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State of Minnesota
HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 2621

- 04/27/2017 Authored by Franson, Scott, Pugh, Lohmer, Whelan and others
The bill was read for the first time and referred to the Committee on Health and Human Services Reform
- 05/01/2017 By motion, recalled and re-referred to the Committee on Civil Law and Data Practices Policy
- 05/04/2017 Adoption of Report: Amended and re-referred to the Committee on Public Safety and Security Policy and Finance
Pursuant to Joint Rule 2.03, re-referred to the Committee on Rules and Legislative Administration
- 05/08/2017 Adoption of Report: Re-referred to the Committee on Public Safety and Security Policy and Finance
Joint Rule 2.03 has been waived for any subsequent committee action on this bill

1.1 A bill for an act

1.2 relating to public safety; expanding the crime of female genital mutilation; updating

1.3 requirements for education and outreach; expanding the definition of egregious

1.4 harm; amending Minnesota Statutes 2016, sections 144.3872; 260.012; 260C.007,

1.5 subdivision 14; 260C.175, subdivision 1; 609.2245, subdivision 1, by adding a

1.6 subdivision; 626.556, subdivision 2.

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

1.8 Section 1. Minnesota Statutes 2016, section 144.3872, is amended to read:

1.9 **144.3872 FEMALE GENITAL MUTILATION; EDUCATION AND OUTREACH.**

1.10 The commissioner of health shall carry out appropriate education, prevention, and

1.11 outreach activities in communities that traditionally practice female circumcision, excision,

1.12 or infibulation to inform people in those communities about the health risks and emotional

1.13 trauma inflicted by those practices and to inform them and the medical community of the

1.14 criminal penalties and potential loss of custody of a child contained in section 609.2245.

1.15 The commissioner shall work with culturally appropriate groups to obtain private funds to

1.16 help finance these prevention and outreach activities.

1.17 **EFFECTIVE DATE.** This section is effective the day following final enactment.

1.18 Sec. 2. Minnesota Statutes 2016, section 260.012, is amended to read:

1.19 **260.012 DUTY TO ENSURE PLACEMENT PREVENTION AND FAMILY**

1.20 **REUNIFICATION; REASONABLE EFFORTS.**

1.21 (a) Once a child alleged to be in need of protection or services is under the court's

1.22 jurisdiction, the court shall ensure that reasonable efforts, including culturally appropriate

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

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

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

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

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

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

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

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

2.24 (b) When the court makes one of the prima facie determinations under paragraph (a),
2.25 either permanency pleadings under section 260C.505, or a termination of parental rights
2.26 petition under sections 260C.141 and 260C.301 must be filed. A permanency hearing under
2.27 sections 260C.503 to 260C.521 must be held within 30 days of this determination.

2.28 (c) In the case of an Indian child, in proceedings under sections 260B.178, 260C.178,
2.29 260C.201, 260C.202, 260C.204, 260C.301, or 260C.503 to 260C.521, the juvenile court
2.30 must make findings and conclusions consistent with the Indian Child Welfare Act of 1978,
2.31 United States Code, title 25, section 1901 et seq., as to the provision of active efforts. In
2.32 cases governed by the Indian Child Welfare Act of 1978, United States Code, title 25, section

3.1 1901, the responsible social services agency must provide active efforts as required under
3.2 United States Code, title 25, section 1911(d).

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

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

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

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

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

3.12 (2) assess a noncustodial parent's ability to provide day-to-day care for the child and,
3.13 where appropriate, provide services necessary to enable the noncustodial parent to safely
3.14 provide the care, as required by section 260C.219;

3.15 (3) conduct a relative search to identify and provide notice to adult relatives as required
3.16 under section 260C.221;

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

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

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

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

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

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

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

4.11 (g) Once the court determines that reasonable efforts for reunification are not required
4.12 because the court has made one of the prima facie determinations under paragraph (a), the
4.13 court may only require reasonable efforts for reunification after a hearing according to
4.14 section 260C.163, where the court finds there is not clear and convincing evidence of the
4.15 facts upon which the court based its prima facie determination. In this case when there is
4.16 clear and convincing evidence that the child is in need of protection or services, the court
4.17 may find the child in need of protection or services and order any of the dispositions available
4.18 under section 260C.201, subdivision 1. Reunification of a child with a parent is not required
4.19 if the parent has been convicted of:

