

A bill for an act

relating to human services; amending child welfare and child support provisions; adopting a new Interstate Compact for the Placement of Children and repealing the old compact; regulating child and adult adoptions; directing the commissioner to adopt rules; amending Minnesota Statutes 2006, sections 13.46, by adding subdivisions; 256.87, subdivision 5; 259.20, subdivision 1; 259.21, by adding a subdivision; 259.22, subdivision 2; 259.23, subdivision 2; 259.43; 259.52, subdivision 2; 259.53, subdivisions 3, 5; 259.59, subdivisions 1, 2; 259.67, subdivisions 2, 3, by adding a subdivision; 259.75, subdivision 5; 259.89, subdivisions 1, 2, 4, by adding a subdivision; 260.795, subdivision 3; 260C.001, subdivision 2; 260C.007, subdivisions 5, 6, 13; 260C.171, subdivision 2; 260C.178, subdivision 1; 260C.212, subdivision 7, by adding a subdivision; 260C.325, subdivisions 1, 3; 518A.42, subdivision 1; 518A.46, subdivision 5; 524.2-114; 541.04; 548.09, by adding a subdivision; 550.01; 626.556, subdivision 7; Minnesota Statutes 2007 Supplement, sections 259.41, subdivision 1; 259.53, subdivision 2; 259.57, subdivision 1; 259.67, subdivision 4; 260C.163, subdivision 1; 260C.209, subdivisions 1, 2, by adding a subdivision; 260C.212, subdivision 4; 626.556, subdivision 10a; Laws 2007, chapter 147, article 2, section 56; proposing coding for new law in Minnesota Statutes, chapters 259; 260; repealing Minnesota Statutes 2006, sections 260.851; 260B.241; 260C.207; 548.091, subdivision 3b; Minnesota Rules, part 9560.0092.

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

ARTICLE 1

CHILD WELFARE

Section 1. Minnesota Statutes 2006, section 259.20, subdivision 1, is amended to read:

Subdivision 1. **Policy and purpose.** The policy of the state of Minnesota and the purpose of sections 259.20 to 259.69 is to ensure:

(1) that the best interests of ~~children~~ adopted persons are met in the planning and granting of adoptions; and

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(2) that laws and practices governing adoption recognize the diversity of Minnesota's population and the diverse needs of persons affected by adoption.

Sec. 2. Minnesota Statutes 2006, section 259.21, is amended by adding a subdivision to read:

Subd. 2a. **Adult adoption.** "Adult adoption" means the adoption of a person at least 18 years of age.

Sec. 3. Minnesota Statutes 2006, section 259.22, subdivision 2, is amended to read:

Subd. 2. ~~Children~~ **Persons who may be adopted.** No petition for adoption shall be filed unless the ~~child~~ 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

(a) the ~~child~~ person to be adopted is over 14 years of age;

(b) the child is sought to be adopted by an individual who is related to the child, as defined by section 245A.02, subdivision 13;

(c) the child has been lawfully placed under the laws of another state while the child and petitioner resided in that other state;

(d) 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

(e) the child has been lawfully placed under section 259.47.

Sec. 4. Minnesota Statutes 2006, section 259.23, subdivision 2, is amended to read:

Subd. 2. **Contents of petition.** The petition shall be signed by the petitioner and, if married, by the spouse. It shall be verified, and filed in duplicate. The petition shall allege:

(a) The full name, age and place of residence of petitioner, and if married, the date and place of marriage;

(b) The date petitioner acquired physical custody of the child and from what person or agency;

(c) The date of birth of the ~~child~~ person to be adopted, if known, and the state and county where born;

(d) The name of the child's parents, if known, and the guardian if there be one;

(e) The actual name of the ~~child~~ person to be adopted, if known, and any known aliases;

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(f) The name to be given the ~~child~~ person to be adopted if a change of name is desired;

(g) The description and value of any real or personal property owned by the ~~child~~ person to be adopted;

(h) That the petitioner desires that the relationship of the parent and ~~child~~ the person to be adopted be established ~~between petitioner and the child, and that it is to the~~ and that it is in the best interests of the ~~child for the child~~ person to be adopted by the petitioner.

In agency placements, the information required in clauses (d) and (e) shall not be required to be alleged in the petition but shall be transmitted to the court by the commissioner of human services or the agency.

Sec. 5. [259.241] ADULT ADOPTION.

(a) Any adult person may be adopted, regardless of his or her residence. A resident of Minnesota may petition the court of record having jurisdiction of adoption proceedings to adopt an individual who has reached the age of 18 years or older.

(b) The consent of the person to be adopted shall be the only consent necessary, according to section 259.24. The consent of an adult in his or her own adoption is invalid if the adult is considered to be a vulnerable adult under section 626.5572, subdivision 21, or if the person consenting to the adoption is determined not competent to give consent.

(c) The decree of adoption establishes a parent-child relationship between the adopting parent or parents and the person adopted, including the right to inherit, and also terminates the parental rights and sibling relationship between the adopted person and the adopted person's birth parents and siblings according to section 259.59.

(d) If the adopted person requests a change of name, the adoption decree shall order the name change.

Sec. 6. Minnesota Statutes 2007 Supplement, section 259.41, subdivision 1, is amended to read:

Subdivision 1. **Study required before placement; certain relatives excepted.** (a) An approved adoption study; completed background study, as required under section 245C.33; and written report must be completed before the child is placed in a prospective adoptive home under this chapter, except as allowed by section 259.47, subdivision 6. In an agency placement, the report must be filed with the court at the time the adoption petition is filed. In a direct adoptive placement, the report must be filed with the court in support of a motion for temporary preadoptive custody under section 259.47, subdivision 3, or, if the study and report are complete, in support of an emergency order under section

259.47, subdivision 6. The study and report shall be completed by a licensed child-placing agency and must be thorough and comprehensive. The study and report shall be paid for by the prospective adoptive parent, except as otherwise required under section 256.01, subdivision 2, paragraph (h), 259.67, or 259.73.

(b) A placement for adoption with an individual who is related to the child, as defined by section 245A.02, subdivision 13, is not subject to this section except as required by sections 245C.33 and 259.53, subdivision 2, paragraph (c).

(c) In the case of a licensed foster parent seeking to adopt a child who is in the foster parent's care, any portions of the foster care licensing process that duplicate requirements of the home study may be submitted in satisfaction of the relevant requirements of this section.

Sec. 7. Minnesota Statutes 2006, section 259.43, is amended to read:

259.43 BIRTH PARENT HISTORY; COMMISSIONER'S FORM.

In any adoption under this chapter, except a stepparent or an adult adoption under section 259.241, a birth parent or an agency, if an agency placement, shall provide a prospective adoptive parent with a complete, thorough, detailed, and current social and medical history of the ~~birth families~~ child being adopted, if information is known after reasonable inquiry. Each ~~birth family~~ child social and medical history must be provided on a form or forms prepared by the commissioner and must include background and health history specific to the child, the child's birth parents, and the child's other birth relatives. Applicable background and health information about the child includes: the child's current health condition, behavior, and demeanor; placement history; education history; sibling information; and birth, medical, dental, and immunization information. Redacted copies of pertinent records, assessments, and evaluations shall be attached to the child's social and medical history. Applicable background information about the child's birth parents and other birth relatives includes: general background information; education and employment history; physical health and mental health history; and reasons for the child's placement. The child's social and medical history shall be completed in a manner so that the completed form protects the identities of all individuals described in it. The commissioner shall make the form available to agencies and court administrators for public distribution. The birth family child's social and medical history must be provided to the prospective adoptive family prior to adoptive placement, provided to the Department of Human Services with application for adoption assistance, if applicable, and filed with the court when the adoption petition is filed, or, In a direct adoptive placement, the child's social and medical history must be filed with the court with the motion for temporary preadoptive custody.

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Sec. 8. Minnesota Statutes 2006, section 259.52, subdivision 2, is amended to read:

Subd. 2. **Requirement to search registry before adoption petition can be granted; proof of search.** No petition for adoption may be granted unless the agency supervising the adoptive placement, the birth mother of the child, or, in the case of a stepparent or relative adoption, the county agency responsible for the report required under section 259.53, subdivision 1, requests that the commissioner of health search the registry to determine whether a putative father is registered in relation to a child who is or may be the subject of an adoption petition. The search required by this subdivision must be conducted no sooner than 31 days following the birth of the child. A search of the registry may be proven by the production of a certified copy of the registration form or by a certified statement of the commissioner of health that after a search no registration of a putative father in relation to a child who is or may be the subject of an adoption petition could be located. The filing of a certified copy of an order from a juvenile protection matter under chapter 260C containing a finding that certification of the requisite search of the Minnesota Fathers' Adoption Registry was filed with the court in that matter shall also constitute proof of search. Certification that the fathers' adoption registry has been searched must be filed with the court prior to entry of any final order of adoption. In addition to the search required by this subdivision, the agency supervising the adoptive placement, the birth mother of the child, or, in the case of a stepparent or relative adoption, the ~~county~~ social services agency responsible for the report under section 259.53, subdivision 1, or the responsible social services agency that is a petitioner in a juvenile protection matter under chapter 260C may request that the commissioner of health search the registry at any time.

Sec. 9. Minnesota Statutes 2007 Supplement, section 259.53, subdivision 2, is amended to read:

Subd. 2. **Adoption agencies; postplacement assessment and report.** (a) The agency to which the petition has been referred under subdivision 1 shall conduct a postplacement assessment and file a report with the court within 90 days of receipt of a copy of the adoption petition. The agency shall send a copy of the report to the commissioner at the time it files the report with the court. The assessment and report must evaluate the environment and antecedents of the child to be adopted, the home of the petitioners, whether placement with the petitioners meets the needs of the child as described in section 259.57, subdivision 2. The report must include a recommendation to the court as to whether the petition should or should not be granted.

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In making evaluations and recommendations, the postplacement assessment and report must, at a minimum, address the following:

- (1) the level of adaptation by the prospective adoptive parents to parenting the child;
- (2) the health and well-being of the child in the prospective adoptive parents' home;
- (3) the level of incorporation by the child into the prospective adoptive parents' home, extended family, and community; and
- (4) the level of inclusion of the child's previous history into the prospective adoptive home, such as cultural or ethnic practices, or contact with former foster parents or biological relatives.

(b) A postplacement adoption report is valid for 12 months following its date of completion.

(c) If the petitioner is an individual who is related to the child, as defined by section 245A.02, subdivision 13, the agency, as part of its postplacement assessment and report under paragraph (a), shall conduct a background study meeting the requirements of section 259.41, subdivision 3, paragraph (b). The prospective adoptive parent shall cooperate in the completion of the background check by supplying the information and authorizations described in section 259.41, subdivision 3, paragraph (a). In the case of a stepparent adoption, the birth or adoptive parent of the child being adopted or the child's birth or adoptive siblings as a result of a prior adoption are not subject to a background study.

~~(c)~~ (d) If the report recommends that the court not grant the petition to adopt the child, the provisions of this paragraph apply. Unless the assessment and report were completed by the local social services agency, the agency completing the report, at the time it files the report with the court under paragraph (a), must provide a copy of the report to the local social services agency in the county where the prospective adoptive parent lives. The agency or local social services agency may recommend that the court dismiss the petition. If the local social services agency determines that continued placement in the home endangers the child's physical or emotional health, the agency shall seek a court order to remove the child from the home.

~~(d)~~ (e) If, through no fault of the petitioner, the agency to whom the petition was referred under subdivision 1, paragraph (b), fails to complete the assessment and file the report within 90 days of the date it received a copy of the adoption petition, the court may hear the petition upon giving the agency and the local social services agency, if different, five days' notice by mail of the time and place of the hearing.

Sec. 10. Minnesota Statutes 2006, section 259.53, subdivision 3, is amended to read:

Subd. 3. **Reports and records.** (a) The contents of all reports and records of the commissioner of human services, local social services agency, or child-placing agency bearing on the suitability of the proposed adoptive home and the child to each other shall not be disclosed either directly or indirectly to any person other than the commissioner of human services, the child's guardian ad litem appointed under: (1) section 260C.163 when the guardian's appointment continues under section 260C.317, subdivision 3, paragraph (b); or (2) section 259.65 or a judge of the court having jurisdiction of the matter, except as provided in paragraph (b).

(b) A judge of the court having jurisdiction of the matter shall upon request disclose to a party to the proceedings or the party's counsel any portion of a report or record that relates only to the suitability of the proposed adoptive parents. In this disclosure, the judge may withhold the identity of individuals providing information in the report or record. When the judge is considering whether to disclose the identity of individuals providing information, the agency with custody of the report or record shall be permitted to present reasons for or against disclosure.

Sec. 11. Minnesota Statutes 2006, section 259.53, subdivision 5, is amended to read:

Subd. 5. **Residence and investigation waived; stepparent.** The investigation and period of residence required by this section may be waived by the court except for subdivision 2, paragraph (c), when the petition for adoption is submitted by a stepparent or when, upon good cause being shown, the court is satisfied that the proposed adoptive home and the child are suited to each other, but in either event at least ten working days' notice of the hearing shall be given to the local social services agency by certified mail. The reports of investigations shall be a part of the court files in the case, unless otherwise ordered by the court.

