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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 1826

03/04/2021 Authored by Edelson and Xiong, J., The bill was read for the first time and referred to the Committee on Human Services Finance and Policy

1.1 A bill for an act
1.2 relating to child protection; modifying interview and notice requirements; requiring
1.3 the commissioner of human services to develop certain protocols and training;
1.4 amending Minnesota Statutes 2020, sections 260C.219, subdivision 1; 260E.17,
1.5 subdivision 1; 260E.20, subdivisions 1, 3, by adding subdivisions; 260E.22,
1.6 subdivision 2; 260E.24, subdivision 2.

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

1.8 Section 1. Minnesota Statutes 2020, section 260C.219, subdivision 1, is amended to read:

1.9 Subdivision 1. Responsibilities for parents; noncustodial parents. (a) When a child
1.10 is in foster care, the responsible social services agency shall make diligent efforts to identify,
1.11 locate, and, where appropriate, offer services to both parents of the child.

1.12 (b) The responsible social services agency shall assess whether a noncustodial or
1.13 nonadjudicated parent is willing and capable of providing for the day-to-day care of the
1.14 child temporarily or permanently. An assessment under this paragraph may include, but is
1.15 not limited to, obtaining information under section 260C.209. If after assessment, the
1.16 responsible social services agency determines that a noncustodial or nonadjudicated parent
1.17 is willing and capable of providing day-to-day care of the child, the responsible social
1.18 services agency may seek authority from the custodial parent or the court to have that parent
1.19 assume day-to-day care of the child. If a parent is not an adjudicated parent, the responsible
1.20 social services agency shall require the nonadjudicated parent to cooperate with paternity
1.21 establishment procedures as part of the case plan.

1.22 (c) If, after assessment, the responsible social services agency determines that the child
1.23 cannot be in the day-to-day care of either parent, the agency shall:

2.1 (1) prepare an out-of-home placement plan addressing the conditions that each parent  
2.2 must meet before the child can be in that parent's day-to-day care; and

2.3 (2) provide a parent who is the subject of a background study under section 260C.209  
2.4 15 days' notice that it intends to use the study to recommend against putting the child with  
2.5 that parent, and the court shall afford the parent an opportunity to be heard concerning the  
2.6 study.

2.7 The results of a background study of a noncustodial parent shall not be used by the agency  
2.8 to determine that the parent is incapable of providing day-to-day care of the child unless  
2.9 the agency reasonably believes that placement of the child into the home of that parent  
2.10 would endanger the child's health, safety, or welfare.

2.11 (d) If, after the provision of services following an out-of-home placement plan under  
2.12 this subdivision, the child cannot return to the care of the parent from whom the child was  
2.13 removed or who had legal custody at the time the child was placed in foster care, the agency  
2.14 may petition on behalf of a noncustodial parent to establish legal custody with that parent  
2.15 under section 260C.515, subdivision 4. If paternity has not already been established, it may  
2.16 be established in the same proceeding in the manner provided for under chapter 257.

2.17 (e) The responsible social services agency may be relieved of the requirement to locate  
2.18 and offer services to both parents by the juvenile court upon a finding of good cause after  
2.19 the filing of a petition under section 260C.141.

2.20 (f) When a child is in foster care, the responsible social services agency must interview  
2.21 a child who is four years of age or older separately from and prior to interviewing all adults  
2.22 residing with the child. This paragraph applies unless there are exceptional documented  
2.23 circumstances demonstrating that it would not be in the best interests of the child.

2.24 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.25 Sec. 2. Minnesota Statutes 2020, section 260E.17, subdivision 1, is amended to read:

2.26 Subdivision 1. **Local welfare agency.** (a) Upon receipt of a report, the local welfare  
2.27 agency shall determine whether to conduct a family assessment or an investigation as  
2.28 appropriate to prevent or provide a remedy for maltreatment.

2.29 (b) The local welfare agency shall conduct an investigation when the report involves  
2.30 sexual abuse or substantial child endangerment.