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

4.22 (2) a violation of section 609.222, subdivision 2; ~~or 609.223;~~ or 609.2245, subdivision
4.23 1, clause (2), in regard to the child;

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

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

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

4.30 (h) The juvenile court, in proceedings under sections 260B.178, 260C.178, 260C.201,
4.31 260C.202, 260C.204, 260C.301, or 260C.503 to 260C.521, shall make findings and
4.32 conclusions as to the provision of reasonable efforts. When determining whether reasonable

5.1 efforts have been made, the court shall consider whether services to the child and family
5.2 were:

- 5.3 (1) relevant to the safety and protection of the child;
- 5.4 (2) adequate to meet the needs of the child and family;
- 5.5 (3) culturally appropriate;
- 5.6 (4) available and accessible;
- 5.7 (5) consistent and timely; and
- 5.8 (6) realistic under the circumstances.

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

5.12 (i) This section does not prevent out-of-home placement for treatment of a child with a
5.13 mental disability when it is determined to be medically necessary as a result of the child's
5.14 diagnostic assessment or individual treatment plan indicates that appropriate and necessary
5.15 treatment cannot be effectively provided outside of a residential or inpatient treatment
5.16 program and the level or intensity of supervision and treatment cannot be effectively and
5.17 safely provided in the child's home or community and it is determined that a residential
5.18 treatment setting is the least restrictive setting that is appropriate to the needs of the child.

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

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

6.1 **EFFECTIVE DATE.** This section is effective the day following final enactment.

6.2 Sec. 3. Minnesota Statutes 2016, section 260C.007, subdivision 14, is amended to read:

6.3 Subd. 14. **Egregious harm.** "Egregious harm" means the infliction of bodily harm to a
6.4 child or neglect of a child which demonstrates a grossly inadequate ability to provide
6.5 minimally adequate parental care. The egregious harm need not have occurred in the state
6.6 or in the county where a termination of parental rights action is otherwise properly venued.
6.7 Egregious harm includes, but is not limited to:

6.8 (1) conduct towards a child that constitutes a violation of sections 609.185 to 609.2114,
6.9 609.222, subdivision 2, 609.223, 609.2245, subdivision 1, or any other similar law of any
6.10 other state;

6.11 (2) the infliction of "substantial bodily harm" to a child, as defined in section 609.02,
6.12 subdivision 7a;

6.13 (3) conduct towards a child that constitutes felony malicious punishment of a child under
6.14 section 609.377;

6.15 (4) conduct towards a child that constitutes felony unreasonable restraint of a child under
6.16 section 609.255, subdivision 3;

6.17 (5) conduct towards a child that constitutes felony neglect or endangerment of a child
6.18 under section 609.378;

6.19 (6) conduct towards a child that constitutes assault under section 609.221, 609.222, or
6.20 609.223;

6.21 (7) conduct towards a child that constitutes solicitation, inducement, or promotion of,
6.22 or receiving profit derived from prostitution under section 609.322;

6.23 (8) conduct towards a child that constitutes murder or voluntary manslaughter as defined
6.24 by United States Code, title 18, section 1111(a) or 1112(a);

6.25 (9) conduct towards a child that constitutes aiding or abetting, attempting, conspiring,
6.26 or soliciting to commit a murder or voluntary manslaughter that constitutes a violation of
6.27 United States Code, title 18, section 1111(a) or 1112(a); or

6.28 (10) conduct toward a child that constitutes criminal sexual conduct under sections
6.29 609.342 to 609.345.

6.30 **EFFECTIVE DATE.** This section is effective the day following final enactment.

