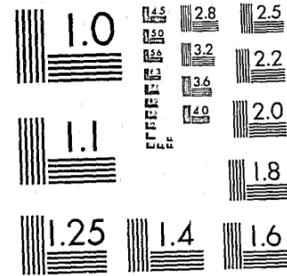


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Minnesota  
Criminal Justice  
Program

Impact of Juvenile Reference  
in Minnesota



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A Report  
Produced by the  
RESEARCH AND EVALUATION UNIT  
of the  
Crime Control Planning Board  
Department of Energy, Planning and Development  
444 Lafayette Road  
St. Paul, Minnesota 55101  
February, 1982

by  
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IMPACT OF JUVENILE REFERENCE  
IN MINNESOTA

U.S. Department of Justice  
National Institute of Justice

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I. INTRODUCTION

During the 71st Minnesota Legislative Session, a bill was passed that made substantial changes in the operating procedures of the juvenile court. One of these changes was the amending of MINN. STAT. § 260.125 (1980) of the Juvenile Court Act, the reference or certification procedure. In general, the amendment provides specific guidelines (i.e., age and offense matrix) to be used by the juvenile court in determining which cases should be transferred<sup>1</sup> to the adult court for prosecution. These guidelines include a juvenile's age, current alleged offense, and prior history. Also, the amendment modifies the reference procedure with respect to the juveniles identified by the guidelines. In short, the burden of proof for reference is no longer the responsibility of the prosecuting authority. It can be assumed, unless the defense can show cause why the juvenile should not be referred to the adult court, that those juveniles whose age and offense behavior meet the guidelines specified in the amendment are a threat to public safety or are not suitable for treatment within the juvenile system and should be referred to the adult court.

Because the Legislature is interested in monitoring the impact of this amendment on the juvenile justice and criminal justice system, the Crime Control Planning Board was mandated to document the impact of this

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<sup>1</sup> In this paper, the words transfer, certification, and referral are used interchangeably.

legislative change. This paper outlines the findings to date for this research project on these research questions:

1. Has the number of certifications increased because of the statutory change?
2. Have the statutory guidelines produced more uniformity in the type of juvenile case being transferred to the adult system?
3. Has the juvenile court become more adversarial due to the change in the reference procedure?
4. Has the legal defense for juveniles increased?

The following sections are included in this paper:

1. Summary of Statutory Change,
2. Methodology and Findings.

## II. SUMMARY OF STATUTORY CHANGES

The 71st Minnesota Legislative Session made dramatic changes in the reference statute. Prior to the effective date, August 1, 1980, the juvenile court could refer a juvenile for prosecution as an adult if the following conditions were met: 1) a proper petition had been filed, 2) proper notice had been given, 3) a proper hearing had been held, and 4) the court found the juvenile not suitable to treatment or that the public safety would not be served under the provisions of the juvenile court.

In addition to the above requirements, the reference statute now contains several procedural and substantive changes. The juvenile court now must hear a reference motion within 30 days, absent a showing of good cause by the prosecutor or the child. A second procedural change is to have the juvenile court judge issue written findings of fact and conclusions of law stating why a juvenile was or was not referred to the adult criminal court.

Further changes were made regarding evidentiary standards. First, the rules of evidence of adult criminal proceedings are applicable to juvenile reference hearings. Second, the juvenile court must find probable cause to believe the child committed the alleged offense before

reference can be ordered.<sup>1</sup> Third, the court is also precluded from referring a juvenile unless the prosecutor has shown by clear and convincing evidence that a child is not suitable for treatment or that the public safety would not be served by maintaining the individual in the juvenile system. Finally, a system, based on age, offense, and prior history criteria, has been created for establishing a prima facie case that a child is not suitable for treatment or is a threat to public safety. Table 1 provides an explanation of the necessary criteria. The impact of the above legislative change (i.e., the addition of statutory guidelines defining not suitable for treatment or threat to public safety) on the juvenile justice or criminal justice system represents the major focus of this research.