2.31 (c) The local welfare agency shall begin an immediate investigation if, at any time when  
2.32 the local welfare agency is using a family assessment response, the local welfare agency

3.1 determines that there is reason to believe that sexual abuse or substantial child endangerment  
3.2 or a serious threat to the child's safety exists.

3.3 (d) The local welfare agency may conduct a family assessment for reports that do not  
3.4 allege sexual abuse or substantial child endangerment. In determining that a family  
3.5 assessment is appropriate, the local welfare agency may consider issues of child safety,  
3.6 parental cooperation, and the need for an immediate response.

3.7 (e) The local welfare agency may conduct a family assessment on a report that was  
3.8 initially screened and assigned for an investigation. In determining that a complete  
3.9 investigation is not required, the local welfare agency must document the reason for  
3.10 terminating the investigation and notify the local law enforcement agency if the local law  
3.11 enforcement agency is conducting a joint investigation.

3.12 (f) The local welfare agency shall follow standard fact-finding protocol under section  
3.13 260E.20, subdivision 3a, for reports that do not allege sexual abuse or substantial child  
3.14 endangerment prior to assigning the case to an investigation or family assessment.

3.15 **EFFECTIVE DATE.** This section is effective March 1, 2022.

3.16 Sec. 3. Minnesota Statutes 2020, section 260E.20, subdivision 1, is amended to read:

3.17 Subdivision 1. **General duties.** (a) The local welfare agency shall offer services to  
3.18 prevent future maltreatment, safeguarding and enhancing the welfare of the maltreated child,  
3.19 and supporting and preserving family life whenever possible.

3.20 (b) If the report alleges a violation of a criminal statute involving maltreatment or child  
3.21 endangerment under section 609.378, the local law enforcement agency and local welfare  
3.22 agency shall coordinate the planning and execution of their respective investigation and  
3.23 assessment efforts to avoid a duplication of fact-finding efforts and multiple interviews.  
3.24 Each agency shall prepare a separate report of the results of the agency's investigation or  
3.25 assessment.

3.26 (c) In cases of alleged child maltreatment resulting in death, the local agency may rely  
3.27 on the fact-finding efforts of a law enforcement investigation to make a determination of  
3.28 whether or not maltreatment occurred.

3.29 (d) When necessary, the local welfare agency shall seek authority to remove the child  
3.30 from the custody of a parent, guardian, or adult with whom the child is living.

3.31 (e) In performing any of these duties, the local welfare agency shall maintain an  
3.32 appropriate record.

4.1 (f) In conducting a family assessment or investigation, the local welfare agency shall  
4.2 follow standard fact-finding protocol under subdivision 3a and gather information on the  
4.3 existence of substance abuse and domestic violence.

4.4 (g) If the family assessment or investigation indicates there is a potential for abuse of  
4.5 alcohol or other drugs by the parent, guardian, or person responsible for the child's care,  
4.6 the local welfare agency shall conduct a chemical use assessment pursuant to Minnesota  
4.7 Rules, part 9530.6615.

4.8 (h) The agency may use either a family assessment or investigation to determine whether  
4.9 the child is safe when responding to a report resulting from birth match data under section  
4.10 260E.03, subdivision 23, paragraph (c). If the child subject of birth match data is determined  
4.11 to be safe, the agency shall consult with the county attorney to determine the appropriateness  
4.12 of filing a petition alleging the child is in need of protection or services under section  
4.13 260C.007, subdivision 6, clause (16), in order to deliver needed services. If the child is  
4.14 determined not to be safe, the agency and the county attorney shall take appropriate action  
4.15 as required under section 260C.503, subdivision 2.

4.16 **EFFECTIVE DATE.** This section is effective March 1, 2022.

4.17 Sec. 4. Minnesota Statutes 2020, section 260E.20, subdivision 3, is amended to read:

4.18 Subd. 3. **Collection of information.** (a) The local welfare agency responsible for  
4.19 conducting a family assessment or investigation shall follow standard fact-finding protocol  
4.20 under subdivision 3a to collect available and relevant information to determine child safety,  
4.21 risk of subsequent maltreatment, and family strengths and needs and share not public  
4.22 information with an Indian's tribal social services agency without violating any law of the  
4.23 state that may otherwise impose a duty of confidentiality on the local welfare agency in  
4.24 order to implement the tribal state agreement.