7.1 Sec. 4. Minnesota Statutes 2016, section 260C.175, subdivision 1, is amended to read:

7.2 Subdivision 1. **Immediate custody.** No child may be taken into immediate custody
7.3 except:

7.4 (1) with an order issued by the court in accordance with the provisions of section
7.5 260C.151, subdivision 6, or Laws 1997, chapter 239, article 10, section 10, paragraph (a),
7.6 clause (3), or 12, paragraph (a), clause (3), or by a warrant issued in accordance with the
7.7 provisions of section 260C.154;

7.8 (2) by a peace officer:

7.9 (i) when a child has run away from a parent, guardian, or custodian, or when the peace
7.10 officer reasonably believes the child has run away from a parent, guardian, or custodian,
7.11 but only for the purpose of transporting the child home, to the home of a relative, or to
7.12 another safe place, which may include a shelter care facility; ~~or~~

7.13 (ii) when a child is found in surroundings or conditions which endanger the child's health
7.14 or welfare or which such peace officer reasonably believes will endanger the child's health
7.15 or welfare. If an Indian child is a resident of a reservation or is domiciled on a reservation
7.16 but temporarily located off the reservation, the taking of the child into custody under this
7.17 clause shall be consistent with the Indian Child Welfare Act of 1978, United States Code,
7.18 title 25, section 1922; or

7.19 (iii) when the peace officer has probable cause to believe that a violation of, or attempt
7.20 to violate, section 609.2245, subdivision 1, clause (2), occurred;

7.21 (3) by a peace officer or probation or parole officer when it is reasonably believed that
7.22 the child has violated the terms of probation, parole, or other field supervision; or

7.23 (4) by a peace officer or probation officer under section 260C.143, subdivision 1 or 4.

7.24 **EFFECTIVE DATE.** This section is effective the day following final enactment.

7.25 Sec. 5. Minnesota Statutes 2016, section 609.2245, subdivision 1, is amended to read:

7.26 Subdivision 1. **Crime.** Except as otherwise permitted in subdivision 2, the following
7.27 individuals are guilty of a felony:

7.28 (1) whoever knowingly circumcises, excises, or infibulates, in whole or in part, the labia
7.29 majora, labia minora, or clitoris of another is guilty of a felony. Consent to the procedure
7.30 by a minor on whom it is performed or by the minor's parent is not a defense to a violation
7.31 of this subdivision; or

8.1 (2) the parent, guardian, or other person legally responsible or charged with the care or
8.2 custody of a minor who knowingly allows the circumcision, excision, or infibulation, in
8.3 whole or in part, of the labia majora, labia minora, or clitoris of the minor.

8.4 **EFFECTIVE DATE.** This section is effective the day following final enactment.

8.5 Sec. 6. Minnesota Statutes 2016, section 609.2245, is amended by adding a subdivision
8.6 to read:

8.7 Subd. 3. **Custody of child.** A violation of, or attempt to violate subdivision 1, clause
8.8 (2), is a condition that endangers a child's health or welfare and justifies taking the child
8.9 into custody pursuant to section 260C.175, subdivision 1.

8.10 **EFFECTIVE DATE.** This section is effective the day following final enactment.

8.11 Sec. 7. Minnesota Statutes 2016, section 626.556, subdivision 2, is amended to read:

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

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

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

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

8.20 (b) "Commissioner" means the commissioner of human services.

8.21 (c) "Facility" means:

8.22 (1) a licensed or unlicensed day care facility, residential facility, agency, hospital,
8.23 sanitarium, or other facility or institution required to be licensed under sections 144.50 to
8.24 144.58, 241.021, or 245A.01 to 245A.16, or chapter 245D;

8.25 (2) a school as defined in section 120A.05, subdivisions 9, 11, and 13; and chapter 124E;
8.26 or

8.27 (3) a nonlicensed personal care provider organization as defined in section 256B.0625,
8.28 subdivision 19a.

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

9.1 maltreatment report that does not allege sexual abuse or substantial child endangerment.

9.2 Family assessment does not include a determination as to whether child maltreatment
9.3 occurred but does determine the need for services to address the safety of family members
9.4 and the risk of subsequent maltreatment.