Sec. 12. Minnesota Statutes 2007 Supplement, section 259.57, subdivision 1, is amended to read:

Subdivision 1. **Findings; orders.** Upon the hearing,

(a) if the court finds that it is in the best interests of the ~~child~~ person to be adopted that the petition be granted, a decree of adoption shall be made and recorded in the office of the court administrator, ordering that henceforth the ~~child~~ person to be adopted shall be the child of the petitioner. In the decree the court may change the name of the ~~child~~ adopted person if desired. After the decree is granted for a ~~child~~ an adopted person who is:

(1) under the guardianship of the commissioner or a licensed child-placing agency according to section 260C.201, subdivision 11, or 260C.317;

(2) placed by the commissioner, commissioner's agent, or licensed child-placing agency after a consent to adopt according to section 259.24 or under an agreement conferring authority to place for adoption according to section 259.25; or

(3) adopted after a direct adoptive placement ordered by the district court under section 259.47,

the court administrator shall immediately mail a copy of the recorded decree to the commissioner of human services;

(b) if the court is not satisfied that the proposed adoption is in the best interests of the ~~child~~ person to be adopted, the court shall deny the petition, and in the case of a child shall order the child returned to the custody of the person or agency legally vested with permanent custody or certify the case for appropriate action and disposition to the court having jurisdiction to determine the custody and guardianship of the child.

Sec. 13. Minnesota Statutes 2006, section 259.59, subdivision 1, is amended to read:

Subdivision 1. **Legal effect.** Upon adoption, the ~~child~~ adopted person shall become the legal child of the adopting persons and they shall become the legal parents of the child with all the rights and duties between them of birth parents and legitimate child. By virtue of the adoption the ~~child~~ adopted person shall inherit from the adoptive parents or their relatives the same as though the ~~child~~ adopted person were the natural child of the parents, and in case of the ~~child's~~ adopted person's death intestate the adoptive parents and their relatives shall inherit the ~~child's~~ adopted person's estate as if ~~they~~ the adopted person had been the child's birth parents and relatives. After a decree of adoption is entered the birth parents of an adopted ~~child~~ person shall be relieved of all parental responsibilities for the ~~child~~ adopted person, and they shall not exercise or have any rights over the adopted ~~child~~ person or the ~~child's~~ adopted person's property. The ~~child~~ adopted person shall not owe the birth parents or their relatives any legal duty nor shall the ~~child~~ adopted person inherit from the birth parents or kindred, except as provided in subdivision 1a and section 257C.08, subdivision 6.

Sec. 14. Minnesota Statutes 2006, section 259.59, subdivision 2, is amended to read:

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

Sec. 15. Minnesota Statutes 2006, section 259.67, subdivision 2, is amended to read:

9.1 Subd. 2. **Adoption assistance agreement.** The placing agency shall certify a child
9.2 as eligible for adoption assistance according to rules promulgated by the commissioner.
9.3 The placing agency shall not certify a child who remains under the jurisdiction of the
9.4 sending agency pursuant to section 260.851, article 5, for state-funded adoption assistance
9.5 when Minnesota is the receiving state. Not later than 30 days after a parent or parents are
9.6 found and approved for adoptive placement of a child certified as eligible for adoption
9.7 assistance, and before the final decree of adoption is issued, a written agreement must be
9.8 entered into by the commissioner, the adoptive parent or parents, and the placing agency.
9.9 The written agreement must be fully completed by the placing agency and in the form
9.10 prescribed by the commissioner and must set forth the responsibilities of all parties, the
9.11 anticipated duration of the adoption assistance payments, and the payment terms. The
9.12 adoption assistance agreement shall be subject to the commissioner's approval, which
9.13 must be granted or denied not later than 15 days after the agreement is entered.

9.14 The amount of adoption assistance is subject to the availability of state and federal
9.15 funds and shall be determined through agreement with the adoptive parents. The
9.16 agreement shall take into consideration the circumstances of the adopting parent or
9.17 parents, the needs of the child being adopted and may provide ongoing monthly assistance,
9.18 supplemental maintenance expenses related to the ~~adopted person's~~ child's special needs,
9.19 nonmedical expenses periodically necessary for purchase of services, items, or equipment
9.20 related to the special needs, and medical expenses. The placing agency or the adoptive
9.21 parent or parents shall provide written documentation to support the need for adoption
9.22 assistance payments. The commissioner may require periodic reevaluation of adoption
9.23 assistance payments. The amount of ongoing monthly adoption assistance granted may
9.24 in no case exceed that which would be allowable for the child under foster family care
9.25 and is subject to the availability of state and federal funds.

9.26 Sec. 16. Minnesota Statutes 2006, section 259.67, subdivision 3, is amended to read:

9.27 Subd. 3. ~~Annual affidavit~~ **Modification or termination of the adoption assistance**
9.28 **agreement.** ~~When adoption assistance agreements are for more than one year, the adoptive~~
9.29 ~~parents or guardian or conservator shall annually present an affidavit stating whether the~~
9.30 ~~adopted person remains under their care and whether the need for adoption assistance~~
9.31 ~~continues to exist. The commissioner may verify the affidavit. The adoption assistance~~
9.32 agreement shall continue in accordance with its terms as long as the need for adoption
9.33 assistance continues and the adopted ~~person~~ child is the legal or financial dependent of the
9.34 adoptive parent or parents or guardian or conservator and is under 18 years of age. The
9.35 adoption assistance agreement may be extended to age 22 as allowed by rules adopted

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by the commissioner. Termination or modification of the adoption assistance agreement may be requested by the adoptive parents or subsequent guardian or conservator at any time. When the commissioner determines that a child is eligible for adoption assistance under Title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 679a, the commissioner shall modify the adoption assistance agreement in order to obtain the funds under that act.

Sec. 17. Minnesota Statutes 2006, section 259.67, is amended by adding a subdivision to read:

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. The commissioner shall adopt rules that govern the recovery of overpayment. 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.

Sec. 18. Minnesota Statutes 2007 Supplement, section 259.67, subdivision 4, is amended to read:

Subd. 4. **Eligibility conditions.** (a) The placing agency shall use the AFDC requirements as specified in federal law as of July 16, 1996, when determining the child's eligibility for adoption assistance under title IV-E of the Social Security Act. If the child does not qualify, the placing agency shall certify a child as eligible for state funded adoption assistance only 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; ~~or~~

(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; or

(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.

~~(3)(i) The child has been is a ward of the commissioner, a Minnesota-licensed child-placing agency, or a tribal social service agency of Minnesota recognized by the~~

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Secretary of the Interior; or (ii) the child will be adopted according to tribal law without a termination of parental rights or relinquishment, provided that the tribe has documented the valid reason why the child cannot or should not be returned to the home of the child's parent. 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. A child who is adopted by the child's legal custodian or guardian shall not be eligible for state-funded adoption assistance.

~~(b) For purposes of this subdivision, The characteristics or circumstances that may be considered in determining whether a child is a child with special needs under United States Code, title 42, chapter 7, subchapter IV, part E, or 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 placed as one unit in which at least one sibling is older than 15 months of age or is described in clause (2) or (3).

(2) The child has documented physical, mental, emotional, or behavioral disabilities.

(3) The child has a high risk of developing physical, mental, emotional, or behavioral disabilities.

(4) The child is five years of age or older.

(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 manifests itself as documented by an appropriate health care professional.

Sec. 19. Minnesota Statutes 2006, section 259.75, subdivision 5, is amended to read:

Subd. 5. **Withdrawal of registration.** A child's registration shall be withdrawn when the exchange service has been notified in writing by the local social service agency ~~and or~~ the licensed child-placing agency that the child has been adopted, ~~has become 14 years old and will not consent to an adoption plan,~~ placed in an adoptive home or has died.

Sec. 20. Minnesota Statutes 2006, section 259.89, subdivision 1, is amended to read:

Subdivision 1. **Request.** An adopted person who is 19 years of age or over may request the commissioner of health to disclose the information on the adopted person's original birth record. The commissioner of health shall, within five days of receipt of the request, notify the commissioner of human services agent or licensed child-placing agency when known or the commissioner of human services when the agency is not known in writing of the request by the adopted person.

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12.1 Sec. 21. Minnesota Statutes 2006, section 259.89, subdivision 2, is amended to read:

12.2 Subd. 2. **Search.** Within six months after receiving notice of the request of
12.3 the adopted person, the commissioner of human ~~services~~ services' agent or a licensed
12.4 child-placing agency shall make complete and reasonable efforts to notify each parent
12.5 identified on the original birth record of the adopted person. The commissioner, the
12.6 commissioner's agents, and licensed child-placing agencies may charge a reasonable
12.7 fee to the adopted person for the cost of making a search pursuant to this subdivision.
12.8 Every licensed child-placing agency in the state shall cooperate with the commissioner of
12.9 human services in efforts to notify an identified parent. All communications under this
12.10 subdivision are confidential pursuant to section 13.02, subdivision 3.

12.11 For purposes of this subdivision, "notify" means a personal and confidential contact
12.12 with the birth parents named on the original birth record of the adopted person. The
12.13 contact ~~shall not be by mail and~~ shall be by an employee or agent of the licensed
12.14 child-placing agency which processed the pertinent adoption or some other licensed
12.15 child-placing agency designated by the commissioner of human services when it is
12.16 determined to be reasonable by the commissioner; otherwise contact shall be by mail or
12.17 telephone. The contact shall be evidenced by filing with the commissioner of health an
12.18 affidavit of notification executed by the person who notified each parent certifying that
12.19 each parent was given the following information:

12.20 ~~(a)~~ (1) the nature of the information requested by the adopted person;

12.21 ~~(b)~~ (2) the date of the request of the adopted person;

12.22 ~~(c)~~ (3) the right of the parent to file, within 30 days of receipt of the notice, an
12.23 affidavit with the commissioner of health stating that the information on the original birth
12.24 record should not be disclosed;

12.25 ~~(d)~~ (4) the right of the parent to file a consent to disclosure with the commissioner
12.26 of health at any time; and

12.27 ~~(e)~~ (5) the effect of a failure of the parent to file either a consent to disclosure or an
12.28 affidavit stating that the information on the original birth record should not be disclosed.

12.29 Sec. 22. Minnesota Statutes 2006, section 259.89, subdivision 4, is amended to read:

12.30 Subd. 4. **Release of information after notice.** If, within six months, the
12.31 commissioner of human ~~services certifies~~ services' agent or licensed child-placing agency
12.32 document to the commissioner of health notification of each parent identified on the
12.33 original birth record pursuant to subdivision 2, the commissioner of health shall disclose
12.34 the information requested by the adopted person 31 days after the date of the latest notice
12.35 to either parent. This disclosure will occur if, at any time during the 31 days both of

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13.1 the parents identified on the original birth record have filed a consent to disclosure with
13.2 the commissioner of health and neither consent to disclosure has been revoked by the
13.3 subsequent filing by a parent of an affidavit stating that the information should not be
13.4 disclosed. If only one parent has filed a consent to disclosure and the consent has not been
13.5 revoked, the commissioner of health shall disclose, to the adopted person, original birth
13.6 record information on the consenting parent only.

13.7 Sec. 23. Minnesota Statutes 2006, section 259.89, is amended by adding a subdivision
13.8 to read:

13.9 Subd. 7. **Adult adoptions.** Notwithstanding section 144.218, a person adopted
13.10 as an adult shall be permitted to access the person's birth records that existed prior to
13.11 the adult adoption. Access to the existing birth records shall be the same access that
13.12 was permitted prior to the adult adoption.

13.13 Sec. 24. Minnesota Statutes 2006, section 260.795, subdivision 3, is amended to read:

13.14 Subd. 3. ~~Revenue enhancement~~ **Indian child welfare position.** The commissioner
13.15 shall submit claims for federal reimbursement earned through the activities and services
13.16 supported through Indian child welfare grants. The commissioner may set aside a
13.17 portion of the federal funds earned under this subdivision to establish and support a new
13.18 Indian child welfare position in the Department of Human Services to provide program
13.19 development. The commissioner shall use any federal revenue not set aside to expand
13.20 services under section 260.785. The federal revenue earned under this subdivision is
13.21 available for these purposes until the funds are expended. The commissioner shall use
13.22 Title IV-E administrative reimbursement earned by tribes through the new Social Services
13.23 Administrative Tribal Time Study to continue funding the state Indian child welfare
13.24 position.

13.25 Sec. 25. **[260.853] INTERSTATE COMPACT FOR THE PLACEMENT OF**
13.26 **CHILDREN.**

13.27 ARTICLE I. PURPOSE

13.28 The purpose of this Interstate Compact for the Placement of Children is to:

13.29 A. Provide a process through which children subject to this compact are placed in
13.30 safe and suitable homes in a timely manner.

13.31 B. Facilitate ongoing supervision of a placement, the delivery of services, and
13.32 communication between the states.

14.1 C. Provide operating procedures that will ensure that children are placed in safe and
14.2 suitable homes in a timely manner.

14.3 D. Provide for the promulgation and enforcement of administrative rules
14.4 implementing the provisions of this compact and regulating the covered activities of
14.5 the member states.

14.6 E. Provide for uniform data collection and information sharing between member
14.7 states under this compact.

14.8 F. Promote coordination between this compact, the Interstate Compact for Juveniles,
14.9 the Interstate Compact on Adoption and Medical Assistance and other compacts affecting
14.10 the placement of and which provide services to children otherwise subject to this compact.

14.11 G. Provide for a state's continuing legal jurisdiction and responsibility for placement
14.12 and care of a child that it would have had if the placement were intrastate.

14.13 H. Provide for the promulgation of guidelines, in collaboration with Indian tribes,
14.14 for interstate cases involving Indian children as is or may be permitted by federal law.