<sup>1</sup>According to the amended reference statute, "When the juvenile court enters an order referring an alleged violation to a prosecuting authority, the prosecuting authority shall proceed with the case as if the jurisdiction of the juvenile court had never attached." Therefore, the option is available to both the juvenile and prosecuting authority to hold a second probable cause hearing in the adult court.

TABLE 1  
CRITERIA NECESSARY FOR ESTABLISHING PRIMA FACIE CASE

AGE (in years)	ALLEGED OFFENSE(S)	PRIOR HISTORY
16 and over	Aggravated felony against the person <sup>a</sup>	None
	1st degree murder	None
	2nd or 3rd degree murder, 1st degree manslaughter, 1st degree criminal sexual conduct, or 1st degree assault	Previous adjudication within 24 months for a felony
	2nd degree manslaughter, kidnapping, 2nd degree criminal sexual conduct, 1st degree arson, aggravated robbery, or 2nd degree assault	Previous adjudication within 24 months for two separate felonies
	Felony	Previous adjudication within 24 months for three separate felonies

<sup>a</sup>Aggravated felony against the person means a violation of any of the following provisions: Sections 609.185; 609.19; 609.195; 609.20, Subdivisions 1 or 2; 609.221; 609.222; 609.223; 609.245; 609.25; 609.342; 609.343; 609.344, Clauses (c) or (d); 609.345, Clauses (c) or (d); 609.561; 609.58, Subdivision 2, Clause (b); or 609.713. In addition to the offenses listed, the following conditions must exist; 1) in committing the offense, the child acted with particular cruelty or disregard for the life or safety of another; or b) the offense involved a high degree of sophistication or planning.

### III. METHODOLOGY AND FINDINGS

To determine the impact of the statutory guidelines for reference on the juvenile justice system, certain baseline information was collected. The time period used for the collection of this information was August 1, 1978, to August 1, 1979. Follow-up information was collected from the time period August 1, 1980, to August 1, 1981. Demographic and offense-related information on every juvenile certified during these two time periods was collected.

*Has the number of certifications increased because of the statutory change?* To this date the Crime Control Planning Board has received information on the number of certifications from 55.0 percent (48) of the counties.<sup>1</sup> Based on the analysis of this data, the following trend in the number of certifications for the two time periods is noted: For time period 1 (August 1, 1978, to August 1, 1979), there were 88 certifications. During time period 2 (August 1, 1980, to August 1, 1981), there were 87 certifications. These findings suggest that the amendment has not caused an increase in the number of juveniles being certified.

*Have the statutory guidelines produced more uniformity in the type of juvenile case being transferred to the adult system?* For the purpose of this paper, the following was used to measure an increase in uniformity: an increase in the number (i.e., the percentage) of certifications

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See Appendix A for listing of the 48 counties.

meeting the statutory criteria. The juveniles' case histories were examined to determine the number of certifications from both time periods that met the statutory criteria. For time period 1, 25 percent (22) of the certifications meet the statutory criteria. For time period 2, 33 percent (29) meet the statutory criteria. This indicates a slight trend toward increased uniformity in the type of juvenile case referred to adult court.

*Has the juvenile court become more adversarial due to the change in the reference procedure?* In other words, has the amendment to the reference statute been associated with an increase in the number of adjudicatory hearings where the juvenile contests the allegations of the petition.

To provide answers to this question and the final question (Has the legal defense for juveniles increased?) the Crime Control Planning Board surveyed the juvenile court judges. A questionnaire was designed to solicit the opinions of the juvenile court judges concerning specific changes in juvenile court proceedings that may be related to the amendment.<sup>1</sup>

At the time the questionnaire was designed, there were 93 judges in the state hearing juvenile matters. Of the 93 judges, 76 returned completed questionnaires to the Crime Control Planning Board on the impact of the amended reference statute. This is a response rate of 82.0 percent. These 76 judges represent the juvenile court in 72 counties. This is a county response rate of 83.0 percent.