4.25 (b) The local welfare agency or the agency responsible for investigating the report shall  
4.26 collect available and relevant information to ascertain whether maltreatment occurred and  
4.27 whether protective services are needed.

4.28 (c) Information collected includes, when relevant, information with regard to the person  
4.29 reporting the alleged maltreatment, including the nature of the reporter's relationship to the  
4.30 child and to the alleged offender, and the basis of the reporter's knowledge for the report;  
4.31 the child allegedly being maltreated; the alleged offender; the child's caretaker; and other  
4.32 collateral sources having relevant information related to the alleged maltreatment.

5.1 (d) Information relevant to the assessment or investigation must be asked for, and may  
5.2 include:

5.3 (1) the child's sex and age; prior reports of maltreatment, including any maltreatment  
5.4 reports that were screened out and not accepted for assessment or investigation; information  
5.5 relating to developmental functioning; credibility of the child's statement; and whether the  
5.6 information provided under this clause is consistent with other information collected during  
5.7 the course of the assessment or investigation;

5.8 (2) the alleged offender's age, a record check for prior reports of maltreatment, and  
5.9 criminal charges and convictions;

5.10 (3) collateral source information regarding the alleged maltreatment and care of the  
5.11 child. Collateral information includes, when relevant: (i) a medical examination of the child;  
5.12 (ii) prior medical records relating to the alleged maltreatment or the care of the child  
5.13 maintained by any facility, clinic, or health care professional and an interview with the  
5.14 treating professionals; and (iii) interviews with the child's caretakers, including the child's  
5.15 parent, guardian, foster parent, child care provider, teachers, counselors, family members,  
5.16 relatives, and other persons who may have knowledge regarding the alleged maltreatment  
5.17 and the care of the child; and

5.18 (4) information on the existence of domestic abuse and violence in the home of the child,  
5.19 and substance abuse.

5.20 (e) Nothing in this subdivision precludes the local welfare agency, the local law  
5.21 enforcement agency, or the agency responsible for assessing or investigating the report from  
5.22 collecting other relevant information necessary to conduct the assessment or investigation.

5.23 (f) Notwithstanding section 13.384 or 144.291 to 144.298, the local welfare agency has  
5.24 access to medical data and records for purposes of paragraph (d), clause (3).

5.25 **EFFECTIVE DATE.** This section is effective March 1, 2022.

5.26 Sec. 5. Minnesota Statutes 2020, section 260E.20, is amended by adding a subdivision to  
5.27 read:

5.28 **Subd. 3a. Standard fact-finding protocol.** Standard fact-finding protocol for assessments  
5.29 and investigations shall include gathering available and relevant details from the alleged  
5.30 victim, the alleged perpetrator, and other relevant collateral contacts under subdivision 3,  
5.31 clause (3), regarding at least the following information:

6.1 (1) concerning the reported allegation, who was involved, what occurred, when it  
 6.2 occurred, where it occurred, and how it occurred;

6.3 (2) the recentness, frequency, duration, and severity of any patterns of behavior that  
 6.4 present a risk to a child;

6.5 (3) the existence and impact of past and present harm to the child;

6.6 (4) the parents' protective capacities including their knowledge of parenting and child  
 6.7 development, nurturing and attachment, parental resilience, social and emotional competence,  
 6.8 supports in times of need, and social connections;

6.9 (5) the child's vulnerability factors including the child's age and whether the child has  
 6.10 a disability;

6.11 (6) the characteristics of the child's family members that promote resiliency; and

6.12 (7) the instances within the family when the child is safe as a starting point for additional  
 6.13 safety planning or services.

6.14 **EFFECTIVE DATE.** This section is effective March 1, 2022.

