

A bill for an act relating to human services; providing for adoption assistance reform, child protection, child support, and technical and conforming amendments; amending Minnesota Statutes 2010, sections 256.01, subdivision 14b; 257.01; 257.75, subdivision 7; 259.73; 260.012; 260C.001; 260C.007, subdivision 4, by adding subdivisions; 260C.101, subdivision 2; 260C.150, subdivision 1; 260C.157, subdivisions 1, 3; 260C.163, subdivisions 1, 4, 8; 260C.178, subdivisions 1, 7; 260C.193, subdivisions 3, 6; 260C.201, subdivisions 2, 10; 260C.212, subdivisions 5, 7; 260C.215, subdivisions 4, 6; 260C.301, subdivisions 1, 8; 260C.328; 260C.451; 260D.08; 518C.205; 626.556, subdivisions 2, 10, 10e, 10f, 10i, 10k; proposing coding for new law in Minnesota Statutes, chapters 260C; 611; proposing coding for new law as Minnesota Statutes, chapter 259A.

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

ARTICLE 1

ADOPTION ASSISTANCE

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

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

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

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

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

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

2.5 Subd. 6. **At-risk child.** "At-risk child" means a child who does not have a
2.6 documented disability but who is at risk of developing a physical, mental, emotional, or
2.7 behavioral disability based on being related within the first or second degree to persons
2.8 who have an inheritable physical, mental, emotional, or behavioral disabling condition, or
2.9 from a background that has the potential to cause the child to develop a physical, mental,
2.10 emotional, or behavioral disability that the child is at risk of developing. The disability
2.11 must manifest during childhood.

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

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

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

2.27 Subd. 10. **Child under guardianship of the commissioner of human services.**
2.28 "Child under guardianship of the commissioner of human services" means a child the
2.29 court has ordered under the guardianship of the commissioner of human services pursuant
2.30 to section 260C.325.

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

2.34 Subd. 12. **Consent of parent to adoption under chapter 260C.** "Consent of
2.35 parent to adoption under chapter 260C" means the consent executed pursuant to section
2.36 260C.515, subdivision 3.

3.1 Subd. 13. **Department.** "Department" means the Minnesota Department of Human
3.2 Services.

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

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

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

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

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

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

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

3.25 Subd. 21. **Parent.** "Parent" has the meaning given in section 257.52. Parent does
3.26 not mean a putative father of a child unless the putative father also meets the requirements
3.27 of section 257.55 or unless the putative father is entitled to notice under section 259.49,
3.28 subdivision 1. For matters governed by the Indian Child Welfare Act, parent includes any
3.29 Indian person who has adopted a child by tribal law or custom, as provided in section
3.30 260.755, subdivision 14, and does not include the unwed father where paternity has not
3.31 been acknowledged or established.

3.32 Subd. 22. **Permanent legal and physical custody.** "Permanent legal and physical
3.33 custody" means permanent legal and physical custody ordered by a Minnesota court under
3.34 section 260C.515, subdivision 4, or for children under tribal court jurisdiction, a similar
3.35 provision under tribal code which means that the individual with permanent legal and

physical custody of the child has responsibility for the protection, education, care, and control of the child and decision making on behalf of the child.

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

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

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

Subd. 26. Relative search. "Relative search" means the search that is required under chapter 260C.212, subdivision 5.

Subd. 27. Sibling. "Sibling" has the meaning given in section 260C.007, subdivision 31.

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

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

Subd. 30. Termination of parental rights. "Termination of parental rights" means a court order that severs all rights, powers, privileges, immunities, duties, and obligations, including any rights to custody, control, visitation, or support, existing between a parent and child. For an Indian child who is a ward of tribal court, termination of parental rights means any action resulting in the termination or suspension of the parent-child relationship

when the tribe has made a judicial determination that the child cannot or should not be returned to the home of the child's parent or parents.

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

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

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

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

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

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

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

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

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

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

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

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

(1) be determined to be a child with special needs, according to subdivision 2;
(2) meet the applicable citizenship and immigration requirements in subdivision 3; and

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

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

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

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

(1) court-ordered termination of parental rights;
(2) petition to terminate parental rights;
(3) consent of parent to adoption accepted by the court under chapter 260C;
(4) in circumstances where tribal law permits the child to be adopted without a termination of parental rights, a judicial determination by tribal court indicating the valid reason why the child cannot or should not return home;

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

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

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

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

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

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

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

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

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

(1) documented search for an appropriate adoptive placement; or
(2) determination by the commissioner that a search under clause (1) is not in the
best interests of the child.

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

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

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

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

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

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

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

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

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

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

(g) Once the child-placing agency has determined that placement with an identified
parent is in the child's best interest and has made full written disclosure about the child's
social and medical history, the agency must ask the prospective adoptive parent if they are
willing to adopt the child without adoption assistance. If the identified parent is either
unwilling or unable to adopt the child without adoption assistance, the child-placing

agency must provide documentation as prescribed by the commissioner to fulfill the requirement to make a reasonable effort to place the child without adoption assistance. If the identified parent desires to adopt the child without adoption assistance, the parent must provide a written statement to this effect to the child-placing agency and the statement must be maintained in the permanent adoption record of the child-placing agency. For children under guardianship of the commissioner, the child-placing agency shall submit a copy of this statement to the commissioner to be maintained in the permanent adoption record.

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

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

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

(1) a felony conviction at any time for:
(i) child abuse or neglect;
(ii) spousal abuse;
(iii) a crime against children, including child pornography; or
(iv) a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery; or

(2) a felony conviction within the past five years for:
(i) physical assault;
(ii) battery; or
(iii) a drug-related offense.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The agreement must specify the following:

(1) duration of the agreement;

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

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

(4) the terms of the payment;

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

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

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

(8) the effective date of the agreement.

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

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

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

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

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

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

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

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

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

11.18 <u>Birth through age five</u>	<u>up to \$247 per month</u>
11.19 <u>Age six through age 11</u>	<u>up to \$277 per month</u>
11.20 <u>Age 12 through age 14</u>	<u>up to \$307 per month</u>
11.21 <u>Age 15 and older</u>	<u>up to \$337 per month</u>

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

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

11.27 <u>Level I</u>	<u>up to \$150 per month</u>
11.28 <u>Level II</u>	<u>up to \$275 per month</u>
11.29 <u>Level III</u>	<u>up to \$400 per month</u>
11.30 <u>Level IV</u>	<u>up to \$500 per month</u>

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

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

12.1 (b) Reimbursements under this paragraph shall be made only after the adoptive
12.2 parent documents that the requested service was denied by the local social service agency,
12.3 community agencies, local school district, local public health department, the parent's
12.4 insurance provider, or the child's program. The denial must be for an eligible service or
12.5 qualified item under the program requirements of the applicable agency or organization.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) An adoptive parent of a child with an adoption assistance agreement based on the child being an at-risk child may request renegotiation of the agreement to include a

14.1 monthly payment. The parent must have written documentation from a qualified expert
14.2 that the potential disability upon which eligibility for adoption assistance was approved
14.3 has manifested. Documentation of the disability must be limited to evidence deemed
14.4 appropriate by the commissioner. Prior to renegotiating the agreement, a reassessment of
14.5 the child must be conducted using an assessment tool prescribed by the commissioner
14.6 according to section 259A.15, subdivision 3. The reassessment must be used to renegotiate
14.7 the agreement to include an appropriate monthly payment. The agreement must not be
14.8 renegotiated unless the commissioner and the adoptive parent mutually agree to the
14.9 changes. The effective date of any renegotiated agreement must be determined according
14.10 to requirements and procedures prescribed by the commissioner.

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

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

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

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

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

14.25 (2) the family's address;

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

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

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

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

14.32 (7) the death of the child;

14.33 (8) the death of the adoptive parent;

14.34 (9) the child enlists in the military;

14.35 (10) the child gets married;

- 15.1 (11) the child becomes an emancipated minor through legal action;
15.2 (12) the adoptive parents separate or divorce;
15.3 (13) the child is residing outside the adoptive home for a period of more than 30
15.4 consecutive days; and
15.5 (14) the child's status upon which eligibility for extension under section 259A.45,
15.6 subdivision 2 or 3, was based.

15.7 Subd. 2. **Correct and true information.** If the adoptive parent reports information
15.8 the adoptive parent knows is untrue, the adoptive parent fails to notify the commissioner
15.9 of changes that may affect eligibility, or the agency administering the program receives
15.10 information the adoptive parent did not report, the adoptive parent may be investigated for
15.11 theft and, if charged and convicted, shall be sentenced under section 609.52, subdivision
15.12 3, clauses (1) to (5).

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

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

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

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

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

15.22 (4) the death of the child; or

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

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

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

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

15.31 (3) death of adoptive parent;

15.32 (4) child enlists in the military;

15.33 (5) child gets married; or

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

Subd. 2. **Death of adoptive parent or adoption dissolution.** The adoption assistance agreement ends upon death or termination of parental rights of both adoptive parents in the case of a two-parent adoption, or the sole adoptive parent in the case of a single-parent adoption. The child's adoption assistance eligibility may be continued according to section 259A.40.

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

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

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

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

(2) the subsequent adoptive parent resides in Minnesota.

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

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

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

(b) Temporary assignment of adoption assistance may be approved by the commissioner for a maximum of six consecutive months from the death of the parent or parents and must adhere to the requirements and procedures prescribed by the

17.1 commissioner. If, within six months, the child has not been adopted by a person agreed
17.2 upon by the commissioner, or if a court has not appointed a legal guardian under either
17.3 section 260C.325 or 524.5-313, or similar law of another jurisdiction, the adoption
17.4 assistance shall terminate. Upon assignment of payments pursuant to this subdivision,
17.5 funding shall be from state funds only.

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

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

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

17.13 (c) A signed amendment to the current adoption assistance agreement must be
17.14 fully executed between the adoptive parent and the commissioner at least ten business
17.15 days prior to the termination of the current agreement. The request for extension and the
17.16 fully executed amendment must be made according to the requirements and procedures
17.17 prescribed by the commissioner, including documentation of eligibility, and on forms
17.18 prescribed by the commissioner.

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

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

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

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

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

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

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

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

Subd. 3. **Extension past age 18 for child adopted prior to 16th birthday.** A child who has not attained the age of 16 prior to finalization of the child's adoption is eligible for extension of the adoption assistance agreement up to the date the child attains the age of 21 if the child is:

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

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

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

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

An amount of adoption assistance paid to an adoptive parent in excess of the payment that was actually due is recoverable by the commissioner, even when the overpayment was caused by agency error or circumstances outside the responsibility and control of the parent or provider. Adoption assistance amounts covered by this section 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. 12. **[259A.55] APPEALS AND FAIR HEARINGS.**

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

Subd. 2. **Extenuating circumstances.** (a) An adoption assistance agreement must be signed and fully executed prior to the court order that finalizes the adoption. An adoptive parent who believes that extenuating circumstances exist, as to why the adoption was finalized prior to fully executing an adoption assistance agreement, may request

a fair hearing. The parent has the responsibility to prove the existence of extenuating circumstances, such as:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) a requirement that each instance of adoption assistance to which the compact applies be covered by an adoption assistance agreement in writing between the adoptive parent and the state child welfare agency of the state that provides the adoption assistance, and that the agreement be expressly for the benefit of the adopted child and enforceable by the adoptive parent and the state agency providing the adoption assistance; and

(5) other provisions necessary and appropriate for the proper administration of the compact.

(b) A compact may contain provisions establishing requirements and entitlements to medical, developmental, child care, or other social services for the child under state law, even though the child and the adoptive parent are in a state other than the one responsible for or providing the services or funds to pay part or all of the costs.

Subd. 5. Duties of commissioner of human services regarding medical assistance. (a) The commissioner of human services shall:

(1) provide Minnesota medical assistance for an adopted child who is title IV-E eligible;

(2) provide Minnesota medical assistance for an adopted child who is not title IV-E eligible who:

(i) was determined to have a special need for medical or rehabilitative care;

(ii) is living in another state; and

(iii) is covered by an adoption assistance agreement made by the commissioner for medical coverage or benefits when the child is not eligible for Medicaid in the child's residence state;

(3) consider the holder of a medical assistance identification card under this subdivision as any other recipient of medical assistance under chapter 256B; and

(4) process and make payments on claims for the recipient in the same manner as for other recipients of medical assistance.

(b) Coverage must be limited to providers authorized by Minnesota's medical assistance program, and according to Minnesota's program requirements.

Subd. 6. Cooperation with Medicaid. The adoptive parent shall cooperate with and abide by the Medicaid program requirements and procedures of the state which provides medical coverage.

Subd. 7. Federal participation. The commissioner shall apply for and administer all relevant aid in accordance with state and federal law.

21.1 Sec. 14. **[259A.70] REIMBURSEMENT OF NONRECURRING ADOPTION**
21.2 **EXPENSES.**

21.3 (a) The commissioner of human services shall provide reimbursement to an adoptive
21.4 parent for costs incurred in an adoption of a child with special needs according to section
21.5 259A.10, subdivision 2. Reimbursement shall be made for expenses that are reasonable
21.6 and necessary for the adoption to occur, subject to a maximum of \$2,000. The expenses
21.7 must directly relate to the legal adoption of the child, not be incurred in violation of state
21.8 or federal law, and must not have been reimbursed from other sources or funds.

21.9 (b) Children who have special needs but are not citizens or residents of the United
21.10 States and were either adopted in another country or brought to this country for the
21.11 purposes of adoption are categorically ineligible for this reimbursement program, except if
21.12 the child meets the eligibility criteria after the dissolution of the international adoption.

21.13 (c) An adoptive parent, in consultation with the responsible child-placing agency,
21.14 may request reimbursement of nonrecurring adoption expenses by submitting a complete
21.15 application, according to the requirements and procedures and on forms prescribed by
21.16 the commissioner.

21.17 (d) The commissioner shall determine the child's eligibility for adoption expense
21.18 reimbursement under title IV-E of the Social Security Act, United States Code, title 42,
21.19 sections 670 to 676. If determined eligible, the commissioner of human services shall
21.20 sign the agreement for nonrecurring adoption expense reimbursement, making this a
21.21 fully executed agreement. To be eligible, the agreement must be fully executed prior to
21.22 the child's adoption finalization.

21.23 (e) An adoptive parent who has an adoption assistance agreement under section
21.24 259A.15, subdivision 2, is not required to make a separate application for reimbursement
21.25 of nonrecurring adoption expenses for the child who is the subject of that agreement.

21.26 (f) If determined eligible, the adoptive parent shall submit reimbursement requests
21.27 within 21 months of the date of the child's adoption decree, and according to requirements
21.28 and procedures prescribed by the commissioner.

21.29 Sec. 15. **[259A.75] REIMBURSEMENT OF CERTAIN AGENCY COSTS;**
21.30 **PURCHASE OF SERVICE CONTRACTS.**

21.31 Subdivision 1. **General information.** (a) Subject to the procedures required by
21.32 the commissioner and the provisions of this section, a Minnesota county or tribal social
21.33 services agency shall receive a reimbursement from the commissioner equal to 100
21.34 percent of the reasonable and appropriate cost for contracted adoption placement services

22.1 identified for a specific child that are not reimbursed under other federal or state funding
22.2 sources.

22.3 (b) The commissioner may spend up to \$16,000 for each purchase of service
22.4 contract. Only one contract per child per adoptive placement is permitted. Funds
22.5 encumbered and obligated under the contract for the child remain available until the terms
22.6 of the contract are fulfilled or the contract is terminated.

22.7 (c) The commissioner shall set aside an amount not to exceed five percent of the
22.8 total amount of the fiscal year appropriation from the state for the adoption assistance
22.9 program to reimburse placing agencies for child-specific adoption placement services.
22.10 When adoption assistance payments for children's needs exceed 95 percent of the total
22.11 amount of the fiscal year appropriation from the state for the adoption assistance program,
22.12 the amount of reimbursement available to placing agencies for adoption services is
22.13 reduced correspondingly.

22.14 Subd. 2. **Child eligibility criteria.** (a) A child who is the subject of a purchase
22.15 of service contract must:

22.16 (1) have the goal of adoption, which may include an adoption in accordance with
22.17 tribal law;

22.18 (2) be under the guardianship of the commissioner of human services or be a ward of
22.19 tribal court pursuant to section 260.755, subdivision 20; and

22.20 (3) meet all of the special needs criteria according to section 259A.10, subdivision 2.

22.21 (b) A child under the guardianship of the commissioner must have an identified
22.22 adoptive parent and a fully executed adoption placement agreement according to section
22.23 260C.613, subdivision 1, paragraph (a).

22.24 Subd. 3. **Agency eligibility criteria.** (a) A Minnesota county or tribal social
22.25 services agency shall receive reimbursement for child-specific adoption placement
22.26 services for an eligible child that it purchases from a private adoption agency licensed in
22.27 Minnesota or any other state or tribal social services agency.