<sup>1</sup>For a copy of the questionnaire, see Appendix B.

Respondents were asked whether the amendment to MINN. STAT. § 260.125 (1980) has been associated with a change in the number of adjudicatory hearings where the juvenile contests the allegations of the petition. Table 2 shows that 77.3 percent of the respondents have observed no change in the number of contested adjudicatory hearings. Only 14.7 percent of the respondents felt that the amendment had caused an increase in contested petitions. Based upon the opinion of the juvenile court judges, it would seem that the amendment has had minimal impact on the number of juvenile trials (i.e., contested adjudicatory hearings).

TABLE 2 RESPONDENTS' OPINION AS TO WHETHER THE AMENDMENT TO THE REFERENCE STATUTE HAS BEEN ASSOCIATED WITH A CHANGE IN THE NUMBER OF ADJUDICATORY HEARINGS WHERE THE JUVENILE CONTESTS THE ALLEGATIONS OF THE PETITION		
RESPONSE	NUMBER OF RESPONDENTS	PERCENT
Change observed:		
• Increase observed	11	14.7%
• Decrease observed	1	1.3
No change observed	58	77.3
Unknown <sup>a</sup>	5	6.7
TOTAL	75	100.0%
Missing value = 1.		
<sup>a</sup> Relationship between the amendment to the reference statute and/or a change in the number of adjudicatory hearings where the juvenile contests the allegations of the petition is unknown.		

*Has the legal defense for juveniles increased?* The following was used to determine an increase in legal defense for juveniles: judges were asked whether the amendment to the reference statute has been associated with a change in the number of juveniles requesting legal

representation. Table 3 presents the judges' responses to this question. Only 13.2 percent of the respondents felt the amendment has been associated with an increase in the number of juveniles requesting legal representation.

TABLE 3 RESPONDENTS' OPINION AS TO WHETHER THE AMENDMENT TO THE REFERENCE STATUTE HAS BEEN ASSOCIATED WITH A CHANGE IN THE NUMBER OF JUVENILES REQUESTING LEGAL REPRESENTATION		
RESPONSE	NUMBER OF RESPONDENTS	PERCENT
Increase observed	10	13.2%
No change observed	64	84.2
Unknown <sup>a</sup>	2	2.6
TOTAL	76	100.0%

<sup>a</sup>Relationship between the amendment to the reference statute and/or a change in the number of juveniles requesting legal representation is unknown.

In addition, the respondents were asked whether the amendment has impacted the number of prehearing motions filed by defense attorneys. An increase in the number of prehearing motions filed per case was also used to measure an increase in legal defense for juveniles. According to the results of the survey (see Table 4), only 5.3 percent of the respondents stated that the amendment had caused an increase in the number of prehearing motions filed.

TABLE 4 RESPONDENTS' OPINION AS TO WHETHER THE AMENDMENT TO THE REFERENCE STATUTE HAS BEEN ASSOCIATED WITH A CHANGE IN THE NUMBER OF PREHEARING MOTIONS FILED BY DEFENSE ATTORNEYS IN DELINQUENCY PROCEEDINGS		
RESPONSE	NUMBER OF RESPONDENTS	PERCENT
Increase observed	4	5.3%
No change observed	71	93.4
Unknown <sup>a</sup>	1	1.3
TOTAL	76	100.0%

<sup>a</sup>Relationship between the amendment to the reference statute and/or a change in the number of prehearing motions filed by defense attorneys in delinquency proceedings is unknown.

Tables 5 through 7 provide the responses of the judges to other questions included on the questionnaire. As indicated by the tables, the majority of respondents stated that the amendment has had no impact in the following areas:

1. In the number of delinquency petitions dismissed as a result of prehearing motions (see Table 5).
2. In the use of the 90-day continuance without a finding of delinquency (see Table 6).
3. In the number of juveniles detained for more than 24 hours (see Table 7).

