not be detained or confined in the same area as adult prisoners while in jail or lockup unless the minor has been indicted for first-degree murder, certified for trial as an adult, or convicted of a crime as an adult. (Minn. Stat. § 641.14)

The Commissioner of Corrections is prohibited from placing any juvenile referred by the juvenile court in a penal institution. (Minn. Stat. § 242.14)

It is a misdemeanor for any person to abduct, conceal, or improperly interfere with any inmate in a juvenile correctional facility. (Minn. Stat. § 242.47)

Expungement of Certain Criminal Records

A juvenile who has been certified to stand trial as an adult in criminal court and who is convicted of a crime may petition for the expungement of the criminal record if the juvenile has been discharged from the custody of the Department of Corrections or has successfully served the conditions of probation ordered by the court. If the court approves expungement, the juvenile's criminal record is sealed and cannot be reopened except under limited circumstances. (Juvenile offender photographs or images may not be expunged from law enforcement records or databases.) Expungement of delinquency records (as opposed to criminal records) is discussed on page 130. (Minn. Stat. §§ 13.82; 609A.02, subd. 2; 609A.03)

Juvenile Court

This section provides a general overview of the juvenile justice system in Minnesota. First, the purpose and jurisdiction of the juvenile court are described with an explanation of key terms and concepts necessary for understanding the function of the court. Next, the juvenile court process is explained: first, for delinquency and other offenses; second, for cases involving a child in need of protection or services (CHIPS).

Most of the statutory provisions discussed in this section are located in Minnesota Statutes, chapters 260, 260B, and 260C. Several other provisions are found in the Minnesota Rules of Juvenile Delinquency Procedure, effective September 2018, and Rules of Juvenile Protection Procedure, effective September 2024.

Purpose and Jurisdiction of Juvenile Court

Juveniles Who Commit Unlawful Acts	124
Safe Harbor	124
Certification for Adult Prosecution	124
Dispositions for Juvenile Offenders and Juvenile Petty Offenders	125
Extended Jurisdiction Juveniles	125
CHIPS Cases	126
Notice	127
Dispositions in CHIPS Cases	127
Alternative Dispute Resolution	128

Court Process for Delinquency and Other Offenses

Apprehension.....	128
Alternative to Arrest	129
Pretrial Detention	129
Filing of Petition or Citation	129
Arraignment Hearing	129
Certification for Adult Prosecution Hearing	130
Extended Jurisdiction Juvenile Hearing	130
Adjudicatory Hearing (Trial).....	130
Disposition Hearing.....	130
Expungement of Delinquency Records.....	130
Major Constitutional Rights of a Child in Juvenile Court	131

Court Process for CHIPS and TPR Cases

Pre-Adjudication Emergency Removal	132
Filing of Petition or Citation	133
First Appearance	133
Adjudicatory Hearing (Trial) and Disposition Hearing	133
Review of Court-Ordered Placements	134
Disposition	134
Minnesota Indian Family Preservation Act.....	134
Reestablishment of Legal Parent/Child Relationship	135

Purpose and Jurisdiction of Juvenile Court

The juvenile court in Minnesota is authorized to hear and decide two main categories of cases:

- those involving juveniles who commit unlawful acts
- those involving children who, for a variety of reasons, are in need of protection or services by or from the juvenile court (CHIPS)

The juvenile court, however, lacks jurisdiction over two types of juvenile offenders: (1) juveniles 16 years old or older who are alleged to have committed first-degree murder; and (2) juveniles 16 years old or older who are alleged to have committed a petty misdemeanor-level traffic offense or a DWI or related nonfelony offense. The district (adult) court has jurisdiction over these offenders. (Minn. Stat. §§ 260B.007, subd. 6; 260B.101; 260B.225)

The juvenile court is also responsible for the following:

- **terminations of parental rights (TPR)** to a child. Parental rights may be terminated by the court either (1) for good cause with parental consent, or (2) if the child has been abandoned or substantially or continuously neglected, if a parent has been ordered to, but has continuously failed to contribute to the child's financial support without good cause, if the parent's conduct shows a clear unwillingness or unfitness to be a parent, or if reasonable efforts have failed to correct the conditions leading to the child's out-of-home placement (Minn. Stat. §§ 260C.101, subd. 2, cl. (1); 260C.301)
- appointments and removals of **guardians** for minors, where parental rights have been terminated (Minn. Stat. § 260C.101, subd 2, cl. (3))
- juvenile **marriages** (Minn. Stat. § 260C.101, subd. 2, cl. (4))
- **adoption matters** (Minn. Stat. § 260C.101, subd. 2, cl. (5))
- periodic review of a child's placement in **foster care** (Minn. Stat. § 260C.101, subd. 2, cl. (6))
- review of **voluntary foster care placement of a child for treatment** due to an emotional disturbance or developmental disability or related condition (Minn. Stat. §§ 260C.101, subd. 2, cl. (7); 260D.01)
- **permanency matters** for a child in foster care (Minn. Stat. §§ 260C.101, subd. 2, cl. (2); 260C.503)
- **persons** (including adults) alleged to be **contributing to the neglect, delinquency, or juvenile petty offender status of a minor**. Juvenile courts may order relief of a civil or injunctive nature and hear and decide a gross misdemeanor criminal charge in these cases (Minn. Stat. §§ 260B.335; 260B.425)
- **reestablishment of a legal parent and child relationship** (Minn. Stat. §§ 260C.101, subd. 2, cl. (8); 260C.329)

Records of juvenile court delinquency actions are accessible to the minor and the minor's parents or guardian. Juvenile delinquency records may be seen by others outside the judicial and law enforcement systems in most cases only with a court order, except in the following situations:

- The victim of any alleged delinquent act may obtain the name and age of the juvenile, the act for which the juvenile was petitioned, the date of the offense, and the disposition of the case. (Minn. Stat. § 260B.171, subd. 4)
- 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. (Minn. Stat. § 260B.171, subd. 4)
- Court disposition orders in certain cases are shared with schools as discussed on page 46. (Minn. Stat. § 260B.171, subd. 3)
- Records of adjudications, court transcripts, and delinquency petitions must be released to law enforcement agencies and prosecuting authorities for purposes of investigating and prosecuting crimes committed for the benefit of a gang. (Minn. Stat. § 260B.171, subd. 1)

