

A bill for an act
relating to human services; creating the Protecting Children and Strengthening
Families Act; requiring a report; appropriating money; proposing coding for new
law as Minnesota Statutes, chapter 256N.

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

ARTICLE 1
PROTECTING CHILDREN AND STRENGTHENING FAMILIES ACT

Section 1. [256N.01] CITATION.

Sections 256N.01 to 256N.09 may be cited as the "Protecting Children and
Strengthening Families Act," hereafter the "act." This act defines public child welfare
policy, sets state priorities, creates accountability mechanisms for achieving improved
outcomes for children and families, and establishes a fund to begin to address the safety,
permanency, and well-being needs of children and adolescents who come to the attention
of the county as a result of a report of child maltreatment pursuant to section 626.556 or
are otherwise the responsibility of the county.

Sec. 2. [256N.02] PUBLIC POLICY.

Subdivision 1. General. The legislature hereby declares that the public policy
of the state is:

(1) first and foremost, children should be safe from harm and protected from abuse
and neglect;

(2) children should be maintained safely in their homes whenever possible and
appropriate;

(3) when the ability of parents to keep their children safe is compromised it is in the public interest to intervene early and provide services that promote parents' protective capacities, mitigate risks of harm, and strengthen and support parents in their care giving roles;

(4) children should grow up in safe, permanent and nurturing homes and, when it is not possible for their parents to provide safety and permanency, alternative permanency options must be made available to children as quickly as possible;

(5) whenever possible, alternative permanency options should be with children's relatives or kin in order to maintain family relationships and preserve connections with their communities and culture; and

(6) once permanency is achieved, children and their families should receive the services and supports necessary to maintain safe, stable, and permanent homes.

Subd. 2. **Racial disparities in child welfare.** It is further the policy of the state to reduce racial disparities and disproportionality that exists in the child welfare system by:

(1) identifying and addressing structural factors contributing to inequities in outcomes;

(2) identifying and implementing promising and evidence-based strategies to reduce racial disparities in treatment and outcomes;

(3) using cultural values, beliefs, and practices of families, communities, and tribes to shape family assessment, case planning, case service design, and case decision-making processes;

(4) using placement and reunification strategies that maintain, honor, and support relationships and connections between parents, siblings, children, kin, and significant others, giving priority to kinship placements when placement is necessary; and

(5) supporting families in the context of their communities and tribes so as to safely divert them away from the child welfare system, whenever possible.

Sec. 3. [256N.03] PUBLIC PRIORITIES.

A broad continuum of services and a reform of practice are necessary across Minnesota to keep children safe from abuse and neglect, prevent the trauma associated with removing a child from the child's family home, and provide families with the necessary supports and services to protect and nurture the families' children. Successful implementation of state policy must result in improved outcomes for children and families and must be measured by:

(1) improved timeliness to initial investigations;

(2) increased monthly caseworker visits with children in out-of-home placement;

- (3) reduced out-of-home placements;
- (4) reduced reentry;
- (5) reduced recidivism;
- (6) reduced number of children aging out of foster care without achieving permanency;
- (7) improved rate of relative care;
- (8) improved stability in foster care; and
- (9) reduced racial and ethnic disparities and disproportionality.

Sec. 4. **[256N.04] DEFINITIONS.**

Subdivision 1. **Scope.** For the purposes of sections 256N.01 to 256N.09, the terms defined in this section have the meanings given them.

Subd. 2. **Adoptive care.** "Adoptive care" means care to an adopted special needs child under section 259.67.

Subd. 3. **Adult community services.** (a) "Adult community services" means services provided or arranged for by county boards for adults who experience dependency, abuse, neglect, poverty, disability, chronic health conditions, or other factors, including ethnicity and race, that may result in poor outcomes or disparities, as well as services for family members to support those individuals. These services may be provided by professionals or nonprofessionals, including the person's natural supports in the community.

(b) Adult community services does not include:

- (1) services for children under subdivision 5;
- (2) services under public assistance programs including the Minnesota family investment program, Minnesota supplemental aid, medical assistance, general assistance medical care, or MinnesotaCare; or

(3) community health services.

Subd. 4. **Child protection investigation.** "Child protection investigation" means fact gathering by the child welfare agency related to the current safety of the child and the risk of subsequent maltreatment that determines whether child maltreatment occurred and whether child protective services are needed.

Subd. 5. **Children's services.** "Children's services" means services provided or arranged for by county boards for infants, children, and adolescents and may include, but are not limited to: child protection investigation, family assessment response, family-based crisis services, family foster care, family preservation services, foster care,

independent living services, permanency services, postpermanency support services, reunification services, subsidized guardianship, and support for at-risk families.

