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# State of Minnesota HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

**H. F. No. 1967**

01/26/2012 Authored by Abeler, Hilstrom and Hosch

The bill was read for the first time and referred to the Committee on Health and Human Services Reform

03/12/2012 Adoption of Report: Pass as Amended and re-referred to the Committee on Civil Law

03/22/2012 Adoption of Report: Pass as Amended and re-referred to the Committee on Health and Human Services Finance

1.1 A bill for an act  
1.2 relating to human services; modifying provisions related to children and family  
1.3 services; providing for child safety and permanency reform including adoptions  
1.4 under guardianship of the commissioner; modifying statutory provisions  
1.5 related to child support; modifying child care provisions; modifying fees;  
1.6 modifying MFIP provisions; providing criminal penalties; making technical  
1.7 changes; amending Minnesota Statutes 2010, sections 13.46, subdivision 2;  
1.8 13.461, subdivision 17; 13.465, by adding a subdivision; 119B.09, subdivision  
1.9 7; 119B.12, subdivisions 1, 2; 119B.125, subdivisions 1a, 2, 6; 119B.13,  
1.10 subdivision 6; 145.902; 256.998, subdivisions 1, 5; 256J.08, subdivision 11;  
1.11 256J.24, subdivisions 2, 5; 256J.32, subdivision 6; 256J.575, subdivisions 1,  
1.12 2, 5, 6, 8; 256J.621; 256J.68, subdivision 7; 256J.95, subdivision 3; 257.01;  
1.13 257.75, subdivision 7; 259.22, subdivision 2; 259.23, subdivision 1; 259.24,  
1.14 subdivisions 1, 3, 5, 6a, 7; 259.29, subdivision 2; 259.69; 259.73; 260.012;  
1.15 260.771, subdivision 3; 260C.001; 260C.007, subdivision 4, by adding  
1.16 subdivisions; 260C.101, subdivision 2; 260C.150, subdivision 1; 260C.157,  
1.17 subdivision 1; 260C.163, subdivisions 1, 4; 260C.178, subdivisions 1, 7;  
1.18 260C.193, subdivisions 3, 6; 260C.201, subdivisions 2, 10, 11a; 260C.212,  
1.19 subdivisions 1, 2, 5, 7; 260C.215, subdivisions 4, 6; 260C.217; 260C.301,  
1.20 subdivisions 1, 8; 260C.317, subdivisions 3, 4; 260C.325, subdivisions 1, 3, 4;  
1.21 260C.328; 260C.451; 260D.08; 518A.40, subdivision 4; 518C.205; 541.04;  
1.22 548.09, subdivision 1; 609.3785; 626.556, subdivisions 2, 10, 10e, 10f, 10i,  
1.23 10k, 11; Minnesota Statutes 2011 Supplement, sections 119B.13, subdivision 1;  
1.24 256.01, subdivision 14b; proposing coding for new law in Minnesota Statutes,  
1.25 chapters 260C; 611; proposing coding for new law as Minnesota Statutes, chapter  
1.26 259A; repealing Minnesota Statutes 2010, sections 256.022; 259.67; 259.71;  
1.27 260C.201, subdivision 11; 260C.215, subdivision 2; 260C.456; Minnesota Rules,  
1.28 parts 9560.0071; 9560.0082; 9560.0083; 9560.0091; 9560.0093, subparts 1,  
1.29 3, 4; 9560.0101; 9560.0102.

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

## 1.31 ARTICLE 1

## 1.32 CHILDREN AND FAMILIES POLICY PROVISIONS

1.33 Section 1. Minnesota Statutes 2010, section 13.46, subdivision 2, is amended to read:

2.1 Subd. 2. **General.** (a) Unless the data is summary data or a statute specifically  
2.2 provides a different classification, data on individuals collected, maintained, used, or  
2.3 disseminated by the welfare system is private data on individuals, and shall not be  
2.4 disclosed except:

2.5 (1) according to section 13.05;

2.6 (2) according to court order;

2.7 (3) according to a statute specifically authorizing access to the private data;

2.8 (4) to an agent of the welfare system, including a law enforcement person, attorney,  
2.9 or investigator acting for it in the investigation or prosecution of a criminal or civil  
2.10 proceeding relating to the administration of a program;

2.11 (5) to personnel of the welfare system who require the data to verify an individual's  
2.12 identity; determine eligibility, amount of assistance, and the need to provide services to  
2.13 an individual or family across programs; evaluate the effectiveness of programs; assess  
2.14 parental contribution amounts; and investigate suspected fraud;

2.15 (6) to administer federal funds or programs;

2.16 (7) between personnel of the welfare system working in the same program;

2.17 (8) to the Department of Revenue to assess parental contribution amounts for  
2.18 purposes of section 252.27, subdivision 2a, administer and evaluate tax refund or tax credit  
2.19 programs and to identify individuals who may benefit from these programs. The following  
2.20 information may be disclosed under this paragraph: an individual's and their dependent's  
2.21 names, dates of birth, Social Security numbers, income, addresses, and other data as  
2.22 required, upon request by the Department of Revenue. Disclosures by the commissioner  
2.23 of revenue to the commissioner of human services for the purposes described in this clause  
2.24 are governed by section 270B.14, subdivision 1. Tax refund or tax credit programs include,  
2.25 but are not limited to, the dependent care credit under section 290.067, the Minnesota  
2.26 working family credit under section 290.0671, the property tax refund and rental credit  
2.27 under section 290A.04, and the Minnesota education credit under section 290.0674;

2.28 (9) between the Department of Human Services, the Department of Employment  
2.29 and Economic Development, and when applicable, the Department of Education, for  
2.30 the following purposes:

2.31 (i) to monitor the eligibility of the data subject for unemployment benefits, for any  
2.32 employment or training program administered, supervised, or certified by that agency;

2.33 (ii) to administer any rehabilitation program or child care assistance program,  
2.34 whether alone or in conjunction with the welfare system;

2.35 (iii) to monitor and evaluate the Minnesota family investment program or the child  
2.36 care assistance program by exchanging data on recipients and former recipients of food

support, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B, 256D, or 256L; and

(iv) to analyze public assistance employment services and program utilization, cost, effectiveness, and outcomes as implemented under the authority established in Title II, Sections 201-204 of the Ticket to Work and Work Incentives Improvement Act of 1999. Health records governed by sections 144.291 to 144.298 and "protected health information" as defined in Code of Federal Regulations, title 45, section 160.103, and governed by Code of Federal Regulations, title 45, parts 160-164, including health care claims utilization information, must not be exchanged under this clause;

(10) to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the individual or other individuals or persons;

(11) data maintained by residential programs as defined in section 245A.02 may be disclosed to the protection and advocacy system established in this state according to Part C of Public Law 98-527 to protect the legal and human rights of persons with developmental disabilities or other related conditions who live in residential facilities for these persons if the protection and advocacy system receives a complaint by or on behalf of that person and the person does not have a legal guardian or the state or a designee of the state is the legal guardian of the person;

(12) to the county medical examiner or the county coroner for identifying or locating relatives or friends of a deceased person;

(13) data on a child support obligor who makes payments to the public agency may be disclosed to the Minnesota Office of Higher Education to the extent necessary to determine eligibility under section 136A.121, subdivision 2, clause (5);

(14) participant Social Security numbers and names collected by the telephone assistance program may be disclosed to the Department of Revenue to conduct an electronic data match with the property tax refund database to determine eligibility under section 237.70, subdivision 4a;

(15) the current address of a Minnesota family investment program participant may be disclosed to law enforcement officers who provide the name of the participant and notify the agency that:

(i) the participant:

(A) is a fugitive felon fleeing to avoid prosecution, or custody or confinement after conviction, for a crime or attempt to commit a crime that is a felony under the laws of the jurisdiction from which the individual is fleeing; or

(B) is violating a condition of probation or parole imposed under state or federal law;

(ii) the location or apprehension of the felon is within the law enforcement officer's official duties; and

(iii) the request is made in writing and in the proper exercise of those duties;

(16) the current address of a recipient of general assistance or general assistance medical care may be disclosed to probation officers and corrections agents who are supervising the recipient and to law enforcement officers who are investigating the recipient in connection with a felony level offense;

(17) information obtained from food support applicant or recipient households may be disclosed to local, state, or federal law enforcement officials, upon their written request, for the purpose of investigating an alleged violation of the Food Stamp Act, according to Code of Federal Regulations, title 7, section 272.1 (c);

(18) the address, Social Security number, and, if available, photograph of any member of a household receiving food support shall be made available, on request, to a local, state, or federal law enforcement officer if the officer furnishes the agency with the name of the member and notifies the agency that:

(i) the member:

(A) is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime or attempt to commit a crime that is a felony in the jurisdiction the member is fleeing;

(B) is violating a condition of probation or parole imposed under state or federal law; or

(C) has information that is necessary for the officer to conduct an official duty related to conduct described in subitem (A) or (B);

(ii) locating or apprehending the member is within the officer's official duties; and

(iii) the request is made in writing and in the proper exercise of the officer's official duty;

(19) the current address of a recipient of Minnesota family investment program, general assistance, general assistance medical care, or food support may be disclosed to law enforcement officers who, in writing, provide the name of the recipient and notify the agency that the recipient is a person required to register under section 243.166, but is not residing at the address at which the recipient is registered under section 243.166;

(20) certain information regarding child support obligors who are in arrears may be made public according to section 518A.74;

(21) data on child support payments made by a child support obligor and data on the distribution of those payments excluding identifying information on obligees may be disclosed to all obligees to whom the obligor owes support, and data on the enforcement

actions undertaken by the public authority, the status of those actions, and data on the income of the obligor or obligee may be disclosed to the other party;

(22) data in the work reporting system may be disclosed under section 256.998, subdivision 7;

(23) to the Department of Education for the purpose of matching Department of Education student data with public assistance data to determine students eligible for free and reduced-price meals, meal supplements, and free milk according to United States Code, title 42, sections 1758, 1761, 1766, 1766a, 1772, and 1773; to allocate federal and state funds that are distributed based on income of the student's family; and to verify receipt of energy assistance for the telephone assistance plan;

(24) the current address and telephone number of program recipients and emergency contacts may be released to the commissioner of health or a local board of health as defined in section 145A.02, subdivision 2, when the commissioner or local board of health has reason to believe that a program recipient is a disease case, carrier, suspect case, or at risk of illness, and the data are necessary to locate the person;

(25) to other state agencies, statewide systems, and political subdivisions of this state, including the attorney general, and agencies of other states, interstate information networks, federal agencies, and other entities as required by federal regulation or law for the administration of the child support enforcement program;

(26) to personnel of public assistance programs as defined in section 256.741, for access to the child support system database for the purpose of administration, including monitoring and evaluation of those public assistance programs;

(27) to monitor and evaluate the Minnesota family investment program by exchanging data between the Departments of Human Services and Education, on recipients and former recipients of food support, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B, 256D, or 256L;

(28) to evaluate child support program performance and to identify and prevent fraud in the child support program by exchanging data between the Department of Human Services, Department of Revenue under section 270B.14, subdivision 1, paragraphs (a) and (b), without regard to the limitation of use in paragraph (c), Department of Health, Department of Employment and Economic Development, and other state agencies as is reasonably necessary to perform these functions;

(29) counties operating child care assistance programs under chapter 119B may disseminate data on program participants, applicants, and providers to the commissioner of education; or

(30) child support data ~~on the parents and the child~~ may be disclosed to agencies administering programs under titles IV-B and IV-E of the Social Security Act, ~~as provided only to the extent mandated by federal law. Data may be disclosed only to the extent necessary for the purpose of establishing parentage or for determining who has or may have parental rights with respect to a child, which could be related to permanency planning.~~

(b) Information on persons who have been treated for drug or alcohol abuse may only be disclosed according to the requirements of Code of Federal Regulations, title 42, sections 2.1 to 2.67.

(c) Data provided to law enforcement agencies under paragraph (a), clause (15), (16), (17), or (18), or paragraph (b), are investigative data and are confidential or protected nonpublic while the investigation is active. The data are private after the investigation becomes inactive under section 13.82, subdivision 5, paragraph (a) or (b).

(d) Mental health data shall be treated as provided in subdivisions 7, 8, and 9, but is not subject to the access provisions of subdivision 10, paragraph (b).

For the purposes of this subdivision, a request will be deemed to be made in writing if made through a computer interface system.

Sec. 2. Minnesota Statutes 2010, section 13.461, subdivision 17, is amended to read:

Subd. 17. **Maltreatment review panels.** Data of the vulnerable adult maltreatment review panel ~~or the child maltreatment review panel~~ are classified under section 256.021 ~~or 256.022.~~

Sec. 3. Minnesota Statutes 2010, section 13.465, is amended by adding a subdivision to read:

Subd. 5a. **Adoptive parent.** Certain data that may be disclosed to a prospective adoptive parent is governed by section 260C.613, subdivision 2.

Sec. 4. Minnesota Statutes 2010, section 256.998, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Date of hiring" means the earlier of: (1) the first day for which an employee is owed compensation by an employer; or (2) the first day that an employee reports to work or performs labor or services for an employer.

(c) "Earnings" means payment owed by an employer for labor or services rendered by an employee.

(d) "Employee" means a person who resides or works in Minnesota, performs services for compensation, in whatever form, for an employer and satisfies the criteria of an employee under chapter 24 of the Internal Revenue Code. Employee does not include:

(1) persons hired for domestic service in the private home of the employer, as defined in the Federal Tax Code; or

(2) an employee of the federal or state agency performing intelligence or counterintelligence functions, if the head of such agency has determined that reporting according to this law would endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

(e) "Employer" means a person or entity located or doing business in this state that employs one or more employees for payment, and satisfies the criteria of an employer under chapter 24 of the Internal Revenue Code. Employer includes a labor organization as defined in paragraph (g). Employer also includes the state, political or other governmental subdivisions of the state, and the federal government.

(f) "Hiring" means engaging a person to perform services for compensation and includes the reemploying or return to work of any previous employee who was laid off, furloughed, separated, granted a leave without pay, or terminated from employment when a period of ~~90~~ 60 days elapses from the date of layoff, furlough, separation, leave, or termination to the date of the person's return to work.

(g) "Labor organization" means entities located or doing business in this state that meet the criteria of labor organization under section 2(5) of the National Labor Relations Act. This includes any entity, that may also be known as a hiring hall, used to carry out requirements described in chapter 7 of the National Labor Relations Act.

(h) "Payor" means a person or entity located or doing business in Minnesota who pays money to an independent contractor according to an agreement for the performance of services.

Sec. 5. Minnesota Statutes 2010, section 256.998, subdivision 5, is amended to read:

Subd. 5. **Report contents.** Reports required under this section must contain: all the information required by federal law.

~~(1) the employee's name, address, Social Security number, and date of birth when available, which can be handwritten or otherwise added to the W-4 form, W-9 form, or other document submitted; and~~

~~(2) the employer's name, address, and federal identification number.~~

Sec. 6. Minnesota Statutes 2010, section 256J.24, subdivision 5, is amended to read:

Subd. 5. **MFIP transitional standard.** The MFIP transitional standard is based on the number of persons in the assistance unit eligible for both food and cash assistance unless the restrictions in subdivision 6 on the birth of a child apply. ~~The following table represents the transitional standards including a breakdown of the cash and food portions effective October 1, 2009.~~

<del>Number of Eligible People</del>	<del>Transitional Standard</del>	<del>Cash Portion</del>	<del>Food Portion</del>
1	<del>\$428</del>	\$250	\$178
2	<del>\$764</del>	\$437	\$327
3	<del>\$1,005</del>	\$532	\$473
4	<del>\$1,222</del>	\$621	\$601
5	<del>\$1,399</del>	\$697	\$702
6	<del>\$1,608</del>	\$773	\$835
7	<del>\$1,754</del>	\$850	\$904
8	<del>\$1,940</del>	\$916	<del>\$1,024</del>
9	<del>\$2,125</del>	\$980	<del>\$1,145</del>
10	<del>\$2,304</del>	<del>\$1,035</del>	<del>\$1,269</del>
over 10	<del>add \$178</del>	\$53	\$125

~~per additional member.~~

The amount of the transitional standard is published annually by the Department of Human Services.

Sec. 7. Minnesota Statutes 2010, section 259.22, subdivision 2, is amended to read:

Subd. 2. **Persons who may be adopted.** No petition for adoption shall be filed unless the person sought to be adopted has been placed by ~~the commissioner of human services, the commissioner's agent, or~~ a licensed child-placing agency. The provisions of this subdivision shall not apply if:

- (1) the person to be adopted is over 14 years of age;
- (2) the child is sought to be adopted by an individual who is related to the child, as defined by section 245A.02, subdivision 13;
- (3) the child has been lawfully placed under the laws of another state while the child and petitioner resided in that other state;
- (4) the court waives the requirement of this subdivision in the best interests of the child or petitioners, provided that the adoption does not involve a placement as defined in section 259.21, subdivision 8; or
- (5) the child has been lawfully placed under section 259.47.

Sec. 8. Minnesota Statutes 2010, section 259.23, subdivision 1, is amended to read:



Subdivision 1. **Venue.** (a) ~~Except as provided in section 260C.101, subdivision 2,~~  
The juvenile court shall have original jurisdiction in all adoption proceedings. The proper  
venue for an adoption proceeding shall be the county of the petitioner's residence, except  
as provided in ~~paragraph (b)~~ section 260C.621, subdivision 2, for the adoption of children  
under the guardianship of the commissioner.

~~(b) Venue for the adoption of a child committed to the guardianship of the~~  
~~commissioner of human services shall be the county with jurisdiction in the matter~~  
~~according to section 260C.317, subdivision 3.~~

~~(c) Upon request of the petitioner, the court having jurisdiction over the matter under~~  
~~section 260C.317, subdivision 3, may transfer venue of an adoption proceeding involving~~  
~~a child under the guardianship of the commissioner to the county of the petitioner's~~  
~~residence upon determining that:~~

~~(1) the commissioner has given consent to the petitioner's adoption of the child~~  
~~or that consent is unreasonably withheld;~~

~~(2) there is no other adoption petition for the child that has been filed or is reasonably~~  
~~anticipated by the commissioner or the commissioner's delegate to be filed; and~~

~~(3) transfer of venue is in the best interests of the child.~~

Transfer of venue under this paragraph shall be according to the rules of adoption court  
procedure.

~~(d)~~ (b) In all ~~other~~ adoptions under this chapter, if the petitioner has acquired a new  
residence in another county and requests a transfer of the adoption proceeding, the court in  
which an adoption is initiated may transfer the proceeding to the appropriate court in the  
new county of residence if the transfer is in the best interests of the person to be adopted.  
The court transfers the proceeding by ordering a continuance and by forwarding to the  
court administrator of the appropriate court a certified copy of all papers filed, together  
with an order of transfer. The transferring court also shall forward copies of the order  
of transfer to the commissioner of human services and any agency participating in the  
proceedings. The judge of the receiving court shall accept the order of the transfer and any  
other documents transmitted and hear the case; provided, however, the receiving court  
may in its discretion require the filing of a new petition prior to the hearing.

Sec. 9. Minnesota Statutes 2010, section 259.24, subdivision 1, is amended to read:

Subdivision 1. **Exceptions.** (a) No child shall be adopted without the consent of the  
child's parents and the child's guardian, if there be one, except ~~in the following instances~~  
consent is not required of a parent:

~~(a) Consent shall not be required of a parent (1) who is not entitled to notice of the proceedings;~~

~~(b) Consent shall not be required of a parent (2) who has abandoned the child, or of a parent who has lost custody of the child through a divorce decree or a decree of dissolution, and upon whom notice has been served as required by section 259.49; or~~

~~(c) Consent shall not be required of a parent (3) whose parental rights to the child have been terminated by a juvenile court or who has lost custody of a child through a final commitment of the juvenile court or through a decree in a prior adoption proceeding.~~

~~(d) If there be no parent or guardian qualified to consent to the adoption, the consent shall be given by the commissioner. After the court accepts a parent's consent to the adoption under section 260C.201, subdivision 11, consent by the commissioner or commissioner's delegate is also necessary. Agreement to the identified prospective adoptive parent by the responsible social services agency under section 260C.201, subdivision 11, does not constitute the required consent.~~

~~(e) (b) If there is no parent or guardian qualified to consent to the adoption, the commissioner or agency having authority to place a child for adoption pursuant to section 259.25, subdivision 1, shall have the exclusive right to consent to the adoption of such the child. The commissioner or agency shall make every effort to place siblings together for adoption. Notwithstanding any rule to the contrary, the commissioner may delegate the right to consent to the adoption or separation of siblings, if it is in the child's best interest, to a local social services agency.~~

Sec. 10. Minnesota Statutes 2010, section 259.24, subdivision 3, is amended to read:

Subd. 3. **Child.** When the child to be adopted is over 14 years of age, the child's written consent to adoption by a particular person is also necessary. ~~A child of any age who is under the guardianship of the commissioner and is legally available for adoption may not refuse or waive the commissioner's agent's exhaustive efforts to recruit, identify, and place the child in an adoptive home required under section 260C.317, subdivision 3, paragraph (b), or sign a document relieving county social services agencies of all recruitment efforts on the child's behalf.~~

Sec. 11. Minnesota Statutes 2010, section 259.24, subdivision 5, is amended to read:

Subd. 5. **Execution.** All consents to an adoption shall be in writing, executed before two competent witnesses, and acknowledged by the consenting party. ~~In addition, all consents to an adoption, except those by the commissioner, the commissioner's agent, a licensed child-placing agency, an adult adoptee, or the child's parent in a petition for~~

11.1 ~~adoption by a stepparent, shall be executed before a representative of the commissioner,~~  
11.2 ~~the commissioner's agent, or a licensed child-placing agency.~~ All consents by a parent  
11.3 to adoption under this chapter:

11.4 (1) shall contain notice to the parent of the substance of subdivision 6a, providing  
11.5 for the right to withdraw consent unless the parent will not have the right to withdraw  
11.6 consent ~~because consent was executed under section 260C.201, subdivision 11, following~~  
11.7 ~~proper notice that consent given under that provision is irrevocable upon acceptance by~~  
11.8 ~~the court as provided in subdivision 6a; and~~

11.9 (2) shall contain the following written notice in all capital letters at least one-eighth  
11.10 inch high:

11.11 ~~"This~~ The agency responsible for supervising the adoptive placement of the child  
11.12 will submit your consent to adoption to the court. If you are consenting to adoption by  
11.13 the child's stepparent, the consent will be submitted to the court by the petitioner in your  
11.14 child's adoption. The consent itself does not terminate your parental rights. Parental rights  
11.15 to a child may be terminated only by an adoption decree or by a court order terminating  
11.16 parental rights. Unless the child is adopted or your parental rights are terminated, you  
11.17 may be asked to support the child."

11.18 Consents shall be filed in the adoption proceedings at any time before the matter  
11.19 is heard provided, however, that a consent executed and acknowledged outside of this  
11.20 state, either in accordance with the law of this state or in accordance with the law of the  
11.21 place where executed, is valid.

11.22 Sec. 12. Minnesota Statutes 2010, section 259.24, subdivision 6a, is amended to read:

11.23 Subd. 6a. **Withdrawal of consent.** ~~Except for consents executed under section~~  
11.24 ~~260C.201, subdivision 11,~~ A parent's consent to adoption under this chapter may be  
11.25 withdrawn for any reason within ten working days after the consent is executed and  
11.26 acknowledged. No later than the tenth working day after the consent is executed and  
11.27 acknowledged, written notification of withdrawal of consent must be received by: (1)  
11.28 the agency to which the child was surrendered ~~no later than the tenth working day after~~  
11.29 ~~the consent is executed and acknowledged;~~ (2) the agency supervising the adoptive  
11.30 placement of the child; or (3) in the case of adoption by the step parent or any adoption  
11.31 not involving agency placement or supervision, by the district court where the adopting  
11.32 stepparent or parent resides. On the day following the tenth working day after execution  
11.33 and acknowledgment, the consent shall become irrevocable, except upon order of a court  
11.34 of competent jurisdiction after written findings that consent was obtained by fraud. ~~A~~  
11.35 ~~consent to adopt executed under section 260C.201, subdivision 11, is irrevocable upon~~

12.1 ~~proper notice to both parents of the effect of a consent to adopt and acceptance by the~~  
12.2 ~~court, except upon order of the same court after written findings that the consent was~~  
12.3 ~~obtained by fraud. In proceedings to determine the existence of fraud, the adoptive parents~~  
12.4 ~~and the child shall be made parties. The proceedings shall be conducted to preserve the~~  
12.5 confidentiality of the adoption process. There shall be no presumption in the proceedings  
12.6 favoring the birth parents over the adoptive parents.

12.7 Sec. 13. Minnesota Statutes 2010, section 259.24, subdivision 7, is amended to read:

12.8 Subd. 7. **Withholding consent; reason.** Consent to an adoption shall not be  
12.9 unreasonably withheld by a guardian, who is not a parent of the child, ~~by the commissioner~~  
12.10 or by an agency.

12.11 Sec. 14. Minnesota Statutes 2010, section 259.29, subdivision 2, is amended to read:

12.12 Subd. 2. **Placement with relative or friend.** The authorized child-placing agency  
12.13 shall consider placement, consistent with the child's best interests and in the following  
12.14 order, with (1) a relative or relatives of the child, or (2) an important friend with whom the  
12.15 child has resided or had significant contact. In implementing this section, an authorized  
12.16 child-placing agency may disclose private or confidential data, as defined in section 13.02,  
12.17 to relatives of the child for the purpose of locating a suitable adoptive home. The agency  
12.18 shall disclose only data that is necessary to facilitate implementing the preference.

12.19 If the child's birth parent or parents explicitly request that placement with ~~relatives~~ a  
12.20 specific relative or important ~~friends~~ friend not be considered, the authorized child-placing  
12.21 agency shall honor that request if it is consistent with the best interests of the child and  
12.22 consistent with the requirements of sections 260C.212, subdivision 2, and 260C.221.

12.23 If the child's birth parent or parents express a preference for placing the child in an  
12.24 adoptive home of the same or a similar religious background to that of the birth parent  
12.25 or parents, the agency shall place the child with a family that meets the birth parent's  
12.26 religious preference.

12.27 This subdivision does not affect the Indian Child Welfare Act, United States  
12.28 Code, title 25, sections 1901 to 1923, and the Minnesota Indian Family Preservation  
12.29 Act, sections 260.751 to 260.835.

12.30 Sec. 15. Minnesota Statutes 2010, section 260.771, subdivision 3, is amended to read:

12.31 Subd. 3. **Transfer of proceedings.** In a proceeding for (1) the termination of  
12.32 parental rights ~~or~~, (2) the involuntary foster care placement of an Indian child not within  
12.33 the jurisdiction of subdivision 1, or (3) the preadoptive placement or adoptive placement

of an Indian child not within the jurisdiction of subdivision 1, the court, in the absence of good cause to the contrary, shall transfer the proceeding to the jurisdiction of the tribe absent objection by either parent, upon the petition of either parent or the Indian custodian or the Indian child's tribe. The transfer shall be subject to declination by the tribal court of such tribe. For purposes of this subdivision, "preadoptive placement" and "adoptive placement" have the meanings given in section 260.755, subdivision 3.

Sec. 16. Minnesota Statutes 2010, section 260C.193, subdivision 3, is amended to read:

Subd. 3. **Best interest of the child in foster care ~~or residential care~~.** (a) The policy of the state is to ensure that the best interests of children in foster ~~or residential~~ care are met by requiring individualized determinations under section 260C.212, subdivision 2, paragraph (b), of the needs of the child and of how the selected placement will serve the needs of the child in foster care placements.

(b) The court shall review whether the responsible social services agency made efforts as required under section ~~260C.212, subdivision 5~~ 260C.221, and made an individualized determination as required under section 260C.212, subdivision 2. If the court finds the agency has not made efforts as required under section ~~260C.212, subdivision 5~~ 260C.221, and there is a relative who qualifies to be licensed to provide family foster care under chapter 245A, the court may order the child placed with the relative consistent with the child's best interests.

(c) If the child's birth parent or parents explicitly request that a relative or important friend not be considered, the court shall honor that request if it is consistent with the best interests of the child and consistent with the requirements of section 260C.221. If the child's birth parent or parents express a preference for placing the child in a foster or adoptive home of the same or a similar religious background to that of the birth parent or parents, the court shall order placement of the child with an individual who meets the birth parent's religious preference.

(d) Placement of a child cannot be delayed or denied based on race, color, or national origin of the foster parent or the child.

(e) Whenever possible, siblings requiring foster care placement should be placed together unless it is determined not to be in the best interests of a sibling after weighing the benefits of separate placement against the benefits of sibling connections for each sibling. If siblings are not placed together according to section 260C.212, subdivision 2, paragraph (d), the responsible social services agency shall report to the court the efforts made to place the siblings together and why the efforts were not successful. If the court is not satisfied with the agency's efforts to place siblings together, the court may order the

14.1 agency to make further efforts. If siblings are not placed together the court shall review  
14.2 the responsible social services agency's plan for visitation among siblings required as part  
14.3 of the out-of-home placement plan under section 260C.212.

14.4 (f) This subdivision does not affect the Indian Child Welfare Act, United States  
14.5 Code, title 25, sections 1901 to 1923, and the Minnesota Indian Family Preservation  
14.6 Act, sections 260.751 to 260.835.

14.7 Sec. 17. Minnesota Statutes 2010, section 260C.201, subdivision 11a, is amended to  
14.8 read:

14.9 Subd. 11a. **Permanency progress review for children under eight in foster care**  
14.10 **for six months.** (a) ~~If the child was under eight years of age at the time the petition~~

14.11 ~~was filed alleging the child was in need of protection or services, and the~~ When a child  
14.12 continues in placement out of the home of the parent or guardian from whom the child  
14.13 was removed, no later than six months after the child's placement the court shall conduct a  
14.14 permanency progress hearing to review:

14.15 (1) the progress of the case, the parent's progress on the case plan or out-of-home  
14.16 placement plan, ~~and~~ whichever is applicable;

14.17 (2) the agency's reasonable, or in the case of an Indian child, active efforts for  
14.18 reunification and its provision of services;

14.19 (3) the agency's reasonable efforts to finalize the permanent plan for the child  
14.20 under section 260.012, paragraph (e), and to make a placement as required under section  
14.21 260C.212, subdivision 2, in a home that will commit to being the legally permanent  
14.22 family for the child in the event the child cannot return home according to the timelines  
14.23 in this section; and

14.24 (4) in the case of an Indian child, active efforts to prevent the breakup of the Indian  
14.25 family and to make a placement according to the placement preferences under United  
14.26 States Code, title 25, chapter 21, section 1915.

14.27 ~~(b) Based on its assessment of the parent's or guardian's progress on the out-of-home~~  
14.28 ~~placement plan, the responsible social services agency must ask the county attorney to file~~  
14.29 ~~a petition for termination of parental rights, a petition for transfer of permanent legal and~~  
14.30 ~~physical custody to a relative, or the report required under juvenile court rules.~~

14.31 (b) The court shall ensure that notice of the hearing is sent to any relative who:

14.32 (1) responded to the agency's notice provided under section 260C.221, indicating an  
14.33 interest in participating in planning for the child or being a permanency resource for the  
14.34 child and who has kept the court apprised of the relative's address; or

15.1           (2) asked to be notified of court proceedings regarding the child as is permitted in  
15.2 section 260C.152, subdivision 5.

15.3           (c)(1) If the parent or guardian has maintained contact with the child and is  
15.4 complying with the court-ordered out-of-home placement plan, and if the child would  
15.5 benefit from reunification with the parent, the court may either:

15.6           (i) return the child home, if the conditions which led to the out-of-home placement  
15.7 have been sufficiently mitigated that it is safe and in the child's best interests to return  
15.8 home; or

15.9           (ii) continue the matter up to a total of six additional months. If the child has not  
15.10 returned home by the end of the additional six months, the court must conduct a hearing  
15.11 according to subdivision 11.

15.12           (2) If the court determines that the parent or guardian is not complying with the  
15.13 out-of-home placement plan or is not maintaining regular contact with the child as outlined  
15.14 in the visitation plan required as part of the out-of-home placement plan under section  
15.15 260C.212, the court may order the responsible social services agency:

15.16           (i) to develop a plan for legally permanent placement of the child away from the  
15.17 parent ~~and~~;

15.18           (ii) to consider, identify, recruit, and support one or more permanency resources  
15.19 from the child's relatives and foster parent to be the legally permanent home in the event  
15.20 the child cannot be returned to the parent. Any relative or the child's foster parent may  
15.21 ask the court to order the agency to consider them for permanent placement of the child  
15.22 in the event the child cannot be returned to the parent. A relative or foster parent who  
15.23 wants to be considered under this item shall cooperate with the background study required  
15.24 under section 245C.08, if the individual has not already done so, and with the home study  
15.25 process required under chapter 245A for providing child foster care and for adoption  
15.26 under section 259.41. The home study referred to in this item shall be a single-home study  
15.27 in the form required by the commissioner of human services or similar study required  
15.28 by the individual's state of residence when the subject of the study is not a resident of  
15.29 Minnesota. The court may order the responsible social services agency to make a referral  
15.30 under the Interstate Compact on the Placement of Children when necessary to obtain a  
15.31 home study for an individual who wants to be considered for transfer of permanent legal  
15.32 and physical custody or adoption of the child; and

15.33           (iii) to file a petition to support an order for the legally permanent placement plan.

15.34           (d) Following the review under ~~paragraphs (b) and (c)~~ this subdivision:

15.35           (1) if the court has either returned the child home or continued the matter up to a  
15.36 total of six additional months, the agency shall continue to provide services to support the

16.1 child's return home or to make reasonable efforts to achieve reunification of the child and  
16.2 the parent as ordered by the court under an approved case plan;

16.3 (2) if the court orders the agency to develop a plan for the transfer of permanent  
16.4 legal and physical custody of the child to a relative, a petition supporting the plan shall be  
16.5 filed in juvenile court within 30 days of the hearing required under this subdivision and a  
16.6 trial on the petition held within ~~30~~ 60 days of the filing of the pleadings; or

16.7 (3) if the court orders the agency to file a termination of parental rights, unless the  
16.8 county attorney can show cause why a termination of parental rights petition should not be  
16.9 filed, a petition for termination of parental rights shall be filed in juvenile court within  
16.10 30 days of the hearing required under this subdivision and a trial on the petition held  
16.11 within ~~90~~ 60 days of the filing of the petition.

16.12 Sec. 18. Minnesota Statutes 2010, section 260C.212, subdivision 1, is amended to read:

16.13 Subdivision 1. **Out-of-home placement; plan.** (a) An out-of-home placement plan  
16.14 shall be prepared within 30 days after any child is placed in foster care by court order or a  
16.15 voluntary placement agreement between the responsible social services agency and the  
16.16 child's parent pursuant to subdivision 8 or chapter 260D.

16.17 (b) An out-of-home placement plan means a written document which is prepared by  
16.18 the responsible social services agency jointly with the parent or parents or guardian of the  
16.19 child and in consultation with the child's guardian ad litem, the child's tribe, if the child  
16.20 is an Indian child, the child's foster parent or representative of the ~~residential~~ foster care  
16.21 facility, and, where appropriate, the child. For a child in voluntary foster care for treatment  
16.22 under chapter 260D, preparation of the out-of-home placement plan shall additionally  
16.23 include the child's mental health treatment provider. As appropriate, the plan shall be:

16.24 (1) submitted to the court for approval under section 260C.178, subdivision 7;

16.25 (2) ordered by the court, either as presented or modified after hearing, under section  
16.26 260C.178, subdivision 7, or 260C.201, subdivision 6; and

16.27 (3) signed by the parent or parents or guardian of the child, the child's guardian ad  
16.28 litem, a representative of the child's tribe, the responsible social services agency, and, if  
16.29 possible, the child.

16.30 (c) The out-of-home placement plan shall be explained to all persons involved in its  
16.31 implementation, including the child who has signed the plan, and shall set forth:

16.32 (1) a description of the ~~residential facility~~ foster care home or facility selected  
16.33 including how the out-of-home placement plan is designed to achieve a safe placement  
16.34 for the child in the least restrictive, most family-like, setting available which is in close  
16.35 proximity to the home of the parent or parents or guardian of the child when the case plan



17.1 goal is reunification, and how the placement is consistent with the best interests and  
17.2 special needs of the child according to the factors under subdivision 2, paragraph (b);

17.3 (2) the specific reasons for the placement of the child in ~~a residential facility~~ foster  
17.4 care, and when reunification is the plan, a description of the problems or conditions in the  
17.5 home of the parent or parents which necessitated removal of the child from home and the  
17.6 changes the parent or parents must make in order for the child to safely return home;

17.7 (3) a description of the services offered and provided to prevent removal of the child  
17.8 from the home and to reunify the family including:

17.9 (i) the specific actions to be taken by the parent or parents of the child to eliminate  
17.10 or correct the problems or conditions identified in clause (2), and the time period during  
17.11 which the actions are to be taken; and

17.12 (ii) the reasonable efforts, or in the case of an Indian child, active efforts to be made  
17.13 to achieve a safe and stable home for the child including social and other supportive  
17.14 services to be provided or offered to the parent or parents or guardian of the child, the  
17.15 child, and the residential facility during the period the child is in the residential facility;

17.16 (4) a description of any services or resources that were requested by the child or the  
17.17 child's parent, guardian, foster parent, or custodian since the date of the child's placement  
17.18 in the residential facility, and whether those services or resources were provided and if  
17.19 not, the basis for the denial of the services or resources;

17.20 (5) the visitation plan for the parent or parents or guardian, other relatives as defined  
17.21 in section 260C.007, subdivision 27, and siblings of the child if the siblings are not placed  
17.22 together in foster care, and whether visitation is consistent with the best interest of the  
17.23 child, during the period the child is in foster care;

17.24 (6) documentation of steps to finalize the adoption or legal guardianship of the child  
17.25 if the court has issued an order terminating the rights of both parents of the child or of the  
17.26 only known, living parent of the child. At a minimum, the documentation must include  
17.27 child-specific recruitment efforts such as relative search and the use of state, regional, and  
17.28 national adoption exchanges to facilitate orderly and timely placements in and outside  
17.29 of the state. A copy of this documentation shall be provided to the court in the review  
17.30 required under section 260C.317, subdivision 3, paragraph (b);

17.31 (7) efforts to ensure the child's educational stability while in foster care, including:

17.32 (i) efforts to ensure that the child ~~in placement~~ remains in the same school in which  
17.33 the child was enrolled prior to placement or upon the child's move from one placement  
17.34 to another, including efforts to work with the local education authorities to ensure the  
17.35 child's educational stability; or

18.1 (ii) if it is not in the child's best interest to remain in the same school that the child  
18.2 was enrolled in prior to placement or move from one placement to another, efforts to  
18.3 ensure immediate and appropriate enrollment for the child in a new school;

18.4 (8) the educational records of the child including the most recent information  
18.5 available regarding:

18.6 (i) the names and addresses of the child's educational providers;

18.7 (ii) the child's grade level performance;

18.8 (iii) the child's school record;

18.9 (iv) a statement about how the child's placement in foster care takes into account  
18.10 proximity to the school in which the child is enrolled at the time of placement; and

18.11 (v) any other relevant educational information;

18.12 (9) the efforts by the local agency to ensure the oversight and continuity of health  
18.13 care services for the foster child, including:

18.14 (i) the plan to schedule the child's initial health screens;

18.15 (ii) how the child's known medical problems and identified needs from the screens,  
18.16 including any known communicable diseases, as defined in section 144.4172, subdivision  
18.17 2, will be monitored and treated while the child is in foster care;

18.18 (iii) how the child's medical information will be updated and shared, including  
18.19 the child's immunizations;

18.20 (iv) who is responsible to coordinate and respond to the child's health care needs,  
18.21 including the role of the parent, the agency, and the foster parent;

18.22 (v) who is responsible for oversight of the child's prescription medications;

18.23 (vi) how physicians or other appropriate medical and nonmedical professionals  
18.24 will be consulted and involved in assessing the health and well-being of the child and  
18.25 determine the appropriate medical treatment for the child; and

18.26 (vii) the responsibility to ensure that the child has access to medical care through  
18.27 either medical insurance or medical assistance;

18.28 (10) the health records of the child including information available regarding:

18.29 (i) the names and addresses of the child's health care and dental care providers;

18.30 (ii) a record of the child's immunizations;

18.31 (iii) the child's known medical problems, including any known communicable  
18.32 diseases as defined in section 144.4172, subdivision 2;

18.33 (iv) the child's medications; and

18.34 (v) any other relevant health care information such as the child's eligibility for  
18.35 medical insurance or medical assistance;

(11) an independent living plan for a child age 16 or older ~~who is in placement as a result of a permanency disposition~~. The plan should include, but not be limited to, the following objectives:

- (i) educational, vocational, or employment planning;
- (ii) health care planning and medical coverage;
- (iii) transportation including, where appropriate, assisting the child in obtaining a driver's license;
- (iv) money management, including the responsibility of the agency to ensure that the youth annually receives, at no cost to the youth, a consumer report as defined under section 13C.001 and assistance in interpreting and resolving any inaccuracies in the report;
- (v) planning for housing;
- (vi) social and recreational skills; and
- (vii) establishing and maintaining connections with the child's family and community; and

(12) for a child in voluntary foster care for treatment under chapter 260D, diagnostic and assessment information, specific services relating to meeting the mental health care needs of the child, and treatment outcomes.

(d) The parent or parents or guardian and the child each shall have the right to legal counsel in the preparation of the case plan and shall be informed of the right at the time of placement of the child. The child shall also have the right to a guardian ad litem. If unable to employ counsel from their own resources, the court shall appoint counsel upon the request of the parent or parents or the child or the child's legal guardian. The parent or parents may also receive assistance from any person or social services agency in preparation of the case plan.

After the plan has been agreed upon by the parties involved or approved or ordered by the court, the foster parents shall be fully informed of the provisions of the case plan and shall be provided a copy of the plan.

Upon discharge from foster care, the parent, adoptive parent, or permanent legal and physical custodian, as appropriate, and the child, if appropriate, must be provided with a current copy of the child's health and education record.

Sec. 19. Minnesota Statutes 2010, section 260C.212, subdivision 2, is amended to read:

**Subd. 2. Placement decisions based on best interest of the child.** (a) The policy of the state of Minnesota is to ensure that the child's best interests are met by requiring an individualized determination of the needs of the child and of how the selected placement will serve the needs of the child being placed. The authorized child-placing agency shall

place a child, released by court order or by voluntary release by the parent or parents, in a family foster home selected by considering placement with relatives and important friends in the following order:

(1) with an individual who is related to the child by blood, marriage, or adoption; or

(2) with an individual who is an important friend with whom the child has resided or had significant contact.

(b) Among the factors the agency shall consider in determining the needs of the child are the following:

(1) the child's current functioning and behaviors;

(2) the medical ~~needs of the child~~;

(3) the educational ~~and needs of the child~~;

(4) the developmental needs of the child;

~~(3)~~ (5) the child's history and past experience;

~~(4)~~ (6) the child's religious and cultural needs;

~~(5)~~ (7) the child's connection with a community, school, and faith community;

~~(6)~~ (8) the child's interests and talents;

~~(7)~~ (9) the child's relationship to current caretakers, parents, siblings, and relatives;

and

~~(8)~~ (10) the reasonable preference of the child, if the court, or the child-placing agency in the case of a voluntary placement, deems the child to be of sufficient age to express preferences.

(c) Placement of a child cannot be delayed or denied based on race, color, or national origin of the foster parent or the child.

(d) Siblings should be placed together for foster care and adoption at the earliest possible time unless it is documented that a joint placement would be contrary to the safety or well-being of any of the siblings or unless it is not possible after reasonable efforts by the responsible social services agency. In cases where siblings cannot be placed together, the agency is required to provide frequent visitation or other ongoing interaction between siblings unless the agency documents that the interaction would be contrary to the safety or well-being of any of the siblings.

(e) Except for emergency placement as provided for in section 245A.035, a completed background study is required under section 245C.08 before the approval of a foster placement in a related or unrelated home.

Sec. 20. Minnesota Statutes 2010, section 260C.212, subdivision 5, is amended to read:

21.1 Subd. 5. **Relative search.** (a) The responsible social services agency shall exercise  
21.2 due diligence to identify and notify adult relatives prior to placement or within 30 days  
21.3 after the child's removal from the parent. The county agency shall consider placement  
21.4 with a relative under ~~subdivision 2~~ section 260C.221 without delay. The relative search  
21.5 required by this section shall be reasonable and comprehensive in scope and may last up  
21.6 to six months or until a fit and willing relative is identified. The relative search required by  
21.7 this section shall include both maternal relatives of the child and paternal relatives of the  
21.8 child, if paternity is adjudicated. The relatives must be notified:

21.9 (1) of the need for a foster home for the child, the option to become a placement  
21.10 resource for the child, and the possibility of the need for a permanent placement for the  
21.11 child;

21.12 (2) of their responsibility to keep the responsible social services agency and the court  
21.13 informed of their current address in order to receive notice in the event that a permanent  
21.14 placement is sought for the child and to receive notice of the permanency progress review  
21.15 hearing under section 260C.204. A relative who fails to provide a current address to the  
21.16 responsible social services agency and the court forfeits the right to receive notice of  
21.17 the possibility of permanent placement and of the permanency progress review hearing  
21.18 under section 260C.204. A decision by a relative not to be a placement resource at the  
21.19 beginning of the case shall not affect whether the relative is considered for placement of  
21.20 the child with that relative later;

21.21 (3) that the relative may participate in the care and planning for the child, including  
21.22 that the opportunity for such participation may be lost by failing to respond to the notice  
21.23 sent under this subdivision; and

21.24 (4) of the family foster care licensing requirements, including how to complete an  
21.25 application and how to request a variance from licensing standards that do not present a  
21.26 safety or health risk to the child in the home under section 245A.04 and supports that are  
21.27 available for relatives and children who reside in a family foster home.

21.28 (b) A responsible social services agency may disclose private or confidential data,  
21.29 as defined in section 13.02, to relatives of the child for the purpose of locating a suitable  
21.30 placement. The agency shall disclose only data that is necessary to facilitate possible  
21.31 placement with relatives. If the child's parent refuses to give the responsible social  
21.32 services agency information sufficient to identify the maternal and paternal relatives of the  
21.33 child, the agency shall ask the juvenile court to order the parent to provide the necessary  
21.34 information. If a parent makes an explicit request that ~~relatives or~~ a specific relative not  
21.35 be contacted or considered for placement due to safety reasons including past family or  
21.36 domestic violence, the agency shall bring the parent's request to the attention of the court

22.1 to determine whether the parent's request is consistent with the best interests of the child  
22.2 and the agency shall not contact ~~relatives or a~~ the specific relative ~~unless authorized to do~~  
22.3 ~~so by~~ when the juvenile court finds that contacting the specific relative would endanger  
22.4 the parent, guardian, child, sibling, or any family member.

22.5 (c) When the placing agency determines that a permanent placement hearing is  
22.6 necessary because there is a likelihood that the child will not return to a parent's care, the  
22.7 agency may send the notice provided in paragraph (d), may ask the court to modify the  
22.8 requirements of the agency under this paragraph, or may ask the court to completely  
22.9 relieve the agency of the requirements of ~~this paragraph (d).~~ ~~The relative notification~~  
22.10 ~~requirements of this paragraph do not apply when the child is placed with an appropriate~~  
22.11 ~~relative or a foster home that has committed to being the permanent legal placement for~~  
22.12 ~~the child and the agency approves of that foster home for permanent placement of the~~  
22.13 ~~child.~~ The actions ordered by the court under this section must be consistent with the best  
22.14 interests, safety, and welfare of the child.

22.15 (d) Unless required under the Indian Child Welfare Act or relieved of this duty by the  
22.16 court under paragraph (c), when the agency determines that it is necessary to prepare for  
22.17 the permanent placement determination hearing, or in anticipation of filing a termination  
22.18 of parental rights petition, the agency shall send notice to the relatives, any adult with  
22.19 whom the child is currently residing, any adult with whom the child has resided for one  
22.20 year or longer in the past, and any adults who have maintained a relationship or exercised  
22.21 visitation with the child as identified in the agency case plan. The notice must state that a  
22.22 permanent home is sought for the child and that the individuals receiving the notice may  
22.23 indicate to the agency their interest in providing a permanent home. The notice must state  
22.24 that within 30 days of receipt of the notice an individual receiving the notice must indicate  
22.25 to the agency the individual's interest in providing a permanent home for the child or that  
22.26 the individual may lose the opportunity to be considered for a permanent placement.

22.27 (e) The Department of Human Services shall develop a best practices guide and  
22.28 specialized staff training to assist the responsible social services agency in performing and  
22.29 complying with the relative search requirements under this subdivision.

22.30 Sec. 21. Minnesota Statutes 2010, section 260C.212, subdivision 7, is amended to read:

22.31 Subd. 7. **Administrative or court review of placements.** (a) There shall be an  
22.32 administrative review of the out-of-home placement plan of each child placed in foster  
22.33 care no later than 180 days after the initial placement of the child in foster care and at least  
22.34 every six months thereafter if the child is not returned to the home of the parent or parents  
22.35 within that time. The out-of-home placement plan must be monitored and updated at each

administrative review. The administrative review shall be conducted by the responsible social services agency using a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review. The administrative review shall be open to participation by the parent or guardian of the child and the child, as appropriate.

(b) As an alternative to the administrative review required in paragraph (a), the court may, as part of any hearing required under the Minnesota Rules of Juvenile Protection Procedure, conduct a hearing to monitor and update the out-of-home placement plan pursuant to the procedure and standard in section 260C.201, subdivision 6, paragraph (d). The party requesting review of the out-of-home placement plan shall give parties to the proceeding notice of the request to review and update the out-of-home placement plan. A court review conducted pursuant to section 260C.193; 260C.201, subdivision 1 or 11; 260C.141, subdivision 2; 260C.317; or 260D.06 shall satisfy the requirement for the review so long as the other requirements of this section are met.

(c) As appropriate to the stage of the proceedings and relevant court orders, the responsible social services agency or the court shall review:

- (1) the safety, permanency needs, and well-being of the child;
  - (2) the continuing necessity for and appropriateness of the placement;
  - (3) the extent of compliance with the out-of-home placement plan;
  - (4) the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care;
  - (5) the projected date by which the child may be returned to and safely maintained in the home or placed permanently away from the care of the parent or parents or guardian;
- and
- (6) the appropriateness of the services provided to the child.

(d) When a child is age 16 or older, in addition to any administrative review conducted by the agency, at the in-court review required under section 260C.201, subdivision 11, or 260C.317, subdivision 3, clause (3), the court shall review the independent living plan required under subdivision 1, paragraph (c), clause (11), and the provision of services to the child related to the well-being of the child as the child prepares to leave foster care. The review shall include the actual plans related to each item in the plan necessary to the child's future safety and well-being when the child is no longer in foster care.

(1) At the court review, the responsible social services agency shall establish that it has given the notice required under section 260C.456 or Minnesota Rules, part 9560.0660, regarding the right to continued access to services for certain children in foster care past

24.1 age 18 and of the right to appeal a denial of social services under section 256.045. If the  
24.2 agency is unable to establish that the notice, including the right to appeal a denial of social  
24.3 services, has been given, the court shall require the agency to give it.

24.4 (2) Consistent with the requirements of the independent living plan, the court shall  
24.5 review progress toward or accomplishment of the following goals:

24.6 (i) the child has obtained a high school diploma or its equivalent;

24.7 (ii) the child has completed a driver's education course or has demonstrated the  
24.8 ability to use public transportation in the child's community;

24.9 (iii) the child is employed or enrolled in postsecondary education;

24.10 (iv) the child has applied for and obtained postsecondary education financial aid for  
24.11 which the child is eligible;

24.12 (v) the child has health care coverage and health care providers to meet the child's  
24.13 physical and mental health needs;

24.14 (vi) the child has applied for and obtained disability income assistance for which  
24.15 the child is eligible;

24.16 (vii) the child has obtained affordable housing with necessary supports, which does  
24.17 not include a homeless shelter;

24.18 (viii) the child has saved sufficient funds to pay for the first month's rent and a  
24.19 damage deposit;

24.20 (ix) the child has an alternative affordable housing plan, which does not include a  
24.21 homeless shelter, if the original housing plan is unworkable;

24.22 (x) the child, if male, has registered for the Selective Service; and

24.23 (xi) the child has a permanent connection to a caring adult.

24.24 (3) The court shall ensure that the responsible agency in conjunction with the  
24.25 placement provider assists the child in obtaining the following documents prior to the  
24.26 child's leaving foster care: a Social Security card; the child's birth certificate; a state  
24.27 identification card or driver's license, green card, or school visa; the child's school,  
24.28 medical, and dental records; a contact list of the child's medical, dental, and mental health  
24.29 providers; and contact information for the child's siblings, if the siblings are in foster care.