14.15 ARTICLE II. DEFINITIONS

14.16 As used in this compact,

14.17 A. "Approved placement" means the public child-placing agency in the receiving
14.18 state has determined that the placement is both safe and suitable for the child.

14.19 B. "Assessment" means an evaluation of a prospective placement by a public
14.20 child-placing agency to determine whether the placement meets the individualized needs
14.21 of the child, including but not limited to the child's safety and stability, health and
14.22 well-being, and mental, emotional, and physical development. An assessment is only
14.23 applicable to a placement by a public child-placing agency.

14.24 C. "Child" means an individual who has not attained the age of eighteen (18).

14.25 D. "Certification" means to attest, declare or sworn to before a judge or notary public.

14.26 E. "Default" means the failure of a member state to perform the obligations or
14.27 responsibilities imposed upon it by this compact, the bylaws or rules of the Interstate
14.28 Commission.

14.29 F. "Home Study" means an evaluation of a home environment conducted according
14.30 to the applicable requirements of the State in which the home is located, and documents
14.31 the preparation and the suitability of the placement resource for placement of a child
14.32 according to the laws and requirements of the state in which the home is located.

14.33 G. "Indian tribe" means any Indian tribe, band, nation, or other organized group
14.34 or community of Indians recognized as eligible for services provided to Indians by the
14.35 Secretary of the Interior because of their status as Indians, including any Alaskan native

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15.1 village as defined in section 3 (c) of the Alaska Native Claims settlement Act at 43 USC
15.2 §1602(c).

15.3 H. "Interstate Commission for the Placement of Children" means the commission
15.4 that is created under Article VIII of this compact and which is generally referred to as the
15.5 Interstate Commission.

15.6 I. "Jurisdiction" means the power and authority of a court to hear and decide matters.

15.7 J. "Legal Risk Placement" ("Legal Risk Adoption") means a placement made
15.8 preliminary to an adoption where the prospective adoptive parents acknowledge in writing
15.9 that a child can be ordered returned to the sending state or the birth mother's state of
15.10 residence, if different from the sending state and a final decree of adoption shall not be
15.11 entered in any jurisdiction until all required consents are obtained or are dispensed with
15.12 according to applicable law.

15.13 K. "Member state" means a state that has enacted this compact.

15.14 L. "Non-custodial parent" means a person who, at the time of the commencement
15.15 of court proceedings in the sending state, does not have sole legal custody of the child
15.16 or has joint legal custody of a child, and who is not the subject of allegations or findings
15.17 of child abuse or neglect.

15.18 M. "Non-member state" means a state which has not enacted this compact.

15.19 N. "Notice of residential placement" means information regarding a placement
15.20 into a residential facility provided to the receiving state including, but not limited to the
15.21 name, date and place of birth of the child, the identity and address of the parent or legal
15.22 guardian, evidence of authority to make the placement, and the name and address of
15.23 the facility in which the child will be placed. Notice of residential placement shall also
15.24 include information regarding a discharge and any unauthorized absence from the facility.

15.25 O. "Placement" means the act by a public or private child-placing agency intended
15.26 to arrange for the care or custody of a child in another state.

15.27 P. "Private child-placing agency" means any private corporation, agency, foundation,
15.28 institution, or charitable organization, or any private person or attorney that facilitates,
15.29 causes, or is involved in the placement of a child from one state to another and that is not
15.30 an instrumentality of the state or acting under color of state law.

15.31 Q. "Provisional placement" means a determination made by the public child-placing
15.32 agency in the receiving state that the proposed placement is safe and suitable, and, to the
15.33 extent allowable, the receiving state has temporarily waived its standards or requirements
15.34 otherwise applicable to prospective foster or adoptive parents so as to not delay the
15.35 placement. Completion of an assessment and the receiving state requirements regarding

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16.1 training for prospective foster or adoptive parents shall not delay an otherwise safe and
16.2 suitable placement.

16.3 R. "Public child-placing agency" means any government child welfare agency or
16.4 child protection agency or a private entity under contract with such an agency, regardless
16.5 of whether they act on behalf of a state, county, municipality or other governmental unit
16.6 and which facilitates, causes, or is involved in the placement of a child from one state
16.7 to another.

16.8 S. "Receiving state" means the state to which a child is sent, brought, or caused to
16.9 be sent or brought.

16.10 T. "Relative" means someone who is related to the child as a parent, step-parent,
16.11 sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin or a
16.12 non-relative with such significant ties to the child that they may be regarded as relatives as
16.13 determined by the court in the sending state.

16.14 U. "Residential Facility" means a facility providing a level of care that is sufficient
16.15 to substitute for parental responsibility or foster care, and is beyond what is needed for
16.16 assessment or treatment of an acute condition. For purposes of the compact, residential
16.17 facilities do not include institutions primarily educational in character, hospitals or other
16.18 medical facilities.

16.19 V. "Rule" means a written directive, mandate, standard or principle issued by the
16.20 Interstate Commission promulgated pursuant to Article XI of this compact that is of
16.21 general applicability and that implements, interprets or prescribes a policy or provision of
16.22 the compact. "Rule" has the force and effect of an administrative rule in a member state,
16.23 and includes the amendment, repeal, or suspension of an existing rule.

16.24 W. "Sending state" means the state from which the placement of a child is initiated.

16.25 X. "Service member's permanent duty station" means the military installation where
16.26 an active duty Armed Services member is currently assigned and is physically located
16.27 under competent orders that do not specify the duty as temporary.

16.28 Y. "Service member's state of legal residence" means the state in which the active
16.29 duty Armed Services member is considered a resident for tax and voting purposes.

16.30 Z. "State" means a state of the United States, the District of Columbia, the
16.31 Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the
16.32 Northern Marianas Islands and any other territory of the United States.

16.33 AA. "State court" means a judicial body of a state that is vested by law with
16.34 responsibility for adjudicating cases involving abuse, neglect, deprivation, delinquency or
16.35 status offenses of individuals who have not attained the age of eighteen (18).

BB. "Supervision" means monitoring provided by the receiving state once a child has been placed in a receiving state pursuant to this compact.

ARTICLE III. APPLICABILITY

A. Except as otherwise provided in Article III, Section B, this compact shall apply to:

1. The interstate placement of a child subject to ongoing court jurisdiction in the sending state, due to allegations or findings that the child has been abused, neglected, or deprived as defined by the laws of the sending state, provided, however, that the placement of such a child into a residential facility shall only require notice of residential placement to the receiving state prior to placement.

2. The interstate placement of a child adjudicated delinquent or unmanageable based on the laws of the sending state and subject to ongoing court jurisdiction of the sending state if:

a. the child is being placed in a residential facility in another member state and is not covered under another compact; or

b. the child is being placed in another member state and the determination of safety and suitability of the placement and services required is not provided through another compact.

3. The interstate placement of any child by a public child-placing agency or private child-placing agency as defined in this compact as a preliminary step to a possible adoption.

B. The provisions of this compact shall not apply to:

1. The interstate placement of a child with a non-relative in a receiving state by a parent with the legal authority to make such a placement provided, however, that the placement is not intended to effectuate an adoption.

2. The interstate placement of a child by one relative with the lawful authority to make such a placement directly with a relative in a receiving state.

3. The placement of a child, not subject to Article III, Section A, into a residential facility by his parent.

4. The placement of a child with a non-custodial parent provided that:

a. The non-custodial parent proves to the satisfaction of a court in the sending state a substantial relationship with the child; and

b. The court in the sending state makes a written finding that placement with the non-custodial parent is in the best interests of the child; and

c. The court in the sending state dismisses its jurisdiction over the child's case.

18.1 5. A child entering the United States from a foreign country for the purpose of
18.2 adoption or leaving the United States to go to a foreign country for the purpose of
18.3 adoption in that country.

18.4 6. Cases in which a U.S. citizen child living overseas with his family, at least one
18.5 of whom is in the U.S. Armed Services, and who is stationed overseas, is removed and
18.6 placed in a state.

18.7 7. The sending of a child by a public child-placing agency or a private child-placing
18.8 agency for a visit as defined by the rules of the Interstate Commission.

18.9 C. For purposes of determining the applicability of this compact to the placement of
18.10 a child with a family in the Armed Services, the public child-placing agency or private
18.11 child-placing agency may choose the state of the service member's permanent duty station
18.12 or the service member's declared legal residence.

18.13 D. Nothing in this compact shall be construed to prohibit the concurrent application
18.14 of the provisions of this compact with other applicable interstate compacts including the
18.15 Interstate Compact for Juveniles and the Interstate Compact on Adoption and Medical
18.16 Assistance. The Interstate Commission may in cooperation with other interstate compact
18.17 commissions having responsibility for the interstate movement, placement or transfer of
18.18 children, promulgate like rules to ensure the coordination of services, timely placement
18.19 of children, and the reduction of unnecessary or duplicative administrative or procedural
18.20 requirements.

18.21 ARTICLE IV. JURISDICTION

18.22 A. Except as provided in Article IV, Section G, concerning private and independent
18.23 adoptions, the sending state shall retain jurisdiction over a child with respect to all matters
18.24 of custody and disposition of the child which it would have had if the child had remained
18.25 in the sending state. Such jurisdiction shall also include the power to order the return
18.26 of the child to the sending state.

18.27 B. When an issue of child protection or custody is brought before a court in the
18.28 receiving state, such court shall confer with the court of the sending state to determine the
18.29 most appropriate forum for adjudication.

18.30 C. In accordance with its own laws, the court in the sending state shall have authority
18.31 to terminate its jurisdiction if:

18.32 1. The child is reunified with the parent in the receiving state who is the subject
18.33 of allegations or findings of abuse or neglect, only with the concurrence of the public
18.34 child-placing agency in the receiving state; or

18.35 2. The child is adopted;

18.36 3. The child reaches the age of majority under the laws of the sending state; or

19.1 4. The child achieves legal independence pursuant to the laws of the sending state; or
19.2 5. A guardianship is created by a court in the receiving state with the concurrence of
19.3 the court in the sending state; or

19.4 6. An Indian tribe has petitioned for and received jurisdiction from the court in
19.5 the sending state; or

19.6 7. The public child-placing agency of the sending state requests termination and has
19.7 obtained the concurrence of the public child-placing agency in the receiving the state.

19.8 D. When a sending state court terminates its jurisdiction, the receiving state
19.9 child-placing agency shall be notified.

19.10 E. Nothing in this article shall defeat a claim of jurisdiction by a receiving state
19.11 court sufficient to deal with an act of truancy, delinquency, crime or behavior involving a
19.12 child as defined by the laws of the receiving state committed by the child in the receiving
19.13 state which would be a violation of its laws.

19.14 F. Nothing in this article shall limit the receiving state's ability to take emergency
19.15 jurisdiction for the protection of the child.

19.16 G. The substantive laws of the state in which an adoption will be finalized shall
19.17 solely govern all issues relating to the adoption of the child and the court in which the
19.18 adoption proceeding is filed shall have subject matter jurisdiction regarding all substantive
19.19 issues relating to the adoption, except:

19.20 1. when the child is a ward of another court that established jurisdiction over the
19.21 child prior to the placement;

19.22 2. when the child is in the legal custody of a public agency in the sending state; or

19.23 3. when the court in the sending state has otherwise appropriately assumed
19.24 jurisdiction over the child, prior to the submission of the request for approval of placement.

19.25 ARTICLE V. PLACEMENT EVALUATION

19.26 A. Prior to sending, bringing, or causing a child to be sent or brought into a receiving
19.27 state, the public child-placing agency shall provide a written request for assessment to
19.28 the receiving state.

19.29 B. For placements by a private child-placing agency, a child may be sent or brought,
19.30 or caused to be sent or brought, into a receiving state, upon receipt and review of the
19.31 required content in a request for approval of a placement in both the sending and receiving
19.32 state public child-placing agency. The required content for a request for provisional
19.33 approval shall include all of the following:

19.34 1. A request for approval identifying the child, birth parents, the prospective adoptive
19.35 parents, and the supervising agency, signed by the person requesting approval; and

20.1 2. Certification by a licensed attorney or other authorized agent that the consent or
20.2 relinquishment is in compliance with the applicable laws of the sending state, or where
20.3 permitted the laws of the state where finalization of the adoption will occur; and

20.4 3. A home study; and

20.5 4. An acknowledgment of legal risk signed by the prospective adoptive parents.

20.6 C. The sending state and the receiving state may request additional information or
20.7 documents prior to finalization of an approved placement, but they may not delay travel
20.8 by the prospective adoptive parents with the child if the required content for approval
20.9 has been submitted, received, and reviewed by the public child-placing agency in both
20.10 the sending state and the receiving state.

20.11 D. Approval from the public child-placing agency in the receiving state for a
20.12 provisional or approved placement is required as provided for in the rules of the Interstate
20.13 Commission.

20.14 E. The procedures for making, and the request for an assessment, shall contain all
20.15 information and be in such form as provided for in the rules of the Interstate Commission.

20.16 F. Upon receipt of a request from the public child-placing agency of the sending
20.17 state, the receiving state shall initiate an assessment of the proposed placement to
20.18 determine its safety and suitability. If the proposed placement is a placement with a
20.19 relative, the public child-placing agency of the sending state may request a determination
20.20 for a provisional placement.

20.21 G. The public child-placing agency in the receiving state may request from the
20.22 public child-placing agency or the private child-placing agency in the sending state, and
20.23 shall be entitled to receive supporting or additional information necessary to complete
20.24 the assessment.