Subd. 6. **Children's mental health services.** "Children's mental health services" means services to children under sections 245.487 to 245.4889.

Subd. 7. **Commissioner.** "Commissioner" means the commissioner of human services or the commissioner's designee.

Subd. 8. **County board.** "County board" means the board of county commissioners in each county.

Subd. 9. **Family assessment response.** "Family assessment response" means a comprehensive assessment of child safety, risk of subsequent maltreatment, and family strengths and needs that is applied to a child maltreatment report that does not allege substantial child endangerment. Family assessment response includes assessing the need for services and may include the provision of time-limited services.

Subd. 10. **Family-based crisis services.** "Family-based crisis services" means services provided to a family in the home, within 24 hours of referral, to help the family resolve a relationship crisis to prevent placing a child outside of the home.

Subd. 11. **Foster care.** "Foster care" means 24-hour substitute care in a family home or facility licensed under Minnesota Rules, chapter 2960, for children placed away from their parents or guardian and for whom a responsible social services agency has placement and care responsibility pursuant to a court order or voluntary placement agreement. Foster care includes an emergency placement of a child in the home of a relative who has not yet completed the licensure process. Services are provided to children who are in immediate need of out of home placement until a plan of care is established.

Subd. 12. **Family preservation services.** "Family preservation services" means services designed to maintain children in the home or in an outside setting, if needed to help the family resolve personal, family, or situational problems. These services are provided to prevent placement of a child outside of the home or so that a child can be returned home from placement.

Subd. 13. **Guardianship assistance.** "Guardianship assistance" means financial support to relatives who accept permanent and legal custody of a related child as a result of a permanency proceeding under section 260C.317.

Subd. 14. **Human services board.** "Human services board" means a board established under section 402.02; Laws 1974, chapter 293; or Laws 1976, chapter 340.

Subd. 15. **Independent living services.** "Independent living services" means individual or group services designed to assist youth, ages 14 through 20, who are in out-of-home placement, to prepare them for independent living. Eligible youth can

receive services until their 21st birthday. Services include an independent living skills assessment and the development of an independent living plan by a case manager. Services may include training in daily living skills, service coordination, educational and career assistance, driver's education or transportation use, and the funding of activities that promote self-reliance and self-esteem.

Subd. 16. **Permanency services.** "Permanency services" means services designed to plan for and finalize a safe and legally permanent alternative home for the child within the timelines of section 260C.201, subdivision 11, when a child cannot return to the parent or guardian from whom they were removed. It also includes considering other permanent alternative homes for a child, preferably through adoption or transfer of permanent legal and physical custody of the child. Concurrent permanency planning and family group decision-making are included as permanency services.

Subd. 17. **Postpermanency support services.** "Postpermanency support services" means services designed to improve the likelihood that a child who has been in out-of-home placement will be able to remain in their permanency situation, whether that is reunification with their families, transfer of permanent legal and physical custody to a relative, or in a finalized adoption.

Subd. 18. **Reunification services.** "Reunification services" means services, including family group decision-making, provided to a child and their legal caregiver to facilitate the safe return of the child to the home. Specific services are provided by the local agency with legal responsibility pursuant to a court order or voluntary placement agreement, and are in the out-of-home placement plan.

Subd. 19. **Services for at-risk families.** "Services for at-risk families" means voluntary services that are designed to reduce the likelihood of any future maltreatment for families who have a maltreatment report that is not accepted under section 626.556, are self referred or referred by a community provider, or who are on the Minnesota family investment program under chapter 256J.

Sec. 5. [256N.05] USE OF FUNDS.

Funds under this act may be used to provide children's services under this act, or other services needed based on an individualized assessment of the child and family, including appropriate children's mental health services, or adult community services. Each county board must spend a minimum of 55 percent of the county board's allocation on children's services. The commissioner shall work with counties to develop proposed priorities for the use of these funds, and submit the proposals to the chairs and ranking

minority members of the legislative committees with jurisdiction over children's mental health services no later than January 15, 2011.

Sec. 6. [256N.06] DUTIES OF COMMISSIONER OF HUMAN SERVICES.

Subdivision 1. **General supervision.** In order to achieve the goals of this act, the commissioner shall allocate funds, provide assistance, evaluate the performance of counties, and ensure accountability for achieving improved outcomes for children and families.

Subd. 2. **Allocation of funds.** Each year the commissioner shall allocate available funds to each county with an approved plan according to section 256N.07 and meeting the requirements under this act. Funds must be allocated according to section 256N.08.