24.30 (e) When a child is age 17 or older, during the 90-day period immediately prior to  
24.31 the date the child is expected to be discharged from foster care, the responsible social  
24.32 services agency is required to provide the child with assistance and support in developing  
24.33 a transition plan that is personalized at the direction of the child. The transition plan  
24.34 must be as detailed as the child may elect and include specific options on housing, health  
24.35 insurance, education, local opportunities for mentors and continuing support services, and  
24.36 work force supports and employment services. The agency shall ensure that the youth



25.1 receives, at no cost to the youth, a copy of the youth's consumer credit report as defined  
25.2 in section 13C.001 and assistance in interpreting and resolving any inaccuracies in the  
25.3 report. The ~~county~~ agency shall also provide the ~~individual~~ youth with appropriate contact  
25.4 information if the ~~individual~~ youth needs more information or needs help dealing with a  
25.5 crisis situation through age 21.

25.6 Sec. 22. Minnesota Statutes 2010, section 260C.317, subdivision 3, is amended to read:

25.7 Subd. 3. **Order; retention of jurisdiction.** (a) A certified copy of the findings and  
25.8 the order terminating parental rights, and a summary of the court's information concerning  
25.9 the child shall be furnished by the court to the commissioner or the agency to which  
25.10 guardianship is transferred.

25.11 (b) The orders shall be on a document separate from the findings. The court shall  
25.12 furnish the ~~individual to whom guardianship is transferred~~ guardian a copy of the order  
25.13 terminating parental rights.

25.14 ~~(b) (c) When the court orders guardianship pursuant to this section, the court~~  
25.15 ~~shall retain jurisdiction in a case where adoption is the intended permanent placement~~  
25.16 ~~disposition until the child's adoption is finalized, the child is 18 years of age, or, for~~  
25.17 ~~children in foster care beyond age 18 pursuant to section 260C.451, until the individual~~  
25.18 ~~becomes 21 years of age according to the provisions set forth in sections 260C.193,~~  
25.19 ~~subdivision 6, and 260C.451. The guardian ad litem and counsel for the child shall~~  
25.20 ~~continue on the case until an adoption decree is entered. An in-court appearance hearing~~  
25.21 ~~must be held every 90 days following termination of parental rights for the court to review~~  
25.22 ~~progress toward an adoptive placement and the specific recruitment efforts the agency~~  
25.23 ~~has taken to find an adoptive family or other placement living arrangement for the child~~  
25.24 ~~and to finalize the adoption or other permanency plan. Review of the progress toward~~  
25.25 adoption of a child under guardianship of the commissioner of human services shall be  
25.26 conducted according to section 260C.607.

25.27 ~~(c) The responsible social services agency may make a determination of compelling~~  
25.28 ~~reasons for a child to be in long-term foster care when the agency has made exhaustive~~  
25.29 ~~efforts to recruit, identify, and place the child in an adoptive home, and the child continues~~  
25.30 ~~in foster care for at least 24 months after the court has issued the order terminating~~  
25.31 ~~parental rights. A child of any age who is under the guardianship of the commissioner of~~  
25.32 ~~the Department of Human Services and is legally available for adoption may not refuse~~  
25.33 ~~or waive the commissioner's agent's exhaustive efforts to recruit, identify, and place the~~  
25.34 ~~child in an adoptive home required under paragraph (b) or sign a document relieving~~  
25.35 ~~county social services agencies of all recruitment efforts on the child's behalf. Upon~~

~~approving the agency's determination of compelling reasons, the court may order the child placed in long-term foster care. At least every 12 months thereafter as long as the child continues in out-of-home placement, the court shall conduct an in-court permanency review hearing to determine the future status of the child using the review requirements of section 260C.201, subdivision 11, paragraph (g).~~

(d) Upon terminating parental rights or upon a parent's consent to adoption under section 260C.201, subdivision 11, resulting in an order for guardianship to the commissioner of human services, the court shall retain jurisdiction:

(1) until the child is adopted;  
(2) through the child's minority in a case where long-term; or  
(3) as long as the child continues in or reenters foster care is the permanent disposition whether under paragraph (c) or section 260C.201, subdivision 11, or, for children in foster care age 18 or older under section 260C.451, until the individual becomes 21 years of age according to the provisions in sections 260C.193, subdivision 6, and 260C.451.

Sec. 23. Minnesota Statutes 2010, section 260C.317, subdivision 4, is amended to read:

Subd. 4. **Rights of terminated parent.** (a) Upon entry of an order terminating the parental rights of any person who is identified as a parent on the original birth record of the child as to whom the parental rights are terminated, the court shall cause written notice to be made to that person setting forth:

(1) the right of the person to file at any time with the state registrar of vital statistics a consent to disclosure, as defined in section 144.212, subdivision 11;

(2) the right of the person to file at any time with the state registrar of vital statistics an affidavit stating that the information on the original birth record shall not be disclosed as provided in section 144.2252; and

(3) the effect of a failure to file either a consent to disclosure, as defined in section 144.212, subdivision 11, or an affidavit stating that the information on the original birth record shall not be disclosed.

(b) A parent whose rights are terminated under this section shall retain the ability to enter into a contact or communication agreement under section 260C.619 if an agreement is determined by the court to be in the best interests of the child. The agreement shall be filed with the court at or prior to the time the child is adopted. An order for termination of parental rights shall not be conditioned on an agreement under section 260C.619.

Sec. 24. Minnesota Statutes 2010, section 260C.325, subdivision 1, is amended to read:

Subdivision 1. ~~Transfer of custody~~ **Guardianship.** (a) ~~If~~ When the court terminates parental rights of both parents or of the only known living legal parent, the court shall order the guardianship ~~and the legal custody~~ of the child transferred to:

- (1) the commissioner of human services;
- (2) a licensed child-placing agency; or
- (3) an individual who is willing and capable of assuming the appropriate duties and responsibilities to the child.

(b) The court shall order ~~transfer of guardianship and legal custody~~ of a child to the commissioner of human services ~~only~~ when the responsible county social services agency had legal responsibility for planning for the permanent placement of the child and the child was in foster care under the legal responsibility of the responsible county social services agency at the time the court orders guardianship ~~and legal custody~~ transferred to the commissioner. The court shall not order guardianship to the commissioner under any other circumstances, except as provided in subdivision 3.

Sec. 25. Minnesota Statutes 2010, section 260C.325, subdivision 3, is amended to read:

Subd. 3. **Both parents deceased.** (a) If upon petition ~~to the juvenile court for~~ guardianship by a reputable person, including but not limited to ~~an~~ the responsible social services agency as agent of the commissioner of human services, and upon hearing in the manner provided in section 260C.163, the court finds that both parents or the only known legal parent are or is deceased and no appointment has been made or petition for appointment filed pursuant to sections 524.5-201 to 524.5-317, the court shall order the guardianship ~~and legal custody~~ of the child transferred to:

- (1) the commissioner of human services; or
- ~~(2) a licensed child-placing agency; or~~
- ~~(3)~~ (2) an individual who is willing and capable of assuming the appropriate duties and responsibilities to the child.

(b) The court shall order ~~transfer of guardianship and legal custody~~ of a child to the commissioner of human services only if there is no individual who is willing and capable of assuming the appropriate duties and responsibilities to the child.

Sec. 26. Minnesota Statutes 2010, section 260C.325, subdivision 4, is amended to read:

Subd. 4. **Guardian's responsibilities.** (a) A guardian appointed under ~~the provisions of this section~~ has legal custody of ~~a ward unless the court which appoints the guardian gives legal custody to some other person. If the court awards custody to a person other than the guardian, the guardian nonetheless has the right and responsibility of~~

28.1 ~~reasonable visitation, except as limited by court order, the child and the right to visit the~~  
28.2 ~~child in foster care, the adoptive placement, or any other suitable setting at any time prior~~  
28.3 ~~to finalization of the adoption of the child. When the child is under the guardianship of the~~  
28.4 ~~commissioner, the responsible social services agency, as agent of the commissioner, has~~  
28.5 ~~the right to visit the child.~~

28.6 (b) When the guardian is a licensed child-placing agency, the guardian may shall  
28.7 make all major decisions affecting the person of the ward child, including, but not limited  
28.8 to, giving consent, (when consent is legally required), to the marriage, enlistment in  
28.9 the armed forces, medical, surgical, or psychiatric treatment, or adoption of the ward  
28.10 child. When, pursuant to this section, the commissioner of human services is appointed  
28.11 guardian, the commissioner may delegate to the responsible social services agency of  
28.12 the county in which, after the appointment, the ward resides, the authority to act for the  
28.13 commissioner in decisions affecting the person of the ward, including but not limited  
28.14 to giving consent to the marriage, enlistment in the armed forces, medical, surgical, or  
28.15 psychiatric treatment of the ward.

28.16 (c) When the commissioner is appointed guardian, the duties of the commissioner of  
28.17 human services are established under sections 260C.601 to 260C.635.

28.18 ~~(e) (d)~~ A guardianship created under the provisions of this section shall not of itself  
28.19 include the guardianship of the estate of the ward child.

28.20 (e) The commissioner of human services, through the responsible social services  
28.21 agency, or a licensed child-placing agency who is a guardian or who has authority and  
28.22 responsibility for planning for the adoption of the child under section 259.25 or 259.47,  
28.23 has the duty to make reasonable efforts to finalize the adoption of the child.

28.24 Sec. 27. Minnesota Statutes 2010, section 260C.328, is amended to read:

28.25 **260C.328 CHANGE OF GUARDIAN; TERMINATION OF GUARDIANSHIP.**

28.26 (a) Upon its own motion or upon petition of an interested party, the juvenile court  
28.27 having jurisdiction of the child may, after notice to the parties and a hearing, remove  
28.28 the guardian appointed by the juvenile court and appoint a new guardian in accordance  
28.29 with the provisions of section 260C.325, subdivision 1, clause (a), (b), or (c). Upon a  
28.30 showing that the child is emancipated, the court may discharge the guardianship. Any  
28.31 child 14 years of age or older who is not adopted but who is placed in a satisfactory foster  
28.32 home, may, with the consent of the foster parents, join with the guardian appointed by the  
28.33 juvenile court in a petition to the court having jurisdiction of the child to discharge the  
28.34 existing guardian and appoint the foster parents as guardians of the child.

(b) The authority of a guardian appointed by the juvenile court terminates when the individual under guardianship ~~is no longer a minor or when guardianship is otherwise discharged.~~ becomes age 18. However, an individual who has been under the guardianship of the commissioner and who has not been adopted may continue in foster care or reenter foster care pursuant to section 260C.451 and the responsible social services agency has continuing legal responsibility for the placement of the individual.

Sec. 28. **[260C.601] ADOPTION OF CHILDREN UNDER GUARDIANSHIP OF COMMISSIONER.**

Subdivision 1. **Review and finalization requirements; adoption procedures.** (a) Sections 260C.601 to 260C.635 establish:

(1) the requirements for court review of children under the guardianship of the commissioner; and

(2) procedures for timely finalizing adoptions in the best interests of children under the guardianship of the commissioner.

(b) Adoption proceedings for children not under the guardianship of the commissioner are governed by chapter 259.

Subd. 2. **Duty of responsible agency.** The responsible social services agency has the duty to act as the commissioner's agent in making reasonable efforts to finalize the adoption of all children under the guardianship of the commissioner pursuant to section 260C.325. In implementing these duties, the agency shall ensure that:

(1) the best interests of the child are met in the planning and granting of adoptions;

(2) a child under the guardianship of the commissioner is appropriately involved in planning for adoption;

(3) the diversity of Minnesota's population and diverse needs including culture, religion, and language of persons affected by adoption are recognized and respected; and

(4) the court has the timely information it needs to make a decision that is in the best interests of the child in reviewing the agency's planning for adoption and when ordering the adoption of the child.

Subd. 3. **Background study.** Consistent with section 245C.33 and United States Code, title 42, section 671, a completed background study is required before the adoptive placement of the child in a related or an unrelated home.

Sec. 29. **[260C.603] DEFINITIONS.**

Subdivision 1. **Scope.** For the purposes of sections 260C.601 to 260C.635, the terms defined in this section have the meanings given them.

30.1        Subd. 2. **Adopting parent.** "Adopting parent" means an adult who has signed  
30.2        an adoption placement agreement regarding the child and has the same meaning as  
30.3        preadoptive parent under section 259A.01, subdivision 23.

30.4        Subd. 3. **Adoption placement agreement.** "Adoption placement agreement" means  
30.5        the written agreement between the responsible social services agency, the commissioner,  
30.6        and the adopting parent which reflects the intent of all the signatories to the agreement that  
30.7        the adopting parent establish a parent and child relationship by adoption with the child  
30.8        who is under the guardianship of the commissioner. The adoptive placement agreement  
30.9        must be in the commissioner's designated format.

30.10       Subd. 4. **Adoptive parent.** "Adoptive parent" has the meaning given in section  
30.11       259A.01, subdivision 3.

30.12       Subd. 5. **Adoptive placement.** "Adoptive placement" means a placement made by  
30.13       the responsible social services agency upon a fully executed adoption placement agreement  
30.14       including the signatures of the adopting parent, the responsible social services agency, and  
30.15       the commissioner of human services according to section 260C.613, subdivision 1.

30.16       Subd. 6. **Commissioner.** "Commissioner" means the commissioner of human  
30.17       services or any employee of the Department of Human Services to whom the commissioner  
30.18       has delegated authority regarding children under the commissioner's guardianship.

30.19       Subd. 7. **Guardianship.** "Guardianship" has the meaning given in section 259A.01,  
30.20       subdivision 17; 260C.325; or 260C.515, subdivision 3.

30.21       Subd. 8. **Prospective adoptive parent.** "Prospective adoptive parent" means an  
30.22       individual who may become an adopting parent regardless of whether the individual  
30.23       has an adoption study approving the individual for adoption, but who has not signed an  
30.24       adoption placement agreement.

30.25       Sec. 30. **[260C.605] REASONABLE EFFORTS TO FINALIZE AN ADOPTION.**

30.26       Subdivision 1. **Requirements.** (a) Reasonable efforts to finalize the adoption of a  
30.27       child under the guardianship of the commissioner shall be made by the responsible social  
30.28       services agency responsible for permanency planning for the child.

30.29       (b) Reasonable efforts to make a placement in a home according to the placement  
30.30       considerations under section 260C.212, subdivision 2, with a relative or foster parent  
30.31       who will commit to being the permanent resource for the child in the event the child  
30.32       cannot be reunified with a parent are required under section 260.012 and may be made  
30.33       concurrently with reasonable, or if the child is an Indian child, active efforts to reunify  
30.34       the child with the parent.

- 31.1 (c) Reasonable efforts under paragraph (b) must begin as soon as possible when the  
31.2 child is in foster care under this chapter, but not later than the hearing required under  
31.3 section 260C.204.
- 31.4 (d) Reasonable efforts to finalize the adoption of the child include:
- 31.5 (1) using age-appropriate engagement strategies to plan for adoption with the child;  
31.6 (2) identifying an appropriate prospective adoptive parent for the child by updating  
31.7 the child's identified needs using the factors in section 260C.212, subdivision 2;
- 31.8 (3) making an adoptive placement that meets the child's needs by:
- 31.9 (i) completing or updating the relative search required under section 260C.221 and  
31.10 giving notice of the need for an adoptive home for the child to:
- 31.11 (A) relatives who have kept the agency or the court apprised of their whereabouts  
31.12 and who have indicated an interest in adopting the child; or
- 31.13 (B) relatives of the child who are located in an updated search;
- 31.14 (ii) an updated search is required whenever:
- 31.15 (A) there is no identified prospective adoptive placement for the child  
31.16 notwithstanding a finding by the court that the agency made diligent efforts under section  
31.17 260C.221, in a hearing required under section 260C.202;
- 31.18 (B) the child is removed from the home of an adopting parent; or
- 31.19 (C) the court determines a relative search by the agency is in the best interests of  
31.20 the child;
- 31.21 (iii) engaging child's foster parent and the child's relatives identified as an adoptive  
31.22 resource during the search conducted under section 260C.221, to commit to being the  
31.23 prospective adoptive parent of the child; or
- 31.24 (iv) when there is no identified prospective adoptive parent:
- 31.25 (A) registering the child on the state adoption exchange as required in section 259.75  
31.26 unless the agency documents to the court an exception to placing the child on the state  
31.27 adoption exchange reported to the commissioner;
- 31.28 (B) reviewing all families with approved adoption home studies associated with the  
31.29 responsible social services agency;
- 31.30 (C) presenting the child to adoption agencies and adoption personnel who may assist  
31.31 with finding an adoptive home for the child;
- 31.32 (D) using newspapers and other media to promote the particular child;
- 31.33 (E) using a private agency under grant contract with the commissioner to provide  
31.34 adoption services for intensive child-specific recruitment efforts; and
- 31.35 (F) making any other efforts or using any other resources reasonably calculated to  
31.36 identify a prospective adoption parent for the child;

32.1           (4) updating and completing the social and medical history required under sections  
32.2           259.43 and 260C.609;

32.3           (5) making, and keeping updated, appropriate referrals required by section 260.851,  
32.4           the Interstate Compact on the Placement of Children;

32.5           (6) giving notice regarding the responsibilities of an adoptive parent to any  
32.6           prospective adoptive parent as required under section 259.35;

32.7           (7) offering the adopting parent the opportunity to apply for or decline adoption  
32.8           assistance under chapter 259A;

32.9           (8) certifying the child for adoption assistance, assessing the amount of adoption  
32.10          assistance, and ascertaining the status of the commissioner's decision on the level of  
32.11          payment if the adopting parent has applied for adoption assistance;

32.12          (9) placing the child with siblings. If the child is not placed with siblings, the agency  
32.13          must document reasonable efforts to place the siblings together, as well as the reason for  
32.14          separation. The agency may not cease reasonable efforts to place siblings together for final  
32.15          adoption until the court finds further reasonable efforts would be futile or that placement  
32.16          together for purposes of adoption is not in the best interests of one of the siblings; and

32.17          (10) working with the adopting parent to file a petition to adopt the child and with  
32.18          the court administrator to obtain a timely hearing to finalize the adoption.

32.19          Subd. 2. **No waiver.** (a) The responsible social services agency shall make  
32.20          reasonable efforts to recruit, assess, and match an adoptive home for any child under  
32.21          the guardianship of the commissioner and reasonable efforts shall continue until an  
32.22          adoptive placement is made and adoption finalized or until the child is no longer under the  
32.23          guardianship of the commissioner.

32.24          (b) A child of any age who is under the guardianship of the commissioner and is  
32.25          legally available for adoption may not refuse or waive the responsible social services  
32.26          agency's reasonable efforts to recruit, identify, and place the child in an adoptive home  
32.27          required under this section. The agency has an ongoing responsibility to work with the  
32.28          child to explore the child's opportunities for adoption, and what adoption means for the  
32.29          child, and may not accept a child's refusal to consider adoption as an option.

32.30          (c) The court may not relieve or otherwise order the responsible social services  
32.31          agency to cease fulfilling the responsible social services agency's duty regarding  
32.32          reasonable efforts to recruit, identify, and place the child in an adoptive home.

32.33          Sec. 31. **[260C.607] REVIEW OF PROGRESS TOWARD ADOPTION.**

32.34          Subdivision 1. **Review hearings.** (a) The court shall conduct a review of the  
32.35          responsible social services agency's reasonable efforts to finalize adoption for any child



33.1 under the guardianship of the commissioner and of the progress of the case toward  
33.2 adoption at least every 90 days after the court issues an order that the commissioner is  
33.3 the guardian of the child.

33.4 (b) The review of progress toward adoption shall continue notwithstanding that an  
33.5 appeal is made of the order for guardianship.

33.6 (c) The agency's reasonable efforts to finalize the adoption must continue during the  
33.7 pendency of the appeal and all progress toward adoption shall continue except that the  
33.8 court may not finalize an adoption while the appeal is pending.

33.9 Subd. 2. **Notice.** Notice of review hearings shall be given by the court to:

33.10 (1) the responsible social services agency;

33.11 (2) the child, if the child is age ten and older;

33.12 (3) the child's guardian ad litem;

33.13 (4) relatives of the child who have kept the court informed of their whereabouts

33.14 as required in section 260C.221 and who have responded to the agency's notice under

33.15 section 260C.221, indicating a willingness to provide an adoptive home for the child

33.16 unless the relative has been previously ruled out by the court as a suitable foster parent or  
33.17 permanency resource for the child;

33.18 (5) the current foster or adopting parent of the child;

33.19 (6) any foster or adopting parents of siblings of the child; and

33.20 (7) the Indian child's tribe.

33.21 Subd. 3. **Right to participate.** Any individual or entity listed in subdivision 2 may  
33.22 participate in the continuing reviews conducted under this section. No other individual  
33.23 or entity is required to be given notice or to participate in the reviews unless the court  
33.24 specifically orders that notice be given or participation in the reviews be required.

33.25 Subd. 4. **Content of review.** (a) The court shall review:

33.26 (1) the agency's reasonable efforts under section 260C.605 to finalize an adoption  
33.27 for the child as appropriate to the stage of the case; and

33.28 (2) the child's current out-of-home placement plan required under section 260C.212,  
33.29 subdivision 1, to ensure the child is receiving all services and supports required to meet  
33.30 the child's needs as they relate to the child's:

33.31 (i) placement;

33.32 (ii) visitation and contact with siblings;

33.33 (iii) visitation and contact with relatives;

33.34 (iv) medical, mental, and dental health; and

33.35 (v) education.

(b) When the child is age 16 and older, and as long as the child continues in foster care, the court shall also review the agency's planning for the child's independent living after leaving foster care including how the agency is meeting the requirements of section 260C.212, subdivision 1, paragraph (c), clause (11). The court shall use the review requirements of section 260C.203, in any review conducted under this paragraph.

Subd. 5. **Required placement by responsible social services agency.** (a) No petition for adoption shall be filed for a child under the guardianship of the commissioner unless the child sought to be adopted has been placed for adoption with the adopting parent by the responsible social services agency. The court may order the agency to make an adoptive placement using standards and procedures under subdivision 6.

(b) Any relative or the child's foster parent who believes the responsible agency has not reasonably considered their request to be considered for adoptive placement as required under section 260C.212, subdivision 2, and who wants to be considered for adoptive placement of the child shall bring their request for consideration to the attention of the court during a review required under this section. The child's guardian ad litem and the child may also bring a request for a relative or the child's foster parent to be considered for adoptive placement. After hearing from the agency, the court may order the agency to take appropriate action regarding the relative's or foster parent's request for consideration under section 260C.212, subdivision 2, paragraph (b).

Subd. 6. **Motion and hearing to order adoptive placement.** (a) At any time after the district court orders the child under the guardianship of the commissioner of human services, but not later than 30 days after receiving notice required under section 260C.613, subdivision 1, paragraph (c), that the agency has made an adoptive placement, a relative or the child's foster parent may file a motion for an order for adoptive placement of a child who is under the guardianship of the commissioner if the relative or the child's foster parent:

(1) has an adoption home study under section 259.41 approving the relative or foster parent for adoption and has been a resident of Minnesota for at least six months before filing the motion; the court may waive the residency requirement for the moving party if there is a reasonable basis to do so; or

(2) is not a resident of Minnesota, but has an approved adoption home study by an agency licensed or approved to complete an adoption home study in the state of the individual's residence and the study is filed with the motion for adoptive placement.

(b) The motion shall be filed with the court conducting reviews of the child's progress toward adoption under this section. The motion and supporting documents must make a prima facie showing that the agency has been unreasonable in failing to make the

35.1 requested adoptive placement. The motion must be served according to the requirements  
35.2 for motions under the Minnesota Rules of Juvenile Protection Procedure and shall be  
35.3 made on all individuals and entities listed in subdivision 2.

35.4 (c) If the motion and supporting documents do not make a prima facie showing for  
35.5 the court to determine whether the agency has been unreasonable in failing to make the  
35.6 requested adoptive placement, the court shall dismiss the motion. If the court determines a  
35.7 prima facie basis is made, the court shall set the matter for evidentiary hearing.

35.8 (d) At the evidentiary hearing the responsible social services agency shall proceed  
35.9 first with evidence about the reason for not making the adoptive placement proposed by the  
35.10 moving party. The moving party then has the burden of proving by a preponderance of the  
35.11 evidence that the agency has been unreasonable in failing to make the adoptive placement.

35.12 (e) At the conclusion of the evidentiary hearing, if the court finds that the agency  
35.13 has been unreasonable in failing to make the adoptive placement and that the relative or  
35.14 the child's foster parent is the most suitable adoptive home to meet the child's needs  
35.15 using the factors in section 260C.212, subdivision 2, paragraph (b), the court may order  
35.16 the responsible social services agency to make an adoptive placement in the home of the  
35.17 relative or the child's foster parent.

35.18 (f) If, in order to ensure that a timely adoption may occur, the court orders the  
35.19 responsible social services agency to make an adoptive placement under this subdivision,  
35.20 the agency shall:

35.21 (1) make reasonable efforts to obtain a fully executed adoption placement agreement;

35.22 (2) work with the moving party regarding eligibility for adoption assistance as  
35.23 required under chapter 259A; and

35.24 (3) if the moving party is not a resident of Minnesota, timely refer the matter for  
35.25 approval of the adoptive placement through the Interstate Compact on the Placement of  
35.26 Children.

35.27 (g) Denial or granting of a motion for an order for adoptive placement after an  
35.28 evidentiary hearing is an order which may be appealed by the responsible social services  
35.29 agency, the moving party, the child, when age ten or over, the child's guardian ad litem,  
35.30 and any individual who had a fully executed adoption placement agreement regarding  
35.31 the child at the time the motion was filed if the court's order has the effect of terminating  
35.32 the adoption placement agreement. An appeal shall be conducted according to the  
35.33 requirements of the Rules of Juvenile Protection Procedure.

35.34 **Subd. 7. Changing adoptive plan when parent has consented to adoption.**  
35.35 When the child's parent has consented to adoption under section 260C.515, subdivision 3,  
35.36 only the person identified by the parent and agreed to by the agency as the prospective

adoptive parent qualifies for adoptive placement of the child until the responsible social services agency has reported to the court and the court has found in a hearing under this section that it is not possible to finalize an adoption by the identified prospective adoptive parent within 12 months of the execution of the consent to adopt under section 260C.515, subdivision 3, unless the responsible social services agency certifies that the failure to finalize is not due to either an action or a failure to act by the prospective adoptive parent.

Subd. 8. **Timing modified.** (a) The court may review the responsible social services agency's reasonable efforts to finalize an adoption more frequently than every 90 days whenever a more frequent review would assist in finalizing the adoption.

(b) In appropriate cases, the court may review the responsible social services agency's reasonable efforts to finalize an adoption less frequently than every 90 days. The court shall not find it appropriate to review progress toward adoption less frequently than every 90 days except when:

(1) the court has approved the agency's reasonable efforts to recruit, identify, and place the child in an adoptive home on a continuing basis for at least 24 months after the court has issued the order for guardianship;

(2) the child is at least 16 years old; and

(3) the child's guardian ad litem agrees that review less frequently than every 90 days is in the child's best interests.

(c) In no event shall the court's review be less frequent than every six months.

**Sec. 32. [260C.609] SOCIAL AND MEDICAL HISTORY.**

(a) The responsible social services agency shall work with the birth family of the child, foster family, medical and treatment providers, and the child's school to ensure there is a detailed, thorough, and currently up-to-date social and medical history of the child as required under section 259.43 on the forms required by the commissioner.

(b) When the child continues in foster care, the agency's reasonable efforts to complete the history shall begin no later than the permanency progress review hearing required under section 260C.204 or six months after the child's placement in foster care.

(c) The agency shall thoroughly discuss the child's history with the adopting parent of the child and shall give a copy of the report of the child's social and medical history to the adopting parent. A copy of the child's social and medical history may also be given to the child as appropriate.

(d) The report shall not include information that identifies birth relatives. Redacted copies of all the child's relevant evaluations, assessments, and records must be attached to the social and medical history.

37.1       Sec. 33. **[260C.611] ADOPTION STUDY REQUIRED.**

37.2           An adoption study under section 259.41 approving placement of the child in the  
37.3 home of the prospective adoptive parent shall be completed before placing any child  
37.4 under the guardianship of the commissioner in a home for adoption. If a prospective  
37.5 adoptive parent has previously held a foster care license or adoptive home study, any  
37.6 update necessary to the foster care license, or updated or new adoptive home study, if not  
37.7 completed by the licensing authority responsible for the previous license or home study,  
37.8 shall include collateral information from the previous licensing or approving agency, if  
37.9 available.

37.10       Sec. 34. **[260C.613] SOCIAL SERVICES AGENCY AS COMMISSIONER'S**  
37.11 **AGENT.**

37.12           Subdivision 1. **Adoptive placement decisions.** (a) The responsible social services  
37.13 agency has exclusive authority to make an adoptive placement of a child under the  
37.14 guardianship of the commissioner. The child shall be considered placed for adoption when  
37.15 the adopting parent, the agency, and the commissioner have fully executed an adoption  
37.16 placement agreement on the form prescribed by the commissioner.

37.17           (b) The responsible social services agency shall use an individualized determination  
37.18 of the child's current needs pursuant to section 260C.212, subdivision 2, paragraph (b), to  
37.19 determine the most suitable adopting parent for the child in the child's best interests.

37.20           (c) The responsible social services agency shall notify the court and parties entitled  
37.21 to notice under section 260C.607, subdivision 2, when there is a fully executed adoption  
37.22 placement agreement for the child.

37.23           (d) In the event an adoption placement agreement terminates, the responsible  
37.24 social services agency shall notify the court, the parties entitled to notice under section  
37.25 260C.607, subdivision 2, and the commissioner that the agreement and the adoptive  
37.26 placement have terminated.

37.27           Subd. 2. **Disclosure of data permitted to identify adoptive parent.** The  
37.28 responsible social services agency may disclose private data, as defined in section 13.02, to  
37.29 prospective adoptive parents for the purpose of identifying an adoptive parent willing and  
37.30 able to meet the child's needs as outlined in section 260C.212, subdivision 2, paragraph (b).

37.31           Subd. 3. **Siblings placed together.** The responsible social services agency shall  
37.32 place siblings together for adoption according to section 260.012, paragraph (e), clause  
37.33 (4), unless:

37.34           (1) the court makes findings required under section 260C.617; and

38.1 (2) the court orders that the adoption or progress toward adoption of the child under  
38.2 the court's jurisdiction may proceed notwithstanding that the adoption will result in  
38.3 siblings being separated.

38.4 Subd. 4. **Other considerations.** Placement of a child cannot be delayed or denied  
38.5 based on the race, color, or national origin of the prospective parent or the child.

38.6 Subd. 5. **Required record keeping.** The responsible social services agency  
38.7 shall document, in the records required to be kept under section 259.79, the reasons  
38.8 for the adoptive placement decision regarding the child, including the individualized  
38.9 determination of the child's needs based on the factors in section 260C.212, subdivision  
38.10 2, paragraph (b), and the assessment of how the selected adoptive placement meets the  
38.11 identified needs of the child. The responsible social services agency shall retain in the  
38.12 records required to be kept under section 259.79, copies of all out-of-home placement  
38.13 plans made since the child was ordered under guardianship of the commissioner and all  
38.14 court orders from reviews conducted pursuant to section 260C.607.

38.15 Subd. 6. **Death notification.** (a) The agency shall inform the adoptive parents  
38.16 that the adoptive parents of an adopted child under age 19 or an adopted person age 19  
38.17 or older may maintain a current address on file with the agency and indicate a desire to  
38.18 be notified if the agency receives information of the death of a birth parent. The agency  
38.19 shall notify birth parents of the child's death and the cause of death, if known, provided  
38.20 that the birth parents desire notice and maintain current addresses on file with the agency.  
38.21 The agency shall inform birth parents entitled to notice under section 259.27, that they  
38.22 may designate individuals to notify the agency if a birth parent dies and that the agency  
38.23 receiving information of the birth parent's death will share the information with adoptive  
38.24 parents, if the adopted person is under age 19, or an adopted person age 19 or older who  
38.25 has indicated a desire to be notified of the death of a birth parent and who maintains  
38.26 a current address on file with the agency.

38.27 (b) Notice to a birth parent that a child has died or to the adoptive parents or an  
38.28 adopted person age 19 or older that a birth parent has died shall be provided by an  
38.29 employee of the agency through personal and confidential contact, but not by mail.

38.30 Subd. 7. **Terminal illness notification.** If a birth parent or the child is terminally ill,  
38.31 the responsible social services agency shall inform the adoptive parents and birth parents  
38.32 of a child who is adopted that the birth parents, the adoptive parents of an adopted person  
38.33 under age 19, or an adopted person age 19 or older may request to be notified of the  
38.34 terminal illness. The agency shall notify the other parties if a request is received under  
38.35 this subdivision and upon a party's request the agency shall share information regarding a  
38.36 terminal illness with the adoptive or birth parents or an adopted person age 19 or older.

39.1        Subd. 8. **Postadoption search services.** The responsible social services agency  
39.2 shall respond to requests from adopted persons age 19 years and over, adoptive parents  
39.3 of a minor child, and birth parents for social and medical history and genetic health  
39.4 conditions of the adopted person's birth family and genetic sibling information according  
39.5 to section 259.83.

39.6        Sec. 35. **[260C.615] DUTIES OF COMMISSIONER.**

39.7        Subdivision 1. **Duties.** (a) For any child who is under the guardianship of the  
39.8 commissioner, the commissioner has the exclusive rights to consent to:

39.9        (1) the medical care plan for the treatment of a child who is at imminent risk of death  
39.10 or who has a chronic disease that, in a physician's judgment, will result in the child's death  
39.11 in the near future including a physician's order not to resuscitate or intubate the child; and

39.12        (2) the child donating a part of the child's body to another person while the child is  
39.13 living; the decision to donate a body part under this clause shall take into consideration  
39.14 the child's wishes and the child's culture.

39.15        (b) In addition to the exclusive rights under paragraph (a), the commissioner has  
39.16 a duty to:

39.17        (1) process any complete and accurate request for home study and placement  
39.18 through the Interstate Compact on the Placement of Children under section 260.851;

39.19        (2) process any complete and accurate application for adoption assistance forwarded  
39.20 by the responsible social services agency according to chapter 259A;

39.21        (3) complete the execution of an adoption placement agreement forwarded to the  
39.22 commissioner by the responsible social services agency and return it to the agency in a  
39.23 timely fashion; and

39.24        (4) maintain records as required in chapter 259.

39.25        Subd. 2. **Duties not reserved.** All duties, obligations, and consents not specifically  
39.26 reserved to the commissioner in this section are delegated to the responsible social  
39.27 services agency.

39.28        Sec. 36. **[260C.617] SIBLING PLACEMENT.**

39.29        (a) The responsible social services agency shall make every effort to place siblings  
39.30 together for adoption.

39.31        (b) The court shall review any proposal by the responsible social services agency to  
39.32 separate siblings for purposes of adoption.

39.33        (c) If there is venue in more than one county for matters regarding siblings who are  
39.34 under the guardianship of the commissioner, the judges conducting reviews regarding

the siblings shall communicate with each other about the siblings' needs and, where appropriate, shall conduct review hearings in a manner that ensures coordinated planning by agencies involved in decision making for the siblings.

(d) After notice to the individuals and entities listed in section 260C.627, the foster or prospective adoptive parent of the child, and any foster, adopting, or adoptive parents of the child's siblings, or relatives with permanent legal and physical custody of the child's sibling, and upon hearing, the court may determine that a child under the court's jurisdiction may be separated from the child's sibling for adoption when:

(1) the responsible social services agency has made reasonable efforts to place the siblings together, and after finding reasonable efforts have been made, the court finds further efforts would significantly delay the adoption of one or more of the siblings and are therefore not in the best interests of one or more of the siblings; or

(2) the court determines it is not in the best interests of one or more of the siblings to be placed together after reasonable efforts by the responsible social services agency to place the siblings together.

Sec. 37. **[260C.619] COMMUNICATION AND CONTACT AGREEMENTS.**

(a) An adopting parent and a relative or foster parent of the child may enter into an agreement regarding communication with or contact between the adopted child, adopting parent, and the relative or foster parent. An agreement may be entered between:

(1) an adopting parent and a birth parent;

(2) an adopting parent and any relative or foster parent with whom the child resided before being adopted; and

(3) an adopting parent and the parent or legal custodian of a sibling of the child, if the sibling is a minor, or any adult sibling of the child.

(b) An agreement regarding communication with or contact between the child, adoptive parents, and a relative or foster parent, is enforceable when the terms of the agreement are contained in a written court order. The order must be issued before or at the time of the granting of the decree of adoption. The order granting the communication, contact, or visitation shall be filed in the adoption file.

(c) The court shall mail a certified copy of the order to the parties to the agreement or their representatives at the addresses provided by the parties to the agreement. Service shall be completed in a manner that maintains the confidentiality of confidential information.

(d) The court shall not enter a proposed order unless the terms of the order have been approved in writing by the prospective adoptive parents, the birth relative, the foster



41.1 parent, or the birth parent or legal custodian of the child's sibling who desires to be a party  
41.2 to the agreement, and the responsible social services agency.

41.3 (e) An agreement under this section need not disclose the identity of the parties to be  
41.4 legally enforceable and when the identity of the parties to the agreement is not disclosed,  
41.5 data about the identities in the adoption file shall remain confidential.

41.6 (f) The court shall not enter a proposed order unless the court finds that the  
41.7 communication or contact between the minor adoptee, the adoptive parents, and the  
41.8 relative, foster parents, or siblings as agreed upon and contained in the proposed order,  
41.9 would be in the child's best interests.

41.10 (g) Failure to comply with the terms of an order regarding communication or contact  
41.11 that has been entered by the court under this section is not grounds for:

41.12 (1) setting aside an adoption decree; or

41.13 (2) revocation of a written consent to an adoption after that consent has become  
41.14 irrevocable.

41.15 (h) An order regarding communication or contact entered under this section may be  
41.16 enforced by filing a motion in the existing adoption file with the court that entered the  
41.17 contact agreement. Any party to the communication or contact order or the child who is  
41.18 the subject of the order has standing to file the motion to enforce the order. The prevailing  
41.19 party may be awarded reasonable attorney fees and costs.

41.20 (i) The court shall not modify an order under this section unless it finds that the  
41.21 modification is necessary to serve the best interests of the child, and:

41.22 (1) the modification is agreed to by the parties to the agreement; or

41.23 (2) exceptional circumstances have arisen since the order was entered that justified  
41.24 modification of the order.

41.25 Sec. 38. **[260C.621] JURISDICTION AND VENUE.**

41.26 **Subdivision 1. Jurisdiction.** (a) The juvenile court has original jurisdiction for all  
41.27 adoption proceedings involving the adoption of a child under the guardianship of the  
41.28 commissioner, including when the commissioner approves the placement of the child  
41.29 through the Interstate Compact on the Placement of Children under section 260.851 for  
41.30 adoption outside the state of Minnesota and an adoption petition is filed in Minnesota.

41.31 (b) The receiving state also has jurisdiction to conduct an adoption proceeding for a  
41.32 child under the guardianship of the commissioner when the adopting home was approved  
41.33 by the receiving state through the interstate compact.

42.1           Subd. 2. **Venue.** (a) Venue for the adoption of a child committed to the guardianship  
42.2 of the commissioner of human services shall be the court conducting reviews in the matter  
42.3 according to section 260C.607.

42.4           (b) Upon request of the responsible social services agency, the court conducting  
42.5 reviews under section 260C.607 may order that filing an adoption petition involving a  
42.6 child under the guardianship of the commissioner be permitted in the county where the  
42.7 adopting parent resides upon determining that:

42.8           (1) there is no motion for an order for adoptive placement of the child that has been  
42.9 filed or is reasonably anticipated by the responsible social services agency to be filed; and

42.10          (2) filing the petition in the adopting parent's county of residence will expedite the  
42.11 proceedings and serve the best interests of the child.

42.12          (c) When the court issues an order under paragraph (b), a copy of the court order  
42.13 shall be filed together with the adoption petition in the court of the adopting parent's  
42.14 county of residence.

42.15          (d) The court shall notify the court conducting reviews under section 260C.607 when  
42.16 the adoption is finalized so that the court conducting reviews under section 260C.607 may  
42.17 close its jurisdiction and the court record, including the court's electronic case record, in  
42.18 the county conducting the reviews, shall reflect that adoption of the child was finalized.

42.19          Sec. 39. **[260C.623] ADOPTION PETITION.**

42.20          Subdivision 1. **Who may petition.** (a) The responsible social services agency may  
42.21 petition for the adopting parent to adopt a child who is under the guardianship of the  
42.22 commissioner. The petition shall contain or have attached a statement certified by the  
42.23 adopting parent that the adopting parent desires that the relationship of parent and child  
42.24 be established between the adopting parent and the child and that adoption is in the best  
42.25 interests of the child.

42.26          (b) The adopting parent may petition the court for adoption of the child.

42.27          (c) An adopting parent must be at least 21 years of age at the time the adoption  
42.28 petition is filed unless the adopting parent is an individual related to the child, as defined  
42.29 by section 245A.02, subdivision 13.

42.30          (d) The petition may be filed in Minnesota by an adopting parent who resides within  
42.31 or outside the state.

42.32          Subd. 2. **Time for filing petition.** (a) An adoption petition shall be filed not later  
42.33 than nine months after the date of the fully executed adoption placement agreement unless  
42.34 the court finds that:

(1) the time for filing a petition be extended because of the child's special needs as defined under title IV-E of the federal Social Security Act, United States Code, title 42, section 672; or

(2) based on a written plan for completing filing of the petition, including a specific timeline, to which the adopting parent has agreed, the time for filing a petition be extended long enough to complete the plan because an extension is in the best interests of the child and additional time is needed for the child to adjust to the adoptive home.

(b) If an adoption petition is not filed within nine months of the execution of the adoption placement agreement as required under section 260C.613, subdivision 1, and after giving the adopting parent written notice of its request together with the date and time of the hearing set to consider its report, the responsible social services agency shall file a report requesting an order for one of the following:

(1) that the time for filing a petition be extended because of the child's special needs as defined under title IV-E of the federal Social Security Act, United States Code, title 42, section 673;

(2) that, based on a written plan for completing filing of the petition, including a specific timeline, to which the adopting parent has agreed, the time for filing a petition can be extended long enough to complete the plan because an extension is in the best interests of the child and additional time is needed for the child to adjust to the adoptive home; or

(3) that the child can be removed from the adopting home.

(c) At the conclusion of the review, the court shall issue findings, appropriate orders for the parties to take action or steps required to advance the case toward a finalized adoption, and set the date and time for the next review hearing.

**Subd. 3. Requirements of petition.** (a) The petition shall be captioned in the legal name of the child as that name is reflected on the child's birth record prior to adoption and shall be entitled "Petition to Adopt Child under the Guardianship of the Commissioner of Human Services." The actual name of the child shall be supplied to the court by the responsible social services agency if unknown to the individual with whom the agency has made the adoptive placement.

(b) The adoption petition shall be verified as required in section 260C.141, subdivision 4, and, if filed by the responsible social services agency, signed and approved by the county attorney.

(c) The petition shall state:

(1) the full name, age, and place of residence of the adopting parent;

(2) if the adopting parents are married, the date and place of marriage;

(3) the date the adopting parent acquired physical custody of the child;

- 44.1 (4) the date of the adoptive placement by the responsible social services agency;  
44.2 (5) the date of the birth of the child, if known, and the county, state, and country  
44.3 where born;  
44.4 (6) the name to be given the child, if a change of name is desired;  
44.5 (7) the description and value of any real or personal property owned by the child;  
44.6 (8) the relationship of the adopting parent to the child prior to adoptive placement, if  
44.7 any;  
44.8 (9) whether the Indian Child Welfare Act does or does not apply; and  
44.9 (10) the name and address of:  
44.10 (i) the child's guardian ad litem;  
44.11 (ii) the adoptee, if age ten or older;  
44.12 (iii) the child's Indian tribe, if the child is an Indian child; and  
44.13 (iv) the responsible social services agency.  
44.14 (d) A petition may ask for the adoption of two or more children.  
44.15 (e) If a petition is for adoption by a married person, both spouses must sign the  
44.16 petition indicating willingness to adopt the child and the petition must ask for adoption by  
44.17 both spouses unless the court approves adoption by only one spouse when spouses do not  
44.18 reside together or for other good cause shown.  
44.19 (f) If the petition is for adoption by a person residing outside the state, the adoptive  
44.20 placement must have been approved by the state where the person is a resident through the  
44.21 Interstate Compact on the Placement of Children, sections 260.851 to 260.92.  
44.22 Subd. 4. **Attachments to the petition.** The following must be filed with the petition:  
44.23 (1) the adoption study report required under section 259.41;  
44.24 (2) the social and medical history required under sections 259.43 and 260C.609; and  
44.25 (3) a document prepared by the petitioner that establishes who must be given notice  
44.26 under section 260C.627, subdivision 1, that includes the names and mailing addresses of  
44.27 those to be served by the court administrator.

44.28 Sec. 40. **[260C.625] DOCUMENTS FILED BY SOCIAL SERVICES AGENCY.**

- 44.29 (a) The following shall be filed by the responsible social services agency prior to  
44.30 finalization of the adoption:  
44.31 (1) a certified copy of the child's birth record;  
44.32 (2) a certified copy of the findings and order terminating parental rights or order  
44.33 accepting the parent's consent to adoption under section 260C.515, subdivision 3, and for  
44.34 guardianship to the commissioner;  
44.35 (3) a copy of any communication or contact agreement under section 260C.619;

(4) certification that the Minnesota Fathers' Adoption Registry has been searched which requirement may be met according to the requirements of the Minnesota Rules of Adoption Procedure, Rule 32.01, subdivision 2;

(5) the original of each consent to adoption required, if any, unless the original was filed in the permanency proceeding conducted under section 260C.515, subdivision 3, and the order filed under clause (2) has a copy of the consent attached; and

(6) the postplacement assessment report required under section 259.53, subdivision 2.

(b) The responsible social services agency shall provide any known aliases of the child to the court.

Sec. 41. **[260C.627] NOTICE OF ADOPTION PROCEEDINGS.**

Subdivision 1. **To whom given.** (a) Notice of the adoption proceedings shall not be given to any parent whose rights have been terminated or who has consented to the adoption of the child under this chapter.

(b) Notice of the adoption proceedings shall be given to the following:

(1) the child's tribe if the child is an Indian child;

(2) the responsible social services agency;

(3) the child's guardian ad litem;

(4) the child, if the child is age ten or over;

(5) the child's attorney; and

(6) the adopting parent.

(c) Notice of a hearing regarding the adoption petition shall have a copy of the petition attached unless service of the petition has already been accomplished.

Subd. 2. **Method of service.** Notice of adoption proceedings for a child under the guardianship of the commissioner may be served by United States mail or any other method approved by the Minnesota Rules of Adoption Procedure.

Sec. 42. **[260C.629] FINALIZATION HEARING.**

Subdivision 1. **Consent.** (a) A parent whose rights to the child have not been terminated must consent to the adoption of the child. A parent may consent to the adoption of the child under section 260C.515, subdivision 3, and that consent shall be irrevocable upon acceptance by the court except as otherwise provided in section 260C.515, subdivision 3, clause (2)(i). A parent of an Indian child may consent to the adoption of the child according to United States Code, title 25, section 1913, and that consent may be withdrawn for any reason at any time before the entry of a final decree of adoption.

(b) When the child to be adopted is age 14 years or older, the child's written consent to adoption by the adopting parent is required.

(c) Consent by the responsible social services agency or the commissioner is not required because the adoptive placement has been made by the responsible social services agency.

Subd. 2. **Required documents.** In order to issue a decree for adoption and enter judgment accordingly, the court must have the following documents in the record:

(1) original birth record of the child;

(2) adoption study report including a background study required under section 259.41;

(3) a certified copy of the findings and order terminating parental rights or order accepting the parent's consent to adoption under section 260C.515, subdivision 3, and for guardianship to the commissioner;

(4) any consents required under subdivision 1;

(5) child's social and medical history under section 260C.609;

(6) postplacement assessment report required under section 259.53, subdivision 2, unless waived by the court on the record at a hearing under section 260C.607; and

(7) report from the child's guardian ad litem.

**Sec. 43. [260C.631] JUDGMENT AND DECREE.**

(a) After taking testimony from the responsible social services agency, which may be by telephone or affidavit if the court has transferred venue of the matter to a county not conducting the posttermination of parental rights reviews under section 260C.607, and the adopting parent, if the court finds that it is in the best interests of the child that the petition be granted, a decree of adoption shall be issued ordering that the child to be adopted shall be the child of the adopting parent. In the decree, the court may change the name of the adopted child, if a name change is requested.

(b) After the decree is granted, the court administrator shall mail a copy of the decree to the commissioner of human services.

**Sec. 44. [260C.633] ADOPTION DENIED.**

(a) If the court is not satisfied that the proposed adoption is in the best interests of the child to be adopted, the court shall deny the petition, and order the responsible social services agency to take appropriate action for the protection and safety of the child. If venue has been transferred under section 260C.621, subdivision 2, the court denying

47.1 the petition shall notify the court originally conducting the guardianship reviews under  
47.2 section 260C.607.

47.3 (b) The court responsible for conducting reviews under section 260C.607 shall set a  
47.4 hearing within 30 days of receiving notice of denial of the petition.

47.5 (c) Any appeal of the denial of an adoption petition under this section shall be made  
47.6 according to the requirements of the Minnesota Rules of Adoption Procedure.

47.7 Sec. 45. **[260C.635] EFFECT OF ADOPTION.**

47.8 Subdivision 1. **Legal effect.** (a) Upon adoption, the adopted child becomes the legal  
47.9 child of the adopting parent and the adopting parent becomes the legal parent of the child  
47.10 with all the rights and duties between them of a birth parent and child.

47.11 (b) The child shall inherit from the adoptive parent and the adoptive parent's  
47.12 relatives the same as though the child were the birth child of the parent, and in case of the  
47.13 child's death intestate, the adoptive parent and the adoptive parent's relatives shall inherit  
47.14 the child's estate as if the child had been the adoptive parent's birth child.

47.15 (c) After a decree of adoption is entered, the birth parents or previous legal parents  
47.16 of the child shall be relieved of all parental responsibilities for the child except child  
47.17 support that has accrued to the date of the order for guardianship to the commissioner  
47.18 which continues to be due and owing. The child's birth or previous legal parent shall not  
47.19 exercise or have any rights over the adopted child or the adopted child's property, person,  
47.20 privacy, or reputation.

47.21 (d) The adopted child shall not owe the birth parents or the birth parent's relatives  
47.22 any legal duty nor shall the adopted child inherit from the birth parents or kindred unless  
47.23 otherwise provided for in a will of the birth parent or kindred.

47.24 (e) Upon adoption, the court shall complete a certificate of adoption form and mail  
47.25 the form to the Office of the State Registrar at the Minnesota Department of Health. Upon  
47.26 receiving the certificate of adoption, the state registrar shall register a replacement vital  
47.27 record in the new name of the adopted child as required under section 144.218.

47.28 Subd. 2. **Enrollment in American Indian tribe.** Notwithstanding the provisions  
47.29 of subdivision 1, the adoption of a child whose birth parent or parents are enrolled in an  
47.30 American Indian tribe shall not change the child's enrollment in that tribe.

47.31 Subd. 3. **Communication or contact agreements.** This section does not prohibit  
47.32 birth parents, relatives, birth or legal siblings, and adoptive parents from entering a  
47.33 communication or contact agreement under section 260C.619.

Sec. 46. **[260C.637] ACCESS TO ORIGINAL BIRTH RECORD INFORMATION.**

An adopted person may ask the commissioner of health to disclose the information on the adopted person's original birth record according to section 259.89.

Sec. 47. Minnesota Statutes 2010, section 541.04, is amended to read:

**541.04 JUDGMENTS, TEN ~~OR 20~~ YEARS.**

No action shall be maintained upon a judgment or decree of a court of the United States, or of any state or territory thereof, unless begun within ten years after the entry of such judgment ~~or, in the case of a judgment for child support, including a judgment by operation of law, unless begun within 20 years after entry of the judgment.~~

**EFFECTIVE DATE.** The amendments to this section are effective retroactively from April 15, 2010, the date the language stricken in this section was finally enacted.

Sec. 48. Minnesota Statutes 2010, section 548.09, subdivision 1, is amended to read:

Subdivision 1. **Entry and docketing; survival of judgment.** Except as provided in section 548.091, every judgment requiring the payment of money shall be entered by the court administrator when ordered by the court and will be docketed by the court administrator upon the filing of an affidavit as provided in subdivision 2. Upon a transcript of the docket being filed with the court administrator in any other county, the court administrator shall also docket it. From the time of docketing the judgment is a lien, in the amount unpaid, upon all real property in the county then or thereafter owned by the judgment debtor, but it is not a lien upon registered land unless it is also recorded pursuant to sections 508.63 and 508A.63. The judgment survives, and the lien continues, for ten years after its entry ~~or, in the case of a judgment for child support, including a judgment by operation of law, for 20 years after its entry.~~ Child support judgments may be renewed pursuant to section 548.091.

