



## **Safe Harbor for Sexually Exploited Youth**

### **Overview of Recommendations for Implementing Legislation**

Background/summary:

The Safe Harbor for Sexually Exploited Youth Act of 2011 changed Minnesota's approach to meeting the needs of sexually exploited youth and youth at risk of sexual exploitation. The Safe Harbor law identified that prostituted children are the victims of sexual exploitation, ended the reliance upon delinquency proceedings as the sole way to meet the needs of these crime victims, and called upon the state to create a framework for implementation of the changes, which become effective on August 1, 2014.

Throughout 2011-2012, as directed by the Safe Harbor for Sexually Exploited Youth Act of 2011, the commissioner of public safety, together with the commissioners of health and of human services, convened a statewide stakeholder consultation working group and established a process to create recommendations for the structure needed to support the approach to providing services and support to sexually exploited youth and to youth at risk of sexual exploitation.

Based in large part on the findings and recommendations of the Safe Harbor Working Group, The Advocates for Human Rights has developed the following proposals relating to implementation of the Safe Harbor law. Proposals 1-10 do not include draft legislative language. Proposals 8-10 include draft legislation.

#### **NO WRONG DOOR:**

#### **Implementing a Statewide Model for Meeting the Needs of Minnesota's Sexually Exploited Youth**

1. Statewide Director: Authorize creation of and spending for a statewide director within the department of health, Maternal and Child Health Division.
2. Advisory Council: Authorize the creation of an advisory council on human trafficking within the department of health.
3. Regional Navigators: Provide the department of health with funding to grant up to six entities to serve as regional navigators. The regional navigator will serve as a regional expert with tasks including:

- Coordinating services to sexually exploited youth and youth at risk of sexual exploitation;
- Providing information and referral to service providers, law enforcement, and others working with sexually exploited youth or youth at risk of sexual exploitation;
- Coordinating training for prevention of sexual exploitation of youth and for those working with sexually exploited youth;
- Depending on the needs of the region, providing individual needs assessment; direct case management; or other ongoing assistance for sexually exploited youth and youth at risk of sexual exploitation;
- Conducting ongoing needs assessment to ensure effective delivery of services for prevention of sexual exploitation of youth and intervention with sexually exploited youth.

4. Grants for supportive services, training, outreach, and evaluation:

- a. Provide the department of health with funding to grant to entities providing supportive services to sexually exploited youth and to youth at risk of sexual exploitation.
  - b. Provide the department of health with funding to support training related to prevention of sexual exploitation of youth and provision of services to sexually exploited youth and to youth at risk of sexual exploitation.
  - c. Provide the department of health with funding to grant to entities providing outreach to sexually exploited youth and to youth at risk of sexual exploitation.
  - d. Provide the department of health with funding for a grant to evaluate the implementation of the Safe Harbor for Sexually Exploited Youth Act.
5. Housing: Provide a modest one-time investment to the department of human services to leverage private investments in emergency housing, transitional housing, and long term supportive housing for sexually exploited youth.
6. Housing operation: Provide the department of human services with funding to grant to entities for the staffing and services needed for the operation of beds providing emergency housing, transitional housing, long-term housing, and specialized foster care for sexually exploited youth.
7. Transportation fund: Establish a fund within the department of public safety to provide reimbursement to local law enforcement agencies for the cost of transportation of sexually exploited youth.

8. Detention: Ensure limited options for secure detention are available to protect sexually exploited youth who are at risk of immediate harm if released. [Draft legislative language included at Appendix A.]

Because of the nature of sexual exploitation, sexually exploited youth may in some cases be in extreme physical danger from their traffickers. Service providers and law enforcement professionals alike recognize that, in very limited cases, sexually exploited youth may need to be placed in secure custody while housing and other supportive services are located. While use of secure detention must be limited to only those cases in which the child is in immediate danger if released, it must remain available.

### **Recognizing All Sexually Exploited Youth as Crime Victims**

Defining sexual exploited youth: Recognize sexually exploited children as victims of sexual exploitation, not as delinquents or offenders. [Draft legislative language included at Appendix B.]

In 2011, the legislature considered in committee hearings the need to recognize prostituted children as the victims of sexual exploitation, rather than as perpetrators of prostitution-related offenses for which they can be held accountable through delinquency proceedings.

During the conference committee negotiations, language was changed to recognize only children under 16 as victims and to continue considering 16 and 17 year old sexually exploited children as delinquents. Although no formal rationale for this change was presented to or considered by the legislature – the change was negotiated during conference committee – the distinction appears to rest on a misappropriation of the concept of the “age of consent.”