All delinquency proceedings conducted by the juvenile court are closed to the public except: (1) hearings and court records⁵ involving minors 16 years or older are open to the public if the minor is accused of a felony-level offense; and (2) a victim of a child's delinquent act may attend any related delinquency proceeding, subject to the court's authority to exclude the victim for specified reasons. (Minn. Stat. § 260B.163, subds. 1 and 3)

The Bureau of Criminal Apprehension (BCA) retains juvenile history data on a child against whom a delinquency petition was filed and continued without adjudication, or a child who was found to have committed a felony or gross misdemeanor-level offense, until the child reaches age 28. If, however, the offender commits a felony violation between the ages of 18 and 28, the bureau retains the juvenile data for as long as the data would have been retained if the offender had been an adult at the time of the juvenile offense. Juvenile data held by the BCA are private data but accessible to criminal justice agencies, courts, and public defenders. In addition, the BCA must disseminate a juvenile adjudication record in connection with a background check required by statute. (Minn. Stat. § 299C.095, subds. 1, para. (b) and 2) See also the publication *Criminal Background Check Statutes: An Overview*, House Research Department, September 2016.

Absent exceptional circumstances, juvenile protection hearings (except adoption proceedings) are presumed accessible to the public. In addition, most juvenile protection case records are presumed accessible to the public pursuant to the Rules of Juvenile Protection Procedure. The court, however, may close any hearing and related records as provided in rules. (Minn. Stat. §§ 260C.163, subd. 1; 260C.171; Minn. R. Juv. Prot. P. 8)⁶

⁵ Except for criminal justice and other government agencies, public juvenile delinquency records are not remotely accessible, but may be accessed in electronic or paper form at a court facility. (Minn. R. Juv. Del. 30.02) In 2013 the legislature passed a more restrictive law on electronic record access which the Supreme Court declined to adopt. See Minn. Stat. § 260B.171, subd. 9; Order Promulgating Amendments to the Minnesota Rules of Delinquency Procedure, ADM 10-8003 (May 14, 2014).

⁶ Examples of records that are not accessible to the public include medical records, records that identify a reporter of abuse or neglect, and records that identify a minor victim of alleged or adjudicated sexual assault. (Minn. R. Juv. Prot. P. 8.01, 8.04, 27.01)

Juveniles Who Commit Unlawful Acts

As mentioned earlier, one important type of case generally assigned to the juvenile court involves minors who engage in unlawful conduct. In contrast to the adult courts, goals of these juvenile proceedings are not to determine criminal responsibility and punishment but, rather, to protect the child from the consequences of his or her own conduct, develop individual responsibility for unlawful behavior, rehabilitate him or her, and, at the same time, promote public safety. (Minn. Stat. § 260B.001, subd. 2)

Juveniles committing unlawful acts fall into one of the following categories, depending mostly on the nature of the conduct involved:

- **Delinquents:** children 10 years of age or older who commit acts that would be unlawful if committed by an adult, except for those the law designates as petty offenses, or who are 14 years old or older and whose cases are heard in adult court (Minn. Stat. §§ 260B.007, subd. 6; 609.055; *In re Welfare of S.A.C.*, 529 N.W.2d 517 (Minn. App. 1995))⁷
- **Extended jurisdiction juveniles:** children 14 years old or older who commit felony-level delinquent acts and who the prosecutor or the court designates as being in this category (Minn. Stat. § 260B.130)
- **Petty offenders:** children who engage in conduct that is unlawful for them but not unlawful for adults (i.e., status offense), such as violating curfew, drinking, and smoking. The petty offender category also includes juveniles charged with their first or second nonviolent misdemeanor offense, with the exception of certain designated offenses (Minn. Stat. § 260B.007, subd. 16)
- **Juvenile traffic offenders:** children who violate traffic laws. In certain cases, depending on the age of the child and the nature of the traffic offense, the matter may be handled exclusively by the adult court rather than the juvenile court (Minn. Stat. § 260B.225)

Safe Harbor

Juveniles who are alleged to have committed prostitution are not considered delinquents or petty offenders, but rather are considered sexually exploited youth and fall under the juvenile protection laws (i.e., CHIPS).

Certification for Adult Prosecution

In some cases, the juvenile court may decide that a child over the age of 14 who is accused of a particularly dangerous offense and/or has engaged in criminal conduct in the past would be handled more appropriately in the adult court. These alleged delinquents may be “certified to adult court for criminal prosecution” upon motion by the prosecutor if the juvenile court holds a hearing and finds that there is probable cause to believe the child committed a felony offense and that there is clear and convincing evidence public safety is not served by handling the case

⁷ However, children who commit traffic offenses are not labeled as delinquents, even if the conduct would have been unlawful if committed by an adult. (Minn. Stat. § 260B.225) Similarly, children who commit certain nonviolent misdemeanors or who are found in possession of a small amount of marijuana are classified as petty offenders rather than delinquents. (Minn. Stat. § 260B.007, subd. 16)

in juvenile court. Once a child has been certified to the adult court for prosecution, the child may be prosecuted, convicted, and sentenced⁸ as if he or she were an adult.

The law presumes that certain juvenile offenders will be certified to adult court for criminal prosecution. The presumption applies if:

- the child was 16 or 17 years old at the time of the felony offense; and
- the court finds probable cause to believe the child committed either: (1) a felony offense that would result in a presumptive commitment to prison under the sentencing guidelines and applicable statutes (generally violent or other repeat serious offenses); or (2) any felony offense while using a firearm.