9.5 (e) "Investigation" means fact gathering related to the current safety of a child and the
9.6 risk of subsequent maltreatment that determines whether child maltreatment occurred and
9.7 whether child protective services are needed. An investigation must be used when reports
9.8 involve sexual abuse or substantial child endangerment, and for reports of maltreatment in
9.9 facilities required to be licensed under chapter 245A or 245D; under sections 144.50 to
9.10 144.58 and 241.021; in a school as defined in section 120A.05, subdivisions 9, 11, and 13,
9.11 and chapter 124E; or in a nonlicensed personal care provider association as defined in section
9.12 256B.0625, subdivision 19a.

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

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

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

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

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

9.30 (4) failure to ensure that the child is educated as defined in sections 120A.22 and
9.31 260C.163, subdivision 11, which does not include a parent's refusal to provide the parent's
9.32 child with sympathomimetic medications, consistent with section 125A.091, subdivision
9.33 5;

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

10.9 (6) prenatal exposure to a controlled substance, as defined in section 253B.02, subdivision
10.10 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in
10.11 the child at birth, results of a toxicology test performed on the mother at delivery or the
10.12 child at birth, medical effects or developmental delays during the child's first year of life
10.13 that medically indicate prenatal exposure to a controlled substance, or the presence of a
10.14 fetal alcohol spectrum disorder;

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

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

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

10.23 (h) "Nonmaltreatment mistake" means:

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

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

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

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

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

11.4 This definition only applies to child care centers licensed under Minnesota Rules, chapter
11.5 9503. If clauses (1) to (5) apply, rather than making a determination of substantiated
11.6 maltreatment by the individual, the commissioner of human services shall determine that a
11.7 nonmaltreatment mistake was made by the individual.

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

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

11.16 (k) "Physical abuse" means any physical injury, mental injury, or threatened injury,
11.17 inflicted by a person responsible for the child's care on a child other than by accidental
11.18 means, or any physical or mental injury that cannot reasonably be explained by the child's
11.19 history of injuries, or any aversive or deprivation procedures, or regulated interventions,
11.20 that have not been authorized under section 125A.0942 or 245.825.

11.21 Abuse does not include reasonable and moderate physical discipline of a child
11.22 administered by a parent or legal guardian which does not result in an injury. Abuse does
11.23 not include the use of reasonable force by a teacher, principal, or school employee as allowed
11.24 by section 121A.582. Actions which are not reasonable and moderate include, but are not
11.25 limited to, any of the following:

11.26 (1) throwing, kicking, burning, biting, or cutting a child;

11.27 (2) striking a child with a closed fist;

11.28 (3) shaking a child under age three;

11.29 (4) striking or other actions which result in any nonaccidental injury to a child under 18
11.30 months of age;

11.31 (5) unreasonable interference with a child's breathing;

11.32 (6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;

- 12.1 (7) striking a child under age one on the face or head;
- 12.2 (8) striking a child who is at least age one but under age four on the face or head, which
12.3 results in an injury;
- 12.4 (9) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled
12.5 substances which were not prescribed for the child by a practitioner, in order to control or
12.6 punish the child; or other substances that substantially affect the child's behavior, motor
12.7 coordination, or judgment or that results in sickness or internal injury, or subjects the child
12.8 to medical procedures that would be unnecessary if the child were not exposed to the
12.9 substances;
- 12.10 (10) unreasonable physical confinement or restraint not permitted under section 609.379,
12.11 including but not limited to tying, caging, or chaining; ~~or~~
- 12.12 (11) in a school facility or school zone, an act by a person responsible for the child's
12.13 care that is a violation under section 121A.58; or
- 12.14 (12) allowing female genital mutilation in violation of section 609.2245, subdivision 1,
12.15 clause (2).
- 12.16 (l) "Practice of social services," for the purposes of subdivision 3, includes but is not
12.17 limited to employee assistance counseling and the provision of guardian ad litem and
12.18 parenting time expeditor services.
- 12.19 (m) "Report" means any communication received by the local welfare agency, police
12.20 department, county sheriff, or agency responsible for child protection pursuant to this section
12.21 that describes neglect or physical or sexual abuse of a child and contains sufficient content
12.22 to identify the child and any person believed to be responsible for the neglect or abuse, if
12.23 known.
- 12.24 (n) "Sexual abuse" means the subjection of a child by a person responsible for the child's
12.25 care, by a person who has a significant relationship to the child, as defined in section 609.341,
12.26 or by a person in a position of authority, as defined in section 609.341, subdivision 10, to
12.27 any act which constitutes a violation of section 609.342 (criminal sexual conduct in the first
12.28 degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual
12.29 conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree), or
12.30 609.3451 (criminal sexual conduct in the fifth degree). Sexual abuse also includes any act
12.31 which involves a minor which constitutes a violation of prostitution offenses under sections
12.32 609.321 to 609.324 or 617.246. Effective May 29, 2017, sexual abuse includes all reports
12.33 of known or suspected child sex trafficking involving a child who is identified as a victim