20.25 ARTICLE VI. PLACEMENT AUTHORITY

20.26 A. Except as otherwise provided in this compact, no child subject to this compact
20.27 shall be placed into a receiving state until approval for such placement is obtained.

20.28 B. If the public child-placing agency in the receiving state does not approve
20.29 the proposed placement then the child shall not be placed. The receiving state shall
20.30 provide written documentation of any such determination in accordance with the rules
20.31 promulgated by the Interstate Commission. Such determination is not subject to judicial
20.32 review in the sending state.

20.33 C. If the proposed placement is not approved, any interested party shall have
20.34 standing to seek an administrative review of the receiving state's determination.

21.1 1. The administrative review and any further judicial review associated with
21.2 the determination shall be conducted in the receiving state pursuant to its applicable
21.3 administrative procedures.

21.4 2. If a determination not to approve the placement of the child in the receiving state
21.5 is overturned upon review, the placement shall be deemed approved, provided however
21.6 that all administrative or judicial remedies have been exhausted or the time for such
21.7 remedies has passed.

21.8 ARTICLE VII. PLACING AGENCY RESPONSIBILITY

21.9 A. For the interstate placement of a child made by a public child-placing agency
21.10 or state court:

21.11 1. The public child-placing agency in the sending state shall have financial
21.12 responsibility for:

21.13 a. the ongoing support and maintenance for the child during the period of the
21.14 placement, unless otherwise provided for in the receiving state; and

21.15 b. as determined by the public child-placing agency in the sending state, services for
21.16 the child beyond the public services for which the child is eligible in the receiving state.

21.17 2. The receiving state shall only have financial responsibility for:

21.18 a. any assessment conducted by the receiving state; and

21.19 b. supervision conducted by the receiving state at the level necessary to support
21.20 the placement as agreed upon by the public child-placing agencies of the receiving and
21.21 sending state.

21.22 3. Nothing in this provision shall prohibit public child-placing agencies in the
21.23 sending state from entering into agreements with licensed agencies or persons in the
21.24 receiving state to conduct assessments and provide supervision.

21.25 B. For the placement of a child by a private child-placing agency preliminary to a
21.26 possible adoption, the private child-placing agency shall be:

21.27 1. Legally responsible for the child during the period of placement as provided for in
21.28 the law of the sending state until the finalization of the adoption.

21.29 2. Financially responsible for the child absent a contractual agreement to the
21.30 contrary.

21.31 C. The public child-placing agency in the receiving state shall provide timely
21.32 assessments, as provided for in the rules of the Interstate Commission.

21.33 D. The public child-placing agency in the receiving state shall provide, or arrange
21.34 for the provision of, supervision and services for the child, including timely reports,
21.35 during the period of the placement.

22.1 E. Nothing in this compact shall be construed as to limit the authority of the public
22.2 child-placing agency in the receiving state from contracting with a licensed agency or
22.3 person in the receiving state for an assessment or the provision of supervision or services
22.4 for the child or otherwise authorizing the provision of supervision or services by a licensed
22.5 agency during the period of placement.

22.6 F. Each member state shall provide for coordination among its branches of
22.7 government concerning the state's participation in, and compliance with, the compact and
22.8 Interstate Commission activities, through the creation of an advisory council or use of an
22.9 existing body or board.

22.10 G. Each member state shall establish a central state compact office, which shall
22.11 be responsible for state compliance with the compact and the rules of the Interstate
22.12 Commission.

22.13 H. The public child-placing agency in the sending state shall oversee compliance
22.14 with the provisions of the Indian Child Welfare Act (25 USC 1901 et seq.) for placements
22.15 subject to the provisions of this compact, prior to placement.

22.16 I. With the consent of the Interstate Commission, states may enter into limited
22.17 agreements that facilitate the timely assessment and provision of services and supervision
22.18 of placements under this compact.

22.19 ARTICLE VIII. INTERSTATE COMMISSION FOR THE PLACEMENT OF CHILDREN

22.20 The member states hereby establish, by way of this compact, a commission known
22.21 as the "Interstate Commission for the Placement of Children." The activities of the
22.22 Interstate Commission are the formation of public policy and are a discretionary state
22.23 function. The Interstate Commission shall:

22.24 A. Be a joint commission of the member states and shall have the responsibilities,
22.25 powers and duties set forth herein, and such additional powers as may be conferred upon it
22.26 by subsequent concurrent action of the respective legislatures of the member states.

22.27 B. Consist of one commissioner from each member state who shall be appointed by
22.28 the executive head of the state human services administration with ultimate responsibility
22.29 for the child welfare program. The appointed commissioner shall have the legal authority
22.30 to vote on policy related matters governed by this compact binding the state.

22.31 1. Each member state represented at a meeting of the Interstate Commission is
22.32 entitled to one vote.

22.33 2. A majority of the member states shall constitute a quorum for the transaction of
22.34 business, unless a larger quorum is required by the bylaws of the Interstate Commission.

22.35 3. A representative shall not delegate a vote to another member state.

23.1 4. A representative may delegate voting authority to another person from their state
23.2 for a specified meeting.

23.3 C. In addition to the commissioners of each member state, the Interstate Commission
23.4 shall include persons who are members of interested organizations as defined in the bylaws
23.5 or rules of the Interstate Commission. Such members shall be ex officio and shall not be
23.6 entitled to vote on any matter before the Interstate Commission.

23.7 D. Establish an executive committee which shall have the authority to administer
23.8 the day-to-day operations and administration of the Interstate Commission. It shall not
23.9 have the power to engage in rulemaking.

23.10 ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

23.11 The Interstate Commission shall have the following powers:

23.12 A. To promulgate rules and take all necessary actions to effect the goals, purposes
23.13 and obligations as enumerated in this compact.

23.14 B. To provide for dispute resolution among member states.

23.15 C. To issue, upon request of a member state, advisory opinions concerning the
23.16 meaning or interpretation of the interstate compact, its bylaws, rules or actions.

23.17 D. To enforce compliance with this compact or the bylaws or rules of the Interstate
23.18 Commission pursuant to Article XII.

23.19 E. Collect standardized data concerning the interstate placement of children subject
23.20 to this compact as directed through its rules which shall specify the data to be collected,
23.21 the means of collection and data exchange and reporting requirements.

23.22 F. To establish and maintain offices as may be necessary for the transacting of its
23.23 business.

23.24 G. To purchase and maintain insurance and bonds.

23.25 H. To hire or contract for services of personnel or consultants as necessary to
23.26 carry out its functions under the compact and establish personnel qualification policies,
23.27 and rates of compensation.

23.28 I. To establish and appoint committees and officers including, but not limited to, an
23.29 executive committee as required by Article X.

23.30 J. To accept any and all donations and grants of money, equipment, supplies,
23.31 materials, and services, and to receive, utilize, and dispose thereof.

23.32 K. To lease, purchase, accept contributions or donations of, or otherwise to own,
23.33 hold, improve or use any property, real, personal, or mixed.

23.34 L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose
23.35 of any property, real, personal or mixed.

23.36 M. To establish a budget and make expenditures.

24.1 N. To adopt a seal and bylaws governing the management and operation of the
24.2 Interstate Commission.

24.3 O. To report annually to the legislatures, governors, the judiciary, and state advisory
24.4 councils of the member states concerning the activities of the Interstate Commission
24.5 during the preceding year. Such reports shall also include any recommendations that may
24.6 have been adopted by the Interstate Commission.

24.7 P. To coordinate and provide education, training and public awareness regarding the
24.8 interstate movement of children for officials involved in such activity.

24.9 Q. To maintain books and records in accordance with the bylaws of the Interstate
24.10 Commission.

24.11 R. To perform such functions as may be necessary or appropriate to achieve the
24.12 purposes of this compact.

24.13 ARTICLE X. ORGANIZATION AND OPERATION OF THE
24.14 INTERSTATE COMMISSION

24.15 A. Bylaws

24.16 1. Within 12 months after the first Interstate Commission meeting, the Interstate
24.17 Commission shall adopt bylaws to govern its conduct as may be necessary or appropriate
24.18 to carry out the purposes of the compact.

24.19 2. The Interstate Commission's bylaws and rules shall establish conditions and
24.20 procedures under which the Interstate Commission shall make its information and official
24.21 records available to the public for inspection or copying. The Interstate Commission may
24.22 exempt from disclosure information or official records to the extent they would adversely
24.23 affect personal privacy rights or proprietary interests.

24.24 B. Meetings

24.25 1. The Interstate Commission shall meet at least once each calendar year. The
24.26 chairperson may call additional meetings and, upon the request of a simple majority of the
24.27 member states shall call additional meetings.

24.28 2. Public notice shall be given by the Interstate Commission of all meetings and
24.29 all meetings shall be open to the public, except as set forth in the rules or as otherwise
24.30 provided in the compact. The Interstate Commission and its committees may close a
24.31 meeting, or portion thereof, where it determines by two-thirds vote that an open meeting
24.32 would be likely to:

24.33 a. relate solely to the Interstate Commission's internal personnel practices and
24.34 procedures; or

24.35 b. disclose matters specifically exempted from disclosure by federal law; or

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c. disclose financial or commercial information which is privileged, proprietary or confidential in nature; or

d. involve accusing a person of a crime, or formally censuring a person; or

e. disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy or physically endanger one or more persons; or

f. disclose investigative records compiled for law enforcement purposes; or

g. specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

3. For a meeting, or portion of a meeting, closed pursuant to this provision, the Interstate Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemption provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission or by court order.

4. The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or other electronic communication.

C. Officers and Staff

1. The Interstate Commission may, through its executive committee, appoint or retain a staff director for such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The staff director shall serve as secretary to the Interstate Commission, but shall not have a vote. The staff director may hire and supervise such other staff as may be authorized by the Interstate Commission.

2. The Interstate Commission shall elect, from among its members, a chairperson and a vice chairperson of the executive committee and other necessary officers, each of whom shall have such authority and duties as may be specified in the bylaws.

D. Qualified Immunity, Defense and Indemnification

1. The Interstate Commission's staff director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that such person shall not be protected from suit or

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liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.

a. The liability of the Interstate Commission's staff director and employees or Interstate Commission representatives, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.

b. The Interstate Commission shall defend the staff director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state shall defend the commissioner of a member state in a civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

c. To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE XI. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

B. Rulemaking shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000), or such other administrative procedure acts as the

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27.1 Interstate Commission deems appropriate consistent with due process requirements under
27.2 the United States Constitution as now or hereafter interpreted by the U. S. Supreme Court.
27.3 All rules and amendments shall become binding as of the date specified, as published with
27.4 the final version of the rule as approved by the Interstate Commission.

27.5 C. When promulgating a rule, the Interstate Commission shall, at a minimum:

27.6 1. Publish the proposed rule's entire text stating the reason(s) for that proposed
27.7 rule; and

27.8 2. Allow and invite any and all persons to submit written data, facts, opinions
27.9 and arguments, which information shall be added to the record, and be made publicly
27.10 available; and

27.11 3. Promulgate a final rule and its effective date, if appropriate, based on input from
27.12 state or local officials, or interested parties.

27.13 D. Rules promulgated by the Interstate Commission shall have the force and effect
27.14 of administrative rules and shall be binding in the compacting states to the extent and in
27.15 the manner provided for in this compact.

27.16 E. Not later than 60 days after a rule is promulgated, an interested person may file a
27.17 petition in the U.S. District Court for the District of Columbia or in the Federal District
27.18 Court where the Interstate Commission's principal office is located for judicial review
27.19 of such rule. If the court finds that the Interstate Commission's action is not supported
27.20 by substantial evidence in the rulemaking record, the court shall hold the rule unlawful
27.21 and set it aside.

27.22 F. If a majority of the legislatures of the member states rejects a rule, those states
27.23 may by enactment of a statute or resolution in the same manner used to adopt the compact
27.24 cause that such rule shall have no further force and effect in any member state.

27.25 G. The existing rules governing the operation of the Interstate Compact on the
27.26 Placement of Children superseded by this act shall be null and void no less than 12, but
27.27 no more than 24 months after the first meeting of the Interstate Commission created
27.28 hereunder, as determined by the members during the first meeting.

27.29 H. Within the first 12 months of operation, the Interstate Commission shall
27.30 promulgate rules addressing the following:

27.31 1. Transition rules

27.32 2. Forms and procedures

27.33 3. Time lines

27.34 4. Data collection and reporting

27.35 5. Rulemaking

27.36 6. Visitation

28.1 7. Progress reports/supervision

28.2 8. Sharing of information/confidentiality

28.3 9. Financing of the Interstate Commission

28.4 10. Mediation, arbitration and dispute resolution

28.5 11. Education, training and technical assistance

28.6 12. Enforcement

28.7 13. Coordination with other interstate compacts

28.8 I. Upon determination by a majority of the members of the Interstate Commission

28.9 that an emergency exists:

28.10 1. The Interstate Commission may promulgate an emergency rule only if it is
28.11 required to:

28.12 a. Protect the children covered by this compact from an imminent threat to their
28.13 health, safety and well-being; or

28.14 b. Prevent loss of federal or state funds; or

28.15 c. Meet a deadline for the promulgation of an administrative rule required by
28.16 federal law.

28.17 2. An emergency rule shall become effective immediately upon adoption, provided
28.18 that the usual rulemaking procedures provided hereunder shall be retroactively applied
28.19 to said rule as soon as reasonably possible, but no later than 90 days after the effective
28.20 date of the emergency rule.

