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**CHAPTER 330—S.F.No.2747**  
**[Coded in Part]**

*An act relating to children; requiring the court to consider the best interests of the child in any proceeding to establish custody; amending Minnesota Statutes 1971, Chapter 257, by adding a section; and Section 518.17.*

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

Section 1. Minnesota Statutes 1971, Chapter 257, is amended by adding a section to read:

**[257.025] CHILDREN; CUSTODY PROCEEDINGS.** In any proceeding where two or more parties seek custody of a child the court shall determine the best interests of the child by considering and evaluating the following factors:

(a) The love, affection and other emotional ties existing between the competing parties and the child;

(b) The capacity and disposition of competing parties to give the child love, affection and guidance and continuation of the educating and raising of the child in its religion, creed, if any, or culture;

(c) The capacity and disposition of competing parties to provide the child with food, clothing, medical care or other remedial care recognized and permitted under the laws of this state in lieu of medical care, and other material needs;

(d) The length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity;

(e) The permanence, as a family unit, of the existing or proposed custodial home;

(f) The mental and physical health of the competing parties;

(g) The home, school and community record of the child;

(h) The cultural background of the child;

(i) The reasonable preference of the child, if the court deems the child to be of sufficient age to express preference;

(j) Any other factor considered by the court to be relevant to a particular child custody dispute.

Sec. 2. Minnesota Statutes 1971, Section 518.17, is amended to  
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read:

**518.17 CUSTODY AND SUPPORT OF CHILDREN ON JUDGMENT.** Subdivision 1. For the purposes of this section "the best interest of the children" means the sum total of the following factors to be considered and evaluated by the court:

(a) The love, affection and other emotional ties existing between the competing parties and the child;

(b) The capacity and disposition of competing parties to give the child love, affection and guidance and continuation of the educating and raising of the child in its religion or creed, if any, or culture;

(c) The capacity and disposition of competing parties to provide the child with food, clothing, medical care or other remedial care recognized and permitted under the laws of this state in lieu of medical care, and other material needs;

(d) The length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity;

(e) The permanence, as a family unit, of the existing or proposed custodial home;

(f) The cultural background of the child;

(g) The mental and physical health of the competing parties;

(h) The home, school and community record of the child;

(i) The reasonable preference of the child, if the court deems the child to be of sufficient age to express preference;

(j) Any other factor considered by the court to be relevant to a particular child custody dispute.

Subd. 2. Upon adjudging the nullity of a marriage, or a divorce or separation, the court may make such further order as it deems just and proper concerning the care, custody, and maintenance of the minor children of the parties and may determine with which of the parents they, or any of them, shall remain ; ~~having due regard to the age and sex of such children and the children's relationship with each parent prior to the commencement of the action~~ . In determining the parent with whom a child shall remain, the court shall consider ~~all facts in~~ the best interest of the children and shall not prefer one parent over the other solely on the basis of the sex of the parent. In determining the appropriate amount of child support to be paid by each parent, the court shall consider the earning capacity and financial circumstances of each parent. On petition for any change in child support because of alleged change in circumstances the court shall take into consideration

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the earning capacity and financial circumstances of each parent and the custodial parent's spouse, if any.

Approved March 28, 1974.

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**CHAPTER 331—S.F.No.2779**

*An act relating to crimes and criminals; providing for the setting aside of convictions in certain cases; amending Minnesota Statutes 1971, Section 609.166.*

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

Section 1. Minnesota Statutes 1971, Section 609.166, is amended to read:

**609.166 CRIMINAL PROCEDURE; CONVICTIONS, SETTING ASIDE IN CERTAIN INSTANCES.** Any person who is convicted of or pleads guilty to a felony ~~or~~, gross misdemeanor or misdemeanor may move the convicting court for the entry of an order setting aside the conviction where:

(a) the offense was committed before he was 21 years of age;

(b) ~~the offense is the only felony or gross misdemeanor for which the person has been convicted;~~

(~~e~~)(b) five years have lapsed since the person has served the sentence imposed upon him or has been discharged from probation, and during the five year period the person has not been convicted of a felony or gross misdemeanor; and

(~~d~~)(c) the offense is not one for which a sentence of life imprisonment may be imposed.

Approved March 28, 1974.

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**CHAPTER 332—S.F.No.2794**  
[Coded in Part]

*An act relating to the safety of school children; regulation of school bus transportation; amending Minnesota Statutes 1971, Sections 169.45; and 169.451, by adding a subdivision.*

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

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