Subd. 3. **Assistance.** The commissioner shall:

(1) provide training, technical assistance, and other supports to each county to assist in needs assessment, planning, monitoring of outcomes and service quality, and implementation of program improvement plans;

(2) request waivers from federal programs as necessary to implement this act; and

(3) have authority under sections 14.055 and 14.056 to grant a variance to existing state rules as needed to eliminate barriers to achieving desired outcomes.

Subd. 4. **Accountability.** (a) The commissioner shall maintain a quality assurance system that measures county performance on federal and state outcome measures and performance items regarding child safety, permanency, and well being and determine the status of the public priorities identified in 256N.03. Performance measures may include:

(1) timeliness to initial investigation;

(2) monthly caseworker visits with children in out-of-home placement;

(3) rate of entry into foster care;

(4) rate of reentry;

(5) rate of recidivism;

(6) number of children aging out of foster care without achieving permanency;

(7) rate of relative care;

(8) foster care stability; and

(9) other federal or state performance measures.

Performance measures may be modified by the federal Department of Health and Human Services or the commissioner. The quality assurance system must support and measure continuous quality improvement and work with counties to develop and implement program improvement plans in any areas in which the county is not in substantial conformity with federal and state performance standards.

(b) The commissioner shall:

(1) use data collection, evaluation of outcomes, and the review and approval of county plans to supervise county performance in the delivery of services to children and families;

(2) specify requirements for reports, including fiscal reports to account for funds distributed; and

(3) adjust allocations to a county based on the commissioner's determination regarding county performance under this act.

(c) The following steps must be taken when the commissioner has determined that a county has failed to meet performance standards and address the priorities under this act, or failed to develop and implement a program improvement plan:

(1) the commissioner shall notify the county, by mail, of the standards which the county has not achieved;

(2) the county has 60 days from notification to develop a program improvement plan and submit it to the commissioner for approval; and

(3) if the county fails to demonstrate achievement or fails to implement a program improvement plan approved by the commissioner, the commissioner may withhold the county's share of state or federal funds under this act. The commissioner may withhold future allocations until the county has achieved the standards applicable to the program or has developed and implemented a program improvement plan. If a county does not achieve standards to develop and implement a program improvement plan for more than six consecutive months, the commissioner may reallocate the withheld funds to counties that have achieved standards or are working to achieve them.

Sec. 7. [256N.07] PLAN.

Subdivision 1. **Plan submitted to commissioner.** Effective January 1, 2011, and each two-year period thereafter, each county shall have a biennial plan approved by the commissioner that addresses the public policy and priorities of this act in order to receive funds. The plan may be combined with other plans required by the commissioner and counties may submit multicounty or regional plans.

Subd. 2. **Contents.** The plan must be completed in a form prescribed by the commissioner. The plan must include:

(1) strategies the county must implement to keep children safe in their own homes and support families in the context of their communities and tribes so as to safely divert them away from the child welfare system, whenever possible;

(2) strategies the county must engage in to address each of the public priorities identified in section 256N.03;

(3) strategies that the county must engage in to maintain connections between family members and significant others, giving priority to kinship placements, when placement is necessary;

(4) strategies that address disparities in out-of-home placement for African-American and American Indian children in their county and other populations of children disproportionately represented, and when placement is necessary the strategies that must be employed to maintain children's familial and cultural connections;

(5) performance targets on state and federal indicators measuring outcomes of child safety, permanency, and well-being;

(6) strategies the county must implement to achieve the performance targets, including specification of how funds under this section and other community resources must be used to achieve desired performance targets;

(7) the dollar amounts and brief description of children's mental health and adult community services, if any, the county intends to fund under this chapter; and

(8) a description of the county's process to solicit public input and a summary of that input.

Subd. 3. **Timelines.** The preliminary plan must be submitted to the commissioner by October 15, 2010, and October 15 every two years thereafter.

Subd. 4. **Public comment.** The county board shall determine how citizens in the county will participate in the development of the plan and provide opportunities for such participation. The county shall allow a period of no less than 30 days prior to the submission of the plan to the commissioner to solicit comments from the public on the contents of the plan.

Subd. 5. **Commissioner's responsibilities.** The commissioner shall, within 60 days of receiving each county plan, inform the county if the plan has been approved. If the plan is not approved, the commissioner shall inform the county of any revisions needed for approval.

Sec. 8. [256N.08] GRANT ALLOCATION.

Subdivision 1. **Determination.** The commissioner shall annually determine whether a county has met the requirements under this act. In making this determination, the commissioner shall consider factors addressed by the county in its plan under section 256N.07, whether the county fully participated in the state quality assurance process, and actual county performance on measures of child safety, permanency, and well-being. The

commissioner shall continue to measure and monitor performance, and counties shall continue to develop and employ appropriate strategies and procedures to continuously improve services and outcomes. Performance standards for these measures must be determined by the commissioner in consultation with counties, and must include those prescribed by the federal Department of Human Services and those unique to the state.