**EFFECTIVE DATE.** The amendments to this section are effective retroactively from April 15, 2010, the date the language stricken in this section was finally enacted.

Sec. 49. Minnesota Statutes 2010, section 626.556, subdivision 2, is amended to read:

Subd. 2. **Definitions.** As used in this section, the following terms have the meanings given them unless the specific content indicates otherwise:

(a) "Family assessment" means a comprehensive assessment of child safety, risk of subsequent child maltreatment, and family strengths and needs that is applied to a



49.1 child maltreatment report that does not allege substantial child endangerment. Family  
49.2 assessment does not include a determination as to whether child maltreatment occurred  
49.3 but does determine the need for services to address the safety of family members and the  
49.4 risk of subsequent maltreatment.

49.5 (b) "Investigation" means fact gathering related to the current safety of a child  
49.6 and the risk of subsequent maltreatment that determines whether child maltreatment  
49.7 occurred and whether child protective services are needed. An investigation must be used  
49.8 when reports involve substantial child endangerment, and for reports of maltreatment in  
49.9 facilities required to be licensed under chapter 245A or 245B; under sections 144.50 to  
49.10 144.58 and 241.021; in a school as defined in sections 120A.05, subdivisions 9, 11, and  
49.11 13, and 124D.10; or in a nonlicensed personal care provider association as defined in  
49.12 sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

49.13 (c) "Substantial child endangerment" means a person responsible for a child's care,  
49.14 and in the case of sexual abuse includes a person who has a significant relationship to the  
49.15 child as defined in section 609.341, or a person in a position of authority as defined in  
49.16 section 609.341, who by act or omission commits or attempts to commit an act against a  
49.17 child under their care that constitutes any of the following:

49.18 (1) egregious harm as defined in section 260C.007, subdivision 14;

49.19 (2) sexual abuse as defined in paragraph (d);

49.20 (3) abandonment under section 260C.301, subdivision 2;

49.21 (4) neglect as defined in paragraph (f), clause (2), that substantially endangers the  
49.22 child's physical or mental health, including a growth delay, which may be referred to as  
49.23 failure to thrive, that has been diagnosed by a physician and is due to parental neglect;

49.24 (5) murder in the first, second, or third degree under section 609.185, 609.19, or  
49.25 609.195;

49.26 (6) manslaughter in the first or second degree under section 609.20 or 609.205;

49.27 (7) assault in the first, second, or third degree under section 609.221, 609.222, or  
49.28 609.223;

49.29 (8) solicitation, inducement, and promotion of prostitution under section 609.322;

49.30 (9) criminal sexual conduct under sections 609.342 to 609.3451;

49.31 (10) solicitation of children to engage in sexual conduct under section 609.352;

49.32 (11) malicious punishment or neglect or endangerment of a child under section  
49.33 609.377 or 609.378;

49.34 (12) use of a minor in sexual performance under section 617.246; or

(13) parental behavior, status, or condition which mandates that the county attorney file a termination of parental rights petition under section 260C.301, subdivision 3, paragraph (a).

(d) "Sexual abuse" means the subjection of a child by a person responsible for the child's care, by a person who has a significant relationship to the child, as defined in section 609.341, or by a person in a position of authority, as defined in section 609.341, subdivision 10, to any act which constitutes a violation of section 609.342 (criminal sexual conduct in the first degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree), or 609.3451 (criminal sexual conduct in the fifth degree). Sexual abuse also includes any act which involves a minor which constitutes a violation of prostitution offenses under sections 609.321 to 609.324 or 617.246. Sexual abuse includes threatened sexual abuse.

(e) "Person responsible for the child's care" means (1) an individual functioning within the family unit and having responsibilities for the care of the child such as a parent, guardian, or other person having similar care responsibilities, or (2) an individual functioning outside the family unit and having responsibilities for the care of the child such as a teacher, school administrator, other school employees or agents, or other lawful custodian of a child having either full-time or short-term care responsibilities including, but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching, and coaching.

(f) "Neglect" means the commission or omission of any of the acts specified under clauses (1) to (9), other than by accidental means:

(1) failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter, health, medical, or other care required for the child's physical or mental health when reasonably able to do so;

(2) failure to protect a child from conditions or actions that seriously endanger the child's physical or mental health when reasonably able to do so, including a growth delay, which may be referred to as a failure to thrive, that has been diagnosed by a physician and is due to parental neglect;

(3) failure to provide for necessary supervision or child care arrangements appropriate for a child after considering factors as the child's age, mental ability, physical condition, length of absence, or environment, when the child is unable to care for the child's own basic needs or safety, or the basic needs or safety of another child in their care;

(4) failure to ensure that the child is educated as defined in sections 120A.22 and 260C.163, subdivision 11, which does not include a parent's refusal to provide the parent's child with sympathomimetic medications, consistent with section 125A.091, subdivision 5;

(5) nothing in this section shall be construed to mean that a child is neglected solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child in lieu of medical care; except that a parent, guardian, or caretaker, or a person mandated to report pursuant to subdivision 3, has a duty to report if a lack of medical care may cause serious danger to the child's health. This section does not impose upon persons, not otherwise legally responsible for providing a child with necessary food, clothing, shelter, education, or medical care, a duty to provide that care;

(6) prenatal exposure to a controlled substance, as defined in section 253B.02, subdivision 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child at birth, or medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance;

(7) "medical neglect" as defined in section 260C.007, subdivision 6, clause (5);

(8) chronic and severe use of alcohol or a controlled substance by a parent or person responsible for the care of the child that adversely affects the child's basic needs and safety; or

(9) emotional harm from a pattern of behavior which contributes to impaired emotional functioning of the child which may be demonstrated by a substantial and observable effect in the child's behavior, emotional response, or cognition that is not within the normal range for the child's age and stage of development, with due regard to the child's culture.

(g) "Physical abuse" means any physical injury, mental injury, or threatened injury, inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical or mental injury that cannot reasonably be explained by the child's history of injuries, or any aversive or deprivation procedures, or regulated interventions, that have not been authorized under section 121A.67 or 245.825.

Abuse does not include reasonable and moderate physical discipline of a child administered by a parent or legal guardian which does not result in an injury. Abuse does not include the use of reasonable force by a teacher, principal, or school employee as allowed by section 121A.582. Actions which are not reasonable and moderate include, but are not limited to, any of the following that are done in anger or without regard to the safety of the child:

- 52.1 (1) throwing, kicking, burning, biting, or cutting a child;  
52.2 (2) striking a child with a closed fist;  
52.3 (3) shaking a child under age three;  
52.4 (4) striking or other actions which result in any nonaccidental injury to a child  
52.5 under 18 months of age;  
52.6 (5) unreasonable interference with a child's breathing;  
52.7 (6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;  
52.8 (7) striking a child under age one on the face or head;  
52.9 (8) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled  
52.10 substances which were not prescribed for the child by a practitioner, in order to control or  
52.11 punish the child; or other substances that substantially affect the child's behavior, motor  
52.12 coordination, or judgment or that results in sickness or internal injury, or subjects the  
52.13 child to medical procedures that would be unnecessary if the child were not exposed  
52.14 to the substances;  
52.15 (9) unreasonable physical confinement or restraint not permitted under section  
52.16 609.379, including but not limited to tying, caging, or chaining; or  
52.17 (10) in a school facility or school zone, an act by a person responsible for the child's  
52.18 care that is a violation under section 121A.58.
- 52.19 (h) "Report" means any report received by the local welfare agency, police  
52.20 department, county sheriff, or agency responsible for assessing or investigating  
52.21 maltreatment pursuant to this section.
- 52.22 (i) "Facility" means:  
52.23 (1) a licensed or unlicensed day care facility, residential facility, agency, hospital,  
52.24 sanitarium, or other facility or institution required to be licensed under sections 144.50 to  
52.25 144.58, 241.021, or 245A.01 to 245A.16, or chapter 245B;  
52.26 (2) a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and  
52.27 124D.10; or  
52.28 (3) a nonlicensed personal care provider organization as defined in sections 256B.04,  
52.29 subdivision 16, and 256B.0625, subdivision 19a.
- 52.30 (j) "Operator" means an operator or agency as defined in section 245A.02.
- 52.31 (k) "Commissioner" means the commissioner of human services.
- 52.32 (l) "Practice of social services," for the purposes of subdivision 3, includes but is  
52.33 not limited to employee assistance counseling and the provision of guardian ad litem and  
52.34 parenting time expeditor services.
- 52.35 (m) "Mental injury" means an injury to the psychological capacity or emotional  
52.36 stability of a child as evidenced by an observable or substantial impairment in the child's

ability to function within a normal range of performance and behavior with due regard to the child's culture.

(n) "Threatened injury" means a statement, overt act, condition, or status that represents a substantial risk of physical or sexual abuse or mental injury. Threatened injury includes, but is not limited to, exposing a child to a person responsible for the child's care, as defined in paragraph (e), clause (1), who has:

(1) subjected a child to, or failed to protect a child from, an overt act or condition that constitutes egregious harm, as defined in section 260C.007, subdivision 14, or a similar law of another jurisdiction;

(2) been found to be palpably unfit under section 260C.301, paragraph (b), clause (4), or a similar law of another jurisdiction;

(3) committed an act that has resulted in an involuntary termination of parental rights under section 260C.301, or a similar law of another jurisdiction; or

(4) committed an act that has resulted in the involuntary transfer of permanent legal and physical custody of a child to a relative under section 260C.201, subdivision 11, paragraph (d), clause (1), or a similar law of another jurisdiction.

A child is the subject of a report of threatened injury when the responsible social services agency receives birth match data under paragraph (o) from the Department of Human Services.

(o) Upon receiving data under section 144.225, subdivision 2b, contained in a birth record or recognition of parentage identifying a child who is subject to threatened injury under paragraph (n), the Department of Human Services shall send the data to the responsible social services agency. The data is known as "birth match" data. Unless the responsible social services agency has already begun an investigation or assessment of the report due to the birth of the child or execution of the recognition of parentage and the parent's previous history with child protection, the agency shall accept the birth match data as a report under this section. The agency may use either a family assessment or investigation to determine whether the child is safe. All of the provisions of this section apply. If the child is determined to be safe, the agency shall consult with the county attorney to determine the appropriateness of filing a petition alleging the child is in need of protection or services under section 260C.007, subdivision 6, clause (16), in order to deliver needed services. If the child is determined not to be safe, the agency and the county attorney shall take appropriate action as required under section 260C.301, subdivision 3.

~~(o)~~ (p) Persons who conduct assessments or investigations under this section shall take into account accepted child-rearing practices of the culture in which a child

54.1 participates and accepted teacher discipline practices, which are not injurious to the child's  
54.2 health, welfare, and safety.

54.3 ~~(p)~~ (q) "Accidental" means a sudden, not reasonably foreseeable, and unexpected  
54.4 occurrence or event which:

54.5 (1) is not likely to occur and could not have been prevented by exercise of due  
54.6 care; and

54.7 (2) if occurring while a child is receiving services from a facility, happens when the  
54.8 facility and the employee or person providing services in the facility are in compliance  
54.9 with the laws and rules relevant to the occurrence or event.

54.10 ~~(q)~~ (r) "Nonmaltreatment mistake" means:

54.11 (1) at the time of the incident, the individual was performing duties identified in the  
54.12 center's child care program plan required under Minnesota Rules, part 9503.0045;

54.13 (2) the individual has not been determined responsible for a similar incident that  
54.14 resulted in a finding of maltreatment for at least seven years;

54.15 (3) the individual has not been determined to have committed a similar  
54.16 nonmaltreatment mistake under this paragraph for at least four years;

54.17 (4) any injury to a child resulting from the incident, if treated, is treated only with  
54.18 remedies that are available over the counter, whether ordered by a medical professional or  
54.19 not; and

54.20 (5) except for the period when the incident occurred, the facility and the individual  
54.21 providing services were both in compliance with all licensing requirements relevant to the  
54.22 incident.

54.23 This definition only applies to child care centers licensed under Minnesota  
54.24 Rules, chapter 9503. If clauses (1) to (5) apply, rather than making a determination of  
54.25 substantiated maltreatment by the individual, the commissioner of human services shall  
54.26 determine that a nonmaltreatment mistake was made by the individual.

54.27 Sec. 50. Minnesota Statutes 2010, section 626.556, subdivision 10f, is amended to read:

54.28 Subd. 10f. **Notice of determinations.** Within ten working days of the conclusion  
54.29 of a family assessment, the local welfare agency shall notify the parent or guardian  
54.30 of the child of the need for services to address child safety concerns or significant risk  
54.31 of subsequent child maltreatment. The local welfare agency and the family may also  
54.32 jointly agree that family support and family preservation services are needed. Within ten  
54.33 working days of the conclusion of an investigation, the local welfare agency or agency  
54.34 responsible for assessing or investigating the report shall notify the parent or guardian  
54.35 of the child, the person determined to be maltreating the child, and if applicable, the

55.1 director of the facility, of the determination and a summary of the specific reasons for  
55.2 the determination. When the investigation involves a child foster care setting that is  
55.3 monitored by a private licensing agency under section 245A.16, the local welfare agency  
55.4 responsible for assessing or investigating the report shall notify the private licensing  
55.5 agency of the determination and shall provide a summary of the specific reasons for  
55.6 the determination. The notice to the private licensing agency must include identifying  
55.7 private data, but not the identity of the reporter of maltreatment. The notice must also  
55.8 include a certification that the information collection procedures under subdivision 10,  
55.9 paragraphs (h), (i), and (j), were followed and a notice of the right of a data subject to  
55.10 obtain access to other private data on the subject collected, created, or maintained under  
55.11 this section. In addition, the notice shall include the length of time that the records will be  
55.12 kept under subdivision 11c. The investigating agency shall notify the parent or guardian  
55.13 of the child who is the subject of the report, and any person or facility determined to  
55.14 have maltreated a child, of their appeal or review rights under this section ~~or section~~  
55.15 ~~256.022~~. The notice must also state that a finding of maltreatment may result in denial of a  
55.16 license application or background study disqualification under chapter 245C related to  
55.17 employment or services that are licensed by the Department of Human Services under  
55.18 chapter 245A, the Department of Health under chapter 144 or 144A, the Department of  
55.19 Corrections under section 241.021, and from providing services related to an unlicensed  
55.20 personal care provider organization under chapter 256B.

55.21 Sec. 51. Minnesota Statutes 2010, section 626.556, subdivision 10i, is amended to read:

55.22 Subd. 10i. **Administrative reconsideration; review panel.** (a) Administrative  
55.23 reconsideration is not applicable in family assessments since no determination concerning  
55.24 maltreatment is made. For investigations, except as provided under paragraph (e), an  
55.25 individual or facility that the commissioner of human services, a local social service  
55.26 agency, or the commissioner of education determines has maltreated a child, an interested  
55.27 person acting on behalf of the child, regardless of the determination, who contests  
55.28 the investigating agency's final determination regarding maltreatment, may request the  
55.29 investigating agency to reconsider its final determination regarding maltreatment. The  
55.30 request for reconsideration must be submitted in writing to the investigating agency within  
55.31 15 calendar days after receipt of notice of the final determination regarding maltreatment  
55.32 or, if the request is made by an interested person who is not entitled to notice, within  
55.33 15 days after receipt of the notice by the parent or guardian of the child. If mailed, the  
55.34 request for reconsideration must be postmarked and sent to the investigating agency  
55.35 within 15 calendar days of the individual's or facility's receipt of the final determination. If

the request for reconsideration is made by personal service, it must be received by the investigating agency within 15 calendar days after the individual's or facility's receipt of the final determination. Effective January 1, 2002, an individual who was determined to have maltreated a child under this section and who was disqualified on the basis of serious or recurring maltreatment under sections 245C.14 and 245C.15, may request reconsideration of the maltreatment determination and the disqualification. The request for reconsideration of the maltreatment determination and the disqualification must be submitted within 30 calendar days of the individual's receipt of the notice of disqualification under sections 245C.16 and 245C.17. If mailed, the request for reconsideration of the maltreatment determination and the disqualification must be postmarked and sent to the investigating agency within 30 calendar days of the individual's receipt of the maltreatment determination and notice of disqualification. If the request for reconsideration is made by personal service, it must be received by the investigating agency within 30 calendar days after the individual's receipt of the notice of disqualification.

(b) Except as provided under paragraphs (e) and (f), if the investigating agency denies the request or fails to act upon the request within 15 working days after receiving the request for reconsideration, the person or facility entitled to a fair hearing under section 256.045 may submit to the commissioner of human services or the commissioner of education a written request for a hearing under that section. Section 256.045 also governs hearings requested to contest a final determination of the commissioner of education. ~~For reports involving maltreatment of a child in a facility, an interested person acting on behalf of the child may request a review by the Child Maltreatment Review Panel under section 256.022 if the investigating agency denies the request or fails to act upon the request or if the interested person contests a reconsidered determination.~~ The investigating agency shall notify persons who request reconsideration of their rights under this paragraph. The request must be submitted in writing to the review panel and a copy sent to the investigating agency within 30 calendar days of receipt of notice of a denial of a request for reconsideration or of a reconsidered determination. The request must specifically identify the aspects of the agency determination with which the person is dissatisfied.

(c) If, as a result of a reconsideration or review, the investigating agency changes the final determination of maltreatment, that agency shall notify the parties specified in subdivisions 10b, 10d, and 10f.

(d) Except as provided under paragraph (f), if an individual or facility contests the investigating agency's final determination regarding maltreatment by requesting a fair hearing under section 256.045, the commissioner of human services shall assure that the hearing is conducted and a decision is reached within 90 days of receipt of the request for



a hearing. The time for action on the decision may be extended for as many days as the hearing is postponed or the record is held open for the benefit of either party.

(e) If an individual was disqualified under sections 245C.14 and 245C.15, on the basis of a determination of maltreatment, which was serious or recurring, and the individual has requested reconsideration of the maltreatment determination under paragraph (a) and requested reconsideration of the disqualification under sections 245C.21 to 245C.27, reconsideration of the maltreatment determination and reconsideration of the disqualification shall be consolidated into a single reconsideration. If reconsideration of the maltreatment determination is denied and the individual remains disqualified following a reconsideration decision, the individual may request a fair hearing under section 256.045. If an individual requests a fair hearing on the maltreatment determination and the disqualification, the scope of the fair hearing shall include both the maltreatment determination and the disqualification.

(f) If a maltreatment determination or a disqualification based on serious or recurring maltreatment is the basis for a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, the license holder has the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. As provided for under section 245A.08, subdivision 2a, the scope of the contested case hearing shall include the maltreatment determination, disqualification, and licensing sanction or denial of a license. In such cases, a fair hearing regarding the maltreatment determination and disqualification shall not be conducted under section 256.045. Except for family child care and child foster care, reconsideration of a maltreatment determination as provided under this subdivision, and reconsideration of a disqualification as provided under section 245C.22, shall also not be conducted when:

(1) a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, is based on a determination that the license holder is responsible for maltreatment or the disqualification of a license holder based on serious or recurring maltreatment;

(2) the denial of a license or licensing sanction is issued at the same time as the maltreatment determination or disqualification; and

(3) the license holder appeals the maltreatment determination or disqualification, and denial of a license or licensing sanction.

Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment determination or disqualification, but does not appeal the denial of a license or a licensing sanction, reconsideration of the maltreatment determination shall be conducted under sections 626.556, subdivision 10i, and 626.557, subdivision 9d, and reconsideration of the disqualification shall be conducted under section 245C.22. In such cases, a fair hearing

58.1 shall also be conducted as provided under sections 245C.27, 626.556, subdivision 10i, and  
58.2 626.557, subdivision 9d.

58.3 If the disqualified subject is an individual other than the license holder and upon  
58.4 whom a background study must be conducted under chapter 245C, the hearings of all  
58.5 parties may be consolidated into a single contested case hearing upon consent of all parties  
58.6 and the administrative law judge.

58.7 (g) For purposes of this subdivision, "interested person acting on behalf of the  
58.8 child" means a parent or legal guardian; stepparent; grandparent; guardian ad litem; adult  
58.9 stepbrother, stepsister, or sibling; or adult aunt or uncle; unless the person has been  
58.10 determined to be the perpetrator of the maltreatment.

58.11 Sec. 52. Minnesota Statutes 2010, section 626.556, subdivision 11, is amended to read:

58.12 Subd. 11. **Records.** (a) Except as provided in paragraph (b) ~~or (d)~~ and subdivisions  
58.13 10b, 10d, 10g, and 11b, all records concerning individuals maintained by a local welfare  
58.14 agency or agency responsible for assessing or investigating the report under this  
58.15 section, including any written reports filed under subdivision 7, shall be private data on  
58.16 individuals, except insofar as copies of reports are required by subdivision 7 to be sent to  
58.17 the local police department or the county sheriff. All records concerning determinations  
58.18 of maltreatment by a facility are nonpublic data as maintained by the Department of  
58.19 Education, except insofar as copies of reports are required by subdivision 7 to be sent  
58.20 to the local police department or the county sheriff. Reports maintained by any police  
58.21 department or the county sheriff shall be private data on individuals except the reports  
58.22 shall be made available to the investigating, petitioning, or prosecuting authority, including  
58.23 county medical examiners or county coroners. Section 13.82, subdivisions 8, 9, and 14,  
58.24 apply to law enforcement data other than the reports. The local social services agency or  
58.25 agency responsible for assessing or investigating the report shall make available to the  
58.26 investigating, petitioning, or prosecuting authority, including county medical examiners or  
58.27 county coroners or their professional delegates, any records which contain information  
58.28 relating to a specific incident of neglect or abuse which is under investigation, petition, or  
58.29 prosecution and information relating to any prior incidents of neglect or abuse involving  
58.30 any of the same persons. The records shall be collected and maintained in accordance with  
58.31 the provisions of chapter 13. In conducting investigations and assessments pursuant to  
58.32 this section, the notice required by section 13.04, subdivision 2, need not be provided to a  
58.33 minor under the age of ten who is the alleged victim of abuse or neglect. An individual  
58.34 subject of a record shall have access to the record in accordance with those sections,  
58.35 except that the name of the reporter shall be confidential while the report is under

assessment or investigation except as otherwise permitted by this subdivision. Any person conducting an investigation or assessment under this section who intentionally discloses the identity of a reporter prior to the completion of the investigation or assessment is guilty of a misdemeanor. After the assessment or investigation is completed, the name of the reporter shall be confidential. The subject of the report may compel disclosure of the name of the reporter only with the consent of the reporter or upon a written finding by the court that the report was false and that there is evidence that the report was made in bad faith. This subdivision does not alter disclosure responsibilities or obligations under the Rules of Criminal Procedure.

(b) Upon request of the legislative auditor, data on individuals maintained under this section must be released to the legislative auditor in order for the auditor to fulfill the auditor's duties under section 3.971. The auditor shall maintain the data in accordance with chapter 13.

(c) The commissioner of education must be provided with all requested data that are relevant to a report of maltreatment and are in possession of a school facility as defined in subdivision 2, paragraph (i), when the data is requested pursuant to an assessment or investigation of a maltreatment report of a student in a school. If the commissioner of education makes a determination of maltreatment involving an individual performing work within a school facility who is licensed by a board or other agency, the commissioner shall provide necessary and relevant information to the licensing entity to enable the entity to fulfill its statutory duties. Notwithstanding section 13.03, subdivision 4, data received by a licensing entity under this paragraph are governed by section 13.41 or other applicable law governing data of the receiving entity, except that this section applies to the classification of and access to data on the reporter of the maltreatment.

~~(d) The investigating agency shall exchange not public data with the Child Maltreatment Review Panel under section 256.022 if the data are pertinent and necessary for a review requested under section 256.022. Upon completion of the review, the not public data received by the review panel must be returned to the investigating agency.~~

Sec. 53. **REPEALER.**

Minnesota Statutes 2010, section 256.022, is repealed.

Sec. 54. **EFFECTIVE DATE.**

This article is effective August 2, 2012.

## ARTICLE 2

## SAFE PLACE FOR NEWBORNS

Section 1. Minnesota Statutes 2010, section 145.902, is amended to read:

**145.902 GIVE LIFE A CHANCE; SAFE PLACE FOR NEWBORNS;  
~~HOSPITAL~~ DUTIES; IMMUNITY.**

Subdivision 1. **General.** (a) For purposes of this section, a "safe place" means a hospital licensed under sections 144.50 to 144.56, a health care provider who provides 24-hour access to urgent care services, or an ambulance dispatched in response to a 911 call.

(b) ~~A hospital licensed under sections 144.50 to 144.56~~ safe place shall receive a newborn left with ~~a hospital~~ an employee on the hospital premises of the safe place during its hours of operation, provided that:

(1) the newborn was born within ~~72 hours~~ seven days of being left at the ~~hospital~~ safe place, as determined within a reasonable degree of medical certainty; and

(2) the newborn is left in an unharmed condition.

~~(b)~~ (c) The hospital safe place must not inquire as to the identity of the mother or the person leaving the newborn or call the police, provided the newborn is unharmed when presented to the hospital. The hospital safe place may ask the mother or the person leaving the newborn about the medical history of the mother or newborn but the mother or the person leaving the newborn is not required to provide any information. The hospital safe place may provide the mother or the person leaving the newborn with information about how to contact relevant social service agencies.

(d) A safe place that is a health care provider who provides 24-hour access to urgent care services shall dial 911, advise the dispatcher that the call is being made from a safe place for newborns, and ask the dispatcher to send an ambulance or take other appropriate action to transport the newborn to a hospital. An ambulance with whom a newborn is left shall transport the newborn to a hospital for care. Hospitals must receive a newborn left with a safe place and make the report as required in subdivision 2.

Subd. 2. **Reporting.** Within 24 hours of receiving a newborn under this section, the hospital must inform the ~~local welfare agency~~ responsible social service agency that a newborn has been left at the hospital, but must not do so ~~before~~ in the presence of the mother or the person leaving the newborn ~~leaves the hospital~~. The hospital must provide necessary care to the newborn pending assumption of legal responsibility by the responsible social services agency pursuant to section 260C.217, subdivision 4.

Subd. 3. **Immunity.** (a) A ~~hospital~~ safe place with responsibility for performing duties under this section, and any employee, doctor, ambulance personnel, or other medical professional working at the ~~hospital~~ safe place, are immune from any criminal liability that otherwise might result from their actions, if they are acting in good faith in receiving a newborn, and are immune from any civil liability that otherwise might result from merely receiving a newborn.

(b) A ~~hospital~~ safe place performing duties under this section, or an employee, doctor, ambulance personnel, or other medical professional working at the ~~hospital~~ safe place who is a mandated reporter under section 626.556, is immune from any criminal or civil liability that otherwise might result from the failure to make a report under that section if the person is acting in good faith in complying with this section.

Sec. 2. Minnesota Statutes 2010, section 260C.217, is amended to read:

**260C.217 GIVE LIFE A CHANCE; SAFE PLACE FOR NEWBORNS.**

Subdivision 1. **Duty to attempt reunification, duty to search for relatives, and preferences not applicable.** A ~~local~~ responsible social service agency ~~taking custody of with responsibility for a child after discharge from a hospital that received a child under section 145.902 pursuant to subdivision 4,~~ is not required to attempt to reunify the child with the child's parents. Additionally, the agency is not required to search for relatives of the child as a placement or permanency option under section 260C.212, subdivision 5, or to implement other placement requirements that give a preference to relatives if the agency does not have information as to the identity of the child, the child's mother, or the child's father.

Subd. 1a. **Definitions.** For purposes of this section, "safe place" has the meaning given in section 145.902.

Subd. 2. **Status of child.** For purposes of proceedings under this chapter and adoption proceedings, a newborn left at a ~~hospital under~~ safe place, pursuant to subdivision 3 and section 145.902, is considered an abandoned child under section 626.556, subdivision 2, paragraph (c), clause (3). The child is abandoned under sections 260C.007, subdivision 6, clause (1), and 260C.301, subdivision 1, paragraph (b), clause (1).

Subd. 3. **Relinquishment of a newborn.** A mother or any person, with the mother's permission, may bring a newborn infant to a safe place during its hours of operation and leave the infant in the care of an employee of the safe place. The mother or a person with the mother's permission may call 911 to request to have an ambulance dispatched to an agreed-upon location to relinquish a newborn infant into the custody of ambulance personnel.

Subd. 4. **Placement of the newborn.** The agency contacted by a safe place pursuant to section 145.902, subdivision 2, shall have legal responsibility for the placement of the newborn infant in foster care for 72 hours during which time the agency shall file a petition under section 260C.141 and ask the court to order continued placement of the child in foster care. The agency shall immediately begin planning for adoptive placement of the newborn.

Sec. 3. Minnesota Statutes 2010, section 609.3785, is amended to read:

**609.3785 UNHARMED NEWBORNS LEFT AT ~~HOSPITALS~~ A SAFE PLACE; AVOIDANCE OF PROSECUTION.**

A person may leave a newborn with ~~a hospital~~ an employee at a ~~hospital~~ safe place, as defined in section 145.902, in this state, pursuant to section 260C.217, subdivision 3, without being subjected to prosecution for that act, provided that:

(1) the newborn was born within ~~72 hours~~ seven days of being left at the ~~hospital~~ safe place, as determined within a reasonable degree of medical certainty;

(2) the newborn is left in an unharmed condition; and

(3) in cases where the person leaving the newborn is not the newborn's mother, the person has the mother's approval to do so.

**ARTICLE 3**

**ADOPTION ASSISTANCE**

**Section 1. ~~[259A.01]~~ DEFINITIONS.**

Subdivision 1. **Scope.** For the purposes of this chapter, the terms defined in this section have the meanings given them except as otherwise indicated by the context.

Subd. 2. **Adoption assistance.** "Adoption assistance" means medical coverage and reimbursement of nonrecurring adoption expenses, and may also include financial support and reimbursement for specific nonmedical expenses provided under agreement with the parent of an adoptive child who would otherwise remain in foster care and whose special needs would otherwise make it difficult to place the child for adoption. Financial support may include a basic maintenance payment and a supplemental needs payment.

Subd. 3. **Adoptive parent.** "Adoptive parent" means the adult who has been made the legal parent of a child through a court-ordered adoption decree or a customary adoption through tribal court.

Subd. 4. **AFDC.** "AFDC" means the aid to families with dependent children program under sections 256.741, 256.82, and 256.87.

63.1           Subd. 5. **Assessment.** "Assessment" means the process by which the child-placing  
63.2 agency determines the benefits an eligible child may receive under this chapter.

63.3           Subd. 6. **At-risk child.** "At-risk child" means a child who does not have a  
63.4 documented disability but who is at risk of developing a physical, mental, emotional, or  
63.5 behavioral disability based on being related within the first or second degree to persons  
63.6 who have an inheritable physical, mental, emotional, or behavioral disabling condition, or  
63.7 from a background that has the potential to cause the child to develop a physical, mental,  
63.8 emotional, or behavioral disability that the child is at risk of developing. The disability  
63.9 must manifest during childhood.

63.10          Subd. 7. **Basic maintenance payment.** "Basic maintenance payment" means  
63.11 the maintenance payment made on behalf of a child to support the costs an adoptive  
63.12 parent incurs to meet a child's needs consistent with the care parents customarily provide,  
63.13 including: food, clothing, shelter, daily supervision, school supplies, and a child's personal  
63.14 incidentals. It also supports reasonable travel to participate in face-to-face visitation  
63.15 between child and birth relatives, including siblings.

63.16          Subd. 8. **Child.** "Child" means an individual under 18 years of age. For purposes  
63.17 of this chapter, child also includes individuals up to age 21 who have approved adoption  
63.18 assistance agreement extensions under section 259A.45, subdivision 1.

63.19          Subd. 9. **Child-placing agency.** "Child-placing agency" means a business,  
63.20 organization, or department of government, including the responsible social services  
63.21 agency or a federally recognized Minnesota tribe, designated or authorized by law  
63.22 to place children for adoption and assigned legal responsibility for placement, care,  
63.23 and supervision of the child through a court order, voluntary placement agreement, or  
63.24 voluntary relinquishment.

63.25          Subd. 10. **Child under guardianship of the commissioner of human services.**  
63.26 "Child under guardianship of the commissioner of human services" means a child the  
63.27 court has ordered under the guardianship of the commissioner of human services pursuant  
63.28 to section 260C.325.

63.29          Subd. 11. **Commissioner.** "Commissioner" means the commissioner of human  
63.30 services or any employee of the Department of Human Services to whom the commissioner  
63.31 has delegated authority regarding children under the commissioner's guardianship.

63.32          Subd. 12. **Consent of parent to adoption under chapter 260C.** "Consent of  
63.33 parent to adoption under chapter 260C" means the consent executed pursuant to section  
63.34 260C.515, subdivision 3.

63.35          Subd. 13. **Department.** "Department" means the Minnesota Department of Human  
63.36 Services.

64.1       Subd. 14. **Disability.** "Disability" means a physical, mental, emotional, or  
64.2 behavioral impairment that substantially limits one or more major life activities. Major  
64.3 life activities include, but are not limited to: thinking, walking, hearing, breathing,  
64.4 working, seeing, speaking, communicating, learning, developing and maintaining healthy  
64.5 relationships, safely caring for oneself, and performing manual tasks. The nature, duration,  
64.6 and severity of the impairment shall be used in determining if the limitation is substantial.

64.7       Subd. 15. **Foster care.** "Foster care" has the meaning given in section 260C.007,  
64.8 subdivision 18.

64.9       Subd. 16. **Guardian.** "Guardian" means an adult who is appointed pursuant to  
64.10 section 260C.325. For a child under guardianship of the commissioner, the child's  
64.11 guardian is the commissioner of human services.

64.12       Subd. 17. **Guardianship.** "Guardianship" means the court-ordered rights and  
64.13 responsibilities of the guardian of a child and includes legal custody of the child.

64.14       Subd. 18. **Indian child.** "Indian child" has the meaning given in section 260.755,  
64.15 subdivision 8.

64.16       Subd. 19. **Legal custodian.** "Legal custodian" means a person to whom permanent  
64.17 legal and physical custody of a child has been transferred under chapter 260C, or for  
64.18 children under tribal court jurisdiction, a similar provision under tribal code which means  
64.19 that the individual responsible for the child has responsibility for the protection, education,  
64.20 care, and control of the child and decision making on behalf of the child.

64.21       Subd. 20. **Medical assistance.** "Medical assistance" means Minnesota's  
64.22 implementation of the federal Medicaid program.

64.23       Subd. 21. **Parent.** "Parent" has the meaning given in section 257.52. Parent does  
64.24 not mean a putative father of a child unless the putative father also meets the requirements  
64.25 of section 257.55 or unless the putative father is entitled to notice under section 259.49,  
64.26 subdivision 1. For matters governed by the Indian Child Welfare Act, parent includes any  
64.27 Indian person who has adopted a child by tribal law or custom, as provided in section  
64.28 260.755, subdivision 14, and does not include the unwed father where paternity has not  
64.29 been acknowledged or established.

64.30       Subd. 22. **Permanent legal and physical custody.** "Permanent legal and physical  
64.31 custody" means permanent legal and physical custody ordered by a Minnesota court under  
64.32 section 260C.515, subdivision 4, or for children under tribal court jurisdiction, a similar  
64.33 provision under tribal code which means that the individual with permanent legal and  
64.34 physical custody of the child has responsibility for the protection, education, care, and  
64.35 control of the child and decision making on behalf of the child.



65.1        Subd. 23. **Preadoptive parent.** "Preadoptive parent" means an adult who is caring  
65.2 for a child in an adoptive placement, but where the court has not yet ordered a final decree  
65.3 of adoption making the adult the legal parent of the child.

65.4        Subd. 24. **Reassessment.** "Reassessment" means an update of a previous assessment  
65.5 through the process under this chapter completed for a child who has been continuously  
65.6 eligible for this benefit.

65.7        Subd. 25. **Relative.** "Relative" means a person related to the child by blood,  
65.8 marriage, or adoption, or an individual who is an important friend with whom the child has  
65.9 resided or had significant contact. For an Indian child, relative includes members of the  
65.10 extended family as defined by law or custom of the Indian child's tribe, or, in the absence  
65.11 of law or custom, shall be a person who has reached the age of 18 and who is the Indian  
65.12 child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece  
65.13 or nephew, first or second cousin, or stepparent, as provided in the Indian Child Welfare  
65.14 Act of 1978, United States Code, title 25, section 1903.

65.15        Subd. 26. **Relative search.** "Relative search" means the search that is required  
65.16 under section 260C.212, subdivision 5.

65.17        Subd. 27. **Sibling.** "Sibling" has the meaning given in section 260C.007,  
65.18 subdivision 32.

65.19        Subd. 28. **Social and medical history.** "Social and medical history" means the  
65.20 document, on a form or forms prescribed by the commissioner, that contains a child's  
65.21 genetic, medical, and family background as well as the history and current status of a  
65.22 child's physical and mental health, behavior, demeanor, foster care placements, education,  
65.23 and family relationships and has the same meaning as the history required under sections  
65.24 259.43 and 260C.609.

65.25        Subd. 29. **Supplemental needs payment.** "Supplemental needs payment"  
65.26 means the payment which is negotiated with the adoptive parent for a child who has a  
65.27 documented physical, mental, emotional, or behavioral disability. The payment is made  
65.28 based on the requirements associated with parenting duties to nurture the child, preserve  
65.29 the child's connections, and support the child's functioning in the home.

65.30        Subd. 30. **Termination of parental rights.** "Termination of parental rights" means  
65.31 a court order that severs all rights, powers, privileges, immunities, duties, and obligations,  
65.32 including any rights to custody, control, visitation, or support, existing between a parent  
65.33 and child. For an Indian child who is a ward of tribal court, termination of parental rights  
65.34 means any action resulting in the termination or suspension of the parent-child relationship  
65.35 when the tribe has made a judicial determination that the child cannot or should not be  
65.36 returned to the home of the child's parent or parents.

66.1       Sec. 2. **[259A.05] PROGRAM ADMINISTRATION.**

66.2           Subdivision 1. Administration of title IV-E programs. The title IV-E Adoption  
66.3       Assistance Program shall operate according to the requirements of United States Code,  
66.4       title 42, sections 671 and 673, and Code of Federal Regulations, parts 1355 and 1356.

66.5           Subd. 2. Administration responsibilities. (a) AFDC relatedness is one eligibility  
66.6       component of title IV-E adoption assistance. The AFDC relatedness determination shall be  
66.7       made by an agency according to policies and procedures prescribed by the commissioner.

66.8           (b) Subject to commissioner approval, the child-placing agency shall certify a child's  
66.9       eligibility for adoption assistance in writing on the forms prescribed by the commissioner  
66.10      according to section 259A.15.

66.11          (c) Children who meet all eligibility criteria except those specific to title IV-E, shall  
66.12      receive adoption assistance paid through state funds.

66.13          (d) The child-placing agency is responsible for assisting the commissioner with  
66.14      the administration of the adoption assistance program by conducting assessments,  
66.15      reassessments, negotiations, and other activities as specified by the requirements and  
66.16      procedures prescribed by the commissioner.

66.17          (e) The child-placing agency shall notify an adoptive parent of a child's eligibility for  
66.18      Medicaid in the state of residence. In Minnesota, the child-placing agency shall refer the  
66.19      adoptive parent to the appropriate social service agency in the parent's county of residence  
66.20      that administers medical assistance. The child-placing agency shall inform the adoptive  
66.21      parent of the requirement to comply with the rules of the applicable Medicaid program.

66.22          Subd. 3. Procedures, requirements, and deadlines. The commissioner shall  
66.23      specify procedures, requirements, and deadlines for the administration of adoption  
66.24      assistance in accordance with this section.

66.25          Subd. 4. Promotion of programs. (a) Parents who adopt children with special  
66.26      needs must be informed of the adoption tax credit.

66.27          (b) The commissioner shall actively seek ways to promote the adoption assistance  
66.28      program, including informing prospective adoptive parents of eligible children under  
66.29      guardianship of the commissioner and the availability of adoption assistance.

66.30       Sec. 3. **[259A.10] ELIGIBILITY REQUIREMENTS.**

66.31           Subdivision 1. General eligibility requirements. (a) To be eligible for adoption  
66.32      assistance, a child must:

66.33           (1) be determined to be a child with special needs, according to subdivision 2;

66.34           (2) meet the applicable citizenship and immigration requirements in subdivision  
66.35      3; and

67.1 (3)(i) meet the criteria outlined in section 473 of the Social Security Act; or  
67.2 (ii) have had foster care payments paid on the child's behalf while in out-of-home  
67.3 placement through the county or tribal social service agency and be a child under the  
67.4 guardianship of the commissioner or a ward of tribal court.

67.5 (b) In addition to the requirements in paragraph (a), the child's adoptive parents must  
67.6 meet the applicable background study requirements outlined in subdivision 4.

67.7 Subd. 2. **Special needs determination.** (a) A child is considered a child with  
67.8 special needs under this section if all of the requirements in paragraphs (b) to (g) are met.

67.9 (b) There has been a determination that the child cannot or should not be returned to  
67.10 the home of the child's parents as evidenced by:

67.11 (1) court-ordered termination of parental rights;

67.12 (2) petition to terminate parental rights;

67.13 (3) consent of parent to adoption accepted by the court under chapter 260C;

67.14 (4) in circumstances where tribal law permits the child to be adopted without a  
67.15 termination of parental rights, a judicial determination by tribal court indicating the valid  
67.16 reason why the child cannot or should not return home;

67.17 (5) voluntary relinquishment under section 259.25 or 259.47 or, if relinquishment  
67.18 occurred in another state, the applicable laws in that state; or

67.19 (6) death of the legal parent, or parents if the child has two legal parents.

67.20 (c) There exists a specific factor or condition because of which it is reasonable to  
67.21 conclude that the child cannot be placed with adoptive parents without providing adoption  
67.22 assistance as evidenced by:

67.23 (1) determination by the Social Security Administration that the child meets all  
67.24 medical or disability requirements of title XVI of the Social Security Act with respect to  
67.25 eligibility for Supplemental Security Income benefits;

67.26 (2) documented physical, mental, emotional, or behavioral disability not covered  
67.27 under clause (1);

67.28 (3) a member in a sibling group being adopted at the same time by the same parent;

67.29 (4) adoptive placement in the home of a parent who previously adopted a sibling for  
67.30 whom they receive adoption assistance; or

67.31 (5) documentation that the child is an at-risk child.

67.32 (d) A reasonable but unsuccessful effort was made to place the child with adoptive  
67.33 parents without providing adoption assistance as evidenced by:

67.34 (1) a documented search for an appropriate adoptive placement; or

67.35 (2) determination by the commissioner that a search under clause (1) is not in the  
67.36 best interests of the child.

(e) The requirement for a documented search for an appropriate adoptive placement under paragraph (d), including the registration of the child with the State Adoption Exchange and other recruitment methods under paragraph (f), must be waived if:

(1) the child is being adopted by a relative and it is determined by the child-placing agency that adoption by the relative is in the best interests of the child;

(2) the child is being adopted by a foster parent with whom the child has developed significant emotional ties while in their care as a foster child and it is determined by the child-placing agency that adoption by the foster parent is in the best interests of the child; or

(3) the child is being adopted by a parent that previously adopted a sibling of the child, and it is determined by the child-placing agency that adoption by this parent is in the best interests of the child.

When the Indian Child Welfare Act applies, a waiver must not be granted unless the child-placing agency has complied with the placement preferences required by the Indian Child Welfare Act according to United States Code, title 25, section 1915(a).

(f) To meet the requirement of a documented search for an appropriate adoptive placement under paragraph (d), clause (1), the child-placing agency minimally must:

(1) conduct a relative search as required by section 260C.212, subdivision 5, and give consideration to placement with a relative as required by section 260C.212, subdivision 2;

(2) comply with the adoptive placement preferences required under the Indian Child Welfare Act when the Indian Child Welfare Act, United States Code, title 25, section 1915(a), applies;

(3) locate prospective adoptive families by registering the child on the State Adoption Exchange, as required under section 259.75; and

(4) if registration with the State Adoption Exchange does not result in the identification of an appropriate adoptive placement, the agency must employ additional recruitment methods, as outlined in requirements and procedures prescribed by the commissioner.

(g) Once the child-placing agency has determined that placement with an identified parent is in the child's best interest and has made full written disclosure about the child's social and medical history, the agency must ask the prospective adoptive parent if they are willing to adopt the child without adoption assistance. If the identified parent is either unwilling or unable to adopt the child without adoption assistance, the child-placing agency must provide documentation as prescribed by the commissioner to fulfill the requirement to make a reasonable effort to place the child without adoption assistance. If the identified parent desires to adopt the child without adoption assistance, the parent must

provide a written statement to this effect to the child-placing agency and the statement must be maintained in the permanent adoption record of the child-placing agency. For children under guardianship of the commissioner, the child-placing agency shall submit a copy of this statement to the commissioner to be maintained in the permanent adoption record.

**Subd. 3. Citizenship and immigration status.** (a) A child must be a citizen of the United States or otherwise eligible for federal public benefits according to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended, in order to be eligible for the title IV-E Adoption Assistance Program.

(b) A child must be a citizen of the United States or meet the qualified alien requirements as defined in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended, in order to be eligible for state-funded adoption assistance.

**Subd. 4. Background study.** (a) A background study under section 259.41 must be completed on each prospective adoptive parent. An adoptive parent is prohibited from receiving adoption assistance on behalf of an otherwise eligible child if the background study reveals:

(1) a felony conviction at any time for:

- (i) child abuse or neglect;
- (ii) spousal abuse;
- (iii) a crime against children, including child pornography; or
- (iv) a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery; or

(2) a felony conviction within the past five years for:

- (i) physical assault;
- (ii) battery; or
- (iii) a drug-related offense.

**Subd. 5. Responsibility for determining adoption assistance eligibility.** The state will determine eligibility for:

(1) a Minnesota child under the guardianship of the commissioner who would otherwise remain in foster care;

(2) a child who is not under the guardianship of the commissioner who meets title IV-E eligibility defined in section 473 of the Social Security Act and no state agency has legal responsibility for placement and care of the child;

(3) a Minnesota child under tribal jurisdiction who would otherwise remain in foster care; and

(4) an Indian child being placed in Minnesota who meets title IV-E eligibility defined in section 473 of the Social Security Act. The agency or entity assuming responsibility for the child is responsible for the nonfederal share of the adoption assistance payment.

Subd. 6. **Exclusions.** The commissioner shall not enter into an adoption assistance agreement with:

(1) a child's biological parent or stepparent;

(2) a child's relative, according to section 260C.007, subdivision 27, with whom the child resided immediately prior to child welfare involvement unless:

(i) the child was in the custody of a Minnesota county or tribal agency pursuant to an order under chapter 260C or equivalent provisions of tribal code and the agency had placement and care responsibility for permanency planning for the child; and

(ii) the child is under guardianship of the commissioner of human services according to the requirements of section 260C.325, subdivision 1, paragraphs (a) and (b), or subdivision 3, paragraphs (a) and (b), or is a ward of a Minnesota tribal court after termination of parental rights, suspension of parental rights, or a finding by the tribal court that the child cannot safely return to the care of the parent;

(3) a child's legal custodian or guardian who is now adopting the child;

(4) an individual adopting a child who is the subject of a direct adoptive placement under section 259.47 or the equivalent in tribal code; or

(5) an individual who is adopting a child who is not a citizen or resident of the United States and was either adopted in another country or brought to this country for the purposes of adoption.

**Sec. 4. [259A.15] ESTABLISHMENT OF ADOPTION ASSISTANCE ELIGIBILITY.**

Subdivision 1. **Adoption assistance certification.** (a) The child-placing agency shall certify a child as eligible for adoption assistance according to requirements and procedures, and on forms prescribed by the commissioner. Documentation from a qualified expert must be provided to verify that a child meets the special needs criteria in section 259A.10, subdivision 2.

(b) Expert documentation of a disability is limited to evidence deemed appropriate by the commissioner and must be submitted with the certification. Examples of appropriate documentation include, but are not limited to, medical records, psychological assessments, educational or early childhood evaluations, court findings, and social and medical history.

(c) Documentation that the child is an at-risk child must be submitted according to requirements and procedures prescribed by the commissioner.

71.1        Subd. 2. **Adoption assistance agreement.** (a) An adoption assistance agreement  
71.2 is a binding contract between the adopting parent, the child-placing agency, and the  
71.3 commissioner. The agreement outlines the benefits to be provided on behalf of an eligible  
71.4 child.

71.5        (b) In order to receive adoption assistance benefits, a written agreement on a form  
71.6 prescribed by the commissioner must be signed by the parent, an approved representative  
71.7 from the child-placing agency, and the commissioner prior to the effective date of the  
71.8 adoption decree. No later than 30 days after the parent is approved for the adoptive  
71.9 placement, the agreement must be negotiated with the parent as required in section  
71.10 259A.25, subdivision 1. Adoption assistance must be approved or denied by the  
71.11 commissioner no later than 15 business days after the receipt of a complete adoption  
71.12 assistance application prescribed by the commissioner. A fully executed copy of the  
71.13 signed agreement must be given to each party. Termination or disruption of the adoptive  
71.14 placement preceding adoption finalization makes the agreement with that parent void.

71.15        (c) The agreement must specify the following:

71.16        (1) duration of the agreement;

71.17        (2) the nature and amount of any payment, services, and assistance to be provided  
71.18 under the agreement;

71.19        (3) the child's eligibility for Medicaid services;

71.20        (4) the terms of the payment;

71.21        (5) eligibility for reimbursement of nonrecurring expenses associated with adopting  
71.22 the child, to the extent that the total cost does not exceed \$2,000 per child;

71.23        (6) that the agreement will remain in effect regardless of the state in which the  
71.24 adoptive parent resides at any given time;

71.25        (7) provisions for modification of the terms of the agreement; and

71.26        (8) the effective date of the agreement.

71.27        (d) The agreement is effective on the date of the adoption decree.

71.28        Subd. 3. **Assessment tool.** An assessment tool prescribed by the commissioner  
71.29 must be completed for any child who has a documented disability that necessitates care,  
71.30 supervision, and structure beyond that ordinarily provided in a family setting to children  
71.31 of the same age. This assessment tool must be submitted with the adoption assistance  
71.32 certification and establishes eligibility for the amount of assistance requested.

71.33        Sec. 5. **[259A.20] BENEFITS AND PAYMENTS.**

71.34        Subdivision 1. **General information.** (a) Payments to parents under adoption  
71.35 assistance must be made monthly.

72.1 (b) Payments must commence when the commissioner receives the adoption decree  
72.2 from the court, the child-placing agency, or the parent. Payments must be made according  
72.3 to requirements and procedures prescribed by the commissioner.

72.4 (c) Payments shall only be made to the adoptive parent specified on the agreement.  
72.5 If there is more than one adoptive parent, both parties must be listed as the payee unless  
72.6 otherwise specified in writing according to requirements and procedures prescribed by  
72.7 the commissioner.

72.8 (d) Payment must be considered income and resource attributable to the child.  
72.9 Payment must not be assigned or transferred to another party. Payment is exempt from  
72.10 garnishment, except as permissible under the laws of the state where the child resides.

72.11 Subd. 2. **Medical assistance eligibility.** Eligibility for medical assistance for  
72.12 children receiving adoption assistance is as specified in section 256B.055.

72.13 Subd. 3. **Payments.** (a) The basic maintenance payments must be made according  
72.14 to the following schedule for all children except those eligible for adoption assistance  
72.15 based on being an at-risk child:

72.16 <u>Birth through age five</u>	<u>up to \$247 per month</u>
72.17 <u>Age six through age 11</u>	<u>up to \$277 per month</u>
72.18 <u>Age 12 through age 14</u>	<u>up to \$307 per month</u>
72.19 <u>Age 15 and older</u>	<u>up to \$337 per month</u>

72.20 A child must receive the maximum payment amount for the child's age, unless a  
72.21 lesser amount is negotiated with and agreed to by the prospective adoptive parent.

72.22 (b) Supplemental needs payments, in addition to basic maintenance payments, are  
72.23 available based on the severity of a child's disability and the level of parenting required to  
72.24 care for the child, and must be made according to the following amounts:

72.25 <u>Level I</u>	<u>up to \$150 per month</u>
72.26 <u>Level II</u>	<u>up to \$275 per month</u>
72.27 <u>Level III</u>	<u>up to \$400 per month</u>
72.28 <u>Level IV</u>	<u>up to \$500 per month</u>

72.29 A child's level shall be assessed on an assessment tool prescribed by the  
72.30 commissioner. A child must receive the maximum payment for the child's assessed level,  
72.31 unless a lesser amount is negotiated with and agreed to by the prospective adoptive parent.

72.32 Subd. 4. **Reimbursement for special nonmedical expenses.** (a) Reimbursement  
72.33 for special nonmedical expenses is available to children, except those eligible for adoption  
72.34 assistance based on being an at-risk child.