22.28 (b) Reimbursement for adoption services is available only for services provided
22.29 prior to the date of the adoption decree.

22.30 Subd. 4. **Application and eligibility determination.** (a) A county or tribal social
22.31 services agency may request reimbursement of costs for adoption placement services by
22.32 submitting a complete purchase of service application, according to the requirements and
22.33 procedures and on forms prescribed by the commissioner.

22.34 (b) The commissioner shall determine eligibility for reimbursement of adoption
22.35 placement services. If determined eligible, the commissioner of human services shall
22.36 sign the purchase of service agreement, making this a fully executed contract. No

reimbursement under this section shall be made to an agency for services provided prior to the fully executed contract.

(c) Separate purchase of service agreements shall be made, and separate records maintained, on each child. Only one agreement per child per adoptive placement is permitted. For siblings who are placed together, services shall be planned and provided to best maximize efficiency of the contracted hours.

Subd. 5. **Reimbursement process.** (a) The agency providing adoption services is responsible to track and record all service activity, including billable hours, on a form prescribed by the commissioner. The agency shall submit this form to the state for reimbursement after services have been completed.

(b) The commissioner shall make the final determination whether or not the requested reimbursement costs are reasonable and appropriate and if the services have been completed according to the terms of the purchase of service agreement.

Subd. 6. **Retention of purchase of service records.** Agencies entering into purchase of service contracts shall keep a copy of the agreements, service records, and all applicable billing and invoicing according to the department's record retention schedule. Agency records shall be provided upon request by the commissioner.

ARTICLE 2

CHILD PROTECTION

Section 1. Minnesota Statutes 2010, section 260.012, is amended to read:

260.012 DUTY TO ENSURE PLACEMENT PREVENTION AND FAMILY REUNIFICATION; REASONABLE EFFORTS.

(a) Once a child alleged to be in need of protection or services is under the court's jurisdiction, the court shall ensure that reasonable efforts, including culturally appropriate services, by the social services agency are made to prevent placement or to eliminate the need for removal and to reunite the child with the child's family at the earliest possible time, and the court must ensure that the responsible social services agency makes reasonable efforts to finalize an alternative permanent plan for the child as provided in paragraph (e). In determining reasonable efforts to be made with respect to a child and in making those reasonable efforts, the child's best interests, health, and safety must be of paramount concern. Reasonable efforts to prevent placement and for rehabilitation and reunification are always required except upon a determination by the court that a petition has been filed stating a prima facie case that:

24.1 (1) the parent has subjected a child to egregious harm as defined in section
24.2 260C.007, subdivision 14;

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

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

24.7 (4) the parent's custodial rights to another child have been involuntarily transferred
24.8 to a relative under section 260C.201, subdivision 11, paragraph (d), clause (1), or a similar
24.9 law of another jurisdiction; ~~or~~

24.10 (5) the parent has committed sexual abuse as defined in section 626.556, subdivision
24.11 2, against the child or another child of the parent;

24.12 (6) the parent has committed an offense that requires registration as a predatory
24.13 offender under section 243.166, subdivision 1b, paragraph (a) or (b); or

24.14 ~~(5)~~ (7) the provision of services or further services for the purpose of reunification is
24.15 futile and therefore unreasonable under the circumstances.

24.16 (b) When the court makes one of the prima facie determinations under paragraph (a),
24.17 either permanency pleadings under section 260C.201, subdivision 11, or a termination
24.18 of parental rights petition under sections 260C.141 and 260C.301 must be filed. A
24.19 permanency hearing under section 260C.201, subdivision 11, must be held within 30
24.20 days of this determination.

24.21 (c) In the case of an Indian child, in proceedings under sections 260B.178 or
24.22 260C.178, 260C.201, and 260C.301 the juvenile court must make findings and conclusions
24.23 consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section
24.24 1901 et seq., as to the provision of active efforts. In cases governed by the Indian Child
24.25 Welfare Act of 1978, United States Code, title 25, section 1901, the responsible social
24.26 services agency must provide active efforts as required under United States Code, title
24.27 25, section 1911(d).

24.28 (d) "Reasonable efforts to prevent placement" means:

24.29 (1) the agency has made reasonable efforts to prevent the placement of the child in
24.30 foster care by working with the family to develop and implement a safety plan; or

24.31 (2) given the particular circumstances of the child and family at the time of the
24.32 child's removal, there are no services or efforts available which could allow the child to
24.33 safely remain in the home.

24.34 (e) "Reasonable efforts to finalize a permanent plan for the child" means due
24.35 diligence by the responsible social services agency to:

24.36 (1) reunify the child with the parent or guardian from whom the child was removed;

(2) assess a noncustodial parent's ability to provide day-to-day care for the child and, where appropriate, provide services necessary to enable the noncustodial parent to safely provide the care, as required by section 260C.212, subdivision 4;

(3) conduct a relative search to identify and provide notice to adult relatives as required under section 260C.212, subdivision 5;

(4) place siblings removed from their home in the same home for foster care or adoption, or transfer permanent legal and physical custody to a relative. Visitation between siblings who are not in the same foster care, adoption, or custodial placement or facility shall be consistent with section 260C.212, subdivision 2; and

(5) when the child cannot return to the parent or guardian from whom the child was removed, to plan for and finalize a safe and legally permanent alternative home for the child, and considers permanent alternative homes for the child inside or outside of the state, preferably through adoption or transfer of permanent legal and physical custody of the child.

(f) Reasonable efforts are made upon the exercise of due diligence by the responsible social services agency to use culturally appropriate and available services to meet the needs of the child and the child's family. Services may include those provided by the responsible social services agency and other culturally appropriate services available in the community. At each stage of the proceedings where the court is required to review the appropriateness of the responsible social services agency's reasonable efforts as described in paragraphs (a), (d), and (e), the social services agency has the burden of demonstrating that:

(1) it has made reasonable efforts to prevent placement of the child in foster care;

(2) it has made reasonable efforts to eliminate the need for removal of the child from the child's home and to reunify the child with the child's family at the earliest possible time;

(3) it has made reasonable efforts to finalize an alternative permanent home for the child, and considers permanent alternative homes for the child inside or outside of the state; or

(4) reasonable efforts to prevent placement and to reunify the child with the parent or guardian are not required. The agency may meet this burden by stating facts in a sworn petition filed under section 260C.141, by filing an affidavit summarizing the agency's reasonable efforts or facts the agency believes demonstrate there is no need for reasonable efforts to reunify the parent and child, or through testimony or a certified report required under juvenile court rules.

(g) Once the court determines that reasonable efforts for reunification are not required because the court has made one of the prima facie determinations under paragraph

(a), the court may only require reasonable efforts for reunification after a hearing according to section 260C.163, where the court finds there is not clear and convincing evidence of the facts upon which the court based its prima facie determination. In this case when there is clear and convincing evidence that the child is in need of protection or services, the court may find the child in need of protection or services and order any of the dispositions available under section 260C.201, subdivision 1. Reunification of a ~~surviving~~ child with a parent is not required if the parent has been convicted of:

(1) a violation of, or an attempt or conspiracy to commit a violation of, sections 609.185 to 609.20; 609.222, subdivision 2; or 609.223 in regard to another child of the parent;

(2) a violation of section 609.222, subdivision 2; or 609.223, in regard to the ~~surviving~~ child; ~~or~~

(3) a violation of, or an attempt or conspiracy to commit a violation of, United States Code, title 18, section 1111(a) or 1112(a), in regard to another child of the parent;

(4) committing sexual abuse as defined in section 626.556, subdivision 2, against the child or another child of the parent; or

(5) an offense that requires registration as a predatory offender under section 243.166, subdivision 1b, paragraph (a) or (b).

(h) The juvenile court, in proceedings under sections 260B.178 or 260C.178, 260C.201, and 260C.301 shall make findings and conclusions as to the provision of reasonable efforts. When determining whether reasonable efforts have been made, the court shall consider whether services to the child and family were:

(1) relevant to the safety and protection of the child;

(2) adequate to meet the needs of the child and family;

(3) culturally appropriate;

(4) available and accessible;

(5) consistent and timely; and

(6) realistic under the circumstances.

In the alternative, the court may determine that provision of services or further services for the purpose of rehabilitation is futile and therefore unreasonable under the circumstances or that reasonable efforts are not required as provided in paragraph (a).

(i) This section does not prevent out-of-home placement for treatment of a child with a mental disability when it is determined to be medically necessary as a result of the child's diagnostic assessment or individual treatment plan indicates that appropriate and necessary treatment cannot be effectively provided outside of a residential or inpatient treatment program and the level or intensity of supervision and treatment cannot be effectively and

safely provided in the child's home or community and it is determined that a residential treatment setting is the least restrictive setting that is appropriate to the needs of the child.

(j) If continuation of reasonable efforts to prevent placement or reunify the child with the parent or guardian from whom the child was removed is determined by the court to be inconsistent with the permanent plan for the child or upon the court making one of the prima facie determinations under paragraph (a), reasonable efforts must be made to place the child in a timely manner in a safe and permanent home and to complete whatever steps are necessary to legally finalize the permanent placement of the child.

(k) Reasonable efforts to place a child for adoption or in another permanent placement may be made concurrently with reasonable efforts to prevent placement or to reunify the child with the parent or guardian from whom the child was removed. When the responsible social services agency decides to concurrently make reasonable efforts for both reunification and permanent placement away from the parent under paragraph (a), the agency shall disclose its decision and both plans for concurrent reasonable efforts to all parties and the court. When the agency discloses its decision to proceed on both plans for reunification and permanent placement away from the parent, the court's review of the agency's reasonable efforts shall include the agency's efforts under both plans.

Sec. 2. Minnesota Statutes 2010, section 260C.001, is amended to read:

260C.001 TITLE, INTENT, AND CONSTRUCTION.

Subdivision 1. **Citation; scope.** (a) Sections 260C.001 to ~~260C.451~~ 260C.521 may be cited as the ~~child~~ juvenile protection provisions of the Juvenile Court Act.

(b) Juvenile protection proceedings include:

(1) a child in need of protection or services matters;

(2) permanency matters, including termination of parental rights;

(3) postpermanency reviews under section 260C.521; and

(4) adoption matters including posttermination of parental rights proceedings that review the responsible social services agency's reasonable efforts to finalize adoption.

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

(b) The purpose of the laws relating to juvenile ~~court~~ protection proceedings is:

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

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

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

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

(i) pursuant to a voluntary placement agreement between the child's parent or
guardian or the child, when the child is over age 18, and the responsible social services
agency; or

(ii) by court order pursuant to section 260C.151, subdivision 6; ~~206C.178; or~~
260C.178; 260C.201; 260C.325; or 260C.515;

(5) to ensure that, when placement is pursuant to court order, the court order
removing the child or continuing the child in foster care contains an individualized
determination that placement is in the best interests of the child that coincides with the
actual removal of the child; ~~and~~

(6) to ensure that when the child is removed, the child's care and discipline is, as
nearly as possible, equivalent to that which should have been given by the parents and is
either in:

(i) the home of a noncustodial parent pursuant to section 260C.178 or 260C.201,
subdivision 1, paragraph (a), clause (1);

(ii) the home of a relative pursuant to emergency placement by the responsible social
services agency under chapter 245A; or

(iii) ~~a foster home~~ care licensed under chapter 245A; ~~and~~

(7) to ensure appropriate permanency planning for children in foster care including:

(i) unless reunification is not required under section 260.012, developing a
permanency plan for the child that includes a primary plan for reunification with the
child's parent or guardian and a secondary plan for an alternative, legally permanent home
for the child in the event reunification cannot be achieved in a timely manner;

(ii) identifying, locating, and assessing both parents of the child as soon as possible
and offering reunification services to both parents of the child as required under sections
260.012 and 260C.219;

(iii) identifying, locating, and notifying relatives of both parents of the child according to section 260.221;

(iv) making a placement with a family that will commit to being the legally permanent home for the child in the event reunification cannot occur at the earliest possible time while at the same time actively supporting the reunification plan; and

(v) returning the child home with supports and services, as soon as return is safe for the child, or when safe return cannot be timely achieved, moving to finalize another legally permanent home for the child.

Subd. 3. **Permanency ~~and~~ termination of parental rights, and adoption.** The purpose of the laws relating to permanency ~~and~~ termination of parental rights, and adoption of a child who comes under the guardianship of the commissioner of human services is to ensure that:

(1) when required and appropriate, reasonable efforts have been made by the social services agency to reunite the child with the child's parents in a home that is safe and permanent; and

(2) if placement with the parents is not reasonably foreseeable, to secure for the child a safe and permanent placement according to the requirements of section 260C.212, subdivision 2, preferably with adoptive parents or, if that is not possible or in the best interests of the child, a fit and willing relative through transfer of permanent legal and physical custody to that relative; and

(3) when a child is under the guardianship of the commissioner of human services, reasonable efforts are made to finalize an adoptive home for the child in a timely manner.

Nothing in this section requires reasonable efforts to prevent placement or to reunify the child with the parent or guardian to be made in circumstances where the court has determined that the child has been subjected to egregious harm, when the child is an abandoned infant, the parent has involuntarily lost custody of another child through a proceeding under section ~~260C.201, subdivision 11~~ 260C.515, subdivision 4, or similar law of another state, the parental rights of the parent to a sibling have been involuntarily terminated, or the court has determined that reasonable efforts or further reasonable efforts to reunify the child with the parent or guardian would be futile.

The paramount consideration in all proceedings for permanent placement of the child under ~~section 260C.201, subdivision 11~~ sections 260C.503 to 260C.521, or the termination of parental rights is the best interests of the child. In proceedings involving an American Indian child, as defined in section 260.755, subdivision 8, the best interests of the child must be determined consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, et seq.

Subd. 4. **Construction.** The laws relating to the ~~child protection provisions of~~
the juvenile courts protection proceedings shall be liberally construed to carry out these
purposes.

Sec. 3. Minnesota Statutes 2010, section 260C.007, subdivision 4, is amended to read:

Subd. 4. **Child.** "Child" means an individual under 18 years of age. For purposes of
this chapter and chapter 260D, child also includes individuals under age 21 who are in
foster care pursuant to section 260C.451.

Sec. 4. Minnesota Statutes 2010, section 260C.007, is amended by adding a
subdivision to read:

Subd. 26a. **Putative father.** "Putative father" has the meaning given in section
259.21, subdivision 12.

Sec. 5. Minnesota Statutes 2010, section 260C.007, is amended by adding a
subdivision to read:

Subd. 27a. **Responsible social services agency.** "Responsible social services
agency" means the county social services agency that has responsibility for public child
welfare and child protection services and includes the provision of adoption services as an
agent of the commissioner of human services.

Sec. 6. Minnesota Statutes 2010, section 260C.007, is amended by adding a
subdivision to read:

Subd. 31. **Sibling.** "Sibling" means one of two or more individuals who have one
or both parents in common through blood, marriage, or adoption including siblings as
defined by the child's tribal code or custom.

Sec. 7. Minnesota Statutes 2010, section 260C.101, subdivision 2, is amended to read:

Subd. 2. **Other matters relating to children.** ~~Except as provided in clause (4),~~ The
juvenile court has original and exclusive jurisdiction in proceedings concerning:

(1) the termination of parental rights to a child in accordance with the provisions of
sections 260C.301 to 260C.328;

(2) permanency matters under sections 260C.503 to 260C.521;

(3) the appointment and removal of a juvenile court guardian for a child, where
parental rights have been terminated under the provisions of sections 260C.301 to
260C.328;

31.1 ~~(3)~~ (4) judicial consent to the marriage of a child when required by law;

31.2 ~~(4) the juvenile court in those counties in which the judge of the probate-juvenile~~

31.3 ~~court has been admitted to the practice of law in this state shall proceed under the laws~~

31.4 ~~relating to adoptions in all adoption matters. In those counties in which the judge of the~~

31.5 ~~probate-juvenile court has not been admitted to the practice of law in this state the district~~

31.6 ~~court shall proceed under the laws relating to adoptions in~~

31.7 (5) all adoption matters and review of the efforts to finalize the adoption of the child;

31.8 ~~(5)~~ (6) the review of the placement of a child who is in foster care pursuant to a

31.9 voluntary placement agreement between the child's parent or parents and the responsible

31.10 social services agency under section ~~260C.212, subdivision 8~~ 260C.227; or between the

31.11 child, when the child is over age 18, and the agency under section 260C.229; and

31.12 ~~(6)~~ (7) the review of voluntary foster care placement of a child for treatment under

31.13 chapter 260D according to the review requirements of that chapter.