13.1 of sex trafficking. Sexual abuse includes child sex trafficking as defined in section 609.321,
13.2 subdivisions 7a and 7b. Sexual abuse includes threatened sexual abuse which includes the
13.3 status of a parent or household member who has committed a violation which requires
13.4 registration as an offender under section 243.166, subdivision 1b, paragraph (a) or (b), or
13.5 required registration under section 243.166, subdivision 1b, paragraph (a) or (b).

13.6 (o) "Substantial child endangerment" means a person responsible for a child's care, by
13.7 act or omission, commits or attempts to commit an act against a child under their care that
13.8 constitutes any of the following:

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

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

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

13.14 (4) murder in the first, second, or third degree under section 609.185, 609.19, or 609.195;

13.15 (5) manslaughter in the first or second degree under section 609.20 or 609.205;

13.16 (6) assault in the first, second, or third degree under section 609.221, 609.222, or 609.223;

13.17 (7) solicitation, inducement, and promotion of prostitution under section 609.322;

13.18 (8) criminal sexual conduct under sections 609.342 to 609.3451;

13.19 (9) solicitation of children to engage in sexual conduct under section 609.352;

13.20 (10) malicious punishment or neglect or endangerment of a child under section 609.377
13.21 or 609.378;

13.22 (11) use of a minor in sexual performance under section 617.246; or

13.23 (12) parental behavior, status, or condition which mandates that the county attorney file
13.24 a termination of parental rights petition under section 260C.503, subdivision 2.

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

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

14.1 (2) been found to be palpably unfit under section 260C.301, subdivision 1, paragraph
14.2 (b), clause (4), or a similar law of another jurisdiction;

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

14.5 (4) committed an act that has resulted in the involuntary transfer of permanent legal and
14.6 physical custody of a child to a relative under Minnesota Statutes 2010, section 260C.201,
14.7 subdivision 11, paragraph (d), clause (1), section 260C.515, subdivision 4, or a similar law
14.8 of another jurisdiction.

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

14.12 (q) Upon receiving data under section 144.225, subdivision 2b, contained in a birth
14.13 record or recognition of parentage identifying a child who is subject to threatened injury
14.14 under paragraph (p), the Department of Human Services shall send the data to the responsible
14.15 social services agency. The data is known as "birth match" data. Unless the responsible
14.16 social services agency has already begun an investigation or assessment of the report due
14.17 to the birth of the child or execution of the recognition of parentage and the parent's previous
14.18 history with child protection, the agency shall accept the birth match data as a report under
14.19 this section. The agency may use either a family assessment or investigation to determine
14.20 whether the child is safe. All of the provisions of this section apply. If the child is determined
14.21 to be safe, the agency shall consult with the county attorney to determine the appropriateness
14.22 of filing a petition alleging the child is in need of protection or services under section
14.23 260C.007, subdivision 6, clause (16), in order to deliver needed services. If the child is
14.24 determined not to be safe, the agency and the county attorney shall take appropriate action
14.25 as required under section 260C.503, subdivision 2.

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

14.30 **EFFECTIVE DATE.** This section is effective the day following final enactment.