Minnesota law does not actually define a legal standard of the “age of consent.” Rather, the term “age of consent” is a lay term referring to what the law identifies as strict criminal liability to perpetrators of rape and sexual assault in cases where the child is under 16. The notion of the “age of consent” relates to the criminal liability of the assailant, not to the age of majority, the age of criminal responsibility, or the marriageable age of the victim.

The 2011 legislation creates an unwarranted distinction between victims who are under sixteen and those who are 16 and 17 years old that conflicts with state and federal approaches. Minnesota law traditionally recognizes that 18 is the age of criminal responsibility, absent certification for adult prosecution. In addition, distinguishing between those under 16 and those over 16 could pose problems in light of the U.S. Supreme Court’s recent decisions recognizing that “children are constitutionally different from adults for purposes of sentencing.” *Miller v. Alabama*, 567 U.S. \_\_\_\_ (2012) (slip. op. at 8).

The reliance on the idea of “consent” also perpetuates the false notion that prostitution is a victimless transaction between two consenting parties and that prostitution is essentially consensual sexual conduct. International law clearly recognizes sexually exploited children and adolescents under 18 are victims regardless of their role in the offence.

The proposed amendments would correct this problem with the 2011 Safe Harbor Act by defining the terms “delinquent child” and “juvenile petty offender” to not include any child under 18 who is alleged to have engaged in conduct which would, if committed by an adult, violate any federal, state, or local law relating to being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual conduct.

If the proposed legislation is adopted, Minn. Stat. 609.093 would be repealed as obsolete.

**Technical correction to 2011 Safe Harbor Act:**

Technical correction to the 2011 Safe Harbor for Sexually Exploited Youth Act. [Draft legislative language included at Appendix C.]

## Appendix A

### Recommendation 11: Ensure options for limited secure detention are available to protect sexually exploited youth.

Minnesota Statutes 2012, section 260C, are amended to read:

#### **260C.175 TAKING CHILD INTO CUSTODY**

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

(1) with an order issued by the court in accordance with the provisions of section 260C.151, subdivision 6, or Laws 1997, chapter 239, article 10, section 10, paragraph (a), clause (3), or 12, paragraph (a), clause (3), or by a warrant issued in accordance with the provisions of section 260C.154;

(2) by a peace officer:

(i) when a child has run away from a parent, guardian, or custodian, or when the peace officer reasonably believes the child has run away from a parent, guardian, or custodian, but only for the purpose of transporting the child home, to the home of a relative, or to another safe place, which may include a shelter care facility; or

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

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

(4) by a peace officer or probation officer under section 260C.143, subdivision 1 or 4.

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

Subdivision 1. **Notice; release.** If a child is taken into custody as provided in section 260C.174, the parent, guardian, or custodian of the child shall be notified as soon as possible. Unless there is reason to believe that the child would endanger self or others or not return for a court hearing, or that the child's health or welfare would be immediately endangered, the child shall be released to the custody of a parent, guardian, or other suitable relative. When a child is taken into custody by a peace officer under

section 260C.175, subdivision 1, clause (2), item (ii), release from detention may be authorized by the detaining officer, the detaining officer's supervisor, the county attorney, or the social services agency, provided that the agency has conducted an assessment and with the family has developed and implemented a safety plan for the child, if needed. In the case of a child taken into custody who is believed to be a sexually exploited youth the detaining officer, the county attorney and the county social services agency shall consider the access of the child's trafficker to the child if released when determining whether there is reason to believe that the child's health or welfare would be immediately endangered. The person to whom the child is released shall promise to bring the child to the court, if necessary, at the time the court may direct. If the person taking the child into custody believes it is desirable, that person may request the parent, guardian, custodian, or other person designated by the court to sign a written promise to bring the child to court as provided above. The intentional violation of such a promise, whether given orally or in writing, shall be punishable as contempt of court.

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

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

(b) No child taken into custody and placed in a shelter care facility or relative's home by a peace officer pursuant to section 260C.175, subdivision 1, clause (1) or (2), item (ii), may be held in custody longer than 72 hours, excluding Saturdays, Sundays and holidays, unless a petition has been filed and the judge or referee determines pursuant to section 260C.178 that the child shall remain in custody or unless the court has made a finding of domestic abuse perpetrated by a minor after a hearing under Laws 1997, chapter 239, article 10, sections 2-26, in which case the court may extend the period of detention for an additional seven days, within which time the social services agency shall conduct an assessment and shall provide recommendations to the court regarding voluntary services or file a child in need of protection or services petition.