31.14 Sec. 8. Minnesota Statutes 2010, section 260C.150, subdivision 1, is amended to read:

31.15 Subdivision 1. **Determining parentage.** (a) A parent and child relationship may be

31.16 established under this chapter according to the requirements of section 257.54 and the

31.17 Minnesota Rules of Juvenile Protection Procedure. The requirements of the Minnesota

31.18 Parentage Act must be followed unless otherwise specified in this section.

31.19 (b) An action to commence a parent and child relationship under this chapter must

31.20 be commenced by motion, which shall be personally served upon the alleged parent and

31.21 served upon the required parties under the Minnesota Parentage Act as provided for service

31.22 of motions in the Minnesota Rules of Juvenile Protection Procedure. The motion shall be

31.23 brought in an existing juvenile protection proceeding and may be brought by any party, a

31.24 putative father, or the county attorney representing the responsible social services agency.

31.25 (c) Notwithstanding any other provisions of law, a motion to establish parentage

31.26 under this section, and any related documents or orders, are not confidential and are

31.27 accessible to the public according to the provisions of the Minnesota Rules of Juvenile

31.28 Protection Procedure. Any hearings related to establishment of paternity under this section

31.29 are accessible to the public according to the Minnesota Rules of Juvenile Protection

31.30 Procedure.

31.31 (d) The court may order genetic testing of any putative father or any man presumed

31.32 to be father of a child who is the subject of a juvenile protection matter unless paternity

31.33 has already been adjudicated under the Minnesota Parentage Act or a recognition of

31.34 parentage has been fully executed and filed under section 257.75 when the recognition

31.35 of parentage has the force and effect of a judgment or order determining the existence

of the parent and child relationship under section 257.66. If a genetic testing is ordered, a positive genetic test pursuant to section 257.62, subdivision 5, is required to establish paternity for a child under this chapter.

(e) A copy of the order establishing the parent and child relationship shall be filed in family court. Any further proceedings for modification of the child support portion of the order that establishes the parent and child relationship shall be brought in the family court of the county where the original order was filed. The review shall be under chapters 518 and 518A. Notice of any family court proceedings shall be provided by the court administrator to the responsible social services agency, which shall be a party to the family court proceeding.

Sec. 9. Minnesota Statutes 2010, section 260C.157, subdivision 1, is amended to read:

Subdivision 1. **Investigation.** Upon request of the court the responsible social services agency or probation officer shall investigate the personal and family history and environment of any minor coming within the jurisdiction of the court under section 260C.101 and shall report its findings to the court. The court may order any minor coming within its jurisdiction to be examined by a duly qualified physician, psychiatrist, or psychologist appointed by the court.

Adoption investigations shall be conducted in accordance with the laws relating to adoptions in chapter 259. ~~Any funds received under the provisions of this subdivision shall not cancel until the end of the fiscal year immediately following the fiscal year in which the funds were received. The funds are available for use by the commissioner of corrections during that period and are hereby appropriated annually to the commissioner of corrections as reimbursement of the costs of providing these services to the juvenile courts.~~

Sec. 10. Minnesota Statutes 2010, section 260C.157, subdivision 3, is amended to read:

Subd. 3. **Juvenile treatment screening team.** (a) The responsible social services agency shall establish a juvenile treatment screening team to conduct screenings and prepare case plans under ~~this subdivision~~ section 245.487, subdivision 3, and chapters 260C and 260D. Screenings shall be conducted within 15 days of a request for a screening. The team, which may be the team constituted under section 245.4885 or 256B.092 or Minnesota Rules, parts 9530.6600 to 9530.6655, shall consist of social workers, juvenile justice professionals, and persons with expertise in the treatment of juveniles who are emotionally disabled, chemically dependent, or have a developmental disability. ~~The team shall involve parents or guardians in the screening process as appropriate, and the child's~~

33.1 parent, guardian, or permanent legal custodian under section 260C.201, subdivision 11.

33.2 The team may be the same team as defined in section 260B.157, subdivision 3.

33.3 (b) The social services agency shall determine whether a child brought to its
33.4 attention for the purposes described in this section is an Indian child, as defined in section
33.5 260C.007, subdivision 21, and shall determine the identity of the Indian child's tribe, as
33.6 defined in section 260.755, subdivision 9. When a child to be evaluated is an Indian child,
33.7 the team provided in paragraph (a) shall include a designated representative of the Indian
33.8 child's tribe, unless the child's tribal authority declines to appoint a representative. The
33.9 Indian child's tribe may delegate its authority to represent the child to any other federally
33.10 recognized Indian tribe, as defined in section 260.755, subdivision 12.

33.11 (c) If the court, prior to, or as part of, a final disposition, proposes to place a child:

33.12 (1) for the primary purpose of treatment for an emotional disturbance, a
33.13 developmental disability, or chemical dependency in a residential treatment facility out
33.14 of state or in one which is within the state and licensed by the commissioner of human
33.15 services under chapter 245A; or

33.16 (2) in any out-of-home setting potentially exceeding 30 days in duration, including a
33.17 postdispositional placement in a facility licensed by the commissioner of corrections or
33.18 human services, the court shall ascertain whether the child is an Indian child and shall
33.19 notify the county welfare agency and, if the child is an Indian child, shall notify the Indian
33.20 child's tribe. The county's juvenile treatment screening team must either: (i) screen and
33.21 evaluate the child and file its recommendations with the court within 14 days of receipt
33.22 of the notice; or (ii) elect not to screen a given case and notify the court of that decision
33.23 within three working days.

33.24 ~~(d) If the screening team has elected to screen and evaluate the child,~~ The child
33.25 may not be placed for the primary purpose of treatment for an emotional disturbance, a
33.26 developmental disability, or chemical dependency, in a residential treatment facility out of
33.27 state nor in a residential treatment facility within the state that is licensed under chapter
33.28 245A, unless one of the following conditions applies:

33.29 (1) a treatment professional certifies that an emergency requires the placement
33.30 of the child in a facility within the state;

33.31 (2) the screening team has evaluated the child and recommended that a residential
33.32 placement is necessary to meet the child's treatment needs and the safety needs of the
33.33 community, that it is a cost-effective means of meeting the treatment needs, and that it
33.34 will be of therapeutic value to the child; or

33.35 (3) the court, having reviewed a screening team recommendation against placement,
33.36 determines to the contrary that a residential placement is necessary. The court shall state

the reasons for its determination in writing, on the record, and shall respond specifically to the findings and recommendation of the screening team in explaining why the recommendation was rejected. The attorney representing the child and the prosecuting attorney shall be afforded an opportunity to be heard on the matter.

(e) When the county's juvenile treatment screening team has elected to screen and evaluate a child determined to be an Indian child, the team shall provide notice to the tribe or tribes that accept jurisdiction for the Indian child or that recognize the child as a member of the tribe or as a person eligible for membership in the tribe, and permit the tribe's representative to participate in the screening team.

(f) When the Indian child's tribe or tribal health care services provider or Indian Health Services provider proposes to place a child for the primary purpose of treatment for an emotional disturbance, a developmental disability, or co-occurring emotional disturbance and chemical dependency, the Indian child's tribe or the tribe delegated by the child's tribe shall submit necessary documentation to the county juvenile treatment screening team, which must invite the Indian child's tribe to designate a representative to the screening team.

EFFECTIVE DATE. This section is effective August 1, 2011.

Sec. 11. Minnesota Statutes 2010, section 260C.163, subdivision 1, is amended to read:

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

(b) Except for proceedings involving a child alleged to be in need of protection or services and petitions for the termination of parental rights, hearings may be continued or adjourned from time to time. In proceedings involving a child alleged to be in need of protection or services and ~~petitions~~ for the termination of parental rights, hearings may not be continued or adjourned for more than one week unless the court makes specific findings that the continuance or adjournment is in the best interests of the child. If a hearing is held on a petition involving physical or sexual abuse of a child who is alleged to be in need of protection or services or neglected and in foster care, the court shall file the decision with the court administrator as soon as possible but no later than 15 days after the matter is submitted to the court. When a continuance or adjournment is ordered in any proceeding,

the court may make any interim orders as it deems in the best interests of the minor in accordance with ~~the provisions of sections 260C.001 to 260C.421~~ this chapter.

(c) Absent exceptional circumstances, hearings under this chapter, except hearings in adoption proceedings, are presumed to be accessible to the public, however the court may close any hearing and the records related to any matter as provided in the Minnesota Rules of Juvenile Protection Procedure.

(d) Adoption hearings ~~shall be conducted in accordance with the provisions of laws relating to adoptions~~ are closed to the public and all records related to an adoption are inaccessible except as provided in the Minnesota Rules of Adoption Procedure.

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

Sec. 12. Minnesota Statutes 2010, section 260C.163, subdivision 4, is amended to read:

Subd. 4. **County attorney.** ~~Except in adoption proceedings, the county attorney shall present the evidence upon request of the court.~~ In representing the responsible social services agency, the county attorney shall also have the responsibility for advancing the public interest in the welfare of the child.

Sec. 13. Minnesota Statutes 2010, section 260C.163, subdivision 8, is amended to read:

Subd. 8. **Rights of parties at hearing.** (a) Except in adoption proceedings or review hearings after termination of parental rights, the minor child and the minor's child's parent, guardian, or custodian are entitled to be heard, to present evidence material to the case, and to cross-examine witnesses appearing at the hearing.

(b) A child who is under the guardianship of the commissioner of human services has the right to be consulted in an age-appropriate manner regarding the adoption plan for the child. A child age 16 or over must consent to the adoption.

Sec. 14. Minnesota Statutes 2010, 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 (1) or (2), item (ii), 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 or not return for a court hearing, 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 or not return for a court hearing, 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) 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:

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

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

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

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

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

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

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

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

(4) the parents' custodial rights to another child have been involuntarily transferred to a relative under Minnesota Statutes 2010, section 260C.201, subdivision 11, paragraph (e), clause (1); section 260C.515, subdivision 4, or a similar law of another jurisdiction; ~~or~~

(5) the parent has committed sexual abuse as defined in section 626.556, subdivision 2, against the child or another child of the parent;

(6) the parent has committed an offense that requires registration as a predatory offender under section 243.166, subdivision 1b, paragraph (a) or (b); or

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

(h) When a petition to terminate parental rights is required under section 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 1~~ 260C.515, subdivision 4, the court shall schedule a permanency hearing within 30 days of the filing of the petition.

(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~~ 260C.503, subdivision 2, paragraph (c).

(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.

(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 for treatment or a child is placed with a previously noncustodial parent who is not a 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 reasonable efforts to place the siblings together, as required under section 260.012. If any sibling is not placed with another sibling or siblings, the agency must develop a plan to facilitate visitation or ongoing contact among the siblings as required under section 260C.212, subdivision 1, unless it is contrary to the safety or well-being of any of the siblings to do so.

(l) When the court has ordered the child into foster care or into the home of a noncustodial parent, the court may order a chemical dependency evaluation, mental health evaluation, medical examination, and parenting assessment for the parent as necessary to support the development of a plan for reunification required under subdivision 7 and section 260C.212, subdivision 1, or the child protective services plan under section 626.556, subdivision 10, and Minnesota Rules, part 9560.0228.

Sec. 15. Minnesota Statutes 2010, section 260C.178, subdivision 7, is amended to read:

39.1 Subd. 7. **Out-of-home placement plan.** (a) An out-of-home placement plan
39.2 required under section 260C.212 shall be filed with the court within 30 days of the filing
39.3 of a juvenile protection petition alleging the child to be in need of protection or services
39.4 under section 260C.141, subdivision 1, when the court orders emergency removal of the
39.5 child under this section, or filed with the petition if the petition is a review of a voluntary
39.6 placement under section 260C.141, subdivision 2.

39.7 (b) Upon the filing of the out-of-home placement plan which has been developed
39.8 jointly with the parent and in consultation with others as required under section 260C.212,
39.9 subdivision 1, the court may approve implementation of the plan by the responsible social
39.10 services agency based on the allegations contained in the petition and any evaluations,
39.11 examinations, or assessments conducted under subdivision 1, paragraph (l). The court
39.12 shall send written notice of the approval of the out-of-home placement plan to all parties
39.13 and the county attorney or may state such approval on the record at a hearing. A parent
39.14 may agree to comply with the terms of the plan filed with the court.

39.15 (c) The responsible social services agency shall make reasonable ~~attempts~~ efforts
39.16 to engage a parent both parents of the child in case planning. ~~If the parent refuses to~~
39.17 ~~cooperate in the development of the out-of-home placement plan or disagrees with the~~
39.18 ~~services recommended by~~ The responsible social service agency, ~~the agency shall note~~
39.19 ~~such refusal or disagreement for the court~~ report the results of its efforts to engage the
39.20 child's parents in the out-of-home placement plan filed with the court. The agency shall
39.21 notify the court of the services it will provide or efforts it will attempt under the plan
39.22 notwithstanding the parent's refusal to cooperate or disagreement with the services. The
39.23 parent may ask the court to modify the plan to require different or additional services
39.24 requested by the parent, but which the agency refused to provide. The court may approve
39.25 the plan as presented by the agency or may modify the plan to require services requested
39.26 by the parent. The court's approval shall be based on the content of the petition.

39.27 (d) Unless the parent agrees to comply with the terms of the out-of-home placement
39.28 plan, the court may not order a parent to comply with the provisions of the plan until the
39.29 court finds the child is in need of protection or services and orders disposition under
39.30 section 260C.201, subdivision 1. However, the court may find that the responsible social
39.31 services agency has made reasonable efforts for reunification if the agency makes efforts
39.32 to implement the terms of an out-of-home placement plan approved under this section.

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

39.34 Subd. 3. **Best interest of the child** ~~in foster care or residential care.~~ (a) The
39.35 policy of the state is to ensure that the best interests of children in foster ~~or residential~~

care, who experience transfer of permanent legal and physical custody to a relative under section 260C.515, subdivision 4, or adoption under chapter 259 are met by requiring individualized determinations under section 260C.212, subdivision 2, paragraph (b), of the needs of the child and of how the selected ~~placement~~ home will serve the needs of the child in foster care placements.

(b) No later than three months after a child is ordered removed from the care of a parent in the hearing required under section 260C.202, the court shall review and enter findings regarding whether the responsible social services agency made:

(1) diligent efforts to identify and search for relatives as required under section 260C.212, subdivision 5, 260C.221; and ~~made~~

(2) an individualized determination as required under section 260C.212, subdivision 2, to select a home that meets the needs of the child.

(c) If the court finds the agency has not made efforts as required under section 260C.212, subdivision 5, 260C.221 and there is a relative who qualifies to be licensed to provide family foster care under chapter 245A, the court may order the child placed with the relative consistent with the child's best interests.

(d) If the agency's efforts under section 260C.221 are found to be sufficient, the court shall order the agency to continue to appropriately engage relatives who responded to the notice under section 260C.221 in placement and case planning decisions and to appropriately engage relatives who subsequently come to the agency's attention.

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

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

~~(g)~~ (g) Whenever possible, siblings should be placed together unless it is determined not to be in the best interests of a sibling siblings. If siblings are were not placed together according to section 260C.212, subdivision 2, paragraph (d), the responsible social services agency shall report to the court the efforts made to place the siblings together and why the efforts were not successful. If the court is not satisfied with that the agency's agency has made reasonable efforts to place siblings together, the court may must order the agency to make reasonable further efforts. If siblings are not placed together the court shall review order the responsible social services agency's agency to implement the plan

41.1 for visitation among siblings required as part of the out-of-home placement plan under
41.2 section 260C.212.

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

41.6 Sec. 17. Minnesota Statutes 2010, section 260C.193, subdivision 6, is amended to read:

41.7 Subd. 6. **Jurisdiction to review foster care to age 21, termination of jurisdiction,**
41.8 **jurisdiction to age 18.** (a) Jurisdiction over a child in foster care pursuant to section
41.9 260C.451 ~~may~~ shall continue to age 21 for the purpose of conducting the reviews required
41.10 under section ~~260C.201, subdivision 11, paragraph (d), 260C.212, subdivision 7, or~~
41.11 ~~260C.317, subdivision 3~~ 260C.203 or 260C.515, subdivision 5 or 6. Jurisdiction over a
41.12 child in foster care pursuant to section 260C.451 shall not be terminated without giving
41.13 the child notice of any motion or proposed order to dismiss jurisdiction and an opportunity
41.14 to be heard on the appropriateness of the dismissal. When a child in foster care pursuant to
41.15 section 260C.451 asks to leave foster care or actually leaves foster care, the court may
41.16 terminate its jurisdiction.

41.17 (b) ~~Except when a court order is necessary for a child to be in foster care or when~~
41.18 ~~continued review under (1) section 260C.212, subdivision 7, paragraph (d), or 260C.201,~~
41.19 ~~subdivision 11, paragraph (d), and (2) section 260C.317, subdivision 3, is required for a~~
41.20 ~~child in foster care under section 260C.451,~~ The court may terminate jurisdiction on its
41.21 own motion or the motion of any interested party upon a determination that jurisdiction is
41.22 no longer necessary to protect the child's best interests except when:

41.23 (1) a court order is necessary for a child to be in foster care; or

41.24 (2) continued review under section 260C.203 or 260C.515, subdivision 5 or 6, is
41.25 required for a child in foster care under section 260C.451.