In such cases, the child has the burden to rebut the presumption by clear and convincing evidence demonstrating that retaining the case in juvenile court serves public safety. If the child does not rebut the presumption, the court must certify the case to adult court. (Minn. Stat. § 260B.125)

Dispositions for Juvenile Offenders and Juvenile Petty Offenders

Assuming the juvenile court retains jurisdiction over the alleged juvenile offender and, after a hearing, determines that the child did engage in the unlawful conduct, the court has a variety of dispositions available to it including fines, probation, counseling, home detention, electronic surveillance, sex offender treatment, placement out of the home, loss of driver's license, restitution or community service, residency restrictions, and (for delinquents only) commitment to the Commissioner of Corrections for placement in a state juvenile correctional facility. A juvenile adjudicated delinquent for a predatory offense (as defined in statute) must register as a predatory offender. A juvenile petty offender may not be placed outside the home except for in-patient treatment for chemical dependency. The juvenile court's jurisdiction over the child lasts until the child's 19th birthday. (Minn. Stat. §§ 243.166, subd. 1b; 260B.193, subd. 5; 260B.198; 260B.225; 260B.235)

Extended Jurisdiction Juveniles

A juvenile offender alleged to have committed a felony-level offense after reaching the age of 14 may be prosecuted as an "extended jurisdiction juvenile" (EJJ) instead of being certified to adult court or dealt with as a juvenile delinquent. This intermediate category may apply to the following offenders:

- 14- to 17-year-olds who are designated EJJ's instead of being certified to adult court following a certification hearing

⁸ In a line of cases from 2005 to 2021, the U.S. Supreme Court addressed the issue of culpability of children in adult sentencing. The Court held that the Eighth Amendment bars capital punishment for children, prohibits a life sentence without the possibility of parole for children who committed nonhomicide offenses, and forbids a sentencing scheme that *mandates* life in prison without the possibility of parole for child offenders. *Roper v. Simmons*, 543 U.S. 551 (2005); *Graham v. Florida*, 560 U.S. 48 (2010); *Miller v. Alabama*, 132 S.Ct. 2455 (2012); see also, *Montgomery v. Louisiana*, 577 U.S. 190 (2016); *Jones v. Mississippi*; 593 U.S. - (2021)

- 16- and 17-year-olds who would have been subject to the presumption in favor of certification but who are, instead, designated EJJ by the prosecutor
- 14- to 17-year-olds who are designated EJJ by the court after a hearing on the matter

A child who is designated an EJJ has the right to a jury trial in juvenile court and the effective assistance of counsel on the issue of guilt.

If convicted, a child designated as an EJJ receives both a juvenile disposition and a stayed adult sentence. This stayed adult sentence may be executed and the child may be sent to prison if the child violates the terms of the juvenile disposition order. The court's jurisdiction over an EJJ lasts until the child's 21st birthday, unless terminated sooner by the court. (Minn. Stat. §§ 260B.130; 260B.193, subd. 5)

CHIPS Cases

The other major category of cases the juvenile court hears are those involving "children in need of protection or services" (CHIPS). Grounds for invoking the juvenile court's CHIPS jurisdiction include the following:

- the child is abandoned
- the child is maltreated
- the child resides with a victim or perpetrator of domestic child abuse
- the child is without necessary food, shelter, education, or other care
- the child is without special care that is necessary due to a physical, mental, or emotional condition
- the child is medically neglected, including infants in need of "medically indicated treatment" within the statute's definition
- the child's parent or guardian desires, for good reason, to be relieved of the child's care and custody
- the child is in an illegal adoptive or foster care placement
- the child's parent or guardian is unable to provide care due to disability or immaturity
- the child is in dangerous surroundings or is exposed to criminal activity in the home
- the child is experiencing growth delays, which may be referred to as a failure to thrive, that have been diagnosed by a physician and are due to parental neglect
- the child is a sexually exploited youth
- the child has committed a delinquent act or juvenile petty offense before becoming ten years old
- the child is a runaway from home
- the child is habitually truant from school
- the child has been found incompetent to proceed or has been found not guilty by reason of mental illness or mental deficiency in connection with a delinquency certification, EJJ, or juvenile petty offense proceeding

- the child has a parent whose parental or custodial rights to another child have been involuntarily terminated or transferred and social services had compelling reasons not to file a TPR petition

In CHIPS cases, the juvenile court is directed by law to secure for each child the care and guidance that is in the child's best interests. In so doing, the court must observe the following policies wherever possible and in the best interests of the child:

- to make reasonable efforts to maintain the child in his or her own home
- to provide judicial procedures that protect the welfare of the child
- to remove the child from parental custody only when his or her welfare or safety cannot otherwise be adequately safeguarded
- when the child is placed out of the home, to secure care and discipline for him or her similar to that which should have been given by the parents
- to make reasonable efforts to reunite the child with his or her family, consistent with the child's best interests and safety, except in certain types of cases
- to ensure that when a child is removed from the home there is a voluntary placement agreement or court order with an individualized determination of the child's best interests
- to ensure appropriate permanency planning for children in foster care

(Minn. Stat. §§ 260.012; 260C.001; 260C.007)

Notice

After a petition has been filed alleging a child to be in need of protection or services, the court must issue a notice to a presumed father of the child and a grandparent with statutory rights to participate, unless these persons voluntarily appear or have been summoned. (Minn. Stat. § 260C.151)

Dispositions in CHIPS Cases

The types of dispositions available to the court to achieve these purposes are:

- placing the child under protective supervision while permitting the child to remain at home;
- placing the child out of the home in a foster care setting or, under certain limited circumstances, in an independent living arrangement;
- ordering a trial home visit, when the child is returned to the parent or guardian for up to six months with services from the responsible social services agency, and under certain conditions;
- allowing the child to be adopted in cases where the child is not returned home;
- ordering the abuser out of the home in cases of domestic child abuse; or
- ordering that the child receive special services or treatment for his or her mental or physical health.

Dispositional orders are for a fixed period of time not to exceed one year and may be renewed or modified by the court.

If the child is in need of protection or services due to truancy or running away from home, the court may also order counseling or treatment, probation, delivery of the child to school by the parent or legal guardian, a fine, community service, loss or denial of driving privileges, or placement in a correctional group home.

The court's continuing jurisdiction over the child lasts until the child's 18th birthday, except when the court decides that it's in the person's best interest to continue jurisdiction until the person is 19 years old. In foster care review cases, jurisdiction continues to age 21. (Minn. Stat. §§ 260C.193; 260C.201)

Alternative Dispute Resolution

In CHIPS, TPR, and permanency cases, the court may authorize the parties to participate in alternative dispute resolution, including family group decision making, parallel protection process, and mediation. (Minn. Stat. § 260C.163, subd. 12)

Court Process for Delinquency and Other Offenses

The following is a summary of the major stages of the juvenile court process for children alleged to have committed unlawful acts.