(c) No child taken into custody and placed in secure detention pursuant to section 260C.176, subdivision 1, may be held in custody longer than 24 hours, excluding Saturdays, Sundays and holidays, unless a petition has been filed or a request for continued detention has been made to the court and a judge or referee determines that the child shall remain in secure detention. If a judge or referee determines that the child shall remain in secure detention, the court may order the child held for an additional 24 hours, exclusive of Saturdays, Sundays and holidays.

**Subd. 3. Advisement if detained.** If the person who has taken the child into custody determines that the child should be placed in a secure detention facility or a

shelter care facility, that person shall advise the child and as soon as is possible, the child's parent, guardian, or custodian:

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

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

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

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

(5) that the child may not be detained pursuant to section 260C.175, subdivision 1, clause (1) or (2), item (ii), at a shelter care facility longer than 72 hours, excluding Saturdays, Sundays, and holidays, unless a petition has been filed within that time and the court orders the child's continued detention, pursuant to section 260C.178;

(6) that the child may not be detained pursuant to section 260C.176, subdivision 1, at a secure detention facility longer than 24 hours, excluding Saturdays, Sundays and holidays, unless a petition has been filed or a request for continued detention has been made to the court and a judge or referee orders the child's continued detention, pursuant to section pursuant to section 260C.176, subdivision 2(c);

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

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

**Subd. 4. Transportation.** If a child is to be detained in a secure detention facility or a shelter care facility, the child shall be promptly transported to the facility in a manner approved by the facility or by securing a written transportation order from the court authorizing transportation by the sheriff or other qualified person. The person who has determined that the child should be detained shall deliver to the court and the supervisor

of the secure detention facility or shelter care facility where the child is placed, a signed report, setting forth:

- (1) the time the child was taken into custody;
- (2) the time the child was delivered for transportation to the secure detention facility or shelter care facility;
- (3) the reasons why the child was taken into custody;
- (4) the reasons why the child has been placed in detention;
- (5) a statement that the child and the child's parent have received the notification required by subdivision 3 or the reasons why they have not been so notified; and
- (6) any instructions required by subdivision 5.

Subd. 5. **Shelter care; notice to parent.** When a child is to be placed in a secure detention facility or shelter care facility, the person taking the child into custody or the court shall determine whether or not there is reason to believe that disclosure of the secure detention facility or shelter care facility's location to the child's parent, guardian, or custodian would immediately endanger the health and welfare of the child. If there is reason to believe that the child's health and welfare would be immediately endangered, disclosure of the location shall not be made. This determination shall be included in the report required by subdivision 4, along with instructions to the shelter care facility to notify or withhold notification.

Subd. 6. **Report.** (a) When a child has been delivered to a secure detention facility, the supervisor of the facility shall deliver to the court a signed report acknowledging receipt of the child stating the time of the child's arrival. The supervisor of the facility shall ascertain from the report of the person who has taken the child into custody whether the child and a parent, guardian, or custodian has received the notification required by subdivision 3. If the child or a parent, guardian, or custodian, or both, have not been so notified, the supervisor of the facility shall immediately make the notification and shall include in the report to the court a statement that notification has been received or the reasons why it has not.

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



## 260C.178 EMERGENCY REMOVAL HEARING

Subdivision 1. **Hearing and release requirements.** (a) If a child was taken into custody under section 260C.175, subdivision 1, clause (1) or (2), item (ii), the court shall hold a hearing within 72 hours of the time the child was taken into custody, excluding Saturdays, Sundays, and holidays, to determine whether the child should continue in custody. If a child was taken into custody and placed in secure detention pursuant to section 260C.176, subdivision 1, the court shall hold a hearing within 24 hours of the time the child was taken into custody, excluding Saturdays, Sundays, and holidays, to determine whether the child should continue in custody.

(b) Unless there is reason to believe that the child would endanger self or others or not return for a court hearing, or that the child's health or welfare would be immediately endangered, the child shall be released to the custody of a parent, guardian, custodian, or other suitable person, subject to reasonable conditions of release including, but not limited to, a requirement that the child undergo a chemical use assessment as provided in section 260C.157, subdivision 1.