41.26 (c) Unless terminated by the court, and except as otherwise provided in this
41.27 subdivision, the jurisdiction of the court shall continue until the child becomes 18 years
41.28 of age. The court may continue jurisdiction over an individual and all other parties to
41.29 the proceeding to the individual's 19th birthday when continuing jurisdiction is in the
41.30 individual's best interest in order to:

41.31 (1) protect the safety or health of the individual;

41.32 (2) accomplish additional planning for independent living or for the transition out of
41.33 foster care; or

41.34 (3) support the individual's completion of high school or a high school equivalency
41.35 program.

Sec. 18. Minnesota Statutes 2010, section 260C.201, subdivision 2, is amended to read:

Subd. 2. **Written findings.** (a) Any order for a disposition authorized under this section shall contain written findings of fact to support the disposition and case plan ordered and shall also set forth in writing the following information:

(1) why the best interests and safety of the child are served by the disposition and case plan ordered;

(2) what alternative dispositions or services under the case plan were considered by the court and why such dispositions or services were not appropriate in the instant case;

(3) when legal custody of the child is transferred, the appropriateness of the particular placement made or to be made by the placing agency using the factors in section 260C.212, subdivision 2, paragraph (b);

(4) whether reasonable efforts to finalize the permanent plan for the child consistent with section 260.012 were made including reasonable efforts:

(i) to prevent or eliminate the necessity of the child's removal placement and to reunify the family after removal child with the parent or guardian from whom the child was removed at the earliest time consistent with the child's safety. The court's findings must include a brief description of what preventive and reunification efforts were made and why further efforts could not have prevented or eliminated the necessity of removal or that reasonable efforts were not required under section 260.012 or 260C.178, subdivision 1;

(ii) to identify and locate any noncustodial or nonresident parent of the child and to assess such parent's ability to provide day-to-day care of the child, and, where appropriate, provide services necessary to enable the noncustodial or nonresident parent to safely provide day-to-day care of the child as required under section 260C.219, unless such services are not required under section 260.012 or 260C.178, subdivision 1;

(iii) to make the diligent search for relatives and provide the notices required under section 260C.221; a finding made pursuant to a hearing under section 260C.202 that the agency has made diligent efforts to conduct a relative search and has appropriately engaged relatives who responded to the notice under section 260C.221 and other relatives, who came to the attention of the agency after notice under section 260C.221 was sent, in placement and case planning decisions fulfills the requirement of this item;

(iv) to identify and make a foster care placement in the home of an unlicensed relative according to the requirements of section 245A.035, a licensed relative, or other licensed foster care provider who will commit to being the permanent legal parent or custodian for the child in the event reunification cannot occur, but who will actively support the reunification plan for the child; and

(v) to place siblings together in the same home or to ensure visitation is occurring when siblings are separated in foster care placement and visitation is in the siblings' best interests under section 260C.212, subdivision 2, paragraph (d); and

(5) if the child has been adjudicated as a child in need of protection or services because the child is in need of special services or care to treat or ameliorate a mental disability or emotional disturbance as defined in section 245.4871, subdivision 15, the written findings shall also set forth:

(i) whether the child has mental health needs that must be addressed by the case plan;

(ii) what consideration was given to the diagnostic and functional assessments performed by the child's mental health professional and to health and mental health care professionals' treatment recommendations;

(iii) what consideration was given to the requests or preferences of the child's parent or guardian with regard to the child's interventions, services, or treatment; and

(iv) what consideration was given to the cultural appropriateness of the child's treatment or services.

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

(c) If the child has been identified by the responsible social services agency as the subject of concurrent permanency planning, the court shall review the reasonable efforts of the agency to ~~recruit, identify, and make a placement in a home where the foster parent or relative that has committed to being the legally permanent home for the child in the event reunification efforts are not successful~~ develop a permanency plan for the child that includes a primary plan which is for reunification with the child's parent or guardian and a secondary plan which is for an alternative, legally permanent home for the child in the event reunification cannot be achieved in a timely manner.

Sec. 19. Minnesota Statutes 2010, section 260C.201, subdivision 10, is amended to read:

Subd. 10. **Court review of foster care.** (a) If the court orders a child placed in foster care, the court shall review the out-of-home placement plan and the child's placement at least every 90 days as required in juvenile court rules to determine whether continued out-of-home placement is necessary and appropriate or whether the child should be returned home. This review is not required if the court has returned the child home, ordered the child permanently placed away from the parent under subdivision 11, or

terminated rights under section 260C.301. Court review for a child permanently placed away from a parent, including where the child is under guardianship ~~and legal custody~~ of the commissioner, shall be governed by ~~subdivision 11 or~~ section 260C.317, subdivision 3, ~~whichever is applicable~~ or 260C.521.

(b) No later than ~~six~~ three months after the child's placement in foster care, the court shall review agency efforts pursuant to section ~~260C.212, subdivision 2,~~ 260C.221 and order that the efforts continue if the agency has failed to perform the duties under that section. The court must order the agency to continue to appropriately evaluate relatives who responded to the notice under section 260C.221 in placement and case planning decisions and to evaluate other relatives who came to the agency's attention after notice under section 260C.221 was sent.

(c) The court shall review the out-of-home placement plan and may modify the plan as provided under subdivisions 6 and 7.

(d) When the court orders transfer of custody to a responsible social services agency resulting in foster care or protective supervision with a noncustodial parent under subdivision 1, the court shall notify the parents of the provisions of ~~subdivisions 11 and subdivision 11a~~ and sections 260C.503 to 260C.521, as required under juvenile court rules.

(e) When a child remains in or returns to foster care pursuant to section 260C.451 and the court has jurisdiction pursuant to section 260C.193, subdivision 6, paragraph (c), the court shall at least annually conduct the review required under ~~subdivision 11, paragraph (d), or sections 260C.212, subdivision 7, and 260C.317, subdivision 3~~ section 260C.203.

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

Subd. 5. **Relative search.** (a) The responsible social services agency shall exercise due diligence to identify and notify adult relatives prior to placement or within 30 days after the child's removal from the parent. The county agency shall consider placement with a relative under subdivision 2 without delay and whenever the child must move from or be returned to foster care. The relative search required by this section shall be ~~reasonable and comprehensive in scope and may last up to six months or until a fit and willing relative is identified.~~ After a finding that the agency has made reasonable efforts to conduct the relative search under this paragraph, the agency has the continuing responsibility to appropriately involve relatives, who have responded to the notice required under paragraph (a), in planning for the child and to continue to consider relatives according to the requirements of section 260C.212, subdivision 2. At any time during the course of juvenile protection proceedings, the court may order the agency to reopen its search for relatives when it is in the child's best interest to do so. The relative search required by this

section shall include both maternal relatives of the child and paternal relatives of the child;
~~if paternity is adjudicated.~~ The search shall also include getting information from the child
in an age appropriate manner about who the child considers to be family members and
important friends with whom the child has resided or had significant contact. The relative
search required under this section must fulfill the agency's duties under the Indian Child
Welfare Act regarding active efforts to prevent the breakup of the Indian family under
United State Codes, title 25, section 1915. The relatives must be notified:

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

(2) of their responsibility to keep the responsible social services agency informed of
their current address in order to receive notice in the event that a permanent placement is
sought for the child. A relative who fails to provide a current address to the responsible
social services agency forfeits the right to notice of the possibility of permanent
placement. A decision by a relative not to be identified as a permanent placement resource
or participate in planning for the child at the beginning of the case ~~shall not~~ may affect
whether the relative is considered for placement of the child with that relative later;

(3) that the relative may participate in the care and planning for the child, including
that the opportunity for such participation may be lost by failing to respond to the notice;
~~and.~~ "Participate in the care and planning" includes, but is not limited to, participation in
case planning for the parent and child, identifying the strengths and needs of the parent
and child, supervising visits, providing respite and vacation visits for the child, providing
transportation to appointments, suggesting other relatives who might be able to help
support the case plan, and to the extent possible, helping to maintain the child's familiar
and regular activities and contact with friends and relatives;

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

(5) of the relatives' right to ask to be notified of any court proceedings regarding
the child, to attend the hearings, and of a relative's right or opportunity to be heard by the
court as required under section 260C.152, subdivision 5.

(b) A responsible social services agency may disclose private ~~or confidential~~ data,
as defined in ~~section~~ sections 13.02 and 626.556, to relatives of the child for the purpose
of locating and assessing a suitable placement and may use any reasonable means of
identifying and locating relatives including the Internet or other electronic means of

conducting a search. The agency shall disclose ~~only~~ data that is necessary to facilitate possible placement with relatives and to ensure that the relative is informed of the needs of the child so the relative can participate in planning for the child and be supportive of services to the child and family. If the child's parent refuses to give the responsible social services agency information sufficient to identify the maternal and paternal relatives of the child, the agency shall ask the juvenile court to order the parent to provide the necessary information. If a parent makes an explicit request that relatives or a specific relative not be contacted or considered for placement, the agency shall bring the parent's request to the attention of the court to determine whether the parent's request is consistent with the best interests of the child and the agency shall not contact relatives or a specific relative unless authorized to do so by the juvenile court.

(c) At a regularly scheduled hearing not later than three months after the child's placement in foster care and as required in section 260C.202, the agency shall report to the court:

(1) its efforts to identify maternal and paternal relatives of the child, to engage the relatives in providing support for the child and family, and document that the relatives have been provided the notice required under paragraph (a); and

(2) its decision regarding placing the child with a relative as required under section 260C.212, subdivision 2, and to ask relatives to visit or maintain contact with the child in order to support family connections for the child, when placement with a relative is not possible or appropriate.

(d) Notwithstanding chapter 13, the agency shall disclose data about particular relatives identified, searched for, and contacted for the purposes of the court's review of the agency's due diligence.

(e) When the court is satisfied that the agency has exercised due diligence to identify relatives and provide the notice required in paragraph (a), the court may find that reasonable efforts have been made to conduct a relative search to identify and provide notice to adult relatives as required under section 260.012, paragraph (e), clause (3). If the court is not satisfied that the agency has exercised due diligence to identify relatives and provide the notice required in paragraph (a), the court may order the agency to continue its search and notice efforts and to report back to the court.

(f) When the placing agency determines that a permanent placement hearing is proceedings are necessary because there is a likelihood that the child will not return to a parent's care, the agency ~~may~~ must send the notice provided in paragraph (d) (g), may ask the court to modify the requirements duty of the agency under this paragraph to send the notice required in paragraph (g), or may ask the court to completely relieve the agency

of the requirements of ~~this~~ paragraph (g). The relative notification requirements of ~~this~~ paragraph (g) do not apply when the child is placed with an appropriate relative or a foster home that has committed to ~~being the~~ adopting the child or taking permanent legal ~~placement for~~ and physical custody of the child and the agency approves of that foster home for permanent placement of the child. The actions ordered by the court under this section must be consistent with the best interests, safety, permanency, and welfare of the child.

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

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

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

Subd. 7. **Administrative or court review of placements.** (a) Unless the court is conducting the reviews required under section 260C.202, there shall be an administrative review of the out-of-home placement plan of each child placed in foster care no later than 180 days after the initial placement of the child in 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 court may, as part of any hearing required under the Minnesota Rules of Juvenile Protection Procedure, conduct a hearing to monitor and update the out-of-home placement plan pursuant to the procedure and standard in section 260C.201, subdivision 6, paragraph (d). The party requesting review of the out-of-home placement plan shall give parties to the proceeding notice of the request to review and update the out-of-home placement plan. A court review conducted pursuant to section 260C.141, subdivision 2; 260C.193; 260C.201, subdivision 1 or 11; 260C.141, subdivision 2; 260C.317 260C.202; 260C.204; or 260D.06 shall satisfy the requirement for the review so long as the other requirements of this section are met.

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

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

(d) When a child is age 16 or older, in addition to any administrative review conducted by the agency, at the in-court review required under section ~~260C.201, subdivision 11~~ 260C.515, subdivision 5 or 6, or 260C.317, subdivision 3, clause (3), the court shall review the independent living plan required under section 260C.212, subdivision 1, paragraph (c), clause (11), and the provision of services to the child related to the well-being of the child as the child prepares to leave foster care. The review shall include the actual plans related to each item in the plan necessary to the child's future safety and well-being when the child is no longer in foster care.

~~(+)~~ (e) At the court review required under paragraph (d) for a child age 16 or older the following procedures apply:

- (1) six months before the child is expected to be discharged from foster care, the responsible social services agency shall ~~establish that it has given~~ give the written notice required under section ~~260C.456 or Minnesota Rules, part 9560.0660~~ 260C.451, subdivision 1, 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

49.1 256.045. ~~If The agency is unable to establish that~~ shall file a copy of the notice, including
49.2 the right to appeal a denial of social services, has been given, with the court. If the agency
49.3 does not file the notice by the time the child is age 17-1/2, the court shall require the
49.4 agency to give it;

49.5 (2) consistent with the requirements of the independent living plan, the court shall
49.6 review progress toward or accomplishment of the following goals:

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

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

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

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

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

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

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

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

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

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

49.24 (xi) the child has a permanent connection to a caring adult; and

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

49.31 ~~(c) When a child is age 17 or older, during the 90-day period immediately prior to~~
49.32 ~~the date the child is expected to be discharged from foster care, the responsible social~~
49.33 ~~services agency is required to provide the child with assistance and support in developing~~
49.34 ~~a transition plan that is personalized at the direction of the child. (f) For a child who~~
49.35 will be discharged from foster care at age 18 or older, the responsible social services
49.36 agency is required to develop a personalized transition plan as directed by the youth. The

transition plan must be developed during the 90-day period immediately prior to the expected date of discharge. The transition plan must be as detailed as the child may elect and include specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and work force supports and employment services. The plan must include information on the importance of designating another individual to make health care treatment decisions on behalf of the child if the child becomes unable to participate in these decisions and the child does not have, or does not want, a relative who would otherwise be authorized to make these decisions. The plan must provide the child with the option to execute a health care directive as provided under chapter 145C. The county shall also provide the individual with appropriate contact information if the individual needs more information or needs help dealing with a crisis situation through age 21.

Sec. 22. Minnesota Statutes 2010, section 260C.215, subdivision 4, is amended to read:

Subd. 4. ~~Consultation with representatives~~ **Duties of commissioner.**

The commissioner of human services, ~~after seeking and considering advice from representatives reflecting diverse populations from the councils established under sections 3.922, 3.9223, 3.9225, and 3.9226, and other state, local, and community organizations~~ shall:

(1) ~~review and, where necessary, revise the Department of Human Services Social Service Manual and Practice Guide~~ provide practice guidance to responsible social services agencies and child-placing agencies that reflect federal and state laws and policy direction on placement of children;

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

(3) ~~develop~~ provide a standardized training curriculum for adoption and foster care workers, ~~family-based providers,~~ and administrators who work with children. Training must address the following objectives:

~~(a)~~ (i) developing and maintaining sensitivity to all cultures;

~~(b)~~ (ii) assessing values and their cultural implications; ~~and~~

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

(iv) issues related to cross-cultural placement;

(4) ~~develop~~ provide a training curriculum for ~~family and extended family members~~ all prospective adoptive and foster families that prepares them to care for the needs of

adoptive and foster children. The curriculum must address issues relating to cross-cultural placements as well as issues that arise after a foster or adoptive placement is made; ~~and~~

(5) develop and provide to agencies ~~an assessment tool to be used in combination with group interviews and other preplacement activities~~ a home study format to evaluate assess the capacities and needs of prospective adoptive and foster families. The tool format must assess address problem-solving skills; identify parenting skills; and evaluate the degree to which the prospective family has the ability to understand and validate the child's cultural background and other issues needed to provide sufficient information for agencies to make an individualized placement decision consistent with section 260C.212, subdivision 2. If a prospective adoptive parent has also been a foster parent, any update necessary to a home study for the purpose of adoption must be completed by the licensing authority responsible for the foster parent's license. If a prospective adoptive parent with an approved adoptive home study also applies for a foster care license, the license application must be made with the same agency which provided the adoptive home study; and

(6) consult as needed with representatives reflecting diverse populations from the councils established under sections 3.922, 3.9223, 3.9225, and 3.9226, and other state, local, and community organizations.

Sec. 23. Minnesota Statutes 2010, section 260C.215, subdivision 6, is amended to read:

Subd. 6. Duties of child-placing agencies. (a) Each authorized child-placing agency must:

(1) develop and follow procedures for implementing the requirements of section ~~260C.193, subdivision 3~~ 260C.212, subdivision 2, and the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923;

(2) have a written plan for recruiting adoptive and foster families that reflect the ethnic and racial diversity of children who are in need of foster and adoptive homes.