28.21 3. An emergency rule shall be promulgated as provided for in the rules of the
28.22 Interstate Commission.

28.23 ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

28.24 A. Oversight

28.25 1. The Interstate Commission shall oversee the administration and operation of the
28.26 compact.

28.27 2. The executive, legislative and judicial branches of state government in each
28.28 member state shall enforce this compact and the rules of the Interstate Commission and
28.29 shall take all actions necessary and appropriate to effectuate the compact's purposes and
28.30 intent. The compact and its rules shall be binding in the compacting states to the extent
28.31 and in the manner provided for in this compact.

28.32 3. All courts shall take judicial notice of the compact and the rules in any judicial
28.33 or administrative proceeding in a member state pertaining to the subject matter of this
28.34 compact.

28.35 4. The Interstate Commission shall be entitled to receive service of process in any
28.36 action in which the validity of a compact provision or rule is the issue for which a judicial

determination has been sought and shall have standing to intervene in any proceedings.
Failure to provide service of process to the Interstate Commission shall render any
judgment, order or other determination, however so captioned or classified, void as to the
Interstate Commission, this compact, its bylaws or rules of the Interstate Commission.

B. Dispute Resolution

1. The Interstate Commission shall attempt, upon the request of a member state, to
resolve disputes which are subject to the compact and which may arise among member
states and between member and non-member states.

2. The Interstate Commission shall promulgate a rule providing for both mediation
and binding dispute resolution for disputes among compacting states. The costs of such
mediation or dispute resolution shall be the responsibility of the parties to the dispute.

C. Enforcement

1. If the Interstate Commission determines that a member state has defaulted in the
performance of its obligations or responsibilities under this compact, its bylaws or rules,
the Interstate Commission may:

- a. Provide remedial training and specific technical assistance; or
- b. Provide written notice to the defaulting state and other member states, of the
nature of the default and the means of curing the default. The Interstate Commission shall
specify the conditions by which the defaulting state must cure its default; or
- c. By majority vote of the members, initiate against a defaulting member state legal
action in the United State District Court for the District of Columbia or, at the discretion
of the Interstate Commission, in the federal district where the Interstate Commission has
its principal office, to enforce compliance with the provisions of the compact, its bylaws
or rules. The relief sought may include both injunctive relief and damages. In the event
judicial enforcement is necessary the prevailing party shall be awarded all costs of such
litigation including reasonable attorney's fees; or
- d. Avail itself of any other remedies available under state law or the regulation of
official or professional conduct.

ARTICLE XIII. FINANCING OF THE COMMISSION

A. The Interstate Commission shall pay, or provide for the payment of the reasonable
expenses of its establishment, organization and ongoing activities.

B. The Interstate Commission may levy on and collect an annual assessment from
each member state to cover the cost of the operations and activities of the Interstate
Commission and its staff which must be in a total amount sufficient to cover the Interstate
Commission's annual budget as approved by its members each year. The aggregate annual

assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission which shall promulgate a rule binding upon all member states.

C. The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE XIV. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

A. Any state is eligible to become a member state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 states. The effective date shall be the later of July 1, 2007 or upon enactment of the compact into law by the 35th state. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The executive heads of the state human services administration with ultimate responsibility for the child welfare program of non-member states or their designees shall be invited to participate in the activities of the Interstate Commission on a non-voting basis prior to adoption of the compact by all states.

C. The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding on the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE XV. WITHDRAWAL AND DISSOLUTION

A. Withdrawal

1. Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact specifically repealing the statute which enacted the compact into law.

2. Withdrawal from this compact shall be by the enactment of a statute repealing the same. The effective date of withdrawal shall be the effective date of the repeal of the statute.

3. The withdrawing state shall immediately notify the president of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the

withdrawing state. The Interstate Commission shall then notify the other member states of the withdrawing state's intent to withdraw.

4. The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal.

5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the members of the Interstate Commission.

B. Dissolution of Compact

1. This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state.

2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

C. Nothing in this compact shall be construed to prohibit the concurrent applicability of other interstate compacts to which the states are members.

ARTICLE XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Other Laws

1. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

B. Binding Effect of the Compact

1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

2. All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

3. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

ARTICLE XVIII. INDIAN TRIBES

Notwithstanding any other provision in this compact, the Interstate Commission may promulgate guidelines to permit Indian tribes to utilize the compact to achieve any or

32.1 all of the purposes of the compact as specified in Article I. The Interstate Commission
32.2 shall make reasonable efforts to consult with Indian tribes in promulgating guidelines to
32.3 reflect the diverse circumstances of the various Indian tribes.

32.4 **EFFECTIVE DATE.** This section is effective upon legislative enactment of the
32.5 compact into law by no less than 35 states. The commissioner of human services shall
32.6 inform the Revisor of Statutes when this occurs.

32.7 Sec. 26. Minnesota Statutes 2006, section 260C.001, subdivision 2, is amended to read:

32.8 Subd. 2. **Child in need of protection services.** (a) The paramount consideration in
32.9 all proceedings concerning a child alleged or found to be in need of protection or services
32.10 is the health, safety, and best interests of the child. In proceedings involving an American
32.11 Indian child, as defined in section 260.755, subdivision 8, the best interests of the child
32.12 must be determined consistent with sections 260.751 to 260.835 and the Indian Child
32.13 Welfare Act, United States Code, title 25, sections 1901 to 1923.

32.14 (b) The purpose of the laws relating to juvenile courts is:

32.15 (1) to secure for each child alleged or adjudicated in need of protection or services
32.16 and under the jurisdiction of the court, the care and guidance, preferably in the child's own
32.17 home, as will best serve the spiritual, emotional, mental, and physical welfare of the child;

32.18 (2) to provide judicial procedures which protect the welfare of the child;

32.19 (3) to preserve and strengthen the child's family ties whenever possible and in the
32.20 child's best interests, removing the child from the custody of parents only when the child's
32.21 welfare or safety cannot be adequately safeguarded without removal;

32.22 (4) to ensure that when removal from the child's own family is necessary and in the
32.23 child's best interests, the responsible social services agency has legal responsibility for
32.24 the child removal either:

32.25 (i) pursuant to a voluntary placement agreement between the child's parent or
32.26 guardian and the responsible social services agency; or

32.27 (ii) by court order pursuant to section 260C.151, subdivision 6; 206C.178; or
32.28 260C.201;

32.29 (5) to ensure that, when placement is pursuant to court order, the court order
32.30 removing the child or continuing the child in foster care contains an individualized
32.31 determination that placement is in the best interests of the child that coincides with the
32.32 actual removal of the child; and, ~~when removal from the child's own family is necessary~~
32.33 ~~and in the child's best interests,~~

(6) to ~~secure for~~ ensure that when the child is removed, the ~~child custody~~, 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 licensed under chapter 245A.

Sec. 27. Minnesota Statutes 2006, section 260C.007, subdivision 5, is amended to read:

Subd. 5. **Child abuse.** "Child abuse" means an act that involves a minor victim ~~and~~ that constitutes a violation of section 609.221, 609.222, 609.223, 609.224, 609.2242, 609.322, 609.324, 609.342, 609.343, 609.344, 609.345, 609.377, 609.378, 617.246, or that is physical or sexual abuse as defined in section 626.556, subdivision 2, or an act committed in another state that involves a minor victim and would constitute a violation of one of these sections if committed in this state.

Sec. 28. Minnesota Statutes 2006, section 260C.007, subdivision 6, is amended to read:

Subd. 6. **Child in need of protection or services.** "Child in need of protection or services" means a child who is in need of protection or services because the child:

(1) is abandoned or without parent, guardian, or custodian;

(2)(i) has been a victim of physical or sexual abuse as defined in section 626.556, subdivision 2, (ii) resides with or has resided with a victim of child abuse as defined in subdivision 5 or domestic child abuse as defined in subdivision 5 13, (iii) resides with or would reside with a perpetrator of domestic child abuse as defined in subdivision 13 or child abuse as defined in subdivision 5, or (iv) is a victim of emotional maltreatment as defined in subdivision 8;

(3) is without necessary food, clothing, shelter, education, or other required care for the child's physical or mental health or morals because the child's parent, guardian, or custodian is unable or unwilling to provide that care;

(4) is without the special care made necessary by a physical, mental, or emotional condition because the child's parent, guardian, or custodian is unable or unwilling to provide that care, including a child in voluntary placement due solely to the child's developmental disability or emotional disturbance;

(5) is medically neglected, which includes, but is not limited to, the withholding of medically indicated treatment from a disabled infant with a life-threatening condition. The

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term "withholding of medically indicated treatment" means the failure to respond to the infant's life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication which, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all conditions, except that the term does not include the failure to provide treatment other than appropriate nutrition, hydration, or medication to an infant when, in the treating physician's or physicians' reasonable medical judgment:

(i) the infant is chronically and irreversibly comatose;

(ii) the provision of the treatment would merely prolong dying, not be effective in ameliorating or correcting all of the infant's life-threatening conditions, or otherwise be futile in terms of the survival of the infant; or

(iii) the provision of the treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane;

(6) is one whose parent, guardian, or other custodian for good cause desires to be relieved of the child's care and custody, including a child in placement according to voluntary release by the parent under section 260C.212, subdivision 8;

(7) has been placed for adoption or care in violation of law;

(8) is without proper parental care because of the emotional, mental, or physical disability, or state of immaturity of the child's parent, guardian, or other custodian;

(9) is one whose behavior, condition, or environment is such as to be injurious or dangerous to the child or others. An injurious or dangerous environment may include, but is not limited to, the exposure of a child to criminal activity in the child's home;

(10) is experiencing growth delays, which may be referred to as failure to thrive, that have been diagnosed by a physician and are due to parental neglect;

(11) has engaged in prostitution as defined in section 609.321, subdivision 9;

(12) has committed a delinquent act or a juvenile petty offense before becoming ten years old;

(13) is a runaway;

(14) is a habitual truant; or

(15) has been found incompetent to proceed or has been found not guilty by reason of mental illness or mental deficiency in connection with a delinquency proceeding, a certification under section 260B.125, an extended jurisdiction juvenile prosecution, or a proceeding involving a juvenile petty offense.

Sec. 29. Minnesota Statutes 2006, section 260C.007, subdivision 13, is amended to read:

35.1 Subd. 13. **Domestic child abuse.** "Domestic child abuse" means:

35.2 (1) any physical injury to a minor family or household member inflicted by an adult
35.3 family or household member other than by accidental means; ~~or~~

35.4 (2) subjection of a minor family or household member by an adult family or
35.5 household member to any act which constitutes a violation of sections 609.321 to 609.324,
35.6 609.342, 609.343, 609.344, 609.345, or 617.246; or

35.7 (3) physical or sexual abuse as defined in section 626.556, subdivision 2.

35.8 Sec. 30. Minnesota Statutes 2007 Supplement, section 260C.163, subdivision 1,
35.9 is amended to read:

35.10 Subdivision 1. **General.** (a) Except for hearings arising under section 260C.425,
35.11 hearings on any matter shall be without a jury and may be conducted in an informal
35.12 manner. In all adjudicatory proceedings involving a child alleged to be in need of
35.13 protection or services, the court shall admit only evidence that would be admissible in a
35.14 civil trial. To be proved at trial, allegations of a petition alleging a child to be in need of
35.15 protection or services must be proved by clear and convincing evidence.

35.16 (b) Except for proceedings involving a child alleged to be in need of protection or
35.17 services and petitions for the termination of parental rights, hearings may be continued or
35.18 adjourned from time to time. In proceedings involving a child alleged to be in need of
35.19 protection or services and petitions for the termination of parental rights, hearings may not
35.20 be continued or adjourned for more than one week unless the court makes specific findings
35.21 that the continuance or adjournment is in the best interests of the child. If a hearing is held
35.22 on a petition involving physical or sexual abuse of a child who is alleged to be in need of
35.23 protection or services or neglected and in foster care, the court shall file the decision with
35.24 the court administrator as soon as possible but no later than 15 days after the matter is
35.25 submitted to the court. When a continuance or adjournment is ordered in any proceeding,
35.26 the court may make any interim orders as it deems in the best interests of the minor in
35.27 accordance with the provisions of sections 260C.001 to 260C.421.

35.28 ~~(c) Except as otherwise provided in this paragraph, the court shall exclude the~~
35.29 ~~general public from hearings under this chapter and shall admit only those persons who,~~
35.30 ~~in the discretion of the court, have a direct interest in the case or in the work of the~~
35.31 ~~court. Absent exceptional circumstances, hearings under this chapter are presumed to be~~
35.32 accessible to the public, however the court may close any hearing and the records related
35.33 to any matter as provided in the Minnesota Rules of Juvenile Protection Procedure.

35.34 (d) Adoption hearings shall be conducted in accordance with the provisions of
35.35 laws relating to adoptions.

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36.1 (e) In any permanency hearing, including the transition of a child from foster care
36.2 to independent living, the court shall ensure that any consult with the child is in an
36.3 age-appropriate manner.

36.4 Sec. 31. Minnesota Statutes 2006, section 260C.171, subdivision 2, is amended to read:

36.5 Subd. 2. **Public inspection of records.** (a) The ~~following~~ records from proceedings
36.6 or portions of proceedings involving a child in need of protection or services ~~that,~~
36.7 permanency, or termination of parental rights are open accessible to the public as
36.8 authorized by ~~Supreme Court order and court rules are accessible to the public unless the~~
36.9 ~~court determines that access should be restricted because of the intensely personal nature~~
36.10 ~~of the information.~~ the Minnesota Rules of Juvenile Protection Procedure.