Apprehension

A child may be apprehended and taken into immediate custody by the police or a probation or parole officer before any court papers are filed, if the child is:

- in need of protection or services;
- a juvenile petty offender;
- one who has committed a delinquent act that would be a petty misdemeanor or misdemeanor if committed by an adult;
- found in dangerous surroundings;
- the subject of an arrest warrant;
- subject to arrest;
- a parole/probation violator;
- excluded from the parent's home under an order for protection against the child, in situations where the parent is unable or unwilling to provide an alternative safe living arrangement for the child; or
- under age 18 and truant from school. Custody under this circumstance is for the purpose of transporting the child home and into the custody of a parent or guardian, to school, or to a truancy service center.

(Minn. Stat. §§ 260B.143; 260B.175; 260C.143; 260C.175)

Alternative to Arrest

A peace officer who has sufficient evidence to justify apprehending a child may refer the child to an alternative program instead of arresting the child. If the child enters the program and successfully completes it, the child may not be apprehended or face adjudication for the act. (Minn. Stat. § 260B.1755)

Pretrial Detention

A child taken into custody must be released as soon as possible to their parents, guardian, or custodian unless the child is a flight risk or the child's health or welfare would be immediately endangered. To make that determination, a facility must use a neutral risk-assessment tool. If the risk-assessment tool supports detaining a child alleged to be delinquent, the child may be held up to 36 hours, excluding Saturday, Sunday, and holidays, in a juvenile secure or shelter care facility. In order to detain children in juvenile facilities longer than these time periods, the court must hold a detention hearing and find that pretrial detention is necessary. Then, it must review the decision to continue detention every eight days until the child's case is heard and decided, or the child is released.

There are strict limits on detaining alleged delinquents in an adult jail or lockup. In most cases, no child may be detained in an adult jail or lockup for longer than six hours in a standard metropolitan statistical area or for longer than 24 hours elsewhere, unless a juvenile court petition and a motion to certify the juvenile for adult prosecution have been filed and a judge has approved the continued detention. A limited exception to the 24-hour rule exists if distance or weather conditions preclude a court appearance within 24 hours. In these cases, the juvenile may be detained in the adult facility for up to 48 additional hours or, in the case of weather conditions, for up to 24 hours after safe travel is available. (Minn. Stat. §§ 260B.176 to 260B.181)

Filing of Petition or Citation

The filing of a petition or citation with the court officially begins the juvenile court process. The county attorney prepares and files delinquency petitions; a peace officer may file citations for petty offenses and misdemeanor offenses. (Minn. Stat. §§ 260B.141; 260B.143)

Arraignment Hearing

At the arraignment hearing, the child is given the opportunity to admit or deny the allegations contained in the petition. This hearing must be held within 30 days of the date on which the petition is served or, if the child is in detention, within five days of the time he or she was taken into custody. (Minn. R. Juv. Del. P. 7.03)

If the child denies the allegations in the petition, or if the court refuses to accept the child's admission, the court schedules an adjudicatory hearing to take place within 30 or 60 days, depending on whether or not the child is in detention. If the child admits to the allegations and the court accepts the admission, the court will schedule a disposition hearing. (Minn. R. Juv. Del. P. 7, 8, 13, and 15)

A child appearing in court may not be put in restraints unless the judge determines that the use of restraints is necessary to prevent physical harm to the child or another, or to prevent flight from the courtroom when the child presents a substantial risk of flight. (Minn. Stat. § 260B.008)

Certification for Adult Prosecution Hearing

The juvenile court judge, upon motion by the prosecutor, may hold a hearing as to whether an alleged delinquent over the age of 14 should be referred to the adult court for criminal prosecution. In ordering the certification, the court must find that there is probable cause that the child committed the charged offense and that there is clear and convincing evidence that the public safety would not be served by handling the case in the juvenile system. The law presumes that certain offenders will be certified to adult court (see page 124). (Minn. Stat. § 260B.125)

Extended Jurisdiction Juvenile Hearing

Upon request of a prosecuting attorney, the juvenile court must hold a hearing on whether to designate an offender as an “extended jurisdiction juvenile” (EJJ). Additionally, under certain circumstances, the court or the prosecutor may place a child in the EJJ category without a hearing as an alternative to certification. If the child is not being considered for certification, the prosecutor must ask the court to hold a hearing if the prosecutor wants the child placed in the EJJ category. The effects of placement in the EJJ category are described on page 125. (Minn. Stat. §§ 260B.125; 260B.130; 260B.141)

Adjudicatory Hearing (Trial)

An adjudicatory hearing is the equivalent of a trial in adult court. The hearing is held before a judge, except that in EJJ prosecutions the child has the right to a jury trial on the issue of guilt. At the conclusion of the hearing the court has seven days to decide whether the allegations in the petition have been proven beyond a reasonable doubt. If the allegations have not been proven, the court must dismiss the petition. If they have been proven, the court may either: (1) adjudicate the child as a delinquent or an offender, or convict the child as an EJJ and schedule a disposition hearing; or (2) withhold adjudication for up to 360 days, during which time the court may order counseling, supervision, treatment, or other conditions. (Minn. Stat. §§ 260B.163; 260B.198; Minn. R. Juv. Del. P. 13, 14, 15, and 19)

Disposition Hearing

A disposition hearing is similar to a sentencing hearing in adult court. It is designed to be informal and to allow all participants the opportunity to be heard. Based on the information received, the judge may order any one of the dispositions summarized on page 125. (Minn. Stat. § 260B.198; Minn. R. Juv. Del. P. 15)

Expungement of Delinquency Records

Juvenile delinquency records may be expunged if the court determines that expungement would provide a benefit to the petitioner that outweighs the burden on the government and

any detriment to public safety by sealing the records. A record expunged under this subdivision on or after January 1, 2015, may be opened, used, or exchanged between criminal justice agencies under specified circumstances. (Minn. Stat. § 260B.198, subd. 6)

Major Constitutional Rights of a Child in Juvenile Court

The issue of how to treat juveniles in the criminal justice system has received extensive attention. The first juvenile court appeared in Chicago in 1899 and, for many years, juvenile courts were relatively informal. Minors received minimal procedural protections and had few due process rights. Until the 1960s, constitutional challenges to the procedures in juvenile court were unsuccessful under the theory that juvenile courts protected and rehabilitated juveniles instead of establishing criminal responsibility and assigning punishment.