TABLE 5

RESPONDENTS' OPINION AS TO WHETHER THERE HAS BEEN A CHANGE IN THE NUMBER OF DELINQUENCY PETITIONS DISMISSED AS A RESULT OF PREHEARING MOTIONS

RESPONSE	NUMBER OF RESPONDENTS	PERCENT
No change observed	70	95.9%
Unknown <sup>a</sup>	3	4.1
TOTAL	73	100.0%

Missing values = 3.

<sup>a</sup>Relationship between the amendment to the reference statute and/or a change in the number of delinquency petitions dismissed as a result of prehearing motions is unknown.

TABLE 6

RESPONDENTS' OPINION AS TO WHETHER THE AMENDMENT TO THE REFERENCE STATUTE HAS BEEN ASSOCIATED WITH A CHANGE IN THE USE OF THE 90-DAY CONTINUANCE WITHOUT A FINDING OF DELINQUENCY

RESPONSE	NUMBER OF RESPONDENTS	PERCENT
Increase observed	12	15.8%
No change observed	61	80.3
Unknown <sup>a</sup>	3	3.9
TOTAL	76	100.0%

<sup>a</sup>Relationship between the amendment to the reference statute and/or a change in the use of the 90-day continuance without a finding of delinquency is unknown.

TABLE 7

RESPONDENTS' OPINION AS TO WHETHER THE AMENDMENT TO THE REFERENCE STATUTE HAS BEEN ASSOCIATED WITH A CHANGE IN THE NUMBER OF JUVENILES DETAINED FOR MORE THAN 24 HOURS

RESPONSE	NUMBER OF RESPONDENTS	PERCENT
No change observed	73	96.1%
Unknown <sup>a</sup>	3	3.9
TOTAL	76	100.0%

<sup>a</sup>Relationship between the amendment to the reference statute and/or a change in the number of juveniles detained for more than 24 hours is unknown.

Based on the information presented in this paper, the Crime Control Planning Board concludes that the amendment to the reference statute has had little impact on the juvenile justice or criminal justice system.

APPENDIX A

COUNTIES SURVEYED TO DATE ON THE NUMBER  
OF CERTIFICATIONS

COUNTIES SURVEYED TO DATE ON THE NUMBER  
OF CERTIFICATIONS<sup>1</sup>

Aitkin  
Anoka  
Beltrami  
Big Stone  
Blue Earth  
Carver  
Chisago  
Clearwater  
Cook  
Cottonwood  
Crow Wing  
Dodge  
Douglas  
Freeborn  
Goodhue  
Grant

Hennepin  
Isanti  
Itasca  
Jackson  
Kandiyohi  
Lake  
Le Sueur  
Lincoln  
Lyon  
McLeod  
Meeker  
Nicollet  
Nobles  
Pennington  
Pine  
Pipestone

Ramsey  
Red Lake  
Renville  
Rice  
Rock  
Scott  
Stevens  
Swift  
Traverse  
Wabasha  
Waseca  
Watonwan  
Wilkin  
Winona  
Wright  
Yellow Medicine

<sup>1</sup> As of February 3, 1982.

A P P E N D I X B

IMPACT OF AMENDED REFERENCE STATUTE  
QUESTIONNAIRE



IMPACT OF AMENDED REFERENCE STATUTE

QUESTIONNAIRE

NOTE: Questions related to the amending of Subdivision 3 of Minnesota Statute §260.125 (1978) are asked in items 1 through 12 of the attached questionnaire. The effective date of this amendment is August 1, 1980.