6.15 Sec. 6. Minnesota Statutes 2020, section 260E.20, is amended by adding a subdivision to  
 6.16 read:

6.17 **Subd. 6. Advance notice prohibited.** The local welfare agency or agency responsible  
 6.18 for conducting assessments and investigations must not provide advance notice to the child's  
 6.19 caregivers for any initial visit to the child's home, unless there are exceptional documented  
 6.20 circumstances demonstrating that it would not be in the best interests of the child to conduct  
 6.21 an initial home visit without advance notice.

6.22 **EFFECTIVE DATE.** This section is effective the day following final enactment.

6.23 Sec. 7. Minnesota Statutes 2020, section 260E.22, subdivision 2, is amended to read:

6.24 **Subd. 2. Child interview procedure.** (a) The interview may take place at school or at  
 6.25 any facility or other place where the alleged victim or other children might be found or the  
 6.26 child may be transported to, and the interview may be conducted at a place appropriate for  
 6.27 the interview of a child designated by the local welfare agency or law enforcement agency.

6.28 (b) The interview may take place outside the presence of the alleged offender or parent,  
 6.29 legal custodian, guardian, or school official.

7.1 (c) For a family assessment, it is the preferred practice to request a parent or guardian's  
 7.2 permission to interview the child before conducting the child interview, unless doing so  
 7.3 would compromise the safety assessment.

7.4 (d) If the agency responsible for assessing or investigating reports of maltreatment must  
 7.5 interview the child as part of a family assessment or investigation, the agency must interview  
 7.6 the child separately from and prior to interviewing the alleged perpetrator. This paragraph  
 7.7 applies unless there are exceptional documented circumstances demonstrating that it would  
 7.8 not be in the best interests of the child. The responsible agency shall report to the  
 7.9 commissioner the number of interviews that the agency conducts under exceptional  
 7.10 circumstances and the specific reasons constituting exceptional circumstances.

7.11 (e) The agency responsible for assessing or investigating reports of maltreatment shall  
 7.12 conduct interviews with children in a trauma-informed, culturally sensitive manner.

7.13 **EFFECTIVE DATE.** Paragraph (d) is effective the day following final enactment.  
 7.14 Paragraph (e) is effective March 1, 2022.

7.15 Sec. 8. Minnesota Statutes 2020, section 260E.24, subdivision 2, is amended to read:

7.16 Subd. 2. **Determination after family assessment.** After conducting a family assessment,  
 7.17 the local welfare agency shall determine whether child protective services are needed to  
 7.18 address the safety of the child and other family members and the risk of subsequent  
 7.19 maltreatment. The local welfare agency shall include a description of findings from the  
 7.20 family assessment in the Social Services Information System case record with sufficient  
 7.21 specificity that a worker assigned to any future report will understand what occurred. The  
 7.22 description must include information about the relationships between each adult in the  
 7.23 household and each child and the events each child experienced.

7.24 **EFFECTIVE DATE.** This section is effective March 1, 2022.

7.25 Sec. 9. **DIRECTION TO COMMISSIONER; TRAUMA-INFORMED AND**  
 7.26 **CULTURALLY SENSITIVE INTERVIEWS.**

7.27 (a) By March 1, 2022, the commissioner of human services shall, in consultation with  
 7.28 content experts, counties, and leaders in communities of color and tribes, develop, publish,  
 7.29 and distribute guidance on training, and ensure that child protection workers have received  
 7.30 training on conducting interviews with children under Minnesota Statutes, sections 260E.22  
 7.31 and 260E.23, in a trauma-informed, culturally sensitive manner. The commissioner shall  
 7.32 periodically review the implementation of this training and its effect on child interview

8.1 practices to identify any patterns of disparate treatment of children and take corrective action  
8.2 as needed. This training shall be in addition to the child protection worker training under  
8.3 Minnesota Statutes, section 260E.37.

8.4 (b) By March 1, 2022, the commissioner of human services shall develop, publish, and  
8.5 distribute guidance on training, and ensure that child protection workers have received  
8.6 training about standard fact-finding protocol as described under Minnesota Statutes, section  
8.7 260E.20, subdivision 3a. This training shall be in addition to the child protection worker  
8.8 training under Minnesota Statutes, section 260E.37.

8.9 **EFFECTIVE DATE.** This section is effective the day following final enactment.