Since 1966, however, the U.S. Supreme Court has recognized that juvenile court proceedings can and do affect the rights of children to “life, liberty, and the pursuit of happiness” and, therefore, that juvenile court hearings and procedures must measure up to the essentials of due process and fair treatment.

In a series of cases decided during the late 1960s and early 1970s, the U.S. Supreme Court found that alleged delinquents have the following constitutional rights in juvenile adjudicatory hearings:

- the right to **written advance notice** of the adjudicatory hearing, allowing adequate time to prepare for it
- the **right to counsel**⁹
- the **privilege against self-incrimination**
- the right to **cross-examine witnesses** (*In re Gault*, 387 U.S. 1, 87 S. Ct. 1428 (1967))
- that findings of delinquency must be based on **proof beyond a reasonable doubt** if the offense is one that would be unlawful if committed by an adult (*In re Winship*, 397 U.S. 358, 90 S. Ct. 1068 (1970))
- the **Double Jeopardy** Clause of the Fifth Amendment prohibits prosecution in adult court of a juvenile if an adjudicatory hearing has been held on the same matter in juvenile court (*Breed v. Jones*, 421 U.S. 519, 95 S. Ct. 1779 (1975))

In contrast, however, the U.S. Supreme Court held in *McKeiver v. Pennsylvania*, 403 U.S. 528, 91 S. Ct. 1976 (1971) that a **jury trial** is not constitutionally required in the adjudicative phase of a juvenile court proceeding, because juries are not essential to fundamental fairness in fact-finding procedures. However, several states have extended the right to trial by jury in some or

⁹ In 1994, the Minnesota Legislature made it extremely difficult for juvenile offenders charged with serious crimes to waive their right to counsel: juvenile offenders who are charged with felonies or gross misdemeanors or are to be placed out of the home must have counsel or, if the right to counsel is waived, must have standby counsel appointed. However, in 1995 the Minnesota Legislature provided that juveniles charged with a juvenile petty offense are not entitled to counsel appointed at public expense. The petty offender category includes not only status offenses, but also certain nonviolent misdemeanors. See Minn. Stat. §§ 260B.163, subd. 4; 260C.163, subd. 3.

all juvenile cases. Juveniles who have been designated “extended jurisdiction juveniles” in Minnesota’s juvenile courts have a right to a jury trial during the adjudicatory hearing.

Additionally, the Court held in *Schall v. Martin*, 467 U.S. 253, 104 S. Ct. 2403 (1984) that **pretrial detention** of an alleged delinquent, based on the risk that the child may commit additional crimes prior to trial, does not violate the child’s due process rights. It held that pretrial detention of alleged delinquents is compatible with the fundamental fairness requirement of the Due Process Clause of the Fifth Amendment, given the protective rather than punitive objectives of the juvenile justice system.

Of note, there has been a recent push to return to a system of informal juvenile justice focused more on the goals of rehabilitation and deterrence. This is in response to laws adopted in the late 1980s and early 1990s that made it easier to charge juveniles as adults.

Court Process for CHIPS and TPR Cases

The following is a summary of the major stages of the juvenile court process as it relates to (1) children alleged to be in need of protection or services (CHIPS), and (2) terminations of parental rights to children (TPR).

Pre-Adjudication Emergency Removal

As explained more fully on page 128, under certain circumstances a child may be taken into immediate custody by a peace officer or by order of the court prior to a juvenile court hearing. In child protection cases, the usual reasons for doing so are because the child is a runaway, to ensure the child’s presence at a hearing, or to remove the child from surroundings or conditions that endanger or reasonably appear to endanger the child’s health or welfare. Such a child may be held in custody for no longer than 72 hours unless (1) a petition has been filed and the judge determines after an emergency protective care¹⁰ hearing that the child should remain in custody, or (2) after a hearing on an order for protection, the court has made a finding of domestic abuse perpetrated by the minor.

If a child is taken into custody under a warrant or for the child’s safety, the child is entitled to a hearing within 72 hours, excluding Saturdays, Sundays, and holidays, of being taken into custody. In addition, upon the request of a party, the court will hold the adjudicatory hearing on the petition within 60 days of the emergency protective care hearing. However, if another party shows good cause why the hearing should not be held, the hearing will be held within 90 days.

The emergency protective care order must be issued within three days of the conclusion of the emergency protective care hearing, and reviewed informally by the judge every eight days until the case is decided. The order may be formally reviewed any time, upon motion of the court or

¹⁰ This hearing is referred to as the “emergency removal hearing” in Minnesota Statutes, chapter 260C, and the “emergency protective care hearing” in the Minnesota Rules of Juvenile Protection Procedure.

request of a party or the county attorney. The order must include rules for parental visitation unless visitation would endanger the child's physical or emotional well-being.

Children who are detained because they are victims of alleged child abuse cannot be given mental health treatment for the effects of the abuse until the court finds probable cause to believe the abuse occurred or unless treatment is agreed to by the child's parent or guardian. (Minn. Stat. §§ 260C.175; 260C.176; 260C.178; 260C.181; Minn. R. Juv. Prot. P. 42)

Filing of Petition or Citation

Any reputable person, including any agent of the Commissioner of Human Services, who has knowledge of a child who appears to be in need of protection or services, may file a CHIPS petition in juvenile court. Additionally, the social service agency responsible for the placement of a child in voluntary foster care may petition the court to review the child's foster care status. A county attorney must draft the petition upon a showing of reasonable grounds to support the petition. A petition filed by an individual who is not a county attorney or an agent of the Commissioner of Human Services must be filed on a form developed by the state court administrator. All petitions must be verified (sworn to) by the petitioner.

Any reputable person may likewise petition the juvenile court to terminate the rights of a parent to his or her child if the person has knowledge of circumstances that support such a petition.