The plan must include:

(i) strategies for using existing resources in diverse communities,
(ii) use of diverse outreach staff wherever possible,
(iii) use of diverse foster homes for placements after birth and before adoption,
and (iv) other techniques as appropriate;

(3) have a written plan for training adoptive and foster families;

(4) have a written plan for employing staff in adoption and foster care who have the capacity to assess the foster and adoptive parents' ability to understand and validate a child's cultural needs, and to advance the best interests of the child, as required in section 260C.212, subdivision 2. The plan must include staffing goals and objectives;

(5) ensure that adoption and foster care workers attend training offered or approved by the Department of Human Services regarding cultural diversity and the needs of special needs children; and

(6) develop and implement procedures for implementing the requirements of the Indian Child Welfare Act and the Minnesota Indian Family Preservation Act.

(b) In determining the suitability of a proposed placement of an Indian child, the standards to be applied must be the prevailing social and cultural standards of the Indian child's community, and the agency shall defer to tribal judgment as to suitability of a particular home when the tribe has intervened pursuant to the Indian Child Welfare Act.

Sec. 24. **[260C.229] VOLUNTARY FOSTER CARE FOR CHILDREN OVER AGE 18; REQUIRED COURT REVIEW.**

(a) When a child asks to continue or to reenter foster care after age 18 under section 260C.451, the child and the responsible social services agency may enter into a voluntary agreement for the child to be in foster care under the terms of section 260C.451. The voluntary agreement must be in writing and on a form prescribed by the commissioner.

(b) When the child is in foster care pursuant to a voluntary foster care agreement between the agency and child and the child is not already under court jurisdiction pursuant to section 260C.193, subdivision 6, the agency responsible for the child's placement in foster care shall:

(1) file a motion to reopen the juvenile protection matter where the court previously had jurisdiction over the child within 30 days of the child and the agency executing the voluntary placement agreement under paragraph (a) and ask the court to review the child's placement in foster care and find that the placement is in the best interests of the child; and

(2) file the out-of-home placement plan required under subdivision 1 with the motion to reopen jurisdiction.

(c) The court shall conduct a hearing on the matter within 30 days of the agency's motion to reopen the matter and, if the court finds that placement is in the best interest of the child, shall conduct the review for the purpose and with the content required under section 260C.203, at least every 12 months as long as the child continues in foster care.

Sec. 25. Minnesota Statutes 2010, section 260C.301, subdivision 8, is amended to read:

Subd. 8. **Findings regarding reasonable efforts.** In any proceeding under this section, the court shall make specific findings:

(1) that reasonable efforts to ~~prevent the placement and~~ finalize the permanency plan to reunify the child and the parent were made including individualized and explicit

findings regarding the nature and extent of efforts made by the social services agency to rehabilitate the parent and reunite the family; or

(2) that reasonable efforts ~~at~~ for reunification are not required as provided under section 260.012.

Sec. 26. Minnesota Statutes 2010, section 260C.328, is amended to read:

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

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

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

Sec. 27. Minnesota Statutes 2010, section 260C.451, is amended to read:

260C.451 FOSTER CARE BENEFITS ~~TO AGE 21~~ PAST AGE 18.

Subdivision 1. ~~Notification of benefits.~~ ~~Within the~~ Six months prior to the child's 18th birthday, the ~~local~~ responsible social services agency shall ~~advise~~ provide written notice on a form prescribed by the commissioner of human services to any child in foster care under this chapter who cannot reasonably be expected to return home or have another legally permanent family by the age of 18, the child's parents or legal guardian, if any, and the child's guardian ad litem, and the child's foster parents of the availability of benefits of the foster care program up to age 21, when the child is eligible under subdivisions 3 and 3a.

Subd. 2. **Independent living plan.** Upon the request of any child receiving in foster care ~~benefits~~ immediately prior to the child's 18th birthday and who is in foster care at the time of the request, the ~~local~~ responsible social services agency shall, in conjunction with the child and other appropriate parties, update the independent living plan required

under section 260C.212, subdivision 1, paragraph (c), clause (11), related to the child's employment, vocational, educational, social, or maturational needs. The agency shall provide continued services and foster care for the child including those services that are necessary to implement the independent living plan.

Subd. 3. **Eligibility to continue in foster care.** A child ~~already~~ in foster care immediately prior to the child's 18th birthday may continue in foster care past age 18 unless:

(1) the child can safely return home;

(2) the child is in placement pursuant to the agency's duties under section 256B.092 and Minnesota Rules, parts 9525.0004 to 9525.0016, to meet the child's needs due to developmental disability or related condition, and the child will be served as an adult under section 256B.092 and Minnesota Rules, parts 9525.0004 to 9525.0016; or

(3) the child can be adopted or have permanent legal and physical custody transferred to a relative prior to the child's 18th birthday.

Subd. 3a. **Eligibility criteria.** The child must meet at least one of the following conditions to be considered eligible to continue in or return to foster care and remain there to age 21. The child must be:

(1) completing secondary education or a program leading to an equivalent credential;

(2) enrolled in an institution ~~which~~ that provides postsecondary or vocational education;

(3) participating in a program or activity designed to promote or remove barriers to employment;

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

(5) incapable of doing any of the activities described in clauses (1) to (4) due to a medical condition.

Subd. 4. **Foster care benefits.** For children between the ages of 18 and 21, "foster care benefits" means payment for those foster care settings defined in section 260C.007, subdivision 18. Additionally, foster care benefits means payment for a supervised setting, approved by the responsible social services agency, in which a child may live independently.

Subd. 5. ~~Permanent decision~~ **Foster care setting.** The particular foster care setting, including supervised settings, shall be selected by the agency and the child based on the best interest of the child consistent with section 260C.212, subdivision 2. Supervision in approved settings must be determined by an individual determination of the child's needs by the responsible social services agency and consistent with section 260C.212, subdivision 4a.

Subd. 6. ~~Individual plan to age 21~~ Reentering foster care and accessing services after age 18. (a) Upon request of an individual between the ages of 18 and 21 who, ~~within six months of the individual's 18th birthday,~~ had been under the guardianship of the commissioner and who has left foster care without being adopted, the responsible social services agency which had been the commissioner's agent for purposes of the guardianship shall develop with the individual a plan ~~related to the individual's vocational, educational, social, or maturational needs~~ to increase the individual's ability to live safely and independently using the plan requirements of section 260C.212, subdivision 1, paragraph (b), clause (11), and to assist the individual to meet one or more of the eligibility criteria in subdivision 4 if the individual wants to reenter foster care. The agency shall provide foster care ~~with maintenance and counseling benefits~~ as required to implement the plan. The agency shall enter into a voluntary placement agreement under section 260C.229 with the individual if the plan includes foster care.

(b) Individuals who had not been under the guardianship of the commissioner of human services prior to age 18 and are between the ages of 18 and 21 may ask to reenter foster care after age 18 and, to the extent funds are available, the responsible social services agency that had responsibility for planning for the individual before discharge from foster care may provide foster care or other services to the individual for the purpose of increasing the individual's ability to live safely and independently and to meet the eligibility criteria in subdivision 3a, if the individual:

(1) was in foster care for the six consecutive months prior to the person's 18th birthday and was not discharged home, adopted, or received into a relative's home under a transfer of permanent legal and physical custody under section 260C.515, subdivision 4; or

(2) was discharged from foster care while on runaway status after age 15.

(c) In conjunction with a qualifying and eligible individual under paragraph (b) and other appropriate persons, the responsible social services agency shall develop a specific plan related to that individual's vocational, educational, social, or maturational needs and, to the extent funds are available, provide foster care as required to implement the plan. The agency shall enter into a voluntary placement agreement with the individual if the plan includes foster care.

(d) Youth who left foster care while under guardianship of the commissioner of human services retain eligibility for foster care for placement at any time between the ages of 18 and 21.

Subd. 7. **Jurisdiction.** ~~Notwithstanding that the court retains jurisdiction pursuant to this section,~~ Individuals in foster care pursuant to this section are adults for all purposes except the continued provision of foster care. Any order establishing guardianship under

section 260C.325, any legal custody order under section 260C.201, subdivision 1, and any order for legal custody associated with an order for ~~long-term foster care~~ permanent custody under section ~~260C.201, subdivision 1~~ 260C.515, subdivision 5, terminates on the child's 18th birthday. The responsible social services agency has legal responsibility for the individual's placement and care when the matter continues under court jurisdiction pursuant to section 260C.193 or when the individual and the responsible agency execute a voluntary placement agreement pursuant to section 260C.229.

Subd. 8. Notice of termination of foster care. When a child in foster care between the ages of 18 and 21 ceases to meet one of the eligibility criteria of subdivision 3a, the responsible social services agency shall give the child written notice that foster care will terminate 30 days from the date the notice is sent. The child or the child's guardian ad litem may file a motion asking the court to review the agency's determination within 15 days of receiving the notice. The child shall not be discharged from foster care until the motion is heard. The agency shall work with the child to transition out of foster care as required under section 260C.203, paragraph (e). The written notice of termination of benefits shall be on a form prescribed by the commissioner and shall also give notice of the right to have the agency's determination reviewed by the court in the proceeding where the court conducts the reviews required under section 260C.203, 260C.515, subdivision 5 or 6, or 260C.317. A copy of the termination notice shall be sent to the child and the child's attorney, if any, the foster care provider, the child's guardian ad litem, and the court. The agency is not responsible for paying foster care benefits for any period of time after the child actually leaves foster care.

Sec. 28. [260C.503] PERMANENCY PROCEEDINGS.

Subdivision 1. Required permanency proceedings. Except for children in foster care pursuant to chapter 260D, where the child is in foster care or in the care of a noncustodial or nonresident parent, the court shall commence proceedings to determine the permanent status of a child by holding the admit-deny hearing required under section 260C.507 not later than 12 months after the child is placed in foster care or in the care of a noncustodial or nonresident parent. Permanency proceedings for children in foster care pursuant to chapter 260D shall be according to section 260D.07.

Subd. 2. Termination of parental rights. (a) The responsible social services agency must ask the county attorney to immediately file a termination of parental rights petition when:

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

(2) the child is determined to be the sibling of a child who was subjected to egregious harm;

(3) the child is an abandoned infant as defined in section 260C.301, subdivision 3, paragraph (b), clause (2);

(4) the child's parent has lost parental rights to another child through an order involuntarily terminating the parent's rights;

(5) the parent has committed sexual abuse as defined in section 626.556, subdivision 2, against the child or another child of the parent;

(6) the parent has committed an offense that requires registration as a predatory offender under section 243.166, subdivision 1b, paragraph (a) or (b); or

(7) another child of the parent is the subject of an order involuntarily transferring permanent legal and physical custody of the child to a relative under this chapter or a similar law of another jurisdiction;

The county attorney shall file a termination of parental rights petition unless the conditions of paragraph (d) are met.

(b) When the termination of parental rights petition is filed under this subdivision, the responsible social services agency shall identify, recruit, and approve an adoptive family for the child. If a termination of parental rights petition has been filed by another party, the responsible social services agency shall be joined as a party to the petition.

(c) If criminal charges have been filed against a parent arising out of the conduct alleged to constitute egregious harm, the county attorney shall determine which matter should proceed to trial first, consistent with the best interests of the child and subject to the defendant's right to a speedy trial.

(d) The requirement of paragraph (a) does not apply if the responsible social services agency and the county attorney determine and file with the court:

(1) a petition for transfer of permanent legal and physical custody to a relative under sections 260C.505 and 260C.515, subdivision 3, including a determination that adoption is not in the child's best interests and that transfer of permanent legal and physical custody is in the child's best interests; or

(2) a petition under section 260C.141 alleging the child, and where appropriate, the child's siblings, to be in need of protection or services accompanied by a case plan prepared by the responsible social services agency documenting a compelling reason why filing a termination of parental rights petition would not be in the best interests of the child.

Subd. 3. **Calculating time to required permanency proceedings.** (a) For purposes of this section, the date of the child's placement in foster care is the earlier of the first court-ordered placement or 60 days after the date on which the child has been

voluntarily placed in foster care by the child's parent or guardian. For purposes of this section, time spent by a child in the home of the noncustodial parent pursuant to court order under section 260C.178 or under the protective supervision of the responsible social services agency in the home of the noncustodial parent pursuant to an order under section 260C.201, subdivision 1, counts towards the requirement of a permanency hearing under this section. Time spent on a trial home visit counts towards the requirement of a permanency hearing under this section and the permanency progress review required under section 260C.204.

(b) For the purposes of this section, 12 months is calculated as follows:

(1) during the pendency of a petition alleging that a child is in need of protection or services, all time periods when a child is placed in foster care or in the home of a noncustodial parent are cumulated;

(2) if a child has been placed in foster care within the previous five years under one or more previous petitions, the lengths of all prior time periods when the child was placed in foster care within the previous five years are cumulated. If a child under this clause has been in foster care for 12 months or more, the court, if it is in the best interests of the child and for compelling reasons, may extend the total time the child may continue out of the home under the current petition up to an additional six months before making a permanency determination.

(c) If the child is on a trial home visit 12 months after the child was placed in foster care or in the care of a noncustodial parent, the responsible social services agency may file a report with the court regarding the child's and parent's progress on the trial home visit and the agency's reasonable efforts to finalize the child's safe and permanent return to the care of the parent in lieu of filing the petition required under section 260C.505. The court shall make findings regarding the reasonable efforts of the agency to finalize the child's return home as the permanency disposition order in the best interests of the child. The court may continue the trial home visit to a total time not to exceed six months as provided in section 260C.201, subdivision 1, paragraph (a), clause (3). If the court finds the agency has not made reasonable efforts to finalize the child's return home as the permanency disposition order in the child's best interests, the court may order other or additional efforts to support the child remaining in the care of the parent. If a trial home visit ordered or continued at permanency proceedings under sections 260C.503 to 260C.521 terminates, the court shall commence or recommence permanency proceedings under this chapter no later than 30 days after the child is returned to foster care or to the care of a noncustodial parent.

Sec. 29. [260C.505] PETITION.

59.1 (a) A permanency or termination of parental rights petition must be filed at or prior
59.2 to the time the child has been in foster care or in the care of a noncustodial or nonresident
59.3 parent for 11 months or in the expedited manner required in section 260C.503, subdivision
59.4 2, paragraph (a). The court administrator shall serve the petition as required in the
59.5 Minnesota Rules of Juvenile Protection Procedure and section 260C.152 in time for the
59.6 admit-deny hearing on the petition required in section 260C.507.

59.7 (b) A petition under this section is not required if the responsible social services
59.8 agency intends to recommend that the child return to the care of the parent from whom
59.9 the child was removed at or prior to the time the court is required to hold the admit-deny
59.10 hearing required under section 260C.507.

59.11 Sec. 30. **[260C.507] ADMIT-DENY HEARING.**

59.12 (a) An admit-deny hearing on the permanency or termination of parental rights
59.13 petition shall be held not later than 12 months from the child's placement in foster care or
59.14 an order for the child to be in the care of a noncustodial or nonresident parent.

59.15 (b) An admit-deny hearing on the termination of parental rights or transfer of
59.16 permanent legal and physical custody petition required to be immediately filed under
59.17 section 260C.503, subdivision 2, paragraph (a), shall be within ten days of the filing
59.18 of the petition.

59.19 (c) At the admit-deny hearing, the court shall determine whether there is a prima
59.20 facie basis for finding that the agency made reasonable efforts, or in the case of an Indian
59.21 child active efforts, for reunification as required or that reasonable efforts for reunification
59.22 are not required under section 260.012 and proceed according to the Minnesota Rules of
59.23 Juvenile Protection Procedure.

59.24 Sec. 31. **[260C.509] TRIAL.**

59.25 The permanency proceedings shall be conducted in a timely fashion including
59.26 that any trial required under section 260C.163 shall be commenced within 60 days of
59.27 the admit-deny hearing required under section 260C.507. At the conclusion of the
59.28 permanency proceedings, the court shall:

59.29 (1) order the child returned to the care of the parent or guardian from whom the
59.30 child was removed; or

59.31 (2) order a permanency disposition under section 260C.515 or termination of
59.32 parental rights under sections 260C.301 to 260C.328 if a permanency disposition order or
59.33 termination of parental rights is in the child's best interests.

Sec. 32. **[260C.511] BEST INTERESTS OF THE CHILD.**

(a) The "best interests of the child" means all relevant factors to be considered and evaluated.

(b) In making a permanency disposition order or termination of parental rights, the court must be governed by the best interests of the child, including a review of the relationship between the child and relatives and the child and other important persons with whom the child has resided or had significant contact.

Sec. 33. **[260C.513] PERMANENCY DISPOSITIONS WHEN CHILD CANNOT RETURN HOME.**

(a) Termination of parental rights and adoption, or guardianship to the commissioner of human services through a consent to adopt are preferred permanency options for a child who cannot return home. If the court finds that termination of parental rights and guardianship to the commissioner is not in the child's best interests, the court may transfer permanent legal and physical custody of the child to a relative when that order is in the child's best interests.