Minnesota Statute §260.125 (1978), Subdivision 3 has been amended to read:

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

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

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

(3) Has been adjudicated delinquent for an offense committed within the preceding 24 months, which offense would be a felony if committed by an adult, and is alleged by delinquency petition to have committed murder in the second or third degree, manslaughter in the first degree, criminal sexual conduct in the first degree, or assault in the first degree; or

(4) Has been adjudicated delinquent; for two offenses, not in the same behavioral incident, which offense would be a felony if committed by an adult, and is alleged by delinquency petition to have committed manslaughter in the second degree, kidnapping, criminal sexual conduct in the second degree, arson in the first degree, aggravated robbery, or assault in the second degree; or

(5) Has been previously adjudicated delinquent for three offenses, none of which offenses were committed in the same behavioral incident, which offenses were committed within the preceding 24 months and which offenses be felonies if committed

by an adult, and is alleged by delinquency petition to have committed any felony other than those described in clauses (2), (3) or (4).

1. In your opinion, has the aforementioned amendment to Section 260.125 been associated with a change in your jurisdiction in the number of juveniles detained for more than 24 hours?

Yes  
 No change  
 Unknown

2. If the answer to item 1 is "yes," please indicate the type of change associated with the amendment.

Since August 1, 1980, the number of juveniles detained for more than 24 hours has increased.

Since August 1, 1980, the number of juveniles detained for more than 24 hours has decreased.

3. In your jurisdiction, has the aforementioned amendment to Section 260.125 been associated with a change in the number of prehearing motions filed by defense attorneys in delinquency proceedings?

Yes  
 No change  
 Unknown

4. If the answer to item 3 is "yes," please indicate the type of change associated with the amendment.

Since August 1, 1980, the number of prehearing motions filed by defense attorneys in delinquency proceedings has increased.

Since August 1, 1980, the number of prehearing motions filed by defense attorneys in delinquency proceedings has decreased.

5. Has there been an increase in the number of delinquency petitions dismissed as a result of prehearing motions in your jurisdiction?

Yes  
 No change  
 Unknown

6. In your opinion, has the aforementioned amendment to Section 260.125 been associated with a change in the number of adjudicatory hearings where the juvenile contests the allegations of the petition?

Yes  
 No change  
 Unknown

7. If the answer to item 6 is "yes," indicate the type of change associated with the amendment.

Since August 1, 1980, the number of adjudicatory hearings where the allegations of the petition are contested has increased.

Since August 1, 1980, the number of adjudicatory hearings where the allegations of the petitions are contested has decreased.

8. In your opinion, has the aforementioned amendment to Section 260.125 been associated with a change in the number of juveniles requesting legal representation in your jurisdiction?

Yes  
 No change  
 Unknown

9. If the answer to item 8 is "yes," indicate the type of change associated with the amendment.

Since August 1, 1980, the number of juveniles requesting legal representation has increased.

Since August 1, 1980, the number of juveniles requesting legal representation has decreased.

10. According to aforementioned amendment, a juvenile must have been adjudicated delinquent for certain prior offenses to establish the prima facie case for reference. Based upon your interpretation of the law please indicate whether this example can be used to establish the prima facie case.

EXAMPLE: A juvenile admitted the allegations of a felony charge. However, the judge continued the case for 90 days without a finding of delinquency. At the end of 90 days, the judge dismissed the case.

Yes, this example can be used in establishing the prima facie case.

No, this example cannot be used in establishing the prima facie case.

11. In your jurisdiction, has the aforementioned amendment to Section 260.125 been associated with a change in the use of the "90 day continuance without a finding of delinquency"?

Yes  
 No change  
 Unknown

12. If the answer to item 11 is "yes," indicate the type of change associated with the amendment.

Since August 1, 1980, the use of the 90 day continuance has increased.

Since August 1, 1980, the use of the 90 day continuance has decreased.

13. Finally, note any other factors (other than the amendment to Section 260.125) which you feel have recently influenced specific changes in juvenile court proceedings?

Change in Juvenile Court Proceedings	Other Factors Influencing Change (Specify; e.g., public opinion)
Number of juveniles detained	_____
Number of prehearing motions filed	_____
Number of petitions dismissed	_____
Number of contested adjudicatory hearings	_____
Number of requests for legal representation	_____
Number of 90 day continuances	_____

**END**