72.35 (b) Reimbursements under this paragraph shall be made only after the adoptive  
72.36 parent documents that the requested service was denied by the local social service agency,  
72.37 community agencies, local school district, local public health department, the parent's



insurance provider, or the child's program. The denial must be for an eligible service or qualified item under the program requirements of the applicable agency or organization.

(c) Reimbursements must be previously authorized, adhere to the requirements and procedures prescribed by the commissioner, and be limited to:

(1) child care for a child age 12 and younger, or for a child age 13 or 14 who has a documented disability that requires special instruction for and services by the child care provider. Child care reimbursements may be made if all available adult caregivers are employed or attending educational or vocational training programs. If a parent is attending an educational or vocational training program, child care reimbursement is limited to no more than the time necessary to complete the credit requirements for an associate or baccalaureate degree as determined by the educational institution. Child care reimbursement is not limited for an adoptive parent completing basic or remedial education programs needed to prepare for postsecondary education or employment;

(2) respite care provided for the relief of the child's parent up to 504 hours of respite care annually;

(3) camping up to 14 days per state fiscal year for a child to attend a special needs camp. The camp must be accredited by the American Camp Association as a special needs camp in order to be eligible for camp reimbursement;

(4) postadoption counseling to promote the child's integration into the adoptive family that is provided by the placing agency during the first year following the date of the adoption decree. Reimbursement is limited to 12 sessions of postadoption counseling;

(5) family counseling that is required to meet the child's special needs. Reimbursement is limited to the prorated portion of the counseling fees allotted to the family when the adoptive parent's health insurance or Medicaid pays for the child's counseling but does not cover counseling for the rest of the family members;

(6) home modifications to accommodate the child's special needs upon which eligibility for adoption assistance was approved. Reimbursement is limited to once every five years per child;

(7) vehicle modifications to accommodate the child's special needs upon which eligibility for adoption assistance was approved. Reimbursement is limited to once every five years per family; and

(8) burial expenses up to \$1,000, if the special needs, upon which eligibility for adoption assistance was approved, resulted in the death of the child.

(d) The adoptive parent shall submit statements for expenses incurred between July 1 and June 30 of a given fiscal year to the state adoption assistance unit within 60 days after the end of the fiscal year in order for reimbursement to occur.

74.1       Sec. 6. **[259A.25] DETERMINATION OF ADOPTION ASSISTANCE BENEFITS**  
74.2 **AND PAYMENT.**

74.3       Subdivision 1. Negotiation of adoption assistance agreement. (a) A monthly  
74.4 payment is provided as part of the adoption assistance agreement to support the care of  
74.5 a child who has manifested special needs. The amount of the payment made on behalf  
74.6 of a child eligible for adoption assistance is determined through negotiation between  
74.7 the adoptive parent and the child-placing agency on behalf of the commissioner. The  
74.8 negotiation shall take into consideration the circumstances of the adopting parent and the  
74.9 needs of the child being adopted. The income of the adoptive parent must not be taken  
74.10 into consideration when determining eligibility for adoption assistance or the amount of  
74.11 the payments under section 259A.20. At the written request of the adoptive parent, the  
74.12 amount of the payment in the agreement may be renegotiated when there is a change in  
74.13 the child's needs or the family's circumstances.

74.14       (b) The adoption assistance agreement of a child who is identified as an at-risk child  
74.15 must not include a monthly payment unless and until the potential disability upon which  
74.16 the eligibility for the agreement was based has manifested during childhood.

74.17       Subd. 2. Renegotiation of adoption assistance agreement. (a) An adoptive  
74.18 parent of a child with an adoption assistance agreement may request renegotiation of the  
74.19 agreement when there is a change in the needs of the child or in the family's circumstances.  
74.20 When an adoptive parent requests renegotiation of the agreement, a reassessment of the  
74.21 child must be completed by: (1) the responsible social services agency in the child's county  
74.22 of residence; or (2) the child-placing agency that facilitated the adoption when the child's  
74.23 residence is out of state. If the reassessment indicates that the child's needs have changed,  
74.24 the child-placing agency, on behalf of the commissioner and the parent, shall renegotiate  
74.25 the agreement to include a payment of the level determined appropriate through the  
74.26 reassessment process using the assessment tool prescribed by the commissioner according  
74.27 to section 259A.15, subdivision 3. The agreement must not be renegotiated unless the  
74.28 commissioner and the parent mutually agree to the changes. The effective date of any  
74.29 renegotiated agreement must be determined according to requirements and procedures  
74.30 prescribed by the commissioner.

74.31       (b) An adoptive parent of a child with an adoption assistance agreement based on  
74.32 the child being an at-risk child may request renegotiation of the agreement to include a  
74.33 monthly payment. The parent must have written documentation from a qualified expert  
74.34 that the potential disability upon which eligibility for adoption assistance was approved  
74.35 has manifested. Documentation of the disability must be limited to evidence deemed  
74.36 appropriate by the commissioner. Prior to renegotiating the agreement, a reassessment of

75.1 the child must be conducted using an assessment tool prescribed by the commissioner  
75.2 according to section 259A.15, subdivision 3. The reassessment must be used to renegotiate  
75.3 the agreement to include an appropriate monthly payment. The agreement must not be  
75.4 renegotiated unless the commissioner and the adoptive parent mutually agree to the  
75.5 changes. The effective date of any renegotiated agreement must be determined according  
75.6 to requirements and procedures prescribed by the commissioner.

75.7 Subd. 3. **Child income or income attributable to the child.** No income received  
75.8 by a child will be considered in determining a child's adoption assistance payment  
75.9 amount. If a child for whom a parent is receiving adoption assistance is also receiving  
75.10 Supplemental Security Income (SSI) or Retirement, Survivors, Disability Insurance  
75.11 (RSDI), the certifying agency shall inform the adoptive parent that the child's adoption  
75.12 assistance must be reported to the Social Security Administration.

75.13 Sec. 7. **[259A.30] REPORTING RESPONSIBILITIES.**

75.14 Subdivision 1. **Notification of change.** (a) An adoptive parent who has an adoption  
75.15 assistance agreement shall keep the agency administering the program informed of  
75.16 changes in status or circumstances that would make the child ineligible for the payments  
75.17 or eligible for payments in a different amount.

75.18 (b) As long as the agreement is in effect, the adoptive parent agrees to notify the  
75.19 agency administering the program in writing within 30 days of any of the following  
75.20 changes:

75.21 (1) the child's or adoptive parent's legal name;

75.22 (2) the family's address;

75.23 (3) the child's legal custody status;

75.24 (4) the child's completion of high school, if this occurs after the child attains age 18;

75.25 (5) the end of an adoptive parent's legal responsibility to support the child based on:  
75.26 termination of parental rights of the adoptive parent, transfer of guardianship to another  
75.27 person, or transfer of permanent legal and physical custody to another person;

75.28 (6) the end of an adoptive parent's financial support of the child;

75.29 (7) the death of the child;

75.30 (8) the death of the adoptive parent;

75.31 (9) the child enlists in the military;

75.32 (10) the child gets married;

75.33 (11) the child becomes an emancipated minor through legal action;

75.34 (12) the adoptive parents separate or divorce;

(13) the child is residing outside the adoptive home for a period of more than 30 consecutive days; and

(14) the child's status upon which eligibility for extension under section 259A.45, subdivision 2 or 3, was based.

Subd. 2. **Correct and true information.** If the adoptive parent reports information the adoptive parent knows is untrue, the adoptive parent fails to notify the commissioner of changes that may affect eligibility, or the agency administering the program receives information the adoptive parent did not report, the adoptive parent may be investigated for theft and, if charged and convicted, shall be sentenced under section 609.52, subdivision 3, clauses (1) to (5).

Sec. 8. **[259A.35] TERMINATION OF AGREEMENT.**

Subdivision 1. **Reasons for termination.** (a) An adoption assistance agreement shall terminate in any of the following circumstances:

(1) the child has attained the age of 18, or up to age 21, when the child meets a condition for extension as outlined in section 259A.45, subdivision 1;

(2) the child has not attained the age of 18, but the commissioner determines the adoptive parent is no longer legally responsible for support of the child;

(3) the commissioner determines the adoptive parent is no longer providing financial support to the child up to age 21;

(4) the death of the child; or

(5) the adoptive parent requests in writing termination of the adoption assistance agreement.

(b) An adoptive parent is considered no longer legally responsible for support of the child in any of the following circumstances:

(1) parental rights to the child are legally terminated or a court accepted the parent's consent to adoption under chapter 260C;

(2) permanent legal and physical custody or guardianship of the child is transferred to another individual;

(3) death of adoptive parent;

(4) child enlists in the military;

(5) child gets married; or

(6) child is determined an emancipated minor through legal action.

Subd. 2. **Death of adoptive parent or adoption dissolution.** The adoption assistance agreement ends upon death or termination of parental rights of both adoptive parents in the case of a two-parent adoption, or the sole adoptive parent in the case of

77.1 a single-parent adoption. The child's adoption assistance eligibility may be continued  
77.2 according to section 259A.40.

77.3 Subd. 3. **Termination notice for parent.** The commissioner shall provide the  
77.4 child's parent written notice of termination of payment. Termination notices must be sent  
77.5 according to the requirements and procedures prescribed by the commissioner.

77.6 Sec. 9. **[259A.40] ASSIGNMENT OF ADOPTION ASSISTANCE AGREEMENT.**

77.7 Subdivision 1. **Continuing child's eligibility for title IV-E adoption assistance**  
77.8 **in a subsequent adoption.** (a) The child maintains eligibility for title IV-E adoption  
77.9 assistance in a subsequent adoption if the following criteria are met:

77.10 (1) the child is determined to be a child with special needs as outlined in section  
77.11 259A.10, subdivision 2; and

77.12 (2) the subsequent adoptive parent resides in Minnesota.

77.13 (b) If the child had a title IV-E adoption assistance agreement prior to the death of  
77.14 the adoptive parent or dissolution of the adoption, and the subsequent adoptive parent  
77.15 resides outside of Minnesota, the state is not responsible for determining whether the child  
77.16 meets the definition of special needs, entering into the adoption assistance agreement, and  
77.17 making any adoption assistance payments outlined in the new agreement unless a state  
77.18 agency in Minnesota has responsibility for placement and care of the child at the time of  
77.19 the subsequent adoption. If there is no state agency in Minnesota that has responsibility  
77.20 for placement and care of the child at the time of the subsequent adoption, it is the public  
77.21 child welfare agency in the subsequent adoptive parent's residence that is responsible for  
77.22 determining whether the child meets the definition of special needs and entering into the  
77.23 adoption assistance agreement.

77.24 Subd. 2. **Assigning a child's adoption assistance to a court-appointed guardian.**

77.25 (a) State-funded adoption assistance may be continued with the written consent of the  
77.26 commissioner to an individual who is a guardian appointed by a court for the child upon  
77.27 the death of both the adoptive parents in the case of a two-parent adoption, or the sole  
77.28 adoptive parent in the case of a single-parent adoption, unless the child is under the  
77.29 custody of a child-placing agency.

77.30 (b) Temporary assignment of adoption assistance may be approved by the  
77.31 commissioner for a maximum of six consecutive months from the death of the parent  
77.32 or parents and must adhere to the requirements and procedures prescribed by the  
77.33 commissioner. If, within six months, the child has not been adopted by a person agreed  
77.34 upon by the commissioner, or if a court has not appointed a legal guardian under either  
77.35 section 260C.325 or 524.5-313, or similar law of another jurisdiction, the adoption

78.1 assistance shall terminate. Upon assignment of payments pursuant to this subdivision,  
78.2 funding shall be from state funds only.

78.3 **Sec. 10. [259A.45] EXTENSION OF ADOPTION ASSISTANCE AGREEMENT.**

78.4 Subdivision 1. **General requirements.** (a) Under certain limited circumstances a  
78.5 child may qualify for extension of the adoption assistance agreement beyond the date the  
78.6 child attains age 18, up to the date the child attains the age of 21.

78.7 (b) A request for extension of the adoption assistance agreement must be completed  
78.8 in writing and submitted, including all supporting documentation, by the adoptive parent  
78.9 at least 60 calendar days prior to the date that the current agreement will terminate.

78.10 (c) A signed amendment to the current adoption assistance agreement must be  
78.11 fully executed between the adoptive parent and the commissioner at least ten business  
78.12 days prior to the termination of the current agreement. The request for extension and the  
78.13 fully executed amendment must be made according to the requirements and procedures  
78.14 prescribed by the commissioner, including documentation of eligibility, and on forms  
78.15 prescribed by the commissioner.

78.16 (d) If a child-placing agency is certifying a child for adoption assistance and  
78.17 the child will attain the age of 18 within 60 calendar days of submission, the request  
78.18 for extension must be completed in writing and submitted, including all supporting  
78.19 documentation, with the adoption assistance application.

78.20 Subd. 2. **Extension past age 18 for child adopted after 16th birthday.** A child  
78.21 who has attained the age of 16 prior to finalization of the child's adoption is eligible for  
78.22 extension of the adoption assistance agreement up to the date the child attains age 21  
78.23 if the child is:

78.24 (1) dependent on the adoptive parent for care and financial support; and

78.25 (2)(i) completing a secondary education program or a program leading to an  
78.26 equivalent credential;

78.27 (ii) enrolled in an institution that provides postsecondary or vocational education;

78.28 (iii) participating in a program or activity designed to promote or remove barriers to  
78.29 employment;

78.30 (iv) employed for at least 80 hours per month; or

78.31 (v) incapable of doing any of the activities described in clauses (i) to (iv) due to  
78.32 a medical condition where incapability is supported by documentation from an expert  
78.33 according to the requirements and procedures prescribed by the commissioner.

78.34 Subd. 3. **Extension past age 18 for child adopted prior to 16th birthday.** A child  
78.35 who has not attained the age of 16 prior to finalization of the child's adoption is eligible

79.1 for extension of the adoption assistance agreement up to the date the child attains the  
79.2 age of 21 if the child is:

79.3 (1) dependent on the adoptive parent for care and financial support; and

79.4 (2)(i) enrolled in a secondary education program or a program leading to the  
79.5 equivalent; or

79.6 (ii) incapable of sustaining employment because of the continuation of a physical or  
79.7 mental disability, upon which eligibility for adoption assistance was approved.

79.8 Sec. 11. **[259A.50] OVERPAYMENTS OF ADOPTION ASSISTANCE.**

79.9 An amount of adoption assistance paid to an adoptive parent in excess of the  
79.10 payment that was actually due is recoverable by the commissioner, even when the  
79.11 overpayment was caused by agency error or circumstances outside the responsibility and  
79.12 control of the parent or provider. Adoption assistance amounts covered by this section  
79.13 include basic maintenance needs payments, monthly supplemental maintenance needs  
79.14 payments, reimbursement of nonrecurring adoption expenses, reimbursement of special  
79.15 nonmedical costs, and reimbursement of medical costs.

79.16 Sec. 12. **[259A.55] APPEALS AND FAIR HEARINGS.**

79.17 Subdivision 1. **Appeals for denials, modifications, or terminations.** An adoptive  
79.18 parent or a prospective adoptive parent has the right to appeal to the commissioner under  
79.19 section 256.045, for reasons including, but not limited to: when eligibility for adoption  
79.20 assistance is denied, when a specific payment or reimbursement is modified or denied,  
79.21 and when the agreement for an eligible child is terminated. A prospective adoptive parent  
79.22 who disagrees with a decision by the commissioner prior to finalization of the adoption  
79.23 may request review of the decision by the commissioner, or may appeal the decision  
79.24 under section 256.045.

79.25 Subd. 2. **Extenuating circumstances.** (a) An adoption assistance agreement must  
79.26 be signed and fully executed prior to the court order that finalizes the adoption. An  
79.27 adoptive parent who believes that extenuating circumstances exist, as to why the adoption  
79.28 was finalized prior to fully executing an adoption assistance agreement, may request  
79.29 a fair hearing. The parent has the responsibility to prove the existence of extenuating  
79.30 circumstances, such as:

79.31 (1) relevant facts regarding the child were known by the child-placing agency and  
79.32 not presented to the parent prior to finalization of the adoption; or

79.33 (2) the child-placing agency failed to advise a potential parent about the availability  
79.34 of adoption assistance for a child in the county-paid foster care system.

(b) If an appeals judge finds through the fair hearing process that extenuating circumstances existed and that the child met all eligibility criteria at the time the adoption was finalized, the effective date and any associated federal financial participation shall be retroactive to the date of the request for a fair hearing.

Sec. 13. **[259A.65] INTERSTATE COMPACT ON ADOPTION AND MEDICAL ASSISTANCE.**

Subdivision 1. **Purpose.** It is the purpose and policy of the state of Minnesota to:

(1) enter into interstate agreements with agencies of other states to safeguard and protect the interests of children covered by an adoption assistance agreement when they are adopted across state lines or move to another state after adoption finalization; and

(2) provide a framework for uniformity and consistency in administrative procedures when a child with special needs is adopted by a family in another state and for children adopted in Minnesota who move to another state.

Subd. 2. **Definitions.** For the purposes of this section, the terms defined in this subdivision have the meanings given them, unless the context clearly indicates otherwise.

(a) "Adoption assistance state" means the state that certifies eligibility for Medicaid in an adoption assistance agreement.

(b) "Resident state" means the state where the adopted child is a resident.

(c) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or a territory or possession of the United States.

Subd. 3. **Compacts authorized.** The commissioner is authorized to develop, negotiate, and enter into one or more interstate compacts on behalf of this state with other states to implement Medicaid for children with adoption assistance agreements.

Subd. 4. **Contents of compacts.** (a) A compact must include:

(1) a provision allowing all states to join the compact;

(2) a provision for withdrawal from the compact upon written notice to the parties, effective one year after the notice is provided;

(3) a requirement that the protections afforded under the compact continue in force for the duration of the adoption assistance from a party state other than the one in which the adopted child is a resident;

(4) a requirement that each instance of adoption assistance to which the compact applies be covered by an adoption assistance agreement in writing between the adoptive parent and the state child welfare agency of the state that provides the adoption assistance,



and that the agreement be expressly for the benefit of the adopted child and enforceable by the adoptive parent and the state agency providing the adoption assistance; and

(5) other provisions necessary and appropriate for the proper administration of the compact.

(b) A compact may contain provisions establishing requirements and entitlements to medical, developmental, child care, or other social services for the child under state law, even though the child and the adoptive parent are in a state other than the one responsible for or providing the services or funds to pay part or all of the costs.

**Subd. 5. Duties of commissioner of human services regarding medical assistance.** (a) The commissioner of human services shall:

(1) provide Minnesota medical assistance for an adopted child who is title IV-E eligible;

(2) provide Minnesota medical assistance for an adopted child who is not title IV-E eligible who:

(i) was determined to have a special need for medical or rehabilitative care;

(ii) is living in another state; and

(iii) is covered by an adoption assistance agreement made by the commissioner for medical coverage or benefits when the child is not eligible for Medicaid in the child's residence state;

(3) consider the holder of a medical assistance identification card under this subdivision as any other recipient of medical assistance under chapter 256B; and

(4) process and make payments on claims for the recipient in the same manner as for other recipients of medical assistance.

(b) Coverage must be limited to providers authorized by Minnesota's medical assistance program, and according to Minnesota's program requirements.

**Subd. 6. Cooperation with Medicaid.** The adoptive parent shall cooperate with and abide by the Medicaid program requirements and procedures of the state which provides medical coverage.

**Subd. 7. Federal participation.** The commissioner shall apply for and administer all relevant aid in accordance with state and federal law.

**Sec. 14. [259A.70] REIMBURSEMENT OF NONRECURRING ADOPTION EXPENSES.**

(a) The commissioner of human services shall provide reimbursement to an adoptive parent for costs incurred in an adoption of a child with special needs according to section 259A.10, subdivision 2. Reimbursement shall be made for expenses that are reasonable

82.1 and necessary for the adoption to occur, subject to a maximum of \$2,000. The expenses  
82.2 must directly relate to the legal adoption of the child, not be incurred in violation of state  
82.3 or federal law, and must not have been reimbursed from other sources or funds.

82.4 (b) Children who have special needs but are not citizens or residents of the United  
82.5 States and were either adopted in another country or brought to this country for the  
82.6 purposes of adoption are categorically ineligible for this reimbursement program, except if  
82.7 the child meets the eligibility criteria after the dissolution of the international adoption.

82.8 (c) An adoptive parent, in consultation with the responsible child-placing agency,  
82.9 may request reimbursement of nonrecurring adoption expenses by submitting a complete  
82.10 application, according to the requirements and procedures and on forms prescribed by  
82.11 the commissioner.

82.12 (d) The commissioner shall determine the child's eligibility for adoption expense  
82.13 reimbursement under title IV-E of the Social Security Act, United States Code, title 42,  
82.14 sections 670 to 676. If determined eligible, the commissioner of human services shall  
82.15 sign the agreement for nonrecurring adoption expense reimbursement, making this a  
82.16 fully executed agreement. To be eligible, the agreement must be fully executed prior to  
82.17 the child's adoption finalization.

82.18 (e) An adoptive parent who has an adoption assistance agreement under section  
82.19 259A.15, subdivision 2, is not required to make a separate application for reimbursement  
82.20 of nonrecurring adoption expenses for the child who is the subject of that agreement.

82.21 (f) If determined eligible, the adoptive parent shall submit reimbursement requests  
82.22 within 21 months of the date of the child's adoption decree, and according to requirements  
82.23 and procedures prescribed by the commissioner.

82.24 Sec. 15. **[259A.75] REIMBURSEMENT OF CERTAIN AGENCY COSTS;**  
82.25 **PURCHASE OF SERVICE CONTRACTS.**

82.26 Subdivision 1. **General information.** (a) Subject to the procedures required by  
82.27 the commissioner and the provisions of this section, a Minnesota county or tribal social  
82.28 services agency shall receive a reimbursement from the commissioner equal to 100  
82.29 percent of the reasonable and appropriate cost for contracted adoption placement services  
82.30 identified for a specific child that are not reimbursed under other federal or state funding  
82.31 sources.

82.32 (b) The commissioner may spend up to \$16,000 for each purchase of service  
82.33 contract. Only one contract per child per adoptive placement is permitted. Funds  
82.34 encumbered and obligated under the contract for the child remain available until the terms  
82.35 of the contract are fulfilled or the contract is terminated.

83.1 (c) The commissioner shall set aside an amount not to exceed five percent of the  
83.2 total amount of the fiscal year appropriation from the state for the adoption assistance  
83.3 program to reimburse placing agencies for child-specific adoption placement services.  
83.4 When adoption assistance payments for children's needs exceed 95 percent of the total  
83.5 amount of the fiscal year appropriation from the state for the adoption assistance program,  
83.6 the amount of reimbursement available to placing agencies for adoption services is  
83.7 reduced correspondingly.

83.8 Subd. 2. **Child eligibility criteria.** (a) A child who is the subject of a purchase  
83.9 of service contract must:

83.10 (1) have the goal of adoption, which may include an adoption in accordance with  
83.11 tribal law;

83.12 (2) be under the guardianship of the commissioner of human services or be a ward of  
83.13 tribal court pursuant to section 260.755, subdivision 20; and

83.14 (3) meet all of the special needs criteria according to section 259A.10, subdivision 2.

83.15 (b) A child under the guardianship of the commissioner must have an identified  
83.16 adoptive parent and a fully executed adoption placement agreement according to section  
83.17 260C.613, subdivision 1, paragraph (a).

83.18 Subd. 3. **Agency eligibility criteria.** (a) A Minnesota county or tribal social  
83.19 services agency shall receive reimbursement for child-specific adoption placement  
83.20 services for an eligible child that it purchases from a private adoption agency licensed in  
83.21 Minnesota or any other state or tribal social services agency.

83.22 (b) Reimbursement for adoption services is available only for services provided  
83.23 prior to the date of the adoption decree.

83.24 Subd. 4. **Application and eligibility determination.** (a) A county or tribal social  
83.25 services agency may request reimbursement of costs for adoption placement services by  
83.26 submitting a complete purchase of service application, according to the requirements and  
83.27 procedures and on forms prescribed by the commissioner.

83.28 (b) The commissioner shall determine eligibility for reimbursement of adoption  
83.29 placement services. If determined eligible, the commissioner of human services shall  
83.30 sign the purchase of service agreement, making this a fully executed contract. No  
83.31 reimbursement under this section shall be made to an agency for services provided prior to  
83.32 the fully executed contract.

83.33 (c) Separate purchase of service agreements shall be made, and separate records  
83.34 maintained, on each child. Only one agreement per child per adoptive placement is  
83.35 permitted. For siblings who are placed together, services shall be planned and provided to  
83.36 best maximize efficiency of the contracted hours.

Subd. 5. **Reimbursement process.** (a) The agency providing adoption services is responsible to track and record all service activity, including billable hours, on a form prescribed by the commissioner. The agency shall submit this form to the state for reimbursement after services have been completed.

(b) The commissioner shall make the final determination whether or not the requested reimbursement costs are reasonable and appropriate and if the services have been completed according to the terms of the purchase of service agreement.

Subd. 6. **Retention of purchase of service records.** Agencies entering into purchase of service contracts shall keep a copy of the agreements, service records, and all applicable billing and invoicing according to the department's record retention schedule.

Agency records shall be provided upon request by the commissioner.

**Sec. 16. EFFECTIVE DATE.**

This article is effective August 1, 2012.

## ARTICLE 4

## CHILD PROTECTION

Section 1. Minnesota Statutes 2010, section 260.012, is amended to read:

**260.012 DUTY TO ENSURE PLACEMENT PREVENTION AND FAMILY REUNIFICATION; REASONABLE EFFORTS.**

(a) Once a child alleged to be in need of protection or services is under the court's jurisdiction, the court shall ensure that reasonable efforts, including culturally appropriate services, by the social services agency are made to prevent placement or to eliminate the need for removal and to reunite the child with the child's family at the earliest possible time, and the court must ensure that the responsible social services agency makes reasonable efforts to finalize an alternative permanent plan for the child as provided in paragraph (e). In determining reasonable efforts to be made with respect to a child and in making those reasonable efforts, the child's best interests, health, and safety must be of paramount concern. Reasonable efforts to prevent placement and for rehabilitation and reunification are always required except upon a determination by the court that 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 terminated involuntarily;

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

85.3 (4) the parent's custodial rights to another child have been involuntarily transferred  
85.4 to a relative under section 260C.201, subdivision 11, paragraph (d), clause (1), or a similar  
85.5 law of another jurisdiction; ~~or~~

85.6 (5) the parent has committed sexual abuse as defined in section 626.556, subdivision  
85.7 2, against the child or another child of the parent;

85.8 (6) the parent has committed an offense that requires registration as a predatory  
85.9 offender under section 243.166, subdivision 1b, paragraph (a) or (b); or

85.10 ~~(5)~~ (7) the provision of services or further services for the purpose of reunification is  
85.11 futile and therefore unreasonable under the circumstances.

85.12 (b) When the court makes one of the prima facie determinations under paragraph (a),  
85.13 either permanency pleadings under section 260C.201, subdivision 11, or a termination  
85.14 of parental rights petition under sections 260C.141 and 260C.301 must be filed. A  
85.15 permanency hearing under section 260C.201, subdivision 11, must be held within 30  
85.16 days of this determination.

85.17 (c) In the case of an Indian child, in proceedings under sections 260B.178 or  
85.18 260C.178, 260C.201, and 260C.301 the juvenile court must make findings and conclusions  
85.19 consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section  
85.20 1901 et seq., as to the provision of active efforts. In cases governed by the Indian Child  
85.21 Welfare Act of 1978, United States Code, title 25, section 1901, the responsible social  
85.22 services agency must provide active efforts as required under United States Code, title  
85.23 25, section 1911(d).

85.24 (d) "Reasonable efforts to prevent placement" means:

85.25 (1) the agency has made reasonable efforts to prevent the placement of the child in  
85.26 foster care by working with the family to develop and implement a safety plan; or

85.27 (2) given the particular circumstances of the child and family at the time of the  
85.28 child's removal, there are no services or efforts available which could allow the child to  
85.29 safely remain in the home.

85.30 (e) "Reasonable efforts to finalize a permanent plan for the child" means due  
85.31 diligence by the responsible social services agency to:

85.32 (1) reunify the child with the parent or guardian from whom the child was removed;

85.33 (2) assess a noncustodial parent's ability to provide day-to-day care for the child and,  
85.34 where appropriate, provide services necessary to enable the noncustodial parent to safely  
85.35 provide the care, as required by section 260C.212, subdivision 4;

(3) conduct a relative search to identify and provide notice to adult relatives as required under section 260C.212, subdivision 5;

(4) place siblings removed from their home in the same home for foster care or adoption, or transfer permanent legal and physical custody to a relative. Visitation between siblings who are not in the same foster care, adoption, or custodial placement or facility shall be consistent with section 260C.212, subdivision 2; and

(5) when the child cannot return to the parent or guardian from whom the child was removed, to plan for and finalize a safe and legally permanent alternative home for the child, and considers permanent alternative homes for the child inside or outside of the state, preferably through adoption or transfer of permanent legal and physical custody of the child.

(f) Reasonable efforts are made upon the exercise of due diligence by the responsible social services agency to use culturally appropriate and available services to meet the needs of the child and the child's family. Services may include those provided by the responsible social services agency and other culturally appropriate services available in the community. At each stage of the proceedings where the court is required to review the appropriateness of the responsible social services agency's reasonable efforts as described in paragraphs (a), (d), and (e), the social services agency has the burden of demonstrating that:

(1) it has made reasonable efforts to prevent placement of the child in foster care;

(2) it has made reasonable efforts to eliminate the need for removal of the child from the child's home and to reunify the child with the child's family at the earliest possible time;

(3) it has made reasonable efforts to finalize an alternative permanent home for the child, and considers permanent alternative homes for the child inside or outside of the state; or

(4) reasonable efforts to prevent placement and to reunify the child with the parent or guardian are not required. The agency may meet this burden by stating facts in a sworn petition filed under section 260C.141, by filing an affidavit summarizing the agency's reasonable efforts or facts the agency believes demonstrate there is no need for reasonable efforts to reunify the parent and child, or through testimony or a certified report required under juvenile court rules.

(g) Once the court determines that reasonable efforts for reunification are not required because the court has made one of the prima facie determinations under paragraph (a), the court may only require reasonable efforts for reunification after a hearing according to section 260C.163, where the court finds there is not clear and convincing evidence of the facts upon which the court based its prima facie determination. In this case when there

is clear and convincing evidence that the child is in need of protection or services, the court may find the child in need of protection or services and order any of the dispositions available under section 260C.201, subdivision 1. Reunification of a ~~surviving~~ child with a parent is not required if the parent has been convicted of:

(1) a violation of, or an attempt or conspiracy to commit a violation of, sections 609.185 to 609.20; 609.222, subdivision 2; or 609.223 in regard to another child of the parent;

(2) a violation of section 609.222, subdivision 2; or 609.223, in regard to the ~~surviving~~ child; ~~or~~

(3) a violation of, or an attempt or conspiracy to commit a violation of, United States Code, title 18, section 1111(a) or 1112(a), in regard to another child of the parent;

(4) committing sexual abuse as defined in section 626.556, subdivision 2, against the child or another child of the parent; or

(5) an offense that requires registration as a predatory offender under section 243.166, subdivision 1b, paragraph (a) or (b).

(h) The juvenile court, in proceedings under sections 260B.178 or 260C.178, 260C.201, and 260C.301 shall make findings and conclusions as to the provision of reasonable efforts. When determining whether reasonable efforts have been made, the court shall consider whether services to the child and family were:

(1) relevant to the safety and protection of the child;

(2) adequate to meet the needs of the child and family;

(3) culturally appropriate;

(4) available and accessible;

(5) consistent and timely; and

(6) realistic under the circumstances.

In the alternative, the court may determine that provision of services or further services for the purpose of rehabilitation is futile and therefore unreasonable under the circumstances or that reasonable efforts are not required as provided in paragraph (a).

(i) This section does not prevent out-of-home placement for treatment of a child with a mental disability when it is determined to be medically necessary as a result of the child's diagnostic assessment or individual treatment plan indicates that appropriate and necessary treatment cannot be effectively provided outside of a residential or inpatient treatment program and the level or intensity of supervision and treatment cannot be effectively and safely provided in the child's home or community and it is determined that a residential treatment setting is the least restrictive setting that is appropriate to the needs of the child.

(j) If continuation of reasonable efforts to prevent placement or reunify the child with the parent or guardian from whom the child was removed is determined by the court to be inconsistent with the permanent plan for the child or upon the court making one of the prima facie determinations under paragraph (a), reasonable efforts must be made to place the child in a timely manner in a safe and permanent home and to complete whatever steps are necessary to legally finalize the permanent placement of the child.

(k) Reasonable efforts to place a child for adoption or in another permanent placement may be made concurrently with reasonable efforts to prevent placement or to reunify the child with the parent or guardian from whom the child was removed. When the responsible social services agency decides to concurrently make reasonable efforts for both reunification and permanent placement away from the parent under paragraph (a), the agency shall disclose its decision and both plans for concurrent reasonable efforts to all parties and the court. When the agency discloses its decision to proceed on both plans for reunification and permanent placement away from the parent, the court's review of the agency's reasonable efforts shall include the agency's efforts under both plans.

Sec. 2. Minnesota Statutes 2010, section 260C.001, is amended to read:

**260C.001 TITLE, INTENT, AND CONSTRUCTION.**

Subdivision 1. **Citation; scope.** (a) Sections 260C.001 to ~~260C.451~~ 260C.521 may be cited as the ~~child~~ juvenile protection provisions of the Juvenile Court Act.

(b) Juvenile protection proceedings include:

(1) a child in need of protection or services matters;

(2) permanency matters, including termination of parental rights;

(3) postpermanency reviews under sections 260C.317 and 260C.521; and

(4) adoption matters including posttermination of parental rights proceedings that review the responsible social services agency's reasonable efforts to finalize adoption.

Subd. 2. ~~Child in need of Juvenile protection services proceedings.~~ (a) The paramount consideration in all juvenile protection proceedings ~~concerning a child alleged or found to be in need of protection or services~~ is the health, safety, and best interests of the child. In proceedings involving an American Indian child, as defined in section 260.755, subdivision 8, the best interests of the child must be determined consistent with sections 260.751 to 260.835 and the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923.

(b) The purpose of the laws relating to juvenile ~~courts~~ protection proceedings is:



(1) to secure for each child ~~alleged or adjudicated in need of protection or services~~  
~~and~~ under the jurisdiction of the court, the care and guidance, preferably in the child's own  
home, as will best serve the spiritual, emotional, mental, and physical welfare of the child;

(2) to provide judicial procedures ~~which~~ that protect the welfare of the child;

(3) to preserve and strengthen the child's family ties whenever possible and in the  
child's best interests, removing the child from the custody of parents only when the child's  
welfare or safety cannot be adequately safeguarded without removal;

(4) to ensure that when removal from the child's own family is necessary and in the  
child's best interests, the responsible social services agency has legal responsibility for  
the child removal either:

(i) pursuant to a voluntary placement agreement between the child's parent or  
guardian or the child, when the child is over age 18, and the responsible social services  
agency; or

(ii) by court order pursuant to section 260C.151, subdivision 6; ~~206C.178; or~~  
260C.178; 260C.201; 260C.325; or 260C.515;

(5) to ensure that, when placement is pursuant to court order, the court order  
removing the child or continuing the child in foster care contains an individualized  
determination that placement is in the best interests of the child that coincides with the  
actual removal of the child; ~~and~~

(6) to ensure that when the child is removed, the child's care and discipline is, as  
nearly as possible, equivalent to that which should have been given by the parents and is  
either in:

(i) the home of a noncustodial parent pursuant to section 260C.178 or 260C.201,  
subdivision 1, paragraph (a), clause (1);

(ii) the home of a relative pursuant to emergency placement by the responsible social  
services agency under chapter 245A; or

(iii) ~~a foster home~~ care licensed under chapter 245A; ~~and~~

(7) to ensure appropriate permanency planning for children in foster care including:

(i) unless reunification is not required under section 260.012, developing a  
permanency plan for the child that includes a primary plan for reunification with the  
child's parent or guardian and a secondary plan for an alternative, legally permanent home  
for the child in the event reunification cannot be achieved in a timely manner;

(ii) identifying, locating, and assessing both parents of the child as soon as possible  
and offering reunification services to both parents of the child as required under section  
260.012 and 260C.219;

90.1 (iii) identifying, locating, and notifying relatives of both parents of the child  
90.2 according to section 260C.221;

90.3 (iv) making a placement with a family that will commit to being the legally  
90.4 permanent home for the child in the event reunification cannot occur at the earliest  
90.5 possible time while at the same time actively supporting the reunification plan; and

90.6 (v) returning the child home with supports and services, as soon as return is safe  
90.7 for the child, or when safe return cannot be timely achieved, moving to finalize another  
90.8 legally permanent home for the child.

90.9 Subd. 3. **Permanency and, termination of parental rights, and adoption.** The  
90.10 purpose of the laws relating to permanency ~~and, termination of parental rights, and children~~  
90.11 who come under the guardianship of the commissioner of human services is to ensure that:

90.12 (1) when required and appropriate, reasonable efforts have been made by the social  
90.13 services agency to reunite the child with the child's parents in a home that is safe and  
90.14 permanent; and

90.15 (2) if placement with the parents is not reasonably foreseeable, to secure for the  
90.16 child a safe and permanent placement according to the requirements of section 260C.212,  
90.17 subdivision 2, preferably with adoptive parents or, if that is not possible or in the best  
90.18 interests of the child, a fit and willing relative through transfer of permanent legal and  
90.19 physical custody to that relative; and

90.20 (3) when a child is under the guardianship of the commissioner of human services,  
90.21 reasonable efforts are made to finalize an adoptive home for the child in a timely manner.

90.22 Nothing in this section requires reasonable efforts to prevent placement or to reunify  
90.23 the child with the parent or guardian to be made in circumstances where the court has  
90.24 determined that the child has been subjected to egregious harm, when the child is an  
90.25 abandoned infant, the parent has involuntarily lost custody of another child through a  
90.26 proceeding under section ~~260C.201, subdivision 11~~ 260C.515, subdivision 4, or similar  
90.27 law of another state, the parental rights of the parent to a sibling have been involuntarily  
90.28 terminated, or the court has determined that reasonable efforts or further reasonable efforts  
90.29 to reunify the child with the parent or guardian would be futile.

90.30 The paramount consideration in all proceedings for permanent placement of the  
90.31 child under ~~section 260C.201, subdivision 11~~ sections 260C.503 to 260C.521, or the  
90.32 termination of parental rights is the best interests of the child. In proceedings involving an  
90.33 American Indian child, as defined in section 260.755, subdivision 8, the best interests of  
90.34 the child must be determined consistent with the Indian Child Welfare Act of 1978, United  
90.35 States Code, title 25, section 1901, et seq.

91.1 Subd. 4. **Construction.** The laws relating to the ~~child protection provisions of~~  
91.2 ~~the juvenile courts~~ protection proceedings shall be liberally construed to carry out these  
91.3 purposes.

91.4 Sec. 3. Minnesota Statutes 2010, section 260C.007, subdivision 4, is amended to read:

91.5 Subd. 4. **Child.** "Child" means an individual under 18 years of age. For purposes of  
91.6 this chapter and chapter 260D, child also includes individuals under age 21 who are in  
91.7 foster care pursuant to section 260C.451.

91.8 Sec. 4. Minnesota Statutes 2010, section 260C.007, is amended by adding a  
91.9 subdivision to read:

91.10 Subd. 26a. **Putative father.** "Putative father" has the meaning given in section  
91.11 259.21, subdivision 12.

91.12 Sec. 5. Minnesota Statutes 2010, section 260C.007, is amended by adding a  
91.13 subdivision to read:

91.14 Subd. 27a. **Responsible social services agency.** "Responsible social services  
91.15 agency" means the county social services agency that has responsibility for public child  
91.16 welfare and child protection services and includes the provision of adoption services as an  
91.17 agent of the commissioner of human services.

91.18 Sec. 6. Minnesota Statutes 2010, section 260C.007, is amended by adding a  
91.19 subdivision to read:

91.20 Subd. 32. **Sibling.** "Sibling" means one of two or more individuals who have one  
91.21 or both parents in common through blood, marriage, or adoption, including siblings as  
91.22 defined by the child's tribal code or custom.

91.23 Sec. 7. Minnesota Statutes 2010, section 260C.101, subdivision 2, is amended to read:

91.24 Subd. 2. **Other matters relating to children.** ~~Except as provided in clause (4),~~ The  
91.25 juvenile court has original and exclusive jurisdiction in proceedings concerning:

91.26 (1) the termination of parental rights to a child in accordance with the provisions of  
91.27 sections 260C.301 to 260C.328;

91.28 (2) permanency matters under sections 260C.503 to 260C.521;

91.29 (3) the appointment and removal of a juvenile court guardian for a child, where  
91.30 parental rights have been terminated under the provisions of sections 260C.301 to  
91.31 260C.328;

- 92.1 ~~(3)~~ (4) judicial consent to the marriage of a child when required by law;
- 92.2 ~~(4) the juvenile court in those counties in which the judge of the probate-juvenile~~
- 92.3 ~~court has been admitted to the practice of law in this state shall proceed under the laws~~
- 92.4 ~~relating to adoptions in all adoption matters. In those counties in which the judge of the~~
- 92.5 ~~probate-juvenile court has not been admitted to the practice of law in this state the district~~
- 92.6 ~~court shall proceed under the laws relating to adoptions in~~
- 92.7 (5) all adoption matters and review of the efforts to finalize the adoption of the child
- 92.8 under section 260C.317;
- 92.9 ~~(5)~~ (6) the review of the placement of a child who is in foster care pursuant to a
- 92.10 voluntary placement agreement between the child's parent or parents and the responsible
- 92.11 social services agency under section ~~260C.212, subdivision 8~~ 260C.227; or between the
- 92.12 child, when the child is over age 18, and the agency under section 260C.229; and
- 92.13 ~~(6)~~ (7) the review of voluntary foster care placement of a child for treatment under
- 92.14 chapter 260D according to the review requirements of that chapter.

92.15 Sec. 8. Minnesota Statutes 2010, section 260C.150, subdivision 1, is amended to read:

92.16 Subdivision 1. **Determining parentage.** (a) A parent and child relationship may be

92.17 established under this chapter according to the requirements of section 257.54 and. The

92.18 requirements of the Minnesota Parentage Act, sections 257.51 to 257.74, must be followed

92.19 unless otherwise specified in this section.

92.20 (b) An action to establish a parent and child relationship under this chapter must

92.21 be commenced by motion, which shall be personally served upon the alleged parent and

92.22 served upon all required parties under the Minnesota Parentage Act as provided for service

92.23 of motions in the Minnesota Rules of Juvenile Protection Procedure. The motion shall be

92.24 brought in an existing juvenile protection proceeding and may be brought by any party, a

92.25 putative father, or the county attorney representing the responsible social services agency.

92.26 (c) Notwithstanding any other provisions of law, a motion to establish parentage

92.27 under this section, and any related documents or orders, are not confidential and are

92.28 accessible to the public according to the provisions of the Minnesota Rules of Juvenile

92.29 Protection Procedure. Any hearings related to establishment of paternity under this section

92.30 are accessible to the public according to the Minnesota Rules of Juvenile Protection

92.31 Procedure.

92.32 (d) The court may order genetic testing of any putative father or any man presumed

92.33 to be the father of a child who is the subject of a juvenile protection matter unless paternity

92.34 of the child has already been adjudicated under the Minnesota Parentage Act or if a

92.35 recognition of parentage has been fully executed and filed under section 257.75 when the

93.1 recognition of parentage has the force and effect of a judgment or order determining the  
93.2 existence of the parent and child relationship under section 257.66. If genetic testing is  
93.3 ordered, a positive genetic test under section 257.62, subdivision 5, is required to establish  
93.4 paternity for a child under this chapter.

93.5 (e) A copy of the order establishing the parent and child relationship shall be filed  
93.6 in family court. Any further proceedings for modification of the child support portion of  
93.7 the order that establishes the parent and child relationship shall be brought in the family  
93.8 court of the county where the original order was filed. The review shall be under chapters  
93.9 518 and 518A. Notice of any family court proceedings shall be provided by the court  
93.10 administrator to the responsible social services agency, which shall be a party to the  
93.11 family court proceeding.

93.12 Sec. 9. Minnesota Statutes 2010, section 260C.157, subdivision 1, is amended to read:

93.13 Subdivision 1. **Investigation.** Upon request of the court the responsible social  
93.14 services agency or probation officer shall investigate the personal and family history  
93.15 and environment of any minor coming within the jurisdiction of the court under section  
93.16 260C.101 and shall report its findings to the court. The court may order any minor coming  
93.17 within its jurisdiction to be examined by a duly qualified physician, psychiatrist, or  
93.18 psychologist appointed by the court.

93.19 Adoption investigations shall be conducted in accordance with the laws relating to  
93.20 adoptions in chapter 259. Any funds received under the provisions of this subdivision  
93.21 shall not cancel until the end of the fiscal year immediately following the fiscal year in  
93.22 which the funds were received. The funds are available for use by the commissioner of  
93.23 corrections during that period and are hereby appropriated annually to the commissioner of  
93.24 corrections as reimbursement of the costs of providing these services to the juvenile courts.

93.25 Sec. 10. Minnesota Statutes 2010, section 260C.163, subdivision 1, is amended to read:

93.26 Subdivision 1. **General.** (a) Except for hearings arising under section 260C.425,  
93.27 hearings on any matter shall be without a jury and may be conducted in an informal  
93.28 manner. In all adjudicatory proceedings involving a child alleged to be in need of  
93.29 protection or services regarding juvenile protection matters under this chapter, the court  
93.30 shall admit only evidence that would be admissible in a civil trial. To be proved at trial,  
93.31 allegations of a petition alleging a child to be in need of protection or services must be  
93.32 proved by clear and convincing evidence.

93.33 (b) Except for proceedings involving a child alleged to be in need of protection or  
93.34 services and petitions for the termination of parental rights, hearings may be continued or

94.1 adjourned from time to time. In proceedings involving a child alleged to be in need of  
94.2 protection or services and ~~petitions~~ for the termination of parental rights, hearings may not  
94.3 be continued or adjourned for more than one week unless the court makes specific findings  
94.4 that the continuance or adjournment is in the best interests of the child. If a hearing is held  
94.5 on a petition involving physical or sexual abuse of a child who is alleged to be in need of  
94.6 protection or services or neglected and in foster care, the court shall file the decision with  
94.7 the court administrator as soon as possible but no later than 15 days after the matter is  
94.8 submitted to the court. When a continuance or adjournment is ordered in any proceeding,  
94.9 the court may make any interim orders as it deems in the best interests of the minor in  
94.10 accordance with ~~the provisions of sections 260C.001 to 260C.421~~ this chapter.

94.11 (c) Absent exceptional circumstances, hearings under this chapter, except hearings  
94.12 in adoption proceedings, are presumed to be accessible to the public, however the court  
94.13 may close any hearing and the records related to any matter as provided in the Minnesota  
94.14 Rules of Juvenile Protection Procedure.

94.15 (d) Adoption hearings ~~shall be conducted in accordance with the provisions of laws~~  
94.16 ~~relating to adoptions~~ are closed to the public and all records related to an adoption are  
94.17 inaccessible except as provided in the Minnesota Rules of Adoption Procedure.

94.18 (e) In any permanency hearing, including the transition of a child from foster care  
94.19 to independent living, the court shall ensure that its consult with the child during the  
94.20 hearing is in an age-appropriate manner.

94.21 Sec. 11. Minnesota Statutes 2010, section 260C.163, subdivision 4, is amended to read:

94.22 Subd. 4. **County attorney.** ~~Except in adoption proceedings, the county attorney~~  
94.23 ~~shall present the evidence upon request of the court.~~ In representing the responsible social  
94.24 services agency, the county attorney shall also have the responsibility for advancing the  
94.25 public interest in the welfare of the child.

94.26 Sec. 12. Minnesota Statutes 2010, section 260C.178, subdivision 1, is amended to read:

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

94.32 (b) Unless there is reason to believe that the child would endanger self or others or  
94.33 not return for a court hearing, or that the child's health or welfare would be immediately  
94.34 endangered, the child shall be released to the custody of a parent, guardian, custodian,

95.1 or other suitable person, subject to reasonable conditions of release including, but not  
95.2 limited to, a requirement that the child undergo a chemical use assessment as provided in  
95.3 section 260C.157, subdivision 1.

95.4 (c) If the court determines there is reason to believe that the child would endanger  
95.5 self or others or not return for a court hearing, or that the child's health or welfare would  
95.6 be immediately endangered if returned to the care of the parent or guardian who has  
95.7 custody and from whom the child was removed, the court shall order the child into  
95.8 foster care under the legal responsibility of the responsible social services agency or  
95.9 responsible probation or corrections agency for the purposes of protective care as that term  
95.10 is used in the juvenile court rules or into the home of a noncustodial parent and order the  
95.11 noncustodial parent to comply with any conditions the court determines to be appropriate  
95.12 to the safety and care of the child, including cooperating with paternity establishment  
95.13 proceedings in the case of a man who has not been adjudicated the child's father. The  
95.14 court shall not give the responsible social services legal custody and order a trial home  
95.15 visit at any time prior to adjudication and disposition under section 260C.201, subdivision  
95.16 1, paragraph (a), clause (3), but may order the child returned to the care of the parent or  
95.17 guardian who has custody and from whom the child was removed and order the parent or  
95.18 guardian to comply with any conditions the court determines to be appropriate to meet  
95.19 the safety, health, and welfare of the child.

95.20 (d) In determining whether the child's health or welfare would be immediately  
95.21 endangered, the court shall consider whether the child would reside with a perpetrator  
95.22 of domestic child abuse.

95.23 (e) The court, before determining whether a child should be placed in or continue  
95.24 in foster care under the protective care of the responsible agency, shall also make a  
95.25 determination, consistent with section 260.012 as to whether reasonable efforts were made  
95.26 to prevent placement or whether reasonable efforts to prevent placement are not required.  
95.27 In the case of an Indian child, the court shall determine whether active efforts, according  
95.28 to the Indian Child Welfare Act of 1978, United States Code, title 25, section 1912(d),  
95.29 were made to prevent placement. The court shall enter a finding that the responsible  
95.30 social services agency has made reasonable efforts to prevent placement when the agency  
95.31 establishes either:

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

95.35 (2) that there are no services or other efforts that could be made at the time of the  
95.36 hearing that could safely permit the child to remain home or to return home. When

96.1 reasonable efforts to prevent placement are required and there are services or other efforts  
96.2 that could be ordered which would permit the child to safely return home, the court shall  
96.3 order the child returned to the care of the parent or guardian and the services or efforts put  
96.4 in place to ensure the child's safety. When the court makes a prima facie determination  
96.5 that one of the circumstances under paragraph (g) exists, the court shall determine that  
96.6 reasonable efforts to prevent placement and to return the child to the care of the parent or  
96.7 guardian are not required.

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

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

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

96.19 (1) the parent has subjected a child to egregious harm as defined in section  
96.20 260C.007, subdivision 14;

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

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

96.25 (4) the parents' custodial rights to another child have been involuntarily transferred  
96.26 to a relative under Minnesota Statutes 2010, section 260C.201, subdivision 11, paragraph  
96.27 (e), clause (1); section 260C.515, subdivision 4, or a similar law of another jurisdiction; ~~or~~

96.28 (5) the parent has committed sexual abuse as defined in section 626.556, subdivision  
96.29 2, against the child or another child of the parent;

96.30 (6) the parent has committed an offense that requires registration as a predatory  
96.31 offender under section 243.166, subdivision 1b, paragraph (a) or (b); or

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

96.34 (h) When a petition to terminate parental rights is required under section 260C.301,  
96.35 subdivision 3 or 4, but the county attorney has determined not to proceed with a  
96.36 termination of parental rights petition, and has instead filed a petition to transfer permanent



97.1 legal and physical custody to a relative under section ~~260C.201, subdivision 11~~ 260C.507,  
97.2 the court shall schedule a permanency hearing within 30 days of the filing of the petition.

97.3 (i) If the county attorney has filed a petition under section 260C.307, the court shall  
97.4 schedule a trial under section 260C.163 within 90 days of the filing of the petition except  
97.5 when the county attorney determines that the criminal case shall proceed to trial first under  
97.6 section ~~260C.201, subdivision 3~~ 260C.503, subdivision 2, paragraph (c).

97.7 (j) If the court determines the child should be ordered into foster care and the child's  
97.8 parent refuses to give information to the responsible social services agency regarding the  
97.9 child's father or relatives of the child, the court may order the parent to disclose the names,  
97.10 addresses, telephone numbers, and other identifying information to the responsible social  
97.11 services agency for the purpose of complying with ~~the requirements of~~ sections 260C.151,  
97.12 260C.212, and 260C.215.