36.11 ~~(1) the summons and petition;~~
36.12 ~~(2) affidavits of publication and service;~~
36.13 ~~(3) certificates of representation;~~
36.14 ~~(4) court orders;~~
36.15 ~~(5) hearing and trial notices, witness lists, and subpoenas;~~
36.16 ~~(6) motions and legal memoranda;~~
36.17 ~~(7) exhibits introduced at hearings or trial that are not inaccessible under paragraph~~
36.18 ~~(b);~~
36.19 ~~(8) birth records; and~~

36.20 ~~(9) all other documents not listed as inaccessible to the public under paragraph (b).~~

36.21 ~~(b) The following records are not accessible to the public under paragraph (a):~~

36.22 ~~(1) written, audiotaped, or videotaped information from the social services agency,~~
36.23 ~~except to the extent the information appears in the petition, court orders, or other~~
36.24 ~~documents that are accessible under paragraph (a);~~

36.25 ~~(2) child protection intake or screening notes;~~

36.26 ~~(3) documents identifying reporters of maltreatment, unless the names and other~~
36.27 ~~identifying information are redacted;~~

36.28 ~~(4) guardian ad litem reports;~~

36.29 ~~(5) victim statements and addresses and telephone numbers;~~

36.30 ~~(6) documents identifying nonparty witnesses under the age of 18, unless the names~~
36.31 ~~and other identifying information are redacted;~~

36.32 ~~(7) transcripts of testimony taken during closed hearing;~~

36.33 ~~(8) fingerprinting materials;~~

36.34 ~~(9) psychological, psychiatric, and chemical dependency evaluations;~~

36.35 ~~(10) presentence evaluations of juveniles and probation reports;~~

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~~(11) medical records and test results;~~
~~(12) reports issued by sexual predator programs;~~
~~(13) diversion records of juveniles;~~
~~(14) any document which the court, upon its own motion or upon motion of a party,~~
~~orders inaccessible to serve the best interests of the child; and~~
~~(15) any other records that are not accessible to the public under rules developed~~
~~by the courts.~~

~~In addition, records that are accessible to the public under paragraph (a) become~~
~~inaccessible to the public if one year has elapsed since either the proceeding was dismissed~~
~~or the court's jurisdiction over the matter was terminated.~~

~~(e) Except as otherwise provided by this section, none of the records of the juvenile~~
~~court and (b) None of the records relating to an appeal from a nonpublic juvenile court~~
proceeding, except the written appellate opinion, shall be open to public inspection or their
contents disclosed except by order of a court.

~~(d)~~ (c) The records of juvenile probation officers are records of the court for the
purposes of this subdivision. This subdivision applies to all proceedings under this
chapter, including appeals from orders of the juvenile court. The court shall maintain the
confidentiality of adoption files and records in accordance with the provisions of laws
relating to adoptions. In juvenile court proceedings any report or social history furnished
to the court shall be open to inspection by the attorneys of record and the guardian ad litem
a reasonable time before it is used in connection with any proceeding before the court.

~~(e) When a judge of a juvenile court, or duly authorized agent of the court,~~
~~determines under a proceeding under this chapter that a child has violated a state or local~~
~~law, ordinance, or regulation pertaining to the operation of a motor vehicle on streets~~
~~and highways, except parking violations, the judge or agent shall immediately report~~
~~the violation to the commissioner of public safety. The report must be made on a form~~
~~provided by the Department of Public Safety and must contain the information required~~
~~under section 169.95.~~

Sec. 32. Minnesota Statutes 2006, section 260C.178, subdivision 1, is amended to read:

Subdivision 1. **Hearing and release requirements.** (a) If a child was taken into
custody under section 260C.175, subdivision 1, clause (a) or (b)(2), the court shall hold a
hearing within 72 hours of the time the child was taken into custody, excluding Saturdays,
Sundays, and holidays, to determine whether the child should continue in custody.

(b) Unless there is reason to believe that the child would endanger self or others,
not return for a court hearing, run away from the child's parent, guardian, or custodian

or otherwise not remain in the care or control of the person to whose lawful custody the child is released, or that the child's health or welfare would be immediately endangered, the child shall be released to the custody of a parent, guardian, custodian, or other suitable person, subject to reasonable conditions of release including, but not limited to, a requirement that the child undergo a chemical use assessment as provided in section 260C.157, subdivision 1.

(c) If the court determines there is reason to believe that the child would endanger self or others; not return for a court hearing; run away from the child's parent, guardian, or custodian or otherwise not remain in the care or control of the person to whose lawful custody the child is released; or that the child's health or welfare would be immediately endangered if returned to the care of the parent or guardian who has custody and from whom the child was removed, the court shall order the child into foster care under the legal responsibility of the responsible social services agency or responsible probation or corrections agency for the purposes of protective care as that term is used in the juvenile court rules- or into the home of a noncustodial parent and order the noncustodial parent to comply with any conditions the court determines to be appropriate to the safety and care of the child, including cooperating with paternity establishment proceedings in the case of a man who has not been adjudicated the child's father. The court shall not give the responsible social services legal custody and order a trial home visit at any time prior to adjudication and disposition under section 260C.201, subdivision 1, paragraph (a), clause (3), but may order the child returned to the care of the parent or guardian who has custody and from whom the child was removed and order the parent or guardian to comply with any conditions the court determines to be appropriate to meet the safety, health, and welfare of the child.

(d) In determining whether the child's health or welfare would be immediately endangered, the court shall consider whether the child would reside with a perpetrator of domestic child abuse.

~~(e)~~ (e) The court, before determining whether a child should be placed in or continue in foster care under the protective care of the responsible agency, shall also make a determination, consistent with section 260.012 as to whether reasonable efforts were made to prevent placement or whether reasonable efforts to prevent placement are not required. In the case of an Indian child, the court shall determine whether active efforts, according to the Indian Child Welfare Act of 1978, United States Code, title 25, section 1912(d), were made to prevent placement. The court shall enter a finding that the responsible social services agency has made reasonable efforts to prevent placement when the agency establishes either:

39.1 (1) that it has actually provided services or made efforts in an attempt to prevent
39.2 the child's removal but that such services or efforts have not proven sufficient to permit
39.3 the child to safely remain in the home; or

39.4 (2) that there are no services or other efforts that could be made at the time of the
39.5 hearing that could safely permit the child to remain home or to return home. When
39.6 reasonable efforts to prevent placement are required and there are services or other efforts
39.7 that could be ordered which would permit the child to safely return home, the court shall
39.8 order the child returned to the care of the parent or guardian and the services or efforts put
39.9 in place to ensure the child's safety. When the court makes a prima facie determination
39.10 that one of the circumstances under paragraph ~~(e)~~ (g) exists, the court shall determine that
39.11 reasonable efforts to prevent placement and to return the child to the care of the parent or
39.12 guardian are not required.

39.13 If the court finds the social services agency's preventive or reunification efforts
39.14 have not been reasonable but further preventive or reunification efforts could not permit
39.15 the child to safely remain at home, the court may nevertheless authorize or continue
39.16 the removal of the child.

39.17 ~~(d)~~ (f) The court may not order or continue the foster care placement of the child
39.18 unless the court makes explicit, individualized findings that continued custody of the child
39.19 by the parent or guardian would be contrary to the welfare of the child and that placement
39.20 is in the best interest of the child.

39.21 ~~(e)~~ (g) At the emergency removal hearing, or at any time during the course of the
39.22 proceeding, and upon notice and request of the county attorney, the court shall determine
39.23 whether a petition has been filed stating a prima facie case that:

39.24 (1) the parent has subjected a child to egregious harm as defined in section
39.25 260C.007, subdivision 14;

39.26 (2) the parental rights of the parent to another child have been involuntarily
39.27 terminated;

39.28 (3) the child is an abandoned infant under section 260C.301, subdivision 2,
39.29 paragraph (a), clause (2);

39.30 (4) the parents' custodial rights to another child have been involuntarily transferred
39.31 to a relative under section 260C.201, subdivision 11, paragraph (e), clause (1), or a similar
39.32 law of another jurisdiction; or

39.33 (5) the provision of services or further services for the purpose of reunification is
39.34 futile and therefore unreasonable.

39.35 ~~(f)~~ (h) When a petition to terminate parental rights is required under section
39.36 260C.301, subdivision 3 or 4, but the county attorney has determined not to proceed

with a termination of parental rights petition, and has instead filed a petition to transfer permanent legal and physical custody to a relative under section 260C.201, subdivision 11, the court shall schedule a permanency hearing within 30 days of the filing of the petition.

~~(g)~~ (i) If the county attorney has filed a petition under section 260C.307, the court shall schedule a trial under section 260C.163 within 90 days of the filing of the petition except when the county attorney determines that the criminal case shall proceed to trial first under section 260C.201, subdivision 3.

~~(h)~~ (j) If the court determines the child should be ordered into foster care and the child's parent refuses to give information to the responsible social services agency regarding the child's father or relatives of the child, the court may order the parent to disclose the names, addresses, telephone numbers, and other identifying information to the responsible social services agency for the purpose of complying with the requirements of sections 260C.151, 260C.212, and 260C.215.

~~(i)~~ (k) If a child ordered into foster care has siblings, whether full, half, or step, who are also ordered into foster care, the court shall inquire of the responsible social services agency of the efforts to place the children together as required by section 260C.212, subdivision 2, paragraph (d), if placement together is in each child's best interests, unless a child is in placement due solely to the child's own behavior or a child is placed with a previously noncustodial parent who is not parent to all siblings. If the children are not placed together at the time of the hearing, the court shall inquire at each subsequent hearing of the agency's efforts to place the siblings together. If any sibling is not placed with another sibling or siblings, the agency must develop a plan for visitation among the siblings as required under section 260C.212, subdivision 1.

Sec. 33. Minnesota Statutes 2007 Supplement, section 260C.209, subdivision 1, is amended to read:

Subdivision 1. **Subjects.** The responsible social services agency ~~must initiate~~ shall conduct a background study ~~to be completed by the commissioner under chapter 245C of the criminal history and history of child and adult maltreatment~~ on the following individuals:

(1) a noncustodial parent or nonadjudicated parent who is being assessed for purposes of providing day-to-day care of a child temporarily or permanently under section 260C.212, subdivision 4, and any member of the parent's household who is over the age of 13 when there is a reasonable cause to believe that the parent or household member over age 13 has a criminal history or a history of maltreatment of a child or vulnerable adult which would endanger the child's health, safety, or welfare;

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(2) an individual whose suitability for relative placement under section 260C.212, subdivision 5, is being determined and any member of the relative's household who is over the age of 13 when:

(i) the relative must be licensed for foster care; or
(ii) the background study is required under section 259.53, subdivision 2; or
(iii) the agency or the commissioner has reasonable cause to believe the relative or household member over the age of 13 has a criminal history which would not make transfer of permanent legal and physical custody to the relative under section 260C.201, subdivision 11, in the child's best interest; and

(3) a parent, following an out-of-home placement, when the responsible social services agency has reasonable cause to believe that the parent has been convicted of a crime directly related to the parent's capacity to maintain the child's health, safety, or welfare or the parent is the subject of an open investigation of, or has been the subject of a substantiated allegation of, child or vulnerable-adult maltreatment within the past ten years.

"Reasonable cause" means that the agency has received information or a report from the subject or a third person that creates an articulable suspicion that the individual has a history that may pose a risk to the health, safety, or welfare of the child. The information or report must be specific to the potential subject of the background check and shall not be based on the race, religion, ethnic background, age, class, or lifestyle of the potential subject.

Sec. 34. Minnesota Statutes 2007 Supplement, section 260C.209, subdivision 2, is amended to read:

Subd. 2. General procedures. (a) When initiating a background check under subdivision 1, the agency shall require the individual being assessed to provide sufficient information to ensure an accurate assessment under this section, including:

(1) the individual's first, middle, and last name and all other names by which the individual has been known;
(2) home address, zip code, city, county, and state of residence for the past five years;
(3) sex;
(4) date of birth; and
(5) driver's license number or state identification number.

(b) The agency shall provide the information in paragraph (a) to the commissioner to conduct background studies required under chapter 245C.

(c) When notified by the commissioner or the responsible social services agency that it is conducting an assessment under this section, the Bureau of Criminal Apprehension, commissioners of health and human services, law enforcement, and county agencies must provide the commissioner or the responsible social services agency or county attorney with the following information on the individual being assessed: criminal history data, local law enforcement data about the household, reports about the maltreatment of adults substantiated under section 626.557, and reports of maltreatment of minors substantiated under section 626.556.

Sec. 35. Minnesota Statutes 2007 Supplement, section 260C.209, is amended by adding a subdivision to read:

Subd. 5. **Assessment for emergency relative placement.** The responsible social services agency may obtain household members' criminal history and the history of maltreatment of a child or adult and use the history to assess whether putting the child in the household would endanger the child's health, safety, or welfare and to assess the suitability of a relative prior to an emergency placement. This assessment does not substitute for the background study required under chapter 245C and does not supersede requirements related to emergency placement under section 245A.035.

Sec. 36. Minnesota Statutes 2007 Supplement, section 260C.212, subdivision 4, is amended to read:

Subd. 4. Responsible social service agency's duties for children in placement. (a) When a child is in placement, the responsible social services agency shall make diligent efforts to identify, locate, and, where appropriate, offer services to both parents of the child.