(c) Except as provided in section 260C.176, subdivision 2(c), if the court determines there is reason to believe that the child would endanger self or other or not return for a court hearing, or that the child's health or welfare would be immediately endangered if returned to the care of the parent or guardian who has custody and from whom the child was removed, the court shall order the child into foster care under the legal responsibility of the responsible social services agency or responsible probation or corrections agency for the purposes of protective care as that term is used in the juvenile court rules or into the home of a noncustodial parent and order the noncustodial parent to comply with any conditions the court determines to be appropriate to the safety and care of the child, including cooperating with paternity establishment proceedings in the case of a man who has not been adjudicated the child's father. The court shall not give the responsible social services legal custody and order a trial home visit at any time prior to adjudication and disposition under section 260C.201, subdivision 1, paragraph (a), clause (3), but may order the child returned to the care of the parent or guardian who has custody and from whom the child was removed and order the parent or guardian to comply with any conditions the court determines to be appropriate to meet the safety, health, and welfare of the child.

(d) In determining whether the child's health or welfare would be immediately endangered, the court shall consider whether the child would reside with a perpetrator of domestic child abuse. In the case of a child taken into custody who is believed to be a sexually exploited youth the court shall consider the access of the child's trafficker to the child if released.

(e) The court, before determining whether a child should be placed in or continue in foster care under the protective care of the responsible agency, shall also make a determination, consistent with section 260.012 as to whether reasonable efforts were made to prevent placement or whether reasonable efforts to prevent placement are not

required. In the case of an Indian child, the court shall determine whether active efforts, according to the Indian Child Welfare Act of 1978, United States Code, title 25, section 1912(d), were made to prevent placement. The court shall enter a finding that the responsible social services agency has made reasonable efforts to prevent placement when the agency establishes either:

(1) that it has actually provided services or made efforts in an attempt to prevent the child's removal but that such services or efforts have not proven sufficient to permit the child to safely remain in the home; or

(2) that there are no services or other efforts that could be made at the time of the hearing that could safely permit the child to remain home or to return home. When reasonable efforts to prevent placement are required and there are services or other efforts that could be ordered which would permit the child to safely return home, the court shall order the child returned to the care of the parent or guardian and the services or efforts put in place to ensure the child's safety. When the court makes a prima facie determination that one of the circumstances under paragraph (g) exists, the court shall determine that reasonable efforts to prevent placement and to return the child to the care of the parent or guardian are not required.

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

(f) The court may not order or continue the foster care placement of the child unless the court makes explicit, individualized findings that continued custody of the child by the parent or guardian would be contrary to the welfare of the child and that placement is in the best interest of the child.

(g) At the emergency removal hearing, or at any time during the course of the proceeding, and upon notice and request of the county attorney, the court shall determine whether a petition has been filed stating a prima facie case that:

(1) the parent has subjected a child to egregious harm as defined in section 260C.007, subdivision 14;

(2) the parental rights of the parent to another child have been involuntarily terminated;

(3) the child is an abandoned infant under section 260C.301, subdivision 2, paragraph (1), clause (2);

(4) the parents' custodial rights to another child have been involuntarily transferred to a relative under section 260C.201, subdivision 11, paragraph (e), clause (1), or a similar law of another jurisdiction; or

(5) the provision of services or further services for the purpose of reunification is futile and therefore unreasonable.

(h) When a petition to terminate parental rights is required under section 260C.301, subdivision 3 or 4, but the county attorney has determined not to proceed with a termination of parental rights petitions, and has instead filed a petition to transfer permanent legal and physical custody to a relative under section 260C.201, subdivision 11, the court shall schedule a permanency hearing within 30 days of the filing of the petition.

(i) If the county attorney has filed a petition under 260C.307, the court shall schedule a trial under section 260C.163 within 90 days of the filing of the petition except when the county attorney determines that the criminal case shall proceed to trial first under section 260C.201, subdivision 3.

(j) If the court determines the child should be ordered into foster care and the child's parent refuses to give information to the responsible social services agency regarding the child's father or relatives of the child, the court may order the parent to disclose the names, addresses, telephone numbers, and other identifying information to the responsible social services agency for the purpose of complying with the requirements of sections 260C.151, 260C.212, and 260C.215.

(k) If a child ordered into foster care has siblings, whether full, half, or step, who are also ordered into foster care, the court shall inquire of the responsible social services agency of the efforts to place the children together as required by section 260C.212, subdivision 2, paragraph (d), if placement together is in each child's best interests, unless a child is in placement for treatment or a child is placed with a previously noncustodial parent who is not parent to all siblings. If the children are not placed together at the time of the hearing, the court shall inquire at each subsequent hearing of the agency's reasonable efforts to place the siblings together, as required under section 260.012. If any sibling is not placed with another sibling or siblings, the agency must develop a plan to facilitate visitation or ongoing contact among the siblings as required under section 260C.212, subdivision 1, unless it is contrary to the safety or well-being of any of the siblings to do so.