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

97.24 (l) When the court has ordered the child into foster care or into the home of a  
97.25 noncustodial parent, the court may order a chemical dependency evaluation, mental health  
97.26 evaluation, medical examination, and parenting assessment for the parent as necessary  
97.27 to support the development of a plan for reunification required under subdivision 7 and  
97.28 section 260C.212, subdivision 1, or the child protective services plan under section  
97.29 626.556, subdivision 10, and Minnesota Rules, part 9560.0228.

97.30 Sec. 13. Minnesota Statutes 2010, section 260C.178, subdivision 7, is amended to read:

97.31 Subd. 7. **Out-of-home placement plan.** (a) An out-of-home placement plan  
97.32 required under section 260C.212 shall be filed with the court within 30 days of the filing  
97.33 of a juvenile protection petition ~~alleging the child to be in need of protection or services~~  
97.34 under section 260C.141, subdivision 1, when the court orders emergency removal of the

98.1 child under this section, or filed with the petition if the petition is a review of a voluntary  
98.2 placement under section 260C.141, subdivision 2.

98.3 (b) Upon the filing of the out-of-home placement plan which has been developed  
98.4 jointly with the parent and in consultation with others as required under section 260C.212,  
98.5 subdivision 1, the court may approve implementation of the plan by the responsible social  
98.6 services agency based on the allegations contained in the petition and any evaluations,  
98.7 examinations, or assessments conducted under subdivision 1, paragraph (l). The court  
98.8 shall send written notice of the approval of the out-of-home placement plan to all parties  
98.9 and the county attorney or may state such approval on the record at a hearing. A parent  
98.10 may agree to comply with the terms of the plan filed with the court.

98.11 (c) The responsible social services agency shall make reasonable ~~attempts~~ efforts  
98.12 to engage ~~a parent~~ both parents of the child in case planning. ~~If the parent refuses to~~  
98.13 ~~cooperate in the development of the out-of-home placement plan or disagrees with the~~  
98.14 ~~services recommended by~~ The responsible social service agency, ~~the agency shall not~~  
98.15 ~~such refusal or disagreement for the court~~ report the results of its efforts to engage the  
98.16 child's parents in the out-of-home placement plan filed with the court. The agency shall  
98.17 notify the court of the services it will provide or efforts it will attempt under the plan  
98.18 notwithstanding the parent's refusal to cooperate or disagreement with the services. The  
98.19 parent may ask the court to modify the plan to require different or additional services  
98.20 requested by the parent, but which the agency refused to provide. The court may approve  
98.21 the plan as presented by the agency or may modify the plan to require services requested  
98.22 by the parent. The court's approval shall be based on the content of the petition.

98.23 (d) Unless the parent agrees to comply with the terms of the out-of-home placement  
98.24 plan, the court may not order a parent to comply with the provisions of the plan until the  
98.25 court finds the child is in need of protection or services and orders disposition under  
98.26 section 260C.201, subdivision 1. However, the court may find that the responsible social  
98.27 services agency has made reasonable efforts for reunification if the agency makes efforts  
98.28 to implement the terms of an out-of-home placement plan approved under this section.

98.29 Sec. 14. Minnesota Statutes 2010, section 260C.193, subdivision 3, is amended to read:

98.30 Subd. 3. **Best interest of the child in foster care or residential care.** (a) The  
98.31 policy of the state is to ensure that the best interests of children in foster ~~or residential~~  
98.32 care, who experience transfer of permanent legal and physical custody to a relative under  
98.33 section 260C.515, subdivision 4, or adoption under chapter 259 are met by requiring  
98.34 individualized determinations under section 260C.212, subdivision 2, paragraph (b), of

99.1 the needs of the child and of how the selected ~~placement~~ home will serve the needs of the  
99.2 child ~~in foster care placements~~.

99.3 (b) No later than three months after a child is ordered removed from the care of a  
99.4 parent in the hearing required under section 260C.202, the court shall review and enter  
99.5 findings regarding whether the responsible social services agency made:

99.6 (1) diligent efforts to identify and search for relatives as required under section  
99.7 ~~260C.212, subdivision 5, 260C.221;~~ and ~~made~~

99.8 (2) an individualized determination as required under section 260C.212, subdivision  
99.9 2, to select a home that meets the needs of the child.

99.10 (c) If the court finds the agency has not made efforts as required under section  
99.11 ~~260C.212, subdivision 5~~ 260C.221, and there is a relative who qualifies to be licensed  
99.12 to provide family foster care under chapter 245A, the court may order the child placed  
99.13 with the relative consistent with the child's best interests.

99.14 (d) If the agency's efforts under section 260C.221 are found to be sufficient, the  
99.15 court shall order the agency to continue to appropriately engage relatives who responded  
99.16 to the notice under section 260C.221 in placement and case planning decisions and to  
99.17 appropriately engage relatives who subsequently come to the agency's attention.

99.18 ~~(e)~~ (e) If the child's birth parent or parents explicitly request that a relative or  
99.19 important friend not be considered, the court shall honor that request if it is consistent with  
99.20 the best interests of the child. If the child's birth parent or parents express a preference  
99.21 for placing the child in a foster or adoptive home of the same or a similar religious  
99.22 background to that of the birth parent or parents, the court shall order placement of the  
99.23 child with an individual who meets the birth parent's religious preference.

99.24 ~~(d)~~ (f) Placement of a child cannot be delayed or denied based on race, color, or  
99.25 national origin of the foster parent or the child.

99.26 ~~(e)~~ (g) Whenever possible, siblings should be placed together unless it is determined  
99.27 not to be in the best interests of a sibling ~~siblings~~. If siblings are were not placed together  
99.28 according to section 260C.212, subdivision 2, paragraph (d), the responsible social  
99.29 services agency shall report to the court the efforts made to place the siblings together  
99.30 and why the efforts were not successful. If the court is not satisfied with that the agency's  
99.31 agency has made reasonable efforts to place siblings together, the court may must order  
99.32 the agency to make further reasonable efforts. If siblings are not placed together the court  
99.33 shall review order the responsible social services agency's agency to implement the plan  
99.34 for visitation among siblings required as part of the out-of-home placement plan under  
99.35 section 260C.212.

100.1 ~~(f)~~ (h) This subdivision does not affect the Indian Child Welfare Act, United States  
100.2 Code, title 25, sections 1901 to 1923, and the Minnesota Indian Family Preservation  
100.3 Act, sections 260.751 to 260.835.

100.4 Sec. 15. Minnesota Statutes 2010, section 260C.193, subdivision 6, is amended to read:

100.5 Subd. 6. **Jurisdiction to review foster care to age 21, termination of jurisdiction,**  
100.6 **jurisdiction to age 18.** (a) Jurisdiction over a child in foster care pursuant to section  
100.7 260C.451 ~~may~~ shall continue to age 21 for the purpose of conducting the reviews required  
100.8 under section ~~260C.201, subdivision 11, paragraph (d), 260C.212, subdivision 7, or~~  
100.9 260C.317, subdivision 3, 260C.203, or 260C.515, subdivision 5 or 6. Jurisdiction over a  
100.10 child in foster care pursuant to section 260C.451 shall not be terminated without giving  
100.11 the child notice of any motion or proposed order to dismiss jurisdiction and an opportunity  
100.12 to be heard on the appropriateness of the dismissal. When a child in foster care pursuant to  
100.13 section 260C.451 asks to leave foster care or actually leaves foster care, the court may  
100.14 terminate its jurisdiction.

100.15 (b) ~~Except when a court order is necessary for a child to be in foster care or when~~  
100.16 ~~continued review under (1) section 260C.212, subdivision 7, paragraph (d), or 260C.201,~~  
100.17 ~~subdivision 11, paragraph (d), and (2) section 260C.317, subdivision 3, is required for a~~  
100.18 ~~child in foster care under section 260C.451,~~ The court may terminate jurisdiction on its  
100.19 own motion or the motion of any interested party upon a determination that jurisdiction is  
100.20 no longer necessary to protect the child's best interests except when:

100.21 (1) a court order is necessary for a child to be in foster care; or

100.22 (2) continued review under section 260C.203, 260C.515, subdivision 5 or 6, or  
100.23 260C.317, subdivision 3, is required for a child in foster care under section 260C.451.

100.24 (c) Unless terminated by the court, and except as otherwise provided in this  
100.25 subdivision, the jurisdiction of the court shall continue until the child becomes 18 years  
100.26 of age. The court may continue jurisdiction over an individual and all other parties to  
100.27 the proceeding to the individual's 19th birthday when continuing jurisdiction is in the  
100.28 individual's best interest in order to:

100.29 (1) protect the safety or health of the individual;

100.30 (2) accomplish additional planning for independent living or for the transition out of  
100.31 foster care; or

100.32 (3) support the individual's completion of high school or a high school equivalency  
100.33 program.

100.34 Sec. 16. Minnesota Statutes 2010, section 260C.201, subdivision 2, is amended to read:

101.1 Subd. 2. **Written findings.** (a) Any order for a disposition authorized under this  
101.2 section shall contain written findings of fact to support the disposition and case plan  
101.3 ordered and shall also set forth in writing the following information:

101.4 (1) why the best interests and safety of the child are served by the disposition and  
101.5 case plan ordered;

101.6 (2) what alternative dispositions or services under the case plan were considered by  
101.7 the court and why such dispositions or services were not appropriate in the instant case;

101.8 (3) when legal custody of the child is transferred, the appropriateness of the  
101.9 particular placement made or to be made by the placing agency using the factors in section  
101.10 260C.212, subdivision 2, paragraph (b);

101.11 (4) whether reasonable efforts to finalize the permanent plan for the child consistent  
101.12 with section 260.012 were made including reasonable efforts:

101.13 (i) to prevent or eliminate the necessity of the child's removal placement and to  
101.14 reunify the family after removal child with the parent or guardian from whom the child was  
101.15 removed at the earliest time consistent with the child's safety. The court's findings must  
101.16 include a brief description of what preventive and reunification efforts were made and  
101.17 why further efforts could not have prevented or eliminated the necessity of removal or that  
101.18 reasonable efforts were not required under section 260.012 or 260C.178, subdivision 1;

101.19 (ii) to identify and locate any noncustodial or nonresident parent of the child and to  
101.20 assess such parent's ability to provide day-to-day care of the child, and, where appropriate,  
101.21 provide services necessary to enable the noncustodial or nonresident parent to safely  
101.22 provide day-to-day care of the child as required under section 260C.219, unless such  
101.23 services are not required under section 260.012 or 260C.178, subdivision 1;

101.24 (iii) to make the diligent search for relatives and provide the notices required under  
101.25 section 260C.221; a finding made pursuant to a hearing under section 260C.202 that  
101.26 the agency has made diligent efforts to conduct a relative search and has appropriately  
101.27 engaged relatives who responded to the notice under section 260C.221 and other relatives,  
101.28 who came to the attention of the agency after notice under section 260C.221 was sent, in  
101.29 placement and case planning decisions fulfills the requirement of this item;

101.30 (iv) to identify and make a foster care placement in the home of an unlicensed  
101.31 relative, according to the requirements of section 245A.035, a licensed relative, or other  
101.32 licensed foster care provider who will commit to being the permanent legal parent or  
101.33 custodian for the child in the event reunification cannot occur, but who will actively  
101.34 support the reunification plan for the child; and

102.1 (v) to place siblings together in the same home or to ensure visitation is occurring  
102.2 when siblings are separated in foster care placement and visitation is in the siblings' best  
102.3 interests under section 260C.212, subdivision 2, paragraph (d); and

102.4 (5) if the child has been adjudicated as a child in need of protection or services  
102.5 because the child is in need of special services or care to treat or ameliorate a mental  
102.6 disability or emotional disturbance as defined in section 245.4871, subdivision 15, the  
102.7 written findings shall also set forth:

102.8 (i) whether the child has mental health needs that must be addressed by the case plan;

102.9 (ii) what consideration was given to the diagnostic and functional assessments  
102.10 performed by the child's mental health professional and to health and mental health care  
102.11 professionals' treatment recommendations;

102.12 (iii) what consideration was given to the requests or preferences of the child's parent  
102.13 or guardian with regard to the child's interventions, services, or treatment; and

102.14 (iv) what consideration was given to the cultural appropriateness of the child's  
102.15 treatment or services.

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

102.20 (c) If the child has been identified by the responsible social services agency as the  
102.21 subject of concurrent permanency planning, the court shall review the reasonable efforts  
102.22 of the agency to ~~recruit, identify, and make a placement in a home where the foster parent~~  
102.23 ~~or relative that has committed to being the legally permanent home for the child in the~~  
102.24 ~~event reunification efforts are not successful~~ develop a permanency plan for the child that  
102.25 includes a primary plan which is for reunification with the child's parent or guardian and a  
102.26 secondary plan which is for an alternative, legally permanent home for the child in the  
102.27 event reunification cannot be achieved in a timely manner.

102.28 Sec. 17. Minnesota Statutes 2010, section 260C.201, subdivision 10, is amended to  
102.29 read:

102.30 Subd. 10. **Court review of foster care.** (a) If the court orders a child placed  
102.31 in foster care, the court shall review the out-of-home placement plan and the child's  
102.32 placement at least every 90 days as required in juvenile court rules to determine whether  
102.33 continued out-of-home placement is necessary and appropriate or whether the child should  
102.34 be returned home. This review is not required if the court has returned the child home,  
102.35 ordered the child permanently placed away from the parent under subdivision 11, or

103.1 terminated rights under section 260C.301. Court review for a child permanently placed  
103.2 away from a parent, including where the child is under guardianship ~~and legal custody~~ of  
103.3 the commissioner, shall be governed by ~~subdivision 11 or section 260C.317, subdivision~~  
103.4 ~~3, whichever is applicable~~ 260C.607.

103.5 (b) No later than ~~six~~ three months after the child's placement in foster care, the court  
103.6 shall review agency efforts pursuant to section ~~260C.212, subdivision 2~~ 260C.221, and  
103.7 order that the efforts continue if the agency has failed to perform the duties under that  
103.8 section. The court must order the agency to continue to appropriately engage relatives  
103.9 who responded to the notice under section 260C.221 in placement and case planning  
103.10 decisions and to engage other relatives who came to the agency's attention after notice  
103.11 under section 260C.221 was sent.

103.12 (c) The court shall review the out-of-home placement plan and may modify the plan  
103.13 as provided under subdivisions 6 and 7.

103.14 (d) When the court orders transfer of custody to a responsible social services  
103.15 agency resulting in foster care or protective supervision with a noncustodial parent under  
103.16 subdivision 1, the court shall notify the parents of the provisions of ~~subdivisions 11 and~~  
103.17 subdivision 11a and sections 260C.503 to 260C.521, as required under juvenile court rules.

103.18 (e) When a child remains in or returns to foster care pursuant to section 260C.451 and  
103.19 the court has jurisdiction pursuant to section 260C.193, subdivision 6, paragraph (c), the  
103.20 court shall at least annually conduct the review required under ~~subdivision 11, paragraph~~  
103.21 ~~(d), or sections 260C.212, subdivision 7, and 260C.317, subdivision 3~~ section 260C.203.

103.22 Sec. 18. Minnesota Statutes 2010, section 260C.212, subdivision 5, is amended to read:

103.23 Subd. 5. **Relative search.** (a) The responsible social services agency shall exercise  
103.24 due diligence to identify and notify adult relatives prior to placement or within 30 days  
103.25 after the child's removal from the parent. The county agency shall consider placement with  
103.26 a relative under subdivision 2 without delay and whenever the child must move from or be  
103.27 returned to foster care. The relative search required by this section shall be ~~reasonable and~~  
103.28 ~~comprehensive in scope and may last up to six months or until a fit and willing relative~~  
103.29 ~~is identified.~~ After a finding that the agency has made reasonable efforts to conduct the  
103.30 relative search under this paragraph, the agency has the continuing responsibility to  
103.31 appropriately involve relatives, who have responded to the notice required under this  
103.32 paragraph, in planning for the child and to continue to consider relatives according to  
103.33 the requirements of section 260C.212, subdivision 2. At any time during the course of  
103.34 juvenile protection proceedings, the court may order the agency to reopen its search for  
103.35 relatives when it is in the child's best interest to do so. The relative search required by this

104.1 section shall include both maternal relatives ~~of the child~~ and paternal relatives of the child;  
104.2 ~~if paternity is adjudicated.~~ The search shall also include getting information from the child  
104.3 in an age-appropriate manner about who the child considers to be family members and  
104.4 important friends with whom the child has resided or had significant contact. The relative  
104.5 search required under this section must fulfill the agency's duties under the Indian Child  
104.6 Welfare Act regarding active efforts to prevent the breakup of the Indian family under  
104.7 United States Code, title 25, section 1912(d), and to meet placement preferences under  
104.8 United States Code, title 25, section 1915. The relatives must be notified:

104.9 (1) of the need for a foster home for the child, the option to become a placement  
104.10 resource for the child, and the possibility of the need for a permanent placement for the  
104.11 child;

104.12 (2) of their responsibility to keep the responsible social services agency informed of  
104.13 their current address in order to receive notice in the event that a permanent placement is  
104.14 sought for the child. A relative who fails to provide a current address to the responsible  
104.15 social services agency forfeits the right to notice of the possibility of permanent placement.  
104.16 A decision by a relative not to be identified as a potential permanent placement resource  
104.17 or participate in planning for the child at the beginning of the case shall not affect whether  
104.18 the relative is considered for placement of the child with that relative later;

104.19 (3) that the relative may participate in the care and planning for the child, including  
104.20 that the opportunity for such participation may be lost by failing to respond to the notice,  
104.21 "Participate in the care and planning" includes, but is not limited to, participation in case  
104.22 planning for the parent and child, identifying the strengths and needs of the parent and  
104.23 child, supervising visits, providing respite and vacation visits for the child, providing  
104.24 transportation to appointments, suggesting other relatives who might be able to help  
104.25 support the case plan, and to the extent possible, helping to maintain the child's familiar  
104.26 and regular activities and contact with friends and relatives; ~~and~~

104.27 (4) of the family foster care licensing requirements, including how to complete an  
104.28 application and how to request a variance from licensing standards that do not present a  
104.29 safety or health risk to the child in the home under section 245A.04 and supports that are  
104.30 available for relatives and children who reside in a family foster home; and

104.31 (5) of the relatives' right to ask to be notified of any court proceedings regarding  
104.32 the child, to attend the hearings, and of a relative's right or opportunity to be heard by the  
104.33 court as required under section 260C.152, subdivision 5.

104.34 (b) A responsible social services agency may disclose private ~~or confidential~~ data,  
104.35 as defined in ~~section~~ sections 13.02 and 626.556, to relatives of the child for the purpose  
104.36 of locating and assessing a suitable placement and may use any reasonable means of



105.1 identifying and locating relatives including the Internet or other electronic means of  
105.2 conducting a search. The agency shall disclose ~~only~~ data that is necessary to facilitate  
105.3 possible placement with relatives and to ensure that the relative is informed of the needs  
105.4 of the child so the relative can participate in planning for the child and be supportive of  
105.5 services to the child and family. If the child's parent refuses to give the responsible social  
105.6 services agency information sufficient to identify the maternal and paternal relatives of the  
105.7 child, the agency shall ask the juvenile court to order the parent to provide the necessary  
105.8 information. If a parent makes an explicit request that relatives or a specific relative not be  
105.9 contacted or considered for placement, the agency shall bring the parent's request to the  
105.10 attention of the court to determine whether the parent's request is consistent with the best  
105.11 interests of the child and the agency shall not contact relatives or a specific relative unless  
105.12 authorized to do so by the juvenile court.

105.13 (c) At a regularly scheduled hearing not later than three months after the child's  
105.14 placement in foster care and as required in section 260C.202, the agency shall report to  
105.15 the court:

105.16 (1) its efforts to identify maternal and paternal relatives of the child, to engage the  
105.17 relatives in providing support for the child and family, and document that the relatives  
105.18 have been provided the notice required under paragraph (a); and

105.19 (2) its decision regarding placing the child with a relative as required under section  
105.20 260C.212, subdivision 2, and to ask relatives to visit or maintain contact with the child in  
105.21 order to support family connections for the child, when placement with a relative is not  
105.22 possible or appropriate.

105.23 (d) Notwithstanding chapter 13, the agency shall disclose data about particular  
105.24 relatives identified, searched for, and contacted for the purposes of the court's review of  
105.25 the agency's due diligence.

105.26 (e) When the court is satisfied that the agency has exercised due diligence to  
105.27 identify relatives and provide the notice required in paragraph (a), the court may find that  
105.28 reasonable efforts have been made to conduct a relative search to identify and provide  
105.29 notice to adult relatives as required under section 260.012, paragraph (e), clause (3). If the  
105.30 court is not satisfied that the agency has exercised due diligence to identify relatives and  
105.31 provide the notice required in paragraph (a), the court may order the agency to continue its  
105.32 search and notice efforts and to report back to the court.

105.33 (f) When the placing agency determines that a permanent placement hearing is  
105.34 proceedings are necessary because there is a likelihood that the child will not return to a  
105.35 parent's care, the agency ~~may~~ must send the notice provided in paragraph (d) (g), may ask  
105.36 the court to modify the requirements duty of the agency under this paragraph to send the

106.1 notice required in paragraph (g), or may ask the court to completely relieve the agency  
106.2 of the requirements of ~~this paragraph (g)~~. The relative notification requirements of ~~this~~  
106.3 paragraph (g) do not apply when the child is placed with an appropriate relative or a  
106.4 foster home that has committed to ~~being the~~ adopting the child or taking permanent legal  
106.5 placement for and physical custody of the child and the agency approves of that foster  
106.6 home for permanent placement of the child. The actions ordered by the court under this  
106.7 section must be consistent with the best interests, safety, permanency, and welfare of  
106.8 the child.

106.9 ~~(d)~~ (g) Unless required under the Indian Child Welfare Act or relieved of this duty  
106.10 by the court under paragraph ~~(e)~~ (e), when the agency determines that it is necessary to  
106.11 prepare for ~~the~~ permanent placement determination ~~hearing proceedings,~~ or in anticipation  
106.12 of filing a termination of parental rights petition, the agency shall send notice to the  
106.13 relatives, any adult with whom the child is currently residing, any adult with whom the  
106.14 child has resided for one year or longer in the past, and any adults who have maintained a  
106.15 relationship or exercised visitation with the child as identified in the agency case plan. The  
106.16 notice must state that a permanent home is sought for the child and that the individuals  
106.17 receiving the notice may indicate to the agency their interest in providing a permanent  
106.18 home. The notice must state that within 30 days of receipt of the notice an individual  
106.19 receiving the notice must indicate to the agency the individual's interest in providing  
106.20 a permanent home for the child or that the individual may lose the opportunity to be  
106.21 considered for a permanent placement.

106.22 ~~(e) The Department of Human Services shall develop a best practices guide and~~  
106.23 ~~specialized staff training to assist the responsible social services agency in performing and~~  
106.24 ~~complying with the relative search requirements under this subdivision.~~

106.25 Sec. 19. Minnesota Statutes 2010, section 260C.212, subdivision 7, is amended to read:

106.26 Subd. 7. **Administrative or court review of placements.** (a) Unless the court is  
106.27 conducting the reviews required under section 260C.202, there shall be an administrative  
106.28 review of the out-of-home placement plan of each child placed in foster care no later than  
106.29 180 days after the initial placement of the child in foster care and at least every six months  
106.30 thereafter if the child is not returned to the home of the parent or parents within that time.  
106.31 The out-of-home placement plan must be monitored and updated at each administrative  
106.32 review. The administrative review shall be conducted by the responsible social services  
106.33 agency using a panel of appropriate persons at least one of whom is not responsible for the  
106.34 case management of, or the delivery of services to, either the child or the parents who are

the subject of the review. The administrative review shall be open to participation by the parent or guardian of the child and the child, as appropriate.

(b) As an alternative to the administrative review required in paragraph (a), the court may, as part of any hearing required under the Minnesota Rules of Juvenile Protection Procedure, conduct a hearing to monitor and update the out-of-home placement plan pursuant to the procedure and standard in section 260C.201, subdivision 6, paragraph (d). The party requesting review of the out-of-home placement plan shall give parties to the proceeding notice of the request to review and update the out-of-home placement plan. A court review conducted pursuant to section 260C.141, subdivision 2; 260C.193; 260C.201, subdivision 1 or 11; 260C.141, subdivision 2; 260C.317 260C.202; 260C.204; 260C.317; or 260D.06 shall satisfy the requirement for the review so long as the other requirements of this section are met.

(c) As appropriate to the stage of the proceedings and relevant court orders, the responsible social services agency or the court shall review:

- (1) the safety, permanency needs, and well-being of the child;
  - (2) the continuing necessity for and appropriateness of the placement;
  - (3) the extent of compliance with the out-of-home placement plan;
  - (4) the extent of progress ~~which~~ that has been made toward alleviating or mitigating the causes necessitating placement in foster care;
  - (5) the projected date by which the child may be returned to and safely maintained in the home or placed permanently away from the care of the parent or parents or guardian;
- and
- (6) the appropriateness of the services provided to the child.

(d) When a child is age 16 or older, in addition to any administrative review conducted by the agency, at the in-court review required under section ~~260C.201, subdivision 11, or 260C.317, subdivision 3, clause (3), or 260C.515, subdivision 5 or 6,~~ the court shall review the independent living plan required under section 260C.201, subdivision 1, paragraph (c), clause (11), and the provision of services to the child related to the well-being of the child as the child prepares to leave foster care. The review shall include the actual plans related to each item in the plan necessary to the child's future safety and well-being when the child is no longer in foster care.

~~(+)~~ (e) At the court review required under paragraph (d) for a child age 16 or older the following procedures apply:

- (1) six months before the child is expected to be discharged from foster care, the responsible social services agency shall establish that it has given give the written notice required under section 260C.456 or Minnesota Rules, part 9560.0660 260C.451,

108.1 subdivision 1, regarding the right to continued access to services for certain children in  
108.2 foster care past age 18 and of the right to appeal a denial of social services under section  
108.3 256.045. ~~If The agency is unable to establish that~~ shall file a copy of the notice, including  
108.4 the right to appeal a denial of social services, ~~has been given, with the court. If the agency~~  
108.5 does not file the notice by the time the child is age 17-1/2, the court shall require the  
108.6 agency to give it;

108.7 (2) consistent with the requirements of the independent living plan, the court shall  
108.8 review progress toward or accomplishment of the following goals:

108.9 (i) the child has obtained a high school diploma or its equivalent;

108.10 (ii) the child has completed a driver's education course or has demonstrated the  
108.11 ability to use public transportation in the child's community;

108.12 (iii) the child is employed or enrolled in postsecondary education;

108.13 (iv) the child has applied for and obtained postsecondary education financial aid for  
108.14 which the child is eligible;

108.15 (v) the child has health care coverage and health care providers to meet the child's  
108.16 physical and mental health needs;

108.17 (vi) the child has applied for and obtained disability income assistance for which  
108.18 the child is eligible;

108.19 (vii) the child has obtained affordable housing with necessary supports, which does  
108.20 not include a homeless shelter;

108.21 (viii) the child has saved sufficient funds to pay for the first month's rent and a  
108.22 damage deposit;

108.23 (ix) the child has an alternative affordable housing plan, which does not include a  
108.24 homeless shelter, if the original housing plan is unworkable;

108.25 (x) the child, if male, has registered for the Selective Service; and

108.26 (xi) the child has a permanent connection to a caring adult; and

108.27 (3) the court shall ensure that the responsible agency in conjunction with the  
108.28 placement provider assists the child in obtaining the following documents prior to the  
108.29 child's leaving foster care: a Social Security card; the child's birth certificate; a state  
108.30 identification card or driver's license, green card, or school visa; the child's school,  
108.31 medical, and dental records; a contact list of the child's medical, dental, and mental health  
108.32 providers; and contact information for the child's siblings, if the siblings are in foster care.

108.33 ~~(c) When a child is age 17 or older, during the 90-day period immediately prior to~~  
108.34 ~~the date the child is expected to be discharged from foster care, the responsible social~~  
108.35 ~~services agency is required to provide the child with assistance and support in developing~~  
108.36 ~~a transition plan that is personalized at the direction of the child. (f) For a child who~~

109.1 will be discharged from foster care at age 18 or older, the responsible social services  
109.2 agency is required to develop a personalized transition plan as directed by the youth. The  
109.3 transition plan must be developed during the 90-day period immediately prior to the  
109.4 expected date of discharge. The transition plan must be as detailed as the child may elect  
109.5 and include specific options on housing, health insurance, education, local opportunities  
109.6 for mentors and continuing support services, and work force supports and employment  
109.7 services. The plan must include information on the importance of designating another  
109.8 individual to make health care treatment decisions on behalf of the child if the child  
109.9 becomes unable to participate in these decisions and the child does not have, or does not  
109.10 want, a relative who would otherwise be authorized to make these decisions. The plan  
109.11 must provide the child with the option to execute a health care directive as provided  
109.12 under chapter 145C. The county shall also provide the individual with appropriate contact  
109.13 information if the individual needs more information or needs help dealing with a crisis  
109.14 situation through age 21.

109.15 Sec. 20. Minnesota Statutes 2010, section 260C.215, subdivision 4, is amended to read:

109.16 Subd. 4. ~~Consultation with representatives~~ Duties of commissioner.

109.17 The commissioner of human services, ~~after seeking and considering advice from~~  
109.18 ~~representatives reflecting diverse populations from the councils established under sections~~  
109.19 ~~3.922, 3.9223, 3.9225, and 3.9226, and other state, local, and community organizations~~  
109.20 shall:

109.21 (1) ~~review and, where necessary, revise the Department of Human Services Social~~  
109.22 ~~Service Manual and Practice Guide~~ provide practice guidance to responsible social  
109.23 services agencies and child-placing agencies that reflect federal and state laws and policy  
109.24 direction on placement of children;

109.25 (2) develop criteria for determining whether a prospective adoptive or foster family  
109.26 has the ability to understand and validate the child's cultural background;

109.27 (3) ~~develop~~ provide a standardized training curriculum for adoption and foster care  
109.28 workers, ~~family-based providers,~~ and administrators who work with children. Training  
109.29 must address the following objectives:

109.30 ~~(a)~~ (i) developing and maintaining sensitivity to all cultures;

109.31 ~~(b)~~ (ii) assessing values and their cultural implications; ~~and~~

109.32 ~~(c)~~ (iii) making individualized placement decisions that advance the best interests of  
109.33 a particular child under section 260C.212, subdivision 2; and

109.34 (iv) issues related to cross-cultural placement;

(4) ~~develop~~ provide a training curriculum for ~~family and extended family members~~ all prospective adoptive and foster families that prepares them to care for the needs of adoptive and foster children. The curriculum must address issues relating to cross-cultural placements as well as issues that arise after a foster or adoptive placement is made taking into consideration the needs of children outlined in section 260C.212, subdivision 2, paragraph (b); and

(5) develop and provide to agencies ~~an assessment tool to be used in combination with group interviews and other preplacement activities~~ a home study format to evaluate assess the capacities and needs of prospective adoptive and foster families. The tool format must assess address problem-solving skills; identify parenting skills; and evaluate the degree to which the prospective family has the ability to understand and validate the child's cultural background, and other issues needed to provide sufficient information for agencies to make an individualized placement decision consistent with section 260C.212, subdivision 2. If a prospective adoptive parent has also been a foster parent, any update necessary to a home study for the purpose of adoption may be completed by the licensing authority responsible for the foster parent's license. If a prospective adoptive parent with an approved adoptive home study also applies for a foster care license, the license application may be made with the same agency which provided the adoptive home study; and

(6) shall consult with representatives reflecting diverse populations from the councils established under sections 3.922, 3.9223, 3.9225, and 3.9226, and other state, local, and community organizations.

Sec. 21. Minnesota Statutes 2010, section 260C.215, subdivision 6, is amended to read:

Subd. 6. **Duties of child-placing agencies.** (a) Each authorized child-placing agency must:

(1) develop and follow procedures for implementing the requirements of section ~~260C.193, subdivision 3~~ 260C.212, subdivision 2, and the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923;

(2) have a written plan for recruiting adoptive and foster families that reflect the ethnic and racial diversity of children who are in need of foster and adoptive homes.

The plan must include:

(i) strategies for using existing resources in diverse communities;

(ii) use of diverse outreach staff wherever possible;

(iii) use of diverse foster homes for placements after birth and before adoption; and

(iv) other techniques as appropriate;

(3) have a written plan for training adoptive and foster families;

(4) have a written plan for employing staff in adoption and foster care who have the capacity to assess the foster and adoptive parents' ability to understand and validate a child's cultural and meet the child's individual needs, and to advance the best interests of the child, as required in section 260C.212, subdivision 2. The plan must include staffing goals and objectives;

(5) ensure that adoption and foster care workers attend training offered or approved by the Department of Human Services regarding cultural diversity and the needs of special needs children; and

(6) develop and implement procedures for implementing the requirements of the Indian Child Welfare Act and the Minnesota Indian Family Preservation Act.

(b) In determining the suitability of a proposed placement of an Indian child, the standards to be applied must be the prevailing social and cultural standards of the Indian child's community, and the agency shall defer to tribal judgment as to suitability of a particular home when the tribe has intervened pursuant to the Indian Child Welfare Act.

Sec. 22. **[260C.229] VOLUNTARY FOSTER CARE FOR CHILDREN OVER AGE 18; REQUIRED COURT REVIEW.**

(a) When a child asks to continue or to reenter foster care after age 18 under section 260C.451, the child and the responsible social services agency may enter into a voluntary agreement for the child to be in foster care under the terms of section 260C.451. The voluntary agreement must be in writing and on a form prescribed by the commissioner.

(b) When the child is in foster care pursuant to a voluntary foster care agreement between the agency and child and the child is not already under court jurisdiction pursuant to section 260C.193, subdivision 6, the agency responsible for the child's placement in foster care shall:

(1) file a motion to reopen the juvenile protection matter where the court previously had jurisdiction over the child within 30 days of the child and the agency executing the voluntary placement agreement under paragraph (a) and ask the court to review the child's placement in foster care and find that the placement is in the best interests of the child; and

(2) file the out-of-home placement plan required under subdivision 1 with the motion to reopen jurisdiction.

(c) The court shall conduct a hearing on the matter within 30 days of the agency's motion to reopen the matter and, if the court finds that placement is in the best interest of the child, shall conduct the review for the purpose and with the content required under section 260C.203, at least every 12 months as long as the child continues in foster care.

112.1 Sec. 23. Minnesota Statutes 2010, section 260C.301, subdivision 8, is amended to read:

112.2 Subd. 8. **Findings regarding reasonable efforts.** In any proceeding under this  
112.3 section, the court shall make specific findings:

112.4 (1) that reasonable efforts to ~~prevent the placement and~~ finalize the permanency  
112.5 plan to reunify the child and the parent were made including individualized and explicit  
112.6 findings regarding the nature and extent of efforts made by the social services agency to  
112.7 rehabilitate the parent and reunite the family; or

112.8 (2) that reasonable efforts ~~at~~ for reunification are not required as provided under  
112.9 section 260.012.

112.10 Sec. 24. Minnesota Statutes 2010, section 260C.328, is amended to read:

112.11 **260C.328 CHANGE OF GUARDIAN; TERMINATION OF GUARDIANSHIP.**

112.12 (a) Upon its own motion or upon petition of an interested party, the juvenile court  
112.13 having jurisdiction of the child may, after notice to the parties and a hearing, remove  
112.14 the guardian appointed by the juvenile court and appoint a new guardian in accordance  
112.15 with the provisions of section 260C.325, subdivision 1, clause (a), (b), or (c). Upon a  
112.16 showing that the child is emancipated, the court may discharge the guardianship. Any  
112.17 child 14 years of age or older who is not adopted but who is placed in a satisfactory foster  
112.18 home, may, with the consent of the foster parents, join with the guardian appointed by the  
112.19 juvenile court in a petition to the court having jurisdiction of the child to discharge the  
112.20 existing guardian and appoint the foster parents as guardians of the child.

112.21 (b) The authority of a guardian appointed by the juvenile court terminates when the  
112.22 individual under guardianship ~~is no longer a minor or when guardianship is otherwise~~  
112.23 ~~discharged~~ becomes age 18. However, an individual who has been under the guardianship  
112.24 of the commissioner and who has not been adopted may continue in foster care or reenter  
112.25 foster care pursuant to section 260C.451 and the responsible social services agency has  
112.26 continuing legal responsibility for the placement of the individual.

112.27 Sec. 25. Minnesota Statutes 2010, section 260C.451, is amended to read:

112.28 **260C.451 FOSTER CARE BENEFITS ~~TO AGE 21~~ PAST AGE 18.**

112.29 Subdivision 1. **Notification of benefits.** ~~Within the~~ Six months prior to the child's  
112.30 18th birthday, the ~~local~~ responsible social services agency shall ~~advise~~ provide written  
112.31 notice on a form prescribed by the commissioner of human services to any child in foster  
112.32 care under this chapter who cannot reasonably be expected to return home or have another  
112.33 legally permanent family by the age of 18, the child's parents or legal guardian, if any, and



the child's guardian ad litem, and the child's foster parents of the availability of benefits of the foster care program up to age 21, when the child is eligible under subdivisions 3 and 3a.

Subd. 2. **Independent living plan.** Upon the request of any child ~~receiving~~ in foster care ~~benefits~~ immediately prior to the child's 18th birthday and who is in foster care at the time of the request, the ~~local~~ responsible social services agency shall, in conjunction with the child and other appropriate parties, update the independent living plan required under section 260C.212, subdivision 1, paragraph (c), clause (11), related to the child's employment, vocational, educational, social, or maturational needs. The agency shall provide continued services and foster care for the child including those services that are necessary to implement the independent living plan.

Subd. 3. **Eligibility to continue in foster care.** A child ~~already~~ in foster care immediately prior to the child's 18th birthday may continue in foster care past age 18 unless:

(1) the child can safely return home;

(2) the child is in placement pursuant to the agency's duties under section 256B.092 and Minnesota Rules, parts 9525.0004 to 9525.0016, to meet the child's needs due to developmental disability or related condition, and the child will be served as an adult under section 256B.092 and Minnesota Rules, parts 9525.0004 to 9525.0016; or

(3) the child can be adopted or have permanent legal and physical custody transferred to a relative prior to the child's 18th birthday.

Subd. 3a. **Eligibility criteria.** The child must meet at least one of the following conditions to be considered eligible to continue in or return to foster care and remain there to age 21. The child must be:

(1) completing secondary education or a program leading to an equivalent credential;

(2) enrolled in an institution ~~which~~ that provides postsecondary or vocational education;

(3) participating in a program or activity designed to promote or remove barriers to employment;

(4) employed for at least 80 hours per month; or

(5) incapable of doing any of the activities described in clauses (1) to (4) due to a medical condition.

Subd. 4. **Foster care benefits.** For children between the ages of 18 and 21, "foster care benefits" means payment for those foster care settings defined in section 260C.007, subdivision 18. Additionally, foster care benefits means payment for a supervised setting, approved by the responsible social services agency, in which a child may live independently.

Subd. 5. ~~Permanent decision~~ **Foster care setting.** The particular foster care setting, including supervised settings, shall be selected by the agency and the child based on the best interest of the child consistent with section 260C.212, subdivision 2. Supervision in approved settings must be determined by an individual determination of the child's needs by the responsible social services agency and consistent with section 260C.212, subdivision 4a.

Subd. 6. ~~Individual plan to age 21~~ **Reentering foster care and accessing services after age 18.** (a) Upon request of an individual between the ages of 18 and 21 who, ~~within six months of the individual's 18th birthday,~~ had been under the guardianship of the commissioner and who has left foster care without being adopted, the responsible social services agency which had been the commissioner's agent for purposes of the guardianship shall develop with the individual a plan ~~related to the individual's vocational, educational, social, or maturational needs~~ to increase the individual's ability to live safely and independently using the plan requirements of section 260C.212, subdivision 1, paragraph (b), clause (11), and to assist the individual to meet one or more of the eligibility criteria in subdivision 4 if the individual wants to reenter foster care. The agency shall provide foster care ~~with maintenance and counseling benefits~~ as required to implement the plan. The agency shall enter into a voluntary placement agreement under section 260C.229 with the individual if the plan includes foster care.

(b) Individuals who had not been under the guardianship of the commissioner of human services prior to age 18 and are between the ages of 18 and 21 may ask to reenter foster care after age 18 and, to the extent funds are available, the responsible social services agency that had responsibility for planning for the individual before discharge from foster care may provide foster care or other services to the individual for the purpose of increasing the individual's ability to live safely and independently and to meet the eligibility criteria in subdivision 3a, if the individual:

(1) was in foster care for the six consecutive months prior to the person's 18th birthday and was not discharged home, adopted, or received into a relative's home under a transfer of permanent legal and physical custody under section 260C.515, subdivision 4; or

(2) was discharged from foster care while on runaway status after age 15.

(c) In conjunction with a qualifying and eligible individual under paragraph (b) and other appropriate persons, the responsible social services agency shall develop a specific plan related to that individual's vocational, educational, social, or maturational needs and, to the extent funds are available, provide foster care as required to implement the plan. The agency shall enter into a voluntary placement agreement with the individual if the plan includes foster care.

(d) Youth who left foster care while under guardianship of the commissioner of human services retain eligibility for foster care for placement at any time between the ages of 18 and 21.

Subd. 7. **Jurisdiction.** ~~Notwithstanding that the court retains jurisdiction pursuant to this section,~~ Individuals in foster care pursuant to this section are adults for all purposes except the continued provision of foster care. Any order establishing guardianship under section 260C.325, any legal custody order under section 260C.201, subdivision 1, and any order for legal custody associated with an order for ~~long-term foster care~~ permanent custody under section ~~260C.201, subdivision 1~~ 260C.515, subdivision 5, terminates on the child's 18th birthday. The responsible social services agency has legal responsibility for the individual's placement and care when the matter continues under court jurisdiction pursuant to section 260C.193 or when the individual and the responsible agency execute a voluntary placement agreement pursuant to section 260C.229.

Subd. 8. **Notice of termination of foster care.** When a child in foster care between the ages of 18 and 21 ceases to meet one of the eligibility criteria of subdivision 3a, the responsible social services agency shall give the child written notice that foster care will terminate 30 days from the date the notice is sent. The child or the child's guardian ad litem may file a motion asking the court to review the agency's determination within 15 days of receiving the notice. The child shall not be discharged from foster care until the motion is heard. The agency shall work with the child to transition out of foster care as required under section 260C.203, paragraph (e). The written notice of termination of benefits shall be on a form prescribed by the commissioner and shall also give notice of the right to have the agency's determination reviewed by the court in the proceeding where the court conducts the reviews required under section 260C.203, 260C.317, or 260C.515, subdivision 5 or 6. A copy of the termination notice shall be sent to the child and the child's attorney, if any, the foster care provider, the child's guardian ad litem, and the court. The agency is not responsible for paying foster care benefits for any period of time after the child actually leaves foster care.

Sec. 26. **[260C.503] PERMANENCY PROCEEDINGS.**

Subdivision 1. **Required permanency proceedings.** Except for children in foster care pursuant to chapter 260D, where the child is in foster care or in the care of a noncustodial or nonresident parent, the court shall commence proceedings to determine the permanent status of a child by holding the admit-deny hearing required under section 260C.507 not later than 12 months after the child is placed in foster care or in the care of a

noncustodial or nonresident parent. Permanency proceedings for children in foster care pursuant to chapter 260D shall be according to section 260D.07.

Subd. 2. **Termination of parental rights.** (a) The responsible social services agency must ask the county attorney to immediately file a termination of parental rights petition when:

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

(2) the child is determined to be the sibling of a child who was subjected to egregious harm;

(3) the child is an abandoned infant as defined in section 260C.301, subdivision 3, paragraph (b), clause (2);

(4) the child's parent has lost parental rights to another child through an order involuntarily terminating the parent's rights;

(5) the parent has committed sexual abuse as defined in section 626.556, subdivision 2, against the child or another child of the parent;

(6) the parent has committed an offense that requires registration as a predatory offender under section 243.166, subdivision 1b, paragraph (a) or (b); or

(7) another child of the parent is the subject of an order involuntarily transferring permanent legal and physical custody of the child to a relative under this chapter or a similar law of another jurisdiction;

The county attorney shall file a termination of parental rights petition unless the conditions of paragraph (d) are met.

(b) When the termination of parental rights petition is filed under this subdivision, the responsible social services agency shall identify, recruit, and approve an adoptive family for the child. If a termination of parental rights petition has been filed by another party, the responsible social services agency shall be joined as a party to the petition.

(c) If criminal charges have been filed against a parent arising out of the conduct alleged to constitute egregious harm, the county attorney shall determine which matter should proceed to trial first, consistent with the best interests of the child and subject to the defendant's right to a speedy trial.

(d) The requirement of paragraph (a) does not apply if the responsible social services agency and the county attorney determine and file with the court:

(1) a petition for transfer of permanent legal and physical custody to a relative under sections 260C.505 and 260C.515, subdivision 3, including a determination that adoption is not in the child's best interests and that transfer of permanent legal and physical custody is in the child's best interests; or

(2) a petition under section 260C.141 alleging the child, and where appropriate, the child's siblings, to be in need of protection or services accompanied by a case plan prepared by the responsible social services agency documenting a compelling reason why filing a termination of parental rights petition would not be in the best interests of the child.

Subd. 3. **Calculating time to required permanency proceedings.** (a) For purposes of this section, the date of the child's placement in foster care is the earlier of the first court-ordered placement or 60 days after the date on which the child has been voluntarily placed in foster care by the child's parent or guardian. For purposes of this section, time spent by a child in the home of the noncustodial parent pursuant to court order under section 260C.178 or under the protective supervision of the responsible social services agency in the home of the noncustodial parent pursuant to an order under section 260C.201, subdivision 1, counts towards the requirement of a permanency hearing under this section. Time spent on a trial home visit counts towards the requirement of a permanency hearing under this section and the permanency progress review required under section 260C.204.

(b) For the purposes of this section, 12 months is calculated as follows:

(1) during the pendency of a petition alleging that a child is in need of protection or services, all time periods when a child is placed in foster care or in the home of a noncustodial parent are cumulated;

(2) if a child has been placed in foster care within the previous five years under one or more previous petitions, the lengths of all prior time periods when the child was placed in foster care within the previous five years are cumulated. If a child under this clause has been in foster care for 12 months or more, the court, if it is in the best interests of the child and for compelling reasons, may extend the total time the child may continue out of the home under the current petition up to an additional six months before making a permanency determination.

(c) If the child is on a trial home visit 12 months after the child was placed in foster care or in the care of a noncustodial parent, the responsible social services agency may file a report with the court regarding the child's and parent's progress on the trial home visit and the agency's reasonable efforts to finalize the child's safe and permanent return to the care of the parent in lieu of filing the petition required under section 260C.505. The court shall make findings regarding the reasonable efforts of the agency to finalize the child's return home as the permanency disposition order in the best interests of the child. The court may continue the trial home visit to a total time not to exceed six months as provided in section 260C.201, subdivision 1, paragraph (a), clause (3). If the court finds the agency has not made reasonable efforts to finalize the child's return home as the permanency disposition

118.1 order in the child's best interests, the court may order other or additional efforts to support  
118.2 the child remaining in the care of the parent. If a trial home visit ordered or continued at  
118.3 permanency proceedings under sections 260C.503 to 260C.521 terminates, the court shall  
118.4 commence or recommence permanency proceedings under this chapter no later than 30  
118.5 days after the child is returned to foster care or to the care of a noncustodial parent.

118.6 Sec. 27. **[260C.505] PETITION.**

118.7 (a) A permanency or termination of parental rights petition must be filed at or  
118.8 prior to the time the child has been in foster care or in the care of a noncustodial or  
118.9 nonresident parent for 11 months or in the expedited manner required in section 260C.503,  
118.10 subdivision 2, paragraph (a). The court administrator shall serve the petition as required  
118.11 in the Minnesota Rules of Juvenile Protection Procedure and section 260C.152 for the  
118.12 admit-deny hearing on the petition required in section 260C.507.

118.13 (b) A petition under this section is not required if the responsible social services  
118.14 agency intends to recommend that the child return to the care of the parent from whom  
118.15 the child was removed at or prior to the time the court is required to hold the admit-deny  
118.16 hearing required under section 260C.507.

118.17 Sec. 28. **[260C.507] ADMIT-DENY HEARING.**

118.18 (a) An admit-deny hearing on the permanency or termination of parental rights  
118.19 petition shall be held not later than 12 months from the child's placement in foster care or  
118.20 an order for the child to be in the care of a noncustodial or nonresident parent.

118.21 (b) An admit-deny hearing on the termination of parental rights or transfer of  
118.22 permanent legal and physical custody petition required to be immediately filed under  
118.23 section 260C.503, subdivision 2, paragraph (a), shall be within ten days of the filing  
118.24 of the petition.

118.25 (c) At the admit-deny hearing, the court shall determine whether there is a prima  
118.26 facie basis for finding that the agency made reasonable efforts, or in the case of an Indian  
118.27 child active efforts, for reunification as required or that reasonable efforts for reunification  
118.28 are not required under section 260.012 and proceed according to the Minnesota Rules of  
118.29 Juvenile Protection Procedure.

118.30 Sec. 29. **[260C.509] TRIAL.**

118.31 The permanency proceedings shall be conducted in a timely fashion including  
118.32 that any trial required under section 260C.163 shall be commenced within 60 days of

119.1 the admit-deny hearing required under section 260C.507. At the conclusion of the  
119.2 permanency proceedings, the court shall:

119.3 (1) order the child returned to the care of the parent or guardian from whom the  
119.4 child was removed; or

119.5 (2) order a permanency disposition under section 260C.515 or termination of  
119.6 parental rights under sections 260C.301 to 260C.328 if a permanency disposition order or  
119.7 termination of parental rights is in the child's best interests.

119.8 Sec. 30. **[260C.511] BEST INTERESTS OF THE CHILD.**

119.9 (a) The "best interests of the child" means all relevant factors to be considered  
119.10 and evaluated.

119.11 (b) In making a permanency disposition order or termination of parental rights,  
119.12 the court must be governed by the best interests of the child, including a review of the  
119.13 relationship between the child and relatives and the child and other important persons with  
119.14 whom the child has resided or had significant contact.

119.15 Sec. 31. **[260C.513] PERMANENCY DISPOSITIONS WHEN CHILD CANNOT**  
119.16 **RETURN HOME.**

119.17 (a) Termination of parental rights and adoption, or guardianship to the commissioner  
119.18 of human services through a consent to adopt are preferred permanency options for a  
119.19 child who cannot return home. If the court finds that termination of parental rights and  
119.20 guardianship to the commissioner is not in the child's best interests, the court may transfer  
119.21 permanent legal and physical custody of the child to a relative when that order is in the  
119.22 child's best interests.

119.23 (b) When the court has determined that permanent placement of the child away from  
119.24 the parent is necessary, the court shall consider permanent alternative homes that are  
119.25 available both inside and outside the state.

119.26 Sec. 32. **[260C.515] PERMANENCY DISPOSITION ORDERS.**

119.27 Subdivision 1. **Court order required.** If the child is not returned to the home at or  
119.28 before the conclusion of permanency proceedings under sections 260C.503 to 260C.521,  
119.29 the court must order one of the permanency dispositions in this section.

119.30 Subd. 2. **Termination of parental rights.** The court may order:

119.31 (1) termination of parental rights when the requirements of sections 260C.301 to  
119.32 260C.328 are met; or

120.1 (2) the responsible social services agency to file a petition for termination of  
120.2 parental rights in which case all the requirements of sections 260C.301 to 260C.328  
120.3 remain applicable.