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

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

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

(ii) provide a parent who is the subject of a background study under section 260C.209 15 days' notice that it intends to use the study to recommend against putting the child with that parent, as well as the notice provided in section 260C.209, subdivision 4, and the court shall afford the parent an opportunity to be heard concerning the study.

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

(3) If, after the provision of services following an out-of-home placement plan under this section, the child cannot return to the care of the parent from whom the child was removed or who had legal custody at the time the child was placed in foster care, the agency may petition on behalf of a noncustodial parent to establish legal custody with that parent under section 260C.201, subdivision 11. If paternity has not already been established, it may be established in the same proceeding in the manner provided for under chapter 257.

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

(b) The responsible social services agency shall give notice to the parent or parents or guardian of each child in a residential facility, other than a child in placement due solely to that child's developmental disability or emotional disturbance, of the following information:

(1) that residential care of the child may result in termination of parental rights or an order permanently placing the child out of the custody of the parent, but only after notice and a hearing as required under chapter 260C and the juvenile court rules;

(2) time limits on the length of placement and of reunification services, including the date on which the child is expected to be returned to and safely maintained in the home of the parent or parents or placed for adoption or otherwise permanently removed from the care of the parent by court order;

(3) the nature of the services available to the parent;

(4) the consequences to the parent and the child if the parent fails or is unable to use services to correct the circumstances that led to the child's placement;

(5) the first consideration for placement with relatives;

(6) the benefit to the child in getting the child out of residential care as soon as possible, preferably by returning the child home, but if that is not possible, through a permanent legal placement of the child away from the parent;

(7) when safe for the child, the benefits to the child and the parent of maintaining visitation with the child as soon as possible in the course of the case and, in any event, according to the visitation plan under this section; and

(8) the financial responsibilities and obligations, if any, of the parent or parents for the support of the child during the period the child is in the residential facility.

(c) The responsible social services agency shall inform a parent considering voluntary placement of a child who is not developmentally disabled or emotionally disturbed of the following information:

(1) the parent and the child each has a right to separate legal counsel before signing a voluntary placement agreement, but not to counsel appointed at public expense;

(2) the parent is not required to agree to the voluntary placement, and a parent who enters a voluntary placement agreement may at any time request that the agency return the child. If the parent so requests, the child must be returned within 24 hours of the receipt of the request;

(3) evidence gathered during the time the child is voluntarily placed may be used at a later time as the basis for a petition alleging that the child is in need of protection or services or as the basis for a petition seeking termination of parental rights or other permanent placement of the child away from the parent;

(4) if the responsible social services agency files a petition alleging that the child is in need of protection or services or a petition seeking the termination of parental rights or other permanent placement of the child away from the parent, the parent would have the right to appointment of separate legal counsel and the child would have a right to the appointment of counsel and a guardian ad litem as provided by law, and that counsel will be appointed at public expense if they are unable to afford counsel; and

(5) the timelines and procedures for review of voluntary placements under subdivision 3, and the effect the time spent in voluntary placement on the scheduling of a permanent placement determination hearing under section 260C.201, subdivision 11.

(d) When an agency accepts a child for placement, the agency shall determine whether the child has had a physical examination by or under the direction of a licensed physician within the 12 months immediately preceding the date when the child came into the agency's care. If there is documentation that the child has had an examination within the last 12 months, the agency is responsible for seeing that the child has another physical examination within one year of the documented examination and annually in subsequent

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years. If the agency determines that the child has not had a physical examination within the 12 months immediately preceding placement, the agency shall ensure that the child has an examination within 30 days of coming into the agency's care and once a year in subsequent years.

(e) Whether under state guardianship or not, if a child leaves foster care by reason of having attained the age of majority under state law, the child must be given at no cost a copy of the child's ~~health~~ social and medical history, as defined in section 259.43, and education report.

Sec. 37. Minnesota Statutes 2006, section 260C.212, is amended by adding a subdivision to read:

Subd. 4a. **Monthly caseworker visits with children in foster care.** (a) Every child in foster care or on a trial home visit shall be visited by the child's caseworker on a monthly basis, with the majority of visits occurring in the child's residence. For the purposes of this section, the following definitions apply:

(1) "visit" is defined as a face-to-face contact between a child and the child's caseworker;

(2) "visited on a monthly basis" is defined as at least one visit per calendar month;

(3) "the child's caseworker" is defined as the person who has responsibility for managing the child's foster care placement case as assigned by the responsible social service agency; and

(4) "the child's residence" is defined as the home where the child is residing, and can include the foster home, child care institution, or the home from which the child was removed if the child is on a trial home visit.

(b) Caseworker visits shall be of sufficient substance and duration to address issues pertinent to case planning and service delivery to ensure the safety, permanency, and well-being of the child.

Sec. 38. Minnesota Statutes 2006, section 260C.212, subdivision 7, is amended to read:

Subd. 7. Administrative or court review of placements. (a) There shall be an administrative review of the out-of-home placement plan of each child placed in ~~a residential facility foster care~~ foster care no later than 180 days after the initial placement of the child in ~~a residential facility foster care~~ foster care and at least every six months thereafter if the child is not returned to the home of the parent or parents 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 social services agency responsible for the placement may bring a petition as provided in section 260C.141, subdivision 2, to the court for review of the foster care to determine if placement is in the best interests of the child. This petition must be brought to the court in order for a court determination to be made regarding the best interests of the child within the applicable six months and is not in lieu of the requirements contained in subdivision 3 or 4. 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, or section 260C.141, subdivision 2; or 2a, clause (2); or 260C.317 shall satisfy the requirement for an administrative review so long as the other requirements of this section are met.

(b) (c) At the review required under paragraph (a), the reviewing administrative body 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) where appropriate, the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in a residential facility foster care;
- (5) where appropriate, 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 17 or older, in addition to any administrative review conducted by the agency, at the review required under section 260C.201, subdivision 11, paragraph (d), clause (3), unit (iii); or 260C.317, subdivision 3, clause (3), the court shall review the independent living plan required under subdivision 1, paragraph (c), clause (8), 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 the child has 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 Minnesota Rules, part 9560.0060, regarding the right to continued access to services for certain children in foster care past age 18 and of the right to appeal a denial of social services under section 256.245. If the agency is unable to establish that the notice, including the right to appeal a denial of social services, has been given, the court shall require the agency to give it.

(2) If the plan for the child is to leave foster care at age 18, the court shall review what plan the child has for maintaining safe housing, obtaining health insurance, obtaining an appropriate level of education, using transportation, obtaining and maintaining employment or other source of income or support, and whether the child has at least one adult the child can ask for guidance when the child is no longer in foster care.

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

Sec. 39. Minnesota Statutes 2006, section 260C.325, subdivision 1, is amended to read:

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

~~(a)~~ (1) the commissioner of human services; ~~or~~
~~(b)~~ (2) a licensed child-placing agency; or
~~(c)~~ (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.

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Sec. 40. Minnesota Statutes 2006, section 260C.325, subdivision 3, is amended to read:

Subd. 3. **Both parents deceased.** (a) If upon petition to the juvenile court by a reputable person, including but not limited to an 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:

~~(a)~~ (1) the commissioner of human services;
~~(b)~~ (2) a licensed child-placing agency; or
~~(c)~~ (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 if there is no individual who is willing and capable of assuming the appropriate duties and responsibilities to the child.

Sec. 41. Minnesota Statutes 2006, section 524.2-114, is amended to read:

524.2-114 MEANING OF CHILD AND RELATED TERMS.

If, for purposes of intestate succession, a relationship of parent and child must be established to determine succession by, through, or from a person:

(1) An adopted ~~person~~ child is the child of an adopting parent and not of the birth parents except that adoption of a child by the spouse of a birth parent has no effect on the relationship between the child and that birth parent. If a parent dies and a child is subsequently adopted by a stepparent who is the spouse of a surviving parent, any rights of inheritance of the child or the child's descendant from or through the deceased parent of the child which exist at the time of the death of that parent shall not be affected by the adoption.

(2) In cases not covered by clause (1), a person is the child of the person's parents regardless of the marital status of the parents and the parent and child relationship may be established under the Parentage Act, sections 257.51 to 257.74.

Sec. 42. Minnesota Statutes 2006, section 626.556, subdivision 7, is amended to read:

Subd. 7. **Report.** An oral report shall be made immediately by telephone or otherwise. An oral report made by a person required under subdivision 3 to report shall be followed within 72 hours, exclusive of weekends and holidays, by a report in writing to the appropriate police department, the county sheriff, the agency responsible for assessing or investigating the report, or the local welfare agency, unless the appropriate agency

has informed the reporter that the oral information does not constitute a report under subdivision 10. The local welfare agency shall determine if the report is accepted for an assessment or investigation as soon as possible but in no event longer than 24 hours after the report is received. Any report shall be of sufficient content to identify the child, any person believed to be responsible for the abuse or neglect of the child if the person is known, the nature and extent of the abuse or neglect and the name and address of the reporter. If requested, the local welfare agency or the agency responsible for assessing or investigating the report shall inform the reporter within ten days after the report is made, either orally or in writing, whether the report was accepted for assessment or investigation. Written reports received by a police department or the county sheriff shall be forwarded immediately to the local welfare agency or the agency responsible for assessing or investigating the report. The police department or the county sheriff may keep copies of reports received by them. Copies of written reports received by a local welfare department or the agency responsible for assessing or investigating the report shall be forwarded immediately to the local police department or the county sheriff.

A written copy of a report maintained by personnel of agencies, other than welfare or law enforcement agencies, which are subject to chapter 13 shall be confidential. An individual subject of the report may obtain access to the original report as provided by subdivision 11.

Sec. 43. Minnesota Statutes 2007 Supplement, section 626.556, subdivision 10a, is amended to read:

Subd. 10a. **Law enforcement agency responsibility for investigation; welfare agency reliance on law enforcement fact-finding; welfare agency offer of services.**

(a) If the report alleges neglect, physical abuse, or sexual abuse by a person who is not a parent, guardian, sibling, person responsible for the child's care functioning within the family unit, or a person who lives in the child's household and who has a significant relationship to the child, in a setting other than a facility as defined in subdivision 2, the local welfare agency shall immediately notify the appropriate law enforcement agency, which shall conduct an investigation of the alleged abuse or neglect if a violation of a criminal statute is alleged.

(b) The local agency may rely on the fact-finding efforts of the law enforcement investigation conducted under this subdivision to make a determination whether or not threatened ~~harm~~ injury or other maltreatment has occurred under subdivision 2 if an alleged offender has minor children or lives with minors.

(c) The local welfare agency shall offer appropriate social services for the purpose of safeguarding and enhancing the welfare of the abused or neglected minor.

Sec. 44. **REVISOR'S INSTRUCTION.**

In each section of Minnesota Statutes referred to in column A, the revisor of statutes shall delete the reference in column B and insert the reference in column C.

<u>Column A</u>	<u>Column B</u>	<u>Column C</u>
<u>259.67</u>	<u>260.851, article 5</u>	<u>260.853, article 4</u>
<u>256B.094</u>	<u>260.851</u>	<u>260.853</u>

EFFECTIVE DATE. This section is effective upon legislative enactment of the interstate compact in section 25 by no less than 35 states.

Sec. 45. **REPEALER.**

(a) Minnesota Statutes 2006, section 260.851, is repealed effective upon legislative enactment of the interstate compact in section 25 by no less than 35 states. The commissioner of human services shall inform the revisor of statutes when this occurs.

(b) Minnesota Statutes 2006, sections 260B.241; and 260C.207, are repealed.

(c) Minnesota Rules, part 9560.0092, is repealed.

ARTICLE 2
CHILD SUPPORT

Section 1. Minnesota Statutes 2006, section 256.87, subdivision 5, is amended to read:

Subd. 5. **Child not receiving assistance.** (a) A person or entity having physical custody of a dependent child not receiving public assistance as defined in section 256.741 has a cause of action for child support against the child's noncustodial parents. Upon a motion served on the noncustodial parent, the court shall order child support payments, including medical support and child care support, from the noncustodial parent under chapter 518A. A noncustodial parent's liability may include up to the two years immediately preceding the commencement of the action. This subdivision applies only if the person or entity has physical custody with the consent of a custodial parent or approval of the court.

(b) A parent with whom a dependent child resides, who is not receiving public assistance as defined in section 256.741, and who is married but living separately from the other parent, has a cause of action for child support against the other parent. Upon the commencement of an action for child support, the court shall order child support pursuant

51.1 to chapter 518A. A parent's liability for past support for the child may include up to the
51.2 two years immediately preceding the commencement of the action. The action may be
51.3 commenced by a parent or by the public authority responsible for child support.

51.4 Sec. 2. Minnesota Statutes 2006, section 518A.42, subdivision 1, is amended to read:

51.5 Subdivision 1. **Ability to pay.** (a) It is a rebuttable presumption that a child
51.6 support order should not exceed the obligor's ability to pay. To determine the amount of
51.7 child support the obligor has the ability to pay, the court shall follow the procedure set
51.8 out in this section.

51.9 (b) The court shall calculate the obligor's income available for support by subtracting
51.10 a monthly self-support reserve equal to 120 percent of the federal poverty guidelines
51.11 for one person from the obligor's gross income. If the obligor's income available for
51.12 support calculated under this paragraph is equal to or greater than the obligor's support
51.13 obligation calculated under section 518A.34, the court shall order child support under
51.14 section 518A.34.