Subd. 2. [Repealed by amendment, 2005 c 159 art 2 s 15]

Subd.3. **Parental visitation.**

Subd. 4. **Mental health treatment.**

Subd. 5. **Copies of order.**

Subd. 6. **Review.**

Subd. 7. **Out-of-home placement plan.**

**260C.181 PLACE OF TEMPORARY CUSTODY; SHELTER CARE FACILITY**

Subdivision 1. **Temporary custody.** A child taken into custody pursuant to section 260C.175 may be detained for up to 24 hours in a shelter care facility, secure detention facility, or, if there is no secure detention facility available for use by the county having jurisdiction over the child, in a jail or other facility for the confinement of adults who have been charged with or convicted of a crime in quarters separate from any adult confined in the facility which has been approved for the detention of juveniles by the commissioner of corrections. At the end of the 24-hour detention any child requiring further detention may be detained only as provided in this section.

Subd. 2. **Least restrictive setting.** Notwithstanding the provisions of subdivision 1, if the child had been taken into custody pursuant to section 260C.175, subdivision 1, clause (1) or (2), item (ii), and is not alleged to be delinquent or to be a sexually exploited youth, the child shall be detained in the least restrictive setting consistent with the child's health and welfare and in closest proximity to the child's family as possible. Placement may be with a child's relative, a designated caregiver under chapter 257A, or in a shelter care facility. The placing officer shall comply with this section and shall document why a less restrictive setting will or will not be in the best interests of the child for placement purposes. In the case of a child taken into custody pursuant to section 260C.175 who is alleged by the county attorney to be a sexually exploited youth, upon motion by the county attorney and finding by the district court judge that the child's health or welfare would be immediately endangered, placement in a secure detention facility may be continued for up to 48 additional hours exclusive of Saturdays, Sundays and holidays.

Subd. 3. **Placement.** If the child had been taken into custody and detained as one who is alleged to be in need of protection or services under section 260C.007, subdivision 6, clause (13) or (14), by reason of having been adjudicated, in need of protection or services under section 260C.007, subdivision 6, clause (13) or (14), or conditionally released by the juvenile court without adjudication, has violated probation, parole, or other field supervision under which the child had been placed as a result of behavior described in this subdivision, the child may be placed only in a shelter care facility.

## Appendix B

### Recommendation 12. Sexually exploited children are recognized as victims of sexual exploitation, not as delinquents or offenders.

Minnesota Statutes 2011, section 260B.007, subdivision 6, is amended to read:

Subd. 6. **Delinquent child.** (a) Except as otherwise provided in paragraphs (b) and (c), "delinquent child" means a child:

- (1) who has violated any state or local law, except as provided in section 260B.225, subdivision 1, and except for juvenile offenders as described in subdivisions 16 to 18;
- (2) who has violated a federal law or a law of another state and whose case has been referred to the juvenile court if the violation would be an act of delinquency if committed in this state or a crime or offense if committed by an adult;
- (3) who has escaped from confinement to a state juvenile correctional facility after being committed to the custody of the commissioner of corrections; or
- (4) who has escaped from confinement to a local juvenile correctional facility after being committed to the facility by the court.

(b) The term delinquent child does not include a child alleged to have committed murder in the first degree after becoming 16 years of age, but the term delinquent child does include a child alleged to have committed attempted murder in the first degree.

(c) The term delinquent child does not include a child ~~under the age of 16 years~~ alleged to have engaged in conduct which would, if committed by an adult, violate any federal, state, or local law relating to being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual conduct.

[See Note.]

**EFFECTIVE DATE.** This section is effective August 1, 2014, and applies to offenses committed on or after that date.

Minnesota Statutes 2011, section 260B.007, subdivision 16, is amended to read:

Subd. 16. **Juvenile petty offender; juvenile petty offense.** (a) "Juvenile petty offense" includes a juvenile alcohol offense, a juvenile controlled substance offense, a violation of section 609.685, or a violation of a local ordinance, which by its terms

prohibits conduct by a child under the age of 18 years which would be lawful conduct if committed by an adult.

(b) Except as otherwise provided in paragraph (c), a “juvenile petty offense” also includes an offense that would be a misdemeanor if committed by an adult.