(b) When the court has determined that permanent placement of the child away from the parent is necessary, the court shall consider permanent alternative homes that are available both inside and outside the state.

Sec. 34. **[260C.515] PERMANENCY DISPOSITION ORDERS.**

Subdivision 1. **Court order required.** If the child is not returned to the home at or before the conclusion of permanency proceedings under sections 260C.503 to 260C.521, the court must order one of the permanency dispositions in this section.

Subd. 2. **Termination of parental rights.** The court may order:

(1) termination of parental rights when the requirements of sections 260C.301 to 260C.328 are met; or

(2) the responsible social services agency to file a petition for termination of parental rights in which case all the requirements of sections 260C.301 to 260C.328 remain applicable.

Subd. 3. **Guardianship; commissioner.** The court may order guardianship to the commissioner of human services under the following procedures and conditions:

(1) there is an identified prospective adoptive parent agreed to by the responsible social services agency having legal custody of the child pursuant to court order under this chapter and that prospective adoptive parent has agreed to adopt the child;

61.1 (2) the court accepts the parent's voluntary consent to adopt in writing on a form
61.2 prescribed by the commissioner, executed before two competent witnesses and confirmed
61.3 by the consenting parent before the court or executed before court. The consent shall
61.4 contain notice that consent given under this chapter:

61.5 (i) is irrevocable upon acceptance by the court unless fraud is established and an
61.6 order issues permitting revocation as stated in clause (9) unless the matter is governed by
61.7 the Indian Child Welfare Act, United States Code, title 25, section 1913(c); and

61.8 (ii) will result in an order that the child is under the guardianship of the commissioner
61.9 of human services;

61.10 (3) a consent executed and acknowledged outside of this state, either in accordance
61.11 with the law of this state or in accordance with the law of the place where executed, is
61.12 valid;

61.13 (4) the court must review the matter at least every 90 days;

61.14 (5) a consent to adopt under this subdivision vests guardianship of the child with
61.15 the commissioner of human services and makes the child a ward of the commissioner of
61.16 human services under section 260C.325;

61.17 (6) the court must forward to the commissioner a copy of the consent to adopt,
61.18 together with a certified copy of the order transferring guardianship to the commissioner;

61.19 (7) if an adoption is not finalized by the identified prospective adoptive parent within
61.20 six months of the execution of the consent to adopt under this clause, the responsible
61.21 social services agency shall pursue adoptive placement in another home unless the court
61.22 finds in a hearing that the failure to finalize is not due to either an action or a failure
61.23 to act by the prospective adoptive parent;

61.24 (8) notwithstanding clause (7), the responsible social services agency must pursue
61.25 adoptive placement in another home as soon as the agency determines that finalization
61.26 of the adoption with the identified prospective adoptive parent is not possible, that the
61.27 identified prospective adoptive parent is not willing to adopt the child, or that the identified
61.28 prospective adoptive parent is not cooperative in completing the steps necessary to finalize
61.29 the adoption;

61.30 (9) unless otherwise required by the Indian Child Welfare Act, United States Code,
61.31 title 25, section 1913(c), a consent to adopt executed under this section shall be irrevocable
61.32 upon acceptance by the court except upon order permitting revocation issued by the same
61.33 court after written findings that consent was obtained by fraud.

61.34 Subd. 4. Custody to relative. The court may order permanent legal and physical
61.35 custody to a relative in the best interests of the child according to the following conditions:

(1) an order for transfer of permanent legal and physical custody to a relative shall only be made after the court has reviewed the suitability of the prospective legal and physical custodian;

(2) in transferring permanent legal and physical custody to a relative, the juvenile court shall follow the standards applicable under this chapter and chapter 260, and the procedures in the Minnesota Rules of Juvenile Protection Procedure;

(3) a transfer of legal and physical custody includes responsibility for the protection, education, care, and control of the child and decision making on behalf of the child;

(4) a permanent legal and physical custodian who returns a child to the permanent care of a parent from whom the court removed custody without the court's approval and without notice to the responsible social services agency is placing the child in violation of the court's order and may be subject to sanctions for contempt of court and, if the return places the child's health or welfare in danger, may be subject to other criminal or civil action;

(5) the social services agency may file a petition naming a fit and willing relative as a proposed permanent legal and physical custodian;

(6) another party to the permanency proceeding regarding the child may file a petition to transfer permanent legal and physical custody to a relative, but the petition may not name as custodian a relative who the parent did not disclose to the agency or who was not discovered by the agency in its search for relatives when the court has found that the agency made diligent efforts to conduct the relative search and provide the notice required under section 260C.221; and

(7) the juvenile court may maintain jurisdiction over the responsible social services agency, the parents or guardian of the child, the child, and the permanent legal and physical custodian for purposes of ensuring appropriate services are delivered to the child and permanent legal custodian for the purpose of ensuring conditions ordered by the court related to the care and custody of the child are met.

Subd. 5. Permanent custody to agency. The court may order permanent custody to the responsible social services agency for continued placement of the child in foster care but only if it approves the responsible social services agency's compelling reasons that no other permanency disposition order is in the child's best interests, and:

(1) the child has reached age 12;

(2) the child is a sibling of a child described in clause (1) and the siblings have a significant positive relationship and are ordered into the same long-term foster care home;

(3) the responsible social services agency has made reasonable efforts to locate and place the child with an adoptive family or a fit and willing relative who would either agree

to adopt the child or to a transfer of permanent legal and physical custody of the child, but these efforts have not proven successful; and

(4) the parent will continue to have visitation or contact with the child and will remain involved in planning for the child.

Subd. 6. Temporary legal custody to agency. The court may order temporary legal custody to the responsible social services agency for continued placement of the child in foster care for a specified period of time according to the following conditions:

(1) the sole basis for an adjudication that the child is in need of protection or services is the child's behavior;

(2) the court finds that foster care for a specified period of time is in the best interests of the child;

(3) the court approves the responsible social services agency's compelling reasons that neither an award of permanent legal and physical custody to a relative, nor termination of parental rights is in the child's best interests; and

(4) the order specifies that the child continue in foster care no longer than one year.

Sec. 35. [260C.517] FINDINGS AND CONTENT OF ORDER FOR PERMANENCY DISPOSITION.

(a) Except for an order terminating parental rights, an order permanently placing a child out of the home of the parent or guardian must include the following detailed findings:

(1) how the child's best interests are served by the order;

(2) the nature and extent of the responsible social services agency's reasonable efforts, or, in the case of an Indian child, active efforts to reunify the child with the parent or guardian where reasonable efforts are required;

(3) the parent's or parents' efforts and ability to use services to correct the conditions which led to the out-of-home placement; and

(4) that the conditions which led to the out-of-home placement have not been corrected so that the child can safely return home.

(b) The court shall issue an order required under this section and section 260C.515 within 15 days of the close of the proceedings. The court may extend issuing the order an additional 15 days when necessary in the interests of justice and the best interests of the child.

Sec. 36. [260C.519] FURTHER COURT HEARINGS.

Once a permanency disposition order has been made, further court hearings are necessary if:

(1) the child is ordered on a trial home visit or under the protective supervision of the responsible social services agency;

(2) the child continues in foster care;

(3) the court orders further hearings in a transfer of permanent legal and physical custody matter including if a party seeks to modify an order under section 260C.521, subdivision 2;

(4) an adoption has not yet been finalized; or

(5) the child returns to foster care after the court has entered an order for a permanency disposition under this section.

Sec. 37. **[260C.521] COURT REVIEWS AFTER PERMANENCY DISPOSITION ORDER.**

Subdivision 1. Child in permanent custody of responsible social services agency.

(a) Court reviews of an order for permanent custody to the responsible social services agency for placement of the child in foster care must be conducted at least yearly at an in-court appearance hearing.

(b) The purpose of the review hearing is to ensure:

(1) the order for permanent custody to the responsible social services agency for placement of the child in foster care continues to be in the best interests of the child and that no other permanency disposition order is in the best interests of the child;

(2) that the agency is assisting the child to build connections to the child's family and community; and

(3) that the agency is appropriately planning with the child for development of independent living skills for the child, and as appropriate, for the orderly and successful transition to independent living that may occur if the child continues in foster care without another permanency disposition order.

(c) The court must review the child's out-of-home placement plan and the reasonable efforts of the agency to finalize an alternative permanent plan for the child including the agency's efforts to:

(1) ensure that permanent custody to the agency with placement of the child in foster care continues to be the most appropriate legal arrangement for meeting the child's need for permanency and stability or, if not, to identify and attempt to finalize another permanency disposition order under this chapter that would better serve the child's needs and best interests;

65.1 (2) identify a specific foster home for the child, if one has not already been identified;
65.2 (3) support continued placement of the child in the identified home, if one has been
65.3 identified;

65.4 (4) ensure appropriate services are provided to address the physical health, mental
65.5 health, and educational needs of the child during the period of foster care and also ensure
65.6 appropriate services or assistance to maintain relationships with appropriate family
65.7 members and the child's community; and

65.8 (5) plan for the child's independence upon the child's leaving foster care living as
65.9 required under section 260C.212, subdivision 1.

65.10 (d) The court may find that the agency has made reasonable efforts to finalize the
65.11 permanent plan for the child when:

65.12 (1) the agency has made reasonable efforts to identify a more legally permanent
65.13 home for the child than is provided by an order for permanent custody to the agency
65.14 for placement in foster care; and

65.15 (2) the agency's engagement of the child in planning for independent living is
65.16 reasonable and appropriate.

65.17 Subd. 2. **Modifying an order for permanent legal and physical custody to a**
65.18 **relative.** An order for a relative to have permanent legal and physical custody of a child
65.19 may be modified using standards under sections 518.18 and 518.185. The social services
65.20 agency is a party to the proceeding and must receive notice.

65.21 Subd. 3. **Modifying order for permanent custody to agency for placement in**
65.22 **foster care.** (a) A parent may seek modification of an order for permanent custody of the
65.23 child to the responsible social services agency for placement in foster care upon motion
65.24 and a showing by the parent of a substantial change in the parent's circumstances such
65.25 that the parent could provide appropriate care for the child and that removal of the child
65.26 from the permanent custody of the agency and the return to the parent's care would be
65.27 in the best interests of the child.

65.28 (b) The responsible social services agency may ask the court to vacate an order for
65.29 permanent custody to the agency upon a petition and hearing pursuant to section 260C.163
65.30 establishing the basis for the court to order another permanency disposition under this
65.31 chapter, including termination of parental rights based on abandonment if the parent
65.32 has not visited the child, maintained contact with the child, or participated in planning
65.33 for the child as required under section 260C.515, subdivision 5. The responsible social
65.34 services agency must establish that the proposed permanency disposition order is in the
65.35 child's best interests. Upon a hearing where the court determines the petition is proved,
65.36 the court may vacate the order for permanent custody and enter a different order for a

permanent disposition that is in the child's best interests. The court shall not require further reasonable efforts to reunify the child with the parent or guardian as a basis for vacating the order for permanent custody to the agency and ordering a different permanency disposition in the child's best interests. The county attorney must file the petition and give notice as required under the Minnesota Rules of Juvenile Protection Procedure in order to modify an order for permanent custody under this subdivision.

ARTICLE 3

TECHNICAL AND CONFORMING AMENDMENTS

Section 1. Minnesota Statutes 2010, section 256.01, subdivision 14b, is amended to read:

Subd. 14b. **American Indian child welfare projects.** (a) The commissioner of human services may authorize projects to test tribal delivery of child welfare services to American Indian children and their parents and custodians living on the reservation. The commissioner has authority to solicit and determine which tribes may participate in a project. Grants may be issued to Minnesota Indian tribes to support the projects. The commissioner may waive existing state rules as needed to accomplish the projects. Notwithstanding section 626.556, the commissioner may authorize projects to use alternative methods of investigating and assessing reports of child maltreatment, provided that the projects comply with the provisions of section 626.556 dealing with the rights of individuals who are subjects of reports or investigations, including notice and appeal rights and data practices requirements. The commissioner may seek any federal approvals necessary to carry out the projects as well as seek and use any funds available to the commissioner, including use of federal funds, foundation funds, existing grant funds, and other funds. The commissioner is authorized to advance state funds as necessary to operate the projects. Federal reimbursement applicable to the projects is appropriated to the commissioner for the purposes of the projects. The projects must be required to address responsibility for safety, permanency, and well-being of children.

(b) For the purposes of this section, "American Indian child" means a person under ~~18 years of age~~ 21 years old and who is a tribal member or eligible for membership in one of the tribes chosen for a project under this subdivision and who is residing on the reservation of that tribe.

(c) In order to qualify for an American Indian child welfare project, a tribe must:

(1) be one of the existing tribes with reservation land in Minnesota;

(2) have a tribal court with jurisdiction over child custody proceedings;

67.1 (3) have a substantial number of children for whom determinations of maltreatment
67.2 have occurred;

67.3 (4) have capacity to respond to reports of abuse and neglect under section 626.556;

67.4 (5) provide a wide range of services to families in need of child welfare services; and

67.5 (6) have a tribal-state title IV-E agreement in effect.

67.6 (d) Grants awarded under this section may be used for the nonfederal costs of
67.7 providing child welfare services to American Indian children on the tribe's reservation,
67.8 including costs associated with:

67.9 (1) assessment and prevention of child abuse and neglect;

67.10 (2) family preservation;

67.11 (3) facilitative, supportive, and reunification services;

67.12 (4) out-of-home placement for children removed from the home for child protective
67.13 purposes; and

67.14 (5) other activities and services approved by the commissioner that further the goals
67.15 of providing safety, permanency, and well-being of American Indian children.

67.16 (e) When a tribe has initiated a project and has been approved by the commissioner
67.17 to assume child welfare responsibilities for American Indian children of that tribe under
67.18 this section, the affected county social service agency is relieved of responsibility for
67.19 responding to reports of abuse and neglect under section 626.556 for those children
67.20 during the time within which the tribal project is in effect and funded. The commissioner
67.21 shall work with tribes and affected counties to develop procedures for data collection,
67.22 evaluation, and clarification of ongoing role and financial responsibilities of the county
67.23 and tribe for child welfare services prior to initiation of the project. Children who have not
67.24 been identified by the tribe as participating in the project shall remain the responsibility
67.25 of the county. Nothing in this section shall alter responsibilities of the county for law
67.26 enforcement or court services.

67.27 (f) Participating tribes may conduct children's mental health screenings under section
67.28 245.4874, subdivision 1, paragraph (a), clause (14), for children who are eligible for the
67.29 initiative and living on the reservation and who meet one of the following criteria:

67.30 (1) the child must be receiving child protective services;

67.31 (2) the child must be in foster care; or

67.32 (3) the child's parents must have had parental rights suspended or terminated.

67.33 Tribes may access reimbursement from available state funds for conducting the screenings.
67.34 Nothing in this section shall alter responsibilities of the county for providing services
67.35 under section 245.487.

(g) Participating tribes may establish a local child mortality review panel. In establishing a local child mortality review panel, the tribe agrees to conduct local child mortality reviews for child deaths or near-fatalities occurring on the reservation under subdivision 12. Tribes with established child mortality review panels shall have access to nonpublic data and shall protect nonpublic data under subdivision 12, paragraphs (c) to (e). The tribe shall provide written notice to the commissioner and affected counties when a local child mortality review panel has been established and shall provide data upon request of the commissioner for purposes of sharing nonpublic data with members of the state child mortality review panel in connection to an individual case.

(h) The commissioner shall collect information on outcomes relating to child safety, permanency, and well-being of American Indian children who are served in the projects. Participating tribes must provide information to the state in a format and completeness deemed acceptable by the state to meet state and federal reporting requirements.

Sec. 2. Minnesota Statutes 2010, section 257.01, is amended to read:

257.01 RECORDS REQUIRED.

Each person or authorized child-placing agency permitted by law to receive children, secure homes for children, or care for children, shall keep a record containing the name, age, former residence, legal status, health records, sex, race, and accumulated length of time in foster care, if applicable, of each child received; the name, former residence, occupation, health history, and character, of each birth parent; the date of reception, placing out, and adoption of each child, and the name, race, occupation, and residence of the person with whom a child is placed; the date of the removal of any child to another home and the reason for removal; the date of termination of the guardianship; the history of each child until the child reaches the age of ~~18~~ 21 years, is legally adopted, or is discharged according to law; and further demographic and other information as is required by the commissioner of human services.

Sec. 3. Minnesota Statutes 2010, section 259.73, is amended to read:

259.73 REIMBURSEMENT OF NONRECURRING ADOPTION EXPENSES.

~~The commissioner of human services shall provide reimbursement of up to \$2,000 to the adoptive parent or parents for costs incurred in adopting a child with special needs. The commissioner shall determine the child's eligibility for adoption expense reimbursement under title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 676. To be reimbursed, costs must be reasonable, necessary, and directly~~

69.1 ~~related to the legal adoption of the child.~~ An individual may apply for reimbursement for
69.2 costs incurred in an adoption of a child with special needs under section 259A.70.