120.4 Subd. 3. **Guardianship; commissioner.** The court may order guardianship to the  
120.5 commissioner of human services under the following procedures and conditions:

120.6 (1) there is an identified prospective adoptive parent agreed to by the responsible  
120.7 social services agency having legal custody of the child pursuant to court order under this  
120.8 chapter and that prospective adoptive parent has agreed to adopt the child;

120.9 (2) the court accepts the parent's voluntary consent to adopt in writing on a form  
120.10 prescribed by the commissioner, executed before two competent witnesses and confirmed  
120.11 by the consenting parent before the court or executed before court. The consent shall  
120.12 contain notice that consent given under this chapter:

120.13 (i) is irrevocable upon acceptance by the court unless fraud is established and an  
120.14 order issues permitting revocation as stated in clause (9) unless the matter is governed by  
120.15 the Indian Child Welfare Act, United States Code, title 25, section 1913(c); and

120.16 (ii) will result in an order that the child is under the guardianship of the commissioner  
120.17 of human services;

120.18 (3) a consent executed and acknowledged outside of this state, either in accordance  
120.19 with the law of this state or in accordance with the law of the place where executed, is  
120.20 valid;

120.21 (4) the court must review the matter at least every 90 days under section 260C.317;

120.22 (5) a consent to adopt under this subdivision vests guardianship of the child with  
120.23 the commissioner of human services and makes the child a ward of the commissioner of  
120.24 human services under section 260C.325;

120.25 (6) the court must forward to the commissioner a copy of the consent to adopt,  
120.26 together with a certified copy of the order transferring guardianship to the commissioner;

120.27 (7) if an adoption is not finalized by the identified prospective adoptive parent within  
120.28 six months of the execution of the consent to adopt under this clause, the responsible  
120.29 social services agency shall pursue adoptive placement in another home unless the court  
120.30 finds in a hearing under section 260C.317 that the failure to finalize is not due to either an  
120.31 action or a failure to act by the prospective adoptive parent;

120.32 (8) notwithstanding clause (7), the responsible social services agency must pursue  
120.33 adoptive placement in another home as soon as the agency determines that finalization  
120.34 of the adoption with the identified prospective adoptive parent is not possible, that the  
120.35 identified prospective adoptive parent is not willing to adopt the child, or that the identified



121.1 prospective adoptive parent is not cooperative in completing the steps necessary to finalize  
121.2 the adoption;

121.3 (9) unless otherwise required by the Indian Child Welfare Act, United States Code,  
121.4 title 25, section 1913(c), a consent to adopt executed under this section shall be irrevocable  
121.5 upon acceptance by the court except upon order permitting revocation issued by the same  
121.6 court after written findings that consent was obtained by fraud.

121.7 Subd. 4. **Custody to relative.** The court may order permanent legal and physical  
121.8 custody to a relative in the best interests of the child according to the following conditions:

121.9 (1) an order for transfer of permanent legal and physical custody to a relative shall  
121.10 only be made after the court has reviewed the suitability of the prospective legal and  
121.11 physical custodian;

121.12 (2) in transferring permanent legal and physical custody to a relative, the juvenile  
121.13 court shall follow the standards applicable under this chapter and chapter 260, and the  
121.14 procedures in the Minnesota Rules of Juvenile Protection Procedure;

121.15 (3) a transfer of legal and physical custody includes responsibility for the protection,  
121.16 education, care, and control of the child and decision making on behalf of the child;

121.17 (4) a permanent legal and physical custodian may not return a child to the permanent  
121.18 care of a parent from whom the court removed custody without the court's approval and  
121.19 without notice to the responsible social services agency;

121.20 (5) the social services agency may file a petition naming a fit and willing relative as  
121.21 a proposed permanent legal and physical custodian;

121.22 (6) another party to the permanency proceeding regarding the child may file a  
121.23 petition to transfer permanent legal and physical custody to a relative, but the petition must  
121.24 be filed not later than the date for the required admit/deny hearing under section 260C.507;  
121.25 or if the agency's petition is filed under section 260C.503, subdivision 2, the petition must  
121.26 be filed not later than 30 days prior to the trial required under section 260C.509; and

121.27 (7) the juvenile court may maintain jurisdiction over the responsible social services  
121.28 agency, the parents or guardian of the child, the child, and the permanent legal and  
121.29 physical custodian for purposes of ensuring appropriate services are delivered to the child  
121.30 and permanent legal custodian for the purpose of ensuring conditions ordered by the court  
121.31 related to the care and custody of the child are met.

121.32 Subd. 5. **Permanent custody to agency.** The court may order permanent custody to  
121.33 the responsible social services agency for continued placement of the child in foster care  
121.34 but only if it approves the responsible social services agency's compelling reasons that no  
121.35 other permanency disposition order is in the child's best interests, and:

121.36 (1) the child has reached age 12;

(2) the child is a sibling of a child described in clause (1) and the siblings have a significant positive relationship and are ordered into the same foster home;

(3) the responsible social services agency has made reasonable efforts to locate and place the child with an adoptive family or a fit and willing relative who would either agree to adopt the child or to a transfer of permanent legal and physical custody of the child, but these efforts have not proven successful; and

(4) the parent will continue to have visitation or contact with the child and will remain involved in planning for the child.

**Subd. 6. Temporary legal custody to agency.** The court may order temporary legal custody to the responsible social services agency for continued placement of the child in foster care for a specified period of time according to the following conditions:

(1) the sole basis for an adjudication that the child is in need of protection or services is the child's behavior;

(2) the court finds that foster care for a specified period of time is in the best interests of the child;

(3) the court approves the responsible social services agency's compelling reasons that neither an award of permanent legal and physical custody to a relative, nor termination of parental rights is in the child's best interests; and

(4) the order specifies that the child continue in foster care no longer than one year.

**Sec. 33. [260C.517] FINDINGS AND CONTENT OF ORDER FOR PERMANENCY DISPOSITION.**

(a) Except for an order terminating parental rights, an order permanently placing a child out of the home of the parent or guardian must include the following detailed findings:

(1) how the child's best interests are served by the order;

(2) the nature and extent of the responsible social services agency's reasonable efforts, or, in the case of an Indian child, active efforts to reunify the child with the parent or guardian where reasonable efforts are required;

(3) the parent's or parents' efforts and ability to use services to correct the conditions which led to the out-of-home placement; and

(4) that the conditions which led to the out-of-home placement have not been corrected so that the child can safely return home.

(b) The court shall issue an order required under section 260C.515 and this section within 15 days of the close of the proceedings. The court may extend issuing the order

123.1 an additional 15 days when necessary in the interests of justice and the best interests of  
123.2 the child.

123.3 Sec. 34. **[260C.519] FURTHER COURT HEARINGS.**

123.4 Once a permanency disposition order has been made, further court hearings are  
123.5 necessary if:

123.6 (1) the child is ordered on a trial home visit or under the protective supervision  
123.7 of the responsible social services agency;

123.8 (2) the child continues in foster care;

123.9 (3) the court orders further hearings in a transfer of permanent legal and physical  
123.10 custody matter including if a party seeks to modify an order under section 260C.521,  
123.11 subdivision 2;

123.12 (4) an adoption has not yet been finalized; or

123.13 (5) the child returns to foster care after the court has entered an order for a  
123.14 permanency disposition under this section.

123.15 Sec. 35. **[260C.521] COURT REVIEWS AFTER PERMANENCY DISPOSITION**  
123.16 **ORDER.**

123.17 Subdivision 1. **Child in permanent custody of responsible social services agency.**

123.18 (a) Court reviews of an order for permanent custody to the responsible social services  
123.19 agency for placement of the child in foster care must be conducted at least yearly at an  
123.20 in-court appearance hearing.

123.21 (b) The purpose of the review hearing is to ensure:

123.22 (1) the order for permanent custody to the responsible social services agency for  
123.23 placement of the child in foster care continues to be in the best interests of the child and  
123.24 that no other permanency disposition order is in the best interests of the child;

123.25 (2) that the agency is assisting the child to build connections to the child's family  
123.26 and community; and

123.27 (3) that the agency is appropriately planning with the child for development of  
123.28 independent living skills for the child, and as appropriate, for the orderly and successful  
123.29 transition to independent living that may occur if the child continues in foster care without  
123.30 another permanency disposition order.

123.31 (c) The court must review the child's out-of-home placement plan and the reasonable  
123.32 efforts of the agency to finalize an alternative permanent plan for the child including the  
123.33 agency's efforts to:

124.1 (1) ensure that permanent custody to the agency with placement of the child in  
124.2 foster care continues to be the most appropriate legal arrangement for meeting the child's  
124.3 need for permanency and stability or, if not, to identify and attempt to finalize another  
124.4 permanency disposition order under this chapter that would better serve the child's needs  
124.5 and best interests;

124.6 (2) identify a specific foster home for the child, if one has not already been identified;

124.7 (3) support continued placement of the child in the identified home, if one has been  
124.8 identified;

124.9 (4) ensure appropriate services are provided to address the physical health, mental  
124.10 health, and educational needs of the child during the period of foster care and also ensure  
124.11 appropriate services or assistance to maintain relationships with appropriate family  
124.12 members and the child's community; and

124.13 (5) plan for the child's independence upon the child's leaving foster care living as  
124.14 required under section 260C.212, subdivision 1.

124.15 (d) The court may find that the agency has made reasonable efforts to finalize the  
124.16 permanent plan for the child when:

124.17 (1) the agency has made reasonable efforts to identify a more legally permanent  
124.18 home for the child than is provided by an order for permanent custody to the agency  
124.19 for placement in foster care; and

124.20 (2) the agency's engagement of the child in planning for independent living is  
124.21 reasonable and appropriate.

124.22 **Subd. 2. Modifying an order for permanent legal and physical custody to a**  
124.23 **relative.** An order for a relative to have permanent legal and physical custody of a child  
124.24 may be modified using standards under sections 518.18 and 518.185. The social services  
124.25 agency is a party to the proceeding and must receive notice.

124.26 **Subd. 3. Modifying order for permanent custody to agency for placement in**  
124.27 **foster care.** (a) A parent may seek modification of an order for permanent custody of the  
124.28 child to the responsible social services agency for placement in foster care upon motion  
124.29 and a showing by the parent of a substantial change in the parent's circumstances such  
124.30 that the parent could provide appropriate care for the child and that removal of the child  
124.31 from the permanent custody of the agency and the return to the parent's care would be  
124.32 in the best interests of the child.

124.33 (b) The responsible social services agency may ask the court to vacate an order for  
124.34 permanent custody to the agency upon a petition and hearing pursuant to section 260C.163  
124.35 establishing the basis for the court to order another permanency disposition under this  
124.36 chapter, including termination of parental rights based on abandonment if the parent

125.1 has not visited the child, maintained contact with the child, or participated in planning  
125.2 for the child as required under section 260C.515, subdivision 5. The responsible social  
125.3 services agency must establish that the proposed permanency disposition order is in the  
125.4 child's best interests. Upon a hearing where the court determines the petition is proved,  
125.5 the court may vacate the order for permanent custody and enter a different order for a  
125.6 permanent disposition that is in the child's best interests. The court shall not require further  
125.7 reasonable efforts to reunify the child with the parent or guardian as a basis for vacating  
125.8 the order for permanent custody to the agency and ordering a different permanency  
125.9 disposition in the child's best interests. The county attorney must file the petition and give  
125.10 notice as required under the Minnesota Rules of Juvenile Protection Procedure in order to  
125.11 modify an order for permanent custody under this subdivision.

125.12 Sec. 36. **EFFECTIVE DATE.**

125.13 This article is effective August 1, 2012.

## 125.14 **ARTICLE 5**

### 125.15 **CHILD SUPPORT**

125.16 Section 1. Minnesota Statutes 2011 Supplement, section 256.01, subdivision 14b,  
125.17 is amended to read:

125.18 Subd. 14b. **American Indian child welfare projects.** (a) The commissioner of  
125.19 human services may authorize projects to test tribal delivery of child welfare services to  
125.20 American Indian children and their parents and custodians living on the reservation.  
125.21 The commissioner has authority to solicit and determine which tribes may participate  
125.22 in a project. Grants may be issued to Minnesota Indian tribes to support the projects.  
125.23 The commissioner may waive existing state rules as needed to accomplish the projects.  
125.24 Notwithstanding section 626.556, the commissioner may authorize projects to use  
125.25 alternative methods of investigating and assessing reports of child maltreatment, provided  
125.26 that the projects comply with the provisions of section 626.556 dealing with the rights  
125.27 of individuals who are subjects of reports or investigations, including notice and appeal  
125.28 rights and data practices requirements. The commissioner may seek any federal approvals  
125.29 necessary to carry out the projects as well as seek and use any funds available to the  
125.30 commissioner, including use of federal funds, foundation funds, existing grant funds,  
125.31 and other funds. The commissioner is authorized to advance state funds as necessary to  
125.32 operate the projects. Federal reimbursement applicable to the projects is appropriated  
125.33 to the commissioner for the purposes of the projects. The projects must be required to  
125.34 address responsibility for safety, permanency, and well-being of children.

126.1 (b) For the purposes of this section, "American Indian child" means a person under  
126.2 ~~18 years of age~~ 21 years old and who is a tribal member or eligible for membership in  
126.3 one of the tribes chosen for a project under this subdivision and who is residing on the  
126.4 reservation of that tribe.

126.5 (c) In order to qualify for an American Indian child welfare project, a tribe must:

126.6 (1) be one of the existing tribes with reservation land in Minnesota;

126.7 (2) have a tribal court with jurisdiction over child custody proceedings;

126.8 (3) have a substantial number of children for whom determinations of maltreatment  
126.9 have occurred;

126.10 (4) have capacity to respond to reports of abuse and neglect under section 626.556;

126.11 (5) provide a wide range of services to families in need of child welfare services; and

126.12 (6) have a tribal-state title IV-E agreement in effect.

126.13 (d) Grants awarded under this section may be used for the nonfederal costs of  
126.14 providing child welfare services to American Indian children on the tribe's reservation,  
126.15 including costs associated with:

126.16 (1) assessment and prevention of child abuse and neglect;

126.17 (2) family preservation;

126.18 (3) facilitative, supportive, and reunification services;

126.19 (4) out-of-home placement for children removed from the home for child protective  
126.20 purposes; and

126.21 (5) other activities and services approved by the commissioner that further the goals  
126.22 of providing safety, permanency, and well-being of American Indian children.

126.23 (e) When a tribe has initiated a project and has been approved by the commissioner  
126.24 to assume child welfare responsibilities for American Indian children of that tribe under  
126.25 this section, the affected county social service agency is relieved of responsibility for  
126.26 responding to reports of abuse and neglect under section 626.556 for those children  
126.27 during the time within which the tribal project is in effect and funded. The commissioner  
126.28 shall work with tribes and affected counties to develop procedures for data collection,  
126.29 evaluation, and clarification of ongoing role and financial responsibilities of the county  
126.30 and tribe for child welfare services prior to initiation of the project. Children who have not  
126.31 been identified by the tribe as participating in the project shall remain the responsibility  
126.32 of the county. Nothing in this section shall alter responsibilities of the county for law  
126.33 enforcement or court services.

126.34 (f) Participating tribes may conduct children's mental health screenings under section  
126.35 245.4874, subdivision 1, paragraph (a), clause (14), for children who are eligible for the  
126.36 initiative and living on the reservation and who meet one of the following criteria:

127.1 (1) the child must be receiving child protective services;

127.2 (2) the child must be in foster care; or

127.3 (3) the child's parents must have had parental rights suspended or terminated.

127.4 Tribes may access reimbursement from available state funds for conducting the screenings.

127.5 Nothing in this section shall alter responsibilities of the county for providing services

127.6 under section 245.487.

127.7 (g) Participating tribes may establish a local child mortality review panel. In

127.8 establishing a local child mortality review panel, the tribe agrees to conduct local child

127.9 mortality reviews for child deaths or near-fatalities occurring on the reservation under

127.10 subdivision 12. Tribes with established child mortality review panels shall have access

127.11 to nonpublic data and shall protect nonpublic data under subdivision 12, paragraphs (c)

127.12 to (e). The tribe shall provide written notice to the commissioner and affected counties

127.13 when a local child mortality review panel has been established and shall provide data upon

127.14 request of the commissioner for purposes of sharing nonpublic data with members of the

127.15 state child mortality review panel in connection to an individual case.

127.16 (h) The commissioner shall collect information on outcomes relating to child safety,

127.17 permanency, and well-being of American Indian children who are served in the projects.

127.18 Participating tribes must provide information to the state in a format and completeness

127.19 deemed acceptable by the state to meet state and federal reporting requirements.

127.20 (i) In consultation with the White Earth Band, the commissioner shall develop

127.21 and submit to the chairs and ranking minority members of the legislative committees

127.22 with jurisdiction over health and human services a plan to transfer legal responsibility

127.23 for providing child protective services to White Earth Band member children residing in

127.24 Hennepin County to the White Earth Band. The plan shall include a financing proposal,

127.25 definitions of key terms, statutory amendments required, and other provisions required to

127.26 implement the plan. The commissioner shall submit the plan by January 15, 2012.

127.27 Sec. 2. Minnesota Statutes 2010, section 257.75, subdivision 7, is amended to read:

127.28 Subd. 7. **Hospital and Department of Health ~~distribution of educational~~**

127.29 **~~materials~~; recognition form.** Hospitals that provide obstetric services and the state

127.30 registrar of vital statistics shall distribute the educational materials and recognition

127.31 of parentage forms prepared by the commissioner of human services to new parents;

127.32 ~~and~~ shall assist parents in understanding the recognition of parentage form, including

127.33 following the provisions for notice under subdivision 5; shall aid new parents in properly

127.34 completing the recognition of parentage form, including providing notary services; and

127.35 shall timely file the completed recognition of parentage form with the Office of the State

128.1 Registrar of Vital Statistics. On and after January 1, 1994, hospitals may not distribute the  
128.2 declaration of parentage forms.

128.3 Sec. 3. Minnesota Statutes 2010, section 518A.40, subdivision 4, is amended to read:

128.4 Subd. 4. **Change in child care.** (a) When a court order provides for child care  
128.5 expenses, and child care support is not assigned under section 256.741, the public  
128.6 authority, if the public authority provides child support enforcement services, ~~must~~ may  
128.7 suspend collecting the amount allocated for child care expenses when:

128.8 ~~(1)~~ either party informs the public authority that no child care costs are being  
128.9 incurred; and:

128.10 ~~(2)~~ (1) the public authority verifies the accuracy of the information with the obligee;  
128.11 or

128.12 (2) the obligee fails to respond within 30 days of the date of a written request  
128.13 from the public authority for information regarding child care costs. A written or oral  
128.14 response from the obligee that child care costs are being incurred is sufficient for the  
128.15 public authority to continue collecting child care expenses.

128.16 The suspension is effective as of the first day of the month following the date that the  
128.17 public authority ~~received the verification~~ either verified the information with the obligee  
128.18 or the obligee failed to respond. The public authority will resume collecting child care  
128.19 expenses when either party provides information that child care costs ~~have resumed~~ are  
128.20 incurred, or when a child care support assignment takes effect under section 256.741,  
128.21 subdivision 4. The resumption is effective as of the first day of the month after the date  
128.22 that the public authority received the information.

128.23 (b) If the parties provide conflicting information to the public authority regarding  
128.24 whether child care expenses are being incurred, ~~or if the public authority is unable to~~  
128.25 ~~verify with the obligee that no child care costs are being incurred,~~ the public authority will  
128.26 continue or resume collecting child care expenses. Either party, by motion to the court,  
128.27 may challenge the suspension, continuation, or resumption of the collection of child care  
128.28 expenses under this subdivision. If the public authority suspends collection activities  
128.29 for the amount allocated for child care expenses, all other provisions of the court order  
128.30 remain in effect.

128.31 (c) In cases where there is a substantial increase or decrease in child care expenses,  
128.32 the parties may modify the order under section 518A.39.

128.33 Sec. 4. Minnesota Statutes 2010, section 518C.205, is amended to read:

128.34 **518C.205 CONTINUING, EXCLUSIVE JURISDICTION.**



129.1 (a) A tribunal of this state issuing a support order consistent with the law of this state  
129.2 has continuing, exclusive jurisdiction over a child support order unless:

129.3 (1) ~~as long as~~ this state ~~remains~~ is no longer the residence of the obligor, the  
129.4 individual obligee, ~~or~~ and the child for whose benefit the support order is issued; or

129.5 (2) ~~until~~ all of the parties who are individuals have filed written consents with  
129.6 the tribunal of this state for a tribunal of another state to modify the order and assume  
129.7 continuing, exclusive jurisdiction.

129.8 (b) A tribunal of this state issuing a child support order consistent with the law of  
129.9 this state may not exercise its continuing jurisdiction to modify the order if the order has  
129.10 been modified by a tribunal of another state pursuant to this chapter or a law substantially  
129.11 similar to this chapter.

129.12 (c) If a child support order of this state is modified by a tribunal of another state  
129.13 pursuant to this chapter or a law substantially similar to this chapter, a tribunal of this state  
129.14 loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the  
129.15 order issued in this state, and may only:

129.16 (1) enforce the order that was modified as to amounts accruing before the  
129.17 modification;

129.18 (2) enforce nonmodifiable aspects of that order; and

129.19 (3) provide other appropriate relief for violations of that order which occurred before  
129.20 the effective date of the modification.

129.21 (d) A tribunal of this state shall recognize the continuing, exclusive jurisdiction of a  
129.22 tribunal of another state which has issued a child support order pursuant to this chapter or  
129.23 a law substantially similar to this chapter.

129.24 (e) A temporary support order issued ex parte or pending resolution of a jurisdictional  
129.25 conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

129.26 (f) A tribunal of this state issuing a support order consistent with the law of this  
129.27 state has continuing, exclusive jurisdiction over a spousal support order throughout the  
129.28 existence of the support obligation. A tribunal of this state may not modify a spousal  
129.29 support order issued by a tribunal of another state having continuing, exclusive jurisdiction  
129.30 over that order under the law of that state.

129.31 Sec. 5. **RECIPROCAL AGREEMENT; CHILD SUPPORT ENFORCEMENT.**

129.32 The commissioner of human services shall initiate procedures no later than October  
129.33 1, 2012, to enter into a reciprocal agreement with Bermuda for the establishment and  
129.34 enforcement of child support obligations pursuant to United States Code, title 42, section  
129.35 659a(d).

130.1 **EFFECTIVE DATE.** This section is effective upon Bermuda's written acceptance  
130.2 and agreement to enforce Minnesota child support orders. If Bermuda does not accept and  
130.3 declines to enforce Minnesota orders, this section expires October 1, 2013.

130.4 Sec. 6. **EFFECTIVE DATE.**  
130.5 This article is effective August 1, 2012.

## 130.6 **ARTICLE 6**

### 130.7 **TECHNICAL AND CONFORMING AMENDMENTS**

130.8 Section 1. Minnesota Statutes 2010, section 257.01, is amended to read:

#### 130.9 **257.01 RECORDS REQUIRED.**

130.10 Each person or authorized child-placing agency permitted by law to receive children,  
130.11 secure homes for children, or care for children, shall keep a record containing the name,  
130.12 age, former residence, legal status, health records, sex, race, and accumulated length of  
130.13 time in foster care, if applicable, of each child received; the name, former residence,  
130.14 occupation, health history, and character, of each birth parent; the date of reception,  
130.15 placing out, and adoption of each child, and the name, race, occupation, and residence of  
130.16 the person with whom a child is placed; the date of the removal of any child to another  
130.17 home and the reason for removal; the date of termination of the guardianship; the history  
130.18 of each child until the child reaches the age of ~~18~~ 21 years, is legally adopted, or is  
130.19 discharged according to law; and further demographic and other information as is required  
130.20 by the commissioner of human services.

130.21 Sec. 2. Minnesota Statutes 2010, section 259.69, is amended to read:

#### 130.22 **259.69 TRANSFER OF FUNDS.**

130.23 The commissioner of human services may transfer funds into the ~~subsidized~~ adoption  
130.24 assistance account when a deficit in the ~~subsidized~~ adoption assistance program occurs.

130.25 Sec. 3. Minnesota Statutes 2010, section 259.73, is amended to read:

#### 130.26 **259.73 REIMBURSEMENT OF NONRECURRING ADOPTION EXPENSES.**

130.27 ~~The commissioner of human services shall provide reimbursement of up to \$2,000~~  
130.28 ~~to the adoptive parent or parents for costs incurred in adopting a child with special~~  
130.29 ~~needs. The commissioner shall determine the child's eligibility for adoption expense~~  
130.30 ~~reimbursement under title IV-E of the Social Security Act, United States Code, title 42,~~  
130.31 ~~sections 670 to 676. To be reimbursed, costs must be reasonable, necessary, and directly~~

131.1 ~~related to the legal adoption of the child.~~ An individual may apply for reimbursement for  
131.2 costs incurred in an adoption of a child with special needs under section 259A.70.

131.3 Sec. 4. Minnesota Statutes 2010, section 260C.301, subdivision 1, is amended to read:

131.4 Subdivision 1. **Voluntary and involuntary.** The juvenile court may upon petition,  
131.5 terminate all rights of a parent to a child:

131.6 (a) with the written consent of a parent who for good cause desires to terminate  
131.7 parental rights; or

131.8 (b) if it finds that one or more of the following conditions exist:

131.9 (1) that the parent has abandoned the child;

131.10 (2) that the parent has substantially, continuously, or repeatedly refused or neglected  
131.11 to comply with the duties imposed upon that parent by the parent and child relationship,  
131.12 including but not limited to providing the child with necessary food, clothing, shelter,  
131.13 education, and other care and control necessary for the child's physical, mental, or  
131.14 emotional health and development, if the parent is physically and financially able, and  
131.15 either reasonable efforts by the social services agency have failed to correct the conditions  
131.16 that formed the basis of the petition or reasonable efforts would be futile and therefore  
131.17 unreasonable;

131.18 (3) that a parent has been ordered to contribute to the support of the child or  
131.19 financially aid in the child's birth and has continuously failed to do so without good cause.  
131.20 This clause shall not be construed to state a grounds for termination of parental rights of a  
131.21 noncustodial parent if that parent has not been ordered to or cannot financially contribute  
131.22 to the support of the child or aid in the child's birth;

131.23 (4) that a parent is palpably unfit to be a party to the parent and child relationship  
131.24 because of a consistent pattern of specific conduct before the child or of specific conditions  
131.25 directly relating to the parent and child relationship either of which are determined by  
131.26 the court to be of a duration or nature that renders the parent unable, for the reasonably  
131.27 foreseeable future, to care appropriately for the ongoing physical, mental, or emotional  
131.28 needs of the child. It is presumed that a parent is palpably unfit to be a party to the parent  
131.29 and child relationship upon a showing that the parent's parental rights to one or more other  
131.30 children were involuntarily terminated or that the parent's custodial rights to another child  
131.31 have been involuntarily transferred to a relative under section 260C.201, subdivision 11,  
131.32 paragraph (e), clause (1), or a similar law of another jurisdiction;

131.33 (5) that following the child's placement out of the home, reasonable efforts, under the  
131.34 direction of the court, have failed to correct the conditions leading to the child's placement.  
131.35 It is presumed that reasonable efforts under this clause have failed upon a showing that:

132.1 (i) a child has resided out of the parental home under court order for a cumulative  
132.2 period of 12 months within the preceding 22 months. In the case of a child under age eight  
132.3 at the time the petition was filed alleging the child to be in need of protection or services,  
132.4 the presumption arises when the child has resided out of the parental home under court  
132.5 order for six months unless the parent has maintained regular contact with the child and  
132.6 the parent is complying with the out-of-home placement plan;

132.7 (ii) the court has approved the out-of-home placement plan required under section  
132.8 260C.212 and filed with the court under section 260C.178;

132.9 (iii) conditions leading to the out-of-home placement have not been corrected. It  
132.10 is presumed that conditions leading to a child's out-of-home placement have not been  
132.11 corrected upon a showing that the parent or parents have not substantially complied with  
132.12 the court's orders and a reasonable case plan; and

132.13 (iv) reasonable efforts have been made by the social services agency to rehabilitate  
132.14 the parent and reunite the family.

132.15 This clause does not prohibit the termination of parental rights prior to one year, or  
132.16 in the case of a child under age eight, prior to six months after a child has been placed  
132.17 out of the home.

132.18 It is also presumed that reasonable efforts have failed under this clause upon a  
132.19 showing that:

132.20 (A) the parent has been diagnosed as chemically dependent by a professional  
132.21 certified to make the diagnosis;

132.22 (B) the parent has been required by a case plan to participate in a chemical  
132.23 dependency treatment program;

132.24 (C) the treatment programs offered to the parent were culturally, linguistically,  
132.25 and clinically appropriate;

132.26 (D) the parent has either failed two or more times to successfully complete a  
132.27 treatment program or has refused at two or more separate meetings with a caseworker  
132.28 to participate in a treatment program; and

132.29 (E) the parent continues to abuse chemicals.

132.30 (6) that a child has experienced egregious harm in the parent's care which is of a  
132.31 nature, duration, or chronicity that indicates a lack of regard for the child's well-being,  
132.32 such that a reasonable person would believe it contrary to the best interest of the child  
132.33 or of any child to be in the parent's care;

132.34 (7) that in the case of a child born to a mother who was not married to the child's  
132.35 father when the child was conceived nor when the child was born the person is not entitled

133.1 to notice of an adoption hearing under section 259.49 and the person has not registered  
133.2 with the fathers' adoption registry under section 259.52;

133.3 (8) that the child is neglected and in foster care; or

133.4 (9) that the parent has been convicted of a crime listed in section 260.012, paragraph  
133.5 (g), clauses (1) to ~~(3)~~ (5).

133.6 In an action involving an American Indian child, sections 260.751 to 260.835 and  
133.7 the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923, control  
133.8 to the extent that the provisions of this section are inconsistent with those laws.

133.9 Sec. 5. Minnesota Statutes 2010, section 260D.08, is amended to read:

133.10 **260D.08 ANNUAL REVIEW.**

133.11 (a) After the court conducts a permanency review hearing under section 260D.07,  
133.12 the matter must be returned to the court for further review of the responsible social  
133.13 services reasonable efforts to finalize the permanent plan for the child and the child's foster  
133.14 care placement at least every 12 months while the child is in foster care. The court shall  
133.15 give notice to the parent and child, age 12 or older, and the foster parents of the continued  
133.16 review requirements under this section at the permanency review hearing.

133.17 (b) Every 12 months, the court shall determine whether the agency made reasonable  
133.18 efforts to finalize the permanency plan for the child, which means the exercise of due  
133.19 diligence by the agency to:

133.20 (1) ensure that the agreement for voluntary foster care is the most appropriate legal  
133.21 arrangement to meet the child's safety, health, and best interests and to conduct a genuine  
133.22 examination of whether there is another permanency disposition order under chapter  
133.23 260C, including returning the child home, that would better serve the child's need for a  
133.24 stable and permanent home;

133.25 (2) engage and support the parent in continued involvement in planning and decision  
133.26 making for the needs of the child;

133.27 (3) strengthen the child's ties to the parent, relatives, and community;

133.28 (4) implement the out-of-home placement plan required under section 260C.212,  
133.29 subdivision 1, and ensure that the plan requires the provision of appropriate services to  
133.30 address the physical health, mental health, and educational needs of the child; and

133.31 (5) ensure appropriate planning for the child's safe, permanent, and independent  
133.32 living arrangement after the child's 18th birthday.

133.33 **Sec. 6. [611.012] DISPOSITION OF CHILD OF PARENT ARRESTED.**

134.1 A peace officer who arrests a person accompanied by a child of the person may  
134.2 release the child to any person designated by the parent unless it is necessary to remove  
134.3 the child under section 260C.175 because the child is found in surroundings or conditions  
134.4 which endanger the child's health or welfare or which the peace officer reasonably believes  
134.5 will endanger the child's health or welfare. An officer releasing a child under this section  
134.6 to a person designated by the parent has no civil or criminal liability for the child's release.

134.7 Sec. 7. Minnesota Statutes 2010, section 626.556, subdivision 2, is amended to read:

134.8 Subd. 2. **Definitions.** As used in this section, the following terms have the meanings  
134.9 given them unless the specific content indicates otherwise:

134.10 (a) "Family assessment" means a comprehensive assessment of child safety, risk  
134.11 of subsequent child maltreatment, and family strengths and needs that is applied to a  
134.12 child maltreatment report that does not allege substantial child endangerment. Family  
134.13 assessment does not include a determination as to whether child maltreatment occurred  
134.14 but does determine the need for services to address the safety of family members and the  
134.15 risk of subsequent maltreatment.

134.16 (b) "Investigation" means fact gathering related to the current safety of a child  
134.17 and the risk of subsequent maltreatment that determines whether child maltreatment  
134.18 occurred and whether child protective services are needed. An investigation must be used  
134.19 when reports involve substantial child endangerment, and for reports of maltreatment in  
134.20 facilities required to be licensed under chapter 245A or 245B; under sections 144.50 to  
134.21 144.58 and 241.021; in a school as defined in sections 120A.05, subdivisions 9, 11, and  
134.22 13, and 124D.10; or in a nonlicensed personal care provider association as defined in  
134.23 sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

134.24 (c) "Substantial child endangerment" means a person responsible for a child's care,  
134.25 and in the case of sexual abuse includes a person who has a significant relationship to the  
134.26 child as defined in section 609.341, or a person in a position of authority as defined in  
134.27 section 609.341, who by act or omission commits or attempts to commit an act against a  
134.28 child under their care that constitutes any of the following:

134.29 (1) egregious harm as defined in section 260C.007, subdivision 14;

134.30 (2) sexual abuse as defined in paragraph (d);

134.31 (3) abandonment under section 260C.301, subdivision 2;

134.32 (4) neglect as defined in paragraph (f), clause (2), that substantially endangers the  
134.33 child's physical or mental health, including a growth delay, which may be referred to as  
134.34 failure to thrive, that has been diagnosed by a physician and is due to parental neglect;

135.1 (5) murder in the first, second, or third degree under section 609.185, 609.19, or  
135.2 609.195;

135.3 (6) manslaughter in the first or second degree under section 609.20 or 609.205;

135.4 (7) assault in the first, second, or third degree under section 609.221, 609.222, or  
135.5 609.223;

135.6 (8) solicitation, inducement, and promotion of prostitution under section 609.322;

135.7 (9) criminal sexual conduct under sections 609.342 to 609.3451;

135.8 (10) solicitation of children to engage in sexual conduct under section 609.352;

135.9 (11) malicious punishment or neglect or endangerment of a child under section  
135.10 609.377 or 609.378;

135.11 (12) use of a minor in sexual performance under section 617.246; or

135.12 (13) parental behavior, status, or condition which mandates that the county attorney  
135.13 file a termination of parental rights petition under section 260C.301, subdivision 3,  
135.14 paragraph (a).

135.15 (d) "Sexual abuse" means the subjection of a child by a person responsible for the  
135.16 child's care, by a person who has a significant relationship to the child, as defined in  
135.17 section 609.341, or by a person in a position of authority, as defined in section 609.341,  
135.18 subdivision 10, to any act which constitutes a violation of section 609.342 (criminal sexual  
135.19 conduct in the first degree), 609.343 (criminal sexual conduct in the second degree),  
135.20 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct  
135.21 in the fourth degree), or 609.3451 (criminal sexual conduct in the fifth degree). Sexual  
135.22 abuse also includes any act which involves a minor which constitutes a violation of  
135.23 prostitution offenses under sections 609.321 to 609.324 or 617.246. Sexual abuse includes  
135.24 threatened sexual abuse which includes the status of a parent or household member  
135.25 who has committed a violation which requires registration as an offender under section  
135.26 243.166, subdivision 1b, paragraph (a) or (b), or required registration under section  
135.27 243.166, subdivision 1b, paragraph (a) or (b).

135.28 (e) "Person responsible for the child's care" means (1) an individual functioning  
135.29 within the family unit and having responsibilities for the care of the child such as a  
135.30 parent, guardian, or other person having similar care responsibilities, or (2) an individual  
135.31 functioning outside the family unit and having responsibilities for the care of the child  
135.32 such as a teacher, school administrator, other school employees or agents, or other lawful  
135.33 custodian of a child having either full-time or short-term care responsibilities including,  
135.34 but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching,  
135.35 and coaching.

136.1 (f) "Neglect" means the commission or omission of any of the acts specified under  
136.2 clauses (1) to (9), other than by accidental means:

136.3 (1) failure by a person responsible for a child's care to supply a child with necessary  
136.4 food, clothing, shelter, health, medical, or other care required for the child's physical or  
136.5 mental health when reasonably able to do so;

136.6 (2) failure to protect a child from conditions or actions that seriously endanger the  
136.7 child's physical or mental health when reasonably able to do so, including a growth delay,  
136.8 which may be referred to as a failure to thrive, that has been diagnosed by a physician and  
136.9 is due to parental neglect;

136.10 (3) failure to provide for necessary supervision or child care arrangements  
136.11 appropriate for a child after considering factors as the child's age, mental ability, physical  
136.12 condition, length of absence, or environment, when the child is unable to care for the  
136.13 child's own basic needs or safety, or the basic needs or safety of another child in their care;

136.14 (4) failure to ensure that the child is educated as defined in sections 120A.22 and  
136.15 260C.163, subdivision 11, which does not include a parent's refusal to provide the parent's  
136.16 child with sympathomimetic medications, consistent with section 125A.091, subdivision 5;

136.17 (5) nothing in this section shall be construed to mean that a child is neglected solely  
136.18 because the child's parent, guardian, or other person responsible for the child's care in  
136.19 good faith selects and depends upon spiritual means or prayer for treatment or care of  
136.20 disease or remedial care of the child in lieu of medical care; except that a parent, guardian,  
136.21 or caretaker, or a person mandated to report pursuant to subdivision 3, has a duty to report  
136.22 if a lack of medical care may cause serious danger to the child's health. This section does  
136.23 not impose upon persons, not otherwise legally responsible for providing a child with  
136.24 necessary food, clothing, shelter, education, or medical care, a duty to provide that care;

136.25 (6) prenatal exposure to a controlled substance, as defined in section 253B.02,  
136.26 subdivision 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal  
136.27 symptoms in the child at birth, results of a toxicology test performed on the mother at  
136.28 delivery or the child at birth, ~~or~~ medical effects or developmental delays during the child's  
136.29 first year of life that medically indicate prenatal exposure to a controlled substance, or the  
136.30 presence of a fetal alcohol spectrum disorder;

136.31 (7) "medical neglect" as defined in section 260C.007, subdivision 6, clause (5);

136.32 (8) chronic and severe use of alcohol or a controlled substance by a parent or  
136.33 person responsible for the care of the child that adversely affects the child's basic needs  
136.34 and safety; or

136.35 (9) emotional harm from a pattern of behavior which contributes to impaired  
136.36 emotional functioning of the child which may be demonstrated by a substantial and



137.1 observable effect in the child's behavior, emotional response, or cognition that is not  
137.2 within the normal range for the child's age and stage of development, with due regard to  
137.3 the child's culture.

137.4 (g) "Physical abuse" means any physical injury, mental injury, or threatened injury,  
137.5 inflicted by a person responsible for the child's care on a child other than by accidental  
137.6 means, or any physical or mental injury that cannot reasonably be explained by the child's  
137.7 history of injuries, or any aversive or deprivation procedures, or regulated interventions,  
137.8 that have not been authorized under section 121A.67 or 245.825.

137.9 Abuse does not include reasonable and moderate physical discipline of a child  
137.10 administered by a parent or legal guardian which does not result in an injury. Abuse does  
137.11 not include the use of reasonable force by a teacher, principal, or school employee as  
137.12 allowed by section 121A.582. Actions which are not reasonable and moderate include,  
137.13 but are not limited to, any of the following that are done in anger or without regard to the  
137.14 safety of the child:

137.15 (1) throwing, kicking, burning, biting, or cutting a child;

137.16 (2) striking a child with a closed fist;

137.17 (3) shaking a child under age three;

137.18 (4) striking or other actions which result in any nonaccidental injury to a child  
137.19 under 18 months of age;

137.20 (5) unreasonable interference with a child's breathing;

137.21 (6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;

137.22 (7) striking a child under age one on the face or head;

137.23 (8) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled  
137.24 substances which were not prescribed for the child by a practitioner, in order to control or  
137.25 punish the child; or other substances that substantially affect the child's behavior, motor  
137.26 coordination, or judgment or that results in sickness or internal injury, or subjects the  
137.27 child to medical procedures that would be unnecessary if the child were not exposed  
137.28 to the substances;

137.29 (9) unreasonable physical confinement or restraint not permitted under section  
137.30 609.379, including but not limited to tying, caging, or chaining; or

137.31 (10) in a school facility or school zone, an act by a person responsible for the child's  
137.32 care that is a violation under section 121A.58.

137.33 (h) "Report" means any report received by the local welfare agency, police  
137.34 department, county sheriff, or agency responsible for assessing or investigating  
137.35 maltreatment pursuant to this section.

137.36 (i) "Facility" means:

138.1 (1) a licensed or unlicensed day care facility, residential facility, agency, hospital,  
138.2 sanitarium, or other facility or institution required to be licensed under sections 144.50 to  
138.3 144.58, 241.021, or 245A.01 to 245A.16, or chapter 245B;

138.4 (2) a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and  
138.5 124D.10; or

138.6 (3) a nonlicensed personal care provider organization as defined in sections 256B.04,  
138.7 subdivision 16, and 256B.0625, subdivision 19a.

138.8 (j) "Operator" means an operator or agency as defined in section 245A.02.

138.9 (k) "Commissioner" means the commissioner of human services.

138.10 (l) "Practice of social services," for the purposes of subdivision 3, includes but is  
138.11 not limited to employee assistance counseling and the provision of guardian ad litem and  
138.12 parenting time expeditor services.

138.13 (m) "Mental injury" means an injury to the psychological capacity or emotional  
138.14 stability of a child as evidenced by an observable or substantial impairment in the child's  
138.15 ability to function within a normal range of performance and behavior with due regard to  
138.16 the child's culture.

138.17 (n) "Threatened injury" means a statement, overt act, condition, or status that  
138.18 represents a substantial risk of physical or sexual abuse or mental injury. Threatened  
138.19 injury includes, but is not limited to, exposing a child to a person responsible for the  
138.20 child's care, as defined in paragraph (e), clause (1), who has:

138.21 (1) subjected a child to, or failed to protect a child from, an overt act or condition  
138.22 that constitutes egregious harm, as defined in section 260C.007, subdivision 14, or a  
138.23 similar law of another jurisdiction;

138.24 (2) been found to be palpably unfit under section 260C.301, paragraph (b), clause  
138.25 (4), or a similar law of another jurisdiction;

138.26 (3) committed an act that has resulted in an involuntary termination of parental rights  
138.27 under section 260C.301, or a similar law of another jurisdiction; or

138.28 (4) committed an act that has resulted in the involuntary transfer of permanent legal  
138.29 and physical custody of a child to a relative under section 260C.201, subdivision 11,  
138.30 paragraph (d), clause (1), or a similar law of another jurisdiction.

138.31 (o) Persons who conduct assessments or investigations under this section shall take  
138.32 into account accepted child-rearing practices of the culture in which a child participates  
138.33 and accepted teacher discipline practices, which are not injurious to the child's health,  
138.34 welfare, and safety.

138.35 (p) "Accidental" means a sudden, not reasonably foreseeable, and unexpected  
138.36 occurrence or event which:

139.1 (1) is not likely to occur and could not have been prevented by exercise of due  
139.2 care; and

139.3 (2) if occurring while a child is receiving services from a facility, happens when the  
139.4 facility and the employee or person providing services in the facility are in compliance  
139.5 with the laws and rules relevant to the occurrence or event.

139.6 (q) "Nonmaltreatment mistake" means:

139.7 (1) at the time of the incident, the individual was performing duties identified in the  
139.8 center's child care program plan required under Minnesota Rules, part 9503.0045;

139.9 (2) the individual has not been determined responsible for a similar incident that  
139.10 resulted in a finding of maltreatment for at least seven years;

139.11 (3) the individual has not been determined to have committed a similar  
139.12 nonmaltreatment mistake under this paragraph for at least four years;

139.13 (4) any injury to a child resulting from the incident, if treated, is treated only with  
139.14 remedies that are available over the counter, whether ordered by a medical professional or  
139.15 not; and

139.16 (5) except for the period when the incident occurred, the facility and the individual  
139.17 providing services were both in compliance with all licensing requirements relevant to the  
139.18 incident.

139.19 This definition only applies to child care centers licensed under Minnesota  
139.20 Rules, chapter 9503. If clauses (1) to (5) apply, rather than making a determination of  
139.21 substantiated maltreatment by the individual, the commissioner of human services shall  
139.22 determine that a nonmaltreatment mistake was made by the individual.

139.23 Sec. 8. Minnesota Statutes 2010, section 626.556, subdivision 10, is amended to read:

139.24 Subd. 10. **Duties of local welfare agency and local law enforcement agency upon**  
139.25 **receipt of report.** (a) Upon receipt of a report, the local welfare agency shall determine  
139.26 whether to conduct a family assessment or an investigation as appropriate to prevent or  
139.27 provide a remedy for child maltreatment. The local welfare agency:

139.28 (1) shall conduct an investigation on reports involving substantial child  
139.29 endangerment;

139.30 (2) shall begin an immediate investigation if, at any time when it is using a family  
139.31 assessment response, it determines that there is reason to believe that substantial child  
139.32 endangerment or a serious threat to the child's safety exists;

139.33 (3) may conduct a family assessment for reports that do not allege substantial child  
139.34 endangerment. In determining that a family assessment is appropriate, the local welfare

140.1 agency may consider issues of child safety, parental cooperation, and the need for an  
140.2 immediate response; and

140.3 (4) may conduct a family assessment on a report that was initially screened and  
140.4 assigned for an investigation. In determining that a complete investigation is not required,  
140.5 the local welfare agency must document the reason for terminating the investigation and  
140.6 notify the local law enforcement agency if the local law enforcement agency is conducting  
140.7 a joint investigation.

140.8 If the report alleges neglect, physical abuse, or sexual abuse by a parent, guardian,  
140.9 or individual functioning within the family unit as a person responsible for the child's  
140.10 care, or sexual abuse by a person with a significant relationship to the child when that  
140.11 person resides in the child's household or by a sibling, the local welfare agency shall  
140.12 immediately conduct a family assessment or investigation as identified in clauses (1) to  
140.13 (4). In conducting a family assessment or investigation, the local welfare agency shall  
140.14 gather information on the existence of substance abuse and domestic violence and offer  
140.15 services for purposes of preventing future child maltreatment, safeguarding and enhancing  
140.16 the welfare of the abused or neglected minor, and supporting and preserving family  
140.17 life whenever possible. If the report alleges a violation of a criminal statute involving  
140.18 sexual abuse, physical abuse, or neglect or endangerment, under section 609.378, the  
140.19 local law enforcement agency and local welfare agency shall coordinate the planning and  
140.20 execution of their respective investigation and assessment efforts to avoid a duplication of  
140.21 fact-finding efforts and multiple interviews. Each agency shall prepare a separate report of  
140.22 the results of its investigation. In cases of alleged child maltreatment resulting in death,  
140.23 the local agency may rely on the fact-finding efforts of a law enforcement investigation  
140.24 to make a determination of whether or not maltreatment occurred. When necessary the  
140.25 local welfare agency shall seek authority to remove the child from the custody of a parent,  
140.26 guardian, or adult with whom the child is living. In performing any of these duties, the  
140.27 local welfare agency shall maintain appropriate records.

140.28 If the family assessment or investigation indicates there is a potential for abuse of  
140.29 alcohol or other drugs by the parent, guardian, or person responsible for the child's care,  
140.30 the local welfare agency shall conduct a chemical use assessment pursuant to Minnesota  
140.31 Rules, part 9530.6615.

140.32 (b) When a local agency receives a report or otherwise has information indicating  
140.33 that a child who is a client, as defined in section 245.91, has been the subject of physical  
140.34 abuse, sexual abuse, or neglect at an agency, facility, or program as defined in section  
140.35 245.91, it shall, in addition to its other duties under this section, immediately inform the  
140.36 ombudsman established under sections 245.91 to 245.97. The commissioner of education

141.1 shall inform the ombudsman established under sections 245.91 to 245.97 of reports  
141.2 regarding a child defined as a client in section 245.91 that maltreatment occurred at a  
141.3 school as defined in sections 120A.05, subdivisions 9, 11, and 13, and 124D.10.

141.4 (c) Authority of the local welfare agency responsible for assessing or investigating  
141.5 the child abuse or neglect report, the agency responsible for assessing or investigating  
141.6 the report, and of the local law enforcement agency for investigating the alleged abuse or  
141.7 neglect includes, but is not limited to, authority to interview, without parental consent,  
141.8 the alleged victim and any other minors who currently reside with or who have resided  
141.9 with the alleged offender. The interview may take place at school or at any facility or  
141.10 other place where the alleged victim or other minors might be found or the child may be  
141.11 transported to, and the interview conducted at, a place appropriate for the interview of a  
141.12 child designated by the local welfare agency or law enforcement agency. The interview  
141.13 may take place outside the presence of the alleged offender or parent, legal custodian,  
141.14 guardian, or school official. For family assessments, it is the preferred practice to request  
141.15 a parent or guardian's permission to interview the child prior to conducting the child  
141.16 interview, unless doing so would compromise the safety assessment. Except as provided in  
141.17 this paragraph, the parent, legal custodian, or guardian shall be notified by the responsible  
141.18 local welfare or law enforcement agency no later than the conclusion of the investigation  
141.19 or assessment that this interview has occurred. Notwithstanding rule 32 of the Minnesota  
141.20 Rules of Procedure for Juvenile Courts, the juvenile court may, after hearing on an ex parte  
141.21 motion by the local welfare agency, order that, where reasonable cause exists, the agency  
141.22 withhold notification of this interview from the parent, legal custodian, or guardian. If the  
141.23 interview took place or is to take place on school property, the order shall specify that  
141.24 school officials may not disclose to the parent, legal custodian, or guardian the contents  
141.25 of the notification of intent to interview the child on school property, as provided under  
141.26 this paragraph, and any other related information regarding the interview that may be a  
141.27 part of the child's school record. A copy of the order shall be sent by the local welfare or  
141.28 law enforcement agency to the appropriate school official.

141.29 (d) When the local welfare, local law enforcement agency, or the agency responsible  
141.30 for assessing or investigating a report of maltreatment determines that an interview should  
141.31 take place on school property, written notification of intent to interview the child on school  
141.32 property must be received by school officials prior to the interview. The notification  
141.33 shall include the name of the child to be interviewed, the purpose of the interview, and  
141.34 a reference to the statutory authority to conduct an interview on school property. For  
141.35 interviews conducted by the local welfare agency, the notification shall be signed by the  
141.36 chair of the local social services agency or the chair's designee. The notification shall be

142.1 private data on individuals subject to the provisions of this paragraph. School officials  
142.2 may not disclose to the parent, legal custodian, or guardian the contents of the notification  
142.3 or any other related information regarding the interview until notified in writing by the  
142.4 local welfare or law enforcement agency that the investigation or assessment has been  
142.5 concluded, unless a school employee or agent is alleged to have maltreated the child.  
142.6 Until that time, the local welfare or law enforcement agency or the agency responsible  
142.7 for assessing or investigating a report of maltreatment shall be solely responsible for any  
142.8 disclosures regarding the nature of the assessment or investigation.

142.9 Except where the alleged offender is believed to be a school official or employee,  
142.10 the time and place, and manner of the interview on school premises shall be within the  
142.11 discretion of school officials, but the local welfare or law enforcement agency shall have  
142.12 the exclusive authority to determine who may attend the interview. The conditions as to  
142.13 time, place, and manner of the interview set by the school officials shall be reasonable and  
142.14 the interview shall be conducted not more than 24 hours after the receipt of the notification  
142.15 unless another time is considered necessary by agreement between the school officials and  
142.16 the local welfare or law enforcement agency. Where the school fails to comply with the  
142.17 provisions of this paragraph, the juvenile court may order the school to comply. Every  
142.18 effort must be made to reduce the disruption of the educational program of the child, other  
142.19 students, or school staff when an interview is conducted on school premises.

142.20 (e) Where the alleged offender or a person responsible for the care of the alleged  
142.21 victim or other minor prevents access to the victim or other minor by the local welfare  
142.22 agency, the juvenile court may order the parents, legal custodian, or guardian to produce  
142.23 the alleged victim or other minor for questioning by the local welfare agency or the local  
142.24 law enforcement agency outside the presence of the alleged offender or any person  
142.25 responsible for the child's care at reasonable places and times as specified by court order.

142.26 (f) Before making an order under paragraph (e), the court shall issue an order to  
142.27 show cause, either upon its own motion or upon a verified petition, specifying the basis for  
142.28 the requested interviews and fixing the time and place of the hearing. The order to show  
142.29 cause shall be served personally and shall be heard in the same manner as provided in  
142.30 other cases in the juvenile court. The court shall consider the need for appointment of a  
142.31 guardian ad litem to protect the best interests of the child. If appointed, the guardian ad  
142.32 litem shall be present at the hearing on the order to show cause.

142.33 (g) The commissioner of human services, the ombudsman for mental health and  
142.34 developmental disabilities, the local welfare agencies responsible for investigating reports,  
142.35 the commissioner of education, and the local law enforcement agencies have the right to  
142.36 enter facilities as defined in subdivision 2 and to inspect and copy the facility's records,

including medical records, as part of the investigation. Notwithstanding the provisions of chapter 13, they also have the right to inform the facility under investigation that they are conducting an investigation, to disclose to the facility the names of the individuals under investigation for abusing or neglecting a child, and to provide the facility with a copy of the report and the investigative findings.