A peace officer may issue a notice to appear to a child believed to be a runaway, and a school attendance officer may issue a notice to appear to an alleged truant. A notice to appear filed with the court has the legal effect of a petition. (Minn. Stat. §§ 260C.141; 260C.143; 260C.307)

First Appearance

A first appearance is a hearing (called an admit/deny hearing) at which the child and the child's parents and guardian are required to admit or deny the allegations of the petition. This hearing must be held within ten days after an emergency protective care hearing for a child who has been placed in pre-adjudication placement or 20 days after filing the petition or citation if he or she is not in placement. If the allegations contained in the petition are admitted, the court will schedule a disposition hearing. If denied, the court will schedule an adjudicatory hearing (trial) within 60 days. (Minn. R. Juv. Prot. P. 46, 47, 49, and 50)

Adjudicatory Hearing (Trial) and Disposition Hearing

The adjudicatory hearing (trial) is held to determine if the allegations of the petition are proven. In contrast to the delinquency or offender adjudicatory hearing, proof of the allegations need not be made "beyond a reasonable doubt" but only by "clear and convincing evidence," which is a lesser standard. If the court finds the allegations of the petition are proven, it may either delay its decision for up to 90 days, or adjudicate the child as being in need of protection or services, or neglected and in foster care, and schedule a disposition hearing.

Except when the sole basis for the petition is habitual truancy, the court must appoint counsel to represent a child age 10 or older. In all child protection proceedings in which a child risks removal from the care of the child's parent, guardian, or custodian, if the parent, guardian, or custodian desires counsel and is financially unable to obtain counsel, the court must appoint counsel to represent each parent, guardian, or custodian prior to the first hearing on the petition and at all stages of the proceedings. In any case, before an out-of-home placement can be ordered, the court must appoint a public defender or counsel at public expense if a party is unable to obtain counsel on his or her own.

The court must conduct a disposition hearing, and to the extent practicable, must enter its disposition order the same day it makes a finding that the child is in need of protection or services, or is neglected and in foster care. In all cases, the order must be issued within ten days after the finding.

Where the petition is one to terminate parental rights and the allegations are proven, the court may terminate parental rights and transfer custody of the child in a disposition hearing. Even where the allegations have not been sufficiently proven to terminate parental rights, the court may still determine that the child is in need of protection or services, or that the child is neglected and in foster care. In such a case the court will adjudicate the child accordingly and will schedule a disposition hearing. (Minn. Stat. §§ 260C.163; 260C.201; 260C.312; 260C.317; Minn. R. Juv. Prot. P. 36, 49-51)

Review of Court-Ordered Placements

The court must conduct a hearing to determine the permanency progress of the case not later than six months after the child is placed outside the home of the parent. For cases where the child is in voluntary foster care for treatment of the child's developmental disability or emotional disturbance under chapter 260D and the child continues in voluntary foster care, the court must review the status of the child not later than 13 months from the date of the voluntary foster care agreement. (Minn. Stat. §§ 260C.204; 260D.07; Minn. R. Juv. Prot. P. 43, 60)

Disposition

If the court finds that a child is in need of protection or services, it may order the dispositions summarized on page 127. Where the court terminates the parental rights of both parents or of the only known living legal parent, the court shall order guardianship of the child to the Commissioner of Human Services, a licensed child-placing agency, or a willing individual capable of assuming parental duties. (Minn. Stat. §§ 260C.201; 260C.317; 260C.325; Minn. R. Juv. Prot. P. 58)

Minnesota Indian Family Preservation Act

Before ordering an out-of-home or permanency placement for an Indian child, the court must find that the local social services agency used active efforts to continuously involve the child's tribe to preserve the Indian child's family and tribal identity. Active efforts include

acknowledging traditional helping and healing systems of the child's tribe and using these systems to help and heal the Indian child and family. (Minn. Stat. § 260.751 to 260.836)

Reestablishment of Legal Parent/Child Relationship

Under the Family Reunification Act of 2013, amended in 2019, a county attorney or a parent whose parental rights were terminated may file a petition for reestablishment of the legal parent and child relationship that was previously terminated by the court, if certain conditions are met. A petition may not be brought in any case where a TPR was based on sexual abuse or death of a minor or where the parent has been convicted of certain crimes. If a petition is granted, permanent legal and physical custody of the child is awarded to the parent. (Minn. Stat. § 260C.329)

Index

abuse, child	
admissibility of statements	118
assault	100
Children's Trust Fund for the Prevention of Child Abuse	76
death	99
DWI violations	102
kidnapping	101
malicious punishment of children.....	99
Maltreatment of Minors Act.....	76
mandated reporters.....	76, 83
neglect	100
newborns left at hospitals	100
professionals reporting	76
punishment of children.....	99
records access in court cases.....	118
taped testimony.....	118
abuse, sexual	
admissibility of statements	118
criminal sexual conduct	97
indecent exposure	98
Maltreatment of Minors Act.....	76
prostitution	98
records access in court cases.....	118
solicitation	98
taped testimony.....	118
adoption	65
adoptee's access to records.....	65
assistance program	78
by relatives.....	65
health insurance	70
inheritance rights after adoption.....	9
of children over the age of 14.....	65
of minor's child	65
of special needs child.....	78
visitation, grandparents, stepparents.....	64
adult basic education.....	24, 27
adults and youth, legal differences	5
age of majority	
defined	5
in employment.....	10
students with disabilities	40
age, legal or full, defined	3
alcohol	
consent for treatment	75
driving after consuming	92
fetal alcohol syndrome	71
purchase and consumption	92
sales to minors.....	102, 104
athletics	
student participation	42
transgender students.....	41
cannabis	
medical.....	36
sale, use, and possession of cannabis and related products	93
sales	102, 104
charter schools	24
Child Abuse Prevention Trust Fund	76
child care	
health and safety regulation.....	83
parents' right to access	83
providers reporting maltreatment.....	83
Child in Need of Protection or Services (CHIPS)	
accessibility to hearings	123
cases, court process.....	133, 134
court dispositions.....	127
defined	2
grounds for invoking.....	126
juvenile court	125, 127, 128
child support	
court-ordered	8
definition of child for	8
enforcement	8
establishing parentage.....	8
health insurance	8
medical expenses.....	8
parents' obligations	8, 63
penalties for nonsupport	100
children with disabilities	
access to education records	40
assessments, state- and districtwide	39
attending nonpublic schools.....	48
inclusion in least restrictive environment.....	39
level of service	37
Medical Assistance (MA).....	69
Medical Assistance (MA) or MinnesotaCare eligibility	79
medical neglect of a child	77
related services provided by schools.....	38
requirements to provide education to	36
services for infants and toddlers.....	82
suspension, exclusion, and expulsion	39
Children's Mental Health Act.....	73
civil court	
parental liability	114
suing parents	114