Subd. 2. **Grant formula.** (a) For calendar year 2011, counties shall receive the same allocation as was received the previous year under chapter 256M proportionately to state Children and Community Services Act and federal Title XX funds. Allocations must be comprised of both state appropriations under this act and federal Title XX funds, except for federal Title XX funds allocated for administrative purposes and migrant day care. Beginning with calendar year 2012, the amount of money allocated to counties must first be allocated in amounts equal to each county's guaranteed floor according to subdivision 3 provided they meet the requirements under subdivision 1. The commissioner shall work with counties to develop a proposed allocation process for remaining funds, and submit this to the chairs and ranking minority members of the legislative committees with jurisdiction over children's mental health no later than January 15, 2011. The allocation process must include factors of need and performance, together with appropriate phase-in provisions.

Subd. 3. **Guaranteed floor.** The guaranteed floor portion of funds must be 25 percent of the total allocation. Each county must be allocated a guaranteed floor based on the population of the county under age 19 years as compared to the state as a whole as determined by the most recent data from the state demographer's office. When the amount of funds available for allocation is less than the amount available in the previous year, each county's allocation must be reduced in proportion to the reduction in the statewide funding, to establish each county's guaranteed floor.

Subd. 4. **Payments.** Calendar year state allocations under this section must be paid to counties on or before July 10 of each year. Federal Title XX funds must be allocated as permissible under federal law and regulations.

Sec. 9. [256N.09] DUTIES OF COUNTY BOARDS.

Subdivision 1. **Responsibilities.** The county or human services board of each county are responsible for administration and funding of children's services and other services funded under this chapter in order to achieve the public policy and priorities identified in sections 256N.02 and 256N.03. The county board shall use funds under this act to support the strategies identified in its plan under section 256N.07.

Subd. 2. **Reports.** The county shall provide necessary reports and data as required by the commissioner.

Subd. 3. **Exemption from liability.** The state of Minnesota and the county in the implementation and administration of services under this act must not be liable for damages, injuries, or liabilities sustained through the purchase of services by the individual, the individual's family, or the authorized representative under this section.

Subd. 4. **Fees for services.** The county may establish a schedule of fees based upon the clients' ability to pay to be charged to recipients of children's services or other services funded under this chapter. Payment, in whole or in part, for services may be accepted from any person except that no fee may be charged to persons or families whose adjusted gross household income is below the federal poverty level. When services are provided to any person, including a recipient of aid administered by the federal, state, or county government, payment of any charges due may be billed to and accepted from a public assistance agency or from any public or private corporation.

Subd. 5. **Denial, reduction, or termination of services due to fiscal limitations.** Before a county denies, reduces, or terminates services to an individual, the county shall notify the individual and the individual's guardian in writing of the reason for the denial, reduction, or termination of services and their right to a fair hearing under section 256.045 and that the county will, upon request, meet to discuss alternatives before services are terminated or reduced.

Sec. 10. **REVISOR'S INSTRUCTION.**

The revisor shall renumber section 256M.20, subdivision 3, as 256.01, subdivision 29, paragraph (a), and section 256M.20, subdivision 4, as section 256.01, subdivision 29, paragraph (b), and correct any internal cross-references resulting from this renumbering. The revisor shall make any necessary technical, grammatical, or punctuation changes to accomplish this renumbering.

Sec. 11. **EFFECTIVE DATE.**

Sections 1 to 9 are effective January 1, 2011.

ARTICLE 2

MISCELLANEOUS

Section 1. **RATE SETTING.**

Effective July 1, 2011, relative custody assistance and adoption assistance payment rates shall be equal to the foster care maintenance and difficulty of care rate for the child.

Sec. 2. **POSTADOPTION SERVICES; APPROPRIATION.**

H.F. No. 3019, as introduced - 86th Legislative Session (2009-2010) [10-5314]

11.1 \$3,000,000 in fiscal year 2011 and \$3,000,000 in fiscal year 2012 are appropriated
11.2 from the general fund to the commissioner of human services to fund postadoption support
11.3 services under Minnesota Statutes, section 259.85.

11.4 Sec. 3. **RUNAWAY AND HOMELESS YOUTH; APPROPRIATION.**

11.5 \$4,000,000 in fiscal year 2011 and \$4,000,000 in fiscal year 2012 are appropriated
11.6 from the general fund to the commissioner of human services for the Runaway and
11.7 Homeless Youth Act under Minnesota Statutes, section 256K.45.

APPENDIX
Article locations in 10-5314

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