(h) The local welfare agency responsible for conducting a family assessment or investigation shall collect available and relevant information to determine child safety, risk of subsequent child maltreatment, and family strengths and needs and share not public information with an Indian's tribal social services agency without violating any law of the state that may otherwise impose duties of confidentiality on the local welfare agency in order to implement the tribal state agreement. The local welfare agency or the agency responsible for investigating the report shall collect available and relevant information to ascertain whether maltreatment occurred and whether protective services are needed. Information collected includes, when relevant, information with regard to the person reporting the alleged maltreatment, including the nature of the reporter's relationship to the child and to the alleged offender, and the basis of the reporter's knowledge for the report; the child allegedly being maltreated; the alleged offender; the child's caretaker; and other collateral sources having relevant information related to the alleged maltreatment. The local welfare agency or the agency responsible for ~~assessing or~~ investigating the report may make a determination of no maltreatment early in an ~~assessment~~ investigation, and close the case and retain immunity, if the collected information shows no basis for a full ~~assessment or~~ investigation.

Information relevant to the assessment or investigation must be asked for, and may include:

(1) the child's sex and age, prior reports of maltreatment, information relating to developmental functioning, credibility of the child's statement, and whether the information provided under this clause is consistent with other information collected during the course of the assessment or investigation;

(2) the alleged offender's age, a record check for prior reports of maltreatment, and criminal charges and convictions. The local welfare agency or the agency responsible for assessing or investigating the report must provide the alleged offender with an opportunity to make a statement. The alleged offender may submit supporting documentation relevant to the assessment or investigation;

(3) collateral source information regarding the alleged maltreatment and care of the child. Collateral information includes, when relevant: (i) a medical examination of the child; (ii) prior medical records relating to the alleged maltreatment or the care of the

144.1 child maintained by any facility, clinic, or health care professional and an interview with  
144.2 the treating professionals; and (iii) interviews with the child's caretakers, including the  
144.3 child's parent, guardian, foster parent, child care provider, teachers, counselors, family  
144.4 members, relatives, and other persons who may have knowledge regarding the alleged  
144.5 maltreatment and the care of the child; and

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

144.8 Nothing in this paragraph precludes the local welfare agency, the local law  
144.9 enforcement agency, or the agency responsible for assessing or investigating the report  
144.10 from collecting other relevant information necessary to conduct the assessment or  
144.11 investigation. Notwithstanding sections 13.384 or 144.291 to 144.298, the local welfare  
144.12 agency has access to medical data and records for purposes of clause (3). Notwithstanding  
144.13 the data's classification in the possession of any other agency, data acquired by the  
144.14 local welfare agency or the agency responsible for assessing or investigating the report  
144.15 during the course of the assessment or investigation are private data on individuals and  
144.16 must be maintained in accordance with subdivision 11. Data of the commissioner of  
144.17 education collected or maintained during and for the purpose of an investigation of  
144.18 alleged maltreatment in a school are governed by this section, notwithstanding the data's  
144.19 classification as educational, licensing, or personnel data under chapter 13.

144.20 In conducting an assessment or investigation involving a school facility as defined  
144.21 in subdivision 2, paragraph (i), the commissioner of education shall collect investigative  
144.22 reports and data that are relevant to a report of maltreatment and are from local law  
144.23 enforcement and the school facility.

144.24 (i) Upon receipt of a report, the local welfare agency shall conduct a face-to-face  
144.25 contact with the child reported to be maltreated and with the child's primary caregiver  
144.26 sufficient to complete a safety assessment and ensure the immediate safety of the child.  
144.27 The face-to-face contact with the child and primary caregiver shall occur immediately  
144.28 if substantial child endangerment is alleged and within five calendar days for all other  
144.29 reports. If the alleged offender was not already interviewed as the primary caregiver, the  
144.30 local welfare agency shall also conduct a face-to-face interview with the alleged offender  
144.31 in the early stages of the assessment or investigation. At the initial contact, the local child  
144.32 welfare agency or the agency responsible for assessing or investigating the report must  
144.33 inform the alleged offender of the complaints or allegations made against the individual in  
144.34 a manner consistent with laws protecting the rights of the person who made the report.  
144.35 The interview with the alleged offender may be postponed if it would jeopardize an active  
144.36 law enforcement investigation.



(j) When conducting an investigation, the local welfare agency shall use a question and answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. For investigations only, the following interviewing methods and procedures must be used whenever possible when collecting information:

(1) audio recordings of all interviews with witnesses and collateral sources; and

(2) in cases of alleged sexual abuse, audio-video recordings of each interview with the alleged victim and child witnesses.

(k) In conducting an assessment or investigation involving a school facility as defined in subdivision 2, paragraph (i), the commissioner of education shall collect available and relevant information and use the procedures in paragraphs (i), (k), and subdivision 3d, except that the requirement for face-to-face observation of the child and face-to-face interview of the alleged offender is to occur in the initial stages of the assessment or investigation provided that the commissioner may also base the assessment or investigation on investigative reports and data received from the school facility and local law enforcement, to the extent those investigations satisfy the requirements of paragraphs (i) and (k), and subdivision 3d.

Sec. 9. Minnesota Statutes 2010, section 626.556, subdivision 10e, is amended to read:

Subd. 10e. **Determinations.** (a) The local welfare agency shall conclude the family assessment or the investigation within 45 days of the receipt of a report. The conclusion of the assessment or investigation may be extended to permit the completion of a criminal investigation or the receipt of expert information requested within 45 days of the receipt of the report.

(b) After conducting a family assessment, the local welfare agency shall determine whether services are needed to address the safety of the child and other family members and the risk of subsequent maltreatment.

(c) After conducting an investigation, the local welfare agency shall make two determinations: first, whether maltreatment has occurred; and, second, whether child protective services are needed. No determination of maltreatment shall be made when the alleged perpetrator is a child under the age of ten.

(d) If the commissioner of education conducts an assessment or investigation, the commissioner shall determine whether maltreatment occurred and what corrective or protective action was taken by the school facility. If a determination is made that maltreatment has occurred, the commissioner shall report to the employer, the school board, and any appropriate licensing entity the determination that maltreatment occurred and what corrective or protective action was taken by the school facility. In all other cases,

146.1 the commissioner shall inform the school board or employer that a report was received,  
146.2 the subject of the report, the date of the initial report, the category of maltreatment alleged  
146.3 as defined in paragraph (f), the fact that maltreatment was not determined, and a summary  
146.4 of the specific reasons for the determination.

146.5 (e) When maltreatment is determined in an investigation involving a facility,  
146.6 the investigating agency shall also determine whether the facility or individual was  
146.7 responsible, or whether both the facility and the individual were responsible for the  
146.8 maltreatment using the mitigating factors in paragraph (i). Determinations under this  
146.9 subdivision must be made based on a preponderance of the evidence and are private data  
146.10 on individuals or nonpublic data as maintained by the commissioner of education.

146.11 (f) For the purposes of this subdivision, "maltreatment" means any of the following  
146.12 acts or omissions:

- 146.13 (1) physical abuse as defined in subdivision 2, paragraph (g);
- 146.14 (2) neglect as defined in subdivision 2, paragraph (f);
- 146.15 (3) sexual abuse as defined in subdivision 2, paragraph (d);
- 146.16 (4) mental injury as defined in subdivision 2, paragraph (m); or
- 146.17 (5) maltreatment of a child in a facility as defined in subdivision 2, paragraph (i).

146.18 (g) For the purposes of this subdivision, a determination that child protective  
146.19 services are needed means that the local welfare agency has documented conditions  
146.20 during the assessment or investigation sufficient to cause a child protection worker, as  
146.21 defined in section 626.559, subdivision 1, to conclude that a child is at significant risk of  
146.22 maltreatment if protective intervention is not provided and that the individuals responsible  
146.23 for the child's care have not taken or are not likely to take actions to protect the child  
146.24 from maltreatment or risk of maltreatment.

146.25 (h) This subdivision does not mean that maltreatment has occurred solely because  
146.26 the child's parent, guardian, or other person responsible for the child's care in good faith  
146.27 selects and depends upon spiritual means or prayer for treatment or care of disease  
146.28 or remedial care of the child, in lieu of medical care. However, if lack of medical care  
146.29 may result in serious danger to the child's health, the local welfare agency may ensure  
146.30 that necessary medical services are provided to the child.

146.31 (i) When determining whether the facility or individual is the responsible party, or  
146.32 whether both the facility and the individual are responsible for determined maltreatment in  
146.33 a facility, the investigating agency shall consider at least the following mitigating factors:

- 146.34 (1) whether the actions of the facility or the individual caregivers were according to,  
146.35 and followed the terms of, an erroneous physician order, prescription, individual care plan,  
146.36 or directive; however, this is not a mitigating factor when the facility or caregiver was

147.1 responsible for the issuance of the erroneous order, prescription, individual care plan, or  
147.2 directive or knew or should have known of the errors and took no reasonable measures to  
147.3 correct the defect before administering care;

147.4 (2) comparative responsibility between the facility, other caregivers, and  
147.5 requirements placed upon an employee, including the facility's compliance with related  
147.6 regulatory standards and the adequacy of facility policies and procedures, facility training,  
147.7 an individual's participation in the training, the caregiver's supervision, and facility staffing  
147.8 levels and the scope of the individual employee's authority and discretion; and

147.9 (3) whether the facility or individual followed professional standards in exercising  
147.10 professional judgment.

147.11 The evaluation of the facility's responsibility under clause (2) must not be based on the  
147.12 completeness of the risk assessment or risk reduction plan required under section 245A.66,  
147.13 but must be based on the facility's compliance with the regulatory standards for policies  
147.14 and procedures, training, and supervision as cited in Minnesota Statutes and Minnesota  
147.15 Rules.

147.16 (j) Notwithstanding paragraph (i), when maltreatment is determined to have been  
147.17 committed by an individual who is also the facility license holder, both the individual and  
147.18 the facility must be determined responsible for the maltreatment, and both the background  
147.19 study disqualification standards under section 245C.15, subdivision 4, and the licensing  
147.20 actions under sections 245A.06 or 245A.07 apply.

147.21 (k) Individual counties may implement more detailed definitions or criteria that  
147.22 indicate which allegations to investigate, as long as a county's policies are consistent  
147.23 with the definitions in the statutes and rules and are approved by the county board. Each  
147.24 local welfare agency shall periodically inform mandated reporters under subdivision 3  
147.25 who work in the county of the definitions of maltreatment in the statutes and rules and any  
147.26 additional definitions or criteria that have been approved by the county board.

147.27 Sec. 10. Minnesota Statutes 2010, section 626.556, subdivision 10f, is amended to read:

147.28 Subd. 10f. **Notice of determinations.** Within ten working days of the conclusion  
147.29 of a family assessment, the local welfare agency shall notify the parent or guardian  
147.30 of the child of the need for services to address child safety concerns or significant risk  
147.31 of subsequent child maltreatment. The local welfare agency and the family may also  
147.32 jointly agree that family support and family preservation services are needed. Within ten  
147.33 working days of the conclusion of an investigation, the local welfare agency or agency  
147.34 responsible for ~~assessing or~~ investigating the report shall notify the parent or guardian  
147.35 of the child, the person determined to be maltreating the child, and if applicable, the

148.1 director of the facility, of the determination and a summary of the specific reasons for  
148.2 the determination. When the investigation involves a child foster care setting that is  
148.3 monitored by a private licensing agency under section 245A.16, the local welfare agency  
148.4 responsible for ~~assessing or~~ investigating the report shall notify the private licensing  
148.5 agency of the determination and shall provide a summary of the specific reasons for  
148.6 the determination. The notice to the private licensing agency must include identifying  
148.7 private data, but not the identity of the reporter of maltreatment. The notice must also  
148.8 include a certification that the information collection procedures under subdivision 10,  
148.9 paragraphs (h), (i), and (j), were followed and a notice of the right of a data subject to  
148.10 obtain access to other private data on the subject collected, created, or maintained under  
148.11 this section. In addition, the notice shall include the length of time that the records will be  
148.12 kept under subdivision 11c. The investigating agency shall notify the parent or guardian  
148.13 of the child who is the subject of the report, and any person or facility determined to  
148.14 have maltreated a child, of their appeal or review rights under this section or section  
148.15 256.022. The notice must also state that a finding of maltreatment may result in denial of a  
148.16 license application or background study disqualification under chapter 245C related to  
148.17 employment or services that are licensed by the Department of Human Services under  
148.18 chapter 245A, the Department of Health under chapter 144 or 144A, the Department of  
148.19 Corrections under section 241.021, and from providing services related to an unlicensed  
148.20 personal care provider organization under chapter 256B.

148.21 Sec. 11. Minnesota Statutes 2010, section 626.556, subdivision 10i, is amended to read:

148.22 Subd. 10i. **Administrative reconsideration; review panel.** (a) Administrative  
148.23 reconsideration is not applicable in family assessments since no determination concerning  
148.24 maltreatment is made. For investigations, except as provided under paragraph (e), an  
148.25 individual or facility that the commissioner of human services, a local social service  
148.26 agency, or the commissioner of education determines has maltreated a child, an interested  
148.27 person acting on behalf of the child, regardless of the determination, who contests  
148.28 the investigating agency's final determination regarding maltreatment, may request the  
148.29 investigating agency to reconsider its final determination regarding maltreatment. The  
148.30 request for reconsideration must be submitted in writing to the investigating agency within  
148.31 15 calendar days after receipt of notice of the final determination regarding maltreatment  
148.32 or, if the request is made by an interested person who is not entitled to notice, within  
148.33 15 days after receipt of the notice by the parent or guardian of the child. If mailed, the  
148.34 request for reconsideration must be postmarked and sent to the investigating agency  
148.35 within 15 calendar days of the individual's or facility's receipt of the final determination. If

149.1 the request for reconsideration is made by personal service, it must be received by the  
149.2 investigating agency within 15 calendar days after the individual's or facility's receipt of the  
149.3 final determination. Effective January 1, 2002, an individual who was determined to have  
149.4 maltreated a child under this section and who was disqualified on the basis of serious or  
149.5 recurring maltreatment under sections 245C.14 and 245C.15, may request reconsideration  
149.6 of the maltreatment determination and the disqualification. The request for reconsideration  
149.7 of the maltreatment determination and the disqualification must be submitted within 30  
149.8 calendar days of the individual's receipt of the notice of disqualification under sections  
149.9 245C.16 and 245C.17. If mailed, the request for reconsideration of the maltreatment  
149.10 determination and the disqualification must be postmarked and sent to the investigating  
149.11 agency within 30 calendar days of the individual's receipt of the maltreatment  
149.12 determination and notice of disqualification. If the request for reconsideration is made by  
149.13 personal service, it must be received by the investigating agency within 30 calendar days  
149.14 after the individual's receipt of the notice of disqualification.

149.15 (b) Except as provided under paragraphs (e) and (f), if the investigating agency  
149.16 denies the request or fails to act upon the request within 15 working days after receiving  
149.17 the request for reconsideration, the person or facility entitled to a fair hearing under  
149.18 section 256.045 may submit to the commissioner of human services or the commissioner  
149.19 of education a written request for a hearing under that section. Section 256.045 also  
149.20 governs hearings requested to contest a final determination of the commissioner of  
149.21 education. ~~For reports involving maltreatment of a child in a facility, an interested person~~  
149.22 ~~acting on behalf of the child may request a review by the Child Maltreatment Review~~  
149.23 ~~Panel under section 256.022 if the investigating agency denies the request or fails to act~~  
149.24 ~~upon the request or if the interested person contests a reconsidered determination. The~~  
149.25 ~~investigating agency shall notify persons who request reconsideration of their rights under~~  
149.26 ~~this paragraph. The request must be submitted in writing to the review panel and a copy~~  
149.27 ~~sent to the investigating agency within 30 calendar days of receipt of notice of a denial~~  
149.28 ~~of a request for reconsideration or of a reconsidered determination. The request must~~  
149.29 ~~specifically identify the aspects of the agency determination with which the person is~~  
149.30 ~~dissatisfied. The hearings specified under this section are the only administrative appeal of~~  
149.31 a decision issued under paragraph (a). Determinations under this section are not subject to  
149.32 accuracy and completeness challenges under section 13.04.

149.33 (c) If, as a result of a reconsideration or review, the investigating agency changes  
149.34 the final determination of maltreatment, that agency shall notify the parties specified in  
149.35 subdivisions 10b, 10d, and 10f.

150.1 (d) Except as provided under paragraph (f), if an individual or facility contests the  
150.2 investigating agency's final determination regarding maltreatment by requesting a fair  
150.3 hearing under section 256.045, the commissioner of human services shall assure that the  
150.4 hearing is conducted and a decision is reached within 90 days of receipt of the request for  
150.5 a hearing. The time for action on the decision may be extended for as many days as the  
150.6 hearing is postponed or the record is held open for the benefit of either party.

150.7 (e) If an individual was disqualified under sections 245C.14 and 245C.15, on  
150.8 the basis of a determination of maltreatment, which was serious or recurring, and  
150.9 the individual has requested reconsideration of the maltreatment determination under  
150.10 paragraph (a) and requested reconsideration of the disqualification under sections 245C.21  
150.11 to 245C.27, reconsideration of the maltreatment determination and reconsideration of the  
150.12 disqualification shall be consolidated into a single reconsideration. If reconsideration  
150.13 of the maltreatment determination is denied and the individual remains disqualified  
150.14 following a reconsideration decision, the individual may request a fair hearing under  
150.15 section 256.045. If an individual requests a fair hearing on the maltreatment determination  
150.16 and the disqualification, the scope of the fair hearing shall include both the maltreatment  
150.17 determination and the disqualification.

150.18 (f) If a maltreatment determination or a disqualification based on serious or recurring  
150.19 maltreatment is the basis for a denial of a license under section 245A.05 or a licensing  
150.20 sanction under section 245A.07, the license holder has the right to a contested case hearing  
150.21 under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. As provided for  
150.22 under section 245A.08, subdivision 2a, the scope of the contested case hearing shall  
150.23 include the maltreatment determination, disqualification, and licensing sanction or denial  
150.24 of a license. In such cases, a fair hearing regarding the maltreatment determination and  
150.25 disqualification shall not be conducted under section 256.045. Except for family child  
150.26 care and child foster care, reconsideration of a maltreatment determination as provided  
150.27 under this subdivision, and reconsideration of a disqualification as provided under section  
150.28 245C.22, shall also not be conducted when:

150.29 (1) a denial of a license under section 245A.05 or a licensing sanction under section  
150.30 245A.07, is based on a determination that the license holder is responsible for maltreatment  
150.31 or the disqualification of a license holder based on serious or recurring maltreatment;

150.32 (2) the denial of a license or licensing sanction is issued at the same time as the  
150.33 maltreatment determination or disqualification; and

150.34 (3) the license holder appeals the maltreatment determination or disqualification, and  
150.35 denial of a license or licensing sanction.

151.1           Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment  
151.2 determination or disqualification, but does not appeal the denial of a license or a licensing  
151.3 sanction, reconsideration of the maltreatment determination shall be conducted under  
151.4 sections 626.556, subdivision 10i, and 626.557, subdivision 9d, and reconsideration of the  
151.5 disqualification shall be conducted under section 245C.22. In such cases, a fair hearing  
151.6 shall also be conducted as provided under sections 245C.27, 626.556, subdivision 10i, and  
151.7 626.557, subdivision 9d.

151.8           If the disqualified subject is an individual other than the license holder and upon  
151.9 whom a background study must be conducted under chapter 245C, the hearings of all  
151.10 parties may be consolidated into a single contested case hearing upon consent of all parties  
151.11 and the administrative law judge.

151.12           (g) For purposes of this subdivision, "interested person acting on behalf of the  
151.13 child" means a parent or legal guardian; stepparent; grandparent; guardian ad litem; adult  
151.14 stepbrother, stepsister, or sibling; or adult aunt or uncle; unless the person has been  
151.15 determined to be the perpetrator of the maltreatment.

151.16           Sec. 12. Minnesota Statutes 2010, section 626.556, subdivision 10k, is amended to  
151.17 read:

151.18           Subd. 10k. **Release of certain assessment or investigative records to other**  
151.19 **counties.** Records maintained under subdivision 11c, paragraph (a), may be shared with  
151.20 another local welfare agency that requests the information because it is conducting an  
151.21 assessment or investigation under this section of the subject of the records.

151.22           Sec. 13. **REVISOR'S INSTRUCTION.**

151.23           (a) The revisor of statutes shall renumber each section of Minnesota Statutes listed  
151.24 in column A with the number listed in column B.

	<u>Column A</u>	<u>Column B</u>
151.25	<u>259.69</u>	<u>259A.05, subd. 5</u>
151.26	<u>260C.217</u>	<u>260C.139</u>
151.27	<u>260C.501</u>	<u>260C.177</u>
151.28	<u>260C.201, subd. 10</u>	<u>260C.202</u>
151.29	<u>260C.212, subd. 7</u>	<u>260C.203</u>
151.30	<u>260C.201, subd. 11a</u>	<u>260C.204</u>
151.31	<u>260C.212, subd. 4</u>	<u>260C.219</u>
151.32	<u>260C.212, subd. 5</u>	<u>260C.221</u>
151.33	<u>260C.213</u>	<u>260C.223</u>
151.34	<u>260C.206</u>	<u>260C.225</u>
151.35	<u>260C.212, subd. 8</u>	<u>260C.227</u>

152.1 260C.212, subd. 6 260C.521, subd. 4  
152.2 260C.205 260D.11

152.3 (b) The revisor of statutes shall make necessary cross-reference changes in  
152.4 Minnesota Statutes and Minnesota Rules consistent with the numbering in articles 1 and  
152.5 2 and the renumbering in paragraph (a).

152.6 Sec. 14. **REPEALER.**

152.7 (a) Minnesota Statutes 2010, sections 256.022; 259.67; 259.71; 260C.201,  
152.8 subdivision 11; 260C.215, subdivision 2; and 260C.456, are repealed.

152.9 (b) Minnesota Rules, parts 9560.0071; 9560.0082; 9560.0083; 9560.0091;  
152.10 9560.0093, subparts 1, 3, and 4; 9560.0101; and 9560.0102, are repealed.

152.11 Sec. 15. **EFFECTIVE DATE.**

152.12 This article is effective August 1, 2012.

## 152.13 **ARTICLE 7**

### 152.14 **CHILD CARE**

152.15 Section 1. Minnesota Statutes 2010, section 119B.09, subdivision 7, is amended to read:

152.16 Subd. 7. **Date of eligibility for assistance.** (a) The date of eligibility for child care  
152.17 assistance under this chapter is the later of the date the application was ~~signed~~ received by  
152.18 the county; the beginning date of employment, education, or training; the date the infant is  
152.19 born for applicants to the at-home infant care program; or the date a determination has  
152.20 been made that the applicant is a participant in employment and training services under  
152.21 Minnesota Rules, part 3400.0080, or chapter 256J.

152.22 (b) Payment ceases for a family under the at-home infant child care program when a  
152.23 family has used a total of 12 months of assistance as specified under section 119B.035.  
152.24 Payment of child care assistance for employed persons on MFIP is effective the date of  
152.25 employment or the date of MFIP eligibility, whichever is later. Payment of child care  
152.26 assistance for MFIP or DWP participants in employment and training services is effective  
152.27 the date of commencement of the services or the date of MFIP or DWP eligibility,  
152.28 whichever is later. Payment of child care assistance for transition year child care must be  
152.29 made retroactive to the date of eligibility for transition year child care.

152.30 (c) Notwithstanding paragraph (b), payment of child care assistance for participants  
152.31 eligible under section 119B.05 may only be made retroactive for a maximum of six  
152.32 months from the date of application for child care assistance.



153.1 Sec. 2. Minnesota Statutes 2010, section 119B.12, subdivision 1, is amended to read:

153.2 Subdivision 1. **Fee schedule.** All changes to parent fees must be implemented on  
 153.3 the first Monday of the service period following the effective date of the change.

153.4 PARENT FEE SCHEDULE. The parent fee schedule is as follows, except as noted  
 153.5 in subdivision 2:

153.6	Income Range (as a percent of the state	Co-payment (as a percentage of adjusted
153.7	median income, except at the start of the	gross income)
153.8	first tier)	
153.9	0-74.99% of federal poverty guidelines	<del>\$0/month</del> <u>biweekly</u>
153.10	75.00-99.99% of federal poverty guidelines	<del>\$5/month</del> <u>\$2/biweekly</u>
153.11	100.00% of federal poverty	
153.12	guidelines-27.72%	2.61%
153.13	27.73-29.04%	2.61%
153.14	29.05-30.36%	2.61%
153.15	30.37-31.68%	2.61%
153.16	31.69-33.00%	2.91%
153.17	33.01-34.32%	2.91%
153.18	34.33-35.65%	2.91%
153.19	35.66-36.96%	2.91%
153.20	36.97-38.29%	3.21%
153.21	38.30-39.61%	3.21%
153.22	39.62-40.93%	3.21%
153.23	40.94-42.25%	3.84%
153.24	42.26-43.57%	3.84%
153.25	43.58-44.89%	4.46%
153.26	44.90-46.21%	4.76%
153.27	46.22-47.53%	5.05%
153.28	47.54-48.85%	5.65%
153.29	48.86-50.17%	5.95%
153.30	50.18-51.49%	6.24%
153.31	51.50-52.81%	6.84%
153.32	52.82-54.13%	7.58%
153.33	54.14-55.45%	8.33%
153.34	55.46-56.77%	9.20%
153.35	56.78-58.09%	10.07%
153.36	58.10-59.41%	10.94%
153.37	59.42-60.73%	11.55%
153.38	60.74-62.06%	12.16%
153.39	62.07-63.38%	12.77%
153.40	63.39-64.70%	13.38%
153.41	<del>64.71-66.99</del> <u>67.00%</u>	14.00%
153.42	<u>Greater than</u> 67.00%	ineligible

154.1 A family's ~~monthly~~ biweekly co-payment fee is the fixed percentage established for  
154.2 the income range multiplied by the highest possible income within that income range.

154.3 Sec. 3. Minnesota Statutes 2010, section 119B.12, subdivision 2, is amended to read:

154.4 Subd. 2. **Parent fee.** A family must be assessed a parent fee for each service period.  
154.5 A family's parent fee must be a fixed percentage of its annual gross income. Parent fees  
154.6 must apply to families eligible for child care assistance under sections 119B.03 and  
154.7 119B.05. Income must be as defined in section 119B.011, subdivision 15. The fixed  
154.8 percent is based on the relationship of the family's annual gross income to 100 percent  
154.9 of the annual state median income. Parent fees must begin at 75 percent of the poverty  
154.10 level. The minimum parent fees for families between 75 percent and 100 percent of  
154.11 poverty level must be ~~\$5 per month~~ \$2 per biweekly period. Parent fees must provide  
154.12 for graduated movement to full payment. Payment of part or all of a family's parent  
154.13 fee directly to the family's child care provider on behalf of the family by a source other  
154.14 than the family shall not affect the family's eligibility for child care assistance, and the  
154.15 amount paid shall be excluded from the family's income. Child care providers who accept  
154.16 third-party payments must maintain family specific documentation of payment source,  
154.17 amount, and time period covered by the payment.

154.18 Sec. 4. Minnesota Statutes 2010, section 119B.125, subdivision 1a, is amended to read:

154.19 Subd. 1a. **Background study required.** This subdivision only applies to legal,  
154.20 nonlicensed family child care providers. Prior to authorization, and as part of each  
154.21 reauthorization required in subdivision 1, the county shall perform a background study on  
154.22 every member of the provider's household who is age 13 and older. ~~The background study~~  
154.23 ~~shall be conducted according to the procedures under subdivision 2.~~ The county shall also  
154.24 perform a background study on an individual who has reached age ten but is not yet age  
154.25 13 and is living in the household where the nonlicensed child care will be provided when  
154.26 the county has reasonable cause as defined under section 245C.02, subdivision 15.

154.27 Sec. 5. Minnesota Statutes 2010, section 119B.125, subdivision 2, is amended to read:

154.28 Subd. 2. **Persons who cannot be authorized.** (a) ~~When any member of the~~  
154.29 ~~legal, nonlicensed family child care provider's household meets any of the conditions~~  
154.30 ~~under paragraphs (b) to (n), the provider must not be authorized as a legal nonlicensed~~  
154.31 ~~family child care provider. To determine whether any of the listed conditions exist, the~~  
154.32 ~~county must request information about the provider and other household members for~~  
154.33 ~~whom a background study is required under subdivision 1a from the Bureau of Criminal~~

~~Apprehension, the juvenile courts, and social service agencies. When one of the listed entities does not maintain information on a statewide basis, the county must contact the entity in the county where the provider resides and any other county in which the provider or any household member previously resided in the past year. For purposes of this subdivision, a finding that a delinquency petition is proven in juvenile court must be considered a conviction in state district court. The provider seeking authorization under this section shall collect the information required under section 245C.05, subdivision 1, and forward the information to the county agency. The background study must include a review of the information required under section 245C.08, subdivisions 2, 3, and 4, paragraph (b). A nonlicensed family child care provider is not authorized under this section if any household member who is the subject of a background study is determined to have a disqualifying characteristic under paragraphs (b) to (e) or under section 245C.14 or 245C.15. If a county has determined that a provider is able to be authorized in that county, and a family in another county later selects that provider, the provider is able to be authorized in the second county without undergoing a new background investigation unless one of the following conditions exists:~~

- ~~(1) two years have passed since the first authorization;~~
- ~~(2) another person age 13 or older has joined the provider's household since the last authorization;~~
- ~~(3) a current household member has turned 13 since the last authorization; or~~
- ~~(4) there is reason to believe that a household member has a factor that prevents authorization.~~

~~(b) The person has been convicted of one of the following offenses or has admitted to committing or a preponderance of the evidence indicates that the person has committed an act that meets the definition of one of the following offenses: sections 609.185 to 609.195, murder in the first, second, or third degree; 609.2661 to 609.2663, murder of an unborn child in the first, second, or third degree; 609.322, solicitation, inducement, promotion of prostitution, or receiving profit from prostitution; 609.342 to 609.345, criminal sexual conduct in the first, second, third, or fourth degree; 609.352, solicitation of children to engage in sexual conduct; 609.365, incest; 609.377, felony malicious punishment of a child; 617.246, use of minors in sexual performance; 617.247, possession of pictorial representation of a minor; 609.2242 to 609.2243, felony domestic assault; a felony offense of spousal abuse; a felony offense of child abuse or neglect; a felony offense of a crime against children; or an attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes; or an offense in any other state or country where the elements are substantially similar to any of the offenses listed in this paragraph.~~

~~(c) Less than 15 years have passed since the discharge of the sentence imposed for the offense and the person has received a felony conviction for one of the following offenses, or the person has admitted to committing or a preponderance of the evidence indicates that the person has committed an act that meets the definition of a felony conviction for one of the following offenses: sections 609.20 to 609.205, manslaughter in the first or second degree; 609.21, criminal vehicular homicide; 609.215, aiding suicide or aiding attempted suicide; 609.221 to 609.2231, assault in the first, second, third, or fourth degree; 609.224, repeat offenses of fifth-degree assault; 609.228, great bodily harm caused by distribution of drugs; 609.2325, criminal abuse of a vulnerable adult; 609.2335, financial exploitation of a vulnerable adult; 609.235, use of drugs to injure or facilitate a crime; 609.24, simple robbery; 617.241, repeat offenses of obscene materials and performances; 609.245, aggravated robbery; 609.25, kidnapping; 609.255, false imprisonment; 609.2664 to 609.2665, manslaughter of an unborn child in the first or second degree; 609.267 to 609.2672, assault of an unborn child in the first, second, or third degree; 609.268, injury or death of an unborn child in the commission of a crime; 609.27, coercion; 609.275, attempt to coerce; 609.324, subdivision 1, other prohibited acts, minor engaged in prostitution; 609.3451, repeat offenses of criminal sexual conduct in the fifth degree; 609.378, neglect or endangerment of a child; 609.52, theft; 609.521, possession of shoplifting gear; 609.561 to 609.563, arson in the first, second, or third degree; 609.582, burglary in the first, second, third, or fourth degree; 609.625, aggravated forgery; 609.63, forgery; 609.631, check forgery, offering a forged check; 609.635, obtaining signature by false pretenses; 609.66, dangerous weapon; 609.665, setting a spring gun; 609.67, unlawfully owning, possessing, or operating a machine gun; 609.687, adulteration; 609.71, riot; 609.713, terrorist threats; 609.749, stalking; 260C.301, termination of parental rights; 152.021 to 152.022 and 152.0262, controlled substance crime in the first or second degree; 152.023, subdivision 1, clause (3) or (4), or 152.023, subdivision 2, clause (4), controlled substance crime in third degree; 152.024, subdivision 1, clause (2), (3), or (4), controlled substance crime in fourth degree; 617.23, repeat offenses of indecent exposure; an attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes; or an offense in any other state or country where the elements are substantially similar to any of the offenses listed in this paragraph.~~

~~(d) Less than ten years have passed since the discharge of the sentence imposed for the offense and the person has received a gross misdemeanor conviction for one of the following offenses or the person has admitted to committing or a preponderance of the evidence indicates that the person has committed an act that meets the definition of a gross misdemeanor conviction for one of the following offenses: sections 609.224, fifth-degree~~

157.1 ~~assault; 609.2242 to 609.2243, domestic assault; 518B.01, subdivision 14, violation of~~  
157.2 ~~an order for protection; 609.3451, fifth-degree criminal sexual conduct; 609.746, repeat~~  
157.3 ~~offenses of interference with privacy; 617.23, repeat offenses of indecent exposure;~~  
157.4 ~~617.241, obscene materials and performances; 617.243, indecent literature, distribution;~~  
157.5 ~~617.293, disseminating or displaying harmful material to minors; 609.71, riot; 609.66,~~  
157.6 ~~dangerous weapons; 609.749, stalking; 609.224, subdivision 2, paragraph (c), fifth-degree~~  
157.7 ~~assault against a vulnerable adult by a caregiver; 609.23, mistreatment of persons~~  
157.8 ~~confined; 609.231, mistreatment of residents or patients; 609.2325, criminal abuse of a~~  
157.9 ~~vulnerable adult; 609.2335, financial exploitation of a vulnerable adult; 609.233, criminal~~  
157.10 ~~neglect of a vulnerable adult; 609.234, failure to report maltreatment of a vulnerable adult;~~  
157.11 ~~609.72, subdivision 3, disorderly conduct against a vulnerable adult; 609.265, abduction;~~  
157.12 ~~609.378, neglect or endangerment of a child; 609.377, malicious punishment of a child;~~  
157.13 ~~609.324, subdivision 1a, other prohibited acts, minor engaged in prostitution; 609.33,~~  
157.14 ~~disorderly house; 609.52, theft; 609.582, burglary in the first, second, third, or fourth~~  
157.15 ~~degree; 609.631, check forgery, offering a forged check; 609.275, attempt to coerce; an~~  
157.16 ~~attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes; or~~  
157.17 ~~an offense in any other state or country where the elements are substantially similar to~~  
157.18 ~~any of the offenses listed in this paragraph.~~

157.19 ~~(e) Less than seven years have passed since the discharge of the sentence imposed~~  
157.20 ~~for the offense and the person has received a misdemeanor conviction for one of the~~  
157.21 ~~following offenses or the person has admitted to committing or a preponderance of the~~  
157.22 ~~evidence indicates that the person has committed an act that meets the definition of a~~  
157.23 ~~misdemeanor conviction for one of the following offenses: sections 609.224, fifth-degree~~  
157.24 ~~assault; 609.2242, domestic assault; 518B.01, violation of an order for protection;~~  
157.25 ~~609.3232, violation of an order for protection; 609.746, interference with privacy; 609.79,~~  
157.26 ~~obscene or harassing telephone calls; 609.795, letter, telegram, or package opening,~~  
157.27 ~~harassment; 617.23, indecent exposure; 609.2672, assault of an unborn child, third degree;~~  
157.28 ~~617.293, dissemination and display of harmful materials to minors; 609.66, dangerous~~  
157.29 ~~weapons; 609.665, spring guns; an attempt or conspiracy to commit any of these offenses~~  
157.30 ~~as defined in Minnesota Statutes; or an offense in any other state or country where the~~  
157.31 ~~elements are substantially similar to any of the offenses listed in this paragraph.~~

157.32 ~~(f) The person has been identified by the child protection agency in the county where~~  
157.33 ~~the provider resides or a county where the provider has resided or by the statewide child~~  
157.34 ~~protection database as a person found by a preponderance of evidence under section~~  
157.35 ~~626.556 to be responsible for physical or sexual abuse of a child within the last seven years.~~

~~(g) The person has been identified by the adult protection agency in the county where the provider resides or a county where the provider has resided or by the statewide adult protection database as the person responsible for abuse or neglect of a vulnerable adult within the last seven years.~~

~~(h)~~ (b) The person has refused to give written consent for disclosure of criminal history records.

~~(i)~~ (c) The person has been denied a family child care license or has received a fine or a sanction as a licensed child care provider that has not been reversed on appeal.

~~(j)~~ (d) The person has a family child care licensing disqualification that has not been set aside.

~~(k)~~ (e) The person has admitted or a county has found that there is a preponderance of evidence that fraudulent information was given to the county for child care assistance application purposes or was used in submitting child care assistance bills for payment.

~~(l) The person has been convicted of the crime of theft by wrongfully obtaining public assistance or has been found guilty of wrongfully obtaining public assistance by a federal court, state court, or an administrative hearing determination or waiver, through a disqualification consent agreement, as part of an approved diversion plan under section 401.065, or a court-ordered stay with probationary or other conditions.~~

~~(m) The person has a household member age 13 or older who has access to children during the hours that care is provided and who meets one of the conditions listed in paragraphs (b) to (l).~~

~~(n) The person has a household member ages ten to 12 who has access to children during the hours that care is provided; information or circumstances exist which provide the county with articulable suspicion that further pertinent information may exist showing the household member meets one of the conditions listed in paragraphs (b) to (l); and the household member actually meets one of the conditions listed in paragraphs (b) to (l).~~

Sec. 6. Minnesota Statutes 2010, section 119B.125, subdivision 6, is amended to read:

Subd. 6. **Record-keeping requirement.** All providers receiving child care assistance payments must keep daily attendance records for children receiving child care assistance and must make those records available immediately to the county upon request. The attendance records must be completed daily and include the date, the first and last name of each child in attendance, and the times when each child is dropped off and picked up. To the extent possible, the times that the child was dropped off to and picked up from the child care provider must be entered by the person dropping off or picking up the child. The daily attendance records must be retained for six years after the date of service.

159.1 A county may deny authorization as a child care provider to any applicant or rescind  
159.2 authorization of any provider when the county knows or has reason to believe that the  
159.3 provider has not complied with the record-keeping requirement in this subdivision.

159.4 Sec. 7. Minnesota Statutes 2011 Supplement, section 119B.13, subdivision 1, is  
159.5 amended to read:

159.6 Subdivision 1. **Subsidy restrictions.** (a) Beginning October 31, 2011, the maximum  
159.7 rate paid for child care assistance in any county or multicounty region under the child care  
159.8 fund shall be the rate for like-care arrangements in the county effective July 1, 2006,  
159.9 decreased by 2.5 percent.

159.10 (b) ~~Every year~~ Biennially beginning in 2012, the commissioner shall survey rates  
159.11 charged by child care providers in Minnesota to determine the 75th percentile for  
159.12 like-care arrangements in counties. When the commissioner determines that, using the  
159.13 commissioner's established protocol, the number of providers responding to the survey is  
159.14 too small to determine the 75th percentile rate for like-care arrangements in a county or  
159.15 multicounty region, the commissioner may establish the 75th percentile maximum rate  
159.16 based on like-care arrangements in a county, region, or category that the commissioner  
159.17 deems to be similar.

159.18 (c) A rate which includes a special needs rate paid under subdivision 3 or under a  
159.19 school readiness service agreement paid under section 119B.231, may be in excess of the  
159.20 maximum rate allowed under this subdivision.

159.21 (d) The department shall monitor the effect of this paragraph on provider rates. The  
159.22 county shall pay the provider's full charges for every child in care up to the maximum  
159.23 established. The commissioner shall determine the maximum rate for each type of care  
159.24 on an hourly, full-day, and weekly basis, including special needs and disability care. The  
159.25 maximum payment to a provider for one day of care must not exceed the daily rate. The  
159.26 maximum payment to a provider for one week of care must not exceed the weekly rate.

159.27 (e) Child care providers receiving reimbursement under this chapter must not be  
159.28 paid activity fees or an additional amount above the maximum rates for care provided  
159.29 during nonstandard hours for families receiving assistance.

159.30 (f) When the provider charge is greater than the maximum provider rate allowed,  
159.31 the parent is responsible for payment of the difference in the rates in addition to any  
159.32 family co-payment fee.

159.33 (g) All maximum provider rates changes shall be implemented on the Monday  
159.34 following the effective date of the maximum provider rate.

Sec. 8. Minnesota Statutes 2010, section 119B.13, subdivision 6, is amended to read:

**Subd. 6. Provider payments.** (a) The provider shall bill for services provided within ten days of the end of the service period. If bills are submitted within ten days of the end of the service period, payments under the child care fund shall be made within 30 days of receiving a bill from the provider. Counties or the state may establish policies that make payments on a more frequent basis.

(b) If a provider has received an authorization of care and been issued a billing form for an eligible family, the bill must be submitted within 60 days of the last date of service on the bill. A bill submitted more than 60 days after the last date of service must be paid if the county determines that the provider has shown good cause why the bill was not submitted within 60 days. Good cause must be defined in the county's child care fund plan under section 119B.08, subdivision 3, and the definition of good cause must include county error. Any bill submitted more than a year after the last date of service on the bill must not be paid.

(c) If a provider provided care for a time period without receiving an authorization of care and a billing form for an eligible family, payment of child care assistance may only be made retroactively for a maximum of six months from the date the provider is issued an authorization of care and billing form.

(d) A county may refuse to issue a child care authorization to a licensed or legal nonlicensed provider, revoke an existing child care authorization to a licensed or legal nonlicensed provider, stop payment issued to a licensed or legal nonlicensed provider, or ~~may~~ refuse to pay a bill submitted by a licensed or legal nonlicensed provider if:

(1) the provider admits to intentionally giving the county materially false information on the provider's billing forms; ~~or~~

(2) a county finds by a preponderance of the evidence that the provider intentionally gave the county materially false information on the provider's billing forms; ~~or~~

(3) the provider is in violation of licensing or child care assistance program rules and the provider has not corrected the violation;

(4) the provider submits false attendance reports or refuses to provide documentation of the child's attendance upon request; or

(5) the provider gives false child care price information.

(e) A county's payment policies must be included in the county's child care plan under section 119B.08, subdivision 3. If payments are made by the state, in addition to being in compliance with this subdivision, the payments must be made in compliance with section 16A.124.



**Sec. 9. CHILD CARE ASSISTANCE PROGRAM RULE CHANGE.**

face-to-face interview and conduct a phone interview for participants who qualify under paragraph (b). During the interview the county agency shall verify the following:

- (1) presence of the minor child in the home, if questionable;
- (2) income, unless excluded, including self-employment expenses used as a deduction or deposits or withdrawals from business accounts;
- (3) assets when the value is within \$200 of the asset limit;
- (4) information to establish an exception under section 256J.24, subdivision 9, if questionable;
- (5) inconsistent information, if related to eligibility; and
- (6) whether a single caregiver household meets requirements in section 256J.575, subdivision 3.

(b) A participant who is employed any number of hours must be given the option of conducting a face-to-face or phone interview to recertify eligibility. The participant must be employed at the time the interview is scheduled. If the participant loses the participant's job between the time the interview is scheduled and when it is to be conducted, the phone interview may still be conducted.

**EFFECTIVE DATE.** This section is effective October 1, 2012.

Sec. 4. Minnesota Statutes 2010, section 256J.575, subdivision 1, is amended to read:

Subdivision 1. **Purpose.** ~~(a) The Family stabilization services serve families who are not making significant progress within the regular employment and training services track of the Minnesota family investment program (MFIP) due to a variety of barriers to employment.~~

~~(b) The goal of the services is to stabilize and improve the lives of families at risk of long-term welfare dependency or family instability due to employment barriers such as physical disability, mental disability, age, or providing care for a disabled household member. These services promote and support families to achieve the greatest possible degree of self-sufficiency.~~

Sec. 5. Minnesota Statutes 2010, section 256J.575, subdivision 2, is amended to read:

Subd. 2. **Definitions.** The terms used in this section have the meanings given them in paragraphs (a) ~~to (d)~~ and (b).

~~(a) "Case manager" means the county-designated staff person or employment services counselor.~~

~~(b) "Case management"~~ "Family stabilization services" means ~~the services~~ programs, activities, and services provided by or through the county agency or through the

163.1 employment services agency to participating families, ~~including~~. Services include, but  
163.2 ~~are not limited to~~, assessment as defined in section 256J.521, subdivision 1, ~~information~~,  
163.3 referrals, and assistance in the preparation and implementation of a family stabilization  
163.4 plan under subdivision 5.

163.5 ~~(c)~~ (b) "Family stabilization plan" means a plan developed ~~by a case manager~~  
163.6 ~~and with~~ the participant, which identifies the participant's most appropriate path to  
163.7 unsubsidized employment, family stability, and barrier reduction, taking into account the  
163.8 family's circumstances.

163.9 ~~(d) "Family stabilization services" means programs, activities, and services in this~~  
163.10 ~~section that provide participants and their family members with assistance regarding,~~  
163.11 ~~but not limited to:~~

163.12 ~~(1) obtaining and retaining unsubsidized employment;~~

163.13 ~~(2) family stability;~~

163.14 ~~(3) economic stability; and~~

163.15 ~~(4) barrier reduction.~~

163.16 ~~The goal of the services is to achieve the greatest degree of economic self-sufficiency~~  
163.17 ~~and family well-being possible for the family under the circumstances.~~

163.18 Sec. 6. Minnesota Statutes 2010, section 256J.575, subdivision 5, is amended to read:

163.19 Subd. 5. ~~Case management; Family stabilization plans; coordinated services.~~

163.20 (a) The county agency or employment services provider shall provide ~~family stabilization~~  
163.21 ~~services to families through a case management model. A case manager shall be assigned~~  
163.22 ~~to each participating family within 30 days after the family is determined to be eligible~~  
163.23 ~~for family stabilization services. The case manager, with the full involvement of the~~  
163.24 ~~participant, shall recommend, and the county agency shall establish and modify as~~  
163.25 ~~necessary~~, a family stabilization plan for each participating family. Once a participant  
163.26 has been determined eligible for family stabilization services, the county agency or  
163.27 employment services provider must attempt to meet with the participant to develop a  
163.28 plan within 30 days.

163.29 (b) If a participant is already assigned to a county case manager or a  
163.30 county-designated case manager in social services, disability services, or housing services  
163.31 that case manager already assigned may be the case manager for purposes of these services.

163.32 ~~(b) The family stabilization plan must include:~~

163.33 ~~(1) each participant's plan for long-term self-sufficiency, including an employment~~  
163.34 ~~goal where applicable;~~

~~(2) an assessment of each participant's strengths and barriers, and any special circumstances of the participant's family that impact, or are likely to impact, the participant's progress towards the goals in the plan; and~~

~~(3) an identification of the services, supports, education, training, and accommodations needed to reduce or overcome any barriers to enable the family to achieve self-sufficiency and to fulfill each caregiver's personal and family responsibilities.~~

~~(c) The case manager and the participant shall meet within 30 days of the family's referral to the case manager. The initial family stabilization plan must be completed within 30 days of the first meeting with the case manager. The case manager shall establish a schedule for periodic review of the family stabilization plan that includes personal contact with the participant at least once per month. In addition, the case manager shall review and, if necessary, modify the plan under the following circumstances:~~

~~(1) there is a lack of satisfactory progress in achieving the goals of the plan;~~

~~(2) the participant has lost unsubsidized or subsidized employment;~~

~~(3) a family member has failed or is unable to comply with a family stabilization plan requirement;~~

~~(4) services, supports, or other activities required by the plan are unavailable;~~

~~(5) changes to the plan are needed to promote the well-being of the children; or~~

~~(6) the participant and case manager determine that the plan is no longer appropriate for any other reason.~~ Participants determined eligible for family stabilization services must have access to employment and training services under sections 256J.515 to 256J.575, to the extent these services are available to other MFIP participants.

Sec. 7. Minnesota Statutes 2010, section 256J.575, subdivision 6, is amended to read:

Subd. 6. **Cooperation with services requirements.** ~~(a)~~ A participant who is eligible for family stabilization services ~~under this section shall comply with paragraphs (b) to (d).~~

~~(b) Participants shall engage in family stabilization plan services for the appropriate number of hours per week that the activities are scheduled and available, based on the needs of the participant and the participant's family, unless good cause exists for not doing so, as defined in section 256J.57, subdivision 1. The appropriate number of hours must be based on the participant's plan.~~

~~(c) The case manager~~ county agency or employment services agency shall review the participant's progress toward the goals in the family stabilization plan every six months to determine whether conditions have changed, including whether revisions to the plan are needed.

165.1 ~~(d) A participant's requirement to comply with any or all family stabilization plan~~  
165.2 ~~requirements under this subdivision is excused when the case management services,~~  
165.3 ~~training and educational services, or family support services identified in the participant's~~  
165.4 ~~family stabilization plan are unavailable for reasons beyond the control of the participant,~~  
165.5 ~~including when money appropriated is not sufficient to provide the services.~~

165.6 Sec. 8. Minnesota Statutes 2010, section 256J.575, subdivision 8, is amended to read:

165.7 Subd. 8. **Funding.** (a) The commissioner of human services shall treat MFIP  
165.8 expenditures made to or on behalf of any minor child under this section, who is part of a  
165.9 household that meets criteria in subdivision 3, as expenditures under a separately funded  
165.10 state program. These expenditures shall not count toward the state's maintenance of effort  
165.11 requirements under the federal TANF program.

165.12 (b) A family is no longer part of a separately funded program under this section if  
165.13 the caregiver no longer meets the criteria for family stabilization services in subdivision  
165.14 3, ~~or if it is determined at recertification that a caregiver with a child under the age of six~~  
165.15 ~~is working at least 87 hours per month in paid or unpaid employment, or a caregiver~~  
165.16 ~~without a child under the age of six is working at least 130 hours per month in paid or~~  
165.17 ~~unpaid employment, whichever occurs sooner.~~

165.18 Sec. 9. Minnesota Statutes 2010, section 256J.621, is amended to read:

165.19 **256J.621 WORK PARTICIPATION CASH BENEFITS.**

165.20 (a) Effective October 1, 2009, upon exiting the diversionary work program (DWP)  
165.21 or upon terminating the Minnesota family investment program with earnings, a participant  
165.22 who is employed may be eligible for work participation cash benefits of \$25 per month  
165.23 to assist in meeting the family's basic needs as the participant continues to move toward  
165.24 self-sufficiency.

165.25 (b) To be eligible for work participation cash benefits, the participant shall not  
165.26 receive MFIP or diversionary work program assistance during the month and the  
165.27 participant or participants must meet the following work requirements:

165.28 (1) if the participant is a single caregiver and has a child under six years of age, the  
165.29 participant must be employed at least 87 hours per month;

165.30 (2) if the participant is a single caregiver and does not have a child under six years of  
165.31 age, the participant must be employed at least 130 hours per month; or

165.32 (3) if the household is a two-parent family, at least one of the parents must be  
165.33 employed ~~an average of at least~~ 130 hours per month.

166.1 Whenever a participant exits the diversionary work program or is terminated from  
166.2 MFIP and meets the other criteria in this section, work participation cash benefits are  
166.3 available for up to 24 consecutive months.

166.4 (c) Expenditures on the program are maintenance of effort state funds under  
166.5 a separate state program for participants under paragraph (b), clauses (1) and (2).  
166.6 Expenditures for participants under paragraph (b), clause (3), are nonmaintenance of effort  
166.7 funds. Months in which a participant receives work participation cash benefits under this  
166.8 section do not count toward the participant's MFIP 60-month time limit.

166.9 Sec. 10. Minnesota Statutes 2010, section 256J.68, subdivision 7, is amended to read:

166.10 Subd. 7. **Exclusive procedure.** The procedure established by this section is  
166.11 exclusive of all other legal, equitable, and statutory remedies against the state, its political  
166.12 subdivisions, or employees of the state or its political subdivisions. The claimant shall  
166.13 not be entitled to seek damages from any state, county, tribal, or reservation insurance  
166.14 policy or self-insurance program. A provider who accepts or agrees to accept an injury  
166.15 protection program payment for services provided to an individual must not require any  
166.16 payment from the individual.