51.15 (c) If the obligor's income available for support calculated under paragraph (b) is
51.16 more than the minimum support amount under subdivision 2, but less than the guideline
51.17 amount under section 518A.34, then the court shall apply a reduction to the child support
51.18 obligation in the following order, until the support order is equal to the obligor's income
51.19 available for support:

- 51.20 (1) ~~medical~~ child care support obligation;
51.21 (2) ~~child care~~ medical support obligation; and
51.22 (3) basic support obligation.

51.23 (d) If the obligor's income available for support calculated under paragraph (b) is
51.24 equal to or less than the minimum support amount under subdivision 2 or if the obligor's
51.25 gross income is less than 120 percent of the federal poverty guidelines for one person,
51.26 the minimum support amount under subdivision 2 applies.

51.27 Sec. 3. Minnesota Statutes 2006, section 518A.46, subdivision 5, is amended to read:

51.28 Subd. 5. **Administrative authority.** (a) The public authority may take the
51.29 following actions relating to establishment of paternity or to establishment, modification,
51.30 or enforcement of support orders, without the necessity of obtaining an order from any
51.31 judicial or administrative tribunal:

- 51.32 (1) recognize and enforce orders of child support agencies of other states;

52.1 (2) upon request for genetic testing by a child, parent, or any alleged parent, and
52.2 using the procedure in paragraph (b), order the child, parent, or alleged parent to submit to
52.3 blood or genetic testing for the purpose of establishing paternity;

52.4 (3) subpoena financial or other information needed to establish, modify, or enforce a
52.5 child support order and sanction a party for failure to respond to a subpoena;

52.6 (4) upon notice to the obligor, obligee, and the appropriate court, direct the obligor
52.7 or other payor to change the payee to the central collections unit under sections 518A.54
52.8 to 518A.56;

52.9 (5) order income withholding of child support under section 518A.53 and sanction
52.10 an employer or payor of funds pursuant to section 393.07, subdivision 9a, for failing to
52.11 comply with an income withholding notice;

52.12 (6) secure assets to satisfy the debt or arrearage in cases in which there is a support
52.13 debt or arrearage by:

52.14 (i) intercepting or seizing periodic or lump sum payments from state or local
52.15 agencies, including unemployment benefits, workers' compensation payments, judgments,
52.16 settlements, lotteries, and other lump sum payments;

52.17 (ii) attaching and seizing assets of the obligor held in financial institutions or public
52.18 or private retirement funds; and

52.19 (iii) imposing liens in accordance with section 548.091 and, in appropriate cases,
52.20 forcing the sale of property and the distribution of proceeds;

52.21 (7) for the purpose of securing overdue support, increase the amount of the monthly
52.22 support payments by an additional amount equal to 20 percent of the monthly support
52.23 payment to include amounts for debts or arrearages; ~~and~~

52.24 (8) subpoena an employer or payor of funds to provide promptly information on the
52.25 employment, compensation, and benefits of an individual employed by that employer as
52.26 an employee or contractor, and sanction an employer or payor of funds pursuant to section
52.27 393.07, subdivision 9a, for failure to respond to the subpoena; and

52.28 (9) redirect basic support, medical support, and child care support to a caregiver. For
52.29 purposes of this section, "caregiver" means a person or entity now caring for the child
52.30 who receives public assistance, as defined in section 256.741, subdivision 2, for the child;
52.31 has legal responsibility for the placement of the child through a voluntary placement
52.32 agreement under section 260C.212, subdivision 8, that does not address redirection of
52.33 child support; or has custody of the child through a court-ordered placement that does not
52.34 address redirection of child support. Redirection of support is effective the first day of the
52.35 month following the date of the notice to the parties, subject to the following provisions:

53.1 (i) the public authority must provide notice to the parties and the caregiver not
53.2 less than 30 days before redirecting the child support to the caregiver. The notice must
53.3 be mailed to the obligor, obligee, and caregiver at their last known addresses. The notice
53.4 shall state to whom the support will be redirected, on what date the support will begin
53.5 to be redirected, and the dollar amount of the support that will be redirected. The notice
53.6 shall also state the process for contesting the redirection;

53.7 (ii) if fewer than all of the children for whom the support is ordered are placed with
53.8 the caregiver, the proportional share of the support for the number of children placed
53.9 must be redirected;

53.10 (iii) the obligee or obligor may contest the redirection of support on the limited
53.11 grounds that the child is not residing with the caregiver or that, under an out-of-home
53.12 placement plan under section 260C.212, subdivision 1, that includes a plan for
53.13 reunification through the local social services agency, all or part of the support is needed
53.14 to maintain the obligee's home;

53.15 (iv) if the obligee or obligor contest the redirection, within 30 calendar days of notice
53.16 of intent to redirect support, the obligee or obligor must obtain a hearing date from the
53.17 court administrator and serve the public authority, the caregiver, and the other party, with a
53.18 copy of the notice of motion and motion and affidavit at least 14 days before the hearing.
53.19 The hearing shall be set at the earliest practicable time, but no later than 30 calendar days
53.20 from the date a request for a hearing is made. The court administrator shall schedule these
53.21 hearings to be heard in the expedited process before a child support magistrate, but may
53.22 schedule these hearings in district court if the availability of a child support magistrate
53.23 does not permit a hearing to occur within the time frames of this section;

53.24 (v) the state court administrator's office shall prepare and make available to the
53.25 court administrators and obligors and obligees a notice of motion and motion form and
53.26 affidavit to be submitted by the obligor or obligee in support of a motion to contest the
53.27 redirection; and

53.28 (vi) the redirection of the basic support, medical support, and child care support
53.29 shall be terminated and support shall resume to the obligee when the public authority is
53.30 informed that the caregiver who receives public assistance for the child no longer receives
53.31 public assistance for the child and no longer cares for the child; the child leaves the
53.32 placement under the voluntary placement agreement or the voluntary placement agreement
53.33 has expired; or the court order placing the child is no longer in effect.

53.34 (b) A request for genetic testing by a child, parent, or alleged parent must be
53.35 supported by a sworn statement by the person requesting genetic testing alleging paternity,
53.36 which sets forth facts establishing a reasonable possibility of the requisite sexual contact

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between the parties, or denying paternity, and setting forth facts establishing a reasonable possibility of the nonexistence of sexual contact between the alleged parties. The order for genetic tests may be served anywhere within the state and served outside the state in the same manner as prescribed by law for service of subpoenas issued by the district court of this state. If the child, parent, or alleged parent fails to comply with the genetic testing order, the public authority may seek to enforce that order in district court through a motion to compel testing. No results obtained through genetic testing done in response to an order issued under this section may be used in any criminal proceeding.

(c) Subpoenas may be served anywhere within the state and served outside the state in the same manner as prescribed by law for service of process of subpoenas issued by the district court of this state. When a subpoena under this subdivision is served on a third-party recordkeeper, written notice of the subpoena shall be mailed to the person who is the subject of the subpoenaed material at the person's last known address within three days of the day the subpoena is served. This notice provision does not apply if there is reasonable cause to believe the giving of the notice may lead to interference with the production of the subpoenaed documents.

(d) A person served with a subpoena may make a written objection to the public authority or court before the time specified in the subpoena for compliance. The public authority or the court shall cancel or modify the subpoena, if appropriate. The public authority shall pay the reasonable costs of producing the documents, if requested.

(e) Subpoenas are enforceable in the same manner as subpoenas of the district court. Upon motion of the county attorney, the court may issue an order directing the production of the records. Failure to comply with the court order may subject the person who fails to comply to civil or criminal contempt of court.

(f) The administrative actions under this subdivision are subject to due process safeguards, including requirements for notice, opportunity to contest the action, and opportunity to appeal the order to the judge, judicial officer, or child support magistrate.

EFFECTIVE DATE. This section is effective January 1, 2009.

Sec. 4. Minnesota Statutes 2006, section 541.04, is amended to read:

541.04 JUDGMENTS, TEN 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. This section does not apply to child support judgments, including judgments by operation of law.

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Sec. 5. Minnesota Statutes 2006, section 548.09, is amended by adding a subdivision to read:

Subd. 1a. **Child support judgments.** Notwithstanding the provisions of subdivision 1, child support judgments, including judgments by operation of law, do not expire. This subdivision applies retroactively to any child support judgments that exist on or before the date of enactment and to all child support judgments that come into existence after the date of enactment.

Sec. 6. Minnesota Statutes 2006, section 550.01, is amended to read:

550.01 ENFORCEMENT OF JUDGMENT.

The party in whose favor a judgment is given, or the assignee of such judgment, may proceed to enforce the same, at any time within ten years after the entry thereof, in the manner provided by law. This section does not apply to child support judgments, including judgments by operation of law.

Sec. 7. **REPEALER.**

Minnesota Statutes 2006, section 548.091, subdivision 3b, is repealed.

ARTICLE 3
DATA PRIVACY

Section 1. Minnesota Statutes 2006, section 13.46, is amended by adding a subdivision to read:

Subd. 12. **Child care resource and referral programs.** This subdivision applies to data collected by child care resource and referral programs under section 119B.19. Data collected under section 119B.19 is welfare data under this section but is not licensing data under subdivision 4. Data collected under this section on unlicensed family child care providers is data on individuals governed by this section. In addition to the disclosures authorized by this section, the names and addresses of unlicensed family child care providers may be disclosed to the commissioner of education.

Sec. 2. Minnesota Statutes 2006, section 13.46, is amended by adding a subdivision to read:

Subd. 13. **Family, friend, and neighbor grant program.** This subdivision applies to data collected by family, friend, and neighbor (FFN) grantees under section 119B.232. Data collected under section 119B.232 is data on individuals governed by this section. The commissioner may disclose private data collected under this section to early childhood

56.1 care and education experts at the University of Minnesota to evaluate the impact of the
56.2 grants under subdivision 2 on children's school readiness and to evaluate the FFN grant
56.3 program. The commissioner may disclose the names and addresses of FFN caregivers to
56.4 the commissioner of education.

56.5 Sec. 3. Laws 2007, chapter 147, article 2, section 56, is amended to read:

56.6 Sec. 56. **COMMISSIONER OF HUMAN SERVICES DUTIES; EARLY**
56.7 **CHILDHOOD AND SCHOOL-AGE PROFESSIONAL DEVELOPMENT**
56.8 **TRAINING.**

56.9 Subdivision 1. **Development and implementation of an early childhood and**
56.10 **school-age professional development system.** (a) The commissioner of human services,
56.11 in cooperation with the commissioners of education and health, shall develop and phase-in
56.12 the implementation of a professional development system for practitioners serving
56.13 children in early childhood and school-age programs. The system shall provide training
56.14 options and supports for practitioners to voluntarily choose, as they complete or exceed
56.15 existing licensing requirements.

56.16 The system must, at a minimum, include the following features:

56.17 (1) a continuum of training content based on the early childhood and school-age
56.18 care practitioner core competencies that translates knowledge into improved practice to
56.19 support children's school success;

56.20 (2) training strategies that provide direct feedback about practice to practitioners
56.21 through ongoing consultation, mentoring, or coaching with special emphasis on early
56.22 literacy and early mathematics;

56.23 (3) an approval process for trainers;

56.24 (4) a professional development registry for early childhood and school-age care
56.25 practitioners that will provide tracking and recognition of practitioner training/career
56.26 development progress;

56.27 (5) a career lattice that includes a range of professional development and educational
56.28 opportunities that provide appropriate coursework and degree pathways;

56.29 (6) development of a plan with public higher education institutions for an articulated
56.30 system of education, training, and professional development that includes credit for prior
56.31 learning and development of equivalences to two- and four-year degrees;

56.32 (7) incentives and supports for early childhood and school-age care practitioners
56.33 to seek additional training and education, including TEACH, other scholarships, and
56.34 career guidance; and

(8) coordinated and accessible delivery of training to early childhood and school-age care practitioners.

(b) By January 1, 2008, the commissioner, in consultation with the organizations named in subdivision 2 shall develop additional opportunities in order to qualify more licensed family child care providers under section 119B.13, subdivision 3a.

(c) The commissioner of human services must evaluate the professional development system and make continuous improvements.

(d) Beginning July 1, 2007, as appropriations permit, the commissioner shall phase-in the professional development system.

Subd. 2. **Two-hour early childhood training.** By January 15, 2008, the commissioner of human services, with input from the Minnesota Licensed Family Child Care Association and the Minnesota Professional Development Council, shall identify trainings that qualify for the two-hour early childhood development training requirement for new child care practitioners under Minnesota Statutes, section 245A.14, subdivision 9a, paragraphs (a) and (b). For licensed family child care, the commissioner shall also seek the input of labor unions that serve licensed family child care providers, if the union has been recognized by a county to serve licensed family child care providers.

Subd. 3. **Data classification for child care practitioner professional development system.** This subdivision applies to data collected under this section by the child care practitioner professional development system. Data collected under this section is welfare data under section 13.46 but is not licensing data under section 13.46, subdivision 4. Data on individuals who are licensed family child care providers is private data. The commissioner may disclose nonpublic data collected under this section as described in section 13.46, subdivision 2. The commissioner also may disclose private and nonpublic data collected under this section to the following entities:

(1) personnel of the welfare system who require the data for child care licensing purposes;

(2) personnel of the welfare system who require the data to administer or evaluate the child care assistance program;

(3) the commissioner of education;

(4) the commissioner of health for purposes of implementing this section; and

(5) an individual's employer for purposes of tracking and verifying employee training, education, and expertise.

APPENDIX
Article locations in 08-4623

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