Report of the Committee to Study the Handling of Juvenile Delinquents in Probate Court

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for contribution between tortfeasors, when negligence on the part of the 
plaintiff or any defendant contributes to such party's own damages or the 
damages of any other party, such damages shall be apportioned by the court 
between the parties responsible therefor in proportion to the degree of fault 
found against each such party.

**Sec. 3.** In any action to which this statute applies, the triers of fact 
may render a special verdict or make special findings of fact determining 
(1) The loss in money sustained by each claimant,
(2) Whose negligence caused or contributed to the damages sustained 
by each claimant, and
(3) The proportionate fault of each party expressed in percentages.

**Sec. 4.** Before the service of the answer a defendant may move ex 
parte or, after service of his answer, on notice of the plaintiff, for leave 
as a third-party plaintiff to serve a summons and complaint upon a person 
not a party to the action who is or may be liable to him or to the plaintiff 
for all or part of the plaintiff's claim against him. If the motion is granted 
and the summons and complaint served, the person served, hereinafter 
called the third-party defendant, shall make his defenses, counterclaims, and 
cross-claims against any other party to the action. The third-party de-
defendant may assert any defenses which the third-party plaintiff has to the 
plaintiff's claim. The third-party defendant is bound 
by the adjudication 
of the third-party plaintiff's liability to the plaintiff, as well as of his 
own to the plaintiff or the third-party plaintiff. The plaintiff may amend 
his pleadings so as to assert against the third-party defendant any claim 
which the plaintiff might have asserted against the third-party defendant 
had he been joined originally as a defendant. A third-party defendant may 
proceed against any person not a party to the action who is or may be liable 
to him or the third party for all or part of the claim made in the action 
against the third-party defendant. When a counterclaim is asserted against 
a plaintiff he shall have the same rights under this section as a defendant 
has to bring in a third-party defendant.

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**REPORT OF THE COMMITTEE TO STUDY THE HANDLING OF JUVENILE DELINQUENTS IN PROBATE COURT**

**To the Minnesota State Bar Association**

**RECOMMENDATIONS**

Your Committee recommends as follows

1. That legislation be enacted to provide for an appeal from a 
juvenille court order in the Probate Court to the District Court with 
a trial de novo.
2. Provide for an appeal from a juvenile court order in the 
District Court to the Supreme Court.

**REPORT**

This committee was appointed March 6, 1944. It was requested to study 
the law regarding the handling of juvenile delinquents in Probate Court and 
submit a report by April 15th. It is self evident that in this short a time it 
is impossible to do a thorough job. In fact, the activities of the committee 
are practically limited to a consideration of some of the reforms proposed 
by William Lee of Granite Falls, and the recommendations of the committee 
of the Probate Judges Association. The committee had one meeting at 
which only four members were present.
At the present time juvenile cases in St. Louis, Ramsey and Hennepin counties are handled by the District Court sitting as a juvenile court. In all the other counties such cases are handled by the Probate Court sitting as a juvenile court. The result is that there is some variation in the state in the handling of juvenile cases depending upon whether the case arises in a county where the District Court has jurisdiction or in a county where the Probate Court has jurisdiction. There is now no right of appeal from a juvenile order made by either court. The Juvenile Court Act of 1917 (Ch. 397) provided for appeal, at least from a Probate Court juvenile order, but that was repealed. The proposed Standard Juvenile Court Act of the National Probation Association provides for appeal. The committee is of the opinion that there should be a right to appeal. In the case of a District Court juvenile order, the appeal should be to the Supreme Court. In the case of a Probate Court juvenile order, the appeal should be to the District Court with a trial de novo.

Under existing law in a county where the District Court acts as a juvenile court the delinquent is entitled to a jury trial. In counties where the Probate Court acts as juvenile court, he has no right to a jury trial. In counties where jury trial is permissible, its use is extremely rare. The majority of the states have no such provision in juvenile cases. The proposed Standard Juvenile Act has no such provision. The issues involved in a juvenile case do not readily lend themselves to a jury trial. For these reasons the committee feels that jury trials could just as well be abolished in juvenile cases where now permitted.

Under the present law both the District Court and the Probate Court in juvenile matters retain jurisdiction to revise its orders and decrees until the juvenile is discharged except in the case where the child is committed to Red Wing or Sauk Center. After a child is committed to either institution, the courts lose their jurisdiction and the child can then be kept at the institution until 21 years of age unless sooner paroled or discharged. The director of public institutions has exclusive jurisdiction to parole or discharge a juvenile from Red Wing or Sauk Center.

The Probate Judges committee recommends that the court should have jurisdiction to terminate the commitments. Some of the Probate Judges feel that the juvenile court should have power to limit the length of the commitment. Judge Loevinger of our committee is opposed to both suggestions. Our committee did not arrive at any conclusion on the matter.

Our committee also considered the question of whether the County Attorney should be required to institute all juvenile cases and whether the courts should have the right or be required to appoint counsel for the alleged delinquent. Both the Probate and District Court when acting in juvenile cases now have the right to require the assistance of the county attorney. In rural districts the common practice is for the county attorney to appear. In the metropolitan areas this does not seem to be the case. The alleged delinquent child is entitled to appear by counsel, but there is no provision authorizing the court to appoint counsel or to pay counsel. There was some vigorous opposition to the suggestions requiring county attorneys to institute juvenile cases and permitting the court to appoint counsel for the delinquent because the fundamental philosophy of juvenile courts does not recognize a juvenile case as a criminal or adversary proceeding. In view of the fact that only a minority of our committee was in attendance, no recommendation is made.

The probate courts acting as juvenile courts are hampered in their work because of lack of probation officers. No provision is made for probation officers except such as the court may find who are willing to serve without compensation. This is not a very satisfactory arrangement at its best. The Probate Judges Committee suggests that the Welfare Board of each county provide a probation officer on request of the juvenile court. Some methods of providing probation facilities other than on a volunteer basis is highly desirable. Our committee did not have sufficient time to consider the question as to the best method of providing such probation service.