166.17 Sec. 11. Minnesota Statutes 2010, section 256J.95, subdivision 3, is amended to read:

166.18 Subd. 3. **Eligibility for diversionary work program.** (a) Except for the categories  
166.19 of family units listed ~~below~~ in clauses (1) to (8), all family units who apply for cash  
166.20 benefits and who meet MFIP eligibility as required in sections 256J.11 to 256J.15 are  
166.21 eligible and must participate in the diversionary work program. Family units or individuals  
166.22 that are not eligible for the diversionary work program include:

166.23 (1) child only cases;

166.24 (2) ~~a~~ single-parent family ~~unit~~ units that ~~includes~~ include a child under 12 months of  
166.25 age. A parent is eligible for this exception once in a parent's lifetime;

166.26 (3) family units with a minor parent without a high school diploma or its equivalent;

166.27 (4) family units with an 18- or 19-year-old caregiver without a high school diploma  
166.28 or its equivalent who chooses to have an employment plan with an education option;

166.29 ~~(5) a caregiver age 60 or over;~~

166.30 ~~(6)~~ (5) family units with a caregiver who received DWP benefits ~~in~~ within the 12  
166.31 months prior to the month the family applied for DWP, except as provided in paragraph (c);

166.32 ~~(7)~~ (6) family units with a caregiver who received MFIP within the 12 months prior  
166.33 to the month the family ~~unit~~ applied for DWP;

167.1 ~~(8)~~ (7) family ~~unit~~ units with a caregiver who received 60 or more months of  
167.2 TANF assistance; and

167.3 ~~(9)~~ (8) family units with a caregiver who is disqualified from the work participation  
167.4 cash benefit program, DWP, or MFIP due to fraud; and

167.5 ~~(10) refugees and asylees as defined in Code of Federal Regulations, title 45, part~~  
167.6 ~~400, subpart d, section 400.43, who arrived in the United States in the 12 months prior to~~  
167.7 ~~the date of application for family cash assistance.~~

167.8 (b) A two-parent family must participate in DWP unless both caregivers meet the  
167.9 criteria for an exception under paragraph (a), clauses (1) through (5), or the family unit  
167.10 includes a parent who meets the criteria in paragraph (a), clause (6), (7), (8), (9), or (10).

167.11 (c) Once DWP eligibility is determined, the four months run consecutively. If a  
167.12 participant leaves the program for any reason and reapplies during the four-month period,  
167.13 the county must redetermine eligibility for DWP.

APPENDIX  
Article locations in H1967-2

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**256.022 CHILD MALTREATMENT REVIEW PANEL.**

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Subdivision 1. **Creation.** The commissioner of human services shall establish a review panel for purposes of reviewing investigating agency determinations regarding maltreatment of a child in a facility in response to requests received under section 626.556, subdivision 10i, paragraph (b). The review panel consists of the commissioners of health; human services; education; public safety; and corrections; and the ombudsman for mental health and developmental disabilities; or their designees.

Subd. 2. **Review procedure.** (a) The panel shall hold quarterly meetings for purposes of conducting reviews under this section. If an interested person acting on behalf of a child requests a review under this section, the panel shall review the request at its next quarterly meeting. If the next quarterly meeting is within ten days of the panel's receipt of the request for review, the review may be delayed until the next subsequent meeting. The panel shall review the request and the final determination regarding maltreatment made by the investigating agency and may review any other data on the investigation maintained by the agency that are pertinent and necessary to its review of the determination. If more than one person requests a review under this section with respect to the same determination, the review panel shall combine the requests into one review. Upon receipt of a request for a review, the panel shall notify the alleged perpetrator of maltreatment that a review has been requested and provide an approximate timeline for conducting the review.

(b) Within 30 days of the review under this section, the panel shall notify the investigating agency and the interested person who requested the review as to whether the panel agrees with the determination or whether the investigating agency must reconsider the determination. If the panel determines that the agency must reconsider the determination, the panel must make specific investigative recommendations to the agency. Within 30 days the investigating agency shall conduct a review and report back to the panel with its reconsidered determination and the specific rationale for its determination.

Subd. 3. **Report.** By January 15 of each year, the panel shall submit a report to the committees of the legislature with jurisdiction over section 626.556 regarding the number of requests for review it receives under this section, the number of cases where the panel requires the investigating agency to reconsider its final determination, the number of cases where the final determination is changed, and any recommendations to improve the review or investigative process.

Subd. 4. **Data.** Data of the review panel created as part of a review under this section are private data on individuals as defined in section 13.02.

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#### **259.67 ADOPTION ASSISTANCE PROGRAM.**

Subdivision 1. **Adoption assistance.** (a) The commissioner of human services shall enter into an adoption assistance agreement with an adoptive parent or parents of an eligible child. To be eligible for adoption assistance a child must:

(1) be determined to be a child with special needs, according to subdivision 4; and  
(2)(i) meet the criteria outlined in section 473 of the Social Security Act; or  
(ii) have had foster care payments paid on the child's behalf while in out-of-home placement through the county or tribe, and be either under the guardianship of the commissioner or under the jurisdiction of a Minnesota tribe, with adoption in accordance with tribal law as the child's documented permanency plan.

(b) Notwithstanding any provision to the contrary, no child on whose behalf federal title IV-E adoption assistance payments are to be made may be placed in an adoptive home unless a criminal background check under section 259.41, subdivision 3, paragraph (b), has been completed on the prospective adoptive parents and no disqualifying condition exists. A disqualifying condition exists if:

(1) a criminal background check reveals a felony conviction for child abuse; for spousal abuse; for a crime against children (including child pornography); or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery; or

(2) a criminal background check reveals a felony conviction within the past five years for physical assault, battery, or a drug-related offense.

(c) A child must be a citizen of the United States or otherwise eligible for federal public benefits according to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended, in order to be eligible for title IV-E adoption assistance. A child must be a citizen of the United States or meet the qualified alien requirements as defined in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended, in order to be eligible for state-funded adoption assistance.

(d) Subject to commissioner approval, the legally responsible agency shall make a title IV-E adoption assistance eligibility determination for each child. Children who meet all eligibility criteria except those specific to title IV-E adoption assistance shall receive adoption assistance paid through state funds.

(e) Payments for adoption assistance shall not be made to a biological parent of the child who later adopts the same child. Direct placement adoptions under section 259.47 or the equivalent in tribal code are not eligible for state-funded adoption assistance. A child who is adopted by the child's legal custodian or guardian is not eligible for state-funded adoption assistance. A child who is adopted by the child's legal custodian or guardian may be eligible for title IV-E adoption assistance if all required eligibility factors are met. International adoptions are not eligible for adoption assistance unless the adopted child has been placed into foster care through the public child welfare system subsequent to the failure of the adoption and all required eligibility factors are met.

Subd. 2. **Adoption assistance agreement.** The placing agency shall certify a child as eligible for adoption assistance according to rules promulgated by the commissioner. The placing agency shall not certify a child who remains under the jurisdiction of the sending agency pursuant to section 260.851, article 5, for state-funded adoption assistance when Minnesota is the receiving state. Not later than 30 days after a parent or parents are found and approved for adoptive placement of a child certified as eligible for adoption assistance, and before the final decree of adoption is issued, a written agreement must be entered into by the commissioner, the adoptive parent or parents, and the placing agency. The written agreement must be fully completed by the placing agency and in the form prescribed by the commissioner and must set forth the responsibilities of all parties, the anticipated duration of the adoption assistance

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agreement, the nature and amount of any payment, services, and assistance to be provided under such agreement, the child's eligibility for Medicaid services, eligibility for reimbursement of nonrecurring expenses associated with adopting the child, to the extent that total cost does not exceed \$2,000 per child, provisions for modification of the terms of the agreement, the effective date of the agreement, that the agreement must remain in effect regardless of the state of which the adoptive parents are residents at any given time, and the payment terms. The agreement is effective the date of the adoption decree. The adoption assistance agreement shall be subject to the commissioner's approval, which must be granted or denied not later than 15 days after the agreement is entered. The agreement must be negotiated with the adoptive parent or parents. A monthly payment is provided as part of the adoption assistance agreement to support the care of a child who has manifested special needs.

The amount of adoption assistance shall be determined through agreement with the adoptive parents. The agreement shall take into consideration the circumstances of the adopting parent or parents, the needs of the child being adopted and may provide ongoing monthly assistance, supplemental maintenance expenses related to the child's special needs, nonmedical expenses periodically necessary for purchase of services, items, or equipment related to the special needs, and medical expenses. The placing agency or the adoptive parent or parents shall provide written documentation to support the need for adoption assistance payments. The commissioner may require periodic reevaluation of adoption assistance payments. The amount of ongoing monthly adoption assistance granted may in no case exceed the payment schedule outlined in subdivision 2a and, for state-funded cases, is subject to the availability of state funds.

Subd. 2a. **Benefits and payments.** (a) Eligibility for medical assistance for children receiving adoption assistance is as specified in section 256B.055.

(b) Basic maintenance payments are available for all children eligible for adoption assistance except those eligible solely based on high risk of developing a disability. Basic maintenance payments must be made according to the following schedule:

Birth through age five	up to \$247 per month
Age six through age 11	up to \$277 per month
Age 12 through age 14	up to \$307 per month
Age 15 and older	up to \$337 per month

A child must receive the maximum payment amount for the child's age, unless a lesser amount is negotiated with and agreed to by the prospective adoptive parent.

(c) Supplemental adoption assistance needs payments, in addition to basic maintenance payments, are available for a child whose disability necessitates care, supervision, and structure beyond that ordinarily provided in a family setting to persons of the same age. These payments are related to the severity of a child's disability and the level of parenting required to care for the child, and must be made according to the following schedule:

Level I	up to \$150 per month
Level II	up to \$275 per month
Level III	up to \$400 per month
Level IV	up to \$500 per month

A child's level shall be assessed on a supplemental maintenance needs assessment form prescribed by the commissioner. A child must receive the maximum payment amount for the child's assessed level, unless a lesser amount is negotiated with and agreed to by the prospective adoptive parent.

Subd. 3. **Modification, termination, or extension of adoption assistance agreement.** The adoption assistance agreement shall continue in accordance with its terms as long as the need for adoption assistance continues and the adopted child is the legal or financial dependent of the adoptive parent or parents or guardian or conservator and is under 18 years of age. If the commissioner determines that the adoptive parents are no longer legally responsible for support of the child or are no longer providing financial support to the child, the agreement shall terminate. Under certain limited circumstances, the adoption assistance agreement may be extended to age 22 as allowed by rules adopted by the commissioner. An application for extension must be completed and submitted by the adoptive parent prior to the date the child attains age 18. The application for extension must be made according to policies and procedures prescribed by the commissioner, including documentation of eligibility, and on forms prescribed by the commissioner. Termination or modification of the adoption assistance agreement may be

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requested by the adoptive parents or subsequent guardian or conservator at any time. When an adoptive parent requests modification of the adoption assistance agreement, a reassessment of the child must be completed consistent with subdivision 2a. If the reassessment indicates that the child's level has changed or, for a high-risk child, that the potential disability upon which eligibility for the agreement was based has manifested itself, the agreement shall be renegotiated to include an appropriate payment, consistent with subdivision 2a. The agreement must not be modified unless the commissioner and the adoptive parent mutually agree to the changes. When the commissioner determines that a child is eligible for extension of title IV-E adoption assistance under section 473 of the Social Security Act, the commissioner shall require the adoptive parents to submit the necessary documentation in order to obtain the funds under that act.

**Subd. 3a. Recovery of overpayments.** An amount of adoption assistance paid to an adoptive parent in excess of the payment due is recoverable by the commissioner, even when the overpayment was caused by agency error or circumstances outside the responsibility and control of the family or provider. Adoption assistance amounts covered by this subdivision include basic maintenance needs payments, monthly supplemental maintenance needs payments, reimbursement of nonrecurring adoption expenses, reimbursement of special nonmedical costs, and reimbursement of medical costs.

**Subd. 3b. Extension; adoption finalized after age 16.** A child who has attained the age of 16 prior to finalization of the child's adoption is eligible for extension of the adoption assistance agreement to the date the child attains age 21 if the child is:

- (1) completing a secondary education program or a program leading to an equivalent credential;
- (2) enrolled in an institution which provides postsecondary or vocational education;
- (3) participating in a program or activity designed to promote or remove barriers to employment;
- (4) employed for at least 80 hours per month; or
- (5) incapable of doing any of the activities described in clauses (1) to (4) due to a medical condition which incapability is supported by regularly updated information in the case plan of the child.

**Subd. 4. Special needs determination.** (a) A child is considered a child with special needs under this section if the following criteria are met:

- (1) Due to the child's characteristics or circumstances it would be difficult to provide the child an adoptive home without adoption assistance.

(2)(i) A placement agency has made reasonable efforts to place the child for adoption without adoption assistance, but has been unsuccessful;

(ii) the child's licensed foster parents desire to adopt the child and it is determined by the placing agency that the adoption is in the best interest of the child;

(iii) the child's relative, as defined in section 260C.007, subdivision 27, desires to adopt the child, and it is determined by the placing agency that the adoption is in the best interest of the child; or

(iv) for a non-Indian child, the family that previously adopted a child of the same mother or father desires to adopt the child, and it is determined by the placing agency that the adoption is in the best interest of the child.

(3) There has been a determination that the child cannot or should not be returned to the home of the child's parents as evidenced by:

(i) a court-ordered termination of parental rights;

(ii) a petition to terminate parental rights;

(iii) a consent to adopt accepted by the court under sections 259.24 and 260C.201, subdivision 11;

(iv) in circumstances where tribal law permits the child to be adopted without a termination of parental rights, a judicial determination by tribal court indicating the valid reason why the child cannot or should not return home;

(v) a voluntary relinquishment under section 259.25 or 259.47 or, if relinquishment occurred in another state, the applicable laws in that state; or

(vi) the death of the legal parent.

(b) The characteristics or circumstances that may be considered in determining whether a child meets the requirements of paragraph (a), clause (1), or section 473(c)(2)(A) of the Social Security Act, are the following:

(1) The child is a member of a sibling group to be adopted at the same time by the same parent.

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(2) The child has been determined by the Social Security Administration to meet all medical or disability requirements of title XVI of the Social Security Act with respect to eligibility for Supplemental Security Income benefits.

(3) The child has documented physical, mental, emotional, or behavioral disabilities not covered under clause (2).

(4) The child has a high risk of developing physical, mental, emotional, or behavioral disabilities.

(5) The child is five years of age or older.

(6) The child is placed for adoption in the home of a parent who previously adopted another child born of the same mother or father for whom they receive adoption assistance.

(c) When a child's eligibility for adoption assistance is based upon the high risk of developing physical, mental, emotional, or behavioral disabilities, payments shall not be made under the adoption assistance agreement unless and until the potential disability upon which eligibility for the agreement was based manifests itself as documented by an appropriate professional.

(d) Documentation must be provided to verify that a child meets the special needs criteria in this subdivision. Documentation is limited to evidence deemed appropriate by the commissioner.

**Subd. 5. Determination of residency.** A child placed in the state from another state or a tribe outside of the state is not eligible for state-funded adoption assistance through the state. A child placed in the state from another state or a tribe outside of the state may be eligible for title IV-E adoption assistance through the state of Minnesota if all eligibility factors are met and there is no state agency that has responsibility for placement and care of the child. A child who is a resident of any county in this state when eligibility for adoption assistance is certified shall remain eligible and receive adoption assistance in accordance with the terms of the adoption assistance agreement, regardless of the domicile or residence of the adopting parents at the time of application for adoptive placement, legal decree of adoption, or thereafter.

**Subd. 6. Right of appeal.** (a) The adoptive parents have the right to appeal to the commissioner pursuant to section 256.045, when the commissioner denies, discontinues, or modifies the agreement.

(b) Adoptive parents who believe that their adopted child was incorrectly denied adoption assistance, or who did not seek adoption assistance on the child's behalf because of being provided with inaccurate or insufficient information about the child or the adoption assistance program, may request a hearing under section 256.045. Notwithstanding subdivision 2, the purpose of the hearing shall be to determine whether, under standards established by the federal Department of Health and Human Services, the circumstances surrounding the child's adoption warrant making an adoption assistance agreement on behalf of the child after the final decree of adoption has been issued. The commissioner shall enter into an adoption assistance agreement on the child's behalf if it is determined that:

(1) at the time of the adoption and at the time the request for a hearing was submitted the child was eligible for adoption assistance under United States Code, title 42, chapter 7, subchapter IV, part E, sections 670 to 679a, at the time of the adoption or for state funded adoption assistance under subdivision 4; and

(2) an adoption assistance agreement was not entered into on behalf of the child before the final decree of adoption because of extenuating circumstances as the term is used in the standards established by the federal Department of Health and Human Services. An adoption assistance agreement made under this paragraph shall be effective the date the request for a hearing was received by the commissioner or the local agency.

**Subd. 7. Reimbursement of costs.** (a) Subject to rules of the commissioner, and the provisions of this subdivision a child-placing agency licensed in Minnesota or any other state, or local or tribal social services agency shall receive a reimbursement from the commissioner equal to 100 percent of the reasonable and appropriate cost of providing child-specific adoption services. Adoption services under this subdivision may include child-specific recruitment, training, and home studies for prospective adoptive parents, and placement services.

(b) An eligible child must have a goal of adoption, which may include an adoption in accordance with tribal law, and meet one of the following criteria:

(1) is a ward of the commissioner of human services or a ward of tribal court pursuant to section 260.755, subdivision 20, who meets one of the criteria in subdivision 4, paragraph (a), clause (3), and one of the criteria in subdivision 4, paragraph (b); or

(2) is under the guardianship of a Minnesota-licensed child-placing agency who meets one of the criteria in subdivision 4, paragraph (b), clause (1), (2), (3), (5), or (6).

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(c) A child-placing agency licensed in Minnesota or any other state shall receive reimbursement for adoption services it purchases for or directly provides to an eligible child. Tribal social services shall receive reimbursement for adoption services it purchases for or directly provides to an eligible child. A local social services agency shall receive reimbursement only for adoption services it purchases for an eligible child.

Before providing adoption services for which reimbursement will be sought under this subdivision, a reimbursement agreement, on the designated format, must be entered into with the commissioner. No reimbursement under this subdivision shall be made to an agency for services provided prior to entering a reimbursement agreement. Separate reimbursement agreements shall be made for each child and separate records shall be kept on each child for whom a reimbursement agreement is made. Reimbursement shall not be made unless the commissioner agrees that the reimbursement costs are reasonable and appropriate. The commissioner may spend up to \$16,000 for each purchase of service agreement. Only one agreement per child is allowed, unless an exception is granted by the commissioner and agreed to in writing by the commissioner prior to commencement of services. Funds encumbered and obligated under such an agreement for the child remain available until the terms of the agreement are fulfilled or the agreement is terminated.

The commissioner shall make reimbursement payments directly to the agency providing the service if direct reimbursement is specified by the purchase of service agreement, and if the request for reimbursement is submitted by the local or tribal social services agency along with a verification that the service was provided.

Subd. 8. **Indian children.** The commissioner is encouraged to work with American Indian organizations to assist in the establishment of American Indian child adoption organizations able to be licensed as child-placing agencies. Children certified as eligible for adoption assistance under this section who are protected under the federal Indian Child Welfare Act of 1978 should, whenever possible, be served by the tribal governing body, tribal courts, or a licensed Indian child-placing agency.

Subd. 9. **Effect on other aid.** Adoption assistance payments received under this section shall not affect eligibility for any other financial payments to which a person may otherwise be entitled.

Subd. 10. **Rules.** The commissioner shall promulgate rules necessary to implement this section and to comply with the adoption assistance requirements of the Social Security Act to qualify for funds available under the act.

Subd. 11. **Promotion of programs.** The commissioner or the commissioner's designee shall actively seek ways to promote the adoption assistance program, including information to prospective adoptive parents of eligible children under the commissioner's guardianship of the availability of adoption assistance. All families who adopt children under the commissioner's guardianship must also be informed as to the adoption tax credit.

### **259.71 INTERSTATE ADOPTION COMPACTS; SERVICE PAYMENTS.**

Subdivision 1. **Purpose.** It is the purpose and policy of the state of Minnesota to:

(a) Enter into interstate agreements with agencies of other states for the protection of children for whom the commissioner is providing adoption assistance.

(b) Provide procedures for interstate assistance payments, including medical payments, for eligible children who are adopted interstate and for children adopted in Minnesota who move to another state.

Subd. 2. **Definitions.** For the purposes of this section, the terms defined in this subdivision shall have the meanings given them, unless the context clearly indicates otherwise.

(a) "Adoption assistance state" means the state that signs an adoption assistance agreement in a particular case.

(b) "Commissioner" means the commissioner of human services of the state of Minnesota.

(c) "Resident state" means the state of which the child is a resident because of the residence of the adoptive parents.

(d) "State" means a state of the United States, the District of Columbia, the commonwealth of Puerto Rico, the Virgin Islands, Guam, the commonwealth of the Northern Mariana Islands, or a territory or possession of the United States.

Subd. 3. **Compacts authorized.** The commissioner is authorized to develop, negotiate and enter into one or more interstate compacts on behalf of this state with other states to implement the purposes of Laws 1984, chapter 422. When entered into, the compact will have the force and effect of law.

Subd. 4. **Contents of compacts.** A compact entered into under Laws 1984, chapter 422, must include:

(a) a provision allowing all states to join the compact;

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(b) a provision for withdrawal from the compact upon written notice to the parties. The provision must require a period of one year between the date of the notice and the effective date of the withdrawal;

(c) a requirement that the protections afforded under the compact continue in force for the duration of the adoption assistance from a party state other than the one in which the adoptive parents and the child are resident;

(d) a requirement that each instance of adoption assistance to which the compact applies be covered by an adoption assistance agreement in writing between the adoptive parents and the state child welfare agency of the state which provides the adoption assistance, and that the agreement be expressly for the benefit of the adopted child and enforceable by the adoptive parents and the state agency providing the adoption assistance; and

(e) other provisions necessary and appropriate for the proper administration of the compact.

A compact entered into under Laws 1984, chapter 422, may contain provisions establishing procedures and entitlements to medical, developmental, child care, or other social services for the child under state law, even though the child and the adoptive parents are in a state other than the one responsible for or providing the services or funds to pay part of or all of the costs.

Subd. 5. **Medical assistance; duties of the commissioner of human services.** The commissioner of human services shall:

(a) Issue a medical assistance identification card to any child with special needs who is title IV-E eligible, or who is not title IV-E eligible but was determined by another state to have a special need for medical or rehabilitative care, and who is a resident in this state and is the subject of an adoption assistance agreement with another state when a certified copy of the adoption assistance agreement obtained from the adoption assistance state has been filed with the commissioner. The adoptive parents shall be required at least annually to show that the agreement is still in force or has been renewed.

(b) Consider the holder of a medical assistance identification card under this subdivision as any other recipient of medical assistance under chapter 256B; process and make payment on claims for the recipient in the same manner as for other recipients of medical assistance.

(c) Provide coverage and benefits for a child who is title IV-E eligible or who is not title IV-E eligible but was determined to have a special need for medical or rehabilitative care and who is in another state and who is covered by an adoption assistance agreement made by the commissioner for the coverage or benefits, if any, which is not provided by the resident state. The adoptive parents acting for the child may submit evidence of payment for services or benefit amounts not payable in the resident state and shall be reimbursed. However, there shall be no reimbursement for services or benefit amounts covered under any insurance or other third-party medical contract or arrangement held by the child or the adoptive parents.

(d) Publish rules implementing this subdivision. Such rules shall include procedures to be followed in obtaining prior approvals for services which are required for the assistance.

Subd. 6. **Penalties for false claims.** Any person who submits a claim or makes a statement for payment or reimbursement for services or benefits under subdivision 5 which the maker or claimant knows or should know to be false, misleading, or fraudulent is guilty of perjury. That person shall also be subject to a fine of not more than \$5,000 or imprisonment for not more than three years, or both.

Subd. 7. **Federal participation.** Consistent with federal law, the commissioner shall, in connection with the administration of Laws 1984, chapter 422, and any compact under Laws 1984, chapter 422, include in any state plan made under the Adoption Assistance and Child Welfare Act of 1980, Titles IV(e) and XIX of the Social Security Act, and any other applicable federal laws, the provision of adoption assistance and medical assistance for which the federal government pays some or all of the cost. The commissioner shall apply for and administer all relevant aid in accordance with state and federal law.

## **260C.201 DISPOSITIONS; CHILDREN IN NEED OF PROTECTION OR SERVICES OR NEGLECTED AND IN FOSTER CARE.**

Subd. 11. **Review of court-ordered placements; permanent placement determination.**

(a) This subdivision and subdivision 11a do not apply to cases where the child is in foster care for treatment of the child's developmental disability or emotional disturbance under chapter 260D. Foster care placements of children for treatment are governed by chapter 260D. In all other cases where the child is in foster care or in the care of a noncustodial parent under subdivision 1, the court shall commence proceedings to determine the permanent status of a child not later than 12 months after the child is placed in foster care or in the care of a noncustodial parent. At the admit-deny hearing commencing such proceedings, the court shall determine whether there

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is a prima facie basis for finding that the agency made reasonable efforts, or in the case of an Indian child active efforts, required under section 260.012 and proceed according to the rules of juvenile court.

For purposes of this subdivision, the date of the child's placement in foster care is the earlier of the first court-ordered placement or 60 days after the date on which the child has been voluntarily placed in foster care by the child's parent or guardian. For purposes of this subdivision, time spent by a child under the protective supervision of the responsible social services agency in the home of a noncustodial parent pursuant to an order under subdivision 1 counts towards the requirement of a permanency hearing under this subdivision or subdivision 11a. Time spent on a trial home visit counts towards the requirement of a permanency hearing under this subdivision and a permanency review for a child under eight years of age under subdivision 11a.

For purposes of this subdivision, 12 months is calculated as follows:

(1) during the pendency of a petition alleging that a child is in need of protection or services, all time periods when a child is placed in foster care or in the home of a noncustodial parent are cumulated;

(2) if a child has been placed in foster care within the previous five years under one or more previous petitions, the lengths of all prior time periods when the child was placed in foster care within the previous five years are cumulated. If a child under this clause has been in foster care for 12 months or more, the court, if it is in the best interests of the child and for compelling reasons, may extend the total time the child may continue out of the home under the current petition up to an additional six months before making a permanency determination.

(b) Unless the responsible social services agency recommends return of the child to the custodial parent or parents, not later than 30 days prior to the admit-deny hearing required under paragraph (a) and the rules of juvenile court, the responsible social services agency shall file pleadings in juvenile court to establish the basis for the juvenile court to order permanent placement of the child, including a termination of parental rights petition, according to paragraph (d). Notice of the hearing and copies of the pleadings must be provided pursuant to section 260C.152.

(c) The permanency proceedings shall be conducted in a timely fashion including that any trial required under section 260C.163 shall be commenced within 60 days of the admit-deny hearing required under paragraph (a). At the conclusion of the permanency proceedings, the court shall:

(1) order the child returned to the care of the parent or guardian from whom the child was removed; or

(2) order a permanent placement or termination of parental rights if permanent placement or termination of parental rights is in the child's best interests. The "best interests of the child" means all relevant factors to be considered and evaluated. Transfer of permanent legal and physical custody, termination of parental rights, or guardianship and legal custody to the commissioner through a consent to adopt are preferred permanency options for a child who cannot return home.

(d) If the child is not returned to the home, the court must order one of the following dispositions:

(1) permanent legal and physical custody to a relative in the best interests of the child according to the following conditions:

(i) an order for transfer of permanent legal and physical custody to a relative shall only be made after the court has reviewed the suitability of the prospective legal and physical custodian;

(ii) in transferring permanent legal and physical custody to a relative, the juvenile court shall follow the standards applicable under this chapter and chapter 260, and the procedures set out in the juvenile court rules;

(iii) an order establishing permanent legal and physical custody under this subdivision must be filed with the family court;

(iv) a transfer of legal and physical custody includes responsibility for the protection, education, care, and control of the child and decision making on behalf of the child;

(v) the social services agency may bring a petition or motion naming a fit and willing relative as a proposed permanent legal and physical custodian. The commissioner of human services shall annually prepare for counties information that must be given to proposed custodians about their legal rights and obligations as custodians together with information on financial and medical benefits for which the child is eligible; and

(vi) the juvenile court may maintain jurisdiction over the responsible social services agency, the parents or guardian of the child, the child, and the permanent legal and physical custodian for purposes of ensuring appropriate services are delivered to the child and permanent legal custodian or for the purpose of ensuring conditions ordered by the court related to the care and custody of the child are met;



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(2) termination of parental rights when the requirements of sections 260C.301 to 260C.328 are met or according to the following conditions:

(i) order the social services agency to file a petition for termination of parental rights in which case all the requirements of sections 260C.301 to 260C.328 remain applicable; and

(ii) an adoption completed subsequent to a determination under this subdivision may include an agreement for communication or contact under section 259.58;

(3) long-term foster care according to the following conditions:

(i) the court may order a child into long-term foster care only if it approves the responsible social service agency's compelling reasons that neither an award of permanent legal and physical custody to a relative, nor termination of parental rights is in the child's best interests;

(ii) further, the court may only order long-term foster care for the child under this section if it finds the following:

(A) the child has reached age 12 and the responsible social services agency has made reasonable efforts to locate and place the child with an adoptive family or with a fit and willing relative who will agree to a transfer of permanent legal and physical custody of the child, but such efforts have not proven successful; or

(B) the child is a sibling of a child described in subitem (A) and the siblings have a significant positive relationship and are ordered into the same long-term foster care home; and

(iii) at least annually, the responsible social services agency reconsiders its provision of services to the child and the child's placement in long-term foster care to ensure that:

(A) long-term foster care continues to be the most appropriate legal arrangement for meeting the child's need for permanency and stability, including whether there is another permanent placement option under this chapter that would better serve the child's needs and best interests;

(B) whenever possible, there is an identified long-term foster care family that is committed to being the foster family for the child as long as the child is a minor or under the jurisdiction of the court;

(C) the child is receiving appropriate services or assistance to maintain or build connections with the child's family and community;

(D) the child's physical and mental health needs are being appropriately provided for; and

(E) the child's educational needs are being met;

(4) foster care for a specified period of time according to the following conditions:

(i) foster care for a specified period of time may be ordered only if:

(A) the sole basis for an adjudication that the child is in need of protection or services is the child's behavior;

(B) the court finds that foster care for a specified period of time is in the best interests of the child; and

(C) the court approves the responsible social services agency's compelling reasons that neither an award of permanent legal and physical custody to a relative, nor termination of parental rights is in the child's best interests;

(ii) the order does not specify that the child continue in foster care for any period exceeding one year; or

(5) guardianship and legal custody to the commissioner of human services under the following procedures and conditions:

(i) there is an identified prospective adoptive home agreed to by the responsible social services agency having legal custody of the child pursuant to court order under this section that has agreed to adopt the child and the court accepts the parent's voluntary consent to adopt under section 259.24, except that such consent executed by a parent under this item, following proper notice that consent given under this provision is irrevocable upon acceptance by the court, shall be irrevocable unless fraud is established and an order issues permitting revocation as stated in item (vii);

(ii) if the court accepts a consent to adopt in lieu of ordering one of the other enumerated permanency dispositions, the court must review the matter at least every 90 days. The review will address the reasonable efforts of the agency to achieve a finalized adoption;

(iii) a consent to adopt under this clause vests all legal authority regarding the child, including guardianship and legal custody of the child, with the commissioner of human services as if the child were a state ward after termination of parental rights;

(iv) the court must forward a copy of the consent to adopt, together with a certified copy of the order transferring guardianship and legal custody to the commissioner, to the commissioner;

(v) if an adoption is not finalized by the identified prospective adoptive parent within 12 months of the execution of the consent to adopt under this clause, the commissioner of human services or the commissioner's delegate shall pursue adoptive placement in another home unless

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the commissioner certifies that the failure to finalize is not due to either an action or a failure to act by the prospective adoptive parent;

(vi) notwithstanding item (v), the commissioner of human services or the commissioner's designee must pursue adoptive placement in another home as soon as the commissioner or commissioner's designee determines that finalization of the adoption with the identified prospective adoptive parent is not possible, that the identified prospective adoptive parent is not willing to adopt the child, that the identified prospective adoptive parent is not cooperative in completing the steps necessary to finalize the adoption, or upon the commissioner's determination to withhold consent to the adoption.

(vii) unless otherwise required by the Indian Child Welfare Act, United States Code, title 25, section 1913, a consent to adopt executed under this section, following proper notice that consent given under this provision is irrevocable upon acceptance by the court, shall be irrevocable upon acceptance by the court except upon order permitting revocation issued by the same court after written findings that consent was obtained by fraud.

(e) In ordering a permanent placement of a child, the court must be governed by the best interests of the child, including a review of the relationship between the child and relatives and the child and other important persons with whom the child has resided or had significant contact. When the court has determined that permanent placement of the child away from the parent is necessary, the court shall consider permanent alternative homes that are available both inside and outside the state.

(f) Once a permanent placement determination has been made and permanent placement has been established, further court reviews are necessary if:

- (1) the placement is long-term foster care or foster care for a specified period of time;
- (2) the court orders further hearings because it has retained jurisdiction of a transfer of permanent legal and physical custody matter;
- (3) an adoption has not yet been finalized; or
- (4) there is a disruption of the permanent or long-term placement.

(g) Court reviews of an order for long-term foster care, whether under this section or section 260C.317, subdivision 3, paragraph (d), must be conducted at least yearly at an in-court appearance hearing and must review the child's out-of-home placement plan and the reasonable efforts of the agency to finalize the permanent plan for the child including the agency's efforts to:

- (1) ensure that long-term foster care continues to be the most appropriate legal arrangement for meeting the child's need for permanency and stability or, if not, to identify and attempt to finalize another permanent placement option under this chapter that would better serve the child's needs and best interests;
- (2) identify a specific long-term foster home for the child, if one has not already been identified;
- (3) support continued placement of the child in the identified home, if one has been identified;
- (4) ensure appropriate services are provided to address the physical health, mental health, and educational needs of the child during the period of long-term foster care and also ensure appropriate services or assistance to maintain relationships with appropriate family members and the child's community; and

(5) plan for the child's independence upon the child's leaving long-term foster care living as required under section 260C.212, subdivision 1.

(h) In the event it is necessary for a child that has been ordered into foster care for a specified period of time to be in foster care longer than one year after the permanency hearing held under this section, not later than 12 months after the time the child was ordered into foster care for a specified period of time, the matter must be returned to court for a review of the appropriateness of continuing the child in foster care and of the responsible social services agency's reasonable efforts to finalize a permanent plan for the child; if it is in the child's best interests to continue the order for foster care for a specified period of time past a total of 12 months, the court shall set objectives for the child's continuation in foster care, specify any further amount of time the child may be in foster care, and review the plan for the safe return of the child to the parent.

(i) An order permanently placing a child out of the home of the parent or guardian must include the following detailed findings:

- (1) how the child's best interests are served by the order;
- (2) the nature and extent of the responsible social service agency's reasonable efforts, or, in the case of an Indian child, active efforts to reunify the child with the parent or guardian where reasonable efforts are required;
- (3) the parent's or parents' efforts and ability to use services to correct the conditions which led to the out-of-home placement; and

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(4) that the conditions which led to the out-of-home placement have not been corrected so that the child can safely return home.

(j) An order for permanent legal and physical custody of a child may be modified under sections 518.18 and 518.185. The social services agency is a party to the proceeding and must receive notice. A parent may only seek modification of an order for long-term foster care upon motion and a showing by the parent of a substantial change in the parent's circumstances such that the parent could provide appropriate care for the child and that removal of the child from the child's permanent placement and the return to the parent's care would be in the best interest of the child. The responsible social services agency may ask the court to vacate an order for long-term foster care upon a prima facie showing that there is a factual basis for the court to order another permanency option under this chapter and that such an option is in the child's best interests. Upon a hearing where the court determines that there is a factual basis for vacating the order for long-term foster care and that another permanent order regarding the placement of the child is in the child's best interests, the court may vacate the order for long-term foster care and enter a different order for permanent placement that is in the child's best interests. The court shall not require further reasonable efforts to reunify the child with the parent or guardian as a basis for vacating the order for long-term foster care and ordering a different permanent placement in the child's best interests. The county attorney must file pleadings and give notice as required under the rules of juvenile court in order to modify an order for long-term foster care under this paragraph.

(k) The court shall issue an order required under this section within 15 days of the close of the proceedings. The court may extend issuing the order an additional 15 days when necessary in the interests of justice and the best interests of the child.

(l) This paragraph applies to proceedings required under this subdivision when the child is on a trial home visit:

(1) if the child is on a trial home visit 12 months after the child was placed in foster care or in the care of a noncustodial parent as calculated in this subdivision, the responsible social services agency may file a report with the court regarding the child's and parent's progress on the trial home visit and its reasonable efforts to finalize the child's safe and permanent return to the care of the parent in lieu of filing the pleadings required under paragraph (b). The court shall make findings regarding reasonableness of the responsible social services efforts to finalize the child's return home as the permanent order in the best interests of the child. The court may continue the trial home visit to a total time not to exceed six months as provided in subdivision 1. If the court finds the responsible social services agency has not made reasonable efforts to finalize the child's return home as the permanent order in the best interests of the child, the court may order other or additional efforts to support the child remaining in the care of the parent; and

(2) if a trial home visit ordered or continued at proceedings under this subdivision terminates, the court shall recommence proceedings under this subdivision to determine the permanent status of the child not later than 30 days after the child is returned to foster care.

### **260C.215 WELFARE OF CHILDREN.**

Subd. 2. **Duties of commissioner.** The commissioner of human services shall:

(1) in cooperation with child-placing agencies, develop a cost-effective campaign using radio and television to recruit adoptive and foster families that reflect the ethnic and racial diversity of children in the state for whom adoptive and foster homes are needed; and

(2) require that agency staff people who work in the area of adoption and foster family recruitment participate in cultural competency training.

### **260C.456 FOSTER CARE BENEFITS UNTIL AGE 21.**

Upon the request of a person, at any time, between the ages of 18 and 21 who had been receiving foster care benefits in the six consecutive months prior to the person's 18th birthday, or who was discharged while on runaway status after age 15, the local agency shall develop, in conjunction with the person and other appropriate parties, a specific plan related to that person's vocational, educational, social, or maturational needs and, to the extent funds are available, shall ensure that any foster care, housing, or counseling benefits are tied to that plan. Youth who left foster care while under state guardianship as dependent or neglected retain their ability to return to foster care for placement at any time between the ages of 18 and 21.

**9560.0071 APPLICABILITY AND PURPOSE.**

Subpart 1. **Applicability.** Parts 9560.0071 to 9560.0102 establish the procedures and standards for determining a child's eligibility for an adoption subsidy and the terms of the adoption subsidy.

Subp. 2. **Purpose.** The purpose of the adoption subsidy program is to make possible adoptive placement of children whose special needs prevent adoption without subsidy assistance.

**9560.0082 CERTIFICATION.**

Subpart 1. **Certification criteria.** A child is eligible for certification for an adoption subsidy if the child:

- A. is a Minnesota resident;
- B. is under the legal guardianship of the commissioner or of a Minnesota licensed child placing agency; and
- C. has special needs that prevent adoptive placement without an adoption subsidy.

Subp. 2. **Certification criteria for foster children.** A child whose foster parents desire to adopt the child is eligible for certification for an adoption subsidy if:

- A. the child meets the requirements of subpart 1;
- B. the placing agency determines that adoption by the child's foster parents is in the best interest of the child according to part 9560.0050; and
- C. the child's special needs make it difficult to provide the child an adoptive home without subsidy.

Subp. 3. **Eligibility period.** A child is not eligible for certification after a final decree of adoption has been issued for the child.

Subp. 4. **Certification by placing agency.** A child is certified as eligible for an adoption subsidy by the placing agency. The placing agency shall certify a child as eligible if:

- A. the child meets the certification criteria in subpart 1 or 2; and
- B. the placing agency has made reasonable efforts without success to place the child in an adoptive home without an adoption subsidy. These efforts must include:
  - (1) registration of the child with the state adoption exchange;
  - (2) contact with Hennepin, Ramsey, and St. Louis counties and Minnesota licensed child placing agencies for potential adoptive homes; and

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(3) at least one additional special effort to locate an adoptive home, such as use of photo listing services, newsletters, or adoption exchange services.

The requirements in item B may be waived by the state adoption unit if an eligible child's specific condition requires recruitment of a particular family able to care for that child, or if the child is in a foster home and will be adopted by the foster parents.

Subp. 5. **Written certification statement.** The placing agency shall certify a child's eligibility for an adoption subsidy in writing in the format prescribed by the commissioner. The certification statement must include:

- A. a description of the special needs of the child upon which eligibility is based;
- B. applicable supporting documents, such as:
  - (1) a social history summary;
  - (2) a medical evaluation;
  - (3) a psychological evaluation; and
  - (4) a special education evaluation (IEP); and
- C. the signature of the director of the placing agency or the director's designee.

Subp. 6. **Commissioner review.** The commissioner shall review the facts upon which eligibility is based. The placing agency shall provide verification of eligibility factors at the request of the commissioner.

Subp. 7. **Eligibility for federal adoption assistance.** The placing agency shall determine the child's eligibility for federal adoption assistance under Title IV-E of the Social Security Act.

**9560.0083 DETERMINATION OF AMOUNT OF ADOPTION SUBSIDY.**

Subpart 1. [Repealed, L 2009 c 163 art 2 s 39]

Subp. 2. **Identification of alternative resources.** The placing agency must identify resources available to meet the child's special needs before the amount of adoption subsidy payment is determined. Available resources include public income support programs, medical assistance, health insurance coverage, services available through community resources, and any other private or public benefits or resources available to the family or to the child to meet the child's special needs.

Subp. 3. **Basis for subsidy.** The amount of an adoption subsidy is based on the special needs of the child and the determination that other resources to meet those special needs are not available.

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Subp. 4. **Payment limit.** The amount of a monthly subsidy payment must not exceed the monthly foster care maintenance payment rate and difficulty of care payment that would be allowable for the child.

Subp. 5. [Repealed, L 2009 c 163 art 2 s 39]

Subp. 6. [Repealed, L 2009 c 163 art 2 s 39]

Subp. 7. **Special nonmedical needs.** Adoption subsidy is available for nonmedical services, items, or equipment periodically required to meet special needs documented at the time the child was certified as eligible for an adoption subsidy. Payment for nonmedical services, items, or equipment under this part is limited to:

A. Services for children under age three who are developmentally delayed if the programs are prescribed by a physician, psychologist, or developmental specialist and are not available through the public school system.

B. Child care during the adoptive parents' employment, training, or education hours if the child requires a caregiver trained to meet the child's special needs. The amount of subsidy payment is limited to:

(1) the amount the local social service agency would pay for a trained caregiver in the home or in a licensed day care facility; or

(2) the amount adoptive parents would pay under the child care sliding fee program authorized under Minnesota Statutes, section 268.91.

C. Family counseling required to meet the child's needs. Subsidy payments are limited to the prorated portion of the counseling fees allotted to the family when the family's insurance or the medical assistance program pays for the child's counseling but does not cover all fees for counseling the rest of the family.

D. Postadoption counseling to promote the child's integration into the adoptive family, provided by the placing agency during the first year following the date of the adoption decree. Subsidy payment is limited to 12 sessions of postadoption counseling.

E. Respite care provided in or out of the family residence for the relief of the child's family. Subsidy payments are limited to payment for 504 hours of respite care annually. If respite care is provided by the local social service agency, that amount of time is subtracted from the 504 hour annual total. Payment shall be no more than the respite care rate paid by the local social service agency.

F. The parental fee counties are authorized to charge parents under Minnesota Statutes, section 252.27, when a child is in 24 hour out-of-home care in a licensed residential facility.

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Subsidy payments shall not exceed the basic maintenance rate applicable under part 9560.0083, subpart 5.

G. Burial expenses up to \$1,000 if the special needs upon which eligibility for subsidy was based result in the death of the child.

H. Camping programs adapted to meet the child's special needs. Subsidy payments are limited to two weeks of camp per year.

I. Specialized communications equipment prescribed through the local school district but not covered through educational, vocational, or other rehabilitation resources.

J. The following alterations to the family home or vehicle to accommodate the child's special physical needs:

(1) Home:

- (a) wheelchair ramps;
- (b) handrail and grab bars;
- (c) accessible shower;
- (d) elevated bathtubs and toilets;
- (e) widened doorways;
- (f) shatterproof windows;
- (g) blinking lights and tactile alarms as alternate warning systems;
- (h) lowered kitchen work surfaces;
- (i) modified cabinets and sinks that provide wheelchair space;
- (j) handles and hoses for showerheads;
- (k) door hinge replacements;
- (l) lifting devices;
- (m) special communication devices that enable caregivers not immediately present to monitor and respond to a child;
- (n) air conditioning required due to a child's medical condition;
- (o) special covers such as Plexiglas for appliances, windows, fireplaces, and radiators required to protect the child; and
- (p) door opening devices; and

(2) Vehicle:

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- (a) door widening;
- (b) lifting devices;
- (c) wheelchair securing devices;
- (d) adapted seats;
- (e) handrails and grab bars;
- (f) door handle replacements; and
- (g) air conditioning required due to a child's medical condition.

K. Nonrecurring adoption expenses, up to \$2,000, for:

- (1) agency adoption fees;
- (2) travel, meal, and lodging expenses at the time of placement;
- (3) attorney fees;
- (4) court filing fee; and
- (5) replacement birth record fee.

Subp. 8. **Medical needs.** Children for whom a subsidy agreement has been executed are eligible for the medical assistance program until they reach age 21.

A. The placing agency shall assist in establishing a child's eligibility at the time of adoptive placement by:

- (1) notifying the medical assistance program of the child's eligibility for medical assistance;
- (2) providing the adoptive parent or parents with medical assistance program information;
- (3) informing the adoptive parent or parents of the procedure required to establish initial and continuing eligibility for medical assistance;
- (4) assisting the adoptive parent or parents with completion of the medical assistance application forms;
- (5) assisting the adoptive parent or parents, if the child is covered under family health insurance, with the insurance information and assignment forms required by the medical assistance program within 30 days of placement; and
- (6) providing insurance documentation to the state adoption unit, including the adoptive parents' health insurance carrier, policy number, insurance holder, and the amount of deductible under the policy.



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B. Subsidy payment is not available for any service or item covered under the medical assistance program. Subsidy payment is not available for any service or item that the medical assistance program has determined is not medically necessary.

**9560.0091 SUBSIDY AGREEMENT.**

Subpart 1. **Written subsidy agreement.** Before the final decree of adoption is issued, the placing agency, the adoptive parent or parents, and the commissioner shall enter into a written agreement stating the terms of the adoption subsidy.

Subp. 2. **Form of subsidy agreement.** The subsidy agreement must be in the form prescribed by the commissioner and must state:

- A. the responsibilities of the parties;
- B. the anticipated duration of the subsidy agreement;
- C. the payment terms;
- D. provision for modification of the terms of the agreement; and
- E. the effective date, which is the date the final decree of adoption is issued.

Subp. 3. **Preparation of subsidy agreement.** The placing agency shall prepare and submit to the commissioner for review an initial draft of the subsidy agreement. After the placing agency, the adoptive parent or parents, and the commissioner have agreed to the terms of the subsidy agreement, the placing agency shall:

- A. prepare six written copies;
- B. ensure that all copies are signed by the adoptive parent or parents and the placing agency director or the director's designee; and
- C. submit all copies to the state adoption unit for the commissioner's final approval and signature.

Subp. 4. **Duration.** The subsidy agreement continues in effect if the conditions in items A and B are met:

- A. the special needs upon which eligibility for subsidy was based continue; and
- B. the child remains dependent on the adoptive parent or parents for care and financial support.
- C. [Repealed, L 2009 c 163 art 2 s 39]

Subp. 5. **Extension to age 22.** The subsidy agreement continues beyond the child's 18th birthday if the adopted person:

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A. meets the requirements in subpart 4; and

B. is enrolled in a secondary education program as a full-time student; or is incapable of self sustaining employment because of a physical or mental disability upon which eligibility for subsidy was based.

Within 30 days of each birthday, the adopted person must apply to the local social service agency and to the Social Security Administration for services and financial benefits to meet the person's special needs.

Written documentation that services are not available or that financial benefits are not adequate to meet those special needs must be submitted to the commissioner.

Subp. 6. **Out-of-state residence.** A subsidy agreement remains in effect regardless of the state of residence of the adoptive parent or parents.

Subp. 7. **Subsidy payment upon death of the adoptive parent or parents or termination of parental rights.** The subsidy agreement ends upon the death or upon the termination of parental rights of adoptive parents who are parties to a subsidy agreement except in the following circumstances:

A. if the need for subsidy continues and the subsidy agreement provides for assignment to a guardian or conservator; or

B. for up to six months pending the appointment of a guardian or conservator if the child is placed in the temporary custody of a family member or other individual.

If the child is placed under the custody of an authorized child placing agency, payment of the subsidy must cease.

Subpart 1. **Modification or termination.** The parties to the subsidy agreement may at any time request modification or termination of the subsidy agreement. The subsidy agreement is subject to modification when a significant change in the child's circumstances affects the need for or amount of the subsidy. Requests for modification or termination must be made in writing.

The adoptive parent or parents shall notify the state adoption unit in writing within 30 days of any event affecting the need for or amount of subsidy payment, including:

A. marriage of the child or adoptive parent;

B. separation or divorce of the adoptive parents;

C. residence of the child outside the adoptive home for a period exceeding 30 consecutive days; or

D. death of the child or adoptive parent or parents.

The notification must describe the effect of the event on the need for subsidy.

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Subp. 3. **Appeal.** When the commissioner denies payment or otherwise modifies or discontinues the subsidy agreement, the adoptive parent or parents may appeal the commissioner's action under Minnesota Statutes, section 256.045.

Subp. 4. **Local social service agency assistance.** Upon request, the local social service agency in the county where the child resides shall assist the commissioner and the adoptive parent or parents with review or modification of the subsidy.

**9560.0101 REIMBURSEMENT PROCEDURES.**

Subpart 1. **Payment schedule.** Subsidy payments for basic maintenance and supplemental maintenance are made monthly to the adoptive parent or parents.

Subp. 2. **Payment of special nonmedical and medical expenses.** When requesting subsidy payment for special nonmedical or medical expenses provided for in the subsidy agreement, the adoptive parent or parents shall submit the expense statement to the state adoption unit for reimbursement.

Subp. 3. **Expenses not specified in subsidy agreement.** When requesting subsidy payment for expenses not specifically provided for in the subsidy agreement, the adoptive parent or parents shall follow the procedures in items A and B.

A. The adoptive parent or parents shall contact the local social service agency to determine whether the local social service plan includes services to meet the child's needs. If services are available, the adoptive parent or parents shall complete a local social service application. The adoptive parent or parents shall send a copy of the local social service agency response to their request for service to the state adoption unit or shall inform the state adoption unit in writing if the local social service agency refuses to accept an application.

B. The adoptive parent or parents shall apply for other services to meet the child's needs when other resources are identified by the state adoption unit, for example:

- (1) the adoptive parent's or parents' insurance carrier;
- (2) the medical assistance program;
- (3) the community mental health center;
- (4) the local public school system; or
- (5) the local public health department.

Subp. 4. **Response time.** The state adoption unit shall answer requests for special expense authorizations within 30 days.

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Subp. 5. **Cost estimates.** Requests for special equipment under part 9560.0083, subpart 7, item J, must include three estimates of cost.

Subp. 6. **Fiscal year.** The adoptive parent or parents shall submit statements for expenses incurred between July 1 and June 30 of a given fiscal year to the state adoption unit within 60 days after the end of the fiscal year in order for reimbursement to occur.

Subp. 7. **Address changes.** The adoptive parent or parents shall notify the state adoption unit of address changes.

**9560.0102 REIMBURSEMENT FOR PLACING AGENCY.**

Subpart 1. **General provisions.** Within the limitations of subpart 2, the commissioner shall reimburse placing agencies for the portion of costs of providing or purchasing adoption services for children certified as eligible for adoption subsidy that are not reimbursed under other federal or state funding sources.

Subp. 2. **Reimbursement limitations.** Reimbursement to placing agencies is subject to the following limitations:

A. The commissioner shall set aside an amount not to exceed five percent of the total amount of fiscal year appropriation from the state of Minnesota for the adoption subsidy program to reimburse placing agencies for adoption services.

B. When subsidy payments for children's needs exceed 95 percent of the total amount of fiscal year appropriation from the state of Minnesota for the adoption subsidy program, the amount of reimbursement available to placing agencies for adoption services is reduced correspondingly.

C. [Repealed, L 2007 c 147 art 2 s 63]

D. Adoption services for which subsidy reimbursement is available are limited to services provided before the adoption decree including recruitment, counseling, and training of the adoptive family; preparation and placement of the child in an adoptive home; case management and supervision of the adoptive placement before a final decree of adoption; and referral services.

Subp. 3. **Procedures for reimbursement.** Placing agencies seeking reimbursement for the costs of adoption services provided for a child certified as eligible for adoption subsidy shall follow the procedures in items A to C. The Minnesota placing agency financially responsible for the child shall:

A. submit to the state adoption unit a statement describing the adoption services to be provided and the estimated costs;

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B. submit to the state adoption unit itemized statements within 60 days after adoptive placement and within 60 days after the adoption decree is issued that list the adoption services provided and the cost for each service; and

C. use the purchase of service agreement form prescribed by the commissioner when adoption services are provided under a purchase of service agreement and submit to the state adoption unit for the commissioner's approval and signature a purchase of service agreement signed by the vendor of services.