69.3 Sec. 4. Minnesota Statutes 2010, section 260C.301, subdivision 1, is amended to read:

69.4 Subdivision 1. **Voluntary and involuntary.** The juvenile court may upon petition,
69.5 terminate all rights of a parent to a child:

69.6 (a) with the written consent of a parent who for good cause desires to terminate
69.7 parental rights; or

69.8 (b) if it finds that one or more of the following conditions exist:

69.9 (1) that the parent has abandoned the child;

69.10 (2) that the parent has substantially, continuously, or repeatedly refused or neglected
69.11 to comply with the duties imposed upon that parent by the parent and child relationship,
69.12 including but not limited to providing the child with necessary food, clothing, shelter,
69.13 education, and other care and control necessary for the child's physical, mental, or
69.14 emotional health and development, if the parent is physically and financially able, and
69.15 either reasonable efforts by the social services agency have failed to correct the conditions
69.16 that formed the basis of the petition or reasonable efforts would be futile and therefore
69.17 unreasonable;

69.18 (3) that a parent has been ordered to contribute to the support of the child or
69.19 financially aid in the child's birth and has continuously failed to do so without good cause.
69.20 This clause shall not be construed to state a grounds for termination of parental rights of a
69.21 noncustodial parent if that parent has not been ordered to or cannot financially contribute
69.22 to the support of the child or aid in the child's birth;

69.23 (4) that a parent is palpably unfit to be a party to the parent and child relationship
69.24 because of a consistent pattern of specific conduct before the child or of specific conditions
69.25 directly relating to the parent and child relationship either of which are determined by
69.26 the court to be of a duration or nature that renders the parent unable, for the reasonably
69.27 foreseeable future, to care appropriately for the ongoing physical, mental, or emotional
69.28 needs of the child. It is presumed that a parent is palpably unfit to be a party to the parent
69.29 and child relationship upon a showing that the parent's parental rights to one or more other
69.30 children were involuntarily terminated or that the parent's custodial rights to another child
69.31 have been involuntarily transferred to a relative under section 260C.201, subdivision 11,
69.32 paragraph (e), clause (1), or a similar law of another jurisdiction;

69.33 (5) that following the child's placement out of the home, reasonable efforts, under the
69.34 direction of the court, have failed to correct the conditions leading to the child's placement.
69.35 It is presumed that reasonable efforts under this clause have failed upon a showing that:

(i) a child has resided out of the parental home under court order for a cumulative period of 12 months within the preceding 22 months. In the case of a child under age eight at the time the petition was filed alleging the child to be in need of protection or services, the presumption arises when the child has resided out of the parental home under court order for six months unless the parent has maintained regular contact with the child and the parent is complying with the out-of-home placement plan;

(ii) the court has approved the out-of-home placement plan required under section 260C.212 and filed with the court under section 260C.178;

(iii) conditions leading to the out-of-home placement have not been corrected. It is presumed that conditions leading to a child's out-of-home placement have not been corrected upon a showing that the parent or parents have not substantially complied with the court's orders and a reasonable case plan; and

(iv) reasonable efforts have been made by the social services agency to rehabilitate the parent and reunite the family.

This clause does not prohibit the termination of parental rights prior to one year, or in the case of a child under age eight, prior to six months after a child has been placed out of the home.

It is also presumed that reasonable efforts have failed under this clause upon a showing that:

(A) the parent has been diagnosed as chemically dependent by a professional certified to make the diagnosis;

(B) the parent has been required by a case plan to participate in a chemical dependency treatment program;

(C) the treatment programs offered to the parent were culturally, linguistically, and clinically appropriate;

(D) the parent has either failed two or more times to successfully complete a treatment program or has refused at two or more separate meetings with a caseworker to participate in a treatment program; and

(E) the parent continues to abuse chemicals.

(6) that a child has experienced egregious harm in the parent's care which is of a nature, duration, or chronicity that indicates a lack of regard for the child's well-being, such that a reasonable person would believe it contrary to the best interest of the child or of any child to be in the parent's care;

(7) that in the case of a child born to a mother who was not married to the child's father when the child was conceived nor when the child was born the person is not entitled

to notice of an adoption hearing under section 259.49 and the person has not registered with the fathers' adoption registry under section 259.52;

(8) that the child is neglected and in foster care; or

(9) that the parent has been convicted of a crime listed in section 260.012, paragraph (g), clauses (1) to ~~(3)~~ (5).

In an action involving an American Indian child, sections 260.751 to 260.835 and the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923, control to the extent that the provisions of this section are inconsistent with those laws.

Sec. 5. Minnesota Statutes 2010, section 260D.08, is amended to read:

260D.08 ANNUAL REVIEW.

(a) After the court conducts a permanency review hearing under section 260D.07, the matter must be returned to the court for further review of the responsible social services reasonable efforts to finalize the permanent plan for the child and the child's foster care placement at least every 12 months while the child is in foster care. The court shall give notice to the parent and child, age 12 or older, and the foster parents of the continued review requirements under this section at the permanency review hearing.

(b) Every 12 months, the court shall determine whether the agency made reasonable efforts to finalize the permanency plan for the child, which means the exercise of due diligence by the agency to:

(1) ensure that the agreement for voluntary foster care is the most appropriate legal arrangement to meet the child's safety, health, and best interests and to conduct a genuine examination of whether there is another permanency disposition order under chapter 260C, including returning the child home, that would better serve the child's need for a stable and permanent home;

(2) engage and support the parent in continued involvement in planning and decision making for the needs of the child;

(3) strengthen the child's ties to the parent, relatives, and community;

(4) implement the out-of-home placement plan required under section 260C.212, subdivision 1, and ensure that the plan requires the provision of appropriate services to address the physical health, mental health, and educational needs of the child; and

(5) ensure appropriate planning for the child's safe, permanent, and independent living arrangement after the child's 18th birthday.

Sec. 6. [611.012] DISPOSITION OF CHILD OF PARENT ARRESTED.

72.1 A peace officer who arrests a person accompanied by a child of the person may
72.2 release the child to any person designated by the parent unless it is necessary to remove
72.3 the child under section 260C.175 because the child is found in surroundings or conditions
72.4 which endanger the child's health or welfare or which the peace officer reasonably believes
72.5 will endanger the child's health or welfare. An officer releasing a child under this section
72.6 to a person designated by the parent has no civil or criminal liability for the child's release.

72.7 Sec. 7. Minnesota Statutes 2010, section 626.556, subdivision 2, is amended to read:

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

72.10 (a) "Family assessment" means a comprehensive assessment of child safety, risk
72.11 of subsequent child maltreatment, and family strengths and needs that is applied to a
72.12 child maltreatment report that does not allege substantial child endangerment. Family
72.13 assessment does not include a determination as to whether child maltreatment occurred
72.14 but does determine the need for services to address the safety of family members and the
72.15 risk of subsequent maltreatment.

72.16 (b) "Investigation" means fact gathering related to the current safety of a child
72.17 and the risk of subsequent maltreatment that determines whether child maltreatment
72.18 occurred and whether child protective services are needed. An investigation must be used
72.19 when reports involve substantial child endangerment, and for reports of maltreatment in
72.20 facilities required to be licensed under chapter 245A or 245B; under sections 144.50 to
72.21 144.58 and 241.021; in a school as defined in sections 120A.05, subdivisions 9, 11, and
72.22 13, and 124D.10; or in a nonlicensed personal care provider association as defined in
72.23 sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

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

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

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

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

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

73.1 (5) murder in the first, second, or third degree under section 609.185, 609.19, or
73.2 609.195;

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

73.4 (7) assault in the first, second, or third degree under section 609.221, 609.222, or
73.5 609.223;

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

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

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

73.9 (11) malicious punishment or neglect or endangerment of a child under section
73.10 609.377 or 609.378;

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

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

73.15 (d) "Sexual abuse" means the subjection of a child by a person responsible for the
73.16 child's care, by a person who has a significant relationship to the child, as defined in
73.17 section 609.341, or by a person in a position of authority, as defined in section 609.341,
73.18 subdivision 10, to any act which constitutes a violation of section 609.342 (criminal sexual
73.19 conduct in the first degree), 609.343 (criminal sexual conduct in the second degree),
73.20 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct
73.21 in the fourth degree), or 609.3451 (criminal sexual conduct in the fifth degree). Sexual
73.22 abuse also includes any act which involves a minor which constitutes a violation of
73.23 prostitution offenses under sections 609.321 to 609.324 or 617.246. Sexual abuse includes
73.24 threatened sexual abuse which includes the status of a parent or household member
73.25 who has committed a violation which requires registration as an offender under section
73.26 243.166, subdivision 1b, paragraph (a) or (b), or required registration under section
73.27 243.166, subdivision 1b, paragraph (a) or (b).

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

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

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

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

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

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

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

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

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

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

(9) emotional harm from a pattern of behavior which contributes to impaired emotional functioning of the child which may be demonstrated by a substantial and

observable effect in the child's behavior, emotional response, or cognition that is not within the normal range for the child's age and stage of development, with due regard to the child's culture.

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

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

- (1) throwing, kicking, burning, biting, or cutting a child;
- (2) striking a child with a closed fist;
- (3) shaking a child under age three;
- (4) striking or other actions which result in any nonaccidental injury to a child under 18 months of age;
- (5) unreasonable interference with a child's breathing;
- (6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;
- (7) striking a child under age one on the face or head;
- (8) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled substances which were not prescribed for the child by a practitioner, in order to control or punish the child; or other substances that substantially affect the child's behavior, motor coordination, or judgment or that results in sickness or internal injury, or subjects the child to medical procedures that would be unnecessary if the child were not exposed to the substances;
- (9) unreasonable physical confinement or restraint not permitted under section 609.379, including but not limited to tying, caging, or chaining; or
- (10) in a school facility or school zone, an act by a person responsible for the child's care that is a violation under section 121A.58.

(h) "Report" means any report received by the local welfare agency, police department, county sheriff, or agency responsible for assessing or investigating maltreatment pursuant to this section.

(i) "Facility" means:

(1) a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed under sections 144.50 to 144.58, 241.021, or 245A.01 to 245A.16, or chapter 245B;

(2) a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and 124D.10; or

(3) a nonlicensed personal care provider organization as defined in sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

(j) "Operator" means an operator or agency as defined in section 245A.02.

(k) "Commissioner" means the commissioner of human services.

(l) "Practice of social services," for the purposes of subdivision 3, includes but is not limited to employee assistance counseling and the provision of guardian ad litem and parenting time expeditor services.

(m) "Mental injury" means an injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in the child's ability to function within a normal range of performance and behavior with due regard to the child's culture.

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

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

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

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

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

(o) Persons who conduct assessments or investigations under this section shall take into account accepted child-rearing practices of the culture in which a child participates and accepted teacher discipline practices, which are not injurious to the child's health, welfare, and safety.

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

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

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

77.6 (q) "Nonmaltreatment mistake" means:

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

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

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

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

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

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

77.23 Sec. 8. Minnesota Statutes 2010, section 626.556, subdivision 10, is amended to read:

77.24 Subd. 10. **Duties of local welfare agency and local law enforcement agency upon**
77.25 **receipt of report.** (a) Upon receipt of a report, the local welfare agency shall determine
77.26 whether to conduct a family assessment or an investigation as appropriate to prevent or
77.27 provide a remedy for child maltreatment. The local welfare agency:

77.28 (1) shall conduct an investigation on reports involving substantial child
77.29 endangerment;

77.30 (2) shall begin an immediate investigation if, at any time when it is using a family
77.31 assessment response, it determines that there is reason to believe that substantial child
77.32 endangerment or a serious threat to the child's safety exists;

77.33 (3) may conduct a family assessment for reports that do not allege substantial child
77.34 endangerment. In determining that a family assessment is appropriate, the local welfare

agency may consider issues of child safety, parental cooperation, and the need for an immediate response; and

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

If the report alleges neglect, physical abuse, or sexual abuse by a parent, guardian, or individual functioning within the family unit as a person responsible for the child's care, or sexual abuse by a person with a significant relationship to the child when that person resides in the child's household or by a sibling, the local welfare agency shall immediately conduct a family assessment or investigation as identified in clauses (1) to (4). In conducting a family assessment or investigation, the local welfare agency shall gather information on the existence of substance abuse and domestic violence and offer services for purposes of preventing future child maltreatment, safeguarding and enhancing the welfare of the abused or neglected minor, and supporting and preserving family life whenever possible. If the report alleges a violation of a criminal statute involving sexual abuse, physical abuse, or neglect or endangerment, under section 609.378, the local law enforcement agency and local welfare agency shall coordinate the planning and execution of their respective investigation and assessment efforts to avoid a duplication of fact-finding efforts and multiple interviews. Each agency shall prepare a separate report of the results of its investigation. In cases of alleged child maltreatment resulting in death, the local agency may rely on the fact-finding efforts of a law enforcement investigation to make a determination of whether or not maltreatment occurred. When necessary the local welfare agency shall seek authority to remove the child from the custody of a parent, guardian, or adult with whom the child is living. In performing any of these duties, the local welfare agency shall maintain appropriate records.

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

(b) When a local agency receives a report or otherwise has information indicating that a child who is a client, as defined in section 245.91, has been the subject of physical abuse, sexual abuse, or neglect at an agency, facility, or program as defined in section 245.91, it shall, in addition to its other duties under this section, immediately inform the ombudsman established under sections 245.91 to 245.97. The commissioner of education

shall inform the ombudsman established under sections 245.91 to 245.97 of reports regarding a child defined as a client in section 245.91 that maltreatment occurred at a school as defined in sections 120A.05, subdivisions 9, 11, and 13, and 124D.10.

(c) Authority of the local welfare agency responsible for assessing or investigating the child abuse or neglect report, the agency responsible for assessing or investigating the report, and of the local law enforcement agency for investigating the alleged abuse or neglect includes, but is not limited to, authority to interview, without parental consent, the alleged victim and any other minors who currently reside with or who have resided with the alleged offender. The interview may take place at school or at any facility or other place where the alleged victim or other minors might be found or the child may be transported to, and the interview conducted at, a place appropriate for the interview of a child designated by the local welfare agency or law enforcement agency. The interview may take place outside the presence of the alleged offender or parent, legal custodian, guardian, or school official. For family assessments, it is the preferred practice to request a parent or guardian's permission to interview the child prior to conducting the child interview, unless doing so would compromise the safety assessment. Except as provided in this paragraph, the parent, legal custodian, or guardian shall be notified by the responsible local welfare or law enforcement agency no later than the conclusion of the investigation or assessment that this interview has occurred. Notwithstanding rule 32 of the Minnesota Rules of Procedure for Juvenile Courts, the juvenile court may, after hearing on an ex parte motion by the local welfare agency, order that, where reasonable cause exists, the agency withhold notification of this interview from the parent, legal custodian, or guardian. If the interview took place or is to take place on school property, the order shall specify that school officials may not disclose to the parent, legal custodian, or guardian the contents of the notification of intent to interview the child on school property, as provided under this paragraph, and any other related information regarding the interview that may be a part of the child's school record. A copy of the order shall be sent by the local welfare or law enforcement agency to the appropriate school official.

(d) When the local welfare, local law enforcement agency, or the agency responsible for assessing or investigating a report of maltreatment determines that an interview should take place on school property, written notification of intent to interview the child on school property must be received by school officials prior to the interview. The notification shall include the name of the child to be interviewed, the purpose of the interview, and a reference to the statutory authority to conduct an interview on school property. For interviews conducted by the local welfare agency, the notification shall be signed by the chair of the local social services agency or the chair's designee. The notification shall be

private data on individuals subject to the provisions of this paragraph. School officials may not disclose to the parent, legal custodian, or guardian the contents of the notification or any other related information regarding the interview until notified in writing by the local welfare or law enforcement agency that the investigation or assessment has been concluded, unless a school employee or agent is alleged to have maltreated the child. Until that time, the local welfare or law enforcement agency or the agency responsible for assessing or investigating a report of maltreatment shall be solely responsible for any disclosures regarding the nature of the assessment or investigation.

Except where the alleged offender is believed to be a school official or employee, the time and place, and manner of the interview on school premises shall be within the discretion of school officials, but the local welfare or law enforcement agency shall have the exclusive authority to determine who may attend the interview. The conditions as to time, place, and manner of the interview set by the school officials shall be reasonable and the interview shall be conducted not more than 24 hours after the receipt of the notification unless another time is considered necessary by agreement between the school officials and the local welfare or law enforcement agency. Where the school fails to comply with the provisions of this paragraph, the juvenile court may order the school to comply. Every effort must be made to reduce the disruption of the educational program of the child, other students, or school staff when an interview is conducted on school premises.

