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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 1966

02/25/2014 Authored by Liebling, Persell, Simonson, Kahn and Loeffler

The bill was read for the first time and referred to the Committee on Early Childhood and Youth Development Policy

03/20/2014 Adoption of Report: Amended and re-referred to the Committee on Health and Human Services Policy

1.1 A bill for an act

1.2 relating to human services; preventing children in foster care from being exposed

1.3 to secondhand tobacco smoke; amending Minnesota Statutes 2012, sections

1.4 260C.212, subdivision 2; 260C.215, subdivisions 4, 6, by adding a subdivision.

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

1.6 Section 1. Minnesota Statutes 2012, section 260C.212, subdivision 2, is amended to

1.7 read:

1.8 Subd. 2. **Placement decisions based on best interests of the child.** (a) The

1.9 policy of the state of Minnesota is to ensure that the child's best interests are met by

1.10 requiring an individualized determination of the needs of the child and of how the selected

1.11 placement will serve the needs of the child being placed. The authorized child-placing

1.12 agency shall place a child, released by court order or by voluntary release by the parent

1.13 or parents, in a family foster home selected by considering placement with relatives and

1.14 important friends in the following order:

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

1.16 (2) with an individual who is an important friend with whom the child has resided or

1.17 had significant contact.

1.18 (b) Among the factors the agency shall consider in determining the needs of the

1.19 child are the following:

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

1.21 (2) the medical needs of the child;

1.22 (3) the educational needs of the child;

1.23 (4) the developmental needs of the child;

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

(6) the child's religious and cultural needs;
(7) the child's connection with a community, school, and faith community;
(8) the child's interests and talents;
(9) the child's relationship to current caretakers, parents, siblings, and relatives; and
(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, the following requirements must be satisfied before the approval of a foster or adoptive placement in a related or unrelated home: (1) a completed background study is required under section 245C.08 before the approval of a foster placement in a related or unrelated home; and (2) a completed review of the written home study required under section 260C.215, subdivision 4, clause (5), or 260C.611, to assess the capacity of the prospective foster or adoptive parent to ensure the placement will meet the needs of the individual child.

Sec. 2. Minnesota Statutes 2012, section 260C.215, subdivision 4, is amended to read:

Subd. 4. **Duties of commissioner.** The commissioner of human services shall:

(1) provide practice guidance to responsible social services agencies and child-placing agencies that reflect federal and state laws and policy direction on placement of children;

(2) develop criteria for determining whether a prospective adoptive or foster family has the ability to understand and validate the child's cultural background;

(3) provide a standardized training curriculum for adoption and foster care workers and administrators who work with children. Training must address the following objectives:

(i) developing and maintaining sensitivity to all cultures;

(ii) assessing values and their cultural implications;

(iii) making individualized placement decisions that advance the best interests of a particular child under section 260C.212, subdivision 2; and

(iv) issues related to cross-cultural placement;

(4) provide a training curriculum for all prospective adoptive and foster families that prepares them to care for the needs of adoptive and foster children taking into consideration the needs of children outlined in section 260C.212, subdivision 2, paragraph (b);

(5) develop and provide to agencies a home study format to assess the capacities and needs of prospective adoptive and foster families. The format must address problem-solving skills; parenting skills; 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. For a study of a prospective foster parent, the format must also address the capacity of the prospective foster parent to provide a safe, healthy, smoke-free home environment. 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) 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. 3. Minnesota Statutes 2012, 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.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; and

(7) ensure that children in foster care are protected from the effects of secondhand smoke and that licensed foster homes maintain a smoke-free environment in compliance with subdivision 9.

(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. 4. Minnesota Statutes 2012, section 260C.215, is amended by adding a subdivision to read:

Subd. 9. Preventing exposure to secondhand smoke for children in foster care.

(a) A child in foster care shall not be exposed to any type of secondhand smoke in the following settings:

(1) a licensed foster home or any enclosed space connected to the home, including a garage, porch, deck, or similar space; or

(2) a motor vehicle in which a foster child is transported.

(b) Smoking in outdoor areas on the premises of the home is permitted, except when a foster child is present and exposed to secondhand smoke.

(c) The home study required in subdivision 4, clause (5), must include a plan to maintain a smoke-free environment for foster children.

(d) If a foster parent fails to provide a smoke-free environment for a foster child, the child-placing agency must ask the foster parent to comply with a plan that includes training on the health risks of exposure to secondhand smoke. If the agency determines that the foster parent is unable to provide a smoke-free environment and that the home environment constitutes a health risk to a foster child, the agency must reassess whether the placement is based on the child's best interests consistent with section 260C.212, subdivision 2.

5.1 (e) Nothing in this subdivision shall delay the placement of a child with a relative,
5.2 consistent with section 245A.035, unless the relative is unable to provide for the
5.3 immediate health needs of the individual child.

5.4 (f) If a child's best interests would most effectively be served by placement in a home
5.5 which will not meet the requirements of paragraph (a), the failure to meet the requirements
5.6 of paragraph (a) shall not be a cause to deny placement in that home.

5.7 (g) Nothing in this subdivision shall be interpreted to interfere with traditional or
5.8 spiritual Native American or religious ceremonies involving the use of tobacco.