community solutions for healthy child development	71	school readiness	80
contract, minor's ability to make	9	voluntary prekindergarten	81
court dispositions		education	
CHIPs cases	127, 134	adult basic	27
juvenile offenders	125	single-sex	25
school and student records	46	education, homeschools	
crime		assessing instruction	21
adult certification for prosecution	118, 124	extracurricular activities	49
age of responsibility	118	homeschools	25
alternative to arrest	129	instruction occurring at	21
felony, defined	2	Postsecondary Enrollment Options	23
gross misdemeanor, defined	2	resources from school districts	47
grounds for apprehension	128, 129	education, nonpublic	
misdemeanor, defined	3	extracurricular activities	49
petty misdemeanor, defined	3	guidance and counseling services	47
prosecution, first-degree murder	118	health services	47
prostitution, safe harbor	124	Individuals with Disabilities Education Act (IDEA)	
curfew ordinances	94	48
custody, of children		Postsecondary Enrollment Options	23
assistance with special needs child	78	tax deductions and credits	49
divorced parents	63	transportation	49
out-of-home placement	78	education, public	
standby or temporary custodian	62	academic standards	26
transfer of	62	access to student records	44
delinquency, adults contributing to	105, 122	adult basic	24
delinquent, defined	2	Advanced Placement (AP)	23
directory information, schools	45	alternative schools	23
discrimination		area learning centers	24
age, in employment	10	assessments	27
Equal Protection Clause	41	asthma inhalers	35
housing, against families with children	61	athletics	41, 42
limited English proficiency, students	57	athletics, equal opportunity	40
race, in public schools	57	attendance requirements	20
sex, in athletics	40	attendance requirements, shared time	24
driving		bullying	33
cell phone use	89	charter schools	24
foot scooters	87	children with disabilities	36, 39, 40
licenses	86	civil rights	57
motorcycles	88	College-level Exam Program (CLEP)	23
motorized bicycles	87	crisis management, school safety and active	
snowmobiles	88	shooter drills	34
drugs		desegregation/integration	56
paraphernalia sales	104	discipline and bus riding privileges	32
sale, distribution through a minor	104	dismissals	28
students	46	dispute resolution	38
students with disabilities	40	drug testing students	54
testing students	54	due process	56
early childhood programs		early graduation	28
early childhood developmental screening	81	electronic surveillance	55
early childhood family education	79	English language learners	57
early learning scholarship program	81	enrollment	22
Head Start	80, 81	EpiPens	35
kindergarten entry assessment	82	expulsion and exclusion	30
Part C - Infants and Toddlers with Disabilities	82	extracurricular activities	42, 49
		fees, prohibited and authorized	43

firearms.....	31, 34	work on school days	10
freedom of speech	50, 51, 53	emancipation of a minor	61, 62
graduation requirements.....	25, 26	employment	10, 11, 12, 13
homeless students	21	EpiPens	35
Human Rights Act	57	Equal Access Act, access to school facilities	53
Individualized Education Plan (IEP), development of	37, 39	Equal Protection Clause	
Individuals with Disabilities Education Act (IDEA)	36	busing fees	43
instruction locations	21	extracurricular activities	42, 49
instruction requirements review	28	fees, public schools.....	43
instructional materials	28	Fifth Amendment, double jeopardy in juvenile court cases.....	131
instructor requirements.....	21	firearms	
International Baccalaureate (IB)	23	in schools	31, 34
Internet policies	51	negligent storage	103
language certificates.....	28	possession.....	93
law enforcement.....	47	sales to minors.....	103
malicious and sadistic conduct	33	students with disabilities	40
medical cannabis	36	First Amendment	
menstrual products.....	36	prayer in schools.....	51
Minnesota Constitution	56	religion and education	47
nonprescription pain relievers in school.....	35	religious observances in schools.....	52
online learning	24	school districts for religious enclaves	48
opiate antagonists in school	36	threatening speech	51
pledge of allegiance	50	foster care, out-of-home placement	
Postsecondary Enrollment Options	23, 50	juvenile court	122
prayer in schools.....	51	placement preferences	65
preschool and prekindergarten students	29	review	77
Pupil Fair Dismissal Act of 1974	28	Fourth Amendment	
reasonable force	28	drug testing students	54
recess detention	31	gambling, prohibitions.....	94, 105
religious observances.....	52	grandparents, visitation rights.....	62, 64
removal from class.....	31	guardianship	
residency.....	21	appointing for an orphan.....	64
responsibility for instruction.....	21	Head Start	80, 81
right to an education	56	health	
school conferences	22	abortion, consent for	74
screening.....	20	asthma inhalers in school	35
searching student cell phone.....	55	community solutions for healthy child	
searching students.....	54	development	71
sexual harassment	32	consent for services	74, 75
student dress code.....	52	EpiPens in school	35
student hazing	33	fetal alcohol syndrome	71
student privacy	53	financial responsibility for services.....	75
students with disabilities	55	healthy beginnings, healthy families	71
sunscreen.....	36	Help Me Connect	71
suspension	29	insurance.....	70
sympathomimetic medications	40	lead poisoning.....	72
tax credit and deduction.....	49	Medical Assistance (MA).....	69, 79
Title IX of the Education Amendments	40	medical cannabis	36
tobacco and electronic cigarettes prohibited.....	35	menstrual products in schools.....	36
truancy	20	mental health.....	73, 75
violence.....	34	MinnesotaCare	70
voluntary prekindergarten.....	81	MinnesotaCare, children with disabilities	79
withholding grades or diploma	44	MNSure	70
		newborn screening	71, 73