(e) Where the alleged offender or a person responsible for the care of the alleged victim or other minor prevents access to the victim or other minor by the local welfare agency, the juvenile court may order the parents, legal custodian, or guardian to produce the alleged victim or other minor for questioning by the local welfare agency or the local law enforcement agency outside the presence of the alleged offender or any person responsible for the child's care at reasonable places and times as specified by court order.

(f) Before making an order under paragraph (e), the court shall issue an order to show cause, either upon its own motion or upon a verified petition, specifying the basis for the requested interviews and fixing the time and place of the hearing. The order to show cause shall be served personally and shall be heard in the same manner as provided in other cases in the juvenile court. The court shall consider the need for appointment of a guardian ad litem to protect the best interests of the child. If appointed, the guardian ad litem shall be present at the hearing on the order to show cause.

(g) The commissioner of human services, the ombudsman for mental health and developmental disabilities, the local welfare agencies responsible for investigating reports, the commissioner of education, and the local law enforcement agencies have the right to enter facilities as defined in subdivision 2 and to inspect and copy the facility's records,

including medical records, as part of the investigation. Notwithstanding the provisions of chapter 13, they also have the right to inform the facility under investigation that they are conducting an investigation, to disclose to the facility the names of the individuals under investigation for abusing or neglecting a child, and to provide the facility with a copy of the report and the investigative findings.

(h) The local welfare agency responsible for conducting a family assessment or investigation shall collect available and relevant information to determine child safety, risk of subsequent child maltreatment, and family strengths and needs and share not public information with an Indian's tribal social services agency without violating any law of the state that may otherwise impose duties of confidentiality on the local welfare agency in order to implement the tribal state agreement. The local welfare agency or the agency responsible for investigating the report shall collect available and relevant information to ascertain whether maltreatment occurred and whether protective services are needed. Information collected includes, when relevant, information with regard to the person reporting the alleged maltreatment, including the nature of the reporter's relationship to the child and to the alleged offender, and the basis of the reporter's knowledge for the report; the child allegedly being maltreated; the alleged offender; the child's caretaker; and other collateral sources having relevant information related to the alleged maltreatment. The local welfare agency or the agency responsible for ~~assessing or~~ investigating the report may make a determination of no maltreatment early in an ~~assessment~~ investigation, and close the case and retain immunity, if the collected information shows no basis for a full ~~assessment or~~ investigation.

Information relevant to the assessment or investigation must be asked for, and may include:

(1) the child's sex and age, prior reports of maltreatment, information relating to developmental functioning, credibility of the child's statement, and whether the information provided under this clause is consistent with other information collected during the course of the assessment or investigation;

(2) the alleged offender's age, a record check for prior reports of maltreatment, and criminal charges and convictions. The local welfare agency or the agency responsible for assessing or investigating the report must provide the alleged offender with an opportunity to make a statement. The alleged offender may submit supporting documentation relevant to the assessment or investigation;

(3) collateral source information regarding the alleged maltreatment and care of the child. Collateral information includes, when relevant: (i) a medical examination of the child; (ii) prior medical records relating to the alleged maltreatment or the care of the

child maintained by any facility, clinic, or health care professional and an interview with the treating professionals; and (iii) interviews with the child's caretakers, including the child's parent, guardian, foster parent, child care provider, teachers, counselors, family members, relatives, and other persons who may have knowledge regarding the alleged maltreatment and the care of the child; and

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

Nothing in this paragraph precludes the local welfare agency, the local law enforcement agency, or the agency responsible for assessing or investigating the report from collecting other relevant information necessary to conduct the assessment or investigation. Notwithstanding sections 13.384 or 144.291 to 144.298, the local welfare agency has access to medical data and records for purposes of clause (3). Notwithstanding the data's classification in the possession of any other agency, data acquired by the local welfare agency or the agency responsible for assessing or investigating the report during the course of the assessment or investigation are private data on individuals and must be maintained in accordance with subdivision 11. Data of the commissioner of education collected or maintained during and for the purpose of an investigation of alleged maltreatment in a school are governed by this section, notwithstanding the data's classification as educational, licensing, or personnel data under chapter 13.

In conducting an assessment or investigation involving a school facility as defined in subdivision 2, paragraph (i), the commissioner of education shall collect investigative reports and data that are relevant to a report of maltreatment and are from local law enforcement and the school facility.

(i) Upon receipt of a report, the local welfare agency shall conduct a face-to-face contact with the child reported to be maltreated and with the child's primary caregiver sufficient to complete a safety assessment and ensure the immediate safety of the child. The face-to-face contact with the child and primary caregiver shall occur immediately if substantial child endangerment is alleged and within five calendar days for all other reports. If the alleged offender was not already interviewed as the primary caregiver, the local welfare agency shall also conduct a face-to-face interview with the alleged offender in the early stages of the assessment or investigation. At the initial contact, the local child welfare agency or the agency responsible for assessing or investigating the report must inform the alleged offender of the complaints or allegations made against the individual in a manner consistent with laws protecting the rights of the person who made the report. The interview with the alleged offender may be postponed if it would jeopardize an active law enforcement investigation.

(j) When conducting an investigation, the local welfare agency shall use a question and answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. For investigations only, the following interviewing methods and procedures must be used whenever possible when collecting information:

(1) audio recordings of all interviews with witnesses and collateral sources; and

(2) in cases of alleged sexual abuse, audio-video recordings of each interview with the alleged victim and child witnesses.

(k) In conducting an assessment or investigation involving a school facility as defined in subdivision 2, paragraph (i), the commissioner of education shall collect available and relevant information and use the procedures in paragraphs (i), (k), and subdivision 3d, except that the requirement for face-to-face observation of the child and face-to-face interview of the alleged offender is to occur in the initial stages of the assessment or investigation provided that the commissioner may also base the assessment or investigation on investigative reports and data received from the school facility and local law enforcement, to the extent those investigations satisfy the requirements of paragraphs (i) and (k), and subdivision 3d.

Sec. 9. Minnesota Statutes 2010, section 626.556, subdivision 10e, is amended to read:

Subd. 10e. **Determinations.** (a) The local welfare agency shall conclude the family assessment or the investigation within 45 days of the receipt of a report. The conclusion of the assessment or investigation may be extended to permit the completion of a criminal investigation or the receipt of expert information requested within 45 days of the receipt of the report.

(b) After conducting a family assessment, the local welfare agency shall determine whether services are needed to address the safety of the child and other family members and the risk of subsequent maltreatment.

(c) After conducting an investigation, the local welfare agency shall make two determinations: first, whether maltreatment has occurred; and second, whether child protective services are needed. No determination of maltreatment shall be made when the alleged perpetrator is a child under the age of ten.

(d) If the commissioner of education conducts an assessment or investigation, the commissioner shall determine whether maltreatment occurred and what corrective or protective action was taken by the school facility. If a determination is made that maltreatment has occurred, the commissioner shall report to the employer, the school board, and any appropriate licensing entity the determination that maltreatment occurred and what corrective or protective action was taken by the school facility. In all other cases,

the commissioner shall inform the school board or employer that a report was received, the subject of the report, the date of the initial report, the category of maltreatment alleged as defined in paragraph (f), the fact that maltreatment was not determined, and a summary of the specific reasons for the determination.

(e) When maltreatment is determined in an investigation involving a facility, the investigating agency shall also determine whether the facility or individual was responsible, or whether both the facility and the individual were responsible for the maltreatment using the mitigating factors in paragraph (i). Determinations under this subdivision must be made based on a preponderance of the evidence and are private data on individuals or nonpublic data as maintained by the commissioner of education.

(f) For the purposes of this subdivision, "maltreatment" means any of the following acts or omissions:

- (1) physical abuse as defined in subdivision 2, paragraph (g);
- (2) neglect as defined in subdivision 2, paragraph (f);
- (3) sexual abuse as defined in subdivision 2, paragraph (d);
- (4) mental injury as defined in subdivision 2, paragraph (m); or
- (5) maltreatment of a child in a facility as defined in subdivision 2, paragraph (i).

(g) For the purposes of this subdivision, a determination that child protective services are needed means that the local welfare agency has documented conditions during the assessment or investigation sufficient to cause a child protection worker, as defined in section 626.559, subdivision 1, to conclude that a child is at significant risk of maltreatment if protective intervention is not provided and that the individuals responsible for the child's care have not taken or are not likely to take actions to protect the child from maltreatment or risk of maltreatment.

(h) This subdivision does not mean that maltreatment has occurred solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child, in lieu of medical care. However, if lack of medical care may result in serious danger to the child's health, the local welfare agency may ensure that necessary medical services are provided to the child.

(i) When determining whether the facility or individual is the responsible party, or whether both the facility and the individual are responsible for determined maltreatment in a facility, the investigating agency shall consider at least the following mitigating factors:

- (1) whether the actions of the facility or the individual caregivers were according to, and followed the terms of, an erroneous physician order, prescription, individual care plan, or directive; however, this is not a mitigating factor when the facility or caregiver was

responsible for the issuance of the erroneous order, prescription, individual care plan, or directive or knew or should have known of the errors and took no reasonable measures to correct the defect before administering care;

(2) comparative responsibility between the facility, other caregivers, and requirements placed upon an employee, including the facility's compliance with related regulatory standards and the adequacy of facility policies and procedures, facility training, an individual's participation in the training, the caregiver's supervision, and facility staffing levels and the scope of the individual employee's authority and discretion; and

(3) whether the facility or individual followed professional standards in exercising professional judgment.

The evaluation of the facility's responsibility under clause (2) must not be based on the completeness of the risk assessment or risk reduction plan required under section 245A.66, but must be based on the facility's compliance with the regulatory standards for policies and procedures, training, and supervision as cited in Minnesota Statutes and Minnesota Rules.

(j) Notwithstanding paragraph (i), when maltreatment is determined to have been committed by an individual who is also the facility license holder, both the individual and the facility must be determined responsible for the maltreatment, and both the background study disqualification standards under section 245C.15, subdivision 4, and the licensing actions under sections 245A.06 or 245A.07 apply.

(k) Individual counties may implement more detailed definitions or criteria that indicate which allegations to investigate, as long as a county's policies are consistent with the definitions in the statutes and rules and are approved by the county board. Each local welfare agency shall periodically inform mandated reporters under subdivision 3 who work in the county of the definitions of maltreatment in the statutes and rules and any additional definitions or criteria that have been approved by the county board.

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

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

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

Sec. 11. Minnesota Statutes 2010, section 626.556, subdivision 10i, is amended to read:

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

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

(b) Except as provided under paragraphs (e) and (f), if the investigating agency denies the request or fails to act upon the request within 15 working days after receiving the request for reconsideration, the person or facility entitled to a fair hearing under section 256.045 may submit to the commissioner of human services or the commissioner of education a written request for a hearing under that section. Section 256.045 also governs hearings requested to contest a final determination of the commissioner of education. ~~For reports involving maltreatment of a child in a facility, an interested person acting on behalf of the child may request a review by the Child Maltreatment Review Panel under section 256.022 if the investigating agency denies the request or fails to act upon the request or if the interested person contests a reconsidered determination. The investigating agency shall notify persons who request reconsideration of their rights under this paragraph. The request must be submitted in writing to the review panel and a copy sent to the investigating agency within 30 calendar days of receipt of notice of a denial of a request for reconsideration or of a reconsidered determination. The request must specifically identify the aspects of the agency determination with which the person is dissatisfied. The hearings specified under this section are the only administrative appeal of a decision issued under paragraph (a). Determinations under this section are not subject to accuracy and completeness challenges under section 13.04.~~

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

(d) Except as provided under paragraph (f), if an individual or facility contests the investigating agency's final determination regarding maltreatment by requesting a fair hearing under section 256.045, the commissioner of human services shall assure that the hearing is conducted and a decision is reached within 90 days of receipt of the request for a hearing. The time for action on the decision may be extended for as many days as the hearing is postponed or the record is held open for the benefit of either party.

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

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

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

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

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

Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment determination or disqualification, but does not appeal the denial of a license or a licensing sanction, reconsideration of the maltreatment determination shall be conducted under sections 626.556, subdivision 10i, and 626.557, subdivision 9d, and reconsideration of the disqualification shall be conducted under section 245C.22. In such cases, a fair hearing shall also be conducted as provided under sections 245C.27, 626.556, subdivision 10i, and 626.557, subdivision 9d.

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

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

Sec. 12. Minnesota Statutes 2010, section 626.556, subdivision 10k, is amended to read:

Subd. 10k. **Release of certain assessment or investigative records to other counties.** Records maintained under subdivision 11c, paragraph (a), may be shared with another local welfare agency that requests the information because it is conducting an assessment or investigation under this section of the subject of the records.

Sec. 13. **REVISOR'S INSTRUCTION.**

(a) The revisor of statutes shall renumber each section of Minnesota Statutes listed in column A with the number listed in column B.

<u>Column A</u>	<u>Column B</u>
<u>259.69</u>	<u>259A.05, subd. 5</u>
<u>260C.217</u>	<u>260C.139</u>
<u>260C.501</u>	<u>260C.177</u>
<u>260C.201, subd. 10</u>	<u>260C.202</u>
<u>260C.212, subd. 7</u>	<u>260C.203</u>
<u>260C.201, subd. 11a</u>	<u>260C.204</u>
<u>260C.212, subd. 4</u>	<u>260C.219</u>
<u>260C.212, subd. 5</u>	<u>260C.221</u>
<u>260C.213</u>	<u>260C.223</u>
<u>260C.206</u>	<u>260C.225</u>
<u>260C.212, subd. 8</u>	<u>260C.227</u>

90.1	<u>260C.212, subd. 6</u>	<u>260C.521, subd. 4</u>
90.2	<u>260C.205</u>	<u>260D.11</u>

90.3 (b) The revisor of statutes shall make necessary cross-reference changes in
90.4 Minnesota Statutes and Minnesota Rules consistent with the numbering in articles 1 and
90.5 2 and the renumbering in paragraph (a).

ARTICLE 4

CHILD SUPPORT

90.8 Section 1. Minnesota Statutes 2010, section 257.75, subdivision 7, is amended to read:

Subd. 7. **Hospital and Department of Health distribution of educational materials; recognition form.** Hospitals that provide obstetric services and the state registrar of vital statistics shall distribute the educational materials and recognition of parentage forms prepared by the commissioner of human services to new parents and; shall assist parents in understanding the recognition of parentage form, including following the provisions for notice under subdivision 5; shall aid new parents in properly completing the recognition of parentage form, including providing notary services; and shall timely file the completed recognition of parentage form with the office of the state registrar of vital statistics. On and after January 1, 1994, hospitals may not distribute the declaration of parentage forms.

90.19 Sec. 2. Minnesota Statutes 2010, section 518C.205, is amended to read:

90.20 **518C.205 CONTINUING, EXCLUSIVE JURISDICTION.**

90.21 (a) A tribunal of this state issuing a support order consistent with the law of this state
90.22 has continuing, exclusive jurisdiction over a child support order unless:

90.23 (1) ~~as long as this state remains~~ is no longer the residence of the obligor, the
90.24 individual obligee, ~~or~~ and the child for whose benefit the support order is issued; or

90.25 (2) ~~until~~ all of the parties who are individuals have filed written consents with
90.26 the tribunal of this state for a tribunal of another state to modify the order and assume
90.27 continuing, exclusive jurisdiction.

(b) A tribunal of this state issuing a child support order consistent with the law of this state may not exercise its continuing jurisdiction to modify the order if the order has been modified by a tribunal of another state pursuant to this chapter or a law substantially similar to this chapter.

90.32 (c) If a child support order of this state is modified by a tribunal of another state
90.33 pursuant to this chapter or a law substantially similar to this chapter, a tribunal of this state

91.1 loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the
91.2 order issued in this state, and may only:

91.3 (1) enforce the order that was modified as to amounts accruing before the
91.4 modification;

91.5 (2) enforce nonmodifiable aspects of that order; and

91.6 (3) provide other appropriate relief for violations of that order which occurred before
91.7 the effective date of the modification.

91.8 (d) A tribunal of this state shall recognize the continuing, exclusive jurisdiction of a
91.9 tribunal of another state which has issued a child support order pursuant to this chapter or
91.10 a law substantially similar to this chapter.

91.11 (e) A temporary support order issued ex parte or pending resolution of a jurisdictional
91.12 conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

91.13 (f) A tribunal of this state issuing a support order consistent with the law of this
91.14 state has continuing, exclusive jurisdiction over a spousal support order throughout the
91.15 existence of the support obligation. A tribunal of this state may not modify a spousal
91.16 support order issued by a tribunal of another state having continuing, exclusive jurisdiction
91.17 over that order under the law of that state.

APPENDIX
Article locations in H1423-3

ARTICLE 1	ADOPTION ASSISTANCE	Page.Ln 1.14
ARTICLE 2	CHILD PROTECTION	Page.Ln 23.18
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