(c) “Juvenile petty offense” does not include any of the following:

(1) a misdemeanor-level violation of section 518B.01, 588.20, 609.224, 609.2242, 609.324, subdivision 2, 609.324, subdivision 3, 609.5632, 609.576, 609.66, 609.746, 609.748, 609.79, or 617.23;

(2) a major traffic offense or an adult court traffic offense, as described in section 269B.225;

(3) a misdemeanor-level offense committed by a child whom the juvenile court previously has found to have committed a misdemeanor, gross misdemeanor, or felony offense; or

(4) a misdemeanor-level offense committed by a child whom the juvenile court has found to have committed a misdemeanor-level juvenile petty offense on two or more prior occasions, unless the county attorney designates the child on the petition as a juvenile petty offender notwithstanding this prior record. As used in this clause, “misdemeanor-level juvenile petty offense” includes a misdemeanor-level offense that would have been a juvenile petty offense if it had been committed on or after July 1, 1995.

(d) A child who commits a juvenile petty offense is a "juvenile petty offender." The term juvenile petty offender does not include a child ~~under the age of 16 years~~ alleged to have violated any law relating to being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual conduct which, if committed by an adult, would be a misdemeanor.

**EFFECTIVE DATE.** This section is effective August 1, 2014, and applies to offenses committed on or after that date.

**609.093 JUVENILE PROSTITUTES; DIVERSION OR CHILD PROTECTION PROCEEDINGS.**

**Subdivision 1. ~~First-time prostitution offense; applicability; procedure.~~**

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(a) ~~This section applies to a 16 or 17 year old child alleged to have engaged in prostitution as defined in section 609.321, subdivision 9, who:~~

~~(1) has not been previously adjudicated delinquent for engaging in prostitution as defined in section 609.321, subdivision 9;~~

~~(2) has not previously participated in or completed a diversion program for engaging in prostitution as defined in section 609.321, subdivision 9;~~

~~(3) has not previously been placed on probation without an adjudication or received a continuance under section 260B.198, subdivision 7, for engaging in prostitution as defined in section 609.321, subdivision 9;~~

~~(4) has not previously been found to be a child in need of protection or services for engaging in prostitution as defined in section 609.321, subdivision 9, or because the child is a sexually exploited youth as defined in section 260C.007, subdivision 31, clause (1); and~~

~~(5) agrees to successfully complete a diversion program under section 388.24 or fully comply with a disposition order under sections 260C.201, 260C.202, and 260C.204.~~

~~(b) The prosecutor shall refer a child described in paragraph (a) to a diversion program under section 388.24 or file a petition under section 260C.141 alleging the child to be in need of protection or services.~~

**Subd. 2. ~~Failure to comply.~~**

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~~If a child fails to successfully complete diversion or fails to fully comply with a disposition order under sections 260C.201, 260C.202, and 260C.204, the child may be referred back to the court for further proceedings under chapter 260B.~~

**Subd. 3. ~~Dismissal of charge.~~**

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The court shall dismiss the charge against the child if any of the following apply:

~~(1) the prosecutor referred the child to a diversion program and the prosecutor notifies the court that the child successfully completed the program;~~

~~(2) the prosecutor filed a petition under section 260C.141 and the court does not find that the child is in need of protection or services; or~~

~~(3) the prosecutor filed a petition under section 260C.141, the court entered an order under sections 260C.201, 260C.202, and 260C.204, and the child fully complied with the order.~~

## Appendix C

### Recommendation 13. Technical correction to the 2011 Safe Harbor for Sexually Exploited Youth Act:

Minnesota Statutes 2011, section 260C.007, subdivision 6, is amended to read:

(11) ~~has engaged in prostitution as defined in section 609.321, subdivision 9~~ is a sexually exploited youth;

Minnesota Statutes 2011, section 260C.007, subdivision 31, is amended to read:

Subd. 31. **Sexually exploited youth.** "Sexually exploited youth" means an individual who:

(1) is alleged to have engaged in conduct which would, if committed by an adult, violate any federal, state, or local law relating to being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual conduct;

(2) is a victim of a crime described in section 609.342, 609.343, 609.344, 609.345, 609.3451, 609.3453, 609.352, 617.246, or 617.247;

(3) is a victim of a crime described in United States Code, title 18, section 2260; 2421; 2422; 2423; 2425; 2425A; or 2256; or

(4) is a sex trafficking victim as defined in section 609.321, subdivision 7b.