newborns left at hospitals	100	parents	
nonprescription pain relievers in school.....	35	access to education records	45
opioid antagonists in schools.....	36	appointing a guardian.....	64
sunscreen in schools.....	36	children residing with	61
sympathomimetic medications in school	40	deprivation of visitation rights.....	101
tobacco use prevention	73	establishing parentage.....	9, 64
high school league	42	liability for torts and contracts	114
Human Rights Act	61	rights terminated	8, 122
immunization		school conferences	22
for preschool screening	82	sued by children.....	114
for school	22	parents, divorced	
of emancipated minor	61	access to child's records	63
income taxes.....	13	child support.....	8
Internet, students' access and use	51	child's surname.....	61
juvenile court		custody decisions.....	63
adult certification for prosecution	124, 125, 130	education	22
arraignment	129	parenting plans	63
authorizing living situation.....	61	parenting time	63
Child in Need of Protection or Services (CHIPS)		pornography	
.....	126, 127, 132, 133, 134	child.....	97
child's constitutional rights.....	131	dissemination to minors	97
dispositions	125, 127, 130	Postsecondary Enrollment Options	23, 50
extended jurisdiction juveniles	125, 130	prayer in schools.....	51
out-of-home placement.....	78	property, transfers to minors	9
pretrial detention.....	129	public assistance	
proceedings closed to the public.....	123	for emancipated minor	62
terminating parental rights.....	8	high school attendance.....	20
unlawful acts by children	124	Medical Assistance (MA).....	69, 79
juvenile, defined	3	MinnesotaCare	70, 79
labor, child		MN Family Investment Program (MFIP)	20, 79
age and hour restrictions.....	10	State Children's Health Insurance Program	70
minimum wage	12	Women, Infants, and Children	73
Minnesota Child Labor Standards Act.....	10	Pupil Fair Dismissal Act of 1974.....	28
occupation restrictions	11	athletic programs.....	42
workers' compensation	12	bus riding privileges	32
licenses		prohibition from class activity	31
motorcycle	88	records access	
locker searches, other school searches	54	education records	40, 44
Maltreatment of Minors Act.....	76	government data	108
mandated reporters.....	83	in criminal child sex abuse cases.....	118
medical neglect.....	77	rights of divorced parents.....	63
marriage		residence, consent to change.....	63
abduction for	105	residency requirements, school-age children	21
and emancipation of minor	61	school readiness	80
by a minor	62	sexual harassment, students	32, 33
juvenile court	122	shared time programs	24
Minnesota Child Labor Standards Act, stipulations of		social services	
.....	10, 11	adoption, foster care, and kinship assistance.....	78
Minnesota Indian Family Preservation Act.....	134	child care assistance	79
nonprescription pain relievers in school	35	county responsibility.....	76, 79
nonpublic schools	47, 48, 49	Head Start	80
office holding, age of	109	Part C - Infants and Toddlers with Disabilities	82
open enrollment.....	22	status offense, defined	3
orphans, guardianship for	64	stepparents.....	8
Parentage Act	9	tanning.....	106

tattoo.....	106	<i>Kadmas v. Dickinson Public Schools</i>	44
tax credit and deductions, education.....	49	<i>Lee v. Weisman</i>	51
Tennessean warning.....	32	<i>McKeiver v. Pennsylvania</i>	131
Title IX of the Education Amendments of 1972		<i>Miller v. Alabama</i>	125
U.S. Supreme Court decisions.....	32	<i>Mitchell v. Helms</i>	48
Title VI of the 1964 Civil Rights Act, in schools.....	57	<i>Morse v. Frederick</i>	50
tobacco and electronic cigarettes		<i>Parham v. J.R.</i>	75
prohibited in schools.....	35	<i>Saxton v. Dennis</i>	61
tobacco products		<i>Schall v. Martin</i>	132
purchase of.....	92	<i>Terry v. Ohio</i>	54
sales to minors.....	102	<i>Timothy W. v. Rochester, New Hampshire School District</i>	36
trafficking.....	99	<i>Tinker v. Des Moines Ind. Comm. School District</i>	50
transfers, student.....	45	<i>Wallace v. Jaffree</i>	51
U.S. Supreme Court		<i>Wisconsin v. Yoder</i>	53
double jeopardy.....	131	<i>Zobrest v. Catalina Foothills School District</i>	48
prayer in schools.....	51	<i>Zorach v. Clauson</i>	52
pretrial detention in juvenile court cases.....	132	unemployment insurance to minors.....	12
procedural due process in school suspension.....	30	unlawful acts	
public school resources in nonpublic schools.....	48	committed against children . 98, 99, 100, 101, 102, 104, 105	
related services for students with disabilities.....	38	committed by children.....	92–94
release for religious instruction.....	52	unlawful acts against youths	
right to jury trial in juvenile court cases.....	131	controlled substance ("drug") laws.....	104
rights of children in juvenile court.....	131	miscellaneous crimes.....	104–6
school districts charging fees.....	43	physical and emotional abuse.....	99–101
science education.....	53	pornography.....	97
sex discrimination in schools.....	32	safety laws.....	102–3
student religious groups.....	53	sexual abuse.....	97–99
student-to-student sexual harassment.....	33	unlawful acts by youths.....	92–94
U.S. Supreme Court, cases		alcohol.....	92
<i>Agostini v. Felton</i>	48	cannabis.....	93
<i>Board of Ed. of Ind. School District No. 92 of Pottawatomie Cnty v. Earls</i>	55	curfew ordinances.....	94
<i>Board of Ed. of Kiryas Joel Village School Dist. v. Louis Grumet</i>	48	electronic incapacitation device.....	93
<i>Board of Education of the Westside Cmty. Sch. v. Mergens</i>	53	firearms.....	93
<i>Breed v. Jones</i>	131	gambling.....	94
<i>Brown v. Board of Education</i>	56	kratom.....	92
<i>Cedar Rapids Community Sch. Dist. v. Garret F.</i>	38	tear gas.....	93
<i>Davis v. Monroe County Board of Ed.</i>	33	tobacco.....	92
<i>Edwards v. Aguillard</i>	53	violent video games.....	94
<i>Engel v. Vitale</i>	51	video games.....	94
<i>Franklin v. Gwinnet County Public Schools</i>	32	violence in schools.....	34
<i>Gebser v. Lago Vista Independent School Dist.</i>	33	visitation rights.....	62, 63, 101
<i>Good News Club v. Milford Central School</i>	53	voting, age of.....	109
<i>Goss v. Lopez</i>	30	Vulnerable Children and Adults Act.....	76
<i>Graham v. Florida</i>	125	wages	
<i>Hazelwood School District v. Kuhlmeier</i>	50	minimum.....	12
<i>Honig v. Doe</i>	39	parents claiming minors’.....	9
<i>In re Gault</i>	131	wills	
<i>In re Winship</i>	131	children's right of inheritance.....	9
<i>J.D.B. v. North Carolina</i>	47	minor's ability to make.....	9
<i>Jackson v. Birmingham Bd. of Educ.</i>	40	workers' compensation to minors.....	12